



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street • P.O. Box 83720 • Boise, Idaho 83720-0098

Phone: (208) 287-4800 • Fax: (208) 287-6700 • Web Site: www.idwr.idaho.gov

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Interim Director

June 3, 2010

Keith Pidcock
Pidcock Co. Inc.
280 E Pidcock Rd
Inkom, ID 83245

Re: Water District 29-D Assessment of Water Rights 29-2005, 29-2511, and 29-10341; Field Visit of May 17, 2010

Dear Mr. Pidcock,

Thank you for allowing some time to visit with me and the Water District 29-D watermaster, Marshall Wheatley, on May 17, 2010 regarding the Pidcock Co.'s water rights and water use. Our visit was initiated by your phone call to me a week earlier regarding questions about the amount of irrigated acres included under your water rights. Specifically, you indicated that the water rights referenced above and shown on your water district assessment significantly overstated the actual number of acres that you irrigate.

During our visit on May 17, you explained that water right 29-2511 is not used. Right 29-2511 authorizes irrigation of 65.2 acres from Green Canyon Creek. I believe you explained that the water supply from Green Canyon Creek is not adequate to irrigate this land but that you also had no recollection of this land having ever been irrigated.

You also explained that water right 29-2005 is used to irrigate about 12 acres only and limited to the square field located across the driveway from your house. Right 29-2005 authorizes irrigation of 120 acres and a diversion rate of 2.4 cubic feet per second (cfs). I had speculated that irrigation under the right included some additional acreage located above your barns and home but you explained that this area is dry-farmed. I also pointed out that the place of use described under right 29-2005 did not include the 12 acres of irrigation you described even though available aerial imagery on file at the Idaho Department of Water Resources (Department) appears to show the 12 acres as being irrigated. During our visit, I explained that my review of the water right file showed that the State licensed water right 29-2005 in 1906 for 2.4 cfs but the actual number of acres under the right was not specified. Under Idaho law, the maximum water duty allowed in the licensing of water rights is one inch per acre, or 0.02 cfs per acre. I further explained to you that the Pidcock Co. filed a claim in the Snake River Basin Adjudication (SRBA) for right 29-2005 at the diversion rate of 2.4 cfs and 120 acres of irrigation. The claim was filed on March 27, 1990 and signed by Ken Pidcock, President of the Pidcock Co. The diversion rate of 2.4 cfs could accommodate 120 acres of irrigation in accordance with the maximum allowed water duty of one inch per acre. You speculated that the claim may have been overstated due to concerns about surrounding water developments and that the Pidcock Co. was interested in protecting its water rights. Although the number of acres claimed may have been overstated, we are uncertain as to whether the diversion rate was also

over claimed. Given the relatively long distance between the point of diversion and the place of use, and potential for extensive ditch loss over that distance, the 2.4 cfs diversion rate, or some other rate greater than one inch per acre up to 2.4 cfs may be reasonable.

Our review of water right 29-10341 revealed that the right is essentially used as described. You stated that the field located west of Inkom Road is about 35 acres and that up to 5 acres on the north part of the property had been sold off but you retained the appurtenant portion of the water right. You also explained that the total irrigated area along Green Canyon Creek located east of Inkom Rd and south of Green Canyon Rd was about 10 acres. However, my review of the water right indicates that the place of use is limited to those acres located north of the creek. Marshall and I observed a legal diversion point described under the right capable of diverting water south of the creek to at least several acres. My review of recent aerial imagery shows that the total irrigated ground in this area may be closer to 17 acres. The points of diversion as described on the water right appear to match the location of the points of diversion found in the field, although the upper diversion from Green Canyon Creek under this right as per our GPS location on May 17 actually puts the point in a different legal description.

I advised you at the conclusion of our meeting that I would follow-up with some suggested options for you to update your water rights given your concerns about the higher water district assessment resulting from the additional irrigated acres decreed under your water rights. Potential options that you may consider are as follows:

- Right 29-2511: You may wish to consider abandoning this water right using the *Water Rights Abandonment Notice* attached to this letter. Note that I drafted the attached notice form for your convenience since the Department does not currently have an official abandonment notice form
- Right 29-2005: Since this water right does not accurately describe the location and number of acres you actually irrigate, you may consider the following two options:
 - a) Petition the SRBA District Court to set aside the partial decree for right 29-2005 on the basis that you erred in claiming 120 acres and also erred in showing the correct location of the irrigated acres. The petition should provide the correct number of acres but request keeping a higher diversion rate, up to the full 2.4 cfs diversion rate. You may need to provide the court with some explanation or documentation of the higher diversion rate.
 - b) File a water right transfer application with the Department to change the place of use to the correct location and number of irrigated acres under the right. In a normal water right transfer process, the Department will generally reduce the diversion rate proportionally by the number of acres you reduce the water right. If you reduce the right to only 12 acres, then the diversion rate could be reduced to only 0.24 cfs, but this rate is likely not adequate to irrigate your 12 acres given the length of open ditch that you have for conveyance of water. You may also reduce the number of acres through the transfer but request keeping a higher diversion rate, up to the original 2.4 cfs diversion rate, but you will have to provide justification for the higher rate. Note that you may end up requesting a diversion rate that is up to ten times higher than the statutory one inch per acre water duty depending on the number of acres you identify.

Please note that if you are successful in maintaining the full 2.4 cfs diversion rate, your water district assessment for this right will not change given that assessments are currently based on an estimated use of the full water right diversion rate. In the future,

the Department may require measurement and reporting of larger irrigation diversion in which case assessments would be based on actual water delivered from the point of diversion.

- Right 29-10341: The total number of acres irrigated under this right (53.7 acres) appears to be very close to the total acres actually irrigated but we suggest you consider filing a water right transfer application to adjust or update the location of some of the acres. Specifically, the land located south of Green Canyon Creek and east of Inkom Rd. does not appear to be included in the water right. Also, some adjustment to the acreage west of Inkom Rd. may be required since you indicated that Pidcock Co. sold off several acres of land but retained the water right. This portion of the water right could be transferred to the area east of Inkom Rd. and South of Green Canyon Creek.

In summary, it appears that you do need to file water right transfer applications for rights 29-2005 and 29-10341 in order to correct or update the current place of use under each right. You may use the water right transfer process to reduce the acreage under right 29-2005 but maintain a higher diversion rate, or you may seek to have the SRBA partial decree for right 29-2005 set aside and ask the SRBA court to adjust your acreage down but retain some higher rate of diversion. However, the Court may not be willing to change the place of use of any portion of the right in which the change or land transaction occurred after 1987, meaning that you may have to file a water right transfer anyway for any change made after 1987.

Your assessment for rights 29-10341 and 29-2005 can only be reduced by reducing both the authorized acreage and diversion rates under the rights. There appears to be no need to reduce the acreage or diversion rate of 29-10341. Although you may reduce the acreage of right 29-2005, I would caution you against any significant reduction in the authorized diversion rate as you may need some higher rate of diversion to maintain your current extent of use given the long distance between your diversion point and place of use. If you abandon right 29-2511, the water district will discontinue any assessment of the right. The district can waive the 2010 assessment if the right is abandoned in 2010. Abandonment of right 29-2511 would reduce your assessment from \$709.08 to \$572.32 (a reduction of about \$137).

Please contact me directly at 208-287-4959 if you have any questions concerning this matter. Department staff may be able to work with the watermaster to make a measurement for the point of diversion of right 29-2005 (diversion from Spider Creek) in order to help determine an appropriate rate of flow if you wish to abandon some of the irrigated acres under the right.

Sincerely,



Tim Luke
Water Distribution

Enclosure: Water Right Summary Reports for rights 29-2005, 29-2511, and 29-10341;
Map showing water rights place of use.

Cc: Marshall Wheatley, Water District 29-D Watermaster
IDWR Eastern Region

Notice of Abandonment of Water Right

Name of Water Right Owner: _____
(Please Print)

I am the current owner of Water Right No. _____, and I am the current owner of the land to which said Water Right No. _____ is appurtenant.

I hereby abandon all of Water Right No. _____. This abandonment is intentional and voluntary. I understand that this abandonment permanently eliminates any right to divert and use water as described under the right identified in the records of the Idaho Department of Water Resources as Water Right No. _____. I assume the responsibility to ensure that water is no longer diverted under the abandoned water right.

Signature of Water Right Owner or Authorized Representative

Date _____

Name and Title of Authorized Representative (Please Print)
(Complete if different than name of water right owner)

State of _____)
) ss
County of _____)

On this _____ day of _____, 20____, the signer(s) of the above instrument appeared before me and duly acknowledged to me that he/she executed the same.

SEAL

Notary Public

My commission expires: _____

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 29-2005

WATER RIGHT NUMBER: 29-2005

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	PIDCOCK CO INC 280 E PIDCOCK RD INKOM, ID 83245 (208)775-3629
Original Owner	G B PIDCOCK
Original Owner	MC CAMMON, ID 83250 JOHN GARDNER , ID

Priority Date: 08/20/1903

Basis: Decreed

Status: Active

<u>Source</u>	<u>Tributary</u>
SPIDER CREEK SPRING	LOWER ROCK CREEK SINKS

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	04/01 to 10/31	2.400 CFS	
STOCKWATER	01/01 to 12/31	0.020 CFS	
	<u>Total Diversion:</u>	2.400 CFS	

Location of Point(s) of Diversion

SPIDER CREEK BANNOCK County	SE1/4NE1/4NW1/4	Sec. 31, Twp 07S, Rge 37E, B.M.
SPRING BANNOCK County	SW1/4SW1/4SW1/4	Sec. 30, Twp 07S, Rge 37E, B.M.

Place of Use

IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
07S	36E	25											10.3	40.0					50.3
07S	36E	26			.1				1.5	.8						27.2	8.4	31.7	69.7

Total Acres: 120

STOCKWATER same as IRRIGATIONConditions of Approval:

10
45
13

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 29-2005

1. C05 RIGHT INCLUDES ACCOMPLISHED CHANGE IN PLACE OF USE PURSUANT TO SECTION 42-1425, IDAHO CODE.
2. STOCK; 50 CATTLE
3. C18 THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE ENTRY OF A FINAL UNIFIED DECREE. SECTION 42-1412(6), IDAHO CODE.

Remarks:Comments:Dates and Other Information:

Licensed Date:
Decreed Date: 3/22/2004
Enlargement Use Priority Date:
Enlargement Statute Priority Date:
State or Federal: S
Owner Name Connector:
Water District Number: 29D
Generic Max Rate Per Acre:
Generic Max Volume Per Acre:
Decree Defendant:
Decree Plaintiff:
Civil Case Number: 39576
Judicial District: FIFTH
Swan Falls Trust or Nontrust:
Swan Falls Dismissed:
DLE Act Number:
Carey Act Number:
Mitigation Plan: False

Combined Use Limits:Water Supply Bank:

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 29-2511

WATER RIGHT NUMBER: 29-2511

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	PIDCOCK CO INC 280 E PIDCOCK RD INKOM, ID 83245 (208)775-3629
Original Owner	BERT PIDCOCK INKOM, ID 83245

Priority Date: 08/26/1965

Basis: Decreed

Status: Active

<u>Source</u>	<u>Tributary</u>
GREEN CANYON CREEK	PORTNEUF RIVER

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	03/15	to 11/15	0.890 CFS	
	<u>Total Diversion:</u>		0.890 CFS	

Location of Point(s) of Diversion

GREEN CANYON CREEK	SE1/4SW1/4NW1/4	Sec. 25, Twp 07S, Rge 36E, B.M.
BANNOCK County		

Place of Use

IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
07S	36E	25							8.4				23.6						32.0
07S	36E	26			.8	8.8									20.0	3.6			33.2

Total Acres: 65.2

Conditions of Approval:

1. C05 RIGHT INCLUDES ACCOMPLISHED CHANGE IN PLACE OF USE PURSUANT TO SECTION 42-1425, IDAHO CODE.
2. C18 THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE ENTRY OF A FINAL UNIFIED DECREE. SECTION 42-1412(6), IDAHO CODE.
3. C03 RIGHT INCLUDES ACCOMPLISHED CHANGE IN POINT OF DIVERSION PURSUANT TO SECTION 42-1425, IDAHO CODE.

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 29-2511

Remarks:

Comments:

Dates and Other Information:

Licensed Date:
Decreed Date: 3/22/2004
Enlargement Use Priority Date:
Enlargement Statute Priority Date:
State or Federal: S
Owner Name Connector:
Water District Number: 29D
Generic Max Rate Per Acre:
Generic Max Volume Per Acre:
Decree Defendant:
Decree Plaintiff:
Civil Case Number: 39576
Judicial District: FIFTH
Swan Falls Trust or Nontrust:
Swan Falls Dismissed:
DLE Act Number:
Carey Act Number:
Mitigation Plan: False

Combined Use Limits:

Water Supply Bank:

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 29-10341

WATER RIGHT NUMBER: 29-10341

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	PIDCOCK CO INC 280 E PIDCOCK RD INKOM, ID 83245 (208)775-3629

Priority Date: 02/16/1869

Basis: Decreed

Status: Active

<u>Source</u>	<u>Tributary</u>
GREEN CANYON CREEK UNNAMED STREAM	PORTNEUF RIVER GREEN CANYON CREEK

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
STOCKWATER	01/01 to 12/31	0.020 CFS	
IRRIGATION	03/15 to 11/15	1.320 CFS	
	<u>Total Diversion:</u>	1.320 CFS	

Location of Point(s) of Diversion

UNNAMED STREAM BANNOCK County	SE1/4NE1/4NW1/4	Sec. 26, Twp 07S, Rge 36E, B.M.
GREEN CANYON CREEK BANNOCK County	NE1/4SE1/4NW1/4	Sec. 26, Twp 07S, Rge 36E, B.M.
GREEN CANYON CREEK BANNOCK County	NW1/4SW1/4NE1/4	Sec. 26, Twp 07S, Rge 36E, B.M.

Place of Use

IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
07S	36E	26							8.8	6.1									14.9
07S	36E	27	21.8			17.0													38.8

Total Acres: 53.7

STOCKWATER same as IRRIGATIONConditions of Approval:

1. C18 THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE ENTRY OF A FINAL UNIFIED DECREE. SECTION 42-1412(6), IDAHO CODE.

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 29-10341

2. C02 RIGHT INCLUDES ACCOMPLISHED CHANGE IN SOURCE PURSUANT TO SECTION 42-1425, IDAHO CODE.
3. C10 RIGHT INCLUDES ACCOMPLISHED CHANGE IN SEASON OF USE PURSUANT TO SECTION 42-1425, IDAHO CODE.
4. P29 THIS RIGHT IS A COMBINATION OF OLD RIGHT NOS. 29-00499 AND 29-00253.

Remarks:Comments:

1. aruberry 3/18/2003 NOE

Comment: CORRECTED CFS TO DECREED AMOUNT FOR CONVEY LOSS.

Dates and Other Information:

Licensed Date:

Decreed Date: 3/22/2004

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

State or Federal: S

Owner Name Connector:

Water District Number: 29D

Generic Max Rate Per Acre:

Generic Max Volume Per Acre:

Decree Defendant:

Decree Plaintiff:

Civil Case Number: 39576

Judicial District: FIFTH

Swan Falls Trust or Nontrust:

Swan Falls Dismissed:

DLE Act Number:

Carey Act Number:

Mitigation Plan: False

Combined Use Limits:Water Supply Bank:

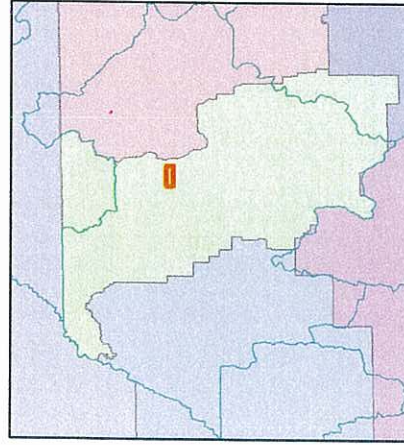


Idaho Department of Water Resources

Water Right
29-2005
(IRRIGATION)

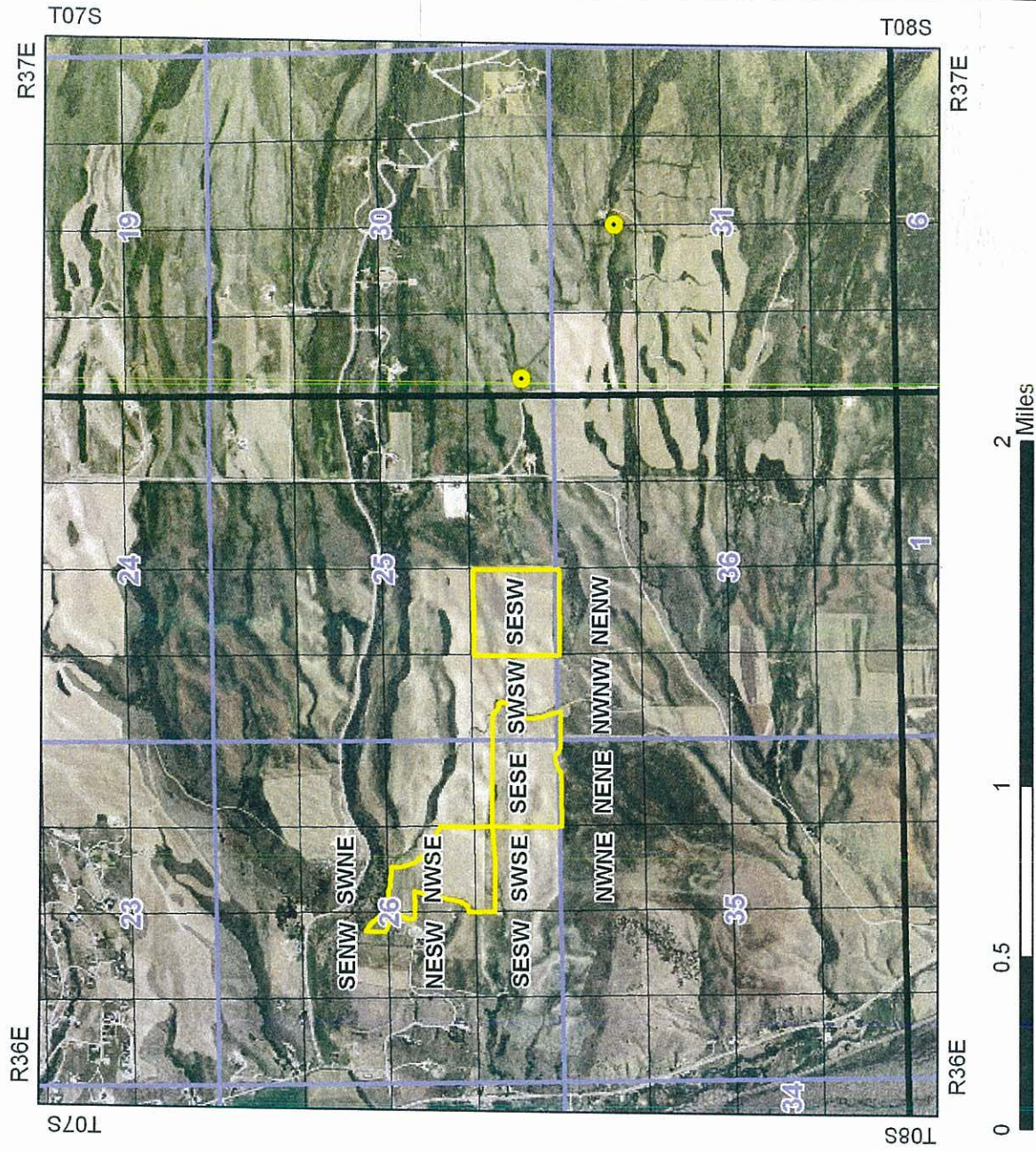
Legend

- Point of Diversion
- Place of Use
- State Outline
- Townships
- PLS Sections
- Quarter Quarters



Bannock County
IDWR Basin 29

Prepared by Tim Luke
On June 01, 2010
2006 Aerial Photography

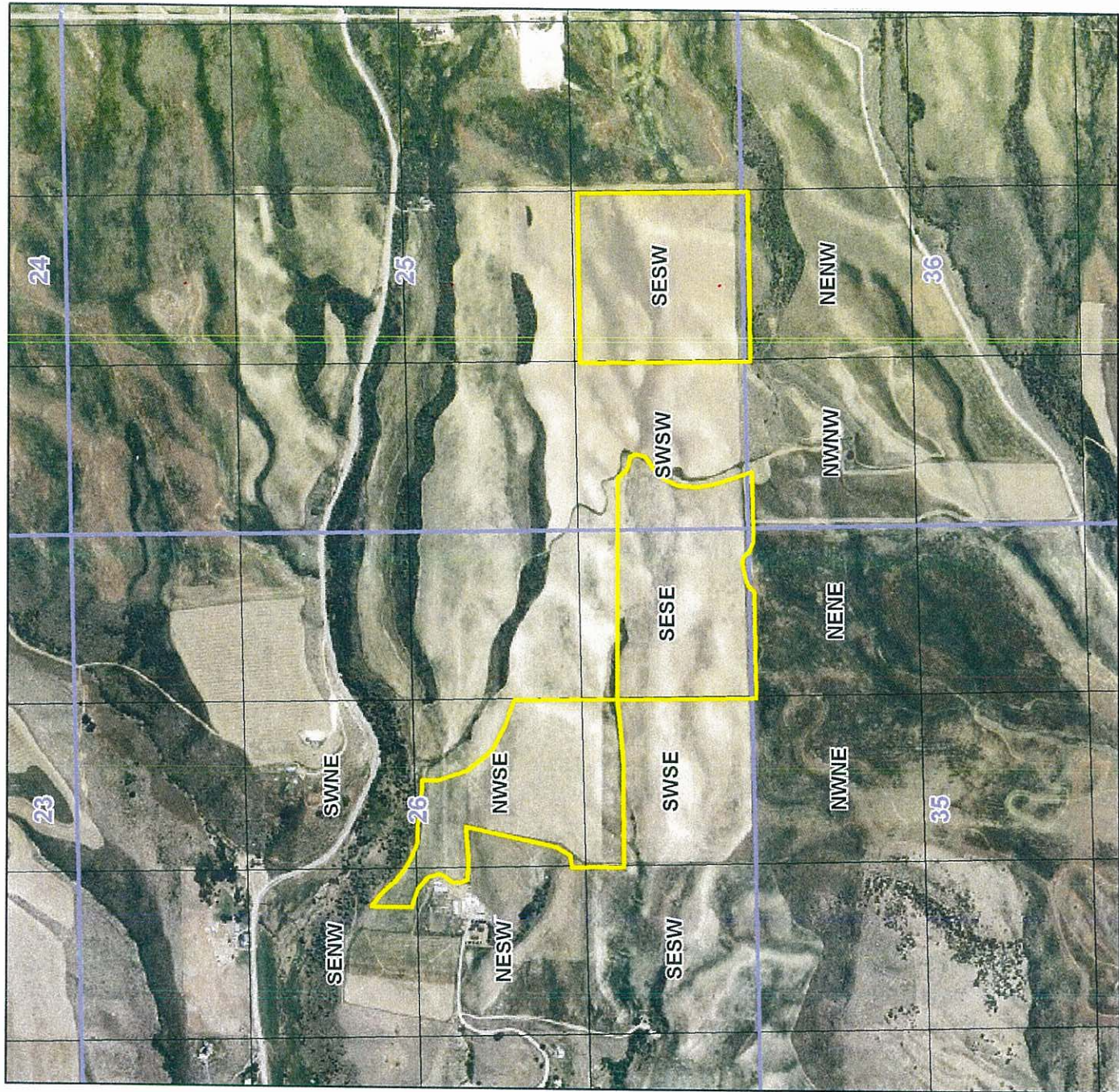


Owner: Pidcock Co Inc

NOTE: Only one owner is listed. There may or may not be more than this in the IDWR database.



29-2005



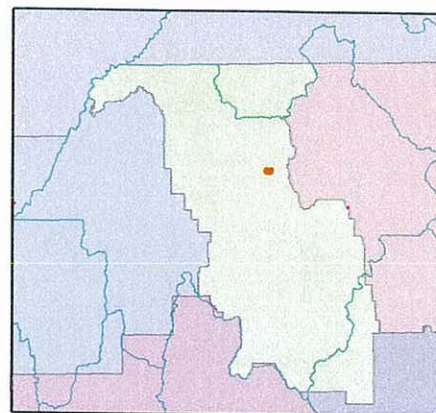


Idaho Department of Water Resources

Water Right
29-2511
(IRRIGATION)

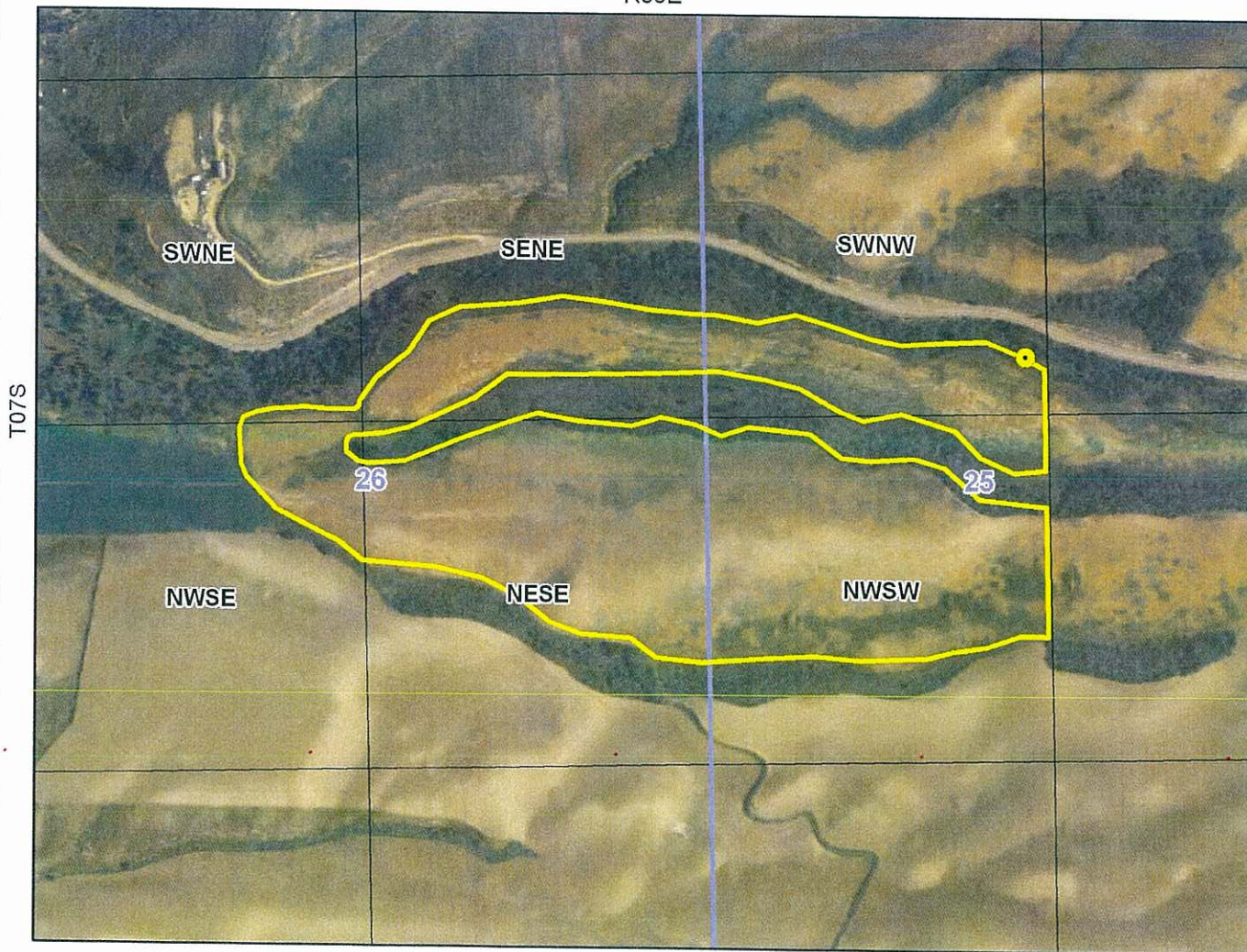
Legend

- Point of Diversion
- Place of Use
- State Outline
- Townships
- PLS Sections
- Quarter Quarters



Bannock County
IDWR Basin 29

R36E



Prepared by Tim Luke
On June 01, 2010
2004 Aerial Photography

0 0.125 0.25 0.5 Miles

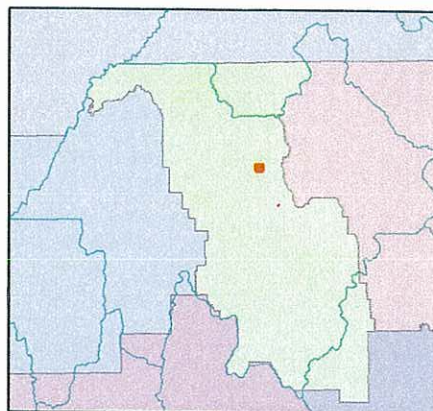


Idaho Department of Water Resources

Water Right
29-10341
(IRRIGATION)

Legend

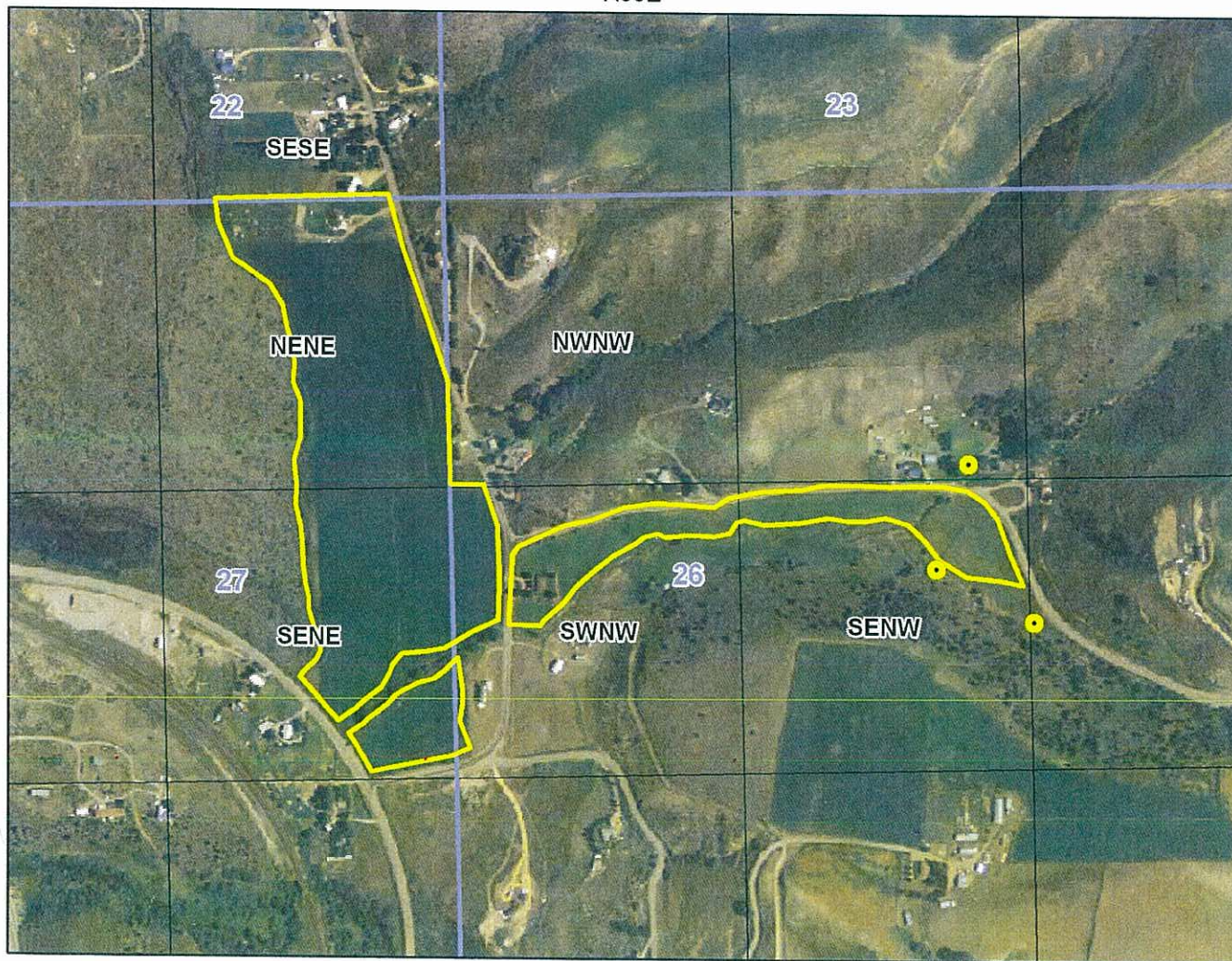
- Point of Diversion
- Place of Use
- State Outline
- Townships
- PLS Sections
- Quarter Quarters



Bannock County
IDWR Basin 29

R36E

T07S



Prepared by Tim Luke
On June 01, 2010
2004 Aerial Photography

0 0.15 0.3 0.6 Miles