

12/30/2005

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

RIGHT NUMBER: 21-76B

NAME AND ADDRESS: SUSAN B COLE
3949 BLUEBIRD LN
ISLAND PARK ID 83429-5113

JAMES T COLE
3949 BLUEBIRD LN
ISLAND PARK ID 83429-5113

SOURCE: HOWARD CREEK

TRIBUTARY: HENRYS LAKE

QUANTITY: 0.500 CFS

PRIORITY DATE: 06/01/1887

POINT OF DIVERSION:

T15N R43E S12 SESW Within FREMONT County

T15N R43E S12 SESW Within FREMONT County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	05/01 10/31	0.500 CFS
STOCKWATER	04/15 10/15	0.020 CFS

PLACE OF USE: IRRIGATION Within FREMONT County

T15N R43E S13 NWNW 25.0

STOCKWATER Within FREMONT County

T15N R43E S11	SWNE	T15N R43E S11	SENE
T15N R43E S11	SENE	T15N R43E S11	NESW
T15N R43E S11	SESW	T15N R43E S11	NESE
T15N R43E S11	NWSE	T15N R43E S13	NENW
T15N R43E S13	NWNW	T15N R43E S13	SWNW
T15N R43E S13	SENE	T15N R43E S14	NENE
T15N R43E S14	NWNE	T15N R43E S14	SWNE
T15N R43E S14	SENE		

25 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 - Decreed

Right includes accomplished change in place of use pursuant to Section 42-1425, Idaho Code.

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 21-76B
Date Received: 4/19/1989
Receipt No: E006928
Received By:

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name of Claimant(s)

SUSAN B COLE Phone: (208)558-9062
HC 66 BOX 186A
ISLAND PARK ID USA 83429

JAMES T COLE Phone: (208)558-9062
HC 66 BOX 186A
ISLAND PARK ID USA 834

2. Date of Priority: 06/01/188

3. Source: HOWARD CREEK , HOWAI
HENRYS LAKE , HENRYS LAKE

4. Point of Diversion:

Township	Range	Section	1/4
15N	43E	12	NE
15N	43E	14	SW
15N	43E	12	SW SE SW

FREMONT

5. Description of diverting works:

DIVERSION STRUCTURE AND HEADGATES IN CREEK

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
IRRIGATION	04/15	10/15	0.5	
STOCKWATER	04/15	10/15	0.04	

7. Total Quantity Appropriated is:
0.54 C.F.S.

*claim 21-76B
could receive 35% of
3.2 cfs or 1.12 cfs
but only .5 is claimed
so .5 is all that
can be recommended
167.9 of original pov
is owned*

HENRYS LAKE ,

ie

8. Total consumptive use:

9. Non-irrigation uses:

10. Place of use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
15N	43E	11	SE	SW	STOCKWATER	
			NE	SE	STOCKWATER	
			NW	SE	STOCKWATER	
			SW	NE	STOCKWATER	
			SE	NE	STOCKWATER	
			SE	NW	STOCKWATER	
			NE	SW	STOCKWATER	
			SE	SW	IRRIGATION	40
			NE	SE	IRRIGATION	40
			SW	NE	IRRIGATION	40
			SE	NE	IRRIGATION	40
			SE	NW	IRRIGATION	40
			NE	SW	IRRIGATION	40
			Section Acres			
15N	43E	13	NW	NW	IRRIGATION	25
			NE	NW	STOCKWATER	
			NW	NW	STOCKWATER	
			SW	NW	STOCKWATER	
			SE	NW	STOCKWATER	
Section Acres						25
15N	43E	14	NE	NE	STOCKWATER	
			NW	NE	STOCKWATER	
			SW	NE	STOCKWATER	
			SE	NE	STOCKWATER	
Total Acres						265

11. Place of use in counties: FREMONT

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

13. Other Water Rights Used:

14. Remarks:

300 HEAD RANGE CATTLE

THIS RIGHT REPRESENTS A PORTION OF 21-0076 OWNED BY CLAIMANT THE SALISBURY CORP. HAS FILED ON ALL OF THIS RIGHT EVEN THOUGH PART OF THIS RIGHT IS APPURTENANT TO

CLAIMANTS LAND. (FILED UNDER A21-00076). CLAIMANT CONTESTS THEIR FILING ON THIS RIGHT.

CHANGED OWNERSHIP 10/7/94/JT/GT

15. Basis of Claim: Decreed

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 21-76B

Date Received _____

Receipt Number _____

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

1. Name of Claimant(s) James T. Cole & Susan B. Cole Phone (208) 558-9062

Mailing Address HC 66, Box 186A, Island Park, ID Zip 83429

2. Date of Priority (Only (1) per claim) June 1, 1887

3. Source of water supply (a) Howard Creek

which is tributary to (b) Henry's Lake

4.a. Location of existing point of diversion is:

Township 15N Range 43E Section 12, NE 1/4 of SE 1/4 of SW 1/4, Govt. Lot _____,
Township 15N Range 43E Section 12, SW 1/4 of SE 1/4 of SW 1/4, Govt. Lot _____,
County of Fremont

Additional points of diversion if any: _____

b. If instream flow, beginning point of claimed instream flow is:

Township _____ Range _____ Section _____, _____ 1/4 of _____ 1/4 of _____ 1/4, Govt. Lot _____ B.M., County of _____

ending point is: Township _____ Range _____ Section _____, _____ 1/4 of _____ 1/4 of _____ 1/4 Govt. Lot _____ B.M., County of _____

5. Description of existing diversion works (Dams, Reservoirs, Ditches, Wells, Pumps, Pipelines, Headgates, Etc), including the dates of any changes or enlargements in use, the dimensions of the diversion works as constructed and as enlarged and the depth of each well. Diversion structure and headgates in creek

6. Water is claimed for the following purposes: (Both dates are inclusive) (cfs) (acre feet)

For Irrigation purposes from 4/15 to 10/15 amount 0.5 cfs or _____

For Stockwater purposes from 4/15 to 10/15 amount 0.04cfs or _____

7. Total quantity claimed (a) 0.54 (cfs) and/or (b) _____ (acre feet)

8. Total consumptive use claimed is _____ acre feet per annum.

9. Non-irrigation uses; describe fully (eg. Domestic: Give number of households served; Stockwater: Type and number of livestock Etc.) 300 head range cattle

10. Description of place of use:
- If water is for irrigation, indicate acreage in each subdivision in the table below.
 - If water is used for other purposes, place a symbol of use (example: D for Domestic) in the corresponding place of use below. See instruction for standard symbols.

TWP	RNG	SEC	NE 1/4				NW 1/4				SW 1/4				SE 1/4				TLS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
15N	43E	13						25											25
		13					S	S	S	S									
		14	S	S	S	S													

Total number of acres irrigated 25

11. In which county(ies) are lands listed above as place of use located? Fremont

12. Do you own the property listed above as place of use? Yes X No
If your answer is No, describe in Remarks below the authority you have to claim this water right.

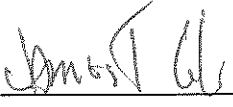
13. Describe any other water rights used at the same place and for the same purposes as described above.
21-11182 - Stockwater or None ()

14. Remarks:

15. Basis of Claim (Check one) Beneficial Use Posted Notice Permit Decree X License
If applicable provide IDWR Water Right Number 21-76B
Court Case Number Decree Date
Plaintiff vs Defendant

16. Signature(s)

For Individuals: I do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant(s)  Date Sept. 8, 2004

_____ Date _____

For Organizations: I do solemnly swear or affirm that I am _____ of _____ (Title)

_____, that I have signed the foregoing document in the space below as (Organization)

_____ of _____ and that the statements contained in the (Title) (Organization)
foregoing document are true and correct.

Signature of Authorized Agent _____

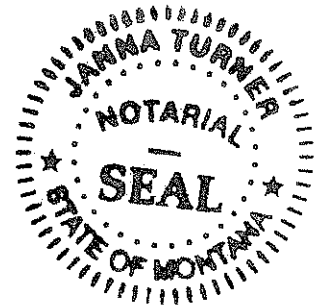
Title and Organization _____ Date _____

Last Name Cole Ident. Number 21-76B

State of ~~Idaho~~ Montana)
) SS.
County of Gallatin)

Subscribed and sworn (or affirmed) before me this 8 day of September, 2002.

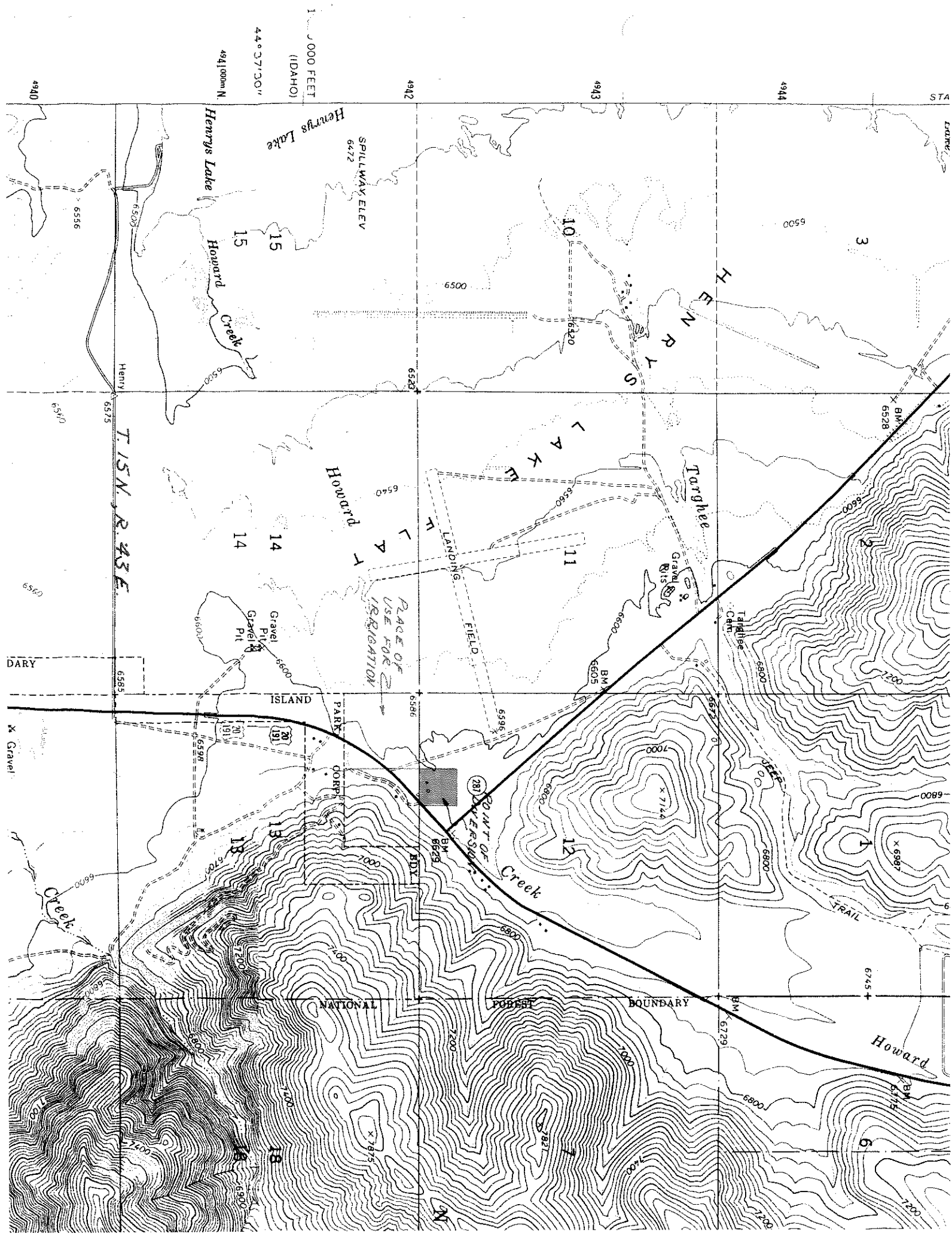
Notary Public Janna Turner
Residing at West Yellowstone
My Commission Expires May 4, 2006



17. Notice of Appearance:

Notice is hereby given that I, KENT M. FOSTER will be acting as attorney at law on behalf of the claimant signing above, and that all notices required by law to be mailed by the director to the claimant signing above should be mailed to me at the address listed below.

Signature Kent M. Foster
Address PO Box 50130 IDAHO FALLS, ID 83405
Date 11/1/04

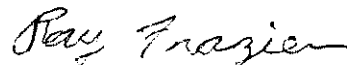


September 29, 2004

We, Vern Frazier and Ray Frazier were born and have lived all of our lives in the Henry's Lake area. We have worked for the Diamond D Ranch and the Slash E Ranch for 40+ years. These ranches adjoin the Howard Creek Ranch owned by Mr. & Mrs. Cole. We now work for all three ranches. From our earliest memories, we recollect that Howard Creek was always used for stock watering, along with a small lateral that feeds a low area for stock watering. It has been this way for at least 40 years.

Sincerely;


Vern Frazier

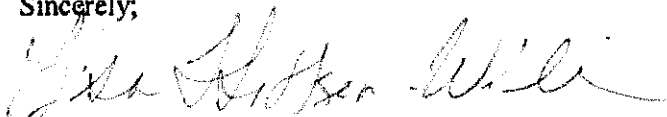

Ray Frazier

September 30, 2004

Acknowledgment
Regarding Water Usage
Howard Creek, Henry's Lake, Idaho

I, Lisa Williams, am the granddaughter of D. F. Richards, who acquired the Flying R/Howard Creek Ranch in the 1920's. Ever since I was a young girl, I remember my grandparents and parents using Howard Creek for stock watering. I also remember we had a small irrigation lateral that took off from Howard Creek to fill a shallow natural area for stock watering. We sold the ranch to Mr. & Mrs. Cole in 1994 and presently live across the road from the ranch.

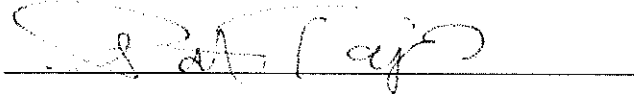
Sincerely,



Lisa Hittson Williams

State of Montana
County of Gallatin
Date: 8th October, 2004

Signed or attested before me on 8th October, 2004 by Lisa Williams



Signature of Notarial officer

Pati Taylor
Notary Public for the State of Montana
Residing at West Yellowstone, Montana
My commission expires September 9th, 2007

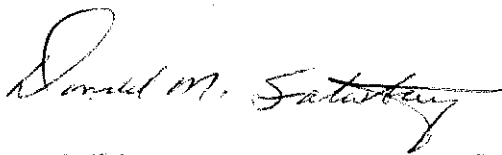
October 15, 2004

To Whom It May Concern:

The Salisbury Corporation has owned the Diamond D Ranch on Henry's Lake for over 100 years. It shares the boundary with Howard Creek Ranch (Mr. & Mrs. Cole). We also have approximately 1 mile of Howard Creek on our ranch.

The Howard Creek Ranch has always used Howard Creek for stock watering. The ranch also includes a small, shallow natural pond that is fed by a lateral and is used for stock watering. This lateral is several hundred yards from our property line. I have been around the ranch for over 70 years and it has always been that way.

Sincerely;

A handwritten signature in cursive script that reads "Donald M. Salisbury".

Don Salisbury

Don - Salisbury Corp.

SCANNED

AUG 8 2001

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: A21-00076B
Date Received: 4/19/1989
Receipt No: E006928
Received By: _____

**COPY FOR
YOUR FILES**

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

**COPY FOR
YOUR FILES**

1. Name: JAMES T COLE 208-558-9062
Address: HC 66 BOX 186A
ISLAND PARK ID 83429
AND/OR
Name: SUSAN B COLE 208-558-9062
Address: HC 66 BOX 186A
ISLAND PARK ID 83429

2. Date of Priority: JUN 1, 1887

3. Source: HOWARD CREEK Trib. to: HENRYS LAKE

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4 of	Lot	County
15N	43E	12	NE	SE	SW		FREMONT
			SW	SE	SW		FREMONT
		14	SW	NW	NE		FREMONT

5. Description of diverting works:
THREE DIVERSION DAMS 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	4.770		
STOCKWATER	01/01	12/31	0.230		

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

8. Total consumptive use is 420.0 Acre Feet Per Annum.

9. Non-irrigation uses:
STOCKWATER 950 RANGE CATTLE

MICROFILMED

NOV 05 1996

10. Place of Use:

Township	Range	Section	1/4	of	1/4	Lot	Use	Acres
15N	43E	11	SW		NE		IRR	40.0
			SW		NE		STOCK	
			SE		NE		IRR	40.0
			SE		NE		STOCK	
			SE		NW		IRR	40.0
			SE		NW		STOCK	
			NE		SW		IRR	40.0
			NE		SW		STOCK	
			SE		SW		IRR	40.0
			SE		SW		STOCK	
			NE		SE		IRR	40.0
			NE		SE		STOCK	
			NW		SE		IRR	40.0
			NW		SE		STOCK	

Section Acres 280.0

Total Acres 280.0

11. Place of use in counties: FREMONT

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

13. Other Water Rights Used:
A21-00077B

14. Remarks:
THIS RIGHT REPRESENTS A PORTION OF 21-0076 OWNED BY CLAIMANT THE SALISBURY CORP. HAS FILED ON ALL OF THIS RIGHT EVEN THOUGH PART OF THIS RIGHT IS APPURTENANT TO CLAIMANTS LAND.(FILED UNDER A21-00076). CLAIMANT CONTESTS THEIR FILING ON THIS RIGHT. CHANGED OWNERSHIP 10/7/94/JT/GT

15. Basis of Claim: DECREED

Water Right Number: 210076

Case Number:

Court :

Decree date: 12/16/1910

REXBURG IRRIGATION CO.
Decree Plaintiff

TETON IRRIGATION CANAL CO. ET
vs Decree Defendant

50
x

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: A21-00076B
Date Received: 4/18/1989
Receipt No: E006928
Received By: Kuw

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: MARYELLEN HITTSON
Address: P.O. BOX 1715
SUN VALLEY, ID

208-726-5009

83353

2. Date of Priority: JUN 01, 1887

3. Source: HOWARD CREEK

Trib. to: HENRYS LAKE

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4 of	Lot	County
15N	43E	12	NE	SE	SW		FREMONT
			SW	SE	SW		FREMONT
		14	SW	NW	NE		FREMONT

5. Description of diverting works:

THREE DIVERSION DAMS 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	4.770		
STOCKWATER	01/01	12/31	0.230		

7. Total Quantity Appropriated is:

5.000 C.F.S. (and/or)

A.F.A.

8. Total consumptive use is

420.0 Acre Feet Per Annum.

9. Non-irrigation uses:

S/950 RANGE CATTLE

A2100076B

A21-00076B

Page

1

Date: 04/19/89

MICROFILMED
OCT 20 1992

10. Place of Use:

Township	Range	Section	1/4	of	1/4	Lot	Use	Acres
15N	43E	11	SW		NE		IRR	40.0
			SW		NE		STOCK	
			SE		NE		IRR	40.0
			SE		NE		STOCK	
			SE		NW		IRR	40.0
			SE		NW		STOCK	
			NE		SW		IRR	40.0
			NE		SW		STOCK	
			SE		SW		IRR	40.0
			SE		SW		STOCK	
			NE		SE		IRR	40.0
			NE		SE		STOCK	
			NW		SE		IRR	40.0
			NW		SE		STOCK	

Section Acres 280.0

Total Acres 280.0

11. Place of use in counties: FREMONT

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

13. Other Water Rights Used:
A21-00077B

14. Remarks:

THIS RIGHT REPRESENTS A PORTION OF 21-0076 OWNED BY CLAIMANT THE SALISBURY CORP. HAS FILED ON ALL OF THIS RIGHT EVEN THOUGH PART OF THIS RIGHT IS APPURTENANT TO CLAIMANTS LAND.(FILED UNDER A21-00076). CLAIMANT CONTESTS THEIR FILING ON THIS RIGHT.

15. Basis of Claim: DECREED

Water Right Number: 210076

Case Number:

Court :

Decree date: 12/16/1910

REXBURG IRRIGATION CO.

Decree Plaintiff

vs

TETON IRRIGATION CANAL CO. ET.

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): Willis B. Benjamin Date: 4/19/89

Date: _____

State of Idaho)
County of Bonneville) SS.

Subscribed and sworn (or affirmed) before me this 19th day
of April 19 89 Betty J. Thompson
Notary Public

Seal

Residing at BETTY J. THOMPSON, NOTARY PUBLIC
RESIDING AT 1111 S. 10th, IDAHO
My Commission Expires MY COMMISSION EXPIRES: 6-30-94

17. Notice of Appearance:

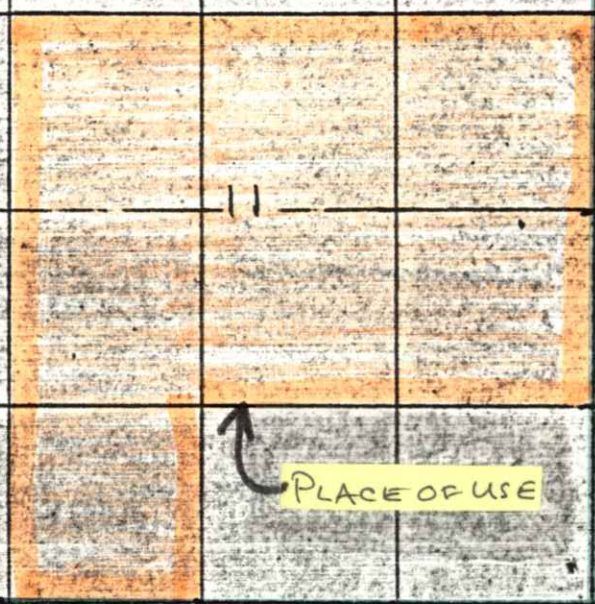
Notice is hereby given that I, Willis B. BENJAMIN will be
Print Name
acting as attorney at law on behalf of the claimant signing above, and that
all notices required by law to be mailed by the director to the claimant
signing above should be mailed to me at the address listed below.

Signature Willis B. Benjamin
Address P.O. Box 50050 Idaho Falls, Id 83405
Date 4/19/89

R43E T15N

JEPP

6672



11

12

POINT OF DIVERSION

PLACE OF USE

BM 662

POINT OF DIVERSION

POINT OF DIVERSION

14

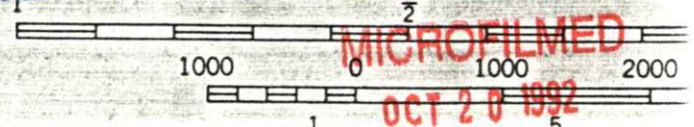
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A21-00076B



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