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IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re: SRBA	Subcase Nos. 31-11700 and 31-11701
Case No. 39576	**OBJECTORS' MOTION FOR SUMMARY JUDGMENT**

Objectors James F. Hagenbarth, David J. Hagenbarth, and Margaret Hagenbarth, by and through undersigned counsel of record, hereby move this Court pursuant to I.R.C.P. 56(c) for an Order granting their objections to the Director's Recommendations for water rights 31-11700 and 31-11701. These two water rights should not exist or at least should have priority dates no earlier than November 2, 1930. There are no genuine issues of material fact and the objectors are entitled to judgment as a matter of law.

This motion also is based upon the record on file, on the Hagenbarths' Opening Brief in Support of Motion for Summary Judgment and the Affidavit of Patti L. Rolland and its attached documents, filed contemporaneously herewith.

Respectfully submitted this 1st day of July, 2002.

GIVENS PURSLEY, LLP

John M. Marshall

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing Objectors' Motion for Summary Judgment was served upon the following by mailing a true and correct copy thereof on the 18th day of July, 2002, postage prepaid and addressed as follows:

Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
P.O. Box 2707
Twin Falls, ID 83303-2707

Ray W. Rigby, Attorney
Rigby, Thatcher, Andrus, Rigby & Kam
P.O. Box 250
Rexburg, ID 83440

IDWR Document Depository
P.O. Box 83720
Boise, ID 83720-0098

Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
P.O. Box 44449
Boise, ID 83711-4449

United States Department of Justice
Environment & Natural Resources Division
550 West Fort Street, MSC 033
Boise, ID 83724

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Attorneys for James F. Hagenbarth, David J. Hagenbarth, and Margaret Hagenbarth
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IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re: SRBA	Subcase Nos. 31-11700 and 31-11701
Case No. 39576	**OBJECTORS' OPENING BRIEF IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT**

Objectors James F. Hagenbarth, David J. Hagenbarth, and Margaret Hagenbarth ("Objectors" or "Hagenbarth") submit this Opening Brief in support of Objector's Motion for Summary Judgment. As a matter of law, Objectors are entitled to an order that water rights 31-11700 and 31-11701 do not exist, or, alternatively, that these two water rights have priority dates no earlier than November 2, 1930, the date of a prior decree adjudicating the water rights to West Camas Creek and its tributaries, including Bear Gulch Creek.

INTRODUCTION

The Director has recommended water rights 31-11700 and 31-11701 as beneficial use rights in the name of Nick R. Hillman, Ron R. Hillman, and Randy J. Hillman ("Claimants") with priority dates of October 19, 1897 and May 1, 1898 respectively, and a source of Bear Gulch Creek, a tributary to West Camas Creek. Hagenbarth objects to the Director's recommendations because these two beneficial use rights, which were not decreed in prior adjudications decreeing the water rights in West Camas Creek and its tributaries, would be

slotted in front of decreed West Camas Creek rights owned by Hagenbarth with points of diversion downstream from the confluence of Bear Gulch Creek and West Camas Creek.

It is not clear why the Director deemed it appropriate to add these new beneficial use rights into the list of rights on a previously adjudicated stream, but it seems that the Director was unaware of at least one of the prior decrees. In any event, it is undisputed that rights 31-11700 and 31-11701 were claimed but not included in prior decrees and appear duplicative of a right that was decreed. Accordingly, rights 31-11700 and 31-11701 either must be decreed as disallowed or with priority dates that post-date the prior decrees.

STATEMENT OF UNDISPUTED FACTS

Decrees from two prior court actions are relevant to this dispute.

1. *Cartier v. Buck Decree*

On June 20, 1902, the Idaho District Court in Fremont County, Idaho entered Findings of Fact and Conclusions of Law and a Decree in *Cartier v. W.W. Buck et al ("Cartier v. Buck").* Exhibits 7 and 8 to the Affidavit of Patti L. Rowland ("Rowland Aff."). In the decree, Frank Serfas was allotted a total quantity of 80 inches (1.60 cfs) with a priority date of May 1, 1898 for diversion from Bear Creek Gulch for beneficial use on lands in the northwest quarter of Section 25, Township 13, north, Range 38. Decree at p. 9 (Rowland Aff., Ex. 8).[1] Critically, Mr. Serfas claimed much more water for these lands. In his Answer and Cross-Complaint Mr. Serfas claimed a total of 200 inches (4.0 cfs) with an earlier priority of October 19, 1897. Answer and

[1] The decree itself does not specify places of use or water source. One must consult the Findings of Fact and Conclusions of Law and the pleadings to discern these elements. The Findings of Fact and Conclusions of Law state that Frank Serfas' water right (along with rights of several other individuals) are diverted from tributaries of West Camas Creek as opposed to directly from the main channel of West Camas Creek. Findings of Fact and Conclusions of Law at p. 8 (Rolland Aff., Ex. 7) (indicating that cross-complainants appropriated waters "of the several tributaries of said Camas Creek"). For further detail, one must consult the pleadings. In his Cross-Complaint, Frank Serfas alleged that he beneficially used water in the northwest quarter of Section 25, Township 13, north, Range 38 of Boise Meridian by diverting water from Bear Creek. Answer and Cross Complaint of Frank Serfas, *Cartier v. Buck* (Rolland Aff., Ex 5).

Counter Claim at p. 1 (Rowland Aff., Ex. 5). After a trial on the merits, the court determined that Mr. Serfas had beneficially used and thereby appropriated only 80 inches (1.60 cfs) under the May 1. 1898 priority. Decree at p. 9 (Rowland Aff, Ex. 8).

2. *Suave v. Abbott*

Subsequent to *Cartier v. Buck*, an action was commenced on September 15, 1926 in the District Court of the United States for the District of Idaho, Eastern Division, *Ernest Suave vs. W.H. Abbott et al.*, no. 635 (Nov. 1, 1930) ("*Suave v. Abbott*"), to further adjudicate the water of West Camas Creek and its tributaries. (Relevant portions of the decree are attached as Ex. 13 to the Rowland Aff.) On November 1, 1930, the federal court entered a final Decree adjudicating five water rights to M. Hillman, the successor in interest to Frank Serfas. *Suave v. Abbott* Decree (Rowland Aff., Ex. 13). These five rights subsequently were numbered 31-82 through 31-86 in IDWR's records.[2] Right 31-82, the first right decreed to M. Hillman (and the only right decreed for lands in the NW 1/4 of Section 25), is for 1.6 cfs (80 inches) with a priority of May 1, 1898—the same quantity and priority as decreed to Frank Serfas in *Cartier v. Buck*—for use on the same place of use in the NW 1/4 of Section 25, Township 13 North, Range 38 East claimed by Mr. Serfas in *Cartier v. Buck*. Thus, water right 31-82 in *Suave v. Abbott* is the same water right decreed to Mr. Serfas in *Cartier v. Buck*. This is confirmed by Mr. Hillman's Counterclaim of Defendant in *Suave v. Abbott* (Rowland Aff., Ex. 9) where Mr. Hillmans states:

> That on or about the 20th day of June, 1902, in the District Court of the Fifth Judicial District of Idaho, in and for the County of Fremont . . . in an action entitled Levi Cartier, plaintiff, vs. W.W. Buck, et al., defendants, . . . and that by the tersms [sic] and provisions of said decree this defendant and counterclaimant, by and through his grantors and predecessors in interest, to-wit, **Frank Serfas**, a party to said action, was decreed for the irrigation of the land described in paragraph "I" of the waters of Camas

[2] For verification, *see* Director recommendations for right 31-82 through 31-86, the priority and quantity of which are identical to the five rights decreed to M. Hillman in *Suave v. Abbott*.

> Creek and its tributaries, to-wit, West Camas Creek, **80 inches from May 1, 1898**, to the lands then owned by the said Frank Serfas, and that this defendant and counterclaimant is the successor in interest of and to the rights of the said Frank Serfas, and to the whole thereof.

Counterclaim of Defendant, M. Hillman (Rowland Aff., Ex. 9).

Although it is not clear why, it is apparent that M. Hillman accomplished a transfer in the point of diversion of the 80-inch Serfas right from the *Cartier v. Buck* decree from Bear Gulch Creek to West Camas Creek.

In the SRBA, Claimants have claimed (and this Court has decreed) right 31-82 for 1.60 cfs, with a priority of May 1, 1898 and for use on lands in the NW 1/4 of Section 25, Township 13 North, Range 38 East. As a result, this Court already has decreed the right originally granted to Mr. Serfas in *Cartier v. Buck* and reaffirmed in *Suave v. Abbott.*

Even though the Serfas right already has been decreed in the SRBA as right 31-82, the Claimants have made a duplicate filing for the Serfas right, which the Director recommended, for the same 1.60 cfs, the same May 1, 1898 priority and the same place of use. Claimants also have claimed, and the Director has recommended, right no. 31-11700 with a quantity of 4.0 cfs with a priority of October 19, 1897 and a source of Bear Gulch Creek—an exact duplicate of the claim originally made by Mr. Serfas in the *Cartier v. Buck* proceedings that ultimately was decreed for only 1.60 cfs with a priority of May 1, 1898, and which became right 31-82 in the *Suave v. Abbott* proceedings.

The Claimants are predecessors in interest to M. Hillman, and specifically own and claim as a place of use lands in the NW 1/4 of Section 25, Township 13 North, Range 38 East.

STANDARD OF REVIEW

Summary judgment is proper when "the pleadings, depositions, and admissions on file,

together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law." I.R.C.P. 56(c). In this case, the facts are based on prior court decrees and cannot be disputed. The issue is solely a question of law—whether this Court can decree beneficial use water rights on Bear Gulch Creek that were claimed but denied in previous decrees to the detriment of downstream junior users on West Camas Creek. Summary judgment therefore is appropriate and should be granted in favor of Hagenbarth.

DISCUSSION AND ARGUMENT

As the facts discussed above make clear, Frank Serfas claimed a water right for 4.0 cfs (200 inches) for use on NW 1/4 of Section 25 Township 13 North, Range 38 East with a priority of October 19, 1897, but the court in *Cartier v. Buck* decreed him only 1.60 cfs with a later priority of May 1, 1898. This lone right decreed to Mr. Serfas in *Cartier v. Buck* was re-decreed in the *Suave v. Abbott* decree and assigned the number 31-82 by IDWR. Right no. 31-82 has been claimed, recommended and decreed in the SRBA for 0.80 cfs with a priority of May 1, 1898.

The claim and recommendation for right no. 31-11700, with a quantity of 4.0 cfs and a priority of October 19, 1897 exactly matches the claim made by Frank Serfas and disallowed by the court in *Cartier v. Buck.* The Notice of Claim to Water Right No. 31-11700 therefore is an attempt by Claimants to acquire a right in the SRBA that Claimants' predecessor in interest was unable to acquire in a prior adjudication. Right no. 31-11700 for an additional 1.6 cfs with a priority of May 1, 1898 simply is a duplicate claim for what Mr. Serfas actually received in the *Cartier v. Buck* decree and which later became right 31-82 in the *Suave v. Abbott* decree.

Apparently the Claimants and the Department made their respective claims and

recommendations without knowledge of the *Cartier v. Buck* decree and its pleadings. Now that the facts from this decree have been brought to light, it is apparent that beneficial use right 31-11700 is duplicative of right 31-82. Likewise, the claim to right 31-11701 is duplicative of Mr. Serfas' claim in the prior *Cartier v. Buck* proceedings that was not decreed. Claims 31-11700 and 31-11701 therefore cannot be decreed with the recommended priority dates that precede both the *Suave v. Abbott* and *Cartier v. Buck* decrees. Plaintiff may have developed beneficial use rights consistent with the elements of the claims, but the priority of these rights must be no earlier than November 2, 1930, the day after the decree in *Suave v. Abbott* (the later of the two prior decrees).

To the extent that Claimants maintain their claims for rights 31-11700 and 31-11701 in light of the facts from *Cartier v. Buck* and *Suave v. Abbott*, their claims are barred by res judicata and must be rejected.

For all the reasons discussed above, the recommendations for water rights 31-11700 and 31-11701 either must be rejected outright or amended such that the priority dates are no earlier than November 2, 1930.

Respectfully submitted this 1st day of July 2002.

GIVENS PURSLEY, LLP

John M. Marshall

DONEY, CROWLEY, BLOOMQUIST & UDA, P.C.

for

Patti L. Rowland

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing Objectors' Opening Brief in Support of Motion for Summary Judgment with exhibits was served upon the following by mailing a true and correct copy thereof on the 1st day of July 2002.

Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
P.O. Box 2707
Twin Falls, ID 83303-2707

Ray W. Rigby, Attorney
Rigby, Thatcher, Andrus, Rigby & Kam
P.O. Box 250
Rexburg, ID 83440

IDWR Document Depository
P.O. Box 83720
Boise, ID 83720-0098

Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
P.O. Box 44449
Boise, ID 83711-4449

United States Department of Justice
Environment & Natural Resources Division
550 West Fort Street, MSC 033
Boise, ID 83724

John M. Marshall

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re: SRBA)	Subcase Nos. 31-11700 and 31-11701
)	
Case No. 39576)	**AFFIDAVIT OF ATTORNEY**
)	**PATTI L. ROWLAND**
)	

STATE OF MONTANA)
.ss
County of Beaverhead)

I, Patti L. Rowland, being duly sworn, do hereby depose and state as follows:

1. I am 43 years of age and reside in Dillon, Montana.

2. I have been a member of the State Bar of Montana since May of 1988.

3. I am employed as an associate attorney with Doney, Crowley, Bloomquist & Uda, P.C. Our firm, in association with the law firm of Givens Pursley LLP, Boise, Idaho, represents James F. Hagenbarth, David J. Hagenbarth, and Margaret Hagenbarth.

4. The Exhibits attached to this Affidavit are true, correct, and accurate copies of the following documents:

1. United States Department of the Interior Geological Survey, Kilgore Quadrangle, Idaho - Clark Co. (1972).

2. Certified copies of the first and last page of the Complaint filed by Levi Cartier in Cartier v. Buck, Fremont County, Fifth Judicial District of Idaho.

3. Affidavit of Service and Summons; Order Directing the Bringing in of Other

Parties; Alias Summon; case heading.

4. Frank Serfas Demur to the Cross-Complaint of Defendants in Cartier v. Buck.

5. Answer and Cross Complaint of Frank Serfas in Cartier v. Buck.

6. Decision - Cartier v. Buck.

7. Findings of Fact and Conclusions of Law, Cartier v. Buck.

8. Decree, Cartier v. Buck.

9. Counterclaim of M. Hillman, Sauve v. Abbott.

10. Statement of Claim of Clients represented by F.A. Miller and B.H. Miller in Sauve v. Abbott.

11. Memorandum Opinion, Sauve v. Abbott.

12. Findings of Fact and Conclusions of Law, Sauve v. Abbott.

13. Decree, Sauve v. Abbott.

5. The original certified copies of documents that I have gathered are retained in my possession. In the event a question of authenticity arises, I am able and willing to produce the certified copies.

DATED this 26th day of June, 2002.

Patti L. Rowland

Patti L. Rowland

STATE OF MONTANA)
:ss.
County of Beaverhead)

On this 26th day of July, 2002, before me, Notary Public for the State of Montana, personally appeared Patti L. Rowland, known to me to be the person whose name is subscribed within and acknowledged to me that she executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year herein above first written.

Casey K Hopper
Notary Public for the State of Montana,
Residing at Dillon
My Commission expires: 10/13/2003

(SEAL)

Attachment to Affidavit of Patti L. Rowland
Objectors Exhibit Index
Subcase 31-11700 and 31-11701

1. United States Department of the Interior Geological Survey, Kilgore Quadrangle, Idaho - Clark Co. (1972).

2. Certified copies of the first and last page of the Complaint filed by Levi Cartier in Cartier v. Buck, Fremont County, Fifth Judicial District of Idaho.

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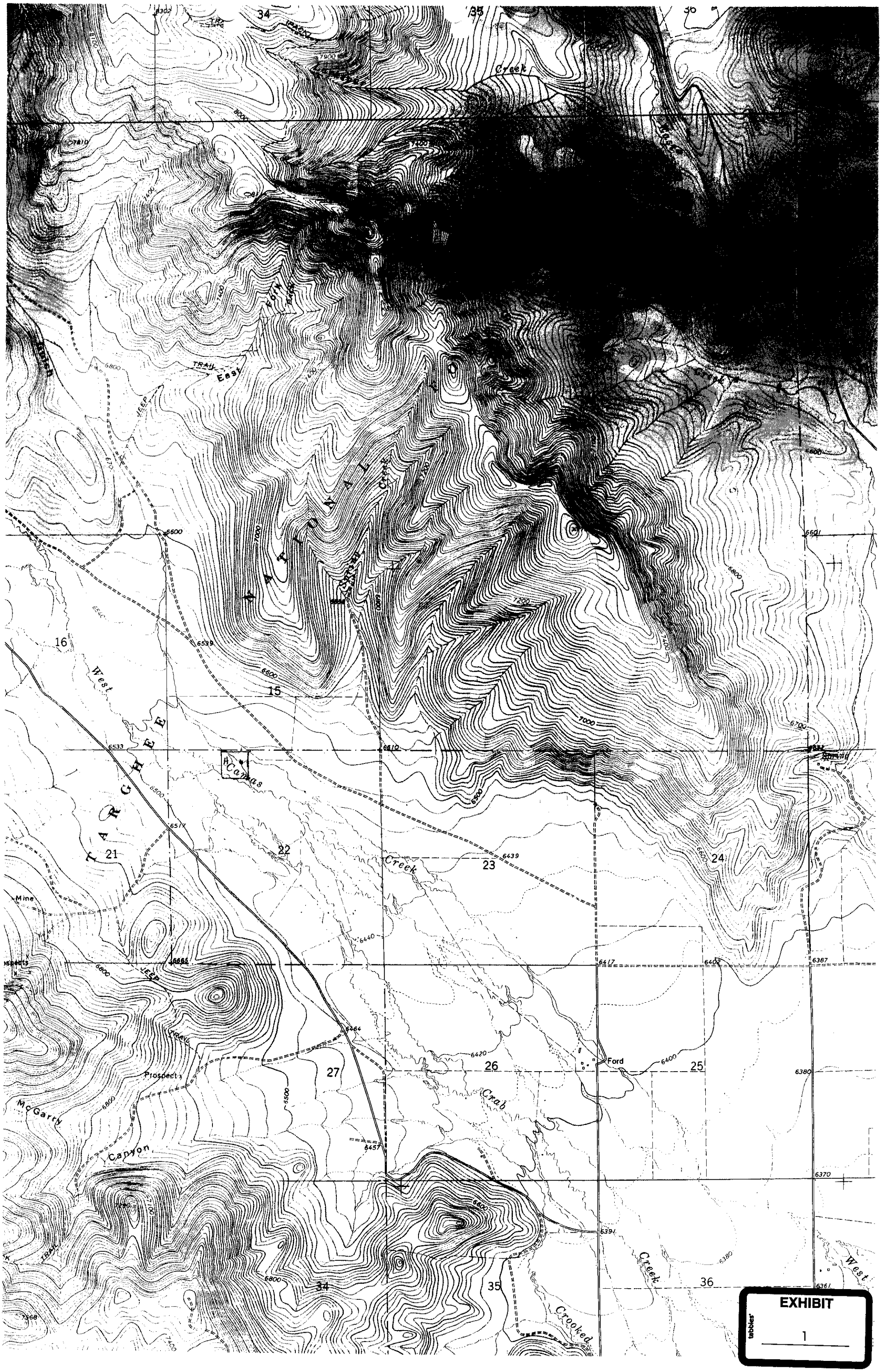
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EXHIBIT

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...RICT COURT OF THE FIFTH JU...

IN AND FOR FREMONT COUNTY, ...

...LEVI CARTIER,

Plaintiff.

vs.

...W.Buck; Ben McDonald; John Ching; Charles Lanthaler; W.C.Goudy; M. Flaherty; Christen P. Jensen; N. P. Christiansen; John Anderson; William McGovern; Eliza Ann Stoddard; Alonzo Stoddard; Sorren Kjildsen; H. E. Martin; R. W. Bartlett; Antone Edinger; ____ Huffman; W. Shepherd; Buck Kendrick; Swan Bros. Good Rasmussen; Mayfield & Phillips; ____ Smith; ~~and~~ W. H. Dye, and W. H. Bennett Defendants.

COM...

Copy of the Original Filed

Plaintiff complains of the defendants and alleges:

That at all times herein mentioned Lienmann & Schmidt was a partnership consisting of Louis Lienmann and Charles Schmidt and doing business under the firm name of Lienmann & Schmidt; that Swan Bros. was and is a partnership consisting of _____Swan and _____Swan and doing business under the firm name of Swan Bros; that Mayfield & Phillips was and is a partnership consisting of Guy Mayfield and Samuel Phillips and doing business under the firm name of Mayfield & Phillips; that Toomey & Cartier was a partnership consisting of H. J. Toomey and Levi Cartier doing business under the firm name of Toomey& Cartier; that Lienmann and Larsen was a partnership consisting of L. Lienmann and H. Larsen doing business under the firm name of L. Lienmann & H. Larsen.

That plaintiff and his predecessors in interest were and plaintiff now is the owner of and in the possession of the following described lands, to wit: Southwest 1/4 of Sec. 32, Tp. 8 N., R. 36 E. B. M. in Fremont County, Idaho, lots 3, 4 and South 1/2 of Northwest 1/4 Sec. 5, lots 1, 2 and South 1/2 of Northeast 1/4 Sec. 6, Southwest 1/4 of Northwest 1/4 Sec. 20, lots 3, 4, and east 1/2 of Southwest 1/4 Sec. 19, West 1/2 of Southeast 1/4 Sec. 19, lots 1, 2 and East 1/2 of Northwest 1/4 Sec. 30, all in Township 7 North, Range 36 East Boise Meridian Fremont County, Idaho, and in the possession of the following described lands, which he holds by reason of having filed upon the same in accordinace with the laws of the United States for the disposition of the public domain, and holds said possession adversely to all other persons except the government of the **********

STATE OF IDAHO
COUNTY OF CLARK :SS
I HEREBY CERTIFY that above and foregoing is a full and correct copy of the original on file in my office.
Date 10-17
Clerk
Rebecca Thornton

EXHIBIT
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are diverting and being large quantities [redacted]
Creek of which this plaintiff is the owner and to the [redacted]
he is entitled and are wrongfully and unlawfully depriving plaintiff of the same and the use thereof and threaten to continue and will continue unless restrained from same by this Court to wrongfully and unlawfully divert and use the same and unlawfully deprive the plaintiff of the use of his said waters; and by reason and in consequence of the wrongful and unlawful appropriation and diversion and use of the waters of Camas Creek and its said tributaries by the said defendants and each of them the said plaintiff has suffered great and irreparable injury, and unless said defendant be restrained by this Court they will continue to wrongfully divert and use said waters to the great and irreparable injury of this plaintiff.

PLAINTIFF therefore prays that the waters of said Camas Creek be adjudicated according to the rights and legal interests of each claimant upon the said creek and its triputaries and that the defendants, and perpetually enjoined and each of them, be forever restrained from interfering with, or diverting, or using any of thewaters of the said Camas Creek to which this plaintiff is entitled, or in any way interferring with this plaintiff's rights to said water, or his use of the same; and that the plaintiff be adjudged entitled to the use and possession of Four Thousand inches, under a four inch pressure, of the waters of said Camas Creek, and have judgment against the defendants, and each of them, for the costs of this action.

Smith & Millsaps
Attorneys for Plaintiff.

STATE OF IDAHO,)
)ss.
County of Fremont.)

Lewis Carter, being first duly sworn, deposes and says: That he is the Plaintiff in the above entitled action; that he has read the foregoing complaint, and knows the same to be true of his own knowledge, except as to those things baised upon his information and belief, and as to those he believes them to be true.

Lew Carter

Subscribed and sworn to before me this 10 day of July 1900.

J. Millsaps
Notary Public

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT

OF IDAHO, IN AND FOR THE FREMONT COUNTY.

LEVI CARTIER,

PLAINTIFF.

VS.

W.W.BUCK, ET AL.

DEFENDANT.

Affidavit of Service of Summons and Order to Bring in other Parties.

F.M.Galloway being duly sworn, deposes and says that he is, and at all timess hereinafter mentioned was a Citizen of the United States, above the age of eighteen years, and not a party to the above entitled action; that he received the annexed summons and copy of order to bring in other persons in said action on the 23rd day of August A.D. 1901, by delivering to each of the following named parties personally a copy of said Summons & Order and personally served the same, on Harry Martin, D.S.Taylors' wife, John Anderson, William McGovern, Chris Pettys, Charles Pettys, on August 24th, 1901. Joseph K. Shupe, William McCullorgh, James Allen, John Crapo, George Crapo, Joseph Crapo, Al.Peterson, George Allen, Frank Smrfus, P.A.Mortensen, P. Mortinsen, George Mortinsen, Peter Christensen, Frederick Jensen, Niels Jensen on August 25th, 1901. E.E.Ransifer, Sorren Kelsen, James Kelsen, Frederick Fredericksen, N.C.Nielsen, Christian Nielsen, Gustav Brauer, Peter Jensen, Good Rasmussen, H. Christiansen, James M. Bramwell, James H. Cochran, Thomas Turton, W.G.Collins, William Underwood, Charles Underwood, on August 26th, 1901.

W. Sheppard, and Martin Devany on the 27th, of August 1901.

All being Served in the Fremont Co State of Idaho

F.M.Galloway

Subscribed and sworn to before me this 22nd day of November, 1901.

J.D.Millsaps

Notary Public

STATE OF IDAHO
COUNTY OF CLARK :SS

I HEREBY CERTIFY that above and foregoing is a full and correct copy of the original thereof, on file in my office.

Date 8-17, 1901

Conni S. Owen
Clerk of the District Court

Rebecca Gudgeon
Deputy Clerk

EXHIBIT

tabbies

3

Order Directing the Bringing in of Other Parties.

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

Levi Cartier, Plaintiff,

vs.

W. W. Buck, Ben McDonald, John Ching, Charles Lanthaler, W. C. Goudy, M. Flaherty, Christen P. Jensen, N. P. Christensen, John Anderson, William McGovern, Eliza Ann Stoddard, Alonzo Stoddard, Sorren Kelson, H. E. Martin, R. W. Bartlett, Antone Edinger, H. J. Hoffman, W. Shepherd, Buck Kendrick, William Swan and Jamas Swan as Swan Bros., Good Rasmussen, W. H. Dye, W. H. Bennett Maayfield & Phillips.

Defendants.

Order Directing The Bringing in of Other Parties.

Upon reading the affidavit of Good Rasmussen one of the above named defendants, which affidavit was on this day filed herein and from which affidavit it appears that a complete determination of the controversy and issues involved the action, above entitled, cannot be had without the presence of other parties, who claim an interest in the waters of Camas Creek, (the right to the use of the waters, being the subject of the controversy in said action) to-wit: August Spong, Gustav Spong, Anders G. Spong, James H. Bramwell, James H. Cochran, Thomas Turton, Delbert Hudson, Neils Poulsen, Neils Poulsen. Gustav Brauer, Frederick Nielsen, Joseph Kroker, Joseph K. Shupe, W. G. Collins. Frederick Vadnais, Napoleon Vadnais Charles Kroker, Frederick Fredericksen, James Kelsen, Niels Jensen, Frederick Jensen, Peter Christensen, George Mortensen, P. Mortensen, P. A. Mortensen, Chris W. Pettys, Charles Pettys, William McCullough, W. B. Martin, George I. Martin, Charles Underwood, David S. Thomas, E. Z. Carbine and W. H. Carbine as Carbine Bros., D. S. Taylor, Purnell J. Owen, James H. Campbell, Charles J. Shaller, Fred Shaller, Peter P. Jensen, Hirum Spurlin, William Swan, Henry Hancock, Peter Taylor, Harry Taylor, Charles H. Smith, Mrs. E. Smith, Edna E. Smith, C. Martin, Marlborough Smith, Chet Smith, Frank Serfus, George B. Allen, Ralph Bartlett, Charles P. Bartlett, J. A. Godfrey, Neil W. McMillan, Eugene Hibbert, Joseph Crapo, John Crapo, George Crapo, James Allen, William J. Underwood, Deviny, H. Christensen, John Andrews, E. E. Ransopher, T. B. Wall.

It is therefore ordered that the plaintiff, Levi Cartier, be and he is hereby directed to cause to be served upon each and all the persons, whose names are above set out as necessary parties to said action, a copy of the summons in said action and a copy of this order, which service shall be made and completed, if it can be done within sixty days from the date thereof, the said service to be made in like manner as provided for the service of a summons under the practice prescribed by the laws of Idaho; And it is further ordered that the persons so served may have ten days after the date of service upon them in which to appear and plead in said action. Done in open Court this June 4th, 1901.

J. C. RICH, Judge.

STATE OF IDAHO
COUNTY OF CLARK :SS

I HEREBY CERTIFY that above and foregoing is a full and correct copy of the original thereof, on file in my office.

Date 10-17, 19 01

Conni S. Owen
Clerk of the District Court

Rebecca Gustafson
Deputy Clerk

Alias Summons.

IN THE DISTRICT COURT OF THE FIFTH JUCICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF FREMONT.

Levi Cartier, Plaintiff,

vs.

W. W. Buck, Ben McDonald, John Ching, Charles Lanthaler, W. C. Goudy, M. Flaherty, Christen P. Jensen, N. P. Christensen, John Anderson, William McGovern, Eliza Ann Stoddard, Alonzo Stoddard, Sorren Kelson, H. E. Martin, R. W. Bartlett, Antone Edinger, H. J. Hoffman, W. Shepherd, Buck Kendrick, William Swan and James Swan as Swan Bros., Good Rasmussen, W. H. Dye, W. H. Bennett, M. Smith, Mayfield and Phillips, Sorren Kjildsen, August Spong, Gustav Spong, Anders G. Spong, James H. Bramwell, James H. Cochran, Thomas Turton, Delbert Hudson, Neils Toulsen, Neils Poulsen, Gustav Brauer, Frederick Nelsen, Joseph Kroker, Joseph K. Shupe, W. G. Collins, Frederick Vadnais, Napoleon Vadnais, Charles Kroker, Frederick Fredericksen, James Kelsen, Neils Jensen, Frederick Jensen, Peter Christensen, George Mortensen, P. Mortensen, P. A. Mortensen, Chris W. Pettys, Charles Pettys, William McCullough, W. B. Martin, George I. Martin, Charles Underwood, David S. Thomas, E. Z. Carbine and W. H. Carbine as Carbine Bros., D. S. Taylor, Purnell J. Owen, James H. Campbell, Charles J. Shaller, Fred Shaller, Peter P. Jensen, Hirum Spurlin, William Swan, Henry Hancock, Peter Taylor, Harry Taylor, Charles H. Smith, Mrs. E. Smith, Edna E. Smith, C. Martin, Marlborough Smith, Chet Smith, Frank Serfus, George B. Allen, Ralph B. Bartlett, Charles P. Bartlett, J. A. Godfrey, Niel W. McMillan, Eugene Hibbert, Joseph Crapo, John Crapo, George Crapo, James Allen, William J. Underwood, Deviny, H. Christensen, John Andrews, E. E. Ransopher, T. B. Wall, Christopher Morley, John Doe, Richard Roe and Benjamin C. Hibbert, Christen Nielsen, A. A. Harmon, Defendants.

ALIAS SUMMONS.

STATE OF IDAHO

To W. W. Buck, Ben McDonald, John Ching, Charles Lanthaler, W. C. Goudy, M. Flaherty, Christen P. Jensen, N. P. Christensen, John Anderson, William McGovern, Eliza Ann Stoddard, Alonzo Stoddard, Sorren Kelson H. E. Martin, R. W. Bartlett, Antone Edinger, H. J. Hoffman, W. Shepherd, Buck Kendrick, William Swan and James Swan as Swan Bros., Good Rasmussen, W. H. Dye, W. H. Bennett, M. Smith, Mayfield and Phillips, Sorren Kjildsen, August Spong, Gustav Spong, Anders G. Spong, James H. Bramwell, James H. Cochran, Thomas Turton, Delbert Hudson, Neils Toulsen, Neils Poulsen, Gustav Brauer, Frederick Nielsen, Joseph Kroker, Joseph K. Shupe, W. G. Collins, Frederick Vadnais, Napoleon Vadnais Charles Kroker, Frederick Fredericksen, James Kelsen, Niels Jensen, Frederick Jensen, Peter Christensen, George Mortensen, P. Mortensen, P. A. Mortensen, Chris W. Pettys, Charles Pettys, William McCullough, W. B. Martin, George I. Martin, Charles Underwood, David S. Thomas, E. Z. Carbine and W. H. Carbine as Carbine Bros., D. S. Taylor, Purnell J. Owen, James H. Campbell, Charles J. Shaller, Fred Shaller, Peter P. Jensen, Hirum Spurlin, William Swan, Henry Hancock, Peter Taylor, Harry Taylor, Charles H. Smith, Mrs. E. Smith, Edna E. Smith, C. Martin, Marlborough Smith, Chet Smith, Frank Serfus, George B. Allen, Ralph Bartlett, Charles P. Bartlett, J. A. Godfrey, Neil W. McMillan, Eugene Hibbert, Joseph Crapo, John Crapo, George Crapo, James Allen, William J. Underwood, Deviny, H. Christensen, John Andrews, E. E. Ransopher, T. B. Wall, Christopher Morley, John Doe, Richard Roe and Benjamin C. Hibbert, Christen Nielsen, A. A. Harmon.

IN THE NAME OF THE PEOPLE OF THE STATE OF IDAHO:—

You are hereby notified that there is now on file in the office of the Clerk of the District Court of the Fifth Judicial District of the State of Idaho, in and for the County of Fremont, the amended complaint of Levi Cartier alleging that he is the owner and has the prior right over each and all of the defendants to the use of the various amounts of water aggregating 2,600 inches measured under a four inch pressure of the waters of what is known as Camas Creek, in Fremont county, Idaho, used for agricultural and stock raising purposes, said plaintiff demanding by his said amended complaint that he be decreed a prior right over all other parties above named to said 2,600 inches, and that the defendants and all of them be restrained during the pendancy of this action from interfering therewith, and that upon the final hearing said injunction be made perpetual, and for costs and all proper relief. The particulars more fully appearing in plaintiff's amended complaint, a copy of which is served herewith and made a part hereof; and that unless you appear and answer to said complaint within ten days after the service hereof, if served within Fremont Co., and within twenty days if served out of said county, but within said Judicial District, and within forty days if served out of said district (exclusive of the day of service), the plaintiff will apply to the Court for the relief demanded in the said amended complaint.

IN TESTIMONY WHEREOF, I, A. M. Carter, Clerk of said District Court, have hereunto set my hand and affixed the seal of said Court at St. Anthony this 24th day of June, A. D. 1901.

A. M. CARTER, Clerk of the District Court.

J. D. Millsaps, P. Averitt and F. S. Dietrich, Attorneys for plaintiff.

STATE OF IDAHO
COUNTY OF CLARK :SS

I HEREBY CERTIFY that above and foregoing is a full and correct copy of the original thereof, on file in my office.

Date 12-17, 1901

Conni S. Owen
Clerk of the District Court

Rebecca Thornton
Deputy Clerk

IN THE DISTRICT COURT

OF THE FIFTH JUDICIAL DISTRICT OF IDAHO, IN AND FOR FREMONT COUNTY.

Levi Cartier,

Plaintiff,

Vs.

W.W.Buck, Ben McDonald, John Ching, Charles Lanthaler, W.C.Goudy, M.Flaherty, Christen P.Jensen, N.P.Christensen, John Anderson, William McGovern, Eliza Ann Stoddard, Alonzo Stoddard, Soren Kelson, H.E.Martin, R.W.Hartlett, Antone Edinger, H.J.Hoffman, W.Shepherd, Buck Kendrick, William Swan and James Swan as Swan Bros., Good Rasmussen, W.H.Dye, W.H.Bennett, M.Smith, Mayfield and Phillips, Soren Kjildson, August Spong, Gustav Spong, Anders G.Spong, James H.Bramwell, James H.Cochran, Thomas Turton, Delbert Hudson, Neils Toulsen, Neils Poulsen, Gustav Brauer, Frederick Neilsen, Joseph Kroker, Joseph K.Shupe, W.G.Collins, Frederick Vaidnais, Napoleon Vadnais, Charles Kroker, Frederick Fredericksen, James Kelsen, Niels Jensen, Frederick Jensen, Peter Christensen, George Mortensen, P.Mortensen, P.A. Mortensen, Chris W.Pettys, Charles Pettys, William McCullough, W.B.Martin, George I.Martin, Charles Underwood, David S.Thomas, E.Z.Carbine, and W.H.Carbine, as Carbine Bros., D.S.Taylor, Purnell J.Owen, James H.Campbell, Charles J.Shaller, Frederick Shaller, Peter P.Jensen, Hirum Spurlin, William Swan, Henry Hancock, Peter Taylor, Harry Taylor, Charles H.Smith, Mrs E.Smith, Edna E.Smith, C.Martin, Marlborough Smith, Chet Smith, Frank Serfus, George B.Allen, Ralph Bartlett, Charles P.Bartlett, J.A. Godfrey, Niel W.McMillan?Eugene Hibbert, Joseph Crapo, John Crapo, George Crapo, James Allen, William J.Underwood, Deviny H.Christensen, John Andrews, E.E.Ransopher, T.B.Wall, Christopher Morley, John Doe, Richard Roe and Benj.C.Hibbert, Christensen Nielsen, A.A.Harmon,

Defendants.

STATE OF IDAHO
COUNTY OF CLARK :SS

I HEREBY CERTIFY that above and foregoing is a full and correct copy of the original thereof, on file in my office.

Date 10-17, 1901

Conni S. Owen
Clerk of the District Court

Rebecca Hodgson
Deputy Clerk

IN DISTRICT COURT OF FIFTH JUDICIAL DISTRICT OF IDAHO
IN AND FOR THE COUNTY OF FREMONT.

Levi Cartier,
Plaintiff,
vs.
W.W.Buck, et al.
Defendants.

DEMURRER TO CROSS COMPLAINT of W.G.Collins, Frederick Fredericksen, Thomas Turton, Neils Jensen, Charles Petys, P.J.Owen, F.B.Neilson James H.Cochran, G.F.Schaller, Edward J/ Schaller, Hiram Spurlin,

Defendant Frank Serfas demurs to the cross-complaint herein filed by Defendants W.G.Collins, Frederick Fredericksen, Thomas Turton, Neils Jensen, Charles Petys, P.J.Owen, F.B.Neilsson, James H.Cochran, G.F.Schaller, Edward J.Schaller and Hiram Spurlin on the Grounds and for the reason;

That, said cross-complaint does not state facts sufficient to constitute a cause of action.

James G. Gwynn
Attorney for Defendant
Frank Serfas.

STATE OF IDAHO
COUNTY OF CLARK. ss

I HEREBY CERTIFY that above and foregoing is a full and correct copy of the original thereof, on file in my office.

Date 10-17, 1901

Conni S. Owen
Clerk of the District Court
Rebecca Hodgson
Deputy Clerk

EXHIBIT
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IN THE DISERICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE STATE OF IDAHO, COUNTY OF FREMONT.

Levi Cartier,
Plaintiff

vs.

W.W.Buck et al.
Defendants.

D E M U R R E R .

Comes now Frank Serfas, one of the Defendants herein and demurs to Plaintiffs amended complaint herein filed, on the ground and for the reason that said amended complaint does not state facts sufficient to constitute a cause of action.

J. G. Swim
Attorney for above named Defendant

STATE OF IDAHO
COUNTY OF CLARK :SS

I HEREBY CERTIFY that above and foregoing is a full and correct copy of the original thereof, on file in my office.

Date 10-17, 19-01

Connie S. Owen
Clerk of the District Court

Rebecca Gedalion
Deputy Clerk

IN DIST T COURT, FIFTH JUDICIAL DI RICT OF IDAHO
IN AND FOR FREMONT COUNTY.

Levi Cartier, Plaintiff
vs.
W.W.Buck et al. Defendants.

ANSWER AND CROSS COMPLAINT.

Comes now Defendant Frank Serfas(not waiving his demurrer herein filed)and answering Plaintiffs amended complaint hereim alleges;

I. Said Defendant Frank Serfas denies each and evry allegation in said amended complaint contained. And upon his information and belief said Defendant denies as follows;

1. Denies that Plaintiff, his grantors and predecessors in interest, or either of them, appropriated of the waters of said Camas Creek, mentioned in Plaintiffs amended complaint, or its tributaries, in amounts and at times as set out in paragraph seven of said amended complaint, or in any amounts or amount whatever or at all.

2. Denies that on or about the respective dates mentioned in paragraph seven of said amended complaint, that Plaintiff, his granters and predecessors in interest, or any or either of them, by means of dams and ditches or otherwise, diverted said waters from said Camas Creek or its tributaries, to or upon the land mentioned and described in paragraph one of said amended complaint or to or upon any part thereof at any time or at all.

3. Denies that the use of the waters of said Camas Creek or of any of its tributaries by this Defendant does in any way or manner interfere wi with or affect the water rights or any rights of Plaintiff to the use or flow of the waters of said Camas Creek.

4. Denies that this Defendant at the time or times mentioned in paragraph eight of said amended complaint, or at any time or at all deprived Plaintiff of any of the waters of said Camas Creek or its tributaries, or that Plaintiff has suffered great or irreparable injury or any injury whatever, by reason of this Defendant diverting or using the waters of said Camas Creek or its tributaries or either or any of them or at all.

CROSS-COMPLAINT.

For a cross-complaint, said Defendant Frank Serfas alleges;

I. That said Defendant now is, and ever since about May 1897 has been the owner in possession and entitled to possession(as against all the world except the United States) of that certain tract of land, situated in Fremont County, Idaho, and particularly described as follows; the north west quarter of Section 25, Township 13, north, Range 38 east of Boise Meridian; that said land is arid in character and will not produce crops of any kind without artificial irrigation; that said land is riparian to Bear Creek, a tributary of said Camas Creek, and flows into said Camas Creek above the lands of Plaintiff.

2. That on or about October, 19, 1897, this Defendant appropriated of the waters of said Bear Creek, four cubic feet of water per second of time and by means of dams and ditches, diverted said amount of water from said Bear Creek, to and upon said land and since that time and during evry season thereafter up to the present time has used said water for irrigating said land and by means thereof has been enabled to produce profitable crops of hay, grass and other agricultural products thereon and that for irrigating purposes said land requires one and one half inches of water, measured under a four inch pressure, per acre.

STATE OF IDAHO
COUNTY OF CLARK ss
I HEREBY CERTIFY that above and foregoing is a full and correct copy of the original thereof, on file in my office.
Date 10-17, 1901
Conni S. Owen
Clerk of the District Court
Rebecca Robertson
Deputy Clerk

EXHIBIT
tabbies
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That excepting the wa s of said Bear Creek, ther s no water available for the irr tion and cultivation of s d land and that the use of the waters of said Bear Creek by this Defe. ant as hereinbefore alleged has been at all times adverse to Plaintiff: that the said Defendant's right and to said water is prior and paramount to the right of Plaintiff thereto or to the right of his grantors and predecessors in interest.

WHEREFORE, this Defendant prays judgment and decree of this Court as follows:

I. That this Defendant be adjudged and decreed to be the prior owner and appropriator of the waters of said Bear Creek to the extent of four cubic feet per second of time (or its equivalent): that his title thereto be quited and that Plaintiff be perpetually restrained from interfering therewith: for costs of suit and for such other and futhere relief as to this Court seems meet and equitable.

J G Gwinn
Att'y for Frank Serfas.

State of Idaho)
) SS/
County of Frem ont)

Frank Serfas, being first duly sworn, deposes and says: That he is the Defendant in the above entitled action ~~xxxixxx~~ who makes the above and foregoing answer and cross-complaint: that he has read the said answer and cross-complaint and knows the contents thereof: that the same is true of his own knowledge, except as to matters therein stated to be on information and belief and as to those matters he believes ~~xx~~ it to be true.

Frank Serfas

Subscribed and sworn to before me this 23 day of November, 1901.

A. M. Carter
Clerk of District Court.
By Rose E. Davis
Dep.

STATE OF IDAHO
COUNTY OF CLARK :SS

I HEREBY CERTIFY that above and foregoing is a full and correct copy of the original thereof, on file in my office.

Date 10-17, 19 01

Conni S. Owen
Clerk of the District Court
Rebecca Hodgson
Deputy Clerk

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

Levi Cartier, Plaintiff,
Vs
W. W. Buck, et. al, Defendants.

DECISION. (original)

The following named plaintiff and defendants are entitled to various amounts of water set ~~xxx~~ opposite their names ~~xxx~~ from and to the respective dates mentioned, viz:-

Levi Cartier.	WILD HAY RIGHTS ENDING JULY 1st, Each year.	
"	J. H. Adams claim, from April 1st, 1884, 85 inches.	
"	Victor Schmidt claim, from April 1st, 1887, 60 inches.	
"	M. H. Adams, claim, From April 1st, 1883, 85 inches.	
"	Twomey claim, from April 1st, 1895, 200 inches.	
"	Charles Lineman claim, from April 1st, 1885, 250 inches.	
"	Charles Schmidt claim, from April 1st, 1885, 150 inches.	
"	Charles Schmidt claim (pre-emption) from April 1st, 1885, 75 inches.	
"	~~xxxx

H. E. Martin,	From June 1st, 1897,	125 inches.
Good Rasmussen,	From April 1st, 1889,	250 inches.
W. G. Collins,	From May 1st, 1897,	60 inches.
W. G. Collins,	From July 1st, 1900,	90 inches.
D. S. Tayler,	From June 1st, 1899,	80 inches.
Frederick Frederickson,	From June 1st, 1891,	150 inches.
Charles Pettus,	From June 1st, 1891,	160 inches.
P. J. Owen,	From May 15th, 1888,	160 inches.
F. B. Nielsen,	From May 1st, 1897,	80 inches.
F. B. Nielsen,	From May 1st, 1899,	80 inches.
James H. Cochran,	From May 1st, 1898,	225 inches.
G. F. Schaller,	From May 1st, 1899,	110 inches.
Niels Jensen,	From June 1st, 1895,	300 inches.
C. J. Schaller,	From May 1st, 1899,	140 inches.
Niles McMillan,	From Oct. 1st, 1898,	100 inches.
Hyrum Spurlin,	From May 1st, 1901,	125 inches.
James Allen,	From May 1st, 1900,	140 inches.
Thomas Turten,	From Oct. 1st, 1900,	40 inches.
Camas Reservoir Company, a corporation (Limited) From May 23rd, 1900,		1500 inches.
Camas Reservoir Company, a corporation (Limited) From June 22nd, 1900,		1800 inches.

Findings of fact & Conclusions of law may be drawn accordingly.

Dated at Pocatello, Idaho, June 18th, 1902.

Joseph C. Rich

District Judge.

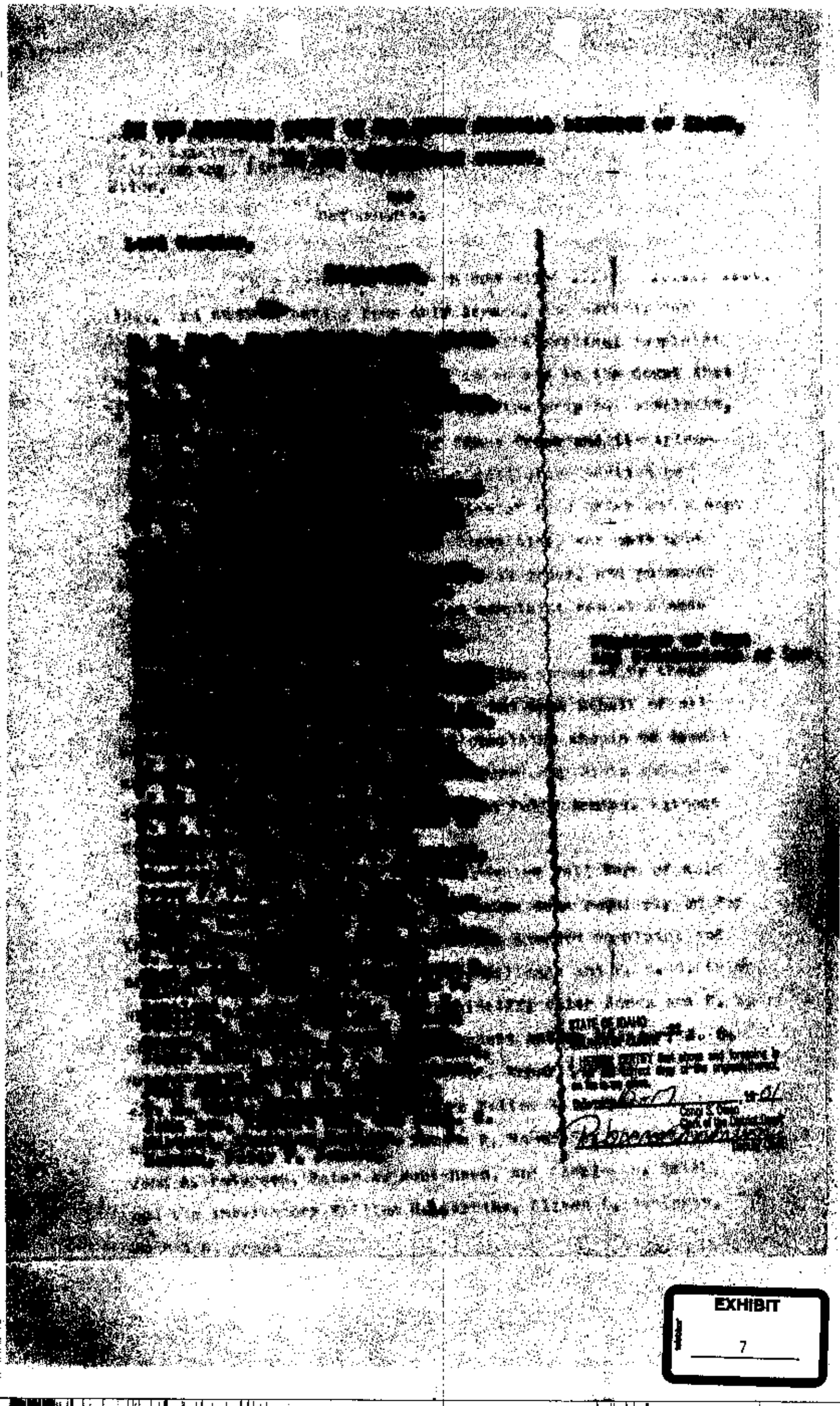
STATE OF IDAHO :ss
COUNTY OF CLARK

I HEREBY CERTIFY that above and foregoing is a full and correct copy of the original thereof, on file in my office.

Date 10-17, 1901

Conni S. Owen
Clerk of the District Court

Rebecca Anderson
Deputy Clerk



EXHIBIT

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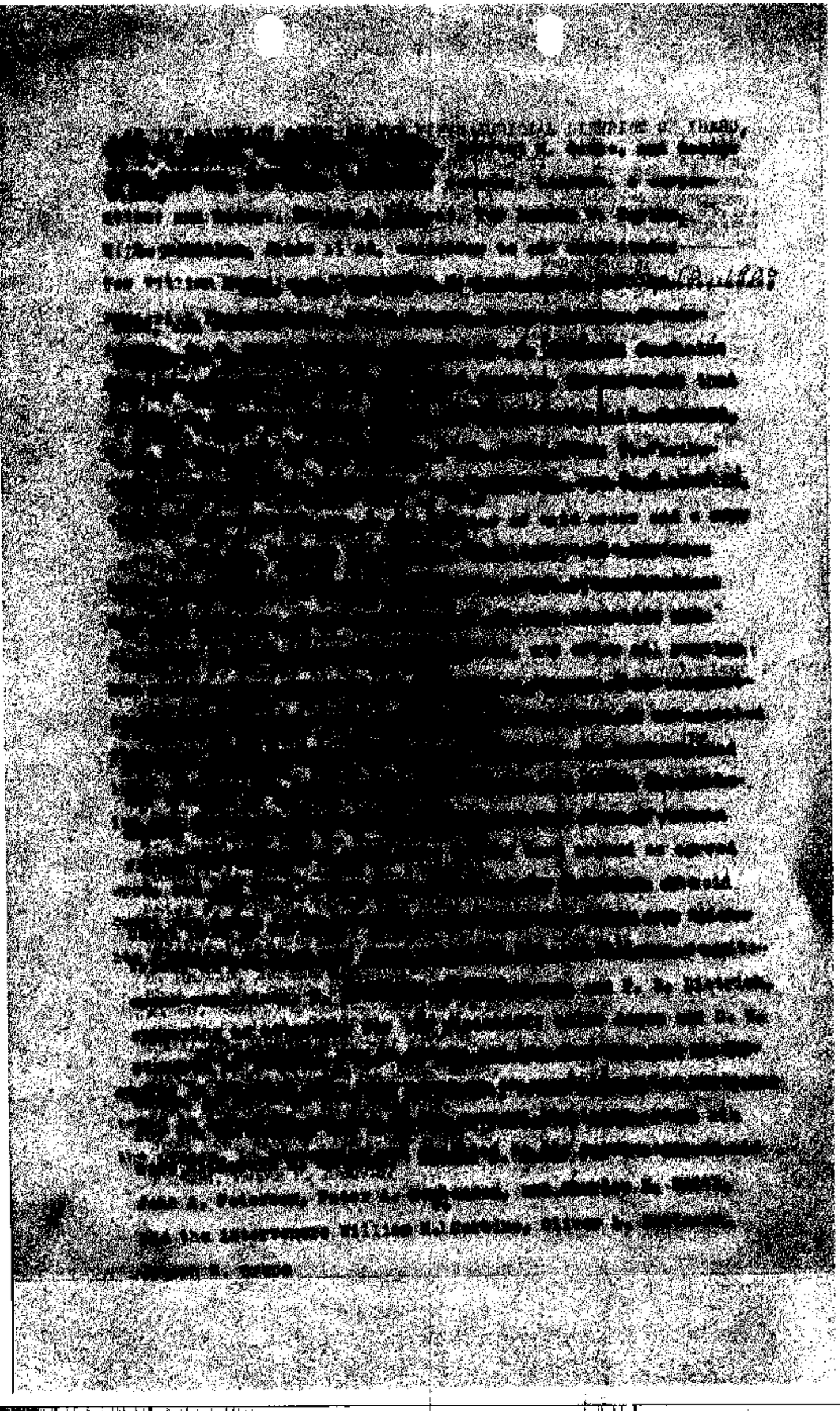


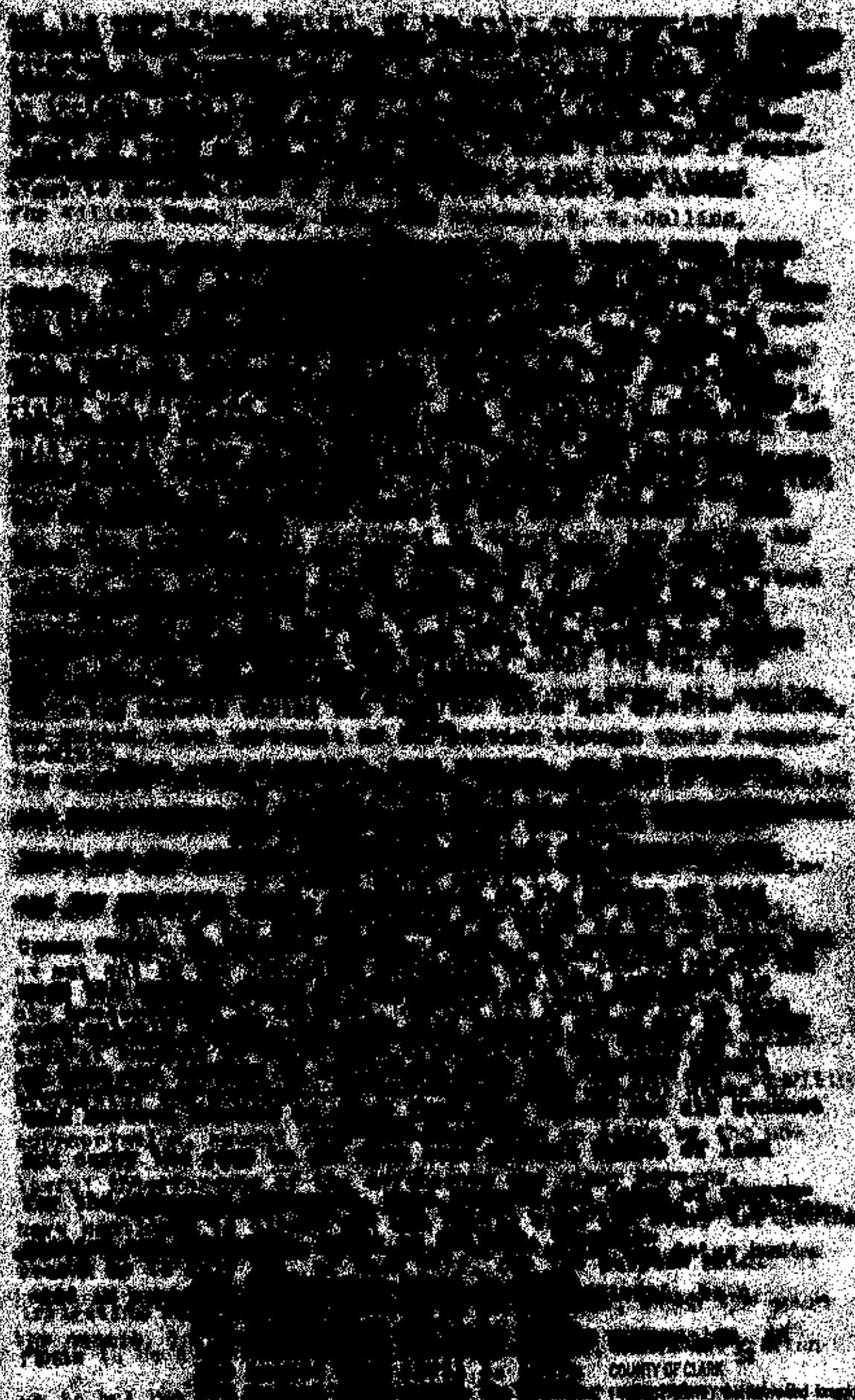
[redacted]

COUNTY OF CLARK

I, [redacted], do hereby certify that the foregoing is a full, true and correct copy of the original thereof as the same appears on file and of record in my office.

WITNESS my hand and the seal of the Eighth Judicial District Court this [redacted] day of [redacted], 1941.

[redacted]
Deputy Clerk



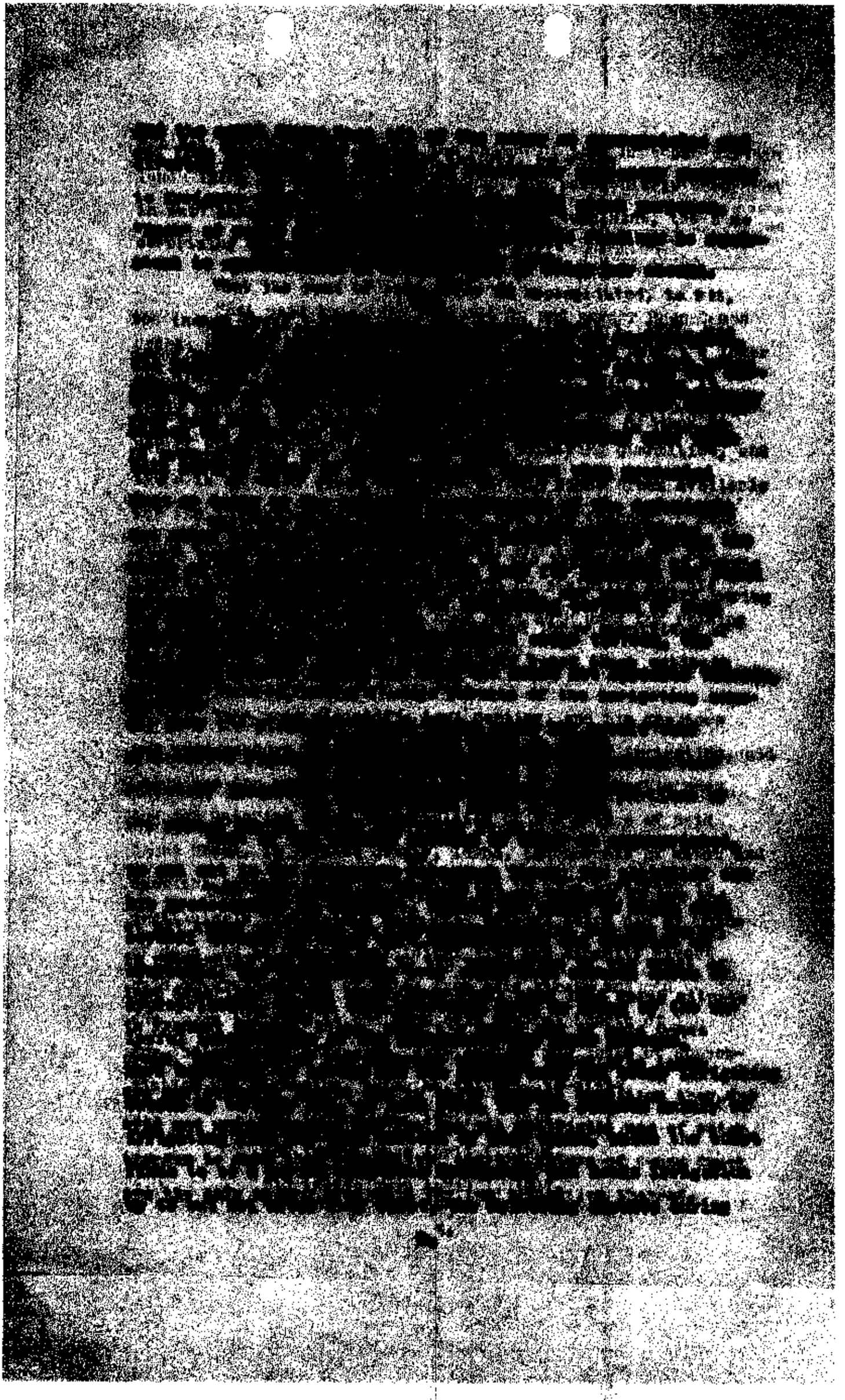
COUNTY OF CLARK

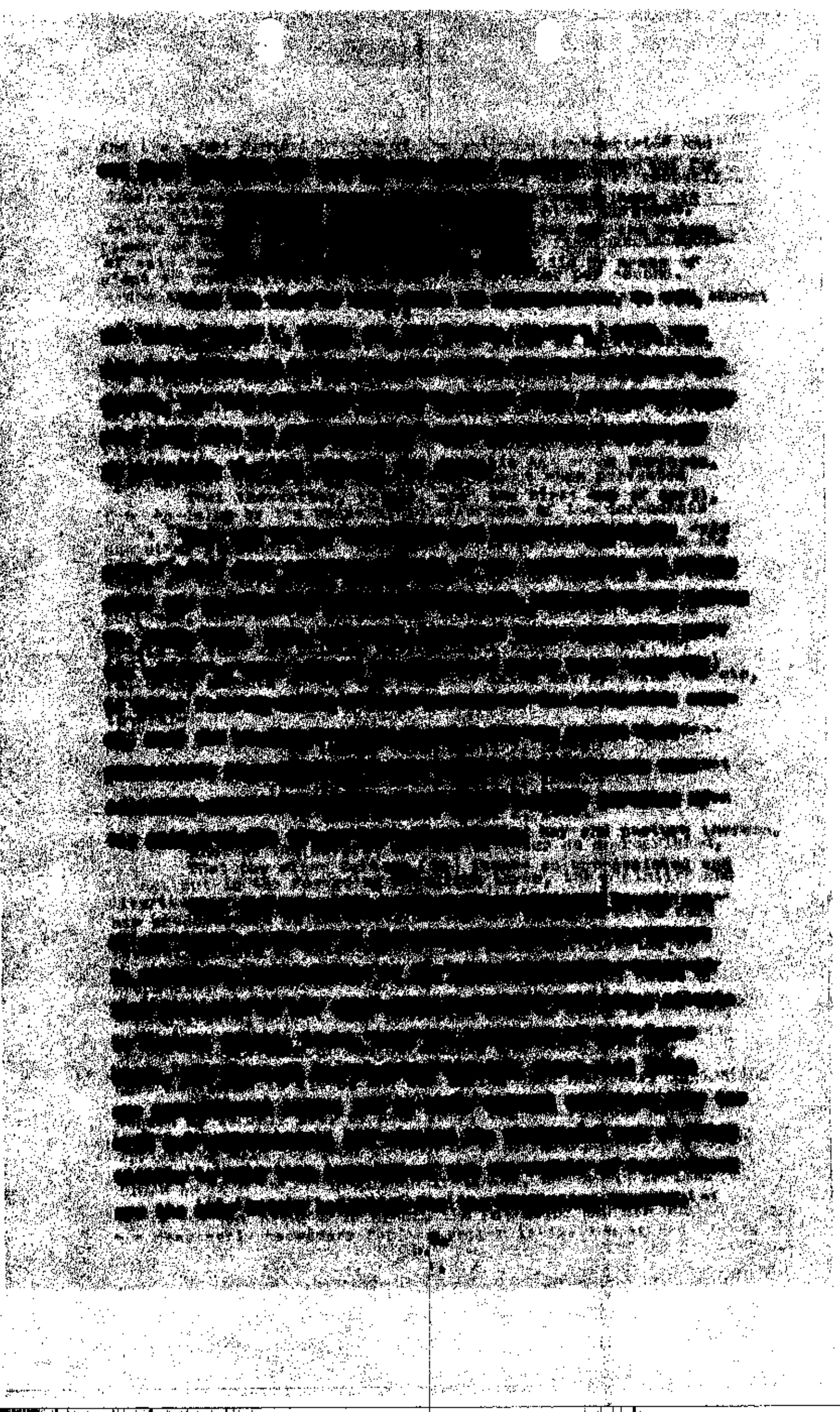
I hereby certify that the foregoing is a full, true and correct copy of the original thereof on file in my office.

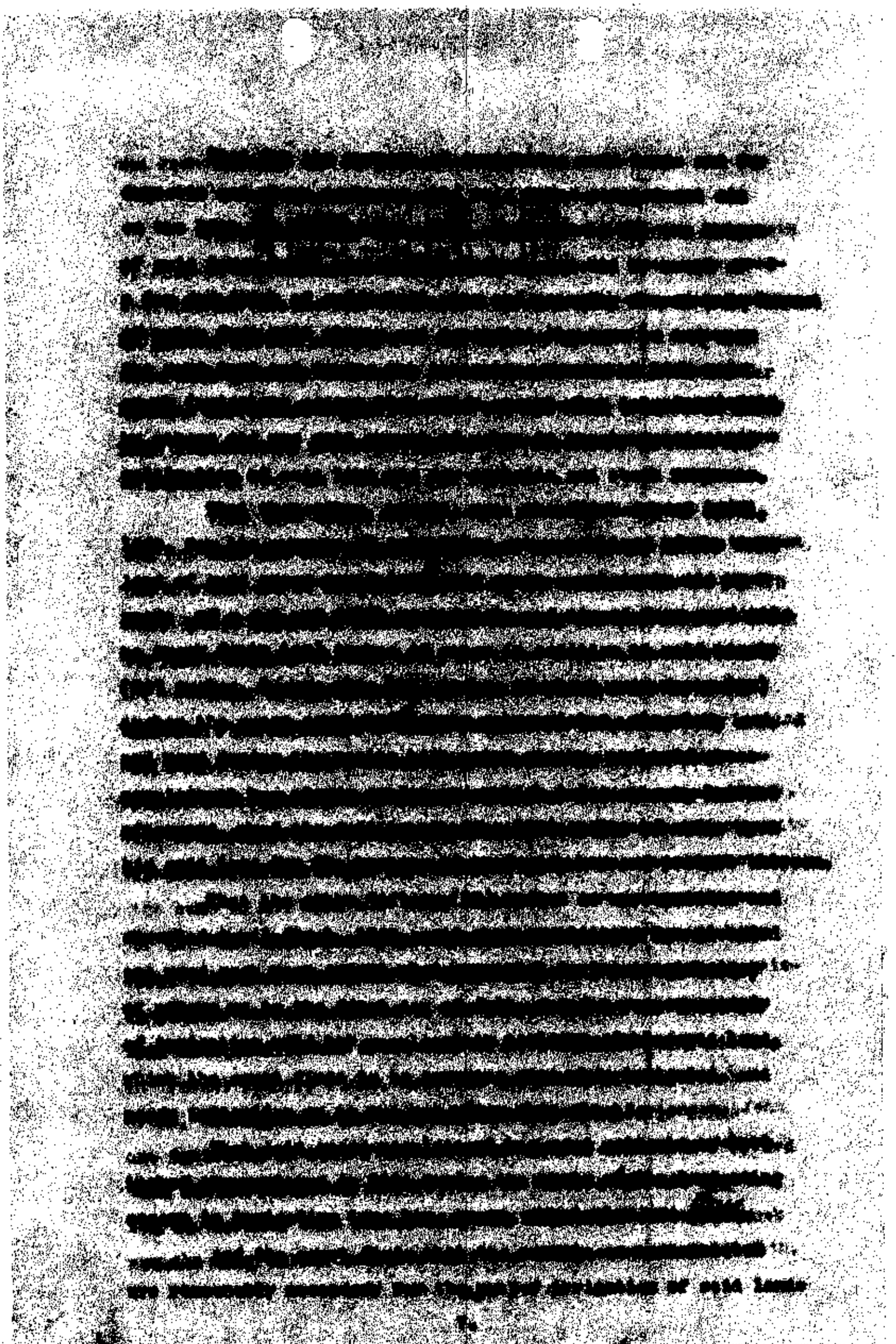
Date: 12-10 2015

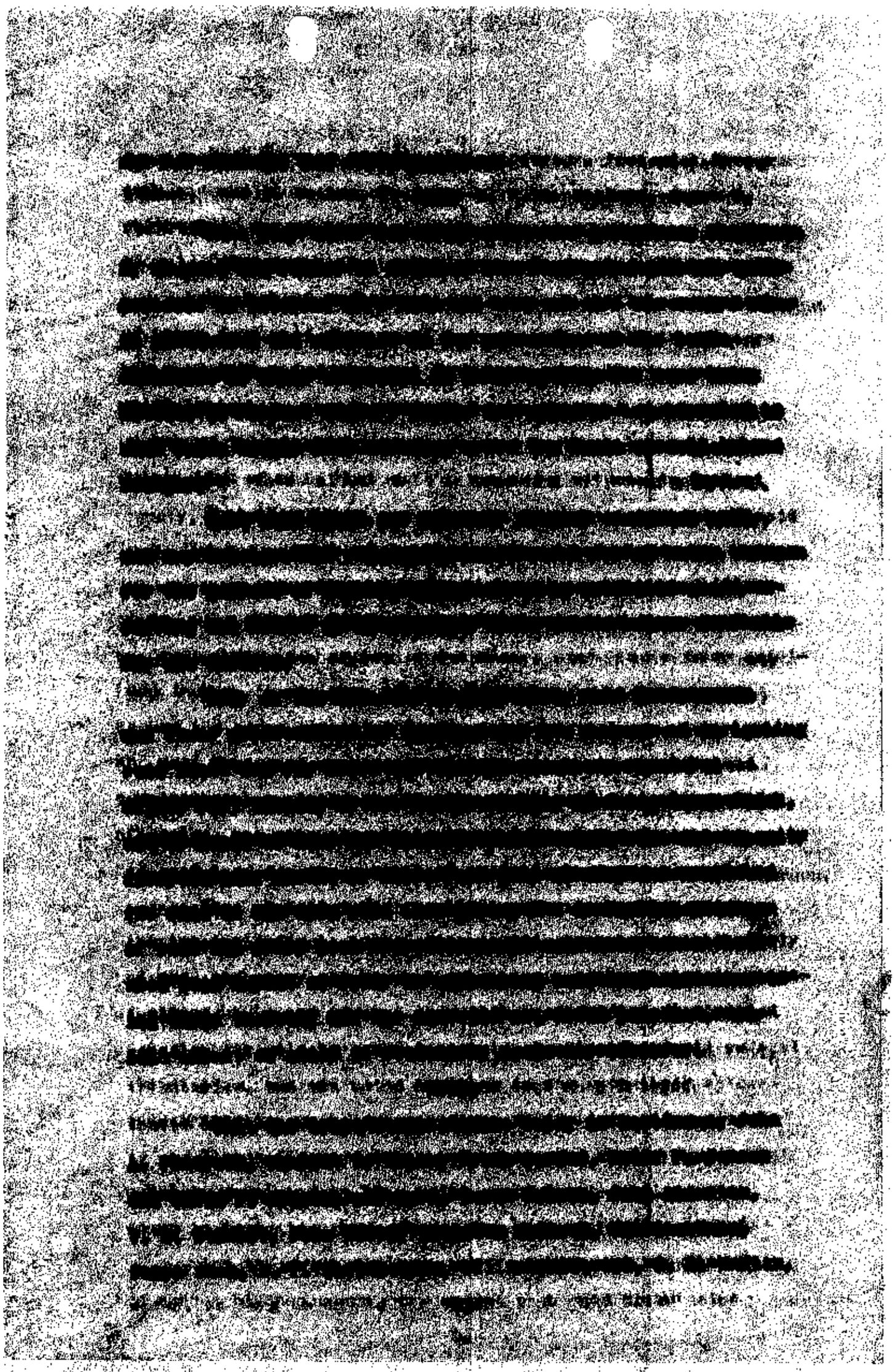
David S. Wasp
Clerk of the Court

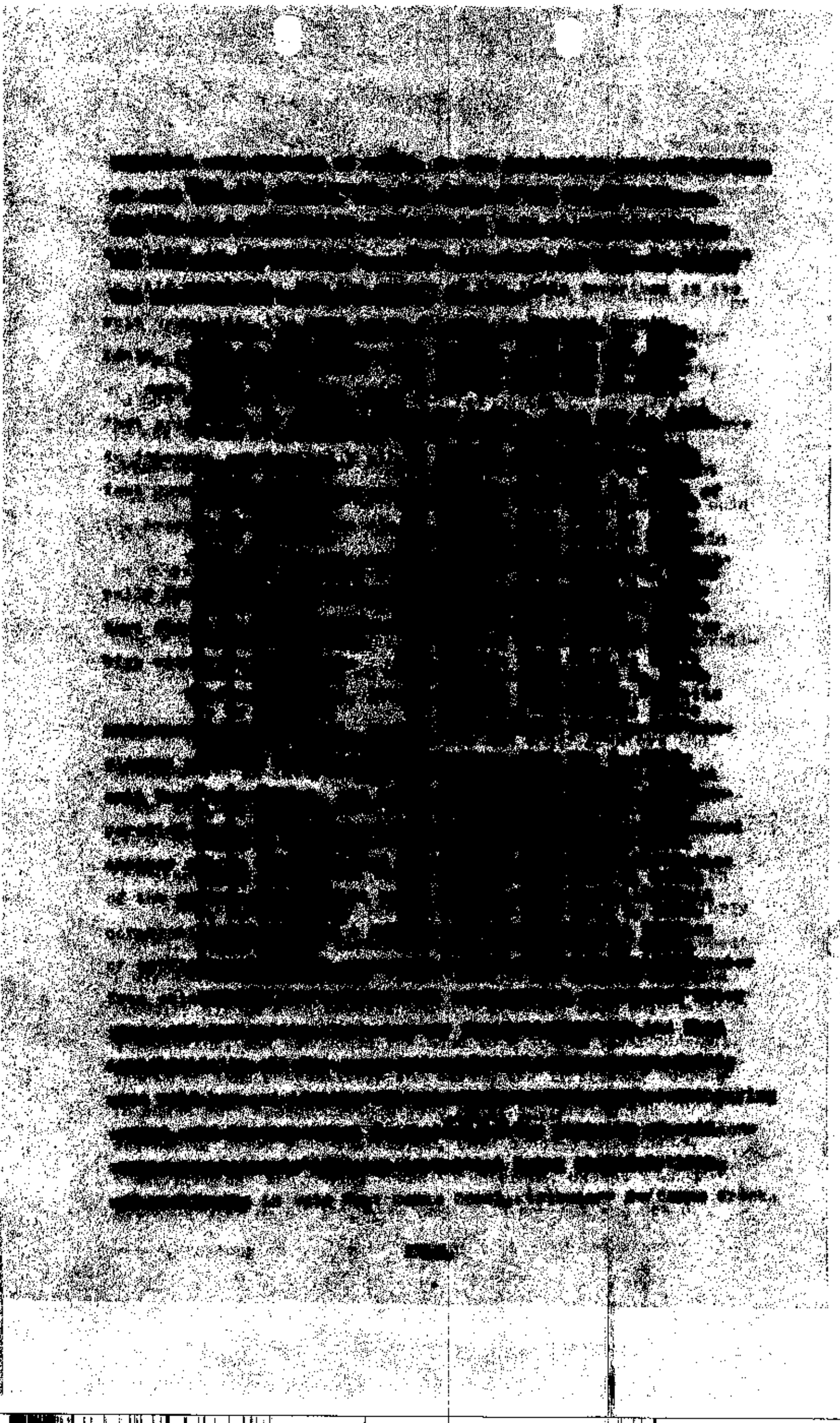
Rebecca Burkhart
Deputy Clerk











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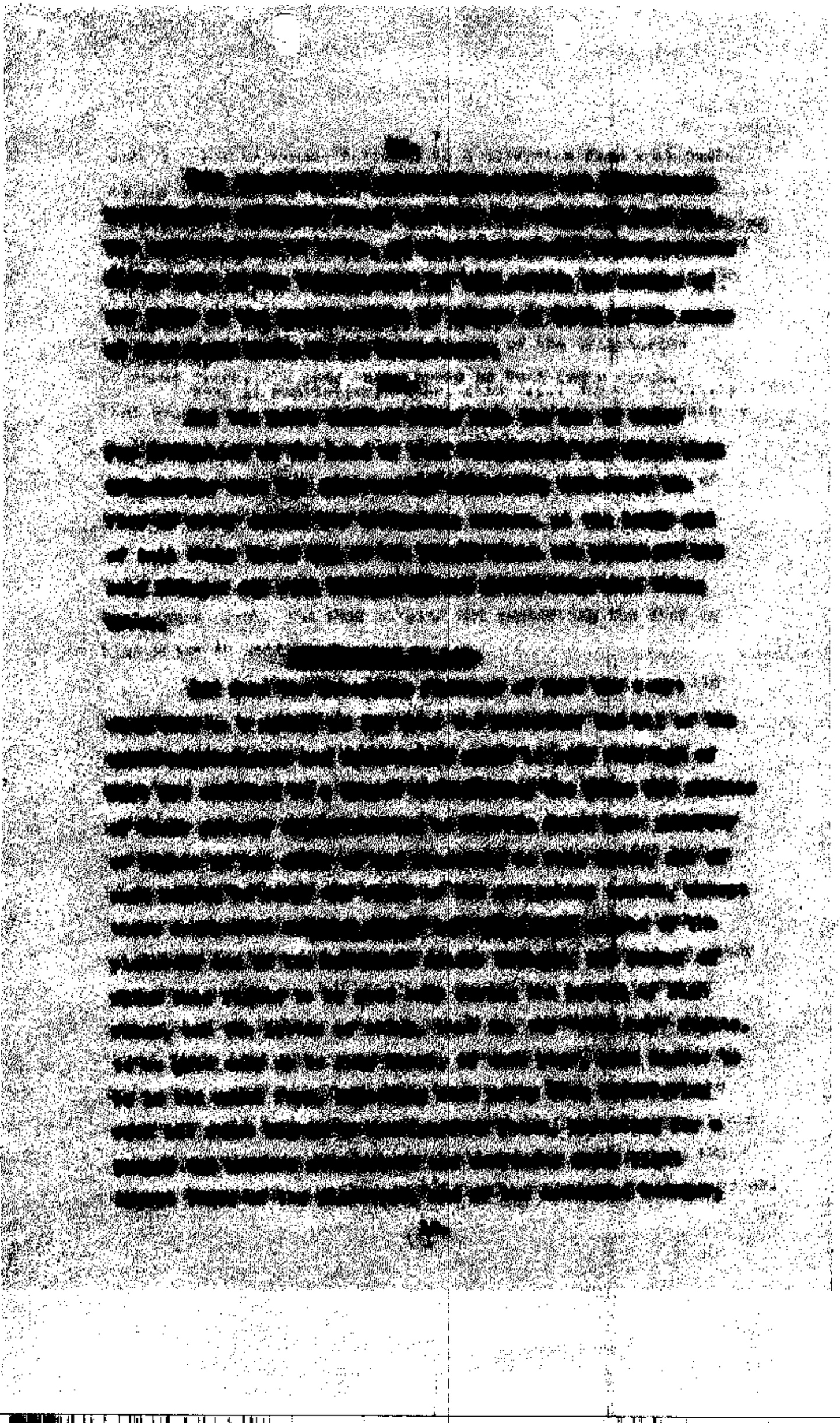


[redacted]

Done at [redacted], this 2nd day of June, 200[redacted].

[redacted]

STATE OF IDAHO
COUNTY OF ADA

I HEREBY CERTIFY that the above and foregoing is a full and correct copy of the original thereof, as the same appears of record in my office.

Date: 6-2-01

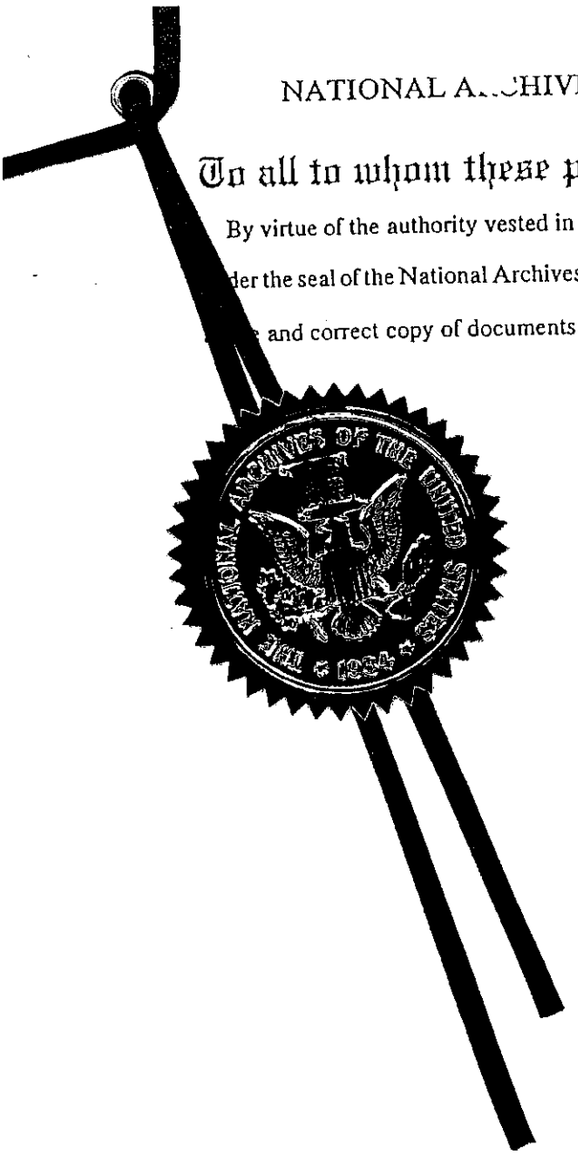
Ex-Officio Clerk

By: [redacted]
Deputy Clerk

NATIONAL A..CHIVES AND RECORDS ADMIN TRATION

To all to whom these presents shall come. Greeting:

By virtue of the authority vested in me by the Archivist of the United States, I certify on his behalf, der the seal of the National Archives and Records Administration, that the attached reproduction(s) is and correct copy of documents in his custody.



SIGNATURE	Valorie J Thompson
NAME Steven M. Edwards	DATE 1/3/02
TITLE Regional Administrator, Pacific Alaska Region	
NAME AND ADDRESS OF DEPOSITORY	National Archives & Records Admin. 6125 Sand Point Way NE Seattle, WA 98115-7999

NA FORM 13040 (10-86)

EXHIBIT

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Counterclaim of Defendant,

M. Hillman.

That for and as a separate answer and defense to the bill of complaint and the amendment thereto, and as a counterclaim against the plaintiff, and all the other defendants herein, excepting those defendants named in the foregoing answer, this defendant and counterclaimant, being one of the defendants named in said answer, alleges:

I.

That he is the owner, in the possession and entitled to the possession, of the following described land situate, lying and being in the county of Clark, state of Idaho, and particularly described as follows:

The NW¼ of Section 25 Township 13 North, Range 38 East Boise Meridian, containing 160 acres.

II.

That on or about the 20th day of June, 1902, in the District Court of the Fifth Judicial District of Idaho, in and for the County of Fremont, (the county of Clark being then included therein) in an action entitled Levi Cartier, plaintiff, vs. W. W. Buck, et al., defendants, which said action was commenced and prosecuted for the purpose of determining and adjudicating the rights to the use of the waters of Camas Creek and its tributaries, and which said camas creek and its tributaries is a tributary of Mud Lake, it was ordered, adjudged and decreed that the waters of camas creek and its tributaries, in Fremont (now Clark) County, Idaho, be distributed and decreed to the several parties to said action therein named, for beneficial purposes, and in the amounts and of the dates of priorities as therein provided, (a copy of which said decree is hereto attached, made a part hereof, and marked Exhibit "A") and that by the tersm and provisions of said decree this defendant and counterclaimant, by and through his grantors and predecessors in interest, to-wit, Frank Serfas, a party to said action, was decreed for the irrigation of the land described in paragraph "I" of the waters of Camas Creek and its tributaries, to-wit, West Camas Creek, 80 inches from May 1, 1898, to the lands then owned by the said Frank Serfas, and that this defendant and counterclaimant is the successor in interest of and to the rights of the said Frank Serfas, and to the whole thereof.

III.

That he is the owner, in the possession and entitled to the possession, of the following described land, situate, lying and being in the county of Clark, state of Idaho, and particularly described as follows:

The W½ of SE¼, SE¼ of SE¼ of Section 22; NE¼ of NE¼ of Section 27; and N½ of NE¼ of Section 26 all in Township 13 North, Range 38 East Boise Meridian, containing 240 acres.

IV.

That on or about the 29th day of October, 1904, upon the application of Charles P. Bartlett, a grantor and predecessor in interest of this defendant and counterclaimant, the State Engineer of the state of Idaho, issued to said applicant permit #911, for the diversion of the waters of Goudy Springs in the county of Fremont,

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(now Clark) Idaho, for the irrigation of the land described in paragraph "II", and that said applicant fully complied with all the tersma dnc onditions of said permit, and on or about the 12th day of November, 1906, made proof of the application to beneficial use of 4.8 cubic feet per second of the waters of Goudy Springs, and that on the 21st day of August, 1907, there was issued to the holder of said permit, to-wit, Charles P. Bartlett, a grantor and predecessor in interest of this defendant and counterclaimant, Water License No. 911, granting and confirming to the holder of said permit, a perpetual right to the use of 4.8 cubic feet per second of the waters of Goudy Springs, dating from October 29, 1904, for the irrigation of the hereinbefore described land, and for domestic and other beneficial purposes, (a copy of which said Water License is hereto attached, made a part hereof, and marked Exhibit "B").

V.

That he is the owner, in the possession and entitled to the possession, of the following described land, situate, lying and being in the county of Clark, state of Idaho, and particularly described, as follows:

The S½ of SE¼, NE¼ of SW¼, and NW¼ of SW¼ of Section 23; NW¼ of NE¼, and SE¼ of NE¼ of Section 22 Township 13 North, Range 38 East Boise Meridian, containing 240 acres.

VI.

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That on or about the 29th day of October, 1904, upon the application of Charles P. Bartlett, a grantor and predecessor in interest of this defendant and counterclaimant, the State Engineer of the state of Idaho, issued to said applicant Permit No. 910, for the diversion of the waters of Bartlett Springs, in the county of Fremont (now Clark) Idaho, for the irrigation of the land described in paragraph "V", and that said applicant fully complied with all the terms and conditions of said permit and on or about the 12th day of November, 1906, made proof of the application to beneficial use of 3.8 cubic feet per second of the waters of said Bartlett Springs, and that on the 17th day of August, 1907, there was issued to the holder of said permit, to-wit, Charles P. Bartlett, a grantor and predecessor in interest of this defendant and counterclaimant, Water License No. 910, granting and confirming unto the said holder of sais permit a perpetual right to the use of 3.8 cubic feet per second of said waters of Bartlett Springs, dating from October 29th, 1904, for the irrigation of the hereinbefore described land and for domestic purposes, (a copy of which said Water License is hereto attached, made a part hereof, and marked Exhibit "C").

VII.

That he is the owner, in the possession and entitled to the possession, of the following described land, situate, lying and being in the county of Clark, state of Idaho, and particularly described as follows:

The E½ of NW¼, SW¼ of NE¼, and NE¼ of SE¼ of Section 22 Township 13 North, Range 38 East Boise Meridian, containing 160 acres.

VIII.

That on or about the 17th day of August, 1899, William C. Goudy, a grantor and predecessor in interest of this defendant and counterclaimant, posted at a conspicuous place near the place of diversion, and caused to be recorded in the office of the Recorder

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of Fremont County, (the county of Clark being then included therein) Idaho, a Notice of Water Right, to the extent of four cibic feet per second, of the waters of West Camas Creek, a tributary of Camas Creek, for irrigation and domestic purposes, and for the irrigation of the land described in paragraph "VII", and which said notice of water right is recorded in Book "B" at page 181, of the records of Fremont County, Idaho, (a copy of which is hereto attached, made a part hereof, and marked Exhibit "D").

IX.

That he is the owner, in the possession and entitled to the possession, of the following described land, situate, lying and being in the county of Clark, state of Idaho, and particularly described, as follows:

The S½ of SW¼ of Section 23 and NW¼ and S½ of NE¼ of Section 26 Township 13 North, Range 38 East Boise - Meridian, containing 320 acres.

X.

That on or about the 17th day of August, 1899, Ralph W. Bartlett and Alice M. Bartlett, grantors and predecessors in interest of this defendant and counterclaimant, posted at a conspicuous place neat the place of diversion, and caused to be recorded in the office of the Recorder of Fremont County (the county of Clark being then included therein) State of Idaho, a notice of water right, to the extent of 8 cubic feet per second of the waters of West Camas Creek, a tributary of Camas Creek, for the irrigation of the land described in paragraph "IX", together with other lands now belonging to this defendant, and which said notice of water right was recorded in Book "B" at page 180 of the said records of Fremont County, Idaho, and that water to the extent of 8 cubic feet per second of the waters of West Camas Creek was diverted and used upon said land for the irrigation thereof, (a copy of which said Notice of Water Right is hereto attached, made a part hereof, and marked Exhibit "E").

XI.

That the above described lands, and the whole thereof, is arid and desert in character, and will not grow and produce agricultural crops without irrigation, but that by the application of water thereto, said lands will grow and produce crops of hay and other agrocultural crops such as are usually grown and produced in the vicinity of said lands.

XII.

That continuously during the irrigating season of each and every year since the dates of priorities fixed in said decree, water licenses, and notices of water right, this defendant and counterclaimant and his grantors and predecessors in interest, has diverted and used said waters, and the whole thereof, in the irrigation of the hereinbefore described lands, and for domestic and other beneficial purposes, and that the said use of said waters has been continuous, open, visible and adverse to the claim or rights and to the rights of the plaintiff, and all other defendants herein, and to all appropriators from said sources of supply, and that this defendant and counterclaimant and his grantors and predecessors in interest has used said waters under a claim of right.

XIII.

That the point of diversion of the decreed right is at a point a short distance up-stream from defendant's premises, and that the points of diversion of the other rights is designated in the

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licenses and notices hereto attached, and is in the county of Clark, state of Idaho.

XIV.

That the above named plaintiff, as well as all the other defendants herein, excepting those defendants named in the foregoing answer, claim an estate or interest in and to said waters or to the right to the use thereof, adverse to this defendant and counter-claimant, bu that the claim of the above named plaintiff, and all the other defendants herein, is without any right waterever, and is subsequent in time and inferior in right to the claims and rights of this defendant and counterclaimant to the right to the use of said waters, for the irrigation of the lands hereinbefore described, and for domestic and other beneficial purposes, and that the above named plaintiff, and the defendants herein, has not any estate, right, title or interest in and to said waters, or to the right to the use of the same, or any part thereof.

Exhibit "D".

"Notice of Water Right. State of Idaho, County of Fremont, ss. To all concerned, notice is hereby given: 1st. That I, William C. Goudy, of Kilgore, County of Fremont, State of Idaho, hereby claim the use of the waters of West Camas Creek to the extent of four cubic feet per second. 2d. That it is intended to divert said water at or near the point where a copy of this notice is posted, and more definitely described as follows: At a point on the east side of West Camas Creek about the NW corner of NW¼ of Section 22 Twp. 13 N., R. 38 E. B. M. 3d. The purpose for which said water is intended to be used is agricultural and domestic use. The place of intended use is Kilgore, Fremont Co., Idaho. 4th. It is intended to divert said water by means of a dam, headgate and canal. The general course of the proposed canal is southeast. The length of the proposed canal is about 1½ miles. It is intended to use said water for the irrigation of the following described land: E½NW¼, W½NE¼, SE¼NE¼, N½SE¼, SW¼SE¼ Sec. 22 Tp. 13 N., R. 38 E. B. M. 5th. It is intended to have the works for diversion and use of said water as aforesaid completed within three years.

Witness my hand at St. Anthony, Idaho, this 16 day of August, 1899. (Signed) William C. Goudy,
Claimant.

State of Idaho, County of Fremont, ss. William C. Goudy, being forst duly sworn, deposes and says, that he is of lawful age and a claimant of the water right mentioned in the foregoing notice and whose named is subscribed thereto. That the statements in said notice are true, and that the original notice, of which the foregoing is a true copy, was posted in a conspicuous place at or near the place of intended diversion (as provided by law) on the 15th day of August, 1899 at 9 o'clock A. M.

William C. Goudy

Subscribed and sworn to before me this 15th day of August, 1899. Soren Kelson,
Justice of the Peace.

Filed for record this 19 day of August, 1899 at 6-20 o'clock P.M., and recorded in Book "B" Notice of Water Right at page 181.
A. M. Carter, Recorder,
By Rose E. Davis, Deputy.

Exhibit "E".

"Notice of Water Right. State of Idaho, County of Fremont, ss. To all concerned, notice is hereby given: 1st. That we Ralph W. Bartlett and Alice M. Bartlett, of Plano, Fremont County, Idaho,

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hereby claim the use of the waters of West Camas Creek in Fremont County, Idaho, to the extent of eight cubic feet per second. 2nd. It is intended to divert said water at or near the point where a copy of this notice is posted, and more definitely described as follows: at a point on the south side of West Camas Creek about the southeast corner of NE¼ of Section 22 Twp. 13 N., R. 38 E.B.M. 3d. That the purposes for which said water is intended to be used is agricultural and domestic use. The place of intended use is Kilgore, Fremont Co., Idaho. 4th. It is intended to divert said water by means of a dam, headgate and canal. The general course of the proposed canal is southeast. The length of said proposed canal is about one mile. It is intended to use water for irrigating the following described land: The N½ of Section 26, S½ of Section 23, the SE¼ of SE¼ of Sec. 22, the NE¼ of NE¼ of Sec. 27 Twp. 13 N., R. 38 E. B. M. 5th. It is intended to have the works for diversion and use of said water as aforesaid completed within three years.

Witness my hands at St. Anthony, Idaho, this 17 day of August, 1899.

(Signed) Ralph W. Bartlett
Alice M. Bartlett, Claimants.

(Verification)

Filed for record this 19 day of August, 1899 at 6-5 P. M., and recorded in book "B" Notice of Water Right at page 180.

A. M. Carter, Recorder
By Rose E. Davis, Deputy.

Exhibit "B".

"State of Idaho. Water License No. 911. Whereas, on the 29th day of November, A.D., 1904, Charles P. Bartlett of St. Anthony, County of Fremont, State of Idaho, duly made application (No.1282) to me for a permit to use 12 cubic feet per second of the waters of Goudy Springs, County of Fremont, State of Idaho, for irrigation and domestic purposes, and, Whereas, on the 12th day of November, A.D., 1904, permit No. 911 was issued to said applicant for the diversion of said water, and provising for the completion of the works of diversion on or before the 12th day of November, A.D., 1906, and for the application to beneficial use of said water on or before t the 12th day of November, A.D., 1908, and, whereas, on the 12th of Novemberm A. D., 1906, the holder of said permit duly made proof of the completion of works for the diverwion of 12 cubic feet per second of said waters, as evidenced by my certificate No. 911, dated August 21, 1907, confirming the completion of works of sufficient capacity for diverting and conveying to the place of intended use 12 cubic feet per second of water, with date of priority of October 29, 1904, and, whereas, on the 12th day of November, A.D., 1906, proof was duly made of the application to beneficial use of 4.8 cubic feet per second of said water; Now, therefore, by virtue of the authority vested in me by the laws of the state of Idaho, I hereby grant and confirm to Charles P. Bartlett of St. Anthony, Idaho, the holder and owner of said permit No. 911, a perpetual right, dating from Octoner 29, 1904, to the use of 4.8 cubic feet per second of the waters of Goudy Springs, in the county of Fremont, and state of Idaho, or so much thereof as may be necessary for the purposes hereinbelow mentioned, to be diverted at a point in the northwest quarter of the Southeast quarter of Section 22 Township 13 North, Range 38 East B. M., and conducted to and upon the West half of Southeast quarter, southeast of southeast quarter Section 22; Northeast quarter of Northeast quarter Section 27; North half of Northeast quarter of Section 26; Township 13 N. Range 38 E. B. M., for the purpose of irrigation and domestic use, subject, however, to the laws of the state of Idaho applicable to a license for the use of the waters of the state, and subject, also, to the local customs, rules and regulations which have been or may be adopted from time to time by a majority of the users from a common

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ce of suppy, anal or lateral from which said water may be ken when such rules and regulations have for their object the economical use of such water.

Witness my hand and the seal of my office at Boise, Idaho, this 21st day of August, A.D., 1907.

(Seal)

Jas. Stephenson, Jr.,
State Engineer.

Exhibit "C".

"State of Idaho. Water License No. 910. Whereas, on the 29th day of October, A.D., 1904, Charles P. Bartlett of St. Anthony, Fremont County, State of Idaho, duly made application (No. 1281) to me for a permit to use 4.8 cubic feet per second of the waters of Bartletts Springs, County of Fremont, State of Idaho, for irrigation and domestic purposes, and, whereas, on the 12th day of November, A.D., 1904, permit No. 910 was issued to said applicant for the diversion of said water, and providing for the completion of the works od diversion therein described on or before the 12th day of November, 1906, and for the application to beneficial use of the said water on or before the 12th day of November, A.D., 1908, and, whereas, on the 12th day of November, A.D., 1906, the holder of said permit duly made proof of the completion of adequate works for the diversion of 4.8 cubic feet per second of said waters, as evidenced by my certificate No. 910, dated August 17, 1907, confirming the completion of works of sufficient capacity for the diverting and conveying to the place of intended use 4.8 cubic feet per second of water, with date of priority of August October 29, 1904, and, whereas, on the 12th day of November, A. D., 1906, proof was duly made of the application to beneficial use of 3.8 cubic feet per second of said water;

Now, therefore, by virtue of the authority vested in me by the la laws of the state of Idaho, I hereby grant and confirm to Charles P. Bartlett of St. Anthony, Idaho, the holder and owner of said permit No. 910, a perpetual right, dating from October 29, 1904, to the use of 3.8 cubic feet per second of the waters of Bartletts Springs in the county of Fremont and state of Idaho, or so much thereof as may be necessary for the purposes hereinbelow mentioned, to be diverted at a point near the center of the Northwest quarter of Section 23 Township 13 North, Range 38 East Boise Meridian, and conducted to and upon $S\frac{1}{2}$ $SE\frac{1}{4}$, $NE\frac{1}{4}SW\frac{1}{4}$, 25 acres in $NW\frac{1}{4}SW\frac{1}{4}$, Section 23; 25 acres in $NW\frac{1}{4}NE\frac{1}{4}$, 20 acres in $SE\frac{1}{4}NE\frac{1}{4}$ Section 22 Township 13 North, Range 38 East Boise Meridian, for purpose of irrigation and domestic use, subject, however, to the laws of the state of Idaho applicable to a license for the use of waters of the state, and subject, also, to the local or community customs, rules and regulations which have been or may be adopted from time to time by a majority of the users from a common source, canal or lateral, when such rules and regulations have for their object the economical use of such water.

Witness my hand and seal of my office at Boise, Idaho, this 17th day of August A.D., Nineteen Hundred and Seven.

(Seal)

Jas. Stephenson, Jr.,
State Engineer.

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NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

To all to whom these presents shall come. Greeting:

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SIGNATURE	Valorie J. Armstrong
NAME	Steven M. Edwards
DATE	1/03/02
TITLE	Regional Administrator, Pacific Alaska Region
NAME AND ADDRESS OF DEPOSITORY	National Archives & Records Admin. 6125 Sand Point Way NE Seattle, WA 98115-7999

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IN THE DISTRICT COURT OF THE UNITED STATES FOR THE

DISTRICT OF IDAHO, EASTERN DIVISION.

ERNEST SAUVE, Plaintiff,	)	Statement of Claims of Clients represented by
vs.	)	
W. H. ABBOTT, et al., Defendants.	)	F. A. Miller & B. H. Miller

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The following statement or brief is presented to the court on behalf of clients hereafter named, claimants to water rights in Camas Creek and its tributaries situate in Clark County, State of Idaho, represented by F. A. Miller of St. Anthony, Idaho, and B. H. Miller of Idaho Falls, Idaho.

At the hearing at Idaho Falls, Idaho, before Mr. L. G. Hamilton, master appointed by the above named court for the taking of testimony in this cause, a stipulation was made and entered into by all parties that in this action all claims to the use of water from said Camas Creek or its tributaries based upon priority and quantity as set out and contained in what is known as the Levi Cartier vs. W. W. Buck, et.al., decree, made and entered in the District Court of the Fifth Judicial District of the State of Idaho in and for Fremont County, under date of June 20th, 1902, for the purpose of this decree, should be given full credence and all rights so set out and decreed in said Levi Cartier vs. W. W. Buck, et. al., decree together with the dates of priority and quantity would be recognized as in said decree contained.

The claimants to the waters of said Camas Creek and its tributaries represented by above named counsel and whose rights were stipulated are as follows:

LOVISA BARNEY,

Stipulated

At page 22 of the proceedings the following stipulation effecting the rights of this defendant and cross-complainant was had, to-wit:-

"It is stipulated that the defendant and cross-complainant Lovisa Barney, may be decreed one hundred miners inches of the waters of West Camas Creek, with priority of October 1, 1898, for the irrigation of Lots one and two, and the south half of the northeast quarter of section 1, township 12 north, range 38, EBM, the point of diversion for said right being one-half mile up the stream from the land to be irrigated as above described. This right was decreed to Neal W. McMillan, a predecessor in interest of Lovisa Barney, by the terms of the decree in the contested case of Cartier vs. Buck."

And because of such stipulation no proof was required or submitted.

Stipulated

FREDERIK FREDERIKSEN,

At page 22 of the said record it was stipulates as follows:

half of the northwest quarter of section 25, township 12 north, range 38, EBM, the point of diversion for said right being in the southeast quarter of the northwest quarter of section 13, township 12 north, range 38 EBM. Nothing herein contained shall be construed as an admission that there has been beneficial use of the water mentioned in said license since the date of the issuance of said license, to-wit, October 14, 1916."

That proof of the continuous and beneficial use of the said 1.6 cubic feet of water upon the said west half of the northwest quarter of section 25, township 12, range 38 will be found on pages 573-574 of said record.

That a certified copy of water license 6720 was introduced in evidence in connection with said proof and a copy thereof will be found as "Exhibit B" and forms a part of the counter-claim of said defendant and counter-claimant.

H. P. JENSEN

At page 36-37 it was further stipulated as follows:

"It is further stipulated and agreed that the defendant and cross-complainant, H. P. Jensen, was granted by the State Engineer of the State of Idaho a license upon permit No. 1525 for 3.4 second feet of the waters of Crooked Creek, with a priority of September 2, 1905, for the irrigation of the west half of the northeast quarter, the east half of the northwest quarter of section 25, township 12 north, range 38 EBM, the point of diversion of said water being ten rods west of the center of section 13, township 12 north, range 38 EBM. Nothing herein contained shall be deemed an admission that there has been any beneficial use of the waters referred to in said last mentioned license the issuance of said license, which was on December 12, 1905."

That a certified copy of said license was introduced in evidence at said hearing and the proof of the continuous and beneficial use of the waters therein granted to the lands therein described will be found at pages 572-575 inc. A copy marked "Exhibi C" is attached to and made a part of the defendant and counter-claimants counter-claim and is hereby referred to for greater particularity.

M. HILLMAN

At page 37 it was stipulated as follows:

"It is further stipulated that the defendant and cross-complainant, M. Hillman, may be awarded a water right for 80 miners inches of the waters of West Camas Creek, with a priority of May 1, 1898, for the irrigation of the northwest quarter of section 25, township 13 north, range 38, EBM, this right having been decreed to Frank Serfas, a predecessor in interest of said M. Hillman, by the decree in the contested case of Cartier V. Buck. The point of diversion of said last mentioned right is one quarter mile up stream from the land irrigated thereby and above described."

And becuase of said stipulation no proof was required or submitted.

M. HILLMAN

It was further stipulated and agreed at said time and place as follows:

"It is further stipulated and agreed that the said defendant and cross-complainant, M. Hillman, was awarded a license upon

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Permit No. 911, for 4.8 second feet of the waters of Goudy Springs a tributary of Camas Creek, with priority of October 29, 1904, for the irrigation of the west half of the southeast quarter, and the southeast quarter of the southeast quarter of section 22; the northeast quarter of the northeast quarter of section 27; the north half of the northeast quarter of section 26; township 13 north, range 38 EBM. The point of diversionfor said right being in the northwest quarter of the southeast quarter of said section 22. Nothing herein contained shall be construed as an admission that there has been beneficial use of the waters specified in said licenses, the granting of said licenses, on August 21, 1907".

M. HILLMAN

It was further stipulated at page 38 as follows:

"It is further stipulated and agreed that the defendant and cross-complainant, M. Hillman, was awarded by the State Engineer of the State of Idaho, upon Permit No. 910, a license for 3.8 cubic feet per second of the waters of Bartlett Spring, a tributary of Camas Creek, with apriority of October 29, 1904, for the irrigation of the south half of the southeast quarter, northeast quarter of the southwest quarter, and the northwest quarter of the southwest quarter of section 23, and the northwest quarter of the northeast quarter, the southeast quarter of the northeast quarter of section 22, township 13 north, range 38 EBM. The point of diversion of said right being near the center of the northeast quarter of section 23, township 13 north, range 38 EBM. Nothing hereincontained shall be construed as an admission that there has been beneficial use of the water specified in said license since the date said license was granted, to-wit, August 17, 1907".

That proof ofthe continuous and beneficial use of the waters granted by water license No. 910-911 and being Exhibits B & C of said counter-claimants counter-claim as well as Exhibits D & E of said counter-claim. Which said Exhibit D. & E are notices of water rights ill be found at pages 601-612 inc.

Note that there may be no confusion as to the description of the lands and sources and amount of water beneficially applied thereto we respectfully invite attention to the third to last page of the answer of counter-claimants under the heading:

M. HILLMAN, herein in recapitulation the lands are described and the water rights applied thereto are mentioned and which is as follows: northwest quarter of section 25, township 13 north, range 38 EBM. 80 inches decreed, date of priority May 1, 1898, West Camas Creek, also, west half of the southeast quarter, southeast quarter of the southeast quarter of section 22; northeast quarter of the northeast quarter of section 27; north half of the northeast quarter of section 26, township 13 north, range 38 EBM. Water License 911 (Exhibit B) 4.8 cubic feet, date of priority October 29, 1904, Goudy Springs, also, south half of the southeast quarter, northeast quarter of the southwest quarter and the northwe quarter of the southwest quarter of section 23; northwest quarter of the northeast quarter and southeast quarter of the northeast quarter of section 22, township 13 north, range 38 EBM. Water License 910 (Exhibit C) 3.8 cubic feet, date of priority October 29, 1904, Bartletts Springs, also, east half of the northwest quarter, southwest quarter of the northeast quarter and the northeast quarter of the southeast quarter of section 22; township 13 north, range 38 EBM. Notice of Water Right (Exhibit D) 4 cubic feet, date August 17, 1899, West Camas Creek, also, south half of the southwest quarter section 23; northwest quarter and south half of the northeast quarter of section 26, township 13 north, range 38 EBM. Notice of Water Right (Exhibit E) 6 cubic feet, date August 17, 1899, West Camas Creek.

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CHARLES SAUREY

Charles Saurey is the owner of 14 shares of the capital stock of the Harmon Reservoir Company, a corporation. This company is the owner of a decreed right under the Cartier v. Buck decree introduced in evidence. The rights of this reservoir company were largely covered by stipulation, at page 1826 the quantity of water represented by each share was stipulated.

At pages 872-878 proof of the continuous beneficial use of the water claimed by this defendant was submitted showing him to the the owner of the west half of the east half of section 12 township 12 north, range 38 EBM on which said water is and has been used.

Respectfully submitted,

F. A. Miller
St. Anthony, Idaho

B. H. Miller
Idaho Falls, Idaho

Attorneys for above named defendanrs and counter-claimants

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IN THE DISTRICT COURT OF THE UNITED STATES,

IN AND FOR THE DISTRICT OF IDAHO,

EASTERN DIVISION.

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U. S. DISTRICT COURT
DISTRICT OF IDAHO

FILED SEP 11 1930

W. D. McREYNOLDS, Clerk
By Lona Mansell Deputy

ERNEST SAUVE,

Plaintiff,

v.

W. H. ABBOTT, et al.,

Defendants.

No. 635.

MEMORANDUM OPINION.

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Sept.11, 1930.

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H. S. MacMartin, Attorney for Plaintiff.

Bash L. Bennett, C. E. Crowley, W. D. Gillis, Attorney General, L. E. Glennon, E. M. Holden, Ivan L. Jensen, O. A. Johannesen, Otto E. McCutcheon, F. A. Miller, Bert H. Miller, J. H. Peterson, Edwin Snow, Frank L. Soule, Soule & Spaulding, H. B. Thompson, and A. H. Wilkie, Attorneys for Defendants.

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CAVANAH, DISTRICT JUDGE:

This suit involves the adjudication of the use of the waters of Mud Lake and its tributaries, and, like many others of the same general character, presents for solution questions difficult of adjustment in the administration of the irrigation laws in different localities. While a large number of the rights are settled by stipulation, yet there remains certain rights relating to users of water in dispute to be determined. Mud Lake is a natu lake, and its principal supply of water is furnish

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160 inches of the waters of Ching Creek, for the W½ SE¼, E½ SW¼ of Sec. 33, T.,13 N R. 39 E.B.M., with priority of May 15, 1901.

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RIGHT OF H. P. JENSEN

Under the stipulation, claimant is entitled to 1.6 cubic feet of the waters of Crooked Creek, with priority of September 7, 1912, for the irrigation of lands described in his cross complaint. The proof establishes that the water has been continuously applied to a beneficial use.

Under the stipulation, claimant is entitled to, and the proof shows continuous use of, 2.4 cubic feet of the waters of Crooked Creek, with priority of September 2, 1905.

RIGHTS OF M. HILLMAN.

Claimant asserts three rights under stipulation:

First, he is entitled to 80 inches of the waters of West Camas Creek, with priority of May 1, 1898.

Second, he is entitled to 4.8 cubic feet of the waters of Goudy Springs, a tributary of Camas Creek, with priority of October 29, 1904.

Third, he is entitled to 3.8 cubic feet of the waters of Bartlett Springs, a tributary of Camas Creek, with priority of October 29, 1904 -

To be applied upon the lands mentioned in his cross complaint, for the proof shows that the water has been continuously and beneficially used upon the lands.

RIGHT OF MARTIN PETERSON

Claimant is entitled under the stipulation to 60 inches of the waters of Camas Creek, with priority of May 1, 1899, to be applied on the W½ of the NW¼ of Sec. 32, T.13 N.R.39 E.B.M. (p.527,Transcript)

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IN THE DISTRICT COURT OF THE UNITED STATES FOR THE

DISTRICT OF IDAHO, EASTERN DIVISION

ERNEST SAUVE, Plaintiff, -vs- W. H. ABBOTT, et al., Defendants.	No. 635 in Equity FINDINGS OF FACT AND CONCLUSIONS OF LAW

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And WHEREAS, thereafter due and regular service of Summons issued on said complaint as amended was made upon all of the remaining parties defendant mentioned in said complaint as amended, either personally or by due publication, as shown by the records and files in said cause, or such defendants have appeared generally in this action by and through their duly authorized solicitor or solicitors, there being included within this latter class both original defendants and intervenors, and

WHEREAS, Joseph H. Peterson, Esq., of Pocatello, Idaho, Messrs. George H. Smith, H. B. Thompson, and John H. McEvers, of Salt Lake City, Utah, and Pocatello, Idaho, respectively; T. C. Coffin, Esq., of Pocatello, Idaho; Edwin Snow, Esq., of Boise, Idaho; Messrs. Merrill and Merrill, of Pocatello, Idaho; A. H. Wilkie, Esq., of Idaho Falls, Idaho; L. E. Glennon, Esq., of Pocatello, Idaho; C. E. Crowley, Esq., of Idaho Falls, Idaho; Bash L. Bennett, Esq., of Rigby, Idaho; E. M. Holden, Esq., of Idaho Falls, Idaho; Messrs. Bert H. Miller and Frank A. Miller, of Idaho Falls and St. Anthony, Idaho, respectively; O. A. Johannesen, Esq., of Idaho Falls, Idaho; Otto E. McCutcheon, Esq., of Idaho Falls, Idaho; Frank L. Soule, Esq., of St. Anthony, Idaho; L. Ivan Jensen, Esq., of Shelley, Idaho; Messrs. Frank L. Stephan and W. D. Gillis, Attorneys General of the State of Idaho; Messrs. O'Melveny, Tuller & Myers, of Los Angeles, California, (not of record but of counsel in connection with two clients of Solicitor Joseph H. Peterson); and Soule and Spalding, of Salt Lake City, Utah, (not of record but of counsel

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in connection with Solicitor Frank L. Soule), represented the defendants who appeared in this cause and whose names are set forth in the following list -- the names of the solicitors of such defendants, respectively, being written opposite their several names, to-wit:

Defendant	Attorney
Abbott, Fay	Johannesen
Abbott, W. H.	Johannesen
Adels, Mary C.	McCutcheon
Allen, G. B.	Peterson
Anderson Bros. Bank, a corporation	McCutcheon
Auldhouse, Clauson (otherwise known as Ouldhouse and Oldhouse)	McCutcheon
Auldhouse, Gerret (otherwise known as Gerrett Ouldhouse and Oldhouse)	McCutcheon
Barnes, Edward C.	McCutcheon
Barney, Lovisa	Miller & Miller
Bauerle, Ernest	Wilkie
Beck, William	Holden
Beckner, Ambrose J.	Bennett
Bohney, Ray	Bennett
Boucher, W. B.	McCutcheon
Brauer, Gus. E., Administrator of the Estate of Annie J. Bennett, deceased	Miller & Miller
Burnside, Arthur G.	Holden
Burnside, Don R.	Holden
Burnside, John H.	Holden
Burnside, Robert	Holden
Burnside Bros., a co-partnership consisting of John H. Burnside and Don R. Burnside	Holden

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Harwood, Charles	Bennett
Harwood Brothers Company, Limited, The, a corporation	Bennett
Hays, John W.	Holden
Hays, John W., Jr.	Holden
Hays, Olive M.	Holden
Henninger, Elvin W.	Miller & Miller
Henninger, Dolly M.	Miller & Miller
Hervey, William Rhodes, as trustee	Peterson O'Melveny, Fuller, Myers
Hillman, M.	Miller & Miller
Hirshi, David, Sr., (also spelled Hirschi)	Miller & Miller
Hirshi, David, Jr., (also spelled Hirschi)	Miller & Miller
Hjort, Charles A.	Peterson
Hoffman, E. V.	Holden
Holley, William C.	
Holley Water Users Association, The, a corporation	Johannesen
Hoops, Jonathan N.	Holden
Hutchinson, William H.	McCutcheon
Hyland, John J.	McCutcheon
Jackett, Frank S.	Glennon
Jackett, H. R.	Glennon
Jackson, Thos. A.	Bennett
Jacoby, Elizabeth	Holden
Jacoby, Joseph P.	Holden
Jefferson Irrigation Company, Limited, a corporation	Johannesen
Jefferson Irrigation District, a public corporation	Johannesen
Jemmett, Fred G., Administrator of the Estate of William Jemmett, Deceased	McCutcheon
Jensen, Alma	McCutcheon
Jensen, Emil	Holden
Jensen, H. P.	Miller & Miller
[redacted]	
Johnson, Oscar Julius	Johannesen
Kearney, Arvilla	L. Ivan Jensen
Kelson, Neils	Miller & Miller
Kendrick, Sarah Ann	Holden
King, Paul A.	Holden
Knotwell, Thomas	Miller & Miller
Kroker, Elsbeth Marie Adolphine (see Reber)	Miller & Miller
Kroker, Elsbeth Marie Adolphine, as Executrix of the Estate of Joseph Kroker, Deceased	Miller & Miller

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trix (or Administratrix) of his estate.

XVI

That the facts set forth in the bill of complaint as amended are true, except as herein otherwise found, and except as to the water right of 160 inches which plaintiff claims to have appropriated on April 1, 1911, for the irrigation of the Northeast Quarter of Section 7, Township 6 North, Range 34 East, B.M., as to which right plaintiff submitted no proof, and which right was separate and distinct from the stipulated right of plaintiff hereinafter set forth.

XVII

That the following rights have been fully agreed upon by stipulation of all counsel in this cause, as appears in the transcript, and therefore the Court finds that it has been stipulated that the plaintiff and the defendants hereinafter named are the owners of, and are entitled to have decreed to them, respectively, the water rights with dates of priority as indicated in connection with their several names in the following schedule, to be diverted from the source or sources and at the point or points, and to be used upon the respective lands, as in said schedule set forth, to-wit:

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M. Hillman

1898 - May 1	1.6 c.f.s.	Source: West Camas Creek, a tributary of Mud Lake. Point of Diversion: One-fourth mile up stream from the land to be irrigated, and hereinafter described. For use on the following described land, to-wit: The Northwest Quarter of Section 25, Township 13 North, Range 38 East, B.M.

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XVIII

That the following rights have been agreed upon by stipulation of all counsel in this cause as of the date of the state permit and/or license or decree upon which initiated or based -- proof of continuous beneficial use subsequent to the issuance of such permit and/or license or the rendition of such decree being required. From such stipulations and from the evidence, the Court finds that the several defendants hereinafter named are respectively the owners of the water rights, with the dates of priority indicated in connection with their respective names, in the following schedule, to be diverted from the source or sources and at the point or points, and to be used on their respective lands, as described in such schedule, and that said defendants or their predecessors in interest have respectively made continuous beneficial use of said waters from the date of the issuance of permit and/or license or the rendition of the decree upon which said rights are respectively based, to-wit:

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M. Hillman

1904 - October 29	4.8 c.f.s.	Source: Goudy Springs, a tributary of Camas Creek. Point of Diversion: In the Northwest Quarter of the Southeast Quarter of Section 22, Township 13 North, Range 38 East, B.M. For use on the following described land, to-wit: The West Half of the Southeast Quarter and the Southeast Quarter of the Southeast Quarter of Section 22; the Northeast Quarter of the Northeast Quarter of Section 27; the North Half of the Northeast Quarter of Section 26; all in Township 13 North, Range 38 East, B.M.
1904 - October 29	3.8 c.f.s.	Source: Bartlett Spring, a tributary of Camas Creek. Point of Diversion: Near the center of the Northwest Quarter of Section 23, Township 13 North, Range 38 East, B.M. For use on the following described land, to-wit: The South Half of the Southeast Quarter, the Northeast Quarter of the Southwest Quarter, and the Northwest Quarter of the Southwest Quarter, Section 23; the Northwest Quarter of the Northeast Quarter and the Southeast Quarter of the Northeast Quarter of Section 22, Township 13 North, Range 38 East, B.M.

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M. Hillman (continued)

1899 - August 16 4.0 c.f.s. Source: West Camas Creek, a tributary of Mud Lake.

Point of Diversion: On the east side of West Camas Creek, at or near the Northwest corner of the Northwest Quarter of Section 22, Township 13 North, Range 38 East, B.M.

For use on the following described land, to-wit: The East Half of the Northwest Quarter, the West Half of the Northeast Quarter, the Southeast Quarter of the Northeast Quarter, the North Half of the Southeast Quarter, the Southwest Quarter of the Southeast Quarter of Section 22, Township 13 North, Range 38 East, B.M.

1899 - August 17 4.0 c.f.s. Source: West Camas Creek.

Point of Diversion: On the south side of West Camas Creek, at or near the Southeast corner of the Northeast Quarter of Section 22, Township 13 North, Range 38 East, B.M.

For use on the following described land, to-wit: The North Half of Section 26, the South Half of Section 23, the Southeast Quarter of the Southeast Quarter of Section 22, the Northeast Quarter of the Northeast Quarter of Section 27, all in township 13 North, Range 38 East, B.M.

No. ____

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CONCLUSIONS OF LAW

I

That the Court has jurisdiction of all of the parties to this suit (including intervenors), and of the subject matter thereof;

That the corporate existence, citizenship, residence, and marital or other status or representative capacity of the parties (including intervenors) hereto is as set forth in plaintiff's complaint as amended.

II

That this action should be dismissed as against Thomas Wagoner.

III

That Edward C. Barnes and Robert D. Clinton are not entitled to any decree or award herein.

IV

That the rights of Henry W. Curtis, deceased, should be decreed to the Hamer Canal Company, a corporation;

That the rights of Thomas A. Jackson, deceased, should be decreed to Earl Jackson as administrator of his estate;

That the rights of Adolph Miller, Deceased, should be decreed in the name of William H. Miller as Administrator of his estate;

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XVI

That neither the plaintiff nor any of the defendants and intervenors is entitled to any award or decree herein except as hereinafter set forth.

XVII

The Court concludes that there should be awarded fully stipulated rights to the respective defendants hereinafter named in the following schedule, in the amount or amounts, with date or dates of priority, from the source or sources of supply, at the point or points of diversion, and for use upon the land or lands in such schedule set forth:

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M. Hillman

1898 - May 1	1.6 c.f.s.	Source: West Camas Creek, a tributary of Mud Lake. Point of Diversion: One-fourth mile up stream from the land to be irrigated, and hereinafter described. For use on the following described land, to-wit: The Northwest Quarter of Section 25, Township 13 North, Range 38 East, B.M.

No. _____

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XVIII

From the stipulations and proof herein, the Court concludes that there should be awarded rights to the respective defendants hereinafter named in the following schedule, in the amount or amounts, with date or dates of priority, from the source or sources of supply, at the point or points of diversion, and for use upon the land or lands, in such schedule set forth:

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M. Hillman

1904 - October 29	4.8 c.f.s.	Source: Goudy Springs, a tributary of Camas Creek. Point of Diversion: In the Northwest Quarter of the Southeast Quarter of Section 22, Township 13 North, Range 38 East, B.M. For use on the following described land, to-wit: The West Half of the Southeast Quarter and the Southeast Quarter of the Southeast Quarter of Section 22; the Northeast Quarter of the Northeast Quarter of Section 27; the North Half of the Northeast Quarter of Section 26; all in Township 13 North, Range 38 East, B.M.
1904 - October 29	3.8 c.f.s.	Source: Bartlett Spring, a tributary of Camas Creek. Point of Diversion: Near the center of the Northwest Quarter of Section 23, Township 13 North, Range 38 East, B.M. For use on the following described land, to-wit: The South Half of the Southeast Quarter, the Northeast Quarter of the Southwest Quarter, and the Northwest Quarter of the Southwest Quarter, Section 23; the Northwest Quarter of the Northeast Quarter and the Southeast Quarter of the Northeast Quarter of Section 22, Township 13 North, Range 38 East, B.M.

No. _____

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M. Hillman (continued)

1899 - August 16	4.0 c.f.s.	Source: West Camas Creek, a tributary of Mud Lake. Point of Diversion: On the east side of West Camas Creek, at or near the Northwest corner of the Northwest Quarter of Section 22, Township 13 North, Range 38 East, B.M. For use on the following described land, to-wit: The East Half of the Northwest Quarter, the West Half of the Northeast Quarter, the Southeast Quarter of the Northeast Quarter, the North Half of the Southeast Quarter, the Southwest Quarter of the Southeast Quarter of Section 22, Township 13 North, Range 38 East, B.M.
1899 - August 17	4.0 c.f.s.	Source: West Camas Creek. Point of Diversion: On the south side of West Camas Creek, at or near the Southeast corner of the Northeast Quarter of Section 22, Township 13 North, Range 38 East, B.M. For use on the following described land, to-wit: The North Half of Section 26, the South Half of Section 23, the Southeast Quarter of the Southeast Quarter of Section 22, the Northeast Quarter of the Northeast Quarter of Section 27, all in township 13 North, Range 38 East, B.M.

No. _____

IN THE DI RICT COURT OF THE UNITED S TES

FOR THE DISTRICT OF IDAHO, EASTERN DIVISION.

ERNEST SAUVE,

Plaintiff,

-vs-

No. 635 -- In Equity

D E C R E E

To W. H. Abbott, Fay Abbott, Mary C. Adels, Allen Almonda, G. B. Allen, Allen & Harn, a co-partnership, consisting of G. B. Allen and H. R. Harn; Wm. A. Andrews, Joseph Andrasen, Anderson Bros. Bank, a corporation; Gerret Auldhouse (sometimes known as Gerret Oldhouse); Clausen Auldhouse (sometimes known as Clausen Oldhouse), William Axline, Ernest Bauerle, Edward C. Barnes, May L. Barnes, Lovisa Barney, Arthur J. Barber, Charles Bartlett, Ambrose J. Beckner, Laura E. Beckner, William Beck, David Bethune, Lloyd Bennett, Gus E. Brauer, Administrator of the Estate of Annie J. Bennett, deceased; A. W. Belnap, C. W. Belnap, The Bennett Investment Company, Limited, a corporation; Gussie Binnard, Burka Binnard, Horace L. Birch, Binnard Ranch Company, a corporation; B. Binnard, Sarah Binnard and E. F. Mobley, Trustees for Binard Ranch Company, a defunct corporation; Charles O. Rickman, as Trustee in Bankruptcy of Binnard Ranch Company, a corporation; Oscar A. Johanneson, as Receiver of Binnard Ranch Company, a corporation; Heber J. Blackburn, W. B. Boucher, Ray Bohney, R. T. Boatman, Mary Nicholas Boyd, Frank Boe, Charles E. Brosic, E. L. Browning, Adna E. Bramwell, Afton Bradshaw, Theresa Brinkmann, Lottie Burcham, G. F. Burcham, Katherine Burggraf, Anna M. Burggraf, John Burks (sometimes known as John Birks); John H. Burnside, Don R. Burnside, Arthur G. Burnside, Robert Burnside, Alexander Burrus, Burnside Bros., a co-partnership, consisting of John H. Burnside and Don R. Burnside; Vienna Carter, Luther V. Capps, Fred C. Carrell, Alice M. Cain, Charles G. Carlson, Albert Calkins, Elizabeth G. Capps, John Campbell, A. E. Carlson, Charles Campbell, Camas Mutual Irrigation District, a public corporation of Clark County, Idaho; Irene M. Cerney, Central Idaho Irrigation District, a public corporation of Jefferson County, Idaho; Chris Christensen, E. L. Chesney, Annie Chesney, Mrs. Margaret Chambers, Louella May Cherry, Oscar R. Christenson, Frank H. Churchill, C. F. Churchill, William P. Chisholm, Allie D. Charles, John Henry Cline, John Doe Clarke, Robert D. Clinton, S. K. Clark, W. R. Clark, Clark County, one of the organized counties of Idaho; Kadiah Cormack, Geo. Counchman, Robert A. Counell, Jos. J. Conway, J. Sturlin Cochran, Ross J. Comstock, David Coe, Marguerite Comstock, Cleo Cramer, C. C. Crapo, John E. Criddle, Mary A. Crigler, Crystal Lake Irrigated Lands Company, a corporation; Aggie D. Cutler, Henry W. Curtis, W. W. Curran, William Dalton, Charley E. Davis, E. W. Davis, Lillian J. Woodruff Dahman, John Doe Denning, Denning-Clark Live Stock Company, Limited, a corporation; J. W. Dill, Henry Dieringer, Margaret Donahue, Administratrix of the Estate of Patrick J. Donahue, deceased; Margaret Donahue, H. S. Dudley, Harry Dunn, Dubois Irrigation Company, a co-partnership; Julius E. Edell, J. Orval Elsworth, Jennie Ellis, R. P. Ellis, Emily E. Elsworth, H. A. Englund, Mary L. Englund, Mari Amanda Engquist, Lulu M. Ewing, Robert H. Ewing, Robert P. Fairbanks, John M. Fausett, William Fausett, Farm Credit Corporation, a corporation; Mike Fedezak, W. F. Felhaber, Mrs. W. F. Felhaber, Federal Land Bank of Spokane, a corporation; Henry Fitter, First National Bank of Blackfoot, a corporation; First National Bank of Dubois, a corporation; First National Bank of Los Angeles, a corporation; Frederick Fluekiger, Mattie Forbes, Charles Foe, Hans E. Fredrickson, Fred C. Fredrickson, Fredrick Fredrickson, Christine Fredrickson, John Chas. Fullmer, Jr., La Verne Hoops Gayle, Robert E. Gallagher, Harry P. Gerard, Lester W. McGovern, Administrator of the Estate of Raymond S. Glover, deceased; F. H. Godfrey, Jane Goe, Marietta Green, Geo. Green, Edgbert C. Griffin, Virgil Greene, John Hansen, Nettie Hale, Marie Hartwell, Alice F. Hanny, Nellie M. Harwood, James F. Hart, Charles Harwood, Allen Harwood, Denby Harwood, John W. Hays, Olive M. Hays, Elwyn B. Hardy, Katrena D. Hardy, David V. Hagenbarth, Charles Hart, John W. Hart, John W. Hart, Jr., Sally G. Haines, Newell L. Haines, F. H. Hales, Ernest Halverson, F. J. Hagenbarth, Sidney A. Hanks, Wallace D. Hayes, Martin D. Harmon, John W. Hays, Jr., Martha E. Hanks, The Harwood Brothers Company, Limited, a corporation; Harmon Reservoir Company, Limited, a corporation; Harwood Bros., a co-partnership, consisting of Charles Harwood, Allen Harwood and Denby Harwood; Hamer Canal Company, a corporation; Hamer Land and Irrigation Company, a corporation; The Hamer Feeder Canal Company, a corporation; William C. Holley, David A. Sanders, Mark C. Pratt, J. C. Lang, George R. Larsen, C. Woidemann, Frank P. Whitney, J. S. Truex, Ove Andreasen and F. W. Taylor, as trustees for The Hamer Feeder Canal Company, a defunct corporation; Hamer Artesian Wells Irrigation District, a public corporation of Jefferson County, Idaho; William Rhodes Hervey, as trustee; Edna E. Smith Head, Elvin W. Henninger, Dolly M. Henninger, William N. Herrick, Rolla C. Hix, Walter L. Hicks, Mrs. Caroline Hicks, David Hirchi, Jr., David Hirchi, Sr., John Doe Hirchi, M. Hillman, David Hirchi & Sons, a co-partnership, consisting of David Hirchi, Sr., David Hirchi, Jr., and John Doe Hirchi; Charles A. Hjort, C. E. Howard, Emile Hohler, William S. Horsman, John Howes, William C. Holley, Edith F. Hogan, George Hogg, George A. Hoops, Jonathan N. Hoops, E. V. Hoffman, Henry J. Hoffman, Mary Hoe, Charles G. Hoops, The Holley Water Users Association, a corpor-

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EXHIBIT
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ation; John L. Hutton, Guy Hulderbran, William H. Hutchinson, F. A. Hyde, John J. Hyland, Idaho Realty and Investment Company, a corporation; D. H. Janssen, Thos. A. Jackson, Frank S. Jackett, H. R. Jackett, Joseph P. Jacoby, Elizabeth Jacoby, Harry E. Jackson, W. M. Jardine, as Secretary of Agriculture of the United States; Janssen & Englund, a co-partnership, consisting of D. H. Janssen and H. A. Englund; Harry L. Jenkins, Fred G. Jemmett, Administrator of the Estate of William Jemmett, deceased; Alma Jensen, Nina Jensen, The Unknown Heirs of Ellen Jensen, deceased; The Unknown Devisees of Ellen Jensen, deceased; Roy Jernberg, Emil Jensen, H. P. Jensen, Halvor Jeldness, Chris P. Jensen Ezra P. Jensen, Edward Jernberg, Jefferson County, one of the organized counties of daho; Jefferson Irrigation District, a public corporation of Jefferson County, Idaho; Jefferson Irrigation Company, Limited, a corporation; Charles Jernberg, Frank E. Jones, Oscar Julius Johnson, John W. Jones, Gregory Jones, Barnard F. Johnson, Roy E. Joslin, Charlotte F. Joslin, John L. Jones, Anna H. Johnson, Charles Johnson, Edw. T. Johnson, Arvilla Kearney, Sarah Ann Kendrick, George H. Keeth, Samuel M. Kennell, Neils Kelson, Wm. J. Kirk, Paul A. King, Leon Kirkham, Herman F. Klamt, John P. Klein, Thomas Knotwell, Tony Konda, Nicholas J. Konen, August Kreutzer, Michael Kreutzer, Charles Kroker, Elsbeth Marie Adolphine Kroker, Elsbeth Marie Adolphine Kroker, as Executrix of the Estate of Joseph Kroker, deceased; Peter Kuharski, Geo. Lake, Lynn Lake, William S. Lair, John C. Lang, Geo. R. Larson, James Laird, Joseph Laird, E. W. Laird, Frank N. Lauder, Pete Lawson, Chas. Larson, Polly A. Landon, Samuel Leek, Jr., Peter Lenner, Tony W. Levy, Jesse D. Lewis, James R. Leavitt, Ralph D. Leatherman, Richard E. Lee, Frank Livermore, William G. Liebel, Joseph L. Lorey, John B. Loewin, Earl J. Love, Orin W. Louis, Los Angeles Trust & Savings Bank, a corporation, as trustee; Geo. E. Lufkin, Samuel Lundholm, Cynthia Lundholm, Titus Marshall, Edgar Magill, C. O. Magill, Wm. H. Martin, M. C. Madison, Edward McCauley, Maud R. McGuire, Peter McKevitt, Frank E. McClain, Mary L. McCann, Orrin H. McClelland, Pete McGary, Sabinus M. McWhorter, William McGovern, Henry McGary, Isabella McGary, Leah McGovern, Lester McGovern, Minnie McNeley, James A. Melton, Rosa Miller, Dudley Milano, Joseph Milano, Wm. A. Miller, Edwin T. Miller, Hugh Mitchell, Alexander Mitchell, Bernice M. Milburn, Mary Mitchell, Adolph Miller, Lee Charles Miller, Albert E. Miller, Bert H. Miller, Ross Miles, Orin D. Morse, Bernard J. Mooney, E. C. Mobley, Ida Muehlfeit, Thomas D. Murphy, Alvin W. Munns, D. T. Murphy, Mud Lake Canal Company, a corporation; Mud Lake Irrigation District, a public corporation of Jefferson County, Idaho; T. W. Naylor Company, a corporation; Anders Neilson, Thomas Newnhan, Louisa Neville, Melvin Neilson, Andrew E. Newbold, Andrew Nelson, Daniel C. Neville, Clyde A. Nickel, Carl F. Nordstrum, North Lake Canal Company, a corporation; John Joe, Richard Koe, Henry Loe, John Moe and Richard Poe, as trustees for North Lake Canal Company; Josephine O'Brien, Bartholomew O'Brien, John J. O'Brien, Henry O'Leary, Geo. A. Olmstead, Mabel E. Orin, August W. Ossman, The Oregon Mortgage Company, Limited, a corporation; Oregon Short Line Railroad Company, a corporation; Charles O'Toole, Bertha I. Owsley, Merritt M. Owsley, Owsley Co-operative Ditch Company, a co-partnership; Owsley Canal Company, a corporation; Erie Palmgren, E. F. Palmer, William A. Patt, Frank Patt, Bert H. Paul, Andrew J. Patt, Gardiner A. Pease, O. E. Peterson, John R. Peterson, Martin Peterson, Marie V. Peterson, Isabel M. Peterson, George D. Peterson, Lloyd G. Peterson, Vier Peterson, Alvelda Peterson, Augustine Pierre, Gustave Pierre, Richard S. Pingree, I. V. Pitner, Frank Plastino, James A. Potter, Joseph P. Potter, Jas. W. Polson, Emry Poulson, Lottie Collins Poulson, Carrie Elizabeth Preston, Prudential Insurance Company of America, a corporation; C. A. Randall, G. M. Rasmussen, Annie Rasmussen, Myers Rasmussen, Agnes Rasmussen, Anna M. Rasmussen, The Rays Lake Irrigating Company, Limited, a corporation; Henry C. Remington, Jas. L. Riley, James H. Richardson, Emma M. Riley, Alvin Richardson, Michael J. Rowan, Luke Rowan, Paul Robinson, Lloyd Roberts, Mrs. Emma Robbins, Gordon W. Rossback, Frank Robinson, Rufus Rush, Geo. R. Rymer, Andreas Sandbeck (sometimes known as Andreas Sandbach); D. A. Sanders, J. L. Sanders, Fred Sanders, Charles Saurey, George S. Samuel, Irwin L. Schnaverly, Carl Schindler, Charles J. Schaller, Benj. C. Scott, William Sellers, Frank Shivers, Alice Shuttleworth, Bert Shoaf, John T. Sidley, Jacob A. Simmons, John W. Simpson, Nellie Sidley, O. O. Skallet, A. Skoda, (sometimes known as A. Scoda); William Sloan, Henry C. Smith, Chet T. Smith, Gustave Spong, Merritt E. Staley, Jr., J. I. Staker, Merritt E. Staley, Sr., State of Idaho, J. B. Stringham, Marlborough Smith, David Stringham, Wilbur Street, P. D. Stoops, Albert C. Swanstrom, Frank Sykes, J. T. Sykes, E. J. Taylor, Cleo Thieman, A. S. Thompson, D. S. Thomas, Ruthven B. Thompson, Chas. Thieman, The Unknown Heirs of Bert Toliver, deceased; The Unknown Devisees of Bert Toliver, deceased; Sadie Turman, James R. Turman, Jr., The Unknown Owners, Users and Appropriators of the waters of Beaver Creek and its tributaries, a stream rising in the northern part of Clark County, Idaho, and flowing in a southerly direction through Clark and Jefferson Counties, Idaho, until its junction with Camas Creek, of which it is a tributary; The Unknown Owners, Users and Appropriators of the waters of Camas Creek and its tributaries, a stream rising in the northeastern part of Clark county and flowing in a southwesterly direction through Clark and Jefferson Counties, Idaho, until it reaches and empties into what is known as Mud Lake (sometimes called Crystal Lake) in Jefferson County, Idaho; The Unknown Owners, Users and Appropriators of the waters of what is known as Mud Lake (sometimes called Crystal Lake) situated in Jefferson County, State of Idaho; The Unknown Owners, Users and Appropriators of the waters of North Lake, Deadline Lake, Rays Lake, Sandhole Lake and various unnamed lakes and sloughs whose waters contribute to the supply of and flow into Mud Lake in Jefferson County, Idaho; Union Central Life Insurance Company, a corporation; George H. Van Houten, Ludger Vadnis, Hannah Vosatka, C. B. Watts, Thos. E. Watts, William B. Wardle, Thomas Wagoner, Catherine A. Walker, William Walker, Robert S. Watson, John H. Walker, Oliver Warmoth, Thos. A. Wagoner, Clara M. Welchman, Geo. Welchman, Earl H. Weaver, Thomas Whorton, Mary J. Wilson, Thomas H. Winder, Logan B. Wilson, M. L. Wilmot, James McKay Winchester, Alice Williams, John L. Wilson, Marie Wiley, H. C. Wood, Perry B. Woodard, John W. Wood, Wood Live Stock Company, a corporation; Will E. Yorty, Clement A. Young, Joseph H. Zink, Katie E. Zink, [redacted] and

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certain additional defendants made parties pendente lite, to-wit:

G. B. Adams (see right of Clarence O. McGill & G. B. Adams); Gus E. Brauer (also described as Gustave E. Brauer), individually; William Broadhurst; Nicholas Burggraff; Arthur and John Burnside, as co-partners; James Burnside; James and John Burnside, as co-partners; R. P. Cope, as Administrator of the Estate of William Barnes, Deceased; R. P. Cope, individually; Margaret Craig Curran; William P. Ellis (also described as William B. Ellis); Preston B. Ellsworth (successor in interest of E. V. Hoffman); Ira Harmon; Wiley M. Harmon; Earle Jackson, as Administrator of the Estate of Thos. A. Jackson, who died pendente lite; Henry Jemmett; Mary Jemmett (substituted for Fred Jemmett, Administrator); C. W. Leonardson; Mrs. Flossie McGarry (also described as Mrs. Pete McGarry); Miller & Viele, a corporation, successor in interest of Lee Charles Miller; William H. Miller, as Administrator of the Estate of Adolph Miller, who died pendente lite; George E. Monroe; New World Life Insurance Company, a corporation; Bertha I. Neilson, as Executrix (or administratrix) of the Estate of Anders Neilson, who died pendente lite); Charles E. Pope; Al Richens (successor in interest of Paul A. King); S. E. Schaller; Martin D. Schlagel; Fred L. Spalding (successor in interest of Eric E. Palmgren); William P. Tascher (also described as William B. Tascher), successor in interest of George Allen; U. W. Taylor; W. E. Talent; Dan Thomas and H. Thomas, as co-partners; H. Thomas; John H. Walker and William F. Woodard, a co-partnership; Thomas J. Williams; Wood Livestock Company, a corporation, as Trustee for the Town and Community of Spencer, Idaho,

DEFENDANTS.

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M. Hillman

1898 - May 1	1.6 c.f.s.	Source: West Camas Creek, a tributary of Mud Lake. Point of Diversion: One-fourth mile up stream from the land to be irrigated, and hereinafter described For use on the following described land, to-wit: The Northwest Quarter of Section 25, Township 13 North, Range 38 East, B. M.
1904 - October 29	4.8 c.f.s.	Source: Goudy Springs, a tributary of Camas Creek. Point of Diversion: In the NorthwestQuarter of the Southeast Quarter of Section 22, Township 13 North, Range 38 East, B. M. For use on the following described land, to-wit: The West Half of the Southeast Quarter and the Southeast Quarter of the Southeast Quarter of Section 22; the Northeast Quarter of the Northeast Quarter of Section 27; the North Half of the Northeast Quarter of Section 26; all in Township 13 North, Range 38 East, B. M.
1904 - October 29	3.8 c.f.s.	Source: Bartlett Spring, a tributary of Camas Creek. Point of Diversion: Near the center of the Northwest Quarter of Section 23, Township 13 North, Range 38 East, B. M. For use on the following described land, to-wit: The South Half of the Southeast Quarter, the Northeast Quarter of the Southwest Quarter, and the Northwest Quarter of the Southwest Quarter, Section 23; the Northwest Quarter of the Northeast Quarter and the Southeast Quarter of the Northeast Quarter of Section 22, Township 13 North, Range 38 East, B. M.

No. 40

M. Hillman (continued)

1899 - August 16	4.0 c.f.s.	Source: West Camas Creek, a tributary of Mud Lake. Point of Diversion: On the east side of West Camas Creek, at or near the Northwest corner of the Northwest Quarter of Section 22, Township 13 North, Range 38 East, B.M. For use on the following described land, to-wit: The East Half of the Northwest Quarter, the West Half of the Northeast Quarter, the Southeast Quarter of the Northeast Quarter, the North Half of the Southeast Quarter, the Southwest Quarter of the Southeast Quarter of Section 22, Township 13 North, Range 38 East, B.M.
1899 - August 17	4.0 c.f.s.	Source: West Camas Creek. Point of Diversion: On the south side of West Camas Creek, at or near the Southeast corner of the Northeast Quarter of Section 22, Township 13 North, Range 38 East, B.M. For use on the following described land, to-wit: The North Half of Section 26, the South Half of Section 23, the Southeast Quarter of the Southeast Quarter of Section 22, the Northeast Quarter of the Northeast Quarter of Section 27, all in township 13 North, Range 38 East, B.M.

No. 41