

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 37-21383  
Date Received: 11/18/2004  
Receipt No:  
Received By:

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

1. Name of Claimant(s)

ANITA K CLARK  
P.O. BOX 308  
CAREY ID USA 83320

OK

Phone: (208) 788-4280

TERRY L CLARK  
P.O. BOX 308  
CAREY ID USA 83320

OK

Phone: (208) 788-4280

2. Date of Priority: 04/01/1912

3. Source: MULDOON CREEK , MULDOON CREEK , MULDOON CREEK , MULDOON CREEK Trib. to:  
LITTLE WOOD RIVER , LITTLE WOOD RIVER , LITTLE WOOD RIVER , LITTLE WOOD RIVER

4. Point of Diversion:

| Township | Range | Section | 1/4 of 1/4 of 1/4 Lot |    | County | Type |
|----------|-------|---------|-----------------------|----|--------|------|
| 03N      | 21E   | 35      | SW                    | NW | BLAINE |      |
| 02N      | 21E   | 3       | NE                    | NE | BLAINE | 1    |
| 02N      | 21E   | 3       | NW                    | SE | BLAINE |      |
| 02N      | 21E   | 3       | NW                    | SE | BLAINE |      |

5. Description of diverting works:

HEADGATES, DITCHES, GRAVITY IRRIGATION

6. Water is used for the following purposes:

Purpose  
IRRIGATION

From To C.F.S.  
04/01 10/31 8

(or) A.F.A

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

8. Total consumptive use:

9. Non-irrigation uses:

10. Place of use:

| Township | Range | Section | 1/4 | of 1/4 | Lot | Use           | Acres |
|----------|-------|---------|-----|--------|-----|---------------|-------|
| 02N      | 21E   | 2       | NW  | NW     | 4   | IRRIGATION    | 5     |
|          |       |         |     |        |     | Section Acres | 5     |
| 02N      | 21E   | 3       | NE  | NE     | 1   | IRRIGATION    | 40    |
|          |       |         | NW  | NE     |     | IRRIGATION    | 35    |
|          |       |         | SW  | NE     |     | IRRIGATION    | 35    |
|          |       |         | SE  | NE     |     | IRRIGATION    | 35    |
|          |       |         | NE  | SE     |     | IRRIGATION    | 25    |
|          |       |         | NW  | SE     |     | IRRIGATION    | 40    |
|          |       |         | SW  | SE     |     | IRRIGATION    | 40    |
|          |       |         | SE  | SW     |     | IRRIGATION    | 15    |
|          |       |         |     |        |     | Section Acres | 265   |
|          |       |         |     |        |     | Total Acres   | 270   |

11. Place of use in counties: BLAINE

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

13. Other Water Rights Used:

14. Remarks:

15. Basis of Claim: Beneficial Use

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 37-21383Date Received 11/17/04Receipt Number 5027121

NOTICE OF CLAIM  
TO A  
WATER RIGHT  
ACQUIRED UNDER STATE LAW

RECEIVED

NOV 16 2006

CLERK OF DISTRICT COURT

a

Please type or print clearly

1. Name of Claimant (s) TERRY L. AND/OR ANITA K. CLARK Phone (208) 788-4280Mailing Address P.O. Box 229 BELLEVUE ID. Zip 833132. Date of Priority (Only one (1) per claim) 4-1-19123. Source of water supply (a) MULDOON CREEK.  
which is tributary to (b) LITTLE WOOD RIVER.4. a. Location of existing point of diversion is: Township 3N Range 21E Section 35,  
\_\_\_\_\_ 1/4 of SW 1/4 of NW 1/4, Govt. Lot, \_\_\_\_\_ B.M., County of BLAINEAdditional points of diversion if any: LT 1 (NENE) & NW SE (2 POINTS) S 3  
T 2 N R 21 E

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,

\_\_\_\_\_ 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. HEAD GATES / DITCHES /GRAVITY IRRIGATION.

6. Water is claimed for the following purposes:

(both dates are inclusive)

(cfs)

(acre feet)

For IRRIGATION purposes from 4-1 to 10-31 amount 8.0 CFS or \_\_\_\_\_

For \_\_\_\_\_ purposes from \_\_\_\_\_ to \_\_\_\_\_ amount \_\_\_\_\_ or \_\_\_\_\_

For \_\_\_\_\_ purposes from \_\_\_\_\_ to \_\_\_\_\_ amount \_\_\_\_\_ or \_\_\_\_\_

For \_\_\_\_\_ purposes from \_\_\_\_\_ to \_\_\_\_\_ amount \_\_\_\_\_ or \_\_\_\_\_

7. Total quantity claimed (a) 8.0 (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.) \_\_\_\_\_

10. Description of place of use:

a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.

b. If water is used for other purposes, place a symbol of use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

| TWP | RNG | SEC | NE 1/4 |       |       |       | NW 1/4 |       |       |       | SW 1/4 |       |       |                     | SE 1/4 |       |       |       | Totals |
|-----|-----|-----|--------|-------|-------|-------|--------|-------|-------|-------|--------|-------|-------|---------------------|--------|-------|-------|-------|--------|
|     |     |     | NE1/4  | NW1/4 | SW1/4 | SE1/4 | NE1/4  | NW1/4 | SW1/4 | SE1/4 | NE1/4  | NW1/4 | SW1/4 | SE1/4               | NE1/4  | NW1/4 | SW1/4 | SE1/4 |        |
| 2N  | 21E | 3   | 40     | 35    | 35    | 35    |        |       |       |       |        |       |       | 15<br><del>25</del> | 25     | 40    | 40    |       | 265    |
|     |     | 2   |        |       |       |       |        | 5     |       |       |        |       |       |                     |        |       |       |       | 5      |
|     |     |     |        |       |       |       |        |       |       |       |        |       |       |                     |        |       |       |       |        |
|     |     |     |        |       |       |       |        |       |       |       |        |       |       |                     |        |       |       |       |        |
|     |     |     |        |       |       |       |        |       |       |       |        |       |       |                     |        |       |       |       |        |
|     |     |     |        |       |       |       |        |       |       |       |        |       |       |                     |        |       |       |       |        |
|     |     |     |        |       |       |       |        |       |       |       |        |       |       |                     |        |       |       |       |        |
|     |     |     |        |       |       |       |        |       |       |       |        |       |       |                     |        |       |       |       |        |

Total number of acres irrigated 270

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

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.  
37-1120, 37-1140 or None ( )

14. Remarks:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Last Name \_\_\_\_\_ Ident No. \_\_\_\_\_

Copies: White -State, Yellow-Claimant

15. Basis of Claim (check one) Be. Special Use X Posted Notice \_\_\_\_\_ License \_\_\_\_\_ Permit \_\_\_\_\_  
Decree \_\_\_\_\_  
If applicable provide IDWR Water Right Number \_\_\_\_\_  
Court \_\_\_\_\_ Case Number \_\_\_\_\_ Decree Date \_\_\_\_\_  
Plaintiff vs 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 do solemnly swear or affirm that the statements contained in the foregoing document are true  
and correct.

Signature of Claimant (s) Jerry L Clark Date 11-17-04  
Anta K. Clark Date 11-17-04

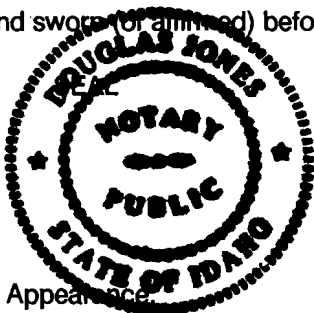
**For Organizations:** I do solemnly swear or affirm that I am \_\_\_\_\_ Title \_\_\_\_\_  
of \_\_\_\_\_, that I have signed the foregoing  
Organization  
document in the space below as \_\_\_\_\_ of \_\_\_\_\_  
Title Organization  
and that the statements contained in the foregoing document are true and correct.

Signature of Authorized Agent \_\_\_\_\_

Title and Organization \_\_\_\_\_ Date \_\_\_\_\_

State of Idaho/or \_\_\_\_\_ )  
County of Twin Falls ) SS.

Subscribed and sworn (or affirmed) before me this 17<sup>th</sup> day of November 2004



Notary Public Douglas Jones

Residing at Buhl ID

My Commission Expires 8/8/2007

Please Print Name

17. Notice of Appearance  
Notice is hereby given that I, \_\_\_\_\_ 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.

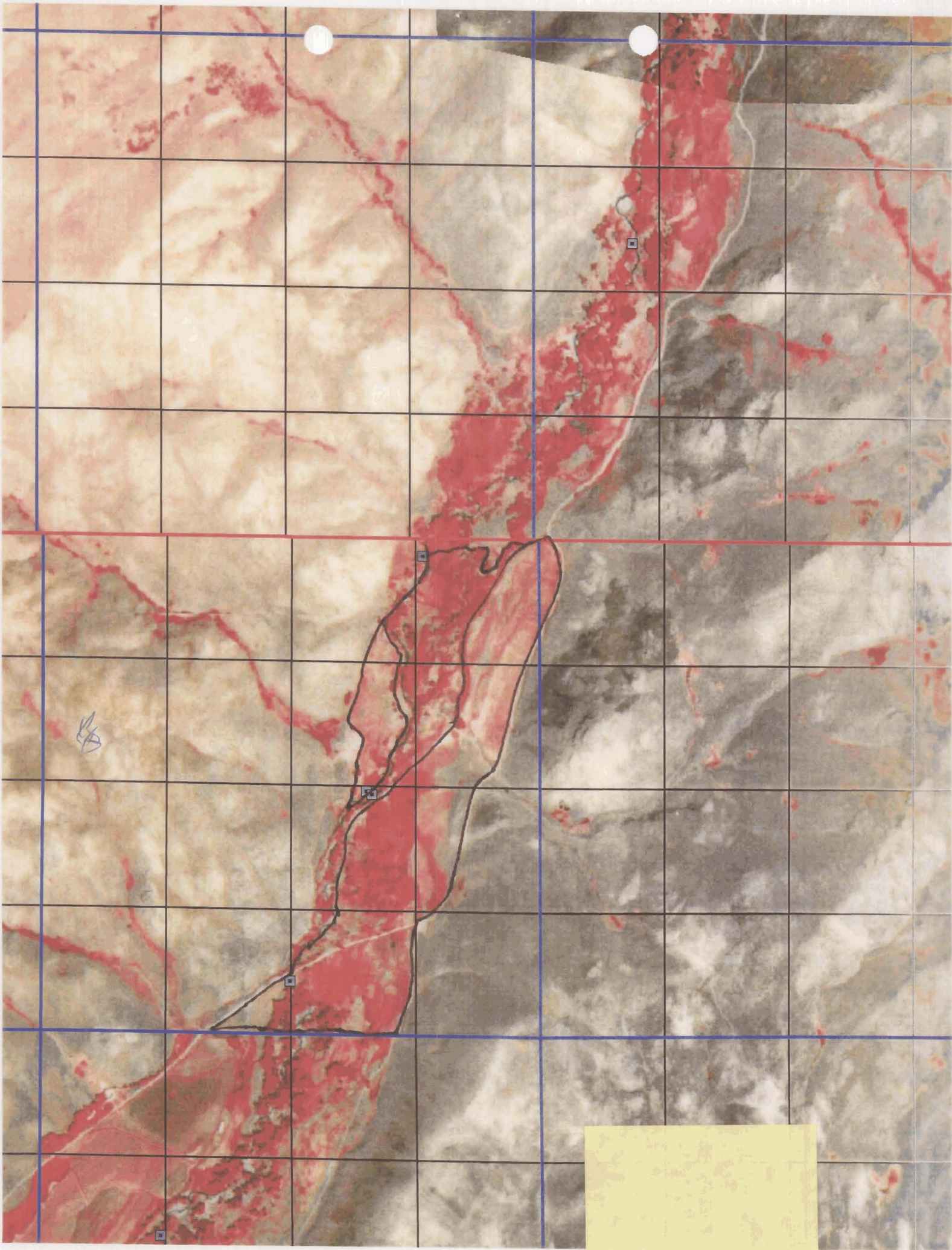
Signature \_\_\_\_\_

Address \_\_\_\_\_

Date \_\_\_\_\_

Last Name \_\_\_\_\_ Ident. Number \_\_\_\_\_

Copies White-State, Yellow-Claimant



09/10/2009

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

RIGHT NUMBER: 37-21383

NAME AND ADDRESS: ANITA K CLARK  
PO BOX 308  
CAREY ID 83320

TERRY L CLARK  
PO BOX 308  
CAREY ID 83320

VERIFIED BY KKC  
9-10-09

SOURCE: MULDOON CREEK

TRIBUTARY: LITTLE WOOD RIVER

QUANTITY: 1.44-2.520 CFS

PRIORITY DATE: 04/01/1912

POINT OF  
DIVERSION:

T02N R21E S3 ~~NW~~NENE Lot 1 Within BLAINE County  
T02N R21E S3 ~~NW~~NWSE Within BLAINE County  
T03N R21E S35 ~~SE~~SWNW Within BLAINE County

PURPOSE AND  
PERIOD OF USE:

| <u>PURPOSE OF USE</u>                            | <u>PERIOD OF USE</u> | <u>QUANTITY</u>                |
|--------------------------------------------------|----------------------|--------------------------------|
| IRRIGATION                                       | 04/15 10/31          | <u>1.44-2.520</u> CFS          |
| <u>PLACE OF USE: IRRIGATION in BLAINE County</u> |                      |                                |
| T02N R21E S02 Lot 4 NWNW                         | 4.00                 | T02N R21E S03 Lot 1 NENE 39.00 |
| T02N R21E S03 Lot 2 NWNE                         | 11.00                | T02N R21E S03 SWNE 20.00       |
| T02N R21E S03 SENE                               | 27.00                | T02N R21E S03 NESE 11.00       |
| T02N R21E S03 NWSE                               | 22.00                | T02N R21E S03 SWSE 30.00       |

164 ACRES TOTAL

The rights listed below are limited to the irrigation of a combined total of 164 acres in a single irrigation season. Combined Right Nos.: 37-1120, 37-1140, 37-21383, ~~37-21745~~, and 37-21746.

The rights listed below are limited to the irrigation of a combined total of 170 acres in a single irrigation season. Combined Right Nos.: 37-1120, 37-1140, 37-21383, 37-21746, ~~37-21745~~, and 37-21963.

This right is limited to the irrigation of 7263 acres within the place of use described above in a single irrigation season.

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 - Beneficial Use

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

## STANDARD FORM 5

09/10/2009

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

RIGHT NUMBER: 37-21383

NAME AND ADDRESS: ANITA K CLARK  
PO BOX 308  
CAREY ID 83320

TERRY L CLARK  
PO BOX 308  
CAREY ID 83320

SOURCE: MULDOON CREEK

TRIBUTARY: LITTLE WOOD RIVER

QUANTITY: ~~1.44~~ 2.520 CFS

PRIORITY DATE: 04/01/1912

POINT OF  
DIVERSION:

T02N R21E S3 ~~NN~~NENE Lot 1 Within BLAINE County  
T02N R21E S3 ~~NN~~NWSE Within BLAINE County  
T03N R21E S35 ~~SS~~SWNW Within BLAINE County

PURPOSE AND  
PERIOD OF USE:

| <u>PURPOSE OF USE</u> | <u>PERIOD OF USE</u> | <u>QUANTITY</u>           |
|-----------------------|----------------------|---------------------------|
| IRRIGATION            | 04/15 10/31          | <del>1.44</del> 2.520 CFS |

PLACE OF USE:

IRRIGATION in BLAINE County

|                          |            |                          |            |
|--------------------------|------------|--------------------------|------------|
| T02N R21E S02 Lot 4 NWNW | 4.00       | T02N R21E S03 Lot 1 NENE | 39.00      |
| T02N R21E S03 Lot 2 NWNE | 11.00      | T02N R21E S03            | SWNE 20.00 |
| T02N R21E S03            | SENE 27.00 | T02N R21E S03            | NESE 11.00 |
| T02N R21E S03            | NWSE 22.00 | T02N R21E S03            | SWSE 30.00 |

164 ACRES TOTAL

The rights listed below are limited to the irrigation of a combined total of 164 acres in a single irrigation season. Combined Right Nos.: 37-1120, 37-1140, 37-21383, ~~37-21745~~, and 37-21746.

The rights listed below are limited to the irrigation of a combined total of 170 acres in a single irrigation season. Combined Right Nos.: 37-1120, 37-1140, 37-21383, 37-21746, ~~37-21745~~, and 37-21963.

This right is limited to the irrigation of ~~7263~~ acres within the place of use described above in a single irrigation season.

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 - Beneficial Use

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

RECEIVED

NOV 14 2007

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 37-21383

(Insert water right number)

STANDARD FORM 1  
OBJECTION

Please fill in the following information:

B. NAME AND ADDRESS OF PERSON OBJECTING

Name: Terry and Anita Clark

Address: P.O. Box 308

Carey, ID 83320

Daytime Phone: (208) 788-4280

Name & Address of Attorney, if any:

Scott L. Campbell & Andrew J. Waldera

Moffatt, Thomas, Barrett, Rock & Fields

P.O. Box 829, Boise, ID 83701-0829

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

Name: Terry and Anita Clark

Address: P.O. Box 308

Carey, ID 83320

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: Quantity of irrigation water should be 8.0 cfs
4. ☐ **Priority Date**  
Should be: \_\_\_\_\_
5. ☒ **Point of Diversion**  
Should be: See Attachment 1 hereto
6. ☐ **Instream Flow Beginning and Ending Point**  
Should be: \_\_\_\_\_
7. ☒ **Purpose(s) of Use**  
Should be: Quantity of irrigation water should be 8.0 cfs
8. ☐ **Period of Year**  
Should be: \_\_\_\_\_
9. ☒ **Place of Use**  
Should be: See Attachment 2 hereto
10. ☐ **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 OBJECTIONS(S):** See Attachment 3 hereto.

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

F.

VERIFICATION (must be completed)

State of Idaho )  
 )ss.  
County of Ada )

Scott L. Campbell

(Name of person filing objection)

, duly sworn, upon oath, deposes and says:

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.

(Signature of person filing objection)

Scott L. Campbell  
(Attorney signing in representative capacity)

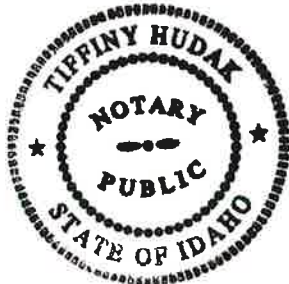
Subscribed and sworn to before me on: November 12, 2007

Tiffany Hudak

Notary Public for Idaho

Residing at: Boise

My Commission Expires: 9/16/09



## INSTRUCTIONS FOR MAILING

You must mail the objection, to the Clerk of the court. **FAX filings will not be accepted.** You must also send a copy to all the parties listed below in the Certificate of Mailing.

### G. CERTIFICATE OF MAILING

I certify that on November 12, 2007, I mailed the original and copies of this objection, including all attachments, to the following persons:

1. Original to:

Clerk of the District court  
Snake River Basin Adjudication  
253 Third Avenue North  
PO Box 2707  
Twin Falls, ID 83303-2707

2. One copy to the claimant of the water right at the following address:

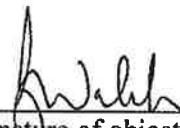
Name: Terry and Anita Clark  
Address: P.O. Box 308  
Carey, ID 83320

3. Copies to:

IDWR Document Depository  
PO Box 83720  
Boise, ID 83720-0098

United States Department of Justice  
Environment & Nat'l Resources Div  
550 W Fort Street, MSC 033  
Boise, ID 83724

Chief, Natural Resources Division  
Office of Attorney General  
PO Box 44449  
Boise, ID 83711-4449

  
\_\_\_\_\_  
Signature of objector or attorney  
mailing on Objector's behalf

**ATTACHMENT 1**  
**STANDARD FORM 1 – OBJECTION**  
**SUBCASE 37-21383**

Terry and Anita Clark object to the quarter quarter quarter labeling of the Points of Diversion:

T02N R21E S3 NWNENE Lot 1 Within BLAINE County  
T02N R21E S3 NENWSE Within BLAINE County  
T03N R21E S35 SESWNW Within BLAINE County

The correct description should read:

T02N R21E S3 NENE Lot 1 Within BLAINE County  
T02N R21E S3 NWSE Within BLAINE County  
T02N R21E S3 NWSE Within BLAINE County  
T03N R21E S35 SWNW Within BLAINE County

**ATTACHMENT 2**  
**STANDARD FORM 1 – OBJECTION**  
**SUBCASE 37-21383**

The Director's Report incorrectly identifies the Place of Use for irrigation of lands under this water right. The correct, historic place of use is as follows:

| TWP | RNG | SEC | 1/4 | 1/4 | Lot   | Acres |
|-----|-----|-----|-----|-----|-------|-------|
| 2N  | 21E | 2   | NW  | NW  | 4     | 5     |
|     |     | 3   | NE  | NE  | 1     | 40    |
|     |     |     | NW  | NE  | 2     | 35    |
|     |     |     | SW  | NE  |       | 35    |
|     |     |     | SE  | NE  |       | 35    |
|     |     |     | NE  | SE  |       | 25    |
|     |     |     | NW  | SE  |       | 40    |
|     |     |     | SW  | SE  |       | 40    |
|     |     |     | SE  | SW  |       | 15    |
|     |     |     |     |     | Total | 270   |

Terry and Anita Clark also object to the inclusion of three limiting remarks set forth under Place of Use element, as reflected in the Director's Report:

The rights listed below are limited to the irrigation of a combined total of 170 acres in a single irrigation season. Combined Right Nos.: 37-1120, 37-1140, 37-21383, 37-21745, 37-21746, and 37-21963.

The rights listed below are limited to the irrigation of a combined total of 164 acres in a single irrigation season. Combined Right Nos.: 37-1120, 37-1140, 37-21383, 37-21745, and 37-21746.

This right is limited to the irrigation of 72 acres within the place of use described above in a single irrigation season.

**ATTACHMENT 3**  
**STANDARD FORM 1 – OBJECTION**  
**SUBCASE 37-21383**

**Reasons Supporting Objection(s):**

**Quantity:**

The claimed quantity of 8.0 cfs should be recommended in full, based upon historic diversion, delivery, and use of irrigation water by Terry and Anita Clark and their predecessors.

**Purpose and Period of Use:**

The claimed quantity of 8.0 cfs should be recommended in full, based upon historic diversion, delivery, and use of irrigation water by Terry and Anita Clark and their predecessors.

**Point of Diversion:**

The points of diversion as recommended are incorrect based upon the historic diversion of water under this right.

**Place of Use:**

The place of use described in the Director's Report does not accurately describe the lands historically irrigated under this water right. Additionally, there is no legal basis for inclusion of the acreage restriction remarks.

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

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

# Muldoon Creek Water Rights

4/20/06

Rights  
in Dece

Dece

Dece Date

161

37-1005

Woodworth vs Anthony

11/10/03

37-1046

"

"

37-1048

"

"

37-1051

"

"

37-2007

License

P = 8/28/04 Muldoon Cr

300+

37-99

Frost vs. Alturas

12/13/1909

37-401

"

"

37-2243

License

P = 8/8/1912 water water

37-2247

License

P = 8/22/1912 Brown Cr

1

1

37-1141

Watkins vs Swendsen

5/4/1925

3

37-1119

Baptie vs Lewis

1/22/1926

37-1120

"

"

37-1140

"

"

1

37-1139

Hines vs Watkins

2/15/1927

1 - supp to Anthony vs. Woodworth

37-1142

Land law vs. Spafford

8/8/1940

1 - supp to Anthony vs. Woodworth

37-1143

Peterson vs Kolp

6/28/1955

37-2751

10/31/1966

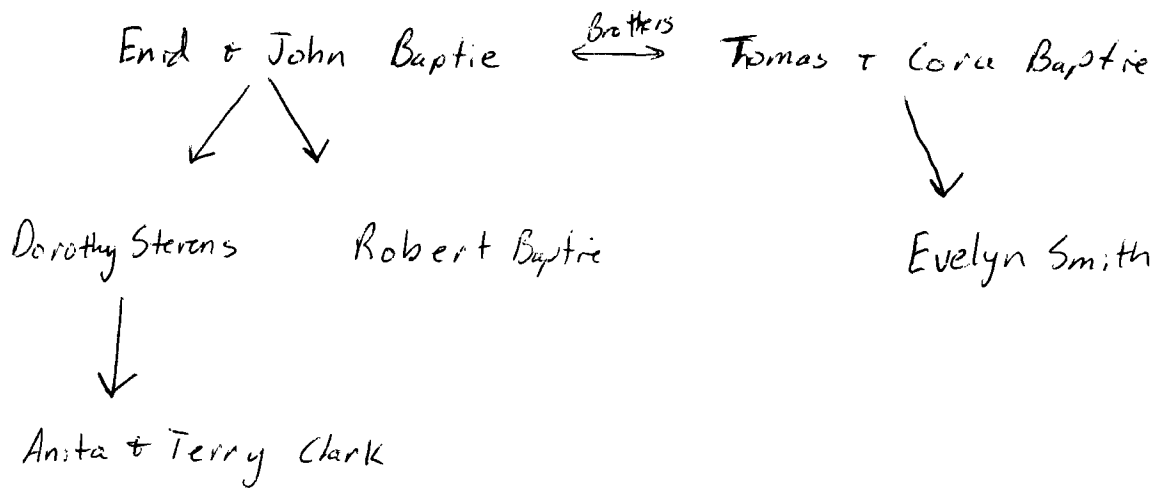
P = 10/31/1966 Muldoon Cr.

37-7006

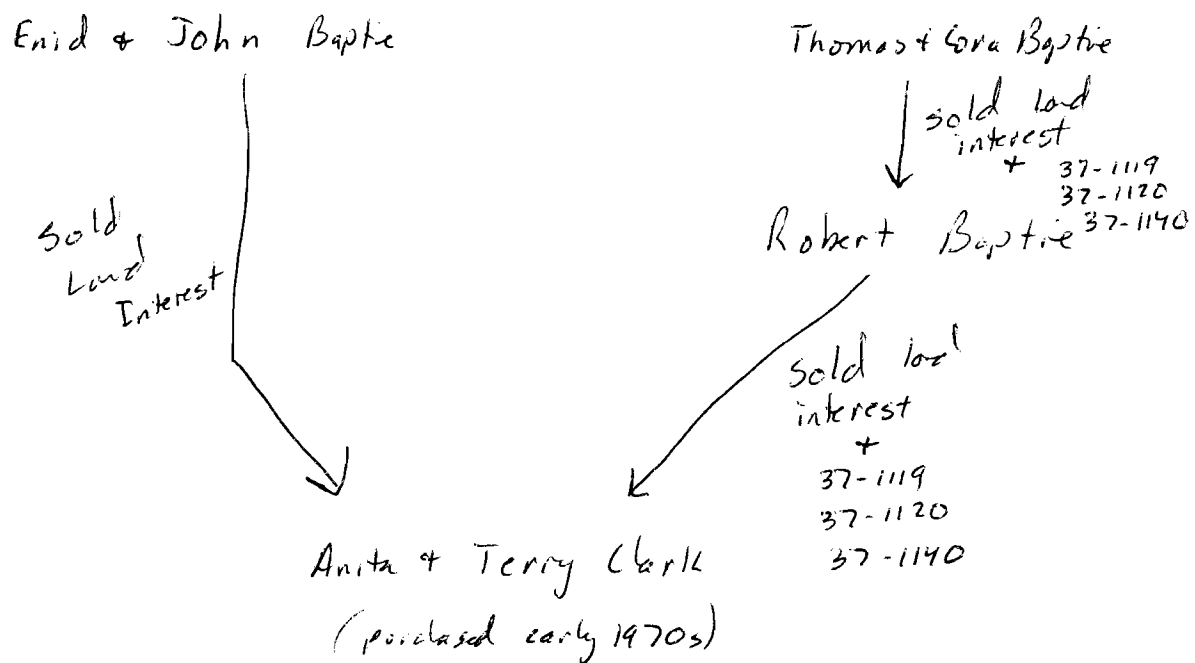
P = 12/18/1967 Muldoon Cr.

# Baptie Family Tree

4/20/06



## Land Succession



COUNTERCLAIM AND CROSSCLAIM OF  
JOHN BAPTIE AND ROBERT BAPTIE

For counterclaim against plaintiff, Prunty Ranches, Inc.,  
and crossclaim against Everett L. Tyler and Carl E. Tappan,  
Watermaster for Water District 11-D and State Reclamation  
Engineer, respectively, John Baptie and Robert Baptie allege  
as follows:

I

That John Baptie and Enid Baptie, his wife, own the lands  
situate in Blaine County, Idaho, particularly described as  
follows, to wit:

The SW $\frac{1}{4}$ SE $\frac{1}{4}$  and the SE $\frac{1}{4}$ SW $\frac{1}{4}$  of Section 35,  
Township 3 North, Range 21 East, Boise Meridian;  
Lots 2 and 3 in Section 2, N $\frac{1}{2}$ SE $\frac{1}{4}$ , SW $\frac{1}{4}$ SE $\frac{1}{4}$  and the  
SE $\frac{1}{4}$ SW $\frac{1}{4}$  of Section 3, Township 2 North, Range 21 East,  
Boise Meridian.

in the case of Woodworth vs. Anthony, and in the said case of  
Baptie vs. Lewis.

II

That Robert Baptie owns the NE $\frac{1}{4}$  of Section 3 in Township 2 North, Range 21 East, Boise Meridian in Blaine County, Idaho.

III

That said described lands are arid lands and require the irrigation of the reliable waters of the NW $\frac{1}{4}$  of Section 2, Township 2 North, Range 21 East, Boise Meridian, for artificial irrigation for the production of crops.

IV

That Robert Baptie owns water rights appurtenant to Lot 1 and the SE $\frac{1}{4}$ NE $\frac{1}{4}$  of Section 3, Township 2 North, Range 21 East, Boise Meridian, as decreed in the case of Baptie vs. Lewis for

10 miners inches of the waters of Muldoon Creek with priority

of December 2, 1911, for irrigation and domestic purposes upon

Lot 1 and the SE $\frac{1}{4}$ NE $\frac{1}{4}$  of Section 3, Township 2 North, Range 21

East, Boise Meridian, and for 5 miners inches of the waters of

a spring arising in the NW $\frac{1}{4}$ SW $\frac{1}{4}$  of Section 2, Township 2 North,

Range 21 East, Boise Meridian, for irrigation and domestic

purposes upon Lot 1 and the SE $\frac{1}{4}$ NE $\frac{1}{4}$  of said Section 3, and for

55 miners inches of the waters of the so-called Logan Tunnel for

irrigation and domestic purposes upon Lot 1 and the SE $\frac{1}{4}$ NE $\frac{1}{4}$  of

said Section 3. That the said Robert Baptie accepts as binding

upon him the respective decrees, and the respective findings

of fact and conclusions of law upon which said decrees are based,

in the case of Woodworth vs. Anthony, and in the said case of

Baptie vs. Lewis.

That since the 1st day of April, 1912, John Baptie and Enid Baptie and their predecessors in interest have used the waters of Muldoon Creek in the amount of 100 miners inches for the irrigation of the irrigable portions of the  $N\frac{1}{2}SE\frac{1}{4}$ ,  $SW\frac{1}{2}SE\frac{1}{4}$  and  $SE\frac{1}{4}SW\frac{1}{4}$  of Section 3, Township 2 North, Range 21 East, Boise Meridian, and have applied said water to beneficial use upon said described lands for the production of crops; that said 100 miners inches of the waters of Muldoon Creek are necessary and essential for the irrigation of said 160 acre parcel of land.

## VI

That since the 1st day of April, 1930, John Baptie and Enid Baptie and their predecessors in interest have used the waters of Muldoon Creek in the amount of 100 miners inches for the irrigation of the irrigable portions of Lots 2 and 3 in Section 2, Township 2 North, Range 21 East, Boise Meridian, and the  $SW\frac{1}{4}SE\frac{1}{4}$ ,  $SE\frac{1}{4}SW\frac{1}{4}$  of Section 35, Township 3 North, Range 21 East, Boise Meridian, and have applied said water to beneficial use upon said described lands for the production of crops; that said 100 miners inches of the waters of Muldoon Creek are necessary and essential for the irrigation of said 160 acre parcel of land.

VII

That since April 1, 1907, the said Robert Baptie and his predecessors in interest have used flood waters of Muldoon Creek in excess of the decreed rights described in Paragraph IV hereof, in the amount of 100 miners inches for the irrigation of the irrigable portions of Lots 1 and 2 and the S $\frac{1}{2}$ NE $\frac{1}{4}$  of Section 3, Township 2 North, Range 21 East, Boise Meridian, and have applied said 100 miners inches of flood waters to beneficial use upon said described lands for the production of crops; that said 100 miners inches of the flood waters of Muldoon Creek are necessary and essential for the irrigation of said described premises.

N.A. { [REDACTED]

NA

[REDACTED]

(d) 100 miners inches with priority of April 1, 1912, for use upon  $N\frac{1}{2}SE\frac{1}{4}$ ,  $SW\frac{1}{2}SE\frac{1}{4}$ , and  $SE\frac{1}{4}SW\frac{1}{4}$  of Section 3, Township 2 North, Range 21 East, Boise Meridian, in Blaine County, Idaho, to be decreed to John Baptie and Enid Baptie, husband and wife;

(e) 100 miners inches with priority of April 1, 1930, for use upon Lots 2 and 3 in Section 2, Township 2 North, Range 21 East, Boise Meridian, and upon  $SW\frac{1}{2}SE\frac{1}{4}$

and SE $\frac{1}{4}$ SW $\frac{1}{4}$  in Section 35, Township 3 North, Range 21 East, Boise Meridian, in Blaine County, Idaho, to be decreed to John Baptie and Enid Baptie, husband and wife;

(f) 100 miners inches with priority of April 1, 1907, for use upon Lots 1 and 2 and S $\frac{1}{2}$ NE $\frac{1}{4}$  in Section 3, Township 2 North, Range 21 East, Boise Meridian, in Blaine County, Idaho, to be decreed to Robert Baptie;

(g) For such other and further relief as to the court shall seem just and equitable in the premises.

ANDERSON, KAUFMAN, ANDERSON & RINGERT

William F. Ringert

A Member of the Firm

503 Idaho Bldg., Boise, Idaho

Attorneys for Interveners

I CERTIFY that service of the within and foregoing Answer, Counterclaims and Crossclaims was made on the 30th day of October, 1967, by mailing a copy to Parry, Robertson & Daly, attorneys for plaintiff, at P. O. Box 525, Twin Falls, Idaho, to Allan G. Shepard, Attorney General of the State of Idaho, attorney for defendants, at State House, Boise, Idaho, to Everett L. Tyler, Watermaster for Water District 11-D, at Murtaugh, Idaho, and to R. Keith Higginson, State Reclamation Engineer, State House, Boise, Idaho.

William F. Ringert

1907 = \ \ Flood water  
1912 = / / / /  
1930 = ≡

34

35

3

2

10

11

37-1140  
37-1119  
37-1120

37-1140  
37-1119  
37-1120

## Muldoon Creek Ranch

Terry & Anita Clark  
P. O. Box 308  
Carey, ID 83320  
Phone/Fax (208) 788-4280  
E-Mail [anitaclark@toast.net](mailto:anitaclark@toast.net)

37-21383  
37-21745  
37-21746

Please see attached document pertaining to the irrigation water diverted from Muldoon Creek and used on Section 3, Township 2 North Range 21 East of the Boise Meridian. This document was prepared in 1967 by my Grandfather John Baptie, Grandmother Enid Baptie and Uncle Robert (Bob) Baptie. Individuals know as Baptie Ranch Partnership. This document shows the amount and use of water as early as 1907 with continued use until present day. Anita Clark (Granddaughter of Enid & John Baptie) and Terry Clark (husband) purchased the ranch in the early 1970's and have used the water for beneficial use on the land described until present day 2006. The ranch has not left family ownership for over 100 years. We have always used the water diverted from Muldoon Creek to water pastures & hay fields as indicated.

Please see the following list we have prepared for quick reference of decreed water and the amounts used on the ranch over the years. The amounts and dates of water shown in this document are essential for our livelihood and the continued operation of this 100 year old family owned ranch. Much of this land is pores soil and requires more than the standard 1 inch per/acre of irrigation water. The head gate of a major diversion point from Muldoon Creek is located one mile north of the ranch and there is a great loss of water before reaching the source of irrigation.

### Decreed Water & Number:

10 Miners inches: #37-1140

05 Miners inches: #37-1119

55 Miners inches: #37-1120

### Water as described in document attached beneficial & historic use:

April, 1912 – used the waters of Muldoon Creek in the amount of 100 miner's inches

April, 1930 – used the waters of Muldoon Creek in the amount of 100 miner's inches

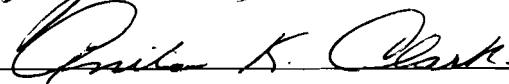
April, 1907 – used the waters of Muldoon Creek in the amount of 100 miner's inches

### Terry L. and Anita K. Clark

Terry L. Clark



Anita K. Clark



SCANNED

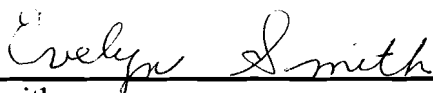
APR 21 2006

Evelyn Smith  
Evelyn Baptie/Smith  
Glenns Ferry, Idaho

March 16, 2006

Regarding my memory of irrigated fields at the (Baptie Ranch) in Muldoon Idaho:

I was born in Muldoon, Idaho in 1917. I spent my summers at the Baptie Ranch in Muldoon with my mother Cora Baptie and father Tom Baptie. My father and his brother John Baptie were partners in the sheep business for many years. My father sold his interest to his Brother John; however he did keep the registered Suffolk Sheep and spent his summers in Muldoon tending them. I stayed with my father during the summers and returned to Carey and later to Hagerman and Albion for school. I have lived in Idaho most of my life and have visited the Baptie Ranch almost every summer throughout my life. I have never seen a period of time that it was not irrigated. The fields were always green and I recall going with my father and changing the water taken from Muldoon Creek.



---

Evelyn Smith

**SCANNED**

**APR 21 2006**

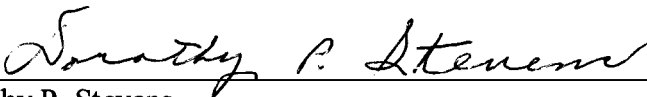
Dorothy P. Stevens  
Dorothy P. Baptie / Stevens  
9630 8<sup>th</sup> Street  
Bay City, Oregon 97707

March 29, 2006

Regarding my memory of irrigated fields in Muldoon Idaho:

I was born in 1922 and spent my summers with my parents Enid & John Baptie at our ranch in Muldoon Idaho. The ranch was irrigated for grazing (pasture land) & hay fields for the two bands of sheep that my Father, John Baptie, Uncle, Tom Baptie and Brother, Robert Baptie owned. John and Tom Baptie / were partners and later my brother and father purchased Tom Baptie's interest and formed a partnership with John, Enid and Robert Baptie.

I remember going with my father John Baptie and Uncle Tom Baptie when they irrigated the different fields. They had several points to take water out of Muldoon Creek as the irrigation was done with a shovel. After my father passed away in the 70's Robert (Bob) Baptie lived year round at the ranch and continued to irrigate the pasture and hay fields at the Muldoon Ranch followed by my daughter Anita Clark and her husband Terry Clark. The ranch at Muldoon was always irrigated with the waters from Muldoon Creek that runs for approximately one mile through the property. As I remember we diverted water from Muldoon Creek in four different places and always had plenty of water for irrigating the property.

  
\_\_\_\_\_  
Dorothy P. Stevens

**SCANNED**

APR 21 2006

COUNTERCLAIM AND CROSSCLAIM OF  
JOHN BAPTIE AND ROBERT BAPTIE

For counterclaim against plaintiff, Prunty Ranches, Inc.,  
and crossclaim against Everett L. Tyler and Carl E. Tappan  
Watermaster for Water District 11-D and State Reclamation  
Engineer, respectively, John Baptie and Robert Baptie allege  
as follows:

I

That John Baptie and Enid Baptie, his wife, own the lands  
situate in Blaine County, Idaho, particularly described as  
follows, to wit:

The SW $\frac{1}{4}$ SE $\frac{1}{4}$  and the SE $\frac{1}{4}$ SW $\frac{1}{4}$  of Section 35,  
Township 3 North, Range 21 East, Boise Meridian;  
Lots 2 and 3 in Section 2, N $\frac{1}{2}$ SE $\frac{1}{4}$ , SW $\frac{1}{4}$ SE $\frac{1}{4}$  and the  
SE $\frac{1}{4}$ SW $\frac{1}{4}$  of Section 3, Township 2 North, Range 21 East,  
Boise Meridian.

in the case of Wood with vi. Anthony, and in the said case of  
Baptie vs. Baptie.

9-b

10-8

## II

That Robert Baptie owns the NE $\frac{1}{4}$  of Section 3 in Township 2 North, Range 21 East, Boise Meridian in Blaine County, Idaho.

## III

That said described lands are arid lands and require artificial irrigation for the production of crops.

## IV

That Robert Baptie owns water rights appurtenant to Lot 1 and the SE $\frac{1}{4}$ NE $\frac{1}{4}$  of Section 3, Township 2 North, Range 21 East, Boise Meridian, as decreed in the case of Baptie vs. Lewis for 10 miners inches of the waters of Muldoon Creek with priority of December 2, 1911, for irrigation and domestic purposes upon Lot 1 and the SE $\frac{1}{4}$ NE $\frac{1}{4}$  of Section 3, Township 2 North, Range 21 East, Boise Meridian, and for 5 miners inches of the waters of a spring arising in the NW $\frac{1}{4}$ SW $\frac{1}{4}$  of Section 2, Township 2 North, Range 21 East, Boise Meridian, for irrigation and domestic purposes upon Lot 1 and the SE $\frac{1}{4}$ NE $\frac{1}{4}$  of said Section 3, and for 55 miners inches of the waters of the so-called Logan Tunnel for irrigation and domestic purposes upon Lot 1 and the SE $\frac{1}{4}$ NE $\frac{1}{4}$  of said Section 3. That the said Robert Baptie accepts as binding upon him the respective decrees, and the respective findings of fact and conclusions of law upon which said decrees are based, in the case of Woodworth vs. Anthony, and in the said case of Baptie vs. Lewis.

V

That since the 1st day of April, 1912, John Baptie and Enid Baptie and their predecessors in interest have used the waters of Muldoon Creek in the amount of 100 miners inches for the irrigation of the irrigable portions of the  $N\frac{1}{2}SE\frac{1}{4}$ ,  $SW\frac{1}{4}SE\frac{1}{4}$  and  $SE\frac{1}{4}SW\frac{1}{4}$  of Section 3, Township 2 North, Range 21 East, Boise Meridian, and have applied said water to beneficial use upon said described lands for the production of crops; that said 100 miners inches of the waters of Muldoon Creek are necessary and essential for the irrigation of said 160 acre parcel of land.

VI

That since the 1st day of April, 1930, John Baptie and Enid Baptie and their predecessors in interest have used the waters of Muldoon Creek in the amount of 100 miners inches for the irrigation of the irrigable portions of Lots 2 and 3 in Section 2, Township 2 North, Range 21 East, Boise Meridian, and the  $SW\frac{1}{4}SE\frac{1}{4}$ ,  $SE\frac{1}{4}SW\frac{1}{4}$  of Section 35, Township 3 North, Range 21 East, Boise Meridian, and have applied said water to beneficial use upon said described lands for the production of crops; that said 100 miners inches of the waters of Muldoon Creek are necessary and essential for the irrigation of said 160 acre parcel of land.

VII

That since April 1, 1907, the said Robert Baptie and his predecessors in interest have used flood waters of Muldoon Creek in excess of the decreed rights described in Paragraph IV hereof, in the amount of 100 miners inches for the irrigation of the irrigable portions of Lots 1 and 2 and the S $\frac{1}{2}$ NE $\frac{1}{4}$  of Section 3, Township 2 North, Range 21 East, Boise Meridian, and have applied said 100 miners inches of flood waters to beneficial use upon said described lands for the production of crops; that said 100 miners inches of the flood waters of Muldoon Creek are necessary and essential for the irrigation of said described premises.

N.A.

[REDACTED]

NA

[REDACTED]

(d) 100 miners inches with priority of April 1, 1912, for use upon  $N\frac{1}{2}SE\frac{1}{4}$ ,  $SW\frac{1}{2}SE\frac{1}{4}$ , and  $SE\frac{1}{4}SW\frac{1}{4}$  of Section 3, Township 2 North, Range 21 East, Boise Meridian, in Blaine County, Idaho, to be decreed to John Baptie and Enid Baptie, husband and wife;

(e) 100 miners inches with priority of April 1, 1930, for use upon Lots 2 and 3 in Section 2, Township 2 North, Range 21 East, Boise Meridian, and upon  $SW\frac{1}{4}SE\frac{1}{4}$

and SE $\frac{1}{4}$ SW $\frac{1}{4}$  in Section 35, Township 3 North, Range 21 East, Boise Meridian, in Blaine County, Idaho, to be decreed to John Baptie and Enid Baptie, husband and wife;

(f) 100 miners inches with priority of April 1, 1907, for use upon Lots 1 and 2 and S $\frac{1}{2}$ NE $\frac{1}{4}$  in Section 3, Township 2 North, Range 21 East, Boise Meridian, in Blaine County, Idaho, to be decreed to Robert Baptie;

(g) For such other and further relief as to the court shall seem just and equitable in the premises.

ANDERSON, KAUFMAN, ANDERSON & RINGERT

William F. Ringert

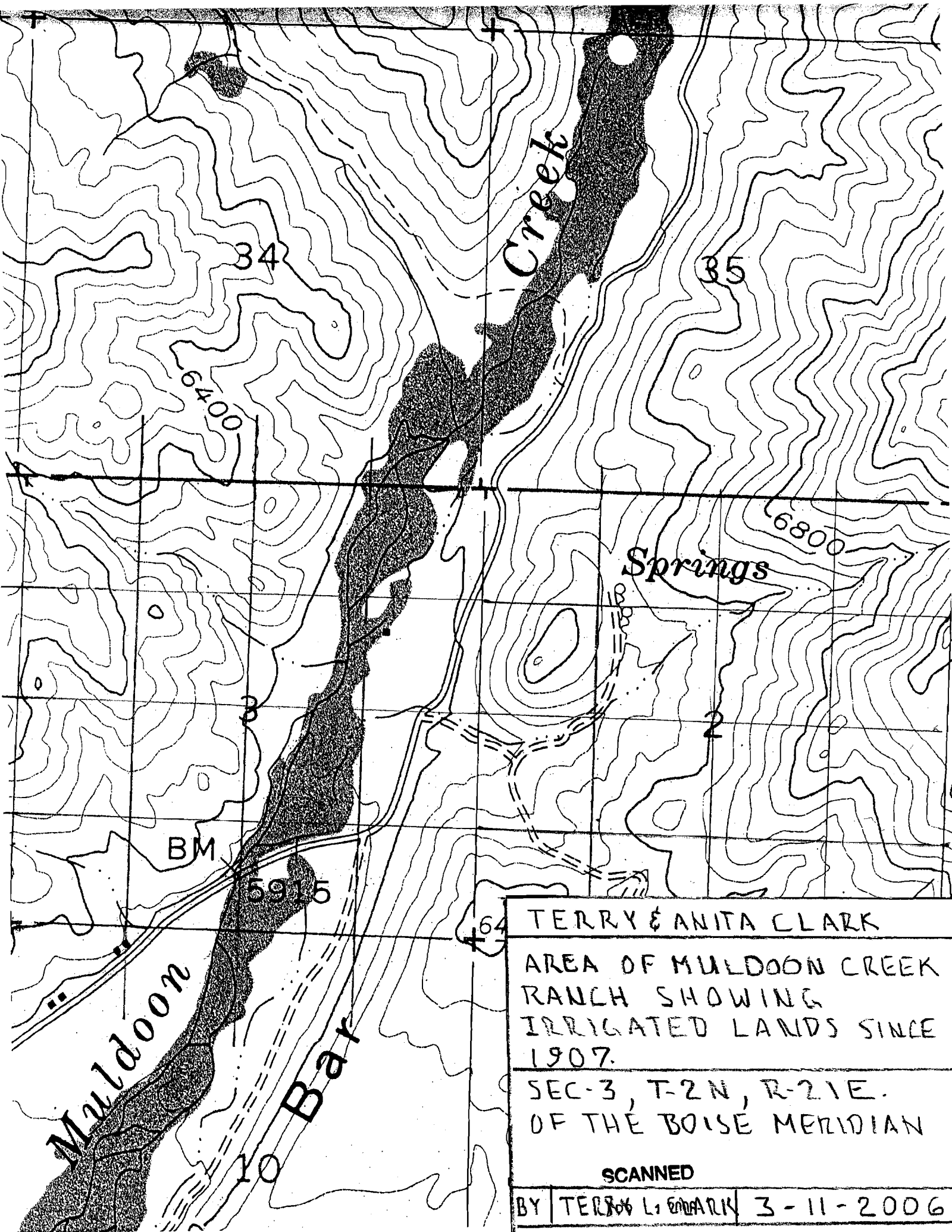
A Member of the Firm  
503 Idaho Bldg., Boise, Idaho  
Attorneys for Interveners

I CERTIFY that service of the within and foregoing Answer, Counterclaims and Crossclaims was made on the 30th day of October, 1967, by mailing a copy to Parry, Robertson & Daly, attorneys for plaintiff, at P. O. Box 525, Twin Falls, Idaho, to Allan G. Shepard, Attorney General of the State of Idaho, attorney for defendants, at State House, Boise, Idaho, to Everett L. Tyler, Watermaster for Water District 11-D, at Murtaugh, Idaho, and to R. Keith Higginson, State Reclamation Engineer, State House, Boise, Idaho.

William F. Ringert

SCANNED

APR 21 2006



2nd Cora Reclamation

37-2

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF BLAINE

-----  
THOMAS A. BAPTIE, and JOHN  
BAPTIE, (Cora A. Baptie sub-  
stituted for John Baptie,  
  
Plaintiffs,  
  
vs.  
  
GEORGE A. LEWIS, Water Master  
of Little Wood River, and WAR-  
REN G. SWENDSEN, Commissioner  
of Reclamation of the State  
of Idaho,  
  
Defendants,  
-----

Certified Copy  
JUDGMENT AND DECREE

This cause came on regularly for trial the 21st day  
of January, 1926, upon the complaint of plaintiffs and answer  
of defendants.

A jury was waived, and oral and documentary evidence  
was introduced, on behalf of plaintiffs, and plaintiff John  
Baptie having transferred his interest in the subject matter of  
this action to Cora A. Baptie since the filing of this suit, on  
motion of plaintiff's counsel, Cora A. Baptie was substituted  
as plaintiff in place and stead of said John Baptie.

Proofs were adduced that due notice of the pendency  
and purpose of this action has been duly published for three  
weeks in the Times-News-Miner, a newspaper printed and published  
in Blaine County, Idaho, pursuant to the order of the Judge of  
this Court, and the Statutes requiring such publication, oral  
and documentary evidence was introduced on behalf of plaintiffs,  
and it appearing that the facts set forth in said complaint are  
true, and that said Thomas A. Baptie and Cora A. Baptie, plain-  
tiffs, are entitled to judgment and decree as prayed for,

37 1140 IT IS ORDERED, ADJUDGED AND DECREED That said plain-  
tiffs, Thomas A. Baptie and Cora A. Baptie, have the right to

JUN 2 1926

use, for irrigation and domestic purposes, upon Lot One (otherwise Northeast Quarter Northeast Quarter) and Southeast Quarter Northeast Quarter, Section Three, Township Two North, Range Twenty-one E. B. M. certain waters heretofore used upon said land, with priorities as follows:

Two-tenths of one second foot of the waters of Muldoon Creek, in Blaine County, Idaho, diverted from said creek at a point in the Northwest Quarter of the Southwest Quarter of Section Thirty-five, Township Three North, Range Twenty-one E. B. M. with date of priority of December 2, 1911.

37-1119 One-tenth of one second foot of the waters of a spring on the Northwest Quarter of the Southwest Quarter of Section Two, Township Two North, Range Twenty-one E. B. M., a primary right, the waters of said spring not being appurtenant to or flowing into said Muldoon Creek, or any tributary thereof, or of Little Wood River.

37-1120 One and one-tenth second feet of the waters of the so-called Logan Tunnel, diverted in the Southwest Quarter of Southwest Quarter of Section Eight, Township Three North, Range Twenty-two East, into Muldoon Creek, a natural stream, and taken from said stream at a point about six miles down said stream, on the Northeast Quarter of said Section Three aforesaid, so long as said plaintiffs shall maintain said water flow from said Logan Tunnel, and that the right to the use of said water by plaintiffs is absolute, so long as plaintiffs shall maintain the same, the said waters being developed water and not tributary to said Muldoon Creek or said Little Wood River, and that the right to the use of said water as aforesaid will not affect or interfere with the rights of prior users of waters from said Muldoon Creek or said Little Wood River.

Provided, however, that as to the use of two-tenths of one second foot of the waters of Muldoon Creek, with priority as

JUN 25 1936

aforesaid, this decree is subject to the terms of those certain decrees adjudicating the right to the use of the waters of said Muldoon Creek and said Little Wood River, in the case of Woodworth et al. vs. Anthony et al, and Frost et al. vs. Alturas Water Company et al. duly recorded in the records of this Court.

Dated January 22, 1926.

W. F. Emige  
District Judge.

STATE OF IDAHO, }  
County of Blaine, } ss.

JUN 05 1926

I, Lassie M. Russell, Clerk of the District Court of the Fourth Judicial District of the State of Idaho, in and for the County of Blaine, do hereby certify that the foregoing is a full, true and correct copy of the original Judgment and decree in the above entitled action now on file in my office.

Given under my hand and the seal of said Court in my office, at Hailey, this, the 22d day of January, A. D. 1926.

Attest: Lassie M. Russell Clerk.

By Geo A. Wood Deputy.

14

RECEIVED  
JUN 21 1933

37-0

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

\*\*\*\*\*

FRUNTY RANCHES, INC.,  
a corporation,  
  
Plaintiff,

-vs-

EVERETT L. TYLER, Water-  
master in charge of the dis-  
tribution of waters of Water  
District 11-D, Muldoon Creek,  
and CARL E. TAPPAN, State  
Reclamation Engineer,

Defendants,

and

FRED M. LAIDLAW, ROBERT  
BAPTIE and JOHN BAPTIE,

Interveners.

ANSWER, COUNTERCLAIMS

AND CROSSCLAIMS

\*\*\*\*\*

ANSWER

COME NOW Fred M. Laidlaw, Robert Baptie and John Baptie,  
interveners above named, and answer the plaintiff's complaint  
on file herein as follows:

RECEIVED  
JUN 21 1933

JUN 05 1933

I

Said interveners admit the allegations of Paragraph I of plaintiff's complaint.

II

Said interveners deny the allegations contained in Paragraphs II, III, IV, V, VI, VII and VIII of the plaintiff's complaint.

FIRST DEFENSE

Said complaint fails to state a claim upon which relief can be granted in that there is no allegation that the lands are arid lands which require artificial irrigation for the production of crops and there is no allegation that the use of the water under the purported water rights for which plaintiff seeks adjudication is required for the irrigation of the lands described in the complaint or for the production of crops thereon.

SECOND DEFENSE

That the plaintiff has certain water rights in the waters of Brown Creek and in the waters of Spring Creek, both of which are tributaries of Muldoon Creek, which said water rights are appurtenant to the lands of the plaintiff identified and described in its complaint; that Brown Creek and Spring Creek join the channel of Muldoon Creek at points below the point

at which the interveners divert their waters from Muldoon Creek and, therefore, the waters of Brown Creek and the waters of Spring Creek contribute in no way to the water rights of the interveners in Muldoon Creek; that the water rights claimed by the plaintiff in its complaint, together with the water rights of the plaintiff in Brown Creek and in Spring Creek, exceed the duty of water as prescribed by the laws of the State of Idaho; that the decreed rights claimed by the plaintiff are based, in part, upon its water rights in Brown Creek and Spring Creek; that the plaintiff's decreed rights in the main stream of Muldoon Creek, together with its decreed rights in Brown Creek and Spring Creek, are sufficient to satisfy its irrigation requirements and are sufficient to satisfy the duty of water with respect to the irrigable portions of the lands of the plaintiff described in its complaint, during the time that flood waters are flowing in Muldoon Creek, and any use by the plaintiff of the flood waters of Muldoon Creek, to which plaintiff claims right as specified in Paragraph VIII of its complaint, would exceed the amount of water to which plaintiff is entitled under the laws of the State of Idaho.

THIRD DEFENSE

That the decreed right claimed by plaintiff as successor in interest to H. R. Butler for 70 inches of water with priority

JUN 05 1996

date of April 1, 1886, is appurtenant to the Southwest quarter of the Southeast quarter of Section 8, Township 2 North, Range 21 East of the Boise Meridian; that the licensed right claimed by the plaintiff as successor in interest to Ada L. Womack purports to be appurtenant to the Southwest quarter of the Southeast quarter of said Section 8, Township 2 North, Range 21 East, Boise Meridian; that the total right claimed by plaintiff for irrigation of such 40 acre parcel amounts to 110 miners inches or 2 and 3/4ths miners inches per acre, which is far in excess of the amount of water allowed by the laws of the State of Idaho for the irrigation of agricultural lands, and is far in excess of the amount of water required for the irrigation of said 40 acre parcel.

#### FOURTH DEFENSE

That the intervener Fred M. Laidlaw, by and through Fred M. Laidlaw, Inc., a corporation of which he is President and principal stockholder, has a right to the use of the flood waters of Maldoon creek to the extent of 250 miners inches, or more, which right is prior to the water rights claimed by the plaintiff for which it seeks adjudication.

#### FIFTH DEFENSE

That interveners Robert Baptie and John Baptie have a right

JUN 05 1995

to the use of the waters and flood waters of Muldoon Creek to the extent of 300 miners inches, or more, which right is prior to the water rights claimed by the plaintiff for which it seeks adjudication.

SIXTH DEFENSE

That the plaintiff has extended its ditches to include certain areas of its land to which its water rights were not made appurtenant by the various decrees under which the plaintiff claims decreed water rights, and the plaintiff has used such decreed rights to irrigate the areas served by the extensions of its ditches and has attempted to appropriate additional waters of Muldoon Creek to irrigate the lands to which the decreed rights were made appurtenant, thereby increasing the burden of its decreed water rights, which interferes with and causes damage to the various prior rights of the interveners in the waters of Muldoon Creek.

SEVENTH DEFENSE

That the diversion works at the point of diversion which plaintiff claims for the water rights for which it seeks adjudication in this action, and the facilities for transmission of water from said diversion works to the lands of the plaintiff, do not have sufficient size or capacity to carry the water with respect to

which plaintiff seeks to have rights adjudicated in this action.

COUNTERCLAIM AND CROSSCLAIM OF  
FRED M. LAIDLAW

For counterclaim against the plaintiff, Prunty Ranches, Inc., and crossclaim against Everett L. Tyler and Carl E. Tappan, Watermaster for Water District 11-D and State Reclamation Engineer, respectively, Fred M. Laidlaw complains and alleges as follows:

I

That he is the President and principal shareholder of Fred M. Laidlaw, Inc., an Idaho corporation, and makes this counterclaim and crossclaim on behalf of said corporation.

II

That said corporation owns certain lands situate in Blaine County, Idaho, including those lands particularly described as follows, to wit:

The SE $\frac{1}{4}$ NE $\frac{1}{4}$  of Section 9; the NW $\frac{1}{4}$ , the NW $\frac{1}{4}$ NE $\frac{1}{4}$  and the NE $\frac{1}{4}$ SW $\frac{1}{4}$  of Section 10; the N $\frac{1}{4}$ NW $\frac{1}{4}$  and the SW $\frac{1}{4}$ NW $\frac{1}{4}$  of Section 16; the SE $\frac{1}{4}$ , the S $\frac{1}{4}$ NE $\frac{1}{4}$  and the E $\frac{1}{4}$ SW $\frac{1}{4}$  of Section 17; the NE $\frac{1}{4}$ NW $\frac{1}{4}$  and the NW $\frac{1}{4}$ NE $\frac{1}{4}$  of Section 20, all in Township 2 North, Range 21 East of the Boise Meridian.

III

That said described lands are arid lands and require artificial irrigation for the production of crops.

IV

That said corporation owns decreed water rights in the waters of Muldoon Creek, appurtenant to certain of said described lands, as follows:

| QUANTITY          | PRIORITY | PLACE OF USE                                                                                                                                                                      | CASE IN WHICH DECREED |
|-------------------|----------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------|
| 80 miners inches  | 4/1/85   | NW $\frac{1}{4}$ of Sec. 10, SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Sec. 9, all in T. 2 N., R. 21 E., B. M.                                                                         | Woodworth vs. Anthony |
| 100 miners inches | 5/15/10  | SE $\frac{1}{4}$ , E $\frac{1}{2}$ SW $\frac{1}{4}$ in Sec. 17, NE $\frac{1}{4}$ NE $\frac{1}{4}$ , NW $\frac{1}{4}$ NE $\frac{1}{4}$ in Sec. 20, all in T. 2 N., R. 21 E., B. M. | Laidlaw vs. Spofford  |

That the said Fred M. Laidlaw and said corporation accept as binding upon them the respective decrees, and the respective findings of fact and conclusions of law upon which said decrees are based, in the above mentioned cases of Woodworth vs. Anthony and Laidlaw vs. Spofford.

V

That in addition to the decreed water rights identified in Paragraph IV, said corporation owns licensed rights for the use of waters of Muldoon Creek, as follows:

| LICENSE NO. | QUANTITY          | PRIORITY | PLACE OF USE                                                                                                                                                   |
|-------------|-------------------|----------|----------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1000        | 130 miners inches | 12/16/04 | NW $\frac{1}{4}$ NE $\frac{1}{4}$ , NE $\frac{1}{4}$ NW $\frac{1}{4}$ in Sec. 20, E $\frac{1}{2}$ SW $\frac{1}{4}$ in Sec. 17, all in T. 2 N., R. 21 E., B. M. |

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8596      215 miners inches      8/8/12

SE $\frac{1}{4}$ NE $\frac{1}{4}$  in Sec. 9,  
NW $\frac{1}{4}$ NE $\frac{1}{4}$ , SW $\frac{1}{4}$ NW $\frac{1}{4}$ ,  
NW $\frac{1}{4}$ NE $\frac{1}{4}$  in Sec. 10,  
SE $\frac{1}{4}$  in Sec. 17, all  
in T. 2 N., R 21 E.,  
B. M.

#### VI

That the water rights under the above mentioned water license 8596 are not part of the natural flow of Maldoon Creek, but are waters developed in the Mutual Tunnel of the Last Chance Mine, at a point 600 feet South and 200 feet East from the Northwest corner of the SW $\frac{1}{4}$ SW $\frac{1}{4}$  of Section 12, Township 3 North, Range 21 East, Boise Meridian, in Blaine County, Idaho, and diverted into and carried in and diverted out of Maldoon Creek for the irrigation of 35 acres in the NW $\frac{1}{4}$ NW $\frac{1}{4}$ , 40 acres in the NE $\frac{1}{4}$ NW $\frac{1}{4}$ , 40 acres in the SW $\frac{1}{4}$ NW $\frac{1}{4}$  and 3 acres in the NW $\frac{1}{4}$ NE $\frac{1}{4}$  in Section 10, 17 acres in the SE $\frac{1}{4}$ NE $\frac{1}{4}$  in Section 9, 5 acres in the NW $\frac{1}{4}$ SE $\frac{1}{4}$ , 40 acres in the NE $\frac{1}{4}$ SE $\frac{1}{4}$ , 20 acres in the SW $\frac{1}{4}$ SE $\frac{1}{4}$  and 15 acres in the SE $\frac{1}{4}$ SE $\frac{1}{4}$  in Section 17, all in Township 2 North, Range 21 East, Boise Meridian.

#### VII

That since the 1st day of April, 1910, the said Fred M. Laidlaw, Inc., and its predecessors in interest, have used flood waters of Maldoon Creek in excess of the above mentioned decreed rights and licensed rights in the amount of 250 miners inches, for the irrigation of 535 acres of the lands identified and described in Paragraph II of this counterclaim and crossclaim;

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that all of the water under said decreed rights (aggregating 160 miners inches), and under said licensed rights (aggregating 345 miners inches) and under the right established by use of said flood waters as aforesaid (250 miners inches) are necessary and essential for the proper irrigation of said described lands; that said waters have been applied to beneficial use upon said described lands for the production of crops, in the quantities and since the times hereinbefore specified.

COUNTERCLAIM AND CROSSCLAIM OF  
JOHN BAPTIE AND ROBERT BAPTIE

For counterclaim against plaintiff, Prunty Ranches, Inc., and crossclaim against Everett L. Tyler and Carl E. Tappan Watermaster for Water District 11-D and State Reclamation Engineer, respectively, John Baptie and Robert Baptie allege as follows:

I

That John Baptie and Enid Baptie, his wife, own the lands situate in Blaine County, Idaho, particularly described as follows, to wit:

The SW $\frac{1}{4}$ SE $\frac{1}{4}$  and the SE $\frac{1}{4}$ SW $\frac{1}{4}$  of Section 35, Township 3 North, Range 21 East, Boise Meridian; Lots 2 and 3 in Section 2, N $\frac{1}{4}$ SE $\frac{1}{4}$ , SW $\frac{1}{4}$ SE $\frac{1}{4}$  and the SE $\frac{1}{4}$ SW $\frac{1}{4}$  of Section 3, Township 2 North, Range 21 East, Boise Meridian.

JUN 05 1996

II

That Robert Baptie owns the NE $\frac{1}{4}$  of Section 3 in Township 2 North, Range 21 East, Boise Meridian in Blaine County, Idaho.

III

That said described lands are arid lands and require artificial irrigation for the production of crops.

IV

That Robert Baptie owns water rights appurtenant to Lot 1 and the SE $\frac{1}{4}$ NE $\frac{1}{4}$  of Section 3, Township 2 North, Range 21 East, Boise Meridian, as decreed in the case of Baptie vs. Lewis for 10 miners inches of the waters of Muldoon Creek with priority of December 2, 1911, for irrigation and domestic purposes upon Lot 1 and the SE $\frac{1}{4}$ NE $\frac{1}{4}$  of Section 3, Township 2 North, Range 21 East, Boise Meridian, and for 5 miners inches of the waters of a spring arising in the NW $\frac{1}{4}$ SW $\frac{1}{4}$  of Section 2, Township 2 North, Range 21 East, Boise Meridian, for irrigation and domestic purposes upon Lot 1 and the SE $\frac{1}{4}$ NE $\frac{1}{4}$  of said Section 3, and for 55 miners inches of the waters of the so-called Logan Tunnel for irrigation and domestic purposes upon Lot 1 and the SE $\frac{1}{4}$ NE $\frac{1}{4}$  of said Section 3. That the said Robert Baptie accepts as binding upon him the respective decrees, and the respective findings of fact and conclusions of law upon which said decrees are based, in the case of Woodworth vs. Anthony, and in the said case of Baptie vs. Lewis.

V

That since the 1st day of April, 1912, John Baptie and Enid Baptie and their predecessors in interest have used the waters of Muldoon Creek in the amount of 100 miners inches for the irrigation of the irrigable portions of the N $\frac{1}{4}$ SE $\frac{1}{4}$ , SW $\frac{1}{4}$ SE $\frac{1}{4}$  and SE $\frac{1}{4}$ SW $\frac{1}{4}$  of Section 3, Township 2 North, Range 21 East, Boise Meridian, and have applied said water to beneficial use upon said described lands for the production of crops; that said 100 miners inches of the waters of Muldoon Creek are necessary and essential for the irrigation of said 160 acre parcel of land.

VI

That since the 1st day of April, 1930, John Baptie and Enid Baptie and their predecessors in interest have used the waters of Muldoon Creek in the amount of 100 miners inches for the irrigation of the irrigable portions of Lots 2 and 3 in Section 2, Township 2 North, Range 21 East, Boise Meridian, and the SW $\frac{1}{4}$ SE $\frac{1}{4}$ , SE $\frac{1}{4}$ SW $\frac{1}{4}$  of Section 35, Township 3 North, Range 21 East, Boise Meridian, and have applied said water to beneficial use upon said described lands for the production of crops; that said 100 miners inches of the waters of Muldoon Creek are necessary and essential for the irrigation of said 160 acre parcel of land.

VII

That since April 1, 1907, the said Robert Baple and his predecessors in interest have used flood waters of Muldoon Creek in excess of the decreed rights described in Paragraph IV hereof, in the amount of 100 miners inches for the irrigation of the irrigable portions of Lots 1 and 2 and the S½NE¼ of Section 3, Township 2 North, Range 21 East, Boise Meridian, and have applied said 100 miners inches of flood waters to beneficial use upon said described lands for the production of crops; that said 100 miners inches of the flood waters of Muldoon Creek are necessary and essential for the irrigation of said described premises.

WHEREFORE, said interveners pray judgment as follows:

1. Denying the relief requested by the plaintiff in its complaint, and dismissing the plaintiff's complaint;

2. That a supplemental decree be entered in this cause adjudicating and decreasing the waters of Muldoon Creek to the interveners, as follows:

(a) 130 miners inches with priority of December 16, 1904 for use upon NW¼NE¼ and NE¼NW¼ in Section 20, and E½SW¼ in Section 17, all in Township 2 North, Range 21 East, Boise Meridian, in Blaine County, Idaho, to be decreed to Fred M. Laidlaw, Inc., an Idaho corporation;

RECORDED  
JUN 05 1907

(b) 215 miners inches of waters developed in the Mutual Tunnel of the Last Chance Mine with priority of August 8, 1912, for use upon SE $\frac{1}{4}$ NE $\frac{1}{4}$  in Section 9, N $\frac{1}{4}$ NW $\frac{1}{4}$ , SW $\frac{1}{4}$ NW $\frac{1}{4}$ , NW $\frac{1}{4}$ NE $\frac{1}{4}$  in Section 10, and SE $\frac{1}{4}$  in Section 17, all in Township 2 North, Range 21 East, Boise Meridian, in Blaine County, Idaho, to be decreed to Fred M. Leidlaw, Inc., an Idaho corporation;

(c) 250 miners inches with priority of April 1, 1910, for use upon SE $\frac{1}{4}$ NE $\frac{1}{4}$  of Section 9; the NW $\frac{1}{4}$ , the NW $\frac{1}{4}$ NE $\frac{1}{4}$  and the NE $\frac{1}{4}$ SW $\frac{1}{4}$  of Section 10; the N $\frac{1}{4}$ NW $\frac{1}{4}$  and the SW $\frac{1}{4}$ NW $\frac{1}{4}$  of Section 16; the SE $\frac{1}{4}$ , the S $\frac{1}{4}$ NE $\frac{1}{4}$  and the E $\frac{1}{4}$ SW $\frac{1}{4}$  of Section 17; the NE $\frac{1}{4}$ NW $\frac{1}{4}$  and the NW $\frac{1}{4}$ NE $\frac{1}{4}$  of Section 20; all in Township 2 North, Range 21 East, Boise Meridian, to be decreed to Fred M. Laidlaw, Inc., an Idaho corporation;

(d) 100 miners inches with priority of April 1, 1912, for use upon N $\frac{1}{4}$ SE $\frac{1}{4}$ , SW $\frac{1}{4}$ SE $\frac{1}{4}$ , and SE $\frac{1}{4}$ SW $\frac{1}{4}$  of Section 3, Township 2 North, Range 21 East, Boise Meridian, in Blaine County, Idaho, to be decreed to John Baptie and Enid Baptie, husband and wife;

(e) 100 miners inches with priority of April 1, 1930, for use upon lots 2 and 3 in Section 2, Township 2 North, Range 21 East, Boise Meridian, and upon SW $\frac{1}{4}$ SE $\frac{1}{4}$

and SE $\frac{1}{4}$ SW $\frac{1}{4}$  in Section 35, Township 3 North, Range 21 East, Boise Meridian, in Blaine County, Idaho, to be decreed to John Baptie and Enid Baptie, husband and wife;

(f) 100 miners inches with priority of April 1, 1907, for use upon Lots 1 and 2 and S $\frac{1}{4}$ NE $\frac{1}{4}$  in Section 3, Township 2 North, Range 21 East, Boise Meridian, in Blaine County, Idaho, to be decreed to Robert Baptie;

(g) For such other and further relief as to the court shall seem just and equitable in the premises.

ANDERSON, KAUFMAN, ANDERSON & RINGERT

William F. Ringert  
A Member of the Firm  
503 Idaho Bldg., Boise, Idaho  
Attorneys for Interveners

I CERTIFY that service of the within and foregoing Answer, Counterclaims and Crossclaims was made on the 30th day of October, 1967, by mailing a copy to Parry, Robertson & Daly, attorneys for plaintiff, at P. O. Box 525, Twin Falls, Idaho, to Allan G. Shepard, Attorney General of the State of Idaho, attorney for defendants, at State House, Boise, Idaho, to Everett L. Tyler, Watermaster for Water District 11-D, at Murtaugh, Idaho, and to R. Keith Higginson, State Reclamation Engineer, State House, Boise, Idaho.

William F. Ringert