

**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**

CIVIL CASE NUMBER: 79576

Claim ID: 13-8026

Date Received: 10/2/24

Receipt No: POD 1360

Claim Fee: 250.00 By: mb

RECEIVED

OCT 02 2024

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

IDWR/Preston

Please type or print clearly

1. Name of claimant(s) Clinton and Estelita Aston Phone (435) 770-5999

Mailing address P.O. Box 35 Weston Idaho Zip 83286
Street or Box City State

Email address (optional) squarepeakfarms@gmail.com

2. Date of priority: (Only one per claim) 6/13/1960 (Explain priority date selected in Remarks)
Month/Day/Year (YYYY)

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

4. a. Location of point of diversion is: Township 16S., Range 38E., Section 8,
NW 1/4 of NE 1/4, Govt. Lot _____, BM, County of Franklin

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.

~~Well and pump into mainlines and center pivots.~~

6. Water is claimed for the following purposes:

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

For Irrigation purposes from 4/1 to 10/31 amount 0.62 or 263

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

7. Total quantity claimed (a) 0.62 (cfs) and/or (b) 263 (acre-feet)

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

9. Description of place of use:

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

TWP	RGE	SEC	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
16s	38E	8	6.2	32	14	33													85.2
16s	38E	9							39	3.7	33	26		13					114.7

Parcel no(s). _____ Total number of acres irrigated 199.9

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

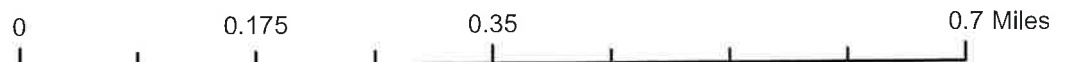
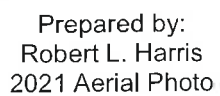
11. Do you own the property listed above as place of use? Yes (✓) No ()
If your answer is No, describe in Remarks below the authority you have to claim this water right.

12. Describe any other water rights used at the same place and for the same purposes as described above.
13-4120 and 3 enlargement water rights. or None ()

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

~~P~~OU is irrigated through a combination of 5 water rights: 13-8026, 13-4120, and 3 enlargement rights for enlargements that occurred in 2012, 2018, and 2021. Irrigation under this claimed right is limited to the irrigation of 87 acres within the 199.9 acre PPOU identified above. Priority date is based on IDWR license. ~~The combined limits of all 5 water rights are summarized on the enclosed spreadsheet.~~

Name of claimant(s) _____ Claim ID _____

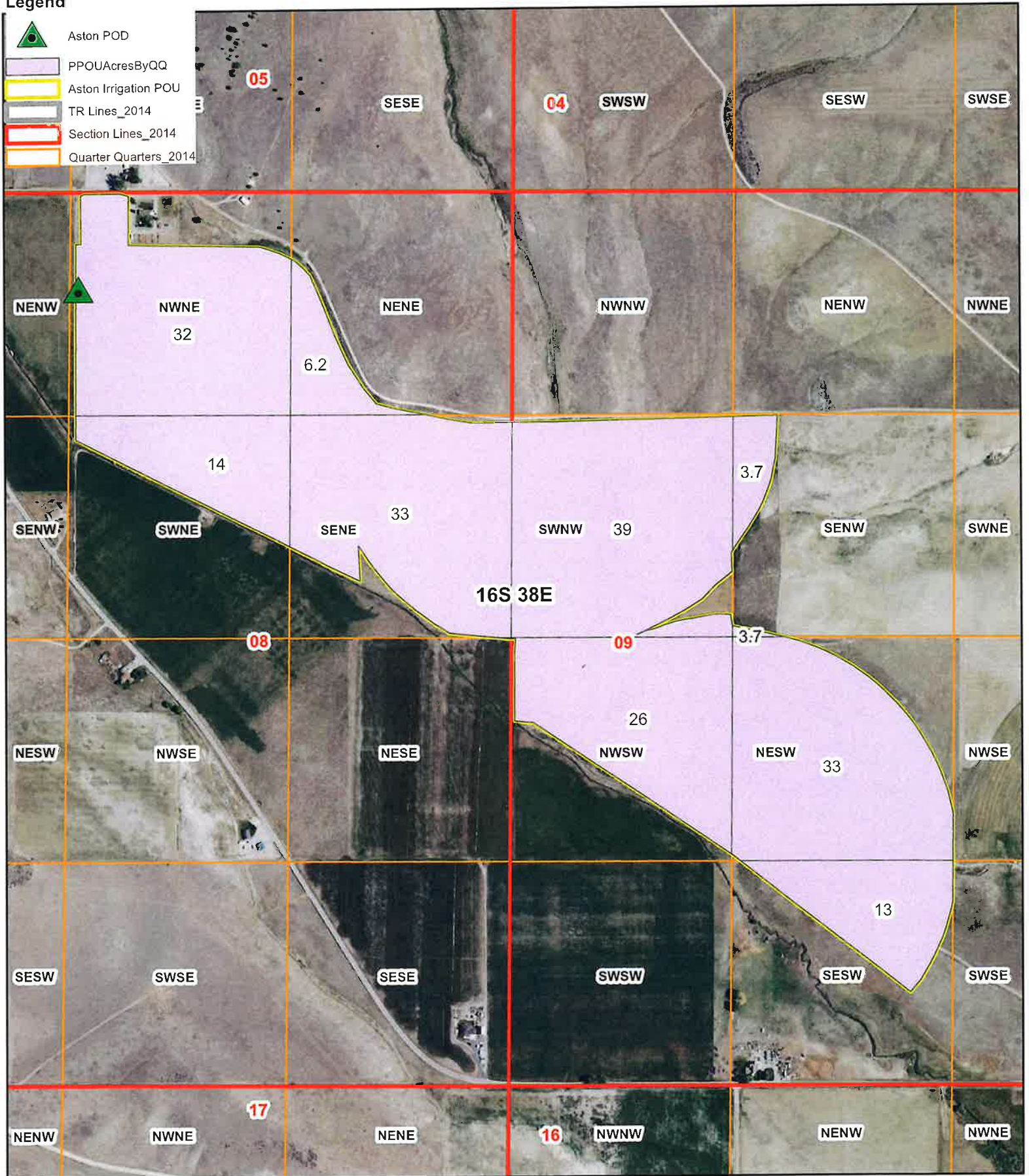


ASTON WATER RIGHT CLAIMS



Legend

-  Aston POD
-  PPOUAcesByQQ
-  Aston Irrigation POU
-  TR Lines_2014
-  Section Lines_2014
-  Quarter Quarters_2014



Prepared by:
Robert L. Harris
2021 Aerial Photo

0 0.175 0.35 0.7 Miles

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 13-8026

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: 4

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: 10/1/2024
 Date: 10/1/24

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

_____ of _____
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 _____ Date _____

Printed Name of Authorized Agent _____

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) _____ Claim ID _____

HOW YOU WILL RECEIVE NOTICES IN THE BEAR RIVER BASIN WATER SYSTEM ADJUDICATION

All documents filed in the Bear River Basin Water System Adjudication, other than notices of claim, are filed with the court. Notices of claim to water rights filed in the Bear River Basin Water System Adjudication are filed with the Idaho Department of Water Resources (IDWR). Copies of all documents filed in the Bear River Basin Water System Adjudication will not be mailed to all parties (claimants) in the adjudication. Any document filed with the court will be mailed only to those parties who may be directly affected by it.

A monthly docket sheet is prepared by the court, which contains a summary of all documents filed with the court in the previous month and the dates and locations of hearings scheduled for the following three months. The docket sheet will be filed with the district court clerk in each county within the Bear River Basin Water System Adjudication. Copies of a monthly docket sheet may be obtained from any of the offices of IDWR; a small fee may be charged to cover the cost of mailing and/or copying. If you wish to receive an annual subscription of the docket sheet printed each month, you should mark the appropriate place on your notice of claim form. You will be charged a small annual subscription fee by the court to cover the cost of copying and mailing. The docket sheet is also available on the court's web site at:

<http://www.srba.idaho.gov/BRBA20.HTM>

Copies of any document listed on the docket sheet may be obtained from any of the IDWR offices or the court and a small fee may be charged to cover the cost of mailing and/or copying the document.

Copies of all notices of claim filed with IDWR will be available for inspection at all IDWR offices. You may also obtain copies of the notices of claim filed by other claimants, but you may be charged for the cost of copying and mailing. A claimant will not be charged for a copy of his or her own notice of claim, and a person who acquires property with water rights for which a notice of claim was filed will not be charged for a copy of the notice of claim filed by the previous owner.

After the notices of claim have been reviewed, the director will prepare and file a Director's report with the court that will contain the Director's recommendations as to each water right claimed under state law and a copy of each federal reserved water right claimed. A Director's report will be prepared for all claims filed in the Bear River Basin Water System Adjudication. When this report is filed with the court, you will be mailed a notice informing you that the report has been filed. The notice will be sent to the most recent address shown by IDWR's files. Attached to the notice will be a copy of those portions of the report describing the water rights you have claimed. If you do not agree with the way your water right is described, you may file an objection to the report with the court. You can also file an objection if you disagree with the way another claimant's water rights are described, and the notice will tell you where a copy of the full report is available for inspection. The notice will tell you when and where to file your objection.

It is very important that you inform IDWR in writing of any change in your address. This is to make sure that you receive the notices affecting your water rights that are to be mailed by IDWR or the court.

If you are acquiring property with water rights within the boundaries of the Bear River Basin Water System Adjudication in Idaho (either by purchase, gift, inheritance, or other means), it is very important that you inquire of IDWR whether a notice of claim has been filed. If you fail to file a required notice of claim for a water right, that water right may be determined to no longer exist.

If a notice of claim has been filed, it is very important that you file a written notice of change in ownership with IDWR. You may contact IDWR regional offices or the IDWR web site <http://www.idwr.idaho.gov/> for change of ownership forms. The notice of change in ownership form must be accompanied by evidence of the ownership of the property. Again, this is to make sure that you receive the notices affecting your water rights that are to be mailed by IDWR or the court.

ASTON WATER RIGHTS SUMMARY

Basin	Sequence	Original Basis	Status	Priority Date	Div. Rate (cfs)	Combd Div. Rate (cfs)	2nd Combd. Div. Rate (cfs)	Div. Volume (AF)	Combd Div. Volume (AF)	2nd Combd Div. Vol (AF)	Source	Water Use	Individual Acre Limit	Combined Acre Limit	2nd Combined Acre Limit	Point of Diversion	Owner
13	8026	License	Active	6/13/1960	0.62	2.82	2.82	263	493.5	699.7	GROUND WATER	IRRIGATION	87	141	199.9	NW1NE Sec. 8, 16S 38E	ASTON, CLINTON K. ASTON, ESTELITA
13	4120	Statutory Claim	Active	6/26/1962	2.8			493.5					141	43			
13		Entirement	Claim	4/1/2012	0.86			150.5					43	10			
13		Entirement	Claim	4/1/2018	0.2			35					10	5.9			
13		Entirement	Claim	4/1/2021	0.12			20.7					5.9				

Clinton and Estelita Aston Water Rights Narrative

Prepared by Robert L. Harris

Holden, Kidwell, Hahn & Crapo, P.L.L.C.

Clinton and Estelita Aston (collectively "Aston") purchased farm ground west of Weston, Idaho in 2004. The purpose of this narrative is to detail the (1) the water rights associated with the property; and (2) the irrigation history of the property. This information is intended for representatives of the Idaho Department of Water Resources ("IDWR" or "Department") in response to questions concerning the irrigation history of the property and to support claims filed in the Bear River Basin Adjudication ("BRBA").

After purchase of the property, Aston undertook actions to clean up water rights associated with the property, beginning in November of 2004 with an ownership update request submittal. The ownership change request was eventually returned over five years later, unprocessed, evidently because of pre-adjudication uncertainties over ownership and changed water usage and variations from the described elements of the water rights that is prevalent in the Bear River Basin. In 2010, Aston inquired of IDWR about filing a transfer application to address place of use and related issues with the water rights associated with the Aston property. Eventually, in January of 2011, Aston attended a transfer hearing (Transfer No. 70722) associated with water rights near his property where it was determined that the hearing should not be held, and the transfer withdrawn. Aston was advised by IDWR staff after that hearing not to file any transfers until commencement of the BRBA because of all the issues prevalent in the Bear River Basin and to continue to irrigate his 187 acres because it was believed that the BRBA would commence very soon and any ownership, place of use, or other matters would be addressed in the BRBA process.

Eventually, because of questions associated with Aston's irrigation, he was advised to file a transfer to address outstanding issues with his water rights and water usage. Aston filed Transfer Application No. 82640 on August 15, 2018, (the "Transfer") that addressed two water rights described at the time as follows: (1) 13-4120 (a statutory claim for the irrigation of 187 acres); and (2) 13-8026 (an 87-acre portion of an existing water right (13-2209)). Aston operates only one well (the "Aston Well") for irrigation of the Aston property. The Transfer sought verification of the statutory claim for 13-4120 and to update the place of use for this statutory claim. The Transfer also sought to change the point of diversion for 13-8026 (as a portion of the place of use of this right was already on the Aston property).

The Transfer, as proposed, would have covered virtually all of the irrigable property of Aston and avoided the need to file enlargement claims in the BRBA for land that has been historically irrigated (discussed in further detail below). Unfortunately, because of the contested case, a determination was made that a 36-acre portion of 13-4120 was lost to forfeiture. This 36-acre portion would have covered most of the land where enlargement occurred and would have virtually eliminated the need to file enlargement claims. As it now stands, the enlargement claims are necessary, and this narrative summarizes evidence of the historic irrigation of portions of the Aston property. While each water right and enlargement claim will be summarized below, at the outset, the following map outlines the irrigated lands of approximately 199.9 acres.

Irrigation of the entire 43 acres occurred as evidenced by the cultivated acres outlined in white. The irrigation was accomplished with a mainline to a valve where hand sprinkler lines were laid out (emanating from the valve) and moved as evidenced by a close up of the above map/photo that actually depicts irrigation occurring:

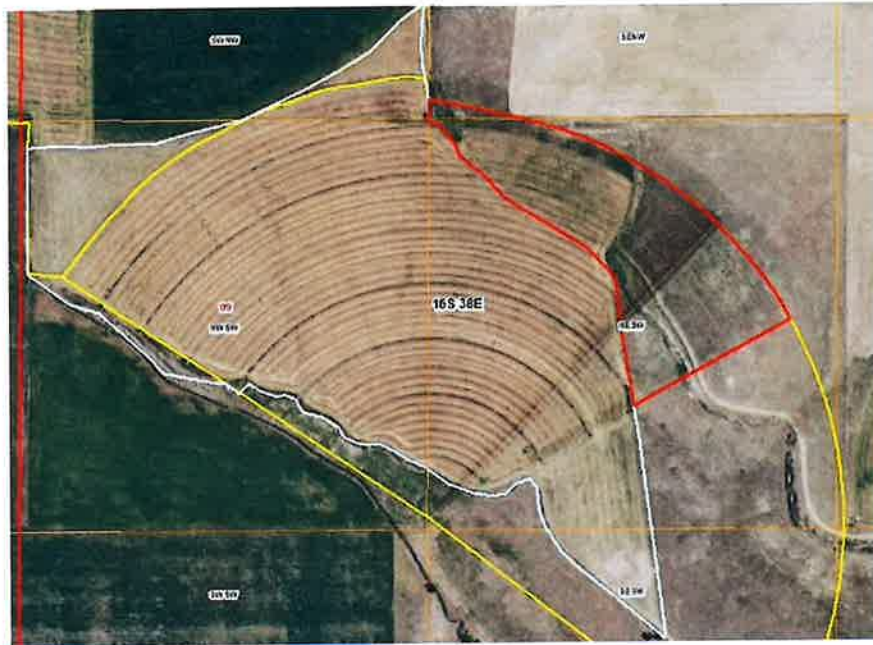


A 2017 photo also confirms irrigation occurring within the enlargement acres (the dark splotches on the aerial photo are morning glory weeds):



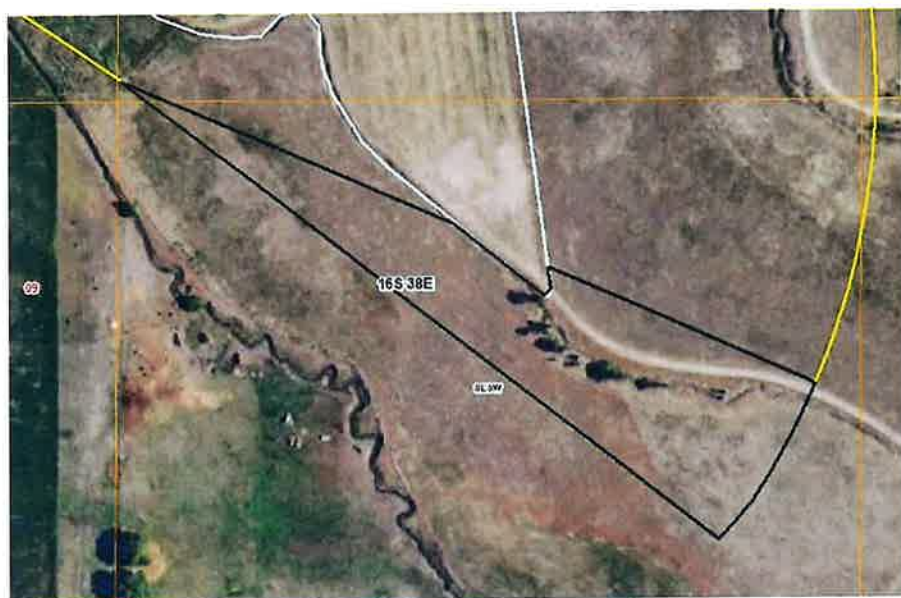
2018 Enlargement Right

In 2018, Aston installed a wiper pivot on the property. The pivot covered virtually all of the 2012 enlargement, plus additional acreage. The additional acreage totals approximately 10 acres and is depicted in red outline here (the pivot stopped where it did because of placement of a pivot stop):



2021 Enlargement Right

Commencing on May 1, 2021, Aston began irrigating additional acres under the wiper pivot. In terms of an enlargement claim, 5.9 additional enlargement acres under the existing wiper pivot, depicted on the following map:



Place of Use for Water Right Nos. 13-8026 and 13-4120

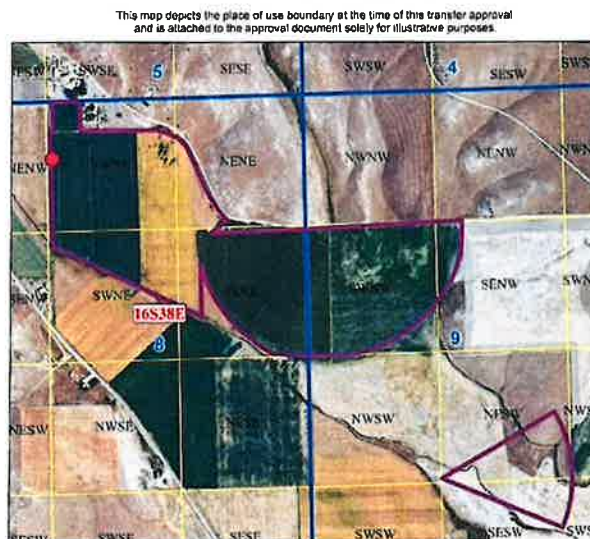
To fully understand how the enlargement claims are being filed, it is necessary to understand the location combined place of use of 141 acres for Water Right Nos. 13-8026 and 13-4120 resulting from the Transfer. When the final order for the Transfer was issued, because of the determination on forfeiture, the hearing officer unilaterally reduced the proposed place of use on the wiper pivot to a wedge shape depicted on this map included with the final order:

Attachment to Transfer Approval 82640



Upon receipt of the final approval of the Transfer (issued on October 29, 2019), Aston filed a transfer application to change the location of the wedge because the land covered by the wedge was already irrigated under an enlargement (anticipated to be claimed in the BRBA). As stated above, had the Transfer been approved in its entirety, Aston would not have to claim as many enlargement acres. The second Aston transfer approval (issued on February 10, 2021) resulted in a revised place of use depicted in purple here:

Attachment to Transfer Approval 84645

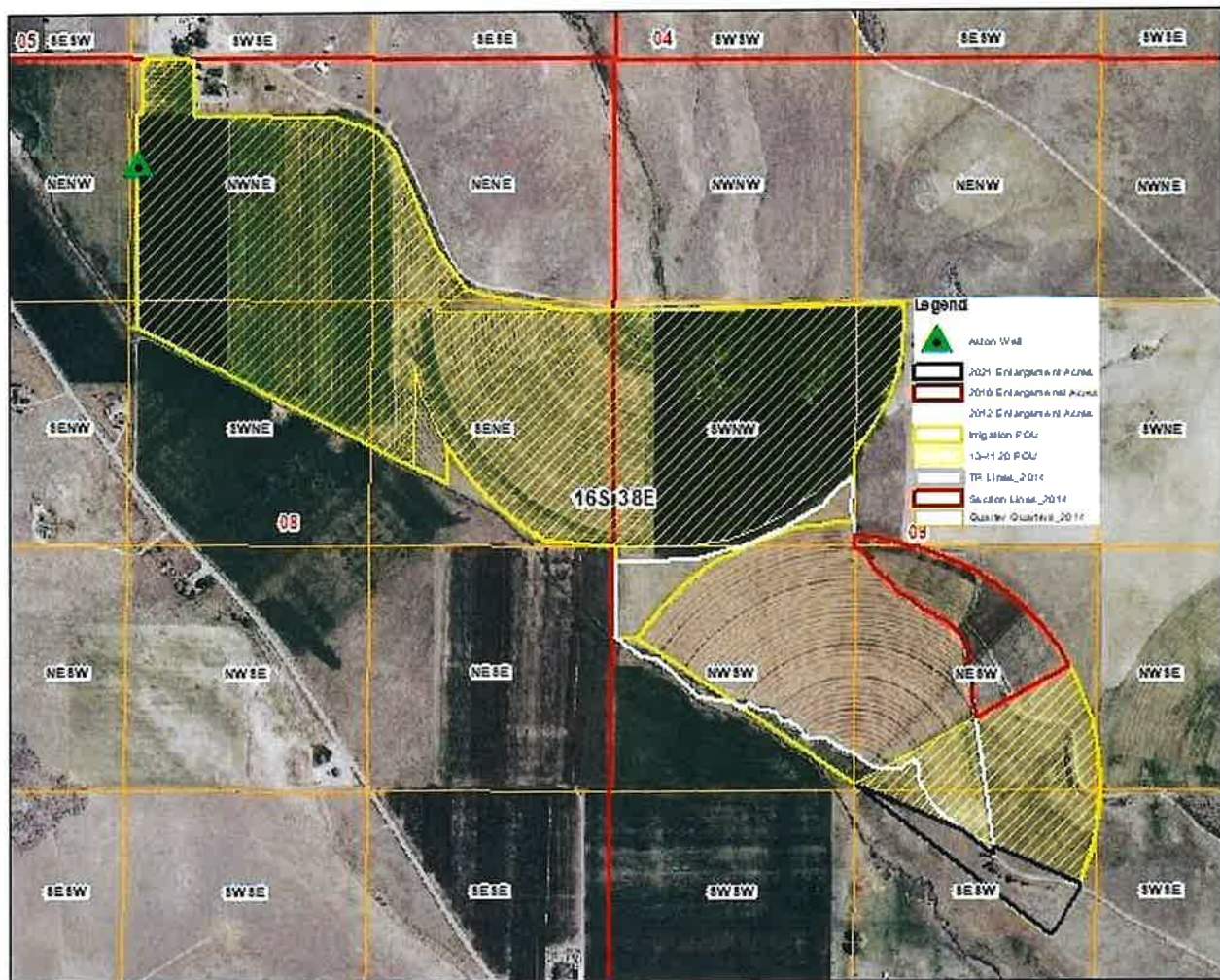


Because the place of use of existing water rights covers some of the land where the enlargement occurred with the wedge shape, it is not necessary to claim enlargement acres within the wedge shape. There has also been some shifting in the enlargement acres originally developed.

The enlargements occurred prior to the commencement of the BRBA on June 15, 2021. The shifting of acres also occurred prior to June 15, 2021.

In addition to the aerial photos provided above, ET and CIR data from IDWR's METRIC database confirms the active irrigation of crops with the place of use depicted below.

Accordingly, the claims to be submitted in the BRBA will be based upon the following map:



Attached to this narrative is a spreadsheet summary of all of Aston's BRBA claims that are in the process of being prepared and submitted. As shown above, the irrigation of the enlargement acres is supported by clear evidence. In total, Aston has licensed and verified water rights, as well as enlargement rights, that collectively irrigate approximately 199.9 acres.