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Department of Water Resources

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DISTRICT COURT-SRBA

SUPPLEMENTAL DIRECTOR'S REPORT REGARDING
SUBCASE NOS. 31-53A, 31-55C, 31-53B, 31-54B, 31-55B

In Re SRBA

Twin Falls County Civil Case No. 39576

Report to the SRBA District Court

Prepared by the Idaho Department of Water Resources

Karl J. Dreher, Director

David R. Tuthill Jr., Adjudication Bureau Chief

August 30, 2002

I. INTRODUCTION

The Director of the Idaho Department of Water Resources ("IDWR" or "the Department") submits this Supplemental Director's Report regarding subcase numbers 31-53A, 31-55C, 31-53B, 31-54B, 31-55B in accordance with Idaho Code § 42-1412(4) and Administrative Order I. This report is also submitted in response to Special Master Bilyeu's *Trial Scheduling Order* dated April 26, 2002, setting forth the deadline for a 706 Report from IDWR of August 30, 2002. This report sets forth the basis of the Department's recommendation for the above-listed water rights and was prepared under the supervision of Karl J. Dreher, Director, and David R. Tuthill, Jr., Adjudication Bureau Chief for IDWR.

The following employees from the Department of Water Resources have knowledge of the information contained in this report: David R. Tuthill, Jr., IDWR Adjudication Bureau Chief and Allen Ruberry, Senior Water Resource Agent, IDWR, Eastern Region Office in Idaho Falls.

II. SUMMARY OF THE ISSUES

There are several parties involved in these subcases. Max Siddoway owns water right nos. 31- 53A and 55C; Jack and Lela Hamilton own water right nos. 31-53B, 31-54B and 31-55B. These water rights will be collectively referred to as the Claimants' water rights. David Hirschi, Jr., Joe Knotwell, Horace Fredrickson, The Rocking Question LLC, and Howard Fredrickson (collectively referred to as Objectors) have all objected to all of the Claimants' water rights. The objectors allege the following:

- 1) that the Claimants' water rights have been forfeited because the prior owner of these water rights, Mr. Halverson, never used the decreed water rights or irrigated the acres in question;

- 2) that if the water rights are not found to be forfeited that they are at the very least not water rights from East Camas Creek but are from other surface water sources, such as Warm Creek, Little Warm Creek, Little Ching Creek and Ching Creek; and
- 3) that any use of East Camas Creek was developed in trespass, and thus is invalid.¹

The Department determined that these water rights are valid water rights from East Camas Creek and thus recommended these water rights with a source of East Camas Creek for irrigation on various lands located near the creek. The Department made its recommendations after extensive investigation and after conducting a fact-finding hearing pursuant to Idaho Code § 42-1410(1). Given the Department's extensive efforts to investigate these water rights, it has many related documents in its public record files. The Department is attaching to this report only the exhibits that it believes are the most notable.

III. BACKGROUND

Water Right Nos. 31-53, 31-54, and 31-55, were originally decreed in the *Sauve v. Abbott* Decree.² *Sauve v. Abbott*, Case No. 635, Decree (Dist. Idaho Nov. 1, 1930). The water rights were decreed with the source of Camas Creek. Attached hereto are Figures 1 and 2 that help illustrate the following discussion. Prior to 1933, Cottonwood Creek flowed in a southeasterly direction contributing water to Warm Creek, Little Warm Creek, Little Ching Creek, and Ching Creek. See Figure 1. Around 1933, the channel of Cottonwood Creek was changed to directly flow into East Camas Creek. See Figure 1.

In the early 1970s, Joe Knotwell, David Hirschi, Sr.³ and Kenneth Bennett⁴ began building a new diversion for their water rights from East Camas Creek at T13N, R39E, Section

¹ The Objectors contend that the Claimants' use of the Knotwell-Hirschi-Bennett ditch was in trespass. The Department has not determined however, whether there is any authority to use the ditch. The Department, among other things, reviewed whether there was a water right historically used from the point of diversion claimed.

² These water rights have subsequently been split into the A and B portions.

³ Objector, David Hirschi, Jr. is the successor to David Hirschi, Sr.

32, SENWNW. The point of diversion from East Camas Creek was near Mr. Halverson's property. See Point of Diversion on Figure 2. Mr. Halverson was invited to join in sharing the cost of building the new diversion. However, Mr. Halverson declined. The construction of the point of diversion was completed in 1974.

In the early 1980s, Max Siddoway and Jack Hamilton purchased the property that Mr. Halverson previously owned. In 1982 and 1983, the Claimants began diverting East Camas Creek water from the point of diversion on East Camas Creek located in T13N, R39E, Section 32, SENWNW (the point of diversion currently recommended). This point of diversion diverts water into what is commonly referred to as the "Knotwell-Hirschi-Bennett" ditch which is shown on Figure 2. Joe Knotwell, an owner on the ditch, gave the Claimants permission around 1981-1982 to divert from the point of diversion and use the ditch.

In 1989, the Claimants were informed by Mr. Knotwell, Mr. Hirschi and Mr. Bennett that they no longer had permission to use the East Camas Creek diversion or the "Knotwell-Hirschi-Bennett" ditch that runs from the point of diversion across the Claimants' properties. In 1990, the Department met with the water users and the Water District 31 Watermaster, Mr. Donald Shenton,⁵ concerning delivery of the Claimants' water rights. The Department directed the Watermaster to continue to allow the Claimants to divert water from the East Camas Creek diversion as a temporary solution pending final resolution by the SRBA Court. The claims for water right nos. 31-53A and 31-55C were filed by Max Siddoway on June 7, 1988 and January 11, 2001 respectively. The claims for water right nos. 31-53B, 31-54B and 31-55B were filed by the Hamiltons on June 10, 1988.

⁴ Objector, Rocking Question, LLC, is the successor to Kenneth Bennett.

⁵ Mr. Donald Shenton died in 1998 and his successor in this elected position since that time has been his son, Mr. Greg Shenton.

IV. DISCUSSION

After extensive investigation and review, the Department determined that the Claimants have valid water rights from East Camas Creek.⁶ The Department concluded that the Claimants had been diverting the water and applying East Camas Creek water to the lands recommended since they owned the property in the early 1980s. The Department based its recommendations primarily on the following information.

First, Mr. Halverson owned decreed water rights, 31-53, 31-54, and 31-55 from Camas Creek to irrigate 230 acres. These rights were decreed in the *Sauve v. Abbott* decree to the Federal Land Bank of Spokane. A review of the *Sauve v. Abbott* decree shows that it was not uncommon for the decree to list "Camas Creek"⁷ as the source when in fact the water right was for a tributary to Camas Creek. Thus, the Department reviewed the water rights with this in mind and recommended the source to comply with what source was historically used. There was no clear and convincing evidence that Halverson ever forfeited these water rights. In fact, Watermaster records show that Halverson was delivered water nearly every year. Exhibit A is a summary dated 11-7-2000 of these records prepared by the Water District 31 Water Master, Mr. Greg Shenton.

⁶ The Department conducted several on the ground field investigations for these water rights. In addition, the Department met with the Claimants and the Objectors separately to determine the facts and legal issues involved in these subcases. Finally, the Department conducted a fact-finding hearing on October 26, 2000, with David R. Tuthill, Jr. presiding as the hearing officer to record testimony and to examine evidence concerning these water rights. The Claimants and the Objectors were all present at the fact-finding hearing as were the Watermaster and other interested citizens.

⁷ The Department discovered that the *Sauve v. Abbott* decree contained ambiguities for some water rights with regard to the source. In this case, the Department concluded that the decreed source of Camas Creek is a mistake because the land described in the decree would have been over two miles upstream from Camas Creek thus making delivery to those lands impossible with Camas Creek as the source. Thus, the Department concluded that the source was likely East Camas Creek. There are several water rights within the decree that contain such discrepancies. For instance, objector Knotwell's water right no. 31-115 is decreed with the source of Camas Creek as well; however, it has historically been diverted from East Camas Creek and thus that is the source recommended by the Department. Also, Knotwell's water right no. 31-116 was decreed in the *Sauve v. Abbott* decree with a source of "Little Spring Creek," but water is actually diverted from Kelson Creek and thus, this source is what the Department recommended.

Second, Cottonwood Creek as depicted on Figure 1 originally contributed water to Warm Creek, Little Warm Creek, Little Ching Creek and Ching Creek. However, when Cottonwood Creek was re-routed circa 1933, it no longer contributed water to these three creeks. Thus, if Halverson had been using water from Warm Creek and Little Warm Creek as contended by the Objectors, then these sources were nearly dried up due to Cottonwood Creek's channel being re-routed. Thus, it is reasonable to believe that Mr. Halverson began using water primarily from East Camas Creek starting in the mid-1930s. This use of East Camas Creek would not have resulted in injury given the fact that Cottonwood Creek was now contributing new water to East Camas Creek that the decreed users on that creek had never historically enjoyed.

Third, when Knotwell, Hirschi and Bennett began constructing the new point of diversion on East Camas Creek, they asked Mr. Halverson whether he wanted to share in the cost. This fact was testified to by Mrs. Bennett at the Fact-Finding Hearing when she referred to her written narrative of the "Water Problems in Kilgore." Part of that document says that "At the time the new headgate was put in, Sherman did not wish to have anything to do with it." A portion of this document containing this statement is attached hereto as Exhibit B. Max Siddoway also testified to this fact. (IDWR Fact Finding Hearing, October 26, 2000)⁸ During the Department's discussions with the Objectors, the Objectors mentioned the fact that Mr. Halverson would not pay for the diversion, thus he was not allowed to use it. Mr. Halverson was invited to share in the cost of building the diversion structure to divert East Camas Creek water so must have had a right to divert East Camas Creek water.

In addition, a letter written by Blaine Kyle Downs, dated November 9, 2000, states that when he worked for the Soil Conservation Service in 1959, Mr. Halverson contacted the office

⁸ A copy of the Fact Finding Hearing tape is available to parties at their request.

the property and saw that Mr. Halverson had been irrigating from the ditch that came from East Camas Creek and was irrigating the land adjacent to the ditch. This letter is attached hereto as Exhibit C. Thus, Mr. Halverson was using East Camas Creek water at the time the diversion structure was being built and before. Given this information, the Department concluded that Halverson had diverted and beneficially used East Camas Creek water prior to the building of the new diversion structure.

Fourth, Joe Knotwell gave the Claimants permission around 1981 or 1982 to use the diversion point and the ditch, if only for a temporary time period, when they first purchased Halverson's property. This fact was asserted by Claimants and by Mr. Knotwell in discussions with the Department. Attached hereto as Exhibit D are notes dated May, 1990, from Department employee Ron Carlson, who attended a meeting with area water users to discuss delivery of Claimants' water rights. The notes state: "Joe Knotwell originally allowed Hamilton and Siddoway to use ditch FOR PURPOSE OF GETTING ALONG" (emphasis in original). Above that entry, there is a note that says, "Existing ditch owned by Hirshhi, [sic] Knotwell. Watermaster has delivered water for past 9 years." These entries establish that Claimants had been using the diversion and the ditch with Mr. Knotwell's permission since around 1981. In addition, the fact that Mr. Knotwell gave Claimants permission to use the diversion and ditch is corroborated by a letter dated October 19, 1989 to Claimants from K.L. Bennett, Joe S. Knotwell and David J. Hirschi that states:

As of this notice you are informed that you *can no longer use* our water diversion located in Section 32 on East Camas.

Watermaster, Don Shenton, has been notified to not deliver any water to you from said diversion located on the Mc Cormick [sic] property in the NW1/4 of Section 32, Township 13N, Range 39E, Clark County, Idaho.

(emphasis added). This letter is attached hereto as Exhibit E. From the statement "can no longer use" one can infer that there was an acknowledged use prior to this notice.

Furthermore, Mrs. Bennett also testified that she understood that Mr. Knotwell had given the Claimants permission to use the diversion structure and ditch until they were able to build their own structure and ditch. (IDWR Fact Finding Hearing, October 26, 2000) This coupled with the fact that both the Claimants and Mr. Knotwell acknowledged that Mr. Knotwell gave them permission in the early 1980s to use the diversion and the ditch demonstrates that the Claimants did in fact use the diversion and the ditch. It also shows that Mr. Knotwell, at least, believed that the Claimants had a water right from East Camas Creek. This also lends credibility to the Claimants' argument that Halverson used East Camas Creek water prior to their purchasing his property. If Halverson never used East Camas Creek water, then the Claimants would have had no right to use East Camas Creek water, the point of diversion or the ditch. However, Mr. Knotwell clearly thought otherwise as he granted them permission to use the diversion structure and the ditch.

The Objectors supplied some evidence from the Watermaster that states that Halverson was never delivered water from East Camas Creek. A letter is attached hereto as Exhibit F. This letter was written to Mrs. Bennett on July 23, 1992 from Donald W. Shenton, Watermaster for Water District #31. In that letter, the Watermaster states:

First, I have no knowledge of ever delivering water to Mr. Halverson from East Camas Creek sources at the mentioned Knotwell, Hirschi, Bennett Diversion.

... after a search of the records that water right #29⁸ which is the water right of contention, the water has been delivered every year except 1978 as far back as I reviewed the records to 1955.

⁸ This is the number collectively assigned to water rights nos. 31-53, 31-54 and 31-55 in the *Sauve v. Abbott* decree.

However this water delivery was made to Mr. Halverson through one or the other three of Mr. Halverson's Ching Creek Points of Diversion. Up until 1982 I did not know that Right #29 was claimed to be an East Camas Creek Source until Mr. Siddoway made request for delivery at the point of diversion of contention. Mr. Halverson had on occasion told me he had the right to use water from East Camas or Ching Creek at any point of diversion that he so wished, however he did not have evidence to confirm his statements.

Don Shenton passed away in 1998 and thus, he is not able to clarify any of the statements in his letter. However, the Department reviewed this letter but concluded, given the other evidence, that this letter did not establish that Mr. Halverson had no right to use East Camas Creek water. This letter merely states that when water was delivered to Mr. Halverson, that it was delivered to a point of diversion for Ching Creek. Whether or not Mr. Halverson used East Camas Creek water prior to making a call for water is unclear. Mr. Halverson likely used more than one source.⁹

Fifth, aerial photos reviewed and discussed during the hearing show that circa the 1960s Halverson leveled some of the acres claimed by Siddoway and Hamilton. These photos are attached hereto as Exhibit G. In fact, there is no dispute that Halverson leveled the ground and that in order to receive monetary and engineering assistance from the ACSC office and the Soil Conservation Service for such leveling the property had to be irrigated. There was testimony by Howard Fredrickson, Max Siddoway and Eileen Bennett that Halverson worked with the ASCS office and the Soil Conservation Service to seek financial assistance for the leveling project. (IDWR Fact Finding Hearing, October 26, 2000) According to Howard Fredrickson, a prerequisite for obtaining funding was to demonstrate that the land to be leveled had a valid water right and was irrigated. (IDWR Fact Finding Hearing, October 26, 2000) Furthermore, the Department's field examinations confirmed that this portion of the property had in fact been

⁹ Siddoway and Hamilton have water rights from other sources in addition to the rights from East Camas Creek. Siddoway has water rights for Little Ching (31-54A, 31-55D), Ching Creek (31-2286), and East Camas Creek (31-10037). Hamilton has water rights from Ching Creek (31-24, 31-245, 31-10072).

leveled. One reason property is leveled is to improve the ability to irrigate the property. In addition, Mrs. Bennett testified that her husband and brother-in-law seeded Halverson's ground with barley and helped him "gather up" the sprinkler pipe. (IDWR Fact Finding Hearing, October 26, 2000) Mr. Hirschi supplied an affidavit after the fact-finding hearing that states the source of this water came from "Warm Creek at a location near the current residence of Max Siddoway, where there was a deep hole in the creek that provided an adequate supply of water for the high-volume pump that he used." This affidavit is attached hereto as Exhibit H. Yet, there was testimony that the pump was placed in the ditch that ran from East Camas Creek from Mr. Hirschi and Mr. Fredrickson. (IDWR Fact Finding Hearing, October 26, 2000) The Department concluded that this affidavit, in light of the other evidence that Halverson used East Camas Creek water, did not establish that there was no right to use East Camas Creek water but only that Halverson may have used some Warm Creek water the year in 1977. The fact that the land was leveled and that the property was irrigated is further evidence that Halverson historically irrigated the property adjacent to the ditch and that the water rights were not forfeited.

Finally, satellite imagery shows that in 1987 the property recommended to the Claimants appeared to be irrigated.

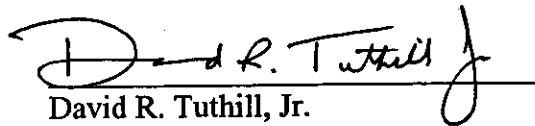
Based on the above information, the Department concluded that the Claimants' water rights were valid from East Camas Creek on the land recommended.

V. CONCLUSION

The Department's recommendation of these water rights is based on historical evidence

and reasonable conclusions. Thus, the Special Master should recommend that the SRBA District Court partially decree these water rights as they are described in the Director's Report.

Submitted this 30th day of August, 2002.


David R. Tuthill, Jr.

CERTIFICATE OF MAILING

I certify that on August 30 2002, I mailed and/or delivered the original and copies of this form, including all attachments, to the following interested parties, by placing them in sealed envelopes, addressed as follows:

1. Original to:

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

☐ Overnight Mail
☒ Regular Mail
☐ Hand-Delivered
☒ Facsimile

2. Copies to:

Chief, Natural Resources Division
Office of the Attorney General
Box 83720
Boise, ID 83720-0010

☐ Overnight Mail
☐ Regular Mail
☒ Hand-Delivered
☐ Facsimile

IDWR Repository
Adjudication Bureau
PO Box 83720
Boise, ID 83720

☐ Overnight Mail
☐ Regular Mail
☒ Hand-Delivered
☐ Facsimile

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

☐ Overnight Mail
☒ Regular Mail
☐ Hand-Delivered
☐ Facsimile

Blair Grover
Grover & Arichibald
P.O. Box 36
P.O. Box 70
Rigby, ID 83442

☐ Overnight Mail
☒ Regular Mail
☐ Hand-Delivered
☐ Facsimile

Kevin C. Timken
Kruse, Landa & Maycock, LLC
P.O. Box 45561
Salt Lake City, UT 84145-0561

☐ Overnight Mail
☒ Regular Mail
☐ Hand-Delivered
☐ Facsimile



Signature of person delivering form

Figure 2

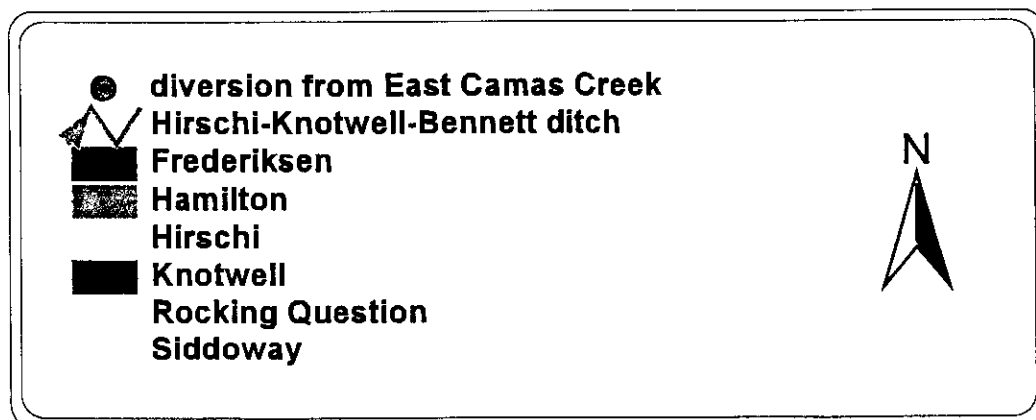
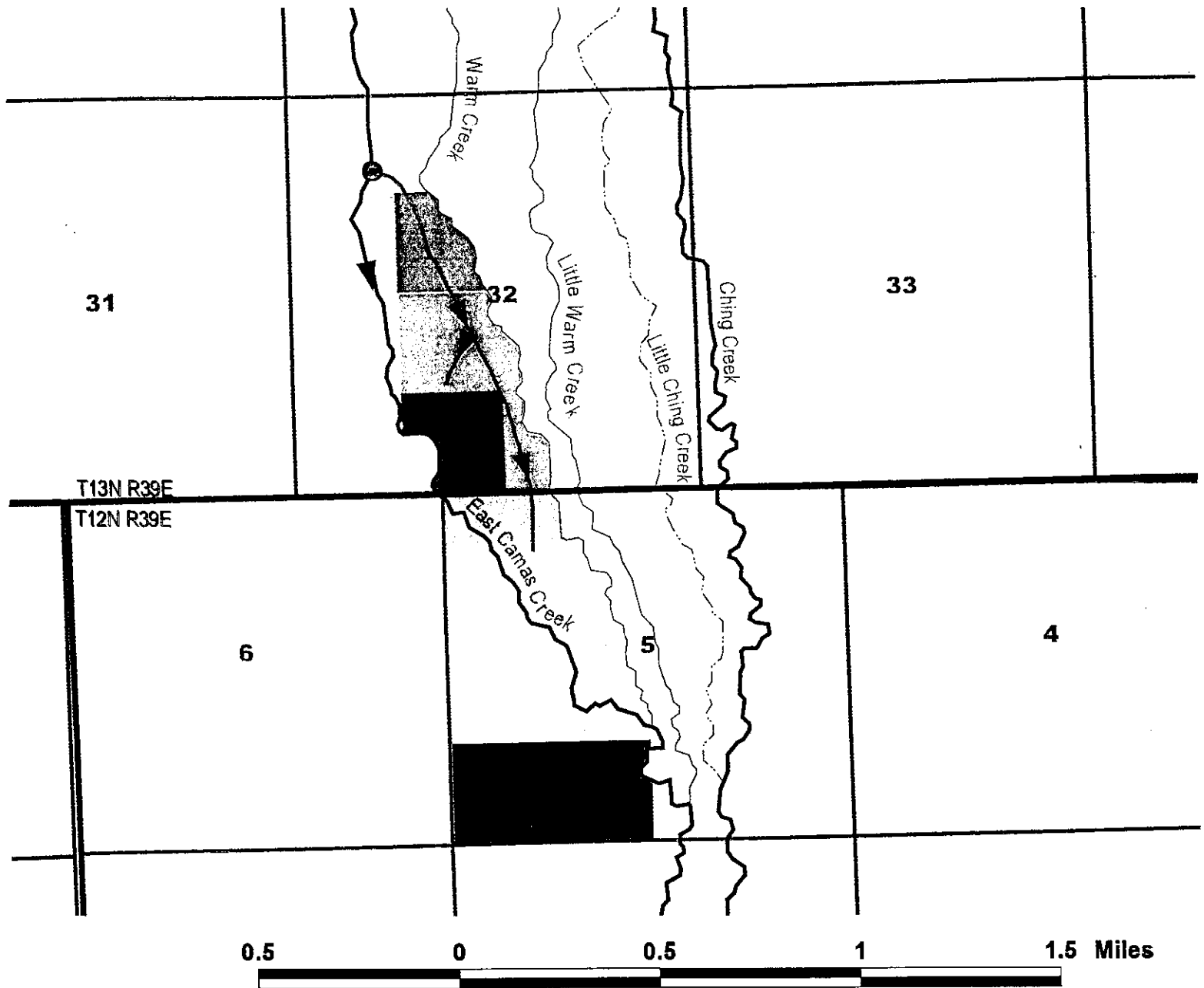
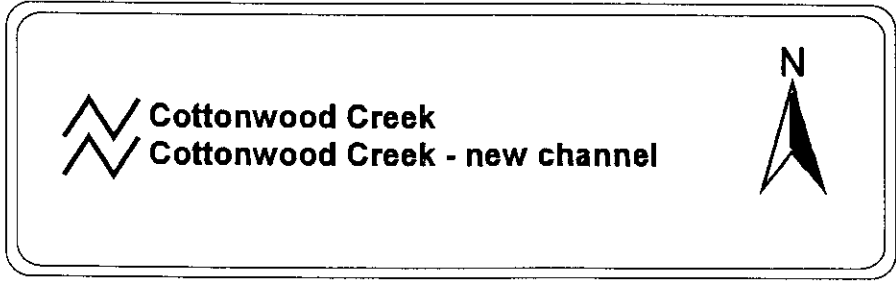
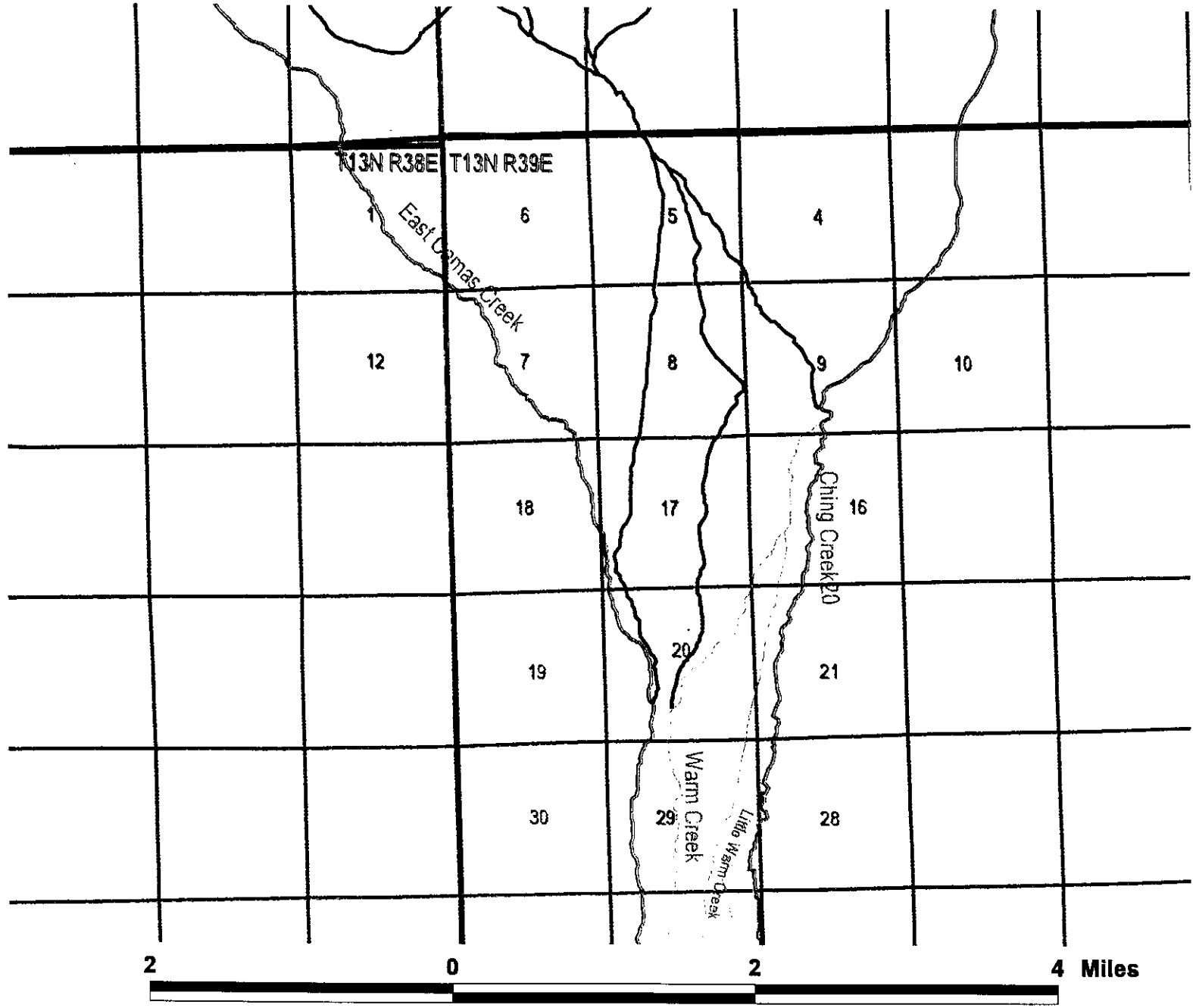


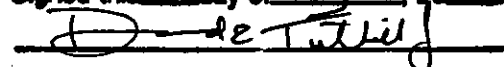
Figure 1



NOV 13 2000

Department of Water Resources
Eastern Region

WATER DISTRICT #31					
P.O. BOX 39					
DUBOIS, IDAHO 83423					
GREGORY A. SHENTON - WATER MASTER					
BART A. MAY - DEPUTY WATER MASTER					
208-374-5274 office 208-374-5696 fax					
INDIVIDUAL USAGE REPORT FROM 1955 TO 1991 REQUESTED BY MAX SIDDOWAY					
YEAR	BENNETT	HIRSCHI	KNOTWELL	SIDDOWAY Right #29	Right #131
1955	107	43	37	115	Halverson 86
1956	99	40	15	116	Halverson 66
1957	130	46	13	124	Halverson 60
1958	107	53	15	134	Halverson 73
1959	99	50	21	100	Halverson 69
1960	99	43	42	138	Halverson 50
1961	0	0	0	411	Halverson 43
1962	0	12	0	237	Halverson 0
1963	0	25	0	76	Halverson 15
1964	0	0	0	40	Halverson 0
1965	0	0	0	111	Halverson 0
1966	0	0	0	79	Halverson 0
1967	8	6	0	151	Halverson 61
1968	16	0	0	80	Halverson 0
1969	6	0	0	68	Halverson 0
1970	11	12	0	30	Halverson 75
1971	10	21	0	19	Halverson 0
1972	12	10	0	42	Halverson 0
1973	13	16	0	32	Halverson 0
1974	0	8	30	61	Halverson 30
1975	128	15	136	166	Halverson 45
1976	46	0	47	53	Halverson 111
1977	0	0	24	32	Halverson 0
1978	0	3	20	0	Halverson 30
1979	10	8	28	48	Halverson 0
1980	0	15	20	231	Halverson sold to hamilton
1981	0	0	15	192	Halverson
1982	0	0	17	239	Max siddoway
1983	36	7	41	91	Max siddoway
1984	94	26	29	195	Max siddoway
1985	28	0	48	194	Max siddoway
1986	36	0	30	264	Max siddoway
1987	40	6	38	150	Max siddoway
1988	16	0	30	50	Max siddoway
1989	40	0	16	107	Max siddoway
1990	46	29	24	33	Max siddoway
1991	56	44	0	54	Max siddoway
11-7-2000					
DATE SIGNED					
Gregory A. Shenton - Water Master					

The foregoing is a true and certified copy of
the document on file at the department of
Water Resources.Signed this 30th day of Aug 2002

Signed this 30th day of Aug 2002

D. de Tilly

Water Problem in Kilgore

A 1893 water decree is causing the problem, together with its related or implied Tangents.

This water right first belonged to Jensen, then passed on to Sherman Halverson with the sale of that property. In turn the property was sold to Harold and Max Siddaway in 1981.

A parcel of land of this property also has a 1895 water right.

During Sherman Halverson's tenure of ownership in a new headgate was installed in East Camas Creek, for the delivery of water to Joe Kretzsch, David Kirsch, and K. L. Bennett whose point of diversion it was for their decrees.

Joe Kretzsch - May 1, 1896 .6

David Kirsch - June 1, 1891 .7

K. L. Bennett - June 1, 1891 1.1

June 1, 1895 1.5

This point of diversion is up in the McCarrick Estate property. At the time the new headgate was put in Sherman did not wish to have anything to do with it. The project was cost shared by Kretzsch, Kirsch, Bennett and the ASCS.

November 9, 2000

To Whom It May Concern:

My name is Kyle Downs and I live in Terreton, Idaho. It has been brought to my attention that on the property owned by Max Siddoway in Kilgore the existing water right and point of diversion have been brought into question.

For your information, in 1959 I was employed by the Soil Conservation Service as a conservation technician. At that time the owner of the property was Sherman Halverson. He had contacted our office to assist him in installing structures on a ditch north of his house. He had been irrigating from the ditch that came from East Camas through the McCormick place. I noticed at that time that he had checked-up the low spots along the ditch and had been irrigating the land adjacent to it out of both sides. This piece of land had been irrigated for many years from this ditch. If there are any questions concerning this matter please feel free to call me. Thank you.

Blaine Kyle Downs

Blaine Kyle Downs

The foregoing is a true and certified copy of the document on file at the department of Water Resources.

Signed this 30th day of Aug, 2002

D. de T. [Signature]

*Trisha Smith
Burton Idaho
Notary
02-02-02*

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NOV 13 2000

Department of Water Resources
Eastern Region

PREPARE BUDGET & PREPARE REGULATION

LEGISLATION LATE JULY

BUDGET EARLY AUG

6000 replacement capital outlay

Employee salaries increased

Pay for performance study

July - well drilling positions to

Southwestern and western

We are going to have to take

better job than public education

water right belonged to Shorn

Haniflow. land bought by Siddaway

1 Haniflow. 320 to 340 Nat 240

Haniflow 80

legal pd not identified. water

wright stuck in Cakes creek

water in New Canyon. Existing

ditch owned by Hershberg family

waterway for but dedicated water

for past 9 years.

Concern one when water was to be

used on east side of Mauna Creek

ISSUES:

1. WAS RIGHT FORFEITED

2. WHAT IS SOURCE

3. WHAT IS PD

4. CAN NEW GROUND BE IRRIGATED UNDER

THESE PROBABLY NEED TO BE FIELD

REVIEW

WHAT IS THE SOLUTION UNTIL

ADJUDICATION IS COMPLETED

concern of Howard Fredrickson

is planning water to new land

IS water right valid?
WHERE DO WE DELIVER IT?
WHAT SOURCE DOES IT COME FROM?

Joe Knefuff originally allowed

Haniflow 11 Siddaway to use ditch

FOR PURPOSE OF GETTING ALONG WITH

Siddaway will own 1/3 of water

across the new ground

to preserve everybody's rights

to objection a year or so

Will allow use of diversion

Knefuff would agree if 1893

is not considered

Proposals

1. Stay with 60 acres

2. Turnover to FDR to make

DECISION

3. RATION

53

31-00053, 00054, 00055

1893

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The foregoing is a true and certified copy of
the document on file at the department of
Water Resources.
Signed this 30th day of Aug, 2002
DET

Kilgore, Idaho
October 19, 1989

The foregoing is a true and certified copy of
the document on file at the department of
Water Resources.

Signed this 30th day of Aug 2002
D. E. Tandy

TO: Jack Hamilton
Harold Siddoway

As of this notice you are informed that you can no longer use our
water diversion located in Section 32 on East Camas.

Watermaster, Don Shenton, has been notified to not deliver any
water to you from said diversion located on the Mc Cormick
property in the NW1/4 of Section 32, Township 13N, Range 39E,
Clark County, Idaho.

M. H. Bennett
Joe S. Knutwell
David J. Hirsch

Water District #31

Box 33
Dubois, Idaho 83423
(208) 374-5230

Donald W. Shenton
Watermaster

July 23, 1992

Mrs. K.L. Bennett
Dubois, ID 83423

RE: East Camas Water Right

Dear Mrs. Bennett,

In answer to your letter dated July 9, I will try to explain the happenings as I have found in my records and by my best recollection as to why the record indicates what it does.

First, I have no knowledge of ever delivering water to Mr. Sherman Halverson from East Camas Creek sources at the mentioned Knotwell, Hirshi, Bennett Diversion.

I must inform you however, that after a search of the records that water right #29 which is the water right of contention, the water has been delivered every year except 1978 as far back as I reviewed the records to 1955.

However this water delivery was made to Mr. Halverson through one or the other three of Mr. Halverson's Ching Creek Points of Diversion. Up until 1982 I did not know that Right #29 was claimed to be an East Camas Creek Source until Mr. Siddoway made request for delivery at the point of diversion of contention. Mr. Halverson had on occasion told me he had the right to use water from East Camas or Ching Creek at any point of diversion that he so wished, however he did not have evidence to confirm his statements.

The biggest problem with defining the source is that the decree states the source to be Camas Creek but the water had been delivered by my predecessors from Ching Creek. Mr. Halverson told me on occasion that the original source was Warm Creek. I made the deliveries through Ching Creek mostly because that is the way it was historically done and was accepted as such by the users on Ching Creek. The decree is very vague on source of water and the point of diversion as you will note.

There were no deliveries of water from Right #29 in 1981, but since that time deliveries have been made from East Camas Creek from Right #29 to Siddoway and Hamilton.

Hoping this will answer your request.

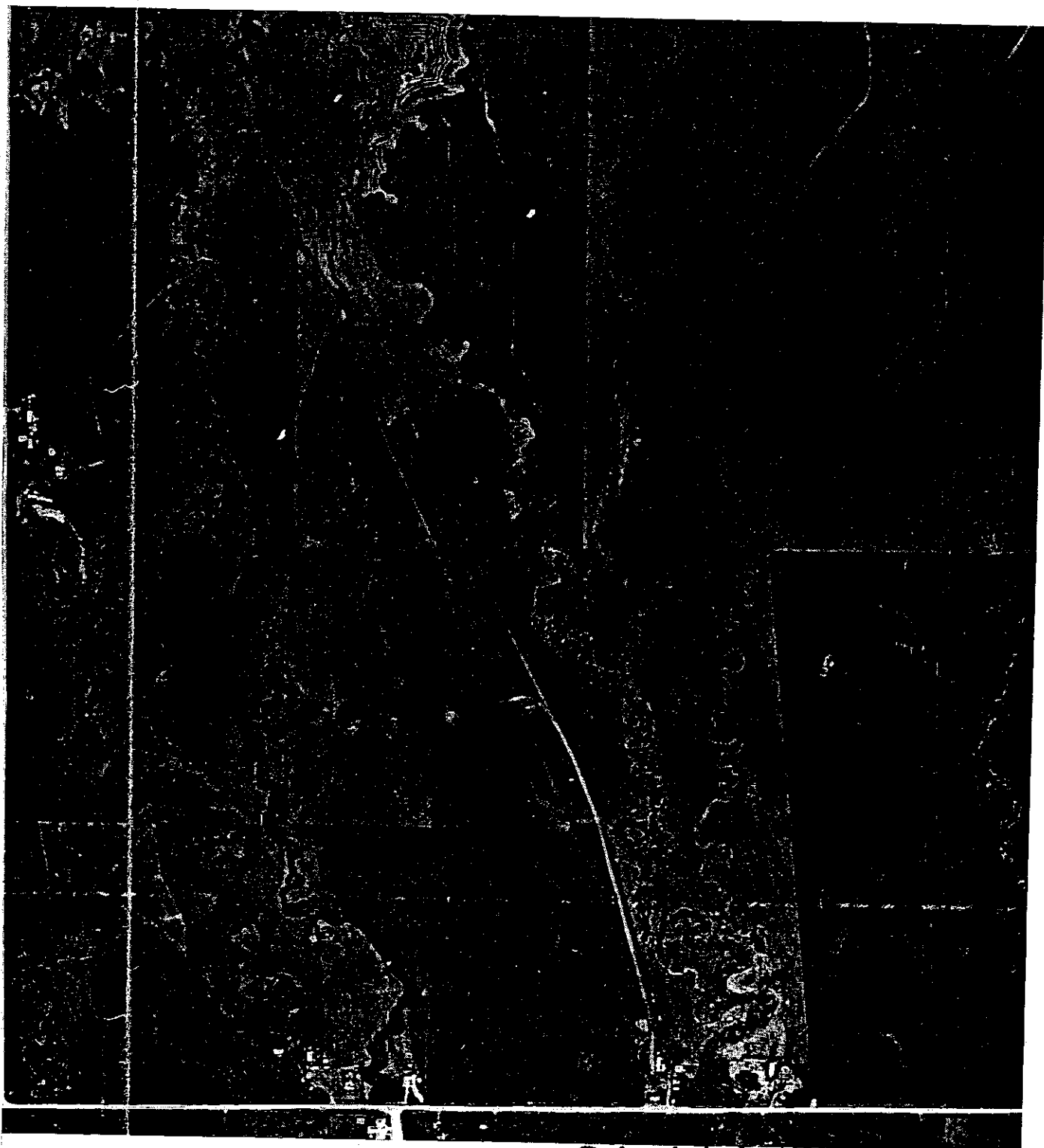
Sincerely,

Donald W. Shenton
Donald W. Shenton
Watermaster

The foregoing is a true and certified copy of the document on file at the department of Water Resources.

Signed this 30th day of Aug 2002
[Signature]

1951



The foregoing is a true and correct copy of
the document on file at the department of
Water Resources.

Signed this 30th day of Aug 1952
J. E. T. Hall

1960

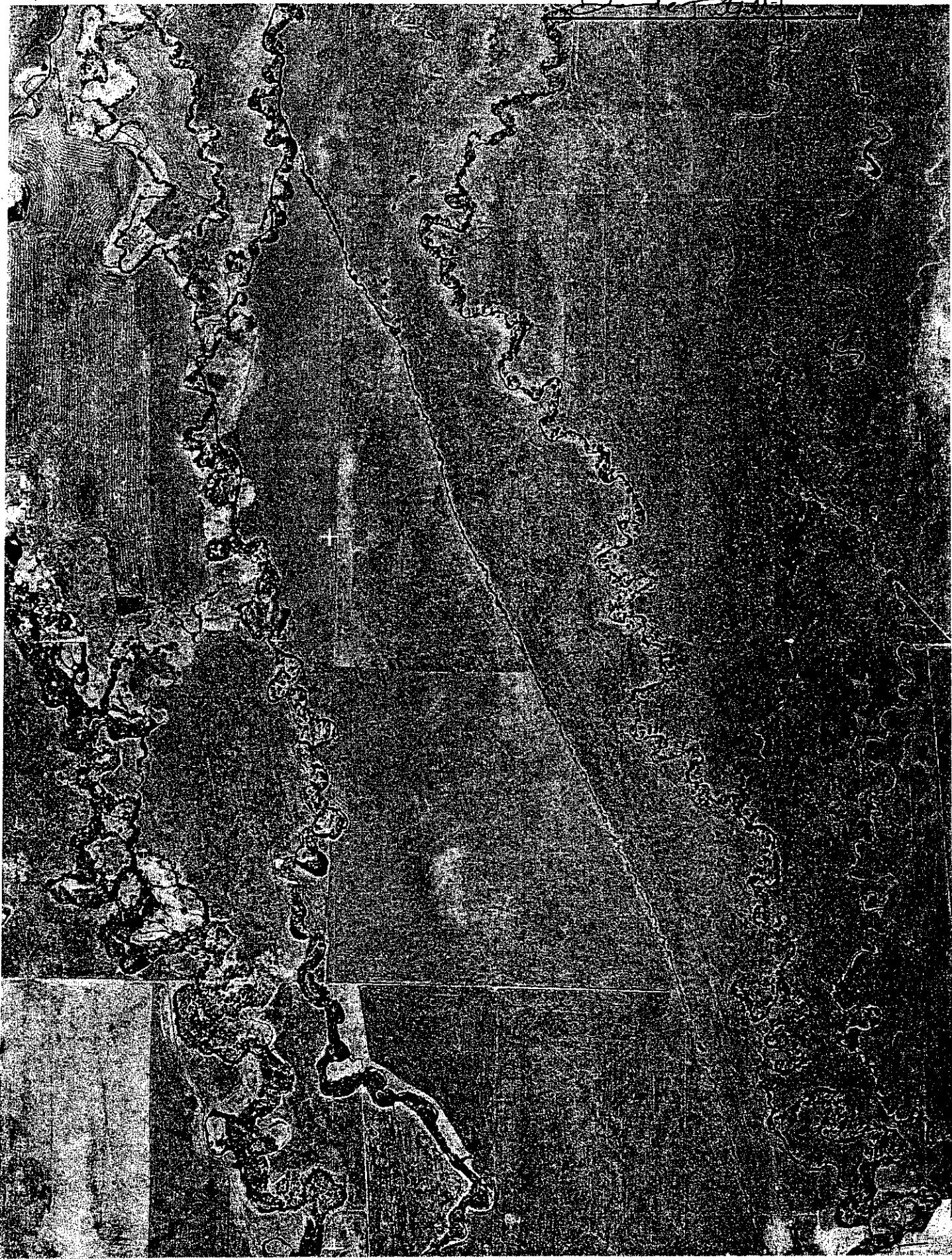


The foregoing is a true and certified copy of
the document on file at the department of
Water Resources.

Signed this 30th day of Aug, 2000
D. R. T. [Signature]

Signed this 30th day of Aug, 2002

1966



the document on file at the department of
Water Resources.

Signed this 30th day of Aug, 2002

Don E. Tuttle

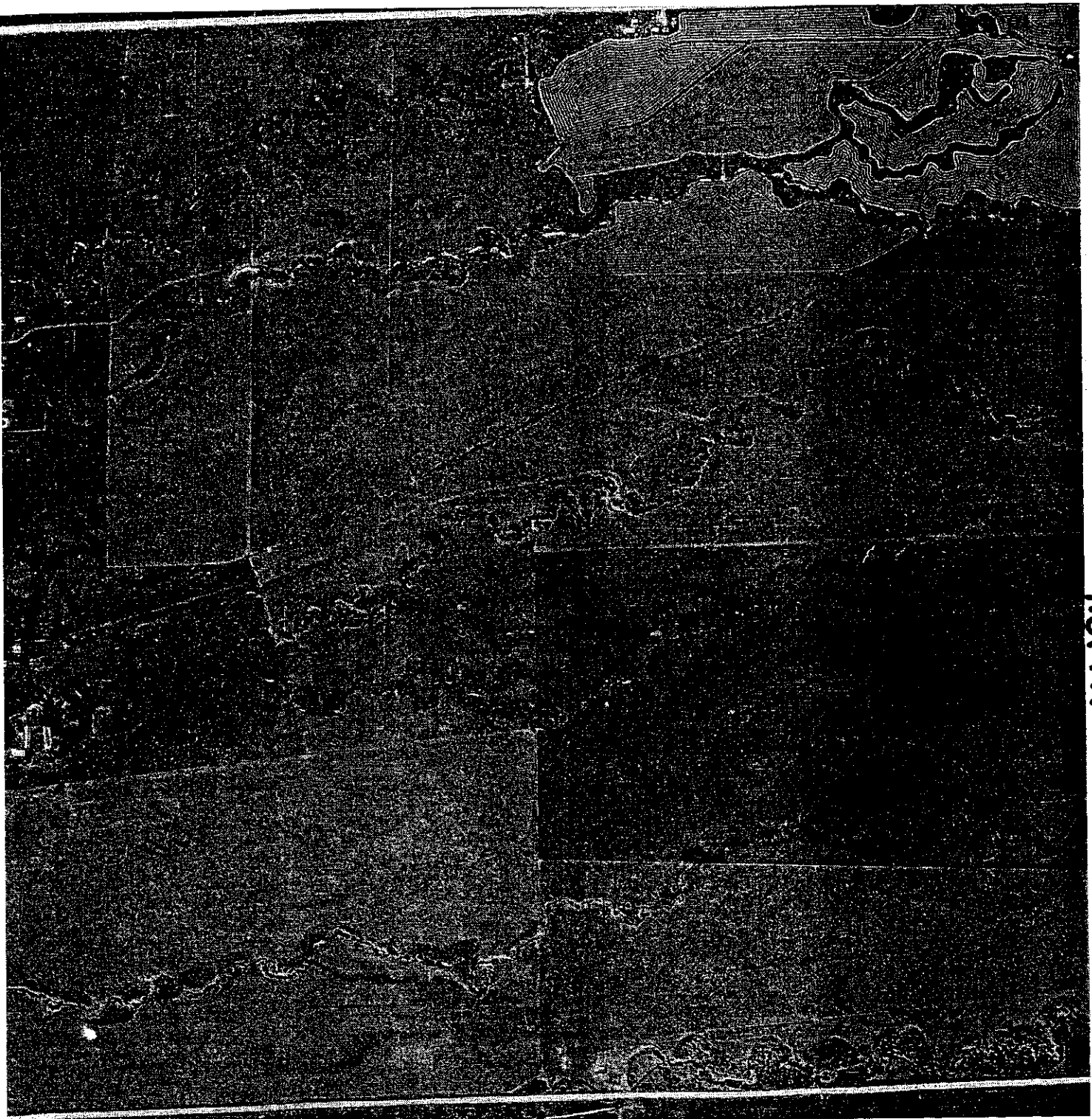
1971



The foregoing is a true and certified copy of
the document on file at the department of
Water Resources.

1978

Signed this 30th day of Aug, 2002
J. R. Tuckey



North

Signed this 50 day of Aug 2002

[Signature]

1987

29 28

32 31

33 32

34 33

32 33

32 31

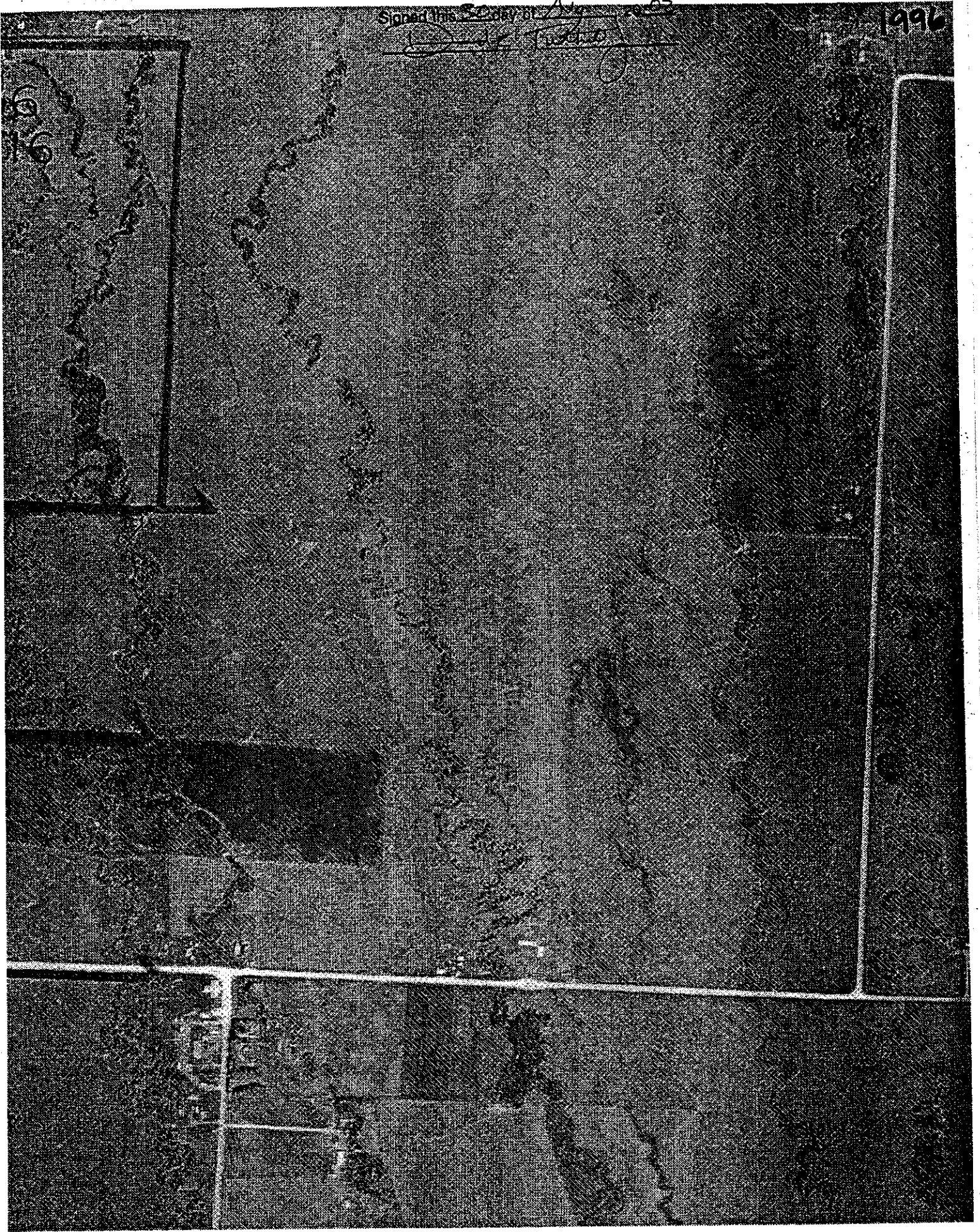
32 31

the foregoing
the document on file at the department of
Water Resources.

Signed this 30 day of Aug 2003

[Signature]

1996



BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF SNAKE RIVER)
BASIN ADJUDICATION CLAIM NOS.)
31-00022, 31-00023, 31-00053A,)
31-00053B, 31-00054A, 31-00054B,)
31-00055A, 31-00055B, 31-00088,)
31-00115,)

AFFIDAVIT OF
DAVID JUNIOR HIRSCHI

STATE OF IDAHO)
: ss.
COUNTY OF JEFFERSON)

DAVID JUNIOR HIRSCHI, being first duly sworn, deposes and says:

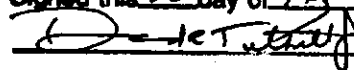
1. I am an individual over the age of 21 years and I reside at 1749 East 100 North, Rexburg, Idaho 83440. I have personal knowledge of the information set forth in this affidavit.

2. I am familiar with the land leveled in approximately 1977, by Sherman Halverson, who then owned the parcel in section 32, township 13 north, range 39 east, through which the Knotwell/Hirschi/Bennett ditch runs after leaving the point of diversion of East Camas Creek.

3. After the land was leveled, Mr. Halverson acquired a sprinkler irrigation system to sprinkle the newly-leveled parcel. He obtained water for the sprinkling system by pumping from Warm Creek at a location near the current residence of Max Siddoway, where there was a deep hole in the creek that provided an adequate supply of water for the high-volume pump that he used. I particularly remember this hole in Warm Creek, because for several years, Mr. Halverson, as well as my father and others in the neighborhood, backed our wooden wheeled wagons into the hole, which was deep enough to cover the wagon wheels, in order to soak the wheels to swell the wood and tighten the spokes and rim.

The foregoing is a true and certified copy of
the document on file at the department of
Water Resources.

Signed this 30th day of Aug, 2002



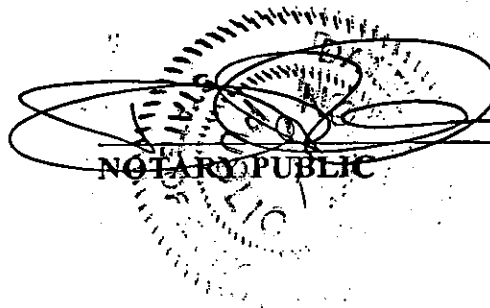
4. At no time was any excavation made in the Knotwell/Hirschi/Bennett ditch that would have been adequate to supply the volume of water required for the pump to sprinkle irrigate.

DATED this 1 day of Nov, 2000.

David Junior Hirschi
DAVID JUNIOR HIRSCHI

SUBSCRIBED AND SWORN to before me this 1 day of Nov,

2000.

A circular notary seal for David Junior Hirschi, Notary Public. The seal is partially obscured by a large, loopy signature. To the right of the seal, the date "9/5/2005" is handwritten.

9/5/2005

2002 AUG 30 PM 12: 58

DISTRICT COURT-SRBA
TWIN FALLS CO. IDAHO
FILED 38 RJ

**SUPPLEMENTAL DIRECTOR'S REPORT REGARDING
SUBCASE NOS. 31-53A, 31-55C, 31-53B, 31-54B, 31-55B**

In Re SRBA

Twin Falls County Civil Case No. 39576

Report to the SRBA District Court

**Prepared by the Idaho Department of Water Resources
Karl J. Dreher, Director
David R. Tuthill Jr., Adjudication Bureau Chief**

August 30, 2002