

\$50.00

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: A29-00048
Date Received: 3/28/1990
Receipt No: EC1311
Received By: ADM

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: LAVA IRRIGATION CO. LTD. 208-776-5628
Address: P.O. BOX 182
LAVA HOT SPRINGS, ID 83246

2. Date of Priority: FEB 11, 1904

3. Source: PORTNEUF RIVER Trib. to: SNAKE RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
09S	38E	9	NE	SE		6	BANNOCK

5. Description of diverting works:
CONCRETE HEADWORKS WITH WOODEN GATES

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
IRRIGATION	04/15	09/15	20.500		

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

8. Total consumptive use is 2052.5 Acre Feet Per Annum.

9. Non-irrigation uses:
S/500 CATTLE.

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
09S	37E	24	NE	SE	1	IRR	17.0
Section Acres							17.0

A29-00048

Page 1

Date: 03/29/90

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NOV 13 1992



10. Place of Use: Continued

Township	Range	Section	1/4	of	1/4	Lot	Use	Acres
09S	38E	15	NW		NW	4	IRR	15.0
			SW		SW	5	IRR	33.0
			SE		SW	6	IRR	4.0
			Section Acres					52.0
		16				1	IRR	1.0
			NE		NE		IRR	11.0
			SE		NE		IRR	17.0
			SW		SW		IRR	39.0
			SE		SW		IRR	39.0
			NE		SE		IRR	13.0
			Section Acres					120.0
		17	SE		SW		IRR	11.0
			SW		SE		IRR	37.0
			SE		SE		IRR	39.0
			Section Acres					87.0
		19	NW		SW		IRR	2.0
			SW		SW	5	IRR	10.0
			SE		SW	6	IRR	11.0
			NE		SE	4	IRR	6.0
			NW		SE		IRR	4.0
			SW		SE	7	IRR	2.0
			Section Acres					35.0
		20	NE		NE		IRR	36.0
			NW		NE		IRR	38.0
			SW		NE		IRR	29.0
			SE		NE	5	IRR	29.0
			NE		NW		IRR	28.0
			SW		NW		IRR	9.0
			SE		NW		IRR	36.0
			NE		SW	7	IRR	24.0
			NW		SW		IRR	17.0
			SW		SW	8	IRR	20.0
			SE		SW	9	IRR	14.0
			Section Acres					280.0
		21	NW		NE		IRR	37.0

A29-00048

Page

2

Date: 03/29/90

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10. Place of Use: Continued

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
09S	38E	21	SW NE		IRR	36.0
			SE NE		IRR	4.0
			NE NW		IRR	38.0
			NW NW		IRR	37.0
			SW NW	5	IRR	32.0
			SE NW		IRR	29.0
			NE SW	6	IRR	2.0
			NE SE	8	IRR	2.0
			NW SE	7	IRR	13.0
					Section Acres	230.0
					Total Acres	821.0

11. Place of use in counties: BANNOCK

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

13. Other Water Rights Used:
A29-00047A, A29-04467, A29-10816

14. Remarks:

15. Basis of Claim: DECREED
Case Number:
Court :
Decree date: 8/06/1932

UNION GRAIN & ELEVATOR CO.
Decree Plaintiff

vs

MC CAMMON DITCH CO.
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 ~~not~~ do not ☒ wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments: _____

For Organizations:

I do solemnly swear or affirm that I am Secretary of Lava Irrigation Co. Ltd. that I have signed the foregoing document in the space below as Secretary of Lava Irrigation Co. Ltd. and that the statements contained in the foregoing document are true and correct.

Patricia Avery
Signature of Authorized Agent
Secretary - Lava Irrigation Co. Ltd.
Title and Organization

Date

State of Idaho)
County of BOISE) SS.

Subscribed and sworn (or affirmed) before me this 12 day
of April 19 90

[Signature]
Notary Public

Seal

Residing at Idaho Falls
My Commission Expires 2-12-94

WR5808NP
(00-26)

IDAHO DEPARTMENT OF WATER RESOURCES
WATER RIGHT PROOF READING REPORT

04/03/01 13:22:14
Page 1

Water Right Number - 29-00048

Prefix Translation: WATER RIGHT

Old (D) Number -

+ - - - - Last Name - - - - + + - First Name - - + + - - - - - Address - - - - - +

*** C - CURRENT OWNER ***
LAVA IRRIGATION CO.

1 -
2 -
3 -
City-
Phone -

State- Zip-

+ - - Priority Date - - + + - - - Region - - - + + - - - Stage - - - + + - - - Status - - - +
02/11/1904 15 EASTERN D - DECREED

+ - - - - Source - - - - - + + - - - - - Tributary - - - - - +
PORTNEUF RIVER SNAKE RIVER

Tw	Rng	Sec	Tract	Lot	RFlg	County	Point of Diversion	Diversion Name	Diversion Rate	Diversion No.
09S	38E	10	NW SW	3		(5) BANNOCK				

Code	Description	Period From	Period To	Diversion Rate	Diversion Volume
01 - IRRIGATION		04/15	09/15	20.500	

+ - Total Div. Rate - + + - Total Div. Volume - + + - Total Div. Capacity - + + - Total Consumptive Use - + + - KW Usage - +
20.500 0.0

Tw	Rng	Sec	Tract	Lot	Acres	Place of Use Code	Description	County
09S	38E	15	NW NW	4		01	IRRIGATION	(5) BANNOCK
09S	38E	15	SW SW	5		01	IRRIGATION	(5) BANNOCK
09S	38E	16	NE NE			01	IRRIGATION	(5) BANNOCK
09S	38E	16	SE NE			01	IRRIGATION	(5) BANNOCK
09S	38E	16	SW SW			01	IRRIGATION	(5) BANNOCK
09S	38E	16	SE SW			01	IRRIGATION	(5) BANNOCK
09S	38E	16	NE SE			01	IRRIGATION	(5) BANNOCK
09S	38E	17	SE SW			01	IRRIGATION	(5) BANNOCK
09S	38E	17	SW SE			01	IRRIGATION	(5) BANNOCK
09S	38E	17	SE SE			01	IRRIGATION	(5) BANNOCK
09S	38E	19	SW SW	5		01	IRRIGATION	(5) BANNOCK
09S	38E	19	SE SW	6		01	IRRIGATION	(5) BANNOCK
09S	38E	19	NE SE	4		01	IRRIGATION	(5) BANNOCK
09S	38E	19	NW SE			01	IRRIGATION	(5) BANNOCK
09S	38E	19	SW SE	7		01	IRRIGATION	(5) BANNOCK
09S	38E	20	NE NE			01	IRRIGATION	(5) BANNOCK
09S	38E	20	NW NE			01	IRRIGATION	(5) BANNOCK
09S	38E	20	SW NE			01	IRRIGATION	(5) BANNOCK
09S	38E	20	SE NE			01	IRRIGATION	(5) BANNOCK
09S	38E	20	NE NW			01	IRRIGATION	(5) BANNOCK
09S	38E	20	SW NW			01	IRRIGATION	(5) BANNOCK

Water right number - 29-00048

Prefix Translation: WATER RIGHT

Tw	Rng	Sec	Tract	Lot	Acres	Place of Use Code	Description	County
09S	38E	20	SE NW			01	IRRIGATION	(5) BANNOCK
09S	38E	20	NE SW	7		01	IRRIGATION	(5) BANNOCK
09S	38E	20	SW SW	8		01	IRRIGATION	(5) BANNOCK
09S	38E	20	SE SW	9		01	IRRIGATION	(5) BANNOCK
09S	38E	21	NE NE			01	IRRIGATION	(5) BANNOCK
09S	38E	21	NW NE			01	IRRIGATION	(5) BANNOCK
09S	38E	21	SW NE			01	IRRIGATION	(5) BANNOCK
09S	38E	21	SE NE			01	IRRIGATION	(5) BANNOCK
09S	38E	21	NE NW			01	IRRIGATION	(5) BANNOCK
09S	38E	21	NW NW			01	IRRIGATION	(5) BANNOCK
09S	38E	21	SW NW	5		01	IRRIGATION	(5) BANNOCK
09S	38E	21	SE NW			01	IRRIGATION	(5) BANNOCK
09S	38E	21	NE SW			01	IRRIGATION	(5) BANNOCK
09S	38E	21	NE SE	8		01	IRRIGATION	(5) BANNOCK
09S	38E	21	NW SE	7		01	IRRIGATION	(5) BANNOCK
09S	38E	30	SW NE			01	IRRIGATION	(5) BANNOCK
09S	38E	30	NW SE			01	IRRIGATION	(5) BANNOCK

+ - - Diversion Means -

+ - - Non-Irrigation Use -

+ - - Other Rights for Same Use -

+ - - - - - Remarks - - - - - +

GEN AC. IRR. = 883.04.

+ - - - - - Old Water Right Numbers - - - - - +
No Old Water Right Numbers found.+ - - - - - Conditions of Approval - - - - - +
No Conditions of Approval found.

+ - - - - Decree Plaintiff - - - + + - - - - Decree Defendant - - - + + - Decree Date - +

UNION GRAIN & ELEVATOR CO.

MC CAMMON DITCH CO.

08/06/1932

+ - - - - - Comments - - - - - +
No Comments Found

+ - - Audit Fields - 05/06/86 05/22/88 CONVERT

+ - - - - - Water Rights Dates and Flags Area - - - - - +

Proof Due Date	- 00/00/0000	Field Exam Made	- 00/00/0000	Field Exam Fee	-
Approved/Denied	- 00/00/0000	Protested Date	- 00/00/0000	Swan Falls	-
Proof Made Date	- 00/00/0000	Hearing Date	- 00/00/0000	Temporary Right	- P
Exam to S.O. Date	- 00/00/0000	Verified Date	- 05/06/1986	DLE/Carey Act	-
Order Show Cause	- 00/00/0000	Receipt Number	-	Water District	- 29
Licensed Date	- 00/00/0000	Appl Received	- 00/00/0000	Transfer/Amended	-

WR5808NP
(00-26)

IDAHO DEPARTMENT OF WATER RESOURCES
WATER RIGHT PROOF READING REPORT

04/03/01 13:22:14
Page 3

Water right number - 29-00048

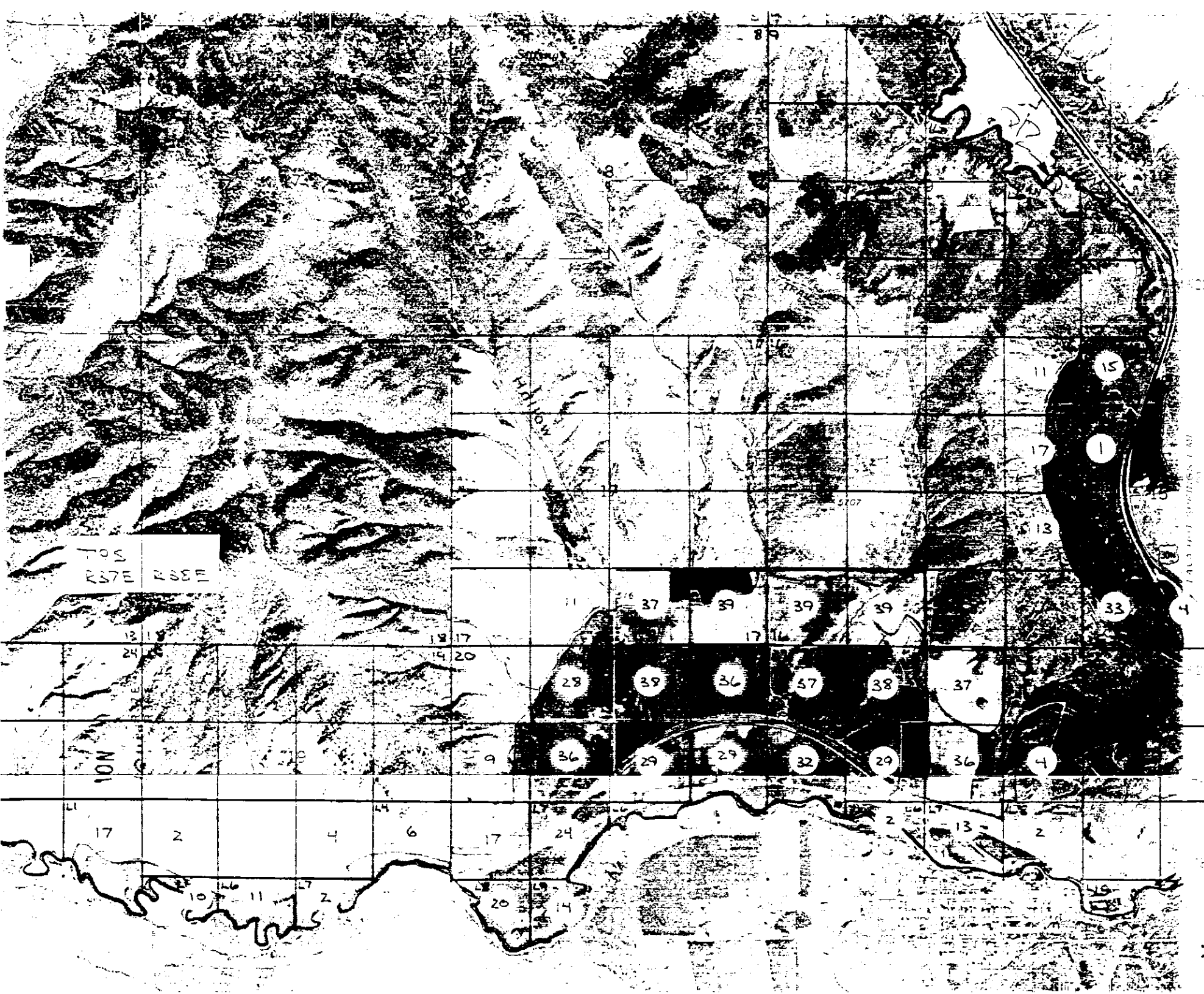
Prefix Translation: WATER RIGHT

+ - - - - - Water Rights Dates and Flags Area - - - - - +

Presumption Flag -
SRBA Decreed Flag -

Name Connector -

POU Ownership Flag-



A29-60047A A29-60047
A29-600 A29-60816

Log for claim A29-00048

Spatial Dynamics AMH

8/1/00

TR	SEC	QQ	Acres Claimed	Acres Found	COMMENT
09s37e	24	NESE	17	18	
09s38e	15	NWNW	15	23	
09s38e	15	SWSW	33	45	
09s38e	15	SESW	4	13	Indiscernible
09s38e	16	NENE	11	13	
09s38e	16		1	0	No quarter/quarter description
09s38e	16	SENE	17	22	
09s38e	16	SWSW	39	40	
09s38e	16	SESW	39	40	
09s38e	16	NESE	13	16	
09s38e	17	SESW	11	16	
09s38e	17	SWSE	37	36	
09s38e	17	SESE	39	38	
09s38e	19	NWSW	2	2.4	
09s38e	19	SWSW	10	13	
09s38e	19	SESW	11	18	
09s38e	19	NESE	6	9.1	
09s38e	19	NWSE	4	4.6	
09s38e	19	SWSE	2	18	Permissible place of use?
09s38e	20	NENE	36	38	
09s38e	20	NWNE	38	38	
09s38e	20	SWNE	29	37	
09s38e	20	SENE	29	45	Indiscernible
09s38e	20	NENW	28	31	
09s38e	20	SWNW	9	11	
09s38e	20	SENE	36	36	
09s38e	20	NESW	24	18	
09s38e	20	NWSW	17	15	
09s38e	20	SWSW	20	27	
09s38e	20	SESW	14	18	
09s38e	21	NWNE	37	40	
09s38e	21	SWNE	36	37	
09s38e	21	SENE	4	7.1	
09s38e	21	NENW	38	40	
09s38e	21	NWNW	37	37	
09s38e	21	SWNW	32	43	
09s38e	21	SENE	29	37	
09s38e	21	NESW	2	8.6	
09s38e	21	NESE	2	19	Indiscernible
09s38e	21	NWSE	13	34	Indiscernible
Totals:			821	1001.8	

AJ5809NP
No. A29-00048

IDAHO DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM PROFILE REPORT

DATE: 05/22/00
PAGE: 16

OWNER CODE	NAME & ADDRESS	PRIORITY DATE	WATER USE	USE PERIOD FROM TO	DIVERSION RATE	DIVERSION VOLUME
C	LAVA IRRIGATION CO LTD PO BOX 182 LAVA HOT SPRINGS ID 83246 (208) 776-5628	02/11/1904	IRRIGATION	04-15 09-15	20.500 CFS	
TOTAL DIVERSION:					20.500 CFS	
CONSUMPTIVE USE:						2052.50 AFA

Water Source: PORTNEUF RIVER

Tributary to: SNAKE RIVER

Stage: DECREED

Point(s) of Diversion: T09S R38E S09 Lot06(NESE)

BANNOCK 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	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac			
09S	37E	24	:		:		:		:		:		:		:		:		:		:		:		:		:		:		:		:	17.0	
09S	38E	15	:		:		:		:		:		:		:		:		:		:		:		:		:		:		:		:	52.0	
09S	38E	16	:		:		:		:		:		:		:		:		:		:		:		:		:		:		:		:	119.0	
09S	38E	17	:		:		:		:		:		:		:		:		:		:		:		:		:		:		:		:	87.0	
09S	38E	19	:		:		:		:		:		:		:		:		:		:		:		:		:		:		:		:	35.0	
09S	38E	20	:		:		:		:		:		:		:		:		:		:		:		:		:		:		:		:	280.0	
09S	38E	21	:		:		:		:		:		:		:		:		:		:		:		:		:		:		:		:	230.0	
TOTAL ACRES																												821.0							

Lots Without 1/4 1/4 Description: IRRIGATION
09S 38E 16 01-01

SUM
1.0

POU County: BANNOCK

Non-Irrigation Uses: S/500 CATTLE.

Other Rights: A29-00047A, A29-04467, A29-10816

Other Water Rights with Same Point(s) of Diversion with Stage (Includes All Sources):
A29-00047A A29-04467 A29-10816

Other Water Rights Listing Overlapping Place(s) of Use:

A29-00036	A29-00037	A29-00047A	A29-00180	A29-02360	A29-02452	A29-04090	A29-04180	A29-04467	A29-10624
A29-10625	A29-10791	A29-10816	A29-10820	A29-11773	A29-12267				

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

Misc: Water District Number: 29 Field Inspection Flag:
Presumption Flag:

Audit: 04/12/90 MEYER 04/01/94 THOMPSON 03/29/95 POST-STD

APPENDAGE TO THE FILING OF WATER RIGHT OF

LAVA IRRIGATION COMPANY

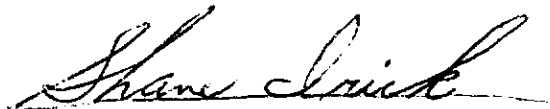
Portneuf River district #29 Lava Hot Springs, Idaho 83246

Our present decreed water rights are jeopardized by:

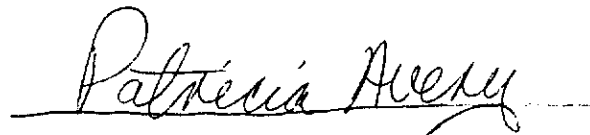
1. Illegal loss free transportation of storage water in the river channel. We ask the adjudication correct this situation by requiring the users of the storage water to stand the loss or require all the water users in the river district to share in the loss on a percentage basis according to the cubic feet of water they have decreed to them.
2. Many years after the established use rights and decreed rights many wells have been allowed in the upper basin area, draining the aquifer. We ask an in depth study be made to determine the affect these wells have on the river flow before a decision is made.

Historically the amount of our water has been cut down during the irrigation season because there is not enough water to fill all the rights. Of necessity we have used the water at any time during the non irrigation season in any amount needed, first come first served down the river.

We have filed a claim of use #29-4467 claiming the right to use the water in this manner until November 15 each year. This application was not protested when advertised. We request this use right be recognized and established as a legitimate water right as of 1904 the same as our decreed right.



Shane Irick - President


Patricia Avery - Sec.

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NOV 13 1992



Lava Irrigation Co.
Seal

State of Idaho)

County of Bannock)

On this 10th day of April 19 90, before me personally
appeared J. B. Smith to me known to be the
person(s) described in and who executed the foregoing instrument,
and acknowledged to me that he executed the same as his
free act and deed.

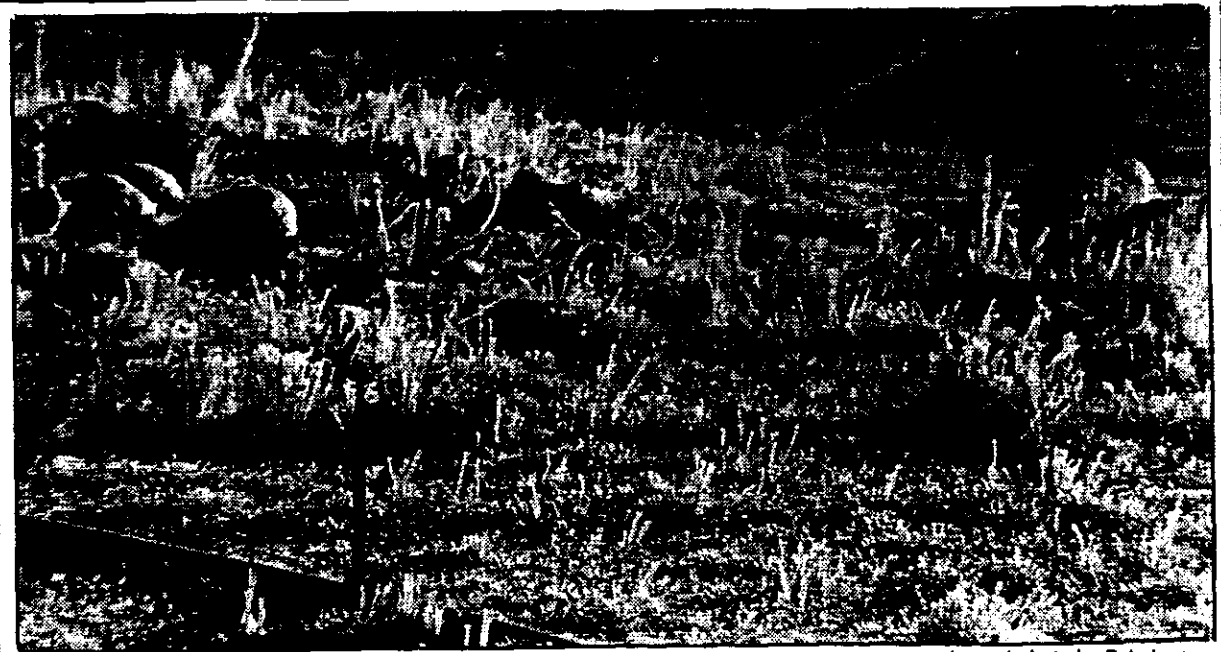
3.11.93
Term Expires

Philip D. Peterson
Notary Public
Love Lake Springs
Residing At

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NOV 13 1992

Farm



Journal photo by Bob Jensen

Irrigation pipe has been put to use in parts of this area, as warm temperatures dry soil during the day. However, freezing temperature at night result in ice forming. Water will placed in many area canal systems this week as farmers begin watering their crops.

Lava Hot
April 9, 19.

Idaho State Water
Resources Board:

I am writing this as a member
of The Lava Irrigation Co., on the
Sunny Side Ditch as it is commonly
known; and also as a member of
the Kidd family. We are the only
family to still own our original
homesteads. All the rest have changed
ownership times without number.
I am the oldest living person to have
known constantly about the
irrigation situation in this
community.

I went to college with Elmo
Higginson, in Pocatello in 1929 and
1930. He was your hydrologist
and I believe his son is your
hydrologist now.

Our project is small, only slightly
more than a thousand acres in
the beginning. Highway 30 has

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NOV 13 1992

Taken away some of our lands. There was plenty of water, for everyone in the beginning. They turned what water they needed into our canal and turned it back into the river when they were through using it. They always tried to keep some water in the canal through the winters for livestock. Sheep men would buy hay from the farmers and feed the sheep in the fields and have canal water for the sheep to drink.

They built the reservoir at Chesterfield, they tried turning the stored water down the Portneuf River, which would not carry the extra water. They paid damages for several years to farmers downstream for flooding the fields. They then built the long outlet canal to bypass the farms. In the beginning the canal would not carry the

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NOV 13 1992

water, but the canal eroded until we have the bad situation we have today.

The McCammon Mill sued to get its water, and they won the lawsuit, and a decree was handed down about the various water rights. Since then, the McCammon Mill sold its water right, I believe to either the McCammon Canal Co., or to some of its members.

Ever since, our project has had less and less water, so we have tried to get water into our canal before the irrigation season began, and also after the irrigation season had ended, to soak up our fields for the next season. I personally have watered fields when several inches of snow were on the ground. We have done this all through my life time. Nobody has ever tried to stop us, and I feel that

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NOV 13 1992

4

we have established a right to do this.

Now, companies have planned to build hydropower plants in the river, and they intend to demand the entire river flow when the irrigation season ends until the spring when the season begins again. The way things are shaping up, we will have scarcely any water at all. They should not be allowed to do this to us. The plants are not needed at all, and the Federal Government should never have approved their building.

Sincerely

P.O. Box 137 William Kidd
Lava Hot Springs
Idaho, 83246

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NOV 13 1992

STATE OF IDAHO, COUNTY OF BANNOCK

On this 9th day of APRIL, 1990, before me, a notary public in
and for said State, personally appeared

WILLIAM KIDD

Known to me to be the person whose name ~~is~~ ^{HE} subscribed to the within
instrument, and acknowledged to me that ~~he~~ executed the same.

Robert D. Bergendorf
NOTARY PUBLIC

Residing at LAUA HOT SPRINGS, Idaho

Commission Expires LIFETIME

NOV 13 1992

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TO WHOM IT MAY CONCERN:

I, Fred G. Walker, would like to say, I was born and raised on the Walker Ranch located near Lava Hot Springs, Idaho, and lived there until February 1953. I was also the Ditch Checker for one summer while living there. There was plenty of water for all of the ranches in the area before the Chesterfield Dam was constructed, no one in the area had any water problem until after the construction of that Dam. Then the situation seemed to change a very great deal. The Sunnyside Ditch Company had plenty of water for all users at the beginning as well as at the ending of the season. They all irrigated and used the water all season until it froze up in the winter. We had all the water for all the ranchers in the area all season long. Everyone had all the water needed to irrigate their land from early in the spring until it all froze up with the winter. My folks before me had plenty and I had plenty for the same acres and the same farm from early spring until it froze up with the winter.

Signed Fred G. Walker
Fred G. Walker

Subscribed and sworn to before me this 4th day of April 1990, at Cokeville, Lincoln County, State of Wyoming.

My Commission expires: Dec. 1, 1993

Marcel D. Reed
Notary Public

NOV 13 1992

UNRECORDED

To whom it may concern:-

My parents moved into Lava Hot Springs
the year of 1919 Purchased a farm on Dempsey
Creek. I was 9 years old then. The Lava Irrigation
Company was a established canal then
operating with a full water right established
in 1904. I purchased a farm under the
Lava Irrigation system in 1940.

We have had water in that canal every
year that I have owned ranch 1940 to 1990
Water is in early April until Nov. Water
regulated according to Water Decree.

Sincerely

Calvin A. Rowell

Calvin A. Rowell

Witness: B. J. Owens 4-10-90

On 4-10-90, before me, Gilbert E. BIRDSONG II,
a notary public of the State of Idaho, appeared CALVIN A. ROWELL

NOTARY RESIDING AT PEACHTREE

GANNON COUNTY

Gilbert E. Birdsong II

MY COMMISSION EXPIRES

10-4-94

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NOV 13 1992

April 10 - 1990

In regards to using water before and after the normal irrigation season begins and ends.

I moved here in 1948, Feb 28 we always use canal water from the Portney River until it either either snows or freezes up. Our decreed water right is usually cut off in early summer, if we didn't use water as late as possible, we wouldn't keep our pasture + hayfield from drying out. Also that water is our main source of livestock water as our spring water is insufficient for our household use + livestock both.

I'm, — J. B. Irick, a member of the Lava Irrigation Company.

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NOV 13 1992

Greenleaf Id.
4-3-90

to whom it may concern

In Regards to conditions of
the Sunnyside Canal near
Lava Hot Springs Idaho

In the years of 1947-48-49 and 50
I lived on the farm now owned
and operated by Halder and Vera
Avery and family.

I was a Board member and for 2 year
Chairman of the Board
in the spring we turned the
water in as soon as the canal
was ready.

Later in the summer we would
have to take turns it was
able to irrigate through
October and as I remember
we would have about three
hundred inches then would
have water for live stock
until it froze up in
the canal.

Lester Waters

MICROFILMED

Nancy O'Brien

Notary: Corraige Co-Op Fed. C.U.

Ex. 10-14-94

PO Box 416

Greenleaf Idaho

83626-0416

NOV 13 1992

April 3, 1990

TO WHOM IT MAY CONCERN:

This is a statement concerning the Water Rights and the water that was available at the time we farmed at Sunnyside, near Lave Hot Springs, Idaho.

The land we farmed from the Spring of 1947 through 1950, is presently owned and farmed by Golden and Vera Avery and their family.

The water in the Sunnyside Canal, was available in the spring, whenever the share holders decided it was needed or as soon as the Canal could be cleaned and made ready.

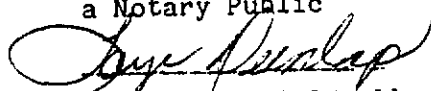
As the growing seasons became hotter, there was less water available to this Canal Company, and sometimes, we were cut down to three streams of about 50 inches of water each at the headgates.

In the fall, after the heavy demand for water was over, the water was kept in the canal as long as anyone wanted it, or until it was frozen.

The summer of 1950, I was hired by the Canal Company as Ditch Rider. I started as soon as I got out of school, about May 20th, and had the job until I quit, September 25th, to take another job. At that time, my Dad took the job for the rest of the season.

The information in this letter is as close as I can remember.

Signed & Subscribed
before me this day 4-3-90
a Notary Public


residing in Caldwell



Lester E. Waters
2202 Big Sky St.
Caldwell, Idaho 83605

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NOV 13 1992



State of Idaho
DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720 - (208) 334-7900

CECIL D. ANDRUS
GOVERNOR
R. KEITH HIGGINSON
DIRECTOR

September 16, 1988

Lyndon Green
105 E 16th Street
McCammon, ID 83250

Re: Water District 29, Portneuf River

Dear Mr. Green:

In your telephone call of September 14, 1988, you stated that the irrigation season in Water District 29 under the Portneuf River decree ends on September 15. You asked me what action, if any, should be taken by the watermaster after that date.

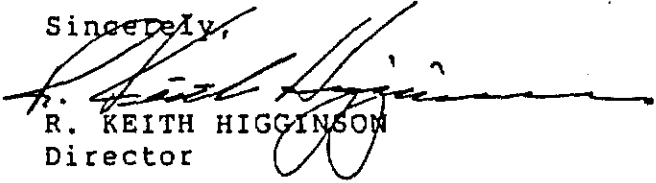
The historical practice on the Portneuf is for the watermaster to stop delivering water rights under the decree on September 15. After that date it has been the practice of the waterusers to divert water as needed irrespective of the priorities under the decree.

It is the normal duty of a watermaster to delivery water rights on a stream in accordance with the terms of the applicable decrees. Consistent with court decree, it has been the long-standing practice on the Portneuf for the formal irrigation season to end on September 15 and for the watermaster to discontinue delivering irrigation water rights after that date. I do not find it appropriate to order the watermaster to alter that longstanding practice this year.

Waterusers who have historically diverted water and put it to beneficial use after September 15 each year may have established legal rights to continue that practice. The extent of any such rights will be determined in the pending Snake River basin water rights adjudication.

I hope this letter has adequately answered your question.

Sincerely,


R. KEITH HIGGINSON
Director

cc: Eastern Region
Tom Bloxham

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NOV 13 1992

REMARKS: Union Grain and Elevator vs McGammon Litch Co. decree recognized an irrigation season April 15, to Sept. 15, the actual irrigation practice of Lava Irrigation historically has been to use the water any time needed during the non irrigation season, first come first serve down the river.
The purpose of this claim is to establish this historical practice as a legitimate water right as used, dated back to the beginning of our decreed water rights.

Refer to appendage and affidavits.

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NOV 13 1992