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LOUIS F. RACINE (1917-2005)
WILLIAM D. OLSON, OF COUNSEL

July 8, 2009

Ernie Carlsen
IDWR/Eastern Region
900 N. Skyline Drive, Suite A
Idaho Falls, Idaho 83402

RECEIVED

JUL 09 2009

Department of Water Resources
Eastern Region

Re: *Beus Property - Water Right Nos. 11-4039, 11-4040*

Dear Ernie:

I need and would greatly appreciate your help in sorting out some water right issues and determining how best to proceed with respect to property known as the Beus Ranch located approximately 8 miles northeast of Soda Springs in the Wood Canyon area. The ranch consists of approximately 2500 acres owned by the Lynn G. Beus Family Trust. By reason of the death June 10, 2008, of Lynn G. Beus's spouse, Beth Beus, the Trust terminates and the property is to be distributed to three brothers: Jerry, Dallas and Doug, the latter two of which I represent. The Beus Ranch consists of approximately 2500 acres of which approximately 1250 are tillable farmland. The property is listed for sale, which has prompted a review of the water rights.

Attached is a Water Right Report for 11-4039 providing irrigation water for 127 acres and 11-4040 providing irrigation water for 357 acres, a total of 487 acres. Attached is a map showing a boundary of the Beus property and the place of use for these rights. Also attached is a FSA map for Tract 72, Farm 99 on which Jerry Beus identified the land he has been irrigating since he began leasing the property in about 1974. FSA records for Tract 72, Farm 99 reflect 750 irrigated acres. If that's correct, the ranch would be irrigating about 313 acres more than they have rights for. I am hoping that with your better map and technical abilities you can help determine if there is a discrepancy and help solve the problem.

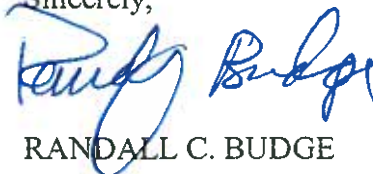
July 8, 2009
Page 2

First, comparing the place of use under the water rights with what is actually being irrigated, can you determine the approximate number of acres being irrigated in excess of the water rights and where they're located. Second, if there is a shortfall, what's the best way to solve it.

The Wood Canyon Creek source for 11-4039 does not leave the property, is totally used for irrigation and stock watering and contains no other water users. My thought is that a new Application for Permit could be filed and obtained with respect to any additional acres. However, that would seem to be an option only with respect to the surface water right in Wood Canyon Creek under 11-4039. Based on the enclosed map it appears that the well is within the Bear River Ground Water Management Area which would preclude applying for a permit for additional ground water absent a mitigation plan, which would not be feasible.

I'd appreciate your review and guidance. I am happy to visit by phone or to come up and meet with you to go over this if that would help. Thanks.

Sincerely,



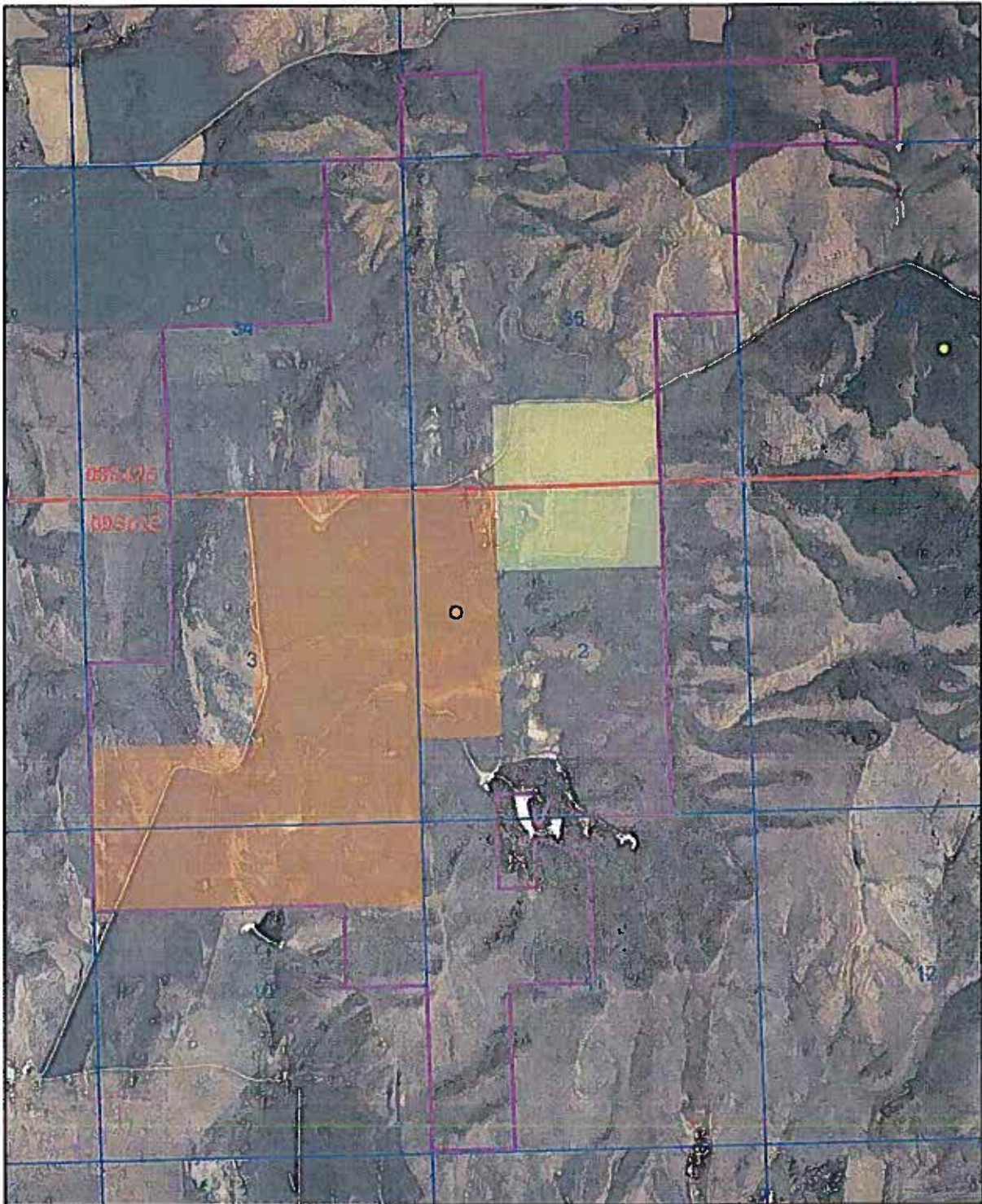
RANDALL C. BUDGE

RCB:rr

Enclosures

cc: John Souza, Trustee/Lynn G. Beus Trust (w/encl.)
Jerry Beus, c/o Steve Smith (w/encl.)
Dallas Beus (w/encl.)
Doug Beus (w/encl.)

LYNN G BEUS PROPERTY

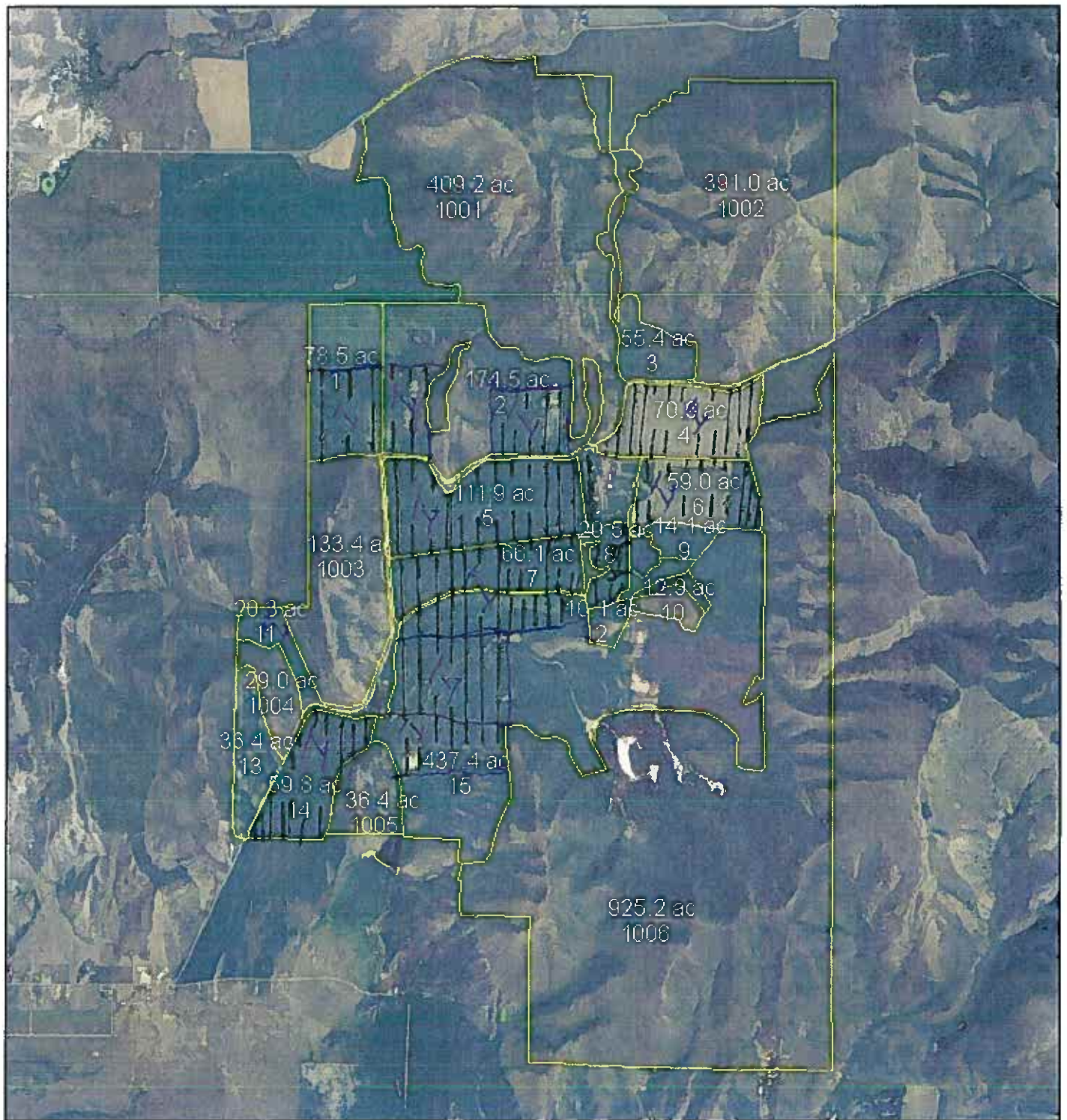


POD	POU
WaterRight	WaterRight
○ 11-4039	11-4039
● 11-4040	11-4040
Beus Property	

WaterRight	Status	PriorityDa	TotalAcres	Owner	Source
11-4039	Active	6/1/1921	127	LYNN G BEUS	WOOD CANYON CREEK
11-4040	Active	6/1/1921	357	LYNN G BEUS	GROUND WATER
11-4040	Active	6/1/1921	357	LYNN G BEUS	WASTE WATER



2004 photography



USDA United States Department of Agriculture
Farm Service Agency



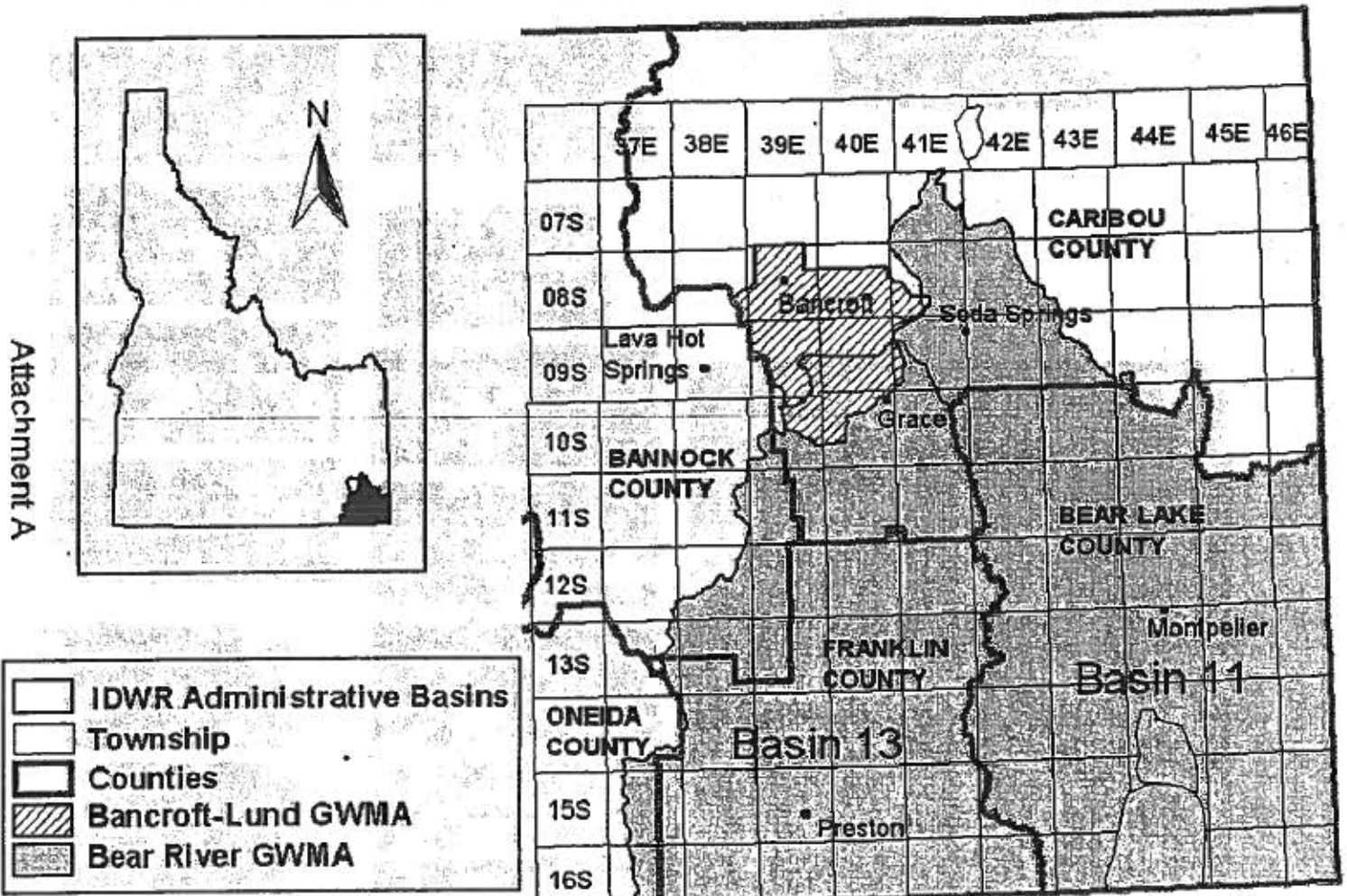
Digital Orthophotography
Not to Scale

Tract 72
Farm 99

Disclaimer: Wetland identifiers do not represent the size, shape or specific determination of the area. Refer to your original determination (CPA-026 and attached maps) for exact wetland boundaries and determinations, or contact NRCS.

ATTACHMENT A

Bear River Ground Water Management Area



WATER RIGHT NO. 11-4039

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	LYNN G BEUS SODA SPRINGS, ID 83276

Priority Date: 06/01/1921
Basis: Statutory Claim
Status: Active

<u>Source</u>	<u>Tributary</u>
WOOD CANYON CREEK	SLUG CREEK

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	6/01	9/30	1.6 CFS	
STOCKWATER	5/01	10/31	0.05 CFS	
Total Diversion			1.6 CFS	

Location of Point(s) of Diversion:

WOOD CANYON CREEK	NWSE	Sec. 36	Township 08S	Range 42E	CARIBOU County
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Place(s) of use:

Place of Use Legal Description: IRRIGATION CARIBOU County

[illegible]

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres
08S	42E	35		SESW	35									
				SWSE	30									
09S		2		NWNE	32									
				NENW	30									

Place of Use Legal Description: STOCKWATER same as IRRIGATION

Total Acres: 127

Dates:

Licensed Date:

Decreed 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:

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

IDAHO DEPARTMENT OF WATER RESOURCES
Water Right Report

WATER RIGHT NO. 11-4040

Priority Date: 06/01/1921
Basis: Statutory Claim
Status: Active

Beneficial Use	From	To	Diversion Rate	Volume
IRRIGATION	6/01	9/30	4 CFS	
STOCKWATER	1/01	12/31	0.05 CFS	
Total Diversion			4 CFS	

WASTE WATER	SWNW	Sec. 02	Township 09S	Range 42E	CARIBOU County
GROUND WATER	SWNW	Sec. 02	Township 09S	Range 42E	CARIBOU County

Place of Use Legal Description: IRRIGATION CARIBOU County

[illegible]

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres
09S	42E	2		NWNW	22		SWNW	24						
				NWSW	6									
		3		NENE	36		NWNE	28		SWNE	36		SENE	38
				SWSW	3		SESW	20						
				NESE	20		NWSE	32		SWSE	35		SESE	13
		10		NENE	3		NWNE	10						
				NENW	11		NWNW	20						

Place of Use Legal Description: STOCKWATER same as IRRIGATION

Total Acres: 357

Conditions of Approval:

1. PRIORITY DATES FOR THIS RT: 6/1/1934 - 2.5 CFS & 6/1/1921 - 1.5 CFS.

Dates:

Licensed Date:

Decreed 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:

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:

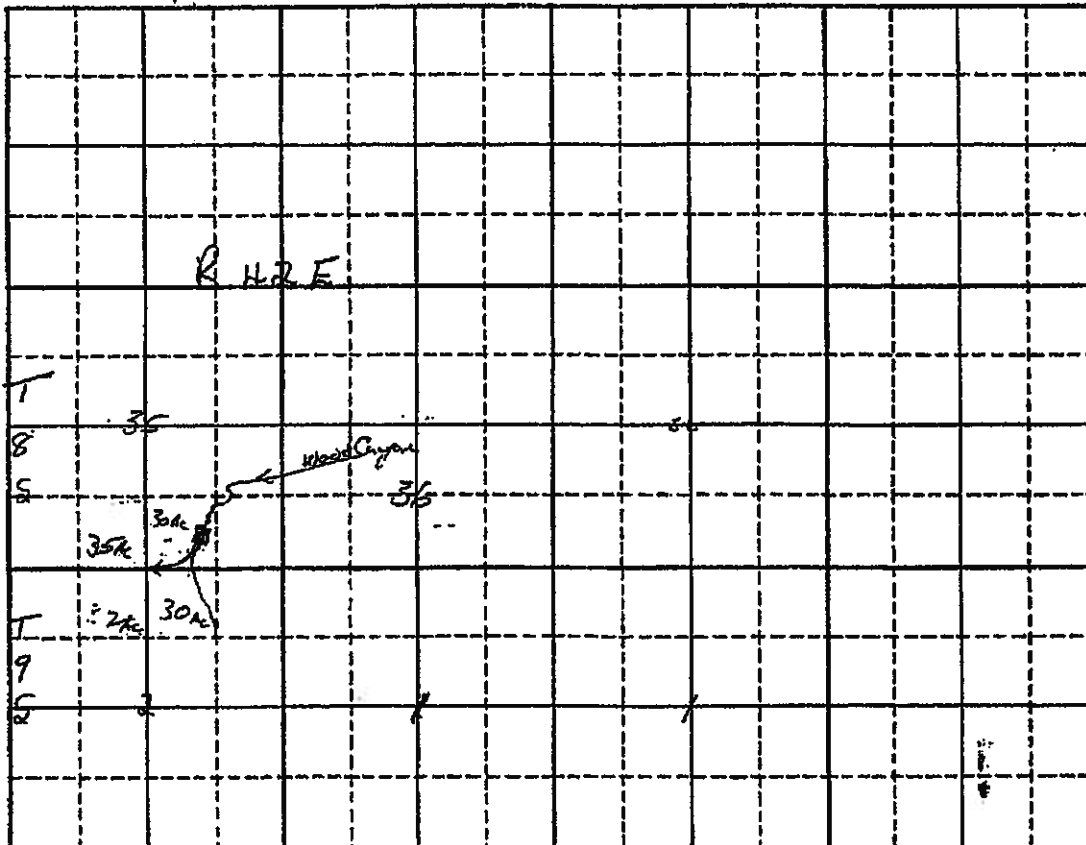
Mitigation Plan: False

Close

11-4039

11-4039

(8) Remarks See attached affidavits



Scale: 2 inches equal 1 mile.

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

State of Idaho

County of Caribou

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

Sworn to before me this 28th day of May 1974.

Lynn S. Beane
(Claimant)

Margaret A. Deaton
Notary Public
Residing at Indio Springs, Idaho

My commission expires 1-5-75

For Department Use Only

Received by <u>MB</u>	Date <u>5-24-74</u>	Exception filed by:	Forwarded to	Date
Prelim. check by <u>RDC</u>	Date <u>5/29/74</u>		claimant by:	
\$10.00 fee received by <u>MB</u>	Date <u>5-29-74</u>			
Approved for publication by <u>MB</u>	Date <u>5-29-74</u>			
Published in <u>(Caribou) (County) (Idaho)</u>				
Dated <u>June 6+13, 1974</u>				

To whom it may concern:

The water here is filed for by Lynn G. Beus,
and has been used by the Beus family since the
early 1900's. The water does not leave the Beus
Ranch. All water developments have been made by
Mr. Beus.

RECEIVED

MAY - 1974

Department of Water Administration
Eastern District Office

Signed J. E. Thompson
resident of Caribou
County 65 years.

RECEIVED

11-4039

To whom it may concern:

The water here is filed for by Lynn G. Beus,
and has been used by the Beus family since the
early 1900's. The water does not leave the Beus
Ranch. All water developments have been made by
Mr. Beus.

Signed


resident of Caribou
County 54 years.

RECORDED

11-4039

To whom it may concern:

The water here is filed for by Lynn G. Beus,
and has been used by the Beus family since the
early 1900's. The water does not leave the Beus
Ranch. All water developments have been made by
Mr. Beus.

RECEIVED

MAY 1 1974

Department of Water Administration
Eastern District Office

Signed *Fayette C. Sizemore*
resident of Caribou
County 55 years.

RECEIVED

11-4039

Identification No. 11-4039

Transfer No. 1783

STATE OF IDAHO
DEPARTMENT OF RECLAMATION

APPROVED

**APPLICATION FOR TRANSFER OF WATER RIGHT
To Change the Point of Diversion and/or the Place of Use**

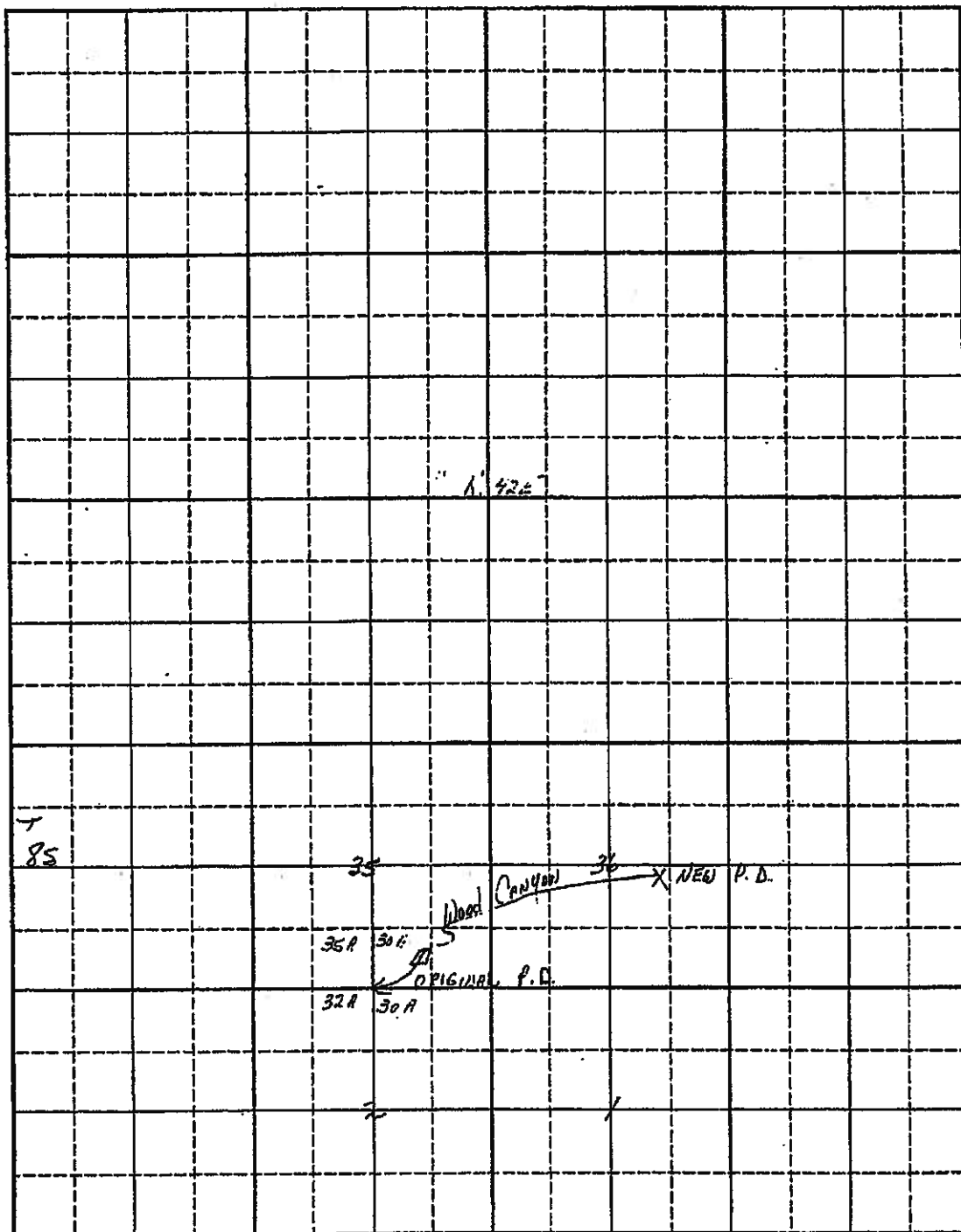
1. Name of Right Holder Lynn G. Beus
Post office address Soda Springs, Idaho 83276 Ph. 542-3532
2. Right obtained by:
 - a. Decree to _____ in Case of _____
(Name)
vs _____, Dated _____ in _____
(Name of Court)
Court, County of _____
Claim No. _____
 - b. ~~License~~ No. 11-4039 issued by the State of Idaho, Department of Reclamation.
3. Source of water Wood Canyon Creek tributary to Slug Ck. trib. Blackfoot River
(Name of stream or source)
4. Date of Priority June 1, 1921
5. Amount of water a. 1.6 c.f.s. and/or
b. _____ acre feet/annum
6. Water is used for Stockwater Irrigation from May 1 to Oct. 31
June 1 Sept. 30
(Month, Day) (Month, Day)
7. Original location of point of diversion is SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 35,
Township 8S, Range 42E, B.M. in Caribou County;
Additional points of diversion. If any _____

8. Lands presently irrigated or place of use:

TWP.	RANGE	SEC	NE $\frac{1}{4}$				NW $\frac{1}{4}$				SW $\frac{1}{4}$				SE $\frac{1}{4}$				TOTALS
			NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	
8S	42E	35											35				30		65
9S	42E	2			32				30										62

Total number of acres presently irrigated 127

MICROFILMED



SCALE: 2 Inches Equal 1 Mile. Draw Plan in Ink.

NA

a. Quantity to be diverted at new point: 1.6 cfs and/or acre feet

b. New point of diversion: NW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 36, Township 8S

Range 42E B M

c. Description of method of diversion and conveyance from new points of diversion: _____

Open ditch and pipeline

d. Is water to be conveyed to the lands previously irrigated? Yes X No _____

If not, the place of use should be changed below.

e Describe the reasons for applying for a change in the point of diversion:

Due to erosion purposes and utilize the water and to use gravity feed instead of fuel for economy purposes.

f. Do you intend to make the transfer permanent? Yes

g. Do you intend to abandon completely the old point of diversion? Yes

h. Indicate on the above plat the new point of diversion and lands to be irrigated.

11. CHANGE IN PLACE OF USE

NO CHANGE

a Describe the new lands on which you wish to use your right.

[illegible]

Total number of acres to be irrigated_____

b. Do you intend to make the transfer permanent? Yes

c. Are you completely abandoning the lands previously irrigated by this right? If not, explain your plans:

d. Describe any other water rights that you claim for the new ground upon which you wish to transfer this right: _____

e. Indicate on the above plat the new land to be irrigated and the point of diversion

I hereby assert that no one will be injured by such transfer and that the change will be made at my own risk. The information contained in this application is true to the best of my knowledge.

Lynn S. Rasmussen
(signature of applicant)

Subscribed and sworn to before me this 3rd day of March, 1975

LeRoy Hansen
(notary public)

My commission expires 11/11/77

**ACTION OF STATE RECLAMATION ENGINEER
AND CERTIFICATE OF TRANSFER**

This is to certify that I have examined Application for Transfer of Water Rights No. 11-4039,
and said application is hereby APPROVED.

1. Approval of said application is subject to the following limitations and conditions:

(a) A measuring device of a type approved by this Department shall be permanently installed and maintained as part of the diverting works.

(b) This approval does not validate the water right as claimed under Claim to a Water Right No. 11-4039.

Witness my hand this 10 day of June, 1975

R. Keith Higginson
R. KEITH HIGGINSON, Director
Hahn Department of Water Resources

FOR DEPARTMENT USE ONLY

Received by OW Date 3-6-75

Protest filed by: _____ Date _____

Prelim. check by LEP Date 7-5-75

Fee received by OW Date 3-23-75 Fee \$30.00

Approved for publication by MB 3-21-75 # 4122

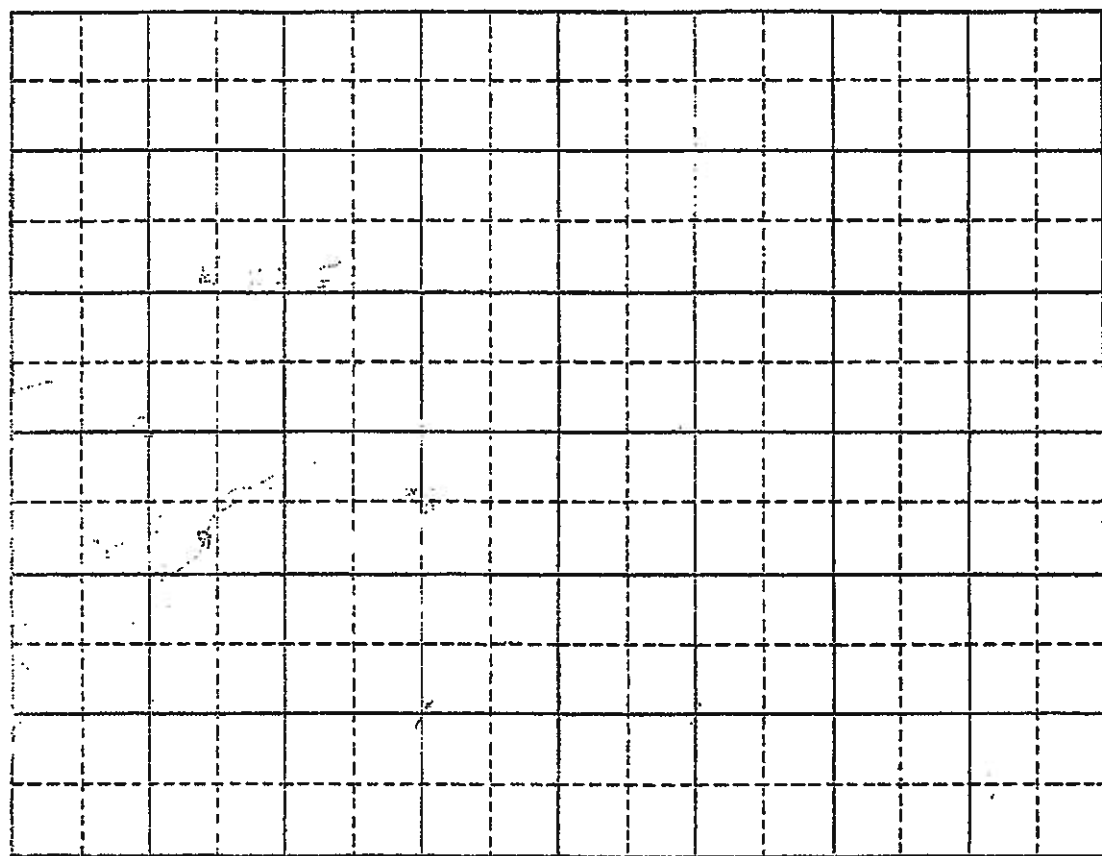
Published in San Jose City Date March 13 + 20, 1975

Hearing held _____

Watermaster Recommendation sent Fin. St. R.

11-4039

(6) Remarks See attached affidavits



Scale: 2 inches equal 1 mile

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

State of Idaho
County of Franklin

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

Sworn to before me this 22nd day of May 1974
[Signature] (Claimant)
Margaret L. [Signature]
Notary Public
Residing at [Signature]

My commission expires 1-5-75

For Department Use Only

Received by <u>MB</u>	Date <u>5-20-74</u>	Exception filed by:	Forwarded to	Date
Prelim check by <u>MB</u>	Date <u>5-21-74</u>		claimant by:	
\$10.00 fee received by <u>MB</u>	Date <u>5-29-74</u>			
Approved for publication by <u>[Signature]</u>	Date <u>6-12-74</u>			
Published in <u>Carleton County</u>				
Dates <u>6-13, 14, 15</u>				

