

IDAHO DEPARTMENT OF WATER RESOURCES RECOMMENDED
WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 29-4271

NAME AND ADDRESS:

DOROTHY CURTIS TRUST
769 FAIRWAY DR
POCATELLO ID 83201

~~DELENE C COVERT~~

SOURCE:

Source:

Tributary:

SPRING

SINKS

QUANTITY:

0.350 CFS ~~0.000 CFS~~

0.000 AFY

PRIORITY DATE:

04/01/1940

~~04/01/1955~~

POINT OF DIVERSION:

~~T11S R37E S2 N4W~~

~~Within BANNOCK County~~

T11S R37E S2 SE4NW Lot 4

Within BANNOCK County

PURPOSE AND
PERIOD OF USE:

Purpose of use

Period of use:

Quantity:

IRRIGATION

04/01 10/31

0.350 CFS

~~0.000 CFS~~

PLACE OF USE:

IRRIGATION

within BANNOCK County

~~T11S R37E S02 NENW 0.0~~

T11S R37E S02 NENW Lot 3 4.7

~~T11S R37E S02 N4W 0.0~~

T11S R37E S02 N4W Lot 4 34.0

T11S R37E S02 SW4 0.4

~~T11S R37E S02 SW4 0.0~~

39.1 ACRES TOTAL

~~0 ACRES TOTAL~~

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree, Section 42-1412(6), Idaho Code.

~~This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree, Section 42-1412(6), Idaho Code.~~

~~NO BENEFICIAL USE FOUND: This is included for a claim based on beneficial use that is PROPOSED to be disallowed because beneficial use of water was not confirmed by IDWRs field examination or by other evidence submitted by the claimant.~~
~~NO BENEFICIAL USE FOUND.~~

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use

10/25/2002

IDAHO DEPARTMENT OF WATER RESOURCES
PRELIMINARY RECOMMENDATION OF WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 29-4271 **DISALLOWED**

NAME AND ADDRESS: DELENE C COVERT
769 FAIRWAY DR
POCATELLO ID 83201

SOURCE: SPRING TRIBUTARY: SINKS

QUANTITY: ~~0.000~~ CFS 0.35 cfs.

PRIORITY DATE: 04/01/1985

POINT OF DIVERSION: 1940

T11S R37E S2 NWNW Within BANNOCK County

PURPOSE AND PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
IRRIGATION	04/01 10/31	0.35 cfs.

PLACE OF USE: IRRIGATION Within BANNOCK County

T11S R37E S02	NENW	T11S R37E S02	NWNW
T11S R37E S02	SWNW		

0.0 ACRES TOTAL

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.

NO BENEFICIAL USE FOUND: This is included for a claim based on beneficial use that is PROPOSED to be disallowed because beneficial use of water was not confirmed by IDWRs field examination or by other evidence submitted by the claimant.

NO BENEFICIAL USE FOUND.

EXPLANATORY MATERIAL: Beneficial Use

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 29-4271
Date Received: 4/12/2002
Receipt No: E027635
Received By: JC

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name of Claimant(s)

DELENE C COVERT Phone: (208)237-6142
769 FAIRWAY DR
POCATELLO ID USA 83201

2. Date of Priority: 04/01/1940

3. Source: SPRING Trib. to: SINKS

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County	Type
11S	37E	2	NW NW	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	4/01	11/01	0.96	

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

8. Total consumptive use:

9. Non-irrigation uses:

A2904271



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Department of Water Resources
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11S	37E	2	NE	NW	IRRIGATION	8
			NW	NW	IRRIGATION	30
			SW	NW	IRRIGATION	2
					Section Acres	48
					Total Acres	48

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:

PARCEL NOS. R4433000500 AND R4433000702

15. Basis of Claim: Statutory Claim

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.

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Department of Water Resources
Eastern Region

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APR 16 2002
Department of Water Resources
Eastern Region

Number of attachments: 3

For Individuals:

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

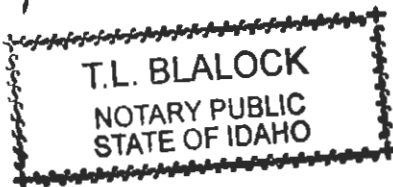
Signature of Claimant(s): Helen C. Covert Date: April 15, 2002

Date:

State of Idaho

County of Bannock) 33.

Subscribed and sworn (or affirmed) before me this 15th Day
of April 2002 T.L. Blalock



Notary Public

Residing at Pocatello, ID

My commission Expires 12-2-2004

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MAY 14 2004

Department of Water Resources
BOISE OFFICE

CONRAD J. AIKEN
THEODORE C. PETERS
DEBORAH L. LEHOSIT
LISA R. TANNER (CA ONLY)

101 SOUTH CAPITOL
BOULEVARD, SUITE 208
BOISE, IDAHO 83702
TELEPHONE: (208) 398-0011
FACSIMILE: (208) 433-0187

IDAHO FALLS OFFICE

477 SHoup AVENUE
SUITE 202A
IDAHO FALLS, ID 83402
TELEPHONE: (208) 525-6101
FACSIMILE: (208) 525-6108

LAW OFFICES OF

**RACINE, OLSON, NYE, BUDGE & BAILEY
CHARTERED**

CENTER PLAZA-CORNER FIRST & CENTER
POST OFFICE BOX 1391
POCATELLO, IDAHO 83204-1391

TELEPHONE (208) 232-5101
FACSIMILE (208) 232-5109

SENDER'S E-MAIL ADDRESS: rcb@racinelaw.net

LOUIS F. RACINE, JR.
WILLIAM O. OLSON
W. MARCUS W. NYE
RANDALL C. BUDGE
JOHN A. BAILEY, JR.
JOHN R. GOODSELL
JOHN B. INGELSTROM
DANIEL C. GREEN
BRENT O. ROCHE
KIRK B. HADLEY
FRED J. LEWIS
MITCHELL W. BROWN
ERIC L. OLSEN
DAVID E. ALEXANDER
LISA M. CHRISTON
RICHARD A. HEARN, M.D.
LANE V. ERICKSON
PATRICK N. GEORGE
SCOTT J. SMITH
LISA A. WOOD, CPA
STEPHEN J. MUHONEN
BRENT L. WHITING

May 10, 2004

Candice McHugh
Deputy Attorney General
Idaho Department of Water Resources
P.O. Box 83720
Boise, Idaho 83720-0098

Ernest Carlson
Water Right Analyst
Idaho Department of Water Resources
900 N. Skyline Drive
Idaho Falls, Idaho 83402

Re: *Dorothy Curtis Trust/Water Right No. 29-4271*

Dear Candice and Ernie:

This will follow up on our discussions following the initial hearing on this matter April 22, 2004.

At the conclusion of our discussions, Ernie indicated that if we would submit a letter from Delbert Christensen setting forth his personal knowledge and observations concerning the irrigation practices, a SF5 Settlement Agreement could be entered into providing for this water right with the claimed April 1, 1940 priority date and a quantity of 0.35 cfs. The place of use will be identified based upon the map prepared by Delbert Christensen and attached to his letter.

Accordingly, I am enclosing a sworn letter signed by Delbert Christensen with attached map.

Also enclosed is a Form 42-248 Notice of Change in Water Right Ownership, together with our check in the amount of \$25 for filing fees. This is to reflect the Dorothy C. Curtis Trust is the

May 10, 2004
Page 2

proper owner, in care of Delene C. Covert, Trustee. Delene C. Covert inadvertently filed the claim in this matter in her name individually, although her intent was to file as trustee of the Trust.

Based on this information, would you kindly prepare and forward a proposed SF5 Settlement Agreement. If you have any questions or need additional information, please contact me. Thank you for your cooperation and assistance in settling this matter.

Sincerely,



RANDALL C. BUDGE

RCB:π

Enclosures

cc: Delbert Christensen
Delene C. Covert

RECEIVED

MAY 14 2004

Department of Water Resources

Delbert Christensen
6012 W. 10050 N.
Highland, Utah 84003

May 7, 2004

Ernest Carlson
Water Right Analyst
Eastern Region
Idaho Department of Water Resources
900 N. Skyline Drive
Idaho Falls, Idaho 83402

*Re: Dorothy C. Curtis Trust
Subcase No. 29-04271*

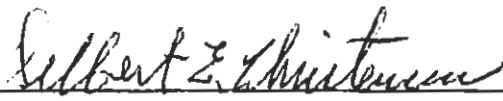
Dear Mr. Carlson:

This letter is written pursuant to your request following our discussions at the initial hearing of this subcase held before Special Master Brigitte Bilyeu on April 22, 2004. The claimant is the Dorothy Curtis Trust. Dorothy J. Curtis died in December, 2002. She was predeceased by her husband Guy Curtis, who died in 1985. Guy and Dorothy Curtis filed a Form 243 "Claim to a Water Right" on November 24, 1982. The information contained in this claim was the basis of the Claim to Water Right No. 29-4271 filed by Delene C. Covert as Trustee of the Dorothy Curtis Trust. Delene C. Covert and my wife Deanne Christensen are the daughters of Guy Curtis and Dorothy J. Curtis and are the beneficiaries of the Dorothy Curtis Trust. At their request I assisted them in preparing and filing the Standard Form 1 Objection. The information contained in the attached Statement in Support of the Objection, together with the attached Exhibits A, B and C are true and correct to the best of my knowledge, information and belief.

To further substantiate and support the Trust's Water Right Claim No. 29-4271, particularly the claimed priority date of April 1, 1940, you requested I send you this letter to set forth and confirm my personal observations and knowledge of the irrigation practices.

I was raised in the area and as a small boy remember seeing in the early 1950s a Minneapolis Moline diesel tractor with a portable pump located in the south end of the pond in the NW1/4 NW1/4, Section 2, Township 11 South, Range 37 East, Bannock County, Idaho. The tractor and pump were used to pump water from the pond into a 1/4 mile hand line sprinkler which was used to irrigate land located to the north and west of the pond. I estimate approximately 48 acres were irrigated as described in the Notice of Claim. Attached is a map which identifies the pond, the location of the tractor and pump, and the irrigated land.

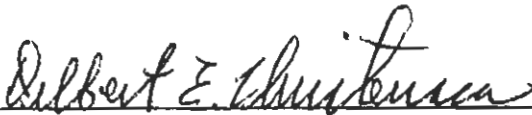
The same irrigation practices continued and I was on the property more frequently beginning in 1962, when my wife Deanne and I were married. The same irrigation practices continued by my father-in-law Guy Curtis until the property was put in the Conservation Reserve Program in the fall of 1986. The property has remained in the CRP program under four different contracts which currently run through September 30, 2007. A copy of the CRP contracts are attached as Exhibit B to the Standard Form 1 Objection. The water was not used while the property was enrolled in the CRP program, at which time there was no abandon or forfeiture in accordance with Idaho law.



DELBERT CHRISTENSEN

STATE OF IDAHO)
 : ss
County of Bannock)

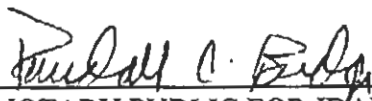
The undersigned, being duly sworn, deposes and says that the foregoing information and the matters and facts therein are true and correct to the best of his knowledge, information and belief.



DELBERT CHRISTENSEN



SUBSCRIBED AND SWORN TO before me this 12th day of May, 2004.



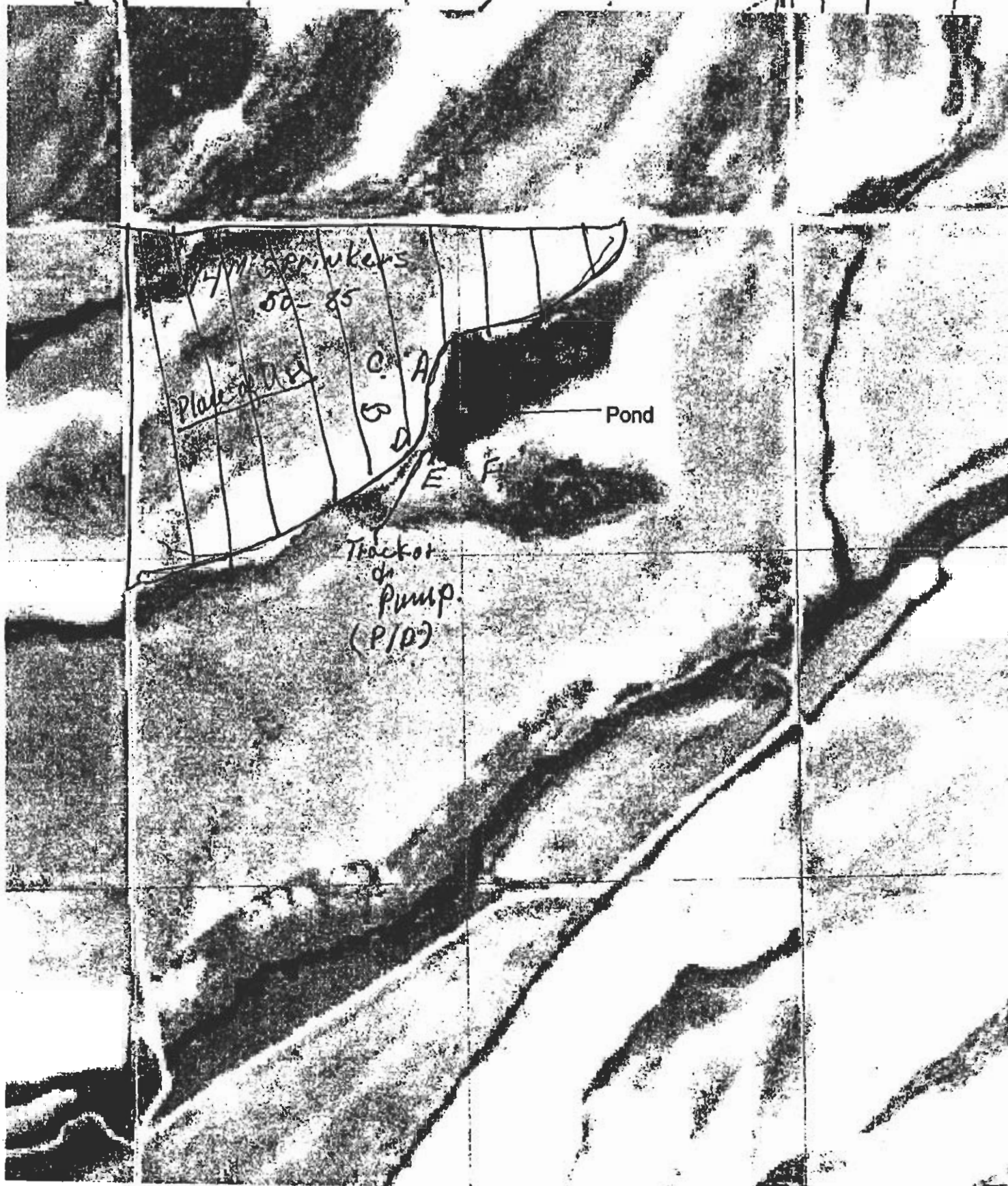
NOTARY PUBLIC FOR IDAHO,
Residing at Pocatello.
My Commission Expires 10/11/2006.

cc: Randall C. Budge
Candice McHugh, Deputy Attorney General
Delene C. Covert, Trustee

HOMP

NEW

140116-



MEMORANDUM

DATE: July 24, 2003

FROM: Ernie Carlsen

TO: 29-4271

RE: Telecon with Delbert Christensen

The father of Mr. Christensen's wife owned and operated the property covered by this claim. He remembers the sprinkler irrigation system and believes the property was last irrigated in 1985 just a couple of years before the property was entered in CRP. I sent him an objection form and color aerial of the property. On the aerial photo he agreed to outline the land irrigated and to provide a written statement describing the irrigation system and when it actually started. He will submit this information along with the objection form.

There is no evidence of irrigation because the system was all portable consisting of a tractor pump, portable mainline and hand line.

150

29-4271 BU

I. Claims 1940 Priority - Evidence supports mid 1950's →?

A. Recommends BEGINNING OF IRRIGATION SEASON

AS: 4/1 1955. SOU 4/1 TO 10/31.

II. MEASURES RWD - D. S. CTS on 48 AC

A. NO MEASURES TAKEN DUE TO TIME CONSTRAINTS

B. SPRING IS TRUB TO SINKS, ∴ NO INJURY.

III. RECOMMENDATION: THIS CLAIM IS DISALLOWED.

THERE IS NO PHYSICAL EVIDENCE OF IRRIGATION
SUCH AS DITCHES, PUMPS, PIPELINES, SPRINKLER PIPES.

VISITED THIS PROPERTY ON AUG, 8, 02 - NO ISU
FOUND. ⇒ Pφ3

T10S, R37E

T11S, R37E

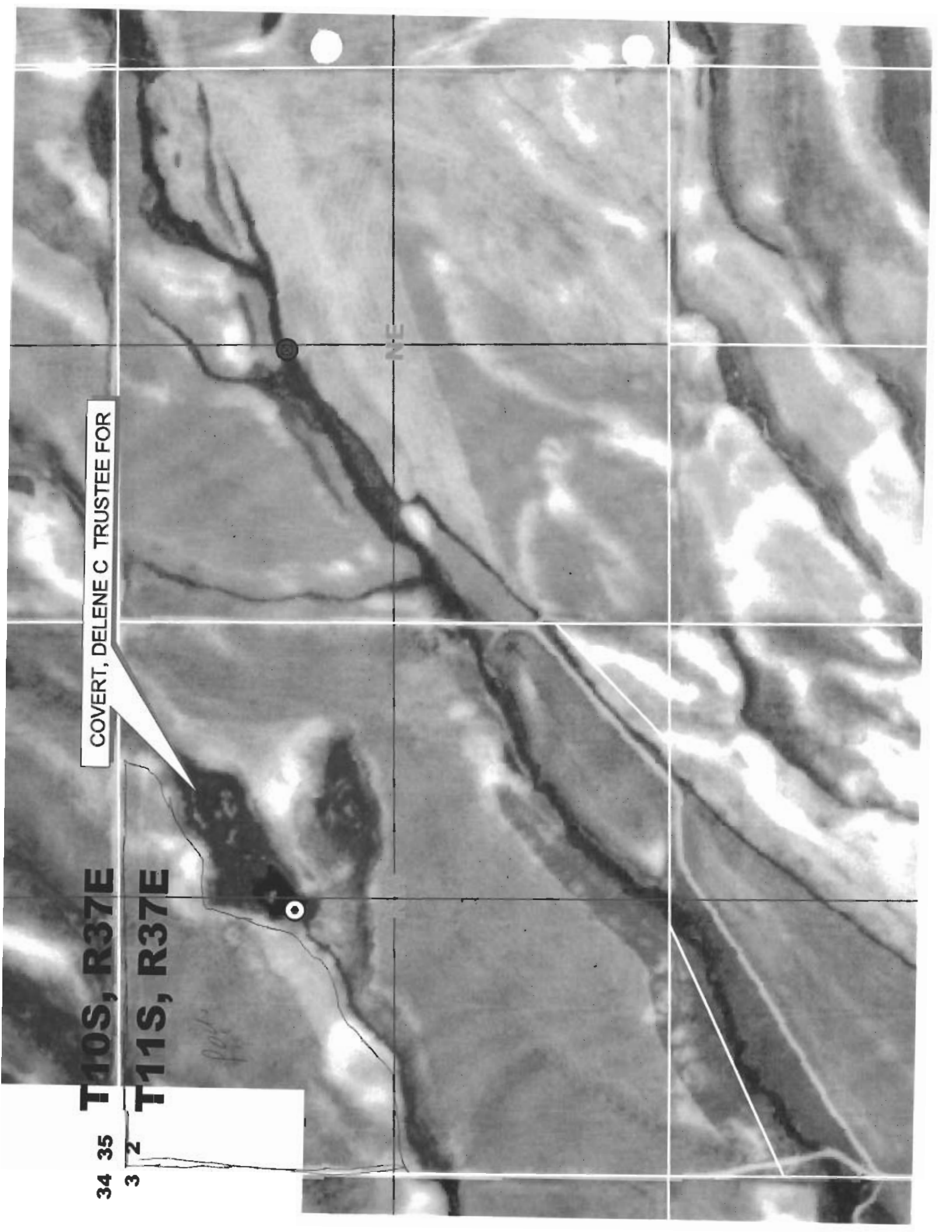
COVERT, DELENE C TRUSTEE FOR

NE

34 35

3 2

part



April 5, 2002

Mr. Ernie Carlson
IDWR, Eastern Region
900 N. Skyline Drive, Suite A
Idaho Falls, ID 83402

EO 27635
\$148-
4-12-02

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Department of Water Resources
Eastern Region

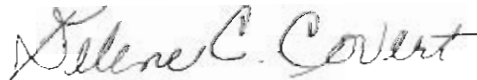
Dear Mr. Carlson,

On January 4, 2002 I met with you in your office to discuss filing Claim No. 29-4271 for retention of water rights. This meeting was a response to the letter I received from the Department of Water Resources, Civil No. 39576 – Second Round Service of Commencement Notice - Basin 29.

I am the trustee for my elderly mother's estate. She and her family want to preserve the water rights. I have followed your recommendation to find verification of water use on her land, known as the Christensen Place, located in Section 2, T11S R37E, (Tax Parcel Nos. R4433000500 and R4433000702) between the years 1940-1982. The attached letter provides a statement from my sister-in-law, wife at the time to my brother who worked that farm. Also included is a letter from Dale Criddle, who owned the farm just west of the property in question.

Enclosed, also, is a check in the amount of \$148.00 for the filing fee. Please advise what steps follow.

Respectfully,



Delene C. Covert
769 Fairway Drive
Pocatello, ID 83201

Ph: 208-237-6142

enclosures

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APR 17 2002
Department of Water Resources
Eastern Region

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APR 16 2002
Department of Water Resources
Eastern Region

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APR 12 2002

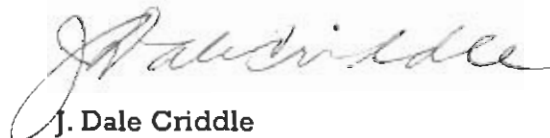
Department of Water Resources
Eastern Region

April 5, 2002

Mr. Ernie Carlson
IDWR Eastern Region
900 N. Skyline Drive, Suite A
Idaho Falls, ID 83402

Dear Mr. Carlson,

In 1953 I bought a farm just west of Guy Curtis' land which he called the Christensen Place. I remember seeing Guy irrigate with a pump from his tractor during the mid 1950's. I remember him getting his tractor with pump stuck in the water below the dam that held the water in the pond.



J. Dale Criddle
377 East 4 North
Downey, ID 83234

*Used as Priority
Bundances*

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APR 17 2002

Department of Water Resources
Eastern Region

Department of Water Resources
Eastern Region

APR 16 2002

RECEIVED

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APR 12 2002
Department of Water Resources
Eastern Region

March 31, 2002

Mr. Ernie Carlson
IDWR Eastern Region
900 N. Skyline Drive, Suite A
Idaho Falls, ID 83402

Dear Mr. Carlson,

During the early 1970's I helped my husband, Robert Curtis, son of Guy Curtis, clean the pump which we were using to irrigate a portion of the Christensen Place.

*of no particular use
to Priority Data*

Janice Curtis

Janice Curtis

246 Warren Avenue
Pocatello, ID 83201

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Department of Water Resources
Eastern Region

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Department of Water Resources
Eastern Region

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APR 16 2002

Department of Water Resources
Eastern Region

April 13, 2002

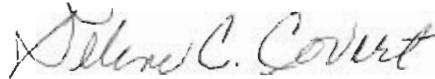
Mr. Ernie Carlson
IDWR Eastern Division
900 N. Skyline Drive, Suite A
Idaho Falls, ID 83402

Dear Mr. Carlson,

In further response to filing claim No. 29-4271 for retention of water rights, I have enclosed one additional testimony which verifies the use of water on my mother's land, known as the Christensen Place, located in Section 2, T11S R37E (Tax Parcel Nos. R4433000500 and R4433000702).

This letter and the two I sent you earlier this week are in response to the letter I received from the Department of Water Resources, Civil No. 39576 – Second Round Service of Commencement Notice – Basin 29.

Thank you for your assistance in getting the claim filed.



Delene C. Covert
769 Fairway Drive
Pocatello, ID 83201

enclosure

April 9, 2002

RECEIVED

APR 16 2002

Department of Water Resources
Eastern Region

To whom it may concern:

I can recollect Guy Curtis using a tractor and pump to water land on his farm, which we call the Christensen Place, during the later 1960's and early 1970's. This water was pumped from a small pond on the West side of the property.

Sincerely,

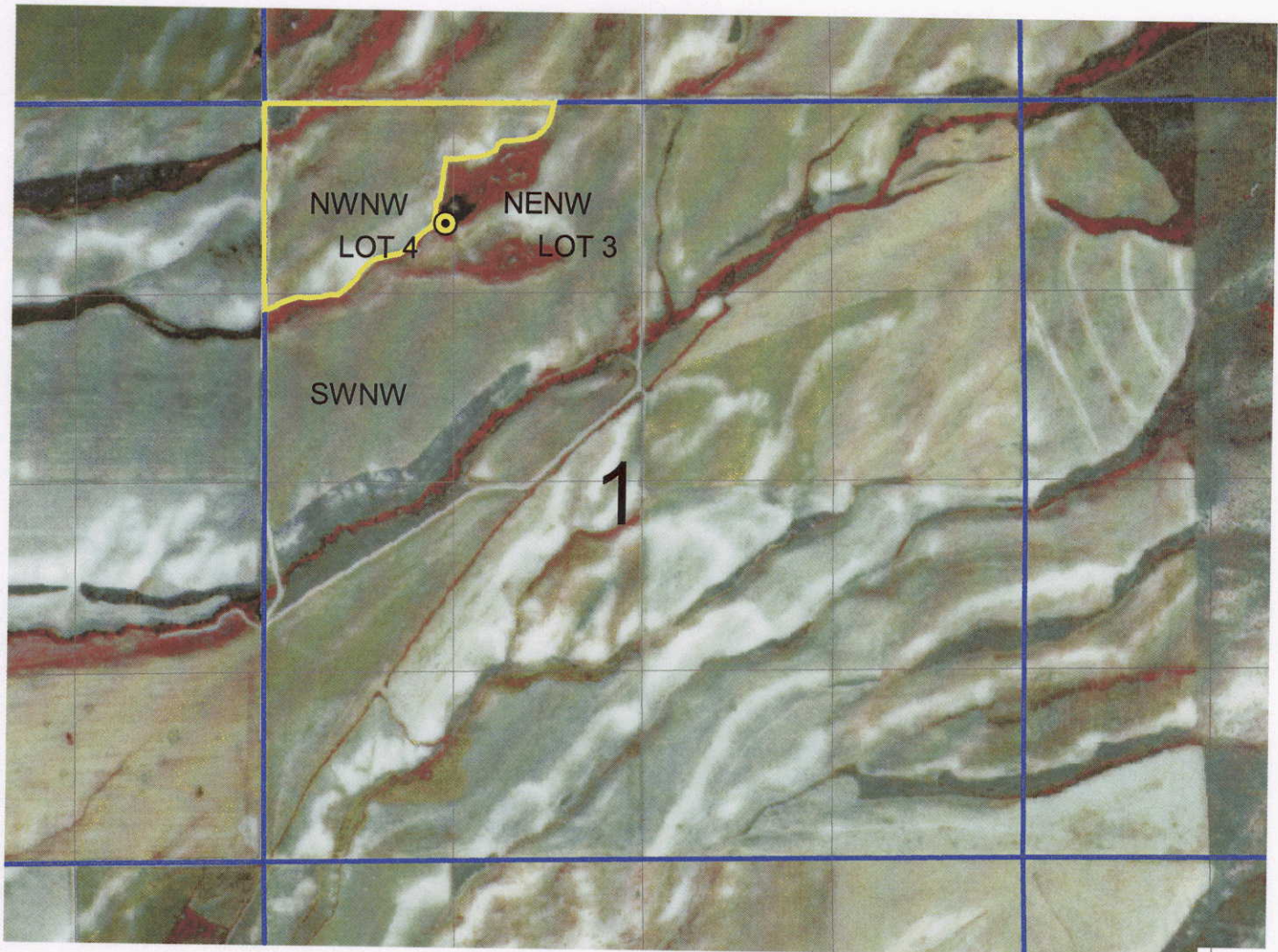


Delbert E. Christensen
6012 West 10050 North
Highland, Utah 84003

*No Particular Value
to Priority Date Issue.*

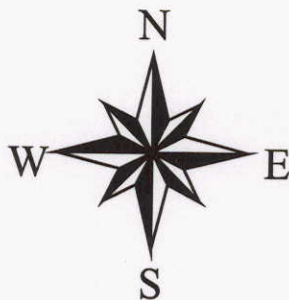
DEPARTMENT OF WATER RESOURCES

Claim No.: 29-4271



0 1320 2640 3960 5280 Feet

- Point of diversion.shp
- Place of use.shp
- Sections
- QQ



GIS Place of Use Illustration
1987/1988 NAPP Photography
Prepared by: E. Carlsen
Date: May 2004