

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE BEAR RIVER BASIN WATER SYSTEM
RECEIVED

CIVIL CASE NUMBER: 79576

Claim ID: 11-4021

Date Received: 12/12/23

Receipt No: P000679

Claim Fee: 2567.00 By: MB

DEC 07 2023

IDWR/Preston

**NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW**

Please type or print clearly

1. Name of claimant(s) South Liberty Irrigation & Manufacturing Co. Phone (208) 221-8561

Mailing address 18721 US Hwy 89 Ovid ID Zip 83254
Street or Box City State
Email address (optional) bwallentine7@gmail.com

2. Date of priority: (Only one per claim) May 1, 1885 (Explain priority date selected in Remarks)
Month/Day/Year (YYYY)

3. Source of water supply (Check one) Ground Water () or Other (✓) (a) Mill Creek
which is tributary to (b) Ovid Creek

4. a. Location of point of diversion is: Township 12S, Range 43E, Section 31,
SW 1/4 of SE 1/4, Govt. Lot _____, BM, County of Bear Lake

Parcel no. _____

Additional points of diversion, if any: _____

If available, GPS Coordinates _____

b. If instream flow, beginning point of claimed instream flow is:

Township _____, Range _____, Section _____, _____ 1/4 of _____ 1/4,

Govt. Lot _____, BM, County of _____

Ending point is: Township _____, Range _____, Section _____, _____ 1/4 of _____ 1/4,

Govt. Lot _____, BM, County of _____

5. Description of existing diversion works (dams, reservoirs, ditches, wells, pumps, pipelines, headgates, etc.), including the dates of any changes or enlargements in use, the dimensions of the diversion works as constructed and as enlarged and the depth of each well.

Grate in stream that collects water into a pipeline that was installed in 2010. Measuring gauge is installed. Turnouts on the main pipeline allow distribution throughout the system. See Attachment 4.

6. Water is claimed for the following purposes:

(dates are inclusive MM-DD) (cfs) (acre-feet)

For Irrigation purposes from 4/01 to 10/31 amount 28 or _____

For Stockwater purposes from 4/01 to 10/31 amount 0.22 or _____

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

7. Total quantity claimed (a) 28 (cfs) and/or (b) _____ (acre-feet)

8. Non-irrigation uses; describe fully (e.g., Domestic: Give number of households served; Stockwater: Type and number of livestock, etc.) Stockwater - 1,000 range cattle and horses

9. Description of place of use:

a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.

b. If water is used for other purposes, place a symbol of use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

(Supplemental POU Form is Attached)

TWP	RGE	SEC	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	

See Supplemental POU List for Service Area Attached

Parcel no(s). _____ Total number of acres irrigated 2,495

10. In which county(ies) are lands listed above as place of use located? Bear Lake County

11. Do you own the property listed above as place of use? Yes () No (☒)

If your answer is No, describe in Remarks below the authority you have to claim this water right.

12. Describe any other water rights used at the same place and for the same purposes as described above.

Some overlapping rights privately held by patrons. See narrative for additional information. or None ()

13. Remarks (Include an explanation of the priority date selected):

Priority date is based upon date the canal was begun, as documented in canal company historical documents.

Attachments include:

- 1) Narrative
- 2) Supplemental POU List
- 3) Evidence of Priority - Excerpts of record book
- 4) Supplemental Map - Delivery System
- 5) Supplemental Map - Overlapping Water Right POU's
- 6) Supplemental Map - Known Water Right Overlaps
- 7) Letter from Mitchell Beck re: Division of Mill Creek water
- 8) Division of Waters of Mill Creek - Administration Documentation

Name of claimant(s) South Liberty Irrigation & Manufacturing Company

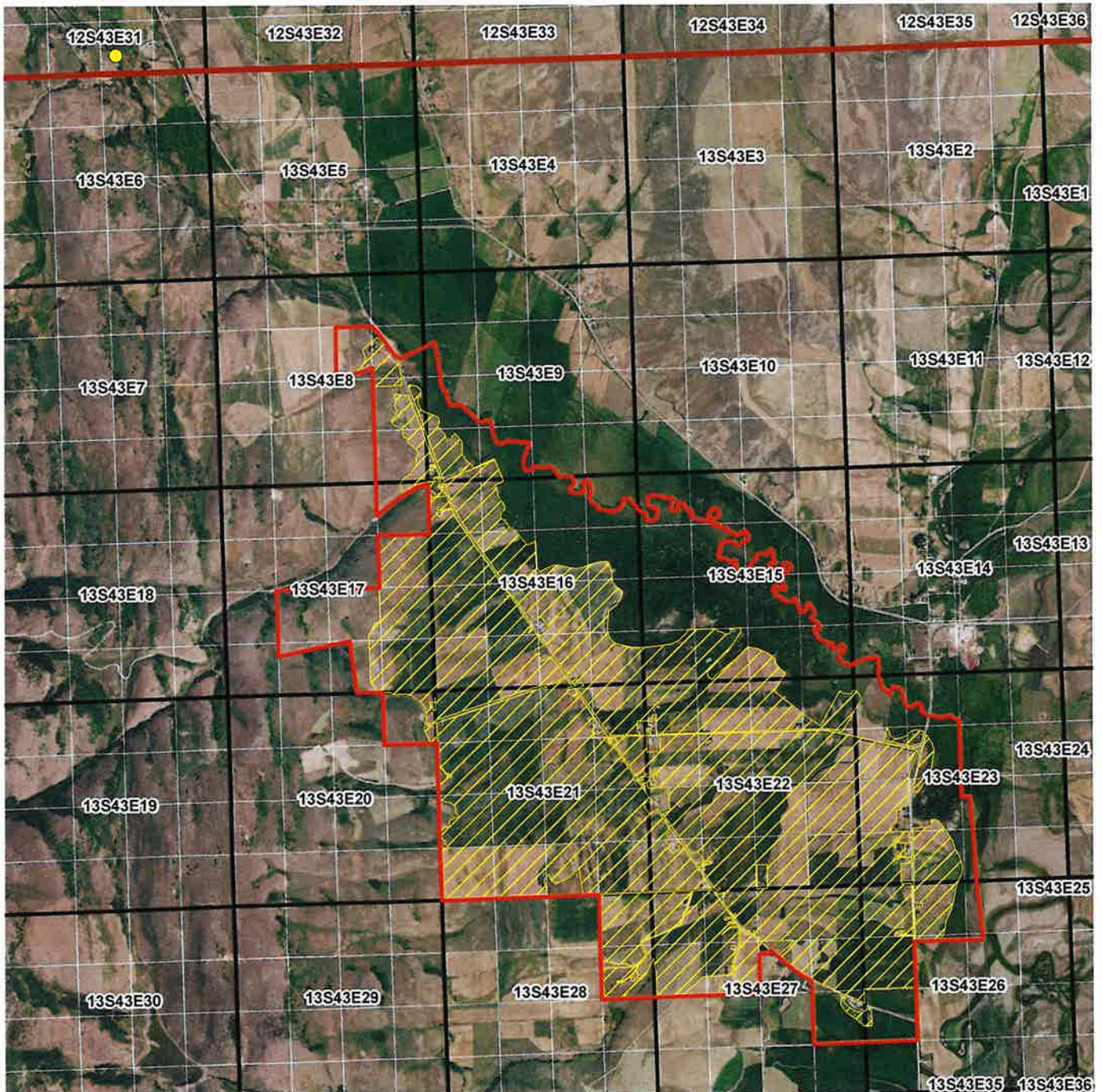
Claim ID _____

Claim Map

Based on WR Number: 11-4021

Claimant: South Liberty Irrigation & Manufacturing Co.

Claim No: _____



5,000 2,500 0 5,000 Feet



- Claim POD 11-4021
- ▭ Service Area Boundary
- ▨ Irrigated Acres
- ▭ Townships
- ▭ PLSS Sections
- QQ

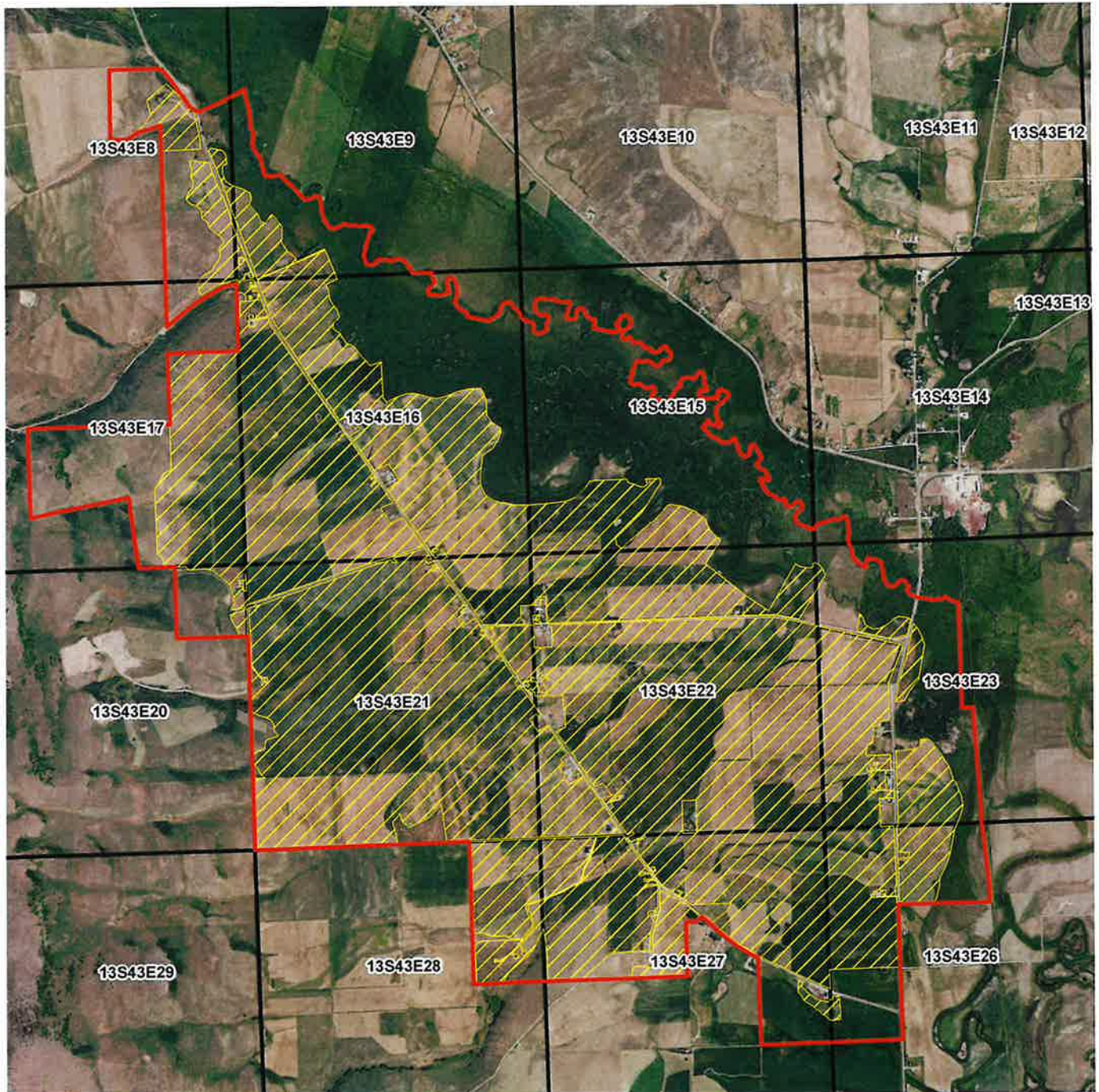


Claim Map Pg. 2

Based on WR Number: 11-4021

Claimant: South Liberty Irrigation & Manufacturing Co.

Claim No: _____



3,700 1,850 0 3,700 Feet



Date Created: 11/28/2023

- Claim POD 11-4021
- Service Area Boundary
- Irrigated Acres
- Townships
- PLSS Sections

Base Map: USDA NAIP 2021



14. Basis of claim (Check one) Beneficial Use (☒) Posted Notice (☐) License (☐) Permit (☐) Decree (☐)

Court _____ Decree Date _____ Plaintiff v. Defendant _____

If applicable provide IDWR Water Right Number 11-4021

15. **Signature(s)**

(a.) By signing below, I/We acknowledge that I/We have received, read and understand the form entitled "How you will receive notices in the Bear River Basin Water System Adjudication."

(b.) I/We do (☐) do not (☒) wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments: 8

For Individuals: I/We do solemnly swear or affirm under penalty of perjury that the statements contained in the foregoing document are true and correct.

Signature of Claimant (s) _____ Date: _____

_____ Date: _____

For Organizations: I do solemnly swear or affirm under penalty of perjury that I am, and that I have signed the foregoing document in the space below as the

President _____ of South Liberty Irrigation & Manufacturing Co.
Agent's title (Please print) Name of organization (Please print)

and that the statements contained in the foregoing document are true and correct.

Signature of Authorized Agent Bruce J Wallentine Date 12/6/2023

Printed Name of Authorized Agent Bruce Wallentine

16. **Notice of Appearance:**

Notice is hereby given that I, (please print) _____, will be acting as attorney at law on behalf of the claimant signing above, and that all notices required by law to be mailed by the director to the claimant signing above should be mailed to me at the address listed below.

Signature _____ Date _____

Address _____

Name of claimant(s) South Liberty Irrigation & Manufacturing Company Claim ID _____

Attachment 1

Narrative to Accompany BRBA Water Right Claim to Provide Additional Information

1. Claimant. Claimant name is based upon the current Idaho Secretary of State registration. There are historical documents that may also refer to this canal company as "Lanark." Lanark and South Liberty are the same entity and refer to the same canal system and water right.

2. Priority Date. The Statutory Claim identified 6/1/1885 as the priority date, but the records show that the excavation work began May 1, 1885. Precedent indicates that priority dates of canal companies have historically been identified as the first day of construction, rather than the first day water is delivered. Therefore, this claim reflects the priority date identified in the canal companies record book as the first day of construction.

3. Source. Source claimed is Mill Creek, which is the name shown on the USGS Topographic Map and consistent with the water right record.

6. Purposes and Quantities. The water right has been used for irrigation and stockwater purposes since development. During the statutory claim process, other entities filed exceptions to the quantity claimed under 11-4021. During negotiations, it appears that the total quantities for each of the entities were determined and agreed upon. This claim was allotted 28 cfs, which is a total of 7/16ths of the total flow of Mill Creek. The users of Mill Creek administer their quantities based on their portion of the creek, divided into 16ths. A copy of the document representing the agreed-upon division of the flow of the creek is attached, but is also included in the water right backfile. Note, this document is not signed by all of the entities but appears to represent the conclusion of their settlement discussions.

Stockwater use was calculated based on standard rates per head of range cattle.

$$1,000 \text{ head} \times 0.00022 \text{ cfs} = 0.22 \text{ cfs}$$

Claimed season of use is based on diversion practices and may not conform to standard irrigation seasons as set by IDWR. Since installation of the pipeline, diversion begins as early as April 1.

9. Place of Use. The service area boundary is based upon all of the lands that are assessed by the claimant and includes all lands that may be irrigated through its system. There are several properties within the mapped irrigated acreage that do not receive water every year. During low water years, patrons prioritize the use of water on prime farm ground. Some acreage that is included within the irrigated lands only receives water during high water years. These areas have been verified with the patrons that water is deliverable and has been used on these lands. Review of recent aerial photography may not indicate active irrigation for this reason.

Total irrigated acres is 2,495 within the 3,661-acre service area boundary.

Between the irrigated acres identified on the map and Ovid Creek, there's a very wet area that is unmanaged by the patrons. It may receive run-off water from the irrigated lands, but is not directly irrigated from South Liberty. These lands are included within the service area boundary, but not counted in the irrigated acres.

Stockwater place of use is the service area boundary.

11. Property Ownership. Property is held by patrons who receive water through the claimant's water right and system.

12. Other water rights. Some patrons may own privately-held water rights. Attachment 5 illustrates the overlapping water right places of use; the map is not comprehensive as there may be beneficial use rights claimed by patrons that are not recorded with IDWR as of the date of this claim. In addition, the rights shown may or may not be claimed in the BRBA by the patrons. This list is merely intended to reflect information known at the time of preparing this claim form. No assertion is made that all of these overlapping rights are used in combination with South Liberty or overlapped on the same lands for the same purposes.

It is not anticipated that right 11-4024C for Liberty Town Canal Co. actually overlaps this claimed POU. These are separate canal companies and do not deliver water to the same property.

An additional map, Attachment 6, is also attached showing locations of known overlapping water rights according to the board of directors. These are lands that may be included in the places of use of other claimants and are known to be used in combination with South Liberty. This includes overlaps by Paris Relief Canal Co., Pioneer Irrigation Co., Little Valley Reservoir, and possibly private rights from Miles Creek. There are also some overlapping ground water rights used in combination with South Liberty. Those are not identified on this map, but are either already shown on Attachment 5 or may be beneficial use rights not yet recorded.

13. Remarks.

A copy of several years of delivery records on Mill Creek is included that represents the distribution of the flow of the creek, as represented in 1/16th portions. South Liberty has always diverted 7/16th of the creek flows. A transcription of the first page of the delivery records confirms the 1/16th division.

Date	Sharon	Hillside	Lanark (South Liberty)	Liberty	Total Flow	1/16th portion
	5/16	2/16	7/16	2/16	16/16	
6/28/1941	3.95	1.58	5.53	1.58	12.64	0.79
8/5/1941	2.04	0.82	2.85	0.82	6.52	0.41
6/11/1942	8.38	3.35	11.73	3.35	26.81	1.68
6/25/1942	4.97	1.99	6.95	1.99	15.89	0.99
7/31/1942	2.00	0.80	2.80	0.80	6.4	0.40
7/13/1944	4.37	1.75	6.11	1.75	13.97	0.87

The water right backfile contains several documents from the other users of Mill Creek verifying the distribution by 1/16ths on pages 11 through 15 and page 35. Attachment 7 indicates that the total flow of the creek that was divided totals 64 cfs, in the following distribution:

Water User	Portion of Total (fraction)	1/16th Portion	Portion of Total (cfs)
South Liberty	7/16	4	28
Canyon North Canal (Sharon?)	5/16	4	20
Hillside Canal	2/16	4	8
Liberty Town	2/16	4	8

While the creek may not flow 64 cfs all the time, or only on extreme wet years, the proportion of delivery to South Liberty has remained consistently 7/16ths. The proportional distribution of the creek suggests that either the rights should have the same priority date, or there should be subordination to equal priority dates for purposes of administration of these four entities.

Historical administration of the Mill Creek stream flow has been constant. A change in the administration of Mill Creek could result in South Liberty receiving less than their historical quantities. Likewise, a recommendation of this right for less than 28 cfs, or less than a proportional amount relative to the other users, could result in a reduction to South Liberty's historical quantities. It is proposed that this water right, along with the other rights on Mill Creek, be conditioned to represent the historical administration practices, and that South Liberty not be reduced in diversion until the other users reach a similar ratio of diversion.

Attachment 2

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Ident. No. _____

Point of Diversion/Place of Use Supplement

Attachment to: ☐ Application for Permit to Appropriate Water ☐ Application for Transfer** ☒ Adjudication Claim
☐ Application for Amendment of Permit ☐ Beneficial Use Field Report ☐ Statutory Claim

Location of points of diversion (POD):

New POD?	Twp	Rge	Sec	Govt Lot	1/4	1/4	1/4	County	Source	Local name or well/diversion tag #
☐ Yes										
☐ Yes										
☐ Yes										
☐ Yes										
☐ Yes										
☐ Yes										
☐ Yes										
☐ Yes										
☐ Yes										
☐ Yes										

Description of place of use (POU):

- a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.
b. If water is used for other purposes, place a symbol of the use (example: D for Domestic) in the corresponding place of use below.

Service Area Boundary Described as follows:

TWP	RGE	SEC	NE				NW				SW				SE				TOTALS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
13S	43E	8			25	23									40			40	128
13S	43E	9							6		1	24	40	28			3		102
13S	43E	14											6						6
13S	43E	15			9		3	15	40	29	40	40	40	40	4	32	40	27	359
13S	43E	16	18	37	40	40	40	40	40	40	40	40	40	40	40	40	40	40	615
13S	43E	17	12			40					40			6	40	40	23	40	241
13S	43E	20	40																40
13S	43E	21	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	640
13S	43E	22	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	640
13S	43E	23					10	34	40	40	40	40	40	40		4	8		296
13S	43E	26		11	1		40	40	40	4		40							176
13S	43E	27	40	40	18	40	40	40	40	40					40				338
13S	43E	28	40	40															80

Attachment 3

Order
Book

Work commenced on the South
Liberty J. & Mfg Canal Co. Canal.
May 1st, 1845.

Minutes of Meeting of Shareholders of the
South Liberty J. & Mfg Canal Co. held at
James Turner's Residence April 5th 1846.

On Motion James Turner was selected
Pres. H. W. Parker Secy. with Fredt.
Slight Pres. The Pres. requested that the
meeting be opened with Prayer, which
was offered by Hugh Finlayson. Pres. Turner
made some remarks in regard to the
object of the meeting.

The Secy. then read the receipt of the money
collected last year.

It was then moved & carried that \$2.00 per
day be allowed for sing. hands and
\$3-50 per day Man & Team.

Moved & carried that we were in a
body as last year, and finish the Lib.
already started to Miller Creek, and then
proceed with the other part of the site.

It was then moved & carried that this
Company be known as the South Liberty
Navigating & Manufacturing Canal Co.
The capital stock of the Company be
hereafter designated, and that James
Turner be Permanent Pres. & John
Roberts Vice Pres. and that Henry Park
act as Secretary & Treasurer.

Moved & carried that James Brown,
Fredt. Slight & George Munn are Directors
for said Company, and that there be
a Committee on By Laws, it was also
resolved that each member pay on
the Treasurers 50 cents by the 1st of the

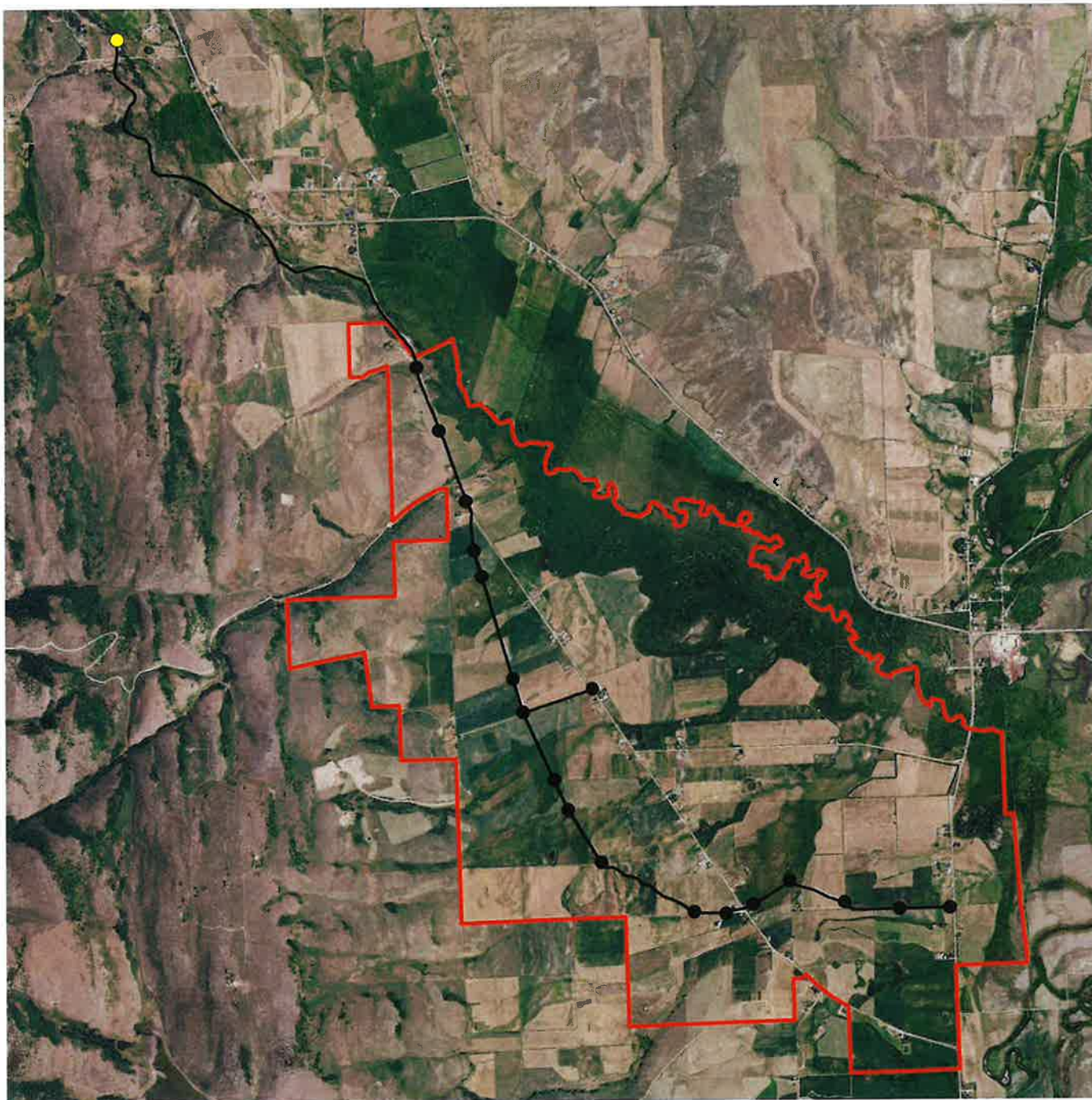
Attachment 4

Attachment 4. Delivery System Map

Based on WR Number: 11-4021

Claimant: South Liberty Irrigation & Manufacturing Co.

Claim No: _____



4,800 2,400 0 4,800 Feet



Date Created: 11/28/2023

- Claim POD 11-4021
- Turn-outs
- Pipeline
- Service Area Boundary

Base Map: USDA NAIP 2021



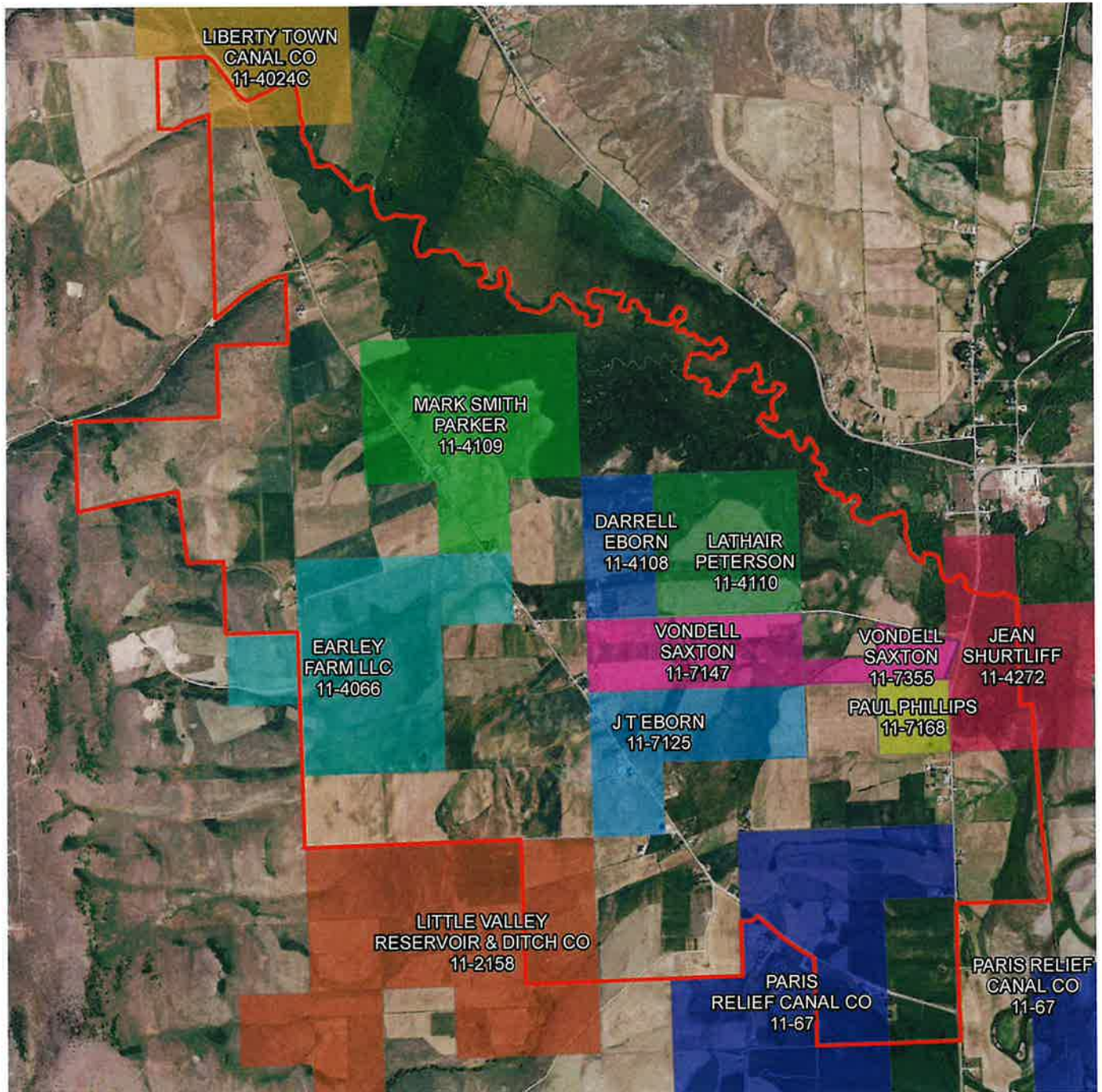
Attachment 5

Attachment 5. Overlapping Water Right POUs

Based on WR Number: 11-4021

Claimant: South Liberty Irrigation & Manufacturing Co.

Claim No: _____



3,600 1,800 0 3,600 Feet



Date Created: 11/28/2023

 Service Area Boundary

Base Map: USDA NAIP 2021



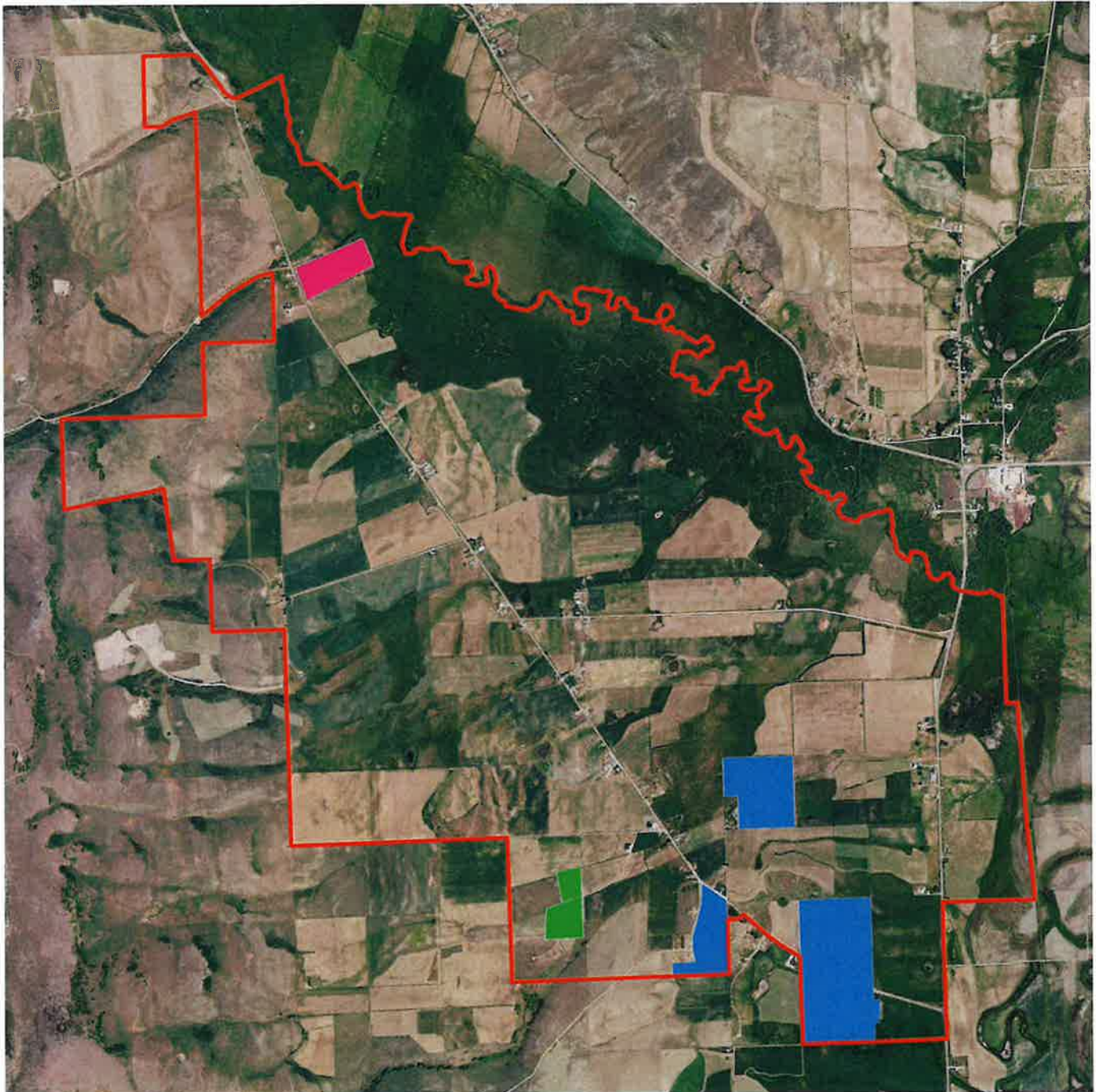
Attachment 6

Attachment 6. Known Overlaps

Based on WR Number: 11-4021

Claimant: South Liberty Irrigation & Manufacturing Co.

Claim No: _____



3,600 1,800 0 3,600 Feet



Date Created: 11/28/2023

- Service Area Boundary
- Little Valley Reservoir
- Miles Creek Possibly
- Paris Relief & Pioneer



Base Map: USDA NAIP 2021

Attachment 7

RECEIVED

MAR 22 1939

State of Idaho

Dept. of Reclamation, Department of Reclamation

Dear Gentlemen

We would like to refer you to
Claim no. 11-4021.

The South Liberty Irrigation & Mfg Co
met with other companies who ~~are~~
have interests in Mill Creek

we decided on the following
Division.

South Liberty Irrigation Co, 28 C.F.S.

Canyon North Canal 20 C.F.S.

Hill Side Canal Co. 8 C.F.S.

Liberty Town Irrig. Co. 8 C.F.S.

Would you change the C.F.S. on our
Claim no. 11-4021 to 28 C.F.S.

Please let me know if the other
companies withdraw their protests.

South Liberty Irrigation Co

Mitchell Beck Secy.

Ovid Idaho

11-4021

Attachment 8

1-948

Division of Waters
of
Mill Creek

5/10

1941 7/10

7/10

5/10

Liberty

1941

1941

Date Shore

Hillside

Lowork

L H D L H D L H D

Boys

June 28

5.00 5 5.00 3.00 3 7/10 1.60 200 5 5.00 5.00

5.00 4 3.95 3.00 3 7/10 1.55 200 5 5.00 5.00

Aug. 5

5.00 2 2.75 1.75 3.00 2 7/10 .90 2.00 3 1/2 3.64

5.00 3.00 2.04 3.00 2 7/10 .815 7.00 3 1/4 2.85

1942

June 11

5 9 7/10 11.00 3 4 7/10 1.48 7 7 1/2 10.61

Apr. 8.00

11 7/10

June 25

5 7 7/10 7.78 3 2 3/4 1.73 7 4 7/10 5.88

5 5 3/10 4.96

199 2.98

6.95

July 31

5 3 3/8 2.01 3 1 3/4 1.29

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2.00 6.40 2.74 80

2.00 6.40 2.74 80

1947

June 3rd Head Head Length Discharge

Town	UP	S ¹ / ₂	Length	Discharge
	Down		3	2.91
				6.06
Lanark	Up	9 ¹ / ₈	7	15.28
	Down			14.14
Hillside	up	7	3	4.53
	Down			6.06
Sharon	up	8 ¹ / ₂	5	9.89
	Down			10.10

34015.41 or 2.13 per 1/16

.76 per unit

16) 12.2205 Total
 112
 1092
 60

Lanark	1 ¹ / ₂	3	.42
Lanark	4 ¹ / ₂	7	5.52
Hillside	3 ¹ / ₈	3	1.85
Sharon	6	5	4.03

2.91

15.28 8.80 } 15.28
 6.48

5.93

9.89 79.4 } 9.89
 19.5

1.52

5.35

1.52

3.83
 12.22

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DEC 07 2023

IDWR/Preston



Rocky Mountain
ENVIRONMENTALSM
ASSOCIATES, INC.

December 7, 2023

RMEA 23-0047

Idaho Department of Water Resources
Preston Field Office
325 East 600 South, Ste 300
Preston, Idaho 83263-4921

Re: Bear River Basin Adjudication Claims – South Liberty Irrigation & Manufacturing Co.

Dear Ms. Marion Beck,

This letter accompanies a check for one Adjudication claim for the South Liberty Irrigation & Manufacturing Co., which was transmitted electronically, along with GIS shapefiles to aid in review of the claims. Also attached are worksheets summarizing the fee calculations for a total fee of \$2,567.

In addition to responses to be provided to the claimant, please copy Rocky Mountain Environmental Associates, Inc. (RMEA) at kristin.rmea@gmail.com with a copy of the receipt and copies of the first pages of each claim, showing the numbers assigned by IDWR.

Please contact our office with any questions regarding the claim.

Thank you,

A handwritten signature in blue ink that reads "Kristin Moore".

Kristin Moore
Senior Water Rights Analyst

Enclosures: Check
 Fee Summary Tables

Claimant:
Claim ID:

South Liberty Irrig. & Mnfg Co.
11-4021

Instructions for Form No. 42-WDS-1

Revised January 30, 2023

FILING FEES

Each claim submitted must include the filing fee. The filing fee for domestic and/or stockwater use claims diverting less than 13,000 gallons of water per day is \$25.00. However, if you are filing more than four (4) claims in which the only purpose of use listed is stockwater, only the first four (4) claims require the \$25.00 filing fee. All additional stockwater claims are fee exempt once the \$100.00 in filing fees has been paid for the first four (4) stockwater only claims filed after July 1, 2017.

The first fee for filing all other claims filed is \$50.00 per claim. An additional variable filing fee based upon acreage, power generating nameplate capacity, rated test per second (rps) amount, or an equivalent volume of storage water is required for claims for water users other than domestic and/or stockwater users diverting less than 13,000 gallons of water per day. Use Table 3 to calculate the variable fee. Add the calculated variable fee to the \$50.00 flat fee to determine the total fee for the claim. The exceptions are fire protection or ground water recharge which have a \$50.00 flat fee, and no variable fee.

Examples for a single claim to a water right with single source and same priority date:

Single family domestic and stockwater use, less than 13,000 gallons per day in total \$25.00
100 acres irrigation, domestic and stockwater as above \$150.00
Fish propagation, 4.2 cfs \$92.00
Multiple family domestic, 1.6 cfs, irrigation of yards and gardens, 14 acres \$224.00

TABLE 3. VARIABLE FEE SCHEDULE

	\$1.00 per acre	Each acre is charged only once
Irrigation		
Power generation	\$3.50 per kilowatt of capacity	Manufacturer's nameplate rating, or \$250,000.00, whichever is less
Aquaculture	\$10.00 per cfs	
	\$100.00 per cfs	
Domestic stockwater use in excess of 13,000 gallons per day		
Municipal, industrial, commercial, mining, heating, cooling	\$100.00 per cfs	
Public instream flow, public lake level maintenance, wildlife	\$100.00 per cfs	

Exceptions: No variable fee is charged for fire protection or ground water recharge.

	Rate/Unit	Unit	# Units	\$ Amount
De Minimis	\$25 Claim			
De Minimis Stock (> 4th claim)	\$0 Claim			
Non-De Minimis	\$50 Claim		1	\$50.00
Irrigation	\$1 Acre		2495	\$2,495.00
Power Generation	\$3.50 KW of Capacity			
Aquaculture	\$10 cfs			
Dom. & Stock (>13k gpd), Municipal, industrial, commercial, mining, heating, cooling	\$100 cfs		0.22	\$22.00
Public instream flow, public lake level maintenance, wildlife	\$100 cfs			
Fire protection	\$0 cfs			
Groundwater recharge	\$0 cfs or afa			
Total				<u>\$2,567.00</u>

Duplicate this worksheet once for each claim.

Note:

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