Protestants' Request for Official Administrative/Judicial Notice of IDWR Records

Protestants Eldon and Mary Ann Golightly, individually and as Trustees of E & M Trust; Grant Chadwick, Trustee of the Chadwick Trust; Bert and Laura Wheatley, Seth and Beth Wheatley, and Wheatley Properties, LLC, hereby formally request that the Hearing Officer take official administrative or judicial notice of the records contained within the following IDWR water right files pursuant to IDWR Rules of Procedure 600 and 602 (IDAPA 37.01.01600 and 37.01.01602, respectively) and Idaho Rule of Evidence 201(d):

Preston Whitney Irrigation Company Water Right Nos.:

13-2
13-3
13-143
13-271
13-2103
13-2104
13-2108
13-2288
13-2288A
13-2291
13-2298

Protestant Chadwick Water Right Nos.:

13-256
13-258

Protestant Golightly Water Right Nos.:

13-62
13-216
13-217
13-286
13-287
13-288
13-4130



Client:1975666.1

Protestants Wheatley Water Right Nos.:

13-218
13-221
13-224
13-225

Protestants request that the IDWR records for the water right nos. referenced herein be included within the agency record of this proceeding. Though the Protestants do not expect to refer to all such records as individual exhibits during the course of this contested case proceeding, the Protestants anticipate that the parties will rely upon various IDWR water right records during post-hearing briefing.

Protestants also request that the Hearing Officer take official administrative or judicial notice of IDWR's Administrator's Memorandum (Transfer Processing No. 24) from Jeff Peppersack, dated December 21, 2009, regarding "Transfer Policies and Procedures" ("Transfer Memo"). While Protestants do not anticipate using the Transfer Memo as an exhibit during hearing, the Protestants anticipate that the parties will likely rely upon the same during post-hearing briefing.

Holden Kidwell
Hahn & Crapo P.L.L.C.
LAW OFFICES

1000 Riverwalk Drive, Suite 200
PO Box 50130
Idaho Falls, Idaho 83405

Tel: (208) 523-0620
Fax: (208) 523-9518
www.holdenlegal.com
E-mail: rharris@holdenlegal.com

October 18, 2010

VIA EMAIL AND FIRST CLASS MAIL

Pam Skaggs
Idaho Department of Water Resources
PO Box 83720
Boise, ID 83720-0098
Email: pam.skaggs@idwr.idaho.gov

RE: Amended Application for Transfer No. 75705, in the Name of Preston-Whitney Irrigation Company.

Dear Pam:

Thank you for your follow-up regarding our Amended Transfer Application for Transfer No. 75705, which did not include a correct legal description for the heading of the Middle Ditch. Additionally, at the time we submitted our Amended Application for Transfer, we did not have in our personal knowledge a methodology for clipping out the roads from our GIS shapefile for the total irrigated acres for the Preston-Whitney area. Since the submission of that document, we have finally figured out how to clip the state's road inventory shape from the initially amended number of irrigated acres. We also removed portions of downtown Preston, which we know will never be irrigated. Doing so has reduced our original acreage from 17,665 acres to 16,545.1 acres. In some initial correspondence we had with the Department, we noted that we did not have the ability to clip out the roads, and anticipated that the final shape file would exclude these roads. Having now determined how to perform the GIS function, we believe that the amended acreage of 16,545.1 acres is even more accurate. There is no doubt that upon very careful review of the aerial photography of the Preston area, there may be house footprints and other things that could be omitted, and we anticipate that should the transfer be approved, that IDWR would assist in any further refinement of the GIS shapefile. Given that the Department's Application for Transfer filings generally only require some type of a USGS map, we believe we have certainly exceeded that minimum standard, and hope the information we have provided is as accurate as possible with the tools that we have.

Therefore, enclosed please find an amended page 2 and page 3 of our amended application, which we would request you simply substitute into the amended transfer application we previously submitted. We have also included two new copies of the GIS maps, and ask that they be substituted for Parts 7A and 7B of the attachments to the transfer.



We will also provide the amended shapefile to you via email for your staff to utilize as necessary.

Lastly, we have enclosed our check in the amount of $50.00 for the Amended Transfer fee. If you have any questions or any additional concerns, please let us know. We appreciate your attention to this matter.

Best Regards,

Robert L. Harris
HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.

Enclosures

c: Andrew Waldera

G:\WPDATA\RLH\7206-04 Preston-Whitney, Transfer\Pam Skaggs ltr 101810 wpd cdv

Transfer No. 75705

COPY

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

AMENDED APPLICATION FOR TRANSFER OF WATER RIGHT
PART 1

RECEIVED
AUG 18 2010
MOFFATT, THOMAS, BARRETT, ROCK & FIELDS, CHTD.

Name of Applicant(s) Preston-Whitney Irrigation Company Phone: _____

Mailing Address: PO Box 311, Preston, ID 83263 Email: lylewporter@plmw.com

- ☐ 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 Representative

Name of representative Robert L. Harris Phone: 208-523-0620 Email: rharris@holdenlegal.com

Mailing Address: Holden, Kidwell, Hahn & Crapo, PLLC, PO Box 50130, Idaho Falls, ID 83405-0130

- ☐ Send all correspondence for this application to the representative and not 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.

Robert L. Harris
Signature of Applicant or Authorized Representative

ROBERT L. HARRIS, ATTORNEY
Print Name and Title if applicable

Signature of Applicant or Authorized Representative

Print Name and Title if applicable

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 if part1A.2. To add the Glendale Canal as a POD for 13-2 and the Middle Ditch as a POD to 13-3 and 13-2104. This will combine all three water rights with the same PODs. Also, to better define points of injection and rediversion in Worm Creek and Spring Creek, and to better define the service area and irrigated acres serviced by the Preston-Whitney Irrigation Company.

Transfer No. 75705

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. All or Part	Right Number	Amount (cfs/ac-ft)	Nature of Use	Period of Use	Source & Tributary
√ ☐	13-2	30 cfs	Irrigation	04/01 to 10/31	Cub River/Bear River
√ ☐	13-3	25 cfs	Irrigation	04/01 to 10/31	Cub River/Bear River
√ ☐	13-2104	25 cfs	Irrigation	04/01 to 10/31	Cub River/Bear River

Total: 80 cfs and/or _____ ac-ft.

2. Total amount of water being transferred or changed 80 Cubic feet per second and/or _____ acre-feet 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.**

Points of Diversion:

New ?	Lot	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Source	Local name for diversion
No		NW	NE	NW	8	15S	41E	FRANKLIN	CUB RIVER	CUB RIVER/GLENDALE CANAL
No		NW	NW	SE	24	15S	40E	FRANKLIN	CUB RIVER	MIDDLE DITCH

Points of Injection/Rediversion:

Lot	1/4	1/4	1/4	Sec.	Twp.	Rge.	County	Source	Local name for diversion
	SW	NE	SE	10	15S	40E	FRANKLIN	INJECTION INTO WORM CREEK	
	NE	SW	SW	8	15S	40E	FRANKLIN	INJECTION INTO WORM CREEK	
	NE	SW	SW	8	15S	40E	FRANKLIN	REDIVERSION FROM WORM CREEK	
	SE	NW	SE	10	15S	40E	FRANKLIN	REDIVERSION FROM WORM CREEK	
	NE	NE	SE	13	15S	39E	FRANKLIN	REDIVERSION FROM WORM CREEK	
	NW	NE	SW	24	15S	39E	FRANKLIN	REDIVERSION FROM WORM CREEK	
	NW	NE	NW	25	15S	39E	FRANKLIN	REDIVERSION FROM WORM CREEK	
	SE	NE	SW	30	15S	40E	FRANKLIN	INJECTION INTO UNNAMED BRANCH OF SPRING CREEK	
	SE	SE	NE	36	15S	39E	FRANKLIN	REDIVERSION FROM SPRING CREEK	

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

4. Place of use: (If irrigation, identify with number of acres irrigated per ¼ ¼ 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	
			GIS data for irrigated acres and service area are on attached CD. Irrigation is for 16,545.1 acres within the proposed service area, which does not include federal public lands (BLM land).																

Total Acres (for irrigation use) 16,545.1

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. **Middle Ditch:** Two screw operated steel headgates, each approximately 4.5' wide, one of which is operated by remote control, mounted on a concrete pad perpendicularly adjacent to a concrete diversion check in the Cub River, which diverts into a 12' x 8' canal. The measuring device is situated some 75' downstream. **Cub River/Glendale Canal:** Two screw operated wood clad headgates, each approximately 6' wide, mounted on a concrete pad adjacent to a diversion check made of rock with concrete wings, in the Cub River, which diverts into a 12' x 25' canal. The measuring device is a concrete Parshall flume approximately 1000' downstream from the diversion.

b. Who owns the property at the point(s) of diversion? Max Sharp (Middle Ditch) US Forest Service (Glendale Canal)

If other than the applicant, describe the arrangement enabling the applicant to access the property for the diversion system:
Middle Ditch: The diversion works are located on land owned by Max Sharp and the company has a prescriptive easement for the use thereof, which is documented in an agreement with Cub River Irrigation Co. **Cub River/Glendale Canal:** The company has a permit from the US Forest Service for its right-of-way.

c. Are the lands from which you propose to transfer the water right subject to any liens, deeds of trust, mortgages, or contracts? No.
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: _____

Transfer No. 75705

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

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 or 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: None. The transfer more accurately documents the historically irrigated place of use and service area of Preston-Whitney Irrigation Co.

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) of use: At a portion of the southern boundary of the service area, there are five stockholders in Preston-Whitney who also have stock in the Cub River Irrigation Company (Water Right Nos. 13-26B, 13-26C, 13-26D, 13-34A, 13-34B, 13-222, and 13-2066).

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: _____

Transfer No. 75705

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

A. DESCRIPTION OF RIGHT(S) AS RECORDED

For each water right listed in Part 1B.1. of the application, attach a Proof Report (obtained from Department) or Details Report (obtained from website @ http://www.idwr.idaho.gov/apps/ExtSearch/SEarchWRAJ.asp). Label it **Part 2A**

SEE ATTACHED REPORTS (PART 2A)

B. 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.

Right Number _____

1. Amount _____ (cfs/ac-ft) for _____ Purposes from _____ to _____
   Amount _____ (cfs/ac-ft) for _____ Purposes from _____ to _____
   Amount _____ (cfs/ac-ft) for _____ Purposes from _____ to _____
   Amount _____ (cfs/ac-ft) for _____ Purposes from _____ to _____

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

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	

Total Acres (for irrigation use) _____

Transfer No. 75705

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT
PART 3

A. 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 if **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.

B. 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.**

C. PLACE OF USE CHANGES THE 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.**

1. 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 in Part 3B above.

N/A

FOR DEPARTMENT USE ONLY

Transfer contains _____ pages and _____ attachments.
Received by: _____ Date: _____ Prelim. Check by _____ Date: _____
Fee paid: _____ Date: _____ Receipted by _____ Receipt # _____
Add'l fee paid _____ Date: _____ Receipted by _____ Receipt # _____

Transfer No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT
MINIMUM REQUIREMENTS CHECKLIST

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 and water right proof report or details report for part 2A of the transfer application are available from any Department office or on the Department's website at http://www.idwr.idaho.gov/ .

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 Proof Report (obtained from Department) or Details report (Obtained on website) 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 transfer 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).
□	√	#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 http://www.idwr.idaho.gove/water/rights .
□	√	#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).
□	√	#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: Change of Ownership documents.

Attachment No. 2a
Water Right Ownership Documentation

Close

IDAHO DEPARTMENT OF WATER RESOURCES
Water Right Report

6/15/2009

WATER RIGHT NO. 13-2

Owner Type	Name and Address
Current Owner	CUB RIVER MIDDLE DITCH CO

Priority Date: 04/01/1882
Basis: Decreed
Status: Active

Source	Tributary
CUB RIVER	BEAR RIVER

Beneficial Use	From	To	Diversion Rate	Volume
IRRIGATION	4/01	10/31	30 CFS	
Total Diversion			30 CFS	

Location of Point(s) of Diversion:

CUB RIVER	NWSW	Sec. 24	Township 15S	Range 40E	FRANKLIN County

Place(s) of use: No POUs found for this right

Conditions of Approval:

1.	P.D. NOT SPECIFIED IN DECREE. P.U. NOT SPECIFIED IN DECREE. AMT, 0.30 OF STREAM AFTER PRIMARY RIGHTS, MAX 69.9 CFS

Dates:
Licensed Date:
Decreed Date: 07/09/1924
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:
Owner Name Connector:
Water District Number: 13A
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

Close

Close

IDAHO DEPARTMENT OF WATER RESOURCES
Water Right Report

6/15/2009

WATER RIGHT NO. 13-3

Owner Type	Name and Address
Current Owner	CUB RIVER & WORM CREEK CANAL CO
Present Owner	PRESTON WHITNEY IRRIGATION CO 33 SOUTH 1 EAST PRESTON, ID 83263
Security Interest	IDAHO SOIL CONSERVATION COMMISSION 2270 OLD PENITENTIARY ROAD BOISE, ID 83712 (208)332-8650

Priority Date: 04/01/1882
Basis: Decreed
Status: Active

Source	Tributary
CUB RIVER	BEAR RIVER

Beneficial Use	From	To	Diversion Rate	Volume
IRRIGATION	4/01	10/31	25 CFS	
Total Diversion			25 CFS	

Location of Point(s) of Diversion:

CUB RIVER	NENW	Sec. 08	Township 15S	Range 41E	FRANKLIN County

Place(s) of use: No POUs found for this right

Conditions of Approval:

1.	P.D. NOT SPECIFIED IN DECREE. P.U. NOT SPECIFIED IN DECREE. AMT, 0.25 OF STREAM AFTER PRIMARY RIGHTS, MAX 85 CFS

Dates:
Licensed Date:
Decreed Date: 07/09/1924
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:
Owner Name Connector:
Water District Number: 13A
Generic Max Rate per Acre:
Generic Max Volume per Acre:
Civil Case Number:
Old Case Number:
Decree Plantiff:
Decree Defendant:
Swan Falls Trust or Nontrust:
Swan Falls Dismissed:
DLE Act Number:
Cary Act Number:
Mitigation Plan: False

Close

Close

IDAHO DEPARTMENT OF WATER RESOURCES
Water Right Report

6/15/2009

WATER RIGHT NO. 13-2104

Owner Type	Name and Address
Current Owner	PRESTON WHITNEY IRRIGATION CO 33 SOUTH 1 EAST PRESTON, ID 83263
Original Owner	CUB RIVER & WORM CREEK CANAL CO

Priority Date: 03/14/1924
Basis: License
Status: Active

Source	Tributary
CUB RIVER	BEAR RIVER

Beneficial Use	From	To	Diversion Rate	Volume
IRRIGATION	/	/	25 CFS	
Total Diversion			25 CFS	

Location of Point(s) of Diversion:

CUB RIVER	NWSE	Sec. 08	Township 15S	Range 41E	FRANKLIN County

Place(s) of use:

Place of Use Legal Description: IRRIGATION FRANKLIN County

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres

15S	39E	2	NENE	NWNE	SWNE	SENE
			NENW	NWNW	SWNW	SENW
			NESW	NWSW	SWSW	SESW
			NESE	NWSE	SWSE	SESE
		3	NENE	NWNE	SWNE	SENE
			NENW	NWNW	SWNW	SENW
			NESW	NWSW	SWSW	SESW
			NESE	NWSE	SWSE	SESE
		9	NENE	NWNE	SWNE	SENE
			NENW	NWNW	SWNW	SENW
			NESW	NWSW	SWSW	SESW
			NESE	NWSE	SWSE	SESE
		10	NENE	NWNE	SWNE	SENE
			NENW	NWNW	SWNW	SENW
			NESW	NWSW	SWSW	SESW
			NESE	NWSE	SWSE	SESE
		14	SWNE	SENE		
			SWNW	SENW		
			NESW	NWSW		
			NESE	NWSE	SWSE	SESE
		15	SWNE	SENE		
			SENW			
			NESW	NWSW	SWSW	SESW
			NESE	NWSE	SWSE	SESE
		21	NENE	NWNE	SWNE	SENE
			NENW	NWNW	SWNW	SENW
			NESW	NWSW	SWSW	SESW
			NESE	NWSE	SWSE	SESE
		22	NENE	NWNE	SWNE	SENE
			NENW	NWNW	SWNW	SENW
			NESW	NWSW	SWSW	SESW
			NESE	NWSE	SWSE	SESE
		23	NENE	NWNE	SWNE	SENE
			NENW	NWNW	SWNW	SENW
			NESW	NWSW	SWSW	SESW
			NESE	NWSE	SWSE	SESE
		26	NENE	NWNE	SWNE	SENE
			NENW	NWNW	SWNW	SENW
			NESW	NWSW	SWSW	SESW
			NESE	NWSE	SWSE	SESE
		27	NENE	NWNE	SWNE	SENE
			NENW	NWNW	SWNW	SENW
			NESW	NWSW	SWSW	SESW
			NESE	NWSE	SWSE	SESE

		28		NENE			NWNE			SWNE			SENE							
				NENW			NWNW			SWNW			SENW							
				NESW			NWSW			SWSW			SESW							
				NESE			NWSE			SWSE			SESE							
		34		NENE			NWNE			SWNE			SENE							
				NENW			NWNW			SWNW			SENW							
				NESW			NWSW			SWSW			SESW							
				NESE			NWSE			SWSE			SESE							
		35		NENE			NWNE			SWNE			SENE							
				NENW			NWNW			SWNW			SENW							
				NESW			NWSW			SWSW			SESW							
				NESE			NWSE			SWSE			SESE							

Conditions of Approval:

1.	THIS IS UNSURVEYED LAND. THE WATER RT. IS PLOTTED IN ACCORDANCE WITH THE LEGAL DESCRIPTION OF LICENSE. AC. IRR. NOT SHOWN ON LICENSE.

Dates:
Licensed Date: 07/22/1930
Decreed Date:
Permit Proof Due Date:
Permit Proof Made Date:
Permit Approved Date:
Permit Moratorium Expiration Date:
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:
Owner Name Connector:
Water District Number: 13A
Generic Max Rate per Acre:
Generic Max Volume per Acre:
Civil Case Number:
Old Case Number:
Decree Plantiff:
Decree Defendant:
Swan Falls Trust or Nontrust:
Swan Falls Dismissed:
DLE Act Number:

Cary Act Number:
Mitigation Plan: False
Close

 Transfer No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT
PART 3

A. 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 if **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.

B. 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.**

C. PLACE OF USE CHANGES THE 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.**

1. 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 in Part 3B above.

N/A

FOR DEPARTMENT USE ONLY

Transfer contains _____ pages and _____ attachments.
Received by: _____ Date: _____ Prelim. Check by _____ Date: _____
Fee paid: _____ Date: _____ Receipted by _____ Receipt # _____
Add'l fee paid _____ Date: _____ Receipted by _____ Receipt # _____

Attachment No. 4
Power of Attorney

Rob Harris

From: Lyle W. Porter [lylewporter@plmw.com]
Sent: Wednesday, June 03, 2009 3:06 PM
To: Rob Harris
Cc: Maxine H. Waddoups
Subject: Signature authority

To whom it may concern:

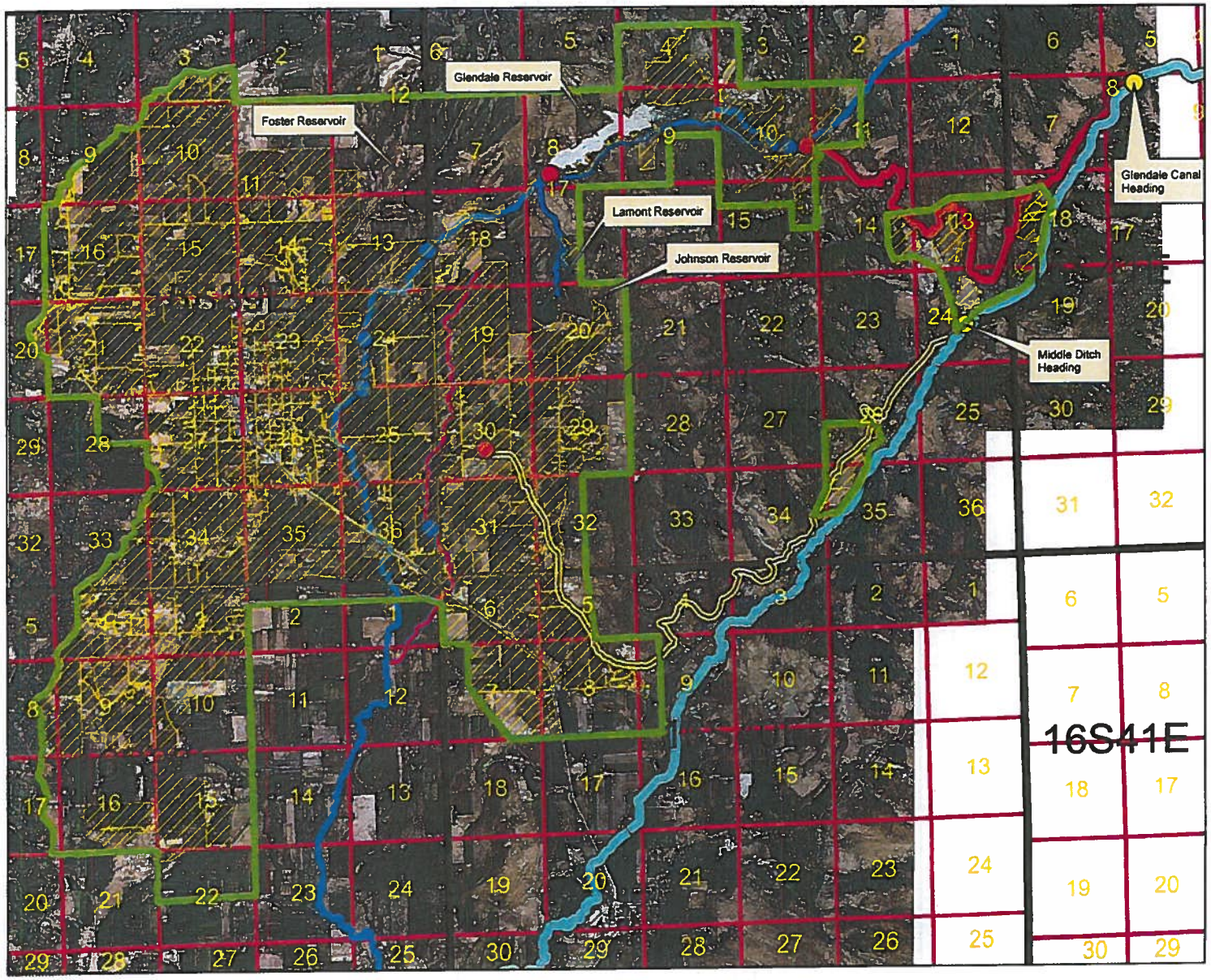
Mr. Robert L. Harris of Holden, Kidwell, Hahn and Crapo, PLLC has been retained to represent the Preston-Whitney Irrigation Company, and as such is hereby authorized to sign any necessary documents on behalf of the said Preston-Whitney Irrigation Company.

Lyle W. Porter
President
Preston-Whitney Irrigation Co.
P.O. Box 311
Preston, ID 83263
E-Mail: lylewporter@plmw.com
The information contained in this electronic e-mail and any accompanying attachments, all of which may be confidential and/or privileged, is intended only for use by the person or entity to whom it is addressed. If you are not the intended recipient, any unauthorized use, disclosure or copying of this e-mail and its contents is strictly prohibited and may be unlawful. If you are not the intended recipient, please immediately notify the sender by return E-mail and delete the original message and all copies from your system. Thank you.

!DSPAM:1090,4a2d5f2e53561215584249!

Attachment No. 7a
Map - Proposed POD

PRESTON-WHITNEY AMENDED TRANSFER



Legend

- Service Area
- Preston-Whitney_Irrigated_Acres
- Points_of_Diversion
- Points_of_Injection
- Points_of_Rediversion
- Cub_River
- Worm_Creek
- Spring Creek
- Glendale_Canal
- Lamont-Johnson_Ditch
- Middle_Ditch
- gcdb_tr
- gcdb_sections

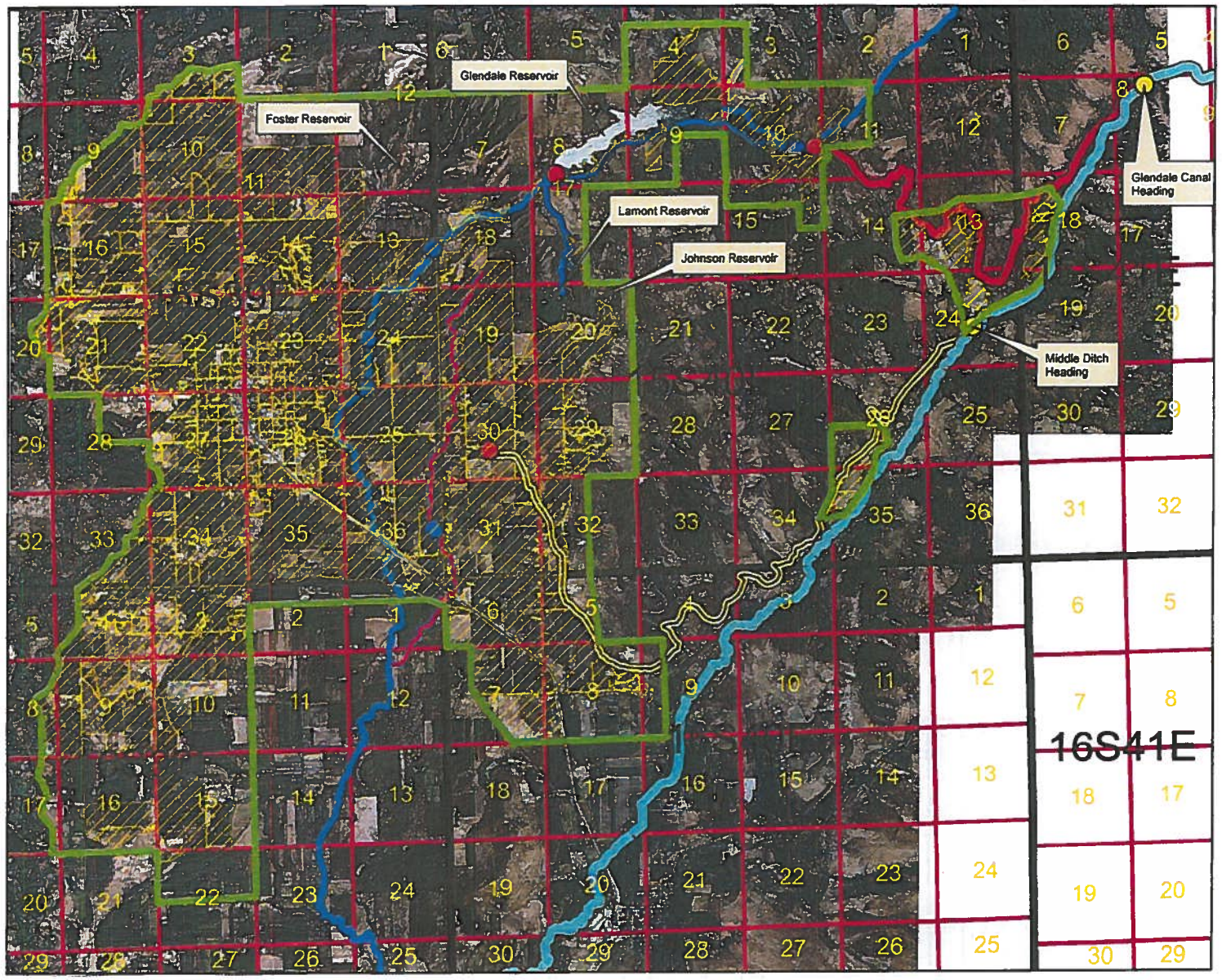
16545.1 Total Acres

2006 NAIP Aerial Photo

PROT-00005

Attachment No. 7b
GIS Shape File

PRESTON-WHITNEY AMENDED TRANSFER



16545.1 Total Acres

2006 NAIP Aerial Photo

PROT-00006

Attachment No. 9
Other

NARRATIVE
CHANGE OF OWNERSHIP
WATER RIGHT NO. 13-2 AND 13-3

Documents associated with the merger of Cub River Middle Ditch Company with Preston-Whitney Irrigation Company are attached. Included are minutes from a stockholders meeting of the Cub River and Worm Creek Canal Company, wherein they agreed to convey all right, title and interest to Preston-Whitney Irrigation Company. These documents relate to Water Right No. 13-3, which lists the current owner as the Cub River and Worm Creek Canal Company.

Regarding Water Right No. 13-2, there are minutes of the Cub River Middle Ditch Irrigation Company, wherein the resolution states clearly the formation of a new company known as the Preston-Whitney Irrigation Company, which would take over all of the holdings of the Cub River and Worm Creek Canal Company and of the Cub River Middle Ditch Irrigation Company. Attached to this documentation is a detailed list of the stockholders of the Cub River Middle Ditch Irrigation Company that ratified the action of the company conveying all of the assets to the Preston-Whitney Irrigation Company. We believe this documentation is sufficient evidence to change the names on both water rights. The name and address that should be on each water right is Preston-Whitney Irrigation Company, PO Box 311, Preston, ID 83263.

Finally, are Articles of Incorporation of Preston-Whitney Irrigation Company. At Article 13, it clearly references that stock would be issued to the former members of the Cub River and Worm Creek Canal Company and the Cub River Middle Ditch Irrigation Company.

G:\WPDATA\RLH\7206-01 Preston-Whitney\NARRATIVE.wpd:cdv

ARTICLES OF INCORPORATION
of
PRESTON-WHITNEY IRRIGATION COMPANY.

KNOW ALL MEN BY THESE PRESENTS:

That we, the undersigned, whose names are subscribed hereto, do hereby certify and declare that we have under and pursuant to the law of the State of Idaho associated ourselves together as a corporation for the purposes hereinafter set forth and we do declare that we have adopted and do adopt the following

ARTICLES OF INCORPORATION:

ARTICLE I.

The name of the corporation hereby formed is "PRESTON-WHITNEY IRRIGATION COMPANY."

ARTICLE II.

The purposes for which this corporation is formed and the business and pursuits of this corporation and the general businesses x fc which it is established are as follows:

To acquire, purchase, construct, own, manage, maintain, and operate irrigation system or systems for the purpose of handling, accumulting, storing and distributing water and water rights to its stockholders; to lease, own, acquire, and purchase lands and easements and to purchase, acquire, lease, own, construct, operate and maintain dam reservoirs, canals, ditches, laterals, irrigation works, power plants pumping plants, transmission lines, power sytems, irrigation systems and works, roads, buildings, water rights and all things incidental to or necessary for the reclamation, irrigation and enjoyment of the lands or property of its stockholders; to lease, sell or otherwise dispose of any property which it may acquire or own, including water and water rights; to instal a power plant or plants to generate electric current for pumping water or for electric lights or other power purposes, and to do all things necessary to be done in the purchase, installation and maintenance of such power plants and pumping stations; to construct, and to contract with the United States or other persons firms or corporations for the purchase, construction, acquisition or lease of water, water rights, lands, easements, reservoirs, ditches, canals, irrigation works, pumping plants, power plants, power systems and transmission lines or parts thereof, and all other property incidental to or necessary for the business of the corporation; and in general to do each and every thing necessary to be done to acquire, operate, maintain, build, enlarge and construct a complete irrigation system of canals, reservoirs, pipe-lines, pumping plants, with all necessary laterals and ditches so as to amply supply its stockholders with early and late water for the irrigation of their agricultural crops, orchards, fields and lands generally.

And for the carrying out of the purposes and objects above set forth, this corporation shall have power to incur indebtedness and borrow money and issue its negotiable notes or bonds evidencing its indebtedness, and to mortgage or otherwise encumber or pledge its property, real or personal, to secure the payment of its debts or obligations.

ARTICLE III.

The place where the principal place of business of the corporation will be transacted is Preston, Franklin County, Idaho.

ARTICLE IV.

The term for which this corporation shall exist is fifty (50) years.

ARTICLE V.

The number of directors of this company shall be seven, Each director shall be a citizen of the United States, more than twenty-one years of age, and a stockholder in the corporation.

At the first annual stockholders' meeting to be held in the year 1927, two directors shall be elected for terms of one (1) year; two shall be elected for terms of two (2) years; and three shall be elected for terms of three (3) years; and thereafter at each succeeding annual meeting two directors shall be elected for terms of three years, except that at each third annual meeting from 1927 there shall be elected three directors for terms of three years.

The officers of this corporation shall be President, Vice-president, Secretary and Treasurer, who shall be elected by the Board of Directors. The President and Vicepresident shall be elected from the Directors. The Secretary and Treasurer shall be elected by the Board of Directors either from their number or from the stockholders at large. The offices of Secretary and Treasurer may be held by the same person.

The names of the Directors and officers selected to act until their successors are elected and qualified are as follows:

George Foster, President and Director, Whitney, Idaho.
Joseph Johnson, Vice-President and Director, Preston, Idaho.
H. A. Stephenson, Director, Preston, Idaho.
Fred Jensen, Director, Preston, Idaho.
J. N. Larsen, Director, Preston, Idaho.
A. C. Hull, Director, Whitney, Idaho.
Joseph Dunkley, Director, Whitney, Idaho.
P. M. Condie, Secretary, Preston, Idaho.
P. M. Condie, Treasurer, Preston, Idaho.

Vacancies occurring in the Board of Directors shall be filled by appointment made by the Board of Directors. Such appointee shall hold office until the next regular election, at which time the vacancy or vanancies shall be filled by election.

The Board of Directors shall meet as provided in the by-laws of this corporation and at such other times as the President, or in his absence, the Vice-president, or a majority of the Directors shall call such meeting.

The Board of Directors shall have power to transact the brdinary business of the corporation, make and execute contracts in the name of the corporation, levy and collect assessments, and do such other things as may be necessary for the prosecution of the work of the corporation, provided that the Board of Directors shall not have power to mortgage or encumber the property of this corporation without the approval of a majority of the stockholders, and any mortgage made with such approval shall be valid and binding upon the property of this corporation.

ARTICLE VI.

The amount of capital stock of this corporation shall be Thirty-thousand (30,000) shares of the par value of Ten Dollars ($10.00) per share, and each share of stock shall represent the right to the use of one-thirty-thousandths of the water owned by the company for use on lands served by the irrigation system of this corporation.

ARTICLE VII.

The stockholders shall make suitable by-laws, not inconsistent with these Articles, and with the laws of this State, for the management and government of this corporation.

ARTICLE VIII.

The fully paid capital stock of this corporation shall be assessable and the Board of Directors of the company is authorized and empowered to levy an assessment or assessments each year, and from year to year, sufficient in amount to pay off the current expenses of the irrigation systems and all maintenance charges, interest on borrowed money, or on notes or bonds issued, and any other outstanding indebtedness of the company; also sufficient to provide a sinking fur or funds to pay the principal of any bonds, notes or other indebtedne when they, or any of them fall due. Such assessments to be levied ar collected in accordance with the laws of the State of Idaho, and if a assessment, or any part thereof, is not paid the stock delinquent shall be sold in the manner and form prescribed by the laws of the State of Idaho, to pay such delinquencies. Waterr ights represented by shares of stock sold for delinquencies may be transferred to the purchaser and used on any lands of the purchaser, his lessee or grantee, served by the distributing system of the company.

ARTICLE IX.

The private property of the stockholders of the corporation shall not be liable for the debts or obligations of this corporation.

ARTICLE X.

The annual meeting of the corporation shall be held at the office of the company at Preston, Idaho, at one o'clock P. M. on the fourth Monday in January of each year.

The Secretary shall give notice of each annual meeting of the stockholders or of any special meeting of the stockholders which may be called by the Board of Directors not less than two weeks prior to the date of such meeting. Such notice shall be given by letter addressed to the last recorded address of each stockholder and shall be complete when such notice is deposited in the post office properly addressed and stamped.

ARTICLE XI.

A majority of the Board of Directors shall constitute a quorum and shall be entitled to transact business for the corporation, but a smaller number may adjourn from time to time.

ARTICLE XII.

This corporation takes and accepts in full payment of 10,000 shares of its capital stock, all the property and assets of Cub River and Worm Creek Canal Company, an Idaho corporation, and also takes and accepts in full payment of 10,000 shares of its stock all of the property and assets of Cub River Middle Ditch Irrigation Company, an Idaho corporation, said property being fully described in the deeds of said companies of record in the office of the recorder of Franklin County, Idaho.

ARTICLE XIII.

The following is a list of stock subscribers and the amount subscribed by each of them, to-wit:

CUB RIVER AND WORM CREEK CANAL COMPANY, In Trust for its stockholders, said stock being fully paid by transfer of the property des-

cribed in the deed of said Company, referred to in Article XII hereof, 10,000 shares -$100,000.00

CUB RIVER MIDDLE DITCH IRRIGATION COMPANY, In Trust for its stockholders, said stock being fully paid by transfer of the property described in the deed of said company, referred to in Article XII hereof, 10,000 shares -$100,000.00

The Balance of the subscribed stock of the corporation is subscribed for as follows:

Name.	Address.	No. of Shares.	Amount.
George Foster,	Whitney, Idaho,	1	$10.00
Joseph Johnson,	Preston, Idaho,	1	10.00
H. A. Stephenson,	Preston, Idaho,	1	10.00
Joseph Dunkley,	Whitney, Idaho,	1	10.00
A. C. Hull,	Whitney, Idaho,	1	10.00
Fred Jensen,	Preston, Idaho,	1	10.00
J. N. Larsen,	Preston, Idaho,	1	10.00
Franklin County Sugar Co.	Preston, Idaho,	1500	15,000.00
Preston Milling Company,	Preston, Idaho,	200	2,000.00
Federal State Bank,	Preston, Idaho,	100	1,000.00
The First National Bank,	Preston, Idaho,	100	1,000.00
Foss Brothers,	Preston, Idaho,	100	1,000.00
J. C. Penney Co. Inc.,	Preston, Idaho,	100	1,000.00
Lundstrom Furniture and Carpet Company,	Preston, Idaho,	50	500.00
Petterborg-Nash Motor Co.,	Preston, Idaho,	25	250.00
S. W. Parkinson,	Preston, Idaho,	50	500.00
Joseph H. Hall,	Preston, Idaho,	50	500.00

The remainder of said stock amounting to 7,718 shares of the par value of $77, 180.00 shall be held as Treasury stock to be sold by the Company and the proceeds to be used in the construction of the proposed reservoir and in improving the irrigationsystem.

IN WITNESS WHEREOF, we, the undersigned incorporators, have hereunto set our hands and seals this 9th day of July, A. D. 1926.

George Foster (Seal)
Joseph Johnson (Seal)
H. A. Stephenson (Seal)
Joseph Dunkley (Seal)
A. C. Hull (Seal)
Fred Jensen (Seal)
J. N. Larsen (Seal)

State of Idaho,)
) SS.
County of Franklin.)

On this 9th day of July, A. D. 1926, before me, Arthur W. Hart, a Notary Public in and for said State, personally appeared George Foster, Joseph Johnson, Joseph Dunkley, H. A. Stephenson, A. C. Hull, Fred Jensen, and J. N. Larsen, known to me to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same.

In witness whereof, I have hereunto set my hand and affixed my official seal, the day and year first above written.

Arthur W. Hart,
(Seal) Notary Public, Preston, Idaho.

MINUTES OF A STOCKHOLDER' MEETING

OF THE CUB RIVER & WORM CREEK CANAL

COMPANY.

Held pursuant to call, on the 18th day of June, 1926, at the City Hall, in Preston, Franklin County, Idaho.

Meeting was called to order by John A. Larson, president of the company, at eight o'clock P. M., a majority of the stock being represented.

The following motion was introduced by A. W. Hart, seconded by Joseph Johnson:

"Whereas, it appears that the City Hall is not large enough to accommodate the number of stockholders now present at this meeting,

"NOW, THEREFORE, be it RESOLVED, that this meeting adjourn forthwith to the Second Ward Meeting House, in Preston, Idaho, and all business to come before said meeting be conducted there; and, further, that the City Marshal be instructed to remain at the City Hall and advise any person arriving there that said meeting is being held at the said Second Ward Meeting House."

Motion carried. The stockholders present withdrew to the Second Ward Meeting House.

Said meeting reconvened at 8:15 o'clock P. M. at the Second Ward Meeting House, in Preston, Idaho.

A roll call was taken by the Secretary, which showed $23,544.57 present.

The Secretary then read the notice and call for the meeting.

Orlando Peterson read the following resolution, and moved its adoption:

"I move that the directors of the Cub River & Worm Creek Canal Company be authorized to consolidate with the Cub River Middle Ditch Company, for the purpose of financing, constructing and operating a proposed water storage reservoir commonly known as the "Glendale Reservoir", and that said board

of directors be authorized and directed, in order to effect such consolidation, to convey to the Preston-Whitney Irrigation Company, a corporation to be organized, all of the holdings and property of the Cub River & Worm Creek Canal Company, for one-third of the capital stock of said Preston-Whitney Irrigation Company, to-wit, $100,000.00."

Seconded by Joseph Johnson.

Moved by A. W. Hart, seconded by L. C. Larson, that debate on the question be limited to ten minutes for each speaker. Motion carried.

After discussion, Orlando Peterson withdrew his former motion, with consent of second, and substituted the following, and moved its adoption:

"WHEREAS, the board of directors of the Cub River & Worm Creek Canal Company met at a special meeting held on the 2nd day of June, 1926, and having duly signed a waiver of notice, of said meeting, passed and adopted the following resolution, to-wit:

"shall the board of directors be authorized and empowered to convey, by a good and sufficient instrument in writing, all of the holdings of this corporation, its right, title, and interest, with the water, water rights, filings and permits, easements, rights of way, ditches and canals, including the entire irrigation system now held by this company, with all head-gates, culverts, bridges, and canal equipment, moneys due and to become due, stock and stock certificates, and property of every description, name or nature, to the Preston-Whitney Irrigation Company, a proposed corporation to be hereafter incorporated, for and in consideration of the issuance to this company, for and in behalf of its stockholders, stock in said new corporation, in the sum and amount of one-third of its capital stock, to-wit: One hundred thousand dollars, ($100,000.00), said stock to be transferred to the stockholders hereof in proportion to, and in the ratio of, the stock they now hold, or are entitled to, said conveyance to be made at such time as the following conditions have been complied with, and proof of such compliance duly filed with this board:

"First: That the Preston-Whitney Irrigation Company is duly incorporated under the laws of the State of Idaho.

"Second: That the Cub River & Middle Ditch Company, a corporation of Preston, Franklin County, Idaho, has conveyed, or tendered a conveyance, under good and valid proceedings, said conveyance and proceedings to be approved by the attorneys for this company, and their approval filed in writing with this board, all of its property to said Preston-Whitney Irrigation Co?"

secretary mailed printed notices to each and every stockholder of this company, giving notice of the time, place and question to be considered at this meeting, and also published said notice in three successive issues of the Preston News, prior to this meeting, all of which appears by the records of said secretary, a copy of which said notice is as follows:

"NOTICE OF SPECIAL STOCK-HOLDERS' MEETING."

Preston, Idaho,
May 29, 1926."

"Pursuant to a resolution of the board of directors of the Cub River & Worm Creek Canal Company passed at a special meeting held on the above date, a stockholders' meeting of the stockholders of said Cub River & Worm Creek Canal Company is hereby called for Friday, the 18th day of June, 1926, at the hour of 8:00 o'clock P. M., at the City Hall, at Preston, Franklin County, Idaho, to vote on the following question:

Shall the directors of the Cub River & Worm Creek Canal Company be authorized to consolidate with the Cub River Middle Ditch Company, for the purpose of financing, constructing and operating a proposed water storage reservoir commonly known as the "Glendale Reservoir", and shall said board be authorized, in order to effect such consolidation, to convey to the Preston-Whitney Irrigation Company, a corporation to be organized, all of the holdings and property of this company for one-third of the capital stock of said Preston-Whitney Irrigation Company, to-wit, $100,000.00?

"Also, for such other business as it may be proper to consider.

"The general plan of construction and consolidation is filed in this office, open to your inspection.

EZRA F. WOOLLEY
Secretary."

"AND, WHEREAS, from the roll-call heretofore taken at this meeting, it appears that there is more than fifty-one per cent of the total outstanding capital stock of this company represented at this meeting, either by the owners thereof in person or by proxy, and that the total amount of stock now represented amounts to $23,544.39.

"NOW, THEREFORE, be it resolved, that the board of directors of this company be authorized and empowered by the stockholders of this company to convey, by a good and suffic-

ient instrument in writing, all of the interest of this corporation, its right and title to and interest in all its water rights, water filings and permits, rights of way and easements, ditches, canals and laterals, including the entire irrigation system with its headgates, flumes, bridges and canal equipment, moneys due or to become due, stocks and stock certificates, and property of every description, name and nature, to the Preston-Whitney Irrigation Company, a corporation to be organized, for and in consideration of one-third of the capital stock of said Preston-Whitney Irrigation Company, to-wit: One hundred thousand dollars ($100,000); said stock to be distributed to the stockholders of this company in proportion and in the ratio to the stock which said stockholders hold in this company, such conveyance to be made at such time as the following conditions have been complied with, and proof of such compliance duly filed with this board:

" (1) That the Preston-Whitney Irrigation Company is duly incorporated under the laws of the State of Idaho.

" (2) That the Cub River Middle Ditch Company, a corporation of Franklin County, Idaho, has conveyed, or tendered a conveyance, under good and valid proceedings, of all its property to the said Preston-Whitney Irrigation Company, which conveyance is authorized by good and valid proceedings, said conveyance and proceedings to be approved by the attorneys for this company, and their approval in writing to be filed with this board."

P. J. Evans, as attorney for thos stockholders living above the reservoir, and who would not be benefitted by said reservoir, asked that the following statement be incorporated in the minutes on behalf of said stockholders:

"They reserve the right of said stockholders to receive their water above the reservoir on the same conditions and terms in the future as they have in the past, without any added or additional obligation."

Moved by A. W. Hart, seconded by A. C. Hull, that the original resolution be ammended to include the reservation asked for by P. J. Evans.

Orlando Peterson, with the consent of his second, accepted the amendment, and movedthe adoption of said resolution as amended. Seconded by Joseph Johnson.

Moved by D. G. Eames that the motion before the house be amended so that said reservations apply to all stockholders who are not benefitted by said proposed reservoir. Seconded by Ezra F. Woolley.

Ezra F. Woolley then read the following, and moved its adoption as an amendment to Mr. Eames amendment to the original motion:

Be it RESOLVED, That all of the assets, including water rights, ditches and laterals, of the Cub River & Worm Creek Canal Company, and the Cub River Middle Ditch Company, be submitted to a committee of three competent, disinterested, engineers, for valuation and appraisement, which said committee shall appraise the value of the respective assets of the two companies to the Preston-Whitney Irrigation Company, and shall file their findings, appraisement and valuation in writing with the secretaries of each of said companies, and when such appraisement is made and filed that the Board of Directors of this company be authorized and empowered by the stockholders of this company to convey, by a good and sufficient instrument in writing, all of the interest of this corporation, its right and title to and interest in all its water rights, water filings and permits, rights of way and easements, ditches, canals, and laterals, including the entire irrigation system with its headgates, flumes, bridges and canal equipment, moneys due or to become due, stocks and stock certificates, and property of every description, name and nature, to the Preston-Whitney Irrigation Company, a corporation to be organized, for and in consideration of capital stock in said new company in an amount equal in value to the valuation to said Preston-Whitney Irrigation Company which the said committee shall place upon the assets of this company, as hereinbefore set forth, said stock to be divided among the respective stockholders of this company in proportion and in the ratio to the stock which

said stockholders hold in this company."

Seconded by D. G. Eames.

Moved by James Johnsen, seconded by J. N. Larsen, that the amendments offered by Mr. Woolley and Mr. Eames be tabled, and a vote be taken on the original motion.

The chairman then stated the question on the motion to table the amendments, and a vote was taken, with the following results: $15,789.19 Stock "Yes." $4,996.72 Stock "No.".

The chairman then called for a vote on the previous question. The secretary called the roll, and the vote stood: $15,789.19 in favor, and $4,996.72 opposed.

Motion declared carried.

Moved by P. M. Condie that the meeting adjourn. Motion declared carried.

Ezra F. Wooley
SECRETARY

Approved John F. Larson
PRESIDENT.

State of Idaho, :
: SS.
County of Franklin. :

I, Ezra F. Woolley the duly qualified and acting Secretary of the Cub River and Worm Creek Canal Company, a corporation of Idaho, do hereby certify that the within instrument designated, minutes of a stockholders meeting of the Cub River and Worm Creek Canal Company, is a full, true and correct copy of the original instrument on record in the books of said corporation, and on file in its office.

Dated this 28th day of February, 1927.

Ezra F. Woolley, Sr.

Secretary of the Cub River & Worm Creek Canal Company, a corporation.

(SEAL)

State of Idaho
DEPARTMENT OF WATER RESOURCES
900 N. Skyline Dr., Suite A, Idaho Falls, Idaho 83402-1718 - (208) 525-7161- Fax (208) 525-7177

EASTERN REGION

JULY 29, 1999

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

Mr. Eldon Golightly
2414 S. 1600 E.
Preston, ID. 83263

Dear Mr. Golightly:

I recently discussed your complaint about the Middle Ditch culvert with my Supervisor, Ron Carlson, and Deputy Attorney General, Phil Rassier.

The feelings they expressed were ones of caution. Traditionally, waste water flows from a given source are not demandable if the controlling entity changes its water usage or handling.

However, there are examples of a ditch literally becoming the "stream" if the channels are switched and used as a stream conveyance for many years.

This appears to be unique legal territory and I can only advise you to seek an attorney who can better advise you.

Sincerely,

Harold W. Jones
Water Right Supervisor

HWJ::dn

ALL-STATE LEGAL
EXHIBIT
103
PROTESTANT

SCANNED

PROT-00465

1/ Need letter from the cooperating canal company agreeing to point of diversion change

2/ Need evidence of ownership of 114 acres

3/ I will write up transfer + need $100 at time it's submitted

Idaho DWR
Department of Water Resources
900 N. Skyline Dr., Idaho Falls, ID 83402

HAROLD W. JONES
EASTERN REGION
WATER RIGHTS SUPERVISOR
(208) 525-7161
FAX (208) 525-7177

Recommended Point of diversion at Johnson-Lamont Canal Interception

Delivery Point optional - Best Point for all parties Involved.

Donald D. Golightly Eldon C. Golightly

Priority Dates		Acre Feet
5-15-1902	.20 C.F.S.	36
8-31-1903	1.80 C.F.S.	400
4-1-1872	.43 CFS	184

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HAROLD W. JONES
EASTERN REGION
WATER RIGHTS SUPERVISOR
(208) 525-7161
FAX (208) 525-7177

November 19, 2007

Cindy Bird
Idaho Department of Water
Soda Springs, ID 83276

Cindy:

I appreciate your help with our water problems.

I have been able to establish the Spring Creek Water out of Lamont Reservoir –
Tom Peterburg owns the land that it angles through and onto Oneida Street. It flows west and into the northwest channel of Spring Creek. Lamont Reservoir was built in 1949. My sister married Seeburn Lamont's son who owned the farm that would have been inside the reservoir. There was water flowing through his farm. Tom said that was why he lived. Tom also knew about the water coming east into the area south of Johnson Reservoir. This stream runs all year and would be another arm of Spring Creek. There are several springs coming up in the area south of Johnson Reservoir. This area I have indicated on the map some of the springs and where this water runs. The ditches and channels have been tromped badly and not maintained as the water flows through this area. There are probably 5 to 8 springs that come up throughout this area.

I was also told there are very good springs in the bottom of Johnson Reservoir. While they were repairing the dam and had all outside water turned out the reservoir rose 3 feet.

Tom also told me of a court decision regarding the Webster on Worm Creek and their water rights. The court was said to have ruled that since Preston Whitney dumped Cub River water into Worm Creek that the Cub River water was not distinguishable and so it became Worm Creek and he had full right to her decreed.

Water Rights
13-0300 – 1879 264.4 AF 1.50 R of D
13-0299 – 1909 238 AF 1.38 R of D
Preston Whitney
13-0271 – 1880 2000 AF 50 R of D
13-2022 – 1910 5457 AF 30 R of D

I have not had the time to get a copy of this case or decision.

I would think this would be very helpful and could be very important in establishing why we have the right behind Preston Whitney's 1880 water. Just as Mark Webster had a right before 1879 and again right after.

I also established the flow of Spring Creek from Ed Moser pond. Tom Peterburg married Ed's sister and he knows all of these drain ditches. It runs behind Ed and Judy's family home on the east corner of 2200 East and west to east side of the road then south a piece and then under the road to the west side of the road and then south and dumps into Spring Creek as shown on the map.

Sincerely,

Eldon Golightly

SCANNED
NOV 19 2007

RECEIVED
JUL 27 2007
DEPARTMENT OF
WATER RESOURCES

July 25, 2007

Idaho Department of Water Resources
322 E. Front St.
PO Box 83720
Boise, Idaho 83720-0098

Gentlemen:

It has been suggested to me that I correspond with you regarding my water rights from the Worm Creek Decree.

I have been involved in these rights since 1977 when I found that two neighbors, through their attorney, had filed incorrect dates which led to one of my neighbor's, Mr. Moser, filing on our water right #13-0062. We were able to get these corrected in 1977.

Again in 1995, two neighbors diverted a share of my water into the Cub Canal. Attorney Randy Budge was retained to stop the Moser's from taking my water. By mid summer 1997 we were receiving our water again.

Our water rights once again were being diverted into the Lewiston Canal. This time it was through a Lease Agreement dated September 26, 1996 between Lewiston Canal and Cub River Irrigation Company. This agreement was signed by both irrigation companies. Paragraph 6 of that agreement states that it is understood between the parties that there exists certain users of the Middle Ditch who have decreed water tights but whom are not stockholders of either LESSOR or LESSEE. The LESSEE agrees not to interfere with their continued use of the Middle Ditch for their decreed water rights and shall assist in servicing said users of the Middle Ditch in the same fashion as the LESSOR has done in the past. The agreement seemed to work so good that in 1999 Lewiston Canal installed their second pipe. This one from the Middle Ditch and could take the 5 to 10 plus feet of water and drop it into the Cub Canal (no filing has been done to divert their water). They were able to divert a large share of our "Worm Creek Decree" water into the Lewiston Cub Canal.

I, again, went to Randy Budge to help me get my water back. He reviewed my paper work, which included copies of proposed findings of water rights – "Worm Creek drainage" colored maps of Preston/Whitney Irrigation Company Ditches that also included the beginning of the Worm Creek Drainage Basin. The diversion pipe was installed under agreement with Preston/Whitney Irrigation Company and Lewiston Canal/Cub Irrigation Company. This first pipe was filed with Department of Water Resources with what appeared to be proper paperwork. However, the second pipe from the Middle Ditch of Preston/Whitney had no filing. Mr. Budge acknowledged my rights and called the Department of Water and set up an appointment with Roger W. Jones, which enabled me to drive on to Idaho Falls.

I have had meetings with the Department of Water, also Pete Peterson, when he was Bear River Water Master. This year I have had the help of Cindy Bird from the Department of Water.

It has been difficult to try to get my water back as decreed under the Worm Creek Basin Decree. It has been difficult to believe that my attorney, Randy Budge, would write in his letter of June 20, 2005 that they could take "waste water" from Preston/Whitney system pursuant to exchange agreement between these two parties and deliver it to the Cub Canal/Lewiston Irrigation Company. I would welcome any help or assistance you can give me in getting my decreed Worm Creek drainage water delivered. I have many documents and letters. They are also on file with the Department of Water in Idaho Falls.

Sincerely,

Eldon C. Golightly
2414 S. 1600 E.
Preston, ID 83263

EG/ab

Enclosure: Letter dated April 15, 2005 to Cub River Irrigation Co. from Barker Law Office

cc: Gary Spackman, Administrator
Tim Luke
Cindy Bird

RECEIVED
AUG 0 5 2008
MOFFATT, THOMAS, BARRETT,
ROCK & FIELDS, CHTD

Rec'd from Eldon
Golightly

WATER RIGHTS PROJECT

DTD 7-18-2008

WORM CREEK
SPRING CREEK
DECREED WATER RIGHTS

RECEIVED
AUG 0 5 2008
MOFFATT,THOMAS,BARRETT,
ROCK & FIELDS,CHTD

In 1996, Randy Budge esq. (Pocatello) helped me stop two of my neighbors, Kent Moser and Mont Moser, from dumping our Spring Creek water into Cub Canal. This process was made possible by their brother Gail Moser who was and is President of Cub (Lewiston) Canal Company. Gail Moser has engineered a vicious campaign against me (see my letter dated 2005) and most likely took place in the Moser-family filing on part of Golightly water rights during the Department of Water adjudication that started in 1970. I was able to get this corrected in 1999 and filed with the Department of Water and made a part of District Court corrections to preliminary finds.

Work with Department of Water My first appointment was set up by my attorney Randy Budge, he stated in 1999 that we did have senior water rights and he now had a conflict of interest as he was also Cub (Lewiston) Canal attorney. He called Department of Water and made an appointment for me to go from his office in Pocatello to the Department of Waters office at Idaho Falls.

I met with Harold Jones and he confirmed that Randy Budge my attorney's finds, that we did have senior water rights.

I thought this would soon be over but would not happen, Cub-Lewiston Canal had found a way to divert 5-10 feet of water into their canal and yes Randy Budge, who use to be my attorney was never calling this waste water from Preston Whitney and the 2nd pipe they installed without any fillings or diversion rights was working well for them and if they could continue to stop Eldon Golightly from obtaining his water by wearing him down even though all 3 of the individuals from the Idaho falls dept of water had said that Eldon has senior water rights and Cindy Bird had also directed Troy Foster the water master to deliver water to the senior water holders when they asked for it, just a small coincidence Troy Foster is Gail Moser's son in law.

Roger Warner from the Department of Water also confirmed Harold Jones and Randy Budge's findings, that we have senior water rights.

Ron Barker outlined this very well in his letter to Lewiston Cub Canal, and Gail Moser, President for 40 years, Gail let me know last week that he knew Preston Whitney rights and that the creek water he has been using and diverting around our head gate is legal because it is Preston Whitney water that comes down Spring Creek.

Cindy Bird with the Department of Water Soda Springs Idaho office has helped me with the most intense detailed research into my senior water rights reviewing priority dates and said "Eldon water is determined by first in time first in line" Cindy pulled up arial photos of Lamont and Johnson reservoir, Worm Creek and Spring Creek drainages, their tie in with the final decree of Worm Creek basin drainage 5-21-1981 signed by judge Rasmussen. Cindy had me request a copy of this final decree to verify the dates and confirmation of our senior water rights. Cindy visited a good portion of the Preston Whitney/Spring Creek drainage and diversion area, through a canal that has been the main drainage of spring creek for over 100 years, Cindy instructed Troy Foster to furnish our water as requested for the irrigation season of 2008. I called Troy Foster and confirmed with him that he had been instructed by Cindy Bird to furnish us our decreed water. He made an appointment and came down and we did a drive around of the various waters that flowed to and from our farm operation we then reviewed the decreed water rights and their senior dating. With Cindy's instruction to Troy Foster to furnish the water, I really expected this would have happened, except for the control that would be placed on him by the President of Lewiston Canal Company, Gail Moser and Conner Foster who, like Gail Moser has run the Preston Whitney system for many, many, years. How could he exercise any agency with pressure from these two men?

This just gives you some insight of what's been going on for the past ten years. Preston Whitney and Cub River irrigation joined in a scheme to take water that didn't belong to them to divert to Lewiston Cub Canal.

"The applicable law of the State of Idaho" is contained in the constitution, In article 15, section 4, reads:

"Whenever any waters have been, or shall be, appropriated or used for agricultural purposes, under a sale, rental, of distribution thereof, such sale, rental, or distribution shall be deemed an exclusive dedication to such use; and whenever such water so dedicated shall have once been sold, rented, or distributed to any person who has settled upon or improved land for agricultural purposes with the view of receiving the benefit of such water under such dedication, such person, his heirs, executors, administrators, successors, or assigns, shall not thereafter without his consent, be deprived of the annual use of the same, when needed to domestic purposes, or to irrigate the land so settled upon or improved, upon payment therefore, and compliance with such equitable terms and conditions as to quantity used and times of use, as may be prescribed by law"

A similar provision in IDAHO CODE 42-914 reads as follows:

"Whenever any waters have been or shall be appropriated or used for agricultural or domestic purposes under a sale, rental or distribution thereof, such sale, rental or distribution shall be deemed and exclusive dedication to such use has been secured, and, whenever such water so dedicated shall have once been sold, rented or distributed to any person who has settled upon or improved land for agricultural purposes with the view of receiving the benefit of such water under such dedication, such person, his heirs, executors, administrators, successors, or assigns, shall not thereafter be deprived of the annual use of the same when needed for agricultural or domestic purposes upon the tract of land for which such appropriation or use has been secured, or to irrigate the land so settled upon or improved, such payment therefore, and compliance with such equitable terms and conditions as to the quantity used and times of use as may be prescribed by law. "Domestic purposes" shall not be construed to include any manner of land irrigation. Any person, association or corporation violating any of the provisions of this section, shall be liable for all damage to any party or parties injured thereby, which damage shall be determined by the proper court."

In closing a federal judge has awarded 4.2 million to the estate of a late Nevada rancher and the property rights of advocate Wayne Hage, ruling that the US Forest service committed a constitutional taking of water rights.

Sincerely,

Eldon Golightly

Eldon C. Golightly Loss

60 Acres at $100.00 per acre =	$ 6,000
Annually for 10 years	x 10
	$60,000

80 Acres at $150.00 per acre =	$12,000
Annually for 2 years	x 2
	$24,000

Sold 80 Acre farm because I could not keep it without water.

Crop Loss	$ 84,000
Loss of value of land sold	+200,000
Total Loss	$284,000

The Energy Solution

Water marks on the Chadwick diversion for our spring creek water

Petroleum Development Corporation

www.petd.com • 1-800-624-3821





Memorandum

To: Water District 13-A File

From: Tim Luke

Date: June 25, 2010

Re: Worm Creek & Cub River Inventory; Water Right Administration Issues & Recommendations

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This memo summarizes an inventory of diversions and water rights on Worm Creek, Cub River and Spring Creek (tributary to Worm Creek) within Water District 13-A (WD13-A). The inventory was made in response to IDWR's lack of knowledge about Worm Creek and certain ongoing concerns raised by several holders of water rights on Spring Creek. Department correspondence relative to those ongoing concerns is documented in the 2008, 2009, and 2010 WD13-A files. The WD13-A watermaster has not been involved in administration of the Worm Creek drainage since it was first added to WD13-A by an Order of the Department dated February 25, 1983. The WD13-A watermaster's jurisdiction has traditionally been limited to the main Cub River and certain tributary sources, including delivery of water to the Cub River-Worm Creek Canal (aka Preston Whitney Upper Fill Ditch). Delivery of water from Worm Creek above the Glendale Reservoir has historically been done by the Preston Whitney Irrigation Company (PWIC) since it owns or has interest in most of the water rights in that reach. The Department is not aware of any watermaster regulation or other organized delivery of water on Worm Creek or tributaries to Worm Creek below Glendale Reservoir, including Spring Creek.

Beginning in 2008, IDWR directed the WD13-A watermaster to begin regulating water rights on Spring Creek. In 2009, IDWR requested that WD13-A begin deputizing the PWIC manager or ditch rider who sets head gates and records diversions above Glendale Reservoir. A similar directive was issued to deputize ditch riders on Maple Creek, a Cub River tributary located south of Cub River near Franklin. In 2008 IDWR also issued an order requiring measuring devices for several larger diversions on Cub River. In May of 2009, IDWR also required installation of a measuring device and head gate on the Hull diversion from Spring Creek. Specific guidance was issued to the WD13-A watermaster concerning delivery of water rights on Spring Creek in 2009 and 2010. Some additional guidance was provided concerning the re-diversion of water from the Cub River Middle Ditch in 2010. Additionally, questions raised by IDWR in review of water rights in 2008 resulted in the filing of one or more water right transfers by PWIC that have subsequently been protested by several Spring Creek water rights holders (see specifically application for transfer for water right no. 13-2). In 2009, IDWR committed to conducting an inventory of water rights and diversions from Worm Creek, Cub River, Spring Creek, Maple Creek and Sugar Creek. An initial inventory was done in May, 2009 and some further visits were conducted in May, 2010. This memo summarizes the inventory of Worm Creek and Spring Creek, and includes diversions from Cub River owned or operated by PWIC and the Cub River Irrigation Company (CRIC).

Attached to the memo are inventory forms and photo graphs of diversions, measuring devices and re-diversions, and water rights lists of Worm Creek and Spring Creek.

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104
PROTESTANT

Issues Found Pursuant to Inventory and Related Investigation

Water Right Transfer Issues

In addition to the transfer and measurement issues found over the past several years, IDWR identified several additional concerns that will likely require more water right transfers:

a) PWIC General Service Area and Water Rights Place of Use

PWIC representatives have discussed the need to potentially file a water right transfer on all of its water rights to correctly update its service area and irrigated places of use. This need was discussed at the May 3, 2010 pre-hearing conference for the protest of PWIC's transfer application of water right 13-2. IDWR concurs with this suggestion and finds it consistent with prior correspondence issued by IDWR to PWIC over the past two years. IDWR recognizes that the Cub River decree that includes PWIC's Cub River water rights lacks any place of use descriptions. The lack of place of use descriptions for the Cub River rights handicaps both IDWR and WD13-A in the administration of those water rights. PWIC should file transfers on its Cub River and Worm Creek rights (and other water source rights) as soon as possible so that the rights can be clarified and more easily administered by WD 13-A.

Lacking any other information about the place of use for PWIC's Cub River rights, it is clear that PWIC's total irrigated area as described by the Worm Creek decree is limited to a total of 10,449 acres. It is not clear to IDWR if or how any of the Cub River rights might create a larger irrigated service area. IDWR notes however that Idaho Code Section 42-222 provides for the transfer of stored water for irrigation purposes over a larger service area as long as other rights are not injured. The code states in pertinent part:

> The transfer of the right to the use of stored water for irrigation purposes shall not constitute an enlargement in use of the original right even though more acres may be irrigated, if no other water rights are injured thereby.

IDWR also notes that there is some place of use overlap among the several different canal companies in the area including PWIC, CRIC, Preston Whitney Reservoir Company and the Preston Riverdal and Mink Creek Company. IDWR should not immediately seek to regulate PWIC's total irrigated area to the 10,449 acres described in the Worm Creek decree until all of PWIC's rights are further clarified by the completion of the water right transfer process. IDWR should notify PWIC to file transfers as soon as possible.

b) PWIC right no. 13-271

This right is from Worm Creek and is PWIC's earliest priority right (5/7/1880) from either Worm Creek or Cub River. The point of diversion (POD) for this right is located immediately below the Glendale Reservoir and appears to be for the Eastside Ditch which is no longer used. As per PWIC President Lyle Porter, the Eastside Ditch was the original POD for PWIC before Glendale Reservoir was built. The ditch served lands below Lamont Reservoir and from the Fairview Lateral. The lands are now served by the Eastside Gravity Lateral Association which re-diverts water from the Lamont-Johnson Ditch above the Lamont Reservoir to a gravity pipeline. The Fairview Lateral is served by the Foster

Reservoir and outlet (recently converted from open ditch to pipeline). The correct PODs for this right appear to be the Glendale Reservoir and Outlet Canal, and the Lamont Johnson Ditch. A water right transfer should be filed to add the Lamont-Johnson Ditch as a POD and correctly show the Glendale Reservoir Outlet Canal as the point of diversion although the location is in the same quarter-quarter section as the old Eastside Ditch.

c) PWIC right no. 13-2103

This right was decreed to PWIC in the Worm Creek Drainage decree but the Department's computer records list the right as being owned by the Preston Whitney Reservoir Co. The right is not listed by PWIC in its own Company bylaws (see Section 3, Water Rights and List of Water Rights). The point of diversion given for this right is the same location for PWIC's right 13-271 (see above). The right authorizes the diversion of 25 cfs from Worm Creek for irrigation with a priority date of 3/14/1924. The right as shown in the Worm Creek decree includes a condition stating that the place of use is the "same as listed under 13-271." Note that PWIC also owns right 13-2104, which authorizes diversion of 25 cfs from the Cub River via the Cub River Worm Creek Canal with a 3/14/1924 priority date. The two rights are the same except for the source of water. The Department's records may need to be corrected to show PWIC as the correct owner of the right as per the Worm Creek Decree. PWIC may wish to consider adding the Lamont-Johnson Ditch as a point of diversion to this water right.

Neither right 13-2103 nor 13-2104 have conditions that limit the rate of diversion under the two rights. Licensing these rights under more modern IDWR policies would likely result in a total combined rate of diversion under the two rights being limited to no more than 25 cfs.

d) Cub River Irrigation Co. Water Rights Place of Use

The place of use given for Cub River Irrigation Co.'s (CRIC) water rights pursuant to descriptions provided by the company in several different water right transfers over the past 15 years does not include any land within Township 16S (T16S) and Range 40E (R40E yet several of the Spring Creek water right holders and other CRIC shareholders irrigate land in this area. Several company officials have confirmed delivery of water within this area. CRIC should review its place of use boundaries and file any necessary water right transfers to correct or update its service area. IDWR correspondence to CRIC over the past two years advised CRIC to review its service area boundary and make any changes if necessary. Changes appear to be necessary. IDWR will formally notify CRIC to correct its water right place of use boundary through a water rights transfer or other appropriate legal means.

e) Water Rights 13-299 & 13-300 owned by Dennis Webster

IDWR's inventory found that rights 13-299 and 13-300 owned by Dennis Webster are diverted from Worm Creek just below where Mink Creek is injected to Worm Creek. The POD authorized by the rights is the Lamont Johnson Ditch. Several re-diversion head gates are located on the Lamont Johnson Ditch where Webster can take his water but he no longer uses these re-diversions and instead takes the water from a diversion point further upstream on Worm Creek through an open ditch that drops to a gravity pipeline and sprinkler system. The ditch diversion now used by Webster also includes water rights 13-267 in the name of Robert Smith, and 13-305A under the name of Clarence Owen. A water right transfer should

be filed on the two Webster rights to correct the POD. IDWR plans to send Mr. Webster a formal notice regarding this concern.

IDWR also learned that Webster, a PWIC shareholder, may at times divert Mink Creek water that is injected to Worm Creek for the benefit of the Preston Riverdale and Mink Creek Company under water right 13-7747, whose place of use is within PWIC's Worm Creek decree place of use. The place of use for 13-7747 appears to include lands that are served by the North, East and Fairview pipe laterals. Members of the Preston Riverdale and Mink Creek Co are also PWIC shareholders. PWIC's manager Conan Foster explained that Webster diverts Preston Riverdale water in exchange for Webster's PWIC shares at times when Webster's Worm Creek rights are not deliverable. While this may constitute some sort of long standing arrangement between the parties, there is no recognized or formal exchange on record with IDWR. IDWR recommends that an exchange application be filed with IDWR and that the exchange practice be discontinued until the application is approved.

f) PWIC Places of Use above Glendale Reservoir

IDWR has also found that there are a number of PWIC shareholders who re-divert and apply water from the Lamont Johnson Ditch to land located along the ditch between the ditch heading and the Lamont and Johnson Reservoirs. Right number 13-302 (4/1/1896 priority) decreed to Vern Nelson authorizes use of the Lamont Johnson Ditch to irrigate 21 acres south of Glendale Reservoir. Portions of the 21 acres appear to be currently owned by Terry Smith, Mark Owen, Larry Hansen, Murray Nichols and others. PWIC records show that Smith, Owen, Hansen and Nichols are PWIC shareholders receiving water via the Lamont Johnson Ditch above the Lamont and Johnson Reservoirs. Several other shareholders are also identified in PWIC delivery records as receiving water from the Lamont Johnson Ditch above the reservoirs. Users who may be using portions of right 13-302 need to file ownership changes and/or water right transfers to correctly show the current place of use and splits of water right 13-302.

Certain small irrigated tracts along the Lamont Johnson Ditch, some of which are owned by the PWIC shareholders referenced above, appear to be irrigated but have no appurtenant water rights. PWIC has indicated that some of these lands are included in the PWIC service area although not all of these areas were included within the place of use of the PWIC Worm Creek decree water rights. Further contact with the above referenced owners by IDWR and initiation of any water right transfers of 13-302 may clarify the issues further. IDWR may issue Notices of Violation to users who do not comply with filing transfers and/or water right ownership changes.

Again, PWIC must file water right transfer applications for all of its water rights to properly show the irrigated lands within it service area.

Administration of Worm Creek and Tributaries

As noted earlier in this memo and Department correspondence over the past several years, Worm Creek was added to WD13-A in 1983 but there has been no formal administration of Worm Creek water rights by the district since that time. A review of the Worm Creek water rights list attached to this memo shows that the number of privately owned senior priority rights is fairly limited. There are only 14 individual privately owned rights with priorities from 1871 to 1909. Those 14 rights have a total combined diversion rate of only 12.7 cfs. Five of those rights have priorities that are 1880 or senior and total only 2.3 cfs. In contrast, PWIC has an 1880 priority right for irrigation with a diversion rate of up to 50 cfs, although the right does have a volume limit of 2000 AF that may affect the total number of days the right can be diverted. The Preston Whitney Reservoir Company has a 1910 priority right authorizing diversion of 10 cfs for irrigation purposes. It is likely that little water is available on the creek during much of the irrigation season to fill rights junior to PWIC's 1880 right. The several most junior priority rights located towards the end of the creek and west of Franklin are likely filled, if at all, as a result of return flows or waste water from upstream canal companies. IDWR could not locate several Worm Creek water right diversions when making its inventory in 2009. IDWR is not aware of any water delivery complaints or issues from water users on Worm Creek below Glendale Reservoir.

Although the number of individual privately held rights and diversions on Worm Creek is rather limited, the canal company water rights and diversion systems are significant and more complex. IDWR should and will continue steps to extend administration of water rights to Worm Creek and tributaries by Water District 13-A (WD13A). Those steps include:

a) Continue annual appointment of a watermaster assistant or deputy watermaster for Worm Creek at and above the Glendale Reservoir that may include the PWIC manager or PWIC ditch riders.

b) Continue requirement of WD13-A to include PWIC measured diversions from and flow of Worm Creek in annual WD13A reports. Reported data should include data that PWIC is already gathering such as daily diversions for the Lamont Johnson Ditch, the Webster Diversion (Diversion 1), Mink Creek injection, Worm Creek flow, the Glendale Reservoir Outlet Canal and spill from the Glendale Reservoir Outlet Canal to Worm Creek. Additional data should include monthly diversion data to users or lateral associations on the Lamont Johnson Ditch, the Glendale Reservoir Outlet Canal, the Foster Reservoir outlet (Fairview Lateral), the outlets of the Lamont and Johnson Reservoirs, discharge from the Lamont Johnson pipeline to the Cub River Middle Ditch/Foster pipeline, and weekly or other regular storage levels recordings for the Glendale, Foster, Lamont and Johnson Reservoirs. IDWR will send correspondence to the watermaster and PWIC concerning annual reporting requirements.

c) IDWR will send notice to current right holders on Worm Creek and tributaries advising that their rights are included in WD13-A and that they may be subject to assessments from the water district. IDWR will issue an order requiring installation of measuring devices and head gates for Worm Creek and tributary source diversions that currently do not have adequate devices and controlling structures. The order will seek compliance for the 2011 irrigation season and be sent by October 1, 2010.

d) IDWR will direct the watermaster to begin monitoring diversions from Worm Creek below Glendale Reservoir starting in 2011.

e) Require WD13-A to develop resolutions at subsequent annual meetings for assessment of water rights on Worm Creek and tributaries.

Measurement of Worm Creek

PWIC measures and records Worm Creek flows just upstream of where Cub River water from the PWIC Upper Fill Ditch is injected to Worm Creek. Measurement at this point is important to know the total flow of Worm Creek, including water from Mink Creek that is measured and injected to Worm Creek about one mile upstream. The Worm Creek measurement is based on use of an installed staff gage on a concrete culvert structure and a rating table that was prepared a number of years ago by representatives from the US Bureau of Reclamation. Although PWIC has referred to the structure as a weir, it is actually a rated structure or section and not a standard measuring device. PWIC could not immediately verify the date of the rating and indicated that there have been no recent updates or calibrations of the rating. IDWR plans to make at least one calibration measurement this summer to check the accuracy of the table and/or any gage shifts. There are likely gage shifts at this rated section due to vegetative growth in the stream channel and along the stream bank. Although a rated section is an acceptable method of measurement, PWIC should make several calibration measurements each year and make any rating table adjustments as necessary. IDWR has recommended standards for rated sections that can be provided to PWIC.

Measurement of Water Injected to Worm Creek from PWIC Upper Fill Ditch from Cub River

IDWR recommends that PWIC and Preston Whitney Reservoir Co consider installation of a measuring device or rated section for measurement of water on the Fill Ditch before it injects to Worm Creek. IDWR is not certain at this time that the measuring device is critical for water distribution purposes on Worm Creek as long as PWIC can make improvements to the measurement of Worm Creek at the rated section above the Fill Ditch injection. However, IDWR believes that better measurement of the Fill Ditch injection can improve overall measurement and distribution within the PWIC and Preston Whitney Reservoir Co systems particularly since some of the re-diversions on the fill ditch above the injection point to Worm Creek (five in total) are not measured, and because there are likely some ditch losses between the ditch heading and injection point.

Other Water Measurement and Water Right Issues

Other observed water measurement and water right issues include:

a) Weir for measurement of Birch Spring to PW Fill Ditch has poor approach velocity conditions, lacks a good weir pool above the weir, and includes significant channel growth and rocks in the weir pool area that all contribute to inaccurate measurement at the weir.

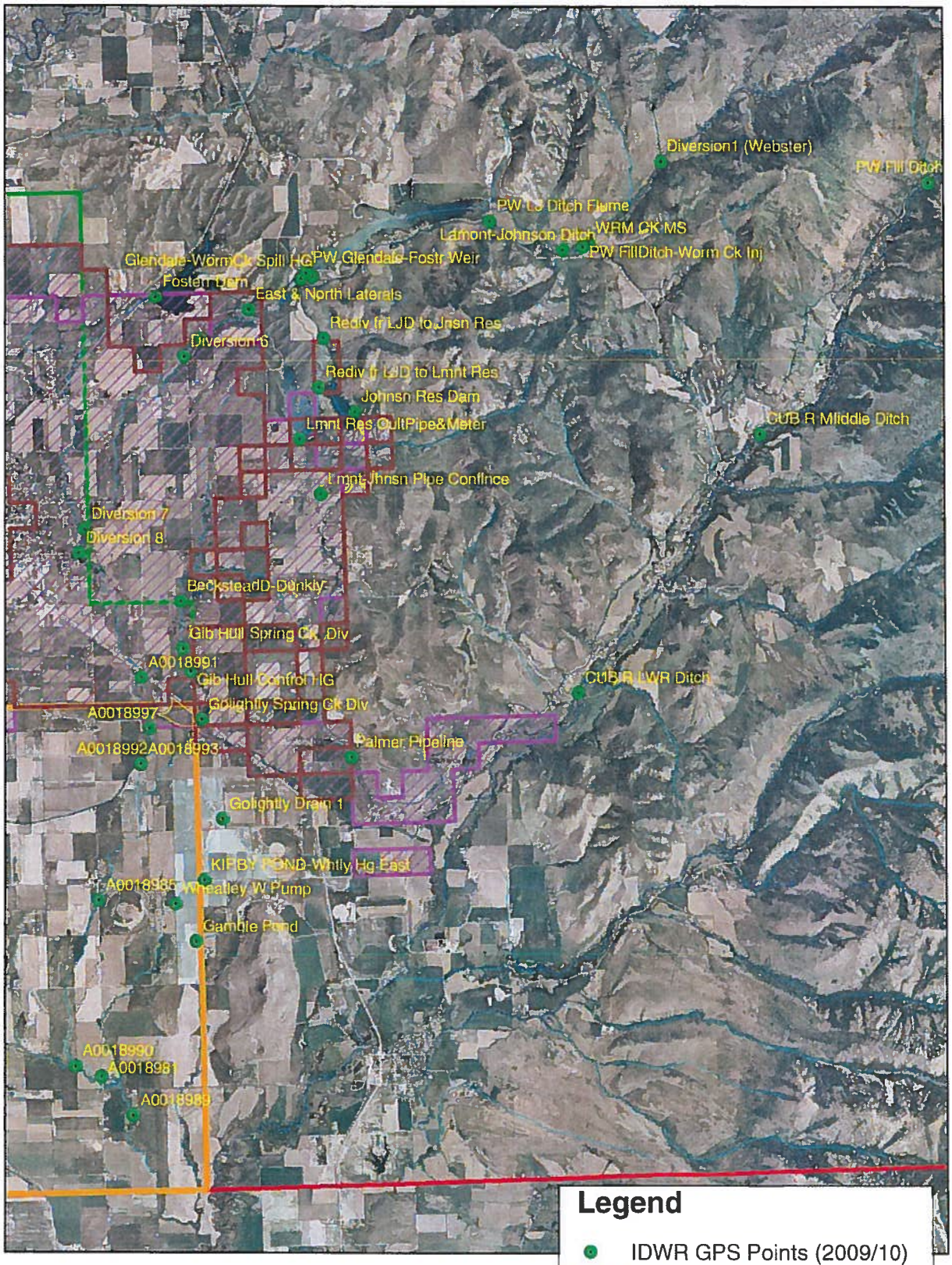
b) No measuring devices were found for Spring Creek diversions except for the Hull diversion and the bypass water below the Golightly headgate. The flume for the Hull diversion was installed in a poor location on the ditch and should be moved. The Hull diversion still requires a head gate to be installed before water can be diverted in 2010.

c) The PWIC and Preston Whitney Reservoir Co. reservoir outlet pipes and other lateral re-diversion pipelines lack any access for IDWR or others to make measurements of the pipes with portable meters for purposes of calibrating the PWIC installed flow meters.

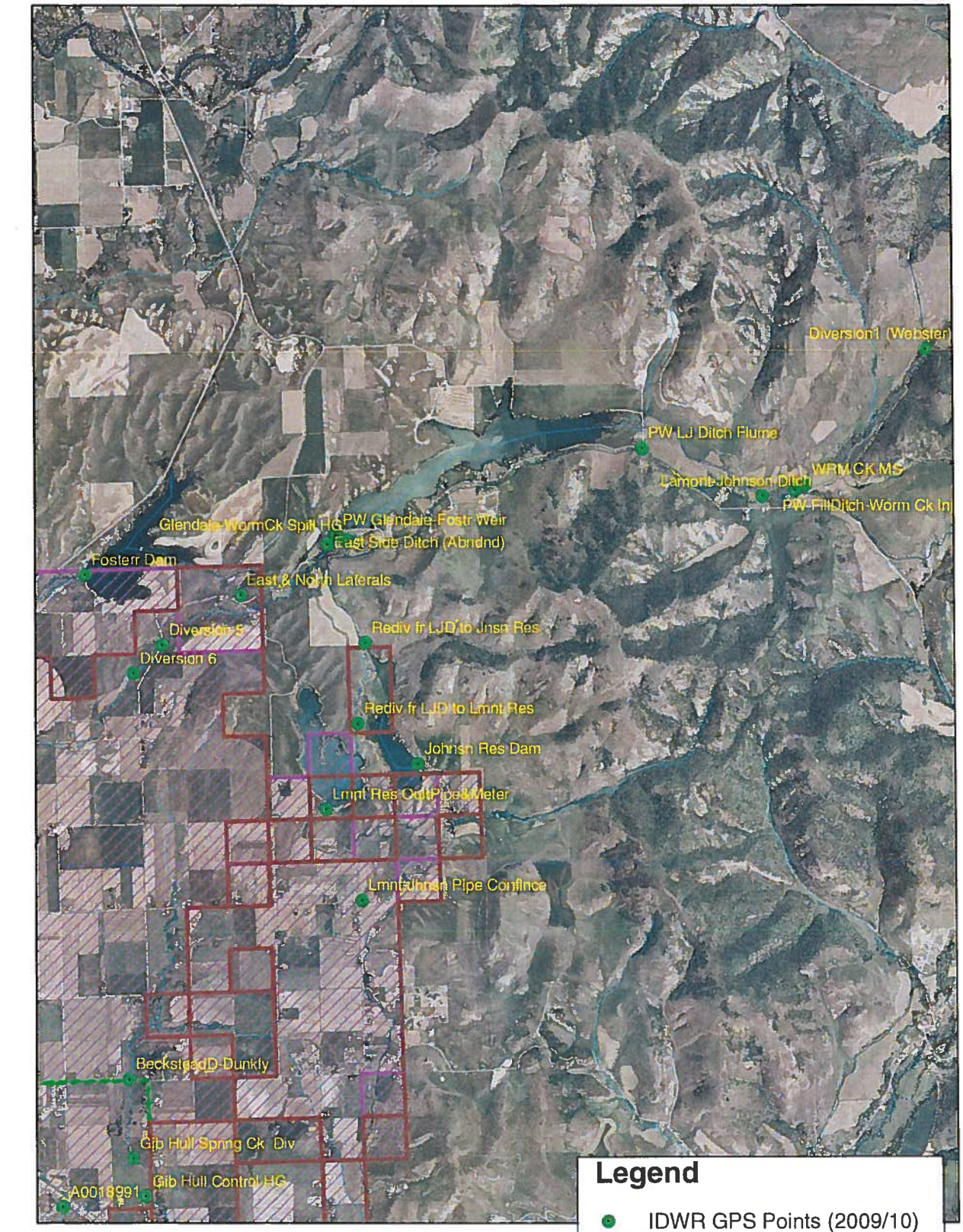
d) The ponds located on the Golightly property from Spring Creek are not authorized by any water rights.

e) The Wheatley irrigation pumps located at Gamble Pond and northwest of Gamble Pond should be properly located as points of diversion and/or points of re-diversion on Wheatley's irrigation rights. These pump locations are not described by any of Wheatley's rights.

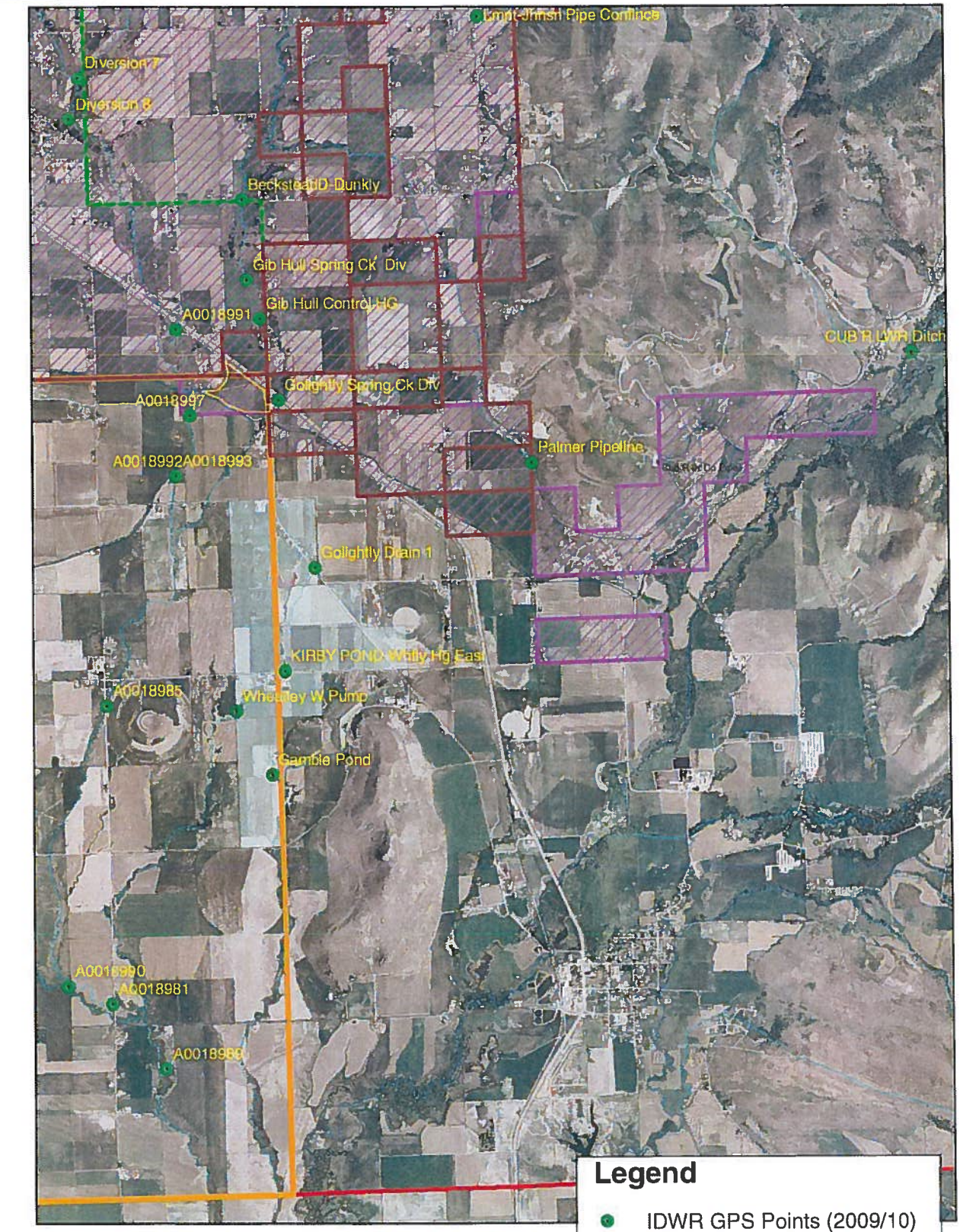
g) Whitney Nashville Water Works Co: IDWR inspected the spring collection facility and measuring device for measurement of the spring diversions by Whitney Nashville Water Works Co. (see inventory form and photos attached). The company has two spring sources but currently is limited to the diversion of just one source due to water quality issues. The installed meter that measures the spring diversion is an acceptable device and tracks both flow and volume. IDWR observed a diversion flow rate of 41 gallons per minute (gpm) at the time of inspection. The company maintains flow meter records which can and should be reported to the WD13-A watermaster annually and made part of the watermaster's annual report. The average rate of diversion from the spring source during September of 2009, a peak use month, was 86 gpm or 0.19 cfs, well within the maximum authorized rate of 1.25 cfs. The combined volume use during August and September (only months provided to IDWR) was 21. 2 AF, which is about 21% of the authorized 101 AF annual volume limit. Given the expected lower use in most other months, the company is likely within its annual water right volume limit. Since the spring source is tributary to Spring Creek, the right is subject to priority regulation and can be regulated although curtailment of 40 to 90 gpm potentially may not benefit any senior downstream right holders and therefore could be futile.



Water District 13- A Area
Cub River and Worm Creek



Water District 13- A Area
Cub River and Worm Creek



Water District 13- A Area
Cub River and Worm Creek

Worm Creek Water Rights
(Source = Worm Creek only)
Sorted by Priority Date

Owner(s)	Water Rt No.	Basis	Diversion Name	Priority Date	Rate (cfs)	Volume (af)	Source	Water Use(s)	Comments
PORTER, LYLE W (Current); PORTER, TEREESA H (Current)	13-253	Decreed	Diversion 6 (A0012037)	1871-04-01	0.4	70	WORM CREEK	IRRIGATION	
PORTER, BLAINE P; PORTER, FERN S (Current)	13-262	Decreed	Diversion 6 (A0012037)	1871-04-01	0.24	42	WORM CREEK	IRRIGATION	
NIELSON, MAURICE (Current)	13-280	Decreed	Diversion Not Found	1871-04-01	0.56	100.7	WORM CREEK	IRRIGATION, STOCKWATER	
CUB RIVER IRRIGATION CO (Current)	13-222	Decreed	A0018992/A0018993	1872-04-01	15	6398	WORM CREEK	IRRIGATION	A0018997 is point of injection to creek; A0018992 & 18993 are POD & re-diversions. One of decreed POD's is further north; rt has condition that it is junior to upstream Worm Creek rights
WEBSTER, BLAINE M (Current); WEBSTER, DENNIS H (Current)	13-300	Decreed	Diversion 1	1879-06-14	1.5	264.4	WORM CREEK	IRRIGATION, STOCKWATER	Water Rt PD is Lamont-Jhnsn Ditch, need Transfer to change PD
PRESTON WHITNEY IRRIGATION CO (Current)	13-271	Decreed	Glendale Res Outlet Canal	1880-05-07	50	2000	WORM CREEK	IRRIGATION	WR POD is probably former Eastside Ditch near Glendale Res. Transfer may be needed to add Lamont Johnson Ditch
GREGORY, PEARL (Current)	13-203	Decreed	Div Not Found	1880-10-01	0.36	65	WORM CREEK	IRRIGATION, STOCKWATER	
HULSE, ESTHER C (Current); OLIVERSON, JULIA C (Current)	13-279	Decreed	Diversion 5	1881-06-01	0.04	3.5	WORM CREEK	IRRIGATION	
OWEN, CLARENCE L (Current); OWEN, ODESSA G (Current)	13-305A	Decreed	Diversion 1	1893-04-01	1.64	289.6	WORM CREEK	DOMESTIC, IRRIGATION, STOCKWATER	WR has 2nd PD in SENW Sec 2, not found

Worm Creek Water Rights
(Source = Worm Creek only)
Sorted by Priority Date

Owner(s)	Water Rt No.	Basis	Diversion Name	Priority Date	Rate (cfs)	Volume (af)	Source	Water Use(s)	Comments
TANNER BECKSTEAD DITCH CO (Current)	13-207	Decreed	Tanner-Beckstead Ditch/Div 7 A0012034	1894-12-08	1.34	572	WORM CREEK	IRRIGATION	Comb Rts: 13-207, 208, 209, 325
TANNER BECKSTEAD DITCH CO (Current)	13-208	Decreed	Tanner-Beckstead Ditch	1895-03-22	3.25	1103	WORM CREEK	IRRIGATION	Comb Rts: 13-207, 208, 209, 325
TANNER, ELDON S (Current); TANNER, GLEN C (Current); TANNER, WILLIAM K (Current)	13-209	Decreed	Div Not Found	1896-04-01	2	361	WORM CREEK	IRRIGATION	Comb Rts: 13-207, 208, 209, 325; PD may be Tanner Beckstead Ditch?
NELSON, VERDA O (Current); NELSON, VERN (Current)	13-302	Decreed	Lamont-Johnson Ditch	1896-04-01	0.42	74	WORM CREEK	IRRIGATION	Currently owned by Terry Smith
OWEN, MARK W (Current)	13-7657	Statutory Claim	or investigated	1/1/1900	0.02		WORM CREEK	STOCKWATER	Stockwater only.
SMITH, JOYCE (Current); SMITH, ROBERT O (Current)	13-267	Decreed	Diversion 1	6/7/1900	0.3	53	WORM CREEK	IRRIGATION	
WEBSTER, BLAINE M (Current); WEBSTER, DENNIS H (Current)	13-299	Decreed	Diversion 1	7/1/1909	1.36	238	WORM CREEK	IRRIGATION	Water Rt PD is Lamont-Jhnsn Ditch, need Transfer to change PD
PRESTON WHITNEY RESERVOIR CO (Current)	13-2022	Decreed		9/17/1910	10	4265	WORM CREEK	DIVERSION TO STORAGE, IRRIGATION, IRRIGATION STORAGE	
(Current); GILBERT, MELVIN RAY (Current)	13-63	Decreed	A0018990	6/9/1923	1.94	273	WORM CREEK	IRRIGATION	GPS PD is on Fairview Drain
LARSEN, VAUGHN J (Current)	13-64	Decreed	A0018985	6/9/1923	0.97	140	WORM CREEK	IRRIGATION	

Worm Creek Water Rights
(Source = Worm Creek only)
Sorted by Priority Date

Owner(s)	Water Rt No.	Basis	Diversion Name	Priority Date	Rate (cfs)	Volume (af)	Source	Water Use(s)	Comments
GILBERT, DONA C (Current); GILBERT, MERLIN J (Current)	13-65	Decreed	A0018985	6/9/1923	0.97	140	WORM CREEK	IRRIGATION	
LARSEN, GENEVA B (Current); LARSEN, VAUGHN J (Current)	13-66	Decreed	A0018985	6/9/1923	0.97	130	WORM CREEK	IRRIGATION	
LARSEN, GENEVA B (Current); LARSEN, VAUGHN J (Current)	13-67	Decreed	A0018985	6/9/1923	0.97	140	WORM CREEK	IRRIGATION	
LARSEN, LYNN J (Current)	13-68	Decreed	A0018985	6/9/1923	0.97	105	WORM CREEK	IRRIGATION	
PRESTON WHITNEY RESERVOIR CO (Current)	13-2102	Decreed	Lamont-Johnson Ditch	9/18/1923	10	4265	WORM CREEK	DIVERSION TO STORAGE, IRRIGATION, IRRIGATION STORAGE	Storage Vol = 630 AF; total Vol = 4,265 AF; This rt When combined w/13-2022 shall not exceed 20 cfs & 5,457 AF
PRESTON WHITNEY RESERVOIR CO (Current)	13-2287	Decreed	Lamont-Johnson Ditch	9/18/1923	10	4265	WORM CREEK	DIVERSION TO STORAGE, IRRIGATION, IRRIGATION STORAGE	Same use, rate, POD, POU and conditions as 13-2102
PRESTON WHITNEY RESERVOIR CO (Current)	13-2103	Decreed	Glendale Reservoir or Lamont-Johnson Ditch	3/14/1924	25	10662	WORM CREEK	IRRIGATION	Rt decreed to PWIC in Worm Ck Decree but IDWR computer records list Preston Whitney Res Co. PD at Glendal Dam; POU within Preston Whitney Irr Co, same as rt 13-271(PWIC); Transfer may be needed to add/change PD

Worm Creek Water Rights
(Source = Worm Creek only)
Sorted by Priority Date

Owner(s)	Water Rt No.	Basis	Diversion Name	Priority Date	Rate (cfs)	Volume (af)	Source	Water Use(s)	Comments
PRESTON WHITNEY IRRIGATION CO (Current)	13-2108	Decreed	Glendale Reservoir	12/15/1924		6000	WORM CREEK	DIVERSION TO STORAGE, IRRIGATION FROM STORAGE, IRRIGATION STORAGE	Storage for Glendale Res from Worm Ck (215 cfs is div rate to storage fr 11/1 to 6/15); rt allows 6,000 AF irrig storage & irrig fr storage; Note Worm ck decree also lists 13-2288 & combined div rate condition of 215 cfs from Worm Ck & Cub R
PRESTON WHITNEY IRRIGATION CO (Current)	13-2288	Decreed	Glendale Reservoir	12/15/1924		6000	WORM CREEK	DIVERSION TO STORAGE, IRRIGATION FROM STORAGE, IRRIGATION	Same use, rate, POD, POU and conditions as 13-2108
ALDER, KARL G (Current); ALDER, REO G (Current)	13-266	Decreed	Div 7 or 8?	1/1/1940	0.02	0.7	WORM CREEK	STOCKWATER	Stockwater only.
VAN ORDEN, ERVIN (Current); VAN ORDEN, NEAL (Current)	13-2161	Decreed	A0018989	3/7/1952	2.18	532	WORM CREEK	IRRIGATION	
WHEATLEY, BERT (Current); WHEATLEY, ELLEN (Current)	13-224	Decreed	Div Not Found	4/1/1959	0.82	144	WORM CREEK	IRRIGATION	
HALL, BURTIS R (Current)	13-294	Decreed	A0018981	8/30/1960	1	214	WORM CREEK	IRRIGATION	
VAN ORDEN, ERVIN (Current); VAN ORDEN, NEAL (Current)	13-314	Decreed	A0018989	3/9/1965		97	WORM CREEK	IRRIGATION, IRRIGATION	
OLIVERSON, KENNETH W (Current)	13-213	Decreed	A0018991	6/1/1966	0.16	28	WORM CREEK	IRRIGATION	

Water Rights from Spring Creek
Sorted by Priority

6/28/2010
IDWR

Owner(s)	Water Rt No	Basis	Source	Priority Date	Rate (cfs)	Vol (af)	Water Use(s)	Twp	Rnge	Sec	QQQ	Gvt Lot
BAKER, ILA L (Current)	13-247	Decreed	SPRING CREEK	1878/04/01	0.28	52	IRRIGATION, STOCKWATER	15S	40E	30	NWSW	3
BAKER, ILA L (Current)	13-247	Decreed	SPRING CREEK	1878/04/01	0.28	52	IRRIGATION, STOCKWATER	15S	39E	25	NESE	
RALLISON, FREDRICK W (Current)	13-60A	Decreed	SPRING CREEK	1886/05/15	0.02	9	IRRIGATION	16S	40E	6	NWNW	4
SHARP, LYMAN J (Current)	13-60B	Decreed	SPRING CREEK	1886/05/15	0.08	34	IRRIGATION	16S	39E	1	SWSE	
RALLISON, FREDRICK W (Current)	13-61A	Decreed	SPRING CREEK	1888/05/15	0.03	13	IRRIGATION	16S	40E	6	NWNW	4
SHARP, LYMAN J (Current)	13-61B	Decreed	SPRING CREEK	1888/05/15	0.17	73	IRRIGATION	16S	39E	1	SWSE	
HULL, GILBERT (Current); HULL, HAROLD M (Current); HULL, ROBERT M (Current)	13-311	Decreed	SPRING CREEK	1893/02/04	1.34	242.9	IRRIGATION, STOCKWATER	15S	39E	36	SENE	
RALLISON, FREDRICK W (Current)	13-237	Decreed	SPRING CREEK	1900/04/01	0.15	64	IRRIGATION	16S	40E	6	NWNW	4
GOLIGHTLY, DONALD D (Current); GOLIGHTLY, NONA (Current)	13-62	Decreed	SPRING CREEK	1902/05/15	0.2	36	IRRIGATION	16S	40E	6	NWNW	4
CHADWICK, MAY S (Current)	13-258	Decreed	SPRING CREEK	1903/08/31	0.58	102	IRRIGATION	16S	40E	6	NWNW	4
GOLIGHTLY, DONALD D (Current); GOLIGHTLY, NONA (Current)	13-216	Decreed	SPRING CREEK	1903/08/31	1.8	400	IRRIGATION	16S	40E	6	NWNW	4
MOSER, JOSEPH L (Current)	13-144	Decreed	SPRING CREEK	1903/08/31	0.2	85	IRRIGATION	16S	40E	6	NWNW	4
RALLISON, FREDRICK (Current)	13-273	Decreed	SPRING CREEK	1903/09/01	0.24	77	IRRIGATION	16S	40E	6	NWNW	4
SHARP, LYMAN L (Current)	13-274	Decreed	SPRING CREEK	1903/09/01	2.85	756	IRRIGATION	16S	39E	1	SWSE	
SHARP, LYMAN L (Current)	13-274	Decreed	SPRING CREEK	1903/09/01	2.85	756	IRRIGATION	16S	40E	6	NWNW	4
BECKSTEAD, ANNE (Current); BECKSTEAD, LINDEN (Current)	13-239	Decreed	SPRING CREEK	1930/04/01	0.8	140	IRRIGATION	15S	39E	25	SESE	
DUNKLEY, BERNELL (Current); DUNKLEY, LESLIE L (Current)	13-210	Decreed	SPRING CREEK	1930/04/01	1	175	IRRIGATION	15S	39E	25	SESE	

* Water Rights decreed from source Spring Creek in Worm Creek Decree. Note that IDWR database indicates tributary source is Cub River but USGS maps indicate that tributary source is actually Worm Creek.

Preston Whintey Irrigation Co Water Rights

Owner(s)	Source	Water Rt. No.	Basis	Diversion Name	Priority Date	Rate (cfs)	Volume (af)	Season of Use	Water Use(s)	Comments
PRESTON WHITNEY IRRIGATION CO (Current)	WORM CREEK	13-271	Decreed	Glendale Dam & Old Eastside Ditch	1880-05-07	50.0	2000	4/1 to 11/1	IRRIGATION	PD at Glendale Dam & old Eastside HG; This is original PWIC Worm Ck PD; Transfer needed to add Lmnt-Jhnsn Ditch as PD
PRESTON WHITNEY IRRIGATION CO (Present); CUB RIVER & WORM CREEK CANAL CO (Current)	CUB RIVER	13-3	Decreed	PW Fill Ditch	1882-04-01	25.0		4/1 to 10/31	IRRIGATION	
PRESTON WHITNEY IRRIGATION CO (Present); CUB RIVER MIDDLE DITCH CO (Current)	CUB RIVER	13-2	Decreed	Cub River Middle Ditch	1882-04-01	30.0		4/1 to 10/31	IRRIGATION	Transfer filed to add PW Fill Ditch to this rt. PWIC has used Fill Ditch to deliver this rt.
PRESTON WHITNEY IRRIGATION CO (Current)	WORM CREEK	13-2103	Decreed	Glendale Reservoir or Lamont-Johnson Ditch	3/14/1924	25	10,662	4/1 - 11/1	IRRIGATION	Rt decreed to PWIC in Worm Ck Decree but IDWR computer records list Preston Whitney Res Co. PD at Glendal Dam; POU within Preston Whitney Irr Co, same as rt 13-271(PWIC); Transfer may be needed to add or change PD
PRESTON WHITNEY IRRIGATION CO (Current); CUB RIVER & WORM CREEK CANAL CO (Original)	CUB RIVER	13-2104	License	PW Fill Ditch	3/14/1924	25.0		4/1 to 10/31 (assumed)	IRRIGATION	Season of use & POU not given in license; wr file shows rt for same POU as 13-3

Owner(s)	Source	Water Rt. No.	Basis	Diversion Name	Priority Date	Rate (cfs)	Volume (af)	Season of Use	Water Use(s)	Comments
PRESTON WHITNEY IRRIGATION CO (Current); FRANKLIN COUNTY SUGAR CO (Original)	WORM CREEK	13-2108	Decreed	Glendale Dam	12/15/1924	215.0	6000	11/1 - 6/15 (div to storage)	DIVERSION TO STORAGE, IRRIGATION FROM STORAGE, IRRIGATION STORAGE	Storage for Glendale Res from Worm Ck (215 cfs is div rate to storage fr 11/1 to 6/15); rt allows 6,000 AF irrig storage & irrig fr storage; Note Worm ck decree also lists 13-2288 & combined div rate condition of 215 cfs from Worm Ck & Cub R
PRESTON WHITNEY IRRIGATION CO (Current)	WORM CREEK	13-2288	Decreed	Glendale Dam	12/15/1924	215.0	6000	11/1 - 6/15 (div to storage)	DIVERSION TO STORAGE, IRRIGATION FROM STORAGE, IRRIGATION STORAGE	Same as 13-2108
PRESTON WHITNEY IRRIGATION CO (Current)	CUB RIVER	13-2288A	License	PW Fill Ditch	12/15/1924	215.0	6000	11/1 - 6/15 (div to storage)	DIVERSION TO STORAGE, IRRIGATION FROM STORAGE, IRRIGATION STORAGE	Licensed in 1995 w/combined rate of flow condition of 215 cfs with 13-2108, 2288 &2298
PRESTON WHITNEY IRRIGATION CO (Current)	CUB RIVER	13-2298	License	PW Fill Ditch	2/11/1957	215.0	3355	11/1 - 6/15 (div to storage)	IRRIGATION FROM STORAGE, IRRIGATION STORAGE	Storage for Foster Res; no div rate given in license but 13-2288A license limits combined rate of 215 cfs for rts 13-2108, 2288, 2288A & 2298; Res vol limited to 6000 Af; Point of rediversion is Glendale Dam & outlet canal
PRESTON WHITNEY IRRIGATION CO (Current)	CUB RIVER	13-2291	License	PW Fill Ditch	6/30/1947		2407.5		IRRIGATION FROM STORAGE, IRRIGATION STORAGE	Storage for Lamont Res.; Source licensed as Cub R but PD is Lamont Dam location; no season of use, rate or POU given in license; Point of re-diversion is Lamont Johnson Ditch

Preston Whintey Irrigation Co Water Rights

Owner(s)	Source	Water Rt. No.	Basis	Diversion Name	Priority Date	Rate (cfs)	Volume (af)	Season of Use	Water Use(s)	Comments
PRESTON WHITNEY IRRIGATION CO (Current)	SPRINGS	13-143	Decreed		4/1/1929	5.0	2133		IRRIGATION	PD just below Glendale Dam & old Eastside HG. Formerly captured by Eastside Ditch but no longer used. Spring Q has diminished and now just flows to Worm Ck
PRESTON WHITNEY IRRIGATION CO (Present); CUB RIVER & WORM CREEK CANAL CO (Current)		13-36	Decreed		1882-01-01	3.0			DOMESTIC, STOCKWATER	Priority & Source not given in decree
PRESTON WHITNEY IRRIGATION CO (Present); CUB RIVER MIDDLE DITCH CO (Current)		13-37	Decreed		1882-01-01	2.0			DOMESTIC, STOCKWATER	Priority & Source not given in decree

Preston Whitney Reservoir Co. Water Rights

Owner(s)	Source	Water Rt. No.	Basis	Diversion Name	Priority Date	Rate (cfs)	Vol (af)	Season of Use	Water Use(s)	Comments
PRESTON WHITNEY RESERVOIR CO (Current)	WORM CREEK	13-2022	Decreed	Lamont-Johnson Ditch	9/17/1910	10	4,265	11/1 - 6/15 (div to storage) 4/1 - 11/1 (Irrigation) 1/1 - 12/31 (Irr Storage)	DIVERSION TO STORAGE, IRRIGATION, IRRIGATION STORAGE	Storage Vol = 630 AF; total Vol = 4,265 AF; This rt When combined w/13-2102 & 2287 shall not exceed 20 cfs & 5,457 AF
PRESTON WHITNEY RESERVOIR CO (Current)	WORM CREEK	13-2102	Decreed	Lamont-Johnson Ditch	9/18/1923	10	4,265	11/1 - 6/15 (div to storage) 4/1 - 11/1 (Irrigation) 1/1 - 12/31 (Irr Storage)	DIVERSION TO STORAGE, IRRIGATION, IRRIGATION STORAGE	Storage Vol = 630 AF; total Vol = 4,265 AF; This rt When combined w/13-2022 shall not exceed 20 cfs & 5,457 AF
PRESTON WHITNEY RESERVOIR CO (Current)	WORM CREEK	13-2287	Decreed	Lamont-Johnson Ditch	9/18/1923	10	4,265	11/1 - 6/15 (div to storage) 4/1 - 11/1 (Irrigation) 1/1 - 12/31 (Irr Storage)	DIVERSION TO STORAGE, IRRIGATION, IRRIGATION STORAGE	Storage Vol = 630 AF; total Vol = 4,265 AF; This rt When combined w/13-2022 shall not exceed 20 cfs & 5,457 AF
PRESTON WHITNEY RESERVOIR CO (Current)	WORM CREEK	13-2103	Decreed	Glendale Reservoir or Lamont-Johnson Ditch	3/14/1924	25	10,662	4/1 - 11/1	IRRIGATION	WR PD at Glendal Dam; POU within Preston Whitney Irr Co, same as rt 13-271(PWIC); Transfer may be needed to add or change PD

6/28/2010

Owner(s)	Source	Water Rt. No.	Basis	Diversion Name	Priority Date	Rate (cfs)	Vol (af)	Season of Use	Water Use(s)	Comments
PRESTON WHITNEY RESERVOIR CO (Current)	CUB RIVER	13-2302	License	Johnson Reservoir	1/9/1962	6.8	3,012	11/1 - 6/15 (div to storage) 4/1 - 11/1 (Irrigation) 1/1 - 12/31 (Irr Storage)	IRRIGATION, IRRIGATION FROM STORAGE, IRRIGATION STORAGE	POD on rt is Johnson Res but source is Cub R, licesne file describes POD as PW Fill Ditch and re-div as Lamont Johnson Ditch & Johnson Res as storage point and point for diversion from storage; Irr vol on rt is 2,282 AF, stored vol limited to 730 AF but storage vol already filled by senior rts; total vol limit appears to be 2,282 AF

Worm Creek Diversions
IDWR 2009/2010 Inventory

Div Name &/or Site Tag	Headgate	Lockable Headgate	Meas Device	Water Rights	Owner if known
Diversion 1 (Webster/Owen) No Tag	NO	NO	NO	13-267 13-305A	Webster, Owen & Smith
Lamont Johnson Ditch A0012038 (DIV 2)	YES	NO	NO	13-302 13-2022 13-2287 13-2102 13-300 13-299	Preston Whitney Irrigation Co & PW Res Company
A0012039 Glendale Dam & Outlet Canal (DIV 3)	YES	YES	YES	13-2103 13-2108 13-2288	Preston Whitney Irrigation Company & PW Res Co
A0012032 Eastside Ditch (abandoned) (DIV 4)	YES	YES	NO	13-271	Preston Whitney Irrigation Co.
DIV 5 (No Tag)	NO	NO	NO	13-279	Hulse and Oliverson
A0012037 (DIV 6)	YES	YES	NO	13-253 13-262	Porter
A0012034 Tanner Beckstead Ditch (DIV 7)	YES	YES	NO	13-207 13-208	Tanner Beckstead Ditch Co.
A0012098 (DIV 8)	YES	YES	NO	13-266	Alder
A0018991	NO	NO	NO	13-213	Oliverson
A0018977	NO	NO	NO	13-222	Cub River Irrigation Co Diversion into Worm Creek
A0018992	YES	YES	NO	13-222	Cub River Irrigation Co Diversion into Worm Creek
A0018993	YES	YES	NO	UN-KNOWN	UNKNOWN. This could be canal water because it is on the up stream side of the Cub River Irrigation Company diversion

Worm Creek Diversions
IDWR 2009/2010 Inventory

Div Name &/or Site Tag	Headgate	Lockable Headgate	Meas Device	Water Rights	Owner if known
A0018985	YES	YES	NO	13-64 13-65 13-66 13-67 13-68	Lynn and Vaughn Larsen and Merlin Gilbert
A0018990	YES	YES	NO	13-63 13-263	Melvin Gilbert
A0018981	YES	YES	NO	13-294	Burtis Hall
A0018989	YES	YES	NO	13-314 13-2161	Van Orden

Inventory Forms and Photos for Cub River & Worm Creek above Glendale Reservoir (Including Glendale Reservoir Outlet Canal, Foster Reservoir, Lamont-Johnson Ditch System And Lamont & Johnson Reservoirs)

Idaho Dept. of Water Resources
GPS Field Data and Diversion Inventory
Water District No. 13-A

General Information

Source/Tributary: Cub River **tributary to:** Bear River
Diversion Name: Cub River Irrigation Co Lower Ditch
Point of Diversion: **TWNP:** 15S **RNG:** 40E
SEC: 34 **QQ:** SESWSE
USGS Map: **Name:** **No.**
Water Right No's.: 13-26B (this rt also diverted at Cub River Middle Ditch)
PD just inside SESWSE Sec 34; wr PD = NENWNE 3 16S40E

☐ See Attached

Access: Service road off of Cub River Rd about 400 ft. north east of Giraffe Rd.

Diversion Information

GPS Site Tag No.: A0001975 **GPS File Name:** Cub R Lwr Ditch
GPS Tag Location: nailed to utility pole next to Parshall flume & control shed
Photo(s): ☑ Yes ☐ No **Photo File Name:**

Description of Diversion: Diversion dam across river consists of two large adjustable corrugated metal radial gates (in steel frames) set in concrete structure. Dam checks water to 3 canal head gates in concrete canal box heading on left bank of river looking upstream. Fish screen installed in front of cnal Hgs. Fish ladder installed opposite side of diversion dam on right bank of river looking upstream.

☐ Diversion Sketch Attached

Headgate (HG) and Measuring Device Description

Existing Headgate: ☑ Yes ☐ No **Lockable HG?** ☑ Yes ☐ No
Desc. Of Headgate: Three control HGs are steel rectangular gates, 2 gates have manual turn screws for control, one is motorized automated control. Gates are set in

Existing Measuring Device: ☑ Yes ☐ No
Measuring Device Type: Parshall Flume **Size:** 10 ft
Desc. Of Measuring Device: Concrete parshall flume in canal about 50 to 60 ft below canal head gates. Flume in very good condition, some turbulence in approach from gates but flow through flume & measurement looks good

Measurement

Staff Guage Reading: PSI sensor to digital display in shed
Weir/Flume Reading: **Table Used:**
Q = 34.2 cfs

☐ Flow Measurement Form

Additional Notes:

Tim Luke	5/26/2010	6:00 p.m.
Examiner	Date	Time

Idaho Dept. of Water Resources
GPS Field Data and Diversion Inventory
Water District No. 13-A

General Information

Source/Tributary: Cub River **tributary to:** Bear River
Diversion Name: Cub River Middle Ditch
Point of Diversion: **TWNP:** 15S **RNG:** 40E
SEC: 24 **QQ:** NWNWSE
USGS Map: **Name:** **No.**
Water Right No's.: 13-26B (Cub River Irr Co); 13-2 (Preston Whitney Irr Co)
Prvt rts 13-15 & 16(Bowman), 13-29(Burbank, Giffeth, Spattig)
See Attached ☐
Access: Service road off Cub River Rd about 0.45 mi north east of E. Glendale Rd.

Diversion Information

GPS Site Tag No.: A0001976 **GPS File Name:** Cub R Middle Ditch
GPS Tag Location: Epoxied to steel headgate frame (left gate looking upstream)
Photo(s): ☑ Yes ☐ No **Photo File Name:**

Description of Diversion: Concrete ledge dam in river checks water for canal head gates on left bank of river looking upstream. Canal diversion has concrete wing wall connected to dam along bank, head gates in wall to flume structure about 10 - 15 ft upstream of dam. Flume discharges to 36 inch buried culvert that connects to open channel on other side of Cub River Rd (approx 1.450 ft away). Fish screen installed in flume in 2010.

☐ Diversion Sketch Attached

Headgate (HG) and Measuring Device Description

Existing Headgate: ☑ Yes ☐ No **Lockable HG?** ☑ Yes ☐ No
Desc. Of Headgate: Two steel rectangular gates in steel frame set in head of concrete flume. One gate has turn screw control, the other has motorized automated control.

Existing Measuring Device: ☑ Yes ☐ No
Measuring Device Type: Accoustic Doppler flow meter **Size:** 36 inch
Desc. Of Measuring Device: Greyline accoustic doppler sensor installed in buried culvert has output signal to data display and data logger in shed next to diversion. DWR 2009 measurements show meter inaccurate at high flows

Measurement

Staff Guage Reading:
Weir/Flume Reading: **Table Used:**
Q = 15.0 cfs

☐ Flow Measurement Form

Additional Notes: IDWR sent letter to Cub River Irr Co 5/12/2010 regarding flow meter accuracy issues. CRIC contacted vendor who indicated problem can be corrected.

Tim Luke	5/26/2010	9:00 a.m
Examiner	Date	Time

Idaho Dept. of Water Resources
GPS Field Data and Diversion Inventory
Water District No. 13-A

General Information

Source/Tributary: Cub R Middle Ditch **tributary to:**
Diversion Name: Palmer Pipeline from Middle Ditch near Lamont-Johnson Pipe
Point of Diversion: TWNP: 16S RNG: 40E
SEC: 5 QQ: NWSWSE
USGS Map: Name: No.
Water Right No's.: N/A; Tthis is re-diversion of Cub River Irr Co & PW Irr Co rts on Cub River Middle Ditch
See Attached ☐
Access:

Diversion Information

GPS Site Tag No.: none **GPS File Name:** Palmr Pipe
GPS Tag Location:
Photo(s): ☑ Yes ☐ No **Photo File Name:**

Description of Diversion: Palmer pipe is one of two pipeline re-diversions off Cub River Middle ditch but located at end of ditch & about 50' downstream of where Lamont-Johnson lateral pipe can discharge to Middle Ditch. Palmer re-diverts Cub R Irr Co water but served onr PWIC user who is limited to 0.5 cfs. Valve and meter on Lamont-Johnson pipe controls & measures flow to Middle Ditch Palmer intake has turn screw HG control

☐ Diversion Sketch Attached

Headgate (HG) and Measuring Device Description

Existing Headgate: ☐ Yes ☐ No **Lockable HG?** ☐ Yes ☐ No
Desc. Of Headgate:

Existing Measuring Device: ☐ Yes ☐ No
Measuring Device Type: **Size:**
Desc. Of Measuring Device: McCrometer meter on discharge from Lamont-Johnson Ditch to Middle Ditch. Did not observe measuring device or meter on Palmer Pipeline

Measurement

Staff Guage Reading:
Weir/Flume Reading: **Table Used:**
Q = 0.5 cfs from Lamont-Johnson Ditch

☐ Flow Measurement Form

Additional Notes:

Tim Luke — Examiner
5/25/2010 — Date
Time

Idaho Dept. of Water Resources
GPS Field Data and Diversion Inventory
Water District No. 13-A

General Information

Source/Tributary: Cub River **tributary to:** Bear river
Diversion Name: PWIC Cub River-Worm Creek Canal (aka Upper Fill Ditch)
Point of Diversion: **TWNP:** 15S **RNG:** 41E
SEC: 8 **QQ:** NENW
USGS Map: **Name:** **No.**
Water Right No's.: 13-3, 13-2288A*, 13-2291*, 13-2298* (*storage rights)
plus prvt rights; PWIC filed transfer to add this PD to 13-2
See Attached ☐
Access: Cub River Rd to Forest Service boundary, go about 1/2 mile past USFS boundary to Albert Moser CG on right.

Diversion Information

GPS Site Tag No.: A0001970 **GPS File Name:** PW Fill Ditch
GPS Tag Location: Nailed to head gate timber
Photo(s): ☑ Yes ☐ No **Photo File Name:**

Description of Diversion: Rock ledge dam in river and rectangular concrete structure on left bank of river (looking upstream) with head gate control. Fish screens have been installed below head gates in exapanded rectangular concrete bay.

☑ Diversion Sketch Attached

Headgate (HG) and Measuring Device Description

Existing Headgate: ☑ Yes ☐ No **Lockable HG?** ☑ Yes ☐ No
Desc. Of Headgate: Two screw controls on gate stems with large wooden rectangular gate leafs control flow of water.

Existing Measuring Device: ☑ Yes ☐ No
Measuring Device Type: Parshall flume **Size:** 10 ft.
Desc. Of Measuring Device: Concrete flume located about 1000 ft. below div structure. Includes concretet stilling well with staff gage. Flume in good condition. Flume is located about 200' below return flow structure

Measurement

Staff Guage Reading: 0.67 ft
Weir/Flume Reading: **Table Used:** US BOR Manual
Q = 21 cfs

☐ Flow Measurement Form

Additional Notes: Additional private rights diverted: 13-17, 18, 19 & 20
Note that Birch Spring discharges to canal above parshall flume; spring measured separately w/weir. See photos of spring & weir, & canal diversion & flume.

Tim Luke	5/26/2010	10 a.m.
Examiner	Date	Time

Idaho Dept. of Water Resources
GPS Field Data and Diversion Inventory
Water District No. 13-A

General Information

Source/Tributary: Worm Creek **tributary to:** Cub River
Diversion Name: Diversion 1
Point of Diversion: **TWNP:** 15S **RNG:** 40E
SEC: 2 **QQ:** NESWSE
USGS Map: **Name:** Mink Creek **No.** DD45
Water Right No's.: 13-267; 13-305A (Smith & Owen); Ditch is also PD for 13-299 & 300(Webster) - needs transfer fr Lamont-Johnsn Div

☐ See Attached

Access: Crossed creek from FS road at location of Mink Creek pipe line confluence with Worm Creek, diversion is just downstream.

Diversion Information

GPS Site Tag No.: None **GPS File Name:** None
GPS Tag Location: None
Photo(s): ☑ Yes ☐ No **Photo File Name:**

Description of Diversion: There were no permanent structures or devices at this diversion, diversion was accomplished with an in-stream rock (river cobble) diversion dam and blue plastic material. As such, no metal GPS tag was installed.
GPS Coordinates: N 2686253 ; E 1218262 (meters)

☐ Diversion Sketch Attached

Headgate (HG) and Measuring Device Description

Existing Headgate: ☐ Yes ☑ No **Lockable HG?** ☐ Yes ☑ No
Desc. Of Headgate: N/A

Existing Measuring Device: ☐ Yes ☐ No
Measuring Device Type: N/A **Size:** N/A
Desc. Of Measuring Device: N/A

Measurement

Staff Guage Reading: N/A
Weir/Flume Reading: N/A **Table Used:** N/A
Q = < 0.50 cfs (visual estimation)

☐ Flow Measurement Form

Additional Notes: Water diverted into earth ditch that followed the diversion point contour and travelled to the west, the diversion ditch delivers water to points un-observed miles downstream, refer to pictures. Referred to as Mount Pizco Ditch.

Mat Weaver	5/7/2009	
Examiner	Date	Time

Idaho Dept. of Water Resources
GPS Field Data and Diversion Inventory
Water District No. 13-A

General Information

Source/Tributary: Worm Creek **tributary to:** Cub River
Diversion Name: Worm Creek measurement station (Preston Whitney Irr Co)
Point of Diversion: **TWNP:** 15S **RNG:** 40E
SEC: 11 **QQ:** NWSW
USGS Map: **Name:** _____ **No.** _____
Water Right No's.: N/A

☐ See Attached

Access: Left on dirt farm road off Worm Creek Rd about 0.14 mi north-east of Glendale Rd.

Diversion Information

GPS Site Tag No.: N/A **GPS File Name:** Wrm Ck MS
GPS Tag Location: _____

Photo(s): ☑ Yes ☐ No **Photo File Name:** _____

Description of Diversion: No diversion here, this is merely a concrete structure for CMP under a farm road where a stage-discharge rating has been established. Section is on Worm Creek just upstream from where water from Cub River-Worm Creek Canal is injected to Worm Creek. Preston Whitney Irr Co uses rated section to estimate flow in Worm CK above injection point.

☐ Diversion Sketch Attached

Headgate (HG) and Measuring Device Description

Existing Headgate: ☐ Yes ☐ No **Lockable HG?** ☐ Yes ☐ No
Desc. Of Headgate: N/A

Existing Measuring Device: ☑ Yes ☐ No
Measuring Device Type: Rated Section **Size:** _____
Desc. Of Measuring Device: Rectangular concrete structure with two approach wing walls & large diameter (approx 4 ft) corrugated metal pipe (CMP) on discharge end of box. Staff gage installed on left wing wall looking upstream

Measurement

Staff Guage Reading: 1.16 ft
Weir/Flume Reading: _____ **Table Used:** _____
Q = 18.9*cfs
* from flow chart per Conan Foster, PWIC manager

☐ Flow Measurement Form

Additional Notes: Lyle Porter of Preston Whitney stated that US Bureau of Reclamation had established a rating curve or table for section a number of years ago. Ditch rider has rating. Lyle said shifts are possible given vegetative growth near section.

Tim Luke	5/26/2010	
Examiner	Date	Time

Idaho Dept. of Water Resources
GPS Field Data and Diversion Inventory
Water District No. 13-A

General Information

Source/Tributary: Worm Creek **tributary to:** Cub River
Diversion Name: Lamont-Johnson Ditch (Preston Whitney IC & PW Reservoir Co.)
Point of Diversion: **TWNP:** 15S **RNG:** 40E
SEC: 10 **QQ:** NWSE
USGS Map: **Name:** Riverdale **No.** DD44
Water Right No's.: 13-2022, 2102, 2103, 2287 & 2302* (Preston Whitney Res Co)
13-299, 300, 302 (Prvt rights); *Re-div for 13-2302
☐ See Attached
Access: Gravel drive off of Glendale Road to diversion dam located on east property line of the Webster Farm, about 0.13 mi west of Glendale & Worm Ck Roads intersection

Diversion Information

GPS Site Tag No.: A0012038 **GPS File Name:** A0012038
GPS Tag Location: Concrete wing wall (upstream south wall)
Photo(s): ☑ Yes ☐ No **Photo File Name:**
Description of Diversion: Concrete dam in Worm Creek checks flow into concrete flume locate on south side of channel. Flume has concrete wing wall, sidewall, and floor.
Ditch is point of re-diversion for Preston-Whitney Irr Co 13-2291from Cub River-Worm Ck Canal
☐ Diversion Sketch Attached

Headgate (HG) and Measuring Device Description

Existing Headgate: ☑ Yes ☐ No **Lockable HG?** ☐ Yes ☑ No
Desc. Of Headgate: Wooden planks can be raised or lowered with a levered system, not lockable as currently configure but could be easily modified to accommodate a locking device.
Existing Measuring Device: ☑ Yes ☐ No
Measuring Device Type: Parshall Flume **Size:** 4 ft.
Desc. Of Measuring Device: Device about 0.8 mi downstream of heading along Glendale Rd across from Webster Ranch house. Flume is concrete, in good condition. No staff gage or stilling well, must meas w/hand gage

Measurement

Staff Guage Reading: Gage not installed
Weir/Flume Reading: 0.70 ft **Table Used:** US BOR manual
Q = 9.11 cfs
☐ Flow Measurement Form

Additional Notes: Parshall flume inspected/read by T Luke, IDWR on 5/26/10 Flume in good condition. Headgates between flume & ditch head (Webster 13-299/300) not used. *Rt 13-2302 div fr Cub R-Worm Ck Canal; Ditch is re-div of PWIC Cub R rts

Mat Weaver/Tim Luke	5/7/2009 & 5/26/10	
Examiner	Date	Time

Idaho Dept. of Water Resources
GPS Field Data and Diversion Inventory
Water District No. 13-A

General Information

Source/Tributary: Worm Ck/CubR **tributary to:**
Diversion Name: Re-diversion to Johnson Res from Lamont-Johnson Ditch
Point of Diversion: **TWNP:** 15S **RNG:** 40E
SEC: 17 **QQ:** SENW
USGS Map: **Name:** **No.**
Water Right No's.: Rediversion of Preston Whitney Res Co rights 13-2022, 13-2102, 2103, 2287 (Worm Ck) & 13-2302 (Cub R)

See Attached ☑

Access: Service road from N 2200 about 1/2 mi north of Oneida St, to Lamont Reservoir, follow road to east side of reservoir, road proceeds along Lamont-Johnson Ditch

Diversion Information

GPS Site Tag No.: NA **GPS File Name:** LJ rediv to Jhnsn Res
GPS Tag Location:
Photo(s): ☑ Yes ☐ No **Photo File Name:**

Description of Diversion: Concrete check structure in main Lamont-Johnson Ditch with adjoining concrete box that provides outlet flow to Johnson Res. Head gate contol on oulet box is wooden stop logs. Main canal structure has stop log grooves for placement of stop logs to check water to outlet box/gate.

☐ Diversion Sketch Attached

Headgate (HG) and Measuring Device Description

Existing Headgate: ☑ Yes ☐ No **Lockable HG?** ☐ Yes ☑ No
Desc. Of Headgate: See above description and photos. Gate could be modified to accommodate lock if necessary.

Existing Measuring Device: ☐ Yes ☑ No
Measuring Device Type: **Size:**
Desc. Of Measuring Device: No device visible for flow to reservoir. Outlet box could potentially be fitted with a weir to measure flow to reservoir. Also no meas device to HG/pipe diversion blw structure (see notes below)

Measurement

Staff Guage Reading:
Weir/Flume Reading: **Table Used:**
Q =

☐ Flow Measurement Form

Additional Notes: < 100' below structure off Lamont-Johsnon ditch is a steel frame turn screw HG in culvert to gravity sprinkler pipe & 20-22 acres abv Johnson Res

Tim Luke	5/26/2010	
Examiner	Date	Time

Idaho Dept. of Water Resources
GPS Field Data and Diversion Inventory
Water District No. 13-A

General Information

Source/Tributary: Cub River **tributary to:**
Diversion Name: Re-diversion to Lamont Res & Eastside/Egypt Lateral Assocs
Point of Diversion: **TWNP:** 15S **RNG:** 40E
SEC: 17 **QQ:** SESW
USGS Map: **Name:** **No.**
Water Right No's.: Re-diversion of 13-2291 (storage), other PWIC rights?

See Attached ☐

Access: Service road from N 2200 about 1/2 mi north of Oneida St, to Lamont Reservoir, follow road to east side of reservoir, road proceeds along Lamont-Johnson Ditch

Diversion Information

GPS Site Tag No.: NA **GPS File Name:** LJ rediv to Lmnt Res
GPS Tag Location:
Photo(s): ☑ Yes ☐ No **Photo File Name:**

Description of Diversion: Concrete structure in Lamont-Johnson Ditch checks w water to Waterman screw gate & bubbler on left side of structure (looking downstream) for Egypt Lateral Association 18" pipeline. On right side of structure, water drops into HG & bubbler for second 18" pipe to Eastside Gravity Lateral Association. Both bubblers have return pipes to main ditch which runs from concrete check structure downhill to Lamont Res.

☑ Diversion Sketch Attached

Headgate (HG) and Measuring Device Description

Existing Headgate: ☑ Yes ☐ No **Lockable HG?** ☑ Yes ☐ No
Desc. Of Headgate: See description above

Existing Measuring Device: ☑ Yes ☐ No
Measuring Device Type: McCrometer Propeller meter **Size:**
Desc. Of Measuring Device: McCrometer in-line propeller meter installed on each pipeline. Did not inspect or take photos of meters. Pipelines not exposed to allow calibration of meters

Measurement

Staff Guage Reading:
Weir/Flume Reading: **Table Used:**
Q =

☐ Flow Measurement Form

Additional Notes: No measuring device or measurement of flow past concrete diversion structure to Lamont Reservoir.

Tim Luke	5/26/2010	
Examiner	Date	Time

Idaho Dept. of Water Resources
GPS Field Data and Diversion Inventory
Water District No. 13-A

General Information

Source/Tributary: Cub River **tributary to:** Bear River
Diversion Name: Lamont Reservoir & Oultet
Point of Diversion: **TWNP:** 15S **RNG:** 40E
SEC: 20 **QQ:** SWNW
USGS Map: **Name:** **No.**
Water Right No's.: Off stream storage/rediversion of 13-2291 (PWIC)

See Attached ☐
Access: Service road off N 2200 about 1/2 mile north of Oneida St

Diversion Information

GPS Site Tag No.: A0001973 **GPS File Name:** Lamont Res
GPS Tag Location: Epoxied to inspection port cover located at toe of dam
Photo(s): ☑ Yes ☐ No **Photo File Name:**

Description of Diversion: Off stream earthen dam with about 2,408 AF capacity. Outlet gate control on dam controls discharge to pipeline that replaces former open channel lateral.

☐ Diversion Sketch Attached

Headgate (HG) and Measuring Device Description

Existing Headgate: ☑ Yes ☐ No **Lockable HG?** ☑ Yes ☐ No
Desc. Of Headgate: Control gate on top of dam.

Existing Measuring Device: ☑ Yes ☐ No
Measuring Device Type: Propeller Meter **Size:** 30 inches
Desc. Of Measuring Device: McCrometer in-line flow propeller meter in 30 inch nominal PVC outlet pipe. Meter indicator/totalizer housed in riser pipe on top of reservoir outlet pipeline. Volume units = AF x 0.01

Measurement

Staff Guage Reading: NA
Weir/Flume Reading: **Table Used:**
Q = 8 cfs as per meter indicator

☐ Flow Measurement Form

Additional Notes: Outlet discharge pipe connects to outlet pipe from Johnson Res near Oneida St & N 2200, forming Lamont-Johnson Pipeline.

Tim Luke	5/26/2010	2:20 p.m.
Examiner	Date	Time

Idaho Dept. of Water Resources
GPS Field Data and Diversion Inventory
Water District No. 13-A

General Information

Source/Tributary: Worm Creek **tributary to:** Cub River
Diversion Name: Johnson Reservoir & Outlet (Preston Whitney Reservoir Co.
Point of Diversion: **TWNP:** 15S **RNG:** 40E
SEC: 20 **QQ:** NWNE
USGS Map: **Name:** **No.**
Water Right No's.: Off stream storage/rediversion of 13-2022, 2102, 2287 from Worm Ck, 13-2302 from Cub R via PW Worm Ck-Cub R Canal

☐ See Attached

Access: N 2800 from Oneida St to Reservoir, service road off N 2800

Diversion Information

GPS Site Tag No.: A0001974 **GPS File Name:** Johnsn Res
GPS Tag Location: Nailed to control gate shed on top of dam
Photo(s): ☑ Yes ☐ No **Photo File Name:**

Description of Diversion: Off stream earthen dam with about 800 AF capacity. Outlet gate control on dam controls discharge to pipeline that replaces former open channel lateral.

☐ Diversion Sketch Attached

Headgate (HG) and Measuring Device Description

Existing Headgate: ☑ Yes ☐ No **Lockable HG?** ☑ Yes ☐ No
Desc. Of Headgate: Control gate on top of dam in locked shed.

Existing Measuring Device: ☑ Yes ☐ No
Measuring Device Type: Propeller Meter **Size:** 21 inches
Desc. Of Measuring Device: McCrometer in-line flow propeller meter in 21 inch nominal PVC outlet pipe. Meter indicator/totalizer housed in riser pipe on top of res. Outle pipeline below toe of dam. Volume units = AF x 0.01

Measurement

Staff Guage Reading: NA
Weir/Flume Reading: **Table Used:**
Q = 0

☐ Flow Measurement Form

Additional Notes: Outlet discharge pipe connects to outlet pipe from Lamont Res near Oneida St & N 2200, forming Lamont-Johnson Lateral Pipeline.

Tim Luke	5/26/2010	2:45 p.m.
Examiner	Date	Time

Idaho Dept. of Water Resources
GPS Field Data and Diversion Inventory
Water District No. 13-A

General Information

Source/Tributary: Worm Creek **tributary to:** Cub River
Diversion Name: Glendale Dam & Outlet works (Preston Whitney Irr. Co.)
Point of Diversion: **TWNP:** 15S **RNG:** 40E
SEC: 8 **QQ:** SESW
USGS Map: **Name:** Riverdale **No.** DD44
Water Right No's.: 13-271; 13-2103
Storage/re-div for 13-2288 (Cub R)
See Attached ☐
Access: Service Road off of Glendale Road directly below dam.

Diversion Information

GPS Site Tag No.: A0012039 **GPS File Name:** A0012039
GPS Tag Location: Worm Ck spill structure in outlet canal below dam, d/s side wall
Photo(s): ☑ Yes ☐ No **Photo File Name:**

Description of Diversion: Dam on Worm Creek has 6,000 Af storage capacity. A Outlet near east end of dam provides discharge from res to canal that has a structure with two sets of sluice gates, one set controls flow down canal to Foster Res & North/East Laterals, while second set controls flow out of canal to Worm Creek. An emergency pump is located at head of reservoir outlet canal which can pump water to Lamont Reservoir.

☐ Diversion Sketch Attached

Headgate (HG) and Measuring Device Description

Existing Headgate: ☑ Yes ☐ No **Lockable HG?** ☑ Yes ☐ No
Desc. Of Headgate: Two rectangular wooden sluice gates (~4' wide each) can be open and closed to allow water to flow perpendicularly out of the canal. Sluice gates had working screws and locks during site visit.
Existing Measuring Device: ☑ Yes ☐ No
Measuring Device Type: Parshall Flume **Size:** 6' throat
Desc. Of Measuring Device: 6' Concrete Parshall flume located several hundred feet downstream of control/spillway headgates. Stilling well on south side must be meas with hand gage, well needs cleaning but PF in good shape

Measurement

Staff Guage Reading: 0.75 ft
Weir/Flume Reading: not measureable **Table Used:** US BOR manual
Q = 15.17 cfs

☐ Flow Measurement Form

Additional Notes: A second parshall flume (4' throat) is located in Worm Ck below spillway control gates. PF has staff gage installed in stilling well on east side of flume. Entire system in good working order.

Mat Weaver & Tim Luke	5/7/2009 & 5/26/2010	
Examiner	Date	Time

Idaho Dept. of Water Resources
GPS Field Data and Diversion Inventory
Water District No. 13-A

General Information

Source/Tributary: Worm Ck/Cub River **tributary to:**
Diversion Name: Preston Whitney IC East and North Pipe Laterals
Point of Diversion: **TWNP:** 15s **RNG:** 40
SEC: 18 **QQ:** NWNE
USGS Map: **Name:** **No.**
Water Right No's.: Rediversion of PWIC storage and natural flow rights

☐ See Attached

Access: Off Glendale Rd & 2200 N, short gravel road uphill to control gates and pipe intakes all housed in chain link fence area. Located on canal from Glendale Res to Foster Res, ~ 1/2-way between reservrs

Diversion Information

GPS Site Tag No.: A0001971 **GPS File Name:** East&North Laterals
GPS Tag Location: On concrete platform between two pipe intakes.
Photo(s): ☑ Yes ☐ No **Photo File Name:**

Description of Diversion: Concrete check structure in main outlet canal from Glendale Res (feeder canal to Foster Res) controls/checks water to two pipe line laterals. Each pipe intake has a metal frame and leaf screw gate and each intake is equipped with trash drum screens. Pipes replace open laterals in PWIC system.

☐ Diversion Sketch Attached

Headgate (HG) and Measuring Device Description

Existing Headgate: ☑ Yes ☐ No **Lockable HG?** ☑ Yes ☐ No
Desc. Of Headgate: Each pipe intake has a metal rectangular leaf gate controlled by a lockable metal screw gate.

Existing Measuring Device: ☑ Yes ☐ No
Measuring Device Type: Propeller Meter (two meters) **Size:**
Desc. Of Measuring Device: McCrommeter propeller flow meter installed in each pipe downstream of intakes near or along Glendale Rd. No access to cal meters. Weir in check below pipe intakes to meas flow to Foster Res.

Measurement

Staff Guage Reading: * weir to Foster Res = 0.28 ft
Weir/Flume Reading: **Table Used:** US BOR manaul
Q = 2.65 cfs

☐ Flow Measurement Form

Additional Notes: *One check in concrete structure below pipe intakes had 5 ft rectangular weir to measure flow to Foster Res. PWIC plans to install adjustable weirs and automated controls from Campbell Scientific per Lyle Porter, PWIC manager.

Tim Luke	5/26/2010	
Examiner	Date	Time

Idaho Dept. of Water Resources
GPS Field Data and Diversion Inventory
Water District No. 13-A

General Information

Source/Tributary: Cub River **tributary to:** Bear River
Diversion Name: Foster Reservoir (Preston Whitney IC)
Point of Diversion: **TWNP:** _____ **RNG:** _____
SEC: _____ **QQ:** _____
USGS Map: **Name:** _____ **No.** _____
Water Right No's.: Off stream storage reservoir/re-diversion for 13-2298 (Cub R)
Outlet pipe replaces Fairview Lateral
☐ See Attached
Access: Service road off Glendale Rd about 0.4 mile east of Hwy 36

Diversion Information

GPS Site Tag No.: A0001972 **GPS File Name:** Fostr Dam
GPS Tag Location: Epoxied to metal outlet gate shed located on top of Dam
Photo(s): ☑ Yes ☐ No **Photo File Name:** _____

Description of Diversion: Off stream earthen dam with about 3,355 AF capacity. Outlet gate control on dam controls discharge to pipeline that replaces former Fairview lateral (open channel lateral).

☐ Diversion Sketch Attached

Headgate (HG) and Measuring Device Description

Existing Headgate: ☑ Yes ☐ No **Lockable HG?** ☑ Yes ☐ No
Desc. Of Headgate: Control gate in locked shed on top of dam provides flow control to outlet pipe.

Existing Measuring Device: ☑ Yes ☐ No
Measuring Device Type: Magnetic Flow Meter **Size:** 36 inches
Desc. Of Measuring Device: Seametrics insertable magnetic flow meter installed in pipeline below toe of dam. Meter indicator/totalizer housed in riser pipe on top of pipeline. No access provided to calibrate meter.

Measurement

Staff Guage Reading: _____
Weir/Flume Reading: _____ **Table Used:** _____
Q = no flow on this date

☐ Flow Measurement Form

Additional Notes: _____

_____ _____ _____
Examiner Date Time

Idaho Dept. of Water Resources
GPS Field Data and Diversion Inventory
Water District No. 13-A

General Information

Source/Tributary: Worm Creek **tributary to:** Cub River
Diversion Name: Preston Whitney Eastside Ditch (Abandonded)
Point of Diversion: **TWNP:** 15S **RNG:** 40E
SEC: 2 **QQ:** SWSW
USGS Map: **Name:** Riverdale **No.** DD44
Water Right No's.: No corresponding WRs in ArcMap.

See Attached ☐
Access: Service Road off of Glendale Road directly below dam.

Diversion Information

GPS Site Tag No.: A0012032 **GPS File Name:** A0012032
GPS Tag Location: Top canal gate cross bar.
Photo(s): ☑ Yes ☐ No **Photo File Name:**

Description of Diversion: Where ditch crosses Glendale Road a canal gate is attached to the entrance of ~18-24" cmp pipe. CMP pipe diverts water out of manmade ditch into natural/historic Worm Creek channel. Ditch is no longer in use per Lyle Porter of PWIC, replaced by pipeline lateral located on Glendale Res outlet canal between Glendale & Foster Res.

☐ Diversion Sketch Attached

Headgate (HG) and Measuring Device Description

Existing Headgate: ☑ Yes ☐ No **Lockable HG?** ☑ Yes ☐ No
Desc. Of Headgate: ~18-24" canal gate

Existing Measuring Device: ☐ Yes ☑ No
Measuring Device Type: N/A **Size:** N/A
Desc. Of Measuring Device: N/A

Measurement

Staff Guage Reading: N/A
Weir/Flume Reading: N/A **Table Used:** N/A
Q = < 1.0 cfs (visual estimation)

☐ Flow Measurement Form

Additional Notes:

Mat Weaver — Examiner
5/7/2009 — Date
Time



Figure 1: Cub River Irrigation Co Lower Canal (Cub River Lower Ditch) – radial control gates across river checks water to canal gates on left bank looking upstream



Figure 2: Head gates to Cub River Lower Ditch (fish screens in front of gates, parshall flume in back ground)



Figure 3: Cub River Lower Ditch 10 ft Parshall Flume, shed on left houses flume recorder/display



Figure 4: Cub River Lower Ditch Parshal flume

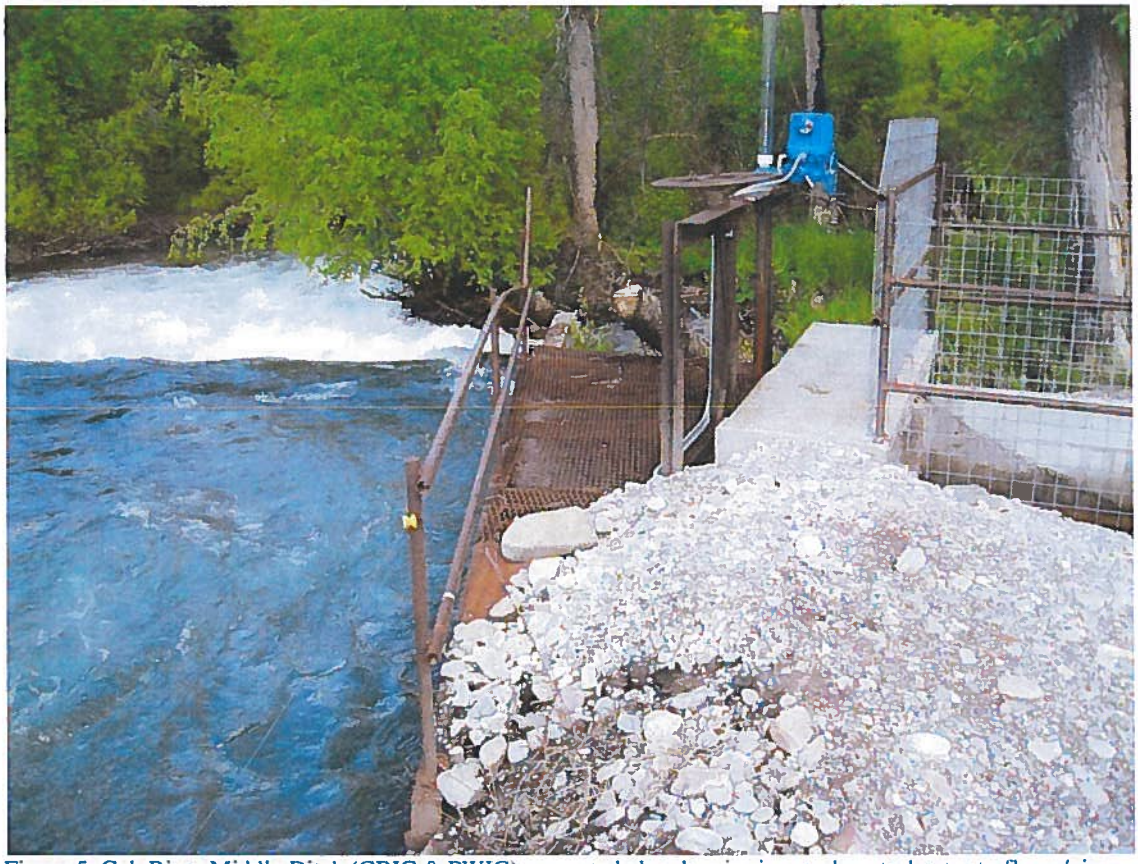


Figure 5: Cub River Middle Ditch (CRIC & PWIC) concrete ledge dam in river and control gates to flume/pipe



Figure 6: Cub River Middle Ditch intake flume to buried culvert that houses Doppler flow meter (note fish screen in bottom of photo). Shed to right houses meter display.



Figure 7: PWIC Cub River Worm Ck Canal from Cub River (Cub River Upper Fill Ditch)

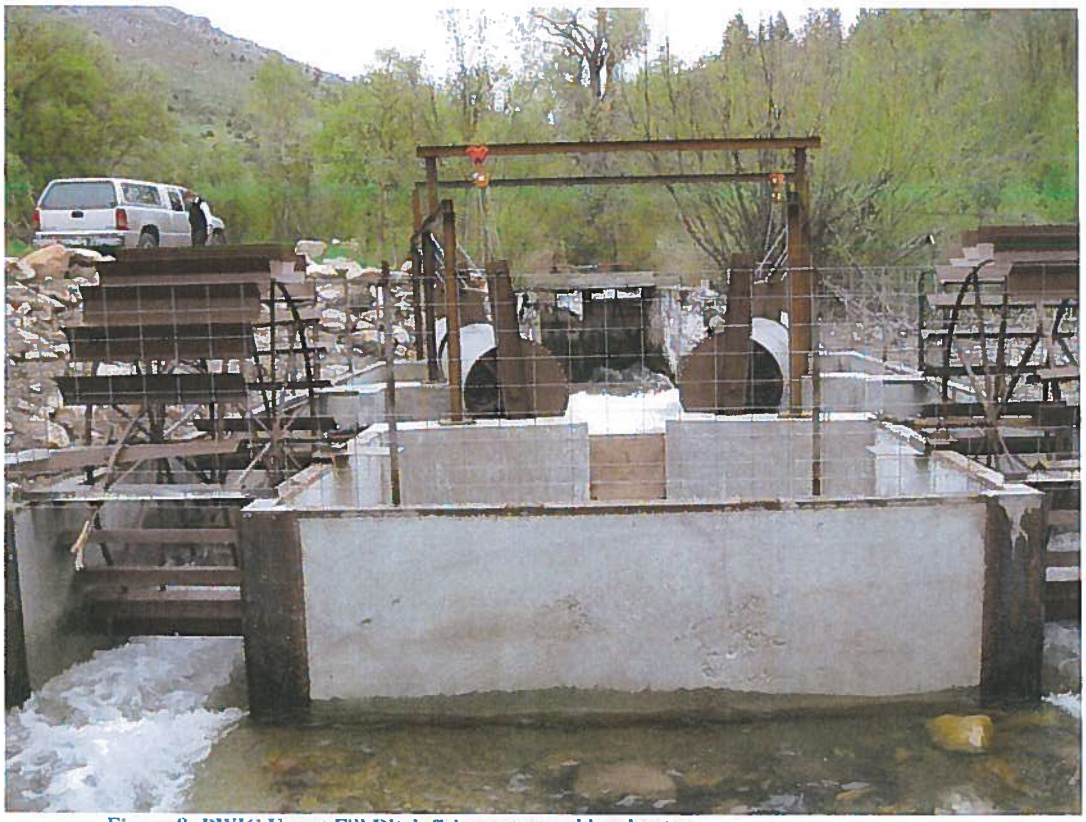


Figure 8: PWIC Upper Fill Ditch fish screens and head gates



Figure 9: Upper Fill Ditch Parshall Flume (10') looking downstream. Water flows to Worm Creek.



Figure 10: Upper Fill Ditch Parshall Flume looking upstream



Figure 11: Upper Fill Ditch - Parshall Flume stilling well

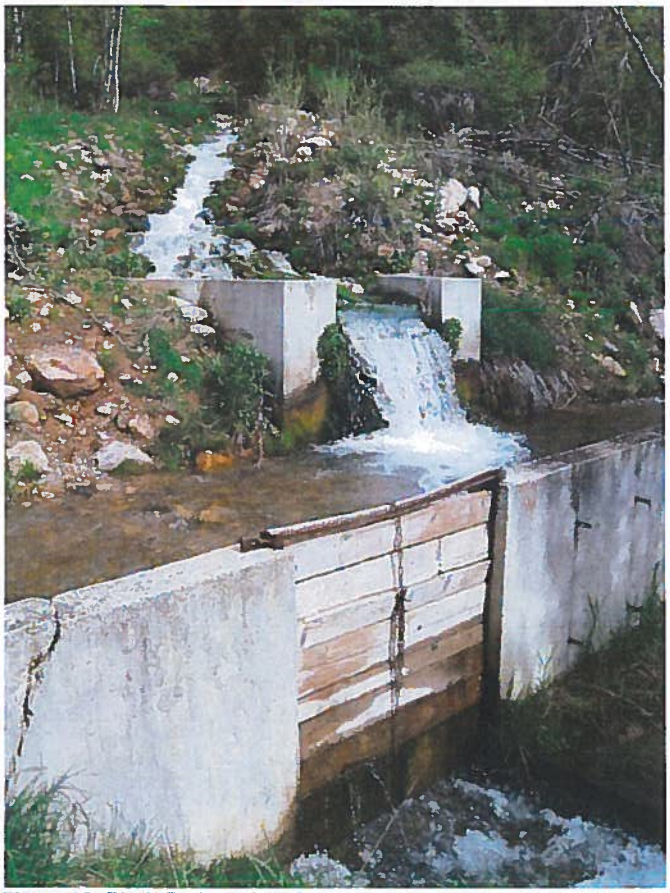


Figure 12: Birch Spring (city of Preston) discharge & weir to Upper Fill Ditch (return flow gate in foreground)



Figure 13: Birch Spring weir (note high approach velocity, lack of weir pool & water crest growth)



Figure 14: Fill Ditch at County Rd above point of injection to Worm Ck



Figure 15: Rated Section on Worm Creek above PW Upper Fill Ditch Injection point to Worm Ck.



Figure 16: Mink Ck Canal injection to Worm Ck upstream of Worm Ck rated section & Fill Ditch injection



Figure 17: Worm Ck Diversion 1 (Webster) just below Mink Ck Canal injection



Figure 18: Diversion 1 (Webster), open ditch from creek eventually drops into gravity pipe system



Figure 19: Lamont -Johnson Diversion from Worm Ck (head gate on left. diversion dam center-right



Figure 20: Lamont Johnson Ditch & head gate (d/s of head gate)



Figure 21: Lamont Johnson Ditch Parshall Flume (4 ft), about 3/4 mi below head gate



Figure 22: Lamont Johnson Ditch check structure (center) & gate (left) to Johnson Reservoir



Figure 23: Lamont Johnson Ditch check structure, control gate to ditch channel to reservoir



Figure 24: Head gate in Lamont Johnson Ditch to field above Johnson Res; check structure & gate to Res in background around bend



Figure 25: Lamont Johnson Check structure above Lamont Res. head gate on left to Egypt Pipe Lateral, drop & HG on right to Eastside Pipe Lateral, flow through center to Lamont Res.



Figure 26: Lamont Johnson Ditch to Lamont Res fr control structure for Egypt & Eastside Lateral pipes (bubbler on left for Egypt pipe, bubbler on rt for Eastside pipe (Egypt pipe meas device located near end of ditch along road closer to reservoir)



Figure 27: Head gate to Egypt Lateral Association pipeline at control structure aby Lamon Res



Figure 28: Intake and gate for Eastside Lateral Association pipeline



Figure 29: Lamont Dam (background), outlet pipe & inspection port (right), taken from flow meter location



Figure 30: Flow meter in Lamont Res outlet pipe (located just below dam & inspection port access - Fig 23)



Figure 31: View from Johnson Dam – looking below dam and former ditch site from reservoir



Figure 32: Johnson Dam outlet pipe and flow meter (in riser pipe to left)



Figure 33: Johnson outlet pipe flow meter



Figure 34: End of pipeline from Lamont & Johnson Reservoirs, discharge from pipe to Cub River Middle Ditch.



Figure 35: Discharge box from end of Lamont-Johnson pipeline (foreground) & Palmer pipe check & intake in the background



Figure 36: Lamont Johnson pipeline flow meter - measures discharge to Cub River Middle Ditch above Palmer Pipe



Figure 37: View of Glendale Dam with outlet control house in right center foreground, and emergency pump below house that can pump water to Lamont Res. Left corner of picture (not visible) is head gate spill structure to Worm Ck.



Figure 38: Head gate control structure in Glendale Res outlet canal, gates on right spill or control water to Worm Ck. Gates on left control flow down canal to Foster Res & North/East Lateral pipes



Figure 39: HG Control to Worm Ck from Glendale Res outlet canal (parshall flume in creek in background left of truck)



Figure 40: Parshall flume in Worm Creek below Glendale Res outlet canal spill gates



Figure 41: Parshall Flume in Glendale Res outlet canal (downstream of Worm Ck spill/control gates)



Figure 42: Glendale Outlet Canal parshall flume (downstream view): water flows to Foster Res & North/East Lateral pipes



Figure 43: Control/diversion gates for North & East Lateral pipelines from Glendale Res Outlet Canal



Figure 44: Head gates for North & East Lateral pipelines



Figure 45: Control/diversion gates for North & East Lateral pipelines, note check/weirs in foreground



Figure 46: Discharge from Glendale Res outlet canal to Foster Res (about 0.25 mi. downstream of North/East lateral pipes)

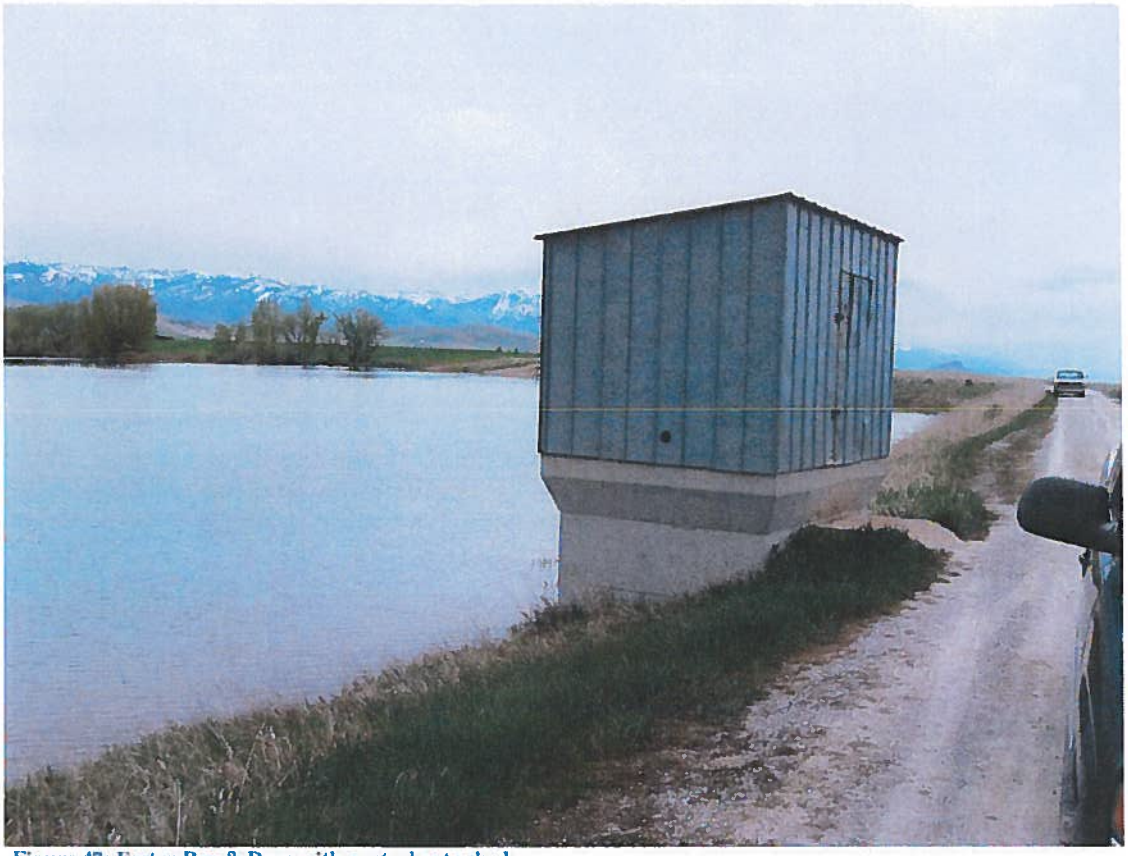


Figure 47: Foster Res & Dam with control gate shed



Figure 48: Foster Res outlet pipe, outlet inspection port (left) & flow meter access pipe (small blue riser pipe on right). View from dam & control shed.

Inventory Forms and Photos for

Worm Creek below Glendale Reservoir

Idaho Dept. of Water Resources
GPS Field Data and Diversion Inventory
Water District No. 13-A

General Information

Source/Tributary: Worm Creek **tributary to:** Cub River
Diversion Name: Diversion 5
Point of Diversion: **TWNP:** 15S **RNG:** 40E
SEC: 18 **QQ:** SWNW
USGS Map: **Name:** Franklin **No.** DD94
Water Right No's.: 13-279

See Attached ☐

Access: Diversion located on west side of road where Worm Creek crosses County Road 1600.

Diversion Information

GPS Site Tag No.: N/A **GPS File Name:** N/A
GPS Tag Location: None
Photo(s): ☑ Yes ☐ No **Photo File Name:**

Description of Diversion: No permanent structures associated with this diversion. Steel fencepost, rocks, and plastic material located in Worm Creek appears to be used to back water up into adjacent field for flood irrigation of pasture ground.

☐ Diversion Sketch Attached

Headgate (HG) and Measuring Device Description

Existing Headgate: ☐ Yes ☑ No **Lockable HG?** ☐ Yes ☑ No
Desc. Of Headgate: N/A

Existing Measuring Device: ☐ Yes ☑ No
Measuring Device Type: N/A **Size:** N/A
Desc. Of Measuring Device: N/A

Measurement

Staff Guage Reading: N/A
Weir/Flume Reading: N/A **Table Used:** N/A
Q = No flow during site visit

☐ Flow Measurement Form

Additional Notes: During field visit I though this might be an illegal diversion but it is not. There was nothing to attach metal tag to so one was not used.

Mat Weaver	5/7/2009	
Examiner	Date	Time

Idaho Dept. of Water Resources
GPS Field Data and Diversion Inventory
Water District No. 13-A

General Information

Source/Tributary: Worm Creek **tributary to:** Cub River
Diversion Name: Diversion 6
Point of Diversion: **TWNP:** 15S **RNG:** 39E
SEC: 13 **QQ:** NESE
USGS Map: **Name:** Franklin **No.** DD94
Water Right No's.: 13-253; 13-262

See Attached ☐

Access: Crossed Porter Farms LLC ground from County Road 1600 to access diversion structure on Worm Creek visible from road. No fencing to obstruct travel.

Diversion Information

GPS Site Tag No.: A0012037 **GPS File Name:** A0012037
GPS Tag Location: Top canal gate cross bar.
Photo(s): ☑ Yes ☐ No **Photo File Name:**

Description of Diversion: Existing concrete check dam used to be used to back water up into a ditch for gravity flow. Ditch flow was controlled with a sluice type gate. Currently water is diverted through a pipe in face of diversion dam that drains into a shallow CMP well. Water is pumped out of the shallow well to feed pressurized irrigation system.

☐ Diversion Sketch Attached

Headgate (HG) and Measuring Device Description

Existing Headgate: ☑ Yes ☐ No **Lockable HG?** ☑ Yes ☐ No
Desc. Of Headgate: Metal canal gate that could be lockable but no lock was evident during site visit.

Existing Measuring Device: ☐ Yes ☑ No
Measuring Device Type: N/A **Size:** N/A
Desc. Of Measuring Device: N/A

Measurement

Staff Guage Reading: N/A
Weir/Flume Reading: N/A **Table Used:** N/A
Q = no flow

☐ Flow Measurement Form

Additional Notes:

Mat Weaver — Examiner
5/7/2009 — Date
Time

Idaho Dept. of Water Resources
GPS Field Data and Diversion Inventory
Water District No. 13-A

General Information

Source/Tributary: Worm Creek **tributary to:** Cub River
Diversion Name: Diversion 7
Point of Diversion: **TWNP:** 15S **RNG:** 39E
SEC: 26 **QQ:** SENE
USGS Map: **Name:** Mink Creek **No.** DD45
Water Right No's.: 13-266??

See Attached ☐

Access: Just west of the Worm Creek crossing of East Oneida Road there is a farmer's access that drops down into the Worm Creek basin. I travelled as far south/downstream as I could and walked last 200 feet to diversion.

Diversion Information

GPS Site Tag No.: A0012034 **GPS File Name:** A0012034
GPS Tag Location: Located on top most cross bar of canal gate.
Photo(s): ☑ Yes ☐ No **Photo File Name:**

Description of Diversion: Worm Creek flows into ~36" culvert with check boards at inlet. To the river right of the large culvert is a canal gate that is located on the inlet of a 20" CMP diversion. Canal gate diverts water into ditch that runs due south. Diversion was heavily silted in. Canal gate was fully closed but a small flow was still passing through the CMP.

☐ Diversion Sketch Attached

Headgate (HG) and Measuring Device Description

Existing Headgate: ☑ Yes ☐ No **Lockable HG?** ☑ Yes ☐ No
Desc. Of Headgate: Metal canal gate that could be lockable but no lock was evident at time of site visit.

Existing Measuring Device: ☐ Yes ☑ No
Measuring Device Type: N/A **Size:** N/A
Desc. Of Measuring Device: N/A

Measurement

Staff Guage Reading: N/A
Weir/Flume Reading: N/A **Table Used:** N/A
Q = < 0.50 cfs (visual estimation)

☐ Flow Measurement Form

Additional Notes:

Mat Weaver	5/7/2009	
Examiner	Date	Time

Idaho Dept. of Water Resources
GPS Field Data and Diversion Inventory
Water District No. 13-A

General Information

Source/Tributary: Worm Creek **tributary to:** Cub River
Diversion Name: Diversion 8
Point of Diversion: **TWNP:** 15S **RNG:** 39E
SEC: 26 **QQ:** SENE
USGS Map: **Name:** Franklin **No.** DD94
Water Right No's.: 13-266??

See Attached ☐

Access: Diversion is located just to the west of the Worm Creek crossing of 4th Street.

Diversion Information

GPS Site Tag No.: A0012098 **GPS File Name:** A0012098
GPS Tag Location: Located on top most cross bar of canal gate.
Photo(s): ☑ Yes ☐ No **Photo File Name:**

Description of Diversion: Concrete check dam structure sits in canal/creek and checks water into CMP that crosses under 4th Street. A canal gate is located on the entrance of the CMP and controls flow. Unsure if the canal/creek is natural or manmade, and it appears to be fed from water diverted from nearby pond and the ditch diverted at Diversion 7. Water is diverted into Pond (south of 4th street) which is connected with Worm Cr.

☐ Diversion Sketch Attached

Headgate (HG) and Measuring Device Description

Existing Headgate: ☑ Yes ☐ No **Lockable HG?** ☑ Yes ☐ No
Desc. Of Headgate: Metal canal gate that could be lockable but no lock was evident at time of site visit.

Existing Measuring Device: ☐ Yes ☑ No
Measuring Device Type: N/A **Size:** N/A
Desc. Of Measuring Device: N/A

Measurement

Staff Guage Reading: N/A
Weir/Flume Reading: N/A **Table Used:** N/A
Q = None

☐ Flow Measurement Form

Additional Notes: This may or may not be a diversion of Worm Creek. Further investigation is required to determine source of water and nature of interconnectedness at pond. Water is pump out of pond to serve pressurized irrigation system(s).

Mat Weaver	5/7/2009	
Examiner	Date	Time

Idaho Dept. of Water Resources
GPS Field Data and Diversion Inventory
Water District No.: 13A

General Information Keneth

Source/Tributary: WORM CREEK tributary to CUB RIVER.
Diversion Name: UNKNOWN
Point of Diversion: Twp. 15S Rng. 39E Sec 36 QQ NESW
USGS Map: Name _____ No. _____
Water Right Nos.: 13-213 _____ _____ _____
13-224 _____ _____ _____
See attached ☐ KENNOTH OLIVERSON'S
Access: CUB RIVER IRR. CO.
PRIVATE LANE RIGHT FORK TO POND (SOUTH side of Road.
PRIVATE LANE ON N SIDE OF ROAD

Diversion Information

GPS Site Tag No.: A0018991 GPS File Name: A0018991.
GPS Tag Location: ON PUMP HOUSE DOOR JAM.
Photo? ☐ Yes ☐ No Photo File Name: _____

Description of diversion: CREEK DIVERTED INTO POND AND PUMPED TO SPRINKLERS. DIVERSION MAY BE ON NORTH SIDE OF ROAD, NO WATER YET HARD TO TELL.

Headgate and Measuring Device Description

Existing Headgate? ☐ Yes ☒ No Lockable Headgate? ☐ Yes ☒ No
Description of Headgate: PUMP.

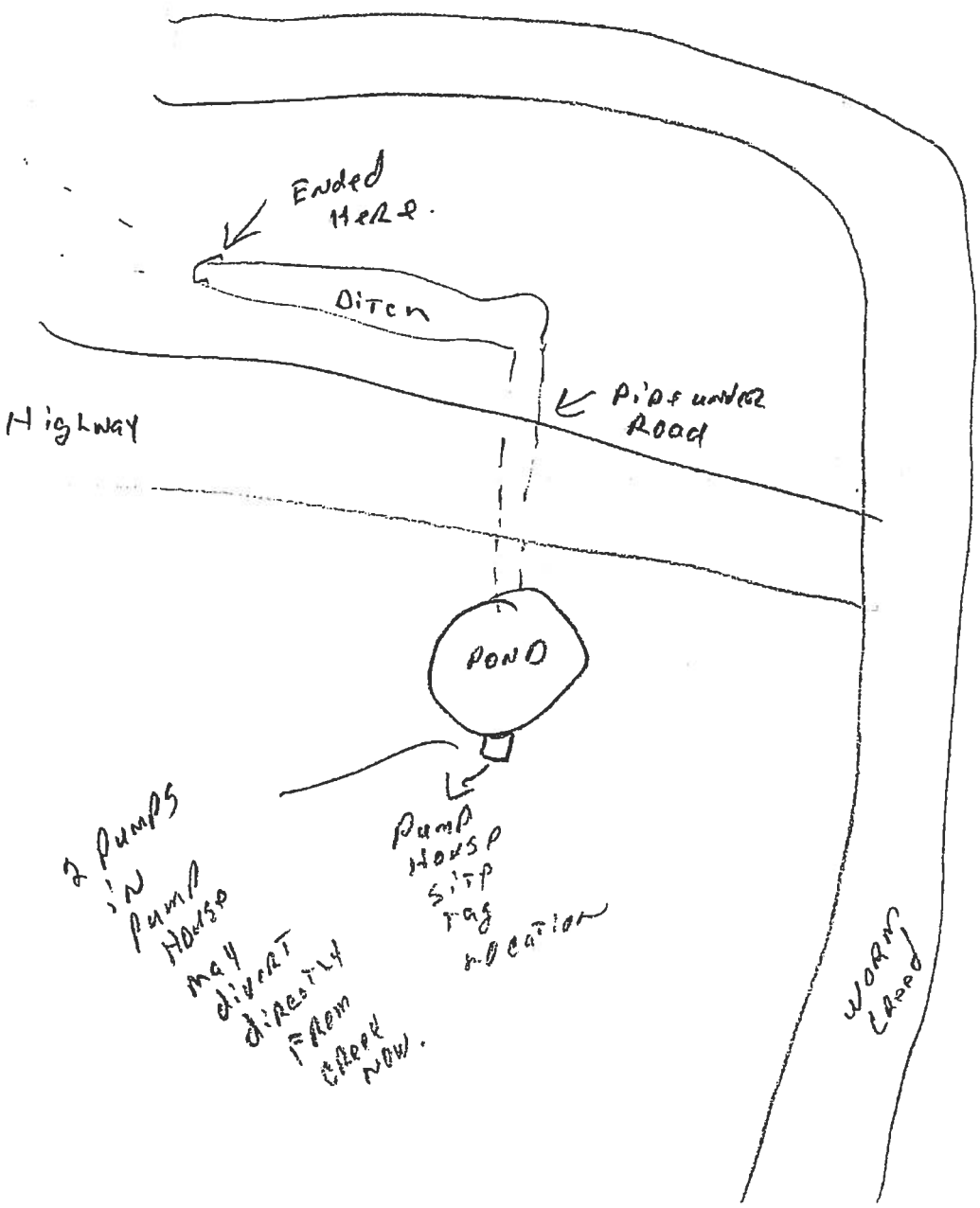
Existing Measuring Device? ☐ Yes ☒ No
Measuring Device Type: _____ Size: _____
Description of Measuring Device: _____

☐ Diversion sketch on reverse

Measurement

Staff Gage Reading: _____
Weir/Flume Reading: _____ Table Used: _____
☐ Flow Measurement Form Attached
Q = _____

David A. Mahan — Examiner
5-7-09 — Date
_____ — Time


Ended Here.
Ditch
Pipe under Road
Highway
Pond
2 pumps in Pump House may divert directly from creek now.
Pump House site tag location
Worn Road

Canal Diversion into Worm Creek

Idaho Dept. of Water Resources
GPS Field Data and Diversion Inventory
Water District No.: 13A

General Information

Source/Tributary: Worm Creek tributary to Cub River.
Diversion Name: Point where canal water enters Worm Creek.
Point of Diversion: Twp. _____ Rng. _____ Sec _____ QQ _____
USGS Map: Name _____ No. _____
Water Right Nos.: _____ _____ _____ _____
_____ _____ _____ _____
☐ See attached
Access: ½ mile south of the Rail Road Tracks 500 ft south of Road.

Diversion Information

GPS Site Tag No.: A0018997 GPS File Name: A0018997
GPS Tag Location: On Trail south of Diversion
Photo? ☐ Yes ☐ No Photo File Name: _____

Description of diversion: This is not an actual Diversion - This is the point where the canal discharges into the Worm Creek Channel. Point of Injection

Headgate and Measuring Device Description

Existing Headgate? ☐ Yes ☒ No Lockable Headgate? ☐ Yes ☒ No
Description of Headgate: _____

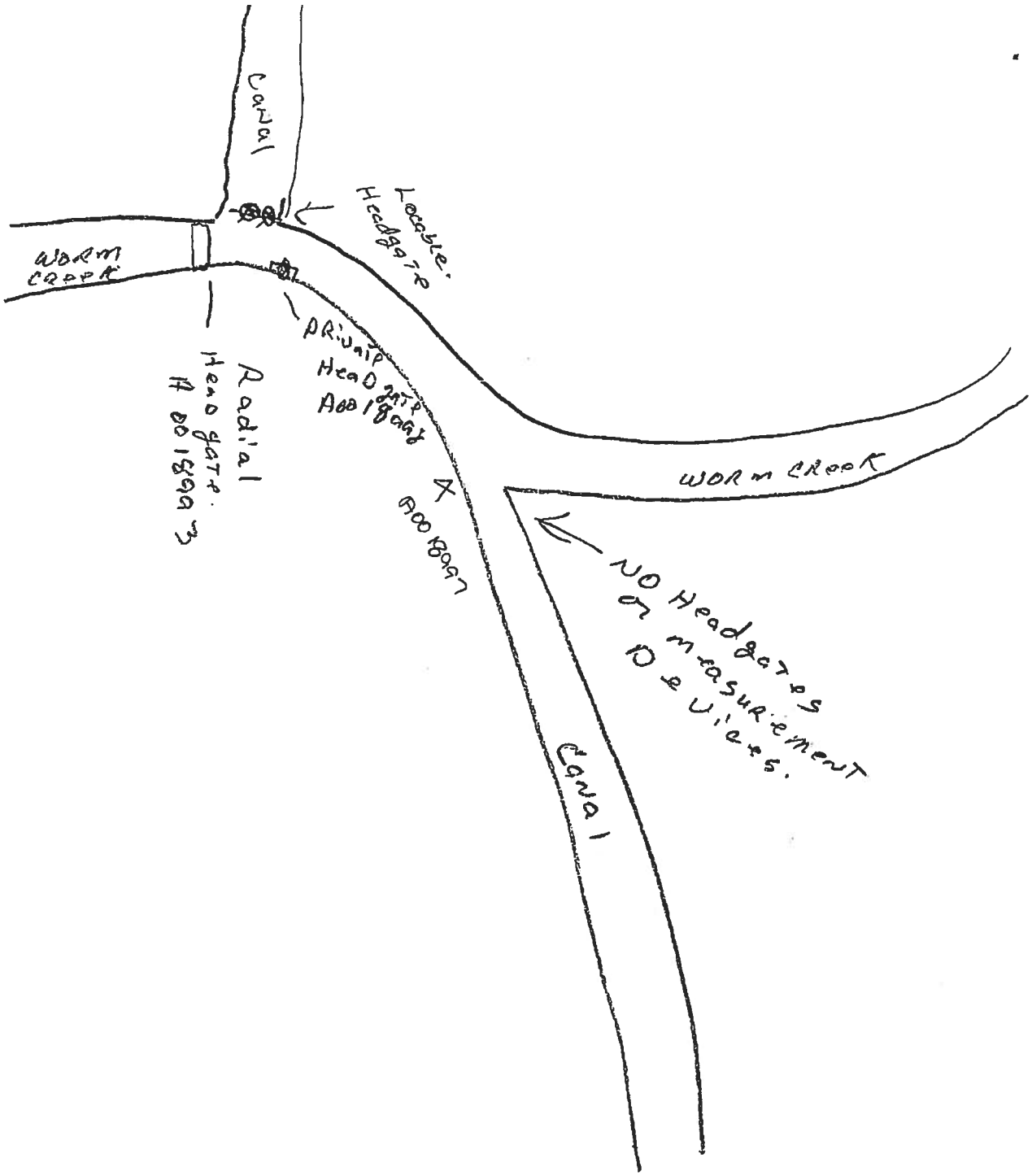
Existing Measuring Device? ☐ Yes ☒ No
Measuring Device Type: _____ Size: _____
Description of Measuring Device: _____

☒ Diversion sketch on reverse

Measurement

Staff Gage Reading: _____
Weir/Flume Reading: _____ Table Used: _____
☐ Flow Measurement Form Attached
Q = _____

Daniel A. Mahan — Examiner
5-7-09 — Date
_____ — Time


Canal
Lockable Headgate
WORM CREEK
PRIVATE Headgate ABOVE Road
Radial Headgate ABOVE
ABOVE
WORM CREEK
NO Headgates or measurement ID's.
Canal

Idaho Dept. of Water Resources
GPS Field Data and Diversion Inventory
Water District No.: 13A

General Information

Source/Tributary: Worm Creek tributary to Cub River
Diversion Name: Diversion of Canal out of Worm Creek
Point of Diversion: Twp. 16S Rng. 39E Sec 1 QQ SESW
USGS Map: Name _____ No. _____
Water Right Nos.: _____ _____ _____ _____
_____ _____ _____ _____
☐ See attached
Access: Walk in 1/2 mile from

Diversion Information

GPS Site Tag No.: A0018992 GPS File Name: A0018992.
GPS Tag Location: on Radial Headgate.
Photo? ☐ Yes ☐ No Photo File Name: _____

Description of diversion: This is the point where the Canal & Worm Creek split. The Headgate to Worm Creek is a Radial Headgate. The Diversion to canal has 2 wheeled slide head gates.

Headgate and Measuring Device Description

Existing Headgate? ☒ Yes ☐ No Lockable Headgate? ☒ Yes ☐ No
Description of Headgate: 2 - Adjustable slide Headgates into canal - and a Radial Headgate into Worm Creek.
Existing Measuring Device? ☐ Yes ☒ No
Measuring Device Type: _____ Size: _____
Description of Measuring Device: _____

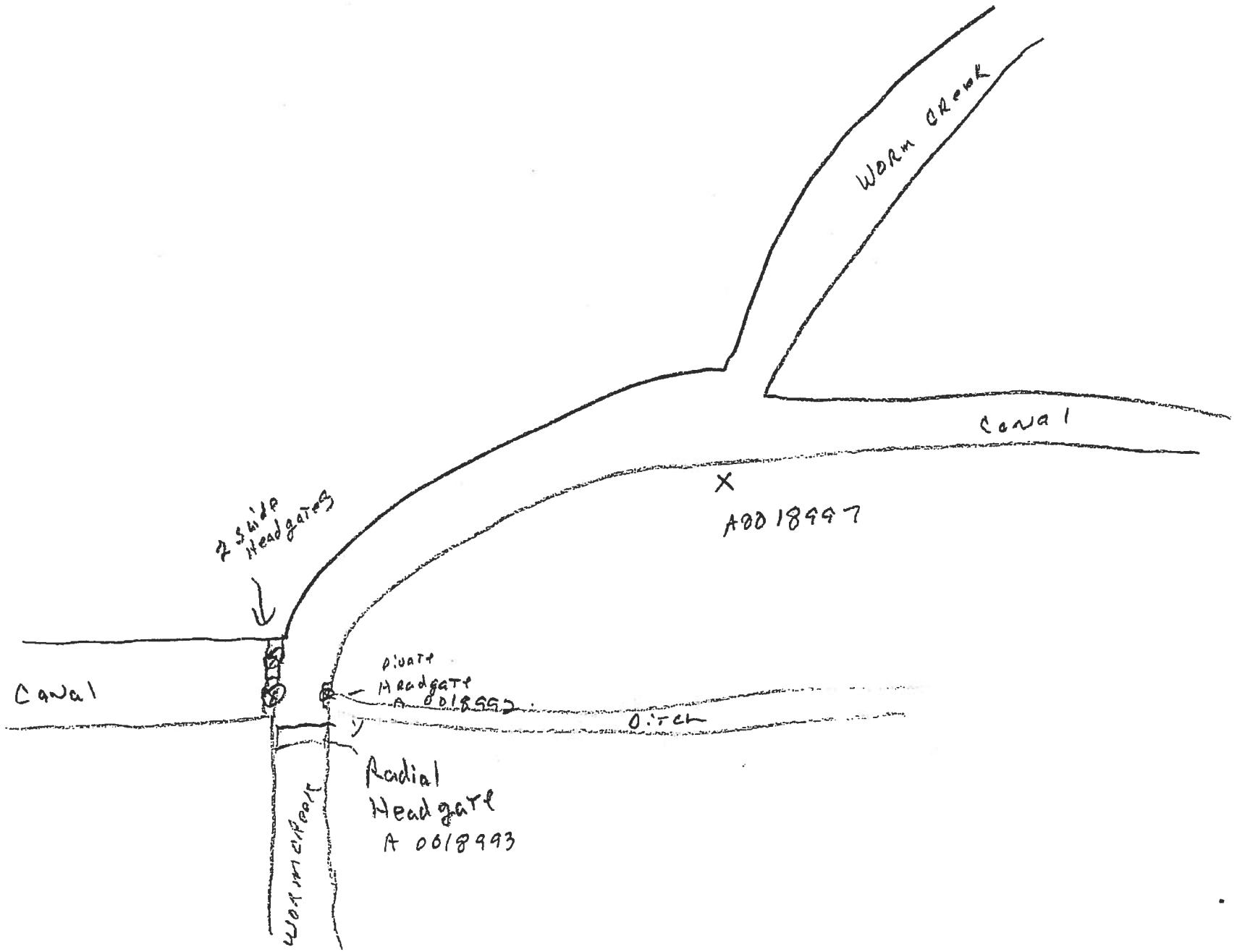
☒ Diversion sketch on reverse

Measurement

Staff Gage Reading: _____
Weir/Flume Reading: _____ Table Used: _____
☐ Flow Measurement Form Attached
Q = _____

Examiner: Daniel A. Nelson Date: 5-7-09 Time: _____

PROT-00222


Worm Creek
Canal
X
A00 18997
2 Slide Headgates
Canal
Radial Headgate
A 0018993
Ditch
Radial Headgate
A 0018993

Idaho Dept. of Water Resources
GPS Field Data and Diversion Inventory
Water District No.: 13 A

General Information

Source/Tributary: Worm Creek (canal) tributary to Cub River.
Diversion Name: UNKNOWN.
Point of Diversion: Twp. _____ Rng. _____ Sec _____ QQ _____
USGS Map: Name _____ No. _____
Water Right Nos.: _____ _____ _____ _____
_____ _____ _____ _____
See attached ☐
Access: WALK IN FROM Road ½ mile.

Diversion Information

GPS Site Tag No.: A0018993 GPS File Name: A0018993.
GPS Tag Location: On Headgate
Photo? ☐ Yes ☐ No Photo File Name: _____

Description of diversion: This Diversion is just up stream of the Radial Headgate.

Headgate and Measuring Device Description

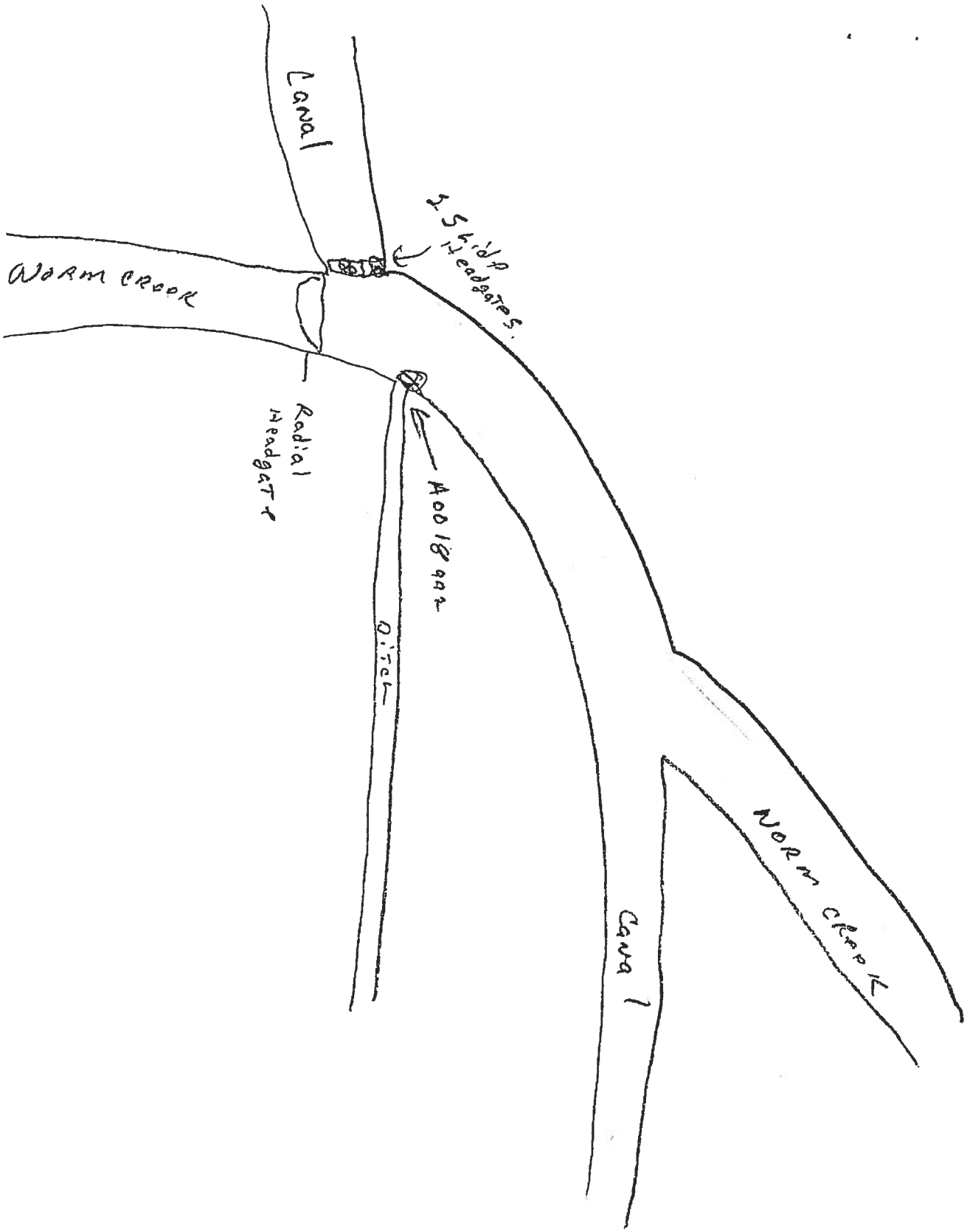
Existing Headgate? ☒ Yes ☐ No Lockable Headgate? ☒ Yes ☐ No
Description of Headgate: Adjustable Slide Headgate into a ditch
Existing Measuring Device? ☐ Yes ☒ No
Measuring Device Type: _____ Size: _____
Description of Measuring Device: _____

☒ Diversion sketch on reverse

Measurement

Staff Gage Reading: _____
Weir/Flume Reading: _____ Table Used: _____
☐ Flow Measurement Form Attached
Q = _____

David A. Nelson — Examiner
5-7-09 — Date
_____ — Time


Canal
2 Sluice Headgates
Worm Creek
Radial Headgate
Addition
Ditch
Canal
Worm Creek

Idaho Dept. of Water Resources
GPS Field Data and Diversion Inventory
Water District No.: 13 A

MERLIN GILBERT

General Information LARSEN, LYNN ~ Vaughn

Source/Tributary: WORM CREEK tributary to CUB RIVER
Diversion Name: UNKNOWN
Point of Diversion: Twp. 16 S Rng. 39 E Sec 13 QQ NW NW
USGS Map: Name _____ No. _____
Water Right Nos.: 13-64 13-66 13-68 _____
13-65 13-67 _____ _____
See attached ☐
Access: 10 FT OFF ROAD.

Diversion Information

GPS Site Tag No.: A 0018985 GPS File Name: A0018985
GPS Tag Location: ON STAND PIPE NEXT TO HEADGATE.
Photo? ☐ Yes ☐ No Photo File Name: _____

Description of diversion: CEMENT DAM IN CREEK WITH HAND GATE TO PIPE THAT TRAVELS UNDER THE ROAD AND OPEN DISCHARGES INTO DITCH.

Headgate and Measuring Device Description

Existing Headgate? ☒ Yes ☐ No Lockable Headgate? ☒ Yes ☐ No
Description of Headgate: ADJUSTABLE SLIDE HEADGATE.

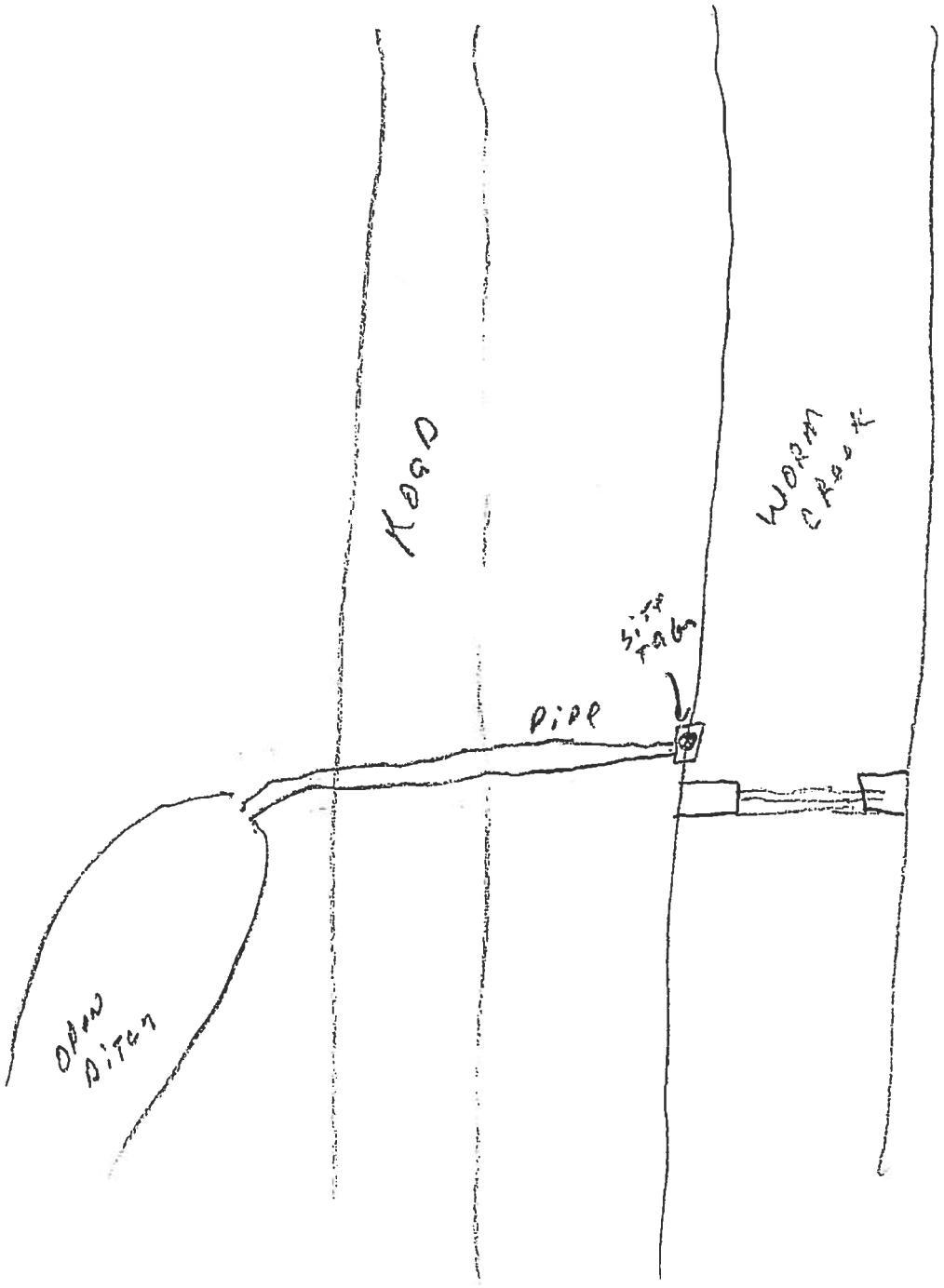
Existing Measuring Device? ☐ Yes ☒ No
Measuring Device Type: _____ Size: _____
Description of Measuring Device: _____

☒ Diversion sketch on reverse

Measurement

Staff Gage Reading: _____
Weir/Flume Reading: _____ Table Used: _____
☐ Flow Measurement Form Attached
Q = _____

Daniel A Nelson 5-7-09 _____
Examiner Date Time


ROAD
WORM CREEK
SILT TRAP
PIPE
OPEN DITCH

Idaho Dept. of Water Resources
GPS Field Data and Diversion Inventory
Water District No.: 13A

General Information MELVIN GILBERT

Source/Tributary: WORM CREEK tributary to CUB RIVER
Diversion Name: UNKNOWN
Point of Diversion: Twp. 16S Rng. 39E Sec 23 QQ SWSE
USGS Map: Name _____ No. _____
Water Right Nos.: 13-63 _____ _____ _____
13-763 _____ _____ _____
See attached ☐
Access: 1/4 mile WALK IN FROM ROAD

Diversion Information

GPS Site Tag No.: A0018990 GPS File Name: A0018990
GPS Tag Location: ON PUMP DISCHARGE PIPE.
Photo? ☐ Yes ☒ No Photo File Name: _____
Description of diversion: PUMP IN CREEK.

Headgate and Measuring Device Description

Existing Headgate? ☒ Yes ☐ No Lockable Headgate? ☒ Yes ☐ No
Description of Headgate: CONTROL VALVE ON PUMP.
Existing Measuring Device? ☐ Yes ☒ No
Measuring Device Type: _____ Size: _____
Description of Measuring Device: _____
☐ Diversion sketch on reverse

Measurement

Staff Gage Reading: _____
Weir/Flume Reading: _____ Table Used: _____
☐ Flow Measurement Form Attached
Q = _____

Daniel A. Melen — Examiner
5-7-09 — Date
_____ — Time

Idaho Dept. of Water Resources
GPS Field Data and Diversion Inventory
Water District No.: 13A

General Information BURTIS Hall

Source/Tributary: WORM CREEK tributary to CUB RIVER
Diversion Name: UNKNOWN
Point of Diversion: Twp. 16S Rng. 39E Sec 23 QQ SESE
USGS Map: Name _____ No. _____
Water Right Nos.: 13-324 _____ _____ _____
13-294 _____ _____ _____
See attached ☐
Access: 10 FT WEST OF Road.

Diversion Information

GPS Site Tag No.: A0018981 GPS File Name: A0018981
GPS Tag Location: ON DISCHARGE PIPE OF PUMP
Photo? ☐ Yes ☐ No Photo File Name: _____

Description of diversion: SMALL POND WITH PUMP DIVERTING OUT WATER.

Headgate and Measuring Device Description

Existing Headgate? ☒ Yes ☐ No Lockable Headgate? ☒ Yes ☐ No
Description of Headgate: CONTROL VALVE ON PUMP. DISCHARGE PIPE.

Existing Measuring Device? ☐ Yes ☒ No
Measuring Device Type: _____ Size: _____
Description of Measuring Device: _____

☐ Diversion sketch on reverse

Measurement

Staff Gage Reading: _____
Weir/Flume Reading: _____ Table Used: _____
☐ Flow Measurement Form Attached
Q = _____

Donnie A. Nelson — Examiner
5-7-09 — Date
_____ — Time

Idaho Dept. of Water Resources
GPS Field Data and Diversion Inventory
Water District No.: 13 A

General Information

Source/Tributary: WORM Creek tributary to Cub River
Diversion Name: UNKNOWN
Point of Diversion: Twp. 16S Rng. 39E Sec 25 QQ SENW
USGS Map: Name _____ No. _____
Water Right Nos.: 13-3141 13-2161 _____ _____
13-227 _____ _____ _____
See attached ☐
Access: 1/4 mile WALK in FROM Road.

Diversion Information

GPS Site Tag No.: A0018989 GPS File Name: A0018989
GPS Tag Location: ON Pump Discharge.
Photo? ☐ Yes ☐ No Photo File Name: _____

Description of diversion: PUMP OUT OF POND

Headgate and Measuring Device Description

Existing Headgate? ☒ Yes ☐ No Lockable Headgate? ☒ Yes ☐ No
Description of Headgate: CONTROL VALVE ON PUMP.

Existing Measuring Device? ☐ Yes ☒ No
Measuring Device Type: _____ Size: _____
Description of Measuring Device: _____

☐ Diversion sketch on reverse

Measurement

Staff Gage Reading: _____
Weir/Flume Reading: _____ Table Used: _____
☐ Flow Measurement Form Attached
Q = _____

Daniel A. Melon — Examiner
5-7-09 — Date
_____ — Time



Figure 1: Preston Whitney Irr Co. Eastside Ditch headgate (ditch abandoned)



Figure 2: Diversion 5 - Worm Creek (blw Glendale Res)



Figure 3: Diversion 6/A0012037 (Porter), check structure & head gate

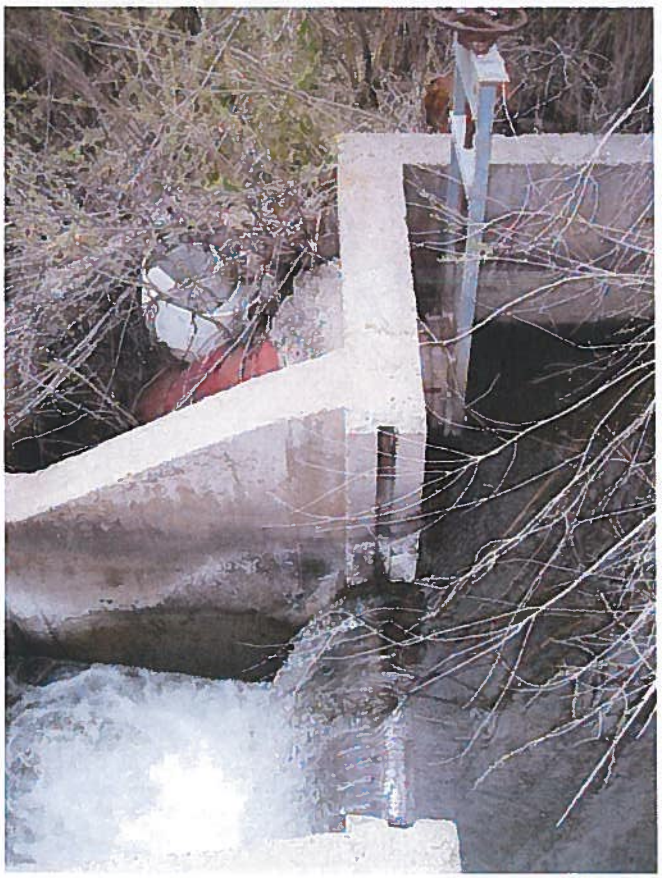


Figure 4: Diversion 6/A0012037, check structure & head gate to pipe and CMP well with pressurized irr pump



Figure 5: diversion 7/A0012034 (Beckstead-Tanner Ditch). Head gate to ditch, creek flow throu CMP on right



Figure 6: Diversion 8/A0012034, Canal gate to CMP crosses 4th St. Check structure to left, foreground

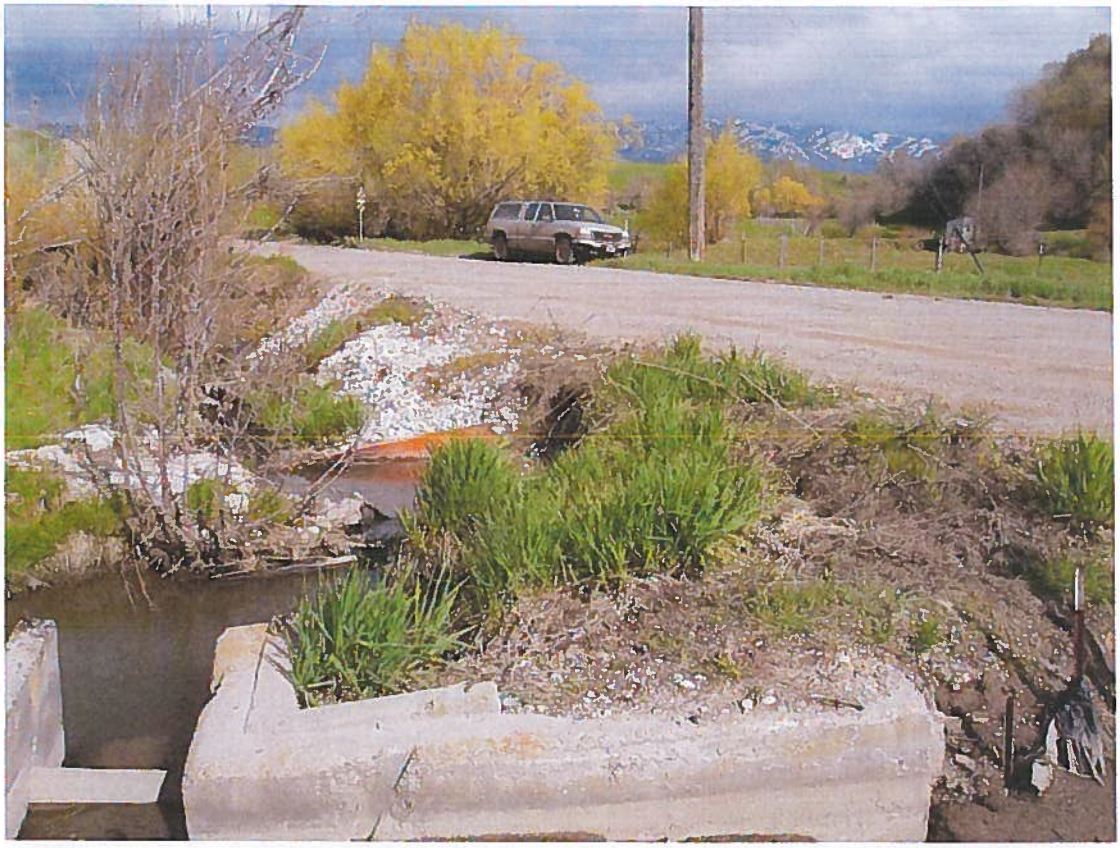


Figure 7: Check structure in ditch/channel that checks water to canal gate & CMP across 4th St. to pond and pump (did not verify status of pump).

Note: Photos are missing for any additional downstream diversions. Refer to table for list of downstream diversions.

Inventory Forms and Photos for

Spring Creek

Idaho Dept. of Water Resources
GPS Field Data and Diversion Inventory
Water District No. 13-A

General Information

Source/Tributary: Spring Creek **tributary to:** Worm Creek
Diversion Name: Beckstead-Dunkley Ditch (Abandoned Ditch)
Point of Diversion: **TWNP:** 15S **RNG:** 39E
SEC: 25 **QQ:** SESE
USGS Map: **Name:** **No.**
Water Right No's.: 13-210 & 13-239

See Attached ☐

Access: Northside of 800 E Rd where road crosses Srping Creek, abandoned ditch heading on west side of creek.

Diversion Information

GPS Site Tag No.: none **GPS File Name:** Beckstd-Dunn
GPS Tag Location: no HG or structure to attach tag
Photo(s): ☑ Yes ☐ No **Photo File Name:**

Description of Diversion: Former ditch channel appears to be elevated above creek channel, no flow enters channel
Visited right owner Lin Beckstead on 5/25/10 who confirmed this ditch is no longer used.

☐ Diversion Sketch Attached

Headgate (HG) and Measuring Device Description

Existing Headgate: ☐ Yes ☐ No **Lockable HG?** ☐ Yes ☐ No
Desc. Of Headgate: ditch abandoned, no structure

Existing Measuring Device: ☐ Yes ☐ No
Measuring Device Type: **Size:**
Desc. Of Measuring Device:

Measurement

Staff Guage Reading:
Weir/Flume Reading: **Table Used:**
Q =

☐ Flow Measurement Form

Additional Notes: Also searched for Baker diversion/right 13-247 in this same QQ an and NESE but did not locate. Watermaster Troy Foster and Mr. Beckstead were not aware of any diversion on creek by Baker family or others.

Tim Luke	5/25/2010	
Examiner	Date	Time

Idaho Dept. of Water Resources
GPS Field Data and Diversion Inventory
Water District No. 13-A

General Information

Source/Tributary: Spring Creek **tributary to:** Worm Creek
Diversion Name: Gib Hull Diversion
Point of Diversion: **TWNP:** 15S **RNG:** 39E
SEC: 36 **QQ:** SENE
USGS Map: **Name:** **No.**
Water Right No's.: 13-311 (Robert & Gib Hull)

☐ See Attached

Access: About 0.4 mi north of LDS Church on 1600 S Rd. Must walk about 600 ft west thru field to ditch heading.

Diversion Information

GPS Site Tag No.: none **GPS File Name:** Hull Sp Ck Div
GPS Tag Location: no HG or structure to attach tag
Photo(s): ☑ Yes ☐ No **Photo File Name:**

Description of Diversion: Diversion from creek is 24 inch culvert with plastic tarp dam and stakes for closure or control. Control is inadequate and requires lockable head gate.

☐ Diversion Sketch Attached

Headgate (HG) and Measuring Device Description

Existing Headgate: ☐ Yes ☑ No **Lockable HG?** ☐ Yes ☑ No
Desc. Of Headgate: Steel Waterman type screw gate in wing wall of concrete check div structure. HG to buried culvert that opens near 1600 S Rd & goes into pipe & open ditch south along 1600S, flumed across Cub R canal
Existing Measuring Device: ☑ Yes ☐ No
Measuring Device Type: Parshall Flume **Size:** 1 ft
Desc. Of Measuring Device: flume installed downstream in pasture lot north of church. Flume installed on bend in ditch, advised watermaster to have flume moved closer to ditch heading and install contolling HG.

Measurement

Staff Guage Reading: no diversion/flow at time of visit
Weir/Flume Reading: **Table Used:**
Q =

☐ Flow Measurement Form

Additional Notes:

Tim Luke — Examiner
5/25/2010 — Date
Time

Idaho Dept. of Water Resources
GPS Field Data and Diversion Inventory
Water District No. 13-A

General Information

Source/Tributary: Spring Creek **tributary to:** Worm Creek
Diversion Name: Golightly diversion at Hulls Crossing
Point of Diversion: **TWNP:** 16S **RNG:** 40E
SEC: 6 **QQ:** SWNWNW
USGS Map: **Name:** **No.**
Water Right No's.: 13-62, 216 (Golightly) 60A, 61A, 237, 273 (Rallison)
13-258 (Chadwick), 144 (Moser), 274 (Sharp)
☐ See Attached
Access: Near southeast corner of Highway 91 and 1600 S (aks Hulls Crossing). Park in vacant lot near corrals.

Diversion Information

GPS Site Tag No.: A0012016 **GPS File Name:** Goltly Sp Ck Div
GPS Tag Location: Epoxied to concrete diversion structure
Photo(s): ☑ Yes ☐ No **Photo File Name:**

Description of Diversion: Concrete check structure in creek with wood stop logs checks water to Golightly head gate on right bank looking upstream, and bypass box on left bank. Bypass box has a submerged orifice for measurement of bypass flow to creek downstream for other rights (Rallison, M

☐ Diversion Sketch Attached

Headgate (HG) and Measuring Device Description

Existing Headgate: ☑ Yes ☐ No **Lockable HG?** ☑ Yes ☐ No
Desc. Of Headgate: Steel Waterman type screw gate in wing wall of concrete check div structure. HG to buried culvert that opens near 1600 S Rd & goes into pipe & open ditch south along 1600S, flumed across Cub R canal
Existing Measuring Device: ☐ Yes ☑ No
Measuring Device Type: **Size:**
Desc. Of Measuring Device:

Measurement

Staff Guage Reading:
Weir/Flume Reading: **Table Used:**
Q =

☐ Flow Measurement Form

Additional Notes: Golightly has HG from Cub River Canal on other side of 1600 S where his Cub River Canal Co shares are delivered, shares not mixed w/Spring Ck until further down system near POU. Meas device should be installed in open ditch along Rd.

Tim Luke — Examiner
5/25/2010 — Date
Time

Idaho Dept. of Water Resources
GPS Field Data and Diversion Inventory
Water District No. 13-A

General Information

Source/Tributary: Unnamed Drain **tributary to:** Kirby Pond
Diversion Name:
Point of Diversion: **TWNP:** 16S **RNG:** 40E
SEC: 7 **QQ:** SESWNW
USGS Map: **Name:** **No.**
Water Right No's.: 13-217 (Golightly)

See Attached ☐
Access: East side of 1600 S, approx 1 mi south of Hwy 91 & 1600 S

Diversion Information

GPS Site Tag No.: N/A **GPS File Name:** Goltly Drain1
GPS Tag Location:
Photo(s): ☑ Yes ☐ No **Photo File Name:**

Description of Diversion: Drain channel appears to drain farm fields to north-east, channel crosses 1600 S via culvert that discharges to pvc pipe that picks up water from ditch and then enters series of 3 small ponds on very south end of Golightly property. Two other ponds further west on Golightly property appear to be on other ditch channel. No water rights cover use of ponds.

☐ Diversion Sketch Attached

Headgate (HG) and Measuring Device Description

Existing Headgate: ☐ Yes ☐ No **Lockable HG?** ☐ Yes ☐ No
Desc. Of Headgate: No diversion structure, just appears to be natural drain channel

Existing Measuring Device: ☐ Yes ☐ No
Measuring Device Type: **Size:**
Desc. Of Measuring Device:

Measurement

Staff Guage Reading:
Weir/Flume Reading: **Table Used:**
Q =

☐ Flow Measurement Form

Additional Notes: Only minor flow in channel at time of visit. Mr. Golightly stated channel is often dry and/or flow very minor. Ponds likely rely more on water from private ditch that carries Golightly's Cub River Irr Co shares and any water from Sp Ck.

Tim Luke	5/25/2010	
Examiner	Date	Time

Idaho Dept. of Water Resources
GPS Field Data and Diversion Inventory
Water District No. 13-A

General Information

Source/Tributary: Kirby Pond **tributary to:** Worm Creek
Diversion Name: Kirby Pond
Point of Diversion: **TWNP:** 16S **RNG:** 40E
SEC: 7 **QQ:** SWSWSW
USGS Map: **Name:** **No.**
Water Right No's.:

See Attached ☐

Access: On 3200 E Rd about 0.63 mi west of 1600 S (Parkinson Rd)

Diversion Information

GPS Site Tag No.: A0001969 **GPS File Name:** KirbyPond-Whtly E HG
GPS Tag Location: On east head gate located on SE corner of pond along road
Photo(s): ☑ Yes ☐ No **Photo File Name:**

Description of Diversion: Approx 1 acre pond on unnamed stream or drain channel. Small berm several feet in height along road forms dam. Dam is about 180 ft in length. A head gate in middle of dam connected to outlet pipe controls water in pond and discharge from pond. West HG no longer used as per Seth Wheatley. East HG regulates flow to Gamble pond & Wheatley east irr pump. Mid HG controls flow to channel & Whtly west pump

☐ Diversion Sketch Attached

Headgate (HG) and Measuring Device Description

Existing Headgate: ☑ Yes ☐ No **Lockable HG?** ☑ Yes ☐ No
Desc. Of Headgate: All three HGs on pond are typical Watermand type turn screw gates set in steel frames. All three are lockable.

Existing Measuring Device: ☐ Yes ☑ No
Measuring Device Type: **Size:**
Desc. Of Measuring Device:

Measurement

Staff Guage Reading:
Weir/Flume Reading: **Table Used:**
Q =

☐ Flow Measurement Form

Additional Notes:

Tim Luke — Examiner
5/25/2010 — Date
Time

Idaho Dept. of Water Resources
GPS Field Data and Diversion Inventory
Water District No. 13-A

General Information

Source/Tributary: Unnamed Stream **tributary to:** Worm Creek
Diversion Name: Gamble Pond/Wheatley East Irrigation Pump
Point of Diversion: **TWNP:** 16S **RNG:** 39E
SEC: 13 **QQ:** NENESE
USGS Map: **Name:** _____ **No.** _____
Water Right No's.: 13-219 (Gamble)

See Attached ☐

Access: Turn south on service road off 3200 E Rd & 0.63 mi west of 1600 S (Parkinson Rd), tak eservice road just east along Wheatley dairy barns, follow service road to pond and pump

Diversion Information

GPS Site Tag No.: none **GPS File Name:** Gamble Pond
GPS Tag Location: On east head gate located on SE comer of pond along road
Photo(s): ☑ Yes ☐ No **Photo File Name:** _____

Description of Diversion: Irrigation pump diverts from approx 2 acre shallow pond on unnamed stream channel. Pump powered by diesel motor on south west corner of pond. Water to pond can be provided by regulation of east Kirby Pond HG. Some natural flow in unnamed channel provides water for pond & pump, and unnamed drain from east may occasionally provide some flow.

☐ Diversion Sketch Attached

Headgate (HG) and Measuring Device Description

Existing Headgate: ☐ Yes ☐ No **Lockable HG?** ☐ Yes ☐ No
Desc. Of Headgate: _____

Existing Measuring Device: ☐ Yes ☑ No
Measuring Device Type: _____ **Size:** _____
Desc. Of Measuring Device: _____

Measurement

Staff Guage Reading: _____
Weir/Flume Reading: _____ **Table Used:** _____
Q = _____

☐ Flow Measurement Form

Additional Notes: A water rt transfer may be needed to correctly add or show this pump diversion. Kirby Pond appears to be legal POD for 13-219.

Tim Luke	5/25/2010	
Examiner	Date	Time

Idaho Dept. of Water Resources
GPS Field Data and Diversion Inventory
Water District No. 13-A

General Information

Source/Tributary: Unnamed Stream **tributary to:** Worm Creek
Diversion Name: Wheatley West Irrigation Pump
Point of Diversion: **TWNP:** 16S **RNG:** 39E
SEC: 13 **QQ:** SWNENE
USGS Map: **Name:** **No.**
Water Right No's.: Portion of pou 13-221 (Burnett) & 13-220 (Alder)

See Attached ☐

Access: Turn south on service road off 3200 E Rd & 0.63 mi west of 1600 S (Parkinson Rd), take service road just east along Wheatley dairy barns follow service road north of Gamble Pond, go west to pump

Diversion Information

GPS Site Tag No.: none **GPS File Name:** Whtly W Pump
GPS Tag Location: On east head gate located on SE corner of pond along road
Photo(s): ☑ Yes ☐ No **Photo File Name:**

Description of Diversion: Small shallow pond on unnamed stream channel that flows from/south of Kirby Pond. Irrigation pump powered by diesel motor.

Kirby Pond appears to be legal POD for 13-221 & 220.

☐ Diversion Sketch Attached

Headgate (HG) and Measuring Device Description

Existing Headgate: ☐ Yes ☐ No **Lockable HG?** ☐ Yes ☐ No
Desc. Of Headgate:

Existing Measuring Device: ☐ Yes ☑ No
Measuring Device Type: **Size:**
Desc. Of Measuring Device:

Measurement

Staff Guage Reading:
Weir/Flume Reading: **Table Used:**
Q =

☐ Flow Measurement Form

Additional Notes: Land irrig by pump is south of dairy and 3200 E Rd. Ground formerly flood irrigated using west HG on Kirby Pond as per Seth Wheatley. A water rt transfer may be needed to correctly add or show this pump diversion.

Tim Luke	5/25/2010	
Examiner	Date	Time



Figure 1: Gib Hull headgate and ditch from Spring Creek



Figure 2: Control structure on Gib Hull Ditch, gate on right controls flow downstream to ditch, culvert is return flow to creek



Figure 3: Parshall flume in Hull Ditch (installed on ditch bend – advised watermaster to move upstream closer to heading)



Figure 4: Golighlty/Wheatley Spring Ck Ditch diversion at Hulls Crossing (HG on right goes to Golightly, HG on left is bypass and meas device (orifice) to downstream Spring Creek users). Check structure in center.



Figure 5: Golightly Ditch flumed across Cub River Irr Co. Lower Ditch



Figure 6: Golightly HG from Cub River Lower Ditch (delivery of Cub River Irr Co shares) just downstream of Golightly Spring Ck flume across ditch



Figure 7: Drain to golightly Ditch and ponds



Figure 8: One of Golightly ditch channels along 1600 S Rd to pond at south end of Golightly property, drain enters ditch from across road (left of photo) where tarp is located. Two additional small ponds behind this one, & two larger ponds on separate ditch further west. Water rights do not authorize ponds.



Figure 8: Kirby Pond & Wheatley East head gate (controls water to Gamble pond and Wheatley east pump)



Figure 9: Kirby Pond middle head gate, controls flow down unnamed creek/drainagechannel to Wheatley west pump



Figure 10: Wheatley east pump from Gamble Pond



Figure 11: Wheatley west pump in small pond on unnamed stream/drain out of Kirby Pond (from Kirby Pond Middle HG)



Figure 12: Whitney Nashville Water Works Co spring diversion pipe to underground storage reservoir (beneath cement pad). White PVC pipe is over flow to Spring Creek (rarely overflows). Shed houses flow meter and display. There is a lower overflow pipe from reservoir to Spring Ck located just below storage reservoir.



Figure 13: Whitney Nashville WWC flow meter display (flowing about 45 gpm). Note: Springs to this location are about 0.25 mile norht near head of Spring Ck.

Attorneys for Protestants
Eldon and Mary Ann Golightly, individually and as
Trustees of E & M Trust; Grant Chadwick, Trustee
of the Chadwick Trust; Bert and Laura Wheatley,
Seth and Beth Wheatley, and Wheatley Properties, LLC

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23868.0000

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF TRANSFER NO. 75705 IN THE NAME OF PRESTON-WHITNEY IRRIGATION CO.	**PROTESTANTS' EXPERT WITNESS DISCLOSURE**

COME NOW Protestants Eldon and Mary Ann Golightly, individually and as Trustees of E & M Trust; Grant Chadwick, Trustee of the Chadwick Trust; Bert and Laura Wheatley, Seth and Beth Wheatley, and Wheatley Properties, LLC (collectively "Golightly"), by and through undersigned counsel of record and pursuant to the Hearing Officer's Order Granting Motion for Disqualification of Officers Hearing Contested Cases and Order Authorizing Discovery ("Order"), dated August 16, 2010, and hereby make the following expert witness disclosure:



9/17

A. Preliminary Note

Golightly makes this expert witness in accordance with the Hearing Officer's Order, but notes that the written discovery service deadline does not expire until September 25, 2010. Order at 2. Because discovery is still ongoing, the conduct of which could necessitate the amendment of these disclosures, Golightly reserves their rights to supplement/amend these disclosures if necessary.

B. Expert Witnesses

Scott King; SPF Water Engineering, LLC: 300 East Mallard Drive, Suite 350, Boise, Idaho 83706. Mr. King is a professional engineer with extensive experience in water right matters including, but not limited to, the preparation and review of water right transfer applications. Mr. King is expected to testify regarding the statutory transfer application criteria set forth in Idaho Code Section 42-222, and the application of that criteria to the pending application for transfer in this matter (Transfer No. 75705 In the Name of Preston-Whitney Irrigation Co.). Mr. King's Curriculum Vitae is attached hereto.

Cindy Bird: 6250 S. Pheasant Drive, Lava Hot Springs, Idaho 83246. Ms. Bird is a former Water Right Agent of the Idaho Department of Water Resources with extensive experience in water right matters including, but not limited to, adjudication claim investigation and recommendation, irrigation place of use investigation and mapping, and transfer application review and processing. Much of Ms. Bird's work on these matters has focused on southeast Idaho in particular. Like Mr. King, Ms. Bird is expected to testify regarding the statutory transfer application criteria set forth in Idaho Code Section 42-222, and the application of that criteria to the pending application for transfer in this matter (Transfer No. 75705 In the Name of Preston-Whitney Irrigation Co.).

DATED this 17th day of September, 2010.

MOFFATT, THOMAS, BARRETT, ROCK & FIELDS, CHARTERED

By _____
Andrew J. Waldera – Of the Firm
Attorneys for Eldon and Mary Ann Golightly, individually and as Trustees of E & M Trust; Grant Chadwick, Trustee of the Chadwick Trust; Bert and Laura Wheatley, Seth and Beth Wheatley, and Wheatley Properties, LLC, Petitioners

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 17th day of September, 2010, I caused a true and correct copy of the foregoing **PROTESTANTS' EXPERT WITNESS DISCLOSURE** to be served by the method indicated below, and addressed to the following:

Robert Harris HOLDEN KIDWELL HAHN & CRAPO P.O. Box 50130 Idaho Falls, ID 83405	( ) U.S. Mail, Postage Prepaid ( ) Hand Delivered ( ) Overnight Mail (x) Facsimile
PRESTON-WHITNEY IRRIGATION CO. P.O. Box 311 Preston, ID 83263	(x) U.S. Mail, Postage Prepaid ( ) Hand Delivered ( ) Overnight Mail ( ) Facsimile
UNITED STATES DEPARTMENT OF THE INTERIOR Bureau of Land Management ATTN: Fredric W. Price 1387 S. Vinnell Way Boise, ID 83709	( ) U.S. Mail, Postage Prepaid ( ) Hand Delivered ( ) Overnight Mail (x) Facsimile

Andrew J. Waldera

Supervising Engineer

Scott N. King, P.E.

Education

M.S., Civil Engineering
University of Idaho

B.S., General Engineering
Idaho State University

Professional Certification

Professional Engineer
Idaho No. 7914, 1995

Certified Water Right Examiner
Idaho No. 11-133

Professional Affiliations

Member, ASCE

Member, AWRA

Areas of Expertise

- Water rights
  - investigations and analysis
  - permits and transfers
  - marketing and acquisitions
- Water resource investigations
- Water well design
- Surface water modeling
- Gravity irrigation systems
- Stream flow measurement
- Pumping efficiency evaluations

Experience Summary

Mr. King has over 18 years of professional and academic experience in water resources engineering. He is currently a Supervising Engineer with SPF Water Engineering, LLC and specializes in water right issues, water flow measurement, open-channel flow, pumping system design, water well design, and geographic information systems (GIS). Prior work includes 14 years experience in a broad variety of Idaho Department of Water Resources' (IDWR) programs including water rights adjudication, water rights administration, safety of dams, and energy efficiency. He also has recent experience developing surface water models and providing consulting engineering services while employed at DHI, Inc, formerly known as the Danish Hydraulic Institute.

SPF Water Engineering, LLC – 2005 to present

Mr. King is currently a Supervising Engineer with SPF Water Engineering, LLC. SPF was founded in March 2004 to provide hydrologic characterization, water resource development, and public water system design and regulatory compliance. Mr. King provides consulting services on water rights issues, pump design, irrigation system evaluation, surface water hydrology, surface water modeling, and river hydraulics. His recent project experience includes the following:

- Extensive water right experience including
  - permit and transfer applications
  - investigations and analysis
  - acquisitions and sales
  - beneficial use field examinations
  - adjudication claim preparation and support
- Gravity irrigation system design and analysis
- Stream flow measurement and monitoring
- Conveyance capacity determinations for streams, culverts, and other open-channel systems
- Water well design including designs to municipal public drinking water supply standards
- Well capacity determination
- Pumping system design

DHI, INC – 2004 to 2005

Mr. King worked as a senior project engineer responsible for development of various surface water models. Project experience includes the following:

Modeling – MIKE 11. Developed hydrodynamic 1-D MIKE 11 model of the Little Claggett Creek storm water drainage system, a part of Marion County's East Salem Service District, Oregon. Produced flood maps for SCS Type 1A design storms and for the February 1996 flood event. This model includes 8.5 km of streams in two branches, over 100 cross-sections extracted from a 2 ft vertical resolution DEM, and 23 culverts with corresponding broad-crested weirs representing roadways over culvert crossings. Inflow boundary conditions are represented by 21 catchments contributing point-source and distributed inflows simulated in MIKE 11's rainfall / runoff module.

Modeling – MIKE BASIN. Project lead on MIKE BASIN surface water distribution models developed for the Idaho Department of Water Resources. These models are used by IDWR for three primary purposes: flow enhancement tools to address flow-limited stream reaches; decision making tools to assist in selecting effective mitigation and restoration projects; and communication tools for educating decision makers and stimulating discussion among stakeholders. Developed systems include the Pahsimeroi River and East Fork Salmon River, and experiences with Lemhi River and Stanley Basin models. These models operate on a daily time step and represent the water distribution system within the basins including the stream networks, points of diversion, places of use, and locations of return flow. Time series information includes records of stream gaging, diversion measurements, precipitation, and evapotranspiration. Provided training to IDWR staff, contractors, and watermasters on the operation of MIKE BASIN through a series of hands-on sessions. Presented proposals to local waterusers and stakeholders for new model applications in Morgan Creek and Carmen Creek.

Modeling – Rainfall / Runoff. Developed lumped conceptual rain/snow/runoff models of the Stanley and East Fork Salmon River Basins for the Idaho Department of Water Resources using DHI's lumped conceptual rainfall/runoff module. The developed models are used to supply tributary inflow boundary conditions to the East Fork Salmon River and Stanley Basin MIKE BASIN models.

Developed rainfall/runoff models of 21 catchments supplying inflow boundary conditions for the Little Claggett Creek MIKE 11 model described above. Rainfall/runoff is simulated using DHI's URBAN module. Four storm events are modeled including the February 1996 observed event and SCS Type-1A 2-, 10-, and 50-year design storms.

Idaho Department of Water Resources – 1990 to 2004

During 14 years with the Idaho Department of Water Resources, Mr. King held four engineering positions and gained experience in a wide range of IDWR activities. These positions included Technical Engineer in the Adjudication Bureau, and Staff Engineer positions in the Water

Distribution Section, in Western Region's Safety of Dams unit, and in the Energy Division. Relevant experience includes the following:

Program Management

Managed Western Region's Safety of Dams program. Inspected dams and made recommendations for maintenance and operation to improve safety and meet state standards. Issued storage certificates and authorizations to fill.

Lead technical consultant in statewide water measurement program. Defined water measurement standards and implemented a program for measuring and reporting ground-water withdrawals. Coordinated field work performed by department staff and various measuring districts. Inspected contractor projects for adequacy and compliance with department standards. Designed and managed water measurement databases.

Water Rights

Reviewed complex water right claims and prepared water right recommendations for the Director's Report to the Snake River Basin Adjudication court. Provided technical analysis and recommendations for nonstandard water right claims, such as claims for diversion rates exceeding the standard allocation, and for claims to the use of water outside of the standard seasons of use.

Provided training and direction to new employees, water districts, water measurement districts, groundwater districts, and private consultants on water rights, water measurement programs, and adjudication procedures.

Worked with water users and their legal representatives on various water right enforcement issues, including excessive and illegal water diversions.

Experienced with all aspects of IDWR regional office operations including water rights, transfers, well drilling, adjudication, water district operation, violations, enforcement, and customer complaints.

Irrigation and Pumping Systems

Performed pumping system evaluations including determinations of municipal, industrial, and agricultural pumping plant efficiencies and recommended measures for improved efficiency and reduced operating costs. Provided recommendations and designs for conversions to low-pressure irrigation systems for reduced operating costs and improved yields.

Technical Expert to Snake River Basin Adjudication (SRBA) Court

Provided technical engineering support to department staff in the ongoing SRBA.

Designated as department expert to the SRBA court regarding irrigation requirements, evapotranspiration, and crop water requirements. and how this information is utilized for preparing recommendations.

Public Relations

Presentations at public meetings to explain laws and regulations relating to water measurement and water appropriation.

Provided conflict resolution support for several water related disputes.

Trained IDWR employees, state Watermasters and Hydrographers, contractors, and consultants on water measurement standards, equipment, practices, and procedures through regular training sessions and individual assistance.

Guest lecturer in 1996 and 1998 for College of Southern Idaho's Water Measurement course, and in 1998 for Boise State University's Water Measurement lab.

Presented *Selection and Installation of Pipe Flow Water Measurement Devices* at the 1997 Idaho Irrigation Equipment Show and Exhibition, Shilo Inn, Idaho Falls, January 8-9.

Technical

Developed and proposed to department administration and to the general public technically sound methods of using power records for estimation of pumped water diversions.

Determined acceptability and provided professional opinions for numerous non-standard water measurement methods and devices proposed to IDWR by engineering consultants and water users.

Determined conveyance capacity of pumps, diversions, pipelines, open channels, turbines, etc.

Led IDWR efforts to utilize global positioning systems (GPS). Developed standards for use, trained staff and consultants, and integrated GPS data collection into GIS work.

Report Development

Authored various reports including annual reports of ground water diversions, reports to individual water users, flowmeter accuracy reports, and various other reports relating to water measurement.

Co-author of *Eastern Snake Plain Aquifer Water Measurement Program, A Summary of Measurement Activity & Results from Basin 36 Project Area, 1995-1996 and a Review of Program Expansion in 1997,* IDWR, May 1998.

University of Idaho – 1999 to 2002

Masters of Science in Civil Engineering Thesis: The Effective Discharge Concept in Gravel Bed Stream Restoration: The Twelve Mile Reach of the Salmon River at Challis, Idaho.

Determined channel effective discharge based on sediment transport

measurements and flow records. Compared effective discharge to bankfull discharge and stated implications of findings in regards to channel restoration. Completed hydraulic, hydrologic, and geomorphologic characteristics of the study reach. Presented findings and recommendations to technical groups and local property owners.

Developed hydrodynamic pseudo 2-D MIKE 11 model of the Twelve Mile Reach, Salmon River, near Challis, ID. Produced animated flood maps of primary flooding events from 1974 (100-yr), 1996, and 1997. This model includes 27-km of mainstem river including braided sections and split flows. Over-bank discharge into Hannah Slough and across One-Mile Island is represented by link-channels. The model includes 68 surveyed cross-sections and utilizes a 2-ft interval contour map for flood mapping.

SPF Water Engineering, LLC
water resource consultants

MEMORANDUM

DATE: March 11, 2011

TO: Andy Waldera

FROM: Scott King

RE: Preston-Whitney Irrigation Company Transfer No. 75705 Review

JOB NO.: 272.0150

I reviewed the Preston-Whitney Irrigation Company (PWIC) transfer application no. 75705; water right files available on-line from IDWR; the November 22, 2010 deposition of Lyle Porter; and the Worm Creek Drainage Basin decree (Civil Case No. 3236). This memorandum provides my findings and conclusions associated w ith PWIC's place of use, storage, and delivery associated with the transfer application.

Transfer 75705 proposes to change the points of diversion, injection, re-diversion, and the place of use of water right nos. 13-2, 13-3 and 13-2104. By letter dated October 18, 2010, PWIC amended the transfer's irrigated area to 16,545.1 acres within its place of use boundary.

Chadwick, Golightly, and Wheatley Water Rights

Water rights owned by Chadwick, Golightly, and Wheatley are listed in Table 1. Except for water right 13-4130, a statutory claim, these water rights are decreed and included in the Worm Creek Drainage Basin Decree. The places of use and points of diversion for the associated water rights are located in the Worm Creek and Spring Creek drainages (see Figure 1).



Number	Owner	Priority Date	Maximum Diversion Rate (cfs)	Volume Limit (AFA)	Water Uses	Source	Acres Irrigated
13-258	Chadwick	8/31/1903	0.58	102	Irrigation	Spring Creek	29
13-256	Chadwick	4/1/1948	1.14	200	Irrigation	Unnamed Drain	57
13-62	Golightly	5/15/1902	0.2	36	Irrigation	Spring Creek	114
13-216	Golightly	8/31/1903	1.8	400	Irrigation	Spring Creek	114
13-288	Golightly	7/1/1930	0.08	14	Irrigation	Unnamed Drain	4
			0.02	0.5	Stockwater		n/a
13-286	Golightly	8/1/1960	0.02	1	Stockwater	Unnamed Drain	n/a
13-287	Golightly	8/1/1960	0.02	1	Stockwater	Unnamed Drain	n/a
13-4130	Golightly	4/1/1910	0.03	n/a	Stockwater	Unnamed Drain	n/a
13-217	Golightly	4/1/1872	0.43	184	Irrigation	Unnamed Streams	80
13-225	Wheatley	4/1/1959	0.84	147	Irrigation	Unnamed Drain	42
13-218	Wheatley	4/1/1872	0.43	151	Irrigation	Unnamed Streams	43
13-221	Wheatley	4/1/1872	2.26	396	Irrigation	Unnamed Streams	113
13-224	Wheatley	4/1/1959	0.82	114	Irrigation	Worm Creek	41

Table 1: Chadwick, Golightly, and Wheatley water rights in Worm Creek Drainage Basin.

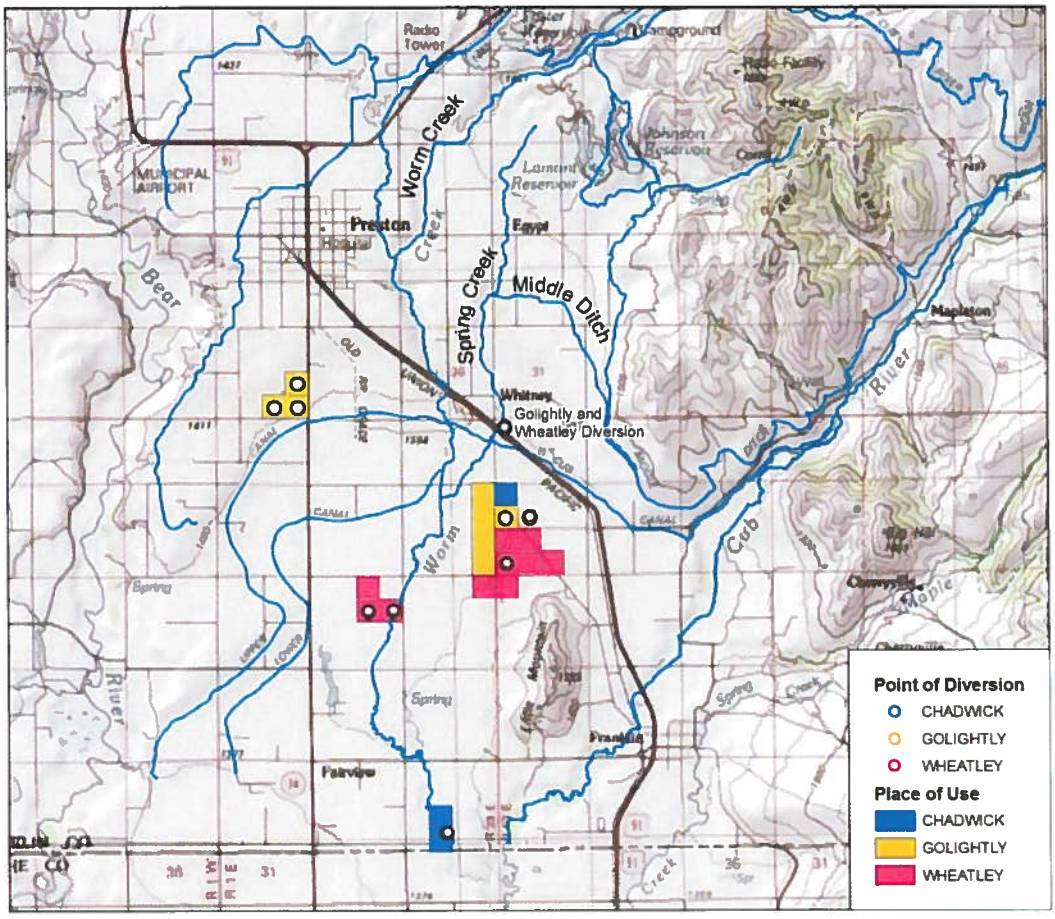


Figure 1: Places of use and points of diversion for water rights owned by Chadwick, Golightly, and Wheatley listed in Table 1.

Place of Use

The following water rights were reviewed to determine and analyze PWIC's place of use. These rights are either owned by PWIC or are in some way associated with PWIC's operations (e.g. overlapping places of use). This list may not be a comprehensive list of all PWIC rights or of rights overlapping PWIC's place of use.

Water Right 13-2

In the McEwan decree, PWIC's predecessor Cub River Middle Ditch Company was awarded the right to 30 cfs of "primary" Cub River water and 30% of the "excess or

high water" after the primary rights have been fully satisfied up to a total maximum of 69.9 cfs with an 1882 priority date (see McEwan Decree). The decree does not identify the place of use or list the number of irrigated acres. IDWR has identified this water right as no. 13-2, which may arguably be two water rights, one right for the primary water and a second right for the excess or high water.

The water right is diverted into the Middle Ditch. IDWR's on-line water right database and GIS data do not define the place of use. In my opinion, the historical original place of use would be bounded by major canals and streams that would require piping or flumes to cross, and higher elevation ground that could not be irrigated under a gravity-supplied system. These boundaries are expected to include Cub River to the southeast from the Middle Ditch point of diversion to the Cub Canal point of diversion, and from the Cub Canal point of diversion, the Cub Canal to the south; the Middle Ditch to the north from its diversion from Cub River to the location where it spills into Spring Creek; and Spring Creek on the west. The approximate historical estimated place of use is generally depicted in Figure 2. There could be locations where Middle Ditch water was conveyed across Spring Creek, Cub River, or Cub Canal. Significant use of water south of the Cub Canal is not supported by places of use described for other PWIC water rights, except that 13-2298 indicates some irrigation south of the Cub Canal and east of Spring Creek. Likewise, use of water west of Spring Creek likely did not occur given PWIC deposition testimony stating that Middle Ditch terminates in a swale just east of Spring Creek (Lyle Porter Deposition, November 22, 2010, at 142:1-17; 152:6-12).

Although the McEwan Decree did not describe the place of use or quantify the number of acres for water right 13-2, the decree did define the place of use of Cub River Irrigation Company's water right, identified as no. 13-0026 by IDWR. That right received 45 cfs of primary water and 45% of the excess or high water up to total of 158 cfs for irrigation of 1,800 acres. The corresponding duty of water of 45 cfs for 1,800 acres is 0.025 cfs per acre, while the corresponding duty of water of 158 cfs for 1,800 acres is 0.088 cfs per acre.

If PWIC's water right 13-2 for 30 cfs were intended to provide 0.025 cfs per acre, it could serve up to 1,200 acres.

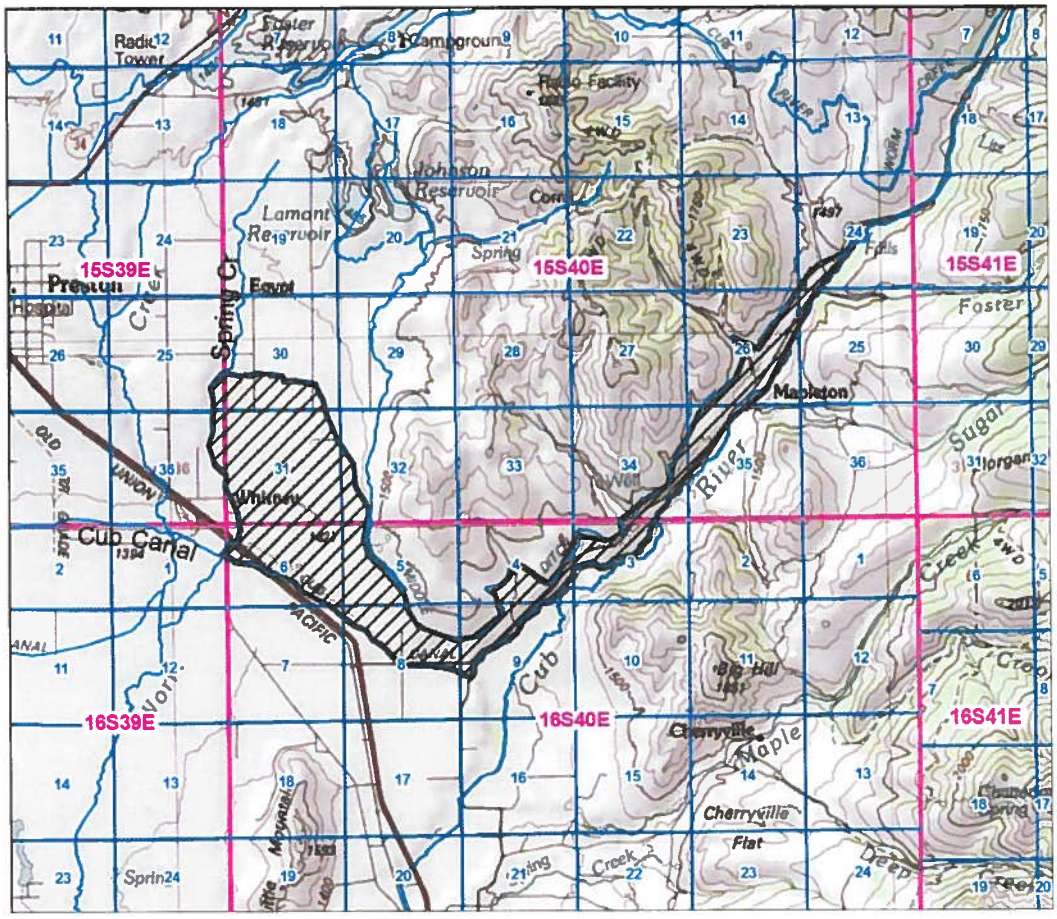


Figure 2: Approximated historic deliverable area encompassing the place of use for water right 13-2. The hatched area totals 2,230 acres.

Historically, water right 13-2 provided a very limited place of use. If Middle Ditch water could also be discharged into or conveyed across the Cub Canal, Figure 3 depicts the maximum theoretical area under which Middle Ditch water could be conveyed; not all high-elevation lands that could not be supplied with gravity deliveries within this area, such as Little Mountain, were excluded. Figure 3 also depicts the place of use described by water right nos. 13-2104 and 13-3, and the irrigated areas proposed by PWIC's transfer application.

Diverting water right 13-2 at the Glendale Feeder Canal offers much greater opportunity for expanding use beyond historic limits and irrigating acres heretofore inaccessible from the Middle Ditch diversion point. The Middle Ditch diversion point is downstream of the Glendale Feeder Canal diversion point. Further, many of the lands

that could have been historically irrigated by water right 13-2 are not included in the transfer application's described place of use.

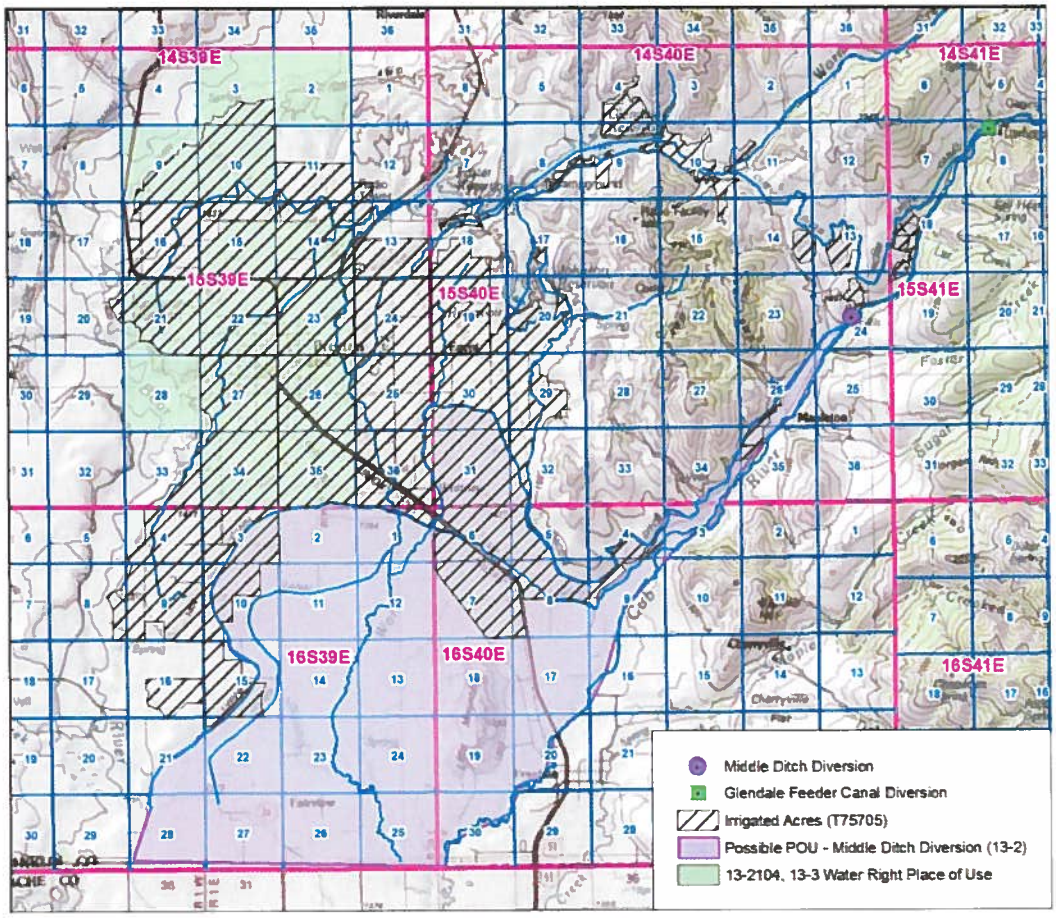


Figure 3: Approximate maximum deliverable area for Middle Ditch diversions, water right places of use for 13-3 and 13-2104, and irrigated area proposed in PWIC Transfer 75705.

Water right 13-3

In the McEwan decree, PWIC's predecessor Cub River and Worm Creek Canal Company was awarded the right to 25 cfs of "primary" Cub River water and 25% of the "excess or high water" after the primary rights have been fully satisfied up to a total maximum of 85 cfs with an 1882 priority date (see McEwan Decree). The decree does not identify the place of use or list the number of irrigated acres. IDWR has identified this water right as no. 13-3, which may arguably be two water rights, one right for the primary water and a second right for the excess or high water.

This right is diverted into the Glendale Feeder Canal and im ported into the Worm Creek Drainage. The place of use and number of irrigable acres for this right were not defined by the McEwan decree.

If PWIC's water right 13-3 for 25 cfs were intended to provide 0.025 cfs per acre, similar to that provided under water right 13-0026 in the McEwan Decree, water right 13-3 could serve up to 1,000 acres. W ater right 13-2104, which is supplemental to water right 13-3, provides a general, although ambiguous, place of use description that is apparently applicable to 13-3 (see below).

Water rights 13-143 and 13-2103

Water right nos. 13-143 and 13-2103 were decreed to PWIC with a place of use the same as 13-271 (see Worm Creek Basin Decree).

Water right 13-271

Water right 13-271 was decreed to PWIC for 50 cfs of water from Worm Creek with a May 7, 1880 priority date (see Worm Creek Basin Decree). The place of use is defined within the decree listing acres per quarter-quarter and totaling 10,449 acr es. A number of other PWIC Worm Creek Basin decree-based water rights describe a place of use identical to that of 13-271 (see Figure 4).

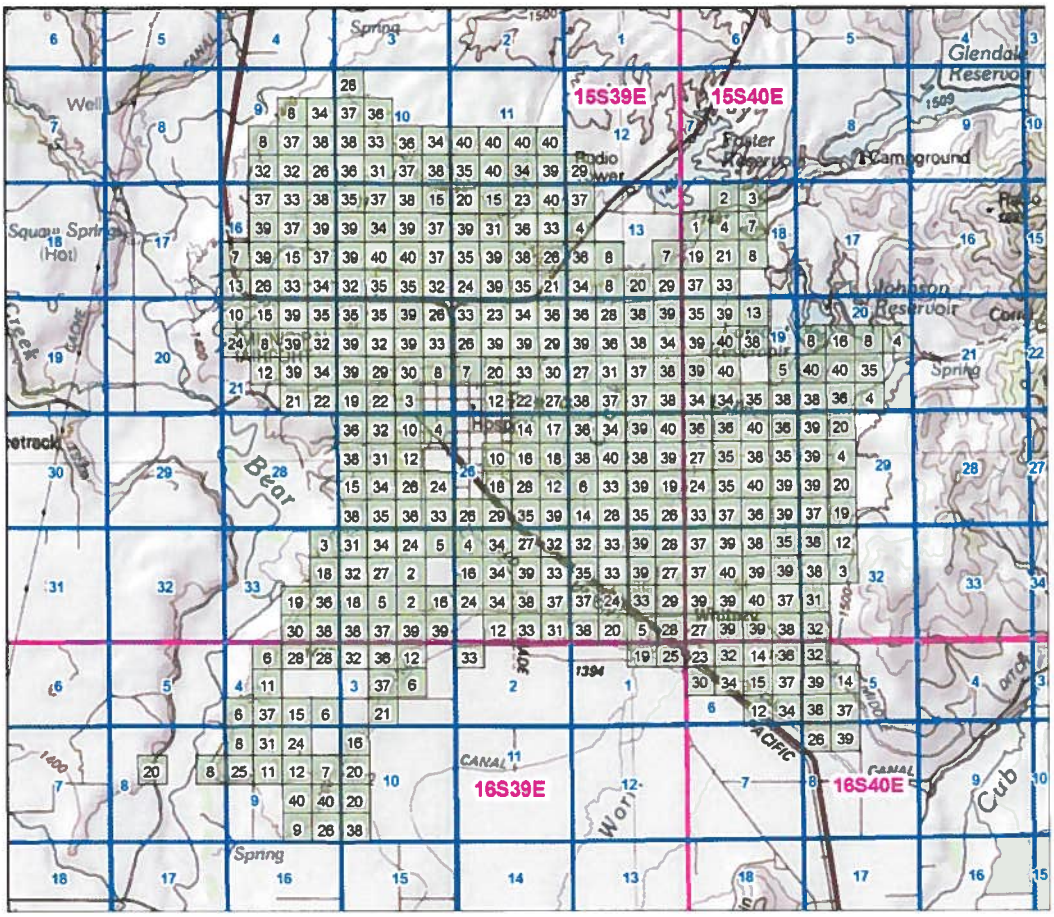


Figure 4: Water right 13-271 place of use with acres per quarter-quarter listed based on the Worm Creek Basin decree.

Water right 13-2104

Water right 13-2104 was licensed to PWIC providing 25 cfs of Cub River water supplementing water right 13-3. The application for permit no. 22627 listed irrigation of 8,410 acres. The place of use as listed in the license and application for permit is primarily by nominal 40 acre tracts (see Figure 5). However, there appear to be discrepancies with the place of use. For example, the place of use extends northward beyond the expected company boundary and to elevations significantly above the feeding canal. It is unlikely that these lands could have been irrigated from the described source without pumping, and significant pumping would have been extremely unlikely under the 1882-priority water right (13-3), which this right (13-2104) supplements. Although it seems possible that listed sections 2, 3, 9, and 10 may

actually be in 16S 39E, not 15S 39E, thereby describing a contiguous, more reasonable place of use, clarifications in the application for permit contradict this position. On October 19, 1929, PWIC, the stated owner of permit no. 15933, applied to amend the permit and change the land list, and stated that a typographical error in the original application listed Township 16 South, and that all lands are actually in Township 15 South. The amendment references maps accompanying the application, but these maps are not contained within IDWR's on-line file.

Per the approved permit application, this right is supplemental to water right 13-3 and, therefore, adds no new acres. The "Report of Engineer" dated June 10, 1930 states: "examination of each subdivision not made as this right is supplemental to decreed rights and no additional lands are covered." The "Report of Engineer" dated September 19, 1929 states: "Examination of each legal subdivision not made as this right is supplemental and appurtant (sic) to the same lands as served by the canal system described in that certain decree described under remarks of permit."

Deposition of Witness statements by Joseph Jensen and Samuel Jensen provide identical answers to questions no. 8 regarding the amount of water required by the land, stating: "The land is a sandy loam and it requires at least a second foot for each fifty acres." Aalter K. Barton's Deposition of Witness statement provides a similar response, stating: "One miner's inch to the acre."

As described above, the McEwan decree awarded 25 cfs of primary water and 25% of excess or high water up to a maximum 85 cfs for water right 13-3. Supplemental water right 13-2104 provided an additional 25 cfs for the same lands served by water right 13-3. In my opinion, the deposition of witness statements above indicate that the supplemental water right 13-2104 was providing a duty of water at least meeting, and most likely exceeding, 0.02 cfs per acre duty which the statements indicated was required. Therefore, when water rights 13-3 and 13-2104 are combined providing a total maximum of 110 cfs, they could have served no more than 5,500 acres, and more likely fewer than 5,500 acres. This is significantly less than the 8,410 acres listed in the application for permit no. 22627.

Later in time licenses and decrees do not explain how or why water right nos. 13-3 and 13-2104 could have provided water to lands not identified for irrigation under the field examinations of water right nos. 13-2298 and/or 13-271. The same delivery systems are used for these rights. It appears reasonable that the place of use described for 13-2298 and/or 13-271 encompassed most or all the same lands irrigated under 13-3 and 13-2104. Except for a few tracts in section 15, the license (13-2104) consistently lists 40 acres per quarter-quarter. It is highly unlikely that 40 acres were actually irrigated within each of the 208 quarter-quarter tracts described. A more realistic pattern of irrigation per quarter-quarter is indicated by the acreage descriptions included within water right nos. 13-271 and 13-2298.

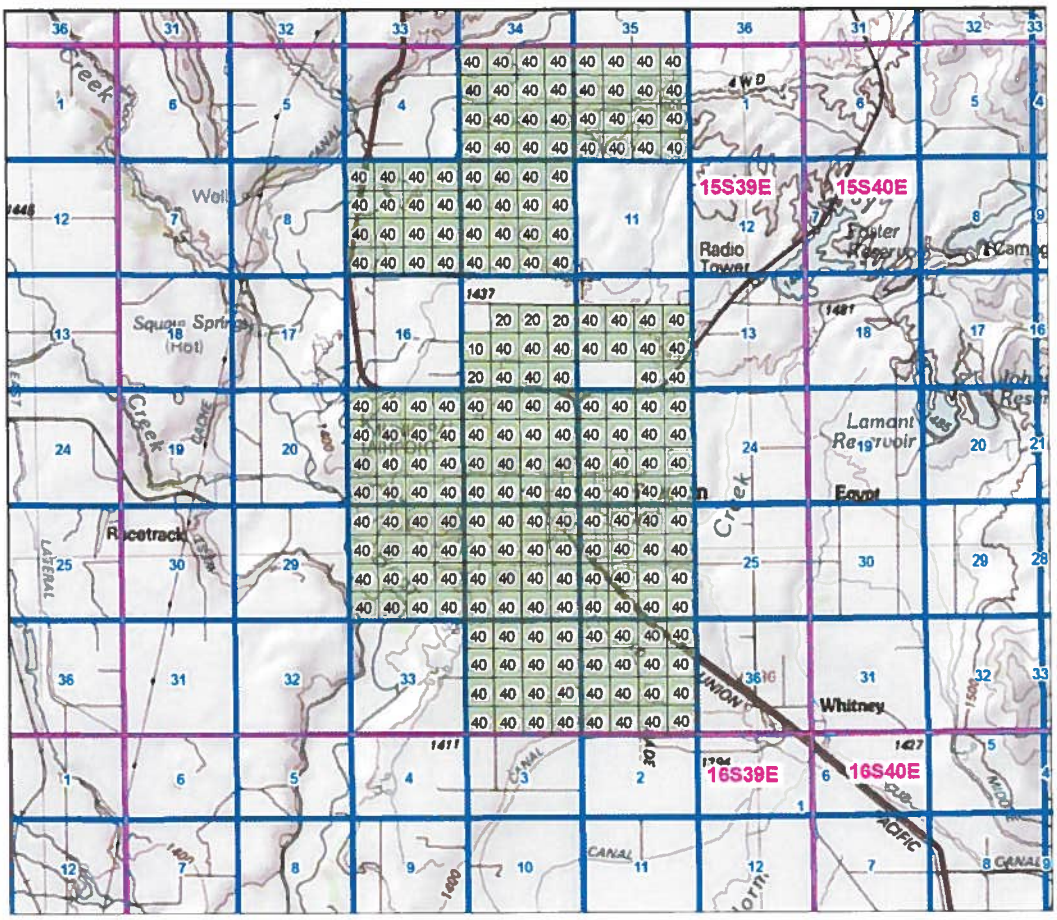


Figure 5: Water right 13-2104 place of use with acres per quarter-quarter listed based on the licensed land list.

Water rights 13-2108 and 13-2288

Water right nos. 13-2108 and 13-2288 were originally permitted to the Franklin Sugar Company, and later decreed to PWIC with a place of use the same as 13-271 (see Worm Creek Basin Decree).

Water right 13-2288A

Water right 13-2288A was licensed to PWIC with a place of use the same as 13-271 (see Water Right License for Water Right No. 13-2288A).

Water right 13-2291

Water right 13-2291 was licensed to PWIC and provides storage in Lamont Reservoir. The right supplements existing irrigation within certain sections based on the license (issued in 1953). The place of use is located almost entirely within the boundaries of water right nos. 13-271 and 13-2298, and I find no evidence that the license adds any acres that were not previously or subsequently defined by water right nos. 13-271 and 13-2298.

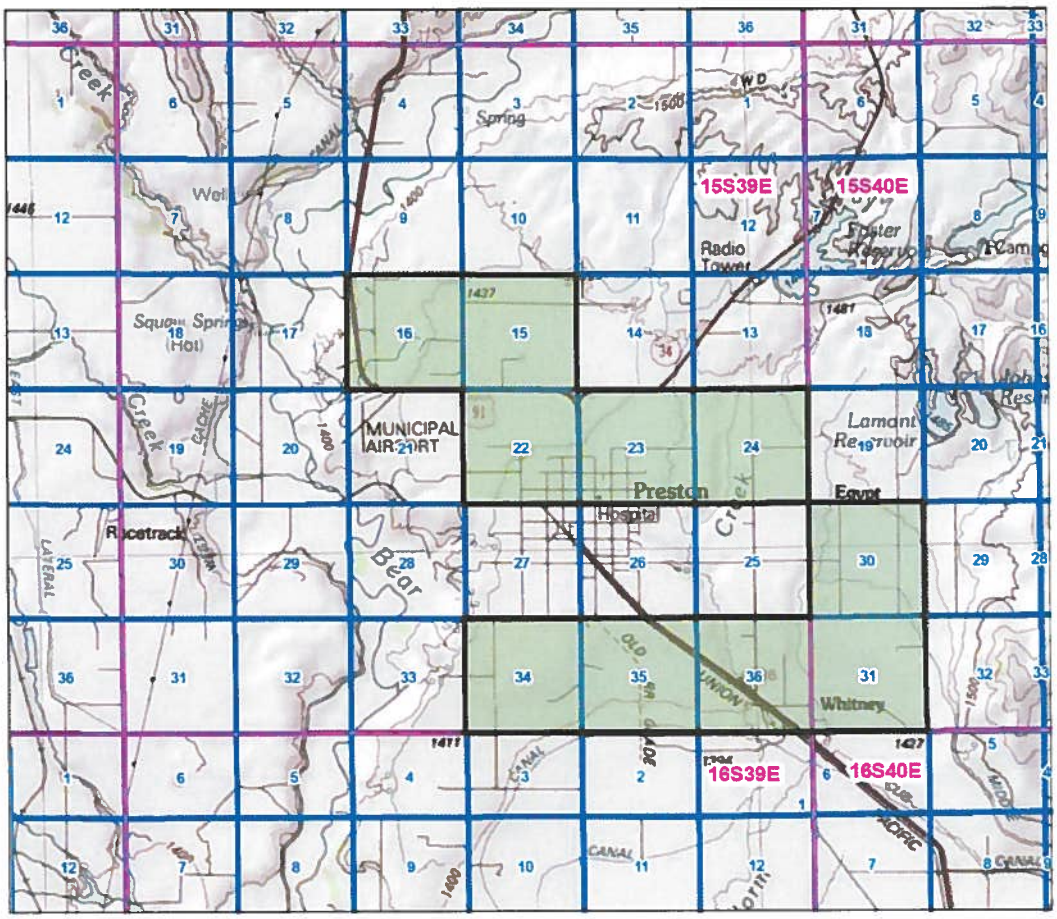


Figure 6: Water right 13-2291 licensed place of use.

Water right 13-2298

Water right 13-2298 was licensed to PWIC and provides water from Cub River for storage in Foster Reservoir. The license, issued February 1972, defines acres per quarter-quarter, totaling 10,720 acres. The application listed 13,889 acres. See

"Report of Examiner" by Fred Eisenbarth, Jr., dated September 16, 1971 which states: "There are 10,720 irrigated acres within the boundaries. Acreage was computed from ASCS main aerial photos." See also the earlier "Report of Engineer" by Carl Tappan dated October 1, 1963, which listed the application's 13,889 acres and states: "approximate but within the project." This right appears to have been field-examined in stages with the 1963 examination focusing on Foster Reservoir storage capacity, and the 1971 examination providing a more specific acreage analysis.

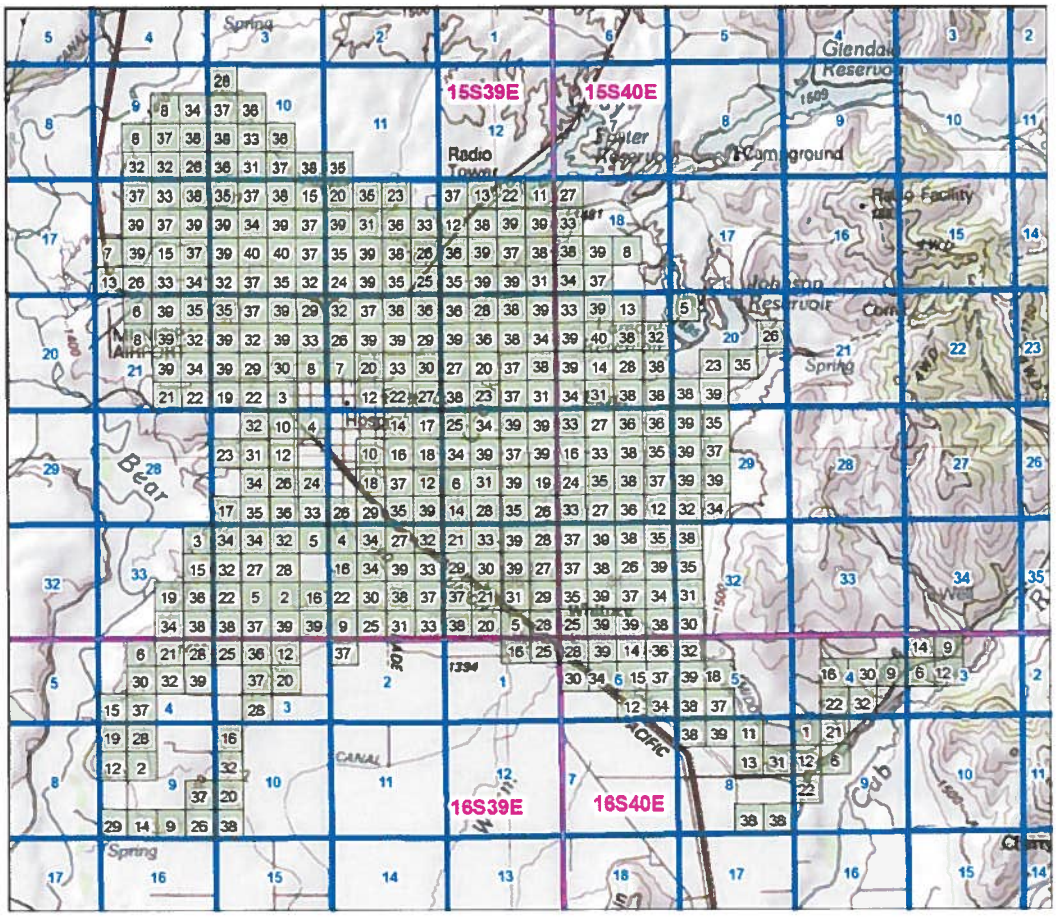


Figure 7: Water right 13-2298 place of use with acres per quarter-quarter identified based on the licensed land list.

Two water rights, 13-271 and 13-2298, provide the best available quantification of acres within the PWIC service area. The water right 13-2298 "Report of Engineer" documents irrigated acres within the PWIC boundary, stating: "There are 10,720

irrigated acres within the boundaries." The subsequent Worm Creek Basin Decree defined place of use acres for water right 13-271 and other rights per quarter-quarter, including 13-143, 13-271, 13-2103, 13-2108, 13-2288 and 13-2288A (all sharing the same place of use as 13-271), with an irrigated area totaling 10,449 acres. Attachment A lists acres from both 13-271 and 13-2298 on one map for comparison purposes. The following points are instructive:

- Water right 13-271 lists 10,449 acres in 367 unique quarter-quarters.
- Water right 13-2298 lists 10,720 acres in 368 unique quarter-quarters.
- Together, the combined places of use for 13-271 and 13-2298 list a total of 402 unique quarter-quarters.
    - In 236 of the 402 quarter-quarters, both rights list an identical number of acres per quarter-quarter.
    - In 80 quarter-quarters, right 13-2298 lists more acres than the number listed in 13-271. Alternately, in 86 quarter-quarters, right 13-271 lists more acres than included in 13-2298 .
- If a maximum-acre approach is taken by selecting the highest acreage value from either of the two water rights (water right nos. 13-271 and 13-2298) in every listed quarter-quarter, the sum total is 11,767 acres in 402 quarter-quarters, as depicted in Figure 8. This total is **less** than that proposed in PWIC's amended transfer application (16,545.1 acres).
- Decreed right 13-271 excludes irrigation in 35 quarter-quarters that are included in 13-2298, totaling 757 acres. Similarly, 13-2298 excludes irrigation in 34 quarter-quarters that are included in 13-271, totaling 710 acres.
- Water right 13-2298 includes 19 quarter-quarter tracts totaling 343 acres of land that appear to only be irrigable from the Middle Ditch between the Cub River Middle Ditch diversion and the point where the Johnson/Lamont Ditch (now pipeline) discharged into the Middle Ditch. Can flow in the ditch be reversed for approximately two miles upstream, toward the Cub River Middle Ditch diversion, thereby allowing irrigation of these lands utilizing water diverted in the Worm Creek drainage? The Worm Creek Basin Decree does not include any irrigation for these 19 quarter-quarters under right 13-271. These lands are located in T16S , R40E Sections 3, 4 9, and the east half of 8.

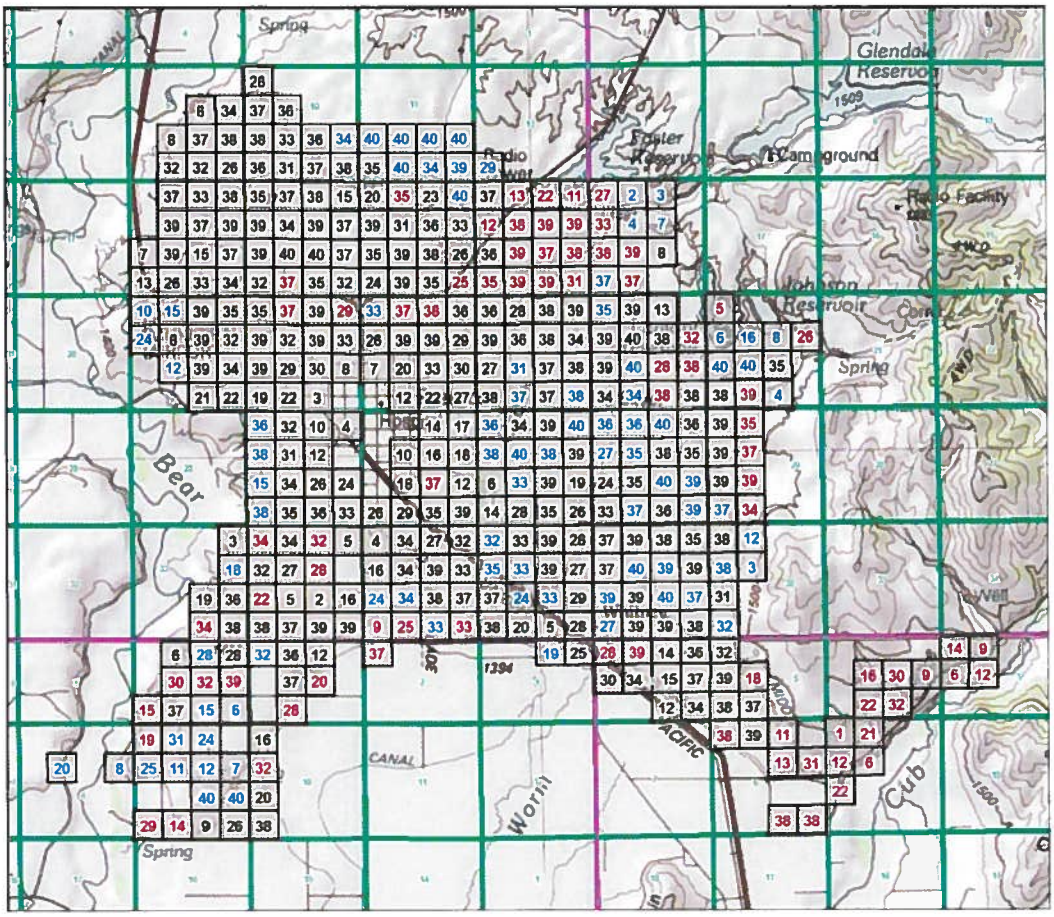


Figure 8: Combined places of use for water right nos. 13-271 and 13-2298 with irrigated acres per quarter-quarter identified. Acreage numbers are **black** for those tracts where the number of acres in 13-271 and 13-2298 are identical; numbers are **blue** for those tracts where the number of acres in 13-271 is greater than those in 13-2298; and numbers are **red** for those tracts where the number of acres in 13-2298 is greater than those in 13-271.

PWIC's proposed transfer place of use is presented in Figure 10[1] (GIS shapefile provided by IDWR on February 24, 2011). The area encompassed within this shape totals 17,665.5 acres. A comparison between the transfer place of use and places of use described by water right nos. 13-271 and 13-2298 is presented in Figure 10. This

[1] As discussed earlier, PWIC did amend this place of use by an October 2010 letter to now include only 16,545.1 acres.

figure provides a visual depiction of the places of use proposed for irrigation under the transfer that were not described by water right nos. 13-271 or 13-2298.

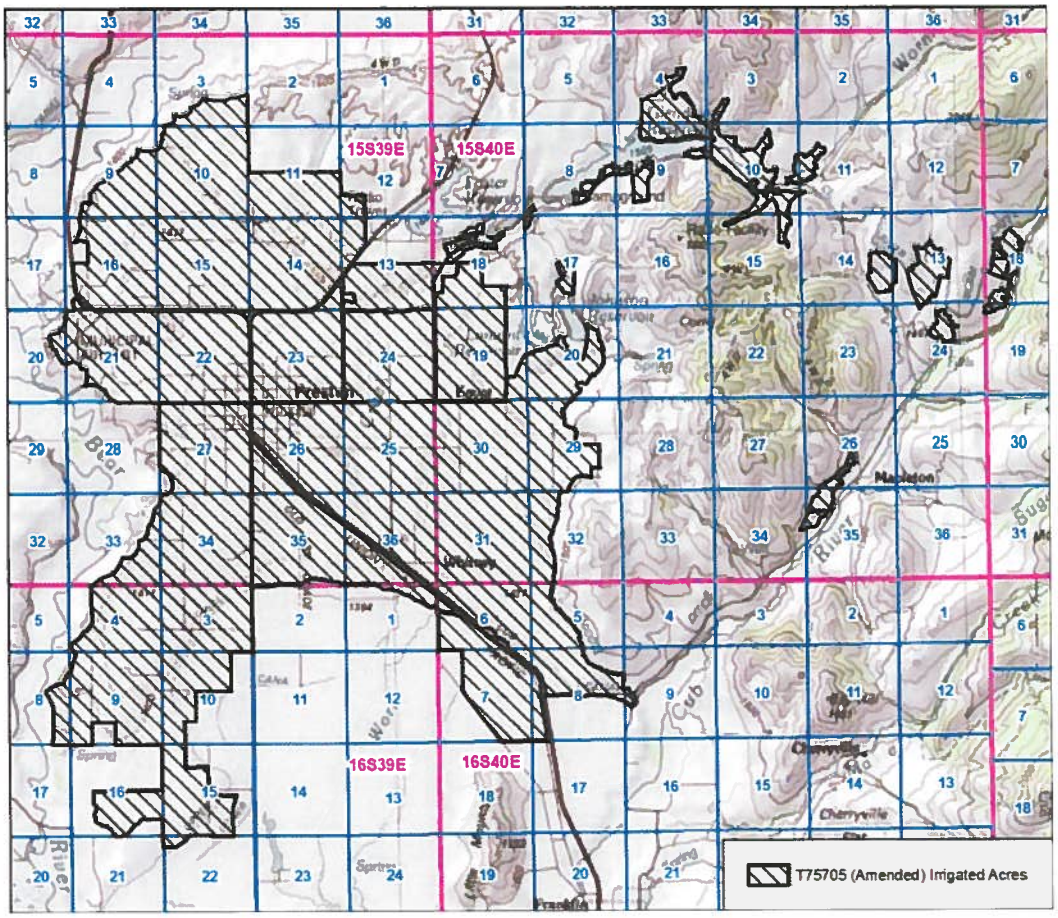


Figure 9: Places of use described by PWIC's amended transfer application per data provided by IDWR.

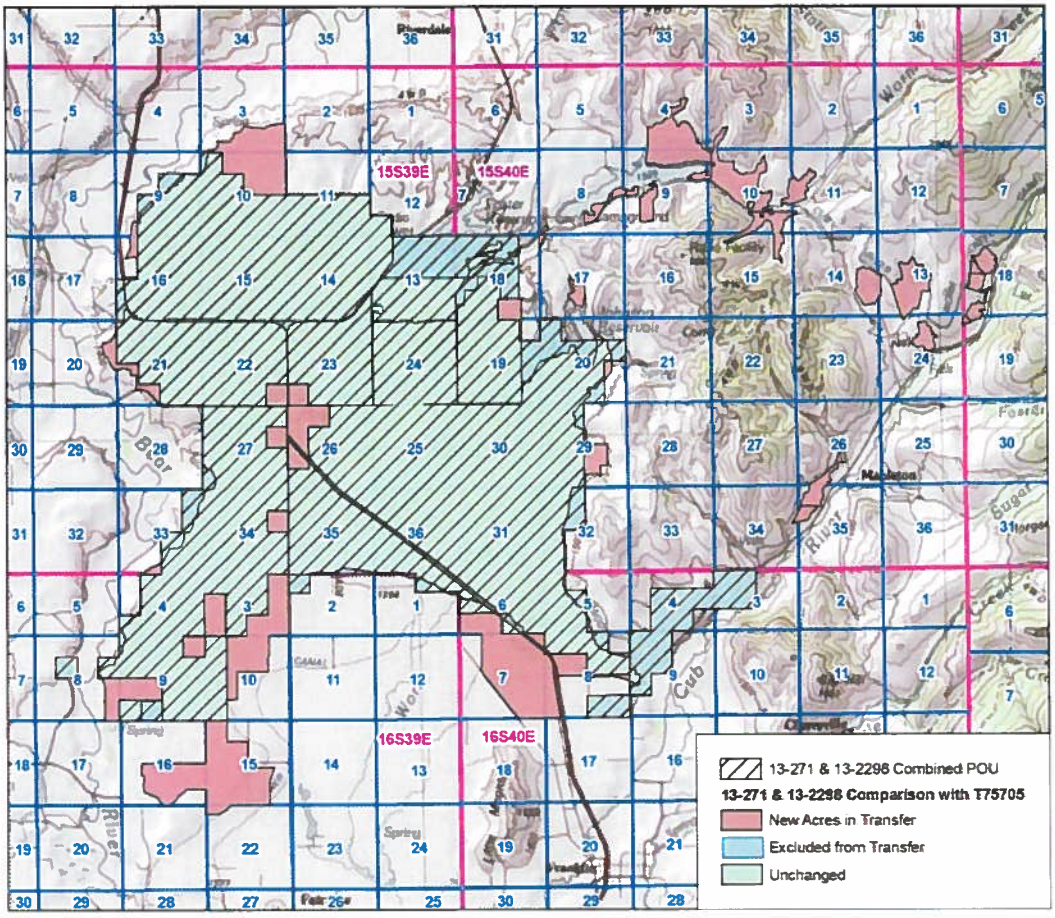


Figure 10: Comparison of Transfer place of use with 13-271 and 13-2298

Bylaws of Preston-Whitney Irrigation Company

In January 1996, PWIC, at the advice of their attorney, adopted revised bylaws which included a description of the company's water rights and service area. Exhibit "A" in the bylaws includes a land list based on IDWR's records of the company's water rights. Exhibit "B" is the service area formalized by the company's bylaws (see Lyle Porter deposition, November 22, 2010, at 214:1 – 217:2).

My calculations indicate that Exhibit "A" totals 13,733 acres. Exhibit "A" also lists 40 acres for many quarter-quarter tracts including all those tracts for T15S, R39E Sections 15, 16, 22, 23, 24, 34, 35 and 36; and T15S, R40E Sections 30 and 31. It is highly unlikely that 40 acres were actually irrigated within all of these described tracts,

particularly when water rights 13-27 1 and 13-2298 provide acreage lists in these tracts frequently less than 40 acres.

Exhibit "A" also includes acres in eight sections that ar e considered "short sections" including Sections 1 – 4 of T16S R39E, and Sections 3 – 6 of T16S R40E. These sections are approximately ¾ the size of a normal section with the northern ¼ removed based on available Public Land Survey data. Exhibit "A" lists 375 acres in these nonexistent quarter-quarter tracts:

- T16S R39E Section 1 NENE (25), NWNE (19); Section 2 NWNW (33); Section 3 NWNE (12), NENW (36), NWNW (32); Section 4 NENE (28), NWNE (28), NENW (6).
- T16S R40E Section 5 NWNW (32); Section 6 NENE (36), NWNE (33), NENW (32), NWNW (23).

The map in Exhibit "B" lists a total of 14,784 acres. This is 1,015 more acres than 13,733 acres listed in Exhibit "A" (no adjustment is made for the 375 acres in nonexistent quarter-qu arter tracts), and **less** than the acres included in PWIC's amended transfer application (16,545.1 acres). Mr. Porter acknowledged that the acres in Exhibit "B" exceeded the num ber found in Exhibit "A." PWIC prepared this map with instructions from their attorney to "...do a real good search as good as y ou can of your actual areas that are used..." and indic ated that these additional acres would be "grandfathered in" during a n anticipated future adjudication. The acres included in Exhibit "B" were based on Farm Service Agency aerial photo maps where the fields were "actually measured." PWIC used the maps "...and as best w e could tried to decide how many acres were farmed and irrigated in e ach of those quarter quarter sections" (Lyle Porter deposition at 215:7 – 14; 216:11 - 20). In my opinion, although the Exhibit "B" map includes more acres than what was actually developed and documented by IDWR in PWIC's licenses and decrees, this map better comports with the historical record than does the current transfer application.

Hydrology – Water Storage Facilities

Four water storage reservoirs are associated w ith PWIC's and/or Preston-Whitney Reservoir Com pany's delivery systems including Glendale, Foster, Lamont and Johnson (see F igure 11). Glendale is an on-stre am storage facility constructed to capture Worm Creek and upstream tributary flows.

Foster, Lamont, and Johnson reservoirs are con sidered "off-stream" facilities and are filled primarily with water sourced from or imported into the Worm Creek basin. The reservoirs also capture n aturally occurring tributary inflows from springs, precipitation, or other naturally occurring sources. PWIC and/or Preston-Whitney Reservoir

Company do not account for, and subsequently release, these natural flows into the natural drainages (Worm Creek and Spring Creek), thereby preventing delivery of these natural flows to downstream water right holders in the Spring Creek and Worm Creek drainages (see transcript of the testimony of Lyle Porter, November 22, 2010 at 133:11 – 20; 137:18 – 138:22; 154:13 – 155:3). This is problematic should PWIC's transfer ultimately approve this excess storage of water that might otherwise be available to other water users.

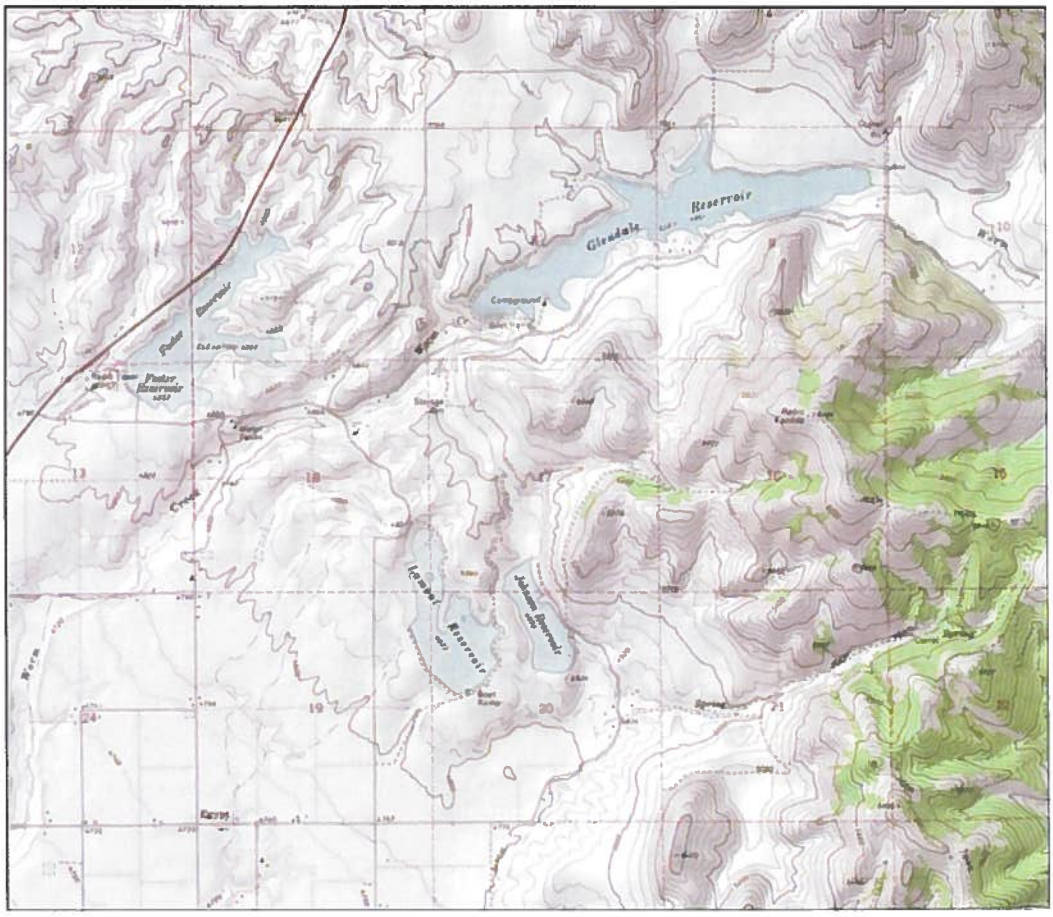


Figure 11: Storage reservoirs include Glendale, Foster, Lamont, and Johnson.

Also, water right 13-2288A was licensed to Preston Whitney Irrigation Company with the license issued May 5, 1995. License condition number 5 states:

> "This right when combined with Rights 13-02108, 13-02288 and 13-02298 shall not exceed an annual storage volume of 6000.0 acre feet."

Water right nos. 13-2108, 13-2288, 13-2288A authorize storage in Glendale Reservoir. Water right 13-2298 authorizes storage in Foster Reservoir. This storage limitation imposed by water right 13-2288A condition number 5 appears to be violated by PWIC with storage in these facilities exceeding the 6,000 acre feet limit. PWIC may believe that this limit is in error, but I find that the water rights have not been modified to allow for storage in these facilities exceeding the combined 6,000 acre feet limit (see transcript of the testimony of Lyle Porter, November 22, 2010 at 133:21 – 136:15; 156:13 – 157:5).

Hydrology – Middle Ditch

Water right 13-2 was decreed for 30 cfs of Cub River water for irrigation with an April 1, 1882 priority date (see McEwan Decree). See further details of this right under the Place of Use discussion in this report. This water was historically diverted into the Middle Ditch. PWIC's transfer application proposes to divert water right 13-2 into the Glendale Feeder Canal, a point of diversion from Cub River upstream of the authorized Middle Ditch diversion.

The Middle Ditch ends at, and spills into, a swale that is tributary to Spring Creek (see Lyle Porter deposition, November 22, 2010, at 142:1 – 17; 152:6 – 12). The water historically spilled from the Middle Ditch would therefore be available to downstream Spring Creek water rights.

The irrigated area originally developed under water right 13-2 was limited, and encompasses only a small portion of the PWIC place of use (see Figure 2 and Figure 3 and place of use discussion for water right 13-2 in this report).

The Worm Creek Decree states:

> "In the lower reaches the natural water supply is augmented by return flows and water from other stream systems, i.e., from Mink Creek and Cub River." (See Worm Creek Decree Finding of Fact number 1.)

The Worm Creek Decree also states:

> "The water supply of Worm Creek Basin is augmented by importation of water from Cub River Basin and Mink Creek Basin. The imported water is commingled with waters of Worm Creek and its tributaries, and the natural channel of Worm Creek and tributaries is used to convey the commingled waters to the intended place of use." (See Worm Creek Decree Finding of Fact number 2.)

The Worm Creek decree lists water rights based on source and instructs that for distribution purposes, the rights shall be considered part of the same system and distributed as one system:

> "For distribution purposes, however, the rights described in this decree shall be considered part of the same system, and shall be distributed as one (1) system when physically practical." (See Worm Creek Decree Recommended Decree of Water Right, pg. 6.)

PWIC, by proposing to move the point of diversion for water right 13-2 from the Middle Ditch to the upstream Glendale Feeder Canal, alters the historical flow regime of the interconnected ditch and creek systems acknowledged in the Worm Creek Decree. The Middle Ditch tailwater imported from Cub River historically contributed to Spring Creek flows. Pipeline installations and conversions from gravity-flood to sprinkler irrigation applications have also altered the system hydrology, resulting in diminished flows in Spring Creek and a reduction in water available to Spring Creek and Worm Creek water right holders. Given the historic commingling of water in the system, including water imported from Cub River, and how the rights were originally developed and decreed, the transfer implicates the administration of water per the Worm Creek Decree and injures Worm Creek Basin water users by ratifying the alteration of the former system hydrology existing when the rights were first developed and delivered.

Further, pipeline installation, including but not necessarily limited to the Palmer Pipe, Bradford Pipe, Idaho Pipe, Connection Pipe, and Webster Pipe, has in my opinion resulted in PWIC's ability to convey water diverted from the Cub River into the Middle Ditch for delivery to areas outside of the historically irrigated areas, including to lands west of Spring Creek and Worm Creek. This situation has provided PWIC an opportunity for enlarging the number of acres to which water right 13-2 can be applied.

Summary of Findings

- Water right nos. 13-271 and 13-2298 provide the most accurate assessment of irrigated acres within PWIC. Although there is a discrepancy of total acres between these two rights (10,449 vs. 10,720), the totals are very similar, differing by only 271 acres (approximately 2.5%). These rights both list irrigated acres on a quarter-quarter basis. In those quarter-quarters where the acres differ, if the greater number is selected, the sum total is 11,767 acres in 402 quarter-quarters. This total is **less** than that proposed in PWIC's amended transfer application (16,545.1 acres).

- The places of use and total number of acres authorized for irrigation under water rights 13-2 and 13-3 were not defined by the McEwan Decree. The McEwan Decree authorized a duty of water of 0.025 cfs per acre based on the "primary" flow for water right 13-0026. This same duty of water, or the Idaho standard duty of 0.02 cfs per acre, may be applicable to water rights 13-2 and 13-3.

- Water right 13-2104 is supplemental to water right 13-3. The water right does not add any additional acres not already authorized by 13-3, and includes a land list that is ambiguous and not representative of the total acres actually irrigated by these two rights at the time the rights were developed.

- The transfer, if granted, will result in an enlargement of the use of water right nos. 13-2, 13-3 and 13-2104 on acres not previously historically authorized by license or decree.

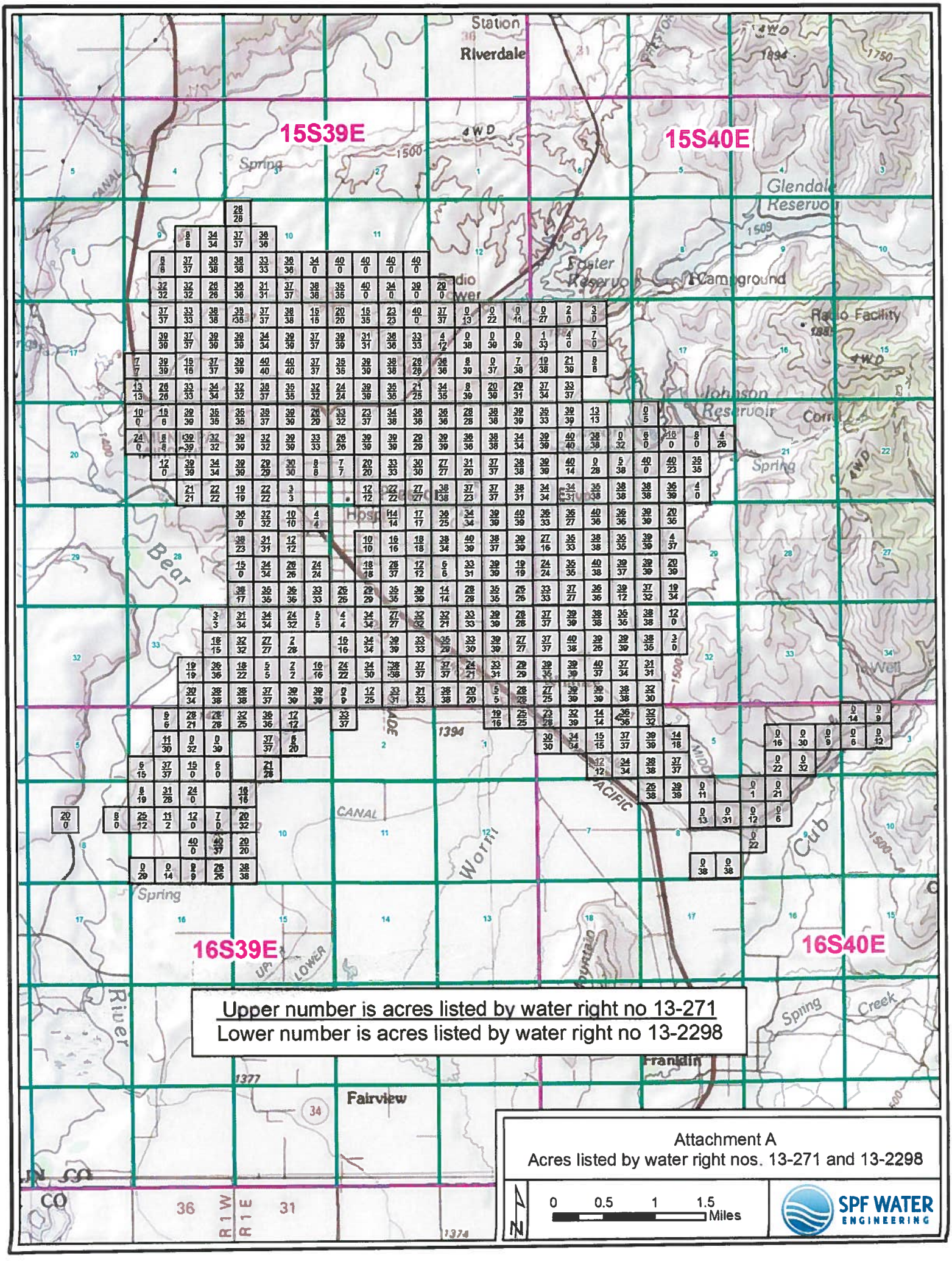
- The total capture of natural inflows (springs and precipitation-based flow) by Foster, Lamont, and Johnson reservoirs injures local water users because PWIC and/or Preston-Whitney Reservoir Company do not account for, and subsequently release, these natural inflows into the natural drainages (Worm Creek and Spring Creek).

- Pipelines installed and utilized by PWIC have created the opportunity for PWIC to enlarge its place of use by delivering water to lands historically not accessible by prior delivery systems. Use of these pipelines has altered the hydrology of the Worm Creek Basin and reduced the quantity of water available to other water rights in the Worm Creek Basin, including those water rights owned by Chadwick, Golightly, and Wheatley.

- The point of diversion change proposed for water right 13-2 will allow this right to be diverted at an upstream point of diversion and delivered to lands not previously Irrigable by this right, thereby resulting in an enlargement.

  Further, the change in point of diversion and nature of delivery proposed for water right 13-2 alters the historic flow regime of Spring Creek. Spring Creek flows are diminished by decreased spill imported from the Cub River to the Middle Ditch, and subsequently discharged into the Spring Creek drainage, thereby injuring downstream water rights. Water not used on the acres historically irrigated by water right 13-2 will no longer contribute to flows in

Spring Creek, but will instead be available to, and most likely delivered to, other acres within PWIC's system.


15S39E
15S40E
16S39E
16S40E
Riverdale
Glendale Reservoir
Foster Reservoir
Campground
Radio Facility
Johnson Reservoir
Spring
Bear
Worm
Cub
Spring Creek
Franklin
Fairview
CANAL
PACIFIC
4WD
1500
1400
1394
1377
1374
Upper number is acres listed by water right no 13-271
Lower number is acres listed by water right no 13-2298
Attachment A
Acres listed by water right nos. 13-271 and 13-2298
0 0.5 1 1.5 Miles
SPF WATER ENGINEERING

Bibliography

Documents relied upon for my March 2011 memorandum to Andy Waldera regarding review of Preston-Whitney Irrigation Company transfer application.

1. Worm Creek Drainage Basin Decree
2. McEwan Decree
3. Bylaws of Preston-Whitney Irrigation Company
4. IDWR GIS spatial water right shapefiles
5. IDWR water right files available on-line for water rights owned by Chadwick, Golightly, Wheatley, Preston-Whitney Irrigation Company, Cub River & Worm Creek Canal Company, and Preston Whitney Reservoir Company. Specific documents include, but are not limited to the following:
    a. Water right 13-2298 application for permit; license; "Report of Examiner" by Fred Eisenbarth, Jr., dated September 16, 1971; "Report of Engineer" by Carl Tappan dated October 1, 1963.
    b. Water right 13-271 place of use description included in the Worm Creek Decree.
    c. Water right 13-2104 application for permit, approved permit, and license, "Report of Engineer" dated June 10, 1930, "Report of Engineer" dated September 19, 1929, and Deposition of Witness statements by Joseph Jensen, Samuel Jensen, and Aalter K. Barton
6. Deposition Transcript of Lyle Porter, November 22, 2010.
7. Preston-Whitney Irrigation Company's pending transfer applications including nos. 75705, 76833, 76834, and 76835.
8. PWIC maps, including Worm and Cub River Drainages Creeks and Laterals, and aerial images provided by Porter
9. My notes from past field visits
10. Digital map layers publically available including USGS quadrangle maps, aerial imagery (2004, 2006, 2009), public land survey (township, range, section, quarter-quarter section)
11. Review map prepared by Cindy Bird
12. Review maps prepared by Andy Waldera (yellow, new acres)

1. Decree finalizing Proposed Finding of Water Rights in the Worm Creek Drainage Basin as amended.

2. Proposed Finding of Water Rights in the Worm Creek Drainage Basin

13-0060 - 13-0068
13-0133, 13-0134, 13-0143
13-0200 - 13-0333

13-2053, 13-2054, 13-2102, 13-2103, 13-2108, 13-2131, 13-2133, 13-2140, 13-2149
13-2150, 13-2160, 13-2161, 13-2219, 13-2252, 13-2260, 13-2266, 13-2267, 13-2276
13-2277, 13-2284, 13-2287, 13-2288, 13-2300, 13-2304, 13-2307

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ALL-STATE LEGAL®
EXHIBIT
107
PROTESTANT

(2) 13-P

171655 14-90

Decree

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT

OF THE STATE OF IDAHO, IN AND FOR

FRANKLIN, COUNTY

PROPOSED FINDING OF WATER RIGHTS

IN THE

WORM CREEK DRAINAGE BASIN

CIVIL CASE NO. 3236

PROT-00612

STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

STATE HOUSE BOISE, IDAHO 83720

August 15, 1975

Re: Worm Creek Adjudication - Proposed Finding of Water Rights
Civil Case No. 3236

Dear Wateruser:

Enclosed is the final draft of the Proposed Finding of Water Rights in the Worm Creek Drainage Basin.

If you do not agree with these findings you should follow the procedure set forth in Idaho Code Section 42-1410 which states in part that "any claimant who desires to object to the report shall file his objections with the court (Sixth Judicial District) within 60 days of the date of mailing of such report by the Director of the Department of Water Resources and shall also send a copy of such objections to the Director of the Department of Water Resources.

Copies of the adjudication maps prepared by the Department are available for your review at the Franklin County Courthouse in Preston, the Eastern District Office of the Department of Water Resources located 1515 Lincoln Road, Idaho Falls, and the State Office of the Department of Water Resources in Boise.

171655 15-40

Sincerely,

A. KENNETH DUNN
Administrator, Operations Division

AKD:rb

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See Appendix A
Amendments, additions, and deletions to Proposed findings

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PROT-00614

171655 17-90

The State of Idaho

Plaintiff

v.s.

Ainscough, Margurett D., and spouse
Alder, Alfred J., and spouse
Alder, D. Alton, and spouse
Alder, Delbert George, and spouse
Alder, Edgar, and spouse
Alder, Edgar J., and spouse
Alder, G. E., and spouse
Alder, George, and spouse
Alder, George E., and spouse
Alder, Karl G., and spouse
Alder, Lewis, and spouse
Allred, Guy, and spouse
Allred, Jack D., and spouse
Alter, George E., and spouse
Amalgamated Sugar Co.
Anderson, Ernest, and spouse
Andra, William, and spouse
Ashcroft, Henry G., and spouse
Auger, Deon, and spouse
Auger, Deone H., and spouse
Auger, Leland, and spouse
Auger, Veloy, and spouse
Auger, Veloy H., and spouse
Auger, Verl, and spouse
Auger, William, and spouse
Auger, William H., and spouse
Baird, LeMon, and spouse
Baker, Ila, and spouse

Baker, Ila I., and spouse
Ballif, Karl G., and spouse
Ballif, Richard T., and spouse
Barnes, James H., and spouse
Barnes, Robert H., and spouse
Bartholome, Dee Mar, and spouse
Battars, Ruben, and spouse
Beckstead, Alvin, and spouse
Beckstead, David, and spouse
Beckstead, David W., and spouse
Beckstead, Elmer G., and spouse
Beckstead, Elmo, and spouse
Beckstead, Eugene, and spouse
Beckstead, Farrell, and spouse
Beckstead, Hessy, and spouse
Beckstead, Lindon, and spouse
Beckstead, Lindon D., and spouse
Beckstead, Lloyd N., and spouse
Beckstead, Sheldon, and spouse
Bennett, Hyrum, and spouse
Bennett, Hyrum J., and spouse
Bennett, Hyrum John, and spouse
Benson, Orval D. and spouse
Berquist, Lee, and spouse
Biggs, Sid, and spouse
Bingham, Eldon B., and spouse
Blackburn, Alvin, and spouse
Bodily, Asa J., and spouse

Bodily, Bardo M., and spouse
Bodily, Joseph A., and spouse
Bodily, Lawrence C., and spouse
Bodily, Levi, and spouse
Bodily, Levi D., and spouse
Bodily, Lorin J., and spouse
Bodily, Myrl L., and spouse
Bodily, Robert, and spouse
Bodily, Robert G., and spouse
Booker, C. D., and spouse
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Boothe, Floyd R., and spouse
Bosen, Clair, and spouse
Bosen, Dell, and spouse
Bosen, W., and spouse
Bosworth, Keith E., and spouse
Bosworth, Oran, and spouse
Bosworth, Reid C., and spouse
Bowles, Jud, and spouse
Bowles, Kelley E., and spouse
Bowles, Orval E., and spouse
Bradford, Harold S., and spouse
Burbank, Lynn E., and spouse
Burnett, Lorin S., and spouse
Burnett, Stuart, and spouse
Buttars, Ruben, and spouse
Cache Valley Livestock Auction
Cafferty, Laura Inglet, and spouse

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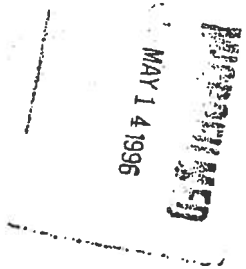
171655 18-90

Call, Glenn, and spouse
Carter, Holmgren, Beckstead
Carter, Roland, and spouse
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Casperson, Owen, and spouse
Chadwick, May, and spouse
Chadwick, Thomas P., and spouse
Chatterton, Louvana, and spouse
Checkets, C. Leslie, and spouse
Cherrington, J. A., and spouse
Choules, Leda, and spouse
Choules, Oliver J., and spouse
Christensen, Naomi M., and spouse
Christensen, W. Scott, and spouse
Christensen, Wade L., and spouse
Christensen, Wallace, and spouse
Church of Jesus Christ of Latter-Day Saints
Cobutti, Julius, and spouse
Cole, Bertha, and spouse
Cole, Mildred, and spouse
Cole, Mildred P., and spouse
Cole, Minnie B., and spouse
Cole, Vernon, and spouse
Condie, Angus, and spouse
Condie, Dolan, and spouse
Condie, J. LeRoy, and spouse
Condie, LeRoy, and spouse
Condie, Lettie, and spouse
Condie, Roy, and spouse
Condie, Spencer, and spouse
Condie, W. Paul, and spouse
Condie, Wilford Paul, and spouse
Corbridge, Eyra, and spouse
Corbridge, Lester W., and spouse
Corbridge, Verlin W., and spouse
Cottle, James, and spouse
Cottle, Lydia B., and spouse
Cove Concrete
Covert, C. Theo, and spouse
Craner, William, and spouse
Critchlow, Dale V., and spouse
Crockett, Alta Dunkley, and spouse
Crockett, George A., and spouse
Crockett, George L., and spouse
Cub River Irrigation Co.
Cuzier, Delbert, and spouse
Dahle, L. D., and spouse
Daney, Thelma W., and spouse
Davis, Blaine N., and spouse
Davis, William A., and spouse
Day, Norene, and spouse
Dixon, Henry Alder, and spouse
Dockstader, Dennis, and spouse
Dockstader, Urias, and spouse
Doney, Grant M., and spouse
Doney, Thelma W., and spouse
Doney, Wayne W., and spouse
Dorigatti, August, and spouse
Drury, Alden J., and spouse
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Dunkley, Leslie L., and spouse
Dunkley, Lorin R., and spouse
Dunkley, William K., and spouse
Dursteler, John, and spouse
Dursteler, S. E., and spouse
Dursteller, Arthur, and spouse
Dursteller, John, and spouse
Dursteller, Ronald, and spouse
Eames, George A., and spouse
Eastside School District No. 201
Edwards, N. Leon, and spouse
Egbert, George L., and spouse
Egbert, H. H., and spouse
Egbert, Harold Clair, and spouse
Egbert, Harold J., and spouse
Egbert, Henry G., and spouse
Egbert, Lucy, and spouse
Egbert, Paul, and spouse
Egbert, Susie, and spouse
Egbert, Vernal James, and spouse
Esplin, Merl Hardy, and spouse
Esplin, Ralph, and spouse
Fairview Cemetary
Fairview Corporation
Fairview Ward
Fellows, Joseph R., and spouse
Fellows, Orrin V., and spouse
Fife, Norene Day, and spouse
Fifield, Lawrence E., and spouse
Fisher, Allen, and spouse
Fisher, Allen W., and spouse
Flemmer, Ardwin O., and spouse
Forsgren, C. J., and spouse
Foss, Ezra E., and spouse
Foster, George C., and spouse
Foster, Lincoln W., and spouse
Franklin, County of
Frew, Carl, and spouse
Gailey, Bert, and spouse
Gailey, Joseph W., and spouse
Gamble, Blaine J., and spouse
Gamble, F., and spouse
Gamble, Glen, and spouse
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Gambles, Blaine J., and spouse
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Gilbert, Dallas, and spouse
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Gilbert, Merlin J., and spouse
Gilbert, William D., and spouse
Golightly, Don, and spouse
Golightly, Myrtle, and spouse
Greaves, A. W., and spouse
Greaves, Allen W., and spouse
Greaves, Blair, and spouse
Greaves, Carlyn, and spouse
Greaves, Ethelyn, and spouse

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Greaves, Ethelyn O., and spouse
Greaves, Nathan, and spouse
Greaves, Oliver E., and spouse
Greaves, Wendell, and spouse
Green, Hal W., and spouse
Gregory, Leslie A., and spouse
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Hebdon, D., and spouse
Hebdon, Garth, and spouse
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Hinkley, Arthur Vernon, and spouse
Hinkley, Zelda, and spouse
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Hobbs, Julia J., and spouse
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Hollingsworth, Clair M., and spouse
Hollingsworth, Kay, and spouse
Holton, Sherman, and spouse
Holton, Sherman P., and spouse
Howell, Dr. N. S., and spouse
Howell, Thomas E., and spouse
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Hull, Robert M., and spouse
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Hunt, D., and spouse
Husser, William, and spouse
Hyde, George W., and spouse
Hyde, Orval L., and spouse
Hyde, Theoda, and spouse
Hyde, Theoda Bodily, and spouse
Hyde, Theresa A., and spouse
Hyde, Wesley, and spouse
Idaho, State of
Inglet, Bernard J., and spouse
Inglet, Joseph C., and spouse
Inglet, Milford, and spouse
Inglet, Parley J., and spouse
Jensen, Cecil P., and spouse
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Keller, Larry R., and spouse
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Kidd, Myra, and spouse
King, John Grant, and spouse
King, LaVere, and spouse
Kirby, Melvin, and spouse
Kjar, Mary H., and spouse
Klippert, Vern, and spouse
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Knudsen, Delbert, and spouse
Knudsen, Virgil, and spouse
Lamont, Seaborn, and spouse
Larsen, Glen, and spouse
Larsen, Harold B., and spouse
Larsen, J. Lavon, and spouse

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Larsen, Lee A., and spouse
Larsen, Lynn J., and spouse
Larsen, Lynn L., and spouse
Larsen, Mahonri, and spouse
Larsen, Mahonri Harvey, and spouse
Larsen, Stanford S., and spouse
Larson, A., and spouse
Larson, Arlando, and spouse
Larson, E. Arlen, and spouse
Larson, Esther A., & Julia C. Oliverson and spouses
Larson, Ezra E., and spouse
Larson, Ezra Arlen, and spouse
Larson, Fenton A., and spouse
Larson, G., and spouse
Larson, Glen, and spouse
Larson, Harold B., and spouse
Larson, J. LaVon, and spouse
Larson, Lee A., and spouse
Larson, Mark, and spouse
Larson, Merlin, and spouse
Larson, Merling G., and spouse
Larson, Merlin J., and spouse
Larson, Percy, and spouse
Larson, Vaughn, and spouse
Larson, Vaughn J., and spouse
Larvis, Henry D., and spouse
Lewiston-Bear River Irrigation Co.
Lower, Paul, and spouse
Lund, Leonard B., and spouse
Lundgren, Clynard, and spouse
Lundquist, Donald, and spouse
Manning, Virgil, and spouse
Matkin, Arlie B. Rawlins, and spouse
McElfish, J. D., and spouse
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McEntire, Ira Wells, and spouse
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McEntire, Wells, and spouse
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Mecham, Ronald B., and spouse
Merrill, Carol, and spouse
Merrill, L. V., and spouse
Merrill, William Douglas, and spouse
Miller, Lewis, and spouse
Mitton, Lawrence, and spouse
Mockli, Henry, and spouse
Mockli, Walter, and spouse
Mockli, Walter W., and spouse
Moore, Lucy Egbert, and spouse
Moosman, A. Reed, and spouse
Moser, Dennis J., and spouse
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Naffer, Edwin J., and spouse
Nash, William I., and spouse
Nash, Victor P., and spouse
Neely, Mary M., and spouse
Nelson, Clark, and spouse
Nelson, Glendon A., and spouse
Nelson, Nedra, and spouse
Nelson, S. Vern, and spouse
Nelson, S. Vern, and spouse
Nelson, Van, and spouse
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Nielsen, Carl D., and spouse
Nielson, Carl, and spouse
Nielson, Craig, and spouse
Nielson, Maurice, and spouse
Nielson, Nettie S., and spouse
Nielson, Stacey, and spouse
Nielson, Stacey Shumway, and spouse
Noyes, Van O., and spouse
Noyes, Von, and spouse
Nuffer, Edwin J., and spouse
Oliverson, Glen H., and spouse
Oliverson, Harold, and spouse
Oliverson, Julie C. & Ester Halsey & spouses
Oliverson, Kenneth, and spouse
Oliverson, Kenneth Lamar, and spouse
Oliverson, Kenneth W., and spouse
Oliverson, Willis R., and spouse
Owen, Chrissie B., and spouse
Owen, Clarence L., and spouse
Owen, Herbert, and spouse
Owen, Horace R., and spouse
Owen, Lester, and spouse
Owen, Maurice A., and spouse
Owen, Milton, and spouse
Owens, Mozell, and spouse
Owens, Richard N., and spouse
Page, James Irvin, and spouse
Palmer, Elmer S., and spouse
Palmer, Lewis, and spouse
Palmer, Lewis W., and spouse
Palmer, W. G., and spouse
Parkinson, L. G., and spouse
Pearce, Rodney, and spouse
Pearson, Reynold, and spouse
Petersen, Chloe C., and spouse
Petersen, V., and spouse
Peterson, Elmo, and spouse
Peterson, Elmo C., and spouse
Peterson, Evan, and spouse
Peterson, Victor, and spouse
Petterborg, Cecelia K., and spouse
Petterborg, Dee Ronald, and spouse
Petterborg, Guy C., and spouse
Petterborg, Guy C. & Thomas R., and spouses
Petterborg, R. Thomas, and spouse
Phillips, Wayne C., and spouse
Phillips, Wayne G., and spouse
Phippen, Duane, and spouse

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Poole, Mooris, and spouse
Poole, Morris H., and spouse
Poole, William H., and spouse
Poole, William W., and spouse
Pond, Florence, and spouse
Porter, Albert Ralph, and spouse
Porter, Blaine P., and spouse
Porter, Elma, and spouse
Porter, Keith C., and spouse
Porter, Kenneth S., and spouse
Porter, Lynn, and spouse
Porter, Mary C., and spouse
Porter, Ralph A., and spouse
Porter, Sewell, and spouse
Prescott, John L., and spouse
Preston Cemetary
Preston City Airport
Preston, City of
Preston Golf & Country Club
Preston Whitney Irrigation Co.
Preston Whitney Reservoir Co.
Purser, Arland, and spouse
Purser, Lyman, and spouse
Purser, R. Hyde, and spouse
Radford, Lillian, and spouse
Rallison, Fred W., and spouse
Rallison, Frederick W. Jr., and spouse
Rallison, Herbert S., and spouse
Ramsbottom, James R., and spouse
Ramsbottom, Ray W., and spouse
Randall, W. R., and spouse
Ransom, Eleanor, and spouse
Ransom, Myrtle, and spouse
Ransom, P., and spouse
Ransom, Paul B., and spouse
Rawling, Brent, and spouse
Rawling, Kent M., and spouse
Rawling, Martell, and spouse
Rawling, Martell G., and spouse
Rawling, Theron, and spouse
Rawlings, Arvin, and spouse
Rawlings, Henry H., and spouse
Rawlings, Martell, and spouse
Rawlings, Merlin, and spouse
Rawlings, Theron, and spouse
Reese, William G., and spouse
Reese, Winfred, and spouse
Reese, Winifred F., and spouse
Rich, Lyle G., and spouse
Rindlisbaker, J. W., and spouse
Roberts, Daniel, and spouse
Roberts, Norman H., and spouse
Robinson, Hal Jepsen, and spouse
Roder, Thedford, and spouse
Rogers, Spencer, and spouse
Roper, Thedford, and spouse
Schenk, Fred, and spouse
Schenk, Verlyn, and spouse
Schvanevelt, Jerry, and spouse
Seamons, Allen R., and spouse
Seamons, Edna E., and spouse
Second Ward Corporation
Seeley, Theron, and spouse
Shaffer, Dean, and spouse
Sharp, Arland E., and spouse
Sharp, C. J., and spouse
Sharp, Lyman L., and spouse
Sharp, Owen, and spouse
Shields, Calvin, and spouse
Shields, Calvin & Jewel, and spouses
Shields, Jewel, and spouse
Shrives, Ron, and spouse
Smart, Parley, and spouse
Smedley, Sturton, and spouse
Smith, Elliot W., and spouse
Smith, Ernest, and spouse
Smith, L. G., and spouse
Smith, Melvin, and spouse
Smith, Orval J., and spouse
Smith, Robert O., and spouse
Smith, Walter, and spouse
Snyder, Melvin J., and spouse
Spackman, Esther, and spouse
Spackman, Iris, and spouse
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Sparrow, Raymond, and spouse
Spatig, Gotfried, and spouse
Stanger, Dell R., and spouse
Stokes, Kenneth, and spouse
Swainston, Charles, and spouse
Swainston, Heber C., and spouse
Swainston, Howard, and spouse
Swainston, John E., and spouse
Swainston, Richard Carl, and spouse
Swann, Ellen, and spouse
Swann, Lee, and spouse
Swann, Lee & Ellen and spouses
Swann, R. G., and spouse
Swann, Robert G., and spouse
Swann, Robert Glenn, and spouse
Swann, S., and spouse
Swendsen, G. B., and spouse
Talbot, A. V., and spouse
Talbot, Ronald T., and spouse
Talbot, Ross, and spouse
Tanner, Eldon, and spouse
Tanner, Lucy C., and spouse
Tanner, Nina K., and spouse
Tanner, William D., and spouse
Tanner, William K., and spouse
Taylor, Ray, and spouse
Telford, Ross W., and spouse
Theimann, Earl, and spouse
Thomas, K., and spouse
Thomas, Keith, and spouse
Thomas, Paul D., and spouse
Thompson, Ivan, and spouse
Titenson, K., and spouse
United States of America
Van Orden, Ervin A., and spouse
Van Orden, Neal A., and spouse
Viola, Beatrice, and spouse

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Viola, Joe, and spouse
Voice of the Rockies
Walker, Albert E., and spouse
Waner, W. J., and spouse
Wanner, L. Bertus, and spouse
Wanner, W. J., and spouse
Ward, Parker L., and spouse
Ward, Platt D., and spouse
Ward, R. A., and spouse
Weaver, Don, and spouse
Weaver, Earl, and spouse
Weaver, Francis, and spouse
Weaver, Sidney, and spouse
Weaver, Stewart, and spouse
Webster, Blaine M., and spouse
Weeks, Boyd, and spouse
Weeks, Leland, and spouse
Wheatley, Bert, and spouse
Wheeler, Ellis, and spouse
Wheeler, Jesse O., and spouse
Wheeler, Lee, and spouse
Wheeler, Nathan C., and spouse
Whitehead, J. W., and spouse
Whitehead, Lloyd, and spouse
Whitehead, Wynn C., and spouse
Whittle, Merlin T., and spouse
Whitney Ward Cemetary
Whitney Ward School District
Wilson, Royal G., and spouse
Winn, Allen S., and spouse
Winn, Allen S. & Bert E., and spouses
Winn, Bart E., and spouse
Winn, Bert E., and spouse
Winn, William Stanley, and spouse
Winward, B. W., and spouse
Winward, Fielding, and spouse
Winward, Ivan Ray, and spouse
Winward, Woodrow W., and spouse
Womack, Ronald T., and spouse
Woodward, Ivan, and spouse
Wright, Archie W., and spouse

Defendants

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PROT-00620

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IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE STATE

OF IDAHO, IN AND FOR THE COUNTY OF FRANKLIN

IN THE MATTER OF THE GENERAL DETERMINATION OF THE RIGHTS TO THE USE OF THE SURFACE AND GROUND WATERS OF THE WORM CREEK DRAINAGE BASIN	CIVIL NO. 3236 PROPOSED FINDING OF WATER RIGHTS

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The above-entitled cause was initiated under provisions of Section 42-1406, Idaho Code, by the submission of a petition from seven water users in the Worm Creek Basin, requesting that the Department of Water Resources (formerly the Department of Water Administration) obtain authority from the Court to prepare a proposed finding of water rights in the Worm Creek Basin.

Pursuant to Section 42-1407, Idaho Code, R. Keith Higginson, Director of the Department of Water Resources petitioned the Court on August 31, 1971, for an order of authorization for the commencement of a general determination of the existing rights to the use of surface and ground-waters of the Worm Creek Drainage.

An order was signed on December 6, 1971, by District Judge Francis J. Rasmussen, authorizing the Department to commence an investigation and determination of the various rights to the use of the water of Worm Creek and its surface tributaries, such waters lying or being used within Franklin County, Idaho. Uses from ground-water sources were not included in the authorization.

An order of joinder signed on February 20, 1973, made approximately 617 land owners and possible water users party to the adjudication. Approximately 170 claims of water rights were submitted to the Department.

Based upon the claims submitted, the files and records of the Department and the Court, the examination of the Worm Creek Drainage Basin and the various ditches and other diversions of water therein and the lands irrigated or other uses of water, the Department

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of Water Resources recommends these findings of fact, conclusions of law and decree of water rights, in which the following definitions apply:

a. "Director" means the Director of the Department of Water Resources.

b. "Department" means the Idaho Department of Water Resources.

c. "Ident. No." is the abbreviated form of "Identification Number". An identification number is assigned to each water right for purposes of identification. The first two (2) numerals of an identification number indicate the basin number as reflected in Department files, i.e., "13" indicates the Lower Bear River Basin in which Worm Creek Basin is located.

d. "Name and address" are self-explanatory and indicate the owner of the right at the time the "Notice of claim to a Water Right" was submitted to the Department.

e. "Priority" indicates the priority date of the water right and is generally the date when the water was first applied to a beneficial use or the date that an application for permit was submitted.

f. "Purpose" is a description of the use to which the water is being applied.

g. "Period of use" indicates the time when a particular right may be used each year.

h. "Amount, Acre feet per annum" indicates the volume in acre feet that may be diverted each year under a particular right. An acre-foot is a volume of water sufficient to cover one acre of land one foot deep with water and is equal to 43,560 cubic feet.

i. "Maximum rate of diversion, c.f.s." indicates the rate of diversion from a water source in cubic feet per second. The term "Miner's inch" formerly used in hydraulic mining and irrigation is also a measure of a rate of flow. The miner's inch in Idaho is defined as the quantity of water which will flow through an orifice one inch square under a four inch head. One cubic foot per second is equal to fifty miner's inches in Idaho, or 0.02 cfs equals one miner's inch.

j. "Place of use and lands irrigated" indicate the number of irrigated acres and legal description of the places of use within each 40-acre subdivision.

k. "Commingled water" refers to water from more than one source which flows together or is conveyed together in a common system.

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1. Under the general heading "Basis of Right":

"Beneficial Use" indicates the right is based on a Constitutional right or so called "use right".

"Permit" indicates the right has been initiated under the Statutes of the State of Idaho but has not yet been perfected by submission of proof of beneficial use, with subsequent field examination by the Department. Rights based on permit must be completed according to statutory procedures.

"License" indicates the right has been initiated through the Department with appropriate statutory proof submitted in the past with subsequent examination by the Department. The license is "prima facie" evidence of the water right.

"Decree" indicates that the right has been adjudicated in a court of law prior to this general determination of water rights.

m. "Domestic purposes" is defined as water for household use or livestock and water used for all other purposes including irrigation of up to one-half (½) acre of land in connection with said household where total use is not in excess of 13,000 gallons per day. Idaho Code, 42-230(d).

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FINDINGS OF FACT

1. Worm Creek is an interstate stream that arises in and flows through Franklin County, Idaho. Approximately one-half (½) mile south of the Idaho Border in the State of Utah, Worm Creek flows into the Cub River. The water supply of Worm Creek in its upper reaches results from water naturally arising within the drainage. In the lower reaches the natural water supply is augmented by return flows and water from other stream systems, i.e., from Mink Creek and Cub River. There are periods during each year when the amount of water flowing in Worm Creek and its tributaries, is insufficient to meet and satisfy the various demands by claimants of appropriate rights. These periods of scarcity normally occur during the latter part of the summer.

2. The water supply of Worm Creek Basin is augmented by importation of water from Cub River Basin and Mink Creek Basin. The imported water is commingled with the waters of Worm Creek and its tributaries, and the natural channel of Worm Creek and tributaries is used to convey the commingled waters to the intended place of use.

3. A number of surface and underground drains have been constructed in the Worm Creek drainage. The water developed as a result of these drains either returns to the Worm Creek channel or is diverted from the drains and beneficially used before reaching Worm Creek or its tributaries.

4. Beneficial use rights from surface water sources are those rights which were commenced by diversion and application of the water to beneficial use prior to May 20, 1971. All other rights to the use of surface water must have been initiated by an application filed with the Department of Water Administration or must have been previously adjudicated.

5. The diversion requirement for irrigation purposes is found to be 3.5 acre feet per acre per calendar year regardless of the source of supply. The irrigation season is from April 1 to November 1 of each year. Consumptive use or evapotranspiration of water from land and crops is a total of 2.1 acre feet per acre per growing season of which precipitation normally furnishes 0.4 acre feet per acre, leaving a net consumptive irrigation requirement of 1.7 acre feet per acre to be applied from some water source. The balance of 1.8 acre feet per acre (3.5 a.f. per acre - 1.7 a.f. per acre) reflects application losses that under present physical and economical conditions may be liberal, but are not unreasonable for the Worm Creek Basin.

6. The amount of water required for stockwatering purposes is found to be 12 gallons of water per day per head for cows, calves, and horses, and two gallons per day per head for sheep. For domestic or household use, the requirement is 1,000 gallons of water per day per household.

7. The United Stated has submitted claims of water rights based on the "Reserved Rights" principle. The water rights of the United States are subject to adjudication in this proceeding under the provisions of 43 USC 666. (changed by final decree)

8. This proposed finding of water rights includes rights initiated by application and permit from the Department of Water Administration. These permit rights are subject to the requirement that proof of beneficial use of the water must be submitted to the Department and the right will be limited to and confirmed by such license as may subsequently be issued by the Department.

9. This proposed finding of water rights includes rights initiated by application and permit from the Department of Water Resources. These permit rights are subject to the requirement that proof of beneficial use of the water must be submitted to the Department and the right will be limited to and confirmed by such license as may subsequently be issued by the Department.

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10. Regulation of the diversion and use of water from Worm Creek and its tributaries requires that each user who diverts water must install and maintain a suitable headgate and measuring device for the use of a watermaster in administering the distribution of the water.

11. Among the various water rights in the licenses issued by the Department of Water Resources within the Worm Creek Drainage are several which describe rights which were unclaimed by the present land owner. For the most part, these include uses which no longer exist because of forfeiture or abandonment of the right. These unclaimed "rights" are listed in the recommended decree.

12. Water has been diverted and applied to a beneficial use as described in the recommended decree of water rights.

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CONCLUSIONS OF LAW

1. This recommended decree includes all of the existing rights to the waters of Worm Creek and its tributaries and upon its adoption supercedes all prior judgments of the Court. Any water user who heretofore diverted water from Worm Creek or its tributaries or who owns lands to which previously established rights were appurtenant and who, upon being joined in this action, failed to claim such water rights have forfeited such rights as provided in Section 42-1411 Idaho Code.

2. The United States holds rights to the use of water on reserved forest lands within the Worm Creek Basin with priorities based upon the date when the various forest reserves were established, to the extent such water has been diverted and applied to a beneficial use prior to the date of this action or to the extent that future potential uses have been reasonably identified in its claims. The United States holds no rights either expressly or impliedly to any rights to the present or future use of water of Worm Creek or its tributaries not specifically claimed and identified as to quantity and place of use except as set forth in these findings of fact, conclusions of law and decree of water rights. (amended by final decree)

3. Natural channels may be used to convey commingled water pursuant to the provisions of Section 42-105, Idaho Code. Such use shall not reduce the quantity of water available to which other appropriators are entitled and allowance shall be made for loss by evaporation and seepage.

4. The combined amount of water diverted and/or delivered from all sources to irrigated land within the Worm Creek Drainage Basin shall not exceed 3.5 AF/A at the field headgate.

5. The right to use water that has been developed through construction of surface and underground drains, and that has been diverted and beneficially used before being discharged into Worm Creek or its tributaries is independent of the rights existing on Worm Creek and its tributaries. Water appropriated from underground drains prior to discharge from the drain are considered to be from a groundwater source and are not subject to determination in this action.

6. Water users whose rights are described in this recommended decree and those using the natural channels for conveyance purposes shall be required to install and maintain headgates and measuring devices for use by a watermaster in administering the distribution of water.

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7. The irrigation season is from April 1 to November 1 of each year.

8. Water has been diverted and applied to a beneficial use as described in the following recommended decree of water rights.

RECOMMENDED DECREE OF WATER RIGHT

The following tabulation of recommended rights are grouped by source. For example, rights to use the waters of the main stem of Worm Creek and minor streams and springs directly tributary are in the first part of the report. Then, rights on major tributary streams (those on which a number of rights are claimed) are listed in downstream order. Rights from miscellaneous named and unnamed sources are listed as a final tabulation. Within each list the rights are tabulated in chronological order by priority of use.

For distribution purposes, however, the rights described in this decree shall be considered part of the same system, and shall be distributed as one (1) system when physically practical.

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SOURCE: Worm Creek

IDENT. NO.	NAME AND ADDRESS	PRIORITY	PURPOSE	PERIOD OF USE From	To	AMOUNT ACRE FEET PER ANNUM	MAXIMUM RATE OF DIVERSION c.f.s.	POINT OF DIVERSION	PLACE OF USE and LANDS IRRIGATED		BASIS OF RIGHT and REMARKS
13-0280	NIELSON, Maurice Rt. #3 Preston, Idaho	4-01-1871 4-01-1871	Irrigation Stockwater	4-1 1-1	11-1 12-31	98.0 2.7 100.7	0.56 0.04 0.56	Sec.24 NE¼SW¼ SE¼SW¼ T15S, R39E	Sec. 24 NE¼SW¼ NW¼SW¼ SW¼SW¼ SE¼SW¼ Sec. 25 NW¼NW¼ T15S, R39E	5.0 2.0 5.0 4.0 12.0 28.0	Beneficial Use
13-0255	HOLLIDAY, Eudora J. JENSEN, Ellsworth M. GITTENS, Elvina M. c/o JENSEN, Ellsworth 3139 S. Crestview Circle Bountiful, Utah	4-01-1871 4-01-1871	Irrigation Stockwater	4-1 1-1	11-1 12-31	294.0 1.4 295.4	1.68 0.02 1.68	SW¼SW¼, S.8 T15S, R40E	Sec. 24 NE¼NE¼ NW¼NE¼ SW¼NE¼ SE¼NE¼ T15S, R39E Sec. 19 Lot 2 T15S, R40E	3.0 7.0 39.0 36.0 9.0 94.0	Beneficial Use
		Claim disallowed by final decree									
13-0253	PORTER, Lyle W. &/or Tereesa H. Rt. #3 Preston, Idaho	4-01-1871	Irrigation	4-1	11-1	70.0	0.40	NE¼SE¼, S.13 T15S, R39E	Sec. 13 SW¼SE¼ T15S, R39E	20.0 20.0	Beneficial Use
13-0262	PORTER, Blaine P. &/or Fern S. Rt. #3 Preston, Idaho	4-01-1871	Irrigation	4-1	11-1	42.0	0.24	Lot 3, S.18 T15S, R40E NE¼SE¼, S.13 T15S, R39E	Sec. 13 NE¼SE¼ SE¼SE¼ T15S, R39E	7.0 5.0 12.0	Beneficial Use
13-0222	CUB RIVER IRRIGATION COMPANY P. O. Box 215 Lewiston, Utah	4-01-1872	Irrigation	4-1	11-1	6398.0	15.0	Sec.36 NE¼SW¼ T15S, R39E Sec.1 SE¼SW¼ T16S, R39E	All lands irrigated by Cub River Irrigation Co. 5,560 acres		Beneficial Use
		This right shall be filled by the waters in Worm Creek after the existing upstream water rights have been filled, even though the existing upstream water rights may have a later priority of use.									

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SOURCE: Worm Creek

IDENT. NO.	NAME AND ADDRESS	PRIORITY	PURPOSE	PERIOD OF USE From	To	AMOUNT ACRE FEET PER ANNUM	MAXIMUM RATE OF DIVERSION c.f.s.	POINT OF DIVERSION	PLACE OF USE and LANDS IRRIGATED		BASIS OF RIGHT and REMARKS
13-0300	WEBSTER, Blaine M. &/or Dennis H. Rt. #3 Preston, Idaho	6-14-1879	Irrigation	4-1	11-1	263.0	1.50	NW¼SE¼, S.10 T15S, R40E	Sec. 10		Beneficial Use
		6-14-1879	Stockwater	1-1	12-31	1.4	0.02		NW¼NE¼	7.0	
						264.4	1.50		SW¼NE¼	12.0	
									NE¼NW¼	5.0	
									SW¼NW¼	5.0	
									NW¼NW¼	7.0	
									SE¼NW¼	37.0	
									NW¼SE¼	1.0	
									NE¼SW¼	1.0	
									T15S, R40E	75.0	
13-0271	PRESTON-WHITNEY IRRIGATION CO. Preston, Idaho	5-07-1880	Irrigation	4-1	11-1	2,000	50.0	SE¼SW¼, S. 8 T15S, R40E	Sec. 9		Beneficial Use
									SW¼NE¼	8.0	
									SE¼NE¼	34.0	
									NE¼SW¼	8.0	
									SE¼SW¼	32.0	
									NE¼SE¼	38.0	
									NW¼SE¼	37.0	
									SW¼SE¼	32.0	
									SE¼SE¼	26.0	
									Sec. 10		
									NW¼NW¼	28.0	
									SW¼NW¼	37.0	
									SE¼NW¼	36.0	
									NE¼SW¼	33.0	
									NW¼SW¼	38.0	
									SW¼SW¼	36.0	
									SE¼SW¼	31.0	
									NE¼SE¼	34.0	
									NW¼SE¼	36.0	
									SW¼SE¼	37.0	
									SE¼SE¼	38.0	

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PROT-00628

SOURCE: Worm Creek

IDENT. NO.	NAME AND ADDRESS	PRIORITY	PURPOSE	PERIOD OF USE From	PERIOD OF USE To	AMOUNT ACRE FEET PER ANNUM	MAXIMUM RATE OF DIVERSION c.f.s.	POINT OF DIVERSION	PLACE OF USE and LANDS IRRIGATED		BASIS OF RIGHT and REMARKS
13-0271	PRESTON-WHITNEY (con't)								Sec. 11		Beneficial Use
									NE¼SW¼	40.0	
									NW¼SW¼	40.0	
									SW¼SW¼	35.0	
									SE¼SW¼	40.0	
									NE¼SE¼	40.0	
									NW¼SE¼	40.0	
									SW¼SE¼	34.0	
									SE¼SE¼	39.0	
									Sec. 12		
									SW¼SW¼	29.0	
									Sec. 13		
									NW¼NW¼	37.0	
									SW¼NW¼	4.0	
									NE¼SW¼	8.0	
									SE¼SW¼	8.0	
									NE¼SE¼	7.0	
									SW¼SE¼	20.0	
									SE¼SE¼	29.0	
									NW¼SW¼	36.0	
									SW¼SW¼	34.0	
									Sec. 14		
									NE¼NE¼	40.0	
									NW¼NE¼	23.0	
									SW¼NE¼	36.0	
									SE¼NE¼	33.0	
									NE¼NW¼	15.0	
									NW¼NW¼	20.0	
									SW¼NW¼	39.0	
									SE¼NW¼	31.0	
									NE¼SW¼	39.0	
									NW¼SW¼	35.0	
									SW¼SW¼	24.0	
									SE¼SW¼	39.0	
									NE¼SE¼	26.0	
									NW¼SE¼	38.0	
									SW¼SE¼	35.0	
									SE¼SE¼	21.0	

PROT-00629

PROPOSED FINDING OF WATER RIGHTS - WORM CREEK DRAINAGE

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SOURCE: Worm Creek

IDENT. NO.	NAME AND ADDRESS	PRIORITY	PURPOSE	PERIOD OF USE From	PERIOD OF USE To	AMOUNT ACRE FEET PER ANNUM	MAXIMUM RATE OF DIVERSION c.f.s.	POINT OF DIVERSION	PLACE OF USE and LANDS IRRIGATED		BASIS OF RIGHT and REMARKS
13-0271	PRESTON-WHITNEY (con't)								Sec. 15		Beneficial Use
									NE¼NE¼	15.0	
									NW¼NE¼	38.0	
									SW¼NE¼	39.0	
									SE¼NE¼	37.0	
									NE¼NW¼	37.0	
									NW¼NW¼	35.0	
									SW¼NW¼	39.0	
									SE¼NW¼	34.0	
									NE¼SW¼	40.0	
									NW¼SW¼	39.0	
									SW¼SW¼	32.0	
									SE¼SW¼	35.0	
									NE¼SE¼	37.0	
									NW¼SE¼	40.0	
									SW¼SE¼	35.0	
									SE¼SE¼	32.0	
									Sec. 16		
									NE¼NE¼	38.0	
									NW¼NE¼	33.0	
									SW¼NE¼	37.0	
									SE¼NE¼	39.0	
									NE¼NW¼	37.0	
									SE¼NW¼	39.0	
									NE¼SW¼	39.0	
									NW¼SW¼	7.0	
									SW¼SW¼	13.0	
									SE¼SW¼	26.0	
									NE¼SE¼	37.0	
									NW¼SE¼	15.0	
									SW¼SE¼	33.0	
									SE¼SE¼	34.0	
									Sec. 21		
									NE¼NE¼	35.0	
									NW¼NE¼	39.0	
									SW¼NE¼	39.0	
									SE¼NE¼	32.0	

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PROT-00630

SOURCE: Worm Creek

IDENT. NO.	NAME AND ADDRESS	PRIORITY	PURPOSE	PERIOD OF USE From	PERIOD OF USE To	AMOUNT ACRE FEET PER ANNUM	MAXIMUM RATE OF DIVERSION c.f.s.	POINT OF DIVERSION	PLACE OF USE and LANDS IRRIGATED		BASIS OF RIGHT and REMARKS
13-0271	PRESTON-WHITNEY (con't)								Sec. 21 (con't)		Beneficial Use
									NE¼NW¼	15.0	
									NW¼NW¼	10.0	
									SW¼NW¼	24.0	
									SE¼NW¼	8.0	
									NE¼SW¼	12.0	
									NE¼SE¼	34.0	
									NW¼SE¼	39.0	
									SW¼SE¼	21.0	
									SE¼SE¼	22.0	
									Sec. 22		
									NE¼NE¼	26.0	
									NW¼NE¼	39.0	
									SW¼NE¼	39.0	
									SE¼NE¼	33.0	
									NE¼NW¼	35.0	
									NW¼NW¼	35.0	
									SW¼NW¼	39.0	
									SE¼NW¼	32.0	
									NE¼SW¼	29.0	
									NW¼SW¼	39.0	
									SW¼SW¼	19.0	
									SE¼SW¼	22.0	
									NE¼SE¼	8.0	
									NW¼SE¼	30.0	
									SW¼SE¼	3.0	
									Sec. 23		
									NE¼NE¼	36.0	
									NW¼NE¼	34.0	
									SW¼NE¼	39.0	
									SE¼NE¼	29.0	
									NE¼NW¼	23.0	
									NW¼NW¼	33.0	
									SW¼NW¼	26.0	
									SE¼NW¼	39.0	
									NE¼SW¼	20.0	
									NW¼SW¼	7.0	
									SE¼SW¼	12.0	

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PROT-00631

SOURCE: Worm Creek

IDENT. NO.	NAME AND ADDRESS	PRIORITY	PURPOSE	PERIOD OF USE From	PERIOD OF USE To	AMOUNT ACRE FEET PER ANNUM	MAXIMUM RATE OF DIVERSION c.f.s.	POINT OF DIVERSION	PLACE OF USE and LANDS IRRIGATED		BASIS OF RIGHT and REMARKS
13-0271	PRESTON-WHITNEY (con't)								Sec. 23 (Con't)		Beneficial Use
									NE¼SE¼	30.0	
									NW¼SE¼	33.0	
									SW¼SE¼	22.0	
									SE¼SE¼	27.0	
									Sec. 24		
									NE¼NE¼	39.0	
									NW¼NE¼	38.0	
									SW¼NE¼	38.0	
									SE¼NE¼	34.0	
									NE¼NW¼	28.0	
									NW¼NW¼	36.0	
									SW¼NW¼	39.0	
									SE¼NW¼	36.0	
									NE¼SW¼	31.0	
									NW¼SW¼	27.0	
									SW¼SW¼	38.0	
									SE¼SW¼	37.0	
									NE¼SE¼	38.0	
									NW¼SE¼	37.0	
									SW¼SE¼	37.0	
									SE¼SE¼	38.0	
									Sec. 25		
									NE¼NE¼	40.0	
									NW¼NE¼	39.0	
									SW¼NE¼	38.0	
									SE¼NE¼	39.0	
									NE¼NW¼	34.0	
									NW¼NW¼	36.0	
									SW¼NW¼	38.0	
									SE¼NW¼	40.0	
									NE¼SW¼	33.0	
									NW¼SW¼	6.0	
									SW¼SW¼	14.0	
									SE¼SW¼	28.0	
									NE¼SE¼	19.0	
									NW¼SE¼	39.0	
									SW¼SE¼	35.0	
									SE¼SE¼	26.0	

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SOURCE: Worm Creek

IDENT. NO.	NAME AND ADDRESS	PRIORITY	PURPOSE	PERIOD OF USE From	To	AMOUNT ACRE FEET PER ANNUM	MAXIMUM RATE OF DIVERSION c.f.s.	POINT OF DIVERSION	PLACE OF USE and LANDS IRRIGATED		BASIS OF RIGHT and REMARKS
13-0271	PRESTON-WHITNEY (con't)								Sec. 26		Beneficial Use
									NE¼NE¼	17.0	
									NW¼NE¼	14.0	
									SW¼NE¼	16.0	
									SE¼NE¼	18.0	
									SE¼NW¼	10.0	
									NE¼SW¼	18.0	
									SW¼SW¼	26.0	
									SE¼SW¼	29.0	
									NE¼SE¼	12.0	
									NW¼SE¼	28.0	
									SW¼SE¼	35.0	
									SE¼SE¼	39.0	
									Sec. 27		
									NE¼NE¼	4.0	
									NW¼NE¼	10.0	
									SW¼NE¼	12.0	
									NE¼NW¼	32.0	
									NW¼NW¼	36.0	
									SW¼NW¼	38.0	
									SE¼NW¼	31.0	
									NE¼SW¼	34.0	
									NW¼SW¼	15.0	
									SW¼SW¼	38.0	
									SE¼SW¼	35.0	
									NE¼SE¼	24.0	
									NW¼SE¼	26.0	
									SW¼SE¼	36.0	
									SE¼SE¼	33.0	
									Sec. 33		
									NE¼NE¼	3.0	
									SE¼NE¼	18.0	
									NE¼SE¼	36.0	
									NW¼SE¼	19.0	
									SW¼SE¼	30.0	
									SE¼SE¼	38.0	

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171655 36-90

SOURCE: Worm Creek

IDENT. NO.	NAME AND ADDRESS	PRIORITY	PURPOSE	PERIOD OF USE From	PERIOD OF USE To	AMOUNT ACRE FEET PER ANNUM	MAXIMUM RATE OF DIVERSION c.f.s.	POINT OF DIVERSION	PLACE OF USE and LANDS IRRIGATED		BASIS OF RIGHT and REMARKS
13-0271	PRESTON-WHITNEY (con't)								Sec. 34		Beneficial Use
									NE¼NE¼	5.0	
									NW¼NE¼	24.0	
									SW¼NE¼	2.0	
									NE¼NW¼	34.0	
									NW¼NW¼	31.0	
									SW¼NW¼	32.0	
									SE¼NW¼	27.0	
									NE¼SW¼	5.0	
									NW¼SW¼	18.0	
									SW¼SW¼	38.0	
									SE¼SW¼	37.0	
									NE¼SE¼	16.0	
									NW¼SE¼	2.0	
									SW¼SE¼	39.0	
									SE¼SE¼	39.0	
									Sec. 35		
									NE¼NE¼	32.0	
									NW¼NE¼	27.0	
									SW¼NE¼	39.0	
									SE¼NE¼	33.0	
									NE¼NW¼	34.0	
									NW¼NW¼	4.0	
									SW¼NW¼	16.0	
									SE¼NW¼	34.0	
									NE¼SW¼	34.0	
									NW¼SW¼	24.0	
									SE¼SW¼	12.0	
									NE¼SE¼	37.0	
									NW¼SE¼	38.0	
									SW¼SE¼	33.0	
									SE¼SE¼	31.0	
									Sec. 36		
									NE¼NE¼	28.0	
									NW¼NE¼	39.0	
									SW¼NE¼	39.0	
									SE¼NE¼	27.0	

MAY 14 1996

SOURCE: Worm Creek

IDENT. NO.	NAME AND ADDRESS	PRIORITY	PURPOSE	PERIOD OF USE From	PERIOD OF USE To	AMOUNT ACRE FEET PER ANNUM	MAXIMUM RATE OF DIVERSION c.f.s.	POINT OF DIVERSION	PLACE OF USE and LANDS IRRIGATED		BASIS OF RIGHT and REMARKS
13-0271	PRESTON-WHITNEY (con't)								Sec. 36 (con't)		Beneficial Use
									NE¼NW¼	33.0	
									NW¼NW¼	32.0	
									SW¼NW¼	35.0	
									SE¼NW¼	33.0	
									NE¼SW¼	24.0	
									NW¼SW¼	37.0	
									SW¼SW¼	38.0	
									SE¼SW¼	20.0	
									NE¼SE¼	29.0	
									NW¼SE¼	33.0	
									SW¼SE¼	5.0	
									SE¼SE¼	28.0	
									T15S, R39E		
									Sec. 18		
									NW¼NE¼	3.0	
									SW¼NE¼	7.0	
									NE¼NW¼	2.0	
								SWNW	Lot 2	1.0	
									SE¼NW¼	4.0	
									NE¼SW¼	21.0	
								NWSW	Lot 3	19.0	
								SWSW	Lot 4	37.0	
									SE¼SW¼	33.0	
									NW¼SE¼	8.0	
									Sec. 19		
									NW¼NE¼	13.0	
									SW¼NE¼	38.0	
									NE¼NW¼	39.0	
								NWNW	Lot 1	35.0	
								SWNW	Lot 2	39.0	
									SE¼NW¼	40.0	
									NE¼SW¼	40.0	
								NWSW	Lot 3	39.0	
								SWSW	Lot 4	34.0	
									SE¼SW¼	34.0	
									NE¼SE¼	5.0	
									SW¼SE¼	35.0	
									SE¼SE¼	38.0	

MAY 2 4 73

PROT-00635

 171655 38-90

SOURCE: Worm Creek

IDENT. NO.	NAME AND ADDRESS	PRIORITY	PURPOSE	PERIOD OF USE From	To	AMOUNT ACRE FEET PER ANNUM	MAXIMUM RATE OF DIVERSION c.f.s.	POINT OF DIVERSION	PLACE OF USE and LANDS IRRIGATED		BASIS OF RIGHT and REMARKS
13-0271	PRESTON-WHITNEY (con't)								Sec. 20		Beneficial Use
									SW¼NE¼	8.0	
									SE¼NE¼	4.0	
									SW¼NW¼	6.0	
									SE¼NW¼	16.0	
									NE¼SW¼	40.0	
									NW¼SW¼	40.0	
									SW¼SW¼	38.0	
									SE¼SW¼	36.0	
									NW¼SE¼	35.0	
									SW¼SE¼	4.0	
									Sec. 29		
									NE¼NW¼	20.0	
									NW¼NW¼	39.0	
									SW¼NW¼	39.0	
									SE¼NW¼	4.0	
									NE¼SW¼	20.0	
									NW¼SW¼	39.0	
									SW¼SW¼	37.0	
									SE¼SW¼	19.0	
									Sec. 30		
									NE¼NE¼	36.0	
									NW¼NE¼	40.0	
									SW¼NE¼	38.0	
									SE¼NE¼	35.0	
									NE¼NW¼	36.0	
								NWNW	Lot 1	36.0	
								SWNW	Lot 2	27.0	
									SE¼NW¼	35.0	
									NE¼SW¼	35.0	
								NWSW	Lot 3	24.0	
								SWSW	Lot 4	33.0	
									SE¼SW¼	37.0	
									NE¼SE¼	39.0	
									NW¼SE¼	40.0	
									SW¼SE¼	36.0	
									SE¼SE¼	39.0	

RECEIVED MAY 14 1998

PROT-00636

SOURCE: Worm Creek

IDENT. NO.	NAME AND ADDRESS	PRIORITY	PURPOSE	PERIOD OF USE From	To	AMOUNT ACRE FEET PER ANNUM	MAXIMUM RATE OF DIVERSION c.f.s.	POINT OF DIVERSION	PLACE OF USE and LANDS IRRIGATED		BASIS OF RIGHT and REMARKS
13-0271	PRESTON-WHITNEY (con't)								Sec. 31		Beneficial Use
									NE¼NE¼	35.0	
									NW¼NE¼	38.0	
									SW¼NE¼	39.0	
									SE¼NE¼	39.0	
									NE¼NW¼	39.0	
								NWNW	Lot 1	37.0	
								SWNW	Lot 2	37.0	
									SE¼NW¼	40.0	
									NE¼SW¼	39.0	
								NWSW	Lot 3	39.0	
								SWSW	Lot 4	27.0	
									SE¼SW¼	39.0	
									NE¼SE¼	37.0	
									NW¼SE¼	40.0	
									SW¼SE¼	39.0	
									SE¼SE¼	38.0	
									Sec. 32		
									NE¼NW¼	12.0	
									NW¼NW¼	38.0	
									SW¼NW¼	38.0	
									SE¼NW¼	3.0	
									NW¼SW¼	31.0	
									SW¼SW¼	32.0	
									T15S, R40E		
									Sec. 1		
								NWNE	Lot 2	19.0	
								NENE	Lot 1	25.0	
									Sec. 2		
								NWNW	Lot 4	33.0	
									Sec. 3		
								NWNE	Lot 2	12.0	
								NWNW	Lot 4	32.0	
								NENW	Lot 3	36.0	
									NE¼SW¼	37.0	
									SE¼SW¼	21.0	
									NW¼SE¼	6.0	

RECEIVED MAY 14 1998

PROT-00637

 171655 40-90

SOURCE: Worm Creek

IDENT. NO.	NAME AND ADDRESS	PRIORITY	PURPOSE	PERIOD OF USE From To	AMOUNT ACRE FEET PER ANNUM	MAXIMUM RATE OF DIVERSION c.f.s.	POINT OF DIVERSION	PLACE OF USE and LANDS IRRIGATED		BASIS OF RIGHT and REMARKS
13-0271	PRESTON-WHITNEY (con't)							Sec. 4		Beneficial Use
							NWNE	Lot 2	28.0	
							NENE	Lot 1	28.0	
							NENW	Lot 3	6.0	
								NE¼SW¼	11.0	
								SW¼SW¼	6.0	
								SE¼SW¼	37.0	
								SW¼SE¼	15.0	
								SE¼SE¼	6.0	
								Sec. 9		
								NW¼NE¼	24.0	
								SW¼NE¼	12.0	
								SE¼NE¼	7.0	
								NE¼NW¼	31.0	
								NW¼NW¼	8.0	
								SW¼NW¼	25.0	
								SE¼NW¼	11.0	
								NE¼SE¼	40.0	
								NW¼SE¼	40.0	
								SW¼SE¼	9.0	
								SE¼SE¼	26.0	
								Sec. 8		
								SE¼NE¼	8.0	
								SE¼NW¼	20.0	
								Sec. 10		
								NW¼NW¼	16.0	
								SW¼NW¼	20.0	
								NW¼SW¼	20.0	
								SW¼SW¼	38.0	
								T16S, R39E		
								Sec. 5		
							NWNW	Lot 4	32.0	
								NE¼SW¼	14.0	
								NW¼SW¼	39.0	
								SW¼SW¼	38.0	
								SE¼SW¼	37.0	

RECEIVED
MAY 14 1996

PROT-00638

SOURCE: Worm Creek

IDENT. NO.	NAME AND ADDRESS	PRIORITY	PURPOSE	PERIOD OF USE From	To	AMOUNT ACRE FEET PER ANNUM	MAXIMUM RATE OF DIVERSION c.f.s.	POINT OF DIVERSION	PLACE OF USE and LANDS IRRIGATED		BASIS OF RIGHT and REMARKS
13-0271	PRESTON-WHITNEY (con't)								Sec. 6		Beneficial Use
									NWNE Lot 2	14.0	
									NENE Lot 1	36.0	
									NWNW Lot 4	23.0	
									NENW Lot 3	32.0	
									NE¼SW¼	34.0	
									NW¼SW¼	30.0	
									NE¼SE¼	37.0	
									NW¼SE¼	15.0	
									SW¼SE¼	12.0	
									SE¼SE¼	34.0	
									Sec. 8		
									NE¼NW¼	39.0	
									NW¼NW¼	26.0	
									T16S, R40E	10,449.0	
13-0203	GREGORY, Pearl 68 E. 25 Preston, Idaho	10-1-1880 10-1-1880	Irrigation Stockwater	4-1 1-1	11-1 12-31	63.0 2.0 65.0	0.36 0.04 0.36	NE¼NW¼ S.24 T15S, R39E	Sec. 24		Beneficial Use
									NE¼NW¼	10.0	
									SE¼NW¼	7.0	
									NE¼SW¼	1.0	
									T15S, R39E	18.0	
13-0279	HULSE, Esther C. & OLIVERSON, Julia C. Rt. #3 Preston, Idaho	6-01-1881	Irrigation	4-1	11-1	3.5	0.04	Lot 2, S.18 T15S, R40E	Sec. 18		Beneficial Use
									SWNW Lot 2	1.0	
									T15S, R40E	1.0	

RECEIVED MAY 14 1996

PROT-00639

PROPOSED FINDING OF WATER RIGHTS - WORM CREEK DRAINAGE

171655 42-90

SOURCE: Worm Creek

IDENT. NO.	NAME AND ADDRESS	PRIORITY	PURPOSE	PERIOD OF USE From	To	AMOUNT ACRE FEET PER ANNUM	MAXIMUM RATE OF DIVERSION c.f.s.	POINT OF DIVERSION	PLACE OF USE and LANDS IRRIGATED		BASIS OF RIGHT and REMARKS
13-0226	NUFFER, Edwin J. &/or Jennie S. Rt. #1, Box 65 Preston, Idaho	12-3-1891	Irrigation	4-1	11-1	70.0	0.40	NE¼SW¼, 2pts. in the NW¼SW¼ Sec. 25, T15S, R39E	Sec. 25 NW¼SW¼ NE¼SW¼ T15S, R39E	 16.0 4.0 20.0	Beneficial Use Unnamed Stream tributary to Worm Creek.
13-0305A	OWEN, Clarence L. &/or Odessa G. Rt. #3 Preston, Idaho	4-01-1893 4-01-1893 4-01-1893	Irrigation Stockwater Domestic	4-1 1-1 1-1	11-1 12-31 12-31	287.0 1.4 1.2 289.6	1.64 0.04 0.04 1.64	SW¼SE¼, S.2 SE¼NW¼, S.11 T15S, R40E	Sec. 10 NE¼SE¼ Sec. 11 SW¼NW¼ SE¼NW¼ NW¼SW¼ T15S, R40E	 35.0 30.0 7.0 10.0 82.0	Beneficial Use
13-0207	TANNER-BECKSTEAD DITCH COMPANY c/o Glen C. Tanner Rt. #2, Box 107 Preston, Idaho	12-8-1894	Irrigation	4-1	11-1	572.0	1.34	NE¼NE¼, S.26 T15S, R39E	Sec. 1 NENW Lot 3 NWNW Lot 4 Sec. 2 NENE Lot 1 NE¼SE¼ NW¼SE¼ SW¼SE¼ T16S, R39E Sec. 35 SW¼SE¼ SE¼SE¼ Sec. 36 NE¼SW¼ NW¼SW¼ SW¼SW¼ SE¼SW¼ T15S, R39E	 15.0 19.0 39.0 39.0 40.0 26.0 24.0 21.0 16.0 7.0 39.0 30.0 315.0	Beneficial Use

MAY 14 1990
Millpond Irrig.

PROT-00640

SOURCE: Worm Creek

IDENT. NO.	NAME AND ADDRESS	PRIORITY	PURPOSE	PERIOD OF USE From	To	AMOUNT ACRE FEET PER ANNUM	MAXIMUM RATE OF DIVERSION c.f.s.	POINT OF DIVERSION	PLACE OF USE and LANDS IRRIGATED		BASIS OF RIGHT and REMARKS
13-0208	TANNER-BECKSTEAD DITCH COMPANY c/o Glen C. Tanner Rt. #2, Box 107 Preston, Idaho	3-22-1895	Irrigation	4-1	11-1	1103.0	3.25	NE¼NE¼, S.26 T15S, R39E	Sec. 1		Beneficial Use
		The amount of water diverted using this right, 13-0207, 13-0209, and 13-0325 shall not exceed 3.5 af/acre or 1103.0 af/yr. and the combined rate of diversion shall not exceed 6.5 c.f.s.							NENW Lot 3	15.0	
									NWNW Lot 4	19.0	
									Sec. 2		
									NENE Lot 1	39.0	
									NE¼SE¼	39.0	
									NW¼SE¼	40.0	
									SW¼SE¼	26.0	
									T16S, R39E		
									Sec. 35		
									SW¼SE¼	24.0	
									SE¼SE¼	21.0	
									Sec. 36		
									NE¼SW¼	16.0	
									NW¼SW¼	7.0	
									SW¼SW¼	39.0	
									SE¼SW¼	30.0	
									T15S, R39E	315.0	
13-0305B	OWEN, Clarence L. &/or Odessa G. Rt. #3 Preston, Idaho	4-01-1895	Irrigation	4-1	11-1	56.0	0.32	NW¼SW¼, NE¼SW¼ S. 11, T15S, R40E	Sec. 10		Beneficial Use Spring Quarry Creek
									NE¼SE¼	4.0	
									Sec. 11		
									SW¼NW¼	2.0	
									NW¼SW¼	10.0	
									T15S, R40E	16.0	

MAY 14 1996

PROT-00641

SOURCE: Worm Creek

IDENT. NO.	NAME AND ADDRESS	PRIORITY	PURPOSE	PERIOD OF USE From	To	AMOUNT ACRE FEET PER ANNUM	MAXIMUM RATE OF DIVERSION c.f.s.	POINT OF DIVERSION	PLACE OF USE and LANDS IRRIGATED		BASIS OF RIGHT and REMARKS
13-0209	TANNER, Glen C., TANNER, Eldon S., & TANNER, William K. Preston, Idaho	4-01-1896	Irrigation	4-1	11-1	361.0	2.0	SE¼NW¼, S.36 T15S, R39E	Sec. 36		Beneficial Use
		The amount of water diverted using this right, 13-0207, 13-0208, and 13-0325 shall not exceed 3.5 af/acre or 1103.0 af/yr. and the combined rates of diversion shall not exceed 6.3 c.f.s.							SW¼SW¼	39.0	
									SE¼SW¼	30.0	
									T15S, R39E		
									Sec. 1		
								NWNW	Lot 4	19.0	
								NENW	Lot 3	15.0	
									T16S, R39E		
										103.0	
-0302	NELSON, Vern &/or Verda O. 295 N. 1st E. Preston, Idaho	4-01-1896	Irrigation	4-1	11-1	74.0	0.42	NW¼SE¼, S.10 T15S, R40E	Sec. 8		Beneficial Use
									NE¼SE¼	6.0	
									Sec. 9		
									SW¼NE¼	1.0	
									SE¼NE¼	11.0	
									SE¼NW¼	3.0	
									T15S, R40E		
										21.0	
13-0267	SMITH, Robert O. &/or Joyce Rt. #2 Preston, Idaho	6-07-1900	Irrigation	4-1	11-1	53.0	0.30	SW¼SE¼, S.2 T15S, R40E	Sec. 11		Beneficial Use
									NE¼NW¼	15.0	
									T15S, R40E		
										15.0	
13-0299	WEBSTER, Blaine M. &/or Dennis H. Rt. #3 Preston, Idaho	7-01-1909	Irrigation	4-1	11-1	238.0	1.36	NW¼SE¼, S.10 T15S, R40E	Sec. 10		Beneficial Use
									SW¼NW¼	23.0	
									NE¼SW¼	25.0	
									NW¼SW¼	5.0	
									NW¼SE¼	15.0	
									T15S, R40E		
										68.0	
13-0327	WEBSTER, Blaine M. &/or Dennis H. Rt. #3 Preston, Idaho	7-01-1909	Domestic	1-1	12-31	1.2	0.04	NE¼SW¼, S.10 T15S, R40E	Sec. 10		Beneficial Use Unnamed Spring
									NE¼SW¼		
									T15S, R40E		

MAY 14 1996

PROT-00642

SOURCE: Worm Creek

IDENT. NO.	NAME AND ADDRESS	PRIORITY	PURPOSE	PERIOD OF USE From	To	AMOUNT ACRE FEET PER ANNUM	MAXIMUM RATE OF DIVERSION c.f.s.	POINT OF DIVERSION	PLACE OF USE and LANDS IRRIGATED		BASIS OF RIGHT and REMARKS
13-2022	PRESTON WHITNEY RESERVOIR COMPANY Preston, Idaho The amount of water diverted using this right, 13-2102, and 13-2287 shall not exceed 40 c.f.s. or 5457.0 af/year.	9-17-1910	Irrigation	4-1	11-1	5457.0 amended by final decree	30.0	NW¼SE¼, S.10 T15S, R40E	Sec. 36 SE¼SE¼ T15S, R39E Sec. 1 Lot 1 T16S, R39E Sec. 19 SE¼SE¼ Sec. 20 SW¼NE¼ SE¼NE¼ NE¼SW¼ NW¼SW¼ SW¼SW¼ SE¼SW¼ NE¼SE¼ NW¼SE¼ SW¼SE¼ Sec. 30 NE¼NE¼ NW¼NE¼ SW¼NE¼ SE¼NE¼ NE¼NW¼ SE¼NW¼ NW¼SW¼ SE¼SW¼ NE¼SE¼ SE¼SE¼ Sec. 31 NE¼NE¼ NW¼NE¼ SW¼NE¼ SE¼NE¼ SW¼NW¼ SE¼NW¼	37.0 4.0 37.0 8.0 4.0 20.0 1.0 38.0 36.0 7.0 35.0 4.0 39.0 40.0 38.0 37.0 36.0 35.0 24.0 37.0 39.0 39.0 35.0 39.0 39.0 39.0 20.0 40.0	License

NENE

MAY 1 4 1990

PROT-00643

171655 96-90

SOURCE: Worm Creek

IDENT. NO.	NAME AND ADDRESS	PRIORITY	PURPOSE	PERIOD OF USE From	PERIOD OF USE To	AMOUNT ACRE FEET PER ANNUM	MAXIMUM RATE OF DIVERSION c.f.s.	POINT OF DIVERSION	PLACE OF USE and LANDS IRRIGATED		BASIS OF RIGHT and REMARKS
13-2022	PRESTON WHITNEY (con't) RESERVOIR COMPANY								Sec. 31 (con't)		License
									NE¼SW¼	40.0	
									NW¼SW¼	39.0	
									SW¼SW¼	27.0	
									SE¼SW¼	39.0	
									Sec. 32		
									NE¼NW¼	12.0	
									NW¼NW¼	37.0	
									SW¼NW¼	38.0	
									SE¼NW¼	3.0	
									NW¼SW¼	31.0	
									SW¼SW¼	32.0	
									Sec. 29		
									NE¼NW¼	20.0	
									NW¼NW¼	39.0	
									SW¼NW¼	39.0	
									SE¼NW¼	4.0	
									NE¼SW¼	20.0	
									NW¼SW¼	39.0	
									SW¼SW¼	37.0	
									SE¼SW¼	19.0	
									Sec. 17		
									NE¼SW¼	13.0	
									SE¼SW¼	5.0	
									T15S, R40E		
									Sec. 6		
									NENE Lot 1	36.0	
									NWNE Lot 2	33.0	
									NENW Lot 3	23.0	
									NWNW Lot 4	23.0	
									NE¼SW¼	29.0	
									NW¼SW¼	35.0	
									Sec. 5		
									SW¼SW¼	20.0	
									SE¼SW¼	20.0	
									T16S, R40E		
										1,559.0	

MAY 14 1996

PROT-00644

171655 97-90 SOURCE: Worm Creek

IDENT. NO.	NAME AND ADDRESS	PRIORITY	PURPOSE	PERIOD OF USE From	To	AMOUNT ACRE FEET PER ANNUM	MAXIMUM RATE OF DIVERSION c.f.s.	POINT OF DIVERSION	PLACE OF USE and LANDS IRRIGATED	BASIS OF RIGHT and REMARKS
13-0133	PRESTON EASTSIDE WATER CO., LTD. Rt. #1 Preston, Idaho	9-01-1912	Domestic	1-1	12-31	51.0	1.0	SW¼SW¼, S.8 T15S, R40E	Sec. 13 SE¼SE¼ Sec. 24 SW¼NE¼ SE¼NE¼ SW¼SW¼ SE¼SW¼ SW¼SE¼ SE¼SE¼ Sec. 25 SE¼NE¼ NE¼NW¼ NW¼NW¼ NE¼SE¼ Sec. 36 NE¼NE¼ T15S, R39E Sec. 18 SW¼NE¼ NE¼NW¼ SWSW Lot 4 Sec. 19 NWNW Lot 1 SWSW Lot 4 Sec. 30 NWNW Lot 1 SWNW Lot 2 NWSW Lot 3 SWSW Lot 4 T15S, R40E.	Decree Larson Springs 42 families

MAY 1 1995

PROT-00645

PROPOSED FINDING OF WATER RIGHTS - WORM CREEK DRAINAGE

171655 48-90

SOURCE: Worm Creek

IDENT. NO.	NAME AND ADDRESS	PRIORITY	PURPOSE	PERIOD OF USE From	To	AMOUNT ACRE FEET PER ANNUM	MAXIMUM RATE OF DIVERSION c.f.s.	POINT OF DIVERSION	PLACE OF USE and LANDS IRRIGATED		BASIS OF RIGHT and REMARKS
13-0278	WRIGHT, Archie &/or Alavon Rt. #1 Preston, Idaho	4-01-1918	Irrigation	4-1	11-1	3.5	0.04	NE¼SW¼, S.25 T15S, R39E	Sec. 25 NE¼SW¼ T15S, R39E	1.0 1.0	Beneficial Use Unnamed Stream
13-0215	WEST WHITNEY WATER ASSOCIATION by BECKSTEAD, Ferrell N. President Rt. #1 Preston, Idaho	4-01-1920	Domestic	1-1	12-31	18.0	0.14	SE¼NW¼, S.24 T15S, R39E	Sec. 35 SE¼NE¼ NE¼SE¼ SE¼SE¼ Sec. 36 NW¼SW¼ T15S, R39E Sec. 1 Lot 1 NW¼SW¼ Sec. 2 NE¼SE¼ Sec. 12 NW¼NE¼ NE¼NW¼ Sec. 11 SE¼NE¼ T16S, R39E		Beneficial Use Spring 15 families
13-0290	HAMPTON, Adrian B. & Athene Rt. #4, 4th S. & 6th E. Preston, Idaho	6-01-1920 6-01-1920	Irrigation Stockwater	4-1 1-1	11-1 12-31	60.0 1.0 61.0	0.34 0.02 0.34	SE¼NE¼, S.26 T15S, R39E	Sec. 26 NE¼SE¼ Sec. 25 NW¼SW¼ T15S, R39E	12.0 5.0 17.0	Beneficial Use Academy Hollow Creek tributary to Worm Creek
13-0063	GILBERT, Melvin Ray & Carolyn R. 495 E. Center Lewiston, Utah	6-09-1923	Irrigation	4-1	11-1	273.0	1.94	NW¼SE¼, SW¼NE¼, S.23 T16, R39E	Sec. 23 NW¼NE¼ SW¼NE¼ NW¼SE¼ T16S, R39E	26.0 30.0 22.0 78.0	Decree

MAY 14 1996

PROT-00646

SOURCE: Worm Creek

IDENT. NO.	NAME AND ADDRESS	PRIORITY	PURPOSE	PERIOD OF USE From	To	AMOUNT ACRE FEET PER ANNUM	MAXIMUM RATE OF DIVERSION c.f.s.	POINT OF DIVERSION	PLACE OF USE and LANDS IRRIGATED		BASIS OF RIGHT and REMARKS
13-0064	LARSEN, Vaughn J. &/or Geneva B. Rt. #1 Preston, Idaho	6-09-1923	Irrigation	4-1	11-1	140.0	0.97	NW¼NW¼, S.13 T16S, R39E	Sec. 14 NW¼SE¼ SW¼SE¼ T16S, R39E	20.0 20.0	Decree
		Point of injection into unnamed stream: NW¼SW¼, S.14, T16S, R39E Point of re-diversion from unnamed stream: NW¼SW¼, S.14, T16S, R39E								40.0	
13-0065	GILBERT, Merlin J. &/or Dona C. Rt. #1 Preston, Idaho	6-09-1923	Irrigation	4-1	11-1	140.0	0.97	NW¼NW¼, S.13 T16S, R39E	Sec. 14 NE¼SW¼ SE¼SW¼ T16S, R39E	20.0 20.0	Decree
		Point of injection into unnamed stream: NW¼SW¼, S.14, T16S, R39E Point of re-diversion from unnamed stream: NW¼SW¼, S.14, T16S, R39E								40.0	
13-0066	LARSEN, Vaughn J. &/or Geneva B. Rt. #1 Preston, Idaho	6-09-1923	Irrigation	4-1	11-1	130.0	0.97	NW¼NW¼, S.13 T16S, R39E	Sec. 14 NW¼SW¼ SW¼SW¼ T16S, R39E	21.0 16.0	Decree
		Point of injection into unnamed stream: NW¼SW¼, S.14, T16S, R39E Point of re-diversion from unnamed stream: NW¼SW¼, S.14, T16S, R39E								37.0	
13-0067	LARSEN, Vaughn J. &/or Geneva B. Rt. #1 Preston, Idaho	6-09-1923	Irrigation	4-1	11-1	140.0	0.97	NW¼NW¼, S.13 T16S, R39E	Sec. 14 NE¼SW¼ SE¼SW¼ T16S, R39E	20.0 20.0	Decree
		Point of injection into unnamed stream: NW¼SW¼, S.14, T16S, R39E Point of re-diversion from unnamed stream: NW¼SW¼, S14, T16S, R39E								40.0	

MAY 14 1990

PROT-00647

171655 50-90

SOURCE: Worm Creek

IDENT. NO.	NAME AND ADDRESS	PRIORITY	PURPOSE	PERIOD OF USE From	To	AMOUNT ACRE FEET PER ANNUM	MAXIMUM RATE OF DIVERSION c.f.s.	POINT OF DIVERSION	PLACE OF USE and LANDS IRRIGATED		BASIS OF RIGHT and REMARKS
13-0068	LARSEN, Lynn J. Rt. #1 Preston, Idaho	6-09-1923	Irrigation	4-1	11-1	105.0	0.97	NW¼NW¼, S.13 T16S, R39E	Sec. 14 NW¼SE¼ SW¼SE¼ T16S, R39E	20.0 10.0 30.0	Decree
		Point of injection into unnamed stream: NW¼SW¼, S.14, T16S, R39E Point of re-diversion from unnamed stream: NW¼SW¼, S.14, T16S, R39E									
13-2102 & 13-2287	PRESTON-WHITNEY RESERVOIR COMPANY Preston, Idaho amended by final decree	9-18-1923	Irrigation	4-1	11-1	4265.0	10.0	NW¼SE¼, S.10 T15S, R40E	Same as listed under 13-2022		License
		9-18-1923	Diversion to storage	11-1	6-15	---	10.0				Johnson Reservoir outlet located in NW¼NE¼, Sec. 20, T15S, R40E
		9-18-1923	Storage for irrigation	1-1	12-31	730.0 4265.0	--- 10.0				
		The amount of water diverted using this right and 13-2022, shall not exceed 40 c.f.s. or 5457.0 af/yr.									
13-2103	PRESTON WHITNEY IRRIGATION COMPANY	3-14-1924	Irrigation	4-1	11-1	10,662.0	25.0	SE¼SW¼, S.8 T15S, R40E	Same as listed under 13-0271		License
13-2108 & 13-2288	PRESTON WHITNEY IRRIGATION COMPANY Preston, Idaho	12-15-1924	Irrigation	4-1	11-1	6000.0	---	SE¼SW¼, S.8 T15S, R40E	Same as listed under 13-0271		License Glendale Reservoir
		12-15-1924	Diversion to storage	11-1	6-15	---	---				
		12-15-1924	Storage for irrigation	1-1	12-31	6000.0 6000.0					
	Diversion from storage is limited to a total of 215 c.f.s. when combined with the diversions from Worm Creek and Cub River.										

MAY 14 1996

PROT-00648

SOURCE: Worm Creek

IDENT. NO.	NAME AND ADDRESS	PRIORITY	PURPOSE	PERIOD OF USE From	To	AMOUNT ACRE FEET PER ANNUM	MAXIMUM RATE OF DIVERSION c.f.s.	POINT OF DIVERSION	PLACE OF USE and LANDS IRRIGATED	BASIS OF RIGHT and REMARKS
13-0289	KENNINGTON, Mack H. 1113 North Park Pomona, Calif. 91768	12-8-1927	Irrigation	4-1	11-1	14.0	0.08	SE¼NE¼, S.26 T15S, R39E	Sec. 26 SE¼NE¼ 4.0 T15S, R39E 4.0	Beneficial Use Academy Hollow Creek
13-0143	PRESTON WHITNEY IRRIGATION COMPANY Preston, Idaho	4-01-1929	Irrigation	4-1	11-1	2133.0	5.0	SW¼SW¼, S.8 T15S, R40E	Same as listed under 13-0271	Decree Larsen Springs
13-0206	DONEY, Wayne W. &/or Marilyn L. Preston, Idaho	4-01-1933	Stockwater	1-1	12-31	0.4	0.02	SW¼NW¼, S.24 T15S, R39E	Sec. 24 SW¼NW¼ T15S, R39E	Beneficial Use Unnamed Spring
13-0266	ALDER, Reo G. &/or Karl G. Rt. #1, Box 135 Preston, Idaho	1-01-1940	Stockwater	1-1	12-31	0.7	0.02	SE¼NE¼, S.26 T15S, R39E	Sec. 26 SE¼NE¼ T15S, R39E	Beneficial Use
13-0227	VAN ORDEN, Neal &/or Ervin Lewiston, Utah	4-01-1943	Irrigation	4-1	11-1	214.0	0.5	NW¼NW¼, S.25 T16S, R39E	Sec. 25 NE¼NW¼ 37.0 NW¼NW¼ 35.0 SW¼NW¼ 38.0 SE¼NW¼ 35.0 NE¼SW¼ 7.0 T16S, R39E 152.0	Beneficial Use Unnamed Drain
		The amount of water diverted using this right, 13-2161 and 13-0314 shall not exceed 3.5 af/acre or 532.0 af/yr.								
13-2161	VAN ORDEN, Neal &/or Ervin Lewiston, Utah	3-07-1952	Irrigation	4-1	11-1	532.0	2.18	SE¼NW¼, S.25 T16S, R39E	Sec. 25 NE¼NW¼ 37.0 NW¼NW¼ 35.0 SW¼NW¼ 38.0 SE¼NW¼ 35.0 NE¼SW¼ 7.0 T16S, R39E 152.0	License
		The amount of water diverted using this right, 13-0227, and 13-0314 shall not exceed 3.5 af/acre or 532.0 af/yr.								

MAY 1 AM 1994

PROT-00649

171655 52-90

SOURCE: Worm Creek

IDENT. NO.	NAME AND ADDRESS	PRIORITY	PURPOSE	PERIOD OF USE From	To	AMOUNT ACRE FEET PER ANNUM	MAXIMUM RATE OF DIVERSION c.f.s.	POINT OF DIVERSION	PLACE OF USE and LANDS IRRIGATED		BASIS OF RIGHT and REMARKS
13-0201	HAMPTON, Adrian B. & Athene N. Rt. #1 4th S. & 6th E. Preston, Idaho	5-01-1955	Irrigation	4-1	11-1	24.5	0.14	NE¼SE¼, S.26 T15S. R39E	Sec. 25 NW¼SW¼ SW¼SW¼ T15S, R39E	2.0 5.0	Beneficial Use Academy Hollow Creek tributary to Worm Creek
		Point of diversion from Academy Hollow Creek: NE¼SE¼, S.26, T15S, R39E Point of injection into Worm Creek: NE¼SE¼, S.26, T15S, R39E Point of re-diversion from Worm Creek: NW¼SW¼, S.25, T15S, R39E								7.0	
13-0200	HAMPTON, Adrian B. &/or Athene N. Rt. #1 4th S. & 6th E. Preston, Idaho	4-01-1959	Storage for Irrigation & Stockwater	1-1	12-31	1.0	0.02	SE¼NE¼, S.26 T15S, R39E	Sec. 26 NE¼SE¼ T15S, R39E		Beneficial Use Academy Hollow Cr. Farm Pond located NE¼SE¼, Sec. 26, T15S, R39E.
13-0224	WHEATLEY, Bert or Ellen B. Rt. #1 Preston, Idaho	4-01-1959	Irrigation	4-1	11-1	144.0	0.82	SE¼NE¼, S.14 T16S, R39E	Sec. 14 SW¼NE¼ SE¼NE¼ T16S, R39E	5.0 36.0	Beneficial Use
										41.0	
13-0294	HALL, Burtis R. Rt. #1 Preston, Idaho	8-30-1960	Irrigation	4-1	11-1	214.0	1.0	SE¼SE¼, S.23 T16S, R39E	Sec. 23 NE¼SE¼ SE¼SE¼ T16S, R39E	40.0 21.0	Beneficial Use
		The amount of water diverted using this right, and 13-0324 shall not exceed 1.0 c.f.s., 3.5 af/acre or 214.0 af/yr.								61.0	
13-0314	VAN ORDEN, Neal &/or Ervin Lewiston, Utah	3-09-1965 3-09-1965	Irrigation Storage for irrigation	4-1 4-1	11-1 11-1	97.0 97.0 97.0	--- ---	SW¼NW¼, S. 25 T16S, R39E	Sec. 25 NE¼NW¼ NW¼NW¼ SW¼NW¼ SE¼NW¼ NE¼SW¼ T16S, R39E	37.0 35.0 38.0 35.0 7.0	Beneficial Use - Irrig. On stream reservoir.
										152.0	

MAY 14 1996

PROT-00650

SOURCE: Worm Creek

IDENT. NO.	NAME AND ADDRESS	PRIORITY	PURPOSE	PERIOD OF USE From	To	AMOUNT ACRE FEET PER ANNUM	MAXIMUM RATE OF DIVERSION c.f.s.	POINT OF DIVERSION	PLACE OF USE and LANDS IRRIGATED		BASIS OF RIGHT and REMARKS
13-0213	OLIVERSON, Kenneth W. Rt. #1 Preston, Idaho	6-01-1966	Irrigation	4-1	11-1	28.0	0.16	NE¼SW¼, S.36 T15S, R39E	Sec. 36 NE¼SW¼ T15S, R39E	8.0 8.0	Beneficial Use

MAY 1 4 1968

PROT-00651

171655 54-90

SOURCE: Thorn Hollow

IDENT. NO.	NAME AND ADDRESS	PRIORITY	PURPOSE	PERIOD OF USE From	To	AMOUNT ACRE FEET PER ANNUM	MAXIMUM RATE OF DIVERSION c.f.s.	POINT OF DIVERSION	PLACE OF USE and LANDS IRRIGATED		BASIS OF RIGHT and REMARKS
13-0325	TANNER-BECKSTEAD DITCH COMPANY c/o Glen C. Tanner Rt. #2, Box 107 Preston, Idaho	12-8-1894	Irrigation	4-1	11-1	284.0	0.66	NE¼NE¼, S.26 T15S, R39E	Same as listed under 13-0207		Beneficial Use Thorn Hollow
		The amount of water diverted using this right, 13-0207, 13-0208, and 13-0209 shall not exceed 3.5 af/acre or 1103.0 af/yr. and the combined rates of diversion shall not exceed 6.3 c.f.s.									
13-0268	PRESTON GOLF & COUNTRY CLUB Box 88 Preston, Idaho	8-04-1900	Irrigation	4-1	11-1	215.0	0.5	NE¼SE¼, S.14 T15S, R39E	Sec. 14 SW¼NE¼ SE¼NE¼ NE¼SE¼ NW¼SE¼ SW¼SE¼ SE¼SE¼ T15S, R39E	10.0 9.0 33.0 5.0 4.0 8.0 69.0	Beneficial Use
13-0235	LARSEN, Lee A. Star Route Preston, Idaho	1-01-1918	Stockwater	1-1	12-31	0.4	0.02	NE¼NW¼, S.13 T15S, R39E	Sec. 13 NE¼NW¼ T15S, R39E		Beneficial Use
13-0229	CHERRINGTON, Jack A. &/or June S. 572 E. Oneida Preston, Idaho	4-01-1920 4-01-1920	Irrigation Stockwater	4-1 1-1	11-1 12-31	17.5 0.7 18.2	0.10 0.02 0.10	NE¼NE¼, S.26 T15S, R39E	Sec. 26 NE¼NE¼ T15S, R39E	5.0 5.0	Beneficial Use
13-0284	SWANN, Neal R. Rt. #3 Preston, Idaho	6-01-1938 6-01-1938	Irrigation Stockwater	4-1 1-1	11-1 12-31	28.0 0.4 28.4	0.16 0.02 0.16	SW¼NW¼, S.13 T15S, R39E	Sec. 13 SW¼NW¼ T15S, R39E	8.0 8.0	Beneficial Use

MAY 14 1996

PROT-00652

SOURCE: Thorn Hollow

IDENT. NO.	NAME AND ADDRESS	PRIORITY	PURPOSE	PERIOD OF USE From	To	AMOUNT ACRE FEET PER ANNUM	MAXIMUM RATE OF DIVERSION c.f.s.	POINT OF DIVERSION	PLACE OF USE and LANDS IRRIGATED		BASIS OF RIGHT and REMARKS
13-0234	OLIVERSON, Elmer E. Rt. #2 Preston, Idaho	4-01-1943	Irrigation	4-1	11-1	24.5	0.1	SE¼NE¼, two Points; S.23 T15S, R39E	Sec. 23 SE¼NE¼ T15S, R39E	7.0 7.0	Beneficial Use
13-0285	BOSEN, Clair D. Rt. #2 Preston, Idaho	4-01-1958 4-01-1958	Irrigation Storage for Irrigation	4-1 4-1	11-1 11-1	308.0 8.0 308.0	1.76 ---- 1.76	NE¼SW¼, S.14 T15S, R39E	Sec. 14 NE¼SW¼ NW¼SW¼ Sec. 23 NW¼NE¼ SW¼NE¼ NE¼NW¼ T15S, R39E	29.0 8.0 24.0 17.0 10.0 88.0	Beneficial Use
13-2219	PRESTON GOLF & COUNTRY CLUB Box 88 Preston, Idaho	9-02-1960	Irrigation	4-1	11-1	242.0	0.67	NE¼SE¼, S.14 T15S, R39E	Sec. 14 SW¼NE¼ SE¼NE¼ NE¼SE¼ NW¼SE¼ SW¼SE¼ SE¼SE¼ T15S, R39E	10.0 9.0 33.0 5.0 4.0 8.0 69.0	License
		The amount of water diverted using this right, 13-0268, and 13-0269 shall not exceed 3.5 af/acre or 242.0 af/yr.									
13-0269	PRESTON GOLF & COUNTRY CLUB Box 88 Preston, Idaho	9-02-1960	Irrigation	4-1	11-1	90.0	0.21	NE¼SE¼, S.14 T15S, R39E	Sec. 14 SW¼NE¼ SE¼NE¼ NE¼SE¼ NW¼SE¼ SW¼SE¼ SE¼SE¼ T15S, R39E	10.0 9.0 33.0 5.0 4.0 8.0 69.0	Beneficial Use
		The amount of water diverted using this right, 13-0268, and 13-2219 shall not exceed 3.5 af/acre or 242.0 af/yr.									

MAY 1 4 1980

PROT-00653

SOURCE: Spring Creek

IDENT. NO.	NAME AND ADDRESS	PRIORITY	PURPOSE	PERIOD OF USE From	To	AMOUNT ACRE FEET PER ANNUM	MAXIMUM RATE OF DIVERSION c.f.s.	POINT OF DIVERSION	PLACE OF USE and LANDS IRRIGATED		BASIS OF RIGHT and REMARKS
13-0247	BAKER, Ila L. Rt. #1 Preston, Idaho	4-01-1878 4-01-1878	Irrigation Stockwater	4-1 1-1	11-1 12-31	49.0 3.0 52.0	0.28 0.02 0.28	Sec. 25 NE¼SE¼ T15S, R39E Sec. 30 NWSW Lot 3 T15S, R40E	Sec. 25 NE¼SE¼ SE¼SE¼ T15S, R39E Sec. 30 NWSW Lot 3 T15S, R40E	4.0 6.0 4.0 14.0	Beneficial Use
13-0060A	RALLISON, Fredrick W. Rt. #1 Preston, Idaho	5-15-1886	Irrigation	4-1	11-1	9.0	0.02	NWNW Lot 4, S.6 T16S, R40E	Sec. 12 NE¼NE¼ NW¼NE¼ T16S, R39E	9.0 13.0 22.0	Decree
13-0060B	SHARP, Lyman J. Rt. #1 Preston, Idaho	5-15-1886	Irrigation	4-1	11-1	34.0	0.08	SW¼SE¼, S.1 T16S, R39E	Sec. 12 NW¼NE¼ SW¼NE¼ SE¼NE¼ NE¼SW¼ SE¼SW¼ NW¼SE¼ SW¼SE¼ T16S, R39E	17.0 40.0 20.0 24.0 40.0 40.0 35.0 216.0	Decree
13-0061A	RALLISON, Fredrick W. Rt. #1 Preston, Idaho	5-15-1888	Irrigation	4-1	11-1	13.0	0.03	NWNW Lot 4, S.6 T16S, R40E	Sec. 12 NE¼NE¼ NW¼NE¼ T16S, R39E	9.0 13.0 22.0	Decree

MAY 14 1998

PROT-00654

SOURCE: Spring Creek

IDENT. NO.	NAME AND ADDRESS	PRIORITY	PURPOSE	PERIOD OF USE From	To	AMOUNT ACRE FEET PER ANNUM	MAXIMUM RATE OF DIVERSION c.f.s.	POINT OF DIVERSION	PLACE OF USE and LANDS IRRIGATED		BASIS OF RIGHT and REMARKS
13-0061B	SHARP, Lyman J. Rt. #1 Preston, Idaho	5-15-1888	Irrigation	4-1	11-1	73.0	0.17	SW¼SE¼, S.1 T16S, R39E	Sec. 12 NW¼NE¼ SW¼NE¼ SE¼NE¼ NE¼SW¼ SE¼SW¼ NW¼SE¼ SW¼SE¼ T16S, R39E	17.0 40.0 20.0 24.0 40.0 40.0 35.0 216.0	Decree
13-0273	RALLISON, Fredrick Rt. #1 Preston, Idaho	~~5-15-1888~~ 9-1-1903	Irrigation	4-1	11-1	77.0	0.24 NWNW	Lot 4, S.6 T16S, R40E	Sec. 12 NE¼NE¼ NW¼NE¼ T16S, R39E	9.0 13.0 22.0	Beneficial Use
		The amount of water diverted using this right, 13-0060A, 13-0061A, and 13-0237 shall not exceed 0.44 c.f.s. or 77.0 af/yr. (amended by final decree) amended portion shown in pencil. (See final decree for further remarks)									
13-0274	SHARP, Lyman J. Rt. #1 Preston, Idaho	5-15-1888	Irrigation	4-1	11-1	756.0	2.85	NWNW Lot 4, S.6 T16S, R40E SW¼SE¼, S.1 T16S, R39E	Sec. 12 NW¼NE¼ SW¼NE¼ SE¼NE¼ NE¼SW¼ SE¼SW¼ NW¼SE¼ SW¼SE¼ T16S, R39E	17.0 40.0 20.0 24.0 40.0 40.0 35.0 216.0	Beneficial Use
		The amount of water diverted using this right, 13-0060B, and 13-0061B shall not exceed 3.5 af/acre or 756.0 af/yr. (amended by final decree)									

RECEIVED MAY 14 1996 WATER RESOURCES

PROT-00655

PROPOSED FINDING OF WATER RIGHTS - WORM CREEK DRAINAGE 171655 58-90

SOURCE: Spring Creek

IDENT. NO.	NAME AND ADDRESS	PRIORITY	PURPOSE	PERIOD OF USE From	To	AMOUNT ACRE FEET PER ANNUM	MAXIMUM RATE OF DIVERSION c.f.s.	POINT OF DIVERSION	PLACE OF USE and LANDS IRRIGATED		BASIS OF RIGHT and REMARKS
13-0311	HULL, Harold &/or Robert M. et ux Rt. #1 Preston, Idaho and HULL, Gilbert et ux 46 N. 1050 W. Cedar City, Utah	2-04-1893 2-04-1893	Irrigation Stockwater	4-1 11-1	11-1 4-1	235.0 7.9 242.9	1.34 0.15 1.34	SE¼NE¼, S.36 T15S, R39E	Sec. 36 SW¼SE¼ SE¼SE¼ T15S, R39E Sec. 31 SWSW Lot 4 T15S, R40E Sec. 1 NENE Lot 1 NWNE Lot 2 T16S, R39E	6.0 22.0 7.0 26.0 6.0 67.0	Beneficial Use
13-0237	RALLISON, Fredrick W. Rt. #1 Preston, Idaho	4-01-1900	Irrigation	4-1	11-1	64.0	0.15	NWNW Lot 4, S.6 T16S, R40E	Sec. 12 NE¼NE¼ NW¼NE¼ T16S, R39E	9.0 13.0 22.0	Beneficial Use
		The amount of water diverted using this right, 13-0061A, 13-0060A, and 13-0273 shall not exceed 3.5 af/acre or 77.0 af/yr.									
13-0248	BAKER, Ila L. Rt. #1 Preston, Idaho	4-01-1900 1-01-1900	Irrigation Stockwater	4-1 1-1	11-1 12-31	14.0 2.0 16.0	0.08 0.02 0.08	2 Points SE¼SE¼, S.25 T15S, R39E	Sec. 25 SE¼SE¼ R15, R39E	4.0 4.0	Beneficial Use Spring

RECEIVED
MAY 14 1996

PROT-00656

SOURCE: Spring Creek

IDENT. NO.	NAME AND ADDRESS	PRIORITY	PURPOSE	PERIOD OF USE From	To	AMOUNT ACRE FEET PER ANNUM	MAXIMUM RATE OF DIVERSION c.f.s.	POINT OF DIVERSION	PLACE OF USE and LANDS IRRIGATED		BASIS OF RIGHT and REMARKS
13-0144 ~~13-0062~~	MOSER, Joseph L. Rt. #1 Preston, Idaho amended by final decree	5-15-1902	Irrigation	4-1	7-1	36.0	0.20	NWNW Lot 4, S.6 T16S, R40E	Sec. 1 Lot 2 NE¼SE¼ NW¼SE¼ SW¼SE¼ SE¼SE¼ T16S, R39E	13.0 36.0 40.0 39.0 39.0 167.0	Decree
13-0329	MOSER, Joseph L. Rt. #1 Preston, Idaho	8-31-1903 8-31-1903 (amended by final decree)	Irrigation Stockwater	4-1 1-1	11-1 12-31	549.0 6.7 555.7	1.8 0.02 1.80	NWNW Lot 4, S.6 T16S, R40E	Same as listed in 13-0062		Beneficial Use
13-0062 and 13-0216 (amended) ~~13-0216~~	GOLIGHTLY, Donald D. &/or Nona Rt. #1 Preston, Idaho amended by final decree	8-31-1903	Irrigation	4-1	11-1	400.0	2.0	NWNW Lot 4, S.6 T16S, R40E	Sec. 12 NE¼NE¼ SE¼NE¼ NE¼SE¼ SE¼SE¼ T16S, R39E Sec. 7 NWNW Lot 1 SWNW Lot 2 T16S. R40E	6.0 19.0 40.0 24.0 2.0 23.0 114.0	Beneficial Use
13-0258	CHADWICK, May S. Rt. #1 Preston, Idaho	8-31-1903	Irrigation	4-1	11-1	102.0	0.58	NWNW Lot 4, S.6 T16S, R40E	Sec. 7 NWNW Lot 1 T16S, R40E	29.0 29.0	Beneficial Use
13-0210	DUNKLEY, Leslie L. &/or Bernell Rt. #1 Preston, Idaho amended by final decree	4-01-1930	Irrigation	4-1	11-1	175.0	1.0	SE¼SE¼, S.25 T15S, R39E	Sec. 36 SW¼NE¼ NW¼SE¼ T15S, R39E	17.0 33.0 50.0	Beneficial Use

MAY 14 1985

PROT-00657

PROPOSED FINDING OF WATER RIGHTS - WORM CREEK DRAINAGE **171655** 60-90

SOURCE: Spring Creek

IDENT. NO.	NAME AND ADDRESS	PRIORITY	PURPOSE	PERIOD OF USE From	To	AMOUNT ACRE FEET PER ANNUM	MAXIMUM RATE OF DIVERSION c.f.s.	POINT OF DIVERSION	PLACE OF USE and LANDS IRRIGATED		BASIS OF RIGHT and REMARKS
13-0239	BECKSTEAD, Linden &/or Anne Rt. #1 Preston, Idaho	4-01-1930	Irrigation	4-1	11-1	140.0	0.80	SE¼SE¼, S.25 T15S, R39E	Sec. 36 SE¼NE¼ NE¼SE¼ T15S, R39E	15.0 25.0 40.0	Beneficial Use

amended by final decree

MAY 14 1996
Uncontrolled

PROT-00658

SOURCE: Fairview Drain & Tributaries

IDENT. NO.	NAME AND ADDRESS	PRIORITY	PURPOSE	PERIOD OF USE From	To	AMOUNT ACRE FEET PER ANNUM	MAXIMUM RATE OF DIVERSION c.f.s.	POINT OF DIVERSION	PLACE OF USE and LANDS IRRIGATED		BASIS OF RIGHT and REMARKS
13-2140	FAIRVIEW CEMETARY Maintenance District Rt. #1 Preston, Idaho	5-18-1938	Irrigation	4-1	11-1	35.0	0.2	SW¼NW¼, S.23 T16S, R39E	Sec. 23 SE¼NW¼ T16S, R39E	10.0 10.0	License Unnamed Stream
13-2150	HINCKLEY, Vern Rt. #1 Preston, Idaho	6-29-1945	Irrigation	4-1	11-1	105.0	0.6	NW¼NW¼, S.23 T16S, R39E	Sec. 23 NE¼NW¼ NW¼NW¼ SW¼NW¼ SE¼NW¼ T16S, R39E	40.0 30.0 30.0 30.0 130.0	License Unnamed Stream
13-0297	HINCKLEY, Vern Rt. #1 Preston, Idaho	6-15-1953	Irrigation	4-1	11-1	145.0	0.34	NW¼NW¼, S.23 T16S, R39E	Sec. 23 NE¼NW¼ NW¼NW¼ SW¼NW¼ SE¼NW¼ T16S, R39E	40.0 30.0 30.0 30.0 130.0	License Unnamed Stream
		The amount of water diverted using this right, 13-2150, 13-2300, and 13-2266 shall not exceed 2.60 c.f.s. or 455 af/yr.									
13-0263	GILBERT, Hazen A. Rt. #1 Preston, Idaho	5-21-1957	Irrigation	4-1	11-1	280.0	1.60	Sec. 23 NW¼SW¼ NE¼SW¼ T16S, R39E	Sec. 23 NE¼SW¼ NW¼SW¼ SW¼SW¼ T16S, R39E	29.0 32.0 19.0 80.0	Beneficial Use Fairview Drain
		amended by final decree									

MAY 1 4 1993

PROT-00659

171655 62-90

SOURCE: Fairview Drain & Tributaries

IDENT. NO.	NAME AND ADDRESS	PRIORITY	PURPOSE	PERIOD OF USE From	To	AMOUNT ACRE FEET PER ANNUM	MAXIMUM RATE OF DIVERSION c.f.s.	POINT OF DIVERSION	PLACE OF USE and LANDS IRRIGATED		BASIS OF RIGHT and REMARKS
13-2300	HINCKLEY, Vern Rt. #1 Preston, Idaho	8-26-1960	Irrigation	4-1	11-1	71.2	---	SW¼NW¼, S.23 T16S, R39E	Sec. 23		License
									NE¼NW¼	40.0	On Stream
									NW¼NW¼	30.0	Reservoir
		8-26-1960	Storage for irrigation	4-1	11-1	71.2			SW¼NW¼	30.0	Unnamed Stream
						71.2			SE¼NW¼	30.0	
									T16S, R39E		
										130.0	
		The amount of water diverted using this right, 13-2150, 13-2266, and 13-0297 shall not exceed 2.60 c.f.s., 3.5 af/acre, or 445 af/yr.									
13-0324	HALL, Burtis R. Rt. #1 Preston, Idaho	8-30-1960	Irrigation	4-1	11-1	214.0	1.0	SE¼SE¼, S.23 T16S, R39E	Sec. 23		Beneficial Use
									NE¼SE¼	40.0	Fairview Drain
									SE¼SE¼	21.0	
									T16S, R39E		
										61.0	
		The amount of water diverted using this right, and 13-0294 shall not exceed 1.0 c.f.s., 3.5 af/acre or 214.0 af/yr.									
13-2252	BODILY, Cleve J. Rt. #2 Preston, Idaho	9-26-1962	Irrigation	4-1	11-1	133.0	0.31	SE¼SW¼, S.10 T16S, R39E	Sec. 10		License
									NE¼SW¼	20.0	Unnamed Drain
									SE¼SW¼	38.0	
									NW¼SE¼	40.0	
									SW¼SE¼	40.0	
									T16S, R39E		
										138.0	
13-2266	HINCKLEY, Vern Rt. #1 Preston, Idaho	4-08-1965	Irrigation	4-1	11-1	455.0	1.26	NW¼NW¼, S.23 T16S, R39E	Sec. 23		License
									NE¼NW¼	40.0	Unnamed Strea
									NW¼NW¼	30.0	
									SW¼NW¼	30.0	
									SE¼NW¼	30.0	
									T16S, R39E		
										130.0	
		The amount of water diverted using this right, 13-2150, 13-2300, and 13-0299 shall not exceed 2.60 c.f.s., 3.5 af/acre or 455 af/yr.									

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PROT-00660

171655 63-90

PROPOSED FINDING OF WATER RIGHTS - WORM CREEK DRAINAGE

SOURCE: Fairview Drain & Tributaries

IDENT. NO.	NAME AND ADDRESS	PRIORITY	PURPOSE	PERIOD OF USE From	To	AMOUNT ACRE FEET PER ANNUM	MAXIMUM RATE OF DIVERSION c.f.s.	POINT OF DIVERSION	PLACE OF USE and LANDS IRRIGATED		BASIS OF RIGHT and REMARKS
13-2267	BODILY, Myrl Preston, Idaho	10-6-1965	Irrigation	4-1	11-1	371.0	0.87	SW¼SE¼, S.10 T16S, R39E	Sec. 10 NE¼SW¼ SE¼SW¼ NW¼SE¼ SW¼SE¼ T16S, R39E	20.0 27.0 40.0 29.0 116.0	License Unnamed Drain
		The amount of water diverted using this right, and 13-2252 shall not exceed 3.5 af/acre.									
13-0252	GILBERT, Merlin J. &/or Dona C. Rt. #1 Preston, Idaho	5-15-1967	Irrigation	4-1	11-1	193.0	1.10	Sec. 22 NE¼SE¼ SW¼NE¼ T16S, R39E	Sec. 22 SW¼NE¼ SE¼NE¼ T16S, R39E	30.0 25.0 55.0	Beneficial Use Fairview Drain

MAY 14 1996

PROT-00661

171655 64-90

SOURCE: Unnamed Streams in Trib Worm Cr
Kirby Pond Drainage

IDENT. NO.	NAME AND ADDRESS	PRIORITY	PURPOSE	PERIOD OF USE From	To	AMOUNT ACRE FEET PER ANNUM	MAXIMUM RATE OF DIVERSION c.f.s.	POINT OF DIVERSION	PLACE OF USE and LANDS IRRIGATED		BASIS OF RIGHT and REMARKS
13-0217	GOLIGHTLY, Donald D. &/or Nona Rt. #1 Preston, Idaho	4-01-1872	Irrigation	4-1	11-1	184.0	0.43	SWNW Lot 2, S.7 T16S, R40E	Sec. 12 NE¼SE¼ SE¼SE¼ T16S, R39E	40.0 40.0 80.0	Beneficial Use
		The amount of water diverted using this right, and 13-0216 shall not exceed 400.0 af/yr. Amended by final decree									
13-0218	WHEATLEY, Bert or Ellen B. Rt. #1 Preston, Idaho	4-01-1872	Irrigation	4-1	11-1	151.0	0.43	SE¼NW¼, S.7 T16S, R40E	Sec. 7 NE¼SW¼ SW¼SE¼ NWSW Lot 3 T16S, R40E	18.0 11.0 14.0 43.0	Beneficial Use
13-0219	GAMBLE, Blaine & Marcella Rt. #2, Box 705 Preston, Idaho	4-01-1872	Irrigation	4-1	11-1	389.0	2.22	SWSW Lot 4, S.7 T16S, R40E	Sec. 13 SE¼NE¼ NE¼SE¼ SE¼SE¼ T16S, R39E	37.0 35.0 39.0 111.0	Beneficial Use
13-0221	WHEATLEY, Bert &/or Ellen B., & BURNETT, Stuart & Spouse Rt. #1 Preston, Idaho	4-01-1872	Irrigation	4-1	11-1	396.0	2.26	SWSW Lot 4, S.7 T16S, R40E	Sec. 18 NWNW Lot 1 Sec. 7 SWSW Lot 4 SE¼SW¼ T16S, R40E Sec. 13 NE¼NE¼ T16S, R39E	10.0 28.0 37.0 38.0 113.0	Beneficial Use

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WATER RESOURCES

PROT-00662

IDENT. NO.	NAME AND ADDRESS	PRIORITY	PURPOSE	PERIOD OF USE From	To	AMOUNT ACRE FEET PER ANNUM	MAXIMUM RATE OF DIVERSION c.f.s.	POINT OF DIVERSION	PLACE OF USE and LANDS IRRIGATED		BASIS OF RIGHT and REMARKS
13-0220	ALDER, George E. Rt. #1 Preston, Idaho	4-01-1872	Irrigation	4-1	11-1	210.0	1.20	SWSW Lot 4, S.7 T16S, R40E	Sec. 18 NWNW Lot 1 SWNW Lot 2 T16S, R40E	30.0 30.0 60.0	Beneficial Use
13-0330	BODILY, L.D. Lewiston, Utah	9-13-1950	Storage for irrigation	4-15	10-1	25.0	---	NW¼SE¼, S.13 T16S, R39E	Sec. 13 NE¼SW¼ SE¼SW¼ NW¼SE¼ SW¼SE¼ Sec. 24 NE¼NW¼ NW¼NW¼ SW¼NW¼ SE¼NW¼ T16S, R39E	40.0 35.0 35.0 35.0 39.0 37.0 36.0 40.0 297.0	Beneficial Use
13-2160	BODILY, L.D. Lewiston, Utah	9-27-1950	Irrigation	4-1	11-1	1040.0	2.75	NW¼SE¼, S.13 T16S, R39E	Sec. 13 NE¼SW¼ SE¼SW¼ NW¼SE¼ SW¼SE¼ Sec. 24 NE¼NW¼ NW¼NW¼ SW¼NW¼ SE¼NW¼ T16S, R39E	40.0 35.0 35.0 35.0 39.0 37.0 36.0 40.0 297.0	License

MAY 14 1990

SOURCE: Unnamed Streams in Kirby Pond Drainage

IDENT. NO.	NAME AND ADDRESS	PRIORITY	PURPOSE	PERIOD OF USE From	To	AMOUNT ACRE FEET PER ANNUM	MAXIMUM RATE OF DIVERSION c.f.s.	POINT OF DIVERSION	PLACE OF USE and LANDS IRRIGATED		BASIS OF RIGHT and REMARKS
13-0214	BODILY, L.D. Lewiston, Utah	9-01-1952	Irrigation	4-1	11-1	24.0	---	NW¼NW¼	Sec. 24		Beneficial Use On Stream Reservoir
		9-01-1952	Storage for irrigation	4-1	11-1	24.0	---	SW¼NW¼, S.24 T16S, R39E	NE¼NW¼	39.0	
						24.0			NW¼NW¼	37.0	
									SW¼NW¼	36.0	
									SE¼NW¼	40.0	
									T16S, R39E	152.0	
		The amount of water diverted using this right, 13-2160, 13-0330, 13-2260, and 13-2304 shall not exceed 3.5 af/acre or 1040 af/yr.									
13-2260	HAWKES, Stanton M. Rt. #3 Preston, Idaho	9-26-1963	Irrigation	4-1	11-1	784.0	2.55	SW¼SE¼, S.13 T16S, R39E	Sec. 13		License
		The amount of water diverted under this right 13-2304, 13-0330, 13-0214, and 13-2160 shall not exceed 3.5 af/acre or 1040.0 af/yr.							SE¼SW¼	27.0	
									NW¼SE¼	10.0	
									SW¼SE¼	35.0	
									Sec. 24		
									NE¼NW¼	39.0	
									NW¼NW¼	37.0	
									SW¼NW¼	36.0	
									SE¼NW¼	40.0	
									T16S, R39E	224.0	
13-2304	Hawkes, Stanton M. Rt. #3 Preston, Idaho	10-11-1963	Irrigation	4-1	11-1	18.8	---	SW¼SE¼, S.13 T16S, R39E	Sec. 13		License
		10-11-1963	Storage for irrigation	1-1	12-31	18.8	---		SE¼SW¼	35.0	
						18.8			NW¼SE¼	35.0	
									SW¼SE¼	35.0	
		The amount of water diverted using this right, 13-0214, 13-2160, 13-0330, and 13-2260 shall not exceed 3.5 af/acre or 1040 af/yr.							Sec. 24		
									NE¼NW¼	39.0	
									NW¼NW¼	37.0	
									SW¼NW¼	36.0	
									SE¼NW¼	40.0	
									T16S, R39E	257.0	

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PROT-00664

SOURCE: Warm Creek TRIB TO Cub R.

IDENT. NO.	NAME AND ADDRESS	PRIORITY	PURPOSE	PERIOD OF USE From	To	AMOUNT ACRE FEET PER ANNUM	MAXIMUM RATE OF DIVERSION c.f.s.	POINT OF DIVERSION	PLACE OF USE and LANDS IRRIGATED		BASIS OF RIGHT and REMARKS
13-2149	HOBBS, Larrel G. Rt. #1 Franklin, Idaho	4-21-1944	Irrigation	4-1	11-1	210.0	1.2	Sec. 18 NE¼SW¼ SWSW Lot 4 T16S, R40E	Sec. 18 NE¼NW¼ SE¼NW¼ NE¼SW¼ NWSW Lot 3 T16S, R40E	35.0 3.0 19.0 3.0 60.0	License
13-0250	HOBBS, Larrel G. Rt. #1 Franklin, Idaho	11-1-1958 11-1-1958	Irrigation Storage for Irrigation	4-1 4-1	11-1 11-1	371.0 30.0 371.0	2.12 --- 2.12	SWSW Lot 4, S.18 T16S, R40E	Sec. 19 NWNW Lot 1 Sec. 18 NWSW Lot 3 SWSW Lot 4 SE¼SW¼ T16S, R40E	38.0 34.0 32.0 2.0 106.0	Beneficial Use Reservoir is Located in Lot 4, Sec. 18, T16S, R40E.
13-0296	WOMACK, Ronald T. Rt. #1 Preston, Idaho	7-25-1960 7-25-1960	Irrigation Storage for irrigation	4-1 4-1	11-1 11-1	459.0 40.0 459.0	2.62 --- 2.62	SE¼SE¼, S.24 T16S, R39E	Sec. 24 NE¼SE¼ NW¼SE¼ SW¼SE¼ SE¼SE¼ T16S, R39E	32.0 40.0 40.0 19.0 131.0	Beneficial Use On Stream Reservoir
13-0228	WOODWARD, Ivan H. &/or Doris Rt. #1 Franklin, Idaho	4-01-1962 4-01-1962	Stockwater Storage for Stockwater	4-1 4-1	11-15 11-15	2.5 2.5 2.5	0.02 --- 0.02	NE¼SE¼, S.25 T1SS, R39E	Sec. 25 SE¼NE¼ NE¼SE¼ T16S, R39E		Beneficial Use On Stream Reservoir

MAY 14 1969

PROT-00665

171655 68-90

SOURCE: Warm Creek

IDENT. NO.	NAME AND ADDRESS	PRIORITY	PURPOSE	PERIOD OF USE From	PERIOD OF USE To	AMOUNT ACRE FEET PER ANNUM	MAXIMUM RATE OF DIVERSION c.f.s.	POINT OF DIVERSION	PLACE OF USE and LANDS IRRIGATED		BASIS OF RIGHT and REMARKS
13-2284	WOMACK, Ronald T. Rt. #1 Preston, Idaho	5-24-1967	Irrigation	4-1	11-1	459.0	1.17	SE¼SE¼, S.24 T16S, R39E	Sec. 24		License
									NE¼SE¼	32.0	
									NW¼SE¼	40.0	
									SW¼SE¼	40.0	
									SE¼SE¼	19.0	
									T16S, R39E	131.0	

MAY 14 1998

PROT-00666

SOURCE: Miscellaneous Sources

IDENT. NO.	NAME AND ADDRESS	PRIORITY	PURPOSE	PERIOD OF USE From	To	AMOUNT ACRE FEET PER ANNUM	MAXIMUM RATE OF DIVERSION c.f.s.	POINT OF DIVERSION	PLACE OF USE and LANDS IRRIGATED		BASIS OF RIGHT and REMARKS
13-0301	WEBSTER, Blaine M. &/or Dennis H. Rt. #3 Preston, Idaho	1-01-1879	Stockwater	1-1	12-31	0.7	0.02	SE¼SW¼, S.2 NW¼SE¼, S.3 T15S, R40E	Sec. 2 SE¼SW¼ Sec. 3 NE¼SW¼ T15S, R40E		Beneficial Use Unnamed Springs
13-0244	WANNER, L. Bertus &/or Arlene Rt. #3 Preston, Idaho	6-01-1881 6-01-1881 6-01-1881	Irrigation Stockwater Domestic	4-1 1-1 1-1	11-1 12-31 12-31	10.5 1.5 1.2 13.2	0.06 0.02 0.04 0.10	NE¼NE¼, S.15 T15S, R40E	Sec. 10 SW¼SE¼ T15S, R40E	3.0 3.0	Beneficial Use Spring
13-0245	WANNER, L. Bertus &/or Arlene Rt. #3 Preston, Idaho	6-01-1881	Stockwater	5-1	11-1	1.5	0.02	NW¼NE¼, S.15 T15S, R40E	Sec. 15 NW¼NE¼ T15S, R40E		Beneficial Use Spring
13-0246	WANNER, L. Bertus &/or Arlene Rt. #3 Preston, Idaho	6-01-1881 6-01-1881	Irrigation Stockwater	4-1 1-1	11-1 12-31	35.0 1.5 36.5	0.20 0.02 0.20	SW¼SE¼, S.10 T15S, R40E	Sec. 10 SW¼SE¼ T15S, R40E	10.0 10.0	Beneficial Use Spring
13-0265	PETERBORG, Dee Ronald Rt. #1 Preston, Idaho	4-20-1883 4-20-1883	Domestic Stockwater	1-1 1-1	12-31 12-31	2.4 0.6 3.0	0.08 0.02 0.10	NE¼NW¼, S.30 T15S, R40E	Sec. 30 NE¼NW¼ T15S, R40E		Beneficial Use Spring
13-0309	HULL, Harold M. & HULL, Robert M. Preston, Idaho	1-01-1899	Stockwater	1-1	12-31	4.1	0.07	NW¼NW¼, S.22 T15S, R40E	Sec. 22 NW¼NW¼ T15S, R40E		Beneficial Use Simon Spring
13-0310	WINWARD, Lyle & Lee Rt. #1 Preston, Idaho	1-01-1900 1-01-1900 1-01-1900	Irrigation Domestic Stockwater	4-1 1-1 1-1	11-1 12-31 12-31	151.0 1.0 1.0 153.0	0.86 0.04 0.02 0.86	NE¼SW¼, S.31 T15, R40E	Sec. 31 SWNW Lot 2 NWSW Lot 3 T15S, R40E	18.0 25.0 43.0	Beneficial Use Unnamed Drain

The spring in lot 2, Sec. 31, T15S, R40E is used for stockwater.

MAY 14

PROT-00667

PROPOSED FINDING OF WATER RIGHTS - WORM CREEK DRAINAGE **171655** 70-90

SOURCE: Miscellaneous Sources

IDENT, NO.	NAME AND ADDRESS	PRIORITY	PURPOSE	PERIOD OF USE From	To	AMOUNT ACRE FEET PER ANNUM	MAXIMUM RATE OF DIVERSION c.f.s.	POINT OF DIVERSION	PLACE OF USE and LANDS IRRIGATED		BASIS OF RIGHT and REMARKS
13-0277	EGBERT, Harold Clair Rt. #2 Preston, Idaho	5-01-1902	Irrigation	4-1	11-1	357.0	2.0	Sec. 2 SW¼SW¼ SE¼SW¼ T16S, R39E	Sec. 11 NE¼NW¼ NW¼NW¼ SW¼NW¼ SE¼NW¼ T16S, R39E	20.0 39.0 28.0 15.0 102.0	Beneficial Use Drain Water
13-0231	JOHNSON, Frank &/or Conal Rt. #3 Preston, Idaho	1-01-1906 1-01-1906 1-01-1906	Irrigation Domestic Stockwater	4-1 1-1 1-1	11-1 12-31 12-31	105.0 4.8 4.0 113.8	0.50 0.16 0.02 0.50	NW¼SW¼, S.21 T15S, R40E	Sec. 20 SE¼NE¼ NW¼SE¼ T15S, R40E	4.0 26.0 30.0	Beneficial Use Johnson Spring & Springs Domestic use for 4 families.
		Domestic use located in SE¼NE¼ and NE¼SE¼, Sec. 20, T15S, R40E.									
13-0315	U.S. Department of Agriculture, FOREST SERVICE Regional Office Ogden, Utah	5-28-1906	Stockwater	6-1	9-30	3.6	0.02	SW¼NE¼, S.20 T14S, R41E	Sec. 20 SW¼NE¼ T14S, R41E		Reservation Right North Worm Creek Basin Spring
		(amended by final decree)									
13-0316	U.S. Department of Agriculture, FOREST SERVICE Regional Office Ogden, Utah	5-28-1906	Stockwater	6-1	9-30	3.6	0.02	SE¼SW¼, S.21 T14S, R41E	Sec. 21 SE¼SW¼ T14S, R41E		Reservation Right North Worm Creek Basin Seep
		(amended by final decree)									
13-0317	U.S. Department of Agriculture, FOREST SERVICE Regional Office Ogden, Utah	5-28-1906	Stockwater	6-1	9-30	3.6	0.02	SW¼SE¼, S.21 T14S, R41E	Sec. 21 SW¼SE¼ T14S, R41E		Reservation Right Lower Worm Creek Basin Spring
		Claim relinquished by final decree									

RECEIVED MAY 14 1986

PROT-00668

SOURCE: Miscellaneous Sources

IDENT. NO.	NAME AND ADDRESS	PRIORITY	PURPOSE	PERIOD OF USE From	To	AMOUNT ACRE FEET PER ANNUM	MAXIMUM RATE OF DIVERSION c.f.s.	POINT OF DIVERSION	PLACE OF USE and LANDS IRRIGATED		BASIS OF RIGHT and REMARKS
13-0318	U.S. Department of Agriculture, FOREST SERVICE Regional Office Ogden, Utah	5-28-1906	Domestic	5-1	10-31	0.5	0.02	SW¼SE¼, S.21 T14S, R41E	Sec. 21 SW¼SE¼ T14S, R41E		Reservation Right Lower Worm Creek Basin Spring, Campground
		(amended by final decree)									
13-0319	U.S. Department of Agriculture, FOREST SERVICE Regional Office Ogden, Utah	5-28-1906	Stockwater	6-1	9-30	3.6	0.02	NW¼NW¼, S.28 T14S, R41E.	Sec. 28 NW¼NW¼ T14S, R41E		Reservation Right Lower Worm Creek Basin Seep
		(amended by final decree)									
13-0320	U.S. Department of Agriculture, FOREST SERVICE Regional Office Ogden, Utah	5-28-1906	Domestic	5-1	10-31	0.5	0.02	SE¼NE¼, S.28 T14S, R41E	Sec. 28 SE¼NE¼ T14S, R41E		Reservation Right South Worm Creek Spring, Campground
		(amended by final decree)									
13-0323	U.S. Department of Agriculture, FOREST SERVICE Regional Office Ogden, Utah	5-28-1906	Stockwater	6-1	9-30	3.6	0.02	NW¼NE¼, S.33 T14S, R41E	Sec. 33 NW¼NE¼ T14S, R41E		Reservation Right Upper Worm Creek Basin Spring
		(amended by final decree)									
13-0240	BECKSTEAD, Linden &/or Anne Rt. #1 Preston, Idaho	4-01-1910	Irrigation	4-1	11-1	242.0	1.38	NW¼SE¼, SW¼SE¼, S. 6, T16S, R40E	Sec. 6 NW¼SE¼ SW¼SE¼ T16S, R40E	40.0 29.0 69.0	Beneficial Use Unnamed Drain

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PROT-00669

171655 72-90

SOURCE: Miscellaneous Sources

IDENT. NO.	NAME AND ADDRESS	PRIORITY	PURPOSE	PERIOD OF USE From	To	AMOUNT ACRE FEET PER ANNUM	MAXIMUM RATE OF DIVERSION c.f.s.	POINT OF DIVERSION	PLACE OF USE and LANDS IRRIGATED	BASIS OF RIGHT and REMARKS
13-0232	WHITNEY NASHVILLE WATER WORKS CO., INC. Rt. #3 Preston, Idaho	6-11-1910	Domestic	1-1	12-31	101.0	1.25	Sec. 20 SW¼SE¼ NE¼SW¼ T15S, R40E	Sec. 29 W½W½ SE¼SW¼ Sec. 30 E½NE¼ S½S½ NE¼SE¼ Sec. 31 All Sec. 32 W½W½ T15S, R40E Sec. 33 SE¼SE¼ Sec. 36 N½NE¼ SE¼NE¼ N½SW¼ NE¼SE¼ S½SE¼ T15S, R39E Sec. 1 E½E½ Sec. 5 W½W½ Sec. 6 E½NE¼ W½W½ E½SE¼ Sec. 8 N½NW¼ SW¼NW¼ W½SW¼ SE¼SW¼	Beneficial Use Unnamed Spring 84 Families

MAY 14 1996

PROT-00670

SOURCE: Miscellaneous Sources

IDENT. NO.	NAME AND ADDRESS	PRIORITY	PURPOSE	PERIOD OF USE From	To	AMOUNT ACRE FEET PER ANNUM	MAXIMUM RATE OF DIVERSION c.f.s.	POINT OF DIVERSION	PLACE OF USE and LANDS IRRIGATED		BASIS OF RIGHT and REMARKS
13-0232	WHITNEY NASHVILLE (con't) WATER WORKS CO., INC.							*	Sec. 17 NW¼NE¼ N½NW¼ Sec. 18 NE¼NE¼ T16S, R40E		Beneficial Use Unnamed Spring 84 Families
13-0260	JOHNSON, Jesse L. Rt. #3 Preston, Idaho	6-11-1910	Irrigation	4-1	11-1	53.0	0.30	SE¼SW¼, S.20 T15S, R40E	Sec. 20 SE¼SW¼ T15S, R40E	15.0	Beneficial Use Whitney-Nashville Water Works Overflow
		6-11-1910	Stockwater	1-1	12-31	0.7	0.02				
						53.7	0.30			15.0	
13-0326	Johnson, Jesse L. Rt. #3 Preston, Idaho	6-11-1910	Irrigation	4-1	11-1	53.0	0.30	SE¼SW¼, S.20 T15S, R40E	Sec. 20 SE¼SW¼ T15S, R40E	15.0	Beneficial Use Johnson Spring & Springs
		6-11-1910	Stockwater	1-1	12-31	0.7	0.02				
						53.7	0.30			15.0	
		The amount of water diverted using this right, and 13-0260 shall not exceed 0.30 c.f.s. or 53.7 af/yr.									
13-0306	HULL, Robert M. &/or Harold Rt. #1 Preston, Idaho	4-01-1912	Irrigation	4-1	11-1	210.0	0.50	SE¼SW¼, S.31 T15S, R40E SWSW	Sec. 31 Lot 4	20.0	Beneficial Use Unnamed Drain
		4-01-1912	Stockwater	1-1	12-31	2.7	0.02		SE¼SW¼ T15S, R40E	40.0	
						212.7	0.50			60.0	
13-2053	KELLER, Larry R. Rt. #1 Preston, Idaho	8-12-1912	Irrigation	4-1	11-1	35.0	0.10	SWNW Lot 2, S.30 T15S, R40E	Sec. 30 SWNW Lot 2 T15S, R40E	10.0	License Unnamed Spring
		8-12-1912	Domestic	1-1	12-31	1.2	0.04				
						36.2	0.10			10.0	
13-0259	SWAINSTON, Howard Rt. #3 Preston, Idaho	4-01-1913	Irrigation	4-1	11-1	38.5	0.22	NWNE Lot 2, S.6 T16S, R40E	Sec. 6 NWNE Lot 2 T16S, R40E	11.0	Beneficial Use Unnamed Drain
		4-01-1913	Stockwater	1-1	12-31	0.5	0.02				
						39.0	0.22			11.0	

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PROT-00671

171655 74-90

SOURCE: Miscellaneous Sources

IDENT. NO.	NAME AND ADDRESS	PRIORITY	PURPOSE	PERIOD OF USE From	To	AMOUNT ACRE FEET PER ANNUM	MAXIMUM RATE OF DIVERSION c.f.s.	POINT OF DIVERSION	PLACE OF USE and LANDS IRRIGATED		BASIS OF RIGHT and REMARKS
13-0308	HULL, Robert M. &/or Harold Rt. #1 Preston, Idaho	4-01-1914 4-01-1914	Irrigation Stockwater	4-1 1-1	11-1 12-31	28.0 2.7 30.7	0.16 0.02 0.16	2 Points SWSW Lot 4, S.31 T15S, R40E	Sec. 31 SWSW Lot 4 T15S, R40E	8.0 8.0	Beneficial Use Unnamed Drain
13-0307	HULL, Robert M. &/or Harold Rt. #1 Preston, Idaho	4-01-1916 4-01-1916	Irrigation Stockwater	4-1 1-1	11-1 12-31	214.0 2.7 214.0	0.50 0.02 0.50	NE corner NENW Lot 3, S.6 T16S, R40E	Sec. 6 SW&W Lot 6 SE¼SW¼ Sec. 7 NW¼NE¼ SW¼NE¼ NE¼NW¼ SE¼NW¼ T16S, R40E	15.0 15.0 5.0 7.0 40.0 39.0 121.0	Beneficial Use Unnamed Drain
13-0243	BOSWORTH, Keith W. &/or Norma Rt. #2 Preston, Idaho	4-01-1918	Irrigation	4-1	11-1	392.0	2.24	SW¼NE¼, S.34 T15S, R39E	Sec. 34 NE¼NE¼ SW¼NE¼ SE¼NE¼ T15S, R39E	35.0 37.0 40.0 112.0	Beneficial Use Unnamed Spring
13-0236	LARSEN, Alton E. &/or Shirley G. Rt. #3 Preston, Idaho	1-01-1919 1-01-1919	Domestic Stockwater	1-1 1-1	12-31 12-31	1.2 1.4 2.6	0.04 0.02 0.04	SW¼NW¼, S.32 T15S, R40E	Sec. 32 SW¼NW¼ T15S, R40E		Beneficial Use Unnamed Drain
13-0283	KENNINGTON, Emerson H. 4507 Russell Street Salt Lake City, Utah 84117	4-01-1920	Irrigation	4-1	11-1	11.0	0.06	NE¼SE¼, S.19 T15S, R40E	Sec. 19 NE¼SE¼ T15S, R40E	3.0 3.0	Beneficial Use Unnamed Stream

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SOURCE: Miscellaneous Sources

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13-0257	DORIGATTI, August V. &/or Alice A. 6th N. 4th W. Hyrum, Utah 84319	4-01-1920 4-01-1920	Stockwater Storage for Stockwater	1-1 1-1	12-31 12-31	0.4 0.4 0.4	0.02 --- 0.02	SE¼NW¼, S.34 T15S, R39E	Sec. 34 SE¼NW¼ T15S, R39E		Beneficial Use Unnamed Spring
13-0233	HEBDON, Garth B. &/or Carmen W. Rt. #2 Preston, Idaho	4-01-1922	Irrigation	4-1	11-1	13.0	0.07	SE¼SW¼, S.34 T15S, R39E NE NW	Sec. 3 Lot 3 T16S, R39E	3.5 3.5	Beneficial Use Unnamed Drain
13-0270	MOSER, Earl LaVon Rt. #3 Preston, Idaho	4-01-1923	Irrigation	4-1	11-1	130.0	0.74	NW¼NW¼, S.29 T15S, R40E	Sec. 29 NW¼NW¼ SW¼NW¼ Sec. 30 NE¼NE¼ SE¼NE¼ T15S, R40E	3.0 5.0 10.0 19.0 37.0	Beneficial Use Unnamed Drain (Including overflow of Whitney-Nashville Water Works.)
13-0288	GOLIGHTLY, Marvin Rt. #2, Box 105 Preston, Idaho	7-01-1930 7-01-1930	Irrigation Stockwater	4-1 1-1	11-1 12-31	14.0 0.5 14.5	0.08 0.02 0.08	SE¼SE¼, S.34 T15S, R39E	Sec. 34 SE¼SE¼ T15S, R39E	4.0 4.0	Beneficial Use Unnamed Drain
13-0254	BECKSTEAD, Hesy A. Rt. #1 Preston, Idaho	11-1-1930 11-1-1930	Irrigation Stockwater	4-1 1-1	11-1 12-31	140.0 1.4 141.4	0.80 0.02 0.80	2 Points NW¼SW¼, S.1 T16S, R39E	Sec. 1 NW¼SW¼ SW¼SW¼ T16S, R39E	10.0 30.0 40.0	Beneficial Use Unnamed Drain
13-0312	U.S. Department of Interior, BUREAU OF LAND MANAGEMENT P. O. Box 489 Burley, Idaho 83318	1-01-1933	Stockwater	5-1	9-30	0.7	0.02	NE¼SE¼, S.3 T15S, R40E	Sec. 3 NE¼SE¼ T15S, R40E		Beneficial Use Unnamed Spring

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IDENT. NO.	NAME AND ADDRESS	PRIORITY	PURPOSE	PERIOD OF USE From	To	AMOUNT ACRE FEET PER ANNUM	MAXIMUM RATE OF DIVERSION c.f.s.	POINT OF DIVERSION	PLACE OF USE and LANDS IRRIGATED		BASIS OF RIGHT and REMARKS
13-0272	PORTER, Sewell Rt. #3 Preston, Idaho	9-01-1933 9-01-1933	Irrigation Storage for Irrigation	4-1 4-1	11-1 11-1	228.0 15.0 228.0	1.3 --- 1.3	SE¼SW¼, S.18 T15S, R40E	Sec. 19 NWNW Lot 1 SWNW Lot 2 T15S, R40E	35.0 30.0 65.0	Beneficial Use Unnamed Stream
13-0328	NELSON, S. Vern Rt. #3 Preston, Idaho	5-20-1936	Stockwater	1-1	12-31	0.7	0.02	NW¼SE¼, S.5 T15S, R40E	Sec. 5 NW¼SE¼ T15S, R40E		Beneficial Use Unnamed Spring
13-0275	REESE, William G. Rt. #3 Preston, Idaho	1-25-1939	Stockwater	1-1	12-31	1.4	0.02	SW¼NE¼, S.21 T15S, R40E	Sec. 21 SW¼NE¼ T15S, R40E		Beneficial Use Upper Spring Creek
13-0205	AUGER, Verl J. Rt. #3 Preston, Idaho	7-01-1943	Stockwater	1-1	12-31	0.4	0.02	SW¼NW¼, S.2 T15S, R40E	Sec. 2 SW¼NW¼ T15S, R40E		Beneficial Use Auger Spring
13-2131	BLACKBURN, Alva 835 W. Iris Visalia, Calif.	7-27-1945 7-27-1945	Irrigation Domestic	4-1 1-1	11-1 12-31	18.0 1.2 19.2	0.10 0.02 0.10	SE¼SW¼, S.34 T15S, R39E	Sec. 3 NENW Lot 3 NE¼SW¼ T16S, R39E	3.4 1.6 5.0	License Unnamed Drain
13-0256	CHADWICK, Grant S. &/or Linda Lewiston, Utah	4-01-1948	Irrigation	4-1	11-1	200.0	1.14	SE¼SW¼, S.25 T16S, R39E	Sec. 25 NE¼SW¼ SE¼SW¼ T16S, R39E	19.0 38.0 57.0	Beneficial Use Unnamed Drain

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SOURCE: Miscellaneous Sources

IDENT. NO.	NAME AND ADDRESS	PRIORITY	PURPOSE	PERIOD OF USE From	To	AMOUNT ACRE FEET PER ANNUM	MAXIMUM RATE OF DIVERSION c.f.s.	POINT OF DIVERSION	PLACE OF USE and LANDS IRRIGATED		BASIS OF RIGHT and REMARKS
13-0211	DUNKLEY, Leslie L. &/or Bernell Rt. #1 Preston, Idaho	4-01-1950 4-01-1950	Irrigation Stockwater	4-1 1-1	11-1 12-31	42.0 1.4 43.4	0.24 0.04 0.24	SW¼NE¼, S.36 T15S, R39E	Sec. 36 NW¼SE¼ T15S, R39E	12.0 12.0	Beneficial Use Unnamed Drain
		The amount of water diverted using this right, and 13-0210 shall not exceed 3.5 af/acre or 42.0 af/yr. for irrigation purposes.									
13-0295	JENSEN, Jerry Lee c/o Vaughan Jensen Weston, Idaho	4-01-1950	Irrigation	4-1	11-1	74.0	0.42	Sec. 12 NW¼SW¼ SW¼SW¼ T16S, R39E	Sec. 12 SW¼SW¼ T16S, R39E	21.0 21.0	Beneficial Use Waste Water
13-0261	PORTER, Blaine P. &/or A. Ralph Rt. #3 Preston, Idaho	5-01-1952	Stockwater	5-1	11-30	1.4	0.02	SE¼NE¼, S.11 T15S, R40E	Sec. 11 SE¼NE¼ T15S, R40E		Beneficial Use Unnamed Spring
13-0303	BODILY, William James &/or Marie L. Rt. #1 Preston, Idaho	11-20-1952	Stockwater	1-1	12-31	1.4	0.02	NE¼SW¼, S.30 T15S, R40E	Sec. 30 NE¼SW¼ T15S, R40E		Beneficial Use Unnamed Drain
13-0225	WHEATLEY, Bert or Ellen B. Rt. #1 Preston, Idaho	4-01-1959	Irrigation	4-1	11-1	147.0	0.84	SW¼NE¼, S.14 T16S, R39E	Sec. 14 NW¼NE¼ SW¼NE¼ T16S, R39E	10.0 32.0 42.0	Beneficial Use Unnamed Drain
13-0286	GOLIGHTLY, Marvin Rt. #2 Preston, Idaho	8-01-1960	Stockwater	1-1	12-31	1.0	0.02	NE¼SE¼, S.34 T15S, R39E	Sec. 34 NE¼SE¼ T15S, R39E		Beneficial Use Unnamed Drain

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SOURCE: Miscellaneous Sources

IDENT. NO.	NAME AND ADDRESS	PRIORITY	PURPOSE	PERIOD OF USE From	To	AMOUNT ACRE FEET PER ANNUM	MAXIMUM RATE OF DIVERSION c.f.s.	POINT OF DIVERSION	PLACE OF USE and LANDS IRRIGATED		BASIS OF RIGHT and REMARKS
13-0287	GOLIGHTLY, Marvin Rt. #2 Preston, Idaho	8-01-1960	Stockwater	1-1	12-31	1.0	0.02	SW¼SE¼, S.34 T15S, R39E	Sec. 34 SW¼SE¼ T15S, R39E		Beneficial Use Unnamed Drain
13-0230	BODILY, Lawrence C. Rt. #3, Box 373 Preston, Idaho	1-01-1966	Stockwater	1-1	12-31	1.7	0.07	NE¼NE¼, S.31 T15S, R40E	Sec. 31 NE¼NE¼ T15S, R40E		Beneficial Use Unnamed Drain
13-2276	BELL, Theo J. Preston, Idaho	1-05-1967	Irrigation	4-1	11-1	205.0	0.48	NE¼SW¼, S.15 T15S, R39E	Sec. 15 NW¼SE¼ SW¼SE¼ T15S, R39E	40.0 39.0 79.0	License Unnamed Drain
		The amount of water diverted using this right, and 13-2277 shall not exceed 0.48 c.f.s.									
13-2277	TANNER, Eldon S. Preston, Idaho	1-05-1967	Irrigation	4-1	11-1	161.0	0.48	NE¼SW¼, S.15 T15S, R39E	Sec. 15 NE¼SW¼ SE¼SW¼ T15S, R39E	37.0 9.0 46.0	License Unnamed Drain
		The amount of water diverted using this right, and 13-2276 shall not exceed 0.48 c.f.s.									
13-7025	PHILLIPS, Wayne G. &/or Joan N. Rt. #2 Preston, Idaho	7-13-1971	Irrigation	4-1	11-1		0.70	NENE Lot 1, S.3 T16S, R39E	Sec. 3 NE¼NE¼ T16S, R39E	35.0 35.0	Permit License Unnamed Drain
13-0202	DUNKLEY, Richard P. 16764 C. Ave. E. Augusta, Michigan	3-26-1943	Stockwater	1-1	12-31	0.7	0.02	SWSW Lot 4, S.30 T15S, R40E	Sec. 30 Lot 4 T15S, R40E		Beneficial Use Spring
13-0332	Rallison, Mrs. Frederick W. Rt. #1 Preston, Idaho	1-01-1900	Irrigation	4-1	11-1	21.0	0.05	NE¼SW¼, S.31 T15S, R40E	Sec. 31 NE¼SW¼	15.0	Beneficial Use Unnamed Drain
		1-01-1900	Stockwater	1-1	12-31	0.4 21.4	0.02 0.07	NWSW	Lot 3 T15S, R40E	14.0 29.0	

13-0333 see p. 8, Appendix A, final decree.

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The following statutory rights in the Worm Creek Basin were not claimed and are recommended to be found abandoned or forfeited through non-use:

IDENT. NO.	NAME	REMARKS
13-2020	Joseph Moser	License - Two Springs - land now irrigated from another source.
13-2107	Jensen, Peter C. & Gailey, Willard	License, Unnamed Stream - land now irrigated from another source.
13-2185	Bosworth, Wendell E.	License, Viney Pond - use recommended as 13-0243.

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The following claims to a water right on Worm Creek and its tributaries are found to be invalid or the use is outside the purview of this action and are recommended to be disallowed for the reason listed:

IDENT. NO.	NAME	REMARKS
13-0134	Preston-Eastside Water Company, Ltd.	Claim withdrawn.
13-0204	Beckstead, Alvin &/or Sheldon	No beneficial use found, use abandoned or forfeited.
13-0212	Telford, Ross W. &/or Zelma	Ground water source.
13-0223	Cub River Irrigation Co.	Included in recommendation of 13-0222.
13-0238	Moser, Dennis J. &/or Della F.	Claim withdrawn.
13-0241	Beckstead, Sheldon G. &/or Verda	No beneficial use found, use abandoned or forfeited.
13-0242	Wanner, Willard J.	No beneficial use found, use abandoned or forfeited.
13-0249	Whitehead, Lloyd	Ground water source.
13-0264	Gilbert, Hazen A. (amended by final decree)	Recommended under 13-0263.
13-0251	Gilbert, William D. (Estate)	No point of diversion or means of conveyance found.
13-0276	Cole, Mildred	Recommended under 13-0215.
13-0281	Nielson, Maurice	Claim on irrigation company water.
13-0282	Nielson, Maurice	Claim on irrigation company water.
13-0291	Christensen, W. Scott	Claim on irrigation company water.
13-0292	Stewart, Sidney Don; Stewart, Frances Weaver	Claim on irrigation company water.
13-0293	Hobbs, Larrel G.	Point of diversion is in Utah.
13-0298	Webster, Blaine M. &/or Dennis H.	No beneficial use found, use abandoned or forfeited.

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IDENT. NO.	NAME	REMARKS
13-0304	Knudsen, D.C.	No beneficial use found, use abandoned or forfeited.
13-0313	Preston-Eastside Water Co., Ltd.	Recommended as 13-0134. (Ident. no. change.)
13-0321	U.S. Department of Agriculture - Forest Service	Source outside Worm Creek Basin (Station Creek Basin Spring). amended by final decr
13-0322	U.S. Department of Agriculture - Forest Service	Source outside Worm Creek Basin (Station Creek Basin Spring). amended by final decree.
13-0331	Hinckley, Vern	Use as claimed not supported by Department field investigation.
13-2054	Preston-Eastside Water Co., Ltd.	Recommended as 13-0133.
13-2133	Nelson, S. Vern	Cancelled Permit - Recommended as 13-0328.
13-2147	Fellows, Joseph R. &/or Orin V.	Source outside Worm Creek Basin.
13-2205	Drury, Alden J.	Source outside Worm Creek Basin.
13-2307	Van Orden, Neal	Recommended as 13-0314.

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STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL
BOISE 83720

JIM JONES
ATTORNEY GENERAL

DEPARTMENT OF WATER RESOURCES
STATEHOUSE, BOISE, IDAHO 83720
TELEPHONE: (208) 334-4448

February 19, 1986

Ms. Corrie Keller
Franklin County Clerk and Recorder
39 W. Oneida
P.O. Box 231
Preston, ID 83263

Dear Ms. Keller:

Enclosed please find a certified copy of a judgment and a report incorporated in the judgment that are to be recorded in the Franklin County records. The judgment is to be indexed under the name of all persons listed at the beginning of the report. No payment is enclosed, since the state is exempt from recording fees. A stamped, self-addressed envelope is enclosed for your convenience.

Thank you very much for your assistance.

Sincerely,

A. Lynne Krogh-Hampe

A. LYNNE KROGH-HAMPE
Deputy Attorney General
Department of Water Resources

LK-H:plb
Encl.

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The document to which this certificate is attached is a full, true and correct copy of the original on file of record in my office, same having been filed ... May 21 ... 19 81
Richard D. Kunz, Clerk of the District Court of the Sixth Judicial District in and for Franklin County, Idaho.
By ... D. Jensen ... Deputy

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State of Idaho
Statehouse, Room 210
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Telephone: (208) 384-2400

DON A. OLOWINSKI
Deputy Attorney General
Chief, Natural Resources Division

JOSEPHINE P. BEEMAN
Deputy Attorney General
Department of Water Resources
Statehouse
Boise, Idaho 83720
Telephone: (208) 334-4448

Recorded at the request of
Department of Water Resources
a.m. FEB 24 1986 3:35 p.m.
CORRIE L. KELLER, RECORDER
By Carolyn Slagel Deputy
FRANKLIN COUNTY, IDAHO

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF FRANKLIN

IN THE MATTER OF THE GENERAL DETERMINATION OF THE RIGHTS TO THE SURFACE AND GROUNDWATERS OF THE WORM CREEK DRAINAGE BASIN.

Civil No. 3236

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 7th day of May, 1981, a true and correct copy of the foregoing proposed DECREE was mailed, postage prepaid, addressed to the following:

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Angus Condie, Secretary
PRESTON-WHITNEY IRRIGATION COMPANY
Preston, Idaho 83263

Josephine P. Beeman
JOSEPHINE P. BEEMAN
Deputy Attorney General
Department of Water Resources

MAY 14 1985

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Department of Water Resources

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF FRANKLIN

IN THE MATTER OF THE GENERAL DETERMINATION OF THE RIGHTS TO THE SURFACE AND GROUNDWATERS OF THE WORM CREEK DRAINAGE BASIN.	CIVIL NO. 3236 D E C R E E

The report of the Department of Water Resources entitled PROPOSED FINDING OF WATER RIGHTS IN THE WORM CREEK DRAINAGE BASIN, was filed with this Court on September 30, 1975. The report contains FINDINGS OF FACT, CONCLUSIONS OF LAW, and a LISTING OF WATER RIGHTS.

As a result of objections to the PROPOSED FINDINGS, changes were made with regard to the following rights: 13-0062, 13-0144, 13-0210, 13-0216, 13-0217, 13-0239, 13-0255, 13-0263, 13-0264, 13-0273, 13-0274, 13-0315, 13-0316, 13-0317, 13-0318, 13-0319, 13-0320, 13-0321, 13-0322, 13-0323, 13-0329, 13-0333, 13-2022, 13-2102, and 13-2287. Changes were also made to finding of fact 7 and conclusion of law 2. These amendments, additions, and deletions to the PROPOSED FINDINGS are set forth in the attached appendix A which is incorporated as part of this decree.

IT IS HEREBY ORDERED, ADJUDGED and DECREED that the water rights of the persons made party to this action are as described in the PROPOSED FINDING OF WATER RIGHTS IN THE WORM CREEK DRAINAGE BASIN as amended by appendix A attached to this decree and incorporated herein by reference.

DATED this 21 day of May, 1981.

FRANCIS RASMUSSEN
District Judge

MICROFILMED
MAY 14 1996

APPENDIX A

AMENDMENTS, ADDITIONS, AND DELETIONS TO PROPOSED FINDINGS

LIST OF CHANGES

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Finding of Fact 7
Conclusion of Law 2
13-0062
13-0144
13-0210
13-0216
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13-0239
13-0255
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13-0323
13-0329
13-0333
13-2022
13-2102
13-2287

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The following pages display all affected rights in numerical order.

FINDINGS OF FACT

Page 4 (amended)

The following Finding of Fact is amended to read as follows:

7. The water rights of the United States are subject to adjudication in this proceeding under the provisions of 43 USC 666.

CONCLUSIONS OF LAW

Page 5 (amended)

The following Conclusion of Law is amended to read as follows:

2. The United States holds no rights either expressly or impliedly to any rights to the present or future use of water of Worm Creek or its tributaries not specifically claimed and identified as to quantity and place of use except as set forth in these findings of fact, conclusions of law and decree of water rights.

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APPENDIX A, Page 1 of 10

PROT-00693

PROPOSED FINDING OF WATER RIGHTS - WORM CREEK DRAINAGE

IDENT. NO.	NAME & ADDRESS	PRIORITY	PURPOSE	PERIOD OF USE From	To	AMOUNT ACRE FEET PER ANNUM	MAXIMUM RATE OF DIVERSION (cfs)	POINT OF DIVERSION	PLACE OF USE and LANDS IRRIGATED	BASIS OF RIGHT and REMARKS
✓ 13-0062	(p. 37 of the proposed findings)									Source Spring Cre
	GOLIGHTLY, Donald D. and/or Nona Route 1 Preston, Idaho	5-15-1902	Irrigation	4-1	7-1	36.0	0.20	Lot 4, S. 6 T16S, R40E	Sec. 12 NE¼NE¼ 6.0 SE¼NE¼ 19.0 NE¼SE¼ 40.0 SE¼SE¼ 24.0 T16S, R39E Sec. 7 Lot 1 2.0 Lot 2 23.0 T16S, R40E 114.0	Decree The amount of water diverted using this right, 13-0216 and 13-0217 shall not exceed 400 af/yr.
✓ 13-0144	(p. 37 of the proposed findings)									Source Spring Creek
	MOSER, Joseph L. Route 1 Preston, Idaho	8-31-1903	Irrigation	4-1	11-1	85.0	0.20	Lot 4, S. 6 T16S, R40E	Sec. 1 Lot 2 13.0 NE¼SE¼ 36.0 NW¼SE¼ 40.0 SW¼SE¼ 39.0 SE¼SE¼ 39.0 T16S, R39E 167.0	Beneficial Use
✓ 13-0210	(p. 37 of the proposed findings)									Source Spring Creek
	DUNKLEY, Leslie L. and/or Bernell Route 1 Preston, Idaho	4-01-1930	Irrigation	4-1	11-1	175.0	1.0	SE¼SE¼, S. 25 T15S, R39E	Sec. 36 SW¼NE¼ 17.0 NW¼SE¼ 33.0 T15S, R39E 50.0	Beneficial Use This right is for such waters of Spring Creek as naturally flow therein, including any waste or run-off waters. The recommendation does not include or require any irrigation company to deliver water for this right.

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PROPOSED FINDING OF WATER RIGHTS - WORM CREEK DRAINAGE

IDENT. NO.	NAME & ADDRESS	PRIORITY	PURPOSE	PERIOD OF USE From	To	AMOUNT ACRE FEET PER ANNUM	MAXIMUM RATE OF DIVERSION (cfs)	POINT OF DIVERSION	PLACE OF USE and LANDS IRRIGATED		BASIS OF RIGHT and REMARKS
✓13-0216	(p. 37 of the proposed findings)										Source Spring Creek
	GOLIGHTLY, Donald D. and/or Nona Route 1 Preston, Idaho	8-31-1903	Irrigation	4-1	11-1	400.0	1.8	Lot 4, S.6 T16S, R40E	Sec. 12 NE¼NE¼ SE¼NE¼ NE¼SE¼ SE¼SE¼ T16S, R39E Sec. 7 Lot 1 Lot 2 T16S, R40E	6.0 19.0 40.0 24.0 2.0 23.0 114.0	Beneficial Use
	The amount of water diverted using this right, 13-0062, and 13-0217 shall not exceed 400 af/yr.										
✓13-0217	(p. 42 of the proposed findings)										Source Unnamed streams in Kirby Pond Drainage
	GOLIGHTLY, Donald D. and/or Nona Route 1 Preston, Idaho	4-01-1872	Irrigation	4-1	11-1	184.0	0.43	Lot 2, S.7 T16S, R40E	Sec. 12 NE¼SE¼ SE¼SE¼ T16S, R39E	40.0 40.0 80.0	Beneficial Use
	The amount of water diverted using this right, 13-0216 and 13-0062 shall not exceed 400.0 af/yr.										
✓13-0239	(p. 38 of the proposed findings)										Source Spring Creek
	BECKSTEAD, Linden and/or Anne Route 1 Preston, Idaho	4-01-1930	Irrigation	4-1	11-1	140.0	0.80	SE¼SE¼, S.25 T15S, R39E	Sec. 36 SE¼NE¼ NE¼SE¼ T15S, R39E	15.0 25.0 40.0	Beneficial Use
	This right is for such waters of Spring Creek as naturally flow therein, including any waste or run-off waters. The recommendation does not include or require any irrigation company to deliver water for this right.										

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PROPOSED FINDING OF WATER RIGHTS - WORM CREEK DRAINAGE

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IDENT. NO.	NAME & ADDRESS	PRIORITY	PURPOSE	PERIOD OF USE From	To	AMOUNT ACRE FEET PER ANNUM	MAXIMUM RATE OF DIVERSION (cfs)	POINT OF DIVERSION	PLACE OF USE and LANDS IRRIGATED		BASIS OF RIGHT and REMARKS
13-0255	(p. 7 of the proposed findings)										Source: Worm Creek
	CLAIM DISALLOWED	All waters used under this right have been purchased from the Preston-Whitney Irrigation Company since 1929									
13-0263	(p. 39 of the proposed findings)										Source: Fairview Drain
	GILBERT, Hazen A. Route 1 Preston, Idaho	5-21-1957	Irrigation	4-1	11-1	210.0	1.20	Sec. 23 NW¼SE¼, NE¼SW¼, T16S, R39E	Sec. 23 NE¼SW¼ NW¼SW¼ SW¼SW¼ T16S, R39E	9.0 32.0 19.0 60.0	Beneficial Use
13-0264											Source: Fairview Drain
	GILBERT, Hazen A. Route 1 Preston, Idaho	6-28-1902	Irrigation	4-1	11-1	70.0	.4	Sec. 23 NE¼SW¼ T16S, R39E	Sec. 23 NE¼SW¼ T16S, R39E	20.0 20.0	Beneficial Use
13-0273	(p. 35 of the proposed findings)										Source: Spring Creek
	RALLISON, Fredrick Route 1 Preston, Idaho	9-1-1903	Irrigation	4-1	11-1	77.0	0.24	Lot 4, S. 6 T16S, R40E	Sec. 12 NE¼NE¼ NW¼NE¼ T16S, R39E	9.0 13.0 22.0	Beneficial Use
	This water includes waters arising below the Chadwick Dam and such portion of those waters above the Chadwick Dam as overflow said dam, under the use of said waters and structure of said dam as is now constituted. The amount of water diverted using this right, 13-0060A, 13-0061A, and 13-0237 shall not exceed 0.44 cfs or 77.0 af/yr.										

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PROPOSED FINDING OF WATER RIGHTS - WORM CREEK DRAINAGE

IDENT. NO.	NAME & ADDRESS	PRIORITY	PURPOSE	PERIOD OF USE From	To	AMOUNT ACRE FEET PER ANNUM	MAXIMUM RATE OF DIVERSION (cfs)	POINT OF DIVERSION	PLACE OF USE and LANDS IRRIGATED	BASIS OF RIGHT and REMARKS
✓13-0274	(p. 35 of the proposed findings)								Source: Spring Creek	
	SHARP, Lyman L. Route 1 Preston, Idaho	9-1-1903	Irrigation	4-1	11-1	756.0	2.85	Lot 4, S. 6 T16S, R40E SW¼SE¼, S. 1 T16S, R39E	Sec. 12 NW¼NE¼ 17.0 SW¼NE¼ 40.0 SE¼NE¼ 20.0 NE¼SW¼ 24.0 SE¼SW¼ 40.0 NW¼SE¼ 40.0 SW¼SE¼ 35.0 T16S, R39E 216.0	Beneficial Use
	This water includes waters arising below the Chadwick Dam and such portion of those waters above the Chadwick Dam as overflow said dam, under the use of said waters and structure of said dam as is now constituted. The amount of water diverted using this right, 13-0060B, 13-0061B shall not exceed 3.5 cfs or 756.0 af/yr.									
✓13-0315	(p. 48 of the proposed findings)								Source: Miscellaneous Sources	
	U.S. Department of Agriculture, FOREST SERVICE Regional Office Ogden, Utah	5-28-1906	Stockwater	6-1	9-30	3.6	0.02	SE¼NE¼, S. 20 T14S, R41E	Sec. 20 SE¼NE¼ T14S, R41E	Beneficial Use North Worm Ck. Basin Spring
✓13-0316	(p. 48 of the proposed findings)								Source: Miscellaneous Sources	
	U.S. Department of Agriculture, FOREST SERVICE Regional Office Ogden, Utah	5-28-1906	Stockwater	6-1	9-30	3.6	0.02	SE¼SW¼, S. 21 T14S, R41E	Sec. 21 SE¼SW¼ T14S, R41E	Beneficial Use North Worm Ck. Basin Seep

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PROPOSED FINDING OF WATER RIGHTS - WORM CREEK DRAINAGE

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IDENT. NO.	NAME & ADDRESS	PRIORITY	PURPOSE	PERIOD OF USE From	To	AMOUNT ACRE FEET PER ANNUM	MAXIMUM RATE OF DIVERSION (cfs)	POINT OF DIVERSION	PLACE OF USE and LANDS IRRIGATED	BASIS OF RIGHT and REMARKS
✓13-0317	(p. 48 of the proposed findings)									
	U.S. Department of Agriculture, FOREST SERVICE Regional Office Ogden, Utah	CLAIM RELINQUISHED								
✓13-0318	(p. 49 of the proposed findings)									Source: Miscellaneous Sources
	U.S. Department of Agriculture, FOREST SERVICE Regional Office Ogden, Utah	5-28-1906	Stockwater	6-1	9-30	3.6	0.02	SW¼SE¼, S. 21 T14S, R41E	Sec. 21 SW¼SE¼ T14S, R41E	Beneficial Use Lower Worm Ck. Basin Spring Campground
✓13-0319	(p. 49 of the proposed findings)									Source: Miscellaneous Sources
	U.S. Department of Agriculture, FOREST SERVICE Regional Office Ogden, Utah	5-28-1906	Stockwater	6-1	9-30	3.6	0.02	NW¼NW¼, S. 28 T14S, R41E	Sec. 28 NW¼NW¼ T14S, R41E	Beneficial Use Lower Worm Creek Basin Seep
13-0320	(p. 49 of the proposed findings)									
	U.S. Department of Agriculture, FOREST SERVICE Regional Office Ogden, Utah	CLAIM RELINQUISHED								

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PROPOSED FINDING OF WATER RIGHTS - WORM CREEK DRAINAGE

IDENT. NO.	NAME & ADDRESS	PRIORITY	PURPOSE	PERIOD OF USE From	To	AMOUNT ACRE FEET PER ANNUM	MAXIMUM RATE OF DIVERSION (cfs)	POINT OF DIVERSION	PLACE OF USE and LANDS IRRIGATED	BASIS OF RIGHT and REMARKS
13-0321	(p. 59 of the proposed findings)									
	U.S. Department of Agriculture, FOREST SERVICE Regional Office Ogden, Utah		Source outside Worm Creek Basin (Station Creek Bird Spring).							
13-0322	(p. 59 of the proposed findings)									
	U.S. Department of Agriculture, FOREST SERVICE Regional Office Ogden, Utah		Source outside Worm Creek Basin (Station Creek Flat Spring).							
13-0323	(p. 49 of the proposed findings)								Source: Miscellaneous Sources	
	U.S. Department of Agriculture, FOREST SERVICE Regional Office Ogden, Utah	5-28-1906	Stockwater	6-1	9-30	3.6	0.02	NW¼NE¼, S. 33 T14S, R41E	Sec. 33 NW¼NE¼ T14S, R41E	Beneficial Use Upper Worm Ck. Basin Spri
13-0329	(p. 37 of the proposed findings)								Source: Spring Creek	
	MOSER, Joseph L. Route 1 Preston, Idaho	8-31-1903 8-31-1903	Irrigation Stockwater	4-1 1-1	11-1 12-31	500.0 6.7 506.7	1.8 0.02 1.80	Lot 4, S. 6 T16S, R40E	Sec. 1 Lot 2 13.0 NE¼SE¼ 36.0 NW¼SE¼ 40.0 SW¼SE¼ 39.0 SE¼SE¼ 39.0 T16S, R39E 167.0	Beneficial Use

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PROPOSED FINDING OF WATER RIGHTS - WORM CREEK DRAINAGE

IDENT. NO.	NAME & ADDRESS	PRIORITY	PURPOSE	PERIOD OF USE From	To	AMOUNT ACRE FEET PER ANNUM	MAXIMUM RATE OF DIVERSION (cfs)	POINT OF DIVERSION	PLACE OF USE and LANDS IRRIGATED		BASIS OF RIGHT and REMARKS
13-0333	(p. 56 of the proposed findings)										Source: Miscellaneous Sources
	DAY, Oneta Lewiston, Utah	12-08-1894 12-08-1894	Irrigation Stockwater	4-1 1-1	11-1 12-31	21.0 1.0 22.0	0.12 0.02 0.12	Sec. 26 NE¼NE¼ T15S, R39E	Sec. 26 NE¼NE¼ T15S, R39E	6.0 6.0	Beneficial Use Millard Springs
13-2022	(p. 23 of the proposed findings)										Source: Worm Creek
	PRESTON WHITNEY RESERVOIR COMPANY Preston, Idaho	9-17-1910 9-17-1910 9-17-1910	Irrigation Div. to Storage Storage for Irrigation	4-1 11-1 1-1	11-1 6-15 12-31	4265.0 ----- 620.0 4265.0	10.0 10.0 --- 10.0	NW¼SE¼, S. 10 T15S, R40E	Sec. 36 SE¼SE¼ T15S, R39E Sec. 1 Lot 1 T16S, R39E Sec. 19 SE¼SE¼ Sec. 20 SW¼NE¼ SE¼NE¼ NE¼SW¼ NW¼SW¼ SW¼SW¼ SE¼SW¼ NE¼SE¼ NW¼SE¼ SW¼SE¼ Sec. 30 NE¼NE¼ NW¼NE¼ SW¼NE¼ SE¼NE¼ NE¼NW¼ SE¼NW¼	37.0 4.0 37.0 8.0 4.0 20.0 1.0 38.0 36.0 7.0 35.0 4.0 39.0 40.0 38.0 37.0 36.0 35.0	License MAY 14 1996

The amount of water diverted using this right, 13-2102 and 13-2287 shall not exceed 20 cfs or 5457.0 acre feet/year.

171655 11-90

PROT-00700

PROPOSED FINDING OF WATER RIGHTS - WORM CREEK DRAINAGE

IDENT. NO.	NAME & ADDRESS	PRIORITY	PURPOSE	PERIOD OF USE From	To	AMOUNT ACRE FEET PER ANNUM	MAXIMUM RATE OF DIVERSION (cfs)	POINT OF DIVERSION	PLACE OF USE and LANDS IRRIGATED	BASIS OF RIGHT and REMARKS
13-2022	PRESTON WHITNEY (Cont'd) RESERVOIR COMPANY								Sec. 30 (Cont'd)	License
									NW¼SW¼ 24.0	
									SE¼SW¼ 37.0	
									NE¼SE¼ 39.0	
									SE¼SE¼ 39.0	
									Sec. 31	
									NE¼NE¼ 35.0	
									NW¼NE¼ 39.0	
									SW¼NE¼ 39.0	
									SE¼NE¼ 39.0	
									SW¼NW¼ 20.0	
									SE¼NW¼ 40.0	
									NE¼SW¼ 40.0	
									NW¼SW¼ 39.0	
									SW¼SW¼ 27.0	
									SE¼SW¼ 39.0	
									Sec. 32	
									NE¼NW¼ 12.0	
									NW¼NW¼ 37.0	
									SW¼NW¼ 38.0	
									SE¼NW¼ 3.0	
									NW¼SW¼ 31.0	
									SW¼SW¼ 32.0	
									Sec. 29	
									NE¼NW¼ 20.0	
									NW¼NW¼ 39.0	
									SW¼NW¼ 39.0	
									SE¼NW¼ 4.0	
									NE¼SW¼ 20.0	
									NW¼SW¼ 39.0	
									SW¼SW¼ 37.0	
									SE¼SW¼ 19.0	
									Sec. 17	
									NE¼SW¼ 13.0	
									SE¼SW¼ 5.0	
									T15S, R40E	

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MAY 14 1996

APPENDIX A. Page 9 of 10

PROT-00701

171655 /3-8

IDENT. NO.	NAME & ADDRESS	PRIORITY	PURPOSE	PERIOD OF USE From	To	AMOUNT ACRE FEET PER ANNUM	MAXIMUM RATE OF DIVERSION (cfs)	POINT OF DIVERSION	PLACE OF USE and LANDS IRRIGATED		BASIS OF RIGHT and REMARKS
13-2022	PRESTON WHITNEY (Cont'd) RESERVOIR COMPANY								Sec. 6		License
									Lot 1	36.0	
									Lot 2	33.0	
									Lot 3	23.0	
									Lot 4	23.0	
									NE¼SW¼	29.0	
									NW¼SW¼	35.0	
									Sec. 5		
									SW¼SW¼	20.0	
									SE¼SW¼	20.0	
									T16S, R40E	1,559.0	
13-2102 & 13-2287	(p. 28 of the proposed findings)										Source: Worm Creek
	PRESTON-WHITNEY RESERVOIR COMPANY Preston, Idaho	9-18-1923	Irrigation	4-1	11-1	4265.0	10.0	NW¼SE¼, S. 10 T15S, R40E	Same as listed under 13-2022		License
		9-18-1923	Diversion to Storage	11-1	6-15	---	10.0				Johnson Reservoir outlet located in NW¼NE¼, Sec. 20, T15S, R40E
		9-18-1923	Storage for Irrigation	1-1	12-31	730.0	----				
						4265.0	10.0				

The amount of water diverted using this right and 13-2022, shall not exceed 20 cfs or 5457.0 af/yr.

MAY 1 4 1996

PROT-00702

DAVID H. LEROY
Attorney General
State of Idaho
Statehouse, Room 210
Boise, Idaho 83720
Telephone: (208) 384-2400

Filed in the District Court of the Sixth Judicial District of the State of Idaho, in and for Franklin County.

10:12 a.m. MAY 11 1981 p.m.

MICHAEL D. KUNZ, CLERK

By K. Inouye Deputy

DON A. OLOWINSKI
Deputy Attorney General
Chief, Natural Resources Division

JOSEPHINE P. BEEMAN
Deputy Attorney General
Department of Water Resources
Statehouse
Boise, Idaho 83720
Telephone: (208) 334-4448

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Department of Water Resources

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF FRANKLIN

IN THE MATTER OF THE GENERAL DETERMINATION OF THE RIGHTS TO THE SURFACE AND GROUNDWATERS OF THE WORM CREEK DRAINAGE BASIN.

Civil No. 3236

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 7th day of May, 1981, a true and correct copy of the foregoing proposed DECREE was mailed, postage prepaid, addressed to the following:

J. D. Williams, Esq.
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Preston, Idaho 83263

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Angus Condie, Secretary
PRESTON-WHITNEY IRRIGATION COMPANY
Preston, Idaho 83263

Josephine P. Beeman
JOSEPHINE P. BEEMAN
Deputy Attorney General
Department of Water Resources

DETERMINED
MAY 14 1996

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF FRANKLIN

IN THE MATTER OF THE GENERAL DETERMINATION OF THE RIGHTS TO THE SURFACE AND GROUNDWATERS OF THE WORM CREEK DRAINAGE BASIN.	)	CIVIL NO. 3236
	)	D E C R E E

The report of the Department of Water Resources entitled PROPOSED FINDING OF WATER RIGHTS IN THE WORM CREEK DRAINAGE BASIN, was filed with this Court on September 30, 1975. The report contains FINDINGS OF FACT, CONCLUSIONS OF LAW, and a LISTING OF WATER RIGHTS.

As a result of objections to the PROPOSED FINDINGS, changes were made with regard to the following rights: 13-0062, 13-0144, 13-0210, 13-0216, 13-0217, 13-0239, 13-0255, 13-0263, 13-0264, 13-0273, 13-0274, 13-0315, 13-0316, 13-0317, 13-0318, 13-0319, 13-0320, 13-0321, 13-0322, 13-0323, 13-0329, 13-0333, 13-2022, 13-2102, and 13-2287. Changes were also made to finding of fact 7 and conclusion of law 2. These amendments, additions, and deletions to the PROPOSED FINDINGS are set forth in the attached appendix A which is incorporated as part of this decree.

IT IS HEREBY ORDERED, ADJUDGED and DECREED that the water rights of the persons made party to this action are as described in the PROPOSED FINDING OF WATER RIGHTS IN THE WORM CREEK DRAINAGE BASIN as amended by appendix A attached to this decree and incorporated herein by reference.

DATED this 21 day of May, 1981.

FRANCIS RASMUSSEN
District Judge

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APPENDIX A

AMENDMENTS, ADDITIONS, AND DELETIONS TO PROPOSED FINDINGS

LIST OF CHANGES

Finding of Fact 7	13-0316
Conclusion of Law 2	13-0317
13-0062	13-0318
13-0144	13-0319
13-0210	13-0320
13-0216	13-0321
13-0217	13-0322
13-0239	13-0323
13-0255	13-0329
13-0263	13-0333
13-0264	13-2022
13-0273	13-2102
13-0274	13-2287
13-0315	

The following pages display all affected rights in numerical order.

MAY 14 1996

FINDINGS OF FACT

Page 4 (amended)

The following Finding of Fact is amended to read as follows:

7. The water rights of the United States are subject to adjudication in this proceeding under the provisions of 43 USC 666.

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CONCLUSIONS OF LAW

Page 5 (amended)

The following Conclusion of Law is amended to read as follows:

2. The United States holds no rights either expressly or impliedly to any rights to the present or future use of water of Worm Creek or its tributaries not specifically claimed and identified as to quantity and place of use except as set forth in these findings of fact, conclusions of law and decree of water rights.

PROPOSED FINDING OF WATER RIGHTS - WORM CREEK DRAINAGE

IDENT. NO.	NAME & ADDRESS	PRIORITY	PURPOSE	PERIOD OF USE From	To	AMOUNT ACRE FEET PER ANNUM	MAXIMUM RATE OF DIVERSION (cfs)	POINT OF DIVERSION	PLACE OF USE and LANDS IRRIGATED	BASIS OF RIGHT and REMARKS
13-0062	(p. 37 of the proposed findings)									Source Spring Creek
	GOLIGHTLY, Donald D. and/or Nona Route 1 Preston, Idaho	5-15-1902	Irrigation	4-1	7-1	36.0	0.20	Lot 4, S. 6 T16S, R40E	Sec. 12 NE¼NE¼ 6.0 SE¼NE¼ 19.0 NE¼SE¼ 40.0 SE¼SE¼ 24.0 T16S, R39E Sec. 7 Lot 1 2.0 Lot 2 23.0 T16S, R40E 114.0	Decree The amount of water diverted using this right, 13-0216 and 13-0217 shall not exceed 400 af/yr.
13-0144	(p. 37 of the proposed findings)									Source Spring Creek
	MOSER, Joseph L. Route 1 Preston, Idaho	8-31-1903	Irrigation	4-1	11-1	85.0	0.20	Lot 4, S. 6 T16S, R40E	Sec. 1 Lot 2 13.0 NE¼SE¼ 36.0 NW¼SE¼ 40.0 SW¼SE¼ 39.0 SE¼SE¼ 39.0 T16S, R39E 167.0	Beneficial Use
13-0210	(p. 37 of the proposed findings)									Source Spring Creek
	DUNKLEY, Leslie L. and/or Bernell Route 1 Preston, Idaho	4-01-1930	Irrigation	4-1	11-1	175.0	1.0	SE¼SE¼, S. 25 T15S, R39E	Sec. 36 SW¼NE¼ 17.0 NW¼SE¼ 33.0 T15S, R39E 50.0	Beneficial Use This right is for such waters of Spring Creek as naturally flow therein, including any waste or run-off waters. The recommendation does not include or require any irrigation company to deliver water for this right.

May 1996

PROPOSED FINDING OF WATER RIGHTS - WORM CREEK DRAINAGE

IDENT. NO.	NAME & ADDRESS	PRIORITY	PURPOSE	PERIOD OF USE From	To	AMOUNT ACRE FEET PER ANNUM	MAXIMUM RATE OF DIVERSION (cfs)	POINT OF DIVERSION	PLACE OF USE and LANDS IRRIGATED		BASIS OF RIGHT and REMARKS
13-0216	(p. 37 of the proposed findings)										Source Spring Creek
	GOLIGHTLY, Donald D. and/or Nona Route 1 Preston, Idaho	8-31-1903	Irrigation	4-1	11-1	400.0	1.8	Lot 4, S.6 T16S, R40E	Sec. 12 NE¼NE¼ SE¼NE¼ NE¼SE¼ SE¼SE¼ T16S, R39E Sec. 7 Lot 1 Lot 2 T16S, R40E	6.0 19.0 40.0 24.0 2.0 23.0 114.0	Beneficial Use
		The amount of water diverted using this right, 13-0062, and 13-0217 shall not exceed 400 af/yr.									
13-0217	(p. 42 of the proposed findings)										Source Unnamed streams in Kirby Pond Drainage
	GOLIGHTLY, Donald D. and/or Nona Route 1 Preston, Idaho	4-01-1872	Irrigation	4-1	11-1	184.0	0.43	Lot 2, S.7 T16S, R40E	Sec. 12 NE¼SE¼ SE¼SE¼ T16S, R39E	40.0 40.0 80.0	Beneficial Use
		The amount of water diverted using this right, 13-0216 and 13-0062 shall not exceed 400.0 af/yr.									
13-0239	(p. 38 of the proposed findings)										Source Spring Creek
	BECKSTEAD, Linden and/or Anne Route 1 Preston, Idaho	4-01-1930	Irrigation	4-1	11-1	140.0	0.80	SE¼SE¼, S.25 T15S, R39E	Sec. 36 SE¼NE¼ NE¼SE¼ T15S, R39E	15.0 25.0 40.0	Beneficial Use
		This right is for such waters of Spring Creek as naturally flow therein, including any waste or run-off waters. The recommendation does not include or require any irrigation company to deliver water for this right.									

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PROPOSED FINDING OF WATER RIGHTS - WORM CREEK DRAINAGE

IDENT. NO.	NAME & ADDRESS	PRIORITY	PURPOSE	PERIOD OF USE From	To	AMOUNT ACRE FEET PER ANNUM	MAXIMUM RATE OF DIVERSION (cfs)	POINT OF DIVERSION	PLACE OF USE and LANDS IRRIGATED		BASIS OF RIGHT and REMARKS
13-0255	(p. 7 of the proposed findings)									Source: Worm Creek	
	CLAIM DISALLOWED ..... All waters used under this right have been purchased from the Preston-Whitney Irrigation Company since 1929										
13-0263	(p. 39 of the proposed findings)									Source: Fairview Drain	
	GILBERT, Hazen A. Route 1 Preston, Idaho	5-21-1957	Irrigation	4-1	11-1	210.0	1.20	Sec. 23 NW¼SE¼, NE¼SW¼, T16S, R39E	Sec. 23 NE¼SW¼ NW¼SW¼ SW¼SW¼ T16S, R39E	9.0 32.0 19.0 60.0	Beneficial Use
13-0264										Source: Fairview Drain	
	GILBERT, Hazen A. Route 1 Preston, Idaho	6-28-1902	Irrigation	4-1	11-1	70.0	.4	Sec. 23 NE¼SW¼ T16S, R39E	Sec. 23 NE¼SW¼ T16S, R39E	20.0 20.0	Beneficial Use
13-0273	(p. 35 of the proposed findings)									Source: Spring Creek	
	RALLISON, Fredrick Route 1 Preston, Idaho	9-1-1903	Irrigation	4-1	11-1	77.0	0.24	Lot 4, S. 6 T16S, R40E	Sec. 12 NE¼NE¼ NW¼NE¼ T16S, R39E	9.0 13.0 22.0	Beneficial Use
	This water includes waters arising below the Chadwick Dam and such portion of those waters above the Chadwick Dam as overflow said dam, under the use of said waters and structure of said dam as is now constituted. The amount of water diverted using this right, 13-0060A, 13-0061A, and 13-0237 shall not exceed 0.44 cfs or 77.0 af/yr.										

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PROPOSED FINDING OF WATER RIGHTS - WORM CREEK DRAINAGE

IDENT. NO.	NAME & ADDRESS	PRIORITY	PURPOSE	PERIOD OF USE From	To	AMOUNT ACRE FEET PER ANNUM	MAXIMUM RATE OF DIVERSION (cfs)	POINT OF DIVERSION	PLACE OF USE and LANDS IRRIGATED	BASIS OF RIGHT and REMARKS
13-0274	(p. 35 of the proposed findings)								Source: Spring Creek	
	SHARP, Lyman L. Route 1 Preston, Idaho	9-1-1903	Irrigation	4-1	11-1	756.0	2.85	Lot 4, S. 6 T16S, R40E SW¼SE¼, S. 1 T16S, R39E	Sec. 12 NW¼NE¼ 17.0 SW¼NE¼ 40.0 SE¼NE¼ 20.0 NE¼SW¼ 24.0 SE¼SW¼ 40.0 NW¼SE¼ 40.0 SW¼SE¼ 35.0 T16S, R39E 216.0	Beneficial Use
	This water includes waters arising below the Chadwick Dam and such portion of those waters above the Chadwick Dam as overflow said dam, under the use of said waters and structure of said dam as is now constituted. The amount of water diverted using this right, 13-0060B, 13-0061B shall not exceed 3.5 cfs or 756.0 af/yr.									
13-0315	(p. 48 of the proposed findings)								Source: Miscellaneous Sources	
	U.S. Department of Agriculture, FOREST SERVICE Regional Office Ogden, Utah	5-28-1906	Stockwater	6-1	9-30	3.6	0.02	SE¼NE¼, S. 20 T14S, R41E	Sec. 20 SE¼NE¼ T14S, R41E	Beneficial Use North Worm Ck. Basin Spring
13-0316	(p. 48 of the proposed findings)								Source: Miscellaneous Sour	
	U.S. Department of Agriculture, FOREST SERVICE Regional Office Ogden, Utah	5-28-1906	Stockwater	6-1	9-30	3.6	0.02	SE¼SW¼, S. 21 T14S, R41E	Sec. 21 SE¼SW¼ T14S, R41E	Beneficial Use North Worm Ck. Basin Seep

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PROPOSED FINDING OF WATER RIGHTS - WORM CREEK DRAINAGE

IDENT. NO.	NAME & ADDRESS	PRIORITY	PURPOSE	PERIOD OF USE From	To	AMOUNT ACRE FEET PER ANNUM	MAXIMUM RATE OF DIVERSION (cfs)	POINT OF DIVERSION	PLACE OF USE and LANDS IRRIGATED	BASIS OF RIGHT and REMARKS
13-0317	(p. 48 of the proposed findings)									
	U.S. Department of Agriculture, FOREST SERVICE Regional Office Ogden, Utah	CLAIM RELINQUISHED								
13-0318	(p. 49 of the proposed findings)									Source: Miscellaneous Sources
	U.S. Department of Agriculture, FOREST SERVICE Regional Office Ogden, Utah	5-28-1906	Stockwater	6-1	9-30	3.6	0.02	SW¼SE¼, S. 21 T14S, R41E	Sec. 21 SW¼SE¼ T14S, R41E	Beneficial Use Lower Worm Ck. Basin Spring Campground
13-0319	(p. 49 of the proposed findings)									Source: Miscellaneous Sources
	U.S. Department of Agriculture, FOREST SERVICE Regional Office Ogden, Utah	5-28-1906	Stockwater	6-1	9-30	3.6	0.02	NW¼NW¼, S. 28 T14S, R41E	Sec. 28 NW¼NW¼ T14S, R41E	Beneficial Use Lower Worm Creek Basin Seep
13-0320	(p. 49 of the proposed findings)									
	U.S. Department of Agriculture, FOREST SERVICE Regional Office Ogden, Utah	CLAIM RELINQUISHED								

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IDENT. NO.	NAME & ADDRESS	PRIORITY	PURPOSE	PERIOD OF USE From	To	AMOUNT ACRE FEET PER ANNUM	MAXIMUM RATE OF DIVERSION (cfs)	POINT OF DIVERSION	PLACE OF USE and LANDS IRRIGATED	BASIS OF RIGHT and REMARKS
13-0321	(p. 59 of the proposed findings)									
	U.S. Department of Agriculture, FOREST SERVICE Regional Office Ogden, Utah		Source outside Worm Creek Basin (Station Creek Bird Spring).							
13-0322	(p. 59 of the proposed findings)									
	U.S. Department of Agriculture, FOREST SERVICE Regional Office Ogden, Utah		Source outside Worm Creek Basin (Station Creek Flat Spring).							
13-0323	(p. 42 of the proposed findings)								Source: Miscellaneous Sources	
	U.S. Department of Agriculture, FOREST SERVICE Regional Office Ogden, Utah	5-28-1906	Stockwater	6-1	9-30	3.6	0.02	NW¼NE¼, S. 33 T14S, R41E	Sec. 33 NW¼NE¼ T14S, R41E	Beneficial Use Upper Worm Ck. Basin Spring
13-0329	(p. 37 of the proposed findings)								Source: Spring Creek	
	MOSER, Joseph L. Route 1 Preston, Idaho	8-31-1903 8-31-1903	Irrigation Stockwater	4-1 1-1	11-1 12-31	500.0 6.7 506.7	1.8 0.02 1.80	Lot 4, S. 6 T16S, R40E	Sec. 1 Lot 2 13.0 NE¼SE¼ 36.0 NW¼SE¼ 40.0 SW¼SE¼ 39.0 SE¼SE¼ 39.0 T16S, R39E 167.0	Beneficial Use

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PROPOSED FINDING OF WATER RIGHTS - WORM CREEK DRAINAGE

IDENT. NO.	NAME & ADDRESS	PRIORITY	PURPOSE	PERIOD OF USE From	To	AMOUNT ACRE FEET PER ANNUM	MAXIMUM RATE OF DIVERSION (cfs)	POINT OF DIVERSION	PLACE OF USE and LANDS IRRIGATED		BASIS OF RIGHT and REMARKS
13-0333	(p. 56 of the proposed findings)										Source: Miscellaneous Sou
	DAY, Oneta Lewiston, Utah	12-08-1894 12-08-1894	Irrigation Stockwater	4-1 1-1	11-1 12-31	21.0 1.0 22.0	0.12 0.02 0.12	Sec. 26 NE¼NE¼ T15S, R39E	Sec. 26 NE¼NE¼ T15S, R39E	6.0 6.0	Beneficial Use Millard Springs
13-2022	(p. 23 of the proposed findings)										Source: Worm Creek
	PRESTON WHITNEY RESERVOIR COMPANY Preston, Idaho	9-17-1910 9-17-1910 9-17-1910	Irrigation Div. to Storage Storage for Irrigation	4-1 11-1 1-1	11-1 6-15 12-31	4265.0 ----- 620.0 4265.0	10.0 10.0 --- 10.0	NW¼SE¼, S. 10 T15S, R40E	Sec. 36 SE¼SE¼ T15S, R39E Sec. 1 Lot 1 T16S, R39E Sec. 19 SE¼SE¼ Sec. 20 SW¼NE¼ SE¼NE¼ NE¼SW¼ NW¼SW¼ SW¼SW¼ SE¼SW¼ NE¼SE¼ NW¼SE¼ SW¼SE¼ Sec. 30 NE¼NE¼ NW¼NE¼ SW¼NE¼ SE¼NE¼ NE¼NW¼ SE¼NW¼	37.0 4.0 37.0 8.0 4.0 20.0 1.0 38.0 36.0 7.0 35.0 4.0 39.0 40.0 38.0 37.0 36.0 35.0	License

The amount of water diverted using this right, 13-2102 and 13-2287 shall not exceed 20 cfs or 5457.0 acre feet/year.

PROT-00713

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IDENT. NO.	NAME & ADDRESS	PRIORITY	PURPOSE	PERIOD OF USE From	To	AMOUNT ACRE FEET PER ANNUM	MAXIMUM RATE OF DIVERSION (cfs)	POINT OF DIVERSION	PLACE OF USE and LANDS IRRIGATED	BASIS OF RIGHT and REMARKS
13-2022	PRESTON WHITNEY (Cont'd) RESERVOIR COMPANY								Sec. 30 (Cont'd) NW¼SW¼ 24.0 SE¼SW¼ 37.0 NE¼SE¼ 39.0 SE¼SE¼ 39.0 Sec. 31 NE¼NE¼ 35.0 NW¼NE¼ 39.0 SW¼NE¼ 39.0 SE¼NE¼ 39.0 SW¼NW¼ 20.0 SE¼NW¼ 40.0 NE¼SW¼ 40.0 NW¼SW¼ 39.0 SW¼SW¼ 27.0 SE¼SW¼ 39.0 Sec. 32 NE¼NW¼ 12.0 NW¼NW¼ 37.0 SW¼NW¼ 38.0 SE¼NW¼ 3.0 NW¼SW¼ 31.0 SW¼SW¼ 32.0 Sec. 29 NE¼NW¼ 20.0 NW¼NW¼ 39.0 SW¼NW¼ 39.0 SE¼NW¼ 4.0 NE¼SW¼ 20.0 NW¼SW¼ 39.0 SW¼SW¼ 37.0 SE¼SW¼ 19.0 Sec. 17 NE¼SW¼ 13.0 SE¼SW¼ 5.0 T15S, R40E	License

PROT-00714

PROPOSED FINDING OF WATER RIGHTS - WORM CREEK DRAINAGE

U.S. BUREAU OF RECLAMATION MAY 4 1996

IDENT. NO.	NAME & ADDRESS	PRIORITY	PURPOSE	PERIOD OF USE From	To	AMOUNT ACRE FEET PER ANNUM	MAXIMUM RATE OF DIVERSION (cfs)	POINT OF DIVERSION	PLACE OF USE and LANDS IRRIGATED	BASIS OF RIGHT and REMARKS
13-2022	PRESTON WHITNEY (Cont'd) RESERVOIR COMPANY								Sec. 6 Lot 1 36.0 Lot 2 33.0 Lot 3 23.0 Lot 4 23.0 NE¼SW¼ 29.0 NW¼SW¼ 35.0 Sec. 5 SW¼SW¼ 20.0 SE¼SW¼ 20.0 T16S, R40E 1,559.0	License
13-2102 & 13-2287	(p. 28 of the proposed findings) PRESTON-WHITNEY RESERVOIR COMPANY Preston, Idaho	9-18-1923 9-18-1923 9-18-1923	Irrigation Diversion to Storage Storage for Irrigation	4-1 11-1 1-1	11-1 6-15 12-31	4265.0 --- 730.0 4265.0	10.0 10.0 ---- 10.0	NW¼SE¼, S. 10 T15S, R40E	Source: Worm Creek Same as listed under 13-2022	License Johnson Reservoir outlet located in NW¼NE¼, Sec. 20, T15S, R40E

The amount of water diverted using this right and 13-2022, shall not exceed 20 cfs or 5457.0 af/yr.

PROT-00715

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR FRANKLIN COUNTY.

HENRY T. MCEWAN,

Plaintiff

VS

DECREE

FRANKLIN COUNTY SUGAR COMPANY, a corporation; CITY OF PRESTON, A municipal corporation; THE CUB RIVER IRRIGATION CO., a corporation, THE CUB RIVER MIDDLE DITCH CO., a corporation; THE FRANKLIN CUB RIVER CANAL CO., A corporation; THE CUB RIVER AND WORM CREEK CANAL CO., a corporation; B. M. BURBANK, CAROLINE J. ALLRED, GRACE H. WOOLLEY, VIRGIL L. NELSON, HENRY F. BENNETT, MERLIN PERKINS, JAMES PERKINS, JANUS KELLER, JR., JOS. SHARP, C. M. EPHRON, MARY ANN BUCKLEY McGEE, HENRY DAY, J. A.

RECORDED MAY 17

The Document to which this certificate is attached is a full, true and correct copy of the original on file and of record in my office, same having been filed 7-7-24
Attest March 14 19 24
Michael D. Kunz, Clerk of the District Court of the Sixth Judicial District in and for Franklin County, Idaho.
By Lena Bryan Deputy

EXHIBIT 108 PROTESTANT

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DUNKLEY, JOSEPH T. SHARP, ALVIN C. HULL, LEROY HULL, PRISCILLA BOWMAN, TRACY LOAN & TRUST COMPANY, A corporation, and S. W. PARKINSON, AS Administrators of the Estate of Samuel C. Parkinson, deceased; ALVIN SHARP, OECIL WOODWARD, GARNET WOODWARD, FRANKLIN MAPLE CREEK PIONEER IRRIGATION COMPANY, a corporation, ELIZA D. LOWE, ELIZABETH K. LOWE, LEVI OLIVERSON: JOHN W. GIBSON, WM. FOLLETT and HOWARD GIBSON, as Administrators of the Estate of W. M. Gibson, deceased; WALLACE CHATTERTON, S. B. WRIGHT, S. J. HANDY, W. CHATTERTON, AARON CHATTERTON, JOANNA WHITEHEAD, IVAN WOODWARD, EDWARD MORGAN, THOMAS HAWORTH, W. L. WICKHAM, PETER G. WHITEHEAD, WILLIAM STOCKDALE, P. A. ROBINSON: AND ALVIN C. HULL, as Administrator of the Estate of Robert M. Hull, deceased;

Defendants.

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This cause came on regularly for trial on the 10th day of March, 1924, before Honorable O. R. Baum, one of the Judges of the said Court at Preston, Idaho, Charles H. Hart, Esq., of Salt Lake City, Utah, and P. J. Evans, Esq., of Preston, Idaho, appearing as attorneys for the plaintiff, Henry T. McEwan; Dey, Hoppaugh & Mark, Esqs., and Arthur W. Hart, Esq., appearing as attorneys for the defendant Franklin County Sugar Company, a corporation; P. M. Condie, Esq., appearing as attorney for the defendant and cross-complainant The City of Preston, a municipal corporation; Clark, Richards & Bowen, Esqs., and C. E. Crowley, Esq., appearing as attorneys for the defendant and cross-complainant, The Cub River Irrigation Company, a corporation; A. W. Hart, Esq., appearing as attorney for the defendant and cross complainant, The Cub River Middle Ditch Company, a corporation, and for the defendant and cross-complainant, The Cub River & Worm Creek Canal Company, a corporation, and also for the defendants and cross complainants Alvin C. Hull, Leroy Hull and Alvin C. Hull as administrator of the estate of Robert N. Hull, deceased; and none of the other defendants appearing, either personally or by counsel, and the default of all of said other defendants having been entered for failure to answer or otherwise plead to the complaint and amended complaint of the plaintiff, and the cross complaint of the City of Preston, a municipal corporation, and for failure to answer the cross complaint of the defendant Cub River Irrigation Company, a corporation, in accordance with the Praecipe for Default filed herein, and the judgment of default having been entered herein against such defaulting defendants, and testimony on behalf of the plaintiff and of the appearing defendants and cross-complainants, both oral and documentary, having been offered and received by the Court on behalf of each of said parties respectively, and the parties having, by consent of the Court, agreed among themselves with reference to certain facts and the Court having examined all the testimony offered and received for and on behalf of the respective parties and the agreements and stipulations entered into between the said parties and having taken the said cause under consideration and being fully advised in the premises, and having made and entered its Findings of Fact and Conclusions of Law herein in writing and ordered judgment to be entered in accordance therewith,

IT IS NOW, BY THE COURT, ORDERED, ADJUDGED AND DECREED, as follows:

FIRST: That the Irrigation season, as the terms is used herein, begins on the first day of April and extends to the 31st day of October of each and every year and the non-irrigation season extends from the first day of November of each year to the first day of April of the succeeding year.

SECOND: That irrigation rights as herein awarded and decreed are of two classes, primary rights and excess or high water rights.

The primary rights include the right to use at all times during the irrigation season, in the amounts herein awarded to the various appropriators, respectively, and in the order of their respective priorities, the quantity of water specifically allotted to [illegible]

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various appropriators for irrigation purposes, exclusive of the excess or high water rights awarded to Cub River Irrigation Company, a corporation, Cub River Middle Ditch Company, a corporation, and Cub River & Worm Creek Canal Company, a corporation, in Paragraphs Third and Fourth and Fifth hereof.

Excess or high water rights are defined to be the right to use by defendants, Cub River Irrigation Company, Cub River Middle Ditch Company, and Cub River Worm Creek Canal Company, a corporation, during the irrigation season, for irrigation purposes, in the amounts, and with the priorities in said Paragraphs Third, Fourth and Fifth hereof specifically set out, all waters flowing in the said Cub River and its tributaries in excess of the amount of water necessary to satisfy the primary irrigation rights as herein allotted.

13-0026 THIRD: That the defendant, Cub River Irrigation Company, a corporation, is the owner of a primary right to the use, at all times during the irrigation season, of 45 cubic feet per second of time of all the waters of said Cub River and in excess or high water right to the use of 45/100ths of said stream after the primary irrigation rights herein decreed are satisfied, up to a total of 158 cubic feet per second of time, its rights to the use of said water to date from the year A.D. 1880; said water to be measured at the waste gate in said Company's canal at a point where the same is now situated and about a mile below the headgate of said canal, and to be used for the irrigation of 1800 acres of land lying in Sections 1, 2, 3, 10, 11, 12, 13, 14, 15, 21, 22, 23, 24, 25, 26, 27, and 28, Township 16 South of Range 39 East of the Boise Meridian in Franklin County, Idaho, and sections 35 and 36, Township 15 of Range 1 West of the Salt Lake Meridian, Cache County, Utah, and Sections 1, 2, 3, 11, 12, 13, 14, 15, 22, 23, 24, 25, and 26, Township 14 North of Range 1 West of the Salt Lake Meridian, Cache County, Utah, and Sections 3, 4, 5, 6, 7, 8, 9, 10, 15, 16, 17, 18, 19, 20, 21, 28, 29, 30, 31, and 32, Township 14 North of Range 1 East of the Salt Lake Meridian in Cache County, Utah.

13-0002 FOURTH: That the defendant Cub River Middle Ditch Company is the owner of a primary right to the use, at all times during the irrigation season, of 30 cubic feet per second of time of all of the waters of said Cub River, and of an excess or high water right in the order of its priority of 30/100ths of the waters of said stream, after the primary rights herein allotted for irrigation purposes are specified, up to the extent of 69.9 second feet, its right to the use of said waters to date from the year A.D. 1882; said water to be measured at the waste gate in said Company's canal, at a point there it is now situated below the headgate of said canal.

13-0003 FIFTH: That the Cub River and Worm Creek Canal Company is the owner of a primary right to the use at all times during the irrigation season of 25 cubic feet per second of time of all of the waters of said Cub River, and is also the owner of an excess or high water right in the order of its priority to the extent of ¼ of the waters of said stream, after the primary rights herein decreed are fully satisfied. The total right of said Company, nevertheless, not to exceed 85 cubic feet per second of time. The right to the use of the said waters by said Company to date from the year 1882, and the said water to be measured at the headgate of said canal company, where said canal intercepts said stream,

13-0004 SIXTH: That the defendant, Franklin Cub River Canal Company, is the owner of a primary right to use, at all times during the irrigation season, five cubic feet per second of time of all of the waters of said Cub River, its rights to the use thereof to date from the year 1882, and the said water to be measured at the headgate of said Company's canal, where the same intercepts said Cub river.

13-0005 SEVENTH: That as between the said Cub River Middle Ditch Company and the said

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13-0037 (e) If, during the said non-irrigation season, after the use of the quantity of water hereinabove specified, there shall be sufficient water for that purpose, a quantity of water for the Cub River and Worm Creek Irrigation Company, a corporation, for culinary, domestic and stock watering purposes, may be increased by an additional three (3) second feet to be used until the freezing weather shall prevent the same from running through the canal system of said company.

Done in open court this 9th day of July, 1924.

Robert M. Terrell
District Judge

Filed July 9th, 1924.

John A. Koford
Clerk

Compared J.A.K.

* * * * * * * * *

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BYLAWS

OF

PRESTON-WHITNEY IRRIGATION COMPANY

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EXHIBIT
109
PROTESTANT

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BYLAWS

OF

PRESTON-WHITNEY IRRIGATION COMPANY

ARTICLE I

Corporate Purpose and Authority

Section 1. Purpose.

This corporation was originally organized and now exists under and by virtue of the laws of the State of Idaho for the sole and exclusive purpose of purchasing, appropriating or otherwise acquiring and holding rights to the diversion, storage and use of the public waters of the state, and for the construction, operation and maintenance of an irrigation and storage system for diverting and storing such waters from the public supply in order to transport and deliver the same in a convenient and economical manner to its stockholders for use upon their lands.

Section 2. Power.

Except as otherwise provided in these Bylaws, the Articles of Incorporation of this corporation and the laws of the State of Idaho, all authority and power with respect to the corporation shall be vested in the stockholders.

Section 3. Principal Office.

The principal office of the corporation in the State of Idaho shall be located at Preston, County of Franklin, State of Idaho.

Section 4. Depositories.

The monies of the corporation shall be deposited in the name of the corporation in such depository or depositories as may be designated by the Board of

Directors, and shall be withdrawn therefrom only by appropriate instruments signed by the officer or officers designated by resolution of the Board of Directors.

Section 5. Inspection of Records.

All books, papers and records of the corporation in the hands of any officer of the corporation shall be subject to inspection by any officer, director or stockholder of the corporation during the corporation's regular hours of business or during any regular or special meeting of the Board of Directors or stockholders.

ARTICLE II

Service Area, Irrigation System and Water Rights

Section 1. Service Area.

The service area of the corporation shall include:

(a) all lands of the stockholders to which water rights of the corporation are legally appurtenant. Such lands are described in the chart attached as Exhibit "A" and are also shown in the map attached as Exhibit "B".

(b) such additional lands as may be conveniently irrigated through the same irrigation system of the corporation, without injury to the water rights or irrigation system of the corporation or to the stockholders, provided, that such lands are added to the service area or that the service area of the corporation is modified in compliance with the provisions of Idaho law and these Bylaws. Delivery of water through the irrigation system of the company to lands which are not, or have not formally been included as provided by these Bylaws within the service area of the corporation, whether such delivery be by agreement or otherwise, whether such land is owned by a stockholder or some other person,

and whether the water so conveyed was diverted from the public or a private source of supply under rights of the corporation, a stockholder or any other person, shall not constitute a dedication of such water right to such land, shall not constitute a formal inclusion of such land within the service area of the corporation, and shall not obligate the corporation to continue to deliver such water except under the terms of any formal agreement to do so into which the corporation may be authorized by law or these Bylaws to enter, or into which the corporation may have previously legally entered.

Section 2. Irrigation System.

(a) The irrigation system of the corporation shall consist of all works, structures, facilities and equipment, including any and all dams, reservoirs, overflows, checks, weirs, headgates, canals, ditches, laterals, pipelines, flumes, culverts, and measuring devices, as well as all real and personal property rights of every name, nature and description, including any easements, owned or used by the corporation, or which may be acquired or used hereafter by the corporation for the purpose of diverting water under the water rights of the corporation from the public, or any private, water supply and conveying the same to the lands of its stockholders for use thereon. The irrigation system of the corporation as it presently exists, and the major components and facilities thereof are generally shown in the map attached as Exhibit "C".

(b) The corporation hereby reasserts ownership of the above described irrigation system, including specifically, but without limitation, the dams, reservoirs, overflows, checks, weirs, headgates, canals, ditches, laterals, pipelines, flumes, culverts, measuring devices and other attendant structures or equipment necessary for the

diversion into storage and delivery of water through said irrigation system to lands of stockholders of the corporation, whether served individually or jointly by said system. The corporation, having assumed the obligation of construction, operation and maintenance of the irrigation system of the corporation, hereby reasserts its obligation to operate, maintain, protect, repair and replace such irrigation system and all essential and proper parts thereof during the life of the corporation. Any construction or maintenance of particular structures forming a part of said system which the corporation may permit to be undertaken by any individual stockholder or group thereof is on the condition that such structure remains in the ownership and control of the corporation and that such construction or maintenance shall be in accordance with plans and specifications approved by designated officers of the corporation. With specific respect to bridges or other crossing structures located on corporation canals or ditches, such bridges are not the property of the corporation. However, in the event of a need for replacement of any such bridge, corporation will assume responsibility for construction of the abutments.

(c) Each individual stockholder shall, at his own expense, originally install and shall hereafter maintain, repair and replace, as necessary, headgates and measuring devices or other appropriate structures at each point of delivery from the corporation's irrigation system where such points are presently located or as they may hereafter be located or relocated through which water shall be measured and delivered into the receiving facilities of each stockholder or group of stockholders in accordance with the respective rights of each. The corporation shall have the exclusive control of each such headgate or other delivery structure, including any measuring devices and the judgment of

the corporation's manager as to any measurement of water shall be final unless a stockholder provides an accurate measurement by means of a satisfactory device or in some other manner acceptable to such manager at the stockholder's own expense. Each such headgate or other delivery structure shall also be equipped so that the flow of water through it may be controlled and completely stopped, as well as locked.

Section 3. Water Rights.

The water rights of the corporation, whether acquired by appropriation, transfer, purchase, contract or otherwise, presently consist of the following:

List of Water Rights

RIGHT NO.	SOURCE	AMOUNT IN CFS or AF	PRIORITY	PURPOSE
13-00002	Cub River	30.00CFS	04/01/1882	Irrigation
13-00003	Cub River	25.00CFS	04/01/1882	Irrigation
13-00035	Cub River	4.00CFS	04/01/1882	Domestic/Stockwater
13-00036	Cub River	3.00CFS	04/01/1882	Domestic/Stockwater
13-00037	Cub River	2.00CFS	04/01/1882	Domestic/Stockwater
13-00038	Cub River	3.00CFS	04/01/1882	Domestic/Stockwater
13-00143	Springs Tributary to Worm Creek (Larsen Springs)	5.00CFS & 2133.00AF	04/01/1929	Irrigation
13-00271	Worm Creek	50.00CFS & 2000.00AF	05/07/1880	Irrigation
13-02104	Cub River	25.00CFS	03/14/1924	Irrigation
13-02108	Worm Creek	215.00CFS & 6000.00AF	12/15/1924	Storage (Glendale Reservoir) & Irrigation
13-02288	Cub River	6000.00AF	12/15/1924	Storage (Glendale Reservoir) & Irrigation
13-02291	Cub River	2407.50AF	06/30/1947	Storage (Lamont Reservoir) & Irrigation
13-02298	Cub River	3355.00AF	02/11/1957	Storage (Foster Reservoir) & Irrigation

Section 4. Uses of System.

No use shall be made of the irrigation system or water rights of the corporation other than for the storage and conveyance of water by and for the corporation and its stockholders, nor shall any stockholder or other person or entity permit the draining of seepage and waste water into the system or erect or maintain any structure on or across any portion of the system without the written permission of the Board of Directors. Any such use or activity shall be permitted only on the condition that such permitted use or activity will not interfere with the proper operation and maintenance of any part of the system by the corporation.

ARTICLE III

Stock

Section 1. Outstanding Stock.

The corporation has issued stock (shares of the corporation represented by certificates of the corporation) showing the name of the person to whom such stock was issued, the number of shares, the date of issuance and other information. There are presently 30,000 shares of stock authorized for issuance by the corporation. Of such total, 26,527.5 have been issued, all of which are outstanding in the names of the individual stockholders of the corporation.

Section 2. What Stock Represents.

Each issued and outstanding share of stock represents, measured at the corporation's points of diversion from the public water supply with respect to natural flow, and measured at the release facilities for each reservoir with respect to storage, the same

proportionate share of water to which the corporation is at any given time entitled by virtue of the rights held by the corporation as said share of stock bears to the total number of issued and outstanding shares of stock of the corporation, less the same proportion of the total transmission losses incurred by the corporation in the conveyance of water through the irrigation system, together with the right to have such water conveyed through the corporation's irrigation system and delivered at the designated point of delivery on said system into the receiving facilities of the holder of such stock for use upon the lands of such stockholder. The corporation shall have no further duty other than to deliver, at the point of delivery of each stockholder, his proportionate share of the water to which the corporation is entitled, less his proportionate share of all transmission losses; provided, however, the corporation may, in the discretion and by the approval of the Board of Directors, carry and transport additional water, the right to the use of which is owned or rented by a stockholder or other person or entity, for a carrying charge to be determined by the Board of Directors, so long as such service does not interfere with the efficient and orderly management of the corporation's irrigation system.

Section 3. Issuance of Certificates of Stock.

Each stockholder of the corporation who now holds stock therein shall be entitled to a certificate or certificates showing the amount of his stock in the corporation, and each stockholder of the corporation who hereafter acquires stock from the corporation shall be entitled to a certificate or certificates. The ownership of the amount of stock of the corporation represented by any such certificate shall be recorded in the stock transfer book of the corporation in the name of the stockholder. Stock certificates shall be issued in

numerical order from the "Stock Certificate Book", shall bear the serial number and the date of issuance, shall be signed by the President and Secretary, shall have affixed thereto the seal of the corporation and, subject to statutory requirements, shall be in the form prescribed by the Board of Directors. A full record of each stock certificate, heretofore issued and hereafter to be issued, shall be entered on the corresponding stub of the Stock Certificate Book.

Section 4. Appurtenancy of Rights Represented by Stock.

Except as provided in Section 2 of this Article, all of the water rights and conveyance or ditch rights of the corporation are appurtenant to the lands of the stockholders, identified herein as the "service area" of the corporation, which are benefited thereby. Except as otherwise provided in this section, and subject to the provisions of Article VIII, Section 1 of these Bylaws, no share of stock may be owned except by the record title holder of the specific land to which the water and conveyance rights represented by such share are appurtenant. Except as otherwise provided in this Article, Section 5, and except as otherwise provided in Article VIII, Section 1 of these Bylaws, no share of stock may be transferred, retained or otherwise dealt with unless it is transferred, retained or dealt with as part of a transaction involving the specific land to which the water and conveyance rights represented by such share of stock are appurtenant. Any conveyance of record title to such land also constitutes a transfer of the water and ditch rights appurtenant thereto. If the record title to any land within the corporation's service area, to which water and conveyance rights represented by shares of stock are appurtenant, is changed or modified for any reason, the ownership of such shares of stock shall also be changed or modified on the records of the

corporation to reflect the change or modification in the record title to such land. The stock certificate shall be surrendered to the Secretary of the Corporation, and the Secretary shall issue the new certificate or certificates necessary to reflect such changes in ownership of said land and stock in accordance with the procedures for transfers of stock set out in Section 6 of this Article.

Section 5. Procedure for Changing Place of Use of Water.

(a) Within the service area. Whenever a stockholder desires to change the place of use of all or any portion of the proportionate share of the corporation's water and ditch rights represented by shares of stock outstanding in his name, or to change the location where water is delivered from the corporation's irrigation system to his lands, or the manner in which such delivery is made, he shall request the same in writing, and such request shall be delivered to the Secretary. Such request shall describe the proposal in detail. In the case of a request to change the location of the point of delivery or the manner or means thereof, the request shall describe both the present point and the proposed new location, as well as any proposed modification in structures or other proposed modifications, In the case of a proposed change in place of use, the request shall identify the amount of the water right proposed to be transferred, the specific acres of land where water has been used pursuant to such right, the specific acres to which the right is proposed to be transferred, and the reasons for such proposed transfer. The Secretary shall present any such written request at the next regular or special meeting of the Board of Directors, which shall consider such request but shall not be required to make a decision until satisfied that it has adequate information; provided, that such decision shall be rendered in any event within sixty (60) days of receipt

by the secretary of such written request. If the Board of Directors finds that such transfer or change can be made without injury to the rights of the corporation and its stockholders and would not violate any applicable provisions of Idaho law, it shall approve the same and may impose such conditions as it may determine to be reasonable. The decision of the directors shall be in writing, and a copy thereof, together with the written request of the stockholder, shall be kept in the records of the corporation.

(b) Out of the Company's Service Area. Whenever any request is made to transfer the place of use of the water rights represented by such shares of stock to lands not currently within the service area of the corporation or the point of diversion, nature of use or season of use, or whenever otherwise required by law, the directors shall further determine whether such lands can be conveniently irrigated through the irrigation system of the corporation, or whether such transfer can be made without damage to the irrigation system of the corporation and without damage to any of the water rights and obligations of the corporation, and in the event such determination is in the affirmative, the stockholder requesting the transfer shall make appropriate application therefor to the Idaho Department of Water Resources, pursuant to Idaho Code, §42-108 and §42-222, or any other applicable provisions of law. The decision of the Board of Directors shall be contingent on the decision of such Department and may include the imposition of such conditions as it may determine to be reasonable. A copy of the decision of the Idaho Department of Water Resources shall be furnished to the Secretary and shall be attached to the stockholder's original request along with the decision of the Board of Directors.

Section 6. Stock Transfer Procedure.

Whenever any stock certificate is presented to the secretary, or other person designated by the Board of Directors to transfer stock on the transfer books of the corporation, for transfer, the Secretary, or such other person, shall request sufficient information and the stockholders shall provide such information to permit the Board of Directors to determine whether the proposed transfer constitutes only a transfer to reflect a change in the record title of the land to which the water and conveyance or ditch rights represented by such stock are appurtenant as described in Section 4 of this Article, or whether the proposed transfer contemplates a change in the place of use within the corporation's service area or a change in place of use to lands outside the corporation's service area, or the point of diversion, nature of use or season of use of the water rights represented by such stock as described in Section 5 of this Article. If the Board of Directors determines that the proposed transfer is not one described in said Section 5, it shall authorize the Secretary, or other appropriate officer, to proceed in the manner set forth in the next paragraph of this Section.

Transfers of stock shall be made only by the Secretary or other person designated by the Board of Directors to transfer stock on the transfer books of the corporation, which shall be kept at the office of the corporation. Before a new certificate is issued, the old certificate, properly endorsed by the stock holder whose name the certificate bears, shall be surrendered for cancellation. A new certificate shall not be issued before the original cost and all assessments against the shares of stock, represented by the old certificate, shall have been fully paid. Before the new certificate is issued, the person

requesting the transfer of stock shall pay a fee to the Secretary in such amount as may be fixed from time to time by the Board of Directors. The Secretary of the corporation shall not issue certificates representing any division of shares, except as approved by the Board of Directors.

If the Board of Directors determines that the proposed transfer is one described in said Section 5, it shall proceed to obtain or request the relevant information and make the decision as provided therein before authorizing the Secretary or other person to transfer the stock on the transfer books of the corporation.

Section 7. Holders of Stock.

Stockholders registered on the books of the corporation shall be the only persons treated by the corporation as the holders of stock outstanding in their respective names, and except for a valid voting agreement, or for a valid proxy for voting purposes as provided herein, the corporation shall not be bound to recognize an equitable or other claim to, or interest in, any stock certificate on the part of any other person, whether or not the corporation has actual or constructive notice thereof, except as otherwise expressly provided by law.

Section 8. Loss or Destruction of Stock Certificate.

In the event of loss or destruction of any certificate of stock, another may be issued in its place on satisfactory proof of such loss or destruction furnished to the Secretary. Satisfactory proof of loss or destruction shall be made by Affidavit, and a bond of indemnity shall be given to the corporation in such amount as the directors may decide unless the directors waive such requirement. Any such new certificate shall be plainly

marked "Duplicate" on the face thereof. In the event of the death or incompetency of any stockholder, no transfer of stock outstanding on the records of the corporation in his name shall be made unless satisfactory proof thereof be furnished to the secretary in the form of an Affidavit by the person seeking to have the certificate reissued in his name showing the reasons therefore and satisfactory information to prove he is the proper person to whom the certificate should be reissued, and such person give a satisfactory bond of indemnity as in the case of a lost or destroyed certificate.

Section 9. Limit on Amount of Stock to be Transferred.

No certificate for less than five (5) shares shall be further divided except upon formal approval by the Board of Directors, duly recorded in the minutes of the appropriate meeting. In the event that land within the corporation's service area to which water and conveyance rights are appurtenant by virtue of stock held by the owner of such land, is divided into tracts or parcels smaller than an amount approved by the Board of Directors, the corporation shall require the owners of such subdivided tracts or parcels to form a formal entity having the legal capacity to hold stock, and any new certificate requested to be issued as a result of the change in ownership of such real property, shall be issued by the corporation only to such entity.

ARTICLE IV

Stockholders' Meetings

Section 1. Date and Purpose for Annual Stockholders' Meeting.

The annual meeting of the stockholders of the corporation shall be held the fourth Monday of January at a time to be set by the Board of Directors. This meeting shall be held in Preston, Franklin County, Idaho, or at such other place in Franklin County, as may be designated by the Board of Directors. At this meeting, an election shall be held to elect directors to the offices for which the terms of office of the current directors have expired. The term of office of the directors so elected shall be as prescribed in these Bylaws or until their successors have been elected and qualified. Officers of the corporation shall present their annual reports; and such other business relating to the corporation may be transacted as shall properly come before the meeting.

Section 2. Order of Business.

At all meetings of the stockholders the following order of business shall be observed so far as consistent with the purposes of the meeting:

1. Call to Order
2. Proxy Report
3. Reading of Minutes
4. Report of President
5. Report of Treasurer
6. Report of Secretary
7. Report of Directors
8. Report of Manager
9. Election of Directors
10. Unfinished Business
11. New Business

Section 3. Place of Special Meetings.

Special meetings of the stockholders of the corporation may be held at the place indicated for the holding of annual meetings, or such other place as shall be

determined by the Board of Directors. The place at which such meeting is to be held shall be stated in the notice and call of the meeting.

Section 4. Calling of Special Meetings.

Special meetings of the stockholders shall be held whenever called by the Board of Directors. Such meetings shall also be called by the President or Secretary on the request, in writing, of the stockholders holding shares representing in the aggregate, one-fifth (1/5) of the votes of all outstanding shares. If upon such request, the President or Secretary neglects for five (5) days to call a special meeting, then the stockholders making the request may call a special meeting. No business other than that specified in the notice shall be considered at any such meeting.

Section 5. Notice of Stockholder Meetings.

Written or printed notice of every regular or special meeting of stockholders, stating the time and place of the meeting shall be prepared and mailed by the Secretary, or in his absence, or if he fails to do so, the other officers or the stockholders calling said meeting, postage prepaid, to the last known post office address of each stockholder at least ten (10) days before the date of such meeting. In the case of special meetings, the notice shall also state the purpose of the meeting,

Section 6. Waiver of Notice.

Notice of the time, place and purpose of any meeting of the stockholders need not be given to any stockholder who attends such meeting in person or by proxy if such stockholder shall waive notice of the meeting by a writing filed in the

records of the meeting. Any such writing shall be sufficient if substantially in the following form:

WAIVER OF NOTICE OF STOCKHOLDERS' MEETING

The undersigned, being the holder of a certificate or certificates of the common capital stock of Preston-Whitney Irrigation Company, according to the records of said corporation, does hereby waive notice of the meeting of the stockholders of said corporation held (or to be held) at Preston, Idaho, on the ____ day of _____, 199__, and does hereby agree that any business transacted (or to be transacted) at such meeting shall be valid and effective as though held after notice given and published.

Dated this ____ day of _____, 199__.

_____
(signature)

No notice of any reconvened meeting, regular or special, need be given when the regular or special meeting was properly called but was recessed for lack of a quorum or by reason of inability to complete the business that was properly before the original meeting.

Section 7. Voting at Stockholder Meetings.

(a) At each regular or special stockholders' meeting, and subject to the provisions of any valid voting agreement which may be in effect, each stockholder shall be entitled to one (1) vote, either in person or by proxy, for each share of stock or portion thereof outstanding and registered in his name at the time of the closing of the transfer books for that meeting. The transfer books of the corporation shall be closed five (5) days prior to any such meeting.

(b) Each ballot cast shall have endorsed thereon the number of shares voted thereby and for whom or for what the vote is cast. Each ballot shall be signed by the holder thereof or by the person holding the proxy therefor and shall contain

the name of the person for whom the proxy acts. A plurality of votes cast for any one candidate shall be sufficient to elect the candidate to the office of director. All other matters submitted to a vote of the stockholders shall be decided by a majority of the votes cast, unless otherwise specifically provided by law or by these Bylaws.

Section 8. Voting Eligibility.

Each stockholder entitled to vote may be represented at any regular or special meeting of the stockholders by proxy, which shall be evidenced by a writing assigning the person who may exercise the proxy. The person exercising the proxy need not be a stockholder, but the proxy shall be in sufficient form to meet the requirements of law, shall be in writing and signed by the stockholder. Any such proxy shall be sufficient if substantially in the following form:

PROXY

The undersigned, being the holder of a certificate or certificates of the common capital stock of Preston-Whitney Irrigation Company, according to the records of said corporation, does hereby make, constitute and appoint _____ as my proxy, to vote for me and in my stead at the meeting of the stockholders of said corporation to be held at Preston, Idaho, on the _____ day of _____, 199__, or any adjournment thereof, for the election of directors and the transaction of any other business as may properly come before said meeting, according to the number of votes I would be entitled to cast if personally present.

Dated this ____ day of _____, 199__.

_____

(signature)

No proxy shall be recognized unless executed within six (6) months prior to the date of the meeting at which it is presented; provided however, that when a written proxy specifically provides on the face thereof the period of time for which it shall be in effect,

it shall be recognized by the Company for such stated period. The proxy shall be filed with the Secretary at the time of, or before, any stockholders' meeting. The sufficiency of such proxy must be determined by the directors at such meeting prior to voting on any matter including the election of directors.

Section 9. Voting Eligibility List.

A complete list of the stockholders entitled to vote at any stockholder's meeting, whether regular or special, arranged in alphabetical order, and the number of voting shares held by each, shall be prepared by the Secretary and shall be available for examination and review by any director, officer or stockholder at the office of the Secretary at least five (5) days before the meeting at which such election is to occur. Such list shall be available for examination, during the usual hours of business and during the whole time of election for which it is filed, at the place of election.

Section 10. Quorum.

For the purpose of electing directors or voting any matter submitted to a vote of the stockholders, those stockholders who are present in person or represented by proxy at any regular annual meeting or special meeting shall constitute a quorum.

Section 11. Removing Director from Office.

Notwithstanding the provisions of the immediately preceding section, at any special meeting of shareholders called and noticed for the purpose of voting to remove a director from office, the vote of two-thirds (2/3) of all voting shares represented in person or by proxy at such meeting shall be required to remove a director from office.

ARTICLE V

Directors: Powers. Duties and Meetings

Section 1. General Powers of Board.

The management of all the affairs, property and interests of the corporation shall be vested in a Board of Directors. The Board of Directors shall have all authority and power conferred on the Board by law, by the Articles of Incorporation and the Bylaws, and the Board of Directors is given the power to do all lawful acts and things in furtherance of the purposes of the corporation. Without limitation by this enumeration, the powers of the Board shall include the power to acquire property and property rights of any kind; to incur indebtedness and to borrow in connection with the acquisition, maintenance and operation of those property rights; and to levy assessments at such time and in such amounts as may be necessary for paying the indebtedness of, and for carrying on the business of, the corporation.

Section 2. Number, Qualifications and Election of Directors.

The Board of Directors of the corporation shall consist of seven (7) directors. Directors shall be elected for a term of three (3) years at the regular annual meeting of the stockholders. Two directors shall be elected in 1996, two in 1997 and three in 1998. Each year thereafter, the same number of directors as were elected three years previously shall be elected for a term of three (3) years to succeed the directors whose terms have expired. There shall be no prohibition against a director succeeding himself. The directors shall hold office, when qualified, for the duration of their term and until their successors are elected and qualified.

(a) Qualifications of Directors. No person shall be eligible to be elected or to serve as a director of the corporation unless he is the holder of a minimum of twenty (20) shares of the stock of the corporation and holds the record title to land within the corporation's service area or unless he has been designated in writing as the authorized representative of a corporation, partnership, trust or other business entity, or the contract seller, holding such stock and record title to such land. Failure to possess any of the foregoing qualifications at any time during his term of office shall operate as an immediate resignation and constitute a forfeiture of his office.

(b) Election of Directors. The election of directors shall be held at the regular annual meeting of the stockholders for each of the positions of director for which the term of office of the present director expires. All of the stockholders of the corporation shall be entitled to vote for each director to be elected.

Section 3. Vacancies.

All vacancies on the Board of Directors which occur during the regular term of a director shall be filled by appointment by the remaining members of the Board of Directors at any regular or special meeting. The director thus selected to fill any vacancy shall hold office for the unexpired term for which he is appointed and until his successor is elected and qualified.

Section 4. Meetings of Board.

The Board of Directors elected at the annual meeting shall hold its first organizational meeting within ten (10) days of the election of the members of the Board as provided in this Article, which meeting shall constitute the only regular meeting of the

Board of Directors for the year. Special meetings of the Board may be called at any time by the President, or in his absence or disability, by the Vice-President, or by any two (2) directors, such call stating the time and place of such meeting and the purpose or purposes for which it is to be held.

Section 5. Notice of Meetings.

Notice of special meetings of the Board of Directors shall be given by the Secretary by giving notice thereof to each member's last known post office address, as supplied to the Secretary by each member, postage prepaid, at least five (5) days before the time fixed for such meeting, such notice giving the time and place thereof, but, subject to obtaining written waivers of such notice by all the directors, meetings may be called on the giving of two (2) hours oral advance notice. Any such written waiver shall be sufficient if substantially in the following form:

WAIVER OF NOTICE OF DIRECTORS' MEETING

> The undersigned, being a duly elected and qualified director of Preston-Whitney Irrigation Company, does hereby waive notice of the meeting of the Board of Directors of such corporation held (or to be held) at Preston, Idaho, on the ____ day of _____, 199___, and does hereby consent to the transaction thereat of any and all business that may come before said meeting.
>
> Dated this _____ day of _____, 199____.
>
> _____
> (signature)

Section 6. Quorum.

A majority of the whole Board of Directors shall be necessary to constitute a quorum for the transaction of business, and the majority of the members in attendance at any Board meeting shall, in the presence of a quorum, be decisive of the

action of the Board, except as otherwise provided in the Bylaws or Articles of Incorporation, or as required by law. If, however, by reason of resignation or otherwise, the remaining directors at any given time comprise less than a quorum, they may meet to fill vacancies as herein provided.

Section 7. Compensation of Directors.

The directors shall receive no salary other than the compensation specified herein. Each director shall receive ten dollars ($10.00), or such other amount as may from time to time be fixed by the Board, as compensation for attendance at each regular or special meeting of the Board. The directors shall be paid their expenses, actually and necessarily incurred and such additional compensation as the Board shall determine for services rendered, on behalf of the corporation, whether in attendance at the corporation's meetings or otherwise.

Section 8. Indemnification of Directors.

Each director and officer of the Corporation, now or hereafter serving as such, shall be indemnified and held harmless by the Corporation against any and all claims and liabilities to which he has or shall become subject by reason of serving or having served as a director or officer of the Corporation, except for claims and liabilities arising out of said director's purposeful misconduct or gross negligence.

ARTICLE VI

Officers

Section 1. Names and Terms of Officers.

The officers of the corporation shall be a President, a Vice-President, a Secretary and a Treasurer, each of whom, except for the Secretary and Treasurer shall be elected by the directors at the regular annual meeting of the Board of Directors. All officers shall hold office for one (1) year, and until their successors have been elected and qualified. The President and Vice-President shall be elected from among the directors. The Secretary and Treasurer may be appointed by the Board and shall be employed upon such terms and for such compensation as the Board shall determine. The Board, in its discretion, may provide that the office of Secretary be combined with that of Treasurer to be held by one (1) person.

Section 2. President's Duties.

The President shall preside at all the meetings of the directors and of the stockholders. He shall, under the general supervision of the Board of Directors, have supervision of all the affairs of the corporation. He shall sign all certificates of stock issued by the corporation. He shall, except as otherwise directed by the Board of Directors, sign or countersign, as may be necessary, all bills, notes, checks, contracts and other instruments as may pertain to the ordinary course of the corporation's business. He shall sign, when authorized by the Board of Directors, all contracts, deeds, bonds, mortgages and other instruments of a similar nature. He shall perform such other duties as may properly be

required of him by the Board of Directors. The President may vote at all meetings, including any stockholders' meetings.

Section 3. Vice-President's Duties.

The Vice-President shall possess all of the powers and perform all of the duties of the President in the event of the death, absence or disability or refusal to act on the part of the President, such authority to extend until a new President has been elected and qualified; the Vice-President shall also have such powers and discharge such other duties as may be assigned to him from time to time by the Board of Directors.

Section 4. Secretary's Duties.

The Secretary shall: (1) keep full minutes of all meetings of the stockholders and directors; (2) give notice of meetings of stockholders and directors in accordance with the provisions of these Bylaws; (3) be the custodian of the stock certificate book; (4) sign, with the President, all certificates of stock issued or reissued by the corporation; (5) be custodian of the corporation's seal, attesting all contracts and other documents requiring the corporation's seal and affixing the seal thereto; (6) be custodian of the corporation's Articles of Incorporation and Bylaws; and (7) perform such other duties as may be assigned by the Board of Directors.

Section 5. Treasurer's Duties.

(a) The Treasurer shall: (1) have custody of and be responsible for all moneys and securities of the corporation with the exception of the stock certificate book; (2) keep a full and accurate record of accounts in books belonging to the corporation, showing the transactions of the corporation, its accounts, liabilities and financial condition;

(3) deposit in the name of the corporation all moneys and other forms of negotiable receipts that may come into his hands for the corporation's account, in such depository or depositories as are designated by the directors; (4) be accountable for all other valuable corporate papers, except as provided in Section 4 hereof; and (5) disburse the funds of the corporation in payment of just demands against the corporation or in accordance with general or special directions of the Board of Directors making proper vouchers for such disbursements.

(b) The Treasurer shall prepare and submit a full report of the financial condition of the corporation to the annual meeting of the stockholders, and, generally, shall perform all duties incident to the position of Treasurer, subject to the control of the Board of Directors.

(c) The Treasurer shall give such bond or bonds as the Board of Directors may require for the faithful performance of the duties of the office of Treasurer and for the restoration to the corporation, in the event of death, resignation or removal from office, of all books, papers, vouchers, money or other property of whatsoever kind in the Treasurer's possession belonging to the corporation.

Section 6. Absence, Inability to Act and Vacancies.

In the event of the absence or inability to act of any officer of the corporation, or of any person herein authorized to act in his place, the Board of Directors from time to time may delegate the powers and duties of such office to such other officer, or to any director, or to any other stockholder whom it may select. Vacancies in any office

arising from any cause may be filled by the Board of Directors at any regular meeting or any special meeting called for that purpose.

Section 7. Removal of Officers.

Any officer elected by the Board of Directors may be removed at anytime, with or without cause, by the Board of Directors.

ARTICLE VII

Manager of Irrigation System

Section 1. Employment of Manager.

The Board of Directors at any regular or any special meeting shall provide for the employment of a Manager of the irrigation system, hereafter the "Manager", who shall work under the supervision and direction of the Board of Directors and the President. The Manager may be a stockholder or a director or officer of the corporation. The Board of Directors shall employ a Manager each year, on such terms and for such compensation as may be agreed upon by the Board of Directors and such Manager.

Section 2. Manager's Duties.

It shall be the duty of the Manager, and such assistants as may from time to time be employed by the Board of Directors, to operate and maintain the irrigation system of the corporation under the control and direction of the Board of Directors to effect the purposes of the corporation; specifically, the Manager and any assistants shall:

(a) operate and maintain the irrigation system of the corporation to permit the diversion, by the corporation through its diversion works, and the storage in its reservoirs and conveyance through its system of canals, ditches and other structures, of

water which the corporation is entitled to divert from the public water supply pursuant to its water rights. The Manager shall do all things necessary and proper as directed by the Board of Directors to keep the diversion works and the storage and conveyance system of the corporation clean and in good repair, to the end that water may be diverted, stored and delivered to the stockholders for the proper irrigation of their lands.

(b) deliver the water diverted from the public supply and stored or transported by the corporation to each stockholder at such stockholder's designated point of delivery from the corporation's system in the proportion each such stockholder's shares bear to the total outstanding shares of the corporation, less the proportionate share of transmission losses. It shall be the duty of each stockholder or group of stockholders entitled to receive water through any designated point of delivery to keep his or their facilities for receiving water, after the same has passed through the headgate or other delivery structure of the corporation, in such condition that such facilities will receive, without waste, the water to which such stockholder or group of stockholders is entitled. The Corporation assumes no responsibility for damage to stockholders or third parties from the use or misuse of water after such water has been delivered through the delivery structure of the corporation at any point of delivery from the corporation's system. If the Manager determines that the facilities for receiving water from the headgate or other structure at any point of delivery from the corporation's system cannot for any reason receive the water to which any stockholder or group of stockholders is entitled, he shall so notify such stockholder or stockholders and shall have no responsibility for delivering more water than can, in the sole discretion of the Manager, be received, unless and until adequate measures

are taken by such stockholder or group of stockholders to place such receiving facilities in proper condition to receive the full water entitlement.

(c) have exclusive control of the adjustment and locking of all headgates or other delivery structures through which stockholders receive water, as well as exclusive control of all measuring devices at such headgates or other structures. The Manager shall measure as accurately as practicable all water delivered through each such point of delivery and shall keep such records of such deliveries as the Board may require, which records shall be available for examination and inspection by stockholders as provided in Article 1, Section 5 of these Bylaws. To the extent practicable and consistent with the optimum use of the entire system of the corporation and in accordance with his entitlement by virtue of stock ownership, each stockholder shall be entitled to receive water in such amounts and at such times as he may desire. To the extent possible, all requests to the Manager by stockholders for increases or decreases in the amount of water any such stockholder is receiving shall be made not less than twenty-four (24) hours before the increase or decrease is to be made.

ARTICLE VIII

Assessments

Section 1. Purpose of and Power to Levy Assessments and Procedures.

Monies necessary for the payment of corporate indebtedness, for carrying on the business of the corporation, for maintaining and operating the corporation's irrigation system, or for any other purpose the directors determine to be in the best interests of the corporation, shall be raised by assessments levied from time to time in the manner

provided by the laws of the State of Idaho and these Bylaws. Such assessments shall be based on the number of outstanding shares of stock held or owned by the owners of land within the corporation's service area, excluding shares of stock held by the corporation as treasury stock or as unissued stock. In addition to such assessments, the corporation may make reasonable charges to offset related expenses in connection with the diversion, conveyance, drainage or delivery of water to any shareholder or other person or entity with whom the corporation may contract. Nothing herein shall be construed to prevent or limit the power of the corporation to borrow or enter into appropriate financing agreements.

(a) Amount of Assessment. On or before the first day of October of each year, the Board of Directors shall meet and determine the amount of the assessment to be levied for the next succeeding irrigation season and shall divide said assessment by the number of issued and outstanding shares of stock of the corporation, excluding shares held as treasury stock and unissued stock, to determine the amount to be assessed per share. No assessment shall be levied while any portion of a previous assessment remains unpaid, unless the power of the corporation has been exercised in accordance with the provisions of law and these Bylaws for the purpose of collecting such previous assessment.

(b) Order of Levy. As a result of such meeting, the Board of Directors shall make an order levying assessment, in the form set forth under subsection (g)(l) of this Article, specifying therein the amount of the assessment, and when and to whom payable, including the address of the officer to whom assessments shall be paid. Said order of assessment shall also fix the day subsequent to the full term of publication of the assessment notice on which the unpaid assessments will be delinquent, which day shall

be not less than thirty (30) nor more than sixty (60) days from the time of making the order levying the assessment, and shall fix a date for the sale of delinquent shares which shall be not less than fifteen (15) days nor more than sixty (60) days from the day the shares are declared delinquent.

(c) Notice of Levy. Upon making the order, the Secretary shall prepare a notice in the form set forth in subsection (g)(2) of this Article and shall cause the same to be published once a week, for four (4) successive weeks, in a newspaper of general circulation, published in the county where the registered office is situated, or if no paper is published in said county, then in some newspaper having general circulation therein. The Secretary shall also cause a copy of said notice to be mailed to each stockholder at his last known address. The responsibility for providing such address to the Secretary shall be that of each stockholder. The copy of the notice sent to each individual stockholder shall show, in addition to all other information required by law, the total amount of the assessment for which each such stockholder is obligated.

(d) Power to Refuse to Deliver Water for Unpaid Assessment. The Board of Directors may also, at its discretion, provide in the making of the order levying assessment, that no water will be delivered until the assessment for the next succeeding irrigation season is paid or reasonable security given for payment thereof. In such event, the notice shall also contain a statement to such effect. Delivery of water may not be withheld for the purpose of collecting assessments due from previous years.

(e) Notice of Delinquency and Sale of Stock. If any portion of an assessment due from any stockholder remains unpaid on the day specified in the notice for

declaring the shares delinquent, the Secretary shall, unless otherwise ordered by the Board of Directors, cause to be published, for ten (10) consecutive days, excluding Sundays and legal holidays if a daily newspaper, or once each week for two (2) successive weeks if a weekly newspaper, a notice in the form set forth in subsection (g)(3) of this Article, a copy of which shall also be mailed by registered or certified mail to the last known address of the delinquent stockholder. The responsibility for providing such address to the Secretary shall be that of each stockholder. The date specified in such notice for sale of so much of the stock of the delinquent stockholder as may be necessary to pay the delinquent assessment, together with costs of sale, publication and interest, shall not be sooner than ten (10) days following the date of first publication. Only so much stock of the delinquent stockholder as is necessary to pay the delinquent assessment, costs of sale, publication and interest shall be sold. The sale of delinquent stock shall be held and conducted in the manner provided by law; however, the stock shall only be offered for sale to the corporation, to those stockholders of the corporation owning land within the corporation's service area, and to such persons owning land adjacent to the corporation's service area which may be conveniently irrigated through the irrigation system of the corporation without injury to the water rights or the irrigation system of the corporation.

(f) Filing a Claim of Lien. In addition, the Secretary shall, on or before the first day of April of each year, file for record with the county recorder of the county or counties in which the service area of the corporation lies, a statement in writing in the form set forth in subsection (g)(4) of this Article. In the event any amount of the assessment remains unpaid by November 1 of such year, the Secretary shall file a claim of

lien against the lands of each individual stockholder whose stock is then delinquent, before the first day of the following January in the form set forth in subsection (g)(5) of this Article. No delinquency shall be allowed to remain so by the Board of Directors for any reason for more than two (2) years following the date of the filing of said claim of lien, and in any event, if such delinquency continues, the Board of Directors shall institute appropriate legal proceedings to foreclose such lien within said two (2) year period.

(g) Forms. Unless and until otherwise provided by law or these Bylaws, the forms to be used for the foregoing referenced "Order Levying Assessment", "Notice of Assessment", "Notice of Delinquent Assessment", "Statement of Assessment", and "Claim of Lien", shall be as follows:

---

(1) Order Levying Assessment.

The Board of Directors of the PRESTON-WHITNEY IRRIGATION COMPANY, having met on the____day of _____, 199__, and having estimated the probable expenses of the corporation, now hereby levy the assessment for the period commencing _____, and ending _____, _____, as follows:

1. Total amount of assessment: _____.
2. Amount per share: _____.
3. Payable on or before _____, _____.
4. All payments of assessment are to be made to the Secretary-Treasurer of the corporation, _____, in person or at the following address:

_____

5. The day subsequent to the full term of publication of the assessment notice, on which the unpaid assessments will be delinquent, is _____, _____.

The date fixed for sale of delinquent shares is _____, .

By Order of the Board of Directors

Dated this _____ day of _____,_____.

(seal) _____
President

Attest:

_____
Secretary

---

(2) Notice of Assessment.

PRESTON-WHITNEY IRRIGATION COMPANY, Preston, Idaho

NOTICE IS HEREBY GIVEN that at a meeting of the directors held on _____, __ _____, an assessment of $_____per share was levied upon the capital stock of the corporation payable to the Secretary-Treasurer of the corporation, _____, in person or at his address, _____, on or before _____, _____. Any shares upon which the assessment remains unpaid on _____, _____, _____, will

be delinquent and advertised for sale at public auction, and unless payment is made before, will be sold on , _____, to pay the delinquent assessment, together with interest thereon at the rate of twelve percent (12%) per annum, from the date of delinquency, costs of advertising and expenses of sale.

(Optional: No water will be delivered during the coming irrigation season until such assessment is paid or reasonable security, satisfactory to the Board of Directors, is given therefor.)

Dated this _____ day of_____, _____.

_____
Secretary

_____
Address of Registered Office

The copy of this Notice which is sent to each individual stockholder shall contain the additional following information to be set forth at or near the bottom of the Notice:

Stockholder's name: _____

Certificate No.: _____

Total number of shares: _____

Total amount of your assessment:_____

---

(3) Notice of Delinquent Assessment.

PRESTON-WHITNEY IRRIGATION COMPANY, Preston, Idaho

There is delinquent upon the following described shares on account of assessment levied on _____, (and assessments previous thereto, if any), the several amounts set opposite the names of the respective shareholders as follows:

NAME	NO. OF CERTIFICATE	NO. OF SHARES	DELINQUENT AMOUNT

and in accordance with law, so many shares of each parcel of such stock as may be necessary, will be sold at _____ on _____ at o'clock _.m. of such day, to pay delinquent assessments thereon, together with interest thereon at the rate of twelve percent (12%) per annum, from the date of delinquency, the cost of advertising and expenses of sale.

Dated this _____ day of _____,_____.

_____
Secretary

_____
Address of Registered Office

---

(4) Statement of Assessment.

PRESTON-WHITNEY IRRIGATION COMPANY, (address of registered office), which owns and operates an irrigation system for diverting water and storing and conveying the same to the lands of the stockholders of the corporation, which system is generally referred to as the PRESTON-WHITNEY IRRIGATION COMPANY water diversion, storage and canal delivery system has levied an annual assessment of $ _____ per share, all of which is due and payable on or before _____(date)_____.

Dated this _____ day of _____, _____.

_____
Secretary

---

(5) Claim of Lien.

PRESTON-WHITNEY IRRIGATION COMPANY (address of registered office) the owner and operator of the diversion, storage and canal system and irrigation works known generally as the PRESTON-WHITNEY IRRIGATION COMPANY water diversion, storage and canal delivery system, hereby claims and demands a lien for unpaid and delinquent assessments for the purpose of maintaining and operating its irrigation works and conducting the business of the corporation. The amounts of claimant's demands after deducting all just credits and offsets, with a description of the particular tracts or parcels of land to be charged with the lien and the name of the owner or reputed owner of each such tract or parcel are set forth below:

1. Name of owner or reputed owner: _____

Amount of demand: $_____

Description of tract to be charged: _____

2. (same as 1., etc.)

State of Idaho)
) ss.
County of_____)

_____, being first duly sworn, deposes and says, that he is the duly elected and acting secretary of _____, that he is responsible for preparing and keeping the assessment records of the corporation, and that he verily believes the foregoing claims of lien for delinquent assessments to be accurate and just.

_____
Secretary

SUBSCRIBED and sworn to before me this ___ day of _____, _____.

_____
Notary Public for Idaho
Residing at: _____
My Commission Expires: _____

(Seal)

ARTICLE IX

Corporate Seal

The corporation has an official seal in the following form, which seal shall be impressed on certificates of stock and other agreements entered into by the corporation, which by law requires the seal of the corporation to be so impressed.

(Corporate Seal)

ARTICLE X

Audits

The Board of Directors shall have authority to require an annual audit, in such form and manner and at such times as the Board of Directors shall determine, of the records of the corporation by competent persons selected by the Board of Directors. The results of any such audit are to be available for inspection by the directors or any stockholder as provided in Article 1, Section 5 of these Bylaws.

ARTICLE XI

Amendments

These Bylaws may be altered, amended or repealed and new Bylaws may be adopted at any regular or special meeting of the stockholders, after proper notice thereof has been given as required by the laws of the State of Idaho, by an affirmative vote of the stockholders which vote meets the minimum requirements of §42-2401 of the Idaho Code, as it may be amended.

CERTIFICATION

The above and foregoing is a true and correct copy of the Bylaws adopted at the organizational meeting of the directors of PRESTON-WHITNEY IRRIGATION COMPANY, held at Preston, Idaho, _____, on Monday the 22nd day of January, 1996, at 1:00 p.m.

Madene Haddoupe

Secretary

(corporate seal)

G:\WPDATA\KWF\7206\PW0413.BL:sjw

Exhibit "A"

			N	E			N	W				S	W			S	E	
Township, Range	section	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE
T15S, R39E	9			8	34					8			32	38	37	32	26
"	10						28	37	36	33	38	36	31	34	36	37	38
"	11									40	40	35	40	40	40	34	39
"	12											29					
"	13	11	22	39	39	13	37	12	38	39	36	35	39	38	37	39	31
"	14	40	23	36	33	35	20	39	31	39	35	24	39	26	38	35	25
"	15	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40
"	16	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40
"	21	35	39	39	32	15	10	24	8	12				34	39	21	22
"	22	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40
"	23	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40
"	24	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40
"	25	40	39	38	39	34	36	38	40	33	6	14	28	19	39	35	26
"	26	17	14	16	18				10	18		26	29	12	37	35	39
"	27	4	10	12		32	36	38	31	34	15	38	35	24	26	36	33
"	33	3			18									36	19	34	38
"	34	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40
"	35	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40
"	36	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40
Township, Range	section		N	E			N	W			S	W			S	E	
		NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE
T15S, R40E	17									13			5				
"	18		3	7		2	27	33	4	39	38	37	37		8		
"	19		13	38	32	39	35	39	40	40	39	34	34	38	28	38	38
"	20			8	26		5	6	16	40	40	38	39	7	35	4	
"	29					35	39	39	37	39	39	37	34				
"	30	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40
"	31	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40
"	32					12	38	38	3		31	32					
Township, Range	section		N	E			N	W			S	W			S	E	
		NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE
T16S, R39E	1	25	19	16	25												
"	2						33	37									
"	3		12	12		36	32	25	36	37			28		20		
"	4	28	28	21	28	6			6	30		15	37	39	32	15	6
"	8				8				20								
"	9		24	12	7	31	19	25	11	40	40	29	26	40	40	9	26
"	10						16	32			20	38					
			N	E			N	W			S	W			S	E	
Township, Range	section	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE
T16S, R40E	3							14	9	12	6						
"	4									16			22	9	30	32	
"	5						32	32		18	39	38	37				
"	6	36	33	14	36	32	23	28	39	34	35			37	15	12	34
"	8		11	13	31	39	38									38	38
"	9		1			21	1	12	6			22					
Total Acres:	13733																

Exhibit "B"

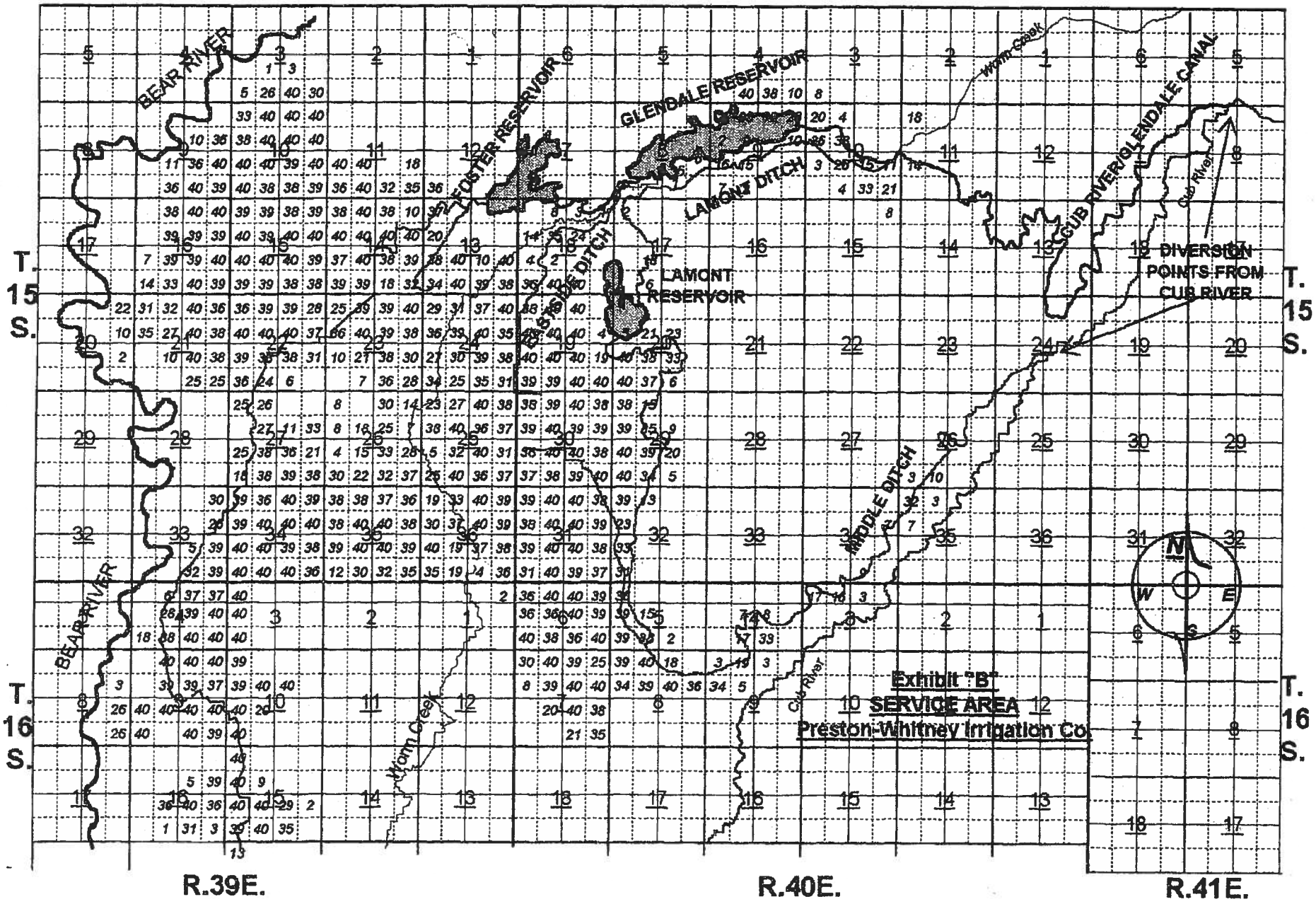
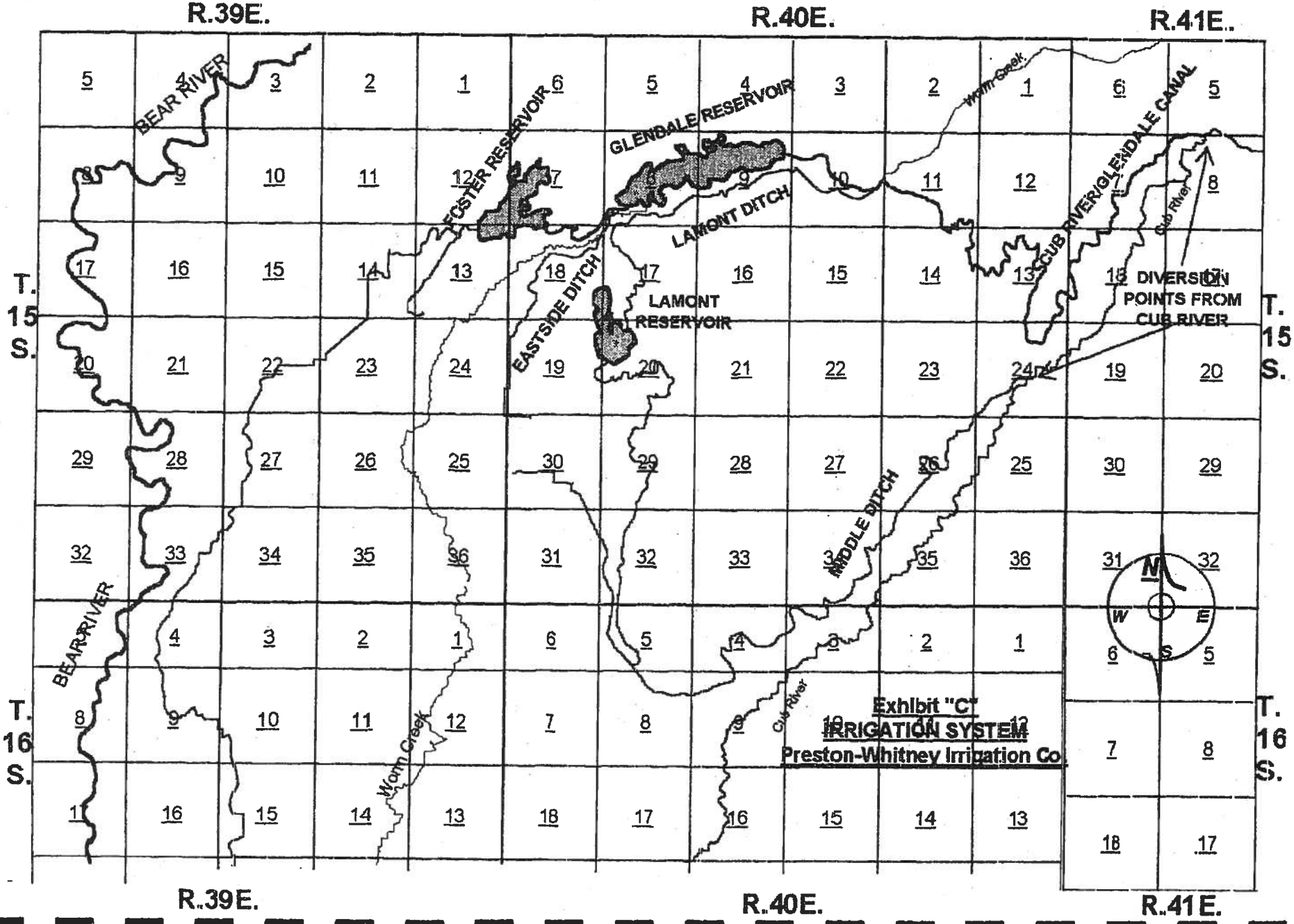

R.39E.
R.40E.
R.41E.
T. 15 S.
T. 16 S.
BEAR RIVER
FOSTER RESERVOIR
GLENDALE RESERVOIR
LAMONT RESERVOIR
LAMONT DITCH
EASTSIDE DITCH
MIDDLE DITCH
Worm Creek
Cub River
CUB RIVER/GLENDALE CANAL
DIVERSION POINTS FROM CUB RIVER
N
W
E
Exhibit "B"
SERVICE AREA
Preston-Whitney Irrigation Co.

Exhibit "C"


R.39E.
R.40E.
R.41E.
T. 15 S.
T. 16 S.
BEAR RIVER
FOSTER RESERVOIR
GLENDALE RESERVOIR
LAMONT DITCH
EASTSIDE DITCH
LAMONT RESERVOIR
CUB RIVER/GLENDALE CANAL
Cub River
Worm Creek
DIVERSION POINTS FROM CUB RIVER
MIDDLE DITCH
N
W
E
S
Exhibit "C"
IRRIGATION SYSTEM
Preston-Whitney Irrigation Co.

RESTATED AND AMENDED
ARTICLES OF INCORPORATION
OF
PRESTON-WHITNEY IRRIGATION COMPANY

The undersigned President and Secretary of Preston-Whitney Irrigation Company do hereby certify that the following restated and amended Articles of Incorporation were duly adopted by an affirmative vote of more than 2/3rds of the stock of said corporation represented in person or by proxy at the annual meeting of the shareholders of said corporation held in Preston, Idaho, on the 22nd day of January, 1996:

ARTICLE 1

The name of the corporation has been and shall continue to be "PRESTON-WHITNEY IRRIGATION COMPANY".

ARTICLE 2

The corporation was originally formed and shall continue to exist for the purpose of transacting any and all lawful business for which corporations may be organized under the laws of the State of Idaho, including, without limitation, the acquisition, appropriation and holding of rights to divert the public waters of the State of Idaho, to store such water and to transport the same to the lands of the shareholders of the corporation for beneficial use thereon, the construction, operation, maintenance, repair, rehabilitation and replacement of diversion works, water storage and distribution facilities, and all attendant structures or equipment used in connection therewith, the acquisition, ownership and use of real property and personal property rights for the carrying out of all such lawful business of the corporation, and the power to incur and secure indebtedness by any and all legal means to effectuate said purposes.

ARTICLE 3

The corporation shall have perpetual existence.

ARTICLE 4

The capital stock of the corporation shall be 30,000 shares of common stock, without par value. The original stock of the corporation shall be assessable for payment of the obligations of the corporation in the manner and to the extent provided in the Bylaws of the corporation, and as said Bylaws may from time to time be amended.

ARTICLE 5

The address of the corporation's initial registered office was Preston, Idaho. The address of the current registered office is 33 South 1st East, Preston, Idaho 83263, and the name of the registered agent at such address is Maxine Waddoups.

ARTICLE 6

The number of directors constituting the initial Board of Directors of the corporation was seven (7) and the number presently is, and shall continue to be, seven (7). The names and addresses of the persons who served as directors until the first annual meeting of shareholders or until their successors were duly elected and qualified, and who also were the initial incorporators were:

George Foster
Whitney, Idaho

Joseph Johnson
Preston, Idaho

H. A. Stephenson
Preston, Idaho

Fred Jensen
Preston, Idaho

J. N. Larsen
Preston, Idaho

A. C. Hull
Whitney, Idaho

Joseph Dunkley
Whitney, Idaho

The Board of Directors shall have the authority and responsibility to conduct the business and affairs of the corporation in the manner and to the extent provided in the Bylaws of the corporation.

ARTICLE 7

The capital stock of the corporation may not be transferred except in connection with a transaction involving title to the real property more particularly described in the Bylaws, to which that portion of the water and water delivery rights of the corporation represented by such stock is appurtenant, or as otherwise provided in said Bylaws, and as the same may from time to time be amended.

ARTICLE 8

The respective interests of the shareholders in the assets and savings of the corporation shall be in the same proportion as their respective stock ownerships which shall be determined in proportion to their business with the corporation. No funds shall be retained in excess of those needed to meet current expenses for such purposes as retiring indebtedness incurred and acquiring assets, expanding the services of the corporation or maintaining reserves for necessary purposes.

ARTICLE 9

No director of the corporation shall be personally liable to the corporation or its stockholders for monetary damages for breach of fiduciary duty as a director except: (a) for breach of a director's duty of loyalty to the corporation or its stockholders, (b) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of the law, (c) liability under §30-1-48 of the Idaho Code, as the same may be amended, (d) for any transaction from which the director derived an improper personal benefit.

ARTICLE 10

The shareholders present in person or by proxy at an annual or special shareholders meeting shall constitute a quorum for purposes of transacting any business at the meeting, except for the amendment of the Bylaws or these Articles, which amendment must be accomplished in the manner set forth in said Bylaws.

ARTICLE 11

The corporation shall maintain such records as are necessary to determine at any time each member's rights and interests in the assets of the corporation.

ARTICLE 12

Except to the extent provided in Article 13 and in the Bylaws, a former shareholder's rights and interests will not be forfeited upon withdrawal or termination of membership.

ARTICLE 13

Upon dissolution, the assets of the corporation, after the payment of all debts and obligations, will be distributed to all shareholders and former shareholders in proportion to their business done with the corporation, in so far as is practicable.

Any water rights or water delivery rights held by the corporation shall be distributed to the person or persons to whose lands such water rights or water delivery rights are legally appurtenant.

DATED this 22nd day of January, 1996.

PRESTON-WHITNEY IRRIGATION COMPANY

By: R. Carl Swainston

R. Carl Swainston, President

ATTEST:

Maxine Waddoups

Maxine Waddoups, Secretary

(corporate seal)

State of Idaho
Department of Water Administration

LICENSE OF WATER RIGHT

License of Water Right No. R-1009/13-2298 Priority Feb. 11, 1957 Amount 3,355 af

THIS IS TO CERTIFY, that Preston - Whitney Irrigation Co.
of Preston, Idaho, has complied with the terms and conditions of Permit No. R-1009/13-2298 issued pursuant to Application for Permit dated February 11, 1957, and has submitted proof to the Department of Water Administration on March 1, 1967, that he has applied water to a beneficial use; an examination by the Department indicates that the works have a capacity of 3,355 af, and that the water has in fact been applied to a beneficial use; a right to the use of water from the Cub River tributary of the Bear River, is hereby confirmed in the following amounts:

Amount 3,355 af for irrigation from April 1 to Nov. 1 (both dates inclusive)
Amount _____ for _____ from _____ to _____ (both dates inclusive)
Amount _____ for _____ from _____ to _____ (both dates inclusive)

Subject, however, to the condition that no more than 3,355 af of water be diverted at any one time, said waters to be diverted within the NE¼NW¼ Sec. 8, Twp. 15 S, Rge. 41 E, B.M.
in the county of Franklin; and that the amount of water so diverted and to which such right is entitled and confirmed is for the purposes aforesaid and is limited to the amount which can actually be beneficially used and shall not exceed 3,355 acre feet per year or 3.5 acre feet per acre.

Description and location of place of use: See Land List Attachments

TWP.	RANGE	SEC.	SE¼				NW¼				SW¼				SE¼				TOTALS
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	

Total number of acres irrigated 10,720

The right to the use of the water hereby confirmed is restricted and appurtenant to the lands or place of use herein described, as provided by the laws of Idaho.

Witness the seal and signature of the Director, affixed at Boise, Idaho, this 1 day of February, 19 72.

Director

13 2298

EXHIBIT 110 PROTESTANT
LL-STATE LEGAL®
PWID00408

License No. R-1009/13-2298

LAND LIST ATTACHMENT

Description and location of place of use:

TWP.	RANGE	SEC.	NE¼				NW¼				SW¼				SE¼				TOTALS
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
15 S	39 E	9			8	34					8			32	38	37	32	26	215
		10						28	37	36	33	38	36	31		36	37	38	350
		11											35						35
		13	11	22	39	39	13	37	12	38	39	36	35	39	38	37	39	31	505
		14		23	36	33	35	20	39	31	39	35	24	39	26	38	35	25	478
		15	15	38	39	37	37	35	39	34	40	39	32	37	37	40	35	32	566
		16	38	33	37	39	37			39	39	7	13	26	37	15	33	34	427
		21	35	39	39	32	6			8					34	39	21	22	275
		22	29	39	39	33	37	35	39	32	29	39	19	22	8	30	3		433
		23	36	38	39	29	37	32	26	39	20	7		12	30	33	22	27	427
		24	39	38	38	34	28	36	39	36	20	27	38	23	38	37	37	31	539
		25	39	39	37	39	34	25	34	39	31	6	14	28	19	39	35	26	484
		26	17	14	16	18				10	18		26	29	12	37	35	39	271
		27	4	10	12		32		23	31	34		17	35	24	26	36	33	317
		33	3			15									36	19	34	38	145
		34	5	32	28		34	34	32	27	5	22	38	37	16	2	39	39	390
		35	32	27	39	33	34	4	16	34	30	22	9	25	37	38	31	33	444
		36	28	39	39	27	33	21	29	30	21	37	38	20	29	31	5	28	455
15 S	40 E	18						27	33		39	38	34	37		8			216
		19		13	38	32	39	33	39	40	14	39	34	31	38	28	38	38	494
		20				26		5			23		38	39		35			166
		29					35	39	39	37	39	39	32	34					294
		30	36	36	38	35	27	33	16	33	35	24	33	27	37	38	36	12	496
		31	35	38	26	39	39	37	37	38	39	35	25	39	34	37	39	38	575
		32						38	35			31	30						134
16 S	39 E	1			16	25													41
		2							37										37
		3			12				25	36	37			28		20			158
		4			21	28				6	30		15	37	39	32			208
		9					28	19	12	2			29	14	37		9	26	176

Total number of acres irrigated con'd.

13 2298

PWID00409

License No. R-1009/13-2298

LAND LIST ATTACHMENT

Description and location of place of use:

TWP.	RANGE	SEC.	NE¼				NW¼				SW¼				SE¼				TOTALS
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
16S	39E	10						16	32			20	38						106
16S	40E	3							14	9	12	6							41
		4									16			22	9	30	32		109
		5							32		18	39	38	37					164
		6			14	36			28	39	34	30			37	15	12	34	279
		8		11	13	31	39	38									38	38	208
		9					21	1	12	6			22						62

Total number of acres irrigated 10,720

13 2298

PWID00410

R-1005

B-2298

APPLICATION FOR PERMIT

To Construct a Reservoir and Appropriate and Store
The Public Waters of the State of Idaho

Application No. R 34689
Permit No. R 1009

Preston Whitney Irrigation Co.
Angus Condie, Secretary
Preston, Idaho

1. Name of Applicant: Preston-Whitney Irrigation Co.

Post office address: Preston County Franklin State Idaho

I. If applicant is a corporation, give:

(a) Date and place of incorporation: July 9, 1926 Preston, Idaho

(b) Amount of Capital Stock: $ 300,000.00

(c) Amount paid in: $ 242,000.00

(d) Names and addresses of directors: Cecil Foster, Paul K. Smith, J. Virgil Jensen, George C. Peterson, Ray S. Ransbottom, Fenton A. Larsen, Ralph Esplin. All addresses: Preston, Ida.

II. The financial resources of the corporation are:

(a) Cash on hand: $ 940.57

(b) Treasury Stock: $ 58,000.00

(c) Bonds to be issued: $

(d) Other resources: two other reservoirs, Cap 8400AF. Decreed water rights & canals

2. Quantity of water to be stored: 3500 acre feet per annum.

3. Source of water supply is Cub River (Creek) (River) (Spring), a tributary of Bear River.

4 The outlet of the proposed reservoir is located 1600 feet, (bearing) distant from the NE corner of Section 13, Township 15 S., Range 39 E., B.M. and is in the NE ¼ of NE ¼ of Section 13, Township 15 S, Range 39 E, B.M. County of Franklin

5. Fill out either (a) or (b).

(a) The reservoir is located in the channel of (Creek) (River).

(b) The reservoir is to be filled through a feeder canal, the point of diversion for which is located (bearing) feet distant from the corner of Section 8, Township 15 S., Range 41 E., B.M., and is in the NE ¼ of NW ¼ of Section 8, Township 15 S., Range 41 E., B.M.; width at bottom 16 feet, width at top 25 feet, depth of water 4½ feet; average grade per mile 100 feet; Capacity 150 cubic feet per second

6. (a) The area of the high water line of the reservoir is 145 acres.

(b) The reservoir capacity is 3500 acre feet.

7. Height of reservoir dam 75 feet, length at top 700 feet, length at bottom 390 feet, size of outlet 3½ feet by 3½ feet. The dam is to be constructed of materials as follows: Dirt fill

(If height will exceed 10 feet, plans must be approved by Department of Reclamation, before beginning construction.)

8. (a) Will water stored in reservoir be diverted to canal or aqueduct, thence to land to be irrigated without commingling with natural flow of (Creek) (~~River~~)? Yes.

(b) Water stored in reservoir will be carried in the channel of (Creek) (River) a distance of miles to point of diversion located (bearing) feet, distant from the corner of Section Township, Range, B.M., and in the ¼ of ¼ of Section Township, Range, B.M.

9. (a) Area of watershed above dam site square miles.

(b) Estimated maximum flow of stream cubic feet per second.

10. Water is to be used for Irrigation purposes.

11. If for mining, milling, power or manufacturing purposes give:

(a) Point of use of water (bearing) feet, distant from Corner of Section, Township, Range, B.M., and is in the ¼ of ¼ of Section, Township, Range, B.M.

(b) Amount of power generated: H.P., under feet head.

(c) Water is to be returned to (Creek) (River) (Spring) at a point (bearing) feet distant from the corner of Section, Township, Range, B.M. in the ¼ of ¼ of Section, Township, Range, B.M.

12. Water stored in accordance with this Permit will be carried to place of use through a canal heretofore constructed under the terms of Permit No. , which is hereby referred to and made a part hereof.

13. Kind of diversion works: (Dam, canal, flume, pipe, etc.)

14. Height of diversion dam: feet, length at top feet, length at bottom feet. The dam is to be constructed of materials as follows:

(If height will exceed 10 feet, plans must be approved by Department of Reclamation, before beginning construction.)

PWID00411

15. Size of headgate: Width $3\frac{1}{2}$ feet, Height $3\frac{1}{2}$ feet.

16. Diversion Canal: Width at bottom 10 feet, width at water line 14 feet, depth of water $4\frac{1}{2}$ feet, Dimensions of Flume

Diameter of Pipe inches; Length of Conduit miles. Average grade per mile feet.

17. Estimated Cost of Works: Storage Works: $ 125,000.00 Diversion Works: $

18. Time required for completion of work 5 years.

19. Time required for complete application of water to proposed beneficial use is five years.

20. The land to be irrigated is described in the following tabulation:

(Give Irrigable acreage in each 40-acre subdivision.)

Twp.	Range	Sec.	NE¼				NW¼				SW¼				SE¼				Totals
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
15 S	39 E	9	10		5	35					5		15	30	40	30	40	40	
		10						30	40	20	40	40	40	40		20	40	20	
		11											2						
		13	20	30	40	40	25	5	40	40	40	40	40	40	40	40	40	40	
		14		30	40	40	15	40	40	40	40	40	40	40	40	40	40	40	
		21	40	40	40	40	40			40					40	25	2	26	
		26	40	40	40	40	40	40		40	40		40	40	40	40	40	40	
		27	40	40	40		40		40	40	40		40	40	40	40	40	40	
		33	4		20	40								40	40	40	40	40	
16 S	39 E	1			30	36													
		2							10										
		3			35	20			40	40	35			10		10			
		4			40	40				40	40	40	40	40	40	40	40	40	
		9					40	40	40	40	40	40	40	40	40		40	40	
		10						16	8			10	33						
15 S	40 E	18						10	40		35	40	40	40		6			
		19		15	40	10	40	40	40	40	40	40	40	40	40	40	40	40	
		29					20	40	40	5	20	40	40	25					
		32						25	30			35	36						
16 S	40 E	3			15				20	25	3	14							
		4									5			39	15	10	22	1	
		5							40	5	27	40	40	40					
		6			40	40			40	40	22	7			40	38	7	32	
		8		5	35	30	40	13									5	15	
		9					40	40	40	40		20							
																			6679 acres
	All of Sections 15, 16, 22, 23, 24, 25, 34, 35, 36, Twp. 15 S., Rge. 39E																		5760
	All of Sections 30 & 31, Twp. 15 S., Rge. 40 E.																		1280
	Water has also been applied to land in Sec. 20 Twp. 15 S., Rge. 40 E. as follows:																		
	25 A. in $SE\frac{1}{4}NE\frac{1}{4}$; 10 A. in $NW\frac{1}{4}NW\frac{1}{4}$; 30 acres in $NE\frac{1}{4}SW\frac{1}{4}$, 40 A. in $SW\frac{1}{4}SW\frac{1}{4}$; 40 A. in $SE\frac{1}{4}SW\frac{1}{4}$; and 25 acres in $NW\frac{1}{4}SE\frac{1}{4}$ or a total of																		170
	Total of Acres																		13,889

21. Exist ... 1882 prior- ... water.

REMARKS

The p ... for the purpose of st ... can be used to be ...

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Returned ...

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Bond in ...

Work to ... un ...

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Beneficia ...

Witness ...

IN ... of Id ...

Secretary ...

Total Number of Acres to be Irrigated 13,889 Acres

of Idaho to be hereunto affixed, this First day of March, 19 57.

COUNTERSIGNED

LICENSE ISSUED FOR 3,355 SEC. FT.
LICENSE PAGE NO. 4

STATE OF IDAHO

By JAS. H. YOUNG
Secretary of State.

By ROBERT E. SMYLIE
Governor.

(SEAL)

PWID00412

Twp.	Range	Sec.	NE¼				NW¼				SW¼				SE¼				Totals
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	

Total Number of Acres to Be Irrigated

21. Existing rights and/or valid permits appurtenant to lands described above are Decreed right for 55. second feet from Cub River with 1882 priority during the irrigation season with additional rights not to exceed 154.9 second feet during high water.

REMARKS: License No. 16174 for 215 second feet from Cub River with priority January 1, 1929.

The proposed dam is located on one of the main laterals of the company's present system and will be built for the purpose of storing additional water for the water users of the company, and as a regulating reservoir so that water can be used to better advantage during the irrigation season.

BE IT KNOWN That the undersigned hereby makes application for permit to construct a reservoir and appropriate and store the public waters of Idaho as herein set forth, and that the enclosed map is hereby made a part of this application.

Preston-Whitney Irrigation Co., *Applicant.*

By /s/ Angus Condie, Secretary-Treasurer, *Agent.*

Date of first receipt at Department of Reclamation: 8:00 A. M. February 11, 1957

Returned to applicant for correction:

Corrected application received:

APPROVAL OF STATE RECLAMATION ENGINEER

The number of this permit is R 1009

Recorded in book R 4, page 1009. Approved March 1, 1957

This is to certify that I have examined the within application for a permit to construct a reservoir and appropriate and store the public waters of the State of Idaho, and hereby approve the same, subject to the following limitations and conditions:

Bond in the sum of $, to be filed on or before

Work to begin on or before May 1, 1957 and to continue diligently and uninterruptedly to completion, unless temporarily interrupted by circumstances over which the permit holder has no control.

One-fifth of the work above specified to be completed on or before September 1, 1959

The whole of said work to be completed on or before March 1, 1962.

Beneficial use of water stored in accordance herewith, to be made on or before March 1, 1967

Witness my hand this First day of March, 1957.

MARK R. KULP
State Reclamation Engineer.

IN TESTIMONY WHEREOF, We, ROBERT E. SMYLIE, Governor of the State of Idaho, and JAS. H. YOUNG, Secretary of State of the State of Idaho, have caused this instrument to be executed in the name of the State of Idaho, and caused the Great Seal of the State of Idaho to be hereunto affixed, this First day of March, 19 57.

COUNTERSIGNED

LICENSE ISSUED FOR 3.355 SEC. FT.
LICENSE PAGE NO.

STATE OF IDAHO

By JAS. H. YOUNG
Secretary of State.

By ROBERT E. SMYLIE
Governor.

(SEAL)

PWID00413

Twp.	Range	Sec	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	
15 S	39E	9			8	34					8			32	38	37	32	26	215
		10						28	37	36	33	38	36	31		36	37	38	350
		11											35						35
		13	11	22	39	39	13	37	12	38	39	36	35	39	38	37	39	31	505
		14		23	36	33	35	20	39	31	39	35	24	39	26	38	35	25	478
		15	15	38	39	37	37	35	39	34	40	39	32	37	37	40	35	32	566
		16	38	33	37	39	37			39	9	7	13	26	27	15	33	34	427
		21	35	39	39	32	6			8					34	39	21	22	275
	10S	22	29	39	39	33	37	35	39	32	29	39	19	22	8	30	3		42[illegible]
		23	36	38	39	29	37	32	26	39	20	7	—	12	30	33	22	27	4[illegible]1
		24	39	38	38	34	28	36	39	36	20	27	38	23	38	37	37	31	539
		25	39	39	37	39	34	25	34	39	31	6	14	28	19	39	35	26	454
		26	17	14	16	18				10	18		26	29	12	37	35	39	271
		27	4	10	12		32		23	31	34		17	35	24	26	36	33	317
		33	3	—	—	15	-						—		36	15	34	38	145
		34	5	32	28	—	34	34	32	27	5	22	38	37	16	2	39	39	390
	10W	35	32	27	39	33	34	4	16	34	30	22	9	25	37	38	31	33	444
		36	28	39	39	27	33	21	29	32	21	37	38	20	29	31	5	28	455
15 S	40 E	18						27	33		39	38	34	37		8			216
		19		13	38	32	39	33	39	40	14	39	34	31	35	29	35	38	424
		20				26		5			23		38	34		35			166
		29					35	39	39	37	39	39	32	34					294
15 S	40E	30	36	36	38	35	27	33	16	33	35	24	33	27	37	38	36	12	496
	84	31	35	38	26	39	39	37	37	38	39	35	25	39	34	37	39	38	575
		32						33	35			31	30						134
16 S	39 E	1			16	25													41
		2							37										37
		3			12				25	36	37			28		20			158
		4			21	28				6	30		15	37	39	32			208
		9					28	19	12	2			29	14	37		9	26	176
		10						16	32			20	38						106
16 S	40E	3							14	9	12	6							41
		4									16			22	9	30	32		109
		5							32		18	39	38	37					164
		6			14	32			28		34	30			37	15	12	34	274
		8		11	13	31	39	38									39	38	208
		9					21	1	12	6			22						62

264 subs

13-2298

10,720

PWIDN00422

Form 23
2M-4-65

STATE OF IDAHO

DEPARTMENT OF RECLAMATION

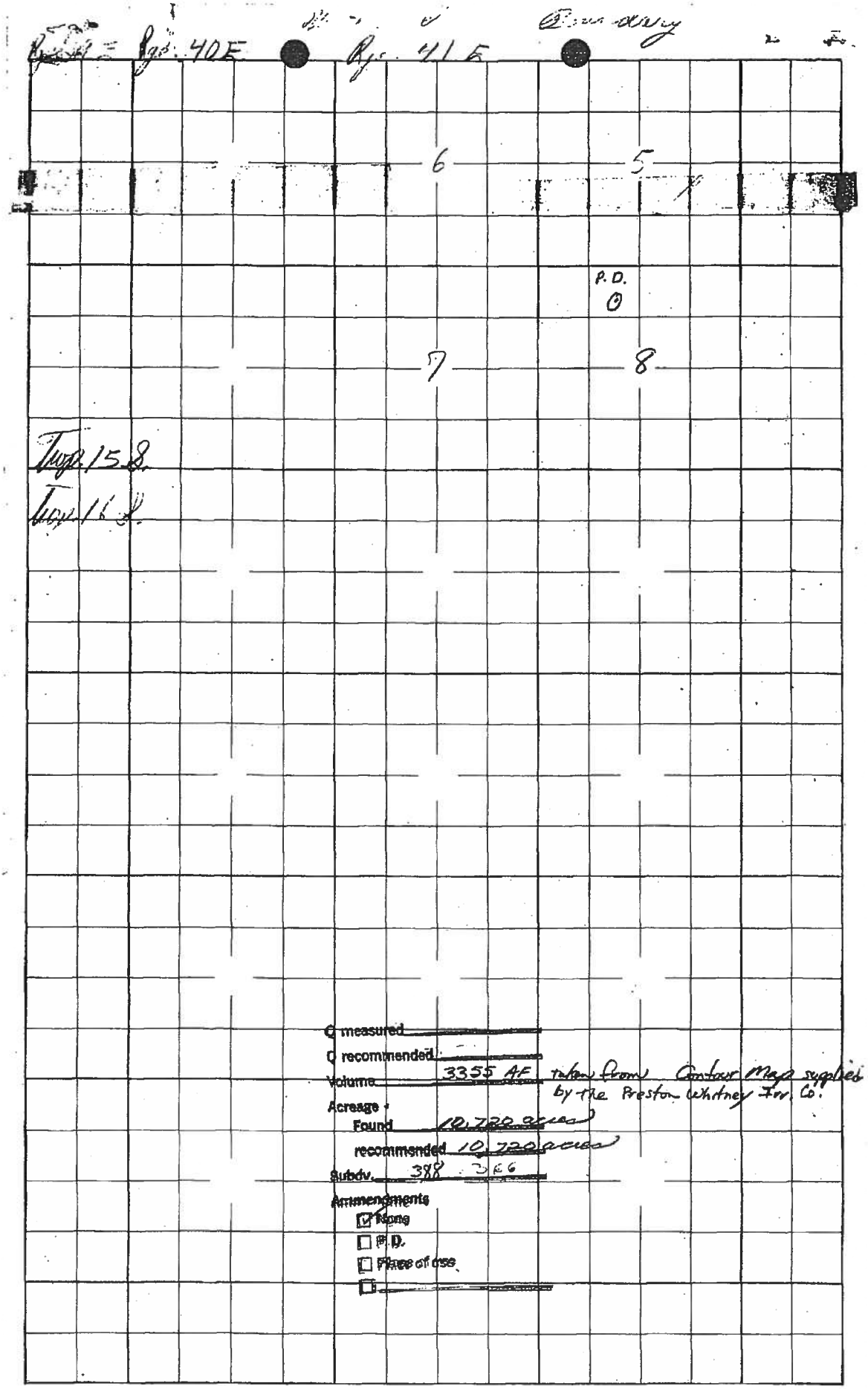
BOISE

REPORT OF EXAMINER

PERMIT NO. R-10097 13-2298

REPORT ON PROOF OF Completion of Works & Beneficial Use

PWID00423



Q measured

Q recommended

Volume 3355 AF taken from Contour Maps supplied by the Preston Whitney Irr. Co.

Acreage

Found 10,720 acres

recommended 10,720 acres

Subdv. 388 366

Ammendments

☑ None

☐ P.D.

☐ Place of use

☐

Scale: 2 Inches Equals 1 Mile. Draw Map in Ink.

3.4 acre

PWID00424

Twp.	Range	Sec.	NE¼				NW¼				SW¼				SE¼				Totals
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
15 S	39 E	9	10		5	35					5		15	30	40	30	40	40	
		10						30	40	20	40	40	40	40		20	40	20	
		11											2						
		13	20	30	40	40	25	5	40	40	40	40	40	40	40	40	40	40	
		14		30	40	40	15	40	40	40	40	40	40	40	40	40	40	40	
		21	40	40	40	40	40			40					40	25	2	26	
		26	40	40	40	40	40	40		40	40		40	40	40	40	40	40	
		27	40	40	40		40		40	40	40		40	40	40	40	40	40	
		33	4		20	40								40	40	40	40	40	
16 S	39 E	1			30	36													
		2							10										
		3			35	20			40	40	35			10		10			
		4			40	40				40	40	40	40	40	40	40	40	40	
		9					40	40	40	40	40	40	40	40	40		40	40	
		10						16	8			10	33						
15 S	40 E	18						10	40		35	40	40	40		6			
		19		15	40	10	40	40	40	40	40	40	40	40	40	40	40	40	
		29					20	40	40	5	20	40	40	25					
		32						25	30			35	36						
16 S	40 E	3			15				20	25	3	14							
		4									5			39	15	10	22	1	
		5							40	5	27	40	40	40					
		6			40	40			40	40	22	7			40	38	7	32	
		8		5	35	30	40	13									5	15	
		9					40	40	40	40		20							
																			6679 acres
	All of Sections 15, 16, 22, 23, 24, 25, 34, 35, 36, Twp. 15 S., Rge. 39E																		5760
	All of Sections 30 & 31, Twp. 15 S., Rge. 40 E.																		1280
	Water has also been applied to land in Sec. 20 Twp. 15 S., Rge. 40 E. as follows:																		
	25 A. in $SE\frac{1}{4}NE\frac{1}{4}$; 10 A. in $NW\frac{1}{4}NW\frac{1}{4}$; 30 acres in $NE\frac{1}{4}SW\frac{1}{4}$, 40 A. in $SW\frac{1}{4}SW\frac{1}{4}$; 40 A. in $SE\frac{1}{4}SW\frac{1}{4}$; and 25 acres in $NW\frac{1}{4}SE\frac{1}{4}$ or a total of																		170
	Total of Acres																		13,889

Points of diversion is under sheet

Total Number of Acres to be Irrigated 13,889 Acres

PWID00425

Form. 23
2M-4-65

STATE OF IDAHO

DEPARTMENT OF RECLAMATION

BOISE, IDAHO

REPORT OF EXAMINER

Permit No. R-1009/13-2298

This proof is for Comp. of Works & Beneficial Use In Water District No.

1. Name of applicant Preston-Whitney Irrigation Company
2. Source of water supply: Cub River
3. Location of point of diversion: Is in the NE¼NW¼ of Section 8
   T. 15 S R. 41 E County of Franklin
4. Describe works as they exist, giving dimensions and capacities of same:
5. Water is used for: irrigation
6. State whether or not water has been turned into works of diversion:
7. List legal subdivisions of lands to be irrigated. If proof is for beneficial use, give exact number of acres under cultivation in each forty-acre tract. (Describe manner and place of use if other than irrigation):

All of Secs. 13, 15, 16, 22, 24, 25, 34, 35, 36, and portions of Secs. 9, 10, 11, 14, 21, 26, 27, and 33, T. 15 S, R. 39 E, B.M.

All of Secs. 30 and 31, and portions of Secs. 18, 19, 29, 32, T. 15 S, R. 40 E, B.M. & 20

Portions of Secs. 1, 2, 3, 4, 9, and 10, T. 16 S, R. 39 E, B.M.

Portions of Secs. 3, 4, 5, 6, 8, and 9, T. 16 S, R. 40 E, B.M.

total of 13,889 acres

(Submit map on attached plat, showing location and details of above description.)

8. What large stream would the water here appropriated finally reach?

Remarks: There are 10,720 irrigated acres within the boundaries. Acreage was computed from ASCS main aerial photos

This examination was made on the 16th day of Sept, 19 71

(Signed) Examiner.

myl

PWID00426

14

INSTRUCTIONS TO EXAMINERS

1. Always carefully note the location of the point of diversion and accurately plat same.
2. When proof is for beneficial use, carefully check up the number of acres actually irrigated in each forty and accurately plat same.
3. Make a map showing the correct location of streams and ditches, and the irrigated lands, and any adjacent permanent landmarks, such as towns, lakes, large streams and public roads.
4. If any unusual conditions are discovered, make plain statement of them under remarks.
5. Always see the holder, if possible, and go over the whole ground with him and make your report only upon actual existing facts and conditions.
6. Give general characteristics of soils, topography, and crops raised.

Preston-Whitney Irr. Co. concrete barrier across channel
(Angus Condie, Secretary) of river & canal.
Preston, Idaho

Permit No. R-1009/13-2298

Examination for Comp. of Works & Beneficial Use

County Franklin

Sec. 8 T. 15S R. 41E

Quantity: 3500 a.f.

13-

Source: Cub River

P.D.: NE¼NW¼, Sec. 8, T. 15 S, R. 41 E, B.M.

Use: irrigation

Extension:

Protest:

Completion of Works:

Other Rights: decreed right from Cub River

Filed: February 11, 1957

Due: March 1, 1962

Made: March 1, 1957

Priority: February 11, 1962

PWID00427

Form 28

STATE OF IDAHO

DEPARTMENT OF RECLAMATION

BOISE

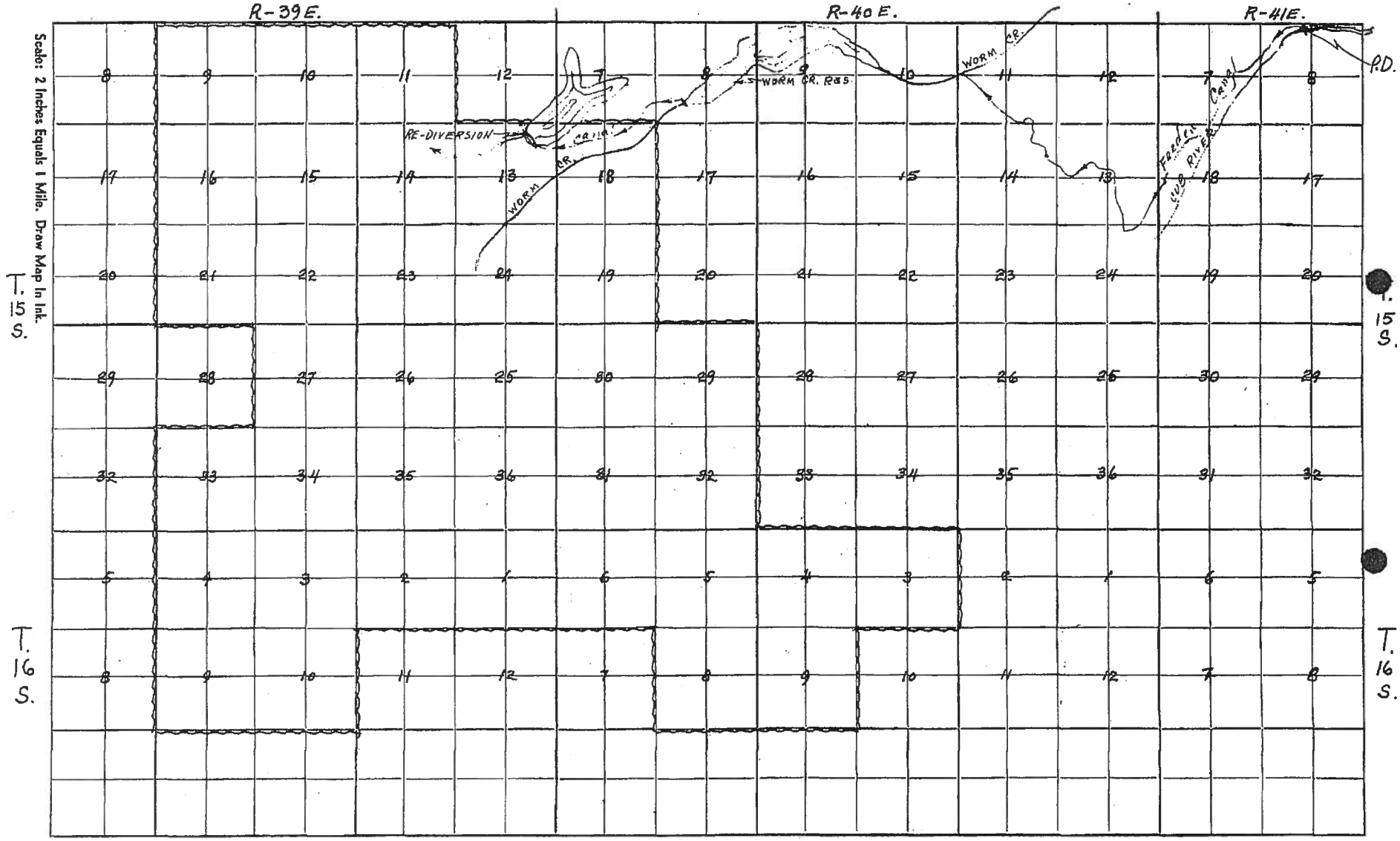
REPORT OF ENGINEER

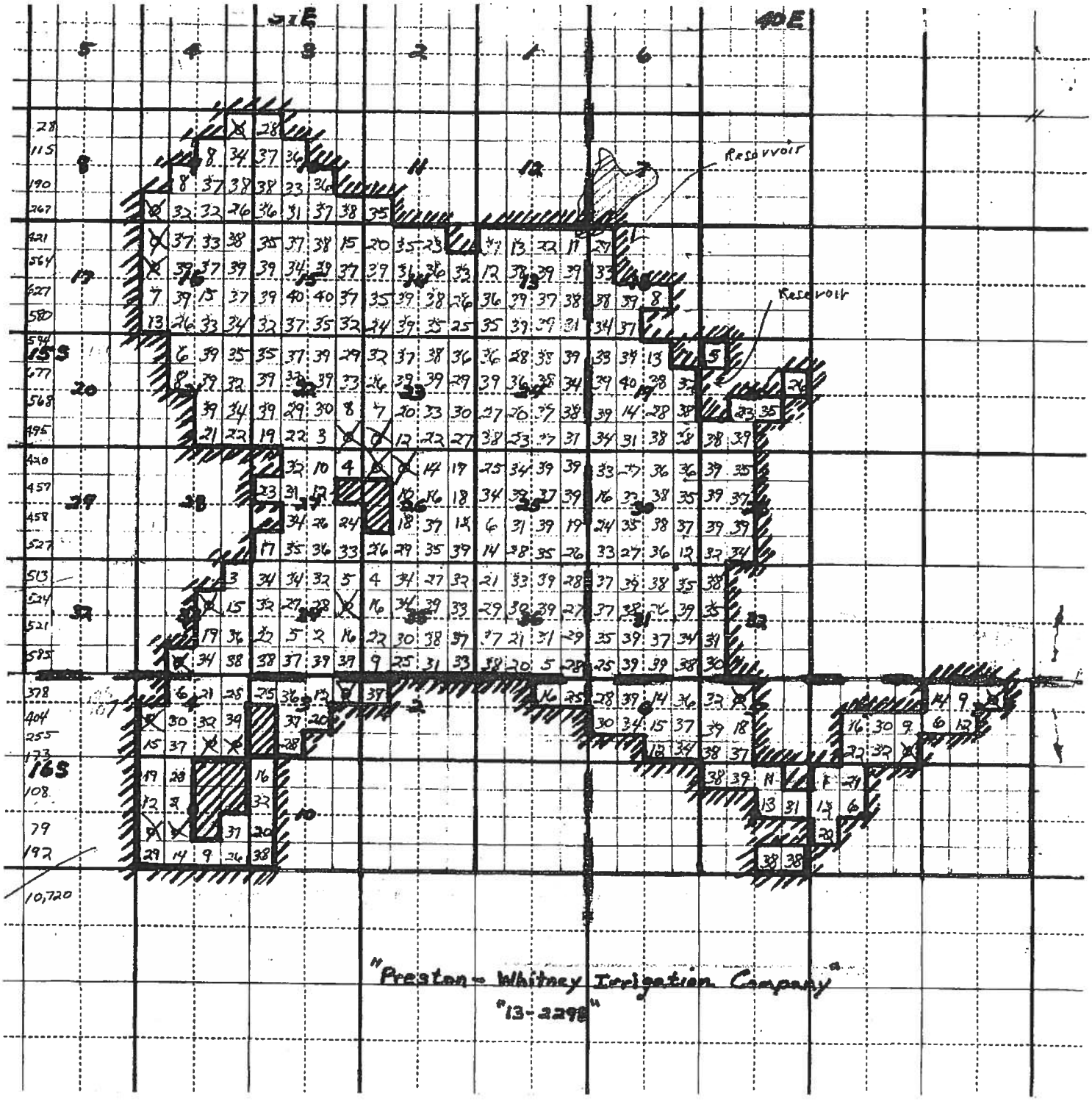
PERMIT NO. R-1009

REPORT ON PROOF OF Completion of Works
Preston-Whitney Irrigation Company
Preston, Idaho

R-1009

RWID00447


R-39E.
R-40E.
R-41E.
Scale: 2 Inches Equals 1 Mile. Draw Map In Ink.
T. 15 S.
T. 16 S.
RE-DIVERSION
WORM CR.
WORM CR. Rds
WORM CR.
FRENCH CREEK
RIVER
P.O.


Reservoir
Reservoir
"Preston - Whitney Irrigation Company"
"13-2298"

PWID00449

Form 28

STATE OF IDAHO

DEPARTMENT OF RECLAMATION

BOISE, IDAHO

REPORT OF ENGINEER

Permit No. R-1009

This proof is for Completion of Works In Water District No.

1. Name of applicant Preston-Whitney Irrigation Company.
2. Source of water supply: Cub River
3. Location of point of diversion: Is in the NE¼NW¼ of Section 8
   T. 15 S. R. 41 E.B.M. County of Franklin
4. Describe works as they exist, giving dimensions and capacities of same:
5. Water is used for: Irrigation
6. State whether or not water has been turned into works of diversion: yes
7. List legal subdivisions of lands to be irrigated. If proof is for beneficial use, give exact number of acres under cultivation in each forty-acre tract. (Describe manner and place of use if other than irrigation):

   Sections 9, 10, 11, 13, 14, 21, 26, 27, 33, - Twp. 15 S., R. 39 E.;
   Sections 1, 2, 3, 4, 9, & 10, Twp. 16 S., R. 39 E.,
   Sections 18, 19, 29, & 32, Twp. 15 S., R. 40 E.,
   Sections 3, 4, 5, 6, 8, & 9, Twp. 16 S., R. 40 E., Totalling 6,679 acres
   All of Sections 15, 16, 22, 23, 24, 25, 34, 35, & 36, Twp. 15 S., R. 39 E. -5760 acres
   All of Sections 30 & 31, Twp. 15 S., R. 40 E., 1280 acres;
   Water has also been applied to land in Sec. 20, Twp. 15 S., R. 40 E., - 170 acres,
   Total of Acres - 13,889 approximate but within the project

   (Submit map on attached plat, showing location and details of above description.)
8. What large stream would the water here appropriated finally reach? See attached

Remarks: Location map.

This examination was made on the 1st day of October, 1963

(Signed) Carl P. Tappan
Examiner.

R-1009

RWID00450

INSTRUCTIONS TO EXAMINERS

1. Always carefully note the location of the point of diversion and accurately plat same.
2. When proof is for beneficial use, carefully check up the number of acres actually irrigated in each forty and accurately plat same.
3. Make a map showing the correct location of streams and ditches, and the irrigated lands, and any adjacent permanent landmarks, such as towns, lakes, large streams and public roads.
4. If any unusual conditions are discovered, make plain statement of them under remarks.
5. Always see the holder, if possible, and go over the whole ground with him and make your report only upon actual existing facts and conditions.
6. Give general characteristics of soils, topography, and crops raised.

RECEIVED
OCT 9 1963
Department of Reclamation

J. V. Jensen, President
Preston-Whitney Irrigation Company
Rt. #1, Preston, Idaho
Permit No. R-1009

Examination for Completion of Works

County Franklin

Sec. 13 T. 15 S R. 39 E. B.M.

Quantity: 3500 A.F.

Source: Cub River

P.O.D.: NE¼, Sec. 13, T. 15S. - R. 39EBM

Use: Irrigation

Filed: Feb. 11, 1957
C/W: 3-1-62
Due: B/C: 3-1-67

Extension: ——

Completion of Works: ——

Other Rights: Cub River right of '82 during irrigating season and additional rights during Fall water. License 16174 for 215 a.f. from Cub River-priority 11-29.

PWID00451

№ 15933

APPLICATION FOR PERMIT 13- 2104
TO APPROPRIATE THE PUBLIC WATERS OF THE STATE OF IDAHO

Application No. 22627
Permit No. 15933
District No. 5-H

1. Name of Applicant: Cub River & Worm Creek Canal Company,

Postoffice address: Preston, County: Franklin, State: Idaho.

I. If applicant is a corporation, give:
(a) Date and place of incorporation: Preston, Idaho.
(b) Amount of capital stock: $50,000.00
(c) Amount paid in: $19,000.00
(d) Names and addresses of directors: Joseph Johnson, Henry Day, John A. Larsen, Preston Merrill and Fred Jenson.

II. The financial resources of the applicant are:
(a) Cash on hand: $2,000.00
(b) Treasury stock: $31,000.00
(c) Bonds to be issued:
(d) Other resources:

2. Quantity of water claimed: Twenty-five (25) cubic feet per second.

3. Source of water supply: Cub River which is a tributary of Bear River.

4. Location of point of diversion: 40 rods north and 30 rods west feet distant from the southeast corner of Section 8 (NW¼ of SE¼), T. 15 S., R. 41 E., B. M., and is in the NW¼ of the SE¼ of Section 8, T. 15 S., R. 41 E., B. M., County of Franklin.

5. Water is to be used for: Irrigation purposes.

6. If for mining, milling, power or manufacturing purposes, give:
(a) Point of use of water: feet distant from corner of Section T. , R. , B. M., in the of Section , T. , R. , B. M.
(b) Amount of power generated: H. P., under feet head.
(c) Water is to be returned to at a point feet distant from the corner of Section , T. , R. , B. M., in the of Section , T. , R. , B. M.

7. Estimated cost of works: $ 10,000.00

8. Kind of works: Enlargement of present canal to double its capacity.

9. Height of dam 10 feet; length of dam at top 100 feet; length of dam at bottom 90 feet; material used in dam rock and cement

10. Size of headgate: width 12' x 30 feet; height 10 feet

11. Ditch: Width at bottom 15 feet; width at water line 17 feet; depth of water 6 feet; dimensions of flume 12 feet by 30 feet
Diameter of pipe 10 feet inches; length of conduit 18 miles.
Average grade per mile ten feet

12. The time required for the completion of such work is five years.

13. The time required for the complete application of the water to the proposed use is one additional years.

14. The land to be irrigated is described in the following tabulation: See Remarks.

ALL-STATE LEGAL®
EXHIBIT
111
PROTESTANT

15933

15. (a) Is reservoir to be used? No. If so, fill in (b) and (c) below.
(b) Name of reservoir and number of Storage Permit:
(c) Date of filing of Application for Storage Permit and Name of Applicant:

BE IT KNOWN THAT the undersigned hereby makes application for permit to appropriate the public waters of the State of Idaho as herein set forth.

Cub River & Worm Creek Canal Company Applicant.

By Arthur J. Hart. *Agent.*

Date of first receipt at Department of Reclamation. 9 A. M. December 14, 1923.

Returned to applicant for correction.

Corrected application received.

APPROVAL OF COMMISSIONER OF RECLAMATION

The number of this permit is 15933
Recorded in Book 57 56 Page 15933 Approved December 17, 1923.
This is to certify that I have examined the within application for a permit to appropriate the public waters of the State of Idaho, and hereby approve the same, subject to the following limitations and conditions:
Bond in the sum of $ to be filed on or before
Work to begin on or before February 15, 1924, and to continue diligently and uninterruptedly to completion, unless temporarily interrupted by circumstances over which permit holder has no control.
One-fifth of the work above specified to be completed on or before June 17, 1926.
The whole of said work to be completed on or before December 17, 1928.
Beneficial use of water appropriated in accordance herewith, to be made on or before December 17, 1929.
Witness my hand this 17th day of December, 1923.

W. G. SWENDSEN.
Commissioner of Reclamation.

Remarks:

14 Twp.	Range	Sec.	NE¼				NW¼				SW¼				SE¼				Totals
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
15 S.	39 E.	14			40	40			40	40	40	40			40	40	40	40	400
		15			20	20				20	40	10	20	40	40	40	40	40	330
		21	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	640
		22	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	640
		27	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	640
		28	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	640
		3	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	640
16 S.	39 E.	9	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	640
		10	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	640
15 S.	39 E.	23	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	640
		26	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	640
		34	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	640
		35	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	640
		2	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	640

Total Number of Acres to be Irrigated 8410

A decree was entered in the District Court of the Fifth Judicial District of the State of Idaho, in and for Oneida (now Franklin) County, on the 26th day of January, 1906, wherein there was decreed to applicant 25 second feet of the date of 1882 and of the flood and freshet waters 1/4 thereof; capacity of canal 85 cubic feet per second. This application is for twenty-five cubic feet per second of time in addition to the waters decreed to applicant aforesaid, and is to be used on the same lands for an additional water supply and is to be carried in the same ditch as is now used, conveying said water from Cub River near southeast corner of NW¼ SE¼ Sec. 8, T. 15 S., R. 41 E., to Preston; this application is made so that the said applicant can enlarge its present canal to double its present carrying capacity; this application is for the flood, spring or freshet waters of the said Cub River that heretofore have been unappropriated, and supplemental to this application is an application of even date herewith for the same amount of water to be appropriated from what is known as Worm Creek, a tributary of Cub River, the same to be used on the same lands and conveyed in the same canal by reason of the enlargement thereof, to double its present carrying capacity, as aforesaid.

See Deed of Conveyance to Preston-Whitney Irrigation Irrigation Company recorded under Permit No. 15929.

PROT-00367

15933.

APPLICATION FOR AMENDMENT
TO PERMIT TO APPROPRIATE THE PUBLIC WATERS OF THE STATE OF IDAHO,
No. 15933.

Comes now W. K. Barton Secretary of the Preston Whitney Irrigation Co., and represents to the Commissioner of Reclamation of the State of Idaho.

That said Company is the owner and holder of Permit to Appropriate the Public Waters of the State of Idaho, No. 15933, and requests that the list of lands to be irrigated, as described in said permit, be changed to read as follows:

That the lands to be irrigated are situated in Township 15 south, Range 39 east, as shown by maps accompanying the application, and that no part of the said lands lie in Township 16 South; that it was a typographical error in the original application for permit, describing the lands as part in Township 15 South and part in 16 South,

That an additional amount of water is not asked for, and that the rights of others will not be adversely affected by such change.

Signed at Preston, Idaho, this 19th day of October, 1929.

PRESTON WHITNEY IRRIGATION CO..

BY W. K. BARTON
Secretary.

Date of receipt at Office of Department of Reclamation October 22, 1929.

APPROVAL OF COMMISSIONER OF RECLAMATION.

I, Geo. N. Carter, Commissioner of Reclamation of the State of Idaho, hereby approve the above and foregoing application for amendment to Permit to Appropriate the Public Waters of the State of Idaho, No. 15933, This approval constitutes a new permit and is issued as an amendment to the original permit, to which it refers, and of which it becomes a part, and said application is approved only insofar as the rights of others will not be adversely affected thereby.

GEO. N. CARTER
Commissioner of Reclamation.

Permit No. 15933

CERTIFICATE OF COMPLETION OF WORKS

To All Whom It May Concern:

This is to certify that PRESTON-WHITNEY IRRIGATION COMPANY, of Preston, County of Franklin, and State of Idaho, the holder of Permit No. 15933, issued upon Application No. 22627, bearing date of priority of December 14, 1923, authorizing the diversion of 25 second feet of the waters of Cub River, County of Franklin, State of Idaho, for irrigation and domestic purposes, has fully complied with the provisions of the laws of the State of Idaho relating to the proof of completion of the works of diversion set out and described in said Permit; that said works are adequate for diverting and conveying to the place of intended use 25 second feet of the waters of Cub River; that the point of diversion of said waters is in the NW¼SE¼, Sec. 8, Twp. 15 S., R. 41 E., B.M., and that the lands proposed to be irrigated by the use of said water are described as follows, to-wit: All Secs. 2, 3, 9 and 10; S½NE¼, S½NW¼, N½SW¼ and the SE¼, Sec. 14; SE¼NE¼, SW¼NE¼, SE¼NW¼, SE¼ and SW¼, Sec. 15; all Secs. 21, 22, 23, 26, 27, 28, 34, and 35, all in Township 15 South, Range 39 East of Boise Meridian.

Witness my hand this 22nd day of October A. D. 1929.

GEO. N. CARTER
Commissioner of Reclamation.

Proof of Completion of Works made November 1, 1928.
Certificate of Completion of Works issued October 22, 1929.

LICENSE ISSUED FOR 25 SEC. FT.
Page 3623

PROT-00368

3623

State of Idaho

License and Certificate of Water Right

Water License No. 15933 — Amount 25 sec. ft.

Water District No. — Priority March 14, 1924.

THIS IS TO CERTIFY that Cub River-Worm Creek Canal Company, of Preston, Idaho, made application for a permit to appropriate the public waters of the State of Idaho, dated December 14, 1923; that Permit No. 15933 was issued under said application; that Certificate of Completion of works, with a carrying capacity of 25 second feet, was issued thereunder on October 22, 1929, showing that said works were completed on the 1st day of November, 1928; and that on the 14th day of March, 1930,

Preston-Whitney Irrigation Company, of Preston, State of Idaho, made proof to the satisfaction of the Commissioner of Reclamation of Idaho, of the right to use the waters of Cub River, a tributary of Bear River, for the purpose of irrigation and domestic use, under Use Permit No. 15933 of the Commissioner of Reclamation, and that said right to the use of said waters has been perfected in accordance with the laws of Idaho, and is hereby confirmed by the Commissioner of Reclamation of Idaho and entered of record in Volume 7 of Licenses, at page 3623, on the 22nd day of July, 1930;

The right hereby confirmed dates from March 14, 1924;

The Point of Diversion is located in the NW ¼ SE ¼, Sec. 8, Tp. 15 S., R. 41 E., B.M. Franklin County.

That the amount of water to which such right is entitled and hereby confirmed, for the purposes aforesaid, is limited to an amount actually needed and beneficially used for said purposes, and shall not exceed 25 cubic feet per second.

Description and location of use:

Twp.	Range	Sec.	Forty-acre Tract	No. Acres Described in Permit	No. Acres Actually Irrigated
	All Secs. 2, 3, 9 & 10; S½NE¼, S½NW¼, N½SW¼ and the SE¼, Sec. 14; SE¼NE¼, SW¼NE¼, SE¼NW¼, SE¼ and SW¼, Sec. 15; All Secs. 21, 22, 23, 26, 27, 28, 34 and 35, Twp. 15 S., R. 39 E., B.M.				5410 ac.

The right to the use of the water aforesaid hereby confirmed is restricted to the lands or place of use herein described, as provided by the laws of Idaho.

WITNESS the seal and signature of the Commissioner of Reclamation, affixed at Boise, Idaho, this 22nd day of July, 1930.

GEO. N. CARTER
Commissioner of Reclamation

(SEAL)

13 ~~2011~~ 2104

PROT-00364

Form 17

STATE OF IDAHO
DEPARTMENT OF RECLAMATION
BOISE, IDAHO.

PERMIT NO. 15933

Proof of Application of Water to Beneficial Use

Deposition of Witness

The deposition of two witnesses, on this form, taken separately, required in each case.

Ques. 1. State your name, age, residence, occupation and postoffice address.

Ans. Joseph Jensen, Preston, Idaho, farmer aged 49

Ques. 2. Are you acquainted with Preston-Whitney Irrigation Company, the holder of Permit No. 15933? How long have you known him and where does he reside?

Ans. I have known the corporation and its officers since its incorporation; I have known the members thereof for many years.

Ques. 3. Have you read or heard read said Permit No. 15933, and are you familiar with its provisions and conditions?

Ans. I am.

Ques. 4. State source of water supply, place of diversion, and describe works for conveying water from point of diversion to place of use.

Ans. Cub River; the water is conveyed to its place of use by means of a Canal that is 12 miles long, 11 feet in width and four feet deep, fall per mile 4 inches—slope of Banks 1-3

Place of diversion is NW¼SE¼ Sec. 6, T. 15 S., R. 40 E., B.M.

Ques. 5. How many second feet of water do you estimate said works will safely conduct to place of use, and how much water have you seen being so conveyed?

Ans. It will conduct 100 second feet ; I have seen that much conveyed which includes the 25 second feet from Cub River 15933

Ques. 6. State for what purpose water is used and at what place. (If for irrigation, give each sub-division in which water has been used and number of acres irrigated in each subdivision.) State whether cultivated or natural meadow land and the nature of all improvements which have been made as a direct result of said use.

Ans. It is used for irrigational purposes, and for the irrigation of cultivated lands which are described as follows, to-wit:- All of sections 2, 3, 9 and 10; S½ NE¼; S½ NW¼; SW¼ SE¼; Sec. 14; SE¼ NE¼; SW¼ NW¼; SE¼ NW¼; SW¼; S½ Sec. 15; All of sections 21, 22, 23, 26, 27, 28, 34 and 35, all in Township 15 South, Range 39 East of the Boise Meridian, Idaho

15933

PROT-00354

Form 17

STATE OF IDAHO
DEPARTMENT OF RECLAMATION
BOISE, IDAHO.

PERMIT NO. 15933

Proof of Application of Water to Beneficial Use

Deposition of Witness

The deposition of two witnesses, on this form, taken separately, required in each case.

Ques. 1. State your name, age, residence, occupation and postoffice address.

Ans. Samuel B. Jensen, Preston, Idaho, farmer and River Water Master of Cub River

Ques. 2. Are you acquainted with Preston Riverside Whitney Irrigation Co, the holder of Permit No. 15933? How long have you known him and where does he reside?

Ans. I have known the corporation and its officers since its organization and have known the members thereof for many years.

Ques. 3. Have you read or heard read said Permit No. 15933, and are you familiar with its provisions and conditions? Yes.

Ans. I am

Ques. 4. State source of water supply, place of diversion, and describe works for conveying water from point of diversion to place of use.

Ans. Cub River; the water is conveyed to its place of use by means of a Canal that is 12 miles long, 11 feet wide, four feet deep with a Fall of four inches to the mile; slope of Banks 1-1

Place of diversion is: NW¼SE¼ Sec. 8, T.15 S., R. 40 E.B.M.

Ques. 5. How many second feet of water do you estimate said works will safely conduct to place of use, and how much water have you seen being so conveyed?

Ans. It will carry 100 second feet; I have seen that much conveyed which includes the 25 second feet from Cub River under said Permit #15933

Ques. 6. State for what purpose water is used and at what place. (If for irrigation, give each sub-division in which water has been used and number of acres irrigated in each subdivision.) State whether cultivated or natural meadow land and the nature of all improvements which have been made as a direct result of said use.

Ans. It is used for irrigational purposes, and for the irrigation of cultivated lands which are described as follows, to-wit:- All of section 2, 3, 9 and 10; NE¼; SE¼ NW¼; E½ SW¼; SW¼ SW¼; Sec. 14; SE¼ NE¼; and that part of the W½ Sec. 15; All of section 23, 25, 26, 27, 30, 34 and 35, all in Township 15 South, Range 39 East of the Boise Meridian, Idaho

15933

PROT-00355

Form 17

STATE OF IDAHO
DEPARTMENT OF RECLAMATION
BOISE, IDAHO.

PERMIT NO. 15933

Proof of Application of Water to Beneficial Use

Deposition of Witness

The deposition of two witnesses, on this form, taken separately, required in each case.

Ques. 1. State your name, age, residence, occupation and postoffice address.

Ans. Joseph Jensen, Preston, Idaho, farmer aged 49

Ques. 2. Are you acquainted with Preston-Whitney Irrigation Company, the holder of Permit No. 15933? How long have you known him and where does he reside?

Ans. I have known the corporation and its officers since its incorporation; I have known the members thereof for many years.

Ques. 3. Have you read or heard read said Permit No. 15933, and are you familiar with its provisions and conditions?

Ans. Yes I am

Ques. 4. State source of water supply, place of diversion, and describe works for conveying water from point of diversion to place of use.

Ans. Cub River; the water is conveyed to its place of use by means of a Canal that is 12 miles long, 11 feet in width and four feet deep; fall per mile 4 inches—slope of Banks 1-3

Place of diversion is NW¼SE¼ Sec. 8, T. 15 S., R. 40 E., B.M.

Ques. 5. How many second feet of water do you estimate said works will safely conduct to place of use, and how much water have you seen being so conveyed?

Ans. It will conduct 100 second feet ; I have seen that much conveyed which includes the 25 second feet from Cub River 15933

Ques. 6. State for what purpose water is used and at what place. (If for irrigation, give each sub-division in which water has been used and number of acres irrigated in each subdivision.) State whether cultivated or natural meadow land and the nature of all improvements which have been made as a direct result of said use.

Ans. It is used for irrigational purposes, and for the irrigation of cultivated lands which are described as follows, to-wit:- All of sections 2, 3, 9 and 10; S½ NE¼; S½ NW¼; SW¼ SE¼; Sec. 14; SE¼ NE¼; E½ SW¼ NE¼; SE¼ NW¼; SE¼; SW¼ Sec. 15; All of sections 21, 22, 23, 26, 27, 28, 34 and 35, all in Township 15 South, Range 39 East of the Boise Meridian, Idaho

15933

PROT-00380

Ques. 7. If for power or other purposes than irigation, state how water has been applied and to what extent.

Ans. V

Ques. 8. (If for irrigation) state character of land that has been reclaimed, and give your estimate of the amount of water required for its profitable cultivation.

Ans. The land is a sandy loam and it requires at least a second foot for each fifty acres

Ques. 9. Have you any interest in the works, water or lands above mentioned? If so, in what way and to what extent?

Ans. I have a small amount of stock in the corporation

Ques. 10. State when, how, in what amount and to what extent you have witnessed the application to beneficial use of water diverted under said permit.

Ans. Sometime between the 1st and 15th of April, 1929, the water was turned into the works of diversion and all of the water appropriated under this permit was used for the irrigation of the above described lands; the irrigation continued for the growing of crops etc., until about July 1st of said year

(Signed) Joseph Jensen

I hereby certify that the foregoing testimony was read to the above subscriber before its signing, that I believe him to be the person he represents himself to be, and that said testimony was subscribed and sworn to before me in Preston, County of Franklin, State of Idaho, on this 14th day of March, A. D. 1930

Arthur M Clark
Notary Public.

My commission expires March 5, 1932

Preston Ida

Form 17

STATE OF IDAHO
DEPARTMENT OF RECLAMATION
BOISE, IDAHO.

PERMIT NO. 15933

Proof of Application of Water to Beneficial Use

Deposition of Witness

The deposition of two witnesses, on this form, taken separately, required in each case.

Ques. 1. State your name, age, residence, occupation and postoffice address.

Ans. Samuel D.Jensen,Preston,Idaho,farmer and River Water Master of Cub River

Ques. 2. Are you acquainted with ~~Preston Riverside~~ Whitney Irrigation Co, the holder of Permit No. 15933? How long have you known him and where does he reside?

Ans. I have known the corporation and its officers since its organization and have known the members thereof for many years

Ques. 3. Have you read or heard read said Permit No. 15933, and are you familiar with its provisions and conditions? Yes.

Ans. I am

Ques. 4. State source of water supply, place of diversion, and describe works for conveying water from point of diversion to place of use.

Ans. Cub River; the water is conveyed to its place of use by means of a Canal that is 12 miles long,11 feet wide,four feet deep witha Fall of four inches to the mile; slope of Banks 1-3

Place of diversion is: NW¼SE¼ Sec. 8, T.15 S.,R. 40 E.B.M.

Ques. 5. How many second feet of water do you estimate said works will safely conduct to place of use, and how much water have you seen being so conveyed?

Ans. ~~It will carry 100 second feet; I have seen that much conveyed which in-~~ cludes the 25 second feet from Cub River under said Permit #15933

Ques. 6. State for what purpose water is used and at what place. (If for irrigation, give each sub-division in which water has been used and number of acres irrigated in each subdivision.) State whether cultivated or natural meadow land and the nature of all improvements which have been made as a direct result of said use.

Ans. ~~It is used for irrigational purposes, and for the irrigation of cultivated~~ lands which are described as follows, to-wit:- All of sections 7,8,9 and 16; S½ NE¼; S½ NW¼; SW¼; SE¼; Sec. 14; SE¼, NE¼; W½ SE¼; NE¼ SW¼; SE¼ Sec. 15; All of sections 21,22,23,26,27,28,34 and 35,all in Township 15 South,Range 39 East of the Boise Meridian,Idaho

15933

PROT-00382

Ques. 7. If for power or other purposes than irigation, state how water has been applied and to what extent.

Ans. V

Ques. 8. (If for irrigation) state character of land that has been reclaimed, and give your estimate of the amount of water required for its profitable cultivation.

Ans. ~~The land is a sandy loam and it requires at least a second foot for each fifty acres~~

Ques. 9. Have you any interest in the works, water or lands above mentioned? If so, in what way and to what extent?

Ans. ~~I have a small amount of stock in the corporation~~

Ques. 10. State when, how, in what amount and to what extent you have witnessed the application to beneficial use of water diverted under said permit.

Ans. ~~Sometime between the 1st and 15th of April, 1929, the water was turned into the works of diversion and all of the water appropriated under this permit was used for the irrigation of the above described lands; the irrigation continued for the growing of crops etc., until about July 1st of said year~~

(Signed) Joseph Jensen

I hereby certify that the foregoing testimony was read to the above subscriber before its signing, that I believe him to be the person he represents himself to be, and that said testimony was subscribed and sworn to before me in Preston, County of Franklin, State of Idaho, on this 14th day of March, A. D. 1930

Arthur Mark
Notary Public.

My commission expires March 5, 1932

Preston Ida

Form 16.

STATE OF IDAHO

DEPARTMENT OF RECLAMATION

BOISE, IDAHO

Permit No. I5933

Proof of Application of Water to Beneficial Use

Deposition of Holder

Ques. 1. State your name, residence, occupation and postoffice address.

Ans. Aalter K.Barton; Preston,Idaho; Merchant at Preston,Idaho

Ques. 2. If acting in behalf of corporation, state its name, principal place of business (if a foreign corporation, give name of postoffice of statutory agent), your position with reference to same, and your authority for appearing in its behalf.

Ans. ~~Preston-Whitney Irrigation Company; Secretary-Treasurer; authorized by Board of Directors of said Corporation~~

Ques. 3. State number and date of permit, and date of priority you propose to establish under the permit.

Ans. #I5933; March I4th,I924; March I4th,I924

Ques. 4. State source of water supply and give exact location of point of diversion.

Ans. Cub River. Place of diversion is in NW¼SW¼ Sec. 8, T. 15 S.,R. 40 E.V.M.

Ques. 5. Describe your works of diversion, and state amount of water they are capable of conveying from point of diversion to place of use, and give name of canal or ditch or other works by which water is conducted to such place of use.

Ans. I2 miles in length--the canal of Preston-Whitney Irrigation Co., --II feet wide; four feet deep,fall per mile,four inches,slope I-3 and will carry I00 second feet

Ques. 6. State for what purpose water is used and describe place of use. (If for irrigation, name each subdivision in which used, and number of acres in each subdivision that have actually been irrigated with said water.) State whether cultivated or natural meadow land and the nature of all improvements which have been made as a direct result of said use.

Ans. For irrigation purposes; all lands cultivated and irrigated,to-wit:-
All of sections 2,3,9,Io; S½ NE¼; S½ NW¼; N½ SW¼; and the SE Sec. I4; SE¼ NE¼ SW¼ NE¼; SE¼ NW¼; SE¼; and SW¼ Sec. I5; All of sections 2I,22,23,26,27,28,34 and 35 all in Township I5 South,Range 39 E.B.M.

Ques. 7. If for other than for irrigation purposes; state how applied, amount of horse power generated, etc.

Ans.

15933

PROT-00384

Ques. 8. What is the minimum amount of water required for the purpose specified above?

Ans. One miner's inch to the acre

Ques. 9. If you are not the person or representative of the corporation to whom above mentioned permit was originally issued, please state how ownership was acquired by present holder.

Ans. The Cub River & Wormcreek Canal Co, a corporation, was merged in the present Permit Holder, and it transferred said permit to said Preston-Whitney Irr. Co

Ques. 10. State when, how, in what amount and to what extent the water diverted under above mentioned permit has been used.

Ans. 25 second feet was turned into the Canal between the Ist and Ioth of April, 1929, and was used during the remainder of the irrigation season, that is until the water became short ~~which was on or about the Ist of July, 1929;~~ it was used for the irrigation of the lands above described

Ques. 11. State when, how, in what amount and to what extent waters other than those diverted under the above mentioned permit have been diverted and applied to beneficial use upon the lands herein described. Give full particulars regarding such other appropriations and rights claimed thereunder.

Ans. During the year 1929, between the Ist and Ioth of April, there was in addition to the said twenty five feet from Cub River, twenty five feet per second from Wormcreek under permit No I5929; also about 25 second feet is used through the sam canal, that is the lower portion of it, from Minkcreek through the the Preston-Riverdale & Minckcreek Canal

(Sign) W. K. Burton Secy

I hereby certify that the foregoing testimony was read to the above subscribed before its signing, that I believe him to be the person he represents himself to be, and that said testimony was subscribed and sworn to before me, at my office in Preston, County of Franklin State of Idaho, on this 14 day of March, A. D. 1930

W. K. Burton Secy

Arthur Mark

My commission expires March 5, 1932 Notary Public

Preston Idaho

Form 28

STATE OF IDAHO
DEPARTMENT OF RECLAMATION
BOISE, IDAHO

REPORT OF ENGINEER

Permit No. 15933

This proof is for BEN. USE In Water District No.

1. Name of applicant: Preston-Whitney Irrigation Co.

2. Source of water supply: Cub River

3. Location of point of diversion: Is in the NW¼SE¼ of Section 8
T. 15 S R. 4½ E. 40 E. County of Franklin

4. Describe works as they exist, giving dimensions and capacities of same: Heading and canal diverting from Cub River originally used to divert decreed rights, enlarged to sufficient extent to carry the said decreed rights and in addition the 25 c.f.s. appropriated herein

5. Water is used for: Irrigation

6. State whether or not water has been turned into works of diversion: Yes
to the extent to which water has been available

7. List legal subdivisions of lands to be irrigated. If proof is for beneficial use, give exact number of acres under cultivation in each forty-acre tract. (Describe manner and place of use if for other than irrigation): All Secs. 2,3,9 & 10; S½NE¼, S½NW¼, N½SW¼ and the SE¼ Sec. 14; SE¼NE¼, SW¼NE¼, SE¼NW¼, SE¼ & SW¼ Sec.15; All Secs. 21,22,23,26,27,28,34 & 35, Twp. 16 S., R. 39 E., B.M. Examination of each subdivision not made as this right is supplemental to decreed rights and no additional lands are covered

(Submit map on attached plat, showing location and details of above description.)

8. What large stream would the water here appropriated finally reach?

Remarks: This company is successor of the Cub River Middle Ditch Co and Cub River and Worm Creek Canal Co both of which companies were decreed rights to the use of water of Cub River in the case of Cub River Irrigation Co vs Cub River Middle Ditch Co et al. out of the fifth Jud Dist for Oneida Co entered Jan 26, 1906

15933

This examination was made on the 10 day of June 1932.

(Signed) Myron Summerhays
Examiner.

Form 23

STATE OF IDAHO
DEPARTMENT OF RECLAMATION
BOISE, IDAHO

REPORT OF ENGINEER

Permit No. 15933

This proof is for COMP. WORKS In Water District No. 5-R

1. Name of applicant: Cub River & Worm Creek Canal Co.
2. Source of water supply: Cub River
3. Location of point of diversion: Is in the NW¼SE¼ of Section 8
   T. 15 S. R. 41 E.B.M. County of Franklin
4. Describe works as they exist, giving dimensions and capacities of same: Diversion works from Cub River consisting of timber headgate. No dam in river required at diversion as to grade. Canal about 15' wide on bottom and capable of carrying water 4½ ft deep. Reported and apparent capacity in excess of 110 c.f.s. which is adequate to carry the 85 c.f.s. diverted water and 25 c.f.s. under this permit.
5. Water is used for: Irrigation
6. State whether or not water has been turned into works of diversion: Yes
7. List legal subdivisions of lands to be irrigated. If ~~proof~~ is for beneficial use, give exact number of acres under cultivation in each forty-acre tract. (Describe manner and place of use if for other than irrigation):

South Half of the Northeast quarter, South Half of the Northwest quarter, North Half of the Southwest quarter and the Southeast quarter of Section 14; the South Half of the Northeast quarter, Southeast quarter of the Northwest Quarter and the South Half of Section 15; all of Sections 21, 22, 27, 28 and 3 of Township 15 South, Range 39 East, Sections 9 and 10 of Township 16 South, Range 39 East and Sections 23, 26, 34, 35 and 2 of Township 15 South, Range 39 East, B. M.

Examination of each legal subdivision not made as this right is supplemental and appurtenant to the same lands as served by the canal system described in that certain decree described under remarks of permit

15933

This examination was made on the 19 day of Sept 19 27

(Signed) Myron Burnham
Examiner.

Form 23

STATE OF IDAHO
DEPARTMENT OF RECLAMATION
BOISE, IDAHO

REPORT OF ENGINEER

Permit No. 15933

This proof is for COMP. WORKS In Water District No. 5-H

1. Name of applicant: Cub River & Worm Creek Canal Co.
2. Source of water supply: Cub River
3. Location of point of diversion: Is in the NW¼SE¼ of Section 8
   T. 16 S. R. 41 E.B.M. County of Franklin
4. Describe works as they exist, giving dimensions and capacities of same: Diversion works from Cub River consisting of timber headgate. No dam or weir required at diversion as to grade. Canal about 15' wide on bottom and capable of carrying water 4½ ft. deep. Reported and apparent capacity in excess of 110 c.f.s. which is adequate to convey the 85 c.f.s. decreed water and 25 c.f.s. under this permit.
5. Water is used for: Irrigation

(Submit map on attached plat, showing location and details of above description.)

8. What large stream would the water here appropriated finally reach?

Remarks:

Extension of each legal subdivision not made as this right is supplemental and appurtant to the same lands as served by the canal system described in that certain decree described under remarks of permit

15933

This examination was made on the 19 day of Sept 19 24

(Signed) Myron Burnside
Examiner.

Transcript of the Testimony of **Lyle Porter**

Date: November 22, 2010
Volume: I

Case: PRESTON-WHITNEY IRRIGATION CO.

Printed On: December 3, 2010

T&T Reporting
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BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF TRANSFER NO. 75705)
IN THE NAME OF PRESTON-WHITNEY)
IRRIGATION CO.,)
)
)

30(B)(6) DEPOSITION OF LYLE W. PORTER
Monday, November 22, 2010, 10:00 a.m.
Idaho Falls, Idaho

Sandra D. Terrill,
RPR, CSR

EXAMINATION

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30(B)(6) DEPOSITION OF LYLE W. PORTER
BE IT REMEMBERED that the deposition of Lyle W. Porter was taken by the attorney for the protestants at the office of Holden, Kidwell, Hahn & Crapo, PLLC, located at 1000 Riverwalk Drive, Suite 200, Idaho Falls, Idaho, before Sandra D. Terrill, Court Reporter and Notary Public, in and for the State of Idaho, on Monday, November 22, 2010, commencing at the hour of 10:00 a.m., in the above-entitled matter.

APPEARANCES

For the protestants:
MOFFATT THOMAS BARRETT ROCK & FIELDS, CHTD.
BY: ANDREW J. WALDERA
101 South Capitol Blvd, 10th Floor
Post Office Box 829
Boise, Idaho 83701-0829
(208) 345-2000

For the Preston-Whitney Irrigation Company:
HOLDEN, KIDWELL, HAHN & CRAPO, PLLC
BY: ROBERT L. HARRIS
1000 Riverwalk Drive, Suite 200
Post Office Box 50130
Idaho Falls, Idaho 83405-0130
(208) 523-0620

Also Present:
Scott King, P.E.

(The deposition proceeded at 10:16 a.m. as follows:)

Lyle W. Porter,
produced as a witness at the instance of the protestants, having been first duly sworn, was examined and testified as follows:

MR. WALDERA: Well, good morning. Please let the record reflect that this is the time and place noticed under Rule 30(b)(6) for the deposition of Preston-Whitney Irrigation Company.

The 30(b)(6) notice is dated November 9th, 2010, and the transfer proceeding we're here talking about is an administrative proceeding for the Department of Water Resources, and it's transfer No. 75705.

The company has produced Mr. Lyle Porter as its 30(b)(6) deponent as the person most knowledgeable about the topic areas covered within the notice itself, and the deposition is being conducted pursuant to the Idaho Department of Water Resources Administrative Procedural Rules as well as the Idaho Rules of Civil Procedure, and that the deposition can be used for all purposes stated in those rules.

Present in the room, myself. I'm Andy Waldera. I'm here on behalf of the protestants, the Golightlys, the Wheatleys, Mr. Chadwick, and related entities.

With me is Scott King, who is the expert witness assisting in this matter with SPF Engineering.

Obviously, we have Mr. Lyle Porter, the deponent, and his counsel, Mr. Rob Harris, and the court reporter, obviously, Sandra. Nice to meet you. How are you today?

MR. HARRIS: Just briefly, do you have the spelling for Golightly?

THE REPORTER: I have the one on here.

MR. HARRIS: Okay. That's perfect.

EXAMINATION

BY MR. WALDERA:

Q. Mr. Porter, Lyle, do you have a preference?

A. Either one. Lyle is fine.

Q. Been called worse before?

A. Yup.

Q. All right. Again, we're here to talk about a transfer proceeding of -- well, an amended

transfer application of Preston-Whitney Irrigation Company that's filed with the Department of Water Resources to change some elements of some water rights as the application provides.

Are you familiar with that transfer application?

A. Yes. I assisted Mr. Harris in preparing it.

Q. Okay. What about the fairly recent amendment. There was an amendment that related to a place of use acreage change, kind of a whittling down to about 16,500 acres or so in mid to late October. Are you familiar with those changes?

A. Yes.

Q. Okay. If you could, could you please state and spell your full name for the record.

A. Lyle Ward Porter, L-y-l-e, middle initial W., P-o-r-t-e-r.

Q. And what's your home address, sir?

A. 1447 East 800 North in Preston. Zip code is 83263.

Q. And what is the Preston-Whitney Irrigation Company address, business address?

A. Our P.O. Box is 311, Preston, Idaho.

Q. And it's my understanding that you've

been deposed before?

A. Yes.

Q. You have. Okay. So you probably know how this goes pretty well, but I'll run through a couple of generic ground rules before we get started.

When was it you were deposed before? How many different occasions?

A. Just once in -- about a year ago.

Q. So the only other time you were deposed was in the Franklin County proceeding. I believe Mr. Blake Atkin was representing many of these --

A. Yes.

Q. -- same protestants, if not the same protestants, then?

A. Yes. I think they were exactly the same.

Q. Okay. And what was the nature of those proceedings?

A. It was a lawsuit that they had filed against the company.

Q. Okay. And were you designated as a company 30(b)(6) witness or were you being deposed in some other capacity?

A. I believe it was as a 30(b)(6) witness.

Q. So you were the human embodiment of the

company?

A. Right.

Q. Well, as you know, a deposition's a question and answer session. It's a discovery tool, a fact-finding procedure, basically. Everything's being transcribed. That leads to some potential problems. In order to get a clean record I will try to ask clear questions and not interrupt you as you're answering, and if you could let me finish my question before answering. Normal cadence of conversation, people anticipate things and start holding a conversation, which is fine for us, but not necessarily fine for the court reporter.

Also, I'd ask that you verbalize all of your answers. Head nods, shoulder shrugs, that sort of thing doesn't translate very well into writing -- if I'm going too fast, please let me know -- and so please say yes or no. Uh-huhs sometimes can be -- or uh-uhs, you never know what that means, necessarily.

If you don't understand a question, please let me know. We can ask some pretty garbled questions when you start kind of thinking ahead and when the question comes out, it's not a very good question.

But if you do answer, I'm going to

presume that you understood the question and that you answered it truthfully to the best of your ability.

You are under oath. Do you understand that you're under oath?

A. Yes.

Q. And we can take a break anytime you need, if you want to get up, stretch your legs, use the restroom. All I ask is that if a question is pending when you make a request to take a break, that you answer the question first and then we go ahead and take a break.

Are you currently taking any medications or under the influence of any substances that might alter your ability to understand my questions today?

A. No.

Q. No substances or medications that would impair your ability to answer truthfully at all?

A. No.

Q. Do you have any questions of me about the general ground rules and so on before we get going?

A. No. I'll just do the best I can.

Q. Well, that's all we ask.

What, if anything, did you do to prepare for this deposition?

A. Oh, I just thought over the -- you know, the issues behind it. I glanced at a couple of the things in the previous deposition, looked briefly at the response that you had filed.

Q. And you said thought about issues behind it. What issues are you referring to?

A. Well, the issues that were raised in the lawsuit.

Q. Okay. So not necessarily this transfer proceeding, but other issues that were discussed in that issue in the Franklin County proceeding?

A. Yes. Also, I reflected on the -- we had a couple of prehearing conferences prior to this.

Q. Okay. And those were administrative prehearing conferences with the Department of Water Resources?

A. Yes.

Q. Okay. And forgive me. Scott Campbell has been involved in this, at least in the administrative proceeding, for a very long time. Myself, not as much, and so I find myself still getting up to speed a little bit. So you're going to educate me a lot on kind of the history on how things have progressed.

You also said your prior deposition.

Again, that's the one and only deposition you've ever had, and that was also in the Franklin County proceeding?

A. Yes.

Q. And then the responses that we, as in the protestants, filed, I presume you're referring to our written discovery responses?

A. Yes.

Q. Did you have any discussions with anyone other than Mr. Harris, perhaps, with respect to these issues prior to your deposition?

A. No. I just briefly talked a little bit with one of our managers to clarify a couple of questions I had.

Q. Okay. And who's that manager?

A. Conan Foster.

Q. And how is that spelled?

A. C-o-n-a-n. Foster is F-o-s-t-e-r.

Q. And you said he's a manager. Is he an employee of Preston-Whitney Irrigation Company?

A. Yes.

Q. Is he kind of administrative personnel or is he a ditch rider, a watermaster?

A. Ditch rider, watermaster.

Q. And is that for the entire

Preston-Whitney Irrigation Company service area or a fraction of it, a portion of it?

A. Just a fraction of it.

Q. And what portion of the company's service area does Mr. Foster ride or oversee?

A. He is in charge of our fill ditch, the canal that brings water from our diversion to our reservoirs, and also the distribution in the Whitney area.

Q. And when you say the fill ditch, is that one of the points of diversion from Cub River that more or less -- it's one of the northernmost ditches that runs from Cub River to Glendale --

A. Yes.

Q. -- or Worm Creek, that is?

A. Yeah. He was also -- he was also in charge of the middle ditch when that was part of our company.

Q. Okay. And you said you had a couple of questions for him. What were those questions? What were you trying to clarify with him before the deposition?

A. Well, there were a couple of things that were noted in the discovery responses and I just asked him if my recollection of those situations were

accurate or not.
Q. And what were those questions?
A. Relating to springs in the Johnson and Lamont Reservoirs and the presence of ice and turbulence and those types of things.
Q. And so far as you are concerned -- and this can get a little confusing because there's you, the person, Mr. Lyle Porter, but for all intents and purposes you're here as the company.
A. Yes.
Q. So I use those terms clearly, but for purposes of the company, the company considers Mr. Foster knowledgeable in the subject matter that's laid out in the deposition notice as well?
A. In most of it. What relates to the physical distribution of water and the maintenance of the canals and that type of thing. Not necessarily in service areas, per se, as described.
Q. And when it comes to Johnson-Lamont, we'll have some questions later on about that, but ice and springs and so on, any particular reason why Mr. Foster would be particularly knowledgeable in those areas?
A. He looks at the reservoirs every day for the last 30 years.

Q. How old is Mr. Foster?
A. He's 76.
Q. Okay. So he has a good history of the area as well?
A. Yeah.
(Exhibit *-1 marked.)
Q. BY MR. WALDERA: Mr. Porter, I'm handing you what's been marked as Exhibit *-1, and that is the 30(b)(6) deposition notice, which is why you're here today. Have you seen this notice before?
A. I believe I have.
Q. Okay. Do you recall when you saw it?
A. I believe Mr. Harris e-mailed it to me in one of his e-mails.
Q. And do you remember roughly when it was that you first saw it?
A. I get a lot of e-mails from him. I don't know exactly. It's probably in the last -- he usually e-mails this to me right after he gets them, so I would assume it's pretty much, you know, the first part of November.
Q. Okay. And when you first received it or saw it, did you have any discussions with anybody about the notice itself or the contents of the notice?

A. No.
Q. Well, within the notice itself there are various topic areas that are covered, and the first is the origins and history of the Preston-Whitney Irrigation Company. And you've been produced as the 30(b)(6) witness on behalf of the company to speak about that area, amongst others that we'll go through in the deposition notice.
Is there anyone other than you that you think that's particularly knowledgeable from the company with respect to the origins and history of the company?
A. Yeah. There are probably several people.
Q. Who would you consider to be the best?
A. Probably the oldest.
Q. All right.
A. One of our directors who preceded me as the president of the company is Carl Swainston. Most of the people in that time frame have passed on, so he's a -- he would probably be the most knowledgeable.
Q. And about how old is Mr. Swainston, if you know?
A. He's -- he's in his early seventies.

Q. And any particular reason why you would -- well, first of all, do you consider, perhaps, Mr. Swainston to be a better witness than you when it comes to origins or history of the company?
A. Well, he's got a few years on me, so he might be more conversant in some of the actual -- I mean, he might have participated in -- not in the origins of the company, but in the earlier part of the history.
Q. Okay. And is Mr. Swainston currently a company officer or a board member?
A. Yes. He's a member of the board.
Q. So that's a board of directors?
A. Board of directors.
Q. The next topic area, similar, but origins and history of the company's water rights. So not the creation of the company, but kind of how the company functions, the history of its water rights. Anyone other than you that you consider to be particularly knowledgeable in that area?
A. Probably Mr. Swainston.
Q. Anyone else that you can think of?
A. Well, Mr. Foster, Conan Foster.
Q. The next topic in the deposition is

location, development, and evolution of the company's place of use or its service delivery area. Other than you -- and you'll probably repeat a couple of names we've heard already, but other than you, any other individuals you consider particularly knowledgeable about the company's service area?

A. Bryce -- or excuse me -- Brian Jensen, who's the company vice president, is pretty knowledgeable about the Fairview area. He probably has a more intimate knowledge of the service area there than I do.

Q. And Mr. Jensen's name, do you know how that's spelled?

A. I think it's B-r-i-a-n J-e-n-s-e-n.

Q. And you say he's currently the company vice president?

A. Yes.

Q. Chances are that I'd be able to find his name within some of the corporate filings of the Secretary of State?

A. Yes.

Q. Anyone else other than Mr. Jensen with respect to the company service area?

A. Well, let's see. If we divide it up, Carl Swainston is most familiar with the northern

part, and Brian with the southwestern area. And the rest of it is -- would probably be Mr. Foster and myself, which would pretty much cover it.

Q. Okay. Thank you. All right. The next topic, and I'm not reading verbatim from the notice, but basically the location, composition, operation and maintenance of the company irrigation works/ infrastructure, including the company's reservoirs. Other than yourself, anybody particularly knowledgeable about the reservoir system and the actual irrigation infrastructure, laterals, pipeline, and so on?

A. Basically the same people. The last number of years our other manager, watermaster, Larin Bodily, you know, has managed the Foster Reservoir.

Q. Let me ask a couple questions about that. It sounds like you've got -- or the company has a couple of different water masters or ditch riders, something along those lines. How many are there total?

A. Two.

Q. Two. Okay. So it's Mr. Bodily and Mr. Foster?

A. Yes.

Q. And if you could, describe roughly the

boundaries of Mr. Foster's area and then do the same for Mr. Bodily.

A. Mr. Foster takes care of managing, cleaning, operating the fill ditch where the water is -- basically, all our water is diverted to use. He is in charge of the ditch which conducts water from the Worm Creek rediversion to the Lamont Reservoir and takes care of the Glendale Reservoir. Well, he and Mr. Bodily work together with the Glendale Reservoir. He's in charge of filling it. Mr. Bodily is in charge of the outlet.

And so that includes the service area above the reservoirs and in the Whitney area, which is in the eastern -- essentially the eastern 40 percent of our company. Mr. Bodily distributes water to all the rest of it, which includes the Fairview east lateral, the north lateral.

Q. So Mr. Foster is responsible for some -- unless I'm reversing the two, and I apologize if I am. Mr. Foster is responsible for largely the -- what you call the fill ditch, which is the main Cub River diversion into the reservoir system, Glendale, and then you can shunt water to Lamont or Foster.

So Mr. Bodily fills and is responsible for the distribution in kind of the Fairview area, so

kind of the north and west areas of the service area, and Mr. Foster is responsible for the southern or south and east area -- service areas of the service area?

A. No. Mr. Foster mostly east because it extends north and south almost the same distance.

Q. Okay. Is there any -- what would be kind of a landmark or is there any kind of dividing line between the east/west, for example, Johnson-Lamont pipeline?

A. That's the principal delivery system for the eastern area, the Johnson-Lamont pipeline. On the map the natural division point is Worm Creek because there's a hollow or a depression there and so that divides the two areas.

Q. Okay. So north and west of Worm Creek is Mr. Bodily, and south and east of Worm Creek is Mr. Foster?

A. Yes.

Q. And I take it then for Lamont Reservoir, anyway -- and I'll ask some questions about Johnson later. But for Lamont it's Mr. Foster then who's in charge of Lamont?

A. Yes. I might add for clarification also, the northern and western parts of our service

area, we work with Preston Riverdale Mink Creek Canal Company. We share laterals and they have a watermaster who is actually physically in charge of delivery from the east and the north laterals. But we trade information back and forth. But basically for our purposes, Larin Bodily is in charge of that.

Q. Okay. Now, when you say north and west, we're talking about lands that lie west and maybe even slightly north of Foster?

A. Yes. This line represents Worm Creek, and so it's -- really, it's essentially everything that side of Worm Creek, this purple line being the north lateral.

MR. HARRIS: Just briefly, do we want to go ahead and mark that?

MR. WALDERA: I was going to in a little bit. Right now we'll get back to it, but, yeah, I'll just kind of -- just for my own notes.

MR. HARRIS: But for the record it ought to reflect --

MR. WALDERA: Sure.

MR. HARRIS: The map that we're referring to is a GIS map that I prepared that has various colored lines in it. So when the record says there's a purple line, we'll all, I guess, know what we're

referring to.

MR. WALDERA: Sure.

MR. HARRIS: Go ahead.

THE WITNESS: So the north lateral is represented by this -- what color is this?

Q. BY MR. WALDERA: Orange, kind of.

A. -- orange. The east lateral is represented by this line with the purple with the blue line in the middle. And the Fairview lateral is this entirely purple line. And so the east lateral and the north lateral, the actual physical delivery of both companies' water is managed by Preston Riverdale Mink Creek's watermaster. And the Fairview lateral, Mr. Bodily manages the distribution of water for both companies. Also, the filling and the management of the Foster Reservoir.

Q. Would be Mr. Bodily?

A. Mr. Bodily.

Q. All right. Thank you. And then the last topic area of the deposition notice is basically the nature and scope or the nuts and bolts of the amended transfer application. Anyone other than yourself that's particularly knowledgeable about the transfer application?

A. Mr. Harris.

Q. Unfortunately, I don't get to ask Mr. Harris questions.

MR. HARRIS: Sure you can. Off the record.

THE WITNESS: But he, of course, did all the physical work in putting it together.

Q. BY MR. WALDERA: And you were pretty much working side by side with Mr. Harris in preparing the application and then the amended application?

A. Yes. I guess, also, Brian Jensen was with me. The three of us worked together on that.

Q. Okay. And, again, Brian Jensen is vice president?

A. Vice president.

Q. All right. Well, let's talk about the formation of the Preston-Whitney Irrigation Company itself and we'll more or less kind of track through the topics in the deposition notice in order. And I'm going to ask you a few questions just as kind of a primer so that you can just kind of answer them all as you tell the story, so to speak.

Basically, if you can walk me through the formation of the company historically: When, who, an amalgamation of what entities, if any, why was it formed, that sort of thing. So if you can

kind of walk me through a historical narrative of the creation of the company, please.

A. Okay. I'm not as good on dates. I may be off a year or two on some of the dates.

The Preston-Whitney was a result of a merger of two parent companies, which was the Cub River Middle Ditch Company and the Cub River and Worm Creek Canal Company. And they both had diversion rights in the Cub River. The Cub River and Worm Creek Canal Company had a right in the Worm Creek, and they both dated back into the 1880, 1881. They were pretty contemporaneous. The Cub River Middle Ditch Company serviced the Whitney area, which is what I've described as in the Johnson-Lamont pipeline.

Q. Right.

A. Whereas the Cub River and Worm Creek Canal Company serviced everything around Worm Creek and west of Worm Creek clear down into the Fairview area, which is essentially the remainder of our company's service area.

In the water rights these two companies were not the most senior in priority. The Cub River Irrigation Company has a prior right in Cub River, the Cub River being our -- you know, the largest --

the largest source of water.
Q. And I'm sorry to interrupt you. I just want to make sure. So the Preston-Whitney Irrigation Company is a merger between the Cub River Middle Ditch Company and the Cub River and Worm Creek Canal Company, but what you're referring to right now as the Cub River Irrigation Company is something completely different?
MR. WALDERA: Let's go off the record for a minute.
(A discussion was held off the record.)
Q. BY MR. WALDERA: Before we went off the record briefly, you were mentioning that the Franklin -- excuse me -- the Preston-Whitney Irrigation Company largely resulted from the merger of the Cub River Middle Ditch Company and the Cub River Worm Creek Canal Company. And then you were mentioning the Cub River Irrigation Company, which my understanding is is a completely separate entity who happened to have the senior-most priority dates to Cub River water and that the Preston-Whitney Irrigation Company predecessors were junior in priority, and that's kind of where we left off.
A. Yes. That's right.
Q. Please continue.

A. There is an additional company, which is separate, which is the Preston-Whitney Reservoir Company, which is the owner and operator of the Johnson Reservoir. Their right was in Worm Creek and it was storage and a stream flow right in Worm Creek. And so they had built a reservoir, the Johnson Reservoir, back the late 1800s, 1890 or around the turn of the century. And so they had a prior storage right from Worm Creek, but the Cub River and Worm Creek Canal Company, our ancestor, had a prior stream flow right, irrigation season right.
So in the 1920s the -- I mean, the service areas were pretty much established by that time. In the 1920s the Franklin County Sugar Company was established and they had a sugar factory in Whitney and their area was Franklin County. And because of the fact that all the area serviced by the Middle Ditch Company -- the Cub River Middle Ditch Company and the Cub River and Worm Creek Canal Company had no storage and had a later water right, you know, those two companies were often out of water in July and August, which is not good for sugar beets.
And so they weren't able to get enough acreage, you know, to have a viable operation. And

so the sugar company, first of all, they filed on a storage right and a place to construct a dam at Glendale. They also had -- they also had some rights in the Cub River, you know -- what do you call it -- commercial industrial right they had to use to operate the sugar factory during the campaign in the fall and early winter.
And so they proposed that there be a reservoir built. And so working with these other two companies, the Middle -- I'll just call it the Middle Ditch Company and the Cub River and Worm Creek Canal Company and the sugar factory, they came up with a plan to merge these two companies, build the reservoir, which is the Glendale Reservoir, and, therefore, they'd have late water. I mean, there'd be late water so they could have enough growers grow sugar beets and have, you know, a consistent dependable supply of sugar beets.
And so that was the motivation or the impetus for the organization of the company. And so they went through a process of -- that the officers of the two companies and the sugar company worked together and were able to come up with a merger plan.
And preceding that they brought a -- they began an adjudication proceeding on Cub River,

which resulted in what we called the McEwan Decree. There were two adjudications. One was prior to that and, I guess, people felt like there were some errors in that, and so before -- or pretty much contemporaneous with -- I mean, this merger process was going on, you know, the political aspects, you know, were going on.
And so, as I understand it, the sugar company initiated the process of adjudication to clarify all these water rights, and so when that adjudication was decreed, the McEwan Decree, which is still the latest decree we have on Cub River, then when was that was settled, the merger went ahead and Preston-Whitney was the -- Preston-Whitney Irrigation Company was the resulting offspring of it.
Q. Okay.
A. And that was in -- and the reservoir -- the Glendale Reservoir was built in that time. I think it was completed in 1928 or '29, and so, you know, I think they started the merger process in about '24 and everything was complete before the 1930s.
Q. And one of the -- and I kind of heard indirectly the answer to this question, but I'll ask it anyway. And that is why was the Preston-Whitney

Irrigation Company formed? What was it that the Preston-Whitney Irrigation Company could do that the predecessor entities couldn't?

A. It could store water. So when the stream flow in the Cub River, you know, diminished to the point where these two companies' water rights were then out of priority, they could store water in the Glendale Reservoir over winter and during the high water season and then there would be some water that we could actually -- that they could actually use in August and September, which was not -- essentially, not possible before.

Q. So the predecessor entities, the Middle Ditch Company and the Cub River and Worm Creek Canal Company, like you say, due to their priorities on Cub River were often out of water by middle irrigation season, basically?

A. Yes.

Q. And I know from some of the documents that have been produced in discovery, my understanding is the actual merger or corporate organization of the Preston-Whitney Irrigation Company occurred in 1926. One of my questions is do you have any idea how many shareholders there were in 1926?

A. The number of actual shareholders, off the top of my head, I don't know. The company was incorporated to be able to issue 30,000 shares. And, essentially, they allocated 10,000 shares to each of the predecessor companies and kept 10,000 in reserve -- not entirely. The sugar company also bought a fairly substantial block of shares out of that third 10,000, and I can't tell you how many. That's ancient history to me.

But then I would guess that we probably had between the two companies 200, 250 stockholders. That would be -- I mean, that's an educated guess. We could -- I mean, we could certainly go back and look in the old records and see.

Q. Okay. As it relates to kind of corporate officers, shareholders, number of shares historically, do you understand that those documents have been produced, more or less, through discovery?

A. I think the -- I'm not sure if -- I believe that in your discovery you did ask for those. I believe that they were produced, the original articles of incorporation. And I don't know if we produced the minutes of those meetings and that type of stuff, but they're certainly available.

Q. Okay. And kind of turning to more

modern times and today, you drew the short straw. You're the 30(b)(6) deponent. Are you currently an officer of the Preston-Whitney Irrigation Company?

A. Yes.

Q. And what is the -- what is your position? What is your office?

A. I'm the president of the company.

Q. And how long have you been president?

A. I think I've been president since 2006.

Q. And if my memory serves, it was -- or, no. Sorry. Mr. Swainston was the president immediately before you?

A. Yes.

Q. And what was his term as president, if you recall?

A. I think he was in for 16 -- 16 to 18 years, something like that.

Q. Okay. So if you started in 2006 to present, about 16 years then. So Mr. Swainston was basically president during the early nineties up until your presidency?

A. Yes. I would say he was president in the late -- the very late eighties.

Q. And what is the structure of the company now? For example, if you could kind of tell me what

are the corporate officer positions and then it's my understanding there's a board of directors. So who holds what position? How many directors are there?

A. There are seven directors who are elected to three-year terms. And we alternate. From the board of directors -- each year the board of directors selects from their number a president and a vice president. We have a secretary/treasurer who does not have to be a member of the board. And then we have two managers or water masters, and that's essentially the officers of the company.

Q. And are the water masters, Mr. Bodily and Mr. Foster, considered officers of the company or simply employees?

A. Well, our bylaws list a manager position, so I've considered them to be officers, but they're also employees, of course.

The secretary/treasurer is employed, gets a salary, as do the water masters. The other officers are just paid a nominal fee and just their expenses.

Q. Okay. And so you're the president and currently Brian Jensen is the vice president?

A. Yes.

Q. And how long has Mr. Jensen served in

the vice president capacity?
A. He was elected the same time I was elected president.
Q. So 2006?
A. Yes.
Q. And while I understand that the directors serve three-year terms, presumably that would have to carry over then to the executive positions as well, that they would be three-year term limitations?
A. No. The president and vice president can be elected or fired or whatever at any time. So they serve at the pleasure of the board of directors.
Q. And so let's use Mr. Swainston as an example. He was president for 16 to 18 years serving at the pleasure of the board of directors. President is one of the positions where you have to be on the board --
A. Yes.
Q. -- in order to be eligible to be president? But if the board of directors is limited to three-year terms, how is it then that somebody can then be president and outlive their board of director term?
A. Well, they couldn't. If a person was

not reelected to -- if I were not reelected to the board, then I wouldn't be eligible to be president after that point.
Q. I see. Okay. So while you serve at the pleasure of the board of directors in your position as president, if, for whatever reason, you weren't reelected every three years, then you would no longer be president?
A. That's correct.
Q. And who's the current secretary/treasurer?
A. Maxine Waddoups.
Q. How do you spell that?
A. M-a-x-i-n-e. Waddoups is W-a -- let's see -- d-o-u-p-s.
MR. HARRIS: Actually, two d's in it.
THE WITNESS: Two d's, yeah, that's right.
Q. BY MR. WALDERA: And I think I recall from discovery responses reading that Ms. Waddoups has been there a long time.
A. She was hired as secretary during the -- during Carl Swainston's term. So she's probably been there for at least 10, maybe 15 years.
Q. And then backing up to the vice president position, currently Brian Jensen, who

served before Mr. Jensen?
A. I did.
Q. And how long were you in the vice president position?
A. About -- oh, let's see -- six or eight years.
Q. And have you held any other executive positions within the company since vice president -- or before vice president and president?
A. I was a member of the board for about three years before that.
Q. So your history of executive service to the company goes back about 15 years?
A. Yes.
Q. And who was secretary/treasurer before Ms. Waddoups, if you know?
A. Angus Condie.
Q. And how long was he in that position?
A. He was back to the creation almost. He was the secretary for probably 30 years or more, 30 or 40 years.
Q. And the secretary/treasurer you said does not have to be a board member as a prerequisite for holding the position. If somebody is appointed secretary/treasurer and there's no threat of them

being voted out because they don't have to be a board of director, how is it determined how long their reign of terror goes on?
A. Every year our bylaws provide that the board of directors has one regular meeting per year after the annual meeting. And at that time they name a president and vice president and hire a secretary/treasurer and the water masters, and so it's reviewed every year.
Q. And so individuals -- while the president and vice president position and the director -- board of directors can have some turnover, the watermasters and secretary-treasurer, as long as they're doing a good job, can really be entrenched for a very long time?
A. Yeah.
Q. And, presumably, there's a requirement that -- well, let me ask it this way: All officers within the company -- and when I say officers, that means board of directors and then president, vice president, secretary/treasurer. Do they all need to be shareholders as an eligibility requirement?
A. Only the board of directors, and by extension the president and vice president. The secretary/treasurer and the water masters do not have

to own stock, but there's a minimum amount of stock -- shares in the company that the board of directors have to own or control.
Q. And when you say own or control, obviously, I understand what own would be. How would somebody control shares otherwise other than owning them?
A. If they were an officer of an LLC or a corporation who actually owned the -- owned the shares.
Q. Okay. And what is the share control quota for serving on the board of directors?
A. 20 shares.
Q. So, obviously, you are a shareholder in the Preston-Whitney Irrigation Company?
A. Yes.
Q. How many shares do you own or control?
A. About 320 shares.
Q. And how about Mr. Jensen?
A. I think he probably owns about five -- let's see -- probably about 600 shares at this point.
Q. And when you say at this point, has Mr. Jensen accumulated shares over time?
A. By -- he operates what used to be his father and his uncle's farms. And so as the process

of succession, he's acquired the shares that they had.
Q. And is Ms. Waddoups a shareholder?
A. No.
Q. And how about Mr. Foster and Mr. Bodily?
A. Mr. Bodily owns shares. Mr. Foster owned shares previously. I think he actually owns five shares still, but he sold most of his property and divested himself of most of his shares, but I think he still has five shares.
Q. Mr. Foster, if you know, at his height of share ownership, how many shares did he have?
A. He probably had somewhere around 500. That was what he inherited from his father.
Q. Okay. And how about Mr. Bodily?
A. Mr. Bodily, I'm guessing he probably has a couple hundred shares. Those would be subject to -- I mean, those are ballpark figures.
Q. Sure. Sure. And Mr. Swainston, how many shares does he hold?
A. He's actually the largest shareholder in the company and I think he -- he probably owns 15- or 1,600 shares.
Q. And if you know kind of the history, how did he come to acquire all those shares?

A. He -- well, he inherited or bought his father's farm and he has been pretty successful. He's bought -- he's added a lot of different farms and land. And I believe all of his shares have been acquired through those land purchases.
Q. Through the property transactions?
A. Yeah. The only exception would be just a couple years ago to finance one of our pipelines, we made an offering to sell some of our treasury stock and he bought some for that, but it's a very minor part of his total share.
Q. So Mr. Swainston is currently the largest stockholder. Anyone else who comes close to Mr. Swainston's number of shares?
A. The largest -- I would say there's probably -- Brian is probably one of the ones who's fairly close -- or, I mean, the closest behind him. The Hulls and Whitney, they probably even own more than Brian does. Greaves, the Greaves family is a large stockholder.
Q. And how is that spelled?
A. G-r-e-a-v-e-s.
And David Bozeman is kind of up in that area. And then the City of Preston owns a little less than 800 shares. So those are probably roughly

the biggest players.
Q. Okay. And so you mentioned in 1926 that the -- and I threw out 1926 because I've seen it in documents, but, basically, when the Preston-Whitney Irrigation Company was created, it issued 30,000 shares of stock?
A. They weren't all issued at that time.
Q. But created 30,000 shares?
A. Yeah.
Q. Is that number the same today? Is it still 30,000 shares?
A. Yes.
Q. And how many -- roughly, how many shareholders are there in the company today?
A. There's just a little over 300. We have people dividing property now instead of consolidating, so that's a moving target. We get new shareholders almost every two or three months.
Q. Okay. And does that result -- do you wind up with fractional shares?
A. We used to have fractional shares, but we -- when we got so many shareholders, we decided that it was counterproductive and so we offered to either buy back or sell the fractional shareholders whatever number would take them up to a whole number

of shares. And I think we've accomplished that with -- I think there's just two exceptions, two people that didn't respond to that. So, essentially, they're all full shares.

Q. And when did that process take place?

A. That was two years ago.

Q. And so with the exception of two people that you can think of, everyone else has a minimum of one full share and then upwards of Mr. Swainston, who has somewhere between 1,500 and 1,600 shares?

A. Yes. There are not many people that have -- our bylaws state that -- our goal in the bylaws was to have five shares be the minimum. However, there were people who had less shares before that. So the bylaws basically state that anything -- any number -- any shareholder or any group of shares who was less than -- or five or less can't be further divided, but we still have a number of people who have two, three, four shares who grandfathered in.

Q. But still round numbers?

A. Yeah. Yes.

Q. And so today, as you sit here today, there are a little over 300 shareholders. How does that number compare to 1926? How many shareholders were there then?

A. You know, there were probably -- at that time there were probably close to that. And then over the years, you know, it reduced as farms consolidated. And now it's gone the other way with some of this development, horse ranches and things like that.

Q. Okay. And my understanding -- how long have you been a shareholder in the company?

A. Since -- let's see, I was married in '74. Since about 1975, '76.

Q. Okay. For some reason I -- and before you were a shareholder in the company, did you inherit shares with your property transactions from your parents --

A. Yes.

Q. -- for example?

A. Yes.

Q. And so you've -- I think I read somewhere you had familiarity with the company just on a personal level since the sixties?

A. Yes. My father was a director of the company for a long time, so I listened to his stories and experiences.

Q. Well, if you know -- putting your company hat back on now. So you have about 300 now,

roughly 300 shareholders in 1926. How about 1960?

A. In the sixties, you know, we were -- my sense is we were down to somewhat over 200 shareholders.

Q. And then how about 1990?

A. Well, in the nineties we -- you know, I think we passed 300 just a couple of years ago. So it was just a -- from the seventies to the nineties it was just pretty much a steady progression.

Q. Okay. And you say you're a little over 300 now, 300 plus. Do you have more shareholders now than you did in 1990? And the reason why I ask is -- when I asked 1990 you were like -- it seemed like from the inflection of your voice there was a pretty good explosion through the nineties, the number of shares. So are there more now or less now than then?

A. There are more now.

MR. HARRIS: I'm going to object to the form. Shares or shareholders?

THE WITNESS: Shareholders.

Q. BY MR. WALDERA: I'm sorry. Shareholders.

A. Correct. Yeah. Shareholders.

Q. Okay. And so when you say a little over 300, do you have 350?

A. Oh, no. I think we're probably approaching 320, 325.

Q. And, again, for purposes of today, with between 320 and 325 shareholders -- you know, ballpark estimates, I understand -- those individuals, those shareholders, are still divvying up the original 30,000 share block that was present at the company creation?

A. They're actually divvying the -- about -- I mean, the company issued a little bit over 20,000 shares to start with, and the remaining 9,000 or so, some of those were sold when we built the other two reservoirs to raise capital. So as of -- as of a couple of years ago, we had about 28,000 shares that were actually issued.

Q. Okay.

A. And those -- I mean, the people, they're still divvying up those issued shares.

Q. Okay. So as we sit here today, there are roughly 28,000 shares that have been issued, which leaves about 2,000 remaining as treasury shares?

A. I think the last I looked we were at 28,400 or so, and 1,600 or so that were treasury.

Q. And what is the current price per share?

A. Whatever anybody wants to pay. I mean, it's really a free market situation. There were a number of shares sold for $600 and some that sold for 7-. We've had shares sold for $1,000. It's just pretty much over the board.
Q. But the company does not dictate those terms?
A. No. No. Except when the company has sold treasury stock for the, you know, fractional shares and so forth, why, of course, then we've set a -- we did a -- we've tried to do an appraisal and then set a minimum on that. But beyond that we have no control or even direct knowledge of how much the shares go for.
Q. Okay. And when the company -- when has the company last sold some treasury stock?
A. Two years ago.
Q. So 2008?
A. Yes.
Q. And how much -- what was the benchmark price that the company set for those shares?
A. 600.
Q. And why was the treasury stock sold?
A. It was sold in order to finance the construction of the Fairview pipeline and to

redistribute the fractional stock.
Q. Okay. And so off the top of your head you've seen anywhere from $600 to $1,000 -- or you've at least heard 600 to 1,000 dollars on the open market today. Have those numbers roughly stayed consistent over the years or have you heard more or less -- for example, 1926?
A. Well, when the -- of course, when the company was formed in '26, they were $10 a share. That was the par value. And the reservoir was -- and, of course, they were sold in order to -- those that were sold were sold in order to finance the reservoir and the assessments.
When the -- as you're aware, in '29 the stock market crashed and went through a depression. And so I think there were quite a few shares that were sold the next few years for pennies on the dollar. And then they stabilized and came back and they've really varied a lot.
It depends on the development pressures. You know, people want to buy a farm and subdivide it or things like that. And the City of Preston was -- really bid the price of shares up for a period of time when they wanted to acquire stock in the irrigation companies, so it's really -- but the main

price explosion has happened since 1980.
Q. Okay. And so what's the lowest price per share that you remember during your tenure with the company?
A. I think people used -- when I started farming, you could buy shares for less than 200 a share.
Q. Okay. And what's the most you've seen, most expensive?
A. I know one individual who paid something like $1,200 a share, but he was in kind of a bind.
Q. Okay. And that $1,200 per share, when did that occur?
A. Oh, probably about -- probably about eight or nine years ago.
Q. And who was that individual?
A. Well, it's Herbert Rallison.
Q. I'm sorry?
A. Herbert Rallison.
Q. How is that last name spelled?
A. R-a-l-l-i-s-o-n. I don't know if he actually bought them for 1,200, but it was in excess of $1,000.
Q. Okay. And so basically I now know that the price of shares can vary quite a bit?

A. Yes.
Q. What about quantity of water represented per share; what is the quantity of water per share in the company?
A. At the present time?
Q. Yes.
A. At the present time we distribute water on an allocation basis, and at the beginning of the irrigation season we allocate -- we try to determine how much water is going to be available to distribute and then we essentially divide that by the number of shares outstanding and we fix an allocation.
Last year it was a half an acre a foot per share. And that's -- and that's water that's allocated and used after the 1st of June. Before the 1st of June, since our high water right is quite high, then we don't count that water use against their allocation, but we deliver that on a stream flow basis. They have a maximum. It takes 370 shares to be able to receive 1 cfs, so they max out at that.
And then at the first of June then we measure in acre feet how much each share can use. And last year, as I say, it was a half an acre foot. But that will vary.

Q. Okay. So just so I make sure I understand, before June 1 and it's high water season and spring runoff, the company delivers or allots water per share on a stream flow basis?
A. Yes.
Q. And 370 shares equals 1 cfs --
A. That's right.
Q. -- during that period?
And after June 1st the company delivers or allots water on a volume, so an acre foot per share basis?
A. Yes.
Q. And last irrigation season, anyway, it was one-half acre foot for the irrigation season per share?
A. That's right.
Q. Okay. And so the post or after June 1 distribution of water can vary quite a bit based on forecast inflows and water storage, correct?
A. Right. And we depend mostly on the snow pack because that's the most direct influence on our storage. We take into effect how much water we have actually successfully stored up to that point and what we project from the snow pack that we will probably receive.

Q. In operations do you -- does the company drain its reservoirs or does it try to maintain carryover?
A. We don't intend to have significant carryover. That's not -- as a matter or fact, it's never possible to use it right to the last drop, you know, but our intention is to have very little carryover.
Q. Okay. So the company operates and distributes water -- it has storage rights, but the idea being that it stores and releases, for all intents and purposes, everything it stores every year?
A. Yes. And that's because since the first reservoirs were built -- well, since -- we have three reservoirs. Since the last reservoir was built, completed, we have always been able to completely fill the reservoirs every year. And so we see -- unless there's some grave, you know, situation in snow pack -- I mean, if we have 10 percent snow pack. But in all those years we've always been able to fully fill all three of our reservoirs and so we take that as kind of a baseline, so there's no point in having a carryover.
Q. Okay. And given that you've had such a

successful fill rate every year, any significant outlier years you can think of where you were particularly water storage short?
A. You know, we've had two -- about three years where we've come close. '77. I think, '82. There was a couple of really dry years in the eighties and that one in the seventies when we just barely got them full, you know. But we actually did get them -- we actually did fill the reservoirs.
Q. Okay. So even in the lean snow pack years, you just managed to fill to capacity?
A. Yeah. Knock on wood that we'll do it.
Q. And so that would lead me to believe that the post June water -- after June 1 allocation of .5 acre feet per share remains pretty constant then because if it's based on fill -- or am I missing something?
A. Well, when the reservoirs are filled -- I mean, after June 1 we assume the reservoirs are filled, so we have a fixed amount of water available plus what we forecast from additional stream flow, which will vary. But that allocation has varied because we've gone through a period where we have put virtually all of our distribution systems in buried pipelines. And the savings in water -- as we've

completed each one, the water savings has been allocated -- you know, has raised the allocation to all the shareholders.
Q. I see. So, for example -- and we'll get into some of this later, but just to touch on it. If you've got an after June 1 allocation of a half an acre foot per share, but water savings through the pipeline, sprinkler irrigation and so on, that has allowed the company to boost that allocation to maybe, you know, three-quarters of an acre foot per share?
A. Well, historically, before we had any pipelines, the best we could do was about three-tenths to a third of an acre foot per share. With the construction and operation of these pipelines, now we've come up to a half. And so our intention in the pipelines was to take all the savings, reallocate it among all the stockholders.
Q. So among the -- we'll get into greater detail later, but take the savings and reallocate among issued shares or all shares?
A. Well, just issued shares. I mean, those -- we -- the treasury stock that is not issued and not leased or -- you know, if it's just in reserve, of course, we don't allocate for those few

shares.
Q. And what would happen if you did sell some treasury stock that arguably doesn't have water behind it? Does the company have the ability to reallocate after that sale so what people might be enjoying now at .5 acre feet per acre per share -- excuse me -- at .5 acre feet per share could decrease if the company releases treasury stock?
A. If we were to release or sell treasury stock that is not already being used, then, of course, that would diminish the amount that we could distribute.
Q. Okay. And are all shares within -- and I'm not speaking about treasury stock, but issued stock. Are all issued stock created equal? I mean, are there any preferred shares or anything like that?
A. No. The only difference is that we have some of our service area and some of the stock which serves areas that are above the reservoirs, so they don't have access to storage water. So they necessarily can't take advantage of the storage water.
Those shares that are issued, you know, regular stock in the company, we still allocate that much, but they have to use the water during the high

water season.
Now, when we go back to the history of the company, when the company was formed, of course, there were -- not everyone was in favor of merging the companies. And so during that process there was a significant number of shareholders who were opposed to the merger, and I think that's why it took -- you know, it didn't happen overnight.
And so all the different parties involved negotiated a solution by which those people who thought that if we should have irrigated out of reservoirs, that God would have put them there, you know, or whatever reason that they didn't -- were opposed to building reservoirs and merging the company, that if they agreed not to oppose the merger, that there would be a contract, an agreement, signed with each one of those individuals whereby they would be able to use -- receive the same amount of water as they received in the predecessor company under exactly the same terms, the same assessment.
So we called that contract water. Their shares -- I mean, the old company ceased to exist, but we had a contract with each one of those, about that many of them, and so we continued to deliver contract -- we called it contract water just as a

phrase they made up. But they weren't actually shareholders in Preston-Whitney, but the Preston-Whitney Company had a legal obligation to deliver the water that they would have received had the old company kept going. And, of course, no shares were issued for them.
Q. Okay. And so the company set -- Preston-Whitney Irrigation Company set aside a block of water to meet its contract obligations, but that block of water was not -- there were no shares that implicated that block of water?
A. There was no Preston-Whitney Irrigation Company shares issued for them. And the only contract water that still exists is some of those people above the reservoir because they have no benefit from the storage. But over the years the company -- the directors then have been able to retire all those contracts below the reservoirs. And, you know, that accounts for most of the other 10,000 shares that weren't issued. First of all, you know, the directors exchanged regular shares for those old contracts.
Q. And so as the contract water was reabsorbed by the company, that freed the company up then to issue some of the treasury shares with the

contract block of water?
A. Yes. But it didn't change the amount of water that people allocated because we were already delivering that water.
Q. Okay. And you kind of answered this in an indirect way, but, basically, the company was incorporated with 30,000 shares of stock and that number remains the same today?
A. Yes.
Q. And within that 30,000 shares, there's been some fluctuation in the number of shareholders, but as you currently sit here, you've got about 28,000 or 28,400 shares that have actually been issued and somewhere between 1,600 and 2,000 shares that are still sitting in treasury stock?
A. Yes.
Q. Now, if somebody is a shareholder and they purchase shares, it's a one-time fee purchase transaction. I presume that the company has annual assessments against shareholders?
A. Yes.
Q. And what is the amount of that assessment per share?
A. This year it is $4.50 per share.
Q. And when you say this year, irrigation

season 2010?
A. Well, we assess in the fall for the succeeding irrigation system.
Q. Okay. So the company has set the upcoming irrigation season 2011 assessment as $4.50 a share?
A. Yes.
Q. Okay. And what was it in irrigation season 2010?
A. I think it was $4.
Q. And what do those assessments per share cover?
A. They cover all operation and maintenance and a good share of the capital investment in our pipelines.
Q. So even though the company does have some treasury stock that has yet to be issued, I would presume it's fairly reluctant to issue that stock because that would dilute water availability for the issued shares; is that correct, that --
A. Yes.
Q. -- concept correct, generally?
A. Yes. Uh-huh.
Q. And so what the company really does as a general principle is it raises capital as it needs

it, not so much from the sale of treasury stock but as much as it can through annual assessments per share?
A. Yes. So the three times -- beyond when the first reservoir was built, the three times that shares -- that stock has been sold to raise capital have been to construct the additional two reservoirs and the last pipeline. The other pipelines we pretty much financed them through our reserves and savings in operation and maintenance.
Q. Okay. And so when you say the last time treasury stock was sold to raise capital, two reservoirs, I presume that would have been Lamont and Foster?
A. Yes.
Q. In that order, Lamont first and then Foster?
A. Yes.
Q. And then the third time you said was completion of the most recent pipeline or something in relation to the most recent pipeline. What pipeline is that?
A. That's what we call the Fairview pipeline.
Q. And do you know how many treasury shares

were issued to help fund Lamont?
A. I really don't know. That was back in the early fifties and I just don't know.
Q. How about Foster?
A. I'm not sure of that either. The majority of the shares that were issued to do the Foster, it's my understanding were bought by the City of Preston. And so I'm thinking there was probably 500 shares there, but I don't have those figures at my fingertips.
Q. And how about the Fairview pipeline?
A. And the Fairview pipeline, we actually issued, I think, 1,300, sold about 1,300 some shares.
Q. And this was roughly the same time that the company was trying to clean up fractional shares on the books also?
A. Yeah.
Q. Okay. So this happened about two years ago then?
A. Yes. We just finished the construction of the Fairview pipeline last winter.
Q. So is it fair for me to say that the company hasn't created any new shares beyond the 30,000 that it was incorporated with, but, if anything, the company has over time through various

means, irrigation -- or rather conversion to sprinkler, installation of pipelines, so it's not the number of shares that's really moved, it's quantity of water per share that has changed over time?
A. Yes. The amount that we were able to deliver and allocate has increased.
Q. And those increased allocations over time per share were largely the result of what?
A. There were -- well, there are two things. In the olden days, you know, the water was distributed on a turn basis.
Q. And I'm sorry. I hate to interrupt, but when you say turn, rotation basis?
A. Yeah. A rotation basis. We'd have turns every nine days or whatever it was. You know, you had so many hours of water, a three-foot stream for so many hours of water for that period of time.
Before I came on the board, the company had decided that they would go to a call system so you don't have to take turns, but you can call for your water within certain reasonable parameters and use the water when you need it. That was possible because then all three reservoirs were in operation. You know, we could deliver water or storage water. You know, it's more flexible. That saved a

considerable amount of water just being able to -- people using it when they needed it, rather than just --

Q. Sending it down?

A. -- sending it down the ditch or wasting it or whatever. So that was probably our first conservation step.

Q. And I'm sorry to interrupt, but roughly when was it that the company made the change from flood-based rotation scheduling to the call system?

A. It was in the mid eighties.

Q. And so that was the first --

A. Savings.

Q. -- measurable water savings?

A. Yes.

Q. And I'm sorry. I didn't mean to interrupt, but the second you were about to share.

A. The second was that we -- in about 2001 or about 2000 we started, you know, a process of converting our distribution laterals into closed pipelines. And as each one of those was completed, you know, anywhere from 25 to 40 percent of that water was saved. And so our allocations have increased as each one of those projects have come online from the resulting savings.

Q. And what we're talking about largely here as the resulting savings from the pipelines would be conveyance losses?

A. Well, conveyance and operational losses. In an open canal you not only have percolation and evaporation, but the fact that you have to maintain a constant stream and --

Q. A certain amount of head?

A. -- head. You have to -- at the end of the ditch, you know, there's water that's spilled over because you can't control it right to the last drop. So we don't have really good enough data to indicate what proportion those savings are, but they're both significant.

Q. Ballpark, I mean, do you have -- does the company have an acre foot estimate in adding these two measures together -- the change from a rotation to a call system and then the pipelines -- is there a ballpark estimate of how many acre feet the company has saved?

A. Well, put it this way, I can't tell you how much we actually saved by going on a call system because nobody measured the water in quantities. It was just a time measurement.

Q. Okay.

A. But when we went on the call system, I think the first year, you know, we allocated something like .27 acre feet per share and they soon found out that that was too conservative. And, like I said, then historically it was about a third, about .3 to .33 acre feet was what they varied.

Since the pipelines, all that additional increase has been from savings in pipeline, either water conservation or operational losses by an enclosed pipeline system.

Q. So just so I understand, prior to the delivery change from rotation to call, what was the rough allocation?

A. Well, there was no allocation. It was --

Q. It was measured in second feet?

A. Yeah. Somebody could go back and figure that, but nobody has or nobody cared.

Q. But at the time you made the change from rotation to call, the first stab the company took at it was to say let's say about .27 acre feet per share?

A. Uh-huh.

Q. And then that proved to be too conservative and the company basically boosted it

then up to about a third of an --

A. An acre foot.

Q. -- acre foot per share?

A. Yes.

Q. And then anything on top of the third acre foot delivery per share, which, for example, last season was .5, the company attributes to pipelines?

A. Yes.

Q. Who are the two contract folks that are still kind of -- folks or entities that are still kind of hanging out there?

A. Contract water.

Q. Contract water folks, yeah.

A. Oh, there's six or eight of them. But they're all people whose property is in the -- you know, below the fill canal or below the Johnson-Lamont Canal, so they're above the -- where they can't access storage water. All the people at Cub River, they're -- the two people I refer to are people who actually bought regular stock and transferred it up to that place. The contract water, there's more than two of them.

Q. Okay.

A. There's -- I don't know. On the fill

canal there's -- let's see, I think there's about five left. And I think there's about three left on the Johnson-Lamont fill canal. So, I mean, it's pared down to a pretty small number now.

Q. Okay. That was going to be my next question is back when there was 100 percent contract water, what percentage of that now exists today?

A. Just a very little.

Q. Less than 20 percent?

A. Oh, I mean, it's less than -- it's 1 or 2 percent.

Q. Oh, okay.

A. And those are people who just -- it doesn't make sense for them to turn in their contract water for storage water that they can't use.

Q. Right. Right. Okay.

In going through company water rights, I had the benefit of looking through discovery responses. I've done some research on back files online and so on. I think I'm missing a couple, but I come up with basically 10 rights. And I don't have a matrix here that I'm going to use as an exhibit, but, basically, I see about 10 rights with priorities ranging from 1882 to 1957. Does the company have any water earlier than 1882?

A. No.

Q. And anything later than 1957?

A. I don't believe so.

MR. HARRIS: Can we go off the record for a second?

MR. WALDERA: Sure.

(A discussion was held off the record.)

Is

(Exhibit *-2 marked.)

Q. BY MR. WALDERA: We're back on the record after a quick break and Mr. Harris was nice enough to hand me a roster, of sorts, of the company's water rights, so a listing of the company's water rights, and we've marked that as Exhibit *-2. I'll tell you what, I will swap you Exhibit *-2 for your copy.

A. Okay.

Q. Thank you. So as far as you know, or as far as the company knows, this roster of water rights is correct?

A. Yes.

Q. And so as far as the company is concerned, the elements of these water rights, priority, purpose, source, all the rest of that sort of thing, the company is comfortable that these are

correct?

A. Yes. I believe so.

Q. Okay. When I was kind of doing my own comparison, I noticed, obviously, sources of Cub River and Worm Creek. And as I look at the hard copy roster that Mr. Harris just provided, I notice one under water right 13143, which are springs tributary to Worm Creek and in parentheses identified as Larson Springs. Where is that located? What are the Larson Springs?

A. The Larson Springs are -- it's a spring that's below, downstream of the Glendale Dam.

Q. Okay. So, again, as the water rights roster indicates, those springs downstream of the Glendale Dam are tributary to Worm Creek, so they just naturally flow into Worm Creek?

A. Yes.

Q. Has the company or anybody else built -- and I've not been there so I don't know, you know, what the size of these springs are or anything else. Has anybody built like spring collection boxes and piped conveyances to Worm Creek or do they just spill out of a hillside and just percolate or flow?

A. No. There's -- the primary right holder to the Larson Springs is a culinary water company.

Our right is the excess. So the Preston Eastside Water Company is a culinary water company that serves 50 families or so and they have a collection box and a reservoir.

Q. Oh, okay.

A. And it collects all the water from the springs and then their overflow goes back into Worm Creek.

Q. Okay. So the water company -- and I'm sorry. You said Preston Eastside --

A. Preston Eastside.

Q. Okay. -- Water Company delivers domestic water, and so the infrastructure of that domestic water company captures all the flows or as much as possible as it can, diverts it to a reservoir, but it has its own water right. And so once it basically captures its entitlement under its water right, it spills whatever the excess flows might be back into Worm Creek?

A. Yes.

Q. And so those excess spills back into Worm Creek are what furnish water for you -- for the company under water right No. 143?

A. Yes.

Q. Okay. And I see that's about 5 cfs. So

does the company see 5 cfs from those springs?
A. No. no. It's less than that. And it's a spring which flows that much or more, you know, early in the spring, but it diminishes. By the end of the irrigation season, there's just a half a cfs. It's a pretty minor amount that overflows.
Q. So the water company itself doesn't run into shortages, but the Preston-Whitney Irrigation Company sees a diminishment of flow over the irrigation season?
A. The Preston Eastside Water Company can be short of water too. I mean, there are occasions -- there have been years when they've been short when there's been no overflow.
Q. And then right No. 271, I guess either I misspoke or -- not having the benefit of this roster, you and I misspoke. It does appear that there is a water right that predates 1882 for the Preston-Whitney Irrigation Company.
A. That's true. That's true. The Worm Creek right does. That was the right that was originally held by the Cub River and Worm Creek Canal Company.
Q. Okay. And if you could -- going through the water right numbers in the column on the left,

identify for me what water rights were the Middle Ditch Company water rights versus what water rights were the Cub River and Worm Creek Canal Company water rights.
A. The Middle Ditch -- the primarily Middle Ditch right was 13-2.
Q. Okay.
A. And I think it would be then 13-35.
Q. So 13-2 and 13-35, to the best of your recollection, are the main Middle Ditch Company rights?
A. Yes.
Q. Okay.
A. Let's see. There were actually three of each. The other one would be the 13-37 or 13-38. I don't know which one it was.
Q. Okay. And then which would be the main rights of the Cub River, Worm Creek Canal Company?
A. It would be 13-3 and the additional 36 and 38, I believe.
Q. Okay. So each company had three rights?
A. In Cub River.
Q. Okay.
A. And then the Cub River and Worm Creek Canal Company had the 271.

Q. Okay. So the Middle Ditch Company never had any Worm Creek water rights?
A. No.
Q. But the Cub River and Worm Creek Canal Company, as the name indicates, had water rights both from Cub River and from Worm Creek?
A. Yes.
Q. And so that leaves out 143 and that is -- that has always historically been developed as a Preston-Whitney Irrigation Company right?
A. No. That spring belonged to the Larson family and it's Larson Spring. The culinary company, the Preston Eastside Water Company, had a right in a spring which was covered by the Glendale Reservoir. So there was a spring that they called a Siverring (phonetic) Nelson spring, which was upstream farther.
And when Preston-Whitney was created or merged, formed, they built the dam and, of course, that made that spring useless for culinary purposes. So the irrigation company, the Preston-Whitney Irrigation Company, purchased or acquired in some way the right to the Larson Springs and gave the first part of the right to Preston Eastside Water Company to compensate for destroying their water source and it kept the excess.

Q. And the spring that was then inundated by Glendale when it was built, that spring had already -- before the construction of Glendale, the spring that was inundated by Glendale had already been developed and was in use by the Eastside Water Company?
A. Yes.
Q. And any idea what the quantity of that spring was that was inundated? I mean, presumably, it would be whatever the water right is for Eastside Water Company, but anybody measure?
A. It wasn't a particularly good spring. It really wasn't adequate and the Eastside Water Company had acquired the rights to another spring, which is up on the hill, and they were in the process of trying to extend the pipeline up to capture that too.
So it wasn't a great spring, but I can't tell you how much it was. I just know that the old history is, you know, that they -- at a certain time people would run out of water and they'd have to turn a valve on, you know, so there was a lot of conflicts up and down the pipeline. But it wasn't -- it really wasn't adequate. I mean, it might have been adequate back in the 1880s when people didn't have lawns, but

it wasn't adequate for modern times.
Q. Okay. And then we get down to right 271, which you've already explained was the major Cub River Worm Creek Canal Company right off of Worm Creek?
A. Yes.
Q. So we've got that 1880 priority date. The remaining rights then, 2104, 2108, 2288, 2291, and 2298, those were all developed by Preston-Whitney Irrigation Company?
A. Yes. And, of course, as you see, most of them are licenses for the storage rights.
Q. Uh-huh. Outside of the current application -- or excuse me -- the amended application for transfer that is currently pending before the Idaho Department of Water Resources, has the company pursued any other administrative transfers with respect to its water rights before now?
A. Not really to its water rights. We just completed a transfer of service area, storage service area for the storage rights.
Q. Explain that. I'm not following.
A. Well, each of these reservoirs when they're brought online -- the Glendale, Lamont, and

Foster -- it's my understanding that the original water rights, the original Cub River and Worm Creek water rights didn't describe a service area, which I'm told was typical of that day and time.
So when the Glendale was built, of course, they had to -- in their license applications had to describe a certain service area, and the same with the Lamont and the Foster. And with the -- our ability to -- with the pipelines, basically, in order to simplify and make more efficient our distribution, the department suggested that we file a transfer so that these separate service areas were more modernized.
For instance, the Foster Reservoir is fed from the Glendale Reservoir, so those two service areas overlap. And the same with the Lamont. Not exactly the same situation, but they wanted us to do that in order to simplify the whole scheme of things.
Q. Okay. And what you're referring to is the department recommendation that the company go through a transfer process is what we see before us today --
A. No.
Q. -- as opposed to historically?
A. Oh, yeah -- well, not even historically.

I mean, it was -- you know, I don't know why they listed them the way they did. But, for instance, the water from -- when the company was organized with the Glendale, then they had to build a canal from the Glendale Reservoir on the east side of Worm Creek around over to the Whitney area, which was formerly just serviced by the Middle Ditch.
And some of those -- and so that storage -- that was the whole purpose behind the company being merged, so the people in Whitney also could use storage water from Glendale, and all those service areas weren't listed exactly that way when they started.
Q. So it was a patchwork of service areas and while maybe operationally over time the system's been put together -- you know, the patchwork has been smoothed over into one uniform system and operations, the water rights themselves were never administratively kept up to speed?
A. That's right. There's never been an adjudication there since 1924 or since the McEwan adjudication.
Q. So when I asked the original question being has the company ever filed any actual administrative transfers in the past with the

Department of Water Resources, other than the one that we're talking about today, there's been no formal filing in the past?
A. Not prior to this filing.
Q. Okay.
A. But the one I referred to we filed after we filed the one that's before us today. So, I mean, that was just done this year.
Q. Correct.
A. Correct.
Q. Yeah. So 2010 --
A. Right.
Q. -- was really the first time where the company has approached the department to say, hey, we need to clean this stuff up; here's our application to do that?
A. Yes.
Q. The company hasn't gone through that process in any prior years?
A. No. We've talked to the department, you know, but they never suggested and we never actually did it. We were actually always -- we were led to believe that some day soon they'd adjudicate the Bear River Basin, and that's never happened yet.
Q. Well, hopefully, they won't, because

that will take a while.
One of the water rights, 2108, which is 215 cfs and 6,000 acre feet, I think I've seen some historical documents that have been produced in discovery that refer to that actually being an application by the Franklin Sugar Company as opposed to Preston-Whitney Irrigation Company. Is my recollection correct? Is there some history behind that water right that I'm misunderstanding?
A. Well, as I said, you know, when I talked about the evolution or the history of the company, the Franklin County Sugar Company applied for that, which would be a storage right, in order to get -- get their foot in the door or whatever to initiate the merger of the companies.
Q. I see.
A. And so when the company was organized, then the Middle Ditch Company, the Cub River Worm Creek Canal Company, and Franklin County Sugar Company deeded all their rights and applications to the new company. So that's true. That originally was applied for by the sugar company.
Q. Okay.
A. But they never completed it and used it. I mean, the license was perfected by Preston-Whitney,

but it was applied for by the sugar company.
Q. And the other thing that jumps out at me as opposed to every other water right on this list, for 2108 there's a stream flow component of 215 cfs. That's much larger than anything else on here. How did that shake out? I mean, was there -- there's not 215 cfs out there to be had. Do you know anything about how that number was selected?
A. Well, the Glendale Reservoir is a nonstream reservoir. It's built on Worm Creek. So I just presume that they put this huge number out there so it would collect all the water that came down the spring runoff.
Q. So anything else that wasn't senior and that was high water is basically just kind of a catchall?
A. Yeah. I guess so. I certainly -- if there were 215 cfs came down Worm Creek, it would be a disaster.
Q. Okay.
A. Somebody picked that out of the air, I'm sure. However, I think the -- you know, the data that they use to determine spillways and so forth, you know, is somewhat like that, the possible worst-case 50-year scenario. Mr. King understands

all that, you know, the stuff they come up with to say what's the worst case scenario in a hundred year deal.
MR. WALDERA: Well, I'm at a good stopping point. Would now be a good time to stop, grab a bite to eat, and then come back in about an hour?
MR. HARRIS: That would be fine.
(A recess was taken from 12:05 p.m. to 1:14 p.m.)
Q. BY MR. WALDERA: Well, Mr. Porter, we're back on the record after lunch. You understand that you're still under oath, correct?
A. Yes.
Q. All right. Some follow-up questions based on our discussion earlier this morning. I was curious, is there a typical number of -- let me rephrase this.
Does the company have a limit as to the number of shares that somebody can use on a given acre of ground?
A. No.
Q. So do you know, does the company -- what is the typical duty of water as prescribed by the Department of Water Resources in this neck of the woods -- or not here in Idaho Falls, but down in

Preston?
A. I don't recall. They've got it on our water rights, but I don't recall. It's a little different there in that valley typically.
Q. Do you remember, is it more or less than three and a half acre feet to the acre?
A. Oh, it's less.
Q. Okay.
A. It's less.
Q. Insofar as the company is concerned, you know, somebody who's a shareholder could amass, assuming an allocation of .5 acre feet per acre, whoever that shareholder is, if they decided they want to apply water on their own property in excess of three and a half acre feet per acre, as long as they had the shares to do so, could do so?
A. Yes, they could. We've discouraged it, but we don't have any way to enforce it.
Q. In 2008 when the company sold some treasury shares to clean up its books for fractional shares and then also in part raise some capital for the Fairview pipeline, who performed the appraisal for the share price that the company sought of $600?
A. We had Stephen Meek, who's a licensed appraiser there.

Q. And how's Mr. Meek's name spelled?
A. His last name is M-e-e-k. I don't know whether his name is p-h or v.
Q. Okay. And is he a water consultant or is he a land appraiser?
A. He's a land -- primarily an ag appraiser.
Q. Oh, okay.
A. And that was done the year previous. It was done a year before that.
Q. Okay. And Mr. Meek's office is based out of Preston or somewhere else?
A. In Preston.
Q. All right.
(Exhibit *-3 marked.)
Q. BY MR. WALDERA: Mr. Porter, I'm handing you what's been marked as Exhibit *-3 and I was wondering if you could identify that for me. First of all, let me ask, have you ever seen it before?
A. Yes.
Q. Okay. What is it?
A. Well, it describes the drainages. It shows the Worm Creek and Cub River and it shows our irrigation laterals and basically shows our service area.

Q. Okay. And who prepared this map?
A. Mr. Harris with our assistance.
Q. Okay. And when you say our assistance, anybody in particular on behalf of the company assist Mr. Harris with the creation of this map?
A. It was Brian Jensen and I.
Q. And there's a legend on the left side of the map kind of explaining what some of the color coded features are. Is the company aware of anything on -- any inaccuracies with this map since it was put together?
A. I'm not aware of any.
Q. So everything as you kind of look at it right now looks about right to you?
A. Yeah. As far as I can see. I don't remember exactly when we did this, but it hasn't been too long ago.
Q. Okay. And --
MR. HARRIS: I should just state for the record there was an amended map with the amended transfer.
MR. WALDERA: Correct.
MR. HARRIS: But everything else should be relatively the same.
MR. WALDERA: Okay. And I think the reason

why I didn't use the amended transfer map was because this one in particular, at least, had the facilities on it that maybe one of the other maps didn't.
MR. HARRIS: Okay.
MR. WALDERA: So, in particular, what I'm really using this map for is not so much the irrigation service area that's the yellow crosshatch so much as the actual irrigation infrastructure.
MR. HARRIS: Okay. Great. Thanks.
Q. BY MR. WALDERA: What was the purpose in the creation of this map, Mr. Porter?
A. Well, we created a number of maps in order to -- in order to prepare the transfer and -- but this particular map, I think we prepared it to show the drainages of Worm Creek and Cub River and Spring Creek in order to deal with the issues in the lawsuit by the protestants.
Q. Oh, okay. And that was going to be kind of my next question. The maps -- and there are several of them that look similar that show service area, that show facilities and different color-coded features. My question was going to be were those maps all created simply in support of the transfer application or were some created in relation to some other reason or purpose? And it sounds like at least

some of the maps may have been created in response to the district court proceeding that Mr. Atkin was involved in, correct?
A. Yes.
Q. Okay. So these maps -- the other question I had with respect to the maps that we've seen, it wasn't one day Preston-Whitney Irrigation Company got together and said we need some better maps, we're going to create some maps; it was in response to other things as opposed to the company initiating some new mapping process?
A. Yes. We didn't just start it out of the blue, yes.
Q. Okay. Based on this map and the legend on the left, I'm pretty sure that there are some facilities on here -- in particular, I think, what you've referred to as the fill ditch heading to Glendale Reservoir -- that are not depicted. Are there certain facilities that you know of, Preston-Whitney Irrigation Company infrastructure that's not on the map?
A. Yes.
MR. HARRIS: And I might just interpose, they are on the other -- the amended transfer map.
MR. WALDERA: Oh, are there?

MR. HARRIS: Yeah. And if you don't have a copy of it -- we initially, I think, only included the Glendale Canal, which is in red, but then there's a blue line now, what they call the Johnson-Lamont fill ditch, so I apologize for that. And you're exactly right. There have been about 30 iterations of the map.

Q. BY MR. WALDERA: Yeah. For purposes of a clean deposition exhibit -- and I know that the maps have been kind of pieced together serving different purposes, which is why there's not one all-encompassing map. I was going to ask you, if you wouldn't mind, Mr. Porter, to do the best you could in drawing in on Exhibit *-3 what's not currently on there. And I'll just give you this black Sharpie and then we'll label it. And for assistance purposes, if you want to refer to the amended transfer map, I know that there are a couple of things on there that are not on Exhibit *-3.

A. Of course, the Glendale Canal is not on this map, and it's -- so that would be the first line, approximately.

Q. And if you wouldn't mind, if you could take my -- here's my red pen, for example, and just label in the margin there maybe.

A. I'll just call it the fill canal.

Q. I was going to say what is the name of that facility? I know I've seen it as a couple of different things.

MR. HARRIS: It has about five different names.

MR. WALDERA: Okay.

THE WITNESS: I'll put the Glendale Canal, spelled G-l-e-n-d-a-l-e. Lamont-Johnson fill canal and Glendale Foster Canal.

Q. BY MR. WALDERA: So outside of those three canals, other facilities that you're aware of that aren't present on Exhibit *-2 now?

A. Those are the major pipelines and canals.

Q. Okay.

A. I guess the middle ditch is on here already.

Q. It is, yes. Okay.

Well, let's start with the legend that's on the left and the number of facilities. And for any one of those facilities -- and I'll give you my red pen again, but for purposes of to the left within the margin of each of those facilities -- unless it's, obviously, Cub River or Worm Creek or Spring

Creek. For actual facilities could you list by the name the date constructed or installed?

A. Starting with the Idaho Pipe?

Q. Yes. Uh-huh.

A. The Idaho Pipe is not a Preston-Whitney irrigation facility.

Q. Okay.

A. It belongs to the Cub River Irrigation Company, and I think it was built in about 2006.

Q. Okay. And if I can stop you there with the Idaho Pipe. If it's not a Preston-Whitney Irrigation Company facility, any particular reason why it would be on this map?

A. Well, the Cub River Irrigation Company was a co-defendant in that court proceeding.

Q. Okay. And so this map here, chances are, is not a transfer application-related map, but this is a map that the Preston-Whitney Irrigation Company put together in relation to the other litigation?

A. Yes.

Q. Okay. How about the north lateral?

A. The north lateral was finished, I believe, in 2003.

Q. And is that an open earthen ditch or is

that a pipe?

A. It's a pipeline, and it is owned and operated jointly with the Preston Riverdale Mink Creek Canal Company.

Q. Okay. And it looks like the north lateral starts, more or less -- diverts from Worm Creek downstream of Glendale and then terminates in Section 21, Range 15 South -- excuse me -- Township 15 South, Range 39 East. Do you see Section 21?

A. Yes. That's -- it actually originates in the Glendale Foster Canal.

Q. Oh, okay.

A. So it's only -- where it originates it's only 1,000 feet from Worm Creek, so it's not apparent on this map, but it's --

Q. And why is that a shared facility? It looks like the entire run of the lateral, at least on this map, it looks like is contained within the Preston-Whitney Irrigation Company service area as opposed to some other service area.

A. It is, but the Preston Riverdale Mink Creek Canal Company diverts their water from Mink Creek, but since about the 1940's they've commingled their water with ours. And so in that time it was more efficient to share the distribution. Instead of

having two canals that were a couple of blocks apart, they made one canal together and administered it jointly.
Q. And so who ultimately owns the north lateral?
A. It's essentially 50/50 between the two companies.
Q. And so ownership is 50/50, so operation and maintenance is also 50/50?
A. Yes.
Q. And you said their water comes from Mink Creek?
A. Yes.
Q. Where does the water enter into the Worm Creek drainage from Mink Creek, or how does that work?
A. It's off the map. It's injected into Worm Creek about a mile -- oh, a mile and a half above where this map leaves off.
Q. Okay. So a mile and a half north --
A. Northeast.
Q. -- east. Okay.
And I'm sorry. What's the name of that company?
A. Preston Riverdale Mink Creek Canal

Company.
Q. And so they divert water -- and so the source of their water is Worm Creek?
A. Mink Creek.
Q. Excuse me. Mink Creek. Which they then divert and inject into Worm Creek?
A. Yes.
Q. And so the Preston Riverdale Mink Creek Canal Company water is injected from Mink Creek into Worm Creek and it flows into Glendale Reservoir?
A. Yes.
Q. And then it flows out of Glendale Reservoir still within the channel then of Worm Creek or does it go into the --
A. It goes into the Glendale Foster Canal.
Q. Okay.
A. Into the Foster.
Q. Oh, okay. And -- I'm sorry. So the water flows out of Glendale Reservoir into the Foster fill canal, I guess I'll call it?
A. Yes. Uh-huh.
Q. And flows into Foster. And then from Foster it goes --
A. Well, we're getting --
Q. Okay.

A. There are three laterals that we share distribution rights in, the north lateral that we just talked about, the east lateral, and they come out of the Glendale Foster fill canal at the same point, which is above the Foster Reservoir. And they have some service area and stock in the Fairview pipeline.
Q. Okay.
A. Hope that's not too confusing.
Q. Working on it. So the Preston Riverdale Mink Creek Canal Company, where's their place of use? Where's their service area?
A. It's almost totally contained in ours.
Q. Oh. So you have a number of folks that are shareholders in both companies?
A. Yes. Probably -- of their shareholders, probably nearly two-thirds of them have shares in the Preston-Whitney also.
Q. Okay.
A. There's, of course, a smaller number in Preston-Whitney because of the relative sizes. But there's a substantial number of people who have shares in both companies.
Q. Okay. And that was going to be my next question is where then does the Preston Riverdale

Mink Creek Canal Company water wind up? I mean, where is it rediverted from the north lateral? But that's not so much a problem. You're not exporting it back out of the Worm Creek Basin; they just all happen to be right in your service area?
A. Yes. Formerly their distribution came down from Bear River and came in in this direction. And, you know, they had problems with their canal so they had to, you know, redirect it and inject it in Worm Creek. So some of these areas were -- I mean, their service area is essentially up in this part.
Q. So basically the northwestern, maybe, quarter of the Preston-Whitney service area?
A. Yes.
Q. Okay.
A. So there's a significant area that's served by both companies.
Q. Okay. But that water right, the Preston Riverdale Mink Creek Canal Company water right is -- or water rights are entirely separate from Preston-Whitney Irrigation Company?
A. Yes.
Q. And so then basically the watermaster -- well, I guess, no. The Preston Riverdale Mink Creek Canal Company is responsible for diverting their

water into Worm Creek from Mink Creek, and so it's measured there?
A. Yes.
Q. And then Preston-Whitney Irrigation Company, who's diverting water from Cub River into the upper fill ditch of the Glendale Canal, you know, measures its diversion from Cub River. And so by the time the two company waters meet, so to speak, they've already been measured and then they just kind of flow through the system?
A. Yes. We right now are in the process of making a rating gate so we can more accurately measure the Preston-Whitney's injection. But, yes, we can account for all the water that's injected.
Q. Okay. And so the company -- then the Preston-Whitney Irrigation Company and the Preston Riverdale Mink Creek Canal Company, while sharing these facilities, when they're making ultimate distributions to the shareholders of each, that water's measured?
A. Yes.
Q. Where and how is that water measured?
A. Well, it's measured at the point of distribution along these distribution laterals. Of course, they're individual turnouts or association

turnouts and we can attribute the stock from each company there, and so the watermaster measures it according to their respective allocations.
Q. Okay. And so the head gates that are off of these distribution laterals or pipelines, as they may be, each of them have measuring devices then?
A. Yes. All the pipelines have meters, have flow meters.
Q. So the diversions off of the pipelines have flow meters?
A. Yes.
Q. And so none of the facilities we were just talking about, leaving out the Idaho pipe or the north lateral, the Fairview lateral, and the east lateral, those are all pipelines now?
A. Yes.
Q. Okay. All right. In moving down the list, if you could tell me a little bit about the history of the Bradford pipe and when it was installed.
A. The Bradford pipe is part of the Cub River Irrigation Company.
Q. Okay.
A. It would have been installed about two

thousand and -- probably about 2003 or 2004. I'm not clear exactly.
Q. Okay. If you could just -- excuse me. '03, '04 is fine.
A. Okay.
Q. Then the next one's Johnson-Lamont.
A. Johnson-Lamont was installed over 2005 and 2006, over that time period.
Q. And I'm sorry. Backing up to Bradford pipe for a moment, Bradford pipe is owned, operated, and maintained 100 percent by the Cub River Irrigation Company?
A. I think -- I'm not totally clear on this, but I think there are some private individuals who joined into the construction of the Bradford pipe with Cub River Irrigation. And that's a whole separate --
Q. Preston-Whitney Irrigation Company has no interest in Bradford pipe?
A. Right.
Q. And then Johnson-Lamont -- and we'll get into kind of a discussion of the reservoirs a little bit later, but it's my understanding that Johnson Reservoir is owned by the Preston-Whitney Reservoir Company so it would appear to me that the

Johnson-Lamont pipeline would have to be some sort of shared undertaking of the Preston-Whitney Irrigation Company and the Preston-Whitney Reservoir Company?
A. That's exactly right.
Q. Okay. And how did that evolve? What took place? Who paid for what sort of thing?
A. Well, it was paid for as to the relative proportionate amount of water that was delivered. So it's actually about five-sixths and one-sixth. It's one-sixth the Preston-Whitney Reservoir Company and the remainder, Preston-Whitney Irrigation.
Q. And so did Preston-Whitney Irrigation Company basically do all the heavy lifting, get the pipelines built and then bill Preston-Whitney Reservoir Company for its one-sixth share?
A. We -- we entered into an agreement beforehand that defined our responsibilities. But, of course, we took the lead in contracting and so forth and building it. As I recall, there was a Bureau of Reclamation grant and it was more convenient that they apply for that grant, and we did the other financing. I mean, we shared the -- we shared the responsibilities.
Q. And so how is the water measured? Basically, you have a -- as the map demonstrates, the

Johnson-Lamont pipeline is more or less in a Y configuration because one branch of the Y is diverting water from Lamont Reservoir and the opposite branch of the Y is diverting water from Johnson Reservoir and then they're commingled into the same pipe in the Y stem and then distributed to each company's respective water users. Is there any overlap within the place of the use of the reservoir company versus the irrigation company?

A. Yes. It's pretty similar to the other company. The majority of the shareholders -- perhaps, not the shareholders, but the majority of the total shares in the reservoir company also -- those owners also own shares in Preston-Whitney Irrigation Company. They have a number of fairly -- really small shareholders who are under the reservoir where they never could be in both companies. But, you know, probably 60 or 70 percent of their service area is included in ours also.

Q. Okay. And so there's about a 30 to 40 percent -- 30 to 40 percent of the shareholders of the reservoir company lie outside of the service area of Preston-Whitney Irrigation Company?

A. Yes, but that doesn't translate to that much area. I mean, it's a relatively small area.

There's maybe five or six percent of it. It's just a small --

Q. How many acres, basically, is separate place of use of the reservoir company?

A. Less than a hundred acres.

Q. And so how then is the water measured -- how is the water measured both entering into the Johnson-Lamont pipe and then how is the company able to measure what's coming out of the pipe and being delivered?

A. Of course, all the water that is in the Johnson Reservoir, per se, belongs or it comes from their water right. So we have a flow meter at the toe of the dam. The same with the Lamont Reservoir, they have a flow meter there. And then each turnout -- each individual or route turnout has another flow meter, and so we account for it the same way we do with the Mink Creek water.

Q. Okay. And so when you get down to the stem of the Y below the two branches coming from the two separate reservoirs, the total flow within that main stem of the pipe is roughly five-sixths Preston-Whitney water and one-sixth Preston-Whitney Reservoir Company water?

A. Yes. And prior to the pipeline, of

course, we did the same with an open canal. We shared the canal. And the canal actually -- because it's a pipe, you know, we can go down the hill and up the hill and everything, so the canal actually came over this way, and so there's just a really small amount that was exclusively Preston-Whitney Reservoir. It kind of curved over to the east and north, you know, and so the pipeline kind of -- the Y kind of distorts where the actual mixture was historically.

Q. Okay. And we'll get into some of that detail a little bit later. Moving on to the middle ditch, when was that constructed and who constructed that?

A. Well, the middle ditch was constructed in 1880 something, 1881 or so, by the Cub River Middle Ditch Company, which was Preston-Whitney's predecessor.

Q. And could you write that, just the construction date?

A. Okay. 1881.

Q. And how about the connection pipeline?

A. The interconnection pipeline is a continuation of the Fairview pipeline. It goes over to Cub River Irrigation's Idaho pipeline because down

in Section 16 and 15 we have a number of shareholders who are joint shareholders with the Cub River Irrigation Company, and in order to save building that other mile and a half of pipe to service them, we worked out an agreement where we can measure those five shareholders' water into the interconnection, inject it into the Idaho pipeline, and then the Cub River Irrigation Company distributes that to our stockholders along with their share of the Cub River's water.

Q. Okay. And when was the connection pipeline installed?

A. In the spring of 2010.

Q. If you wouldn't mind writing that in.

And so if the connection pipeline -- is the connection pipe line the end of the Fairview lateral?

A. Yes. Uh-huh.

Q. Okay. And so whatever's left at the end of the Fairview lateral automatically flows into the connection pipeline?

A. Well, it's not so much an overflow. I mean, the pipeline is a closed pipeline, so only what we allow to go through goes through. So we have a flow meter and we can account for it. We have a

pressure reduction device and so it's not an overflow. We have a place we can spill water for emergencies or to drain a reservoir or something, but the interconnection -- the connecting pipe simply takes water that we provide for our joint shareholders. Cub River wields it through their line and distributes it to them for us.

Q. I guess what I'm trying to understand is is there a quantity of water that is in Fairview lateral that is not turned into the connection pipeline because there are other Fairview lateral deliveries downstream?

A. Maybe repeat that again.

Q. Sure. Is there any leftover water in the Fairview lateral that's not turned into the connection pipeline?

MR. HARRIS: I'm going to object to the form of the question. I'm not sure I understand leftover water.

Q. BY MR. WALDERA: Basically, if the company -- I guess what you're saying, if the Preston-Whitney Irrigation Company diverts into the Fairview pipeline or Fairview lateral only that quantity of water which is necessary to make deliveries to the water users within that reach,

there's no excess tailwater or anything that makes it into the pipeline?

A. If we figure correctly at the beginning of the year when we make our allocation, there shouldn't be any significant excess water. The reality is that, you know, you never get it perfect, and if we need to -- if we have some excess water that was not used or allocated in the Foster Reservoir, we can either -- at a certain point here on the connection pipeline, you see that there's a line that says Cub River's upper canal?

Q. Yes.

A. Where it crosses there, there's a drain which goes down and eventually into the Worm Creek.

Q. Okay.

A. So during the winter any drainage water or seepages that are in the upper canal, they divert it into Worm Creek there. And so we can spill water in there if we have some excess we don't use.

We also can spill it from the Foster Reservoir up just below the dam too, but those are -- that's just water that we didn't get our allocation just right on.

Q. Okay.

A. And it's only if -- we have to have a

certain amount of space in the Foster Reservoir in order to accommodate the water we're going to divert in it. So we just want to make sure at the end of the year we have no more than 800 acre feet or something like that in there.

Q. Okay.

A. So as we get better at it, there's less and less we would spill.

Q. Okay. And so, I guess, ultimately are there instances where spill water to the extent it exists at the end of the Fairview lateral goes through the connection pipeline?

A. Yes. At least down to the point where it crosses Cub River Irrigation's upper canal.

Q. Okay. And so if, for example, there was some excess water, the company wasn't perfect, didn't quite get the number right on -- nail it on the head, then the company knows what that quantity of water is. It's turned into the connection pipeline and then the excess would be spilled into the drain and then the remainder then would continue to flow through the connection pipeline to the Idaho pipeline?

A. Yes. Uh-huh. And, I mean, this past season, 2010, is the first year we had that pipeline

in operation. So, you know, we're still learning how much water we saved and how much more we can allocate and so forth. So it's kind of a work in progress still.

Q. But the Preston-Whitney Irrigation Company in and of itself is measuring water as best as it can to prevent the -- I guess I'll call it prevent the delivery of that water -- inadvertent delivery of that water to the Cub River Irrigation Company Idaho pipe?

A. Yeah. We can measure it -- we can -- with a flow meter we can measure how much actually goes past their canal into the Idaho pipe and we can measure how much, if any, we spill into the drain that goes into the Worm Creek.

Q. And so the only water that's delivered from the connection pipeline in the Idaho pipe is that which is specifically measured for the shared shareholders of the Preston-Whitney Irrigation Company and the Cub River -- well, for purposes of the Preston-Whitney Irrigation Company, it's only for those remaining shared shareholders that are downstream of the connection pipeline?

A. Yes.

Q. And was there an occasion this year, for

example, this past irrigation season, given how this was the first year that the Fairview pipeline was being operated, where the Preston-Whitney Irrigation Company actively spilled water to the drain to prevent it from reaching the Idaho pipe?

A. Yes. Yes. We were too conservative in our allocation again and so we had considerable more water left in the Foster than we wanted. So in the month of -- well, in through October -- through October and the first part of November we had to get rid of some water.

Q. And so I'm trying to understand the plumbing of that particular area of the system. The water would then be turned out of the connection pipeline into an open earthen drain?

A. Yeah. It crosses Cub River's upper canal and it goes down about 50 feet to where they have two head gates, one where the canal continues and the other where it goes into a drain, which goes straight east until it drops into the -- one of the tributaries of Worm Creek.

Q. Okay. So the connection pipeline itself bypasses the Cub River upper canal?

A. Yes.

Q. And also bypasses the Cub River lower

canal?

A. Well, yeah. It doesn't get close to the lower canal.

Q. Okay.

A. I shouldn't say close, but it never enters into the lower canal.

Q. So the lower canal is not a spill for the connection pipeline?

A. No. I believe their drain from the upper canal goes down to the lower canal and then it re-spills, but it's a -- till it makes that next bend and it gets closer to this drainage area here.

Q. Okay. And so then the water that Preston-Whitney Irrigation Company spills from the connection pipeline spilled into a drain and is ultimately a tributary of Worm Creek?

A. Yes.

Q. How about the Palmer pipe?

A. The Palmer pipe is also Cub River Irrigation's pipe.

Q. Okay.

A. And it was built -- they built that probably in about 2000, 2001, somewhere in that area.

Q. And, again, the Palmer pipe, Preston-Whitney Irrigation Company does not have any

ownership, operation, or maintenance responsibility or interest in the Palmer pipeline?

A. No.

Q. We talked about the Fairview lateral a bit. Again, that was constructed then --

A. We began construction in 2009 and finished in 2010.

Q. Okay. And that facility is Preston-Whitney Irrigation Company but also shared with the Preston Riverdale Mink Creek Canal Company?

A. Yes.

Q. Okay.

A. However, it's not 50/50 because they don't have that many shareholders. It's about -- I think their share is about 14 percent, 13 to 14 percent.

Q. Okay. So that would leave the Preston-Whitney Irrigation Company with 85 to 86 percent or maybe -- I'm sorry -- 86, 87 percent ownership --

A. Yes.

Q. -- interest in Fairview? Okay?

A. Yes.

Q. How about the east lateral, when was that constructed?

A. The east lateral was constructed -- I think it was finished in 2001. And it's a joint lateral with Preston Riverdale Mink Creek.

Q. Okay.

A. And we own and operate it on a 50/50 basis.

Q. And then we work our way down to the Webster pipe.

A. The Webster pipe is a Cub River Irrigation pipe owner. And I'm not entirely clear on this, but I think some of Cub River Irrigation's stockholders built the Webster pipe and Cub River Irrigation worked something out with them so they can deliver water from the Palmer pipe and the Idaho pipe into that. At any rate, it has nothing to do with Preston-Whitney.

Q. Okay.

A. And I'm not -- I can't tell you when they built it even.

Q. Okay.

A. I'll put a question mark behind it.

Q. A range, was it in the nineties or the two thousands?

A. It would have to be -- it was probably after the Palmer pipe, so it's in the two thousands.

Q. Okay.
MR. HARRIS: Can we go off the record for just a second?
MR. WALDERA: Sure.
(A discussion was held off the record.)
Q. BY MR. WALDERA: Back on the record. Cub River upper canal, based on our discussions so far, my assumption is that the Cub River upper canal is not in any way owned, operated, or maintained by the Preston-Whitney Irrigation Company, correct?
A. That is correct.
Q. And that is Cub River upper canal is a facility owned, operated, and maintained by the Cub River Irrigation Company?
A. Yes.
Q. Do you have any idea when that was built?
A. Well, their priority is 1880 so --
Q. Okay. And also from our discussions I think we're going to find the same with the Cub River lower canal. Just confirm that the Cub River lower canal is not a Preston-Whitney Irrigation Company facility?
A. That's correct.
Q. Correct in that it's not?

A. Correct. It's not.
Q. And, again, do you know roughly when that was constructed?
A. I'm assuming it was contemporaneous with the other canal. I think they have them there just for distribution purposes.
Q. Okay. We know the names, we know the dates constructed, basically, and who has ownership interest and operation and maintenance, so on and so forth. For the pipes, and you may not know this for those that are not Preston-Whitney Irrigation Company pipes, but maybe you do. I'll start with the Idaho pipe. Do you happen to know the diameter or the range of diameters of the Idaho pipe?
A. It's my understanding that the diameter of that pipe is 24 inches.
Q. Does it get smaller as it goes, or is it just a uniform 24 inches?
A. It's uniform. It's kind of unique in that they can inject water at the head out of the middle inch, or they can pump water from the end from Bear River from their Bear River rights. So it was engineered to be uniform. So the beginning of the year the water flows down. At the end of the year some of it flows back up a bit.

Q. Oh, okay. So what I see on the map as yellow Idaho pipe, usually you think more or less drains downstream. But the Cub River Irrigation Company has the ability to, basically, make the water flow backwards up the pipe from south to north?
A. Yeah. Because they have a right in Bear Lake, and so when the Cub River flows diminish, then they can supplement that from Bear Lake through Bear River. And they already have pumps down the river that pump it up in the pipeline and so into their canal.
MR. HARRIS: We should clarify. You said Bear Lake. You mean Bear River.
THE WITNESS: Well, but they --
MR. HARRIS: The water comes out of Bear Lake.
THE WITNESS: It comes out of Bear Lake. But they have a -- I mean, Bear Lake is -- shareholders have water rights in Bear Lake so that they can actually store some -- they can carry over water for two or three years. It's a complicated process.
Q. BY MR. WALDERA: And the north -- well, I guess I'll just ask. I may have asked this. I apologize if I did. Preston-Whitney Irrigation Company has no ownership, operation, or maintenance

interest in the Idaho pipe?
A. That is correct. We have no interest in it. Only that --
Q. Do you share or use it in any way?
A. Only to the extent that we -- that they deliver some water for us to those joint stockholders.
Q. Which ultimately gets to the Idaho pipe through the connection pipeline?
A. Right. But we don't own anything of it. That -- it was just an agreement between the two companies.
Q. When did that agreement come about?
A. Well, initially it was in ninety what, when we did the -- well, initially it was when we finished the Johnson-Lamont pipe. We started it -- I think we made the agreement in 2005, and it went into effect in 2006, because at that time we could divert water from our pipeline into their -- into their Idaho pipe up at the upper part. And then we supplemented it last year -- or this year, I should say. So we can also do it from the Fairview pipeline.
Q. Is there a preferred way of getting water to those shareholders, the Preston-Whitney

shareholders, that are below the connection pipeline? For example, is there a preferable way now to do it through Fairview, or do you still route water through the Johnson-Lamont pipeline, presumably in the middle ditch and then to the Bradford pipe?

A. Yeah. It goes through the Johnson-Lamont pipeline and just for a short -- the length of this room in the middle ditch into their Idaho pipeline. But it's more convenient for everybody at this point to take it through the Fairview pipeline, because we will have -- we will tend to have more excess water in the Foster Reservoir. So it's just a matter of convenience.

Q. So the north lateral, which is pipe -- and that is a Preston-Whitney Irrigation Company facility in conjunction with Preston Riverdale Mink Creek Canal Company, correct?

A. Correct.

Q. What is the size of the north lateral pipeline?

A. It starts out as a 36-inch pipe.

Q. And works its way down to what?

A. I think at the end it's probably -- it makes a little branch down there. At the end of the small branch it's probably a 10-inch pipe.

Q. And do you have any idea what the dimensions of the Bradford pipe are?

A. I really don't.

Q. How about the Johnson-Lamont pipeline?

A. The Johnson-Lamont pipeline, the branch that comes from the Lamont Reservoir is 30 inches. The branch which comes from the Johnson Reservoir is 21. And it continues -- where they join it continues 30 inches and goes down to 18. It reduces downstream.

Q. Let me ask you this: Does Preston-Whitney Irrigation Company operate any pumps or anything, or is the use of the pipeline gravity dependent?

A. All these pipes are gravity dependent. We have one emergency pump at the base of the Glendale dam wherein we can transfer some water from the Glendale Reservoir up to the Lamont fill ditch. But that's just if our supplies are a little bit imbalanced, we can equalize it. But we don't -- Preston-Whitney Irrigation doesn't operate any pumps in conjunction with these pipelines.

Q. How about just in making irrigation deliveries, period. Just that one pump?

A. Just that one pump.

Q. What's the size of that pump?

A. The pump has a capacity of -- I think it's about eight and a half cfs.

Q. And, again, that's for -- if necessary to provide balance to the system, that's used to move water from where to where again?

A. It's right at the base of the Glendale dam. And we can lift it from there up into the Johnson-Lamont fill ditch, and it takes it over to the Lamont. But it's just intermingled. We didn't even use it this year. There are years we never even turn it on other than to --

Q. Make sure it still works?

A. Make sure it works. Yeah.

MR. HARRIS: To be clear, he's drawn on the map that fill ditch.

THE WITNESS: Yes. Yeah.

MR. HARRIS: So it's not on yours, but he's drawn it on his.

Q. BY MR. WALDERA: Middle ditch. What is the capacity of the middle ditch?

A. Well, when it was the only source of supply for the Whitney area, they can take 60 cfs around there and quite often did. But at this point, I mean, the use of the middle ditch diminished and

diminished. And I don't know, it's probably -- they could probably get 30 cfs.

Q. So when you say they -- and we'll touch on this a little later. It's my understanding that Preston-Whitney Irrigation Company no longer owns the middle ditch, at least upstream of its intersection with Johnson-Lamont pipeline?

A. That's correct.

Q. And that segment upstream of the Johnson-Lamont pipeline is owned, operated, and maintained by the Cub River Irrigation Company?

A. Yes.

Q. And so historically there was the ability to turn 60 cfs into the middle ditch, but as it sits there today in its present configuration it's down to 30 cfs?

A. Yes. I mean, it just wasn't maintained so to be at full capacity. I think probably, in my opinion, it might be something like 70 cfs. But I know that historically when we operated it fully, why, you know, we would regularly bring 50, 60 cfs around.

Q. And how about the connection pipeline, what are the dimensions of that?

A. The connection? It's 18 inch to the

upper canal and 15 -- continues on 15 inch to the Idaho pipe.
Q. And when Preston-Whitney Irrigation Company has the need to spill water from the connection pipeline to make sure that it's not getting to the Idaho pipeline, is that spill measured by flow meter?
A. Yes. We have an isolation meter upstream and the one which is -- you know, that only measures what goes into the Idaho pipe. So we can subtract the quantity.
Q. Do you happen to know what the dimensions of the Palmer pipeline are?
A. I'm not sure. It runs in my mind it's a 21-inch pipe.
Q. Is that another one similar to the Idaho pipe in that it's uniform?
A. Yes.
Q. And just for the way the plumbing works, does Palmer pipeline terminate at the Cub River upper canal, or is it directly connected to the Webster pipe in some way?
A. It's -- it should be connected to the Webster pipe also. It was originally built simply to conduct water from the middle ditch to the upper

canal. So it terminated there. And then when they put the Webster pipe in, I believe that they made a connection there so they could take advantage of that gravity head.
Q. But is it a direct connection, do you know, between the Palmer pipe and the Webster pipeline, or is the water first spilled into a short run of the Cub River upper canal?
A. I'm sure that it's directly connected also, so they can go either way. They can either spill it to atmosphere into the canal or under head into the Webster pipe.
Q. And the Fairview lateral, what are the dimensions of the Fairview lateral?
A. The Fairview lateral starts at 36 inch, and it ends at 18, which is the same as the connection pipeline.
Q. And the east lateral?
A. The east lateral is, I believe, a 24-inch pipe. I'm not sure what the dimension is at the end, but I think it's probably 12 inch.
Q. And then the Webster pipe, which, as Mr. Harris mentioned, the Wheatleys probably know quite a bit about. Do you happen to know what the dimensions of the Webster pipe are?

A. I have no idea about that one.
Q. Okay. In running -- well, given the fact that you drew a few features on Exhibit *-2, what is the capacity of the Glendale fill ditch which is the main diversion off Cub River?
A. Theoretical capacity is 150 cfs. But normally we run about a hundred. That's, you know, in the neighborhood of 100 or 110, and then we go down from there.
Q. And when was that ditch constructed?
A. In 1881.
Q. And how about the Lamont-Johnson fill canal, when was that constructed?
A. Well, it was constructed -- it was constructed originally by -- strictly by the Preston-Whitney Reservoir Company. So it was probably about 1870, something like that.
Q. And it was constructed primarily to fill Johnson Reservoir?
A. Yeah. That's what it existed for.
Q. And then when Preston-Whitney Irrigation Company constructed Lamont and shared in the facility, I presume it was enlarged?
A. Yes. When that happened in 1950, whenever it was, '49 or '50, the stated capacity was

10 cfs. And we increased it to 30. And we can squeeze a little more than 30 cfs in there. But that's basically the capacity now, 30 cfs.
Q. So the Johnson-Lamont fill ditch, which you drew in on Exhibit *-3, is a shared ownership, operation, maintenance interest between the Preston Irrigation Company and the Preston-Whitney Reservoir Company?
A. Yes.
Q. And what are the shared percentages on that particular ditch?
A. It's a third and two-thirds.
Q. So two-thirds Preston-Whitney Irrigation Company, one-third Preston-Whitney Reservoir Company?
A. Yes.
Q. And then last, the Foster fill canal which comes -- does that come directly out of Glendale Reservoir, or does that come out of Worm Creek?
A. It comes directly out of Glendale Reservoir.
Q. When was that built?
A. Well, it was built sometime in the 1880s, because when the Cub River and Worm Creek Canal Company brought the water, injected it into

Worm Creek, there was no Glendale Reservoir. But that was the route by which they diverted water over this way to serve this area. So it's been in existence for -- since sometime in the early 1880s.

Q. Okay. When it was routed over -- well, it was there, then Foster was built. Did any upgrades or enlargement have to happen at that point in time, or is it basically -- first of all, what is the capacity, and has that changed over time?

A. Capacity is about 90 cfs.

Q. I'm sorry. 9?

A. 90.

Q. Oh, 90. Okay.

A. I don't know what it was. I suppose it was pretty close to that. It could have been enlarged somewhat.

Q. So now it's known as, basically, the Foster fill canal?

A. Yes.

Q. Is that canal owned, operated, and maintained solely by the Preston-Whitney Irrigation Company, or does someone else share in that?

A. Well, we solely own it. However, Preston Riverdale Mink Creek's water, part of their water is delivered through there, so they share in

the maintenance.

Q. What is that proportionate share?

A. It is -- when they made that agreement back in '48, or whenever it was, they just agreed to share maintenance and operation 50/50 on our jointly operated canals.

Q. Okay. So it's a 50/50, basically, from the point of diversion on Cub River for the Glendale fill canal all the way through to Foster?

A. Yes.

Q. Not ownership but operation/maintenance?

A. Right. Preston Riverdale Mink Creek does not own the Glendale or the Foster or that canal that connects the two.

Q. In getting back to the legend again on the left. I guess what I'll do is stay on the facilities you've drawn in. Are the canal facilities that you drew in, so the Glendale fill canal, the Johnson-Lamont fill canal, and the Foster fill canal, those are still open earthen ditches?

A. Actually, the Foster fill canal, we're right now in the process of converting it to a pipeline. So next spring if everything goes well, it will be a pipeline.

Q. Okay. And is Preston Riverdale Mink

Creek Canal Company sharing some of that cost?

A. Yes.

Q. And does that mean then that the Glendale canal and the Johnson-Lamont canals, those are still open earthen ditches?

A. Yes.

Q. Are they lined in any way?

A. No.

Q. What kind of pipe, if you know, is the Idaho pipe? What material?

A. It's PVC.

Q. How about the north lateral?

A. It's PVC.

Q. And the Bradford pipe?

A. I assume it's PVC also. As a matter of fact, I'm sure it is.

Q. Johnson-Lamont?

A. Johnson-Lamont is PVC.

Q. The middle ditch is still open earthen ditch?

A. Open, yes.

Q. The connection pipeline?

A. It's a PVC pipe.

Q. And the Palmer pipe?

A. It's PVC.

Q. Fairview lateral?

A. PVC.

Q. East lateral?

A. PVC.

Q. Webster pipe?

A. I have to assume it's PVC also. I've never actually seen it.

Q. And so far as you know, the Cub River upper canal and the Cub River lower canal, are those still open earthen ditches?

A. Yes.

Q. And in going back through the pipes, the Idaho pipe, if you know, and I understand it's not a Preston-Whitney Irrigation Company facility, but did the Idaho pipe replace a former open conveyance, open channel conveyance of any kind?

A. No. Really it supplemented their upper canal. So there wasn't an actual canal on its alignment.

Q. How about the north lateral?

A. The north lateral replaced an open conveyance.

Q. And is the pipeline location more or less where the location of the actual open lateral was?

A. Probably in about 80 percent of it it's where the lateral was.
Q. Where does it deviate?
A. Oh, where it -- where it begins from the Glendale Foster canal down to -- you see, before prior to the pipeline, both the north lateral and the east lateral originated at the toe of the Foster Reservoir. So those areas between the head of the pipe to where it crosses there, of course, are outside of any previous alignment.
Q. Okay.
A. And the east lateral probably -- oh, let's see, it's out of the original ditch until it gets about to where it crosses into Section 23, because the ditch used to come from the Foster and down through Section 13 and 14.
Q. Okay. And did Bradford pipe ever replace any open surface conveyance?
A. The Bradford pipe I don't believe did.
Q. You explained a little bit, Johnson-Lamont looks like a pretty straight line to me. What did it replace?
A. It replaced the -- what we call the Johnson-Lamont ditch. The USGS map called it the middle ditch, but it was an error.

Q. So the easy way to compare the two would be take a look at the middle ditch on the USGS quadrangle and compare it to what we have on the map today?
A. Yeah. Because the middle ditch is just like it was here, it's where they come together, where they join in Section 5 the Lamont ditch is higher. So it was never part of the middle ditch.
Q. Okay.
A. But there was a canal there. And probably we were in the canal about maybe less than half of the alignment.
Q. Okay.
A. We straightened it out in a lot of places.
Q. And it almost looks like -- for example, if you look at Section 29 and maybe 20 above that where the crosshatching -- at least the yellow crosshatching, you see kind of an irregular --
A. Yes.
Q. -- line. Is that a former surface ditch there?
A. Yeah. That was pretty much the upper boundary of the service area it followed, because the water went downhill.

Q. Sure. Connection pipeline, did it replace anything that was a surface conveyance?
A. No -- well, we did have a spill on the end. The service ditch did continue down to Section 16. So I guess technically it replaced that, but not even in the same -- I mean, it went a whole different direction.
Q. So what we see, if you were to follow, for example, on this map the Fairview lateral, it would have had an extension that had essentially been replaced by the connection ditch?
A. Yes. But the extension, it went east for a little bit for a quarter of a mile, and then it went south clear down to Section 16 and 21.
Q. Okay. Did the Palmer pipe replace the surface conveyance?
A. No.
Q. And how about the Fairview lateral?
A. Yes.
Q. Is it more or less in the old track of the original surface lateral, or were there significant changes?
A. There are some changes, but it essentially follows the canal's alignment.
Q. Anywhere in particular that it doesn't?

A. Oh, in the last two sections the canal wound around, and we made it straight. And up in Section 14 it's different. A little bit -- in Section 22 it's a little bit different.
Q. And you explained where the east lateral differs a bit. But the east lateral pipeline that exists now, that replaced a former surface ditch?
A. Yes. And it was called the east lateral.
Q. And then the Webster pipe, do you happen to know, did that replace any surface conveyance?
A. I really don't know. I don't know just how they got their water down in that area.
Q. And so since the construction of these various pipelines and so on, and I know we touched on this earlier this morning, the company is no longer on a rotation-based schedule. It switched to a call system before the construction of these pipelines?
A. Yes.
Q. And also kind of delineating company facilities on Exhibit *-3, we can see them, they've already been labeled. There's Glendale Reservoir. Is that Preston-Whitney Irrigation Company only?
A. Yes.
Q. And how about Foster Reservoir?

A. It's solely owned by Preston-Whitney Irrigation.
Q. Anybody share any storage with Preston-Whitney Irrigation Company in that facility?
A. No.
Q. How about Lamont Reservoir?
A. It's also wholly owned by Preston-Whitney Irrigation Company.
Q. Any shared storage?
A. No.
Q. And then there's Johnson Reservoir. And my understanding is that Preston-Whitney Irrigation Company does not own Johnson, rather Johnson is owned by the Preston-Whitney Reservoir Company?
A. That is correct.
Q. Does Preston-Whitney Irrigation Company have any storage rights in Johnson Reservoir?
A. We had a -- we had an agreement between the two companies when the Lamont Reservoir was built wherein we could store water there when they had excess space.
Q. So, for example, if for some reason in any given season the Preston-Whitney Reservoir Company had some extra space in Johnson, it would allow Preston-Whitney Irrigation Company to store

some of its water in Johnson?
A. Yes.
Q. And would that storage -- occasional storage within Johnson Reservoir of Preston-Whitney Irrigation Company water be in excess of storage in Lamont? I guess what I mean by that is would Lamont be full and then you're looking for another bathtub to put some water in?
A. Yeah. And it's a really small amount of water. I mean, we have some dead space in two of our reservoirs. You know, you're only talking 150 or 200 acre feet at the most. So it's a pretty minor amount.
Q. So when Preston-Whitney Reservoir Company would have some excess space, Preston-Whitney Irrigation Company would then store some of its water in Johnson to not replace but make up for dead space in Lamont, Glendale, and/or Foster?
A. Yeah. It would be in the dead spaces in the Lamont and Glendale.
Q. And how much dead space is there in Glendale?
A. Oh, there's probably -- there's probably a good hundred acre feet that we can't, you know, remove.

Q. And how about Lamont?
A. It's probably 150. In excess of 150.
Q. And how about Foster?
A. We can drain the fish out of it.
Q. Let's take the reservoirs one at a time. Glendale Reservoir, let's start with that. What is its capacity?
A. It's licensed for 6,000 acre feet, and it's really close to what it is.
Q. Okay.
A. Less dead space.
Q. And how about Foster?
A. Foster Reservoir is about -- I think it's 3,400 acre feet.
Q. And Lamont?
A. And Lamont is 24- or 2,500.
Q. How about Johnson, even though I know it's not a company facility?
A. I think it's about -- it's 800 acre feet at the most.
Q. And Glendale was constructed more or less between 1925 and 1930?
A. Yes.
Q. When was Foster constructed?
A. Foster was constructed about 1963, I

believe, '63, '64.
Q. How about Lamont?
A. Lamont was started in the late 1940s and finished in '50 or '51.
Q. And Johnson?
A. Well, they claim it to be the first irrigation reservoir in Idaho. So --
Q. But based on their water rights, probably in the 1800s or something?
A. Yeah. They say it was in the late 1860s, but I don't know.
Q. Glendale Reservoir, does it have any kind of spillway facility or anything?
A. We have a fuse plug.
Q. I'm sorry. What's that?
A. A fuse plug.
Q. Explain that. What's that?
A. It's not an operating spillway, but it's an area where -- you know, away from the actual dam where if the water is -- it overtops that fuse plug first and washes that away so that it won't damage the dam.
Q. And where would that -- if that water were to overtop and start spilling, where would it spill into? Worm Creek?

A. It would go back into Worm Creek.
Q. How about Foster, does Foster have a spillway?
A. No.
Q. What about Lamont?
A. Lamont doesn't have a spillway either. Neither of those are on-stream reservoirs.
Q. And Johnson, to your knowledge?
A. Johnson has -- I think they -- I think they have a little fuse plug area too.
Q. So Lamont and Foster both being off-stream reservoirs, are they -- kind of my pet term, are they absolute storage, meaning everything that flows into them is captured?
A. You mean natural flow that comes in?
Q. Anything. Yeah. Natural flow, whatever you folks might convey into them.
A. Yes.
Q. Whatever hits them, stays in them?
A. Yeah.
Q. How does Preston -- let me come at it a different direction. It's my understanding at least a few of the Preston-Whitney storage rights, 2108, 2288, and 2298 -- and so 2108 is Glendale, 2288 is also Glendale, and then 2298 is Foster, that those

three water rights anyway have a combined storage limitation of a maximum 6,000 acre feet between them. Is that your understanding?
A. No. It's my understanding it's just the 2108 and 2288.
Q. Okay. Although I won't mark it as an exhibit, I have a license for 2288A which is Glendale. And I'll hand it to you. Have you ever seen this document before?
A. Yeah. Probably have.
Q. And I believe if you flip to condition 5 of the license, does it describe a combined storage limitation?
A. Yes.
Q. Can you read that for me?
A. This right when combined with rights 13-2108, 13-2288, and 13-2298 shall not exceed an annual storage volume of 6,000 acre feet.
Q. Okay. And so the company's understanding is that it has the ability to store more than 6,000 acre feet between those rights?
A. Yes.
Q. What does the company store across those three rights?
A. What's listed in this list.

Q. And this list that you're referring to, that's Exhibit *-2?
A. Yes.
Q. Okay. And so in aggregate the company stores under 143, it stores under 271, it stores under 2108, 2288, and 2298, and 2291?
A. Well, not 143.
Q. Okay. So that 2,133 acre feet the company doesn't store?
A. No. That's below -- that's below the reservoir.
Q. And how about 271?
A. Yes -- well, excuse me. That's not a storage right. That was the original stream flow.
Q. But then there's the 2,000 acre foot value there?
A. Well, I think they could divert 50 cfs up to a total of 2,000 acre feet.
Q. So the company's understanding, it has a volumetric limitation of the flow rate?
A. It is.
Q. And then 2108 is 6,000 acre feet?
A. Yes.
Q. And 2288 is 6,000 acre feet. Is that 6,000 acre feet the same, or is that cumulative?

A. It's the same.
Q. So no more than 6,000 acre feet, the same 6,000 acre feet?
A. Yes.
Q. So that means cumulatively the company then stores on top of that 6,000 acre feet 2,407.5 from 2291 plus 3,355 from 2298?
A. Uh-huh.
Q. So storage in the neighborhood of 6,000, with 2,500, that's 8,500 plus another -- so basically between 11,000 and 12,000 acre feet?
A. Yes.
Q. And operationally that's how the company stores water?
A. Yes.
Q. So when the company is operationally storing that 11-to 12,000 acre feet, how is it measured? How does the company make sure that it's not exceeding -- not impounding more water that it's entitled to impound?
A. Well, with the Foster Reservoir and the Lamont Reservoir, of course, everything goes through a weir before it goes in -- w-e-i-r -- because it's all off-stream.
With the Glendale Reservoir we, of

course, know how much we bring over from Cub River. And there's also a rating section in the Worm Creek above our point of injection, and so we can keep track of that. And beyond that -- and then, of course, what we redivert below that point of injection, we measure through the weir that goes into the -- that goes to the Johnson-Lamont fill ditch. And then, of course, we keep track of the gauge on the reservoir on the dam.

Q. And so Glendale, once you hit storage capacity, you're able to spill water from Glendale so it continues to pass through Worm Creek?

A. Yes.

Q. Foster, you don't run into that problem because you're measuring everything that goes into it?

A. Yes.

Q. What about natural precipitation or snowpack that might be in the vicinity of Foster, how do you account for that?

A. It's a really small drainage area, and we don't have any way to account for it.

Q. And same thing with Lamont, if Lamont doesn't have an active spillway or mechanism to release water, is the company able to account for or

does it account for, I guess, natural input from the drainage?

A. There again, it's a really small drainage, so it's not too significant.

Q. So the main controls, particularly for the off-stream reservoirs would be Foster and Glendale. You're just -- that's water that's imported in from Cub River and/or Worm Creek, and it's measured to begin with?

A. Yes.

Q. And then for Glendale you actually have the ability to pass through?

A. Yes.

Q. And then on Johnson, again, I know it's not a Preston-Whitney Irrigation Company facility, but does Johnson have that -- I'm sorry, you called it some sort of plug?

A. Fuse plug.

Q. Thank you. But for all intents and purposes it's basically 100 percent capture, whatever drains to it just sits in it?

A. Right.

Q. Of the Preston-Whitney Irrigation Company facilities, for example, middle ditch, was middle ditch in part built within a natural creek or

drainage way that preexisted -- what I'm getting at or what I'm asking is, it wouldn't be uncommon when folks started digging irrigation facilities to either enlarge the channel or co-op the channel of a natural waterway and take advantage of the fact that nature's already created some of the ditch for them. Are there any situations like that within Preston-Whitney irrigation facilities where they basically adopted existing water features on the ground?

MR. HARRIS: I'll object to the form. I didn't quite follow it. But if you understood it, Lyle, you can answer it.

THE WITNESS: The only natural feature we followed was where we injected and rediverted from Worm Creek. The middle ditch is on a sidehill. There was no -- the natural flow is perpendicular to the middle ditch, not parallel to it.

Q. BY MR. WALDERA: What about other facilities other than middle ditch?

A. Not really. The old east side ditch doesn't exist now. Maybe followed a little bit of a natural drainage.

Q. Was there a particular name of that drainage? Was there a creek, or what would you call it?

A. There wasn't even a creek or anything. It was just a couple of swales. I don't think there's any others that followed any natural courses.

Q. So most of the stuff that was out there on the ground that was constructed historically was actually constructed whole cloth, from scratch, except where the company could take advantage of injecting water into existing creeks or waterways and then rediverting it?

A. Yes. And the only instance of that is the Worm Creek above the Glendale.

Q. Now, I think I read somewhere in some of the discovery or the documents that were produced in discovery that shareholders of the Preston-Whitney Irrigation Company, at least a couple of them -- and they may not even do this anymore. But the company would inject or deliver water to Spring Creek so that those individual shareholders could redivert it from the Spring Creek channel; is that correct?

A. Yes.

Q. Does that scenario still happen today?

A. Only in one instance.

Q. Who is that?

A. That's Gilbert Hull, H-u-l-l.

Q. So how does the company get water to

him? I guess why don't you explain how the company gets water to him and where it injects it into Spring Creek for him?

A. Since the Johnson-Lamont pipeline was built, we divert it from the Johnson-Lamont pipeline about the bottom or south end of Section 29, and it goes in a pipe over to a certain point where it drops into the last part of the middle ditch in Section 30. From there it drops into the Spring Creek. And he rediverts it -- let's see, he rediverts it in the southeast corner of Section 31.

Q. Southeast corner. Okay. So the pipeline that connects the Johnson-Lamont pipe and the last little bit there of middle ditch in Section 30, so basically the pipeline runs more or less east-west between Sections 29 and 30?

A. Yes.

Q. And whose pipeline is that?

A. It was a -- it came from the ditch -- the open canal that the Johnson-Lamont pipeline replaced. And the company put that there because at that time there were several other people that rediverted their water out of Spring Creek. So that was the way that we injected water from the open canal into Spring Creek for those water users.

Q. Okay. And so when the pipe was built, it would go down the Johnson-Lamont pipeline, be diverted through another pipeline, basically, in Section 29 across to Section 30, spill into the middle ditch, the last little bit of middle ditch which is open and earthen ditch, and in Section 30 the middle ditch just ends. What does that look like? I mean, does it just quite literally end and dump into Spring Creek? Spring Creek looks like it's further to the west yet.

A. It actually goes -- well, there's a swale. It ends in a swale that is a tributary to Spring Creek.

Q. So once water would exit or spill out of the middle ditch in Section 30, would go into a swale of some sort that would then empty into Spring Creek?

A. Yes.

Q. And so now if Mr. Hull is still using Spring Creek as a conveyance facility, I guess, how does the company measure what to spill for him? I mean, I know you don't know how many shares he has or anything else like that, but is there any kind of extra conveyance amount of water that is added to that? I mean, it seems like there would be some conveyance loss in getting to him. Is he just

responsible for that because he wants it delivered in this manner?

A. Yes. He's responsible. We meter it out. We have a flow meter that meters exactly how much we turn out of the pipeline. From then on --

Q. It's up to him?

A. It's up to him.

Q. In the discovery responses one of the documents that was produced is titled measuring devices, and it's a similar to what we've been talking about that's been marked as Exhibit *-3. And they're hard to see on this. I'm not going to walk you through that, but I think they're numbered roughly 1 through 9 or something along those lines. And it corresponds to a table within the body of the discovery responses themselves which is point of diversion, point of injection, point of rediversion, and it locates all of these things along with the type of measuring device, and so on and so forth. Have you had the opportunity to review what's contained in the discovery responses, and basically that's the best explanation or identification of the measuring devices that exist at those points?

A. Yes. I looked at it. As far as I could tell.

Q. Now, in getting back to the middle ditch, my understanding is that it used to be a Preston-Whitney Irrigation Company facility, that the middle ditch historically was a creation of a Preston-Whitney predecessor, which was the Cub River Middle Ditch Company, but that the Preston-Whitney Irrigation Company has since sold the middle ditch to the Cub River Irrigation Company; is that accurate?

A. Yes. That's essentially correct.

Q. Anywhere where I'm not correct?

A. Well, there's a period of time we leased it to them.

Q. Okay. When was it that it was leased?

A. Oh, it was, what, about '89. Well, it was after that. It would have been in the nineties. In the nineties.

Q. And why was it leased in the nineties?

A. Because when the company was formed originally, of course, all of the high water was brought to this Whitney area through the middle ditch. And at the end of the year it was supplemented from a ditch that doesn't appear here from the Glendale, and it came over at the base of the Lamont Reservoir.

Q. And I'm sorry to interrupt. So there

used to be a ditch -- so when the high water was no longer running, middle ditch would supply high water, but then when you get into, say, past June 1 or end of high water season, there was another ditch that would then make supplemental deliveries to sustain the remainder of the irrigation season that came out of Glendale but curled around the bottom of Lamont?

A. Yes. And then so that went into the ditch that was a predecessor of the Johnson-Lamont pipeline, came around and joined up with the middle ditch here in Section 5.

Q. Okay.

A. This ditch or canal was higher in elevation than the middle ditch. And since all the farmland here -- and it's right at the base of the hill. Since all this farmland is lower going to the west, eventually people wanted to put gravity pipeline systems in. And, of course, they wanted to put it in the higher ditch.

Q. Sure.

A. And so as each one of those went in, the company accommodated them and diverted less water in the middle ditch and more water to bring through this, you know, over through Cub River, Worm Creek, and Glendale Reservoir and then later through the

Lamont Reservoir, of course, when it was built.

And we got to the point where there was -- actually, at the end there was only one water user, Mr. Hull, was using the middle ditch other than some that are up here above where these conjoin. So we were maintaining -- Preston-Whitney Irrigation was maintaining all this middle ditch for just a tiny amount of water. And we had made our system so we could efficiently and effectively divert -- you know, supply everybody in Whitney with water through --

Q. From up above?

A. From up above.

So here was the middle ditch basically unused -- or underused, I should say, besides the fact that we delivered such a small amount of water to those remaining contract users up here. But the shrink was -- we had to divert 9 feet of water, anywhere from 6 to 9 feet of water to supply them with a foot of water, so it was a waste.

Cub River Irrigation said if we can -- they were having problems with their canal in the high water, you know, when they were really loading it heavy. So they said if we could lease this canal from you, divert part of our water up here, relieve the pressure on our lower canal, run it through the

Palmer pipe and reinject it --

Q. When you say lower canal, Cub River would be relieving pressure on the red canal?

A. The red canal.

Q. Upper canal?

A. Upper canal. Excuse me. Relieving pressure on the upper canal, because the critical areas are here along the river where it's unstable.

Q. Okay.

A. So this was a way they could divert 25 or 30 cfs less in their upper canal, come around through the middle edge and put it back in here where the canal -- where there's no danger.

Q. I see.

A. So that was -- so it was a win/win situation both ways. So they -- we diverted enough water, you know, at this point of diversion in the middle ditch to supply just what our users needed. Therefore, we eliminated all that waste, and we didn't have to spend the money to maintain the canal.

Q. Okay. So when operationally it became a better idea to divert less water through the middle ditch and instead divert it through the Glendale canal, when did that shift start happening? I know the lease was somewhere in the nineties. Did that

shift start happening just shortly before the lease?

A. No. It started happening back in the sixties.

Q. Okay.

A. Actually, probably even before then. But in the sixties is when all these gravity pipelines started coming into play, and so that's when the big change took place.

Q. So in the sixties, seventies big change took place, started diverting more water out of Cub River up higher through the Glendale canal, spilling down through the system, including service in the Whitney area, and the middle ditch was just being underused?

A. Yes.

Q. Did the company go -- and I think I know the answer to this. Did the company seek any kind of Department of Water Resources approval or anything like that for this operational shift? Because obviously the middle ditch water rights unless they had multiple points of diversion only listed middle ditch as point of diversion on Cub River, and instead of using the Cub River middle ditch point of diversion you're then using -- during the shift and after the shift instead you're using the Glendale

canal heading instead. Was there any kind of discussions with the department or any kind of administrative approval of this shift of points of diversion?

A. There was discussion with the department. Of course this was before I was directly involved. I wasn't even a director at that time. But there was discussion. And when I came on, the assumption was that that was already -- that the name change and everything had already been done. We found out, however, that it hadn't been done administratively.

Q. So as leadership kind of changed over within the Preston-Whitney Irrigation Company, it had been done so long that people just kind of thought, word of mouth, that it had already been done, and then you come to find out that it, in fact, had not been administratively pursued or approved?

A. Yes.

Q. And that's why we find ourselves in this transfer proceeding, in part, anyway?

A. Yes. In part.

Q. Is there a portion -- well, let me ask it this way: So the lease to the Cub River Irrigation Company was occurring in mid nineties or

so. When was it actually sold to the Cub River Irrigation Company?

A. I think it was 2006 or 2007 when we consummated that.

Q. And you already anticipated one of my other questions in explaining to me what the benefit to Cub River Irrigation Company was and also the reciprocal benefits for Preston-Whitney. But basically Preston-Whitney was able to wash its hands of an underused ditch that had a lot of conveyance loss but had to continue just putting water in for its few shareholders in that area. And the flip side for Cub River was the portion of the upper ditch basically from the diversion point on Cub River for the first couple miles, anyway, downstream was just a risky ditch, hot spot, unstable, so they could take some pressure off that segment. Is my understanding correct?

A. Yes. That was their initial reason. And, of course, after a little while they looked at it and said why don't we put a pipeline in and take advantage of the gravity head. So that was their next --

Q. So that pipeline to take advantage of gravity head was Bradford or Palmer?

A. Well, it was the Idaho pipe. The Palmer pipe went in in order to convey the water from the middle ditch down to their upper canal. Then somebody had the bright idea why are we wasting this head. So they put the Webster pipe in and then the Idaho pipe in.

Q. And the Bradford pipe?

A. And the Bradford pipe just in order to -- yeah. The Bradford pipe sometime in that area too.

Q. And all of this stuff was done, all the pipe construction by Cub River Irrigation Company intersecting the middle ditch was done after the sale of --

A. No.

Q. -- middle ditch?

A. No. It was done after the lease. The last parts of it, you know, was done about the time of the sale. There came a time when they said this middle ditch is -- now is essential to our operation. We need to have some ownership. And we agreed.

Q. And does Preston-Whitney Irrigation Company maintain any ownership interest in any segment of the middle ditch anymore?

A. Yes.

Q. What segment is that?

A. The segment from where the Johnson-Lamont pipeline intersects it in Section 5 down to where it goes into -- essentially goes into Spring Creek.

Q. Okay. And so where middle ditch ends and it hits that drainage swale which then winds up in Spring Creek, that drainage swale between Spring Creek and middle ditch, that's not an improved irrigation conveyance; it's quite literally just a depression in the ground?

A. It's just a wash.

Q. So Preston-Whitney Irrigation Company at least still owns, operates, and maintains that segment of middle ditch from the intersection of Johnson-Lamont pipeline to its end?

A. We share ownership and operation with Cub River on that part.

Q. Okay. So Cub River actually has an ownership in the entire middle ditch?

A. In the entire middle ditch. Preston-Whitney a half interest in that lower section.

Q. Any particular reason why -- I guess what's the benefit for Cub River Irrigation Company,

if you know, in maintaining any kind of ownership interest in that -- the shared portion of Preston-Whitney?

A. Because at this point they inject all their water into those two pipelines. And so -- and their gravity pipeline is closed. So if the usage in the pipeline fluctuates, as it does, they need a place for a little overflow. So it's just simply for operational overflows.

MR. HARRIS: We've been going for about two hours. I don't know if you're just about done. If not, can we take a quick break unless you're about done.

MR. WALDERA: No, I'm not just about done. Now would be fine for a break.

(A recess was taken from 3:00 p.m. to 3:10 p.m.)

Q. BY MR. WALDERA: Back on the record. In turning back to the reservoirs, just so I have an understanding -- and I know we've got Exhibit *-2 floating around. The sources of water for Glendale Reservoir are Worm Creek and Cub River, nothing else, correct?

A. That's right.

Q. And Foster is Cub River and nothing

else, correct?

A. Correct.

Q. And Lamont is Cub River and nothing else, correct?

A. That's right.

Q. Other than maybe I think we were discussing a little bit earlier with Foster there was a spring or something, so there was some sort of water slop. Or was that Glendale? Am I confusing the two?

A. The spring we talked about was the one that was in Glendale, was the Larsen spring.

Q. And Glendale can pass flows through as in-stream, but Foster and Lamont and Johnson, for that matter, just capture whatever natural precipitation inputs there are plus whatever water is imported into them by Preston-Whitney operations?

A. Preston-Whitney or Preston Reservoir.

Q. That's right. I'm sorry. Preston-Whitney Irrigation Company or Preston-Whitney Reservoir.

And, again, I know with respect to Foster and Lamont and even in certain respects Johnson, although it's not a Preston-Whitney Irrigation Company facility, the company doesn't

actively measure natural inputs into any of those facilities?

A. No.

(Exhibit *-4 marked.)

Q. BY MR. WALDERA: Mr. Porter, I'm handing you what's been marked as Exhibit *-4. I was wondering if you have seen this letter before?

A. Not that I know of.

Q. Okay. In the interest of time it looks like it's a March 31, 1992, letter from the Department of Water Resources to the Preston-Whitney Irrigation Company. Would you agree with that?

A. Yes.

Q. And the carbon copies -- presumably region refers to the eastern region office here in Idaho Falls. But Pete Peterson, who was the District 11 watermaster, and Tony Foster, who was the District 15A watermaster, and it looks like there at some point -- this is addressed to Mr. Swainston. First let me identify, Mr. Swainston was the president prior to your presidency with the Preston-Whitney Irrigation Company?

A. Yes.

Q. And was Mr. Swainston president in 1992?

A. Yes.

Q. And it looks like the department was getting some sort of contact from the Bear River watermaster with respect to possible exceedances of Preston-Whitney Irrigation storage from its Cub River water rights. Would you agree with that?

A. Yes.

Q. At least for purposes of the letter?

A. Yes, for the letter.

Q. Do you know anything about what generated this letter or the resolution of what happened after this letter was sent? What came of this?

A. Of course, I wasn't involved in this part. All I know is hearsay. But my understanding is that Karl and Angus, who was the secretary at the time, met with Mr. Higginson, and they discussed this discrepancy that you pointed out with the total. And my understanding was that everybody agreed it was a mistake, that the combined total shouldn't be just 6,000 acre feet, since the Foster Reservoir was built in the sixties, you know, and so on. And I don't know exactly how they resolved it, but they had some extensive discussions with Keith Higginson and Ron Carlson.

Q. So as far as you sit here today and the

company is concerned, the issue was resolved, and at least operationally, anyway, the Preston-Whitney Irrigation Company is entitled to store somewhere between 11- and 12,000 acre feet a year?

A. Yes. That's my understanding.

Q. When the company started -- well, and Glendale Reservoir was particularly old, but when Lamont and Foster came on line, did that do anything to change the values of shares or quantity of water?

A. It certainly increased the storage. So people -- so the company was able to deliver more lake water.

Q. So, if anything, it didn't lead to the creation of more shares. It led to an increase in the allotment?

A. Yes.

Q. We discussed that this morning. I'm taking things a little out of order.

And the same is true of the move from the rotation schedule to the call schedule as well as the increasing conversion from sprinkler to flood as well as the increasing use of pipelines. All of these things that essentially captured water or freed up water hasn't done anything to change stock share numbers but has changed allotment numbers within each

share?

A. The only exception would be is in the case of the Foster Reservoir, there were some additional shares sold to the City of Preston, which would have changed a bit, you know. But other than that, everything we've tried to do has been to increase the allocation.

Q. So to increase the allocation. But even when you did sell some shares to -- when the company sold shares to the City of Preston, that wasn't -- those weren't shares that were sold that were newly created. Those were simply treasury shares that existed since day one?

A. Exactly. Except that there had not been water allocated to them.

Q. Correct. And let's say let's take Lamont, for instance, the company builds Lamont. It's got a pool of shareholders. How was the construction costs of Lamont spread across the shareholders? For example, new shareholders come online after the construction of Lamont that arguably wouldn't have had to have paid for it through any kind of assessment because they weren't shareholders before the construction of Lamont. Is there any kind of system within the company of -- does everybody

benefit from everything, or do some people benefit only from certain improvements? Is that drawing too fine of a line?

A. I think the only imbalance would be those who receive water above the reservoirs where it's just not possible for them to share in the extra storage. But as far as I know, everything we've done we've done it with the purpose of increasing allocation of water to people. So the only exception would be those shares that were sold to the city.

And I believe, as far as I can tell, that none of these things diluted, you know -- diluted anybody's water supply but increased it. Our intention was to increase -- to give the increase to savings in water from whatever source to distribute equally among all the shareholders. And we were able to do that by the fact that we can -- the way we can -- eventually constructed the system.

Q. And so, for example, the City of Preston basically bought shares in relation to the construction of Foster, correct?

A. Yes.

Q. And so Preston basically escaped the need to help pay for Lamont but still gets the benefit from Lamont as well as Foster, the overall

operation of the system?

A. Yeah. Just like all the other shareholders.

Q. There was no special assessment or anything like that saying, hey, Preston, you owe us money for other past improvements, so pay up sort of thing?

A. No. The only special assessments came about as we constructed these distribution pipelines, because we didn't know where we would end. So the people who were on a pipeline, there are two benefits, the savings in water, which we distributed among all the stockholders equally insofar as it was possible to do so. And the gravity pressure at the head which now they didn't have to pump. So each one of these pipelines, the people who had ditch rights in that pipeline paid a portion, and the company made up the rest.

Q. I see.

A. So we counted the pressure as they paid for the pressure. Everybody paid for the increase and shared in the increase.

Q. So there was a little bit of a distinction. Those who no longer had to buy electricity to pump out of the open ditches did

shoulder some of the costs and special assessments that other shareholders did not?
A. Yes. In each pipeline, in every single pipeline we did that.
Q. And of the company's water right in the operation of the system, there is treasury stock, but that treasury stock does not have water allocated to it today. So there's not a situation where the company operates with any idle water. Basically, just because the stock is sitting there, it doesn't have water allocated to it, so the company's not sitting there with a block of water that's idle because it's not been issued?
A. We have stock, treasury stock, that the company has leased the water to other stockholders for a price.
Q. Oh, okay.
A. But that doesn't include all of the treasury stock. It's just a portion of it.
Q. So the treasury stock in and of itself doesn't create an unusable pool of water?
A. No. That that's not leased and not issued does not create an unusable share.
Q. But the company has on occasion leased to shareholders treasury stock which has that affect

then of diluting the overall allocation per share then?
A. Yes. That practice started when the sugar company bought and had acquired, anyway, a large block of stock, which they then leased to people who signed contracts to raise sugar beets. That continued all through the time the sugar factory was in operation. And somewhere back in that history the officers of the company back then said we have all this treasury stock, why don't we lease out part of it as a rental or leased water. So that's been a tradition we inherited. But that's been going on for 60 years, you know.
Q. Is there still a rental pool?
A. Yes.
Q. How big is it?
A. It's about 1,100 shares.
Q. So how much water is -- I guess, for example, that can change any given year, so last year it was half an acre foot per share for that?
A. Approximately 600 acre feet or a little better.
Q. How does the rental pool work? Are there any restrictions on who can rent water from you? Do you have to be a shareholder?

A. You have to be a shareholder. You have to be able to use that water in a place that the company can deliver it, that we don't overload a canal or something like that. Those are the two basic restrictions. You have to be a shareholder already. We don't rent or lease water to non-shareholders. And it has to be placed where the officers know we can deliver it without harming another shareholder.
Q. How is the price per rental share set?
A. The board sets a price in the spring which always exceeds the normal assessment.
Q. So last year what was a rental share priced at?
A. It was $6.50.
Q. How about when it comes to purchasing shares. For example, the City of Preston purchased shares in relation to capitalization of Foster. Are there any restrictions on who purchases the shares?
A. Prior to '94 or when we adopted our bylaws there was really no restrictions. Since then, of course, we saw the need to have the board approve purchase, so we know someone will purchase the shares and put that water to beneficial use, that it will be within our service area, and that they will use it in

a place where we can deliver it.
Q. Did the company ever get into any situations prior to the amendment of the bylaws where people were purchasing shares and either exporting them out of the traditional service area or not using them or --
A. I don't know that anybody exported. There were people that wanted to, but I'm not aware of any instance where people actually exported shares. But we did -- the company did -- as I said, it was before I was on the board, but there was -- for instance, the east lateral, the canal that the east lateral replaced, the company made the mistake of allowing people to transfer and put more shares in that than that ditch would handle. And that was one of the situations that -- that's why we built the east lateral first was we needed to remodel it and make it bigger than we thought. We thought why not put it in a pipe.
Q. So it wasn't so much that the company was running into situations where -- I mean, people were trying to export it, but the bigger problem for the company without the amendment and the bylaws and share restrictions was people were overburdening portions of the system?

A. Yeah. People said this is my water. I can use it anywhere I want. That's not true. It doesn't work. And people would say why can't I buy the water and sell it to Logan or to somewhere else like that. And, I mean, I know some of those things the company resisted, but it wasn't formalized and there were no bylaws. So now it's clear. Now it's clear, you know.

Q. And the bylaws amendments were 1989, if my memory serves?

A. We started working on them in '89 or '90, and I think we adopted them in '93 or something like that. Or '94.

MR. WALDERA: Can we go off the record for a second.

(A discussion was held off the record.)

Q. BY MR. WALDERA: Knowing that you haven't been an executive officer since the sixties but familiarity with the system and been a shareholder at least since the mid seventies, can you walk me through the stock sales that you recall since the 1960s? I mean, who are the -- and what I'm looking for here are releases of treasury stock, not the change of ownership of existing issued stock.

A. These are the ones I'm aware of. The

major one was the Preston City at the construction of the Foster Reservoir. There may have been some stock sold in the Lamont Reservoir, but I don't know who or where. I don't think there was very much.

About 2001 or '02 we released maybe 20 or 25 shares in conjunction with the building of the east lateral in order to secure an easement.

And then the only other ones I'm aware of is the sale of the rented treasury stock, the leased part -- part of the leased treasury stock to finance the company's share of the construction of the Fairview pipeline.

And then there was maybe 30 shares or 20 some shares to clean up the fractional shares.

And I think that's all of the treasury stock that was released. And the majority of that, for instance, all of the stock that was sold by the company for the Fairview lateral was stock that was leased to shareholders. So it didn't -- it didn't --

Q. Didn't change the allocation?

A. Didn't change the allocation, because the company had been leasing that for 30, 40 years.

Q. So basically the company first approached lease holders because those shares had already been allocated and said, hey, do you want to

buy? Or did you make them buy? Or how did that work?

A. Well, we spent a whole year trying to figure out a good way to do it. And there's no perfect way. But our articles of incorporation don't require us to sell treasury stock proportionally. So since some of these people had been leasing water for a generation or two, we set a price and gave them the first opportunity to buy it at that price. It wasn't all the water. I mean, we give them the opportunity to buy half of what they had been leasing. And most of them took advantage of it. There were two to three that didn't. And we had enough money, so we just didn't sell that.

Q. And kind of the range of those various treasury stock sales price per share -- I know we discussed earlier this morning you've seen a range based between, if your memory serves, between $600 a share and $1,200 a share -- the transactions you just kind of walked through generally fell within that range?

A. The transactions that -- the ones that I'm aware of, we just based it off that appraisal, and it was $600. These other prices are just open market prices that we've heard of. And I don't know

what they sold the shares to the city for. But it was considerably less back in that day, back in 1960 whatever. The fractional shares, we just used the same price that we sold the rented or leased shares for. And the other one that I'm aware of was just an exchange for an easement that we had to secure for -- we had difficulty getting an easement.

Q. And that was an easement for a particular pipeline, I think you said the east --

A. The east lateral.

Q. We touched on a little bit of this this morning. Various things the company has done has freed up water, or captured, however you want to call it, and changed to a call or demand system rather than rotation, changed to sprinkler from flood and the installation of pipelines. And so what that has largely done is freed up a pool of water, has been used to increase allocations per share?

A. Yes.

Q. Does the company have any calculations -- and we've gone through the pipelines largely on Exhibit *-3, I believe it is?

A. Exhibit *-3.

Q. Does the company have any estimates or calculations of how much water each individual

pipeline has saved?
A. We just turned in a report to the Bureau of Reclamation on the Fairview pipeline, and our best estimate was that that saved about 2,000 -- a little over 2,000 acre feet. And we believe the others saved somewhat less because they're in different soils, and they weren't quite as long. But basically the bottom line is what matters to the stockholders.
Some of our previous data really isn't good enough to say we actually used this much water, we actually put this much water on the ground. Now we know that, but we don't know what the baseline is. But the bottom line is that we used to allocate, you know, post-call system, pre-pipeline a third of an acre foot or less. And now we -- now we allocate a half an acre foot. And as I said, we were too conservative this year, and we had to waste some water. So it will certainly be higher next year. So the difference between a third and a half or .33 and .55, whatever we end up with, is what really matters to the stockholders.
Q. And I know you mentioned that the shareholders themselves, the company doesn't control how many shares of water any individual shareholder is applying to a particular acre of ground. But

suffice it to say as a generalization that the shareholders have quite a bit of irrigation water available during the spring runoff, but that they really have to, you know, kind of mind their P's and Q's for applying their irrigation water after June 1st and you hit storage, and then basically stretching it as far as it can go?
A. You know, when we're allocating a third of an acre foot, that was pretty much universally true. Now it's -- some people have a surplus of water, you know. The other thing is cropping patterns have changed too. We don't have cabbage and sugar beets that have as much late water. So people can use the water more in barley and early season crops.
You know, some things are changed that are beyond our control that also affect it. But we traditionally figure that a person needs nearly three shares per acre to grow any crop. But that's just a rule of thumb. It's not a requirement. Because we have so many shareholders that have shares in other companies, it would be impossible for us to put minimum without being crucified.
Q. So last year, anyway, three shares per acre would be one and a half acre feet per acre?

A. After the 1st of June.
Q. Right. After June 1st. So basically if you're a company shareholder, you're trying to wet up the soil profile as much as you can in the early season and then just kind of keep it watered just well enough to finish off the crop for that irrigation season when you hit storage?
A. That's correct. And that's why -- that's why after the company started the call system, you know, we started, said we're just going to allocate you X amount of water per share over the season. Then people would say, boy, I'm not going to have enough. I'm going to really go light at the first of the year so I've got enough at the end. And that's when we have too much water. So that's why we go on a stream flow to the 1st of June so we encourage people to more fully utilize our high water. It's kind of a psychological trick, or whatever you'd call it.
Q. Okay. Well, one of the conservation measures we've talked about is a conversion from flood to sprinkler irrigation. And I was kind of curious about the trend over time. And I'll start basically in the sixties, given your kind of timelines. What would be the rough percentages of

flood irrigation within the service area versus sprinkler irrigation in 1960?
A. Probably -- in 1960 there were probably just a few acres that were sprinkler irrigated, just a few.
Q. So basically a hundred percent flood in 1960?
A. Yeah.
Q. How about 1970?
A. In the seventies I would guess that we probably were less than half.
Q. Less than half sprinkler, and so 60/40 split, maybe 60 flood, 40 sprinkler?
A. Yeah. 55/45 or something like that. That's just --
Q. But still more flood than sprinkler?
A. Yes.
Q. How about 1980?
A. By the eighties I'm sure we were in the 80 percent, 80 to 90 percent.
Q. 80 to 90 percent sprinkler instead of flood?
A. Uh-huh.
Q. So pretty dramatic turnaround in the 1980s?

A. Right.
Q. How about as you sit here today in 2010?
A. Today with the completion of the Fairview pipeline, it's almost a hundred percent. I mean, I can only -- Mr. Hull, that we talked about, is the only person that comes to mind who's still flooding. But there could be somebody else. I mean, we're virtually at a hundred percent now.
Q. Has the company ever run any calculations or tried to figure out how much water the conversion from flood to sprinkler has saved? I know we've talked about kind of in gross big picture we just know, you know, schedule change, pre-pipeline was about a third of an acre foot per share allotment, and then post-pipeline has been .5. That also, obviously, then incorporates the sprinkler conversion too?
A. Sure.
Q. No separate studies or anything along that --
A. No separate studies. I mean, I think Angus did some work on it, but he just basically took what the extension service and other people -- took generic figures and said this is how much you'll save. But I don't think we used any data to really

pin it down.
Q. And so all these water savings through the schedule change and so on, demand versus rotation or conversion from flood to sprinkler coupled with installation of the pipelines, that's never led to a situation where the company is diverting less water or storing less water. It's just all that water savings has been channeled into allocation per share?
A. I think we have diverted somewhat less water. Not on purpose. But just simply because sometimes we can't get people to use all their allocation. I mean, they're just used to using this much. But I think our diversion has dropped a little bit. Part of it's because, for instance, this year we were too conservative on our allocation. We could have diverted more water or should have diverted more water, but instead we had some left over. So next year we'll reevaluate and allocate more and see if we can more fully utilize it.
Q. When I talk about diversion, I'm talking about diversions from Cub River or Worm Creek. The company is diverting a little bit less water from those sources into storage because its ideas of what would happen to the storage water were too conservative?

A. Yes. We're always -- we're afraid to allocate too much and get caught --
Q. Right.
A. -- with not enough than to slowly work our way up. And, you know, we've had these pipelines come on online over the last ten years. So it's been pretty much -- we haven't really caught up with it yet.
Q. So, for example, last year, 2010, as you sit here today, although you can't necessarily quantify it, you believe that there was some Worm Creek water or Cub River water that simply stayed in the stream that the company didn't even divert?
A. Yes. Yes, definitely. There's no question about it. We roughly looked back, and we figure we should have allocated .55 instead of .5, in hindsight.
MR. HARRIS: Can we take a quick break. I've got to switch to a power cord, if that's okay.
MR. WALDERA: No problem.
(A recess was taken from 3:44 p.m. to 3:46 p.m.)
Q. BY MR. WALDERA: Back on the record. Getting to the nuts and bolts of the transfer application, I think we've talked around this a

little bit. But as you sit here and you understand it, what is the purpose of the transfer application that's currently pending before the department? What is it that the company is trying to accomplish?
A. Basically, we're trying to modernize our service area to include the acres we irrigate, which include those acres that were never listed in the original -- in the original water rights. We wanted to make a service area that conformed with the department's requirements to, you know -- the boundaries follow logical lines.
We, of course, have discovered that the point of diversion hadn't been changed on that one water right. And we didn't have a permit to inject and redivert, because back in the day the department didn't require, didn't care, whatever. I think that's basically what this transfer was.
Q. So the Exhibit No. *-2, which is the roster of the water rights, and even though that is -- the water rights roster doesn't list the places of use for each water right, there's a patchwork of places of use specific to each water right. But the system, the Preston-Whitney Irrigation Company system as a whole, has operated as one big commingled system, correct?

A. Yes.
Q. And so part of this transfer is to -- you've probably heard this term -- create a one overall uniform permissible place of use instead of having this patchwork amongst the water rights?
A. Yeah. That's part of the purpose.
Q. When were these issues, the point of diversion issue, the patchwork acreage place of use issue, the injection/rediversion point issue, when were these brought to the company's attention? Over time when did the company come to learn of these things?
A. Oh, about three years ago.
Q. And how did it happen to learn of these things? What happened three years ago where the company all of a sudden took note of this stuff?
A. Well, when -- basically, when Mr. Golightly talked to the water resources about his -- the fact that Spring Creek had diminished so much. And then they came down and looked it over, and as they went through the 13(a) records, they found -- I guess they found a whole number of anomalies, which were those three or four that we're working on.
Q. I think you've heard of Mr. Golightly?

A. Yes.
Q. I didn't hear it, and so I thought you were talking about an entirely different individual. So it was about a few years ago Mr. Golightly, anyway, started wondering what was going on because he started seeing Spring Creek flows decrease, and then all of this has just snowballed from there?
A. Yes. I don't mean to represent what he says or does, but that's the way we kind of ended up in it.
Q. Did the department approach the company, or did the company approach the department for guidance as to how we -- how the company is to clean this stuff up?
A. When Tim Luke and Ernie Carlson went down to -- I don't know how long it took them, you know. When they went down to visit with Mr. Golightly and become aware of his complaints or his situation and then they researched this, then, of course, they sent a letter to all of us, and they said several things in the letter.
As far as we were concerned they said now there's some issues with the -- your service area possibly and point of diversion and rediversion and injection that hasn't been taken care of

administratively, and you need to do that. So that's when we started. And at that point when we got the letter, of course, we conferred with the department and said what do we need to do, how should we proceed, and we've gone from there.
Q. As the amended application for transfer sits today, and we've kind of talked about this a little bit, it identifies a little over 16,500 acres within the place of use of -- the delivery area of the Preston-Whitney Irrigation Company. How long has the Preston-Whitney Irrigation Company been delivering water to the, roughly, 16,500 acres?
A. To the best of my knowledge it's been -- I mean, we looked at it back when we revised our bylaws and, you know, we tried to go back to pre-1980, and so we know that that has been basically what it's been at least before 1980. I don't know -- we don't have -- I don't have a way to really tell what it was in 1920 or 1930 or something like that.
Q. When it comes to the points of injection, point of rediversion, so on and so forth, that this amended application for transfer is in part addressing, how long have those various points of injection and rediversion been in use?
A. Well, since -- the ones at Worm Creek,

since 1881.
Q. And how about the -- I remember we called it the shift, basically the movement of water -- Cub River water out of middle ditch and instead up into Glendale, how long has that been going on?
A. Well, of course, it started -- it started in 1928, or whenever the Glendale was finished, and it's been a gradual continuous shift ever since then. So the first one happened shortly after the McEwan Decree and when the Glendale Reservoir was built, clearly. And it really accelerated when the sprinklers started to go in.
Q. Okay. So Glendale made -- it made sense for the company to stop diverting water -- as much as it could, anyway, stop diverting Cub River water into middle ditch because there was no storage in middle ditch?
A. Correct.
Q. So in order to take advantage of storage, i.e., the newly created Glendale Reservoir, it made sense to move that water up there for storage purposes?
A. That's right. And we assumed that that was already done.
Q. Like you said, when sprinkler use

accelerated and the desire to take advantage of gravity, middle ditch didn't really offer that opportunity so much as the Glendale fill ditch did just because of the elevation differences?

A. That's correct. And the other factor would be the construction of the Lamont Reservoir which had to be filled through the upper ditch too. So -- that's one I left out, so it probably started in 1928 when they started filling the Glendale Reservoir. And then in '50 there was that much more when the Lamont was built, and then after that point the sprinklers, it was just a natural evolution.

Q. On the map -- I won't mark it as an exhibit because it's part of the amended transfer application. But in discovery responses I received among the responses this map, which I presume this handwriting -- first of all let me ask you this: This handwriting you see up here, it says changed acres, is that your handwriting?

A. No. It's not mine.

Q. Removed acres and added acres, that's not yours?

A. No.

Q. Do you know whose handwriting it is?

A. I presume it's Mr. Harris's.

Q. That's my presumption too, but I didn't know if you recognized it.

On this particular map, anyway, changed acres, there's a batch or a number of acres over here on middle ditch kind of close to Cub River that are circled and labeled as removed acres which are then presumably filling in a set of acreage that's been outlined in black and marked added acres. Are you familiar with this movement of acreage --

A. Yes.

Q. -- for irrigation purposes?

A. Yes.

Q. When did this occur? When did this shift occur?

A. This occurred contemporaneously with the construction of the Fairview pipeline.

Q. And the Fairview pipeline construction ended in 2008 -- no. I'm sorry -- 2010?

A. 2010.

Q. And this is part of what is being captured in the current amended application for transfer that's pending before the Department of Water Resources?

A. Essentially, it is. What this is is this area was part of Cub River irrigation service

area.

Q. Okay. So the added acres?

A. Yes. These acres. And this doesn't include all of them. There's some more up here that were Preston-Whitney Irrigation service area, since Cub River then acquired the middle ditch and these were a group of their stockholders who were not able to take advantage of the Idaho pipeline. So we just traded acres and water and stock. So they lost this and gained this, and we lost this and gained this.

Q. Okay. So for purposes of actual service areas of the two companies, there's been a swap between the two companies. So you have the Preston-Whitney Irrigation Company now picking up acres largely in Section 3?

A. Yes.

Q. That was formerly serviced by Cub River Irrigation Company. And in exchange Cub River Irrigation Company is picking up former Preston-Whitney acres in Sections 4 -- well, Section 4 and then a section directly to the south. So was there any kind of an agreement between the companies, any kind of writing memorializing this?

A. Yes.

Q. And when was that agreement reached?

A. That was done in 2009 in anticipation of the completion of the Fairview pipe.

Q. In further discussing this transfer in and of itself, there are a number of criteria that the department uses by statute to evaluate whether to approve or deny a transfer application or otherwise condition the approval of a transfer application. One of them is no injury to others, basically that the transfer application -- that the change in the elements of the water rights or the use of the water is not going to cause problems for other water users.

Has the company undertaken any studies or evaluations of how this transfer may or may not lead to injury to others? Or has the company commissioned anybody to undertake that kind of evaluation?

A. Well, we never did hire a hydrologist to do that. But we between -- for instance, this particular issue with Cub River Irrigation and us, you know, we made that comparison and could see that -- we conditioned the stock trade, the stock trade as to how much water was delivered by the two different companies' stock and made the trade on that basis. We looked at the acreage and found out that they were virtually identical. So we concluded that it

wouldn't change the diversion rate for anybody. And, you know, in consultation with our legal counsel we could see that -- saw that nobody else should be harmed by it.

Q. Any consideration given the movement of points of diversion? So, for example, middle ditch water instead of going into middle ditch coming into Glendale. Any kind of analysis of that scenario?

A. Yeah. We looked at that. And since it was moved upstream -- and, you know, we looked at the intervening water users and their priority dates. And then the fact that it was sort of an accomplished transfer going on for years and years and apparently hadn't hurt anybody.

Q. When you say accomplished transfer, I understand that as a legal term under Idaho Code Section 42-1425. What does an accomplished transfer mean to you?

A. It means that we started diverting that water in 1928 and increased it over the years, and so it's been going on for all that time.

Q. How about enlargement. That's another statutory criterion that the department will look at. What investigations or studies has the company done to ensure that the changes it seeks through its

transfer application won't result in enlargement of its water rights?

A. We -- when we made this application, we basically followed what was showed in the other one. And we did this evaluation so it would reflect what was -- the service area that was irrigated before 1980. So it's essentially the same except for houses and subdivisions and, you know, things -- close things that we couldn't really have the technology to measure.

Q. And what we're referring to that was produced in discovery responses I've Bates numbered Preston-Whitney Irrigation -- should be company, not district -- document quadruple zero two. You can see within that particular document, which is Bates PWID00002, a number of numbers within all -- many of the quarter quarter sections within the Preston-Whitney service area. Do you see those numbers?

A. Yes.

Q. So I take it -- let me ask it this way: Is my presumption correct that this map is superimposed upon the 19' -- the bylaw amendment map, because they look very similar because of all the different numbers in the quarter quarter sections?

A. Yes. This is the bylaw amendment map. These other things are superimposed, but that is the base of it.

Q. So the bylaw amendment map so far as these acreages and service area is concerned, that was company investigation around 1980 with the Farm Service Agency maps, so on and so forth?

A. Yes.

Q. So that's the basis of the individual acreage numbers within the quarter quarter sections?

A. Yes. That was the best we could do at that time. So it was -- this was an exhibit in our bylaws.

Q. So since that time you have further refined these numbers through use of GIS or something?

A. Yeah. Just what we could do with GIS here.

Q. And so there what you're referring to, Exhibit *-3 to today's deposition, doesn't include the quarter quarter acreage numbers. Instead why you're using GIS was just to more accurately outline the service area?

A. Yes. To more accurately outline the service area and to measure the acreage included

therein.

Q. Oh, I see. So you outlined the service area, and one of the functions of GIS is how many acres are within this outline?

A. Yes. And I'm not an expert on that.

Q. Neither am I.

A. And I relied on Rob to do that. That's what I understand.

Q. That's why I've got Scott sitting here. When it comes to these maps, again, PWID00002 and Exhibit *-3, does the company have anything more accurate than these, or is this as good as it gets as far as the company is concerned with mapping of its service area?

A. This is the best we have.

MR. HARRIS: I need to interpose here. If you're referring to map 3, remember we submitted an amended map that took out roads. So the more accurate, as good as we can get, isn't map 3, but it would be the amended.

MR. WALDERA: October 25th or so.

MR. HARRIS: Yeah.

Q. BY MR. WALDERA: What about the idea of consistent with conservation of water resources. I mean, I have my own ideas on how conversion to

sprinkler and pipelines, and so on, would bear in that analysis. But did the company undertake any separate analyses or studies to ensure that the application for transfer comported with the conservation of water resources?

MR. HARRIS: I'm going to object to the extent that calls for a legal conclusion. I'm not sure I agree that's what it means. Go ahead and answer to the best of your knowledge.

THE WITNESS: I don't know exactly what you mean by the standard of conservation.

Q. BY MR. WALDERA: Sure. Well, it's one of the transfer application criteria under the statute. I'm just wondering did the company separately undertake any kind of study that in any way looked at the conservation of water resources?

A. No. Nothing totally separate.

Q. One of the other statutory criteria is that the transfer be within the local public interest. Is there anything that the company separately looked at to try and make a public interest determination?

A. No. Just what we could gather from our stockholders and other people in the community. We never took a survey or anything like that.

Q. Did the company reach out to others outside of the shareholder pool and discuss other -- you mentioned other folks in the community. Were they all shareholders, or did you discuss these issues with non-shareholders?

A. They were probably mostly shareholders but shareholders from other companies. Talked to, briefly, you know, extension people.

Q. When you say extension people, who do you mean?

A. Like the Idaho -- the Idaho Department of -- the University of Idaho extension agents.

Q. NRCS?

A. We had to have the NRCS and the local soil conservation district do some evaluations on each one of these pipelines. But they just did piecemeal on each pipeline. So there's not a whole comprehensive study. But that was part of what we needed to do to qualify for our loans and financing.

Q. And the pipelines other than being funded, and I'm sure the answer differs a little for each pipeline, but other than being funded by shareholder assessments or in some cases the sale of treasury stock or the conversion of leased stock for sale, what were the other outside sources of funding,

contributing funding for the pipeline construction?

A. There's only one source. We were able to obtain on two of the pipelines a matching grant from the Bureau of Reclamation water 2020 program.

Q. And has the company received any funds from the Idaho Water Resources Board or anything?

A. We received a couple small grants to do feasibility studies to do for pre-engineering. And we were able to borrow some money from the Idaho Water Board. But other than -- outright grants, only something like six or seven thousand dollars for some pre-engineering feasibility.

Q. Does the company have any outstanding loans that it owes back to folks for any of the construction of these facilities?

A. We have a loan with the Idaho Soil Conservation Commission and one from the Idaho Water Board.

Q. And what are those loans respectively? How much?

A. The Soil Conservation Commission is a loan on the Johnson-Lamont pipeline. And that, we essentially facilitated that loan for our stockholders who couldn't pay their share upfront. And we also borrowed some money in behalf of the

Preston-Whitney Reservoir Company for their share. So our company owes -- essentially, we don't owe very much. We borrowed $800,000 from the -- through the Idaho Water Board for the Fairview pipeline. But there again that covers what our stockholders or shareholders on that couldn't pay upfront.

Q. Sure.

A. So we haven't incurred very much indebtedness as a company on it.

Q. So $800,000 basically outstanding on the Fairview pipeline, if I'm understanding correctly. What about Johnson-Lamont pipeline?

A. I think that's at -- we've been paying on that for -- I mean, they've been paying on it for several years. So I think we're down to about -- I think it's about 250,000, something like that.

Q. Do you remember what the original loan amount was?

A. I think the original was 600.

Q. You also mentioned in relation to the criterion about public interest that you spoke to other company shareholders. Now, does that mean you spoke to shareholders in other companies? What other companies were you speaking with?

A. Well, the Preston Riverdale Mink Creek.

And, of course, the Preston-Whitney Reservoir Company since they were a partner. And also we talked with Cub River Irrigation for their experiences.

Q. And then the last criterion that's mentioned under Idaho Code 42-222 is that the transfer will not adversely affect the local economy. Did the company undertake any studies or analyses of the economics with respect to the transfer application?

MR. HARRIS: I'll object to that. That's a mischaracterization of what that criterion says. It says that it affects the local economy if the proposed transfer moves water outside of the watershed. This is entirely within Basin 13.

So if you want to ask the question did you undertake anything to study the impact on the local economy, that's fine. I just don't think it is correct under Part G.

Q. BY MR. WALDERA: Any economic study with respect to this transfer application?

A. There were no formal economic studies with this. But we did have to do some work in order to secure the grants from the Bureau of Reclamation and justify payback and the economies of it as related to the two pipelines we got the grants for.

Q. But with respect to the transfer itself?

A. No. We didn't do anything separate. We just more or less assumed that those things were still valid.

Q. Okay. If we could turn back to Exhibit *-3 really quickly. You explained to me earlier that the company maintains a shared ownership interest in that segment of middle ditch from the intersection of Johnson-Lamont pipeline downstream to its end in Section 30, correct?

A. That's right.

Q. Is the intersection of Johnson-Lamont pipeline with middle ditch upstream or downstream of the Palmer pipeline?

A. It's just upstream of it.

Q. And so there's the possibility then that any water that might spill from the Johnson-Lamont pipeline could be diverted through the Palmer pipeline, correct?

A. Yes.

Q. What does the company do to ensure that that doesn't happen?

A. Well, basically we -- when we made the initial agreement with the Cub River Irrigation to service these five common stockholders down in

Section 16 -- 15 and 16, the Fairview pipe didn't exist. So we anticipated that that would be a way if we could deliver Preston-Whitney water through the Idaho pipe to those shareholders without having to invest in a whole delivery system to them so that they would be able to take advantage of gravity pressure.

So initially that was one of the reasons why it was situated that way. Beyond that we normally don't have any reason to spill water there. Just being a somewhat unusual situation, emergency situation. So --

Q. So unless Preston-Whitney Irrigation Company is spilling water into Middle Ditch from Johnson-Lamont pipeline to serve deliveries through the Idaho pipeline to the shared shareholders, it basically meters water or distributes water through the Johnson-Lamont pipeline almost, basically, as close as possible what's actually needed, so there's very little tailwater, if any, that ever gets into middle ditch?

A. Yeah. There's very little. And we meter it out. We have a flow meter that we can meter exactly what we do put into the middle ditch.

Q. So there's a flow meter at the

intersection of Johnson-Lamont pipeline and middle ditch?

A. Yes.

Q. And you also explained that there were flow meters at pipeline coming from Lamont into Johnson-Lamont pipeline and similar from Johnson Reservoir into Johnson-Lamont pipeline?

A. That's right.

Q. Have there been situations outside of the delivery -- the intended delivery of Preston-Whitney Irrigation Company water to those shared shareholders where Preston-Whitney Irrigation Company water has actually been diverted through the Palmer pipeline in an unintended fashion?

A. Well, I mean, we've -- when we start out, we want to flush the pipeline out. And we don't really care if it goes in their pipe or not. A couple years ago we had quite a bit of -- we had a lot of precipitation, the reservoir is full. Everybody quit watering. So the Lamont Reservoir was up to capacity. And in a lag time between turning the water off in the fill ditch, we spilled water for a couple of days just to keep it safe.

But, you know, those are about the only situations that have occurred since we've been using

that other than when we wanted to deliver water through their pipe to our stockholders. So I don't know how you'd really tell. Cub River water comes down and goes into their pipeline and goes there, so it's pretty hard to say, account for every drop, you know.

Q. Sure. Sure. But during normal operation of Johnson-Lamont pipeline -- since Johnson-Lamont pipeline has been installed, during normal operations there's not routinely tailwater that spills into middle ditch?

A. No. For instance, this year -- this year we spilled a little bit initially, cleaned the pipelines out, put some clean water through there. And beyond that we did deliver some water to our stockholders which was measured, but not very much. I think it was less than half a cfs. Beyond that the valve's been closed. And that's probably pretty much how it's going to be in the future.

Q. Okay. Do you know when there has been those infrequent instances where there has been spill, has that flowed unmolested down middle ditch to wherever it goes?

A. I've seen some times when the water flowed unmolested down there. But some of it could

have been Cub River's own water that was operational spill too.

Q. When the Preston-Whitney Irrigation Company, for example, would be flushing its pipe or anything like that, does it tell Cub River Irrigation Company we're going to be doing this, you know, got to let that water flow by the Palmer pipeline?

A. We tell them we're going to be doing this so that they know what's going on. But we don't say you've got to turn your headgate off. We don't tell them that.

Q. Does Preston-Whitney Irrigation Company make any spills from Johnson-Lamont pipeline into the middle ditch in an effort to approximate whatever naturally occurring sources of water might be being captured by Lamont Reservoir?

A. No.

Q. When Lamont Reservoir itself -- let me ask it this way: Johnson Reservoir, why is Johnson located -- I know it's not a Preston-Whitney Irrigation Company facility, but do you know why it was located where it is? What was the advantage of Johnson Reservoir being located -- was it a natural depression preexisting that they just had to dam up a little bit?

A. It's a convenient place to dam it up. And the people that lived in that hollow were all below it. So it was probably just a logical place to put it. I mean, it would serve those people there. We call it Johnson Reservoir because everybody that owned property in that stretch were Johnson family. And so as far as I know, that's the reason they put it there.

Q. So it was at least some sort of natural drainage, a depression that just was a convenient spot?

A. Well, yeah. There's a place where the two shoulders are fairly close from the hills.

Q. And how about Lamont, what was good about the location of Lamont?

A. The same thing. There was a little hollow basin there where it was a convenient place to build a dam. There was no water coming out of it. There's no streams in it. And it was also in a place where we could -- the company could cooperate with the Preston-Whitney Reservoir Company and conveniently bring water around there.

Q. During the construction of either reservoir -- and expecting you to have more information on Lamont than you would on Johnson --

but any history that the company's aware of about natural springs or any inflows into either of the reservoirs?

A. I don't know about the Johnson Reservoir because that was ancient history for me. I know that the Lamont Reservoir, the canal or the ditch that brought storage water from Glendale over to the Whitney area actually made a turn inside of that -- just above sort of an arc up above where the dam -- the Lamont dam is now. And there was a homestead there and, you know, they had a house and a -- they probably irrigated out of that, a little bit out of that canal because their house was built by the side of that canal.

I was told there were some cattails there. I don't know if there was a spring there before that. I don't know when they -- you know, when they homesteaded it, where they put their homestead. Presumably there was a spring for drinking water. But I don't know whether they built that prior to the canal or whether they built it after the canal. I just can't -- haven't looked into it. But as far as any large springs, I'm not aware of any.

Q. And I may be confusing the two, Johnson

and Lamont. Was the Lamont dam fairly recently rehabilitated or renovated or worked on, or was that Johnson? Somewhere --

A. That was Johnson.

Q. That was in the mid eighties maybe?

A. Yeah. It was probably about then. Late seventies, mid eighties.

Q. Have there been any rehabilitation construction activities or anything at Lamont at all?

A. The only one was when we built the Johnson-Lamont pipeline, we had to retrofit the outlet in order to accommodate, you know, tying the pipeline directly into the dam.

Q. And so any construction that the company has done or any kind of operation maintenance that the company has done at Lamont Reservoir hasn't encountered any -- or hasn't been impeded or made more difficult by any spring inflows or natural water inputs the company can't control?

A. No. We had to drain -- during that retrofitting in 2005, of course, we had to -- the outlet had to be totally dry, and the headgate had to be open. And that took us two months. I mean, from the -- probably from October until nearly Christmas. And we didn't have any problem with water running out

of there. After the first week or so, you know, when the water filters out of the sides of the hills, but we just put a little canvas dam in front of the inlet. The water came up about that far, and we didn't have any difficulty after that.

Q. When you say that far, you had your fingers about an inch apart?

A. Yeah. It was just a negligible amount.

Q. When you say inlet, you mean canvas dam at the inlet to Lamont?

A. Inlet to the Lamont outlet. In other words, on the inside toe of the Lamont Reservoir. And the other thing is, of course, there is a -- the outlet to the Lamont Reservoir is above the very bottom of the dam, so there's probably a five or six-acre area that never is drained of water.

Q. And has the company ever observed failure of portions of either Lamont or Johnson to freeze in the wintertime?

A. No, not to my knowledge. People do a lot of ice fishing on both of them. I'm not aware of any places where it doesn't freeze. Normally the Lamont freezes over after the Johnson because it's just a larger --

Q. It's bigger?

A. -- body of water. But within a week, why, it's all froze over.

Q. Okay.

A. As far as I can tell. I don't ice fish.

(Exhibit *-5 marked.)

Q. BY MR. WALDERA: I'll hand you what's been marked as Exhibit *-5.

MR. WALDERA: I'll dig out copies for Mr. Harris.

And, Mr. Harris, just so you know, the last page of Exhibit *-5 is actually the place of use of Foster, which I don't have an extra copy of it. Mr. Porter will have a copy of it, but you and I don't. So you can just take a look at that.

MR. HARRIS: Okay. I've seen that one before.

Q. BY MR. WALDERA: Basically, what I've handed -- first of all, let me ask you, Mr. Porter, have you seen the maps that have been marked as Exhibit *-5 before?

A. Yes. I believe I have.

Q. And were these maps prepared by employees of the Department of Water Resources or its predecessor agencies, or were these maps prepared by Preston-Whitney Irrigation Company?

A. I don't know. I assume that they were prepared by the department, but I'm not -- I can't tell you for sure.

Q. Presuming that to be the case that they were prepared by department personnel or predecessor agency personnel, any reason why you would disagree with the information or data contained on the maps?

A. Why I would disagree with it?

Q. Yeah. Basically, does the Preston-Whitney Irrigation Company have anything different or more accurate than these maps?

A. Well, probably this one, the one that you have there, the ID or the --

Q. And just for the record, Mr. Porter is pointing to the map that I have Bates numbered PWID00002.

So, basically, the Preston-Whitney Irrigation Company maps that are part and parcel of its amended transfer application, the company would consider to be the most accurate?

A. Yes.

Q. The maps in and of themselves, if you take a look starting on the first page, you see two primary colors -- well, three. Sorry. One red, one green, one blue. Blue basically outlines reservoir

and Worm Creek. And the red is a place-of-use layout for what is or what was, anyway, permit No. 16174, which has since become water right 13-2108. That's the old Franklin Sugar Company right, the big 216 cfs right, and also the storage component with Glendale Reservoir. So you see a big place of use outlined in red and then kind of a smaller place of use or acres outlined in green within the larger red. Do you see that?

A. Yes.

Q. And my understanding is that the green is former license or permit No. 793, which I'll represent to you is now known as water right 13-2291, which is the Lamont water right, the Lamont storage water right. And so it looks like what the department was doing was at some point took the big Franklin sugar right and mapped out a place of use, and then when Lamont was being built, outlined in green the supplemental acres under Lamont that Lamont would afford.

And if you kind of flip through you see the same idea carries through on the next page. It's just kind of a continuation. And then the department has kind of tried to piece together and do the same thing on one of the last pages. It would be the

second to the third last pages you have before the Foster map, where there's a big kind of place-of-use outline with a number of different colored checkmarks that are a little faded.

There's a key on the left where the department has identified various water rights in green, yellow, red, and blue, kind of trying to construct the company's place of use and put together the patchwork of the individual places of use for the water rights.

And in flipping through all of these and looking at the water rights, understanding that the early water rights, the decreed water rights -- 2, 3, 35, 36, so on -- there was no actual described place of use. We really see kind of a place of use come up first with water right 2104, which if memory serves is the 8,410 acres.

So in kind of trying to piece all of this together and then compare it to the map provided as part of the Preston-Whitney amended transfer, I kind of came up with what I've highlighted in yellow, which are a number of acres that have never shown up on a department map but that do show up on the changed acres map that Preston-Whitney Irrigation Company supplied as PWID0002.

And my question is where do these original acres come from? What water rights serve these original yellow acres?

MR. HARRIS: Let me just interpose an objection. That was a really long question. But in terms of what my client can say in terms of what the department intended with the maps, he obviously can't testify to that.

Assuming that that's why the department did it, Lyle, you can answer it to the best of your knowledge. But I don't think he has knowledge of why the department prepared the map.

MR. WALDERA: Okay.

MR. HARRIS: So with that understanding, go ahead.

THE WITNESS: Yes. I mean, I've looked at these, but I really don't have a way to know exactly what they were doing.

Q. BY MR. WALDERA: Okay. Well, the biggest acreage I've ever seen on any of the water rights where there's actually an acreage or place of use listed was the Preston Sugar Company right 2108 for 13,766 acres. And I've never seen any other Preston-Whitney Irrigation Company right where there is a prescribed place of use exceed that number of

acres as it relates to an actual license from the department. Now, I understand some applications had initial acres but never the license coming from the department.

So in excess of 13,766 acres we now have an amended transfer application for 16,500 plus. So what I'm trying to figure out is to the best of your ability, if you know, where do these additional 3,500 acres or so or -- actually, closer to 3,000 acres -- come from through these different maps?

A. I can only assume that these maps included the storage, you know, service acreage for storage. And at that time there was -- there were additional acres that were irrigated under the original decrees that weren't described.

MR. WALDERA: Okay. I think I'm pretty much done. Although if you wouldn't mind, if we go off the record really quickly.

(A recess was taken from 4:35 p.m. to 4:40 p.m.)

MR. WALDERA: Back on the record. Mr. Porter, I don't have any additional questions. I thank you very much for your time.

I know you've been through a deposition before, and this is something that Mr. Harris can

address with you. You have the opportunity to read and sign your deposition transcript, or you can waive that right. I'm not going to tell you one way or the other how you do that. That's something Mr. Harris can discuss with you while we're on the record.

But, basically, if you decide that you are going to read and sign, if you change any of your answers in a fairly noticeable way or substantive way, where a yes became a no or something like that, I just reserve my right to continue this deposition to follow up and ask you questions for any changes that might occur. With that, I'm all set.

The only thing that I'd ask, Mr. Harris, is if you can make me a copy of that, scanned e-mail is fine, the company bylaw binder. Otherwise, appreciate your time, and thank you very much from driving up from Preston. We can go off the record. Oh, although, if you're going to read and sign?

MR. HARRIS: Can I ask just a couple of follow-up questions?

MR. WALDERA: Sure. Sorry. Didn't mean to --

MR. HARRIS: There was just a couple places I wanted to clarify.

EXAMINATION

BY MR. HARRIS:

Q. Mr. Porter, Mr. Waldera asked you some questions about current prices for some of the Preston-Whitney stock. Do you remember that testimony?

A. Yes.

Q. There was one instance where you said the price -- $1,200 a share was what was paid for those shares?

A. Yes. It was close to -- I understand it was close to that.

Q. Do you remember the circumstances surrounding the sale of those shares?

A. Yeah. An individual that we named, Mr. Rallison, he had made a subdivision out of part of his farm and hadn't provided enough water to satisfy the planning and zoning commission for secondary water. And he was -- he actually had a judgment against him. So he bought five shares or ten shares, whatever he needed to make up that deficiency. And whoever sold him the water was aware of it and took full advantage.

Q. So would you say that that was an unusually high price for shares of stock in

Preston-Whitney at the time?

A. Yeah. I'm not aware of anything else that's approached it.

Q. Mr. Waldera also asked you a number of questions about the middle ditch and the point of diversion at the fill canal or the Glendale canal. Do you remember that testimony?

A. Vaguely.

Q. Are there any points of diversion between those two -- between the middle ditch heading and the Glendale canal heading?

A. No. I don't believe there -- well, there was one that -- it was a group of people who had a right and they had a little ditch that they diverted, and it was between the two. But years ago they divided up their water right and asked Preston-Whitney to divert it at their -- at our point of division deliver it to them, since they were below the fill ditch and below the middle ditch. And so there's no actual physical diversions that I'm aware of in that reach of the river. I believe there's a culinary water diversion, but it's on a spring, you know, tributary to it.

Q. Mr. Waldera also asked you a number of questions about the middle ditch and that it's now

mostly owned and operated by the Cub River Irrigation Company. Do you remember that testimony?

A. Yes.

Q. And I believe the way Mr. Waldera characterized it, and I don't believe it was intentional so I just want to clarify it, that you sold the middle ditch to Cub River. Did the company actually sell for a price the ditch?

A. No. There was no money exchanged. We conveyed it. We conveyed the rights, the ownership of the middle ditch for other considerations. There wasn't a sale.

Q. Okay. Mr. Waldera also asked you a number of questions about some of the natural inputs into the Lamont Reservoir. And I guess in conjunction with that, is the Lamont Reservoir lined?

A. No.

Q. Are any of your reservoirs lined?

A. No.

Q. So no clay or bentonite has been added to the reservoirs?

A. No. In the Glendale Reservoir we have a little area that sometimes will develop little sinkholes, and every ten years or so we put a little clay, but it's just places as big as this table. But

there's no lining of any of our reservoirs per se.
Q. And has the company been able to determine if there's any amount of seepage that's lost in those reservoirs?
A. Yeah. We notice at least shrinkage.
Q. Any idea about how much that would be?
A. Well, if you fill a reservoir full and not use -- for some reason not use any water in the spring or not have any inflows because of other precipitation, sometimes you can lose three, six inches over a period of time. We don't normally see that. But if we have one reservoir, for some reason we're drawing the water from another reservoir, you know, we can see that. But I couldn't tell you how much shrinkage there is.
Q. And last thing, Mr. Waldera asked you some questions about the Lamont Reservoir freezing over. Have you personally observed the reservoir frozen over?
A. Yes.
Q. Have you personally observed the Johnson Reservoir frozen over?
A. Yes.
MR. HARRIS: I don't have any -- oh, I actually do have one more question.

Q. BY MR. HARRIS: We've talked a little bit about the bylaws. There's a map and a land list, and I just want to clarify something that maybe I'd even confused. Exhibit A on your bylaws is a land list. Do you know where the information came that generated that land list?
A. Yes. We -- we made this land list from the -- you know, the information that the department had attached to those water rights that describes the land list. So we just melded them all together to make this.
Q. Does this land list comport with the numbers that are over here, or are they -- I'm sorry. When I say over here, I mean on Exhibit B -- or are they different?
A. They're different.
Q. And so could you explain again what the purpose was for Exhibit B?
A. Exhibit B was when we were beginning to -- Mr. Foster, who was our attorney at that time, recommended that we revise, update our bylaws since they -- things had changed over the years. And he suggested that we include in the bylaws a description of our water rights and our service areas to formalize it.

And at that time -- at that time the legislature had passed whichever law it was that grandfathered in the service area that had been added to original water rights. And everybody expected within a few years that -- the Snake River adjudication was just underway good, and everybody expected, including the department, predicted Bear River basin would be adjudicated shortly. So he said if you will just do a real good search as good as you can of your actual areas that are used, that had been used pre-1980, which would give you enough time before what their date that they had grandfathered in, then that will come in -- that will come in well when Bear River is adjudicated.
Q. In looking at this map I notice there's kind of a blank area about right in the middle. Is that the City of Preston?
A. That's the City of Preston.
Q. I believe your testimony was that the City of Preston is a shareholder in the company?
A. Yes.
Q. Can you explain why those quarter quarters were all left blank?
A. At that point Preston City was only using some water for their parks, and so their shares

that they bought they were holding in reserve. So they weren't -- now they have an intention of someday making a secondary water system, so they're holding it in reserve for a possible secondary water system. But that was all -- wasn't even thought of at the time, so since we weren't delivering water to those sections of town, we just didn't include them.
Q. Is there any way you could have calculated acres within the city limits of the City of Preston?
A. No. We couldn't, because when we calculated these acres, we took in this -- maps over here, we took the large maps, photo maps that the county had, and then we took the smaller maps from the FSA that showed acres that were -- you know, all the different fields are actual acres. They actually measured them for the Farm Services process. So we went through and as best we could tried to decide how many acres were farmed and irrigated in each of those quarter quarter sections. And, of course, they didn't have any information on the -- those parts of Preston City.
Q. Was that a difficult undertaking?
A. It took -- it wasn't easy.
Q. Are there any other companies of which

you're aware that undertook some type of similar analysis?
A. None of the ones in our area did.
Q. Okay. I've noticed -- and Mr. Waldera had a map that he highlighted. And if we look at Exhibit *-3, there are some acres that are listed around Glendale Reservoir and above Glendale Reservoir, correct?
A. Yes.
Q. But also on the map that we submitted with the transfer, there are some acres that are identified that are further up the Glendale canal. Are you familiar with those acres?
A. Yes.
Q. Is there a reason why they weren't included on this Exhibit B map?
A. At the time all the water users there just used contract water. And, you know, discussing it and everything we just decided not to include those because they weren't regular -- it wasn't regular water shares.
Q. Have they always had water delivered to them pursuant to their contracts?
A. Yes.
Q. And so by adding those acres to the

transfer, does the company purport to add new acres that have never been irrigated before?
A. No. No. These were irrigated ever since the 1880s.
Q. Okay. Mr. Waldera also walked you through some changes, I believe, down here in Section 3 of Township 16 South, Range 39 East, and then some acres have been removed up right where the middle ditch comes out of the Cub River canyon. Do you recall that testimony?
A. Yes.
Q. Other than that change, during your tenure has the service area or irrigated acres of the company changed?
A. Not during my tenure. But I know just before I was there, there was another exchange that was made with Cub River in this area.
Q. When you say this area, you're talking kind of at the mouth of the Cub River canyon?
A. Yes.
Q. Do you know approximately how many acres was involved in that?
A. Oh, there was probably -- oh, there was probably -- there could have been up to 150 acres. It's actually right in the area where the protestants

or the Chadwick place is.
Q. So did it involve the Chadwicks to the best of your knowledge?
A. Well, the City of Preston wanted -- they took some of their Preston-Whitney shares and made an exchange. It was kind of a three-way exchange with Cub River Irrigation so they could use some of Cub River's water right, which was the senior water right. And the City of Preston's diversion for their culinary water, domestic water, is clear up at the head of Cub River.
So they traded some Cub River service area, in other words, they traded their Preston-Whitney stock for some Cub River stock, and we had to add that to our service area in exchange for them being able to divert some additional water for their culinary use. And that was back in -- it wasn't too long after the Foster Reservoir was built.
Q. Okay. Mr. Waldera asked you a number of questions about the pipelines that have been put in the Preston-Whitney service area. Do you recall that testimony?
A. Yes.
Q. Did the Department of Water Resources ever indicate to you that you needed their

authorization to install the pipelines?
A. No.
Q. Are you aware of any filing requirement that the department might have had to install a pipeline?
A. No.
Q. Did you ever receive a cease and desist order from the department by installing the pipelines?
A. No.
Q. Now, I believe your testimony before about Larsen Springs involved, I believe it's called the east side culinary company?
A. Preston east side.
Q. Are you actually a beneficiary of that company?
A. Yes. I drink and bath and everything with that water.
Q. From those springs?
A. Uh-huh.
Q. Do you farm in the Preston area?
A. Yes.
Q. Is your farm close to Worm Creek?
A. Yes.
Q. Have you physically observed flows in

Worm Creek over the years?
A. Actually, a portion of my farm is irrigated from Worm Creek. I have a right, one of the earliest rights in Worm Creek, so I watch it all the time.
Q. Since the 1960s have the flows in the creek dropped?
A. Yes.
Q. Do you have any idea or thought as to why they've decreased?
A. Well, where I am they've decreased, I think, because of the increased sprinkler irrigation, so there's not as many return flows. But I'm fairly -- I'm not that far below the Glendale dam, so there's -- at this point I haven't been affected greatly by it.
MR. HARRIS: I don't have any further questions. Thanks.

FURTHER EXAMINATION
BY MR. WALDERA:
Q. Just a couple follow-up. Mr. Harris asked you about the conveyance of the middle ditch to the Cub River Irrigation Company and whether it was a sale or not, and you said there wasn't any monetary

exchange. What was the consideration between the two entities?
A. The consideration was that they would continue to deliver water to those remaining contract water users and our stockholders there at no cost to us. And the other one was -- the thing that probably sealed the deal was they offered to wheel or take some water through their Idaho pipeline to our five stockholders in Fairview.
Q. And another question Mr. Harris asked you about the -- you referred to as the shrinkage in the reservoir, three to six inches loss over a period of time. Has the company ever actually tried to measure this? I guess where does the three to six inches come from?
A. That's just what our watermaster just reports to us.
Q. What is he using to gauge that?
A. He just looks at the gauge on the side of the dam, you know, that says, oh, we lost -- we didn't turn any water out, and it still dropped two inches or three inches or something. So it's not a formal --
MR. WALDERA: All right. I don't have any questions. I'll leave it up to you whether you want

to read and sign.
MR. HARRIS: Yes. I think we'll read and sign.
(The deposition concluded at 4:58 p.m.)
-ooOoo-

, 2010, consisting of pages numbered 1 to 225; that

Attorneys for Protestants Eldon and Mary Ann Golightly, individually and as Trustees of E & M Trust; Grant Chadwick, Trustee of the Chadwick Trust; Bert and Laura Wheatley, Seth and Beth Wheatley, and Wheatley Properties, LLC

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BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF TRANSFER NO. 75705 IN THE NAME OF PRESTON-WHITNEY IRRIGATION CO.	**NOTICE OF RULE 30(b)(6) DEPOSITION OF THE PRESTON-WHINEY IRRIGATION COMPANY**

PLEASE TAKE NOTICE that Protestants Eldon and Mary Ann Golightly, individually and as Trustees of E & M Trust; Grant Chadwick, Trustee of the Chadwick Trust; Bert and Laura Wheatley, Seth and Beth Wheatley, and Wheatley Properties, LLC, hereby notice, pursuant to Idaho Rule of Civil Procedure 30(b)(6), a deposition of the **Preston-Whitney Irrigation Company** before an officer authorized to administer oaths on **Monday, November 22, 2010**, at **10:00 a.m.**, and continuing thereafter from day to day until completed, at

Exhibit No. 1
Date: 11-22-10
Porter
T&T REPORTING

the offices of **Robert L. Harris, Holden Kidwell Hahn & Crapo, 1000 Riverwalk Drive, Suite 200, Idaho Falls, Idaho 83402,** at which time and place you are notified to appear and take such part in the examination as you may deem proper.

Pursuant to Idaho Rule of Civil Procedure 30(b)(6), Preston-Whitney Irrigation Company ("Company") has a duty to designate one or more knowledgeable representatives to testify on its behalf at this deposition regarding the origins and history of the Company; the origins and history of the Company's water rights; the location, development, and evolution of the Company's irrigation Place of Use (service area); the location, composition, construction/installation, operations, and maintenance of the Company's irrigation works/infrastructure (including reservoirs and storage space); and the nature and scope of, and purpose(s) for, the Company's pending Application for Transfer No. 75705.

This deposition shall take place pursuant to the Idaho Rules of Civil Procedure.

DATED this 9th day of November, 2010.

MOFFATT, THOMAS, BARRETT, ROCK & FIELDS, CHARTERED

By _____
Andrew J. Waldera – Of the Firm
Attorneys for Protestants
Eldon and Mary Ann Golightly, individually and as Trustees of E & M Trust; Grant Chadwick, Trustee of the Chadwick Trust; Bert and Laura Wheatley, Seth and Beth Wheatley, and Wheatley Properties, LLC

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 9th day of November, 2010, I caused a true and correct copy of the foregoing **NOTICE OF RULE 30(b)(6) DEPOSITION OF THE PRESTON-WHINEY IRRIGATION COMPANY** to be served by the method indicated below, and addressed to the following:

Robert Harris
HOLDEN KIDWELL HAHN & CRAPO
P.O. Box 50130
Idaho Falls, ID 83405

( ) U.S. Mail, Postage Prepaid
( ) Hand Delivered
( ) Overnight Mail
(X) Facsimile

UNITED STATES DEPARTMENT OF THE INTERIOR
Bureau of Land Management
ATTN: Fredric W. Price
1387 S. Vinnell Way
Boise, ID 83709

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( ) Hand Delivered
( ) Overnight Mail
( ) Facsimile

T & T REPORTING
525 Park Avenue, Suite 1E
Idaho Falls, ID 83402
(208) 529-5491
Fax: (208) 529-5496

(X) U.S. Mail, Postage Prepaid
( ) Hand Delivered
( ) Overnight Mail
( ) Facsimile

Andrew J. Waldera

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NOV 10 2010
DEPARTMENT OF
WATER RESOURCES

Attorneys for Protestants Eldon and Mary Ann Golightly, individually and as Trustees of E & M Trust; Grant Chadwick, Trustee of the Chadwick Trust; Bert and Laura Wheatley, Seth and Beth Wheatley, and Wheatley Properties, LLC

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BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF TRANSFER NO. 75705 IN THE NAME OF PRESTON-WHITNEY IRRIGATION CO.	**NOTICE OF SERVICE OF THE NOTICE OF RULE 30(b)(6) DEPOSITION OF THE PRESTON-WHINEY IRRIGATION COMPANY**

I HEREBY CERTIFY that on this 9th day of November, 2010, I caused a true and correct copy of the **NOTICE OF RULE 30(b)(6) DEPOSITION OF THE PRESTON-WHITNEY IRRIGATION COMPANY** and the foregoing **NOTICE OF SERVICE** to be served by the method indicated below, and addressed to the following:

Robert Harris
HOLDEN KIDWELL HAHN & CRAPO
P.O. Box 50130
Idaho Falls, ID 83405

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( ) Overnight Mail
( ) Facsimile

Andrew J. Waldera

the corporation's manager as to any measurement of water shall be final unless a stockholder provides an accurate measurement by means of a satisfactory device or in some other manner acceptable to such manager at the stockholder's own expense. Each such headgate or other delivery structure shall also be equipped so that the flow of water through it may be controlled and completely stopped, as well as locked.

Section 3. Water Rights.

The water rights of the corporation, whether acquired by appropriation, transfer, purchase, contract or otherwise, presently consist of the following:

List of Water Rights

RIGHT NO.	SOURCE	AMOUNT IN CFS or AF	PRIORITY	PURPOSE
13-00002	Cub River	30.00CFS	04/01/1882	Irrigation
13-00003	Cub River	25.00CFS	04/01/1882	Irrigation
13-00035	Cub River	4.00CFS	04/01/1882	Domestic/Stockwater
13-00036	Cub River	3.00CFS	04/01/1882	Domestic/Stockwater
13-00037	Cub River	2.00CFS	04/01/1882	Domestic/Stockwater
13-00038	Cub River	3.00CFS	04/01/1882	Domestic/Stockwater
13-00143	Springs Tributary to Worm Creek (Larsen Springs)	5.00CFS & 2133.00AF	04/01/1929	Irrigation
13-00271	Worm Creek	50.00CFS & 2000.00AF	05/07/1880	Irrigation
13-02104	Cub River	25.00CFS	03/14/1924	Irrigation
13-02108	Worm Creek	215.00CFS & 6000.00AF	12/15/1924	Storage (Glendale Reservoir) & Irrigation
13-02288	Cub River	6000.00AF	12/15/1924	Storage (Glendale Reservoir) & Irrigation
13-02291	Cub River	2407.50AF	06/30/1947	Storage (Lamont Reservoir) & Irrigation
13-02298	Cub River	3355.00AF	02/11/1957	Storage (Foster Reservoir) & Irrigation

Exhibit No. 2
Date: 11-22-10
Foster
T&T REPORTING

WORM AND CUB RIVER DRAINAGES CREEKS AND LATERALS

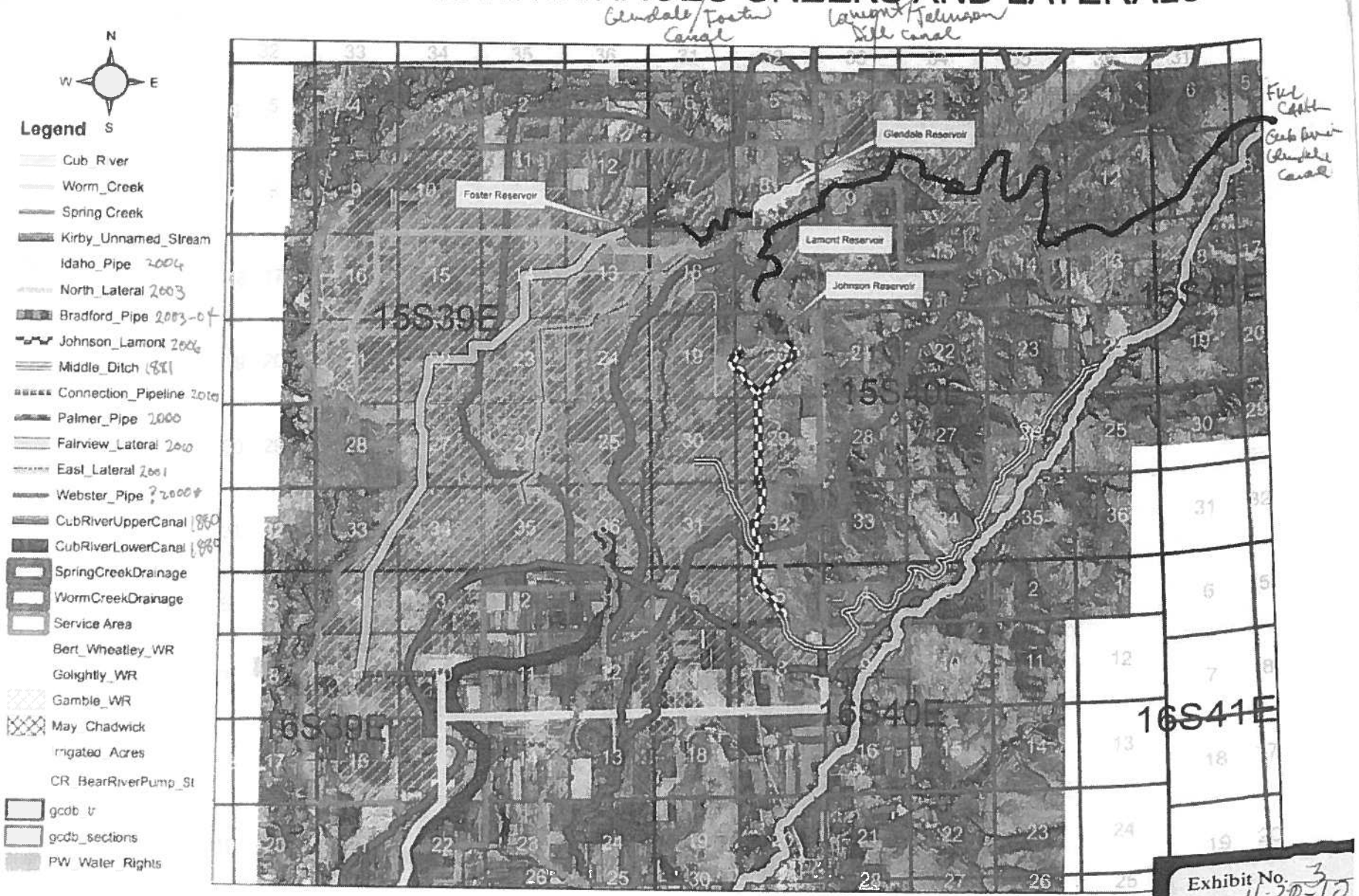


Exhibit F

Exhibit No. 3
Date: 11-22-10
Porter
T&T REPORTING

State of Idaho
DEPARTMENT OF WATER RESOURCES
1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720-9000
Phone: (208) 327-7900 FAX: (208) 327-7866

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

March 31, 1992

Preston-Whitney Irrigation Co.
Carl Swainston, President
942 N. 800 E.
Preston, ID 83263

Re: Cub River storage water diversions
Water right no.s 13-2291, 13-2298 & 13-2302

Dear Mr. Swainston:

The Bear River watermaster has informed the department that the Preston-Whitney Irrigation Co. may have exceeded its Cub River storage water diversion allotment for the current year.

I have reviewed the above Preston-Whitney Cub River storage rights with the Bear River watermaster, Pete Peterson. Mr. Peterson receives diversion data under these rights from the Cub River watermaster. According to the rights in our records, the total annual volume allotted under the three rights is 6,492.5 acre-feet. The diversion data received by Mr. Peterson indicates that the amount of water diverted from the Cub River under these rights during the current non-irrigation season is significantly greater than 6,492 acre-feet.

Please be advised that if the storage capacity of the Irrigation Company's reservoirs is greater than 6,492.5 acre-feet, then the Company should file an additional application to divert additional volume from the Cub River. Storage rights from other sources tributary to the same reservoirs do not account for additional diversions from the Cub River.

If you have questions regarding this matter and/or questions regarding the Company's water rights, please contact me directly at 327-7864. I would encourage you to first discuss this matter with both the Bear River and Cub River watermasters.

Respectfully,

Tim Luke
Hydrologist In Training

cc: Region
Pete Peterson, District 11 Watermaster
Conan Foster, District 13-A Watermaster

Exhibit No 4
Date: 11-22-10
Porter
T&T REPORTING

Licensed: Preston-Whitney, 1-17-39
P-16174, L.p. 3909
215 c.f.s. Priority: 11-29

Decreed: Jan. 26, 1906:
Cub River Middle Ditch Co.:
30.0 c.f.s. – 1882
69.9 " – " high water

Cub River & Worm Co. Canal Co.:
25 c.f.s. – 1882
85 " – " high water

FORM M.3503 TOWNSHIP PLAT—6" FORM

Preston-Whitney Irr. Co. [R-793, 2407 a.f.

SCALE: ONE INCH TO ONE MILE

Township 15 S. Range 39 E

T. 15 S.

T. 16

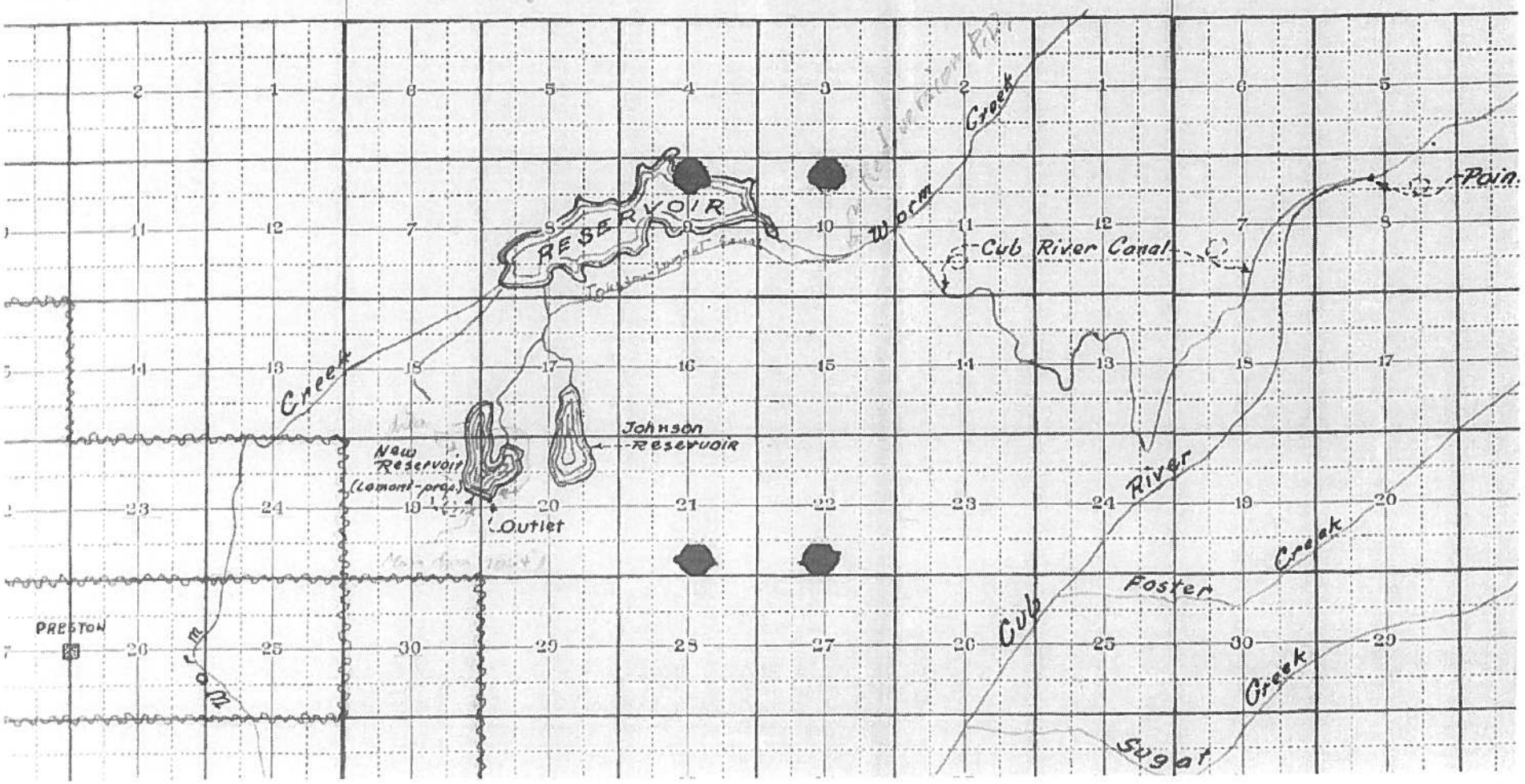
Exhibit No. 5
Date: 11-22-10
Porter
T&T REPORTING

FORM M 3503 TOWNSHIP PLAT—6" FORM

NE MILE

SCALE: ONE INCH TO ONE MILE

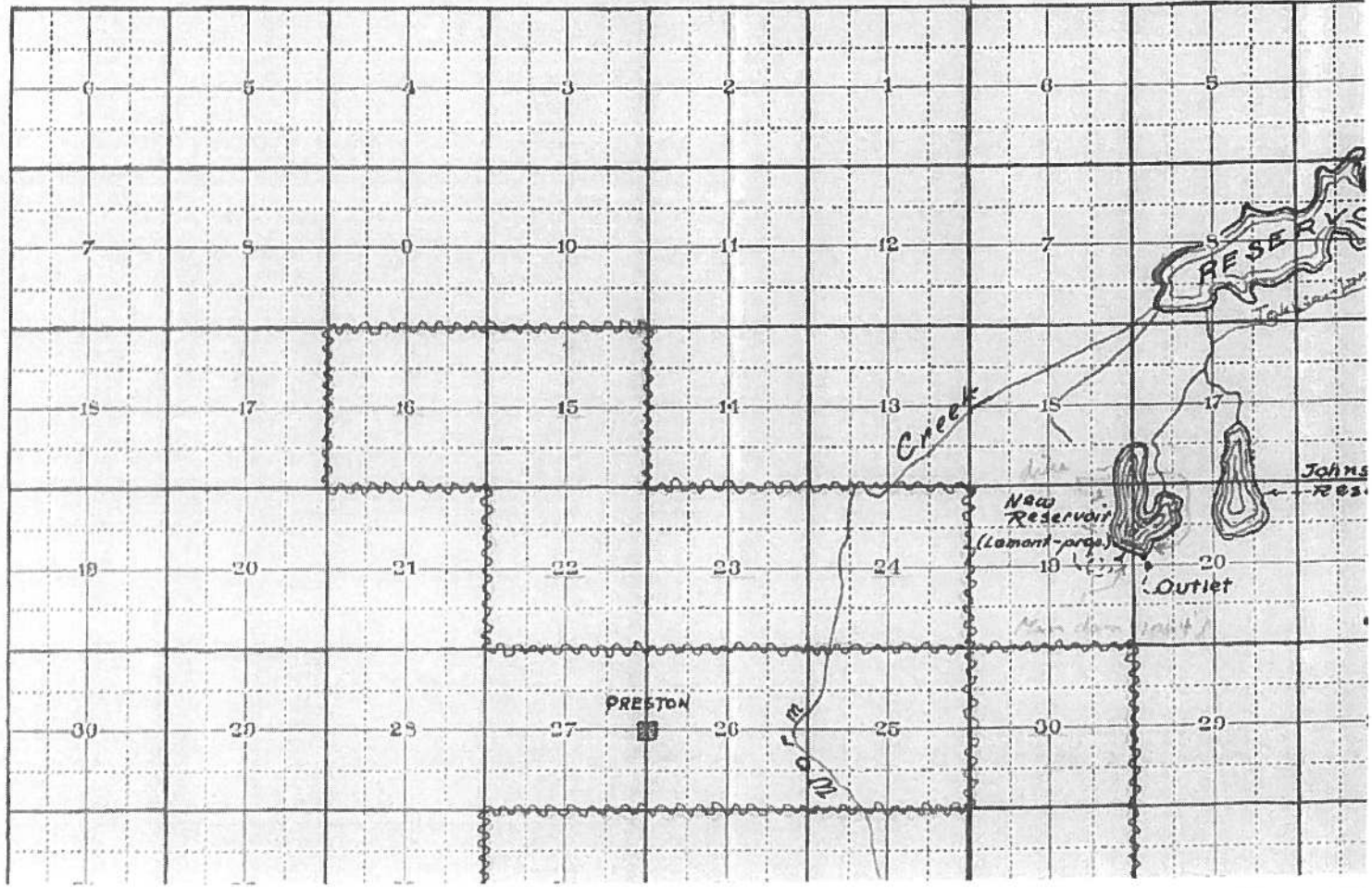
Range 39 E. Township 15 S. Range 40 E. Township 15 S.



FORM M.3503 TOWNSHIP PLAT—6" FORM

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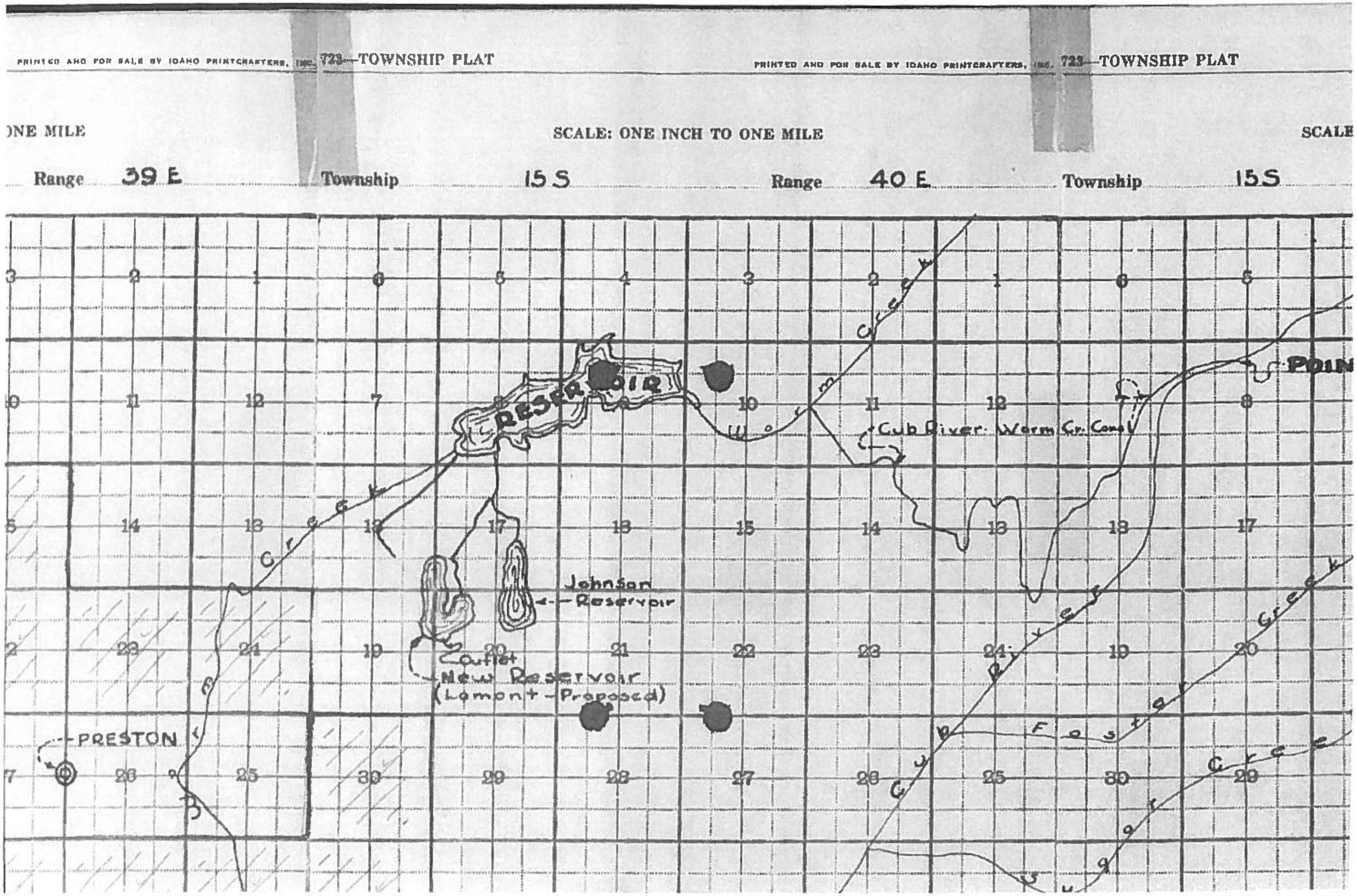
Township 15 S. Range 39 E.



FORM M.3503 TOWNSHIP PLAT—6" FORM

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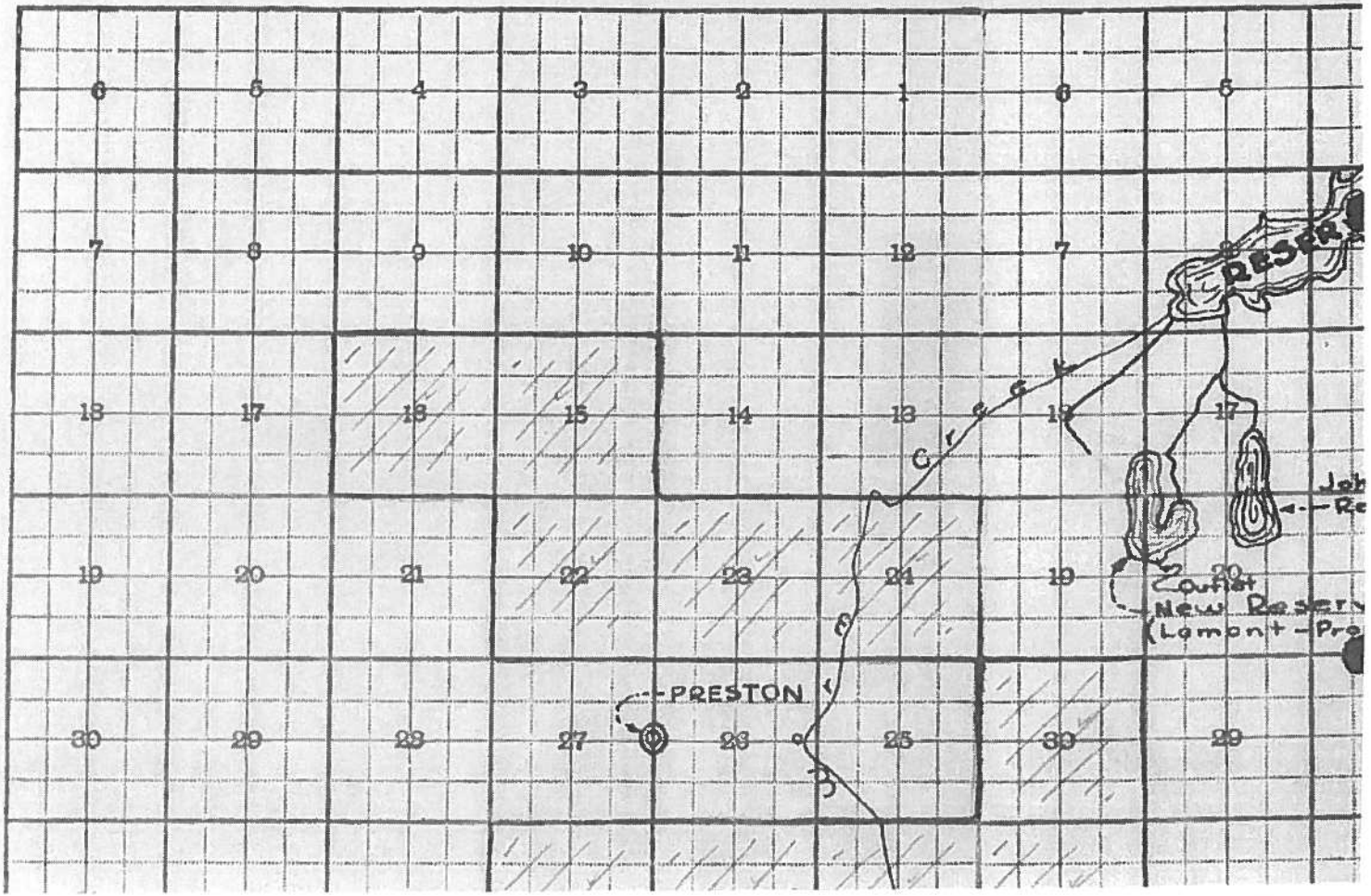
Township 15 S.


PRINTED AND FOR SALE BY IDAHO PRINTCRAFTERS, INC. 723—TOWNSHIP PLAT
ONE MILE
Range 39 E
Township 15 S
PRINTED AND FOR SALE BY IDAHO PRINTCRAFTERS, INC. 723—TOWNSHIP PLAT
SCALE: ONE INCH TO ONE MILE
Range 40 E
Township 15 S
SCALE
RESERVOIR
Worm Creek
Cub River-Worm Cr. Canal
POIN
Creek
Johnson Reservoir
Outlet
New Reservoir (Lamont-Proposed)
PRESTON
Cub River
Foster
Sugar Creek
Creek

723—TOWNSHIP PLAT PRINTED AND FOR SALE BY IDAHO PRINTCRAFTERS, INC. 723—TOWNSHIP PLAT

SCALE: ONE INCH TO ONE MILE SCALE

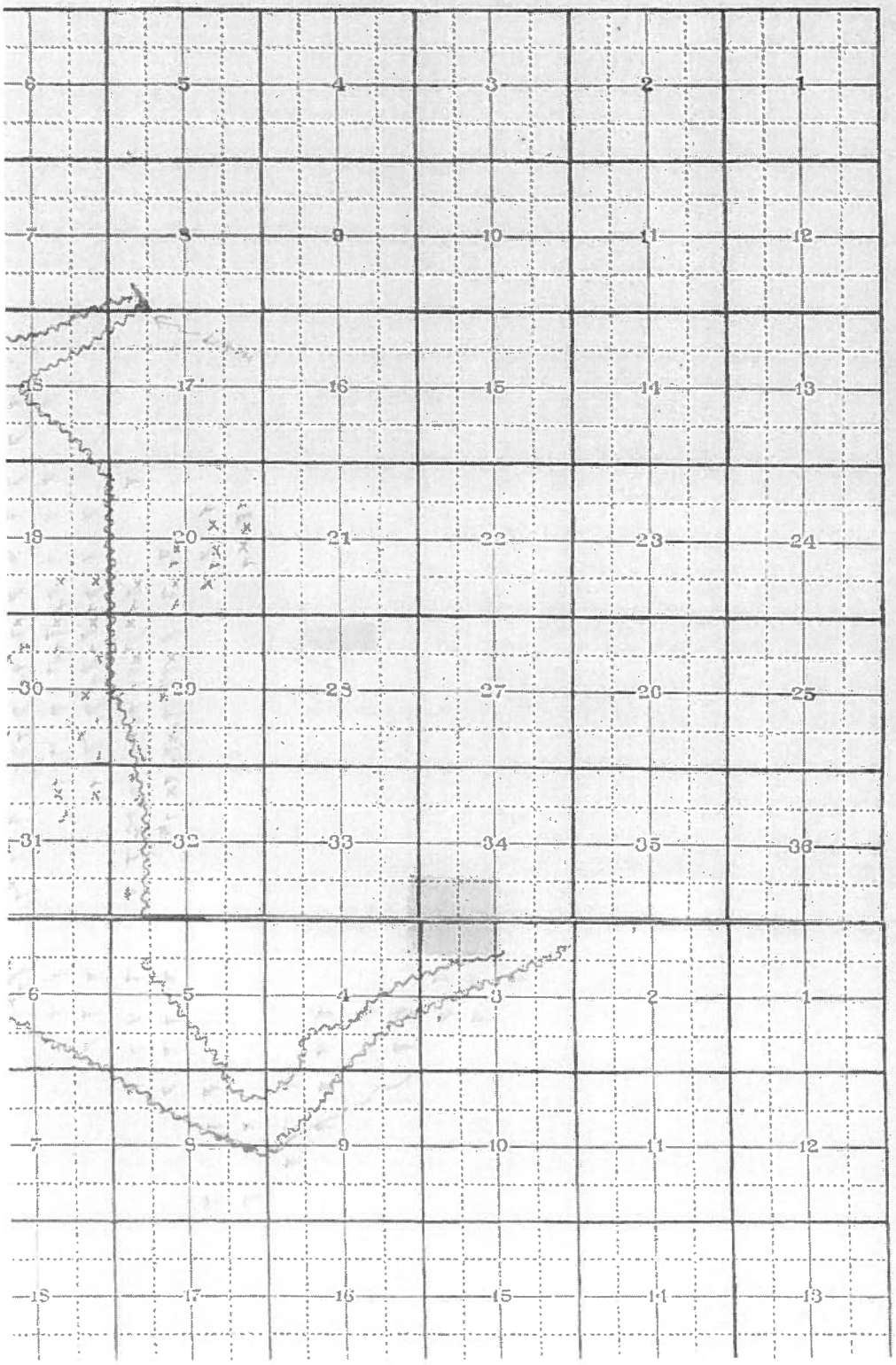
Township 15S Range 39 E Township 15 S



N 3503 TOWNSHIP PLAT—6" FORM

SCALE: ONE INCH TO ONE MILE

Township _____ Range _____



- License
X License
- License
X License

FORM M[redacted] TOWNSHIP PLAT—6" FORM

License 16194 F

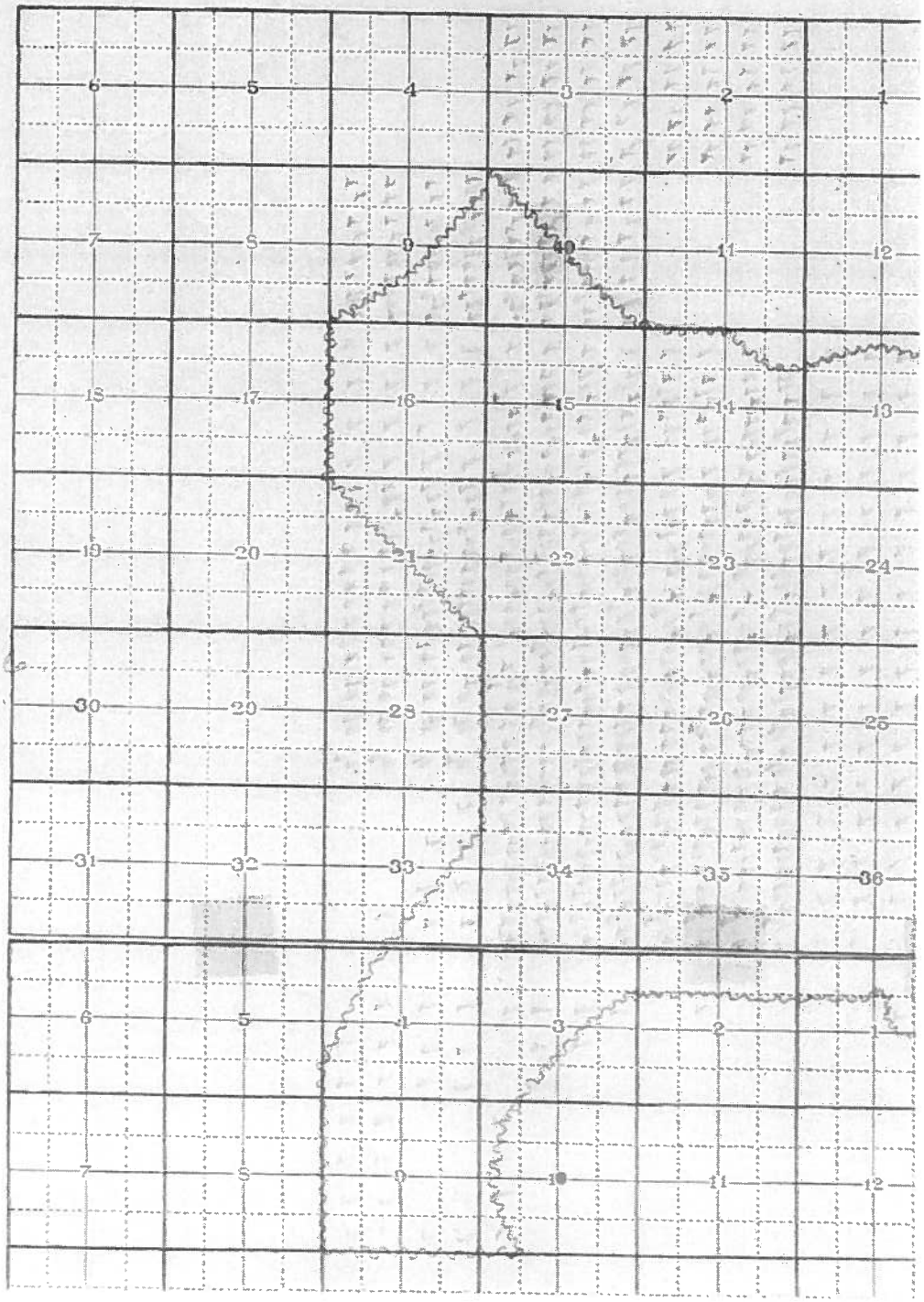
SCALE: ONE INCH TO ONE MILE

Township [illegible] Range [illegible]

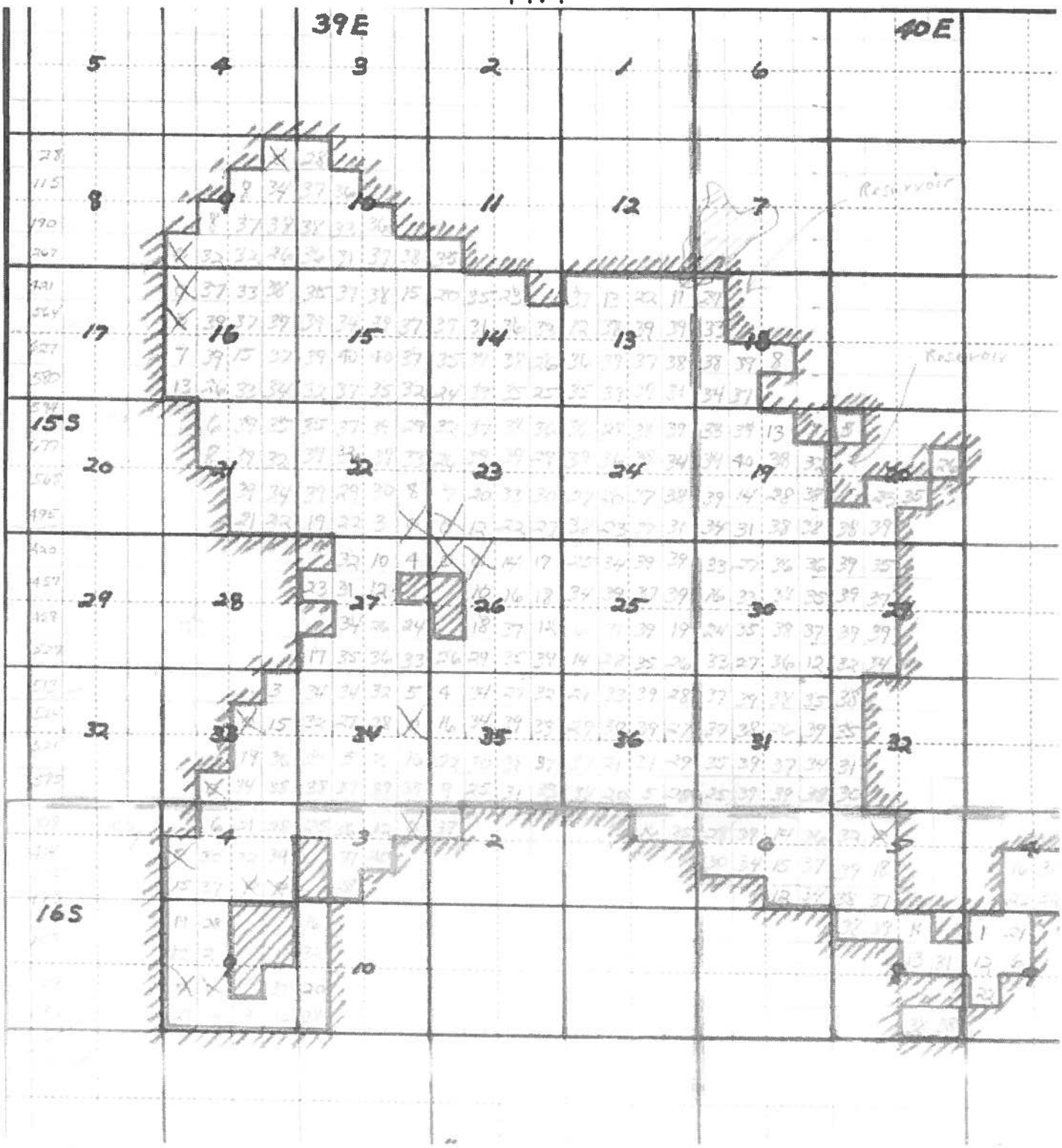
License
Green = 15933
Yellow = 15929
Red = 16174
" = R364
Blue = 15883

Area = 13766

~~~~ = boundary
of Preston-Whitney Surv Co.


~~~~

13-2298 (Foster)
1957



I have read the said deposition and know the contents thereof; that the same are true to my knowledge, or with corrections, if any, as noted.

Page	Line	Should Read	Reason

Lyle W. Porter

Subscribed and sworn to before me this day of 2010, at , Idaho.

(Seal) Notary Public for Idaho
My Commission Expires

REPORTER'S CERTIFICATE

STATE OF IDAHO)
COUNTY OF BONNEVILLE) ss.
)

I, Sandra D. Terrill, CSR, RPR, and Notary Public in and for the State of Idaho, do hereby certify:

That prior to being examined Lyle W. Porter, the witness named in the foregoing deposition, was by me duly sworn to testify to the truth, the whole truth, and nothing but the truth;

That said deposition was taken down by me in shorthand at the time and place therein named and thereafter reduced to typewriting under my direction, and that the foregoing transcript contains a full, true, and verbatim record of said deposition.

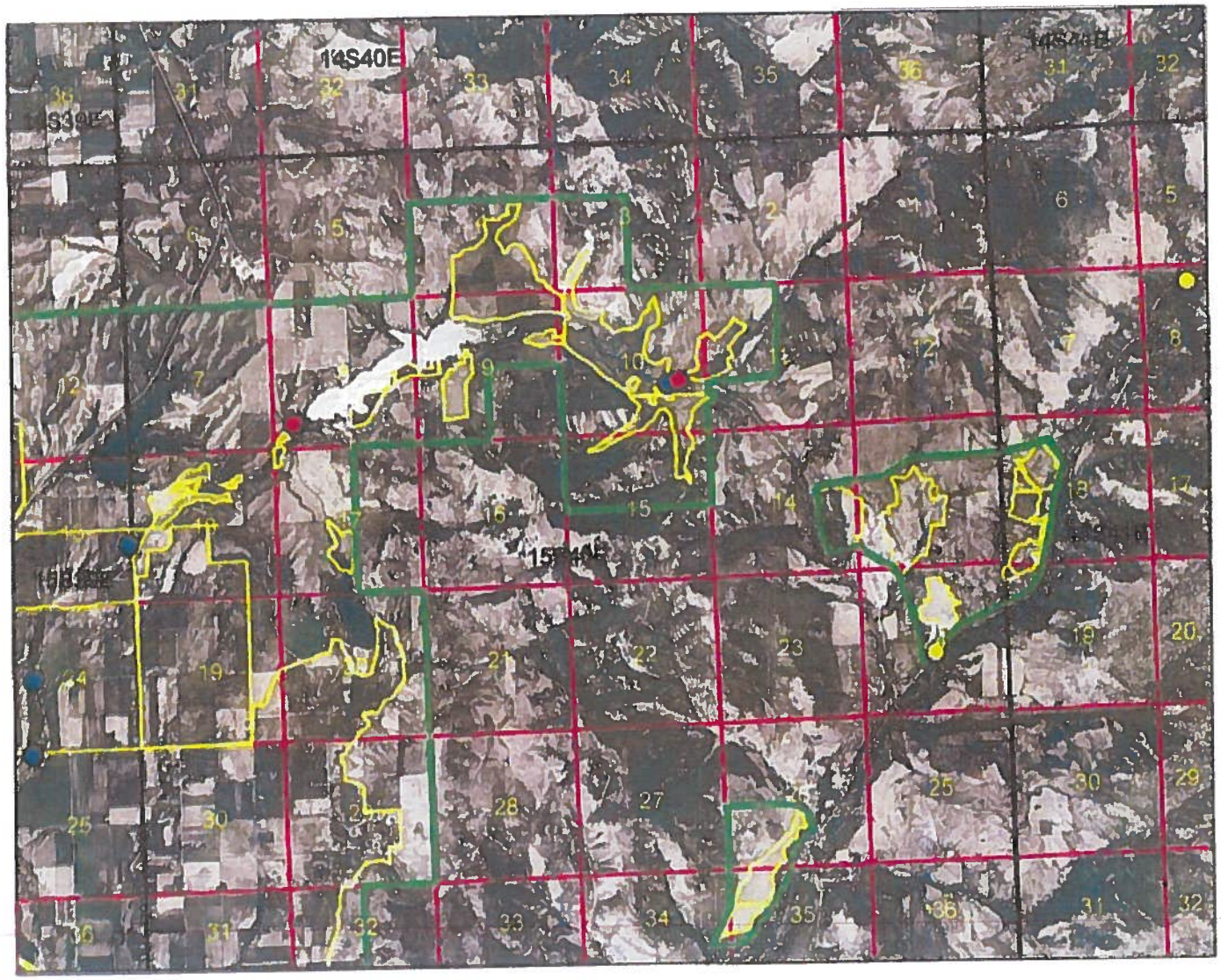
I further certify that I have no interest in the event of the action.

WITNESS my hand and seal this 3rd day of December 2010.

Sandra D. Terrill
Idaho CSR No. 702,
Notary Public in and for
the State of Idaho.

My Commission Expires: 11-10-16

PRESTON-WHITNEY TRANSFER



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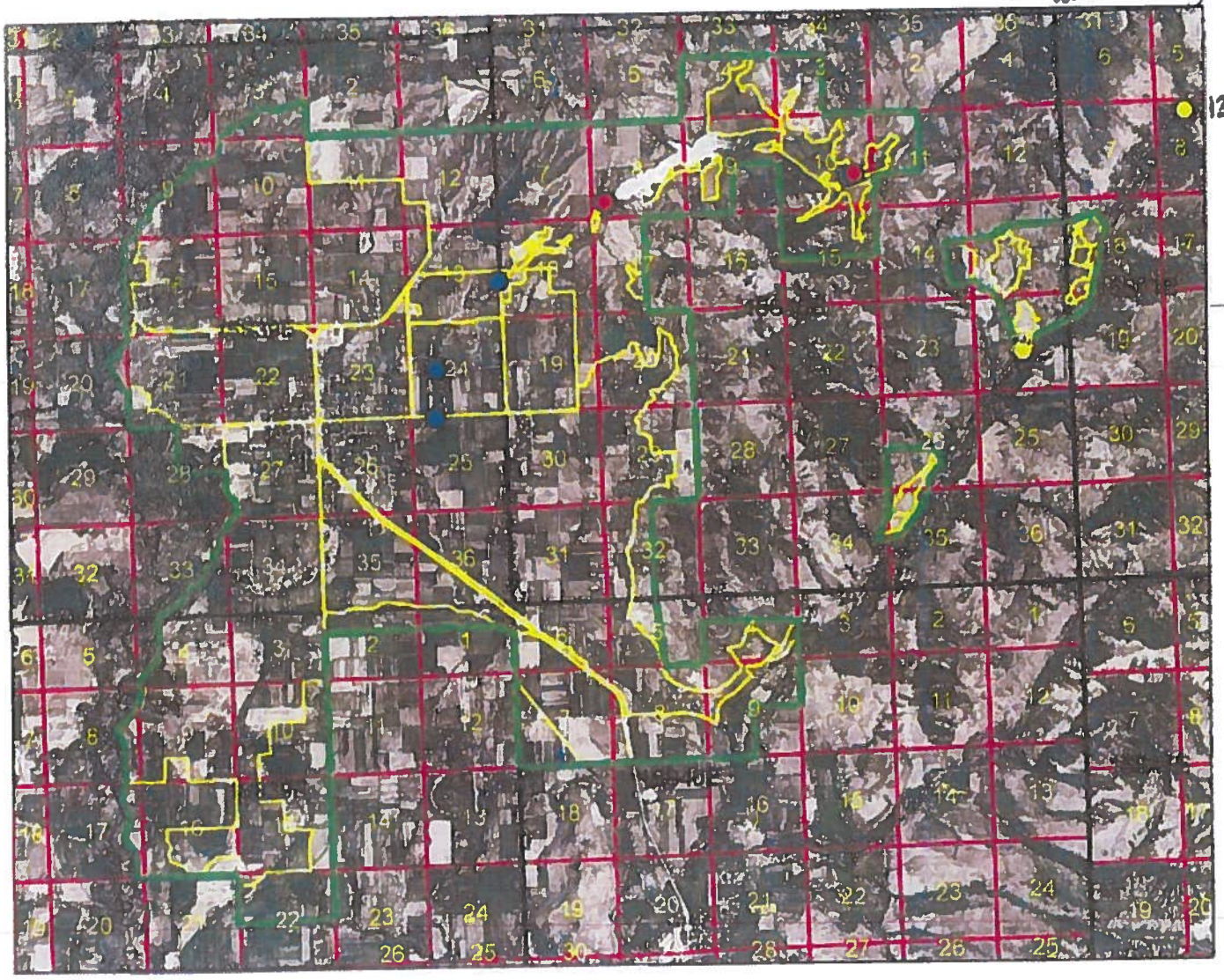
PROT-00294

PRESTON-WHITNEY TRANSFER

13-2104
Upper ditch POD
Transfer seeks to add middle ditch to this right

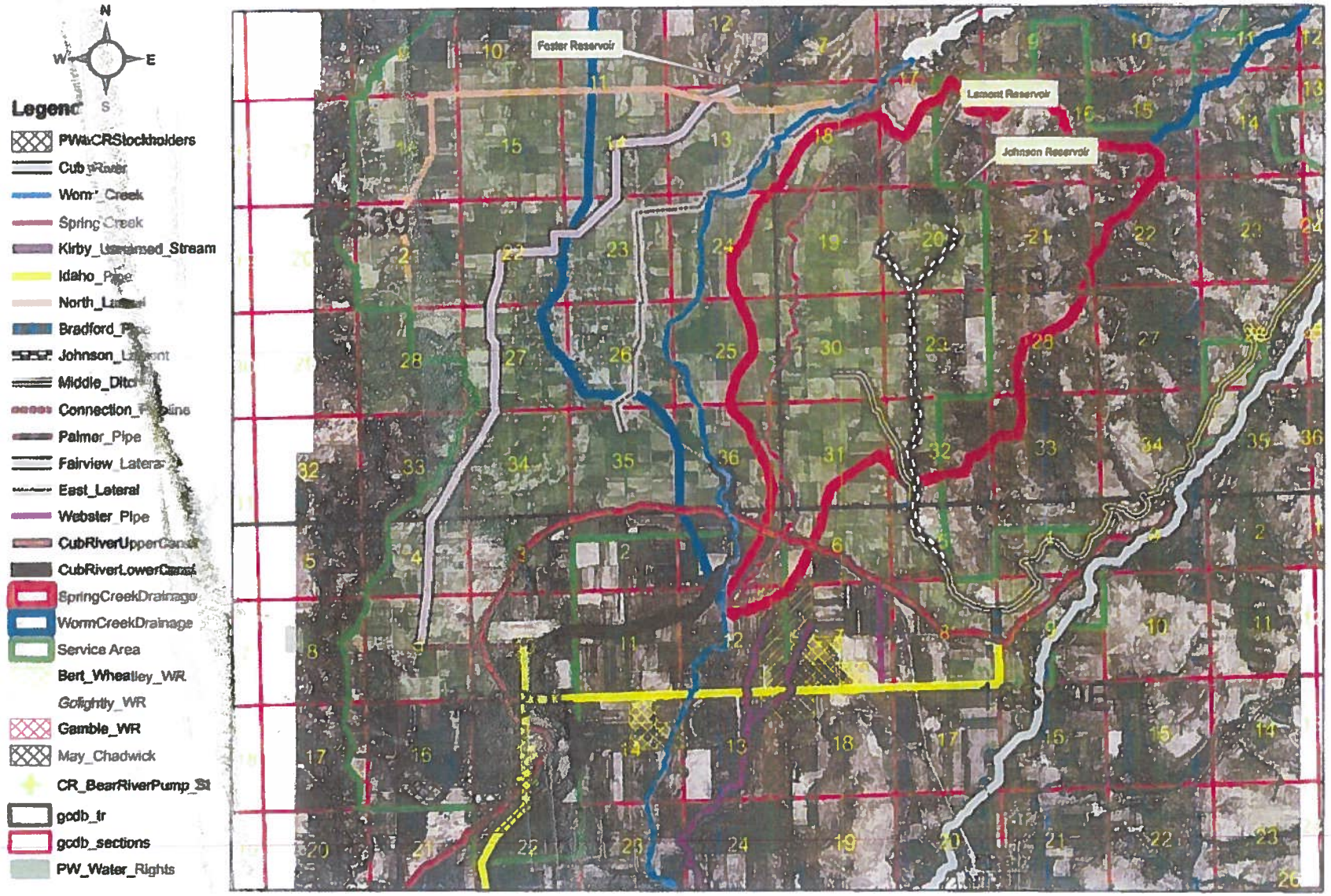
13-3

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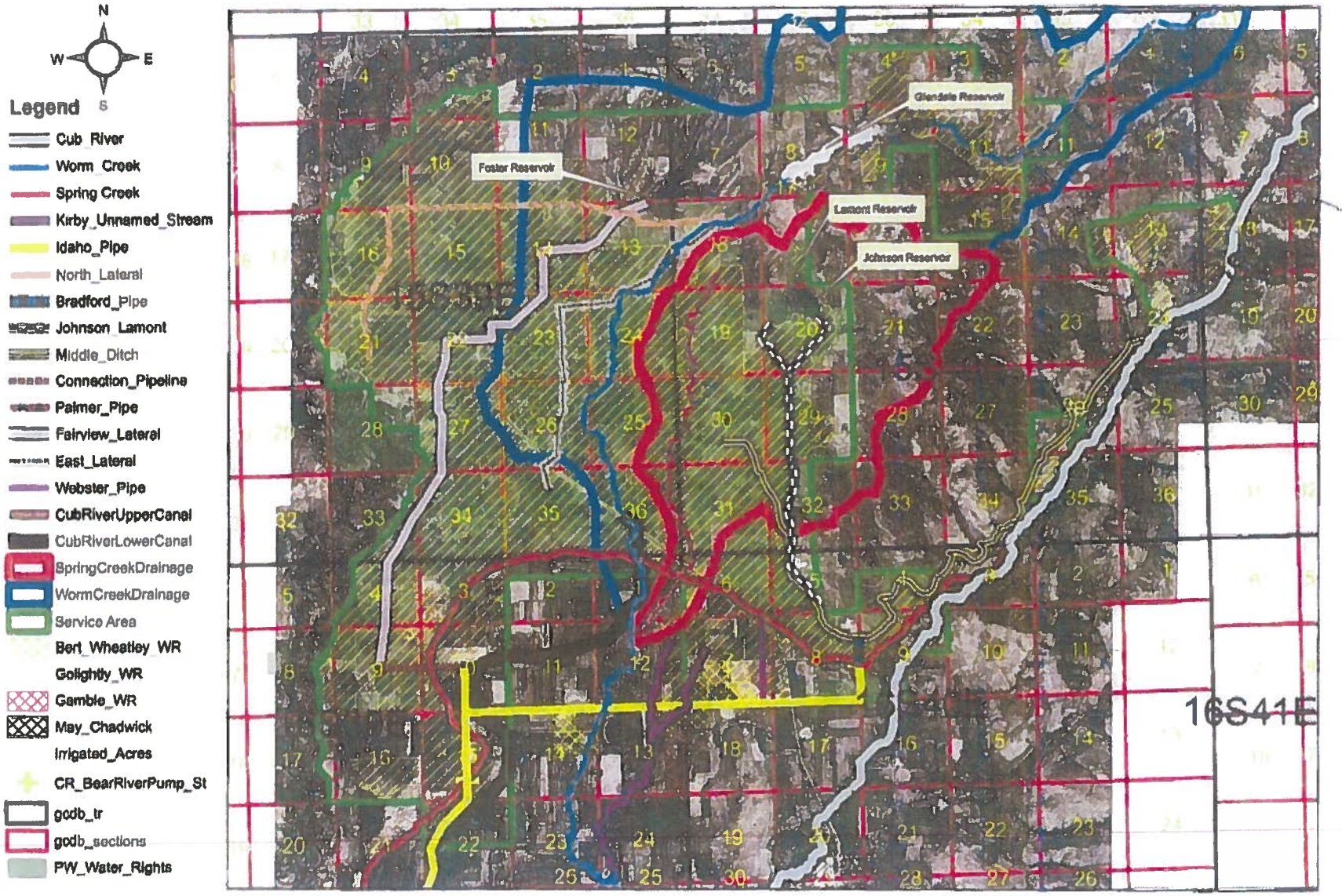
PROT-00295

WORM AND CUB RIVER DRAINAGES CREEKS AND LATERALS



PROT-00296

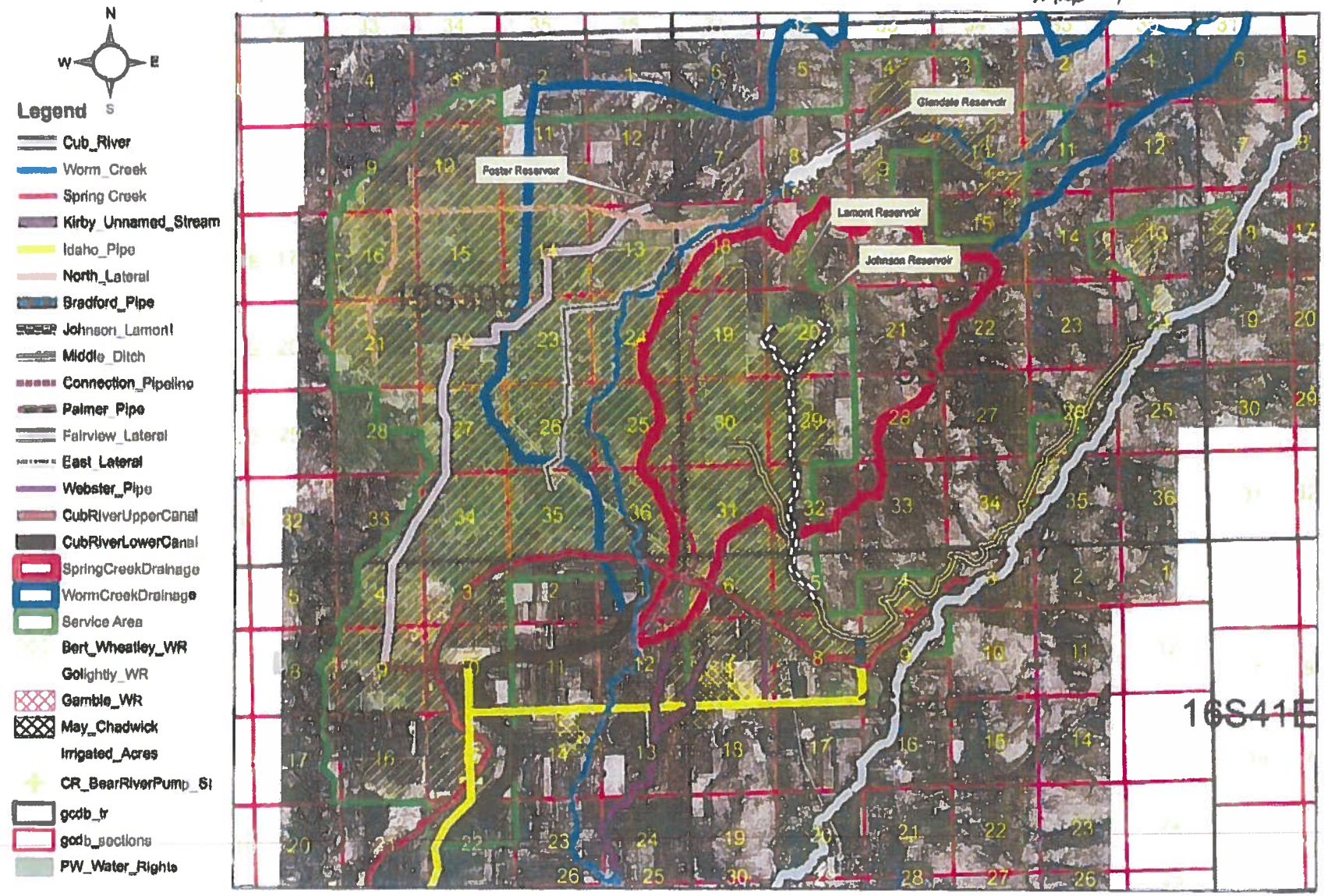
WORM AND CUB RIVER DRAINAGES CREEKS AND LATERALS



PROT-00297

WORM AND CUB RIVER DRAINAGES CREEKS AND LATERALS

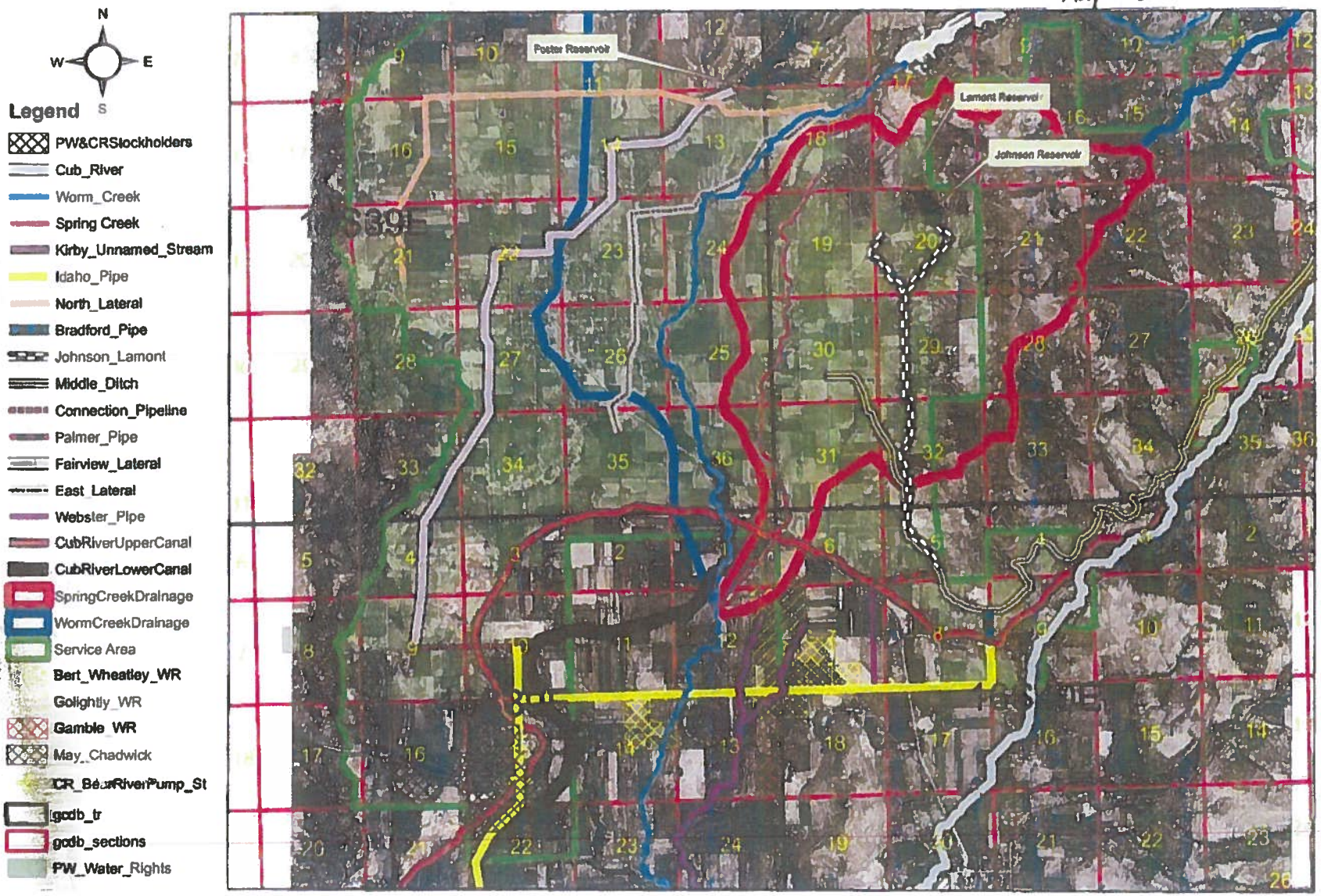
Map #1



PROT-00298

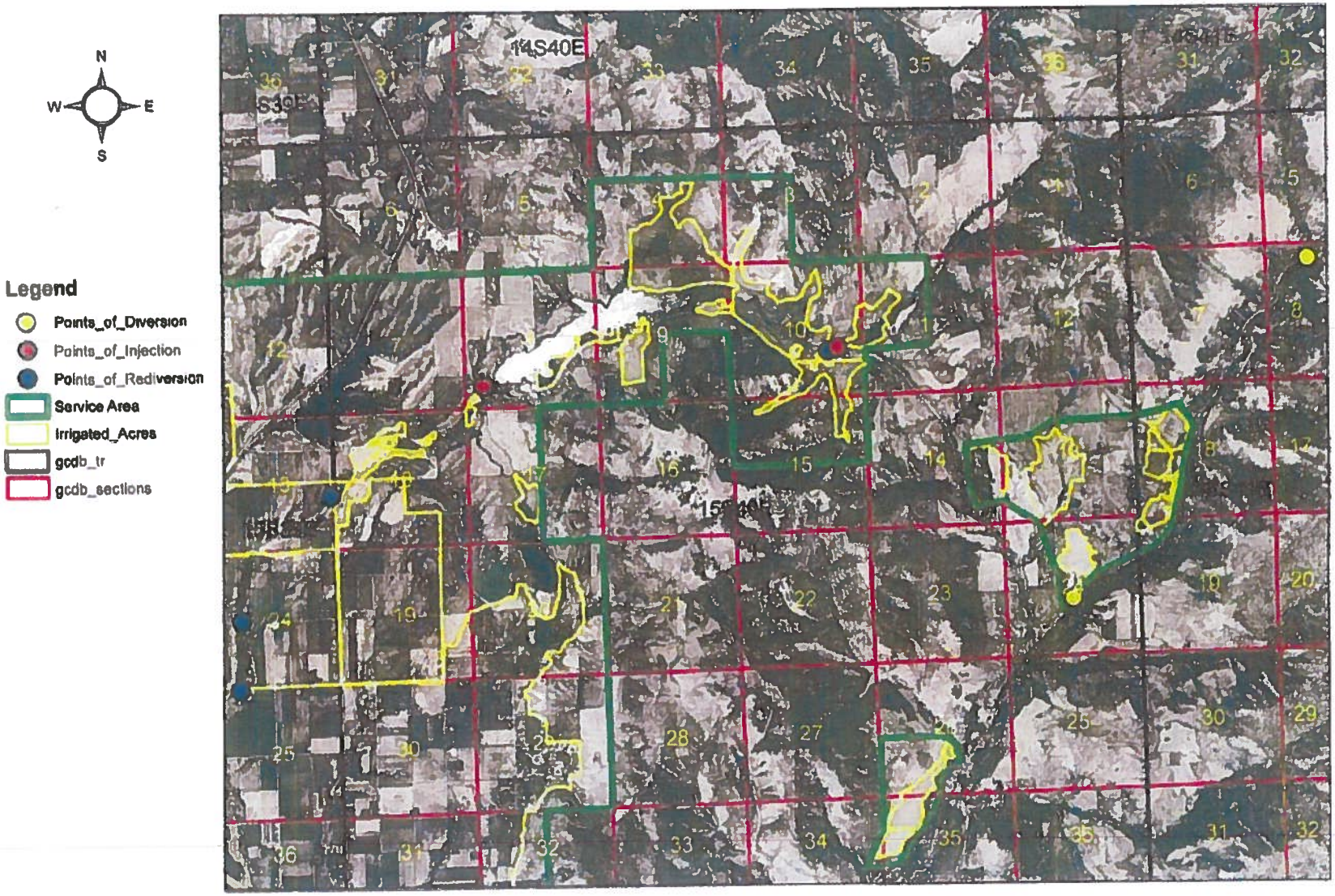
WORM AND CUB RIVER DRAINAGES CREEKS AND LATERALS

Map # 2



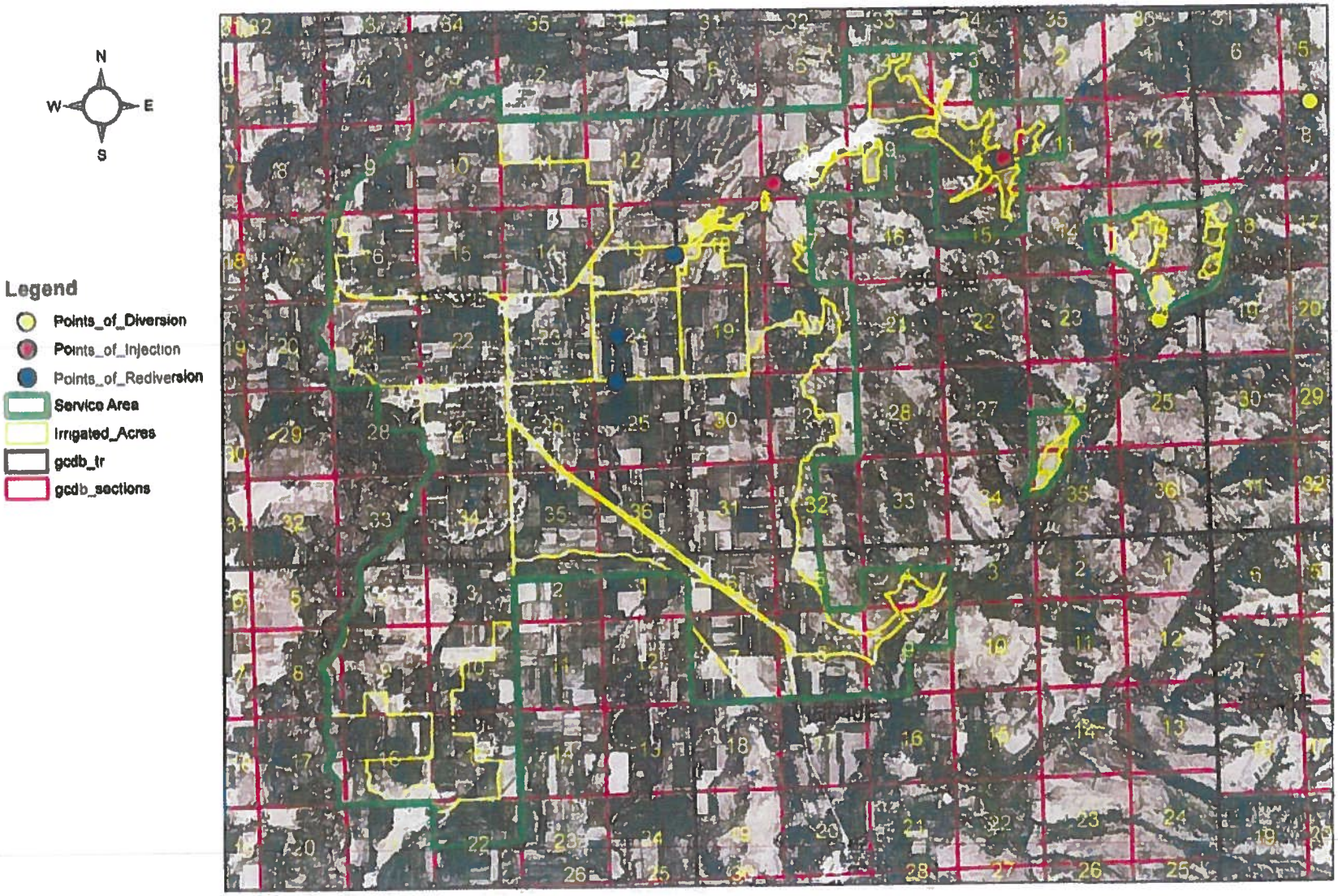
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PRESTON-WHITNEY TRANSFER

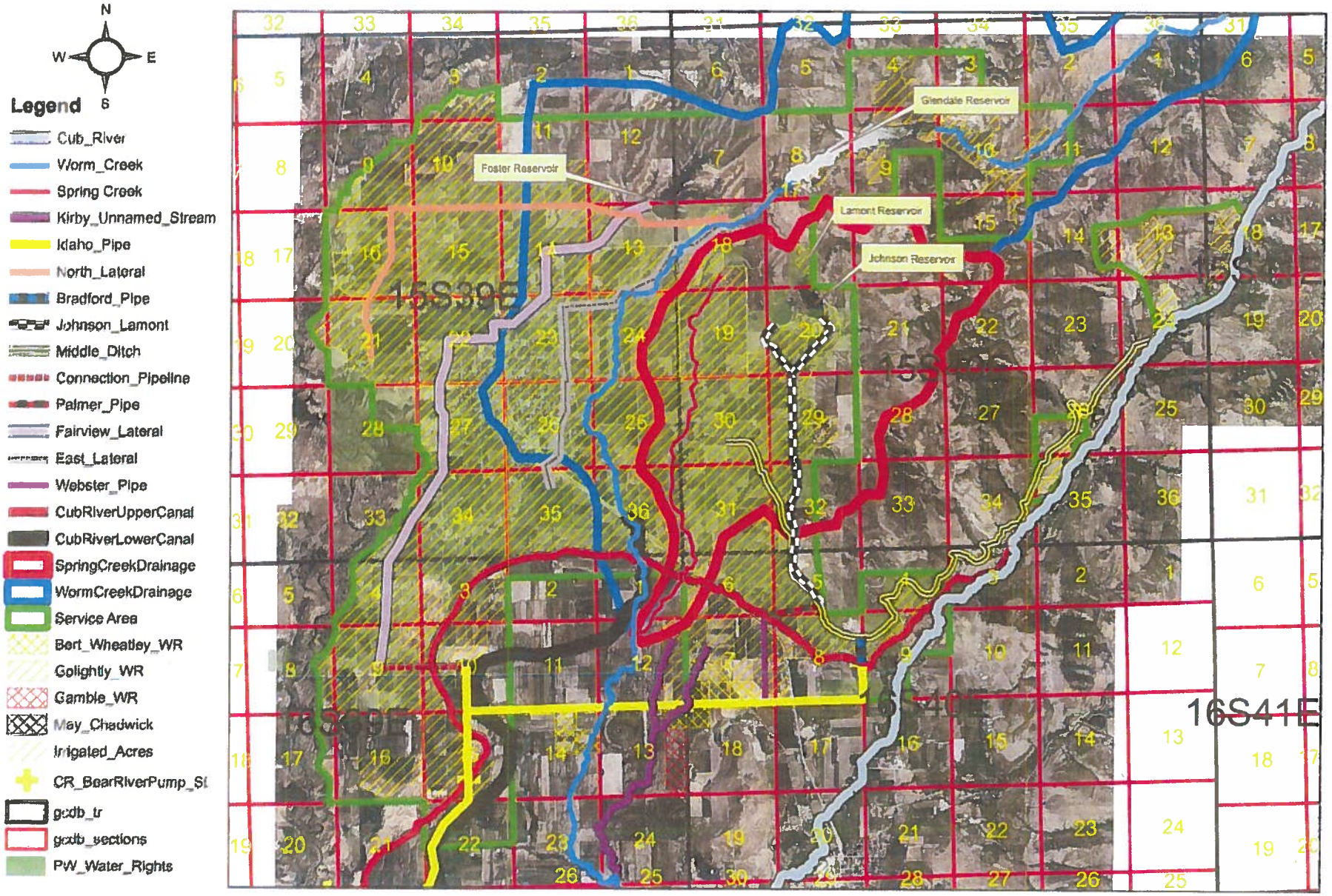


PROT-00300

PRESTON-WHITNEY TRANSFER

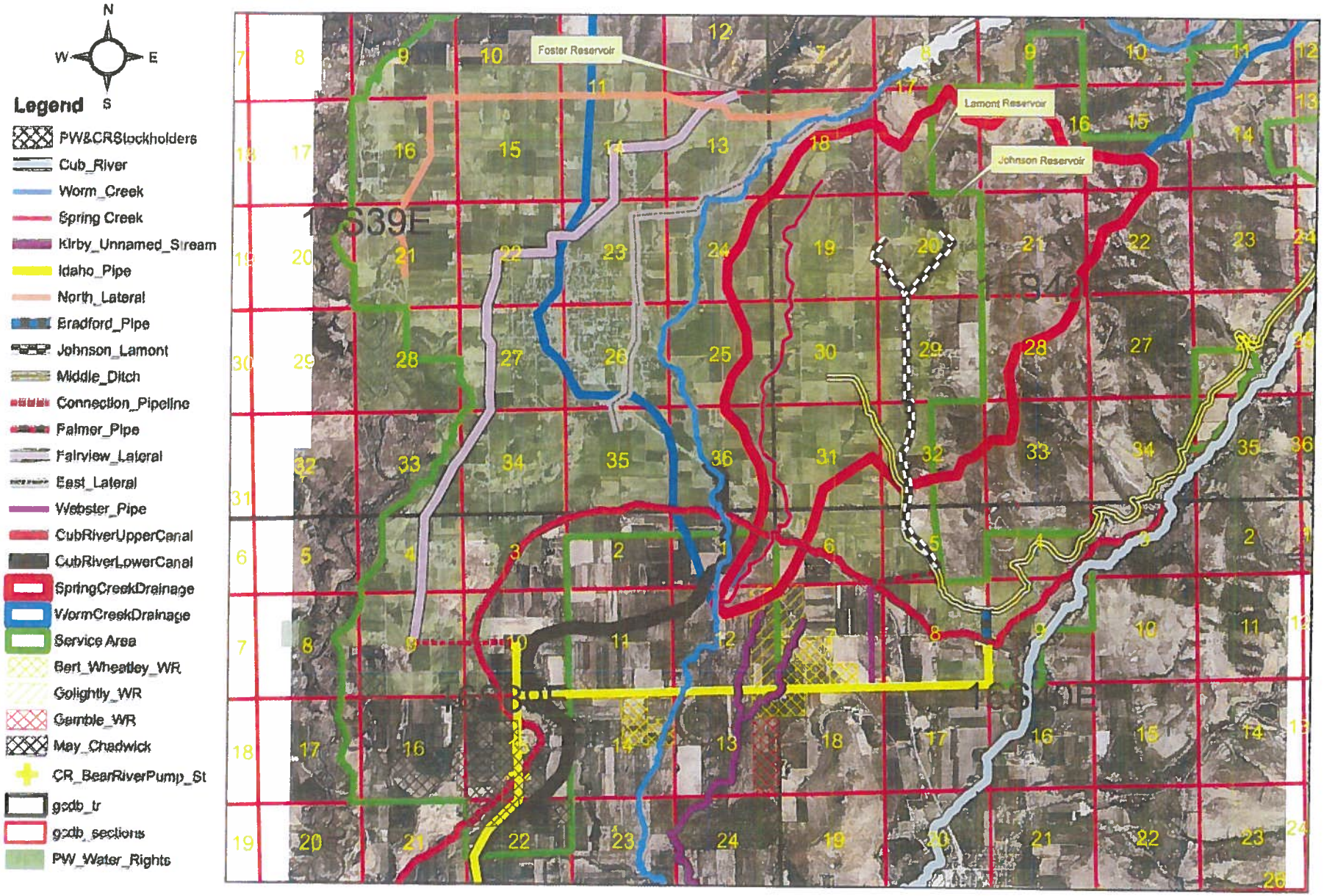


WORM AND CUB RIVER DRAINAGES CREEKS AND LATERALS



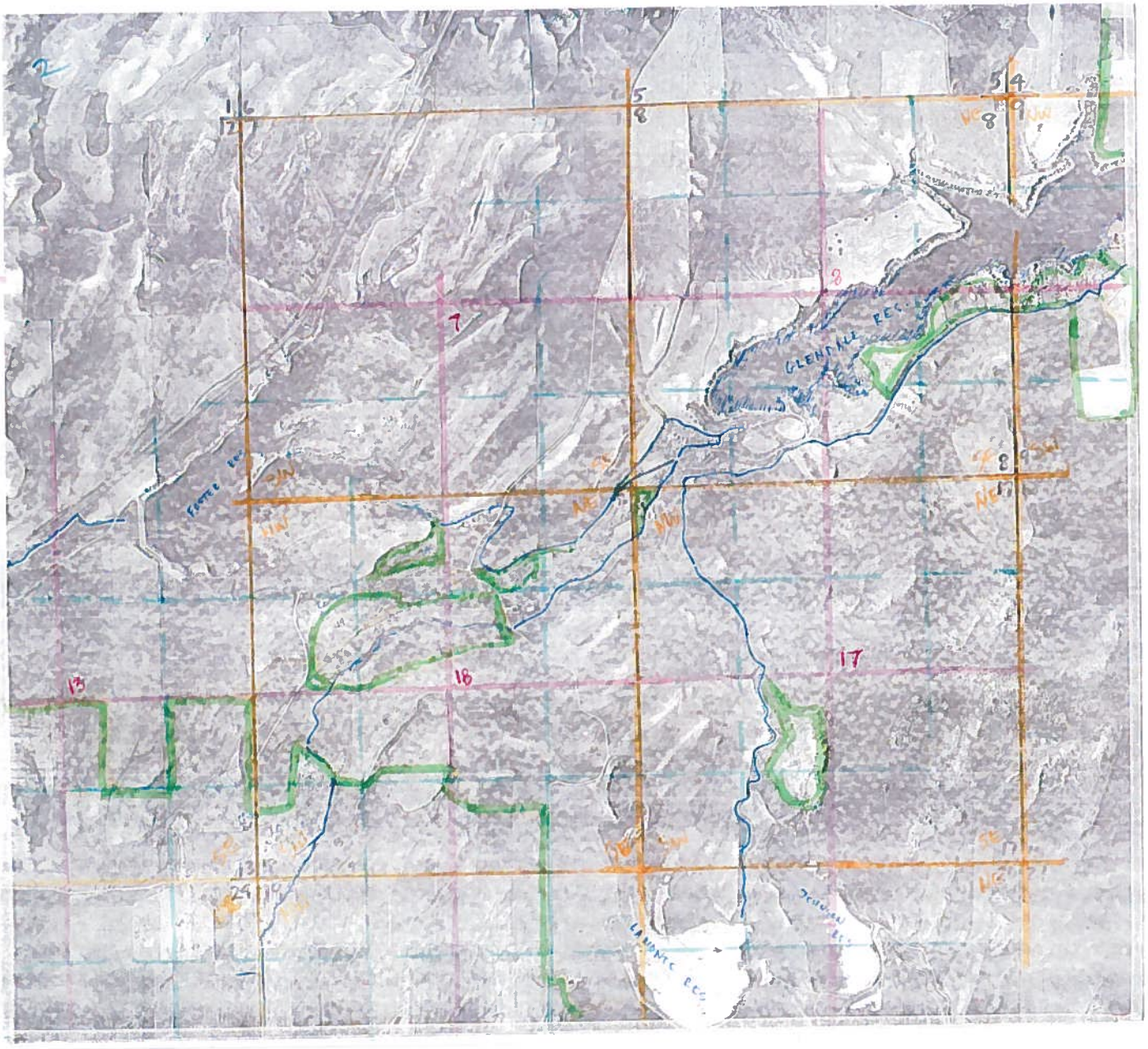
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WORM AND CUB RIVER DRAINAGES CREEKS AND LATERALS



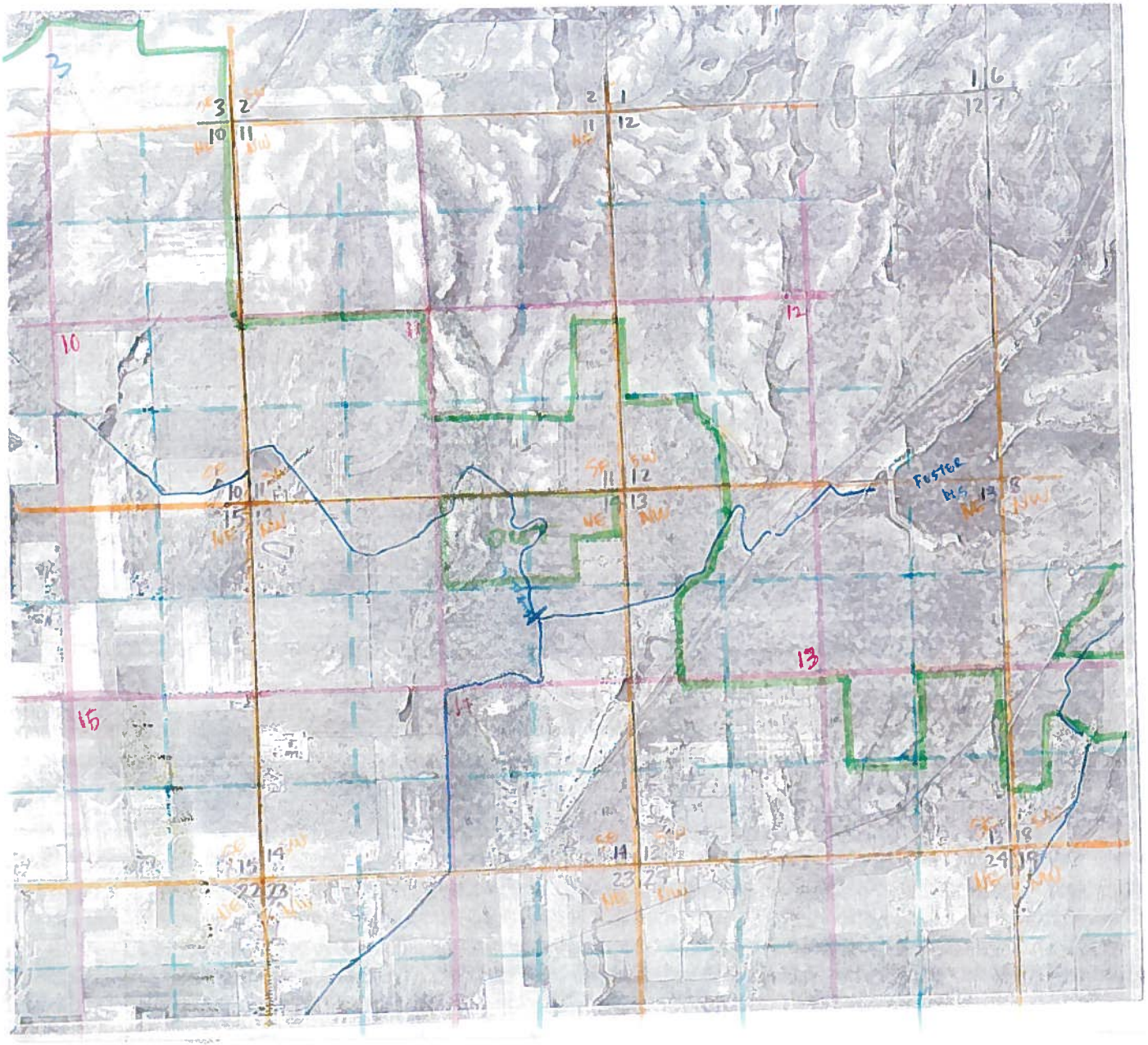
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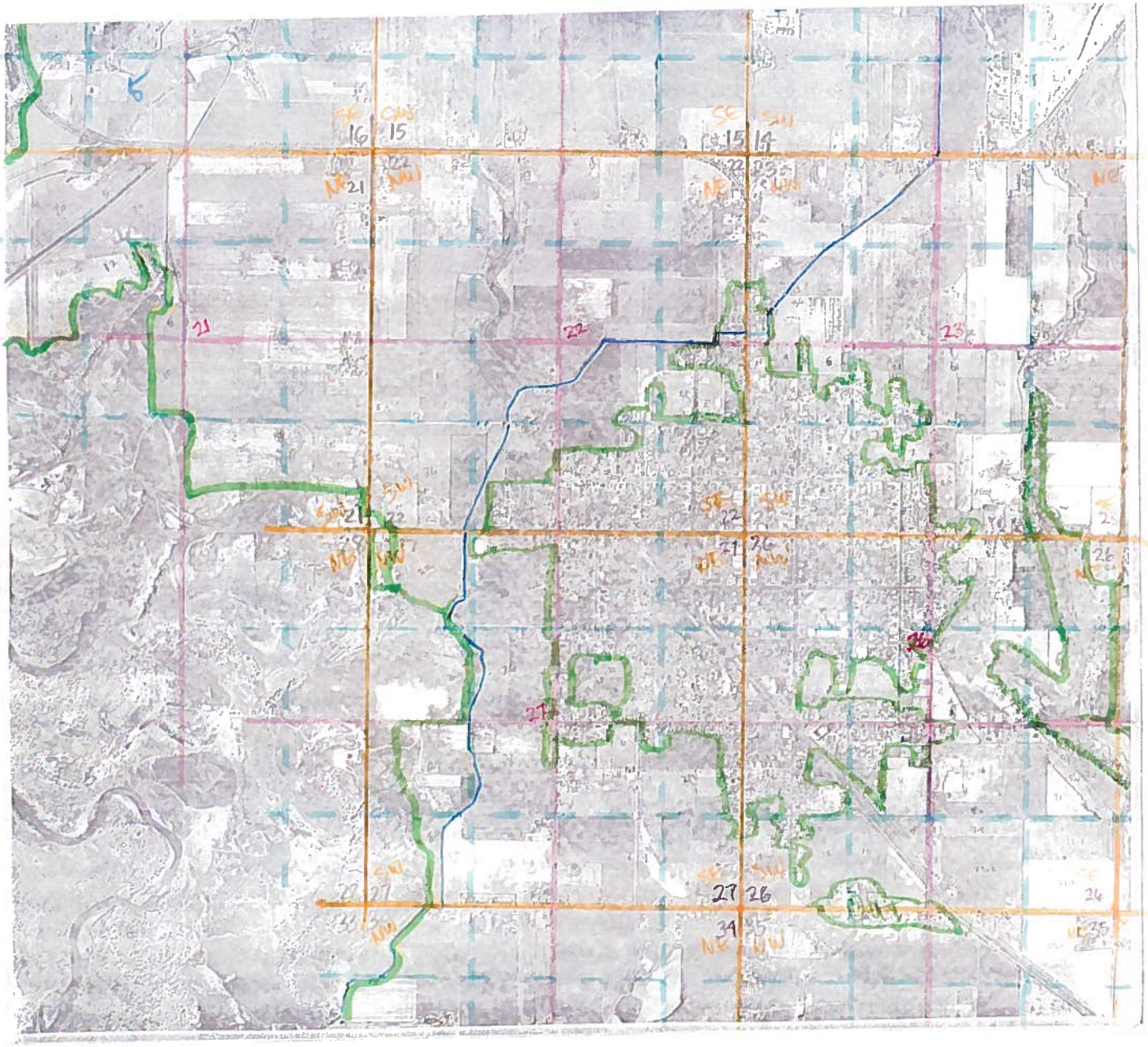
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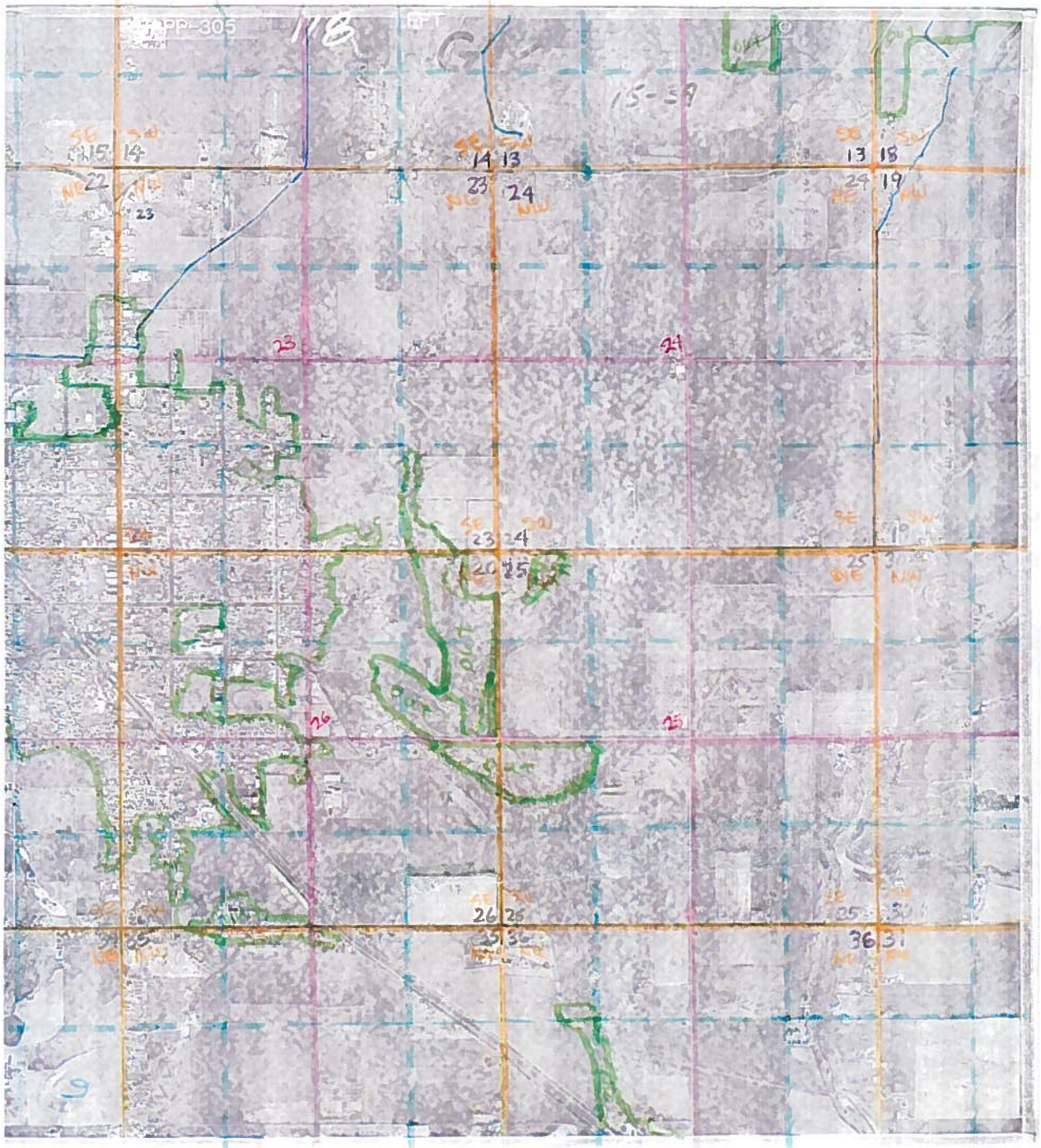


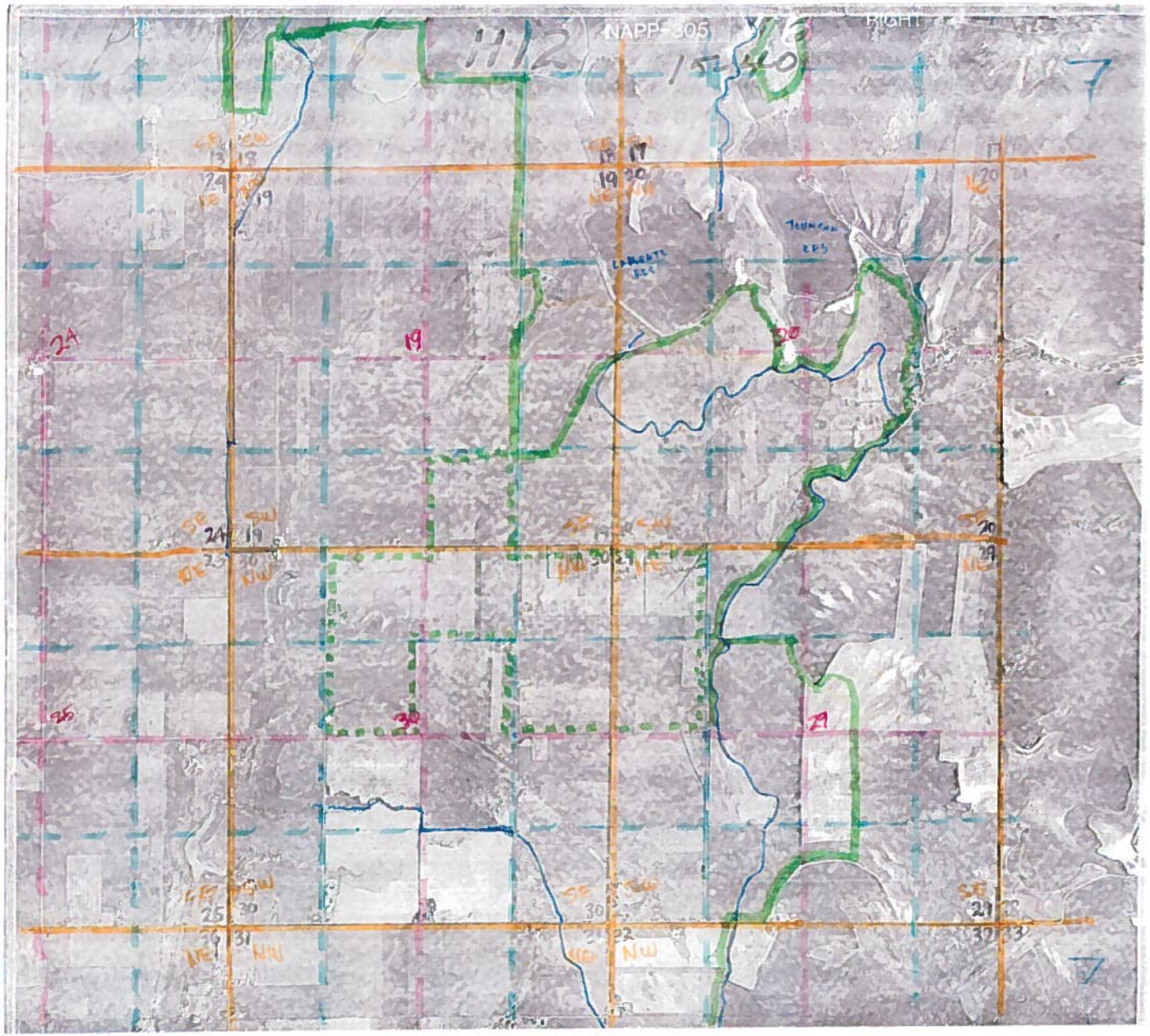
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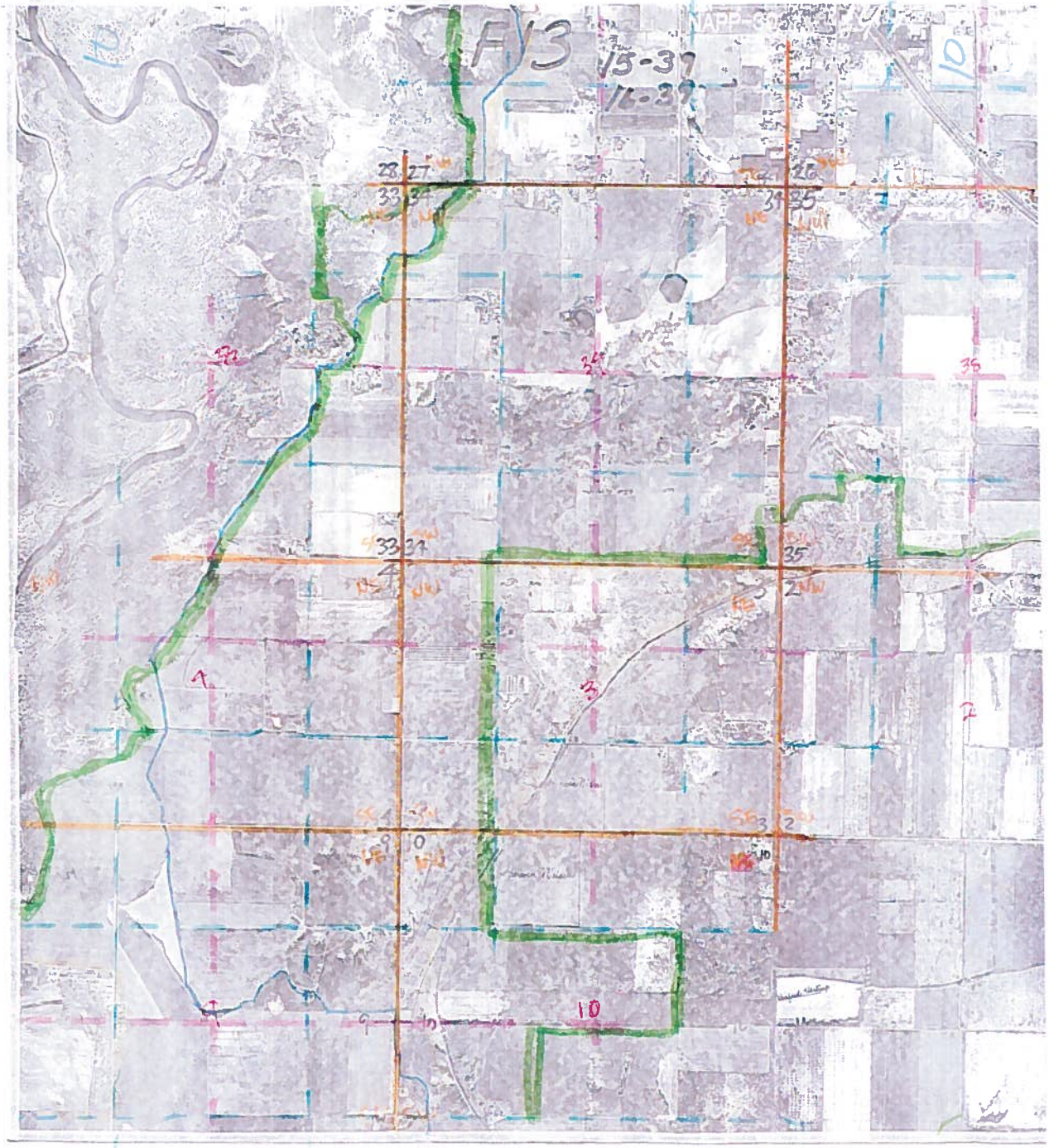

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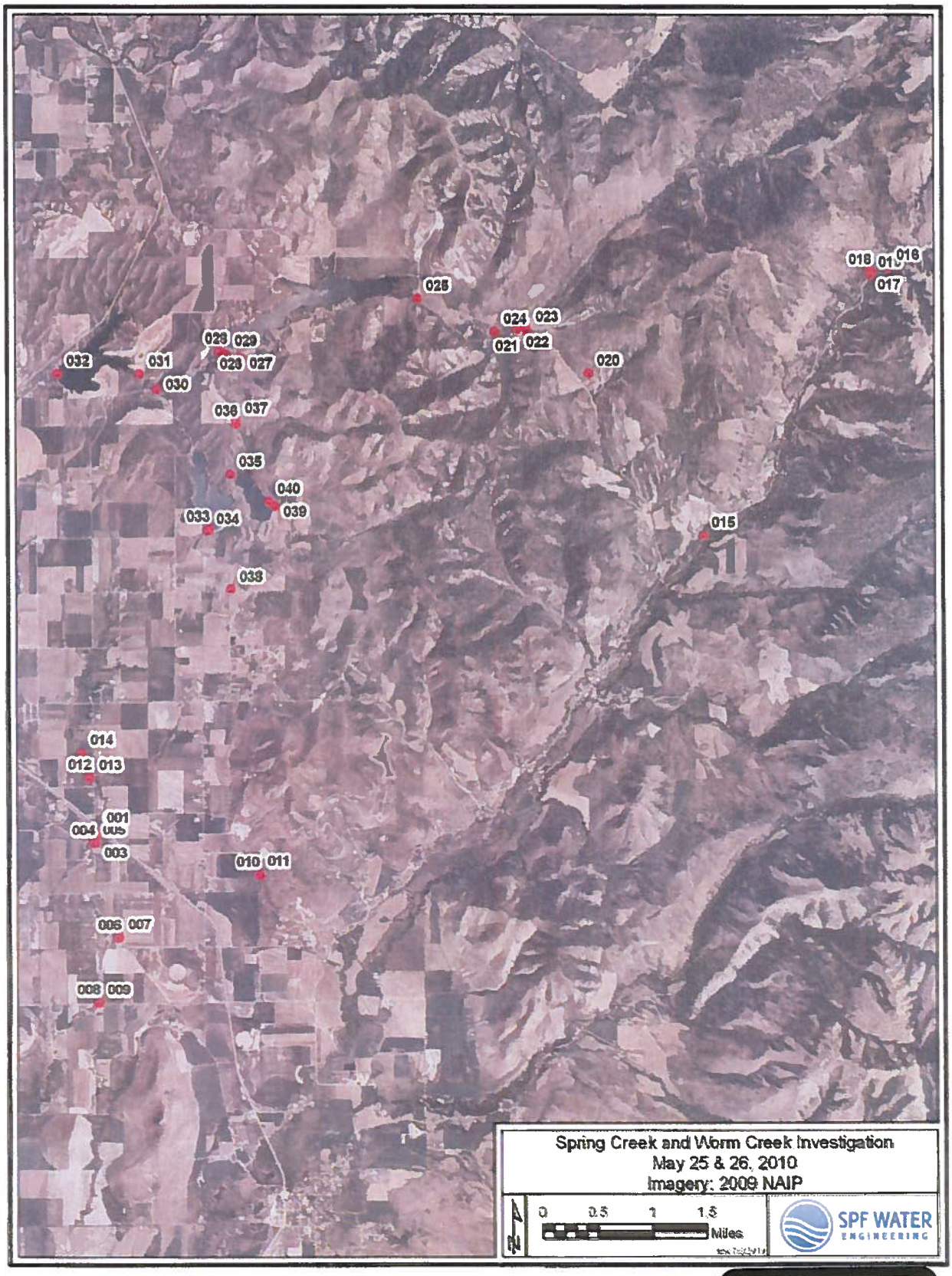

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NAIP 2015


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15-37
14-37
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PROTESTANT

KING-00092

TYPE	IDENT	LAT	LONG	Y_PROJ	X_PROJ	COMMENT	SYMBOL	ALTITUDE	TagNo	Name	Descriptio	Owner	Category	Source	WRNOs
WAYPOINT	001	42.06505875	-111.83684218	4668014.80818338	927224.87203285	25-MAY-10 16:32	18	4605.00	A0012016	Chadwick Dam		Golightly, et al	POD	Spring Creek	13-82, 13-216, et al
WAYPOINT	002	42.05498286	-111.83731508	4668801.7858411 m	927185.77607531	25-MAY-10 16:53	18	4611.00	none		Eldon et al ditch from Spring Creek	Golightly, et al	Ditch	Spring Creek	many
WAYPOINT	003	42.06424209	-111.83728516	4668821.94173747	927163.09487677	25-MAY-10 16:56	18	4605.00	none		Eldon et al ditch from Spring Creek	Golightly, et al	Ditch	Spring Creek	many
WAYPOINT	004	42.06346404	-111.83730310	4668704.35154303	927196.91244822	25-MAY-10 17:02	18	4611.00	none		Eldon et al turnout from Cub Canal	Golightly, et al	Flume	Spring Creek	many
WAYPOINT	005	42.06343786	-111.83782181	4668730.85656044	927170.65324637	25-MAY-10 17:16	18	4600.00	none		Golightly Elk Feedlot	Golightly, et al	Turnout	Cub Canal	
WAYPOINT	006	42.05095318	-111.83325841	4668365.60458421	927615.79779870	25-MAY-10 17:28	18	4568.00	none		Golightly Spring	Golightly	Ponds	multiple	
WAYPOINT	007	42.05097975	-111.83316186	4668368.41001396	927623.61287928	25-MAY-10 17:31	18	4567.00	none		point taken near 009 - delete this one	Golightly	Spring	Spring	13-217
WAYPOINT	008	42.04238252	-111.83683685	4667388.04346[illegible]	927377.18172092	25-MAY-10 17:49	18	4550.00	none				Delete		
WAYPOINT	009	42.04241813	-111.83687428	4667388.58782888	927373.84014900	25-MAY-10 17:51	18	4552.00	A0001969	Kirby Pond	Headgate from Pond	Wheatley	POD	Kirby Pond	
WAYPOINT	010	42.05912168	-111.80796806	4668408.32084384	929652.61008562	25-MAY-10 18:47	18	4769.00	none	Lamont Johnson Pipe Discharge	Pipe Discharge to Middle Ditch	PW	Pipe Discharge	many	
WAYPOINT	011	42.05928815	-111.80829859	4668417.40818824	929628.42902104	25-MAY-10 18:55	18	4758.00		Palmer Pipe Intake	Intake structure on Middle Ditch	PW	Pipe Intake	Middle Ditch	
WAYPOINT	012	42.07104599	-111.83842393	4670079.89078088	927047.05261310	25-MAY-10 19:29	18	4642.00		Hull Control Structure	Splitter with return flow to Spring Creek	Hull	Control Structure	Spring Creek	
WAYPOINT	013	42.07190040	-111.83820968	4670957.99006307	927065.09016437	25-MAY-10 19:31	18	4668.00		Hull Parshall Flume	12" throat, on a bend - could be impacted	Hull	Parshall Flume	Spring Creek	
WAYPOINT	014	42.07515459	-111.83967828	4671022.67063866	926921.67869812	25-MAY-10 19:45	18	4684.00		Hull POD	Diversion from spring creek to ditch, 24" culvert	Hull	POD	Spring Creek	
WAYPOINT	015	42.10348316	-111.72846526	4674731.20088288	935630.50885447	26-MAY-10 08:59	18	4963.00		Cub R Middle Diversion	Diversion from Cub River to Middle Ditch		POD	Cub River	13-002
WAYPOINT	016	42.13639281	-111.69516847	4678780.34540188	938443.45572858	26-MAY-10 09:28	18	5278.00	A0001970	Cub R Fill Ditch Diversion	Diversion from Cub River to Fill Ditch		POD	Cub River	
WAYPOINT	017	42.13616080	-111.69857129	4678737.83382288	938163.57268928	26-MAY-10 10:00	18	5260.00		City Spring	Spring		Spring	Spring	
WAYPOINT	018	42.13784946	-111.69916848	4678704.43831833	938169.85297688	26-MAY-10 10:04	18	5271.00		City Spring Weir	Discharges to Fill Ditch		Weir	Spring	
WAYPOINT	019	42.13749214	-111.69940625	4678663.94283133	938181.63994978	26-MAY-10 10:08	18	5308.00		Fill Ditch Parshall Flume	10 ft crest, poured concrete, stilling well		Parshall Flume	Cub River	
WAYPOINT	020	42.12472717	-111.74877017	4676987.73885285	934105.47186300	26-MAY-10 10:36	18	5218.00		Fill Ditch at Divide	At divide between Cub R & Worm Cr Basins		Ditch	Cub River	
WAYPOINT	021	42.13104606	-111.76023679	4677631.32784038	933113.94250450	26-MAY-10 10:56	18	5058.00		Worm Creek Rated Section	Worm Cr measured before injection from Fill Ditch		Rated Section	Worm Creek	
WAYPOINT	022	42.13062543	-111.76141829	4677576.50764188	933019.29991125	26-MAY-10 11:07	18	5037.00		Fill Ditch Discharge to Worm Cr	Confluence		Confluence	Worm & Cub	
WAYPOINT	023	42.13053424	-111.76474263	4677576.89965588	932758.45363460	26-MAY-10 11:14	18	5050.00		Fill Ditch at Bridge	Fill Ditch		Bridge	Cub River	
WAYPOINT	024	42.13029946	-111.76537648	4677622.17733581	932694.25067107	26-MAY-10 11:28	18	5027.00	A0012038	Lamont Johnson POD	Diversion from Worm Creek		POD	Worm Creek	
WAYPOINT	025	42.13459486	-111.77901040	4677930.08823803	931687.71221307	26-MAY-10 11:40	18	5012.00		Lamont Johnson Parshall Flume	Parshall Flume measures diversion from Worm Creek		Parshall Flume	Worm Creek	
WAYPOINT	026	42.12890095	-111.81008614	4677129.50823237	929057.67763241	26-MAY-10 12:14	18	4962.00		Preston City Hydro Discharge	Discharges to Glendale Res. Operational Spill,		Discharge		
WAYPOINT	027	42.12690219	-111.81063155	4676915.85012585	928975.42970846	26-MAY-10 12:23	18	4974.00		Overview	near city hydro				
WAYPOINT	028	42.12779101	-111.81442228	4676995.48936215	928655.97771842	26-MAY-10 12:35	18	4909.00		Glendale Foster Parshall Flume	Flume measures discherge from Glendale into Canal		Parshall Flume	Glendale Res	
WAYPOINT	029	42.12753389	-111.81329431	4676972.58540099	928750.96338186	26-MAY-10 12:39	18	4911.00		Worm Creek Spill	Spil from Glendale Foster Canal to Worm Creek		Canal Spill	Glendale Res	
WAYPOINT	030	42.12287234	-111.82565562	4676382.65686951	927780.33539418	26-MAY-10 13:03	18	4897.00		East & North Pipeline Intake	Intake from Glendale Foster Canal		Pipe Intake	Glendale Res	
WAYPOINT	031	42.12488987	-111.82865816	4676601.69071398	927488.60276067	26-MAY-10 13:27	18	4918.00		Glendale Foster Flume	Flume at end of canal into Foster Res		Flume	Glendale Res	
WAYPOINT	032	42.12496103	-111.84334628	4676535.99015618	926269.41044344	26-MAY-10 13:38	18	4864.00		Foster Dam	Top of Dam and Control Works		Dam		
WAYPOINT	033	42.10455579	-111.81647457	4674404.20007045	928943.30068342	26-MAY-10 14:10	18	4842.00		Lamont Dam Outlet	Pipeline at bottom		POD	Lamont Res	
WAYPOINT	034	42.10432394	-111.81670591	4674377.34901143	928825.73172901	26-MAY-10 14:21	18	4842.00		Lamont Outlet Flowmeter	McCrometer flowmeter in pipeline		Flowmeter	Lamont Res	
WAYPOINT	035	42.11172483	-111.81254921	4675220.36787035	929880.01114120	26-MAY-10 14:32	18	4961.00		Lamont Inflow Canal	Several diversions from ditch at elevated point		Ditch & Diversions		
WAYPOINT	036	42.11027848	-111.81146285	4675053.77889621	930883.38048585	26-MAY-10 14:52	18	4990.00		Headgate from Lamont Supply	from supply ditch		Headgate		
WAYPOINT	037	42.11860216	-111.81146471	4675989.71377753	930882.69010176	26-MAY-10 14:55	18	4984.00		Johnson Supply Spill	Spil point from canal to Johnson Res		Headgate		
WAYPOINT	038	42.09681737	-111.81288562	4673541.58160049	930010.37782896	26-MAY-10 15:15	18	4782.00		Johnson Lamont Pipe Isolation Point	valves to isolate pipelines. spring creek flowing		Valves		
WAYPOINT	039	42.10756868	-111.80484133	4674767.52255803	932285.15563511	26-MAY-10 15:31	18	4854.00		Johnson Outlet Flowmeter	mccrometer		Flowmeter	Johnson Res	
WAYPOINT	040	42.10821566	-111.80585554	4674864.27554759	932148.86727281	26-MAY-10 15:38	18	4913.00		Johnson Dam	On crest, near control works		POD	Johnson Res	

KING-00093

Elden
Seth Wheatley
Cindy Bird

5/25/10

Pg 1 1/2

xfer approved

~~POD change~~ CR & Short pipe

96 Bradford Pipe - from middle ditch to Lewiston Canal

⇒ from this is AGREEMENT

Cub River Diversion to Cub Canal Lewiston!

Moved some u/s to Albert Moser

Albert Moser - Historically PW

Skip Jones 1999 Letter - interpreted

Lease agreement to protect. or Not - Mentions waste water & ditch becoming natural stream.
Pg2 #6 Advises to seek attorney.

Lewiston & Cub River may be same company

Johnson

1880 - 2000 AF storage

LAMONT = PW

Johnson = Preston Res Co

1997 ~~CR~~ Palmer Pipe by Cub Riva to Lewiston Cand

Whitney Nashville 1910 101 AF 1.25 13-232 5/25

pg 2/13

Regulation 1916 Johnson Spring feeds Whitney Nashville Home owners.
Rt has Volume Limit.
Upsized from 6" to Larger pipe

Regulation C.R has water on Cub R only,
Not Worm Cr.

P.W Has water from both systems

Tim

Old Deeds listed Cub R div to Middle Ditch Co. Changed to PW

Eldon's Xfer Last yr June or July
Ownership Change
Xfer Application moving WR around Goll, Ltly & Wheatley

13-217 4-1-1872

5/25

pg 3/13

13-220 Now Owned by Hobbs. (actually Not Hobbs)

13-217 - Subject of current xfer

Eldon xfer withheld this pt.

Not going to Wheatley in Sec 12 E½ SE, instead to Wheatley in 12 NE & 7 NW

POU change.

many look like are unstockwtr rts

Sec 12 E½ SE 13-217 removed.

Other Springs Cr Rts Stay

13-216 Part conveyed to Wheatley for their 80.

Source likely basin

Kirby Pond / Unnamed Streams.

Eldon calls them Field Drains.

13-62 Wheatley has

"Appendix A"

May 21, 1981 Amendment to Decree.

62, 216, 217

not correct #'s of decree - on list

13-62

Thought - IDWR needs to put decrees up - GIS link related

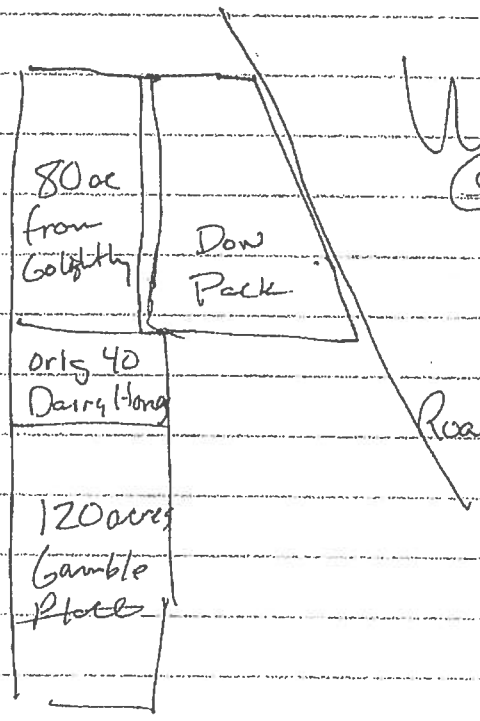
5/25

p4/13

Cub R Irr Co

Eldon Owns 20 shares
Rents 20 since
about 2000

Seth Wheatley Owns 64 on this prop
& more on other property to west (1 mile).
Some "King" Place
Some "Buddy" Place



5/25

p5/13

13-273 & 13-274 Attny filed on earlier 1888 priority - likely decreed day after Go lightly

13-221 Also Wheatley.
219
218

13-258 Chadwick

CUL survey area error

Section 7 Not in CUL R IC

Section line between 7 & 12

Northern part of 7, Hulls & Chadwicks had CUB water. Sprinklers installed later 1970's. Then exchange Cub for PW - PW pressurized from hill/pipe (Not Bradford or Palmer) Then, PW ceased delivery after found ground not in boundary.

What happened to shares?

5/25

P6/13

Map error

Webster Pipe - Continues past Idaho Pipe to Sec 19 SE, wraps around Little Mtn to?

1

Find Cub R IC boundary

Compare to irrig areas

PW - keeps getting more shares to offer

Newspaper Article

Preston City bought shares from PW for Golf Course, park, etc. PW sold many shares, some new.

Could be question for future - just hanging POD?

Cub River to Middle Ditch

Find Old WM records

Why - show only diverted 15 cfs? instead of 25 cfs now.

PW owns none of Idaho or Palmer Pipes. These are 100% Cub R.

Cub R used to serve smaller area? Or not?

Cub River Water - through Middle Ditch

Didn't go to lands west of about Sections 8, 17, (maybe into 7). Was not dumped into Spring Cr for delivery. Concern - New w/ pipelines

5/25

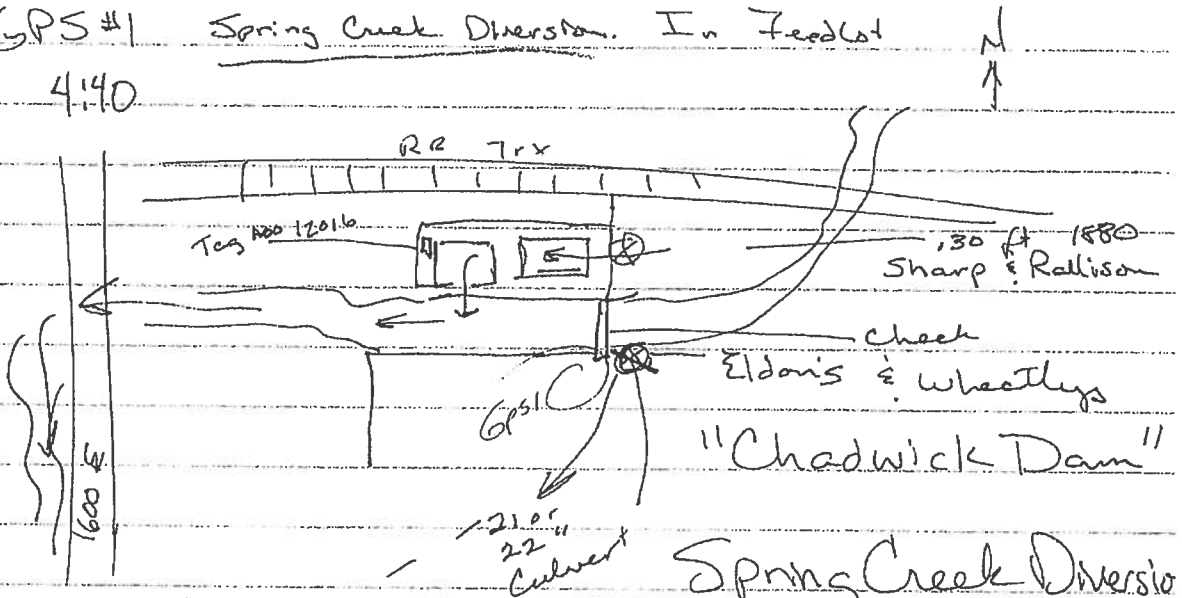
P7/13 Begin Field Work

Change in delivery method

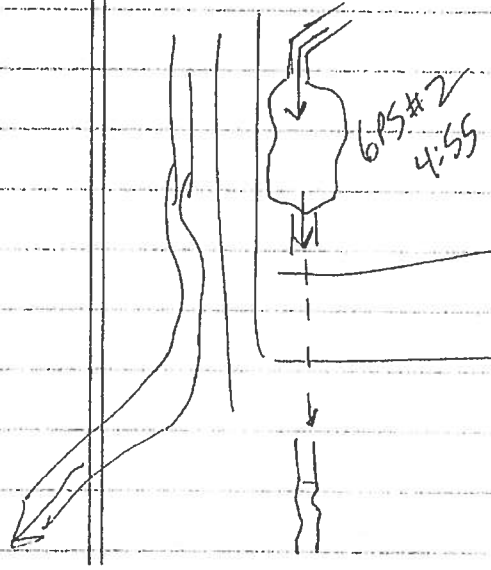
Brian Tenen, Section 9 SWSW
if Delivered through Fournier Tap
from Foster. Now why does it
need to go through Palmer

Field V/TL, SK, CB, EG, SW

GPS #1 Spring Creek Diversion. In Feedlot
4:40



Sharp & Rallison.
have diversion to North



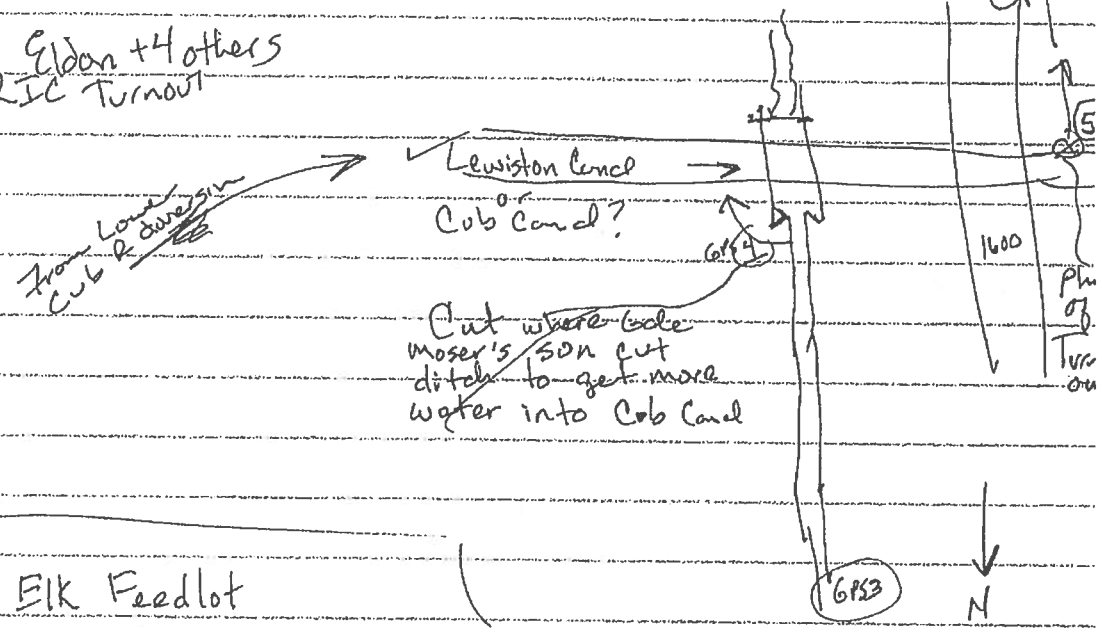
5/25

P8/13

GPS3 4:59 Eldon's Pipe, South of POD

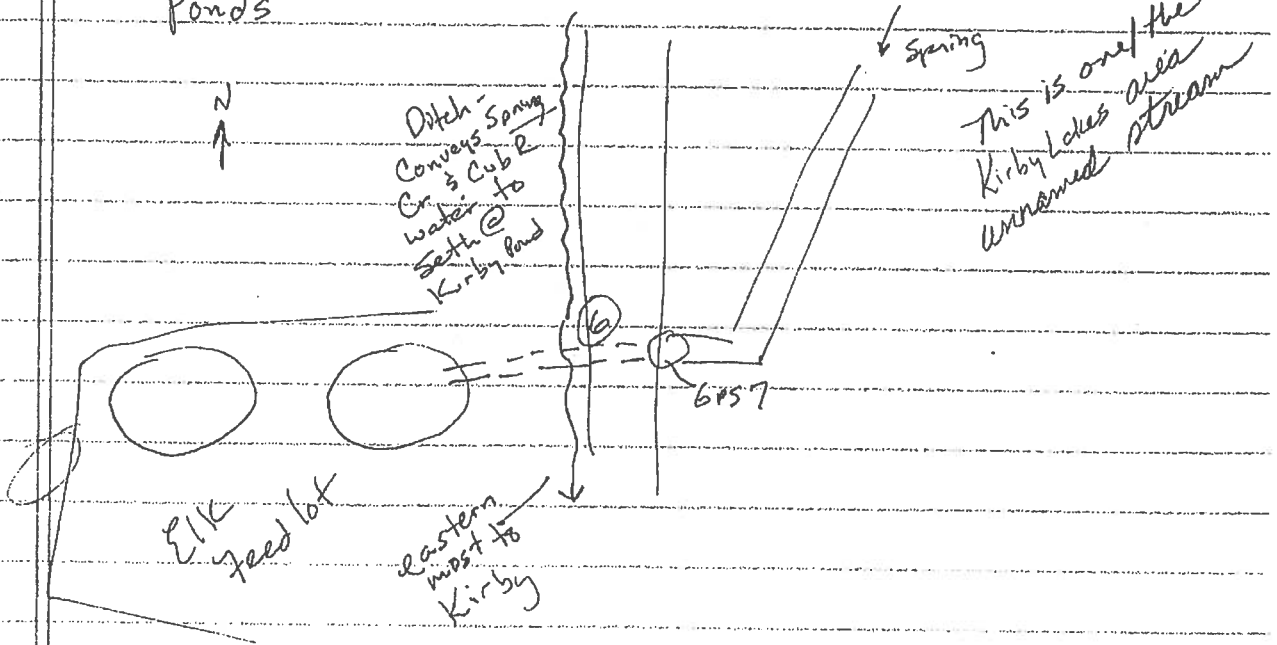
GPS4 5:02 Flume across canal

GPS5 5:16 Eldon +4 others CRIC Turnout



GPS6 5:28 Elk Feedlot

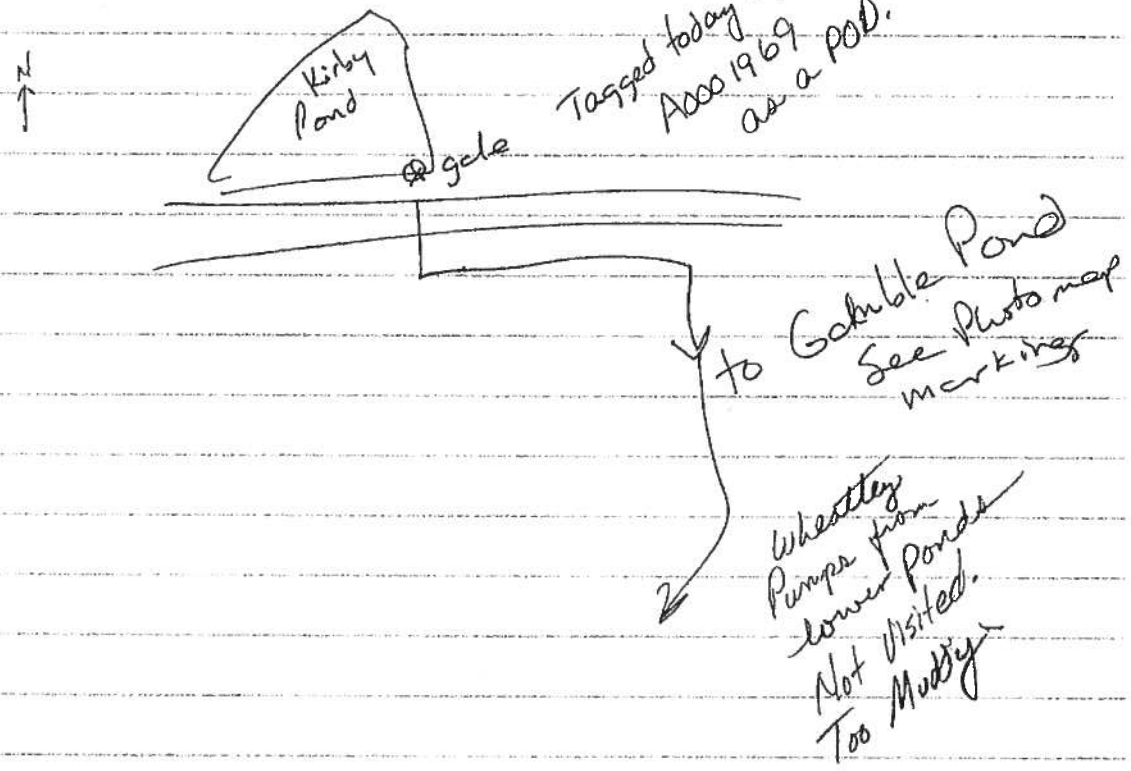
Spring Creek water ponds

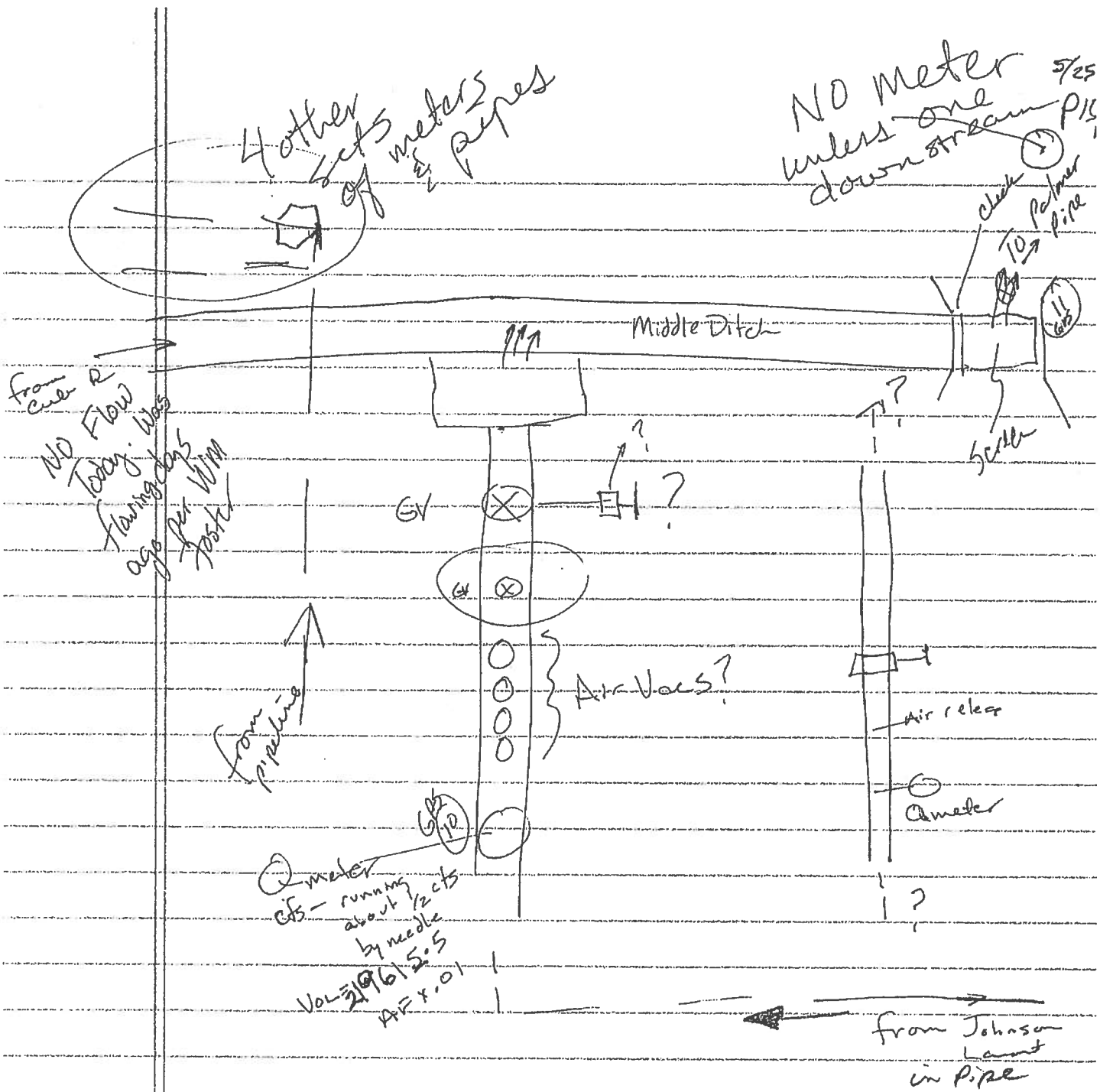


5/25
@ 9/13

GPS
8 5:50 Kirby Pond
Set camera clock back from
:57 to :50

(9) — ON Gate handle





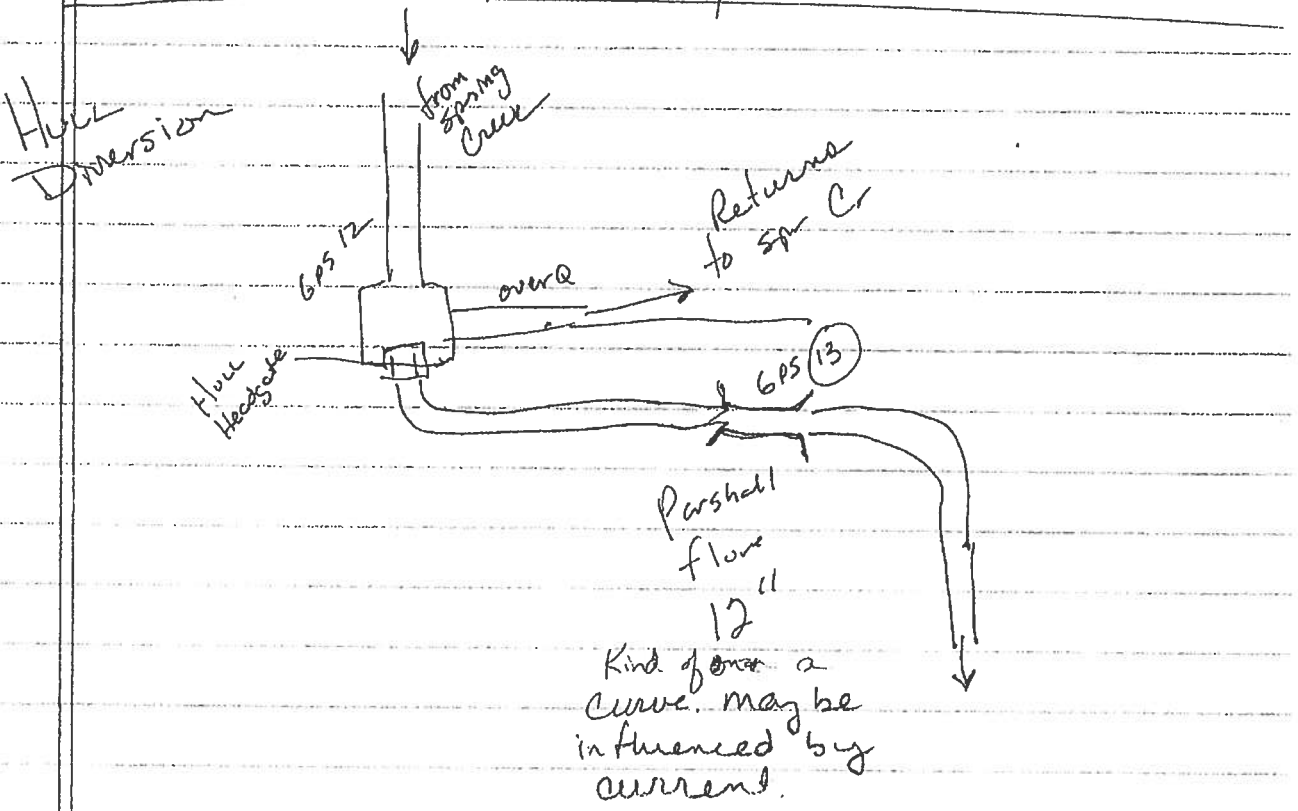
Palmer Can go into Tacho Pipe & South, East of Little mtr

If ½ c/s delivery rate is entitled, this meter may be on lowe end of accuracy curve. Needle barely above ∅

5/25
p 11/13

PW is sending ½ cfs from Johnson Lamont. Supposed to be to Brian Jensen
PW delivers "Free Water" until June 1, Then it becomes part of Volume allotment.
Q? Is this "Free Water" included in Watermaster's allotment of right holder's total Vol?
58 Acre feet deliverable after June 1 to Brian Jensen
40 acres in Section 9. (1.45 afa)

Q? How accurate is Q meter @ ½ cfs. Very low on



5/25

p12/13

GPS # 14 Hull POD from Spring Creek

7:45 pm No headgate

Flows down to prior points – toward LDS church

26" Cmp culvert

Maybe 13-311

For SEPF – Intg Sys Design

Drop Screens to Pipe

– Consider screen on angle to better flush debris

~~Show screens to Marcus?~~ type?

5/25
p 13/13

Eldon, Seth

1. Your pending transfer. Rts untracked - unlawful?

2. Ultimate goal?

Is Get water? Possible sources

a. Spring creek above Johnson, Lamont - INFLOWS

Companies would pass inflows

Johnson reservoir built before Eldorie

priority. Does it matter?

b. Cub R - acquire shares

c. Worm Cr - shares

- Lucero - "delivers as one system"

II Interrupt CRFC, PWS.

What if it doesn't get water?

Will proper regulation of CR, RW really result in water? Where? Why?

Preston-Whitney Tour with
Scott King – Author
Eldon Goldsmith – Client
Cindy Bird
Jim Luke – IDWR
Lyle Porter – Preston-Whitney

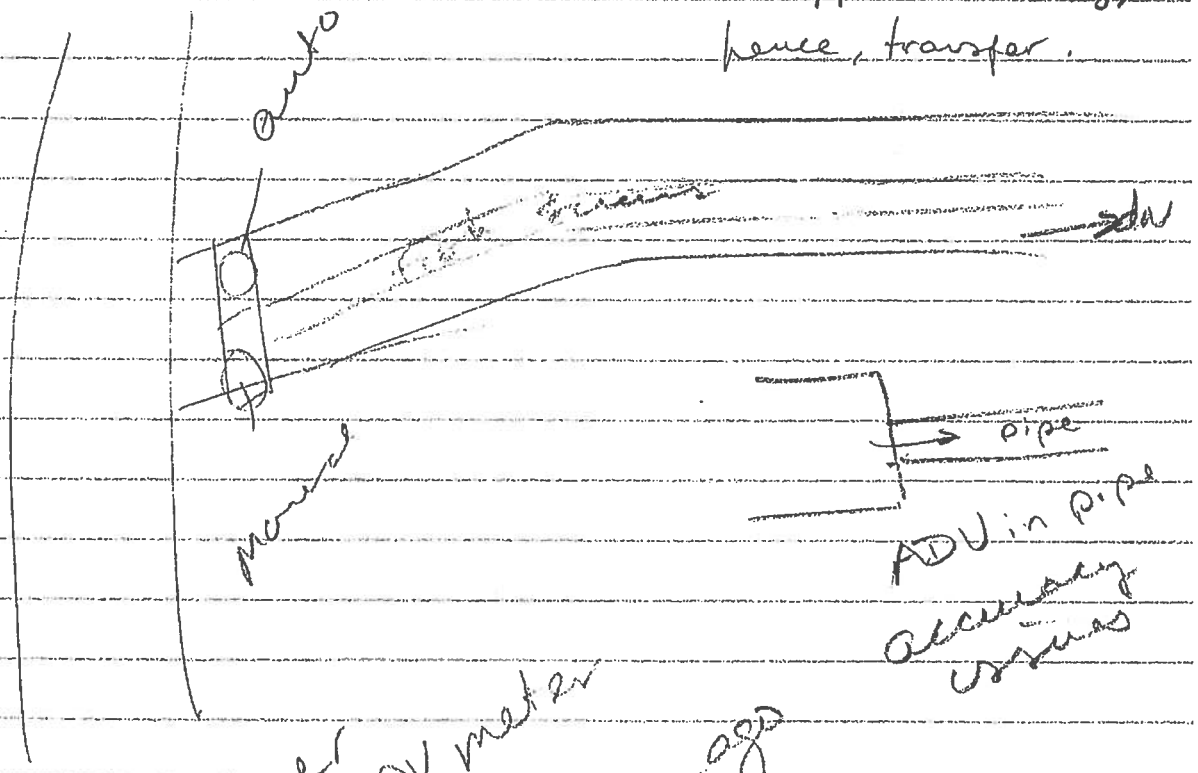
5/26/2010 P1/13

Cub R ~~ADFM~~ Middle Diversion

GPS 15 9:00 a.m.

Official POD for 13-002

Some of 13-002 diverted @ upper (next pg) hence, transfer.



Mat Weaver checked POD met w/ Jeff Jensen. Letter sent 2 wks ago

Old middle diversion

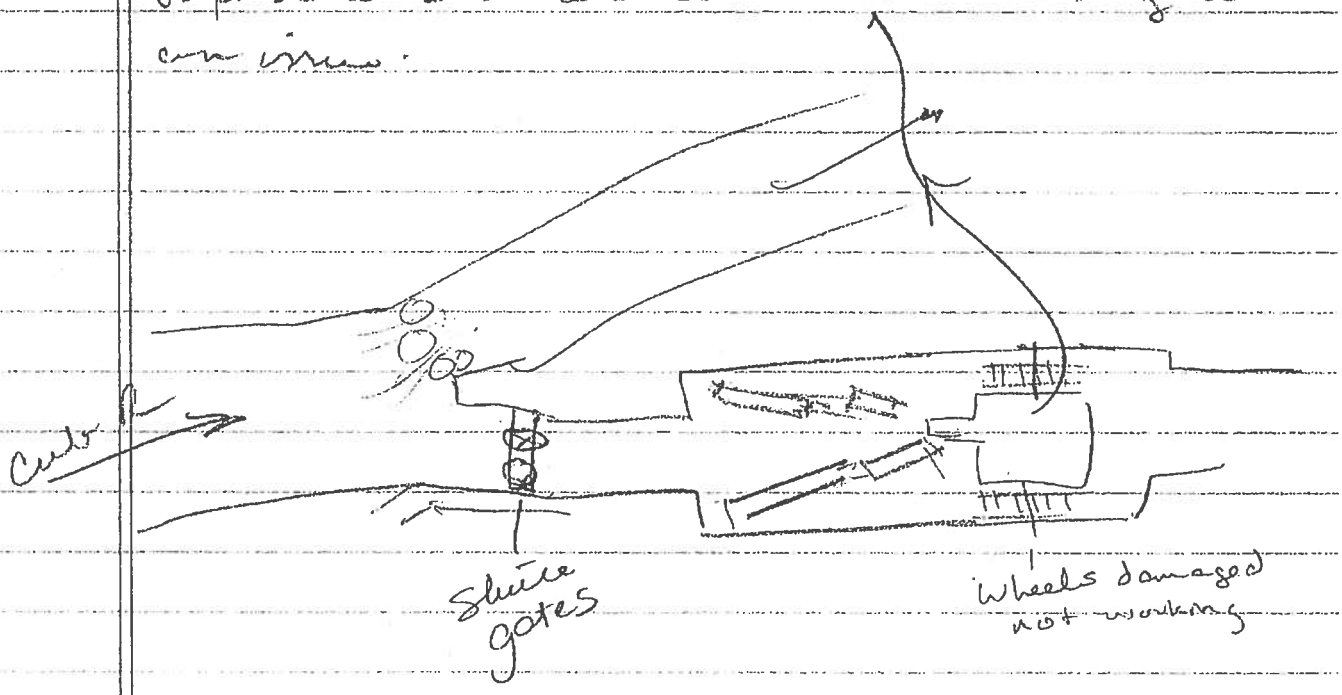
6 PS 16

Tagged 1970 5/26 p2/13

Cedar River Upper or "Taylor Ditch" Diversion

Existing diversion w/ fish screens newly installed

Divert up to 80 to 100 cfs here at times. Now only about 30. Rts to 100? more than 30. Runs year around. Icing is issue in winter. Tilt screens in winter. Paddle wheels may be an issue.



Drops into Worm Creek draining to Yelm Glendale, Yelm, etc.

Screens Designed by McMillan Engr.

5/26 p3/13

Tim had pg of Bylaws showing

		cfs
13-002		30
3		25
35	transmd stock diverted @ two middle, two @ upper	4
36		3
37		2
38		3
143		
271		
2104		
2108		
2288		
2291		
3298		

Downs Spatig - shareholder in PW that takes water from middle ditch.

Also - Some (3) private rights into Middle ditch. Boulevard Griffith Spadys

& Couple (2) private rights from upper Sharp & Cul River Acres

Troy's sheets will show PW & private rts

Logic = when Cub >55 cfs +/- Then High water Split 55% to PW, 45% to CRIC

@ takes at upper DN

@ lower diversions

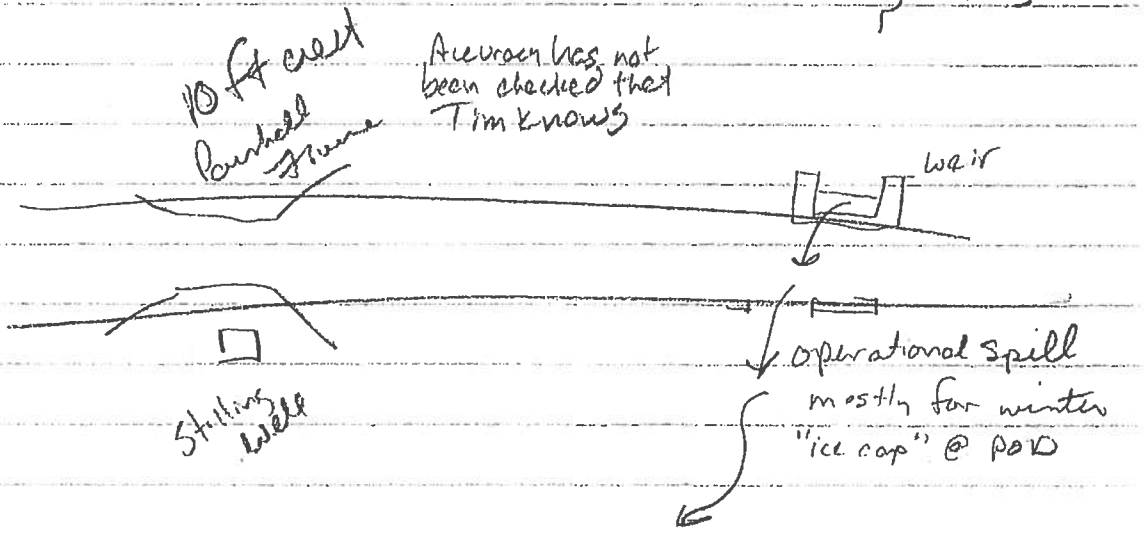
5/26 p4/13

17 – Near "City Spring"
10:00

18 Weir @ bottom of City Spring
about 3 or 4 ft rectangular
Needs clearing. Bad velocity
problems

19 10:08 am
Parshall Flume used for
upper ditch.

Cub R decrees 1910, 1920/23
McKewan Decrees



Lobdell Middle Ditch

5/26 p5/13

GPS 20 10:35.

Upper ditch @ Cub R/Worm Cr divide

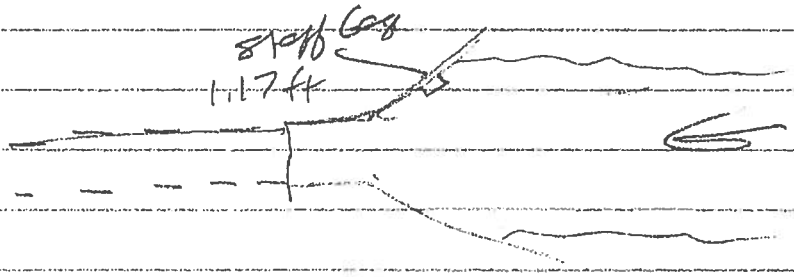
2 decreed rts from ditch 0/5 of them
+ 4 of 5 shareholders that also divert 4/5

Preston's water through Pipeline
from here

GPS 21 10:55

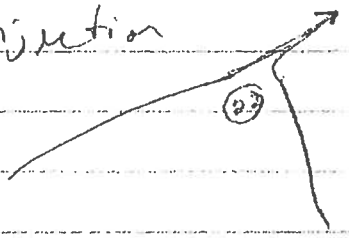
Worm Cr / Upper Ditch injection

BuRec Rated drop structure



Mink Cr dropped into Worm Creek upstream

22 Near Injection

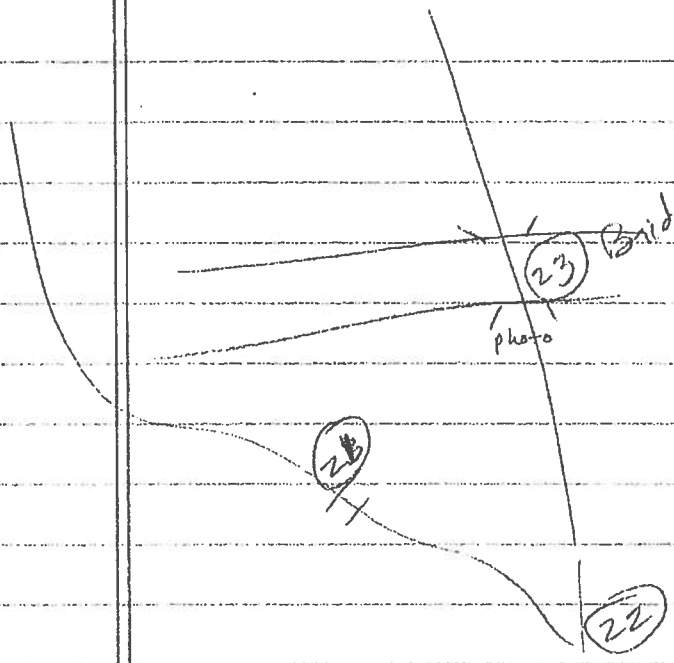


Lyle 5/26 p6/13

Fm to Fill Ditch

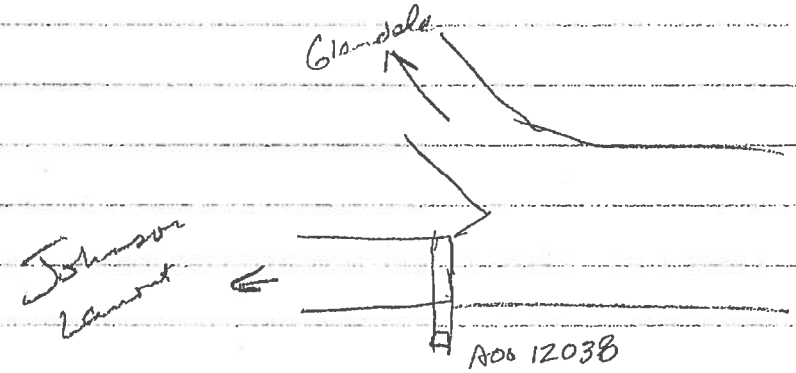
Up to 100.

80 is safer?



GPS 2-1 11:28am

Split Worm Creek to Johnson/Lamont

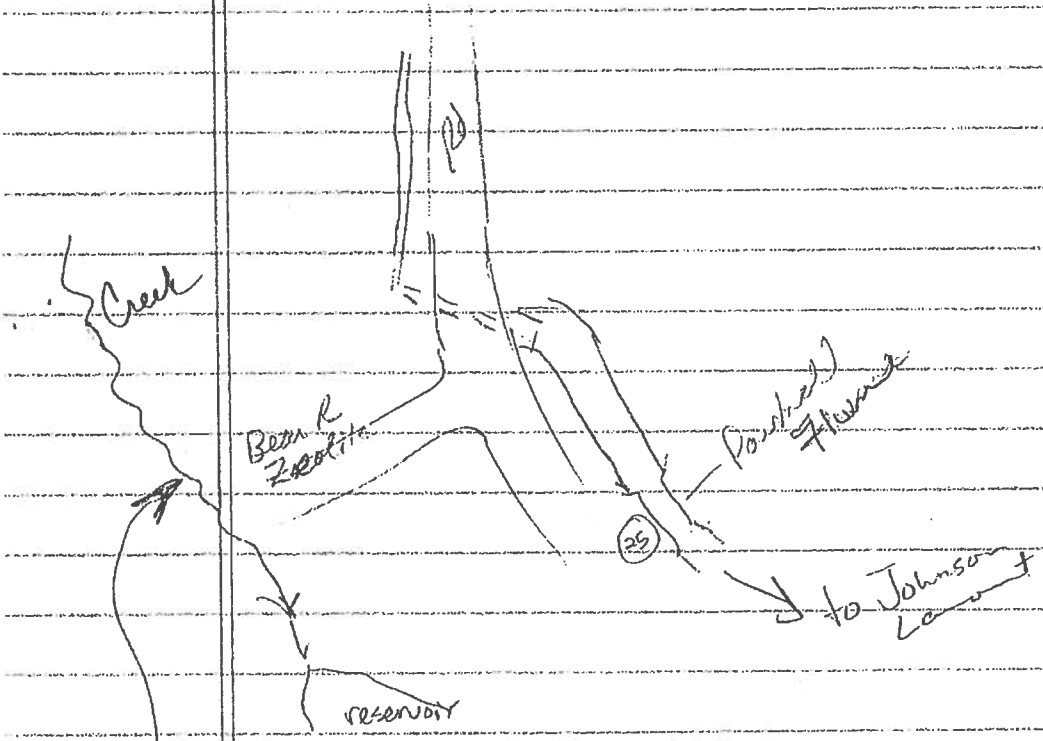


Lyle - Over years 13-03 "Middle Ditch" Rt has over time, since 1920's? - moved to be diverted from upper Fill Ditch diversion. Esp after pipelines & laterals.

5/26 p7/43

6/4 25 11:41 am

Parshall Flume on ditch to Johnson Lawn



Mean device @ Neils up above

Denis Webster Decreed & PW water

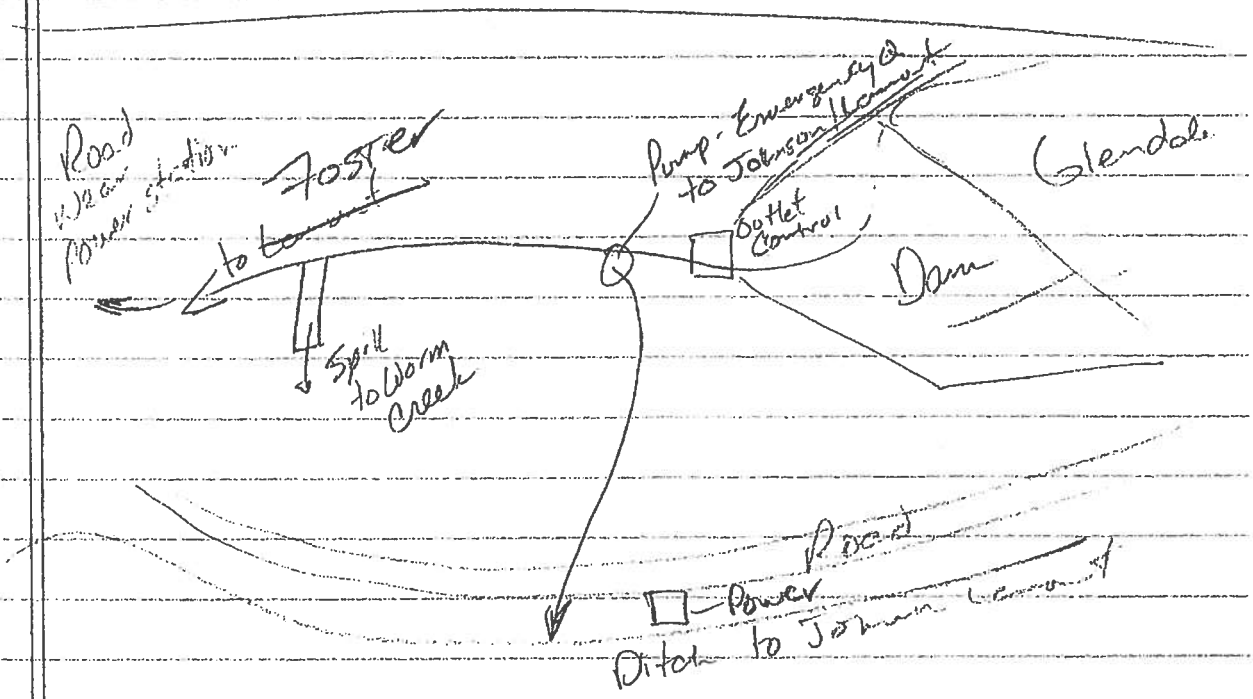
Suggests a measuring device should be placed just upstream of Glendale. Winter flowing flows are not accounted for.

Injection into creek not measured

5/24 p8/13

GPS 26 - Puerton City Hydro into Glendale.
(Can also go to Foster Res)
Tim - my understanding water right now. Not always thru

Glendale - spills from outlet.
Spillway on Right Abt is true plug

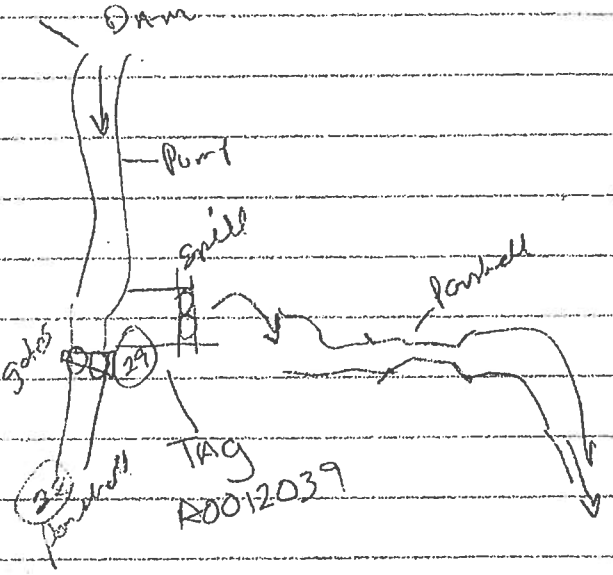


East & North laterals divert from Glendale / Foster Canal before Foster

5/26 p9/13

GPS 28 12:35 pm Parshall meas in Glendale Foster Dist

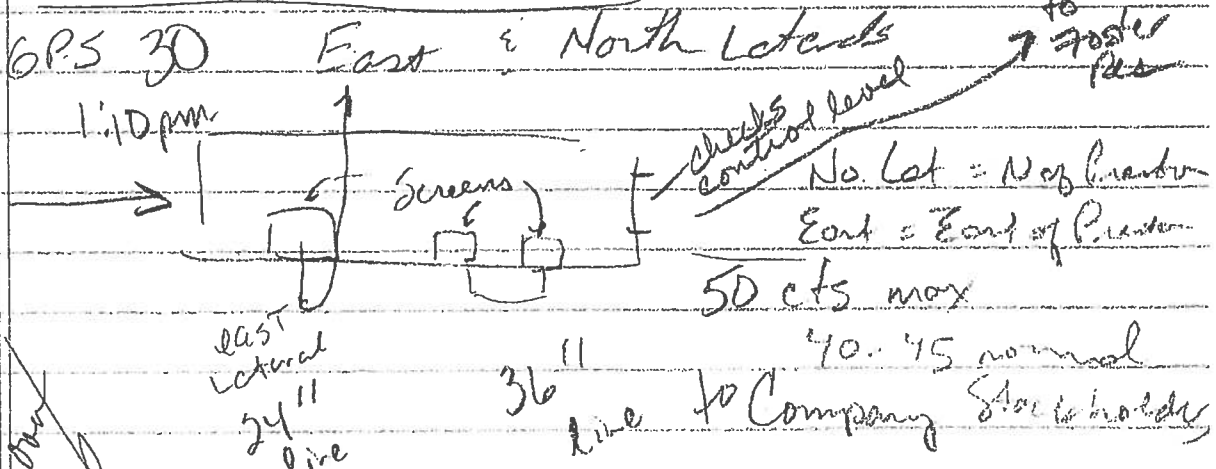
29 Spill from Glendale Foster Canal to Worm Cr



6" 0.75 ft head in stilling basin

E800 7232 Culinary Spring
DEQ tag

GPS 30 East & North Laterals 1:10 pm



Tagged R0001971

KING-00171

Pg 9
backside

Before these pipes laterals
Deliveries through Tonto Res

Spillway flow
Measured @
5' Crest
Rectangular
0.28 ft

subject to change to be
spillway
adjusted
Level sensor
& datalogger
in well

Both Pipelines have flowmeters
McDowell Loop

KING-00172

5/26 p 10/13

GPS 31 1:27.

Flume carrying water into top of Foster Res

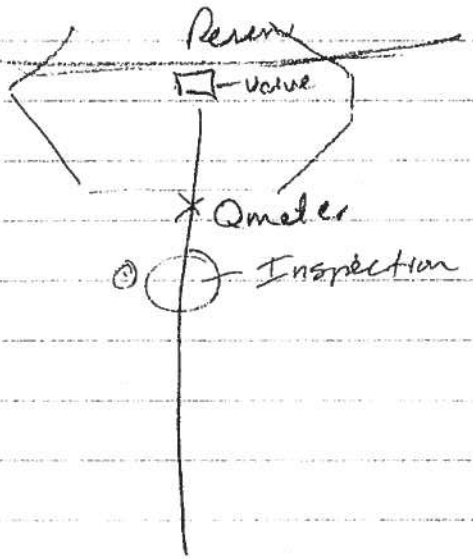
GPS 32 1:38 Top of Foster Res Dam. Fairview Left

newly constructed pipe from Dam

Tagged A000 1972

42" outlet pipe lined w HDPE.

Sea metrics Mag meter @ dam Toe

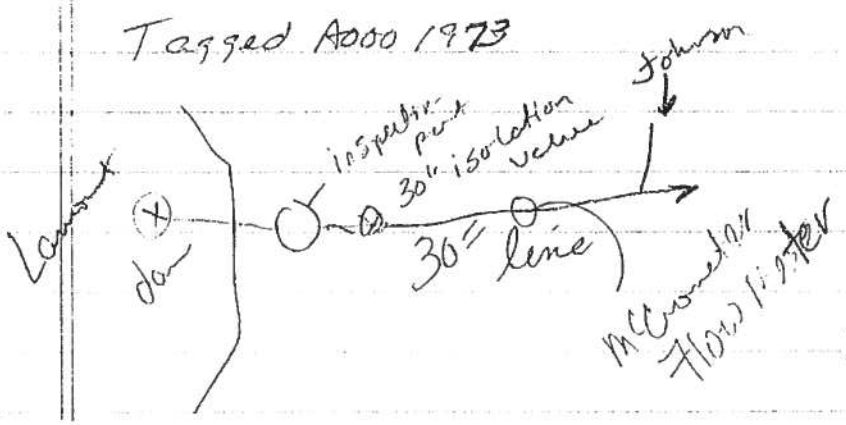


GPS 33 Lawson Outlet

2:10 pm East Side Jet used to cross

also Rt abutment, across in pipe

Tagged A000 1973



McCrometer

363023 X 0.01

AF

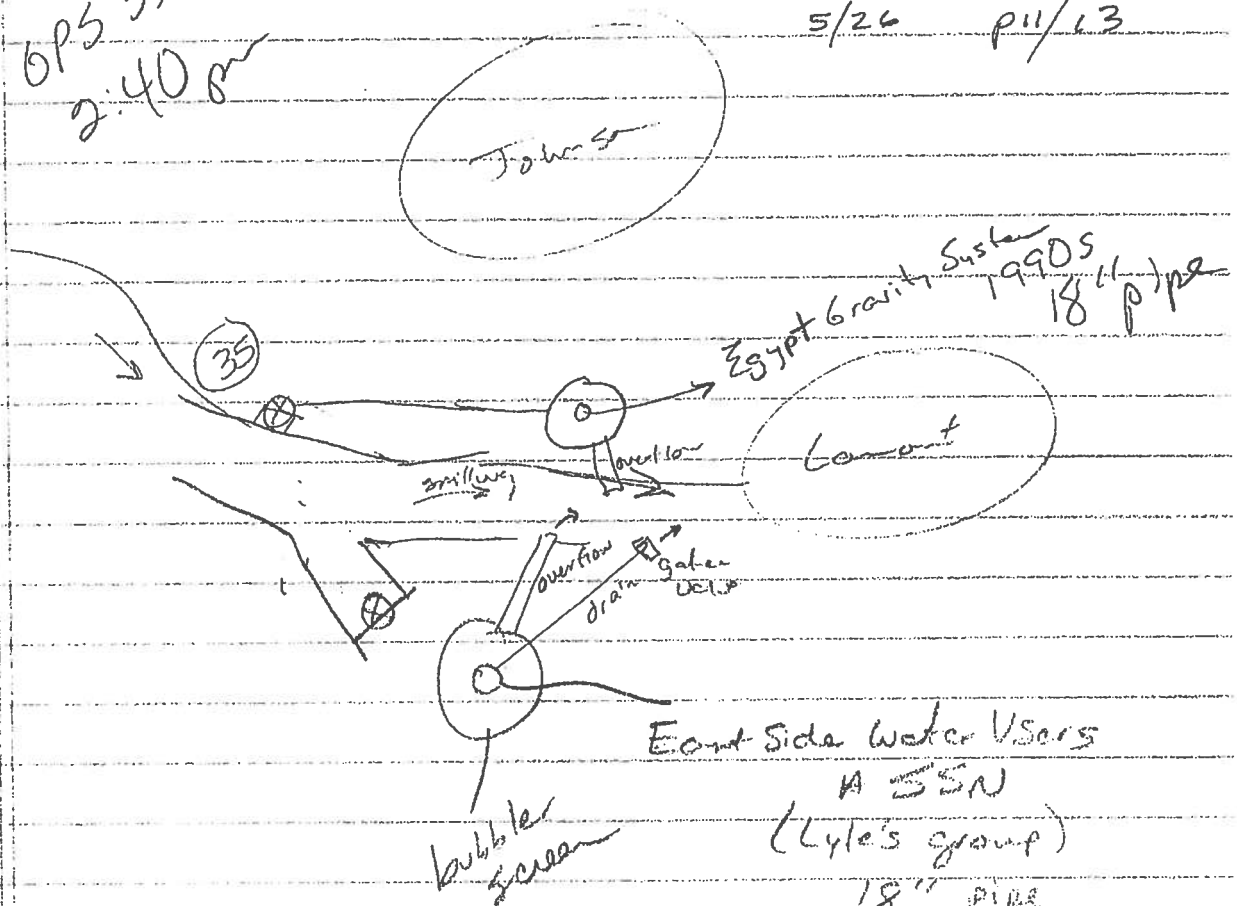
Running 6½ cfs

GPS 34 5 to 8 cfs

SN 07-6184-32

OPS 35
2:40 pm

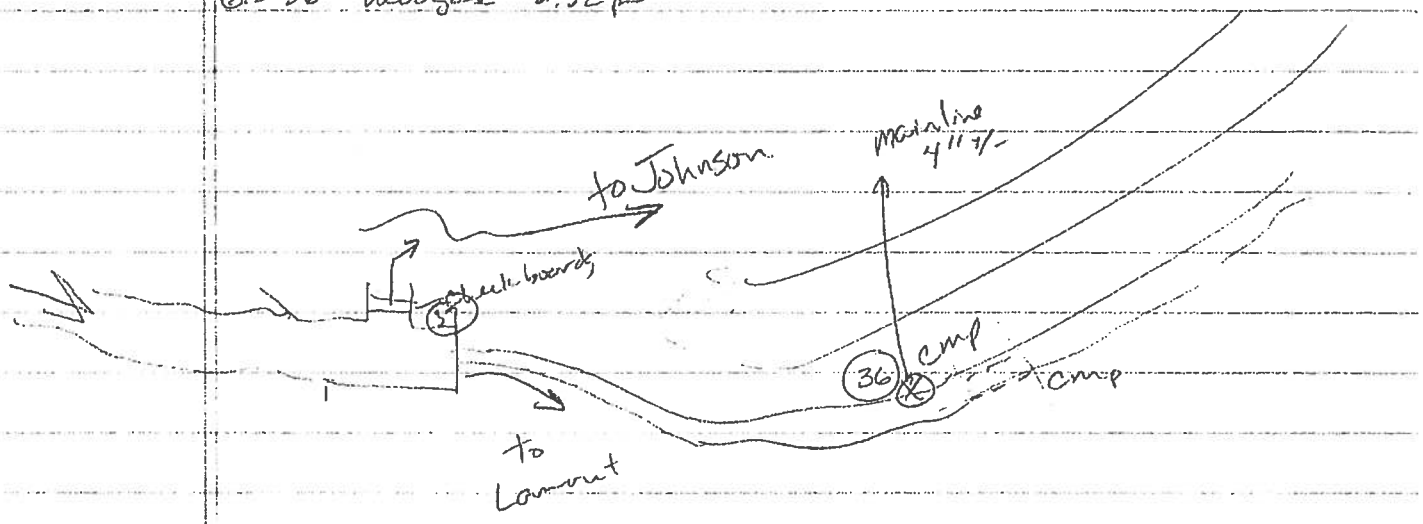
5/26 p11/13



East Side Water Users
A 35N
(Lyle's group)
18" pipe
Started 1964

5/26 p12/13

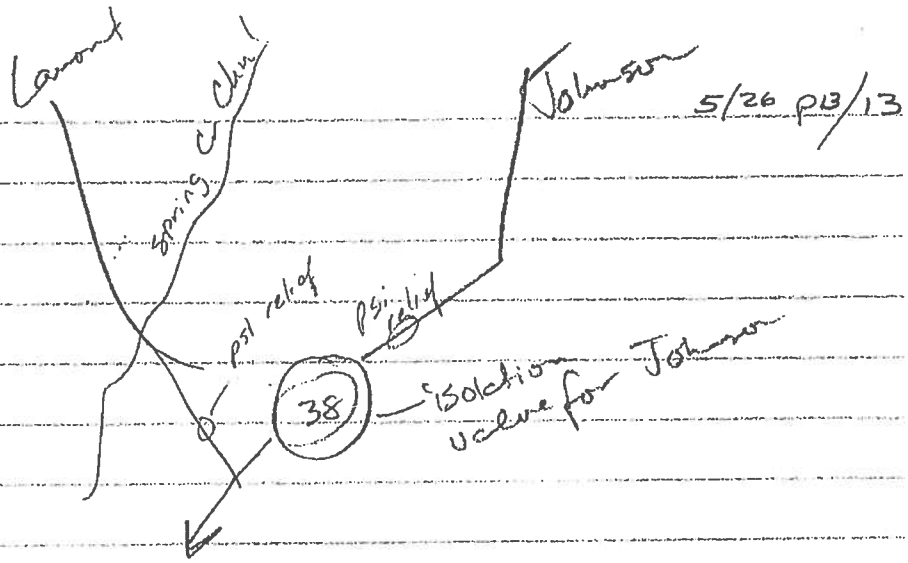
GPS 36 headgate 2:52 pm



Johnson side closed w/ checkboards
Just a little leakage.

GPS 37 2:58 @ Johnson Spillway

Johnson has some JR nat'l Q from Worm Cr
Monthly just 1 reservoir spill



Johnson Outlet Stormwater

GPS 39 3:30 pm
SN 07-01847-22
Not readable standpipe needs straightened

GPS 40: 3:39
Johnson Outlet control on dam

Lunch Eldon Golightly 9/29/2010 12:00noon
Andy Waldera
Scott King

Johnson Reserv..

Preston Reservoir Company
- Owned the Canal
~ 1910 1st filing of water for Worm Creek ~~for John~~ Water
1923 1st filing for Storage

Johnson Reservoir Company
Plowed 1st Ditch
from Worm Creek

Lamont
PRW owned Lamont

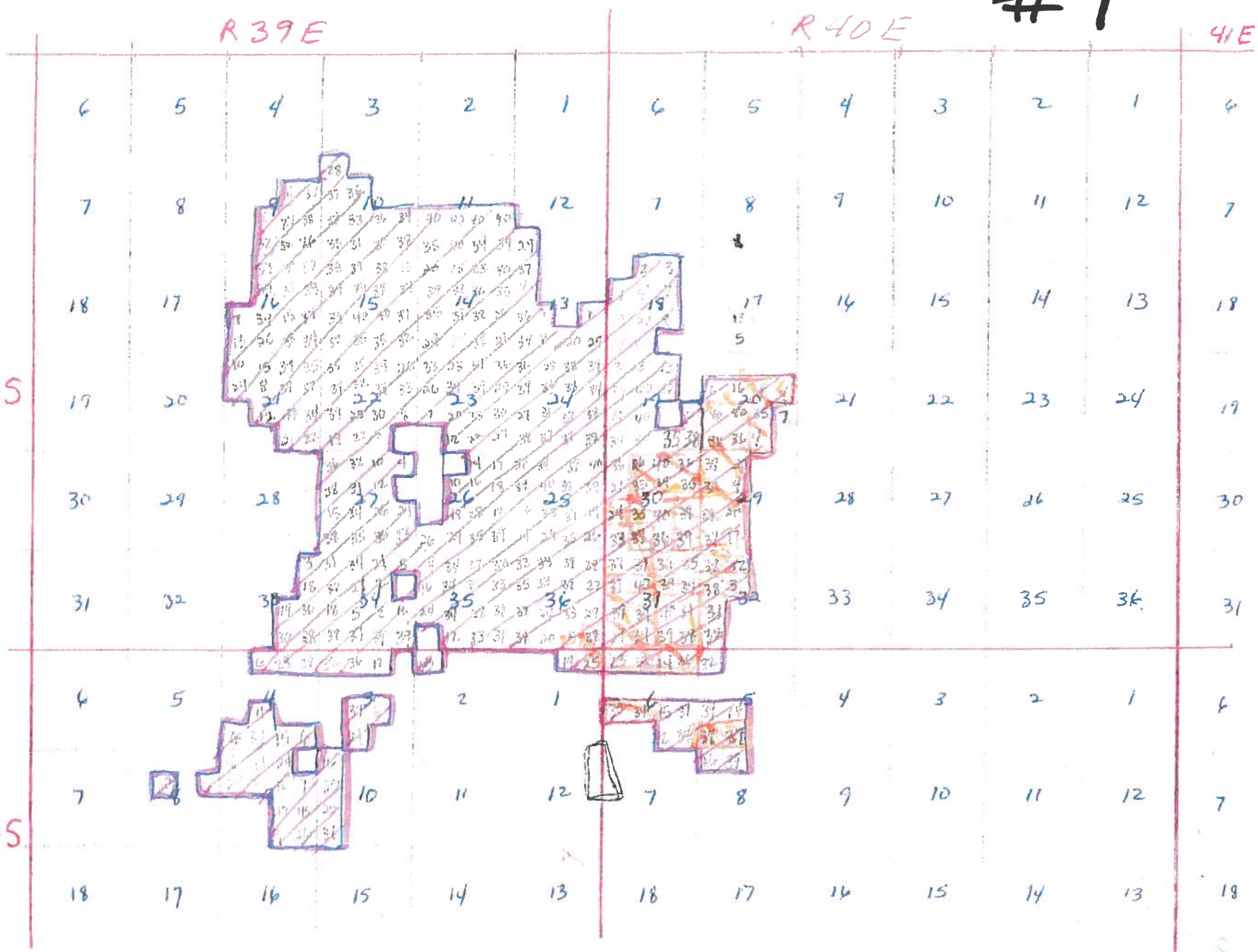
Lyle Porter said Johnson 1890 dam very small

Eldon 1872 Water Rights..
Last 60 days.. satisfied w/ history... No RR, No Hwy
Flow up from Spring Creek
Fed by "springs" in decree
Springs to Kirby but these springs above Kirby
"No other place for 1872 to come from"
1874 - RR comes in.
POD changed to below RR
POD was above RR & Hwy before 1874

AND4: Check Worm Creek Decree for "Common System" language

Who represents Mink Creek?
Mink – Preston.

#1



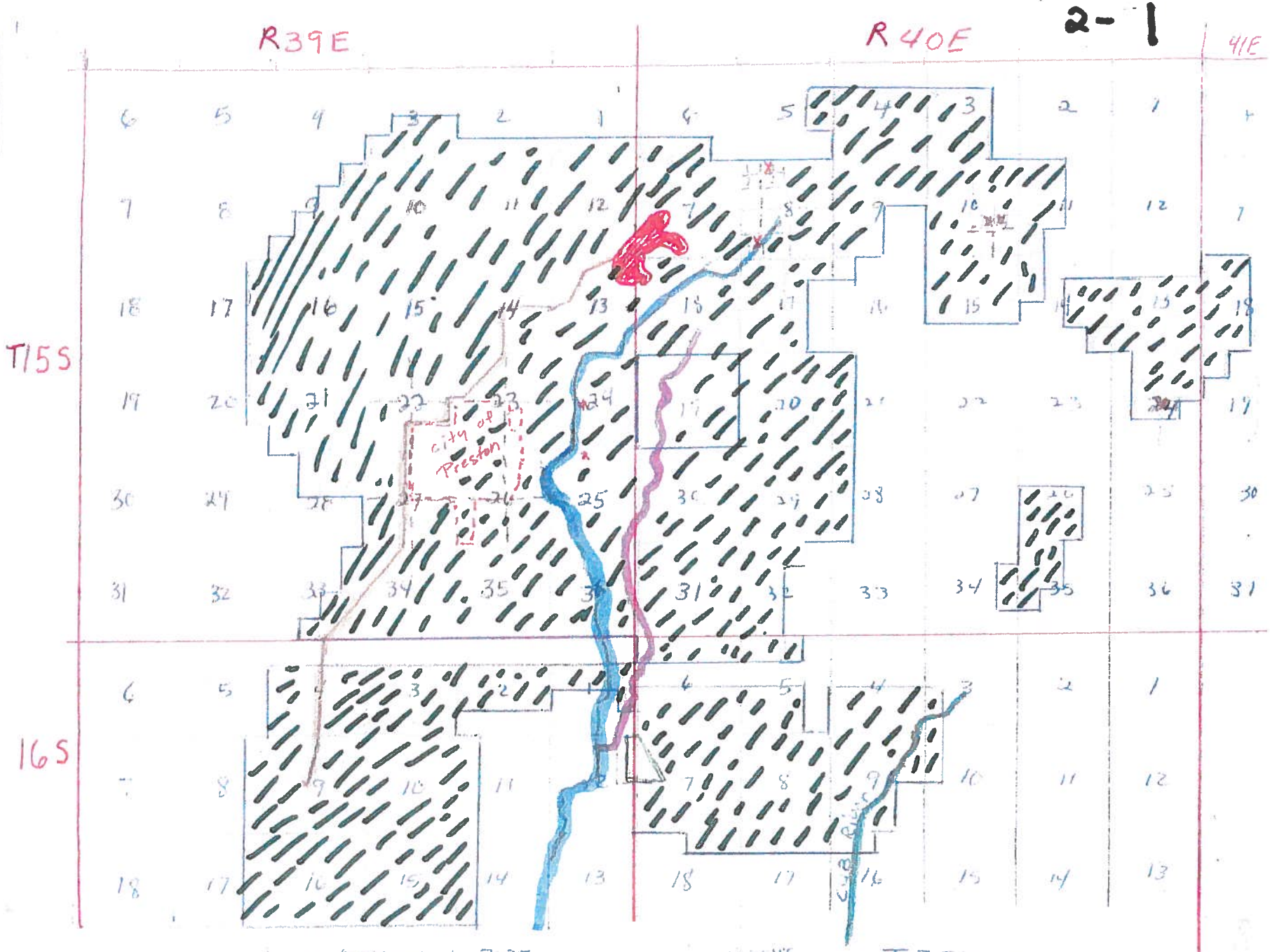
13-2108 1559 AC.
Johnson Reservoir
Preston Whitney Reservoir

10,449 T AC IRRIGATED
13-271 Preston Whitney

ALL-STATE LEGAL®
EXHIBIT
116
PROTESTANT

PROT-00448

2-1



PROT-00449



2-2

T 15705

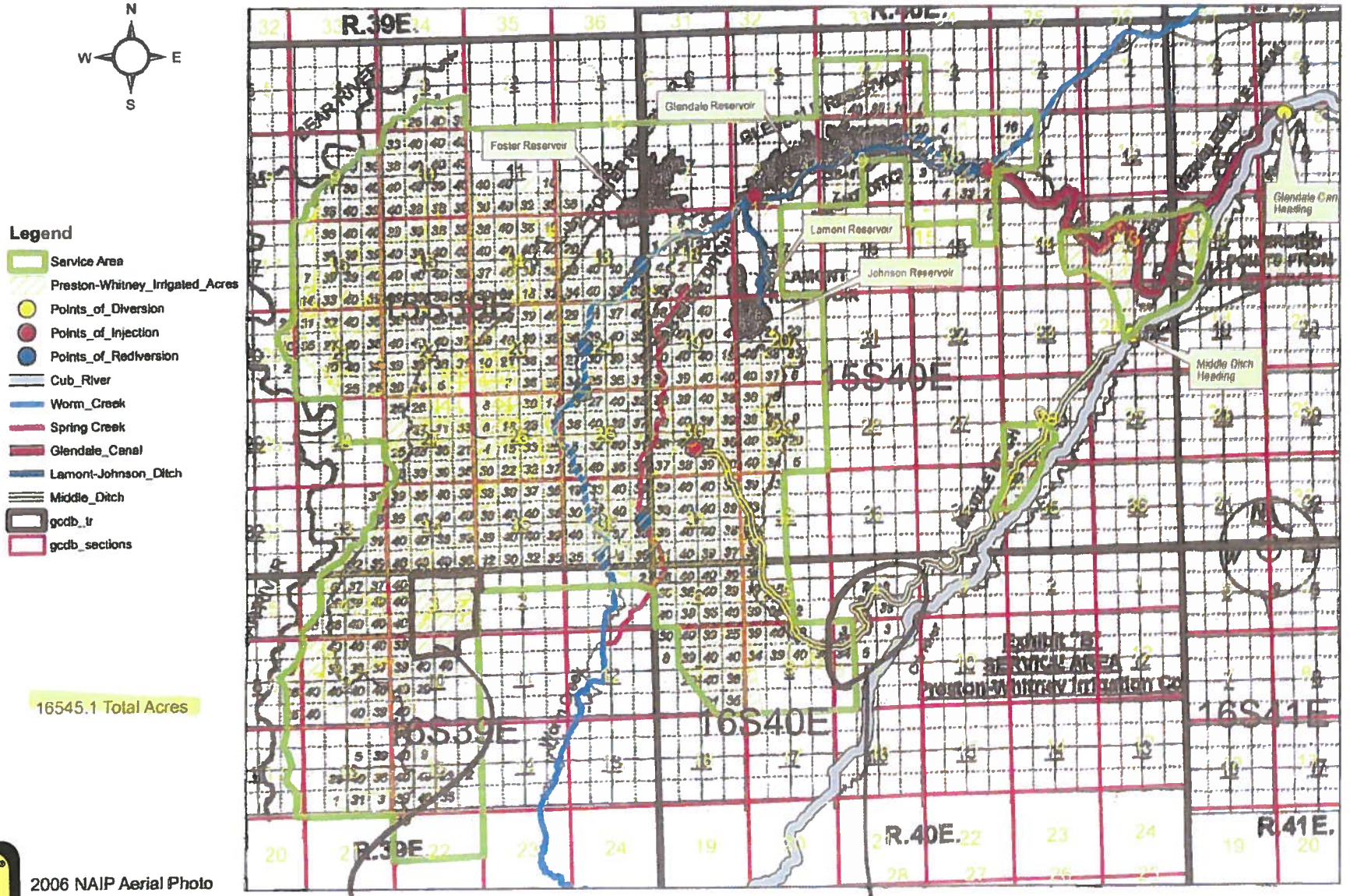
13 2, 13 3 + 13-210f

Pg 2

PROT-00450

PRESTON-WHITNEY AMENDED TRANSFER

CHANGED ACRES



Acre numbers within Foster map & Twr map

ALL-STATE LEGAL®
EXHIBIT
117
PROTESTANT

13-2108 ; 13-2288

Licensed: Preston-Whitney, 1-17-39
P-16174, Lp. 3909
215 c.f.s. Priority 1-1-2

Decreed: Jan. 26, 1906:
Cub River Middle Dist. Co.:
13-2 [30 c.f.s. – 1882
69.9 " – " high water
Cub River & Worm Cr. Canal Co.:
13-3 – [15 c.f.s. – 1882
85 " – " high water

= additional acres on amended tax map

B-2291 (Lamont)

FORM M 3503 TOWNSHIP PLAT—6 FORM

SCALE: ONE INCH TO ONE MILE

Township Range

FORM M 3503 TOWNSHIP PLAT—6 FORM

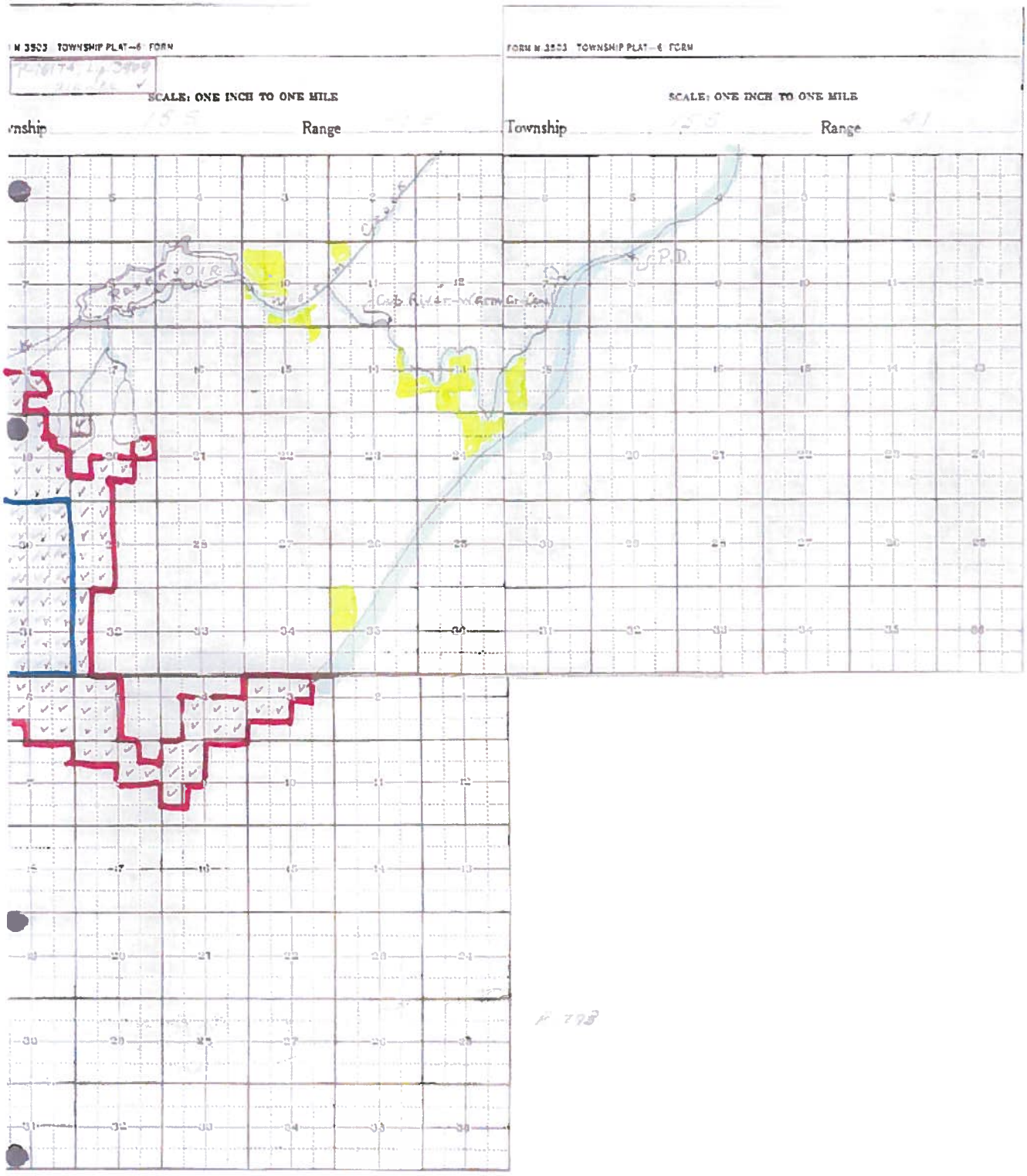
SCALE: ONE INCH

Township 2108 2288 (Glendale)

T. 15 S.

T. 16 S.

PWID00484


FORM N 3503 TOWNSHIP PLAT—6 FORM
SCALE: ONE INCH TO ONE MILE
Township
Range
FORM N 3503 TOWNSHIP PLAT—6 FORM
SCALE: ONE INCH TO ONE MILE
Township
Range

2108 & 2288 (13,766 acres)
(1929)

Licensed: Preston-Whitney, 1-17-39
P-16174, L.p. 3909
215 c.f.s. Priority 11-29

2291 (Lamont)
(1947)

FORM N 3503 TOWNSHIP PLAT—6 FORM

SCALE: ONE INCH TO ONE MILE

Township ____ Range ____

FORM N 3503 TOWNSHIP PLAT—6 FORM

(1929)

SCALE: ONE INCH

Township 2108 2289 (Glendale)

Decreed: Jan. 26, 1906:
Cub River Middle Ditch Co.
B-2 { 30.0 c.f.s. – 1882
69.9 " – " high water

Cub River & Worm Co. Canal Co.:
B-3 { 25 c.f.s. – 1882
85 " – " high water

T. 15 S.

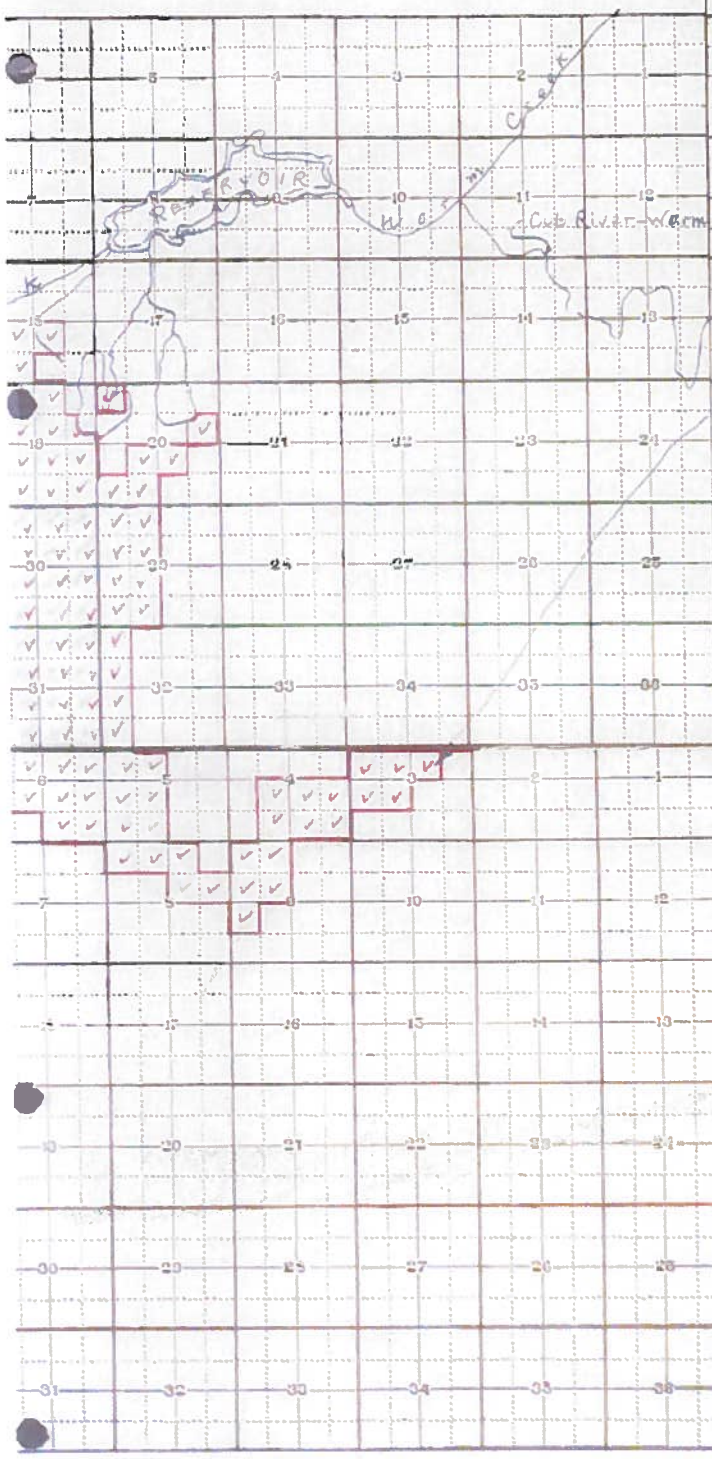
T. 16 S.

RESERVOIR

FORM M 3503 TOWNSHIP PLAT—6" FORM

SCALE: ONE INCH TO ONE MILE

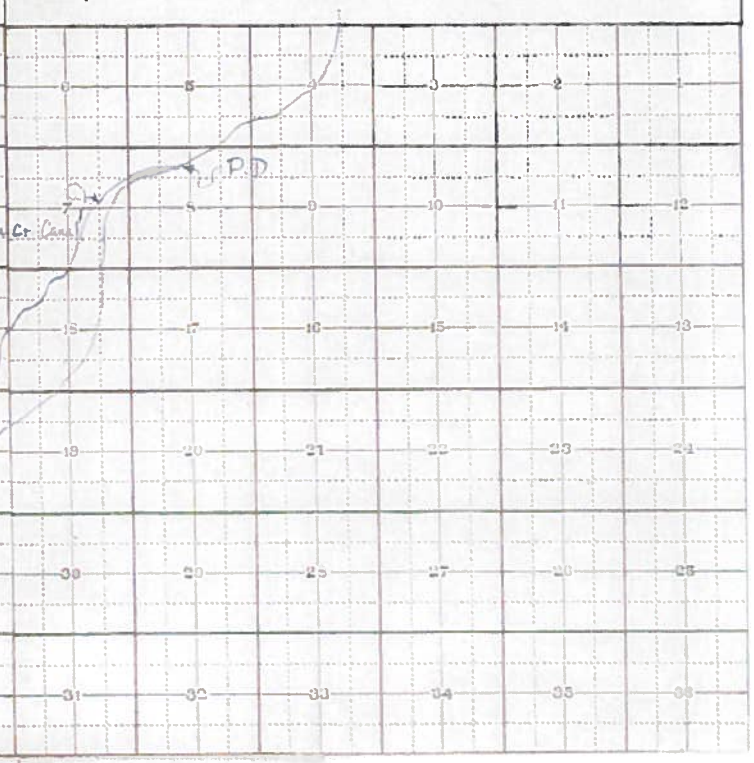
Township ____ Range ____

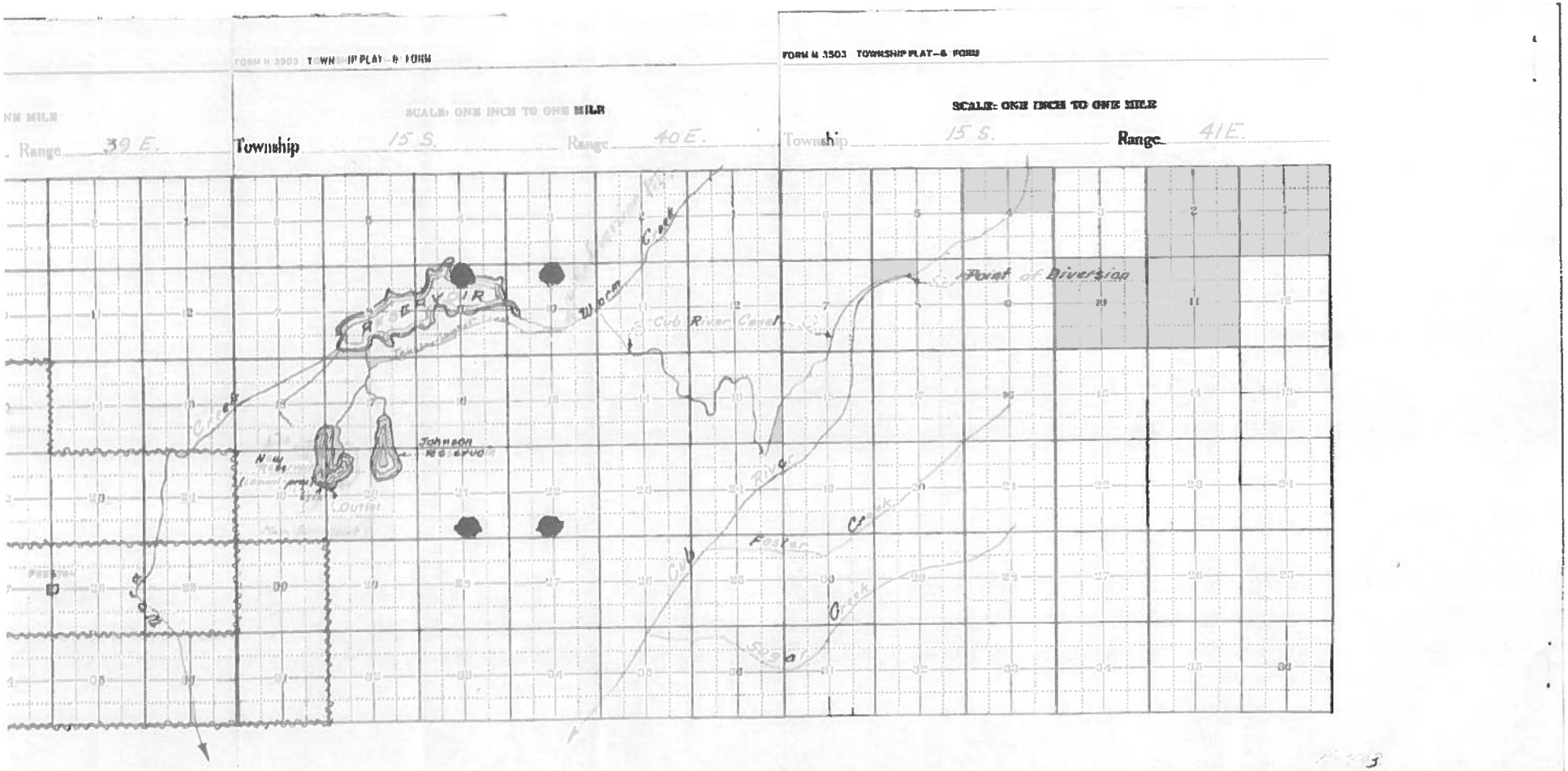


FORM M 3503 TOWNSHIP PLAT—6" FORM

SCALE: ONE INCH TO ONE MILE

Township ____ Range ____




FORM M 3503 TOWNSHIP PLAT—6 FORM
SCALE: ONE INCH TO ONE MILE
Township 15 S. Range 40 E.
FORM M 3503 TOWNSHIP PLAT—6 FORM
SCALE: ONE INCH TO ONE MILE
Township 15 S. Range 41 E.
Point of Diversion
Cub River Canal
Johnson
Outlet

FORM N 3503 TOWNSHIP PLAT—6 FORM

SCALE: ONE INCH TO ONE MILE

Township 15 S. Range 39 E.

FORM N 3503 TOWNSHIP PLAT—6 FORM

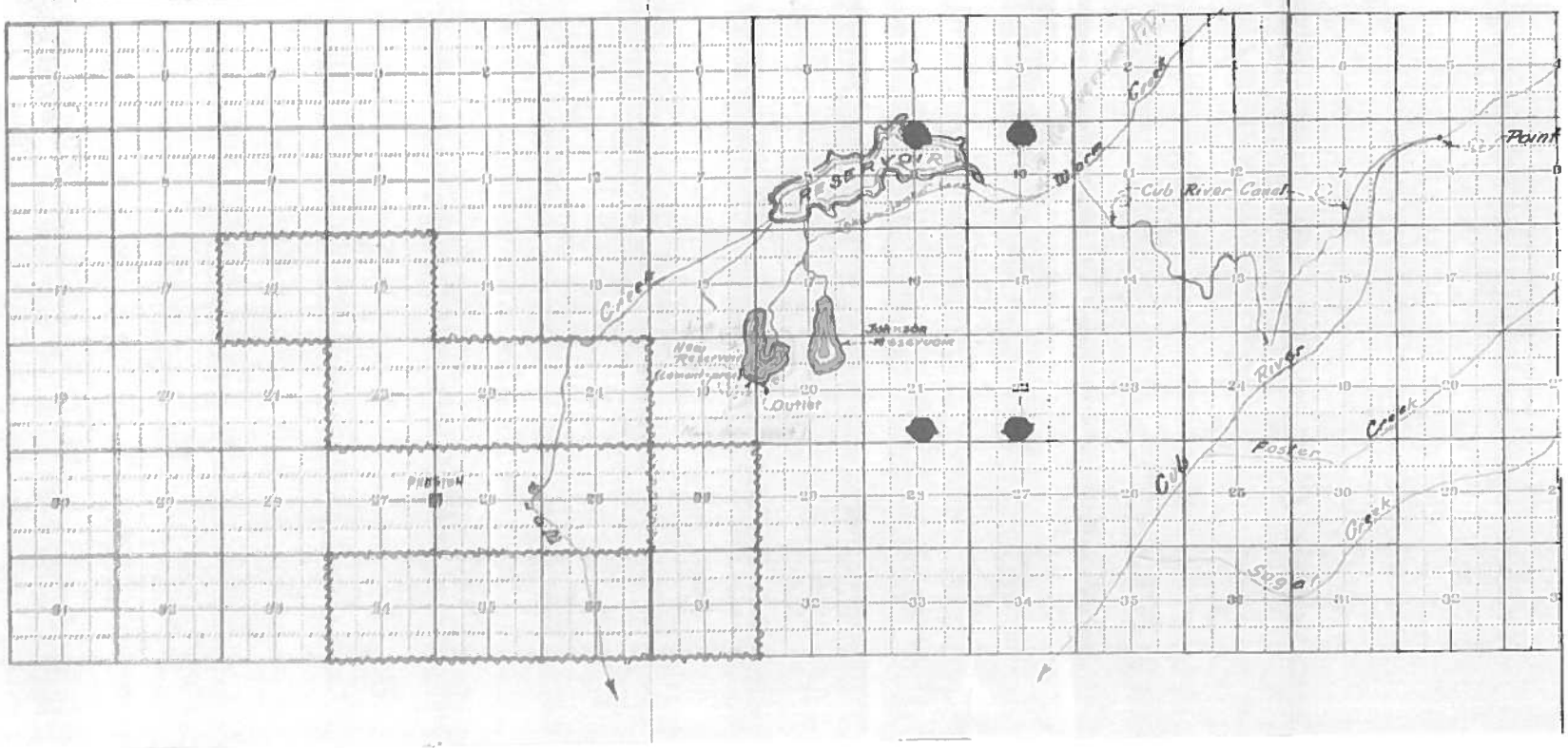
SCALE: ONE INCH TO ONE MILE

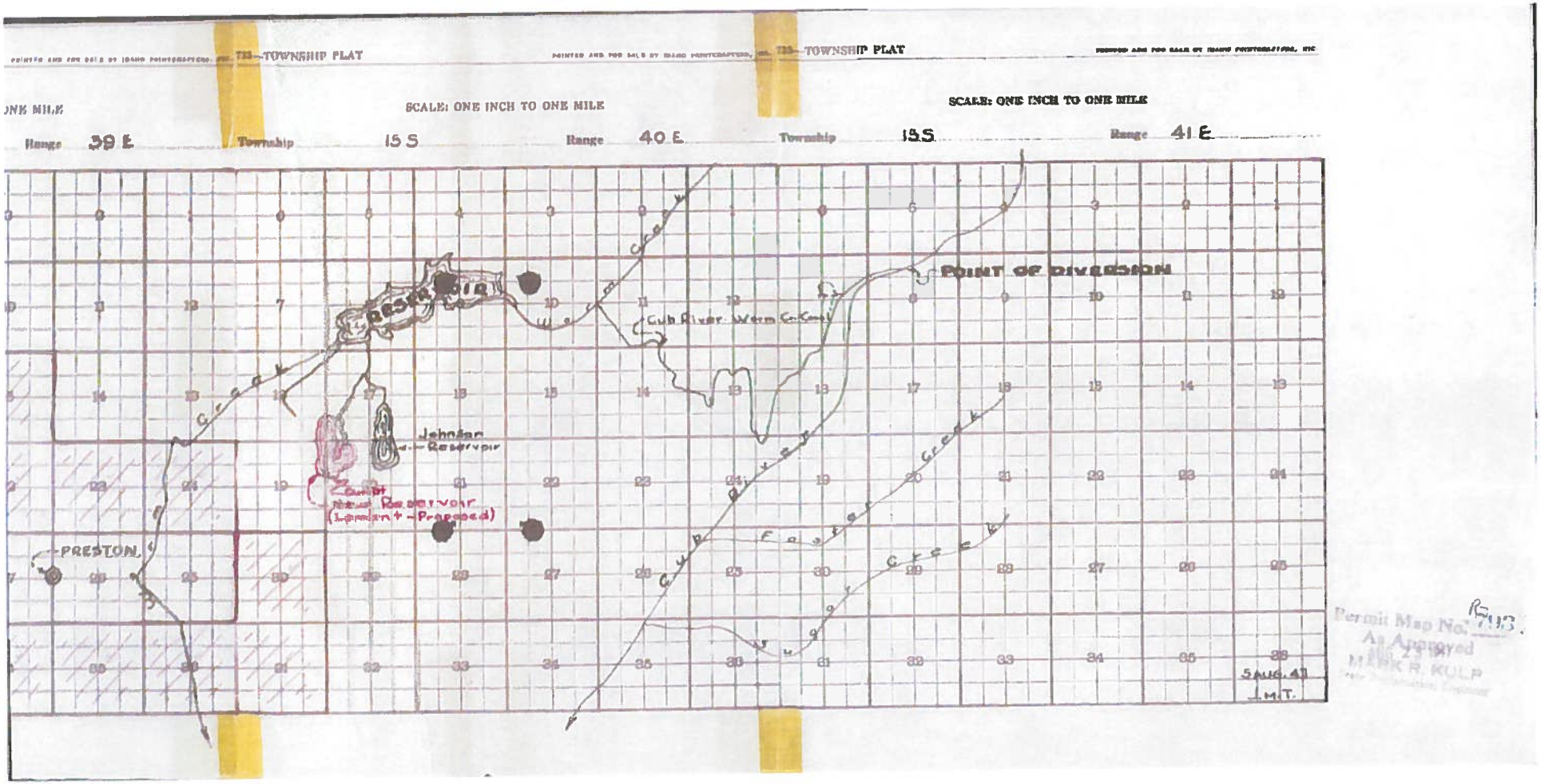
Township 15 S. Range 40 E.

FORM N 3503 TOWNSHIP PLAT—6 FORM

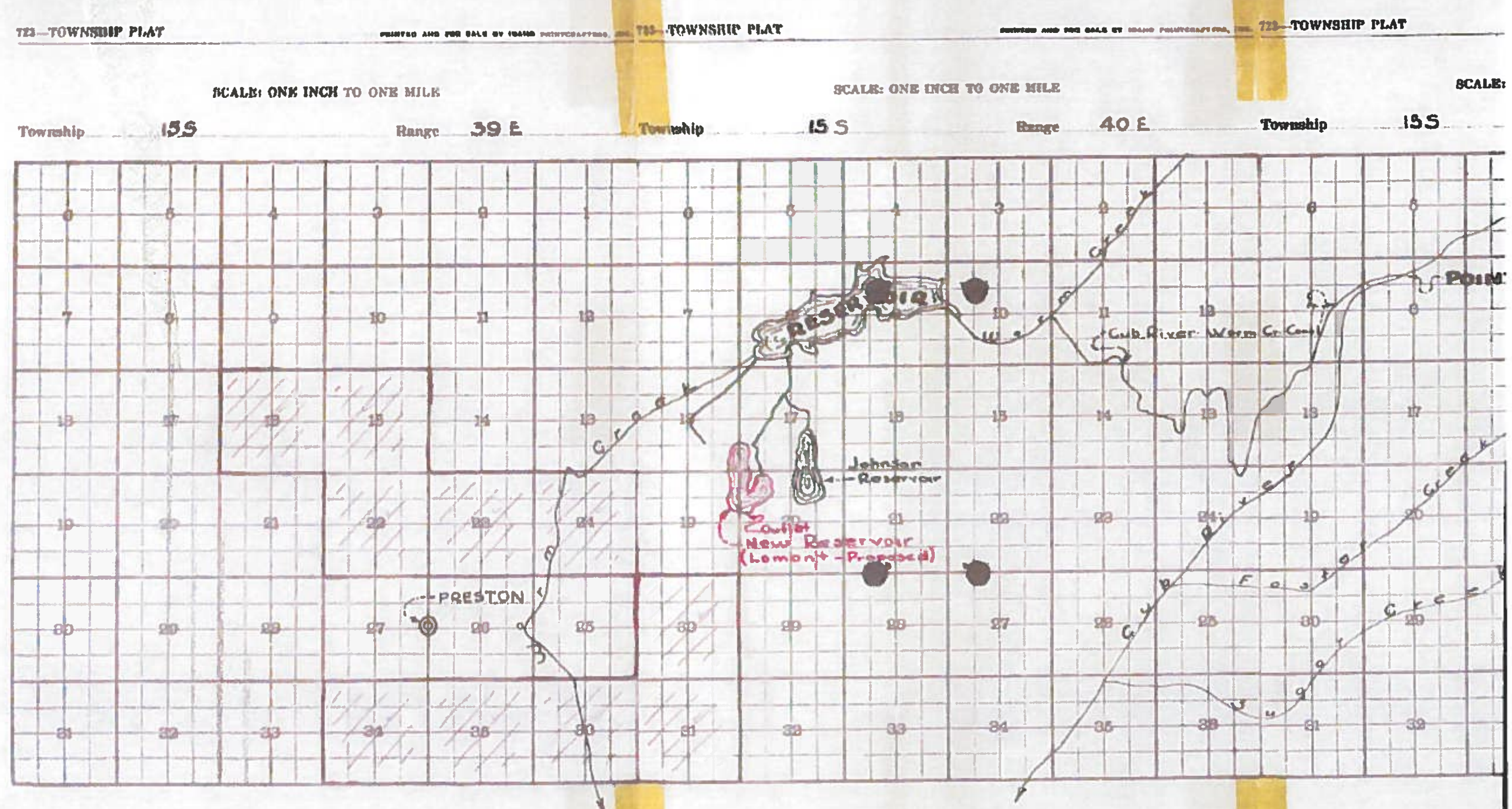
SCALE: O

Township 15 S.





Permit Map No. 7013
Approved
MARK R. KULP


723—TOWNSHIP PLAT
SCALE: ONE INCH TO ONE MILE
Township 15S Range 39 E
723—TOWNSHIP PLAT
SCALE: ONE INCH TO ONE MILE
Township 15 S Range 40 E
723—TOWNSHIP PLAT
SCALE:
Township 15S
Worm Creek
Creek
RESERVOIR
Cub River Worm Cr. Canal
Johnson Reservoir
Outlet
New Reservoir (Lamont - Proposed)
PRESTON
Cub River
Foster Creek
Sugar Creek
POINT

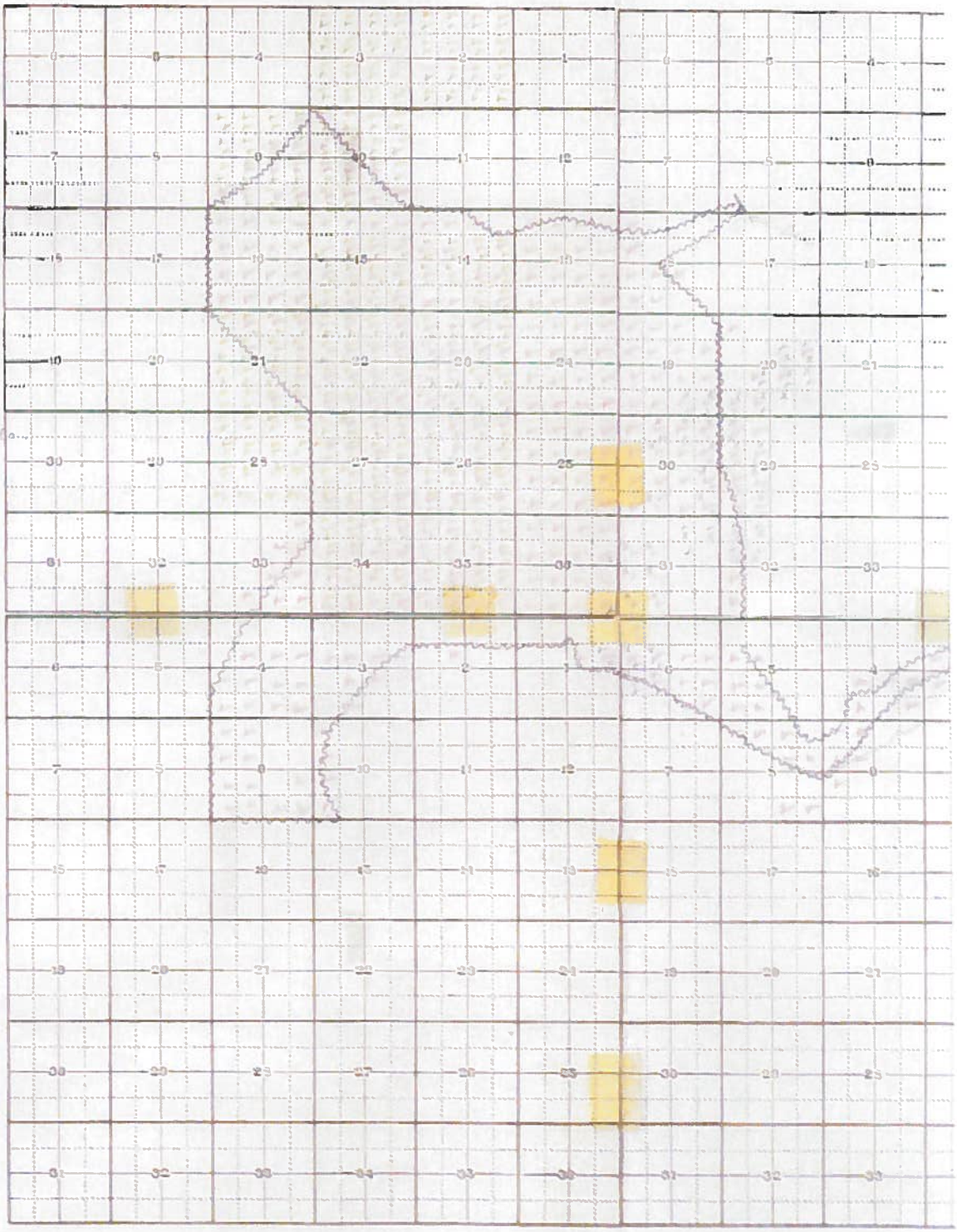
FORM M TOWNSHIP PLAT—6 FORM

FORM M 3503 TOWNSHIP PLAT—6 FORM

SCALE: ONE INCH TO ONE MILE

SCALE: ONE INCH

Township Range Township



FORM N 3303 TOWNSHIP PLAT—6" FORM

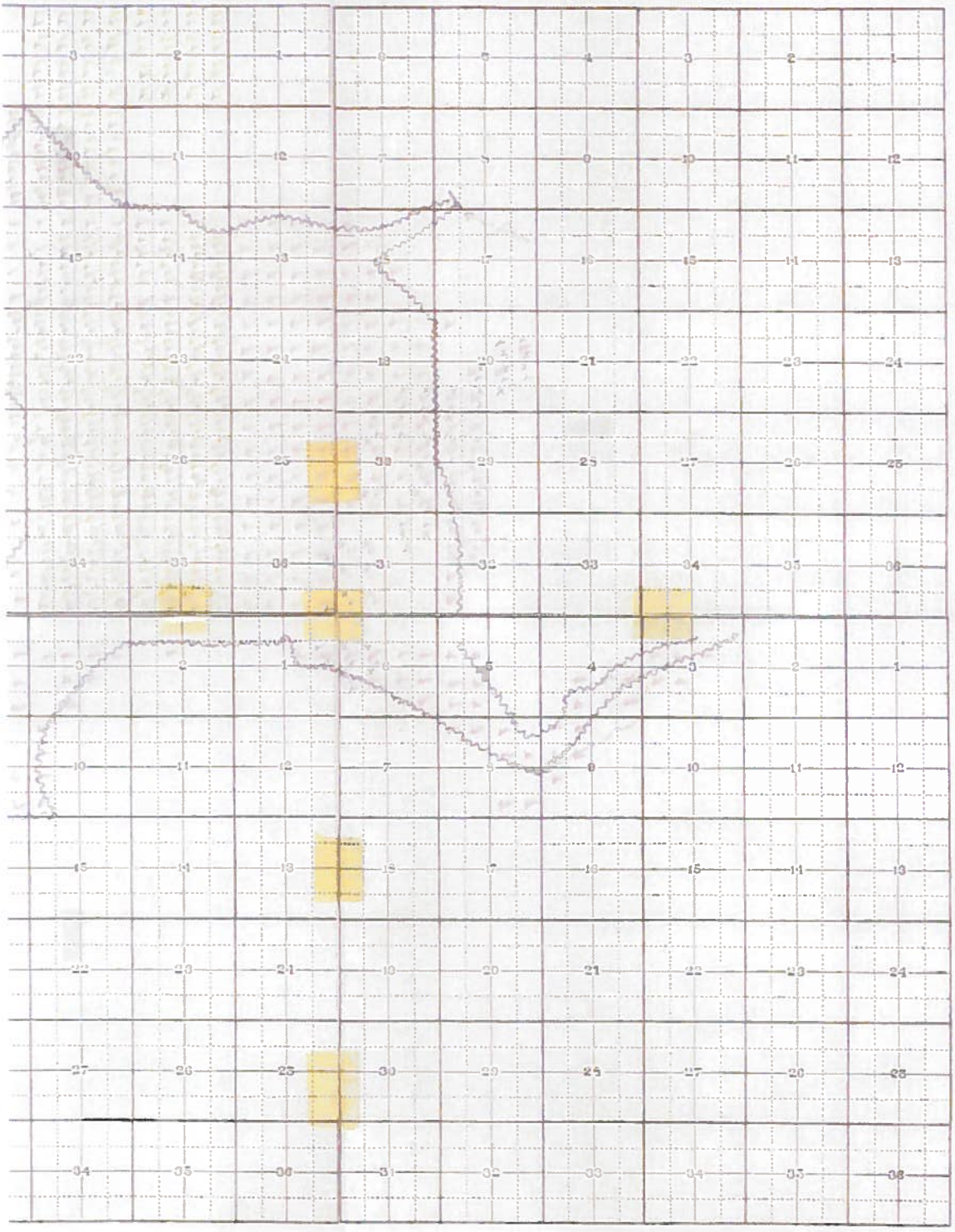
INCH TO ONE MILE

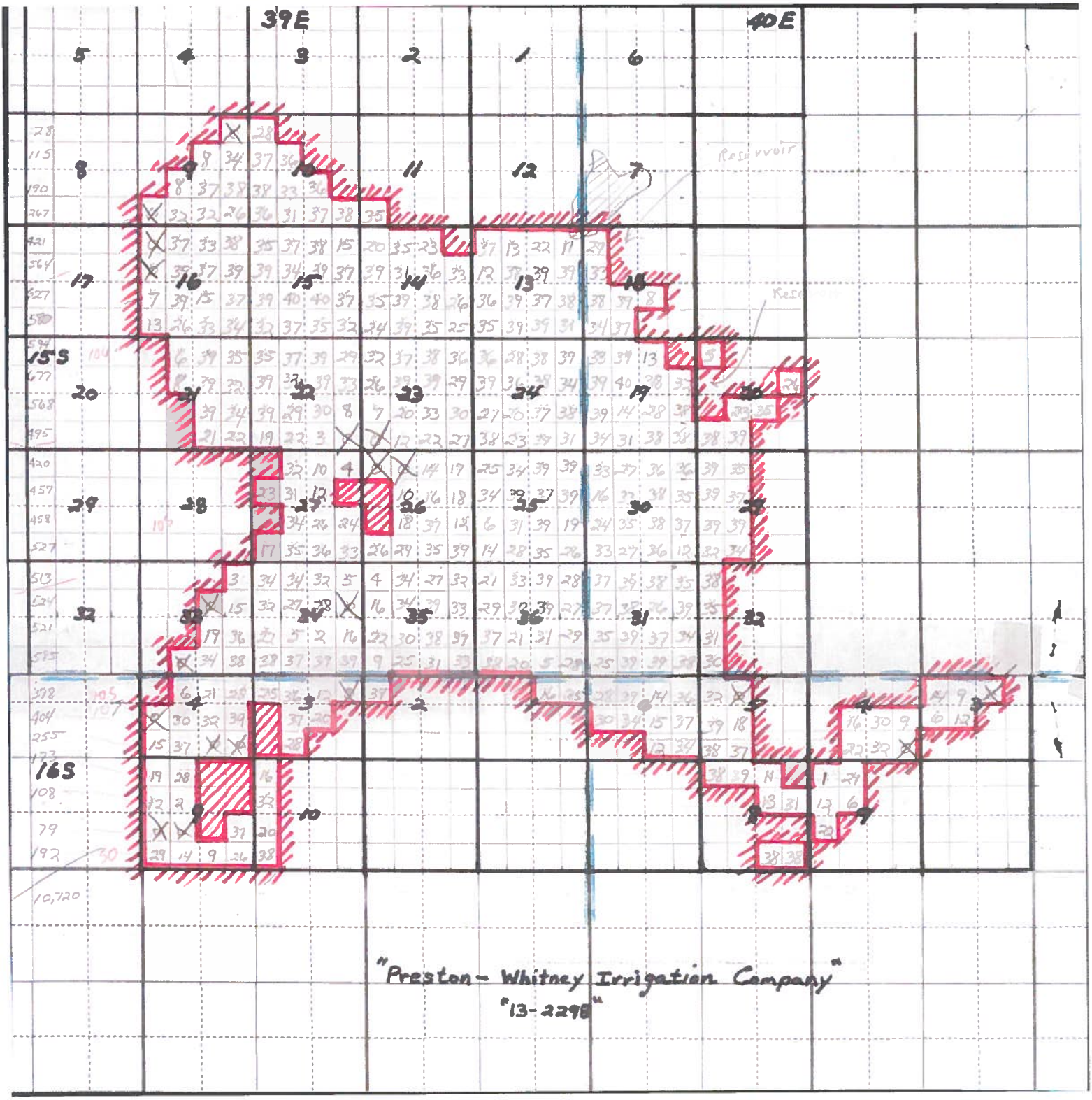
SCALE: ONE INCH TO ONE MILE

Range

Township

Range




39E
40E
5
4
3
2
1
6
8
9
10
11
12
7
Reservoir
17
16
15
14
13
18
15S
20
21
22
23
24
19
29
28
27
26
25
30
32
33
34
35
36
31
1
2
3
4
5
6
16S
8
9
10
7
"Preston - Whitney Irrigation Company"
"13-2298"

Licensed: Preston-Whitney, 1-17-39
P-16174, L.p. 3909
215 c.f.s. Priority: 1-1-29

Decreed: Jan. 26, 1906:
Cub River Middle Ditch Co.:
30.0 c.f.s. – 1882
69.9 " – " high water

Cub River & Worm Co. Canal Co.:
25 c.f.s. – 1882
85 " – " high water

FORM M 3503 TOWNSHIP PLAT—6" FORM

Preston-Whitney Sec. Co. R-793, 2407 A.F.

SCALE: ONE INCH TO ONE MILE

Township 15 S. Range 39 E

FORM M 3503 TOWNSHIP PLAT—6" FORM

P-16174, L.p. 3909
215 c.f.s. ✓

SCALE: ONE INCH

Township 15 S

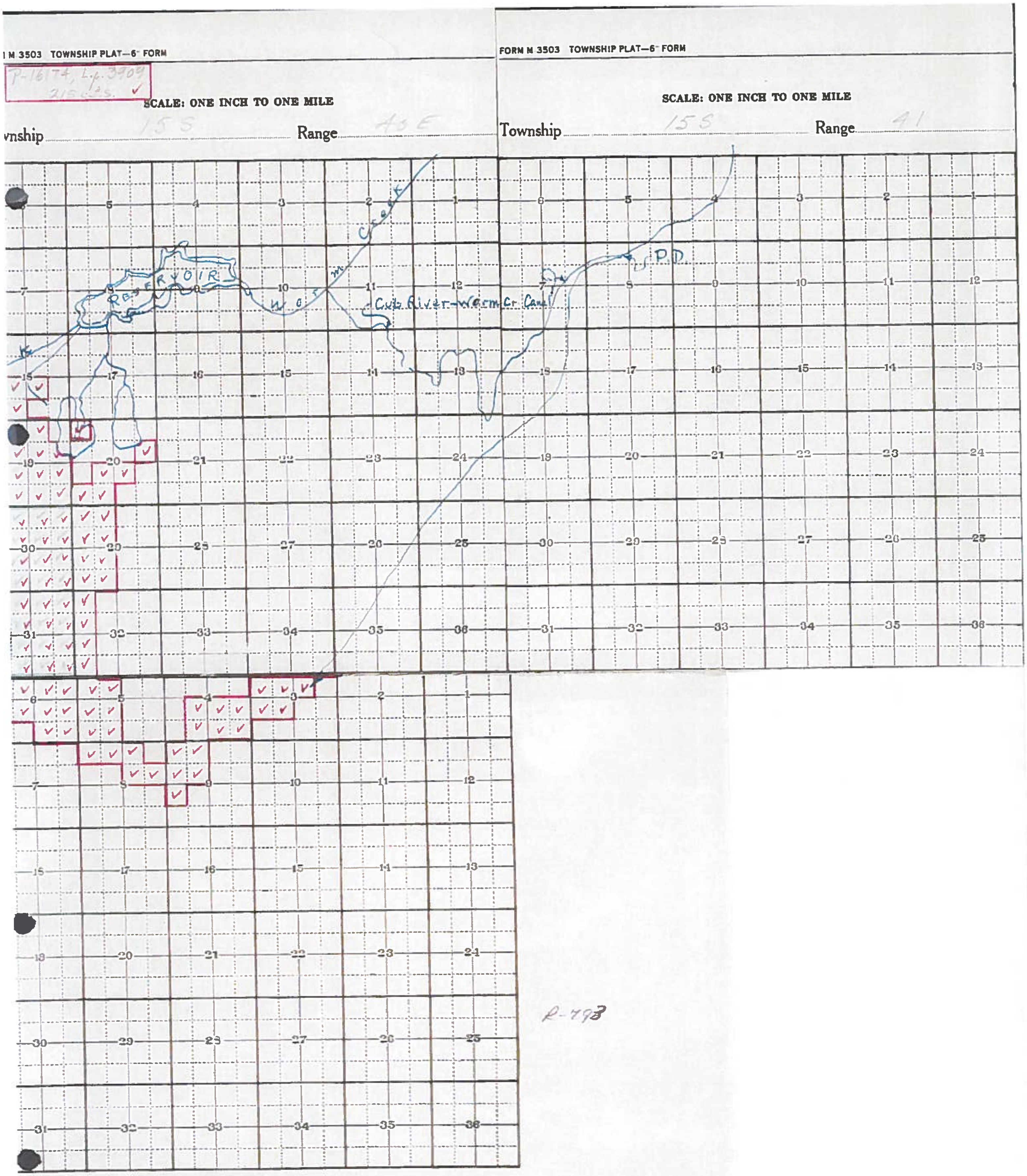
T. 15 S.

T. 16 S.

RESERVOIR

OUT

OUT


M 3503 TOWNSHIP PLAT—6" FORM
SCALE: ONE INCH TO ONE MILE
Township 15 S Range 40 E
FORM M 3503 TOWNSHIP PLAT—6" FORM
SCALE: ONE INCH TO ONE MILE
Township 15 S Range 41
RESERVOIR
Warm Creek
Cub River-Warm Cr Canal
P.D.
R-793

FORM M-3503 TOWNSHIP PLAT—6" FORM

SCALE: ONE INCH TO ONE MILE

...NE MILE

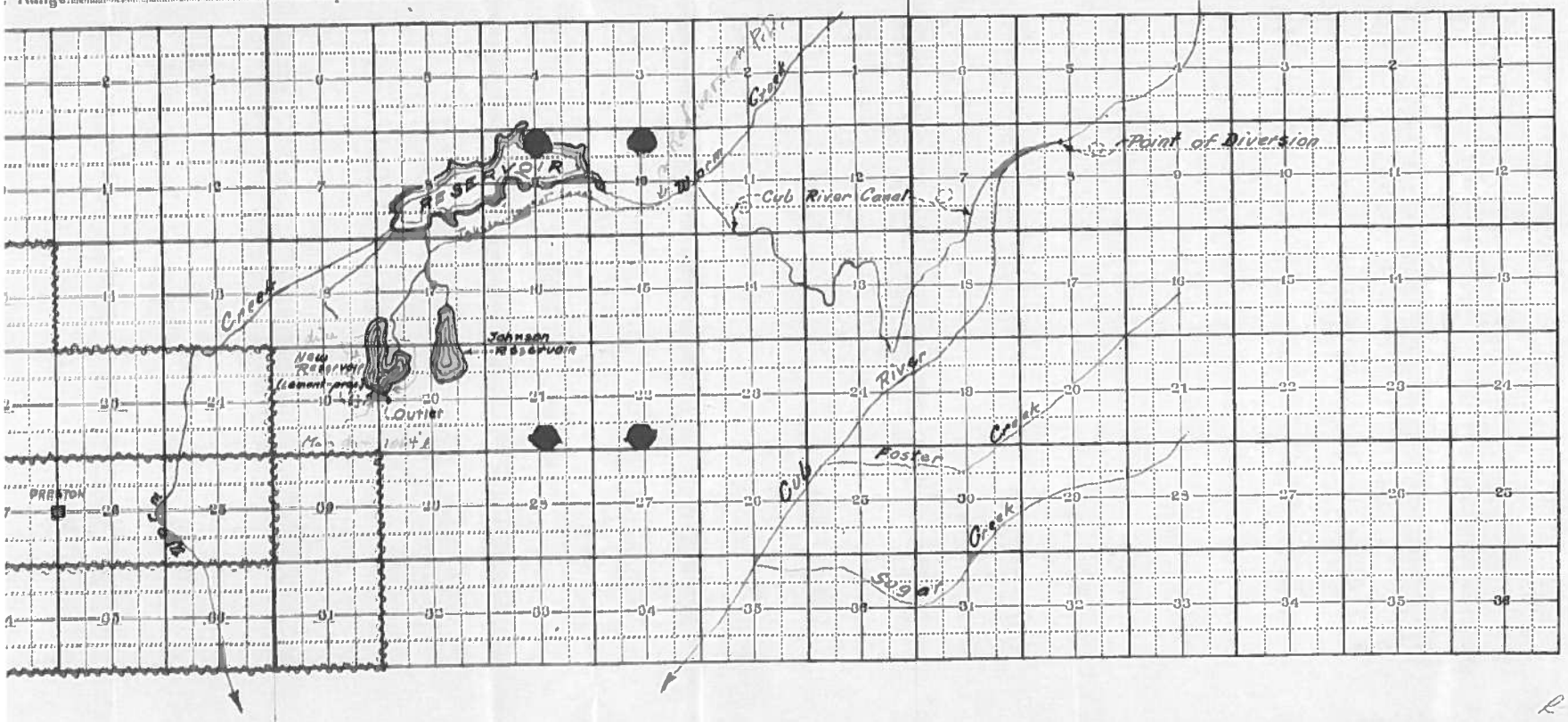
..., Range 39 E.

FORM M-3503 TOWNSHIP PLAT—6" FORM

SCALE: ONE INCH TO ONE MILE

Township 15 S. Range 40 E.

Township 15 S. Range 41 E.



R 793

FORM M.3503 TOWNSHIP PLAT—6" FORM

SCALE: ONE INCH TO ONE MILE

Township 15 S. Range 39 E.

FORM M.3503 TOWNSHIP PLAT—6" FORM

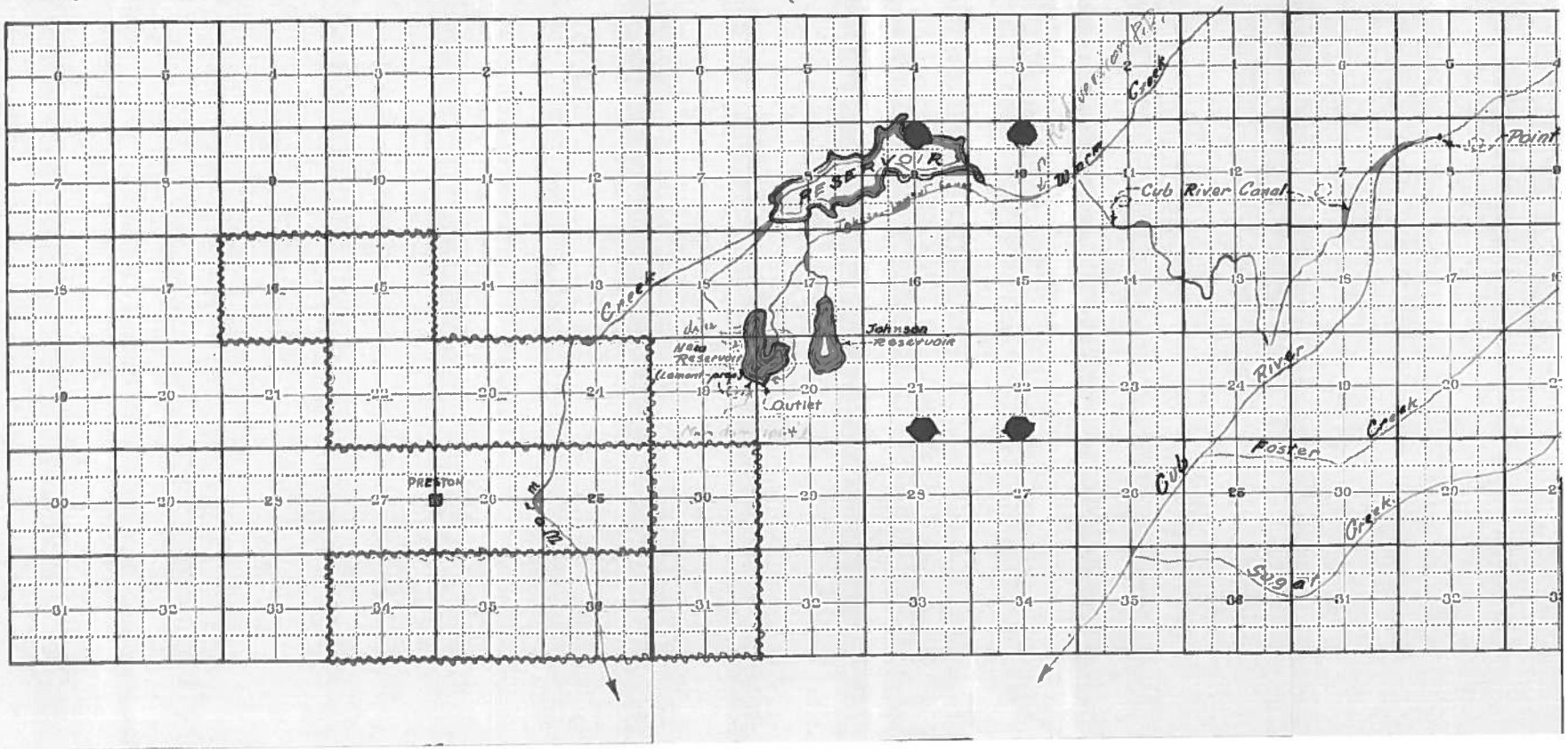
SCALE: ONE INCH TO ONE MILE

Township 15 S. Range 40 E.

FORM M.3503 TOWNSHIP PLAT—6" FORM

SCALE: O

Township 15 S.



PRINTED AND FOR SALE BY IDAHO PRINTCRAFTERS, INC. 723—TOWNSHIP PLAT

PRINTED AND FOR SALE BY IDAHO PRINTCRAFTERS, INC. 723—TOWNSHIP PLAT

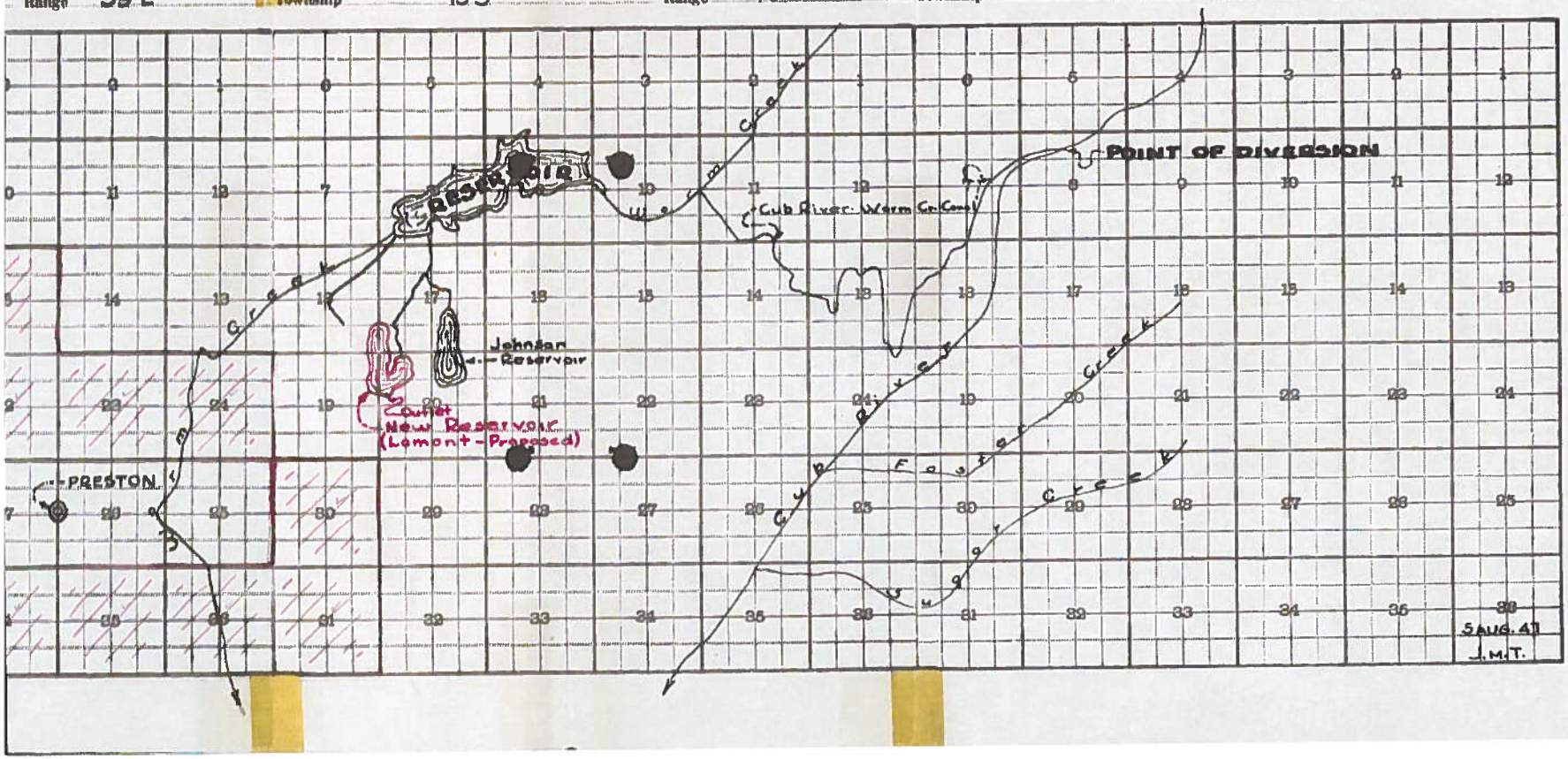
PRINTED AND FOR SALE BY IDAHO PRINTCRAFTERS, INC.

NE MILE

SCALE: ONE INCH TO ONE MILE

SCALE: ONE INCH TO ONE MILE

Range 39 E Township 15 S Range 40 E Township 15 S Range 41 E

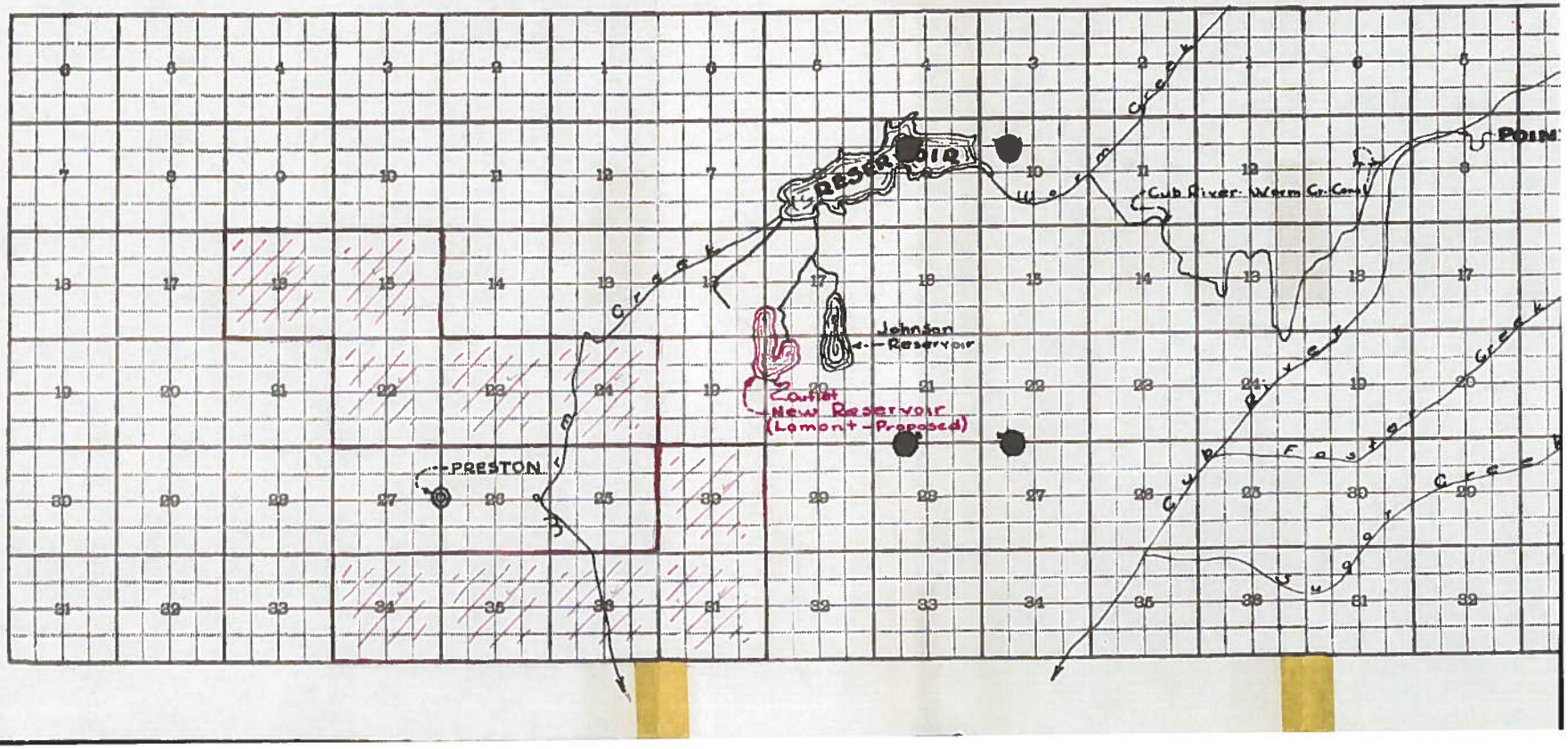


Permit Map No. 793
As Approved
AUG 23 1941
MARK R. KULP
State Reclamation Engineer

723—TOWNSHIP PLAT PRINTED AND FOR SALE BY IDAHO PRINTCRAFTERS, INC. 723—TOWNSHIP PLAT PRINTED AND FOR SALE BY IDAHO PRINTCRAFTERS, INC. 723—TOWNSHIP PLAT

SCALE: ONE INCH TO ONE MILE SCALE: ONE INCH TO ONE MILE SCALE:

Township 15S Range 39 E Township 15S Range 40 E Township 15S



FORM M TOWNSHIP PLAT—6 FORM

License 16174 + R

FORM M 3503 TOWNSHIP PLAT—6 FORM

SCALE: ONE INCH TO ONE MILE

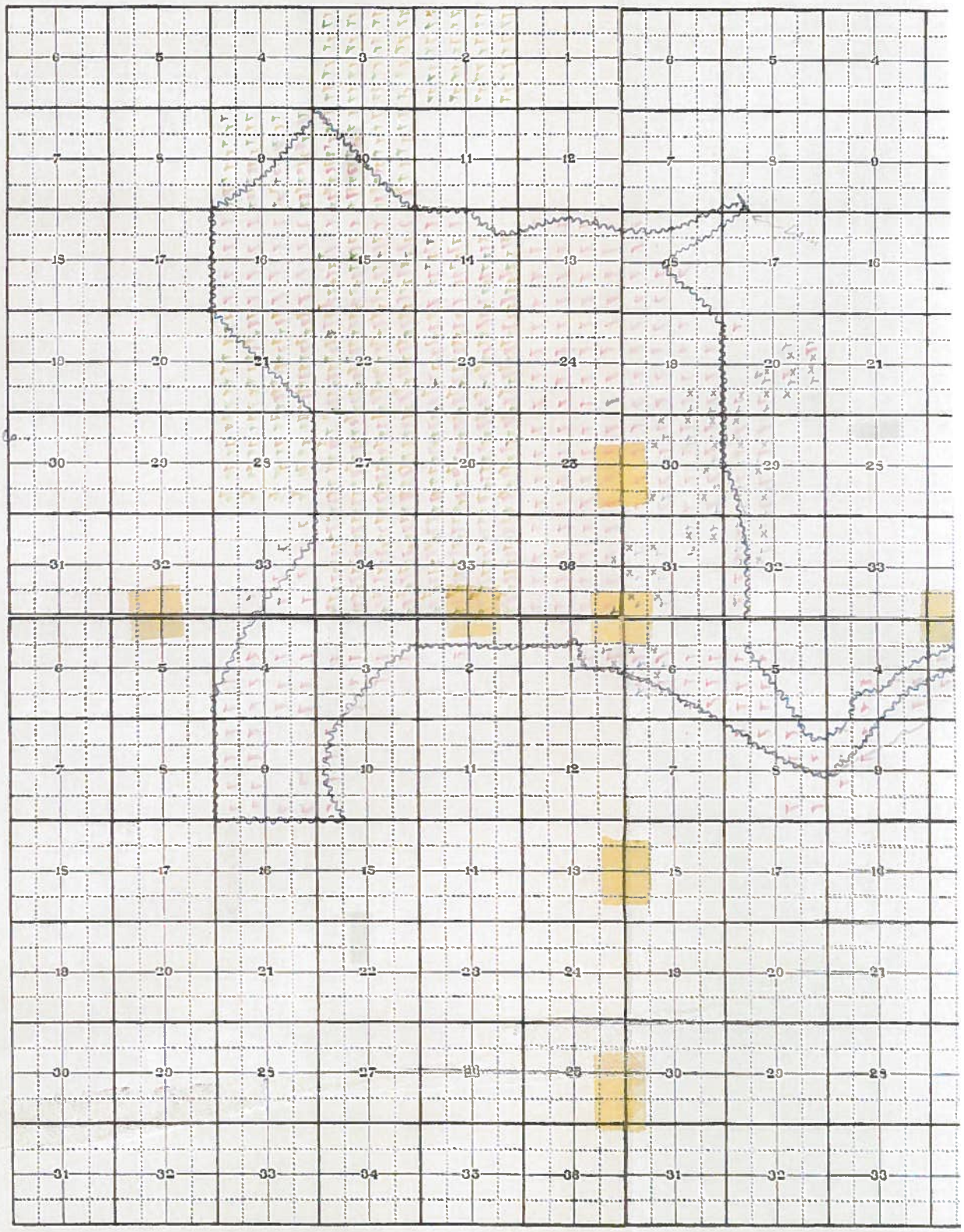
SCALE: ONE INCH

Township 13 S Range 39 E Township 13 S

License
Green = 15933
Yellow = 15929
Red = 16174
" = R364
Blue = 15883

Area = 13766

mmm = boundary of Preston-Whitney Irrig. Co.

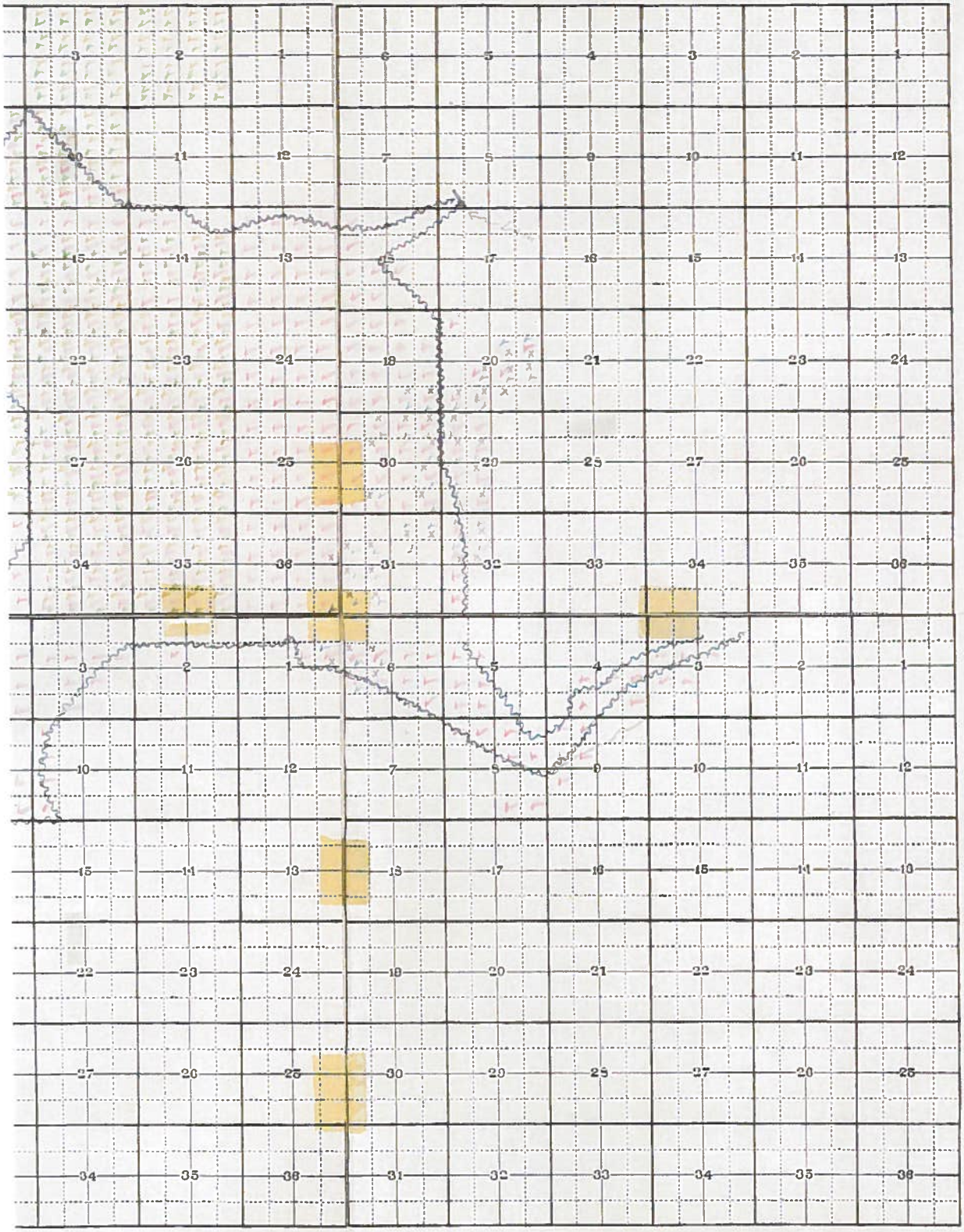


FORM M-3503 TOWNSHIP PLAT—6" FORM

INCH TO ONE MILE

SCALE: ONE INCH TO ONE MILE

Range 39 E Township 13 S Range 40 E



- License 15883
x License 15883

- License 15883
x License 15883

L-793

Superseded by Part

STATE OF IDAHO

LICENSE AND CERTIFICATE OF WATER RIGHT.

Water License No. ~~2-723~~ 16174 Priority- January 1, 1929 Amount- ~~6.00~~ 215 second feet.

COUNTY

This is to certify that FRANKLIN SUGAR COMPANY of Preston, Idaho, made application for a permit to appropriate the public waters of the State of Idaho, dated December 15, 1924; that Permit No. 16174 was issued under said application; that Certificate of Completion of Works, with a carrying capacity of 215 second feet, was issued thereunder on July 28, 1930, showing that said works were completed on the 2nd day of May, 1930; and that on the 12th day of January, 1939, PRESTON WHITNEY IRRIGATION COMPANY, A CORPORATION, Assignee , of Preston, State of Idaho, made proof to the satisfaction of the Commissioner of Reclamation of Idaho, of a right to the use of the waters of Cub River, Worm Creek, and Worm Creek Reservoir, for irrigation and domestic purposes, under Use Permit No. 16174 of the Commissioner of Reclamation, and that said right to the use of said waters has been perfected in accordance with the laws of Idaho, and is hereby confirmed by the Commissioner of Reclamation of Idaho and entered of record in Volume 7 of Licenses, at page 3909, on the 17th day of January, 1939.

The right hereby confirmed dates from January 1, 1929.

The point of diversion is located S. 67° 15' E. 2620 feet distant from the NW corner of Section 8, T. 15 S., R. 41 E., B. M., and is in the NE¼NW¼ of Section 8, T. 15 S., R. 41 E., B. M., County of Franklin.

That the amount of water to which such right is entitled and hereby confirmed, for the purposes aforesaid, is limited to an amount actually needed and beneficially used for said purposes, and shall not exceed 215 cubic feet per second.

Description and location of use:

NE¼NE¼, S½NE¼, NE¼SW¼, S½SW¼, SE¼ Section 9. NW¼NW¼, S½NW¼, SW¼, NW¼SE¼, S½SE¼ Section 10. SW¼SW¼ Section 11. All Section 13. NW¼NE¼, S½NE¼ NW¼, S½ Section 14. All Sections 15 & 16. NE¼, E½NW¼, SE¼ Section 21. All Sections 22, 23, 24 & 25. NE¼, N½NW¼, SE¼NW¼, NE¼SW¼, S½SW¼, SE¼ Section 26. N½NE¼, SW¼NE¼, NE¼NW¼, S½NW¼, NE¼SW¼, S½SW¼, SE¼ Section 27. NE¼NE¼, S½NE¼, SE¼SW¼, SE¼ Section 33. All Sections 34, 35 & 36. All the above in Township 15 South, Range 39 East, B. M.

S½NE¼ Section 1. SW¼NW¼ Section 2. S½NE¼, S½NW¼, E½SW¼, NW¼SE¼ Section 3. S½NE¼, SE¼NW¼, S½ Section 4. W½, NE¼SE¼ S½SE¼ Section 9. W½NW¼, W½SW¼ Section 10. All the above in Township 15 South, Range 39 East, B. M.

W½NW¼, SW¼, NW¼SE¼ Section 18. NW¼NE¼, S½NE¼, NW¼, S½ Section 19. SE¼NE¼, NW¼NW¼, NE¼SW¼, S½SW¼, NW¼SE¼ Section 20. W½ Section 29. All Sections 30 & 31. W½NW¼, W½SW¼ Section 32. All the above in Township 15 South, Range 40 East, B. M.

SW¼NE¼, S½NW¼, N½SW¼ Section 3. E½SW¼, SE¼ Section 4. S½NW¼, SW¼ Section 5. S½NE¼, S½NW¼, N½SW¼, SE¼ Section 6. NW¼NE¼, S½NE¼, N½NW¼ Section 8. NW¼, NW¼SW¼ Section 9. All the above in Township 15 South, Range 40 East, B.M.

The right to the use of the water aforesaid hereby confirmed is restricted to the lands or place of use herein described, as provided by the laws of Idaho.

WITNESS the seal and signature of the Commissioner of Reclamation, affixed at Boise, Idaho, this 17th day of January, 1939

(SEAL)

JAMES SPOFFORD
Commissioner of Reclamation.

13 2108

ALL-STATE LEGAL®
EXHIBIT
118
PROTESTANT

PWID00053

State of Idaho
Department of Water Resources

WATER RIGHT LICENSE

WATER RIGHT NO. 13-02288A

Priority: December 15, 1924 Maximum Storage Volume: 6000.0 AF

This is to certify, that PRESTON WHITNEY IRRIGATION CO
PRESTON ID 83263 has complied with the terms and conditions of the permit, issued pursuant to Application for Permit dated December 15, 1924; and has submitted Proof of Beneficial Use on May 2, 1930. An examination indicates that the works have a storage capacity of 6000.000 af of water from:

CUB RIVER tributary to BEAR RIVER

source, and a water right has been established as follows:

BENEFICIAL USE	PERIOD OF USE	RATE OF DIVERSION	ANNUAL VOLUME
IRRIGATION STORAGE	01/01 to 12/31		6000.0 AF
IRRIGATION FROM STORAGE	04/01 to 11/01		6000.0 AF
DIVERSION TO STORAGE	11/01 to 06/15	215.00 CFS	
	Totals		6000.0 AF

LOCATION OF POINT(S) OF DIVERSION: NENW Sec. 8, Township 15S, Range 41E
FRANKLIN County

PLACE OF USE: IRRIGATION FROM STORAGE

TWN	RGE	SEC		ACRES		ACRES		ACRES	TOTAL
15S	39E	9	SWNE	8	SENE	34	NESW	8	
			SESW	32	NESE	38	NWSE	37	
			SWSE	32	SESE	36			215
		10	NWNW	28	SWNW	37	SENW	36	
			NESW	33	NWSE	38	SWSW	36	
			SESW	31	NESE	34	NWSE	36	
			SWSE	37	SESE	38			384
		11	NESW	40	NWSW	40	SWSW	35	
			SESW	40	NESE	40	NWSE	40	
			SWSE	34	SESE	39			308
		12	SWSW	29					29
		13	NWNW	37	SWNW	4	NESW	8	
			NWSW	36	SWSW	34	SESW	8	
			NESE	7	SWSE	20	SESE	29	183
		14	NENE	40	NWNE	23	SWNE	36	
			SENE	33	NENW	15	NWNW	20	
			SWNW	39	SENW	31	NESW	39	
			NWSW	35	SWSW	24	SESW	39	
			NESE	26	NWSE	38	SWSE	35	
			SESE	21					494

MICROFILMED

MAY 16 1995

ALL-STATE LEGAL®
EXHIBIT
119
PROTESTANT

State of Idaho
Department of Water Resources

WATER RIGHT LICENSE

WATER RIGHT NO. 13-02288A

PLACE OF USE: IRRIGATION FROM STORAGE

TWN	RGE	SEC		ACRES		ACRES		ACRES	TOTAL
		15	NENE	15	NWNE	38	SWNE	39	
			SENE	37	NENW	37	NWNW	35	
			SWNW	39	SENW	34	NESW	40	
			NWSW	39	SWSW	32	SESW	35	
			NESE	37	NWSE	40	SWSE	35	
			SESE	32					564
		16	NENE	38	NWNE	33	SWNE	37	
			SENE	39	NENW	37	SENW	39	
			NESW	39	NWSW	7	SWSW	13	
			SESW	26	NESE	37	NWSE	15	
			SWSE	59	SESE	34			427
		21	NENE	35	NWNE	39	SWNE	39	
			SENE	32	NENW	15	NWNW	10	
			SWNW	24	SENW	8	NESW	12	
			NESE	34	NWSE	39	SWSE	21	
			SESE	22					330
		22	NENE	26	NWNE	39	SWNE	39	
			SENE	33	NENW	35	NWNW	35	
			SWNW	39	SENW	32	NESW	29	
			NWSW	39	SWSW	19	SESW	22	
			NESE	8	NWSE	30	SWSE	3	428
		23	NENE	36	NWNE	34	SWNE	39	
			SENE	29	NENW	23	NWNW	33	
			SWNW	26	SENW	39	NESW	20	
			NWSW	7	SESW	12	NESE	30	
			NWSE	33	SWSE	12	SESE	27	410
		24	NENE	39	NWNE	38	SWNE	38	
			SENE	34	NENW	28	NWNW	36	
			SWNW	39	SENW	36	NESW	31	
			NWSW	27	SWSW	38	SESW	37	
			NESE	38	NWSE	37	SWSE	37	
			SESE	38					571
		25	NENE	40	NWNE	39	SWNE	38	
			SENE	39	NENW	34	NWNW	36	
			SWNW	38	SENW	40	NESW	33	
			NWSW	6	SWSW	14	SESW	28	
			NESE	19	NWSE	39	SWSE	35	
			SESE	26					504
		26	NENE	17	NWNE	14	SWNE	16	
			SENE	18	SENW	10	NESW	18	
			SWSW	26	SESW	29	NESE	12	
			NWSE	28	SWSE	35	SESE	39	262

MAY 16 1995

State of Idaho
Department of Water Resources

WATER RIGHT LICENSE

WATER RIGHT NO. 13-02288A

PLACE OF USE: IRRIGATION FROM STORAGE

TWN	RGE	SEC		ACRES		ACRES		ACRES	TOTAL
		27	NENE	4	NWNE	10	SWNE	12	
			NENW	32	NWNW	36	SWNW	38	
			SENW	31	NESW	34	NWSW	15	
			SWSW	38	SESW	35	NESE	24	
			NWSE	26	SWSE	36	SESE	33	404
		33	NENE	3	SENE	18	NESE	36	
			NWSE	19	SWSE	30	SESE	38	144
		34	NENE	5	NWNE	24	SWNE	2	
			NENW	34	NWNW	31	SWNW	32	
			SENW	27	NESW	5	NWSW	18	
			SWSW	38	SESW	37	NESE	16	
			NWSE	2	SWSE	39	SESE	39	349
		35	NENE	32	NWNE	27	SWNE	39	
			SENE	33	NENW	34	NWNW	4	
			SWNW	10	SENW	34	NESW	34	
			NWSW	24	SESW	12	NESE	37	
			NWSE	38	SWSE	33	SESE	31	428
		36	NENE	28	NWNE	39	SWNE	39	
			SENE	27	NENW	33	NWNW	32	
			SWNW	35	SENW	33	NESW	24	
			NWSW	37	SWSW	38	SESW	20	
			NESE	29	NWSE	33	SWSE	5	
			SESE	28					480
	40E	18	NWNE	3	SWNE	7	NENW	2	
			Lot 2(SWNW)	1	SENW	4	NESW	21	
			Lot 3(NWSW)	19	Lot 4(SWSW)	37	SESW	33	
			NWSE	8					135
		19	NWNE	13	SWNE	38	NENW	39	
			Lot 1(NWNW)	35	Lot 2(SWNW)	39	SENW	40	
			NESW	40	Lot 3(NWSW)	39	Lot 4(SWSW)	34	
			SESW	34	NESE	5	SWSE	35	
			SESE	38					429
		20	SWNE	8	SENE	4	SWNW	6	
			SENW	16	NESW	40	NWSW	40	
			SWSW	38	SESW	36	NWSE	35	
			SWSE	4					227
		29	NENW	20	NWNW	39	SWNW	39	
			SENW	4	NESW	20	NWSW	39	
			SWSW	37	SESW	19			217
		30	NENE	36	NWNE	40	SWNE	38	
			SENE	35	NENW	36	Lot 1(NWNW)	36	
			Lot 2(SWNW)	27	SENW	35	NESW	38	
			Lot 3(NWSW)	24	Lot 4(SWSW)	33	SESW	37	
			NESE	39	NWSE	40	SWSE	36	
			SESE	39					

RECEIVED
MAY 16 1995
566

State of Idaho
Department of Water Resources

WATER RIGHT LICENSE

WATER RIGHT NO. 13-02288A

PLACE OF USE: IRRIGATION FROM STORAGE

TWN	RGE	SEC		ACRES		ACRES		ACRES	TOTAL
		31		NENE 35		NWNE 38		SWNE 39	
				SENE 39		NENW 39	Lot	1(NWNW) 37	
			Lot	2(SWNW) 37		SENW 40		NESW 39	
			Lot	3(NWSW) 39	Lot	4(SWSW) 27		SESW 39	
				NESE 37		NWSE 40		SWSE 39	
				SESE 38					602
		32		NENW 17		NWNW 38		SWNW 38	
				SENW 9		NWSW 31		SWSW 32	154
16S	39E	1	Lot	1(NENE) 25	Lot	2(NWNE) 19			44
		2	Lot	4(NWNW) 33					33
		3	Lot	2(NWNE) 12	Lot	3(NENW) 36	Lot	4(NWNW) 32	
				NESW 3		SESW 21		NWSE 6	144
		4	Lot	1(NENE) 28	Lot	2(NWNE) 28	Lot	3(NENW) 6	
				NESW 11		SWSW 6		SESW 37	
				SWSE 15		SESE 6			137
		8		SENE 8		SENW 20			28
		9		NWNE 24		SWNE 12		SENE 7	
				NENW 31		NWNW 8		SWNW 25	
				SENW 11		NESE 40		NWSE 40	
				SWSE 9		SESE 26			233
		10		NWNW 16		SWNW 20		NWSW 20	
				SWSW 38					94
	40E	5	Lot	4(NWNW) 32		NESW 14		NWSW 39	
				SWSW 38		SESW 37			160
		6	Lot	1(NENE) 36	Lot	2(NWNE) 14	Lot	3(NENW) 32	
			Lot	4(NWNW) 23		NESW 34		NWSW 30	
				NESE 37		NWSE 15		SWSE 12	
				SESE 34					267
		8		NENW 39		NWNW 26			65

Total number of acres irrigated: 10449

CONDITIONS/REMARKS:

1. This water right is appurtenant to the described place of use.
2. This right is subject to all prior water rights and may be forfeited by five years of non-use.
3. Modifications to or variance from this license must be made within the limits of Section 42-222, Idaho Code, or the applicable Idaho law.
4. Use of water under this water right will be regulated by the watermaster of State Water District No. 13A.

AMENDED

MAY 16 1995

State of Idaho
Department of Water Resources

WATER RIGHT LICENSE

WATER RIGHT NO. 13-02288A

CONDITIONS/REMARKS:

5. This right when combined with Rights 13-02108, 13-02288 and 13-02298 shall not exceed an annual storage volume of 6000.0 acre feet.
6. The combined rate of diversion to storage going into Glendale Reservoir from Cub River and Worm Creek shall not exceed 215.0 cfs.
7. Storage facility is known as Glendale Reservoir.

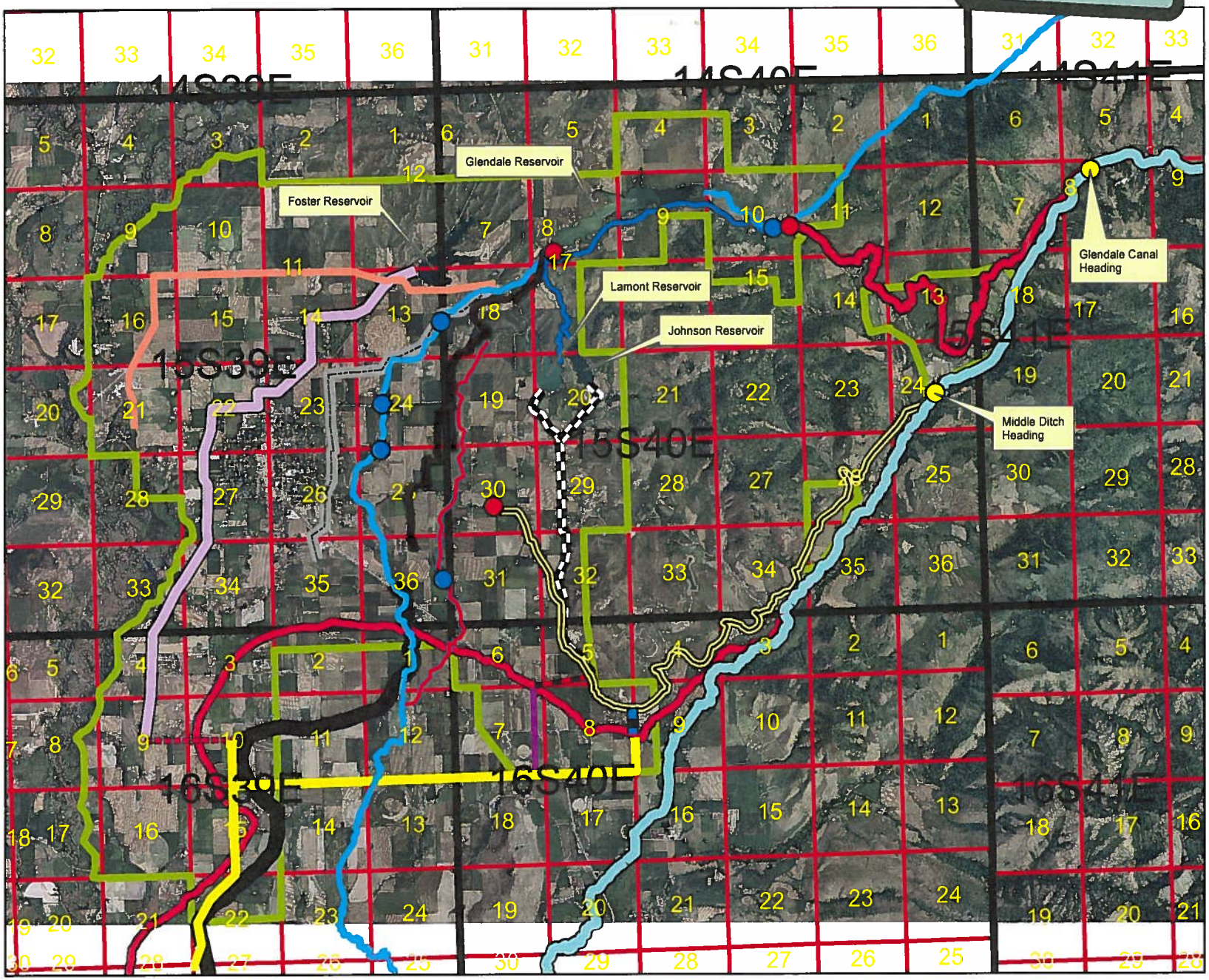
This license is issued pursuant to the provisions of Section 42-219, Idaho Code. Witness the seal and signature of the Director, affixed at Boise, this 5TH day of May, 1995.

R. Keith Higginson, Director

MICROFILMED
MAY 16 1995

PRESTON-WHITNEY TRANSFER

EXHIBIT
Protestant
120



Form 42-248/42-1409(6) 10/07

RECEIVED
JUL 14 2009
Department of Water Resources
Eastern Region

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
NOTICE OF CHANGE IN WATER RIGHT OWNERSHIP

Please print or type. Attach pages with additional information. Instructions are included at the end of this form. Incomplete forms will be returned.

1. Please list the water right number(s) and/or adjudication claim number(s) (if any) for each water right to be changed. List just the adjudication claim number if there is no corresponding water right record on file with the department. Indicate, by checking in the space provided (under the "split" heading), if the change in ownership is limited to a portion of a water right in which case IDWR will produce new water right number(s) for the split(s).

Water Right No(s).	Adjudication Claim No(s).	Split(s)	Water Right No(s).	Adjudication Claim No(s).	Split(s)
WR 13-221					
WR 13-218.					

2. The following **REQUIRED** information must be submitted with this form:

   A. The appropriate **FILING FEE**. See instructions for fee amounts.

   B. A copy of the most recent **DEED, TITLE POLICY, CONTRACT OF SALE** or other legal document indicating your ownership of the property and water right(s) or claim(s) in question, **WITH ATTACHED LEGAL DESCRIPTION.**

   C. Either of the following (if necessary to clarify division of water rights or other complex property descriptions):
   PLAT OF PROPERTY or **SURVEY MAP** clearly showing the location of the point(s) of diversion and place of use of your water right(s) and/or adjudication claim(s) (these are on file with the county Planning and Zoning or Recorder's Office).

   OR

   D. If your water 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 PHOTO** with the irrigated acres outlined and point(s) of diversion clearly marked. The AERIAL PHOTO should be submitted in place of the PLAT OF PROPERTY or SURVEY MAP.

3. Name and Address of Former Owner/Claimant(s): Bert Wheatley / Ellen Wheatley
   1598 E 3200 S,
   Preston, ID 83263

4. New Owner/Claimant(s): Wheatley Properties LLC.
   Name Connector (Check one): [ ] and, [ ] or, [x] and/or

   New Mailing Address: 1598 E. 3200 So.

   City, State and ZIP Code: Preston, ID 83263.

   New Telephone Number: (208) 646-2516 Email: _____

EXHIBIT Protestant 12

Form 42-248/42-1409(6) 12/2006

2-26-2003

5. Date you acquired the property 2-28-1979

6. **If the change in ownership affects the entire water right for each water right or adjudication claim number listed in line 1, then skip this line and go to line 7.** If the change in ownership divides the water right(s) among multiple owners, you must describe, in detail, your portion of each water right after the change. Fill in the appropriate spaces in the box(es) below to describe your water right(s) after the change (you may copy this page, if necessary). If your quantity of water is greater than a proportionate split, you must attach documentation to show justification for a larger amount. If you are not sure how to identify your portion of the original water right or adjudication claim records, please contact the nearest IDWR office for assistance.

DESCRIPTION OF YOUR PORTION OF WATER RIGHT
(If the right will not be split, skip this area and proceed to line 7)

Water Use	Diversion Rate or Volume (cubic feet per second or acre-feet per annum)	Description (acres, number and type of stock, homes, etc)
Water Right and/or Adjudication Claim Number		
Irrigation		
Stock		
Domestic		
Other		
Totals		
Water Right and/or Adjudication Claim Number		
Irrigation		
Stock		
Domestic		
Other		
Totals		
Water Right and/or Adjudication Claim Number		
Irrigation		
Stock		
Domestic		
Other		
Totals		

For Snake River Basin Adjudication Claims: Please attach a Notice of Appearance completed by your attorney, if you wish IDWR to correspond with him/her for all matters related to your claims.

7. ✕ **Signature(s) of New Owner(s) or Claimant(s)** Seth Wheatley, Beth W. Wheatley (title if applicable)
Bert W. Wheatley, Laura N. Wheatley (title if applicable)

IT IS IMPORTANT TO FILE THIS COMPLETED FORM AT THE APPROPRIATE IDWR OFFICE, WITH PAYMENT OF THE FILING FEE AND THE OWNERSHIP DOCUMENT(S), AS REFERRED TO IN LINE 2.

For IDWR Office Use Only:
Received by BMK Date 7/20/09 Receipt Amt. 175
Receipted by _____ Date _____ Receipt No. E035223
Processed by _____ AJ Date _____ WR _____ Date _____

Dairy + Original 40 acres

220582 1-2

Recorded at the request of
Steven R. Fuller
11:30 a.m. FEB 26 2003 p.m.
V. ELLIOTT LARSEN, RECORDER
By Camille Larsen Deputy
FRANKLIN COUNTY, IDAHO

CORRECTED DEED OF GIFT

IN CONSIDERATION OF THE NATURAL LOVE AND AFFECTION WE HAVE FOR GRANTEES,

We, **BERT MOSS WHEATLEY and ELLEN BURNETT WHEATLEY,** Grantors,

do hereby grant, bargain, gift and convey unto

SETH T. WHEATLEY and BERT W. WHEATLEY, as tenants in common, each to own an undivided one-half interest, as their sole and separate properties,

whose current address is: c/o SETH WHEATLEY, 1598 East 3200 South, Preston, Idaho 83263,

the following described premises, in Franklin County, Idaho, to-wit:

SEE EXHIBIT "A" ATTACHED HERETO

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the Grantees, their heirs and assigns forever. And the said Grantors do hereby covenant to and with the said Grantees, that they are the owners in fee simple of said premises; that they are free from all encumbrances and that they will warrant and defend the same from all lawful claims whatsoever.

DATED: February 19, 2003.

Bert Moss Wheatley
BERT MOSS WHEATLEY

Ellen Burnett Wheatley
ELLEN BURNETT WHEATLEY

STATE OF IDAHO)
)
County of Franklin)

On this 19th day of February, 2003, before, me the undersigned, a Notary Public in and for said State, personally appeared **BERT MOSS WHEATLEY and ELLEN BURNETT WHEATLEY,** known or identified to me to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same.

Steven R. Fuller
NOTARY PUBLIC for State of Idaho
Residing at: Preston, Idaho
Comm. Expires: 2/19/05

STEVEN R. FULLER
NOTARY PUBLIC
STATE OF IDAHO

220582 2-2

EXHIBIT "A"

Township 16 South, Range 39 East of the Boise Meridian, Franklin County, Idaho

Section 13: NE1/4NE1/4

EXCEPTING THEREFROM: Starting at the Northeast corner of Section 13, Township 16 South, Range 39 East of the Boise Meridian, and going West 523 feet to the Point of Beginning, thence South 222 feet, thence West 183 feet, thence North 222 feet, thence East 183 feet to the first corner.

Township 16 South, Range 40 East of the Boise Meridian, Franklin County, Idaho

Section 18: Commencing at the Northwest corner of Lot 1, Section 18, and running South 80 rods; thence East 18 rods 13 feet; thence North 80 rods; thence West 18 rods 13 feet to the place of beginning.

EXCEPTING FROM THE PROPERTIES FROM SECTIONS 13 AND 18 ABOVE: Starting at the Northeast corner of Section 13, Township 16 South, Range 39 East of the Boise Meridian and running West 154 feet, thence South 222 feet, thence East 154 feet, to the Section line plus 54 feet further East in to Section 18, Township 16 South, Range 40 East of the Boise Meridian, thence North 222 feet, thence West 54 feet to the point of beginning.

THIS DEED IS BEING RECORDED TO CORRECT THE LEGAL DESCRIPTION AND REMOVING THE LIFE ESTATE RESERVATION ON THAT CERTAIN DEED OF GIFT DATED MARCH 31, 1999 AND RECORDED APRIL 1, 1999 AS INSTRUMENT NO. 205761.

Section No. 18, 13, 24, 19.

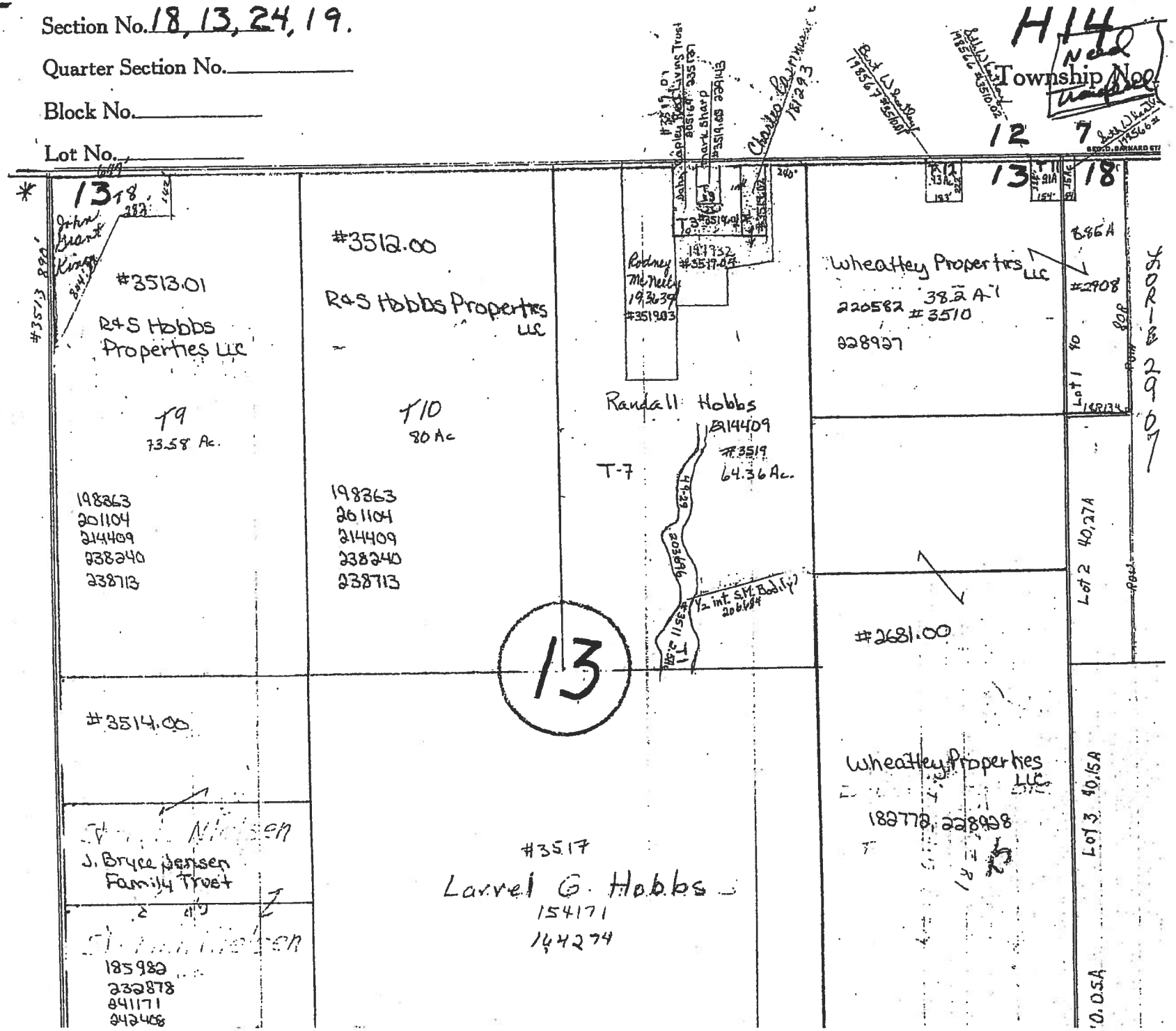
Quarter Section No. _____

Block No. _____

Lot No. _____

H14

Township No. 2 North



196430 1-5

Recorded at the request of
STEVEN R. FULLER

4:00 p.m. JUL 2 1996 a.m.

V. ELLIOTT LARSEN, RECORDER
By Shawna Geddes Deputy
FRANKLIN COUNTY, IDAHO

STEVEN R. FULLER
Attorney at Law
P.O. Box 191
24 North State
Preston, ID 83263
Telephone (208) 852-2680
FAX No. (208) 852-2683

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF FRANKLIN

IN THE MATTER OF THE ESTATE OF STUART JAMES BURNETT, Deceased.	CASE NO. SP-96-65 DECREE VESTING ESTATE IN SURVIVING SPOUSE

THE PETITION OF ELLEN BURNETT WHEATLEY fka ELLEN BURNETT for a Decree vesting an estate in Ellen Burnett Wheatley, as surviving spouse having come before the Court for hearing, and the Court having heard the evidence and being fully advised in the premises, the Court makes the following findings:

1. STUART JAMES BURNETT died on the 26th day of May, 1954, at Preston, Franklin County, Idaho. At the time of death, said decedent was domiciled in Franklin County, Idaho.

2. The decedent ~~died~~ intestate.

3. The decedent was survived by the heirs named in Exhibit "A" attached hereto and incorporated herein by reference thereto.

4. The decedent, Stuart James Burnett, and the petitioner, Ellen Burnett Wheatley, intermarried on the 4th day of December,

1940, Logan, Cache County, Utah, and ever since that date until the date of decedent's death, were husband and wife.

5. The decedent left an estate, as described in petitioner's Petition, consisting solely of community property of the decedent and his surviving spouse, Ellen Burnett Wheatley, and that as the surviving spouse of the decedent, the petitioner is entitled to the Decree of this Court declaring and establishing that all of said community property became fully vested in the petitioner as the sole heir of the decedent.

6. All notices have been given as required by law.

NOW, THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED that the petitioner, Ellen Burnett Wheatley, fka Ellen Burnett is the surviving spouse of the said decedent, and that the following described real and personal property is now and hereby vested in, and quieted in, and distributed to Ellen Burnett Wheatley free and clear of all right, title, estate, claim or demand of any person or persons claiming or attempting to claim under the said Stuart James Burnett, deceased, as heir or otherwise, except as a proper creditor.

The real and personal property so decreed and distributed is more particularly described in Exhibit "B" attached hereto.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that any other community property now known or discovered which may belong to said decedent or said estate and the petitioner, or in which the said decedent and petitioner may have an interest, be, and the same

hereby is distributed and vested in Ellen Burnett Wheatley, absolutely.

DATED this 2 day of July, 1996.

Original signed by
LOWELL D. CASTLETON

LOWELL D. CASTLETON
Judge

STATE OF IDAHO)
County of Franklin) ss
I HEREBY CERTIFY that the above and foregoing is a full and correct copy of the original thereof, on file in my office.
Dated: 7-2- 19 96
N. ELLIOTT FASER
Clerk of the District Court
By
Deputy Clerk

c:pro\e

196430 45

EXHIBIT "A"

NAME	RELATIONSHIP	ADDRESS
ELLEN WHEATLEY	SPOUSE	PO BOX 57 FRANKLIN ID 83237
LeVERE BURNETT	SON	5500 MONTAGUE DRIVE WICHITA FALLS TX 76306
LORIN STUART BURNETT	SON	174 EAST 6600 SOUTH HYRUM UT 84319
DAVID FLOYD BURNETT	SON	160 EAST 6600 SOUTH HYRUM UT 84319
BONNIE ELLEN B. BURBANK	DAUGHTER	5437 EAST CUB RIVER RD PRESTON ID 83263
ANN B. SELLEY	DAUGHTER	708 EAST 3200 SOUTH PRESTON ID 83263
CARL JAMES BURNETT	SON	1234 SOUTH 1200 EAST PRESTON ID 83263

EXHIBIT "B"

Real Property Located in Franklin County, Idaho

Township 16 South, Range 39 East of the Boise Meridian, Franklin County, Idaho
Section 13: NE¼NE¼

Township 16 South, Range 40 East of the Boise Meridian, Franklin County, Idaho
Section 18: Commencing at the Northeast corner of Lot 1, Section 18, and running South 80 rods; thence East 18 rods 13 feet; thence North 80 rods; thence West 18 rods 13 feet to the place of beginning.

THIS INDENTURE, made this 15th day of September
in the year of our Lord one thousand nine hundred and sixty-seven between
William D. Pack and wife Bonnalue Pack
of County of
State of the part ies of the first part, and
Bert Wheatley or wife Ellen Wheatley also known as Ellen Burnett Wheatley
of County of
State of the part ies of the second part.

WITNESSETH, That the said part ies of the first part, for and in consideration of the sum of
$1.00 and other valuable consideration
lawful money of the United States of America, to them in hand paid by the said part ies of the second part, the receipt whereof is hereby acknowledged, ha ve granted, bargained and sold, and by these presents do grant, bargain, sell, convey and confirm unto the said part ies of the second part, and their heirs and assigns forever, all the following described real estate, situated in the County of Franklin, State of Idaho, to-wit:

Commencing at the SE corner of the SW¼ Section 7, Township 16 South, Range 40 East of the Boise Meridian, and running thence N 1156 feet to the center of the State Highway; thence N 34 Degrees 40 feet W 1850 feet; thence W 1535 feet to the Section line; thence S 2640 feet; thence E 2650 feet; more or less, to the place of beginning.

TOGETHER WITH all and singular the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining, the reversion and reversions, remainder and remainders, rents, issues and profits thereof; and all estate, right, title and interest in and to said property, as well in law as in equity, of the said part ies of the first part.

TO HAVE AND TO HOLD, All and singular the above mentioned and described premises, together with the appurtenances, unto the part ies of the second part, and to their heirs and assigns forever. And the said part ies of the first part, and their heirs, the said premises in the quiet and peaceable possession of the said part ies of the second part, their heirs and assigns, against the said part ies of the first part, and their heirs, and against all and every person and persons whomsoever, lawfully claiming or to claim the same shall and will WARRANT and by these presents forever DEFEND.

IN WITNESS WHEREOF, The said part ies of the first part have hereunto set their hands and seal s the day and year first above written.

SIGNED, SEALED AND DELIVERED IN PRESENCE OF

William D. Pack (SEAL)
Bonnalue Pack (SEAL)
(SEAL)
(SEAL)
(SEAL)

STATE OF IDAHO,
County of Franklin—ss.

On this 19th day of September in the year 19 57, before me a Notary Public in and for said State, personally appeared William D. Pack and wife Donnalue Pack

known to me to be the person S whose name S are subscribed to the within instrument, and acknowledged to me that the Y executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.

Connie Watterson
Notary Public, Residing at Preston, Idaho

No. 148932

WARRANTY DEED

William D. Pack, et ux

—TO—

Mark L. Whatcott, et ux

Dated ..... 19..

STATE OF IDAHO,
COUNTY OF FRANKLIN—ss.

I hereby certify that this instrument was filed for record at request of Mark L. Whatcott

at 11:25 minutes past 4:00 o'clock P. M., this 23rd day of September, A. D. 19 57,

in my office, and duly recorded in Book ..... of ..... at page .....

Ex-Officio Recorder

By ..... Deputy.

Fee: $ 2.00

Mail to .....

RECORDED ✓
INDEXED

148953

Recorded at the request of
Bert Wheatley
FEB 28 1979 at 3:45 p.m.
MICHAEL D. KUNZ, RECORDER
By Deann Atkinson Deputy
FRANKLIN COUNTY, IDAHO

Reception ☐
Indexed ☐☐

(DO NOT WRITE ABOVE THIS LINE)

WARRANTY DEED

For Value Received

Bert Wheatley and Ellen Wheatley

the grantors, do hereby grant, bargain, sell and convey unto
Bert W. Wheatley, Seth T. Wheatley, Colleen Wheatley, and Mary Ellen Wheatley Hodges, Route 1, Preston, Idaho 83263
the grantees, the following described premises, in Franklin County, Idaho, to wit:

Commencing at the Southeast corner of the Southwest quarter of Section 7, Township 16 South, Range 40 East of the Boise Meridian, and running thence North 1156 feet to the center of the State Highway; thence North 34 degrees 40 minutes West 1850 feet; thence West 1535 feet to the Section line; thence South 2640 feet; thence East 2650 feet, more or less, to the place of beginning.

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

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

Dated: 28 February 1979

Bert M Wheatley

Ellen Wheatley

(NOTARY SEAL)
RHETA C. GRIFFETH
NOTARY PUBLIC
STATE OF IDAHO

State of Idaho
County of Franklin } ss On the 28th day of February A.D. 1979

personally appeared before me Bert Wheatley and Ellen Wheatley

the signer(s) of the within instrument, who duly acknowledged to me that they executed the same.

Rheta C. Griffeth
(NOTARY PUBLIC)

Residing at: Preston, Idaho My Commission expires: life

Mail deed to:

Mail tax notice to:

2

197295 1-2

Recorded at the request of
Stan Fuller

o'clock a.m. OCT 10 1996 4:35 p.m.

V. ELLIOTT LARSEN, RECORDER
By Camille Larsen Deputy
FRANKLIN COUNTY, IDAHO

QUITCLAIM DEED

FOR VALUE RECEIVED

COLLEEN WHEATLEY EIKMEIER fka COLLEEN WHEATLEY and MARY ELLEN WHEATLEY HODGES,

do hereby convey, release, remise and forever quit claim unto

SETH T. WHEATLEY and BERT W. WHEATLEY,

whose current address is: 1598 East 3200 South, Preston, Idaho 83263, each to own an undivided one-half (½) interest in the following described premises, in Franklin County, Idaho, to-wit:

Commencing at the Southeast corner of the Southwest Quarter of Section 7, Township 16 South, Range 40 East of the Boise Meridian, and running thence North 1156 feet to the center of the State Highway; thence North 34°40' West 1850 feet; thence West 1535 feet to the Section line; thence South 2640 feet; thence East 2650 feet, more or less, to the place of beginning.

DATED: Aug-2-96

Colleen Wheatley Eikmeier
COLLEEN WHEATLEY EIKMEIER

12 Aug-96

Mary Ellen Wheatley Hodges
MARY ELLEN WHEATLEY HODGES

STATE OF Nebraska)
)
County of Dodge)

On this 2nd day of August, 1996, before, me the undersigned, a Notary Public in and for said State, personally appeared COLLEEN WHEATLEY EIKMEIER, known or identified to me to be the person whose name is subscribed to the within instrument and acknowledged to me that she executed the same.

GENERAL NOTARY-State of Nebraska
JILL RATHKE
My Comm. Exp. Aug. 27, 1998

Jill Rathke
NOTARY PUBLIC for State of Nebraska
Residing at: Wisner, NE
Comm. Expires: 8/27/98

2

197295 22

STATE OF Alaska)
County of Third Judicial Dist.) ss

On this 12 day of August, 1996, before me, the undersigned, a Notary Public in and for said State, personally appeared MARY ELLEN WHEATLEY HODGES, known or identified to me to be the person whose name is subscribed to the within instrument and acknowledged to me that she executed the same.

OFFICIAL SEAL
STATE OF ALASKA
NOTARY PUBLIC
DAVID L. STEVENS
My Comm. expires: January 5, 2000

NOTARY PUBLIC for State of
Residing at: Ft. Richardson Alaska
Comm. Expires: 5 Jan 2000

3

STEVEN R. FULLER

205762 1-2

4:45
a.m. APR 01 1999 p.m.

DEED OF GIFT

V. ELLIOTT LARSEN, RECORDER
By Shawn Geddes Deputy
FRANKLIN COUNTY, IDAHO

IN CONSIDERATION OF THE NATURAL LOVE AND AFFECTION which the Grantors have for the Grantees,

BERT MOSS WHEATLEY and ELLEN BURNETT WHEATLEY, Grantors,

do hereby grant, bargain, sell and convey unto

SETH T. WHEATLEY and BERT W. WHEATLEY, as tenants in common, each to own an undivided one-half interest, as their sole and separate properties,

whose current address is: c/o Seth Wheatley, 1598 East 3200 South, Preston, Idaho 83263, the Grantees, the following described premises in Franklin County, Idaho to wit:

SEE EXHIBIT "A" ATTACHED HERETO

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the Grantees, their heirs and assigns forever. And the said Grantors do hereby covenant to and with the said Grantees, that they are the owners in fee simple of said premises; that they are free from all encumbrances and that they will warrant and defend the same from all lawful claims whatsoever.

DATED: March 31, 1999.

Ellen Burnett Wheatley
ELLEN BURNETT WHEATLEY

Bert Moss Wheatley
BERT MOSS WHEATLEY

STATE OF IDAHO)
)
County of Franklin)

On this 31st day of March, 1999, before me, the undersigned a Notary Public in and for said State, personally appeared **BERT MOSS WHEATLEY and ELLEN BURNETT WHEATLEY**, known to me to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same.

STEVEN R. FULLER NOTARY PUBLIC STATE OF IDAHO

Steven R. Fuller
NOTARY PUBLIC for State of Idaho
Residing at: Preston, Idaho
Comm. Exp.: 2/19/05

3

205762 2-2

EXHIBIT "A"

Township 16 South, Range 40 East of the Boise Meridian, Franklin County, Idaho

Section 7: Commencing at the Southwest corner of the Southeast Quarter of Section 7, and running thence North 70 rods to the center of the State Highway; thence South 39°50' East along the center of said highway to a point which is 40 rods East and 19-1/2 rods North of the point of beginning; thence South 19-1/2 rods; thence West 40 rods to the place of beginning.

QUIT CLAIM DEED

For Value received BERT WHEATLEY AND ELLEN WHEATLEY, HUSBAND AND WIFE, Grantor(s), do(es) hereby convey, release, remise and forever quit claim unto WHEATLEY PROPERTIES,LI BERT & SETH WHEATLEY, OWNERS, Grantee(s), the following described premises, to-wit:

Commencing at the Southwest corner of the Southeast quarter of Section 7, township 16 South, Range 40 East of the Boise Meridian, and running thence North 70 rods to the center of the State Highway; thence South 39 degrees 50' East along the center of said highway to a point which is 40 rods East and 19 1/2 rods North of the point of beginning; thence South 19 1/2 rods; thence West 40 rods to the place of beginning, containing 10.5 acres, more or less.

together with their appurtenances.

Dated: 12-4 2003

X Bert M Wheatley
BERT WHEATLEY

X Ellen Wheatley
ELLEN WHEATLEY

State of IDAHO
County of FRANKLIN

On this 4th day of DECEMBER, 2003, before me, a Notary Public in and for said State, personally appeared BERT WHEATLEY AND ELLEN WHEATLEY, known or identified to me to be the person(s) whose name(s) is/are subscribed to the within instrument, and acknowledged to me that he/she/they executed the same. In witness whereof I have set my hand and affixed my official seal the day and year in this certificate first above written.

CHRIS BARTON
NOTARY
PUBLIC

Notary Public State of IDAHO
Residing at: PRESTON
Commission Expires: 11/13/06

125837

THIS INDENTURE, made this 1st day of May
In the year of our Lord one thousand nine hundred and Fifty-nine between
James A. Chadwick and wife Minnie J. Chadwick

of Whitney County of Franklin
State of Idaho the parties of the first part, and
Bert Wheatley or Ellen Burnett Wheatley, husband and wife

of Fairview County of Franklin
State of Idaho the parties of the second part.

WITNESSETH, That the said parties of the first part, for and in consideration of the sum of
TEN THOUSAND AND NO/100 - - - - - - - - - - - - - - - - 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, have granted, bargained and sold, and by these presents do grant, bargain, sell, convey and confirm unto the said parties of the second part, and to their heirs and assigns forever, all the following described real estate, situated in the County of Franklin, State of Idaho, to-wit:

Commencing at the Southwest corner of the Southeast quarter of Section 7, Township 16 South, Range 40 East of the Boise Meridian, and running thence North 70 rods to the center of the State Highway; thence South [illegible] degrees 50' East along the center of said highway to a point which is [illegible] East and 19½ rods North of the point of beginning; thence [illegible] rods; thence West 40 rods to the place of beginning, containing 10.5 acres, more or less.
Two days waste water every fourteen day's

TOGETHER With all and singular the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining, the reversion and reversions, remainder and remainders, rents, issues and profits thereof; and all estate, right, title and interest in and to said property, as well in law as in equity, of the said part ies of the first part.

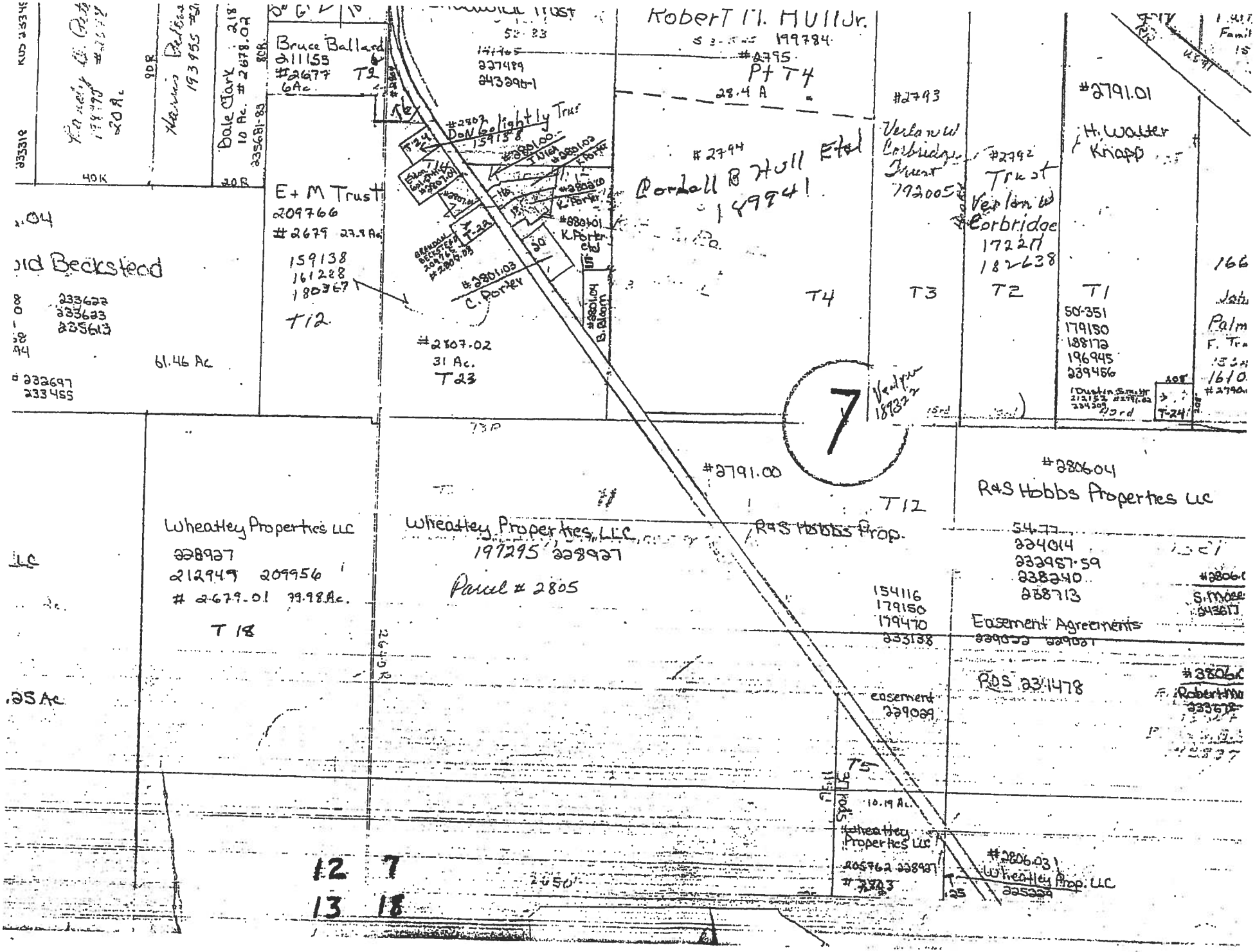
TO HAVE AND TO HOLD, All and singular the above mentioned and described premises, together with the appurtenances, unto the part ies of the second part, and to their heirs and assigns forever, And the said part ies of the first part, and their heirs, the said premises in the quiet and peaceable possession of the said part ies of the second part ies heirs and assigns, against the said part ies of the first part, and their heirs, and against all and every person and persons whomsoever, lawfully claiming or to claim the same shall and will WARRANT and by these presents forever DEFEND.

IN WITNESS WHEREOF, The said part ies of the first part have hereunto set their hands and seals the day and year first above written.

SIGNED, SEALED AND DELIVERED IN PRESENCE OF

James A. Chadwick (SEAL)
Minnie J. Chadwick (SEAL)
(SEAL)

DEED


Robert H. Hull Jr.
199784
#2795
Pt T4
28.4 A
#2793
#2791.01
H. Walter Knapp
Verlon W Corbridge Trust
192005
#2792
Verlon W Corbridge
172211
182638
Bruce Ballard
911155
#2677
6Ac
T2
Dale Clark
10 Ac. #2678.02
335681-83
E+M Trust
209766
#2679 27.9Ac
159138
161288
180367
T12
#2807.02
31 Ac.
T23
#2794
Randall B Hull Etal
149941
T4
T3
T2
T1
50-351
179150
188172
196945
239456
old Beckstead
233622
233633
235613
61.46 Ac
332697
233455
#2791.00
T12
Wheatley Properties LLC
228937
212949 209956
2679.01 99.98Ac.
T18
Wheatley Properties, LLC
199295 228937
Parcel # 2805
R&S Hobbs Prop.
#2806.04
R&S Hobbs Properties LLC
54.77
224014
233987.59
238240
238713
154116
179150
179470
233138
Easement Agreements
239033 239081
easement
239089
R&S 231478
T5
10.19 Ac.
Wheatley Properties LLC
205762 228937
#2803
#2806.03
W Wheatley Prop. LLC
225329
12 7
13 18
2650'

228927

Recorded at the request of
Seth Wheatley
____a.m. FEB 10 2005 p.m. 1:00
V. ELLIOTT LARSEN, RECORDER
By Ruth K. Rawlings Deputy
FRANKLIN COUNTY, IDAHO

When Recorded Mail To:
Hallock & Hallock, a Professional Corporation
P.O. Box 4171
Logan, Utah 84323-4171

QUIT CLAIM DEED

GRANTORS, Bert W. Wheatley and Seth T. Wheatley, of 1598 East 3200 South, Preston, Franklin County, State of Idaho, for good and valuable consideration, the receipt of which is hereby acknowledged, does hereby QUIT CLAIM all of its right title and interest, if any, unto Wheatley Properties, L.L.C. of 1598 East 3200 South, Preston, Franklin County, State of Idaho, as GRANTEE, and to Grantee's heirs and assigns forever, all of the following described real estate situated in Franklin County, State of Idaho, to wit:

PARCEL 1:
Township 16 South, Range 39 East of the Boise Meridian, Franklin County, Idaho

Section 13: NE¼NE¼

EXCEPTING THEREFROM: Starting at the Northeast corner of Section 13, Township 16 South, Range 39 East of the Boise Meridian, and going West 523 feet to the Point of Beginning, thence South 222 feet, thence West 183 feet, thence North 222 feet, thence East 183 feet to the first corner.

PARCEL 2:
Township 16 South, Range 40 East of the Boise Meridian, Franklin County, Idaho

Section 18: Commencing at the Northwest corner of Lot 1, Section 18, and running South 80 rods; thence East 18 rods 13 feet; thence North 80 rods; thence West 18 rods 13 feet to the place of beginning.

EXCEPTING FROM THE PROPERTIES FROM SECTIONS 13 AND 18 ABOVE: Starting at the Northeast corner of Section 13, Township 16 South, Range 39 East of the Boise Meridian and running West 154 feet; thence South 222 feet; thence East 154 feet, to the Section line plus 54 feet further East in to Section 18, Township 16 South, Range 40 East of the Boise Meridian, thence North 222 feet, thence West 54 feet to the point of beginning.

PARCEL 3:
Commencing at the Southwest corner of the Southeast quarter of Section 7, Township 16 South, Range 40 East of the Boise Meridian, and running thence North 70 rods to the center of the State Highway; thence South 39 degrees 50' East along the center of said highway to a point which is 40 rods East and 19½ rods North of the point of beginning; thence South 19½ rods; thence West 40 rods to the place of beginning, containing 10.5 acres, more or less.

PARCEL 4:
Commencing at the Southeast corner of the Southwest Quarter of Section 7, Township 16 South, Range 40 East of the Boise Meridian, and running thence North 1156 feet to the center of the State Highway; thence North 34°40' West 1850 feet; thence West 1535 feet to the Section line; thence South 2640 feet; thence East 2650 feet, more or less, to the place of beginning.

228927 2-2

PARCEL 5:
Beginning 80 rods West of the Southeast corner of the Southwest Quarter of the Northwest Quarter of Section 7, Township 16 South, Range 40 East of the Boise Meridian; thence South 160 rods; thence West 80 rods; thence North 160 rods; thence East 78 rods; thence South 33 feet; thence East 33 feet; thence North 33 feet to the point of beginning.

TOGETHER with one-half interest of decreed Water Right No. 13-00216, with priority date of August 31, 1903, for irrigation.

ALSO, a non-exclusive right-of-way and easement to use and maintain an existing ditch for transport of the above-described water right, which ditch runs along the East side of grantor's property, which lies North and East of the above-described property.

Together with all improvements, water, water rights, ditches, ditch rights, easements, hereditaments and appurtenances thereto.

Subject to such rights, easements, covenants, restrictions, and zoning regulations as appear of record.

In construing this deed, and where the context so requires, the singular includes the plural and the masculine, the feminine and the neuter.

IN WITNESS WHEREOF, the Grantors have subscribed their names to this instrument this ____ day of 10,2,05 2005

Bert W. Wheatley

Seth T. Wheatley

STATE OF IDAHO)
: ss
County of Franklin)

On this 18th day of February 2005, before me the undersigned, a Notary Public for Idaho, personally appeared Bert W. Wheatley, known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same. In witness whereof I have hereunto set my hand and affixed my official seal the day and year first written above.

3-30-2006
My Commission expires

Janet Kimpton
Notary Public
Residing at:

JANET KIMPTON NOTARY PUBLIC STATE OF IDAHO

STATE OF IDAHO)
: ss
County of Franklin)

On this 16th day of February 2005, before me the undersigned, a Notary Public for Idaho, personally appeared Seth T. Wheatley, known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same. In witness whereof I have hereunto set my hand and affixed my official seal the day and year first written above.

3-30-2006
My Commission expires

Janet Kimpton
Notary Public
Residing at:

JANET KIMPTON NOTARY PUBLIC STATE OF IDAHO

Close

IDAHO DEPARTMENT OF WATER RESOURCES
Water Right Report

6/29/2009

WATER RIGHT NO. 13-218

Owner Type	Name and Address
Current Owner	BERT WHEATLEY
Current Owner	ELLEN WHEATLEY
	1598 E 3200 S
	PRESTON, ID 83263
	(208)646-2445

Priority Date: 04/01/1872
Basis: Decreed
Status: Active

Source	Tributary
UNNAMED STREAMS	WORM CREEK

Beneficial Use	From	To	Diversion Rate	Volume
IRRIGATION	4/01	11/01	0.43 CFS	151 AFA
Total Diversion			0.43 CFS	

Location of Point(s) of Diversion:

UNNAMED STREAMS	SENW	Sec. 07	Township 16S	Range 40E	FRANKLIN County

Place(s) of use:

Place of Use Legal Description: IRRIGATION FRANKLIN County

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres
16S	40E	7		NESW	18	3	NWSW	14						
				SWSE	11									

Total Acres: 43

Dates:
Licensed Date:
Decreed Date: 05/21/1981
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:
Owner Name Connector:
Water District Number:
Generic Max Rate per Acre:
Generic Max Volume per Acre:
Civil Case Number:
Old Case Number:
Decree Plantiff:
Decree Defendant:
Swan Falls Trust or Nontrust:
Swan Falls Dismissed:
DLE Act Number:
Cary Act Number:
Mitigation Plan: False
Close

Close

IDAHO DEPARTMENT OF WATER RESOURCES
Water Right Report

6/29/2009

WATER RIGHT NO. 13-221

Owner Type	Name and Address
Current Owner	BERT WHEATLEY
Current Owner	ELLEN WHEATLEY
Current Owner	MRS STUART BURNETT
Current Owner	STUART BURNETT
	1598 E 3200 S
	PRESTON, ID 83263
	(208)646-2445

Priority Date: 04/01/1872
Basis: Decreed
Status: Active

Source	Tributary
UNNAMED STREAMS	WORM CREEK

Beneficial Use	From	To	Diversion Rate	Volume
IRRIGATION	4/01	11/01	2.26 CFS	396 AFA
Total Diversion			2.26 CFS	

Location of Point(s) of Diversion:

UNNAMED STREAMS	SWSW Lt 4	Sec. 07	Township 16S	Range 40E	FRANKLIN County

Place(s) of use:

Place of Use Legal Description: IRRIGATION FRANKLIN County

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres
16S	39E	13		NENE	38									
	40E	7	4	SWSW	28		SESW	37						
		18	1	NWNW	10									

Total Acres: 113

Dates:
Licensed Date:
Decreed Date: 05/21/1981
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:
Owner Name Connector:
Water District Number:
Generic Max Rate per Acre:
Generic Max Volume per Acre:
Civil Case Number:
Old Case Number:
Decree Plantiff:
Decree Defendant:
Swan Falls Trust or Nontrust:
Swan Falls Dismissed:
DLE Act Number:
Cary Act Number:
Mitigation Plan: False

Close

Form 42-248/42-1409(6) 10/07

DEV

RECEIVED
JUL 14 2009
Department of Water Resources
Eastern Region

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
NOTICE OF CHANGE IN WATER RIGHT OWNERSHIP

Please print or type. Attach pages with additional information. Instructions are included at the end of this form. Incomplete forms will be returned.

1. Please list the water right number(s) and/or adjudication claim number(s) (if any) for each water right to be changed. List just the adjudication claim number if there is no corresponding water right record on file with the department. Indicate, by checking in the space provided (under the "split" heading), if the change in ownership is limited to a portion of a water right in which case IDWR will produce new water right number(s) for the split(s).

Water Right No(s).	Adjudication Claim No(s).	Split(s)	Water Right No(s).	Adjudication Claim No(s).	Split(s)
WR 13-216		Y			

2. The following **REQUIRED** information must be submitted with this form:

   A. The appropriate **FILING FEE.** See instructions for fee amounts.

   B. A copy of the most recent **DEED, TITLE POLICY, CONTRACT OF SALE** or other legal document indicating your ownership of the property and water right(s) or claim(s) in question, **WITH ATTACHED LEGAL DESCRIPTION.**

   C. Either of the following (if necessary to clarify division of water rights or other complex property descriptions):
   PLAT OF PROPERTY or **SURVEY MAP** clearly showing the location of the point(s) of diversion and place of use of your water right(s) and/or adjudication claim(s) (these are on file with the county Planning and Zoning or Recorder's Office).

   OR

   D. If your water 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 PHOTO** with the irrigated acres outlined and point(s) of diversion clearly marked. The AERIAL PHOTO should be submitted in place of the PLAT OF PROPERTY or SURVEY MAP.

3. Name and Address of Former Owner/Claimant(s): Donald D. Golightly
   Nona Golightly
   Rt 1 Preston, ID 83263

4. New Owner/Claimant(s): Wheatley Properties, LLC.
   Name Connector (Check one): [ ] and, [ ] or, [ ] and/or

   New Mailing Address: 1598 E. 32005.

   City, State and ZIP Code: Preston, ID 83263.

   New Telephone Number: (208) 646-2516 Email: _____

EXHIBIT
tabbies Protestant 122

5. Date you acquired the property 4-12-2001.

6. **If the change in ownership affects the entire water right for each water right or adjudication claim number listed in line 1, then skip this line and go to line 7.** If the change in ownership divides the water right(s) among multiple owners, you must describe, in detail, your portion of each water right after the change. Fill in the appropriate spaces in the box(es) below to describe your water right(s) after the change (you may copy this page, if necessary). If your quantity of water is greater than a proportionate split, you must attach documentation to show justification for a larger amount. If you are not sure how to identify your portion of the original water right or adjudication claim records, please contact the nearest IDWR office for assistance.

DESCRIPTION OF YOUR PORTION OF WATER RIGHT
(If the right will not be split, skip this area and proceed to line 7)

Water Use	Diversion Rate or Volume (cubic feet per second or acre-feet per annum)	Description (acres, number and type of stock, homes, etc)
Water Right and/or Adjudication Claim Number		
Irrigation	0.90	64 Acres.
Stock		
Domestic		
Other		
Totals		
Water Right and/or Adjudication Claim Number		
Irrigation		
Stock		
Domestic		
Other		
Totals		
Water Right and/or Adjudication Claim Number		
Irrigation		
Stock		
Domestic		
Other		
Totals		

For Snake River Basin Adjudication Claims: Please attach a Notice of Appearance completed by your attorney, if you wish IDWR to correspond with him/her for all matters related to your claims.

7. **Signature(s) of New Owner(s) or Claimant(s)** Seth Wheatley, Beth W Wheatley
(title if applicable)
Bert W. Wheatley, Laura Wheatley
(title if applicable)

IT IS IMPORTANT TO FILE THIS COMPLETED FORM AT THE APPROPRIATE IDWR OFFICE, WITH PAYMENT OF THE FILING FEE AND THE OWNERSHIP DOCUMENT(S), AS REFERRED TO IN LINE 2.

For IDWR Office Use Only:
Received by BMK Date 7/20/09 Receipt Amt. #175
Receipted by BMK Date 7/20/09 Receipt No. E035223
Processed by ____ AJ Date ____ WR ____ Date ____

Close

IDAHO DEPARTMENT OF WATER RESOURCES
Water Right Report

6/15/2009

WATER RIGHT NO. 13-216

Owner Type	Name and Address
Current Owner	DONALD D GOLIGHTLY
Current Owner	NONA GOLIGHTLY
	RT 1
	PRESTON, ID 83263

Priority Date: 08/31/1903
Basis: Decreed
Status: Active

Source	Tributary
SPRING CREEK	CUB RIVER

Beneficial Use	From	To	Diversion Rate	Volume
IRRIGATION	4/01	11/01	1.8 CFS	400 AFA
Total Diversion			1.8 CFS	

Location of Point(s) of Diversion:

SPRING CREEK	NWNW Lt 4	Sec. 06	Township 16S	Range 40E	FRANKLIN County

Place(s) of use:

Place of Use Legal Description: IRRIGATION FRANKLIN County

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acr
16S	39E	12		NENE	6		SENE	19						
				NESE	40		SESE	24						
	40E	7	1	NWNW	2	2	SWNW	23						

Total Acres: 114

Conditions of Approval:

1.	THIS DECREED RT. WAS MODIFIED BY THE FINAL WORM CREEK DECREE. THIS RT. WHEN COMBINED WITH RTS. 13-0062 & 13-0217 SHALL NOT EXCEED 400.0 AF/YR.

Dates:
Licensed Date:
Decreed Date: 05/21/1981
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:
Owner Name Connector:
Water District Number:
Generic Max Rate per Acre:
Generic Max Volume per Acre:
Civil Case Number:
Old Case Number:
Decree Plantiff:
Decree Defendant:
Swan Falls Trust or Nontrust:
Swan Falls Dismissed:
DLE Act Number:
Cary Act Number:
Mitigation Plan: False

Close

OPERATING AGREEMENT

FOR

WHEATLEY PROPERTIES, L.L.C.
an Idaho Liability Company

A Member Managed Limited Liability Company

DATED this 28th day of January 2003

MINUTES OF
THE ORGANIZATIONAL MEETING
OF
WHEATLEY PROPERTIES, L.L.C.

The organizational meeting of Wheatley Properties, L.L.C., a Limited Liability Company organized under the laws of the State of Idaho, was held by the initial members on November 24, 2003, at Logan, Utah.

The following members were present at the meeting: Bert Wheatley, Laura Wheatley, Seth Wheatley, and Beth Wheatley.

Also present at the meeting was: Todd N. Hallock.

Upon motions duly made and unanimously passed, Seth Wheatley was chosen as the Chairman of the Committee of Members, and Bert Wheatley was chosen as Secretary of the meeting.

It was reported that Articles of Organization for the Company had been filed in the office of the Secretary of State of the State of Idaho, and that the effective date of the organization was January 28, 2003. The Secretary was instructed to insert a duplicate original copy of the Articles of Organization in the official records of the Company.

The Secretary presented a proposed Operating Agreement for the Company that had been prepared by Todd N. Hallock. After discussion and on motion duly made and unanimously adopted, it was RESOLVED that the proposed Operating Agreement be and is adopted as the Operating Agreement of the Company. The Secretary was instructed to insert a copy of the Operating Agreement in the official records of the Company.

The Secretary presented a form of seal for the Company. After discussion and upon motion duly made and unanimously adopted, it was RESOLVED, that the seal, an impression of which is affixed to these minutes, be and is adopted as the official seal of the Company.

The Secretary presented a form of Unit certificate for use by the Company. After discussion and upon motion duly made, and unanimously adopted, it was RESOLVED, that the form of certificate presented at the meeting be and is approved as the form of interest certificate to be used by the Company in the offering of membership interests. It was further RESOLVED that the Company shall not issue uncertified membership interests.

Upon motion duly made and unanimously adopted, it was RESOLVED that the membership interests of the Company be issued to the following persons.

Bert Wheatley	25%
Laura Wheatley	25%
Seth Wheatley	25%
Beth Wheatley	25%

16.12 Duty to Update. If, after a Member signs this Agreement, the Member discovers that any of the above representations were erroneous when made by him or have become erroneous, the Member shall immediately so advise the other Members.

16.13 Members' Duty of Candor in Operating the Company. In all Company matters, each Member shall deal honestly with the other Members, and, promptly after learning of any information that is material to the business and affairs of the Company, shall disclose this information to the other members; provided, that no Member shall be required to disclose any information under this Section that is confidential under any federal or state law concerning individual privacy.

IN WITNESS WHEREOF, the Members acknowledge under penalties of perjury that the matters and facts set forth in this Operating Agreement are true and that they have signed this Operating Agreement on the respective dates set forth below to be effective as of the date first above written.

MEMBERS:

Seth Wheatley — Seth Wheatley — Date: 11, 24, 03

Beth Wheatley — Beth Wheatley — Date: 11-24-03

Bert W. Wheatley — Bert Wheatley — Date: 24-11-03

Laura Wheatley — Laura Wheatley — Date: 11-24-03

COMPANY:

Wheatley Properties, L.L.C.

By: Bert W. Wheatley, Member — Date: 24-11-03

ARTICLES OF ORGANIZATION
LIMITED LIABILITY COMPANY

(Instructions on back of application)

1. The name of the limited liability company is:

   Wheatley Properties, L.L.C.

2. The street address of the initial registered office is:

   1598 East 3200 South, Preston, Idaho 83263

   and the name of the initial registered agent at the above address is:

   Seth Wheatley

3. The mailing address for future correspondence is:

   1598 East 3200 South, Preston, Idaho 83263

4. Management of the limited liability company will be vested in:

   Manager(s) ☐ or Member(s) ☑ (please check the appropriate box)

5. If management is to be vested in one or more manager(s), list the name(s) and address(es) or at least one initial manager. If management is to be vested in the member(s), list the name(s) and address(es) of at least one initial member.

Name	Address
Seth Wheatley	1598 East 3200 South, Preston, ID 83263
Beth Wheatley	1598 East 3200 South, Preston, ID 83263
Bert Wheatley	1534 East 3200 South, Preston, ID 83263
Laura Wheatley	1534 East 3200 South, Preston, ID 83263

6. Signature of at least one person responsible for forming the limited liability company:

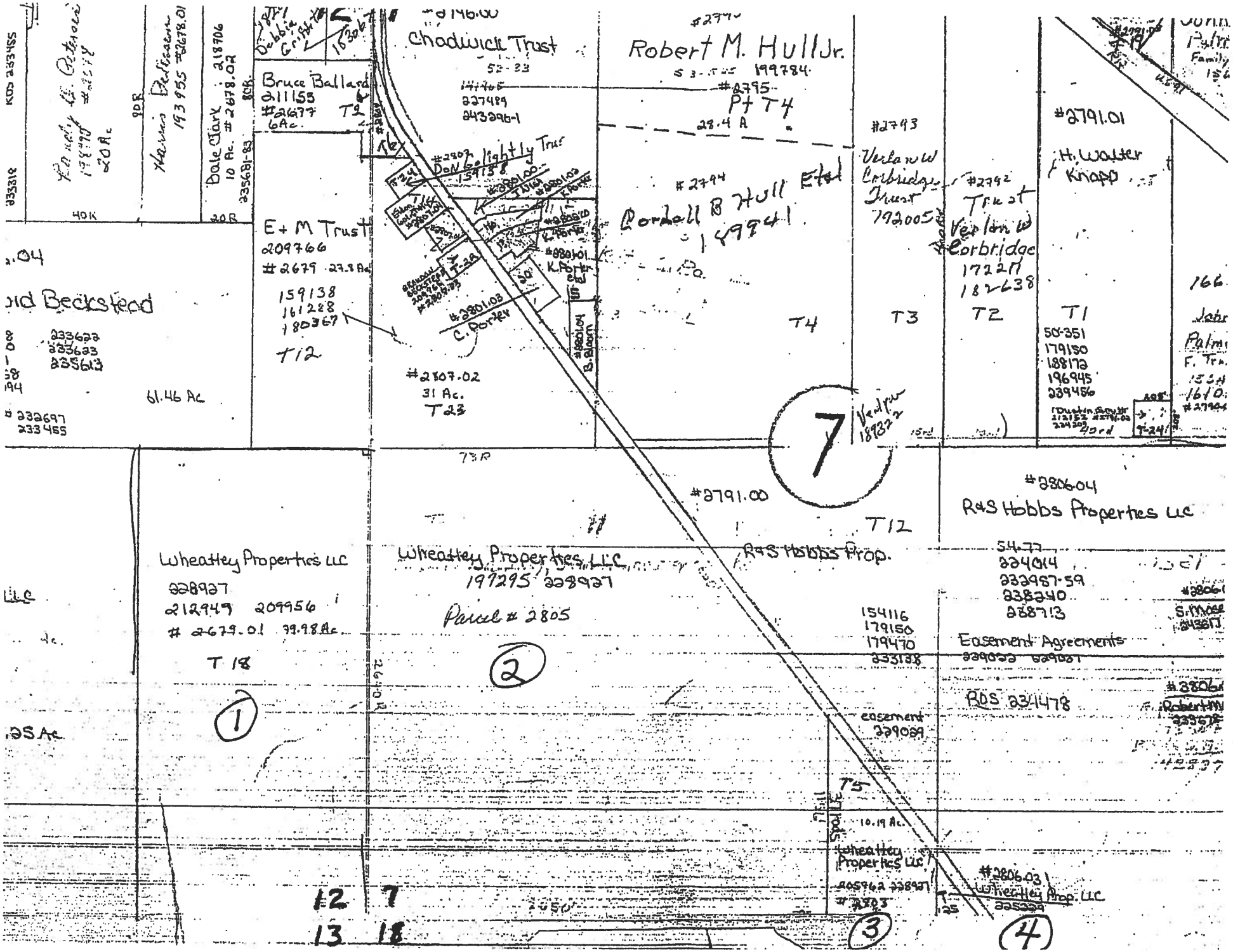
   Signature: Seth T. Wheatley
   Typed Name: Seth Wheatley
   Capacity: Organizer

   Signature Bert W. Wheatley
   Typed Name: Bert Wheatley
   Capacity: Organizer

g:\corp\forms\LLC forms\articsoforganization.p65
Revised 07/2002

Secretary of State use only

IDAHO SECRETARY OF STATE
01/28/2003 05:00
CK: 7095 CT: 96418 BH: 659355
1 @ 100.00 = 100.00 ORGAN LLC # 2


Chadwick Trust
Robert M. Hull Jr.
Pt T4
28.4 A
Bruce Ballard
#2677
6Ac
T2
E + M Trust
209766
#2679
27.3 Ac
159138
161288
180367
T12
#2807.02
31 Ac.
T23
Cordell B Hull Etal
Verlon W Corbridge Trust
192005
Verlon W Corbridge
172211
182638
T2
H. Walter Knapp
#2791.01
T1
50-351
179150
188173
196945
239456
T4
T3
7
#2791.00
T12
#2806.04
R&S Hobbs Properties LLC
Wheatley Properties LLC
228937
212949
209956
2679.01
39.98 Ac
T18
Wheatley Properties, LLC
197295
228937
Parcel # 2805
R&S Hobbs Prop.
54.77
234014
233987-59
238240
238713
154116
179150
179470
233138
Easement Agreements
239089
239091
ROS 231478
easement
239089
10.19 Ac.
Wheatley Properties LLC
205962 228937
#2803
#2806.03
Wheatley Prop. LLC
235339
T25
T5
12
7
13
18
1
2
3
4

Recorded at the request of
JAY R McKenzie

209766 1-4

a.m. MAY 5 2000 1:15 p

V. ELLIOTT LARSEN, RECORDI
By Shauna Geddes Dep
FRANKLIN COUNTY, IDAHO

GIFT WARRANTY DEED

FOR VALUE RECEIVED

DONALD D. GOLIGHTLY and NONA C. GOLIGHTLY, husband and wife,

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

PATRICIA VAUGHAN and JAMES TOWNSEND, Co-Trustees, and their successors, in trust, of the E & M Trust, dated May 2, 2000

whose current address is: 2414 South 1600 East
Preston, ID 83263

the grantees, the following described premises, in Franklin County, Idaho, to-wit:

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE

The surviving trustee and successor trustees have full rights to sell or encumber the property herein set forth.

The transfer of trusteeship may be evidenced by a Notice of Designation of Trustees or a Quitclaim Deed from the existing trustees, or a resignation or death certificate of the existing trustee, filed of record.

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantees, their heirs and assigns forever. And the said Grantors do hereby covenant to and with the said Grantees, that they are the owners in fee simple of said premises; that they are free from all encumbrances and that they will warrant and defend the same from all lawful claims whatsoever.

DATED this 3rd day of May, 2000.

Donald D Golightly
DONALD D. GOLIGHTLY

Nona C Golightly
NONA C. GOLIGHTLY

209766 2-4

STATE OF IDAHO)
) ss.
COUNTY OF FRANKLIN)

On this 3rd day of May, 2000, before me, a Notary Public in and for said State, personally appeared DONALD D. GOLIGHTLY and NONA C. GOLIGHTLY, known or identified to me to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same.

Jay R. McKenzie

NOTARY PUBLIC
Residing at: Preston, Idaho
My Commission Expires: 11-16-2003



209766 3-4

EXHIBIT "A"

PARCEL 1:
TOWNSHIP 16 SOUTH, RANGE 39 EAST OF THE BOISE MERIDIAN, SECTION 12:

COMMENCING AT A POINT 48 RODS SOUTH AND 40 RODS WEST FROM THE NORTHEAST CORNER OF SECTION 12, AND RUNNING THENCE EAST 613 FEET; THENCE SOUTH 11 RODS 6-1/2 FEET; THENCE EAST 12 RODS; THENCE NORTH 45* EAST 7 RODS 2-1/2 FEET TO THE CENTER OF THE HIGHWAY; THENCE SOUTHEASTERLY ALONG THE CENTER OF SAID HIGHWAY TO A POINT 15 RODS 3-1/2 FEET NORTH OF THE SOUTHEAST CORNER OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 7, TOWNSHIP 16 SOUTH, RANGE 40 EAST OF THE BOISE MERIDIAN; THENCE RUNNING SOUTH 15 RODS 3-1/2 FEET TO THE SOUTHEAST CORNER OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 7; THENCE RUNNING WEST 80 RODS; THENCE SOUTH 160 RODS; THENCE WEST 80 RODS; THENCE NORTH 160 RODS; THENCE EAST 40 RODS; THENCE NORTH 112 RODS TO THE PLACE OF BEGINNING.

TOGETHER WITH THE FOLLOWING DESCRIBED WATER RIGHTS APPURTENANT THERETO: DECREED WATER RIGHT NO. 13-00062, WITH PRIORITY DATE OF MAY 15, 1902; DECREED WATER RIGHT NO. 13-00216, WITH PRIORITY DATE OF AUGUST 31, 1903, FOR IRRIGATION; TWO AND ONE HALF SHARES IN THE LEWISTON CANAL COMPANY.

TOGETHER WITH THE RIGHT TO USE A COMMON EASEMENT FOR ACCESS OF THE PROPERTY IMMEDIATELY ADJOINING TO THE NORTH OF THE BELOW DESCRIBED PARCEL 2.

TOGETHER WITH A ONE-HALF (1/2) INTEREST IN WATER WELL LOCATED IN SOUTH CENTER OF BELOW PARCEL 2. TOGETHER WITH RIGHT OF INGRESS AND EGRESS TO WELL AND TO CONVEY WATER FROM SAID WELL. ALSO, AN EASEMENT FOR CULINARY WATER PIPELINE ACROSS SOUTH SIDE OF BELOW PARCEL 2 FOR CONVEYING WHITNEY-NASHVILLE WATER. ALSO, AN EASEMENT ALONG EAST AND SOUTH SIDE OF SAID EXCEPTED PARCEL FOR CONVEYING PRESTON-WHITNEY IRRIGATION WATER.

EXCEPTING THEREFROM HOWEVER: PARCEL 2 BEGINNING AT THE SOUTHEAST CORNER OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 7, AND RUNNING THENCE NORTH 15 RODS 3 ½ FEET TO THE CENTER OF THE HIGHWAY, THENCE NORTHWESTERLY ALONG THE CENTER OF HIGHWAY 1700 FEET TO THE TRUE POINT OF BEGINNING: THENCE SOUTH 53* WEST 180 FEET; THENCE NORTH 39* WEST 125 FEET; THENCE NORTH 53* EAST 180 FEET; THENCE SOUTH 37* EAST 125 FEET TO THE POINT OF BEGINNING.

ALSO EXCEPTING THEREFROM . PARCEL 3

TOWNSHIP 16 SOUTH, RANGE 40 EAST OF THE BOISE MERIDIAN:
SECTION 7: BEGINNING AT THE SOUTHEAST CORNER OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 7, THENCE NORTH 15 RODS 3 ½ FEET TO THE CENTER OF THE HIGHWAY, THENCE NORTHWESTERLY ALONG THE CENTER OF THE HIGHWAY 1500 FEET TO THE TRUE POINT OF BEGINNING; THENCE SOUTH 53* WEST 240 FEET, THENCE NORTH 42* WEST 200 FEET, THENCE NORTH 53* EAST 240 FEET, THENCE SOUTH 37* EAST 200 FEET TO THE TRUE POINT OF BEGINNING.

ALSO EXCEPTING THEREFROM THE FOLLOWING DESCRIBED PARCEL 4:

TOWNSHIP 16 SOUTH, RANGE 40 EAST OF THE BOISE MERIDIAN:
SECTION 7: BEGINNING AT THE SOUTHEAST CORNER OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 7, THENCE NORTH 15 RODS 3 ½ FEET TO THE CENTER OF THE HIGHWAY; THENCE NORTH WESTERLY ALONG CENTER OF HIGHWAY 1360 FEET TO THE TRUE POINT OF BEGINNING; THENCE OUSTH 53* WEST 150 FEET; THENCE NORTH 37* WEST 140 FEET; THENCE NORTH 53* EAST 150 FEET; THENCE SOUTH 37* EAST 140 FEET TO THE POINT OF BEGINNING.

ALSO EXCEPTING THEREFROM THE FOLLOWING PARCEL 5:

BEGINNING AT THE SOUTHEAST CORNER OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 7, TOWNSHIP 16 SOUTH, RANGE 40 EAST OF THE BOISE MERIDIAN; AND RUNNING THENCE NORTH 15 RODS 3 ½ FEET TO THE CENTER OF THE HIGHWAY; THENCE NORTHWESTERLY ALONG THE CENTER OF HIGHWAY 1200 FEET TO THE TRUE POINT OF BEGINNING; THENCE SOUTH 53* WEST 220 FEET; THENCE NORTH 37 WEST 150 FEET; THENCE NORTH 53* EAST 220 FEET; THENCE SOUTH 37* EAST 150 FEET TO THE POINT OF BEGINNING.

209956

Recorded at the request of
Jay R. McKenzie

When recorded mail to:

_____

_____

_____

____ a.m. MAY 26 2000 12:45 p.m.

V. ELLIOTT LARSEN, RECORDER
By Camille Larsen Deputy
FRANKLIN COUNTY, IDAHO

WARRANTY DEED

PATRICIA VAUGHAN AND JAMES TOWNSEND, TRUSTEES OF THE E & M TRUST DATED APRIL 25, 2000, GRANTOR OF FRANKLIN COUNTY hereby Convey and Warrants to SETH WHEATLEY AND BURT WHEATLEY, Jr., grantee of FRANKLIN COUNTY for the sum of TEN DOLLARS AND OTHER GOOD AND VALUABLE CONSIDERATION, the following described tract of land in Franklin County, State of Idaho.

BEGINNING 80 RODS WEST OF THE SOUTHEAST CORNER OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 7, TOWNSHIP 16 SOUTH, RANGE 39 EAST OF THE BOISE MERIDIAN; THENCE SOUTH 160 RODS; THENCE WEST 80 RODS; THENCE NORTH 160 RODS, THENCE EAST 78 RODS; THENCE SOUTH 33 FEET; THENCE EAST 33 FEET; THENCE 33 FEET NORTH TO THE POINT OF BEGINNING.

TOGETHER WITH ½ INTEREST OF DECREED WATER RIGHT NO. 13-00216. WITH PRIORITY DATE OF AUGUST 31,, 1903, FOR IRRIGATION;

ALSO, A NON-EXCLUSIVE RIGHT-OF-WAY AND EASEMENT TO USE AND MAINTAIN AN EXISTING DITCH FOR TRANSPORT OF THE ABOVE DESCRIBED WATER RIGHT, WHICH DITCH RUNS ALONG THE EAST SIDE OF GRANTOR'S PROPERTY, WHICH LIES NORTH AND EAST OF THE ABOVE-DESCRIBED PROPERTY..

WITNESS, THE HAND OF SAID GRANTOR, THIS 3rd DAY OF May, 2000

Patricia Vaughan (SEAL)
Patricia Vaughan, Trustee

(SEAL)
James Townsend, Trustee

State of Maryland

SS:

County of Harford

On the 3rd day of May, 2000, personally appeared before me PATRICIA VAUGHAN and JAMES TOWNSEND who duly acknowledged to me that whey executed the same.

LISA S. HOLCOMB NOTARY PUBLIC HARFORD COUNTY, MD

Lisa S. Holcomb
NOTARY PUBLIC 2-15-04

212949 1-2

Recorded at the request of
Jay R. McKenzie
1:15
a.m. APR 19 2001
V. ELLIOTT LARSEN, RECORDER
By Ruth K. Rawlings Deputy
FRANKLIN COUNTY, IDAHO

CORRECTING WARRANTY DEED

FOR VALUE RECEIVED

PATRICIA VAUGHAN and JAMES TOWNSEND, Trustees of The E & M Trust, dated April 25, 2000,

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

SETH WHEATLEY and BERT WHEATLEY, JR.,

whose current address is: c/o Seth Wheatley
1598 East 3200 South
Preston, Idaho 83263

the grantees, the following described premises, in Franklin County, Idaho, to-wit:

Beginning 80 rods West of the Southeast corner of the Southwest Quarter of the Northwest Quarter of Section 7, Township 16 South, Range 40 East of the Boise Meridian; thence South 160 rods; thence West 80 rods; thence North160 rods; thence East 78 rods; thence South 33 feet; thence East 33 feet; thence North 33 feet to the point of beginning.

TOGETHER with one-half interest of decreed Water Right No. 13-00216, with priority date of August 31, 1903, for irrigation;

ALSO, a non-exclusive right-of-way and easement to use and maintain an existing ditch for transport of the above-described water right, which ditch runs along the East side of grantor's property, which lies North and East of the above-described property.

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantees, their heirs and assigns forever. And the said Grantors do hereby covenant to and with the said Grantees, that they are the owners in fee simple of said premises; that they are free from all encumbrances and that they will warrant and defend the same from all lawful claims whatsoever.

This Correcting Warranty Deed is made to correct Warranty Deed dated May 3, 2000, and recorded May 26, 2000, as Instrument No. 209956, records of Franklin County, Idaho, as to the RANGE NUMBER and spelling of the name of grantee, BERT WHEATLEY, JR.

DATED this 13th day of April, 2001.

Patricia Vaughan
PATRICIA VAUGHAN, Trustee of
The E & M Trust

212949 2.2

JAMES TOWNSEND, Trustee of
The E & M Trust

STATE OF MARYLAND)
) ss.
COUNTY OF HARFORD)

On this 12 day of April, 2001, before me, a Notary Public in and for said State, personally appeared Patricia Vaughan and James Townsend, known or identified to me to be the persons whose names are subscribed to the within instrument as the trustees of The E & M Trust, and acknowledged to me that they executed the same.

NOTARY PUBLIC Carole J. Dell
Residing at: Balto. Md.
My Commission Expires: 10/20/2003.

OWNER CODE	NAME & ADDRESS	PRIORITY DATE	WATER USE	USE PERIOD FROM	USE PERIOD TO	DIVERSION RATE	DIVERSION VOLUME
C	DONALD D. GOLIGHTLY	08/31/1903	IRRIGATION	04/01	11/01	1.800 CFS	400.00 AFA
C	NONA GOLIGHTLY						
	RT. 1				TOTAL DIVERSION:	1.800 CFS	400.00 AFA
	PRESTON ID 83263						

Water Source: SPRING CREEK Tributary to: CUB RIVER Stage: DECREED

Point(s) of Diversion: T16S R40E S06 Lot 04(NWNW) FRANKLIN County

Place of use Legal Description for: IRRIGATION

			NE				NW				SW				SE				
			NENE	NWNE	SWNE	SENE	NENW	NWNW	SWNW	SENW	NESW	NWSW	SWSW	SESW	NESE	NWSE	SWSE	SESE	
T	R	S	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	Lt Ac	SUM
16S	39E	12	06			19									40			24	89.0
16S	40E	7						01-02	02-23										25.0
																	TOTAL ACRES		114.0

Pou County: FRANKLIN

Other Water Rights with Same Point(s) of Diversion and Source:
13-00060A 13-00061A 13-00062 13-00144 13-00237 13-00258 13-00273 13-00274

Other Water Rights Listing Overlapping Place(s) of use:
13-00060A 13-00060B 13-00061A 13-00061B 13-00062 13-00217 13-00237 13-00258 13-00273 13-00274
13-02066

Remarks: THIS DECREED RT. WAS MODIFIED BY THE FINAL WORM CREEK DECREE. THIS RT. WHEN COMBINED WITH RTS. 13-0062 & 13-0217 SHALL NOT EXCEED 400.0 AF/YR.

Dates: App. Received: Priority Date: 08/31/1903
Proof Due Date: Proof Made Date:
Exam Made Date: Exam Sent to S.O.:
Licensed Date:

Misc: Water District Number: Field Exam Fee:

Audit: 04/11/86 05/21/88 CONVERT

228927 1-2

Recorded at the request of
Seth Wheatley

When Recorded Mail To:
Hallock & Hallock, a Professional Corporation
P.O. Box 4171
Logan, Utah 84323-4171

____a.m. FEB 10 2005 p.m. 1 cc

V. ELLIOTT LARSEN, RECORDER
By Ruth K. Rawlings Deputy
FRANKLIN COUNTY, IDAHO

QUIT CLAIM DEED

GRANTORS, Bert W. Wheatley and Seth T. Wheatley, of 1598 East 3200 South, Preston, Franklin County, State of Idaho, for good and valuable consideration, the receipt of which is hereby acknowledged, does hereby QUIT CLAIM all of its right title and interest, if any, unto Wheatley Properties, L.L.C. of 1598 East 3200 South, Preston, Franklin County, State of Idaho, as GRANTEE, and to Grantee's heirs and assigns forever, all of the following described real estate situated in Franklin County, State of Idaho, to wit:

PARCEL 1:
Township 16 South, Range 39 East of the Boise Meridian, Franklin County, Idaho

Section 13: NE¼NE¼

EXCEPTING THEREFROM: Starting at the Northeast corner of Section 13, Township 16 South, Range 39 East of the Boise Meridian, and going West 523 feet to the Point of Beginning, thence South 222 feet, thence West 183 feet, thence North 222 feet, thence East 183 feet to the first corner.

PARCEL 2:
Township 16 South, Range 40 East of the Boise Meridian, Franklin County, Idaho

Section 18: Commencing at the Northwest corner of Lot 1, Section 18, and running South 80 rods; thence East 18 rods 13 feet; thence North 80 rods; thence West 18 rods 13 feet to the place of beginning.

EXCEPTING FROM THE PROPERTIES FROM SECTIONS 13 AND 18 ABOVE: Starting at the Northeast corner of Section 13, Township 16 South, Range 39 East of the Boise Meridian and running West 154 feet; thence South 222 feet; thence East 154 feet, to the Section line plus 54 feet further East in to Section 18, Township 16 South, Range 40 East of the Boise Meridian, thence North 222 feet, thence West 54 feet to the point of beginning.

PARCEL 3:
Commencing at the Southwest corner of the Southeast quarter of Section 7, Township 16 South, Range 40 East of the Boise Meridian, and running thence North 70 rods to the center of the State Highway; thence South 39 degrees 30' East along the center of said highway to a point which is 40 rods East and 19½ rods North of the point of beginning; thence South 19½ rods; thence West 40 rods to the place of beginning, containing 10.5 acres, more or less.

PARCEL 4:
Commencing at the Southeast corner of the Southwest Quarter of Section 7, Township 16 South, Range 40 East of the Boise Meridian, and running thence North 1156 feet to the center of the State Highway; thence North 34°40' West 1850 feet; thence West 1535 feet to the Section line; thence South 2640 feet; thence East 2650 feet, more or less, to the place of beginning.

228927 2.2

PARCEL 5:
Beginning 80 rods West of the Southeast corner of the Southwest Quarter of the Northwest Quarter of Section 7, Township 16 South, Range 40 East of the Boise Meridian; thence South 160 rods; thence West 80 rods; thence North 160 rods; thence East 78 rods; thence South 33 feet; thence East 33 feet; thence North 33 feet to the point of beginning.

TOGETHER with one-half interest of decreed Water Right No. 13-00216, with priority date of August 31, 1903, for irrigation;

ALSO, a non-exclusive right-of-way and easement to use and maintain an existing ditch for transport of the above-described water right, which ditch runs along the East side of grantor's property, which lies North and East of the above-described property.

Together with all improvements, water, water rights, ditches, ditch rights, easements, hereditaments and appurtenances thereto.

Subject to such rights, easements, covenants, restrictions, and zoning regulations as appear of record.

In construing this deed, and where the context so requires, the singular includes the plural and the masculine, the feminine and the neuter.

IN WITNESS WHEREOF, the Grantors have subscribed their names to this instrument this ____ day of 10,2,05 2005

Bert W. Wheatley

Seth T. Wheatley

STATE OF IDAHO)
: ss
County of Franklin)

On this 16th day of February 2006, before me the undersigned, a Notary Public for Idaho, personally appeared Bert W. Wheatley, known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same. In witness whereof, I have hereunto set my hand and affixed my official seal the day and year first written above.

3-30-2006
My Commission expires

Notary Public
Residing at:

JANET KIMPTON NOTARY PUBLIC STATE OF IDAHO

STATE OF IDAHO)
: ss
County of Franklin)

On this 16th day of February 2005, before me the undersigned, a Notary Public for Idaho, personally appeared Seth T. Wheatley, known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same. In witness whereof, I have hereunto set my hand and affixed my official seal the day and year first written above.

3-30-2006
My Commission expires

Notary Public
Residing at:

JANET KIMPTON NOTARY PUBLIC STATE OF IDAHO

Form 42-248/42-1409(6) 10/07

DEW

RECEIVED
JUL 14 2009
Department of Water Resources
Eastern Region

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
NOTICE OF CHANGE IN WATER RIGHT OWNERSHIP

Please print or type. Attach pages with additional information. Instructions are included at the end of this form. Incomplete forms will be returned.

1. Please list the water right number(s) and/or adjudication claim number(s) (if any) for each water right to be changed. List just the adjudication claim number if there is no corresponding water right record on file with the department. Indicate, by checking in the space provided (under the "split" heading), if the change in ownership is limited to a portion of a water right in which case IDWR will produce new water right number(s) for the split(s).

Water Right No(s).	Adjudication Claim No(s).	Split(s)	Water Right No(s).	Adjudication Claim No(s).	Split(s)
wr 13-219					

2. The following **REQUIRED** information must be submitted with this form:

   A. The appropriate **FILING FEE.** See instructions for fee amounts.

   B. A copy of the most recent **DEED, TITLE POLICY, CONTRACT OF SALE** or other legal document indicating your ownership of the property and water right(s) or claim(s) in question, **WITH ATTACHED LEGAL DESCRIPTION.**

   C. Either of the following (if necessary to clarify division of water rights or other complex property descriptions):
   PLAT OF PROPERTY or **SURVEY MAP** clearly showing the location of the point(s) of diversion and place of use of your water right(s) and/or adjudication claim(s) (these are on file with the county Planning and Zoning or Recorder's Office).

   OR

   D. If your water 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 PHOTO** with the irrigated acres outlined and point(s) of diversion clearly marked. The AERIAL PHOTO should be submitted in place of the PLAT OF PROPERTY or SURVEY MAP.

3. Name and Address of Former Owner/Claimant(s): Blaine Gamble
   Marcella Gamble
   Rt 2 Box 705 Preston, ID.

4. New Owner/Claimant(s): Wheatley Properties LLC
   Name Connector (Check one): [ ] and, [ ] or, [ ] and/or

   New Mailing Address: 1598 E. 3200 S.

   City, State and ZIP Code: Preston, ID 83263

   New Telephone Number: (208) 646-2516 Email: _____

EXHIBIT
tabbies Protestat
123

5. Date you acquired the property 11-28-1990.

6. **If the change in ownership affects the entire water right for each water right or adjudication claim number listed in line 1, then skip this line and go to line 7.** If the change in ownership divides the water right(s) among multiple owners, you must describe, in detail, your portion of each water right after the change. Fill in the appropriate spaces in the box(es) below to describe your water right(s) after the change (you may copy this page, if necessary). If your quantity of water is greater than a proportionate split, you must attach documentation to show justification for a larger amount. If you are not sure how to identify your portion of the original water right or adjudication claim records, please contact the nearest IDWR office for assistance.

DESCRIPTION OF YOUR PORTION OF WATER RIGHT
(If the right will not be split, skip this area and proceed to line 7)

Water Use	Diversion Rate or Volume (cubic feet per second or acre-feet per annum)	Description (acres, number and type of stock, homes, etc)
Water Right and/or Adjudication Claim Number		
Irrigation		
Stock		
Domestic		
Other		
Totals		
Water Right and/or Adjudication Claim Number		
Irrigation		
Stock		
Domestic		
Other		
Totals		
Water Right and/or Adjudication Claim Number		
Irrigation		
Stock		
Domestic		
Other		
Totals		

For Snake River Basin Adjudication Claims: Please attach a Notice of Appearance completed by your attorney, if you wish IDWR to correspond with him/her for all matters related to your claims.

7. **Signature(s) of New Owner(s) or Claimant(s)** Seth Wheatley, Barb Wheatley (title if applicable)
Bert w. Wheatley, Laura Wheatley (title if applicable)

IT IS IMPORTANT TO FILE THIS COMPLETED FORM AT THE APPROPRIATE IDWR OFFICE, WITH PAYMENT OF THE FILING FEE AND THE OWNERSHIP DOCUMENT(S), AS REFERRED TO IN LINE 2.

For IDWR Office Use Only:
Received by DMM Date 7/20/09 Receipt Amt. #175
Receipted by _____ Date _____ Receipt No. E0235223
Processed by _____ AJ Date _____ WR _____ Date _____

Anna K. Fuller

a.m. DEC 3 1990 12:35 p.m.

LaRAE E. JOHNSON, RECORDER
By G. Shepherd Deputy
FRANKLIN COUNTY, IDAHO

182772 1-3

TRUSTEE'S DEED

THIS DEED made this 28th day of November, 1990, between BLAINE J. GAMBLE and MARCELLA M. GAMBLE, as Trustees of the BLAINE J. GAMBLE FAMILY TRUST hereinafter called "Grantor" and BERT WALKER WHEATLEY and LAURA WHEATLEY, husband and wife, SETH THOMAS WHEATLEY and BETH WHEATLEY, husband and wife, hereinafter called "Grantee".

WHEREAS, BLAINE J. GAMBLE and MARCELLA M. GAMBLE are the duly appointed and acting Trustees of the BLAINE J. GAMBLE FAMILY TRUST dated the 18th day of March, 1990, by and between BLAINE J. GAMBLE and MARCELLA M. GAMBLE, as Grantors and BLAINE J. GAMBLE and MARCELLA M. GAMBLE, as Trustee.

NOW, THEREFORE, WITNESSETH, that the said Grantor, for valuable consideration, and for the purpose of distributing certain real property from the BLAINE J. GAMBLE FAMILY TRUST, do by these presents hereby distribute, bargain, sell, convey, and confirm unto the said Grantees, and their heirs and assigns forever, all the Grantor's right, title and interest in that certain parcel of land, situate, lying and being in Franklin County, State of Idaho, and more particularly described in Exhibit "A" attached hereto, with BERT WALKER WHEATLEY and LAURA WHEATELY to receive an undivided one-half (½) interest and SETH THOMAS WHEATLEY and BETH WHEATLEY to receive an undivided one-half (½) interest to the premises.

TOGETHER with all and singular the tenements, hereditaments, and appurtenances thereunto belonging or in anywise appertaining, the reversion and reversions, remainder and remainders rents, issues and profits thereof;

TO HAVE AND TO HOLD, all and singular the said premises together with the appurtenances unto the Grantees, their heirs and assigns forever.

IN WITNESS WHEREOF, the said Grantor has hereunto set his hand and seal the day and year first above written.

BLAINE J. GAMBLE FAMILY TRUST

By: Blaine J. Gamble
BLAINE J. GAMBLE, Trustee

By: Marcella M Gamble
MARCELLA M. GAMBLE, Trustee

182772 2-3

STATE OF IDAHO)
)
County of Franklin)

On this 28th day of November, 1990, before me, the undersigned, a Notary Public in and for said State, personally appeared BLAINE J. GAMBLE and MARCELLA M. GAMBLE, known or identified to me to be the person whose names are subscribed to the within instrument as Trustees of the BLAINE J. GAMBLE FAMILY TRUST and acknowledged to me that they executed the same as Trustees of the BLAINE J. GAMBLE FAMILY TRUST.



Steven R. Fuller
NOTARY PUBLIC for State of Idaho
Residing at: Preston, Idaho
Comm. Expires: 2/19/93

182772 3-3

Exhibit "A" 13-219

Township 16 South, Range 39 East of the Boise Meridian, Franklin County, Idaho

Section 13: The East half of the Southeast quarter and the Southeast quarter of the Northeast quarter of Section 13, Township 16 South, Range 39 East of the Boise Meridian, reserving a right-of-way over the following described tract of land, to-wit:

Commencing at a point 61 rods 3½ feet West of th Northeast corner of Lot 1, Section 18, Township 16 South, Range 40 East of the Boise Meridian, and running thence South 80 rods; thence West 19 rods; thence South 20 feet; thence East 20 rods 4½ feet; thence North 81 rods 3½ feet; thence West 20 feet to the place of beginning.

ALSO, conveying with the above described land an undivided 4/14ths interest in and to what is known as Kirby's Pond or Reservoir, together with all proportionate rights therein.

TOGETHER WITH three shares of Cub River Irrigation Water Stock together with any ditch right Grantor may have to convey or transport up to eight shares of said water to the above premises.

10.16s

Recorded at the request of
Seth Wheatley

228928 1-2

When Recorded Mail To:
Hallock & Hallock, a Professional Corporation
P.O. Box 4171
Logan, Utah 84323-4171

____a.m. FEB 10 2005 p.m. 1:05

V. ELLIOTT LARSEN, RECORDER
By Ruth K. Rawlings Deputy
FRANKLIN COUNTY, IDAHO

WARRANTY DEED

Grantors, Bert Walker Wheatley and Laura Wheatley, husband and wife, of 1534 East 3200 South, Preston, Franklin County, Idaho, and Seth Thomas Wheatley and Beth Wheatley, husband and wife, of 1598 East 3200 South, Preston, Franklin County, Idaho, for good and valuable consideration, the receipt of which is hereby acknowledged, do hereby grant, bargain, sell and convey unto Wheatley Properties, L.L.C. of 1598 East 3200 South, Preston, Franklin County, Idaho, as Grantee, and to Grantee's successors and assigns forever, all of the following described real property located in Franklin County, Idaho, to wit:

Township 16 South, Range 39 East of the Boise Meridian, Franklin County, Idaho

Section 13: The East half of the Southeast quarter and the Southeast quarter of the Northeast quarter of Section 13, Township 16 South, Range 39 East of the Boise Meridian, reserving a right-of-way over the following described tract of land, to-wit:

Commencing at a point 61 rods 3½ feet West of the Northeast corner of Lot 1, Section 18, Township 16 South, Range 40 East of the Boise Meridian, and running thence South 80 rods; thence West 19 rods; thence South 20 feet; thence East 20 rods 4½ feet; thence North 81 rods 3½ feet; thence West 20 feet to the place of beginning.

ALSO, conveying with the above described land an undivided 4/14ths interest in and to what is known as Kirby's Pond or Reservoir, together with all proportionate rights therein.

TOGETHER WITH three shares of Cub River Irrigation Water Stock together with any ditch right Grantor may have to convey or transport up to eight shares of said water to the above premises.

Together with all improvements, water, water rights, ditches, ditch rights, easements, hereditaments and appurtenances thereto.

Subject to such rights, easements, covenants, restrictions, and zoning regulations as appear of record.

In witness whereof, Grantors have hereunto subscribed their names to this instrument this 10 day of February 2005.

Bert Walker Wheatley
Bert Walker Wheatley

Laura Wheatley
Laura Wheatley

Seth Thomas Wheatley
Seth Thomas Wheatley

Beth Wheatley
Beth Wheatley

228928 2-2

STATE OF IDAHO)
: ss
County of Franklin)

On this 10th day of February 2005, before me the undersigned, a Notary Public for Idaho, personally appeared Bert Walker Wheatley, known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same. In witness whereof I have hereunto set my hand and affixed my official seal the day and year first written above.

3-30-2006
My Commission expires

Janet Kimpton
Notary Public
Residing at: Preston, Id.

JANET KIMPTON NOTARY PUBLIC STATE OF IDAHO

STATE OF IDAHO)
: ss
County of Franklin)

On this 10th day of February 2005, before me the undersigned, a Notary Public for Idaho, personally appeared Laura Wheatley, known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that she executed the same. In witness whereof I have hereunto set my hand and affixed my official seal the day and year first written above.

3-30-2006
My Commission expires

Janet Kimpton
Notary Public
Residing at: Preston, Id.

JANET KIMPTON NOTARY PUBLIC STATE OF IDAHO

STATE OF IDAHO)
: ss
County of Franklin)

On this 10th day of February 2005, before me the undersigned, a Notary Public for Idaho, personally appeared Seth Thomas Wheatley, known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same. In witness whereof I have hereunto set my hand and affixed my official seal the day and year first written above.

3-30-2006
My Commission expires

Janet Kimpton
Notary Public
Residing at: Preston, Id.

JANET KIMPTON NOTARY PUBLIC STATE OF IDAHO

STATE OF IDAHO)
: ss
County of Franklin)

On this 10th day of February 2005 before me the undersigned, a Notary Public for Idaho, personally appeared Beth Wheatley, known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that she executed the same. In witness whereof I have hereunto set my hand and affixed my official seal the day and year first written above.

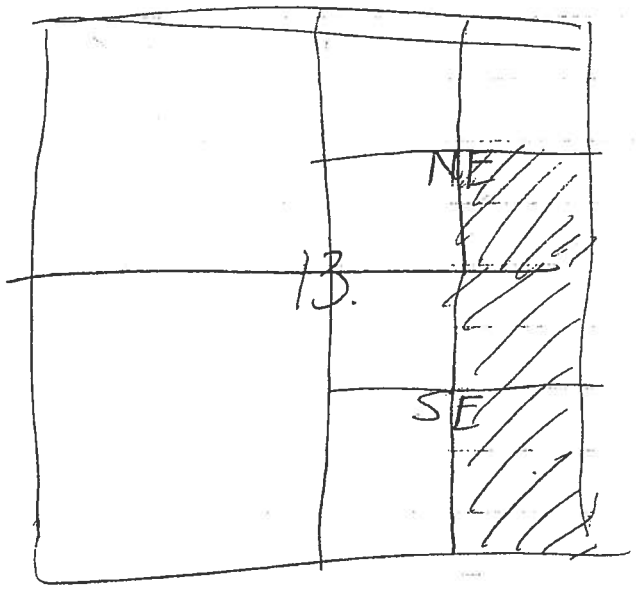
3-30-2006
My Commission expires

Janet Kimpton
Notary Public
Residing at: Preston, Id.

JANET KIMPTON NOTARY PUBLIC STATE OF IDAHO

Wiest's

T16S. R39E Sec13



13-219

Close

IDAHO DEPARTMENT OF WATER RESOURCES
Water Right Report

6/29/2009

WATER RIGHT NO. 13-219

Owner Type	Name and Address
Current Owner	BLAINE GAMBLE
Current Owner	MARCELLA GAMBLE
	RT 2 BOX 705
	PRESTON, ID 83263

Priority Date: 04/01/1872
Basis: Decreed
Status: Active

Source	Tributary
UNNAMED STREAMS	WORM CREEK

Beneficial Use	From	To	Diversion Rate	Volume
IRRIGATION	4/01	11/01	2.22 CFS	389 AFA
Total Diversion			2.22 CFS	

Location of Point(s) of Diversion:

UNNAMED STREAMS	SWSW Lt 4	Sec. 07	Township 16S	Range 40E	FRANKLIN County

Place(s) of use:

Place of Use Legal Description: IRRIGATION FRANKLIN County

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres
16S	39E	13		SENE	37									
				NESE	35		SESE	39						

Total Acres: 111

Dates:
Licensed Date:
Decreed Date: 05/21/1981
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:
Owner Name Connector:
Water District Number:
Generic Max Rate per Acre:
Generic Max Volume per Acre:
Civil Case Number:
Old Case Number:
Decree Plantiff:
Decree Defendant:
Swan Falls Trust or Nontrust:
Swan Falls Dismissed:
DLE Act Number:
Cary Act Number:
Mitigation Plan: False
Close

Section No. 18, 13, 24, 19.

Quarter Section No.

Block No.

Lot No.

H14

Township No.

