

600

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: A43-02247
Date Received: 5/31/1989
Receipt No: MO05387
Received By: B

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

1. Name: JAY L. BLACK 208-824-5593
Address: BOX 103
ALMO, ID 83312

OR
Name: KENNETH S. BLACK 208-824-5593
Address: BOX 103
ALMO, ID 83312

2. Date of Priority: OCT 13, 1922

3. Source: GRAPE CREEK Trib. to: RAFT RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4 of	Lot	County
14S	25E	31	SW	SW	SW		CASSIA

5. Description of diverting works:
HEADGATE IN CREEK; GRAVITY FLOW DITCHES.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	03/15	11/15	0.200		

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

8. Total consumptive use is Acre Feet Per Annum.

9. Non-irrigation uses:

A43-02247

Page 1

Date: 05/31/89

MICROFILMED
MAR 03 1993

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
15S	25E	6	NW	SW	6	IRR	10.0
Section Acres							10.0
Total Acres							10.0

11. Place of use in counties: CASSIA

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

13. Other Water Rights Used:

14. Remarks:

15. Basis of Claim: LICENSE
Water Right Number: 15633

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): Fenneth L. Black Date: 5/31/89

Date: _____

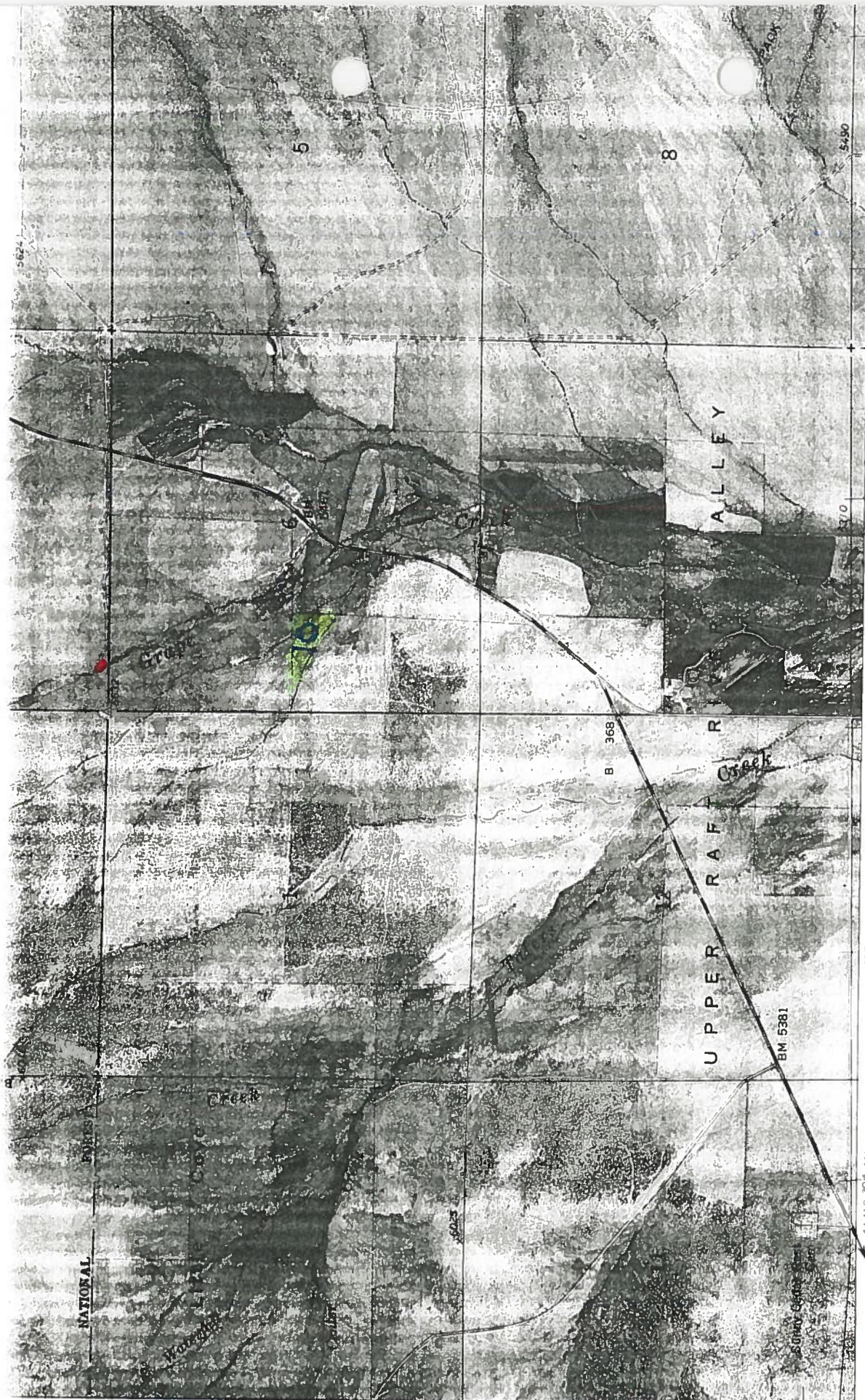
State of Idaho)
County of Cassia) SS.

Subscribed and sworn (or affirmed) before me this 31 day
of May 19 89

Notary Public

Seal

Residing at Boise Id
My Commission Expires 9/2/94



Produced by the Geological Survey
in cooperation with the Soil Conservation Service

Orthophotograph prepared from 1:78 000-scale
aerial photographs taken August 20, 1976

Projection and 10,000-foot grid ticks: Idaho coordinate
system, central zone (transverse Mercator)
1000-meter Universal Transverse Mercator grid ticks
zone 12, 1927 North American datum

Photomicrograph transformed by scanning at 1000 dpi

SCALE 1:24 000



Copies Of These Maps Can Be Obtained
At Bonneville Blue Print Binding

A43-02247

MICROFILMED

MAR 03 1993

PD 6-28-02

06/05/2001

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

RIGHT NUMBER: 43-2247

NAME AND ADDRESS: JAY L BLACK
KENNETH S BLACK
PO BOX 103
ALMO, ID 83312

SOURCE: GRAPE CREEK

TRIBUTARY: RAFT RIVER

QUANTITY: 0.2 CFS

USE OF THIS RIGHT WITH RIGHTS LISTED BELOW IS LIMITED TO A
TOTAL COMBINED DIVERSION RATE OF 10.4 CFS. COMBINED RIGHT
NOS.: 43-402, 43-403A, 43-404, 43-405, 43-2279, 43-10304, 43-
13030.

PRIORITY DATE: 10/13/1922

POINT OF DIVERSION:	T14S R25E S31	LOT 4	SWSWSW	Within CASSIA County
	T14S R25E S31	LOT 4	SWSWSW	Within CASSIA County
	T14S R25E S31	LOT 4	SWSWSW	Within CASSIA County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	04-01 10-31	0.20 CFS

PLACE OF USE:

<u>IRRIGATION Within CASSIA County</u>							
T15S R25E S6	LOT 2	NWNE	13	T15S R25E S6	LOT 3	NENW	24
T15S R25E S6	LOT 4	NWNW	44	T15S R25E S6	LOT 5	SWNW	43
T15S R25E S6		SENE	11	T15S R25E S6		NESW	28
T15S R25E S6	LOT 6	NWSW	9.4	T15S R25E S6		SESW	1.3

173.7 ACRES TOTAL

THIS RIGHT IS LIMITED TO THE IRRIGATION OF 10 ACRES WITHIN
THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION
SEASON.

USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED
TO THE IRRIGATION OF A COMBINED TOTAL OF 378 ACRES IN A SINGLE
IRRIGATION SEASON. COMBINED RIGHT NOS.: 43-402, 43-403A, 43-
404, 43-405, 43-2279, 43-10304, 43-13030.

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

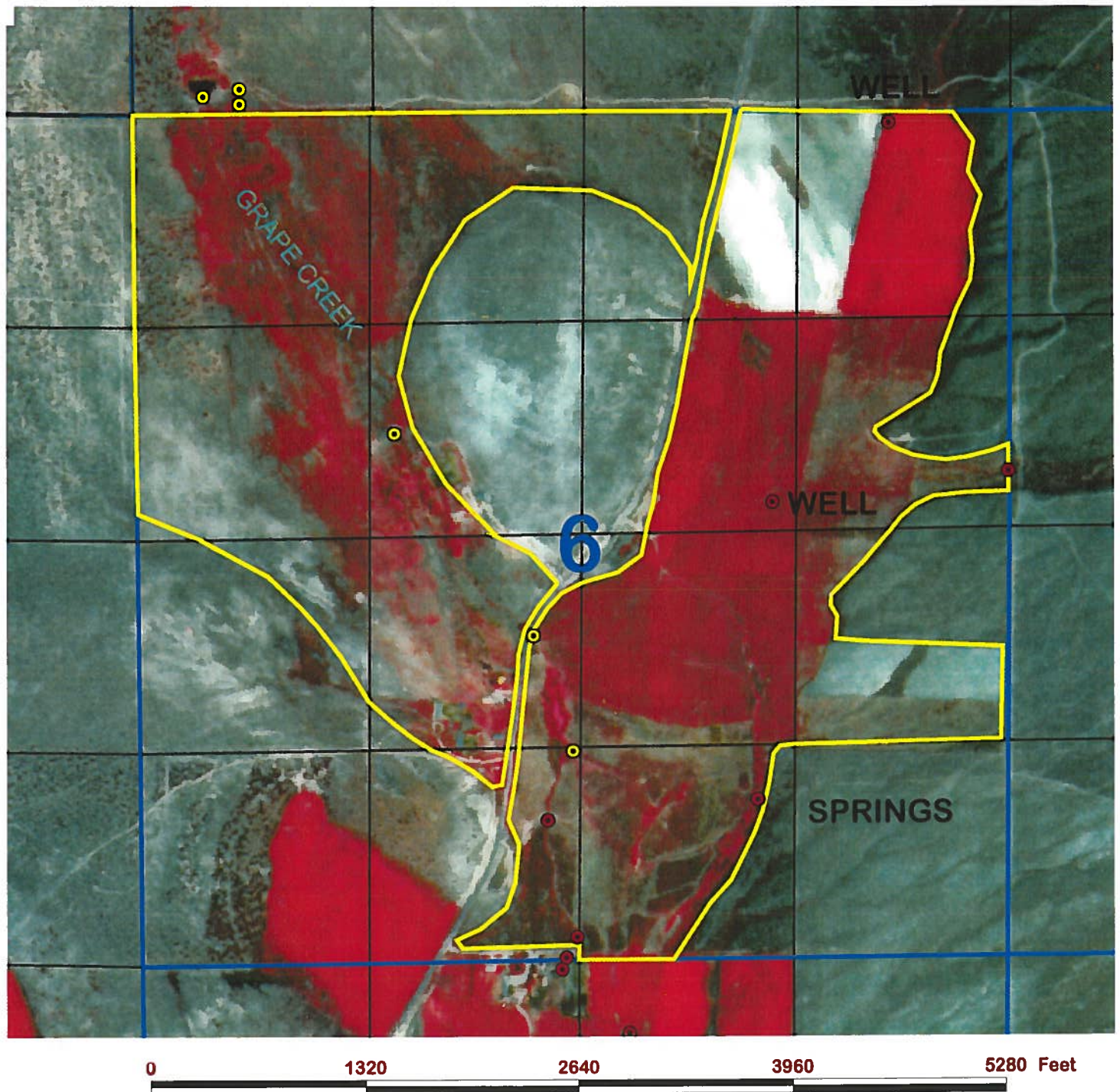
THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS
NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE
EFFICIENT ADMINISTRATION OF THE WATER RIGHTS AS MAY BE
ULTIMATELY DETERMINED BY THE COURT AT A POINT IN TIME NO LATER
THAN THE ENTRY OF A FINAL UNIFIED DECREE. SECTION 42-1412(6),
IDAHO CODE.

EXPLANATORY MATERIAL: BASIS OF CLAIM - License

Idaho Department of Water Resources

**RIGHTS: 43-402, 43-403A, 43-404, 43-405,
43-2247, 43-2279, 43-10304, 43-13030**

**RECOMMENDED PLACE OF USE
TWP 15S, RNG 25E, SEC 06
Data entry on June 5, 2001**



● RECOMMENDED POINT OF DIVERSION

RECOMMENDED PLACE OF USE

SECTION LINES

QUARTER/QUARTER LINES



GIS PLACE OF USE PRESENTATION
1987/1988 NAPP AERIAL PHOTOGRAPHY
PREPARED BY VIKIE HANCOCK

11/08/2000

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

RIGHT NUMBER: 43-2247

NAME AND ADDRESS: JAY L BLACK
KENNETH S BLACK
BOX 103
ALMO, ID 83312

SOURCE: GRAPE CREEK TRIBUTARY: RAFT RIVER

QUANTITY: 0.2 CFS

USE OF THIS RIGHT WITH RIGHTS LISTED BELOW IS LIMITED TO A
TOTAL COMBINED DIVERSION RATE OF 7.5 CFS. COMBINED RIGHT
NOS.: 43-402, 43-403A, 43-404, 43-405, 43-2279, 43-10304, 43-13030

PRIORITY DATE: 10/13/1922

POINT OF DIVERSION: T14S R25E S31 LOT 4 SWSWSW Within CASSIA County

ADD 2 P00

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE
IRRIGATION

PERIOD OF USE
04-01 10-31

QUANTITY
0.20 CFS

PLACE OF USE:

IRRIGATION Within CASSIA County

T15S R25E S6	LOT 2	NWNE	13	T15S R25E S6	LOT 3	NENW	24
T15S R25E S6	LOT 4	NWNW	44	T15S R25E S6	LOT 5	SWNW	43
T15S R25E S6		SENE	11	T15S R25E S6		NESW	28
T15S R25E S6	LOT 6	NWSW	9.4	T15S R25E S6		SESW	1.3

173.7 ACRES TOTAL OK

THIS RIGHT IS LIMITED TO THE IRRIGATION OF 10 ACRES WITHIN
THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION
SEASON.

USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED
TO THE IRRIGATION OF A COMBINED TOTAL OF 37.5 ACRES IN A SINGLE
IRRIGATION SEASON. COMBINED RIGHT NOS.: 43-402, 43-403A, 43-
404, 43-405, 43-2279, 43-10304. 43-13030 37.8

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.

*Per DOE
claimant
6-5-01
DAH*

EXPLANATORY MATERIAL: BASIS OF CLAIM - License

RIGHT INCLUDES ~~ACCOMPLISHED~~ CHANGE IN PLACE OF USE PURSUANT
TO SECTION 42-1425, IDAHO CODE.

Old (N) Number - 15633

+ - - - - Address - - - - +

State- ID Zip- 83312

State- ID zip- 83312

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+ - - - Status - - - +

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+

+

Diversion Rate Diversion Volume
 0.200

Description	County
SECTION 31	CASSIA

0 ac pbl ~~0 ac~~

U.C. is
permitted stage
at commencement
of 1928 decree.

Water right number - R43-02247

Prefix Translation: RESEARCH

+ - - - - - Remarks - - - - - +
No Remarks found.

+ - - - - - Old Water Right Numbers - - - - - +
No Old Water Right Numbers found.

+ - - - - - Conditions of Approval - - - - - +
No Conditions of Approval found.

+ - - - - - Decree Plaintiff - - - + + - - - - - Decree Defendant - - - + +
Decree Date - - +
00/00/0000

+ - - Audit Fields - 06/23/94 CHRISTEN 03/30/95 POST-STD

+ - - - - - -Comments- - - - - +
No Comments Found

+ - - - - - Adjudication Rights Dates and Flags Area - - - - - +

Court Report Filing	- 00/00/0000	Field Inspection Made	- 00/00/0000	Civil Case Number	- 39576
Objection Filed Date	- 00/00/0000	Field Inspection Flag	- 00/00/0000	Old Case Number	-
Response Filed Date	- 00/00/0000	Verified Date	- 00/00/0000	Old Judicial District	-
Claim Received Date	- 05/31/1989	Last Amended Date	- 00/00/0000	Temporary Right	- P
Proof Due Date	- 00/00/0000	Proof Made Date	- 00/00/0000	Water District	-
Licensed Date	- 00/00/0000	Receipt Number	- M003787	Federal/State Indicator	- S
		POU Ownership Flag	- Y	Presumption Flag	-
		Name Connector	- OR	Notice of Error Flag	-

Hancock, Vikie

From: Spencer, Nick
Sent: Wednesday, November 17, 1999 2:27 PM
To: Hancock, Vikie
Subject: RE: A43-02247

Hi Vikie. Yes, it looks to me that you should recommend the license. While the language in the Jobe Adams decree does indicate a clear intention to make the decree comprehensive, the plaintiffs didn't get everybody scooped up. Since it was a private adjudication it is only binding on the named parties and their successors-in-interest, and so there will be a few who should have been named as parties who weren't. These two conflicting principles (intent to adjudicate all the water uses vs. only named parties are bound) are probably going to give us some real head-scratchers in terms of figuring out whether a particular claim should have been in the decree or not; fortunately I don't think this is one. Here the application for permit was filed after the Jobe Adams lawsuit had been filed. Almost certainly the plaintiffs in the suit instituted it for the purpose of sorting out and lining up EXISTING water uses as of the date of commencement. This permit was not an existing use on that date, so there was no need to try to scoop it up after the lawsuit had started. The field agent's notes indicate that he--and presumably therefore the permitholder--were aware of the existing uses on Grape Creek that were being adjudicated but didn't see that there was any potential for conflict because (1) the license would have a junior priority date as compared to the rights of the four ranches whose rights were being adjudicated, and (2) the license was limited to high water anyway. (And even if the four ranches ended up with decreed rights for high water it wouldn't make any difference because the license in question would be junior to those rights.) Therefore this is not a case where we can say the license was superceded by the decree. The license was valid when issued. The only question of significance at this point is what happened to the water use after the date the license was issued? Unless we have clear and convincing evidence of abandonment or of five consecutive years of unexcused non-use without a resumption of use effected without injury to intervening junior rights, it looks to me like the claimant has a valid licensed water right for ten inches of high water on ten acres. I hope this both makes sense and addresses your concerns. If not, let me know. NBS

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

From: Hancock, Vikie
Sent: Wednesday, November 17, 1999 12:40 PM
To: Spencer, Nick
Subject: A43-02247

Nick,

I am planning on recommending this claim based upon the license but wanted to run it by you.

History: Grape Creek was included in the Jobe Adams decree in its own separate section. You have previously interpreted the language in that section to imply that all the water usage of Grape Creek existing at that time be included. In the Jobe Adams, Grape Cr was divided between 4 ranches.

- The above mentioned license was issued on land not included in the Jobe Adams, to a party not listed in the Jobe Adams. It is for 0.2 cfs on 10 acres.
- The application for permit was received by the department October 1922, the field exam was conducted in August 1927.
- The Jobe Adams lawsuit was filed in May 1922, and the Decree issued October 18, 1928.
- Remarks on the licensing field exam acknowledge that the water of Grape Creek is owned by four ranches which rotate the water in the low water season, and that this license represents a high water right, only.
- One of the four ranches subsequently purchased the property this license is appurtenant to, and is claiming it along with their decreed rights to Grape Creek. There is every indication that this .2 cfs has been historically used since 1927.

Do I have sufficient reason to recognize this license as valid? If not, let me know.

I have claims based on two other old licenses on Grape Cr. that pre-date the Jobe Adams that I am planning to disallow, even though the tracts they were appurtenant to were also left out of the Jobe Adams. My opinion on those two is that there was not irrigation usage there at the time of the decree and that the licenses had probably been forfeited due to non use. (Claimants grandfather purchased the lands at a sheriff sale)

Thanks - -

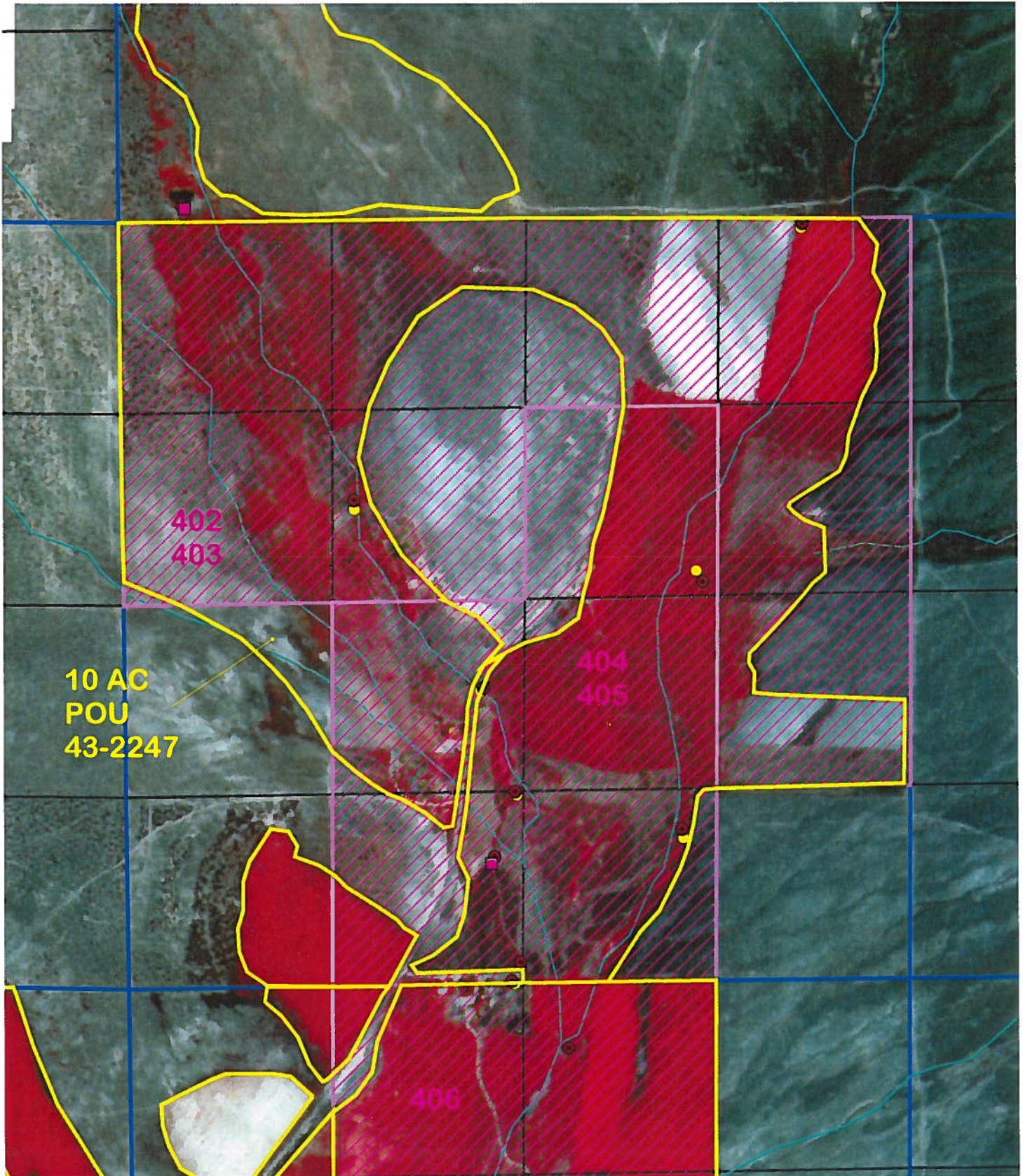
Claimant Janie Wake was included in the decree (note mis-spelling) but this poll was not. Possibly she was listed because of the waste wa use mentioned in the licensing field exam. This licensed use still not included in Jobe Adams.

Correction - she was listed

FILE NOTES

43-2247

TWP 15S RNG 25E



V. HANCOCK

1987 NAPP AERIAL PHOTOGRAPHY

State of Idaho License and Certificate of Water Right

Water License No. 15633

Amount 0.2 sec. ft.

Water District No. 8-C

Priority 10-13-1922.

THIS IS TO CERTIFY that Mrs. Janie I. Wake,
of Elba, Idaho, made application for a permit to appropriate the
public waters of the State of Idaho, dated October 13, 1922; that Permit No. 15633
was issued under said application; that Certificate of Completion of works, with a carrying capacity of
0.9 second feet, was issued thereunder on October 27, 1925, showing that said works
were completed on the 12th day of October, 1925; and that on the 3rd
day of September, 1927,

Mrs. Janie I. Wake,

of Elba, State of Idaho, made proof to the satisfaction of the
Commissioner of Reclamation of Idaho, of the right to use the waters of Grape Creek
, a tributary of Raft River, for the purpose of irrigation and
domestic use, under Use Permit No. 15633 of the Commissioner of Reclamation,
and that said right to the use of said waters has been perfected in accordance with the laws of Idaho, and is
hereby confirmed by the Commissioner of Reclamation of Idaho and entered of record in Volume 6
of Licenses, at page 3469, on the 28th day of September, 1927;

The right hereby confirmed dates from October 13, 1922;

The Point of Diversion is located
in the SE ¼ SW ¼ Sec. 31, Tp. 14 S., R. 25 E., B.M. Cassia County;

That the amount of water to which such right is entitled and hereby confirmed, for the purposes aforesaid,
is limited to an amount actually needed and beneficially used for said purposes, and shall not exceed 0.2
cubic feet per second.

Description and location of use:

Twp.	Range	Sec.	Forty-acre Tract	No. Acres Described in Permit	No. Acres Actually Irrigated
15 S.	25 E.	6	Lot 6	43.31	10

The right to the use of the water aforesaid hereby confirmed is restricted to the lands or place of use
herein described, as provided by the laws of Idaho.

WITNESS the seal and signature of the Commissioner of Reclamation, affixed at Boise, Idaho,
this 28th day of September, 1927.

GEO. H. CARTER,

Commissioner of Reclamation

(SEAL)

43 2247

APPLICATION FOR PERMIT 43-2247

TO APPROPRIATE THE PUBLIC WATERS OF THE STATE OF IDAHO

Application No. 22214
Permit No. 15633
District No. 8-C

1. Name of Applicant: Mrs. Janie I. Wake,
Postoffice address: Elba, County: Cassia, State: Idaho.
 I. If applicant is a corporation, give:
 (a) Date and place of incorporation:
 (b) Amount of capital stock:
 (c) Amount paid in:
 (d) Names and addresses of directors:
 II. The financial resources of the applicant are:
 (a) Cash on hand:
 (b) Treasury stock:
 (c) Bonds to be issued:
 (d) Other resources:
2. Quantity of water claimed: 0.9 cubic feet per second.
3. Source of water supply: Grape Creek, which is a tributary of Raft River
4. Location of point of diversion: feet distant from the
 corner of Section , T. , R. , B. M., and is in the SE $\frac{1}{4}$ of the SW $\frac{1}{4}$
 of Section 31, T. 14 S., R. 25 E., B. M., County of Cassia.
5. Water is to be used for: Irrigation purposes.
6. If for mining, milling, power or manufacturing purposes, give:
 (a) Point of use of water: feet distant from corner of Section
 T. , R. , B. M., in the of Section , T. , R. , B. M.
 (b) Amount of power generated: H. P., under feet head.
 (c) Water is to be returned to at a point feet
 distant from the corner of Section , T. , R. , B. M., in the
 of Section , T. , R. , B. M.
7. Estimated cost of works: \$ 150.00
8. Kind of works: Ditch
9. Height of dam two feet; length of dam at top six feet; length of dam at bottom six feet; material used in dam earth
10. Size of headgate: width two feet; height two feet
11. Ditch: Width at bottom two feet; width at water line two feet; depth of water 1 feet; dimensions of flume
 Diameter of pipe inches; length of conduit one-half miles.
 Average grade per mile 15 feet
12. The time required for the completion of such work is three years.
13. The time required for the complete application of the water to the proposed use is two additional years.
14. The land to be irrigated is described in the following tabulation: See Remarks.

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

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

Mrs. Janie I. Wake.

Applicant.

By

Agent.

Date of first receipt at Department of Reclamation. 9 A. M. October 13, 1922.

Returned to applicant for correction.

Corrected application received.

APPROVAL OF COMMISSIONER OF RECLAMATION

The number of this permit is 15633
 Recorded in Book 56 Page 15633 Approved October 19, 1922.
 This is to certify that I have examined the within application for a permit to appropriate the public waters of the State of Idaho, and hereby approve the same, subject to the following limitations and conditions:
 Bond in the sum of \$ to be filed on or before
 Work to begin on or before December 18, 1922, and to continue diligently and uninterruptedly to completion, unless temporarily interrupted by circumstances over which permit holder has no control.
 One-fifth of the work above specified to be completed on or before April 19, 1924.
 The whole of said work to be completed on or before October 19, 1925.
 Beneficial use of water appropriated in accordance herewith, to be made on or before October 19, 1927.

Witness my hand this 19th day of October, 1922.

W. G. SWENDSEN.
 Commissioner of Reclamation.

Remarks:

14 Twp.	Range	Sec.	NE¼				NW¼				SW¼				SE¼				Totals
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
15 S.	25 E.	6	Lot 6;																43.31.
							Total Number of Acres to be Irrigated												43.31

			Proof of Completion of works made October 12, 1925																
			Certificate issued October 27, 1925																
							Permit No. 15632												
							CERTIFICATE OF COMPLETION OF WORKS												
			TO ALL WHOM IT MAY CONCERN:																
			This is to certify that Janie I. Wake, of Blaine, County of Cassia, and State of Idaho, the holder of Permit No. 15632, issued upon application No. 22274 bearing date of priority of October 13, 1922, authorizing the diversion of 0.9 second feet of the waters of Grape Creek, County of Cassia, State of Idaho, for irrigation purposes, has fully complied with the provisions of the laws of the State of Idaho relating to the proof of completion of the works of diversion set out and described in said permit; that said works are adequate for diverting and conveying to the place of intended use 0.9 second feet of the waters of Grape Creek, that the point of diversion of said waters is in the SW¼, Sec. 51, T. 14 N., R. 25 E. B.M.; and that the lands proposed to be irrigated by the use of said water are described as follows, to-wit: Lot 6, Section 6, Twp. 15 S., R. 25 E. B.M.																
			Witness my hand this 27th day of October, A. D. 1925.																
							W. G. SWERDSEH												
							Commissioner of Reclamation												
							License No. 100				O. R.								
											P. 100, 0								

**STATE OF IDAHO
DEPARTMENT OF RECLAMATION
BOISE**

REPORT OF ENGINEER

PERMIT NO. _____

REPORT ON PROOF OF _____

STATE OF IDAHO
DEPARTMENT OF RECLAMATION
BOISE, IDAHO
REPORT OF ENGINEER

Permit No. 15633This proof is for Beneficial UseIn Water District No. 8-C

1. Name of applicant: Janie I. Wake
2. Source of water supply: Grape Creek
3. Location of point of diversion: Is in the SE¹SW¹ of Section 31
T. 14S R. 25E County of CASSIA

4. Describe works as they exist, giving dimensions and capacities of same:
- Water is diverted directly from creek into ditch by small dam and H. G. a weir, capacity of ditch at head about 200" of land about 50"*

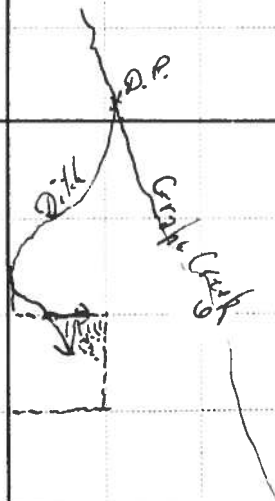
5. Water is used for: Irrigation

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

7. List legal subdivisions of lands to be irrigated. If proof is for beneficial use, give exact number of acres under cultivation in each forty-acre tract. (Describe manner and place of use if for other than irrigation): Lot 6, Sec. 6, Twp. 15 S., R. 25 E. B. M.

T 15 S R 25 E

31



STATE OF IDAHO
DEPARTMENT OF RECLAMATION
ENGINEER
REPORT OF ENGINEER

Janie I. Wake

Elba

Permit No. 15633

Examination for BEN. USE

County CASSIA

EXAMINERS

e location of the
urately plat same.

cial use, carefully
cres actually irri-
l accurately plat

orrect location of
ne irrigated lands,
nent landmarks,
rge streams and

s are discovered,
f them under re-

ossible, and go
th him, and make
ual existing facts

STATE OF IDAHO
Department of Reclamation

Proof of Completion of Works

AFFIDAVIT OF HOLDER

STATE OF IDAHO.

County of Blaine

Janie J. Wake, being first duly sworn, upon his oath deposes and says:

First: That he is the holder and owner of Permit to appropriate the Public Waters of the State of Idaho, No. 15633, and that his postoffice address is Idaho

State of Idaho

Second: That the name of the stream from which said water is to be diverted is Grape Creek

Third: That the point of diversion of said water is about one fourth of a mile north of N. W. Corner Sec 6, Twp 16, Rge 5,

Fourth: That under the terms and conditions of said permit, construction thereunder was required to be completed by Oct 19, 1925

Fifth: That the use for which said water is intended is irrigation

Sixth: That on the date above mentioned, the works constructed under said permit were (or were not) fully completed and consisted of the following:

I. Kind of works: ditch

(Reservoir, dam, ditch, flume, pipe or otherwise.)

II. Dimensions of work: 2 ft on bottom only, no top.

(a) Height of dam 2 feet, length of dam at top 14 feet, length of dam at bottom 14 feet. Material used in construction earth

(State whether wood, earth, stone or concrete.)

(b) Capacity of reservoir acre feet.

(c) Size of headgate: Width feet, height feet.

(d) Conduit width at bottom feet, width at water line

(State whether ditch, flume or pipe.)

 feet, depth of water feet; diameter of pipe inches, average grade per mile is feet. Length of conduit is miles.

Seventh: That said works are capable of conducting to the place of intended use second feet of water.

Eighth: That water appropriated under said permit is available for 43.31 acres of land described as follows: lots 6 Sec 6 Twp 16 South Rge 5 East Boise Meridian

Ninth: Remarks: That

Janie J. Wake
(Sign here)

Subscribed and sworn to before me this 12 day of October, 1925

My commission expires Dec 31, 1926

David H. Hallard Justice of the Peace
Notary Public

Field Exam Notes

Field Exam Date: 10-01-1999

Claim No: A43-00402, -00403A, -00404, -00405, -02279, -02247, 04069, A43-07144, -10304

Claimants: Jay L. Black, Kenneth Black, J. Spencer Black

Agent: Vikie Hancock

Mr. Jay L. Black and Agent Jeanne Robertson accompanied me on this field exam. In response to a question regarding any updates of address or ownership of these claims, Mr. Black said that J. Spencer Black should be removed from all the claims. I explained that some sort of deed of conveyance would be needed, and he said that could be provided.

This ranch has two irrigation systems. Both include both surface and groundwater, sprinkler and flood irrigation.

Claims **A43-00402, -00403A, -00404, and -00405** are based upon Jobe Adams decreed rights to Grape Creek. There were four original ranches that used all the water of Grape Creek, and Blacks own two of those ranches. It is agreed by the three current users of Grape Creek that the decrees on Grape Creek represent four total shares: Black has 2 shares, Ron Ward has 1 share and Clark ward has 1 share. Until the recent past, the water was used on a timed rotation. In the early 1980s a pond and two pipelines were constructed that convey Grape Creek water from a diversion point in the SWSW Section 31 T14S R25E. An 8 inch pipe goes to property irrigated by Clark Ward. A 12 inch pipe diverts water to property irrigated by Jay Black and Ron Ward. *(See claim files A43-00406 and A43-00407 for information about the other claimants' systems).*

The buried pipeline runs southeast through Jay Black's land until it intersects the $\frac{1}{4}$ section line between the SWNW and SENW of section 6. It then follows this line directly south. Approximately one quarter of the way south into the SW $\frac{1}{4}$ of section 6, there is a valve where claimant has a piped diversion that conveys the water east and into the main sprinkler line. It mixes with groundwater from the two wells licensed under 43-02279 and water from the spring claimed as A43-10304. Sprinkler irrigation from this source occurs in the NE $\frac{1}{4}$ section 6 and the N $\frac{1}{2}$ SE $\frac{1}{4}$ section 6.

Claimant also has a surface diversion from Grape Creek in the SWSWSW Section 31, T14S R25E. The ditch from this diversion runs west along the North section line of section 6 and south along the west section line of section 6 to flood irrigate the NW $\frac{1}{4}$ of section 6, excluding the hill. Another diversion from the Grape Creek channel is located on the southeastern edge of the hill in the SENW section 6. It is used to irrigate to the west of the creek and specifically the old orchard. Two surface diversions are located on the east side

of the highway. One is just after Grape Creek crosses under the highway. The ditch from this diversion runs southeasterly and then turns east to cross the south end of the NWSE. The difference in vegetation between the land sprinkled north and the land flooded south of this ditch can clearly be seen on the GIS layout. The last diversion from Grape Creek also goes out to the east and is located in the SE NE SW of the section.

Claim **A43-02279** is based upon a license for ground water issued in 1965. The first well in the SESWNE was supplemented by a second well in the NENENE in 1980. These two wells are interconnected and mingle with the water from the Grape Creek pipeline, and with the spring. The second well in the NENENE is powered by a diesel motor, and Mr. Black stated that it pumped 140 gpm, and that both wells were dependant on groundwater recharge that typically takes place in spring. He said he thinks that the irrigation Ron Ward does from Grape Creek on his pasture in section 31 prolongs the time that he can use his wells in section 6. Sprinkler irrigation from this source occurs in the NE $\frac{1}{4}$ and the N $\frac{1}{2}$ SE $\frac{1}{4}$ of section 6. The place of use claimed represents an accomplished transfer from the tracts licensed, and from the data on the 1980 transfer application.

Claim **43-10304** is on a spring that is located in the SWSE section 6. A 5 hp pump is used to pump the water from this spring into a reservoir built after 1987. From the reservoir the water is piped into the main sprinkler lines. Before the reservoir was constructed, the water from the spring was pumped directly into sprinkler lines. Claimant said that this water is mainly used to run sprinklers up a draw in the S $\frac{1}{2}$ of the NESE section 6. He runs one $\frac{1}{4}$ mile line with 5gpm sprinkler heads. He said that the spring was always a wet spot and that the farm garden was there in the old days. However, through the years the meadow was drained by using tiles and then perforated pipe, and the water was directed toward the spring, so that there is more water available now than when the place was first homesteaded.

Claimant also uses water from **Savage Hollow Creek**, although he has not filed a claim for it. It is used to flood irrigate a draw in the SENE section 6, and also out into the field below it when the water is sufficient. Savage Hollow Creek is tributary to Grape Creek. Clark Ward filed a claim on Savage Hollow Creek for irrigation use to protect his right to the water after it joins Grape Creek, even though he has no diversion on Savage Hollow Cr. Clark Ward is aware of Mr. Black's irrigation use of Savage Hollow, but Mr. Black is reluctant to file a claim on it. During my conversation with Clark Ward, I said that it may be good for me to meet jointly with him, Ron Ward and Jay Black to see what they wanted to do about Savage Creek so that all interests are protected.

Claim **A43-02247** was brought to my attention by Agent Kelly Christensen after my field exam of the Black property. It is based upon a license for the water of Grape Creek. It seems to be of a date that would make it superceded by the Jobe Adams Decree, but further investigation is required due to the particulars of this license.

A second system is used by Mr. Black in sections 1 and 12 T15S R24E. This is a combination of groundwater and surface water from Tater Creek. *See claim file A43-04069 for additional information and photos.*

ALBION-IDAHO LAND COMPANY

-vs-

JOBE ADAMS, et al

DECREE #992

10-18-1928

32

43-00477	<u>J. P. Jensen right</u> July 31-1882	1.5 s.f. /	$S\frac{1}{2}SW\frac{1}{4}$, Sec. 9, $NW\frac{1}{4}SE\frac{1}{4}$, Sec. 10, Twp. 15 S. R. 24 E.B.M.
13-00396	<u>Geo. D. Graham right</u> 1883-Apr. 30	1.5 s.f. /	$N\frac{1}{2}SE\frac{1}{4}$, $NE\frac{1}{4}SW\frac{1}{4}$, $SE\frac{1}{4}NW\frac{1}{4}$, Sec. 21, Twp. 15 S. R. 24 E.B.M.
397	<u>C. V. Spencer right</u> 1882-Apr. 30	2 s.f. /	$NW\frac{1}{4}$, Sec. 25, Twp. 15 S. R. 24 E.B.M.
398	<u>Jno. Miller right</u> 1882-Apr. 30	1 s.f. /	$E\frac{1}{2}SW\frac{1}{4}$, $W\frac{1}{2}SE\frac{1}{4}$, Sec. 10, Twp. 15 S. R. 24 E.B.M.
399	<u>Charles Heath right</u> 1883-May 31	1 s.f. /	$S\frac{1}{2}SW\frac{1}{4}$, Sec. 22 and $NW\frac{1}{4}NW\frac{1}{4}$, Sec. 27, Twp. 15 S. R. 24 E.B.M.
400	<u>Henry T. Eames right</u> 1884-Mar. 31	1 s.f. /	$E\frac{1}{2}NW\frac{1}{4}$ and $W\frac{1}{2}NE\frac{1}{4}$, Sec. 10, Twp. 15 S. R. 24 E.B.M.
401	<u>Robert J. Eames right</u> 1884-Apr. 30	1 s.f. /	$E\frac{1}{2}SE\frac{1}{4}$, $NW\frac{1}{4}SE\frac{1}{4}$, $NE\frac{1}{4}SW\frac{1}{4}$, Sec. 23, Twp. 15 S. R. 24 E.B.M.

GRAPE CREEK

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, That Grape Creek, heretofore mentioned as a tributary of Almo Creek be, and hereby is, set off as a separate water district, and that the defendants and cross-complainants hereinafter named shall have the exclusive right to the use of the waters of Grape Creek to the extent of their various appropriations hereinafter set forth for the irrigation of their respective tracts of land hereinafter described, and that such right is independent of and superior to the rights of the various users of water from Almo Creek, and that the use of the water by said parties hereinafter named shall not be considered as a violation of the injunctive provisions of this decree, and that the use of all of said waters by the herein-after named defendants shall not be construed as an invasion of the rights of the water users of Almo Creek; that as between the hereinafter named defendants, their priorities and rights to use the waters of said Grape Creek be, and hereby are, fixed as follows:

Chas. Wake and the other heirs
at law of Eliza Wake
1880-Apr. 1 3.2 s.f.
1881-Apr. 1 3.2 s.f.

To be diverted from Grape Creek
High water of Grape Creek for the
irrigation of $NW\frac{1}{4}$, Sec. 6, Twp. 15 S.
R. 25 E.B.M., also Lots 1 and 2, and
 $NE\frac{1}{4}SE\frac{1}{4}$, $SE\frac{1}{4}NE\frac{1}{4}$, Sec. 6, Twp. 15 S. R.
25 E.B.M.

Asael Lowe and other heirs at
law of John Lowe, deceased.
1880-Apr. 1 3.2 s.f.
1890-Apr. 1 .8 s.f.

To be diverted from Grape Creek for the
irrigation of $SW\frac{1}{4}NE\frac{1}{4}$, $NE\frac{1}{4}SW\frac{1}{4}$, $W\frac{1}{2}SE\frac{1}{4}$,
 $SE\frac{1}{4}SW\frac{1}{4}$, Sec. 6, Twp. 15 S. R. 25 E.B.M.

John C. Ward and
Nellie Ward
1880-Apr. 1 3.2 s.f.

To be diverted from Grape Creek for the
irrigation of $NW\frac{1}{4}NE\frac{1}{4}$, $SW\frac{1}{4}NE\frac{1}{4}$, $NE\frac{1}{4}NW\frac{1}{4}$,
 $SE\frac{1}{4}NW\frac{1}{4}$, Sec. 7, Twp. 15 S. R. 25 E.B.M.

Orville Ward and
Nina Ward
1880-Apr. 1 3.2 s.f.

To be diverted from Grape Creek for the
irrigation of $NE\frac{1}{4}NW\frac{1}{4}$, Sec. 18, Lot 3,
 $NE\frac{1}{4}SW\frac{1}{4}$, $SE\frac{1}{4}SW\frac{1}{4}$, Sec. 7, Twp. 15 S. R.
25 E.B.M.

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