

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: A27-10999
Date Received: 5/23/1989
Receipt No: E007851
Received By: _____

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: GARY L. EMPEY 208-785-6292
Address: 830 RIVERTON ROAD
BLACKFOOT, ID 83221

OR

Name: MARVA I. EMPEY 208-785-6292
Address: 830 RIVERTON ROAD
BLACKFOOT, ID 83221

2. Date of Priority: MAY 01, 1878

3. Source: GROUNDWATER Trib. to:

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4 of	Lot	County
03S	35E	9	NE	NW	NE	2	BINGHAM

5. Description of diverting works:
WELL, K MINER'S DITCH

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	04/01	11/01	0.090		

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

8. Total consumptive use is 9.0 Acre Feet Per Annum.

9. Non-irrigation uses:
NONE

A27-10999

Page 1

Date: 11/29/89

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10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
03S	35E	9	NW	NE		IRR	2.7
Section Acres							2.7
Total Acres							2.7

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:
DOMESTIC WELL

14. Remarks:
THIS IS A PORTION OF THE WATER RIGHT THAT WAS DECREED TO WILLIAM
KIRKPATRICK, MAY 1, 1878.

15. Basis of Claim: DECREED
Case Number:
Court :
Decree date:

Decree Plaintiff

vs

Decree Defendant

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): _____ Date: _____
_____ Date: _____

State of Idaho)
County of _____) SS.

Subscribed and sworn (or affirmed) before me this _____ day
of _____ 19 _____

Notary Public

Seal

Residing at _____

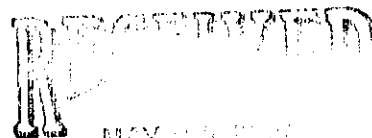
My Commission Expires _____

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: A27-10999 39576 portIdent. Number A27-00020Date Received 5-23-89Receipt Number E007851

NOTICE OF CLAIM
TO A
WATER RIGHT
ACQUIRED UNDER STATE LAW



Department of Water
Eastern District Office

Please type or print clearly

1. Name of Claimant (s) GARY L. OR MARVA J. EMERY Phone (208) 785-6292
Mailing Address 830 RIVINGTON ROAD, BLACKFOOT, IDAHO Zip 83221

2. Date of Priority (Only one (1) per claim) 1 MAY 1878

3. Source of water supply (a) BLACKFOOT RIVER
which is tributary to (b) SNAKE RIVER

4. a. Location of existing point of diversion is: Township 3S Range 35E Section 9,
NE 1/4 of NW 1/4 of NE 1/4, Govt. Lot, _____ B.M., County of BINGHAM

Additional points of diversion if any: _____

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. MINER'S DITCH

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6. Water is claimed for the following purposes:

(both dates are inclusive)

(cfs)

(acre feet)

For IRRIGATION purposes from 1 APRIL to 31 NOV amount .09 or _____

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

7. Total quantity claimed (a) .09 (cfs) and/or (b) _____ (acre feet)

8. Total consumptive use claimed is 9 acre feet per annum.

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

10. Description of place of use:

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

b. 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
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	
3S	35E	9		2.77															2.77

Total number of acres irrigated 2.77

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

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.

DOMESTIC WELL or None ()

14. Remarks: THIS IS A PORTION OF THE WATER RIGHT THAT WAS DECREED TO WILLIAM KIRKPATRICK, 1 MAY 1878

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Last Name _____ Ident No. _____

Copies: White -State, Yellow-Claimant

Scale: 2 inches equals 1 mile

SEE ATTACHED MAP

[illegible]

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Last Name _____ **Ident No.** _____

Copies: White-State, Yellow-Claimant

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

Decree ☒

If applicable provide IDWR Water Right Number 27-00020 (PORTION)

Court _____ Case Number _____ Decree Date 10 SEP 1891

Plaintiff vs Defendant FRED S. STEVENS VS EASTERN IDAHO WATER COMPANY

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 4

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

Signature of Claimant (s) Gary L. Emery Date 23 MAY 1989

Date _____

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 _____)
County of Bonnerille) SS.

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

SEAL

Notary Public Helen Harrington

Residing at Helen Harrington, Notary Public

Residing at Boise, Idaho

My Commission ~~Exp~~ Commission Expires December 1, 1994

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 _____

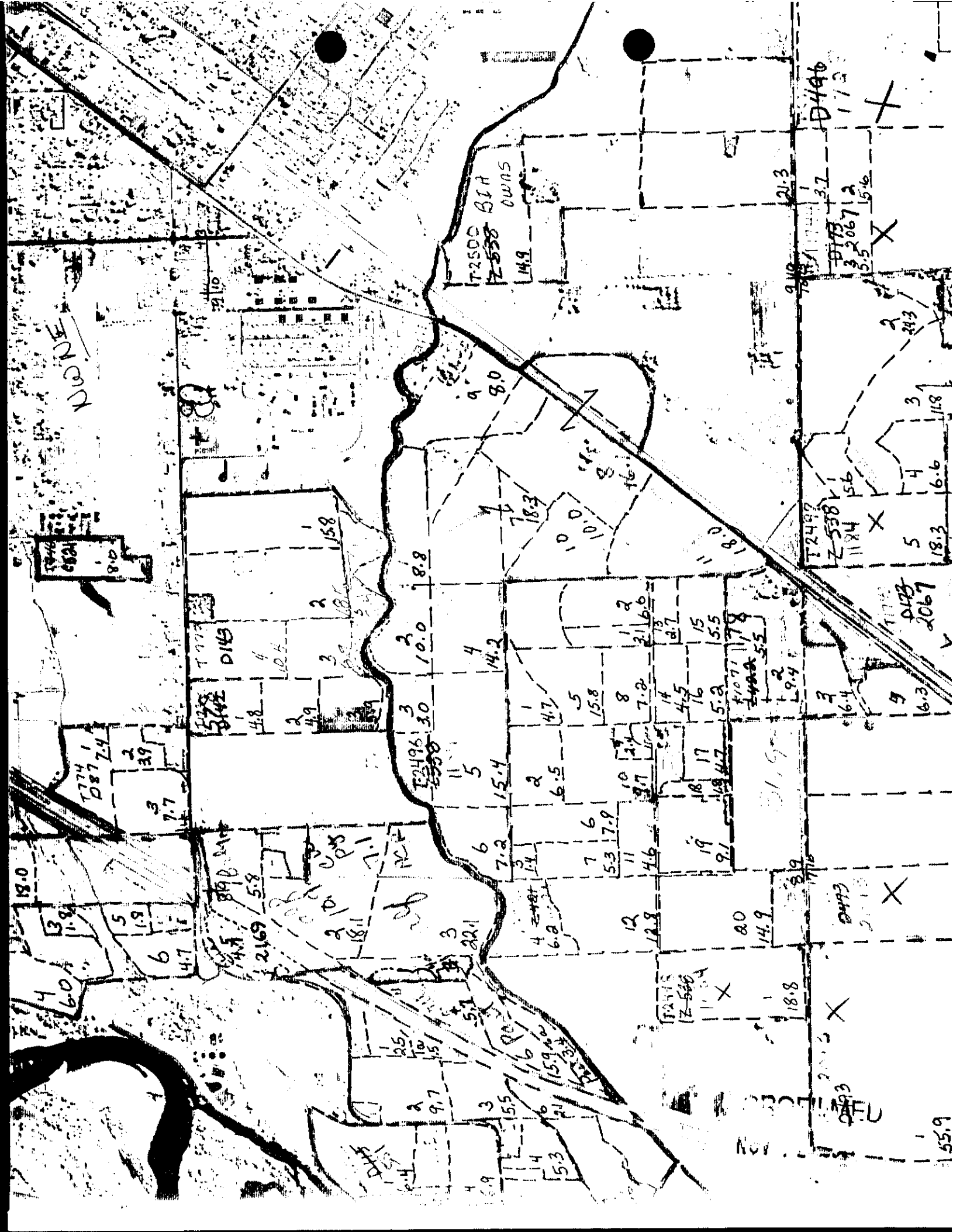
Date _____

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Last Name _____ Ident. Number _____

Copies White-State, Yellow-Claimant



Log for claim 27-10999

Spatial Dynamics LTD

1/5/01

TR	SEC	QQ	Acres Claimed	Acres Found	COMMENT
03s35e	9	NWNE	2.7	2.8	
Totals:			2.7	2.8	

AJ5809NP
No. A27-10999

IDAHO DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM PROFILE REPORT

DATE: 09/29/00
PAGE: 192

OWNER CODE	NAME & ADDRESS	PRIORITY DATE	WATER USE	USE PERIOD FROM TO	DIVERSION RATE	DIVERSION VOLUME
C	GARY L EMPEY	05/01/1878	IRRIGATION	04-01 11-01	0.090 CFS	
C	MARVA I EMPEY					
	830 RIVERTON ROAD			TOTAL DIVERSION:	0.090 CFS	
	BLACKFOOT ID 83221			CONSUMPTIVE USE:		9.00 AFA
	(208) 785-6292					

Water Source: GROUNDWATER

Tributary to:

Stage: DECREED

Point(s) of Diversion: T03S R35E S09 Lot02(NENWNE)

BINGHAM County

Place of use Legal Description for: IRRIGATION

NE				NW				SW				SE												
T	R	S		NENE	NWNE	SWNE	SENE	:	NENW	NWNW	SWNW	SENW	:	NESW	NWSW	SWSW	SESW	:	NESE	NWSE	SWSE	SESE	:	SUM
---	---	---	:	Lt	Ac	Lt	Ac	:	Lt	Ac	Lt	Ac	:	Lt	Ac	Lt	Ac	:	Lt	Ac	Lt	Ac	:	---
03S	35E	9	:			02		:					:					:					:	2.7
																							TOTAL ACRES	2.7

POU County: BINGHAM

Non-Irrigation Uses: NONE

Other Rights: DOMESTIC WELL

Other Water Rights Listing Overlapping Place(s) of Use:
A27-00017 A27-00029A A27-11117

Remarks: GEN THIS IS A PORTION OF THE WATER RIGHT THAT WAS DECREED TO WILLIAM
KIRKPATRICK, MAY 1, 1878.

Dates: Exam Made Date: Verified Date: Objection Filed Date:

Misc: Water District Number: Field Inspection Flag:
Presumption Flag:

Audit: 07/24/89 ESRBA 11/29/89 KEISER 08/02/91 THOMPSON 03/29/95 POST-STD

4/11/1989

SRBA CLAIMS RECEIVING CHECKLIST #2

CLAIMANT'S NAME EMPEY CLAIM NO. A27-10999DATE RECEIVED 5/23/89 CK # _____ AMOUNT \$ _____

- | | YES | NO | Regui 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> | _____ | * |
| x (b) Is a tributary to entered? (if required) N/A _____ | <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> | _____ | |
| x 8. If required is a consumptive use entered? N/A _____ | <u>X</u> | _____ | |
| x Is the consumptive use correct? N/A _____ | <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> | _____ | |
| x 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.) N/A _____ | <u>X</u> | _____ | |
| 15. Is the basis of the claim indicated? | <u>X</u> | _____ | |
| x 16. If the claimant requested a monthly docket sheet, is payment enclosed? (If yes, describe payment status in "Comments" below.) N/A <u>X</u> | <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? Exempt _____ | <u>X</u> | _____ | * |
| x 21. If this claim is based on an existing water right, has the identification number been entered? N/A _____ | <u>X</u> | _____ | |
| 22. Should this claim be data entered? | <u>X</u> | _____ | |

Claim checked by: TO Date: 6/29/89Claim must be returned to claimant: _____ (Yes) X (No)Claimant must be notified of modifications: _____ (Yes) X (No)

Receipt Prepared by: _____

Claim data entered by: 35-7-24-89

Sent to claimant by: _____

Date: _____

Date: _____

Date: _____

Checked by: _____

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Comments: R/D APPEARS INCORRECT

NOV 12 1992

Legal OK/EC

WARRANTY DEED

269881

For Value Received VER NON ROCHE and CECELIA JOANNE ROCHE, husband and wife,

the grantors, do hereby grant, bargain, sell and convey unto GARY L. EMPEY and MARVA J. EMPEY, husband and wife,

whose current address is Route 3 Box 18, Blackfoot, Idaho 83221

the grantees, the following described premises, in Bingham County Idaho, to wit:

Part of the NE1/4 of Section 9, Township 3 South, Range 35 East of the Boise Meridian, Bingham County, Idaho, described as:

Beginning at a point on the South line of Riverton Road that is S 89°16' West along the Section Line 1311.07 feet and S 0°41'22" E. 20.5 feet from the N.E. Corner of said Section 9 and running thence S 0°41'22" East 423.50 feet to the N.W. corner of the Cook Addition to the City of Blackfoot; thence S 0°41'22" East along the West line of said Cook Addition 99.99 feet; thence S 89°41'30" West 269.93 feet; thence N 0°40'30" West 416.49 feet; thence N 89°41'30" East 95.0 feet; thence N 0°40'30" W 107.0 feet to the South line of said Riverton Road; thence N 89°41'30" E along said South line 174.80 feet to the Point of Beginning.

Subject to a Deed of Trust from Grantors to American Land Title Company, Trustee, and First Federal Savings and Loan Association of Idaho Falls, Beneficiary, dated April 29, 1977 and recorded in Bingham County on April 29, 1977 as instrument number 224453.

The above conveyance is made free and clear of all other encumbrances except: rights-of-way and easements, reservations in Federal patents and State deeds, or other restrictions imposed by law, building and use restrictions of record, building and zoning regulations and ordinances of any governmental unit.

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantees, their heirs and assigns forever. And the said Grantors do hereby covenant to and with the said Grantees, that they are the owners in fee simple of said premises; that they are free from all incumbrances, except a Deed of Trust from Grantors to American Land Title Co., as Trustee with First Federal Savings and Loan Association of Idaho Falls as Beneficiary recorded in Bingham County as instrument number 224453, and that they will warrant and defend the same from all lawful claims whatsoever.

Dated: August 15, 1980

269881

Ver Non Roche
VER NON ROCHE

Cecelia Joanne Roche
CECELIA JOANNE ROCHE

STATE OF IDAHO, COUNTY OF Bingham
On this 15th day of August, 1980,
before me, a notary public in and for said State, personally
appeared VerNon Roche & Cecelia

Joanne Roche

known to me to be the persons whose names are
subscribed to the within instrument, and acknowledged to
me that they executed the same.

Notary Public
, Idaho

Residing at Blackfoot
Comm. Expires 10-25-82

RECORDED AT THE REQUEST OF
BLACKFOOT, IDAHO
CLERK 44 11 2000 AC

269881

RECORDED AT THE REQUEST OF

Blackfoot, Idaho

WARRANTY DEED

The GRANTORs, do hereby grant, bargain, sell and convey unto VLS DON ROOHE and CECILIA JOANNE

ROOHE, husband and wife,

whose current address is Route 5 Box 384, Idaho Falls, Idaho 83401

The grantor s, the following described premises, in Bligham County Idaho, to wit:

Part of the NE1/4 of Section 9, Township 3 South, Range 33 East of the Boise Meridian, Bligham County, Idaho, described as:

Beginning at a point on the South line of Liverton Road that is S 89°16' West along the Section Line 1311.07 feet and S 6°41'22" E. 30.5 feet from the N.E. corner of said Section 9 and running thence S 0°41'22" East 421.59 feet to the N.W. corner of the Cook Addition to the City of Blackfoot; thence S 0°41'22" East along the West line of said Cook Addition 94.89 feet; thence S 89°41'13" West 269.93 feet; thence N 0°0'00" West 416.49 feet; thence N 69°41'30" East 95.0 feet; thence S 0°40'00" W 107.0 feet to the South line of said Liverton Road; thence N 89°41'30" E. along said South line 174.60 feet to the Point of Beginning.

The above conveyance is made free and clear of all other encumbrances except: rights-of-way and easements, reservations in federal patents and State deeds, or other restrictions imposed by law, building and use restrictions of record, building and zoning regulations and ordinances of any governmental unit.

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantee, heirs and assigns forever. And the said Grantor s, do hereby covenant to and with the said Grantee, that he the owner in fee simple of said premises, that they are free from all encumbrances.

and that he will warrant and defend the same from all lawful claims whatsoever.

Dated: April 27, 1977

GOLDEN ELLISON

WINNOMA M. ELLISON

STATE OF IDAHO, COUNTY OF

On this 27 day of April, 1977, before me, a Notary Public in and for said State, personally appeared Golden Ellison and Winnoma M. Ellison, husband and wife.

Known to me to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same for the purposes and consideration therein expressed.

Notary Public
Blackfoot, Idaho

77 APR 27 1977

NOTARY PUBLIC

9010302

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WARRANTY DEED

For Value Received GOLDEN ELISON and WINNONA W. ELISON, husband and wife,

the grantor s, do hereby grant, bargain, sell and convey unto VEE HOW ROCHE and CECILIA JOANNE ROCHE, husband and wife,

whose current address is Route 3 Box 384, Idaho Falls, Idaho 83401

the grantee s, the following described premises, in Bingham County Idaho, to wit:

Part of the NE 1/4 of Section 9, Township 3 South, Range 33 East of the Boise Meridian, Bingham County, Idaho, described as:

Beginning at a point on the South line of Riverton Road that is S 89°16' West along the Section Line 1311.07 feet and S 0°41'22" E. 20.5 feet from the N.E. Corner of said Section 9 and running thence S 0°41'22" East 423.50 feet to the N.W. corner of the Cook Addition to the City of Blackfoot; thence S 0°41'22" East along the West line of said Cook Addition 99.99 feet; thence S 89°41'30" West 269.93 feet; thence N 0°40'30" West 416.49 feet; thence N 89°41'30" East 95.0 feet; thence N 0°40'30" W 107.0 feet to the South line of said Riverton Road; thence N 89°41'30" E along said South line 174.80 feet to the Point of Beginning.

The above conveyance is made free and clear of all other encumbrances except: rights-of-way and easements, reservations in Federal patents and State deeds, or other restrictions imposed by law, building and use restrictions of record, building and zoning regulations and ordinances of any governmental unit.

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantee, heirs and assigns forever. And the said Grantor do hereby covenant to and with the said Grantee, that he the owner in fee simple of said premises; that they are free from all incumbrances

and that he will warrant and defend the same from all lawful claims whatsoever.

Dated: April 27, 1977

GOLDEN ELISON

WINNONA W. ELISON

STATE OF IDAHO, COUNTY OF

On this 27 day of April, 1977, before me, a notary public in and for said State, personally appeared Golden Elison and Winnona W. Elison, husband and wife

known to me to be the persons whose names subscribed to the within instrument, and acknowledged to me that they executed the same.

Notary Public
Residing at Blackfoot, Idaho
Comm. Expires

RECORDED
BLACKFOOT, IDAHO
APR 28 1977

APR 28 1977

RECORDED AT THE REQUEST OF

THIS INDENTURE Made this 25th day of Sep^r,
 in the year of our Lord one thousand nine hundred and fifty-two, between
 CYRIL J. WRIGHT and ESTHER A. WRIGHT, husband and wife,
 of the County of Bingham, State of Idaho,
 the parties of the first part, and GOLDEN ELISON,
 of the County of Bingham, State of Idaho,
 the party of the second part.

WITNESSETH, that the said parties of the first part, for and in consideration of the
 sum of TWENTY THOUSAND- - - - - DOLLARS
 lawful money of the United States of America,

to them in hand paid by the said
 party of the second part, the receipt whereof is hereby acknowledged, have granted,
 bargained and sold, by these presents do grant, bargain, sell, convey and confirm
 unto the said party of the second part, and to his heirs and assigns forever, all of
 the following described real estate, situated in the County of
 Bingham, State of Idaho, to-wit:

The East forty (40) acres of the Lot Numbered Two in
 Section Nine, in Township Three South, of Range Thirty-five,
 East of the Boiser Meridian, in Idaho;

Subject to the right of way of the public road along
 the north side thereof and the right of ways for ditches
 across said land as heretofore constructed and maintained.

Together with the ditches and water right for the
 irrigation thereof and particularly 40 inches of the decreed
 water right of William Kirkpatrick in Blackfoot River and
 40 shares of stock in Miner's Ditch Company.

Also the tract described as: Being 477 feet in width
 along the entire East side of the Lot Four in said Section Nine
 and described as follows: Beginning at the Northeast corner of
 Lot Four of said Section Nine, thence South 1700 feet to the
 Blackfoot River; thence meandering said river in a Southerly and
 Westerly direction to a point which is 477 feet distant perpendicular
 from the East line of said Lot Four; thence North 1741 feet to the
 North line of said Section Nine; thence East along the North line
 of said Section Nine 477 feet to the place of beginning, containing
 20 acres.

Together with all ditches, ditch rights of way, water and
 water rights thereto belonging and particularly 20 inches of the
 water right in Blackfoot River with date of priority March 25th,
 1880, as conveyed by deed of date April 6th, 1942, recorded April
 15th, 1942, in Book 59 of Deeds, at page 485, of the records of
 Bingham County, Idaho, to which reference is made for a more
 particular description of said water right, and also a ditch
 right of 20 inches capacity in the Miner's Ditch.



MICROFILMED

NOV 12 1952

WARRANTY DEED

William Kirkpatrick and Heneage
Kirkpatrick, his wife-

TO

Cyrill J. Wright-

Dated-February 11th. 1918-

Consideration-\$8000.00-

Recorded-February 12th. 1918. at-

3:25 P.M., in book "32" of Deeds at-

Page 356 of the records of Bingham County, Idaho-

Witness-John W. Jones-

William Kirkpatrick (Seal)

Heneage Kirkpatrick (Seal)

Acknowledged by William Kirkpatrick and Heneage-
Kirkpatrick, his wife, February 11th. 1918-
before John W. Jones, Notary Public of Idaho-
Residing at Blackfoot, Idaho-Sealed-Regular-

DESCRIPTION and REMARKS

The parties of the first part herein do hereby grant, bargain, sell convey and confirm unto the party of the second part herein and to his heirs and assigns forever, all the following described property in Bingham County, Idaho-

The East 40 acres of the lot numbered 2 in section 9 in township 3 south of range 35 E.B.M., in Idaho. Subject to the right of way for the public road along the north side thereof and the right of way of the ditches of the first parties across said land.

Together with the ditches and water rights for the irrigation thereof and particularly 40 inches of the decreed water right of the grantors in Blackfoot River and 40 shares of the capital stock of the Miners Ditch Company, a corporation.

To Have and To Hold in the quiet and peaceable possession of the said second party his heirs and assigns forever, and the said first parties herein will warrant and forever defend.

I.R.S. \$9 attached and cancelled.

MICROFILMED

NOV 12 1992

Irrigation thereof and water right for the water right of William Kirkpatrick and Heneage Kirkpatrick, his wife.

AGREEMENT

Office Blackfoot, Idaho,
June 19/94

We and each of us hereby agree and acknowledge that we have no right under our lease from Welch, or any other source to interfere with the flow of Wm. Kirkpatrick's 100 inches of water in the Miner's Ditch.

W.H. Danilson Jr.
J. T. Danilson

MEMORANDUM OF AGREEMENT

Memorandum of agreement between James G. Welch, the first party, and William Kirkpatrick, the second party:

Whereas, said parties have had some dispute and disagreement as to their relative rights in and to that certain canal or ditch, known as the Miner's Ditch, situate near the Town of Blackfoot, Bingham County, Idaho, and diverting water from the Blackfoot River:

And whereas both parties are desirous of making amicable adjustment of all matters pertaining thereto, and of avoiding litigation:

Now, this memorandum witnesseth, that in consideration of the premises and as an absolute settlement of all dispute relating to said ditch it is mutually recognized and agreed that the said Kirkpatrick, second party, has a right to and ownership in said ditch and the dam at the head of the same sufficient for the diversion and conveyance of 100 inches of water, measured under a four inch pressure at the head of the said Kirkpatrick's private ditch, from the head of said Miner's Ditch through the same to a point there on near the Utah & Northern R.R. Track where said Kirkpatrick's said private ditch now branches off from said Miners Ditch, said right dating from 1881 and that the said Welch, the second party has the right to and is the sole owner of the remainder of said Miners Ditch including said dam and all other appurtenances thereof, and each party hereto forever renounces all claim to that portion of said ditch herein recognized as belonging to the other party.

It is further agreed that the expenses of keeping said Miners Ditch and dam in repair shall be shared by the parties hereto in proportion to their respective interests.

And it is further agreed as a part hereof that in the spring and fall when the second party does not need his said 100 inches of water for agricultural and domestic purposes he will permit the first party to use the same for mining purposes. Dated at Blackfoot, June 19, 1894.

Witness-

F.S. Dietrich
Recorded-March 9th, 1920 at-
3:00 P.M. in book "D" of Miscellaneous at page 527 of the records of Bingham County, Idaho.

James G. Welch
William Kirkpatrick

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IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR BINGHAM COUNTY.

Fred S. Stevens, et al.)
Plaintiffs.)

-VS-

Eastern Idaho Water Co. et al.)
Defendants.)

This cause having been heretofore tried
by the Court without a jury and the Court having
made its findings of fact and conclusions of law.

It is now ordered, adjudged and decreed
that the following parties are entitled to divert
from the Blackfoot River the amount of water here-
in indicated and the right of each party dates
from the time hereinafter stated and set opposite
each name, to-wit: Among others is that of-

William Kirkpatrick May 1st, 1878 100 inches.

James Welch March 20th, 1886 400 inches.

It is further ordered, adjudged and de-
creed, that all parties to this action shall have
the right to use the waters of the several streams
named in this decree for domestic purposes.

Done in open Court this August 1st, A.D. 1891.

Chas. Cabb.
Judge Pro. Tem.

Recorded-in Judgment Book "1" at
pages 107-116 of the records of -
Bingham County, Idaho-

DO NOT FILE

In the District Court of the Fifth Judicial District of the State of Idaho, in and for Bingham County.

Fred S. Stevens et al., Plaintiffs,

vs
Eastern Idaho Water Co. et al., Defendants,

This cause having been heretofore tried by the Court, without a jury, and the Court having made its findings of fact and conclusions of law,

It is now ordered, adjudged and decreed, that the following parties are entitled to divert from the Blackfoot River the amount of water here indicated, and the right of each party dates from the time hereinafter stated and set opposite each name, to wit:—

Fred S. Stevens, July, 6th A.D. 1869. — 138 inches

Henry Dunn, July, 1st A.D. 1870 — 300 inches

A.A. Just and

Emma Just, August, 1st A.D. 1871 — 200 inches

Leon Misslew, July, 1st A.D. 1873 — 200 inches

John Misslew, April, 1st A.D. 1874 — 120 inches

H. R. Lewis, March, 1st A.D. 1875 — 100 inches

Presto Burrell March, 1st A.D. 1876 — 100 inches

William Kirkpatrick May, 1st A.D. 1878 — 100 inches

F. M. Shornaker April 1st A.D. 1879 — 90 inches

Eastern Idaho Water Co. March, 25th A.D. 1880 — 1800 inches

J. B. Fox, Jr.

William Howard

A. Whitten

Arsene E. Whitten

and Calvin Miles

March, 25th A.D. 1880 — 600 inches

Levi Warren, April 1st A.D. 1882. — 50 inches.

Emily Warren, April 1st A.D. 1883 — 106 inches.

Daniel G. Miller, April 1st A.D. 1883 — 100 inches.

Fred S. Stevens, October 1st A.D. 1884 — 140 inches

A.A. Just and

Emma Just April 1st A.D. 1885 — 100 inches.

Leon Misslew, May 1st A.D. 1885 — 300 inches.

Robert Miller, May 1st A.D. 1885 — 150 inches.

P. B. Fox Jr.	}	June 1st A.D. 1885	1500 inches
William Howard			
A. Whitten			
Susan E. Whitten			
Calvin Miles			

W. W. Ritter	July 23 ^d A.D. 1885	560 inches
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Thomas G. Weber	July 23 ^d A.D. 1885	480 inches
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James Drew	October 1st A.D. 1885	6 inches
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✓ Eastern Idaho Water Co.	October 1st A.D. 1885	1000 inches
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H. B. Lewis and Sarah Lewis	}	March 1st A.D. 1886	160 inches
James Welch			

William A. Davidson	March 20th A.D. 1886	400 inches
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David A. Morgan	April 5 th A.D. 1886	352 inches
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William Morgan	April 5 th A.D. 1886	132 inches
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William A. Downing	April 5 th A.D. 1886	100 inches
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F. Little	April 5 th A.D. 1886	120 inches
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Charles S. Burton	October 4th A.D. 1886	240 inches
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John Sharp sr.	October 4th A.D. 1886	240 inches
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F. W. Jennings	November 1st A.D. 1886	320 inches
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Donald Poluir	November 1st A.D. 1886	400 inches
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Samuel Borup	April 1st A.D. 1887	100 inches
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Jacob Eliason	April 1st A.D. 1887	80 inches
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Caroline Eliason	}	May 1st A.D. 1889	145 inches
Maylaw O'Fox			

Maylaw O'Fox	December 4th A.D. 1889	640 inches
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That the following rights hereinafore set forth, to-wit:

The right of H. B. Lewis dating from the 1st day of March A.D. 1875, for 100 inches; the right of W. W. Ritter, dating from the 23^d day of July A.D. 1885 for 560 inches; the right of Thomas G. Weber, dating from the 23^d day of July A.D. 1885 for 480 inches; the right of H. B. Lewis and Sarah Lewis dating from the 1st day of March, A.D. 1886, for 160 inches; the right of F. Little dating from the 4th day of October, A.D. 1886, for 240 inches; the right of Charles S. Burton, dating from the 4th day of October, A.D. 1886, for 240 inches; the right of John Sharp sr., dating from the 1st day of November A.D. 1886, for 320 inches; the right of F. W. Jennings, dating from the 1st day of November, A.D. 1886, for 400 inches; the right of Donald Poluir, dating from the 1st day of April A.D. 1887 for 100 inches; the right of Jacob Eliason and Caroline Eliason

dating from the 1st day of May A.D. 1889 for 145 inches; and the right of Moylaw O Fox, dating from the 4th day of December A.D. 1889, for 640 inches, shall only extend to the 1st day of July in each year for irrigating purposes, and the said H R Lewis, W H Keller, Thomas G. Hibber, Sarah Lewis, F Little, Charles S Burton, John Sharp, sr, T. W. Jennings, Donald Pollock, Jacob Eliason, Caroline Eliason, Moylaw O Fox and each and all of them are hereby enjoined from diverting or using in any manner any part of the said water rights aforesaid, after the 1st day of July, in each and every year hereafter, for irrigating or any other than domestic purposes.

It is further ordered, adjudged and decreed that the following parties are entitled to divert from the Wolverine Creek a tributary of said Blackfoot River the amount of water herein indicated, and the right of each party dates from the time hereinafter stated, and set opposite each name, to-wit:-

- Peter Morris, March 1st, A.D. 1887 — 60 inches.
- Samuel Orr, July 1st, A.D. 1887 — 80 inches.
- Peter Morris, April 1st, A.D. 1887 — 60 inches.
- Samuel M. Taylor April 1st A.D. 1888 — 10 inches.

It is further ordered, adjudged and decreed that the following parties are entitled to divert from Cedar Creek a tributary of Blackfoot River the amount of water herein indicated and the right of each party dates from the times hereinafter stated and set opposite each name to-wit:-

- George Monroe
- and John Lyon April 1st A.D. 1884 — 100 inches.
- Samuel Borup April 1st A.D. 1887 — 50 inches.

It is ordered, adjudged and decreed that George Steaton is entitled to divert from the east fork of Bush Creek, a tributary of Blackfoot River one hundred and twenty-five (125) inches of water, said rights dating from the first day of May A.D. 1888, but the said right shall only extend to the 1st day of July in each year, for irrigating purposes, and the said Steaton is hereby enjoined from diverting or using in any manner any part of the said water right after the 1st day of July in each and every year hereafter for irrigating, or

any other than domestic purposes.

It is ordered, adjudged and decreed that the following parties are entitled to divert from Cañon View Creek, a tributary of Blackfoot River, the amount of water herein indicated and the right of each party dates from the time herein after stated and set opposite each name to-wit:

Enoch Hansen	- May 1st A.D. 1885 -	150 inches.
Jamies Sharp	- October 11th A.D. 1886 -	640 inches.
W.H. Rowe,	- October 11th A.D. 1886 -	560 inches.

But these said rights of said Enoch Hansen, Jamies Sharp and W.H. Rowe to waters of Cañon View Creek herein set forth shall only extend to the first day of July in each year, for irrigating purposes, and the said Hansen, Sharp and Rowe, and each and all of them are hereby enjoined from diverting or using in any manner any part of the said water rights after the first day of July in each and every year hereafter for irrigating or any other than domestic purposes.

It is ordered, adjudged and decreed, that the following parties are entitled to divert from Diamond Creek, a tributary of Blackfoot River, the amount of water herein indicated, and the right of each party dates from the time herein after stated, and set opposite each name, to-wit:

Jamies Sharp	- October 4th A.D. 1886.	560 inches.
Jamies Little	- October 11th A.D. 1886.	560 inches.
Charles Burton	- October 11th A.D. 1886.	200 inches.

But these rights of said Sharp, Little and Burton to the waters of Diamond Creek herein set forth, shall only extend to the first day of July in each year, for irrigating purposes, and the said Sharp, Little and Burton, and each and all of them are hereby enjoined from diverting or using in any manner any part of said water rights after the first day of July in each and every year hereafter, for irrigating or any other than domestic purposes.

It is ordered, adjudged and decreed that the following parties are entitled ^{to draw} from Horse Spring Creek a tributary of Blackfoot River, the amount of water herein indicated, and the right of each party dates from the time herein after stated, and set opposite each name, to-wit:

W.H. Riter	- October 4th A.D. 1886 -	320 inches.
Jamies Sharp	- October 17th A.D. 1886 -	320 inches.

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But these rights of said Sharp and Riter to the waters of Horse Spring Creek, herein set forth shall only extend to the first day of July in each year, for irrigating purposes, and the said Riter and Sharp and each of them are hereby enjoined from diverting or using in any manner any part of the said water rights after the first day of July in each and every year hereafter, for irrigating or any other than domestic purposes.

It is ordered, adjudged and decreed that Elias A. Smith is entitled to divert from the west Spring Creek, a tributary of Blackfoot River, five hundred and sixty-eight (568) inches of water, said right dating from the 17th day of October, A.D. 1886, but the said right shall only extend to the 1st day of July in each year, for irrigating purposes, and the said Smith is hereby enjoined from diverting or using in any manner any part of the said water right after the first day of July in each and every year hereafter, for irrigating, or any other than domestic purposes.

It is ordered, adjudged and decreed, that the following parties are entitled to divert from Lane Creek, a tributary of Blackfoot River, the amount of water herein indicated and the right of each party dates from the time herein after stated and set opposite each name, to-wit:

W. W. Riter	October 11th, A.D. 1886	- 320 inches.
Henry Dinwoody	October 11th, A.D. 1886	- 400 inches.
Joseph Jennings	October 11th, A.D. 1886	- 560 inches.
Heber M. Wells	October 11th, A.D. 1886	- 640 inches.
John Sharp, sr.	October 17th, A.D. 1886	- 284 inches.
Wm. Kountze	April 1st, A.D. 1889	- 160 inches.
John Kountze	May 1st, A.D. 1889	- 160 inches.

But these ^{said} rights of said Riter, Dinwoody, Jennings, Wells, Sharp, Wm. Kountze and John Kountze to the waters of Lane Creek herein set forth shall only extend to the first day of July in each year, for irrigating purposes, and the said Riter, Dinwoody, Jennings, Wells, Sharp, Wm. Kountze and John Kountze and each and all of them are hereby enjoined from diverting or using in any manner any part of said water rights after the first day of July in each and every year hereafter, for irrigating, or any other than domestic purposes.

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It is ordered, adjudged and decreed that the following parties are entitled to divert from meadow Creek, a tributary of Blackfoot River the amount of water herein indicated and the right of each party dates from the time hereinafter stated, and set opposite each name, to wit

Lars Hauken	July 1st A.D. 1888	160 inches
W. H. Edwards	May 1st A.D. 1890	200 inches.
and J. J. Edwards		
Ervin McPherson	May 15th A.D. 1890	50 inches.
W. H. Ellison	January 1st A.D. 1891	400 inches
Elizabeth Collett	April 1st A.D. 1891	160 inches.
O. B. Hauken	April 1st A.D. 1891	160 inches.
James Durney	May 1st A.D. 1891	100 inches.
H. C. Messingale	June 1st A.D. 1891	50 inches.

But these said rights of said Lars Hauken, W. H. Edwards, J. J. Edwards, McPherson, Ellison, Collett, O. B. Hauken, Durney and Messingale to the waters of meadow Creek herein set forth shall only extend to the first day of July in each year, for irrigating purposes, and the said Lars Hauken, W. H. Edwards, J. J. Edwards, Ervin McPherson, Ellison, Collett, O. B. Hauken, Durney and Messingale, and each and all of them are hereby enjoined from diverting or using in any manner any part of the said water rights after the first day of July in each and every year hereafter, for irrigating, or any other than domestic purposes.

It is ordered, adjudged and decreed that the following parties are entitled to divert from Little Blackfoot River ^{a tributary of Blackfoot River} the amount of water herein indicated and the right of each party dates from the time hereinafter stated, and set opposite each name, to wit:

Thomas Collett	April 1st A.D. 1887	75 inches.
Abel Anderson	April 1st A.D. 1889	170 inches.
Andrew Christensen	April 1st A.D. 1889	60 inches.
Peter Hauken	May 1st A.D. 1889	160 inches.

But these said rights of said Collett, Anderson, Hansen, Christensen, to the waters of Little Blackfoot River herein set forth shall only extend to the first day of July in each year, for irrigating purposes, and the said Collett, Anderson, Christensen and Hansen, and each

and all of them are hereby enjoined from diverting ^{using} or in any manner any part of the said water rights after the first day of July in each and every year hereafter for irrigating, or any other than domestic purposes.

It is ordered, adjudged and decreed, that John Sharp Sr. is entitled to divert from Nail Creek, a tributary of Blackfoot River, five hundred and sixty inches of water said right dating from October 11th A.D. 1886; that John Sharp Sr., George Romney, and W. W. Piler are entitled to divert from Lake Creek, Dale Creek and Pale Creek, all tributaries of Blackfoot River, six hundred and ten (610) inches of water, said rights dating from October 11th A.D. 1886; that J. Little is entitled to divert from Duck Spring Creek, a tributary of Blackfoot River, six hundred and forty (640) inches of water, said right dating from October 4th A.D. 1886; that John Sharp, Jr. is entitled to divert from Highland Creek, a tributary of Blackfoot River, six hundred and forty (640) inches of water; said right dating from October 11th A.D. 1886; that L. S. Thies is entitled to divert from Butte Creek, a tributary of Blackfoot River, four hundred (400) inches of water said right dating from October 11th A.D. 1886; that J. Little is entitled to divert from Rock Creek, a tributary of Blackfoot River, four hundred and eighty (480) inches of water, said right dating from October 17th A.D. 1886; that Ernie McPherson is entitled to divert from Sheep Creek, a tributary of Blackfoot River, fifty (50) inches of water, said right dating from May 15th A.D. 1890; that Mrs Christensen is entitled to divert one hundred and sixty (160) inches of water from Spring Creek, a tributary of Blackfoot River; said right dating from April 1st A.D. 1886; that H. Hansen is entitled to divert one hundred and fifty (150) inches of water from Spring Creek, a tributary of Blackfoot River, said right dating from April 1st A.D. 1884; that S. Goodwin is entitled to divert one hundred and seventy (170) inches of water from Lone Pine Creek, a tributary of Blackfoot River, said right dating from April 1st A.D. 1885; that J. E. Davis is entitled to divert one hundred and sixty (160) inches of water from House Creek and

sheep Creek, tributaries of Blackfoot River, said right dating from May 15th A.D. 1890; that Samuel J Rich and John A Bagley are entitled to divert two hundred (200) inches of water from Lant Creek and from Springs at or near said Lant Creek, the said Springs and Lant Creek being tributaries of Blackfoot River, said right dating from October 1st A.D. 1888; that R. J. Rosmuseu is entitled to divert fifty (50) inches of water from Pine Creek and one hundred and fifty (150) inches of water from Deep Creek, the said creeks being tributaries of Blackfoot River, said rights dating from July 1st A.D. 1889; the said rights aforesaid to-wit: the right of John Sharp sr. to the waters of Trail Creek, the right of John Sharp sr. George Romney and W. W. Riter, to the waters of Lant Creek, Dale Creek and Pale Creek, the right of J Little to the waters of Duck Spring Creek, the right of John Sharp jr. to the waters of Highland Creek, the right of L S Hills to the waters of Butte Creek, the right of J Little to the waters of Rock Creek, the right of Evin McPherson to the waters of Sheep Creek, the right of Mrs Christensen to the waters of Spring Creek, the right of H Hansen to the waters of Spring Creek, the right of S Goodwin to the waters of Lant Pine Creek, the right of J Davis to the waters of Grouse Creek & Sheep Creek, the right of R J Rosmuseu to the waters of Pine Creek & Deep Creek and the rights of Samuel J Rich and John A Bagley aforesaid shall only extend to the first day of July in each year, and the said John Sharp sr. George Romney, W. W. Riter, J Little, John Sharp jr. L S Hills, J Little, Evin McPherson, Mrs Christensen, H Hansen, S Goodwin, J Davis, R J Rosmuseu, Samuel J Rich and John A Bagley and each and all of them are hereby enjoined from diverting or using in any manner any part of the said water rights after the first day of July in each and every year hereafter, for irrigating or any other than domestic purposes.

It is ordered, adjudged and decreed that the following parties shall pay none of the cost of this suit, viz: W R Jones, C Woodall, Thomas Horsley, Chas. B. Wilson, Frank A Breeton, James B Hansen, Geo H Lucas, James H Keatley, Charles Haddock

Hountze, P. B. Fox sr. and H. N. Woolley.

It is ordered, adjudged and decreed, that the costs of the Judge, Pro tem, shall be and the same is hereby taxed as costs of suit and the same is fixed at two hundred and ten dollars.

It is ordered, adjudged and decreed that the several quantities of water herein decreed shall be the quantities hereinbefore named measured under a four inch pressure, and that the first appropriation in point of time is first in point of right, and all appropriations of equal or of the same date are of equal rights.

It is further adjudged and decreed, that in case of insufficiency of water to supply all parties the entire volume is to be devoted to, and used by those appropriators who are first in point of time.

It is further adjudged and decreed that all water diverted from any stream mentioned in this decree by any party hereto shall be diverted through a box or flume so arranged and constructed as to permit of the water so diverted, being measured under a four inch pressure and when the waters of the streams mentioned in this decree are not used for irrigation of lands all water shall be returned to the natural channel of the stream, and no diversion thereof allowed.

It is adjudged and decreed, that the plaintiffs to this action shall pay one-sixth of all the costs to this action, and each and all of said plaintiffs shall be jointly and severally liable for the one-sixth part until such part of one-sixth is fully paid.

It is adjudged and decreed that Henry Dunn, N.A. Just, Emma Just, John Misen, Leon Misen, Robert Misen, Peter Morris, and Daniel Y. Miller shall pay one sixth of all the costs of this action, and said parties shall be jointly and severally liable for the said one-sixth until such part is fully paid.

It is adjudged and decreed that P. B. Fox, Jr., William Howard, A. Whitten, Susan E. Whitten, Calvin Miles, Eastern Idaho Water Company, F. M. Shermaker, Sample Orr, Daniel M. Taylor, Geo. Monroe, John Lyon, George Steaton, Levi Warren and Presto Burrell shall pay one-fourth of all

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the costs of this action, and said parties shall be jointly and severally liable for said one-fourth until such part is fully paid.

It is adjudged and decreed, that Caroline Eliason, Jacob Eliason, W^m H. Ellison, Abe Anderson, Thomas Collett, W^m H. Edwards, J. F. Edwards, Evie McPherson, Elizabeth Collett, Mrs Christensen, O. B. Hansen, H. Hansen, Enoch Hansen, S. Goodwin, James Durney, Peter Hansen, J. E. Davis, Donald Poluie, Lars Hansen, W^m Kountze, R. J. Rasmussen, John Kountze, H. B. Lewis, Sarah Lewis, H. C. Messingale, James Drew and Samuel Borof, shall pay one sixth of all the costs of this action, and ^{said} parties shall be jointly and severally liable for the said one-sixth until such part is fully paid.

It is adjudged and decreed that James Sharp, John Sharp, Sr., John Sharp, Jr., Elias A. Smith, George Romney, W. W. Riter, F. Little, Maylaw C. Fox, James F. Little, F. W. Jennings, Thos G. Webber, Henry Dinwoody, Heber M. Wells, L. S. Stiles, W. H. Rowe, Charles Burton, Samuel J. Rich, and John A. Bagley, shall pay one-fourth of all the costs of this action, and said parties shall be jointly and severally liable for the said one-fourth until such part is fully paid.

It is further ordered, adjudged and decreed, that all parties to this action shall have the right to use the waters of the several streams named in this decree for domestic purposes.

Done in open Court
this August 1st A.D. 1891.

Chas Cobb,
Judge, Pro Tem.

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In the District Court of the Fifth Judicial District of Idaho, in and for Bingham County.

In the matter of Judgment by Confession.

Carl J Cannon
vs
Helen Thompson & Co

In this, Carl J. Cannon having filed his confession of judgment wherein he authorizes and consents that judgment be entered in favor of Helen Thompson & Co for the sum of five hundred and fifty dollars; therefore, by reason of the law and the premises aforesaid, it is ordered and adjudged, that the said Helen Thompson & Co, do have and recover of and from the said Carl J Cannon the sum of five hundred and fifty dollars, with interest thereon at the rate of ten per cent. per annum together with the sum of Twenty-four & 25/100 dollars costs herein.

Dated Apr. 10, 1891.

M Patrie Clerk
By Geo F Gagon Deputy.

NOTED