

03/24/2006

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

RIGHT NUMBER: 79-4031

NAME AND ADDRESS: MARGARET L GILL
PO BOX 386
LUCILE ID 83542

MELVIN C GILL
PO BOX 386
LUCILE ID 83542

SOURCE: SPRING
UNNAMED STREAM

TRIBUTARY: COW CREEK
TRIBUTARY: COW CREEK

QUANTITY: 0.120 CFS

The quantity of water under this right for domestic and stockwater uses shall not exceed 13,000 gallons per day.

PRIORITY DATE: 01/23/1902

POINT OF DIVERSION:

T25N R01E S4 NESE Within IDAHO County
T25N R01E S4 SWNESE Within IDAHO County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
STOCKWATER	01/01 12/31	0.050 CFS
DOMESTIC	01/01 12/31	0.040 CFS
IRRIGATION	02/15 11/30	0.030 CFS

PLACE OF USE: IRRIGATION Within IDAHO County

T25N R01E S03 NWSW 1.10

STOCKWATER Within IDAHO County

T25N R01E S03 NWSW T25N R01E S04 NESE

DOMESTIC Within IDAHO County

T25N R01E S03 NWSW

1.1 ACRES TOTAL

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.

The quantity of water decreed for this water right for domestic use and stockwater use is not a determination of historical beneficial use.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use

79-4031

**T25N R01E
Section(s) 3 & 4**



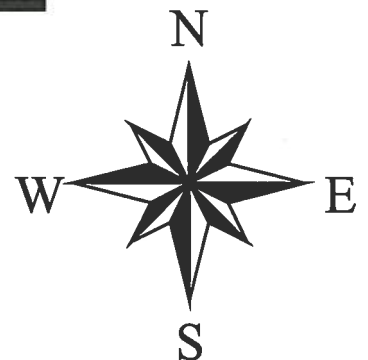
0.2 0 0.2 0.4 Miles



Place of Use



Point of Diversion



**Layout prepared on March 24, 2006
By Greg Taylor
Idaho Department of Water Resources**

79-4031

Field Exam Notes

Date of Exam: August 9, 2005

Because this claim listed a domestic use and because it was found that the source of the domestic use is not a stream but rather a spring tributary to the stream listed as the source, the spring is included in this report.

It was found that there are two (2) points of diversion (POD). The first POD is located in a spring and has a GPS location of **N45° 31' 55.6"** by **W116° 20' 6.6"** with an elevation of **2642 ft ± 31 ft**. The diversion consists of a perforated pipe that taps the spring and empties into a 1200 gallon buried storage tank (*Photo 1*). A four inch (4") overflow from the tank empties into an unnamed stream that lies next to the spring (*Photo 2*). The unnamed stream is locally known as Tracy Creek.

The spring supplies only the new house and the lawn around the house (*Photo 3*). It once supplied the old house (no longer used but still exists) and stock tanks until the new house was built. Stock now use water out of Tracy Creek. Melvin Gill, co-claimant, stated that the spring will not run the sprinklers, used to water the lawn, for 24 hours.

The second POD is located on the same unnamed stream mentioned above which is tributary to Cow Creek (*Photo 4*). The GPS location of this POD is **N45° 31' 55"** by **W116° 20' 7.6"** with an elevation of **2637 ft ± 20 ft**. The diversion is done with a shovel. This diverts water from Tracy Creek to a ditch that leads to a field, the place of use (POU). Mr. Gill stated that he is not currently irrigating the field because he is trying to eliminate the Water Hemlock that grows there (*Photo 5*). Mr. Gill also stated that the livestock drink out of Tracy Creek.

In a conversation with Mr. Gill and a search of the Idaho Department of Water Resources (IDWR) public web site, it was found that there are no other water rights with the same POD or POU as this claim.

Field Examiner:



Contacts Data Entry Form

Claim Number: 79-4031

Owner Type	Full Name	Address	City	State	Zip	Phone
Current Owner	MARGARET L GILL	PO BOX 386	LUCILE	ID	83542	(208)628-3444
Original Owner	OPAL GILL		LUCILE	ID	83542	
Current Owner	MELVIN C GILL	PO BOX 386	LUCILE	ID	83542	(208)628-3444
Original Owner	GEORGE J GILL		LUCILE	ID	83542	

Date of Field Exam: Aug 9, 2005 Time: _____Accompanied By: Melvin Gill Phone Number: 628-3444Relationship to Claimant: Co-Claimant

Directions to Property (if different from above) and/or update owner information:

Go to Lucile & take bridge across River about
1/4 mile from bridge, take Cow Creek Rd. Go to
sign "Gill Ranch" Go through gate & to end of Road.

Reviewer: _____

Date: _____

Priority Date Data Entry Form

Claim Number 79-4031

Claimed Priority Date: 1/23/1902

Claimed Basis: Statutory Claim

☐ Use Claimed Priority Date and Basis as Recommended Priority Date and Basis

Water Right Priority Date: 1/23/1902

Water Right Basis: Statutory Claim

Recommended Priority Date

Recommended Basis

Document the evidence submitted/reviewed for the priority date claimed, include your analysis of the evidence:

Reviewer:

Date:

Point of Diversion and Source Data Entry Form

Claim Number 79-4031

Claimed Point of Diversion and Source

T25N R01E S4 NWNESE Within IDAHO County Source: UNNAMED STREAM COW CREEK

☐ **Use Claimed POD and Source as Recommended POD and Source**

Water Right Point of Diversion and Source

T25N R01E S4 SWSE Within IDAHO County

Recommended Point of Diversion and Source

Source Information

Source

Tributary To

Spring

locally known as Tracy Creek

Unkn Stream (Tracy Creek)

Cow Creek

Twp	Rge	Sec	Gov Lot	QQQ of QQ of Q	County	Source

Other rights from this POD? None.

Document how the POD and Source were verified:

Spring GPS location N 45° 31' 55.6" by W 116° 20' 6.6"
Tracy Creek POD N 45° 31' 55" by W 116° 20' 7.6" GJ
On Site Exam, Melvin Gill, co-claimant, outlining on
aerial photo GJ

Reviewer: _____

Date: _____

Place Of Use Data Entry Form

Claim Number 79-4031

Claimed Place Of Use

T25N R01E S04 NESE
 T25N R01E S04 NESE
 T25N R01E S03 NWSW 6.0 T25N R01E S04 NESE 4.0
 Total Acres 10

5 to Powers NW SW 3

☐ Use Claimed POU as Recommended POU

Water Right Place Of Use

T25N R01E S03 NWSW
 T25N R01E S03 Lot 4 SWNW 10.0 T25N R01E S03 NWSW 12.0
 Total Acres 22

Recommended Place of Use

_____ See corrections to claimed POU above

Twp	Rge	Sec	QQ	Q	County	Lot Num	Acres	Purpose of Use

Total Acres _____

Document how the POU was verified:

(co-claimant)
 On Site Exam, Melvin Gill outlined on aerial photo 6/3

Reviewer: _____

Date: _____

Purpose of Use Data Entry Form

Claim Number 79-4031

Claimed Purpose of Use

Water Use	Number of Homes	Number of Stock	Acre Limit
STOCKWATER			
DOMESTIC			
IRRIGATION			

Use Claimed Purpose of Use as Recommended Purpose of Use

Water Right Purpose of Use

Water Use	Number of Homes	Number of Stock	Acre Limit
STOCKWATER			
IRRIGATION			
DOMESTIC			

Recommended Purpose of Use

Water Use	Number of Homes	Number of Stock	Acre Limit	Number of Other
Stock out of Creek				
Domestic (1)				
Irrigation				

Document how the Purpose of Use was verified:

On site Exam, Conversation with Melvin Gill, co-claimant 5/3

Reviewer: _____

Date: _____

Period of Use and Quantity Data Entry Form

Claim Number 79-4031

Claimed Period of Use and Diversion Rate

Water Use	Start	End	Rate	Volume
IRRIGATION	3/01	12/01	0.44	
STOCKWATER	1/01	12/31	0.05	
DOMESTIC	1/01	12/31	0.04	

Overall Diversion Rate 0.53

Overall Diversion Volume

☐ Use Claimed Period of Use and Quantity as Recommended Period of Use and Quantity

Water Right Period of Use and Diversion Rate

Water Use	Start	End	Rate	Volume
IRRIGATION	4/01	12/31	0.44	
STOCKWATER	1/01	12/31	0.03	
DOMESTIC	1/01	12/31	0.04	

Overall Diversion Rate 0.51

Overall Diversion Volume

Recommended Period of Use and Diversion Rate

Water Use	Start	End	Rate	Volume
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

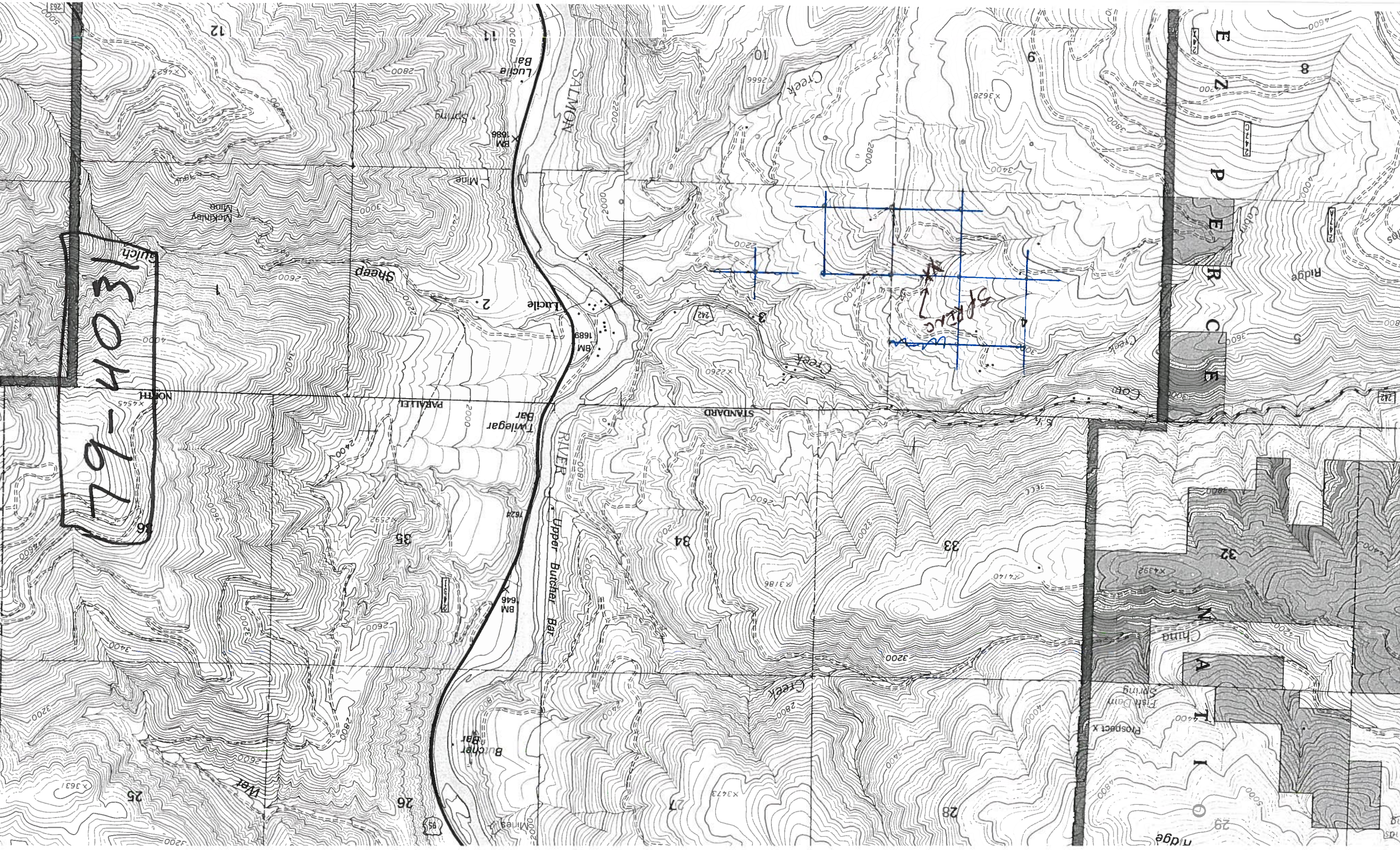
Overall Diversion Rate _____

Overall Diversion Volume _____

Document how the Period of Use and/or Diversion Rate were verified:

Reviewer: _____

Date: _____



79-4031

NORTH

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: A79-04031 7/25
Date Received: 9/22/1988
Receipt No: W000964
Received By: LW

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: MELVIN C. GILL 208-628-3444
Address: PO BOX 386
LUCILE, ID 83542

AND/OR
Name: MARGARET L. GILL 208-628-3444
Address: PO BOX 386
LUCILE, ID 83542

2. Date of Priority: JAN 23, 1902

3. Source: UNNAMED STREAM Trib. to: COW CREEK

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4 of	Lot	County
25N	01E	4	NW	NE	SE		IDAHO

5. Description of diverting works:
500 GAL. TANK, 3/4" PIPELINE

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
IRRIGATION	03/01	12/01	0.440		
STOCKWATER	01/01	12/31	0.050		
DOMESTIC	01/01	12/31	0.040		

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

A.F.A.

8. Total consumptive use is 20.0 Acre Feet Per Annum.

9. Non-irrigation uses:
S/200 HEAD RANGE CATTLE, 10 HORSES, D/ONE

A79-04031

Page 1

Date: 09/22/88

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10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
25N	01E	3	NW	SW		IRR	6.0
						Section Acres	6.0
		4	NE	SE		IRR	4.0
			NE	SE		STOCK	
			NE	SE		DOMEST	
						Section Acres	4.0
						Total Acres	10.0

11. Place of use in counties: IDAHO

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

13. Other Water Rights Used:
NONE

14. Remarks:

SOURCE KNOWN LOCALLY AS SPRING. CHANGED POD AS REQUESTED BY CLAIMANT DUE TO INACCURATE LOCATION WHEN FIRST APPLYING FOR WATER RIGHT. OWN 1/2 PROPERTY, PERMANENTLY LEASE OTHER HALF. INSTREAM FLOW-BEGINNING: T25N, R1E, SECTION 4, SW,SE,SW; IDAHO COUNTY. ENDING: T25N, R1E, SECTION 3, SENWSW; IDAHO CO.

15. Basis of Claim: STATUTORY CLAIM

16. Signature(s)

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

Number of attachments: _____

For Individuals:

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

Signature of Claimant(s): _____ Date: _____
_____ Date: _____

State of Idaho)
County of _____) SS.

Subscribed and sworn (or affirmed) before me this _____ day
of _____ 19 _____

Notary Public

Seal

Residing at _____
My Commission Expires _____

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

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

CIVIL CASE NUMBER: 39576
Ident. Number 79-9031 Yes
Date Received _____
Receipt Number _____

RECEIVED
JUL 25 1988

NOTICE OF CLAIM
TO A
WATER RIGHT

RECEIVED
JUL 22 1988

Department of Water Resources
Western Regional Office

ACQUIRED UNDER STATE LAW

For Domestic and/or Stockwater Purposes

Where Daily Use is less than 13,000 gallons per day. Filing fee \$25

Department of Water Resources

Please type or print clearly

1. Name of Claimant (s) Melvin C. Gill and/or Margaret L. Gill Phone (208) 628-3444

Mailing Address P.O. Box 386 Lucile, Idaho Zip 83542

2. Date of Priority (Only one (1) per claim) Jan. 23, 1902

3. Source of water supply (a) Unnamed (spring) creek
which is tributary to (b) Cow Creek

4. Location of point of diversion is: Township 25N Range 1E
Section 4, NW 1/4 of NE 1/4 of SE 1/4, Govt. Lot _____, B.M.,
County of Idaho

Additional points of diversion if any: _____

5. Description of existing diversion works (Ditches, Wells, Pumps, Pipelines, Headgate 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. 500 gallon tank, 3/4" pipeline

6. Water is claimed for the following: (Limited to Domestic and/or Stockwater only. See Instructions)
(Both dates are inclusive) (cfs)
For Domestic purposes from Jan. 1 to Dec. 31 amount .04
For Stockwater purposes from Jan. 1 to Dec. 31 amount .05

7. Total quantity claimed .09 (cfs)

8. Total consumptive use claimed is de minimus

9. Non-irrigation uses. Describe fully. (Domestic: give number of households served; Stockwater: Type and number of livestock) 1 Domestic, 200 head range cattle, 10 horses

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Copies: White-State, Yellow-Claimant
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10. Place a "D" for domestic and "S" for stockwater use in the corresponding place of use below.

TWP	RNG	SEC	NE 1/4				NW 1/4				SW 1/4				SE 1/4			
			NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4
25N	1E	34										D/S			D/S			

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

12. Do you own the property listed above as place of use? Yes 1/2 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.
_____ or None (X)

14. Remarks: Own one-half described property, permanently lease other half

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

If applicable provide IDWR Water Right Number 79-1031

Court _____ Case Number _____ Decree Date _____

Plaintiff vs 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 X wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments 0

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

Signature of Claimant (s) Melvin C. Gill Date 7-19-88

Margaret L. Gill Date 7-19-88

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

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

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 Idaho)
County of Idaho) SS.

Subscribed and sworn (or affirmed) before me this 19 day of July 19 88

SEAL

Notary Public Cher Travis

Residing at Riggins

My Commission Expires 10-10-89

Last Name Gill Ident No. _____

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Copies White-Steel, Yellow-Claimant

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

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

CIVIL CASE NUMBER: 39356

Ident. Number 79-4031

Date Received

Receipt Number

RECEIVED
JUL 25 1988

NOTICE OF CLAIM
TO A
WATER RIGHT

Department of Water Resources
Western Regional Office

ACQUIRED UNDER STATE LAW

RECEIVED
JUL 22 1988

Department of Water Resources

Please type or print clearly

1. Name of Claimant (s) Melvin C. and/or Margaret L. Gill Phone (208) 628-3444Mailing Address P.O. Box 386 Lucile, Idaho Zip 835422. Date of Priority (Only one (1) per claim) January 23, 19023. Source of water supply (a) Unnamed (spring) creek
which is tributary to (b) Cow Creek4. a. Location of existing point of diversion is: Township _____ Range _____ Section _____,
_____ 1/4 of _____ 1/4 of _____ 1/4, Govt. Lot, _____ B.M., County of _____

Additional points of diversion if any: _____

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

Township 25N Range 1E Section 4, SW 1/4 of SE 1/4 of SW 1/4,Govt. Lot _____ B.M., County of Idahoending point is: Township 25N Range 1E Section #3, SE 1/4 of NW 1/4 ofSW 1/4, Govt. Lot _____ B.M., County of Idaho5. 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. Check dam with gravity ditch system

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Copies: White-State, Yellow-Claimant

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6. Water is claimed for the following purposes:

(both dates are inclusive)

(cfs)

(acre feet)

For Irrigation purposes from March 1 to Dec. 1 amount XXX or XXX

For Stockwater purposes from XXXX to XXXXXX amount XXX or XXX

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

7. Total quantity claimed (a) 1.44 (cfs) and/or (b) _____ (acre feet)

8. Total consumptive use claimed is 20 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	
<u>25N</u>	<u>1E</u>	<u>4</u>								<u>10</u>									<u>10</u>
<u>25N</u>	<u>1E</u>	<u>4</u>													<u>4</u>				<u>4</u>
<u>25N</u>	<u>1E</u>	<u>3</u>										<u>6</u>							<u>6</u>

Total number of acres irrigated 10

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

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

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

14. Remarks: Own one-half of described property, permantly lease other half

Last Name Gill Ident No. _____

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OCT 06 1992

Scale: 2 inches equals 1 mile

[illegible]

Copies: White-5, Yellow-5, Clear-1

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

Decree _____

If applicable provide IDWR Water Right Number 79-1031

Court _____ Case Number _____ Decree Date _____

Plaintiff vs Defendant _____

16. Signature (s)

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

Number of attachments 0

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

Signature of Claimant (s) Melvin C. Geel Date 7-19-88

Margaret L. Geel Date 7-19-88

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

_____ Title
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 Idaho)
County of Idaho) SS.

Subscribed and sworn (or affirmed) before me this 19 day of July 19 88

SEAL

Notary Public Clara Travis

Residing at Riggins

My Commission Expires 10-10-88

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 Gill Ident. Number _____

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Copies Made - State, Yakima Claimant

OCT 06 1992

CONVERSATION MEMORANDUM

DATE 8/26/88

FILE _____

NAME OF PARTY

Gill, Melvin

EMPLOYEE

J. WarnerRE: 79-4123 OKOldNew20 cfs20 cfs take off stockwaterpriority date: 1-1-190579-4030old - George & O. pal- dog nameNew1.24 cfs.65 cfsSource: Cow orCabin orPODinstream flow - deletPOUPOU - ^{ok}conclaim formPOD - 25N, 1E, S 8, NE, NW79-4031OldNewGeorge & O. pal0.510.44Source - Stream~~stream~~ ~~cruck~~PODPOD instream stockdelete S/D? ^{NO} other right should leave as is1 No need to file on undeveloped spring2 OK4123 90.003 OK4030 80.004 undeveloped spring4031 60.005 OK2 25 -6 OK3 25 -include note see letter attached to
re who remembers claim 79-4123**MICROFILMED**OCT 06 1992 25 -

Water Right Number - 79-04031 Prefix Translation: WATER RIGHT Old (D) Number -
+ - - - - Last Name - - - - + - - - - First Name - - - - + - - - - Address - - - - - +

*** C - CURRENT OWNER ***
GILL

GEORGE J.

1 -
2 -
3 -City- LUCILE
Phone -

State- ID Zip- 83542

GILL

OPAL

1 -
2 -
3 -City- LUCILE
Phone -

State- ID Zip- 83542

+ - - Priority Date - - + - - - - Region - - - +
01/23/1902 14 WESTERN

+ - - - - Stage - - - +
S - STATUTORY CLAIM

+ - - - - Status - - - +

+ - - - - Source - - - - +
UNNAMED STREAM

+ - - - - Tributary - - - - +
COW CREEK

+ - - - - Point of Diversion - - - - +
Stream Index (Blank if no Index Code)

TwN Rng Sec Tract Lot RFlg County 272.0 92.0 88.0 0.1 1.0

+ - - - - Description Period From Period To Water Use Diversion Rate Diversion Volume

01 - IRRIGATION
04 - STOCKWATER
43 - DOMESTIC

04/01 12/31 0.440
01/01 12/31 0.030
01/01 12/31 0.040

+ - - Total Div. Rate - + - - Total Div. Volume - + - - Total Div. Capacity - +
0.510

+ - - - - Tract Lot Acres Place of Use Description County

25N 01E 3 SW NW 4 10.0 01 IRRIGATION (49) IDAHO
25N 01E 3 NW SW 12.0 01 IRRIGATION (49) IDAHO
25N 01E 3 NW SW 04 STOCKWATER (49) IDAHO

Total Acres: 22.0

+ - - Diversion Means -

+ - - Non-Irrigation Use - S/160 RANGE D/1 HOME.

+ - - Other Rights for Same Use -

+ - - - - Remarks - - - - -
SOURCE KNOWN LOCALLY AS SPRING.

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OCT 06 1992

Proof Due Date	-	00/00/0000	Field Exam Made	-	00/00/0000	Field Exam Fee	-
Approved/Denied	-	00/00/0000	Protested Date	-	00/00/0000	Swan Falls	-
Proof Made Date	-	00/00/0000	Hearing Date	-	00/00/0000	Temporary Right	-
Exam to S.O. Date	-	00/00/0000	Verified Date	-	02/26/1985	DLE/Carey Act	-
Order Show Cause	-	00/00/0000	Receipt Number	-		Water District	-
Licensed Date	-	00/00/0000	Appl Received	-	00/00/0000	Transfer/Amended	-
Decree Date	-	00/00/0000	Presumption Flag	-			-

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OCT 06 1992

7/23/1988

SRBA CLAIMS RECEIVING CHECKLIST

CLAIMANT'S NAME

Mill Mahon

CLAIM IDENT. NO.

A79-04031

DATE RECEIVED

7-25-88

CK #

AMOUNT \$

YES

NO

1. Is the name and address complete with zip code? ☒2. Is priority date entered? ☒

Is the water use exempt from the Permit requirements, or if it is not exempt, has a Permit been approved or a License issued?

A Permit is required: (1) for groundwater developed after March 25, 1963 (except single family domestic and stockwater wells using less than 13,000 gpd), or (2) for surface water developed after May 20, 1971 (except for instream stockwater). Use care if claim is returned. Refer to Adjudication Memos # 1 (Adj. Claims/Applications) and # 9 (Rejection of Claims). Explain in Comments.

3. (a) Is a source entered? ☒(b) Is a tributary to entered? (if required) ☒4. Is the legal description of the p.d. complete? ☒5. Is there a description of the diverting works? ☒6. Are the water uses appropriate for the form? The short form limited domestic and stockwater. Instream stockwater must use long form. ☒Is the period of use included? ☒Is a quantity claimed for each use? ☒7. Is a total quantity claimed entered? ☒8. Is the consumptive use correct? ☒If required is a consumptive use entered? ☒9. Are the non-irrigation uses listed properly? If this claim is on the short form, and more than one domestic use is listed, single ownership must be stated. If not under single ownership, each household must file a separate claim. ☒10. Is (are) the place(s) of use entered? ☒11. Is (are) the county(ies) entered? ☒12. Is the ownership of p.u. checked? ☒13. Are other water rights listed or "none" checked? ☒14. If required, are remarks correct? (If the claimant does not own the place of use, authority for filing the claim must be explained in the remarks.) ☒15. Is the basis of the claim checked? ☒16. Is the claim signed by the claimant? ☒Is the signature appropriate? (If an individual is the claimant, has that individual signed the claim, or if an organization is the claimant, is the organization signature block complete?) ☒Has the claim been signed, sealed, and dated by a notary? ☒Is the fee enclosed correct? ☒If this claim is based on an existing water right, has the identification number been entered? N/A ☒Should this claim be receipted and data entered? ☒

Claim checked by:

LW

Comments:

MICROFILMED

OCT 06 1992



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190

FAX (208) 334-2348

February 8, 2001

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

MELVIN C GILL
MARGARET L GILL
PO BOX 386
LUCILE ID 83542

Re: Notice of Claim to a Water Right No. A78-04031

Dear Claimants:

Enclosed is a copy of the above referenced claim, which reflects your ownership of the land and appurtenant water rights covered under the original filing.

According to Department records, no changes are necessary at this time, as this claim is already in your name.

Thank you for your patience and cooperation. If you have any questions concerning the enclosed claim, please feel free to contact this office.

Sincerely,

A handwritten signature in cursive script that reads "Denise Buffington".

Denise Buffington
Office Specialist I
Adjudication Section
Western Region Office

DB:db

Enclosure

A hand-drawn, slightly curved line starting from the word "Enclosure" and extending towards the left side of the page, indicating the location of the enclosed document.

2-5-01

Re - Water Right # A79-04031

Enclosed please find a
Judgement & Deed of
Partition, document # 360980,
showing our ownership of
both the point of diversion
& the place of use. Please
change your records to
reflect this ownership &
eliminate the lease.

Margaret R. Hill

RECEIVED

FEB 08 2001

WATER RESOURCES
WESTERN REGION

DENNIS L. ALBERS
Attorney at Law
P.O. Box 314
Grangeville, ID 83530
(208) 983-2310

360980

STATE of IDAHO	{ SE
County of Idaho	
Recorded at request of <u>Dennis Albers</u>	
at <u>55</u> minutes past <u>8</u> o'clock <u>A</u> .M.	
this <u>7</u> day of <u>Nov</u> 19 <u>91</u>	
ROSE E. GEHRING	
By <u>Edith S. Anderson</u>	Recorder
	Deputy
Fees \$ <u>51.00</u>	

Idaho County District Court

FILED
AT 840 O'CLOCK A M.

NOV 07 1991

ROSE E. GEHRING
Clerk of District Court

By Reigh Zimmerman
Deputy

IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF IDAHO

GAYLE HAGLER; DONNA MEDLEY;
DEWARD GILL; and DOUBLE-O
HYDRO, INC., an Idaho
corporation,

Plaintiffs,

vs.

MELVIN GILL and MARGARET
GILL; DIAMOND T HYDRO, INC.,
an Idaho corporation; and
UNITED STATES OF AMERICA,
INTERNAL REVENUE SERVICE,

Defendants.

Case No. CV-26403

JUDGMENT AND DECREE
OF PARTITION

EXHIBIT "A"

RECEIVED

FEB 08 2001

WATER RESOURCES
WESTERN REGION

COMPUTER ()
INDEXED ()
TRACTED ()
FILMED ()
ASSESSOR ()

The court previously, on the 12th day of August, 1991, entered a Memorandum Opinion in the above-entitled matter, which Memorandum Opinion was intended to serve as the court's Findings of Fact and Conclusions of Law. That, based upon that Memorandum Opinion and those findings and those conclusions, the court now enters the following judgment and decree partitioning the property, which is the subject matter of the complaint in this action, between the plaintiffs, Gayle Hagler, Donna Medley and Deward Gill, and Double O Hydro, Inc., and the defendants, Melvin Gill and Margaret Gill, and Diamond T. Hydro, Inc. That, the property awarded and

JUDGMENT & DECREE
OF PARTITION 1

RECEIVED COPY

partitioned to all the plaintiffs in such proportions and interests as now appear in the Idaho County records is as follows:

All the properties to the plaintiffs are located in Township 25 North, Range 1 East, Boise Meridian, Idaho County, Idaho:

- 1) In Section 5, Lot 1 and the $SE\frac{1}{4}SE\frac{1}{4}$;
- 2) In Section 9, $NW\frac{1}{4}$; $W\frac{1}{2}NW\frac{1}{4}NE\frac{1}{4}$; $W\frac{1}{2}SW\frac{1}{4}NE\frac{1}{4}$; and,
- 3) In Section 4, $SW\frac{1}{4}$; $W\frac{1}{2}W\frac{1}{2}SE\frac{1}{4}$; within Lot 4, $S\frac{1}{2}NE\frac{1}{4}$, $W\frac{1}{2}$, $SE\frac{1}{4}$; within Government Lot 3, $E\frac{1}{2}SE\frac{1}{4}$.

Together with:

- a) Road easement and right of way, hereinafter described in detail;
- b) A right to a portion of the water in that spring known as the "Main Spring", hereinafter described; and,
- c) General rights hereinafter described.

That the defendants, Melvin Gill and Margaret Gill, are entitled to the following property and it is partitioned to them.

I. In Township 25 North, Range 1 East, Boise Meridian, Idaho County, Idaho:

- 1) In Section 3, that part of Lot 4 south of the Cow Creek Road; $W\frac{1}{2}SW\frac{1}{4}$;
- 2) In Section 10, the $NW\frac{1}{4}NW\frac{1}{4}$;
- 3) In Section 4, $E\frac{1}{2}SE\frac{1}{4}$; $E\frac{1}{2}W\frac{1}{2}SE\frac{1}{4}$; and,
- 4) In Section 9, $NE\frac{1}{4}NE\frac{1}{4}$; $E\frac{1}{2}NW\frac{1}{4}NE\frac{1}{4}$; $E\frac{1}{2}SW\frac{1}{4}NE\frac{1}{4}$.

II. In Township 26 North, Range 1 East, Boise Meridian, Idaho County, Idaho:

In Section 32, the $S\frac{1}{2}NW\frac{1}{4}$; $NE\frac{1}{4}SW\frac{1}{4}$; $NE\frac{1}{4}NW\frac{1}{4}SW\frac{1}{4}$; $NW\frac{1}{4}SE\frac{1}{4}SW\frac{1}{4}$; $W\frac{1}{2}NW\frac{1}{4}SE\frac{1}{4}$.

Together with:

- a) Joint and shared rights in the "Main Spring" hereinafter described in detail;

- b) Livestock access easement across the plaintiff's property hereinafter described in detail; and,
- c) Those general rights hereinafter described.

Boundary Line:

The boundary line between the property assigned to plaintiffs and that assigned to defendants is described as follows:

Commencing at the SE corner of the $W\frac{1}{2}W\frac{1}{2}NE\frac{1}{4}$, Section 9, Township 25 North, Range 1 East, Boise Meridian; thence North approximately 1 mile to the NE corner of the $W\frac{1}{2}W\frac{1}{2}SE\frac{1}{4}$, Section 4, Township 25 North, Range 1 East, Boise Meridian.

General Rights:

The parcels of property to which the plaintiffs are entitled as set forth above and the parcels of property to which the defendants are entitled as set forth above are conveyed to those persons with all timber, mineral, geothermal and hunting rights associated with those properties and any water rights that are peculiar to said properties, except the Main Spring will be shared as mentioned hereinafter.

Easement for the plaintiffs, Gayle Hagler, Donna Medley and Deward Gill:

Plaintiffs are hereby awarded a road easement and right of way across the defendants' portion of the property above-described, which road provides access generally from the Cow Creek Road upon an existing roadbed for historical types of uses and the historical amount of use. Such road which first leaves the Cow Creek Road on other ownerships, then enters certain property awarded to Melvin Gill which shall be burdened with said easement. The easement begins within Lot 4 of Section 3, Township 25 North, Range 1 East,

Boise Meridian; thence proceeds southerly into the NW $\frac{1}{4}$ SW $\frac{1}{4}$; thence westerly into Section 4, Township 25 North, Range 1 East, Boise Meridian in the E $\frac{1}{2}$ SE $\frac{1}{4}$; thence westerly into and through the E $\frac{1}{2}$ W $\frac{1}{2}$ SE $\frac{1}{4}$, all in said section, township and range, which road is shown in Exhibit "A", attached hereto and hereby incorporated by this reference, and which road provides access to the property herein awarded to the plaintiffs lying west of the defendants' property.

The plaintiffs and their successors in interest shall have the option at their sole expense of improving the road without expanding the width thereof. Such road is shown on Exhibit "A", westward from the Clemens turn off, which turn off is circled on Exhibit "A" in black and leads from that turn off to the plaintiffs' east boundary line. In the event that the plaintiffs shall improve this portion of the road, the defendants or their successors in interest shall likewise be permitted to use the improvements without expense to the defendants. At all times the defendants shall have the joint use of any portion of the road that lays within the defendants' property and that use shall be in common with the plaintiffs' use thereof.

However as to the whole road both East and West of the Clemens turnoff, in the event that either owner, now or in the future, would cause injury or damage in excess of ordinary wear and tear to the road at any point in the road, the party causing damage must effect repairs at his own expense and place the road in as good a condition as it was before the damage.

JUDGMENT & DECREE
OF PARTITION 4

CERTIFIED COPY

Furthermore, on the portion of the road lying East of the Clemens turnoff, the parties shall share in the reasonable costs of maintenance and improvements to keep the road in as good a condition and quality as the same now is. Any costs of significant expansion or material alteration in such road will be borne by the party incurring that expense, unless they agree otherwise to share such costs.

Division of Water Rights:

Defendants shall have the right to the water appropriated from the two smaller springs located on the parcel awarded to them. Plaintiffs shall have the right to the water appropriated from Cabin Creek which is located on the parcel awarded to plaintiffs. In addition, there is a spring known as the "Main Spring" which wells up on the property awarded to the plaintiffs and then flows eastward and downhill onto the property awarded to the defendants, as is hereinafter mentioned. The parties shall share a right to the water in this Main Spring that originates on the plaintiffs' property generally in the SE $\frac{1}{4}$, SW $\frac{1}{4}$ of Section 4, Township 25 North, Range 1 East, Boise Meridian, and then flows easterly across the W $\frac{1}{2}$, SW $\frac{1}{2}$, SE $\frac{1}{4}$; thence into the defendants' property initially within the E $\frac{1}{2}$, W $\frac{1}{2}$, SW $\frac{1}{4}$, all in Section 4, Township 25 North, Range 1 East, Boise Meridian. Said spring water shall provide the plaintiffs' property with domestic stock water. Plaintiffs' water right shall be limited to reasonable in-stream stock water use for livestock that would be pastured on the plaintiffs' portion of property for a reasonable number of animal units, considering the size and

character of that property. Defendants shall have the right to the remaining water from the spring. All of these rights are subject to further court determination in the Snake River Adjudication.

Stock Passage Easement for Defendants, Melvin Gill and Margaret Gill:

The defendants are entitled to have an easement across the plaintiffs' property for purposes of driving cattle to and from the defendants' summer pasture lying on U.S. Forest Service land even farther west of the plaintiffs' awarded property. Plaintiffs must designate a reasonable location for the easement which should be useful to the defendants and the least burdensome to the plaintiffs' property as is possible. The defendants or their successors must give notice to the plaintiffs prior to crossing with cattle and access is limited to actually driving the livestock once in the Fall and once in the Spring.

Additional Orders:

Each party shall take their property that is allocated to them subject to any easements and encumbrances of record as it relates to the existing record title of the property. This order and judgment shall incorporate an earlier agreement of parties to this lawsuit relating to the imposition of the actual tax imposed by Internal Revenue Service Lien recorded as Idaho County instrument #300365, which Stipulation was filed in the above-entitled matter on the 25th day of January, 1991 and both parties are ordered to comply with the terms of that Stipulation in all respects. Said stipulation is attached hereto and incorporated by this reference.

This judgment shall be binding on the heirs, executors, successors and assigns of each of the parties hereto as if in this judgment they were specifically mentioned and the orders and easements hereunder granted to the various parties shall run with the land and be easements appurtenant to the land, and may in the future be conveyed with the land to future owners thereof.

Reference is made again to Exhibit "A", which shows the boundary line earlier described herein between the properties allocated to the plaintiffs and the properties allocated to the defendants. Pursuant to the report of the majority of the referees, the court hereby orders that a partition fence be constructed along that boundary line to be completed by the 15th day of March, 1992. In advance of the building of the fence the parties must employ a competent surveyor to survey that line on the ground in its entirety and properly flag the line so that the fence can be built, it being the court's specific order that the surveyor is to survey only the dividing line and nothing further. The cost of surveying shall be equally split by the parties. Plaintiffs and defendants shall build such portion of the boundary fence as is allocated to them by Title 35, Idaho Code and use such Code as a minimum standard for the fence. The court reserves the right to make further orders concerning the surveying and the fencing as will be necessary to carry out the intent of the majority of the referees to complete the surveying and fencing work in a timely fashion. Both parties are ordered to pay their respective shares of the expense for surveying upon being billed by the provider of

those services, and again the court reserves the right to enforce this order by appropriate additional enforcement means.

It is hereby ordered that the costs incurred by the referees, and the fees for all referees for their services, should likewise be equally split by the parties, including the costs of any professional services incurred by the referees during the performance of their duties and their reasonable expenses incurred in this matter.

OTHER ORDERS:

Hollenbeak Mortgage:

Pursuant to previous order in the course of this lawsuit, the court now orders that any interest of Loren and Diane Hollenbeak to the property involved in this lawsuit be limited to a mortgage on that portion of the property assigned to Deward Gill in this judgment. Accordingly, the Real Estate Mortgage dated November 19, 1990 and recorded November 26, 1990 as instrument #356331, executed by Donna Medley, Gayle Hagler and Deward Gill in favor of Loren and Diane Hollenbeak, and any other documents conveying an interest to the Hollenbeaks in the property now held by Melvin and Margaret Gill shall be limited in their effect to the property assigned to the plaintiffs. The Hollenbeaks shall have no rights whatsoever to any portion of the property assigned to Melvin and Margaret Gill.

WITNESS: The Honorable Linda Copple Trout, District Judge,
this 4th day of November, 1991.

15/

LINDA COPPLE TROUT
District Judge

Clerk's Certificate of Mailing:

I, the undersigned, Deputy Clerk of the above entitled court, do hereby certify that a true and correct copy of the JUDGMENT AND DECREE OF PARTITION was mailed by regular first class mail, postage prepaid, at the U.S. Post Office this 7th day of November, 1991, to:

Dennis L. Albers
Attorney at Law
P.O. Box 314
Grangeville, ID 83530

Jeffrey A. Strother
Attorney at Law
P.O. Box 955
Boise, ID 83701

ROSE E. GEHRING, Clerk

By LEIGH ZIMMERMAN
Deputy Clerk

JUDGMENT & DECREE
OF PARTITION 9

I, Rose E. Gehring, Clerk of the above entitled Court do hereby certify that a true and correct copy of the original instrument on file in my office

WITNESS my hand and official seal this

day 16th of November, 19 91

Rose E. Gehring Clerk

By Leigh Zimmerman
Deputy