

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: A43-04071
Date Received: 4/06/1989
Receipt No: 5006804
Received By: Ad

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: R. O. JONES & SONS INC. 208-824-5588
Address: P.O. BOX 137
ALMO, ID 83312

2. Date of Priority: APR 01, 1880

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

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
15S	24E	12	NW	SE	SW		CASSIA

5. Description of diverting works:
CHECKDAM TO DITCHES

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
IRRIGATION	02/01	07/31	3.600		
STOCKWATER	01/01	12/31	0.500		

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

8. Total consumptive use is 450.0 Acre Feet Per Annum.

9. Non-irrigation uses:
S/500 RANGE.

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
15S	24E	13	NE	NW		IRR	10.0
			SE	NW		IRR	15.0

A43-04071

Page 1

Date: 04/06/89

MICROFILME

MAR 05 1993

10. Place of Use: Continued

Township	Range	Section	1/4	of	1/4	Lot	Use	Acres
15S	24E	13	NE		SW		IRR	15.0
			SE		SW		IRR	15.0
			NW		SE		IRR	40.0
			SW		SE		IRR	40.0
							Section Acres	135.0
		24	NW		NE		IRR	40.0
			SW		NE		IRR	5.0
							Section Acres	45.0
							Total Acres	180.0

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:
A43-00381, 00382, 00376, 02537

14. Remarks:

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

Number of attachments: 0

For Organizations:

I do solemnly swear or affirm that I am President of
P. D. Jones & Sons Inc., that I have signed the foregoing
document in the space below as President of
P. D. Jones & Sons Inc. and that the statements contained in the
foregoing document are true and correct.

Richard D. Jones
Signature of Authorized Agent

Pres. P. D. Jones & Sons Inc.
Title and Organization

4/6/89
Date

State of Idaho)
County of Trail Falls) SS.

Subscribed and sworn (or affirmed) before me this 6th day
of April 19 89

Notary Public

Seal

Residing at Kimberly, Id.

My Commission Expires 6/30/94



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

CECIL D. ANDRUS
Governor

December 5, 1991

R. KEITH HIGGINSON
Director

A43-04071
R. O. JONES & SONS INC.
P.O. BOX 137

ALMO

ID 83312

RE: Evidence of Priority

RESPONSE DEADLINE
FEBRUARY 3, 1992

Dear Claimant:

The Notice(s) of Claim identified with the number shown above your name on the mailing label has been filed in the Snake River Basin Adjudication (SRBA). The Notice(s) indicate your water usage is based on "Beneficial Use" or a "Statutory Claim". Water rights of this type are established by the historical use of water, dating back to when water was first used for the purpose claimed. **The date of first use, known as the priority date, has not been confirmed by a License, Decree or Permit.** The Department will soon conduct reviews &/or field exams for the claims in your area. Since the priority date of a beneficial use water right can not be confirmed by field examination, **proof must be provided supporting the priority date you have claimed.**

The Department will not recommend the Notice(s) be decreed by the court as claimed if no evidence of a priority date is submitted.

Please find enclosed a computer printout of your Notice(s) and the pamphlet entitled "Evidence of Priority". The pamphlet describes the types of evidence required and suggests which documents will fulfill this requirement. I direct your attention to the two sections entitled "What Kind of Evidence is Required" and "Some Examples of Documents Which May Be Evidence of the Priority Date".

Please submit the required evidence supporting the priority date(s) by **February 3, 1992**, referencing all documents with the corresponding Notice number(s). If you have any questions not covered by this letter or the enclosed pamphlet, please contact this office.

Respectfully submitted,

Allen Merritt, P.E.
Water Rights Supervisor

Enclosures

MICROFILME

MAR 05 1993

11/13/2000

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

RIGHT NUMBER: 43-4071

NAME AND ADDRESS: R O JONES & SONS INC
PO BOX 137
ALMO, ID 83312

SOURCE: TATERS CREEK TRIBUTARY: SINKS

QUANTITY: 0.76 CFS

THE QUANTITY OF WATER UNDER THIS RIGHT FOR STOCKWATER USE
SHALL NOT EXCEED 13,000 GALLONS PER DAY.

PRIORITY DATE: 04/01/1950

POINT OF DIVERSION: T15S R24E S12 NWNWSE Within CASSIA County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
STOCKWATER	01-01 12-31	0.10 CFS
IRRIGATION	04-01 07-31	0.76 CFS

PLACE OF USE:

STOCKWATER Within CASSIA County			
T15S R24E S12	NESW	T15S R24E S12	NWSE
T15S R24E S12	SESW		
IRRIGATION Within CASSIA County			
T15S R24E S12	NESW	5.5	T15S R24E S12 NWSE 18
T15S R24E S12	SESW	14	
37.5 ACRES TOTAL			

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

THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT FOR
STOCKWATER USE IS NOT A DETERMINATION OF HISTORICAL BENEFICIAL
USE.

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

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use

RIGHT: 43-4071

RECOMMENDED PLACE OF USE
TWP 15S, RNG 24E, Sec 12
Data entry on October 4, 2000



-  RECOMMENDED POINT OF DIVERSION
-  RECOMMENDED PLACE OF USE
-  SECTION LINES
-  QUARTER/QUARTER LINES



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

**NOTICE OF ERROR
REPLY**

Please type or print clearly, fill out this form completely and mail.

Return this reply form to IDWR by the deadline date printed below if you want IDWR to change your recommendation or you want to let IDWR know that you agree with its recommendation.

YOUR DEADLINE FOR RETURNING A NOTICE OF ERROR REPLY IS: June 15, 2001

Water right number: 43-4071

R O JONES & SONS INC

PO BOX 137

ALMO ID 83312

Telephone Number: (208)824-5588

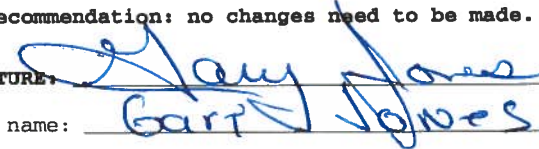
1. Describe the portion of the proposed recommendation with which you disagree (e.g. priority date, period of use, source):

2. Describe the changes you wish to make in the proposed recommendation:

3. Give a brief explanation as to why you disagree with these portions:

X I AGREE with this proposed recommendation: no changes need to be made.

DATE: 7-6-01

SIGNATURE: 

Please print your name: Gary Jones

IDWR Regional Office, 1341 Fillmore St, Suite 200, Twin Falls, ID 83301, (208)736-3033

CLAIM NUMBER: A43-04071

OWNER
CODE NAME & ADDRESS
C R O JONES & SONS INC

PRIORITY
DATE WATER USE
04/01/1988 IRRIGATION
1950 STOCKWATER

USE PERIOD
FROM TO
02-01-07-31
01-01 12-31
DIVERSION
RATE
3.60 CFS
0.50 CFS
TOTAL DIVERSION:
CONSUMPTIVE USE:
4.10 CFS
450-00 AFA

Water Source: TATER CREEK

Tributary to: RAFT RIVER

Point(s) of Diversion: T15S R24E S12

~~W8E3W~~ S20W10SE

CASSIA County

Place of use Legal Description for: IRRIGATION

NE		NW		SW		SE		SUM
NAME	NAME	NAME	NAME	NAME	NAME	NAME	NAME	
T	R	S	Lt	Ac	Lt	Ac	Lt	Ac
15S	24E	13	:	:	:	:	:	135.0
15S	24E	24	:	40	05	:	10	45.0
TOTAL ACRES								180.0

Place of use location for STOCKWATER is the same location as described for: IRRIGATION

POU County: CASSIA

Non-Irrigation Uses: S/500 RANGE.

Other Rights: A43-00381, 00382, 00376, 02537

Dates: Exam Made Date:

Verified Date: 06/18/1985

Misc: Water District Number:

Field Inspection Flag:
Presumption Flag:

1205
708

Comments: 84y per acre in

Add stockwater for

38 acres
see site

BU

124

RECOMMENDATION NOTES

From: Vikie Hancock

10/4/00

Regarding: Claim 43-4071

This claim is based upon a statutory claim filed in 1976 for irrigation and stockwater from Tater Creek. The statutory claim and original SRBA claim were filed for a 180 acre place of use in sections 13 and 24, south of what is now determined to be the current place of use for water from Tater Creek. The current place of use in section 12, just south of the Almo-Elba Hyway, was outlined by Gary Jones of R.O. Jones, and is calculated to be 38 acres. The place of use claimed by R.O. Jones in 1976 is no longer irrigated from Tater Creek.

The current place of use was once owned by Louis Eames, and a claim for 2.9 cfs of water from Tater Creek for use on 120 acres in section 12 was filed by Eames at the approximate time that water was filed on by R.O. Jones. No one filed an SRBA claim based upon the Eames claim. Current claim 43-04071 may more accurately be based upon the Eames statutory claim, 43-04067, as R.O. Jones purchased the property in section 12 from Eames. I don't believe that an accomplished transfer of place of use would appropriately describe this claim, however the claimed place of use is inaccurate.

The quantity of this right for irrigation is limited by one inch per acre for the number of acres found irrigated. The quantity of this right for stockwater is limited by the number of stock claimed. There was no flow measurement taken as the stream was dry at the time of the field exam.

The season of use claimed for this right for irrigation was 2-1 to 7-1. The beginning date has been adjusted to IDWR standard.

Priority date is per proof supplied by Gary Jones. He stated that, during a meeting that came about as a result of a protest filed in 1977 by Jack Erikson to all rights filed on Tater Creek, a common priority date of 1880 was agreed upon by all the claimants. He had no information to substantiate the early date for use south of the Almo-Elba Hyway.

COMMUNICATION DOCUMENTATION

From: Vikie Hancock

May 11, 2000

Regarding:

Customer:

Various claims

Gary Jones

[illegible]

Gary and Brent Jones came to the office to discuss their claims. Gary filed a claim for his portion of decreed right **43-00380**. Brent and Gary Jones have now filed for the entire right, each claiming 80 acres and 0.75 cfs on North Almo Creek. Gary brought in proof of priority on his Tater Creek Claim **43-04071** indicating usage dating to the mid 1950's. He decided that a permissible place of use for decreed right **43-00382** would be the best way for him to describe his water usage from Edwards Creek.

RECEIVED

MAY 11 2000

Department of Water Resources
Southern Region

April 14th 2000

To Whom it may concern::

I remember my father, Louis Eames, used the waste or run_off water from Tater Creek that came off the property which Jay Black now owns.. This water was used to irrigate the brush and grass land on both Sides of the hi-way or road that runs past the Almo cemetery going east.. The actual area was about a half a mile or so east of the cemetery..I can Remember tending this water back in the mid-fifties..

L. Olin Eames

L.Olin Eames ---son of Louis Eames
1414 Parke Ave.--56..
BURLEY, ID, 83318

Water Right Number - 43-04067

Prefix Translation:

WATER RIGHT

Old (D) Number -

*** C - CURRENT OWNER ***
EAMES

LOUIS A.

1 -
2 -
3 -

City- ELBA
Phone -

State- ID Zip- 83326

Priority Date - 04/01/1980

Region - 17 SOUTHERN

Stage - S - STATUTORY CLAIM

Status -

Source - TATER CREEK

Tributary - RAFT RIVER

Tm	Rng	Sec	Tract	Lot	Rflg	County	Point of Diversion	Diversion Name	Diversion Rate	Diversion No.
15S	24E	12	NE SW NW SW NW SE			(31) CASSIA (31) CASSIA (31) CASSIA				

Code	Description	Period From	Period To	Water Use	Diversion Rate	Diversion Volume
01 - IRRIGATION		02/01	07/31		2.400	
04 - STOCKWATER		01/01	12/31		0.500	

Total Div. Rate - 2.900 + Total Div. Volume - 2.400 + Total Consumptive Use - 0.0 + KW Usage -

Tm	Rng	Sec	Tract	Lot	Acres	Place of Use	Code	Description	County
15S	24E	12	NE SW		40.0		01	IRRIGATION	(31) CASSIA
15S	24E	12	NW SW		20.0		01	IRRIGATION	(31) CASSIA
15S	24E	12	SE SW		40.0		01	IRRIGATION	(31) CASSIA
15S	24E	12	NW SE		20.0		01	IRRIGATION	(31) CASSIA
Total Acres:					120.0				

- - - Diversion Means -
- - - Non-Irrigation Use -
- - - Other Rights for Same Use -
- - - Remarks -
- - - No Remarks found.
- - - Old Water Right Numbers -
- - - No Old Water Right Numbers found.

Prefix Translation: WATER RIGHT

00/00/0000

No Comments Found

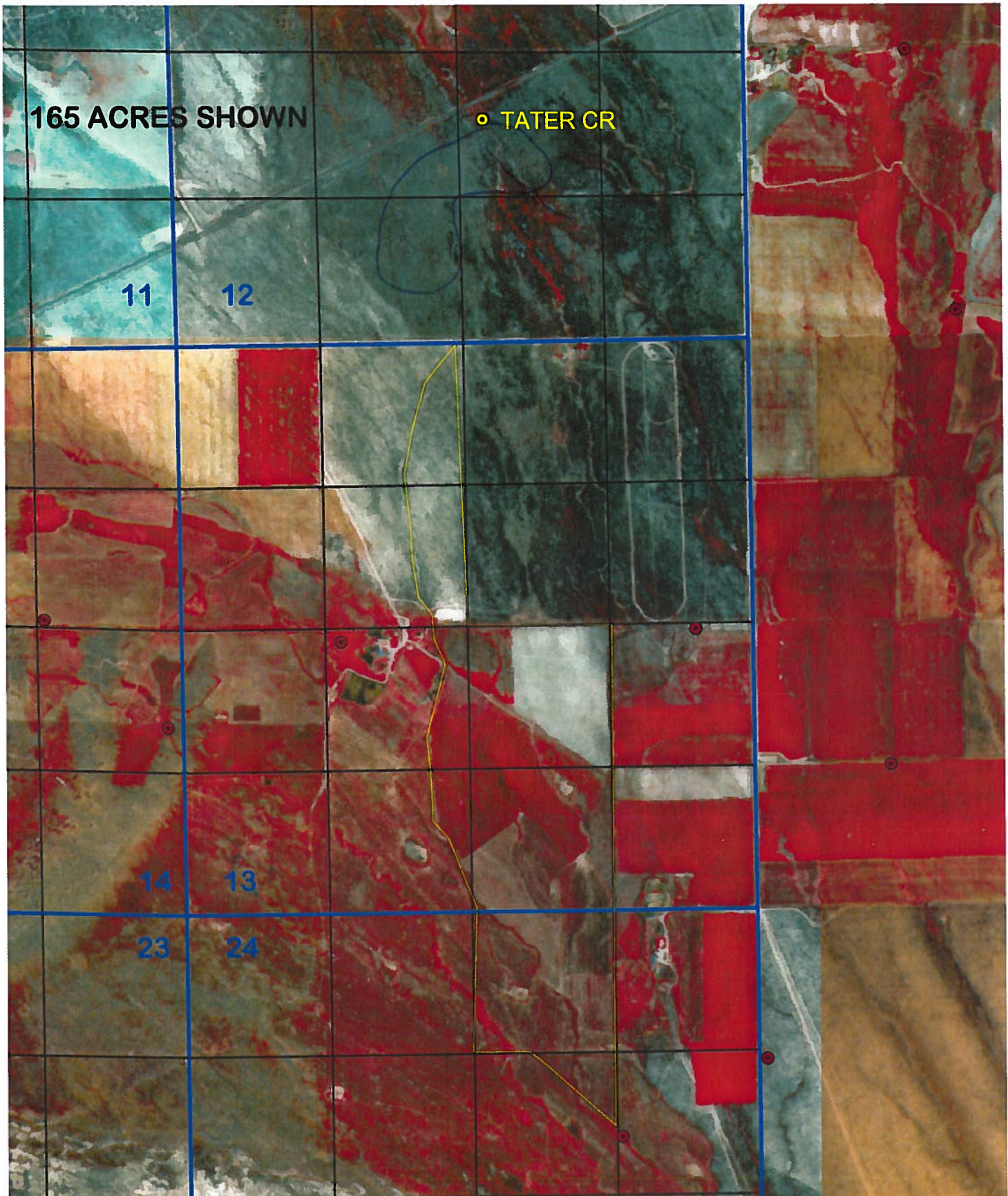
+-----Water Rights Dates and Flags Area-----+

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	Shan Falls	-
Proof Made Date	- 00/00/0000	Hearing Date	- 00/00/0000	Temporary Right	- P
Exam to S.O. Date	- 00/00/0000	Verified Date	- 06/18/1985	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	- A
Presumption Flag	-	Name Connector	-	POU Ownership Flag	-
SRBA Decreed Flag	-				

FILE NOTES

CLAIM NO(S): A43-04071

TWP 15S, RNG 24E
SEC 13, 14, 23, 24



V. HANCOCK

DATE: 3-21-2000

1987/88 NAPP PHOTOGRAPHY

PURPORT DALL OUTLINED RU CLAIMANT IN OFK

COMMUNICATION DOCUMENTATION

From: Vikie Hancock

March 30, 2000

Regarding:

Customer:

Various claims

Gary Jones

[illegible]

Claimant came into the office to discuss several issues brought up at our meeting in Almo on March 14th. Mr. Jones has decided to keep the various claims under the same ownership as originally filed.

Regarding claim **A43-00377**, it was decided to re-number the claim and keep the two sources within one claim. Claims **-00376** and **-00381** should be recommended within the PPU outlined. The 80 acre parcel north of the R.O. Jones house will not be included, as it is only irrigated by sprinkler using groundwater represented by **43-02538**. Claimant is planning to file on his portion of decreed right **43-00380**, also filed on by Brent Jones. The current place of use was identified for Tater Creek claimed by **43-04071**. He will get proof of priority for beneficial use. Three options were discussed for claim **43-00382** on Edwards Creek: A permissible place of use of 840 acres within the expanded acres covered by the sprinkler system; an enlargement claim; and an accomplished transfer from the original place of use to the land now irrigated by sprinkler.

Field Exam Notes

Field Exam Date: 3-14-2000

Claim No: Various, Gary and R.O. Jones

Agent: Vikie Hancock

I met with Gary and Richard Jones at Gary's house in Almo. We discussed the various claims filed by Both Gary and R.O. Jones & Sons. Gary has since purchased his father's farm and runs the two properties as one farm.

In 1985 a transfer #3218 was filed, for various decreed rights owned by R.O. Jones, to add a point of diversion on Edwards Creek in the SESE Section 10, where the claimants constructed a pond and pipeline to serve a gravity sprinkler system "on land once irrigated by flooding." Although there was no change in place of use for any of the rights, the land on which the gravity sprinkler system was installed was land located in the E $\frac{1}{2}$ NW $\frac{1}{4}$ and NE $\frac{1}{4}$ Section 14 and the W $\frac{1}{2}$ NW $\frac{1}{4}$ Section 13. Claimant installed one 12-inch buried pipe that runs from the point of diversion to the very center of the NW corner of section 14. There it is put into a mainline that runs due east through the center of the north half of section 14 and into the W $\frac{1}{2}$ NW Section 13. Claimant states the system can run approximately 12 quarter-mile sprinkler lines with mostly 1/8 inch nozzles. There is another 4-inch pipe from the point of diversion that runs to a field just to the west of the highway in the NWNW Section 14. This field is also sprinkler irrigated.

A point of diversion in SESE Section 10, on Edwards Creek, was added to rights decreed on both Edwards Creek and North Almo Creek, though Gary and Richard Jones state that only Edwards Creek and the shares of Almo Water Company water are diverted and put into the pipeline. Only one decreed right on Edwards Creek, 43-00378, was appurtenant to the acreage on which the sprinkling system was installed at the time of the transfer. However, 7.0 cfs from Edwards Creek decreed as 43-00382 was also available to the claimant if there was an unrecorded transfer of place of use. North Almo Creek water is still used upon this same ground but is used only for flood irrigation. Transfer #3218, as it pertains to rights on N. Almo Creek, is assumed to have not been accomplished.

1 $\frac{1}{2}$ shares of AWC is delivered from Almo Creek into Edwards Creek above the diversion in Section 10 for use in the gravity irrigation system. In 1985, the Department split a license and a statutory claim held by Almo Water Company and changed a portion of both into the name of Jones, per the aforementioned transfer #3218. This was in error, as the Jones did not wish to remove shares from Almo Water Company, just to change the point of diversion. They have, in fact, continued to receive and use their 1 $\frac{1}{2}$ shares in AWC. Note that Jones did not claim his portion of the split license 43-02232 or stat claim 43-04228. However, Almo Water Company claimed their split, not whole, portion of each right.

Gary Jones is successor in interest to the Helen Edwards water rights as specified in the Jobe Adams Decree as 43-00377 and 43-00378. He purchased the property from Louis Eames whose rights were confirmed in a lawsuit known as Almo Water Company vs Ivan Darrington, District 8E (now 43D) Water master. Claimant has combined the two rights, one on Edwards Creek for 1.6 cfs, and one on North Almo for 1.6 cfs, with the same priority date of 1879, in one claim **A43-00377**. In the Jobe Adams, the right to Edwards Creek is supplemental to the right on North Almo. I believe that the claimant may want to split this claim so as to differentiate each source. When the Eames portion of the property was purchased, it also came with the aforementioned 1½ shares of Almo Water Company water. Also at this time, claimants say that much more than the decreed 160 acres were being irrigated. Gary Jones claimed that he expanded into the NWNW of Section 13 (see permit #43-07210) but that the rest was already being farmed.

It does seem clear from 1976 aerial photos, that most of the land now owned by Gary Jones east of the Elba-Almo highway, and south of the dirt road which runs along the north section line of sections 13 and 14, was irrigated prior to the gravity sprinkler system put in circa 1985. A portion of another decreed right, 43-00380 on N. Almo Creek with a priority date of 1910, is appurtenant to the NENW and NWNE of Section 14 and should be claimed. This would account for the additional acres being irrigated. Note that Brent Jones claimed the entire 43-00380 right, but that only half of it is appurtenant to his property.

Claim **43-00376** is based upon a decree for 2.5 cfs of water from N. Almo Creek, priority date 1910. The decreed place of use is the E½ NW of section 13 and the E½ SW section 12. This land is up high and away from the diversion from N. Almo, and as the priority date indicates, developed late. Undated ASCS aerial photos found in permit file 43-07210 used for a field exam in 1991 identifies the water courses for Edwards Creek, and the water diverted from N. Almo, as they once ran through the farm. Except for portions of the W½ of the SENW Section 13, there are no ditches evident that would have conveyed water from N. Almo to the decreed place of use; nor are there any apparent on the low altitude ASCS photos #P34 and Q34 from 1978. The 1987 NAPP photo is similar. This 80 acres appears to have been marginally irrigated, if at all, for some time prior to 1978, and probably irrigated with runoff water from the north. The claimant stated that he does not irrigate north of the dirt road (i.e.: section 12) from anything but runoff water and Tater Creek when it is available. He also told me that he now uses sprinkler irrigation from the well licensed under 43-02537 to irrigate the E½ NW of section 13, as claimed under that right. Photo evidence suggests that water from N. Almo Creek has only been used on a diagonal portion of the SENW of section 13. Therefore, the water use represented by this decreed right has been, at some time, moved by accomplished transfer to lands which are included in the place of use south of the center line of section 13, and to a limited extent in the SENW Section 13. (Transfer #3218, as it pertains to 43-00376 is assumed to have not been accomplished).

Claim **43-00381** is for 7.0 cfs from N. Almo Creek, priority date 1880. The decreed place of use is 840 acres in Sections 13, 24 and 23, which exactly matches the adjudication claim with the exception of an additional 80 acres claimed in the E½NW Section 13. In reviewing 1987 NAPP photography, 1976

high and 1978 low elevation ASCS aerial photos, I see no evidence that water was conveyed to any but the SW corner of that particular 80 by surface ditches from N. Almo Creek in the years prior to 1987. Claimant Gary Jones said that he did irrigate the entire 80 acres with sprinkler irrigation from the well licensed under right 43-02537. The land looked to be developed and irrigated during my limited field exam this date. Baring additional information, I am inclined to recommend this right for use on the original decreed acreage. Note that, perhaps as a result of transfer #3218, the Allocations database was changed to reflect that the source for this right was Edwards Creek. The SRBA claim was filed on N. Almo Creek, and it is assumed that transfer #3218, as it pertains to this right, was not accomplished.

Claim **43-00382** is for 7.0 cfs from Edwards Creek, priority 1880. The decreed place of use for this right is exactly the same as that for 43-00381. A point of diversion in SESE Section 10 was added to this right so that the waters of Edwards Creek could be used in the gravity irrigation system which was developed to irrigate the E $\frac{1}{2}$ NW $\frac{1}{4}$ and NE $\frac{1}{4}$ Section 14 and the W $\frac{1}{2}$ NW $\frac{1}{4}$ Section 13. Water from this right also irrigates the field in the NWNE Section 14 and also a small area that is flood irrigated in the SESE Section 10. The lands now under gravity sprinkler irrigation, and flooded in Section 10, represent a change in place of use of this right that occurred in 1985. Edwards Creek may also be diverted in the SW $\frac{1}{4}$ of section 13 to flood irrigate the original decreed place of use, as the sprinkler system does not use the entire 7.0 cfs of this right. I do not see evidence that water from this source was used over the entire E $\frac{1}{2}$ NW of Section 13 prior to 1987, as claimed.

Either an enlargement claim for an additional 290+ acres, or a PPU limited to 840 acres within the total place of use, should be recommended to accurately reflect the water usage under this right.

The claimed place of use for **A43-02537** represents an accomplished transfer of place of use since the license was issued. The well is now used to irrigate the E $\frac{1}{2}$ NW of Section 13, instead of the SENW and SWNE of Section 24. Claimant states that the well is mostly used to flood irrigate at this time but he intends to move more toward a sprinkler system. It appeared during my limited field exam that this right was being used as claimed. The well is located in the extreme NW corner of the NENW Section 13.

A43-04071 is based upon a statutory claim to Tater Creek for 3.6 cfs with an 1880 priority date. According to the claimant, there is not often water available for use at his point of diversion on Tater Creek. He showed me his point of diversion, which is just south of the Almo-Elba Highway, as Tater creek passes under it. He says that he diverts the creek to the west here, and the portion of it going to the east is used by Brent Jones. (Brent Jones did not file a claim on Tater Creek). This stat claim, as well as stat claims by Eames 43-04067, Robert Ward 43-04068, Glen Jones 43-04070 and Black 43-04069 were protested when filed in 1976. The claimants and the protestant, Jack Erickson, agreed that all the stat claims should have the same priority date of 1880. The only SRBA claims filed on Tater Creek are this one and A43-04069 by Jay Black. This claim has no proof of priority filed to substantiate the 1880 priority date. Gary Jones says that, when available, he uses Tater Creek, as well as runoff water, to irrigate the pasturelands he owns above the dirt road at the top of his sprinkler irrigated fields. This property was not owned by R.O. Jones at the time the statutory claim 43-04071 was filed, but was owned by Louis

Eames. The stat and SRBA claims as filed by R.O. Jones claim a place of use south of the dirt road. The conveyance ditch through the E½NW of Section 13 is still evident in the 1987 NAPP photo and appears to be the historical place of use for this claim. Actual date this water was put to beneficial use is unknown at this time.

TATER CREEK WATER RIGHTS FILED

SD-0602-2 Source: TATER CREEK
Records: 5

Basin: 43

STATE

✓ _	43-04067	EAMES, LOUIS A.	S 04/01/1880 RAFT RIVER	2.900 01 IRR
-				04 STOCK
✓ _	43-04068	WARD, ROBERT W.	S 04/01/1880 RAFT RIVER	3.100 01 IRR
✓ _	43-04069	BLACK, J. SPENCER	S 03/20/1880 RAFT RIVER	6.900 01 IRR
-		BLACK, JAY L.		04 STOCK
✓ _	43-04070	JONES, GLEN W.	S 04/01/1880 RAFT RIVER	5.300 01 IRR
-				04 STOCK
✓ _	43-04071	R.O. JONES & SONS	S 04/01/1880 RAFT RIVER	4.100 01 IRR
-				04 STOCK

TATER CREEK SRBA CLAIMS FILED

_ SD-0602-2 Source: TATER CREEK
Records 1

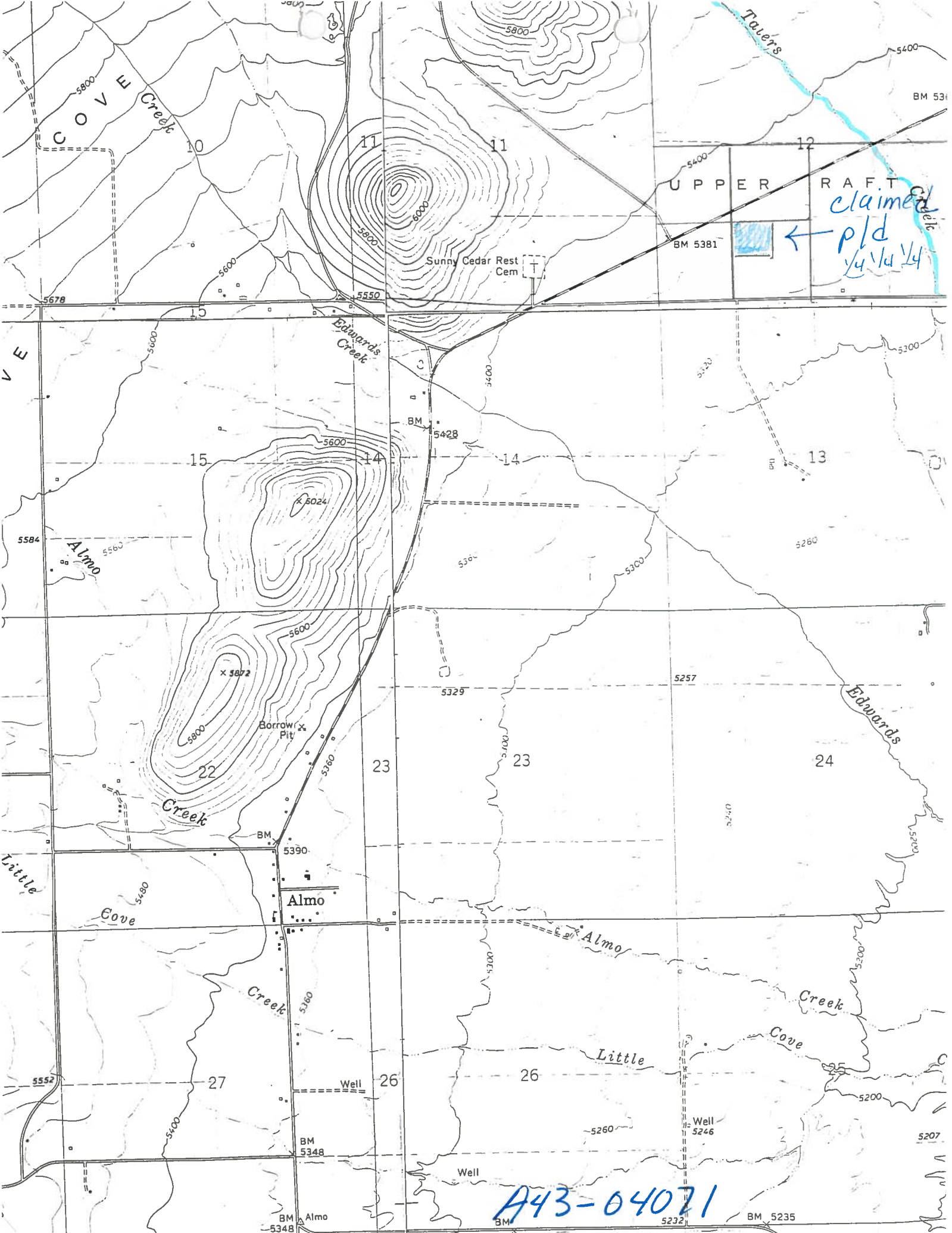
Basin: 43

STATE

✓ A43-04071 R O JONES & SONS IN S 04/01/1880 RAFT RIVER 4.100 01 IRR
04 STOCK

Records 2

✓ A43-04069 BLACK, JAY L S 04/01/1880 RAFT RIVER 2.500 01 IRR
BLACK, SHARON P 04 STOCK
R43-04069 BLACK, JAY L J 04/01/1883 RAFT RIVER 2.500 01 IRR
BLACK, SHARON P 04 STOCK



claimed
p/d
1/4 1/4 1/4

A43-04071

DD-30
0580

Section 42-225a, Idaho Code

Figure 1. The effect of the concentration of the solution on the adsorption of the dye.

Notice is hereby given that **R. O. JONES AND SONS INC.**

of Almo, Idaho (mailing address) 0, claims a right to the diversion and beneficial use of

The extent and nature of said claim is as follows:

- Describe the purpose for which the water has been used and the time during the year when you have used the right claimed:

Amount .5 c.f.s. Use stock water Period of Use: From Jan. 1 To Dec. 31

(3) Total quantity of water claimed: 4.1 c.f.s. cubic feet per second, or _____ acre feet per annum, and/or _____ gallons per minute.

- (4) Priority claimed: (the date water was first applied to beneficial use) April 1, 1880

A claim is not acceptable on a ground-water source with a priority later than March 25, 1963 or on a surface-water source with a priority later than May 20, 1971. An exception to this rule is that a claim may be filed on domestic use from a ground-water source.

- (5) A) Point of diversion: (give location of point where water is diverted from its source)

N.W. ¼ S.E. ¼, Sec. 12 Twp. 15 S. Rge. 24 E. B.M. County of Cassia

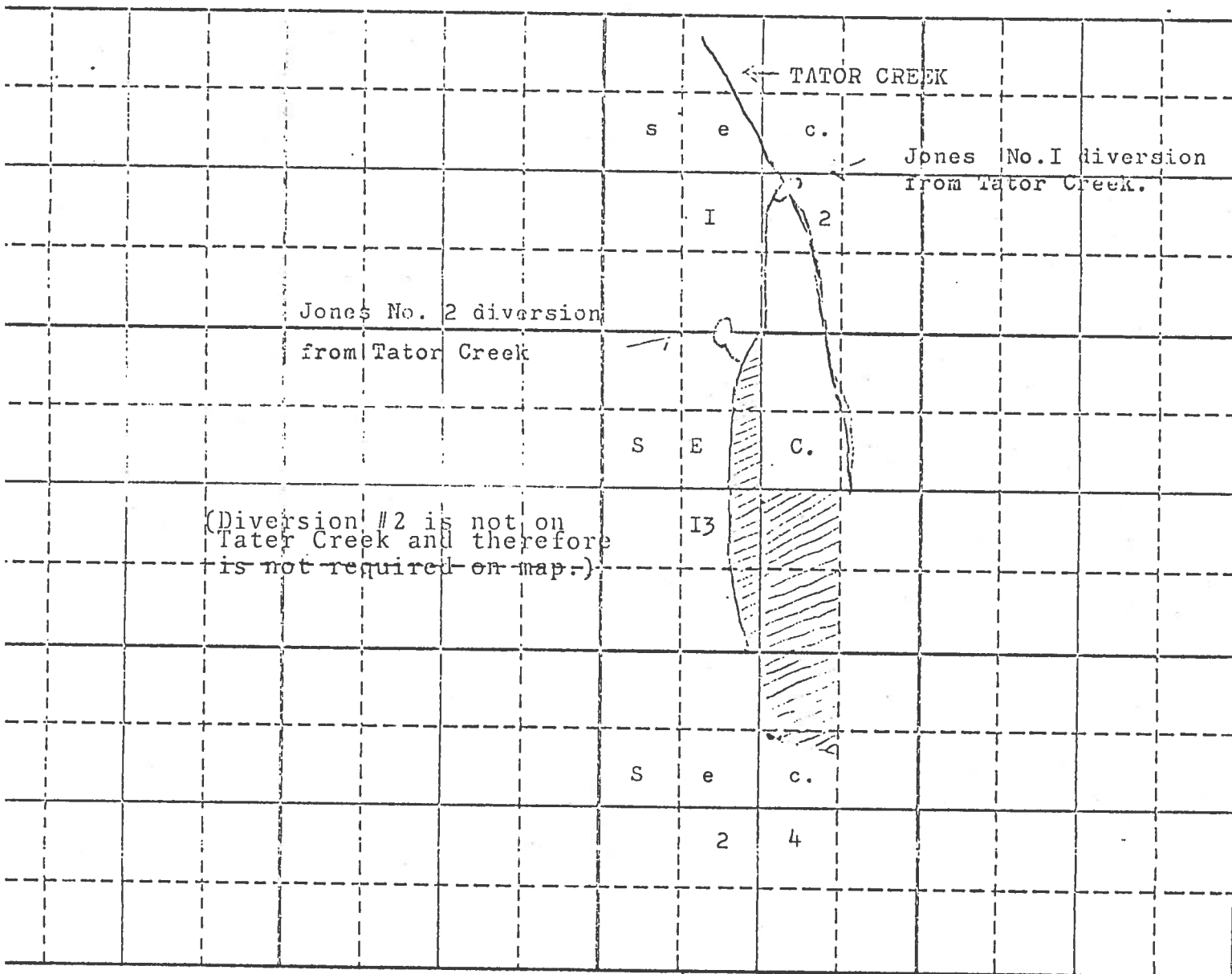
Additional points of diversion: S. E. $\frac{1}{4}$ S. W. $\frac{1}{4}$ Sec. 12 Twp. 15 Rge. 24 B.M.

- B) Describe means of diversion of water: (pump and pipeline, well, diversion dam, reservoir, length of ditch and field, etc.) Give sizes and capacities; be as specific as possible. Water is diverted in two different places by means of dams and ditches.

- (c) Describe location of use by listing number of irrigated acres within each 40-acre tract in appropriate box. If use is for irrigation place an "X" in appropriate box to show location.

H	S	T.C.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				TOTAL
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	
15	24	13					10			15	15			15			40	40	135

(8) Remarks The irrigated portions of sec. 13 & sec. 24 Township 15 Range 24
E.B.N. are crossed hatched points of diversion are marked with red ink.
(Township is South - Range is East)



Scale: 2 Inches equal 1 mile.

Map should show the location of the point of diversion and the place of use of the water by 40-acre subdivisions, section, township and range of the public land survey system.

State of Idaho)
County of Cassia) ss.

Be it known that the undersigned, being duly sworn, deposes and says that he, she, they subscribed the foregoing claim to a water right, together with all attached information, and that the matters and facts therein are true to the best of the affiants knowledge.

R. O. Jones and Son Inc.

[Signature]
(Claimant)
President, 76

Sworn to before me this 20th day of October

July 28, 1977

R. O. Jones and Sons, Inc.
Almo, ID 83312

Re: Claim to a Water Right No. 43-4071

The Department of Water Resources has completed the processing of your Claim to a Water Right, and no further action is authorized under Sections 42-225a and 42-225b of the Idaho Code. Your claim will be retained in our files and will be available at any time for use by you or the Court.

As you are aware, the filing of your claim does not, in itself guarantee you a water right; it only records and preserves the information and the evidence which you included in your claim.

We are enclosing a copy of the claim for your records. We are also enclosing a copy of an affidavit in Opposition to your claim to a water right, submitted by Jack Erickson. The following is a quote from the provisions under which this claim has been filed (Section 42-225b of the Idaho Code):

42-225b. Recording of claims by department --- Corrections ---

At any time after filing a claim under the provisions of this Section, any person who disagrees that a right has been established as set forth in said claim may file an exception thereto in duplicate, in affidavit form, accompanied by such proof as said person deems appropriate. An exception filed shall be made a part of the file of the claim in the Department of Water Resources and shall be considered the same as other evidence in said file. A copy of an exception filed shall be forwarded to the claimant by the Department of Water Resources. Such claims may be corrected by the claimant only by filing of an amended claim in the same form as the original which shall be recorded and numbered by the Department the same as the original and for which no additional filing fee shall be required.

R. O. Jones and Sons, Inc.

July 28, 1977

Page 2

Only the above action has been contemplated by the Idaho Legislature and we are not authorized to hold hearing or evaluate for confirmation or final censorship of the described rights.

If you have any questions regarding this matter, please contact us.

Very truly yours,

Allen Merritt
Water Resource Analyst

AM:sm

Enclosures

July 21, 1977

Nielson & Bedke
P. O. Box 249
Burley, ID 83318

Re: Claim for Water Right Nos. 43-4069-J. Spencer Black & Jay L. Black
43-4067-Louis A. Eames
43-4070-Glen W. Jones
43-4071-R. O. Jones & Sons, Inc.

Dear Mr. Nielson:

We are in receipt of your exceptions to a claim to a water right filed by J. Spencer Black, & Jay L. Black, Louis A. Eames, R. O. Jones & Sons, Inc., and Glen W. Jones; in behalf of Jack Erickson. The following excerpt from Section 42-225b of the Idaho Code explains what has been done and what will be done in regards to the exception you have filed.

Section. 42-225b Recording of Claims by Department---Corrections--

At any time after the filing of a claim under the previous section, any person who disagrees that a right has been established as set forth in said claim may file an exception thereto in duplicate, in affidavit form, accompanied by such proof as said person deems appropriate. An exception filed shall be made a part of the file of the claim in the Department of Water Resources and shall be considered the same as other evidence in said file. A copy of an exception filed shall be forwarded to the claimant by the Department of Water Resources. Such claims may be corrected by the claimant only by filing of an amended claim in the same form as the original which shall be recorded and numbered by the Department the same as the original and for which no additional filing fee shall be required.

Only the authority to take the above action has been delegated by the Idaho Legislature and we are not authorized to hold hearings or evaluate for confirmation or final censorship of the described rights.

Mr. Norman Nielson
July 21, 1977
Page 2

If you have any questions regarding this matter, please feel free to contact this office.

Very truly yours,

Michael L. Steele
Southern Region Supervisor

MLS:sm

NIELSON & BEDKE
ATTORNEYS AND COUNSELORS AT LAW
P. O. BOX 249
1734 OVERLAND AVENUE
BURLEY, IDAHO 83318

NORMAN H. NIELSON
HERMAN B. BEDKE

AREA CODE 208
TELEPHONE 678-5574

July 6, 1977

Mr. Michael L. Steele
Southern Region Supervisor
1041 Blue Lakes Blvd. North
Twin Falls, Idaho 83301

Dear Mr. Steele:

Enclosed you will find the affidavits in protest of the following
claim of water rights :

43-4069
43-4067
43-4071
43-4070

This protest is being filed by Jack Erickson on the grounds and
for the reasons set out in the affidavit of protest.

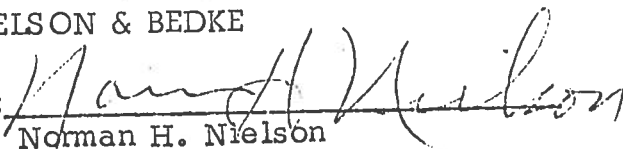
If you have any questions in regard to this matter, please let
us know.

It is our understanding that these protests will be filed in the
application made by the various individuals represented by the claim
numbers.

Very truly yours,

NIELSON & BEDKE

By:


Norman H. Nielson

NHN:dk

AFFIDAVIT IN PROTEST

In the Matter of:

Claim of Water Right # 43-4071

Filed by : R.O. Jones & Sons, Inc. Almo, Idaho

STATE OF IDAHO)
) ss
County of Cassia)

Jack Erickson, being first duly sworn, deposes and
says:

That he is the owner of the following described property to-wit:

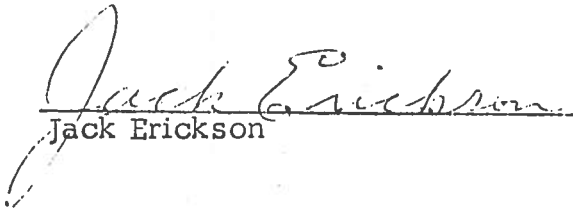
SW $\frac{1}{4}$ of the NW $\frac{1}{4}$, NW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 1,
NW $\frac{1}{4}$, S $\frac{1}{2}$ of the NE $\frac{1}{4}$, N $\frac{1}{2}$ of the S $\frac{1}{2}$ of Section 2,
NE $\frac{1}{4}$ of Section 3 all in Township 15 South, Range 24,
E.B.M.

Does hereby protest claim to a water right # 43-4071 filed by
R.O. Jones and Sons, Inc. of Almo, Idaho.

This affiant objects to said claim of water right for the reasons :

- a) That the source of Tater Creek commences just below the lands of this affiant and the water that runs into Tater Creek at this point comes from the lands of this affiant.
- b) The only water that runs into Tater Creek at this point comes from flood waters which have crossed the lands of this affiant.
- c) Waters which are the source of Tater Creek is water which has been used by this affiant under his water rights to irrigate his own land and then run off this affiant's land into Tater Creek.
- d) Source of Tater Creek is water which may arise through percolation on the lands of this affiant.

That this affiant's claim to water rights which are the source of Tater Creek are superior in time and place to the rights applied for under the aforementioned claim and are attaching affidavits to show this affiant's priorities to this affidavit of protest.


Jack Erickson

AFFIDAVIT.

State of Idaho, }
County of Cassia, } ss.

Geo L Durfee being first duly sworn

deposes and says that he is a citizen of the United States of America, and of the State of Idaho, and over the age of 21 years;

That he is well and personally acquainted with the following described real estate, together with the water and water rights thereto belonging, situated in the County of Cassia, State of Idaho, to-wit:

~~SW 1/4, S1/4, E1/4 of Section 2; NE 1/4 of Section 3, and the~~
~~SE 1/4 of Section 3, all in Township 13 South, Range~~
26 East of the Boise Meridian,

That the said above described lands, together with the water and water rights thereto belonging are now owned, occupied and farmed by Gus L. Erickson and his brothers Lawrence L. Erickson and J. Henry Erickson, and Frank Durfee, and the said water and water rights are being used upon the above described premises.

That all of the land above described that is situated in Section two (2), Township 13 South, Range 26 East of the Boise Meridian, was first settled by James F. Durfee and his son Byron in the fall of the year 1870, and established a home on said premises and farmed and raised crops on the said lands situated in Section 3 as above described, in the year 1880, and appropriated and began the use of the waters of Water Fall creek and Center Creek and their tributaries, which said creek is also known as Little Cove Creek, in the spring of the year of 1880. That the said land has been occupied and farmed, and the waters have been appropriated and used upon said land since the spring of the year of 1880, continuously and uninterruptedly.

Dated Apr 30 1935.

Geo L Durfee

Subscribed and sworn to this 30 day of April 1935.

Carl Whippley

Notary Public for Idaho,

Residing at London, Idaho.

the 1990s, the number of people in the world who are under 15 years of age is expected to increase from 1.1 billion to 1.5 billion. The number of people aged 65 and over is expected to increase from 200 million to 400 million. The number of people aged 15 and over is expected to increase from 3.5 billion to 4.5 billion. The number of people aged 15 and over is expected to increase from 3.5 billion to 4.5 billion. The number of people aged 15 and over is expected to increase from 3.5 billion to 4.5 billion.

the H₂ and; _____

That he is well and personally acquainted with the following described real estate, together with the water and water rights thereto belonging, situated in the County of Cassia, State of Idaho, to-wit:

That the said above described lands, together with the water and water rights thereto belonging are now owned, occupied and farmed by Gus L. Erickson, and his brothers, Lawrence E. Erickson and J. Emory Erickson, and Frank Durfee, and the said water and water rights are being used upon the above described premises.

Dated this 12 day of July, 1940.

Notary Public in and for the State
of Idaho, residing at Burley, Idaho.

AFFIDAVIT.

State of Idaho,)
) ss.
County of Cassia,)

John Durfee being first duly sworn

deposes and says that he is a citizen of the United States of America, and of the State of Idaho, and over the age of 21 years;

That he is well and personally acquainted with the following described real estate, together with the water and water rights thereto belonging, situated in the County of Cassia, State of Idaho, to-wit;

NE¹/₄, S¹/₂NE¹/₄, NE¹/₄ of Section 2; NE¹/₄ of Section 3, and ~~the~~
~~SW¹/₄ of Section 4~~, all in Township 15 South, Range
24 East of the Boise Meridian,

That the said above described lands, together with the water and water rights thereto belonging are now owned, occupied and farmed by Gus L. Erickson and his brothers Lawrence E. Erickson and J. Emory Erickson, and Frank Durfee, and the said water and water rights are being used upon the above described premises.

That all of the land above described that is situated in Section two (2), Township 15 South, Range 24 East of the Boise Meridian, was first settled by James M. Durfee and his son Myron in the fall of the year 1879, and established a home on said premises and farmed and raised crops on the said lands situated in Section 2 as above described, in the year 1880, and appropriated and began the use of the waters of Water Fall creek and Center Creek and their tributaries, which said creek is also known as Little Cove Creek, in the spring of the year of 1880. That the said land has been occupied and farmed, and the waters have been appropriated and used upon said land since the spring of the year of 1880, continuously and uninterruptedly.

Dated April 22 1935.

Subscribed and sworn to this 22 day of April 1935.

Mona Pierce
Notary Public for Idaho,

Residing at Jerome, Ida.

My commission expires.

Jan 14, 1935.

Water Right Number - A43-04154

Prefix Translation: ADJUDICATION CLAIM

Old (D) Number -

*** C - CURRENT OWNER ***
ERICKSON

DENNIS

1 - BOX 172
2 -
3 -

State- ID Zip- 83312

ERICKSON

PAULINE

1 - BOX 172
2 -
3 -

State- ID Zip- 83312

City- ALMO
Phone - 208-824-5555
1 - BOX 172
2 -
3 -
City- ALMO
Phone - 208-824-5555

State- ID Zip- 83312

Priority Date - - +
04/01/1880

Region - - - +
17 SOUTHERN

Stage - - - +
S - STATUTORY CLAIM

Status - - - +

Source - - - - +
WATERFALL CREEK
CENTER CREEK
SOUTH CREEK

Tributary - - - - +
CENTER CREEK
TATERS CREEK
CENTER CREEK

Trn	Rng	Sec	Tract	Lot	Rflg	County	Point of Diversion	Diversion Name
14S	24E	34	SE SW SE			(31) CASSIA		
15S	24E	2	SW SE NE			(31) CASSIA		
		3	NE NE NE			(31) CASSIA		
			NE NE NW			(31) CASSIA		
			NW NW NW			(31) CASSIA		

Code	Description	Period From	Period To	Water Use	Diversion Rate	Diversion Volume
01 - IRRIGATION		04/01	11/01		11.200	
+ - Total Div. Rate - +	+ - Total Div. Volume - +	+ - Total Div. Capacity - +	+ - Total Consumptive Use - +	+ - KW Usage - +		
	11.200		1400.0			

Trn	Rng	Sec	Tract	Lot	Acres	Place of Use	Code	Description	County
15S	24E	2	SW NE		40.0		01	IRRIGATION	(31) CASSIA
15S	24E	2	SE NE		40.0		01	IRRIGATION	(31) CASSIA
15S	24E	2	NE NW		40.0		01	IRRIGATION	(31) CASSIA
15S	24E	2	NW NW		40.0		01	IRRIGATION	(31) CASSIA
15S	24E	2	SW NW		40.0		01	IRRIGATION	(31) CASSIA
15S	24E	2	SE NW		40.0		01	IRRIGATION	(31) CASSIA
15S	24E	2	NE SW		40.0		01	IRRIGATION	(31) CASSIA
15S	24E	2	NE SE		40.0		01	IRRIGATION	(31) CASSIA
15S	24E	2	NW SE		40.0		01	IRRIGATION	(31) CASSIA
15S	24E	3	NE NE		40.0		01	IRRIGATION	(31) CASSIA
15S	24E	3	NW NE		40.0		01	IRRIGATION	(31) CASSIA
15S	24E	3	SW NE		40.0		01	IRRIGATION	(31) CASSIA

Water right number - A43-04154

Prefix Translation: ADJUDICATION CLAIM

Twn	Rng	Sec	Tract	Lot	Acres	Place of Use	Description	County
15S	24E	3	SE NE		40.0	01	IRRIGATION	(31) CASSIA
Total Acres:					560.0			

+ - - Diversion Means - DIVERSION DAMS

+ - - Non-Irrigation Use -

+ - - Other Rights for Same Use - A43-02186

+ - - 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 - 03/22/89 CLELLAND 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	-	Old Case Number	-
Response Filed Date	- 00/00/0000	Verified Date	- 03/07/1986	Old Judicial District	-
Claim Received Date	- 03/22/1989	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	- S006634	Federal/State Indicator	- S
		POU Ownership Flag	- Y	Presumption Flag	-
		Name Connector	- OR	Notice of Error Flag	-