

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

IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM.

CIVIL CASE NUMBER: 39576

Ident. Number: **A43-00248**
Date Received: 8/ 3/1995
Receipt No: S018354
Received By: _____

**COPY FOR
YOUR FILES**

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

**COPY FOR
YOUR FILES**

1. Name: GARY C NELSON 208-638-5534
Address: PO BOX 465
ELBA ID 83326

Name: PAULA BEECHER NELSON 208-638-5534
Address: PO BOX 465
ELBA ID 83326

2. Date of Priority: APR 30, 1886

3. Source: CASSIA CREEK Trib. to: RAFT RIVER
CROSS CREEK CASSIA CREEK

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4 of	Lot	County
14S	24E	12	NW	NE	NW		CASSIA
	25E	6	NW	SW	NE		CASSIA

5. Description of diverting works:
ROCK DAM INTO RICE-LESSY DITCH & ROCK DAM INTO BARKER DITCH

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
IRRIGATION	04/01	10/31	0.100		

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

8. Total consumptive use is Acre Feet Per Annum.

9. Non-irrigation uses:

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
13S	25E	32	SE	SW		IRR	36.0
Section Acres							36.0
Total Acres							36.0

11. Place of use in counties: CASSIA

12. Do you own the property listed above as place of use? NO

13. Other Water Rights Used:

43-00246, 43-00247, 43-10277, AND 43-10279

14. Remarks:

IN PROCESS OF BUYING PROPERTY AT THIS TIME FROM THE BEECHER ESTATE. (PAULA NELSON IS PART OF THE ESTATE)

15. Basis of Claim: DECREED

Case Number:

Court :

Decree date: 10/18/1928

ALBION-IDAHO LAND CO.
Decree Plaintiff

JOBE ADAMS ET. AL., AMENDED
vs Decree Defendant



State of Idaho

DEPARTMENT OF WATER RESOURCES

1341 Fillmore Street, Suite 200, Twin Falls, ID 83301-3380

Phone: (208) 736-3033 FAX: (208) 736-3037

SOUTHERN REGION

September 13, 1999

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

GARY NELSON
PO BOX 465
ELBA ID 83326

RE: ADJUDICATION REVIEW OF CLAIMS A43-00246, A43-00247, A43-00248, A43-10277, AND
A43-10279

Dear Gary

I am in the process of completing the recommendations for your adjudication claims. There are a few areas that need your input.

The decreed rights A43-00246, A43-00247, A43-00248 are tentatively recommended for 36 acres within the SESW of Sec 32. A43-00246 and A43-00247 are still in Orvil Beecher's name. A change of ownership is necessary. Other than that, I do not see any problems with these rights.

Although we discussed the development for A43-10277 (the spring near the center of the property) I do not have any documentation to substantiate the claimed priority date. I have to have that information before I can make a recommendation on that right. As the property was part of the Jobe-Adams decree, the earliest priority date that can be recognized is one day after the decree date or 10-19-1928. That is assuming that the spring was developed before the decree was finalized but for some unknown reason, not included in the decree. I have identified 5.6 acres using the department GIS system as being irrigated from a gravity system. This claim is also in Orville's name and requires a change of ownership.

A43-10279 is the claim for Black Sand Creek and Franks Hollow water diverted at the point where the Barker ditch goes under Dry Creek and also meets highway. The diversion structure is a culvert leading from Dry Creek to the Barker ditch. Although the majority of water may actually arise or come from the two claimed sources, the actual diversion is from Dry Creek and any water from other sources that reach that channel is then considered to be Dry Creek water. I expect to recommend this claim with Dry Creek as the source. This claim does not have evidence of priority either. If the first time that the Dry Creek water was intentionally diverted into the Barker Ditch was when the highway department installed the culvert then that would be the priority date. If there was a previous diversion structure that the culvert replaced, then the date that the earlier structure was constructed would be the priority date. I cannot recommend this right either, until I obtain evidence of priority. This claim needs to be included in the change of ownership from Orvil to the current owner.

I did not see any problems with the claims for the home property. If you have any questions please contact me at the above number.

Sincerely

Kelly K Christensen
Sr Water Resource Agent

Enclosure



State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region, 222 Shoshone St. East, Twin Falls, Idaho 83301-6105 (208) 736-3033

Fax (208) 736-3037

PHILIP E. BATT
Governor

KARL J. DREHER
Director

August 3, 1995

GARY NELSON
PO BOX 465
ELBA ID 83326

RE: SNAKE RIVER BASIN ADJUDICATION CLAIM A43-00248 AND GENERAL
INFORMATION CONCERNING PUMPING RICE LESSY WATER

Dear Gary

Enclosed is the copy of your claim as data entered and the receipt for the \$100.00 filing fee. Please review the claim copy to verify the accuracy of the entries.

I discussed your question concerning pumping 15 inches of water from the Rice Lessy ditch to either your lawn/pasture area around your farmstead or to ground south of the Rice Lessy ditch on the Orville Beecher property irrigated under 43-00246 and other rights. Based upon the information you presented, there should be no problem as far as the department is concerned. There are no permit requirements from the department, however, you probably should discuss your plans with the other ditch users before you develop the pumping system.

If you have any additional questions, please contact this office

Sincerely

Kelly K Christensen
Sr Water Resource Agent

Enclosures

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

IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM

CIVIL CASE NUMBER: 39576

Ident. Number A43-00248Date Received 8-2-95Receipt Number 5018354

NOTICE OF CLAIM

TO A

WATER RIGHT

ACQUIRED UNDER STATE LAW

Please type or print clearly

1. Name of Claimant (s) Paula Beecher Nelson
GARY C Nelson Phone (208) 638-5534Mailing Address P.O. Box 465 Elba Id 83326 Zip 833262. Date of Priority (Only one (1) per claim) 4-30-19863. Source of water supply (a) Cassia Creek + Cross Creek.
which is tributary to (b) Raft River Cassia Creek.4. a. Location of existing point of diversion is: Township 14S Range 25E Section 6,
NW 1/4 of SW 1/4 of NE 1/4, Govt. Lot, _____ B.M., County of CassiaAdditional points of diversion if any: 14S Range 24 E section 12 NW, NE, NW

b. If instream flow, beginning point of claimed instream flow is:

Township _____ Range _____ Section _____, _____ 1/4 of _____ 1/4 of _____ 1/4,

Govt. Lot _____ B.M., County of _____

ending point is: Township _____ Range _____ Section _____, _____ 1/4 of _____ 1/4 of _____

_____ 1/4, Govt. Lot _____ B.M., County of _____

5. Description of existing diversion works (Dams, Reservoirs, Ditches, Wells, Pumps, Pipelines, Headgates, Etc),
including the dates of any changes or enlargements in use, the dimensions of the diversion works as
constructed and as enlarged and the depth of each well.Cassia Creek. Rock Dam into River Lacey DitchCross Creek. Rock Dam diverting into Banger Ditch.

6. Water is claimed for the following purposes:

(both dates are inclusive)

(cfs)

(acre feet)

For irrigation purposes from 4-1 to 10-31 amount .1 or _____

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

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

8. Total consumptive use claimed is .1 CFS acre feet per annum.

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

10. Description of place of use:

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

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

TWP	RNG	SEC	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	
13S	25E	32												36					36

Total number of acres irrigated 36

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

12. Do you own the property listed above as place of use? Yes _____ No X
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. _____ or None ()

14. Remarks: In process of buying property at this time from
the Beecher estate (Paula Nelson is part of
the estate)

Last Name _____ Ident No. _____

Copies: White -State, Yellow-Claimant

Scale: 2 inches equals 1 mile

A 16x16 grid of squares. Each square contains a crosshair pattern formed by two dashed lines intersecting at the center. The grid is composed of 16 columns and 16 rows of these squares.

Copies: White-State, Yellow-Claimant

15. Basis of Claim (check one) Beneficial Use _____ Posted Notice _____ License _____ Permit _____

Decree 7

If applicable provide IDWR Water Right Number 43-00248

Court _____ Case Number _____ Decree Date _____

Plaintiff vs Defendant Albin Idaho Landco VS Joe Adams

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 X 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) [Signature] Date 8-2-1995.

Paul B. Nelson Date 8-2-1995

For Organizations: I do solemnly swear or affirm that I am _____

of _____, that I have signed the foregoing

Organization

document in the space below as _____ of _____

Title

Organization

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

Signature of Authorized Agent _____

Title and Organization _____ Date _____

State of Idaho/or _____)

County of Cassia) SS.

Subscribed and sworn (or affirmed) before me this 2nd day of Aug 19 95

SEAL

Notary Public Kelly K. Christensen

Residing at Kimberly Rd. 83341

My Commission Expires 3-2-98

Please Print Name

17. Notice of Appearance:

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

Signature _____

Address _____

Date _____

Last Name _____ Ident. Number _____

Copies White-State, Yellow-Claimant

REFUND REQUEST SUBMITTED TO AUDITOR

ON 10-10-95

TO: S. Sherman to Log In
 FOR: D. Shaff/D. Allen
 FROM: K. CHRISTENSEN Date: 8-3-95
 SUBJ: Receipt No. 5018354 (Please attach ARQ2 Receipt copy immediately behind blue form)

RECEIVED

RECEIVED
 OCT 12 1995
 Department of Water Resources
 Southern Region

PayOR GARY C. NELSON
 Address PO Box 465
ELBA ID 83326 SEP 12 1995

Claimant(s) if NOT Payor Gary or Paula Nelson Department of Water Resources

Refund Amount \$ 50.00 Claim Location (Region/Claimant)

Extension Filed? (Y) N NA Copy Attached? (Y) N NA

Late Fees Paid? (Y) N NA Late Fee Receipt # same

S.O. Verified Ext. by _____ on _____ D.B. Query by _____

Refund Generated By () Agent (X) Claimant

Refund Category:
 insufficient fees / claim incomplete / request late fee waiver / withdrawn / o-pmt

Date of Last Correspondence (copy attached) _____

Claim No.	Use*	Fees Paid	Correct Fee	Rec't #
<u>A43-00248</u>	<u>ERR</u>	<u>\$ 100.00</u>	<u>50.00</u>	<u>5018354</u>
_____	_____	\$ _____	_____	_____
_____	_____	\$ _____	_____	_____
_____	_____	\$ _____	_____	_____
_____	_____	\$ _____	_____	_____
Total	_____	\$ _____	\$ _____	_____

*Incomplete claims or insufficient fees for irrigation use will generally NOT be refunded. D.E. claim in AJSP1 at minimum.

Detailed Reason(s) for Refund Attached (Y) N

The claimant (PAULA NELSON) is the daughter of the Orville Beecher that filed the other claims appurtenant to the property. Orville passed away in 1994 prior to my field verification of the claims. I found this right as appurtenant and having been delivered by the Watermaster. They (the Nelsons) did not know why this right was missed. KKC

Region AJ Spvsr. Approval [Signature] S.O. AJ Spvsr. Approval _____
 Don Shaff Approval [Signature] Hold 0 To Fiscal 09-25-95
 9-22-95 Logged 09-18-95

Data Base Modified? Y/N (NA) A &/or R Records By _____ on _____

11/30/2000

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

RIGHT NUMBER: 43-248

NAME AND ADDRESS: GARY NELSON
PAULA NELSON
1950 S 1192 W
ELBA, ID 83326

VERIFIED BY KKC

SOURCE: CASSIA CREEK
CROSS CREEK

TRIBUTARY: RAFT RIVER
CASSIA CREEK

QUANTITY: 0.1 CFS

WHEN COMBINED THE FOLLOWING RIGHTS SHALL PROVIDE NO MORE THAN .02
CFS PER ACRE. COMBINED RIGHT NOS. 43-246, 43-247, 43-248, 43-10277, AND
43-10279.

PRIORITY DATE: 04/30/1886

POINT OF DIVERSION: T14S R24E S12
T14S R25E S6

NWNE
NWSWNE

Within CASSIA County
Within CASSIA County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE
IRRIGATION

PERIOD OF USE
04-01 10-31

QUANTITY
0.10 CFS

PLACE OF USE:

IRRIGATION Within CASSIA County
T13S R25E S32 SESW 36

36 ACRES TOTAL

USE OF THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF
A COMBINED TOTAL OF 36 ACRES IN A SINGLE IRRIGATION SEASON.
COMBINED RIGHTS: 43-246, 43-247, 43-248, 43-10277, AND 43-10279.

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

THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS
NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE
EFFICIENT ADMINISTRATION OF THE WATER RIGHTS AS MAY BE
ULTIMATELY DETERMINED BY THE COURT AT A POINT IN TIME NO LATER
THAN THE ENTRY OF A FINAL UNIFIED DECREE. SECTION 42-1412(6),
IDAHO CODE.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Decreed



ORIVILLE BEECHER CLAIMS ANALYSIS

The claims are used on a portion of 40 acres within the SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 32. The decree describes two exclusions of 50 feet and 20 feet along the south and east sides of the section for roadways. These exclusions total slightly greater than 2 acres. Also excluded is a lot in the southeast corner of the section of 1.5 acres. This ground is currently church property. All of the rest of the quarter is irrigated except for the pond area and ditch areas that are considered negligible. The total recommended acreage for this quarter is 36 acres. There are 3 decreed rights from Cassia Creek, one beneficial use claim from an unnamed stream locally known as Dry Wash, and one beneficial use claim for a spring fed pond all for the irrigation for all or a portion of the claimed place of use.

CASSIA CREEK - CROSS CREEK DIVERSIONS

DECREED RIGHTS: 43-00246	4-30-1880	0.30 CFS claimed as of 6-1-95
43-00247	4-30-1882	0.30 CFS claimed as of 6-1-95
43-00248	4-30-1886	<u>0.10 CFS claimed as of 8-2-95</u>
	total	0.70 CFS

The decree generically describes most tributaries as Cassia Creek within this geographical area, and Cross Creek is one so described. The Cross Creek water is delivered through the Barker ditch and irrigates a majority of the property. Cassia Creek water is delivered through the Rice Lessey Ditch and irrigates approximately 2 acres in the northwest corner of the recommended P/U. The decreed rights are taken arbitrarily from either source regardless of priority date therefore these rights are recommended for all of the P/U.

The Barker ditch enters the property at the southeast corner of the quarter/quarter and secondary ditches run north and west along the borders to irrigate the P/U via flood irrigation. The southeast corner of the property is the highest point of elevation on the property. The Barker ditch continues north (along the eastern border of the P/U to eventually reach additional users.

The re-diversion from the Rice Lessey ditch is shared with Ruel Barker for his property that lies directly north of this property.

SPRING DIVERSION

CLAIMED RIGHT: A43-10277

The spring is diverted by a small pond located in the SW $\frac{1}{4}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$ of section 32 that is within the place of use recommended for the other rights. The delivery system is ditches

running northeast and northwest from the pond to the Rice Lessey Ditch. The spring water can only be applied to ground north of the pond in a roughly U shaped pattern. The pond is used to accumulate the spring water and then divert a greater flow for irrigation purposes. Water from the Barker ditch can be diverted into the pond and then delivered to the ground covered by this system.

This use was not recognized in the Jobe Adams decree, although the spring was undoubtedly being used. Therefore I am recognizing this use for a priority date of 1 day after the decree or, 10-19-1928. For the 5.6 acres identified through arcview and at 0.11 cfs.

DRY WASH DIVERSION

CLAIMED RIGHT: A43-10279

The Dry Wash is diverted into the Barker ditch via a buried pipeline that runs from a cement structure that was constructed by the highway department at the point where the Dry Wash leaves the right-of-way for the Elba-Arco highway. That stream channel is normally dry during the late spring and summer months. The diversion point is located in Twp 14S; Rng 25E; Sec 8; NE $\frac{1}{4}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$ B.M. The Dry Wash water is applied to the irrigated ground through the same delivery system as the Cross Creek Water. Although live flow from Franks Hollow and Black Sand Creek are the predominate sources for water for Dry Wash, the actual diversion is from Dry Wash and is therefore recommended as such.

This system was not identified in the Jobe Adams decree and therefore I am recognizing this use with a priority date of 1 day after the decree or 10-19-1928 for the same 36 acres covered by the decreed rights. I am recognizing this right at the claimed rate of 0.66 cfs which is slightly less than 1 in per acre.

I am recommending the source as Dry Wash per the narrative above.

R PROOF



CVR

See 43-00246

MAPS

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PHOTOS

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MISC

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