

Notarized version attached
~~File Copy~~ *EST*

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: A31-02238A
Date Received: 1/17/1989
Receipt No: M000081
Received By: _____

~~AMENDED~~
RENUMBERED

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

~~AMENDED~~

1. Name: L & M CATTLE CO. LTD. 208-745-7506
Address: RT. 2 BOX 343
RIGBY, ID 83442

2. Date of Priority: JUL 05, 1929

3. Source: COTTONWOOD CREEK, EAST FORK Trib. to: COTTONWOOD CREEK

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
12N	35E	22	SW	NW	NE		TETON

5. Description of diverting works:
DIVERSION DAM TO DITCHES FOR FLOOD IRRIGATION

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	04/15	10/15	6.400		

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

8. Total consumptive use is 800.0 Acre Feet Per Annum.

9. Non-irrigation uses:
STOCK DRINK DIRECTLY FROM CREEK

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
12N	35E	34	SW	NE		IRR	40.0
			SE	NE		IRR	40.0
			NE	SE		IRR	40.0

A31-02238A

Page 1

Date: 01/17/89

MICROFILMED
NOV 17 1992

10. Place of Use: Continued

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
12N	35E	34	NW	SE		IRR	40.0
						Section Acres	160.0
		35	SW	NW		IRR	40.0
			SE	NW		IRR	40.0
			NE	SW		IRR	40.0
			NW	SW		IRR	40.0
						Section Acres	160.0
						Total Acres	320.0

11. Place of use in counties: TETON

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

13. Other Water Rights Used:

A22-02238 FILED FOR STOCK USE BY SHIVELY BROTHER.

14. Remarks:

***** MEMO TO FILE *****

THIS CLAIM WAS ORIGINALLY FILED AS A31-02238 ON 6/9/88 BY KCW WHILE AT THE MOBILE OFFICE IN DUBOIS. RECEIPT M000081 WAS ISSUED. PRIOR TO THIS ON 5/24/88 SHIVELY BROTHERS FILED ON THIS SAME RIGHT W/ HWJ AT THE IDAHO FALLS OFFICE. THE SHIVLEY CLAIM WAS RECEIPTED UNDER E000270 AND WAS ACCEPTED BY THE MASTER HOST. THE L & M CATTLE CLAIM WAS REJECTED BY THE MASTER FILE SINCE IT WAS A DUPLICATE NUMBER. I HAVE RECODED THE L & M CATTLE CLAIM UNDER THIS AMENDED CLAIM NUMBER, A31-02238A. I ALSO MADE A CORRECTION TO THE LEGAL DESCRIPTION FOR PLACE OF USE (SECTION NUMBERS WERE TRANSPOSED, CODED AS MAP SHOWS PLACE OF USE). I WILL REQUEST THAT CLAIM NO. A31-02238 ON RECEIPT NO. M000081 BE CHANGED TO A31-02238A, THAT CLAIM NO. A31-02238 IN THE "HOST TEMP" FILE BE DELETED AND THAT A31-02238A REPLACE THE DELETED CLAIM. RECEIPT M000081 WILL BE ADDED TO CLAIM A31-02238A

ESV 1/17/89 *****

15. Basis of Claim: LICENSE

MICROFILMED

NOV 17 1992

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

31-02238A

Ident. Number: ~~A31-02238~~

Date Received: 6/09/1988

Receipt No: M000081

Received By: Kaw

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: L & M CATTLE CO. LTD.
Address: RT 2 BOX 343
RIGBY, ID 83442

208-745-7506

2. Date of Priority: JUL 05, 1929

3. Source: COTTONWOOD CREEK, EAST FORK Trib. to: COTTONWOOD CREEK

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
12N	35E	22	SW	NW	NE		CLARK

5. Description of diverting works:
DIVERSION DAM TO DITCHES FOR FLOOD IRRIGATION

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	04/15	10/15	6.400		

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

8. Total consumptive use is 800.0 Acre Feet Per Annum.

9. Non-irrigation uses:
STOCK DRINK DIRECTLY FROM CREEK

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
12N	35E	34	SW	NW		IRR	40.0
			SE	NW		IRR	40.0
			NE	SW		IRR	40.0

A31-02238

Page 1

Date: 06/09/88

A3102238A



MICROFILMED

NOV 17 1992

10. Place of Use: Continued

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
12N	35E	34	NW	SW		IRR	40.0
						Section Acres	160.0
		35	SW	NE		IRR	40.0
			SE	NE		IRR	40.0
			NE	SE		IRR	40.0
			NW	SE		IRR	40.0
						Section Acres	160.0
						Total Acres	320.0

11. Place of use in counties: CLARK

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

13. Other Water Rights Used:
NONE

14. Remarks:
STOCK DRINK DIRECTLY FROM CREEK

15. Basis of Claim: LICENSE
Water Right Number: 17100

16. Signature(s)

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

Number of attachments: _____

For Organizations:

I do solemnly swear or affirm that I am VP of _____ Title

J-M Cattle Co, that I have signed the foregoing Organization

document in the space below as VP of _____ Title

J-M Cattle Co and that the statements contained in the Organization

foregoing document are true and correct.

Louis Merrill
Signature of Authorized Agent

VP - J-M Cattle Co
Title and Organization

JUNE 9 - 1988
Date

State of Idaho)
County of Clark) SS.

Subscribed and sworn (or affirmed) before me this 9th day

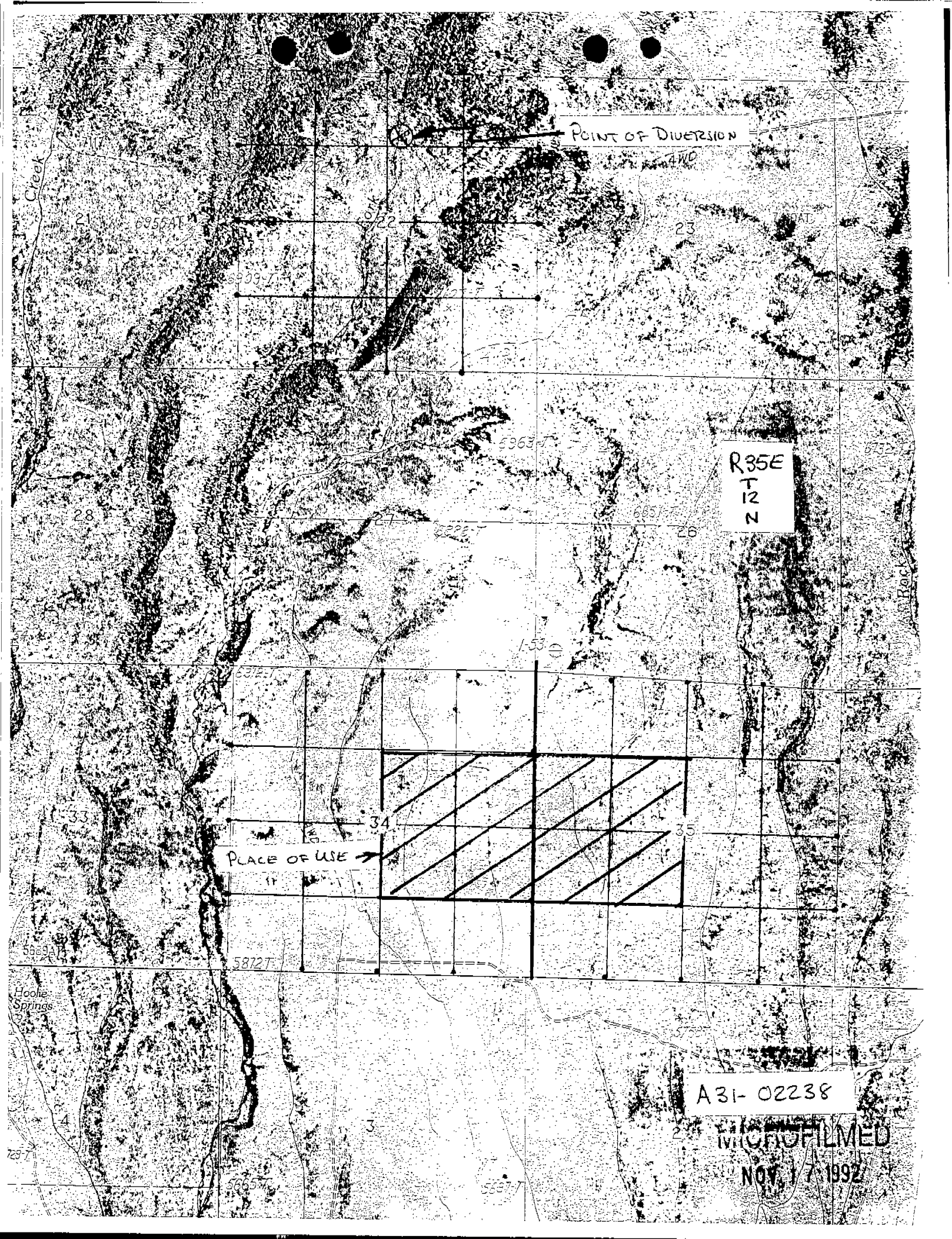
of June 19 88

John Dale Carlson
Notary Public

Seal

Residing at Boise Id.

My Commission Expires 6/2/88



POINT OF DIVERSION

R35E
T12N

PLACE OF USE →

A31-02238

MICROFILMED

NOV 17 1992

IDAHO DEPARTMENT OF WATER RESOURCES

31-2238A

T12N, R35E

*Original claim
Dent to Court.
9-18-01*



⊙ POINT OF DIVERSION

ACRES IRRIGATED- 320

PLACE OF USE

GIS: PLACE OF USE
POINT OF DIVERSION
1987/1988 NAPP PHOTOS
PREPARED BY DAVE CARLSON

IDAHO DEPARTMENT OF WATER RESOURCES

31-2238A

T12N, R35E SEC 34,35



⊙ POINT OF DIVERSION

ACRES IRRIGATED- 320

PLACE OF USE

GIS: PLACE OF USE
POINT OF DIVERSION
1987/1988 NAPP PHOTOS
PREPARED BY DAVE CARLSON

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM VERIFICATION REPORT

22:45:51
03/15/95

PAGE: 1
GENERAL INFORMATION

CLAIM NUMBER: A31-02238A

LAST: L & M CATTLE CO. LTD.
ADDRESS: RT. 2 BOX 343
CITY: RIGBY
PHONE NUMBER: 208-745-7506

FIRST:
STATE: ID ZIP: 83442

OWNER CODE: C

FIELD EXAM REQUIRED?

VERIFICATION REQUIRED DUE TO REMARKS?

DATABASE
Y

FIELD
EXAMINER

CLAIM REMARKS:

***** WIND TO FILE *****
THIS CLAIM WAS ORIGINALLY FILED AS A31-02238 ON 6/9/88 BY KCM
WHILE AT THE MOBILE OFFICE IN DUBOIS. RECEIPT M000081 WAS
ISSUED. PRIOR TO THIS ON 5/24/88 SHIVELY BROTHERS FILED ON
THIS SAME RIGHT W/ HWJ AT THE IDAHO FALLS OFFICE. THE SHIVLEY
CLAIM WAS RECEIPTED UNDER 000020 AND WAS ACCEPTED BY THE MASTER
HOST. THE L & M CATTLE CLAIM WAS REJECTED BY THE MASTER FILE
SINCE IT WAS A DUPLICATE NUMBER. I HAVE RECODED THE L & M CATTLE
CLAIM UNDER THIS AMENDED CLAIM NUMBER, A31-02238A. I ALSO
MADE A CORRECTION TO THE LEGAL DESCRIPTION FOR PLACE OF USE
(SECTION NUMBERS WERE TRANSPOSED) CODED AS MAP SHOWS PLACE OF
USE. I WILL REQUEST THAT CLAIM NO. A31-02238 ON RECEIPT NO.
M000081 BE CHANGED TO A31-02238A, THAT CLAIM NO. A31-02238 IN THE
"HOST TEMP" FILE BE DELETED AND THAT A31-02238A REPLACE THE
DELETED CLAIM. RECEIPT M000081 WILL BE ADDED TO CLAIM A31-02238A
***** ESU 1/17/89 *****

CONTACT PERSON: _____

PHONE NUMBER: (____) ____-____

DATE OF FIELD EXAM: 10, 2000

APPOINTMENT MADE: Y(____) ~~N(____)~~

TIME: ____:____ A(____) P(____)

ACCOMPANIED BY: _____

PHONE NUMBER: (____) ____-____

RELATIONSHIP TO CLAIMANT: _____

DIRECTIONS TO PROPERTY / NOTES:

Field Exam -

A. AJ CLAIM: # A31-02238A PRIORITY DATE: 07-05-1929 STAGE: L

B. WR RECORD: # 31-02238 PRIORITY DATE: 07-05-1929 STAGE: L

C. FIELD EXAM REQUIRED?

DUE TO PRIORITY DATE DISCREPANCY? (Y/N)

DATABASE
N

FIELD
EXAMINER

ARE THERE OBVIOUS REASONS TO QUESTION THE PRIORITY DATE CLAIMED? Y() N(☒)
IF YES EXPLAIN.

NOTES:

Not licensed

RECOMMENDED PRIORITY DATE:
07-05-1929

REVIEWED BY *DC*

DATE

12/2000

A. AJ CLAIM POINT OF DIVERSION AND SOURCE:

RIGHT	TAP.	AGE.	SEC.	1/4	1/4	1/4	LOT	CNTY
A31-02238A	1IN	55E	22	SW	NW	NE		TETON

OTHER AJ CLAIMS WITH SAME AJ PDD
A PREFIX R PREFIX
NONE NONE

WR RECORDS IN SAME 40 ACRE TRACT
31-04137

SOURCE: COTTONWOOD CREEK, EAST FORK

TRIG: COTTONWOOD CREEK

B. WR POINT OF DIVERSION AND SOURCE:

RIGHT	TAP.	AGE.	SEC.	1/4	1/4	1/4	LOT	CNTY
31-02238	1IN	55E	22		SE	NE		CLARK

OTHER WR RECORDS WITH SAME WR PDD
NONE

AJ CLAIMS IN SAME 40 ACRE TRACT
A PREFIX R PREFIX
NONE NONE

SOURCE: COTTONWOOD CREEK, EAST FORK

TRIG: COTTONWOOD CREEK

C. FIELD EXAM REQUIRED?

DUE TO PDD DISCREPANCY? (Y/N)
DUE TO SOURCE DISCREPANCY? (Y/N)

DATABASE
Y
N

FIELD
EXAMINER

NOTES:

PDD headgate in creek to ditch to POW
long/rocky ditch leaks water in poor ~~condition~~
condition

RECOMMENDED POINT(S) OF DIVERSION AND SOURCE:

TWP.	RSE.	SEC.	1/4	1/4	1/4	LOT	COUNTY	DIVERSION NAME
12N	35E	22	SW	NW	NE			

SOURCE: COTTONWOOD CREEK, EAST FORK

TRIB: COTTONWOOD CREEK

REVIEWED BY:

DATE: 12/2000

SYSTEM DESCRIPTION:

A. ROOT WATER RIGHT NUMBERS: A31-02238A

B. PDU LISTING

TWP	RNG	SEC	1/4	1/4	LOT	NAME	AJ #/ACRES	WR #/ACRES	LANDSAT DATA	FIELD EXAM.	RECOMM. ACRES
12N	35E	34	SW	NE		L & H CATTLE CO. LTD. FRIDENSTINE, A. E.	A31-02238A 740.0	-	1		40
			SW	NE				31-02238	740.0		
12N	35E	34	SE	NE		L & H CATTLE CO. LTD. FRIDENSTINE, A. E.	A31-02238A 740.0	-	1		40
			SE	NE				31-02238	740.0		
12N	35E	34	NE	SE		L & H CATTLE CO. LTD. FRIDENSTINE, A. E.	A31-02238A 740.0	-	1		40
			NE	SE				31-02238	740.0		
12N	35E	34	NW	SE		L & H CATTLE CO. LTD. FRIDENSTINE, A. E.	A31-02238A 740.0	-	1		40
			NW	SE				31-02238	740.0		
12N	35E	35	SW	NW		L & H CATTLE CO. LTD. FRIDENSTINE, A. E.	A31-02238A 740.0	-	1		40
			SW	NW				31-02238	740.0		
12N	35E	35	SE	NW		L & H CATTLE CO. LTD. FRIDENSTINE, A. E.	A31-02238A 740.0	-	1		40
			SE	NW				31-02238	740.0		
12N	35E	35	NE	SW		L & H CATTLE CO. LTD. FRIDENSTINE, A. E.	A31-02238A 740.0	-	1		40
			NE	SW				31-02238	740.0		
12N	35E	35	NW	SW		L & H CATTLE CO. LTD. FRIDENSTINE, A. E.	A31-02238A 740.0	-	1		40
			NW	SW				31-02238	740.0		
TOTAL ACRES							A31-02238A	320.30			

ARE IRRIGATED ACRES FOUND IN TRACTS OTHER THAN INDICATED ABOVE, Y() N(X)
 IF YES SEE ATTACHED SHEET:

C. FIELD EXAM REQUIRED?

DUE TO PDU DISCREPANCY: (Y/N)

DATE MADE
Y

FIELD
EXAMINER

PDU COUNTY: TETON

PRESUMPTION FLAG:

NOTES:

as licensed - exam states that this water is
available only in flood season and it's used for
irrigating pasture on sage brush areas.

RECOMMENDATIONS:

TOTAL ACRES: 320
REVIEWED BY: DC

DATE: 12/2000

A. AS CLAIMED USES:

PURPOSES	MONTH/DAY	DIVERSION QUANTITY
A31-022384 IRRIGATION	FROM 04-15 TO 10-15	6.400 CFS
TOTAL DIVERSION RATE/VOLUME CLAIMED		6.400 CFS

B. WR RECORDED USES:

PURPOSES	MONTH/DAY	DIVERSION QUANTITY
31-02238 IRRIGATION	FROM TO	9.600 CFS
31-02238 DOMESTIC	FROM TO	9.600 CFS
TOTAL DIVERSION RATE/VOLUME CLAIMED		9.600 CFS

PRESUMPTION FLAG:

C. FIELD EXAM REQUIRED?

	DATEBASE	FIELD EXAMINER
DUE TO WATER-USE DISCREPANCY? (Y/N)	Y	----
DUE TO DIVERSION RATE DISCREPANCY? (Y/N)	Y	----
DUE TO PERIOD FROM/TO DISCREPANCY? (Y/N)	Y	----

D. PERIOD OF USE:

RECOMMEND AS CLAIMED?

Y() N(X)

RECOMMEND TO WR STANDARDS OR OTHER?

Y(X) N() EXPLAIN IN NOTES, BELOW.

NOTES:

new standards 5/01-10/31-for irrigation

A. DOES DIVERSION RATE CLAIMED AGREE WITH EXISTING RECORDS?

Y(☒) N(☐)

AD TOTAL CLAIMED DIVERSION RATE: 6.400 CFS
WR RIGHT TOTAL DIVERSION RATE: 9.600 CFS

a portion of License

*** IF NO OR IF STATUTORY CLAIM OR BENEFICIAL USE THEN FLOW MEASUREMENT REQUIRED. ***

** IF AN AMOUNT SMALLER THAN THE ORIGINAL DIVERSION RATE IS **

** CLAIMED AND AN EXAM IS NOT REQUIRED, EXPLAIN IN NOTES. **

FLOW MEASUREMENT REQUIRED?

FIELD
DATABASE EXAMINER

DUE TO STAGE OR DIVERSION RATE DISCREPANCY? (Y/N)

Y

B.

FLOW MEASUREMENT

MEASUREMENT METHOD _____, SEE ATTACHED CALCULATIONS.

C. ARE OTHER WATER RIGHTS USED? Y(☐) N(☒) IF YES COMPLETE OVERLAP REVIEW.

OTHER RIGHTS LISTED IN CLAIM: ~~A22-02138 FILED FOR STOCK USE BY SHIVELY BROTHER.~~

NONE

NO CLAIMS FOUND WITH SAME POU AND IRRIGATION USAGE

NO RIGHTS WITH SAME POU BUT NOT USED FOR IRRIGATION

1. RATE/VOLUME CALCULATIONS: (IRRIGATION)

1A. IRRIGATION RATE

ACRES _____ X 0.02 CFS/ACRE = _____ CFS
(TAKEN FROM P/U REVIEW)

1B. CALCULATIONS

DUES AMOUNT CLAIMED EXCEED 0.02 CFS/ACRE? Y() N()

*** IF YES ADDITIONAL WATER USE FORM FILLED AND ATTACHED? Y() N() ***

2. IRRIGATION CONSUMPTIVE USE

CLAIMED CONSUMPTIVE USE = _____ AF/A

ACRES _____ X CONSUMPTIVE VOL. AF/A FOR AREA _____ =

TOTAL CONSUMPTIVE USE _____ AF/A

3. IRRIGATION DIVERSION VOLUME

CLAIMED DIVERSION VOLUME = _____ AF/A

ACRES _____ X DIVERSION VOL. AF/A FOR AREA _____ =

TOTAL DIVERSION VOLUME _____ AF/A

4. CALCULATIONS FOR USES OTHER THAN IRRIGATION:

SEE ATTACHED SHEET? Y() N()

TRANS. TO).

LICENSE STATES DOMESTIC USE (WATERING LIVESTOCK),

TRANSFER DOES NOT SPECIFY ACREAGE.

NOTES: (INCLUDE LIMITATIONS ON CONSUMPTIVE USE FOR COMBINED RIGHTS.)

RECOMMENDATIONS:

REC. PURPOSES	REC. PERIOD FROM TO	REC. DIV RATE CFS	REC. DIV VOL. AF/A	REC. CONS. USE
		DATABASE EXAMINER	DATABASE EXAMINER	DATABASE EXAMINER
<u>IPR</u>	<u>5/01 - 10/31</u>	<u>6.40</u>	<u> </u>	<u> </u>
		<u>6.40</u>	<u> </u>	<u> </u>
TOTAL FOR THIS RIGHT				
REVIEWED BY: <u>DC</u>	DATE: <u>12/2000</u>			

A. CHECK ONLY THE FOLLOWING THAT APPLY:

OWNERSHIP _____
FORFEIT/ABANDON _____
ADDITIONAL DIV. AMOUNT _____

ACCEPTED AS CLAIMED	NEEDS REVIEW
(X)	()

B. SPLIT WATER RIGHT REVIEW

ROOT WATER RIGHT NUMBER: 31-02238

TOTAL DIVERSION RATE OF WR SPLITS

DATABASE
9.600

EXAMINER

CFS

SPLITS:

WR RIGHT NUMBERS	CURRENT CLAIM NUMBERS	DIVERSION RATE	CURRENT "R" CLAIM NUM.	"R" DIV. RATE	WR RIGHT NUMBERS	DIVERSION RATE
-	A31-02238A	6.400	-		31-02238	9.600
TOTAL CFS		6.400				9.600

DIVERSION RATE REVIEW

DO THE SUM CFS RATE OF THE SPLITS EQUAL THE ROOT RIGHT CFS RATE? (Y/N)
IF NO, IS THE WRITTEN REVIEW SHEET ATTACHED? (Y/N)

DATABASE
N

FIELD
EXAMINER

NOTES:

OK

AUTHENTICATION:

SIGNATURE: Dave Carlson

DATE: 12/2006

NAME OF FIELD EXAMINER: DAVE CARLSON

TITLE: WA

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM VERIFICATION REPORT

22:45:51
03/15/93

PAGES: 11
QUICKLOOK INFORMATION

CLAIM NUMBER: A31-12238A

WR ELEMENT	FIELD EXAM Y/N	CORRESPONDENCE SENT/RECEIVED BY WHOM/DATE	FIELD EXAM BY WHOM/DATE	CHANGE CLAIM Y/N	VERIFIED BY CODE	COMPLETED REVIEW WHOM/DATE	COMPLETED DATA ENTRY WHOM/DATE	VERIFIED DATE WHOM/DATE
PRIORITY DATE			PC 12/1/90					
POINT OF DIV	Y			No				
SOURCE								
PLACE OF USE	Y			No				
DIV. AMOUNT CFS/VOLUME	Y							
CONSUMPTIVE USE	-							
PURPOSES	Y			No				
PERIOD OF USE	Y			Yes				
BASIS OF CLAIM	Y			No				
REMARKS	Y			Yes				

VERIFIED BY CODES

TOPG MAP/ORTHO-PQ = 1
ASCS MAP = 2
WATERMASTER RECORDS = 3
NAPP PHOTOS = 4
FIELD EXAM = 5
OTHER (SEE REMARKS) = 6

THESE CODES ARE USED TO INDICATE HOW THE FIELD EXAMINER VERIFIED THE INFORMATION
USED FOR THIS FIELD EXAMINATION. INDICATED ARE ALL CODES WHICH APPLY.

08:55:34
03/14/93

CLAIM NUMBER: A31-02380

WATER SOURCE: COTTONWOOD CREEK, EAST FORK	TRIBUTARY TO: COTTONWOOD CREEK	STAGE: LICENSE
S) OF DIVERSION: T12N R35E S22	SUNNWE	TETON COUNTY

NE												NW								SW								SE								SUM
T	R	S	LT	AC	LT	AC	LT	AC	LT	AC	LT	AC	LT	AC	LT	AC	LT	AC	LT	AC	LT	AC	LT	AC	LT	AC	LT	AC								
12N	35E	35																													80.0					
12N	35E	34																													160.0					
																												320.0								

OTHER RIGHTS: 422-02230 FILED FOR STOCK USE BY SHIVELY BROTHER.

DATE:	EXAM MADE DATE:	VERIFIED DATE:
MISC:	WATER DISTRICT NUMBER:	FIELD INSPECTION FLAG: PRESUMPTION FLAG:

RECEIVED

SEP 10 2001

Department of Water Resources

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

In Re SRBA

Case No. 39576

A. Subcase 31-02238A

(Insert water right number)

STANDARD FORM 1
OBJECTION

Please fill in the following information:

B. NAME AND ADDRESS OF PERSON OBJECTING

Name: United States of America acting through the Department of Interior, Bureau of
Land Management, Idaho State Office

Address: 1387 South Vinnell Way
Boise, Idaho 83709-1657

Daytime Phone: see below

Name & Address of Attorney, if any:

Larry A. Brown (202) 305-0435 phone, (202) 305-0274 fax

United States Department of Justice: Environment and Natural Resource Division; General Litigation Section
550 West Fort Street, MSC 033; Boise, Idaho 83724

C. CLAIMANT OF WATER RIGHT AS LISTED IN DIRECTOR'S REPORT

Name: L & M Cattle Co., Inc.

Address: 440 N. 4300 E.; Rigby, Idaho 83442

Name:

Address:;

Name:

Address:;

Name:

Address:;

D. I object to the following elements as recommended in the Director's Report. (Please check the appropriate box(es)).

1. ☐ **Name and Address**

Should be: _____

2. ☐ **Source**

Should be: _____

3. ☐ **Quantity**

Should be: _____

4. ☐ **Priority Date**

Should be: _____

5. ☒ **Point(s) of Diversion**

Should be: See attached

6. ☐ **Instream Flow Description**

Should be: _____

7. ☐ **Purpose(s) of Use**

Should be: _____

8. ☐ **Period of Year**

Should be: _____

9. ☐ **Place of Use**

Should be: _____

11. **I object because:**

☒ This water right should not exist.

☐ This water right was not recommended, but should be recommended with the elements described above.

E. REASONS SUPPORTING OBJECTION(S):

The United States of America, through the Bureau of Land Management, is the owner of the land upon which use is claimed. The claimant's use of Federal land is unauthorized. See attached POD. Claimant's water right should not include this POD.

F.

VERIFICATION (Must be Completed)

State of Idaho)
) ss.
County of Ada)

Fredric W. Price, Water Rights Specialist, duly sworn, upon oath, deposes and says:
(Name of person filing objection)

That I am the party/claimant filing this objection, as defined by I.C. § 42-1401A(1) and (6) or that I am the attorney for the party/claimant objecting and that I have read this objection, know its contents and believe that the statements are true to the best of my knowledge.

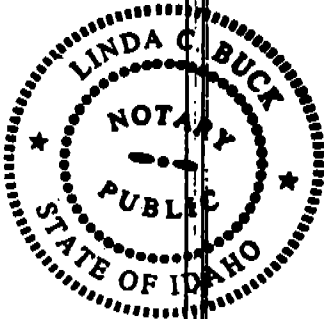
Fredric W. Price
(Signature of person filing objection)

L. C. Brown
(Attorney signing in representative capacity)

Subscribed and sworn to before me on:

September 7, 2001

Linda C. Buck
Linda C. Buck



Notary Public for State of Idaho
Residing at: Mountain Home, ID.
My Commission Expires: 12-21-2005

05/04/2001

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

RIGHT NUMBER: 31-2238A

NAME AND ADDRESS: L & M CATTLE CO INC
440 N 4300 E
RIGBY ID 83442

SOURCE: COTTONWOOD CREEK, EAST FORK

TRIBUTARY: COTTONWOOD CREEK

QUANTITY: 6.400 CFS

PRIORITY DATE: 07/05/1929

POINT OF
DIVERSION:

T12N R35E S22 SWNWNE Within CLARK County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE
IRRIGATION

PERIOD OF USE
05/01 10/31

QUANTITY
6.400 CFS

PLACE OF USE:

IRRIGATION Within CLARK County

T12N R35E S34 SWNE 40.0
T12N R35E S34 NESE 40.0
T12N R35E S35 SWNW 40.0
T12N R35E S35 NESW 40.0

T12N R35E S34 SENE 40.0
T12N R35E S34 NWSE 40.0
T12N R35E S35 SENW 40.0
T12N R35E S35 NWSW 40.0

320 ACRES TOTAL

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

THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS NECESSARY
FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT ADMINISTRATION OF
THE WATER RIGHTS AS MAY BE ULTIMATELY DETERMINED BY THE COURT AT A
POINT IN TIME NO LATER THAN THE ENTRY OF A FINAL UNIFIED DECREE. SECTION
42-1412(6), IDAHO CODE.

EXPLANATORY MATERIAL: BASIS OF CLAIM - License

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

Issue:

Point of diversion is on public land

05/04/2001

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

RIGHT NUMBER: 31-2238A

NAME AND ADDRESS: L & M CATTLE CO INC
440 N 4300 E
RIGBY ID 83442

SOURCE: COTTONWOOD CREEK, EAST FORK

TRIBUTARY: COTTONWOOD CREEK

QUANTITY: 6.400 CFS

PRIORITY DATE: 07/05/1929

POINT OF
DIVERSION:

T12N R35E S22 SWNWNE Within CLARK County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE

PERIOD OF USE

QUANTITY

IRRIGATION

05/01 10/31

6.400 CFS

PLACE OF USE:

IRRIGATION Within CLARK County

T12N R35E S34 SWNE 40.0
T12N R35E S34 NESE 40.0
T12N R35E S35 SWNW 40.0
T12N R35E S35 NESW 40.0

T12N R35E S34 SENE 40.0
T12N R35E S34 NWSE 40.0
T12N R35E S35 SENW 40.0
T12N R35E S35 NWSW 40.0

320 ACRES TOTAL

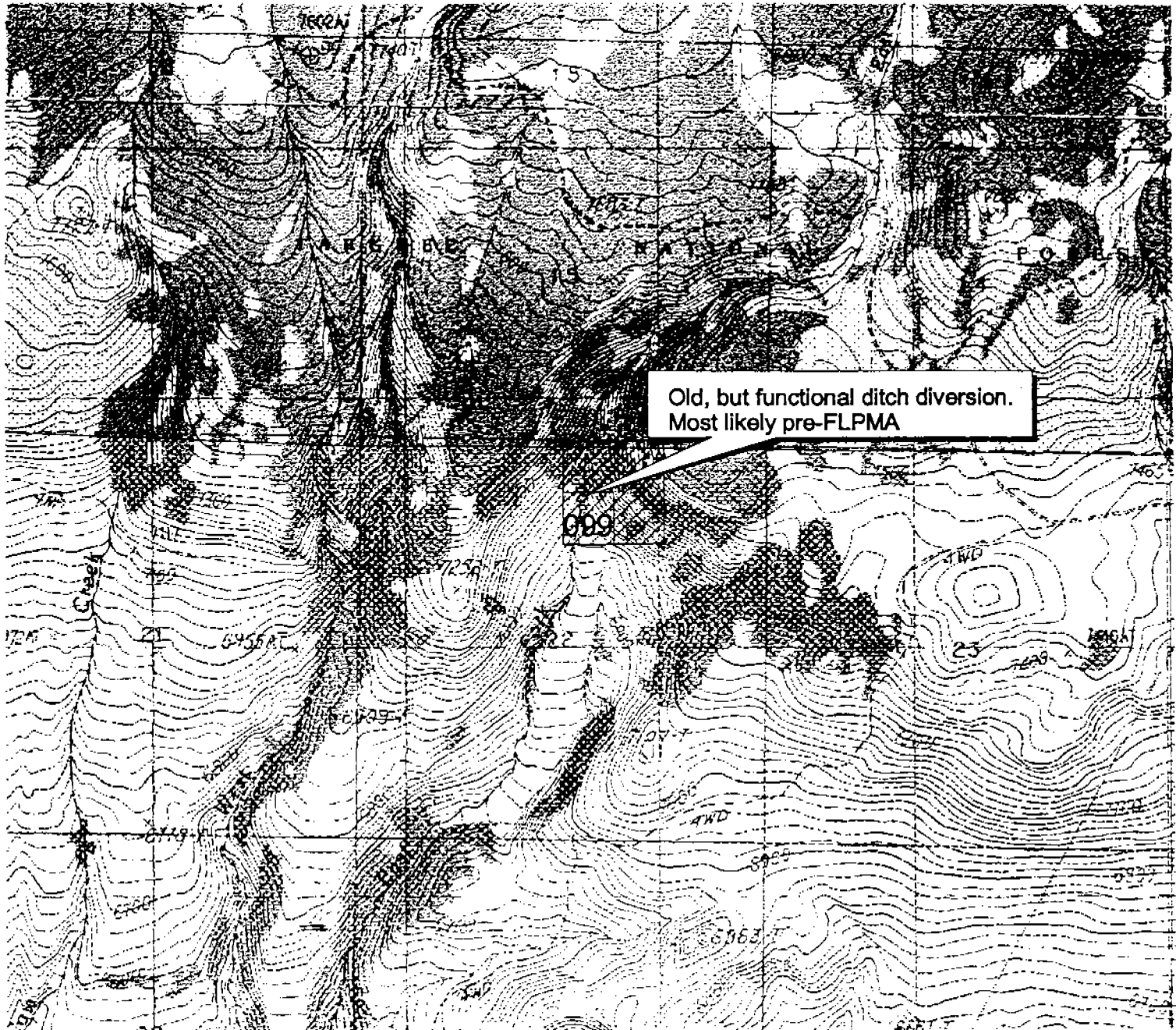
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE ENTRY OF A FINAL UNIFIED DECREE. SECTION 42-1412(6), IDAHO CODE.

EXPLANATORY MATERIAL: BASIS OF CLAIM - License

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

Basin 31 - Private Irrigation Claims Filed in the SRBA With PODs/POUs on Public Land
 L&M Cattle Co. (Claimant) 31-02238A
 T.12N, R.35E, S.22 SWNWNE - Map ID #099 (POD)
 Ditch diversion on unnamed stream; trib. to E.F. Cottonwood Creek
 Thunder Gulch Quad



0.5 0 0.5 Miles

1:24,000 Scale

- L&mcattle_mapid099.shp
- Temp2.shp
- lfo_pfo_own_mtpupdate.shp
- B.L.M.
- Bureau of Indian Affairs
- Department of Energy
- Forest Service
- Military Reservations
- National Parks & Monuments
- Open water
- Private
- State of Idaho
- U.S. Fish & Wildlife Service



DRAFT: PRODUCED BY THE BLM, IDAHO FALLS FIELD OFFICE.
 Projection Universal Transverse Mercator
 Zone 12, 1927 North American Datum
 No warranty is made by the Bureau of Land Management
 as to the accuracy, reliability, or completeness of
 this data for individual or aggregate use with other data.
 Prepared by Deena Teel on 7/18/2001 from digitized data.

STATUS OF PUBLIC DOMAIN
LAND AND MINERAL TITLES

[illegible]

1 240 BLVD Ct Mult Wn, Clark County;
Sogr from appropriation under RLE, ME, IA, & PR
All unappropriated public land within
Secs 19 to 30 incl

FOR ORDERS EFFECTING DISPOSAL OR USE OF
UNIDENTIFIED LANDS REFER TO INDEX OF
MISCELLANEOUS DOCUMENTS.

CURRENT TO	CURRENT TO
SEP 30 1970	
USE PLATE:	

Lat. 44° 19' 53"
Long. 112° 13' 1"
12 N-36 E

23 p. 36 c

References

T. 124
H. 351

SCALE in Chinese

WARNING STATEMENT
This plot is the Bureau's second of Title and should be read
WITH EXTREME CAUTION. NOTHING ON WITHIN THESE REPRESENT THE LAST

T12N
R35E
S22

15

NF

22

IDI 28323
Comm S



27

RECEIPT
For Monies Paid
to the
IDAHO DEPARTMENT OF WATER RESOURCES

Receipt No: M000081

Date: 02/09/89
Time: 13:31:41

Received
From: L & M CATTLE CO. LTD.

Type of Payment	Program Acct Class	Amount
ADJUDICATION FEE	0410162 9337 6490	\$678.00
	Total	<u>\$678.00</u>

CHECK 2810

WR/NO: A31-000288 A31-00289 A31-02238A A31-10059

Idaho Department of Water Resources

Region: MOBILE I

Signature: _____

MICROFILMED
NOV 17 1992

January 17, 1989

L & M Cattle Co. Ltd.
Rt. 2 Box 343
Rigby, Idaho 83442

RE: Adjudication claim A31-02238A

Dear Mr. Merrill:

We have discovered a slight error in the above referenced claim that you filed last summer. Last May a representative of Shively Brothers filed a claim for stockwatering under the same license. When you filed your claim for the irrigation portion of this license we issued the same number that was given to the Shively's claim.

To correct this I have prepared an amended claim under number A31-02238A. To accept the amended claim, we need you to sign and notarize the document. I have enclosed a copy to the amended claim that you need to sign and return to our office. There is no fee for submitting the amended claim.

Please feel free to contact our office if you have any questions regarding this matter.

Sincerely;

Eric Verner
Sr. Water Agent

Enclosure

MICROFILMED

NOV 17 1992

From: DWR70::VERNER *SV* 17-JAN-1989 11:04
To: DWR03::SHAFF,VERNER
Subj:

Subject: The notice of claim number on Receipt M000081 needs to be changed from A31-02238 to A31-02238A.

Problem: A31-02238 is a duplicate number listed on receipts M000081 and E000270.

Explanation: Two claims have been filed using this number. On 5/24/88 the Shively Brothers filed a claim for stockwater based upon license 31-2238. Receipt E000270 was issued for this claim which was accepted by the Host Master File. On 6/9/88 Keith coded the same license for L & M Cattle Co. Ltd. They filed for the irrigation portion of the license. Receipt M000081 was issued for this claim. During the update, this claim was "zapped" from the system since it was a duplicate right number.

Solution: I have recoded the L & M Cattle claim (the "zapped" claim) under number A31-02238A. I coded in receipt number M000081, made an amended copy to be sent to claimant for signature and put a "memo to file" in remarks of claim A31-02238A. I need someone on your end to change the claim no. A31-02238 on receipt M000081 to A31-02238A so the claim can be recognised by the Host Master File.

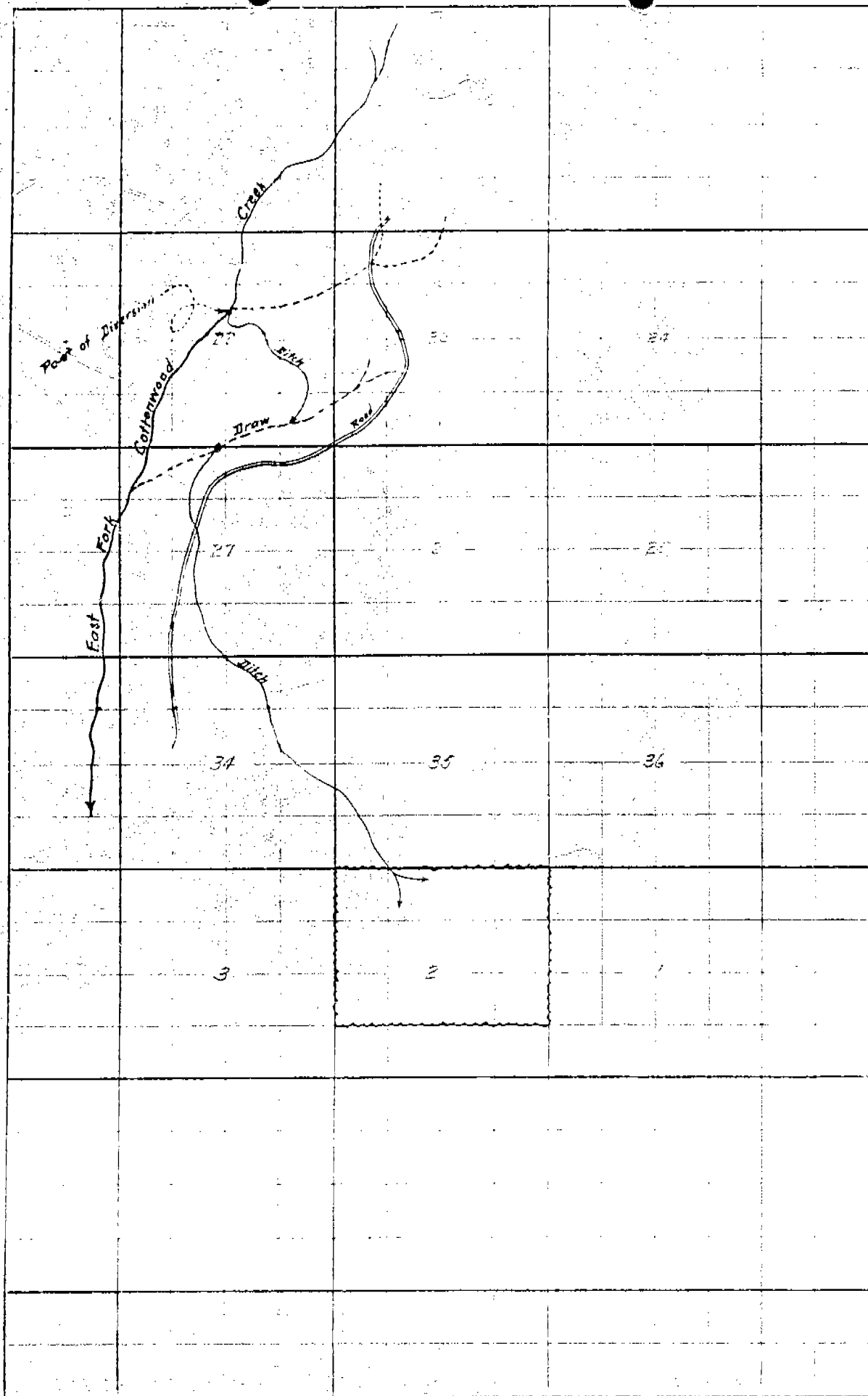
Followup: A copy of the corrected receipt needs to be sent to: L & M Cattle Co. Ltd., Rt. 2 Box 343, Rigby, Idaho 83442.

PS. As you have noticed, we are doing some house keeping. Thanks for the quick response to my earlier request this morning. Did you get my message last night regarding E004021?

Tx Eric

MICROFILMED

NOV 17 1992



STATE OF IDAHO
DEPARTMENT OF RECLAMATION

Certificate of Water Right
Transferred Right No. 700

THIS IS TO CERTIFY That A. E. FRIDENSTINE, of Idaho Falls, Idaho, is the owner of and using a certain water right in the East Fork of Cottonwood Creek, in the amount of 9.6 cubic feet per second, bearing date of priority of July 5, 1929, by virtue of License and Certificate of Water Right No. 17200 issued to Bernice F. Burnside by the Commissioner of Reclamation of the State of Idaho, said License and Certificate of Water Right bearing date of April 20, 1940, and being appurtenant to the following described lands, situate, lying and being in the County of Clark and State of Idaho, to-wit:

North Half (N $\frac{1}{2}$) and North Half of South Half (N $\frac{1}{2}$ S $\frac{1}{2}$)
Section 2, Township 11 North, Range 35 East, B. M.

That said License and Certificate of Water Right has been entered in the records of the Department of Reclamation of the State of Idaho, in Volume 7 of Licenses, at Page 4015.

That said A. E. Fridenstine has become the owner of said water right through purchase.

And that now, upon the application of A. E. Fridenstine, of Idaho Falls, Idaho, for the transfer of 9.6 cubic feet per second of said water, made before the State Reclamation Engineer of the State of Idaho, and said application having been granted, the right to the use of 9.6 cubic feet per second of the waters of the East Fork of Cottonwood Creek upon the above described land is hereby abandoned, and the lands to be irrigated under such right, and to which the water right HEREBY CONFIRMED shall become appurtenant, by this certificate, for irrigation and domestic purposes, are described as follows, to-wit:

N $\frac{1}{2}$ and N $\frac{1}{2}$ S $\frac{1}{2}$ Section 34;
S $\frac{1}{2}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$ Section 35;
Township 12 North, Range 35 East, B. M.

That the said water is to be limited at any given time to an amount actually needed and beneficially used for such purposes, and shall not exceed the following amount, to-wit:

9.6 cubic feet per second, bearing date of
priority of July 5, 1929.

That the water right hereby transferred has heretofore been conducted from the East Fork of Cottonwood Creek to the first above described lands through a private ditch, with point of diversion in the SE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 22, Township 12 North, Range 35 East, B. M.

That the water right hereby transferred will hereafter be conducted from the East Fork of Cottonwood Creek to the last above described lands through the same ditch and with the same point of diversion.

T-700

31-223P

That the right to the use of the water aforesaid, hereby confirmed, is restricted to the lands or place of use last above described, as provided by the laws of the State of Idaho.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the official seal of the Department of Reclamation of the State of Idaho to be hereunto affixed, at Boise, Idaho, this 17th day of December, A. D. 1946.

Mark R. Kulp

MARK R. KULP
State Reclamation Engineer

F-700

31-2238

COPY

STATE OF IDAHO
DEPARTMENT OF RECLAMATION

In the Matter of the Application of

A. A. FRIDENSTINE,
of Idaho Falls, Idaho

For a Transfer of Water Right,
In Water District No. 65, County of Clark

ORDER GRANTING
TRANSFER

No. 700

WHEREAS, On the 5th day of November, 1946, at the Department of Reclamation of the State of Idaho, at Boise, Idaho, this matter of an application of A. A. Fridenstine, of Idaho Falls, Idaho, for a transfer of water right, came on regularly for hearing, pursuant to the published notice, in due and statutory form; and,

WHEREAS, No protest has been filed against the application, and the evidence filed by the applicant, with the application, shows that a more beneficial use of the water would be thus obtained, and that no one would be injured thereby;

NOW, THEREFORE, IT IS HEREBY ORDERED that the said application be, and the same is HEREBY GRANTED, and that a Certificate of Transfer be issued to the applicant herein, as provided by the laws of the State of Idaho.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the official seal of the Department of Reclamation of the State of Idaho to be hereunto affixed, at Boise, Idaho, this 17th day of December, A. D. 1946.

Mark R. Kulp
MARK R. KULP
State Reclamation Engineer

T-700
31-2232

STATE OF IDAHO
DEPARTMENT OF RECLAMATION
BOISE, IDAHO
REPORT OF ENGINEER

Permit No. 17100

This proof is for Beneficial Use

In Water District No.

1. Name of applicant: Bernice F. Parnside

2. Source of water supply: East Fork of Cottonwood Creek

3. Location of point of diversion: 1/4 in the SE 1/4 NE 1/4 (Unsurveyed) of Section 22

T. 12 N. R. 35 E. County of Clark

4. Describe works as they exist, giving dimensions and capacities of same: *Small rock and dirt dam a headgate 2 ft high, 2 ft wide and 4 ft long. Ditch 2 ft wide and 15 ft deep running on a steep grade*

5. Water is used for: Domestic, watering livestock, and irrigation.

6. State whether or not water has been turned into works of diversion: *yes*

7. List legal subdivisions of lands to be irrigated. If proof is for beneficial use, give exact number of acres under cultivation in each forty-acre tract. (Describe manner and place of use if for other than irrigation):

NE 1/4, NW 1/4, N 1/2 SE 1/4, and NE 1/4 SE 1/4, Section 2, T. 12 N., R. 35 E., B. M.

Submit map on attached plat, showing location and details of above description.

8. What large stream would the water here appropriated finally reach? *None*

Remarks: *This water is available only in flood season and its beneficial use consists of stock watering and irrigation of pasturage on sage brush areas*

This examination was made on the

10th

day of

August

19*21*

17100

Examiner

State of Idaho

License and Certificate of Water Right

Water License No. 17100

Amount 9.6 second feet

Water District No.

Priority July 5, 1929

THIS IS TO CERTIFY that JOHN E. BURNSIDE of Dubois, Idaho, made application for a permit to appropriate the public waters of the State of Idaho, dated May 22, 1929; that Permit No. 17100 was issued under said application; that Certificate of Completion of works, with a carrying capacity of 9.6 second feet, was issued thereunder on April 30, 1930, showing that said works were completed on the 31st day of October, 1932; and that on the 20th day of July, 1937,

BERNICE F. BURNSIDE, WIDOW OF JOHN E. BURNSIDE, of Small, State of Idaho, made proof to the satisfaction of the Commissioner of Reclamation of Idaho, of the right to use the waters of East Fork of Cottonwood Creek, a tributary of Cottonwood Creek, for the purpose of domestic use (watering livestock) and irrigation, under the Permit No. 17100 of the Commissioner of Reclamation and that said right to the use of said waters has been perfected in accordance with the laws of Idaho, and is hereby confirmed by the Commissioner of Reclamation of Idaho and entered of record in Volume 7 of Licenses, at page 4016, on the 20th day of April, 1940;

The right hereby confirmed dates from July 5, 1929;

The Point of Diversion is located in the SE 1/4 NE 1/4, Sec. 22, Twp. 12 N., R. 35 E., B.M. (Unsurveyed), Clark County

That the amount of water to which such right is entitled and hereby confirmed, for the purposes aforesaid, is limited to an amount actually needed and beneficially used for said purposes, and shall not exceed 9.6 cubic feet per second.

Description and location of use:

Twp.	Range	Sec.	Forty-acre Tract	No. Acres Described in Permit	No. Acres Actually Irrigated
11 N.	35 E.	2	NE 1/4 NE 1/4	40	40
			NW 1/4 NE 1/4	40	40
			SE 1/4 NE 1/4	40	40
			SW 1/4 NE 1/4	40	40
			NE 1/4 NW 1/4	40	40
			NW 1/4 NW 1/4	40	40
			SE 1/4 NW 1/4	40	40
			SW 1/4 NW 1/4	40	40
			NE 1/4 SW 1/4	40	40
			NW 1/4 SW 1/4	40	40
			SE 1/4 SW 1/4	40	40
			SW 1/4 SW 1/4	40	40

Trans # 760
1700

The right to the use of the water aforesaid hereby confirmed is restricted to the lands or place of use herein described, as provided by the laws of Idaho.

WITNESS the seal and signature of the Commissioner of Reclamation, affixed at Boise, Idaho, this 20th day of April, 1940

JAMES SPITFORD

Commissioner of Reclamation

(SEAL)