

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 SNAKE RIVER BASIN WATER SYSTEM.

CIVIL CASE NUMBER: 39576

Ident. Number: A24-10007
Date Received: 10/25/1989
Receipt No: E010876
Received By: EL

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: NANCY S. HOFFMAN 307-733-5633
Address: P.O. BOX 7302
JACKSON, WY 83001

OR

Name: M. EUGENE HOFFMAN 307-733-5633
Address: P.O. BOX 7302
JACKSON, WY 83001

A2410007

2. Date of Priority: JUN 01, 1881

3. Source: NEUENSCHWANDER CREEK Trib. to: SALT RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
04S	46E	15	NW	NE	SE		BONNEVILLE

5. Description of diverting works:

SMALL ROCK DAM & HEADGATE. CREEK AT POINT OF DIVER. IS 15' WIDE.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
IRRIGATION	04/15	10/15	0.840		
DOMESTIC	01/01	12/31	0.020		

7. Total Quantity Appropriated is:

0.860 C.F.S. (and/or) A.F.A.

8. Total consumptive use is 84.0 Acre Feet Per Annum.

9. Non-irrigation uses:

30 HEAD CATTLE; 5 HORSES

A24-10007

Page 1

Date: 10/25/89

UNRECORDED

NOV 06 1992

10. Place of Use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
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11. Place of use in counties:

12. Do you own the property listed above as place of use? YES

13. Other Water Rights Used:

NONE

14. Remarks:

PREVIOUS OWNER OF PROPERTY WAS BRENT ROBINSON.

*** PLACE OF USE IS WITHING THE STATE OF WYOMING, DESCRIBED AS:
T36N R119N SEC. 28 24 ACRES IN SE1/4 SW1/4 AND 18 ACRES
IN THE SW1/4 SE1/4 FOR A TOTAL OF 42 ACRES. *****

15. Basis of Claim: DECREED

Case Number:

Court :

Decree date: 6/27/1928

ROBINSON

Decree Plaintiff

vs

MILLER

Decree Defendant

MICROFILMED

NOV 06 1992

BY 10/18/89IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLSIN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEMCIVIL CASE NUMBER: 39576
Ident. Number A24-10007
Date Received 9/28/89
Receipt Number E010876NOTICE OF CLAIM
TO A
WATER RIGHT
ACQUIRED UNDER STATE LAW

RECEIVED

SEP 28 1989

Department of Water Resources
Eastern District Office

Please type or print clearly

1. Name of Claimant (s) NANCY S and M. EUGENE HOFFMAN Phone (307) 753-5633
Mailing Address P.O. Box 7302, JACKSON, ID 83201 Zip 832012. Date of Priority (Only one (1) per claim) 6/1/18813. Source of water supply (a) NEUENSCHWANDER CREEK
which is tributary to (b) SALT RIVER4. a. Location of existing point of diversion is: Township 4S Range 46E Section 15,
NW 1/4 of NE 1/4 of SE 1/4, Govt. Lot, - B.M., County of BONNEVILLEAdditional points of diversion if any: NONE

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

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

Govt. Lot _____ B.M., County of _____

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

_____ 1/4, Govt. Lot _____ B.M., 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.Small rock dam and
Headgate: CREEK AT POINT OF DIVERSION IS
APPROXIMATELY 15' WIDE

MICROFILMED

NOV 06 1992

6. Water is claimed for the following purposes:

(both dates are inclusive)

(cfs)

(acre feet)

For IRRIGATION purposes from April 15 to Oct. 15 amount .84 or _____

For Stockwater purposes from JAN. 1 to Dec 31 amount .02 or _____

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

7. Total quantity claimed (a) .86 (cfs) and/or (b) _____ (acre feet)

8. Total consumptive use claimed is 84 acre feet per annum.

9. Non-irrigation uses; describe fully (eg. Domestic: Give number of households served; Stockwater: Type and number of livestock Etc.) 30 Cattle; 5 horses

10. 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	RNG	SEC	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	
<u>36N</u>	<u>119W</u>	<u>28</u>												<u>24</u>			<u>18</u>		<u>42</u>

Total number of acres irrigated 42

11. In which county (ies) are lands listed above as place of use located? Lincoln County Wyo

12. 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.

13. Describe any other water rights used at the same place and for the same purposes as described above.
_____ or None ☒

14. Remarks: PREVIOUS OWNER OF PROPERTY WAS BRENT ROBINSON

MICROFILMED

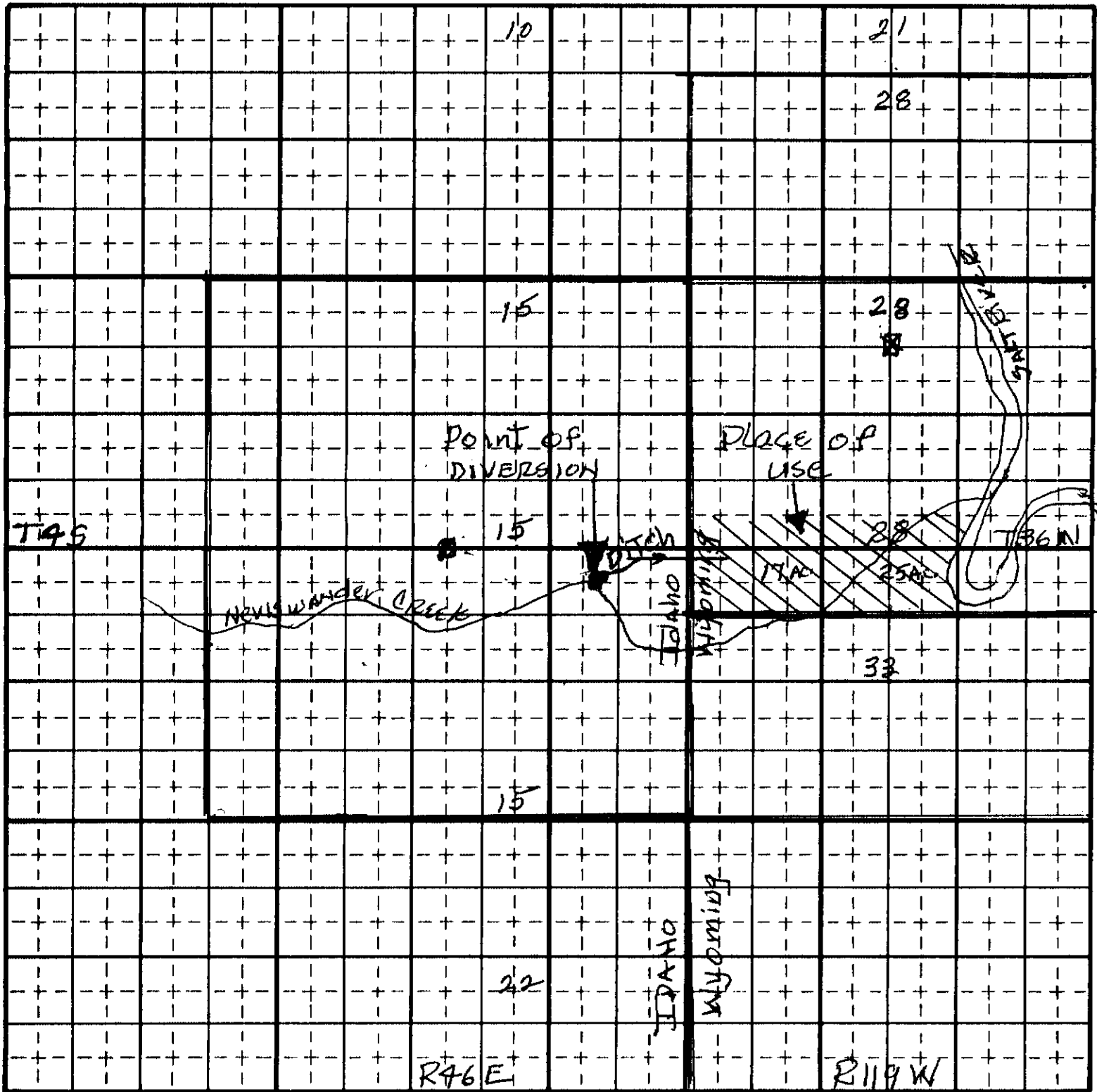
NOV 06 1992

Last Name HOEFMAN Ident No. _____

Copies: White -State, Yellow-Claimant

Map of Project: show clearly the point of diversion, place of use, section number, township, and range number.

Scale: 2 inches equals 1 mile



Last Name HOFFMAN

Ident No. _____

Copies: White-State, Yellow-Claimant

NOV 06 1992

15. Basis of Claim (check one) Beneficial Use _____ Posted Notice _____ License _____ Permit _____

Decree ☒

If applicable provide IDWR Water Right Number _____

Court BONNEVILLE COUNTY Case Number _____ Decree Date 6/27/1928

Plaintiff vs Defendant Robinson Vs Miller (see Judgement, Book 7, Page 264 in Book of Judgements)

16. Signature (s)

(a.) By signing below, I/We acknowledge that I/We have received, read, and understand the form entitled "How you will receive notice in the Snake River Basin 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 2

For Individuals: I do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant (s)

M. Eugene Hoffmann

Date 9/23/89

Nancy S. Hoffmann

Date 9/23/89

For Organizations: I do solemnly swear or affirm that I am _____

Title

of _____, that I have signed the foregoing

Organization

document in the space below as _____ of _____

Title

Organization

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

Signature of Authorized Agent _____

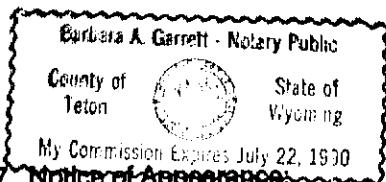
Title and Organization _____

Date _____

State of Idaho/or WYOMING)
County of TETON) SS.

Subscribed and sworn (or affirmed) before me this 23rd day of SEPT 19 89

SEAL



Notary Public Barbara A. Garrett

Residing at TETON COUNTY, WY

My Commission Expires 7-22-90

Please Print Name

17. Notice of Appearance:

Notice is hereby given that I, _____ 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 _____

Address _____

Date _____

Last Name HOFFMANN Ident. Number _____

NOTIFIED

NOV 06 1992

Copies White-State, Yellow-Claimant

4/11/1989

SRBA CLAIMS RECEIVING CHECKLIST #2

CLAIMANT'S NAME HOFFMAN CLAIM # 124-10007

DATE RECEIVED 9/28/89 CK # _____ AMOUNT \$ _____

	YES	NO	Required Info?
1. Is the name and address complete with zip code?	<u>X</u>	_____	*
2. Is a priority date entered?	<u>X</u>	_____	*
Is the priority date acceptable in view of mandatory filing dates?	<u>X</u>	_____	*
See Adjudication Memos #1 and #4 to determine if a Permit is required.	<u>X</u>	_____	*
3. (a) Is a source entered?	<u>X</u>	_____	*
(b) Is a tributary to entered? (if required)	<u>X</u>	_____	*
4. Is the legal description of the p.d. sufficient?	<u>X</u>	_____	*
5. Is there a description of the diverting works?	<u>X</u>	_____	*
6. Are the water uses appropriate for the form? The short form is limited to domestic and stockwater uses with direct diversion. All claims that include storage or instream stockwater must use long form.	<u>X</u>	_____	*
Is the period of use included?	<u>X</u>	_____	*
Is a quantity claimed for each use?	<u>X</u>	_____	*
7. Is a total quantity claimed entered?	<u>X</u>	_____	*
8. If required is a consumptive use entered?	<u>X</u>	_____	*
Is the consumptive use correct?	<u>X</u>	_____	*
9. Are the non-irrigation uses listed properly? If this claim is on the short form, and more than one domestic use is listed, single ownership must be stated. If not under single ownership, see Adjudication Memo # 4.	<u>X</u>	_____	*
10. Is (are) the place(s) of use and purpose(s) indicated?	<u>X</u>	_____	*
11. Is (are) the county(ies) entered?	<u>X</u>	_____	*
12. Is the ownership of p.u. checked?	<u>X</u>	_____	*
13. Are other water rights listed or "none" indicated?	<u>X</u>	_____	*
14. If required, are remarks correct? (If the claimant does not own the place of use, authority for filing the claim must be explained in the remarks.)	<u>X</u>	_____	*
15. Is the basis of the claim indicated?	<u>X</u>	_____	*
16. If the claimant requested a monthly docket sheet, is payment enclosed? (If yes, describe payment status in "Comments" below.)	<u>X</u>	_____	*
17. Is the claim signed by the claimant, and is the signature appropriate? Organizations must complete the organization block.	<u>X</u>	_____	*
18. Has the claim been signed, sealed, and dated by a notary?	<u>X</u>	_____	*
19. Was this claim filed on time, or was an extension granted?	<u>X</u>	_____	*
20. Is the fee enclosed correct?	<u>X</u>	_____	*
21. If this claim is based on an existing water right, has the identification number been entered?	<u>X</u>	_____	*
22. Should this claim be data entered?	<u>X</u>	_____	*

Claim checked by: TC Date: 9/29/89

Claim must be returned to claimant: (Yes) X (No)

Claimant must be notified of modifications: (Yes) X (No)

Receipt Prepared by: _____ Date: _____

Claim data entered by: _____ Date: _____

Sent to claimant by: _____ Date: _____

Checked by: _____ Date: _____

Comments: P/D IN IDAHO. P/U IN WYOMING. NEED TO

RESEARCH COUNTY RECORDS FOR BASIS OF CLAIM

CODE P/U IN REMARKS

NOV 8 6 1989



State of Idaho

DEPARTMENT OF WATER RESOURCES

150 Shoup Ave., Suite 15, Idaho Falls, Idaho 83402 - (208) 525-7161

EASTERN REGION

CECIL D. ANDRUS
GOVERNOR
R. KEITH HIGGINSON
DIRECTOR

Date: September 18, 1989

Nancy and M. Eugene Hoffman
P.O. Box 7302
Jackson, WY 83001

RE: Notice(s) of Claim to a Water Right Returned

Dear Mr. and Mrs. Hoffman:

The Idaho Department of Water Resources (IDWR) is returning your check #3104 (\$92.00) and Notice(s) of Claim to a Water Right because of insufficient information and/or fees. All items on the notice(s) must be correctly completed and fees submitted before the IDWR can process the claim(s).

Please correct the items identified below and return the forms to the IDWR within 30 days of the date of this letter. Failure to return the corrected notice(s) within the 30-day period may result in an assessment of an additional \$50.00 late-fee.

- A separate Notice of Claim must be submitted for each water right, Wolfley Creek (6/1/91) and Newswander Creek (6/1/1881).
- The point where water is diverted from Wolfley Creek (aka Miller Creek), must be listed in Item #4 and on the map of your irrigation system for the Wolfley Creek Notice of Claim.
- The filing fee for each irrigation Notice of Claim is \$50.00 plus \$1.00 per irrigated acre, however, the acreage fee must only be paid once. For example, if you submit two Notices of Claim for the same 42 acres, the total filing fee would be \$142.00.

If you have any questions, please call Tony Olenichak, Water Right Agent, at (208)-525-7161.

Sincerely,

Tony Olenichak
for Ernest Carlsen

Ernest Carlsen
Adjudication Supervisor

Enclosure

NOV 06 1992

CONTINUATION OF ABSTRACT OF TITLE

PREPARED BY

THE OFFICE OF COUNTY CLERK AND
EX-OFFICIO REGISTER OF DEEDS
LINCOLN COUNTY, WYOMING

Sheet No. 17

Recorder's No. 164080

CHARACTER OF INSTRUMENT

Mortgage Deed

GRANTORS

Or the Parties of the First Part

TO

GRANTEES

Or Parties of the Second Part

Wm K. Clinger and Arlean S. Clinger,
and wife

Land Bank Commissioner

Date of Instrument 9/7/45

Date of Record 10/16/45

Book 22 of Mortgages

Page 430

Consideration \$ 700.00

Are Signatures Sealed?

Acknowledged

9/25/45

before Orrin Jenkins

Notary Public and for Lincoln

County Wyo.

Is Official Seal Attached?

Yes

Date of Expiration of Commission 10/20/48

Names of Witnesses

Granting Words

grant, bargain, sell and convey

DESCRIPTION AND REMARKS

W. 10 A. of SE 1/4 Sec. 28 T. 36 N., R. 119 W. 6th P.M., Wyo., con-
taining 50 A. and Lots 3 & 4, excepting the N. 1/2 A. of said Lot 3 Sec. 28 T. 36 N.,
R. 119 W. 6th P.M., Wyo.

Subject to right of way for telephone and electric transmission and distribution
lines, ditches and public roads, as may now exist over and across said property.
together with all water rights, and rights in ditches, canals and laterals, and
rights of way therefor, appurtenant to said premises or used in connection there-
with now and/or at any time during the existence of this mtg., including (but not
limited to) the following: Right to the use of the waters of Housenwender Creek
with priority as of 6/1/81 as evidenced by decree filed 6/27/28 in Book 7 Judg-
ments page 264, rec. Bonneville County, Ida., and to the use of the waters of
Wolfley Creek with priority as of 6/1/91 as evidenced by suppl. order and decree
dated 5/4/34 in Book 9 Judgments page 328, rec. of said County and State,

Knowledge is according to Wyo. Statutory form

Subject to mtg. to Federal Land Bank of Spokane for \$4300.00

JACOB MILLER

WOLFLEY CREEK

PAGE 433 BOOK NUMBERS

4 OF MISSILE RECORD

Judgement Records

Book 7 April 29, 1927

through Oct. 14, 1929

18

IN THE MATTER OF:)
Establishing a Water Right)
in Neuenschwander Creek)
_____)
State of Idaho)
County of Bonneville)

AFFIDAVIT

Glen Robinson and Elsie Robinson being first duly sworn,

depose and say: That we and each of us know that since at least sometime in approximately 1904, water from Neuenschwander Creek has been used regularly and at least annually for irrigation purposes on certain real property in Lincoln County, Wyoming, more particularly described as follows:

In Section 28, Township 36 North Range 119 West of Sixth Principal Meridian, to-wit:
Beginning at the Southwest Corner of Lot 4 which is the SE 1/4 SW 1/4 of said Section, and running thence North 48 rods; thence East 140 rods; thence South 48 rods; thence West 140 rods, to the place of beginning, containing 42 acres of land, together with improvements and water-rights.

We and each of us lived on land adjoining that hereinabove described for many years, and since said date we have had occasion to be in the area frequently since we still had family living in the area and had business interests that required attention there.

We make this affidavit both jointly and severally and for the purpose of establishing the use of the water from the mentioned Creek on the real property hereinabove described for the benefit of the present owners, Brent Robinson and Ilta Robinson, husband and wife, who own the real property as joint tenants and not as tenants in common, with full rights of survivorship.

Elsie M. Robinson
William B. Robinson
(signature)

Subscribed and sworn to before me this

9th day of October 1974.

John M. [Signature]
(notary public)

Residing at Idaho Falls, Idaho

My commission expires Dec. 15, 1976

deceased, and Unknown Heirs and Devisees of C. S. Stevens, deceased, Bonneville County, a municipal corporation, unknown owners and claimants of Lots 33, 34, and 35 in Block 30 of Capitol Hill Addition to Idaho Falls, Idaho, each and all and every one of the, have no right, title or interest in or to or lien or claim upon the said described premises, or any part thereof.

VIII. That the addition in which the said described real estate is located is sometimes written Capital Hill Addition, but that the correct name of said Addition is Capitol Hill Addition, and that wherever either of said names are used in this action, they refer to the same identical addition to the City of Idaho Falls, Idaho.

IX. That the plaintiff is entitled to the relief sought by him as prayed for in his complaint on file herein, and to the decree of this court, quieting title to said described property in the plaintiff, and barring every claim, of every nature and kind, of each and every and all of said defendants.

CONCLUSIONS OF LAW.

As conclusions of law, the Court finds that the plaintiff is the owner of the fee simple title to the premises hereinbefore described, and that this Court should enter a decree confirming his ownership thereof, and that the defendants, and each and every and all of them have no right, title, interest or lien upon, or claim in or to the said premises, or any part thereof.

JUDGMENT AND DECREE.

WHEREFORE, IT IS ADJUDGED AND DECREED that the plaintiff was at the time of the commencement of this action, and now is, the owner absolute, in fee simple, of the premises herein described, and all right and interest in said premises as such owner in fee simple is hereby declared and established.

IT IS FURTHER ADJUDGED AND DECREED that the defendants D.L. Corning, "Jane Doe" Corning, his wife, C.S. Stevens, "Mary Roe" Stevens, his wife, Unknown Heirs and Devisees of C. S. Stevens, Deceased, Bonneville County, a municipal corporation, Unknown owners and claimants to Lots 33, 34, and 35 in Block 30 of Capitol Hill Addition to Idaho Falls, Idaho, and each and every and all of them, and all persons claiming under them, or any one of them, subsequent to the filing of the notice of the pendency of this action, be, and all and every and each of them are hereby forever barred from any, every and all claim or right, or title, to said premises or lien thereon, or any part thereof. That wherever used in connection with this action, the name Capital Hill Addition refers to and means the same as the words Capitol Hill Addition, but that the true and correct name of said addition is Capitol Hill Addition to the City of Idaho Falls, Idaho.

The following is the description of the land and premises affected by this judgment:

Lots 33 34 and 35 in Block 30 of Capitol Hill Addition to the City of Idaho Falls, Bonneville County, State of Idaho, according to the recorded plat thereof, together with the tenements, hereditaments and appurtenances thereunto belonging or in any wise appertaining.

Filed July 27, 1928.
Geo. Witt Clerk,
Harrison, Dennis, County.

C. J. Taylor, District Judge.

Civil # 2890

IN THE DISTRICT COURT OF THE NINTH JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR BONNEVILLE COUNTY.

CYNTHIA MILLER AND JACOB A. MILLER, Plaintiffs,

-vs-

W. G. ROBINSON, ELSIE ROBINSON, and
CLAUDE ROBINSON, Defendants.

FINDINGS OF FACT, CONCLUSIONS OF
LAW, AND DECREE.

Compared

This cause came on regularly to be heard before the Court on the 11th day of June, 1928, plaintiffs appearing in person and by their attorney of record O. A. Johannesen, and the defendant W. G. Robinson appearing in person and by his attorneys of record W. M. Holden and Lewis A. Lee. Witnesses were sworn and testified for and on behalf of the plaintiffs, and witnesses were sworn and testified for and on behalf of the defendants, and documentary evidence was introduced, whereupon the Court took the matter under advisement; and the Court being fully informed as to the facts and the law, and the said parties having submitted to the jurisdiction of the Court, the Court makes the following Findings of Fact, Conclusions of Law, and Decree and Judgment:

I. That the Court has jurisdiction of all the parties to said action and also of the subject matter in controversy.

II. That the plaintiffs, Cynthia Miller and Jacob A. Miller are husband and wife; that the defendant Clarence Ashmont has been and is merely a tenant of the defendants W. G. Robinson and Elsie Robinson his wife, and that said named defendant has no interest whatsoever in the subject matter of this controversy and claims no right to the use of any of the waters of Neuenschwander Creek.

III. That sometime on or about the first day of June, 1881, Cynthia Miller, one of the plaintiffs in this action, settled upon the West Half of the Southeast Quarter (W1/2SE1/4) and the Southeast Quarter of the Southeast Quarter (SE1/4SE1/4), and Lots Three and Four (3-4) in Section 28, Township 36, North, Range 119 West of the Sixth Principal Meridian, in the State of Wyoming, and that the said named plaintiff has at all time from said date, been the owner of and in the possession of the said described premises; that the said named plaintiff is now the owner and in possession of said property.

IV. That sometime on or about the first day of June, 1881, for the purpose of irrigating the land described in the preceding paragraph, the plaintiff Cynthia Miller appropriated and diverted by means of headgates and a ditch, all of the normal flow of water flowing in what is known as Neuenschwander Creek; that the said named plaintiff, on or about said time, constructed a dam across the said Neuenschwander Creek and installed therein a proper headgate, said dam and headgate being located at a point near the center of Section 15, Township 4 South, Range 46 East Boise Meridian, in Bonneville County, Idaho; that the said named plaintiff also, at the said time, constructed an irrigating ditch having its point of intake upon the said named Creek, as aforesaid, and extending thence in a Northeastern and easterly direction through the fractional East Half of said Section 15, to the land herein first described and owned by the said Cynthia Miller; that the ditch constructed and maintained by the said Cynthia Miller is approximately 5 feet wide in the bottom and about 2 feet deep, with banks of the usual slope.

V. That the said Cynthia Miller, was the first person in point of time, to appropriate and use for beneficial purposes, the waters of the said Neuenschwander Creek, and that she has continued to divert and use from the said Creek, all of the normal flow waters flowing in said Creek, during the irrigating season of each and every year; that from the year 1881, and continuously, each and every year during the irrigating season, the said Cynthia Miller has, under the claim of absolute ownership, diverted and used all of the aforesaid normal flow waters in the said named Creek, upon the land herein first described and owned by said Cynthia Miller, for the irrigation of said lands, and by means of such irrigation has grown crops thereon; that the land herein first described is arid in character, and would not grow the crops successfully and profitably unless irrigated; that all of the aforesaid waters flowing in the said named Creek are necessary to the proper irrigation of the said described lands and the successful growing of crops thereon.

VI. That the ditch hereinbefore referred to, and which has its point

of intake on the said Neuenschwander Creek near the center of Section 15, Township 4 South, Range 46 East Boise Meridian, extends through the farming land owned by the defendants W. G. Robinson and Elsie Robinson, and now occupied under a lease held by the defendant Clarence Ashment; that the plaintiff Cynthia Miller has, at all times from on or about the first day of June, 1881, claimed and now claims to be the owner of and entitled to the use of the aforesaid ditch and the necessary right-of-way therefor; that the said claim of ownership by the said Cynthia Miller has been open and notorious and has been fully known at all times to the defendants herein.

VII. That since the filing of the complaint in this action, and sometime on or about the 12th day of September, 1926, plaintiffs were induced to enter into a written agreement with the defendant W. G. Robinson, and which agreement has been introduced in evidence in this action; that the said agreement and its terms were mis-understood by the plaintiffs, and therefore should be annulled and cancelled, and rendered for nought.

VIII. That the defendants W. G. Robinson and Elsie Robinson are owners of certain lands situated in Bonneville County, State of Idaho, and described as the East Half of the Southwest Quarter (E $\frac{1}{2}$ -SW $\frac{1}{4}$), and Lots Three and Four (3-4) in Section 15, Township 4 South, Range 46 East Boise Meridian, about thirty acres of which can be irrigated from the aforesaid Neuenschwander Creek. That sometime on or about the 12th day of May 1904, William P. Robinson, the predecessor in interest of the defendant W. G. Robinson, obtained a permit, being Permit No. 593, from the Department of Reclamation of the State of Idaho, authorizing the appropriation of 2.8 second feet of the waters of said Creek with a priority date of May 12, 1904.

IX. That the plaintiffs herein have irrigated approximately one hundred acres of land on the premises owned by them and hereinbefore described, such appropriation and use dating from the year 1881. That excepting for the plaintiffs and the defendants W. G. Robinson and Elsie Robinson, there are no other person or persons using water from the said Neuenschwander Creek.

X. That the plaintiffs have consented, in open Court, that a decree may be entered by this Court to the effect that plaintiffs have the first and prior right to the use of all of the said normal flow waters of Neuenschwander Creek, for use upon the land described in paragraph III of these Findings of Fact, with a priority date of June 1st 1881, and that when said water is not in use by the plaintiffs for irrigation of their said lands, the said water may be used by the defendants Robinson in the irrigation of thirty acres of their land, and with the further provision that after the plaintiffs have fully and completely irrigated their said lands for the first time each season, and the water is returned back to the Creek, the said water shall be permitted to flow continuously for a period of seven consecutive days, so that it can be diverted and used by the said defendants Robinson upon the thirty acres of their land, or so much of said water as may be necessary in the irrigation of their said land, and that after the said period of seven days, the said plaintiffs may again divert all of the normal flow waters of said Creek and use the same in the second irrigation of their said lands, and that after the completion of the second irrigation and return of the water to the Creek, the defendants Robinson shall be permitted to divert and use the said water or as much thereof as may be necessary for another continuous period of seven days, and that in this manner the said plaintiffs and defendants Robinson shall alternate the use of the said water during the irrigation season of each year.

XI. That "Cynthia Hunt Miller" is the same identical person as "Cynthia Miller", one of the plaintiffs in the above entitled action; that the name "Neuenschwander Creek" is sometimes written "Newenswander Creek", but that both names re-

present and identify the same stream of water, and the creek from which the parties of this action are now diverting and using Waters as referred to and described above.

Conclusions of Law.

As conclusions of Law, the Court finds that the plaintiffs are entitled to the decree of this Court, in accordance with the findings of fact herein contained and are entitled to have decreed to them the normal flow waters of Neuenschwander Creek for the irrigation of their said described lands, subject only to the provisions and arrangements with respect to the alternating of the use of the water as hereinbefore provided for.

Decree and Judgment.

It is hereby ordered, adjudged and decreed:

I. That the agreement entered into on the 13th day of September, 1928 by and between the plaintiffs and the defendant W. G. Robinson, be, and the same is hereby cancelled, annulled and by the decree of the Court rendered as though the same had never been entered into.

II. That Cynthia Miller and Jacob A. Miller, are the owners of and entitled to the use of all of the normal flow waters flowing in what is known as Neuenschwander Creek, a natural stream of water situated in the State of Idaho, and being principally located in the Southeastern part of Bonneville County, in said State, with a priority date of June 1st, 1881, subject only to a certain arrangement relative to the use of said water, as herein more fully set out.

III. That the said named plaintiffs are the owners of a certain irrigation ditch having its point of intake on the Neuenschwander Creek at or near the center of Section 15, Township 4 South, Range 46, East Boise Meridian, and which extends from said point of origin through the fractional East half of said described Section, in a northeasterly and easterly direction, and crosses the State line between the States of Idaho and Wyoming, and thence to and on the lands of the plaintiffs, described as:

The West Half of the Southeast Quarter ($W\frac{1}{2}-SE\frac{1}{4}$) and the Southeast quarter of the Southeast Quarter ($SE\frac{1}{4}-SE\frac{1}{4}$) and Lots 3 and 4, in Section 28, Township 36 North, Range 119 West of the Sixth Principal Meridian, in the State of Wyoming.

IV. That the said plaintiffs have been at all times, from and ever after the first day of June, 1881, and they now are, the owners absolute, of the said normal flow waters hereinbefore referred to, and of the ditch hereinbefore described, and the right and interest in said waters and in said ditch, as such owners, dating from the first day of June, 1881, is hereby declared and established, subject only to the provisions hereinafter set out relative to the use of said water.

V. That the plaintiffs herein, during each annual irrigation season, in perpetuity, and their successors and assigns, are entitled to use, before any other person or persons whomsoever, for the irrigation of the West Half of the Southeast Quarter, and the Southeast quarter of the Southeast Quarter, and Lots 3 and 4, in Section 28, Township 36, North, Range 119 West of the Sixth Principal meridian, in the State of Wyoming, all of the normal flow of waters flowing in Neuenschwander Creek, and which may be required by them for the first irrigation of all crops growing and standing upon the said described premises, and to continue and use of all of such waters until all of the crops upon the said lands have been fully and completely irrigated; that after the said plaintiffs, their successors and assigns, have completed the first irrigation of all of the crops growing and standing upon the premises aforesaid, they shall permit the defendant W. G. Robinson, his successors and assigns, to have the use of all of the normal flow waters of said Neuenschwander Creek, or so much thereof as may be necessary, and which may be required in the irrigation of thirty acres of the East Half of the Southwest Quarter, and Lots 3 and 4, Sec-

tion 15, Township 4 South, Range 46 East Boise Meridian, Bonneville County, Idaho, and to continue the use of such water for a period of seven (7) days, such use to be repeated annually, in perpetuity, after the plaintiffs, their successors and assigns, have completed the first irrigation of their premises, hereinbefore described; that after the defendant W. G. Robinson, his heirs and assigns, have had the use of the aforesaid water, or so much thereof as they may have required, for a period of seven consecutive days, then the use of the water shall revert again to the plaintiffs herein, their heirs and successors, who shall have the right to use all of the waters of said Neuenschwander Creek for the second irrigation of their premises, hereinbefore described, and to retain the use of said water until all of the crops growing and standing, upon the aforesaid premises have been fully and completely irrigated; that after plaintiffs, their successors and assigns, have completed the second irrigation of their aforesaid lands, the use of said waters shall revert to the defendant W. G. Robinson his heirs and assigns, who shall be entitled to the use thereof for a period of seven consecutive days; that thereafter the said water shall, in like manner and for like periods, rotate back and forth between the aforesaid parties; that nothing in this decree shall be construed to in any manner limit the number of days that the said plaintiffs, their heirs and assigns, shall have the use of the aforesaid waters, for each irrigation, it being hereby expressly provided that the said named parties shall be entitled to the use of all of said waters, during each irrigation, until all of the crops growing and standing upon their said described premises have been fully and completely irrigated, the said plaintiffs and their heirs and assigns being the sole judges as to the length of time required in so doing; that the defendant W. G. Robinson, his heirs and assigns, are expressly limited to the use of said water to periods of not exceeding seven (7) days, for each successive irrigation, such time to commence with the day succeeding the day on which the plaintiffs, their heirs and assigns, have completed the irrigation of the crops on their said described lands, and have so advised the said W. G. Robinson, his heirs and assigns.

Done this 27th day of July, 1928.

Filed July 27, 1928
Geo. Witt, Clerk,
By Harrison Dennis, Deputy.

C. J. Taylor
District Judge.

Civil # 3205

IN THE DISTRICT COURT OF THE NINTH JUDICIAL DISTRICT, OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNEVILLE.

VERA GEIST

Plaintiff,

vs.

DEFAULT

FRANCIS GEIST

Defendant.

IN THIS ACTION, The defendant Francis Geist, having been regularly served with process, and having failed to appear and answer the Plaintiff's complaint on file herein, and the time allowed by law for answering having expired, upon application of A. H. Wilkie, attorney for plaintiff, the default of the said defendant Francis Geist, in the premises is hereby duly entered according to law.

SEAL

Geo. Witt, Clerk of said Court.

ATTEST My hand and seal of said Court this third day of August., A.D. 1928.

Geo. Witt, Clerk.

By Alice K. Bale' Deputy Clerk.

Filed Aug. 3, 1928
Geo. Witt, Clerk,
By Alice K. Bale', Deputy.