

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 29-13145
Date Received: 1/31/01
Receipt No: E026451
Received By: SAC

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name of Claimant(s)

HARDCASTLE FAMILY TRUST Phone: (208) 852-2455

675 N 8TH EAST
PRESTON ID USA 83263

2. Date of Priority: 04/01/1955

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	Type
09S	37E	21	SE NE 1	BANNOCK	

5. Description of diverting works:

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
IRRIGATION	04/01	10/31	6.5	

7. Total Quantity Appropriated is:
6.5 C.F.S.

8. Total consumptive use:

9. Non-irrigation uses:

10. Place of use:

Township	Range	Section	1/4 of 1/4 Lot	Use	Acres
09S	37E	19	SE NE 3	IRRIGATION	27
				Section Acres	27
09S	37E	20	SE NE 5	IRRIGATION	21

			SE	NW	3	IRRIGATION	3
			SW	NW	4	IRRIGATION	25
			SW	NW	7	IRRIGATION	45
			NW	SE	6	IRRIGATION	48
			NW	SW	8	IRRIGATION	15
			NE	SE		IRRIGATION	32
			SE	SE		IRRIGATION	0.5
			SW	SE		IRRIGATION	35
						Section Acres	224.5
09S	37E	21	NW	NE	5	IRRIGATION	17
			SW	NW	6	IRRIGATION	37
			SW	NE	7	IRRIGATION	0.1
			SE	NW		IRRIGATION	18
			NW	SW		IRRIGATION	3.3
						Section Acres	75.4
						Total Acres	326.9

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:

14. Remarks:

THIS IS CLAIMED AS BENEFICIAL USE BASED ON AFFIDAVIT OF ERVIN GILBERT IN CLAIM 29-4157 AND ON AERIAL PHOTO INDICATING FULL IRRIGATION OF PLACE OF USE.

IF DOCUMENTATION DOES NOT SUPPORT CLAIMED PRIORITY DATE, THIS RIGHT IS CLAIMED AS AN ENLARGEMENT OF 29-200, 29-4159, AND CLAIMANTS PORTION OF 29-4157. THIS IS BASED ON AERIAL PHOTO.

WATER IS DIVERTED TO DITCH. ON WEST END OF PROPERTY, GRAVITY PIPELINE CONVEYS WATER UNDER THE RIVER AND RAILROAD TO THE PLACES OF USE ON THE NORTHWEST OF THE PROPERTY.

15. Basis of Claim: Beneficial Use

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 X wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments: One aerial photograph.

For Organizations:

I do solemnly swear or affirm that we are Trustees of Hardcastle Family Trust, that we have signed the foregoing document in the space below as Trustees of Hardcastle Family Trust and that the statements contained in the foregoing document are true and correct.

Alice B. Hardcastle
Signature of Authorized Agent

Trustee, Hardcastle Family Trust

Date

Alice B. Hardcastle
Signature of Authorized Agent

Trustee, Hardcastle Family Trust

1-31-01
Date

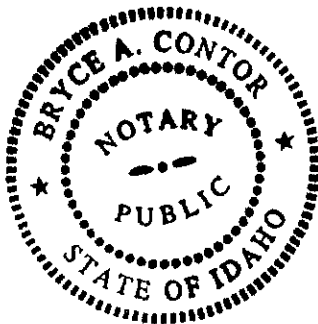
State of Idaho)
County of Bonneville) SS.

Subscribed and sworn (or affirmed) before me this 31 day
of Jan 2001

Bryce A. Contor
Notary Public

Residing at Mud Lake ID

My commission Expires 10/14/05





State of Idaho

DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Suite A, Idaho Falls, Idaho 83402-1718 - (208) 525-7161- Fax (208) 525-7177

EASTERN REGION

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

MEMORANDUM

To: Hardcastle Family Trust
Fr: Bryce Contor
Date: 1/31/2001

Re: Evidence of Priority

In order to recommend adjudication claims 29-4159 and 29-13145, we need documentation of the earliest date that water was put to beneficial use as claimed. The enclosed pamphlet describes some sources that may help.

If the documentation is an affidavit from a person who personally saw or performed the beneficial use of the water, some details are very important:

- The affidavit needs to clearly state "I saw..." or "I irrigated..."
- Details of dates and circumstances are very important.
- Any recollection of how much water was used, how many acres were irrigated, the type of system used and irrigation performed, is useful.
- The affidavit needs to carefully indicate where the water was used.

It will also be very helpful if you can find out the history of the use of Cutler Ditch water and use of water that was separate and independent from the Cutler Ditch water.

MEMORANDUM

To: File 29-200
File 29-4159
File 29-13145
Hardcastle split of 29-4157
Fr: Bryce Contor
Date: 1/31/2001
Re: Cutler Ditch

Hardcastles came in today in response to a request for a more complete chain of title for a Notice of Change of Ownership for a portion of 29-4157, and to file claims on 29-200 and 29-4159, which appear to be appurtenant to this land but have not previously been claimed in the Adjudication.

The deed specifically excludes "Cutler Ditch Water" from the sale. AJ query indicates that an entity called "Cutler Ditch" has several AJ claims, and the names in the files appear to be neighbors of Hardcastles. A search of "Cutler Ditch" on the Secretary of State website failed to produce a result, so apparently the Cutler Ditch is not a formally organized entity.

29-200 is noted in the decree as delivered via the Cutler Ditch, but it is neither decreed to nor claimed by Cutler Ditch nor any of the identified owners of Cutler Ditch. At this point I interpret this to mean 29-200 was a private right originally conveyed via the Cutler Ditch but not owned by the Ditch association. On that assumption, I accepted AJ claim 29-200 with an accomplished change in POD to the heading of the current delivery ditch.

Hardcastles have not owned this property long and are not certain exactly where the Cutler Ditch is, but the current users appear to be on the north side of the highway. The current delivery ditch for Hardcastles' land is on the south of the railroad.

The 1987 NAPP clearly indicates more acres of irrigation than the combination of 29-200, 29-4159, and Hardcastles' portion of 29-4157. At this point it is unclear whether this irrigation was from Cutler Ditch shares owned by Hardcastles' predecessors, and retained in the deed, or whether this is a beneficial use right.

I accepted claim 29-13145 as a beneficial use claim, with the intention that if evidence is not provided, it still may be possible to recommend some of it as an enlargement. I cautioned the claimants that the exclusion of the "Cutler Ditch" water in the deed (copy in Notice of Change of Ownership 29-4157) is problematic.

Harold Jones is familiar with some of the history of the Cutler Ditch, and indicated that watermaster Arlin Olsen says the Cutler Ditch had severe leakage and water seldom made it as far down the ditch as this general area. Jones says the Cutler Ditch claims were filed by Roger Johnson and there is not actually a Cutler Ditch association to his knowledge. Jones also relates that Ken Andrus and his brother have inquired about a transfer of the Cutler Ditch rights which they have purchased or intend to purchase, Jones told them to wait until the AJ determines what the rights may actually be.

INDIAN

Sec. 16.

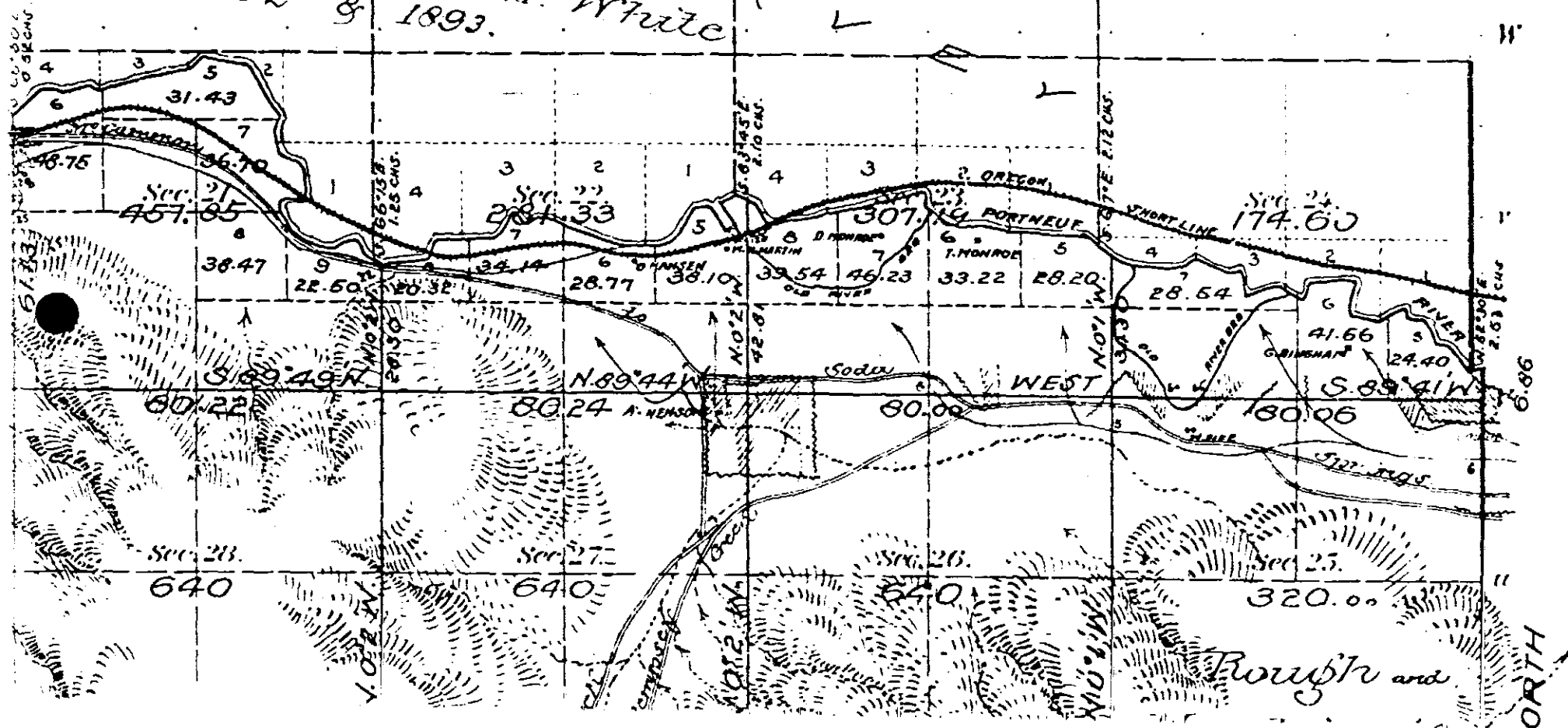
Sec. 15.

Sec. 14.

Sec. 13.

1892 and 9

S U
R. M. White
1893.



PLAN

6.1-
Sec. 17

Ser. 16.

Sec. 15.

W. L. S. Miller

1892 and 9

S
A. M. White
1893.

