

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: A25-04026
Date Received: 4/08/1988
Receipt No: E000078

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: MAIBEN S. JONES 208-523-1472
Address: 3205 CENTRAL AVE.
IDAHO FALLS, ID 83401

AND/OR

Name: LEDA S. JONES
Address: 3205 CENTRAL AVE.
IDAHO FALLS, ID 83401

AND/OR

Name: M. DUANE JONES 208-522-5985
Address: 1020 12TH STREET
IDAHO FALLS, ID 83404

2. Date of Priority: MAY 01, 1888

3. Source: MUD CREEK Trib. to: SELLARS CREEK
SELLARS CREEK, MIDDLE FORK WILLOW CREEK
SELLARS CREEK, SOUTH FORK SELLARS CREEK, MIDDLE FORK

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
02S	40E	8		SE	NE		BINGHAM
				NE	SE		BINGHAM
		9		SW	NW		BINGHAM

5. Description of diverting works:
HEADGATES TO DITHCES.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
IRRIGATION	05/01	10/01	9.200		

7. Total Quantity Appropriated is:
9.200 C.F.S. (and/or) A.F.A.

8. Total consumptive use is Acre Feet Per Annum.

A25-04026

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Date: 04/08/88

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A2504026

9. Non-irrigation uses:
NONE.

10. Place of Use:

Township	Range	Section	1/4	of	1/4	Lot	Use	Acres
02S	40E	9	NW		NE		IRR	3.0
			SW		NE		IRR	15.0
			SE		NE		IRR	15.0
			NW		NW		IRR	10.0
			SW		NW		IRR	40.0
			SE		NW		IRR	37.0
			NE		SW		IRR	20.0
			NW		SW		IRR	35.0

Section Acres 175.0

Total Acres 175.0

11. Place of use in counties: BINGHAM

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

13. Other Water Rights Used:
NONE.

14. Remarks:

SELLARS CK, MIDDLE FORK KNOWN LOCALLY AS WILLIAMS CK.
SOURCES ARE MUD CK & SELLARS CK., S. FORK, TRIB. SELLARS CK.,
MIDDLE FORK; SELLARS CK., MIDDLE FORK, TRIB. WILLOW CK.

15. Basis of Claim: STATUTORY CLAIM
Water Right Number:

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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: _____

For Individuals:

I/We do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant(s): M. Duanglana Date: 4-8-88

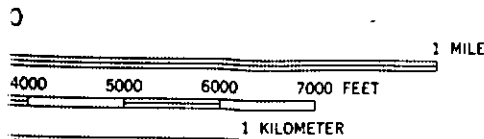
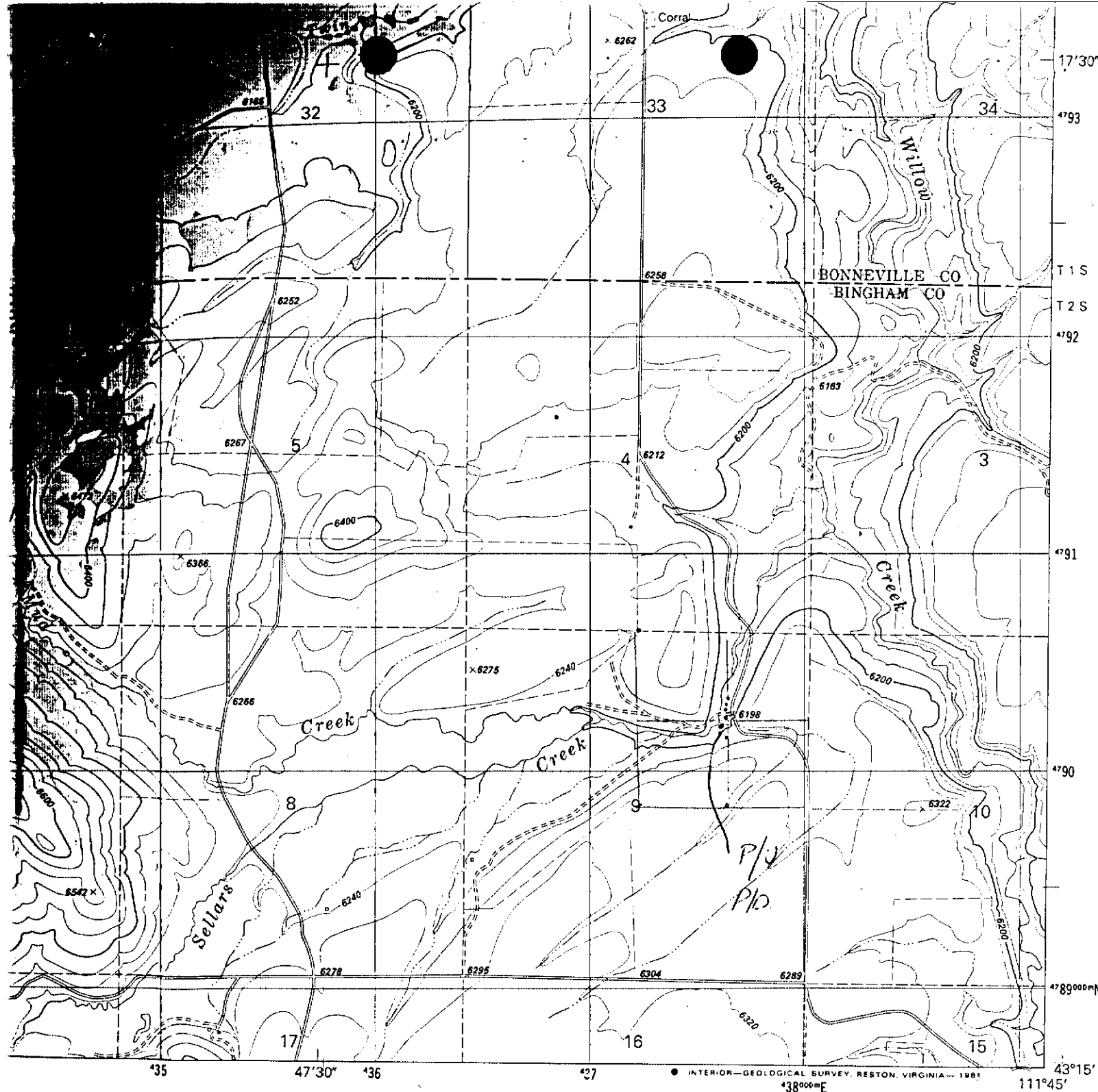
Date: _____

State of Idaho)
County of Bonneville) SS.

Subscribed and sworn (or affirmed) before me this 8th day
of April 19 88 William Wray
Notary Public

Seal

Residing at Idaho Falls, Idaho
My Commission Expires 5/29/1991



10 FEET
DATUM OF 1929



QUADRANGLE LOCATION

ACCURACY STANDARDS
ADO 80225, OR RESTON, VIRGINIA 22092
ABOLIS IS AVAILABLE ON REQUEST

ROAD CLASSIFICATION

Primary highway, hard surface Light-duty road, hard or improved surface
Secondary highway, hard surface Unimproved road
○ Interstate Route ○ U. S. Route ○ State Route

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BONE, IDAHO
SE/4 AMMON 15' QUADRANGLE
N4315-W11145/7.5

1981

DMA 3670 IV SE—SERIES V893

A 25-10004

Y-

Log for claim 25-04026

Spatial Dynamics CAT

11/15/00

TR	SEC	QQ	Acres Claimed	Acres Found	COMMENT
02s40e	9	NWNE	3	40	Indiscernible
02s40e	9	SWNE	15	40	Indiscernible
02s40e	9	SENE	15	40	Indiscernible
02s40e	9	NWNW	10	40	Indiscernible
02s40e	9	SWNW	40	40	Indiscernible
02s40e	9	SENW	37	40	Indiscernible
02s40e	9	NESW	20	40	Indiscernible
02s40e	9	NWSW	35	40	Indiscernible
Totals:			175	320	

AJ5809NP
No. A25-04026

IDAHO DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM PROFILE REPORT

DATE: 10/18/00
PAGE: 35

OWNER CODE	NAME & ADDRESS	PRIORITY DATE	WATER USE	USE PERIOD FROM TO	DIVERSION RATE	DIVERSION VOLUME
C	MAIBEN S JONES 3205 CENTRAL AVE IDAHO FALLS ID 83401 (208) 523-1472	05/01/1888	IRRIGATION	05-01 10-01	9.200 CFS	
					TOTAL DIVERSION: CONSUMPTIVE USE:	9.200 CFS 437.50 AFA

C LEDA S JONES
3205 CENTRAL AVE
IDAHO FALLS ID 83401

C M DUANE JONES
1020 12TH STREET
IDAHO FALLS ID 83404
(208) 522-5985

Water Source: MUD CREEK
SELLARS CREEK, MIDDLE FORK
SELLARS CREEK, SOUTH FORK

Tributary to: SELLARS CREEK
WILLOW CREEK
SELLARS CREEK, MIDDLE FORK

Stage: STATUTORY CLAIM

Point(s) of Diversion: T02S R40E S08
S09

SENE
SWNW NESE

BINGHAM County
BINGHAM County

Place of use Legal Description for: IRRIGATION

NE												NW				SW				SE								
T	R	S	: Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	: Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	: Lt	Ac	Lt	Ac	: Lt	Ac	Lt	Ac	: SUM	
02S	40E	9	:								:								:				:				:	175.0
TOTAL ACRES																												175.0

POU County: BINGHAM

Non-Irrigation Uses: NONE.

Other Rights: A25-10410.

Other Water Rights Listing Overlapping Place(s) of Use:
A25-10004 A25-10410

Remarks: GEN SELLARS CK, MIDDLE FORK KNOWN LOCALLY AS WILLIAMS CK.
SOURCES ARE MUD CK & SELLARS CK., S. FORK, TRIB. SELLARS CK.,
MIDDLE FORK; SELLARS CK., MIDDLE FORK, TRIB. WILLOW CK.

Dates: Exam Made Date:

Verified Date:

Objection Filed Date:

Misc: Water District Number:

Field Inspection Flag:
Presumption Flag:

AJ5809NP
No. A25-04026

IDAHO DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM PROFILE REPORT

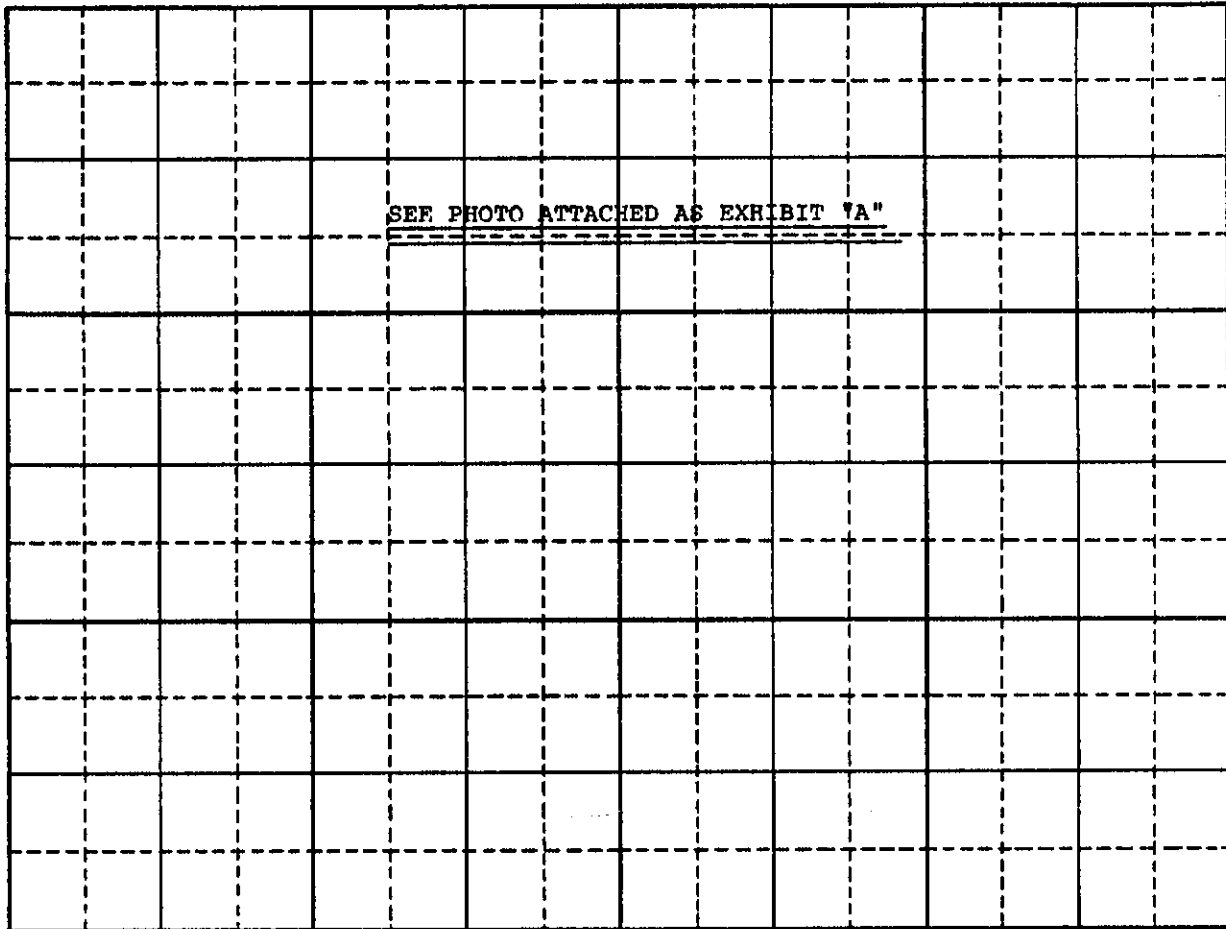
DATE: 10/18/00
PAGE: 36

=====

Audit: 04/08/88 MCC 05/18/88 NOYES 09/29/88 OLENICHA 03/29/95 POST-STD

(7) If you are claiming water as a member of an organization, list name of organization: None

(6) Remarks See - Affidavit of Maiben Jones dated July 21, 1977; Exhibit "B"; Affidavit of Tom Shurtliff dated July 21, 1977, Exhibit "C"; Affidavit of Orin Empey dated August 10, 1977, Exhibit "D"; Affidavit of Byrant J. Stringham dated July 21, 1977, Exhibit "E"; Affidavit of Elvin Williams dated July 21, 1977, Exhibit "F".



Scale: 2 inches equal 1 mile.

Map should show the location of the point of diversion and the place of use of the water by 40-acre subdivisions, section, township and range of the public land survey system.

State of Idaho)
) ss.
County of Bonneville)

Be it known that the undersigned, being duly sworn, deposes and says that he, she, they subscribed the foregoing claim to a water right, together with all attached information, and that the matters and facts therein are true to the best of the affiants knowledge.

Sworn to before me this 6 day of January 1978

Notary Public

Residing at Idaho Falls, Idaho

My commission expires February 23, 1978

CW	2/15/78	For Department Use Only			
Received by	mr	Date	12-14-77	Exception filed by:	Forwarded to
Prelim. check by	jj	Date	12-14-77		claimant by:
\$10.00 fee received by	MLB	Date	12-14-77	#10211	
Approved for publication by	me	3-8-78			
Published in	Blackfoot News				
Dates	February 23 and March 2, 1978				





April 25, 1991

NOTICE OF CLAIM A25-10004, A25-04026, & A25-10410

Maiben Jones
3205 Central Ave.
Idaho Falls, ID 83401

RE: **Evidence of Priority**

Dear Mr. Jones:

The Notice(s) of Claim identified with the number shown above your name has been filed in the Snake River Basin Adjudication (SRBA). The Notice(s) indicates the water usage is based on "Beneficial Use" or a "Statutory Claim". Water rights of this type are established by the historical use of water, dating back to when water was first used for the purpose claimed, at or on the place of use identified on the Notice. The date the water was first put to use, known as the priority date, has not been confirmed by a License, Decree, or Permit. For this reason, proof must be provided supporting the priority date.

For your reference I have provided a printout of your Notice(s) and the pamphlet entitled "**Evidence of Priority**". The pamphlet describes the types of evidence required and suggests which documents will fulfill this requirement. While I encourage you to read all of the pamphlet, I direct your attention to the two sections entitled "**What Kind of Evidence is Required**" and "**Some Examples of Documents Which May Be Evidence of the Priority Date**".

It is our goal to recommend this historical water rights within the Snake River Basin as accurately as possible. Field exams to verify other items of the Notice(s) have been or soon will be conducted by Department personnel. **But, the Department will not recommend the Notice(s) be decreed by the court if no evidence of a priority date is submitted.**

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Maiben Jones

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Please submit the required evidence supporting the priority date(s) by **May 28, 1991**, referencing all documents with the corresponding Notice number(s). If you have any questions not covered by this letter or the enclosed pamphlet, please contact this office.

All Notices required to submit this evidence are currently being reviewed for recommendation to the court. Hence, the need for expediency on your part or your agency. every effort should be made to submit this information within 30 days of the date of this letter.

Respectfully submitted,

Ernest Carlsen
Water right Supervisor, Adjudication

EC:sc

Enclosure: Brochure on "Evidence of Priority"
Proof Report

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(Exhibit "F")

AFFIDAVIT

STATE OF IDAHO }
 } ss.
County of Bonneville)

ELVIN WILLIAMS, being first duly sworn upon oath, deposes and says:

That he makes this Affidavit in support of claim to water right by Maiben S. Jones and Leda S. Jones, husband and wife, of 3205 Central Avenue, Idaho Falls, Idaho, with respect to their ranch and real property located south of Bone, Idaho, on what is commonly known as the south fork and middle fork of Sellars Creek and Mud Creek. That said Sellars Creek is also known as Little Willow Creek and/or Williams Creek. That affiant states as follows:

1. That affiant resides at 1041 Bear Avenue, Idaho Falls, Idaho.
2. That affiant was born February 20, 1901, at Basalt, Bingham County, Idaho, the son of Meshack Williams, aka Mash Williams and Rebecca Williams.
3. That your affiant has examined the Exhibit "A" submitted with said claim to water right by Maiben S. Jones and Leda S. Jones, his wife, the same being an aerial photo with the numbers 16011 171 301 in the upper right hand corner dated 1977 and with a map legend attached thereto. That for all purposes of this Affidavit, said Exhibit "A" is true and correct with respect to the designations thereon including the location of real property, the streams, dams, diversions, flume, ditches and irrigation system as they existed on the Maiben Jones Ranch from the time affiant first became familiar therewith until the present date.
4. That the streams located on the Maiben Jones Ranch, formerly the Sellars Ranch and Williams Ranch, are Mud Creek running from west to east; middle fork of Sellars Creek running

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from west to east and the south fork of Sellars Creek running from west to east.

5. That the real property presently owned by Maiben Jones and as depicted in the said Exhibit "A" was purchased by affiant's father, Mash Williams and affiant's brother, Spencer Williams, both of whom are now deceased, in approximately 1900. That affiant lived on said ranch for many years continuously from 1901 to 1926, and has lived in the area of the Maiben Jones Ranch and is familiar with the ranch and its irrigation system and has been all of his natural life.

6. That in 1918, David Jones, the father of Maiben Jones, purchased the Maiben Jones Ranch from affiant's brother, Spence Williams, during the latter part of July of said year. That part of the original Williams Ranch was sold by affiant's father to Alfred Empey and Abraham Day who later sold to Oren Jake Empey who then sold to the Mormon Church, the present owner of the property located directly to the west of the Maiben Jones Ranch. Affiant's brother, Spence Williams, bought the squatters rights of Kellie Sellars and homesteaded what is now known as the Jones Ranch including the headquarters and the irrigated lands.

7. That after his purchase of said real property, affiant's brother, Spence Williams, continuously irrigated the irrigable lands of said Maiben Jones Ranch and diverted from Mud Creek, middle fork of Sellars Creek and south fork of Sellars Creek, all water that was possible for said ditches to hold. That said waters were diverted by means of dams, ditches and flume and in the manner as depicted in Exhibit "A" and have been to affiant's personal knowledge since 1901.

8. That affiant has been familiar with the dams, diversions, flume and irrigation system on the Maiben Jones Ranch since being a child and remembers fishing said streams and irrigating the lands on the Maiben Jones Ranch by said

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irrigation system and in the manner and with the water as depicted in Exhibit "A". That affiant is informed and verily believes that said dams, diversions, ditches, flume and irrigation system was installed originally by Kellis Sellars in the late 1870's or early 1880's. That to affiant's knowledge, said irrigation system and the waters appropriated thereby have been continuously used from that date until the present date to irrigate the Maiben Jones lands as depicted in Exhibit "A" and in the manner and by the means as so depicted. That said waters were diverted and used from in May to the latter part of September or October of each year when affiant lived on said ranch.

9. That affiant knows of no time when any person, water company, corporation, government entity or government agency has ever stopped or attempted to stop the use and diversion of said waters as aforesaid and in the manner and means as aforesaid. That affiant knows of no time since the early 1880's to the present date when said waters were so diverted and so used as aforesaid.

DATED This 11 day of July, 1977.

Elvin Williams
Elvin Williams

Subscribed and sworn to before me this 11 day of July, 1977.

Notary Public for Idaho
Residing at Idaho Falls, Idaho
My Commission expires: 12/31/81

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AFFIDAVIT

STATE OF IDAHO)
County of Bonneville) ss.

BRYANT J. STRINGHAM, being first duly sworn upon oath,
deposes and says:

That he makes this Affidavit in support of claim to
water rights by Maiben S. Jones and Leda S. Jones, 3205
Central Avenue, Idaho Falls, Idaho, on their ranch located
south of Bone, Idaho, on the middle fork of Sellars Creek,
south fork of Sellars Creek and Mud Creek aka Little Willow
Creek or Williams Creek. That in respect thereto affiant
states the following:

1. That affiant was born May 19, 1901, in the City
of Holden, Millard County, Utah. His father was Benjamin J.
Stringham and his mother was Olive Ann Stringham.

2. That on May 3, 1916, his mother married David Jones,
the father of Maiben S. Jones.

3. That in 1918 when affiant was 17 years of age, his
family moved to join his stepfather, David Jones, on the Jones
Ranch located south of Bone, Idaho. That on arriving at the
Jones Ranch in 1918, affiant and his family including his step-
father and Maiben Jones, lived in the old Adrian Empey home
for approximately 2 winters and operated the ranch.

4. That in August of 1918 affiant cut hay from the
meadow depicted in Exhibit "A" as irrigated lands.

5. Except for the years 1920 through 1922, affiant
lived on the ranch year round from 1918 to 1931.

6. That affiant has examined the Exhibit "A", an
aerial photo dated 1977 with the numbers 15011 171 301 in the
upper right hand corner which said aerial photo contains a
solid red line outlining the boundaries of the Maiben Jones
Ranch and containing the legend as set forth in the legend
attached to said Exhibit "A". That the Jones Ranch, the dams,

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diversions, flume, ditches, etc., are depicted in Exhibit "A" as they were in 1918 to the present day with respect to location, size and means or method of use.

7. From 1918 to 1931, excepting the years 1920 and 1922, affiant irrigated the meadows and lands on the Maiben Jones Ranch by the dams, diversions, ditches and flume and irrigation system as described on the aerial photo, Exhibit "A". That during all of such irrigation period from May 1 through October 31 of each year, the irrigation ditches ran at a full capacity. That during all times from 1918 to 1931, the said ditches ran so full of water that excess water would run over the top and back into the streams.

8. That said irrigation ditches never washed out as the same were heavily sodded indicating that they had been in existence for many, many years. That affiant was informed and verily believes that said ditches, dams, diversions and flume were installed by Kellis Sellars in the early part of 1880 or prior and that the waters of said streams were used and have always been used and appropriated for irrigation of said lands as depicted in Exhibit "A".

9. That your affiant has been familiar with said ranch on occasion since 1931 and knows that the dams, diversions, flume and ditches have not been extended or expanded except the cleaning of ditches and the installation of newer head gates.

10. That the dams, diversions, ditches and stream locations as described in Exhibit "A" are exactly the same as they were in 1918 when affiant first became familiar with the real property, the middle fork of Sellars Creek, the south fork of Sellars Creek and Mud Creek and the areas irrigated from 1918 through 1931 and to the present date are the same as those so depicted in said Exhibit "A".

11. That from 1918 through 1931, your affiant knows of

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no time when the ditches were not filled with water to their full capacity and irrigation of the meadows depicted in Exhibit "A" were irrigated from approximately May 1 to October 31 of each year.

12. That from 1918 through 1931 no person, water company, corporation, government entity or any other entity prevented or attempted to prevent the Jones from irrigating said land and diverting the waters of Mud Creek, south fork of Sellars Creek and the middle fork of Sellars Creek in the capacity and manner described in this Affidavit and as depicted in the aerial photo, Exhibit "A".

DATED This 21ST day of July, 1977.

Bryant J. Stringham
Bryant J. Stringham

Subscribed and sworn to before me this 21ST day of July, 1977.

[Signature]
Notary Public for Idaho
Residing at Idaho Falls, Idaho
My Commission expires: 6/1/79

AFFIDAVIT

STATE OF IDAHO)
) ss.
County of Bonneville)

OREN JAKE EMPEY, being first duly sworn upon oath,
deposes and says:

That he makes this Affidavit in support of claim to a water right filed by Maiben S. Jones and Leda S. Jones, his wife, relative to the Jones real property located south of Bone, Idaho, on the streams of Sellars Creek and Mud Creek, also known as Williams Creek and Little Willow Creek. In this regard, your affiant states the following:

1. That affiant resides at 528 10th Street in the City of Idaho Falls, Bonneville County, State of Idaho.

2. That affiant was born on March 30, 1901, in Ammon, Bonneville County, State of Idaho, and his father was Alfred Empey and his mother was Maria Empey.

3. That he first became familiar with the Jones Ranch in 1913 as his father homesteaded on Sellars Creek after the completion of the United States Government Survey. That the property so homesteaded by his father is now known as the Mormon Church Farm. That as a young boy in 1913 he watered a garden out of the south fork of Sellars Creek and took some water out of the middle fork of Sellars Creek to water alfalfa. This they did for approximately two (2) years but ceased so to do as the alfalfa would turn yellow. The watering of alfalfa was done between 1914 and 1916.

4. That your affiant has examined the aerial photo map and map legend dated 1977, and marked Exhibit "A", as a part of the claim to water rights submitted by the said Maiben S. Jones and Leda S. Jones, his wife. Said exhibit also has in the top right hand corner the numbers 16011 171 301 and a

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the time of examination contained a solid red outline of the Maiben Jones property, the dams and diversions on the middle fork and south fork of Sellars Creek together with the diversions located on Mud Creek and other items as contained in the legend submitted with said claim to water right.

5. That your affiant knows of his own knowledge that the information contained in said aerial photo (Exhibit "A") is accurate and that the irrigation system, including the diversions and irrigation ditches, head gates and flumes were on the Maiben Jones property when your affiant first saw the same in 1913. That said diversions, ditches, dams, flume and irrigation system were in existence when your affiant moved from said area in 1961.

6. That your affiant purchased the real property homesteaded by his father in approximately 1935 and lived there until 1961.

7. That affiant has been familiar with the said Sellars Creek and Mud Creek and the irrigation system belonging to Maiben Jones since 1913 and has fished said streams, worked cattle therein and has been totally familiar with the diversion of waters by Maiben Jones and his predecessors since 1913. That during said time, your affiant has continuously observed up to 1961, the irrigation procedures on said real property, the diversions and use of irrigation ditches and flume for the purpose of irrigating the real property belonging to Maiben Jones as described and depicted in Exhibit "A". That from 1913 through 1961, your affiant has observed that the irrigation system as depicted in said Exhibit "A" on the Maiben Jones Ranch was used and did in fact divert the waters from the middle fork of Sellars Creek, the south fork of Sellars Creek and from Mud Creek and that the ditches running from such diversions have been filled to their capacity at all times from approximately May 1 to October 31 as long as there was water in said streams. That said dams, ditches, flume and

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irrigation system was the same size and shape in 1913 as in 1961, with the same water carrying capacity.

8. That your affiant knows of no time from 1913 through 1961, that the Maiben Jones real property as set forth in Exhibit "A" was not irrigated by said dams, diversions, flume and ditches. That from 1913 through 1961, there has never been a time when the use of said waters has been prevented or stopped by any person, company, corporation, government entity or political subdivision. That for that period of time the water has always been used as described herein.

DATED This 10th day of July, 1977.

Oren Jake Empey
Oren Jake Empey

Subscribed and sworn to before me this 10th day of July, 1977.

Notary Public for Idaho
Residing at Idaho Falls, Idaho
My Commission expires: 8/15/1982

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NOV 10 1982

(Exhibit "C")

AFFIDAVIT

STATE OF IDAHO)
) ss.
County of Bonneville)

THOMAS IRA SHURTLIFF, being first duly sworn upon oath,
deposes and says:

That he makes this Affidavit in support of claim to
water right of Maiben S. Jones and Leda S. Jones on the Maiben
Jones Ranch and real property located south of Bone, Idaho, on
the middle fork of Sellars Creek, south fork of Sellars Creek,
aka Little Willow Creek or Williams Creek and Mud Creek. That
in respect thereto, affiant states as follows:

1. That affiant was born August 23, 1888, in Downey,
Idaho. Affiant moved to Ammon, Idaho, when five (5) years of
age in 1893. That his father's name was Selah Shurtliff and
his mother's name was Harriet Howe Shurtliff.

2. That affiant first became acquainted with the real
property now known as the Maiben Jones Ranch in 1893. That in
1893 said real property was operated by one Kellis Sellars and
his family and affiant became acquainted with said family in
1893 and later married Kellis Sellars' granddaughter, Maymie
Smith on November 1, 1910. In fact, the said Kellis Sellars
fed cattle in the valley on affiant's father's ranch. Affiant
associated with and palled with Kellis Sellars family for many
years.

3. When affiant was 13 years of age he lived and worked
on the Abe Day Ranch located on Twin Creeks, Idaho, near the
Kellis Sellars Ranch and has lived near said ranch on and off
during his entire lifetime.

4. That Kellis Sellars had a home and corrals on a little
hill above Mud Creek where the middle fork of Sellars Creek emp-
ties into Mud Creek. That affiant has herded cattle and ran
cattle in that area and on the Sellars and now Jones Ranch reg-
ularly until approximately 30 years ago when affiant retired

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from the actual cattle herding business.

5. That affiant has carefully examined the aerial photo, Exhibit "A", with the numbers 16011 171 301 located in the upper right hand corner together with the map legend to said exhibit, as attached to said claim to water right, knows the contents thereof and verily believes the same to be true and correct as affiant remembers the same in 1893.

6. That in 1894 affiant observed the dams, diversions and irrigation ditches as depicted in Exhibit "A" and said dams, diversions, ditches and flume are so depicted as they were when affiant first saw them. That affiant was informed by Kellis Sellars, and verily believes, that said dams, diversions, ditches and flume were installed by the said Kellis Sellars prior to 1880 and were used by Kellis Sellars continually until the property now known as the Maiben Jones Ranch was sold to Mash Williams and Spence Williams in approximately 1900.

7. That your affiant knew the said Kellis Sellars personally and has been personally acquainted with the Maiben Jones Ranch from 1893 until the present date and has been continuously familiar with the irrigation system, dams, diversions, flume and irrigation ditches located thereon and as depicted in Exhibit "A". That during such period of time, your affiant observed that from approximately May 1 through October 31 of each year, the waters of Mud Creek, middle fork of Sellars Creek and the south fork of Sellars Creek, were diverted as depicted in said Exhibit "A" and used to irrigate the real property so depicted in said exhibit. That in 1893 and 1894 when affiant first became familiar with said irrigation system, said ditches were heavily sodded and showed evidence of having been in existence for many years. That the amount of water in said ditches was at that time and as continuously observed by affiant until the present, at full capacity and running over the banks of said ditches back into the streams from which the water was diverted.

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8. That with respect to Exhibit "A" your affiant makes the following statement as to explanation and correctness thereof as observed by affiant personally from 1893 to 1974 and as previously told to affiant by his father and the said Kellis Sellars:

- a) That the property outlined in heavy bold solid red lines depicts the property presently owned by the said Maiben S. Jones and Leda S. Jones, all of which property is located in Township 2 South, Range 40 E.B.M., Bingham County, Idaho.
- b) That both forks of Sellars Creek, middle and south fork, are also known as Little Willow Creek and Williams Creek.
- c) That the small solid red line is used to depict the middle fork of said Sellars Creek and is so depicted as your affiant has always remembered.
- d) That the small solid green line is used to depict the south fork of Sellars Creek and is so depicted as your affiant has always remembered.
- e) That the small solid blue line is used to depict Mud Creek, and is so depicted as your affiant has always remembered.
- f) That the square box with x therein is used to depict the Maiben Jones Ranch headquarters and is as your affiant so remembers.
- g) That the little house with Roman Numeral I by it is used to designate the location of the home owned by the said Achillis (Kellis) Sellars as your affiant has always remembered.
- h) That the little house with Roman Numeral II by it is used to designate the location of old Mash Williams home site as your affiant has always remembered.
- i) That the little house with Roman Numeral III by it is used to designate the location of the old Adrian Empey home site as your affiant has always remembered.
- j) That the lines made by dashes ----- is used to depict the location of irrigation ditches as they existed when first observed by your affiant in 1893 and 1894 and in 1974. That these ditches were used to full capacity by the said Kellis Sellars from approximately 1880 and by all owners since that time up to the last time affiant saw them in 1974. That as aforesaid, the ditches were used for irrigation purposes from approximately May 1 to October 31 of each year.

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- k) That the double zeros, one inside the other, is used to depict the point where the joint Sellars and Mud Creek dumps into Willow Creek as affiant has always remembered.
- l) That the thin black line or pen strokes are used to depict the land or property irrigated by said ditches and the basic direction of irrigation. These are depicted in the same manner as affiant has always remembered to this date. Except in 1974 there was no irrigation of the land below the old Mash Williams house and Mud Creek (to the south) as the old flume (circle No. 5) had washed out.
- m) That the black circle with solid dash in center and No. 1- to the side of it is used to depict the diversion dam on the middle fork of Sellars Creek and is so depicted as affiant first saw it in 1893 and 1894 and the last time in 1974. At all such times said diversion dam has been in continuous use.
- n) That the black circle with solid dash in center and No. 2 in center is used to depict the diversion dam on the south fork of Sellars Creek and is so depicted as affiant first saw it in 1893 and 1894 and the last time in 1974. At all such times said diversion dam has been in continuous use.
- o) That the black circle with solid dash in center and No. 3 in center is used to depict the diversion dam on Mud Creek and is so depicted as affiant first saw it in 1893 and 1894 and the last time in 1974. At all such times said diversion dam has been in continuous use.
- p) That the black circle with No. 5 on the outside is used to depict the area where the old flume existed to convey water from middle fork of Sellars Creek across Mud Creek to irrigate area depicted between such flume and Old Mash Williams home site. That such flume was in existence when affiant first saw property and ditches in 1893 and 1894, but had washed out when saw property in 1974. That as long as affiant can remember (from 1893) said waters were used to water the property as depicted by means of said flume.

9. That the irrigation system described herein and in Exhibit "A" was used by Mash Williams and Spence Williams and all predecessors up through and including the Maiben Jones family on a continuous basis each year as set forth herein. That in the summer of 1974 affiant went to the Maiben Jones Ranch

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and personally examined the dams, diversions, streams, ditches and irrigation system and found the same to be exactly as they were in 1893 and 1894 when first observed by affiant.

10. That as aforesaid, affiant was informed and verily believes that Kellis Sellars was the first person to appropriate the waters of Mud Creek, middle fork of Sellars Creek and south fork of Sellars Creek, aka Little Willow Creek or Williams Creek, for the purposes of irrigating the real property now known as the Maiben Jones Ranch. That affiant has been informed and verily believes that the said Kellis Sellars first made such appropriations and diversions in the late 1870's or the early 1880's and that said appropriations, and waters have been so used to irrigate said real property since that time until this date.

11. That affiant does not remember any time since 1893 that said real property as depicted in Exhibit "A" has not been irrigated from the said Mud Creek, middle fork of Sellars Creek and south fork of Sellars Creek by means, method and in manner as depicted in Exhibit "A". That affiant knows of no time since 1893 when said irrigation system and particularly the ditches associated therewith have not been filled to their over-flowing capacity during said irrigation season.

12. That your affiant knows of no time when any person, water company, corporation, government agency or governmental entity has attempted to or prevented the use and diversion of said water as aforesaid and in the manner and amount as aforesaid.

DATED This 21st day of July, 1977.

Thomas Ira Shurtliff
Thomas Ira Shurtliff

Subscribed and sworn to before me this 21st day of July, 1977.

[Signature]
Notary Public for Idaho
Residing at Idaho Falls, Idaho
My Commission expires: 4/15/79

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used to depict the Maiben Jones Ranch headquarters and is as your affiant so remembers from the spring of 1919.

- o) That the little house with Roman Numeral I by it is used to depict and designate the location of the home owned by the said Kellis Sellars (Achillis) Sellars as your affiant has been told by the Kellis Sellars family and others.
- h) That the little house with Roman Numeral II by it is used to designate the location of the old Mash Williams homesite as your affiant remembers from the spring of 1919.
- i) That the little house with Roman Numeral III by it is used to designate the location of the old Adrian Empey homesite as your affiant remembers the same from the year or spring of 1919.
- j) That the lines made by dashes ----- is used to depict the location of irrigation districts as they existed when first observed by your affiant in the spring of 1919 and as they presently exist to the date of this Affidavit. That said ditches were used since the spring of 1919 for the purpose of appropriating waters from said streams and for the purpose of irrigating the real property depicted on said exhibit. That since the spring of 1919 the waters have been used from approximately May 1 to October 31 of each year as long as said waters were available.
- k) That the double zeros, one inside the other, is used to depict the point where the joint Sellars and Mud Creek dumps into Willow Creek as affiant has always remembered since the spring of 1919.
- l) That the thin black lines or pen strokes are used in said exhibit to depict the land or real property irrigated by said ditches and to show the basic direction of irrigation. These are depicted in the same manner as affiant has always remembered from the spring of 1919 to this date. Except that for approximately 3 years, the real property below the old Mash Williams house and Mud Creek (to the south) has not been irrigated for the reason that the old flume (circle No. 5) washed out and your affiant did not have sufficient funds with which to replace the same but intends to do so immediately.
- m) That the black circle with solid dash in the center and No. 1 to the side of it is used in said exhibit to depict the diversion dam on the middle fork of Sellars

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Creek and is so depicted and set out on said exhibit as affiant first saw the same in the spring of 1919 and exists in the same place to this date. That affiant has been informed and verily believes that said dam and diversion was placed in said stream, as aforesaid, by the said Kellis Sellars. That at all times said diversion dam has been in continuous use.

- n) That the black circle with solid dash in center and No. 2 in center is used on said exhibit to depict the diversion dam on the south fork of Sellars Creek and is so depicted as affiant first saw the same in the spring of 1919 and as the same now exists to this very date. That your affiant has been informed and verily believes that said dam and diversion was placed in said stream by the said Kellis Sellars, as aforesaid. That at all times said diversion dam has been in continuous use.
- o) That the black circle with solid dash in center and No. 3 in center is used to depict the diversion dam on Mud Creek and is so depicted as affiant first saw the same in the spring of 1919 and as the same now exists and has continued to exist since that time. That affiant is informed and verily believes that said diversion dam was placed in said stream by the said Kellis Sellars, as aforesaid. That the waters of Mud Creek have been diverted by said dam into the ditches set forth in said exhibit since the spring of 1919 in its entire amount as long as said stream has run water in any particular year. That affiant is informed and verily believes that the same amount of water was diverted by the said Kellis Sellars, as aforesaid, and by all later land owners in the same means and by the same method and in the same amount as so diverted since the spring of 1919.
- p) That the black circle with No. 5 on the outside is used to depict the area where the old flume existed to convey water from the middle fork of Sellars Creek across Mud Creek to irrigate the area depicted between such flume and the old Mash Williams homesite. That such flume was in existence when affiant first went on said property in the spring of 1919, but washed out approximately 7 years ago, as aforesaid. That as long as affiant can remember, said waters were used to water the property as depicted by means of said flume until said flume washed out.

10. That the number of irrigated acres that has been irrigated by your affiant and affiant's family since the year

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1918 when purchased from Nash Williams, is approximately 160 acres. That affiant is informed and verily believes that the same property has been irrigated continuously since the waters were first appropriated by the said Nellis Sellars, at the dates and in the manners set forth in this Affidavit. That said acreage irrigated and the waters so appropriated have been done so until the present date.

11. That the waters of the middle fork of Sellars Creek are and have been diverted since at least 1880 by means of a dam on Sellars Creek (circle No. 1) on Exhibit "A" and carried by ditch as so depicted on said Exhibit for a distance of $3/4$ to 1 mile to irrigate the lands so depicted in said exhibit. That the amount of waters originally appropriated in the year 1880 until the present date, from the middle fork of Sellars Creek, is 181.5 inches as long as said waters are available.

12. That the waters are and have been since the year 1880 appropriated from the south fork of Sellars Creek by means of a dam (No. 2- on Exhibit "A") and carried by means of the ditches as depicted on said exhibit and have irrigated the lands so depicted on said exhibit until the present date. That the amount of water originally appropriated and so appropriated to this date from the south fork of Sellars Creek is 206.5 inches. That as aforesaid, all of the waters of the south fork of Sellars Creek and the middle fork of Sellars Creek are diverted by means of said dams and the entire waters of said streams used for such irrigation purposes with excess and remainder returning to Sellars Creek streambed, so long as there remains any water in said streams.

13. That your affiant and his wife, Leda S. Jones, claim 160 miners inches of water from Mud Creek for use from May 1 to October 31 of each year so long as said waters remain in said stream 181.5 miners inches from the middle fork of Sellars Creek for irrigation purposes and use from May 1 to October 31 of each year so long as said waters remain in said stream; 206.5 inches from the middle fork of Sellars Creek

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for irrigation and use from May 1 to October 31 of each year so long as said waters remain in said stream. That the priority date for claim of said water from said stream is the year 1880. That the total number of acres irrigated by all of said waters is approximately 160 acres, as aforesaid.

14 That at no time from the year 1918 to the present date has any person, water company, corporation, government agency or government entity or anyone else questioned the use by your affiant and his family of the waters and the amount stated herein nor has your affiant or his family ever been prevented from using said waters, the means of appropriation and the amount so claimed and used. That your affiant is informed and verily believes that no person, persons, water company, corporation, government agency or government entity or anyone else has ever questioned the use or the means and amount of appropriation, as stated herein, by your affiant or his predecessors, including Kellis Sellars, from the year 1880 to the present date.

DATED This ____ day of July, 1977.

Maiben S. Jones
Maiben S. Jones

Subscribed and sworn to before me this ____ day of July, 1977.

Notary Public for Idaho
Residing at Idaho Falls, Idaho
My Commission expires 12/31/79

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