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DEPARTMENT OF
WATER RESOURCES

COPY

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 31-12181
(Insert water right number
From the Objection Form)

STANDARD FORM 4

MOTION TO FILE:

☒ LATE NOTICE OF CLAIM

☐ AMENDED NOTICE OF CLAIM

INSTRUCTIONS

This form is used to file a late Notice of Claim or an amendment to a Notice of Claim in a reporting area where the Director's Report has been filed. Forms may be obtained from the SRBA Court, the Idaho Department of Water Resources (IDWR), or you may copy or reproduce this blank form. If you copy or reproduce this form, please copy on both sides with the even number pages upside down.

The water right number for your late or amended claim must be indicated above in the blank space following "Subcase." You must use a **separate form for each** late or amended Notice of Claim.

This form has been adopted by the court in *SRBA Administrative Order 1, Rules of Procedure* (amended Sept. 30, 1996), Section 4, which may be consulted for further information.

By filing a *Motion to File a Late Notice of Claim* or a *Motion to File an Amended Notice of Claim*, you certify that it is well-grounded in fact; is warranted by existing law or a good-faith argument for the extension, modification or reversal of existing law; and is not filed for any improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation.

√ I have read *SRBA Administrative Order 1, Rules of Procedure* (amended Sept. 30, 1996).

My name is _____

My address is _____

My phone number is: Work _____ Home _____

I am an attorney representing Mud Lake Water Users, Inc.

My name is Robert L. Harris

My address is Holden, Kidwell, Hahn & Crapo, PLLC, PO Box 50130, Idaho Falls, ID 83405

My phone number is 208-523-0620

MOTION TO FILE A LATE NOTICE OF CLAIM

A Motion to File a Late Notice of Claim will require a hearing before the Presiding Judge.

√ I did not file a Notice of Claim to the use of water in the SRBA because:

An Application for Permit was filed by the applicant in 1997 for substantially the same water right which was numbered 31-7650. At the time, the applicant was not aware that a beneficial use water right could and should have been claimed because water was put to beneficial use in 1969.

☐ I filed a Notice of Claim and elected to defer judicial proceedings on my domestic or stock watering use. I desire to reinstate my Notice of Claim for domestic or stock watering use.

√ I am providing a legal and factual documentation for my claimed use of water. You must describe these documents and attach a readable copy. (You do not need to fill this out if you are reinstating a Notice of Claim for domestic or stock watering use, but you **must** attach a copy of you Notice of Claim.)

See attached claim and supporting documents.

I have attached:

- ☒ A fully completed Notice of Claim (available from IDWR).
- ☐ A claim filing fee for a domestic and stock watering use. IDWR may charge this fee pursuant to I.C. § 42-1414. To determine this amount, contact IDWR at (800) 451-4129. I have enclosed a check payable to: State of Idaho Department of Water Resources in the amount of \$ _____.
- ☒ A claim filing fee and a late claim fee for those claims other than a domestic or stock watering use for which a notice of claim was not filed. To determine this amount, contact IDWR at (800) 451-4129. I have enclosed a check payable to: State of Idaho Department of Water Resources in the amount of \$100.00.

Follow these instructions regarding the hearing on this motion.

1. Contact the Clerk of the SRBA Court (208-736-3011) to request a hearing date and time.
2. Fill in the following information:

This motion will be heard on January 19, 2010, at 1:30

(Insert Date and Time)

at the SRBA Court courthouse, 253 Third Avenue North, Twin Falls, Idaho.

MOTION TO FILE AN AMENDED NOTICE OF CLAIM

A Motion to File an Amended Notice of Claim may require a hearing before the presiding Judge or Special Master or may be granted by leave of the court or by written consent of the parties and the Idaho Department of Water Resources. Leave to amend a claim shall be freely given when justice so requires.

- ☐ I must amend my Notice of Claim to the use of water in the SRBA because:

- ☐ I am providing legal and factual documentation to support my amended Notice of Claim. You must describe these documents and attach a readable copy.

I have attached:

- ☐ An amended Notice of Claim (available from IDWR).
- ☐ Payment of the following additional fees required by IDWR:

VERIFICATION

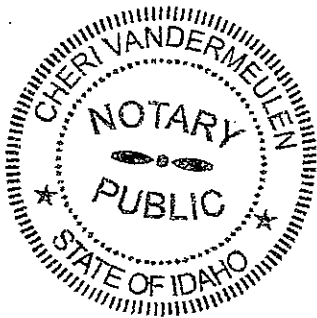
State of Idaho)
)ss.
County of Bonneville)

Robert L. Harris, being first duly sworn, upon oath, deposes and says:

That I am the attorney for the party/claimant filing this motion for late or amended claim and that I have read this motion, know its contents, and believe that the statements are true to the best of my knowledge.

Robert L. Harris
Robert L. Harris, Attorney

Subscribed and sworn to before me this 29th day of October, 2009.



Cheri Vandermeulen
Notary Public for Idaho
Residing at: Idaho Falls, ID
My Commission expires: July 7, 2015

CERTIFICATE OF MAILING

I certify that on this 29th day of October, 2009, I mailed the original and copies of this form, including all attachments, to the following persons by mailing the original and/or copies, postage prepaid and addressed as follows:

1. Original to:

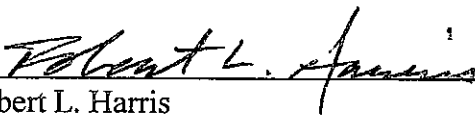
Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
P.O. Box 2707
Twin Falls, ID 83303-2707

2. Copies to:

IDWR Document Depository
P.O. Box 83720
Boise, ID 83720-0098

Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
P.O. Box 44449
Boise, ID 83711-4449

United States Department of Justice
Environment and Natural Resource Division
550 West Fort Street, MSC 033
Boise, ID 83724


Robert L. Harris

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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 31-12181

Date Received _____

Receipt Number _____

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

1. Name of Claimant(s) Mud Lake Water Users, Inc. Phone (208) 663-4359

Mailing Address PO Box 68, Terreton, ID Zip 83450

2. Date of Priority (Only (1) per claim) May 5, 1969

3. Source of water supply (a) Camas Creek

which is tributary to (b) Mud Lake

4.a. Location of existing point of diversion is:
Township 11N Range 38E Section 25, NE 1/4 of SE 1/4 of SE 1/4, Govt. Lot _____,
County of Clark
Parcel (PIN) No. _____

Additional points of diversion if any: _____

If Available, GPS Coordinates: _____

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 dam in Camas Creek, water conveyed through the Lone Tree Diversion Canal.

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

For Ground Water Recharge purposes from 01/01 to 12/31 amount 617 cfs or _____

7. Total quantity claimed (a) 617 cfs (cfs) and/or (b) _____ (acre feet)

8. Non-irrigation uses; describe fully (eg. Domestic: Give number of households served; Stockwater: Type and number of livestock Etc.) Water is used for ground water recharge.

9. Description of place of use:
- If water is for irrigation, indicate acreage in each subdivision in the tabulation 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	
11N	38E	25															E	E	
		36		E			E			E	E					E	E	E	
10N	38E	1	L-1 E			E													
		13	E			E									E	E	E		
		14												E			E	E	
		23	E																
		24		E			E	E	E	E									
10N	39E	5			E	E	L-8 E	L-4 E		E					E		E	E	
		6	L-1 E	L-2 E	E	E	L-3 E			L-4 E									
		7															E	E	
		8		E	E								E	E		E	E		
		18		E			L-1 E												

Parcel (PIN) No(s). _____

Total number of acres irrigated _____

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

11. Do you own the property listed above as place of use? Yes ___ No ✓
 If your answer is No, describe in Remarks below the authority you have to claim this water right. Easements from various owners.

12. Describe any other water rights used at the same place and for the same purposes as described above.
 _____ or None (✓)

13. Remarks:

Attached is a USGS gauge report showing a maximum diversion of 617 cfs on May 5, 1969, which is the claimed priority date. An Application for Permit was filed in 1997 for substantially the same water right which was numbered 31-7650. At the time, the applicant was not aware that a beneficial use water right could be claimed in the SRBA as water was put to beneficial use before the mandatory permitting requirements for surface water in 1971.

14. Basis of Claim (Check one) Beneficial Use ✓ Posted Notice _____ Permit _____ Decree ___ License ___
 If applicable provide IDWR Water Right Number _____
 Court _____ Case Number _____ Decree Date _____
 Plaintiff vs Defendant _____

Last Name Mud Lake Water Users, Inc. Ident. Number _____

15. 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 1

For Organizations: I do solemnly swear or affirm under penalty of perjury that I am the attorney for Mud Lake Water Users, Inc., that I have signed the foregoing document in the space below as attorney for Mud Lake Water Users, Inc. and that the statements contained in the foregoing document are true and correct.

Signature of Authorized Agent

Robert L. Harris

Title and Organization Attorney, Mud Lake Water Users, Inc. Date OCTOBER 21, 2009

17. Notice of Appearance:

Notice is hereby given that I, Robert L. Harris, 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

Robert L. Harris

Address PO Box 50130, Idaho Falls, ID 83405-0130

Date Oct. 21, 2009

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Last Name Mud Lake Water Users, Inc. Ident. Number _____

UNITED STATES
DEPARTMENT OF THE INTERIOR
GEOLOGICAL SURVEY
WATER RESOURCES DIVISION

Camas Crk Flood Ct No 1
1969

Station Number Washington
District

Used rating table dated

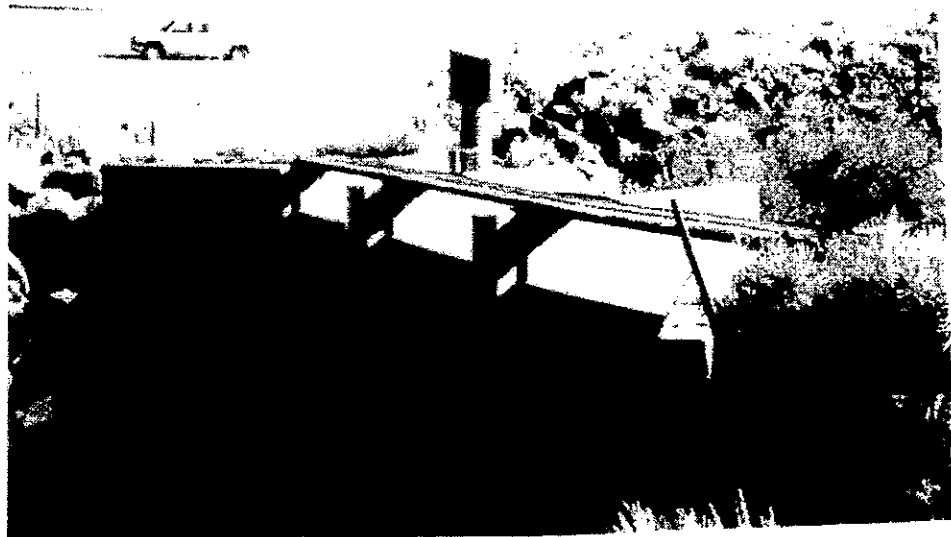
Gage Read to Once a Day by

Gage heights used to half tenths between and feet; hundredths below and tenths above these limits.

APRIL		MAY		JUNE		JULY		AUGUST		SEPTEMBER		DAY				
Gage height	Discharge	Gage height	Discharge	Gage height	Discharge	Gage height	Discharge	Gage height	Discharge	Gage height	Discharge		FOURTH	THIRD	SECOND	FIRST
		4.80	392									1				
		5.00	428									2				
		5.57	531									3				
		5.60	536									4				
		6.05	617		*							5				
		5.75	563									6				
		5.75	563									7				
		5.85	581									8				
		5.56	527									9				
		5.50	518									10				
		5.40	500									11				
		5.28	478									12				
		5.28	478									13				
	0	5.35	491									14				
(2.07)	69	5.47	513									15				
3.27	130	5.42	504									16				
3.53	172	5.08	442									17				
3.51	169	5.00	428									18				
3.57	178	5.06	439									19				
3.59	181	5.18	460									20				
3.78	213	5.11	448									21				
3.84	223	4.88	406									22				
3.92	236	4.72	378									23				
4.24	291	4.30-6	76									24				
4.15	276	N.E. 18	0									25				
4.15	276		0									26				
4.18	281		0									27				
4.42	324		0									28				
4.79	390		0									29				
4.87	405		0									30				
			0									31				
3,014		11,297											PERIOD			
127		364											YEAR			
7,570		22,400											15,111			
405		617											30,000			
0		0											617			
													0			

NOT FILMED

DEC 8 1967



Lone Tree
DIVERSION
Canal

U.S.G.S GAGING STATION
13108600
Hydrologic Unit 17040214
(0.2mi downstream from Point of Diversion)



POINT OF DIVERSION
(view downstream)

CAMAS CREEK

31-07650

LONE TREE

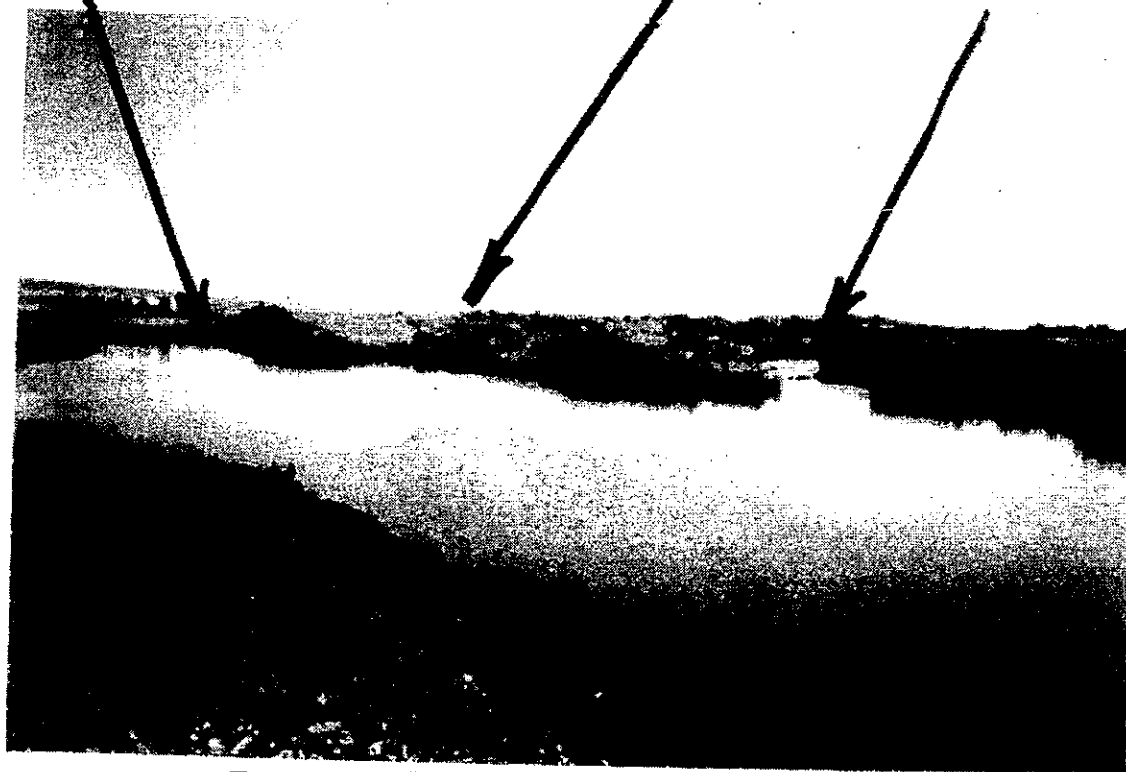
DIVERSION FROM CAMAS CREEK
CONTROL STRUCTURE FOR DIVERSION

CAMAS CREEK

VIEW DOWNSTREAM (South)

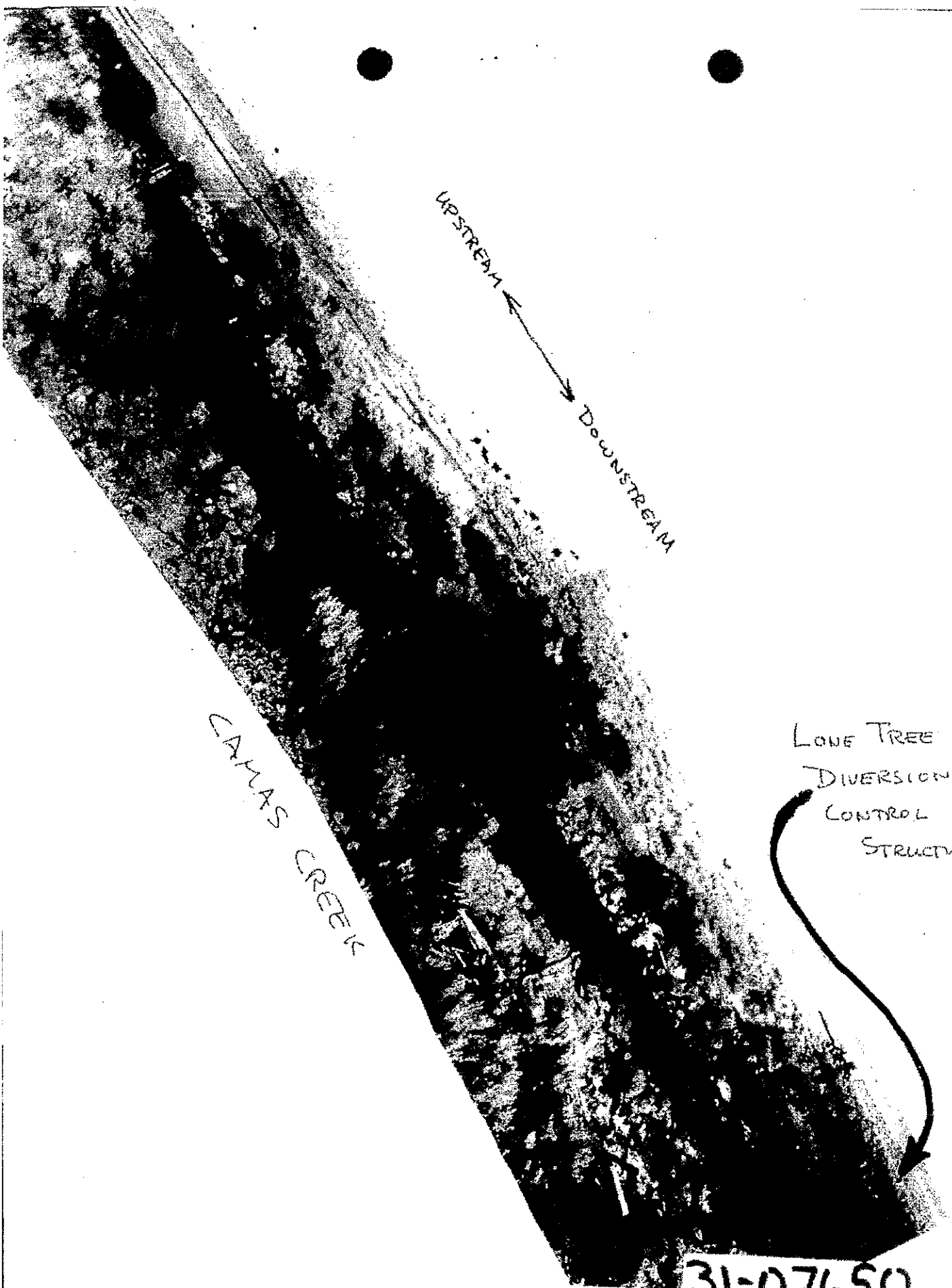
31-07650

LONE TREE DIVERSION CANAL U.S.G.S. GAGE CAMAS CREEK

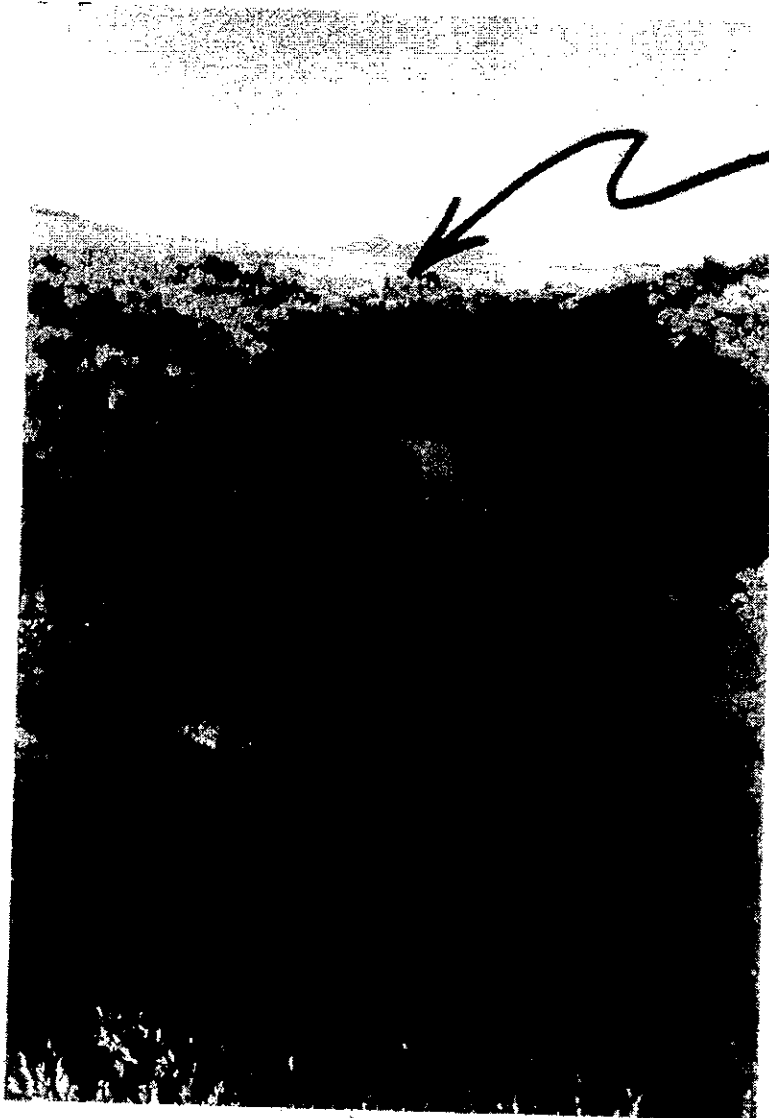


POINT OF DIVERSION FOR LONE TREE DIVERSION
CANAL
(VIEW DOWN STREAM)

31-07650



31-07650



CONTROL STRUCTURE
GAGING STATION
LONE TREE DIVERSION CANAL
U.S.G.S. Gaging Station
13108600

VIEW UPSTREAM
(NORTH)

31-07650