

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: **A45-00441**
Date Received: 5/23/1989
Receipt No: M003667
Received By: X

AMENDED

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

AMENDED

1. Name: DELROY MITTON 208-862-3645
Address: BOX 231
OAKLEY ID 83346
OR
Name: SIDNEE MITTON 208-862-3645
Address: BOX 231
OAKLEY ID 83346

2. Date of Priority: MAY 1, 1885

3. Source: COTTONWOOD CREEK Trib. to: DRY CREEK

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4 of	Lot	County
13S	21E	17	SW	SE	NW		CASSIA

5. Description of diverting works:
HEADGATE AND LATERAL

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
IRRIGATION	01/01	12/31	0.800		

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

8. Total consumptive use is 240.0 Acre Feet Per Annum.

9. Non-irrigation uses:
CATTLE, HOGS, HORSES, ETC./ 100 HEAD OR FOR ANY BENEFICIAL USE.

MICROFILMED

10. Place of Use:

Township	Range	Section	1/4	of 1/4	Lot	Use	Acres
13S	21E	9	SW	SW		IRR	10.0
			SE	SW		IRR	30.0
			SW	SE		IRR	30.0
			SE	SE		IRR	10.0

Section Acres 80.0

Total Acres	80.0
-------------	------

11. Place of use in counties: CASSIA

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

13. Other Water Rights Used:
45-00421 DECREED WATER RIGHT

14. Remarks:
P. U. VERIFIED BY CASSIA CO. ABSTRACT CO. 4-21-1982, JES.
AMENDED 3/16/95 TO CORRESPOND WITH DECREE BY CLAIMING YEAR ROUND
BENEFICIAL USE. jr

15. Basis of Claim: DECREED

Case Number:

Court :

Decree date: / /

A. V. CAULDWELL JR. ET AL
Decree Plaintiff

PETER ANDERSON
vs Decree Defendant

16. Signature(s)

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

Number of attachments:

For Individuals:

I/We do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant(s): *Delroy M. Miller* Date: 3/16/95
Date: _____

State of Idaho)
County of Twin Falls) SS.

Subscribed and sworn (or affirmed) before me this 16th day
of March 19 95

Janie Robertson
Notary Public

Seal

Residing at Twin Falls, Id.

My Commission Expires 9-22-2000

*Amendment to*IN THE DISTRICT COURT OF THE NINTH JUDICIAL DISTRICT
STATE OF IDAHO IN AND FOR THE COUNTY OF TWIN FALLSIN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM

CIVIL CASE NUMBER 34570

Identification No. A45-00441

Date Received

Receipt Number

NOTICE OF CLAIM TO A WATER RIGHT ACQUIRED UNDER STATE LAW For Domestic and/or Stockwater Purposes Where Daily Use is less than 13,000 gallons per day.

Filing Fee \$25

Please type or print clearly

1. Name of Claimant (s) DELROY MITTON OR SIDNEE MITTON Phone (208) 862-3645Mailing Address BOX 231 OAKLEY, IDAHO Zip 833462. Date of Priority (Only one per claim) MAY 01, 1885 Month/Day/Year3. Source of water supply (Check one) () Groundwater or Other () (a) COTTONWOOD CREEK
which is tributary to (b) DRY CREEK Name or kind of source4. Location of point of diversion is: Township 13S Range 21E
Section 17 SW 1/4 of SE 1/4 of NW 1/4, Govt. Lot _____, B.M.
County of CASSIA

Additional points of diversion if any: _____

5. Description of existing diversion works (Ditches, Wells, Pumps, Pipelines, Headgate Etc.), including the dates of changes or enlargements in use, the dimensions of the diversion works as constructed and as enlarged and the cost of each well. HEADGATE AND LATERAL

6. Water is claimed for the following: (limited to Domestic and/or Stockwater only. See Instructions.)

For IRRIGATION purposes from JAN 1 to DEC 31 amount 0.800 (cfs)
(Both dates are inclusive)

For _____ purposes from _____ to _____ amount _____

Total quantity claimed 0.800 (cfs) A.F.A. TO CORRESPOND WITH THE INTENT OF THE DECREE OR FOR ANY BENEFICIAL USE. (LIVESTOCK)7. Total consumptive use claimed is 0.800 ACRE FEET PER ANNUM8. Irrigation Uses. Describe fully. (Domestic purposes, such as for stock, served a single owner, and for any other beneficial use.)
(Number of livestock) 100 HEAD OF CATTLE, HOGS, HORSES ETC. OR FOR ANY BENEFICIAL USE.

MICROFILMED

DEC 3 1996

10. Place of use is Township: 13S Range: 21E

Section 9 1/4 of 4 Cont. lot 8 M

County of CASSIA for (Circle One) Domestic Stock Domestic and Stock

Additional places of use, if any _____

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

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

Describe any other water rights used at the same place and for the same purpose as described above: 45-00421

13. Remarks: P. U. VERIFIED BY CASSIA CO. ABSTRACT CO. 4-21-1982, JES

14. Basis of Claim (Circle One) Beneficial Use Posted Notice License Permit Decree

Court _____ Decree Date _____ Plaintiff vs Defendant _____

If applicable provide IDWR Water Right Number _____

15. Signature (s) _____

Number of Attachments _____

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

Signature of Claimant (s) *Sidnee Nitto* Date _____

For Organizations: I do solemnly swear or affirm that _____

_____, Title _____, that I have signed the foregoing _____

_____, Organization _____, I am _____

and that the statements contained in the foregoing document are true and correct.

Signature of Authorized Agent _____ Date _____

Title and Organization _____

State of Idaho or _____ }
County of _____ } SS

Subscribed and sworn (or affirmed) before me on _____ day of _____

SEAL

Notary Public _____

My Comm. Expires _____

My Comm. No. _____

Notary Public _____ State of _____

MICROFILMED

DEC 3 1996

COMMUNICATION DOCUMENTATION

Claim No. A45-00421

~~A45-00441~~

This form is to be used to document public record information requests regarding any SRBA claim or claims. The form may also be used to document IDWR communications requesting information regarding any SRBA claim or claims when the request is not made in writing or the claim verification report is not readily available to document the request. This form is to be filed in all relevant claim files or a central office file.

IDWR Employee/Agent Jeanie Robertson Date 3/16/95

Contact Person(s) Delroy Mitten

Nature of Contact office visit

Substance of Communication he amended both claims
to more closely correspond with the original
decree which specified no season of use.
He amended season of use, non-irrigation
uses and remarks.

MICROFILMED

DEC 3 1996

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: A45-00441
Date Received: 5/23/1989
Receipt No: M003667
Received By: _____

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: DELROY MITTON 208-862-3645
Address: BOX 231
OAKLEY, ID 83346

OR
Name: SIDNEE MITTON 208-862-3645
Address: BOX 231
OAKLEY, ID 83346

2. Date of Priority: MAY 01, 1885

3. Source: COTTONWOOD CREEK Trib. to: DRY CREEK

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
13S	21E	17	SW	SE	NW		CASSIA

5. Description of diverting works:
HEADGATE AND LATERAL

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
IRRIGATION	03/15	11/15	0.800		

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

8. Total consumptive use is 240.0 Acre Feet Per Annum.

9. Non-irrigation uses:
100 HEAD OF HOGS AND CATTLE USE THE WASTE WATER

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
13S	21E	9	SW	SW		IRR	10.0
			SE	SW		IRR	30.0
			SW	SE		IRR	30.0
			SE	SE		IRR	10.0
Section Acres							80.0
Total Acres							80.0

11. Place of use in counties: CASSIA

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

13. Other Water Rights Used:
45-00421 DECREED WATER RIGHT

14. Remarks:
P. U. VERIFIED BY CASSIA CO. ABSTRACT CO. 4-21-1982, JES.

15. Basis of Claim: DECREED
Case Number:
Court :
Decree date:

A. V. CAULDWELL JR. ET AL
Decree Plaintiff

vs

PETER ANDERSON
Decree Defendant

16. Signature(s)

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

Number of attachments: _____

For Individuals:

I/We do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant(s): _____ Date: _____

_____ Date: _____

State of Idaho)
County of _____) SS.

Subscribed and sworn (or affirmed) before me this _____ day

of _____ 19 _____

Notary Public

Seal

Residing at _____

My Commission Expires _____

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: A45-00441
Date Received: 5/17/1989
Receipt No: 11003667
Received By: BAS

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: DELROY MITTON 208-862-3645
Address: BOX 231
OAKLEY, ID 83346

OR

Name: SIDNEE MITTON 208-862-3645
Address: BOX 231
OAKLEY, ID 83346

2. Date of Priority: MAY 01, 1885

3. Source: COTTONWOOD CREEK Trib. to: DRY CREEK

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4 of	Lot	County
13S	21E	17	SW	SE	NW		CASSIA

5. Description of diverting works:
HEADGATE AND LATERAL

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
IRRIGATION	03/15	11/15	0.800		

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

A.F.A.

8. Total consumptive use is Acre Feet Per Annum.

9. Non-irrigation uses:
100 HEAD OF HOGS AND CATTLE USE THE WASTE WATER

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
13S	21E	9	SW	SW		IRR	10.0
			SE	SW		IRR	30.0
			SW	SE		IRR	30.0
			SE	SE		IRR	10.0
						Section Acres	80.0
						Total Acres	80.0

11. Place of use in counties: CASSIA

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

13. Other Water Rights Used:
45-00421 DECREED WATER RIGHT

14. Remarks:
P. U. VERIFIED BY CASSIA CO. ABSTRACT CO. 4-21-1982, JES.

15. Basis of Claim: DECREED

Case Number:

Court :

Decree date:

A. V. CAULDWELL JR. ET AL
Decree Plaintiff

vs

PETER ANDERSON
Decree Defendant

16. Signature(s)

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

Number of attachments: 0

For Individuals:

I/We do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant(s): X Kelley Mottar Date: X 5/17/89
_____ Date: _____

State of Idaho)
County of Cassia) SS.

Subscribed and sworn (or affirmed) before me this 17 day
of May 19 89 Bruce A. Schul
Notary Public

Seal

Residing at BRUCE A. SCHULD, NOTARY PUBLIC
My Commission Expires RESIDING AT BOISE, IDAHO
MY COMMISSION EXPIRES APRIL 11, 1995

07/09/2003

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

RIGHT NUMBER: 45-441
NAME AND ADDRESS: SIDNEE MITTON
BOX 231
OAKLEY ID 83346
DELROY MITTON
BOX 231
OAKLEY ID 83346

SOURCE: BIG COTTONWOOD CREEK TRIBUTARY: DRY CREEK
QUANTITY: 0.800 CFS
PRIORITY DATE: 05/01/1885
POINT OF DIVERSION:

T13S R21E S17 NWNESE Within CASSIA County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	03/15 11/15	0.800 CFS

PLACE OF USE: IRRIGATION Within CASSIA County

T13S R21E S09	SWSW	15.0	T13S R21E S09	SESW	24.0
T13S R21E S09	SWSE	28.0	T13S R21E S09	SESE	13.0

80 ACRES TOTAL

USE OF THIS RIGHT WITH RIGHT NO. 45-421 IS LIMITED TO THE IRRIGATION
OF A COMBINED TOTAL OF 80 ACRES IN A SINGLE IRRIGATION SEASON.

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

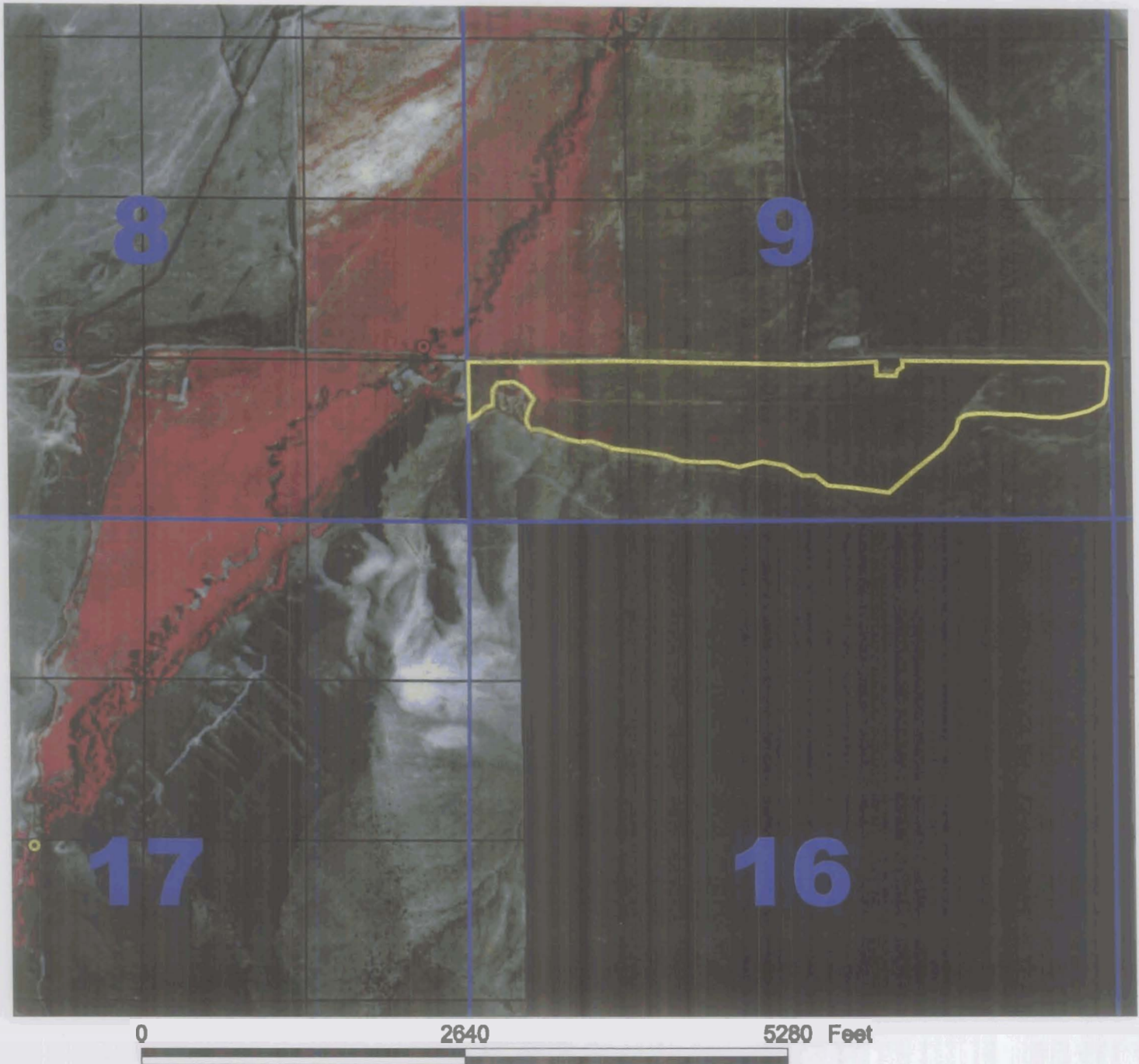
This partial decree is subject to such general provisions necessary for
the definition of the rights or for the efficient administration of the water
rights as may be ultimately determined by the Court at a point in time no
later than the entry of a final unified decree. Section 42-1412(6), Idaho
Code.

EXPLANATORY MATERIAL: Decreed

Idaho Department of Water Resources

RIGHTS: 45-421, 45-441

**RECOMMENDED PLACE OF USE
TWP 13S, RNG 21E,
PREPARED JUNE 18, 2003**



-  **RECOMMENDED POINT OF DIVERSION**
-  **RECOMMENDED PLACE OF USE**
-  **SECTION LINES**
-  **QUARTER SECTION LINES**



**GIS PLACE OF USE PRESENTATION
1987 NAPP AERIAL PHOTOGRAPHY**

PREPARED BY VIKIE HANCOCK

COMMUNICATION DOCUMENTATION

From: Vikie Hancock

July 8, 2003

Regarding:

Customer:

Year round stock water from Cottonwood Creek

This date I communicated with Deputy Attorney General Garrick Baxter who agreed with my interpretation that neither the Cauldwell v Anderson nor Iverson v Isaacson decrees on Cottonwood Creek supported the addition of year-round stock water uses on decreed rights, as claimed by several claimants in the SRBA.

MEMO TO FILE

From: Vikie Hancock

6/19/03

RE: Recommendation of Claim No: 45-421 and 45-441

I visited the Cottonwood Creek area with Verl Okelberry, Water master, on October 25, 2001. Del Roy Mitton's two water rights 45-441 (1885) and 45-421 (1892) are appurtenant to property on the south/half of the south/half of section 9 lying between a ridgeline that runs roughly NW-SE and the road into Cottonwood Creek. The place of use was in pasture and was fenced for several horses. The irrigated acres extended nearly to the east fence line. Mitton's house was at the extreme west end of his property and the farm yard included the house, drive and parking areas, and several sheds where Mitton also raised some hogs, according to Mr. Okelberry. Directly behind the house there was a rise, on which Mitton was drilling a replacement domestic well for the house. Okelberry said that Mitton got very little water from Cottonwood Creek this year. The uppermost measurement flume for the cement ditch that conveys water to the Goose Creek area farms is just across the road from the Mitton's house.

Claims listed 80 acres in the POU

- 1962, 1968 and 1992 aerial photos confirm approx 80 acres developed.

POD gps'd on 10-25-2001

Both SRBA claims list a season of use of 1/1 to 12/31. Both claims list non-irrigation incidental uses for cattle hogs and horses, etc., but stockwater is not listed as a use.

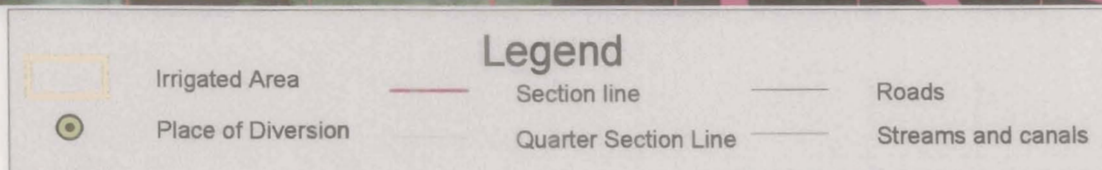
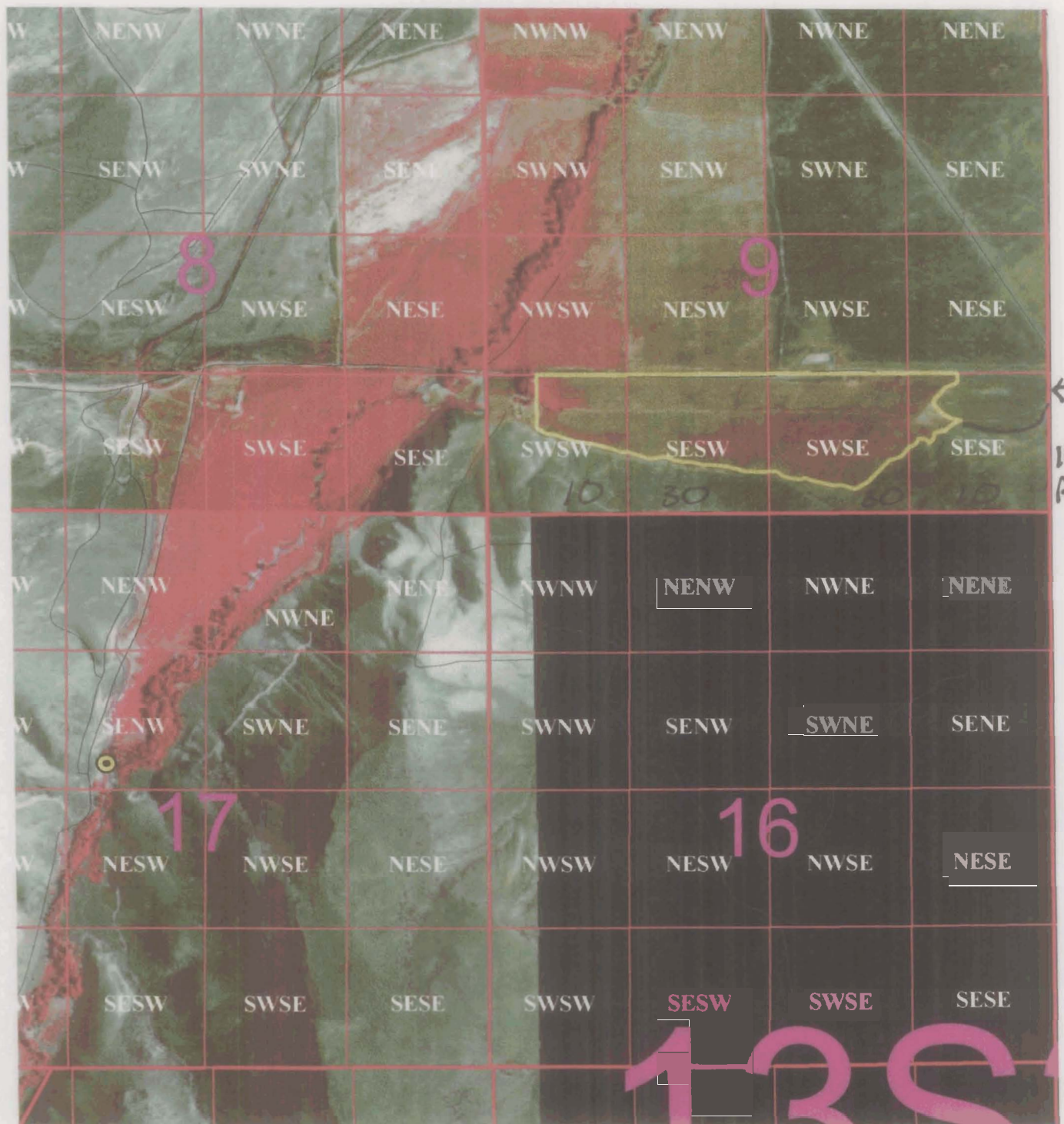
- 45-441 decreed in 1882 specifies irrigation as use in body of decree, and is claimed for irrigation use in the SRBA, therefore season of use is 3/15 to 11/15
- 45-421 does not specify use but is claimed in the SRBA only for irrigation use therefore season is 3/15 to 11/15.

There is nothing in either decree that refers to year-round use. Mitton may base year-round use on a clause in the decree regarding the use of excess water by Isachson for any beneficial use (see file). Isachson's use was given no water right number, point of diversion or place of use but the judge did specify that the priority date for Isachson's right was May 1905, which is senior to Cranny's and Oakley Canal's rights. If Mitton wishes to file for Isachson's right and claim a beneficial use other than irrigation he would have to file an additional claim, show some proof that he is successor to Isachson, and some proof that the right has been delivered by the water master.

If Mr. Mitton wishes to assert a claim to year round stockwater, he would need to file an additional claim based upon beneficial use, as the 1892 decree specifically states water not used for irrigation is to be left in the stream, and the 1905 decree references the 1892 decree. But since the Mitton's POD from Cottonwood Creek is approximately a mile from his property, it is unlikely that he would be able to convey the small amount for use as stock water that distance outside of the irrigation season.

Rights 45-421 and 45-441 total 2.8 cfs for use on 80 acres. No combined limits are included in my recommendation as it is apparent that the 1905 decree awarded excess water to users above and beyond that previously decreed to them in 1892.

Township, 13S21E



900 0 900 1800 Feet



1987

9

1992

16

9

1962
~~1961~~

16

OWNER CODE	NAME & ADDRESS	PRIORITY		USE PERIOD		DIVERSION	DIVERSION
		DATE	WATER USE	FROM	TO	RATE	VOLUME
C	DELROY MITTON	05/01/1885	IRRIGATION	01-01	12-31	0.800 CFS	
C	SIDNEE MITTON						
	BOX 231						
	OAKLEY ID 83346						
	(208) 862-3645						
				TOTAL DIVERSION:		0.800 CFS	
				CONSUMPTIVE USE:			240.00 AFA

Water Source: COTTONWOOD CREEK

Tributary to: DRY CREEK

Stage: DECREED

Point(s) of Diversion: T13S R21E S17 SWSNW CASSIA County

Place of use Legal Description for: IRRIGATION																																																																	
NE												NW								SW								SE																																					
NENE				NWNE				SWNE				SENE				NENW				NWNW				SWNW				SENW				NESW				NWSW				SWSW				SESW				NESE				NWSE				SWSE				SESE					
T	R	S	:	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	:	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	:	Lt	Ac	Lt	Ac	Lt	Ac	:	Lt	Ac	Lt	Ac	Lt	Ac	:	Lt	Ac	Lt	Ac	Lt	Ac	:	SUM																						

13S 21E 9 :																												10				30				:															30				10				:			80.0			

WR5809NP
No. 45-00441

IDAHO DEPARTMENT OF WATER RESOURCES
WATER RIGHT PROFILE REPORT

DATE: 01/19/00
PAGE: 8

OWNER CODE	NAME & ADDRESS	PRIORITY DATE	WATER USE	USE PERIOD FROM TO	DIVERSION RATE	DIVERSION VOLUME
C	PETER ANDERSON	05/01/1885	IRRIGATION	00/00 00/00	0.800 CFS	
TOTAL DIVERSION:					0.800 CFS	

Water Source: COTTONWOOD CREEK

Tributary to: DRY CREEK

Stage: DECREEED

Place of use Legal Description for: IRRIGATION

NE				NW				SW				SE												
T	R	S	:	NENE	NWNE	SWNE	SENE	:	NENW	NWNW	SWNW	SENW	:	NESW	NWSW	SWSW	SESW	:	NESE	NWSE	SWSE	SESE	:	SUM
13S	21E	9	:					:					:					:						

Pou County: CASSIA

Other Water Rights Listing Overlapping Place(s) of use:
45-00421

Remarks: GEN P. U. VERIFIED BY CASSIA CO. ABSTRACT CO. 4-21-1982, JES

Dates:	App. Received:	Priority Date:	05/01/1885
	Proof Due Date:	Proof Made Date:	
	Exam Made Date:	Exam Sent to S.O.:	
	Licensed Date:		

Misc: Water District Number: 45K Field Exam Fee:

Audit: 02/11/86 05/28/88 CONVERT

In the District Court of the Fourth Judicial District of the State of Idaho
in and for the County of Cassia

A. V. Caldwell, Jr. et al

Plaintiffs

vs.

Peter Anderson

Defendants

This cause having been heretofore tried by the court, without a jury
and the court having made its findings of fact and conclusions of law.

It is now ordered adjudged and decreed, that the following parties
are entitled to divert from the Cottonwood Creek the amount of water herein
indicated and the right of each party dates from the time hereinafter stated
and set opposite each name, to-wit:

45 0436 John Iverson Twenty (20) inches March 31, 1872

45 0437 John Iverson Forty (40) inches April 30, 1882

45 0438 William Rivers Seventy-five (75) inches March 31, 1872

45 0439 William Poulton Twelve (12) inches March 31, 1872

45 0440 William Poulton Twenty-five (25) inches Apr. 30, 1887

45 0441 Peter Andersen Forty (40) inches May, 1, 1885

45 0442 J. F. Hansen Thirty-five (35) inches April 30, 1882

45 0443 L. Rose Thirty-five (35) inches Aug. 31, 1882 Trans. 11 3/4" x 29 1/2"

45 0444 H. S. Hampton Three Hundred twenty (320) inches Apl, 11, 1887

45 0445 It is further ordered adjudged and decreed, that A. V. Caldwell Jr.

J. H. Caldwell and J. F. Caldwell are jointly entitled to divert from the
said Cottonwood Creek one hundred sixty inches of water, said right dating
from the first day of April 1871, but the said right shall only be used
between the 1st day of April and the 10th day of June in each year,
for irrigating purposes, and the said A. V. Caldwell Jr., J. H. Caldwell
and J. F. Caldwell and each of them are hereby enjoined from diverting or using
in any manner any part of the said water right, after the 10th day of June, in
each year, and before the 1st day of April in each year hereafter for any purpose

It is further ordered adjudged and decreed, that J. J. Mabey and H.
Sessions are entitled to use from the waste waters flowing from the ditch

1892 Decree
states that
water not
used for
irrigation
is to remain
in channel
with no
diversion
allowed

Caldwell - v - Anderson 1892

of L. Rose the amount of water herein indicated, and their said rights dates from the time hereinafter stated and set opposite their respective names, to-wit:

45 0446. J. Mabey Eighty inches April 30-1882

45 0447H. Sessions Ninety Inches April 30-1882

It is ordered adjudged and decreed that the several quantities of water herein decreed, shall be the quantities hereinbefore named, measured at the point of diversion under a four inch pressure, and that the first appropriation in point of time is first in right, and all appropriations of equal, or of, the same date are of equal right, subject however to the limitations hereinbefore named.

It is further ordered adjudged and decreed, that in case of insufficiency of water to supply all parties the entire volume is to be devoted to and used by those appropriators who are first in point of time.

It is further ordered adjudged and decreed, that all water diverted from said stream by any party hereto shall be diverted through a box or flume so arranged and constructed as to permit of the water so diverted, being measured under a four inch pressure, and when the waters of the stream is not used for irrigation of lands all waters shall be returned to the natural channel of the stream, and no diversion thereof allowed.

It is further ordered herein that the following named defendants be, and they and each of them are hereby forever enjoined, from in any manner interfering with and from diverting the waters or any part thereof from the said Cottonwood Creek, viz Wm. Tolman, John Carson Jr, J. A. Carson, D. Johns H. Wells, John Cooper and Lenora Poulton

It is further ordered adjudged and decreed that the amount of water herein decreed to the several parties aforesaid shall be measured as follows, The owner or owners of each ditch shall construct a box or flume of two inch plank, Sixteen and one half feet long and of sufficient width and height to carry the amount of water herein awarded to such parties, in a substantial manner, and place the same at the head of such ditch upon permanent and substantial supports, the lower end of said flume, to be three eighths of an inch lower than the upper end, the water to run through said box without any obstruction the water in said box not to be at any time at a greater depth than nine inches at the head gate in said box or flume and that no person or persons shall receive or

divert any of the waters of said Cottonwood Creek except through said flume or box the amount in inches under a four inch pressure to which party is entitled to be indicated by the number of squareinches in the cross section of the water measured 8-1/4 feet below the gate in said flume.

It is further ordered adjudged and decreed that any and all parties to this action and their successors and assigns, and each of them are hereby perpetually enjoined from diverting or interfering with any of the waters of said Cottonwood Creek except in the quantity and in the order, and in the manner in which they and each of them are herein decreed to be entitled thereto.

March 19, 1892

C. O. Stockslager

District Judge

Entered herein April 11, 1892

H. T. Brown
Clerk

By George Chapin

State of Idaho }
County of Cassia } ss

I, Joseph Y. Haight, Clerk of the District Court of the Fourth Judicial District of Idaho in and for Cassia County do hereby certify that the foregoing 3 sheets of typewritten matter is a full, true and correct copy of the decree in an action entitled A. V. Cauldwell, Jr., et al, vs. Peterson Anderson, the original of which is now on file in my office.

In Witness whereof I have hereunto set my hand and affixed the seal of said Court, at Albion, Idaho this 27th day of April, 1903.

Jes. Y. Haight

Clerk of the District Court of
the Fourth Judicial District of Idaho
in and for Cassia County

(SEAL)

Cauldwell-v-Anderson 1892