

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: A29-00414
Date Received: 4/20/1990
Receipt No: E013618
Received By: _____

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: DANIEL B. EVANS 801-489-7595
Address: 663 E. CUTLER AVE.
SPRINGVILLE, UT 84663

AND

Name: C. HARRIET GUMMOW 801-225-2005
Address: 526 E. 1834 S.
OREM, UT 84057

AND

Name: MARTIN D. EVANS, SR.
Address: 3608 CAREY
NORTH LAS VEGAS, NV 89030

2. Date of Priority: MAY 01, 1894

3. Source: GARDEN CREEK Trib. to: MARSH CREEK

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4 of	Lot	County
10S	36E	7	NW	NE	NE		BANNOCK
			SW				BANNOCK

5. Description of diverting works:
SEE REMARKS

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	03/15	11/15	0.375		

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

8. Total consumptive use is 70.0 Acre Feet Per Annum.

9. Non-irrigation uses:

A29-00414

Page 1

Date: 04/25/90

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A2900414



10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
10S	36E	7	NW	NE		IRR	24.0
			SW	NE		IRR	4.0
Section Acres							28.0
Total Acres							28.0

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:
29-0415, & 0416.

14. Remarks:

DIVERSION WORKS:
HEADGATE AND CANAL FROM GARDEN CREEK NW4NW4, SEC. 7 T10S,R36E
HEADGATE IN CANAL FROM GARDEN CREEK NE4NE4NW4, SEC. 7, T10S,R36E
HEADGATE IN CANAL FROM GARDEN CREEK SE4NE4NW4, SEC. 7, T10S,R36E
SOUTHERNMOST CANAL FROM GARDEN CREEK THROUGH NW4NE4 & SW4NE4,
SEC. 7, T10S, R36E

15. Basis of Claim: DECREED

Case Number:

Court :

Decree date:

GARDEN CREEK IRRIGATION CO.

Decree Plaintiff

vs

THOMAS E. WOLVERTON, ET. AL.

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: 39576
Ident. Number A29-00414
Date Received 4/20/90
Receipt Number EO13618 *Jo*

NOTICE OF CLAIM
TO A
WATER RIGHT
ACQUIRED UNDER STATE LAW

RECEIVED

APR 20 1990

Department of Water Resources
Eastern District Office

Please type or print clearly

1. Name of Claimant (s) Daniel B. Evans et al. (see remarks) Phone (801) 489-7595
Mailing Address 663 East Cutler Avenue, Springville, Utah Zip 84663

2. Date of Priority (Only one (1) per claim) 1st day of May 1894

3. Source of water supply (a) Garden Creek
which is tributary to (b) Marsh Creek

4. a. Location of existing point of diversion is: Township 10S Range 36E Section 7,
1/4 of N.W. 1/4 of N.E. 1/4, Govt. Lot, B.M., County of Bannock

Additional points of diversion if any: S.W. 1/4 of N.E. 1/4 of section 7, T10S, R36E

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.

Headgate and canal from Garden Creek N.W. 1/4 of N.W. 1/4 of section 7, T10S, R36E

Headgate in canal from Garden Creek N.E. corner of N.E. 1/4 of N.W. 1/4, sec. 7, T10S, R36E

Headgate in canal from Garden Creek in S.E. 1/4 of N.E. 1/4 of N.W. 1/4, sec. 7, T10S, R36E

Southernmost canal from Garden Creek through N.W. 1/4 of NE 1/4 and S.W. 1/4 of N.E. 1/4
of section 7, T10S, R36E

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6. Water is claimed for the following purposes:

(both dates are inclusive)

(cfs)

(acre feet)

For freshit irrigation purposes from 3/15 to 11/15 amount 3/8 = .375 or _____

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

7. Total quantity claimed (a) 3/8 or 0.375 (cfs) and/or (b) _____ (acre feet)

8. Total consumptive use claimed is 70 acre feet per annum.

9. Non-irrigation uses; describe fully (eg. Domestic: Give number of households served; Stockwater: Type and number of livestock Etc.) none

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
			NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	
108	36E	7		24	4														28

Total number of acres irrigated 28

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

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.

1 cfs freshit irrigation priority date 1/May/1904 or None ()
3/8 cfs freshit irrigation priority date 1/May/1901

14. Remarks:

Additional names and addresses:

C. Harriet Gummow Phone: (801)-225-2005

Martin D. Evans Sr.

526 East 1834 South

3608 Carey

Orem, Utah 84057

North Las Vegas, Nevada 89030

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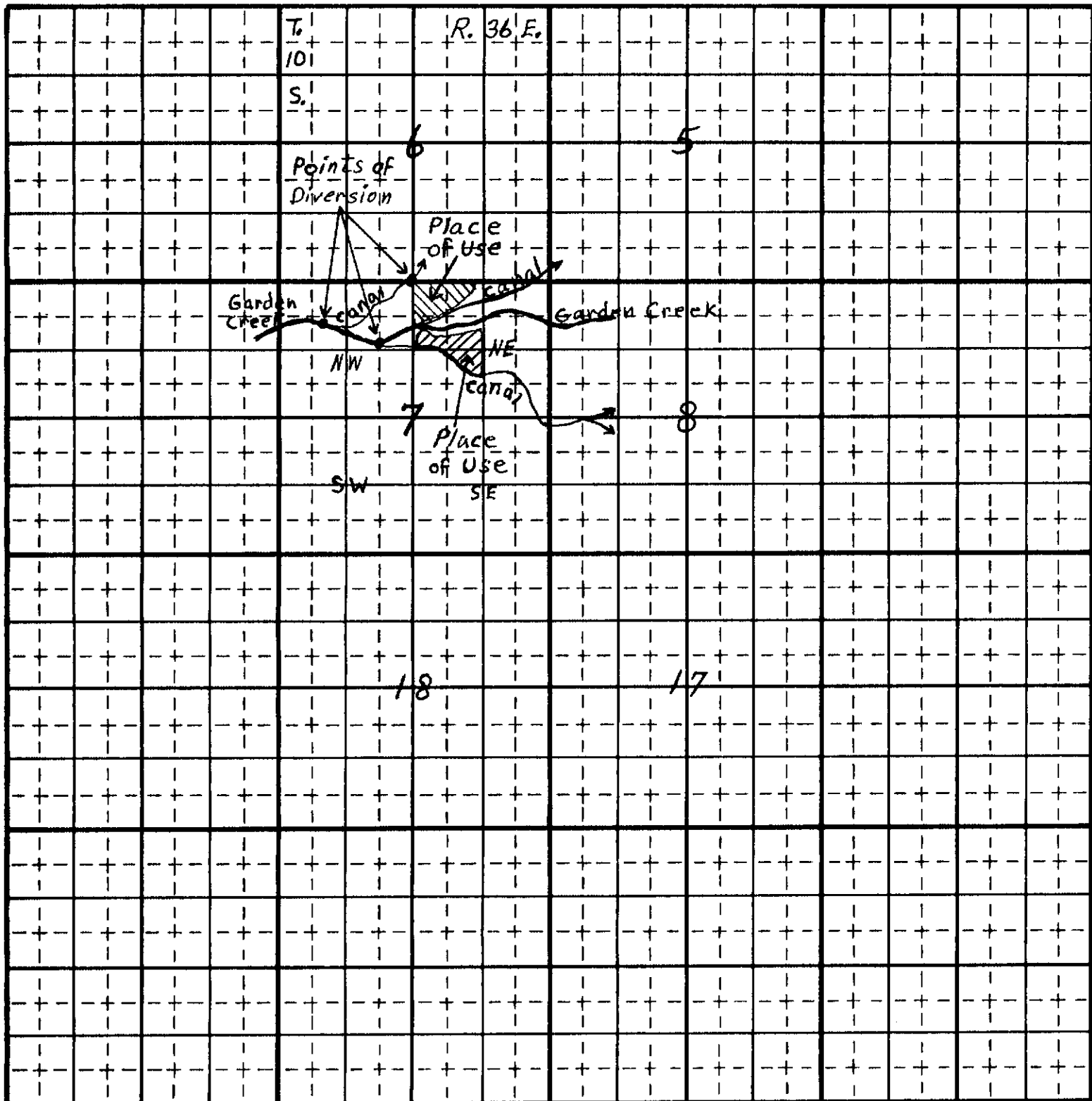
NOV 13 1992

Last Name Evans Ident No. _____

Copies: White -State, Yellow-Claimant

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

Scale: 2 inches equals 1 mile



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Last Name Evans

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 _____

Court 5th Judicial District Case Number 292 Decree Date 15th Oct. 1906

Plaintiff vs Defendant Garden Creek Irrigation Company vs. Thomas E. Wolverton, et al.

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 8

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

Signature of Claimant (s)

Daniel B. Evans

Date April 16, 1990

C. Patrick Summow

Date April 16, 1990

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 _____

Title

of _____

Organization

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

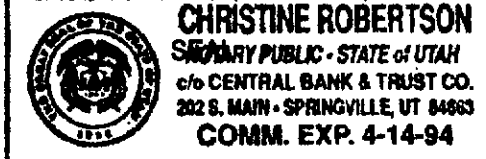
Signature of Authorized Agent _____

Title and Organization _____

Date _____

State of Idaho/or Utah)
County of Utah) SS.

Subscribed and sworn (or affirmed) before me this 16th day of April 1990



Notary Public Christine Robertson

Residing at Springville, Utah

My Commission Expires 4-14-94

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 Evans Ident. Number _____

Copies White-State, Yellow-Claimant

STATE OF NEVADA)

County of)

ss.)

On April 17, 1990 (date) personally appeared before me, a notary public, Martin D. Evans, personally known to me to be the person whose name is subscribed to the above instrument who acknowledged that he executed the instrument.



My Appointment Expires Aug. 16, 1992

Virginia R. Vidauri

Martin D. Evans
Martin D. Evans

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to be used on the North half of the S. E. 1/4 and the South half of the N. E. 1/4 Sec. 15, Township 10 South of Range 36 E. B. M.

- 29 0399 To James Chatterton, three-fourths second foot of water to date from the 1st day of May, 1900, and one second foot of water to date from the 1st day of May, 1904, to be used on the S. W. 1/4 of Sec. 15, Township 10 South of Range 36 E. B. M.
- 29 0401 To George Glover, three-fourths second foot of water to date from the 1st day of May, 1902, and one second foot of water to date from the 1st day of May, 1904, to be used on the S. E. 1/4 of Sec. 33, Township 9, South of Range 36 E. B. M.
- 29 0403 To George J. Allen, three-fourths second foot of water to date from the 1st day of May, 1896, and one second foot of water to date from the 1st day of May, 1904, to be used upon the N. E. 1/4 of the N. W. 1/4 of Sec. 5; also the West half of the N. W. 1/4 of Sec. 5, Township 10 South of Range 36 E. B. M.
- 29 0405 To William C. Smith, three-fourths second foot of water to date from the 1st day of May, 1895 and one second foot of water to date from the 1st day of May 1904, to be used on the East half of the N. W. 1/4 of Sec. 7, Township 10 South of Range 36 E. B. M.
- 29 0407 To J. W. Stinger, three-fourths second foot of water to date from the 1st day of May, 1898 and one second foot of water to date from the 1st day of May, 1904, to be used on lots three and four in sec. 4, and lots one and two in Sec. 5, Township 10 South of Range 36 E. B. M.
- 29 0409 To George A. Smith, three-fourths second foot of water to date from the 1st day of May, 1891, and one second foot of water to date from the 1st day of May, 1904, to be used on the East half of the S. W. 1/4 and the east half of the N. W. 1/4 of Sec. 10, Township 10 South of Range 36 E. B. M.
- 29 0411 To J. H. Curtis, three-eighths of second foot of water to date from the 1st day of May, 1894, and three-eighths second foot of water to date from the 1st day of May, 1901, and one second foot of water to date from the 1st day of May, 1904, to be used on the East half of the N. E. 1/4 of Sec. 7, Township 10 South of Range 36 E. B. M.
- 29 0414 To A. M. Curtis, three-eighths second foot of water to date from the 1st day of May, 1894 and three-eighths second foot of water to date from the 1st day of May 1901, and one second foot of water to date from the 1st day of May 1904, to be used on the West half of the N. E. 1/4 Sec. 7, Township 10, South of Range 36 E. B. M.
- 29 0417 To Nannie B. Rollison, three-fourths second foot of water to date from the 1st day of May, 1887 and one second foot of water to date from the 1st day of May, 1904 to be used on the S. E. 1/4 and the North half of the S. W. 1/4 and the S. E. 1/4 of the N. W. 1/4 of Sec. 4, Township 10 South of Range 36 E. B. M.
- 29 0419 To William P. Burton, three-fourths second foot of water to date from the 1st day of May, 1895 and one second foot of water to date from the 1st day of May 1904, to be used on the North half of the S. E. 1/4 and the East half of the S. W. 1/4 of Sec. 8, Township 10 South of Range 36 E. B. M.
- 29 0421 To John B. Chedgzy, three-fourths second foot of water to date from the 1st day of May, 1891 and one second foot of water to date from the 1st day of May, 1904 to be used on the N. E. 1/4 of Sec. 9, Township 10, South of Range 36 E. B. M.
- 29 0423 To William H. Allen, three-fourths second foot of water to date from the 1st day of May 1903 and one second foot of water to date from the 1st day of May, 1904, to be used on the S. E. 1/4 of the S. E. 1/4 of Sec. 31 and the S. W. 1/4 of the S. W. 1/4 Sec. 32 in Township 9, South of Range 36 E. B. M.
- 29 0425 To Laura T. Toler, three-eighths second foot of water to date from the 1st day of May, 1895 and one-half second foot of water to date from the 1st day of May 1904, to be used on the North half of the S. W. 1/4 of Sec. 9, Township 10 South of Range 36 E. B. M.
- 29 0427 To E. R. Kendall, three-sixteenths second foot of water to date from the 1st day of May, 1895, and one-fourth second foot of water to date from the 1st day of May, 1904, to be used on the S. E. 1/4 of the S. E. 1/4 of Sec. 9, Township 10 South of Range 36 E. B. M.
- 29 0429 To Truman Rowe, one and three-fourths second foot of water to date from the 1st day of May, 1904, to be used on lots one and two in Sec. 4, Township 10, South of Range 36 E. B. M.

All of the above described lands being in Bannock County, State of Idaho.

It is further adjudged and decreed that the plaintiff and any of its stockholders, and any or all of said defendants, who are adjudged to be entitled to the use of any of the waters of said stream or any of its tributaries thereto or may pool or unite the waters so decreed to them and use the same jointly or alternately.

Log for claim A29-00414

Spatial Dynamics BTD

6/26/00

TR	SEC	QQ	Acres Claimed	Acres Found	COMMENT
10s36e	7	NWNE	24	23	
10s36e	7	SWNE	4	2.8	
Totals:			28	25.8	

AJ5809NP
No. A29-00414

IDAHO DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM PROFILE REPORT

DATE: 04/27/00
PAGE: 44

OWNER CODE	NAME & ADDRESS	PRIORITY DATE	WATER USE	USE PERIOD FROM TO	DIVERSION RATE	DIVERSION VOLUME
C	DANIEL B EVANS 663 E CUTLER AVE SPRINGVILLE UT 84663 (801) 489-7595	05/01/1894	IRRIGATION	03-15 11-15	0.375 CFS	
TOTAL DIVERSION:					0.375 CFS	
CONSUMPTIVE USE:						70.00 AFA

C C HARRIET GUMMOW
526 E 1834 S
OREM UT 84057
(801) 225-2005

C MARTIN D EVANS SR
3608 CAREY
NORTH LAS VEGAS NV 89030

Water Source: GARDEN CREEK

Tributary to: MARSH CREEK

Stage: DECREED

Point(s) of Diversion: T10S R36E S07 NWNE SWNE BANNOCK 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	:	SUM
10S	36E	7	:			24		04												:	28.0
																				TOTAL ACRES	28.0

POU County: BANNOCK

Other Rights: 29-0415, & 0416.

Other Water Rights with Same Point(s) of Diversion with Stage (Includes All Sources):

29-11704	29-11705	A29-00362	A29-00374	A29-00375	A29-00376	A29-00377	A29-00383A	A29-00383B	A29-00384	
A29-00387	A29-00388	A29-00389	A29-00390	A29-00409	A29-00410	A29-00415	A29-00416	A29-00417A	A29-00417B	
A29-00418A	A29-00418B	A29-10642	A29-11704	A29-11705						

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

A29-00415 A29-00416

Remarks: GEN DIVERSION WORKS:

HEADGATE AND CANAL FROM GARDEN CREEK NW4NW4, SEC. 7 T10S,R36E
HEADGATE IN CANAL FROM GARDEN CREEK NE4NE4NW4, SEC. 7, T10S,R36E
HEADGATE IN CANAL FROM GARDEN CREEK SE4NE4NW4, SEC. 7, T10S,R36E
SOUTHERNMOST CANAL FROM GARDEN CREEK THROUGH NW4NE4 & SW4NE4,
SEC. 7, T10S, R36E

Dates: Exam Made Date:

Verified Date:

Objection Filed Date:

Misc: Water District Number:

Field Inspection Flag:

Presumption Flag:

AJ5809NP
No. A29-00414

IDAHO DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM PROFILE REPORT

DATE: 04/27/00
PAGE: 45

Audit: 04/25/90 ESRBA 06/01/94 COX 03/29/95 POST-STD

CLAIMANT'S NAME

Evans

CLAIM IDENT. NO.

A29-00414

DATE RECEIVED

4/20/90

#

AMOUNT \$

see # 14

YES

NO

Required Info?

1. Is the name and address complete with zip code? ☒ *see # 14* *
2. Is a priority date entered? ☒ *
- Is the priority date acceptable in view of mandatory filing dates? ☒ *
- See Adjudication Memos #1 and #4 to determine if a Permit is required.
3. (a) Is a source entered? ☒ *
- (b) Is a tributary to entered? (if required) ☒ N/A
4. Is the legal description of the p.d. sufficient? ☒ *
5. Is there a description of the diverting works? ☒ *put in Remarks*
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. ☒ *
- Is the period of use included? ☒
- Is a quantity claimed for each use? ☒ *
7. Is a total quantity claimed entered? ☒
8. If required is a consumptive use entered? ☒ N/A
- Is the consumptive use correct? ☒ N/A
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. ☒ N/A *
10. Is (are) the place(s) of use and purpose(s) indicated? ☒ *
11. Is (are) the county(ies) entered? ☒
12. Is the ownership of p.u. checked? ☒
13. Are other water rights listed or "none" indicated? ☒
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
15. Is the basis of the claim indicated? ☒
16. If the claimant requested a monthly docket sheet, is payment enclosed? (If yes, describe payment status in "Comments" below.) ☒ N/A
17. Is the claim signed by the claimant, and is the signature appropriate? Organizations must complete the organization block. ☒ *
18. Has the claim been signed, sealed, and dated by a notary? ☒ *
19. Was this claim filed on time, or was an extension granted? ☒ *
20. Is the fee enclosed correct? ☒ Exempt *
21. If this claim is based on an existing water right, has the identification number been entered? ☒ N/A
22. Should this claim be data entered? ☒

Claim checked by:

Rat

Date:

4/25/90

Claim must be returned to claimant:

(Yes) / (No)

Claimant must be notified of modifications:

(Yes) / (No)

Receipt Prepared by:

Claim data entered by:

Sent to claimant by:

Rat

Date:

4/25/90

Checked by:

Rat

Date: 4/25/90

Comments:

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Water Right Number - 29-00414

Adj. Flag Translation: Standard Water Right Number

Old (D) Number -

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

*** C - CURRENT OWNER ***
CURTIS

A. M.

1 -
2 -
3 -
City-
Phone -

State- Zip-

+ - - Priority Date - - + + - - Region - - - + + - - Stage - - - + + - - Status - - - +
05/01/1894 15 D - DECREE+ - - Source - - - - - + + - - Tributary - - - - - +
GARDEN CREEK MARSH CREEK+ - - Point of Diversion - - - - - +
TwN Rng Sec Tract Lot RFlg County Stream Index (Blank if no Index Code)+ - - Water Use - - - - - +
Code Description Period From Period To Diversion Rate Diversion Volume
01 - IRRIGATION 0.375+ - Total Div. Rate - + + - Total Div. Volume - + + - Total Div. Capacity - + + - Total Consumptive Use - + + - KW Usage - +
0.375+ - - Place of Use - - - - - +
TwN Rng Sec Tract Lot Acres Code Description County
10S 36E 7 NW NE 01 IRRIGATION 5 BANNOCK
10S 36E 7 SW NE 01 IRRIGATION 5 BANNOCK

Total Acres:

DO NOT

+ - - Diversion Means -

+ - - Non-Irrigation Use -

+ - - Other Rights for Same Use - 29-0415, & 0416.

+ - - Remarks - - - - - +
P/D & P/U INCOMPLETE.+ - - Old Water Right Numbers - - - - - +
No Old Water Right Numbers found.+ - - Conditions of Approval - - - - - +
No Conditions of Approval found.+ - - Decree Plaintiff - - - +
GARDEN CREEK IRRIGATION CO.+ - - Decree Defendant - - - +
THOMAS E. WOLVERTON, ET. AL.+ - Decree Date - +
10/15/1906

Water right number - 29-00414

Adj. flag translation: Standard Water Right Number

+ - - Audit Fields - 06/24/85

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
Start Work Date	- 00/00/0000	Verified Date	- 06/24/1985	DLE/Carey Act	-
Order Show Cause	- 00/00/0000	Receipt Number	-	Water District	-
Licensed Date	- 00/00/0000	Appl Received	- 00/00/0000	Transfer/Amended	-
Decree Date	- 10/15/1906	Presumption Flag	-	Microfilm Roll Number	-

DO NOT FILM

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

Garden Creek Irrigation
Company, a corporation
Plaintiff,

vs.

RECORDED ✓

Recorded Book 2 Judgments Page
292.

Thomas E. Wolverton, John Morley,
J. B. Chedgsey, David Armstrong,
D. P. Armstrong, William E. Burton,
Thomas Exeter, A. N. Thacker, Albert
Evans, L. S. Whiting, Robert C. Jamerson,
W. C. Smith, J. H. Curtis, A. M. Curtis,
Mads Christensen, Geo. J. Allen, Nannie
B. Rollinson, T. C. Smith, W. J. Millard,
Geo. A. Smith, P. M. Larson, Wm. Jenkins,
Jr., James Chatterton, Hiram Chatterton,
Ann Crowshaw (widow) E. R. Kendall,
George Glover, J. S. Wheeler, A. I. Long,
J. W. Stinger, and Ben Lookyer, et al.
Defendants.

This cause came regularly on for trial on this the 15th day of September, 1906, the same being a day of the regular term of the above entitled court, before the court, a jury being expressly waived, Messrs. Standrod & Terrell appearing as attorneys for the plaintiff and Messrs. Gray & Boyd appearing as attorneys for the defendants.

And it appearing to the court that all of the defendants have been regularly served with summons, and that the plaintiff and all of the defendants have appeared herein and have signed and filed stipulations in writing of the facts involved in said controversy, settling, adjusting and compromising all of their respective rights in and to the use of the waters of Garden Creek, a tributary of Marsh Creek, in Bannock County, State of Idaho;

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And it further appearing that Robert C. Jamerson has heretofore sold all his right, title, claim and interest in and to the use of the waters of said stream to the defendant A. N. Thacker; and that the defendant D. P. Armstrong has heretofore sold all his right, title and interest in and to the use of the waters of said stream to the defendant Ann Crowshaw.

And it being agreed in open court by counsel for respective parties that said stipulations shall be treated as the Court's findings of fact and made a part of the judgment roll and that all other findings of fact and conclusions of law are hereby waived; and it appearing from said stipulations of fact and from evidence taken at said hearing that all of the rights of the parties to said action are defined and established and should be decreed; and the court being fully advised in the premises;

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED, that the plaintiff, Garden Creek Irrigation Company, a corporation, is and at all times since the 26th day of January, 1885 has been a corporation duly organized and existing under the laws of the Territory and State of Idaho, created, organized and existing for the purpose of taking, diverting, appropriating and acquiring the right to the use of the waters of Garden Creek, then in Oneida County, Territory of Idaho, now in Bannock County, State of Idaho, to be used by the stockholders of said corporation their heirs, personal representatives and assigns for the irrigation of their respective lands and for domestic and stock purposes, in the proportion to the capital stock of said corporation, held by them respectively;

That in the year 1877, about the month of June, the plaintiff and its grantors and predecessors in interest diverted and appropriated of the waters of said Garden Creek and its tributaries, for the benefit of its stockholders and their heirs, personal representatives and assigns, for the irrigation of their respective lands and for domestic and stock purposes, thereon, four cubic feet per second of time of the waters then flowing and to flow in said stream and its tributaries and at said time, did, by means of dams, ditches of sufficient size and capacity then and at all times thereafter, divert and appropriate of the waters of said stream at the the two certain diverting points and through the two certain canal systems as they now exist, now owned by The plaintiff, in such quantity and amount as the plaintiff deems advisable, so that the total amount so diverted through said two canal systems does not exceed the said four cubic feet per second of time, said right to date from the month of June, 1877, and is prior in time and superior in right to the rights of all of the defendants in this action, and to the rights of all and every of the persons

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signingsaid stipulations, or any of them, the same being the first right to the use of the waters of said stream to the amount of four cubic feet per second of time.

And the remaining waters of said stream are decreed as follows, to-wit;

To Thomas E. Wolverton, three-fourths second foot of water to date from the 1st day of May, 1886 and one second foot of water to date from the 1st day of May 1904, said water to be used upon the S.W. 1/4 of the S. W. 1/4 of Sec. 4, and the N. Half of the S.E. 1/4 of Sec. 9 in Township 10, South of Range 36 E. B. M.

To John Morley, three-fourths second foot of water to date from the 1st day of May, 1886, and one second foot of water to date from the 1st day of May, 1904, to be used on the E. half of the N.E. 1/4 Sec. 8, the S.E. 1/4 of the S.E. 1/4 of Sec. 5, and the S.W. 1/4 of the N. W. 1/4 of Sec. 9, in Township 10 South of Range 36, E.B.M.;

To Thomas C. Smith, three-fourths second foot of water to date from the 1st day of May, 1890 and one second foot of water to date from the 1st day of May, 1904, to be used on the N. W. 1/4 of Sec. 10, Township 10 South of Range 36 E. B. M.;

To William J. Millard, three-fourths second foot of water to date from the 1st day of May, 1893, and one second foot of water to date from the 1st day of May, 1904, to be used on the S. E. 1/4 of Sec. 3 Township 10 South of Range 36 E. B. M.;

To Albert Evans, three-eighthssecond foot of water to date from the 1st day of May, 1893, and three-eighths second foot of water to date from the 1st day of May, 1898; also one second foot of water to date from the 1st day of May, 1904, to be used on the East half of the N.W. 1/4 of Sec. 8, Township 10 South of Range 36 E. B. M.;

To L. S. Whitney Three-eighths second foot of water to date from the 1st day of May, 1893, and three-eighths second foot of water to date from the 1st day of May, 1904, to be used on the West half of the N. W. 1/4 of Sec. 8, Township 10, South of Range 36 E. B. M.;

To J. S. Wheeler, three-fourths second foot of water to date from the 1st day of May, 1887 and one second foot of water to date from the 1st day of May, 1904, to be used on the East half of the S.W. 1/4, and the N. W. 1/4 of the S. E. 1/4 and S.W. 1/4 of the N. E. 1/4 in Sec. 2, Township 10, South of Range 36 E. B. M.;- Also the S.W. 1/4 of the N. W. 1/4 and the West half of the S. W. 1/4 of Sec. 2, Township 10 South of Range 36 E. B. M.;

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To David Armstrong, three-fourths second foot of water to date from the 1st day of May, 1895, and one second foot of water to date from the 1st day of May, 1904, to be used on the S. W. 1/4 of Sec. 10; also three-sixteenths second foot of water to date from the 1st day of May, 1895, and one-fourth of second foot of water to date from the 1st day of May, 1904, to be used on the S. W. 1/4 of the S.E. 1/4 of Sec. 9, all in Township 10, South of Range 36 E. B. M.;

To Andrew N. Thacker, three-fourths second foot of water to date from the 1st day of May, 1895, and one second foot of water to date from the 1st day of May, 1904, to be used upon the S.W. 1/4 of Sec. 9,; also three-fourths second foot of water to date from the 1st day of May 1895, and one second foot of water to date from the 1st day of May, 1904, to be used on the West half of the N. W. 1/4 and the N. W. 1/4 of the S. W. 1/4 of Sec. 8, Township 10, South of Range 36 E.B.M.;

To Thomas Exeter, three-fourths second foot of water to date from the 1st day of May, 1895 and one second foot of water to date from the 1st day of May, 1904, to be used on the South half of the S.E. 1/4 Sec. 8, and the North half of the N. E. 1/4 Sec. 17, Township 10, South of Range 36 E. B. M.;

To William Jenkins, Jr., three-fourths second foot of water to date from the 1st day of May, 1895, and one second foot of water to date from the 1st day of May, 1904, and to be used on the East half of the N. E. 1/4 and the East half of the S. E. 1/4 Sec. 10 Township 10, South of Range 36 E. B. M.:-

To P. M. Larson, three-fourths second foot of water to date from the 1st day of May, 1896, and one second foot of water to date from the 1st day of May, 1904, and to be used on the East half of the N. W. 1/4 and the East of the S. W. 1/4 Sec. 11 Township 10 South of Range 36 E. B. M.;

To Annie Crowshaw, three-fourths second foot of water to date from the 1st day of May, 1898, and one second foot of water to date from the 1st day of May, 1904, to be used on the N. W. 1/4 of Sec. 15, Township 10 South of Range 36 E. B. M.;

To Mads Christensen, three-fourths second foot of water to date from the 1st day of May, 1892 and one second foot of water to date from the 1st day of May, 1904, to be used on the S. W. 1/4 of the S. E. 1/4 and the East half of the S. E. 1/4 of Sec. 6 and the S.W. 1/4 of the S.W. 1/4 of Sec. 5, Township 10 South of Range 36 E.B.M.;

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To Ben Lockyer, Three-fourths second foot of water to date from the 1st day of May, 1901, and one second foot of water to date from the 1st day of May 1904, to be used on the North half of the N.E. 1/4 of Sec. 15, Township 10 South of Range 36 E.B.M.;

To Hyrum Chatterton, three-fourths second foot of water to date from the 1st day of May, 1900, and one second foot of water to date from the 1st day of May, 1904, to be used on the North half of the S.E. 1/4 and the South half of the N.E. 1/4 Sec. 15, Township 10 South of Range 36 E.B.M.;

To James Chatterton, three-fourths second foot of water to date from the 1st day of May, 1900, and one second foot of water to date from the 1st day of May, 1904, to be used on the S.W. 1/4 of Sec. 15, Township 10 South of Range 36 E.B.M.;

To George Glover, three-fourths second foot of water to date from the 1st day of May, 1902, and one second foot of water to date from the 1st day of May, 1904, to be used on the S.E. 1/4 of Sec. 33, Township 9, South of Range 36 E.B.M.;

To George J. Allen, three-fourths second foot of water to date from the 1st day of May, 1896, and one second foot of water to date from the 1st day of May, 1904, to be used upon the N. E. 1/4 of the N.W. 1/4 of Sec. 5; also the West half of the N.W. 1/4 of Sec. 5, Township 10 South of Range 36 E.B.M.;

To William C. Smith, three-fourths second foot of water to date from the 1st day of May, 1895 and one second foot of water to date from the 1st day of May 1904, to be used on the East half of the N. W. 1/4 of Sec. 7, Township 10 South of Range 36 E. B. M.;

To J. W. Stinger, three-fourths second foot of water to date from the 1st day of May, 1898 and one second foot of water to date from the 1st day of May, 1904, to be used on lots three and four in sec. 4, and lots one and two in Sec. 5, Township 10 South of Range 36 E. B. M.;

To George A. Smith, three-fourths second foot of water to date from the 1st day of May, 1891, and one second foot of water to date from the 1st day of May, 1904, to be used on the East half of the S.W. 1/4 and the east half of the N.W. 1/4 of Sec. 10, Township 10 South of Range 36 E.B.M.;

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To J. H. Curtis, three-eighths of second foot of water to date from the 1st day of May, 1894, and three-eighths second foot of water to date from the 1st day of May, 1901, and one second foot of water to date from the 1st day of May, 1904, to be used on the East half of the N.E. 1/4 of Sec. 7, Township 10 South of Range 36 E.B.M.;

To A.M. Curtis, three-eighths second foot of water to date from the 1st day of May, 1894 and three-eighths second foot of water to date from the 1st day of May 1901, and one second foot of water to date from the 1st day of May, 1904, to be used on the West half of the N.E. 1/4 Sec. 7, Township 10 South of Range 36 E.B.M.;

To Nannie B. Rollison, three-fourths second foot of water to date from the 1st day of May, 1887 and one second foot of water to date from the 1st day of May, 1904 to be used on the S.E. 1/4 and the North half of the S.W. 1/4 and the S.E. 1/4 of the N.W. 1/4 of Sec. 4, Township 10 South of Range 36 E.B.M.;

To William P. Burton, three-fourths second foot of water to date from the 1st day of May, 1895 and one second foot of water to date from the 1st day of May, 1904, to be used on the North half of the S.E. 1/4 and the East half of the S.W. 1/4 of Sec. 8, Township 10 South of Range 36, E.B.M.;

To John B. Chedgzy, three-fourths second foot of water to date from the 1st day of May, 1891 and one second foot of water to date from the 1st day of May, 1904 to be used on the N.E. 1/4 of Sec. 9, Township 10, South of Range 36 E.B.M.;

To William H. Allen, three-fourths second foot of water to date from the 1st day of May 1903 and one second foot of water to date from the 1st day of May, 1904, to be used on the S.E. 1/4 of the S.E. 1/4 of Sec. 31, and the S.W. 1/4 of the S.W. 1/4 Sec. 32 in Township 9 South of Range 36 E.B.M.;

To Laura T. Toler, three-eighths second foot of water to date from the 1st day of May, 1895 and one-half second foot of water to date from the 1st day of May, 1904, to be used on the North half of the S.W. 1/4 of Sec. 9, Township 10 South of Range 36 E.B.M.;

To E.R. Kendall, three-sixteenths second foot of water to date from the 1st day of May, 1895, and one-fourth second foot of water to date from the 1st day of May, 1904, to be used on the S.E. 1/4 of the S.E. 1/4 of Sec. 9, Township 10, South of Range 36 E.B.M.;

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To Truman Rowe, one and three-fourths second foot of water to date from the 1st day of May, 1904, to be used on lots one and two in Sec. 4, Township 10, South of Range 36 E.B.M.;

All of the above described lands being in Bannock County, State of Idaho.

It is further adjudged and decreed that the plaintiff and any of its stockholders, and any or all of said defendants, who are adjudged to be entitled to the use of any of the waters of said stream or any of its tributaries thereto or may pool or unite the waters so decreed to them and use the same jointly or alternately or in rotation, or in such other manner as will secure the greatest benefits and most economical use of said water, so that the waters so united or pooled do not exceed the amount decreed to the parties entering into such arrangement.

It is further ordered, adjudged and decreed that each of the parties to this action, their and each of their servants, agents, employees or others acting in aid or assistance of them, or any of them be, and they are hereby forever enjoined and restrained in any-wise using the water herein decreed, or molesting or interfering with such use, or the works provided for the diversion or carrying of said waters, except as herein provided.

And it is further ordered, adjudged and decreed that each of the parties hereto, pay the costs incurred by him in this action.

Done in open court this 15th day of October, 1906.

Alfred Budge,

District Judge.

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