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DEPARTMENT OF
WATER RESOURCES

DISTRICT COURT - SRBA Fifth Judicial District County of Twin Falls - State of Idaho	
APR - 6 2012	
By _____	Clerk Deputy Clerk

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

In Re SRBA

Case No. 39576

SUBCASES: 63-18302, 63-18478 & 63-31490

ORDER OF REFERENCE APPOINTING
SPECIAL MASTER THEODORE R. BOOTH

On January 19, 2000, a *Partial Decree* was issued for water right number 63-10382. On February 14, 2000, a *Partial Decree* was issued for water right number 63-18478. On April 21, 2003, a *Partial Decree* was issued for water right number 63-31490. On April 6, 2012, a *Standard Form 1 Objection* was filed by Alice A. Morris Culver for said water rights. This *SF1* is being considered by this Court as a *Motion to Set Aside Partial Decrees*. A copy of the *SF1* is attached to this Order.

Therefore, IT IS ORDERED that Special Master Theodore R. Booth be appointed to preside over the above-mentioned *Motion* and conduct all proceedings necessary to issue a recommendation consistent with *AOI*, and the authority previously conferred in the *Order of Reference for Basin 63*, as to the *Motion* and to the underlying merits as to how the *Partial Decrees* should be amended, if it is determined that said *Partial Decrees* should be set aside or amended.

Dated April 6, 2012.



ERIC J. WILDMAN
Presiding Judge
Snake River Basin Adjudication

DISTRICT COURT - SRBA
Fifth Judicial District
County of Twin Falls - State of Idaho

APR - 6 2012

By _____

Clerk
Deputy Clerk

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

In Re SRBA _____ Case No. 39576 _____	))))	A. Subcase <table border="0" style="display: inline-table; margin-left: 10px;"> <tr> <td style="text-align: right;">18302</td> <td style="font-size: 2em; vertical-align: middle;">}</td> <td style="text-align: left;">63-02520</td> <td rowspan="2" style="font-size: 2em; vertical-align: middle;">}</td> <td rowspan="2" style="text-align: left; padding-left: 10px;">63-31490</td> </tr> <tr> <td style="text-align: right;">18478</td> <td></td> <td style="text-align: left;">63-02531</td> </tr> </table> (Insert water right number)	18302	}	63-02520	}	63-31490	18478		63-02531
18302	}	63-02520	}	63-31490						
18478		63-02531								

**STANDARD FORM 1
OBJECTION**

Please fill in the following information:

B. NAME AND ADDRESS OF PERSON OBJECTING

Name: Alice A. Morris Culver

Address: 6100 N. Pierce Park Lane
Boise, Idaho 83714

Daytime Phone: 208-853-1222

Name & Address of Attorney, if any:

C. CLAIMANT OF WATER RIGHT AS LISTED IN DIRECTOR'S REPORT

Name: Alice A. Morris Culver

Address: 6100 N. Pierce Park Lane
Boise, Idaho 83714

D. I object to the following elements as recommended in the Director's Report. (Please check the appropriate box(es)).

1. ☐ **Name and Address**
Should be: _____
2. ☒ **Source**
Should be: Elk Creek and Wolf Creek
3. ☒ **Quantity**
Should be: As originally stated in original water rights
4. ☐ **Priority Date**
Should be: _____
5. ☒ **Point of Diversion**
Should be: also include SW1/4SW1/4 Section 12 & NE1/4 NE1/4 Section 14 T6N, R5E
6. ☐ **Instream Flow Beginning and Ending Point**
Should be: _____
7. ☒ **Purpose(s) of Use**
Should be: ~~MM~~ Mining, Power, Fire Protection, Stockwater
8. ☐ **Period of Year**
Should be: _____
9. ☒ **Place of Use**
Should be: N1/2, E1/2, SE1/2, NW1/4, SW1/4, NE1/4, SEC 23, T6N, R5E
10. ☐ **I object because:**
☐ This water right Should not exist.
☒ This water right was not recommended, but Should be recommended with the elements described above.

E. **REASONS SUPPORTING OBJECTIONS(S):** Spanish Fork is dry by June/July of each year and Elk Creek is a live stream year round which is needed for purposes stated above and it adjoins my property.

INSTRUCTIONS FOR MAILING

You must mail the objection, to the Clerk of the court. **FAX filings will not be accepted.** You must also send a copy to all the parties listed below in the Certificate of Mailing.

G. CERTIFICATE OF MAILING

I certify that on April 4,, 2002, I mailed the original and copies of this objection, including all attachments, to the following persons:

1. Original to:

Clerk of the District court
Snake River Basin Adjudication
253 Third Avenue North
PO Box 2707
Twin Falls, ID 83303-2707

2. One copy to the claimant of the water right at the following address:

Name: Alice A. Morris Culver
Address: 6100 N. Pierce Park Lane
Boise, Idaho 83714

3. Copies to:

IDWR Document Depository
PO Box 83720
Boise, ID 83720-0098

United States Department of Justice
Environment & Nat'l Resources Div
550 W Fort Street, MSC 033
Boise, ID 83724

Chief, Natural Resources Division
Office of Attorney General
PO Box 44449
Boise, ID 83711-4449



Signature of objector or attorney
mailing on Objector's behalf

F.

VERIFICATION (must be completed)

State of Idaho)
)ss.
County of Boise)

Alice A. Morris Culver, duly sworn, upon oath, deposes and says:
(Name of person filing objection)

That I am the party/claimant filing this objection, as defined by I.C. §§ 42-1401A(1) and (6) or that I am the attorney for the party/claimant objecting and that I have read this objection, know its contents and believe that the statements are true to the best of my knowledge.

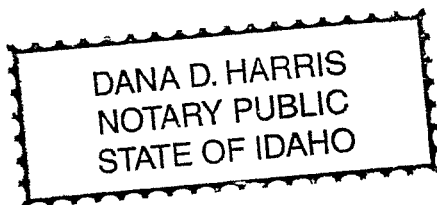
Alice A. Morris Culver
(Signature of person filing objection)

(Attorney signing in representative capacity)

Subscribed and sworn to before me on: April 4, 2012

Dana D. Harris
Notary Public for Idaho

Residing at: 9301 Washoe Rd. Fruitland, Idaho 83619
My Commission Expires: 2/10/17



Dept. of Water Resources:

We would like to reopen the adjudication hearing on the water license 18478, dated 7-2-1937.

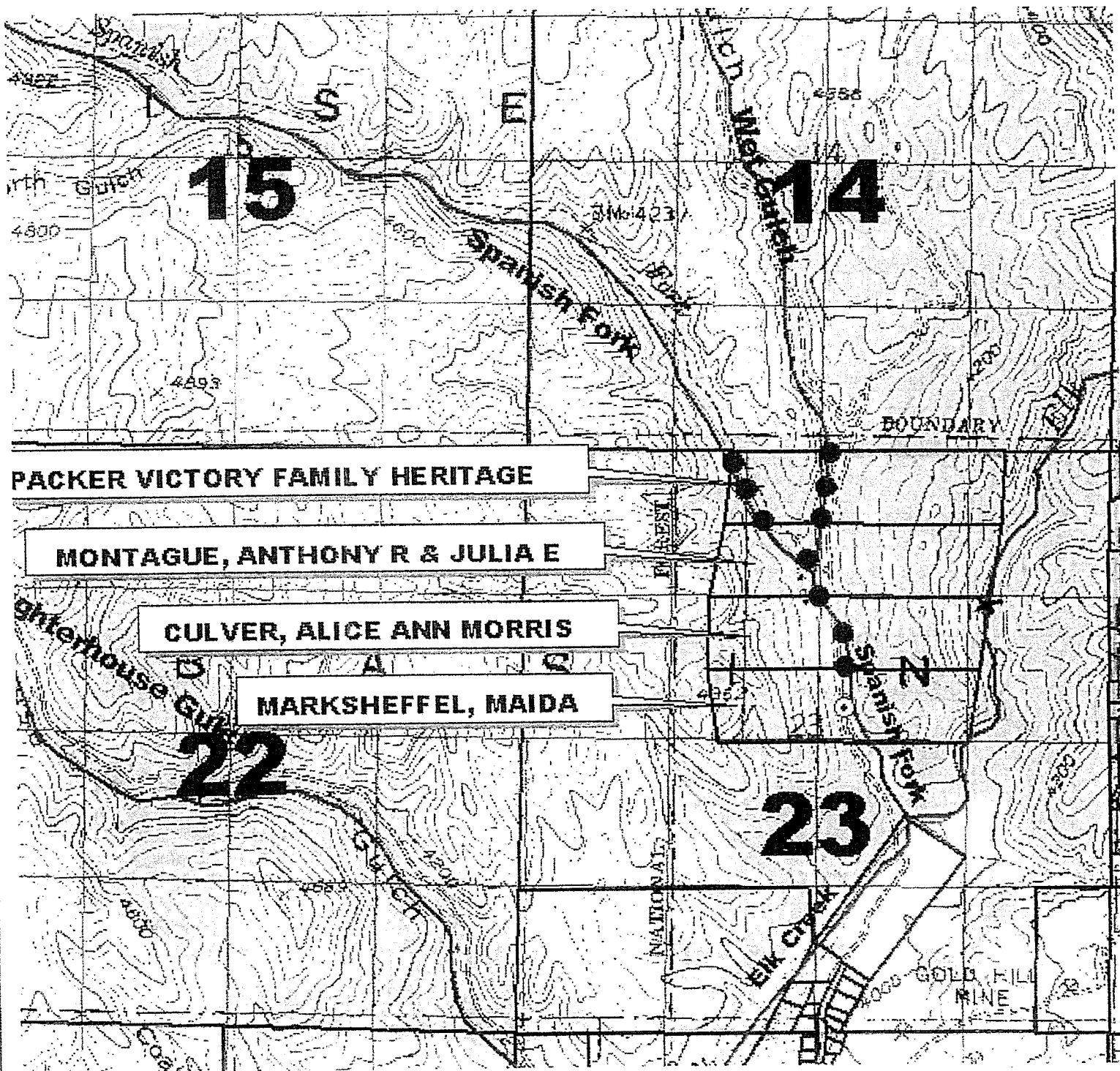
It has come to our attention that the person who adjudicated this license was not familiar with the property and apparently did not realize that our water rights were out of Elk creek and Spanish Fork Creek was only used to deliver the water and of course the use of the run off until the creek went dry , which was normally in the latter part of June or 1st of July. The point of diversion was on Elk Creek and I have included the original maps and Engineers report, dated October 12th, 1941. I have also included a map and engineers report dated June 8th, 1949 which has the same point of diversion out of Elk Creek for Power for Sawmill and mining.

There is a note in the file from Mr. Sexton of the adjudication committee that he had visisted with Irene Victory who told him that the use had not been uses in 50 years. The mill was actively cutting timber in 1962, Mr. Packer had used the power and water continuesly for 60 or 70 years, until his death in 1962. Irene was ill at this time and had no idea of when, where or who used the water and for what.

Mr. Sexton had talked to Larry Morris and Alice Culver several times and was well aware of (or maybe should have been) of the continued mining by Sluice box and use of the water by the inhabitants of our property. Please keep in mind that Spanish Fork goes dry, early in the season and the only water we have is out of Elk Creek, which is the point of our diversion.

I have included a letter from the Dept. of Water Resources, that still viewed our water rights as Spanish Creek of Elk Creek. I have enclosed a copy.

We as a family and the owners of the property had no idea that you were taking away the point of access for our water until Larry applied to have the point of access moved from its present location to a little ways south for easier access for him to pump it up over the hill to again join Spanish Fork.

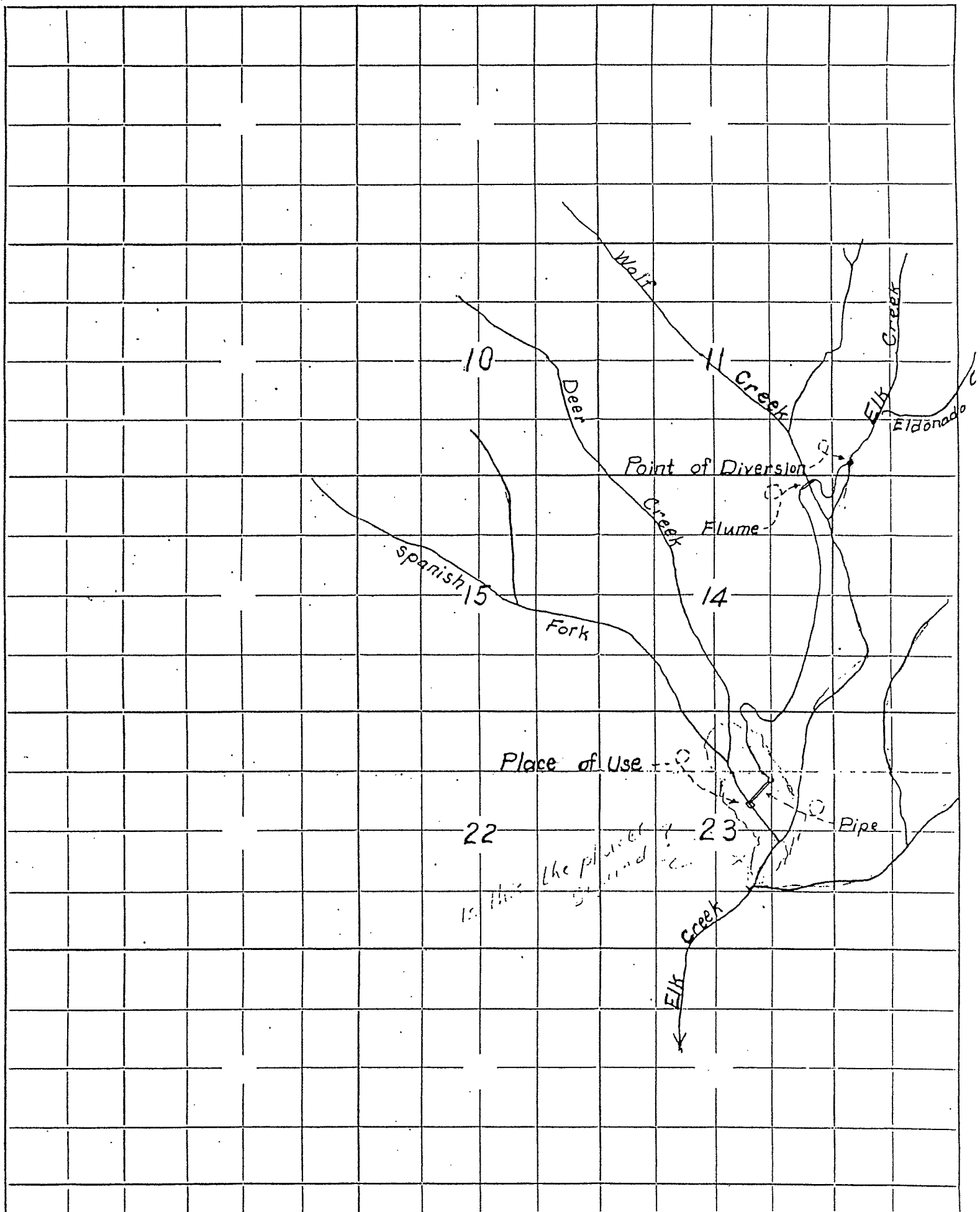


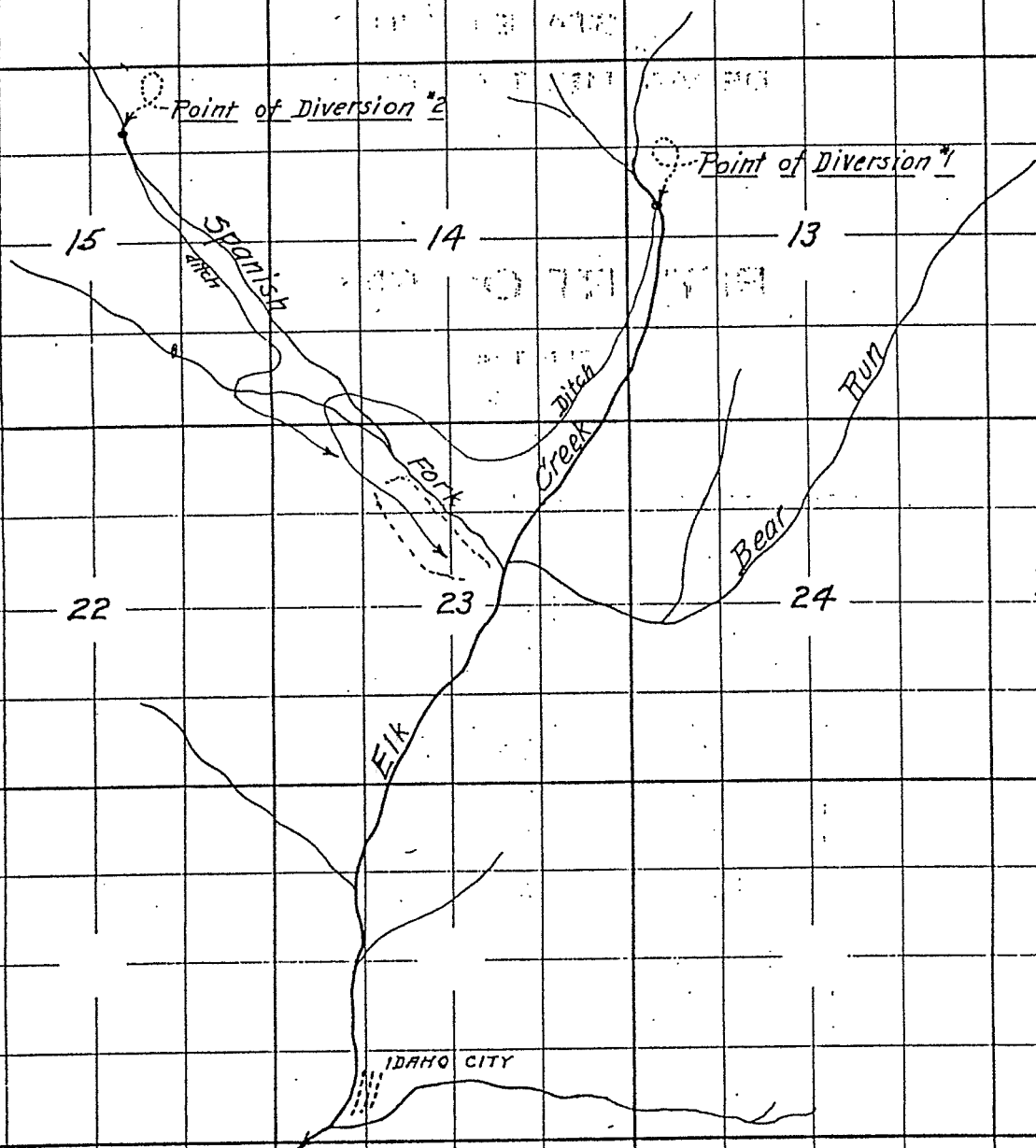
PACKER VICTORY FAMILY HERITAGE

MONTAGUE, ANTHONY R & JULIA E

CULVER, ALICE ANN MORRIS

MARKSHEFFEL, MAIDA





CERTIFICATE OF MAILING

I certify that a true and correct copy of the ORDER OF REFERENCE APPOINTING SPECIAL MASTER THEODORE R. BOOTH was mailed on April 06, 2012, with sufficient first-class postage to the following:

WALKING R FARMS LTD
C/O EDYTHE R LLOYD
2425 W VICTORY RD
MERIDIAN, ID 83642
Phone: 208-888-3649

WALKING R FARMS LTD
C/O JOHN L LLOYD
2772 W AMITY RD
MERIDIAN, ID 83642
Phone: 208-888-6117

WALKING R FARMS LTD
C/O RICHARD L LLOYD
2425 W VICTORY RD
MERIDIAN, ID 83642
Phone: 208-888-3649

DIRECTOR OF IDWR
PO BOX 83720
BOISE, ID 83720-0098

BOB R HILLMAN
MARTHA A HILLMAN
1260 ROLLING HILLS DR
MERIDIAN, ID 83642
Phone: 208-375-5159

ALICE ANN MORRIS CULVER
6100 PIERCE PARK LN
BOISE, ID 83714
Phone: 208-853-2222

WILLAMARIE COLLINS
846 E PENNSYLVANIA
BOISE, ID 83706
Phone: 208-342-6494


Deputy Clerk