



State of Idaho

DEPARTMENT OF WATER RESOURCES

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C. L. "BUTCH" OTTER
Governor

DAVID R. TUTHILL, JR.
Director

August 8, 2008

To: Attached Distribution List

Re: Ownership of Water Right No. 61-2137A

Dear Water Right Owner:

The Idaho Department of Water Resources (IDWR) is responsible for recording water right ownership based on legal documentation provided by water right owners. This generally occurs within the Notice of Change in Water Right Ownership process. It can also be accomplished by an approved Transfer of Water Right. Both methods typically include legally binding warranty deeds or other conveyance documents as evidence of ownership.

Water Right No. 61-2137A originated under a single ownership but was subsequently split into portions for separate owners. The splits were accomplished by an approved Transfer of Water Right and several Notices of Change in Water Right Ownership. Those results are summarized in Table 1. The original right authorized 33 acres of irrigation within the 40-acre SW $\frac{1}{4}$ of NW $\frac{1}{4}$, Section 12, T3S, R6E ("QQ").

Table 1. Current Splits of Water Right No. 61-2137A Recorded by IDWR

OWNER	WATER RIGHT #	IRRIGATION ACRES
Baird	61-12059	4.0
Engelhardt	61-12151	3.5
Briggs	61-12153	4.0
Wilson	61-12154	7.5
Labbe	61-12155	14.0
Total		33.0

One owner recently petitioned IDWR regarding the accuracy of some of the current water right records for this situation. A subsequent re-examination of water right records and warranty deeds provided to IDWR established the following conclusions.

- 1) By 1992 Wilson owned 35 acres of the 40-acre QQ. Baird owned the other 5 acres.

SUPPORT DATA
IN FILE # 61-12154

2) By the late 1990's IDWR recommended Water Right No. 61-2137A for the Snake River Basin Adjudication (SRBA) process. The original recommendation included a map outlining the irrigation boundary for the right (see Map #1). That map is recorded as an irrigation shape in the IDWR database.

3) The SRBA process included a Notice of Error procedure in which Wilson provided additional information to revise the irrigation boundary map. IDWR sent a corrected map to Wilson apparently confirming those changes (see Map #2). That map was included in the SRBA claim file. That map was not used to update the irrigation shape recorded in the IDWR database for some unknown reason.

4) In 2001 the SRBA Court decreed the water right for 33 acres of irrigation within the 40-acre QQ. The Court does not decree maps for irrigation rights, except for large entities such as a canal company or irrigation district. The irrigation boundary for the water right was somewhat indeterminate but appeared to be the corrected map based on the Notice of Error information.

5) Transfer No. 71067 was approved by an IDWR Final Order in 2004. The transfer split the right into 4 acres for Baird and 29 acres for Wilson. The Baird portion was limited to Baird's 5 acres in the southwest corner of the QQ. The Wilson portion was limited to 29 acres of irrigation within the 35-acre balance of the QQ (water right definition).

6) A water right for limited acres within a larger boundary must be prorated to determine the share of irrigation associated with any given acre within the larger boundary. The Wilson portion of the water right was as follows:

$$\frac{29 \text{ acres irrigation}}{35 \text{ acres of land}} = 0.82857 \text{ acres of irrigation share per acre of land.}$$

7) Subsequent ownership changes were recorded with IDWR after approval of Transfer No. 71067. Labbe bought 14 acres per a December 2005 warranty deed. Engelhardt bought 9.4 acres based on a February 2006 warranty deed (sales agreement listed "8 acres of water" but this was not legally confirmed by the deed). Finally, Briggs bought 5 acres noted by a June 2006 warranty deed.

8) Labbe and Engelhardt warranty deeds did not state any specific amounts of water right associated with property sales. Prorated irrigation shares should have been as follows:

$$\text{Labbe: } 14 \text{ acres} \times 0.82857 \text{ share/acre} = 11.6 \text{ acres of irrigation shares}$$

$$\text{Engelhardt: } 9.4 \text{ acres} \times 0.82857 \text{ share/acre} = 7.8 \text{ acres of irrigation shares}$$

$$\text{Wilson balance at that time} = 33 - 4 - 11.6 - 7.8 = 9.6 \text{ acres of irrigation shares.}$$

9) Briggs purchased 5 acres from Wilson. The Briggs warranty deed specified "4 acres of ground water rights." The prorated method should not be applied to Briggs based on the deed. Briggs has 4 acres of irrigation shares.

10) The remainder Wilson portion is therefore 5.6 acres of irrigation shares.

Table 2 summarizes corrected water right records IDWR should issue based on the above information.

Table 2. Pending Corrected Splits of Water Right No. 61-2137A

OWNER	WATER RIGHT #	IRRIGATION ACRES
Baird	61-12059	4.0
Engelhardt	61-12151	7.8
Briggs	61-12153	4.0
Wilson	61-12154	5.6
Labbe	61-12155	11.6
Total		33.0

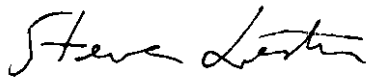
Note: **bold** indicates irrigation acre change from current IDWR records.

IDWR will provide corrected water right records in a separate mailing to owners affected by the changes shown in Table 2.

Current and future owners of water right no. 61-12154 should be aware that irrigation for that parcel would most likely be complicated by issues regarding historic beneficial use, resumption of use, injury to other water right owners and so forth.

Property owners are welcome to seek adjustments to water right ownership by independent actions – agreements, civil actions and so forth. Future results of any legally sanctioned changes to water right ownership can be recorded with IDWR under Notice of Change in Water Right Ownership and/or Transfer of Water Right processes.

Sincerely,



Steve Lester
Water Rights Supervisor

Enclosure: Distribution List
 Maps 1 and 2

Cc: Lori Graves, SPF Water Engineering LLC

Ownership of Water Right No. 61-2137A – Distribution List

MICHAEL & SANDRA BAIRD
4750 N 3RD E
MOUNTAIN HOME ID 83647

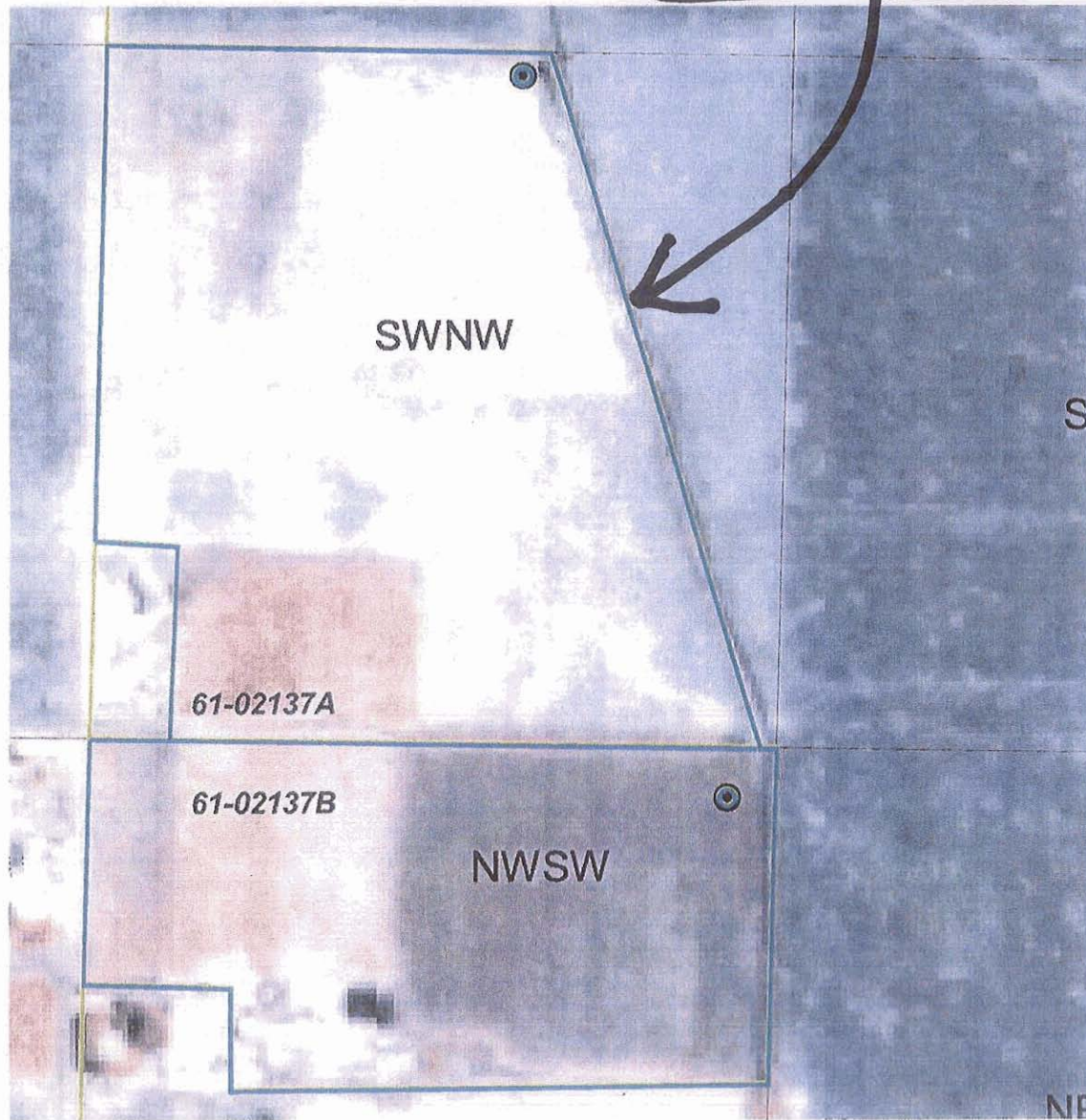
JAMES & BECKY BRIGGS
PO BOX 46
MOUNTAIN HOME ID 83647

PATRICK & BEVERLY ENGELHARDT
4760 NE LOTT RD
MOUNTAIN HOME ID 83647

ROBERT & MODESTY LABBE
4770 NE LOTT RD
MOUNTAIN HOME ID 83647

JOHN WILSON
915 HOLIDAY DR
MOUNTAIN HOME ID 83647

Claims. **61-02137A**, 61-02137B



**T03S R06E,
Sec. 12**

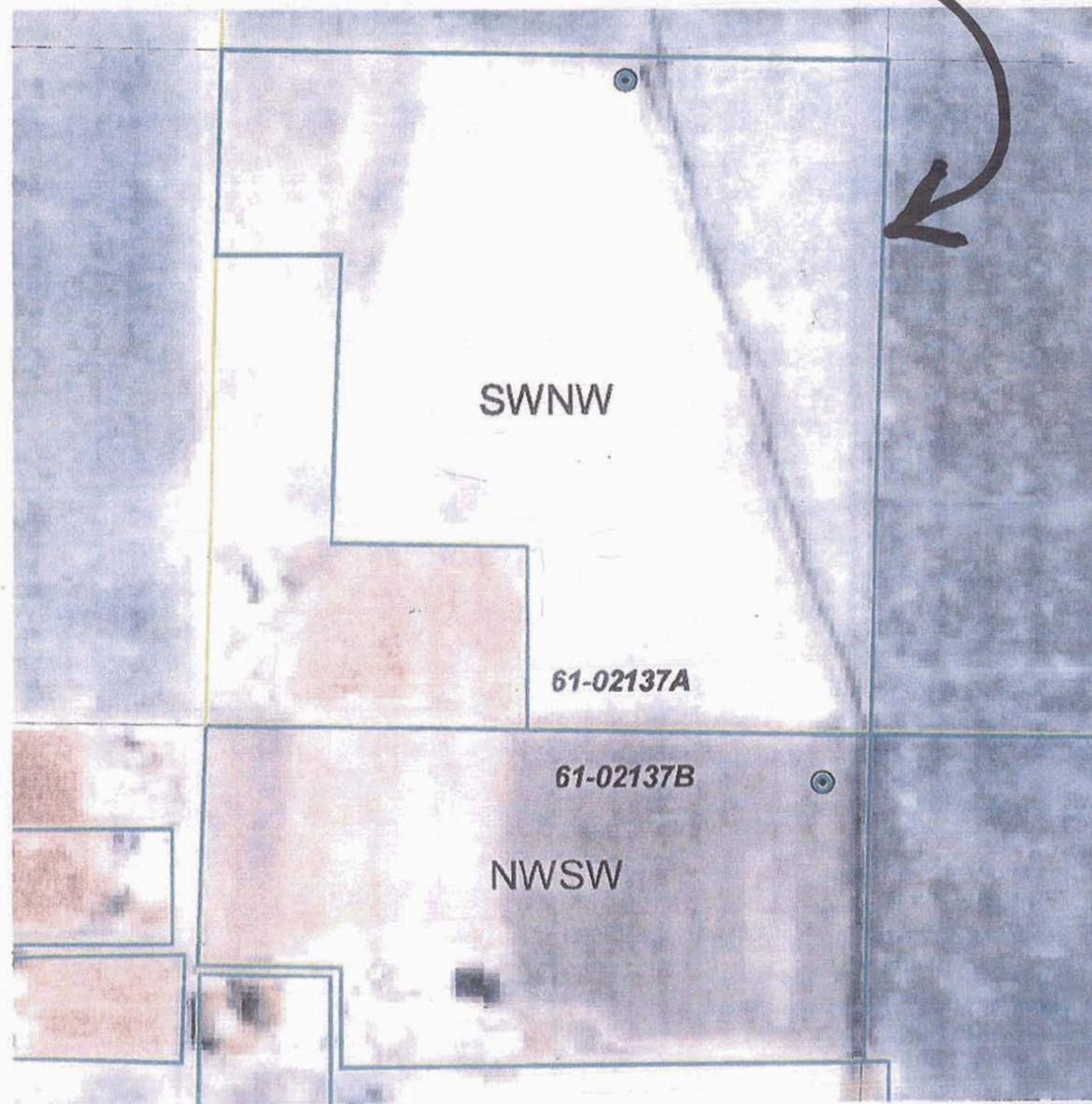
- Point of diversion
- Place of use
- QQ lines
- Section lines

MAP # 1



Date: Nov. 17, 1998
Prepared by: Roxanne Brown
NAPP Photography: 1987

Claims: 61-02137A, 61-02137B



T03S R06E,
Sec. 12

- Point of diversion
- Place of use
- QQ lines
- Section lines

MAP # 2

Date: Nov. 17, 1998
Prepared by: Roxanne Brown
NAPP Photography: 1987