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**SUPPLEMENTAL DIRECTOR'S REPORT REGARDING
SUBCASE NOS. 41-8C, 41-8D and 41-8F**

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

December 10, 2004

I. INTRODUCTION

In his *Order for I. R. E. 706 Report* issued on September 22, 2004, Special Master Terrence A. Dolan requested that the Idaho Department of Water Resources ("IDWR") submit a report pursuant to Rule 706, Idaho Rules of Evidence for subcases 41-00008C, 41-00008D and 41-8F. Of special interest to the court is whether or not errors were made in the recommendations of the water rights utilizing the Adshead Ditch with regard to the allocation of the source. In response to this order and in accordance with Idaho Code § 43-1412(4), Administrative Order 1, and I.R.E., Rule 706, IDWR submits this Supplemental Director's Report. While this report explains the basis of IDWR's recommendations of the rights in question, it also summarizes the procedural and substantive history of settlement efforts that have occurred since IDWR's recommendations were filed with the Court. IDWR takes this unusual step because it believes this information is relevant to the court's determination of the issues presently before it. This report was prepared under the supervision of Karl J. Dreher, Director, and David R. Tuthill Jr., Adjudication Bureau Chief for IDWR.

The following IDWR employees have knowledge of the information contained in this report: Senior Water Resource Agent Steve Clelland.

II. BACKGROUND

There are five water rights that appropriate water from the South Fork of Rock Creek through the Adshead Ditch: 41-8B, 41-8C, 41-8D, 41-8E and 41-8F. Water rights 41-8C, 41-8D and 41-8F are the subjects of a *Motion to Set Aside Partial Decrees* filed

by James Juan Spillett on June 14, 2004. Water rights 41-8B and 41-8E were already before the SRBA Court.¹

Parent water right, 41-8, was included in an arbitration of the claims to the use of water of Rock Creek and its tributaries, which was submitted for arbitration in March of 1890. Notice of Award in the matter was filed with the District Court of the Fifth Judicial District of Idaho in and for Oneida County² on June 6, 1903. The findings awarded water right 41-8 a diversion rate of 160 inches. Charles Taysom Sr.³ was entitled to one half of the flow, David Taysom and Wm. Adshead were each awarded one fourth of the flow. The award doesn't clearly describe the place of use or the number of acres involved for water right 41-8. Although a decree of the findings of arbitration was requested, there is apparently no record of a decree being entered, although the Notice of Award was recorded in Oneida County's records of judgments.⁴

Rock Creek water rights are administered according to the award of arbitration, and it has been treated as a water right decree insofar as based upon it IDWR created a water district which annually elects a watermaster to distribute water to the Rock Creek users. The findings of arbitration will hereafter be referred to as the Houtz Decree (documents relating to the Houtz Decree, including the findings, are attached at Attachment 1).

¹ The Director's Report for Irrigation and Other Rights was filed with the SRBA Court on November 2, 1999. The recommendation of right 41-8B was objected to by the claimant, James Juan Spillett, on December 16, 1999. Right 41-8E, claimed by Robert and James Spillett, was partially decreed on July 28, 2000. At the request of the claimants, the partial decree was set aside on July 3, 2002. Both rights have been the subject of ongoing settlement discussions.

² The Rock Creek Valley was in Oneida County at this early time.

³ The Findings and Award of Arbitrators lists the Taysom claimants as Tayson.

⁴ Whether a decree ever was entered will likely never be learned. IDWR has been informed that a courthouse fire destroyed many early records of Oneida County.

The Houtz Decree gave specific details on construction and placement of a measuring box to be used to measure all flows awarded in the decree. See Findings & Award of Arbitrators at page 15. This box method of delivery has been used for the Rockland valley water rights for over 100 years. In the mid-1990's, it was discovered a miner's inch of water delivered through measuring boxes constructed according to the instructions given in the Houtz Decree run approximately 15-30% less than a normal miner's inch, which in Idaho constitutes an instantaneous diversion rate of 0.02 cfs. Moreover, the magnitude of the variance itself varied in relation to box condition and how much water was flowing through the box. In a letter to water users dated February 10, 1995, Steve Clelland, the Sr. Water Resource Agent assigned to investigate Basin 41 water rights, informed affected water users that "the box method, as applied in the valley, is not a standard measuring device." However, Mr. Clelland explained that IDWR would make its SRBA recommendations "based on the historical beneficial use and historical diversion rate represented by use of the box method."⁵

In a further complication, the five water users that utilize the Adshead Ditch have done so through an historic rotation agreement whereby each user diverts the entire decreed flow (approximately 3.2 cfs) for a proportionate length of time.⁶ This rotation

⁵ IDWR determined it was virtually impossible to convert the box measure quantities to true miner's inches due to the variability of flows through the boxes under different conditions. It concluded that the approach least disruptive to the water users was to leave the existing system in place, since it had been functioning adequately for over a hundred years. Thus all rights listed in the Houtz Decree were recommended with a remark recognizing the box method of measurement for measuring the recommended quantities. Water rights noted in the Houtz Decree were recommended with a quantity remark noting, "The quantity listed above shall be measured at the point of diversion listed for this right by means of a measuring box of the type and dimensions decreed by in RE Houtz et al (Oneida County, Sixth Judicial District Court, June 6, 1903)".

⁶ The Houtz Decree did not specify whether the water awarded was to be delivered on a continuous or a rotational basis.

agreement became an issue in transfer 3519, filed by James Juan Spillett, on December 5, 1988, involving right 41-8.⁷

Transfer 3519

Application for Transfer #3519 proposed to change the point of diversion of a portion of water right 41-8 (.6 cfs or 30 inches) to allow for a conversion from gravity irrigation to sprinklers. Mr. Spillett wanted to pump directly from the South Fork of Rock Creek for the irrigation of 75 acres. In his Recommendation of Watermaster, James Robinson, the Rock Creek watermaster, was concerned that using "a 30 inch right would irrigate 30 acres. This application is to irrigate 75 acres which would constitute an expanded use." Protests against the application were filed by Farold Nelson and 7 UD Ranches (Nelson), and from the Bench Ditch Irrigation Company (Bench). Among Mr. Nelson's concerns was injury to his water right and increased ditch losses to other users of the Adshead Ditch. A Final Memorandum Decision and Order was issued in August of 1990 that both parties filed exceptions to. In September of 1992, a Second Proposed Memorandum Decision and Order (Order) was issued which was adopted as a final decision on October 1, 1992.

The Order approved the transfer of the point of diversion from the Adshead Ditch to Rock Creek. However, Juan Spillett was required to remain in the rotation arrangement with the other users of Adshead Ditch water. This was not a practical arrangement for him, as it would require a larger pump system. That is, rather than pumping a constant 30 inches out of Rock Creek, he would have to have a pump large enough to pump 160 inches, which he would only be allowed to use during his turn on

⁷ The rotation agreement was also involved in transfer 3518 that Mr. Spillett filed with transfer 3519. Transfer 3518 involved Rock Creek water taken through Jackson Ditch. Jackson Ditch is located downstream (north) of the Adshead Ditch. The Order IDWR issued in the matter covers both transfers.

the rotation. Since this was not practical, Juan Spillett instead traded a portion of his Adshead Ditch water for water from the Jackson Ditch, which was not covered by a rotation agreement. Juan Spillett exchanged 10 inches of his Adshead water to Robert Spillett and another 10 inches of his Adshead water to the Westons. In return, Juan Spillett received 10 inches of Jackson Ditch water from both Robert Spillett and the Westons. This water swapping arrangement is discussed below at pp 10-12.

The Order also limited the place of use for right 41-8B to 30 acres and didn't recognize expanded acreage.

III. INVESTIGATION OF ADSHEAD DITCH RIGHTS IN THE SRBA

At the time that Mr. Steve Clelland, the IDWR Senior Water Resource Agent who investigated and recommended the water right claims in Basin 41, the Rock Creek Valley, began his investigation, IDWR had in its possession two documents relevant to the issues presently in dispute among the users on the Adshead Ditch. One was a document apparently prepared by Mr. Jack Robinson, the predecessor watermaster to the present watermaster, Mr. James Robinson. See Attachment No. 2. While not dated, the document likely was prepared in 1965, being as listed on its face sheet are the members of the water district advisory board for 1965. The document consists of a list of the quantities delivered by the watermaster to the various users on the various ditches in the Rock Creek Valley. The listing in effect shows how the various rights in the Houtz Decree subsequently had been divided, and shows, by ditch, the quantities delivered to each water user at the time. The quantities shown on this list are what the participants in the ongoing settlement discussions involving the rights on the Adshead Ditch call the "historic" quantities.

IDWR also had in its possession a document that had been attached by the claimant to the claim for water right number 41-8E. This document is a copy of the listing contained in Attachment 2. However, it contains additional handwritten notation regarding the quantities listed for the Adshead Ditch. Among other things, this notation includes the crossing out of the "historic" quantities, and a penciled-in listing of different quantities. The penciled-in quantities total 160 inches, the total quantity allocated to the Adshead Ditch, but in effect revise or reallocate the "historic" quantities for the ditch. See Attachment 3. In the settlement negotiations that have occurred subsequent to IDWR's filing of its recommendations for the Adshead Ditch rights, IDWR has learned from the present watermaster that the handwritten notations were those of the previous watermaster, and that they reflected quantities listed for purpose of calculating the amount of money the individual water users on the Adshead Ditch were to be billed by the watermaster for delivery of their rights. These numbers will be referred to as the "billed" quantities.

For purpose of his investigation and recommendation of the rights in the Rock Creek Valley, Mr. Clelland requested and received from the watermaster a schedule of the quantities the watermaster was currently delivering to the individual water users. See Attachment 4. For the most part, the quantities contained on the current delivery schedule were identical to the "historic" quantities listed on Attachment 2. However, the quantities listed for the Adshead Ditch were the "billed" quantities listed on Attachment 3.

In preparing his recommendations Mr. Clelland relied on what he believed to be the best information available to him at the time: what he understood to be the

watermaster's current delivery schedule. Therefore he based his recommendations on the quantities listed in Attachment 4. This had the effect of Mr. Clelland basing his recommendations on the "historic" quantities for all the ditches in the valley, save the Adhead Ditch. His recommendations for the rights out of the Adshead Ditch were based upon the "billed" quantities.

IV. WATER RIGHTS DELIVERED THROUGH THE ADSHEAD DITCH

The quantity and acreage recommended by Mr. Clelland for each of the Adshead Ditch rights are as follows.

41-8C

Water right 41-8C was claimed in the SRBA by Kelvin and/or Suzanne Taysom. The Taysoms claimed .4 cfs, or 20 inches—the historic quantity—for the irrigation of 58 acres. An IDWR remark on the claim notes that the claimant receives water on a 12-day turn agreement at 35-hour turns. The water right was recommended at .367 cfs—the billed quantity—for the irrigation of 47.6 acres. No objections were filed and the right moved to partial decree in 2000.⁸

41-8D

R. Scott Weston and/or Herbert R. Weston filed the SRBA claim on water right 41-8D. The Westons claimed .533 cfs—the billed quantity—for the irrigation of 70 acres. The right was recommended at .533 cfs on 26 acres. No objections were filed and the right was partially decreed in 2000.

⁸ Partial decrees for water rights 41-8C, 41-8D and 41-F were issued on July 28, 2000. It was later discovered that those partial decrees, as well as other partial decrees issued in Basin 41, were missing a recommended comment because of clerical omission. On March 12, 2001, the Partial Decrees were amended *nunc pro tunc* to correct the oversight.

41-8F

7 U D Ranches filed the SRBA claim on water right 41-8F. Shortly before the filing of the Basin 41 Director's Report, the claim was amended. The amended claim asserted 1.41 cfs, 70.5 inches of water—the billed quantity—for the irrigation of 112.2 acres. IDWR recommended the right as claimed: 1.41cfs for 112 acres. No objections were filed and the right was partially decreed in 2000.

There are two other water rights that utilize water through the Adshead Ditch: 41-8B and 41-8E. Although not included in the Order for I.R.E. 706 Report, these rights are discussed because of the close relationship all Adshead Ditch rights share.

41-8B

James Juan Spillett filed claim 41-8B for the irrigation of 120 acres with .8 cfs, 40 inches—10 inches more than the historic quantity of water. IDWR recommended the right at .533 cfs—the billed quantity—on 50 acres.⁹ Juan Spillett objected to the recommendation stating that the quantity should be .60 cfs and method of measurement shouldn't be restricted to the Houtz box. Mr. Spillett also objected to the point of diversion and wanted the full 120 acre place of use he had claimed. On February 28, 2000, James Robinson for Bench Ditch Irrigation Company filed a response to Mr. Spillett's objection.

41-8E

Grace Spillett filed SRBA claim 41-8E for the irrigation of 59.4 acres with .720 cfs of water. These 36 inches of water reflects neither the historic nor the billed quantity. A Change of Ownership was filed with IDWR in 1999, and the right was recommended

⁹ The right was limited to irrigation of 30 acres in a 50-acre POU and a 50-acre POU when combined with rights 41-13B, 41-10258 & 41-10259.

in the names of Robert R. and James V. Spillett. IDWR recommended .355 cfs—the billed quantity—for the irrigation of 43 acres. No objections were filed and water right 41-8E was decreed as recommended on July 28, 2000. As noted above, in 2001 the Spillett brothers notified IDWR that they had problems with several of their partial decrees. Although no specific problems were noted regarding right 41-8E, because of the potential impact settlement of the Juan Spillett objection might have on the right, the SRBA court subsequently set aside the partial decree.

V. SUBSEQUENT EVENTS

Early in negotiations regarding the objection on the Juan Spillett right, 41-8B, it became apparent that other Adshead Ditch users could be affected by the outcome of any settlement. An information meeting was held in Rockland on August 29, 2001, with all the Adshead Ditch water users. The users who weren't parties to the 41-8B subcase were informed that resolution of Juan Spillett's objection could impact the other rights on the Adhead Ditch. They were informed that if they wished to formally participate in the settlement negotiations regarding that objection, they needed to file motions for late responses or motions to set aside their partial decrees¹⁰ to allow them to participate because of the Houtz inch issue and possible implications for their water rights. These waterusers were given approximately 60 days to notify the court of any further action they wished to take on their water rights.

In response to this notification opportunity, IDWR received correspondence from Scott Weston (water right 41-13A) as well as Robert and James Spillett (water rights 41-

¹⁰ The motions to set aside partial decrees were discussed mainly as a way to handle water swapping done between Robert Spillett and Scott Weston on the Jackson Ditch and Juan Spillett on the Adshead Ditch in an effort to comply with transfer #3519.

8E,¹¹ 41-13C & 41-10230). Rights 41-13A and 41-13C, which utilize water through the Jackson Ditch, were involved in a water swapping arrangement with Juan Spillett for his Adshead Ditch water. The only other right taken through the Jackson Ditch is right 41-13B, claimed by Juan Spillett. Right 41-13B is recommended for .2 cfs for use on 10 acres in a permissible place of use. In order for Juan Spillett to pump a constant flow of thirty inches from Rock Creek, he exchanged 10 inches of his Adshead water to Robert Spillett and another 10 inches of his Adshead water to the Westons. In return, Juan Spillett received 10 inches of Jackson Ditch water from both Robert Spillett and the Westons, a total of 20 inches. Coupled with his own 10 inches of Jackson Ditch water, he was able to pump a constant flow of thirty inches from Rock Creek through Jackson Ditch. He left the remainder of his Adshead Ditch water in the ditch.

However, Mr. Weston's water right taken through Jackson Ditch, 41-13A, had been disallowed in the SRBA for nonuse. The James and Robert Spillett right taken through Jackson Ditch, 41-13C, had been recommended and decreed, but at 5 inches of water on 5 acres. The Spillett brothers wanted to restore the decree to the rights' original 10 inches for use on 13 acres. Mr. Weston requested his right be allowed as the right had been in use, and it should therefore be recommended as such.

The correspondence written by the Spillet brothers and Mr. Weston were treated by the Court as motions to set aside the partial decrees, and the Court set aside partial decrees 41-13A, 41-8E, 41-13C and 41-10230, on July 3, 2002. Standard Forms 5 were filed in subcases 41-13A and 41-13C in early 2003 recommending each for the use of .2

¹¹ The letter noted water right 41-8C that is claimed by Taysom—it is assumed the Robert and James were referring to their decreed right, 41-8E that is discussed below. Water right 41-10230 was decreed with a 43-acre place of use. Spilletts noted there were 50 acres in this parcel.

cfs (10 inches) of water on 10 acres within a permissible place of use. Rights 41-8E, 41-13B and 41-10230¹² are still at issue.

Various settlement discussions were held on the Adshead Ditch rights with the Spilletts and Westons. Kelvin Taysom (right 41-8C) and 7UD Ranches (right 41-8F) did not participate as no notification had been received from them to indicate they wished to participate in the subcase proceedings. At a June 2003 settlement meeting, there was discussion of Juan Spillet's 10 inches of Adshead Ditch water that he wasn't able to utilize. Juan offered to accept 6.67 inches of Adshead Ditch water instead of fighting for the full 10-inch historic amount if he could take the water out of rotation¹³. Because this proposed settlement had implications for the Adshead Ditch rights of Mr. Taysom and 7UD Ranches, Mr. Spencer prepared and sent a letter to those claimants informing them of the situation and explaining the settlement proposal.

In his letter of September 23, 2003, Mr. Spencer pointed out that in transfer proceedings, the IDWR hearing officer found that Juan Spillet's water right 41-8B had a 30-inch share of the Adshead Ditch water (of a total of 160 inches). The right was recommended by Mr. Clelland at the lesser amount of 26.67 inches in order to be consistent with what he thought was the current delivery schedule of the watermaster. Juan Spillet, who had traded 20 inches of his Adshead Ditch water for 20 inches of Jackson Ditch water, offered to accept the 26.67 inches recommended for his 41-8B right if he could take the remaining 6.67 inches out of rotation and directly through Rock Creek. Mr. Spencer explained that removing the 6.67 inches would leave 153.33 inches of the original 160 inches to be delivered down the Adshead Ditch. This would lessen

¹² Water right 41-10230 is a high water claim and not specifically involved in the issues at hand.

¹³ IDWR recommended 26.67 inches to Mr. Spillet, 20 inches that he traded for Jackson Ditch water, leaving 6.67 inches left in Adshead Ditch.

the amount of instantaneous quantity available to the remaining users of Adshead Ditch but give each of them a longer turn at using the water, as they would share pro rate in Juan Spillett's turn on the rotation. The total volume received by each Adshead Ditch user wouldn't change.

Mr. Spencer did include an informational table in his letter that noted the recommended "billed" amounts versus the "historical" amounts of the Adshead Ditch rights. Unfortunately this table contains a clerical error. The historic quantity for right 41-8C (Taysom) was shown to be 10 inches while the historic quantity for right 41-8E (the Spillett brothers) was shown to be 20 inches. These two amounts should be reversed, with Taysom historically receiving 20 inches and the Spillett brothers 10 inches.

Mr. Spencer's letter eventually lead to another settlement meeting in Rockland on December 9, 2003, with all Adshead Ditch users. Mr. Gene Nelson of 7 UD Ranches stated that his system was set up to use the full 160 inches, and that was what he needed in the ditch. Unfortunately, no settlement was reached.

Because any upward quantity adjustment made to the recommendation of Mr. Spillett's 41-8B right would—without downward adjustment of other rights—leave the 41-8 right allocated beyond its 160 decreed inches, on June 14, 2004, legal counsel for Juan Spillett filed Motions To Set Aside Partial Decrees on all partially decreed rights using the Adshead Ditch, rights 41-8C, 41-8D, 41-8E¹⁴ and 41-8F.

A hearing on that Motion was held in Rockland on September 9, 2004. Prior to that hearing, parties did discuss the Adshead Ditch rights with Special Master Dolan. Mr. Spencer did point out the discrepancy involved with the "historical" decreed amounts and

¹⁴ The partial decree for water right 41-8E had been previously set aside on July 3, 2002.

the recommended "billed" amounts. It was decided an I.R.E. 706 report would be helpful to the parties.

VI. ARE IDWR'S RECOMMENDATIONS OF THE QUANTITY ELEMENTS OF THE ADSHEAD DITCH RIGHTS IN ERROR?

Since IDWR's resources are not unlimited, the agents who investigate and recommend water rights in the SRBA are unable to meticulously research every discrepancy or question that arises in the course of their investigations. Instead, they base their recommendations on what they determine to be the best information that is readily available. They rely upon IDWR's notice of error process, and ultimately the objection process in the SRBA Court, to raise and resolve issues they cannot or have not been able to resolve during their investigations.

In the present case, Mr. Steve Clelland, the investigating water resource agent, used what he understood to be the most current information available upon which to base his recommendations. He did this in spite of the fact that IDWR had some information containing numbers at variance with the numbers he chose to use. This is not unusual, since it is in the nature of water rights to change and evolve over time. The obvious and logical explanation for such a discrepancy simply was that the quantities listed for the Adshead Ditch in 1965 had by some means been changed by 1993. If this were not the case, or if in some way the change was contentious or disputed, IDWR would rely upon the claimants on the ditch to explain the true situation in proceedings subsequent to the filing with the SRBA Court of IDWR's recommendations of the rights.

Unfortunately, in the present case the nature of the change in the quantities listed for the Adshead Ditch has not yet been explained. The watermaster has explained that

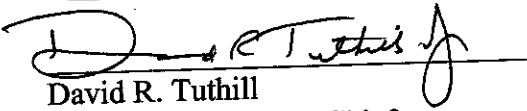
the "billing" numbers were for billing purposes and were not the "historic" numbers. It is completely unclear, however, whether the quantities actually delivered changed in accordance with the "billing" numbers.

This issue is made more complex by the rotation agreement on the Adshead Ditch. The watermaster only turns a constant flow of 160 inches down the ditch. The users then take turns using the entire 160 inches. The only way a change in the quantity allotted to each user would be evidenced would be through a change in the length of the turns on the rotation. IDWR does not know whether this has occurred or not. But whether it has occurred or not, the question remains as to why the previous watermaster would change the historic numbers if nothing regarding turns on the rotation had changed? And if nothing had changed, why would the previous watermaster bill for quantities different from what actually was delivered? None of this has yet been satisfactorily explained.

For this reason, IDWR does not know whether its quantity recommendations are in error or not. It does not know what the true quantities of these rights in fact are.

All it can say at this point is that the previous watermaster changed the "historic" numbers for the Adshead Ditch, and these changed numbers made their way into the records relied upon by the agent recommending the rights. Because the Adshead Ditch rights are recommended in accordance with these "billing" numbers, they are recommended differently from all the other ditches in the Rock Creek Valley, since all the other ditches are recommended based upon the "historic" numbers.

IDWR respectfully submits the Supplemental Director's Report Regarding
Subcase Nos. 41-00008C, 41-00008D, and 41-8F this 10th day of December 2004.


David R. Tuthill
Adjudication Bureau Chief

① In the matter of the application of
H.P. Houtz-et al; for the arbitration of
the of the claims to the use of water of
Rock Creek and its Tributaries.

41-2
File 99

Now on this day comes the parties by their
attorney, D.W. Standrod and having filed a stipulation in writing signed
by all the parties to said controversey agreeing to submit the matter
mentioned in said controversey to arbitration; now on motion of D.W. Stand-
drod, their attorney it is ordered that the said controversey be submitted
to Frank Campbell of American Falls, H.R. Evans and D.W. Standrod of Malad
City, said County and Territory, for determination who shall have their
award drawn up in writing and signed by them or two of them and filed in
this Court on or before the 20th, day of June, A.D. 1890.

I hereby certify the above and foregoing to be a full, true and correct
copy of the minutes of the Court made and entered in the record of the
District Court of the 3rd Judicial District of Idaho, in and for Oneida
County on the 2nd day of April, A.D. 1890. in the above entitled matter.

D.J. Reynolds,
Clerk

(SEAL)

In the District Court of the Third Judicial District of Idaho,
in and for Oneida County.

In the matter of the Arbitration of
Henry Houtz- et-al; to the rights to the use of the waters of Rock Creek
and its Tributaries.

We the undersigned, mutually agree to submit and do
submit all our matters of differences, in the matter of the division of
the waters of Rock Creek, in Oneida County Idaho, and its tributaries, to
the award and decission of Frank Campbell D.W. Standrod and Henry R Evans,
for them to hear and determine the same and make their award in writing.
and we further agree that this submission to arbitration of the controversey
herein named shall be entered as an order of the District Court of
the Third Judicial District of Idaho, in and for Oneida County.

Dated this the

March, 1890.

Henry Houtz, Jr.,
S.N. Morris.
L. Barnard,

Andrew Allen
D.C. Tyler.
Wm. Furgeson

L. Lance
Joseph Brown.
D.A. Budge

ATTACHMENT 1

David Taysom
W.M. Adshead.
G.A. Parry
John Hartley.
H.D. Lish.
Bradley Jackson.
E.T. Olney.

Prom. Stock or Ranch Company.
Joseph Henrie
Jas. Hartley
Bench Ditch Co.
Hyrum Frodsham.
May and Hillhouse Ditch Co
U.S. Ditch Co.

Charles Taysom.
S.C. Hatch.
D.C. Tyler; Se
Hyrum Hartley
West Ditch Co.
Geo. McDonald
Jim Wgmn-Indian

Kelley and Frodsham Ditch Co. John Montewitch
W.H. Philbrick.
H.A. Pease.
G Valdez.
H.C. Wood.

I.L. Stewart.
Jos Perkins.
Niel Danielson.

V.J. Stewart.
Henry Joutz-Se
Geo X. Stanger
J.S. Sherman.

by State of Idaho,

County of Oneida, *SS.*

C.A. Warner, being first duly sworn says that he has read the foregoing and the same is in substance a copy of an agreement to submit to award the division of the waters of Rock Creek; that the same was duly signed and filed in the office of the Clerk of the said Court on the 2nd day of April, 1902; that he has searched the records of the said Clerks office and caused search to be made for the original of the same but that it can not be found and the same is lost.

C.A. Warner

Subscribed and sworn to before me this the 29th day of Nov. 1902.

D.C. McDougall, N.P.

In the District Court of the Third Judicial District of Idaho
in and for the County of Oneida.

In the matter of the Arbitration
of Henry Houtz et al. to the rights
to the use of water of Rock Creek
and its tributaries.

FINDINGS AND AWARD OF ARBITRATORS

Articles of agreement of arbitration in the above entitled matter having been filed in the said Court on the 1st, day of April, 1890, and application made that said arbitration be submitted to Frank Campbell, of American Falls and H.R. Evans and D.W. Standrod of Malad City, Oneida County, Idaho: In pursuance of said application, the said Court on the 1st. day of April, 1890 made an order that said arbitration be submitted to the parties mentioned in said application: whereupon by virtue of said order and in pursuance of law the undersigned arbitrators, after giving due and sufficient notice to all the parties interested in said matter of arbitration and whose right would be

affected thereby, met. all three being present and duly subscribing and taking the oath required by law in that behalf at the school house at Rockland, the same being a most convenient point to all parties interested, for the taking of evidence, and did on the afternoon of June the 18th 1890, many of the parties interested in said arbitration being present, proceeded to the taking of the evidence in said matter of the different claimants to the right of the use of the waters of Rock Creek and its tributaries and did continue the taking of the evidence and the hearing of said matter without interruption untill the close thereof on the 20th following. That all the evidence in said matter was taken by us in

writing as given by the witnesses sworn; and after having visited said stream and its tributaries at different points and inspected the channels thereof and the ditches leading therefrom and made observation of the natural flow of said stream and its tributaries, the location and surroundings of the Country Irrigated thereby, and after having duly considered all the facts gained by this observation, and ^{having} duly considered all the evidence given by the witnesses in said matter, do hereby find the following facts, and make this our award:

Rock Creek is a stream running in the north westerly portion of Oneida County, Idaho, the south fork of which heads about 30 miles from where it flows into Snake River, running almost due north through what is known as Rock Creek valley. the said south fork is formed by springs arising at the head thereof and smaller tributaries flowing from smaller valleys or canons into and along its main channel. east fork of said Rock Creek is created by springs arising at the foot of the mountains about five miles from the point where the two forks unite. east fork contains a much larger volume of water than south fork and flows much more rapidly these two forks unite at point about 15 miles from the mouth of said stream, where it flows into Snake River. the valley through which said Rock Creek flows is a narrow valley and surrounded by high bench land on either side. said valley extends to within about 5 miles of the confluence of said stream with Snake River, when it is broken by mountains and not susceptible of Irrigation. we find that from the settlement and cultivation of the land in said valley, that the lands along and near the channel thereof produced tule, broad leaf and natural growth of heavy grasses; that lands lying along south fork and below the confluence of the two forks was

porous and seive like in its nature and the stream was largely diverted by means of beaver dams, by means of which the growth referred to was produced; and in some places so permanent were these dams that all the water in the channel would be dammed up at different points, and yet would be percolating through the soil, arising again and resume its course along the channel without material diminution, while the beaver dams referred to have been removed and the growth of the tule and heavy grasses referred to has to a great extent if not entirely disappeared at the hands of the farmer, and artificial dams and ditches, tame grasses and grain have appeared in their stead, the stream and soil through which it percolates have maintained their natural features, and especially so on the south fork, where the evidence shows conclusively that but very little of the water

diverted on the main channel of said stream by the farmers above is consumed and when the diversion is confined to the low lands along said valley by the farmers living along and above, the greater portion of water diverted by them, through percolating the soil, return to the main channel and but little of it is lost. the evidence shows that nearly all the claimants along said channel, have tight dams and that while we were hearing the evidence in this matter nearly all the claimants on south fork were irrigating their crops and evidently using the same water.

The east fork is much shorter and has much greater fall and in proportion has had and now has much less of the marshy growth referred to as applicable to south fork; yet, the valley proper which it irrigates, not being nearly so large and its slope from either side the main channel being more precipitous, a great portion of the water diverted from its channel and conveyed upon the lands near it naturally seeks its way through percolation back again to the main channel. no lands ^{are} irrigated from this fork but that lie in the canon or valley proper except in one instance, the lands watered by what is known as the "bench" ditch. this ditch is taken out far up the canon and extended along the canon hills out on to the high land for a distance of many miles. from the nature of this bench land, we feel confident in saying that none of the water diverted upon it can again reach the channel above or below the forks. the valley below the forks is of a nature very similar to that of south fork and what has been said of south fork would very properly belong to it, almost every dam along it being tight and the diversion of the water absolute; and still

many ditches along the channel thereof and above and below each other using water at the same time. from the nature of these valleys and the crops growing thereon, we are led to believe that there is ample water, properly and systematically used to irrigate all the crops grown thereon at the present time.

No complaint of the scarcity of water was known untill within the last two or three years and this complaint was largely attributable to the extraordinary dry seasons caused by light snow falls and the evident extension of acreage in cultivation.

Coming now to the settlements and the appropriation of water made by the different claimants in the said Rock Creek valley; we find that as far back as 1879 but few inhabitants resided in this valley. that each year has brought an influx of emigration untill at present all of the land susceptible of irrigation lying along the channels of said stream and its tributaries, has been located, settled upon and put in cultivation; that appropriations of water have been made by these settlers respectively, dating from 1879 down to the present year of 1890; that a conflict of rights has arisen among prior and subsequent appropriators that has increased with every season since 1887; that in almost every instance the lands taken by these claimants have been entered in good faith and a great number of final receipts and patents issued therefor the subsequent appropriations made upon this stream and its tributaries have in nearly all instances, been made higher up the Creek and above the appropriations made by the oldest settlers. we believe that the oldest rights should be protected and maintained and so far as it has been in our power to ascertain to what extent those rights should be allowed to go, and with due and careful regard for the rights of all subsequent claimants, we have prepared our findings and this award accordingly.

We find that in the year 1879, Henry P. Houtz located and made settlement upon the following described tract of land: S.E.1/4, S.E.1/4, sec 1 and N.E. 1/4 N.E.1/4, sec., 12, tp., 10 S. of R., 30, E. and lot, 7 sec. 6 & lot 1, sec., 7, tp., 10, S. of R., 31, E., containing 122 & 8/10 acres; and also entry to E.1/2, N.W.1/4, S.W.1/4 N.E.1/4 & N.W.1/4 S.E.1/4, sec 7, tp., 10, S.R., 31, E., containing 160 acres; that patents have issued for both of said tracts, one to the former tract dated May, 4th., 1888, and one to the latter tract March, 29th., 1890; that he has continued to own and

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reside upon said tract of land and has never disposed of any part thereof

that at the time of his location only about three claimants lived on south fork from which he claims water; that in April, 1880, he made a ditch from rock Creek to and upon his said lands 4 feet in width and one foot deep and during that season irrigated about 30 acres of meadow land, bro-

oke up and cultivated about 6 acres in wheat and one acre in garden; that acreage broken and sown in grain and grasses was extended by him every year down to the present untill now about 90 acres of said land is growing lucerne and about 80 acres in meadow land, growing natural grasses and timothy, that is, 170 acres of said land are under a high state of cultivation and require water to produce profitable crops that the meadow land referred to will produce a good and valuable crop if well irrigated up to the 15th., day of June.

41-0001 We find that the said Henry P. Houtz is entitled to the flow of 170 inches of the waters of the south fork of Rock Creek, at all times from the beginning of the irrigating season in the early spring up to the 15th day of June of each year, and from the 15th., day of June of each year and during the remainder thereof, he is entitled to a flow at all times of 90 inches of the waters of said south fork, said water to be measured under a 4 inch pressure, his right to the use thereof to date from the 1st., day of April 1880 and to be taken from ditches now built and through he takes said water on both sides of said channel of said south fork creek. We further find that in the spring of 1886, said Henry P. Houtz diverted water from the east fork through what is known as the H.C. Wood ditch and appropriated the same for the irrigation of about 7 acres of lucern grown upon the above described lands and has continued to use said water for irrigating said lucern every year since and that for irrigating said 7 acres, he is entitled at all times to a flow of 10 inches of the waters of said east fork to be taken through said H.C. Wood's ditch under a 4 inch pressure; his right to date from the 1st., day of May, 1886.

41-0002 Andrew Allen, on Oct., 27th., 1879 made settlement upon the following described tract of land, to wit: N.W. 1/4 of sec., 4, Tp., 11, S.R., 31, E, containing 159.68 acres; homestead patent for same dated March 29th. 1889; that all of said land was fenced by him during the year 1880; that on May 14th., 1880 he completed a ditch from the south fork of Rock Creek, about 40 rods long on the west side of said creek about 2 feet wide and 2 feet deep by means of which he irrigated 7 acres of grain and about 45 acres of meadow; that since said time he has increased the area of said land cultivated untill he now has about 100 acres of said land under cultivation, all being meadow land and has used the water each year since the appropriation; that about the year 1883, he and others constructed a ditch about 4 miles in length from what is known as Landen creek the same being a tributary of south fork of Rock Creek to and upon his said land and has used the same each and every year since for the purpose of irrigating the above described tract of land; that said land and the crop grown thereon require to be irrigated in order to produce a valuable crop up to the 1st., of July of every season.

41-0003 That the said Andrew Allen is entitled to the flow of 100 inches of the waters of said south fork creek at all times from the beginning of the irrigating season of each year except from the 1st., day of July to the 1st day of September of each year upon said land for the purpose of irrigating the said land; said water to be taken from the ditch on the west side of the stream above mentioned and the ditch leading from Landen creek above mentioned; but in case both ditches are used at the one and the same time, they shall not convey to the said A. Allen in the aggregate more than the aforesaid 100 inches, said water to be measured under a 4 inch pressure, and the right to the use thereof to date from the 14th., day of May 1880

41-0003 In 1879, John Gibbs made settlement on S.W. 1/4, Sec., 4, tp., 11, S.R. 31 E, containing 160 acres; that on the 17th., day of May 1880 Gibbs with other parties made a ditch from the west side of south fork of Rock Creek to and upon said lands and irrigated a crop thereon; said ditch was 2 1/2 feet wide by 10 inches deep; that in the early spring of 1881 S.N. Morris purchased the right of Gibbs to said land and water right; in 1881 said Morris cultivated and irrigated on said land 8 acres of grain and about 40 acres of hay land; in 1882 and each and every year subsequent thereto the said Morris has increased his acreage in grain, lucerne and natural meadow until now he has in cultivation thereon about 100 acres; that said

Morris has resided on said tract of land and now has homestead receipt dated July 27th., 1886.

That in the year 1879, James Frodsham settled upon the N.W. 1/4 of Sec., 9 tp., 11 S.R., 31 E. and continued to reside thereon and obtained patent therefor and continued to reside thereon until about two years ago, when he sold to S.N. Morris a portion thereof to whom he subsequently made deed dated Sept., 19th., 1889; said land described as follows: commencing at the corner of the N.W. 1/4 of sec., 9 tp., 11 S.R. 31 E; running thence south 78 rods; thence east, 92 rods; thence west 11 rods; thence N. 1 rod thence east 1 1/2 rods; thence south 12 rods; thence east 67 rods thence N. 73 rods thence west 160 rods to place of beginning, containing 78 acres; that on the 17th., day of May, 1880 the said James Frodsham constructed a ditch on the east side of the channel of south fork and conveyed the same to and upon the land above described and also constructed a ditch on the west side of the channel of said stream to and upon the said land, and used said water upon said land for the purpose of irrigation during said season and each and every season thereafter until he sold to the said S.N. Morris by the deed above referred; said deed conveying one half the water right so acquired by the said James Frodsham; that since said purchase by the said S.N. Morris, he the said S.N. Morris has used said water upon the lands last described each and every season for irrigating his crops and now has in cultivation upon said last mentioned tract about 60 acres that he now has in cultivation on both described tracts about 50 acres of grain and lucerne and about 100 acres of wild hay; that in the year 1883 he the said S.N. Morris, together with other parties constructed a ditch from Landen creek, a tributary of south fork of Rock Creek to and upon said lands by means of which water was appropriated on same; That the said Samuel N. Morris is entitled to the flow at all times of 150 inches of the water of the said south fork of Rock Creek, measured under a four inch pressure, except during the months of July and August when he is entitled to the flow at all times of 60 inches of water measured as aforesaid, the same to be taken through the ditches from said stream on the east and west side of same and from the ditch leading from Landen creek, the water taken at any time from either or all of said ditches not to exceed in the aggregate the amount above stated; his right of appropriation to date from the 17th., day of May 1880.

On July the 9th., 1879, Joseph Brown settled upon the following described tract of land, to wit: E. 1/2, S.E. 1/4, S.E. 1/4 N.E. 1/4, Sec. 19, S.W. 1/4 S.W. 1/4 Sec., 17 tp., 10 S.R. 31 E., containing 160 acres and has resided thereon continuously and has patent therefor dated Apr., 19th., 1888 that on Apr., 10th., 1880 he constructed a ditch 1 foot deep by 3 feet wide on the east side of the south fork of Rock Creek and irrigated during said season on about 20 acres of natural meadow, and has since continued the use of said water continuously from the said 10th., day of April to the present time; that in the spring of 1883 he took out a ditch with Wm. Furgerson on the west side of said south fork about 2 feet wide and 1 foot deep and irrigated about 6 acres of grain and about 30 acres of meadow and has continued the use of said water each and every season since; that in the early spring of 1880, he appropriated all the water flowing from a spring known as Brown's spring and has used all of said water continuously each and every season since.

That the said Joseph Brown is entitled to the use of 30 inches of water from the ditch on the east side of the said south fork of Rock Creek at all times except during the months of July and August; his said right to date from the 10th., day of April 1880 and is entitled to the use of 47 inches of water from said stream to flow through the ditch, known as the Brown & Furgerson ditch at all times; his said appropriation to date from May, 6th., 1883; and that he is entitled at all times to the use of all the water flowing from what is known as the Brown springs, regardless of the claim of any other party.

That on the 2nd., day of July 1882 Wm. Furgerson made settlement on the S. 1/2 S.E. 1/4 N. 1/2 N.E. 1/4 of Sec., 18, tp., 10 S.R. 31 E. and has ever since resided thereon and has patent therefor dated Mar., 29th., 1890 that on the 6th., day of May 1883 he together with Joseph Brown above mentioned constructed the ditch above referred to as the Brown & Furgerson ditch to and upon his said land; that during said year he irrigated 15 acres of grain and 5 acres of meadow land; he has increased his cultivation from year to year until he now has 30 acres of grain and 5 acres of meadow.

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41-0007
15)
That the said Wm. Furgerson is entitled to the flow of 35 inches of water from the south fork of said stream at all times for the purpose of irrigating his land, a right to the use thereof to date from the 6th. day of May 1883. 41-0007

41-0009
In July 1879, David Tayson, Charles Tayson, Sr., and Charles Tayson, Jr. and Wm. Adshead settled upon and located 3 different tracts of land lying on the same channel of the said south fork and above the lands of Joseph Brown and have continued to reside thereon and patents have issued for same; that on Oct. 1st., 1879 they completed a ditch from the south fork of Rock Creek to and upon said lands and in the spring of 1880 began the use of the water flowing therein for irrigating said lands and that each of them has increased his acreage and cultivated lands from year to year down to the present time; that we find that 160 inches flowing under a 4 inch pressure is sufficient to irrigate the lands lying under said ditch and now in cultivation; it appears that the claim of Chas. Tayson Jr. is used upon the lands of Chas. Tayson, Sr.; we therefore find that the said ditch is entitled to the flow of 160 inches at all times to be used upon the lands aforesaid as follows: one half to Chas. Tayson, Sr.; one fourth to David Tayson, and one fourth to Wm. Adshead; the right to the use thereof to date from the 1st., day of October 1879. 41-0008

41-0009
Hyrum Prodsham and James Prodsham made settlement on the land heretofore described, sold by James Prodsham to S.M. Morris and S.C. Hatch in the fall of 1879 and on May 17th., 1880 by means of a ditch constructed from the east side of said stream and from a ditch constructed on the west side of said stream in the spring of 1881, conveyed water to and upon said land and continued the use of said water jointly until the fall of 1883, when the said Hyrum Prodsham removed therefrom and made settlement on the following described tract: S.W. 1/4 Sec., 33 tp., 11 S.R., 31 E., containing 160 acres, and has continued to reside thereon ever since and has used thereon the water before acquired by him on the James Prodsham claim and now has in cultivation 7 acres of grain, 16 acres of lucerne and 22 acres of wild hay; that he also claims the right to the use of said water to be conveyed through what is known as the Landen ditch. that he is entitled to a flow at all times to 40 inches of the water of said south fork for the purpose of irrigating the tract of land last above described the same to be used through the ditch last above described; the use through said ditches not at any time to exceed in the aggregate 40 inches of water, this right to date from May, 17th., 1880. 41-0009

41-0010
That on April the 1st., 1884, James Hartley Richard Hartley and John Hartley constructed a ditch 1 1/2 feet wide by one foot deep from south fork of Rock Creek to and upon two certain tracts of land, the one owned by John Hartley and the other owned and cultivated by Richard Hartley and James Hartley jointly, who continued the use of the water flowing thereon until the year 1886 when the said James Hartley removed upon the following described tract of land to wit: a tract containing 80 acres in Sec., 16, tp., 11, S.R., 31, E.; that the said James Hartley claimed and used the right before acquired in the Hartley ditch, changing the point of diversion, and now has in cultivation upon the last described tract about 10 acres of grain and 20 acres of meadow. 41-0010 T 256

41-0010
That the said James Hartley is entitled to the flow at all times of 30 inches of water of said south fork creek to be used upon the land last above described to be taken through his ditch leading from John Hartley's lands, his right to the use thereof to date from the 1st., day of April 1884. that the said John Hartley has also changed the point of diversion of the water which he claimed in the Hartley ditch to a new ditch constructed by him in 1887 leading from the Richard Hartley premises; that he has used the water originally appropriated in the Hartley ditch each and every season and now has in cultivation 7 acres of grain and 15 acres of meadow.

41-0011
That the said John Hartley is entitled to flow at all times of 22 inches of water from said south fork creek to be used in irrigating the lands now claimed by him in sec. 16 tp., 11 S.R., 31, E. his right to the use thereof to date from April 1st., 1884.

41-0011
There being no evidence before us with reference to the Richard Hartley claim now owned by Wm. Barnhart, and the said Wm. Barnhart having failed to present us any evidence touching said claim, we have omitted to make any finding respecting the same.

41-0011
That on the 18th., day of April 1884 Hyrum Hartley made settlement upon the following described tract to wit: S.E. 1/4 N.W. 1/4, S. 1/2 N.E. 1/4 Sec., 22

and S.W.1/4 N.W.1/4 Sec., 23 in tp., 11 S.R. 31, E., containing 160 acres and has homestead receipt therefor dated Oct., 27th., 1883; that on May 8th., 1884 he constructed a ditch from Landen creek, a tributary of south fork creek, and diverted said water to and upon the above described tracts of land and has continued to use the same until he now has in cultivation about 12 acres of grain, 5 or 6 acres of lucerne and 30 acres of meadow. That the said Hyrum Hartley is entitled to the use at all times of 48 inches of the water of said Landen creek and the springs tributary thereto, except during the months of July and August when he is entitled to the flow of 18 inches of said water to be used upon the land above described, his right to the use thereof to date from May 8th., 1884. 41 0012
That S.C. Hatch is entitled to the use at all times to the flow of 40 inches of water to be used upon the lands purchased by him from Jas. Proddham and before referred to containing 82 acres; his right to the use thereof to date from the 17th., day of May 1880. 41 0049

That in the spring of 1881 Chas. Tayson Jr., settled upon a tract of land adjoining the Chas. Tayson, sr., tract above described and in the spring of said year constructed a ditch from south fork of Rock Creek to and upon said tract and in the summer of said year cultivated 10 acres of grain and 10 acres of meadow and continued to use said water every year up to 1888 when he sold to Bradley Jackson; that there is now in cultivation upon said tract about 30 acres of lucerne; that said Bradley Jackson is entitled to the use at all times of 30 inches of water of the said south fork creek to be used upon the lands purchased from Chas. Tayson, Jr. and his right to the use thereof to date from the 1st., day of May 1881. 41 0013
That in the spring of 1885 John Stredder made settlement upon the following described tract of land: N.W.1/4, N.E.1/4 of sec. 29, tp., 10 S.R. 31 E. 40 acres; constructed a ditch from south fork of Rock Creek to and upon said lands and used said water every year up to the year 1884; that he sold to J. Mc. Donald; said Mc. Donald is now residing upon said tract of land and has now in cultivation about 12 acres of lucern. 41 0014

That the said George Mc. Donald is entitled to the use at all times to 40 inches of water to be used upon the said tract of land for the irrigation thereof, the said right to date from May, 1st., 1885. 41 045
E.T. Olney on April 2nd., 1889 settled upon and made entry to and upon the N.1/2 N.W.1/4 and N.1/2 S.W.1/4 sec., 34 tp., 11 S.R. 31 E. and diverted water from Indian creek a tributary of south fork and used upon said land about 20 inches of said water and still continues the same. he is entitled at all times to the use of 20 inches of water of said Indian creek to be used upon said land, his right to date from April 1st., 1889. 41 0014
James Mongn and John Mantiwitch, Indians in the spring of 1882 made settlement upon the following described tracts of land to wit: E.1/2, S.E.1/4 sec. 21 W.1/2 S.W.1/4 sec. 22 and W.1/2 N.W.1/4 sec. 27 E.1/2 N.E.1/4 sec 28 tp. 11 S.R. 31 E. and have continued to reside thereon and each of them made final homestead proof on same; that in the spring of 1883 they diverted water from spring on the claim of V.I. Stewart, said spring tributary to south of Rock Creek and used said water upon the above described tracts of land and so continued to use said water between them until the spring of 1886 when V.I. Stewart made settlement upon the following described tract to wit: S.1/2 S.E.1/4 and S.E.1/4 S.W.1/4 sec. 22 N.E.1/4 sec 27 tp., 11 S.R. 31 E. when they the said Indians permitted the said V.I. Stewart to use on the last described tract a joint and equal share of the water flowing from said spring and that said Indians and said V.I. Stewart have continued to use said water jointly ever since. that the said Mongn and Mantiwitch and the said Stewart are entitled to the use at all times of the flow of all the water flowing from said springs their right to the use thereof to date from May 1st., 1883. 41 0015
That I.L. Stewart on the 3rd., day of Oct., 1885 made settlement upon the following described tract of land; N.E.1/4 S.W.1/4 N.1/2 S.E.1/4 sec 22 and N.W.1/4 S.W.1/4 sec 23 tp. 11 S.R. 31 E. and has homestead receipt therefor; that in the spring of 1886 he diverted and appropriated the water from certain springs tributary to the south fork of Rock Creek rising upon and near said land and has continued to use said water each and every season since. 41 0016

That said I.L. Stewart is entitled at all times to the use of the water of said springs, his right to said use to date from Apr., 1st., 1886. we find that Joseph Perkins made settlement upon a tract of land lying upon the south fork of Rock Creek (a description of which we were unable to procure) about the year 1885; that in the spring of the year 1886 he made an appropriation of water from said south fork and cultivated a small portion of said land and irrigated the same from said stream and has con-

tinued to reside upon said land every year since 1885 and has used said water thereon since the spring of 1886 and now has in cultivation about 10 acres. that the said Joseph Perkins is entitled to the use of 15 inches of the waters of said south fork for the purpose of irrigating said tract his right to date from April 1st., 1886. 41 0016

EAST FORK

On the 6th day of July, 1887 H.A. Pease made settlement upon a tract of land, lying where his saw mill is now situated on the east fork of Rock creek, a correct description of which land is not given us and during the summer of said year diverted from his mill ditch leading from east fork water sufficient to irrigate 4 acres of land and has continued the use of it each and every season since.

that the said H.A. Pease is entitled to the use of 10 inches of water from said east fork at all times to irrigate the said land; his right to the use of same to date from May, 15th., 1887. 41 0018

In the fall of 1886 George Stanger made settlement made settlement and H.E. to and upon S.1/2 N.W.1/4 sec., 11 and E.1/2 N.E.1/4 sec., 10 tp 10 S. R. 31, E.; that the said George Stanger bought out the interest to said land and the water used thereon from John Boothe and Cy. Wilcox and that said Boothe and Wilcox appropriated water from east fork of Rock Creek to and upon said land by means of two ditches taken on either side of said creek and had prior to the sale to said Stanger used said water upon the said land; said water has been used by the said Stanger and his grantors during each and every season since 1885 until now there is in cultivation on said tract about 30 acres of land in a high state of cultivation. that the said George Stanger is entitled at all times to the use of 40 inches of the waters flowing in the said east fork to be taken through the ditches above described for irrigating the said land; his right to the use thereof to date from the 1st., day of May, 1885. 41 0019

In May 1878 Guadalupe Valdez made settlement and preemp entry to and upon the following described tract of land: S.1/2 S.W.1/4 S.1/2 S.E.1/4 sec., 5 tp., 10 S.R. 31 E. 160 acres; now has patent for same, dated Mar 29th., 1889. in Feb. 1879 he constructed a ditch 2 feet wide from east fork of said Rock Creek to and upon said tract of land and irrigated crops of grain and meadow; that he has ever since owned and cultivated said land and raised crops thereon. that the said Valdez is entitled to the flow at all times of 100 inches of water of said east fork to be taken through the ditches now constructed thereon; his right to date from the 15th., day of Feb., 1879. 41 0020

That the said Valdez in the fall of 1882 made settlement on the following described tract: S.1/2 N.W.1/4 W.1/4 N.E.1/4 sec 10 tp., 10 S.R. 31 E. containing 160 acres; that in the early spring of 1883 he constructed a ditch from the east fork of Rock Creek to and upon said last described tract and has ever since continued to cultivate said land and use thereon water until he now has in cultivation 25 acres of grain and 35 acres of meadow; that the said Valdez is entitled at all times to the use of 50 inches of water of the waters of the said east fork of Rock Creek to be used for irrigation of crops grown upon said land to be taken through the ditches constructed thereon the right to date from the 1st., day of May, 1883. That Neil Danilson in the fall of 1885 made settlement upon the following described tract: S.E.1/4 N.W.1/4 E.1/2 S.W.1/4 S.W.1/4 S.E.1/4 sec., 10 tp 10 S.R. 31 E., 160 acres; by means of diverting from the Valdez ditch last above mentioned did appropriate from east fork of said Rock Creek sufficient water to irrigate 4 1/2 acres of said land and has continued the use thereof ever since; that the said 4 1/2 acres are all the land contained in said tract susceptible of irrigation.

That the said Neil Danilson is entitled at all times to the use of 10 inches of water of the east fork of said Rock Creek to be taken thro the ditches last above mentioned for the purpose of irrigating said land, said right to date from the 1st., day of Oct., 1885. 41 0022

James Sherman in the spring of 1885 made settlement upon the following described tract of land: N.W.1/4 S.W.1/4 S.1/2 S.W.1/4 S.W.1/4 S.E.1/4 sec., 3 tp., 10 S.R. 31 E., 160 acres. in March 1885 he diverted thro the Valdez and Stanger ditch above mentioned water sufficient to irrigate 5 acres of the above described land and has continued the use thereof each and every season since; said 5 acres is all that is susceptible of irrigation from said ditch. that James Shearman is entitled to the use at all times

of 10 inches of water in east fork of Rock Creek for the purpose of irrigating said 5 acres, his right to date from the 15th. day of March 1885. In Jan., 6th, 1881 Heber C. Wood made settlement upon the following described tract: S.W. 1/4 S.E. 1/4 and E. 1/2 S.W. 1/4 sec. 6 tp., 10 S.R. 31 E. containing 120 acres and has resided upon it continuously and made final proof and through some mistake or error in said final proof he permitted his brother D.C. Wood to entry of it; the said D.C. Wood obtained patent for same and deeded E 1/2 S.W. 1/4 of said land to said H.C. Wood Apr. 30th, 1889 and S.W. 1/4 S.E. 1/4 of said land to H. Houtz Jr. by deed of same date that the said H.C. Wood Mar. 12th., 1881 diverted from east fork of Rock Creek by means of a ditch constructed on north and south side of same, water for irrigation of land above described and has increased the acreage on all of said every year untill 1889 when he had in cultivation on the tract now owned by him about 65 acres and the tract owned by Henry Houtz Jr. 34 acres all in a state of cultivation. That the said H.C. Wood is entitled at all times to the flow of 70 inches of water from east fork of said Rock Creek to irrigate said land now owned by him the same to be taken from the ditches constructed by him to and upon said land the right to use of same to date from Mar., 12th., 1881. and that the said Henry Houtz Jr., is entitled to the flow at all times of 34 inches of the water of said east fork to be used upon the land above described owned by him through the ditches constructed to and upon said land, his right to date from the 12th. day of March, 1881.

That J. Lewis on June 16th., 1889 made homestead entry on N.E. 1/4 N.E. 1/4 sec 8 N. 1/2 N.W. 1/4 S.E. 1/4 N.W. 1/4 sec 9 tp., 10 S.R. 31 E., 160 acres; that in May 1888 he took from the main channel of east fork creek a ditch to and upon said land and by means thereof diverted water to and upon said land for the purpose of irrigating the same and has continued the use thereof each and every season since; that about 9 acres of said land only is susceptible of irrigation from that said ditch.

That the said J. Lewis is entitled to the use at all times of 10 inches of water of said east fork for the purpose of irrigating said land the same to be taken through his said ditch; said right to date from the first day of May 1888.

That in the summer of 1879 Lewis Lance made settlement upon the following described land: Lots 4, 5, 6, sec 6 tp., 10 S.R. 31 E., N.E. 1/4 S.E. 1/4 sec 1, tp., 10 S.R. 30 E containing 106.72 acres; that in Aug. 1879 by means of a ditch constructed from the east fork of said Rock Creek called the Lance ditch, did appropriate sufficient water to irrigate all of said land; that since said time he has conveyed by deed a large portion of said tract to gether with the water right thereto; that the said Lewis Lance and his grantees under the terms of said conveyances are entitled to the use of 100 inches at all times of the waters of the east fork, for irrigating the above described tract, the same to be taken from the ditch above mentioned, said right to date from Aug., 1st., 1879.

That D.C. Tyler, Jr. in the year 1882 settled upon and made entry to the following described tract: Lots 2, 3, 4 and E. 1/2 S.W. 1/4 sec 31 tp. 9 S.R. 31 E containing 147.86 acres and has in June 1883 by means of enlarging what is known as the Wood's north ditch diverted and appropriated water from the east fork of Rock Creek and has continued each and every season to use said water untill he now has in cultivation on said land about 40 acres; that the said D.C. Tyler is entitled to the flow at all times of 40 inches of the waters of said east fork of Rock Creek to irrigate said land, the same to be taken through the H.C. Wood north ditch, his right to date from the 15th. day of June 1883.

That in the spring of 1884 Lyman S. Barnard made settlement upon the following described land: contained in the D.A. Budge claim to wit: commencing 68 rods from the S.E. corner, running 92 rods west, 80 rods north, 92 rods south, and 80 rods east to place of beginning sec., 4 tp., 10 S.R. 31 E. 146 acres; said land and water right were purchased from J. Cook and George Young by D.A. Budge; that in the fall of 1883 a ditch was constructed by said grantors from the east fork of said Rock Creek to and upon said land for the purpose of irrigating same and has been used thereon continuously by said L.S. Barnard and his grantors ever since;

That the said Lyman S. Barnard is entitled to the use of 40 inches of water flowing in the said east fork of Rock Creek for the purpose of irrigating said land to be taken through the ditches constructed to and upon said land, his right to date from Oct., 1st., 1883. That the said D.A. Budge still owns and claims 80 acres in the said tract of land described as follows. S. 1/2 S.W. 1/4 S. 1/2 S.E. 1/4 sec., 4 tp., 10.,

Ranch
S.R. 31, E. and has sold to the Promontory Stock Company 34 acres of said a tract and now has in cultivation on the tract still owned by him about 35 acres of land. We find that the said D.A. Budge is entitled at all times

to the use of 35 inches of water to be taken from the ditches constructed to and upon said land from the east fork of Rock Creek and said right

to date from the 1st., day of Oct., 1883 — 41-0030
and that the Promontory stock ranch Company is entitled to the use of 25

inches of the water of said east fork of Rock Creek at all times for the irrigation of said 34 acres purchased from the said D.A. Budge to be taken

through the ditches constructed to and upon said land to date from the 1st., day of Oct., 1883. that the said Promontory Stock Ranch Company are

also entitled to 10 inches of water from the east fork of Rock Creek to be taken through the Barnard and Valdez ditch by virtue of purchase of la-

nd and water right thereto to 40 acres of land in the Wm. Barnhart D.J.E. to N.E. 1/4 N.E. 1/4 sec. 9 tp. 10 S.R. 31, E; only 10 acres of said land, ly-

ing under said ditch; right to date from the 1st., day of June 1885. 41-0031
That Joseph Henry made homestead entry in the year 1882 and now has patent dated Mar., 12th., 1889 to and upon the following described tract: N. 1/2

N.E. 1/4 sec 7 N.W. 1/4 N.W. 1/4 sec 8, S.E. 1/4 S.E. 1/4 sec 6 tp. 10 S.R. 31 E containing 160 acres; that in the spring of 1882 by means of enlarging

the Houtz and Wood ditch on the south side of east fork did divert and appropriate water to and upon said land and has continued to use said wa-

ter upon said land until there are now 31 acres of grain in cultivation under said ditch, and in 1886 by means of enlarging the Wood & Tyler di-

tch on the north side of the east fork of said Rock Creek did divert and appropriate water from said creek to and upon said land and now has in

cultivation under said ditch 25 acres that since said time he has sold to G.A. Parry by deed of Sept., 18th., 1888 a portion of said land containing

86 acres; that said Joseph Henry and the said G.A. Parry his grantees are entitled to the use at all times of 60 inches of the water of said east

fork to be conveyed through the Houtz & Wood ditch, said right to date from the 1st., day of June 1882; and the said Joseph Henry is entitled to

the use of 25 inches of water at all times for the irrigation of his land lying on the north side of said fork, the same to be conveyed through

the Wood & Tyler ditch and to date from the 1st., day of June 1886. 41-0033
that in July, 1883 Delos Webb made settlement upon the following described tract of land and made final proof thereon to wit: S.E. 1/4 N.W. 1/4,

Lot 3 sec. 6 tp. 10 S.R. 31, E, 80 acres; that in the spring of 1885 the said Delos Webb, by means of enlarging the Wood & Tyler ditch heretofore men-

tioned did divert and appropriate water from the east fork of said Rock Creek located upon said land and continued the use thereof each and every

season until the spring of 1887 when he sold said land and water right to D.C. Tyler, Sr; said D.C. Tyler has used said water for irrigation every

year since and has now in cultivation on said tract 30 acres of land. that the said D.C. Tyler is entitled to the use of 30 inches of water from

the said east fork of Rock Creek to irrigate his said land at all times the same to be taken through the Wood & Tyler ditch, the right to the use

thereof to date from the 1st., day of May 1885. 41-0034
That in March 1883 the following named parties to wit: H.S. Walker D.

Hutchinson, Jacob Hutchinson, George Young Peter Ledell, Hy. Pearce, W.H. Walker, Lorin Walker and Lagrande Ribinson located a ditch near the head

of the east fork of Rock Creek for the purpose of diverting and appropriating water to and upon the bench land lying to the north of said stream

that during the year only about 300 feet of said ditch was completed; that in the spring of 1884 said ditch was surveyed and completed to its

full size except in difficult rocky points for a distance of 2 & 1/2 miles; That in 1885 said ditch was extended and extension completed the full

size except in deep cuts and rocky points, for a distance of 5 & 1/2 miles smaller ditches were constructed from this main ditch to and upon lands

owned by the claimants thereof and about 66 acres of land irrigated from said ditch in 1885. in 1886 the said ditch was completed and extended for

a distance from its head of about 8 miles and about 146 acres irrigated from same that season; that the present season of 1890 there are about

350 acres of land under cultivation below said ditch which is known as the "bench ditch"; since the construction of said ditch some of the original share holders in the same have conveyed their rights in and to the

same to other parties; that the lands lying under said ditch are owned and occupied by the claimants in said ditch; we do not believe that the

location and work done on the said ditch in the year 1883 is sufficient

in finding the use of the water therein to date back to that period; ^{here} there is no controversy among the claimants and owners of said ditch to the use of the water flowing therein among them selves, we therefore find that the said ditch and the owners thereof are entitled to a flow at all times to the waters of the said east fork of Rock Creek to 400 inches for the purpose of irrigating the lands lying under said ditch, ^{the right to} the use thereof to date from the 10th. day of May 1884: we further find that the settlers claiming land under said ditch are living upon a high bench and remote from water for domestic purposes, ^{should} ~~be~~ ^{be} entitled at all times to a flow of 75 inches of water from said ditches against the prior appropriation of water of said stream of said east fork of Rock Creek

That H.D. Lish owns and claims a tract of land lying on the south side of east fork of Rock Creek and on May 1st., 1890 he appropriated and used through what is known as the Valdez ditch water sufficient to irrigate 4 acres of said land; that said Lish has 30 acres of land owned by him lying under said ditch; that the said H.D. Lish is entitled at all times to the flow of 30 inches of water of said east fork creek, his right to date from the 10th. day of May 1890. 41 0038

That on May 4th., 1884 the following parties began the construction of a ditch from the channel of lower Rock Creek on the west side thereof: Heber Hanson, Wm. Payne, J.C. Ralphs, Heber Ralphs, George Stanger, Peter Jensen, Lot Smith, Delroy Tyler, Ed Hunter, Morris Peters, Thomas Peters and Robt. Hunter; that said ditch was constructed and completed on the 4th day of June 1884 and upon lands owned by claimants, the parties interested in said ditch for the purpose of irrigating their said lands; that said ditch was at its head about 5 & 1/2 feet wide by 1 & 1/2 feet deep that said ditch has been continuously used each and every season by the owners thereof for the purpose of irrigating their said lands; that in the year 1884 about 75 acres was irrigated by said claimants from said ditch; that said acreage has increased from year to year until at present when about 275 acres are under cultivation under said ditch that the stock holders in said ditch have no controversy among themselves as to the disposing of water among themselves but claim and use said water according to the shares held by each;

That said ditch known as the "west ditch" is entitled at all times to the use and flow of 275 inches of the water of said Rock Creek for the purpose of irrigating the land owned by the shareholders in said ditch and the right to the use and flow of said water to date from the 4th day of May 1884.

That in the year 1880 the following named parties, to wit: Ed Hunter, Robert Hunter, James Hunter, George Lish and Wm. Thornton made and constructed a ditch 4 feet wide and 1 foot deep with fall of one half inch to the rod from the main channel of Rock Creek to and upon lands then claimed by them for the purpose of irrigating lands owned by them; there was cultivated by the said parties about 40 acres of land lying under said ditch. early in the spring of 1881 said last mentioned persons changed the point of diversion of said ditch about 1/4 of a mile higher up the Creek and began construction of a new ditch; that in said new ditch the following parties were claimants and assisted in the construction of the same, to wit: Chas. Allen J.I. May Heber Lesley and James Allen. that said ditch last above mentioned was built of the size of 7 feet wide and 18 inches deep for the distance of 200 yds.; that during said year of 1881 about 100 acres of meadow land was irrigated under said ditch by the claimants therein; that during the same season of 1881 after crop were planted said ditch was continued for a distance of about 4 & 1/2 miles; that in 1882 said ditch was completed by said parties to a width of 3 feet wide and for the distance of 4 & 1/2 miles aforesaid; that said ditch and the water flowing therein has been used for the purpose of irrigating lands lying under the same by the claimants thereto each and every season continuously; that said ditch is known and called the United States ditch; that the shareholders and claimants in same have no controversy as to the regulation and use of the water flowing therein as among themselves.

we find that said ditch and the owners therein are entitled to a flow at all times of 50 inches of the waters of said Rock Creek for the purpose of irrigating their said lands lying under the same, said right to date from the 1st. day of May, 1880; and are entitled to the use at all times to 350 inches of the waters of said stream to irrigate their said lands this right to date from the 1st. day of June 1881, the water in ditch at no time to exceed 350 inches. 41 046

(United States Ditch)

41 046

In May 1884 the following named parties to wit: J.I. May, Jude May, Ed. Hunter, Peter Halling, Peter Hansen, Nelson Davis, Robt. Hillhouse, Wm. Clark, James Prodsham, Isaac Horn and Wm. Kelly constructed a ditch from the main channel of lower Rock Creek to and upon the lands owned by the claimants in said ditch for the purpose of irrigating said lands; that the water from said ditch has been used each and every season by said claimants for irrigating crops grown on said lands.

That said ditch and the owners thereof are entitled to the flow at all times of 50 inches of water for the purpose of irrigating their said lands to be distributed among them according to their adopted custom; concerning which there is no controversy among them; said right to date from the 15th. day of May 1884.

That in the year 1884 James Prodsham, Wm. Kelly, J.A. Lasley, A.W. Thompson and Jas. I. May constructed a ditch from the main channel of lower Rock Creek sufficient in size to carry a large irrigating stream to and upon the lands owned by said parties lying under said ditch and during the season of 1884 irrigated portions of said lands and have continued in the use of said water and ditch each and every season since until now there are about 100 acres of land in lucerne and grain irrigated by means of said ditch; that said ditch is known as the Kelly & Prodsham ditch; that there is no controversy among the claimants thereto as to the use and regulations of the water therein flowing, among themselves; that said ditch and the owners thereof are entitled to a flow at all times to 100 inches of the waters of said Rock Creek for the purpose of irrigating their said lands lying under said ditch; the right to the use thereof to date from May 20th 1884.

We find that in Sep., 1882 the Juniper Mining Company which was then engaged in placer mining on Snake River lying below and near the mouth of Rock Creek made and constructed a flume and ditch by means of which they diverted and appropriated about 400 inches of the water of lower Rock Creek to and upon their said mining claim; that for the greater portion of said distance, the water was conveyed by a flume constructed of lumber; that said water was used by said company for the purpose of mining said claim a portion of every year thereafter until 1887 that about 1887 the said Juniper Co. became bankrupt and the said mining claims sold under foreclosure of mortgage, and the flumes and ditches and other improvement appertaining to said claim were sold for delinquent taxes due upon said property for taxes due Cassia County and Idaho Territory and were bought in at said delinquent sale by Wm. Stokes; that W.H. Philbrick now owns and claims through various titles bought by him in the year 1888, the mining property aforesaid and the ditch flumes and water rights pertaining thereto. The evidence shows that since the year 1887, no water was used through said flumes and ditch except the attempt to irrigate about 5 acres of grain upon said mining premises in the year 1888 James May testifies that there was plenty of water flowing at the point of diversion of said ditch during said season for that purpose, but the condition of the flume was so bad a sufficient amount of water could not be gotten through it. since 1887 there has been plenty of water in Rock Creek not claimed to fill the Juniper ditch during the fall, winter and spring months but no attempts have been made to use it except in the year 1889 J. Calder has said property rented but did not get the flume in condition to hold and convey any water that season and in June of said season the water gave out at the head of said flume by reason of the use of same for irrigating by the farmers on said stream above; that previous to 1887 there was plenty of water in Rock Creek not otherwise used to fill the Juniper ditch and flume at all seasons of the year but since said time it has been nearly or quite all used above for irrigating purposes during the irrigating season. that since the year 1887, the area of land brought under cultivation on Rock Creek above the Juniper dam has been largely extended under the general impression that the rights of the Juniper ditch had been forfeited by discontinuance of mining operations and upon the further fact that since said time said flume has been entirely out of repair and will have to be largely rebuilt before it will carry the water. under the above state of facts, we seriously doubt if the appropriation of water originally made in said ditch was for a beneficial purpose and if it were we more seriously doubt if the same could have been used since the year 1887 or now could be used for a beneficial and profitable purpose; therefore in view of all the facts mentioned we find that said W.H. Philbrick is entitled to the use of 400 inches of the water of said lower Rock Creek to

be taken from said lower Rock Creek through said Juniper ditch and to be used for mining purposes to and upon said mining claim, except during the months of June, July and August in every season and that during said 3 months he shall be entitled to 50 inches of water to be conveyed through said flume and ditch for the purpose of preventing said flume from warping and also during said last three months in addition to said last mentioned 50 inches, any flow of water from said Rock Creek that may find its way to the head of said ditch by reason of seepage or percolation or non use by claimants above; the right to the use of the water aforesaid and at the time aforesaid to date from the 15th., day of September 1882. (That all water herein awarded shall be measured in a box or flume placed at the head of every ditch through which the same is to be conveyed of the length of 8 & 1/4 feet with a fall of 1/2 inch to said box the water at notime in said box to be more than 6 inches in depth at the head thereof and without pressure except the natural flow of the stream; said box to be placed on a solid foundation and constructed of 2 inch lumber, and no claimant herein to whom water is herein awarded shall after the present season of 1890 receive the water herein awarded to him untill his claim shall have been in every respect complied with; that the right to the use of water herein conveyed to different claimants shall date from the date of appropriation by them each respectively, and that no claimants right subsequent in time shall be permitted to use the water herein awarded to him untill the right of each and every prior appropriator shall have been supplied; provided that at the time the prior appropriator shall be using said water for a useful and beneficial purpose; but if said use-ful and beneficial purpose does not exist then the water herein awarded to said prior appropriator and appropriators shall be subject to use by the subsequent appropriators according to the date of their appropriations respectively) that the costs and expences of the arbitration are \$500 and shall be paid by the claimants herein as follows to wit:

The said WHEP Houtz to pay.....	\$35.00
Andrew Allen	15.00
S.N. Morris	25.00
Joseph Brown	15.00
Wm. Ferguson	\$500
David Tayson	7.50
Chas. Tayson	15.00
Wm. Adshead	7.50
S.C. Hatch	10.00
Jas. Hartley	5.00
John Hartley	5.00
Hyrum Hartley	5.00
Hyrum Prodsham	10.00
Bradley Jackson	5.00
George Mc. Donald	2.50
E.T. Olney	2.50
Jim Wgnm, Indian	2.50
John Montewitch, Indian	2.50
V.J. Stewart	5.00
I.L. Stewart	2.50
H.A. Pease	5.00
George Stanger	30.00
G. Valdez	5.00
Neil Danilson	5.00
Jas. Shearman	20.00
H.C. Wood	10.00
Henry Houtz, Jr.,	2.50
J. Lewis	22.50
L. Lance	7.50
D.C. Tyler	7.50
L. Barnard	7.50
D.A. Budge	10.00
Prem. Stock Ranch Co	10.00
Joseph Henry	5.00
D.A. Perry	5.00
D.C. Tyler Sr.,	45.00
Bench Ditch Co.,	2.50
H.D. Lish	35.00
West Ditch Co.,	

JUN 05 1906

May & Hilhouse Ditch Co\$10.00
 U.S.Ditch Co., 50.00
 Kelly & Frodsham Ditch Co..... 10.00
 W.H.Philbrick 10.00 *here*

here That D.W.Standred is selected by us to transcribe the above and foregoing findings and award in type and on legal size paper, and that when said copy is so made prepared as aforesaid, the same may be filed as a substitute for and instead of the foregoing.

Respectfully submitted,
 Frank Campbell,
 H.R.Evans,
 D.W.Standred,
 Arbitrators. *here*

Rockland, Oneida County, Idaho,
 Oct.29-1902

We the undersigned water claimants of the Rockcreek water District do submit and acknowledge the deviding of the said waters as stated in the findings of the arbitration, and do ask for the same to be placed upon record and made a decree of the Courts.

Levi Southwell,
 L.S.Smith,
 Sarah M.Houtz, per K.D.Houtz,
 Isaac Thorn,
 Peter Nelson,
 Walter Mickleson,
 J.A.May,
 John T.Read,
 Henry Jensen,
 Rose Brown,
 D.H.Hillhouse,

C.A.Warner,
 K.D.Houtz,
 H.C.Wood,
 Ruth Adshead,
 Seth T.Webb,
 John Eliason,
 Joseph Allen,
 John W.Southwell, Jr.,
 Heber Ralphs,
 Marvin Tyler,

C.E.Tyler
 Thos.Barnard
 G.A.Perry,
 Dell R.Tyler,
 David Tayson,
 George Kelly
 Walt Thompson,
 H.S.McBride,
 J.A.Ralphs,
 Robert C.Kelly,

Rockland, Idaho. Oct.29th,1902

We the undersigned water claimants of the Rockcreek water District do submit and acknowledge the deviding of the said waters as stated in the findings of the arbitration, and do ask for the same to be placed upon record and made a decree of the courts.

H.P.Frodsham,
 Joseph Henrie
 Eliza Moore
 N.W.Danielson,
 D.C.Walker,
 P.C.Nielson
 M.E.Walker,
 D.L.Hutchenson,
 J.Lewis,
 H.D.Lish,
 Elizabeth H.Stewart,
 Nephi Wood,
 S.J.Swanson,
 E.Bates,

Wm H.Walker,
 James Lance,
 W.W.Howard
 A.L.Thorn,
 Henry L.Robins,
 H.S.Walker,
 Mrs. C.H.Walker
 H.P.Houtz,
 Peter Andersen
 J.H.Moss,
 W.D.Barnhart
 S.N.Morris,
 H.W.Lasley
 Hyrum Hartley,

Isaac Thorn, Jr.
 L.S.Barnard
 L.E.Hampton
 J.A.Shearman,
 J.H.Byington, *Joseph T. Walker*
 L.Robinson,
 W.G.Walker,
 Richard Hartley,
 J.W.Frodsham,
 Thos. S.Budge,
 James Hartley,
 Antone Nelson,
 John Hartley,

We hereby acknowledge service of the foregoing findings and award this 18th. day of April, 1891.

James I.May,
 Seth Webb,
 Lyman Barnard,
 H.B.Houtz,
 D.C.Tyler,
 Guadalupe Valdez,
 H.S.McBride,
 W.Thomsen,
 D.H.Hillhouse,
 George E.Kelly, Per John T.Kelly

H.C.Wood,
 Morris Peters
 Joseph Henrie,
 C.A.Warner,
 S.N.Morris,
 D.C.Tyler, Sr.
 Isaac Thorn, Jr.
 H.W.Lasley,
 Peter Halling,

J.A.May,
 Thomas Peters,
 Hyrum Frodsham,
 Joseph Allen,
 Stephen C.Hatch,
 Henry P.Houtz, Jr.,
 Nelson F.Davis,
 John T.Read, per J.W.Southwell
 E.M.Johnson,
 G.A.perry,

JUN 05 1896

Rockland, Idaho. Aug., 1st, 1892.

To Mr John Doe.

You will please take notice that in the matter of the Arbitration of Henry Houtz, Et Al, to the rights to the use of the water of Rock Creek and its tributaries which was begun and heard on the 18th. day of June, 1890. at the school house at Rockland, Oneida County, Idaho. before the arbitrators chosen, H.R. Evans, Frank Campbell, and D.W. Standrod the award of said arbitrators was filed by the Clerk of the District Court of the Third Judicial District of Idaho, now the Fifth Judicial of Idaho at Malad, Oneida County on the 22nd. day of June 1890. in whose office the same can be seen.

Henry Houtz,
H.C. Wood,
C.A. Warner,

Parties to said Arbitration

State of Idaho,)
County of Oneida,) SS,

Joseph A. Tyler, being first duly sworn says, that he is a citizen of the United States, and a resident of Oneida County, Idaho and over the age of twenty one years, that he personally served a true copy of the above notice upon the following named persons by delivering the same to each of them personally at the date and place opposite their respective names to wit:

Andrew Allen,	Aug. 10th, 1892.	at Oneida County, Idaho.
Joseph Brown,	" 6th "	" " " "
W.H. Furgerson,	" " "	" " " "
Dave Tayson,	" " "	" " " "
Charles Tayson,	" " "	" " " "
Wm. Adshead,	" " "	" " " "
James Hartley,	" " "	" " " "
John Hartley,	" " "	" " " "
Hyrum Hartley,	" " "	" " " "
E.T. Olney,	" " "	" " " "
James Mungum, Indian?	Aug. 9th, 1892.	at Oneida County, Idaho.
John Wantowtch, Indian.	" " "	" " " "
J.L. Stewart,	Aug. 6th, 1892.	" " " "
V.I. Stewart,	" 9th, "	" " " "
H.A. Pease,	" 6th, "	" " " "
Geo. X. Stanger,	" 15th "	" " " "
Neal Danielson	" 10th "	" " " "
J.A. Shearman,	" 13th. "	" " " "
Josh. Lewis,	" 10th. "	" " " "
Lewis Lance,	" 20th. "	" " " "
D.A. Budge,	" 15th. "	" " " "
Premontory Stock Co.	" 18th. "	" " " "
Hyrum Walker, Pres. Bench Ditch Co.	Aug. 10th, 1892.	at Oneida County, Idaho.
H.D. Lish,	Aug. 15th. 1892.	" " " "
Kelly & Prodsham,	" 16th, "	" " " "
W.H. Philbrick,	" " "	" " " "
Joseph Perkins,	" 6th "	" " " "
Ed. Hunter,	" 24th, "	" " " "
Sam Cottrel,	Sept, 2nd, "	" " " "
Jas. Hunter,	" " "	" " " "
Peter and Henry Jensen,	" " "	" " " "
Heber Ralphs,	Aug. 19th, "	" " " "
Al Ralphs,	" " "	" " " "
Wm. Barnhart,	" 6th. "	" " " "
Frank Campbell, Agent, Bradley Jackson, Geo. McDonald, and the notice was served on him Aug., 27th. 1892.		
Harl Hanson,	Aug., 15th, 1892.	at oneida County, Idaho.
I. Thorn, Se,	" 20th, "	" " " "

Subscribed and sworn to before me this the 3rd, day of September A.D. 1892
C.A. Warner, Justice of the Peace.

Rockland, June 4th., 1903.

We the undersigned water claimants of the waters of Rock Creek District do acknowledge the findings of the Arbitration and ask the Court of the Fifth Judicial District, to make a decree of the same.

Signed, Benjamin Joseph Spillet, George W. Spillet, James E. Spillet, Eph. Josephson, Edward Hunter,

Endorsement:

In the District Court of the Fifth Judicial, ^{Hastill} of Idaho, in and for Oneida County.)

~~In the matter of the arbitration of~~
In the matter of the arbitration of H.P. Houtz Et Al, of division and settlement of rights to use of Rock Creek.

Notice of Award and Cert. of service, and other Papers.

Filed, June 6th., 1903.

and Recorded in Book "B" of Judgments Page 206

W.H. Richards,
Clerk.

State of Idaho,)
County of Oneida.) SS

I, W.H. Richards, Clerk of the District Court, Ex-Officio Auditor and Recorder of Oneida County, Idaho, do hereby certify that the within and foregoing is a full, true and correct copy of the original notice of award, cert., of service, and other papers now on file in my office and recorded in Book "B" of judgments at Page 206.

Witness my hand and official seal this 1st day of July 1903.

W. H. Richards
Clerk District Court, Ex-Officio Auditor and Recorder.

JUN 05 1906

Information for Water Users of Rock Creek Water
District No. 29

After studying the arbitration, checking the various ditches, and consulting water users, I have compiled this material to help the patrons become more familiar with the amount of water delivered to various places in the valley. It will also help the water-master be more accurate in making the yearly report to the State Department.

If there are any known errors they should be corrected after consulting representatives of the district.

Jack Robinson

Advisory Board 1965

Farold J. Nelson Chairman
Arthur Andersen
Russell Halling
Orval Nelson

MICROFILMED

OCT 26 1992

ATTACHMENT 2

DITCH

INCHES

PRIORITY

Woods Ditch

50"

3-12-81

Alvin Ralphs 15"

Ivan Charles 1"

Ralphs Bros. 1"

Gordon Robinson 1"

Wayne Cox 1"

Scott Nelson 1"

Houtz Perry Ditch

to June 15th, 170"
from June 15th 90"

4-1-80

Ivan Charles 40"

Don Benson 20"

Houtz E st

to June 15th, 75"
from June 15th, 30"

Clifford Nelson 35" -35" on 6/15

Adzhead Ditch

160"

10-1-79

B. B. Saylor 70"

Orrin Taysen 20"

Bert Nelson 30"

Orrin Spillettt 30" X

Ray Spillettt 10"

West Ditch

275"

5-4-84

Ralphs Bros. 34.36"

Russell Halling 57.31"

J. E. Hunter 80.21"

Melvin McLean 63.01"

P. W. Cox 11.46"

Harold Permann 11.46"

Jay Ralphs 17.19"

Hallhouse May Ditch

50"

5-15-84

R. H. Swinn 23.46"

Mary Eliason 12.87"

Farold Nelson 10.61"

Joe Nelson 3.06"

Frodsham Kelly Ditch

100"

5-20-84

Allen Roper 77"

John Kildew 23"

Jackson Ditch

30"

5-1-81

Orrin Spillettt 10" X

Bert Nelson 10"

Ray Spillettt 10"

Woods Tyler Ditch

54"

20"

30"

Total 114"

Irvin Moss 4"

Harold Tyler 34.24"

Ken Hartley 40"

P. W. Cox 6"-6"

Eloise Edwards 10"

6-15-83

3-12-81

MICROFILMED

OCT 26 1992

DITCH

INCHES

PRIORITY

Woods Ditch

Alvin Ralphs 45"
 Ralphs Bros. 1"
 Wayne Cox 1"

50"
 Ivan Charles 1"
 Gordon Robinson 1"
 Scott Nelson 1"

3-12-81

Houtz Perry Ditch

to June 15th, 170"
 from June 15th 90"

4-1-80

Ivan Charles 40"
 Don Benson 20"

Houtz E st

to June 15th, 75"
 from June 15th, 30"

Clifford Nelson 35" -35" on 6/15

10-1-79

6/15
~~Head Ditch~~
 Nelson B. B. Saylor 70.56 - 5 days 7 hrs = 127
 Orrin Tayson 18.33 33 hrs. = 33 (12 day turns)
 Bert Nelson 26.67 48 = 48
 Orrin Spillet 26.67 48 = 48
 Ray Spillet 17.77 32 hrs. = 32

West Ditch

Ralphs Bros. 34.36"
 Russell Halling 57.31"
 J. E. Hunter 80.21"
 Melvin McLean 63.01"
 P. W. Cox 11.46"
 Harold Pernann 11.46"
 Jay Ralphs 17.19"

275"

5-4-84

Hillhouse May Ditch

50"

5-15-84

R. H. Swinn 23.46"
 Mary Eliason 12.87"
 Harold Nelson 10.61"
 Joe Nelson 3.05"

Fredsham Kelly Ditch

100"

5-20-84

Allen Roper 77"
 John Kilday 23"

Jackson Ditch

30"

5-1-81

Orrin Spillet 10"
 Bert Nelson 10"
 Ray Spillet 10"

Woods Tyler Ditch

64"

6-15-83

20"

3-12-81

30"

5-1-85

Total 114"

Irvin Moss 4"

Harold Tyler 34-24"

Ken Hartley 40"

P. W. Cox 6"-6"

MICROFILMED

MAR 04 1993

ATTACHMENT 3

Water Dist #41 East Fork

All Dates
1800

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File: H20RIGHTSEFORK

Report: DECREE NUMBERS

DECREE NUMBER	DECEDED OWNER	PRESENT OWNER	DELIVERY DITCH	INCHES	PRIORITY	DATE	COMMENTS
41-002	H.P. HOUTZ	CHARLES, IVAN	CITY	5	May	1 86	244 Names Turnbough, Cox, Ralphs, Nelson, Brown
41-002	H.P. HOUTZ	TURNB, COX, RALPH,	WOODS	5	May	1 86	TRANSFER 244
41-018	H.A. PEAS	NELSON, RICHARD	BENCH	10	May	15 87	2 INCHES DOMESTIC??
41-019	GEORGE STANGER	MUNK, MELVIN	STANGER	40	May	1 85	
41-020	GUDELUPE VALDE ?	?	?	5	Feb	15 79	
41-020	GUADELUPE VALD	NELSON, GLENNA	BENCH	20	Feb	15 79	TREANSFER APPLIED FOR 3-10-1983
41-020	GUDELUPE VALDE	WOODWORTH, JIM	VALDEZ	37.5	Feb	15 79	
41-020	GUDELUPE VALDE	BARNARD, CHARLES	VALDEZ	18.75	Feb	15 79	
41-020	GUDELUPE VALDE	NELSON, ORVILLE	VALDEZ	18.75	Feb	15 79	
41-021	GUDELUPE VALDE	NELSON, GLENNA	DANIELSON	10	May	1 83	
41-021	GUDELUPE VALDE	NELSON, GLENNA	STANGER	40	May	1 83	
41-022	NEIL DANIELSON	NELSON, GLENNA	DANIELSON	10	Oct	1 85	
41-024	H.C. WOODS	RALPHS, ALVIN	CITY	5	Mar	12 81	
41-024	H.C. WOODS	PERMAN, HAROLD	TYLER	20	Mar	12 81	
41-024	H.C. WOODS	RALPHS, ALVIN	WOODS	45	Mar	12 81	
41-025	H. HOUTZ JR.	ROCKLAND CITY	CITY	20	Mar	12 81	
41-025	H. HOUTZ JR.	MCHARGUE-NELSON	TYLER	4	Mar	12 81	
41-025	H. HOUTZ JR.	TOBIAS, ELAINE	TYLER	10	Mar	12 81	
41-025	JAMES SHERMAN	NELSON, MELVIN	BENCH	10	Mar	15 85	NEEDS TO BE TRANSFERED Ditch Stock Certificate
41-026	J. LEWIS	NELSON, MELVIN	??	10	May	1 88	NEEDS TO BE TRANSFERED
41-027	LEWIS LANCE	PERMAN, HAROLD	PAYNE	89	Aug	1 79	
41-027	LEWIS LANCE	TYLER, HAROLD	TYLER	10	Aug	1 79	
41-027	LEWIS LANCE	POULSON, MILTON	VALDEZ	1	Aug	15 79	
41-028	D.C. TYLER	PERMAN, HAROLD	TYLER	40	Jun	15 83	
41-029	L.S. BARNARD	MAY, LEE or NELSON	?? Valdez?	10	Oct	1 83	THIS WATER ON DEED TO L. MAY PRESENTLY BEINGS DILIVERE
41-029	L.S. BARNARD	NELSON, MELVIN	BUDGE	30	Oct	1 83	
41-030	JOSEPH HENRY	UNDER RESERCH	CITY AND VALDE	25	Jun	1 86	This Water Split Between City + Valdez ditch some How
41-030	D.A. BUDGE	ANDERSON, BURTON	BUDGE	16	Oct	1 83	See Back of this Page
41-030	D.A. BUDGE	LISH BROS.	BUDGE	1	Oct	1 83	
41-030	D.A. BUDGE	NELSON, MELVIN	BUDGE	8	Oct	1 83	
41-030	D.A. BUDGE	ANDERSON, BURTON	VALDEZ	10	Oct	1 83	
41-031	PROMETORY STOC	NELSON, MELVIN	BENCH	5	Oct	1 83	WATER ON DITCH STOCK CERTIFICATE, DELIVERD TWICE???
41-031	PROMETORY STOC	NELSON, MELVIN	BUDGE	10	Oct	1 83	
41-031	PROMETORY STOC	NELSON, MELVIN	DANIELSON	15	Oct	1 83	see Back of this Page.
41-031	PROMOTORY STOC	NELSON, MELVIN	DANIELSON	10	Jun	1 85	This Water Split Between City + Valdez Ditch some How
41-032	JOSEPH HENRY	UNDER RESERCH	CITY AND VALDE	60	Jun	1 82	
41-034	D.C. TYLER	COX, GLENN	TYLER	6	May	1 85	NEEDS TO BE TRANSFERED
41-034	D.C. TYLER	TYLER, HAROLD	TYLER	24	May	1 85	
41-036	BENCH DITCH	BENCH DITCH	BENCH	325	May	10 84	400 Total
41-036	BENCH DITCH	BENCH DITCH	BENCH	75	May	10 84	DOMESTIC WATER
41-037	H.D. LISH	MAY, LEE	VALDEZ	28.5	May	10 90	
41-037	H.D. LISH	MORRIS, DAVE	VALDEZ	1.5	May	10 90	
41-2001	BENCH DITCH	BENCH DITCH	BENCH	450	Sep	14 1908	THIS DATE IS SEP 14, 1908

City Ditch has 90" Total

41-002	5"	May 1, 86
41-024	5"	Mar 12, 81
41-025	20"	Mar 12, 81
41-032	1"	June 1, 82

Daughters of Utah Pioneers Deed

41-032	60"	June 1 1882
41-033	25"	June 1 1886

Out of These two water rights
This Ditch Needs 59"
This Ditch Needs 10 1/2"

After Subtracting what is known
There is only 47" of 1882 water left
and 19" of 1886 water.
There will be a shortfall of 3.5"

Presented

41-032	Lee May	Valdez 6'	June 1 1882	} The water
41-032	Poulson	Valdez 1'	June 1 1882	
41-032	Ralphs	Valdez 5'	June 1 1882	
41-033	L. May	Valdez 6'	June 1 1886	

Valdez Ditch has 15 1/2 inches Total

41-020	75"	Feb 15, 1879
41-027	1"	Aug 1, 1879
41-030	10"	Oct 1, 1883
41-037	30"	May 10, 1890
41-029	10"	Oct 1, 1883
41-032	12"	June 1, 1882
41-033	6"	June 1, 1886

The water on deed dated 1907 to Lee May
~~was~~ was subtracted off
of deeds to Melvin Nelson ~~at~~ after
this date, but he has been getting
it for unknown length of time.

South Fork

All Dates 1800

DECREEE NUMB	DECREED OWNER	PRESENT OWNER	DELIVERY DITCH	INCHES	PRIORITY	DATE	COMMENTS
41-001	H.P. HOUTZ	CHARLES, IVAN	PRIVATE PUMP	70	Apr	1 80	
41-001	H.P. HOUTZ	UDY BROS.	PRIVATE PUMP	20	Apr	1 80	
41-001	H.P. HOUTZ	CHARLES, IVAN	MEADOW PUMP	45	Apr	1 80	TILL JUNE 15
41-001	H.P. HOUTZ	NELSON, CLIFFORD		35	Apr	1 80	TILL JUNE 15
41-003	ANDREW ALLEN	7UD RANCHES	TAYSOM MEADOW	85	May	14 80	EXCEPT JULY AND AUG.
41-003	ANDREW ALLEN	7UD RANCHES	LANDING	15	May	14 80	EXCEPT JULY AND AUG.
41-003	S.N. MORRIS	BLAINE MITCHELL		90	May	17 80	EXCEPT JULY&AUG. TRANS.3059
41-004	S.N. MORRIS	STAN GROOM	LANDING DITCH	60	May	17 80	TRANS.3509
41-004	JOSEPH BROWN	WESTON, ROSCOE	WESTON MEADOW	30	Apr	10 80	EXCEPT JULY AND AUG.
41-005	JOSEPH BROWN	ROSCOE WESTON	BROWN-PARKER	47	May	6 83	
41-005	JOSEPH BROWN	ROSCOE WESTON		ALL			
41-006	JOSEPH BROWN	ROSCOE WESTON		30	May	6 83	
41-007	WILLIAM FURGESO	BOB SPILLETT	BROWN-PARKER	30	May	6 83	
41-008	CHARLES TAYSOM	SPILLETT, JUAN	ADSHEAD	26.67	Oct	1 79	
41-008	CHARLES TAYSOM, WESTON, ROSCOE		ADSHEAD	26.67	Oct	1 79	
41-008	CHARLES TAYSOM	SPILLETT, RAY	ADSHEAD	17.77	Oct	1 79	
41-008	CHARLES TAYSOM	TAYSOM, ORRIN	ADSHEAD	8.89	Oct	1 89	
41-008	DAVID TAYSOM	TAYSOM, ORRIN	ADSHEAD	9.44	Oct	1 89	
41-008	DAVID TAYSOM	7UD RANCHES	ADSHEAD	30.56	Oct	1 79	
41-008	WILLIAM ADSHEAD	7UD RANCHES	ADSHEAD	40	Oct	1 79	
41-009	HYRUM FRODSHAM	MUIR, DANA	PRIVATE PUMP	25	May	17 80	
41-009	HYRUM FRODSHAM	7UD RANCHES	LANDING	15	May	17 80	
41-010	JAMES HARTLEY	JOHN HAYES		30	Apr	1 84	
41-010	JAMES HARTLEY	JOHN HAYES		22	Apr	1 84	
41-011	JOHN HARTLEY	JOHN HAYES		48	May	8 84	EXCEPT JULY&AUG
41-012	HYRUM HARTLEY	UDY BROS.		18	May	8 84	JULY& AUG
41-012	HYRUM HARTLEY	UDY BROS.		10	May	1 81	
41-013	BRADLY JACKSON	RAY SPILLET	JACKSON	10	May	1 81	
41-013	BRADLY JACKSON	ROSCOE WESTON	JACKSON	10	May	1 81	
41-013	BRADLY JACKSON	ORRIN SPILLETT	JACKSON	10	May	1 81	
41-013	E.T. OLNEY	RON KRESS	POND	20	Apr	1 89	
41-014	JAMES MONSON	UDY BROS.		ALL	May	1 83	
41-015	JOHN MANTIWITCH	JOHN HAYES		ALL	May	1 83	WEST OF HIGHWAY
41-015	V.I. STEWART	ROSCOE KRESS	POND	ALL	May	1 83	
41-015	JOSEPH FERKINS	UDY BROS.		15	Apr	1 86	BOOK 1 JUDGEMENTS P.64POWER CO.
41-016	I.L. STEWART	JOHN HAYES	RES.	ALL	Apr	1 86	
41-017	S.C. HATCH	MITCHELL, BLAINE	PRIVATE PUMP	40	May	17 80	TRANS 2953
41-044	GEORGE McDONALD			40	May	1 85	

Water Dist #41 Main Channel

All Dates 1800

Page 1

File: H2ORTS.MAIN CHA

Report: DECREE NUMBER

DECREE NUMBER DECREEED OWNER PRESENT OWNER DELIVERY DITCH INCHES PRIORITY DATE COMMENTS

41-037	WEST DITCH	SAME	WEST DITCH	275	May 4 84	
41-039	U.S.DITCH	SAME	U.S.DITCH	50	May 1 80	
41-046	U.S. DITCH	SAME	U.S. DITCH	350	Jun 1 81	THESE TWO RIGHTS NOT TO EXCEED 350 INCHES
41-040	VARIOUS	7UD RANCHES	HILLHOUSE	10.61	May 15 84	
41-040	VARIOUS	NELSON, MELVI	HILLHOUSE	36.33	May 15 84	
41-040	VARIOUS	NELSON, VERN	HILLHOUSE	3.06	May 15 84	
41-041	VARIOUS	ALLEN ROPER	FRODSHAM-KELLY	77	May 20 84	
41-041	VARIOUS	JOHN KILDEW	FRODSHAM-KELLY	33	May 20 84	

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 10th day of December, 2004, I caused to be served a true and correct copy of the foregoing by the following method to:

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

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

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

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

Jason Walker
P.O. Box 396
Rupert, ID 83350

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

Randall Budge
P.O. Box 1391
Pocatello, ID 83208-1391

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

James Robinson
Bench Ditch Irrigation Co.
P.O. Box 157
Rockland, ID 83271

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

James V. Spillett
Robert R. Spillett
P.O. Box 144
Rockland, ID 83271

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

Scott Weston
4448 Rockland Highway
Rockland, ID 83271

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

Kelvin & Suzanne Taysom
2809 W. Sand Hollow Rd.
Rockland, ID 83271

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

Danni M. Smith
10WR