

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

IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM

CIVIL CASE NUMBER: 39576

Ident. Number 45-294C
Date Received: 10/20/1988
Receipt No: S003083
Received By:

**NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW**

1. Name of Claimant(s)

A W ANDERSON Phone: (208)673-6222
SONDRA J ANDERSON
PO BOX 158
ALBION ID USA 83311

2. Date of Priority: 03/31/1888

3. Source: LAKE CLEVELAND Trib. to: MARSH CREEK

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County	Type
13S	24E	3	SW NW	CASSIA	

5. Description of diverting works:

DITCH, GRAVITY IRRIG.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
IRRIGATION	03/01	11/01	3.3	
IRRIGATION STORAGE	01/01	12/31		120
IRRIGATION FROM STORAGE	03/15	11/15		120

7. Total Quantity Appropriated is:
3.3 C.F.S. and/or 120 A.F.A.

8. Total consumptive use:

9. Non-irrigation uses:

10. Place of use:

Township	Range	Section	1/4 of 1/4 Lot	Use	Acres
12S	24E	12	NW SE	IRRIGATION	40
			SW NW	IRRIGATION	40
			NW SW	IRRIGATION	40
			NE SW	IRRIGATION	40
			SW SW	IRRIGATION	40
			SW NE	IRRIGATION	40
Section Acres					240
Total Acres					240

11. Place of use in counties: CASSIA

12. Do you own the property listed above as place of use? Yes

13. Other Water Rights Used:

14. Remarks:

The claim was amended 7-28-2004 to add irrigation storage and irrigation from storage to the claim

FARM=240 ACRES.

***** OWNERSHIP CHANGE
3/3/92 BY JG.

***** DIVERSION RATE AMENDED TO REFLECT THE DIFFERENCE BETWEEN TOTAL ORIGINALLY
DECREED OF 4.8 CFS LESS THE 1.5 CFS DECREED AUG 26 1942 DECREE FEDERAL FARM MORTGAGE
CORP VS IDAHO PARKE ET.AL.
KKC 4-23-97

15. Basis of Claim: Decreed

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
AMENDED
CLAIM TO A WATER RIGHTRECEIVED
JUL 28 2004Department of Water Resources
Southern Region

Under the provisions of Section 42-243, *Idaho Code*, any person claiming a water right established by diversion and application of water to beneficial use must file a claim with the Department of Water Resources. **The filing of this claim does not confirm the water right claimed.** Water rights represented by a valid permit, license, decree, or previous claim are exempt from this requirement, as are uses of water for domestic purposes as defined in Section 42-111, *Idaho Code*. A filing fee must be submitted with this claim. See the instruction sheet to determine the appropriate fee.

Notice is hereby given that A.W. Anderson and S. J. Anderson

(Name of Claimant)

P.O. Box 158, Albion, Idaho 83311

(Mailing Address)

Telephone No: 208-673-6222

(Zip Code)

claims a right to the diversion and beneficial use of surface or ground water. The extent and nature of said claim is as follows:

1. Date of Priority: (When the water was first applied to beneficial use) March 31, 1888

A claim is not acceptable for the use of surface water with a priority later than May 20, 1971. A claim is not acceptable for the use of ground water with a priority date later than March 25, 1963, unless the water is used for domestic purposes as defined in Section 42-111, Idaho Code.

2. Describe the source of water: (Name of stream, lake, spring, etc., or ground water)

Lake Cleveland tributary to Marsh Creek

3. Describe the purpose for which the water has been used and the time during the year when you have used the right claimed:

(cfs or af)	(Irrigation, Domestic, Stock, Etc.)	(Both dates inclusive) (MM/DD) (MM/DD)
Quantity <u>120 af</u>	Use <u>Irrigation storage</u>	Period of Use From <u>01/01</u> to <u>12/31</u>
Quantity <u>120 af</u>	Use <u>Irrigation from storage</u>	Period of Use From <u>3/15</u> to <u>11/15</u>
Quantity <u>3.3</u>	Use <u>Irrigation</u>	Period of Use From <u>3/1</u> to <u>11/1</u>
Quantity _____	Use _____	Period of Use From _____ to _____

4. 120 af TOTAL QUANTITY USED.
(cfs or af)5. A) Location of point of diversion is SW $\frac{1}{4}$ of NW $\frac{1}{4}$ of _____ $\frac{1}{4}$, Govt. Lot _____
Sec. 3 Township 13 S Range 24 E B.M., Cassia County; additional
points of diversion, if any: _____B) Describe means of diversion of water: (Pump and pipeline, well, diversion dam, reservoir, length of ditch etc.).
Give sizes and capacities. Be specific. Describe any changes in the system and give the date of the change.Reservoir, control gate, spillway, ditchand creek carrying 3.3 cfs approximately five miles.

6. A) Describe the place of use within each 40-acre tract in the appropriate box using the symbols listed below. If the use is for irrigation, describe the location by listing the number of irrigated acres within each 40-acre tract.

D - domestic, S - stock water, M - municipal, C - Commercial, I - Industrial, X - other

Twp	Rge	Sec	NE1/2				NW 1/4				SW1/4				SE1/4				TOTAL ACRES
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
12S	24E	12			40				40		40	40	40			40			240

TOTAL ACRES 240

B) If water is used for purposes other than irrigation, fully describe the use. Be specific. _____

NOTE: Include here the type and number of stock watered: _____

7. Remarks: _____

8. Map -- Attach an 8½"x11" map clearly identifying the point of diversion and the place of use by 40-acre subdivisions, section, township and range of the public land survey system. (A photocopy of a USGS 7½ minute topographic quadrangle map is preferred.) Attach an aerial photograph of the place of use if available.

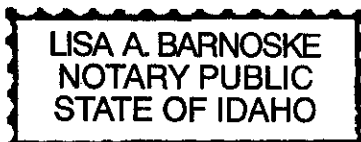
Previously submitted _____

State of Idaho)
) ss.
County of Cassia)

Be it known that the undersigned, being duly sworn, deposes and says that he, she, they subscribed the foregoing claim to a water right, together with all attached information, and that the matters and facts therein are true to the best of the affiant's knowledge.

B. W. Anderson
Claimant's Signature (and title if claim is for an organization)

Sworn to before me this 27th day of July, 2004.



Lisa A. Barnoske
Notary Public
Residing at: Burley, Id.
My commission expires: 9/28/07

FOR DEPARTMENT USE ONLY

Received by _____	Date _____	Published in _____
Prelim. check by _____	Date _____	Publication dates _____
Fee _____	Receipt # _____	Publication checked by _____ Date _____
Receipt prepared by _____	Date _____	Exceptions filed by _____

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

IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM.

CIVIL CASE NUMBER: 39576

Ident. Number: **A45-00294C**
Date Received: 10/20/1988
Receipt No: S003083
Received By: _____

AMENDED

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

AMENDED

1. Name: A W ANDERSON
Address: HC 36 BOX 14
ALBION ID

208-673-6222

83311

Name: S J ANDERSON
Address: HC 36 BOX 14
ALBION ID

208-673-6222

83311-1

deleted
KKC
4-23-97

2. Date of Priority: MAR 31, 1888

3. Source: LAKE CLEVELAND

Trib. to: MARSH CREEK

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
13S	24E	3	SW	NW			CASSIA

5. Description of diverting works:
DITCH, GRAVITY IRRIG.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
IRRIGATION	03/01	11/01	3.300		

7. Total Quantity Appropriated is:
3.300 C.F.S. (and/or)

A.F.A.

8. Total consumptive use is

Acre Feet Per Annum.

9. Non-irrigation uses:

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
12S	24E	12	SW	NE		IRR	40.0

10. Place of Use: Continued

Township	Range	Section	1/4	of	1/4	Lot	Use	Acres
12S	24E	12	SW		NW		IRR	40.0
			NE		SW		IRR	40.0
			NW		SW		IRR	40.0
			SW		SW		IRR	40.0
			NW		SE		IRR	40.0

Section Acres 240.0

Total Acres 240.0

11. Place of use in counties: CASSIA

12. Do you own the property listed above as place of use? YES

13. Other Water Rights Used:
A45-00311, A45-00312B

14. Remarks:

FARM=240 ACRES.

OWNERSHIP CHANGE 3/3/92 BY JG.

DIVERSION RATE AMENDED TO REFLECT THE DIFFERENCE BETWEEN TOTAL
ORIGINALLY DECREED OF 4.8 CFS LESS THE 1.5 CFS DECREED AUG 26
1942 DECREE FEDERAL FARM MORTGAGE CORP VS IDAHO PARKE ET.AL.
KKC 4-23-97

15. Basis of Claim: DECREED

Case Number:

Court :

Decree date: / /

Decree Plaintiff

vs

Decree Defendant

16. Signature(s)

(a.) By signing below, I/We acknowledge that I/We have received, read and understand the form entitled "How you will receive notice in the Snake River Basin Adjudication." (b.) I/We do _____ do not _____ wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments: _____

For Individuals:

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

Signature of Claimant(s): A W Anderson Date: 4-23-97

_____ Date: _____

State of Idaho)
County of Twin Falls) SS.

Subscribed and sworn (or affirmed) before me this 23rd day
of Apr 19 97 Kelly Christensen
Notary Public

Seal

Residing at Kimberly Rd
My Commission Expires 3-2-98



State of Idaho

DEPARTMENT OF WATER RESOURCES

1341 Fillmore Street, Suite 200, Twin Falls, ID 83301-3380

Phone: (208) 736-3033 FAX: (208) 736-3037

SOUTHERN REGION

June 18, 1999

Norman Semanko
PO Box 1906
Twin Falls, ID 83303-1906

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

RE: Lake Cleveland Water

Dear Norm:

Based on your June 8th letter I have again reviewed the records regarding the water rights on Lake Cleveland. I have also contacted A. W. Anderson inquiring about his recent release of water from Lake Cleveland and contacted Don Gunderson, watermaster on Marsh Creek, inquiring of his deliveries.

Please understand that the evacuation of the reservoir may be an issue of safe operation of the dam and separate and apart from the issue of delivery of the water rights.

My review of the water right records finds the Wood vs. Stokes decree lists the right from Lake Cleveland with a priority of March 31, 1888 for 240 inches. The right was split between George Giles (80 inches) and the John Parke Estate (160 inches). The decree and findings further indicate that the water from the lake/reservoir is conveyed by a ditch and added to the waters of Marsh Creek in the amount of 240 inches and measured at that point; then the waters are conveyed in Marsh Creek and delivered to the respective headgates. Giles was to get 75 inches and the Parke Estate 150 inches at their respective headgates. (By calculation this is 6.25% loss from point of injection to point of re-diversion.) My initial thoughts on this right was that it should be treated as a storage right with only allowance for the capacity of the reservoir (estimated to be 99 AF by IDWR Dam Safety Section) with one time filling. I have further considered the wording of the decree and it is now my opinion this right may be a hybrid of storage and natural flow from the lake. It is my understanding that the long held practice has been that the owners of the right have maintained the reservoir and ditch and turned the water out as needed. When the water makes it down the 3 mile ditch to Marsh Creek the watermaster then measures what makes it to Marsh Creek and delivers it to the owners with a 6.25% loss at their headgates. The amount of water turned out of the reservoir is not directly considered in what is delivered at the headgates; only the amount that makes it to Marsh Creek.

In my conversation with Mr. Anderson he indicated that his employee had opened up the gate at the reservoir and was passing

A45-20214A5DE

approximately 200 inches of water down the ditch. I asked for what purpose and he indicated that it was for irrigation, not for any dam safety issue. He indicated that in the past when they discharged water they derived no or little benefit. He indicated that this year they were trying to see if they could get the water down when the soil profile is moist hoping there may not be so much loss. I explained to him your letter and how people were concerned with water being wasted. I told him I would be contacting the watermaster and he said he would maybe check the dam himself to confirm what was going on.

In my conversation with Mr. Gunderson he indicated that he was notified on 6/2 that water was being released from Lake Cleveland. He indicated that on 6/4 and again on 6/5 nothing was making it to Marsh Creek. He indicated that on 6/8 he found 26 inches making it to Marsh Creek noting it was after a rain. On 6/12 he found 13 inches making it to Marsh Creek. He indicated that currently the Anderson property was not taking any of the natural flow Marsh Creek decrees directly from Marsh Creek but was being charge for 48 inches of Marsh Creek water based on diversion from a waste stream tributary to Marsh Creek for the old Parke ranch. Nothing was being delivered to the old DeNaughel ranch. Mr. Gunderson indicated that Land Creek has recently raised in flow and he suspects that is where the lake water is going. I asked how he has delivered water from the lake in the past and he indicated that he only delivered it once about 4 or 5 years ago and that was to the Anderson place. He indicated that in recent years due to the dispute when people call for the water he notes it in the delivery book but has not delivered it to the headgates. On this same track, I contacted the State Office and had them pull and review watermaster records since 1970. They found that the only note of delivery was to Woody Anderson in 1993 from August 16th to August 20th for a total of 5 24hr-second feet. It is noted in the watermaster comments for the protested transfers that in 1995 approximately 300 inches were turned out of the reservoir and only 58 inches were measured at Marsh Creek. In 1996 it was noted again that 300 inches were turned out of the reservoir but nothing made it to Marsh Creek. Review of Fred Parke's deposition indicates that he never observed the entire 240 inches making it down the ditch to Marsh Creek. Parke indicated it sinks away with portions of it raising in Land Creek. I understand that the increase in the flows of Land Creek have been treated as natural flow and distributed among the decree holders on that stream. All these statements seem to collaborate each other.

In your letter you raise the issue of diversion beyond Anderson's legal limit. Even though ownership of the entire right (240 inches) has not yet been resolved it is reasonable that Anderson has a right to at least 28 inches of water measured at the ditch into Marsh Creek. Regarding wasteful use of water it, appears that water is not currently being diverted to the Anderson property in excess of that which would be beneficial. It may be prudent to utilize natural flow rights first and then storage water second in a normal system, but the circumstances of Lake Cleveland are

somewhat unusual and at this point to classify this use as wasteful may not be accurate. I presently view Mr. Anderson's attempt to gain delivery of Lake Cleveland water as an experiment and encourage Mr. Anderson to monitor his releases, monitor the seepage losses in the delivery ditch and measure the benefit he derives while being mindful of your client's concerns. Other parties may wish to monitor the same. I would question prolonged release of the lake water without direct re-diversion from Marsh Creek for a beneficial use.

I think the more pressing question yet to be resolve is ownership of the Lake Cleveland right. As you know in the SRBA this water right has been over claimed and there are currently two transfers (T5089 in the name of George Montgomery and T5090 in the name of A. W. Anderson) under protest largely due to the ownership question. As you know the pre-hearing conference held in Burley in 1997 for the protested transfers did not resolve the issues. You may recall at that time it was decided that the parties would wait and resolve the issues in the SRBA process. The following list is the current status of the SRBA claims (slightly different than the record in 1997) to the Lake Cleveland water:

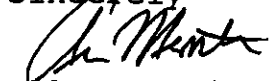
A45-00294A	Cooper	1.60 cfs	(80 inches)
A45-00294C	Anderson	3.30 cfs	(165 inches)
A45-00294D	Montgomery	1.60 cfs	(80 inches)
A45-00294E	DeNaughel (Anderson)*	2.20 cfs	(110 inches)

*Change of Ownership filed - DeNaughel to Anderson

To resolve these issues the parties could proceed to have a hearing on the two pending transfers; have the parties agree to share the water and avoid litigation; wait for SRBA review and resolution through the SRBA court; or have the matter set for administrative review by pressing for a call on the water. If a call is made I understand the department may conduct a hearing and would issue a preliminary order.

By copy of this letter and your June 8th letter I will inform all parties of the forgoing. I recommend that if any party has additional information to support their SRBA claim they immediately augment their claim record.

Sincerely



Allen Merritt, PE
Southern Region Manager

CC: Kent Cooper
George Montgomery

A W Anderson
K C Stone

Don Gunderson - WM 45F
Doug Jone - SRBA

ROSHOLT, ROBERTSON & TUCKER
Chartered

ATTORNEYS AT LAW

JOHN A. ROSHOLT
J. EVAN ROBERTSON
JAMES C. TUCKER
GARY D. SLETTE
JERRY V. JENSEN
JOHN K. SIMPSON
NORMAN M. SEMANKO
PATRICK D. MADIGAN
TIMOTHY J. STOVER

Twin Falls Office
142 3rd Ave. North
P.O. BOX 1906
TWIN FALLS, IDAHO 83303-1906
TELEPHONE (208) 734-0700
FAX (208) 736-0041

Boise Office
1221 WEST IDAHO, SUITE 600
P.O. BOX 2139
BOISE, IDAHO 83701-2139
TELEPHONE (208) 336-0700
FAX (208) 344-6034

June 8, 1999

Allen D. Merritt, P.E.
Southern Region Manager
State of Idaho
Department of Water Resources
1341 Fillmore St, Suite 200
Twin Falls, ID 83301-3380

RECEIVED

JUN 14 1999

Department of Water Resources
Southern Region

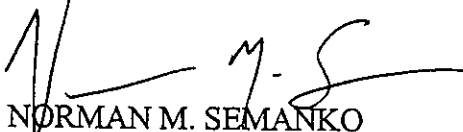
Re: Lake Cleveland Water Rights

Dear Allen:

I am writing in regards to a recent development in the diversion of water from Lake Cleveland. Our clients, George and Gwen Montgomery, hold a right (A45-00294D), yet to be adjudicated in the SRBA, to divert 1.6 cfs from the storage water of Lake Cleveland. However, when they attempted to exercise this right last year, the lake was too low for any possible diversion. Apparently Mr. Woody Anderson had diverted water in excess of his purported right from Lake Cleveland, a practice that he is continuing today. Even if Mr. Anderson is entitled to the full extent of his claimed right, 3.3 cfs (A45-00294C), in addition to claims acquired from Mr. Kyle DeNaughel, 2.2 cfs (A45-0029E), he still may only legally divert 5.5 cfs (275 inches) from Lake Cleveland. Apparently Mr. Anderson has been diverting as much as 12 cfs (600 inches) from Lake Cleveland, even at times when Marsh Creek is running full.

Clearly, Mr. Anderson is not entitled to divert this amount of water from the lake. Diverting this much water from the lake is not only unlawful, it is unnecessary and wasteful at this time of year. Where sufficient water is running in the creek, any diversion from the lake affects storage rights to be used later in the year. Mr. Anderson's unlawful action wastes storage water from the lake essential to our clients' water right. As directed by statute, Idaho Code § 42-607, the watermaster must close Mr. Anderson's headgate to the extent he does not have an adjudicated, decreed, permit or licensed right to 600 inches from Lake Cleveland. In addition, wasteful diversions cannot be allowed to continue under Idaho Code § 42-916. Again, this diversion affects our clients' interest in water from Lake Cleveland and we would request immediate action on this situation. Please feel free to contact me if you have any questions.

Sincerely,


NORMAN M. SEMANKO

cc: George and Gwen Montgomery

From: DWR60::AMERRITT 26-AUG-1997 09:47:48.05
To: DWR03::GSAXTON,DJ
CC: AMERRITT
Subj: Corrected memo

FROM: Allen Merritt DATE: August 26, 1997

TO: Transfer #5089 in the name of Anderson
Transfer #5090 in the name of Montgomery

SUBJECT: Pre-hearing Conference

On 8/21/97 I conducted a joint pre-hearing conference in the matter of the above referenced transfer applications dealing with the transfer of the storage water in Lake Cleveland decreed under right 45-00294. (Actually the storage in the lake is covered under two decrees: 45-00294A for 3.20 cfs decreed to Parke
45-00294B for 1.60 cfs decreed to Guiles

These transfers were an effort to bring to resolution the ownership question of this right and to get recorded where the right is presently being used.

Anderson's transfer was protested by: Montgomery
DeNaughel
Warthen, Intervenor
Montgomery's transfer was protested by: Anderson
DeNaughel
Warthen, Intervenor

Anderson was represented by attorney Stone.
Montgomery was represented by attorney Semanko.
DeNaughel & Warthen represented themselves.

Ownership appears to be the main issue with all parties except Warthen. Presently there are four claims filed in the SRBA for these waters as represented by:

A45-00294A 1.60 cfs, Cooper
A45-00294C 3.30 cfs, Anderson
A45-00294D 1.60 cfs, Montgomery
A45-00294E 1.60 cfs, DeNaughel

At the conference Mr. Anderson brought along Fred Parke whose family has been involved with this water and he provided a history of the water. His family was the one that sold out to Anderson. Mr. Parke indicated that ownership of the water rests with:
Anderson: 2.60 cfs (1.60 cfs of Guiles' decree & 1.00 cfs of Parke's decree)
DeNaughel: 2.20 cfs (2.20 cfs of Parke's decree)

Included in the file is deposition by Parke and map that summarizes the trail of ownership according to Parke.

At the conference Semanko voiced the opinion that the ownership question should more correctly be determined in the SRBA and the administrative process of transfer would leave out Cooper's & DeNaughel's claim to the water so the process would be flawed. He indicated that he would talk to his clients but proposes to put the

applications on hold. Steve seems to be open to this and they were going to meet and let me know what they desired. As for Worthen his concern was more of an overall concern about how these rights are delivered and their affect on the users in the valley. He agreed that maybe the SRBA should decide these concerns.

I will wait to hear from the applicants on how to proceed. Semanko indicated that they would continue to call on the water to avoid forfeiture issues. I told him that if a call was made then the department would have to provide instruction to the watermaster and ownership may need to be determined or interim agreements made until SRBA decides. I told the parties that since the story of what Anderson and DeNaughel owns according to Parke is different than what is currently represented by their SRBA claims that they may need to amend their SRBA claims if the Parke ownership history is what they are going to rely on.



State of Idaho

DEPARTMENT OF WATER RESOURCES

1341 Fillmore Street, Suite 200, Twin Falls, ID 83301-3380

Phone: (208) 736-3033 FAX: (208) 736-3037

August 11, 1997

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

EARL WARTHEN
PO BOX 145
ALBION ID 83311

RE: ADJUDICATION CLAIMS FOR MONTGOMERY: (A45-00294D, A45-00312A,
A45-07090, A45-10912,
A45-10913)
ANDERSON: (A45-00294C, A45-00311,
A45-00312B, A45-10042)
DE NAUGHEL: (A45-00294E, A45-00317F,
A45-07322)

Dear Mr. Warthen,

Enclosed are profile reports for the above adjudication claim numbers, as per your request last Friday. I found no water rights "pending" as a result of the moratorium.

If we can be of any further assistance, please feel free to call our office.

Sincerely,

A handwritten signature in cursive script, appearing to read 'Jeanie'.

Jeanie Robertson
Sr. Water Resource Agent

/jr
Enclosures:



State of Idaho
DEPARTMENT OF WATER RESOURCES
1341 Fillmore Street, Suite 200, Twin Falls, ID 83301-3380
Phone: (208) 736-3033 FAX: (208) 736-3037

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

June 2, 1997

A.W. & S.J. Anderson
HC 36
Box 14
Albion, ID 83311

A45-00294C

Dear Mr. and Mrs. Anderson:

Our department has recently began processing two water right transfer applications involving portions of the water rights out of Lake Cleveland, located southwest of Albion, Idaho. These two transfer applications were filed by George & Gwen Montgomery and A.W. & S.J. Anderson. You have received this letter because you have filed a Snake River Basin Adjudication claim based on a portion of those water rights.

The Department's water right records are based on an old water right decree. In 1892, as part of the R.L. Wood, et al. vs. W.M. Stokes decree, the water out of Lake Cleveland was decreed to two different parties for use on two specific parcels of ground.

The first party, George Giles, was decreed 1.6 cfs (80 inches) for specific land described as the East $\frac{1}{2}$ of the Southwest $\frac{1}{4}$ and the West $\frac{1}{2}$ of the Southeast $\frac{1}{4}$ of Section 01, Township 12 South, Range 24 East. The Giles property has been outlined, in red, on the enclosed map.

The second party, Andrew Parke, as administrator of the John Parke Estate, was decreed 3.2 cfs (160 inches) for specific land described as the Southeast Southeast $\frac{1}{4}$ of Section 01 and the East $\frac{1}{2}$ of the Northeast $\frac{1}{4}$ of Section 12 both within Township 12 South, Range 24 East and the Southwest Southwest $\frac{1}{4}$ (U.S. Government Lot #7) of Section 06, Township 12 South, Range 25 East. The Parke property has been outlined, in blue, on the enclosed map.

Four parties have filed Snake River Basin Adjudication claims for the water out of Lake Cleveland, based on the original 1892 decree. A summary of these claims is on the next page.

CLAIM NUMBER	CLAIMANT	AMOUNT OF WATER	ACRES IRRIGATED
A45-00294A	Kent Cooper	1.60 cfs	120 acres
A45-00294C	A.W. & S.J. Anderson	3.30 cfs	240 acres
A45-00294D	George Montgomery	1.60 cfs	100 acres
A45-00294E	Kyle & Rozalys De Naughel	1.60 cfs	72 acres
TOTAL		8.10 cfs	532 acres

The total amount of water claimed under these four adjudication claims amounts to 8.1 cfs for 532 acres. I have included a map showing the locations of the acres claimed under these four adjudication claims. Please note that more water and irrigated acres from Lake Cleveland has been claimed than was originally decreed.

I have researched the documents provided by the Montgomerys and the Andersons that they included with their respective transfer applications. In addition, I have researched records at the Cassia County Courthouse and the Land Title and Escrow office in Burley. I have carefully examined these documents and records and find that there is still not enough information to determine the historical ownership trail of the decreed water from Lake Cleveland.

I have included a summary of the known documented transactions involving water from Lake Cleveland. To the best of my knowledge, this summary represents the recorded transactions that have occurred involving the Lake Cleveland water since it was decreed in 1892. However, I suspect that additional transactions may have occurred that may help clarify the ownership record. Most of the documents that this summary is based on do not specify where the water came from or went to in the transactions.

Since the department is proceeding with the processing of the transfer applications filed by the Andersons and Montgomerys, the actual ownership of the Lake Cleveland water needs to be determined. These proposed transfers can, and will, have an effect on all the Snake River Basin Adjudication Claims filed on the water out of Lake Cleveland.

June 2, 1997
PAGE 3

I suggest that all parties with adjudication claims filed on the water out of Lake Cleveland investigate the basis of their claims and the two proposed water right transfers. As part of the processing of the two proposed transfers, a public notice will appear in the local newspaper, and a protest period will follow. Claimants may consider filing protests, which may allow the protestants and applicants a chance to settle the Lake Cleveland ownership questions on their own, or possibly through a hearing process.

If you have any questions, or if I can be of any assistance, feel free to contact me at your convenience.

Sincerely,

A handwritten signature in cursive script, appearing to read "Corey Skinner".

Corey Skinner, EIT
Dam Safety Section

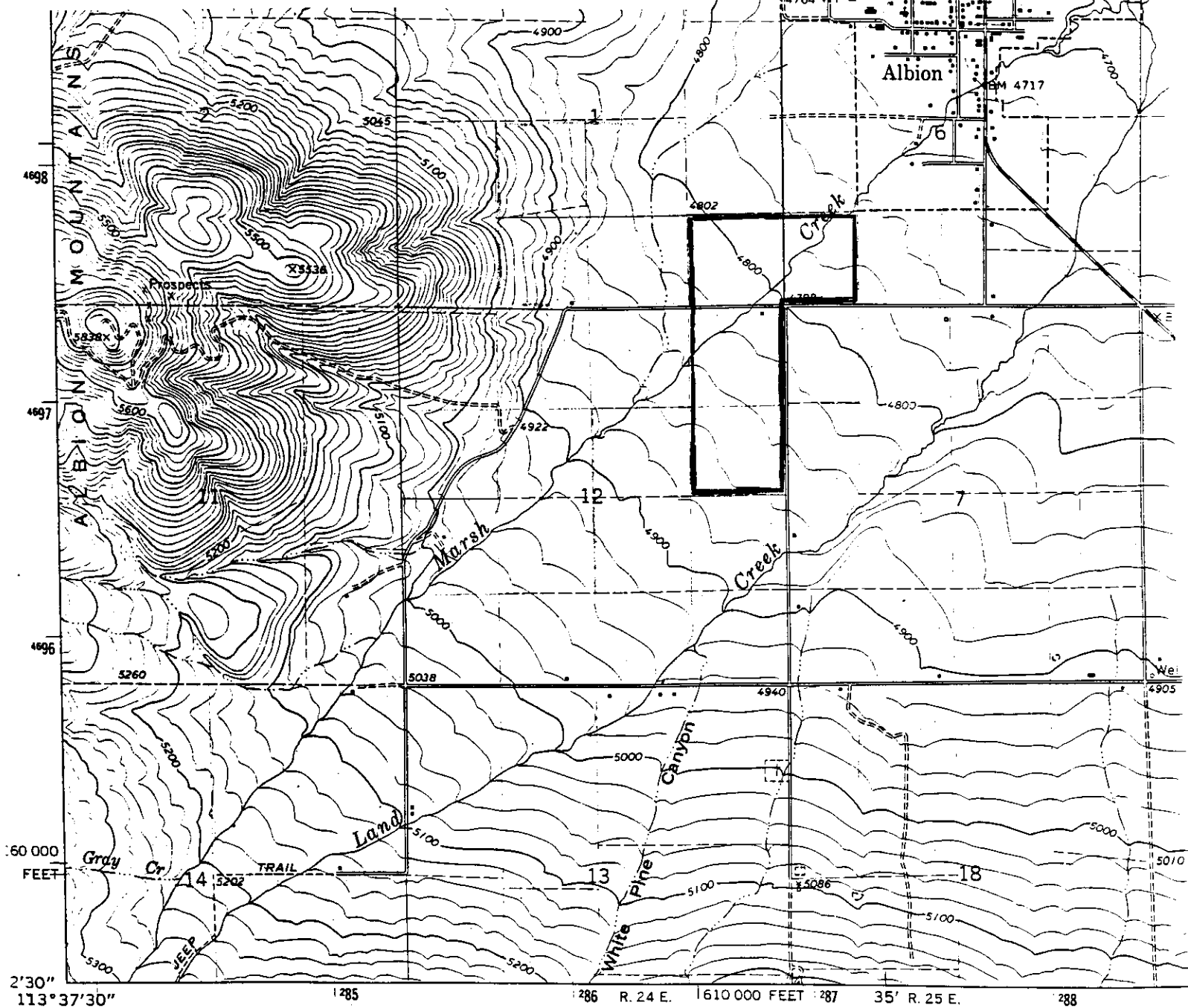
Enclosures

cc: George & Gwen Montgomery
Kent Cooper
Kyle & Rozalys De Naughel
Don Gunderson - District 45-F Watermaster

MAP SHOWING DECREED
PLACE OF USE FOR LAKE
CLEVELAND WATER.

GEORGE GILES 1.6 cfs

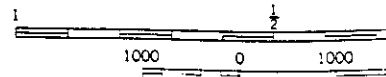
JOHN PARKE ESTATE  3.2 cfs



Mapped, edited, and published by the Geological Survey

Control by USGS and USC&GS

Topography by photogrammetric methods from aerial
photographs taken 1967. Field checked 1968



SUMMARY OF KNOWN TRANSACTIONS INVOLVING LAKE CLEVELAND WATER

1890

1892
1.6 cfs decreed to
George Giles

1892
3.2 cfs decreed to
John Parke Estate
(Andrew Parke administrator)

1892 Order
1.0 cfs
from Andrew Parke
to Ira Parke

"About 1893"
1934 affidavit from
Andrew Parke stating that
he sold 1/3 of waters of
Lake Cleveland to Ira Parke
used on current Montgomery property

1900

1904 Quitclaim
0.80 cfs
from Mary Guiles to
S.D. Parke & Bros.

1930

1932 Quitclaim
0.80 cfs
from Mary Guiles to L.B. Parke

1940

1942 Decree
1.5 cfs
to Federal Farm Mortgage Corporation
later documents appear to track
to De Naughel

1945 Quitclaim
0.80 cfs
from Sterling and Ferl Adams
to Ira and Anna May Parke

1947 Quitclaim
0.80 cfs
from L.B. Parke to Ira Parke

Present

A45-00294A for 1.6 cfs (Cooper)

A45-00294C for 3.3 cfs (Anderson)

A45-00294D for 1.6 cfs (Montgomery)

A45-00294E for 1.6 cfs (De Naughel)

prepared 05/29/97
by C. Skinner

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

IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM.

CIVIL CASE NUMBER: 39576

Ident. Number: ~~213-000040~~
Date Received: 10/20/1988
Receipt No: S003083
Received By: _____

**NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW**

1. Name: A. W. ANDERSON 208-673-6222
Address: HC 36 BOX 14
ALBION ID 83311

Name: S. J. ANDERSON 208-673-6222
Address: HC 36 BOX 14
ALBION ID 83311-1

2. Date of Priority: MAR 31, 1888

3. Source: LAKE CLEVELAND Trib. to: MARSH CREEK

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
13S	24E	3	SW	NW			CASSIA

5. Description of diverting works:
DITCH, GRAVITY IRRIG.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
IRRIGATION	03/01	11/01	2.600		

7. Total Quantity Appropriated is:
2.600 C.F.S. (and/or) A.F.A.

8. Total consumptive use is Acre Feet Per Annum.

9. Non-irrigation uses:

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
12S	24E	12	SW	NE		IRR	40.0

10. Place of Use: Continued

Township	Range	Section	1/4	of 1/4	Lot	Use	Acres
12S	24E	12	SW	NW		IRR	40.0
			NE	SW		IRR	40.0
			NW	SW		IRR	40.0
			SW	SW		IRR	40.0
			NW	SE		IRR	40.0

Section Acres 240.0

Total Acres	240.0
-------------	-------

11. Place of use in counties: CASSIA

12. Do you own the property listed above as place of use? YES

13. Other Water Rights Used:

A45-00311, A45-00312B

14. Remarks:

FARM=240 ACRES.

OWNERSHIP CHANGE 3/3/92 BY JG.

15. Basis of Claim: DECREED

Case Number:

Court :

Decree date: / /

Decree Plaintiff

vs Decree Defendant

16. Signature(s)

(a.) By signing below, I/We acknowledge that I/We have received, read and understand the form entitled "How you will receive notice in the Snake River Basin Adjudication." (b.) I/We do do not wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments:

MICROFILMED
MAR 07 1993



NEW PROPERTY OWNER NOTICE OF CHANGE OF WATER RIGHT OWNERSHIP

RECEIVED

Please print or type

(see instructions on back of page)

DATE OF CLOSING: JULY 1, 1991

OCT 11 1991

LEGAL DESCRIPTION OF PROPERTY: Township 12 S Range 24 E
 Section 12, 1/4 of 1/4 of 1/4 Govt. Lot , BM.

Department of Water Resources
 SEE ATTACHED
 Southern Region Office

Lot , Block , Subdivision/Townsite .

If you have additional legal descriptions, please attach separate sheet.

- ☐ Served Only by a Public Service Water Supply (all water is received from a city or company who maintains water supply system, owns the water right, and bills the customer on a regular basis)
- ☐ Water Right Number(s)
 Assigned by IDWR: 945-00294C
- ☐ Name and Address of Former Owner/Claimant(s)(Seller):
FREDERICK L. PARKE
MARGARET P. OVEROSS
P. O. BOX 515
ALBION, IDAHO 83311
- ☐ New Owner/Claimant (Purchaser):
A. W. ANDERSON - S. J. ANDERSON
- ☐ New Mailing Address:
HC 36 BOX 14
ALBION, IDAHO 83311
- ☐ New Telephone Number: (208) 673-6222
- ☐ Does the change in ownership result in a splitting of the water right owned/claimed? yes XXno
 If yes, then describe the portion of the water right that is now owned/claimed by the new owner:
- _____
- _____
- _____

- ☐ Attach proof of ownership, describe proof attached: _____
- (proof of ownership must describe either the property conveyed or include the claim number. Proof of ownership is not required if this form is signed by the former owner/claimant.)

- ☐ Signature of New Owner/Claimant(s) A W Anderson Date 10-10-91
S. J. Anderson Date 10-10-91
- ☐ Signature of Former Owner/Claimant(s): Frederick L. Parke Date 9-28-91
Margaret P. Oveross Date 9-28-91

(Signature of former claimant(s) is not required if proof of ownership is attached.)

FOR IDWR USE ONLY:

Initial Review and Data-Entry

Date: 3/3/92 By: LC

Further Action Needed:

Further Action Taken

Date: _____ By: _____

Final Review and Data-Entry

Date: 3/3/92 By: LC

Claim Numbers of Split, if any:

MICROFILMED

MAR 07 1993

Original to be mailed to Idaho Department of Water Resources
 Copies to Former Owner and New Owner

LEGAL DESCRIPTION OF PROPERTY:

TOWNSHIP 12 SOUTH RANGE 24 EAST OF THE BOISE MERIDIAN,
CASSIA COUNTY, IDAHO. SECTION 12 SW $\frac{1}{4}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$,
NE $\frac{1}{4}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, AND THE SW $\frac{1}{4}$ NW $\frac{1}{4}$.

MICROFILMED
MAR 07 1993

SD-0604-2 Township: 12S Range: 24E Section: 12

S	L	Water	Name	O	Tract:	Lot:
E	O		STATE	W	S	Max # Records
L	T	Right No.	Last, First	N	T	Priority
					G	Date
						Use
						Code Desc
	NWNE	A45-10912	MONTGOMERY, GEORGE	C	40	J 03/01/1965 01 IRR
	NWNE	A45-00312A	MONTGOMERY, GEORGE	C	35	D 07/01/1876 01 IRR
	NWNE	A45-00312C	MONTGOMERY, GEORGE	O	5	D 07/01/1876 01 IRR
			LOZANO, JUAN	C		
			LOZANO, CYNTHIA VAN DE	C		
	NWNE	A45-10915	MONTGOMERY, ESTHER N.	O		J 03/10/1975 43 DOMEST
			LOZANO, JUAN	C		
			LOZANO, CYNTHIA VAN DE	C		
	SWNE	A45-00294C	[REDACTED]	C	40	D 03/31/1888 01 IRR
	SWNE	A45-00312B	[REDACTED]	C	40	D 07/01/1876 01 IRR
	SENE	A45-00294B	PARKE, EST. OF JOHN PA	O		03/31/1888 01 IRR
			SPLIT RIGHT	C		
	SENE	A45-00317	PARKE, ANDREW H., ADMI	O		08/01/1881 01 IRR
			SPLIT RIGHT	C		
			PARKE, EST. OF JOHN	O		
	SENE	A45-07322	DE NAUGHEL, HARRY	O	36	L 08/18/1977 01 IRR

(Enter=Continue)

(GOLD7=This Query)

(Menu _____)

MICROFILMED
MAR 07 1993

SD-0604-2 Township: 12S Range: 24E Section: 12

SECT	LOT	Water Right No.	Name Last, First	STATE	AC	Tract: S T G	Max # Records	Lot: Use	53
L	Tract	T					Priority Date	Code Desc	
SENW		A45-00294D	MONTGOMERY, GEORGE	C	40	D	03/31/1888	01 IRR	
SENW		A45-07090	MONTGOMERY, GEORGE	C	40	L	02/26/1972	01 IRR	
SENW		A45-10912	MONTGOMERY, GEORGE	C	40	J	03/01/1965	01 IRR	
SENW		A45-10913	MONTGOMERY, GEORGE	C		J	09/08/1980	43 DOMEST	
SENW		A45-10913	MONTGOMERY, GEORGE	C		J	09/08/1980	04 STOCK	
SENW		A45-10913	MONTGOMERY, GEORGE	C		J	09/08/1980	43 DOMEST	
SENW		A45-00312A	MONTGOMERY, GEORGE	C	40	D	07/01/1876	01 IRR	
NESW		A45-00294C	PARKE, FREDERICK L.	C	40	D	03/31/1888	01 IRR	
NESW		A45-00311	PARKE, FREDERICK L.	C	40	D	04/01/1876	01 IRR	
NWSW		A45-00294C	PARKE, FREDERICK L.	C	40	D	03/31/1888	01 IRR	
NWSW		A45-00311	PARKE, FREDERICK L.	C	40	D	04/01/1876	01 IRR	
NWSW		A45-10043	PARKE AND BAKER	C		J	01/01/1980	43 DOMEST	
NWSW		A45-11179	GEARY, V. THOMAS	C		J	01/01/1876	04 STOCK	
SWSW		A45-00311	PARKE, FREDERICK L.	C	40	D	03/31/1888	01 IRR	
SWSW		A45-00311	PARKE, FREDERICK L.	C	40	D	04/01/1876	01 IRR	

(Enter=Continue)

(GOLD7=This Query)

(Menu _____)

REPROFILMED
MAR 07 1993

SD-0604-2 Township: 12S

Range: 24E

Section: 12

STATE

Tract:

Lot:

53

S	L	O	Water	Name	O	S	Max #	Records	53
E			Right	Last, First	W	T	Priority	Use	
L	Tract	T	No.		N	AC	Date	Code	Desc
-	SES	-	A45-00288A	SORENSEN, RONALD	-	-	-	-	-
-	SES	-	A45-07373	SORENSEN, SERN C.	C	40	D	11/03/1875	01 IRR
-	SES	-	A45-10547	SORENSEN, RONALD S.	C	40	P	02/22/1979	01 IRR
-	NESE	-	A45-00288A	SORENSEN, SERN C.	C		J	08/20/1969	43 DOMEST
-	NESE	-	A45-00521B	SORENSEN, RONALD	C	40	D	11/03/1875	01 IRR
-	NESE	-	A45-07373	SORENSEN, SERN C.	C	40	D	06/01/1877	01 IRR
-	NWSE	-	A45-00288A	SORENSEN, RONALD S.	C	40	P	02/22/1979	01 IRR
-	NWSE	-	A45-00288A	SORENSEN, SERN C.	C	40	D	03/31/1888	01 IRR
-	SWSE	-	A45-00288A	PARKE, FREDERICK L.	C	40	D	07/01/1876	01 IRR
-		-		SORENSEN, RONALD	C	40	D	11/03/1875	01 IRR
-		-		SORENSEN, SERN C.	C				

(Enter=Continue)

(GOLD7=This Query)

(Menu _____)

MICROFILMED

MAR U 7 1993

SD-33

Last Name: PARKE

STATE	First Name	Water Right No.	Priority Date	Source	Total Diversion	Use Code Desc
PARKE						
	ANDREW H., A	O A45-00317	08/01/1881	MARSH CREEK	3.200	01 IRR
	FREDERICK L.	C A45-10042	10/23/1972	SPLIT RIGHT		
	FREDERICK L.	C A45-10042	03/31/1888	GROUNDWATER	0.040	43 DOMEST
	FREDERICK L.	C A45-00311	04/01/1876	LAKE CLEVEL	2.600	01 IRR
	FREDERICK L.	C A45-00312B	07/01/1876	MARSH CREEK	3.200	01 IRR
	HOWARD	C A45-11718	01/01/1913	MARSH CREEK	1.600	01 IRR
	EST. OF JOHN	O A45-00317F	08/01/1881	GROUNDWATER	1.000	43 DOMEST
	ANDREW H., A	O A45-00317F	08/01/1881	MARSH CREEK	1.600	01 IRR
	EST. OF JOHN	O A45-00294B	03/31/1888	MARSH CREEK	1.600	01 IRR
				LAKE CLEVEL	3.200	01 IRR
	EST. OF JOHN	O A45-00317	08/01/1881	SPLIT RIGHT		
				MARSH CREEK	3.200	01 IRR
				SPLIT RIGHT		

(Enter=Continue)

(GOLD7=This Query)

(Menu _____)

MICROFILMED
MAR 07 1993



State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region, 222 Shoshone St. East, Twin Falls, Idaho 83301 (208) 736-3033

CECIL D. ANDRUS
Governor

R. KEITH HIGGINSON
Director

3-March-1992

A. W. Anderson
S. J. Anderson
HC 36 Box 14
ALBION ID 83311

Re: Ownership Change for Adjudication Claim NO.(S): A45-000311
A45-00312B, A45-10042, [REDACTED] * FREDERICK L. PARKE -

Dear Claimant(s):

Pursuant to the notification that you presently own the property in which the above-referenced Adjudication Claim(s) is appurtenant, the Department has changed the record of the current owners as you requested. Please find enclosed a copy of the computer record of the claim(s) noting the change in claimant.

Please review the record and if you have any corrections or questions, please feel free to call this office.

Sincerely,

A handwritten signature in cursive script, appearing to read 'Judy'.

Judy Givens
Adjudication Secretary

/jg

Enclosures

REPROFILMED
MAR 07 1993

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

IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM.

CIVIL CASE NUMBER: 39576

Ident. Number: A45-00294C
Date Received: 10/20/1988
Receipt No: S003083
Received By: W

COPY

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: FREDERICK L. PARKE
Address: BOX 515
ALBION, ID

208-673-6620

83311

2. Date of Priority: MAR 31, 1888

3. Source: LAKE CLEVELAND

Trib. to: MARSH CREEK

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4 of	Lot	County
13S	24E	3	SW		NW		CASSIA

5. Description of diverting works:
DITCH, GRAVITY IRRIG.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	03/01	11/01	2.600		

7. Total Quantity Appropriated is:
2.600 C.F.S. (and/or)

A.F.A.

8. Total consumptive use is

Acre Feet Per Annum.

9. Non-irrigation uses:

10. Place of Use:

Township	Range	Section	1/4 of	1/4 of	Lot	Use	Acres
12S	24E	12	SW	NE		IRR	40.0
			SW	NW		IRR	40.0
			NE	SW		IRR	40.0
			NW	SW		IRR	40.0

A45-00294C

Page 1

Date: 10/20/88

FILED
MAR 07 1988

10. Place of Use: Continued

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
12S	24E	12	SW	SW		IRR	40.0
			NW	SE		IRR	40.0
Section Acres							240.0
Total Acres							240.0

11. Place of use in counties: CASSIA

12. Do you own the property listed above as place of use? YES

13. Other Water Rights Used:
A45-00311, A45-00312B

14. Remarks:
FARM=240 ACRES.

15. Basis of Claim: DECREED
Case Number:
Court :
Decree date:

Decree Plaintiff

vs

Decree Defendant

RECORDED
MAR 07 1989

16. Signature(s)

(a.) By signing below, I/We acknowledge that I/We have received, read and understand the form entitled "How you will receive notice in the Snake River Basin Adjudication." (b.) I/We do _____ do not ☒ wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments: _____

For Individuals:

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

Signature of Claimant(s): *Frederick L. Parker* Date: Oct 20, 1988

Date: _____

State of Idaho)
County of TF) SS.

Subscribed and sworn (or affirmed) before me this 20th day
of Oct 19 88

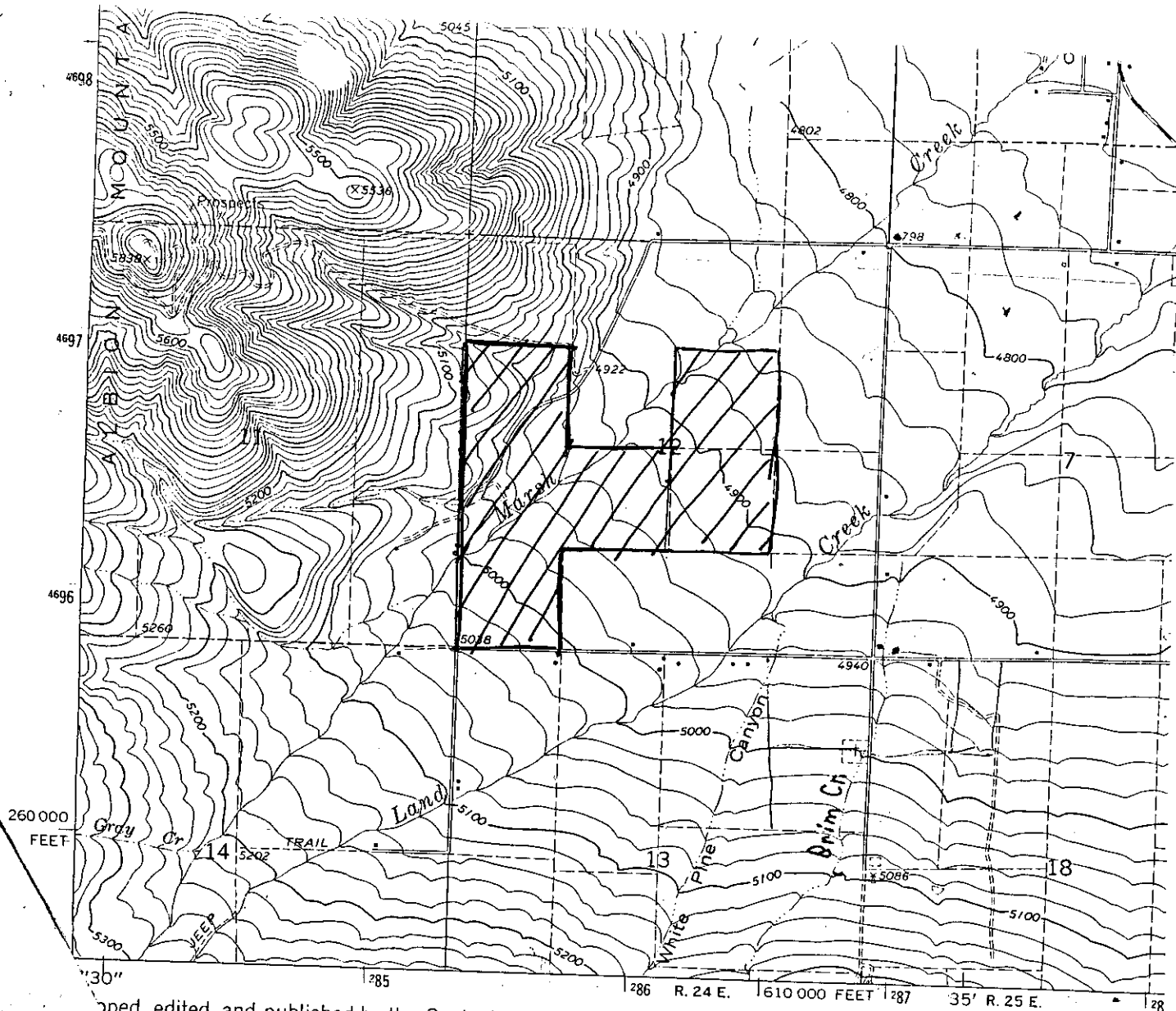
Lois White
Notary Public

Seal

Residing at TF
My Commission Expires 5/95

RECEIVED
MAR 07 1989

00 294c



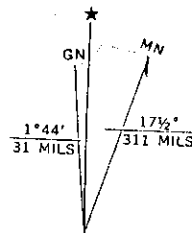
Compiled, edited, and published by the Geological Survey
of the United States by USGS and USC&GS

Photography by photogrammetric methods from aerial
photos taken 1967. Field checked 1968

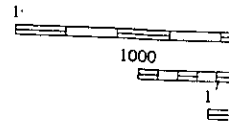
Projection. 1927 North American datum
Grid based on Idaho coordinate system,

Universal Transverse Mercator grid ticks,
blue

Indicate selected fence lines



UTM GRID AND 1968 MAGNETIC NORTH
DECLINATION AT CENTER OF SHEET



THIS
FOR SALE BY U. S. G.
A FOLDER DI

MAR 07 1968

07/29/2004

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

RIGHT NUMBER: 45-294C
NAME AND ADDRESS: SONDR A J ANDERSON
PO BOX 158
ALBION ID 83311
A W ANDERSON
PO BOX 158
ALBION ID 83311

VERIFIED BY KKC

SOURCE: LAKE CLEVELAND
QUANTITY: 2.230 CFS
55.700 AFY
PRIORITY DATE: 03/31/1888
POINT OF DIVERSION:

TRIBUTARY: MARSH CREEK

T12S R24E S12 NWNESW Rediversion Within CASSIA County
T12S R24E S12 NWSWSW Rediversion Within CASSIA County
T12S R24E S14 NENENE Rediversion Within CASSIA County
T12S R24E S14 NWSWNE Rediversion Within CASSIA County
T12S R24E S14 NENESW Rediversion Within CASSIA County
T12S R24E S27 NWNENW Injection Within CASSIA County
T13S R24E S3 NWSWNW Within CASSIA County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
IRRIGATION STORAGE	11/01 03/31	55.70 AFY
IRRIGATION FROM STORAGE	04/01 10/31	55.70 AFY
IRRIGATION	04/01 10/31	2.230 CFS

PLACE OF USE:

IRRIGATION Within CASSIA County
T12S R24E S12 SWNE 36.0 T12S R24E S12 SWNW 33.0
T12S R24E S12 NESW 36.0 T12S R24E S12 NWSW 34.0
T12S R24E S12 SWSW 40.0 T12S R24E S12 NWSE 40.0

IRRIGATION FROM STORAGE same as IRRIGATION

219 ACRES TOTAL

USE OF THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A
COMBINED TOTAL OF 219 ACRES IN A SINGLE IRRIGATION SEASON.
COMBINED RIGHT NOS. 45-311, 45-312B and 45-294C.

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

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

EXPLANATORY MATERIAL: Decreed

RIGHT INCLUDES ACCOMPLISHED CHANGE IN POINT OF DIVERSION
PURSUANT TO SECTION 42-1425, IDAHO CODE.

RIGHT INCLUDES ACCOMPLISHED CHANGE IN PLACE OF USE PURSUANT
TO SECTION 42-1425, IDAHO CODE.

Water Right 45-294C



State of Idaho

DEPARTMENT OF WATER RESOURCES

1341 Fillmore Street, Suite 200, Twin Falls, ID 83301-3380

Phone: (208) 736-3033 FAX: (208) 736-3037

DEPT INTERNET WEB SITE: [www/idwr.state.id.us](http://www.idwr.state.id.us)

SOUTHERN REGION

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

June 3, 2004

Randolph C. Stone
137 W. 13th St.
P.O. Box 910
Burley, Idaho 83318

RE: SNAKE RIVER BASIN ADJUDICATION (SRBA) CLAIMS 45-294C and 45-294E

Dear Mr. Stone

I have received the notice of error you prepared for two of Woody Anderson's SRBA claims: 45-294C and 45-294E.

Based on the information provided, combined with my own independent research and evaluation, I cannot make the changes you requested. Although there is a considerable amount of information available, enough conflict and inconsistencies exist in the documentation that I cannot find that the entire right should be appurtenant to just Anderson's two properties.

As a side note, the potential storage component for this right has never been addressed. Please refer to my 11/12/2003 letter discussing the storage capacity of Lake Cleveland, a copy of which I have attached for your convenience.

Sincerely,

Kelly K. Christensen

Sr. Water Resource Agent

E-mail address: kchrste@idwr.state.id.us

c.c. A.W. Anderson

Enclosure

01/23/2004

NOTICE OF ERROR
REPLY

RECEIVED
MAY 28 2004

Department of Water Resources
Southern Region

Please type or print clearly, fill out this form completely and mail.

Return this reply form to IDWR by the deadline date printed below if you want IDWR to change your recommendation or you want to let IDWR know that you agree with its recommendation.

YOUR DEADLINE FOR RETURNING A NOTICE OF ERROR REPLY IS: see cover letter

Water right number: 45-294E

SONDRA J. ANDERSON

PO BOX 158

ALBION ID 83311

Telephone Number: (208)673-6222

A W ANDERSON

PO BOX 158

ALBION ID 83311

Telephone Number: (208)673-6222

1. Describe the portion of the proposed recommendation with which you disagree (e.g. priority date, period of use, source):

Quantity, Period of Use

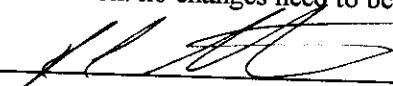
2. Describe the changes you wish to make in the proposed recommendation:

Quantity 2.2 CFS, Period of Use 03/15 to 11/15

3. Give a brief explanation as to why you disagree with these portions:

Recommendation does not accurately state right

☐ I AGREE with this proposed recommendation: no changes need to be made.

DATE: 05/27/04 SIGNATURE: 

Please print your name: R.C. Stone - Attorney for Sondra J and A.W. Anderson

IDWR Regional Office, 1341 Fillmore St, Suite 200, Twin Falls, ID 83301 2087363033

WILLIAM A. PARSONS
RICHARD K. SMITH
RANDOLPH C. STONE
LANCE A. LOVELAND
DAVID F. SHIRLEY

PARSONS, SMITH & STONE, LLP
ATTORNEYS AT LAW
137 WEST 13TH STREET
P. O. BOX 910
BURLEY, IDAHO 83318

TELEPHONE
(208) 878-8382
FAX NO.
(208) 878-0146

pss@pmt.org

May 27, 2004

Clerk of the Court
IDWR Regional Office
1341 Fillmore Street - Suite 200
Twin Falls, Idaho 83301

RECEIVED

MAY 28 2004

Department of Water Resources
Southern Region

RE: Water Right Number 45-294 C & E

Dear Clerk:

- ☒ Please **file** the two enclosed Notice of Error Reply
- ☐ Please **record** the enclosed _____
- ☐ Please **certify** the enclosed _____
- ☐ Please **present to the Judge** for his consideration.
- ☐ Our firm check is enclosed in the amount of \$_____.
- ☐ Please **return** to this office.
- ☐ Other _____

Thank you, in advance, for your assistance.

Sincerely yours,



Lisa Barnoske, Secretary

01/23/2004

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

RIGHT NUMBER: 45-294C
NAME AND ADDRESS: SONDRA J ANDERSON
PO BOX 158
ALBION ID 83311
A W ANDERSON
PO BOX 158
ALBION ID 83311

Revised July 29, 2004 KKC

SOURCE: LAKE CLEVELAND
QUANTITY: 2.230 CFS
PRIORITY DATE: 03/31/1888

TRIBUTARY: MARSH CREEK

POINT OF DIVERSION:
T12S R24E S12 NWNESW Rediversion Within CASSIA County
T12S R24E S12 NWSWSW Rediversion Within CASSIA County
T12S R24E S14 NENENE Rediversion Within CASSIA County
T12S R24E S14 NWSWNE Rediversion Within CASSIA County
T12S R24E S14 NENESW Rediversion Within CASSIA County
T12S R24E S27 NWNENW Injection Within CASSIA County
T13S R24E S3 NWSWNW Within CASSIA County

PURPOSE AND PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
IRRIGATION	04/01 10/31	2.230 CFS

PLACE OF USE: IRRIGATION Within CASSIA County

T12S R24E S12	SWNE	36.0	T12S R24E S12	SWNW	33.0
T12S R24E S12	NESW	36.0	T12S R24E S12	NWSW	34.0
T12S R24E S12	SWSW	40.0	T12S R24E S12	NWSE	40.0

219 ACRES TOTAL

USE OF THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 219 ACRES IN A SINGLE IRRIGATION SEASON. COMBINED RIGHT NOS. 45-311, 45-312B and 45-294C.

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

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

EXPLANATORY MATERIAL: Decreed

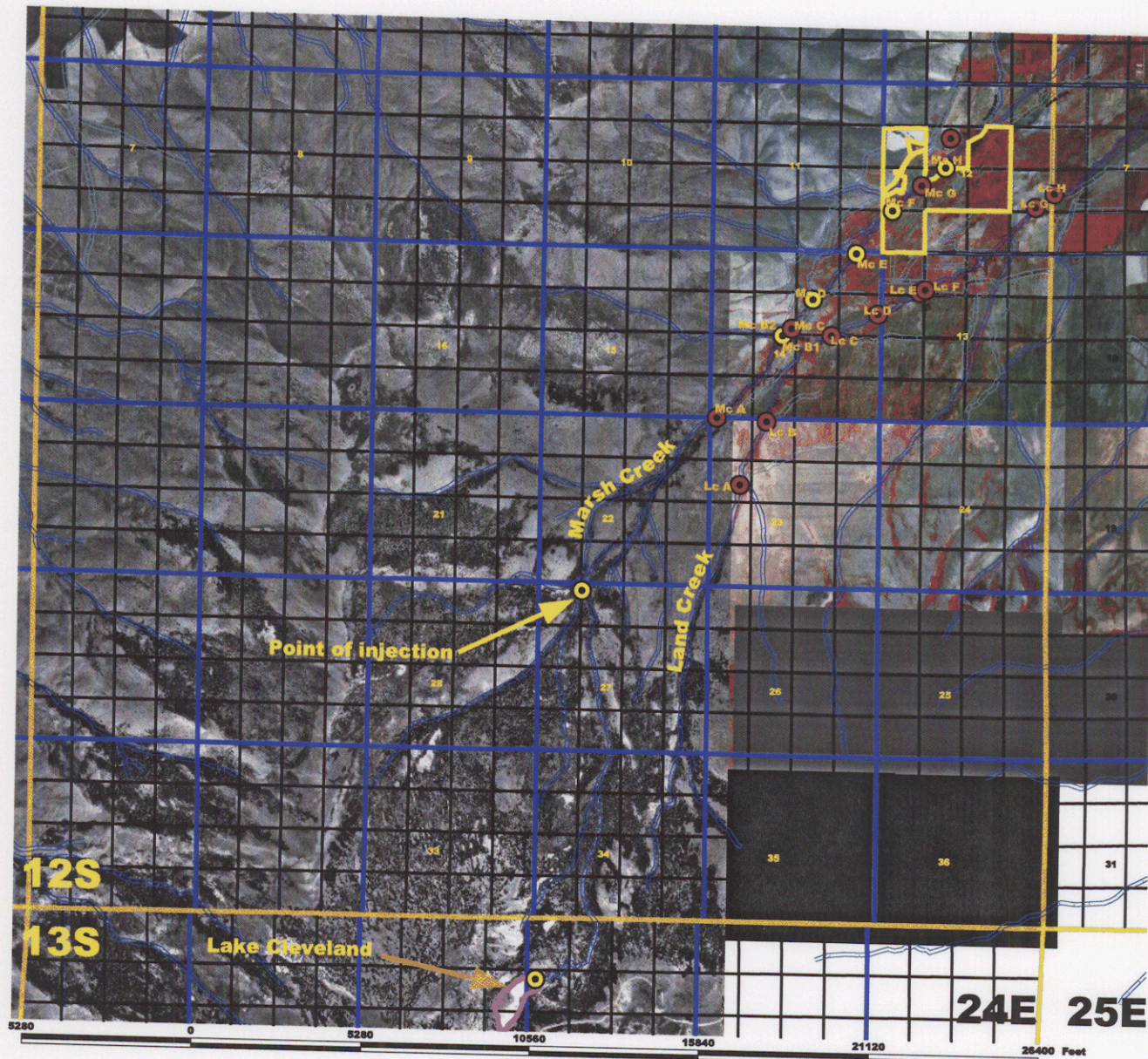
RIGHT INCLUDES ACCOMPLISHED CHANGE IN POINT OF DIVERSION PURSUANT TO SECTION 42-1425, IDAHO CODE.

RIGHT INCLUDES ACCOMPLISHED CHANGE IN PLACE OF USE PURSUANT TO SECTION 42-1425, IDAHO CODE.

Water Right 45-294C

Idaho Department of Water Resources

RECOMMENDED PLACE OF USE FOR 45-294C



PLACE OF USE

TWP 12S, RNG 24E, SEC 12

Data entry on January 21, 2004

● RECOMMENDED POINT OF DIVERSION

RECOMMENDED PLACE OF USE

TOWNSHIP LINES

SECTION LINES

QUARTER/QUARTER LINES

GIS PLACE OF USE PRESENTATION

Color - 1987/1988 NAPP AERIAL PHOTOGRAPHY

Black & White - 1992 ORTHO AERIAL PHOTOGRAPHY

DATA ENTRY BY KELLY K CHRISTENSEN



CASSIA CO



**Idaho Dept of Water Resources
Claims review notes and narrative**

Date: 12-3-2002 File: Analysis of decreed rights 45-294A AND 45-294B

Prepared by Kelly K Christensen

ANALYSIS OF DECREED RIGHTS 45-294A AND 45-294B

Corey Skinner and I Gpsed the low water shore boundary, used that information to subtract from the Lake boundary as shown on the USGS quad map and calculated an approximate active volume of 120 af. This represents the volume that can be diverted from Lake Cleveland.

The rights were claimed as follows;

Decreed right 45-294A		1.60 cfs	Recommendation	120 af Volume calculation
Claim	45-294A Cooper	1.60 cfs		
Decreed right 45-294B		3.20 cfs		
Claim	45-294D Montgomery	1.60 cfs	1.07 cfs	26.8 af
Against both decreed rights				
Claim	45-294C Anderson	3.30 cfs	2.23 cfs	55.7 af
	45-294E DeNaughel*	1.60 cfs	1.50 cfs	37.5 af
total			4.80 cfs	120.0 af

* (Now owned by Anderson)

Based upon the available documentation the water decreed to the place of use for 45-294A was transferred off of the property and identified in a 1904-quitclaim deed from Mary Guiles to S. D. Parke and Bros, and a 1932-quitclaim deed from Mary Guiles to L. B. Parke. This is the place of use identified through claim 45-294A and filed by Cooper.

Attached is a series of flow charts that I have developed based upon information that has been submitted to the department. Where possible I have attempted to identify related entries across the various trees. The critical document that I am primarily basing this recommendation on is the 1934 affidavit from Andrew Parke to Ira Parke stating that $\frac{1}{3}$ of Lake Cleveland waters to Ira on ground in Sec 12 E $\frac{1}{2}$ NW $\frac{1}{4}$ and the NW $\frac{1}{4}$ NE $\frac{1}{4}$. No other documentation has been submitted that shows that the water described in the document was transferred off the property. Also lacking additional information, I have based the $\frac{1}{3}$ rd share upon the decreed rate for the base right 45-294B (3.20 cfs). The recognized rate has been rounded to 1.07 cfs and is recognized for Montgomery through 45-294D.

Based upon the available documentation the 1942 decree for 1.50 cfs to the Federal Farm Mgt Corp. tracks to the ground identified in the DeNaughel claim 45-294E.

The balance of the right generally tracks to the Ira Parke property, which is now owned by Anderson and is claimed under 45-294C for 2.23 cfs.



State of Idaho

DEPARTMENT OF WATER RESOURCES

1341 Fillmore Street, Suite 200, Twin Falls ID 83301-3380
Phone: (208) 736-3033 FAX: (208) 736-3037

SOUTHERN REGION

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

November 12, 2003

A W ANDERSON
HC 36 BOX 14
ALBION ID 83311

RE: SNAKE RIVER BASIN ADJUDICATION CLAIMS 45-294C AND 45-294E

Dear Woody

Corey Skinner and I have found that the storage capacity of Lake Cleveland available for diversion is approximately 120 acre Ft.

Your claims probably should be amended to include this volume or a portion of this volume as irrigation storage and irrigation from storage. There will be no additional variable fee due unless you increase the claimed acreage under either of the claims.

Please give me a call so that we can discuss what you wish to do.

Sincerely

Kelly K Christensen
Sr Water Resource Agent
E-mail address: kchrste@idwr.state.id.us

MEMORANDUM

TO: Lake Cleveland Dam (D45-0294) File

FROM: Corey Skinner

DATE: November 12, 2003

SUBJECT: Analysis of Reservoir Volume

On October 21st, Kelly Christensen and I visited Lake Cleveland to conduct the scheduled O & M inspection and dam survey and attempt to evaluate the storage capacity of the dam. Kelly is working on the SRBA review of the Lake Cleveland water rights and needed an accurate storage capacity volume for his review. Kelly and I surveyed the dam and determined that the hydraulic height of the dam was 6.06 feet (see survey results). Note that the downstream end of the outlet is actually higher than the upstream end of the outlet (intake), which results in the hydraulic height representing the vertical height of storage available from the natural maximum lake level to the dam's spillway crest (maximum storage level). At the time of our visit, the reservoir was just below the outlet intake (reservoir level @ 92.18 feet according to survey). Kelly and I GPSed the approximate reservoir boundary during our visit and Kelly plotted these GPS readings in ARCVIEW and determined that the natural maximum lake level area is approximately 15.6 acres. Using ARCVIEW, the maximum storage level area indicated on the USGS map is approximately 24.0 acres. Averaging the minimum storage surface area and the maximum storage surface area and multiplying this value by the vertical height of storage results in a storage volume of approximately 120 acre-feet.



**Maximum
Storage Level
Area = 24.0 acres**

**Minimum
Storage Level
Area = 15.6 acres**

Average Surface Area
 $(15.6 \text{ acres} + 24.0 \text{ acres}) / 2 = 19.8 \text{ acres}$

Storage Volume
 $19.8 \text{ acres} \times 6.06 \text{ feet} = 120 \text{ acre-feet}$

Fred Parke

3080 S. 1300 E.

SLC, Utah 84106

801-487-0432

Kyle DePaughel

801-732-1054

~~3800 S~~

3800 S. 1900 W. # 231

Ray, Utah 84067



State of Idaho

DEPARTMENT OF WATER RESOURCES

1341 Fillmore Street, Suite 200, Twin Falls, ID 83301-3380

Phone: (208) 736-3033 FAX: (208) 736-3037

DEPT INTERNET WEB SITE: www/idwr.state.id.us

SOUTHERN REGION

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

March 5, 2003

A W ANDERSON
HC 36 BOX 14
ALBION ID 83311

RE: CLAIMS AGAINST LAKE CLEVELAND WATERS 45-294A COOPER, 45-294C & 45-294E ANDERSON, AND 45-294D MONTGOMERY

To Whom It May Concern:

In reviewing the documents available to the department I have made the following preliminary decisions. If anyone feels that there is additional information that would affect the recommendations please provide them to me for review. This analysis does not include an assessment of the claimed irrigated acres by the claimants.

Adjudication claim 45-294A for Cooper

The 1904 quitclaim for 0.80 cfs from Mary Guiles to S.D. Parke and brothers and the 1932 quitclaim for 0.80 cfs from Mary Guiles to L.B. Parke transferred the entire 1.60 cfs identified in water right 45-294A off of the W $\frac{1}{2}$ SE $\frac{1}{4}$ and the E $\frac{1}{2}$ SW $\frac{1}{4}$ of section 1, Twp 12S, Rng 24E. This is the claimed place of use for Cooper. Therefore I am recommending the Cooper claim for disallowal.

Adjudication claim 45-294D for Montgomery

A 1934 affidavit submitted with Montgomery's claim states that Andrew Parke sold $\frac{1}{3}$ of Lake Cleveland waters to Ira Parke used on the current Montgomery property. This $\frac{1}{3}$ share was from decreed right 45-294B which was for 3.20 cfs. I am therefore recognizing the Montgomery claim for $\frac{1}{3}$ of 3.20 cfs or 1.07 cfs. The balance I am recognizing as appurtenant to the property now owned by Anderson under claims 45-294C and 45-294E.

Adjudication claim 45-294C & 45-294E for Anderson

As stated above, I am recognizing the balance of the decreed right 45-294B (2.13 cfs) to Anderson. The various transfers for decreed right 45-294A moved the water around and eventually all of that right becomes appurtenant to the now Anderson property. This includes the ground Anderson purchased from DeNaughel.

I am enclosing a flow chart that highlights the various documents that were reviewed for this analysis. Corey Skinner did the initial title company research and developed the two outside charts. The left chart tracks documents relating to 45-294A and the right flow chart primarily represent the documents associated with 45-294B. The center flow chart is Fred Parke's assessment of the transfers for each decreed portion of the Lake Cleveland right. I have attempted to associate entries between the various flow charts that appear to be related. I have also added a flow chart from an affidavit submitted by Julia Parke Ballard (dated June 1, 1961) that describes a division of Ira C Parke Sr's shares to his sons. Some of the diversion rate information was extrapolated from other data within the affidavit. The 1.33 cfs initial rate is not specifically identified in the affidavit.

The second page of the attachments identifies the information supplied by Kyle DeNaughel in his claim, 45-294E. Anderson now owns this claim. The center flow chart on that page represents information supplied by Roger Ling representing Frederick L Parke.

The third block on that page is a rough visual of the areas claimed by each individual as related to each other.

If anyone wishes to review the files and documents I used in this analysis please contact me to schedule a time for the review.

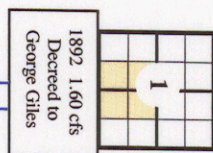
Sincerely

Kelly K Christensen
Sr Water Resource Agent
E-mail address: kchriste@idwr.state.id.us

CC; DiGrazia; Montgomery

enclosures

Corey Skinner document
research timeline 45-294A



1892 1.60 cfs
Decreed to
George Giles

1.50 cfs deliverable
at P/U

No land desc
1904 Quitclaim
0.80 cfs from Mary Guiles
to S.D. Parke and Bros

Fred Parke asserts
that S.D. Parke
owned Sec 1 SESE
and Sec 6 L1 7 and
that is where this
water was
transferred to.

No land desc
1932 Quitclaim
0.80 cfs from Mary
Guiles to L.B. Parke

1947 Quitclaim
0.80 cfs from L.B. Parke
to Ira Parke

Fred Parke assessment of unrecorded transfers for the Lake
Cleveland right 45-294A and 45-294B

1892 1.60 cfs
decreed to
George Guiles

1892 3.20 cfs decreed
to estate of John Parke

Appears to
come from
45-294A

1904? .80 cfs
M Guiles to
Steve Parke

Steve Died
Melcher M
Steve's wife
M Died

1932? .80 cfs
M Guiles to
L.B. Parke

1.00 cfs
Inherited by
L.B. Parke

1893? 1.00 cfs sold
to Ira C Parke Sr

2.20 cfs
Mortgage Co

2.20 cfs Harry
De Naughel

H Died
2.20 cfs Kyle
De Naughel

Sterling Adams
bought ranch &
0.80 cfs

Sterling Adams sold
0.80 cfs to Ira C
Parke Jr

0.80 cfs + 1.00 cfs
total = 1.80 cfs
Inherited by
Ira C Parke Jr

Ira Parke
Died
Fred Parke
0.80 cfs + 1.80 cfs
total = 2.60 cfs

Parke sold to Woody
Anderson

1/3 interest = 0.33 cfs

If 2/3rds interest = 1.00 cfs then
1/3 interest = 0.33 cfs

Anson Parke
1/3 interest

Ira C Parke Sr
1.33 cfs implied

Chester Parke
1/3 interest

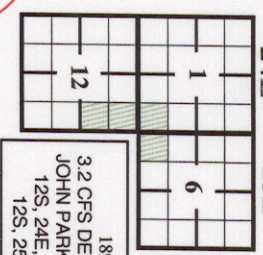
Lynn B Parke
1/3 interest

Lynn B Parke property
sold to Anson and Chester
Parke (no water)

Ira C Parke
1/3 interest Lake
Cleveland water

Ira C Parke 1/3 interest from Lynn B Parke
Ira C Parke 1/3 interest from Chester Parke
Combined total = 1.00 cfs

Corey Skinner document
research timeline 45-294B



1892
3.2 CFS DECREED TO
JOHN PARKE ESTATE
12S, 24E, S 1 & 12
12S, 25E, S 6

3.00 cfs deliverable
at P/U

1892 Order 1.00 cfs
from Andrew Parke to
Ira Parke

1942 Decree 1.50 cfs
to Federal Farm Mfg Corp

From Andrew Parke stating 1/3 of Lake
Cleveland waters to Ira Parke used on
current Montgomery property

1/2 of 3.20 cfs =
1.06 cfs

Sept 9, 1942 Fed Farm
Mgt to
W.H. & Riva Stokes
Entry 143130
Bk 47 Pg 281

1945 Quitclaim 0.80 cfs
from Sterling and Ferl Adams
to Ira and Anna May Parke

Fred Parke asserts
that S.D. Parke
owned Sec 1 SESE
and Sec 6 L1 7 and
that the 0.80 cfs
came from the 1932
quitclaim from 45-
294A

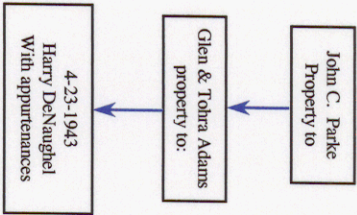
Oct 12, 1942
W.H. & Riva Stokes to
Glen & Thora Adams
Entry 143131
Bk 48, Pg 115

Apr-23-1943
Glen & Thora Adams to
Harry DeNaughel
Entry 144915
Bk 48, Pg 273

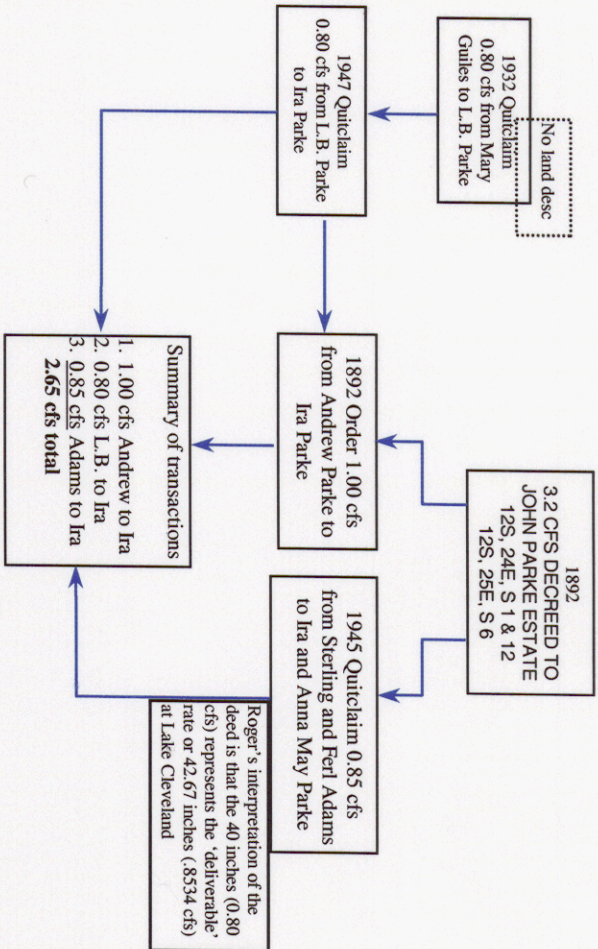
With
appurtenances, it
appears that 1.50
cfs is appurtenant

1950 Special use app issued by Forest
Service to Harry DeNaughel and Ira C
Parke.

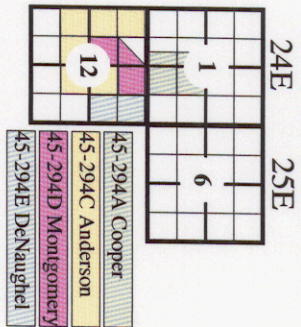
**6-6-1997
Kyle DeNaughel affidavit**



**Roger Ling representing Frederick L. Parke
Assessment of current ownership for a portion of the Lake Cleveland water
Letter dated 6-28-1991**



**Claims against
45-294**



Idaho Dept of Water Resources
Claims review notes and narrative

Date: 9-5-2002

File: 45-294C, 45-311 and 45-312B Anderson

Prepared by Kelly K Christensen

45-294C, 45-311 and 45-312B Anderson

*He filed P - but not into
the rest of the claim.*

45-294C A decreed Lake Cleveland storage right. Actual ownership is clouded at this time.

need to add Storage to claim.

45-311 The claimed place of use is within the decreed place of use and there ^{are} no competing claims against this right.

1. The claimed P/Ds include Marsh Creek diversions C and D. During my initial field work with Gunderson, he did not identify Marsh Creek C as being used by Anderson. He did identify B2 as being shared by Anderson though. The legal description for B2 is Sec 14 NENESW. It does not appear that B2 should not be included. Need to confirm points of diversion used and the delivery systems (ditch routes).
2. How much of the SWNW quarter is irrigated is not clear.
3. The claim lists one point of diversion as Sec 12 NESESW. The Sketch included with the claim indicates that the point of diversion should be listed as Sec 12 NWNESW. It appears that there was a data entry problem with the initial claim.

45-312B

1. The claim lists one point of diversion as Sec 12 NESESW. The ^{McF} Sketch included with the claim indicates that the point of diversion should be listed as Sec 12 NWNESW. It appears that there was a data entry problem with the initial claim.

This claim is against WR 45-312B which was split through the Transfer Process. The other claims filed against the allocation record.

2. A small portion of the place of use in the SWNE is on the Northwest side of Marsh Creek. The claimed points of diversion appear to divert water to the Southeast side of Marsh Creek only. Need to confirm the irrigation practice for that ground.

McF also used?

Anderson, Marsh Cr P/Ds per Anderson Notes

B2 (Highline ditch) NW side of Stream

D. (Middle ditch) NW side of Stream

E P/D behind House Anderson across 900S meadows
to east & south of delivery ditch

F. east side of Cr in meadows NE on east side
of creek - to lateral ditch H.

H. (Deraughed) ^{fringing} east side of Creek

^{marsh} meadow all the way to 1050 E.

bottom meadows of Anderson/Montgomery

Lake Cleveland Volume 100 to 150 AF.

@ 24 ac surface

Possible to recommend 45-311 & 312
in a PPU.

Log for claim A45-00294C

Spatial Dynamics MWY

4/12/00

TR	SEC	QQ	Acres Claimed	Acres Found	COMMENT
12s24e	12	SWNE	40	40	
12s24e	12	SWNW	40	37	
12s24e	12	NESW	40	40	
12s24e	12	NWSW	40	35	
12s24e	12	SWSW	40	40	
12s24e	12	NWSE	40	40	
Totals:			240	232	

Township , 12S24E

