

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Notice of Change in Water Right Ownership

1. List the numbers of all water rights and/or adjudication claim records to be changed. If you only acquired a portion of the water right or adjudication claim, check "Yes" in the "Split?" column.

Water Right/Claim No.	Split?	Water Right/Claim No.	Split?	Water Right/Claim No.	Split?
13-302	Yes ☐		Yes ☐		Yes ☐
Split into	Yes ☐		Yes ☐		Yes ☐
13-7757	Yes ☐		Yes ☐		Yes ☐
137758 &	Yes ☐		Yes ☐		Yes ☐
137759	Yes ☐		Yes ☐		Yes ☐

2. Previous Owner's Name:

SUPPORT DATA

3. New Owner(s)/Claimant(s):

Name of current water right holder/claimant

Vernon Nelson IN FILE # 13-302

Name of each new owner as listed on the conveyance document

Murray C. Nichols

New owner continued

Name connector

☐ and

☐ or

☐ and/or

140 N 100 W

Mailing address

Preston

City

208-852-1222

Telephone

Id

State

83263

ZIP

Email

4. If the water rights and/or adjudication claims were split, how did the division occur?

- ☐ The water rights or claims were divided as specifically identified in a deed, contract, or other conveyance document.
☒ The water rights or claims were divided proportionately based on the portion of their place(s) of use acquired by the new owner.

5. Date you acquired the water rights and/or claims listed above: Apr 5 1988

6. This form must be signed and submitted with the following **REQUIRED** items:

- A copy of the conveyance document – warranty deed, quitclaim deed, court decree, contract of sale, etc. The conveyance document must include a legal description of the property or description of the water right(s) if no land is conveyed.
- Plat map, survey map or aerial photograph which clearly shows the place of use and point of diversion for each water right and/or claim listed above (if necessary to clarify division of water rights or complex property descriptions).
- Filing fee (see instructions for further explanation):
 - ☐ \$25 per undivided water right.
 - ☒ \$100 per split water right.
 - ☐ No fee is required for pending adjudication claims.

7. Signature:

Murray C. Nichols
Signature of new owner/claimant

Owner
Title, if applicable

8-30-2010
Date

Signature:

Signature of new owner/claimant

Title, if applicable

Date

For IDWR Office Use Only:

Received by JPO

Date

8/30/10

Receipt No.

E036084

Receipt Amt.

\$100.-

Approved by

Processed by

Date

171559

WARRANTY DEED

For Value Received

RALPH S. MORTENSEN, Trustee of THE S. VERN NELSON FAMILY TRUST
the grantor , does hereby grant, bargain, sell and convey unto

SID A. MUNK and KATHRYN MUNK, Husband and Wife

whose current address is

2598 West 5900 North
Amalg, UT 84335

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

Township 15 South, Range 40 East of the Boise Meridian

Section 8: Commencing at a point 20 rods West of the Northeast corner of the Southeast quarter of Section 8; thence running West 45 rods and 5 feet, more or less, to the flume of Cub River and Worm Creek Canal Company; thence Southeasterly along said flume to Water Ditch of said Canal Company, at a point 41 rods West and 10 rods South of the place of beginning; thence Southerly along said Water Ditch 24 rods, more or less, to Public Road; thence Northeasterly along said road 37 rods, more or less, to a point due South of the place of beginning; thence North 20 rods, more or less, to the place of beginning.

EXCEPTING THEREFROM all property previously deeded to Preston-Whitney Irrigation Company in Book 27 of Deeds, page 35, for reservoir purposes.

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

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

Dated: February 13, 1986

Carol J. Mortensen

STATE OF IDAHO, COUNTY OF FRANKLIN

On this 13th day of February, 19 86,
before me, a notary public in and for said State, personally appeared

RALPH S. MORTENSEN, Trustee of
THE S. VERN NELSON FAMILY TRUST

known to me to be the person whose name is
subscribed to the within instrument, and acknowledged to
me that he executed the same.

Carol J. Mortensen
Notary Public

Residing at Preston, Idaho
Comm. Expires 8/8/88

Recorded at the request of

J. D. Williams

20 a.m. FEB 13 1986 —p.m.

CORRIE L. KELLER, RECORDER

By *Carol J. Mortensen* Deputy
FRANKLIN COUNTY, IDAHO

85								
1	2	3	4	5	6	7	8	9

Lawyers Title Insurance Corporation

OWNER'S POLICY

Schedule A

CASE NUMBER	DATE OF POLICY	AMOUNT OF INSURANCE
4-3543-G	February 13, 1986, at 10:20 A.M.	\$12,000.00

THE POLICY NUMBER SHOWN
ON THIS SCHEDULE MUST
AGREE WITH THE PREPRINTED
NUMBER ON THE COVER SHEET

POLICY NUMBER
85-00-198901

1. Name of Insured:

SID A MUNK and KATHRYN MUNK, husband and wife.

2. The estate or interest in the land described herein and which is covered by this policy is:

Fee simple.

3. The estate or interest referred to herein is at Date of Policy vested in:

SID A. MUNK and KATHRYN MUNK, husband and wife.

4. The land referred to in this policy is described as follows:

Township 15 South, Range 40 East of the Boise Meridian, Franklin County, Idaho

Section 8: Commencing at a point 20 rods West of the Northeast corner of the Southeast Quarter of Section 8; thence running West 45 rods and 5 feet, more or less, to the flume of Cub River and Worm Creek Canal Company; thence Southeasterly along said flume to Water Ditch of said Canal Company, at a point 41 rods West and 10 rods South of the place of beginning; thence Southerly along said Water Ditch 24 rods, more or less, to Public Road; thence Northeasterly along said road 37 rods, more or less, to a point due South of the place of beginning; thence North 20 rods, more or less, to the place of beginning. EXCEPTING THEREFROM all property previously deeded to Preston-Whitney Irrigation Company in Book 27 of Deeds, page 35, for reservoir purposes.

AMERICAN LAND TITLE COMPANY

PRESTON, IDAHO

CASE NUMBER	DATE OF POLICY
4-3543-G	Feb. 13, 1986 at 10:20 A.M.

THE POLICY NUMBER SHOWN ON THIS SCHEDULE
MUST AGREE WITH THE PREPRINTED NUMBER
ON THE COVER SHEET

POLICY NUMBER
85-00-198901

Schedule B

This policy does not insure against loss or damage by reason of the following:

1. Rights or claims of parties in possession not shown by the public records.
2. Easements, or claims of easements, not shown by the public record.
3. Discrepancies, conflicts in boundary lines, shortage in area, encroachments, and any facts which a correct survey and inspection of the premises would disclose and which are not shown by the public records.
4. Any lien, or right to a lien, for services, labor, or material heretofore or hereafter furnished, imposed by law and not shown by the public records.
5. Unpatented mining claims; reservations or exceptions in patents or in Act authorizing the issuance thereof; water rights, claims or title to water.
6. Any and all unpaid taxes, assessments and unredeemed tax sales.
7. Taxes for the year 1986 and subsequent years which are an accruing lien not yet due or payable. Liability for additional assessment and subsequent tax billing if any, pursuant to Idaho Code Sections 63-403 and 63-3906.
8. Right, title and interest of the public in and to those portions of above-described premises falling within the bounds of roads or highways.
9. EASEMENT to UTAH POWER AND LIGHT COMPANY, dated January 21, 1939, recorded June 27, 1939, in Book 8 of Miscellaneous, page 341, records of Franklin County, Idaho. Said Easement being for perpetual easement or right of way for the erection and maintenance of electric transmission, distribution and telephone circuits with necessary guys, stubs, crossarms and other attachments.
10. OIL AND GAS LEASE by and between S. VERN NELSON FAMILY TRUST, by GARY V. NELSON, Trustee, and S. VERN NELSON and VERDA O. NELSON, husband and wife, Lessor, to PLACID OIL COMPANY, as Lessee, dated February 1, 1978, recorded February 27, 1978, as Microfilm Instrument No. 145467, records of Franklin County, Idaho.
11. GEOTHERMAL LEASE by and between S. VERN NELSON FAMILY TRUST, by GARY V. NELSON, Trustee, and S. VERN NELSON and VERDA O. NELSON, husband and wife, Lessor, to TRANSCONTINENT OIL COMPANY, as Lessee, dated September 15, 1978, recorded November 27, 1978, as Microfilm Instrument No. 148114, records of Franklin County, Idaho; AND ASSIGNED by ASSIGNMENT recorded December 27, 1978, as Instrument No. 148444; AND ASSIGNED by ASSIGNMENT recorded February 26, 1979, as Instrument No. 148939; AND ASSIGNED by ASSIGNMENT recorded September 14, 1979, as Microfilm Instrument No. 150850; AND ASSIGNED by ASSIGNMENT recorded April 14, 1980, as Instrument No. 152717; AND ASSIGNED by ASSIGNMENT recorded May 18, 1981, as Instrument No. 155936; AND ASSIGNED by ASSIGNMENT recorded September 8, 1981, as Instrument No. 156850; AND ASSIGNED by ASSIGNMENT recorded May 13, 1982, as Instrument No. 159063; AND ASSIGNED by ASSIGNMENT recorded June 23, 1983, as Instrument No. 163247; AND CORRECTED by CORRECTION ASSIGNMENT recorded April 30, 1984, as Instrument No. 166160; AND ASSIGNED by ASSIGNMENT recorded July 9, 1984, as Instrument No. 166750, records of Franklin County, Idaho.

177505

1-2

Rose Marie Nichols

APR 5 1988 4:40 p.m.

CORRIE L. KELLER, RECORDER

By La Rae Johnson Deputy
FRANKLIN COUNTY, IDAHO

WARRANTY DEED

FOR VALUE RECEIVED, SID A. MUNK and KATHRYN MUNK, husband and wife, the GRANTORS do hereby grant, bargain, sell and convey to ROSE MARIE NICHOLS, Trustee of the Rose Marie Nichols Family Living Trust Agreement dated the 1st day of November, 1982, the GRANTEE, the following described premises in Franklin County, Idaho, to-wit:

Township 15 South, Range 40 East of the Boise Meridian Section 8: Commencing at a point 20 rods West of the Northeast corner of the Southeast quarter of Section 8; thence running West 45 rods and 5 feet, more or less, to the flume of Cub River and Worm Creek Canal Company; thence Southeasterly along said flume to Water Ditch of said canal Company, at a point 41 rods West and 10 rods South of the place of beginning; thence Southerly along said Water Ditch 24 rods, more or less, to Public Road; thence Northeasterly along said road 37 rods, more or less, to a point due South of the place of beginning; thence North 20 rods, more or less, to the place of beginning.

EXCEPTING THEREFROM all property previously deeded to Preston-Whitney Irrigation company in Book 27 of Deeds, page 35, for reservoir purposes.

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantee, her heirs and assigns forever. And the said Grantors do hereby covenant to and with the said Grantee that they are the owners in fee simple of said premises; that they are free of all encumbrances and that they will warrant and defend the same from all lawful claims whatsoever.

Dated this 5th day of April, 1988

Sid A. Munk
Sid A. Munk

Kathryn Munk
Kathryn Munk

STATE OF UTAH)
 : ss.
County of Cache)

On the 5th day of April, 1988, before me personally came
se Marie Nichols, to be known and known to me to be the
dividual described in and who executed the foregoing instrument
d acknowledged that she executed the same.

S. H. Harris
Notary Public
Residing at: Logan, Utah
Commission Expires: 10-29-90



\bhh\nichols4.war



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Interim Director

August 18, 2010

Worm Creek Water Users Near Glendale Reservoir

Re: Potential Unauthorized Water Use

Dear Gentlemen:

The Idaho Department of Water Resources (Department or IDWR) has completed an inventory of diversions and review of water rights in the Worm Creek drainage this summer. Our investigation and review indicates that you may be diverting water from Worm Creek for irrigation use without a valid water right or that you are using a valid water right from Worm Creek at a location that is not authorized by the right.

Water right records on file at the Department show that water right no. 13-302 authorizes the irrigation of 21 acres within the locations identified on the enclosed map and water right proof report. The water right is listed as being owned by Vernon Nelson although current Franklin County tax lot records do not list Mr. Nelson as the owner of any land within the authorized water right place of use. The point of diversion for water right 13-302 is the heading of the Lamont Johnson Ditch diverted from Worm Creek about one mile upstream of the Glendale Reservoir. Based on inspection of lands in 2010 described by water right 13-302, it appears that some of the land identified by the right is irrigated and some of the land may not be irrigated. However, other lands not included in the water right and located between the reservoir and Glendale Road appeared to be irrigated using water from the Lamont Johnson Ditch. A search of water rights on file at the Department shows that there are no valid water rights appurtenant to these other lands located between the reservoir and Glendale Road, and that the potential total number of irrigated acres in this area may exceed the total 21 acres authorized by water right 13-302.

Also shown on the enclosed map are locations of "irrigated lands" included in the Preston Whitney Irrigation Company (PWIC) water rights place of use service area as per a pending PWIC water rights transfer application filed with IDWR. The Department understands that most of the individuals receiving this notice may be PWIC shareholders who are assessed for delivery of water diverted to the Lamont Johnson Ditch pursuant to PWIC water rights from either Worm Creek or the Cub River. Although you may receive delivery of water from PWIC, it is important to realize that your lands are not included in PWIC's water right place of use service area described in the Worm Creek drainage decree that was issued in 1981.

I request your cooperation to resolve this matter by:

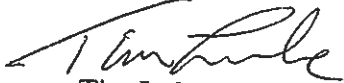
- reviewing the attached map and contacting our office to verify your ownership status of any parcels identified on the map;
- identifying what lands are irrigated and what water right or rights cover your development if our records are not correct;

- cease further diversion of water to the identified parcels if you do not have water rights;
- and/or obtain a valid water right for your irrigation development, including filing of any necessary water right ownership change for right 13-302 and/or filing of a water right transfer to change and/or split the place of use location of water right 13-302.

Please respond to our office within then (10) days of the date of this letter as to the status of the lands identified in the attached map. Please note that diversion of water in Idaho without valid water rights, or use of water not in conformance with valid water rights, is illegal pursuant to §42-351, Idaho Code and subject to civil penalties of up to \$300 per acre of land irrigated. Please further note that any unauthorized use of water for irrigation in 2010 may be cause for the Department to issue a notice of violation and cease and desist order.

Please contact me directly at 208-287-4959 if you have questions or need assistance regarding this matter.

Sincerely,



Tim Luke

Water Distribution Section

Handwritten notes: 2:30 P.M. 8-24-10, 4 P.M. 8-24-10, A.M.

- Enclosure: a) Service list of land owners or water users receiving this notice;
b) Map of potential irrigated lands without water rights; irrigated place of use for water right 13-302, and PWIC irrigation service area identified in PWIC water right transfer;
c) Water Right Proof Report: 13-302

CC: Lyle Porter, Preston Whitney Irrigation Company
Rob Harris, Attorney, Preston Whitney Irrigation Company
Scott Campbell, Attorney for Spring Creek Water Users
Troy Foster, Watermaster, Water District No. 13-A
James Ceffalo, IDWR Eastern Region
John Homan, Idaho Deputy Attorney General

Incorporated Under The Laws Of

STATE OF IDAHO



NUMBER
1700

SHARES
-30-

PRESTON-WHITNEY IRRIGATION COMPANY

CAPITAL STOCK \$300,000.00—30,000 SHARES

This Certifies that Murry C. Nichols

Thirty & no/100 - - - - -

is the owner of
Shares of the Capital Stock of

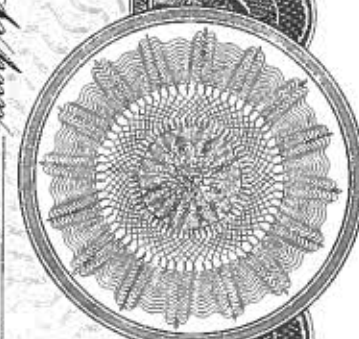
Preston-Whitney Irrigation Company

transferable only on the books of the Corporation by the holder hereof in person or by Attorney upon surrender of this Certificate properly endorsed.

In Witness Whereof, the said Corporation has caused this Certificate to be signed by its duly authorized officers, and its Corporate Seal to be hereunto affixed this 6th day of April A.D. 19 77

Blaise J. G. G. G.
President

Amos Cordie
Secretary



Preston, Id.
May 17, 1990

Larry,

Here is the information you requested yesterday;

Barnes owns \$75.00 stock in old company. It's capital is \$28,133. This means Barnes owns .003 part of it. or about 35 gallons per minute.

When the river drops below 100 C.F.S. cuts are made in the amount delivered. When the river drops to 50 CFS the water right is over. This may happen any time between the first of July and Sept. 30.

I understand you are buying half of the above.

The assessment on all of it is \$6.00 a Year.



PS Water is not delivered continuously but on about 8 or 9 day rotation.

When there is 100cfs in the river the company share is 25cfs

Preston, Idaho
January 15, 1986

Mr. James H. Barnes
758 Vine St.
Murray, Utah 84107

Dear Mr. Barnes,

In 1926 The company who owned the water you refer to went out of existence. It was taken over by the Preston Whitney Irr. Co. and an agreement was made to provide the prior users with water on the following basis:

you now own \$37.50
\$28, 133.00 Or .0013 of an early water right that in total never exceeds 33CFS and goes dry any time after early July. The agreed cost of providing this water to you by the present co. is 8% or \$3.00 per year. When there is a full stream this stock represents a 2½ CFS of water for about 2½ hours every nine to ten days.

May I suggest you deposit two to four years assessment at a time to avoid the expense of billing and paying this small annual cost.

Sincerely yours,


Angus Condie, Secretary
Preston Whitney Irr. Co.

P S I have noted on the books you are the owner of this amount of water.



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I request your cooperation to resolve this matter by:

- reviewing the attached map and contacting our office to verify your ownership status of any parcels identified on the map;
- identifying what lands are irrigated and what water right or rights cover your development if our records are not correct;

Water Users South of Glendale Reservoir
August 18, 2010 p. 2

- cease further diversion of water to the identified parcels if you do not have water rights;
- and/or obtain a valid water right for your irrigation development, including filing of any necessary water right ownership change for right 13-302 and/or filing of a water right transfer to change and/or split the place of use location of water right 13-302.

Please respond to our office within then (10) days of the date of this letter as to the status of the lands identified in the attached map. Please note that diversion of water in Idaho without valid water rights, or use of water not in conformance with valid water rights, is illegal pursuant to §42-351, Idaho Code and subject to civil penalties of up to \$300 per acre of land irrigated. Please further note that any unauthorized use of water for irrigation in 2010 may be cause for the Department to issue a notice of violation and cease and desist order.

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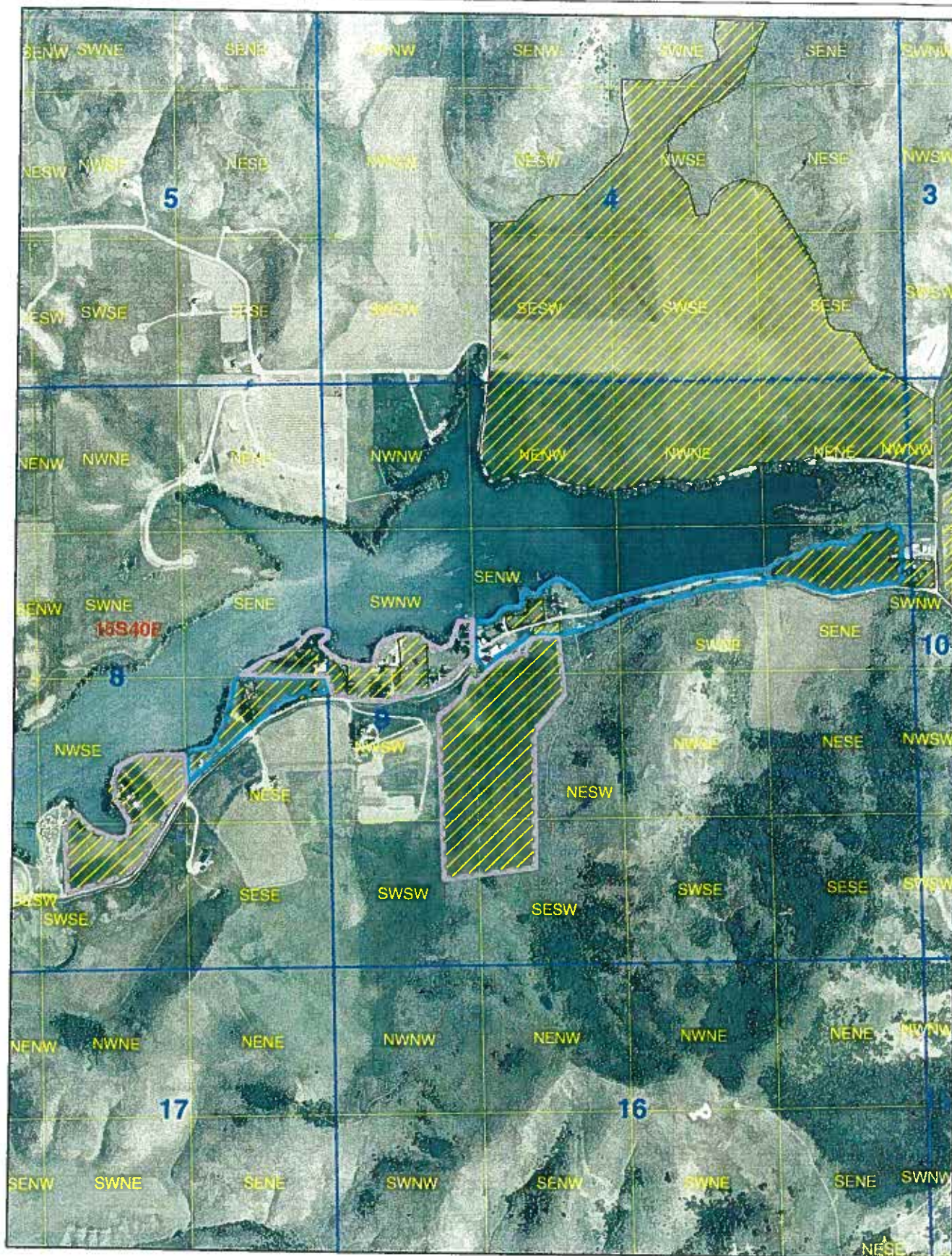


Tim Luke
Water Distribution Section

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Rob Harris, Attorney, Preston Whitney Irrigation Company
Scott Campbell, Attorney for Spring Creek Water Users
Troy Foster, Watermaster, Water District No. 13-A
James Ceffalo, IDWR Eastern Region
John Homan, Idaho Deputy Attorney General



**Water District 13- A
Cub River & Worm Creek**

Legend

- | | |
|--|---|
|  Township/Range |  Water Right 13-302 place of use |
|  Sections |  Potential Irrigated area without water rights |
|  QQ | |



0 0.2 0.4 Mile