

WD 13T - 2001



State of Idaho

DEPARTMENT OF WATER RESOURCES

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DIRK KEMPTHORNE
Governor
KARL J. DREHER
Director

March 9, 2001

Craig Shuler, Watermaster
Water District 13-T
255 W 4 South St
Soda Springs, ID 83276

Re: Water Right Place of Use Question near Stanton Well - Gem Valley Farms
2001 Place of Use from Hansen and Deep Wells

Dear Craig,

I believe that when we visited last November I had agreed to provide you with some information regarding whether or not Gem Valley Farms had any water rights for the several pivot corners that you investigated with Burke Scholer last summer. Burke and I did review the water rights for this area but I don't think either of us got back to you on this matter. We confirmed there are pivot corners located in the SENE and NESE of Section 14, T9S, R39E that are not covered by any water rights.

Enclosed is a memo that Burke and Jane Tallman prepared regarding their investigation of the matter. You should review this summary and retain with your files. You may wish to include reference to this investigation in the 2000 summary report that I had asked you to complete for the district. I encourage you to monitor this place of use and situation again this year. I think I did not wish to pursue any violation associated with this matter because it seemed to be limited to a one time occurrence that may have been related to moving a pivot across the area to get it to the proper starting point. It is my understanding that there was no repeat occurrence of this situation. Mr. Neibaur should be aware of this concern so that the incident is not repeated again this year.

Please be aware also that the transfer involving the Stanton well and rights 29-07000A and 29-07000B has still not been approved by IDWR. The Department has experienced a backlog in processing transfer applications. I have asked the appropriate IDWR staff to try and expedite the approval of this transfer prior to this irrigation season.

Also enclosed with this letter is a copy of a map that Mr. Neibaur submitted showing the 2001 place of use locations from the Hansen and Deep Wells. Note that there is idled acreage this year within the pivot located in Section 19. Please retain this map in your files and use it as a reference in your monitoring of water rights place of use this year. Please contact me if you have questions regarding any of this information.

Sincerely,

Handwritten signature of Tim Luke

Tim Luke
Section Manager, Water Distribution

Cc: Chad Neibaur, Gem Valley Farms
Pam Skaggs, IDWR

## MEMORANDUM

December 27, 2000

**TO:** File

**FROM:** Burke H. Scholer  
Jane Tallman

**SUBJECT:** Place of Use Violation

**RE:** Gem Valley Farms, Chad Neibaur, Owner - Transfer # 5674

On July 10, 2000, we investigated a possible place of use (POU) violation at Gem Valley Farms in the Bancroft-Lund Water District. The alleged violation became known when Warren Lloyd notified Craig Shuler, the watermaster, that some additional acreage was being irrigated in T9S R39E Section 14 SE $\frac{1}{4}$  NE $\frac{1}{4}$ . Craig notified Tim Luke of his observation and subsequently Tim requested the investigation.

The SE $\frac{1}{4}$  NE $\frac{1}{4}$  of Section 14 could be irrigated by two overlapping pivots (see attached sketch), one in the east half of Section 14 and one centered on the section line between Sections 13 and 14. But the latter is only to irrigate the half circle in Section 13 (60 acres) and 5 acres in the NE $\frac{1}{4}$  SE $\frac{1}{4}$  Section 14 on the south leg of the pivot.

Upon investigation, we found that the water user had also irrigated approximately 5 acres on the north leg of the pivot (SE  $\frac{1}{4}$  NE $\frac{1}{4}$  of Section 14). This is the area where the violation has occurred. The SE $\frac{1}{4}$  NE $\frac{1}{4}$  has authorized only 30 acres for irrigation, which can be irrigated by the pivot in Section 14.

Mr. Neibaur of Gem Valley Farms admitted to this encroachment and stated that due to some management problems, it was better to run the pivot around into Section 14 to get to the south leg to start irrigation.

We discussed our findings with Mr. Lloyd. He didn't seem very upset over this but restated his general complaint that each of Neibaur's pivots irrigate 121.2 acres instead of the 120 acres as claimed. We found that Neibaur was not using end guns on his pivots but we could not prove nor disprove the complaint as it is unfeasible to determine the exact boundary of irrigated land. Lloyd stated that "as long as we all have adequate water, everybody should be happy" (paraphrased).

Attached to this memo are photos taken of the POU at the time of investigation and a scale drawing of the pivot area used to calculate the POU violation.

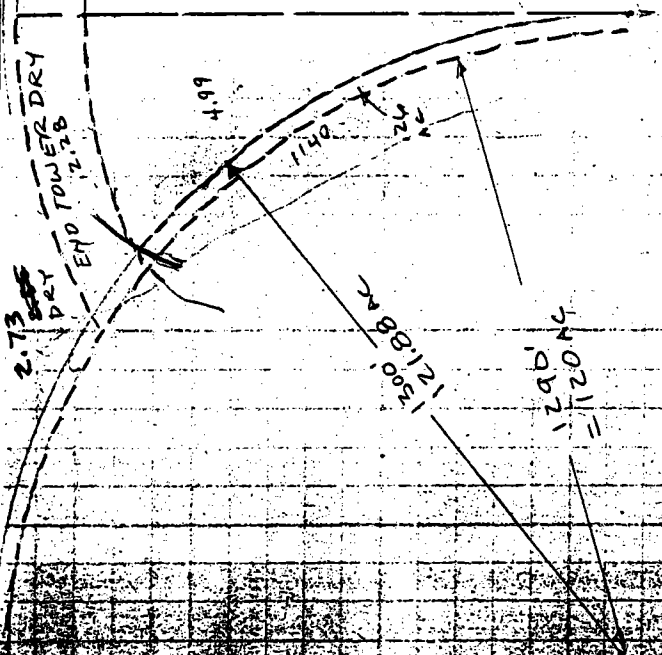
83

28

87

198 = 7.27 AC

136 = 4.99

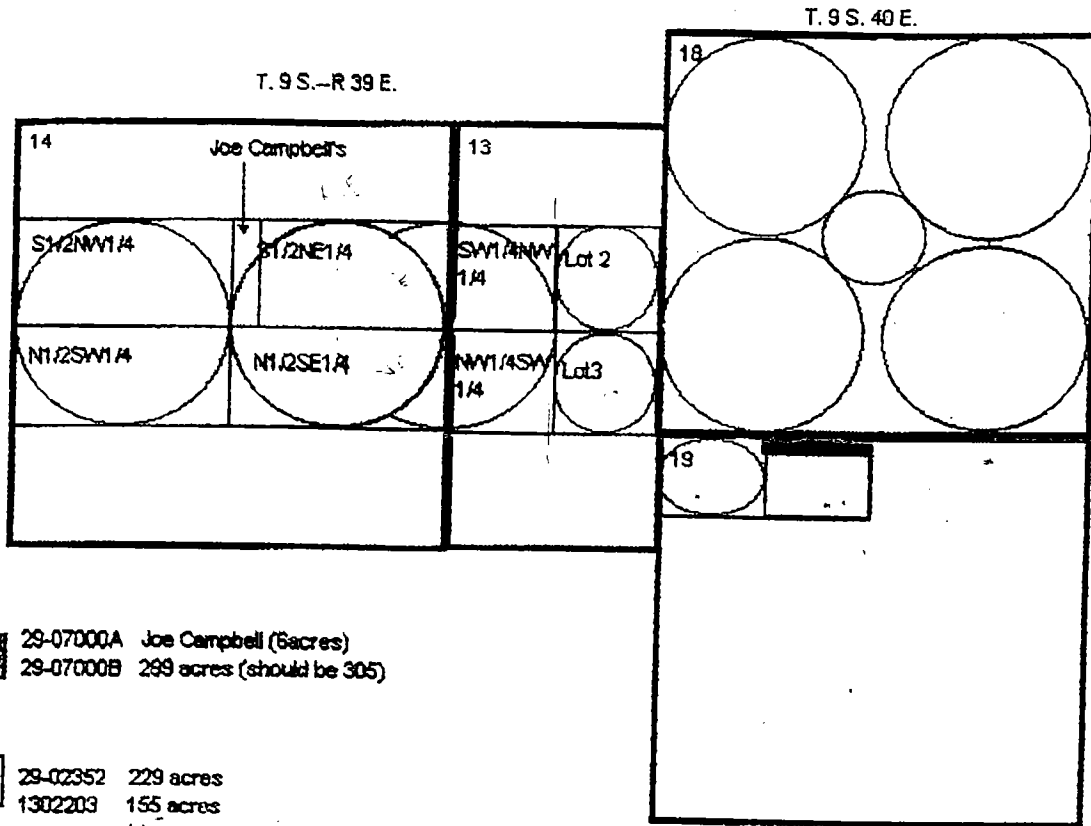


SCALE = 1" / 400' x 400' = 160,000 sq ft

1" = 3.67 AC / 100' EACH DIST = 0.367 AC



22-141 50 SHEETS  
 22-142 100 SHEETS  
 22-143 200 SHEETS



29-07000A Joe Campbell (6acres)  
 29-07000B 299 acres (should be 305)

29-02352 229 acres  
 1302203 155 acres  
 116

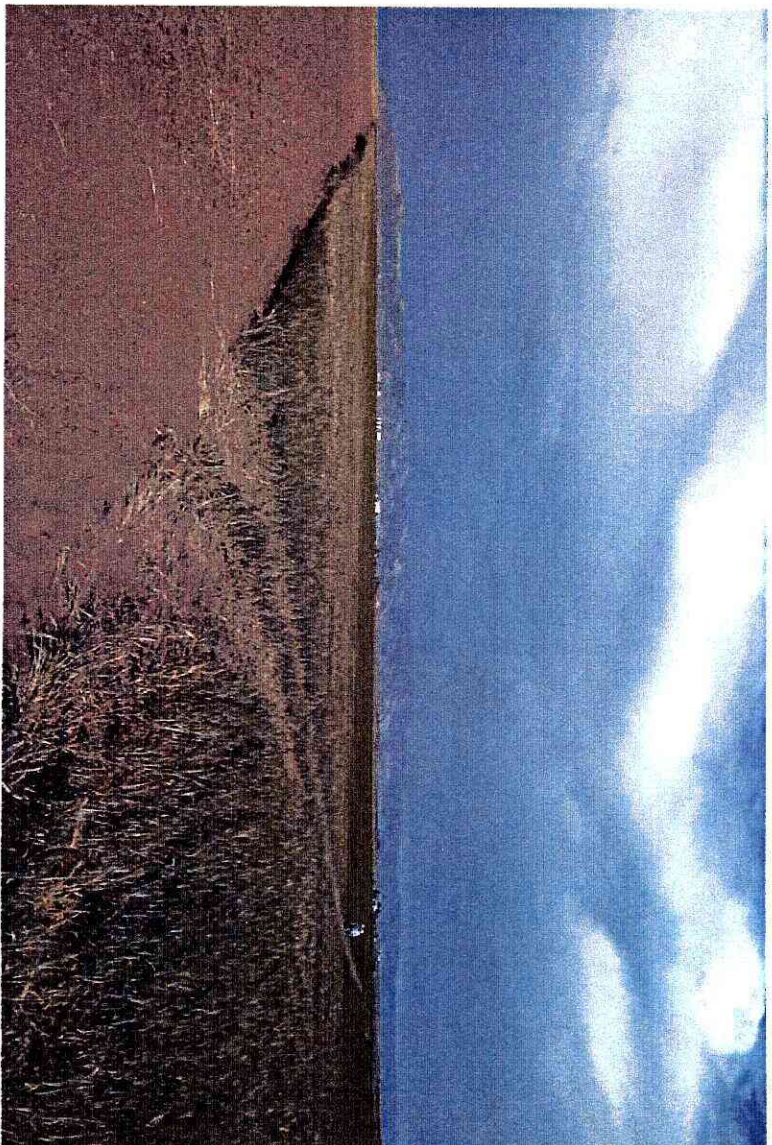
29-07070 906 acres

Dear Tim,

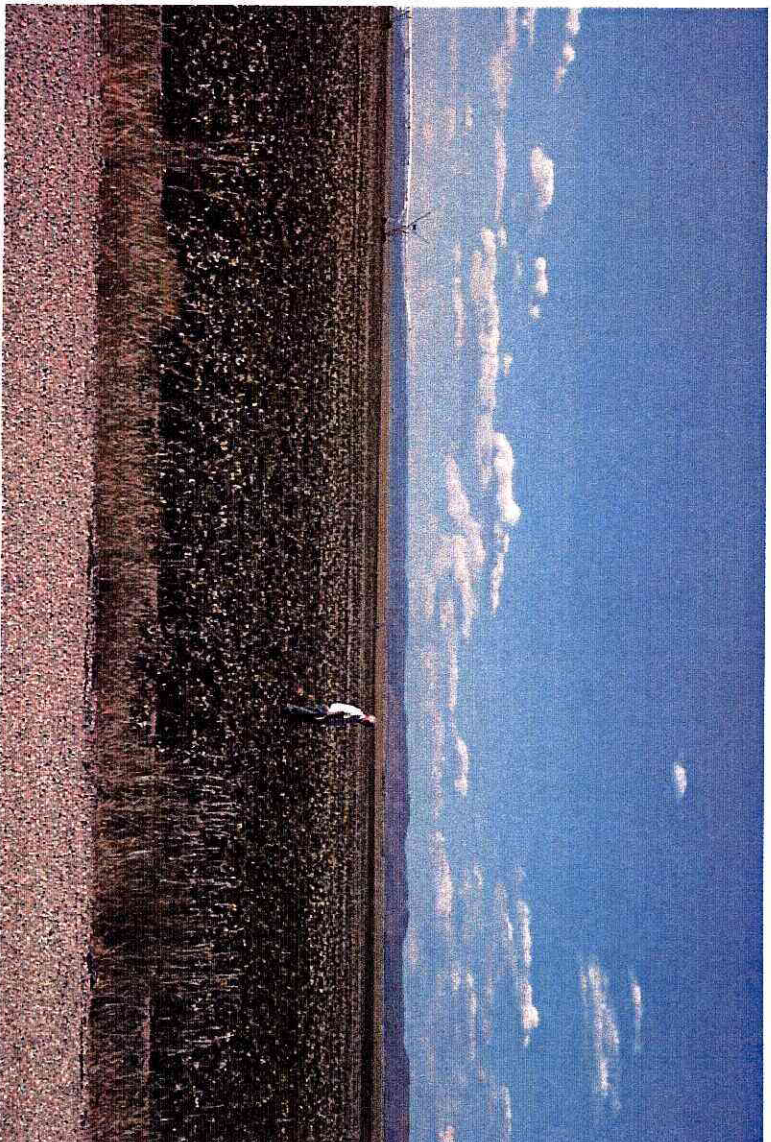
This is a drawing of Gem Valley Farms. The yellow portion isn't supposed to be watered. However, it appears to me that it is. I've walked out in this area & found the wheel tracks are compacted with the bar type tread molded in the soil. If the pivot was going over waterless, there should be dust not perfect imprints of the tires so hard the compacted soil makes hard dirt clods. I think when you come in July we should look at this

Craig Shuler

7/10/00

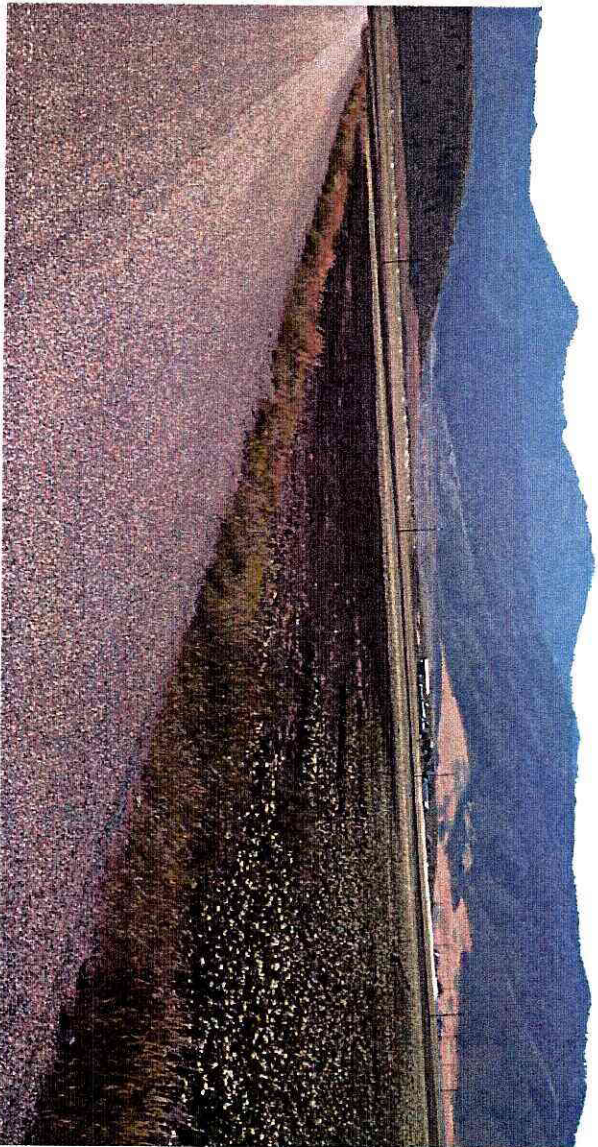


Looking east at Gem Valley Farms corner (dry land, north edge of pivot), T9S R39E Sec14 SE¼ NE¼.

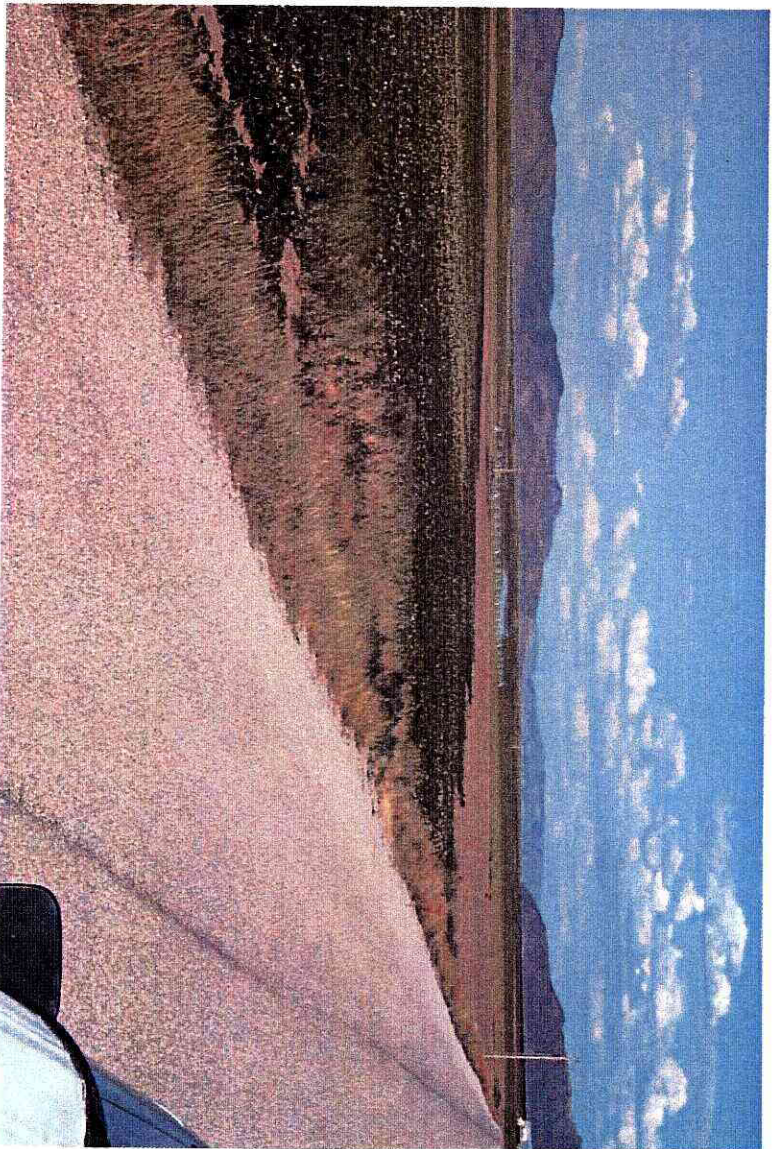


Looking north at Gem Valley Farms overlapping pivots, T9S R39E Sec13 N½ SW¼.

7/10/00



Looking west at Gem Valley Farms corner, T9S R39E Sec 14 N½ SE¼.



Looking east at Gem Valley Farms corner, T9S R39E Sec 14 N½ SE¼.