

AFFIDAVIT

STATE OF Idaho)
County of Blaine) ss.

_____, being first duly sworn upon oath, deposes and states as follows:

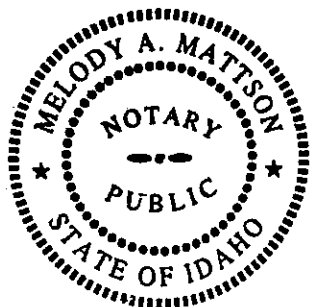
1. Garth Chivers, was a part owner and manager of the Pines Grazing Assoc. from April 1969 to 1997. As manager of the ranch I used approximately 2,000 inches of water to irrigate. The water I used on this water right came from Big Creek diversion which flowed into Goldberg creek. We pulled the 2,000 inches from Goldberg Creek for our use to irrigate. To my knowledge the diversions had not changed and we used this water annually without interruption through the sale of the property in 1997.

Regarding water right #73-2126A

FURTHER YOUR AFFIANT SAITH NOT.

Garth Chivers

SUBSCRIBED AND SWORN to before me this 22 day of June, 2005.



Melody A. Matt
Notary Public for Idaho
Residing at: Blatchman, ID
My commission expires: 4.3.2009



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Boise, ID 83706 - P.O. Box 83720, Boise, ID 83720-0098

Phone: (208) 327-7900 Fax: (208) 327-7866 Web Site: www.idwr.state.id.us

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

July 26, 2004

73-2126A 73-10054 73-10069

PINES GRAZING ASSN INC
C/O LYNN TRITTHART
HC 63 BOX 1769
CHALLIS ID 83226

RESPONSE DEADLINE
AUGUST 27, 2004

Re: Evidence of Priority Date

Dear Claimant:

The Notice of Claim to a Water Right (claim) identified with the number shown above your name has been filed in the Snake River Basin Adjudication (SRBA). The claim indicates your water usage is based on "Beneficial Use" or a "Statutory Claim." Water rights of this type are established by the historic use of water, dating back to when water was first used for the purpose claimed. The date of first use, known as the priority date, has not been confirmed. **Proof must be provided by the claimant supporting the priority date claimed and the historic use of the water.**

Enclosed you will find a computer printout of your claim and the pamphlet entitled "Evidence of Priority." The pamphlet describes the types of evidence required and suggests which documents will fulfill this requirement.

PLEASE NOTE: If no evidence is submitted, IDWR will recommend the SRBA Court decree the claim be disallowed. It will be to your advantage to provide clear and convincing evidence. If you choose to submit statements from individuals as evidence, the statement should be in the form of a notarized affidavit.

Please submit the required evidence supporting the priority date and the historic use by the date shown above, referencing all documents with the corresponding claim number. Send the documents in the enclosed envelope to assure it arrives at the correct location. If you have questions not covered by this letter or the enclosed pamphlet, please contact this office. Our toll free number is 1-800-451-4129 and ask for me or Danni Smith.

If you no longer own the property to which the claim is appurtenant, please forward this correspondence to the present owner, or return it to Idaho Department of Water Resources (IDWR). If you have received this correspondence from the previous owner of the property, it is recommended that you file a Change of Ownership form with IDWR in order to receive future mailings and to participate in the adjudication.

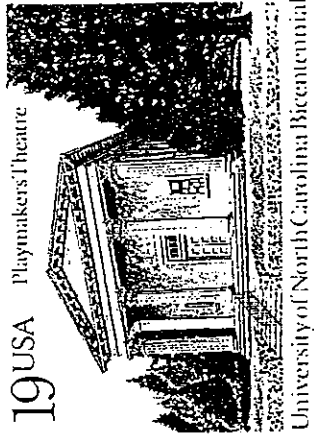
Sincerely,

Roxanne Brown
Sr. Water Resource Agent

Enclosures

SCANNED

JUL 28 2004



PINES GRAZING ASSN INC
C/O LYNN TRITTHART
HC 63 BOX 1769
CHALLIS ID 83226

10-5-94

AS REQUESTED, THE DEPARTMENT HAS CHANGED THE ADDRESS
ON THE FOLLOWING NOTICES OF CLAIM:

A73-00150D, -00189, -00259, -02126A, -10036, -10054
-02048, -10040, -10041, -10069, -02165, -00147A
-00147B, -00147C

IF YOU HAVE ANY QUESTIONS REGARDING THESE CHANGES,
PLEASE CALL THIS OFFICE.

THANK YOU, JO THOMPSON

SCANNED

AUG 31 2001

File to A73-00147A ONLY.

PINES GRADING ASSN.

- SENT Change of Address Sept. 4 - Gary Skidmore is no longer in association.

- There appear to be numerous errors in the data entry for the points of diversion & place of use. List below are the notices that potentially need to be changed.

#	SOURCE	PRIORITY	POD.	POD.
73-00147A -	PAHSIMEROI R.	4-25-1886	-OKAY.-	-SHOULD SEC 2 BE R22E.
-00147B -	SPRING CR	4-25-1886	PROBABLY NEEDS TO BE AMENDED.	-NEED TO IDENTIFY SPRING CREEK.
-00147C -	GOLDBERG CR	4-25-1886	OKAY	-NEED DESCRIPTION OF WATER DELIVERERS
-00150D -	PAHSIMEROI R.	7-01-1887	DELETE SEC 29 & 30	-CHANGE $\frac{1}{4}$ E for sec 2
-00189 -	"	5-19-1909	OKAY.	SAME AS -00147A.
-00259 -	SPRING CR	5-01-1950	-	WHY IS THIS DIFFER THAN -00147B.
-02048 -	GOLDBERG CR	9-03-1909	- WHEN DID CHANGE IN P.O.U. OCCUR.	? SAME AS -00147C
-02126A -	BIG CREEK	8-01-1920	- WHY ONLY 2000 AC.	- SAME AS -10041
-02165 -	GROUND WATER	9-23-1966	- AMEND P.O.U.	- OKAY.
-10036 -	DITTO	9-24-1966	DITTO	- OKAY
-10040 -	PAHSIMEROI R.	5-01-1897	- OKAY -	SAME AS -00147A
-10041 -	BIG CREEK	11-24-1909	- OKAY	13N 23E 13 NE NW 27 SE SW I 20 SE SW R
-10054 -	MULTIPLE SOURCES.	10-02-1962	NEEDS AMENDING.	OKAY.
-10069 -	10-5-94			

SD-0601-2 Last Name: PINES

STATE

S	First	O	Water	Priority		Total	Use
E	Name	N	Right No.	Date	Source	Diversion	Code Desc
L							
-	PINES GRAZING ASSN INC						
-		C	A73-00150D	07/01/1887	PAHSIMEROI	4.000	01 IRR
-		C	A73-00189	05/19/1909	PAHSIMEROI	6.400	01 IRR
-		C	A73-00259	05/01/1950	SPRING CREE	1.600	01 IRR
-		C	A73-002126A	08/01/1920	BIG CREEK	40.000	01 IRR
-		C	A73-10036	09/24/1966	GROUNDWATER	2.050	01 IRR
-		C	A73-10054	10/02/1962	PAHSIMEROI	160.000	02 IRR S
-					SPRINGS		03 IRR FS
-					SPRING CREE		
-					GOLDBERG CR		
-					BIG CREEK		

SD-0601-2 Last Name: PINES

STATE

S	First	O	Water	Priority		Total	Use
E	Name	N	Right No.	Date	Source	Diversion	Code Desc
L							
-	PINES GRAZING ASSN INC						
-		C	A73-02048	09/03/1909	GOLDBERG CR	3.200	01 IRR
-		C	A73-10040	05/01/1897	PAHSIMEROI	11.200	01 IRR
-		C	A73-10041	11/24/1909	BIG CREEK	7.200	01 IRR
-	PINES GRAZING ASSN.						
-		O	A73-04004A	08/21/1920	PAHSIMEROI	10.000	01 IRR
-		O	R73-04004A	08/21/1920	PAHSIMEROI	10.000	01 IRR
-		O	A73-04004	08/21/1920	PAHSIMEROI	60.000	01 IRR
-					SPLIT RIGHT		
-	PINES GRAZING ASSOC.						
-		C	A73-10069	11/24/1909	BIG CREEK	2.880	01 IRR
-	PINES GRAZING ASSN INC						
-		C	A73-02165	09/23/1966	GROUNDWATER	2.050	01 IRR
-		C	A73-00147A	04/25/1886	PAHSIMEROI	4.400	01 IRR
-		C	A73-00147B	04/25/1886	SPRING CREE	6.000	01 IRR
-		C	A73-00147C	04/25/1886	GOLDBERG CR	4.800	01 IRR

(Enter=Continue)

(GOLD7=This Query)

(Menu _____)

[REDACTED]

This form is solely for purposes of notifying IDWR of a change in address of an adjudication claim.

[] Water Right Number (s):

A73-02048 ~~X~~	A73-02165 ~~X~~	A73-00189 ~~X~~
A73-10040 ~~X~~	A73-00147A ~~X~~	A73-00259 ~~X~~
A73-10041 ~~X~~	A73-00147B ~~X~~	A73-02126A ~~X~~
A73-10054 ~~X~~	A73-00147C ~~X~~	A73-10036 ~~X~~
A73-10069 ~~X~~	A73-00150D ~~X~~	

[] Old Mailing Address: PINES GRAZING ASSN., INC
 c/o GARY SKIDMORE
 P.O. BOX 13 TERRETON, ID 83425

[] New Mailing Address: PINES GRAZING ASSN INC
 c/o LYNN TRITTHART
 H-C 163, BOX 171.9 CHALLIS, ID 83224

New Telephone Number: (208) 879-2854

[] Signature of Claimant: Gary Skidmore
Date: Oct 13, 1994

FOR IDWR USE ONLY:
Initial Review and Data-Entry
Date: By:
Further Action Needed:
Further Action Taken
Date: By:
Final Review and Data-Entry
Date: By:

RECEIVED

OCT 17 1994

Department of Water Resources
Eastern District Office

Done

CHANGE IN ADDRESS OF NOTICE OF CLAIM

[] Water Right Number (s): all

RECEIVED

OCT 05 1994

[] Old Mailing Address: _____

Department of Water Resources
Eastern District Office

[] New Mailing Address: Pines Grazing Assn.
H.C 63 Box 1769
Challis, ID. 83226

New Telephone Number: (208) 874-2354

[] Signature of Claimant: Lynn T. Lillard Sec.

Date: 10-3-94

FOR IDWR USE ONLY:

Initial Review and Data-Entry

Date: 10-3-94 By: _____

Further Action Needed:

Further Action Taken

Date: _____ By: _____

Final Review and Data-Entry

Date: 10-3-94 By: js

SEND TO YOUR NEAREST
REGION OFFICE:

WESTERN REGION OFFICE
2735 AIRPORT WAY
BOISE ID 83705
208-334-2190

SOUTHERN REGION OFFICE
222 SHOSHONE ST EAST
TWIN FALLS ID 83301
208-736-3033

STATE OFFICE
1301 N ORCHARD ST
BOISE ID 83720
208-327-7900

EASTERN REGION OFFICE
900 N SKYLINE DR
IDAHO FALLS ID 83402
208-525-7161

NORTHERN REGION OFFICE
1910 NORTHWEST BLVD STE 210
COEUR D'ALENE ID 83814
208-769-1450

RECEIPT
For Monies Paid
to the
IDAHO DEPARTMENT OF WATER RESOURCES

Receipt No: E011542

PINES GRAZING ASSN., INC.
C/O GARY SKIDMORE
P.O. BOX 13
TERRETON, ID 83425

Date: 01/08/90
Time: 16:24:49

Received

From: PINES GRAZING

Type of Payment

Program Acct Class

Amount

ADJUDICATION FEE

0410162 9337 6490

\$996.00

Total

\$996.00

AR/ND E000060 Total Claim Fee \$3,996.00 Current Bal. \$3,000.00
CHECK 664

WR/ND: ✓A73-02126A ✓A73-00147B ✓A73-00189 ✓A73-00259 ✓A73-10040
✓A73-02048 ✓A73-10041 ✓A73-00150D ✓A73-02165 ✓A73-10054
✓A73-10036 ✓A73-00147A ✓A73-00147C

Idaho Department of Water Resources

Region: EASTERN

Signature: 

01/19/2007

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

RIGHT NUMBER: 73-12110

NAME AND ADDRESS: FLYING JOSEPH RANCH LLC
C/O JUDY GOLFANO
7213 PERIMETER RD S
SEATTLE WA 98108

DISALLOWED: No beneficial use found.

EXPLANATORY MATERIAL:

This right is renumbered from former claim 73-2126A.

NO BENEFICIAL USE FOUND: This is included for a claim based on beneficial use that is PROPOSED to be disallowed because beneficial use of water was not confirmed by IDWRs field examination or by other evidence submitted by the claimant.

02/25/2005

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

RIGHT NUMBER: 73-2126A
NAME AND ADDRESS: PINES GRAZING ASSN INC
C/O LYNN TRITTHART
HC 63 BOX 1769
CHALLIS ID 83226

02/25/2005

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

NO BENEFICIAL USE FOUND: This is included for a claim based on beneficial use that is PROPOSED to be disallowed because beneficial use of water was not confirmed by IDWRs field examination or by other evidence submitted by the claimant.

No beneficial use found.

EXPLANATORY MATERIAL: Beneficial Use

*Permit cancelled in 1971 after
lengthy protest.
Permit from Pahsimeroi R.*

STATE OF IDAHO
DEPARTMENT OF WATER ADMINISTRATION
Statehouse -- Annex 2
Boise, Idaho 83707
(208) 384-2215



R. Keith Higginson
Director

Water Rights Administration
Water Resource Investigations
Dam and Reservoir Safety
Water Well Drilling
Flood Plain Management
Irrigation and
Flood Control Districts

IN THE MATTER OF CANCELLATION OF PERMIT)
TO APPROPRIATE THE PUBLIC WATERS OF THE)
STATE OF IDAHO NO. 15004/73-2126)
IN THE NAME OF Wood Live Stock Co.)
_____)

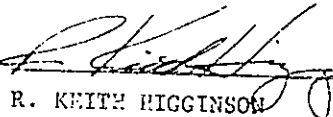
ORDER OF CANCELLATION

WHEREAS, the permit holder has failed to submit adequate proof of beneficial use of water ; and,

WHEREAS, on April 20, 1971, notice was sent to the holder of said permit to appear before the Director of the Department of Water Administration on or before May 30, 1971, to show cause why said permit should not be cancelled; and,

WHEREAS, the holder of said permit has failed to comply with the requirements of said permit and has not shown adequate cause why such permit should not be cancelled;

IT IS THEREFORE ORDERED and Permit 15004/73-2126 is hereby CANCELLED.
Dated this 25th day of June, 19 71.


R. KEITH HIGGINSON
Director

PLEASE FURNISH SERVICE(S) INDICATED BY CHECKED BLOCK(S).
REQUIRED FEE(S) PAID.



Show to whom, date and address
where delivered



Deliver ONLY
to addressee

RECEIPT

Received the numbered article described below.

REGISTERED NO.

CERTIFIED NO.

31221

INSURED NO.

DATE DELIVERED

APR 22 1973

SIGNATURE OR NAME OF ADDRESSEE (Must always be filled in)

Woods Sweetser

SIGNATURE OF ADDRESSEE'S AGENT, IF ANY

David J. Hagenlarty

SHOW WHERE DELIVERED (only if requested)

15004/73-2126

55-16-71513-11 347-108 GPO

April 29, 1932

Re: PERMIT No. 15004

Mr. SOLOW B. CLARK,
Attorney,
Mackay, Idaho

Dear Solon:

Referring to your petition to cancel permit No. 15004, under the provisions of Sec. 5584, etc., you realize, of course that such a procedure is a rather cumbersome and expensive one, whereas in case my decision in the matter is sustained, the same result will be obtained automatically, under Sec. 5584. So it would seem that the best interests of all concerned would be subservient by delaying action with reference to this matter until the decision of the Court has been had.

In reviewing my statement of reasons for denying the issuance of licence, I notice that I failed to set up, specifically, the ground that since the land already had a maximum decree of one inch to the acre, a further allowance would be contrary to law as provided in Sec. 5589, though I think such reason may be fairly inferred from the context, but should be stressed in the argument if your motion to dismiss is denied.

I was in Mackay last week and was sorry that I missed seeing you.

With kindest personal regards, I am

Very truly yours,

Commissioner of Reclamation

H. L. At

15004

March, 31st, 1932.

Hon. R. W. Faris, Commissioner Reclamation,
Boise, Idaho.

Dear Sir;

In the matter of the Woods Live
Stook application under permit No. 15004
the applicant has appealed to the District
Court from your findings and order.

As I read the last line of Sec.
5583 the protestants have no standing
in Court except probably thru a proceeding
in intervention. It would be much safer
however if you could see your way clear
to authorize me to appear in your behalf
at the hearing upon the appeal.

There would be of course no
attorney fee or expense to your department
by reason of this.

Would you please advise me.

Respectfully

John B. Clark

15004

IN THE MATTER OF THE APPLICATION OF
WOOD LIVESTOCK COMPANY
TO MAKE PROOF OF APPLICATION OF
WATER TO BENEFICIAL USE
PERMIT NO. 15004

ORDER

Under date of August 21, 1920, WOOD LIVESTOCK COMPANY, a corporation, made application No. 21208 to the Department of Reclamation for a permit to appropriate 69.2 second feet, or 3460 miner's inches, of the waters of PAHSIMEROI RIVER, to be diverted through what is commonly known as the "NEW DITCH," for the irrigation of 3460 acres of land in Custer County, Idaho, described as follows, to-wit:

RG.	SEC.	NE $\frac{1}{4}$				NW $\frac{1}{4}$				SW $\frac{1}{4}$				SE $\frac{1}{4}$				TOTALS
		NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	
23E	34					30		40	30	40	40							220
	33	30	40	40	40	40	40											260
	28					35	25	30	30	35	40	35	40	30	40	40	30	510
	29	20	30	30	40			30	30	40	40		40	40	30	40	40	450
	20														30	40		70
	30	30	30	40	40	40	40											260
22E	19							30	30	30	40	40	40	30				280
	24	30	30	40	40	30	30	40	40									280
	23	30	40	40	40													150
	14	30			30													100
	13		30	40		30	40	40	40	20	20	40	30		40	40	40	450
	12						40	40		30	40	40	40		40	30		300
	11	30			35									35			30	130
																		3460

The above mentioned application for permit was approved by the State Commissioner of Reclamation, and Permit No. 15004 issued on the 8th day of November, 1920. The time fixed by the permit for completion of works was November 8, 1924, and for application of water to beneficial use, November 8, 1930. Under date of September 15, 1924, upon request of the permit holder,

15004

application of water to beneficial use to October 30 1931. The application and permit are in the form prescribed by law and the rules and regulations of the Department of Reclamation.

The point of diversion of the so-called "NEW DITCH" from PAHSIMEROI river, as constructed, is in the Southwest Quarter of the Northwest Quarter of Section 1, Township 10 North, Range 23 East, B. M., whereas in the permit it is designated as being in the Northeast Quarter of the Northeast Quarter of Section 11. The ditch extends from the point of diversion in a northerly direction, parallel with and close to the river, about four miles, to a point just below the head of the SWAUGER DITCH, where the water is turned back into the river. Just above the point where the water is turned back into the river there is a connection to the PINES DITCH, which conducts water in a northwesterly direction toward the lands described in Permit No. 15004. SWAUGER LAND AND LIVESTOCK COMPANY, one of the protestants herein, diverts water through the SWAUGER DITCH, which diverts from the river a short distance above the point of discharge of the NEW DITCH.

Pursuant to notice, duly published, proof of completion of works to divert 69.2 second feet, or 3460 miner's inches of water, from PAHSIMEROI river, was made before C. W. HARDY, Notary Public, residing at Spencer, Idaho, and Certificate of Completion issued November 13, 1925.

Under date of November 28, 1930, notice of proof of application of water to beneficial use, under the permit, was duly published, the time and place for the submission of such proof being fixed at Spencer, Idaho, before C. W. HARDY, Notary Public, on the 18th day of December, 1930.

Soon after publication of notice of proof of application of water to beneficial use, protests against issuance of license under the above mentioned permit were received as follows:

water to beneficial use of Wood Live Stock Company under permit Number 15004 and alleges as follow

I.

"That protestant is and was at all times hereinafter mentioned ~~was~~ a corporation duly organized and existing under and by virtue of the laws of the State of Idaho.

II.

"That the published notice of proof is not sufficient in form nor in compliance with the provisions of the laws of the State of Idaho in that it does not state the place of use of said water nor the County or State where the same is intended to be used.

III.

"That protestant is advised and beleivs and therefore says that the any water claimed in said notice has not been beneficially applied to any of the lands mentioned and described in said notice and there is not sufficient water available for such use.

IV.

"That protestant is the owner of a decreed right to a portion of the waters of a Pahsamori River in Custer County, Idaho and if the River is the same as mentioned and described in the said notice, protestants right is superior to that claimed by applicant and should applicant be granted a license it would materialy injure protestants right.

"Wherefore protestant prays that the department reject said application.

"SOLON B. CLARK
HAROLD HOLDEN
Attorneys for Protestant
Residence and P. O. Address Mackay,
Idaho"

"PROTEST

"COLES NOW Swauger Land and Livestock Company, a corporation, Matilda Hooper, I. R. Nielson, Vitch Cockran, Ed O'Neil, for themselves and others similarly interested, and protest the proof of application of water to beneficial use of Wood Livestock Company under permit Number 15004 and alleges as follows.

I.

"That protestant is and was at all times hereinafter mentioned, a corporation duly organized and existing under and by virtue of the laws of the State of Idaho.

says, the lands and premises, as well as the diversion works of the Wood Livestock Company are within the upper Painsamari Water District in Lemhi and Custer Counties, in the State of Idaho, and are situated within the same water district as the lands and premises of the protestant, Swauger Land and Livestock Company.

III.

"That in a decree heretofore duly made and entered in the District Court of the Sixth Judicial District the state of Idaho, in and for the County of Custer, one cubic (miner's) inch of water per acre was decreed to the lands and premises mentioned and described in said application of said Wood Livestock Company, reference to which said decree is hereby made for further particulars.

IV.

"That since the issuance to said Wood Livestock Company of permit #15004 the said company has used only a nominal amount of said water mentioned and described in said permit upon the lands and premises mentioned and described in said application.

V.

"That affiant honestly believes that it would be practically impossible to irrigate all of said lands and premises therein described in said application under the terms and conditions of said permit, or to put all of the water therein mentioned to beneficial use, except in extraordinarily high water seasons.

"WHEREFORE, protestant prays that the Department of Reclamation of the State of Idaho rejects such proof.

"OLON B. CLARK
HAROLD HOLDEF
Attorneys for Petitioners
Residence and P. O. Address
Mackay, Idaho"

On or about December 17, 1930, a stipulation was entered into and filed in the office of the State Commissioner of Reclamation by and between WOOD LIVESTOCK COMPANY and SWAUGER LAND AND LIVESTOCK COMPANY, wherein said SWAUGER LAND AND LIVESTOCK COMPANY agreed to withdraw its protest against issuance of license.

15004

as follows:

- (a) Deposition of permit holder, by D. E. WOOD, President WOOD LIVESTOCK COMPANY, Spencer, Idaho.
- (b) Deposition of witness, JOHN T. POOLE, Menan, Idaho.
- (c) Deposition of witness, L. A. TAYLOR, Ray, Idaho.

Under date of December 12, 1930, the Assistant Commissioner of Reclamation advised SOLOM E. CLARK, attorney for protestants, that certain questions of fact pertaining to the matter could not be determined until an examination of the grounds was made by the examining engineer of the Department of Reclamation, and that the matter might not have further consideration until the coming spring or summer, at the same time requesting a further statement of facts, which was shortly thereafter furnished, under the heading "Supplementary Statement of Facts and Summary of Contestants' Position," with a copy of the decree in the case of LORENZO FALLS and EDWARD O'NEIL, et al, vs. URIAH WELLS, et al, insofar as it applies to the lands included in the application to make proof of beneficial use of water, as follows:

EXTRACTS FROM DECREE
LORENZO FALLS VS. URIAH WELLS, ET AL
DATED APRIL 1, 1910

"The following named persons, parties to this suit are entitled to the uninterrupted use of the flow of the waters of the Painsimoro River and its tributaries, forks, branches, springs and streams herein named upon the lands mentioned and described in the complaints, answers and cross-complaints herein, and appurtenant to said lands as hereinafter specified, in the following amounts, and from the following dates, to-wit:

"Wood Live Stock Company, a corporation, from Bullberg or Colaburg, Creek, 150 inches or three cubic feet per second of time from APRIL 1st, 1886, appurtenant to the northwest quarter of the southeast quarter, and the northeast quarter

Wood Live Stock Company, a corporation, from Pahsimeroi River, 300 inches, or six cubic feet per second of time from MAY 25, 1887, appurtenant to lots 3 and 4, and the southeast quarter of the southwest quarter of Section 31, Township 13 North, Range 24 East Boise Meridian; and lots 3 and 4 and 5 and the southeast quarter of the northwest quarter; and the northeast quarter of the southwest quarter of Section 6, Township 12 North, Range 24 East Boise Meridian, in the State of Idaho.

Wood Live Stock Company, a corporation, from Pahsimeroi River 220 inches or 4 4-10 cubic feet per second of time; from Spring Creek 300 inches or 6 cubic feet per second of time; from Goldberg 240 inches or 4 8-10 cubic feet per second of time; from APRIL 25, 1886, appurtenant to the west half of the northwest quarter of Section 12, and the east half of the northeast quarter of Section 11, in Township 13 North, Range 22 East of Boise Meridian; the north half of the southeast quarter, and the southwest quarter of Section 12, and the east half of the southeast quarter of Section 11; the west half of the northeast quarter of Section 13; the east half of the northeast quarter of Section 14, Township 13 North, Range 22 East of Boise Meridian in the State of Idaho.

Wood Live Stock Company, a corporation, from Pahsimeroi River 160 inches or 3 2-10 cubic feet per second of time from MAY 1, 1897, appurtenant to the northwest quarter of the northeast quarter, and the south half of the northeast quarter of Section 23; and the southwest quarter of the northwest quarter of Section 24 in Township 13 North, Range 22 East of Boise Meridian, in the State of Idaho.

Wood Live Stock Company, a corporation, from Pahsimeroi River 400 inches or 8 cubic feet per second of time from MAY 1, 1897, appurtenant to the southwest quarter and the northwest quarter of the southeast quarter, and the south half of the southeast quarter, of Section 13; and the southeast quarter of the southeast quarter of Section 14; and the northeast quarter of the northwest quarter; and the north half of the northeast quarter, and the southeast quarter of the northeast quarter of Section 24, in Township 13 North, Range 22 East Boise Meridian; also Lot 2 and the southeast quarter of the northwest quarter, and the northeast quarter of the southwest quarter, and the northwest quarter of the southeast quarter of Section 19, Township 13 North of Range 23, East Boise meridian in the State of Idaho.

Wood Live Stock Company, a corporation, from Pahsimeroi River, 480 inches or 9 6-10 cubic feet per second of time from JULY 1, 1897, appurtenant to lots 3 and 4 and the southeast quarter of the southwest quarter, and the southwest quarter of the southeast quarter of Section 19, and

15004

the west half of the southeast quarter, and the southeast quarter of the southeast quarter of Section 29; and the southeast quarter of the northeast quarter of the northeast quarter of the southeast quarter of Section 33; and the northeast quarter of the northeast quarter, and the south half of the northeast quarter, and the southwest quarter of the southeast quarter, and the southeast quarter of Section 34, in Township 13 North, Range 23 East of Boise Meridian, in the State of Idaho.

"The same to be diverted through what is known as the upper Ditch which heads on the southeast quarter of the northeast quarter of Section 18, Township 11 North, Range 24 East of Boise Meridian.

"Good Live Stock Company, a corporation, from Pahsimeroi River 150 inches or 3 2-10 cubic feet per second of time from JULY 1, 1897, appurtenant to the west half of the southeast quarter of Section 27, and the east half of the southeast quarter of Section 28, Township 13 North, Range 23 East Boise Meridian, in the State of Idaho.

"Edith Matley from Pahsimeroi River 240 inches or 4 8-10 cubic feet per second of time from AUGUST 7, 1905, appurtenant to the south half of the southwest quarter of Section 28; and the northeast quarter of the northeast quarter of Section 32; and the north half of the northwest quarter, and the southwest quarter of the northwest quarter of Section 33, all in Township 13 North, Range 23 East Boise Meridian, in the State of Idaho."

No further action was had with reference to the matter until July 21, 1931, when the Commissioner of Reclamation wrote General PETERSON and SOLON B. CLARK, attorneys for the permit holder and the protestants, respectively advising that the examination of the Field Engineer would be made in the near future, and suggesting that if a further hearing was desired by counsel before final determination of the matter, a time and place be fixed for such further hearing. After a considerable amount of correspondence, it was agreed that a hearing be held at Mackay, Idaho, at 10:00 o'clock A. M., August 25, 1931.

On Sunday, preceding the date set for hearing, the Commissioner of Reclamation, represented by SOLON B. CLARK, attorney for protestants, JOHN CARR, Secretary of SWAUGER LAND & LIVESTOCK COMPANY, JOHN T. POOLE, Manager

...and HENRY WALDROP, Watermaster of District No. 19, visited the premises for the purpose of informing himself, generally, as to conditions on the ground, to enable him to consider intelligently the testimony to be given at the hearing to be had on the following Tuesday.

Pursuant to notice, the hearing was convened at the office of SOLON B. CLARK, at Mackay, Idaho, at 10:00 o'clock A. M., August 25, 1931, whereat appeared the protestants, represented by SOLON B. CLARK, their attorney, and D. E. WOOD, for the permit holder, represented by J. H. PETERSON, its attorney, whereupon the following proceedings were had, to-wit:

Protestants moved to reinstate the protest hereinbefore referred to, upon the ground that the agreement upon which such stipulation was predicated and the consideration for the execution thereof, to-wit: That water be returned to the river from the NEW DITCH above the point of diversion of the SWAUGER LAND AND LIVESTOCK COMPANY'S ditch, had been violated. The statement of counsel in respect to the violation of the agreement was not disputed, wherefore the protest was ordered reinstated.

A. S. MCCOY, I. R. WILSON, T. P. SWAUGER and FITCH COCHRAN were called as witnesses by protestant, all of whom testified in more or less general terms as to their residence in the vicinity of the lands described in Permit No. 15004, and their observations as to the application of water thereto, but were unanimous in the assertion that no additional water had been applied to such lands since the NEW DITCH had been constructed and in their opinion that no saving of water had been effected by the construction of such ditch.

HENRY WALDROP, called as a witness for protestants, testified more in detail, to the effect that he had for three years last past been Watermaster of Water District No. 19, within which the lands in question

...the performance of his duties in connection with such employment, he was intimately acquainted with the lands in question, and that during his term of office he had distributed no water thereto under and pursuant to the terms of Permit No. 15004. He further testified that the location and construction of the NEW DITCH was conducive to heavy transportation losses; that on or about the 25th day of July, 1931, he assisted FRED A. TOLMAN, Field Engineer of the Department of Reclamation, in making measurements, and kept a record thereof, showing 1337.7 miner's inches of water turned into the head of the ditch from the River, and 859 inches delivered at its junction with the PINES DITCH, or a loss of approximately 51 per cent of the water in about four miles. He was positive in his opinion and conclusion that no water had been saved by the construction and operation of the NEW DITCH.

FRED A. TOLMAN, Civil Engineer, the last witness called by protestants, corroborated the testimony of the witness WACHSOP as to the measurements of water and transportation losses. He expressed the opinion that no water had been saved by the construction and operation of the NEW DITCH and that transportation losses were heavier in the ditch than in the River, citing in support of that conclusion the fact that a leakage of something like 15 miner's inches through the diversion dam, at the head of the NEW DITCH, did not disappear in the River bed for several hundred feet downstream. He also expressed the opinion that if water were diverted through the NEW DITCH during the non-irrigation period it would delay to a considerable extent the arrival of water to the lands of protestants in the spring, which would be to their injury.

The permit holder offered no testimony, whereupon the hearing was adjourned, with the understanding and agreement that the attorneys would submit written briefs in support of their respective contentions

were finally resolved from the attorneys for both sides, and the matter now comes to the Commissioner for determination as to whether or not a license shall issue under Permit No. 15004. In declining to offer testimony at the hearing, the permit holder seems to have relied upon the contention of counsel in his brief that the Commissioner has no authority to convene a hearing or hold "court" to receive testimony with reference to the application of water to beneficial use under the terms of a permit and that in the determination of the facts in the case, he is bound by and limited to the written testimony submitted before the Notary at the time and place fixed for receiving such proof.

It is true that the law does not expressly provide for such a hearing but, by the enactment having charged the Commissioner with the duty and responsibility of making a determination of fact with reference to the matter, it must have been the intention of the Legislature to clothe him with authority and discretion to adopt whatever reasonable procedure he might see fit to secure the evidence necessary to enable him to render a fair decision in the matter, as was provided by Sections 5586-5587, C. S., with reference to contest of permit for failure to complete construction work within the required time, which is a similar proceeding.

Otherwise, the Commissioner would be confronted with the conflicting written statements of the permit holder and the protestants, with no corroborative evidence or other means of determining the truthfulness or weight to be attached to either and, therefore, helpless and impotent to render a fair decision in the matter, in which position it does not seem reasonable to suppose it was the intention of the Legislature to place him. So it must be concluded that the Commissioner has authority to hold a hearing or resort to whatever procedure he may see fit to secure the information necessary for him to render a fair decision.

issued, and that, admitting that water was applied to some of the lands included in the permit, through the NEW DITCH, there is no proof as to what particular legal subdivision it was applied or what water was so applied. An examination of the records of this office confirms the contention of protestants with respect to decreed rights, and discloses the fact that water was allotted to about seventy^{5/8} per cent of the lands included in the permit, at the rate of one inch to the acre, by decree of the District Court of the Sixth Judicial District of Idaho, in the case of Lorenzo Falls and Edward O'Neil, partners, et al, vs. Uriah Wells, et al, filed April 6, 1910.

The written testimony of the permit holder and its witnesses, with reference to the application of water to beneficial use, is as follows:

WOOD LIVESTOCK COMPANY, the permit holder, by D. E. WOOD,
President:

"Question 5. Describe your works of diversion, and state amount of water they are capable of conveying from point of diversion to place of use, and give name of canal or ditch or other works by which water is conducted to such place of use.

"Answer. Rock and log dam across Pah Samaroi River, with plank headgates at the head of ditch; 2500 miner's inches; Pah Samaroi Canal, or New Ditch.

"Question 6. State for what purpose water is used and describe place of use. (If for irrigation, name subdivision in which used, and number of acres in each subdivision that have actually been irrigated with said water.) State whether cultivated or natural meadow land and the nature of all improvements which have been made as a direct result of said use.

"Answer. Irrigation and domestic use on the following described cultivated and meadow lands, making possible the maturing of crops started with decreed waters, and to supplement said right, aggregating 3,460 acres described as follows:

JOHN T. COOLE, witness:

"Question 5. How many second feet of water do you estimate said works will safely conduct to place of use, and how much water have you seen being so conveyed?

"Answer. 20 second feet, and I have seen this amount so conveyed.

"Question 6. State for what purpose water is used and at what place. (If for irrigation, give each subdivision in which water has been used and number of acres irrigated in each subdivision.) State whether cultivated or natural meadow land and the nature of all improvements which have been made as a direct result of said use.

"Answer. Irrigation and domestic uses on about 3460 acres of land described as follows: and to complete maturity of crops started on said land by decreed rights that have become exhausted by lack of flow of creek:

(Here follows a description of land identical with that contained in the permit)."

L. A. TAYLOR, witness:

"Question 5. How many second feet of water do you estimate said works will safely conduct to place of use, and how much water have you seen being so conveyed?

"Answer. About 1000 inches, and I have seen this amount of water on the land.

"Question 6. State for what purpose water is used and at what place. (If for irrigation, give each subdivision in which water has been used and number of acres irrigated in each subdivision.) State whether cultivated or natural meadow land and the nature of all improvements which have been made as a direct result of said use.

"Answer. The water is used for domestic and irrigation purposes on about 3,460 acres of land, already being irrigated by decreed waters, and this right is in excess of and supplementing same. The 3460 acres are described as follows:

(Here follows a description of land, identical with that contained in the permit)."

From the foregoing, there seems to be a wide difference of opinion between the permit holder and the witnesses as to the carrying capacity of the NEW DITCH, but the best evidence as to that would seem to

...than either the permit holder or the witness. He made measurements and estimates it, in his report on beneficial use of water, at 40 second feet, or 2,000 miner's inches, at a point one mile below the point of diversion from the river. With a loss of over fifty per cent in the first four miles of the ditch, it does not seem probable that any considerable amount of water could reach the land described in the permit, from that source. While most of the land described in the permit is in its original desert state, with no improvements except fencing, it is true that there is evidence of some water having been applied to some of it at some time, but there are other sources from which the water might have been supplied, and there is no way of ascertaining what amount of water was applied or when applied or the source from which derived, and no way of segregating or describing the land to which water was applied under the permit, if any, as required by law to be included in a license.

There is no proof whatever as to the nature of improvements made as a result of the application of water to beneficial use, as required by Section 5577, C. S.

The written testimony of the permit holder and the witnesses with reference to the use to which the water was applied is, substantially, as follows:

"....making possible the maturing of crops started with decreed waters, and to supplement said right, ..."

"To complete maturity of crops started on said land by decreed rights that have become exhausted by lack of flow of creek."

"....for domestic and irrigation purposes on about 3,460 acres of land, already being irrigated by decreed waters, and this right is in excess of and supplementing same."

It is hard to understand how water under a permit right could be used to "complete maturity of crops started by a decreed right that has become exhausted by lack of flow into the creek." If there was not

obviously, ld be none to supply under a sequent permit right, and where the duty of water is fixed by the decree, it is not clear as to how a right could be secured by permit in "excess of and supplementing" a maximum decreed right.

The decree of 1910 allots 154.4 second feet, or 7720 miner's inches of water, continuous flow, from PAHSIMEROI river, to which must be added a considerable amount of water allotted under permit and licensed rights subsequent to the decree and prior to the right under Permit No. 15004. During the month of June, (which is the month of maximum run-off), of the year 1930, which was about an average year for that section, the Watermaster was able to deliver only an average of 99.8 second feet of water, equivalent to 4990 miner's inches, or approximately 65 per cent of the decree.

During the month of July, which is the month of maximum demand, the average delivery was only 87.6 second feet, equivalent to 4380 miner's inches, or about 44 per cent of the decree.

During the season of 1931, which was an unusually short water season, the delivery for June was 90.7 second feet, or 4535 miner's inches, and for July it was 54 second feet, or 2700 miner's inches, - or 59 per cent and 35 per cent, respectively, of the decree, to say nothing of permit and license rights hereinbefore referred to, the exact extent of which it is impossible to ascertain. So it would seem that there was no unappropriated water in PAHSIMEROI river at the time Permit No. 15004 was issued, and that, under the circumstances, it would be a vain and futile gesture to issue a license to apply water that does not exist to lands having a maximum decreed right which cannot be filled for lack of water, and to do so would only cumber the records, result in confusion and controversy and, probably, litigation, with reference to which the community has already been grievously harassed and burdened.

STATE OF IDAHO
DEPARTMENT OF RECLAMATION
Boise, Idaho
REPORT OF ENGINEER

Permit No. 15004

This proof is for Beneficial Use

In Water District No. _____

1. Name of applicant: Wood Live Stock Co.
2. Source of water supply: Pahsimeroi river
3. Location of point of diversion: Is in the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 11, T. 10 N. R. 23 E. County of Custer.
4. Describe works as they exist, giving dimensions and capacities of same: Diversion dam 150 ft. long, 6' high and 6' thick of log & rock crib. Head gate 9' wide x 4 ft. deep, 12' long. Wasteway 14' long x 3' high. Main ditch 6 ft. wide x 2 ft. deep near heading and 12' wide x 1' deep one mile below (Dist.) Capacity about 40 sec. ft. (Approx.)
5. Water is used for: Irrigation of 727 Acres (survey of 1918)
6. State whether or not water has been turned into works of diversion: Yes
7. List legal subdivisions of lands to be irrigated. If proof is for beneficial use, give exact number of acres under cultivation in each forty-acre tract. (Describe manner and place of use if for other than irrigation): 3,460 acres of land as follows: NE $\frac{1}{4}$ NW $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 34; NE $\frac{1}{4}$, N $\frac{1}{2}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 33; NW $\frac{1}{4}$, SW $\frac{1}{4}$, SE $\frac{1}{4}$ Sec. 28; NE $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$, Sec. 29; S $\frac{1}{2}$ SE $\frac{1}{4}$ Sec. 20; NE $\frac{1}{4}$, N $\frac{1}{2}$ NW $\frac{1}{4}$, Sec. 30; S $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 19, all in T. 13 N., R. 23 E., B. M.; NE $\frac{1}{4}$, NW $\frac{1}{4}$, Sec. 24; NE $\frac{1}{4}$, Sec. 23, NE $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 14; W $\frac{1}{2}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$, SW $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$, S $\frac{1}{2}$ SE $\frac{1}{4}$, Sec. 13; W $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$, Sec. 12; NE $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 11, all in T. 13 N., R. 22 E., B. M.
(Submit map on attached plat, showing location and details of above description).
8. What large stream would the water here appropriated finally reach? Salmon River.

Remarks: The above area of 727 acres is Per. actual survey of the lands embraced in this filing. Mr. Taylor, Foreman of the "Home" ranch stated that no increased acreage has been watered since 1918. Mr. McCoy, former owner of the "McCoy" ranch, states that neither this or the "Owrey" place have increased cultivation. These statements are borne out by inspection and it would thus appear that the irrigated area as of 1918 would be liberal for the purpose of this report. Practically every 40 in this permit has from one to three decree priorities already attached thereto.

25th of July

This examination was made on 23rd day of August, 1931.

(Signed) FRANK A. TOLMAN, Examiner.

as Deputy State Engineer and Watermaster of the District at that time, for the purpose of ascertaining the amount of irrigated land in the Valley.

The application for permit, under the head of "Remarks," contains the following statement:

"Most of the Pahsimeroi waters are lost at all times through seepage in a very deep, boulder-bottomed channel, and during July and August the stream dries up, though there may be a large flow at the head. It is proposed by those works to construct a new channel near the mountains and save this lost water. A small ditch about 8 miles long has been built and demonstrated that much water can be thus saved. Water will be conducted upon the lands through old existing, decreed canals."

It might be inferred from the above statement that the applicant for permit intended to base his claim for a water right upon the saving of water by the construction of the NEW DITCH, under the rule laid down by the Supreme Court in the case of *RENO, et al, vs. RICHARDS, et al*, 32 Idaho, 1, but such an inference is negated by the vigorous and emphatic objection of his counsel to the taking of testimony with reference to loss or gain in the ditch or the river. In any event, there is no evidence showing, or tending to show, that there was any saving by the construction of the NEW DITCH, but, on the contrary, it is shown that instead of "constructing a new channel near the mountains to save this lost water," the ditch was constructed along a steep bank and on a bench, close to the river, and high above it, in a coarse gravel formation, conducive to heavy transportation losses, and that by reason of the fact that whenever the flow of the river is in excess of the capacity of the ditch, both channels are used, and there is a greater loss than sustained before the construction of the NEW DITCH.

The decree contains the following with reference to the point of diversion, viz.:

"It is further adjudged and decreed that whenever the point of diversion of the water of the stream and springs mentioned herein are not definitely fixed by this decree, the points of diversion and measurement of the several parties to this action shall be the point where the water was diverted by the said several parties on the 18th day of JUNE, 1909, the time of trial of this action."

To issue a license for the use of water through the NEW DITCH, which was not constructed until long after the date of the decree and the diversion point of which is several miles above that of any ditch existing at that time, would be, in effect, to allow a change of the point of diversion without compliance with the provisions of the law, contained in Section 5543, C. S., which, obviously, could not have been allowed.

From a consideration of the record herein, it does not appear that application of water to beneficial use under Permit No. 15004 has been sufficiently shown, on which account, and for other reasons herein stated, the permit holder's application for a license must be DENIED.

DATED this 11th day of December, 1931.



Commissioner of Reclamation

REPORT OF ENGINEER

Permit No. 3

This permit is for Diversion of water from the

In Water District No. 1

1. Name of applicant W. H. Taylor

2. Source of water supply Colorado River

3. Location of point of diversion: Is in the 13th of Section 11

T. 13 N.

R. 23 E.

County of Chicot

4. Describe works as they exist, giving dimensions and capacities of same Diversion Dam 150 ft. long, 6' high, 4' thick of log & rock cut. Head gate 2' wide x 4' deep, 15' long. Wash race 10' long x 3' high. Main ditch 6 ft. wide x 2' deep, galvanized heading 2' x 12' wide x 1' deep one mile below (Riprap) Capacity about 20 Sec. Ft.

5. Water is used for Irrigation of 72.7 Acres (Survey of 1918)

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

7. List legal subdivisions of lands to be irrigated. If proof is for beneficial use, give exact number of acres under cultivation in each forty-acre tract. (Describe manner and place of use if for other than irrigation): 3,460 acres of land as follows: NE 1/4 NW 1/4, SE 1/4 NW 1/4, NE 1/4 SE 1/4, SW 1/4 NW 1/4, Sec. 34; NE 1/4 NW 1/4, NE 1/4 SE 1/4, Sec. 33; NW 1/4 SW 1/4, SE 1/4 NW 1/4, NE 1/4 SE 1/4, Sec. 28; NE 1/4 NW 1/4, NE 1/4 SE 1/4, Sec. 29; SE 1/4 NW 1/4, NE 1/4 SE 1/4, Sec. 20; NE 1/4 NW 1/4, NE 1/4 SE 1/4, Sec. 30; SE 1/4 NW 1/4, SE 1/4 NW 1/4, NE 1/4 SE 1/4, Sec. 19, all in T. 13 N., R. 23 E., B. 1 E.; NE 1/4 NW 1/4, NE 1/4 SE 1/4, Sec. 24; NE 1/4 NW 1/4, NE 1/4 SE 1/4, Sec. 23; NE 1/4 NW 1/4, NE 1/4 SE 1/4, Sec. 14; NW 1/4 NW 1/4, NW 1/4 SE 1/4, SE 1/4 NW 1/4, Sec. 13; NW 1/4 NW 1/4, NW 1/4 SE 1/4, NW 1/4 SE 1/4, Sec. 12; NE 1/4 NW 1/4, NE 1/4 SE 1/4, SE 1/4 NW 1/4, Sec. 11, all in T. 13 N., R. 22 E., B. 1 E.

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

8. What large stream would the water here appropriated finally reach? Colorado River

Remarks: The above area of 727 acres is per actual survey of the lands embraced in this filing. Mr. Taylor, Foreman of the "Home" camp, stated that no increased acreage has been watered since 1918. Mr. McCoy, former owner of the "W" Camp, stated that neither this or the "Covey" place have increased cultivation. These statements are borne out by inspection and it would thus appear that the irrigated area as of 1918 would be liberal for the purpose of this report. Practically every 10 miles permit has from one to three decrees priorities already attached thereto.

This examination was made on the 23rd day of August, 1931

(Signed)

Frank J. Tolman

Examiner.

15004



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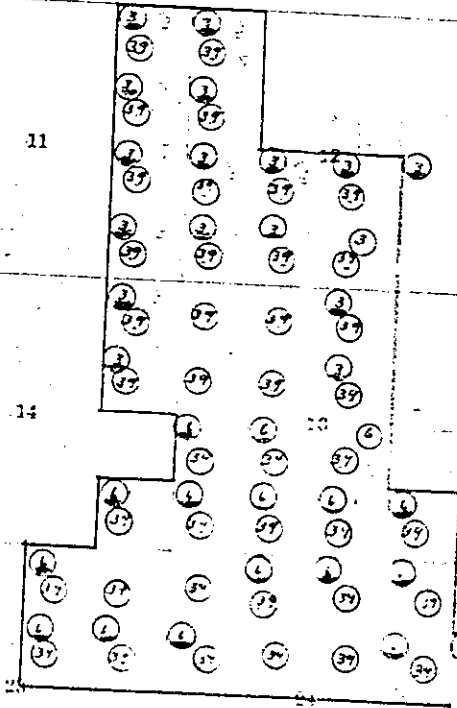
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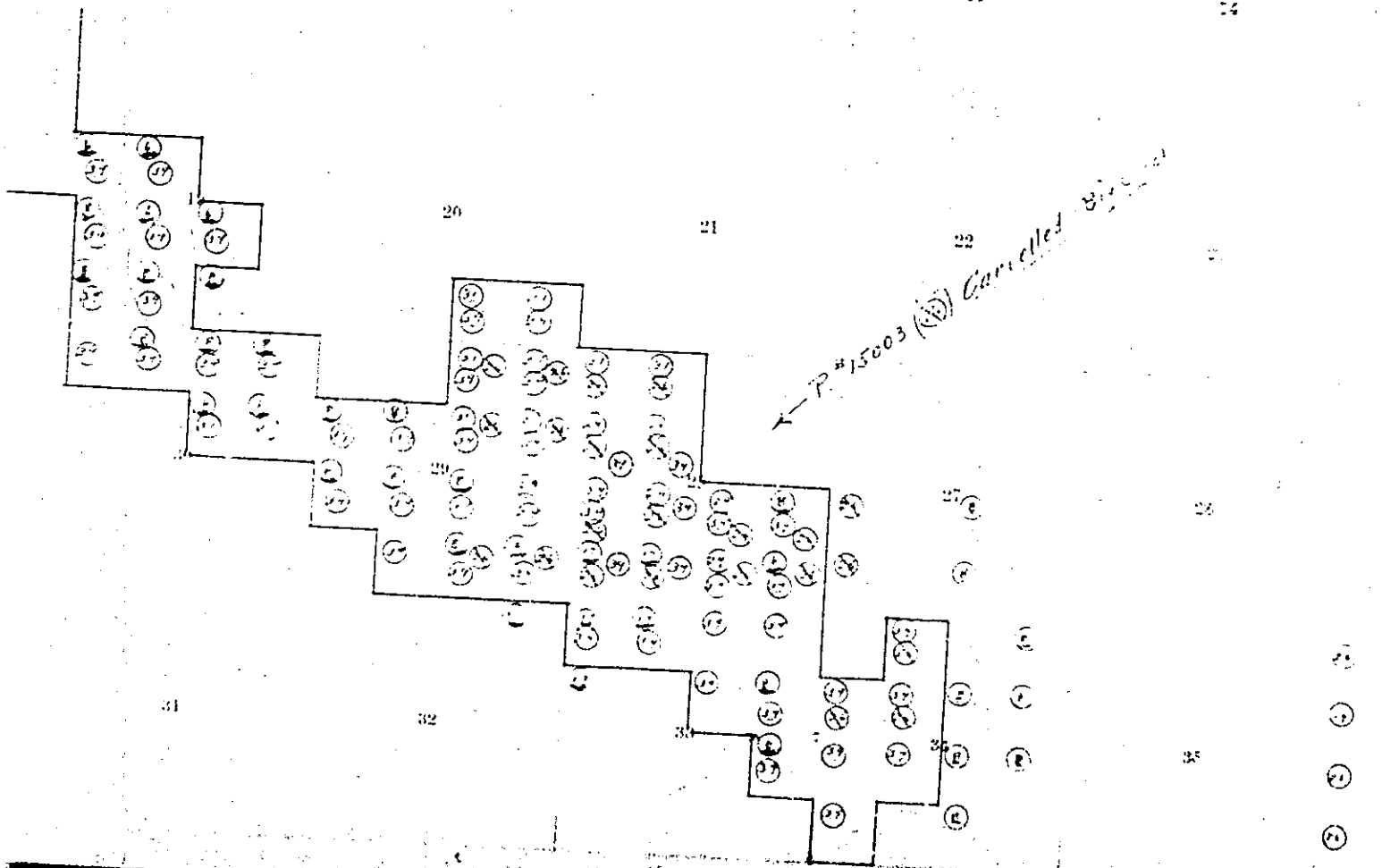
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P #15003 (N) Cancelled



January 19, 1931

Re: Permit No. 15004

MR. SOLON B. CLARK
Attorney at Law
Mackay, Idaho

Dear Mr. Clark:

This will acknowledge receipt of your communication of January 14, transmitting a statement regarding recognized water rights from the Pahsimeroi River and its tributaries, owned and used by Wood Live Stock Company, together with a Supplemental Statement of Facts and Summary of Contestants' Position.

I think you have been previously advised that so far as the department's known needs or demands are concerned, it is now supplied with all essential facts and information, and that pending the arrival of suitable weather and climatic conditions for field investigation, the entire matter will be held in suspense.

Yours very truly,

Commissioner of Reclamation

GNC/eq

15004

IN THE MATTER OF THE
APPLICATION OF WOODS LIVE-
STOCK COMPANY, TO HAVE
PERMIT NO. 15004, SET FOR HEAR-
ING ON THE 18TH DAY OF
DECEMBER, 1930, AT SPENCER,
IN CLARK COUNTY, IDAHO.

STIPULATION.

POOR QUALITY ORIGINAL
000206

IT IS HEREBY STIPULATED AND AGREED by and between Messrs.
Peterson, Mann & Clark, Attorneys at Law, Pocatello, Idaho,
representing Woods Livestock Company, the applicant, and Solon
B. Clark, Mackay, Idaho, representing among others, Swanger
Land & Livestock Company, an Idaho corporation, that the follow-
ing stipulation of facts may be considered as settled as between
the two parties herein mentioned, that is to say:

The Swanger Land and Livestock Company hereby stipulates
and agrees with said Woods Livestock Company that the diversion
works mentioned and described in Permit No. 15004 have been
completed, and that the water diverted therefrom has been applied
to beneficial use upon the lands and premises therein described
under the terms and conditions of said permit, upon the lands
and premises therein described.

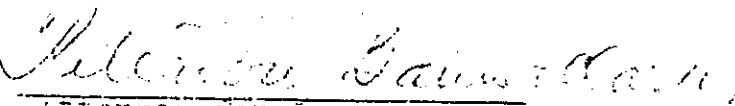
It is further understood and agreed that in consideration
thereof, the waters of Pahsimeroi river diverted in Blaine County
Idaho, through said diversion works so described which, if and
when, diverted through such works, be pro rated in accordance with
the permit here in question and the decree heretofore made and
entered decreeing a portion of said waters to Swanger Land and
Livestock Company.

15004

...of certificate of beneficiaries as prayed for, but it is distinctly understood and agreed that nothing herein contained, however, shall be construed as in any way affecting the rights of any other protestant than the Swauger Land and Livestock Company, and that the affidavit herein filed by F. P. Swauger on behalf of the Swauger Land and Livestock Company et al, may be considered as a protest on behalf of other protestants thereinafter appearing.

It is understood that in as far as the just and proper division of expenses in the maintenance of the canal and the losses in the canal are concerned, that is left to a further agreement between the parties, in accordance, however, with the terms and intentions of this stipulation.

Dated this 17th day of December, 1930.


Attorney for Protestants,
Swauger Land and Livestock
Company, residence and P. O.
address: Hainey, Idaho.


Attorney for Swauger Livestock
Company, residence and P. O.
address: Pocatello, Idaho.

James H. Swanger Land and Livestock Company, a corporation, Melinda Cooper, I. R. Nielson, Vitch Cockran, Ed O'Neil and themselves and others similarly interested, and protest the proposed application of water to beneficial use of Wood Livestock Company under permit number 15004 and alleges as follows.

I.

That protestant is and was at all times hereinafter mentioned, a corporation duly organized and existing under and by virtue of the laws of the State of Idaho.

II.

That as affiant is informed, believes and therefore says, the lands and premises, as well as the diversion works of the Wood Livestock Company are within the upper Pahasameroi Water District in Lemhi and Custer Counties, in the State of Idaho, and are situated within the same water district as the lands and premises of the protestant, Swanger Land and Livestock Company.

III.

That in a decree heretofore duly made and entered in the District Court of the Sixth Judicial District the state of Idaho, in and for the County of Custer, bearing the face of water per acre was decreed to the lands and premises mentioned and described in said application of said Wood Livestock Company, reference to which said decree is hereby made for further particulars.

IV.

That since the issuance to said Wood Livestock Company of permit #15004 the said company has used only a nominal amount of

15004

and water shall be described in said application, and the same shall be described in said application.

V.

That affiant honestly believes that it would be practically impossible to irrigate all of said lands and premises therein described in said application under the terms and conditions of said permit, or to put all of the water therein mentioned to beneficial use, except in extraordinarily high water seasons.

WHEREFORE, protestant prays that the Department of Reclamation of the State of Idaho rejects such proof.

Harold B. Halsten

Harold Halsten
Attorneys for Petitioners
Residence and P. O.
Address Mackay, Idaho

Frank P. Swauger, being first duly sworn deposes and says: that he is one of the directors of the Swauger Land and Livestock Company, a corporation, one of the protestants named in the foregoing protest and makes and verifies this protest as such director as aforesaid; he has read the foregoing protest, knows the contents thereof and believes the facts therein stated to be true.

Frank P. Swauger

Subscribed and sworn to before me this 24th day of December 1930.

M. J. G. Lamm
Notary Public.
Residence and P. O. Address, Vicksburg, Miss.
My Commission Expires May 10, 1932

15004

O

Ans. F. J. Hagenbarth, Spencer, Idaho; stock and wool grower;

Ans. Wood Live Stock Company, Spencer, Idaho; President; resolution
Board of Directors.

Ans. 15004: November 8, 1920: 69.2 cu. ft. per second. Pah Samaroi, which is a tributary of Salmon River. S. 38° 16' W. 1255 feet distant from the N.E. corner of Sec. 11, T. 14 N. R. 23 E. B. M. and is in the NE 1/4 of S. 11 T. 10 N. R. 23 E. B. M. county of Custer, but see answer to No. 7.

Ques. 4. State purpose for which water is to be used, and

Ans. Irrigation; (See attached list).

In Township 13 North, Range 23 East: In Section 34: Thirty (30) acres in the NE¹ NW¹, SW¹ NW¹, thirty (30) acres in the SE¹ NW¹, NE¹ SW¹, NW¹ SW¹, SW¹ SW¹; in Section 33: Thirty (30) acres in the NE¹ NE¹, NW¹ NE¹, SW¹ NE¹, SE¹ NE¹, NE¹ NW¹, NW¹ NW¹, thirty (30) acres in the NE¹ SE¹; in Section 29: Thirty-five (35) acres in the NE¹ NW¹, twenty-five (25) acres in the NW¹ NW¹, thirty (30) acres in the SW¹ NW¹, thirty (30) acres in the SE¹ NW¹, thirty-five (35) acres in the NE¹ SW¹, NW¹ SW¹, thirty-five (35) acres in the SW¹ SW¹, SE¹ SW¹, thirty (30) acres in the NE¹ SE¹, NW¹ SE¹, SW¹ SE¹, thirty (30) acres in the Section 28: Twenty (20) acres in the SE¹ SE¹; thirty (30) acres in the NW¹ NE¹, thirty (30) acres in the NE¹ NE¹, thirty (30) acres in the NW¹ NE¹, thirty (30) acres in the SW¹ NE¹, the SE¹ NW¹, NE¹ SW¹, NW¹ SE¹, SE¹ SW¹, NE¹ SE¹, thirty (30) acres in the NW¹ SE¹, SW¹ SE¹, SE¹ SE¹, thirty (30) acres in the SW¹ SE¹, SE¹ SE¹; in Section 20: Thirty (30) acres in the NE¹ NE¹, thirty (30) acres in the NW¹ NE¹, SE¹ NE¹, NE¹ NW¹, NW¹ NW¹, thirty (30) acres in the SE¹ NW¹, NW¹ SW¹, SW¹ SW¹, SE¹ SW¹, thirty (30) acres in the SE¹ SE¹.

In Township 17 North, Range 28 East: In Section 04: Thirty
four (34) acres in the NW¹ NE¹, thirty (30) acres in the NW¹ NE¹, SE¹
NE¹, thirty (30) acres in the NW¹ NW¹, thirty (30) acres
in the NW¹ NW¹, SW¹ NW¹, in Section 05: Thirty (30)
acres in the NE¹ NW¹, NW¹ NE¹, SW¹ NE¹, SE¹ NE¹; in Section 14:
NW¹ NW¹ SE¹; in Section 17: Thirty (30) acres in the SE¹
SW¹ SE¹, thirty (30) acres in the NE¹ NW¹, NW¹ NW¹, SW¹ NW¹, SE¹
NW¹, SW¹ NW¹, in the NE¹ SW¹, twenty (20) acres in the
SE¹ NW¹, in Section 18: NW¹ NW¹, NW¹ NW¹, NW¹ SW¹, NW¹
in the NW¹ SE¹, NW¹ SE¹, SW¹ SE¹, SE¹ NW¹, NW¹ SE¹, thirty (30)
acres in the NW¹ SE¹; in Section 21: Thirty (30)

Ques 5. State whether or not the water has been turned into your works of diversion, and, if so, when and to what extent.

Ans Yes ; water turned in October 25, 1925, to the extent of 39 cu. ft. Ditch will carry 80 cu. ft.

Ques 6. State whether or not the works of diversion are fully completed, and whether or not they comply in all respects with the terms of the permit.

Ans Yes, except point of diversion

Ques 7. If the works of diversion do not comply with all the terms of your permit, state fully those particulars in which there is any variance.

Ans Point of diversion extended about 300 feet further up the chan. of the stream.

Ques 8. Give description of works, state dimensions and capacity of each part, and give cost of same.

Ans Canal 8' to 10' on bottom, 12 ft. on top; Dam; logs and rocks 5' high, 40' long; headgate 10' wide and 5' high; cost to date \$4,386

(Sign here.)

J. Hagenbach

I hereby certify that the foregoing testimony was read to the above subscriber before its signing, that I believe him to be the person he represents himself to be, and that said testimony was subscribed and sworn to before me, in Spendor,

Mark

, State of Idaho, on this 30th

County of day of

October

A. D. 1925

My Commission expires

C. D. V. ...
residing at Spendor, Idaho. Notary Public.

15004

Proof of Completion of Works

DEPOSITION OF WITNESS

Ques. 1. State your name, age, residence, occupation and postoffice address.

Ans. John W. Hart, Rigby, Idaho; ^{55 years;} stock and wool grower; Rigby, Idaho

Ques. 2. Are you acquainted with F. J. Hagenbuth, President, Wood Live Stock Company the holder of Permit No. 15004, authorizing the diversion of 69.2 second-feet of the waters of Pan Samaroi River, a tributary of Salmon River at _____ for irrigation _____ purposes? How long have you known him, and where does he reside?

Ans. Twenty years; Spencer, Clark County, Idaho

Ques. 3. Have you read or heard read said Permit No. 15004 and are you familiar with its terms and conditions?

Ans. Yes

Ques. 4. (If for irrigation purposes). Are you acquainted with the land proposed to be irrigated under said permit? If so, describe same, state its character, and give your estimate of the amount of water required for its profitable cultivation.

Ans. Mostly creek bottom and sage brush land; about 1 inch per acre

Ques. 5. Are the works of diversion fully completed and of sufficient capacity to convey the entire amount of water set out in the permit from point of diversion to place of use?

Ans. Yes

Ques. 6. Describe the works of diversion as they now exist, and give your estimate of their capacity.

Ans. A large headgate and dam; about 3/4ths of a mile hillside and dement gravel canal; about 4 miles dirt canal on bar land. Capacity of canal 75 to 80 cu. ft. flow per second.

(Sign here.)

John W. Hart

I hereby certify that the foregoing testimony was read to the above subscriber before its signing, that I believe him to be the person he represents himself to be, and that said testimony was subscribed and sworn to before me, at my office in _____ Spencer _____ County

of _____ Clark _____ State of Idaho, on this _____ 30th _____ day of _____ October _____ A. D. 1945.

C. C. ...
Notary Public, residing at _____
Spencer, Idaho.

15004

BOOK OF COMPLETION OF WORKS

DEPOSITION OF WITNE

Ques. 1. State your name, age, residence, occupation and postoffice address.

Ans. Ed Jones; Spencer, Idaho; construction foreman/
Spencer, Idaho

Ques. 2. Are you acquainted with J. Hagerlath, Pres. Wood Live Stock Co., the holder of Permit No. 15004, authorizing the diversion of 69.2 second-feet of the waters of Pah Samaroi River, a tributary of Salmon River, at _____ for irrigation purposes? How long have you known him, and where does he reside?

Ans. Six years; Spencer, Idaho

Ques. 3. Have you read or heard read said Permit No. 15004 and are you familiar with its terms and conditions?

Ans. Yes

Ques. 4. (If for irrigation purposes). Are you acquainted with the land proposed to be irrigated under said permit? If so, describe same, state its character, and give your estimate of the amount of water required for its profitable cultivation.

Ans. Sage brush loam and bar land; will require about 1" to the acre for irrigation.

Ques. 5. Are the works of diversion fully completed and of sufficient capacity to convey the entire amount of water set out in the permit from point of diversion to place of use?

Ans. Yes

Ques. 6. Describe the works of diversion as they now exist, and give your estimate of their capacity.

Ans. Log and rock crib dam and spillway; 40 ft. to 50 ft. long; headgate 4 ft. deep and 8 ft. wide; about five miles open canal 8 to 10 ft. wide, 2 to 3 ft. deep. Ditch will carry 4,000 inches or more; has swift grade.

(Sign here.)

Ed Jones

I hereby certify that the foregoing testimony was read to the above subscriber before its signing, that I believe him to be the person he represents himself to be, and that said testimony was subscribed and sworn to before me, at my office in Spencer

of Clark

State of Idaho, on this 30th

October

A. D. 1915

15004

Clifford J. Jones
Notary Public residing at
Spencer, Idaho

Ques. 5. State whether or not the water has been turned into your works of diversion, and, if so, when and to what extent.

October 26, 1925

Ans. Yes; water turned in October 26, 1925, to the extent of

39 cu. ft. Ditch will carry 80 cu. ft.

Ques. 6. State whether or not the works of diversion are fully completed, and whether or not they comply in all respects with the terms of the permit.

Ans. Yes, except point of diversion

Ques. 7. If the works of diversion do not comply with all the terms of your permit, state fully those particulars in which there is any variance.

Ans. Point of diversion extended about 300 feet further up the channel of the stream.

Ques. 8. Give description of works, state dimensions and capacity of each part, and give cost of same.

Ans. Canal 6' to 10' on bottom, 12 ft. on top; Dam: logs and rocks, 4' high, 40' long; headgate 10' wide and 5' high; cost is data \$4,162.00

(Sign here.) J. H. Reinhardt

I hereby certify that the foregoing testimony was read to the above subscriber before its signing, that he has acknowledged to be the person, he represents himself to be, and that said testimony was subscribed and sworn to before me, in

Spencer, County of

Idaho, State of Idaho, on this 30th 30th day of

October A. D. 1925 1925

My Commission expires

Notary Public
residing at Spencer, Idaho.

15006

APPLICATION FOR PERMIT TO APPROPRIATE THE PUBLIC WATERS OF THE STATE OF IDAHO

Application No. 21208
Permit No. 15004
District No. 19

POOR QUALITY ORIGINAL

1. Name of Applicant: **Wood Live Stock Co.**
- Postoffice address: **Spencer** County: **Clark** State: **Idaho.**
 - I. If applicant is a corporation, give:
 - (a) Date and place of incorporation: **1896, Idaho.**
 - (b) Amount of capital stock: **\$1,000,000.00**
 - (c) Amount paid in: **\$1,000,000.00**
 - (d) Names and addresses of directors: **F. J. Hagenbarth, H. C. Wood, Chas. W. Hardy, Spencer, Idaho. Jno. W. Hart, Rigby, Idaho. M. B. Johnson, Salt Lake, Utah.**
 - II. Financial resources of the applicant are:
 - (a) Cash on hand: **\$140,000.00**
 - (b) Treasury stock:
 - (c) Bonds to be issued:
 - (d) Other resources: **surplus \$1,783,532.00**
2. Quantity of water claimed: **sixty nine & 2/10** cubic feet per second.
3. Source of water supply: **Fahaiheroi** which is a tributary of **Salmon River.**
4. Location of point of diversion: **S. 38°15' W. 1256** feet distant from the **NE** corner of Section **11**, T. **10 N.**, R. **23 E.**, B. M., and is in the **NE 1/4** of NE 1/4 of Section **11**, T. **10 N.**, R. **23 E.**, B. M., County of **Custer.**
5. Water is to be used for: **Irrigation and domestic use.**
6. If for mining, milling, power or manufacturing purposes, give:
 - (a) Point of use of water: _____ feet distant from _____ corner of Section _____, T. _____, R. _____, B. M., in the _____ of Section _____, T. _____, R. _____, B. M.
 - (b) Amount of power generated: _____ H. P., under _____ feet head.
 - (c) Water is to be returned to _____ at a point _____ feet distant from the _____ corner of Section _____, T. _____, R. _____, B. M., in the _____ of Section _____, T. _____, R. _____, B. M.
7. Estimated cost of works: **\$ 7000.00**
8. Kind of works: **Dam and ditch.**
9. Height of dam **5** feet; length of dam at top **16** feet; length of dam at bottom **12** feet; material used in dam **Rock and logs.**
10. Size of headgate: Width **10** feet; height **5** feet.
11. Ditch: Width at bottom **10** feet; width at water line **12** feet; depth of water **3** feet; dimensions of flume _____ Diameter of pipe _____ inches; length of conduit **16** miles Average grade per mile **12** feet.
12. The time required for the completion of such work is **four** years.
13. The time required for the complete application of the water to the proposed use is **six** additional years.
14. The land to be irrigated is described in the following tabulation: **See Remarks.**

- 15 (a) Is reservoir to be used? No. If so, fill in (b) and (c) below.
 (b) Name of reservoir and number of Storage Permit:
 (c) Date of filing of Application for Storage Permit and Name of Applicant:

BE IT KNOWN THAT the undersigned hereby makes application for permit to appropriate the public waters of the State of Idaho as herein set forth.

Wood Live Stock Co. Applicant.

By John W. Hart. Agent.

Commissioner of Reclamation

Date of first receipt at office of ~~State Engineer~~ 9 A. M. Aug. 21, 1920.

Returned to applicant for correction Sept. 20, 1920.

Corrected application received Nov. 3, 1920.

POOR QUALITY ORIGINAL

COMMISSIONER OF RECLAMATION
 APPROVAL OF ~~STATE ENGINEER~~

The number of this permit is 15004

Recorded in Book 53 Page 15004 Approved November 8, 1920.

This is to certify that I have examined the within application for a permit to appropriate the public waters of the State of Idaho, and hereby approve the same, subject to the following limitations and conditions:

Bond in the sum of \$ 1000.00 to be filed on or before January 7, 1921.

Work to begin on or before and to continue diligently and uninterruptedly to completion, unless temporarily interrupted by circumstances over which permit holder has no control.

One fifth of the work above specified to be completed on or before November 8, 1922.

The whole of said work to be completed on or before November 8, 1924.

Beneficial use of water appropriated in accordance herewith, to be made on or before November 8, 1930.

Witness my hand this 8th day of November, 1920.

W. G. Swendsen.

~~State Engineer~~
 Commissioner of Reclamation.

Remarks:

14 Twp	Range	Sec.	NE¼				NW¼				SW¼				SE¼				Totals
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
13 N.	23 E.	34					30		40	30	40	40	40		30				220
		33	30	40	40	40	40	40						30					200
		28					35	25	30	30	35	40	35	40	30	40	40	30	510
		29	20	30	30	40			30	30	40	40		40	30	40	40	40	480
		20														30	40		70
		30	30	30	40	40	40	40											260
		19							30	30	30	40	40		30				280
13 N.	22 E.	24	30	30	40	40	30	30	40	40									280
		23	30	40	40	40													150
		14	30			30												40	150
		13		30	40		30	40	40	40	20	20	40	30	40	10	40		450
		12					40	40			30	40	40	40	40	30			300
		11	30			35								35			30		120

Most of the Pahsimeroi waters are lost at all times thro seepage in a very deep, boulder bottomed channel and during July and August the stream dries up, the there may be a large flow of water at the head.

It is proposed by these works to construct a new channel near the mountains and save this lost water. A small ditch about 6 miles long has been built and demonstrates that much water can be thus saved.

Water will be conducted upon the lands through old existing, decreed canals.

Upon proper request of the holder of the above numbered permit (15004) I have this 15th day of September, 1924, extended the time for completion of works to the 31st day of October, 1925.

A. G. SWENDSEN,
 Commissioner of Reclamation.

Permit No. 1404
 CERTIFICATE OF COMPLETION OF WORKS

TO ALL WHOM IT MAY CONCERN:

This is to certify that Wood Live Stock Farming of Jensen, County of Clark, and State of Idaho, the holder of Permit No. 1404, issued upon application No. 21208 bearing date of priority of August 21, 1920, authorizing the diversion of 69.2 second feet of the waters of Pahsimeroi River, County ofuster, State of Idaho, for irrigation and domestic purposes, has fully complied with the provisions of the laws of the State of Idaho relating to the proof of completion of the works of diversion set out and described in said permit; that said works are adequate for diverting and conveying to the place of intended use 69.2 second feet of the waters of Pahsimeroi River; that the point of diversion of said waters is in the NE¹ 22¹ Section 11 T. 1 N., R. 13 E., S. 12 S., and that the lands proposed to be irrigated by the use of said water are described as follows, to-wit:

2,000 acres of land as follows: NE¹ 22¹, S¹ 12¹, S¹ 13¹, S¹ 14¹, S¹ 15¹, S¹ 16¹, S¹ 17¹, S¹ 18¹, S¹ 19¹, S¹ 20¹, S¹ 21¹, S¹ 22¹, S¹ 23¹, S¹ 24¹, S¹ 25¹, S¹ 26¹, S¹ 27¹, S¹ 28¹, S¹ 29¹, S¹ 30¹, S¹ 31¹, S¹ 32¹, S¹ 33¹, S¹ 34¹, S¹ 35¹, S¹ 36¹, S¹ 37¹, S¹ 38¹, S¹ 39¹, S¹ 40¹, S¹ 41¹, S¹ 42¹, S¹ 43¹, S¹ 44¹, S¹ 45¹, S¹ 46¹, S¹ 47¹, S¹ 48¹, S¹ 49¹, S¹ 50¹, S¹ 51¹, S¹ 52¹, S¹ 53¹, S¹ 54¹, S¹ 55¹, S¹ 56¹, S¹ 57¹, S¹ 58¹, S¹ 59¹, S¹ 60¹, S¹ 61¹, S¹ 62¹, S¹ 63¹, S¹ 64¹, S¹ 65¹, S¹ 66¹, S¹ 67¹, S¹ 68¹, S¹ 69¹, S¹ 70¹, S¹ 71¹, S¹ 72¹, S¹ 73¹, S¹ 74¹, S¹ 75¹, S¹ 76¹, S¹ 77¹, S¹ 78¹, S¹ 79¹, S¹ 80¹, S¹ 81¹, S¹ 82¹, S¹ 83¹, S¹ 84¹, S¹ 85¹, S¹ 86¹, S¹ 87¹, S¹ 88¹, S¹ 89¹, S¹ 90¹, S¹ 91¹, S¹ 92¹, S¹ 93¹, S¹ 94¹, S¹ 95¹, S¹ 96¹, S¹ 97¹, S¹ 98¹, S¹ 99¹, S¹ 100¹, S¹ 101¹, S¹ 102¹, S¹ 103¹, S¹ 104¹, S¹ 105¹, S¹ 106¹, S¹ 107¹, S¹ 108¹, S¹ 109¹, S¹ 110¹, S¹ 111¹, S¹ 112¹, S¹ 113¹, S¹ 114¹, S¹ 115¹, S¹ 116¹, S¹ 117¹, S¹ 118¹, S¹ 119¹, S¹ 120¹, S¹ 121¹, S¹ 122¹, S¹ 123¹, S¹ 124¹, S¹ 125¹, S¹ 126¹, S¹ 127¹, S¹ 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AUG 31 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: A73-02126A
Date Received: 12/27/1989
Receipt No: ED11542
Received By: EMC

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: PINES GRAZING ASSN., INC.
Address: C/O GARY SKIDMORE
P.O. BOX 13
TERRETON, ID

Jud Division HL
Garth Shivers
208-663-4663
83425

2. Date of Priority: AUG 01, 1920

3. Source: BIG CREEK Trib. to: PAHSIMEROI RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
13N	23E	13	NE	NW			CUSTER

5. Description of diverting works:
OPEN DITCHES WITH PUMPS FOR BOTH FLOOD AND SPRINKLER IRRIGATION.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
IRRIGATION	04/01	11/01	40.000		

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

8. Total consumptive use is 5000.0 Acre Feet Per Annum.

9. Non-irrigation uses:

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
13N	22E	1	SW	NW		IRR	40.0
			NW	SW		IRR	40.0
			SW	SW		IRR	40.0

Section Acres 120.0

A73-02126A

Page 1

Date: 12/27/89

10. Place of Use: Continued

Township	Range	Section	1/4	of	1/4	Lot	Use	Acres
13N	22E	2	NE		NE		IRR	40.0
			NW		NE		IRR	38.0
			SW		NE		IRR	24.0
			SE		NE		IRR	40.0
			NE		SE		IRR	40.0
			NW		SE		IRR	8.0
			SW		SE		IRR	4.0
			SE		SE		IRR	40.0
Section Acres								234.0
		11	NE		NE		IRR	38.5
			SE		NE		IRR	31.2
			NE		SE		IRR	35.0
			SE		SE		IRR	34.0
Section Acres								138.7
		12	NW		NW		IRR	40.0
			SW		NW		IRR	40.0
			NE		SW		IRR	40.0
			NW		SW		IRR	40.0
			SW		SW		IRR	40.0
			SE		SW		IRR	40.0
			NW		SE		IRR	40.0
			SW		SE		IRR	40.0
Section Acres								320.0
		13	NW		NE		IRR	40.0
			SW		NE		IRR	40.0
			NE		NW		IRR	40.0
			NW		NW		IRR	40.0
			NW		SW		IRR	40.0
			SE		SE		IRR	40.0
Section Acres								240.0
		14	NE		NE		IRR	31.2
			SW		NE		IRR	17.2
			SE		NE		IRR	40.0
			NE		SE		IRR	40.0
			NW		SE		IRR	22.0
			SW		SE		IRR	29.2

10. Place of Use: Continued

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
13N	22E	14	SE	SE		IRR	40.0
			Section Acres				219.6
		23	NE	NE		IRR	40.0
			NW	NE		IRR	38.5
			SW	NE		IRR	26.4
			SE	NE		IRR	40.0
			NE	SE		IRR	28.4
			NW	SE		IRR	1.6
			Section Acres				174.9
		24	NE	NE		IRR	40.0
			NW	NE		IRR	35.83
			SW	NE		IRR	40.0
			SE	NE		IRR	40.0
			NE	NW		IRR	40.0
			NW	NW		IRR	40.0
			SW	NW		IRR	40.0
			SE	NW		IRR	40.0
			NE	SW		IRR	40.0
			NW	SW		IRR	40.0
			NE	SE		IRR	40.0
			NW	SE		IRR	40.0
			Section Acres				475.5
14N	22E	35	SW	SE		IRR	37.5
			SE	SE		IRR	40.0
			Section Acres				77.5
			Total Acres				2000.20

11. Place of use in counties: CUSTER

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

13. Other Water Rights Used:

A34-00150D/00147B/00147A/00189/00147C/10041/10040.

14. Remarks:

THIS NOTICE IS BASED ON THE BENEFICIAL USE OF WATER THAT WAS
ORIGINALLY COVERED UNDER PERMIT 73-2126 FILED BY WOODS LIVESTOCK.

14. Remarks: Continued

THOUGH THIS PERMIT LAPSED THE WATER HAS BEEN USED CONTINUOUSLY SINCE THE PERMIT WAS FILED.

WATER FROM BIG CREEK EMPTIES INTO THE PAHSIMEROI RIVER IN THE SE1/4SW1/4 SECTION 27, TWP. 13N, RGE. 23E AND THEN IS REDIVERTED FROM THE RIVER THROUGH AT OUR DIVERSION IN THE SE1/4SW1/4, SECTION 20, TWP 13N, RGE. 23E. NORMALLY AS THE FLOW IN BIG CREEK RECEEDS THE PAHSIMEROI RIVER STARTS TO FLOW.

15. Basis of Claim: STATUTORY CLAIM

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 Organizations:

I do solemnly swear or affirm that I am president of
Title
Pines Grazing, that I have signed the foregoing
Organization
document in the space below as president of
Title
Pines Grazing and that the statements contained in the
Organization
foregoing document are true and correct.

Rocky Westgard
Signature of Authorized Agent

president Pines Grazing
Title and Organization

1-8-90
Date

State of Idaho)
County of Bonneville) SS.

Subscribed and sworn (or affirmed) before me this 8 day
of Jan 19 90

Ernest Carlson
Notary Public

Seal

Residing at Idaho Falls, ID
My Commission Expires 6-14-1994

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 73-02126A
Date Received: 1/8/90
Receipt No:
Received By:

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name of Claimant(s)

Name: PINES GRAZING ASSN INC Phone: (208)879-2354

Address: C/O LYNN TRITTHART
HC 63 BOX 1769
CHALLIS ID USA 83226

2. Date of Priority: 08/01/1920

3. Source: BIG CREEK Trib. to: Pahsimeroi River

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County
13N	23E	13	NE NW	CUSTER

5. Description of diverting works:

OPEN DITCHES WITH PUMPS FOR BOTH FLOOD AND SPRINKLER IRRIGATION.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
IRRIGATION	4/01	11/01	40	

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

8. Total consumptive use:

9. Non-irrigation uses:

A7302126A



10. Place of use:

Township	Range	Section	1/4	of 1/4	Lot	Use	Acres
13N	22E	1	SW	NW		IRRIGATION	40
			NW	SW		IRRIGATION	40
			SW	SW		IRRIGATION	40
						Section Acres	120
13N	22E	2	NW	SE		IRRIGATION	8
			NE	NE		IRRIGATION	40
			NW	NE		IRRIGATION	38
			SW	NE		IRRIGATION	24
			SE	NE		IRRIGATION	40
			NE	SE		IRRIGATION	40
			SW	SE		IRRIGATION	4
			SE	SE		IRRIGATION	40
						Section Acres	234
13N	22E	11	NE	NE		IRRIGATION	38.5
			SE	NE		IRRIGATION	31.2
			NE	SE		IRRIGATION	35
			SE	SE		IRRIGATION	34
						Section Acres	138.7
13N	22E	12	NW	NW		IRRIGATION	40
			SW	NW		IRRIGATION	40
			NE	SW		IRRIGATION	40
			NW	SW		IRRIGATION	40
			SW	SW		IRRIGATION	40
			SE	SW		IRRIGATION	40
			NW	SE		IRRIGATION	40
			SW	SE		IRRIGATION	40
						Section Acres	320
13N	22E	13	NW	NW		IRRIGATION	40
			NW	SW		IRRIGATION	40
			SE	SE		IRRIGATION	40
			NW	NE		IRRIGATION	40
			SW	NE		IRRIGATION	40
			NE	NW		IRRIGATION	40
						Section Acres	240
13N	22E	14	NE	NE		IRRIGATION	31.2
			SE	NE		IRRIGATION	40
			NE	SE		IRRIGATION	40
			NW	SE		IRRIGATION	22
			SW	SE		IRRIGATION	29.2
			SE	SE		IRRIGATION	40
			SW	NE		IRRIGATION	17.2

					Section Acres	219.6
13N	22E	23	NE	NE	IRRIGATION	40
			NW	NE	IRRIGATION	38.5
			SW	NE	IRRIGATION	26.4
			SE	NE	IRRIGATION	40
			NE	SE	IRRIGATION	28.4
			NW	SE	IRRIGATION	1.6
					Section Acres	174.9
13N	22E	24	NE	NE	IRRIGATION	40
			NW	NE	IRRIGATION	35.3
			SW	NE	IRRIGATION	40
			SE	NE	IRRIGATION	40
			NE	NW	IRRIGATION	40
			NW	NW	IRRIGATION	40
			SW	NW	IRRIGATION	40
			SE	NW	IRRIGATION	40
			NE	SW	IRRIGATION	40
			NW	SW	IRRIGATION	40
			NE	SE	IRRIGATION	40
			NW	SE	IRRIGATION	40
					Section Acres	475.3
14N	22E	35	SW	SE	IRRIGATION	37.5
			SE	SE	IRRIGATION	40
					Section Acres	77.5
					Total Acres	2000

11. Place of use in counties: CUSTER

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

13. Other Water Rights Used:

14. Remarks:

THIS NOTICE IS BASED ON THE BENEFICIAL USE OF WATER THAT WAS ORIGINALLY COVERED UNDER PERMIT 73-2126 FILED BY WOODS LIVESTOCK. THOUGH THIS PERMIT LAPSED THE WATER HAS BEEN USED CONTINUOUSLY SINCE THE PERMIT WAS FILED

WATER FROM BIG CREEK EMPTIES INTO THE PAHSIMEROI RIVER IN THE SE1/4SW1/4 SECTION 27, TWP. 13N, RGE. 23E AND THEN IS REDIVERTED FROM THE RIVER THROUGH AT OUR DIVERSION IN THE SE1/4SW1/4, SECTION 20, TWP 13N, RGE. 23E. NORMALLY AS THE FLOW IN BIG CREEK RECEEDS THE PAHSIMEROI RIVER STARTS TO FLOW

CHANGE ADDRESS 10-5-94/JT

15. Basis of Claim: Statutory Claim