

5. Description of existing diversion works (Dams, Reservoirs, Ditches, Wells, Pumps, Pipelines, Headgates, Etc), including the dates of any changes or enlargements in use, the dimensions of the diversion works as constructed and as enlarged and the depth of each well. Water is diverted from Thomas Creek by a dam and reservoir into a ditch (pipeline) which conveys water to the place of use described herein.

6. Water is claimed for the following purposes:

(both dates are inclusive)

(cfs)

(acre feet)

For Irrigation purposes from 3-1 to 11/15 amount 2.4 or _____

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

7. Total quantity claimed (a) 2.4 (cfs) and/or (b) _____ (acre feet)

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

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

10. Description of place of use:

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

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

TWP	RNG	SEC	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	S W	SE	
16N	12E	16										.5	9.5						10.0
16N	12E	17													1.6			6.2	7.8
16N	12E	20	14.0			.2													14.2
16N	12E	21						11.0											11.0

Total number of acres irrigated 43

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

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

13. Describe any other water rights used at the same place and for the same purposes as described above.
77-7081 (permit) or None ()

14. Remarks:

Water right permit no. 77-7081 was filed in 1979, in part, to cover the Irrigation water right previously established by posted notice and beneficial use, and claimed herein. This claim is supported by the report entitled "Middle Fork Lodge Irrigation, Hydropower and Hot Water Rights," and exhibits attached thereto, which is contemporaneously filed in support of the claimant's Notices of Claim of for a 1939 priority hot water right and a 1938 priority hydropower right.

Last Name _____

Ident No. _____

15. Basis of Claim (check one) Beneficial Use _____ Posted Notice X License _____ Permit _____
 Decree _____
 If applicable provide IDWR Water Right Number _____
 Court _____ Case Number _____ Decree Date _____
 Plaintiff v. Defendant _____

16. Signature (s)

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

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

Signature of Claimant (s) _____ Date _____

_____ Date _____

For Organizations: I do solemnly swear or affirm that I am President
 of Middle Fork Holding Company _____, that I have signed the foregoing
 document in the space below as President of Middle Fork Holding Company
 and that the statements contained in the foregoing document are true and correct.

Signature of Authorized Agent _____

Title and Organization President, Middle Fork Holding Company Date 9/13/05

State of Idaho/or New York)
 County of New York) SS.

Subscribed and sworn (or affirmed) before me this 13th day of SEPTEMBER, 19 2005

Notary Public _____

Residing at _____

My Commission Expires _____

IRENE K. LAIRD
 Notary Public, State of New York
 No. 24-4679545
 Qualified in Westchester County
 Certificate Filed in New York County
 Commission Expires July 31, 2006

17. Notice of Appearance:

Please Print Name

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

Signature _____

Address 455 South Third Street, Boise, Idaho, 83702

Date 9/14/05

Last Name _____

Ident. Number _____



State of Idaho

DEPARTMENT OF WATER RESOURCES

Northern Region, 1910 Northwest Blvd. Suite 210, Coeur d'Alene, Idaho 83814-2615

Phone: (208) 769-1450

Fax: (208) 769-1454

Web Site: www.idwr.idaho.gov

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

October 24, 2005

Dan Steenson
Ringert Clark
Box 2773
Boise, ID 83701

RE: 77-14218, 77-14219 & 77-14220

Dear Mr. ^{Dan}Steenson:

Enclosed are copies of our preliminary recommendations for the Middle Fork Holding.
The recommendations will be sent to the Court about December 2004.

Sincerely,

A handwritten signature in black ink, appearing to read 'Ken Knoblock', written over a horizontal line.

Kenneth Knoblock
Water Resources Agent

Knoblock, Ken

From: David Shaw [dshaw@eroreources.com]
Sent: Monday, October 24, 2005 9:47 AM
To: Knoblock, Ken
Subject: Fw: MFL Water Requirement

David Shaw
ERO Resources Corp
3314 Grace Street
Boise, ID 83703-5836
(208) 373-7983
(208) 373-7985 FAX
----- Original Message -----

From: [David Shaw](#)
To: [Knoblock, Ken](#)
Cc: [Dan Steenson](#)
Sent: Friday, October 07, 2005 8:27 AM
Subject: Re: MFL Water Requirement

Ken,

I figured it this way. I included the extra acreage around the buildings in the 1.20 cfs for the lower field. The only thing not included in that amount is some ditch loss for the old lower ditch.

The upper field is much steeper than the lower field and the area around the buildings, and I assumed a lower efficiency for that field plus some significant ditch losses through the upper ditch. I determined the diversion requirement for the upper field plus ditch losses to be 1.14 cfs. (Field requirement of 0.80 cfs and 0.34 cfs ditch loss).

The total of 1.20 and 1.14 or 2.34 cfs was rounded up to 2.4 cfs recognizing the ditch loss in the lower ditch had not been specifically included. I expect the upper field was irrigated with contour ditches and "wild flooding" as the term is sometimes used, resulting in an irrigation efficiency lower than the lower field and area around the buildings.

Hope this helps, let me know if you have more questions or need more information.

David Shaw
ERO Resources Corp
3314 Grace Street
Boise, ID 83703-5836
(208) 373-7983
(208) 373-7985 FAX

----- Original Message -----

From: [Knoblock, Ken](#)
To: ['David Shaw'](#)
Sent: Thursday, October 06, 2005 4:02 PM
Subject: RE: MFL Water Requirement

[Dave](#) - thank you for the chart. I didn't know that existed. That is why I had to spend most of my time in the stream channel program.

RECEIVED
SEP 15 2005
IDWR/North

MIDDLE FORK LODGE IRRIGATION, HYDROPOWER, AND HOT WATER RIGHTS

This document describes the development of the irrigation, hydropower and hot water uses and systems for Homestead Entry Survey No. 77, commonly known as the Middle Fork Lodge (fka Thomas Creek Ranch and McCall Ranch), located on the Middle Fork of the Salmon River. Thomas Creek is the source of water for irrigation and hydropower. Hot springs located on the northern portion of the property provide water for heating and potable uses. The information provided herein is based on the attached documents, photographs, histories, water use analysis and affidavits.

OVERVIEW

In July of 1897, the homesteader, James Voller, built his house and took up residence on the land. Voller laid out his homestead entry to take full advantage of the land's natural contours. The main irrigable areas were the gentle slope above his house (the "upper field"), the land around his house, to the south and east along Thomas Creek, and the benchlands that border Thomas Creek and the Middle Fork of the Salmon River (the "lower field"). He established the priority of the original right to divert Thomas Creek water to irrigate these fields on August 24, 1898 by posting his "Notice of Water Right Location" at the point of diversion, and recording the Notice with the county recorder.

The irrigation system he envisioned would take water from Thomas Creek far enough upstream to gravity irrigate as much of these areas as possible. Diverting water at the furthest possible upstream point to maximize gravity irrigation of irrigable lands was a typical practice along the Middle Fork of the Salmon River, and throughout Idaho. His location notice describes the proposed ditch as 1 ½ miles long, running from the point of diversion "in a north direction along the face of the mountain to Thomas Hot Springs and thence in a east direction to the mouth of said creek." The main ditch would run north from the diversion approximately one mile, along the hillside across federal land and Voller's homestead to the hot springs to the north of the lower field. A second branch of the main ditch would take water from approximately one-half mile to the east, along the southern boundary of the lower field to the mouth of Thomas Creek, to irrigate the southern portion of the lower field.

By 1904 Voller was diverting water "high up" Thomas Creek at the originally-intended point of diversion to irrigate his entry. Early on, Voller's vision of a single-diversion irrigation system was modified to add an additional, lower diversion, near the homestead cabin, to run water through a lower ditch to irrigate the lower field. A middle diversion was added just outside the western boundary of the entry to run water through a middle ditch to irrigate around the homestead and the north end of the lower field. The upper diversion filled the upper ditch described by Voller's location notice to irrigate the upper field, but rather than continuing around the hillside to Thomas Hot Springs to irrigate the lower field, it terminated at the northern corner of the upper field. Only the upper ditch took water from Thomas Creek far enough upstream to

convey water high enough up the hillside, to gravity irrigate the upper field.

The hillside where the upper ditch was constructed consisted of fractured rock and decomposed granite. Its capacity is estimated to have been 13 cfs. The seepage loss through this ditch may have exceeded 30%. It is estimated that the middle ditch had a capacity of 17.7 cfs. The capacity of the lower ditch cannot be calculated because of a road encroachment. Each diversion was probably capable of diverting the entire flow of Thomas Creek at its location.

The Thomas Creek Ranch, as it was known in those days, was operated principally as a residence and for agricultural purposes (various crops and stock) until the 1930s. In 1937 Tom McCall leased the property with a purchase option to construct a hunting and fishing lodge. He cut logs and generated electricity by diverting water from the middle ditch through a large pipe, down a hill, to run pelton wheels for the sawmill and a generator. He utilized the hot springs located on the northern portion of the property to heat the lodge, cabins and other buildings through radiators and to provide warm water for domestic purposes. McCall moved into the lodge with his family in 1939. He purchased the property in November of 1940, and "[b]y 1943 the lodge was a going concern." Thomas Creek water has been continuously used to generate hydropower since 1938, and the hot springs have been continuously used for heating and domestic purposes since 1939.

Soon after he purchased the property in 1965, Bill Harrah made various improvements to the irrigation, domestic and hot water systems for the property. In 1967 he installed a pipeline in the upper ditch to increase the efficiency of water use for irrigation and hydropower generation. He brought in new turbines to replace the sawmill and the generator. He laid sprinkler lines on the property to convert from gravity to sprinkler irrigation. The pipeline eliminated seepage loss, facilitated conversion to sprinkler irrigation, and enabled Harrah to consolidate the three Thomas Creek diversions for irrigation and hydropower to the upper diversion. The upper diversion and the pipeline in the upper ditch have been used continuously to the present day to deliver Thomas Creek water to the property.

Under the current, pressurized sprinkler irrigation system, a total of 43 acres are irrigated on the property. The estimated water requirements to gravity irrigate the fields are 0.80 cfs for the upper field and 0.85 cfs for the lower field. With seepage loss through the ditches, the diversion requirement to deliver water through the open ditch and gravity irrigate the upper and lower fields is estimated to be 2.4 cfs. (**Exhibit I, p. 4**, Middle Fork Lodge Thomas Creek Water Use Analysis, Dave Shaw, ERO Resources, 2005.)

These facts demonstrate the establishment, by beneficial use, of the following water rights:

1. an August 24, 1898 priority right to divert 2.4 cfs from Thomas Creek at the upper diversion (T16N, R12E, Sec. 20, SESWNE) to irrigate 43 acres from April 1 to

October 31¹;

2. a July 1, 1938 priority right to divert 3.0 cfs from Thomas Creek at the upper diversion for power from January 1 to December 31; and
3. a July 1, 1939 priority right to divert 0.30 cfs, 141.8 AFA from the hot springs located on the northern portion of the property (T16N, R12E, Sec. 17, SENESE) for heating and domestic use from January 1 to December 31.

CHRONOLOGY

- July, 1897 James Voller established actual residence on the land, and built his house. (**Exhibit A, p. 31**, “Homestead Entry, Final Proof, Testimony of Claimant,” James Voller².) The house was built where it is today, near the barn and corral below the upper field near the western boundary of H.E.S. No. 77. (**Exhibit B**, 2004 photograph of homestead with barn in the background.) For at least the next 15 years, he would leave the property only a few days at a time for supplies. (**Exhibit A, p. 31.**)
- 8-24, 1898 Voller posted notice of water right location near the point of diversion on Thomas Creek in compliance with the statutes in effect at the time. (**Exhibit C**, Recorded handwritten location notice and typed transcription; **Exhibit D**, Revised Statutes of Idaho Territory effective June 1, 1887, pertaining to water rights.) The Notice, “posted at or near the point of intended diversion,” and recorded September 3, 1898 with the county recorder, claims 20 cfs from Thomas Creek for irrigation, mining and power use at the Thomas Creek Ranch. The notice describes the proposed ditch as 1½ miles long: “Beginning at this notice of said creek, and running in a north direction along the face of the mountain to Thomas Hot Springs, and thence in a east direction to the mouth of said creek.” The notice states that Voller will “complete the work for the diversion and

¹The present diversion requirement to convey water through the pipeline and irrigate the fields by sprinkler is substantially less than 2.0 cfs. A decree for the quantity necessary to convey water through the open ditch(es) and gravity irrigate the fields is sought to allow the owner to return to such irrigation methods if necessary.

² Copies of Voller’s final proof documents and several other documents related to the homestead entry were obtained from the National Archives and Records Administration. These documents are contained in the Land Entry Case Files among Records of the Bureau of Land Management and located under Idaho Land Entry Case File 333097 for James Voller. A complete copy of this file is attached hereto as **Exhibit A**.

use of said water as aforesaid within the time required by law.”³ Since Voller had been there for over a year and rarely left the property, it is very likely that he had already initiated construction.

- 1904 As reported in “Middle Fork History,” by Joe Midmore, 1970, p. 44 (**Exhibit E**): “It was 1904. Voller and McNerney, the Buckskin Boys, were still at Thomas Creek. They had built a cabin, a two-story one no less, and a big barn. They brought water down from high up the creek and irrigated the benchlands so they could get a crop of hay.”
- 11-5-06 The land adjacent to Voller’s entry was reserved by authority of the Forest Reserve Act (26 Stat. 1103).
- 5-8-09 Voller first applied to the Department of Agriculture for a homestead entry (**Exhibit A, p. 5**, July 7, 1910 letter).
- 7-7-10 The Department of Agriculture sent a letter to the Secretary of the Interior requesting that Voller’s unsurveyed tract be opened to settlement and entry pursuant to the Act of June 11, 1906 (34 Stat. 233) (**Exhibit A, p. 5**, July 7, 1910 letter).
- 10-29-10 Voller submitted a new homestead entry application. (**Exhibit A, pp. 38-39** Homestead Entry Application).
- 11-9-10 Voller’s application was received in the U.S. Land Office in Hailey, Idaho, and suspended until the land became open for public entry on November 26, 1910. (**Exhibit F**, ledger showing homestead actions, **Exhibit A, p. 36**, notice of suspension.)
- 1-9-11 Voller’s entry was allowed. (**Exhibit F, Exhibit A, p. 36.**)
- 5-11-12 Voller submitted his notice of intention to make 5-year proof for his homestead entry. (**Exhibit F, Exhibit A, p. 15**, Notice of Intention to Make proof.)
- 7-22-12 Voller submitted final proof for his homestead entry. The proof consisted of his affidavit and the witness affidavits of Charles Batters and Frank Coleman, each prepared on July 11, 1912. (**Exhibit A, pp. 25-34.**)

³ The water right statutes in 1898 entitled the appropriator to initiate a water right by posting and recording a notice which described the quantity of water, diversion point, purpose and place of use, and diversion works. The appropriator was required to begin construction of the diversion works within 60 days after posting notice, and work diligently to complete the work in delivering the water to the place of use. Completion of the work meant “conducting the waters to the place of use” and did not require actual use in the cultivation of lands or for other beneficial purposes. Upon completion, the appropriator’s right related back to the time notice was posted. (**Exhibit D**, Sections 3160- 3167)

In his affidavit, Voller described the lands under cultivation as: “50 acres cultivated grass Timothy Clover Lucerne and garden stuff.” “Timothy about 2 ½ ton to the acre, Lucerne 3 tons per acre. Potatos about 200 bushel per acre, each year. Land cleared about 55 or 60 acres, and broken, and under cultivation.”

In his affidavit, Mr. Batters described the cultivated land as “about 50 acres cultivated in Timothy and Clover and some Lucerne and a garden and Roses. A good crop about 2 ½ tons of Timothy Perlene and about 3 or 4 tons of Lucerne per acre and a good garden crop.” Mr. Batters stated that he had known Voller and his homestead for 5 to 6 years (since 1906-1907), and that it “was in cultivation when I went there and he has cultivated it ever since.”

In his affidavit, Mr. Coleman stated: “about 50 acres cultivated in Timothy & clover and he raises a good crop each year. Land cleared about 55 or 60 acres and under cultivation some in Lucerne and garden.” Mr. Coleman stated that he had known Voller and the property for about 14 years (since 1898), that he visited the property once or twice per year during 11 of those 14 years, and that Voller had resided on and cultivated the land during that time. Like Voller and Batters, Coleman listed among the improvements a “main ditch about 3,000 ft long.”

The witness testimonies are consistent with Midmore’s report that, as of 1904, Voller was diverting water “from high up the creek” to irrigate his entry. The upper and lower fields, and the area to the south and east of Voller’s house, encompassed the majority of the irrigable lands within the homestead entry. Together, under gravity irrigation, these fields would not have comprised much more than 50 acres. (**Exhibit I**, Middle Fork Lodge Thomas Creek Water Use Analysis.) At the time, there were 11.5 to 12.5 irrigated acres in the upper field. Therefore, the cultivated area described in Voller’s homestead final proof necessarily included the upper and lower fields. (**Id.**, p. 2.)

The upper diversion and ditch were the only water delivery system that diverted water from Thomas Creek far enough upstream, and that could deliver water high enough up the hillside, to gravity irrigate the upper field. (**Exhibit J**, Guth Affidavit, ¶ 4; **Exhibit K** Cole Affidavit, ¶¶ 6, 9; **Exhibit L**, McCall Affidavit, ¶ 5; **Exhibit I**, p. 2, Middle Fork Lodge Thomas Creek Water Use Analysis.) This upper diversion and ditch correspond to the description in Voller’s water right location notice of a 1½ miles long: “Beginning at this notice of said creek, and running in a north direction along the face of the mountain to Thomas Hot Springs.” The upper diversion is located on federal land where it was originally constructed approximately a ¼ mile west of the western boundary of H.E.S. No. 77, and it is used today to divert water for irrigation and power generation. (**Exhibit K**, Cole Affidavit, ¶¶ 6, 19.) The upper ditch is also in its original location on federal land. (**Id.**) The upper ditch runs north from the upper diversion and along the hillside across federal land and across H.E.S. No. 77 along the top of the upper field to its terminus at the northern corner of the upper field. (**Exhibit J**, Guth Affidavit, ¶ 4; **Exhibit K**, Cole Affidavit, ¶ 6.)

It is not clear whether the upper ditch was originally constructed as Voller envisioned, to extend along the hillside past the upper field all the way to Thomas Hot Springs, or to branch to the east to the mouth of Thomas Creek to irrigate the lower field. Either during the original construction or some time after the upper diversion and ditch had been constructed, two more Thomas Creek diversion and ditch systems were added. A lower diversion was added near the homestead cabin to delivery water through a lower ditch to the southern and eastern and southern portions of the lower field. (**Exhibit J**, Guth Affidavit, ¶ 6; **Exhibit K**, Cole Affidavit ¶ 8; **Exhibit L**, McCall Affidavit, ¶ 6.) A middle diversion was added just outside the western boundary of the entry to take water through a middle ditch to irrigate a small field east of the homestead, a garden, apple trees, and the north end of the lower field. (**Exhibit J**, Guth Affidavit, ¶ 5 **Exhibit K**, Cole Affidavit ¶ 7.)

12-11-37 Tom McCall leased the land from F.A. Nethkin for 3 years, with an option to purchase (**Exhibit M**), and moved into the homestead cabin **Exhibit K**, Cole Affidavit ¶ 5.

1938 McCall built a small sawmill and made lumber to build a hunting and fishing lodge. He diverted water from the middle ditch, through an 18" pipe down a hill, to run a pelton wheel that powered the sawmill. (**Exhibit J**, Guth Affidavit, ¶ 5; **Exhibit K**, Cole Affidavit ¶ 11; **Exhibit L**, McCall Affidavit, ¶ 3.) Water was also diverted from the middle ditch to run a smaller pelton wheel to generate electricity for lighting in the lodge and other buildings, to run a freezer, and other electrical equipment. (**Id.**)

Water was diverted from the Middle Ditch to generate power until 1967, when the pelton wheels were replaced by turbines and the middle ditch was consolidated into the upper ditch. (**Exhibit J**, Guth Affidavit, ¶ 5; **Exhibit K**, Cole Affidavit ¶¶ 11, 16.)

As he constructed the lodge, McCall constructed collection boxes at the hot springs and installed a pipeline to utilize hot water from Thomas Hot Springs for heating and potable water use in the lodge, four cabins and other buildings, and a bath house. (**Exhibit J**, Guth Affidavit, ¶ 3; **Exhibit K**, Cole Affidavit ¶ 12; **Exhibit L**, McCall Affidavit, ¶ 4.)

1939 The McCall family moved into the lodge. (**Exhibit K**, Cole Affidavit ¶ 13.)

11-6-40 Tom McCall purchased the land from F.A. Nethken. (**Exhibit N**.)

1943 By 1943, McCall's "hunting and fishing lodge was a going concern. (**Exhibit D**, p. 76.)

12-14-54 McCall sold the property to Hugh Dean, Ken Roundy, and Howard W. Guth. (**Exhibit O**; **Exhibit J**, Guth Affidavit, ¶ 2.) The three Thomas Creek diversion and ditch systems were in use to irrigate the upper and lower fields and other areas, run the sawmill,

and generate electricity. (**Exhibit J**, Guth Affidavit, ¶ 3.) The hot water system constructed by McCall was also in use at that time. (**Id.**)

1954-1965 The owners continued to use these facilities, including the sawmill, until 1965 when the property was acquired by Bill Harrah. (**Id.**, ¶¶ 3, 5.) During this time, large radiators were added to the heating system of the lodge. The swimming pool was added in 1957, and kept full all year, as it is today, with water from the Thomas Hot Springs. (**Exhibit K**, Cole Affidavit ¶ 14.)

1965 Bill Harrah acquired and took possession of the property. (**Exhibit K**, Cole Affidavit ¶ 15.)

1967-1969 Harrah made improvements to the irrigation, hydropower, and hot water systems (**Exhibit K**, Cole Affidavit ¶¶ 16-18.)

1967 During 1967 Harrah: installed the 12" pipeline from the dam in the upper diversion to the terminus of the old upper ditch; extended the pipe across the lower field and installed risers on the pipe for sprinklers; installed and tested turbines to generate power. (**Id.**, ¶ 16.)

1968 During 1968 Harrah: installed a new main line to the lodge and other buildings from the hot springs, and started sprinkler irrigation of the lower field with water conveyed from the upper diversion through the pipeline in the upper ditch. (**Id.**, ¶ 17.)

1969 During 1969 Harrah: installed 3" line and risers down the slope of the upper field to the homestead, and began sprinkler irrigation of the upper field. (**Id.**, ¶ 18.)

By these improvements, Harrah consolidated the three Thomas Creek irrigation diversion and ditch systems into the old upper diversion and ditch system to irrigate the upper and lower fields from the one diversion originally envisioned and constructed by Voller. (**Id.**, ¶ 19.) The pipeline and sprinkler system reduced seepage loss and increased irrigation efficiency. He installed the new turbines in a small building on the hillside below the lower field to take advantage of the fall over the hill above the lower field, through the lower field and over the lower field to the Middle Fork of the Salmon River.

EXHIBIT LIST

- Exhibit A Idaho Land Entry Case File 333097 for James Voller (36 pages) obtained from the National Archives and Records Administration, Records of the Bureau of Land Management (pagination by Ringert Clark for reference to documents in the file).
- Exhibit B Photograph of Voller's original homestead house, with the barn in the background.
- Exhibit C Handwritten Notice of Water Right Location, posted by James Voller on August 23, 1898 and recorded with the Lemhi County Recorder on August 31, 1898, and typewritten transcription.
- Exhibit D Revised Statutes of the Idaho Territory, Title IX, Water Rights and Irrigation (1887).
- Exhibit E "Middle Fork History," James Midmore (1970).
- Exhibit F Ledger showing homestead actions obtained from the USDI, BLM Boise records office (several copies of the same page to show all entries).
- Exhibit G Homestead Entry Survey No. 77 Field Notes, surveyed October 30, 1911.
- Exhibit H Plat of Homestead Entry Survey No. 77 Field Notes, dated December 11, 1911.
- Exhibit I Middle Fork Lodge Thomas Creek Water Use Analysis, ERO Resources, September 9, 2005.
- Exhibit J Affidavit of William R. Guth
- Exhibit K Affidavit of Robert L. Cole
- Exhibit L Affidavit of Anna Kay McCall
- Exhibit M Lease and Option to Purchase, December 11, 1937
- Exhibit N Warranty Deed, November 6, 1940
- Exhibit O Warranty Deed, December 14, 1954

09/13/2004 MON 15:40 FAX 2083424857

RINGERT CLARK

004

NATIONAL ARCHIVES TRAIL BLAZER NATL FORM 84 REV. 3-2001

GSA Control No. 2025-0327 Expires 03-31-2005

E193149

NATIONAL ARCHIVES ORDER FOR COPIES OF LAND ENTRY FILES

(See instructions page before completing this form)

If we locate the record you request below, we will copy it for you. The cost for these copies is \$17.75.
 Indicate your preferred method of payment at the bottom of this page. There is no charge for an unsuccessful search.

SECTION A. INDICATE BELOW THE TYPE OF FILE DESIRED (Check ONE box only)

1. FILE TO BE SEARCHED ☐ GENERAL LAND ENTRY FILES ☐ COUNTY-LAND WARRANT FILES Please refer to instructions for descriptions of these types of land entry files

REQUIRED MINIMUM IDENTIFICATION OF LAND FILE - MUST BE COMPLETED ON YOUR ORDER CANNOT BE SERVICED

2. NAME OF ENTRYMAN (Last, first, middle initial) Voller, James 3. LAND LOCATED IN STATE OF Idaho 4. APPROXIMATE DATE OF ENTRY (Field date, if known)

PLEASE PROVIDE THE FOLLOWING ADDITIONAL INFORMATION FOR GENERAL LAND ENTRY FILES

PRE-1908 GENERAL LAND ENTRY FILES

POST-1908 GENERAL LAND ENTRY FILES

5. LEGAL DESCRIPTION OF LAND

SECTION NUMBER

TOWNSHIP NUMBER

RANGE NUMBER

333095

6. TYPE OF GENERAL LAND ENTRY (Check one)

☐ CREDIT ☐ CASH ☐ HOMESTEAD ACT

7. PATENT, FINAL CERTIFICATE, OR DOCUMENT NUMBER 8. NAME OF LAND OFFICE

PLEASE PROVIDE THE FOLLOWING ADDITIONAL INFORMATION FOR MILITARY BOUNTY LAND WARRANT FILES

10. YEAR OF ACT AUTHORIZING WARRANT

11. NUMBER OF ACRES

12. WARRANT NUMBER

If available, please attach one copy of the original land patent, tract book pages, Division of Land Management GLOARS listing for this land entry.

SECTION B. THIS SPACE IS FOR OUR REPLY TO YOU. PLEASE GO TO SECTION C.

☐ NO. We were unable to locate the file you requested above. No payment is required.

☐ See the attached form, leaflet, or information sheet.

☐ A search was made but an examination of the General Land Office index to private land claims in _____ did not show the requested land entry.

☐ A search was made but the Seven States Index to land entries in the public domain in _____ prior to 1908 did not show the requested entry.

☐ A search was made but the index to post-1908 land entries in the public domain did not show the requested entry.

☐ A search was made but the Records of the Bureau of Land Management (Record Group 49), including those of the former General Land Office, document only the original transfer of land from the United States to another party. Later land transactions are not recorded by the U.S. government, but by the county or state in which the land is located.

☐ A search was made but the requested Land Entry record was not found. There is a gap between file # _____ and file # _____. These files could have been missing or lost before they were accessioned by the National Archives.

DATE SEARCHED	SEARCHER	FILE DESIGNATION
9/27/04	HFC	14E3 7/16/5

Bx 10888



OFF324247
 DANIEL STEENSON
 455 S. THIRD STREET
 BOISE, ID 83702
 USA

NWCTB

Order Information (NARA use only):

Master Number: 1193258
 SOP Number: OFF00000000324247
 Order Date: 9/16/04
 Image ID: 360335
 Site ID: NWCTB





B

Notice of Water Right Location

Notice is hereby given that I the undersigned citizen of United States, County of Custer, State of Idaho have, this the 24 day of August 1898 appropriated and hereby claim the use of the waters of Thomas Creek to the extent of twenty (20) cubic feet per second, flowing at the point of intended diversion, which said point of intended diversion is particularly described as follows to wit:

Beginning at this notice of said creek, and running in a north direction along the face of the mountain to Thomas Hot Springs and thence in a east direction to the mouth of said creek.

That the special purpose or purposes for which said water is claimed is for irrigation, mining and power purposes.

The place of its intended use is Thomas Creek Ranch, 15 miles above Loon Creek, on middle Fork of Salmon River.

That the general course of the proposed canal or conduit is in a northerly direction.

The length of said proposed canal or conduit is 1 mile 1/2 one mile half.

That it is intended to complete the works for the diversion and use of said water as aforesaid within the time required by law.

A copy of this notice was duly posted at or near the point of intended diversion on the 24 day of August, 1898.

Written my hand at Thomas Creek Ranch, County of Custer, State of Idaho, 24 day of August, 1898.

Appropriation and Claimant {James Voller

State of Idaho)
) ss
County of Lemhi)

James Voller being first duly sworn, deposes and says that he is of lawful age and the appropriator and claimant of the Water Right described in the foregoing notice and whose name is subscribed thereto. That the statements in said notice are true and that the original notice of which the foregoing is a true copy , was posted in a conspicuous place at or near the point of intended diversion at _____ o'clock _____ ---the 24 day of Aug 1898.

James Voller

Subscribed and sworn to before me this

31 day of August 1898

J.D. Clough

County Recorder

Filed at the request of Jas Voller, M. J. McNerney on the 3rd day of September A. D. 1898, at 2 o'clock P.M.

Geo E. Keyes

Ex officio Recorder



Notice of Water Right Location

Notice is hereby given, that I, the undersigned citizen of United States, County of Carter, State of Idaho have, this 24 day day of August, 1898 appropriated and hereby claim the water of the water of Thomas Creek to the extent of twenty (20) cubic feet per second, flowing at the point of intended diversion, which said point of intended diversion is per boundary described as follows, to wit:

Beginning at the intersection of said creek and running in a west direction along the face of the mountain to Thomas Fork Spring extend one (1) section to the mouth of said creek that the special purpose of purpose for which said water is claimed is for irrigation, mining & power purpose

The place of intended use is Thomas Creek Ranch, 15 miles from Lown Creek, on middle fork of Salmon River

That the general course of the proposed canal or conduit is in a northerly direction the length of said proposed canal or conduit is 1 mile $\frac{1}{2}$ one mile half

That it is intended to complete the works for the diversion and use of said water as aforesaid within the time required by law.

A copy of this notice was duly posted at Bureau the point of intended diversion on the 24 day of August, 1898

Witness my hand at Thomas Creek, Ranch, County of Carter, State of Idaho, this 24 day of August, 1898

Appropriator and Claimant } James Voller

State of Idaho } S.S.
County of Lemhi }

James Voller being first duly sworn, deposes and says that he is of lawful age and the appropriator and claimant of the Water Right described in the foregoing notice and whose name is subscribed thereto, that the statements in said notice are true and that the original notice of

which the foregoing is a true copy, was pocketed
in a conspicuous place at or near the point of
intended diversion, at 10 o'clock — M. the 2d
day of Aug 1898

James Heller

Embodied & sworn to before me, this
31 day of August 1898

W. H. G.
H. H. G.

J. R. Clough

County Recorder

Filed at the request of James Heller, N. J., before me on
the 3rd day of September A. D. 1898, at 3 o'clock P. M.

Geo E. Hayes

County Recorder

3186, line 5, aft
3188, line 3, after or insert of.
3314, line 1, for entering read entitling.
3324, line 9, after on insert the.
3346, line 5, after him omit to.
3358, line 1, after person insert who.
3384, line 5, before inquisition insert the.
3504, line 9, for such read each.
3506, line 4, for and read or.
3544, line 4, for there read then.

REVISED STATUTES

OF

IDAHO TERRITORY.

ENACTED AT THE

FOURTEENTH SESSION OF THE LEGISLATIVE
ASSEMBLY.

IN FORCE JUNE 1, 1887.



BOISE CITY, IDAHO:
PRINTED FOR THE TERRITORY.
1887.

provided, must be paid by the party making the application: *Provided*, That if the applicant before the commencement of such proceedings, has tendered to the parties owning or occupying the lands or mining claims, a sum equal to or more than the amount of damages recovered, all of the costs and expenses must be paid by the party or parties owning the lands or claims affected by such right of way, and who appeared and resisted the claim of the applicants thereto.

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TITLE IX. WATER RIGHTS AND IRRIGATION.

CHAPTER I. WATER RIGHTS.

SECTION

3155. Rights to water may be acquired by appropriation.
3156. Appropriation must be for a useful purpose.
3157. Point of diversion may be changed.
3158. Water may be turned into natural channels.
3159. First in time, first in right.
3160. Notice of appropriation.

SECTION
3161. Diligence in appropriation.
3162. Completion defined.
3163. Doctrine of relation applied.
3164. Forfeiture.
3165. Ditches, etc., heretofore made.
3166. Rights of present claimant.
3167. Recorder to keep book in which to record notices.

SECTION 3155. The right to the use of running water flowing in a river, or stream, or down a cañon or ravine, may be acquired by appropriation. Right to water, now acquired, Act Feb. 10, 1881.

Sec. 3156. The appropriation must be for some useful or beneficial purpose, and when the appropriator or his successor in interest ceases to use it for such a purpose, the right ceases. Appropriation to be for useful purposes.

Sec. 3157. The person entitled to the use may change the place of diversion, if others are not injured by such change, and may extend the ditch, flume, pipe or aqueduct by which the diversion is made, to places beyond that where the first use was made. Point of diversion may be changed.

Sec. 3158. The water appropriated may be turned into the channel of another stream and mingled with its water, and then reclaimed; but in reclaiming it the water already appropriated by another must not be diminished. Water may be turned into natural channels.

Sec. 3159. As between appropriators, the one first in time is the first in right. First in time, first in right.

Sec. 3160. A person desiring to appropriate water must post a notice in writing in a conspicuous place at the point of intended diversion, stating therein: Notice of appropriation.

1. That he claims the water there flowing to the extent of (giving the number) inches, measured under a four inch pressure, and accurately describing the point of diversion;

2. The purpose for which he claims it, and the place of intended use;

3. The means by which he intends to divert it, and the size of the flume, ditch, pipe or aqueduct in which he intends to divert it; a copy of the notice must, within ten days after it is posted, be recorded in the office of the Recorder of the county in which it is posted.

Sec. 3161. Within sixty days after the notice is posted, the claimant must commence the excavation or construction of the works in which he intends to divert the water, and must prosecute the work diligently and uninterruptedly to completion, unless temporarily interrupted by snow or rain. Diligence in appropriating.

Sec. 3162. By "completion" is meant conducting the waters to the place of intended use. Completion defined.

Sec. 3163. By a compliance with the above rules, the claimant's right to the use of the water relates back to the time the notice was posted. Doctrine of relation applied.

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SEC. 3164. A failure to comply with such rules deprives the claimants of the right to the use of the water as against a subsequent claimant who complies therewith, except as provided in the next section.

SEC. 3165. All ditches, canals, and other works heretofore made, constructed, or provided, by means of which the waters of any stream have been diverted and applied to any beneficial use, must be taken to have secured the right to the waters claimed, to the extent of the quantity which said works are capable of conducting, and not exceeding the quantity claimed, without regard to or compliance with, the requirements of this chapter.

SEC. 3166. Persons who have heretofore claimed the right to water, and who have not constructed works in which to divert it and who have not diverted nor applied it to some useful purpose, must, after this Title takes effect, and within ninety days thereafter, proceed as in this Title provided or their right ceases.

SEC. 3167. The Recorder of each county must keep a book, in which he must record the notices provided for in this Title.



CHAPTER II.

RIGHT OF WAY FOR DITCHES.

SECTION 3180. Right of land owners.
3181. Land owners entitled to right of way.
3182. When right of way is refused, to petition County Commissioners.
3183. Oath of appraiser: must hear proofs and make certificates.
3184. Rights of riparian owners.

SECTION 3180. All persons, companies, and corporations, owning or claiming any lands situated on the bank or in the vicinity of any stream, are entitled to the use of the waters of such stream for the purpose of irrigating the land so held or claimed.

SEC. 3181. When any such owners or claimants to land have not sufficient length of frontage on a stream to allow the requisite fall for a ditch, canal, or other conduit on their own premises for the proper irrigation thereof, or when the land proposed to be irrigated is back from the bank of such stream, and convenient facilities otherwise for watering of said lands cannot be had, such owner or claimants are entitled to a right of way through the lands of others, for the purposes of irrigation; *Provided*, That in making, constructing, keeping up, and maintenance of ditch, canal or conduit, through the lands of others, person, company, or corporation, proceeding under this title, and those succeeding to the interests of such person, company or corporation, must keep such ditch, canal or other conduit in good repair, and are liable to the owners or claimants of the lands crossed by such work or aqueduct for all damages occasioned by the overflow thereof, or resulting from any neglect or accident (unless the same unavoidable) to such ditch or aqueduct.

SEC. 3182. In case of the refusal of the owners claimants of any lands through which such ditch, canal or other works are proposed to be made or constructed to

Ditches, etc., heretofore made.
11 sec., 268-9.

Rights of present claimant.

Recorder to keep book.

Right of land owners.
11 sec., 269.

Land owners entitled to right of way.
11 sec., 269.

To keep conduit in good repair.
Damages.

When right of way is refused.
11 sec., 269.

Oath of appraisers.
11 sec., 270.

To hear proofs, etc.

Subscribe and record certificate.

Right of riparian owners.
11 sec., 271.

Right of way.
11 sec., 271.

SEC. 3183. The said appraisers must, before entering on duties of their office, take an oath to faithfully and impartially perform the duties as such appraisers, and make a just award of the amount of the compensation to be paid for the right of way over and use of the lands to be taken by such ditch, canal or other conduit. They must hear the allegations and proofs offered by the respective parties, and after viewing the lands and premises, ascertain the compensation which, in their judgment, it is proper to make to the parties owning or interested in the lands to be crossed for the use of the same, and for such, if any, on account of injury to other portions of land of any owner or interested party, after making allowance and deduction for real and direct benefits to such owner or party interested will derive from the use of such ditch, canal, or other works. The appraisers, or a majority of them, must subscribe such certificate, and the same must be recorded in the office of the Recorder, and upon the payment of the compensation, if any, or the tender thereof to the proper parties, in the absence of such parties from the county, upon deposit of the amount in the county treasury to the credit of the said party, the persons, company, or corporation, petitioners have the right of entry upon and of the proposed ditch, canal, or other works.

SEC. 3184. All persons, companies and corporations, having the passory title or right to lands adjacent to a stream, have the right to place in the channel of, or on the margin of the same, dams or other machines for the purpose of raising the waters thereof to a level above the lands; and the right of way over and across such lands, for conducting said waters, may be acquired in the manner prescribed in the last two sections.

SEC. 3185. Where the owners of any spring, or the appraisers thereof, or of any stream, desire to conduct the waters thereof to any lands for purposes of irrigation, or to

any city or town for the use of the inhabitants thereof, or to any factory, or to any distant place, with the intent to apply the same to a beneficial use, and to accomplish such object, it is necessary to cross with ditches, flumes or other conduit, the lands owned or occupied by others than the owners or appropriators of such spring or stream, the right of way over and across the lands of others for conducting said water may be acquired in the manner above provided.

SEC. 3186. The owners or constructors of ditches, canals, works, or other aqueducts, and their successors in interest, using and employing the same to convey the waters of any stream or spring, whether the said ditches, canals, works or aqueducts be upon the lands owned or claimed by them, or upon other lands, must carefully keep and maintain the same, and the embankments, flumes, or other conduit, by which such waters are or may be conducted, in good repair and condition, so as not to damage or in any way injure the property or premises of others.

SEC. 3187. Nothing in this chapter contained must be so construed as to interfere with or impair the rights to water appropriated and acquired prior to the passage of this chapter; but this reservation in behalf of existing rights does not exempt such appropriators from liability as provided in the last section.

SEC. 3188. In case the volume of water in any stream is not sufficient to supply continually the wants for irrigating purposes of the owners or proprietors of land in any district or neighborhood in which customs exist, for distributing the waters amongst such owners or proprietors, under the direction or supervision of persons recognized by the community interested to have authority therein, the waters diverted must, in such case, be held to be a common right in those accustomed to a participation in the use and enjoyment of such distribution, and such customs must be upheld in all courts as conferring such common right in the same; but this section does not affect any prior vested rights.

SEC. 3189. In case any person, company or corporation has constructed a ditch for the purpose of directing the water of any river, creek, cañon, ravine or spring for the purpose of selling the water thereof for irrigating purposes, the owners or cultivators of land along the line of, and covered by said ditch or canal, are entitled to, and have the right to the use of water from said ditch or canal for the purpose of irrigating said land so owned or cultivated, in the following order: *First*. All persons through whose land said ditch or canal runs, are entitled to the use of the water thereof in the order of their location along the line of said ditch or canal. *Second*. After those through whose land the ditch or canal runs, those upon either side of the line of the ditch or canal are entitled to the use of the water thereof; those equally distant from the line of said ditch or canal, are entitled to priority in the order of their location along the line of said ditch or canal; *Provided*, That the owners or cultivators of such lands pay the usual and customary rates for the use of said water. And whenever any ditch or canal has been constructed for the purpose of conveying water and selling the same for irrigating purposes, it is unlawful for the

Ditches, etc., to be kept in good repair. 11 sec., 271.

Prior rights. 11 sec.

Insufficiency of supply of water. 11 sec., 271.

Order of right to use of water. 11 sec., 272.

owner or owners of said ditch or canal to change the line of said ditch or canal so as to prevent or interfere with the use of water from said ditch or canal, by any one who, prior to the proposed change, had used water for irrigating purposes from said ditch or canal. And it is hereby made the duty of the owner or owners of any such ditch or canal, to keep the same in good repair, and to cause the water to flow through said ditch or canal to the extent of its capacity, if so much be needed, during the entire time that water is necessary for irrigating purposes; *Provided*, That the river, creek, cañon, ravine, or spring from which the water is taken, furnishes an amount of water sufficient for such purpose, subject to the appropriation of the owner, or owners of such ditch or canal. For a failure to cause the water to flow, as aforesaid, the owner or owners, or lessees of any such ditch are personally liable to any one for any damages resulting from such failure, and in addition to such personal liability, such damage is a lien upon such ditch or canal, which lien continues in force until such damages are paid.

SEC. 3190. No person entitled to the use of water from any such ditch or canal, must, under any circumstances, use more water than good husbandry requires for the crop or crops that he cultivates; and any person using an excess of water, is liable to the owner of such ditch or canal, for the value of such excess; and in addition thereto, is liable to all damages sustained by any other person, who would have been entitled to the use of such excess of water, as fixed by this section.

Excess of water, use of. 11 sec., 273.

Repair of ditches.

CHAPTER III.

DISTRIBUTION FOR IRRIGATION.

SECTION 3200. Water districts; water master, election of, bonds of, etc. 3201. Water master for private ditch. 3202. Duties of water master.

SECTION 3203. Repair of ditches. 3204. Headgates and dams. 3205. Liability for opening gate or cutting ditch.

SECTION 3200. Any vicinity or neighborhood the inhabitants of which use the waters of any ditch, stream, or spring for the purpose of irrigation, or have, or claim a common right to the waters of any ditch, stream, or spring for such purposes, constitute a water district, and a majority of such inhabitants having such common right may annually, on the fourth Monday of March, at a meeting of such inhabitants, elect a water master for their district, whose duty it is to superintend the distribution of such waters among those having such common right, or accustomed to participate in such common use. The water master of the district, or if there be no water master, or upon his failure or neglect so to do, any six residents of the district entitled to such common right, must give three days' public notice of the time and place of such election, by posting written or printed notices thereof in three of the most public places in the water district. Said meeting must be opened at ten o'clock in the forenoon, and the majority of those present who are entitled to such common right, may organize the same and determine the manner of such election, and whether the same be by ballot or otherwise. The water

Water districts, 11 sec., 273.

§32, Chap. III. Laws '85 174, 185.

Water master.

Election of water master.

MIDDLE FORK HISTORY

by

Joe Midmore

with photos by

Ken Adams

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MIDDLE FORK HISTORY

I — THE SCENE

The geologist describes it as part of the Middle Rockies physiographic province, of which the core is the Idaho Batholith, a mighty intrusion of granite which was forced up through earlier mountains.

Here, where the hulking granite encompasses parts of four Idaho counties — Custer, Valley, Lemhi and Idaho — stand the Salmon River Mountains, second largest mountain block in the state.

The Salmon River — which residents call the Main Salmon or the Big Salmon — is the main tributary of the Snake River, which in turn is the main tributary of the Columbia. Flowing north and east for 130 miles to join the Main Salmon is the Middle Fork of the Salmon River, a mighty stream in its own right.

The Middle Fork rises at 7,000 feet and falls to 3,900 feet at its confluence with the parent stream. From its beginning, where Bear Valley Creek and Marsh Creek merge, until it meets the Main Salmon, Middle Fork gathers the waters of a hundred tributaries. Rapid River,

with its tributary creeks, stretches fifty miles long. Loon Creek is twenty-five miles long. Camas Creek is twenty miles long.

The Middle Fork was the original "River of No Return", but that colorful nickname now belongs to the Main Salmon.

Many of the mountains within the Middle Fork drainage area rise well above 9,000 feet, while some which divide it from adjoining basins top 10,000 feet. So the fall from the surrounding heights to the river in its gorge averages 4,000 feet, creating incredible scenery and presenting travel requirements which most people never experience and can barely imagine.

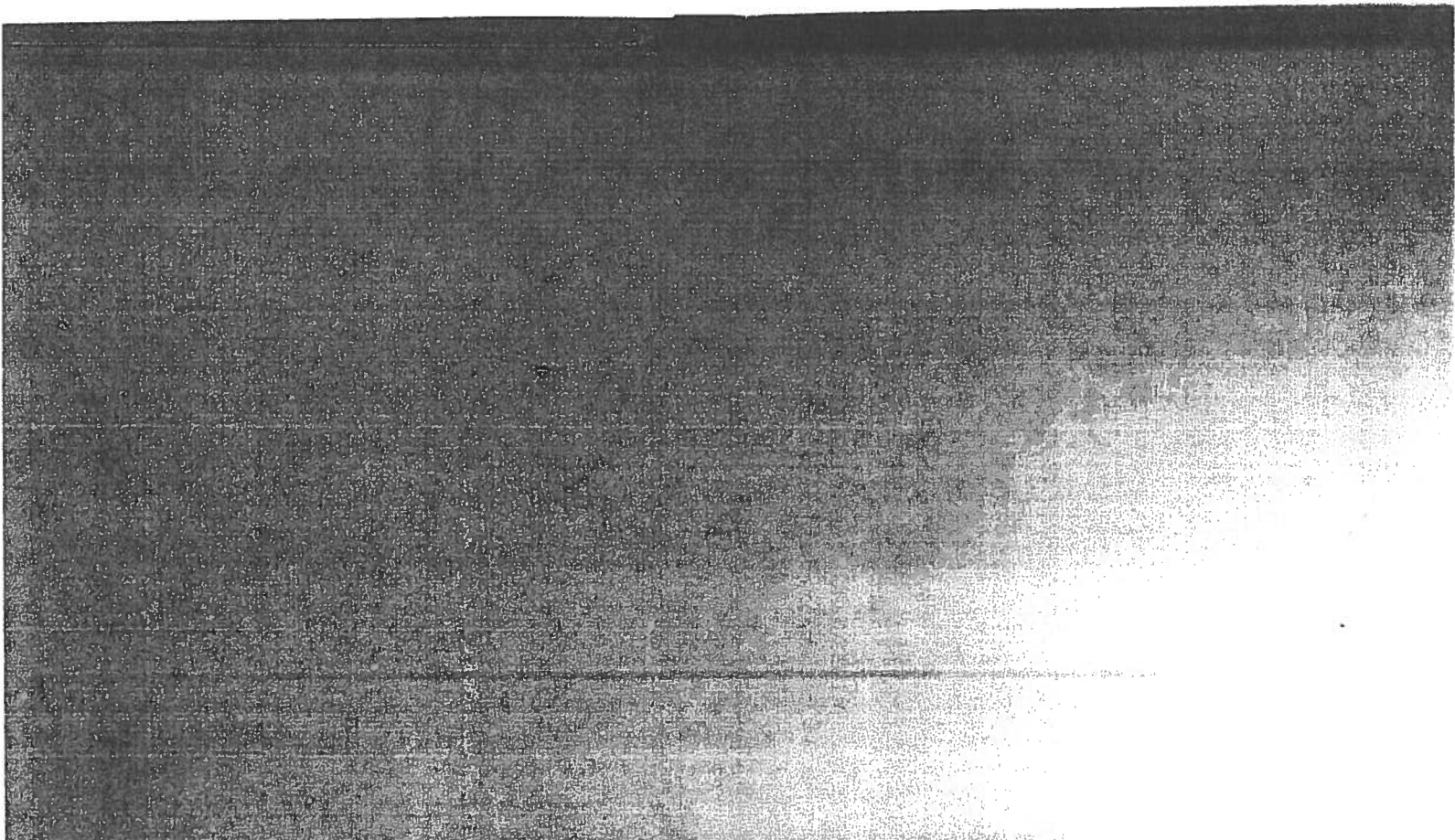
Some 2,500 square miles in area, not a single public road crosses the land. A few vehicular roads, open only in summer, reach just beyond the edges to mines and forest camps. But to travel deep into the area there are only pack trails or the Middle Fork itself.

It is a mountain vastness clothed in Douglas fir, Lodgepole and Ponderosa pine and Englemann spruce. Where there is insufficient moisture, sagebrush is the cover. Aspen border the creeks.

Deer abound in the Middle Fork and there are elk, mountain goats, bighorn sheep, bear

and mountain lions. Salmon, steelhead and several species of trout run in the river.

For all its remoteness and inaccessibilities, man has roamed the Middle Fork for hundreds of years. Indians? No one knows for sure how long but there are signs that they used it for a hunting area and their cave writings are easily found. Trappers? There was little of Idaho which they didn't cover between 1810 and 1850. Beaver and marten were still being taken from the Middle Fork for fifty years after that. Miners followed the trappers and, as one old timer recalls, "since before the turn of the century, wherever there was room to whip a dog, someone had settled."



II — THE INDIANS

The word "tuku" is from a Shoshonean dialect and means mountain sheep. "Arika" means to eat. Together these two words gave a tribe of famed hunters the name Tukuarika — the Sheepeaters. Their territory was the great central Idaho wilderness.

To the white Idahoans of the middle and late nineteenth century, as to most of the West's settlers, any Indian who refused to recognize the white man's right to the land was a bad Indian. And as the Indian wars neared their close, the few who continued to hold out were termed renegades. Those few Sheepeaters were considered bad remnants of the Bannacks and the Lemhis.

Only in the past few decades have archaeological studies shown that the Sheepeaters were a distinct tribe, possibly Idaho's oldest permanent settlers. In the broad, easily accessible valley of the Snake to the south, a variety of tribes moved in and out over the centuries as climate and hostile neighbors forced them to keep on the move.

But in the mountainous Middle Fork region, evidence indicates Indians inhabited the caves and hunted the water courses for hundreds,

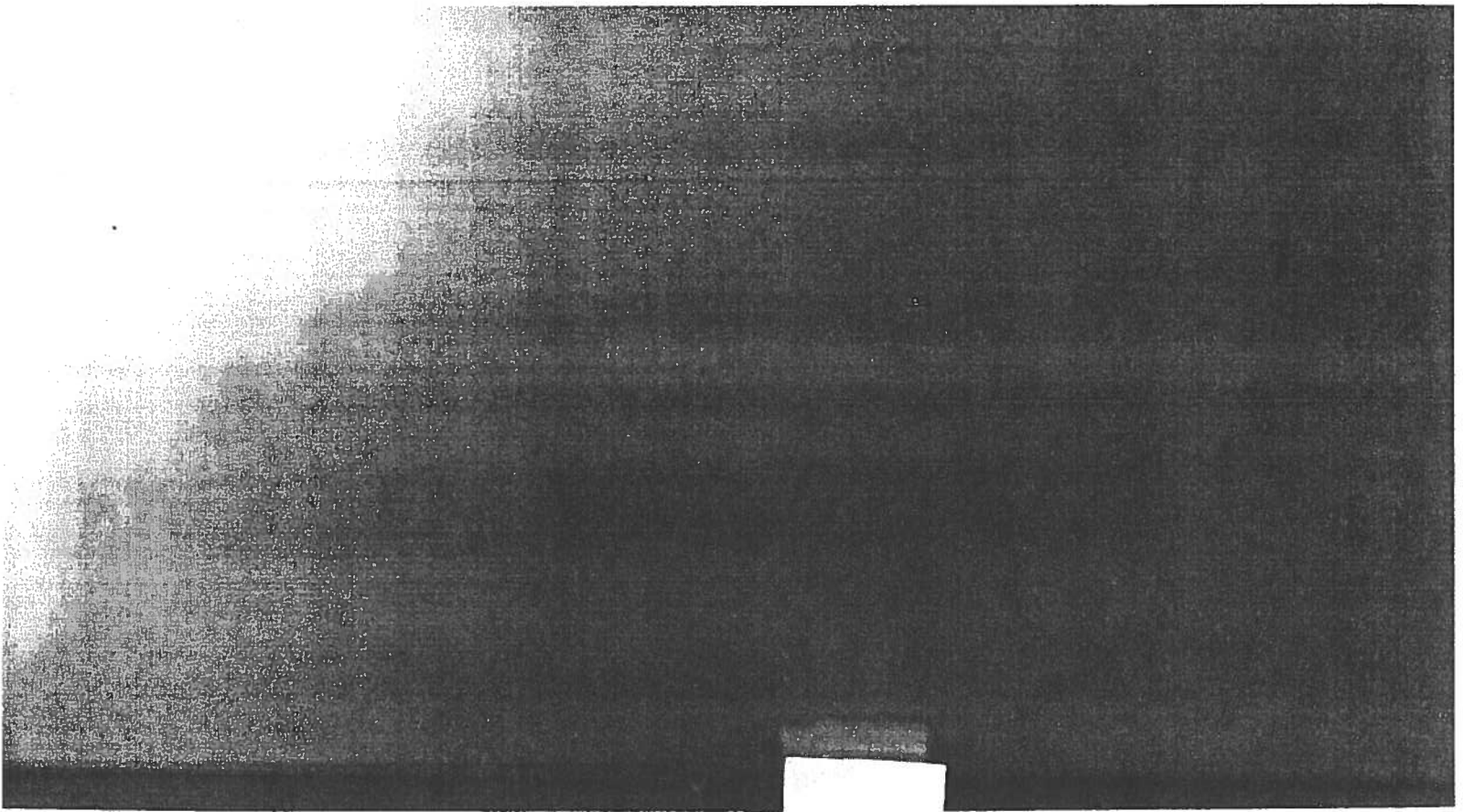
possibly thousands of years. It could have very well been the Sheepeaters and their direct ancestors over the entire period.

The Sheepeater hunting method, at least for deer and elk, is described by William H. (Bill) Woolley of Lower Stanley as one of waiting rather than hunting. Woolley says their hunting pits may be found on the tributary creeks of the Middle Fork.

"If you know the habits of wild game", Woolley explains, "you know they don't go right down to the mouth of a creek to cross the creek or to drink. They will come down the hillside and cross the creek and go back up on the other side in a kind of V-shaped path. They start upstream at the top of the canyon, moving down the hillside and downstream, crossing a little above the creek mouth and then going back uphill and upstream on the other side.

The game wear trails in this way.

Now, despite what you hear about Indians 'hunting', they didn't do much of what we think of as hunting, at least not in this part of the country. They knew where the game trails were, where to find them, and they built shooting pits near them, semicircular rock walls three or four feet high, and they would wait



behind these for the game to come along. They were very patient and they would wait for hours.

They would think it was stupid to go out and hunt game as we do, walking for hours over the hills, all that hiking when you can let the game come to you."

Bill Woolley tells about one of the last of the roving Shoshone bands, who had become peaceful citizens but still followed their ancient ways as much as possible. There was a family headed by an aged Bannack named White Bear. He had grown up in the Twin Falls area of Idaho, and Woolley first met him at West Yellowstone. Woolley had moved to the Stanley Basin on the main Salmon in the summer of 1920 and found White Bear and his family camping there.

"He used to come here with his son-in-law, Johnny Williams, and Johnny's wife, White Bear's daughter. I would put him up and give him a place to keep his horse because I liked him and I liked to hear his stories.

He told me how the Bannacks used to spend the whole summer in Stanley Basin. They camped about ten miles up, at Pless Ranch (northwest of Stanley in a valley now known as the Cow Camp).

The salmon run was a big draw that brought them here. They would fish for salmon and they would hunt and they had horse races. And something that people now would think was terrible, they would set the woods afire to make heavy smoke to keep the horseflies off their ponies."

The Bannacks and their neighbors, the Lemhis and Snakes who occupied the valleys of eastern and southern Idaho, had horses, early obtained from their Shoshonean relatives of the Plains, the Comanches. But for the Sheep eaters, isolated in their mountains and hunting different game from the buffalo, the horse was a later acquisition. It is probable their use of firearms also was delayed, for the Sheep eaters were noted for their skill with the bow and arrow long after guns were in the hands of the others.

III — ARRIVAL OF THE WHITES

It was on August 12, 1805, that Meriwether Lewis reached the summit of Lemhi Pass and gazed westward into the depths of the Lemhi and Salmon River valleys. Scouting ahead of the main group led by himself and William Clark, Lewis probed the Salmon River Mountains which guarded the most direct route to the west.

As he surveyed the forbidding land, Lewis, through his Indian guides and interpreters, made inquiries about the chances of getting horses for the savage journey into the mountains. By the time he was joined by Clark on August 29, he was ready to recommend a swing to the north. The Nez Perce who inhabited that country had horses and would likely trade them. And the trail to the Clearwater River was known to Indians as one they could use — the Lolo Trail. The Salmon River route was discarded as too treacherous to attempt. They returned the way they had come in 1806.

Then, three years later, came the first of what were to be described as the "most romantic characters ever to enter the land between the Rockies and the Cascades." The trappers and traders who roamed the territory for the

next forty years.

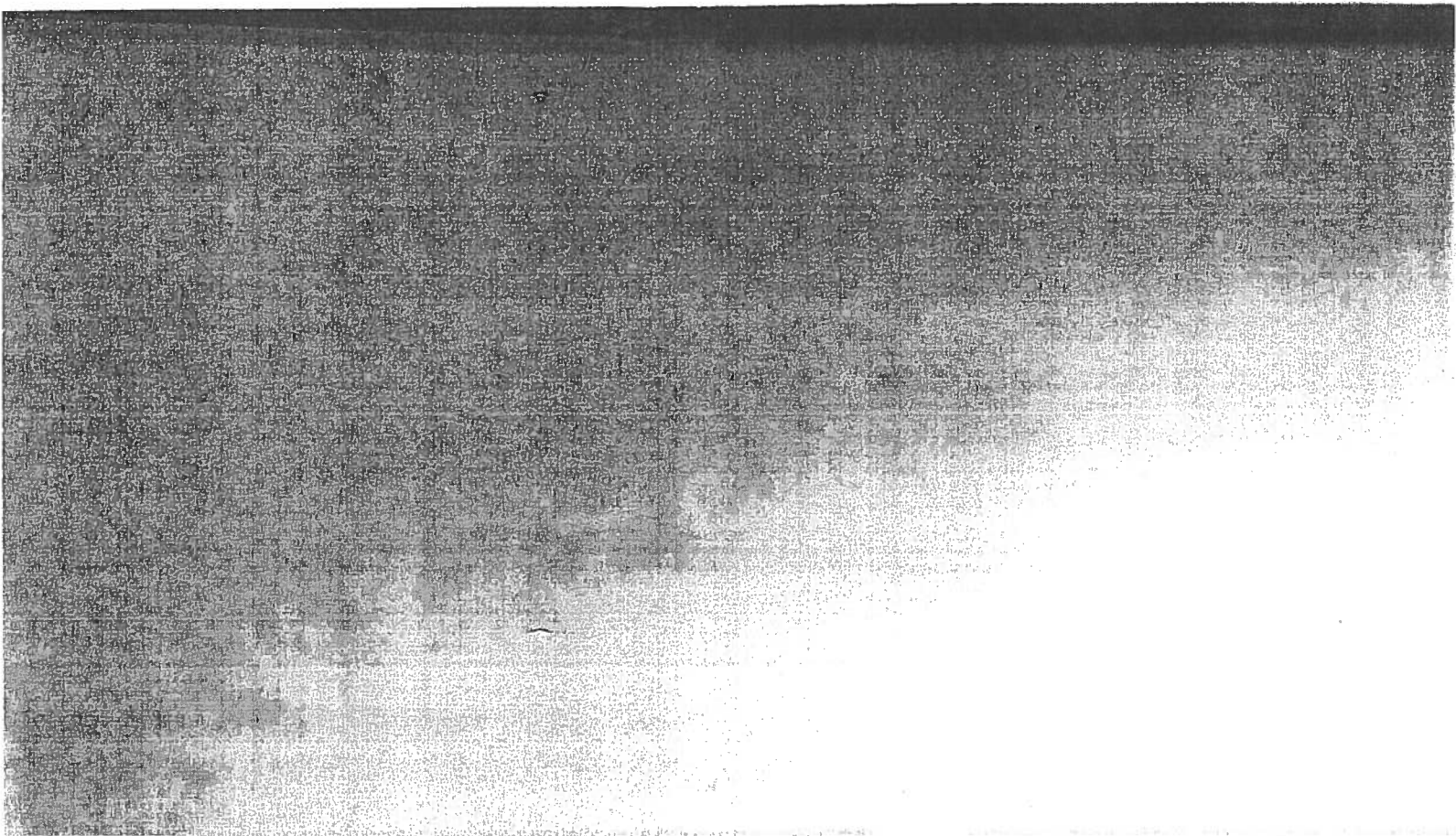
Agents of the Hudson's Bay Company and the North West Fur Company in Canada and of the American-owned Rocky Mountain and Missouri Fur Companies led brigades of trappers in and built posts. The trappers spread out along every river and stream, and Peter Skene Ogden boasted that the British companies, in sixteen years from 1812, took 85,000 beaver from the Snake River country.

There is no history of these trappers in the Middle Fork area but they must have been there. It was good game country.

By the early 1840s most of the beaver, otter, mink and muskrat were gone from the streams and most of the trappers moved on.

Some stayed to guide others through the areas they had learned to know so well. Jim Bridger and Jedediah Smith were two whose fame as guides for immigrant trains was to grow greater than their fame as trappers.

Kit Carson and Thomas Fitzpatrick were retained by Captain John C. Fremont to aid him in a government-sponsored project. It was 1843. Travelers had been moving on horseback and foot over the Oregon Trail for some time. Soon the first wagon train rumbled along the trail led by a courageous missionary, Dr. Mar-



cus Whitman. The Fremont expedition was charged with selecting sites for a line of military posts on the long trail to protect immigrants. Southern Idaho in particular, where the trail followed the Snake River, was the scene of constant harassment by the Indians.

The projected line of forts never materialized because major use of the Oregon trail waned after five years. The massacre of Whitman and his family at their home, the discovery of gold in California and the haven offered by the Mormon settlements in Utah made the more southerly Overland Trail more attractive.

The Oregon Trail had been traveled by 200,000 people. The only ones who stayed in Idaho were those who were buried along the 500 miles between Bear River in the southeast and Fort Boise. Idaho, to the survivors, was simply a dreary, dusty, arduous and dangerous link between the Continental Divide and the coast.

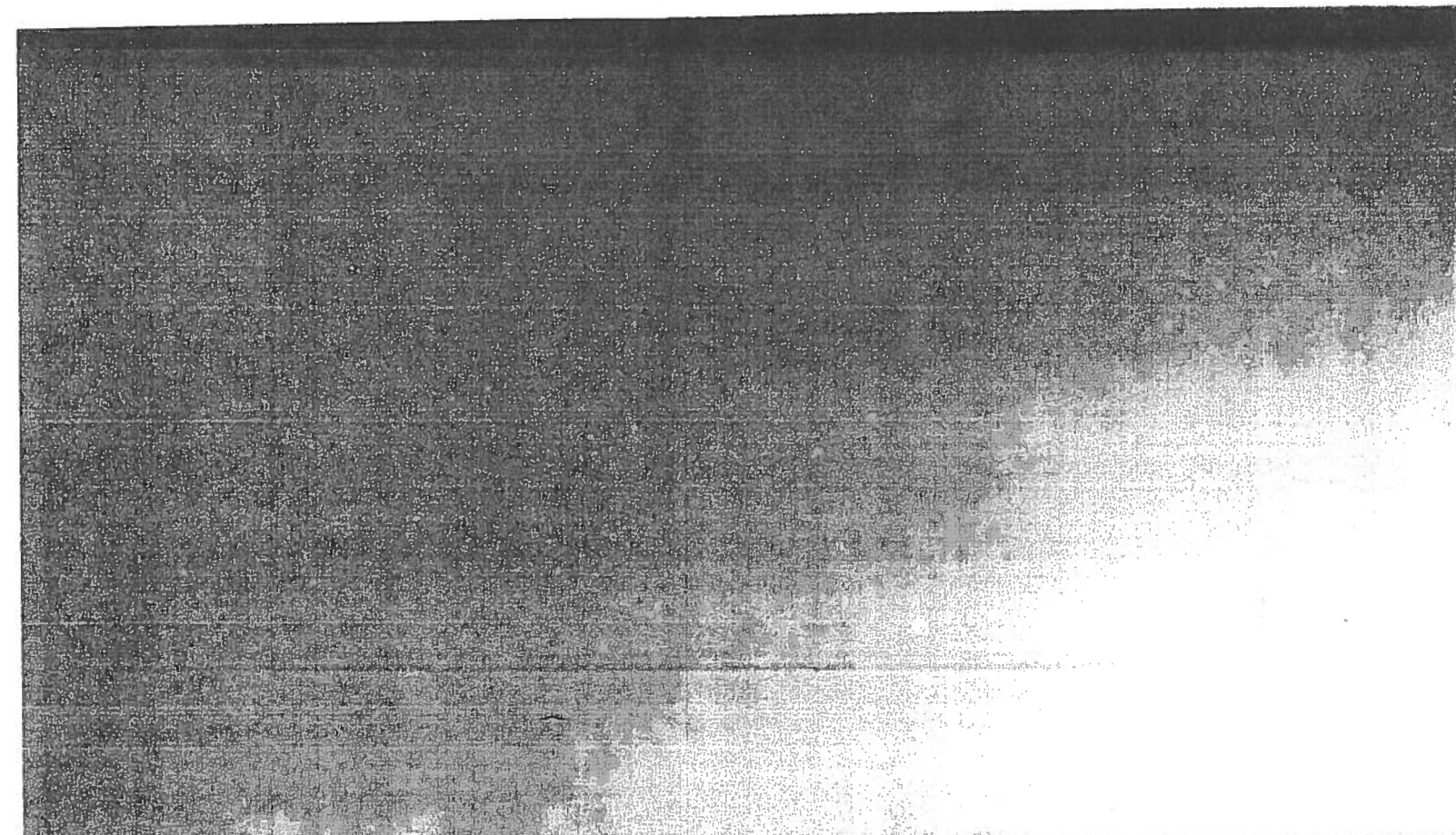
The U.S. and Britain agreed in 1846 that the 49th parallel would be the boundary between their countries.

From that date what is now Idaho was generally known as part of "Oregon Country". By 1856, trappers and travelers gone for the most

part, there were still just two places in Idaho where white men lived, Fort Hall near the present city of Pocatello and the Sacred Heart Mission on the Coeur d'Alene River, both positions held at the sufferance of the Indians.

Idaho was still primarily an unknown land. The Salmon River country, especially that of the Middle Fork, was the least known of all.

The Nez Perce name for the Salmon River was Tamonmo. It was their word for "unknown". Even the Nez Perce, who would travel all the way across the present breadth of the state, then across the main spine of the Rockies and onto the plains of Montana to trade for horses and hunt buffalo, would not willingly venture far into the forbidding land to the south of the main Salmon, the land of the Sheepeaters.



IV — THE MINERS & INDIAN WARS

In 1860 Elias Pierce led a party into the Clearwater region on a gold seeking expedition. It was five years after a council at Walla Walla had outlined the boundaries of the Umatilla, Yakima and Nez Perce reservations. The original Nez Perce reservation was made up of large parts of Idaho, Washington and Oregon, including the entire Clearwater drainage area. Many of the Indians afterward claimed they had not signed the treaties. But the United States, represented by Isaac Stevens, governor of Washington Territory and Indian superintendent, did sign and the treaties were ratified in 1859.

When Pierce attempted to enter the Clearwater region, twice he and his companions were turned back by Nez Perce patrols. Finally, led by the daughter of a Christianized Indian, they passed the patrols by stealth and arrived at a tributary of the Clearwater. There, in a stream later called Oro Fino creek, they found gold.

The rush began. A town, Lewiston, was laid out. The Nez Perce received no rent for their land, no royalties for the ore removed. They protested and the answer was, first, a fort with

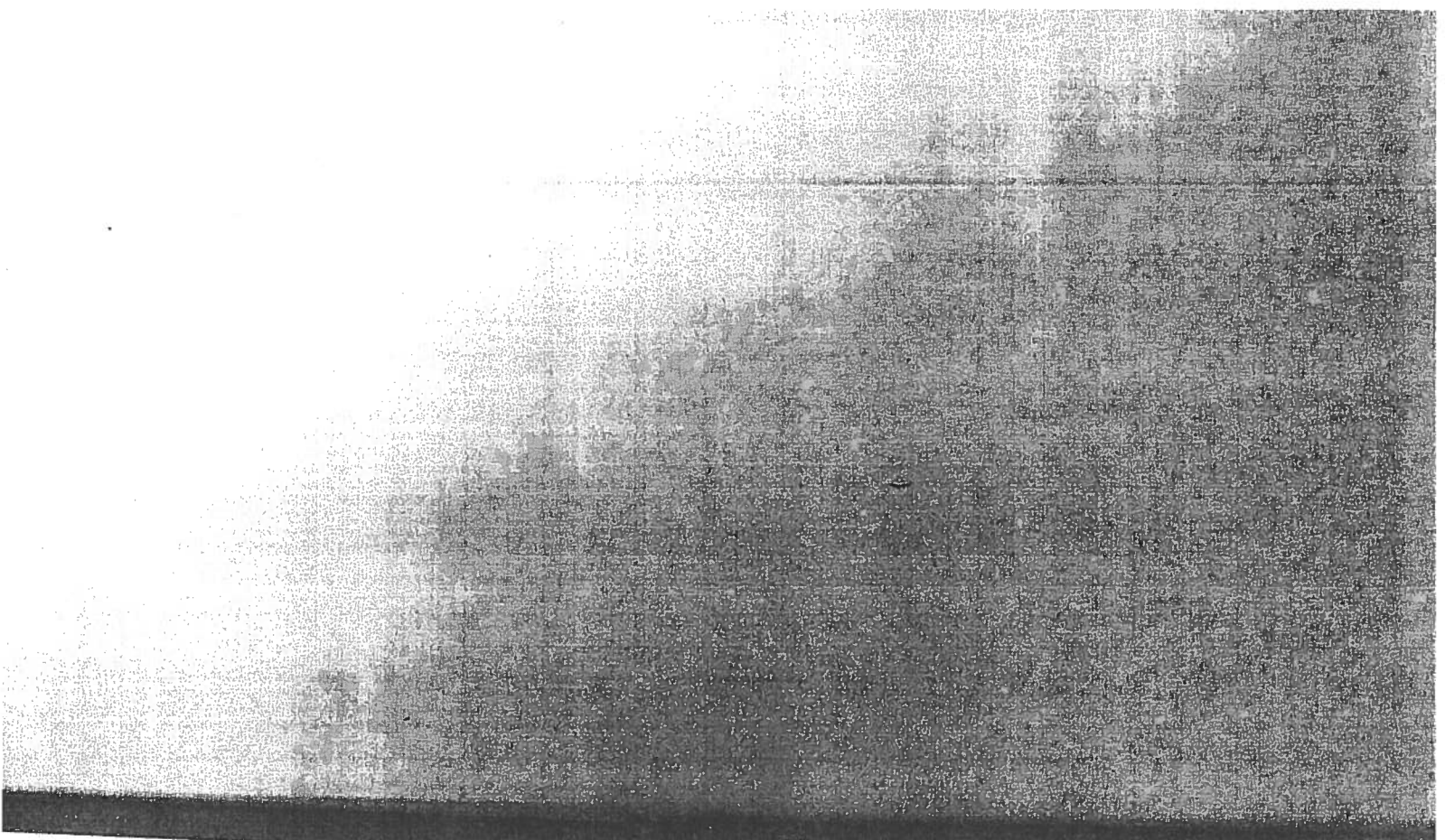
a garrison of troops to protect the miners, and second, a new treaty aimed at compressing the Nez Perce into a tiny fraction of the original reservation.

More gold was found in other areas — the Boise Basin, Silver City in Owyhee County, Florence. By 1863 the Idaho Territory was established.

1869 brought the first recorded influx of whites into the Middle Fork with the Loon Creek strike. It has been called a rich find but a Boise resident of the period thought otherwise. Thomas Donaldson, who moved to Boise City in 1869 and saw the town emptied of men when the word came in from Loon Creek, said it "proved to be ordinary diggings for Chinamen, four dollars a day at most." And it was Chinamen mostly who stayed on to mine Loon Creek and, as most Chinese miners in those years, to hoard their gold rather than spend it.

In 1876 the Sioux annihilated a U.S. Army force under Gen. George A. Custer at the Little Bighorn in Montana. It was the culmination of more than 200 pitched battles between the Army and the Indians in seven years.

So, when Young Joseph, an Indian chief, complained a year later of white men trying to take his tribe's Wallowa Valley in Oregon,



he was told that as a nontreaty Indian he had no rights and that he and his band must be on the Lapwai Reservation in Idaho in thirty days. It was June, the rivers were high and it would have been impossible for Young Joseph's group to have moved all their cattle and horses in the allotted time.

Joseph prepared to move his people east. He intended, in fact, to move all the way across Idaho into Montana and north from there into Canada where he heard Sitting Bull had found sanctuary.

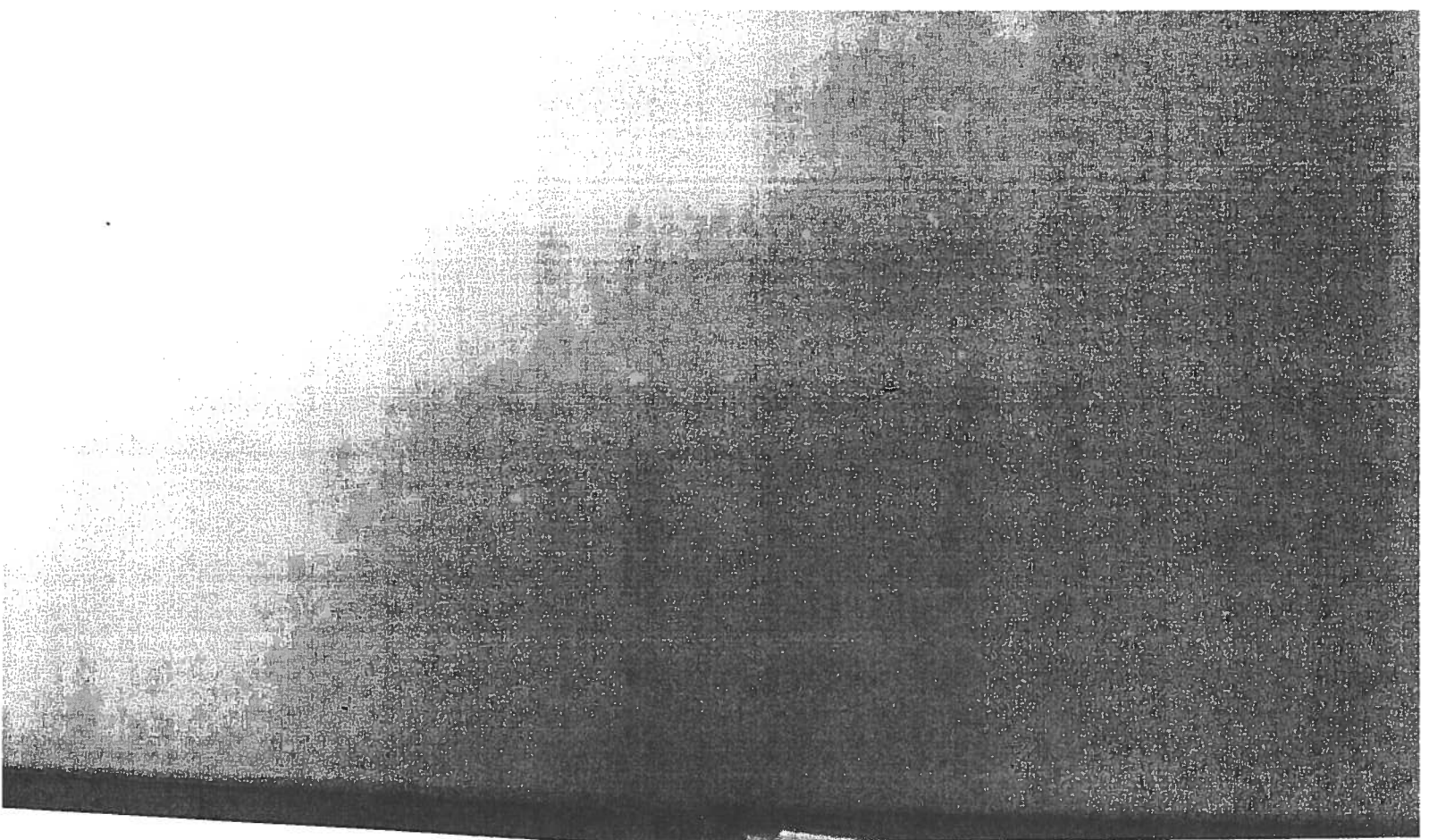
Then came the first recorded killing of white men by Nez Perce. After scores of the tribe had died at white hands the murder of four white men in retribution for an Indian death a year before led to the Nez Perce War. The Army chased portions of the tribe which remained nontreaty and non-Christian across Idaho, through Yellowstone Park and into northern Montana until, exhausted and with ranks depleted, the Nez Perce were forced into surrender in the Bear Paw Mountains.

Young Joseph's reputation as a warrior and general, built largely on the reports of Brig. Gen. O. O. Howard, is myth according to the Indians who took part. They did not deny Joseph's abilities or that he was a highly hon-

ored chief. He simply was not and did not pretend to be a great warrior and military strategist. Other chiefs among the fleeing Nez Perce were. Joseph was given charge of the aged and the women and children, a responsible position, and took part in only a few of the actual battles which ultimately choked Howard's attempts to destroy the fighting band.

The Nez Perce force never exceeded 300 fighting men. It had in tow some 400 women, children and old men. Howard had 580 regular troops eventually augmented by four separate commands before the Nez Perce surrendered. The entire Nez Perce band at the end of the war numbered 412. They traveled 1,800 miles in four and a half months, fighting battle after battle. The surrender came after a five-day siege and capture of the Indian horses by Gen. Nelson A. Miles' cavalry. Until then, the famed cavalry charge which had broken the power of the Sioux and the Cheyenne had failed to crack the Nez Perce entrenchment.

One year after the Nez Perce War came the Bannack War, a series of minor engagements in southeast Idaho which ended with the defeat of Chief Buffalo Horn. In the war during an Indian attack near the site of the present town of Mackay, the Bannacks struck at a train of



freight wagons owned by George L. Shoup. Jess McCaleb, manager of Shoup's Challis store, was killed.

Meanwhile, in August of 1878 there were reports of a "massacre" at Payette Falls, the site of the present community of Cascade. Ranches in Indian Valley were raided and stock stolen. Ranchers gave chase to the Indians and were ambushed. Three whites were killed and one severely wounded.

The Sheepeaters were blamed.

Soon after, two white men were killed in Round Valley. Again, blame was laid to the Sheepeaters.

And finally in February of 1879, five Chinese placer miners at Loon Creek were slain near the community called Oro Grande below the present Boyle Ranch. The Sheepeaters were blamed.

In later years, some who had been in the area at the time admitted they "never did think it was the Indians. All the Chinamen had of value was the gold they had hidden away and what Indians would want that, at least what Sheepeaters?", they reasoned. But, at the time, it was apparently considered unwise to suggest it might have been whites who committed the murders.

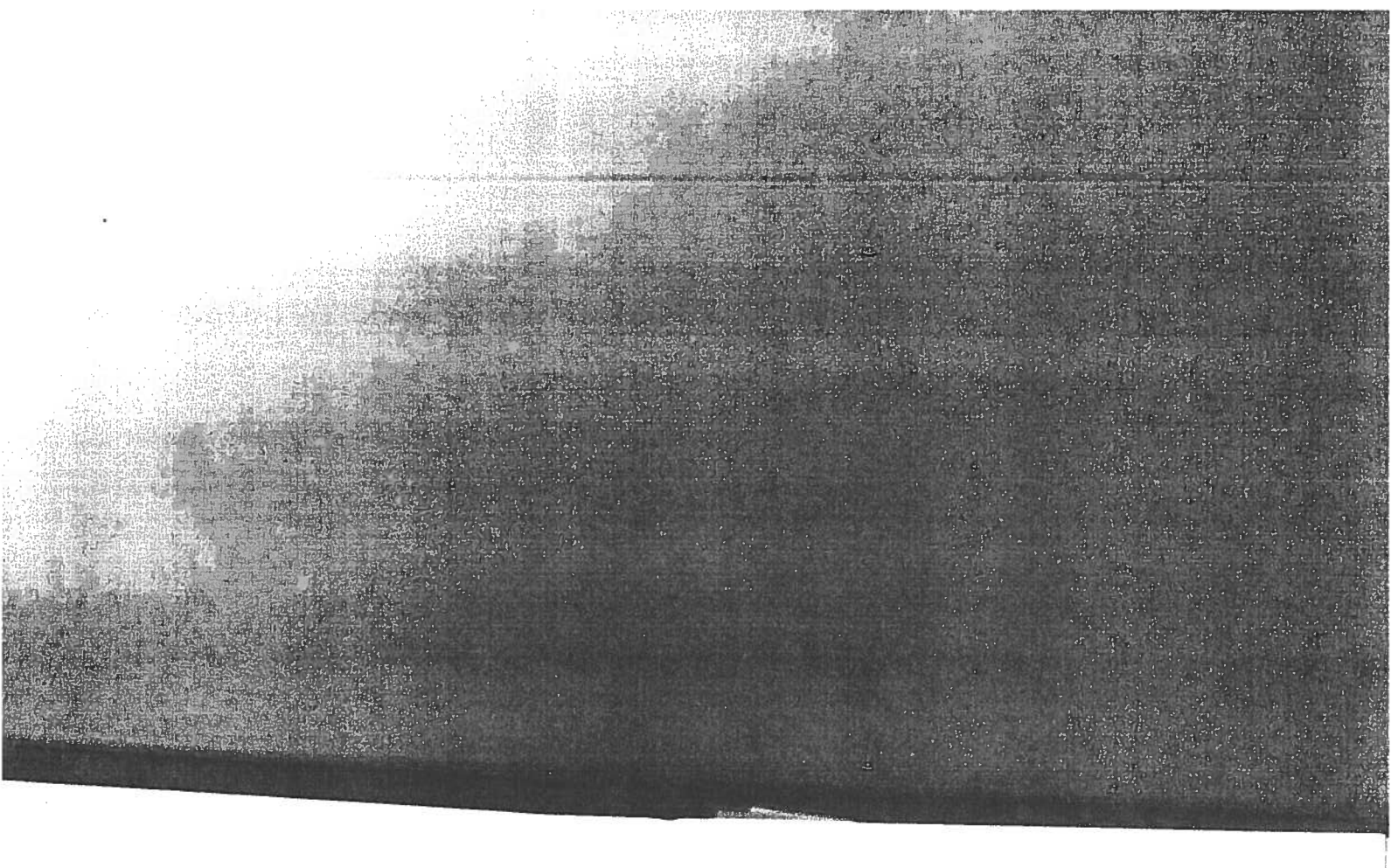
In any event, a Captain Varney, one of those who had been in the original gold rush to Loon Creek in 1869, claimed he was an eyewitness to the fight between the Indians and the Chinese. By Varney's account it was a knockdown and drag out affair and, although five Chinese were lost, they inflicted severe injuries on the Indians and eventually drove them off.

Some men from Bonanza who wandered into the Loon Creek area six months after the fight, no doubt in search of gold the Chinese might have hidden in their cabins, quaintly reported "the Celestials had been running an extensive counterfeiting operation."

The men said they found a room under the floor of one of the cabins containing crucibles, a metal mix for making spurious coins and molds for casting half-dollars.

Whether the Chinese were running a legitimate placer operation on Loon Creek or were engaged in some less than lawful endeavor, and whether it was Indians or whites who killed the five Chinese, bitterness grew among the army command against alleged Sheepeater atrocities.

By May 1, three months later, word of the Loon Creek killings reached Gen. Howard at Vancouver Barracks, the present Vancouver,



Washington. Forces were ordered out from Boise Barracks and Camp Howard, now Grangeville, Idaho. A troop of Indian scouts recruited to help in the chase marched into the Middle Fork area from the Umatilla Indian Agency in Oregon. The three forces were told by Howard to converge on Challis and operate from there. None ever reached that community.

Capt. Reuben F. Bernard and a seventy-member company of cavalry, guides and packers from Boise Barracks began their ill-fated pursuit of the Sheepeaters on May 31.

Within ten days, they had crossed over to Loon Creek and descended to Oro Grande, entering what Idaho resident Aaron Parker described as "the wildest and most impenetrable region of indescribable ruggedness and grandeur (where) lofty mountain summits alternate with abysmal canyons thousands of feet in depth along whose depths the waters of mountain torrents dash along to free themselves from their rock-bound channels."

Bernard was not given to Parker's poetic turn of phrase. He simply called the Sheepeater country "probably the roughest in the United States."

The winter of '78-'79 had been a bad one. Bernard met deep snow and swollen streams

as he struggled through the rugged terrain.

In their two-month search for Indians across the country of the Middle Fork, losing mules laden with rations and sometimes going three days without food, they never saw a Sheepeater. However, a single paragraph in the *Boise Idaho Statesman* of September 16 for that year reported, "An Indian warrior was seen at Loon Creek by Baxter and Pierce on Monday the 3rd instant after the soldiers had left."

Lt. Henry Catley from Camp Howard did see Sheepeaters and apparently wished he hadn't.

Catley led an infantry company, again with guides and packers, with orders to join Bernard at or near Challis. Like Bernard, he never reached his destination.

Catley led his troop south across the main Salmon to Burgdorf Hot Springs, then east to Warren and the Raines Ranch near the mouth of the South Fork of the Salmon. Through snow six to eight feet deep, the journey for this comparatively short distance took six weeks.

Finally, along Chamberlin Creek, his guides found fresh Indian signs.

On July 29, moving down Big Creek canyon, Catley's force was attacked and two men

wounded. Catley decided he could not dislodge the Indians, hidden in rocks above him on the other side of Big Creek, so he retreated — or at least allowed a retreat.

One of his fellow officers, Lt. W. C. Muhlenberg, reported that Catley froze under fire and seemed incapable of command. Muhlenberg, in his report, called Catley a coward and apparently a general courtmartial agreed. It found the young officer guilty of misbehavior in the presence of the enemy and sentenced him to dismissal from the service. The sentence was set aside, however, by Presidential order on a recommendation of the Judge Advocate General.

It was estimated the enemy numbered no more than twenty-seven and fired only about fifty rounds.

Catley's retreat was halted as other forces met him. The Indians, following up, burned the Raines Ranch, killing owner James Raines and wounding another man.

Bernard's force and the Indian scouts led by Second Lieutenant Edward S. Farrow joined Catley and a day later a further force from Camp Howard linked up with them. Back towards the scene of the Big Creek "battle" they went.

The first shots were fired on August 19. Indians fired on the advance scouts but ran when the scouts gave chase. No one was hurt.

The following day the Indians attacked the pack trains. Private Harry Eagan was killed before the Indians retreated and abandoned supplies all along their trail.

The Army, meanwhile, was almost at the end of its supplies and its horses were worn out. New supplies did not arrive and Bernard received permission to return his units to their bases.

But Farrow returned to the trail of the Sheepeaters. Starting from Raines Ranch on September 17, his band doggedly trailed the Indians until, in the first week of October, fifty-one Sheepeaters surrendered, apparently the last of the Salmon River band.

V — CUSTER COUNTY BEGINNINGS

The history of the fur trade in the Middle Fork region remains chiefly unrecorded. But there are records of at least one group of ten prospectors who probed for a strike from Warren Diggins near the lower end of the South Fork of the Salmon to Idaho City. That was in 1863. Somehow they swung east of a true course, through the Middle Fork area and over into the Stanley Basin on the upper reaches of the main Salmon.

It was this group who named the Stanley Basin after the oldest member of their party.

In 1869 the Loon Creek strike was made and from that time the Salmon River Mountains, despite their forbidding nature, became a prime target for prospectors. Miners, coming down from Warren and Florence and Oro Fino in the north, and stockmen from the east settled Custer County. The miners began placer operations along the countless creeks and, in some locations, quartz mining and milling.

The Yankee Fork of the Salmon River proved a rich area and the towns of Bonanza and Custer boomed into existence.

Tim Cooper, a roving placer miner, discov-

ered the Ramshorn Mine on Bayhorse Creek. But he didn't realize the value of it and he traded it for a mule, a pair of gum boots and a bay horse. "He told me," said Bill Sullivan, "that the mule died, the gum boots leaked and the only good thing about the deal was the bay horse, because they named the creek and the town of Bayhorse after it."

Bayhorse brought an onslaught of prospectors and hardrock miners. It also brought, in the nearby broad valley of the Salmon, a new village named Garden City. Later, a more practical site for a community was found four miles west and Garden City more or less picked up and moved. The new city was named for one of the pioneer residents of the valley, A. P. Challis.

Custer County, formed from parts of two of the Idaho Territory's original counties, was established in January, 1881.

George L. Shoup of Salmon, a merchant, established stores in the Yankee Fork mining area and at Challis. In 1883, with the population of Challis at 800 and the town serving as a distribution center for Bayhorse mines and surrounding ranches, the volume of trade done by Shoup's Challis store was the greatest in Idaho Territory. George Shoup, in the late '80s

and early '90s, would become the last governor of the territory and the first governor of the State of Idaho.

Bill Sullivan was the first male child born in Bayhorse. His father, Cornelius Joseph Sullivan, first entered Idaho in 1874 and spent four years as a trapper. Then he married and took jobs with crews constructing smelters in Utah and Idaho. It was the building of a smelter which took him to Bayhorse.

In 1885 he moved his family to the Custer County boom town and in 1887 his son, William Emmett, was born.

The child was less than a year old when an accident which almost snuffed out his life occurred. He was being cared for by his older brother and they were in the main street of the town when a team of horses bolted.

The older boy panicked and ran. The baby was left in the path of the runaway team which went over him, a hoof striking his forehead.

"I was to be baptized the following day by Bishop Glorieux" — the Right Rev. Alphonse Joseph Glorieux, second vicar apostolic of the Catholic mission church in Idaho Territory, later to be the first Bishop of Boise City.

"He was there and rushed into the street with the others when the accident happened. A

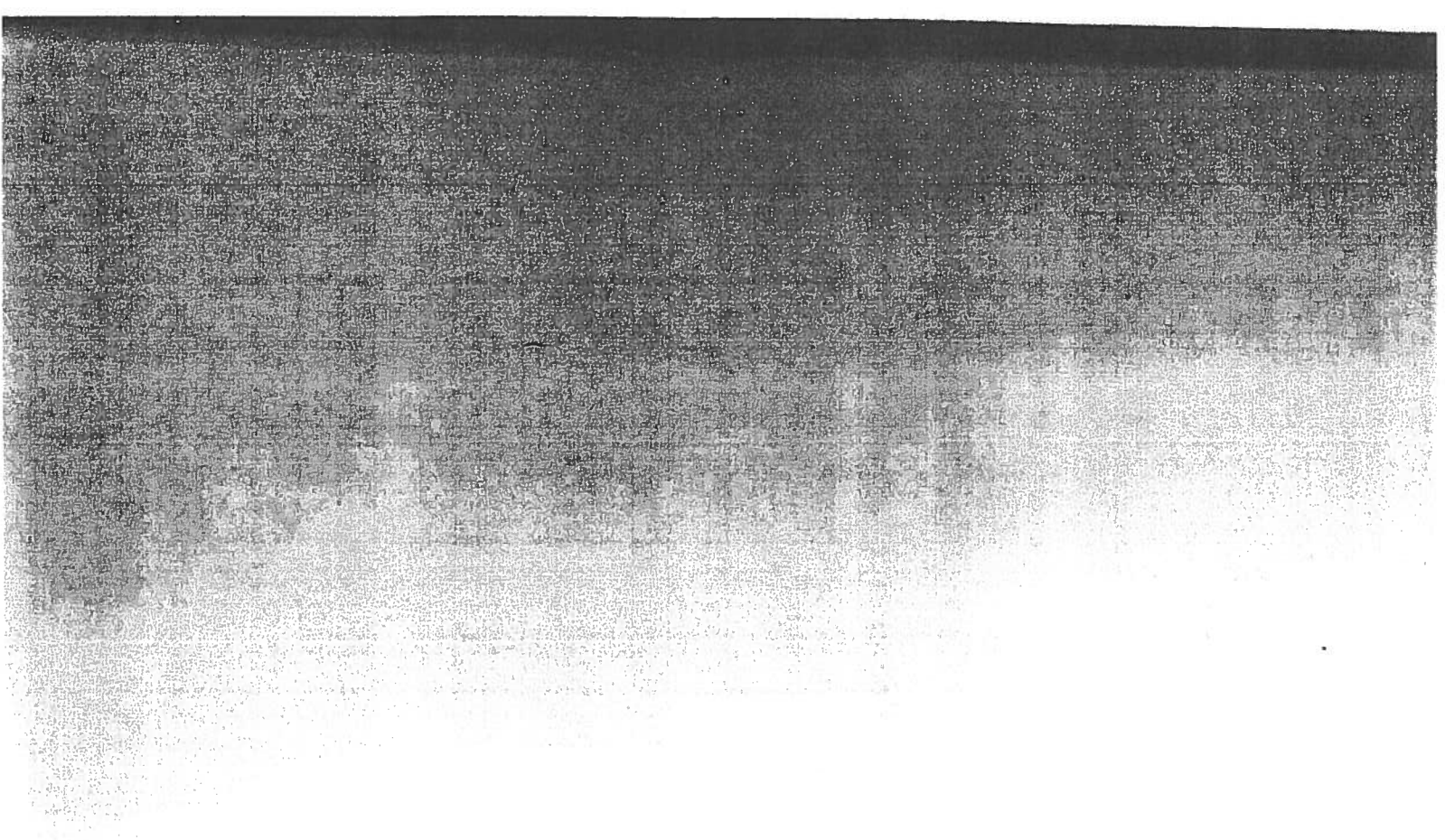
woman ran out and picked me up and she handed me to the Bishop. He thought I wouldn't survive so he baptized me right there in the street, in my own blood."

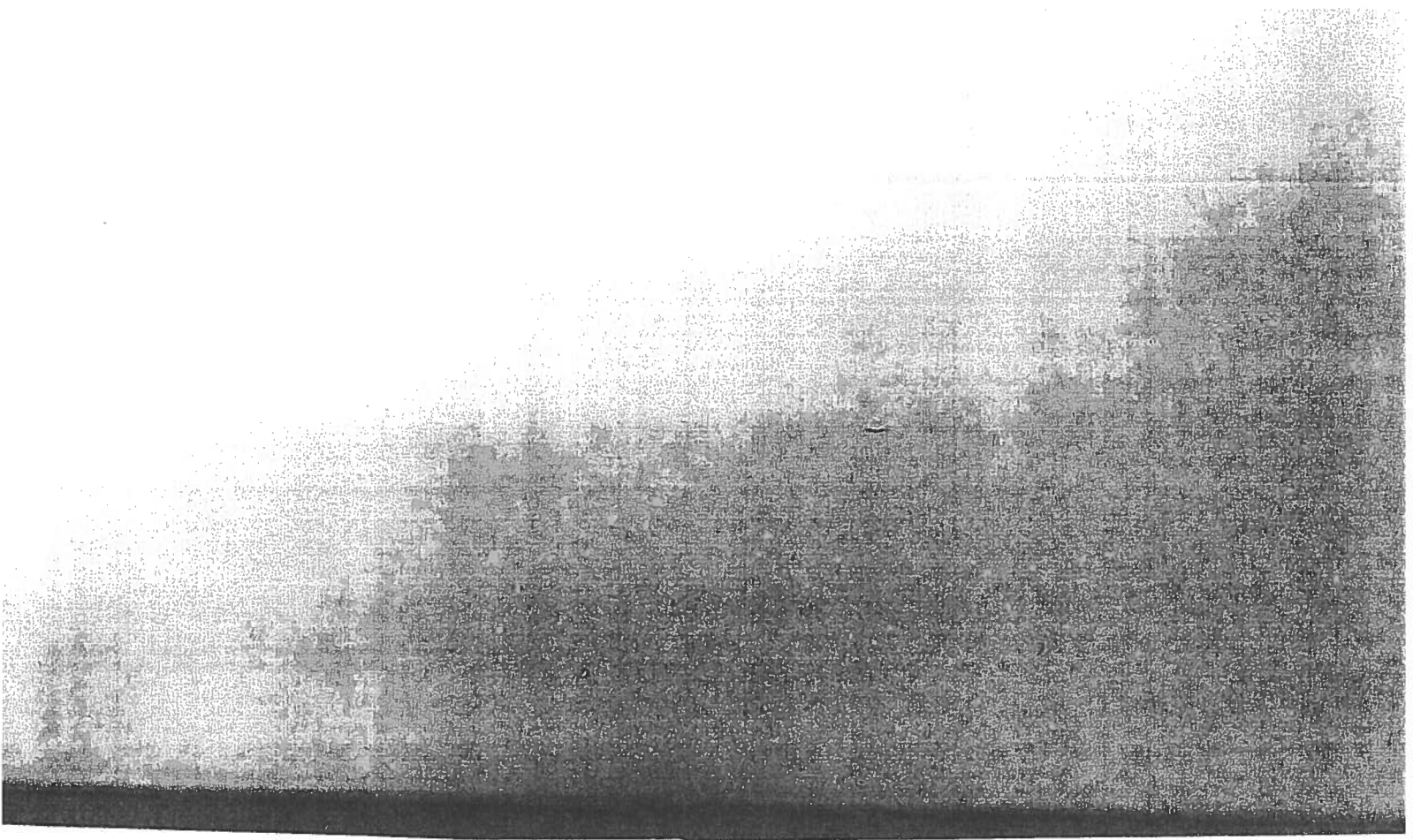
Bill Sullivan, almost 81 years old as he told the story, pointed to a scar clearly visible on his forehead.

The Sullivan family moved from Bayhorse when work on the smelter was completed. Cornelius Sullivan took property near Clayton on the main Salmon and the location became known as Sullivan Hot Springs. Sullivan Creek and Sullivan Lake in that area are also named for him.

Meanwhile, farther up the river in the Stanley Basin, one of the first whites to settle was Tim Cooper, the same placer miner who sold Bayhorse's Ramshorn mine for a horse, a mule and some leaky boots. Cooper built a cabin up Nip 'n' Tuck Creek and filed mining claims. He dug a ditch to gather water for his placer mining.

Tim arose one morning and started a fire, then picked up halters and went to get a team; he let the horses run loose above the cabin. Whenever he went out of the cabin, he took his rifle. Indians were still straggling into the country at that time, even though they were





supposed to be on reservations. He couldn't find the horses so he went back for breakfast.

On his way back to the cabin he was following the ditch, just below the bank, when he saw three Indians hiding in the ditch and watching his cabin.

He crept closer and one of the Indians adjusted his position, allowing his hind end to stick up above the bank.

Tim told later how he took aim and squeezed off a single shot, stitching it clean through both of the Indian's buttocks.

The three took off at a dead run and, said Tim, "They never bothered me again."

VI — MINING AND PACKING AND TINY FARMS

Probably the first permanent white residents of the Middle Fork region were placer miners, who went in with the news of the Loon Creek gold strike in 1869 and stayed even after the claims were mostly worked out.

There are conflicting accounts of who made the Loon Creek discovery.

The *Boise Idaho Statesman* of July 25, 1926, refers to Calvin Clawson giving credit to Nathan Smith.

Smith, according to the Clawson story, was outfitted in the spring of 1869 by Elijah Murkey, Barney Sharkey and Bill Smith, all of Leesburg, Idaho, to prospect on the headwaters of the Middle Fork of the Salmon.

After several weeks Smith and a companion reached Loon Creek. They found gold at a depth of three or four feet on a bar in the creek.

They returned, presumably to Leesburg, to share the news with their sponsors, and the word spread. Soon three mining districts were laid out along Loon Creek with some 200 claims in each.

Among those mentioned as having been in and around the town of Oro Grande were a Captain Verney, Amos Franklin, Duncan

Cameron, Sam Young, J. G. Morrison, George Ackley, Billy Grace, Johnny Garis, Pat Kinnelly, A. P. Challis, Sam Blackburn, John Murray, Tom Keenan, Job Keenan, Jack Robinson, Joel Richardson, George Harnum, Johnny Rohner, Elder Dodge, John Mullen, Terry Berran, Tom Leyden, Dick Dean, Will Norton and Jake Winzel.

Oro Grande boomed into 1870. It was situated on a high bar on the west side of Loon Creek where Grouse Creek enters.

But the good placer ground was soon worked out. By 1871 the gulch was abandoned or claims sold to the Chinese.

Another story insists the Loon Creek gold was discovered by Peter Albert and George Best.

Ned Foster told how he had the story first hand from Pete Albert.

Albert and Best abandoned their diggings in the Stanley Basin as summer arrived in 1869 and moved into the Loon Creek area. Prospecting as they went, they finally found gold a quarter mile below the junction of two large creeks on the east bank of Loon. They claimed it ran as high as \$50 per pan.

They continued down Loon, went through a gorge and past Canyon Creek, where the

town of Casto was later to be built, and kept going about three miles until Loon Creek entered an impassable gorge. They found gold all along Loon and, in a little more than a week, panned \$1,500 worth.

They headed back to Stanley.

The boys agreed that they had to be very careful not to leak word of their find before they could get on record with claims. They would go to Boise and "get everything fixed up."

They vowed to stay off liquor in the meantime. Best reminded Albert that with a few drinks "we'll sure as hell tell all we know."

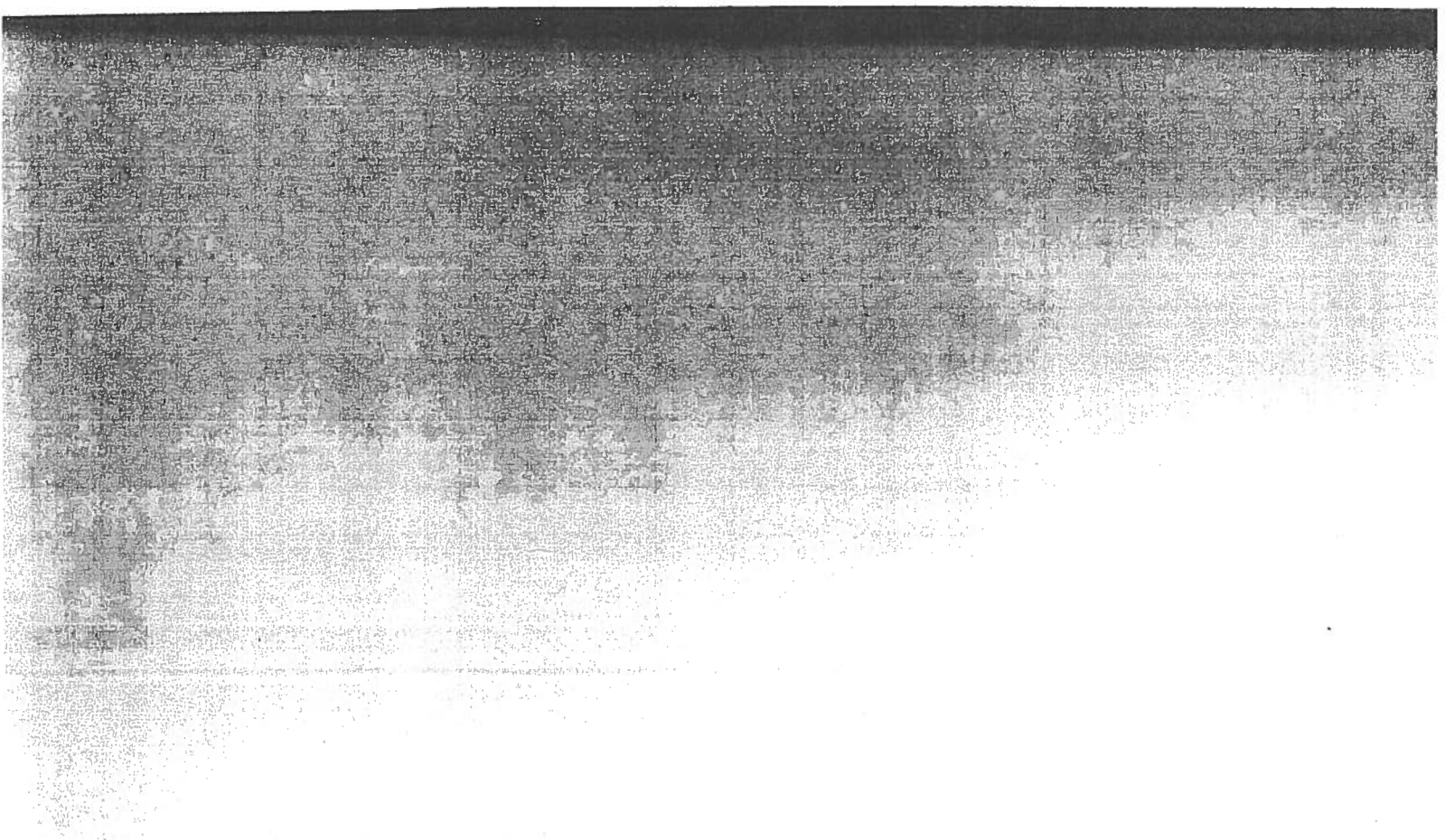
They got back to Stanley, didn't drink and soon left again for Boise.

But people in Stanley figured if that pair of gusty prospectors wasn't drinking, it meant only one thing. Pete and George had come onto something rich.

Meanwhile, in Boise their resolution not to drink weakened. Pete and George drank and spent and talked.

They returned to Loon Creek in September.

Their friends in Stanley had backtracked their trail into Loon Creek. Others arrived later from Boise and from wherever else the news had spread.



Pete and George found every available foot of decent ground staked and the town of Oro Grande already in existence at the confluence of Grouse and Loon Creeks.

Albert, despite the turn of events, stayed.

He and George Boden hung on even after everyone else sold out to the Chinese.

They weren't partners. They had cabins about 200 yards apart near the mouth of Canyon Creek.

Albert died about 1913 and his friends gathered to bury him under the porch of his house.

Boden, aging, took a job as watchman at a nearby mine, the Lost Packer, later moved to Bonanza and finally to Challis, where he died about 1930.

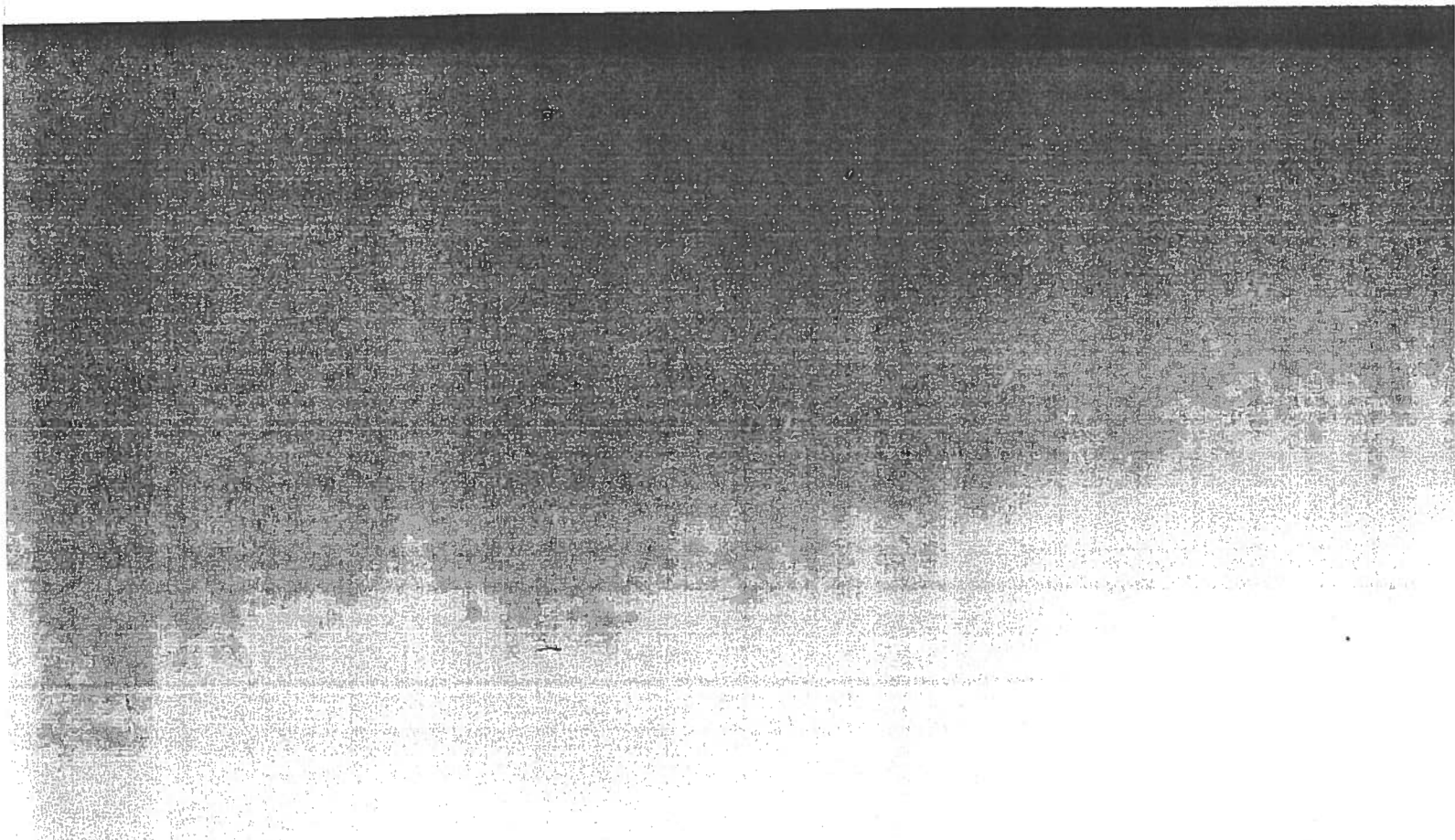
Also among the early inhabitants was "Trapper" Johnson. He was in the Middle Fork area well before the turn of the century and had cabins scattered through the mountains. Bill Sullivan recalls Johnson bought the hide of the first otter Sullivan ever caught and paid him ten dollars for it.

Other trappers in the area during the late part of the Nineteenth Century were Johnny Levine and Ed Chamberlin, partners. They lived and trapped together but one winter they

had a falling out over their short supply of chewing tobacco. For several months until spring, Levine told Bill Sullivan, they never turned their backs on each other. If one had to leave the cabin to go to the outhouse he would back out of the door, honestly fearing that the other would shoot him if he turned his back.

Those were the effects of isolation during any winter in the Middle Fork. At other times the trails bustled with residents and transients. Pack trains carried supplies to the mines and ore back out when it was rich enough, or some concentrate to the nearest smelter. Meat hunters roamed the mountains shooting deer for the mines. And there were always those looking for a place to call home, drifters who would find a little spread along the river or at some wide point in a canyon along a creek. A cabin might be reparable and so a few cattle, horses and mules would be herded in, or a little gardener truck would be raised for sale to the mines.

The main early-day trail into the Middle Fork ran from the booming towns of Bonanza and Custer on the Yankee Fork. It went up past Pinon Lake to Loon Creek Summit and down Mayfield Creek to Loon Creek, then down to Grouse Creek and up Grouse and around Red Mountain to Indian Spring. The trail then



went down Cougar Creek to the Middle Fork at a point just above the mouth of Mahoney Creek.

Probably the first rancher on Loon Creek, the one who began the Falconberry Ranch, was Jack Ferguson. He went in before the turn of the century and sold out to Falconberry in the early 1900s.

Jack Ferguson figures in a story by Bill Sullivan of a killing in Ivers, a town that, like others in the Loon Creek area, grew from gold.

In 1901, with placer mining along Loon Creek, prospectors periodically roamed the Middle Fork region searching for lodes where the placer gold originated. Such a party camped below Canyon Creek, a tributary of Loon Creek. But it wasn't the Loon Creek gravel and its origins that attracted them. It was the Thunder Mountain area north of the Middle Fork where a major strike was made earlier that year.

Canyon Creek and Loon Creek were too high to cross and the party waited until the flood subsided.

Among them was Clarence Eddy. He was young and green. He asked where, in the valuable opinions of his experienced companions, was a likely place to prospect. He might as well

practice while they waited. The oldtimers' eyes roved the surrounding peaks and, to a man, they picked out the highest land they could see, away up Canyon Creek.

Eddy headed enthusiastically upstream. As soon as he was out of earshot the oldtimers pounded each other's backs and cackled at the joke they played on the greenhorn.

Eddy returned many hours later, weary, grimy, bruised and aching, but still enthusiastic as he unloaded his pack.

Were these ore samples of value, he wanted to know.

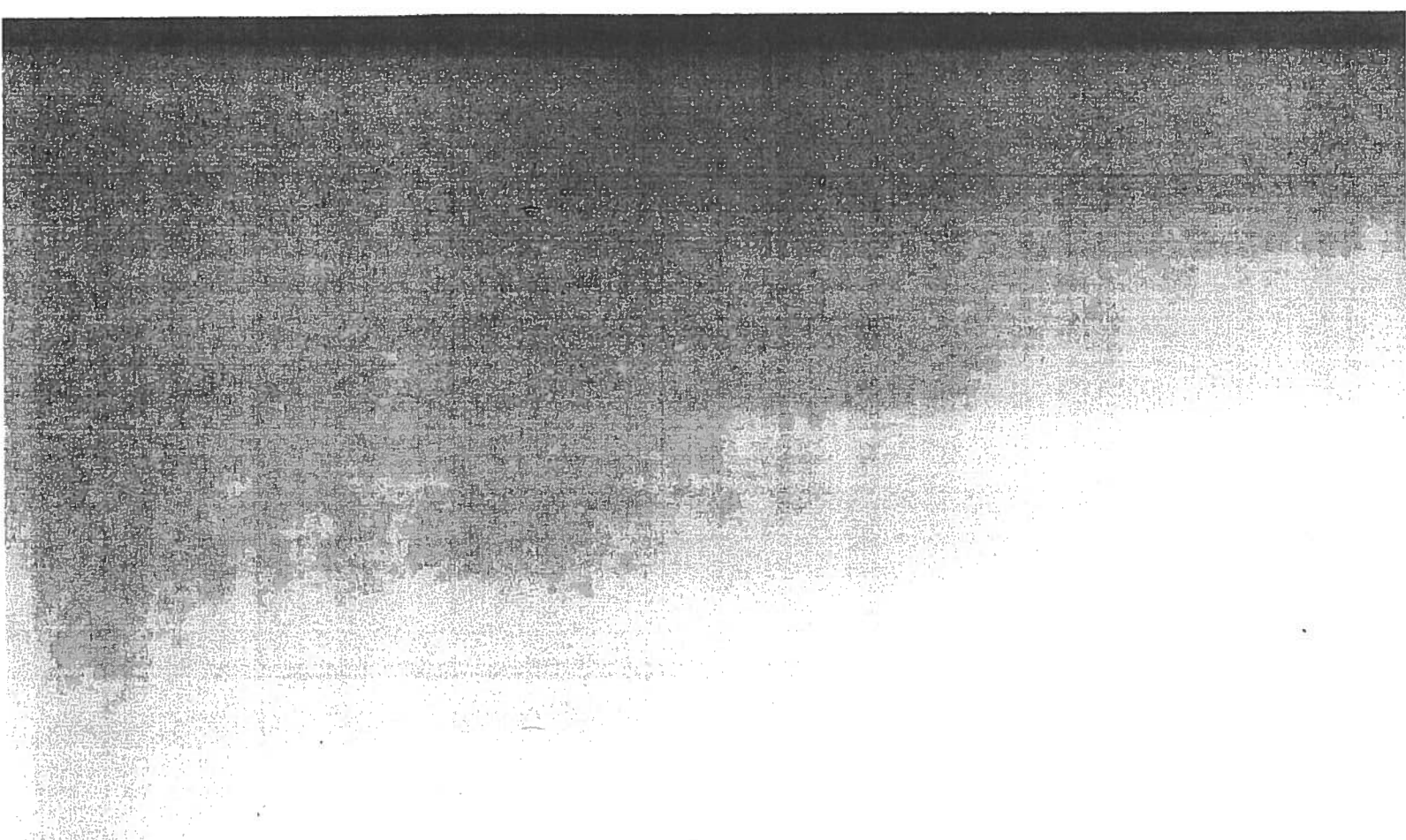
Gold, silver and copper traces gleamed and shimmered in the rocks he handed around. Clarence Eddy had found what was to become the Lost Packer Mine.

At the mine site the town of Ivers grew up. Below, at the mouth of Canyon Creek was the town of Casto.

Sullivan recalls the year as 1908 that he witnessed a killing at Ivers.

"We were in the McKenzie and Stein Saloon. There was a fellow by the name of Frank Warner, a pimp and a gambler, and he had a sporting woman called Ernie. A fellow named Olsen took her away from him.

Warner got to drinking and playing poker.



They were kidding him about Ernie and they beat him out of his money and he pulled a gun and made us all face the wall. He was holding up the saloon.

Frank Schafer slipped out the back door and reported the holdup at the store. Dan Breen, the owner of the saloon building, went over. He came in and said, 'Frank, put up that gun.'

Frank said, 'No, I won't, and don't come any closer or I'll have to kill you.'

Dan didn't stop so Warner shot him through and broke his back.

Well, Warner headed out. He shot his Airedale dog so they couldn't track him by using the dog. Meanwhile, Jack Ferguson went for Dr. C. L. Curtleigh (Kirtley) at Custer. He met Warner, who was on foot, and Warner said 'Ride as hard as you can, Jack. I sure hope old Dan doesn't die.'

Ferguson got the doctor and they went back to Ivers. Warner went to the Sunbeam Mine (just south of Loon Creek Summit) and got his rifle and fishing outfit and five pounds of salt. Then he walked back to Ivers and stayed until Dan died. That was two days after he was shot.

Warner then went down Loon Creek to Falconberry Ranch.

Sheriff Bob Morrison deputized Ross Tobias, the ranger at Loon Creek, and another man. When Tobias arrived at the Falconberry Ranch, he was told he was covered by Frank with a .30-30 rifle and that Frank would kill him if he didn't leave.

Tobias was smart. He left. Frank Warner got away and, as far as I know, he was never seen around this country again."

VII — A FEW WORDS ABOUT NAMES

So far in our story we have discussed this person and that just as if we were absolutely certain of their exact names and how to spell them. It's time for an admission. We don't.

The names are as close as recorded history and the memories of oldtimers will allow.

But with all due respect to early historians and the people who still remember what happened a half century and more ago, even then many names were not known.

Many of those involved either could not write or had no reason to.

Many who came into the area, as in much of the West, went by nickname or an assumed name for reasons best known to themselves and it was impolite, if not dangerous, to inquire too closely into the details of real names.

In any event, we have tried to achieve as much accuracy as possible.

We ask only that you bear with us if we err, realizing that:

A man named McNerney or McAnerney received many pronunciations and spellings, so much so that in some stories he became two distinct people, "Mac and Ernie."

Buck Gulliver is remembered variously as

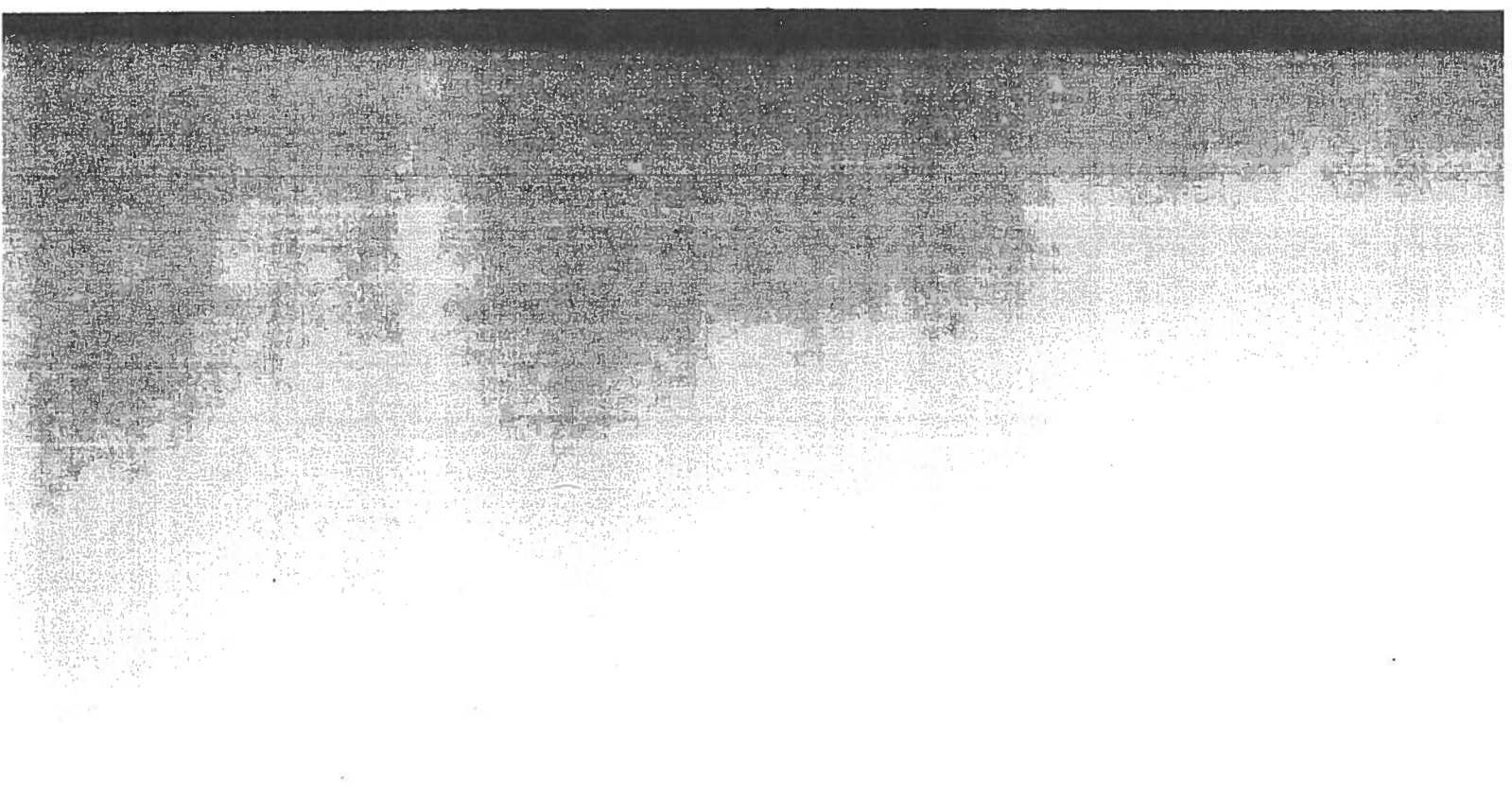
Culver and Culliver and is honored by Culver Creek.

Sylvester Potvin or Potvein was known as "Pottie" but was called Potter, Pottermann and Potaman and has named after him a Potter Vine Creek, a Potaman Creek, a Potaman Peak and a Potter's Hole. The spellings were all wrong but their hearts were in the right places.

Then, there was a Dutch John, whose last name was Helmke although many who knew him never knew that. And, there was a Dutch Charlie, whose last name was Rockland, again a detail unknown to many of his acquaintances.

Sam Hoppins has been called Hopkins and who knows which was correct.

And, finally, Pickhandle Dick and Whitehorse Johnny were so satisfied with those names that their true last names were never known in the area. They were registered to vote as Pickhandle Dick and Whitehorse Johnny.



VIII — SHE ALL BELONGED TO US

Bill Sullivan and his older brother Cornelius were hunting meat for the mines in 1904, when there were people living all up and down the river and in many of the side canyons.

"There were lots of mountain sheep, lots of deer. There were no game department, no BLM (Bureau of Land Management), no Forest (U.S. Forest Service). She all belonged to us," Sullivan recalls.

In those first years of the Twentieth Century the owners of the Thomas Creek ranch, now the location of Middle Fork Lodge, were the partners Voller and McNerney. Sullivan recalls them as the Buckskin Boys because they both wore buckskin clothes made by one of them.

Voller and McNerney worked a small mine up Thomas Creek. They kept a few cattle and raised hay on the benchland above the river.

Across the river was a cabin occupied by Charlie Myers. He was a trapper and also had a pack string.

Sam Hoppins (or Hopkins) was half Indian and half Scottish. He lived at the mouth of Pistol Creek, at what was later to become known as the Risley Ranch. Hoppins had one

arm. He lost one at Copper Camp when someone mistook him for a bear and shot him.

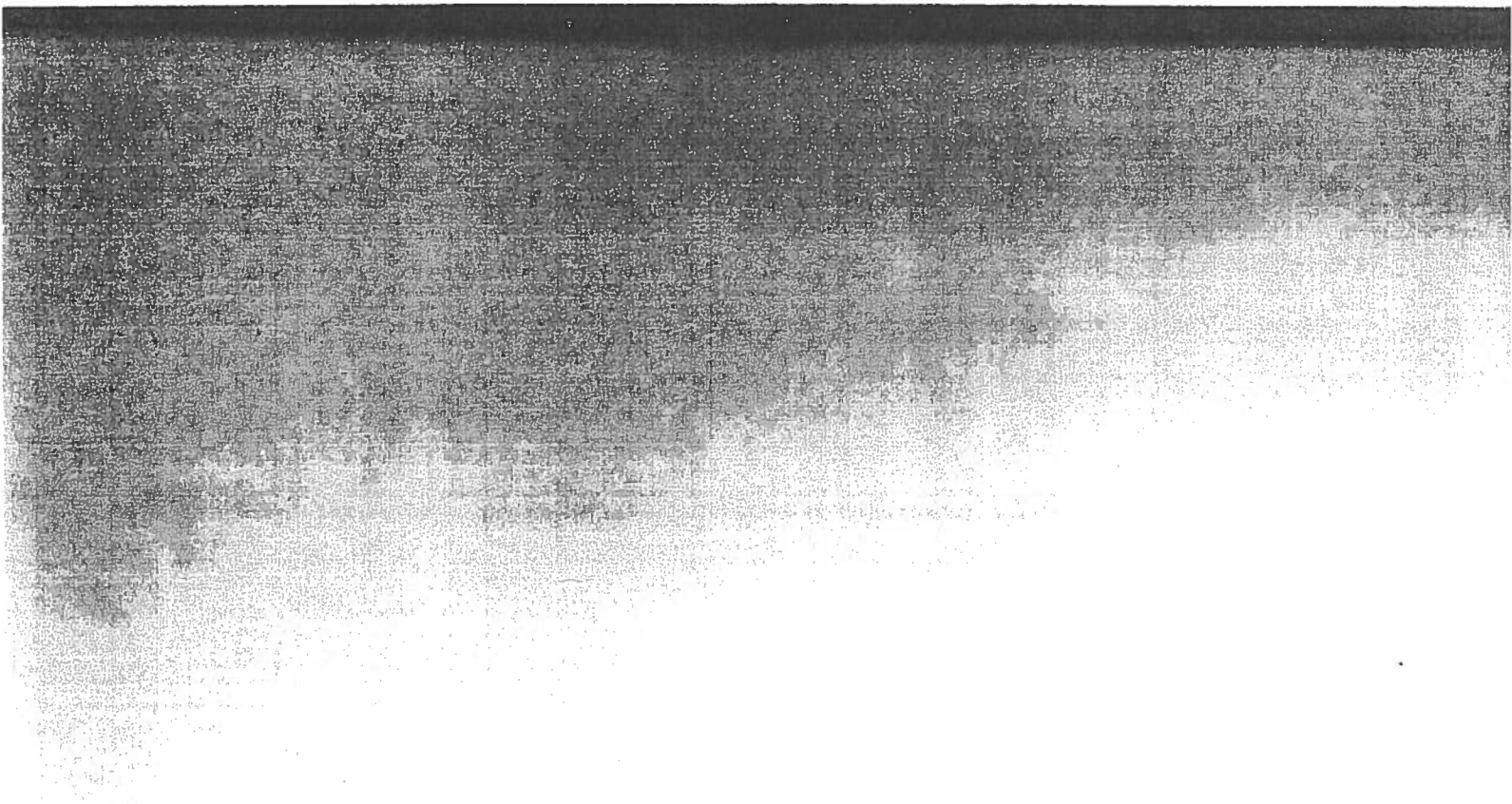
On Marble Creek, at a location later to become known as the Mitchell Ranch, Dave Sutton did some trapping and Mrs. Maude Garoutte recalls, "scratched around and raised a little stuff." But, one day Sutton took his gun and committed suicide. They buried him there in Marble canyon.

Sylvester Potvein had a place between Marble Creek and Thomas Creek.

Jim Hash and his wife were at Little Creek, just below Thomas Creek. They came in with thirty-five to forty burros and began packing supplies from Custer to Thunder Mountain mine. Hash also raised garden truck at his ranch on the Middle Fork to sell at Thunder Mountain. He moved out after Thunder Mountain closed down.

Ray Mahoney was at Mahoney Creek where he had a sizeable orchard. He told how he went out in the fall of the year to get his trees and was packing them into the Middle Fork when a snowstorm caught him up the West Fork of Camas Creek. He buried the trees in the snow and made his way out to safety.

In the spring Mahoney returned and got the trees, dug them out of the snow, took them to



the ranch and planted them. They had survived the winter in good shape and turned into a successful orchard.

As the years went by there were changes in the people but life continued much the same.

Alec Watson, father of Mrs. Maude Garoutte, took his family to live at the Pistol Creek location known as the Risley Ranch. Later they lived at Little Creek. In the meantime, the Hash family moved from Little Creek ranch and John Sader homesteaded there.

Sam Phillips set up a place at Sulphur Creek and was followed there by Jim Fuller.

The ranch at the mouth of Loon Creek was occupied by Bob Ramey and, after him, Jack McGivney.

Lew Hall lived up White Creek and two men named Fox and Shop had a cabin at the mouth of the creek.

Up Loon Creek, about two miles below Jack Creek, Walter Wade had a place.

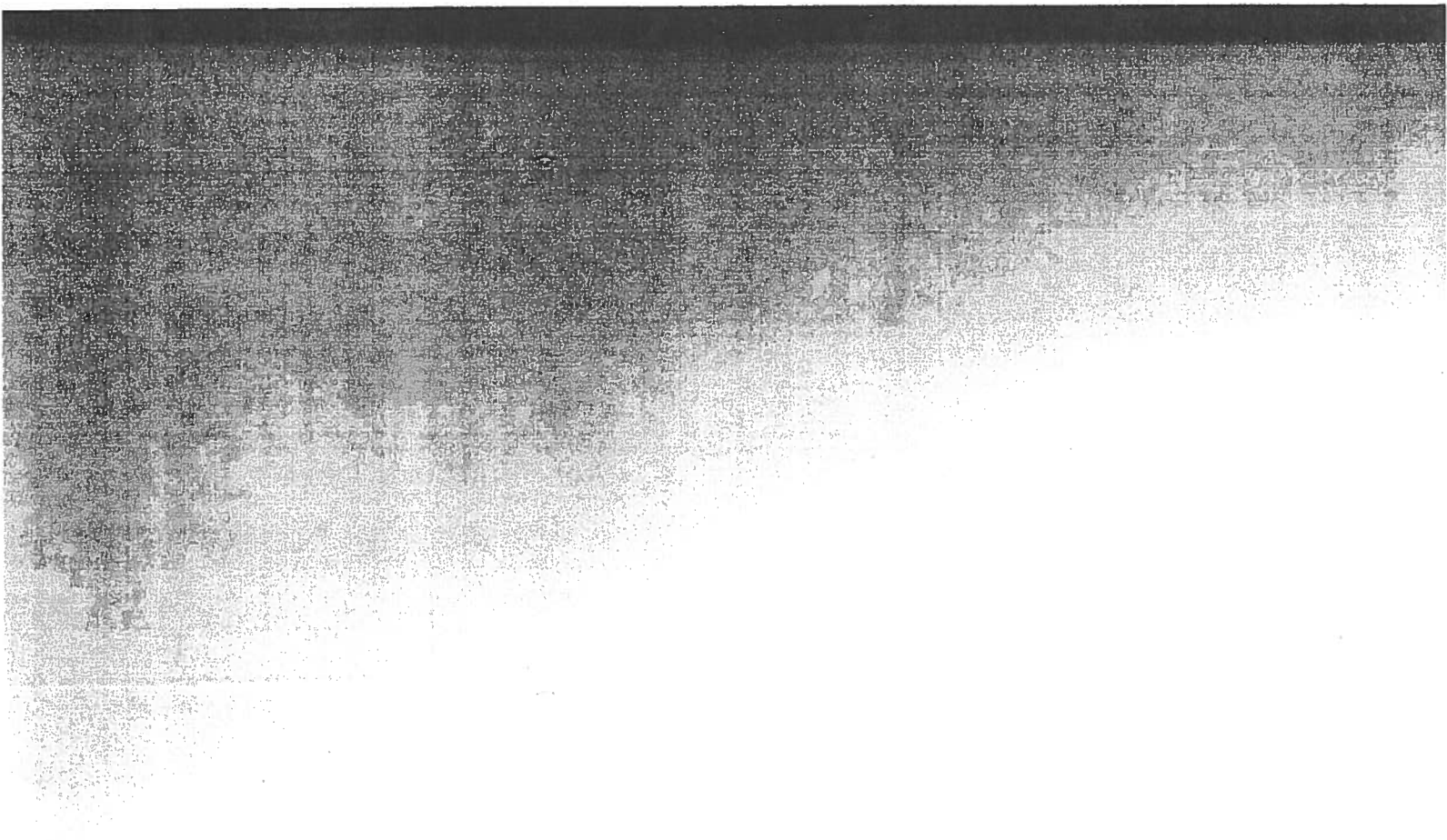
And far up Little Loon was the fur farm run by Dutch Charlie Rockland, who raised mink and fox. To say Dutch Charlie was independent is an understatement. He broke his leg, down near the ankle, and set the bone himself. It was obviously a do-it-yourself job, for

afterward, a large bony growth disfigured his leg. Dutch Charlie also served as his own dentist. Whenever a tooth gave him trouble, he yanked it out with a pair of pliers.

Just a few miles below the mouth of Camas Creek is Kauffman's Cave, named for a man who died there. Slim Love later took up residence in that cave, roamed up and down the Middle Fork and picked up a living wherever he could. Fred Paulsen recalls Love died at Seafoam, the mine over on Rapid River. As Paulsen recalls "Love had been going after horses. He died, a heart attack, I guess, and he rolled down the hill and we buried him where he'd rolled."

Many were buried "where they rolled." They were wrapped and secured in a manny, a large piece of canvas used to bundle loads for pack horses, and laid in simple graves.

The manny is tied up with a rope thirty-five feet long. The packer uses a double diamond hitch in tying the pack onto his horse or mule. And you know you are in country that still can recall its pioneer days with a special fondness when you hear two women, who look as though a carriage ride around the park might have been their closest approach to a horse, discuss whether they still know how to "throw a dia-



mond hitch."

Cinch hooks were used to lash the load on the animal and the old-time packers never considered buying hooks. They made them from hook-shaped roots of quaking aspen. They would boil the roots and dry them. If this was done in the fall the cinch hooks would be ready for use by spring, tough as steel but less wearing on the ropes.

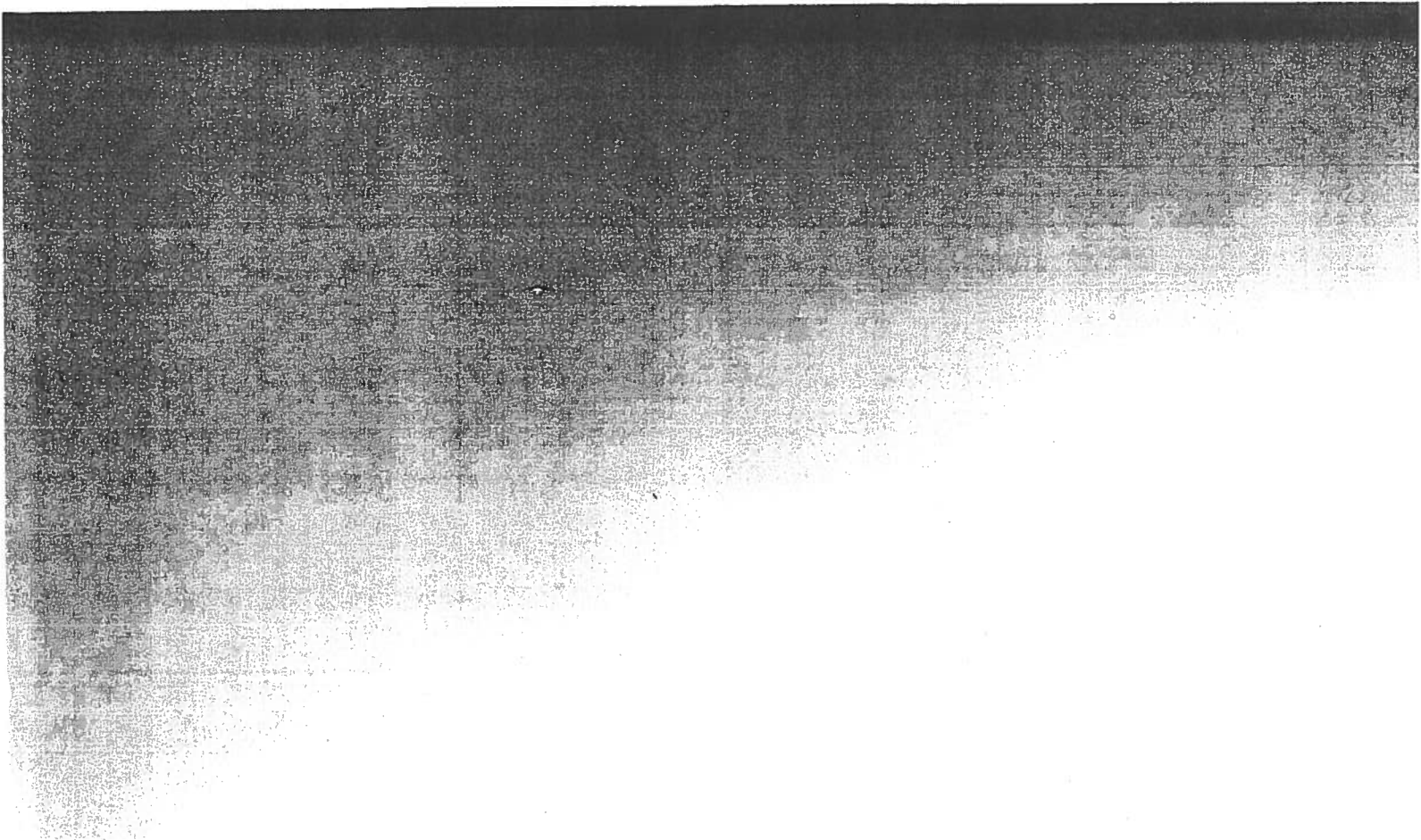
Many men packed through the Middle Fork with supplies for the mines and their own use. As the years went by they began "packing in dudes," parties of hunters and fishermen, rich people for the most part. Today most of the freight and dudes come in by air. Tiny landing strips spot the area.

But in the early days of the Middle Fork, tremendous amounts of goods were moved by horse and mule packing.

Bill Sullivan recalls when he and Charlie Warnick, who was on the Mahoney Ranch by the 1930s, packed a mowing machine up to the bench across the river from Little Creek. "We figured we had 600 pounds on that big sorrel horse," Sullivan says.

Another time Sullivan helped pack a six-hole kitchen range by mule from Seafoam to Little Creek. "It was after airplanes started coming

in but the range was so big we couldn't get it through the doors of the planes. We used three mules and changed the load every two hours. The other packers on the job were Bill Wilkerson and John Grub."



IX — DOWN AROUND THOMAS CREEK

It was 1904. Voller and McNerney, the Buckskin Boys, were still at Thomas Creek. They had built a cabin, a two-story one no less, and a big barn. They brought water down from high up the creek and irrigated the benchlands so they could get a crop of hay. There are apple trees there now, probably put in by the Buckskin Boys, which still bear sweet fruit.

The Hash family was living at Little Creek and Ray Mahoney was at the creek named for himself.

On May 24th some of them gathered for an outing on the river. There were the Hashes, Mahoney and two boys who had helped the Hashes bring their pack string, Ted Dillon, sixteen, and a boy named Durand. Mahoney and the two boys went out in a boat and it overturned. Young Dillon, the only one of the three unable to swim, drowned.

His body was not recovered until August. It was pulled from the river at Sammy Creek, below the present Flying B Ranch, and buried there.

Bill Sullivan and his brother Corny packed into the Middle Fork that year for the first time on a meat hunting trip. Bill was later to

marry Mae, the sister of the ill-fated Ted Dillon.

John Sader soon took over the Hash place and proved up a homestead but he didn't stay long. Two partners who were to be well known in the Idaho hinterland for many years came in and bought the Little Creek ranch. They were Edward Osborne and Freeman Nethken. Osborne's name is best known for his connection with the Clay and Osborne Cattle Company and Nethken's for his ownership of numerous properties.

Nethken was a short man of prodigious energy, who was unpopular with his neighbors but respected by all as a hard worker. He married Mamie Watson, sister of Maude Garoutte.

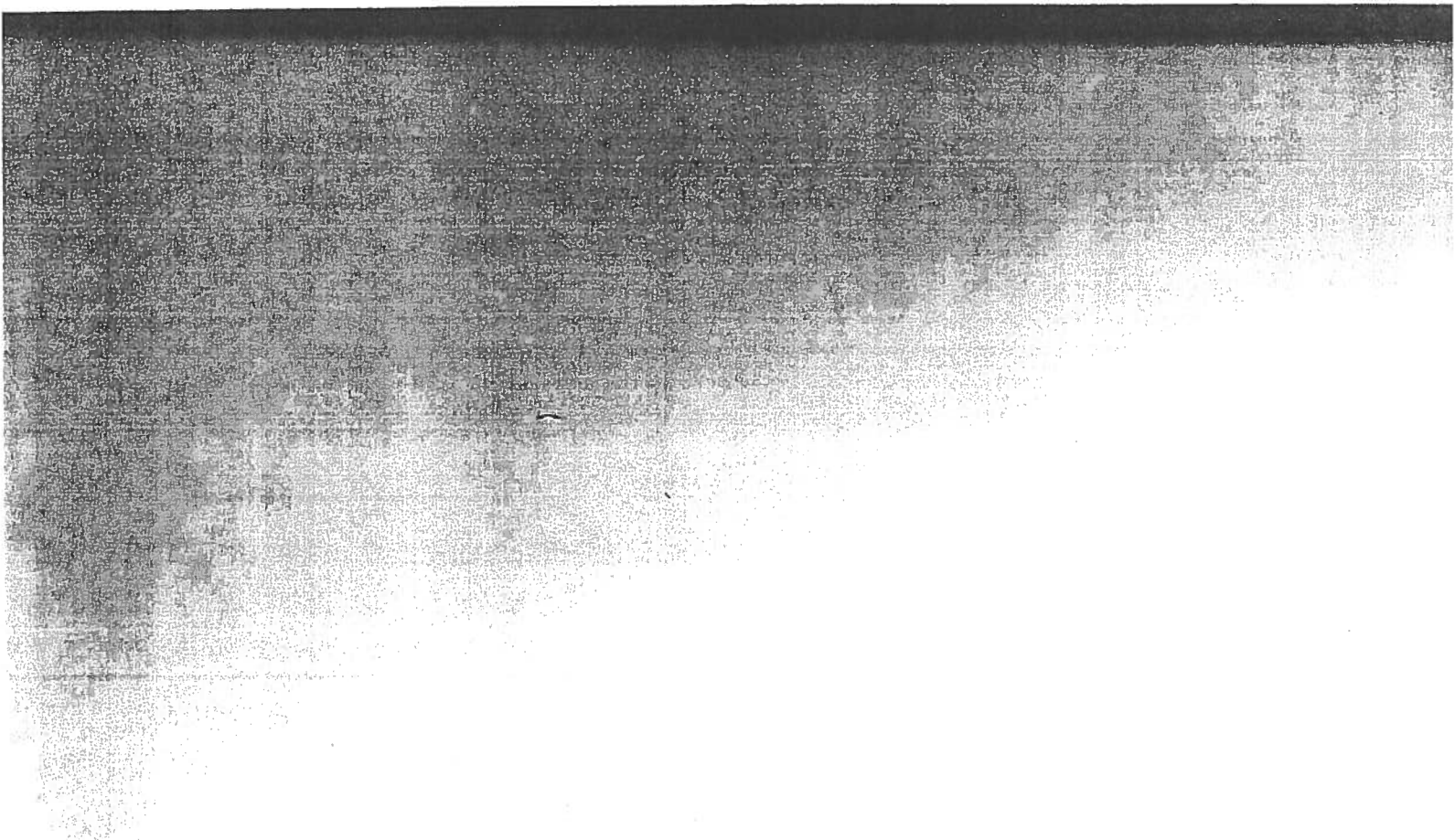
Osborne and Nethken took over at Little Creek and kept their eyes on Thomas Creek just upstream.

McNerney suffered a fatal collapse one day when he and his partner were going out for a load of hay. The neighbors appeared, as was the custom there, and buried him on the hillside above the homestead.

The grave is still there and recognizable.

Voller sold out to Osborne and Nethken.

The new partners had other interests and did not live on the place themselves at all times.



Ern Carrothers lived there for awhile. He was related to Osborne's stepbrother. He had his wife and family with him, a son, Vern, and two daughters, Eulah and Vivian.

While Osborne and Nethken owned the Thomas Creek Ranch, they tried to raise more cattle on it but it was too far from the outside for trailing herds. They were similarly unsuccessful at raising sheep.

For some time they rented the place to the state game department for living quarters for a warden.

Eventually Nethken bought out Osborne's interest and found numerous would-be buyers over the next fifteen years, but none who could afford to buy until Tom McCall came along in 1938.

In 1911 Bill Sullivan married Mae Hazel Dillon. He was carrying the mail between Bonanza and the Lost Packer Mine. Mae's family ran a boarding house at Bonanza. The newlyweds took up a homestead on Squaw Creek near Clayton but Bill continued to pack into the Middle Fork. By 1915 he joined in a type of venture which was new and profitable. He was packing dudes into the wilderness area, taking them in to hunt and fish and enjoy the scenery.

Some were avoiding the draft call for World War I.

Others had more respectable reasons for coming in.

Bill Jones settled at the mouth of Grouse Creek about 27 miles below Thomas Creek. Jones was a well driller but he had also worked in the movies, which were turning Hollywood into a gilded city that would gain world attention.

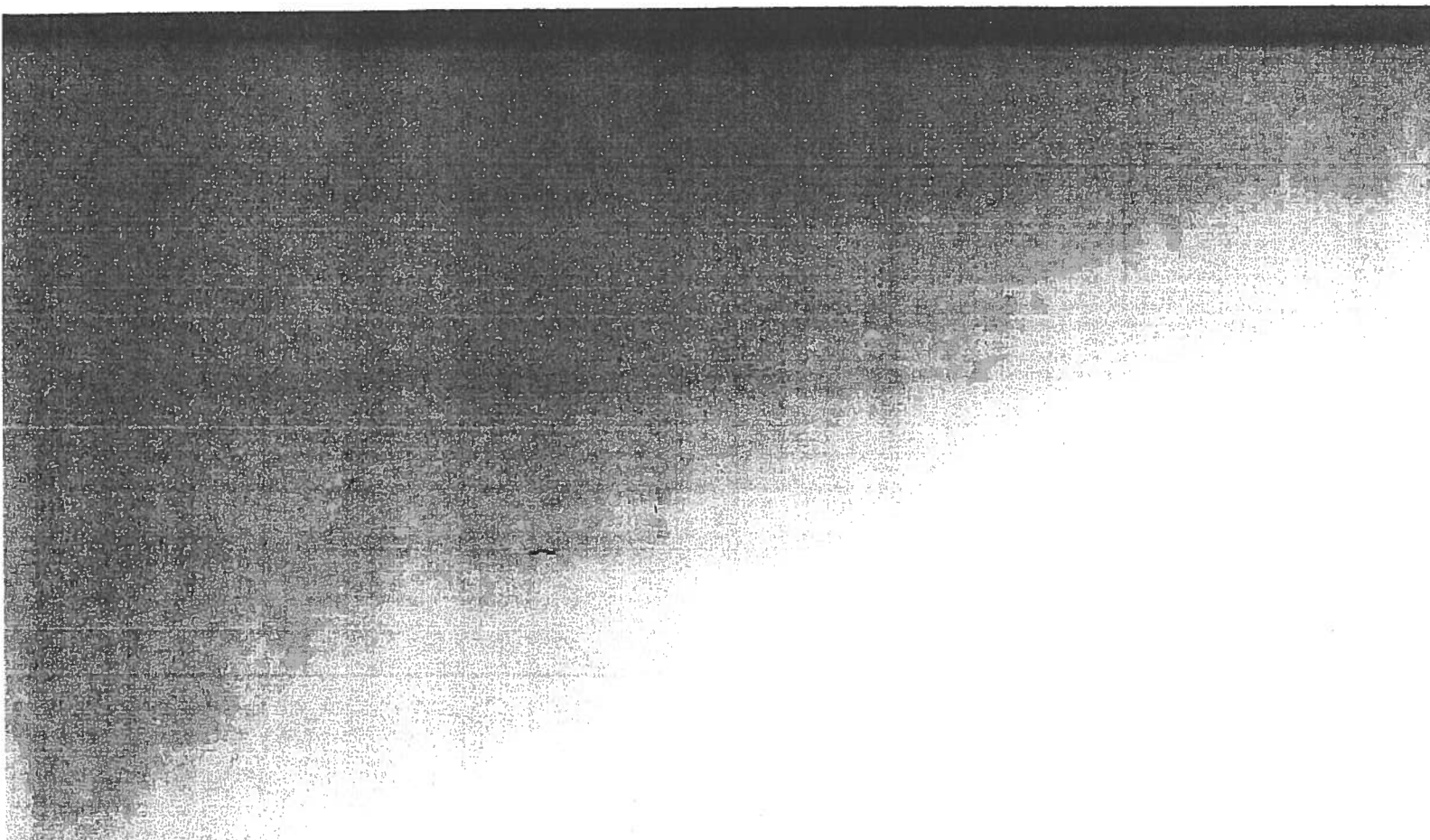
Bill Sullivan said, "I think Jones got disgusted with the women in Hollywood. He told me what the women did there and I said, 'By God, it must be a sportin' house in distress.'"

Jones probably planted the orchard at the Grouse Creek place, now known as the Tappen Ranch after Jones' successor Fred Tappen.

Bill Mitchell, a little Scotsman who had come down from the Thunder Mountain district in 1917, took over the meadows at Marble Canyon and built himself a ranch.

Shortly after Mitchell moved to the Middle Fork, a prospector named Bret Smith came in with a partner named Bell and they placer mined right near the present Thomas Creek Airport.

Bill Woolley moved onto the Thomas Creek Ranch as a state game warden just after



Christmas of 1920. Missouri-born, he had worked in Texas and Spokane, Washington, before moving to Boise in 1913 and Stanley in 1920.

"There was one family and a bachelor living in Lower Stanley when I started ranching and packing out of there. There had been others but they moved uptown and started the town of Stanley," he said.

About the Middle Fork in 1920 he said, "The country was very isolated. The forest ranger came in once a year.

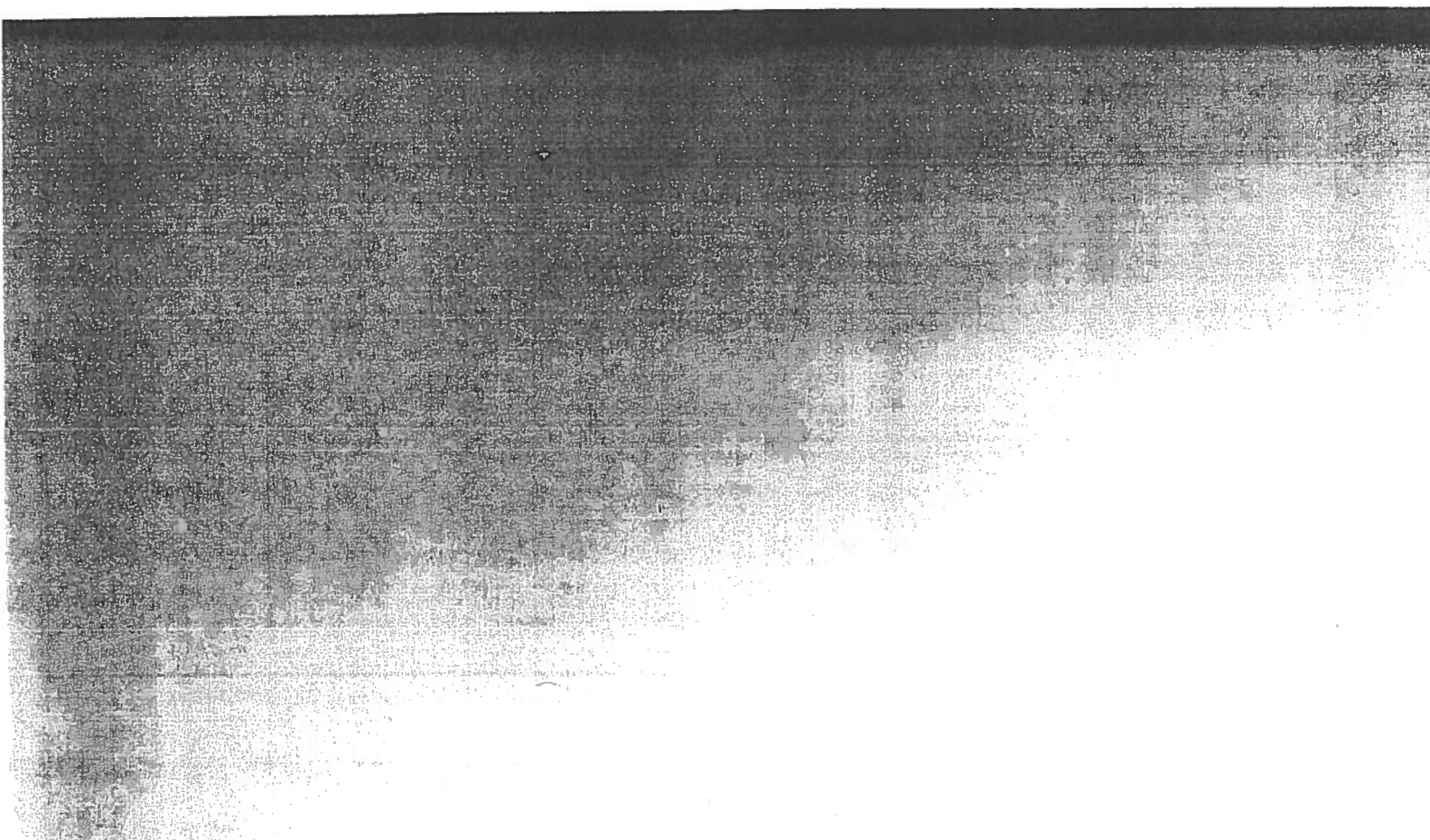
We packed in from Bonanza on the Yankee Fork over Loon Creek Summit. It took three days. It was one day from Bonanza to Boyle's Ranch, one day from Boyle's Ranch to Falconberry's, and one day from Falconberry's to the Middle Fork at Thomas Creek. They were three long days. We'd get out in the morning and round up the horses with a lantern. And it was cold that early in the morning in December."

Woolley and his family lived at Thomas Creek for a year.

"We lived off deer. We wasted nothing, not like some of these people who shoot a deer today and just take the hindquarters. There were probably ten deer where there's one today. You

could see deer anytime, anywhere. In the spring of 1921 I stood on the front porch and counted 165 deer. But there were no elk."

Elk over the years seem to have drifted in and out of the Middle Fork.



X — SOME WHO STAYED AND ONE WHO RETURNED

There are many graves, scattered in lonely places along the Middle Fork. Some may still be found.

Dutch John Helmke and Fred Cunningham, an old miner, and another man whose name is forgotten are buried at Cougar Creek.

And Dutch John himself once told of helping to bury a man and afterward leaving with a very nice saddle.

"We buried him. We didn't know of any family, so as usual, in such a case, we would divide up what he left. After the funeral I rushed up to the shed behind his cabin before anybody else had a chance to get at that saddle. I asked him if I could have it and, you know, I've always believed that silence is consent."

There was Elmer Parsell. For most of his seventy-five years he was part of the Idaho primitive area. He ranched, mined, hunted and fished.

When he was in his seventies he took up ranching on what is now the Mahoney Airport and worked for about two years trying to get water up from the river by means of a wheel. But it never worked. High water took it out.

In 1947, a year before his death, he wintered at the mouth of Cougar Creek and spent the entire winter with no light except what came from his stove. He had arranged for someone to deliver a supply of kerosene and it was delivered. But Elmer never found it. In the spring he saw that it had been delivered while he was away from the house. Snow had slid off the roof of the cabin and buried the fuel.

The next summer Parsell was helping Fred Paulsen work some mining claims. He was seventy-five years old. Paulsen was away for a couple of days and returned to find Elmer's body. He had suffered a heart attack or stroke and fallen from his horse just above Sheepeater Hot Springs across from the mouth of Big Soldier Creek. Paulsen and five other old friends gathered. They wrapped him in a blanket and buried him in his own prospect hole. Bill Sullivan had a Bible and wanted to read the Twenty-third Psalm but it was dusk and he couldn't see to read so he recited the Lord's Prayer.

Buck Gulliver (or Culver, or Culvert, for he was called all three names) was an oldtimer who lived at Red Bluff Creek. Buck was watched for because he had a flock of burros. Horses, especially in a pack train, tend to spook

if the long ears of a burro come suddenly into view. So the packers and the other Middle Fork residents watched for Buck.

The people who lived along the river had a cooperative arrangement for mail delivery. Once a month one of them picked up the mail at Meyers Cove on Camas Creek. They took turns at the overnight trip.

This time it was Buck's turn, and he was an old man. He picked up the mail and made it back to the trail along Loon Creek, when as his friends put it, his life just ran out. He rolled off his burro and under a jack fence. The burro kept on going. Walter Wade, who had a place on Loon Creek, found the burro and went back and discovered old Buck. His neighbors buried him where he had fallen under a jack fence at the mouth of Big Loon.

Harry Friedman lived in Boise. Walter Cleveland had grown up in Idaho but now lived in Santa Barbara. Together they would take deer hunting trips into the Middle Fork with Bill Woolley as guide.

Woolley had a practice with people he took hunting. Before the trip started each hunter would lay out on a canvas everything he had brought. It allowed Woolley to determine whether his client was ill-equipped or carrying

excess baggage which would make packing difficult.

Cleveland came in one year with word that Friedman had died. Woolley recalled the hunting didn't seem as enjoyable for the Santa Barbara man but, even so, he returned the following year.

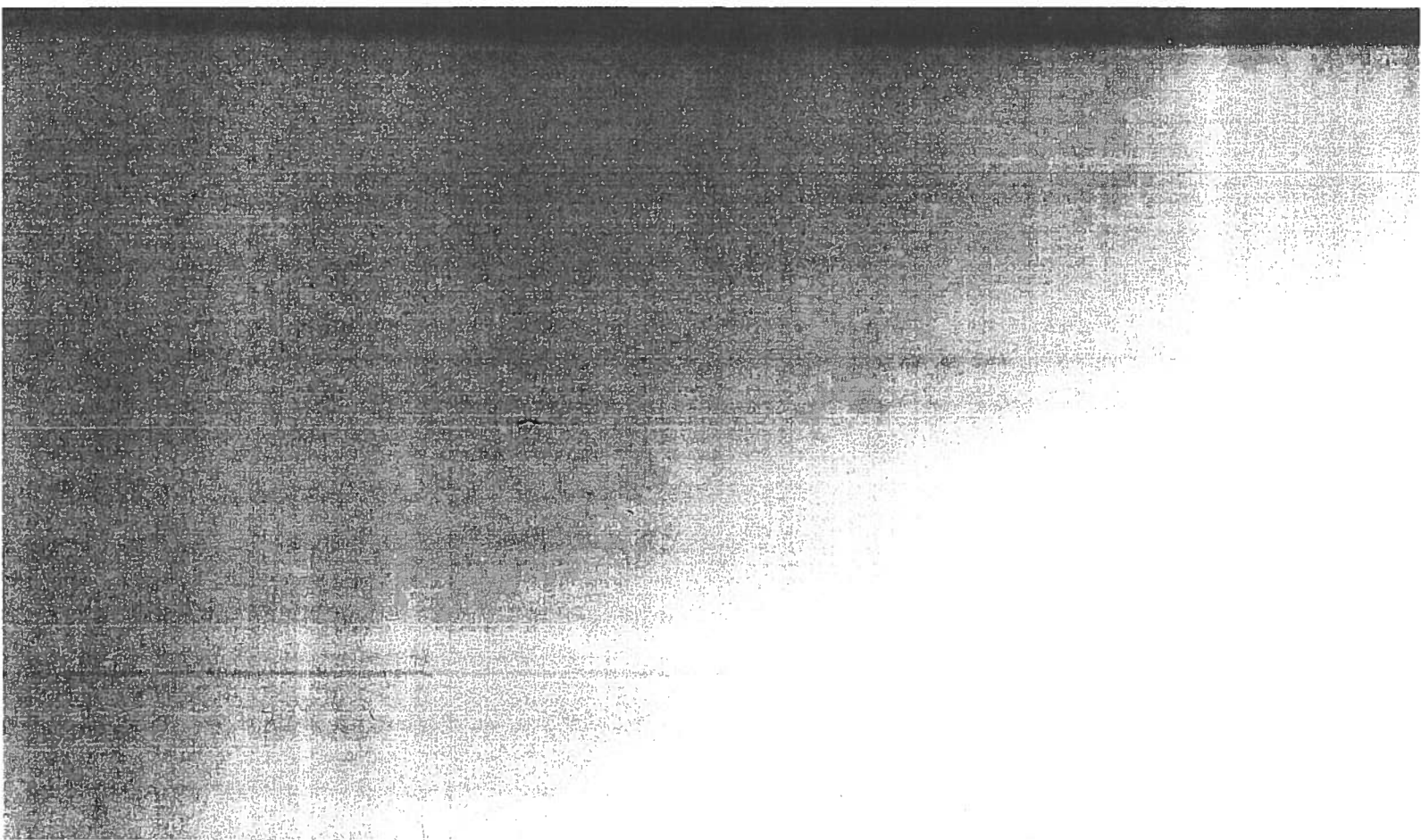
This time, when Cleveland laid out his gear Woolley noticed a small wooden box among the items but it was small and Woolley didn't ask about it, although he suspected what it was.

"We went into the Middle Fork and we camped on the mouth of Little Loon Creek. One evening we were sitting around the fire. Walter whispered, 'Bill, you didn't know we had a dead man with us, did you?' He looked kind of sheepish.

I didn't let on I knew about it. I said I didn't know and he told me how Harry Friedman's last wish was to be buried on the Middle Fork because some of the best times of his life had been the trips there. Friedman's widow was determined the wish be granted.

Walter said he didn't tell me about it when we started because I might not like the idea of bringing a dead man along.

Well, we moved down to the mouth of Mahoney Creek. The others in the party went



hunting one day and Walter stayed in camp. He went up on the rocky ridge between Mahoney Ranch and scattered the ashes there." And that's where Harry is.

XI — LET'S HEAR IT FOR THE LADIES

Many women have lived in the Middle Fork wilderness but never many at a time.

Maude Garoutte, one of our sources of Middle Fork history, was raised there. Some women were born to the pioneer life or adjusted to it. Some never could.

Mrs. Risley, for instance, was a New Yorker. "Poor woman didn't even know how to keep a fire going in a wood stove," Mrs. Garoutte recalled. And Mrs. Risley certainly didn't know enough to respect the force of a mountain creek in flood. She put her fancy dishes in the creek to wash them and saw them torn from her and tumble down the stream, smashed to bits against the rocks.

John Haley's wife Alice shared her husband's hard life at the old Dutch Charlie Ranch, the one Charlie Rockland started as a fur farm up Little Loon Creek. But Dutch Charlie had been his own doctor, set his own broken leg and pulled his own teeth. John Haley wasn't that kind of man. Men came back in with him and spent an entire night, black as the inside of a pocket, making their careful way down a narrow trail, packing Mrs. Haley out to where a plane could fly her to a hospital.

There was Ora, the wife Billy Mitchell brought into his ranch on Marble Creek. She stuck it out for a couple of years and left.

And there is Nell McCall who joined her husband Tom on a midwinter snowshoe trip which lasted six days. She had never been on snowshoes in her life.

It was 1943 and the McCalls owned the Thomas Creek ranch. They were in their third winter when a February storm broke the telephone line which connected them with Cascade. Tom decided he would follow the line and repair the breaks. He wouldn't have to go farther than Landmark, thirty-six miles by trail. He could get a ride to Cascade from Landmark, for a road connected the two places. From Cascade he could get himself flown back to Thomas Creek.

Nell said that was fine. Except she would go with him. It would slow Tom down some but he figured he would be glad of her company.

They put on snowshoes and started out, packing a bedroll and some canned food. Tom knew cabins along the way where they could stay. The first day they made it to Pungo Creek, not very far but it gave Nell a chance to get used to snowshoes.

The second day they continued up the Middle

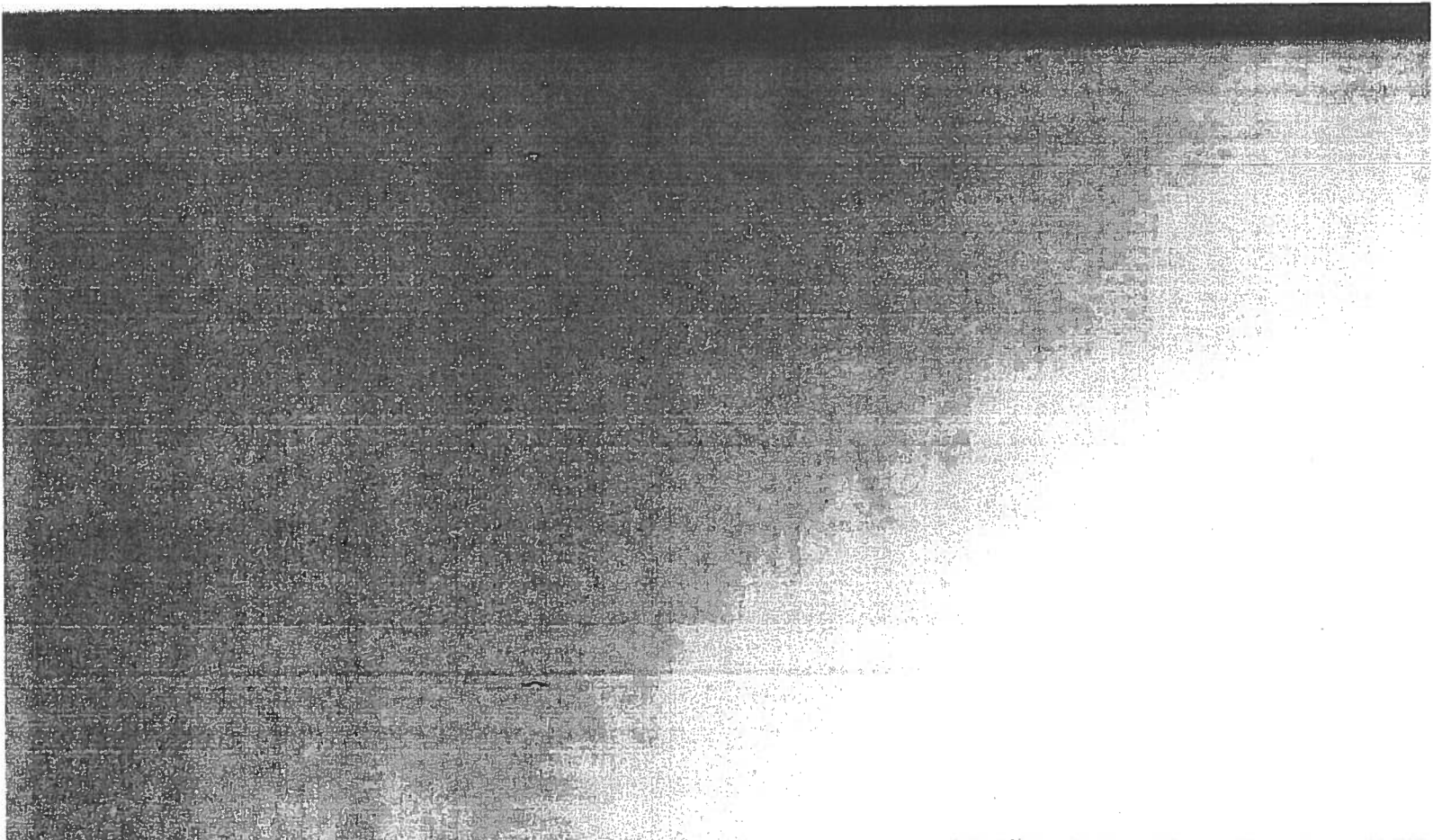
Fork to Pistol Creek and followed the telephone line, stopping to repair the breaks. By nightfall they were far up Pistol Creek at a cabin on Forty-four Creek.

(It might be pointed out here that all names in the Pistol Creek area refer to firearms. Flowing into the Middle Fork are Pistol Creek and Cap, Cannon, Mortar and Artillery creeks. There are also an Artillery Rapids and an Artillery Dome. The main tributary of Pistol Creek is Little Pistol Creek and flowing into those two streams are creeks named Springfield, Winchester, Stevens, Savage, Remington, Colt, Trigger, Foresight, Automatic, Chokebore, Gun, Forty-four, Twenty-two, Forty-five, Thirty-two, Twenty-five, Shrapnel, Grenade, Popgun and Beansnapper.)

Tom planned to cross the divide into the Payette Basin and reach Landmark on the next day, the third out from Thomas Creek. So they left their bedroll at the Forty-four Creek cabin.

They set out and during the day it began to snow. "Now it was coming on dusk and we should have been in Landmark and I realized we were lost," Tom said.

Nell was tired. She found snowshoes hard to maneuver and was still plagued with the



problem of a novice, getting a heel caught in the web of the following shoe. Time and again she tipped over on her face. Time and again Tom had to go back and pull her to her feet. Then he would forget about her problem and, where a trail made its way by switchbacks down a hill, plunge down, making shortcuts from one loop of the trail to the next. He would look back and Nell would be buried face down in the snow.

"I think that on a lot of that journey I traveled twice the actual distance," he said.

Lost in a snowstorm, and with their bedroll at the Forty-four Creek cabin, Nell and Tom were stranded. About eight feet of snow already lay on the ground and the temperature dipped to the twenties.

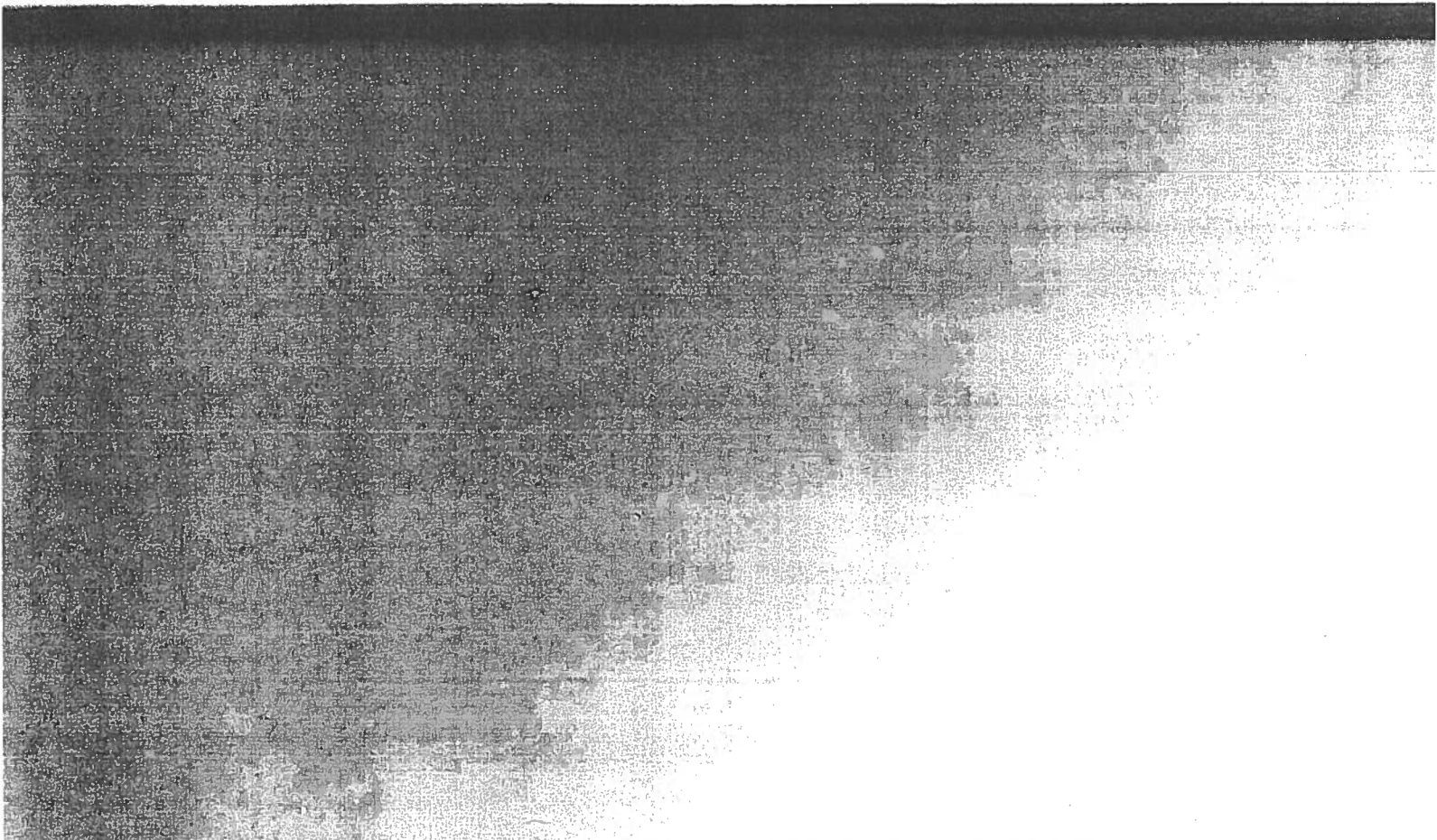
"I built a fire. It melted us right down to ground level through the night and we were able to keep sheltered and fairly warm down there.

In the morning we climbed out of the hole in the snow. When we could see around it didn't take me long to find the road and we got into Landmark.

Well, we found out there that the road to Cascade was snowed in. So we had to snowshoe another forty miles to get there."

They traveled to Warm Lake on their fifth day and made Cascade on the sixth day.

Remembering the experience twenty-five years later Nell said, "I don't think I'd want to do it again."



XII — THE KILLING AT SHEEP CREEK

Their names were Charlie and Frankie Ernst.

She was the former Frances Cooper, daughter of Tim Cooper, discoverer of the Ramshorn Mine at Bayshore and earliest settler at Stanley. She was born in 1893.

He was born in 1887 at Hailey, Idaho. He took to prospecting, trying to find a fortune, the same life which had likely brought his own father to this land and which certainly brought his father-in-law here.

In 1914 Charlie and Frankie were living on Peach Creek, a small, steep watercourse which runs into the main Salmon. It hadn't been Peach Creek very long. Earlier some girls had run a sporting house there and it was known as Whorehouse Creek. Now the name had been made respectable, Peach Creek.

Frankie was expecting a baby. Her time came and she started up to the workings to get Charlie to help her but on the way the baby came. Frankie delivered him herself, tied the umbilical cord with yarn which she hastily unravelled from her sweater and then cut the cord with a pocket knife.

The son was named Charlie Alfred Ernst

and nicknamed Toddy.

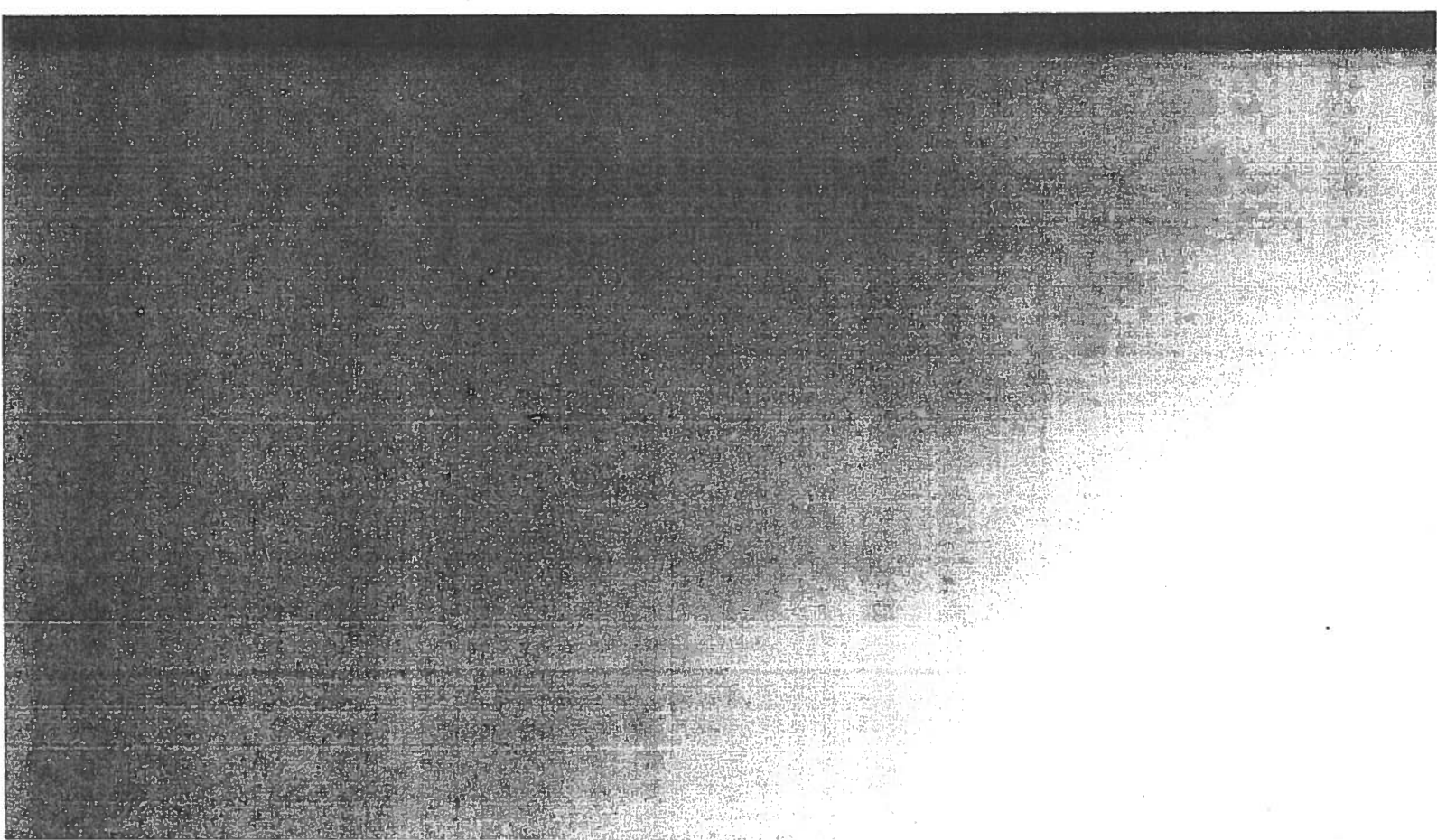
When the child was a year old, Charlie and Frankie decided to try their luck on the Middle Fork. They bundled up Toddy, their few belongings and some food and packed in, over to Loon Creek and then down to the river to start what would be two years of prospecting. It was to be their last two years together.

From 1915 to 1917 the Ernst family came to know the Middle Fork and its residents well. They prospected all the way down to Sheep Creek, a little below the mouth of Camas Creek. Sometimes they would go out for provisions or take their turn at picking up mail for residents on their section of the river.

Walter Wade was living on Loon Creek, and Bob Ramey and Charlie Warnick at the mouth of Loon Creek, and down at Sheep Creek on a tiny ranch was Julius C. "Jake" Reberk.

Reberk's name took a beating. It was spelled Reberg and Reeberg but the only document left now that was purportedly signed by him has it Reberk.

He was 31 years old, a year older than Charlie Ernst. He was of Swiss descent and had come from Ohio. Frankie Ernst was later to say that Reberk told her he had not registered for the draft and was hoping officialdom, busy



gathering men to fight in World War I, would just forget he existed.

He was on the Middle Fork in 1917 on a little patch of land with a cabin, a hay field, some machinery and a placer claim a little up river.

Then came what a jury was later told was a conspiracy between Charlie and Frankie to get Jake Reberk's place at the cost of Jake's life.

Jake's place wasn't much, but Charlie and Frankie still had nothing and it looked good to them. That, at least is the way the district attorney analyzed it.

There were several stories of what happened, several told by Frankie herself, plus the one put together by the prosecutor. Charlie never said anything about what happened, except to insist he was innocent.

Frankie was a handsome woman. She was tall, a shade over five-feet-eight. Her hair was brown, eyes gray and complexion light. She had a mole on her lip, called by some a beauty spot in those days.

The facts which are known are these:

Sometime in mid-1917 Frances Ernst and Jake Reberk began a romantic affair which resulted in Frances and Charles Ernst getting divorced. There are letters from Frances to

Reberk in which she declares her love for him and her desire and plan to be free of her husband. Those letters are dated September 30 and October 4.

And there is a statement dated October 24, 1917, in Challis, Idaho, and addressed to Charles A. Ernst of that town which says:

"I herewith consent that you take our minor child, Charles Alfred Ernst, and keep him so long as you see that he is properly provided for. And I further consent that in case a decree of divorce is granted to either of us that said minor child may be awarded to you, with the provision that you properly care and provide for him."

It was signed by Frances Ernst and witnessed by W. W. Adamson.

Frankie and Charlie were divorced. Frankie went back to the Middle Fork and became, in her words, "cook and housekeeper" for Reberk.

Sometime during the next couple of months he made out a bill of sale which stated:

"Bill of Sale of Sheep Creek Improvements sold for \$300 three hundred dollars paid sold to miss frances cooper and also giving the squaters rights which I had of the ranch.

(signed)
J. C. Reberk

the mowing machine and hay rake
plow and black smith shop is not
paid for"

Frankie said she never paid the \$300 to Reberk but he wanted the place in her hands in case the draft caught up with him.

Despite the appearance of Frankie's affection for Reberk and her divorce from Charlie Ernst, there is a letter to Ernst from her in which she tells of conditions as winter became more severe during that early December. She said she had killed a coyote but the fur wasn't prime. And she suggested Ernst come to the Reberk ranch.

On December 18, 1917, at 8 o'clock in the morning, the court was told, Julius Reberk was fatally shot.

Both Charlie and Frankie Ernst were present.

Word got out that Reberk had been killed and the coroner from Salmon, county seat of Lemhi County, was called. The Middle Fork is the county line between Lemhi and Valley counties at Sheep Creek and the ranch which was Reberk's home is in Valley County. But

Salmon is a lot closer than Cascade, the Valley county seat. So it was to Salmon the word was sent. The coroner, who was also the local undertaker, went in, exhumed the body and examined it and sent a message to the sheriff of Valley County that he had a shooting death on his hands.

Frankie, it is reported, was still at the ranch but Charlie had returned to Challis. He was on his way back to the ranch with their son Toddy when the investigation was going on. When he arrived, he surrendered himself. Frankie had identified him as the killer.

A preliminary hearing was held January 25, 1918, at Cascade before the Valley County probate judge, largely on the testimony of Frankie, because she was no longer Charlie's wife and therefore able to testify against him.

Charles Ernst was bound over for trial on a charge of murder.

He was not tried until August, 1919, and there is a lack of firm evidence now, half a century later, as to exactly what happened in the nineteen months which intervened.

It would seem that Ernst was released at one point, then rearrested. Frankie, the principal witness against him, went to Florida where she had relatives.

In April, 1919, a letter was received by the Valley County district attorney, Frank Kerby. It said:

"Dear Sir:

Have just heard that Ernst is in jail again, also that he is married. I was so angry at him for awhile for ever sending me near Reberk that I wanted to give him a good lesson but I want to live right and do right now so please wire me ticket and \$20 for expense so I can come at once. I was the one that killed Reberk. We won't need a trial to clear this up as I can explain it all. I have no money or I would not ask you for it. Please help me to do what is right and oblige.

Yours very truly,
Frances Cooper
Ybar City, Florida"

Frankie returned and that letter became an exhibit for the defense. But it was still Charlie who went to trial, for the prosecution had its conspiracy theory all ready by August. It should also be noted that Frankie wrote another letter to Kerby even before she left Florida, an explanation of how she killed Re-

berk. She said she was struggling with him over a gun when it discharged and killed him.

The trial was held in the court of the Honorable Charles F. Reddock, judge of the Third Judicial District of the State of Idaho, at Cascade. The prosecutor was Frank M. Kerby. Counsel for the defense were L. E. Glennon and T. S. Risser.

Frankie was the chief witness for the state.

She said that she was working as a cook for Reberk and intended to become Reberk's wife.

She denied that she was living at the time as his wife. There were two cabins on the property, she testified, and they had separate sleeping quarters.

At 8 a.m. on December 18, 1917, said Frankie, she was preparing breakfast and Reberk walked outside to wash his hands at the washbench.

She heard a shot.

As she moved to look out the door, she saw Reberk coming back to the cabin. He staggered in, took down a rifle and loaded it, handed it to her and fell dead.

She went outside with the rifle, expecting to find Charlie Ernst. She was cautiously searching the property when he sneaked up behind and grabbed her by the arm.

"Did I get the son of a bitch?"

"Yes, you killed him," she answered.

They went into the cabin and Ernst dragged the body out, covered it with straw and returned to wash his hands and eat breakfast. He delivered some mail he had brought for neighboring ranchers and then returned late in the day to dig a grave and bury the body.

That was Frankie's story, basically the same one she had told at the preliminary hearing.

She claimed, under cross examination, that she had admitted to the killing in her letters because Ernst had threatened to kill their child if she did not exonerate him.

The prosecution outlined to the jury a theory of conspiracy.

It contended the Ernsts wanted Reberk's property and that they hoped they could get Reberk into a compromising situation so that he would turn the ranch over to Frankie and leave, or else marry Frankie after she divorced Charlie.

But, said the prosecutor, although Reberk gave her a bill of sale conditional upon his leaving, he didn't leave and he wouldn't marry her even after she was divorced and was quite happy to live with her outside the bonds of matrimony.

This would hardly benefit Frankie and Charlie. Her letter to Charlie indicated this, it was said, in its reference to a coyote whose fur wasn't prime.

The prosecutor was willing to take Frankie's word that Charlie had been the actual killer of Reberk. So was the jury. But the jurors remembered Reberk apparently had been a draft dodger.

Charles Ernst was found guilty of murder in the second degree, according to the verdict signed by jury foreman F. H. Wallace.

He was sentenced by Judge Reddock to a term of 10 to 25 years in the Idaho State Penitentiary at Boise.

The jury was dismissed.

Immediately following the trial, Frances Ernst (charged by that name) was arraigned on a charge of manslaughter. She pleaded guilty. Judge Reddock sentenced her to serve 5 to 10 years in the penitentiary.

Frankie had apparently agreed to serve as a prosecution witness in exchange for a lesser charge against herself.

The sentences were handed down on August 12, 1919. One day later the two were admitted to the penitentiary.

It was said that Frankie attended a Billy

Sunday revival while living in Florida. She got religion and try as she obviously did, she could not shake off the pangs of conscience. In prison she again confessed she killed Reberk. Now she had everything to lose and nothing to gain by the confession. It was believed.

Charlie was released on July 30, 1921, by order of the State Board of Pardons. He had served just two weeks short of two years. Frankie served just over four and a half years, until March 29, 1923, when she was released on parole. A year later, from Florida, she informed the Board of Pardons she wished to get married and leave the country. She was given a pardon on April 12, 1924.

XIII — MODERN TIMES

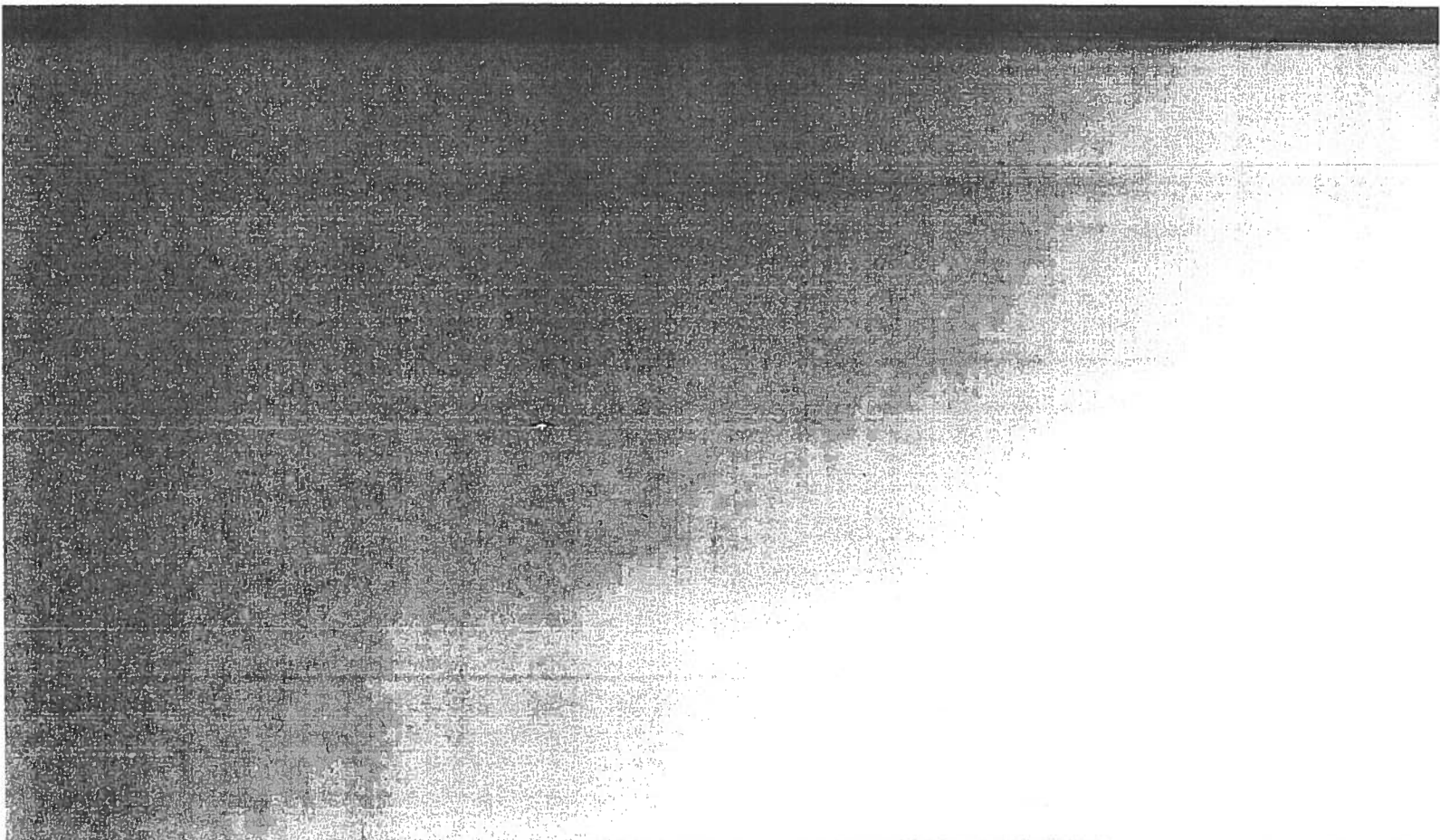
Bill Woolley first traveled into the Middle Fork by plane in the late 1920s.

By 1934 Tom McCall was flying all through the great central Idaho wilderness. He had the mail contract from Boise to Stibnite, the mine at the head of Marble Creek about twenty air miles from Thomas Creek. It produced tungsten.

The U.S. Forest Service and State Fish and Game Department were established by this time and, although getting in and out of the area was easier, and much freight was moved by air, still there were few residents, and were to be fewer each year.

No one was at Pistol Creek on the old Risley Ranch. Billy Mitchell had his place up Marble Creek and would be there for almost twenty years longer. Freeman Nethken owned the Thomas Creek place and, as we have mentioned, a succession of would-be owners moved onto the place but none was found to make a purchase stick.

The forest service had taken over the Little Creek property and put a guard station there. Charlie Warnick, with a reputation as a good packer, was at Mahoney Creek and Sam Lovell



and his wife were at Loon Creek. Mrs. Lovell was Mrs. Warnick's mother.

Fred Tappen was at Grouse Creek. His name is perpetuated in Tappen Falls and Tappen Gulch.

Whitey Cox was at Whitey's Bar about twelve miles below Thomas Creek, where he did a little prospecting.

Billy Mitchell at Marble Creek was a well-known "character" in the Middle Fork area. He had come in during 1917. He had taken up some four meadows strung along Marble Creek and built a comfortable cabin.

Bill Woolley recalls an occasion when Billy was smitten by a lady's charms but underestimated her capacity to sit down and drink along with the boys.

As Woolley tells it:

"This summer I had this foxy young red-head in from Hollywood that I was guiding and we were camped up on the Middle Fork at Thomas Creek. One day at the mouth of Marble Creek, we decided to go see Billy Mitchell.

Now, Billy used to take a packstring of about fifteen horses every year and go up, I think to Cascade, and get his winter's supplies and he always stopped at a fellow's up there who made moonshine. This fellow would

have a special batch ready for Billy. He'd re-distill it so that it was stronger and Billy wouldn't have to pack so much. But he'd tell Billy, 'Now this is near 200 proof, so when you get home you boil up some water and add a gallon of that water to every gallon of this.

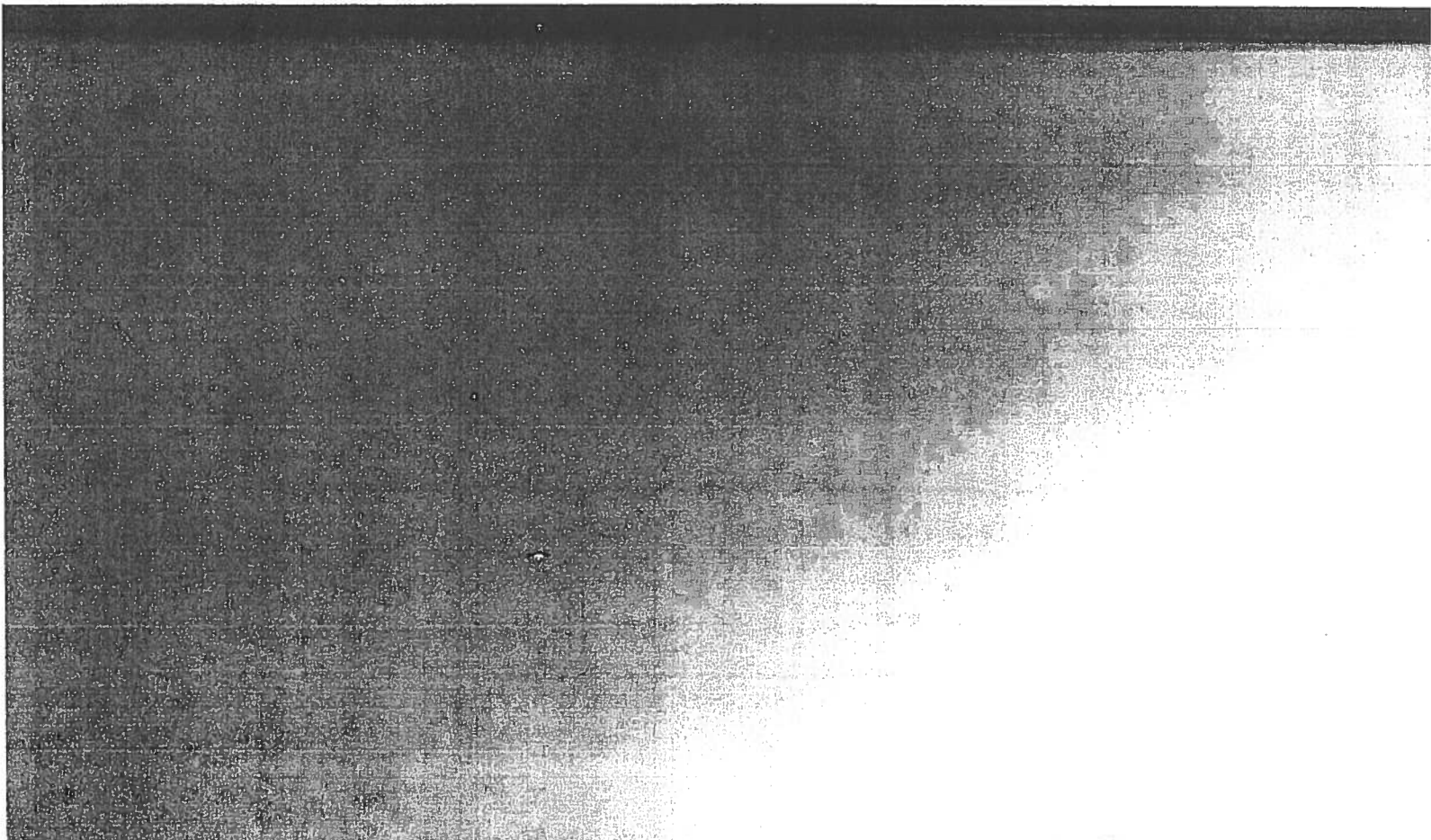
But every time, by the time Billy got home he would decide not to do it.

Well, this day we got to Billy's place and he wasn't at the cabin so we looked around and saw him up above where he was scything the weeds along his irrigation ditch. We walked up there and I introduced Billy to the red-head. He looked all moonfaced as he could and said 'Would you care for a little drink?'

She was a lot smarter than she looked and she looked back, very innocent, and she said she might not mind one little one.

Billy never took another stroke with the scythe. He dropped it and we headed right back down the hill.

He had a tunnel like a mine tunnel dug out about twelve feet back into a rock cliff behind his house and a little room cut at right angle at the end of it with burlap sacking made into a curtain and hung over the opening. It kept the same temperature winter and summer in there. He kept his supplies there, including the



whiskey.

We went in and he poured her a snizzle of that 200-proof stuff and one for me and one for himself and started to sip. Pretty soon he poured her another and he sipped some more.

In a little while she did a highland fling for him and flipped up her skirt a little and he poured another round. But he was starting to get tippy on the rock where he sat.

Eventually we carried Billy out to his cabin and put him to bed. We made a meal and ate it and Billy just snored away in the corner. After that we went out and got our horses and rode back to the camp.

I didn't see Billy again for about a year but when I did the first thing he said was, "What happened to the redhead?"

Billy stayed on until the early 1950s. Then he sold his place for \$6,000 to the state game department or the forest service which was buying up properties whenever they could. The plan was to keep the area as primitive as possible.

About the same time Whitey Cox was killed by a cave-in at his prospect and his neighbors buried him there.

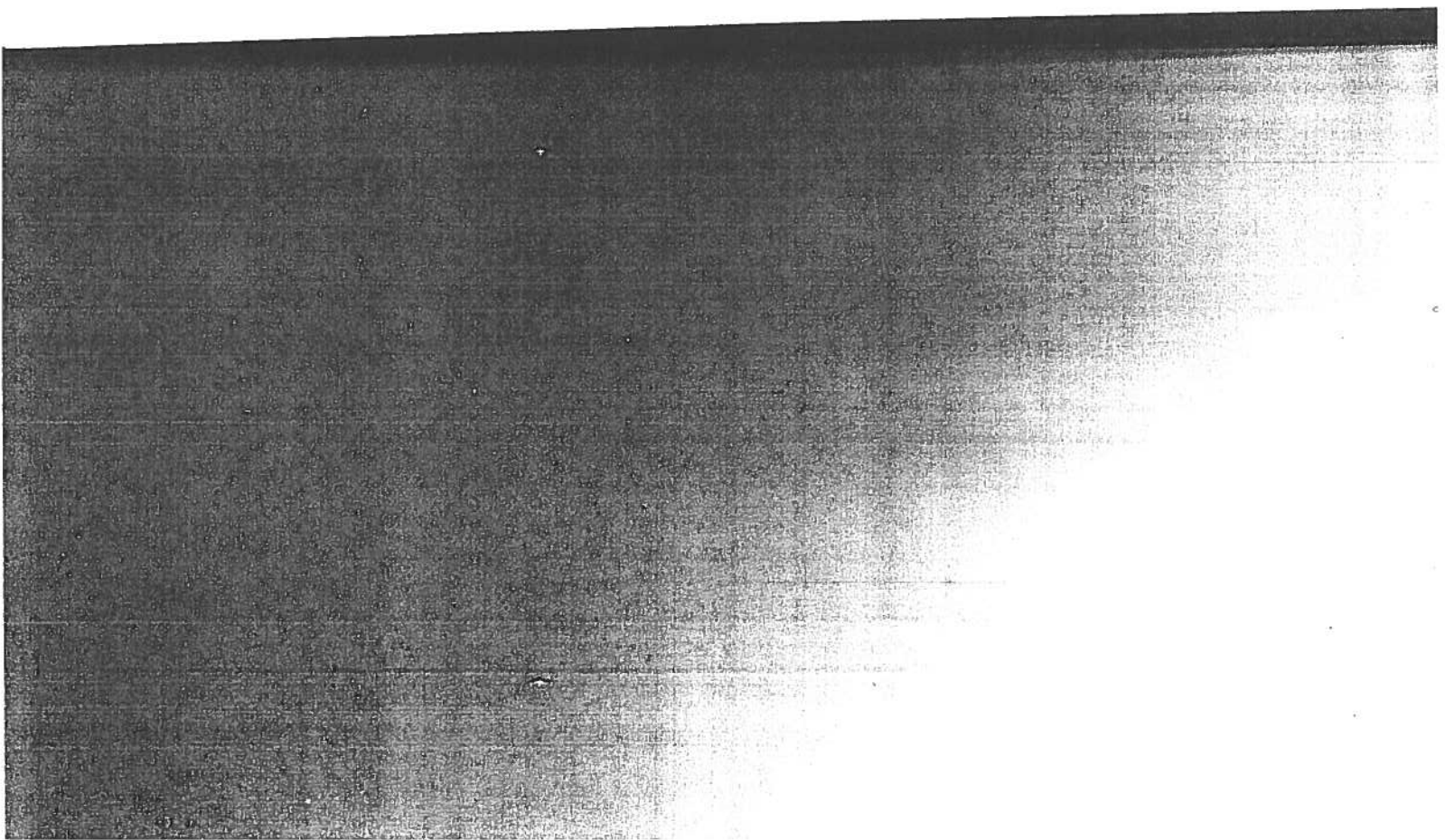
Tom and Nell McCall bought the Thomas Creek place from Freeman Nethken in 1938.

An airstrip had been established just across the river, up on a bench. Tom could fly in most of what they needed to set up a hunting and fishing lodge. They moved in to live in 1940 after Tom had sold his air services and oil business at McCall, Idaho. They took their six-year old daughter, Bonnie, deciding they could teach her at the ranch. She went through the seventh grade in this manner and finished the 8th grade and high school in Boise.

The old homestead house and the barn which Voller and McNerney built back near the turn of the century were there. Tom would rebuild.

He built a small sawmill, flying it in piece-meal. He had to have water power to run the mill so he bought 336 feet of big pipe, twenty-one lengths each 16 feet long, to divert water from Thomas Creek. The pipe was obtained from a mine and had to be taken down to the Middle Fork at Pistol Creek. McCall got an old packer to help him train six mules to carry the pipe, three teams of two mules each, each team with a length of pipe slung between them. "They sort of sidestepped around the turns in the trail," Tom says.

They got the pipe to the river and Tom then welded metal plates over the ends of the pipe and welded them together to raft them t



Thomas Creek. They smashed against rocks and gathered a few dents but arrived in good enough shape to be used for several years.

Tom and Nell and Bonnie lived in the old homestead cabin and built a new lodge, making their own lumber with the sawmill. They had about thirty-five head of horses. By 1943 their hunting and fishing lodge was a going concern. Besides building a new lodge they tore down the old footbridge across the Middle Fork and built a new one. Nell says that when she first arrived and finally got enough courage to make it across the old footbridge, she knew the place had to be home because she wouldn't go back over it.

There were a few neighbors. Marvin Larsen was the Forest Service guard at Little Creek and he was succeeded by Bill and Mae Sullivan in 1944, the same Bill Sullivan who first packed into the Middle Fork in 1904.

There was Billy Mitchell.

Pete Sneddiger was the Forest Service man on Little Soldier lookout. With the help of Fred Paulsen, he built a cabin just upstream from Thomas Creek where he wintered.

Milt Hood, one of those who had wanted the Thomas Creek place but apparently couldn't gather the cash to swing the deal, built some

cabins near the hot spring across from Little Creek.

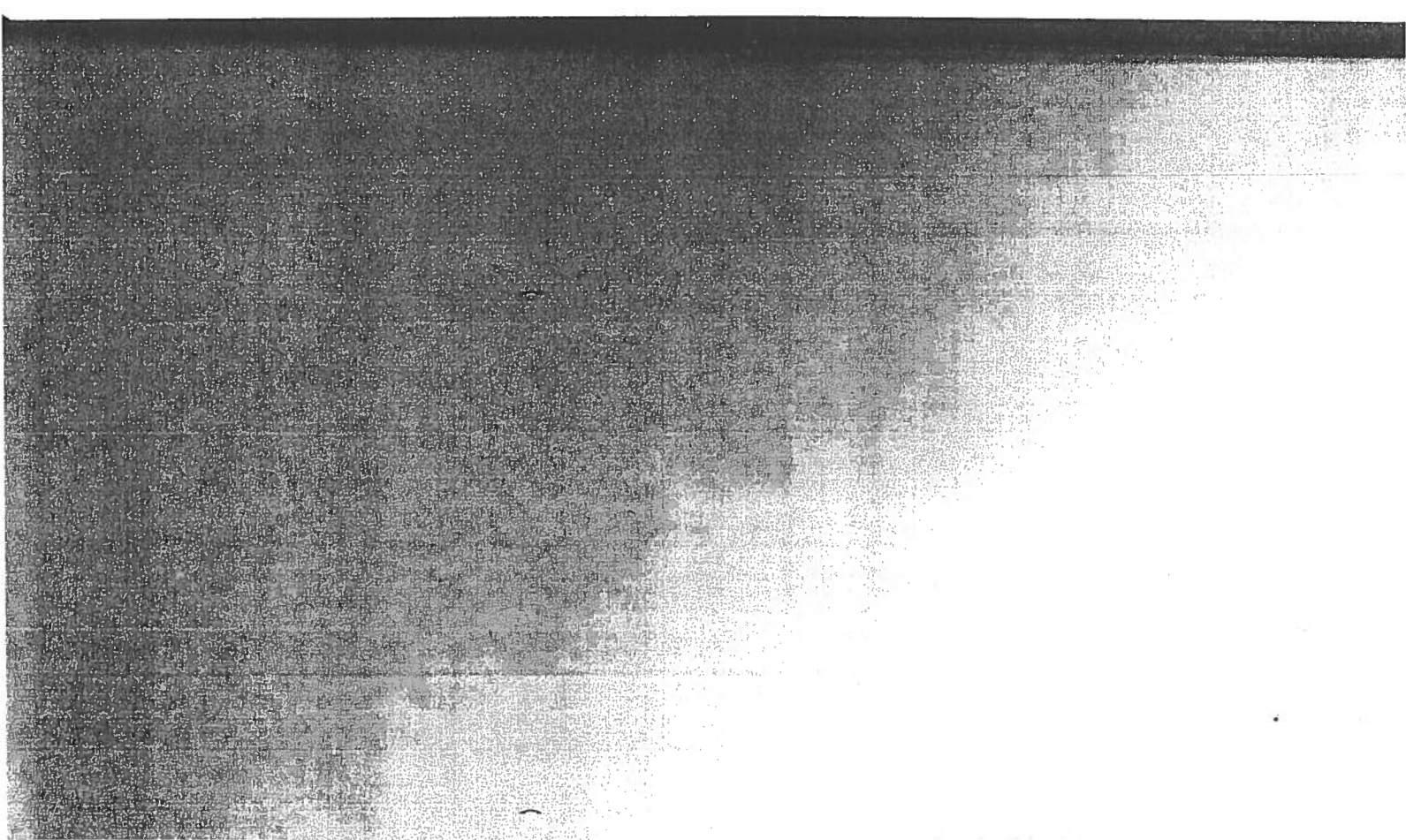
The McCalls kept the Thomas Creek place until 1955 when they sold it to Bill Guth, Ken Roundy and a Dr. Dean of Burley, Idaho.

That group later sold it to Rex E. Lanham of Emmett, Idaho, who subsequently sold it to Harrah's of Reno and Lake Tahoe.

Harrah's acquired Middle Fork Lodge for use by customers, entertainers, employees and news media personnel as a goodwill and moral builder.

The Lodge also has considerable investment potential, because it is one of a very few privately owned properties in this vast wilderness and with the ever increasing emphasis on outdoor recreation, values seem sure to appreciate.

Boating on the Middle Fork has been tried ever since white men were there. (As reported a 1904 boating accident took the life of sixteen year old Ted Dillon.) Regular boat trips down the Middle Fork, with dudes paying guides for the trip, began in the late 1930s. Melba Anderson, whose husband was one of those first river guides, believes she was the first woman to make the trip. She was a member of a party which put its boats in the water in 1942 at Loon Creek and finally came ashore at the



mouth of the Middle Fork.

Tom McCall started running the river in 1943.

It was in those early years of river running that the Middle Fork was "The River of No Return." Later, when the lower course of the main Salmon from the town of Salmon to Rig-gins became a favorite white water trip, the cognomen was switched to the Main Salmon.

Many boats have swamped and tipped over on the Middle Fork. Most have had fortunate endings but McCall remembers one fatality some thirty miles above Thomas Creek near Velvet Falls. There were eight in the party. The boat tipped. Seven got out and ashore. One man was drowned. Tom was one of those who answered the call for searchers. He pulled the victim from the river six miles below the falls. The accident happened in 1952, with the river running high.

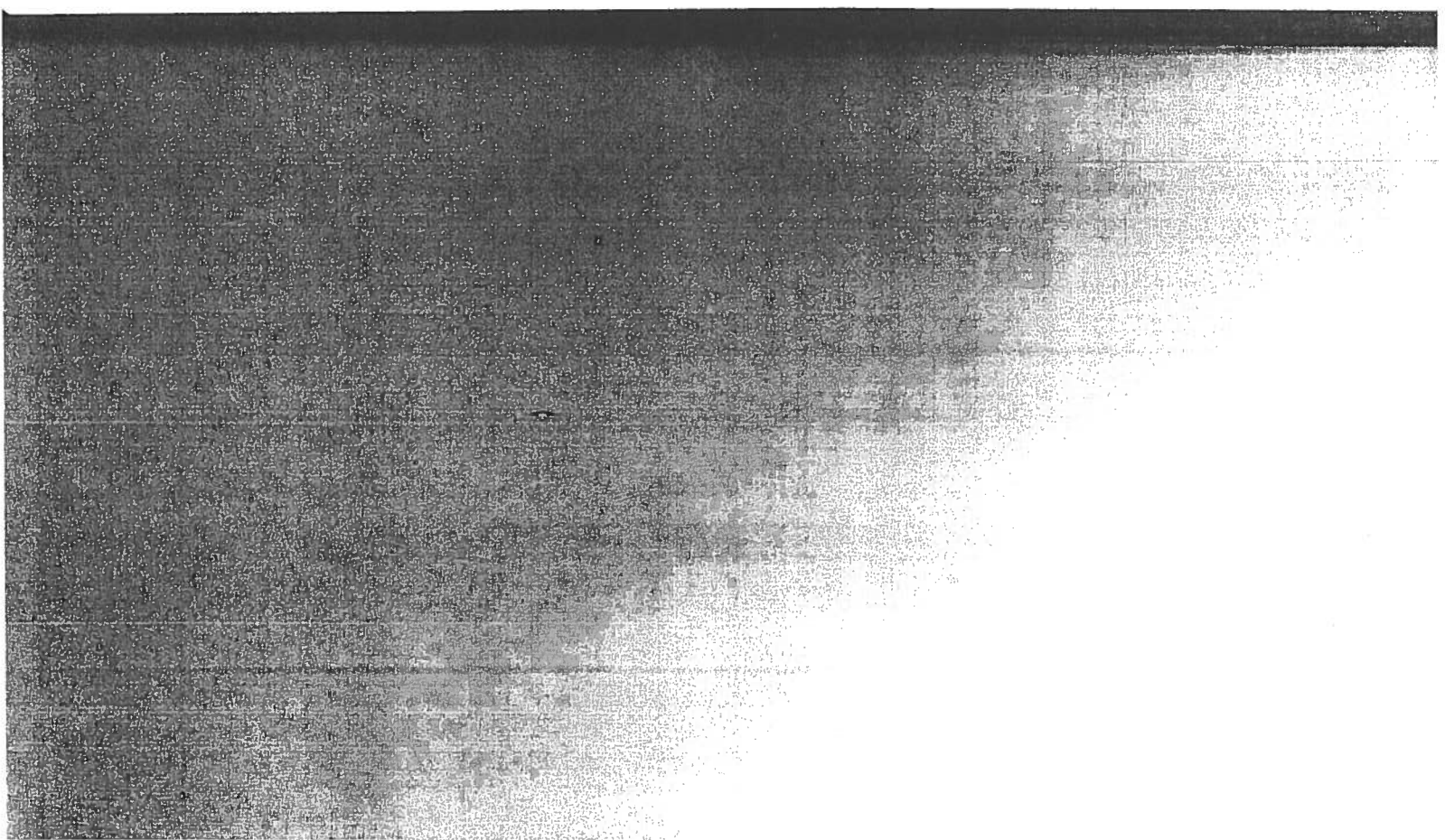
There have been considerable air mishaps in the Middle Fork, too, for most of the travel there in the past thirty years has been by air.

McCall estimates there has been a fatal accident at every airstrip in the area.

At Thomas Creek a man and a boy both died when their plane cracked up below the lower end of the runway. About 1960 a man and

woman took off from the same runway, "went up a canyon and must have thought they were still in the main canyon. They couldn't get out and they hit a mountain up Range Creek."

The day-in-and-day-out flyers of the Idaho wilderness pay the greatest respect to the terrain, the weather and every other condition which affects the safety of themselves and their passengers. They treat no day as an ordinary day, no airstrip as a routine one.



XIV — L'ENVOI

It is November. The time is seven in the morning. It is relatively mild, 30 degrees, just below the freezing mark. There is a complete cloud cover. Now it begins to snow.

The plane stayed in Boise last night after a trip out. Now it looks like it won't get in this morning if this weather continues.

Mert is in the kitchen, breakfast all ready. The staff comes down the hill in ones and twos from their quarters in the two buildings up there. They wear winter attire and pick their way carefully to avoid slipping. As each enters the lodge he gets a greeting from Yogi the dog. Yogi is the property of Mert and Emmanuel Will but everyone belongs to Yogi.

Four hunters who came back down the day before from one of the camps walk over from their cabin for breakfast. Guests and staff all eat in the one dining room. The hunters hope to go out today if the plane gets in. They came for elk but didn't get any. They are not disappointed. Disappointed, no doubt, but they realize that while there are plenty of elk in the mountains they are not always easy to find and, once found, may not include a bull worth the shooting. If such a bull is seen, you have to

shoot fast and well to bring him down.

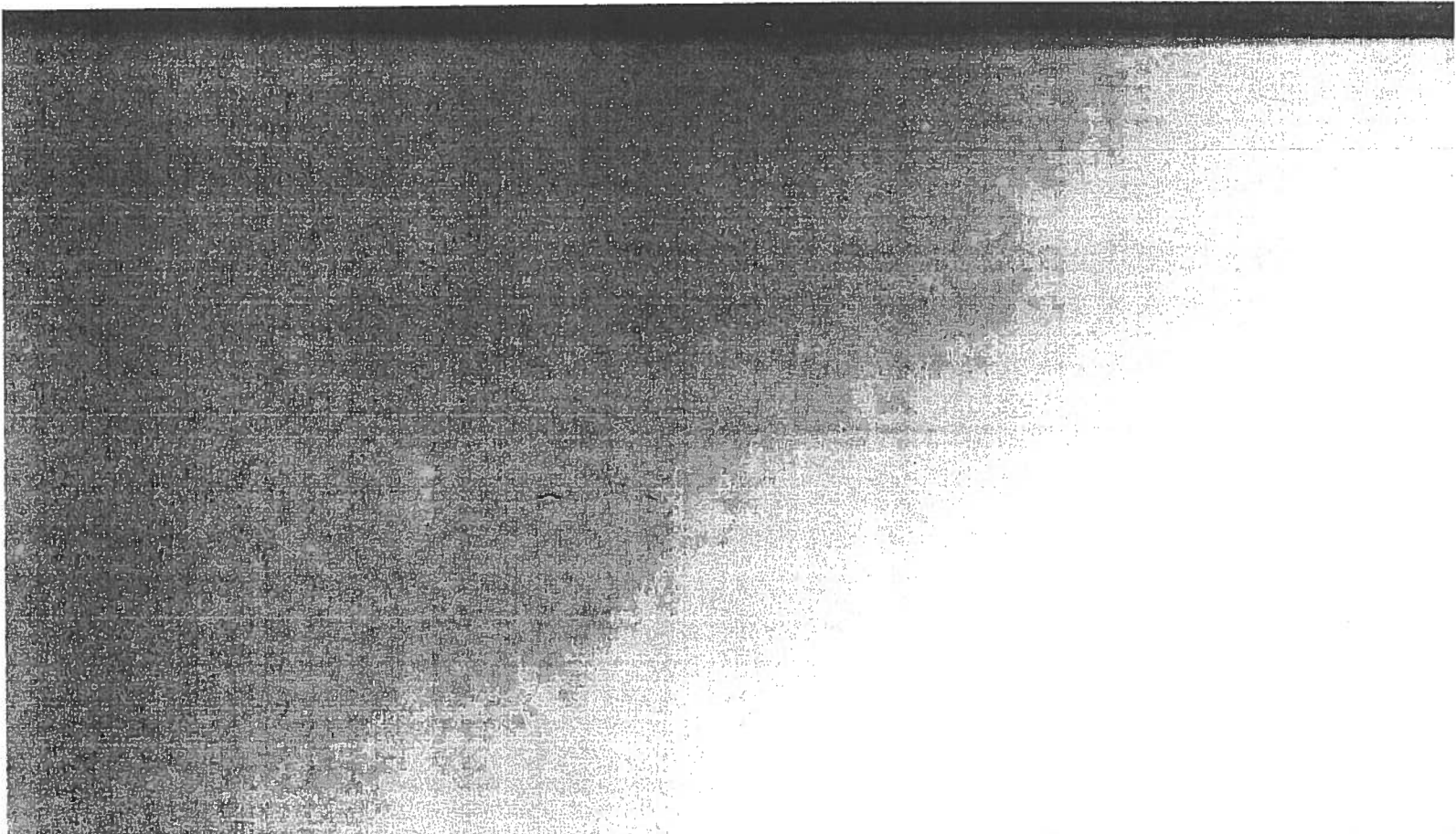
It is snowing hard, building caps on the new fencing. The river is black. Snow softens the grim look of the deer and elk hides strung on a cable stretched between two trees.

Soon after eight o'clock one of the pilots calls through from Boise. Billie, the radiophone operator who ties all of the central Idaho wilderness to the outside world, calls through and connects the pilot to lodge manager Fred Jackson. Fred gives him a weather report. He tells us it is raining in Boise.

The snow stops at 10 a.m. but the skies remain solidly overcast. The horses, pack animals which took the hunters and guides Bob Cole and Albert Denny up to the West Fork Camp and back, have been feeding across the river by the airstrip, stripping bunchgrass from around the sagebrush. Now they come across the bridge, linger briefly around the garage, then head past the lodge and go up into the pasture and hayfield near the corral.

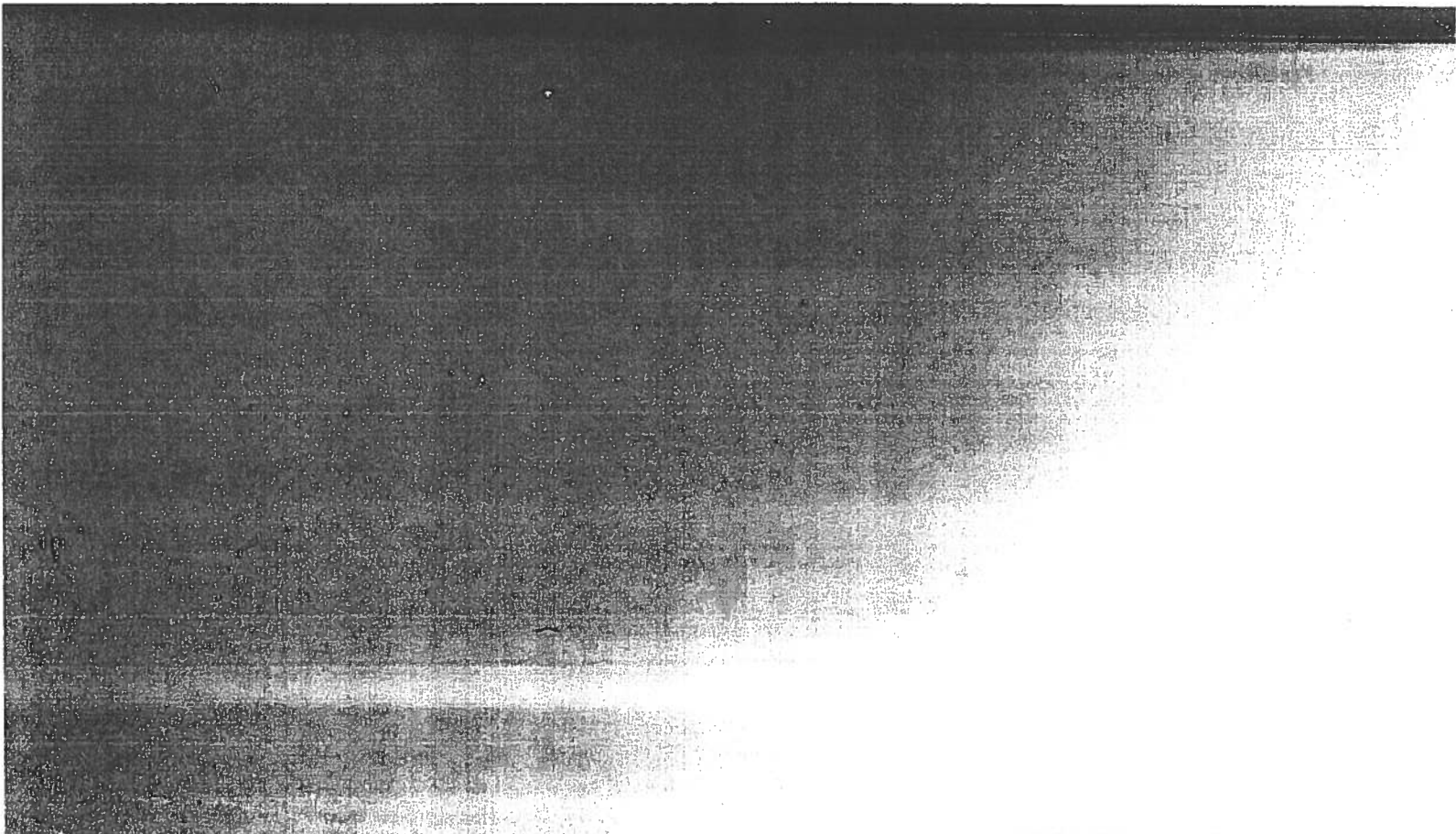
It's eleven o'clock and people stop what they're doing to listen. A plane is overhead. Someone calls out, "It's the Otter," the lodge's own plane.

Bob Cole slides behind the wheel of a four-wheel drive and heads up to the airstrip. The



pilots arrive at the lodge to announce that they anticipated it would be clearing, found a hole over the Middle Fork a little way down from the lodge and got under the cloud.

By noon the sky is blue, two song sparrows are feeding in the brush along the river, a family of mallards swim at the water edge and a red squirrel runs over the snow-covered rocks on the other side of the river, pausing to deliver a brief, aimless scolding, then disappears. From behind the lodge, on the hillside, a pair of Clark's nutcrackers, looking like grey crows, dig seeds from yellow pine cones and caw in answer to the squirrel. All around the lodge Oregon juncos fly back and forth from snowcovered ground to trees, twittering as they feed.



SERIAL No. 09243

KIND: H

James Potter
Stanley Russell, Idaho

DATE.

7/14/13

NOTATIONS.

*Patent made to 1st Natl. Bank,
 Elaeia, Idaho, at request of
 Elaeia.*

A tract of 79.68 acres within unsurveyed but within a 1/4 section 36, T. 26 N., R. 23 W., described by metes and bounds as follows: Beginning at corner No. 1, a stone marked H/L, whence the Forest Service Monument (the monument of Thomas Greer) bears N. 17° W. 360 feet from said point (Forest Service Monument) bears S. 43° 20' W. 51 feet, extending thence N. 10° 40' W. 882 feet, thence S. 80° W. 376 feet, thence S. 80° W. 2405 feet, thence S. 34° 50' W. 1114 feet, thence S. 88° 40' W. 741 feet, thence S. 80° W. 307 feet, 280.5 feet, thence N. 68° 20' W. 239 feet to the place of beginning. Variation 11 deg. 30' E. True N. 4380.

open for public entry on Nov 26, 1910
 application refused
 entry allowed
 full copy of approved plat and field notes
 MAY 11 1912 Up to make 5 year grace for 21/2 years: July 11, 1912
 SEP 3-1912 RECEIPT NO. 9313100- Bal 346 paid
 MAY 21 1913 20 received To GLO NOV. Return
 MAY 13 1913 Patent # 333095 issued
 MAY 21 1913 9 office sent.

SERIAL No.

KIND:

HE

NOTATIONS.

Patent made to 1st Natl. Bank,
Chaeis, Idaho, at request of
Chaeis.

That certain tract of unreserved land in the Challis National Forest,
Quater County, State of Idaho, is No. 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000.

open for public entry on Nov 26, 1910

Applicant not paid

Entry allowed

Rec'd copy of approved plat and field notes

Map to make beyond point for 91.40 acres July 11, 1911

SEP 3 - 1912 RECEIVED NO. 938500 - Pl. 34th paid

May 21 30 issued To GLO NOV. Returns

May 13 1913 Patent # 333095 issued

May 21 1913 A. J. Chevalier

SERIAL No.

KIND:

NOTATIONS.

2) Patank mended to 1st Hall. Buck,
Chaeis, Shallo, at request of
Chambers.

[illegible]

to interview

field station; improved plot and field notes

MAY 2 - 1912 Don't know the name of the person who was killed by the Indians.

SEP 9 1942 RECEIVED NO 43360-378846
KINGMAN ARIZONA

Mar 22 1961
To CLO NOV
RETURN

May 1918 Content 7 333045-4211d

Stöberchen

SERIAL No

KIND:

Patent

NOTATIONS.

Patent mailed to 1st Natl. Bank,

Laurens, Idaho, at request of
Laurens.

DATE.

NOTATIONS.

Nov 9 1910

RECEIPT No 338933 - (Copy accompanying)

for affidavit and office fees,
admission to court and for the money
received in and land as
open for public entry on May 26, 1910

1/9/11
Application notified
County allowed

APR 29 1912

Recd copy of approved plat and title notes

MAY 11 1912

Copy to make Bureau of Land Management July 11, 1912

MAY 29 1912

Copy to make Bureau of Land Management July 11, 1912

SEP 3- 1912

RECEIPT No. 938360 - Ad 346 recd

MAY 21

3.00 issued To GLO NOV. Return

MAY 13 1913

Patent # 333095 issued

MAY 21 1913

Patent # 333095 issued

Field Note.

of the
Homestead Entry Survey of Agricultural Claim of
E. C. Jones (No. 100),
Within Charles National Forest, Idaho.

Approximately in survey T. 16 N., R. 13 E.
of the Boise Meridian, Idaho.

Designated as Homestead Entry Survey No. 77.

Application No.

List No. 14-380, dated July 7, 1910.
H. E. No. 09243, dated January 9, 1911.

Gravel Land District.

Surveyed by Samuel M. Ballard
U. S. Deputy Surveyor

Under two special instructions, dated Oct. 18, 1911.

Surveyed October 30, 1911.

Revised Nov. 17, 1911.

Exam. Nov. 18, 1911.
C. A.

G

Field Notes of Establishment of

U. S. Location Monument No. 77, Challin National Forest, 1932

In executing Homestead Entry Survey No. 77 Idaho, James Voller, claimant, there being no public land corner within two miles or any available distance, I establish U.S. Location Monument No. 77, as follows:

A rock in place, 30 x 20 x 20 ins. above the ground with a point on top for U. S. Location Monument No. 77, out a cross on top of apex of rock for connecting point and mark U.S.L.M. 77 IDAHO on the E. W. face of the rock.

From this ~~land~~ monument the mouth of Thomas Creek bears N. 20° W. 5.70 chs. distant.

A fir tree, 2 1/2 ins. dia., bears E. 84° 15' S. 47 lks. distant.

A fir tree, 16 ins. dia., bears E. 27° 40' W. 89 lks. distant.

A fir tree, 37 ins. dia., bears S. 21° 50' W. 72 lks. dist., all blazed and marked USLM No. 77, IDAHO, P.T. October 30, 1911.

Samuel M. Ballard

U. S. Surveyor.

Subscribed and sworn to by said *Samuel M. Ballard*,
U. S. Deputy Surveyor, before me this 13th
day of November, 1911.

L. C. Henry
Notary Public.

Line of T. elongation, bearing of stone being 121° 1' 30"
W. Latitude 44° 44' North.

Beginning at Cor. No. 1

Identical with Cor. 1 of the Listing Survey, which is
a stone, marked and witnessed as described by the Survey-
or General, and is on right bank of Middle Fork of Salmon River.

In some place I set a porphyry boulder 26 x 10 x 8 ins.,

12 ins. in the ground, for Cor. No. 1, marked 1 RES 77.

N.O. on the N. W. face, with a cross on top, from
which

A fir, 24 ins. dia., bears S. 64° E., 22 lks. dist..

blazed and marked RES 77 Cor. 1 N.O., B.T.

No other bearing objects available.

U. S. Location Monument No. 77, Challis National For-
est, which is a rock in place 30 x 20 x 20 ins. above the
ground, marked USLM 77 IDAHO on the N. face with a cross
on top, as described in my field notes of the establish-
ment of said monument, bears S. 41° 40' W. 1.37 1/2 chs.
distant.

From
B. 597
10.1.42

Chs.

Survey commenced Oct. 30, 1911, and executed with a Kauf-
Tol and Esser transit No. 12,750; the horizontal limb
having two double verniers placed opposite to each
other and reading to single minutes of arc.

The instrument is in perfect adjustment.

Dec 30, 1911, at Netherman claims house
 2534
 Loc. 44-444 N., at 455 m. w. of
 Below of meadow stream, and marks the line the claim
 is a rock containing a number of white grains, these also
 at my station.

[illegible]

12 ins. in the ground, for Cop. No. 1, marked 1 HES 27,

M.C. on the N. W. ¹face, with a cross on top; from which

A Fir, 25 ins. dia., bears S. 64° E., 22 lks. dist.,
blotched and marked HES 77 Cor. 1 M.C., B.T.

No other bearing objects available.

U. S. Location Monument No. 77, Challin National For-
out, which is a rock in place $30 \times 20 \times 20$ ins. above the
ground, marked USLM 77 IDAHO on the N. face with a cross
on top, as described in my field notes of the establish-
ment of said monument, bears S. 41° $40'$ W. 1.37% chs.
direct.

Revised: Vol. 406
G. 597

253B

Three I saw with meander along the right
or west, back of Middle Fork of Salmon

River. Up stream.

Three I saw with meander along the right

at 5:20 PM. Thomas Dr. Flaming ME

N. 9° 11' N. 5.00 "

N. 2° 11' N. 6.00 "

N. 16° 11' N. 5.00 "

N. 36° 30' N. 6.00 "

N. 22° 45' N. 6.00 "

N. 14° 15' N. 7.00 "

N. 21° 21' N. 7.55 "

N. 22° 12' N. 7.55 "

N. 22° 12' N. 7.55 "

N. 22° 12' N. 7.55 "

N. 22° 12' N. 7.55 "

N. 22° 12' N. 7.55 "

N. 22° 12' N. 7.55 "

N. 22° 12' N. 7.55 "

N. 22° 12' N. 7.55 "

N. 22° 12' N. 7.55 "

N. 22° 12' N. 7.55 "

N. 22° 12' N. 7.55 "

N. 22° 12' N. 7.55 "

Thomas, W. 1406
P. 598

with Cor. 2 of existing survey, a stage, 22 x 16 x
Dive. set 12 run in the ground, which I work
2 HES 77 MC on S. 11' face, with cross (1)
on top, from Cor. 1122 and Meander. See;
from which

Obs. 22 x 16 x 8 ins. set 12 ins. in the ground which I mark

2-HES-77, N.E., on the S. W. face with a cross on top for

Cor. No. 3; from which

A yellow pine, 40 ins. dia., bears N. 29° E., 12 lks.

dist., blazed and marked HES 77, Cor. 2, M.C., B.T.

No other bearing objects available.

Thence S. 70° 15' W.

Up steep, open hillside, through scattering sage brush,

6.03 To Cor. No. 3,

Identical with Cor. 3 of the Listing Survey, a granite

boulder, 23 x 14 x 8 ins., set 12 ins. in the ground, and

which I mark 3-HES-77 on the S.E. face, with a cross on top

for Cor. No. 3; from which

A yellow pine, 36 ins. dia., bears E. 62° W., 44 lks.

dist., blazed and marked HES 77 Cor. 3, B.T.

No other bearing objects available.

Thence S. 80° 47' E.

Along open hillside sloping east, through sage brush

51.74 To Cor. No. 4,

Identical with Cor. 4 of the Listing Survey, a wash

boulder 34 x 14 x 7 ins., set 12 ins. in the ground, on

hillside, and mark 4 HES-77 on the S.W. face, with cross

on top, for Cor. No. 4; from which

A fir, 6 ins. dia., bears E. 74° 35' E. 1.44 obs. dis-

tant, blazed and marked HES-77 Cor. 4, B.T.

No other bearing objects available.

Thence S. 34° 45' W.

Along open hillside, sloping S. E., through sage brush

16.90 To Cor. No. 5,

Identical with Cor. 5 of the Listing Survey, a stone,

24 x 16 x 10 ins., set 12 ins. in the ground, which I mark

5 HES 77 on the S.E. face, with a cross on top, for Cor.

No. 5; from which

A fir, 38 ins. dia., bears E. 31° 10' W. 1.59 obs. dis-

tant, blazed and marked HES 77, Cor. 5, B.T.

N. W. Cor. of claimant's hollog, a 25 x 45 ft. log

Obs. 22 x 16 x 8 ins. set 12 ins. in the ground which I mark

2-HES-77, N.E., on the S. W. face with a cross on top for

Cor. No. 3; from which

A yellow pine, 40 ins. dia., bears N. 29° E., 12 lks.

dist., blazed and marked HES 77, Cor. 2, M.C., B.T.

No other bearing objects available.

Thence S. 70° 15' W.

Obs. building, bears S. 42° 10' E. 0.64 obs. dist.

N. W. Cor. of shed, 10 x 12 ft., bears S. 36° E. 9.60

obs. dist.

N. W. Cor. of old log cabin, 15 x 20 ft., bears S. 23°

E. 10.2 obs. dist.

N. W. Cor. of claimant's bar, bears S. 5° 30' E. 3.20

obs. distant.

Thence S. 29° 00' W.

Down gentle slope, through scattering growth of pine and

fir, 32 x 12 x 6 ins., which I reset in the same place, 12 ins.

in the ground, and mark 5-HES 77 on the E. face, with a

cross on top, for Cor. No. 6; from which

A fir, 40 ins. dia., bears E. 25° 10' W., 59 lks. dist.

A pine, 50 ins. dia., bears S. 42° 2, 61 lks. dist.,

both blazed and marked HES 77 Cor. 6, B.T.

Thence S. 31° 30' E.

Down gentle slope, through scattering growth of pine and

fir.

1.55 To ~~Cor. No. 7~~ Thomas Cr., flowing east.

Across level ~~ground~~, through alder and cottonwood

4.20 To Cor. No. 7,

Identical with Cor. 7 of the Listing Survey, a granite

stone, 24 x 12 x 7 ins., set 12 ins. in the ground, and

marked 7 HES-77 on the N.E. face with a cross on top for

Cor. No. 7; from which

A fir, 16 ins. dia., bears S. 78° 40' W., 37 lks. dist.

A pine, 20 ins. dia., bears S. 39° 10' W., 52 lks. dist.

both blazed and marked HES-77 Cor. 7 B. T.

Thence E. 70° 18' E.

Through scattering growth of alder and cottonwood along

the south bank of Thomas Cr.

17.00 To ~~Cor. No. 8~~ ^{Cor. No. 8}

Through scattering growth of fir and a few yel-

256A

4-689.

DIRECTIONS.—1. Carry out the area in acres to three decimals, and all other calculations to two decimals only.

2. In balancing Lat. and Dep. do not obliterate or change the original figures; but put below them the corrected footing in red ink.

3. Put the corrected figure or figures above in red ink. Do not change the footing of the original figures, but put below them the corrected footing in red ink. The corrections for balancing fallings should be proportional to the lengths of the lines.

4. In calculations of fallings take result to nearest hundredth. In calculations of N. and S. areas drop all after second decimal. Deputies are cautioned not to use tables that do not give results exact to the decimal specified.

TABLING AND CALCULATIONS OF *Homestead Entry*, SURVEY No. 77. Idaho

No.	COURSE	DISTANCE	LATITUDES		DEPARTURES		DOUBLE M. D.	N. AREAS	S. AREAS
			NORTH.	SOUTH.	EAST.	WEST.			
	N 36° 30' W.	6	482			357	357	1721	
	N 8° W.	5	494			78	792	3912	
	N 2° W	6	6			21	891	5346	
	N 16° W	5	481			198	1050	5051	
	N 36° 30' W	6	482			357	1545	7447	
	N 22° 45' W	6	553			232	2134	11801	
	N 4° 15' W	9	898			67	2433	21848	
	N 21° 21' W	955	889			348	2848	25319	
	S 79° 15' W	683		129		680	3876		5000
	S 8° 47' E	3174		3137	485		4071		127707
	S 34° 45' W	1690		1386		963	4549		63049
	S 29° 9' W	1114		973		543	6055		58915
	S 31° 30' E	420		358	219		6579		22837
	N 70° 18' E	3272	1103		3084		3080	34003	
			5982	5989	3785	3784		116448	277508
									116448
									2161060
									80.53 ACRES

256

Chs. low pine trees.

32.72 To Cor. No. 1, the place of beginning.

October 30, 1911.

Area 80.53 acres

GENERAL DESCRIPTION

The land embraced in this survey is nearly all level bottom land. The soil is decomposed lava and granite, and more or less gravel, about 15 feet deep.

There is plenty of water for irrigation, from Thomas Cr. The claimant has constructed about 2000 ft. of irrigation ditches, 3 ft. wide and 1½ ft. deep.

Two-thirds of the area of this claim is now hay land and the rest affords good spring pasture.

Of timber there is a dense growth of cottonwood and alder along both banks of Thomas Creek. At the S. and N. ends of the claim are some scattering fir, and several yellow pine trees along the river bank.

The claimant's residence and other buildings have been described in the foregoing field notes.

Samuel M. Ballard
U. S. Deputy Surveyor.

CERTIFICATE OF ASSISTANTS.

We, the undersigned, hereby certify upon honor that we assisted, to the best of our skill and ability,

Samuel M. Ballard, U. S. Surveyor, during the periods and in the capacities stated opposite our several signatures, in surveying all those parts or portions of

Homestead Entry Survey 9277, Dakota.

James Walker, claimant, situated in Shick's National Forest, Crocker Co., Dakota.

In unsurveyed section 27, T 16 N., R. 13 E.

of the *Boise* Meridian, in the State of *Dakota* which are represented in the foregoing field notes as having been executed by him, and under his direction; and that said survey has been, in all respects, to the best of our knowledge and belief, well and faithfully executed.

NAME

PERIOD OF SERVICE

DUTY

CAPACITY

James Walker Oct. 30, 1911 Oct. 30, 1911 claimant

Subscribed and certified to before me on the dates of the final service as shown above.

Samuel M. Ballard
U. S. Surveyor

I, Samuel M. Ballard U. S. Surveyor, do solemnly swear that, in pursuance of special instructions received from the U. S. Surveyor General for Idaho, bearing date of the 18 day of October, 1911, I have well, faithfully, and truly, in my own proper person, and in strict conformity with said instructions, the Manual of Surveying Instructions, and the laws of the United States, surveyed all those parts or portions of the Homestead Entry Survey No. 77, Challis, in Challis National Forest, Coeur d'Alene County, Idaho, in unsurveyed section 27, T. 16 N., R. 13 E.

Boise Meridian, in the State of Idaho, of the foregoing field notes as having been executed by me, and under my direction; and I do further solemnly swear that all the corners of said survey have been established and perpetuated in strict accordance with the Manual of Surveying Instructions, and the special written instructions of the U. S. Surveyor General for Idaho, and in the specific manner described in the field notes, and that the foregoing are the original field notes of such survey.

Samuel M. Ballard
U. S. Surveyor.

Subscribed by said Samuel M. Ballard, and sworn to before me
this 18th day of November, 1911



L. C. Henderson
Notary Public

APPROVAL.

OFFICE OF THE UNITED STATES SURVEYOR GENERAL.

Boise, Idaho, December 4, 1911, 191

The foregoing field notes of the survey of Homestead Entry Survey No. 77 of the agricultural claim of James Voller, in Challis National Forest, Coeur d'Alene County, Idaho, in unsurveyed section 27, T. 16 N., R. 13 E., S. M., Idaho.

executed by Samuel M. Ballard, U. S. Deputy Surveyor, under his special instructions dated October 18, 1911, having been critically examined, and the necessary corrections and explanations made, the said field notes, and the surveys they describe, are hereby approved.

Samuel A. Utter
U. S. Surveyor General.

I certify that the foregoing transcript of the field notes of the above described survey is a true and correct copy of the original notes on file in this office.

PLAT
OF THE AGRICULTURAL CLAIM OF

JAMES VOLLER

WITHIN CHALLIS NATIONAL FOREST

CUSTER COUNTY

Approximately in unsurveyed T.16N., R.13E.

BOISE MERIDIAN IDAHO

DESIGNATED AS H.E.S. N° 77.

Application N°

List N° 4-380, dated July 7, 1910.

Homestead Entry N° 09243, dated Jan. 9, 1911.

HAILEY LAND DISTRICT

IDAHO

*As surveyed by Samuel M. Ballard U.S. Deputy
Surveyor under his special Instructions, dated Oct. 18, 1911.*

Surveyed October 30, 1911.



*The above plat of Homestead Entry Survey N° 77, Idaho,
is strictly conformable to the field notes of the survey thereof,
on file in this Office, which have been examined and approved.*

U.S. Surveyor General's Office *Darius A. Utter*
Boise, Idaho. December 4, 1911 *Surveyor General.*

MIDDLE FORK LODGE THOMAS CREEK WATER USE ANALYSIS

Prepared For

**Dan Steenson
Ringert Clark Chartered**



**Prepared By
David Shaw
ERO Resources Corp
September 9, 2005**

MIDDLE FORK LODGE THOMAS CREEK WATER USE ANALYSIS

The information in this report is based upon measurements, observations and discussions with Scott and Shelda Farr that occurred during site visits on October 1, 2004, and June 2, 2005, 1999 aerial photography obtained from the USDA, other readily available published information, and the Exhibits accompanying the claims to water rights filed with the Idaho Department of Water Resources (IDWR). This report provides a summary of the current and historical Thomas Creek water diversion and delivery methods and the extent of historical water uses for irrigation and hydropower on the Middle Fork Lodge (MFL) property as evidenced by the available records.

Current Thomas Creek Irrigation and Hydropower Diversions and Uses

The current Thomas Creek water diversion and uses on the MFL property were examined on June 2, 2005 by a representative of the IDWR. That examination found 43 acres of sprinkler irrigation, and 3.00 cfs of water used for hydropower generation. The irrigated area is made up of the upper field comprising about 10.5 acres and currently used for pasture and the lower field of about 25 acres currently used for hay production and pasture. The remainder of the irrigated area (approximately 7.5 acres) is landscape and pasture near and around the homestead buildings, and landscaping and orchard near and around the lodge and other buildings on the property. All water for irrigation and hydropower use is diverted through the concrete structure located on land managed by the US Forest Service (USFS) in the SW¼NE¼ Section 20, Township 16 North Range 12 East, B.M. and transported through the 12 inch pipeline located in the course of the historic "upper ditch" through the land managed by the USFS. After the pipeline enters MFL property it continues along the course of the upper ditch but also branches to provide irrigation water to the various irrigated acres and to provide water to the hydropower generator.

Historic Thomas Creek Irrigation and Hydropower Diversions and Uses

Modifications to the Thomas Creek water diversion and delivery systems and other construction on the MFL property over the course of the last century have greatly improved water use efficiencies, as well as reduced slightly the irrigable area from a historic maximum of about 46½ acres to the currently irrigated 43 acres.

The Upper Field and the Upper Diversion and Ditch System

The upper field, the southwest field on the attached aerial photo, is currently sprinkled and is smaller than at the time it was gravity irrigated from the open, upper ditch. As originally irrigated, the water would have been turned out of the ditch on the northwest side of the field and allowed to flow to the southeast over the field. The line of the old upper ditch is not visible on the aerial photo, though it is visible on the ground. The original field would have included an additional 1 to 2 acres on the northwest side

between the edge of the currently irrigated field and the old ditch alignment. The field size was reduced when it was converted to sprinklers since the uppermost sprinkler set had to be moved far enough down slope, to the southeast, to gravity pressurize the sprinkler line. The upper field could only have been irrigated from the upper ditch historically, and now requires the pressure developed from the diversion and conveyance of water from the upper diversion structure through the pipeline to continue to irrigate this field.

The photo to the right shows a section of the old upper ditch about 300 feet downstream from the diversion control structure. The ditch is clearly evident at this location where it was excavated through rock material. The attached computation sheet shows the channel capacity of the upper ditch remnant is estimated to be about 13 cfs (about 5,800 gpm). The slope of this ditch segment was taken from the PIPELINE ELEVATION PROFILE, attached, provided by Scott Farr. The ditch capacity of



13 cfs is more than enough to irrigate the 11½ to 12½ acres of the upper field and could have irrigated the entire MFL property. The 13 cfs is probably more than the water supply of Thomas Creek during much of the year. Even if the prior gravity irrigation of the upper field were 15 to 20% efficient due to the steep terrain of that field, the irrigation requirement was probably not more than about 0.8 cfs (about 360 gpm) for the upper field.

The Lower Field and the Lower Diversion and Ditch

The lower field, also known as the hay field, could have been irrigated by water diverted through the upper ditch. For a time the lower field was irrigated from a ditch diverting near the homestead ranch house on the MFL property. There are remnants of the ditch visible along the road on the west side of the lower field but it is not possible to know the original size of the ditch as the road has encroached into it. Most of the lower field could have been irrigated from this lower ditch although there may be high spots within the field that would have slightly reduced the total irrigated acreage and the lower ditch may not have been able to reach all of the area once irrigated in the vicinity of the present lodge and associated buildings. The lower field is not as steep as the upper field and could be gravity irrigated more efficiently than the upper field. An irrigation efficiency in the 25 to 35% range would result in an irrigation requirement of about 0.85 cfs (about 380 gpm) to gravity irrigate the lower field at its present size.

Hydropower Use and the Middle Diversion and Ditch

There is an additional ditch between the upper and lower fields, the middle ditch that carried Thomas Creek water to power a saw mill, power a pelton wheel to generate electricity and to provide water for irrigation. This use of the ditch is described in the



affidavits of William R. Guth and Robert L. Cole and the ditch appears on the March 1967 plans for the MFL prepared by Barton, Stoddard, Milhollin and Higgins, Inc. The plan shows water was taken from the ditch through an 18 inch penstock to the pelton wheel used for electrical power generation. The affidavits confirm this ditch was also the source of water for the saw mill located adjacent to the Middle Fork Salmon River. The ditch is still evident above the road a short distance below the

homestead ranch house as shown in the photo to the left. The attached computation sheet shows the middle ditch had an estimated capacity of about 17.7 cfs (about 7,950 gpm). There are no remnants of the pelton wheel or saw mill that would help determine if the full capacity of the ditch was needed to power the saw mill and generator. The records indicate power could be generated while some water from the ditch was used for irrigation.

Hydropower started being used on the property in the late 1930s. Even though the full amount of water historically used for hydropower cannot be determined because the equipment is gone, the penstock used was larger than the 12 inch pipeline the current hydropower generator shares with the irrigation water supply. There is little doubt the earlier hydropower water uses diverted 3 cfs or more and established the right that is still in use today in the amount of 3 cfs.

Diversion and Gravity Irrigation Requirements

As noted above, the estimated historic water requirements for the fields at the time they were gravity irrigated are about 0.80 cfs for the upper field and about 0.85 cfs for the lower field as those fields currently exist. It is possible the lower field was originally larger before the lodge and associated buildings were constructed. The attached aerial photo shows that the irrigable area of the lower field that could have been irrigated from the historic ditches included about 37 acres. This larger field, with irrigation efficiency in the 25 to 35% range, would have required about 1.20 cfs to irrigate. The total diversion should be increased for some ditch loss, particularly in the upper ditch, assuming that the upper ditch was used only to irrigate the upper field. The construction of this ditch

through fractured rock and decomposed granite on a steep hillside could easily result in a seepage loss of 30% or more. The lower ditch would also suffer some seepage loss but less than the upper ditch because of the terrain in which it is constructed. With the seepage loss added, the upper field diversion requirement would have been about 1.14 cfs for a total of about 2.4 cfs for the two fields.

The Necessity of the Upper Diversion and Ditch System in the Original Irrigation System

The portion of Thomas Creek adjacent to the MFL property is too low in elevation for the lower or middle diversions and ditch systems to have generated sufficient head to gravity irrigate the upper field. To irrigate the upper field, it was necessary for the homesteader to locate a diversion upstream, at a higher elevation, in order to bring water by gravity flow to irrigate the upper field. The need to locate a diversion upgradient of irrigable land was common in this area and throughout Idaho. This homesteader achieved the necessary elevation by constructing the upper diversion and ditch system. With the elevation of the upper diversion and the size of the upper ditch, it is possible that, during early stages of development, the upper diversion and upper ditch were used to irrigate the lower field as well.

In addition to elevations, the use of the upper ditch in the early irrigation of the MFL property is verified by the field sizes and the homestead documents. The attached aerial photo shows the upper and lower fields reconfigured to show the maximum acreage that could have been irrigated with water diverted through the lower and middle ditches, and the minimum acreage dependant on water from the upper ditch. In this configuration the lower field that could be served by the lower and middle ditches originating on the homestead includes about 37 acres. This hypothetical configuration reduces the area of the upper field that could only have been irrigated from the upper ditch to about 9½ acres for a total of about 46½ acres. Since the homestead documents report a total of about 50 acres being irrigated the upper ditch would have been required to be in place at that time. There is not sufficient acreage on the property that can be gravity irrigated from ditches originating on the MFL property to approach 50 acres of irrigation.

Middle Fork Lodge



PIPELINE ELEVATION PROFILE

Elevation measurements are plus or minus 0.5 inches from consecutive point-to-point.
Overall elevation accuracy estimated at plus or minus 4.0 inches.
(Eight separate transit setups were required to obtain these readings.)

Accuracy of the linear measurements was considered less critical.
Linear consecutive point-to-point measurements estimated at plus or minus 1 foot.
Overall linear accuracy estimated at plus or minus 20 feet.

DISTANCE FROM DAM (in feet)	ELEVATION FROM PREVIOUS POINT	ELEVATION TOTAL (in inches)	DISTANCE FROM DAM (in feet)	ELEVATION FROM PREVIOUS POINT	ELEVATION TOTAL (in inches)
0	0	* 0			
42	-13.5	-13.5	1633	(+2.0)	-33.5
74	-0.5	-14.0	1658	-3.0	-36.5
118	-2.0	-16.0	1683	-1.0	-37.5
176	(+2.0)	-14.0	1708	-0.5	-38.0
220	-3.5	-17.5	1733	-0.5	-38.5
290	-3.0	-20.5	1758	-2.0	-40.5
340	-2.0	-22.5	1783	(+3.5)	-37.0
392	-1.5	-24.0	1808	(+1.5)	-35.5
447	-2.0	-26.0	1833	-1.5	-37.0
514	0	-26.0	1858	(+0.5)	-36.5
579	(+2.0)	-24.0	1883	-3.5	-40.0
675	-4.5	-28.5	1908	(+0.5)	-39.5
730	-1.5	-30.0	1933	-2.0	-41.5
810	-0.5	-30.5	1958	(+1.5)	-40.0
885	-1.5	-32.0	1983	(+2.0)	-38.0
955	-0.5	-32.5	2008	-3.0	-41.0
1003	-1.0	-33.5	2033	(+1.5)	-39.5
1055	-1.0	-34.5	2058	0	-39.5
1139	-2.5	-37.0	2083	-1.0	-40.5
1217	(+5.5)	-31.5	2108	-0.5	-41.0
1316	-1.5	-33.0	2133	(+3.0)	-38.0
1374	-2.0	-35.0	2158	(+4.0)	-34.0
1435	-2.0	-37.0	2183	(+5.0)	-29.0
1458	(+3.5)	-33.5	2208	-1.0	-30.0
1483	-3.0	-36.5	2233	-6.5	-36.5
1508	0	-36.5	2258	-7.5	-44.0
1533	0	-36.5	2283	-1.5	-45.5
1558	0	-36.5	2308	-5.0	-50.5
1583	(+1.5)	-35.0	2333	-12.0	-62.5
1608	-0.5	-35.5	** 2408	-89.5	-152.0

* The top of the pipeline at the dam is 8.5 inches below the top level of the concrete platform for the final filter screen.

** The upper filter box is the location noted above at 2408 feet from the dam.

Automatic bleeder valves installed at the following locations:

176', 579', 1222', 1458', 1630', 1803', 1973', & 2180'

Open Channel Discharge Using Mannings Formula for a Trapezoidal Channel

$$Q = 1.486a^{5/3}s^{1/2}/(np^{2/3})$$

Where: Q = discharge in cfs
1.486 = dimensional constant
 W_t = channel top width
 W_b = channel bottom width
h = channel depth
a = cross sectional area of channel in square feet = $(W_t + W_b)/2 * h$
s = slope of channel in foot per foot
n = channel roughness coefficient
p = wetted perimeter in feet = $2 * (((W_t - W_b)/2)^2 + h^2)^{1/2} + W_b$

High Ditch

W_t = 5
 W_b = 2
h = 1.8
a = 6.3 square feet
s = 0.003333 foot per foot
n = 0.04 for rock
p = 6.68615 feet
Q = 13.0 cfs

Power Ditch

W_t = 7
 W_b = 2.2
h = 1.4
a = 6.44 square feet
s = 0.003943 foot per foot
n = 0.03 for decomposed granite
p = 7.756978 feet
Q = 17.7 cfs

David B. Shaw

SUMMARY:

David Shaw is an engineer and principal in the firm of ERO Resources Corp, a Denver based natural resources consulting firm. David manages the Boise ERO Resources Corp. office. His experience in water resources and management dates from 1973. He specializes in the identification, analysis, and resolution of water issues including coordination with other professionals in multi-disciplinary projects.

AREAS OF EXPERTISE:

Surface and ground water supply and use studies, water rights evaluations, project management, alternative dispute resolution, litigation support and expert witness testimony, and technical input on legislative and administrative matters.

EDUCATION:

B.S., Agricultural Engineering
University of Idaho, 1966

M.S., Agricultural Engineering
University of Idaho, 1972

EXPERIENCE:

1996 to present

Engineer, Project Manager ERO Resources Corporation, Boise, ID

- Provide technical expertise and coordination to the State and water users for the resolution, through mediation or litigation, of federal law based water right claims filed by the United States and certain Indian tribes in the Snake River Basin Adjudication of water rights.
- Develop and implement water quality monitoring programs for various water user organizations.
- Assist a variety of water users with technical expertise to resolve issues and conflicts relative to their continued use of water. Activities have included collection of field data, including stream flow measurements and gaging, evaluation of existing data, and data analysis to facilitate agreements or to offer expert opinion.

1985 to 1996

Water Rights Adjudication Bureau Chief Department of Water Resources, Boise, ID

- Responsibilities included the design, implementation and management of the Snake River Basin Adjudication (SRBA) program involving the processing of 170,000 claims to water rights; staff selection and training, budget preparations, implementation and monitoring for main office and four regional offices; established rules and regulations pertaining to the

SRBA; educational presentations for professionals, public and the media.

- Served as co-chair of the state, Indian, federal and private technical advisory committee for the Shoshone-Bannock reserved water right determination that resulted in the 1990 Fort Hall Indian Water Right Agreement.
- Lead responsibility for preparation of the first water distribution rules developed and adopted in Idaho. Participated and testified before Legislature in two rewrites of Idaho's adjudication statutes.
- Designated as an expert witness in water right adjudications by the SRBA court.

1978 to 1985

Western Region Manager

Department of Water Resources, Boise, ID

Responsibilities included management of a separate office including budget and staff needs, work assignments and responsibility and supervision for the department's regulatory programs for Southwest Idaho.

1974 to 1978

Technical Support Section Manager

Department of Water Resources, Boise, ID

Responsibilities included management of staff that provided technical support in the areas of engineering, economics, soils, geohydrology, geology, geothermal, remote sensing and computer operations. Provided technical support for completion of the original State Water Plan. After completion of the state water plan, managed the Water Allocation Section responsible for water right processing, water distribution and adjudications.

RELATED EXPERIENCE:

Assistant Professor – College of Engineering, Department of General Engineering, University of Idaho 1968-1973. Courses taught: Engineering Graphics, Slide Rule, Engineering Science (Statics & Dynamics), Introduction to Fortran Programming and Advanced Fortran Programming, Freshman Engineering Design.

David was raised on an irrigated farm and has operated and managed an irrigated orchard in the Emmett Valley since 1982. As a result, he has gained insight into water use and water users that may not be available in any other way.

Emmett Irrigation District Board Member, 1992
Licensed Professional Engineer and Land Surveyor in Idaho
Licensed Professional Engineer in Arizona and Oregon
Licensed Private Pilot
Proficient in a variety of personal computer applications.

PUBLICATIONS:

Shaw and Molnau. 1974. "Problem Oriented Languages – Statistics and Hydrology."
COED Transactions.
Shaw and Molnau. 1975. "Why Use Problem Oriented Languages." ASAE
Transactions.

PROFESSIONAL AFFILIATIONS:

American Society of Agricultural Engineers
U.S. Committee on Irrigation and Drainage
Idaho Society of Professional Land Surveyors

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

In Re SRBA

Case No. 39576

)
)
)
)

AFFIDAVIT OF WILLIAM R. GUTH

STATE OF IDAHO

)

) ss

COUNTY OF LEMHI

)

William R. Guth, after being duly sworn upon oath, deposes and states as follows:

1. My name is William R. Guth.
2. Ken Roundy, Hugh Dean and my father, Howard W. Guth, purchased the property commonly referred to as the Middle Fork Lodge (fka McCall Ranch) (Homestead Entry Survey No. 77) from Tom McCall in the winter of 1954. They formed the Middle Fork Lodge, Inc., and transferred title to the company in 1955. My father sold his interest in the property to Rex Lanham in 1961, and leased and operated it from 1961 to 1965. Bill Harrah purchased the property in 1965. During this time, 1954-1965, I lived and worked at the property with my parents and brother. We operated the property as a guest ranch for hunting, fishing and float trips.
3. In 1954, there were diversions and ditch systems in place to use Thomas Creek water to irrigate the fields, generate power to run a sawmill and provide electricity for buildings, and provide potable water for washing and cooking in the lodge and the cabins. Hot water was diverted from the hot springs and piped to heat the lodge and four cabins, to fill a small outdoor pool or tub, and for washing and cooking in the lodge and the cabins. We continued to use these water diversion



and conveyance systems throughout the time I lived and worked on the property from 1954 to 1965.

4. There were three irrigation diversions and ditches from Thomas Creek: the "upper diversion" and the "upper ditch," the "middle diversion" and the "middle ditch," and the "lower diversion" and the "lower ditch." The upper diversion was located west of our western property line on federal land. It diverted Thomas Creek water into the upper ditch, which ran a long way on federal land before it entered the property. The upper diversion could divert all the water the upper ditch would hold. The upper ditch ran along the hillside above the upper hay field located on the hillside above the old homestead cabin, and terminated at the northern end of the upper hay field. This diversion and ditch system were used to irrigate the upper hay field. This was the only system capable of irrigating that field. The upper diversion and the upper ditch were located where they are today.

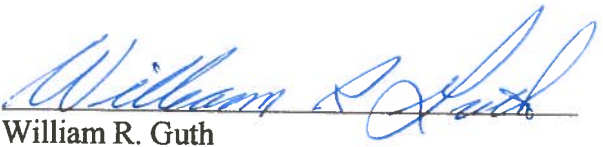
5. The middle diversion took water from Thomas Creek near the west property line of the property. The middle diversion and ditch provided water for the small field east of the homestead, a garden, apple trees and the north end of the main hay field. Water conveyed through the middle diversion and ditch system was also used to run a sawmill and generate electricity. Tom McCall built the sawmill to cut lumber for the lodge, cabins and other buildings, and installed a generator for electricity. The middle ditch carried water to a pond past (north of) the lower hay field. Water was run downhill from the pond through a large pipeline. A large, 4 to 5 foot pelton wheel was used to run the saw mill. We continued to use the sawmill while we operated the lodge. A smaller wheel was used to run a 3.5 to 5 kw generator to power lights, a compressor for a deep freezer, and other electrical needs. It was possible to run the generator at

the same time we irrigated the lower field. 6. The lower diversion in Thomas Creek was located near the old homestead cabin. The lower diversion consisted of a 6 to 8 foot dam in Thomas Creek to raise the water level approximately 5 feet to the level of the ditch. The dam had a spillway in which we put boards to fill the ditch to run water to irrigate the lower hay field. The lower ditch followed the road from the homestead cabin, barn and upper hay field to the lodge, cabins and lower hay field (this road was located approximately where it is today). The lower ditch conveyed water to irrigate the lower field through wooden headgates that filled sublaterals across field. I understand that the lower diversion and ditch system have not been used for many years, and that the Thomas Creek diversions have been consolidated into the upper diversion and ditch system.

7. The primary purpose for which these ditches were constructed and used was irrigation of the hay fields. I learned from people familiar with the area at the time that the upper diversion and ditch system and the lower diversion and ditch system, and perhaps the middle diversion and ditch system, dated back late 1800s or very early 1900s.

8. In 1957, we constructed a swimming pool and kept it full year round with water from the hot springs. This is the same swimming pool that is on the property today.

9. The irrigation, domestic, and hot water systems described above were all in place at the time we sold the property to Bill Harrah in 1965.


William R. Guth

Sworn to and subscribed before me this 10 day of August, 2005.



A handwritten signature in blue ink, appearing to read "Erin G. Robie", written over a horizontal line.

Notary Public for Idaho

Residing in Salmon, Idaho.

My Commission 1/14/10 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 SRBA)
Case No. 39576) AFFIDAVIT OF ROBERT L. COLE
_____)

STATE OF IDAHO)
) ss
COUNTY OF ADA)

Robert L. Cole, after being duly sworn upon oath, deposes and states as follows:

1. My name is Robert L. Cole.
2. I lived and worked on the property commonly referred to as the Middle Fork Lodge (Homestead Entry Survey No. 77, fka McCall Ranch) from 1965 to 1990. During this time my duties included outfitting and property management.
3. Some of the following information is taken from diaries that I kept from 1966 through 1990. Some of the information is not recorded, but comes from my memory.
4. Tom McCall and I were good friends. We worked together at the property for several years after Bill Harrah purchased the property in 1965. I was assigned the outfitting business, Tom was assigned maintenance.
5. Tom McCall took possession of the property in the mid 1930s, and moved his family into the homestead cabin. At this time water was being diverted from Thomas Creek at three locations, and conveyed to irrigate different portions of the property through three separate ditches, which I refer to as the upper ditch, the middle ditch, and the lower ditch. The approximate locations of the Thomas Creek diversions and ditches are drawn on the photographs of the Middle Fork Lodge



property are attached hereto as **Exhibit A**.

6. The old upper ditch provided water for the hay field above (north of) the homestead (the "upper hay field"). Water was diverted into the upper ditch from Thomas Creek at a point on federal land (the "upper diversion") approximately a quarter of a mile west of the western property line. The upper diversion and ditch are in use today in their original locations. A map and photographs showing the location of the of the upper diversion, the upper ditch and the upper field are attached hereto as **Exhibit B**.

7. The middle ditch, which diverted water from Thomas Creek near the west property line (the "middle diversion"), provided water for the small field east of the homestead, the garden, apple trees and the north end of the main hay field. The upper portion of the middle ditch near the west property boundary is visible today. Downstream and upstream portions of the middle ditch are shown in the photographs attached hereto as **Exhibit C**.

8. The lower ditch provided irrigation water for the southern and eastern part of the main, lower hay field. Water was diverted from Thomas Creek into the lower ditch near the homestead cabin by a 6 to 8 foot dam in Thomas Creek (the "lower diversion") to raise the water to the level of the ditch. A portion of this ditch near the homestead is visible today. In the winter, the McCalls and the Guths cut ice from the pond formed by the dam in Thomas Creek and hauled the ice to a room on the south end of the lodge that was insulated with sawdust for summer use.

9. Each of the three diversions and ditches was necessary to deliver Thomas Creek water to the respective fields they irrigated, and only by using all three was it possible to irrigate all of the fields. The upper ditch was the only ditch that diverted water from Thomas Creek far enough upstream, and that could convey water by gravity high enough up the hillside, to gravity irrigate the

upper hay field. The lower ditch was 6 to 8 foot lower in elevation than the middle ditch, so there was no way to get water from the lower ditch to the small field east of the homestead, the garden, apple trees and the north end of the main hay field.

10. The primary purpose for which these ditches were constructed and used was irrigation of the fields. Based on the configuration and use of the ditches, and conversations I had while living and working at the Middle Fork Lodge property with people who were familiar with the early history of the property, it is my understanding that these ditches were constructed at the time of the original homestead, over 100 years ago.

11. Tom McCall built a sawmill on the property. The sawmill is shown, in later years, in the photograph attached hereto in **Exhibit D**. Water diverted from Thomas Creek and conveyed through the middle ditch for irrigation was used to turn a pelton wheel that supplied power to operate the mill. Water was diverted out of the middle ditch and delivered downhill to the sawmill through a pipe that was 18 or 20 inches in diameter. This pipeline can be seen in the photographs attached hereto in **Exhibit E and Exhibit G**. Tom purchased trees from the Forest Service at Indian Creek, floated them down river to the mill and cut lumber to build the lodge and miscellaneous buildings. A lodge built by McCall can be seen in the photographs attached hereto as **Exhibit E and Exhibit F**. After the lodge was built, he installed a 20" pelton wheel that operated a 2 1/2 kw generator; also using water from the middle ditch. This supplied electricity for the lodge and other buildings and a motor that ran a freezer. It was possible to irrigate out of the middle ditch and run the generator, allowing us to run the generator continuously.

12. As he constructed the lodge, McCall installed a pipeline to bring hot water from the hot springs to the lodge area. The hot water was used to heat the lodge and other buildings, and also

for domestic and sanitation use. The lodge and other buildings were heated by base-board heat. Hot water was used for sanitation purposes year round. An outdoor bath house was constructed near the hot spring and used all year. This bath house was supplied by hot water from the springs.

13. The McCall family moved into the lodge in 1939.

14. The property was purchased by Ken Roundy, Hugh Dean and Howard Guth in the winter of 1954 and operated as a guest ranch; providing hunting, fishing and float trips to the public. The Guth family built the living room fire place and added some large cast iron radiators to the heating system in the lodge. They also constructed the swimming pool in 1957 which was kept full all year with hot water from the springs. The swimming pool can be seen in the photograph attached hereto as **Exhibit G**. This swimming pool is in use on the property today.

15. Bill Harrah purchased the property and took possession July 1, 1965. During 1965, I lived in the lodge, and used hot water from the hot springs for domestic use and sanitation. In 1966, Mr. Harrah made major changes to interior of lodge. In addition to the lodge and other buildings that were previously heated with hot water, the administrative building, shop and bunk house were also heated with hot water.

16. In my diary for 1967, I recorded the following activity to improve the irrigation, domestic, hot water, and hydropower water uses at the Middle Fork Lodge property:

hand dig water well north of the lodge for domestic use to depth of 22 feet (this is the current well north of the lodge);

repair lines at hot springs;

lay 12" pipe in old upper ditch to upper dam;

deepen well north of the lodge to 24 feet tested at 100 gal per hour (this is the current well north of the lodge);

dig ditch across main hay field and lay 12" pipe;
install risers on 12" pipe in main hay field for sprinklers;
install screen box at lower end of 12" pipe;
reduce 12" pipe to 8" pipe; 8" pipe to turbine;
test run turbines - needs improvements.

17. In my diary for 1968, I recorded the following activity to improve the irrigation, domestic, hot water, and hydropower water uses at the Middle Fork Lodge property:

install new main line from hot springs (shown in the photograph attached hereto as **Exhibit G**);

install pumps for domestic use of hot and cold water;
repairs to upper dam to increase flow of water in 12" line, spillway and headgate;
start sprinklers on main hay field;
plumbed in domestic hot and cold water to cabins, plumbed in hot water for baseboard heat.

18. In my diary for 1969, I recorded the following activity to improve the irrigation and domestic water uses at the Middle Fork Lodge property:

dug ditch and install 3" line from 12" line in the old upper ditch, downhill to homestead;
install risers on 3" line for sprinklers;
start sprinkling upper hay field;
plumb in bunkhouse, admin. building and shop with hot and cold domestic water, hot water for heat.

19. By installing the 12" pipeline in the upper ditch (as can be seen in several photographs of the upper ditch in **Exhibit A**), extending the old upper ditch over the hill and across the main hay field, and installing sprinklers, we consolidated the three Thomas Creek irrigation diversions into the old upper diversion, and irrigated the two hay fields and the other areas I previously described with water conveyed through the 12" pipeline in the upper ditch. We continued to irrigate the small orchard out of the old middle ditch for a time, but this was too was eventually irrigated by water conveyed through the 12" pipeline. After the 3" sprinkler was installed and operational, we were able to use it to supply water to the areas previously irrigated out of the middle ditch, so we discontinued the use of the middle ditch and filled it with dirt to make a road, shown in **Exhibit A**.

20. We also consolidated the diversion and conveyance of Thomas Creek water for hydropower generation from the middle diversion and ditch to the old upper diversion and the 12" pipeline in the old upper ditch. We replaced the old pelton wheel and sawmill with turbines in a small building 3/4 of the way down the hillside below the main hayfield, adjacent to the Middle Fork of the Salmon River. The turbines took advantage of the water velocity created by the fall over the hill above the main hayfield, through the main hay field, and over the hillside from the main hayfield to the Middle Fork of the Salmon River.

21. In my diary for 1970, I recorded the following construction activity to improve the domestic water uses at the Middle Fork Lodge property:

buried 5000 gal tank on south side of Admin. building to be used for storing hot water for year round fire suppression;

install gasoline engine fire pump, run 1 1/2" line from tank to bunkhouse, shop, Admin. building, garage and lodge area;

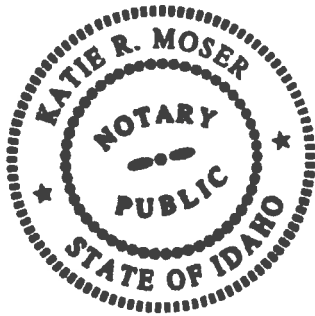
tank plumbed into domestic hot water system and to be kept full at all times;

restore homestead cabin, install boiler in old log toilet; for domestic and heating hot water;

pressurized cold water from 3" sprinkler line.

Robert L. Cole
Robert L. Cole

Sworn to and subscribed before me this 17th day of August, 2005.



Katie R. Moser
Notary Public for Idaho
Residing in Boise, Idaho.
My Commission Expires: 2/20/08

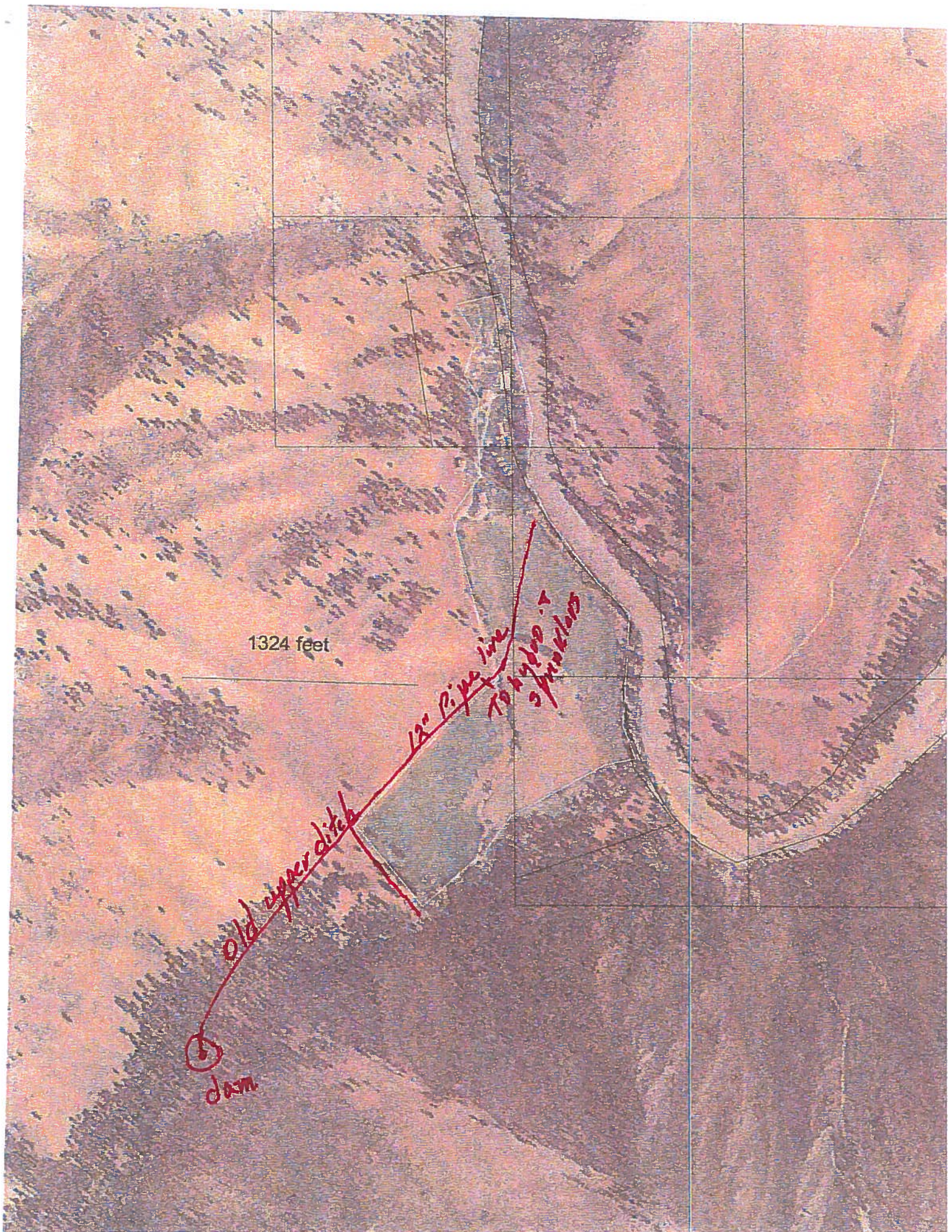


EXHIBIT A (Upper Ditch)



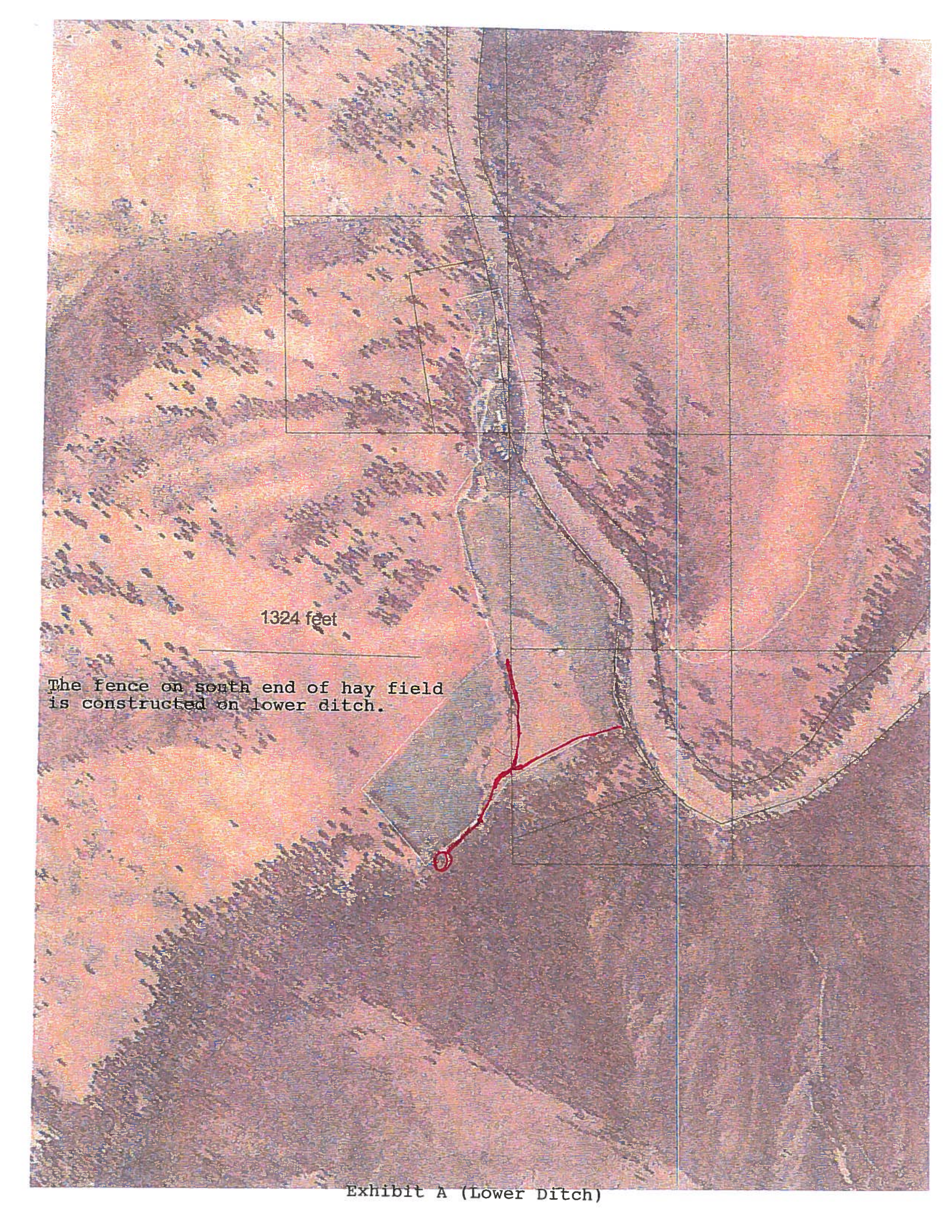
Lower portion of old upper ditch and location of 12" pipeline to hydro plant and sprinklers for hay.



Exhibit A (Middle Ditch)



Exhibit A (Middle Ditch)



1324 feet

The fence on south end of hay field
is constructed on lower ditch.

Exhibit A (Lower Ditch)



The old lower ditch is still visible beside road just below gate at Homestead.

Exhibit A (Lower Ditch)

GREYHOUND RIDGE QUADRANGLE

Attachment to Notice of Claim
 Mining Permit No. 77-7081

IDAHO

15 MINUTE SERIES (TOPOGRAPHIC)

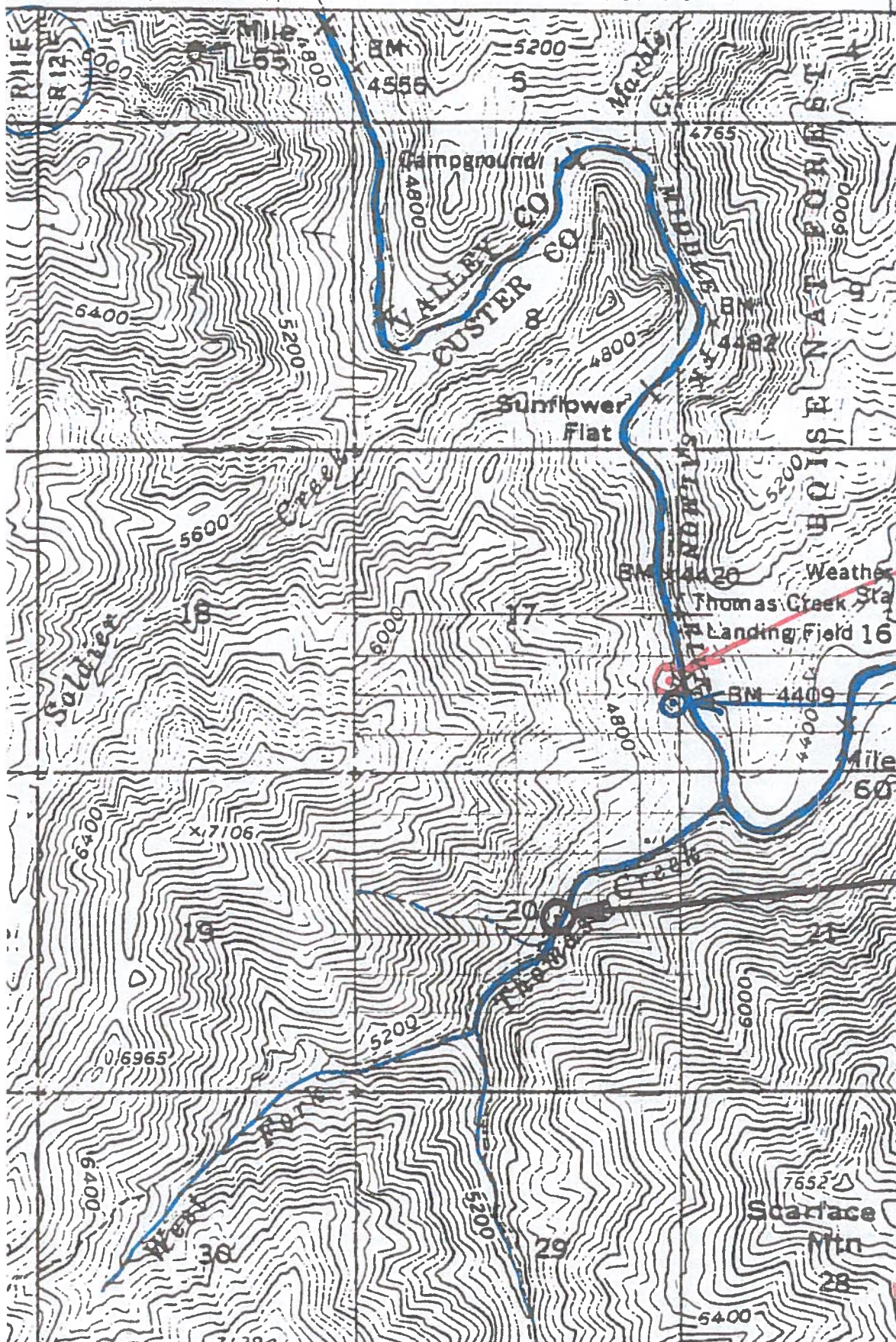
3073
 (NORTON)
 1:24,000

000 FEET (CENTRAL) | INDIAN CREEK GUARD STA. 6 MI.

115°00'

44°45'

T.16N, R.12E



4956

1 120 000 FEET
 (CENTRAL)

4955

Point of diversion
 (spring) circled.
 Also circled in red on
 attached photos of
 claim regarding
 Permit No. 77-07082

Pump/well location
 circled. Also circled
 in black on attached
 photos.

77-0781
 Point of diversion
 circled (dam). Also
 circled in black on
 attached photos.

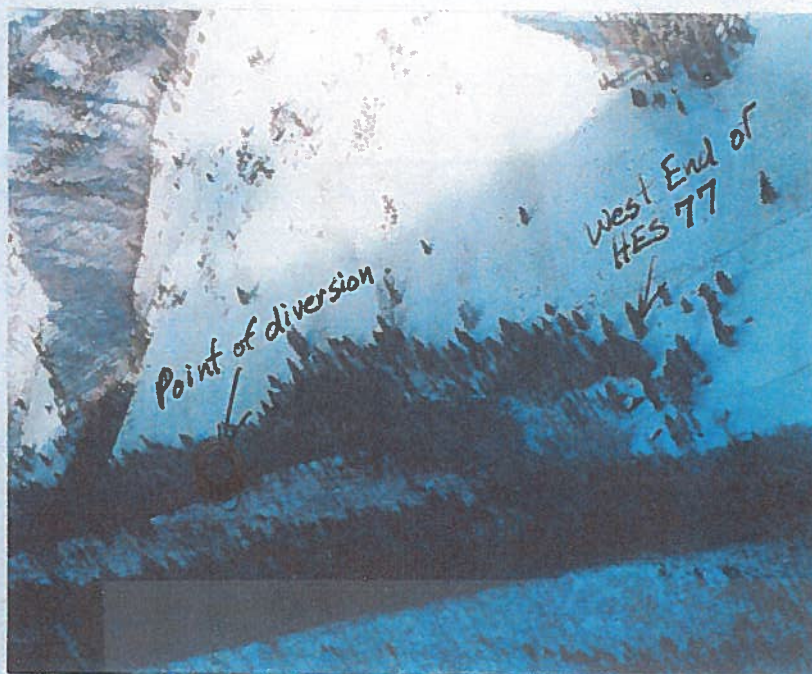
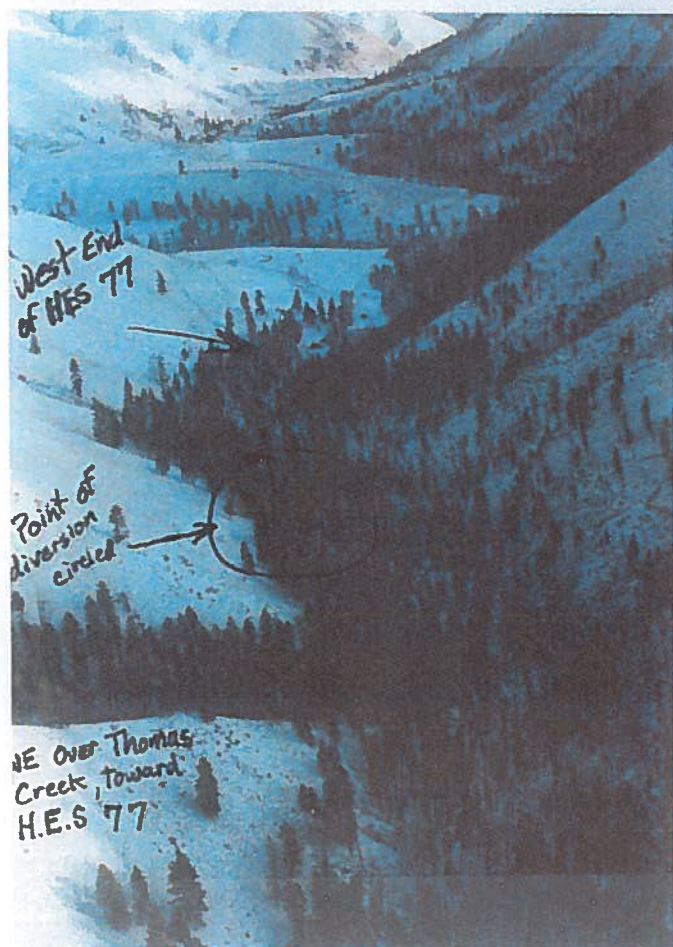
4952

Exhibit B, page 1

4951

MICROFILMED

003 05 1002



Attachment to Notice of Claim, re
Permit No. 77-7081

MICROFILMED
OCT 05 1992





Exhibit B, page 4





Exhibit B, page 6



Exhibit B, page 7

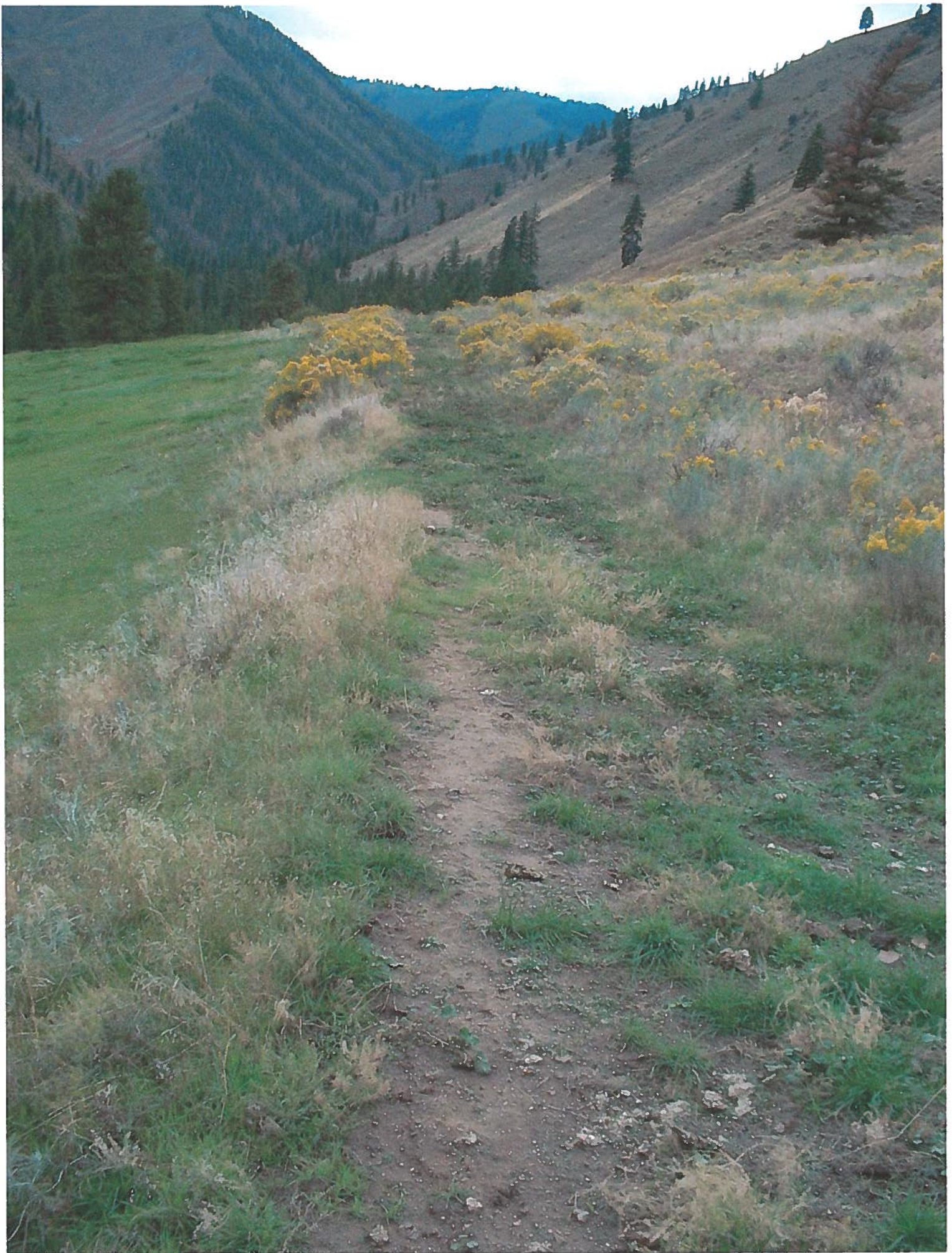


Exhibit B, page 8



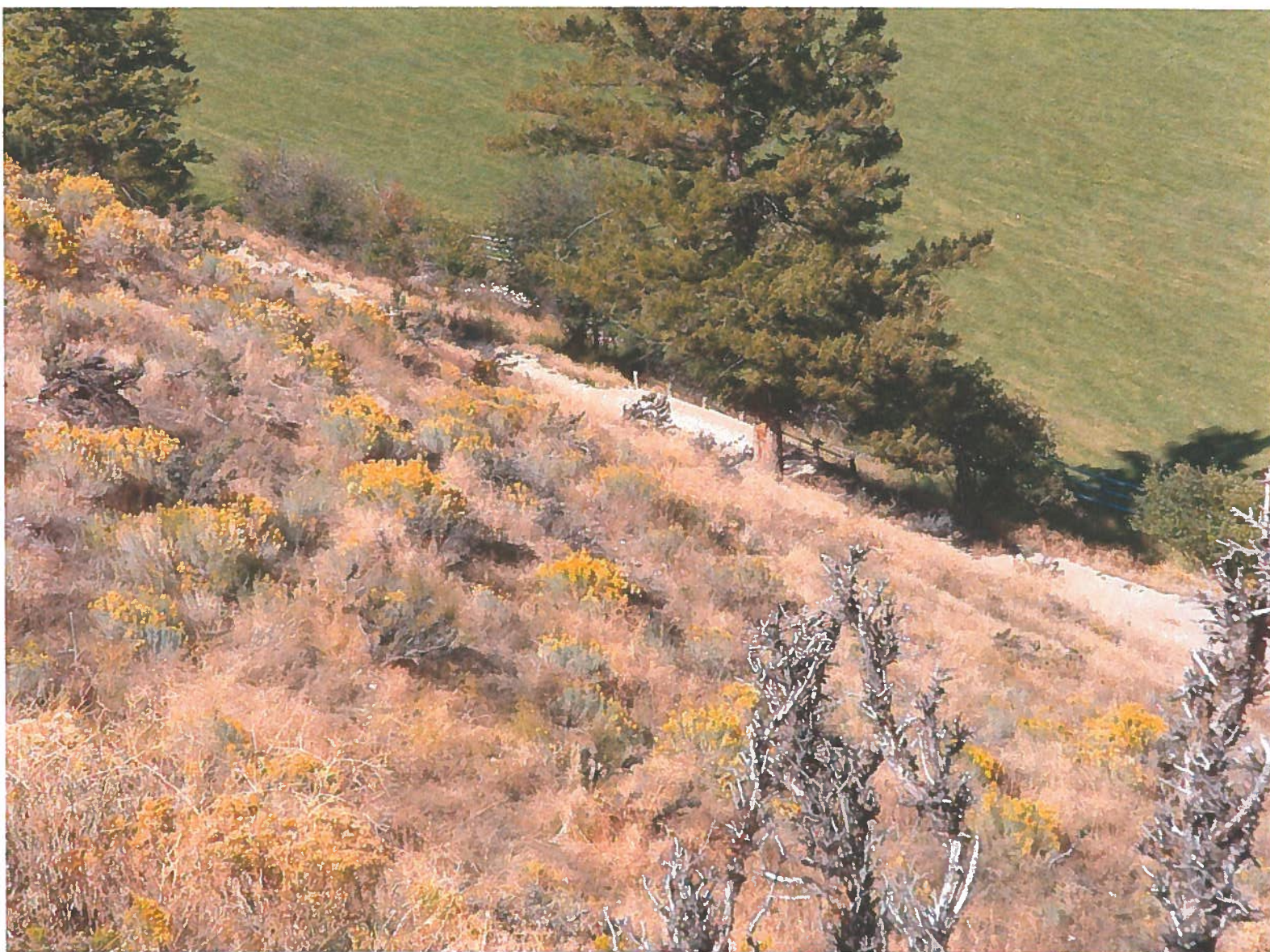












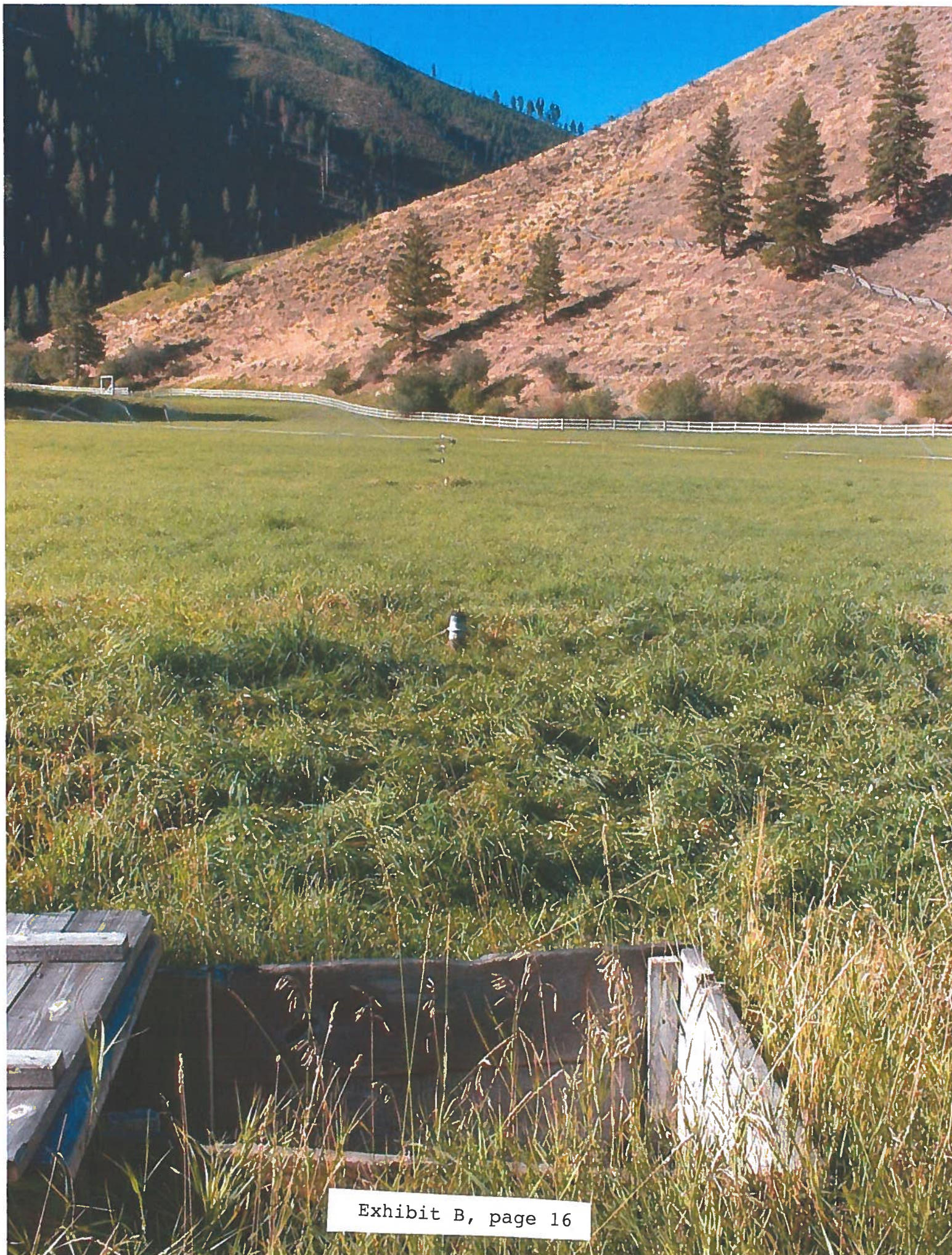


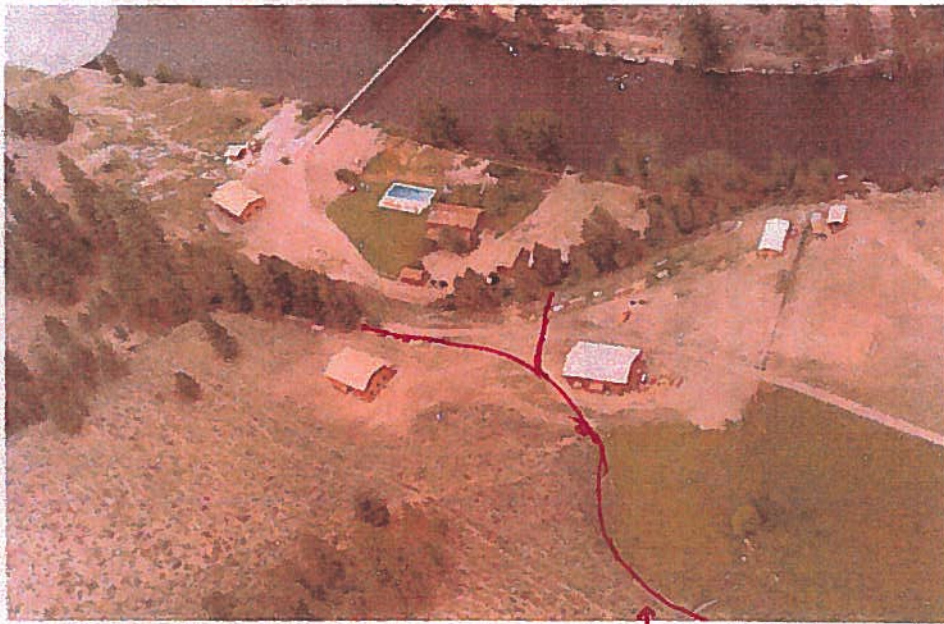
Exhibit B, page 16











middle ditch

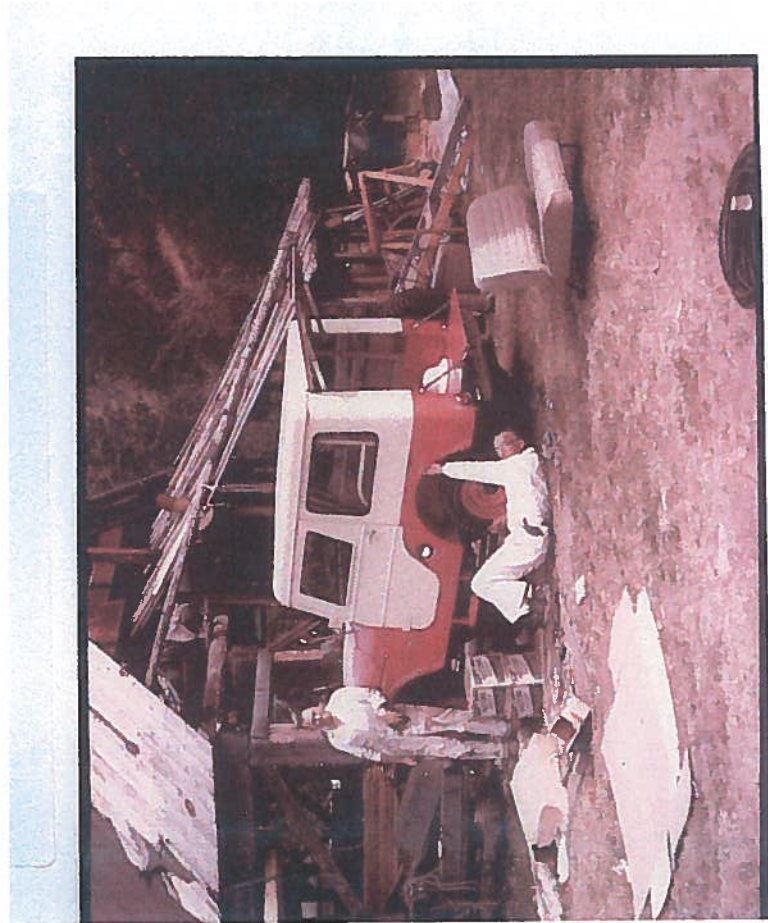


Old Middle Ditch





Old Middle Ditch



Saw Mill
Barney Martini, Willie Gutzwiller

The lean-to roof is the roof over Tom's shop on west end of sawmill.

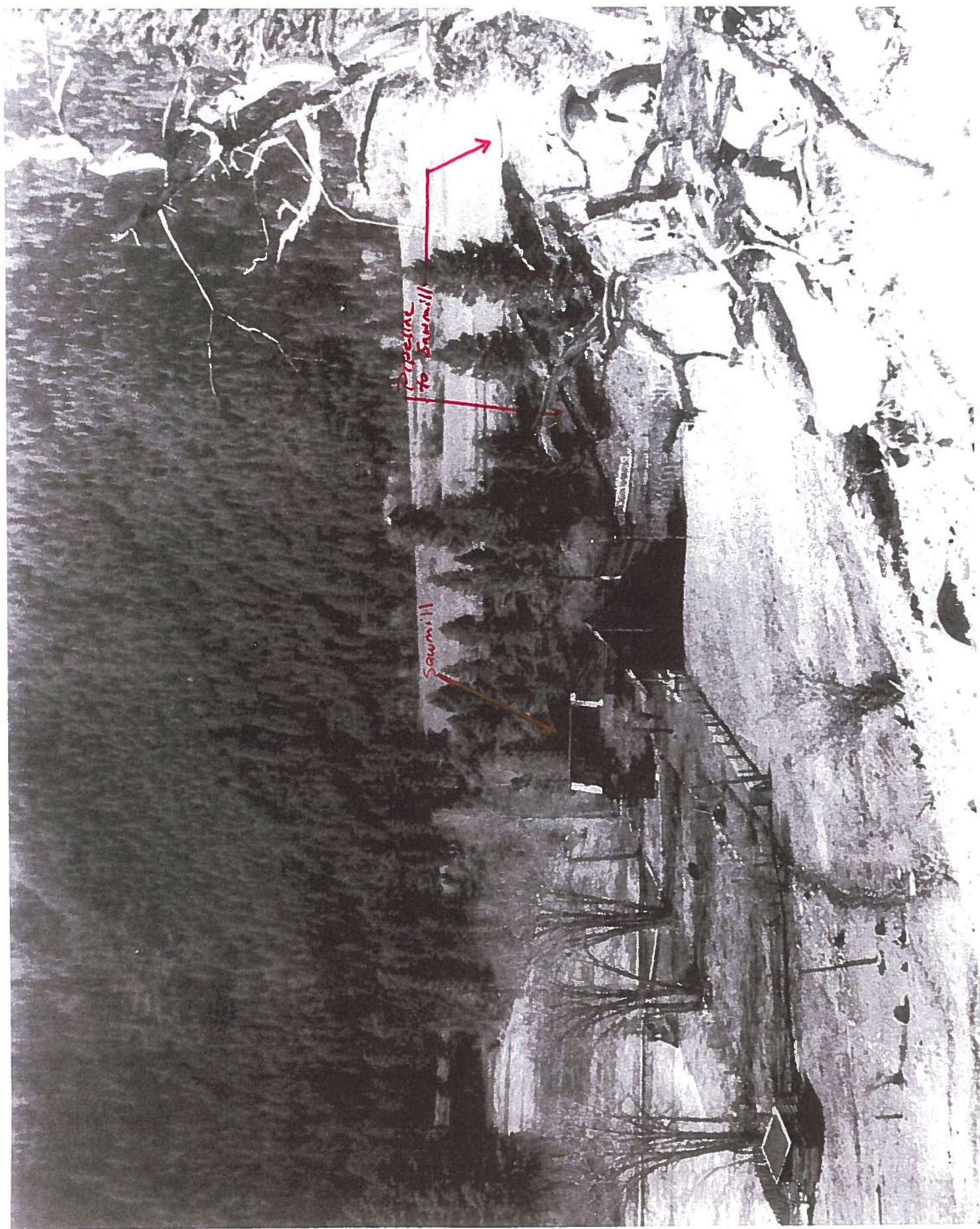


Exhibit E



Old original foot bridge on left of picture. This picture was taken before fireplace and swimming pool. Picture taken when river was high. Top of log wall area between wall and river bank was where McCall stored trees to be cut for lumber.



Pipeline to Sawmill

Digging Water Lines (for hot water)

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

In Re SRBA)
Case No. 39576) AFFIDAVIT OF ANNA KAY McCALL
_____)

STATE OF IDAHO)
COUNTY OF ADA) ss
)

Anna Kay McCall, after being duly sworn upon oath, deposes and states as follows:

1. My name is Anna Kay McCall.
2. I lived on the property commonly referred to as the Middle Fork Lodge (Homestead Entry Survey No. 77) from 1942, shortly after I was born, until 1955, when I was 13 years old. I lived there with my parents, Thomas W. McCall and Nell M. McCall, who owned and managed the property during that time.
3. Before I was born, my father built a lodge, cabins and other buildings on the property. He constructed a sawmill to cut logs for the lodge. Power to run the sawmill was generated by a pelton wheel that was run by water diverted from Thomas Creek. The water used to run the pelton wheel was diverted from Thomas Creek and conveyed through a ditch on the property to a constructed pond uphill from the sawmill. Water was taken downhill from the pond through a large pipe to the sawmill building to run the pelton wheel. The photograph attached hereto as **Exhibit A** shows the approximate location of a portion of the ditch, a portion of the pipeline, and the sawmill. My father also installed a generator run by water conveyed through the same pipeline, to provide electricity for lights and other uses. After the lodge was built, and during the entire time I lived



there, this system was used to run the sawmill and to generate electricity for lights and other electrical equipment.

4. During the entire time I lived there, hot water was collected and carried through a pipeline from the hot springs located on the northern portion of the property to the lodge and the cabins for heating and warm potable water. **Exhibit A** shows the location of a portion of this pipeline. The lodge had a kitchen, a dining area, a bar room, a cellar, one bathroom, four bedrooms upstairs and one bedroom downstairs. Each cabin had its own bathroom. The rooms in the lodge were heated by hot water pipes running through baseboard radiators, six inches wide with a covering. The hot water was also used for potable water in kitchen sink in the lodge, and in the bathrooms in the lodge and in the cabins. Cold water for potable use was diverted from Thomas Creek. Hot water from the springs was also used in an outdoor tub.

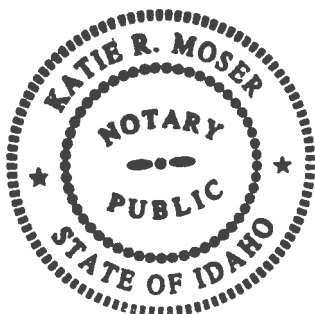
5. There were two main irrigated fields on the property while I lived there. One was on the hillside above the homestead cabin. This upper field was irrigated with Thomas Creek water diverted from a diversion reservoir that was located west of the property, up Thomas Creek a ways, on federal land. Water from the reservoir was conveyed through a ditch that ran along the hillside to the corner of the property above the barn. The ditch ran above the field that was above the homestead cabin. Water was taken from that ditch and run down the hill to irrigate the upper field. This was the only ditch from which the upper field could be irrigated. My recollection is that this upper ditch was the main irrigation ditch on the property, providing water to irrigate the larger, lower field adjacent to the Middle Fork of the Salmon River as well. My recollection is that the upper ditch either continued around the hillside toward the northern boundary of the property, or dropped water into another ditch that did so.

6. There was also a lower ditch that diverted water from Thomas Creek near the homestead cabin to irrigate the lower field. While I don't recall a middle ditch and diversion as Bob Cole and Bill Guth describe in their affidavits, I acknowledge that one may have existed either during or after the time I lived at the ranch or afterward.

7. The hot springs and Thomas Creek water were used on the Middle Fork Lodge property as I have described during the entire time I lived there.

Anna Kay McCall
Anna Kay McCall

Sworn to and subscribed before me this 8th day of Sept., 2005.



Katie R. Moser
Notary Public for Idaho
Residing in Boise, Idaho.
My Commission Expires: 2/20/08

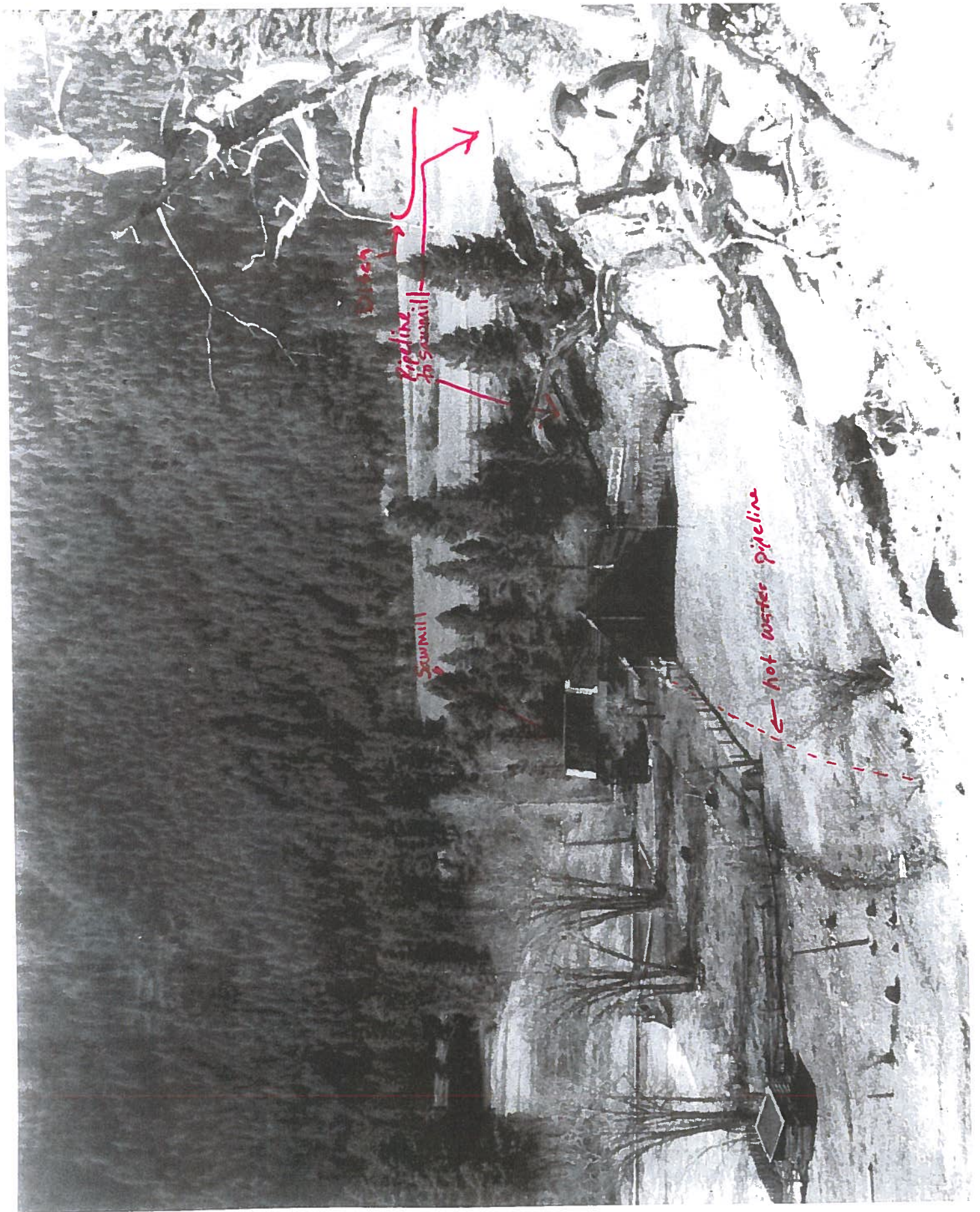


Exhibit A

\$150.00 upon execution of this agreement, receipt whereof by lessor is hereby acknowledged.
\$150.00 on or before February 1, 1938.
\$300.00 on or before December 10, 1938.
\$300.00 on or before December 10, 1939.

The said lessee shall be entitled to immediate possession of said premises subject to the temporary possession of said land by Milt Hood, who has farmed said land during the year 1937 and whose lease has expired. It is understood and agreed that the use of said land by said Milt Hood shall be for ~~the~~ purpose of disposing of personal property which he now has on said land, including hay.

Lessee agrees that he will, during all times he shall occupy said premises under the terms of this lease, keep and maintain the buildings and other improvements on said premises in as good a state of repair as the same now are, ordinary wear and tear and damage by the elements excepted.

It is understood and agreed that said lessee may cut such timber on said premises as he may use in buildings which he erects upon the same; any buildings or improvements erected upon said premises by lessee shall, at the expiration of the term of this lease, be a part of the real estate and the property of the lessor.

It is understood and agreed that the said lessor will, during the term of this lease, pay all taxes and assessments against said premises.

Lessee shall have the right and option to purchase said real property at any time before the expiration of this lease for the sum of Six Thousand Dollars (\$6,000.00). If lessee elects to exercise said option, he shall pay to lessor on such purchase price not less than \$2,000.00, and shall pay the balance of said purchase price within ten (10) ^{years} ~~days~~ after the payment of said \$2,000.00. Said deferred balance of the purchase price, to-wit: \$4,000.00 or the portion thereof remaining unpaid, shall bear interest at the rate of 5% per annum from the date said lessee elects to exercise said option and makes the down payment thereon said interest to be paid annually. In case said lessee exercises said option and elects to purchase said premises, he shall pay all taxes which shall be levied or assessed or become a lien against said premises or after the date of such election to purchase said premises by said lessee.

If lessee exercises such option to purchase he shall be entitled to remain in possession of said premises so long as he is not in default in any of the payments on said purchase price or any interest thereon or any taxes to be paid by lessee on said real property.

In case of the exercise of said option by lessee the said parties shall, at the time of the making of said down payment on the purchase price by the said lessee, enter into a contract for the sale and purchase of said premises on such terms and conditions as shall be in accordance with this option and acceptable to said lessor, or said lessee shall give a first mortgage upon said premises for the balance of said purchase price if the same is acceptable to said lessor.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals the day and year first above written.

F. A. Methken (Seal) Lessor
Thomas W. McCall (Seal) Lessee

STATE OF INDIANA

County of Ada ss.

On this 11th day of December, 1927, before me, J. L. Barber, a notary public in and for said state personally appeared F. A. Methken and Thomas W. McCall, known to me to be the ^{parties} person whose names are subscribed to the within instrument, and forgoing instrument, and acknowledged to me that they executed the same.

No. 96663

(\$6.60 U. S. Revenue Stamps attached and cancelled).

WARRANTY DEED

THIS INSTRUMENT, made this 6th day of November in the year of our Lord one thousand nine hundred and forty between M. A. WETTERHIM, a widower, of MERIDIAN County of ADA State of IDAHO the party of the first part, and THOMAS W. McCALL of McCall County of VALLEY State of IDAHO the party of the second part,

WITNESSETH, That the said party of the first part, for and in consideration of the sum of SIX THOUSAND and no/100 ----- DOLLARS, lawful money of the United States of America, to him in hand paid by the said party of the second part, the receipt whereof is hereby acknowledged, has granted, bargained and sold, and by these presents does grant, bargain, sell, convey and confirm unto the said party of the second part, and to his heirs and assigns forever, all the following described real estate situated in the County of Custer State of Idaho, to-wit:

That certain tract of land conveyed to James Voller by patent from the United States of America, dated May 13, 1913, and recorded on July 19, 1913, in Book 6 of Patents, Page 319, in the records of the office of the County Recorder of said Custer County, Idaho, and described in H.B. Survey No. 77 and more particularly described as follows:

Beginning at Corner No. 1, from which U. S. Location Monument No. 77, Challis National Forest, bears South forty-one degrees forty-eight minutes (41°48') West one and three hundred seventy-five thousandths (1.375) chains distant, thence meandering Middle Fork of Salmon River North thirty-six degrees thirty minutes (36°30') West six chains, North nine degrees (9°) West five (5) chains, North two degrees (2°) West six (6) chains, North sixteen degrees (16°) West five (5) chains, North thirty-six degrees thirty minutes (36°30') West six (6) chains, North twenty-two degrees forty-five minutes (22°45') West six (6) chains, North four degrees fifteen minutes (4°15') West nine (9) chains, North twenty-one degrees twenty-one minutes (21°21') West nine and fifty-five hundredths (9.55) chains to Corner No. 2; thence South seventy-nine degrees fifteen minutes (79°15') West six and ninety-three hundredths (6.93) chains to Corner No. 3; thence South eight degrees forty-seven minutes (8°47') West thirty-one and seventy-four hundredths (31.74) chains to Corner No. 4; Thence South thirty-four degrees forty-five minutes (34°45') West sixteen and nine-tenths (16.9) chains to Corner No. 5; thence South twenty-nine degrees nine minutes (29°9') West eleven and fourteen hundredths (11.14) chains to Corner No. 6; thence South thirty-one degrees thirty minutes (31°30') East four and two-tenths (4.2) chains to Corner No. 7; thence North seventy degrees eighteen minutes (70°18') East thirty-two and seventy-two hundredths (32.72) chains to Corner No. 1, the place of beginning; containing eighty and fifty-three hundredths (80.53) acres, according to the official plat of the survey of the land, returned to the General Land Office by the Surveyor General.

ALSO the following tract of land conveyed to John H. Sater by patent from United States of America dated May 17, 1917, and recorded on November 30, 1917, in Book 6 of Patents, Page 570, of the records in the office of the County Recorder of said Custer County and described in H. W. Survey No. 387, and more particularly described as follows:

A tract of land containing sixty-two and twenty-seven hundredths (62.27) acres, more or less, within the Challis National Forest, in Section Seven (7), Township Sixteen (16) North, Range Twelve (12) East, B.L., described by metes and bounds as follows:

Beginning at Corner No. 1, from which U. S. Location Monument No. 77 bears South forty degrees forty-one minutes (40°41') West Eighty-one and twenty-one hundredths (81.21) chains distant; thence North thirty-five degrees four minutes (35°4') West eleven and eighty-four hundredths (11.84) chains to Corner No. 2; thence North thirty-three degrees fifty-five minutes (33°55') East eight and eighty-nine hundredths (8.89) chains to Corner No. 3; thence North eighty-nine degrees thirty-three minutes (89°33') East twenty-eight and fifty-eight hundredths (28.58) chains to Corner No. 4; thence South thirty-six degrees eleven minutes (36°11') East seven and thirty-eight hundredths (7.38) chains to Corner No. 5; thence South thirty-four degrees five minutes (34°5') West twenty-one and eighty-two hundredths (21.82) chains to Corner No. 6; thence North seventy degrees twenty-three minutes (70°23') West twenty and eight hundredths (20.08) chains to Corner No. 1, the place of beginning;

AND all water rights and rights to the use of water for irrigation and domestic purposes owned by the grantor and appurtenant to the said tracts of land, or either of them, and all easements, rights and privileges.

TOGETHER, with all and singular, the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining, the reversion and remainders and remainders, rents, is and profits thereof, and all estate, right, title and interest in and to the said property, as well in law as in equity, of the said party of the first part.

TO HAVE AND TO HOLD, all and singular the above mentioned and described premises, together with the appurtenances unto the party of the second part and to his heirs and

assigns forever. And the said party of the first part, and his heirs, the said premises in the quiet and peaceable possession of the said party of the second part, his heirs and assigns, against the said party of the first part, and his heirs, and against all and every person and persons whomsoever, lawfully claiming or to claim the same, shall and will WARRANT and by these presents forever DEFEND. The grantor certifies and declares that he is a widower and has been a widower continuously during all the time he owned the said lands and premises and for sometime prior thereto.

IN WITNESS WHEREOF, The said party of the first part has hereunto set his hand and seal the day and year first above written.

SIGNED, SEALED AND DELIVERED IN PRESENCE OF

F. A. Nethken (Seal)

STATE OF IDAHO,)
) ss.
County of Ada)

On this 6th day of November in the year 1940, before me, _____, a Notary Public in and for said State personally appeared F. A. NETHKEN, a widower, known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

(SEAL)

Chas. H. Darling
Notary Public for the State of Idaho,
Residing at BOISE, Idaho.

STATE OF IDAHO)
) ss.
County of Custer)

I hereby certify that this instrument was filed for record at request of FIRST STATE BANK, Donnelly, Idaho at _____ minutes past 9 o'clock A. M., this 4th day of Feb., A. D. 1946 in my office, and duly recorded in Book 27 of Deeds at page 173.

Fees, \$2.00

John L. Boyd
Ex-Officio Recorder

No. 96664
WARRANTY DEED.

THIS INSTRUMENT, Made the 23rd. day of January in the year of our Lord one thousand nine hundred and forty-six, between Andrew Gini, owner of the herein described property as his separate estate, of Blackfoot, County of Bingham, State of Idaho, the party of the first part, and Lawrence Gini and Florence Gini of Challis, County of Custer, State of Idaho, the parties of the second part, WITNESSETH, That the said party of the first part, for and in consideration of the sum of TEN THOUSAND (\$10,000.00) Dollars lawful money of the United States of America, to him in hand paid by the said parties of the second part, the receipt whereof is hereby acknowledged, does by these presents, grant, bargain, sell and convey and confirm unto the said parties of the second part, and to their heirs and assigns forever, all the certain pieces or parcels of land situate, lying and being in the County Custer and State of Idaho, bounded and more particularly described as follows, to-wit:

This instrument is intended as a Correction Deed between the parties hereto and as of the same date which deed appears in Book 27 of Deeds at page 168, records of Custer County, Idaho, and it is the intent of the parties that the true description of the property intended to be conveyed is described in this instrument.

Revenue stamps are attached to original deed and are not needed on this instrument

THIS INDENTURE, Made this 14th day of December in the year of our Lord one thousand nine hundred and fifty-four between THOMAS W. McCALL and NELL M. McCALL, husband and wife on November 6, 1940, and at all times since, to and including the date hereof, of the, County of Custer, State of Idaho, the parties of the first part, and H. E. DEAN, and KEN ROUNDY, of Burley, Idaho, and HOWARD W. GUTH, of Stanley, County of _____ State of Idaho, the parties of the second part:

WITNESSETH, That the said parties of the first part, for and in consideration of the sum of Ten and No/100 DOLLARS, in lawful money of the United States of America, and other valuable considerations, to them in hand paid by the said parties of the second part, the receipt whereof is hereby acknowledged, have granted, bargained and sold, and by these presents do grant, bargain, sell, convey and confirm unto the said parties of the second part, and to their heirs and assigns forever, all the following described real estate, situated in the County of Custer, State of Idaho, to-wit:

That certain tract of land conveyed to James Voller by patent from the United States of America, dated May 13, 1913, and recorded on July 19, 1913, in Book 6 of Patents, page 319 in the records of the office of the County Recorder of said Custer County, Idaho, and described in H. E. Survey No. 77 and more particularly described as follows:

Beginning at Corner No. 1, from which U. S. Location Monument No. 77, Challis National Forest, bears South forty-one degrees forty-eight minutes (41° 48') West one and three hundred seventy-five thousandths (1.375) chains distant, thence meandering Middle Fork of Salmon River North thirty-six degrees thirty minutes (36° 30') West six chains, North nine degrees (9°) West five (5) chains, North two degrees (2°) West six (6) chains, North sixteen degrees (16°) West five (5) chains, North thirty-six degrees thirty minutes (36° 30') West six (6) chains, North twenty-two degrees forty-five minutes (22° 45') West six (6) chains, North four degrees fifteen minutes (4° 15') West nine (9) chains, North twenty-one degrees twenty-one minutes (21° 21') West nine and fifty-five hundredths (9.55) chains to Corner No. 2; thence South seventy-nine degrees fifteen minutes (79° 15') West six and ninety-three hundredths (6.93) chains to Corner No. 3; thence South eight degrees forty-seven minutes (8° 47') East thirty-one and seventy-four hundredths (31.74) chains to Corner No. 4; thence South thirty-four degrees forty-five minutes (34° 45') West sixteen and nine-tenths (16.9) chains to Corner No. 5; thence South twenty-nine degrees nine minutes (29° 9') West eleven and fourteen hundredths (14.14) chains to Corner No. 6; thence South thirty-one degrees thirty minutes (31° 30') East four and two-tenths (4.2) chains to Corner No. 7; thence North seventy degrees eighteen minutes (70° 18') East thirty-two and seventy-two hundredths (32.72) chains to Corner No. 1, the place of beginning; containing eighty and fifty-three hundredths (80.53) acres, according to the official plat of the survey of the land, returned to the General Land Office by the Surveyor General.

ALSO the following tract of land conveyed to John H. Sater by patent from United States of America dated May 17, 1917, and recorded on November 30, 1917, in Book 6 of Patents, page 570, of the records in the office of the County Recorder of said Custer County and described in H. E. Survey No. 387, and more particularly described as follows:

A tract of land containing sixty-two and twenty-seven hundredths (62.27) acres, more or less, within Challis National Forest, in Section Seven (7), Township Sixteen (16) North, Range Twelve (12) East, B. M., described by metes and bounds as follows:

Beginning at Corner No. 1, from which U. S. Location Monument No. 77 bears South forty degrees forty-one minutes (40° 41') West Eighty-one and twenty-one hundredths (81.21) chains distant; thence North thirty-five degrees four minutes (35° 4') West eleven and eighty-four hundredths (11.84) chains to Corner No. 2; thence North thirty-three degrees fifty-five minutes (33° 55') East eight and eighty-nine hundredths (8.89) chains to Corner No. 3; thence North eighty-nine degrees thirty-three minutes (89° 33') East twenty-eight and fifty-eight hundredths (28.58) chains to Corner No. 4; thence South thirty-six degrees eleven minutes (36° 11') East seven and thirty-eight hundredths (7.38) chains to Corner No. 5; thence South thirty-four degrees five minutes (34° 5') West twenty-one and eighty-two hundredths (21.82) chains to Corner No. 6; thence North seventy degrees twenty-three minutes (70° 23') West twenty and eight hundredths (20.08) chains to Corner No. 1, the place of beginning;

AND all water rights and rights to the use of water for irrigation and domestic purposes owned by the grantors and appurtenant to the said tracts of land, or either of them, and all easements, rights and privileges.

PLACER MINING LOCATOR NOTICE

NOTICE IS HEREBY GIVEN, That P. G. Snedecor the undersigned citizen of the United States of America, conforming to the mining laws thereof and of the State of Idaho, the local rules, regulations and customs of miners, has this 24th day of May, A. D., 1947, located and do hereby claim 10.5 acres of Placer Mining ground, situate, lying and being in sections 8 & 17 T 16 N, R 12 E on Middle Fork of Salmon River in unorganized Mining District, in the County of Custer and State of Idaho, particularly described as follows, to-wit:

Commencing at this discovery monument, which is the NE corner of the claim said document being corner No. 1, upon which this notice is posted; thence in a Southerly direction 1600 feet to corner monument No. 2, the S.E. corner of the claim; thence in a Westerly direction 300 feet to corner monument No. 3, the S. W. corner of the claim; thence in a Northerly direction 1600 feet to corner No. 4, the N W corner monument of the claim; thence in a Easterly direction 300 feet to corner No. 1, the place of beginning.

The said corner monument No. 1, upon which this notice is posted, is situated about 10 feet in a Westerly direction from Middle Fork of the Salmon River

The adjoining claims are None

The corner monuments Nos. 2, 3 and 4 aforesaid are marked upon the side facing corner monument No. 1, the discovery monument, with the name of the claim and the corner which each of said monuments represent and all of said monuments are at least four inches in diameter and at least four feet high above the ground.

Discovered on the 1st day of April, A. D., 1947

Located on the 16th day of April, A. D., 1947

STATE OF IDAHO)
) ss:
County of Custer)

P. G. Snedecor Locators and Claimants

I, P. G. Snedecor do solemnly swear that I am a citizen of the United States of America (or have declared my intention to become such) and that I am acquainted with the mining ground described in this notice of location and herewith called the Ruffneck Placer Claim; that the ground and claim therein described, or any part thereof, has not to the best of my knowledge and belief been located according to the laws of the United States and of this State, or if so located that the same has been abandoned or forfeited by reason of the failure of such former locators to comply in respect thereto, with the requirements of said laws, and that I have made an excavation upon said claim of not less than one hundred cubic feet for the purpose of prospecting the same, as required by the laws of Idaho, and that all stakes and monuments or trees marking boundaries of said claim are in proper place and position.

P. G. Snedecor

Subscribed and sworn to before me this 16 day of April, A. D. 1947

(((((STEAL))))

STATE OF IDAHO,)
) ss.
County of Custer)

John Boyd
Co. Recorder

I hereby certify that this instrument was filed for record at request of P. G. Snedecor at 30 minutes past 9 o'clock A. M., this 16th day of April, A. D. 1947

fees 1.00

John Boyd
~~Ex-Officio~~ Recorder
Custer County, Idaho

11/9/1910-538933-17.99
7/22/1912-938090-3.02
9/3/1912 -938360- 1.27✓

4-196.

Warned "M" E. W. F.
Department of the Interior

United States Land Office Hailey, Idaho

Serial No. ~~938090~~ 09243

Receipt No. 938090-938360

Certificate.

4-380

Homestead.

Act June 11, 1906-
List No. 4-380

Pat No 338095
MAY 13 1913

November 21, 1912., 19
(Date.)

It is hereby certified that, pursuant to the pro-

visions of Section 2291, Revised Statutes of the United States,
James Voller.

Stanley, Idaho.

has made payment in full for

That certain tract of unsurveyed land in the Challis National Forest, Custer County, State of Idaho, in T. 16 N., R. 13 E., B. M., designated as Homestead Entry Survey No. 77, described as follows: Beginning at corner No. 1, from which corner U. S. L. M. No. 77, Challis National Forest, bears S. 41 deg. 48' W. 1.37½ chains, and running thence N. 36 deg. 30' W. 6.00 chains, thence N. 9 deg. 45' W. 5.00 chains, thence N. 36 deg. 30' W. 6.00 chains, thence N. 16 deg. 45' W. 6.00 chains, thence N. 4 deg. 15' W. 9.00 chains, thence N. 21 deg. 21' W. 9.55 chains to corner No. 2, thence S. 79 deg. 15' W. 6.93 chains to corner No. 3, thence S. 8 deg. 47' E. 31.74 chains to corner No. 4, thence S. 34 deg. 45' W. 16.90 chains to corner No. 5, thence S. 29 deg. 09' W. 11.14 chains to corner No. 6, thence S. 31 deg. 30' E. 4.20 chains to corner No. 7, thence N. 70 deg. 18' E. 32.72 chains to corner No. 1, the place of beginning; containing 80.53 A.

shall be entitled to receive a Patent for the lot above described.

J. J. Lane, Register.

NOTE.—A duplicate of this Certificate is issued to the claimant as notice of the allowance of the entry by the Register and Receiver.

The original is forwarded to the General Land Office, with the entry papers, for approval by the Commissioner of the General Land Office and issuance of patent.

The duplicate copy forwarded to the claimant should be held until notice of issuance of patent is received.

In all correspondence concerning the entry in connection with which this Certificate issued, refer to the NAME OF THE LAND OFFICE and the SERIAL NUMBER noted hereon.

APPROVED

Apr 22, 1913

Reg.

By

87
69.

ASST. J. Division

6-1900

JAN 14 1913 NON COAL - F.

WATER RESOURCES

Challis

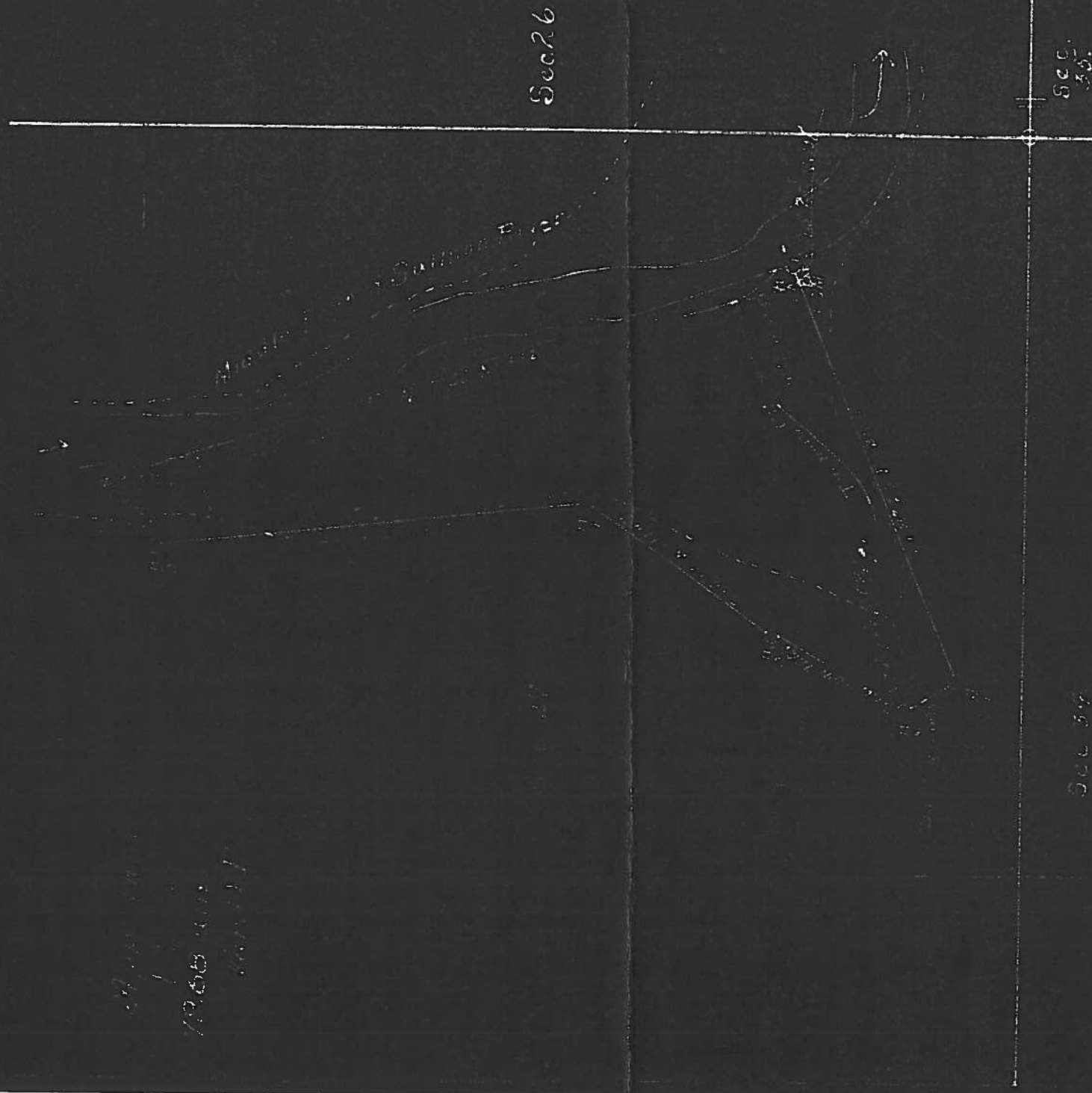
Thompson River

8

1922

1924

1924
1925
1926
1927



Halley.

Halley.

092/202

B

Sept. 5 18

Land Commr General Land Office R. C.
Dear sir I settled on a piece of land on the
middle Salmon River 160 acres on the 25th day of July 1897 one half of said land lying on
the west side the other lying on the east
side after living on the land for about 15 years
I made final proof of the first 80 acres
the east side which part on the east
is lying in the 6th Meridian, Designated as H.E. S. No. 77
List No 4-380 dated July 1, 1910. Halley Land District. Idaho
what I want to know is the Government in this
can I still hold the part of my Homestead
lying on the west side of the middle Salmon
river River being only about 150 feet wide at
my mouth at low water very rocky and not
fit for navigation and as I have to build
and live on the part lying on the west side
to hold it or does my improvements hold
the whole 160 acres as I first located the
land the land in question lying on the
west side is not surveyed

and the ~~land~~ ^{one} Charles tract, cut my corner
in about equal half the part. I made final
proof on ~~seventy~~ ^{contains} 79 acres and $\frac{53}{100}$ and the
other part I wish to have area improve
contains 79. acres and $\frac{47}{100}$ with you finally. It
we know what steps to take to secure the
part lying on the west side of the Middle
Salmon River very respectfully yours

Jama. Velle.

DEPARTMENT OF AGRICULTURE
OFFICE OF THE SECRETARY
WASHINGTON, D. C.

July 7, 1910

54943

The Honorable,

The Secretary of the Interior.

Sir:

I have the honor to request that the tract of land indicated on the enclosed blueprint and described in the accompanying field notes of survey (List 4-380), in the Challis National Forest, Idaho, be opened to settlement and entry in accordance with the Act of June 11, 1906, (34 Stat. 233).

In unsurveyed Township 16 N., Range 13 E., T. M., approximately Section 27. Area 79.68 acres, more or less.
J. Voller, Roosevelt, Idaho, applied for this tract on May 8, 1909, alleging settlement on July 25, 1897.

I have the honor to be, Sir,

Very respectfully,

Your obedient servant,

Edwin A. Hyatt

Secretary.

Description of Survey

I. Voller

Homestead

Challis National Forest.

54943

Sept. 1 & 2, 1908.

Township 16 N. R. 15 E. B. 3. Section 27.

Number ; List . Area 80 Acres.

Variation--This survey was run on an assumed variation of 19° E. with Forest Service Standard Compass all bearings taken with needle. Forest Service Monument consists of a granite stone in place 35"X 25"X 20" above ground, situated on the right bank of the Middle Fork of Salmon River and the South and East side of Thomas Creek.

F.S.V.H. cut on the S. W. side of the stone, and an "X" cut on top for chaining point. Whence M chiseled on a granite rock 20"X 20"X 30" above ground marked ^{MH}W bears S. 25° 30' E. 16.8', a fir tree 24" in diameter marked ^{MH}W below stump high and spotted breast high bears N. 23° 30' E. 31.4', the mouth of Thomas Cr. bears N. 17° E. 360'.

Beginning at cor. No. 1 a river stone 8"X 8"X 20" set 6" in the ground at high water mark on the river bank, and marked I apex of stone used as chaining point. Whence a fir tree 24" in diameter marked ^{WH}I in blaze below stump height bears S. 33° 30' E. 14.5'. The F. S. 2. above described bears S. 43° 30' E. 91'.

Feet

Thence N. 17° 40' E.

3321

to corner No. 2, to establish this line and avoid river and thick brush along river, I ran a meander line as follows:
S. 69° 15' W. 87' up steep bank

N. 26° W. 445'

N. 15° W. 300'

N. 27° 30' W. 1442'

N. 30° W. 1218'

N. 80° E. 73' down steep bank to corner NO. 2, a wash stone

- 83X 16"X 22" set 10" in the ground at highest water mark
^H of the river, marked 2. Apex of stone used as chaining
 point. Thence a yellow pine tree 40" in diameter marked
^{W H} 2 bears N. 28° 30' E. 21'. No other witness available.
 Thence S. 200° W.
- 376 up rather steep open hill to corner No. 3, a granite stone
 8"X 14"X 23", set 12" in the ground and marked ^H 3. Apex
 of stone used as chaining point. Thence a yellow pine
 tree 34" in diameter marked ^{W H} 3 in blaze below stump high
 bears N. 32° 36' W. 29'. No other witness object available.
 Thence S. 60° E.
- 2105 along open sage brush hill side to cor. No. 4, a wash stone
 34"X 14"X 7" set 14" in the ground on steep hill side, Apex
 of stone used as chaining point, marked ^H 4. Thence a small
 fir tree 6" in diameter marked ^{W H} 4 in blaze bears N. 75° E.
 96.5' down 36° hill. no other witness object available.
 Thence S. 34° 50' W.
- 1114.7 along open sage brush hill to cor. ^H No. 5, a shist stone
 25"X 13"X 10" set 10" in the ground, and marked ^B 5. The
 Apex of stone used as chaining point. Thence a fir tree
 40" in diameter and marked ^{W H} 5 in blaze bears N. 31° 50' W.
 105.9'. No other witness object available.
 Thence S. 28° 40' W.
- 740.2 to corner No. 6, a porphyry stone 20"X 14"X 6" set 6" in the
 ground and marked ^H 6. Apex of stone used as chaining point.
~~Thence a fir tree 41" in diameter marked ^{W H} 6 in blaze bears~~
 N. 22° W. 39.6'. Thence a yellow pine 36" in diameter
^{W H} marked 6 in blaze bears S. 41° ~~30'~~ 3. 40'.

Feet
 100' Thence S. 51° 30' E.
 to Thomas Creek.
 280.5 to cor. No. 7, a granite stone 24"X 14"X 7" set 10" in the
 ground, and marked ^H7. Apex of stone used as chaining point.
 Whence a fir tree 10" in diameter and marked ^{W H}7 in blaze
 bears S. 78° W. 24'. A crooked yellow pine marked ^{W H}7
 in blaze bears S. 79° 30' W. 54'.
 Thence N. 86° 35' E.
 2159 to cor. No. 1, the place of beginning, containing ^{74.68}80 acres
 be the same more or less. 80 acres good agriculture land,
 and the remainder good for pasture only.

David Toney
 Surveyor, Forest Supervisor.

Description ~~of~~ and platt compared and approved by

David Toney
 Forest Supervisor.

5/17/MJR

IN REPLY PLEASE REFER TO
Hailey/Pat. 333095, WB. Q. S.

I A Forester.

May 19 1913.

ADDRESS TO THE
COMMISSIONER OF THE GROUND

The Forester,
Forest Service,
Patent issued.

Washington, D. C.

SIR,

Hailey, Idaho, Serial No. 09243.

Forest Homestead. 333095

In the name of James Fowler for the H. E. Survey No. 77,
embracing a portion of the unsurveyed public domain, in the
Challis National Forest issued May 13, 1913.

5/17/MJR.

DEPARTMENT OF THE INTERIOR,
UNITED STATES LAND OFFICE,

HAILEY, IDAHO.
(Place.)

January 9, 1911.
(Date.)

4-380

James Voller,

Roosevelt, Idaho

Sir:

Your Monestead Application SERIAL No. 09243

(Kind of Application or Entry.)

Receipt No. 530033, for

A tract of 70.00 acres of land surveyed and located with approximately 56, when surveyed, Sec. 27, T. 16 N. R. 13 E., containing by notes and bounds as follows: Beginning at corner No. 1, a stone marked N/1, thence the Perpet Service Monument (the mouth of Thence Creek bears N. 170° V. 200 feet) from said Perpet Service Monument) bears S. 45° 26' W. 91 feet; extending thence N. 170° 40' W. 3321 feet; thence S. 80° W. 376 feet; thence S. 60° E. 2105 feet; thence S. 34° 30' W. 1114.7 feet; thence S. 28° 40' W. 740.2 feet; thence S. 21° 30' E. 280.5 feet; thence N. 68° 25' E. 2169 feet to the place of beginning. Variation 19 degrees N. List No. 4-380.

Very respectfully,

J. H. Voller, Register.

C. J. Carter, Receiver.

IN REPLY PLEASE REFER TO Halley Circular "K" HMM

2 in.

DEPARTMENT OF THE INTERIOR

GENERAL LAND OFFICE

October 2, 1913.

ADDRESS ONLY MAY
BE COMMISSIONER OF THE GENERAL LAND OFFICE

Mr. James Volter,

Stanley, Idaho.

My dear Sir:

In reply to your letter of August 8th, I have to state that it appearing that you received patent May 13 1913, for a tract of 20.50 acres described by metes and bounds under the act of June 12, 1905 (34 Stat., 233), west of Middle Fork of Salmon River, you may be allowed to make an additional homestead entry for lands adjoining the same under Sec. 2, act of April 26 1916 (43 Stat., 527), without establishing residence upon the tract additionally entered, should such tract be subject to entry and should you possess the required qualification. Your attention is also called to Sec. 6, act of March 2 1889 (25 Stat., 854), contained on pages 26 and 27, of the inclosed Circular No. 224. You will note that under this act it will be necessary that you reside upon and cultivate the land entered as an additional entry. If the tract desired is unsurveyed and not within the limits of a National forest, you may establish settlement thereon, and petition the U. S. Surveyor General, at Boise, Idaho.

Halley 092430 "K" RMM

for a regular subdivisional survey of the township.

The question of the contiguity of the two tracts can not be considered at this time for the reason that the township is as yet unsurveyed. It is possible that the said river will be meandered in which case land on opposite sides can not be considered as contiguous.

Very respectfully,

Commissioner.

TFB. 9-30.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE.

RECEIPT.

Use COPYING INK only
on this Receipt.

No. 538933

U. S. LAND OFFICE, Hailey, Idaho.

November 9, 1910.

RECEIVED of James Voller,

(Name.)

Roosevelt, Idaho.

(Address.)

, the sum of

Nine-----

Dollars and -----No-----

Cents,

in connection with

Forest Homestead Application.

SERIAL No. 09243, for:

a tract of 79.68 acres probably in

Section 27

Township 16 North, Range 13 East of the Boise

Meridian,

acres, at \$----- per acre-----

		\$
Fees-----	5	00
Commissions-----	2	99
Testimony fees----- words at----- cents per 100 words-----		
Contest fees----- "----- "-----		
Transcripts----- "----- "-----		
of Records----- "----- "-----		
Overpayment-----	1	01
TOTAL-----	9	00

No. 538933

W. J. Monte

(Signature.)

Receiver of Public Moneys.

This Receipt is evidence only of the receipt of the amount indicated, and must be issued at the time the money is received, without regard to the subsequent allowance or rejection of the application, entry, etc., due notice of which will be given.

In case of error in this Receipt, notify the Receiver of Public Moneys where issued, and the Commissioner of the General Land Office, Washington, D. C.

In writing to the local land office or the General Land Office concerning the application or entry in connection with which this Receipt issued, always give the above SERIAL Number and the RECEIPT Number.

6-1186

DEPARTMENT OF THE INTERIOR
UNITED STATES LAND OFFICE

Hailey, Idaho.
(Place.)

September 19, 1912.
(Date.)

James Voller,

Stanley, Idaho.

NOTICE OF REJECTION
or Suspension.

Sir:

In reference to your application to final proof submitted in connection with homestead entry No. 09243 for the unsurveyed land described by metes and bounds, Section , Township 16 north , Range 13 east , Boise Meridian, you are advised that on this date , the Register and Receiver of this office ^{for rejection} the same for the reason that you have failed to return your original notice of allowance. You will be required to return the notice of allowance, sent to you when your entry was allowed, or furnish an affidavit, executed before Joseph H. Horton, U. S. Commissioner, at Challis, Idaho, explaining your failure to return it.

You are allowed thirty days from notice hereof in which to
comply with the requirements hereof

or to appeal from this decision to the Commissioner of the General Land Office; and upon your failure to take such action within the time specified, the case will be closed without further notice to you from this office. If an appeal is taken herefrom it must be filed in this office.

Please return this letter, in case you take any action or desire further information on the subject.

Respectfully,

_____, Register.

6-549

_____, Receiver.

NOTICE OF INTENTION TO MAKE PROOF.

DEPARTMENT OF THE INTERIOR,

U. S. LAND OFFICE at HAILEY, Idaho.

MAY 11 1912, 19

I, Stanley Solon, who, on January 9th, 1911, of
Forest, Homestead, Idaho, No. 09243, for

That certain tract of unsurveyed land, in the Challis National Forest, Custer County, State of Idaho, in T. 16 N., R. 13 E., Boise Meridian, designated as Homestead Entry Survey No. 77, described as follows: Beginning at corner No. 1, from which corner U. S. L. M. No. 77, Challis National Forest, bears S. 41° 48' W. 1.37 chains, and running thence N. 36° 30' W. 6.00 chains, thence N. 9° 55' W. 5.00 chains, thence N. 2° W. 6.00 chains, thence N. 16° W. 5.00 chains, thence N. 4° 15' W. 6.00 chains, thence N. 22° 45' W. 6.00 chains, thence N. 4° 15' W. 9.00 chains, thence N. 21° 21' W. 9.55 chains to corner No. 2; thence S. 79° 15' W. 6.93 chains to corner No. 3; thence S. 86° 47' E. 31.74 chains to corner No. 4; thence S. 34° 45' W. 16.90 chains to corner No. 5; thence S. 29° 09' W. 11.14 chains to corner No. 6; thence S. 31° 30' E. 4.20 chains to corner No. 7; thence N. 70° 18' E. 32.72 chains to corner No. 1, the place of beginning, containing 80.53 acres.

None, of Challis, Idaho
None, of Challis, Idaho
Granger, of Challis, Idaho
Arthur, of Stanley, Idaho

(Signature of claimant.)

HAILEY, Idaho, MAY 11 1912, 19

he above intention to make proof will be published in the

Challis consecutive weeks, which I hereby designate

published nearest the land above described

J. F. Bore

Register.

NOTICE FOR PUBLICATION.

(REGISTER.)

DEPARTMENT OF THE INTERIOR,

U. S. LAND OFFICE at Heiley, Idaho

Frank Lake City, Idaho

May 11th, 1912

NOTICE is hereby given that James Voller, of Stanley, Idaho, who, on January 9th, 1911, made

Forest Homestead Entry, No. 09243, for that certain tract of unsurveyed land, in the Challis National Forest, Custer County, State of Idaho, in T. 16 N., R. 13 E., Boise Meridian, designated as Homestead Entry No. 77, described as follows: Beginning at corner No. 1, from which corner U. S. No. 77, Challis National Forest, bears S. 41° 48' W. 1.374 chains, and running thence N. 36° 30' W. 6.00 chains, thence N. 98° 5.00 chains, thence S. 2° W. 6.00 chains, thence N. 16° W. 5.00 chains, thence W. 4° 15' W. 6.00 chains, thence N. 22° 45' W. 9.55 chains to corner No. 2; thence S. 79° 15' W. 6.93 chains to corner No. 3; thence S. 86° 47' E. 31.74 chains to corner No. 4; thence S. 34° 45' E. 16.90 chains to corner No. 5; thence U. S. 29° 09' W. 11.14 chains to corner No. 6; thence S. 31° 30' E. 4.20 chains to corner No. 7; thence S. 70° 18' W. 32.72 chains to corner No. 1, the place of beginning, containing 80.53 acres.

Claimant names as witnesses:

Thomas Kerr, of Challis, Idaho.

James Kerr, of "

Frank Coleman, of "

Charles Batters, of Stanley

Non coal land

Register.

CERTIFICATE AS TO POSTING OF NOTICE.

Heiley, Idaho Sept 19, 1912

I HEREBY CERTIFY that the above notice, or copy thereof, was by me posted in a conspicuous place in my office for a period of 30

days, I having first posted said notice on the 11th day of May, 1912

No information now in this office warranting field investigation.

JUL 1 1912

Chief Field Div.

0-1

Register.

NOTICE FOR PUBLICATION.

(REGISTER.)

DEPARTMENT OF THE INTERIOR,

U. S. LAND OFFICE at Hailey, Idaho

May 11th, 1912

NOTICE is hereby given that James Veller, of Stanley, Idaho, who on January 9th. 1911, made

Forest Homestead Entry No. 09243, No. 09243, for

That certain tract of unsurveyed land, in the Chollas National Forest, Custer County, State of Idaho, in W. 16 N. 7. R. 13 E. 30th Meridian, designated as Homestead Entry No. 77, described as follows: Beginning at corner No. 1, from which corner U. S. J. H. No. 77, Chollas National Forest, bears S. 41° 48' W. 1.271 chains, and running thence N. 88° 09' W. 6.00 chains, thence N. 9° 36' W. 5.50 chains, thence N. 2° 45' W. 6.00 chains, thence N. 16° 00' W. 3.00 chains, thence N. 36° 30' W. 4.00 chains, thence N. 22° 45' W. 6.00 chains, thence N. 4° 15' W. 2.00 chains, thence N. 21° 21' W. 2.55 chains to corner No. 2; thence S. 65° 15' W. 6.50 chains to corner No. 3; thence S. 85° 47' E. 31.74 chains to corner No. 4; thence S. 34° 45' W. 16.90 chains to corner No. 5; thence S. 29° 09' W. 11.14 chains to corner No. 6; thence S. 31° 36' E. 4.20 chains to corner No. 7; thence N. 70° 18' E. 32.72 chains to corner No. 1 the place of beginning, containing 80.53 acres.

Claimant names as witnesses:

Thomas Kerr, of Challis, Idaho.

James Kerr
of
11

Frank Coleman of " " "

Charles Patterson, of London

**Not good and
part**

Register.

CERTIFICATE AS TO POSTING OF NOTICE.

19.

I HEREBY CERTIFY that the above notice, or copy thereof, was by me posted in a conspicuous place in my office for a period of _____ days, I having first posted said notice on the _____ day of _____, 19____.

04

Register.

This entry was initiated under the act of June 11, 1906, and no report will be made by the Forest Service, as the Department of Agriculture has no authority to examine and report on this class of claims.

Dated May 17, 1912.

David Young
Forest Supervisor,
Challis National Forest.

ADDRESS REPLY TO
"DISTRICT FORESTER"

UNITED STATES DEPARTMENT OF AGRICULTURE
FOREST SERVICE

DISTRICT 4

L

Challis, Claims,
Voller, James,
H. E. 09243, Salt Lake.

MAY 23 1912

Salt Lake City, Utah.

FOREST SERVICE BUILDING
OGDEN, UTAH

May 21, 1912.

Chief of Field Division, C. L. C.,

Salt Lake City, Utah.

Dear Sir:

Reference is made to notice of intention to offer final proof, by James Voller, on H. E. 09243, in the Challis National Forest.

As the entry to the land involved was initiated under the Act of June 13, 1906, and as the Department of Agriculture has no authority to examine and report upon this class of claims, no report will be sent to you.

Very truly yours,



District Forester.

Enclosure.

HOMESTEAD,
DESERT LAND, and
TIMBER or STONE
Entries.

FOREST SERVICE
District 4
AND
MAY 21 1912

CHALLIS NATIONAL FOREST

CHALLIS, IDAHO

MAY 16 1912

RECEIVED

Approved

FOR PUBLICATION.
(REGISTER.)

DEPARTMENT OF THE INTERIOR,

U. S. LAND OFFICE at

Haystack, Idaho

Answered.....

May 11th, 1912

NOTICE is hereby given that James Heller, of _____, who, on January 9th, 1912, made

Stanley, Idaho

Forest Revested Entry

No. 09243, for

that certain tract of unsurveyed land, in the Challis National Forest, Quarter County, State of Idaho, in N. 16 W., E. 13 N., S. 26 1/2 N. Meridian,

designated as Revested Entry Survey No. 77, described as follows:

Beginning at corner No. 1, from which corner U. S. L. N. No. 77, Challis National Forest, bears N. 41° 48' W. 1.374 chains, and running thence N. 30° 30' W. 6.00 chains, thence N. 9° 30' W. 1.374 chains, thence N. 2° W. 6.00 chains, thence N. 16° W. 5.00 chains, thence N. 36° 30' W. 6.00 chains, thence N. 22° 45' W. 6.00 chains, thence N. 4° 15' W. 9.00 chains, thence N. 22° 21' N. 9.55 chains to corner No. 2; thence 31° 30' N. 4.20 chains to corner No. 3; thence N. 47° E. 31.74 chains to corner No. 4; thence N. 34° 45' W. 16.90 chains to corner No. 5; thence N. 29° 09' W. 11.14 chains to corner No. 6; thence N. 31° 30' N. 4.20 chains to corner No. 7; thence N. 70° 18' E. 32.72 chains to corner No. 8, the place of beginning, containing 80.53 acres.

Claimant names as witnesses:

Thomas Barr, of Challis, Idaho

James Barr, of " "

Frank Coleman, of " "

Charles Patterson, of Stanley, Idaho

Register.

CERTIFICATE AS TO POSTING OF NOTICE.

NOT FILED

RECEIVED

MAY 23 1912

Salt Lake City, Utah

I HEREBY CERTIFY that the above notice, or copy thereof, was by me posted in a conspicuous place in my office for a period of _____ days, I having first posted said notice on the _____ day of _____, 19____.

Dated May 17, 1912.

This entry was initiated on the 17th of June 11, 1906, and no report will be made by the Forest Service, to the Department of Agriculture has no authority to act in the premises as his place of duty.

David Taug
Forest Supervisor
Challis National Forest

Register.

Challis, Idaho, July 11th 1912

Register & Receiver
Haley Idaho

Dear Sirs: -

I have took this testimony strictly according to your orders and there are good upshot and honorable men, and i hope this will be all right as these men have at ord - one hundred miles to travel home thier. Claim to Challis

P.S. I am out of 4-14-16 Blank or forms and cannot send any more for Refracts - until you send me more these Blank are Revived

Yours Truly,

Joseph H. Horton
U.S. Commissioner
Challis Idaho

I have had it write for a copy of City of Salmon City

PROOF THAT PLAT AND NOTICE REMAINED POSTED ON CLAIM

DURING TIME OF PUBLICATION.

State of Idaho)
County of Custer) ss.
)

James Voller, being first duly sworn, deposes and says: that he is the claimant of that certain tract of unsurveyed land, in the Challis National Forest, Custer County, State of Idaho, in T.16 N., R.13 E. B.M., designated as Homestead Entry Survey No.77, described as follows: Beginning at Corner No.1, from which corner U.S.L.M. No. 77, Challis National Forest bears S.41°P 48' W.1.37 1/2 chains, and running thence north 36°30' W.6.00 chains, thence N.9° W.5.00 chains, thence N.9° W.6.00 chains, thence N.16° W.5.00 chains, thence N.36°50' W.6.00 chains, thence N.22°45' W.6.00 chains, thence N.4°15' W.9.00 chains, thence N.71°21' W.9.55 chains to corner No. 2; thence S.79°15' W.6.93 chains to corner No. 3; thence S.8°47' E. 31.74 chains to corner No.4; thence S. 34°45' W. 16.90 chains to corner No. 5; thence S. 29°09' W. 11.14 chains to corner No. 6; thence S.31°50'E. 4.20 chains to corner No. 7; thence N.70°18' E. 33.72 chains to corner No. 1, the place of beginning, containing 80.53 acres, the official plat of which premises, together with notice of his intention to make final five year proof, was posted thereon, on the 31st day of May, 1912; and that the plat and notice above mentioned and described remained continuously and conspicuously posted upon said premises from the said 31st day of May, 1912, until and including the 11th day of July, 1912, during which period the said notice of intention to make final proof was published in the Challis Messenger.

James Voller

Subscribed and sworn to before me this 11th day of July, 1912, and I hereby certify that the foregoing affidavit, was read to or by deponent previous to his name being subscribed thereto.

Joseph H. Harlow
U.S. Commissioner, Dist. of Idaho.

IN DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT IN AND FOR THE COUNTY OF LEMHI. TERRITORY OF IDAHO.

Present: Hon. C. H. Berry Judge.

In the Matter of the Application of

James Voller

AN ALLEN

To become a Citizen of the United States of

AMERICA.

IN OPEN COURT

May

Term, 1889

this 31st day of May

1889 as yet of said Term.

It appearing to the satisfaction of this Court, by the oaths of

W. S. Edwards

and Ira Tingley

citizens of the United States of America, witnesses for that purpose, first duly sworn and examined, that James Voller

a native of England

has resided within the limits and under the jurisdiction of the United States five years at least, last past, and within the Territory of Idaho for one year at least, last past; and that during all of said time he has behaved as a man of good moral character, attached to the principles of the Constitution of the United States, and well disposed to the good order and happiness of the same; and it also appearing to the Court by competent evidence, that the said applicant has heretofore, and more than two years since, and in due form of law, declared his intention to become a citizen of the United States; and having now here, before this Court, taken an oath that he will support the Constitution of the United States of America, and that he doth absolutely and entirely renounce and abjure all allegiance and fidelity to every foreign Prince, Potentate, State or Sovereignty whatever, and particularly to Victoria, Queen of Great Britain and Ireland and Empress of India, whose subject he was

It is therefore ORDERED, ADJUDGED AND DECREED, that the said

James Voller

be, and he is hereby admitted and declared to be a Citizen of the United States of America.

C. H. Berry

Judge.

Office of the Clerk of the District Court of the Third Judicial District of Idaho, in and for the County of Lemhi.

Sixth J. L. Kirtley Jr

Clerk of the District Court of

Third Judicial District of Idaho Territory in and for the

County of

Lemhi, said Court being a Court of Record, having a common law jurisdiction, and a Clerk and Seal, do certify that the above is a true copy of the act of Naturalization of

James Voller

as the same appears upon the Records of said Court, now in my office

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the Seal of said Court, this 13th day of

July in the year of our Lord one thousand

Nine ~~eight~~ hundred and Twelve and in the year of

our Independence the one hundred and thirty-seventh

J. L. Kirtley Jr Clerk.

Deputy Clerk.

Homestead Entry Survey of 1877 described as follows
Beginning at Corner of $\frac{1}{2}$ 1st prism which Corner U.S.L.M.,
No. 77 Challis National Forest begins S. 41° W. 48.11 137 $\frac{1}{2}$
chains and running thence N. 36° 30' W. 600 chains
thence N. 9° W. 500 chains, thence N. 2° W. 600 chains,
thence N. 16° W. 500 chains, thence N. 36° 30' W. 600 chains
thence N. 22° 45' W. 600 chains, thence N. 4° 15' W. 600
chains, thence N. 21° 21' W. 955 chains to Corner of $\frac{1}{2}$ 2nd
thence S. 79° 15' W. 653 chains to Corner of $\frac{1}{2}$ 3rd thence
S. 8° 47' E. 31.74 chains to Corner of $\frac{1}{2}$ 4th thence S. 34° 46'
W. 16.90 chains to Corner of $\frac{1}{2}$ 5th thence S. 25° 09' W. 14
chains to Corner of $\frac{1}{2}$ 6th thence S. 31° 10' E. 4.20 chains
to Corner of $\frac{1}{2}$ 7th thence N. 70° 18' E. 32.72 chains
to Corner of $\frac{1}{2}$ 1st the Place of beginning containing
80.53 acres

DEPARTMENT OF THE INTERIOR.

HOMESTEAD ENTRY.

U. S. LAND OFFICE, Hailey Idaho, No.

FINAL PROOF.

RECEIPT NO.

TESTIMONY OF WITNESS.

QUESTION 1. What is your full name, age, and post-office address?

ANSWER. Charles Butler, 60 years old, Hailey,Caribou County - State of Idaho

QUESTION 2. (a) How long have you known the claimant in this case

and the Tract of LandTownship 16 North, Range 13 East, Twisted, Section 1, Meridian,the land embraced in Homestead Entry No. 09243, made at theHailey Idaho Land Office?ANSWER. between 5 and 6 years(b) Is claimant married? ANSWER. not to my knowledge

QUESTION 3. Is said tract within the limits of an incorporated town, or used in any way for trade or business?

ANSWER. No

QUESTION 4. (a) When did claimant settle upon the homestead?

ANSWER. two years living on the land when I first knew him and I have lived on the place for 2 or 3 years

(b) At what date did claimant establish actual residence thereon?

ANSWER. I don't know

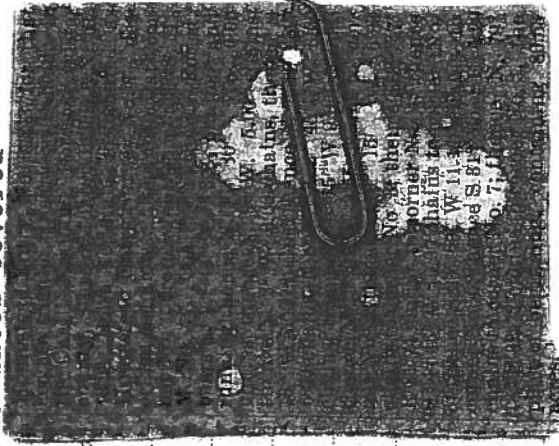
(c) Have claimant and family resided continuously on the homestead since thus establishing residence thereon?

ANSWER. he has been on the place ever since I know him 5 or 6 years

(d) Have claimant and family ever been absent from the homestead since thus establishing residence thereon?

ANSWER. not since I have known him

(e) If there have been any such absences, give the dates covered by such absences, stating who was absent and

ANSWER. he has not been a day or two days to get in supplies

QUESTION 5. Describe the land embraced in above entry by legal subdivisions, showing fully the character of same, and kind and amount of timber, if any.

ANSWER.

Subdivision.	Acres cultivable.	Acres timbered.	Feet timber.
Can't describe by subdivisions as it is covered by tract's & bounds	75 acres	None	
Character of land & its use			
Lumber			

QUESTION 6. State by subdivisions the number of acres cultivated, kind of crop planted, and amount harvested, each year. How many acres of the claim are now cleared, or broken, and under cultivation? If used for grazing only, state number and kind of stock grazed each year and by whom owned.

ANSWER. about 50 acres cultivated in corn, sorghum and some Lucerne and a garden and a good crop about 1/2 ton of sorghum per acre and about 300 lb tons of Lucerne per acre and a good garden crop.

QUESTION 7. Describe fully and in detail the amount and kind of improvements on each subdivision. State total value of improvements on the claim.

ANSWER.

Subdivision.	Character of improvements.
Can't describe it by subdivisions as it is covered by tract's & bounds	Can't describe it by subdivisions as it is covered by tract's & bounds
	House 1 1/2 story & a good barn and shed and a driveway across the River about 200 ft long & a ditch about 3000 ft long
	Value of improvements about \$ 25000

QUESTION 8. Are there any indications of coal, salines, or minerals of any kind on the land? If so, describe what they are.

ANSWER. No

QUESTION 9. Have you any knowledge or information that claimant has sold or contracted to sell, optioned, mortgaged, or agreed to option or mortgage this land? If so, give full details as to whom, for what purpose, and in what amount.

ANSWER. No with any knowledge

QUESTION 10. (a) Have you personal knowledge, from your own observation, that claimant and his family (if any) actually resided upon and cultivated this land each year in accordance with your above testimony?

ANSWER. Yes he has cultivated it ever year since I have lived with him.

(b) How many times each year have you seen this land, and the claimant and his family residing thereon; and what other personal knowledge have you upon which your answers are based?

ANSWER. The Land was in Cultivation when I went there and he as Cultivated it Ever since.

QUESTION 11. Are you interested in this claim, or related to the claimant? If so, how?

ANSWER. No

Charles Batters
(Sign plainly, with full Christian name.)

NOTE 1.—The officer before whom the proof is made will see that all answers are complete and responsive to the questions.

NOTE 2.—The officer before whom the deposition is taken should call the attention of the witness to section 5392 of the Revised Statutes (below), and state to him that it is the purpose of the Government, if it be ascertained that he testifies falsely, to prosecute him to the full extent of the law.

I HEREBY CERTIFY that the deponent was examined separately and apart from the other witnesses in the case; that the foregoing deposition was read to ~~ex by~~ deponent in my presence before deponent affixed signature thereto; that deponent is to me personally known (or ~~has been satisfied~~ ~~torily identified before me~~ by _____);

(Give full name and post-office address.)

that I verily believe deponent to be the identical person hereinbefore described, and that said deposition was duly subscribed and sworn to before me at my office, in Charles Carter County, Idaho, within the Hailey District land district, this 11th day of July, 1912.

(Town, county, and State.)

Joseph H. Harten
U.S. Commissioner

(Official designation of officer.)

REVISED STATUTES OF THE UNITED STATES. TITLE LXX.—CRIMES.—CHAP. 4.

SEC. 5392. Every person who, having taken an oath before a competent tribunal, officer, or person, in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed is true, willfully and contrary to such oath states or subscribes any material matter which he does not believe to be true, is guilty of perjury, and shall be punished by fine of not more than two thousand dollars, and by imprisonment, at hard labor, not more than five years; and shall, moreover, thereafter be incapable of giving testimony in any court of the United States until such time as the judgment against him is reversed. (See Sec. 1750.)

NOTE.—In addition to the above penalty, every person who knowingly or willfully, in anywise procures the making or presentation of any false or fraudulent affidavit pertaining to any matter within the jurisdiction of the Secretary of the Interior may be punished by fine or imprisonment.

DEPARTMENT OF THE INTERIOR.

HOMESTEAD ENTRY.

U. S. LAND OFFICE, Haidley place, No.

FINAL PROOF.

RECEIPT NO.

TESTIMONY OF WITNESS.

QUESTION 1. What is your full name, age, and post-office address?

ANSWER ⁴² Frank Ciferri 42 years old
Idaho Baranoga Custer County,

QUESTION 2. (a) How long have you known the claimant in this case

and the about 14 yearstract of land, Section ,
Township 8 north, Range 13 East, Boise Meridian,the land embraced in Homestead Entry No. 09243, made at theHaidley place Land Office?ANSWER. about 14 years(b) Is claimant married? ANSWER. no

QUESTION 3. Is said tract within the limits of an incorporated town, or used in any way for trade or business?

ANSWER. no

QUESTION 4. (a) When did claimant settle upon the homestead?

ANSWER. about 14 years ago

(b) At what date did claimant establish actual residence thereon?

ANSWER. he was living on the land 14 years ago

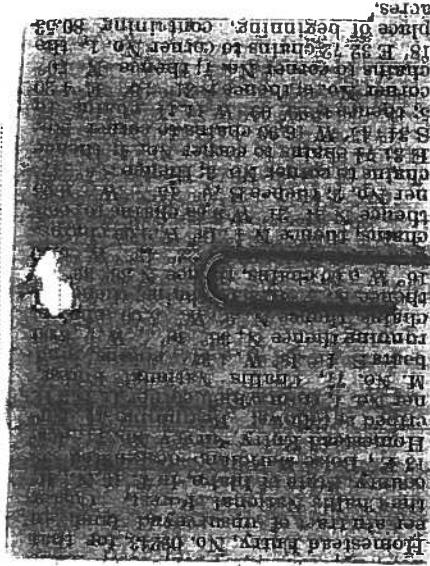
(c) Have claimant and family resided continuously on the homestead since thus establishing residence thereon?

ANSWER ^{all the time} as no family but he as lived there

(d) Have claimant and family ever been absent from the homestead since thus establishing residence thereon?

ANSWER. not that I know of

(e) If there have been any such absences, give the dates covered by such absences, stating who was absent and for what reason.

ANSWER. none

QUESTION 5. Describe the land embraced in above entry by legal subdivisions, showing fully the character of same, and kind and amount of timber, if any.

ANSWER.

Subdivision.	Acres cultivable.	Acres timbered.	Feet timber.
Can not describe by subdivisions as land is surveyed by meander bounds, Sandy Lanes	75 acres	4000	

QUESTION 6. State by subdivisions the number of acres cultivated, kind of crop planted, and amount harvested, each year. How many acres of the claim are now cleared, or broken, and under cultivation? If used for grazing only, state number and kind of stock grazed each year and by whom owned.

ANSWER. about 50 acres Cultivating Corn & Hay & Clover and he raises a good Crop each year
Land Cleared about 65 or 60 Acres and under Cultivation same in Lucerne and garden

QUESTION 7. Describe fully and in detail the amount and kind of improvements on each subdivision. State total value of improvements on the claim.

ANSWER.

Subdivision.	Character of improvements.
Can not describe by subdivisions as it is surveyed by meander bounds	about 3500 ft good horse 1/2 share a good barn and shed
	200 ft long
Value of improvements	Main ditch about 3000 ft long about \$25000

QUESTION 8. Are there any indications of coal, salines, or minerals of any kind on the land? If so, describe what they are.

ANSWER. No not that I know of

QUESTION 9. Have you any knowledge or information that claimant has sold or contracted to sell, optioned, mortgaged, or agreed to option or mortgage this land? If so, give full details as to whom, for what purpose, and in what amount.

ANSWER. No none

QUESTION 10. (a) Have you personal knowledge, from your own observation, that claimant and his family (if any) actually resided upon and cultivated this land each year in accordance with your above testimony?

ANSWER. Yes

(b) How many times each year have you seen this land, and the claimant and his family residing thereon; and what other personal knowledge have you upon which your answers are based?

ANSWER. once or twice - Each year for the last 24 years with the exception of 3 years at different times I happened to go over but was corresponding with him during that time

QUESTION 11. Are you interested in this claim, or related to the claimant? If so, how?

ANSWER. No

Frank Coleman
(Sign plainly, with full Christian name.)

NOTE 1.—The officer before whom the proof is made will see that all answers are complete and responsive to the questions.

NOTE 2.—The officer before whom the deposition is taken should call the attention of the witness to section 5392 of the Revised Statutes (below), and state to him that it is the purpose of the Government, if it be ascertained that he testifies falsely, to prosecute him to the full extent of the law.

I HEREBY CERTIFY that the deponent was examined separately and apart from the other witnesses in the case; that the foregoing deposition was read to ~~ex~~ by deponent in my presence before deponent affixed signature thereto; that deponent is to me personally known (or has been ~~satisfactorily identified before me~~ by _____);

(Give full name and post-office address.)

that I verily believe deponent to be the identical person hereinbefore described, and that said deposition was duly subscribed and sworn to

before me at my office, in Challis, Butte County, Idaho,

(Town, county, and State.)

within the Hailey Idaho land district,
this 11th day of July, 1912.

Joseph H. Harten
Notary Public
(Official designation of officer.)

REVISED STATUTES OF THE UNITED STATES. TITLE LXX.—CRIMES.—CHAP. 4.

SEC. 5392. Every person who, having taken an oath before a competent tribunal, officer, or person, in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed is true, willfully and contrary to such oath states or subscribes any material matter which he does not believe to be true, is guilty of perjury, and shall be punished by fine of not more than two thousand dollars, and by imprisonment, at hard labor, not more than five years; and shall, moreover, thereafter be incapable of giving testimony in any court of the United States until such time as the judgment against him is reversed. (See Sec. 1750.)

NOTE.—In addition to the above penalty, every person who knowingly or willfully in anywise procures the making or presentation of any false or fraudulent affidavit pertaining to any matter within the jurisdiction of the Secretary of the Interior may be punished by fine or imprisonment.

DEPARTMENT OF THE INTERIOR.

HOMESTEAD ENTRY.

U. S. LAND OFFICE, Hailey, Idaho, NO.

RECEIPT NO.

FINAL PROOF.

TESTIMONY OF CLAIMANT.

QUESTION 1. What is your full name, age, and post-office address?

ANSWER. James Butler, 58 year old, Hailey, Idaho

QUESTION 2. Are you a native-born citizen of the United States, and if so, in what State or Territory were you born? (If foreign born, see Note 1.)

ANSWER. Naturalized Citizen

QUESTION 3. Are you the same person who made Homestead Entry No.

09243, at the Hailey, Idaho Land Office on the9th day of January, 1911, for thea tract of land in the Challis National ForestCuster County - State of Idaho 80.53 Acres described as followsTownship 16 North, Range 13 East, Boise Meridian?ANSWER. yesQUESTION 4. (a) Are you married or single? ANSWER. single

(b) If married, of whom does your family consist?

ANSWER.

(c) If a married woman, state whether your husband now has an unperfected homestead entry, and during what time he has resided on this land with you.

ANSWER.

QUESTION 5. (a) When did you first establish actual residence upon this land?

ANSWER. 25th July 1897

(b) When was your house built on this land?

ANSWER. July, 1897.

(c) Have either you or your family ever been absent from the homestead since establishing residence?

ANSWER. No

(d) If there has been such absence, give the dates covered by each absence; and as to each absence, state whether you, your family, or both, were thus absent and the reason for each such absence.

ANSWER. I have only been absent 60 days and
get supplies for a few days at a time

QUESTION 6. Describe the land embraced in above entry by legal subdivisions, showing fully the character of same, and kind and amount of timber, if any.

ANSWER.

Subdivision.	Acres cultivable.	Acres timbered.	Feet timber.
Surveyed by Meek and brande and can not describe by subdivisions	90 acres	none	—
Character of Land Chas. J. Jones			

QUESTION 7. State by subdivisions the number of acres cultivated, kind of crop planted, and amount harvested, each year. How many acres of the claim are now cleared, or broken, and under cultivation? If used for grazing only, state number and kind of stock grazed each year and by whom owned.

ANSWER. 150 acres cultivated grass Timothy & Clover
Lucerne and garden stock
Timothy about 2 1/2 tons to the acre, Lucerne 3 tons per
acre. Potatoes about 200 bushel per acre, each year.
Land cleared about 55 or 60 acres, and broken and
under cultivation

QUESTION 8. Describe fully and in detail the amount and kind of improvements on each subdivision. State total value of improvements on the claim.

ANSWER.

Subdivision.	Character of improvements.
Surveyed by Meek and Brande	perimeter 3900 ft and House one beyond half and a Barn and shed and civils are from way across river 200 ft long the asse value of the im provements about \$25000 which 3000 ft long

QUESTION 9. Is your present claim within the limits of an incorporated town or selected site of a city or town, or used in any way for trade or business?

ANSWER. No

QUESTION 10. Are there any indications of coal, salines, or minerals of any kind on the land? If so, describe what they are.

ANSWER. No

QUESTION 11. Have you ever made any other homestead entry? If so, describe the same.

ANSWER. No

QUESTION 12. Have you sold, conveyed, or agreed to sell or convey any portion of the land; if so, to whom and for what purpose?

ANSWER. *No*

QUESTION 13. Have you optioned, mortgaged, or agreed to option or mortgage, or convey this land, or any part thereof; if so, when, to whom, and for what purpose and in what amount?

ANSWER. *No*

QUESTION 14. Have you any personal property of any kind elsewhere than on this claim? If so, describe the same, and state where the same is kept.

ANSWER. *No*

QUESTION 15. Describe by legal subdivisions, or by number, kind of entry, and office where made, any other entry or filing (not mineral) made by you since August 30, 1890.

ANSWER. *None*

(Sign here, with full Christian name.)

~~NOTE~~ NOTE 1.—If applicant is alien born, he should state the fact and file evidence of citizenship in due form, either a certificate of his own naturalization in a court of competent jurisdiction, or, if claiming to be a citizen by virtue of his father's naturalization, and his own minority and residence in the United States at the date thereof, or, if a married woman claiming citizenship by virtue of her husband's nativity or naturalization, then record evidence of the naturalization of the father, or husband, or an affidavit as to the nativity of the latter.

~~NOTE~~ NOTE 2.—The officer before whom the proof is made will see that all answers are complete and responsive to the questions.

~~NOTE~~ NOTE 3.—The officer before whom the deposition is taken should call the attention of the witness to section 5392 of the Revised Statutes (over), and state to him that it is the purpose of the Government, if it be ascertained that he testifies falsely, to prosecute him to the full extent of the law.

I HEREBY CERTIFY that the deponent was examined separately and apart from the other witnesses in the case; that the foregoing deposition was read to or by deponent in my presence before deponent affixed signature thereto; that deponent is to me personally known (or ~~has been satisfied~~ ~~totally identified before me~~ by _____);

(Give full name and post-office address.)

that I verily believe deponent to be the identical person hereinbefore described, and that said deposition was duly subscribed and sworn to before me at my office, in *Charles Carter County, Idaho*,
within the *Hayley* *Idaho* (Town, county, and State.)
this *11th* day of *July*, 191*2*, land district,

Joseph H. Harlan
W.D. Commissioner

(Official designation of officer.)

FINAL AFFIDAVIT REQUIRED OF HOMESTEAD CLAIMANTS.

I, James Potter, having made a homestead entry of the Challis tract in the Challis National Forest in the State of Idaho, Section Township 16 North, Range 13 East, Boise Meridian, subject to entry at Hailey, Idaho, under section No. 2289 of the Revised Statutes of the United States, do now apply to perfect my claim thereto by virtue of section No. 2285 of the Revised Statutes of the United States; and for that purpose do solemnly swear that I am a naturalized

(Native-born or naturalized.)

that I have made actual settlement upon and have cultivated and resided upon said land since the 25th day of July, 1897, to the present time; that no part of said land has been alienated, except as provided in section 2288 of the Revised Statutes, but that I am the sole bona fide owner as an actual settler; that I will bear true allegiance to the Government of the United States; and further, that I have not heretofore perfected or abandoned an entry made under the homestead laws of the United States, except

NOTE.—Every person swearing falsely to the above affidavit will be punished as provided by law for such offense. (See Sec. 5392 R. S., below.)

James Potter
(Sign plainly, with full Christian name.)

I HEREBY CERTIFY that the foregoing affidavit was read to ~~ex~~ by affiant in my presence before affiant affixed signature thereto; that affiant is to me personally known (or has been ~~satisfactorily identified~~ before me by

(Give full name and post-office address.)

that I verily believe affiant to be a credible person and the identical person hereinbefore described, and that said affidavit was duly subscribed and sworn to before me, at my office, in Challis

Carson County, State of Idaho this 11th day of July, 1912

Joseph H. Harten
U.S. Commissioner
(Official designation of officer.)

REVISED STATUTES OF THE UNITED STATES. TITLE LXX.—CRIMES.—CHAP. 4.

SEC. 5392. Every person who, having taken an oath before a competent tribunal, officer, or person, in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed is true, willfully and contrary to such oath states or subscribes any material matter which he does not believe to be true, is guilty of perjury, and shall be punished by fine of not more than two thousand dollars, and by imprisonment, at hard labor, not more than five years; and shall, moreover, thereafter be incapable of giving testimony in any court of the United States until such time as the judgment against him is reversed. (See Sec. 1750.)

NOTE.—In addition to the above penalty, every person who knowingly or willfully in anywise procures the making or presentation of any false or fraudulent affidavit pertaining to any matter within the jurisdiction of the Secretary of the Interior may be punished by fine or imprisonment.

A tract of 79.68 acres within unsurveyed but what will probably be, when surveyed, Sec. 27, T. 16 N., R. 13 E., described by metes and bounds as follows: beginning at corner No. 1, a river stone marked H/1, whence the Forest Service Monument (the mouth of Thomas Creek bears N. 17° W. 360 feet from said Forest Service Monument) bears S. 43° 20' W. 91. feet; extending thence N. 17° 40' W. 3321 feet; thence S. 80° W. 376 feet; thence S. 6° E. 2105 feet; thence S. 34° 50' W. 1114.7 feet; thence S. 28° 40' W. 740.2 feet; thence S. 31° 30' E. 280.5 feet; thence N. 63° 25' E. 2159 feet to the place of beginning. Variation 19° E. Said tract was listed upon the application of I. Voller, of Roosevelt, Idaho; List 4-380.

State of Idaho)
County of Custer)

James Voller, being first and, next, an oath, depose and say: that he is the identical person upon whose application the above described land was listed, to wit: List 4-380; that the use of the name I. Voller is an error, due probably to the fact that applicant signed said application as J. Voller.

James Voller

Subscribed and sworn to before me this 28th day of October, 1910.

(H. D. McCreary)
Chas. J. McCreary

Department of the Interior,

UNITED STATES LAND OFFICE

At

The annexed papers were filed the
day and hour noted thereon.

*Rejected. Suspended
because until land
open to general
public entry*

*Entry allowed
1/19/11*

, Register.

, Receiver.

NOTICE.

I hereby acknowledge due service of notice of
the action in this case and of my right of appeal
within 30 days.

By registered letter

appeal filed.

IN DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT IN AND FOR THE COUNTY OF LEMHI.

TERRITORY OF IDAHO.

Present: Hon. C.H. Berry Judge.

In the Matter of the Application of

James Voller

AN ALLEN

To become a Citizen of the United States of

AMERICA.

IN OPEN COURT

May Term, 1889

this 31st day of May

18 89 as yet of said Term.

It appearing to the satisfaction of this Court, by the oaths of

E. S. Edwards

and Ira Tingley

citizens of the United States of America, witnesses for that purpose, first duly sworn and examined, that James Voller

a native of England

has resided within the limits and under the jurisdiction of the United States five years at least, last past, and within the Territory of Idaho for one year at least, last past; and that during all of said time he has behaved as a man of good moral character, attached to the principles of the Constitution of the United States, and well disposed to the good order and happiness of the same; and it also appearing to the Court by competent evidence, that the said applicant has heretofore, and more than two years since, and in due form of law, declared his intention to become a citizen of the United States; and having now here, before this Court, taken an oath that he will support the Constitution of the United States of America, and that he doth absolutely and entirely renounce and abjure all allegiance and fidelity to every foreign Prince, Potentate, State or Sovereignty whatever, and particularly to Victoria Queen of Great Britain and Ireland and Empress of India, whose subject he was,

It is therefore ORDERED, ADJUDGED AND DECREED, that the said James Voller be, and he is hereby admitted and declared to be a Citizen of the United States of America.

C.H. Berry Judge.

Office of the Clerk of the District Court of the Sixth ~~Judicial~~ Judicial District of Idaho, in and for the County of Lemhi.

I, W.C. Smith Clerk of the District Court of ~~Sixth~~ Judicial District of Idaho ~~Lemhi~~, in and for the County of Lemhi, said Court being a Court of Record, having a common law jurisdiction, and a Clerk and Seal, do certify that the above is a true copy of the act of Naturalization of James Voller as the same appears upon the Records of said Court, now in my office

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the Seal of said Court, this third day of November in the year of our Lord one thousand nine ~~ninty~~ hundred and ten and in the year of our Independence the one hundred and thirty-fourth

W.C. Smith Clerk.

Deputy Clerk.

NOV 9 1910

4-007.

Form approved by the Secretary of the Interior November 12, 1907.

DEPARTMENT OF THE INTERIOR.

HOMESTEAD ENTRY.

U. S. LAND OFFICE,

No. _____,

45-4-380

APPLICATION.

RECEIPT NO. _____

I, James Voller (Give full Christian name.) (Male), a resident of

Custer County, Idaho (Town, County, and State.)

(Male or Female.)

, do hereby apply

to enter, under Section 2289, Revised Statutes of the United States, ^{the Act of June 11, 1906} the

lands embraced in the attached description, ^{for} Section 27,

Township 16 N., Range 3 E., Boise Meridian, containing

79.68 acres, within the Hailey land district;

and I do solemnly swear that I am not the proprietor of more than 160 acres of land in any State or Territory; that I am a naturalized (certified

(Applicant must state whether native born, naturalized, or has filed declaration of intention to become a citizen. If not native born, certified copy of naturalization or declaration of intention, as case may be, must be filed with this application.)

copy of naturalization paper 553-3800) citizen of the United States, and

am over 21 years of age;

(State whether the head of a family, married or unmarried, or over twenty-one years of age.)

that my post-office address is Boiseville, Idaho;
that this application is honestly and in good faith made for the purpose of actual settlement and cultivation, and not for the benefit of any other person, persons, or corporation; that I will faithfully and honestly endeavor to comply with all the requirements of laws as to settlement, residence, and cultivation necessary to acquire title to the land applied for; that I am not acting as agent of any person, corporation, or syndicate in making this entry, nor in collusion with any person, corporation or syndicate to give them the benefit of the land entered, or any part thereof, or the timber thereon; that I do not apply to enter the same for the purpose of speculation, but in good faith to obtain a home for myself, and that I have not directly or indirectly made, and will not make, any agreement or contract, in any way or manner, with any person or persons, corporation, or syndicate whatsoever, by which the title which I may acquire from the Government of the United States will inure in whole or in part to the benefit of any person except myself. I further swear that since August 30, 1890, I have not entered and acquired title to, nor am I now claiming, under an entry made under any of the nonmineral public-land laws, an amount of land which, together with the land now applied for, will exceed in the aggregate 320 acres; and that I have not heretofore made any entry under the homestead laws (except _____);

(Here describe former homestead entry by section, township, range, land district, and number of entry; how perfected, or if not perfected state that fact.)

that I am well acquainted with the character of the land herein applied for and with each and every legal subdivision thereof, having personally examined same; that there is not to my knowledge within the limits thereof any vein or lode of quartz or other rock in place bearing gold, silver, cinabar, lead, tin, or copper, nor any deposit of coal, placer, cement, gravel, salt spring, or deposit of salt, nor other valuable mineral deposit; that no portion of said land is claimed for mining purposes under the local customs or rules of miners, or otherwise; that no portion of said land is worked for mineral during any part of the year by any person or persons; that said land is essentially nonmineral land, and that my application therefor is not made for the purpose of fraudulently obtaining title to mineral land; that the land is not occupied and improved by any Indian.

NOTE.—Every person swearing falsely to the above affidavit will be punished as provided by law for such offense. (See Sec. 5392, R. S., over.)

James Voller
(Sign here, with full Christian name.)

1/9/11 - Entry allowed

8/9/69

Act of _____

4-380

I HEREBY CERTIFY that the foregoing affidavit was read to or by affiant in my presence before affiant affixed signature thereto; that affiant is to me personally known (or has been satisfactorily identified before me by Wm. J. Lee, DEPUTY, 12-22);

(Give full name and post-office address.)

that I verily believe affiant to be a qualified applicant and the identical person hereinbefore described, and that said affidavit was duly subscribed and sworn to before me, at my office, in Wichita

Charles Brown 1114 10
/ (County and State)

(County and State)

(Town.)

Party of _____ land district, this _____ day
of _____, 19 _____.

1. *John C. McLean*
Director, FBI
Washington, D.C.

UNITED STATES LAND OFFICE at Stanley, Idaho

Jan 9, 1911

I HEREBY CERTIFY that the foregoing application is for surveyed land of the class which the applicant is legally entitled to enter under Section 2289, Revised Statutes of the United States, and that there is no prior valid adverse right to the same.

Register.

RECEIVED of the above-named applicant the sum of

dollars and cents, being the amount of fees and compensation of the Register and Receiver for the entry of the land, hereinbefore described, under Section 2290, Revised Statutes of the United States.

Receiver.

REVISED STATUTES OF THE UNITED STATES. TITLE LXX.—CRIMES.—CHAP. 4.

Sec. 5392. Every person who, having taken an oath before a competent tribunal, officer, or person, in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly or that any written testimony, declaration, deposition, or certificate by him subscribed is true, willfully and contrary to such oath states or subscribes any material matter which he does not believe to be true, is guilty of perjury, and shall be punished by fine of not more than two thousand dollars and by imprisonment, at hard labor, not more than five years; and shall, moreover, thereafter be incapable of giving testimony in any court of the United States until such time as the judgment against him is reversed. (See Sec. 1750.)

DEP. NORN.—In addition to the above penalty, every person who knowingly or willfully in anywise procures the making or presentation of any false or fraudulent affidavit pertaining to any matter within the jurisdiction of the Secretary of the Interior may be punished by fine or imprisonment. (See Sec. 1706.)

HOMESTEAD ENTRY.

U. S. LAND OFFICE,

'ON

APPLICATION.

Name.

Date.

Section.

dysumol

Ranking.

NOTATION OF ACTION.

(Space below for use in GENERAL LAND OFFICE only.)

For Sale by COPP & Co., Washington, D. C.

HALEY, Idaho
(Land Office.)

Serial No.

09243

PATENT TRANSMITTED
MAY 18 1913
TO LOCAL OFFICE

Send Patent to

Appearance by

Approved for Patenting Apr. 2^d, 1913.
(Initials.) W.A.

List No.

Patent No.

Dated

Encl. V. H. H. Natl. Forest
'B' LIST NO. 2646 (34 + 233)
ACTION TAKEN.

ACTION TAKEN:

Nov. 10, 1911.	Examined - OK.
Apr. 22, 1913	App'd. Gal. & B. H.
May 17, 1913	To American Ind.
Sept. 28, 1913	Repd. to K R.C. "C"
Oct. 2, 1913	To James Voller. R.F.M.
Aug. 28, 1918	Entry adjusted - see sec. 21-16 "
	12 E., to conform to plat app'd
	Aug. 22, 1917. - A.E.D.
	Vol. 86 p. 188.

11/04/2005

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

RIGHT NUMBER: 77-14218

NAME AND ADDRESS: MIDDLE FORK HOLDING CO INC
60 EAST 42ND STREET, ROOM 2440
NEW YORK NY 10165

SOURCE: THOMAS CREEK

TRIBUTARY: MIDDLE FORK SALMON RIVER

QUANTITY: 2.400 CFS

PRIORITY DATE: 08/24/1898

POINT OF DIVERSION:

T16N R12E S20 SESWNE Within CUSTER County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	03/01 11/15	2.400 CFS

PLACE OF USE: IRRIGATION Within CUSTER County

T16N R12E S16	NWSW	0.5	T16N R12E S16	SWSW	9.5
T16N R12E S17	NESE	1.6	T16N R12E S17	SESE	6.2
T16N R12E S20	NENE	14.0	T16N R12E S20	SENE	0.2
T16N R12E S21	NWNW	11.0			

43 ACRES TOTAL

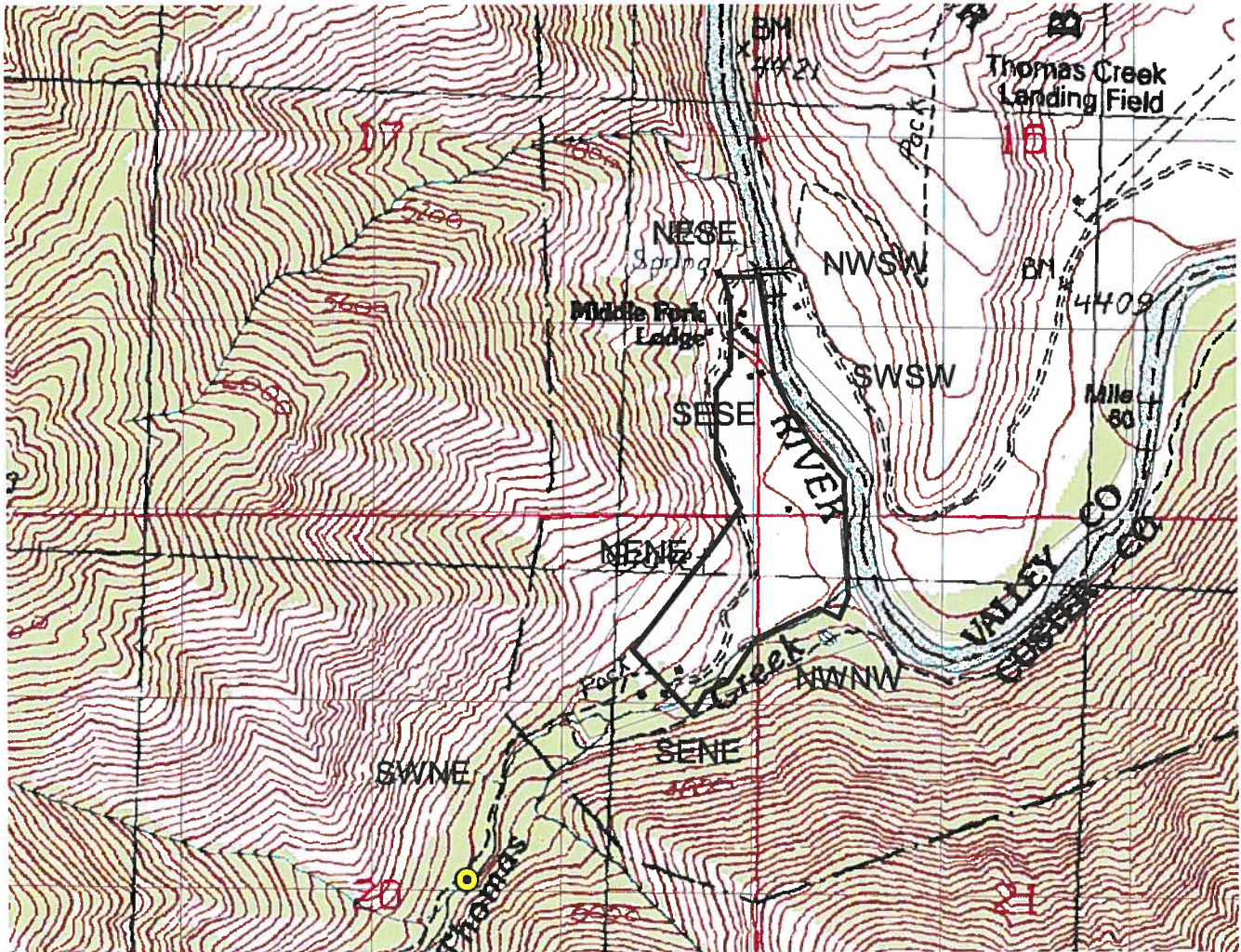
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

Property is also known as Homestead Entry Survey No. 77.

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

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use

77-14218



0 1000 2000 Feet



Sections 16, 17, 20 & 21
T16N R12E



● Point of Diversion

□ Place of Use

Map prepared on October 24, 2005
By Kenneth Knoblock
Idaho Department of Water Resources

Permit No: 77-7081

Page 1

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
BENEFICIAL USE FIELD REPORT

RECEIVED
JUN 23 2005
IDWR/North

A. GENERAL INFORMATION

Permit No: 77-7081

Exam Date: 6/2/2005

1. Current Owner: WILMINGTON TRUST CO
ATTN: CORPORATE TRUST ADMIN
RODNEY SQUARE N
WILMINGTON DE 19890

COPY

2. Accompanied by: SCOTT AND SHELDA FARR, DAN STEENSON, AND DAVID SHAW

Phone No: FARR'S TELEPHONE UNKNOWN, STEENSON - 342-4591, SHAW - 373-3983

Address: FARR'S - SAME AS ABOVE, STEENSON - PO BOX 2773, BOISE, ID 83701, SHAW - 3314 GRACE ST. BOISE, ID 83703

Relationship to Permit Holder: FARR'S ARE THE RANCH MANAGERS, STEENSON IS THE ATTORNEY, SHAW IS THE CONSULTANT.

3. **SOURCE**

THOMAS CREEK

TRIBUTARY

MIDDLE FORK SALMON RIVER

B. OVERLAP REVIEW

1. Other water rights with the same place of use: 77-10123, 77-7020, 77-7082, AND A POSSIBLE SRBA CLAIM FOR SAME USE

2. Other water rights with the same point of diversion: 77-10123, AND A POSSIBLE SRBA CLAIM FOR SAME USE

C. DIVERSION AND DELIVERY SYSTEM

1. LOCATION OF POINT(S) OF DIVERSION:

THOMAS CREEK

SW1/4NE1/4

Sec. 20, Twp 16N, Rge 12E, B.M.

CUSTER County

Method of Determination: VISUAL INSPECTION AND 2003 AERIAL PHOTOS

2.

PLACE OF USE: IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
16N	12E	16									.5		9.5						10.0
16N	12E	17													1.6			6.2	7.8
16N	12E	20	14.0			.2													14.2
16N	12E	21					11.0												11.0

Total Acres: 43

PLACE OF USE: POWER

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
16N 12E 16									X	X							
16N 12E 17													X				X
16N 12E 20	X			X													
16N 12E 21						X											

Method of Determination: VISUAL INSPECTION AND 2003 AERIAL PHOTOS

3. YES Delivery System Diagram Attached (required). Indicate all major components and distances between components. Indicate weir size/pipe as applicable.
- YES Map Attached Showing Location(s) of point(s) of diversion and place(s) of use (required). Scale must be 1:24,000 or greater.
- YES Aerial Photo Attached (required for irrigation of 10+ acres).
- YES Photo of Diversion and System Attached

4.

Well or Diversion Identification No.*	Motor Make	Hp	Motor Serial No.	Pump Make	Pump Serial No. or Discharge Size
P/D	none	none	none	none	12 Inch discharge
POWER GENERATOR	LIMA	50 KW	AD136423CMJ	TURBINE MAKE UNKNOWN	8 INCH INFLOW PRODUCED 1800 RPM

*Code to correspond with No. on map and aerial photo

D. FLOW MEASUREMENTS

1.

<u>Measurement Equipment</u>	<u>Type</u>	<u>Make</u>	<u>Model No.</u>	<u>Serial No.</u>	<u>Size</u>	<u>Calib. Date</u>
N/A						

2. Measurements:

I was unable to attain the proper flow measurement device for this type system in time for the field exam. Several theoretical calculations were performed by Manuel Rauhut and myself to determine the maximum capacity of the system. The only measurement device that was compact enough to fly into this remote location would have been the Fuji meters in the Southern Region. I couldn't get down there to get one in time for this exam.

E. FLOW CALCULATIONS**YES** Additional Computation Sheets Attached

Measured Method:

The flow for this system was calculated in two separate capacities, one for the irrigation and one for the power use. Please see the attached sheets for additional details.

Power use → 3.00 cfs (limited by permitted amount)

Irrigation use → 0.84 cfs (limited by permitted amount)

F. VOLUME CALCULATIONS

1. Volume Calculations for Irrigation:

$$V_{I.R.} = (\text{Acres Irrigated}) \times (\text{Irrigation Requirement}) = 43 \times 3.0 \text{ afa} = 129 \text{ afa}$$

$$V_{D.R.} = [\text{Diversion Rate (cfs)}] \times (\text{Days in Irrigation season}) \times 1.9835 = 0.84 \text{ cfs} \times 214 \text{ days} \times 1.9835 = 356.6 \text{ afa}$$

$$V = \text{Smaller of } V_{I.R.} \text{ and } V_{D.R.} = 129 \text{ afa}$$

2. Volume Calculations for Other Uses:

$$\text{Power use} = 3.00 \text{ cfs} \times 1.9835 \times 365 \text{ days/yr} = 2171.9 \text{ afa}$$

G. NARRATIVE/REMARKS/COMMENTS

The water for this permit is diverted from Thomas Creek in the NWSE S20 T16N R12E through a 12-inch pipeline. The pipeline then travels in a northeasterly direction to the top of the first or upper field. There is a control box at this point that allows the owner to control where the water will go.

The owner can run the water into a mainline that travels northeast along the top of the upper field to irrigate that field. I was unsure if this mainline connects into the sprinkler system in the yards around the cabins or if it rejoins the other mainline.

The water at the control box is also diverted to a pipeline that travels in a southeasterly direction along the southern border of the upper field. This mainline runs parallel to Thomas Creek to where Thomas Creek discharges into the Middle Fork of the Salmon River. The mainline then follows the Middle Fork of the Salmon River to allow irrigation of the lower field. Both the upper and lower fields are irrigated with hand lines with 5/32 nozzles at approximately 80 psi. The system is pressurized due the difference in elevation from the point of diversion to the points of discharge. There is one point that the applicant's attorney pointed out where a few apple trees are irrigated on a fairly steep embankment in the NENE of S26. There is evidence that water is brought down from the upper field to irrigate these trees by a hose and/or a runoff ditch. I included this area, since it didn't increase the total number of acres recommended in this 40-acre tract due to rounding.

At the end of this mainline, the water is diverted through a power generator located on the bank of the Middle Fork of the Salmon River. Water is run through the power plant all year long. The shut in pressure at the power plant is approximately 103 psi, and was being operated at the time of my exam at 97 psi per the owner's gauge. There is approximately 250 feet of fall from the point of diversion and the power plant.

HISTORY:

The history of this system is important because the owner is planning on filing Snake River Basin Adjudication (SRBA) adjudication claims for this system. This property was originally irrigated by an open ditch system and flood irrigation. There are still remnants of the old ditches. The old ditch system utilized two points of diversion. The first point of diversion is the same diversion point now used by the pipeline. The current pipeline lies in the old ditch channel. This ditch is referred to as the upper ditch. I calculated the possible flow of the upper ditch using the Manning Equation to be approximately 17.82 cfs.

The old ditch system also used a second point of diversion that took water from Thomas Creek at the southeast corner of the upper field. This ditch was used to irrigate the lower field and lawn area. This ditch also captured the water being used on the upper field. The lower diversion was measured in 1978 by a department field examiner for a fish propagation permit, 77-7020, at a diversion rate of 5.66 cfs. The fish propagation was located on the other side of Thomas Creek, so it is unclear if any of the 5.66 cfs was diverted for irrigation or power purposes, because it appears that the irrigation and power uses utilized the pipeline starting around 1969. The lower diversion washed out in the earlier 1980's and hasn't been usable since.

The water in the lower ditch and the water collected from the upper ditch were run to the power generation plant to operate a sawmill and supply power for the facility. The owner's attorney has a complete history of the old ditch system. The applicant's attorney was going to supply a copy of this history to me for this exam, but time restraints prevented me from getting a copy before I had to turn in this exam.

There is an old cement structure that was attached to the pipeline that has a date of 1969. Even though the owner applied for this permit in 1979, I am assuming that the pipeline was installed in 1969, and has been the sole source of irrigation and power supply since that 1969 date. The pipeline is a more efficient irrigation system and would have been much easier to operate than the old ditch system, so there is very little doubt that the ditch system hasn't been used since 1969. Due to the slope and locations of the fields and ditches, it is highly unlikely that there were ever more acres irrigated than what was found for this permit.

The owner's plan to file adjudication claims on the old ditch system probably will include ditch loss. There is adequate information to suggest that the owner did in fact irrigate the 43 acres with the ditch system, and that while using the ditch system, there would have been significant ditch losses in the transportation of the water. However, the evidence shows that the pipeline was installed in 1969. There is very little doubt that the ditch system was abandoned once the pipeline was installed, because the pipeline has been laid in the old upper ditch. The pressure generated in the pipeline would create severe erosion if it were open discharged, so the owners would have had to use a sprinkler system once the pipeline was installed. It is my understanding that the adjudication staff does not recommend ditch loss on a system where a pipeline replaced a ditch more than 5 years prior to the filing an adjudication claim for that use. Since both the upper and lower ditch systems have not been used since the early 1980s and the claim has yet to be filed, I don't believe that any ditch losses should be considered on the possible recommendation.

Even though the ditch system doesn't seem to have been used since 1969, I do believe that an accomplished transfer did occur when the pipeline was installed for that earlier use. There is a distinct probability that all the water formerly diverted through the ditch system is still currently being used in the pipeline.

All the acres that can be irrigated are being irrigated under the current system, so I don't believe that the number of acres being irrigated has changed since it was originally put into use. Even if more acres were irrigated under the ditch system, those acres haven't been irrigated for the over 20 years and shouldn't be recommended in a beneficial use right.

Therefore, if an adjudication claim is decreed it should be limited to the amount of water and the number of acres recommended under this permit. If a beneficial use claim is filed and recommended for an equal or greater amount of water than what was recommended in this field exam, then this permit/license should be cancelled or revoked. This can be done through the adjudication process by disallowing this right if the proposed beneficial use rights are recommended for approval.

OVERLAP:

Water right 77-10123 is a stockwater right that has been decreed in the SRBA from this same system. The owner stated that they have between 30 and 75 horses on this property at any given time. The stockwater use out of this system would be incidental or minimal at best and this stockwater right would have very little affect on this permit.

Water right 77-7020 was licensed for fish propagation from the lower ditch diversion with a place of use on the other side of Thomas Creek. There is actually no direct overlap of place of use or point of diversion.

Water right 77-7082 is a heating permit that services the buildings on this facility. However it has a different point of diversion, and is for a totally different use. However, it does share a portion of the place of use.

There is also an exempt domestic right that supplies the residential cold water, but it comes from ground water. This right isn't used for irrigation, so there shouldn't be any overlap problems with this right as well.

RECOMMENDATIONS:

I would recommend this permit be licensed as listed in the field exam for the irrigation and power uses. The original homestead did divert water from Thomas Creek and put it into a cistern for domestic use. However, that system was washed out in the flood in the early 1980's at about the same time that this permit was filed. The cistern was never replaced after the flood, and a well was drilled in 2002 to replace the domestic use at the homestead. There was no interest to re-instate the domestic portion of this permit due to health concerns, so the domestic use was not included in this recommendation and should not be licensed.

There is some discrepancy over the total acres allowable under the permit. The original permit and beneficial use form allowed 42.11, and the computer generated proof report lists 43 acres. This discrepancy can be contributed to rounding of the acres in each 40-acre tract. Using current rounding techniques, the total land is the 43 acres listed computer generated permit. I feel that 43-acres should be licensed to allow clarification of the rounding issues. The diversion rate will not change and the annual volume variance would be insignificant.

Have conditions of permit approval been met? ☒ Yes ☐ No

Please Note: There was ample room on the mainline to measure the pipeline using a polysonic type device. Unfortunately there wasn't adequate room in the airplane to bring our Western Regions measurement device, and there wasn't adequate time to get one from the Southern Region.

H. RECOMMENDATIONS**1. Recommended Amounts**

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>DIVERSION RATE</u>	<u>ANNUAL VOLUME</u>
POWER	01/01 to 12/31	3.000 CFS	2,171.90 AF
IRRIGATION	01/01 to 12/31	0.840 CFS	129.00 AF
	<u>Totals:</u>	3.980 CFS	2,300.90 AF

2. Recommended Amendments

___ Change P.D. as reflected above ___ Add P.D. as reflected above ___ None

___ Change P.U. as reflected above ___ Add P.U. as reflected above ___ Other

I. AUTHENTICATION

DANIEL A. NELSON – SENIOR AGENT

Field Examiner's Name _____ Date _____

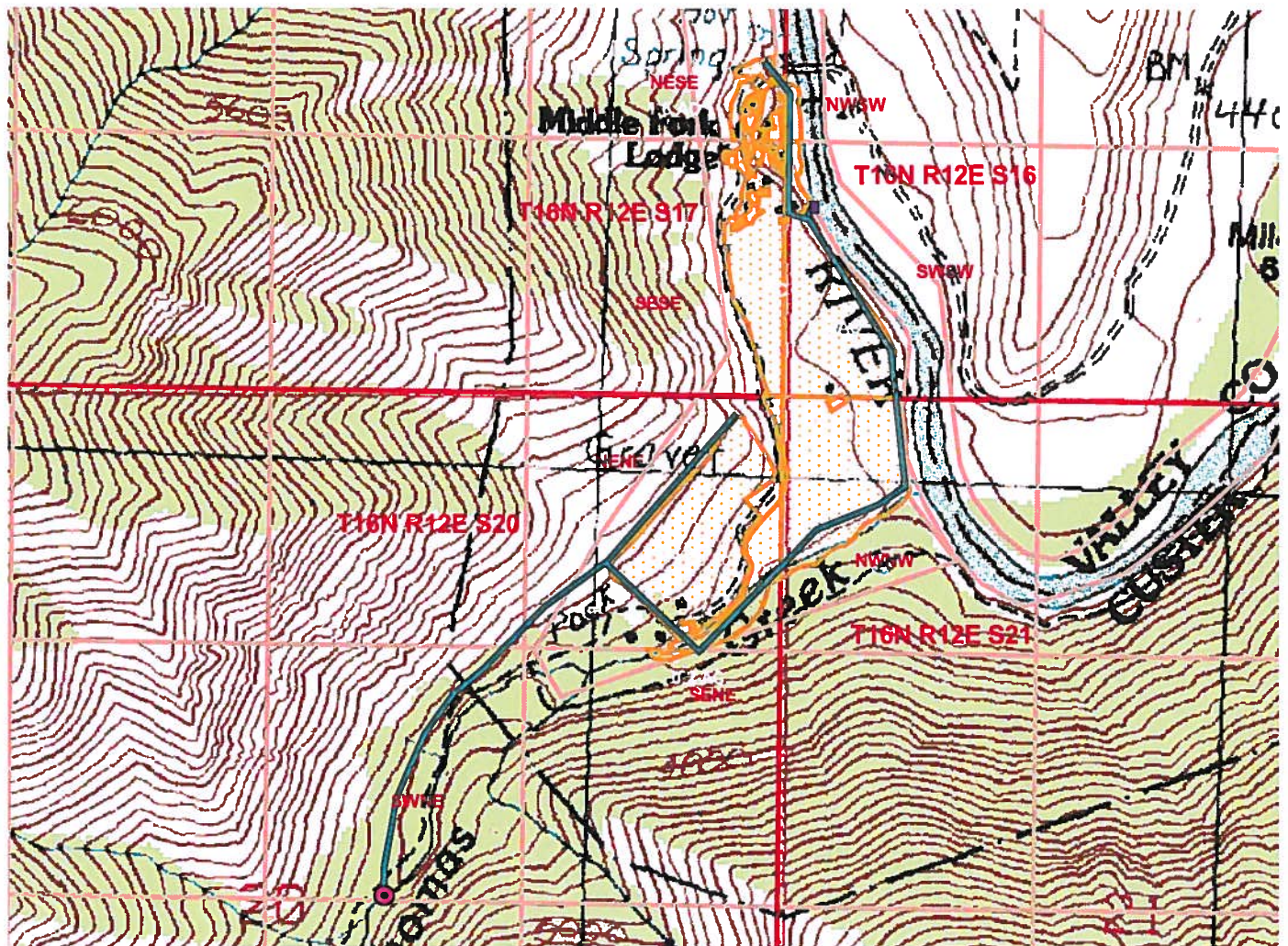
Reviewer _____ Date _____

SEAL

QUADRANGLE MAP

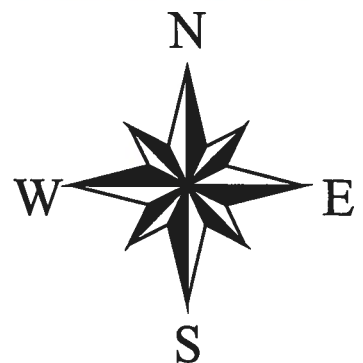
FIELD EXAM 77-7081

BY DAN NELSON



0.3 0 0.3 Miles

- POWER PLANT LOCATION
- MAINLINE
- POINT OF DIVERSION
- LANDS IRRIGATED BY DITCH SYSTEM
- SECTION LINES
- 1/4 1/4 LINES

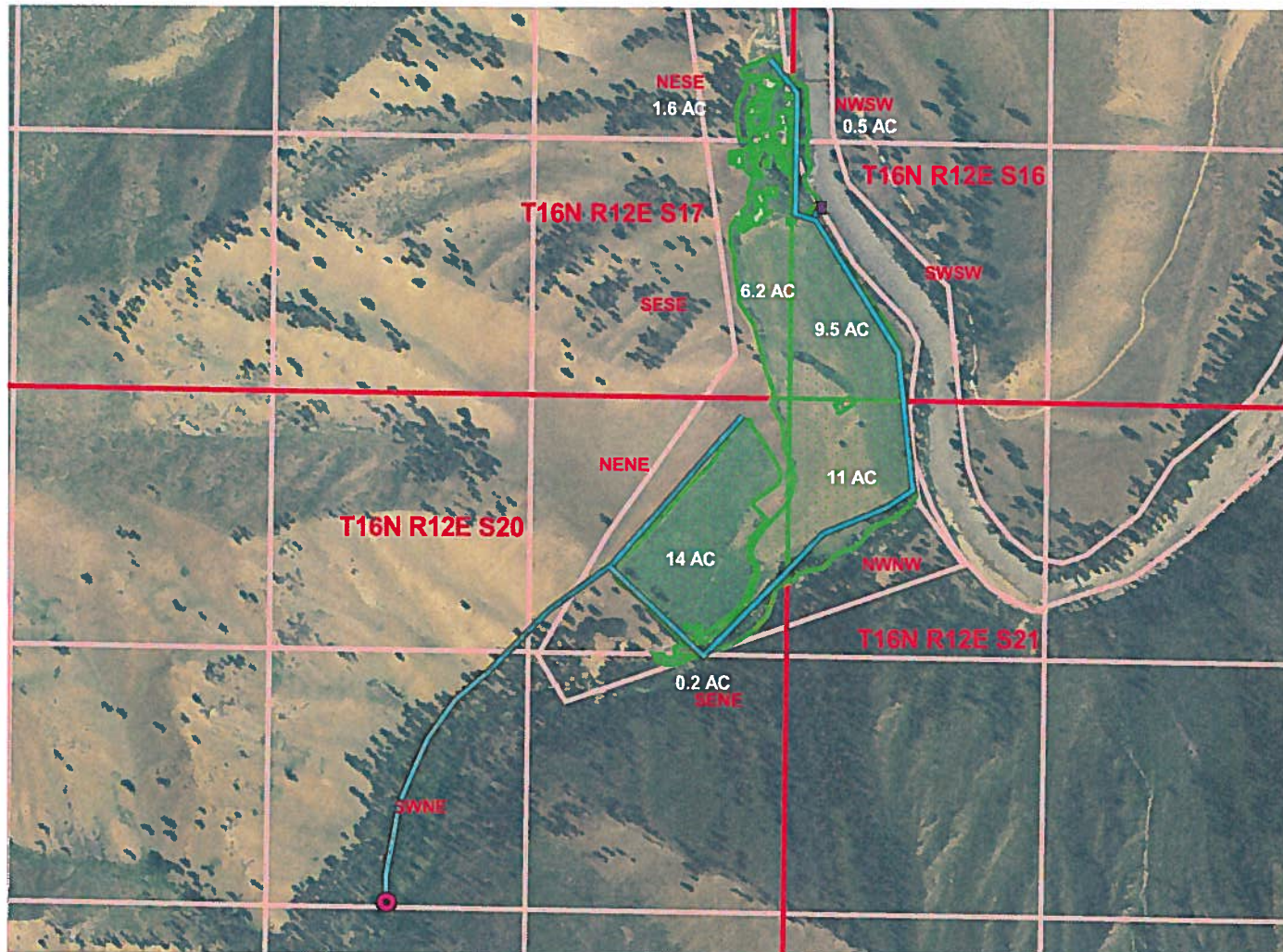


The water is diverted from Thomas Creek and run through a 12 inch mainline. The water from the mainline is diverted to hand line sprinklers for irrigation purposes. Any left over water is then sent to the power plant for power generation located at the end of the mainline. If the property is npt being irrigation, the entire flow of the water is run through the power plant for power generation.

PLACE OF USE

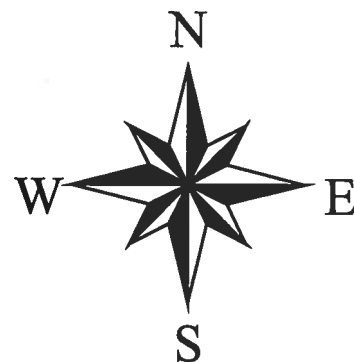
FIELD EXAM 77-7081

BY DAN NELSON



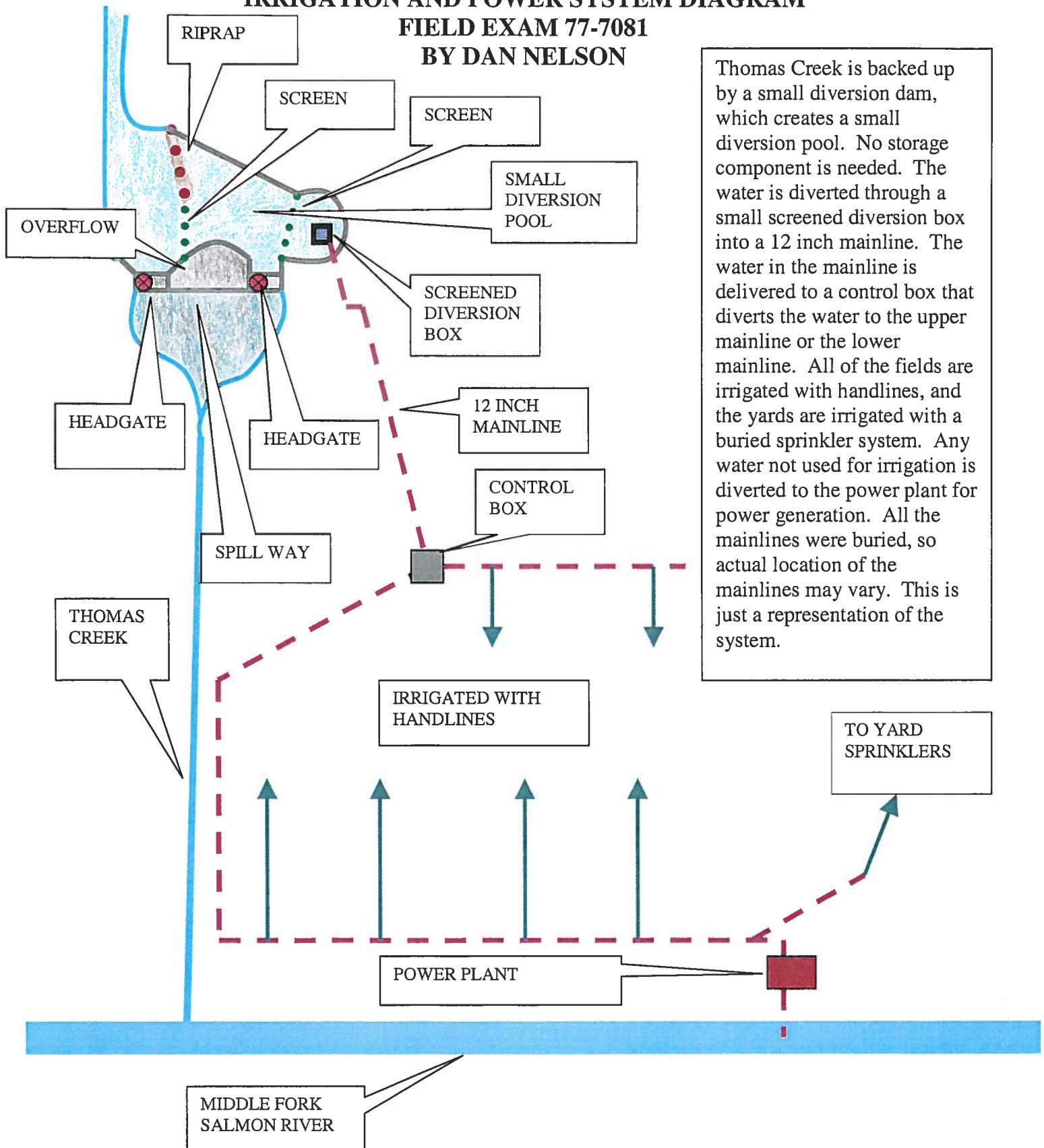
0.3 0 0.3 Miles

- POWER PLANT LOCATION
- MAINLINE
- POINT OF DIVERSION
- LANDS IRRIGATED BY DITCH SYSTEM
- SECTION LINES
- 1/4 1/4 LINES



The water is diverted from Thomas Creek and run through a 12 inch mainline. The water from the mainline is diverted to hand line sprinklers for irrigation purposes. Any left over water is then sent to the power plant for power generation located at the end of the mainline. If the property is npt being irrigation, the entire flow of the water is run through the power plant for power generation.

IRRIGATION AND POWER SYSTEM DIAGRAM
FIELD EXAM 77-7081
BY DAN NELSON

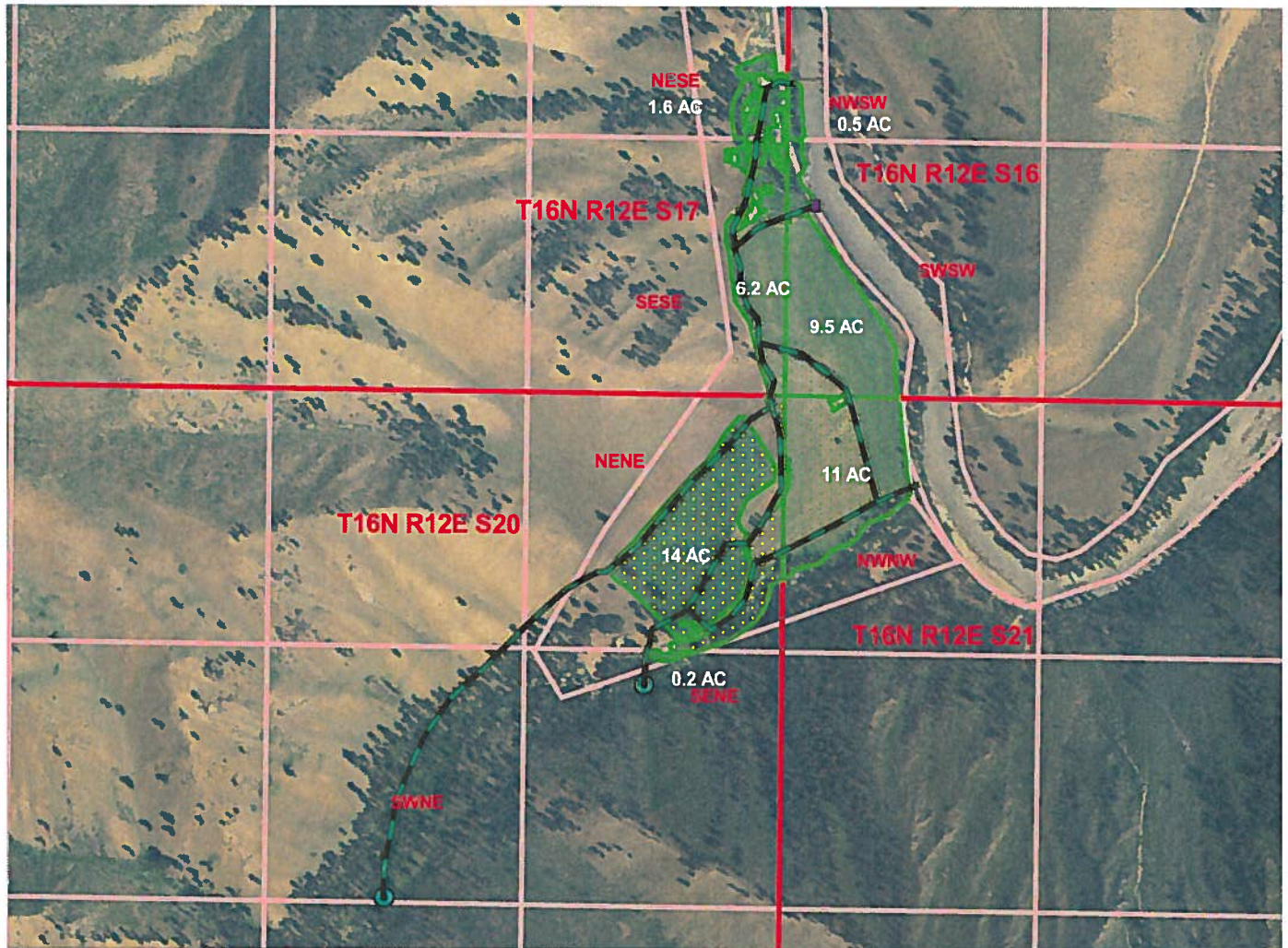


Thomas Creek is backed up by a small diversion dam, which creates a small diversion pool. No storage component is needed. The water is diverted through a small screened diversion box into a 12 inch mainline. The water in the mainline is delivered to a control box that diverts the water to the upper mainline or the lower mainline. All of the fields are irrigated with handlines, and the yards are irrigated with a buried sprinkler system. Any water not used for irrigation is diverted to the power plant for power generation. All the mainlines were buried, so actual location of the mainlines may vary. This is just a representation of the system.

OLD IRRIGATION SYSTEM

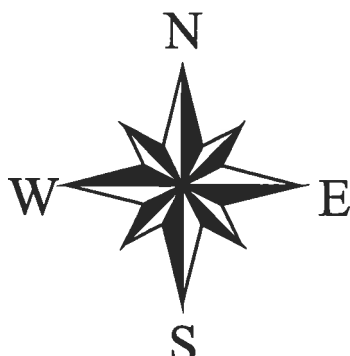
FIELD EXAM 77-7081

BY DAN NELSON



0.3 0 0.3 Miles

- POWER PLANT LOCATION
- OLD DITCH LOCATION
- OLD DITCH POINTS OF DIVERSION
- LANDS IRRIGATED BY DITCH SYSTEM
- SECTION LINES
- 1/4 1/4 LINES

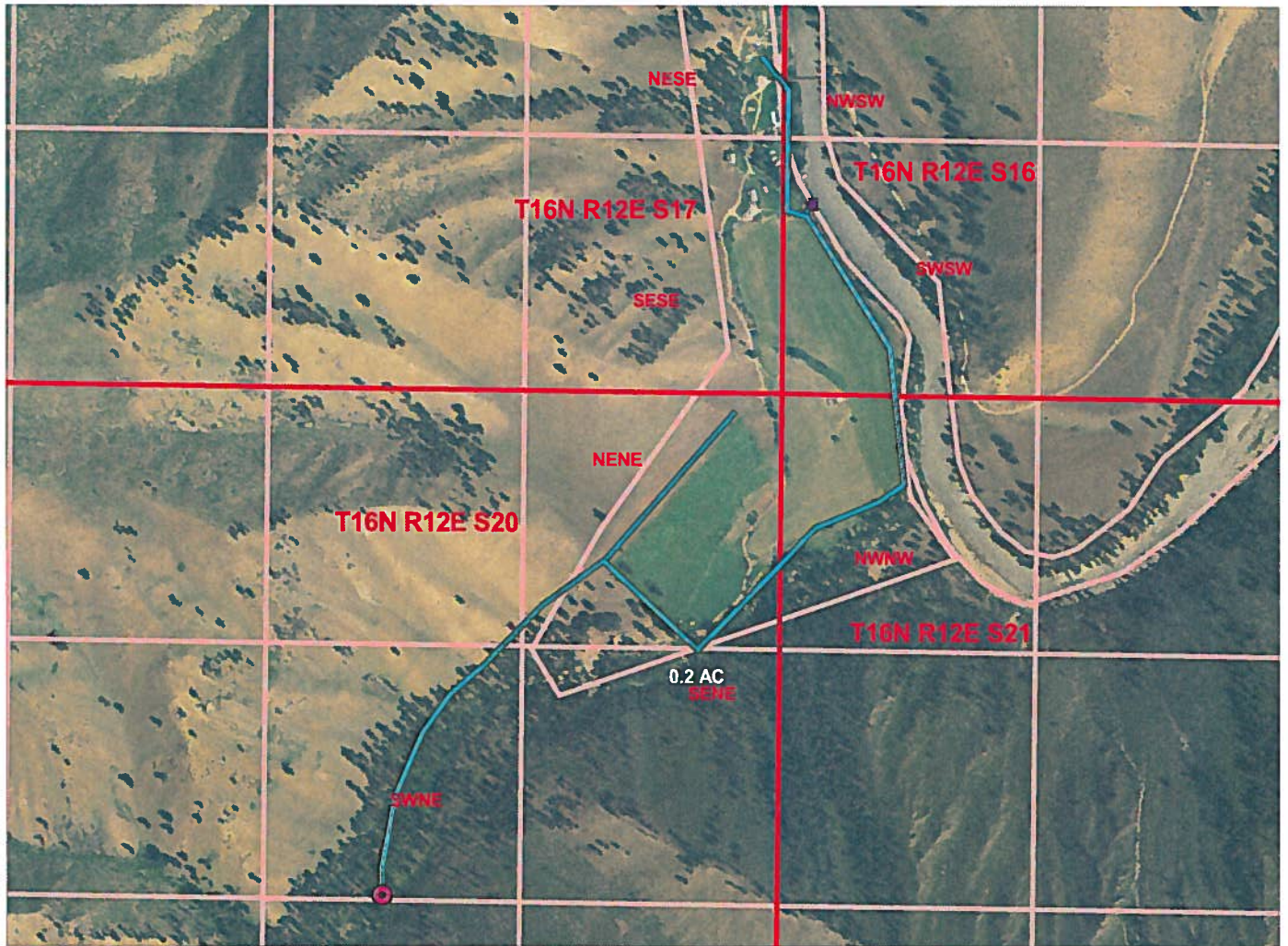


This map shows the irrigated land and the ditches that were in place prior to the installation of the pipeline and filing of this permit. The history of this system is important, since adjudication claims may be filed on the original system that could negate this permit. This permit irrigates the exact same lands as the old ditch system, and uses the same point of diversion in the SWNE. The old system also supplied water to the power generation system. The only significant differences between this permit and the old system is that this permit was based on the use of the pipeline. The old system used ditches that would require additional water for possible ditch loss, and the old system had a second point of diversion closer to the fields. The pipeline is the only system used at the present time, but the applicant may want to keep their options available to go back to the open ditch system if the price of maintaining the pipeline becomes cost prohibitive.

POWER GENERATION SYSTEM

FIELD EXAM 77-7081

BY DAN NELSON

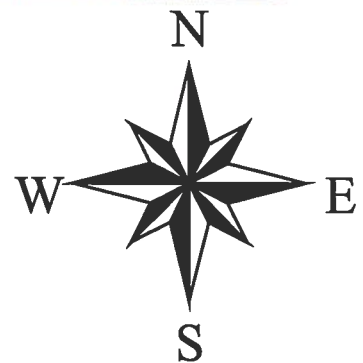


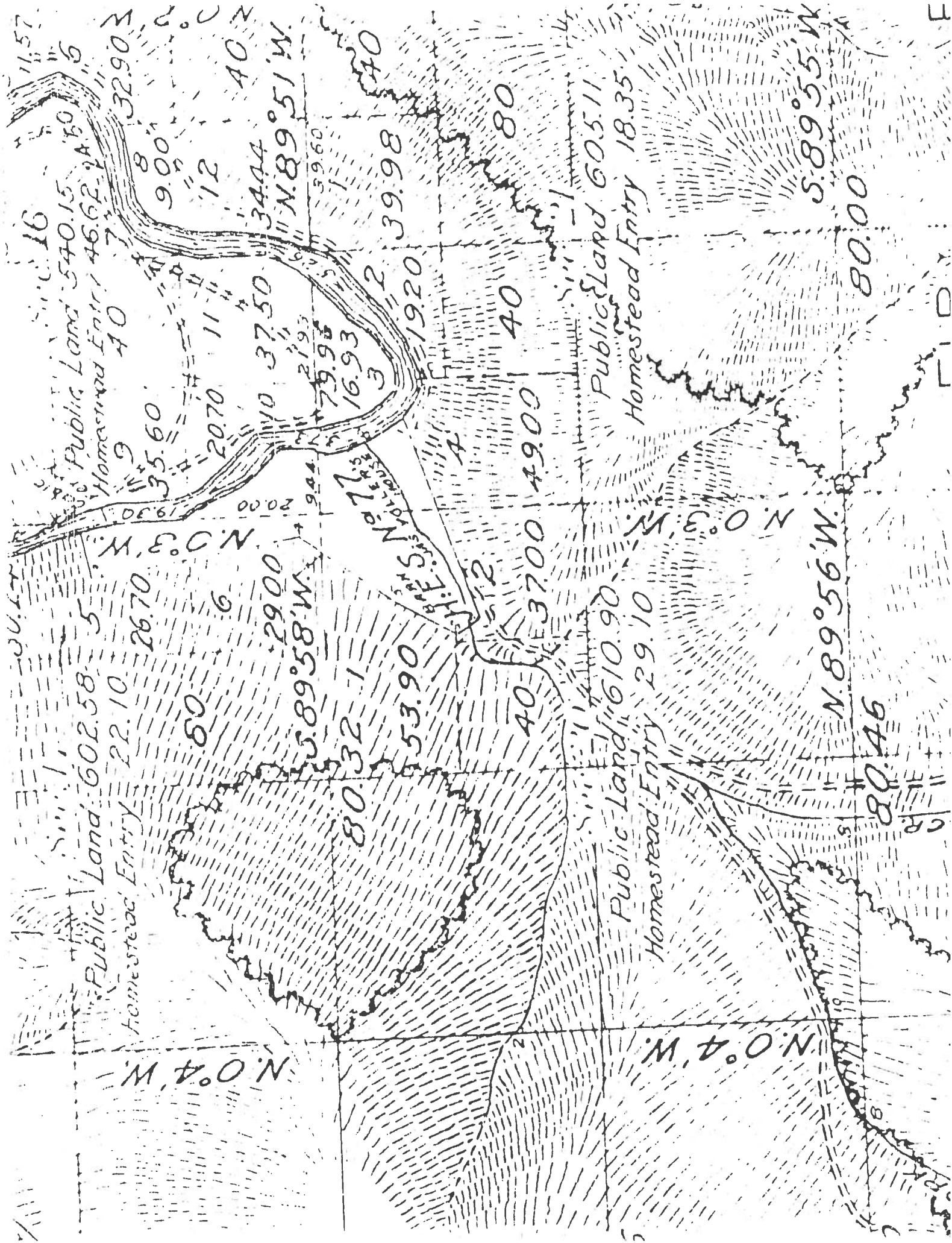
0.3 0 0.3 0.6 Miles

-  POINT OF DIVERSION
-  POWER PLANT LOCATION
-  MAINLINE
-  SECTION LINES
-  1/4 1/4 LINES

PLEASE NOTE:

The power generation system uses the same mainline and point of diversion as the irrigation system. The power plant is located at the end of the irrigation mainline. The power plant has a turbine generator rated up to 50 Kw. The total fall from the point of diversion to the power plant is approximately 253 feet.





**SPRINKLER FLOW RATE ESTIMATION BASED ON PRESSURE
FOR FIELD EXAM 77-7081**

SPRINKLERS	NUMBER OF SPRINKLERS	RATE PER SPRINKLER IN GPM	PSI RATING
HAND LINES	70	6.52	80
TOTAL			

GPM CALCULATIONS:

I used the University of Idaho Fact Sheet found in the Field Examiner's Handbook (copy included). These are 5/32 nozzles with a minimum discharge of 6.52 gpm @ 80 PSI. The owner has very little ability to regulate the psi rate, since there is no pump on the system. All of the pressure is attributed to the elevation difference from the point of diversion to the point of irrigation.

$$(70 \text{ sprinklers}) \times (6.52 \text{ gpm}) / (448.8) = 1.02 \text{ cfs}$$

MAXIMUM CAPACITY OF PIPELINE:

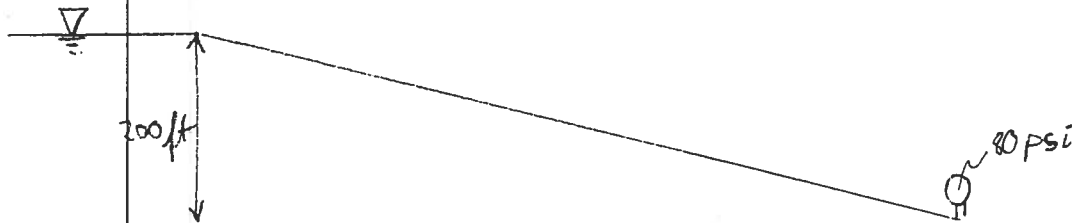
The maximum capacity of the pipeline at the point where the irrigation began was calculated at 6.43 cfs. See attached sheet for calculations. Hydropower use is also diverted through this same pipeline, so this high rate of diversion seems possible. There will be a difference in pipeline capacity from the point of irrigation and hydropower use, because there is additional fall and extra piping. The pipe size is also reduced at the hydropower use to 8 inches in diameter, instead of the 12 inch diameter piping used at the point of irrigation.

PIPELINE CAPACITY IS 6.43 CFS. SPINKLER TEST SHOWS 1.02 CFS

PERMIT ALLOWS 0.84 CFS.

RECOMMENDATION FOR LICENSING → 0.84 CFS

IRRIGATION PIPELINE CAPACITY
FIELD EXAM 77-7081
BY MANUEL RAUHUT FOR DAN NELSON



$$\left(80 \frac{\text{lb}}{\text{in}^2} \times \frac{(12 \text{ in})^2}{\text{ft}^2}\right) / 62.4 \frac{\text{lb}}{\text{ft}^3} = 184.6 \text{ ft} \quad \therefore h_L = 200 \text{ ft} - 184.6 \text{ ft} = 15.4 \text{ ft}$$

$$\frac{P_1}{\gamma} + \frac{V_1^2}{2g} + z_1 = \frac{P_2}{\gamma} + \frac{V_2^2}{2g} + z_2 + h_L$$

$$z_1 - \frac{P_2}{\gamma} = h_L$$

$$200 \text{ ft} - 184.8 \text{ ft} = h_L = 15.4 \text{ ft}$$

$$15.4 \text{ ft} = h_L = f \frac{L V^2}{D 2g}$$

f from Moody chart ≈ 0.013

$$15.4 \text{ ft} = 0.013 \frac{(1166 \text{ ft}) V^2}{(1 \text{ ft})(2)(32.2 \frac{\text{ft}}{\text{sec}^2})}$$

$$\therefore V = \left(\frac{(15.4 \text{ ft})(1 \text{ ft})(2)(32.2 \frac{\text{ft}}{\text{sec}^2})}{(0.013)(1166 \text{ ft})} \right)^{1/2} = 8.09 \frac{\text{ft}}{\text{sec}}$$

$$Q = VA = (8.09 \frac{\text{ft}}{\text{sec}})(\pi)(0.5 \text{ ft})^2 = \underline{\underline{6.3 \frac{\text{ft}^3}{\text{sec}}}}$$

UNIVERSITY OF IDAHO — FACT SHEET

Hydraulic Relationships and Performance, Soil and Water Relationships

NOZZLE DISCHARGE IN GALLONS PER MINUTE

HYDRAULIC RELATIONSHIPS

*** NOZZLE DIAMETER IN INCHES ***										PRESSURE: (P)*MAY BE IN PSI OR EQUIVALENT FEET OF WATER 1.0 psi = 2.31 feet
psi	3/32	1/8	9/64	5/32	11/64	3/16	13/64	7/32	7/64	
20	1.17	2.09	2.65	3.26	3.92	4.69	5.51	6.37	7.13	FLOW: (Q)*MAY BE IN CFS OR EQUIVALENT GAL. PER MIN. 1.0 cfs = 449 gpm
25	1.31	2.34	2.96	3.64	4.38	5.25	6.16	7.13	7.86	
30	1.44	2.56	3.26	4.01	4.83	5.75	6.80	7.86	8.43	POWER: MAY BE IN KILLOWATTS (KW), WATER HORSEPOWER (WHP), and, ELECT. HORSEPOWER (EHP) 1.0 KW = 1.34 EHP 1.0 EHP = 0.746 KW WHP = Q(gpm) X P(ft) / 3960 KW = 1.732 X V X A X PF/1000
35	1.55	2.77	3.50	4.31	5.18	6.21	7.30	8.43	9.02	
40	1.66	2.96	3.74	4.61	5.54	6.64	7.80	9.02	9.60	EFFICIENCY: (EFF) MAY BE WATER TO WIRE ... WHP / EHP FLUID TO SHAFT ... WHP / SHP
45	1.76	3.13	3.99	4.91	5.91	7.03	8.30	9.60	10.10	
50	1.85	3.30	4.18	5.15	6.19	7.41	8.71	10.10	10.50	VOLUME: ACRE FT. OR ACRE IN. 1.0 cfs = 1.98 AF / DAY 1.0 AF = 12.0 AI
55	1.94	3.46	4.37	5.39	6.48	7.77	9.12	10.50	11.05	
60	2.03	3.62	4.50	5.65	6.80	8.12	9.56	11.05	11.45	
65	2.11	3.77	4.76	5.87	7.06	8.45	9.92	11.45	11.95	
70	2.19	3.91	4.96	6.10	7.34	8.78	10.32	11.95	12.32	
75	2.27	4.05	5.12	6.30	7.58	9.08	10.66	12.32	12.74	
80	2.35	4.18	5.29	6.52	7.84	9.39	11.02	12.74	13.11	
85	2.42	4.31	5.45	6.71	8.07	9.67	11.35	13.11	13.51	
90	2.49	4.43	5.61	6.91	8.31	9.95	11.69	13.51	13.86	
95	2.56	4.56	5.76	7.09	8.53	10.20	11.99	13.86	14.23	
100	2.63	4.67	5.91	7.29	8.76	10.50	12.32	14.23		

$$Q(\text{gpm}) = 30.0 \times D(\text{in.})^2 \times P(\text{psi})^{0.5}$$

h = AVERAGE APPLICATION RATE IN INCHES PER HOUR

spacing	2	3	4	5	6	7	8	9	10	11	12	spacing
feet	*	*	*	*	*	*	*	*	*	*	*	feet
* gallons per minute per sprinkler												
20x20	.48	0.72	0.96	1.20	1.44	1.70	1.93	2.16	2.40	2.64	x.x	20x20
20x30	.32	0.48	0.64	0.80	0.96	1.12	1.28	1.43	1.60	1.76	1.9	20x30
20x40	.24	0.36	0.48	0.60	0.72	0.84	0.96	1.08	1.20	1.32	1.4	20x40
30x30	.21	0.32	0.43	0.54	0.64	0.75	0.88	0.96	1.07	1.17	1.2	30x30
30x40	.16	0.24	0.32	0.40	0.48	0.56	0.64	0.72	0.80	0.88	0.9	30x40
30x50	.13	0.19	0.25	0.32	0.38	0.45	0.51	0.58	0.64	0.70	0.7	30x50
40x40	.12	0.18	0.24	0.30	0.36	0.42	0.48	0.54	0.60	0.66	0.7	40x40
40x50	.10	0.14	0.19	0.24	0.29	0.34	0.38	0.43	0.48	0.53	0.5	40x50
40x60	.xx	0.12	0.16	0.20	0.24	0.28	0.32	0.36	0.40	0.44	0.4	40x60

LONG-TERM BASIC SOIL INFILTRATION RATES

PEAK APPLICATION RATE FOR PIVOTS

AGGREGATED-STRUCTURED-BARE-OPEN SOIL	POOR SOIL	r; R = rad. of sprinkler and pivot
Course Sand. (*0.9) > 0.75 - 1.00"/hr.	0.35"/hr.	h = 122.5 X Q(pvt. gpm) / (r X R)
Fine Sands. (*1.2) > 0.50 - 0.75"/hr.	0.25"/hr.	
Fine S. Loam. (*1.9) > 0.35 - 0.50"/hr.	0.20"/hr.	EXPECTED IRRIGATION EFFICIENCIES
Silt Loam. (*2.3) > 0.25 - 0.40"/hr.	0.13"/hr.	Sprinkler 50 to 70%
Clay Loam. (*2.2) > 0.10 - 0.30"/hr.	0.07"/hr.	Drop Sprays 60 to 80%
For 10 - minute SHORT-TERM rate, multiply by 6		Level Boarder 50 to 80%
(*X.X) = Aprox. Water Holding Capacity (in./ft.)		Furrow 20 to 50%

POWER GENERATION FLOW CALCULATION
FIELD EXAM 77-7081
BY DAN NELSON

The power generation plant is located at the end of the irrigation line. The irrigation is taken out of the pipeline prior to the water reaching the power generation turbine. There are times that the irrigation system is not operating and the total flow of the pipeline is run through the power plant. Therefore, the maximum diversion rate for the power system would be the capacity of the piping system.

Manuel Rauhut performed a calculation to determine the maximum capacity of the pipeline delivering water to the power generation facility. This calculation showed that it was possible for the pipeline to deliver 3.70 cfs to the power plant. This calculation is subject to variance in pipe material and friction losses not included into the calculation that may alter the actual flow. However, it was a good estimate of the capacity of the system.

I used the department's standard power use equation to determine the maximum capacity of the generator being used. The generator is rated for 50 Kw and the head is 253 feet from the point of diversion to the power plant. The following equation was used:

$$Q = P(11.8) / H e$$

Where P = Power in Kw (generator is rated for 50 Kw)

H = Head in feet

e = efficiency (standard efficiency for a turbine is 0.50)

$$Q = (50) (11.8) / (253) (0.50) = 4.66 \text{ cfs}$$

CONCLUSION:

The permit limits the power consumption to 3.00 cfs. From both of these calculations, it is possible that the capacity of the system meets or exceeds the 3.00 cfs amount. The system use does vary with the irrigation using the same mainline, but there are times that the power system has the ability to divert the full flow from the pipeline. Therefore, I am recommending the permitted amount of 3.00 cfs for power use.

POWER PLANT PIPELINE CAPACITY
FIELD EXAM 77-7081
BY MANUEL RAUHUT FOR DAN NELSON

Pipe capacity for 6014 ft assuming entire pipe is 12 inches (vs. 110 ft of 8 inch pipe)

Total drop: 253 ft

flow pressure at the bottom = $97 \frac{\text{lb}}{\text{in}^2} = 223.8 \text{ ft}$

$$\frac{P_1}{\gamma} + \frac{V_1^2}{2g} + z_1 = \frac{P_2}{\gamma} + \frac{V_2^2}{2g} + z_2 + h_L$$

$$z_1 - \frac{P_2}{\gamma} = h_L$$

$$253 \text{ ft} - 223.8 \text{ ft} = h_L = 29.2 \text{ ft}$$

$$h_L = f \frac{L V^2}{2g} \quad f \text{ from Moody Chart } \approx 0.013$$

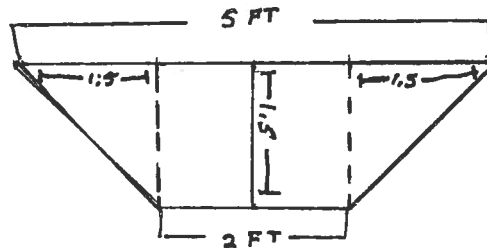
$$29.2 \text{ ft} = 0.013 \frac{(6014 \text{ ft})(V^2)}{(1 \text{ ft})(2)(32.2 \frac{\text{ft}}{\text{sec}^2})}$$

$$\therefore V = \left(\frac{(29.2 \text{ ft})(1 \text{ ft})(2)(32.2 \frac{\text{ft}}{\text{sec}^2})}{(0.0135)(6014 \text{ ft})} \right)^{\frac{1}{2}} = \left(\frac{1880.48 \frac{\text{ft}^3}{\text{sec}^2}}{81.19} \right)^{\frac{1}{2}} = 4.8 \frac{\text{ft}}{\text{sec}}$$

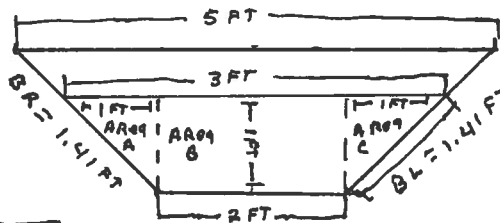
$$Q = V A = \left(4.8 \frac{\text{ft}}{\text{sec}} \right) (\pi) (0.5 \text{ ft})^2 = 3.7 \frac{\text{ft}^3}{\text{sec}}$$

OLD DITCH CHANNEL CAPACITY CALCULATION
FIELD EXAM 77-7081 BY DAN NELSON

I measured the cross section of a portion of the old ditch. Most of the ditch was no longer in tact, because it was used to hold the new pipeline in place. The portion that I measured was 5 feet at the top, 2 feet at the base, and 1.5 feet in depth. See Diagram below.



These measurements suggest a 1:1 slope on the bank. Due to the contours of the land it is unrealistic to believe that the ditch was operated at a full ditch. I estimated that ditch was operated with about one (1) foot of water in the ditch. The diagram below shows the estimated water profile:



Bank calculations = $\sqrt{1^2 + 1^2} = 1.41 \text{ ft}$

Bank Right (br) = 1.41 ft

Bank Left (bl) = 1.41 ft

The Manning Equation was used to determine the possible flow of the old ditch. Since the ditch hasn't been used in several years, the calculations are based on the estimated water level mentioned above.

Manning Equation = $Q = \left[\frac{1.49}{n} R^{2/3} S^{1/2} \right] A$

Where Q = flow rate in cfs

n = a coefficient for channel roughness

r = Hydraulic radius of channel in feet

s = Slope of the energy grade line

a = area of cross section of channel

SLOPE CALCULATION:

The old ditch travelled approximately 1166 ft to the field headgate. The elevation difference in this distance is approximately 200 ft.

$s = \text{rise/run} = 200 \text{ ft} / 1166 \text{ ft} = 0.172 \text{ or } 17.2 \% \text{ slope}$

$s = 0.172$

AREA CALCULATION:

Total area calculations would include the combination of the three areas marked on the second diagram, or total area = area a + area b = area c = total area.

$$\text{area a} = (\text{base} \times \text{hieght}) / 2 = (1 \times 1) / 2 = 0.5 \text{ sq ft}$$

$$\text{area c} = (\text{base} \times \text{hieght}) / 2 = (1 \times 1) / 2 = 0.5 \text{ sq ft}$$

$$\text{area b} = \text{hieght} \times \text{depth} = 1 \times 2 = 2 \text{ sq ft}$$

$$\text{Total area} = 3.0 \text{ sq ft}$$

$$a = 3.0$$

WETTED PERIMETER CALCULATIONS:

Wetted perimeter = left bank + bottom + right bank

$$\text{wetted perimeter} = 1.41 \text{ ft} + 2 \text{ ft} + 1.41 \text{ ft} = 4.82 \text{ ft}$$

HYDRAULIC RADIUS CALCULATIONS:

Hydraulic radius = area / wetted perimeter

$$\text{Hydraulic radius} = 3.0 / 4.82 = 0.62$$

$$r = 0.62$$

COEFFICIENT FOR CHANNEL ROUGHNESS:

$$N = 0.075 \text{ (see attached sheet for calculations)}$$

DITCH CAPACITY CALCULATIONS:

$$Q = \left[\frac{1.49}{N} R^{\frac{2}{3}} S^{\frac{1}{2}} \right] A$$

$$Q = \left[\left(\frac{1.49}{0.075} \right) (0.62^{\frac{2}{3}}) (0.172^{\frac{1}{2}}) \right] 3.0$$

$$Q = [(19.87) (0.73) (0.41)] 3.0$$

$$Q = (5.94) (3.0)$$

$$Q = 17.82 \text{ cfs.}$$

Using the above calculations and estimations, the maximum capacity of the original ditch was approximately 17.82 cfs. With a maximum possible use of the water of 5.52 cfs, and assuming a 50% ditch loss, the most that was probably diverted through this ditch would be 8.28 cfs. These are greatly inflated numbers, but it does show that the ditch would have had the capacity to divert a reasonable amount of water for this property.

MANNING'S "n" (roughness coefficient)

Page 41
77-07081
OLD
Ditch
Capacity

BASIC "n" CHANNEL MATERIAL N-1				CHANNEL OBSTRUCTIONS N-4							
earth	.020		(1)	negligible	.000		(1)				
rock	.025	✓	(2)	minor	.010		(2)				
fine gravel	.024		(3)		.015	✓	(3)				
coarse gravel	.028		(4)	appreciable	.020		(4)				
					.030		(5)				
				severe	.040		(6)				
					.050		(7)				
					.060		(8)				
SURFACE IRREGULARITY N-2				VEGETATION N-5							
smooth	.000		(1)	low	.005		(1)				
minor	.005		(2)		.010		(2)				
moderate	.010	✓	(3)	medium	.015		(3)				
severe	.020		(4)		.020	✓	(4)				
$N = (N-1 + N-2 + N-3 + N-4) \times M$ $N = (.025 + .010 + .005 + .015 + .020) \times 1.00$ $N = (.075) \times (1.00)$ $N = 0.075$					.025		(5)				
					.030		(6)				
				high	.040		(7)				
					.050		(8)				
				very high	.060		(9)				
					.075		(10)				
					.100		(11)				
				VARIATIONS IN SIZE AND SHAPE OF CROSS-SECTION N-3				DEGREE OF MEANDERING M			
				gradual	.000		(1)	minor	1.00	✓	(1)
				occasional	.005	✓	(2)	appreciable	1.15		(2)
				frequent	.010		(3)	severe	1.30		(3)
.015		(4)									

*Middle Fork Holding Company
Grand Central Station
P.O. Box 4566
New York, NY 10163-4566
Tel. No: (212) 972-1095
Fax No: 212-953-0890
May 10, 2005*

FAX INSTRUCTIONS

TO: Daniel A. Nelson
Dept of Water Resources

FAX NUMBER (208) 334-2348

FROM: Irene Laird

NUMBER OF PAGES INCLUDING COVER LETTER: 2

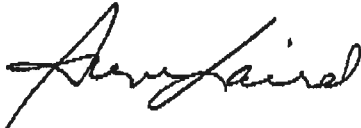
Dear Mr. Nelson,

Please note the enclosed change of address for Middle Fork Holding Company:

Grand Central Station
P.O. Box 4566
New York, NY 10163-4566

Thank you for your prompt attention to this matter.

Sincerely,


Irene Laird

**State of Idaho****DEPARTMENT OF WATER RESOURCES**

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190

FAX (208) 334-2348

April 25, 2005

DIRK KEMPTHORNE
GovernorKARL J. DREHER
Director

MIDDLE FORK HOLDING CO INC

~~C/O BRIAN BARSOTTI~~~~PO BOX 10013~~~~KETCHUM ID 83340~~*GO TECHNICAL SERVICES OF NA, INC.**GRAND CENTRAL STATION**PO BOX 4566**NEW YORK, N.Y. 10163-4566***RE: LICENSING EXAMS FOR PERMITS 77-7081 AND 77-7082***ATT: IVER E. D'ARANGELO*

Ladies and Gentlemen:

I have been asked to complete the licensing exams for permits 77-7081 and 77-7082 for the Middle Fork Lodge by June 15. This will require that I visit the site, and measure and verify the use of the water being used for these two water rights. I recently sent a letter to the owner of record Mille Fork Lodge Inc., Po Box 97060, Kirkland, WA 99083, and the letter was returned. You are listed as the current owner of the property in the Snake River Basin Adjudication (SRBA) records.

The reason these permits need to be licensed is to ensure that these water rights are correctly described in the SRBA recommendations that will be submitted to the courts later this year. You have properly filed the necessary paperwork with the SRBA on these rights, but the water rights are still listed as permits in our department's records. Therefore, it would be in everyone's best interests to have these rights licensed prior to our department's recommendation to the SRBA court.

I am aware that it may not be possible to get into this remote location at this time of year, so I would like to ask you to send me the name and telephone number of an individual within your organization that can accompany me on the field visit, and assist me in acquiring the necessary information to license these rights.

If it isn't possible to get into the site prior to June 15th, please let me know as soon as possible, so I can work on a solution with our SRBA staff. Thank you for your time, and I look forward to working with you. If you have any questions or concerns, please contact me at the above address.

Respectfully,

Daniel A. Nelson
Sr. Water Right Agent

PHOTOGRAPHER AND DATE OF PHOTOS DANIEL A NELSON 6/2/2005

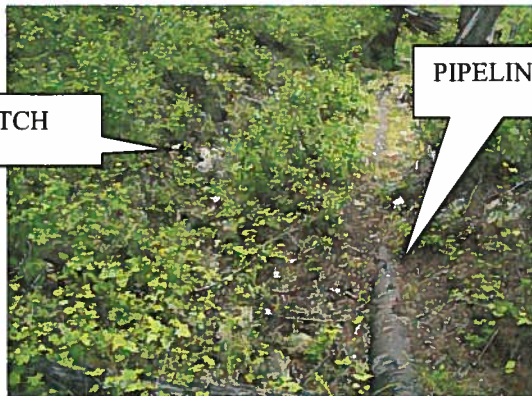
FILE NUMBER 77-7082



These are photos of the diversion structure for the pipeline. The photo at the bottom left is the spillway. The pipeline was being diverted at full capacity at the time of the exam, so there is ample water in the creek. The pipe diversion is located in a screened box in the small pool at the far left. The screened diversion box is approximately 2 ft X 3ft X 2 ft. There are two headgates on this structure. The headgate on the right I assume was for the old ditch diversion. The old ditch diversion hadn't been used in quite a while, and the owner's representative wasn't sure what the headgate was for. The headgate on the right controls the water level in the pond. I estimated the total flow of the creek somewhere between 20 and 30 cfs including the water being diverted into the pipeline.

PHOTOGRAPHER AND DATE OF PHOTOS DANIEL A NELSON 6/2/2005

FILE NUMBER 77-7081



The above picture is of the downhill side of the diversion structure and the pipeline coming out of the structure.

The middle picture shows the pipeline and the old ditch. The old ditch was used before the pipeline, and the owner placed the pipeline in much of the old ditch. A manning calculation was done on the old ditch that suggests an ability to deliver approximately 17.8 cfs of water. The pipeline's capacity is approximately 6.43 cfs.

The owner is currently in the process of replacing portions of the pipeline due to wear and old age. The stack of black PVC pipe in the photo on the bottom left is what is being used to replace the old metal pipe. The joints shown in the picture bottom right, show that the comparison between the old and new pipe. they are both the same size.



PHOTOGRAPHER AND DATE OF PHOTOS DANIEL A NELSON 6/2/2005

FILE NUMBER 77-7081



These are photos of the irrigated ground. There is another field extended beyond the last picture that can't be seen. The yards around the lodges and cabins in the first photo are also irrigated out of the same system.

PHOTOGRAPHER AND DATE OF PHOTOS DANIEL A NELSON 6/2/2005

FILE NUMBER 77-7081

POWER
GENERATION
BUILDING

LAST IRRIGATION RISER ON MAIN PIPELINE

These photos show where the irrigation line goes down to the power generation building.



**POWER
TURBINE WITH
MAINLINE
COMING OUT
OF WALL.**



This photo shows the name plate on the generator

POWER
GENERATOR

These photos show the turbine generator.