

COPY

DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED _____

2003 FEB 11 PM 1 14

**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

) Subcase No. 43-4173
)
)
)
)

Case No. 39576

**NOTICE OF COMPLETED
ADMINISTRATIVE PROCEEDING**

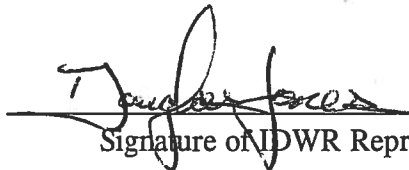
IDWR has completed the following Administrative proceeding: **SUBSTITUTION OF PARTY**

Does the change in "ownership" result in a splitting of the water right claimed? ☐ Yes ☒ No

IDWR certifies that it has completed its investigation into the changes to the elements of the water rights listed above as set forth in the attached *Amended Director's Reports* for said water rights. No other changes have been made to the elements of these water rights except as set forth above.

IDWR has served copies of the *Notice of Completed Administrative Proceeding* and *Amended Director's Report(s)* on the claimant(s), prior claimant(s) and all parties in the subcases affected, if any, as reflected on the attached certificate of mailing.

Dated: 2/11/03



Signature of IDWR Representative

CERTIFICATE OF MAILING

I certify that on 2/11, 200³~~2~~, I mailed the original and copies of this form to the following persons, postage prepaid and addressed as follows:

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:
Attorney of record for Michael Nicholson
William T. Goodman
Goodman & Bollar
PO Box D
Rupert ID 83350
3. One Copy to:
Chief Natural Resources Division
Office of the Attorney General
PO Box 44449
Boise ID 83711-4449
4. One Copy to:
United States Dept Of Justice
Environment & Natural Resource Div
550 West Fort Street MSC 033
Boise ID 83724



Signature of person or attorney mailing the form

DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

FILED
2003 FEB 11 PM 1 14

RIGHT NUMBER: 43-4173
NAME AND ADDRESS: MICHAEL V NICHOLSON
805 3RD ST
RUPERT ID 83350

SOURCE: CIRCLE CREEK
DRY CREEK
NORTH CREEK
SOUTH CREEK
TRIBUTARY: RAFT RIVER
TRIBUTARY: CIRCLE CREEK
TRIBUTARY: CIRCLE CREEK
TRIBUTARY: CIRCLE CREEK

QUANTITY: 4.640 CFS
THE QUANTITY OF WATER UNDER THIS RIGHT FOR STOCKWATER USE SHALL NOT EXCEED 13,000 GALLONS PER DAY.

PRIORITY DATE: 12/31/1885

POINT OF
DIVERSION: T15S R24E S30 NWNWSW Lot 3 Within CASSIA County
T15S R24E S31 NWSWNE Within CASSIA County
T15S R24E S31 SENWNW Lot 1 Within CASSIA County
T15S R24E S31 NWSWNW Lot 2 Within CASSIA County
T15S R24E S31 NWNENE 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	4.640 CFS
STOCKWATER	01/01 12/31	0.040 CFS

PLACE OF USE: IRRIGATION Within CASSIA County

T15S R24E S30 Lot 4 SWSW	15.0	T15S R24E S31	NENE	18.0
T15S R24E S31	NWNE	30.0	T15S R24E S31	SWNE
T15S R24E S31	SENE	34.0	T15S R24E S31	NENW
T15S R24E S31 Lot 1 NWNW	21.0	T15S R24E S31 Lot 2 SWNW	7.6	
T15S R24E S31	SENE	15.0	T15S R24E S31	NESE
T15S R24E S32	NWNW	1.1	T15S R24E S32	SWNW
			28.0	

STOCKWATER Within CASSIA County

T15S R24E S30 Lot 3 NWSW		T15S R24E S30 Lot 4 SWSW	
T15S R24E S30	SESW	T15S R24E S31	NENE
T15S R24E S31	NWNE	T15S R24E S31	SWNE
T15S R24E S31	SENE	T15S R24E S31	NENW
T15S R24E S31 Lot 1 NWNW		T15S R24E S31 Lot 2 SWNW	
T15S R24E S31	SENE	T15S R24E S31	NESE

01/23/2003

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

T15S R24E S32	NWNW	T15S R24E S32	SWNW
T15S R24E S32	NWSW		

232 ACRES TOTAL

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

THIS RIGHT IS SUBJECT TO REGULATION BY THE WATERMASTER OF
WATER DISTRICT 43B.

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
STOCKWATER USE IS NOT A DETERMINATION OF HISTORICAL
BENEFICIAL USE.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

SOUTHERN REGION

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

February 11, 2003

WILLIAM T GOODMAN
GOODMAN & BOLLAR
PO BOX D
RUPERT ID 83350

RE: SRBA Claim(s) 43-4173 / Michael Nicholson

Dear Counselor:

Please find the enclosed copy of the Notice of Completed Administrative Proceeding, which the department has filed with the SRBA Court regarding the above referenced claims. You have received this notice pursuant to SRBA Court Administrative Order 11 requiring IDWR to report to the court and interested parties any pending changes to adjudication claims in basins for which a Director's Report has been filed with the court.

Please contact this office if you have any questions about the notice or the administrative process.

Sincerely,

Trish Fawcett
Technical Records Specialist

Form 42-1.2-42 (2001) 1/1/03

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
NOTICE OF CHANGE IN WATER RIGHT OWNERSHIP

Please print or type. Attach pages with additional information. Instructions are included at the end of this form.
 Incomplete forms will be returned.

RECEIVED
JAN 22 2003
 Department of Water Resources
 Southern Region

Please list the water right number(s) and/or adjudication claim number(s) (if any) for each water right to be changed. List just the adjudication claim number if there is no corresponding water right record on file with the department. Indicate, by checking in the space provided (under the "split" heading), if the change in ownership is limited to a portion of a water right in which case division of the existing water right or adjudication claim record will be required.

Water Right No(s).	Adjudication Claim No(s).	Split	Water Right No(s).	Adjudication Claim No(s).	Split
43-4173					
43-10189					

1. The following **REQUIRED** information must be submitted with this form:

A. The appropriate **FILING FEE**. See instructions for fee amounts.

B. A copy of the most recent **DEED, TITLE POLICY, CONTRACT OF SALE** or other legal document indicating your ownership of the property and water right(s) or claim(s) in question, **WITH ATTACHED LEGAL DESCRIPTION**.

C. Either of the following (if necessary to clarify division of water rights or other complex property descriptions):
PLAT OF PROPERTY or **SURVEY MAP** clearly showing the location of the point(s) of diversion and place of use of your water right(s) and/or adjudication claim(s) (these are usually attached to your deed or on file with the county).

OR

If your water right(s) and/or adjudication claim(s) is for ten or more acres of irrigation, you must submit a USDA Farm Service Agency **AERIAL PHOTO** with the irrigated acres outlined and point(s) of diversion clearly marked. The **AERIAL PHOTO** should be submitted in place of the **PLAT OF PROPERTY** or **SURVEY MAP**.

1. Name and Address of Former Owner/Claimant(s) A. E. Nicholson
805 3rd Street, Rupert, ID 83350

4. New Owner/Claimant(s) Michael V. Nicholson
 Name Connector (Check one): ☐ and, ☐ or, ☐ and/or

New Mailing Address 805 3rd Street
 City, State and ZIP Code Rupert, ID 83350

New Telephone Number (208) 436-3862

5. Date you acquired the property 1/2 Interest on October 1, 1997
1/2 Interest on July 11, 2002

Form 47-241-42-1 (7/96) July 2000

- 6 If the change in ownership affects the entire water right for each water right or adjudication claim number listed in item 1, THEN SKIP THIS ITEM AND GO TO ITEM 7. If the change in ownership divides the water right(s) among multiple owners, you must describe, in detail, your portion of each water right after the change. Fill in the appropriate spaces in the box(es) below to describe your water right(s) after the change (one water right per box, you may copy this page as necessary). If your quantity of water is greater than a proportionate split, you must attach documentation to show justification for a larger amount. If you are not sure how to identify your portion of the original water right or adjudication claim records, please contact the nearest IDWR office for assistance.

DESCRIPTION OF YOUR PORTION OF WATER RIGHT (If the right(s) will not be split, skip this area and proceed to item 7)		
Water Right and/or Adjudication Claim Number _____		
Water Use	Diversion Rate or Volume (cubic feet per second or acre-feet per annum)	Description (acre, number and type of stock, homes, etc)
Irrigation	_____	_____
Stock	_____	_____
Domestic	_____	_____
Other	_____	_____
Total	_____	_____

DESCRIPTION OF YOUR PORTION OF WATER RIGHT (If the right(s) will not be split, skip this area and proceed to item 7)		
Water Right and/or Adjudication Claim Number _____		
Water Use	Diversion Rate or Volume (cubic feet per second or acre-feet per annum)	Description (acre, number and type of stock, homes, etc)
Irrigation	_____	_____
Stock	_____	_____
Domestic	_____	_____
Other	_____	_____
Total	_____	_____

Signature of New Owner(s) or Claimant(s) _____
(include title if applicable)

Michael V. Nicholson

For Snake River Basin Adjudication Claims: Please attach a Notice of Appearance completed by your attorney, if you wish IDWR to correspond with him/her for all matters related to your claims.

For Office Use Only

Received by H. H. H. Date 1/22/03 Fee 25.00
 Receipted by H. H. H. Date 1/22/03 Receipt No. 5025464
 Processed by _____ AJ Date _____ WR _____ Date _____

270105

DEED OF PERSONAL REPRESENTATIVE

THIS DEED made the 14th day of June, 2000, by JEAN ELWELL and MICHAEL V. NICHOLSON, Co-Personal Representatives of the Estate of Elaine M. Nicholson, deceased, herein called the First Party, Grantor, and MICHAEL V. NICHOLSON, a single man, herein called the Second Party, Grantee, whose present address is 805 3rd Street, Rupert, ID 83350.

WITNESSETH:

That the First Party, by virtue of the power and authority to them given and vested and by reason thereof and for value received, have granted, conveyed and confirmed, and by these presents do grant, remise, convey and confirm, unto the Second Party, Grantee and his heirs forever, all of the following described real property located in Cassia County, Idaho, to-wit:

An undivided one-half interest in and to the following described real property, to-wit:

TOWNSHIP 15 SOUTH, RANGE 24 EAST, BOISE MERIDIAN, CASSIA COUNTY, IDAHO

SECTION 30: Lot 4 and ~~EXSEW~~
SECTION 31: Lots 1 and 2; ~~NEW~~; and ~~EWNW~~
SECTION 32: ~~WYNW~~

Together with all and singular the tenements, hereditaments and appurtenances thereunto belonging, or in anywise appertaining; and the reversion, remainder and remainders, rents, issues and profits thereof, and also all the estate, right, title and interest, property, possession, claim and demand whatsoever, which the said Elaine M. Nicholson, decedent, had in her lifetime, and at the time of her decease, and which the First Party has, by virtue of their appointment as Co-Personal Representatives of the Estate of Elaine M. Nicholson, deceased, in and to the above-described premises, with appurtenances.

TO HAVE AND TO HOLD all and singular the above-granted premises, together with appurtenances, and every part thereof, unto the Second Party, his heirs and assigns forever.

IN WITNESS WHEREOF the First Party has hereunto set our hand the day and year first above written.

ESTATE OF ELAINE M. NICHOLSON

By: Jean Elwell
Jean Elwell

By: Michael V. Nicholson
Michael V. Nicholson
Co-Personal Representatives

Post-It Fax Note	7671	Date	1-17-03	# of pages	2
To	Lil L. L. L.	From	Jean Elwell		
Co./Dept.		Co.	Cassia		
Phone #		Phone #			
Fax #	436-4837	Fax #			

STATE OF UTAH)

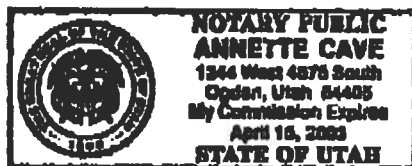
) ss.

County of Weber)

On the 14th day of June, 2000, before me the undersigned Notary Public in and for said State, personally appeared Jean Elwell, Co-Personal Representative of the Estate of Elaine M. Nicholson, deceased, known to me to be the person whose name is subscribed to the within and foregoing instrument and acknowledged to me that she executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.

(SEAL)



Annette Cave
Notary Public
Residing at Ogden UT
My Commission Expires: 4-18-03

RECEIVED
JUL 11 PM 12 49
Rupert
PP x 8
Fall 2000

CASSIA COUNTY, IDAHO
BARRELL M. ROCKELLEY
RECORDER
FEE 6.00
DEPUTY

270105

STATE OF IDAHO)

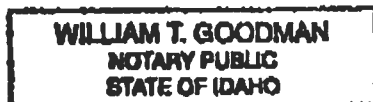
) ss.

County of Minidoka)

On the 19th day of June, 2000, before me the undersigned Notary Public in and for said State, personally appeared Michael V. Nicholson, Co-Personal Representative of the Estate of Elaine M. Nicholson, deceased, known to me to be the person whose name is subscribed to the within and foregoing instrument and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.

(SEAL)



William T. Goodman
Notary Public
Residing at Rupert, Idaho
My Commission Expires: 12/24/04

251447

DEED OF PERSONAL REPRESENTATIVE

THIS DEED made the 31st day of August, 1997, by JEAN ELWELL and MICHAEL V. NICHOLSON, Co-Personal Representatives of the Estate of Albert E. Nicholson, deceased, herein called the First Party, Grantor, and MICHAEL V. NICHOLSON, herein called the Second Party, Grantee, whose present address is 805 3rd Street, Rupert, ID 83350,

WITNESSETH:

That the First Party, by virtue of the power and authority to them given and vested and by reason thereof and for value received, has granted, conveyed and confirmed, and by these presents does grant, remise, convey and confirm, unto the Second Party, Grantee and his heirs forever, all of the following described real property located in Cassia County, Idaho, to-wit:

An undivided one-half interest in and to the following described real property, to-wit:

Township 15 South, Range 24 East, Boise Meridian, Cassia County, Idaho:

Section 30: Lot 4 and E $\frac{1}{2}$ SE $\frac{1}{4}$

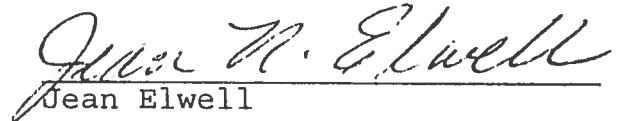
Section 31: Lots 1 and 2; NE $\frac{1}{4}$ and E $\frac{1}{2}$ NW $\frac{1}{4}$

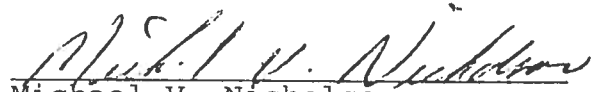
Section 32: W $\frac{1}{2}$ NW $\frac{1}{4}$

Together with all and singular the tenements, hereditaments and appurtenances thereunto belonging, or in anywise appertaining; and the reversion, remainder and remainders, rents, issues and profits thereof, and also all the estate, right, title and interest, property, possession, claim and demand whatsoever, which the said Albert E. Nicholson, decedent, had in his lifetime, and at the time of his decease, and which the First Party has, by virtue of their appointment as Co-Personal Representatives of the Estate of Albert E. Nicholson, deceased, in and to the above-described premises, with appurtenances.

TO HAVE AND TO HOLD all and singular the above-granted premises, together with appurtenances, and every part thereof, unto the Second Party, his heirs and assigns forever.

IN WITNESS WHEREOF the First Party has hereunto set their hand the day and year first above written.


Jean Elwell

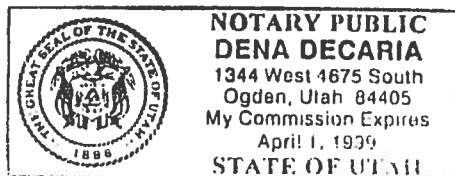

Michael V. Nicholson
Co-Personal Representatives

STATE OF ~~IDAHO~~ UT)
County of ~~Minidoka~~ WEBER) ss.
)

On the 11 day of ~~August~~ SEPT, 1997, before me the undersigned Notary Public in and for said State, personally appeared Jean Elwell and ~~Michael V. Nicholson~~ Co-Personal Representatives of the Estate of Albert E. Nicholson, deceased, known to me to be the person whose name is subscribed to the within and foregoing instrument and acknowledged to me that they executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.

(SEAL)



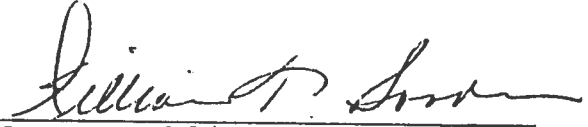
Dena Decaria
Notary Public OGDEN, UT
Residing at Rupert, Idaho
My Commission Expires: 4-1-99

STATE OF IDAHO)
) ss.
County of Minidoka)

On this 29th day of September, 1997, before me the undersigned Notary Public in and for said State, personally appeared Mike Nicholson, Co-Personal Representative, known or identified to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.

(SEAL)


Notary Public
Residing at Rupert, Idaho
My Commission Expires: 12/24/98

RECORDED AT THE REQUEST OF
Saddam Hussein
FILM 291
OCT 1 1997 P 3:12
IDAHO COUNTY, IDAHO
CLERK OF COURT
900
13: Day 5
Rupert, ID
251447

WILLIAM T. GOODMAN
ALAN GOODMAN
RICK BOLLAR
NICOLE L. ARBOGAST

LAW OFFICE
Goodman and Bollar

CHARTERED
717 7TH STREET
BOX D
RUPERT, IDAHO 83350-0020

January 21, 2003

AREA CODE 208
TELEPHONE NO.
436-4774
FAX
(208) 436-4837

RECEIVED
JAN 22 2003
Department of Water Resources
Southern Region

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

Re: Water Right-4173-A A.E. Nicholson

Gentlemen:

We enclose the Notice of Change of Water Right Ownership above numbered, together with the two recorded Deeds transferring ownership of the real property to Michael V. Nicholson.

Our check payable to the Department for \$25.00 is enclosed.

If you require any further information, please contact me.

Very truly yours,

GOODMAN & BOLLAR



William T. Goodman

WTG:KH
Encl.

JAN - 8 2003

Department of Water Resources

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: A43-04173
Date Received: 5/19/1989
Receipt No: S007204
Received By:

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: A. E. NICHOLSON 208-436-3862
Address: 805 3RD ST.
RUPERT, ID 83350
AND/OR
Name: MICHAEL V. NICHOLSON 208-436-3862
Address: 805 3RD ST.
RUPERT, ID 83350

2. Date of Priority: APR 30, 1879

3. Source: NORTH CREEK Trib. to: CIRCLE CREEK
SOUTH CREEK CIRCLE CREEK
CIRCLE CREEK RAFT RIVER
DRY CREEK CIRCLE CREEK

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
15S	24E	31	SW	NE			CASSIA
			NE	NW			CASSIA
			NW	NW			CASSIA
			SW	NW			CASSIA

5. Description of diverting works:
DAMS, DITCHES

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
IRRIGATION	04/01	11/01	6.260		
STOCKWATER	01/01	12/31	0.040		

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

8. Total consumptive use is Acre Feet Per Annum.

A43-04173

Page 1

Date: 05/19/89

RECORDED

MAR 04 1993

9. Non-irrigation uses:
S/150 RANGE

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
15S	24E	30	SW	SW		IRR	40.0
						Section Acres	40.0
		31	NE	NE		IRR	25.0
			NW	NE		IRR	30.0
			SW	NE		IRR	40.0
			SE	NE		IRR	38.0
			NE	NW		IRR	35.0
			NW	NW		IRR	20.0
			SW	NW		IRR	20.0
			SE	NW		IRR	25.0
			NE	SE		IRR	3.0
						Section Acres	236.0
		32	NW	NW		IRR	15.0
			SW	NW		IRR	22.0
						Section Acres	37.0
						Total Acres	313.0

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:

HAVE ALWAYS USED DRY CREEK WATER & HAVE ALWAYS IRRIGATED SWSW,
SEC 30...NOT INCLUDED IN ORIGINAL CLAIM.
INCREASED STATUTORY CLAIM AMOUNT FROM 5.46 TO 6.26 TO COVER
ADDITIONAL 40 ACRES (.02 CFS/ACRE)

15. Basis of Claim: STATUTORY CLAIM

(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.

MICROFILMED
MAR 04 1993



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

A43-04173
A. E. NICHOLSON
MICHAEL V. NICHOLSON
805 3RD ST.
RUPERT ID 83350

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

MICROFILMED

MAR 04 1993

FILE WITH
A43-4173

Robert Hull, and Lizzie Hull, husband
and wife, and William Hull, and
Eliza G. Hull, husband and wife.

To
John H. Hull.

WARRANTY DEED.

Dated June, 1, 1914.

Filed Aug. 10, 1914, 11:15 A.M.

Recorded Book 17 Deeds, page 40

Consideration: \$1.00.

Do grant, bargain, sell, convey and confirm the following
described real estate situated in the County of Cassia, Idaho, to-wit:

Lot 4, E $\frac{1}{2}$ SE $\frac{1}{4}$, Sec.30; W $\frac{1}{2}$ NW $\frac{1}{4}$, Sec.32, NE $\frac{1}{2}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, Lots 1, 2,
Sec.31, Twp 15 S.R. 24, E.B.M. also all water and water rights from
Circle Creek and Dry Canyon and any and all water and water rights ap-
tenant to and in use upon said lands.

Robert Hull.
Lizzie Hull.
William Hull.
Eliza Hull.

Acknowledged July 25, 1914, by Robert Hull and Lizzie
husband and wife, and William Hull and Eliza G. Hull, husband and wife
before T. M. Jones, a _____, in and for Weber County, Utah.
(Seal). Commission expires June _____ 1916.

MICROFILMED
MAR 04 1993

Robert Hull, and Lizzie Hull, husband
and wife, and William Hull, and
Eliza G. Hull, husband and wife.

To
John H. Hull.

WARRANTY DEED.

Dated June, 1, 1914.

Filed Aug. 10, 1914, 11:15 A.M.

Recorded Book 17 Deeds, page 405.

Consideration, \$1.00.

Do grant, bargain, sell, convey and confirm the following
described real estate situated in the County of Cassia, Idaho, to-wit:

Lot 4, E $\frac{1}{2}$ SE $\frac{1}{4}$, Sec.30; W $\frac{1}{2}$ NW $\frac{1}{4}$, Sec.32, NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, Lots 1,2,
Sec.31, Twp 15 S.R. 24, E.B.M. also all water and water rights from
Circle Creek and Dry Canyon and any and all water and water rights appur-
tenant to and in use upon said lands.

Robert Hull.
Lizzie Hull.
William Hull.
Eliza Hull.

Acknowledged July 25, 1914, by Robert Hull and Lizzie Hull
husband and wife, and William Hull and Eliza G. Hull, husband and wife,
before T. M. Jones, a _____, in and for Weber County, Utah.
(Seal). Commission expires June _____ 1916.

MICROFILMED

MAR 04 1993

John H. Hull, and Jennie M. Hull,
husband and wife.

MORTGAGE.

Dated June 27, 1914.

To

Filed July 18, 1914, 8:07 A.M.

The Union Central Life Insurance
Company, a corporation.

Recorded Book 8 Mtgs. page 161.

Consideration: \$8000.00.

The following described real estate situated in the
County of Cassia, State of Idaho, to-wit:

Lot 4, E $\frac{1}{2}$ SE $\frac{1}{4}$ Sec.30; W $\frac{1}{2}$ NW $\frac{1}{4}$ Sec.32; NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, Lots 1, 2,
Sec.31, Twp 15 S.R. 24, E.B.M. containing 536.05 acres. Together with
all the waters of Circle Creek.

One note for \$8000.00, due ten years after date, with
interest as therein specified, and payable annually.

John H. Hull.

Jennie M. Hull.

Acknowledged July 13, 1914, by John H. Hull and Jennie
M. Hull, husband and wife, before George Cook, a Notary Public in and
for the County of Cassia, State of Idaho.

(Seal). Commission expires Apr. 25, 1918.

MICROFILMED

MAR 04 1993

Jan. 18th, 1992

To Whom It May Concern:

I was born in the year 1920, at Almo, Idaho. I grew up there. Living in that community, a good number of years I gained a knowledge of the area for miles around; the land, the people and etc. Within the boundaries of the "City of Rocks" is located the ranch called Circle Ranch. As a boy and young man, I went with my father, Louis Eames to gather wood in the fall of every year. This was in the days of team and wagon. We drove the team and wagon across this above named ranch to get the wood. As long as I can remember the water in the various creeks provided irrigation water for the land and pasture. Dry Creek, South Creek, North Creek & Circle Creek were the sources of this irrigation water.

Signed- L. Olin Eames

State of Idaho)
County of Cassia) ss.
On this 19 day of Jan, in the
year of 1992, before me LaRue Burch personally
appeared L. Olin Eames known to me (or proved)
to me on the oath of _____),
to be the person whose name is to the within
instrument and acknowledged by me (or they)
executed on 3rd day.

LaRue Burch
Notary

Reside
204 W Main Oshley, Idaho
Expiration Date 3-06-96

MICROFILMED

MAR 04 1993

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

DISTRICT COURT-SRBA
TWIN FALLS CO, IDAHO
FILED

2003 NOV 10 PM 4 06

In Re SRBA

Case No. 39576

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR

Water Right 43-04173

NAME AND ADDRESS:

MICHAEL V NICHOLSON
805 3RD ST
RUPERT, ID 83350

SOURCE:

CIRCLE CREEK TRIBUTARY: RAFT RIVER
SOUTH CREEK TRIBUTARY: CIRCLE CREEK
DRY CREEK TRIBUTARY: CIRCLE CREEK
NORTH CREEK TRIBUTARY: CIRCLE CREEK

QUANTITY:

4.64 CFS

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

PRIORITY DATE:

10/15/1882

POINT OF DIVERSION:

T15S R24E S30 LOT 3 (NWNWSW) Within Cassia County
S31 NWSWNE
LOT 1 (SENWNW)
LOT 2 (NWSWNW)
NWNENE

PURPOSE AND

PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
Irrigation	04-01 TO 10-31	4.64 CFS
Stockwater	01-01 TO 12-31	0.04 CFS

PLACE OF USE:

PLACE OF USE:	Within Cassia County
Irrigation	
T15S R24E S30 LOT 4	(SWSW) 15.0
S31	NENE 18.0 SWNE 25.0 NENW 37.0
LOT 2	(SWNW) 7.6 NESE 0.3 NWNW 1.1
S32	
232.0 Acres Total	
Stockwater	
T15S R24E S30 LOT 3	(NWSW) LOT 4 (SWSW)
S31	SESW NENE SWNE NENW
LOT 2	(SWNW) LOT 1 (NWNW) NESE NWNW NWSW
S32	

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 RIGHT IS SUBJECT TO REGULATION BY THE WATERMASTER OF WATER
DISTRICT 43B.^^^

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

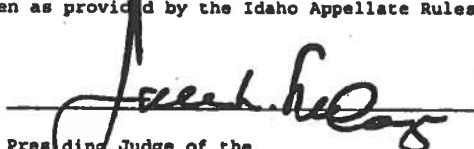
SRBA Partial Decree Pursuant to I.R.C.P. 54(b) (continued)

OTHER PROVISIONS (continued)

DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE
ENTRY OF A FINAL UNIFIED DECREE. I.C. SECTION 42-1412(6).

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.


Presiding Judge of the
Snake River Basin Adjudication

RECEIVED

JUL 25 2003

Department of Water Resources

2003 JUL 24 PM 3:03

DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO
FILED

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

)

) Subcase 43-04173

) (Nicholson)

)

) SPECIAL MASTER REPORT

Findings of Fact

A.E. and Michael Nicholson, 805 3rd Street, Rupert, Idaho, 83350, filed a *Notice of Claim to a Water Right* on May 19, 1989, claiming 6.26 cfs from North, South, Circle and Dry Creeks for year-'round stockwater use and for irrigation of 313 acres in Cassia County from April 1 to November 1 with a priority date of April 30, 1879, based on beneficial use. The Director of the Idaho Department of Water Resources filed his *Director's Reports for Irrigation and Other, Reporting Area 7 (IDWR Basin 43)* on September 28, 2001. The Director recommended 43-04173 as claimed, but for 4.64 cfs to irrigate 232 acres from April 1 to October 31 with a priority date of December 31, 1885.

Michael V. Nicholson filed an *Objection* on February 1, 2002, objecting to source and priority date. IDWR filed a *Notice of Completed Administrative Proceeding* on February 11, 2003, for a substitution of party with Michael V. Nicholson as the claimant. On July 22, 2003, Mr. Nicholson and IDWR filed a *Standard Form 5* agreeing to a priority date of October 15, 1882.

Conclusions of Law

Michael V. Nicholson is entitled to a partial decree adjudicating a water right under 43-04173 as described in the *SF-5* and the attached *Special Master Recommendation for Partial Decree for Water Right 43-04173*.

DATED July 24, 2003.



TERRENCE A. DOLAN
Special Master
Snake River Basin Adjudication

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)
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
)
) Water Right 43-04173

2003 JUL 24 PM 3:03

DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO
FILED

NAME AND ADDRESS: MICHAEL V NICHOLSON
805 3RD ST
RUPERT, ID 83350

SOURCE: CIRCLE CREEK TRIBUTARY: RAFT RIVER
SOUTH CREEK TRIBUTARY: CIRCLE CREEK
DRY CREEK TRIBUTARY: CIRCLE CREEK
NORTH CREEK TRIBUTARY: CIRCLE CREEK

QUANTITY: 4.64 CFS

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

PRIORITY DATE: 10/15/1882

POINT OF DIVERSION: T15S R24E S30 LOT 3 (NWNWSW) Within Cassia County
S31 NWSWNE
LOT 1 (SENWNW)
LOT 2 (NWSWNW)
NWNENE

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-01 TO 10-31	4.64 CFS
	Stockwater	01-01 TO 12-31	0.04 CFS

PLACE OF USE: Irrigation Within Cassia County

T15S R24E S30 LOT 4	(SWSW) 15.0	
S31	NENE 18.0	NWNE 30.0
	SWNE 25.0	SENE 34.0
	NENW 37.0	LOT 1 (NWNW) 21.0
LOT 2	(SWNW) 7.6	SENE 15.0
	NESE 0.3	
S32	NWNW 1.1	SWNW 28.0
232.0 Acres Total		

Stockwater Within Cassia County

T15S R24E S30 LOT 3	(NWSW)	LOT 4 (SWSW)
	SESW	
S31	NENE	NWNE
	SWNE	SENE
	NENW	LOT 1 (NWNW)
LOT 2	(SWNW)	SENE
	NESE	
S32	NWNW	SWNW
	NWSW	

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 RIGHT IS SUBJECT TO REGULATION BY THE WATERMASTER OF WATER
DISTRICT 43B.

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

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

Subcase No.: 43-4173

Case No. 39576

STANDARD FORM 5

STIPULATED ELEMENTS OF A
WATER RIGHT

This form is used to report the stipulated elements of one water right acquired under state law and/or one federal reserved water right. Submission of this form will not automatically result in the issuance of a partial decree. The Presiding Judge or Special Master will conduct any hearing necessary to determine whether the facts, data, expert opinions and law support the issuance of a partial decree for the water right.

The parties agree that the Snake River Basin Adjudication Court has jurisdiction of the parties and subject matter to enter a partial decree for this water right; that they have been served with sufficient process, according to the law; and that they have appeared, prosecuted, and defended their positions with regard to this water right dispute.

The parties and IDWR agree and stipulate that the elements of this water right should be described per the attached. The parties and IDWR have further indicated their concurrence by initialling each of the attached pages.

CLAIMANT/OBJECTOR:

William T. Goodman 7-18-03
William T. Goodman Date
Attorney for Michael V. Nicholson

Michael V. Nicholson
7/18/03

IDWR CONCURRENCE:

[Signature] 7/21/03
Sr. Water Resource Agent Date

Approved as to form
Attorney for IDWR

Date

04/25/2003

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

RIGHT NUMBER: 43-4173

NAME AND ADDRESS: MICHAEL V NICHOLSON
805 3RD ST
RUPERT ID 83350

SOURCE: CIRCLE CREEK
DRY CREEK
NORTH CREEK
SOUTH CREEK

TRIBUTARY: RAFT RIVER
TRIBUTARY: CIRCLE CREEK
TRIBUTARY: CIRCLE CREEK
TRIBUTARY: CIRCLE CREEK

QUANTITY: 4.640 CFS

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

PRIORITY DATE: ~~10/21/1985~~ 10/15/1982

POINT OF DIVERSION:

T15S R24E S30 NW1/4SW Lot 3 Within CASSIA County Source: NORTH CREEK
T15S R24E S31 NW1/4SW Within CASSIA County Source: CIRCLE CREEK
T15S R24E S31 SE1/4NW Lot 1 Within CASSIA County Source: CIRCLE CREEK
T15S R24E S31 NW1/4SW Lot 2 Within CASSIA County Source: SOUTH CREEK
T15S R24E S31 NW1/4SE Within CASSIA County Source: DRY CREEK

PURPOSE AND PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
IRRIGATION	04/01 10/31	4.640 CFS
STOCKWATER	01/01 12/31	0.040 CFS

PLACE OF USE:

IRRIGATION Within CASSIA County

T15S R24E S30 Lot 4 SW1/4	15.0	T15S R24E S31	NENE	18.0
T15S R24E S31	NW1/4	30.0	T15S R24E S31	SW1/4
T15S R24E S31	SE1/4	34.0	T15S R24E S31	NENW
T15S R24E S31 Lot 1 NW1/4	21.0	T15S R24E S31 Lot 2 SW1/4	7.6	
T15S R24E S31	SE1/4	15.0	T15S R24E S31	NE1/4
T15S R24E S32	NW1/4	1.1	T15S R24E S32	SW1/4

STOCKWATER Within CASSIA County

T15S R24E S30 Lot 3 NW1/4		T15S R24E S30 Lot 4 SW1/4	
T15S R24E S30	SE1/4	T15S R24E S31	NENE
T15S R24E S31	NW1/4	T15S R24E S31	SW1/4
T15S R24E S31	SE1/4	T15S R24E S31	NENW
T15S R24E S31 Lot 1 NW1/4		T15S R24E S31 Lot 2 SW1/4	
T15S R24E S31	SE1/4	T15S R24E S31	NE1/4
T15S R24E S32	NW1/4	T15S R24E S32	SW1/4
T15S R24E S32	NW1/4		

232 ACRES TOTAL

Water Right 43-4173

1

VA
J.P.S.
M.D.N.

04/25/2003

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

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

THIS RIGHT IS SUBJECT TO REGULATION BY THE WATERMASTER OF
WATER DISTRICT 43B.

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
STOCKWATER USE IS NOT A DETERMINATION OF HISTORICAL
BENEFICIAL USE.

EXPLANATORY MATERIAL: Beneficial Use

Water Right 43-4173

2

DA
J.P. A
M.V.N.

Hancock, Vikie

From: Baxter, Garrick
Sent: Thursday, April 03, 2003 10:37 AM
To: Hancock, Vikie
Subject: RE: Nicholson

Vickie,
Since there is stockwater associated with this right, let's go with a Nov. 1 1882 priority date and our standard for the irrigation season.
Thanks for all your good work!
Garrick

allow
10-15 1882
per communication
with Garrick
4-4-03

OK

Form Number E198249

National Archives Trust Fund Board NATF Form 84 July 2002

OMB Control No. 4700-0007 (Rev. 03-21-2002)

E198249**NATIONAL ARCHIVES ORDER FOR COPIES OF LAND ENTRY FILES**

(See Instructions page before completing this form)

If we locate the record you request below, we will copy it for you. The cost for these copies is \$17.75.
 Indicate your preferred method of payment at the bottom of this page. There is no charge for an unsuccessful search.

SECTION A. INDICATE BELOW THE TYPE OF FILE DESIRED (Check ONE box only)

1. FILE TO BE SEARCHED ☒ GENERAL LAND ENTRY FILES ☐ BOUNTY-LAND WARRANT FILES

Please refer to Instructions for descriptions of these types of land entry files.

REQUIRED MINIMUM IDENTIFICATION OF LAND FILE - MUST BE COMPLETED OR YOUR ORDER CANNOT BE SERVICED

2. NAME OF ENTRYMAN (Last, first, and middle names)

LUNSFORD, GEORGE W.

3. LAND LOCATED IN STATE OF

IDAHO

4. APPROXIMATE DATE OF ENTRY

(Event date, if known)

9/21/1888**PLEASE PROVIDE THE FOLLOWING ADDITIONAL INFORMATION FOR GENERAL LAND ENTRY FILES****PRE-1908 GENERAL LAND ENTRY FILES****POST-1908 GENERAL LAND ENTRY FILES**

5. LEGAL DESCRIPTION OF LAND

SECTION NUMBER 31 TOWNSHIP NUMBER 15 S RANGE NUMBER 26 E

6. TYPE OF GENERAL LAND ENTRY (Check one)

☐ CREDIT ☐ CASH ☒ HOMESTEAD ACT

7. Other, specify:

7. PATENT, FINAL CERTIFICATE, OR DOCUMENT NUMBER

HOMESTEAD CERTIFICATE #136

8. NAME OF LAND OFFICE

PLEASE PROVIDE THE FOLLOWING ADDITIONAL INFORMATION FOR MILITARY BOUNTY LAND WARRANT FILES

10. YEAR OF ACT AUTHORIZING WARRANT

11. NUMBER OF ACRES

12. WARRANT NUMBER

If available, please attach one copy of the original land patent, tract book page, Bureau of Land Management GLOARS listing for this land entry.

SECTION B. THIS SPACE IS FOR OUR REPLY TO YOU. PLEASE GO TO SECTION D.

Item Nbr
FORM84

Item Description
NATF 84: Land Entry Records

Qty Ordered

1

Qty Fulfilled

1

This is not a bill. Do not send payment.
 Thank you for your order.

Please...

☒ Read☐ Handle☐ Approve

And...

☐ Forward☐ Return☐ Keep☒ Review**ROUTING & REQUEST**To: VIKIE HANCOCK:HERE ARE DOCUMENTSFROM THE NATIONALARCHIVES FOR43-4173 (NICHOLSON)PLEASE REVIEW & GIVEME A CALL, THANKSFrom: GARRIE

Post-it® 7664 ©3M 1995

Date: 3/26/03

OFF230,974

03/18/2003

NWCTB RECEIVED

Janet Garrett
 1301 N Orchard
 Boise, ID 83706
 USA

Mail Immediately

Department of Water Resources

Order Information (NARA use only):

Master Number: 837183

SOP Number: OFF00000000230974

Order Date: 2/28/03

Image ID: 260051

Site: NWCTB

Final Certificate No.

136

Homestead Application No.

577

LAND OFFICE

AT

Haley, Idaho

Nov 15

1888

Sect.

31

Town.

15 S

Range

24

Final H. Affidavit

Notice of Afft. of publication

Call for papers of

Call for papers of

Call for papers of

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HOMESTEAD.

Land Office at Hailey Idaho
Nov 15, 1888.

FINAL CERTIFICATE,
 No. 136

APPLICATION,
 No. 577

It is hereby certified That, pursuant to the provisions of Section No. 2291, Revised Statutes of the United States, George W. Lumsford has made payment in full for

S² N. E. ⁴ - N. W. N. E. ⁴ and
N. E. ⁴ N. W. ⁴

of Section No. 31, in Township No. 15 S, of Range No. 24 E, of the Boise Principal Meridian, containing 160 ¹⁰⁰ acres.

Now, therefore, be it known, That on presentation of this Certificate to the COMMISSIONER OF THE GENERAL LAND OFFICE, the said George W. Lumsford

shall be entitled to a Patent for the Tract of Land above described.

H. A. Billings
 Register.

HOMESTEAD, PRE-EMPTION, AND COMMUTATION PROOF.

TESTIMONY OF CLAIMANT.

Full and Specific Answers must be given to each Question. Evasive Answers will be Fatal to the Proof.

George W. Lunsford, claimant, being first duly sworn, testifies as follows:

Question 1.—What is your correct name, age, and occupation? If employed by any person, state by whom.

Answer: George W. Lunsford, Age 36, Farmer

Ques. 2.—What is your post-office address?

Ans. Almo, Idaho

Ques. 3.—Are you the identical person who made pre-emption filing No. _____ (or homestead entry No. 577) at the

Oxford Hickey land office on the 21 day of Sept., 1888, and what is the true description of the land now claimed by you?

Ans. I am.

1/2 NE 1/4, NW 1/4, NE 1/4 and NE 1/4 Sec. 31. Tp 15 S of 24 E.

Ques. 4.—Where did you live before settling upon this land, and what was your occupation?

Ans. Memphis Co. Iowa, Farmer

Ques. 5.—Are you a native-born citizen of the United States, or have you declared your intention to become such?

Ans. Yes

(In case the party is of foreign birth, a copy of his declaration of intention to become a citizen or full naturalization certificate, officially certified, must be filed with the case. The latter is only required in final homestead entries.)

Ques. 6.—Are you interested in any other entry or filing than the one upon which you now seek to make proof?

Ans. No

Ques. 7.—Have you ever made a pre-emption filing for any other tract of land, or made any other homestead entry or filing or entry of any other kind? (Answer each question separately, describe the land, and state what disposition you made of your claim.)

Ans. No to all

Ques. 8.—Is your present claim within the limits of an incorporated town or selected site of a city or town, or used in any way for trade and business?

Ans. No

Ques. 9.—What is the character of the land? Is it timber, mountainous, prairie, grazing, or ordinary agricultural land? State its kind and quality, and for what purpose it is most valuable.

Ans. Sandy loam Bottom and Bench
prairie Brush

Ques. 10.—Is the land valuable for coal, iron, stone, or minerals of any kind? Has any coal or other minerals been discovered thereon, or is any coal or mineral known to be contained therein? Are there any indications of coal, salines, or minerals of any kind on the land? If so, describe what they are.

Ans. No to all

Ques. 11.—If the land is timber land, state the kind, quality, and amount of timber thereon at date of initiating your claim, the amount still standing, how much has been cut and removed, and by whom, and whether the same has been disposed of, and to whom; also whether any other person than yourself has any interest in the timber, and if so, what kind of interest.

Ans. _____

Ques. 12.—If the land is used for grazing purposes, state how and by whom it is so used, and whether it is within any stock range or fence or other inclosure, and who owns or controls the range or inclosure.

Ans.

Ques. 13.—When did you first make an actual personal settlement on this land? State what you did to make such settlement, and the character and value of the improvements you then placed upon the land.

Ans.

*By the fall of 1882.
Built a house and moved my family
into it*

Ques. 14.—Was the land occupied by any other person when you made such settlement? If so, state who lived there, and how you obtained possession.

Ans.

No

Ques. 15.—When did you actually move on this land and commence living permanently thereon?

Ans.

Fall of 1882 about Nov. 1.

Ques. 16.—Where has been your actual personal residence and home during the whole time since the date of this filing or entry?

Ans.

On said land

Ques. 17.—Has your residence on the land now claimed been actual or constructive, continuous or at intervals? Explain what you mean by actual continuous residence.

Ans.

*Actual and Continuous
I mean I have lived on said land
and nowhere else during the whole
period since Entry.*

Ques. 18.—Have you resided or boarded elsewhere than on this land since commencing your residence thereon? If so, state when and where, how often, and for how long?

Ans.

No.

Ques. 19.—Where have you voted since establishing residence on this land, and where did you last vote, and how long have you voted there?

Ans.

At Alms, Idaho

Ques. 20.—How many times have you been absent from said tract since you commenced actual residence thereon? Give the dates when each absence commenced and terminated, and the cause therefor.

Ans.

Have not been absent

Ques. 21.—Have you a family, and of whom does your family consist?

Ans.

I have my family of 3 Children

Ques. 22.—Has your family resided with you on this claim? If so state when they moved on the land, how long they have lived there, and whether they actually reside there still.

Ans.

*Yes until she became insane and my
Children and I have lived there continuously*

Ques. 23.—If your family has been absent any part of the time since moving on the land, state the causes for and the dates when each absence commenced and terminated.

Ans.

No

Ques. 24.—When and by whom was your house built? Is it habitable at all seasons of the year?

Ans.

By myself. It is.

Ques. 25.—Did you and your family live in said house during all of each or any winter since the date of your filing or entry? If not, state the duration and causes of each absence.

Ans. *Yes during each and every winter*

Ques. 26.—If your family has not lived with you on this claim since the date of your filing or entry, state the causes therefor, where they did reside, and where they are now living.

Ans.

Ques. 27.—Do you own any other residence house than the one now on your claim? If so, state where, and who occupies the same.

Ans. *No.*

Ques. 28.—Describe fully the house on this claim, giving value thereof; also describe fully all other improvements thereon of whatever kind, giving the value of each and total value of all improvements.

Ans.

Log house 16 x 18

\$100

Ques. 29.—What farm implements do you own and use on this claim? State kind and number, and how long you have owned the same.

Ans. *1 Wagon 1 plow 1 harrow 1 shovel 1 hoe*

Ques. 30.—What domestic animals and live stock do you own and keep on this claim? State kind and number of each kind.

Ans. *3 horses 3 Cows*

Ques. 31.—State what articles of furniture of every kind you keep and use in your residence on this claim, and how long you have had them there.

Ans. *1 Stove two Beds 1 table and culinary utensils 1 sewing machine*

Ques. 32.—Have you any personal property or live stock of any kind elsewhere than on this claim? If so, describe the same, and state where the same is kept.

Ans. *Yes 8 head of horses. 5 head cattle
On range and joining*

Ques. 33.—How many seasons have you raised crops on this land, and what kind of crops have you raised each season?

Ans. *Wheat Oats and Barley 6 crops or seasons*

Ques. 34.—How many acres have you put in crops each year, and how much did you raise? State the amount in bushels of each kind.

Ans. *Twenty on average about 200 bushels of
Wheat state the No of each kind*

Ques. 35.—Have you the land in crop this year, or is it prepared for cropping the coming season? How much of the land is so cropped or prepared?

Ans. *Yes*

Ques. 36.—Do you carry on any trade, profession, or business elsewhere than on this land? If so, state what business you have been engaged in while claiming this land, where it was carried on, and the distance from your claim.

Ans. *No.*

Ques. 37.—If you have been employed in working for others away from this claim since you established residence thereon, state when, where, and for whom, in what occupation or capacity, how long you have so worked, and where you staid and lived during that time?

Ans. *I worked away about two months
for Forest Park logging in the
Canyon about 6 mile away and stayed
away in the Canyon at all time.*

Ques. 38.—Where are you assessed for taxes, personal, real estate, or license, and when and where have you paid taxes since claiming this land?

Ans. On said Claim. At Albion, Idaho
Each fall.

Ques. 39.—Are the improvements on this land assessed for taxes; if so, at what valuation? Have such taxes been paid; if so, when and by whom?

Ans. Yes, \$200 Yes, each fall.
By myself

Ques. 40.—What use is made of this land, and who, besides yourself and family, uses it or causes it to be used?

Ans. It is for raising grain and hay
No one but myself uses or controls it

Ques. 41.—Have you sold, transferred, or mortgaged this land, or offered or agreed to sell or dispose of it, and at what price?

Ans. No to all

Ques. 42.—Do you make this entry in the interest or for the benefit of any one else, or has any person other than yourself and family any interest, immediate or prospective, in this entry? If so, state for whom the entry is made.

Ans. No to all.

Ques. 43.—Has any person paid your expenses for making this entry, or paid you wages or a salary on condition that you make said entry, or agreed to do either, or agreed to pay the entry money for you, or to pay the fees or commissions, with the agreement or understanding that you will deed the land after entry is made?

Ans. No to all.

Ques. 44.—Do you make this entry in good faith, for the exclusive purpose of a home and farm for yourself and family?

Ans. Yes

Ques. 45.—Did you leave or abandon a residence on your own land, in this Territory to reside on the land hereby described and claimed by you? [State or Territory.]

Ans. No.

[Signature of claimant.]

George W. Sunsford

I HEREBY CERTIFY that each question in the foregoing deposition was orally propounded to the said George W. Sunsford, and the foregoing answers severally given by him thereto before he signed the same and after being sworn according to law; that the said Claimant is to me personally known (or satisfactorily identified by _____) as the person he represents himself to be in making this proof; that I have called his attention to the laws and penalties against false swearing, and that the foregoing deposition was sworn to and subscribed before me this 10th day of November, A. D. 1888, in absence of the Judge

A. L. Richardson, Clerk
By P. M. Niles

TESTIMONY OF CLAIMANT.

Pre. D. S. No. _____ Cash No. _____

Orig. Hd. No. 577 F. C. No. 136

NAME OF CLAIMANT,

George W. Sunsford

LAND OFFICE AT

Heavily deeded

Approved:

H. A. Hunsinger Register.

C. J. MacMillan Receiver.

HOMESTEAD, PRE-EMPTION, AND COMMUTATION PROOF.

TESTIMONY OF WITNESS.

(The testimony of two witnesses, taken separately, in addition to the testimony of claimant, is required in each case.)

(The testimony of witnesses must be taken at the same time and place and before the same officer as claimant's final affidavit.)

The answers must be full and complete to each and every question asked, and officers taking testimony will be expected to make no mistakes in dates, description of land, or otherwise.

Question 1.—What is your true name (christian and surname), given in full, your age, residence, and present post-office address? (Give description of land on which you reside, quarter-section, township, and range.)

Answer.

Hardy Seare Age 45 Albion Idaho
P.O. Address same place.

Ques. 2.—What is your present occupation, and where and by whom have you been employed since *Nov. 1882* the date of claimant's alleged settlement on said tract?

Ans.

By myself on my present claim and as
assessor of Cassia County

Ques. 3.—Are you related to claimant or in any way interested in this claim, or are you connected with him in business of any kind?

Ans.

No to all

Ques. 4.—How far from the residence of claimant, on said tract, do you reside, and how long have you lived there?

Ans.

34 miles Ten years

Ques. 5.—Give the names and residences of two or more persons living nearer to the claimant of this tract than yourself. If none are nearer than you, give the names of two or more next nearest, and state the land on which they reside.

Ans.

Myron B. Surfer I cannot give the No.
Jacob Padon & of their land from
memory George W. Mansford

Ques. 6.—How long have you known *George W. Mansford*, the claimant, for whom you appear as a witness, where has he been living since you first knew him up to the present time, and is he the identical person he represents himself to be?

Ans.

Since 1882. Yes

Ques. 7.—Are you well acquainted with the land embraced in this claim? Give correct description thereof; also state the extent of your knowledge, and how you know what you affirm.

Ans.

Yes S 1/2 N.E. 1/4 NW 1/4 NE 1/4 E.d. NE 1/4 NW 1/4
Sec. 31 T. 15 S. 8 of R. 24 E.

Ques. 8.—How often have you been on this tract of land since claimant's alleged settlement thereon, at what time or times, and when did you last see him on the land?

Ans.

Every year assessing him This year

Ques. 9.—Is said tract within the limits of an incorporated town or selected site of a city or town, or used in any way for trade or business?

Ans.

No

Ques. 10.—State specifically the character of this land—whether it is timber, prairie, grazing, farming, coal, or mineral land.

Ans.

Large Brush Bush and bottom
Hardy down

Ques. 11.—Are there any indications of coal, minerals, or salines on this land?

Ans.

Not to my knowledge

Ques. 12.—Is it within any stock range or fence or other inclosure? If so, give the names of the parties owning or in any manner controlling such inclosure or range.

Ans.

No.

Ques. 13.—If the land is timber land, state whether the timber, or any portion thereof, and what portion, if any, has been cut or removed, and by whom?

Ans. _____

Ques. 14.—What is this land used for, and who (if any one) besides the claimant is in any manner interested in or uses or controls the land or claims the timber thereon?

Ans. _____

Ques. 15.—What has been claimant's occupation since you first knew him, and where has he been employed, and by whom?

Ans. _____

Ques. 16.—Has he had any other living or boarding place than on this land during the existence of his present claim? If so, state where he has been living or stopping.

Ans. _____

Ques. 17.—Does claimant's family reside on said land? When did they move thereon? How long have they lived there, and do they still reside thereon? If not, where do they reside?

Ans. _____

Ques. 18.—Has claimant's family been absent from said land since moving thereon? If so, state how often, how long each time, and the cause of said absence or absences.

Ans. _____

Ques. 19.—State in full and in detail all the facts within your knowledge as to claimant's actual residence upon this claim; when and how often you have seen him upon the land; what were the evidences that he actually lived on the tract; how long he has lived there, and whether he lives there now.

Ans. _____

Ques. 20.—If claimant has been absent from said land since his alleged settlement, state fully how often, when, how long each time, and for what purpose.

Ans. _____

Ques. 21.—State in detail the character of the improvements; what they consist of, and when they were made; the value of each distinct improvement, fully describing the same; also whether they were made by the claimant or by some other person.

Ans.

A House 14 x 18 feet Stable 14 x 20
Granny and 1/2 mile fence
Value about \$500

Ques. 22.—Give the size, construction, and material of claimant's house on said tract, and also state whether the same is habitable during all seasons of the year.

Ans.

I have given it. It is of log and
is habitable and been inhabited
by him and his family at all
seasons.

Ques. 23.—What is this land worth, and was it ever offered for sale?

Ans.

About two dollars.
2nd No.

Ques. 24.—When did claimant commence living upon this land?

Ans.

In the fall of 1882

Ques. 25.—How much of said land has been broken, how much plowed since being broken, and how much put into crop each season? State kind of crops raised, their value, and number of seasons crops were raised.

Ans.

About twenty acres All of which
has been cultivated by claimant
each year since 1882 in wheat
Oats Barley and potatoes I cannot
state No of Bushels or value

Ques. 26.—Is said land in crops this season, or has it been prepared for cropping the coming season?

Ans.

Yes

Ques. 27.—Do you believe that claimant intends to continue his residence on this land after making final proof, or does he intend to remove therefrom?

Ans.

Yes

Ques. 28.—Does claimant, with his family, reside on said land at the present time? You will explain how you know he has resided there, as you have heretofore stated.

Ans.

Yes
By having always found
him there and knowing they
have no other home

It ardy Sears

U. S. LAND OFFICE,

, 18 .

I HEREBY CERTIFY that personally appeared before me; that he is a credible witness, and is personally known to me (or has been satisfactorily identified before me by), and that each question in the foregoing deposition was orally propounded to the said and the foregoing answers severally given by him thereto before he signed the same and after being sworn according to law; that I have called his attention to the law and penalties against false swearing; and that the foregoing deposition was sworn to and subscribed before me this day of A. D. 18 .

Register (or Receiver).

SPECIAL CERTIFICATE.

(To be used in all cases when proof is made before a clerk of court or judge of probate.)

Territory of Idaho
County of Cassia 88:
 I, *A. L. Richardson* Clerk of the Dist. Court in and for *Cassia County*, do hereby certify that the claimant *George H. Lunsford* and his witnesses *Henry Sears* and *M. L. Brown* in this proof were identified by *me* to be the identical persons named in the published notice herein.

That before proceeding to take the proof and testimony I read to the claimant and to each of the witnesses Section 5392 of the Revised Statutes of the United States and explained to each of them the import and meaning thereof.

That each of the printed questions in the testimony was read to said claimant and to each of said witnesses, and their respective answers thereto were by me reduced to writing and read to each respectively, and was there and then by them subscribed and sworn to before me.

That said proof and affidavits were taken and made between the hours of eight A. M. and six o'clock P. M. on the *10th* day of *Nov*, 1888, at my office at *Albion*, in said *County*.

That no protest or objection of any kind against said proof has been made or filed in my office by any person.

Given under my hand and official seal this *10th* day of *Nov*, 1888, in absence of *A. L. Richardson* Clerk
By P. M. Niles Deputy
H. A. Billings Register.

We hereby certify that the within and foregoing testimony of claimant and witnesses has been carefully examined by us before transmittal to the General Land Office.

Register.

Receiver.

TESTIMONY OF WITNESS.

[4-369 b.]

Pre. D. S. No. _____ Cash No. _____

Orig. Hd. No. *577* F. C. No. *136*

NAME OF CLAIMANT,

Geo H. Lunsford

LAND OFFICE AT

Henry Sears

Approved:

H. A. Billings Register.*C. O. Jackson* Receiver.
 [Seal - 30 M.]

HOMESTEAD, PRE-EMPTION, AND COMMUTATION PROOF.

TESTIMONY OF WITNESS.

(The testimony of two witnesses, taken separately, in addition to the testimony of claimant, is required in each case.)

(The testimony of witnesses must be taken at the same time and place and before the same officer as claimant's final affidavit.)

The answers must be full and complete to each and every question asked, and officers taking testimony will be expected to make no mistakes in dates, description of land, or otherwise.

Question 1.—What is your true name, (christian and surname), given in full, your age, residence, and present post-office address? (Give description of land on which you reside, quarter-section, township, and range.)

Answer.

Mervyn J. Brown Age 39 Albion Idaho P.O. Lad. the same place

Ques. 2.—What is your present occupation, and where and by whom have you been employed since *Nov 1882*, the date of claimant's alleged settlement on said tract?

Ans.

Cumy Recorder

Ques. 3.—Are you related to claimant or in any way interested in this claim, or are you connected with him in business of any kind?

Ans.

No

Ques. 4.—How far from the residence of claimant, on said tract, do you reside, and how long have you lived there?

Ans.

34 miles over 6 years

Ques. 5.—Give the names and residences of two or more persons living nearer to the claimant of this tract than yourself. If none are nearer than you, give the names of two or more next nearest, and state the land on which they reside.

Ans.

George Graham I cannot give their to and to R. Cahoon without examining the plot

Ques. 6.—How long have you known *George W. Tinsford*, the claimant, for whom you appear as a witness, where has he been living since you first knew him up to the present time, and is he the identical person he represents himself to be?

Ans.

Since the summer of 1882. He is.

Ques. 7.—Are you well acquainted with the land embraced in this claim? Give correct description thereof; also state the extent of your knowledge, and how you know what you affirm.

Ans.

I am well acquainted with all the occupied land in this County though I cannot describe it by legal subdivisions, I only know that claimant has lived on his present claim since 1882

Ques. 8.—How often have you been on this tract of land since claimant's alleged settlement thereon, at what time or times, and when did you last see him on the land?

Ans.

Every year and sometimes twice. Last Spring

Ques. 9.—Is said tract within the limits of an incorporated town or selected site of a city or town, or used in any way for trade or business?

Ans.

No

Ques. 10.—State specifically the character of this land—whether it is timber, prairie, grazing, farming, coal, or mineral land.

Ans.

Long Brush Bottom and brush farming land

Ques. 11.—Are there any indications of coal, minerals, or salines on this land?

Ans.

Not to my knowledge

Ques. 12.—Is it within any stock range or fence or other inclosure? If so, give the names of the parties owning or in any manner controlling such inclosure or range.

Ans.

No

Ques. 13.—If the land is timber land, state whether the timber, or any portion thereof, and what portion, if any, has been cut or removed, and by whom?

Ans. _____

Ques. 14.—What is this land used for, and who (if any one) besides the claimant is in any manner interested in or uses or controls the land or claims the timber thereon?

Ans. *Farming. No one*

Ques. 15.—What has been claimant's occupation since you first knew him, and where has he been employed, and by whom?

Ans. *Farmer. By himself on his present claim*

Ques. 16.—Has he had any other living or boarding place than on this land during the existence of his present claim? If so, state where he has been living or stopping.

Ans. *No.*

Ques. 17.—Does claimant's family reside on said land? When did they move thereon? How long have they lived there, and do they still reside thereon? If not, where do they reside?

Ans. *Yes. In the fall of 1882. Six years they reside there still*

Ques. 18.—Has claimant's family been absent from said land since moving thereon? If so, state how often, how long each time, and the cause of said absence or absences.

Ans. *No*

Ques. 19.—State in full and in detail all the facts within your knowledge as to claimant's actual residence upon this claim; when and how often you have seen him upon the land; what were the evidences that he actually lived on the tract; how long he has lived there, and whether he lives there now.

Ans. *I know that it is a fact that is notorious that claimant has resided on his present claim with his family for the last six years*

Ques. 20.—If claimant has been absent from said land since his alleged settlement, state fully how often, when, how long each time, and for what purpose.

Ans. _____

Ques. 21.—State in detail the character of the improvements; what they consist of, and when they were made; the value of each distinct improvement, fully describing the same; also whether they were made by the claimant or by some other person.

Ans. A house about 16 x 18 Made in 1882 Val. \$100
 Granary in 1884 75
 Fencing 1 1/2 miles some each year 250
 All Made by Claimant Total 425

Ques. 22.—Give the size, construction, and material of claimant's house on said tract, and also state whether the same is habitable during all seasons of the year.

Ans. As above, of Log
 It is habitable at all seasons
 and inhabited by Claimant and
 family at all seasons.

Ques. 23.—What is this land worth, and was it ever offered for sale?

Ans. About \$2.50
 Not to my knowledge

Ques. 24.—When did claimant commence living upon this land?

Ans. Nov. 1882

Ques. 25.—How much of said land has been broken, how much plowed since being broken, and how much put into crop each season? State kind of crops raised, their value, and number of seasons crops were raised.

Ans. About 20 acres. The whole
 Wheat oats and barley
 Current State Value
 Six seasons

Ques. 26.—Is said land in crops this season, or has it been prepared for cropping the coming season?

Ans. Yes

Ques. 27.—a. Is claimant the owner of 320 acres in this or any other State or Territory? b. Did claimant leave or abandon a residence on his own land, in this Territory, to reside on the land herein described?

Ans. a. No b. No

Ques. 28.—Do you believe that claimant intends to continue his residence on this land after making final proof, or does he intend to remove therefrom?

Ans. Yes

Ques. 29.—Does claimant, with his family, reside on said land at the present time? You will explain how you know he has resided there, as you have heretofore stated.

Ans. Yes. By having always found him
 and his family there on said land
 and knowing that he has no other
 home

M. F. Brown
 [Signature of Witness.]

U. S. LAND OFFICE,

, 18

I HEREBY CERTIFY that _____ personally appeared before me; that he is a credible witness, and is personally known to me (or has been satisfactorily identified before me by _____), and that each question in the foregoing deposition was orally propounded to the said _____ and the foregoing answers severally given by him thereto before he signed the same and after being sworn according to law; that I have called his attention to the laws and penalties against false swearing; and that the foregoing deposition was sworn to and subscribed before me this _____ day of _____ A. D. 18

Register (or Receiver.)

SPECIAL CERTIFICATE.

(To be used in all cases when proof is made before a clerk of court or judge of probate.)

Secretary of Idaho
County of Cassia ss:
I, *H. S. Richardson, Clerk of the Dist. Court* in and for *Cassia County*, do hereby certify that the claimant *George W. Linsford* and his witnesses *Heard Pearce* and *M. T. Brown* in this proof were identified by *me* to be the identical persons named in the published notice herein.

That before proceeding to take the proof and testimony I read to the claimant and to each of the witnesses Section 5392 of the Revised Statutes of the United States and explained to each of them the import and meaning thereof.

That each of the printed questions in the testimony was read to said claimant and to each of said witnesses, and their respective answers thereto were by me reduced to writing and read to each respectively, and was there and then by them subscribed and sworn to before me.

That said proof and affidavits were taken and made between the hours of eight A. M. and six o'clock P. M. on the *10th* day of *Nov.*, 18*88*, at my office at *Albion*, in said *Cassia* County.

That no protest or objection of any kind against said proof has been made or filed in my office by any person.

Given under my hand and official seal this *10th* day of *Nov.*, 18*88* in absence of the judge, *H. S. Richardson, Clerk*
By P. M. Niles, Deputy

We hereby certify that the within and foregoing testimony of claimant and witnesses has been carefully examined by us before transmittal to the General Land Office.

Register.

Receiver.

TESTIMONY OF WITNESS.

Pre. D. S. No. _____ Cash No. _____

Orig. Hd. No. *577* F. C. No. *136*

NAME OF CLAIMANT,

Geo W. Linsford

LAND OFFICE AT

Hosier, Idaho

Approved:

*H. O. Birney, Register.**P. M. Niles, Receiver.*

Territory of Idaho } ss.
County of Cassia }

George W Lunsford
Who made Homestead Entry of
S $\frac{1}{2}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$ NE $\frac{1}{4}$ and NE $\frac{1}{4}$ NW $\frac{1}{4}$
Sec. 31. T $\frac{1}{2}$ 13 S. of R. 24 E swear that
my entry receipt is lost

Subscribed and sworn to before
me this 10th day of
Nov. 1898

H. Richardson
By P. M. Miles
Deputy

George W Lunsford

HOMESTEAD AFFIDAVIT

Under Section 2294, Revised Statutes, for settlers who cannot appear at the District Land Office.

Office of the Clerk of the Court

For Cassia County,

Sept. 15, 1888

I, George W. Lunsford, of Alamo, Idaho,
 having filed my Homestead Application No. 577, do solemnly swear that I am
a native-born American citizen of the
United States over the age of twenty-one years
and the head of a family
 that said application No. 577 is made for the purpose of actual settlement and cultivation;
 that said entry is made for my exclusive use and benefit, and not directly or indirectly for the use or benefit
 of any other person or persons whomsoever; that I am
 now residing on the land I desire to enter, and that I have made a *bona fide* improvement and settlement
 thereon; that said settlement was commenced October 15, 1882
 that my improvements consist of a house, stable, granary,
1 1/4 mile fence
 and that the value of the same is \$ 500; that owing to great distance

I am unable to appear at the District Land Office to make this affidavit, and that I have never before made
 a homestead entry, except

George W. Lunsford

Sworn to and subscribed before me this 15, day of Sept., 1888

A. L. Richardson Clerk
 Clerk of the Court for P. J. Miles Deputy

NOTE.—The claimant must fill up the blank places above, showing whether he is the head of a family or over twenty-one years of age; whether a native citizen, or has declared his intention to become a citizen; whether he and his family, or some member thereof, is residing on the land, giving the date of actual settlement, describing the dwelling-house and improvements, and stating the value of the same, and stating reason for not appearing at the District Land Office. If claimant ever before made a homestead entry, describe the same: if not, draw a line over the word "except."

HOMESTEAD.

APPLICATION

No. 577

Office of the Clerk of the Dist Court
~~Land Office at~~ *Albion, Idaho,*

Sept 15, 1888

I, *George W Lunsford*, of *Alma, Idaho*

, do hereby apply to enter, under Section 2289,

Revised Statutes of the United States, the *S 1/4 N 1/4 NE 1/4*

NE 1/4 NW 1/4 of Section *31*, in Township *13 S.* of

Range *24 E.*, containing *160* acres.

Don Miles

George W Lunsford

Land Office at *Hailey Idaho*

Sept 21, 1888

I, _____, REGISTER OF THE LAND OFFICE,
do hereby certify that the above application is for Surveyed Lands of the class
which the applicant is legally entitled to enter under Section 2289, Revised
Statutes of the United States, and that there is no prior valid adverse right
to the same.

H. O. Bivings
Register.

F. C., C. H., Pro. No. 136
 District, Hailey-Idaho
 No. of acres, 160
 Errors in description,
 Date of Settlement,
 " " Entry (in Hds.), Sept 21" 1888
 " " Residence, Nov 1" 1888
 " " Proof, November 10" 1888
 " Advertised,
 " of Certificate, Nov. 15" 1888
 Officer taking proof, Clk. Dist. Court
 " advertised,
 No. of weeks advertised,
 Proof by Clmt., Widow, Heir, Admr. G'n
 Improvements, Dwelling House 16 x 18
 Value of \$425
 Acres broken, 20
 " in crop, 20; No. of seasons, 6
 Kind of crops, Wheat, Oats & Barley
 Residence claimed, 6 Yrs., — Mos., 9 Days.
 Military or Naval service claimed, none
 " " " " verified, "
 No. of absences, none
 Total duration, "
 Cause, "
 Native-born Naturalized
 Claimant's family, 3 Children
 Supplemental proof,
 Papers missing,
 REMARKS,

Examined 18 day of July, 1889
B. McCullough
 Examiner.

Clerks using these cards will be held to a strict responsibility for all errors and omissions, and in estimating their reliability and efficiency all such errors and omissions will be considered.

These cards to be used only for the purpose intended.

WILLIAM WALKER,
Chief Clerk.

AFFIDAVIT OF PUBLICATION.

TERRITORY OF IDAHO,

County of Cassia, } ss.

I, Wm Davidson, do solemnly swear that I am the proprietor

of the CASSIA COUNTY TIMES, a weekly newspaper of general circulation,

published once each week at Albion, Cassia County, Idaho Territory; that the notice attached hereto and which is a part of this affidavit, and a part of the proof of publication, was published in said newspaper for six consecutive weeks, first publication having been made on the 2d day of Sept, 1888; that said notice was published in the regular and entire issue of every number of the paper during the period and times of publication, and that the notice was published in the newspaper and not in a supplement.

Wm Davidson

Sworn and subscribed before me, this 14 day of Dec,

A. D. 1888

Wm Davidson

By

I, H. O. Billings, Register, do hereby certify that a notice, a printed copy of which is hereto annexed, was by me posted in a conspicuous place in my office for a period of thirty days, I having posted said notice on the 21 day of Sept, 1888



H. O. Billings

NON-MINERAL AFFIDAVIT.

This affidavit can be sworn to only on personal knowledge, and cannot be made on information and belief.
The non-mineral affidavit accompanying an entry of public land must be by the party making the entry, and only before the officer taking the other affidavits required of the entryman.

UNITED STATES LAND OFFICE,

Office of the Clerk of this Dist. Court
At Albion Idaho

Nov. 23, 1889. 188

George W Lunsford being duly sworn according to law, deposes
and says that he is the identical person who is an applicant
for Government title to the S 1/2 NE 1/4, NW 1/4 NE 1/4 + NE 1/4 NW 1/4
Sec. 31. Twp 13 S of R 24 E.

that he is well acquainted with the character of said described land, and with each and every legal subdivision thereof, having frequently passed over the same; that his personal knowledge of said land is such as to enable him to testify understandingly with regard thereto; that there is not, to his knowledge, within the limits thereof, any vein or lode of quartz or other rock in place, bearing gold, silver, cinnabar, lead, tin, or copper, or any deposit of coal; that there is not within the limits of said land, to his knowledge, any placer, cement, gravel, or other valuable mineral deposit; that no portion of said land is claimed for mining purposes under the local customs or rules of miners or otherwise; that no portion of said land is worked for mineral during any part of the year by any person or persons; that said is essentially non-mineral land, and that his application therefor is not made for the purpose of fraudulently obtaining title to mineral land, but with the object of securing said land for agricultural purposes, and that his post-office address is Albion Idaho

George W Lunsford

I HEREBY CERTIFY that the foregoing affidavit was read to affiant in my presence before he signed his name thereto; that said affiant is to me personally known (or ~~has been satisfactorily identified before me by~~ _____), and that I verily believe him to be a credible person and the person he represents himself to be, and that this affidavit was subscribed and sworn to before me at my office in Albion within the Heavily land district, on this 23 day of Nov., 1889.

A. L. Richardson Clerk
By P. M. Miles Deputy

NOTE.—The officer before whom the deposition is taken should call the attention of the witness to the following section of the Revised Statutes, and state to him that it is the purpose of the Government, if it be ascertained that he testifies falsely, to prosecute him to the full extent of the law:

REVISED STATUTES OF THE UNITED STATES. TITLE LXX.—CRIMES.—CHAP. 4.

Sec. 5392. Every person who, having taken an oath before a competent tribunal, officer, or person, in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed is true, willfully and contrary to such oath states or subscribes any material matter which he does not believe to be true, is guilty of perjury, and shall be punished by a fine of not more than two thousand dollars, and by imprisonment, at hard labor, not more than five years, and shall, moreover, thereafter be incapable of giving testimony in any court in the United States until such time as the judgment against him is reversed. (See § 1750.)

[4-070.]

HOMESTEAD PROOF.

Final Affidavit Required of Homestead Claimants.

Section 2291 of the Revised Statutes of the United States.

I, George W. Lumsford, having made a homestead entry of the S¹/₂ NE¹/₄, NW¹/₄, NE¹/₄ & NE¹/₄ NW¹/₄ Section No. 31 in Township No. 15 S. of Range No. 24 E., subject to entry at Hailey Idaho under section No. 2289 of the Revised Statutes of the United States, do now apply to perfect my claim thereto by virtue of Section No. 2291 of the Revised Statutes of the United States; and for that purpose do solemnly swear that I am a citizen of the United States; that I have made actual settlement upon and have cultivated said land, having resided thereon since the _____ day of _____, 18____, to the present time; that no part of said land has been alienated, except as provided in section 2288 of the Revised Statutes, but that I am the sole *bona fide* owner as an actual settler; that I will bear true allegiance to the Government of the United States; and further, that I have not heretofore perfected or abandoned an entry made under the homestead laws of the United States.

George W. Lumsford
[signature of claimant, name correctly spelled, and one christian name in full.]

SUBSCRIBED AND SWORN to before me this 23rd day of Nov., 1889

I hereby certify that claimant is to me personally well known and credible

N. L. Richardson Clerk
By Minutes Report

NON-MINERAL AFFIDAVIT.

This affidavit can be sworn to only on personal knowledge, and cannot be made on information and belief.
The non-mineral affidavit accompanying an entry of public land must be made by the party making the entry, and only before the officer taking the other affidavits required of the entryman.

UNITED STATES LAND OFFICE,

Office of the Clerk of the Dist. Court
At Albion, Idaho Sept 15, 1888.

George W. Lunsford, being duly sworn according to law, deposes
and says that he is the identical *Person* who is an applicant
for Government title to the *S 1/2 T 1 N W 1/4 NE 1/4 + NE 1/4 NW 1/4*
Section 31, Twp. 15 S of R. 24 East

that he is well acquainted with the character of said described land, and with each and every legal subdivision thereof, having frequently passed over the same; that his personal knowledge of said land is such as to enable him to testify understandingly with regard thereto; that there is not, to his knowledge, within the limits thereof, any vein or lode of quartz or other rock in place, bearing gold, silver, cinnabar, lead, tin, or copper, or any deposit of coal; that there is not within the limits of said land, to his knowledge, any placer, cement, gravel, or other valuable mineral deposit; that no portion of said land is claimed for mining purposes under the local customs or rules of miners or otherwise; that no portion of said land is worked for mineral during any part of the year by any person or persons; that said land is essentially non-mineral land, and that his application therefor is not made for the purpose of fraudulently obtaining title to mineral land, but with the object of securing said land for agricultural purposes, and that his post-office address is *Almo, Idaho.*

George W. Lunsford

I HEREBY CERTIFY that the foregoing affidavit was read to affiant in my presence before he signed his name thereto; that said affiant is to me personally known (~~or has been satisfactorily identified before me by~~), and that I verily believe him to be a credible person and the person he represents himself to be, and that this affidavit was subscribed and sworn to before me at my office in *Albion*, within the *Albion* land district, on this *15* day of *September*, 1888.

M. Richardson Clerk
By P. M. Niles
deputy

NOTE.—The officer before whom the deposition is taken should call the attention of the witness to the following section of the Revised Statutes, and state to him that it is the purpose of the Government, if it be ascertained that he testifies falsely, to prosecute him to the full extent of the law:

REVISED STATUTES OF THE UNITED STATES. TITLE LXX.—CRIMES.—CHAP. 4.

Sec. 5392. Every person who, having taken an oath before a competent tribunal, officer, or person, in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed is true; willfully and contrary to such oath states or subscribes any material matter which he does not believe to be true, is guilty of perjury, and shall be punished by a fine of not more than two thousand dollars, and by imprisonment, at hard labor, not more than five years, and shall, moreover, thereafter be incapable of giving testimony in any court of the United States until such time as the judgment against him is reversed. (See §1750.)

Receiver's Duplicate Receipt No. 577

[4-138.]

Application No. 577

HOMESTEAD.

Receiver's Office, Haley, Idaho
Sept 21, 1888.

RECEIVED of George W. Luneford the sum
of Sixteen dollars _____ cents;
being the amount of fee and compensation of Register and Receiver for the
entry of S² N. E. - N. W. N. E. and N. E. N. W. of Section 31
Township 15 S of Range 24 E, under
Section 2290, Revised Statutes of the United States.

E. J. Crooksey
Receiver.

\$ 16.00

NOTE.—It is required of the homestead settler that he shall reside upon and cultivate the land embraced in his homestead entry for a period of five years from the time of filing the affidavit, being also the date of entry. An abandonment of the land for more than six months works a forfeiture of the claim. Further, within two years from the expiration of the said five years he must file proof of his actual settlement and cultivation, failing to do which, his entry will be canceled. If the settler does not wish to remain five years on his tract he can, at any time after six months, pay for it with cash or land-warrants, upon making proof of settlement and cultivation from date of filing affidavit to the time of payment.

Territory of Idaho }
County of Cassia } ss.

I, George W. Lunsford of
Almo, Cassia County, Idaho Territory
Who made Homestead proof upon my
Claim F. C. No. 136. before the Clerk of the
District Court at Albion Idaho Nov. 10, 1888.
being first duly sworn state that the
reason said proof was not made
on Nov. 3, 1888. was because I could
not procure my witnesses on said
day viz. Nov. 3, 1888.

Subscribed and
sworn to before me
this 14th day of Jan.
1890.

George W. Lunsford

A. L. Richardson
Clerk
By T. M. Miles Deputy

Territory of Idaho }
County of Cassia }

I, A. L. Richardson, Clerk of the Dist.
Court for Cassia County, hereby Certify that no person
appeared to offer evidence, oral or written, against
the proof of George W. Lunsford either on Nov 3, 1888, or
at any other time

In witness whereof I have hereunto set my
hand and affixed the seal of said Court
this 14th day of January A.D. 1890

A. L. Richardson Clerk
By T. M. Miles Deputy

(4-140.)

FINAL RECEIVER'S RECEIPT, No. 136.

APPLICATION, No. 577

HOMESTEAD.

Receiver's Office, Kealey Idaho
November 15th, 188 8

Received of George H. Lunsford the sum
of Six dollars _____ cents,

being the balance of payment required by law for the entry of _____

Q^u NE¹ NW¹ NE¹ and
NE¹ NW¹

of Section 31 in Township 15.5. of Range 74. E
containing 160 acres, under Section 2291 of the
Revised Statutes of the United States.

\$ 65
H. J. Proffers

C. J. Proffers

Receiver.

WILLIAM T. GOODMAN
ALAN GOODMAN
RICK BOLLAR
NICOLE L. ARBOGAST

LAW OFFICE
Goodman and Bollar

CHARTERED
717 7TH STREET
BOX D
RUPERT, IDAHO 83380-0020

February 10, 2003

AREA CODE 208
TELEPHONE NO.
436-4774
FAX
(208) 436-4837

RECEIVED
FEB 12 2003
Department of Water Resources

Office of the Attorney General
Water Resources Unit
1301 North Orchard Street
Boise, ID 83706-2237

Attn: Garrick Baxter, Esquire

Re: Michael Nicholson Water Right Case 43-4173

Dear Mr. Baxter:

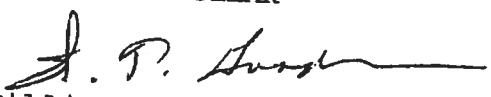
Enclosed you will find photocopies of several pages from a Historic Resources Study at the City of Rocks National Reserve. The original of this Book is on file with the National Reserve.

I call your attention to page 56 indicating that water was used on the Nicholson Property as early as 1860 and on page 62, which shows that George W. Lunsford a homesteader and predecessor in interest on the Nicholson ranch claimed irrigable land along Circle Creek and the right to water therein as early as 1882.

We would appreciate your appraisal of this information concerning the priority date claimed by Nicholsons.

Very truly yours,

GOODMAN & BOLLAR


William T. Goodman

WTG:KH

Encl.

cc: Ms. Pamela Wascher
Mr. Michael Nicholson

WILLIAM T. GOODMAN
ALAN GOODMAN
RICK BOLLAR
NICOLE L. ARBOGAST

LAW OFFICE
Goodman and Bollar

CHARTERED
717 7TH STREET
BOX D
RUPERT, IDAHO 83360-0020

AREA CODE 208
TELEPHONE NO.
436-4774
FAX
(208) 436-4837

February 10, 2003

RECEIVED

FEB 12 2003

Department of Water Resources

Office of the Attorney General
Water Resources Unit
1301 North Orchard Street
Boise, ID 83706-2237

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Dear Mr. Baxter:

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We would appreciate your appraisal of this information concerning the priority date claimed by Nicholsons.

Very truly yours,

GOODMAN & BOLLAR


William T. Goodman

WTG:KH

Encl.

cc: Ms. Pamela Wascher
Mr. Michael Nicholson

HISTORIC RESOURCES STUDY
City of Rocks National Reserve
Southcentral Idaho

Contract Number 1443-CX9000-93-031

Prepared for



National Park Service
Pacific West Field Area
Columbia-Cascade System Support Office
Seattle, Washington

by



Missoula, Montana

and

Amphion
Oakland, California

March 1996

native bunchgrass (*agropyrum spicatum*), white sage (*artemisia cana*), buckbrush (Antelope Bitterbrush; *purshia tridentata*) and shadscale (*Atriplex Confertifolia*).¹³¹ By the 1850s, the captive and inflated market of the California mining camps had attracted eastern stockmen, who drove their herds of Texas longhorns and (less often) sheep to the Sacramento Valley by one of three routes: the Gila and Old Spanish trails through Arizona and southern California and the Northern Trail, along the emigrant trail through the City of Rocks.¹³²

As Richard Dana and the other California boosters had promised, the Golden State's agricultural potential was enormous. When in the 1860s the West's gold camps shifted from the Sacramento Valley to Idaho, Nevada, and Montana, California ranchers were ready to herd their cattle "east." Here they competed with the Texas ranchers for a share of the Boise Basin, Pierce, and Virginia City markets.¹³³ The California stock drives traveled from Junction Valley to the Raft River Valley along Trail Creek, through the City of Rocks; Texas drives passed just east, through the Raft River Valley.

By the 1870s, cattle competed with sheep on these eastward drives. California sheepmen most commonly trailed their bands on one of three routes: along Goose Creek (west) through Oakley; along the California Trail through the City of Rocks, and east along the Salt Lake Alternate.¹³⁴

"Cattle Dealer" James Q. Shirley was the first non-Indian to use the City of Rocks as a home base. In 1869, Shirley and his "hired man" trailed 13,000 head of Texas longhorns to "a place called the City of Rocks." Here they "made camp," raising a garden and utilizing "The Cove" below Graham Peak as a natural corral. When the census taker knocked in the spring of 1880, Shirley shared the City of Rocks camp with seven "stockherders." The Keogh brothers purchased Shirley's cattle and landholdings in 1881, forming the Keogh Ranch.¹³⁵

¹³¹ Lind, "History of John, Emma, and Alex Lind's settlement south of Almo," p. 67.

¹³² Little, "A Historical Overview of Livestock Use in the Area of City of Rocks National Reserve From Introduction to 1907," pp. 5-5A; Minidoka National Forest Personnel, "History of the Minidoka National Forest," p. 4, Supervisor's Office Sawtooth National Forest; "The Trip to California, 1860, Martha Missouri Moore," *Covered Wagon Women*, pp. 259-261, excerpt provided by City of Rocks National Reserve.

¹³³ Little, "A Historical Overview of Livestock Use in the Area of City of Rocks National Reserve From Introduction to 1907," pp. 1-2.

¹³⁴ *Ibid.*, p. 12.

¹³⁵ Cottle, "Sketches of Malta and the Raft River Valley," p. 1; *A Pause for Reflection*, p. 615; U.S. Bureau of the Census, "Cassia County, Marsh Basin Enumeration District," *10th Census of Population, 1900*, National Archives Micro-film Laboratory.

Neighboring cattle ranches included the Emery Ranch in the Raft River Valley, A. D. Norton and M. G. Robinson's outfit along the Snake River at Rock Creek, and the Shoe Sole and Winecup ranches located in the Goose Creek Valley west of the City of Rocks. (By 1882, the Winecup ranch alone had 175,000 cattle ranging from the Goose Creek Mountains (Albion Mountains) on the east to the Bruneau River on the west.) These operations used the City of Rocks region as summer range for their cattle and ranch horses, constructing stock ponds, corrals, and the "line cabins" that provided food and shelter to herders.¹³⁶

By the 1880s, the Raft River Valley, with its abundant plantings of alfalfa hay, "became known as the best place in the west to winter sheep... There were free open range privileges and the general area was safe for the bands." Sheepmen, primarily headquartered in northern Utah, also relied upon the Goose Creek Range and the City of Rocks as summer range.¹³⁷

Stock trails historically included that from Junction Valley to the Raft River Valley, along Trail Creek; a trail up the Raft River Valley to Starrh's Ferry, on the Snake River north of present Burley (from which cattle and sheep were shipped to the Wood River Mining District near Hailey); and a trail roughly following the Kelton Road, leading to shipping points on the Union Pacific Railroad.¹³⁸

The drought of 1886-1891 and the endless winters of 1882, 1886, and 1889 brought "years of continual overgrazing" and winter range use to a screeching halt.¹³⁹ The "old time cowmen" reported losses of 50 to 90 percent during the winter of 1882. The Winecup, which branded 38,000 calves in 1885, branded 68 in 1891; the nascent local sheep industry was similarly devastated.¹⁴⁰ In one of the West's great ironies, the fenced fields of the settlers — anathema of the free range cowboy — saved the Idaho stock industry:

¹³⁶ Kathleen Durfee, compiler, "Cowboys of the Early Cattle Days of Idaho," nd., p. 3, excerpt provided by City of Rocks National Reserve; *A Pause for Reflection*, p. 71. As late as the 1960s, small log "line cabins" constructed to provide shelter for range cowboys, remained visible from the road between Oakley and Emory Canyon, just west of the City of Rocks.

¹³⁷ John Mortenson, "History of the Range Lands of the Albion Mountain Division and the Surrounding Territory," October 22, 1935, File: Contacts and other Historical Data, Records of Minidoka National Forest (1924-1938), Supervisor's Office, Sawtooth National Forest, Twin Falls, Idaho; Kathleen Durfee, compiler, "Cowboys of the Early Cattle Days of Idaho," nd., p. 4, excerpt provided by City of Rocks National Reserve.

¹³⁸ "Idaho Range Cattle Industry, Early Cattle Days in Idaho," (Handwritten notation indicates: written by Professor C. W. Hodgson, Animal Husbandry Department, University of Idaho, ca. 1948), Vertical File: Cattle History, IHS, p. 4.

¹³⁹ Andrew Jensen, compiler, "Almo Ward History," in *Almo Ward, Cassia East Stake, Historical Records and Minutes, 1882-1971*, Manuscript #LR10590 2, Church of Jesus Christ of Latter-Day Saints Historical Department, Salt Lake City, Utah.

¹⁴⁰ *Ibid.*; Hodgson, "Idaho Range Cattle Industry, Early Cattle Days in Idaho," pp. 8-10.

Land now encompassed by the City of Rocks National Reserve, sandwiched between the productive Almo Creek and the promising Junction Valley, is conspicuously absent in Cahoon's account — yet validated Jensen's warning; only limited pockets of land within what is now the reserve were claimed in the first wave of settlement.

In 1882, Iowa farmer George W. Lunsford claimed irrigable land along Circle Creek and the right to the water therein; in 1901 he sold his developed tract to William Tracy who developed the Circle Ranch on this and adjoining land. George Davis filed claim to the upstream tract ten years later. In 1901, Mary Ann Tracy claimed 160 "Desert" acres downstream from Lunsford's original claim, testifying that this land would not, "without artificial irrigation, produce an agricultural crop of any kind in amount reasonably remunerative ... the same is essentially dry and arid land." Construction of storage reservoirs along intermittent North and South Circle creeks ultimately allowed successful cultivation of oats, barley, and alfalfa; the remaining acreage was relegated to spring and summer range for the Tracys' cattle. Margaret Hansen also filed a Desert Land Act claim in 1909, irrigating her fields of alfalfa, wheat, and rye with water conveyed by reservoir and ditch from South Circle Creek. In a delayed conclusion to the first phase of area settlement, Eugene Durfee¹⁶³ patented 160 acres at the eastern gateway to the City of Rocks in 1919. This land was reportedly planted in water-intensive corn, beets, potatoes, and alfalfa suggesting that Durfee had constructed an irrigation system.¹⁶⁴

The big event was when the threshers came to thresh Dad's grain [ca. 1910]. It was a huge machine. It took about 8 teams to turn it. The teams were placed in a big circle with a man sitting in the middle to drive. He used a bull whip to pop them if they didn't pull evenly. It took 2 men on the stack to feed the machine, 2 men to catch the grain, and 2 men to ball [sic] the grain to the granary. Dave Durfee owned the thresher. He took his pay in grain. Neighbor helped neighbor. They worked from sun-up till sun-down. Mother had to have help to cook for the crew. ...

By 1909, the agricultural zone watered by Circle, Almo, Grape, Edwards, Cassia, Marsh, Basin and Circle creeks consisted of almost 12,000 acres of irrigated farmlands, surrounding the communities of Almo, Ward, Elba, Basin and Albion.¹⁶⁵ These lands supported primary crops of hay (native, timothy, or alfalfa) and grain (barley, oats, and wheat). The hay, barley, and oats provided winter feed for ranchers' sheep and cattle; sold to Hailey's Kelton-Boise stage company, the hay also served as an important cash crop. Wheat provided flour and a medium of exchange for "other necessities."

Fruit and vegetables were also successfully grown, primarily for home use due to limits to the transportation infrastructure. Potatoes were an exception — easily transported to the mining communities of Wood River (Hailey) and Boise Basin, they served as one of the few non-grain crops

¹⁶³ Durfee's first name is spelled "Eugean" in the final testimony of claimant files, however his family indicates that he preferred to spell his name "Eugene," the convention that is used throughout this document.

¹⁶⁴ Mary Ann Tracy patent file #567,7/1905, National Archives, Suitland, Maryland.

¹⁶⁵ McCoy, "Report for Forest Atlas, Minidoka National Forest Idaho-Utah," p. 1.

readily converted to cash. Pigs, chickens, and dairy cattle provided additional subsistence and additional assets with which to barter in the local economy: By the 1920s, cheese factories and creameries in Albion, Almo, Burley, Oakley, and Winnemucca, Nevada provided a market for milk and cream; longtime resident Jake Bruesch recalled in a 1974 interview that, circa 1920 "Albert Tracy brought in a herd of Wisconsin cows, Holstein cows, ... and a bunch of us bought 'em — five or ten or fifteen each ... and started to milk 'em and bought separators and separated milk and sold the cream for a good many years." By the 1940s, local resident Bernus Ward reported that, aside from those few ranchers with large cattle herds, "the chief income of the farmers here comes from their milch cows."¹⁶⁶

In his 1888 testimony for final patent of his homestead, George Lunsford claimed ownership of a wagon, a plow, a harrow, a shovel, a hoe, and little more. With these rudimentary tools, he had cleared and planted 20 acres in wheat, oats, barley and potatoes.¹⁶⁷ He most likely harvested this first oat and barley crop with a cradle or a horse-drawn dropper, and then gathered and bound the grain by hand; if he was lucky, he or a neighbor had a "self-rake reaper" to cut and rake the grain.

... I remember [a] ... time when Art and Fred had me straddle a neck yoke tied to the derrick cable. They played like I was a load of hay. They were the horses and would pull me to the top of the derrick and then let me down. It was fun to be up in the air 30 or 40 feet, just dangling. I felt like a bird. I was thoroughly enjoying it, laughing and yelling when Dad heard me and came to investigate. When he saw me at the top of the derrick he let out a yell. Fred and Art let go of the cable like a hot potato and headed for the top of the field where they were safe... I got the swat and was sent to the house. [Life Story of Bertha T. Kimber, n.d., City of Rocks National Reserve.]

By 1909, years after Lunsford had left the area, "two or three individuals" in Almo purchased horse-drawn binders; "during harvest season they went from farm to farm binding grain."¹⁶⁸ The threshing process followed a similar technological evolution:

The first threshing was done by the tramping of horses' feet. In a short time, however, the threshing machine was brought in. It was run by horse power and had belts to carry off the straw. It was not until the last two decades [ca. 1925-1945] that the "blower" was used to eliminate the straw. In the last three decades gasoline engines have replaced the horse power.¹⁶⁹ (Figure 10)

¹⁶⁶ Ibid., p. 7; *Elba Ward, Cassia Stake, Historical Records and Minutes, 1881-1904*, Manuscript #LR2566 23, Church of Jesus Christ of Latter-Day Saints Historical Department, Salt Lake City, Utah; B. Ward, "History of Almo," n.p.; Jake and Ida Bruesch, interviewed by A.W. Dawson, Oral History #180, p. 16.

¹⁶⁷ George Lunsford, Patent File #136, 11/1888, National Archives.

¹⁶⁸ B. Ward, "History of Almo," n.p.

¹⁶⁹ Ibid. See also Lind, "History of John, Emma, and Alex Lind's Settlement south of Almo," p. 39; John Fairchild, "History of the Basin," 3/12/1935, reprinted in *The Oakley News*, 2/26/1968, p. 5; Ellen Sarah Ballingham Betteridge, interviewed by Verna Richardson, October 10, 1974, Grouse Creek Cultural Survey, Fife Folklore Society, Utah State University, Logan, Utah, p. 6.

RECEIVED

JAN - 8 2003

Department of Water Resources

DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO
FILED *[Signature]*

2002 OCT 25 PM 3 51

**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 43-04173
(Nicholson)**

TRIAL SCHEDULE ORDER

A telephone scheduling conference was held on October 24, 2002. William T. Goodman appeared for claimant / objector Michael V. Nicholson; and Candice McHugh appeared for IDWR. Vicky Hancock was also present for IDWR. The parties agreed on a trial schedule.

THEREFORE, IT IS ORDERED that the following schedule shall govern the conduct of proceedings through trial:

Tuesday, January 21, 2003, 1:00 p.m.

Trial:
Minidoka County Courthouse
8th & G Street
Rupert, Idaho

DATED October 25, 2002.

[Signature]

TERRENCE A. DOLAN
Special Master
Snake River Basin Adjudication



STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL
ALAN G. LANCE

October 16, 2002

RECEIVED
OCT 18 2002
Department of Water Resources
Southern Region

William T. Goodman
Goodman and Bollar
717 7th ST Box D
Rupert ID 83360

Re: SRBA Subcase No. 43-4173

Dear Mr. Goodman:

This letter responds to your letter to Vikie Hancock, dated October 10, 2002. Ms. Hancock and I have reviewed the information that you attached to that letter and have determined that it does not change our prior settlement offer. As we discussed previously based on the information you provided, we would be willing to settle this subcase with an April 1, 1884 priority date.

If you would like to discuss this matter further, please contact me at 208-327-5404 otherwise we can discuss setting this for trial at the scheduling conference set for at 9:00 on October 24, 2002.

Very truly yours,

A handwritten signature in cursive script, reading "Candice McHugh", is written over a horizontal line.

Candice McHugh
Deputy Attorney General
Idaho Department of Water Resources

CMM/pm
Cc: Vicky Hancock

WILLIAM T. GOODMAN
ALAN GOODMAN
RICK BOLLAR
NICOLE L. ARBOGAST

LAW OFFICE
Goodman and Bollar

CHARTERED
717 7TH STREET
BOX D
RUPERT, IDAHO 83350-0020

AREA CODE 208
TELEPHONE NO.
436-4774
FAX
(208) 436-4837

October 10, 2002

RECEIVED

OCT 11 2002

Department of Water Resources
Southern Region

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

Attn: Ms. Vickie Hancock

Re: Mike Nicholson 43-4173

Dear Ms. Hancock:

I am enclosing a letter my client received from his father, A. E. Nicholson, about 10 years ago relating to information he had about the date of the water right above noted.

It appears to me that this letter should be given the same weight that the Affidavit filed by Harold Olen Ward since Mr. A. E. Nicholson is deceased.

In any event, please review this letter and let me have your thoughts.

Very truly yours,

GOODMAN & BOLLAR



William T. Goodman

WTG:KH
Encl.
cc: Mr. Mike Nicholson

RECEIVED

OCT 11 2002

Department of Water Resources
Southern Region

Jan 16 - 1992

Mr John Ward of Elmo who owns the Ranch that has the water Right on Circle Creek. The water that runs under the Ranch South of The Rock house is the starting point of the water Right of Circle Creek to The Ward Ranch.

Mr John Ward told me Albert E. Nicholson that the water from around 1900 was a dry spell or a Drought, and at that time Mr. Ward Decided to give Mr. Will's Sogel the water rights of Circle Creek. The water was so low that ~~at~~ the water did not reach my property. The water did me Mr John Ward very little value.

Mr John Ward gave Mr. Will's Sogel the water rights in 1914.

Mr John Ward use this run of

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

OF THE
A

MAY A. LLOYD AND WILLIS J. LLOYD
her husband,

Plaintiffs,

vs.

ALBERT NICHOLSON AND BLAINE NICHOLSON
his wife,

Defendants.

ANSWER AND CROSS COMPLAINT

Comes now the defendants and cross complainants and answering the complaint of the plaintiffs herein, alleges and says:

1. The defendants and cross complainants admit all of the material allegations of paragraph one of plaintiffs complaint.
2. The defendants and cross complainants admit all of the material allegations of paragraph two of plaintiffs complaint.
3. The defendants and cross complainants admit all of the material allegations of paragraph three of plaintiffs complaint.
4. The defendants and cross complainants admit all of the material allegations of paragraph four of plaintiffs complaint except the defendants and cross complainants denies that said Circle Creek or City of Rocks Creek has a flow of approximately 20 inches during the month of August, but alleges the fact to be that the said Circle Creek or City of Rocks Creek has no flow whatever in normal years after the middle of June and any waters in the bed of said Circle Creek consists only of seepage waters and in truth and in fact said Circle Creek or City of Rocks Creek has no flow of water after the early spring run-off.
5. The defendants and cross complainants allege that they have no knowledge or information of the allegations as set forth in paragraph five of plaintiffs complaint and having no knowledge thereof, denies each and all allegations as set forth in paragraph five of plaintiffs complaint and specifically denies that on or about the 23rd day of May, 1837, one Richard Powell, a predecessor in interest of the plaintiffs, caused a dam to be constructed in Circle Creek or City of Rocks Creek, at a point about a quarter of a mile west from the west line of the North-west Quarter of Section 33 in Township 15 South, Range 24, East of the Boise Meridian, and ditches leading from channel of said creek to and upon the lands of said plaintiffs, and specifically deny that the said Richard Powell, at said time diverted, for the purpose of irrigation, stock and domestic purposes approximately 200 inches or 4 second feet of water of the said Circle Creek or City of Rocks Creek and specifically deny that the said plaintiffs, their grantors and predecessors in interest, have used water of said creek for the irrigation of said premises or for stock and domestic purposes thereon and deny that the said plaintiffs and their predecessors are the owners of, by usage or otherwise, or have acquired the right to the use of 200 inches or 4 second feet of water of said Circle Creek or City of Rocks Creek, all of which is more fully answered in the cross complaint of the defendants and cross complainants.
6. The defendants and cross complainants deny each and all material allegations of paragraph six of the plaintiffs complaint and specifically deny that on or about the 27th day of June 1943, the defendants and cross

Found at Cassia
County Courthouse

9-19-2002

DAH

complainants willfully, wrongfully and unlawfully or otherwise placed in the channel of said Circle Creek or City of Rocks Creek a dam above the point of diversion of said creek, and deny that they by means of a ditch leading therefrom, diverted, appropriated and used waters flowing in said stream at said time, deny that the said defendants and cross complainants did at any time during the year of 1948 or at any other time diverted any waters of said Circle Creek or City of Rocks Creek wrongfully or unlawfully and deny that they did deprive said plaintiffs the use of said Circle Creek or City of Rocks Creek during the irrigation season of 1948, all of which is more fully answered in cross complaint of defendants.

7. The defendants and cross complainants specifically deny each and every allegation of paragraph seven of plaintiffs complaint and specifically deny that on the 16th day of July 1949, the defendants and cross complainants wrongfully and unlawfully and against the will and without the consent of plaintiffs, diverted all water of said Circle Creek or City of Rocks Creek to and upon their lands, and deny that they wrongfully and unlawfully prevented the plaintiffs from using same, all of which is more fully answered in cross complaint of the defendants and cross complainants.

8. That the defendants and cross complainants deny each and all allegations of paragraph eight of plaintiffs complaint, and specifically deny that at any time as set forth in plaintiffs complaint that these defendants and cross complainants have ever at any time wrongfully or unlawfully deprived waters of Circle Creek or City of Rocks Creek during the season of 1948 or at any other time and deny that the said plaintiffs were ever deprived of any waters and use of waters by said defendants and cross complainants and their predecessors in interest and deny that the said plaintiffs have substantial damages in the sum of \$600.00 or any other sum at all, and deny that it is now due and owing to the said plaintiffs from the defendants and cross complainants the sum of \$600.00 or any other sum at all.

COMES NOW, the defendants, Albert Nicholson and Elaine Nicholson, husband and wife, and as cross complainants alleges and says:

1. That the defendants, Albert Nicholson and Elaine Nicholson, herein and now are, and at all times set forth herein, are husband and wife.

2. That at all times since the year 1884, the exact date to these defendants and cross complainants, of said year is not known to said defendants and cross complainants and predecessors in interest, have been and now are the owners of and in possession and entitled to the following described real property in the County of Cassia, State of Idaho, to-wit:

Lot Four (4) and the East Half (E $\frac{1}{2}$) of the Southeast Quarter (SE $\frac{1}{4}$) of Section Thirty (30), and the West Half (W $\frac{1}{2}$) of the Northwest Quarter (NW $\frac{1}{4}$) of Section Thirty-two (32), and the Northeast Quarter (NE $\frac{1}{4}$) and the East Half (E $\frac{1}{2}$) of the Northwest Quarter (NW $\frac{1}{4}$), and Lots One (1) and Two (2) of Section Thirty-one (31), Township Fifteen (15) South, Range Twenty-four (24), E. B. M., together with all appurtenant water rights thereon.

That the said land is arid in character and without the application of water for the irrigation thereof, will not produce beneficial agricultural crops, but with the application of water thereon for irrigation purposes, it is highly productive and will produce beneficial agricultural crops.

That the lands of the defendants and cross complainants lies at the base of a certain range of mountains which run in a general direction of north and south, in which said range of mountains lies south-west of the town of Almo, Idaho.

The said mountains are low mountains and have a very limited drainage area, that there extends out of said range of mountains and on lands of defendants and cross complainants small gullies or drainage basins which come together and form a stream known as Circle Creek. That the stream of Circle Creek is located on lands of these defendants and cross complainants and that in early spring, depending upon snow and rainfall in said mountains, due to low character of mountains and limited drainage areas, the spring rains and snowfall together forms a flood. Waters from said rainfall and melted snow floods out over the lands of the defendants and cross complainants and also floods and flows down the creek bed of what is known as Circle Creek and sometimes referred to as City of Rocks Creek.

That in normal years little or no flood water exists after the forepart of April and by June first of a normal year, Circle Creek ceases to flow water and is dry and that no waters flow in Circle Creek from any drainage from said mountains but there is formed in the stream bed of said Circle Creek by seepage arising along the stream bed of said creek, a small stream consisting of approximately 10 inches of water, depending upon the run-off and the amount of ground waters absorbed by adjoining land. That the ground water increases after Circle Creek leaves the land of these defendants and cross complainants and that a larger stream of water extends below these lands of defendants and cross complainants, that exists in the stream bed on the lands of these defendants and cross complainants.

That the defendants and cross complainants allege that during the year of 1884 the lands and premises now owned by these defendants and cross complainants and predecessors, was homesteaded by one, George W. Lunsford, who caused to be constructed across said Circle Creek dams and did divert all of the water of Circle Creek to and upon lands and premises now owned by these defendants and cross complainants and that all waters of said Circle Creek was by said, George W. Lunsford, appropriated and used upon lands and premises now owned by these defendants and cross complainants for the purpose of irrigation wild meadows growing thereon and for domestic and stock water.

That the defendants and cross complainants further allege that during the year 1884 the said George W. Lunsford caused to be built and constructed along the north bank of said Circle Creek, a small ditch or lateral leading from dams constructed across Circle Creek picking up seepage water and which said seepage water was carried to the garden plot and upon which there was a small dwelling located on said lands at the east end of said lands and said seepage waters also furnished stock and domestic waters and that the defendants and cross complainants further allege that at all times since 1884 all of the water of Circle Creek have been appropriated and used upon the lands and premises herein set forth and described, and that all seepage waters arising by reason of the diversion dams constructed across Circle Creek by the said George W. Lunsford and predecessors of these defendants and cross complainants of said Circle Creek, has been used for the growing of crops, for domestic water and for water of livestock.

That the defendants and cross complainants further allege that they purchased the lands and premises herein described during the year 1938 and that they entered into possession of said lands and premises during the month of November, 1938, and have been owners of, and in possession of said lands and premises since said date and for a period of more than ten years and these defendants and cross complainants have at all times, the same as their predecessors in interest, have openly and notoriously used all of the waters, both flood waters collected in reservoirs and dams constructed on said Circle Creek by predecessors of these defendants and cross complainants and by these defendants and cross complainants, have used all of the said flood waters collected in dams, ditches and laterals, flood waters coming down from said mountains and of seepage water arising in bed of said stream, for the irrigation of lands herein described and owned by these defendants and cross complainants for the irrigation of said lands for the production and growing of crops thereon, and for domestic use and stock water.

That during said period of time these defendants and cross complainants have at all times, with the use of said dams, ditches and laterals leading from said dams, have diverted and used all of the waters of Circle Creek, sometimes known as City of Rocks Creek, for irrigation of lands and premises and for growing of crops and for stock and domestic waters, and that said dams constructed and built in the year of 1934 by the predecessors of these defendants and cross complainants, and ditches leading therefrom, also conveyed all of the seepage waters that formed in the channel of said Circle Creek and which said waters were, by the predecessors and by these defendants and cross complainants, used for the purpose of irrigation of crops and for domestic and stock waters.

That the defendants and cross complainants further allege that they and their predecessors, since the year of 1934 have been owners of and have used for beneficial use all of the water of Circle Creek, including all seepage water thereof arising from the lands now owned by these defendants and cross complainants and that all said waters, both seepage water and spring flood water, have been diverted to irrigation for the growing of crops on said lands and for domestic use and for stock water, and these defendants and cross complainants allege that they are owners of all of the waters of Circle Creek, also known as City of Rocks Creek, and of seepage water formed in the stream bed of said stream within the boundaries of said land, and that any claim or claim of interest of said plaintiffs and cross defendants is inferior to right and title of interest to these defendants and cross complainants.

WHEREFORE, defendants and cross complainants pray that the said plaintiffs and cross defendants take nothing by reason of their complaint and that a decree of the court be made and entered herein, in favor of the defendants and cross complainants, Albert Nicholson and Elaine Nicholson, his wife, and against Mary A. Lloyd and Willis J. Lloyd, her husband, decreeing to the said defendants and cross complainants all of the said waters of Circle Creek, also known as City of Rocks Creek, and that the said plaintiffs and cross defendants be forever barred, enjoined and restrained from asserting and claiming to assert any claim, right of interest in or to the said waters of Circle Creek, also known as City of Rocks Creek, other than that flood waters passing beyond the lands and premises of these defendants and cross complainants and that the title to all of the waters of Circle Creek be decreed to the defendants and

cross complaintants herein and for such other and further relief as to the court shall seem just and proper.

H. V. Creason
Attorney for Defendants and Cross
Complaintants
Residing at Rupert, Idaho

STATE OF IDAHO,)
) ss.
County of Minidoka.)

H. V. Creason, being first duly sworn, deposes and says: That he is the attorney for the defendants and cross complaintants in the above entitled cause of action, that he makes this verification for and behalf of said defendants and cross complaintants and for the reason the said defendants and cross complaintants do not reside in the county where this attorney and this affiant lives. That the said affiant has read this answer and cross complaint and knows the contents thereof, and that the same is true as he verily believes.

H. V. Creason

Subscribed and sworn to before me this 14th day of September, 1949.

H. V. Creason
Notary Public for Idaho
Residing at Rupert, Idaho

TRANSMITTAL COVER SHEET

TO: Bill Goodman

436-4837

TOTAL PAGES SENT: 6
(including cover sheet)

DOCUMENT DESCRIPTION: Answer & Cross Complaint
Lloyd v Nicholson

FROM:

Vikie Hawcock, IDWR

PHONE: 736-3033

FAX: 736-3037

SENDER: _____

COMMENTS: Poor copy, Microfilm

- Mary Lloyd v Albert Nicholson 1949
microfilm Roll B-13
5257 in index of Civil Lawsuits

- Plaintiffs Lloyd claimed Roll of
n¹/₂ SE, NE NW S. 33
NW NW S. 34

That in 1887 Richard Powell constructed
a dam and diverted 200' $\frac{1}{4}$ mile
west of the west line of the NW $\frac{1}{4}$ Sec 33.

Clenton Bronson owned Roll in 1998

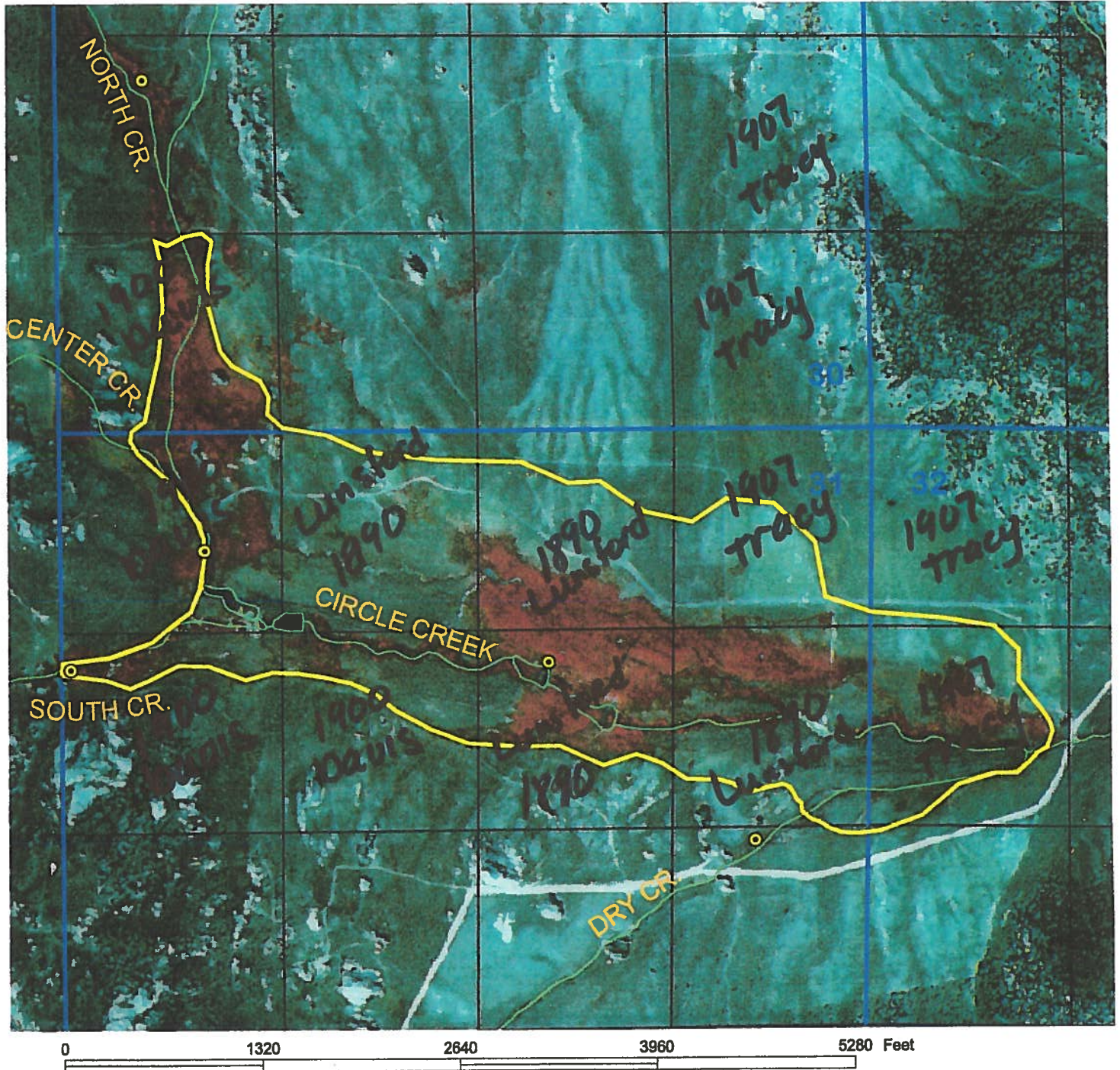
- Defendants Nicholson claimed that
their predecessors in interest, specifically
Leensford, homesteaded & built
ditches & dams in 1884 & used all
of Circle Creek.

See Cross Complaint.

Nicholson purchased in 1938.

RIGHT: 43-04173

RECOMMENDED PLACE OF USE
TWP 15S, RNG 24E, SEC 30, 31, 32
Data entry on June 15 2000



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

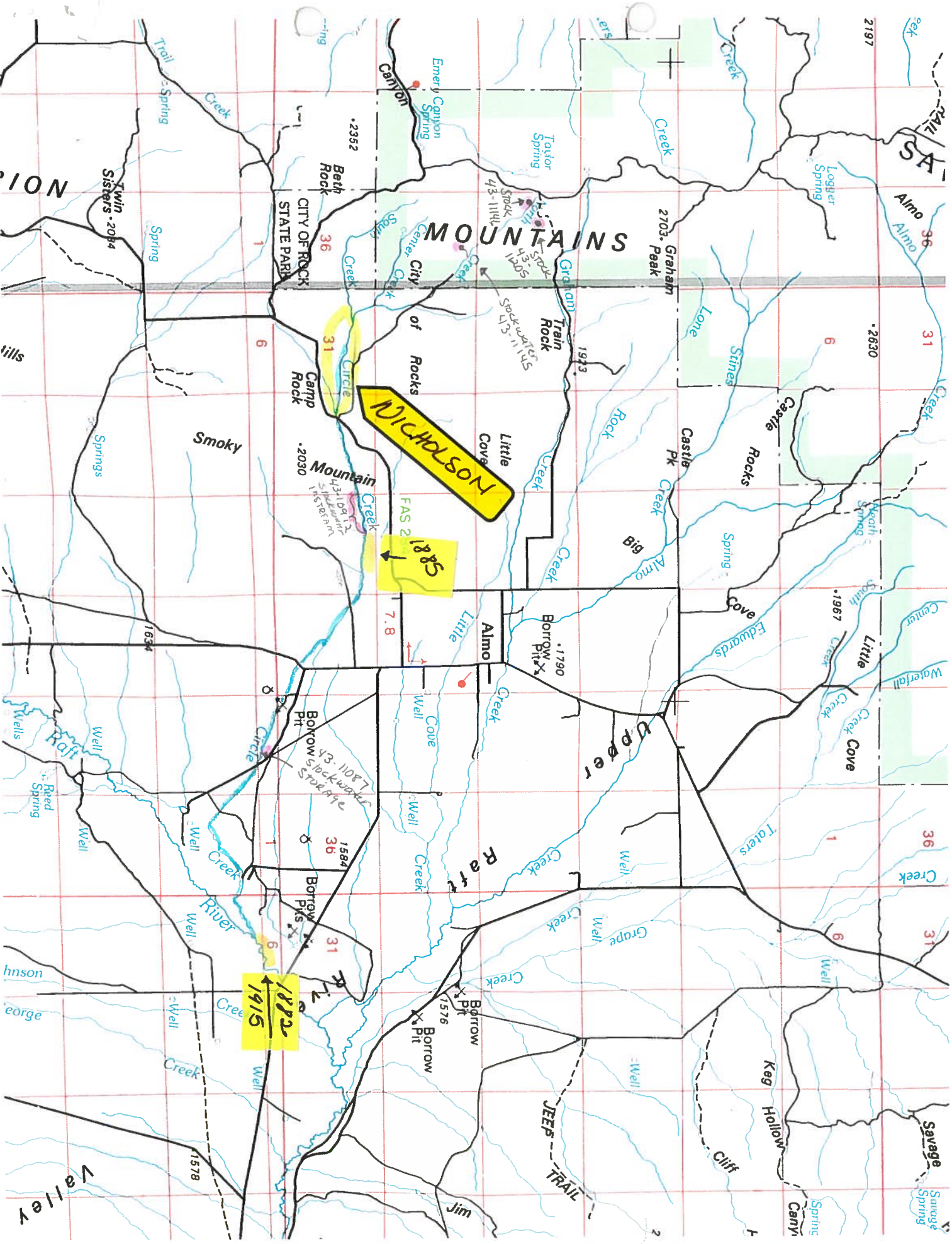


Locations &
Patent Dates

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

1-28-02 UAL

PROPERTY LINES - DOWNSIDEAM IRRIGATION RECOMMENDATIONS

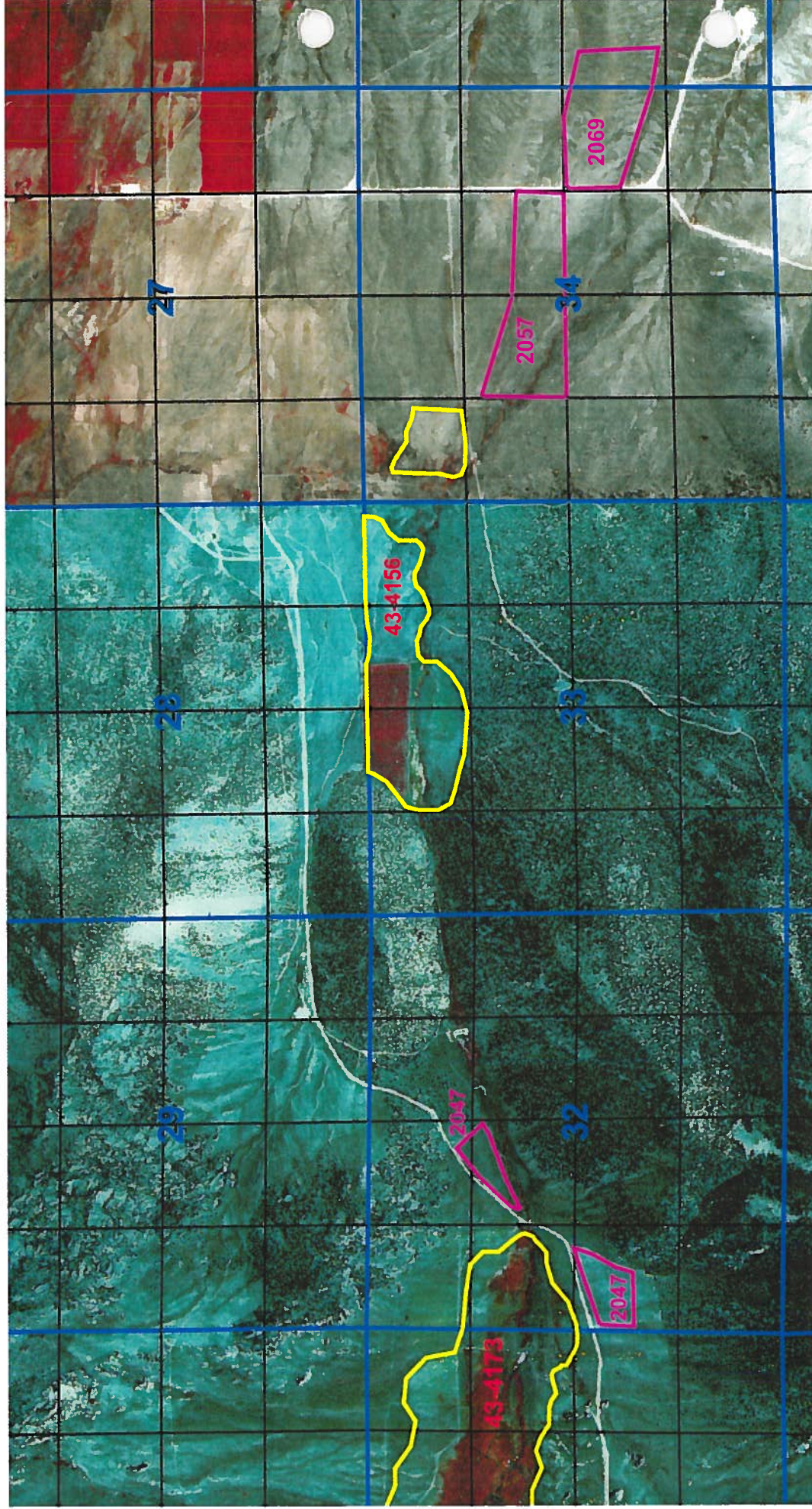


	<u>Right</u>	<u>Priority Date</u>	<u>Rate(cfs)</u>	<u>Vol</u>	<u>Source</u>	<u>Water Use(s)</u>	<u>Owner(s)</u>
43	2200	11/8/1915	0.5		CIRCLE CREEK	IRRIGATION	DURFEE, E BRUCE
43	4150	1882-03-15	2.8		CIRCLE CREEK	IRRIGATION	SPENCER BROTHERS
43	4156	1885-12-31	1.84		CIRCLE CREEK	IRRIGATION, STOCKWATER	J E TRACY INC
43	4173	1885-12-31	4.64		CIRCLE, DRY, NORTH, & SOUTH CREEKS	IRRIGATION, STOCKWATER	NICHOLSON, MICHAEL V
43	7295	7/1/1988	1.5		CENTER, CIRCLE, NORTH, & SOUTH CREEKS	MINIMUM STREAM FLOW	STATE OF IDAHO
43	11087	7/1/1954		1	CIRCLE CREEK	STOCK FR STOR, WILDLIFE FR STOR	UNITED STATES BLM
43	11145	8/31/1967	0.02		NORTH CIRCLE CREEK SPRING	STOCKWATER, WILDLIFE	UNITED STATES BLM
43	11146	12/31/1969	0.02		CIRCLE CREEK SPRING	STOCKWATER, WILDLIFE	UNITED STATES BLM
43	11205	6/15/1903	0.02		CIRCLE CREEK SPRING MIDDLE FORK	STOCKWATER	BRUESCH FAMILY TRUST
43	10912	6/28/1934	0.02		CIRCLE CREEK	STOCKWATER	UNITED STATES BLM

43-4173

SRBA RECOMMENDS

UNCLAIMED LICENSE



2047	1909	.36 cfs
2057	1909	1.0 cfs
2069	1910	.66 cfs

Water Right Report 43-2047

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	CLARA CAMPBELL BANFORD ALMO, ID

Status: Active

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	/	to /	0.360 CFS	
DOMESTIC	/	to /		
		Total Diversion:	0.360 CFS	

<u>Location of Point(s) of Diversion</u>				
SOUTH FORK CIRCLE CREEK CASSIA County	SE1/4NE1/4	Sec. 32,	Twp 15S,	Rge 24E, B.M.
SOUTH FORK CIRCLE CREEK CASSIA County	SW1/4NW1/4	Sec. 32,	Twp 15S,	Rge 24E, B.M.

[illegible]

DOMESTIC same as IRRIGATION

Dates and Other Information:

Report of Engineer

1. State name of applicant and number of permit: Elara Campbell - Permit 5162 (Both
 2. State source of water supply: South Fork Boise Creek
 3. Location of point of diversion: SE4 NE4 Sec. 31, and SW4 NW4 Sec. 32, T. 15 S.,
R. 24 E. B. N.
 4. State whether or not the works of diversion are fully completed and in accordance with terms of permit: Fully completed
 5. Describe works as they exist, giving dimensions of same as follows:
 - (a) Width of conduit at bottom: 2'
 - (b) Width at water line: 3'
 - (c) Depth of water: 1'
 - (d) Grade per mile: 200'
 6. State whether or not water has been turned into works of diversion and if so, to what extent: About 20' turned in
 7. Give exact location of lands to be irrigated. Give exact number of acres under cultivation in each forty acre tract:
N2SW4, SE4NW4, SW4NE4 Sec. 32, T15S, R24E, B1N
8 acres under cultivation in NW4SW4 Sec. 32, T15S, R24E, B1N
10 " " " " SE4NW4 Sec. 32, T15S, R24E, B1N
 8. Submit map on enclosed plat, source of supply, point of diversion, route of ditch or ditches and cross hatch lands to be irrigated.
- Remarks: Two dams and two ditches



Harold H. Harkins
Water Com. 2nd Div.

STATE OF IDAHO,
County of _____

} ss.

_____, being first duly sworn, deposes and says that the statements contained in the within report are correct to the best of his knowledge and belief.

Subscribed and sworn to before me this _____ day of _____ 191

My Commission Expires _____

Notary Public.

5162

5162

T. B. R. P. H. E. B. A.

SEC.

SEC.

SEC.

SEC.

SEC.

SEC.

SEC.

SEC.

SEC.

SEC.

SEC.

SEC.

SEC.

SEC.

SEC.

SEC.

SEC.

SEC.

Unit 5162 - data transfer

5162

May 14, 1911

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 43-2057

WATER RIGHT NUMBER: 43-2057

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	THOMAS RICHARDSON
	ALMO, ID

Priority Date: 10/05/1909

Basis: License

Status: Active

<u>Source</u>	<u>Tributary</u>
CIRCLE CREEK	RAFT RIVER

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	/ to /		1.100 CFS	
DOMESTIC	/ to /			
	<u>Total Diversion:</u>		1.100 CFS	

Location of Point(s) of Diversion

CIRCLE CREEK	SW1/4NW1/4	Sec. 34, Twp 15S, Rge 24E, B.M.
CASSIA County		

Place of Use

IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				Totals
15S	24E	34	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
										25.0									55.0

Total Acres: 55

DOMESTIC same as IRRIGATIONConditions of Approval:Remarks:Comments:Dates and Other Information:

REPORT OF ENGINEER.

1. State name of applicant and number of permit: Thomas Richardson, 5344.
 2. State source of water supply: Cirale Creek.
 3. Location of point of diversion: 80 rds. south SE, Cor. Sec. 29, thence N 8. 56. east. 1/4 Pt. of Div. Twp. 15 S., R. 24 E., B. M.
 4. State whether or not the works of diversion are fully completed and in accordance with the terms of permit: Yes, Sir.
 5. Describe works as they exist, giving dimensions of same as follows:
 - (a) Width of conduit at bottom: 18 ins.
 - (b) Width at water line: 24 ins.
 - (c) Depth of water: 12 ins.
 - (d) Grade per mile: about 10 ft.
 - (e) Capacity of ditch: about 5 second feet.
 6. State whether or not water has been turned into works of diversion, and if so, to what extent: Yes, Ditch full.
 7. Give exact location of lands to be irrigated. Give exact number of acres under cultivation in each forty-acre tract: NE4 NW4, 25 acres.
NE4 SW4, 30 acres.
 8. Submit map on enclosed plat, showing source of supply, point of diversion, route of ditch or ditches and cross-hatch lands to be irrigated.
- Remarks: Mr. Richardson is going to make proof on the Bal. of his land later on.

RECEIVED

FEB 2 1915

OFFICE OF STATE ENGINEER

William D. Gibson

STATE OF IDAHO.

County of Cassia

William D. Gibson

being first duly sworn, deposes and says that the statements contained in the within report are correct to the best of his knowledge and belief.

Subscribed and sworn to before me this 20th day of February, 1915.

My Commission Expires

X. Christian Hansen, J.P.
County Clerk

5344

Name of Applicant Thomas Richardson, Almo, Cassia County, Idaho.

Twp. 36 S., R. 24 E., B. 14.

SEC.

SEC.

SEC.

SEC.

SEC.

SEC.

SEC.

SEC.

SEC.

SEC.

SEC.

SEC.

31
SEC.

32
SEC.

33
SEC.

34
SEC.

35
SEC.

36
SEC.

Pr. of Dir.

DITCHES

RECEIVED
FEB 2 1913
OFFICE OF STATE ENGINEER

SCALE: 2 INCHES = 1 MILE DRAW PLAN IN INK

Water Right Report 43-2069

Remarks:

REPORT OF ENGINEER

1. State name of applicant and number of permit: Isaac A. Carr - Permit 6216
2. State source of water supply: Circle Creek
3. Location of point of diversion: 2 points of diversion in NW 1/4 of 33 1/2 Sec. 34, T. 15 S., R. 24 E. B. M.
4. State whether or not the works of diversion are fully completed and in accordance with terms of permit: Yes
5. Describe works as they exist, giving dimensions of same as follows:
 - (a) Width of conduit at bottom: 1.5 feet
 - (b) Width at water line: 3.0 feet
 - (c) Depth of water: 0.8 feet
 - (d) Grade per mile: 20 feet
 - (e) Capacity of ditch: 8 second feet.
6. State whether or not water has been turned into works of diversion and if so, to what extent: Water in Kitchens
7. Give exact location of lands to be irrigated. Give exact number of acres under cultivation in each forty acre tract:

<u>NW 1/4 of 33 1/2 Sec. 34</u>	<u>- 40</u>	<u>"</u>	<u>13 "</u>	<u>"</u>
<u>SW 1/4 of 34 1/2 Sec. 35</u>	<u>- 40</u>	<u>"</u>	<u>0 "</u>	<u>"</u>
<u>SE 1/4 of 35 1/2 Sec. 35</u>	<u>- 40</u>	<u>"</u>	<u>0 "</u>	<u>"</u>

all in T. 15 S., R. 24 E. B. M.
8. Submit map on enclosed plat, source of supply, point of diversion, route of ditch or ditches and cross hatch lands to be irrigated.

Remarks:



Walter R. Hays

STATE OF IDAHO,

County of _____

_____, being first duly sworn, deposes and says that the statements contained in the within report are correct to the best of his knowledge and belief.

Subscribed and sworn to before me this _____

day of _____

191

6216

My Commission Expires _____

Notary Public.

B. V.

Name of Applicant Isaac A. Jarr

Permit No 6216

RECEIVED
AUG 22 1913
OFFICE OF STATE ENGINEER

~~SECTION~~
~~1504 1504 1504~~
~~pay~~
7-15582945

SEC.

SEC.

SEC.

SEC.

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SEC.

RECEIVED

JUN 11 2002

Department of Water Resources

2002 JUN 07 PM 02:40
DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO
FILED *DM*

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) NOTICE SETTING SUBCASE(S)
Case No. 39576) FOR INITIAL HEARING
_____) SUBCASE NO: 43-04173

The Initial Hearing for this subcase will be held before
Special Master TERRENCE A. DOLAN

WEDNESDAY, AUGUST 14, 2002 at 10:00 AM
CASSIA COUNTY COURTHOUSE
1459 OVERLAND AVE
BURLEY, ID

ATTENDANCE IS MANDATORY. All parties are required to
attend and must have full settlement authority.

At the Initial Hearing you will have an opportunity
to meet with a representative of the Idaho Department of
Water Resources (IDWR) and/or the objector in an attempt
to reconcile any difference between the claim and the
Director's Report. Bring any and all information you
believe is relevant to your claim and/or objection. If
the claim cannot be reconciled at the Initial Hearing,
the court will set the subcase(s) for trial within 45
days of the Initial Hearing. IF YOU INTEND TO AMEND YOUR
CLAIM, YOU MUST DO SO AT OR BEFORE THE INITIAL HEARING.

Settlement documents must be filed with the court by
AUGUST 07, 2002 or hearing will not be vacated.

Dated: JUNE 07, 2002

/S/ LETTIE MESSICK

Deputy Clerk

Snake River Basin Adjudication

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

Page 1 6/07/02

CERTIFICATE OF MAILING

I Certify that a true and correct copy of the NOTICE SETTING
SUBCASE(S) FOR INITIAL HEARING was mailed on JUNE 07, 2002_____,
with sufficient first-class postage to the following:

MICHAEL V NICHOLSON

Represented by:
WILLIAM T GOODMAN
717 - 7TH STREET
PO BOX D
RUPERT, ID 83350
Phone: 208-436-4774

DIRECTOR OF IDWR

PO BOX 83720
BOISE, ID 83720-0098

A E NICHOLSON

MICHAEL V NICHOLSON
805 3RD ST
RUPERT, ID 83350
Phone: 208-436-3862

43-4173

1-28-02
VAT

Documented Land Ownership

Parcel

#1 Lunsford patent 1890
S $\frac{1}{2}$ NE, NW NE, NE NW Sec 31 160 ac

#2 Davis Patent 1900
Lot 4 Sec 30
Lots 1 & 2, SE NW Sec 31 175 ac

#3 Tracy Patent 1907
E $\frac{1}{2}$ SE $\frac{1}{4}$ Sec 30
NE NE Sec 31
W $\frac{1}{2}$ NW $\frac{1}{4}$ Sec 32 200 ac

#3 Hodgeman to Tracy 1905

#2 Davis to Peterson 1899

#1 Lunsford to Tracy 1901
Tracy to Tracy 1901 150" water

#2 Peterson to Tracy 1901

#1, #2 Tracy to Holt with all waters of Circle Cove
1906

#1, #2, #3 Hull to Hull 536 ac 150" 1911
($\frac{1}{2}$ interest)

WILLIAM T. GOODMAN
ALAN GOODMAN
RICK BOLLAR
NICOLE L. ARBOGAST

LAW OFFICE
Goodman and Bollar

CHARTERED
717 7TH STREET
BOX D
RUPERT, IDAHO 83350-0020

AREA CODE 208
TELEPHONE NO.
436-4774
FAX
(208) 436-4837

RECEIVED

January 31, 2002

FEB 08 2002

Department of Water Resources
Southern Region

RECEIVED

FEB - 4 2002

Department of Water Resources

Clerk of the District Court
Snake River Basin Adjudication
253 Third Ave. North
P. O. Box 2707
Twin Falls, ID 83303-2707

Re: Michael V. Nicholson, Subcase No. 43-4173

Gentlemen:

Enclosed is your Standard Form 1 Objection to the proposed Water Right Claim above numbered.

Please file this Objection on behalf of the Claimant.

Very truly yours,

GOODMAN & BOLLAR

William T. Goodman

WTG:KH

Encl.

cc: Michael V. Nicholson w/encl.
IDWR Document Depository w/encl. ✓
Chief, Natural Resources Division w/encl.
United States Department of Justice w/encl.

RECEIVED
FEB 08 2002
Department of Water Resources
Southern Region

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 43-4173

(Insert water right number)

STANDARD FORM 1
OBJECTION

Please fill in the following information:

B. NAME AND ADDRESS OF PERSON OBJECTING

Name: Michael V. Nicholson

Address: 805 3rd Street

Rupert, ID 83350

Daytime Phone: (208) 436-3862

Name & Address of Attorney, if any:

William T. Goodman, of Goodman & Bollar

P.O. Box D

Rupert, ID 83350

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

Name: Michael V. Nicholson

A. E. Nicholson, decd

Address: 805 3rd Street

Michael V. Nicholson, Co-PR

Rupert, ID 83350

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: Spring Center Creek added to other 4 creeks listed on report

3. ☐ **Quantity**

Should be: _____

4. ☒ **Priority Date**

Should be: 4-30-1879

5. ☐ **Point(s) of Diversion**

Should be: _____

6. ☐ **Instream Flow Description**

Should be: _____

7. ☐ **Purpose(s) of Use**

Should be: _____

8. ☐ **Period of Year**

Should be: _____

9. ☐ **Place of Use**

Should be: _____

11. **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 OBJECTION(S): The above named creek was omitted

as one of the sources for the water right. The Priority date should be

as filed. Interview with Hosea Jones, son of homesteader of 160 acres
above old Rock House on real estate, grew crops homesteaded prior to
1882.

F.

VERIFICATION (Must be Completed)

State of Idaho)
County of Minidoka) ss.

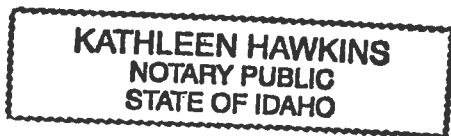
William T. Goodman, duly sworn, upon oath, deposes and says:
(Name of person filing objection)

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.

(Signature of person filing objection)

William T. Goodman
(Attorney signing in representative capacity)

Subscribed and sworn to before me on: January 31, 2002



Kathleen Hawkins
Notary Public for Idaho
Residing at: Rupert, ID
My Commission Expires: 6-15-04

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 January 31, 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:

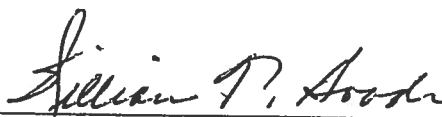
Name: Michael V. Nicholson
Address: 805 3rd Street
Rupert, ID 83350

3. Copies to:

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

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

United States Department of Justice
Environment and Natural Resource Division
550 West Fort Street, MSC 033
Boise, ID 83724



Signature of Objector or attorney
mailing on Objector's behalf



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

SOUTHERN REGION

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

January 29, 2002

William T. Goodman
Goodman and Boller
PO Box D
Rupert, Idaho 83350

RE: Snake River Basin Adjudication (SRBA)
Claim No: 43-4173, Michael Nicholson

Dear Mr. Goodman:

As requested, please find enclosed copies of documents that were submitted by Mr. Olen Ward to substantiate his claim to the use of Circle Creek. These are copies from our files and may or may not be sufficiently readable. To assist you, I am also sending a copy of Mr. Ward's affidavit, which identifies where the original documents may be found. Also, please note that the referred-to David Hubbard is a party in the superseded 1893 Lee Kirk -v- Bartholomew Decree of Raft River and Almo Creek, if you wish to review the associated papers.

I have read the typed transcript of the 1995 interview of Hosea Jones, conducted by Mr. Nicholson's sister, Jean Elwell. As you know, Mr. Jones states that his father may have filed on 160 acres prior to Lunsford, and mentions a date of 1882. Since the Abstract of Title that your client submitted November 28, 2000 includes an 1890 patent to George Lunsford, I would think that a recorded document that could in any way substantiate development on Nicholson's Circle Ranch prior to Lunsford would be helpful. However, I respectfully defer to you to review the papers submitted up to this date and determine whether sufficient evidence exists to show development on Nicholson's property before my recommended 1885 priority date. You should be in receipt of the SF1 Objection form that I sent Friday January 25th.

Sincerely,

Vikie Hancock
Sr. Water Resource Agent
Southern Regional Office, Twin Falls

Encl.

Cc: Michael Nicholson

WILLIAM T. GOODMAN
ALAN GOODMAN
RICK BOLLAR
NICOLE L. ARBOGAST

LAW OFFICE
Goodman and Bollar

CHARTERED
717 7TH STREET
BOX D
RUPERT, IDAHO 83350-0020

AREA CODE 208
TELEPHONE NO.
436-4774
FAX
(208) 436-4837

January 25, 2002

RECEIVED
JAN 28 2002
Department of Water Resources
Southern Region

Idaho Department of Water Resources
1341 Fillmore Street, Suite 200
Twin Falls, ID 83301-3380

ATTENTION: Vickie Hancock

Re: Michael Nicholson 43-4173

Dear Ms. Hancock:

I will look forward to receipt of the Standard Objection Form for filing concerning the recommended Water Rights of Mr. Nicholson.

As I advised you I am enclosing an interview Jean Elwell had with Hosea Jones in 1995 concerning the property and ownership in 1882 and before.

I would hope that this interview with Mr. Jones would be of use in establishing an 1882 priority date. Let me know before we file the objections please.

Mr. Nicholson also requested that I see if you would send me a copy of the letter upon which the priority date for Wards was established. He indicated you read him this letter.

Thank you for your attention to our concerns.

Very truly yours,

GOODMAN & BOLLAR



William T. Goodman

WTG/tj
Enclosures

RECEIVED

JAN 28 2002

Department of Water Resources
Southern Region

HOSEA JONES in Richfield Aug. 30, 1995

*It's the cassette tape
for this. Jan*

My great grandmother was right across the street from Lou Eameses house. Her name was Arbon. Nichols was her first name. That barn that's out there--the old log barn was the one they used to prove up with. It's still there. It was down the road, but they moved it up for a barn. They moved our old house.

I took his picture. (They have a wagon picture just like mine.)
Archie Jones is about 62, Hosea's grandson said. Lester was born in '28.
Has old pictures of aunt, mother and her husband, etc.

My dad went there and homesteaded 160 acres right above the old rock house you're talkin about--right above that big meadow up there. I haven't got nothin except just what he's told me. It was right square again that big rock in the meadows up there above the Circle Ranch. Not in Walley Taylor's area. It's right up to the end of those big rocks. It's in the big Circle. Indicated a place and it burned down. It was west of the rock house. He was a working at Almo, had a hired man there and he burnt the creek out of willows. Ma was there alone. He had the first hay piled up there and everything--it went. Now I don't have pictures of that. We weren't used to takin pictures. He's Steven Henry Jones.

This is an Arbon. (He's got an excellent picture of the Twin Sisters taken down by the stage station. There's Duge. There's my dad in Pocatello.

(Did you know where Robbers' Roost was up Circle Creek Canyon?) Knew of the Bathing Beauty contests, but didn't go.

(Showed him the 1912 picture of the rock house.) They had somebody right up here build a little log house. (I think he indicated north which would have been the Shoemaker cabin.) Shoemakers, oh Yeah. Right back up in here is where my dad had his 160 acres. He filed. If you go to the court house they might have it in the records. My dad celebrated that he had that before that (Lunsford in 1884) in 1882.

Look at old Camp Rock. They used to camp there by the creek and leave their names and everything on it.

My sister and her husband had, just down from the Twin Sisters in the Circle--you know where Hansons had their place? They homesteaded just up there on the hill. Osterhouts. My sister married an Osterhout. She was about 12 years older than I was. You know the main road you go and then turn up there to the Twin Sisters. Right straight out through there they was gonna homestead. Yes, there were the Mikesells and the Hansons and there was a--he bought our place in Declo. This fellow was going to put in a resort by the Twin Sisters. They bought that ground in there and was goin to improve on it and the commissioners wouldn't let them. Mooso, he bought our place in Declo in '24 and we moved back to Almo. He and my brother were very good friends. I know him very well--Walt Mooso.

The Indians used to come up there and we'd trade them hides. We bought pinenuts from them. Got gloves from them through trading.

I knew of a Wilson. His wife used to be right over here.

Jerry's dad and I are cousins. His mother and my mother were sisters and born up there in Almo. There's the old Charley and the young Charley and William a way back.

Daniel Beuses old place is right there in the narrows. They dug for oil right below Daniel's fence. I can take you right back there and show you every bit of it. We went right to it when they was a drillin.

Almee Hanson--they were quite a musical family. We used to go dances with old Howard and them. Trail Canyon is right up by old Hansons.

I worked in that mine. I and Vern White. They blowed that rock off. I can't tell you his name, but he was a young fella that helped. We got that mica and had it shipped to Ogden to make roofing out of it. I was there when the bucket fell on his head and split his head open. Took him down home and took him to the doctor. I know Vern very well.

I was there when we had the barbaque. Remember what we had barbaqued? We had a hind quarter of beef, we had a pig and we had deer meat.

Ted King had that school section where we had the barbaque. Ted King's brother married my aunt. His name was Owen.

This picture of the stage station could have been John Moon's house. There were the two Moon brothers.

That Junction Valley used to be all farms. A school there and everything. Ida Cahoon tough school there. She was a cousin to my mother. She was a caretaker to the graveyard for quite awhile too. All the books burned down when the trailor burned

When they had that big water law suit there was a lot of them involved. I was married in '27 so it was later than that. They called it the Almo Water Company. They were scrappin with uncle Bill Jones. Came to Almo in 1879. There was a lot of them come but they didn't settle down.

I've never heard of a stage line coming from Malta, Elba and going by the rock house.

We trapped that country through and through.

I remember Mr. & Mrs. Mikesell

I had a lot of pictures. I've got a lot of old old ones. There was Aunt Ida Durfee, Aunt

Rose, Uncle Bill Joneses wife were all sisters.

My cousin--I got a picture that I took there plain across the valley. It was on the east side and we was a hurdin some of the Thum 'n' Bumb sheep. Ted Durfee, Gene Durfee, and the Cahoons they had some, Taylors had some. It was a community group.

I was at Boeing in '41 when they declared war on Japan. I was working in the airplane factory.

My dad freighted out of there with four head of white horses for old Willis(?) Tracy. He freighted to Ogde going down to the EY and out that way. He hauled part of the rock for the church house that used to be there.

We sold our ranch there--Lou Eames bought part of it. We had 320 acres in there. Lou's sister and I used to run around together---Oscar Joneses wife. One of the boys-- Jess Jones died here the other day.

I remember Mrs. Garner. I can't tell you where it was that I seen her. We used to come to Almo all the time. When I was two or a year and a half old my mother died. My aunt took me and raised me until I got big enough to get married. Pa died and she still stayed on and then we sold the ranch.

There used to be the old Lineder place.

I go up there every year for decoration day.

He helped haul the brick for that old church house that they've torn down. He used to work for Albert Tracy and grandma Tracy.

Turned 90 years old the day before.

Aug 29, '95

Eugene Durfee's homestead cabin was right there along the creek and they used to milk cows up there and separate the milk for cream. I can't remember the way the door went. The big rock was right there just behind the house. Gene used to go up there and pasture. My broder used to haul the cream to Oakley in the wagon--Roy Jones. He went on the road past Bath Rock. Chuck holes really deep--you could drop off!

Andy Gump

I helped build the cistern for the school house-- I and Will Taylor and Earl Durfee. It was about 40 ft deep. We rocked it up, and the inspector said, "That's the purest water we've got in the state. And then we built the cistern just a little ways from that. Then we piped the water and stuff down in the school house.

And I'll tell you something else. We built half them roads there in Almo on the WPA, hauling gravel and shovel it into the wagons and then going out and spread it.

There's a Camp Rock and there was a Treasure Rock and in the twenties they come out with Gump Rock. Then there's a Bath Rock and the Twin Sisters.

I remember Lunsford too. We used to go up there to Hansen's. There's where we used to stay. We'd ride our horses up there. We'd go out there in buggies and sleighs.

Lynn is way out there and you go over the hill to Grouse Creek. Up in there just above the road is that big mine. The ViPont is further north than that. You go through Granite Pass and make a big circle and come right back into the mine.

I hearded sheep up in there by the ViPont for Daniel Beus. Lucion Bronson was in Trail Canyon. I don't know about the cabin, but he had sheep in there. He had his rights, certain allotments. Daniel had that top up there. And on the north, right on the very north, Lucion had a little piece in there. Just below the ViPont there's the Scoourl. The Scoourl is just right across a little gully from the ViPont. The old fellow that had that mine had a little girl. She used to come over to my camp and I'd give her cake and stuff. Then right on up at the top and just drop over the little divide and then you'd come into Johnson's mine. He had a speculating mine in there. It wasn't like the ViPont with the Silver and lead. I had some . . . you could hold it up just like that . . . pure!

The big ore wagons came down Birch Creek and right into Oakley. I was goin to tell you the guy that run the post office when Cahoons had the . . . Ida taught school in Moulton. This was just a couple hundred yards from the school house.

Well, I'll tell you, Pate Cahoon was great for that. It could have been Steve Cahoon his brother. They were jokeable people.

Mother at Rupert: When somebody came to the rock house playing Santa Clause in 1938, you kids were so surprised, but not half as surprised as I was. I was just flabbergasted.

There was the Taylors there, the Durfees, the Joneses, the Edwards, the Ericksons were there but they come later. The old old house is gone, all but this old house I tell you that sits back from the road. The old house we put into a barn.

Sam Frekelton had a place up on Walleys. I was small but I remember him. There were Rices in there. The Jake Bruches.

"You bet your life I'll get them little bastards." Hoff, said. He was a blacksmith. Had a house right up there at the corner and back in a little bit. On Halloween we used to, there was my brother, Steve Cahoon, Pate Cahoon and all them guys. He'd generally haul a pile of sage brush there to set the wagon wheels. He had his hornasses out in there, everything you know; and old Hoff had one frying pan . . . Well, he'd be asleep and we'd slip in there and we'd take what we wanted and put it some other place, you know. Then we'd pack out a bunch of sage brush and set it affire. Then we'd make a hell of a noise.

Just about that time he'd come you know. Oh, you'd never hear such language. Oh, he'd get mad. "I'll kill you!" he'd say.

Wilcox lived on the Wilcox place. We lived there for awhile. I can't remember quite where.

Those rock climbers are destroying them rocks. It's not the City of Rocks no more.

North of Bruches there's a rock building. Up in there where Edwards used to milk. That was ore rock. You go down through there and ----- There's Indian graves in there. I don't know of any Indian graves in the City of Rocks.

The Edwards are related to the Heaths. There's Joe Edwards, he's gone and Gordon. They were brothers. Gordon lived down there away from the graveyard. There was Rex and he died.

Etta Cutler was my sister-in-law. My brother . . . The Cutler's had the old Lloyd place. Old man Cutler came out of Utah. There were six or seven of them kids. He sold that to Lloyd and he went to View.

That old trail went up the creek and then You can't hardly get up there with a horse. My dad knew a lot. He homesteaded up there. He was about 20 years old--long before I was born. It was back in there.(?) You go to the courthouse and see if they've got the records. Whether he proved up on it or not, I don't know. He built a little cabin. You find where there was charcoal. It's right up there by Bear rock It's right up the creek. Up South Creek. You know the main creek and up in there there's another little canyon that takes off up there to the left. It's quite a little ways from the Bath Rock--straight down in there. His cabin was right up the creek, and you know that's what they used to survey with. They'd take a rock and mark it. Then they would put charcoal in the bottom of it to show that it was theres. 4

I think the Tooths are down here somewhere.

Do you know where the old Chief is buried now? It's east of Pocatello. I think they put everything he owned in the whole with him.

There's a story up there in the Castles. There was a certain Indian they killed. They say that in a deep crevice in the rocks in the Castle Rocks you'll find an Indian and his white horse and covered him up. This grave I know is true. They say that the rock chucks pulled out the lower jaw. It was in Los Angeles on the dentist's. My cousin took it. He was a dentist. He said, "He'd never seen such good teeth in his life.

We call those big yellow flowers the yellow doc. Did you know that you could make yourself self-supporting? You wouldn't have to have nothin. I could tell you everything you want to know. I could start you right out from the start. How to keep your meat, dry

• your meat, cook your meals. The Indian used to salt it. It keeps the flies away. I cut mine about that thick (around 1/4 to 1/2 inch I think). You take and soak it in salt water as long as you want depending on how salty you want it. Then you drain it and put it where there's no flies and string it up on strings. The Indians strung there's on poles. They'd take their fruit, huckleberries(?) and put them out on the rocks and dry them. Do you know how they packed their water? In a bladder of an animal. They'd wash them out and use them bladders.

There was a big cattle company and they had red cattle. They'd come through with big herds. This is what I was told.

I can cook my own bread. How do you think I made sourdough? How do you start it? They would grind their flour and then they'd take the mix and start to ferment it. That is your yeast. You can take that and break it up and dry it. I know because I hearded sheep and we'd break our sourdough and take that little bit on the inside that was good, and put our water and flour with it.

You can eat dried fruits, dried roots. You can get this camas, the camas root up by Hailey. Like a canna lily. You know the onions? In the spring they come up, these little purple ones, and the old cows will eat them and their breath stinks. They have a little bit of a flower, not the white ones. That's poison. It's the ones with a real onion on the bottom of it. You can take and dry anything and keep it.

I've heard of Juicy Flowers. My buddy got killed somewhere in there. A horse kicked him. There was Jim Taylor, Harry Taylor, Herm Taylor and Walley Taylor. Wilb Taylor is the one that died. He had one arm shot off.

Joy Young and Clara Wickel parents are Henry LeRoy Jones and Etta Cutler. Her father was Horace Cylis Tracy. Grandmother was Sarah Ann Cutler Tracy and grandfather was Albert Cutler. The old man Cutler of course was there quite awhile, because my brother married his daughter. They moved down there where the old house was(?) I have a picture of a mule an that. Yes, they had to have been on that property in the 80's.

Charles and Martha Garner are some of the old folks that used to live up there by the rocks.

There's Oral Hansen--lived down below Ted Kings place; then Johnny Bruesch, then uncle Bill had some in the 'Goins' they called it. Down the creek there was several places.

John T. Hansen had the Circle Ranch (had to be the small circle by the Twin Sisters). There was Almee, Howard and he had two or three sisters. I knew Almee and Howard well. Howards dead, but Almee was in Tremonton and she died too. We used to stay there overnight. We'd go to the dances over at Junction. Oh, yes, I know her very well.

There's a lot I could tell you. Oh yeah, I knew uncle Bill (Jones). He was Oscar Jones' dad. He was my mother's uncle. I worked for him. He was an old Englishman.

Barks, now that's some of the tonics. There's the quaken-asp, the chokecherry, and they used the pine to have pine nuts and gum. They used pine gum to get turpentine.

(You should sit down with your family and tape record all these stories.) That's my grandson there. That's what they want me to do--an autobiography. (grandson said that that's what they want to do)

Address: 170 North Ada, Richfield, Idaho

We have Nichols in our family. You outta see my genealogy. I played basketball in Almo for about 10 years, but not baseball. They (baseball team) used to go all over the country. Lou was a good pitcher. They'd put some bases out in a field and went right to it. I had one of the gloves that my cousin played with--Jim Payne--played before Lou. He's Merva's husband.(????) Do you know the Arbon Valley? Above American Falls? That's just up off the reservation. There's Holbrook up there, Malad over the top, and Sheep Creek.

Did you know the Bates? Glen Bates and Hector Bates from Basin? They had a five piece orchestra. There was Joe Moltry and his wife. They played the violin, piano, drums.

Naf: Up there where the lone moon shadow was in the corner. They used to have a beer joint downstairs.

I don't know where the Warm Dances were. Now there's Indian Grove--that was named after something. As far as I know it would be there. Now if you had asked me where they held there's on the Bannock I could have told you. That's above old Charley Johnstons piece of ground in there (WT). You just talked with Jerry. His name is Jerry. His father and grandfather were Charles and then William. Jerry's grandmother married my aunt.

You bring up your dad!

There's a picture of my mother. She was born in Snowville, UT and lived in Almo. And was up the creek when the house burned down. (I think he's referring to the Hanson house.)

End

COMMUNICATION DOCUMENTATION

From: Vikie Hancock

December 13, 2001

Regarding:

Customer:

43-4173

MICHAEL NICHOLSON

Mr. Nicholson came into the office to discuss the priority date recommended on the above claim. Mr. Nicholson has questioned my recommendation of the priority date before, and I responded to him and to his attorney by mail (see file).

Instead of the recommended date of 12-31-1885, Mr. Nicholson believes that the claimed priority date of 4/30/1879 is correct, just as his father put on the statutory claim filed in 1983. A concern for him is a right downstream on the same Circle Creek (43-4150) that is recommended with a priority date of 1882.

I explained the statutory claim process and that there was nothing in our files to indicate where his father came up with that date of priority. I told him that perhaps he needed to go over his father's papers to see if there was something there that he had not already seen. We went through the documents he and his attorney had submitted, and I pointed out that the earliest date mentioned on any of the documents was a homestead patent dated 1890 that was for a portion of the ranch. I told him that it had been somewhat of a leap of faith for me to assume that the homestead had all been irrigated as early as 1885, and pointed out that he was asserting that his entire ranch had been irrigated, not just the portion listed in the 1890 patent, by 1879.

I told him that if he believed the entire ranch was irrigated that early, he needed to provide me with the evidence he based his belief on. And that if he did, I would encourage him to object to my recommendation and that I would support a change in the priority date to whatever date he found good evidence of. He was skeptical that he could prove the 1879 date, even though he believes it correct. I suggested he inquire at the Cassia County Courthouse because the women that worked there had been very helpful to me and to other claimants. I also suggested that he talk to the City of Rocks Ntl Park to see if they had any anecdotal historical data about his ranch. I inquired of his sister, whom he had told me was researching the history of the area during my 1999 field exam, and he informed me that she had died this past summer. He didn't mention whether or not he had ever discussed the ranch issue with her.

Mr. Nicholson then inquired about the evidence I used to recommend the 1882 priority date for 43-4150 and I showed him what the original claimant had submitted, and how it corroborated the claimed priority date.



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

SOUTHERN REGION

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

June 15, 2001

William T. Goodman
Goodman and Boller
PO Box D
Rupert, Idaho 83350

RE: Snake River Basin Adjudication (SRBA)
Claim of Michael Nicholson 43-4173

Dear Mr. Goodman:

Enclosed find my response to Mr. Nicholson regarding his notice of error received June 6, 2001. If your client wishes to formally object to my final recommendation to the SRBA Court he will receive instructions along with the mailing of his copy of the Director's Report.

Sincerely,

Vikie Hancock
Sr. Water Resource Agent
Southern Regional Office, Twin Falls



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

SOUTHERN REGION

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

June 15, 2001

Michael Nicholson
805 3rd Street
Rupert, Idaho 83350

RE: Snake River Basin Adjudication (SRBA)
Notice of Error 43-4173

Dear Mr. Nicholson:

I am in receipt of your notice of error regarding the above claim that was originally filed with a priority date of 4-30-1879 and a diversion rate of 6.26 cfs. You have requested that I change my recommendation of 4.64 cfs to 6 cfs and my recommended priority date of 12-31-1885 to the claimed priority date.

I have reviewed the information in the file for this claim. In the file I have various United States patents for parcels of land which together encompass the ranch you currently own. The patents are dated 1890, 1900, 1905 and 1907. In addition, I have an excerpt from the testimony of a Ms. Emily Tooth, from an unknown and undated court proceeding, in which she states that she can remember irrigation of a garden at the ranch around 1900. Note that Ms. Tooth says she is 73 years old at the time of her testimony and is unsure of the year she was born or of the year of her marriage. This information, which was submitted by you or your attorney Mr. Goodman, does not support a recommendation that full development of the water right on your ranch occurred before 1885.

I have also reviewed all the evidence in the file concerning the amount of water diverted for use at the ranch. As you remember, I took five different measurements of the water that you were diverting from the four separate creeks on 6-23-1999. Using various methods, I measured a total of 1.86 cfs. You stated, and I could see, that the available water from the creeks was diminished from the maximum amount that had been available to you earlier in the year. I made note of that in the file at the time. In addition to this data, there are three recorded documents in the file that reference water rights. The first is dated 1901 and quit claims 150 inches (3 cfs) of water from William to Mary Ann Tracy for use in and through the William Tracy reservoir in Almo. The second is a 1906 mortgage that includes all the water of Circle Creek, along with 335 acres of land, and is from William and Mary Ann Tracy to Walter Holt. The third is a warranty deed dated 1911 that conveys 536 acres and an undivided half interest in 150 inches of the waters of Circle and Dry Canyon creeks from John Hull to William and Robert Hull.

My recommendation for 4.65 cfs of water for use on the 232 acres I found irrigated at your ranch calculates to one inch per acre. If you have any measurement data to substantiate that 6 cfs of water is put to beneficial use, and that your land requires more than the one inch duty of water to adequately irrigate, please submit this information as soon as possible so that I may consider it before my final recommendation is sent to the SRBA court in July.

Sincerely,

A handwritten signature in cursive script, appearing to read "Vikie Hancock".

Vikie Hancock
Sr. Water Resource Agent
Southern Regional Office, Twin Falls

Cc: William T. Goodman

RECEIVED

JUN 06 2001

05/09/2001

Department of Water Resources
Southern Region

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: 43-4173

MICHAEL V NICHOLSON

805 3RD ST

RUPERT ID 83350

Telephone Number: (208)436-3862

A E NICHOLSON

805 3RD ST

RUPERT ID 83350

Telephone Number: (208)436-3862

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

Priority Date Should Be: April 30, 1879 and total diversion should be 6.300 C.F.S.

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

Changes in priority date and amount of diversion should be as set forth in No. 1 above.

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

All of the water of North Creek, South Creek, Circle Creek and Dry Creek have always been diverted for use on the real property owned under this Water Right Number. The first diversion was in April of 1879.

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

DATE: 5-30-2001

SIGNATURE: Michael V. Nicholson

Please print your name: Michael V. Nicholson

IDWR Regional Office, 1341 Fillmore St, Suite 200, Twin Falls, ID 83301, 2087363033

WILLIAM T. GOODMAN
ALAN GOODMAN
RICK BOLLAR
NICOLE L. ARBOGAST

LAW OFFICE
Goodman and Bollar

CHARTERED
717 7TH STREET
BOX D
RUPERT, IDAHO 83350-0020

AREA CODE 208
TELEPHONE NO.
436-4774
FAX
(208) 436-4837

May 31, 2001

RECEIVED
JUN 06 2001
Department of Water Resources
Southern Region

IDWR Regional Office
1341 Fillmore Street, Ste. #200
Twin Falls, ID 83301

Re: Michael V. Nicholson, Water Right No. 43-4173

Gentlemen:

Enclosed is a Notice of Error Reply for the recommendations made on the Water Right Claim above numbered.

Please make this filing in your records on behalf of Mr. Nicholson.

Very truly yours,

GOODMAN & BOLLAR



William T. Goodman

WTG/tj
Enclosure

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

11/30/2000

RIGHT NUMBER: 43-4173

NAME AND ADDRESS: A E NICHOLSON
MICHAEL V NICHOLSON
805 3RD ST
RUPERT, ID 83350

SOURCE: CIRCLE CREEK
DRY CREEK
NORTH CREEK
SOUTH CREEK

TRIBUTARY: RAFT RIVER
CIRCLE CREEK
CIRCLE CREEK
CIRCLE CREEK

QUANTITY: 4.64 CFS

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

PRIORITY DATE: 12/31/1885

POINT OF DIVERSION:	T15S R24E S30	LOT 3	NWNWSW	Within CASSIA County
	T15S R24E S31		NWSWNE	Within CASSIA County
	F15S R24E S31	LOT 1	SENWNW	Within CASSIA County
	T15S R24E S31	LOT 2	NWSWNW	Within CASSIA County
	T15S R24E S31		NWNESE	Within CASSIA County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
IRRIGATION	04-01 10-31	4.64 CFS
STOCKWATER	01-01 12-31	0.04 CFS

PLACE OF USE:

IRRIGATION Within CASSIA County						
T15S R24E S30	LOT 4	SWSW	15	T15S R24E S31	NENE	18
T15S R24E S31		NWNE	30	T15S R24E S31	SWNE	25
T15S R24E S31		SENE	34	T15S R24E S31	NENW	37
T15S R24E S31	LOT 1	NWNW	21	T15S R24E S31	LOT 2	SWNW
T15S R24E S31		SENW	15	T15S R24E S31		NESE
T15S R24E S32		NWNW	1.1	T15S R24E S32		SWNW
STOCKWATER Within CASSIA County						
T15S R24E S30	LOT 3	NWSW		T15S R24E S30	LOT 4	SWSW
T15S R24E S30		SESW		T15S R24E S31		NENE
T15S R24E S31		NWNE		T15S R24E S31		SWNE
T15S R24E S31		SENE		T15S R24E S31		NENW
T15S R24E S31	LOT 1	NWNW		T15S R24E S31	LOT 2	SWNW
T15S R24E S31		SENW		T15S R24E S31		NESE
T15S R24E S32		NWNW		T15S R24E S32		SWNW
T15S R24E S32		NWSW				

232 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.

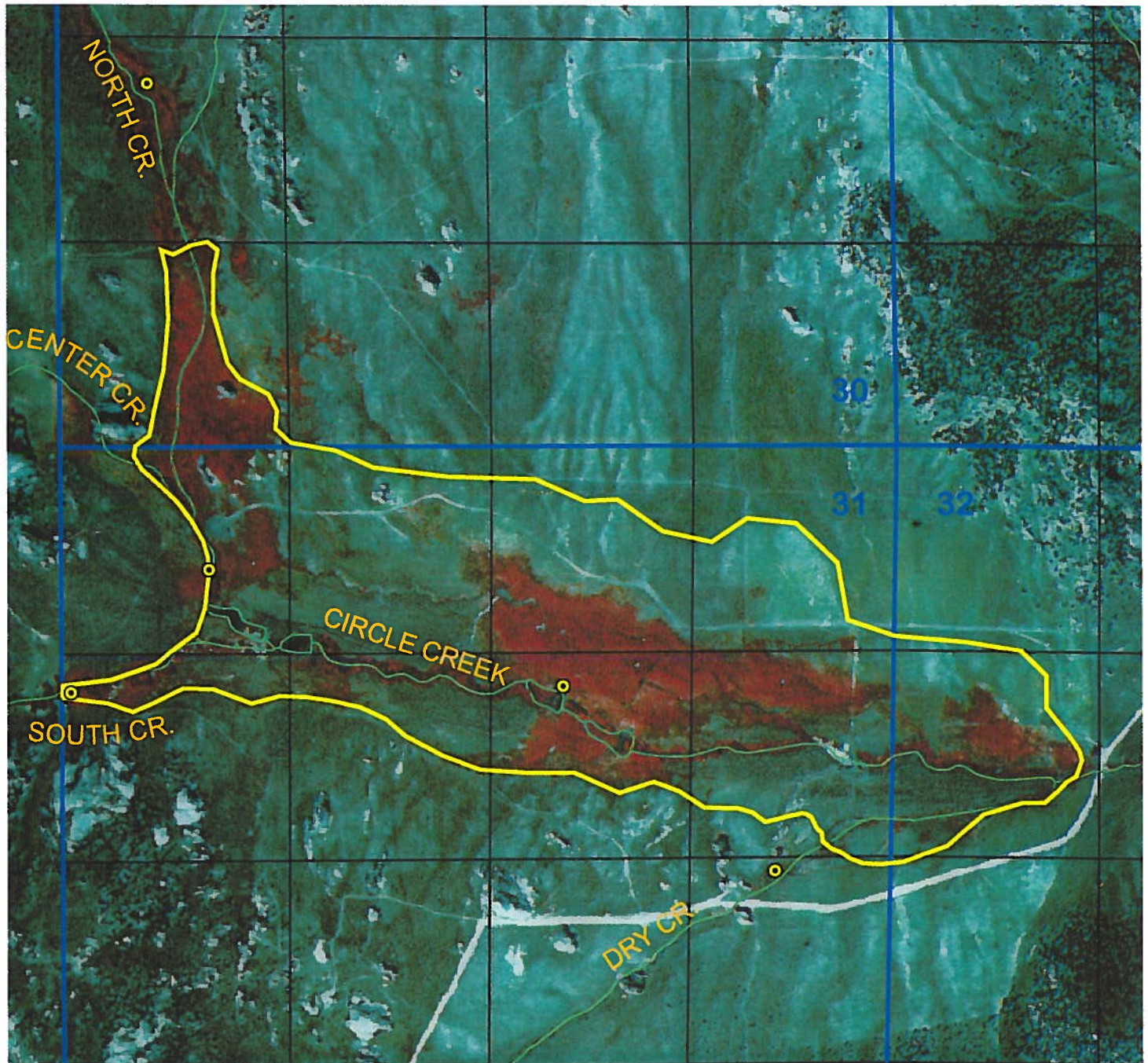
THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT FOR
STOCKWATER USE IS NOT A DETERMINATION OF HISTORICAL BENEFICIAL
USE.

THIS RIGHT IS SUBJECT TO REGULATION BY THE WATERMASTER OF
WATER DISTRICT 43B

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use

RECOMMENDED PLACE OF USE
TWP 15S, RNG 24E, SEC 30, 31, 32
Data entry on June 15 2000

RIGHT: 43-04173



-  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

OWNER
CODE NAME & ADDRESS

C A E NICHOLSON
C MICHAEL V NICHOLSON

PRIORITY
DATE

04/30/1879

WATER USE

IRRIGATION
STOCKWATER

USE PERIOD
FROM TO

04-01 11-01
01-01 12-31

DIVERSION
RATE

6.26 CFS
0.04 CFS

DIVERSION
VOLUME

3.73
4.12

Water Source: NORTH CREEK
SOUTH CREEK
CIRCLE CREEK
DRY CREEK

Tributary to: CIRCLE CREEK
CIRCLE CREEK
RAFT RIVER
CIRCLE CREEK

Stage: STATUTORY CLAIM

Point(s) of Diversion:

T15S R24E S31

NE SENE

NE SENE

SE SENE

NE SENE

CASSIA County

Sec 30
NW NW SW
WORM

Place of use legal Description for: IRRIGATION

NE

NE

NE

SE

SE

SE

SUM

15S 24E 30 :
15S 24E 31 :
15S 24E 32 :

(25) 30 38 35
1890 1901

40 20 20 25

1900 1900

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1900 1900

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1900 1900

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

POU County: CASSIA

Non-Irrigation Uses: S/150 RANGE

Remarks: HAVE ALWAYS USED DRY CREEK WATER & HAVE ALWAYS IRRIGATED SMSW,
SEC 30...NOT INCLUDED IN ORIGINAL CLAIM.

INCREASED STATUTORY CLAIM AMOUNT FROM 5.46 TO 6.26 TO COVER
ADDITIONAL 40 ACRES (.02 CFS/ACRE)

Dates:

Exam Made Date:

Verified Date:

03/07/1986

Misc:

Water District Number:

Field Inspection Flag:

Presumption Flag:

C-18
1005
7708

qmb 9
43B

div rate
per 1" = 4.64 cfs
332 x .02 = 6.64 cfs

see
107 ac
332 ac

div rate
per measurement
times 2
see CVR



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

SOUTHERN REGION

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

November 30, 2000

William T. Goodman
Goodman and Boller
Box D
Rupert, Idaho 83350

RE: Snake River Basin Adjudication (SRBA)
Claim No.: 43-04173, Michael Nicholson

Dear Mr. Goodman,

Thank you for the information that evidences use of Circle Creek and Dry Creek on Mr. Nicholson's property. It appears that patented homesteads of the ranch property began in the late 1800s and continued to 1907. I believe that you are correct, however, that irrigation of at least a percentage of the desert entry land would have begun before the patents were issued, and therefore the final patent date does not reflect the year when irrigation may have begun. Barring any information to the contrary, I am therefore recommending a priority date five years junior to the earliest patent date for Mr. Nicholson's claim, or December 31, 1885.

Regarding the issue you raised regarding the water of Circle Creek reaching Raft River, I submit the following information. A license for irrigation from the waters of Circle Creek was issued by the Department on November 8, 1915 for use on a parcel of land located in Section 12, T16S, R24E. This place of use is located approximately one-quarter mile from Raft River, the licensing field exam shows the channel reaching Raft River, and the current owner of said license has personal knowledge of the use of said water. I do not know why Circle Creek, as well as other tributaries of Raft River, was not mentioned in the Jobe Adams Decree, however our investigation of water rights in the area has uncovered that inconsistency.

Sincerely,

A handwritten signature in cursive script, appearing to read 'V. Hancock'.

Vikie Hancock
Sr. Water Resource Agent

WILLIAM T. GOODMAN
ALAN GOODMAN
RICK BOLLAR
NICOLE L. ARBOGAST

LAW OFFICE
Goodman and Bollar

CHARTERED
717 7TH STREET
BOX D
RUPERT, IDAHO 83350-0020

AREA CODE 208
TELEPHONE NO.
436-4774
FAX
(208) 436-4837

November 27, 2000

RECEIVED
NOV 28 2000
Department of Water Resources
Southern Region

Idaho Department of Water Resources
1341 Fillmore Street, Suite 200
Twin Falls, ID 83301-3380

ATTN: Ms. Vikie Hancock:

Re: Michael Nicholson, Claim No. A43-04173

Dear Ms. Hancock:

I am enclosing a copy of an original Abstract of Title concerning the lands now owned by Mr. Nicholson. The Patents issued in connection with his ranch were issued in the late 1800's. It is my understanding that prior to Patents being issued the real property would have needed to be irrigated and crops grown or a Patent from the U. S. Government would not have been issued.

The other matter I would like to call to your attention is the water from Circle Creek and Dry Creek have never reached Raft River and, therefore, are not tributaries to Raft River. This is probably the reason that the Court Case from Federal Court of which you have a copy did not address the water rights from these two sources since Raft River was adjudicated at that time.

We are still of the opinion that Mr. Nicholson should have the April 30, 1879 priority date.

Please review the enclosed material and advise me.

Very truly yours,

GOODMAN & BOLLAR

William T. Goodman

William T. Goodman

WTG:KH

Enc.

cc: Mr. Michael Nicholson

Index No. 100-100000

8-2-74

ABSTRACT OF TITLE

FOR

MORTGAGE LEND

TO

John W. Smith

100-100000

By

The United Central Life Insurance Company

of

Cincinnati, Ohio

RECEIVED

The above to 2-24-74

and not approved to 1-30-74

The approved to 2-24-74

h. 100-100000

on 1-30-74

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Certificate of Abstracter.

1
2 I Hereby Certify, That the foregoing Abstract is a correct exhibit of every
3 instrument-record or writing conveying or affecting the title of _____
4 to the land described in the Caption upon the records of _____ County,
5 State of _____

6 I Further Certify, That I have made an examination of the following records,
7 to wit: _____

8 _____
9 _____
10 _____

11 and that there are no pending suits nor liens against said premises not shown in said
12 Abstract, and that all due taxes, including taxes for year 19____, are paid.

13 I Further Certify, That there are no defects in said title, either of record or
14 otherwise, not shown in said Abstract, of which I have any knowledge.

15 I Further Certify, That said _____
16 is in peaceable possession of said premises. (This may be stated to be upon personal
17 knowledge, or reliable information.)

18 This Abstract consists of _____ pages, numbered consecutively,
19 including Caption and Certificate.

20 This Certificate is made to THE UNION CENTRAL LIFE INSURANCE COMPANY,

21 Dated at _____, this _____ day
22 of _____, 19____

23 _____
24 Recertified as above to _____
25 _____ Abstracter.

26 Recertified as above to _____
27 _____ Abstracter.

28 NOTICE.—All instruments should be abstracted from the records, and not from the original instru-
29 ments; that is to say, when an abstracter files an instrument for record, he should wait until it has been
30 actually recorded and then make an abstract of it from the records.

Defendant's Exhibit 9 for Identification

No.

ABSTRACT OF TITLE

TO

..... REAL ESTATE SITUATED IN CASSIA COUNTY, ...

..... IDAHO, DESCRIBED AS FOLLOWS TO-WIT:

..... LOT FOUR AND THE EAST HALF OF THE SOUTH
..... EAST QUARTER OF SECTION THIRTY, AND THE
..... WEST HALF OF THE NORTHWEST QUARTER OF SEC-
..... TION THIRTY TWO, AND THE NORTHEAST QUARTER
..... ER, AND THE EAST HALF OF THE NORTHWEST
..... QUARTER, AND LOTS ONE AND TWO OF SECTION
..... THIRTY ONE, TOWNSHIP FIFTEEN, SOUTH, RANGE ...
..... TWENTY FOUR, EAST OF THE BOISE MERIDIAN, ...
..... CONTAINING 536.05 ACRES OF LAND.....

CASSIA
BURLEY, IDAHO
GO- LTD

Copy 10
Albert & Nicholson

Maid to H V Croason

9-14-49

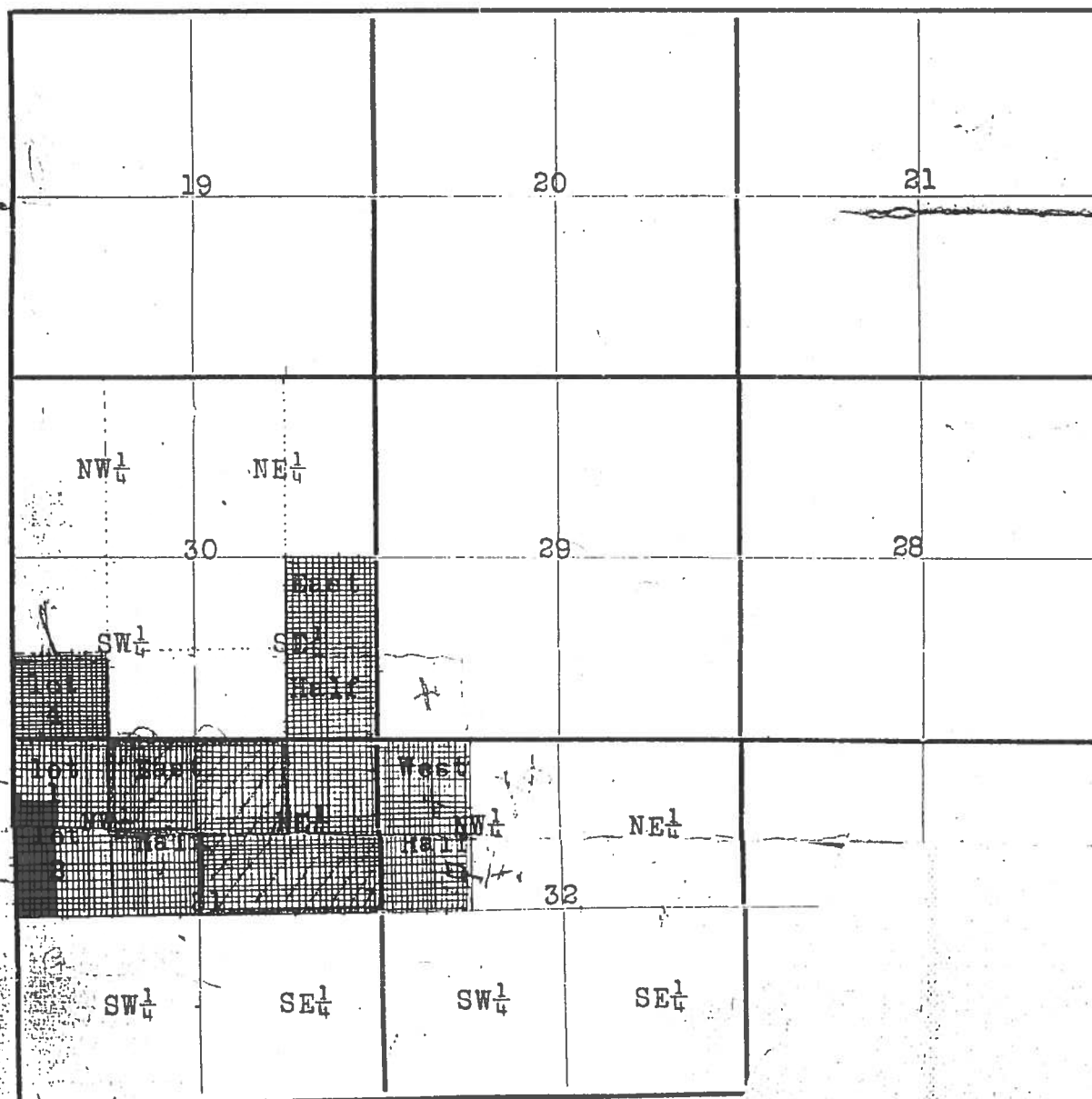
No. 1314.....

Map of the Property Described in the Foregoing Caption

Scale: 40 Chains to the Inch

Township.....Fifteen, South..... Range Twenty four, E. B. M.....

NORTH



SOUTH

Sheet No.....1.



PATENT.

UNITED STATES OF AMERICA

TO

GEORGE W. LUNSFORD

Dated: June 13, 1890.

Filed: Sept 21, 1893 at 4 PM.

Recorded in Book 4 of Deeds
at page 620-1.

Vol. 1-143

Hdt Cert. #13688

GRANTS:

$S\frac{1}{2}$ NE $\frac{1}{4}$; NW $\frac{1}{4}$ of E $\frac{1}{4}$ and NE $\frac{1}{4}$ of NW $\frac{1}{4}$ section

31 Twp. 15, S. R. 24, East of the Boise Meridian in Idaho Territory
containing 160 acres.

Co., Ltd.

By the President: Benjamin Harrison

By M. McKean, Secretary,

(GENERAL LAND OFFICE SEAL) J. W. Townsend, Recorder of General
Land Office.

Boise Idaho

FINAL RECEIPT.

W. A. HODGMAN,
Receiver,

TO

MARY ANN TRACY

Dated July 5, 1905.

Filed: June 13, 1911 at 8:10 AM

Recorded in Book 13 of Deeds
at page 392.

Consideration: \$250.00.

Receiver's Final Receipt No. 564.

Declaration No. 853.

Desert Land Act of March 3, 1877 and Act of March 3,
1891, Land Office at Hailey Idaho.

DESCRIPTION:

E $\frac{1}{2}$ SE $\frac{1}{4}$ Sec. 30, NE $\frac{1}{4}$ NE $\frac{1}{4}$ section 31; W $\frac{1}{2}$ NW $\frac{1}{4}$
section 32, Twp. 15, S. R. 24, East of Boise Meridian, containing
200 acres at one dollar and twenty five cents per acre.

W. A. Hodgman, Receiver.

QUITCLAIM DEED.

GEORGE W. DAVIS

TO

GEORGE PETERSON

Dated: May 9, 1899.

Filed: June 7, 1897 at 6:00 PM

Recorded in Book 6 of Deeds
at page 512.

Consideration: \$650.00.

DESCRIPTION

Lot 4 in section 30; Lots 1 and 2 and SE¹
of NW¹ section 31, Twp. 15, S. R. 24, East of the Boise Meridian,
containing 175.11 acres.

Witnesses:

H. R. Cahoon

Robert W. Park

Cassia County Abstract
Geo. W. X Davis (No seal)
mark

Acknowledged in Cassia County, Idaho, May 9, 1899, by George
W. Davis, before H. R. Cahoon, Notary Public in and for said county.

(SEAL)

(I. R. Stamps \$1.00)

Boise Idaho

AFFIDAVIT AS TO CELIBACY

State of Idaho
County of Cassia } ss.

~~XXXXXXXXXXXX~~ H. T. Eames, being duly sworn,
upon oath deposes and says: I am well and personally acquainted
with George W. Davis who, on the 9th day of
May A. D. 1899, gave a Quitclaim deed to
George Peterson conveying certain lands in
Cassia County, State of Idaho, which
deed was filed and duly recorded in Book 6 of Deeds at page 512
~~of the Records~~ ~~said county~~, and know that on the date of the
execution and on the date of the delivery of said deed said
George W. Davis was unmarried.

x H. T. Eames

Subscribed and sworn to before me this 23 day of July

A. D. 1914.

William L. Eames

Notary Public

My Commission expires 4/8/17.

WARRANTY DEED.

GEORGE W. LUNSFORD

TO

WILLIAM E. TRACY

Dated: April 10, 1901.

Filed: Aug. 21, 1902 at 1 P. M.

Recorded in Book 7 of Deeds
at page 597-8.

Consideration: \$650.00.

DESCRIPTION:

$S\frac{1}{2}$ NE $\frac{1}{4}$; NW $\frac{1}{4}$ NE $\frac{1}{4}$ and NE $\frac{1}{4}$ NW $\frac{1}{4}$ Section 31,
Twp. 15, S. R. 24, East of the Boise Meridian.

Witnesses:

George W. Lunsford (SEAL)

Richard T. Story

Thomas E. Harper

Acknowledged in Cassia County, Idaho April 10, 1901, by
George W. Lunsford (Rev. Stamps 10¢), before Thomas E. Harper,
Probate Judge in and for said County.

(SEAL)

(I. R. \$1.00)

Am * 1/2

MORTGAGE.

WILLIAM E. TRACY

TO

GEORGE W. LUNSFORD

Dated: April 10, 1901.

Filed: (No filing mark.)

Recorded in Book 3 of Mortgages
at page 100-1.

Consideration: \$275.00.

(I. R. 10c)

DESCRIPTION:

S $\frac{1}{2}$ of NE $\frac{1}{4}$; NW $\frac{1}{4}$ of NE $\frac{1}{4}$; NE $\frac{1}{4}$ of NW $\frac{1}{4}$ of
section 31, Twp. 15, S. R. 24, East of the Boise Meridian,
including water.

Given to secure the payment of \$275.00 payable April
10, 1902, with interest at the rate of 10%.

Witness:

Wm E. Tracy

Walter Powell

Acknowledged in Cassia County, Idaho, April 16, 1901,
by William E. Tracy before Jacob Paden, Justice of Peace in and
for said county.

SATISFACTION OF MORTGAGE.

GEORGE W. LUNSFORD

TO

WILLIAM E. TRACY

Marginal Satisfaction for Mortgage dated ~~April 16, 1901~~
and recorded in Book 3 of Mortgages at page 100-1 is given below
as follows:

"Satisfaction in full of within Mortgage admitted this
10th day of May 1902."

G. W. Lunsford.

Attest:

John F. Hansen,

Recorder.

By O. H. Hale, Att'y.

CORRECTION DEED.

GEORGE PETERSON,
unmarried

TO

WILLIAM E. TRACY

Dated: September 18, 1901.

Filed: Sept. 18, 1901 at 11:40
A.M.

Recorded in Book 7 of Deeds
at page 298.

Consideration: \$750.00.

DESCRIPTION:

Lot 4 Sec. 30 and Lots 1 and 2 and SW $\frac{1}{4}$ of NW $\frac{1}{4}$ section 31, Twp. 15, S. R. 24, East of the Boise Meridian containing 175.11 acres. This deed given for the purpose of correcting faulty description in deed, dated Apr. 24, 1901 by same parties. The title hereby conveyed is intended to convey back to that date and to take effect at the date thereof, the grantee having been given possession at that time.

Witness:

George Petersen (SEAL)

N. Tanner Jr.

Acknowledged in Cassia County, Idaho, September 18, 1901,
by George Peterson, before John F. Hansen, Clerk of Court, by Frank Riblett Deputy in and for said county.

(no seal)

QUITCLAIM DEED.

WILLIAM E. TRACY

TO

MARY ANN TRACY

Dated: November 15, 1901.

Filed: Sept. 17, 1906 at 3 P.M.

Recorded in Book 9 of Deeds at
page 568.

Consideration: \$100.00.

DESCRIPTION.

150 inches of the waters of Circle
Creek and Dry Canyon Creek to be conducted to and through the
reservoir of the said William E. Tracy, said water is and reser-
voir is in Almo, Cassia County, Idaho.

Witness:

B. P. Howells

William E. Tracy (SEAL)

Acknowledged in Cassia County, Idaho, November 15, 1901,
by William E. Tracy before B. P. Howells, Notary Public in and for
said county.

(SEAL)

MORTGAGE.

WILLIAM E. TRACY
MARY ANN TRACY

Dated: Sept. 23, 1901.

Filed: Oct. 11, 1901 at 12 M.

TO

ZION CO-OPERATIVE
MERCANTILE INSTITUTE,
a corporation

Recorded in Book 3 of Mort-
gages at page 127-129.

Consideration; \$1952.07.

DESCRIPTION

Lot 4 Sec. 30 and Lots 1 and 2 and the
SE $\frac{1}{4}$ of NW $\frac{1}{4}$ section 31, Twp. 15, S. R. 24, East of the Boise
Meridian, being 175.11 acres. Also the S $\frac{1}{2}$ of NE $\frac{1}{4}$ and NW $\frac{1}{4}$ of NE $\frac{1}{4}$
and NE $\frac{1}{4}$ of NW $\frac{1}{4}$ of sec. 31, Twp. 15, S. R. 24, E. B. M. together
with other lands.

Given to secure the payment of \$1952.07 payable in 6 and 12
months respectively, with interest at the rate of 10%, the said
\$1952.07, given in two notes of \$952.07 each.

Witnesses:

William E. Tracy

N. Tanner Jr.

Mary Ann Tracy

C. V. Spencer

Acknowledged in Cassia County, Idaho, September 24, 1901,
by William E. Tracy and Mary Ann Tracy, his wife, before C. V.
Spencer, Justice of Peace in and for said county.

MORTGAGE.

WILLIAM E. TRACY
MARY ANN TRACY

Dated: Oct. 23, 1901.

Filed: Oct. 11, 1901 at 12:10 PM

TO

Recorded in Book 3 of Mortgages
at page 130-132.

→JOHN SCOWCROFT & Sons,
a corporation

Consideration: \$1568.66.

DESCRIPTION:

Lot 4 of Section 30 and Lots 1 & 2 and SE $\frac{1}{4}$
of NW $\frac{1}{4}$ of sec. 31, Twp. 15, S. R. 24, E. B. M. containing 165.11
acres, also S $\frac{1}{2}$ of NE $\frac{1}{4}$ and NW $\frac{1}{4}$ of SE $\frac{1}{4}$ and NE $\frac{1}{4}$ of NW $\frac{1}{4}$ of Sec. 31, Twp.
15, S.R. 24, E. B. M. together with other lands,

Given to secure the payment of \$1588.66 payable in two notes of
\$784.33 each in 6 and 12 months after date respectively with interest
at 7%.

Witnesses:

William E. Tracy

N. Tanner Jr.

Mary Ann Tracy

C. V. Spencer

Acknowledged in Cassia County, Idaho, Sept. 24, 1901 by Wm.
E. Tracy and Mary Ann Tracy his wife, before C. V. Spencer, Justice
of Peace in and for Cassia County, 6th Precinct.

SATISFACTION OF MORTGAGE.

JOHN SCROWCROFT & SONS,
COMPANY.

Dated: July 23, 1903.

Filed: June 26, 1905 at 5 P M

Recorded in Book 2 of Satis-
factions at page 86.

TO

WILLIAM E. TRACY
MARY ANN TRACY, his wife

and note
RELEASES Mortgage dated September 23, 1901, and
recorded in Book 3 of Mortgages at page 130.

John Scowcroft & Sons Co. (SEAL)

By Heber Scowcroft, Vice Pres.

Willard Scowcroft, Sec'y and
Treas.

Acknowledged in Weber County, Utah, July 28, 1903, by
Heber Scowcroft and Willard Scowcroft, known to officer to be the
Vice President and Secretary, respectively of the John Scowcroft
& Sons, Company, before Olin A. Kennedy Notary Public in and for
said county.

(SEAL)

MORTGAGE.

WILLIAM E. TRACY and
MARY A. TRACY his wife

TO

WALTER T. HOLT

Dated: June 11, 1906.

Filed: June 14, 1906 at 9:05 AM.

Recorded in Book 4 of Mortgages
at page 69.

Consideration: \$5575.00.

DESCRIPTION:

S $\frac{1}{2}$ of NE $\frac{1}{4}$ and NW $\frac{1}{4}$ of NE $\frac{1}{4}$ and NE $\frac{1}{4}$ of NW $\frac{1}{4}$
of section 31, in township 15, S. of range 24, E B. M. and also
the following lot 4 of section 30 and lots #1 and 2 and the SE $\frac{1}{4}$
of NW $\frac{1}{4}$ of section 31, Twp. 15, R. 24, with all waters of what
is known as Circle Creek.

Given to secure the payment of \$5575.00, payable June 11, 1911,
with interest at the rate of 8%.

Witness:

B. P. Howells

William E. Tracy (SEAL)

MARY A. TRACY (SEAL)

Acknowledged in Cassia County, Idaho, June 11, 1906, by
William E. Tracy and Mary A. Tracy his wife, wife separate, before
B. P. Howells, Notary Public in and for said county.

(SEAL)

SATISFACTION OF MORTGAGE.

WALTER T. HOLT

TO

WILLIAM E. TRACY and
MARY A. TRACY, his wife

Dated; May 29, 1911.

Filed: June 13, 1911 at 8:12 AM

Recorded in Book 2 of Satis-
faction of Mortgages at page 29
Inst. #10791.

RELEASES Mortgage and not dated June 11, 1906, and
recorded in Book 4 of Mortgages at page 69.

Walter T. Holt (SEAL)

Acknowledged in Cassia County, Idaho, May 29, 1911, by
Walter T. Holt, before Edw. H. Hale, Notary public in and for said
county.

(SEAL)

Co., Ltd.

My commission expires Mar. 10, 1914.

Burley, Idaho

WARRANTY DEED.

JOHN H. MULL and
JENNIE HULL, his wife

Dated: Aug. 1, 1911.

Filed: Aug. 1, 1911 at 8:15 A. M.

TO

Recorded in Book 13 of Deeds
at page 361.

WILLIAM & ROBERT HULL

Consideration: \$3000.00.

DESCRIPTION:

An undivided half interest in Lot 4 and the
E $\frac{1}{2}$ of SE $\frac{1}{4}$ Sec. 30; W $\frac{1}{2}$ of NW $\frac{1}{4}$ Sec. 32. The NE $\frac{1}{4}$, E $\frac{1}{2}$ of NW $\frac{1}{4}$ and Lots
1 and 2 Section 31, Twp. 13, South Range 24, East Boise Meridian.

About 536.05 acres. Also an undivided half interest in the follow-
ing water right to-wit: 150 inches of the waters of Circle and Dry
Canyon Creeks, situated in Cassia County, Idaho.

Witness:

John H. Hull (SEAL)

H. R. Cahoon

Jennie M. Hull (SEAL)

Acknowledged in Cassia County, Idaho, August 1, 1911, by
John H. Hull and Jennie M. Hull, his wife, before Wm. Cahoon, Justice
of Peace, in and for said county.

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR CASSIA COUNTY.

GEORGE W. LUNSFORD,
Plaintiff,

VS

SONORA B. LUNSFORD
Defendant

This cause having been brought on to be heard this 15th day of September, 1899, J. C. Rogers Esq. appearing for the plaintiff, and B. P. Howells as County Attorney appearing for the defendant. No answer being filed to the complaint in the said action and it satisfactorily appearing to the Court That said B. P. Howells County attorney aforesaid and Jacob Paden Trustee ad litim herein, were duly served with summons and copy of the complaint herein evidence and proofs were taken in said action by calling as witnesses the plaintiff G. W. Lunsford, Jacob Paden and Thomas E. Harper, Probate Judge of said county, each of whom were examined in open court and herein read the Depositions of John W. Givens, and it satisfactorily appearing to the Court from the testimony of said witnesses and said proofs that the Plaintiff is and has been a resident of Cassia County, for a period of more than six years and that the said plaintiff and said defendant intermarried in the state of Iowa on the 15th day of June 1877 and ever since have been and now are husband and wife. That since the said marriage to-wit, about the first day of August 1885, the said defendant became hopelessly insane, and soon after to wit, on the 25th day of August, 1885, the

said defendant upon examination held by the Probate Judge of said Cassia County upon the question of defendant's sanity, was found and adjudged to be insane by said Probate Judge, and ever since the date last aforesaid has been and now is insane, and that her said insanity is permanent and incurable, that said defendant is now and for a period of more than six years preceeding the commencement of this action has been duly and regularly confined in the insane assylum of this state. That there is now living one minor child the issue of said marriage to wit: Andrew M. Lunsford, aged 18 years now living with and in the custody of the said plaintiff. Wherefore on motion of J. C. Rogers Esq. of counsel for plaintiff it is ORDERED, adjudged and decreed, and this court by virtue of the power and authority therein vested does order, adjudge and decree that the marriage between the said Plaintiff, George W. Lunsford and the said Defendant Sonora B. Lunsford be dissolved and the same is hereby dissolved and the parties are and each of them is free and absolutely released from the bonds of matrimony and all the obligations thereof; and the care and custody of the said minor child Andrew M. Lunsford is awarded to said George W. Lunsford.

Done in open court this 15th day of September 1899.

C. O. Stockslager
Judge of the District Court of Fourth
Judicial District of Idaho.

Filed and Recorded Sept. 15, '99.
Recorded in Book 1 of Judgments at page 85.

TAX SALE.

Number: 54

Date Sold: July 18, 1910.

Recorded in Book 1 of Certificate of Tax Sales at page 155.

Purchaser: Cassia County.

Assessed to: John H. Hull.

Description: NE $\frac{1}{4}$ of NW $\frac{1}{4}$ and NW $\frac{1}{4}$ of NE $\frac{1}{4}$ and S $\frac{1}{2}$ of NW $\frac{1}{4}$ sec. 31;
Lot 4 Sec. 30 Lots 1 & 2; SE $\frac{1}{4}$ of SW $\frac{1}{4}$ sec. 31, E $\frac{1}{2}$ of
SE $\frac{1}{4}$ Sec. 30, NE $\frac{1}{4}$ of NE $\frac{1}{4}$ sec. 31, W $\frac{1}{2}$ of NW $\frac{1}{4}$ sec. 31,
Twp. 15, S. R. 24, E. B. M. chattles & 2 poll taxes.

Amount: \$152.95.

Paid by John H. Hull on this certificate July 3, 1911,
\$150.00.

G. A. Smith, Co, Auditor,

By J. Y. Haight.

Redeemed by John H. Hull, December 12, 1914.

Geo. A. Smith,

County Auditor.

:::PATENT:::

UNITED STATES OF AMERICA.

TO

GEORGE W. LUNSFORD.

Dated: June 13, 1890.

Filed: Oct. 31, 1914, at
8:20 A. M.

Recorded in Book 17 of
Deeds at Page 593.

Cert. No. 136.

Application 577

DESCRIPTION:

ISSUED PURSUANT TO THE ACT OF CONGRESS OF MAY 20, 1862.

GRANTS the South half of the North east quarter, the North West quarter of the North East quarter, and the North East quarter of the North West quarter of Section thirty one in Township fifteen South of Range twenty four, East of the Boise Meridian in Idaho Territory containing one hundred and sixty acres according to the Official Plat of the Survey of the land, returned to the General Land Office by the Surveyor General.

Co., Ltd.
By the President.
Benjamin Harrison.

By M. McKean,
Secretary.

J. M. Townsend,
Recorder of the General
Land Office.

455287

(L. S.)

Burley, Idaho

19

:::PATENT:::

UNITED STATES OF AMERICA.

TO

GEORGE DAVIS.

Dated: June 2, 1900

Filed: October 31, 1914
at 8:23 A. M.

Recorded in Book 17 of
Deeds at Page 594.

Cert. No. 780.

DESCRIPTION:

Application. No. 928.

ISSUED PURSUANT TO THE ACT OF CONGRESS OF MAY 20, 1862.

GRANTS Lot Numbered Four of Section thirty and the Lots numbered one and two and the South East quarter of the North West Quarter of Section Thirty-one in township fifteen south of Range Twenty-four East of Boise Meridian, in Idaho, containing one hundred and seventy-five acres and eleven hundredth of an acre, according to the official plat of the Survey of said Land, returned to the General Land Office by the Surveyor General.

By the President.

William McKinley. ✓

By F. M. McKean,

Secretary.

C. H. Brush,

Recorder of the General
Land Office.

(L.S.)
Burley, Idaho

20

AFFIDAVIT OF IDENTITY.

State of Idaho }

County of Cassia }

John O. Lowe being duly sworn,
upon oath deposes and says: I am well and personally acquainted with
George Davis who appears as Grantee in one certain
Patent ~~deed~~, dated June 2, 1900, filed for record
October 31, 1914, and duly recorded in Book 17 of Deeds at page 594
of the records of Cassia County, State of Idaho, by
which was deeded to him certain real estate in said County, and know
him to be the same person as George W. Davis who appears as
Grantor in one certain Quit Claim Deed dated May 9, 1899,
filed for record June 7, 1897, and duly recorded in Book
6 of Deeds at page 512 of the Records of said County, and said
George Davis who appears as Grantee and said
George W. Davis who appears as Grantor are one and
the same person.

John O. Lowe
Subscribed and sworn to before me this 28th day of Nov. A.D. 1914

Henry W. Tucker Notary Public.

My Commission expires October 22, 1915

:::PATENT:::

UNITED STATES OF AMERICA.

TO

MARY ANN TRACY.

Dated: May 29, 1907

Filed: Sept. 26, 1914
at 8:40 A. M.

Recorded in Book 17 of
Deeds at Page 523.

DESCRIPTION:

ISSUED PURSUANT TO THE ACT OF CONGRESS OF APRIL 24, 1820.

GRANTS the East half of the South East quarter of Section thirty, the North East quarter of the North East quarter of Section thirty one, and the West half of the North West quarter of Section thirty two, in Township fifteen South of Range Twenty four East of the Boise Meridian in Idaho, containing two Hundred acres according to the Official Plat of the Survey of the said Lands, returned to the General Land Office by the Surveyor General.

By the President.
T. Roosevelt.

By F. M. McKean,
Secretary.

(SEAL)

H. W. Sanford,
Recorder of the General
Land Office.

RECORDED MISCELLANEOUS, VOL. 608, Page 482.

:::WARRANTY DEED:::

WILLIAM E. TRACY
MARY ANN TRACY, his wife.

TO

JOHN H. HULL.

Dated; May 29, 1911.

Filed: Aug. 6, 1914, at
7:47 A. M.

Recorded in Book 17 of
Deeds at Page 386.

Consideration: \$5,000.00

DESCRIPTION:

The East half of the South east quarter, section thirty, Northeast quarter of Northeast quarter, section thirty one, West half of Northwest quarter section thirty two, in Township fifteen South of Range twenty four East of the Boise Meridian, and also Lot four of Section thirty and Lots one and two, and the South east quarter of Northwest quarter of Section thirty one, in Township fifteen South of Range twenty four East of the Boise Meridian, and also the South half of the Northeast quarter, and the North west quarter of the Northeast quarter and the Northeast quarter of the Northwest quarter of Section thirty one in Township fifteen South of Range Twenty four East of the Boise Meridian.

William E. Tracy (Seal)

Mary Ann Tracy (Seal)

Witness:

C. C. Wilburn.

Acknowledged in Cassia County, State of Idaho, May 29, 1911,
by William E. Tracy and Mary Ann Tracy, his wife, before B. P. Howells,
Notary Public in and for said County and State.

(SEAL)

My commission expires _____

22

WARRANTY DEED.

ROBERT HULL
LIZZIE HULL, husband & wife.
William Hull
ELIZA G HULL, Husband & wife.

Dated: June 1, 1914.

Filed: August, 10, 1914,
at 11:15 A. M.

TO

Recorded in Book 17 of
Deeds at Page 405.

JOHN H. HULL

Consideration: \$1.00

DESCRIPTION:

Lot Four and the East half of the South east quarter of Section Thirty and the West half of the North west quarter of Section Thirty two, and the North east quarter and the East half of the North west quarter, and Lots One and Two of Section Thirty one, Township Fifteen South of Range Twenty four East of the Boise Meridian, also all water and water rights from Circle Creek and Dry Canon, and any and all water and water rights appurtenant to and in use upon said lands.

Robert Hull (Seal)
Lizzie Hull (Seal)
William Hull (SEAL)
Eliza Hull (Seal)

Witness:
Joseph Manning.

Acknowledged in Weber, County, State of Utah, July twenty-fifty 1914, by Robert Hull and Lizzie Hull, husband and wife, and William Hull and Eliza G. Hull, husband and wife, before T. M. Jones

(SEAL)

My commission expires June _____, 1918.

:::MORTGAGE:::

JOHN H. HULL
JENNIE M. HULL, husband & wife.

TO

THE UNION CENTRAL LIFE INSURANCE CO.
a c o r p o r a t i o n .

Dated: June 27, 1914.

Filed: July 18, 1914 at
8:07 A. M.

Recorded in Book 8 of
Mortgages at Page 161.

Consideration: \$8,000.00

DESCRIPTION:

Lot Four and the East half of the South east quarter of Section Thirty and the West half of the North west quarter of Section Thirty-two, and the North east quarter, and the East half of the North west quarter, and Lots One and Two of Section Thirty-one, Township Fifteen South, Range Twenty-four East of the Boise Meridian, containing Five Hundred Thirty-six and 05/100 acres of land. Together with all the waters of Circle Creek.

THIS MORTGAGE IS GIVEN to secure the payment of one certain promissory note of \$8,000.00, payable ten years after date, with interest from date until paid, payable annually, at the rate therein specified; interest until maturity being evidenced by interest notes of even date.

John H. Hull

Jennie M. Hull.

Witness:

Acknowledged in Cassia County, State of Idaho, July 13, 1914, by John H. Hull and Jennie M. Hull, husband and wife, before George Cook, Notary Public in and for said County and State.

(SEAL)

My commission expires April 25, 1918

TAX SALE.

No. 99

\$168.53.

Cassia County: Purchaser

Assessed to John Hull

Sold: 1914

Taxes for 1913.

DESCRIPTION:

The NE $\frac{1}{4}$ of the SE $\frac{1}{4}$; SE $\frac{1}{4}$ of the SE $\frac{1}{4}$; Lot
4 Section 30; NW $\frac{1}{4}$ of the NW $\frac{1}{4}$; SW $\frac{1}{4}$ of the NW $\frac{1}{4}$
Sec. 32; NE $\frac{1}{4}$ of the NW $\frac{1}{4}$ Section 31, Twp. 15 S.
Range 24.

Redeemed, by John H. Hull, December 12, 1914,

George A. Smith,
County Auditor.

Burley, Idaho

TAXES

I HEREBY CERTIFY that there are no liens for unpaid state and county taxes, other taxes collectible by the county tax collector upon the county assessment roll, except taxes not yet payable, upon the lands described in the within abstract, and that there are no tax sales of said land unredeemed, and that no tax deeds have been given thereon, except as shown in the foregoing abstract of title.

Dated at Burley, Idaho, this 7th day of November, 1914, at 8:00 A. M.

Cassia County Abstract Co. Ltd.

by T. D. Nash
President

Abstracter.

JUDGMENTS

I HEREBY CERTIFY that there are no judgments, suits pending or liens of any kind, against any of the within named grantees, which are liens on the lands described herein, except as shown.

in any Court of Record in Cassia County.

Dated at Burley, Idaho, this 7th day of November, 1914, at 8:00 A. M.

This certificate is made for the Union Central Life Insurance Company at the request of Lee Charles Miller.

Abstracter.

Cassia County Abstract Co. Ltd.

by T. D. Nash
President

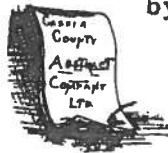
I, the undersigned, do hereby certify that the foregoing Twenty-five sheets contain a full and correct abstract of all conveyances or other instruments of writing now on record in the office of the County Recorded in and for said County which in any way affect the title to the above described real estate.

Witness my hand, this 7th day of November, 1914.

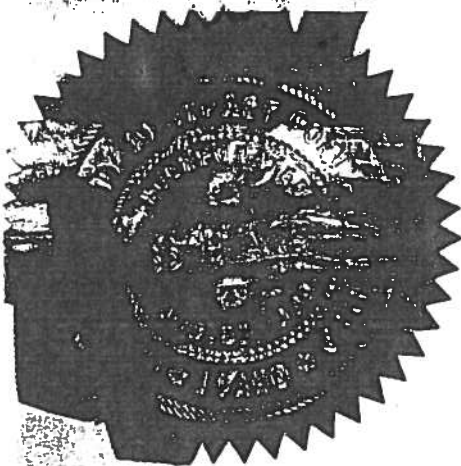
8:00 A. M.

Cassia County Abstract Co. Ltd. Abstracter.

by T. D. Nash
President



see final certificate



SATISFACTION OF MORTGAGE.

ZION'S CO-OPERATIVE MERCANTILE INSTITUTION.

Dated: November 19, 1914.

TO

WILLIAM E. TRACY
MARY ANN TRACY.

Filed: December 9, 1914, at
8:57 A. M.

Recorded in Book 3 of Sat.
of Mtgs. at Page 429.

Consideration:

DESCRIPTION:

RELEASES that certain Mortgage bearing date the 23rd day of September one thousand nine hundred and one, made and executed by William E. Tracy and Mary Ann Tracy, to Zion's Co-Operative Mercantile Institution, recorded in the office of the County Recorder of the County of Cassia, State of Utah, Idaho, in Book 3 of Mortgages, page 127-129 on the 11th day of October, 1901, together with the debt thereby secured is fully paid, satisfied and discharged.

Witness:
C. Orlob.

Zion's Co-Operative Mercantile
Institution (Seal)

(CORP. SEAL)

By Joseph F. Smith, President (Seal)
Thomas G. Webber, Secretary (Seal)

Acknowledged in Salt Lake County, State of Utah, November 19, 1914, by Joseph F. Smith and Thomas G. Webber, known to be the President and Secretary of the Zion's Co-Operative Mercantile Institution, before C. A. F. Orlob, Notary Public in and for said County and State.

(SEAL)

My commission expires 10-7-17.

TAXES

I HEREBY CERTIFY that there are no liens for unpaid state and county taxes, or other taxes collectible by the county tax collector upon the county assessment roll, except taxes not yet payable, upon the lands described in the within abstract, and that there are no tax sales of said land unredeemed, and that no tax deeds have been given thereon, except as shown in the foregoing abstract of title. Except one-half of the taxes for 1914.

Dated at Burley, Idaho, this 27th day of December, 1914, at 8:00 A. M.

Cassia County Abstract Co. Ltd.

by T. D. Dosh Abstracter.

JUDGMENTS

I HEREBY CERTIFY that there are no judgments, suits pending or liens of any kind, against any of the within named grantees, which are liens on the lands described herein.

.....

.....in any Court of Record in Cassia County.

Dated at Burley, Idaho, this 27th day of December, 1914, at 8:00 A. M.

Cassia County Abstract Co. Ltd.

by T. D. Dosh

This Certificate is made to the Union Central Life Insurance Company, at the request of Lee Charles Miller.

Cassia County Abstract Co. Ltd.

by T. D. Dosh
President

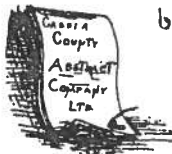
I, the undersigned, do hereby certify that the foregoing Twenty Six sheets contain a full and correct abstract of all conveyances or other instruments of writing now on record in the office of the County Recorder in and for said County which in any way affect the title to the above described real estate.

Witness my hand, this 27th day of December, 1914.

8:00 A. M.

Cassia County Abstract Co. Ltd. Abstracter.

by T. D. Dosh
President



{ Abstr. O. K.
Per J. I. F.
Date JAN 15 1915

WILLIAM T. GOODMAN
ALAN GOODMAN
RICK BOLLAR
NICOLE L. ARBOGAST

LAW OFFICE
Goodman and Bollar

CHARTERED
717 7TH STREET
BOX D
RUPERT, IDAHO 83350 - 0020

AREA CODE 208
TELEPHONE NO
436-4774
FAX
(208) 436-4837

RECEIVED

JUL 07 2000

**Department of Water Resources
Southern Region**

July 6, 2000

Department of Water Resources
1341 Fillmore Street, Suite 200
Twin Falls, ID 83301-3380

Attn: Ms. Vikie Hancock

Re: Michael Nicholson, Claim No. A 43-04173

Dear Ms. Hancock:

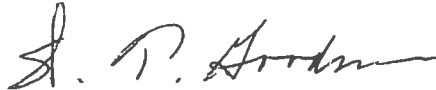
I am enclosing the portion of a trial involving the water used from Circle Creek by the prior owners of the Nicholson property. This is the testimony of Mrs. Emily Tooth, daughter of William Tracy, the prior owner.

I cannot tell from the portion of the transcript I have the exact date of the Court action in Cassia County, however, Michael Nicholson's father was a defendant. It appears that a Willis Lloyd was the plaintiff in this case. I will get to Burley and look at the original Court file to get the names of the parties and the date of the Court trial.

The testimony of Mrs. Tooth does indicate to me that the water from Circle Creek was used to irrigate the real property prior to 1900.

Very truly yours,

GOODMAN & BOLLAR



William T. Goodman

WTG:KH
Encl.
cc: Mr. Mike Nicholson

RECEIVED

JUL 07 2000

Department of Water Resources
Southern Region

THE COURT: Very well, we will adjourn then
until 10 o'clock tomorrow morning.

MRS. EMILY TOOTH

Called as a witness on behalf of the defendants,

Being first duly sworn testified as follows:

DIRECT EXAMINATION

BY MR. CREASON:

Q. State your name?

A. Emily Tooth.

Q. Where do you reside Mrs. Tooth?

A. At Oakley.

Q. Were you acquainted with William E. Tracy during
his lifetime?

A. Yes, sir.

Q. What relation are you to William E. Tracy?

A. Daughter.

Q. Are you acquainted with Mary Ann Tracy?

A. Yes.

Q. What relation are you to Mary Ann Tracy?

A. She was my mother.

Q. You're the daughter of Mary Ann Tracy, where did you
reside during the years 1901 to 1910 or 1911?

A. City of Rocks, at the Circle.

Q. What do you mean at the Circle? Mrs. Tooth, what do
you mean by that?

A. Well City of Rocks I always called it, some of them

A. (continued) call it the Circle.

Q. Are you acquainted with the location of lands now occupied by Mr. and Mrs. Nicholson?

A. Yes.

Q. When did you first become acquainted with that property and the land?

A. Oh its been so long ago I caN't remember, it was about 1900 I would say.

Q. You lived on that in 1900?

A. Before that I think because I was up there and stayed during the summer, cooked for the hay men by myself.

Q. When you were first up there cooking for hay men by yourself, who lived on the land then do you know?

A. What?

Q. Who lived on the land at the time you first cooked for hay men before 1900?

A. My father, Mr. Tracy.

Q. What crops were growing on the land at that time?

A. Mostly hay, some grain.

Q. And where did--where was the hay growing then Mrs. Tooth?

A. Oh everywhere, it was all in hay practically.

Q. Is there a stream that runs through this field of your father's?

A. Yes.

Q. What is the name of that stream?

Q. And are you acquainted with the location of the residence or house occupied at this time by the Nicholson's?

A. Yes.

Q. Where was the little log house relative to that if you recall?

A. It is just about west of the rock house.

Q. About what distance?

A. Oh I don't know just what you would call it, it isn't so very far, it is what they use now I think as a chicken coop.

Q. And where did you get the water from Mrs. Tooth that watered the garden?

A. Well just about a quarter of a mile I would say above there, above this little building.

Q. When you speak above do you mean west of the little building?

A. Yes.

Q. And from what was that water taken?

A. Well I think it was taken out of Circle Creek.

Q. And how was the water taken out of Circle Creek that ran down to the garden?

A. Well it had a dam in it and ditch that ran down to the garden.

Q. Did you have a ditch or canal or something that brought this down to the garden?

A. Well it was a ditch.

Q. And how large a ditch was that, do you recall?

A. Oh a fair sized ditch that would carry the water down to the garden.

Q. And this dam you speak of being in Circle creek--

A. Yes.

Q. Do you know what that dam was made out of?

A. Just a dirt dam.

Q. And how far did that extend--I will ask you if you recall whether or not that dam extended across the bed of Circle Creek?

A. Yes.

Q. What was your answer?

A. Yes.

Q. How many years were you there on the farm?

A. Oh I was there quite a long time, I wouldn't know just how long.

Q. You were married there later?

A. Yes.

Q. And during the years you were there how was this garden irrigated every year?

A. From the Circle Creek.

Q. And was there any change in the dam or ditches during the years you were there?

A. I don't think so, not that I know of.

Q. Have you had occasion to see this property in recent years Mrs. Tooth?

A. No I haven't.

Q. When was the last time you saw the farm there?

A. Not since we were married I don't believe.

MR. CREASON: I believe that's all. Cross
examine.

CROSS EXAMINATION

BY MR. LOWE:

Q. William E. Tracy didn't have this land in 1900, did he?

A. Well it was along in there.

Q. He was a part owner in a store at Almo in 1900,
wasn't it?

A. There--he could have been, we could figure it up, I
was about sixteen when I was up in there.

Q. Well when were you born?

A. '87.

Q. 1887?

A. That's right.

Q. Don't you know?

A. No, it's too long ago, 1886 or 1887, I haven't
figured it up. My husband usually keeps track of that.

Q. William E. Tracy didn't live on this land while he
owned an interest in the store at Almo did he?

A. No.

Q. It was after he had sold his interest in the store
before he became interested in this land?

A. Oh we were there before that, we moved from Yost up
there.

Q. You didn't--

A. I was up there, we had it before he had the store at Almo.

Q. Before he had the store at Almo?

A. Yes.

Q. Are you sure of that?

A. Well I am pretty sure because I think that is when we sold out and moved to Almo.

Q. But you can't tell us when you did go there?

A. No I don't because we went from Yost over, we would go over there and put up the hay in the summer time and I know we weren't living at Almo then.

Q. Yost is how far away from this land?

A. Oh it is quite a ways, I would say about 20 miles, something like that.

Q. Now you never irrigated the land did you?

A. Only the garden.

Q. Only the garden?

A. That's all.

Q. Did you have a garden on this land when you were living at Yost?

A. Yes.

Q. You're sure of that. And when did you first irrigate a garden on this land?

A. Oh I wouldn't remember, I was just a girl at the time.

Q. You can't tell approximately?

A. No its too long ago.

Q. Your answer is that you cannot?

A. Yes.

Q. How large a garden did you have on this place?

A. Oh just a nice garden what anyone would raise, peas and beets and carrots and squash, Dad always had a nice garden.

Q. Now you say there is a little log house there?

A. UmmHm (Yes).

Q. That is a chicken house now?

A. I guess now ummhmm. (yes)

Q. When was the rock house built?

A. Oh it was, I wouldn't know just when it was.

Q. You can't tell when it was?

A. I just went there and I didn't pay too much attention to anything like that. It was quite a while before we were married.

Q. When were you married?

A. In December.

Q. December of what year?

A. Oh gosh I don't know, I would have to ask my man, I don't remember, it's too long ago.

Q. You can't tell that then?

A. I was twenty in January that we were married in December, I would have to figure it up. I am 73 now so I would have to figure back.

Q. Did you live on the place after you were married?

A. No.

Q. Then you haven't seen any irrigation or any garden on the place since you were married, is that right?

A. Well just when we have went passed there when we went by you could always see the garden.

Q. The water that watered the garden came around by the chicken coop?

A. Mmmmm, yes.

Q. How far from the chicken coop was it?

A. Oh I wouldn't know, right along there.

Q. Which side of the chicken coop was it on?

A. Oh I believe the south side of the chicken coop or the north side, it is right there by the chicken coop.

Q. Right by the chicken coop. There was an old road that ran up through there by the chicken coop wasn't there?

A. I don't remember.

Q. You don't know whether there was or not?

A. I just don't remember whether there was or not.

Q. And the water came down by that old road didn't it?

A. Yes that is all I know is just down by that building close by the building or along the ditch, right along the ditch mostly because that is where we took it out.

Q. Did your father have a garden on the south side of the channel of Circle creek up near where the east reservoir was?

A. No.

Q. Was there a ditch leading from the east reservoir?

A. Well no, it was along the west.

Q. Along the west?

A. Came down along there where we took the water out for the garden.

Q. On the west side of the creek?

A. Yes--no, west from the building.

Q. And you say your father irrigated hay land?

A. Yes.

Q. How did he irrigate the hay land?

A. Well he had reservoirs.

Q. How did he get the water out of the reservoir?

A. Oh he had headgates there or what have you, how they build a reservoir.

Q. Was there a headgate in the reservoir?

A. Well I wouldn't remember.

Q. You don't know?

A. I never used to pay any attention to anything like that.

Q. Were there any ditches leading from the reservoir?

A. Well this one, that's all I know.

Q. Did this ditch you refer to come down from the reservoir?

A. It came to the garden, that's all I remember.

Q. Did it come from the reservoir?

A. I wouldn't say whether it did or not, I don't remember

A. (continued) its been so long ago.

Q. Well where did your father have grain?

A. Well I just wouldn't--couldn't say exactly, it was in the field.

Q. You don't know where it was in the field?

A. No I never used to have to worry about those things.

Q. You don't know on which side of the channel of the creek the grain was?

A. Well I wouldn't remember now if I did, I used to do the cooking.

Q. How much grain did he have, do you know?

A. No, we always had plenty to do us for flour and chickens.

Q. Do you know where the hay was?

A. Oh west of the building, everywhere practically.

Q. West of which building?

A. Well practically all hay, it was nearly all hay that was in the field.

Q. Did he cut over all of the ground that was in the field?

A. He undoubtedly did because we would be three weeks putting up one crop of hay.

Q. But you don't know where it was?

A. Oh in the field.

Q. Where was it with reference to the reservoir, the east reservoir?

A. I think it was practically below the reservoir.

Q. Below it?

A. And then there was springs he used besides so I wouldn't know.

Q. Where was it with reference to the house?

A. The field?

Q. The hay, where the hay was cut?

A. West of the house.

Q. West of the house?

A. Yes.

Q. And where was it with reference to the little log house or chicken coop?

A. Well practically west.

Q. Now when you were there was there any water flowing in the channel of the creek?

A. A little.

Q. How much?

A. Oh I would say three or four inches, something like that.

Q. Did you ever see that channel of that creek dry?

A. Yes.

Q. When did you see it dry?

A. Oh I wouldn't know, well I wouldn't say exactly it was dry but there wasn't very much water, maybe you could dip up some with a can. That is the reason we had to dig a well because there wasn't enough for house use.

Q. When did you dig the well?

A. Well right after they built the rock house.

Q. Now how far is it from the rock house to the east reservoir?

A. I don't know.

Q. You don't know. You couldn't tell approximately?

A. No I couldn't.

Q. How do you fix the point of diversion of a ditch as a quarter of a mile west of the little house?

A. Well because you could walk that I guess.

Q. You could walk that you guess?

A. Yes. When we used to irrigate the water, I wouldn't say just how far it was but it wasn't so very far.

Q. Did you ever walk to the east reservoir?

A. Oh I was back and forth in there when I was riding horseback or something but that is as far.

Q. Did you ever see any ditches leading from the east reservoir?

A. I never paid any attention to them, I wouldn't remember now.

Q. You wouldn't remember about those ditches?

A. No.

MR. LOWE: That's all.

MR. CREASON: I believe that's all.

THE COURT: Mrs. Tooth, of how many ditches on the north side of the creek do you have a recollection?

Hancock, Vikie

Subject: 43-04173
Entry Type: Phone call

Start: Wed 7/5/00 9:30 AM
End: Wed 7/5/00 10:00 AM
Duration: 30 minutes

Categories: B43, Irrigation

Atty Bill Goodman called regarding my letter to him and to Michael Nicholson about the priority date I was going to recommend for Michael's claim on Circle Creek. He asked me where I came up with the 1914 date and I said that was the earliest date found on the evidence sent in by his client. He said he was going to look for the homestead patent, and that he had a transcript of the court case involving his client's predecessor over water rights on the creek. He said that he hadn't read it for a while, but that from what he remembered, there was no conclusive evidence in it about the date beneficial use began up there at the ranch. I told him that if he felt it would be helpful, he could send me a copy and I would go thru it. He said it was about an inch thick, and invited me to come by sometime and look at it in his office.

We exchanged pleasantries and he indicated that he was going to read thru the court case transcript again looking for evidence.



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

SOUTHERN REGION

June 20, 2000

Mr. William T. Goodman
Goodman and Boller
PO Box D
Rupert, Idaho 83350

RE: Snake River Basin Adjudication
Claim No.: A43-04173 Michael

Dear Mr. Goodman:

I received your letter in response to my priority for beneficial use on Mr. Nicholas familiar with the decree that you reference Adams Decree. I am also familiar with referenced, which were decreed in the 1950s from Almo Creek. As part of the process included in the Jobe Adams Decree, these rights the numbers 43-00383, 4

In the initial Jobe Adams Decree, the legal rights does correspond with some of Mr. Range 24E, however, the legal description the December 1928 Amendment of the Shangles property is corrected to a portion 25E. This series of rights is recognized Watermaster, as being appurtenant to the rights they are claimed as such in the Adjudication

I have not found any reference to your client's place of use in the Jobe Adams Decree, but my investigation has been limited, and it is certainly not the only court decision regarding water rights in the Almo area. I hope that further research on your part may uncover something. If I can be of any assistance, please let me know.

Sincerely,

Vikie Hancock
Sr. Water Resource Agent

Michael -

I just thought -
has Goodman looked
for that lawsuit
involving Zou Lloyd?

From what I can

gather it was in
about 1955/1956, but

I haven't had the

time to research it

at the court house

You might ask him.



State of Idaho

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SOUTHERN REGION

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

June 20, 2000

Mr. William T. Goodman
Goodman and Boller
PO Box D
Rupert, Idaho 83350

RE: Snake River Basin Adjudication (SRBA)
Claim No.: A43-04173 Michael Nicholson

Dear Mr. Goodman:

I received your letter in response to my request for additional evidence of priority for beneficial use on Mr. Nicholson's ranch on Circle Creek. I am familiar with the decree that you referenced, commonly known as the Jobe Adams Decree. I am also familiar with the three decreed rights that you referenced, which were decreed in the name of William Shangles for diversions from Almo Creek. As part of the process of identifying and cataloging the rights included in the Jobe Adams Decree, The Department of Water Resources gave these rights the numbers 43-00383, 43-00384 and 43-00385 respectively.

In the initial Jobe Adams Decree, the legal description for the above water rights does correspond with some of Mr. Nicholson's property in Township 15S, Range 24E, however, the legal description in the initial Decree is incorrect. In the December 1928 Amendment of the Decree, the legal description of Mr. Shangles property is corrected to a portion of sections in Township 15S, Range 25E. This series of rights is recognized by the Department, and the local 43D Watermaster, as being appurtenant to Sections 30 and 32 T15S, R25E, and they are claimed as such in the Adjudication.

I have not found any reference to your client's place of use in the Jobe Adams Decree, but my investigation has been limited, and it is certainly not the only court decision regarding water rights in the Almo area. I hope that further research on your part may uncover something. If I can be of any assistance, please let me know.

Sincerely,

Vikie Hancock
Sr. Water Resource Agent

WILLIAM T. GOODMAN
ALAN GOODMAN
RICK BOLLAR
NICOLE L. ARBOGAST

LAW OFFICE
Goodman and Bollar
CHARTERED
717 7TH STREET
BOX D
RUPERT, IDAHO 83350 - 0020

AREA CODE 208
TELEPHONE NO
436-4774
FAX
(208) 436-4837

June 16, 2000

State of Idaho
Department of Water Resources
1341 Fillmore Street, Suite 200
Twin Falls, ID 83301-3380

RECEIVED
JUN 19 2000
Department of Water Resources
Southern Region

ATTENTION: Vikie Hancock

Re: Michael Nicholson, A43-04173

Dear Ms. Hancock:

While we have not completed our research in regard to the water right claim of Mr. Nicholson for the ranch near Almo, Idaho we have located a Court Decree entered in the US District Court Southern Division of the State of Idaho on July 27, 1923.

This Decree established priority dates on Circle Creek in favor of the present owner of the premises, Mr. Nicholson.

The following is an abstract of the Priority Dates, Amounts and real property involved:

Priority Date	Amount	Legal
4-30-1879	1 s.f. (second foot)	E $\frac{1}{2}$ SE $\frac{1}{4}$ Sec. 30
4-30-1884	.8 s.f.	N $\frac{1}{2}$ NW $\frac{1}{2}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 32
4-30-1885	1 s.f.	together with other lands

The parties in the above case were Albion Idaho Land Company, Plaintiff, vs. Jobe Adams, et. al, Defendants. Decree #992, Instrument No. 93186.

Presumably the Instrument Number above is the recording document number filed in the County Recorder's Office, recorded in Book 6 of Judgments page 500-526.

State of Idaho
Department of Water Resources
Attn: Ms. Hancock
June 16, 2000
Page 2

I am in the process of obtaining a full copy of the Court Decree since it appears that the other defendants, some of which are undoubtedly successors to the claimants on Circle and Dry Creeks, were involved in this court action.

Very truly yours,

GOODMAN & BOLLAR

A handwritten signature in dark ink, appearing to read "W. T. Goodman", with a stylized, flowing script.

William T. Goodman

WTG/tj
pc: Mr. Michael Nicholson



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

SOUTHERN REGION

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

June 15, 2000

Michael Nicholson
805 3rd Street
Rupert, Idaho 83350

RE: Snake River Basin Adjudication (SRBA)
Claim No.: A43-04173

Dear Michael,

I wanted to advise you that in regard to the above claim on Circle Creek, your claimed priority date of 1879 has not been substantiated, and based upon the information that I have on file, I will be recommending a priority date of 1914.

If you or Mr. Goodman have information that will show use of water on the ranch earlier than 1914, I encourage you to submit it to me as soon as possible, as there is well documented use of Circle Creek downstream with a priority date of 1882.

Sincerely,

Vikie Hancock
Sr. Water Resource Agent

Cc: William T. Goodman



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

SOUTHERN REGION

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

September 29, 1999

Michael Nicholson
805 3rd Street
Rupert, Idaho 83350

RE: Snake River Basin Adjudication (SRBA)
Claim number A43-04173

Dear Michael,

I have been trying to contact you by phone, but just learned that you are working days at the sugar factory. I have an opportunity to re-visit your ranch on Circle Creek with another agent who may assist me in calculating the capacity of your diversions from Circle, Dry, North and South Creeks and give me a more accurate idea of the amount of water you have available for irrigation.

It appears that it could be difficult for you to meet me up at the ranch during working hours this fall. I could probably re-examine the diversions without you, but would understand if you hesitated to give permission given the nature of the area. I anticipate that the other agent will be here from the state office on October 6, 7 and 8. If you have an opportunity to call me here at the office in time to schedule another field exam, please do so. I can also be reached after 5 pm at home here in Twin at 734-8069.

The Department has received a Notice of Appearance from your attorney, Mr. Bill Goodman, and will keep him advised of any developments regarding this claim.

Sincerely,

Vikie Hancock
Water Resource Agent

CONVERSATION MEMO

Date:

9-28-99

Regarding:

43-04173

Customer:

Michael Nicholson

From: Vikie Hancock

[illegible]

Called several times last week. No answer. Today his mother, who I believe is in ill health, answered & said Michael is working at sugar factory & would be home in evening. She asked who I was, and I told her who I was & that I was calling about doing a bottled water measurement on the ranch.

COMMUNICATION DOCUMENTATION

From: Vikie Hancock

August 9, 1999

Regarding:

Customer:

Circle Creek Claims

Michael Nicholson

[illegible]

Michael called to tell me that his friend that is retired from Minidoka Irrigation District remembers that he measured about 300 inches of water up at the ranch. I told Michael that it would be good if his friend would write up an affidavit explaining his experience in water measurement and the date and amount of water he found, and have his signature notarized and send it to me for the file. We also discussed that his attorney was doing some research to find better evidence of priority of beneficial use.

I also assured Michael that he would be able to object to my water right recommendation if he disagreed with it when I make it this fall, and that he could then request that I re-measure the water next spring for a more representative measurement. I explained our deadline for this winter's Basin 43 director's report. I also told him that we may be able to calculate a theoretical capacity of his ditches by using Manning's equation. We said we would keep in touch.

RECEIVED

AUG 03 1999

Department of Water Resources
Southern RegionClaimant Acknowledgement of Change in Attorney
in Snake River Basin Adjudication (SRBA)

Name(s) of Claimant (please print):

Michael V. Nicholson

I/we acknowledge (check one):

☐ The attorney formerly representing me has withdrawn and I/we will be representing myself/ourselves.☒ I/we are now represented by the attorney at the address below.William T. GoodmanGoodman & BollarP.O. Box DRupert, ID 83350

Attorney's Phone _____

The SRBA water right claim notice(s) affected by this change are listed below or on the attached sheet(s).

A43-04173 _____

For Individuals:

Authorized signature(s) Date July 29, 1999Michael V. Nicholson

For Organizations:

I am _____ of _____, and I

Title

Organization

have signed the foregoing document in the space below as

_____ of _____.

Title

Organization

Signature of Authorized Agent _____

Title _____ Date _____

Organization _____

IDWR Use:

Date Received _____

Data Entry 2-11-99

WILLIAM T. GOODMAN
ALAN GOODMAN
RICK BOLLAR

LAW OFFICE
Goodman and Bollar
CHARTERED
717 7TH STREET
BOX D
RUPERT, IDAHO 83350 - 0020

AREA CODE 208
TELEPHONE NO.
436-4774
FAX
(208) 436-4837

August 2, 1999

RECEIVED

AUG 03 1999

**Department of Water Resources
Southern Region**

Idaho Department of Water Resources
1341 Fillmore Street, Suite 200
Twin Falls, ID 83301-3380

Re: Michael Nicholson, A43-04173

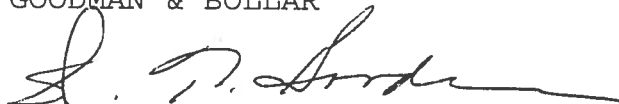
Gentlemen:

Enclosed is an acknowledgment that our office will be representing Mr. Nicholson in the SRBA.

Please file this form.

Very truly yours,

GOODMAN & BOLLAR



William T. Goodman

WTG:KH
Encl.



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

SOUTHERN REGION

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

July 20, 1999

Michael Nicholson
805 3rd Street
Rupert, Idaho 83350

RE: Snake River Basin Adjudication (SRBA)
Claim Number A43-04173

Dear Michael,

I received a phone call from Bill Goodman this morning in regard to your claim on Circle, South, North and Dry Creeks. At his request, I sent him computer print-outs of all other claims on Circle Creek, and we discussed the necessity of your providing evidence to support your claimed priority date. We also talked about my measuring less water than had been available for irrigation earlier in the season.

I'm enclosing a form that you can fill out, and return to me, if you wish the Department to list Mr. Goodman as your attorney of record. He would then receive copies of all correspondence to you from us. It's not necessary that you do this, but it is an option that I wanted you to know about.

Mr. Goodman mentioned that he had some documents for the ranch with an earlier date than I have in my files, and he was going to send me copies. Did you ever find any record of the measurements done by your friend that works for BID? If so, be sure to send me a copy.

If I can be of any assistance, please let me know.

Sincerely,

A handwritten signature in cursive script, appearing to read 'V. Hancock'.

Vikie Hancock
Water Resource Agent



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

SOUTHERN REGION

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

July 20, 1999

Mr. Bill Goodman
Goodman & Boller
PO Box D
Rupert, Idaho 83350

RE: Snake River Basin Adjudication (SRBA)
A43-04173 - Michael Nicholson

Dear Mr. Goodman:

Pursuant to our telephone conversation this morning, please find enclosed computer print-outs of Adjudication Claims on Circle Creek. Please be aware that, with the exception of claim number 43-10912 which was recommended to the court in our Director's Report of domestic and stock claims dated March 2, 1998, and objected to in July of 1998, the claims enclosed are in the process of investigation.

If I can be of any further assistance, please let me know.

Sincerely,

A handwritten signature in cursive script, appearing to read 'V. Hancock'.

Vikie Hancock
Water Resource Agent

Field Exam Notes

6/28/1999

Claim No: A43-04173

Agent: Vikie Hancock

Claimant, Michael Nicholson met me at the ranch and showed me the place of use and diversion works from the four creeks claimed as sources. The ranch is used for pasture for cattle, and although much of the place of use is covered with sagebrush, there is active irrigation of the grass that grows well under the sage all along the shallow hillsides below the main northern and southern ditches.

We drove the northern ditch bank and I observed several cuts that directed water from the ditch south down into the sage and grass below. Water is allowed to flood haphazardly toward the valley bottom. The northern ditch is fed by North Creek, and in fact, all of North Creek becomes the well maintained northern ditch as it passes into section 31. The first diversions out of North Creek occur in the SWSW of section 30 where cuts divert water to the southwest. Claimant also says that water seeps from North Creek, and possibly springs, directly south along a nameless natural channel toward South Creek, and he diverts this to the southeast as long as it lasts. He thought that maybe this used to be the North Creek channel, but was not sure. I conducted my flume measurement of North Creek above any diversions, but it did not include any of the seep water claimant mentioned. I did observe a wet area that he pointed out was the land irrigated by ditches from the seep water. The main ditch running east from North Creek ends just past the NENE quarter line of section 31, before the north/south road.

South Creek comes into the ranch from the west in a very marshy area. Measurement was conducted just below the first point of diversion, as on this date the diversion was blocked off for repairs. South Creek is diverted out into the valley bottom and floods out to the east. There was not a lot of water in South Creek. Claimant stated that there was twice the water flowing there a month ago. It did appear that the natural channel, and his diversion ditch, could handle more than twice the water found during the field exam.

Circle Creek is diverted close to the western boundary of the ranch, into one main ditch running roughly west to east. Periodically, cuts are made from the ditch similar to those in the northern ditch, and water is allowed to flood down to the north and toward the valley bottom. We drove the ditch bank and conducted a flume measurement at a suitable place. The ditch is clean and well maintained enabling it to convey water as far east as possible. Claimant explained that he had two diversion cuts on this date, but had had five or more a month ago. The ditch from Circle Creek runs out just north of Treasure Rock.

GPS ANALYSIS
EVALUATED THIS
ACTUALLY
CIRCLE CREEK

THIS CREEK
ACTUALLY SOUTH
CREEK PER GPS
& USGS MAPS.

Dry Creek enters the ranch through a culvert under the main City of Rocks Road just to the east of Treasure Rock and runs northeast and then east. Claimant begins diverting as soon as the channel turns to the east and diverts until the water is used up. A timed float was used to measure Dry Creek as it was quite narrow. Claimant said that there had been much more water in the creek earlier, and that it would be dry soon. It did not look bank-full at the time of measurement.

Claimant also diverts water from one of the four reservoirs that are in the valley bottom. All the reservoirs lie along the natural channel of Circle Creek. On the day of the field exam, no live stream was running into this reservoir. Claimant states that all spring it fills from seep water or springs, and dries up when summer progresses. The ditch from the reservoir runs east, then angles north then east to roughly parallel the main east-west ranch road. It ends approximately 1/16 mile west of the east section line of section 31.

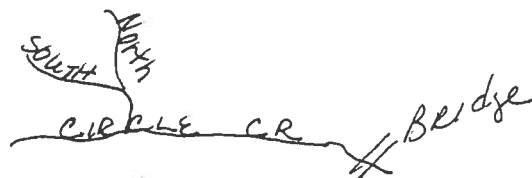
There were no diversions from any of the other reservoirs, as shown on the statutory claim filed by Michael Nicholson's father in 1983. Claimant said that he sometimes diverts a small amount of water from the reservoir just south and east of the one we measured, but he wasn't now.

From my observations, I believe that the statutory claim map accurately shows the extent of the irrigated lands, and the ditches from Circle Cr., South Cr., North Cr., and the reservoir. It does not include any diversions from Dry Creek, however the claimant grew up on the ranch and says his father always used whatever water there was from Dry Creek, so doesn't understand the omission. He also says that they always used North Creek in the SWSW Section 30 so he included it in the claimed place of use. I include the measurement of the reservoir creek in my calculation of diversion rates because, although the source of some of this water could have been previously measured and accounted for, I believe that in this system there is significant water lost to seepage that was never accounted for, and this justifies the inclusion of the reservoir creek water.

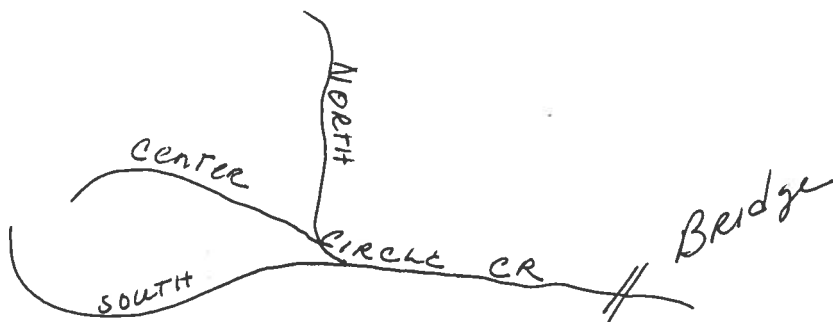
I discussed the priority date with the claimant and asked if he had any documents that would prove water use at the ranch in 1879. He didn't think that he did. I encouraged him to research county records. He noted that we were not finding as much water as was on the claim, and was concerned about that. He mentioned that a friend that works for Minidoka Irrigation District had come out some years before and measured the water, too, but he couldn't remember the figures. I told him that if he could find those documents, and if we could determine that his friend's methods were sound, I could use it in determining my recommendation. I also told him that I was aware that the flow of water had dropped since early spring, and would take that into consideration. I also mentioned that it looked like his father had claimed the standard 1" per acre and may not have known how much water he was actually using at the time of the stat claim, and that he had followed suit with the AJ claim. It was possible that he didn't use that much water on his land, especially since a lot of it was bottom land that probably subbed a lot.

Although Mr. Nicholson diverts all the water from the Circle Creek channel as it enters the ranch, by the time it exits the ranch there is a good flow of water in the creek again. There are claims on the creek downstream. I encouraged claimant to find as much information on the historic use of water on the ranch as he could to substantiate his claim of an early priority date.

Note: After further analysis, it seems that the claimant's names for the creeks may differ from USGS maps. Claimant id's the creeks such:



USGS maps show this identification:



The ABOVE agrees with License 43-07295. I am using the USGS names in my recommendation & have intended to change references of South Creek to Circle creek & references of Circle Creek to South creek in my previous notes

D.H.

FIELD EXAM NOTES AND PHOTO LOG

Claim Nos: A43-04173 Date 6-23 1999

Claimant / Area of Concern: Nicholson Page 1 of 2

Roll	Pic #	Description
11	1-2	Pan from Road to South looking W.
	3,4,5,	Pan from Road looking North
	6	irrigation cut from North Creek, ^{ditch} looking SE
	7	North creek Ditch looking west
	8	measurement on North Creek
	9-10	Pan of Pole
	11	^{center} South creek where it enters Ranch - looking W.
	12	measurement of ^{CENTER} South Creek
	13	^{South} Circle Creek diversion to main ditch
	14.	looking at natural ^{South} Circle Creek Channel where water diverted to ditch

Audio tape #

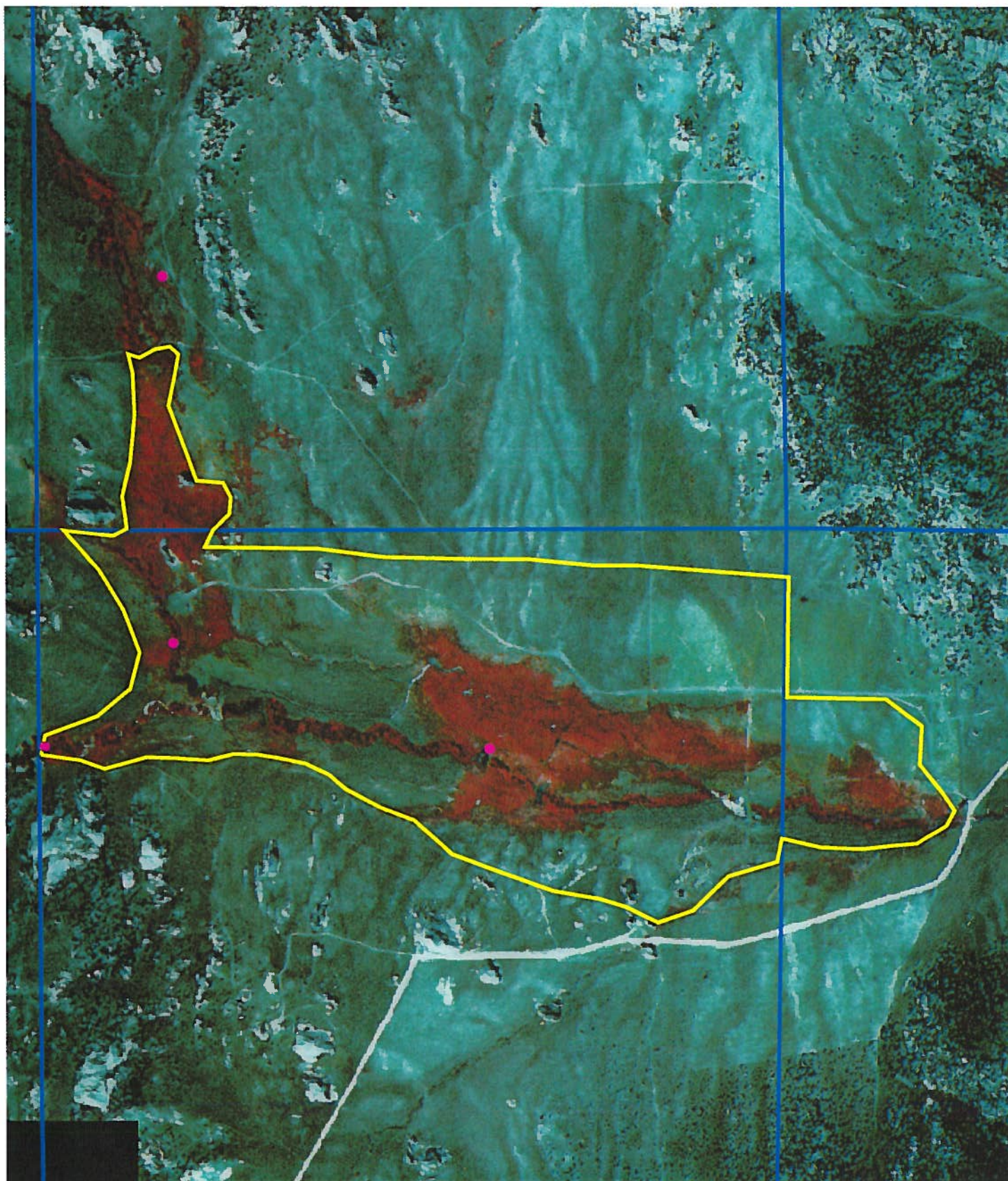
Notes: Claimant Reports twice as much
water was in creeks one month ago &
is dropping every day. He did have
5 irrigation cuts out of the Circle
creek ditch & now has 2.

PTS OF MEASUREMENT
PER GPS

FIELD NOTES

CLAIM NO(S): A43-04173

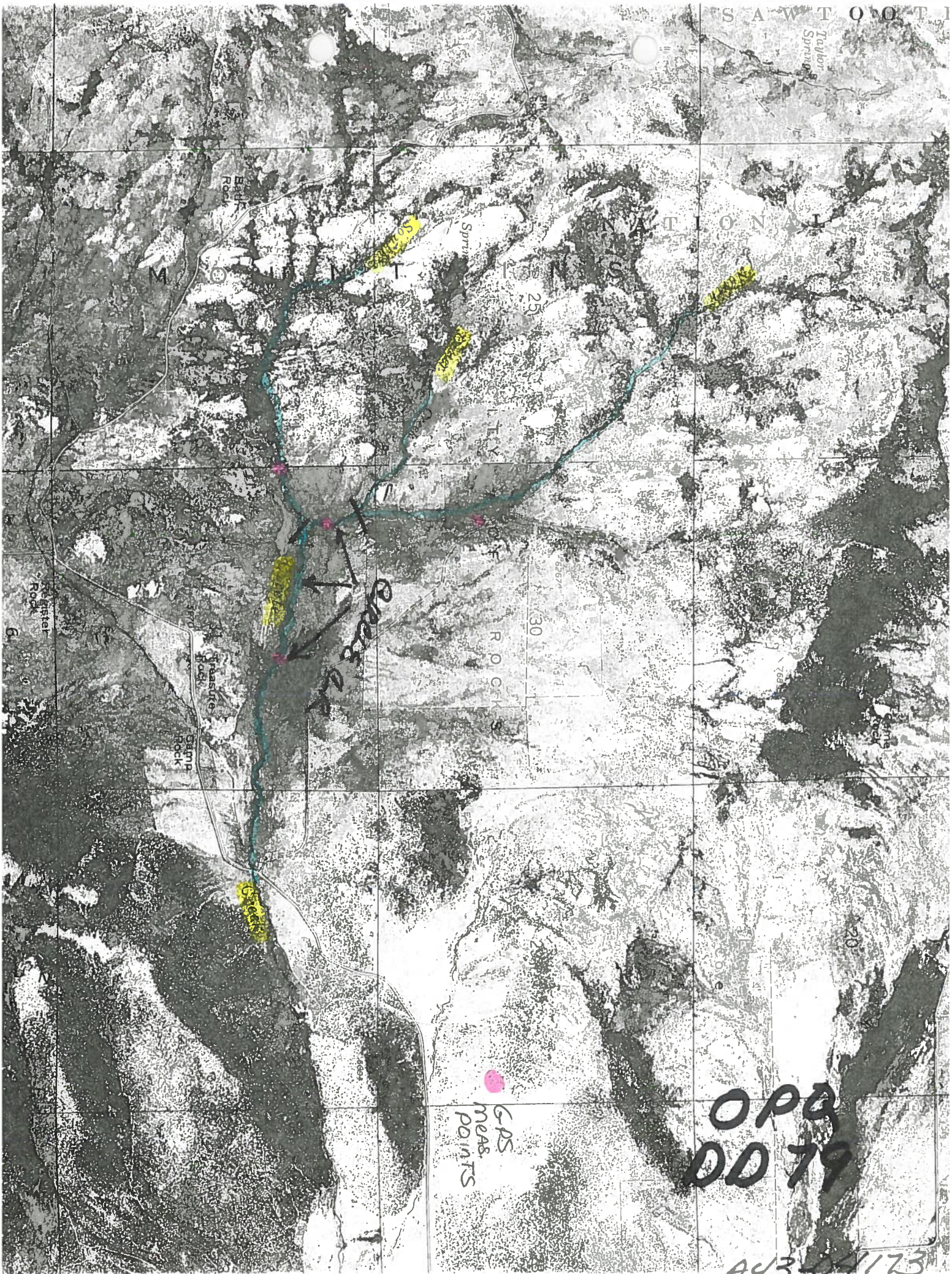
TWP 15S RNG 24E Section 30, 31, 32



V HANCOCK Date: JUNE 25, 1999

1987/1988 NAPP PHOTOGRAPHY

Location of GPS Points - measurements

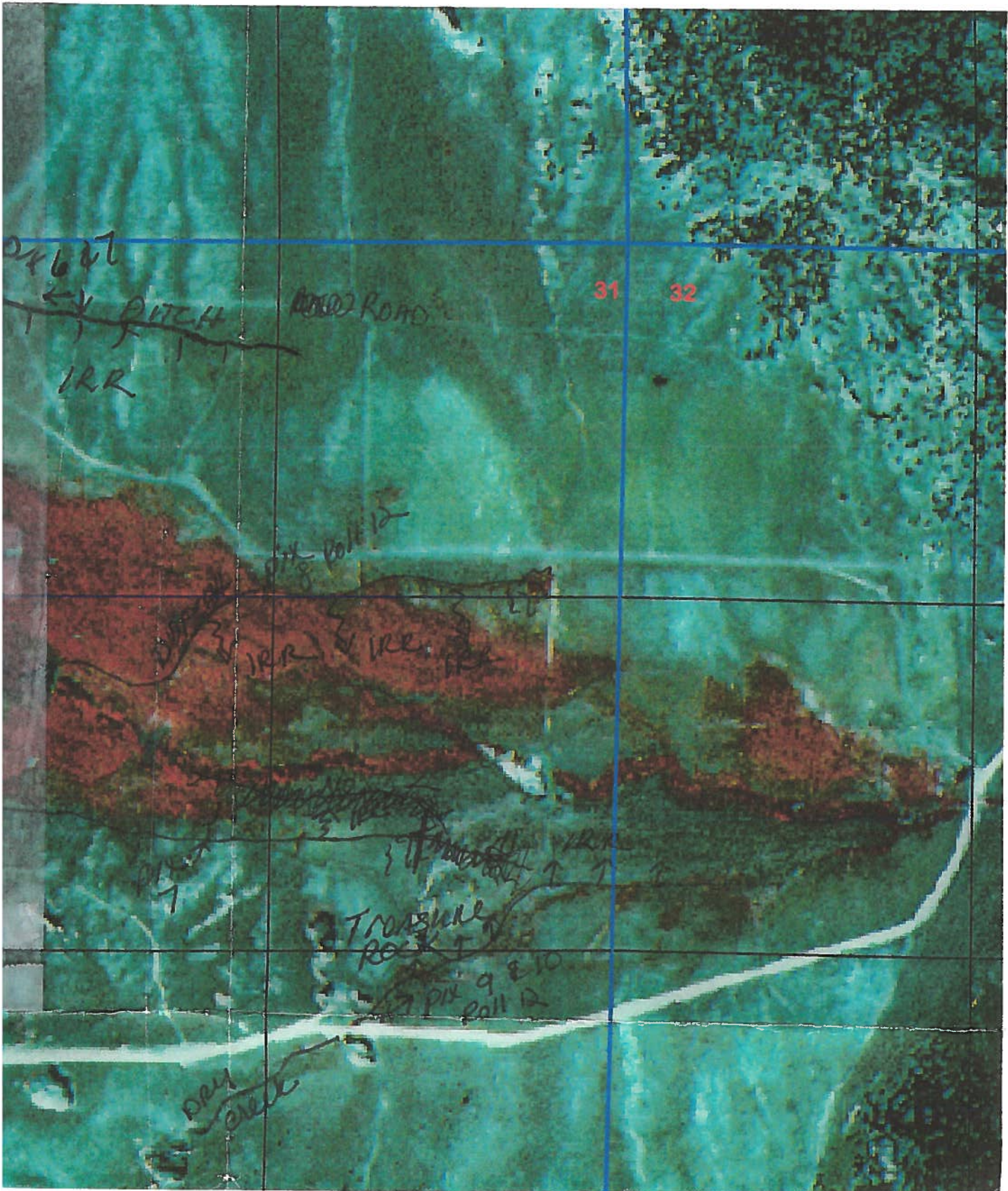


FIELD NOTES

2017-01-01

CLAIM NO(S): A43-04173

TWP 15S ,RNG 24E
SEC 30, 31, 32



HANCOCK Date:

FIELD EXAM NOTES AND PHOTO LOG

Claim Nos: A43-04173 Date 6-23 1999

Claimant / Area of Concern: Nicholson Page 2 of 2

Roll	Pic #	Description
12	1	Crocker Creek measurement in ditch
	2-6	Pair of pole from ^{south} Crocker Creek Ditch west to East
	7	Irrigation cut from Crocker Creek Ditch
	8	Creek from Reservoir ^{south}
	9	Dry creek, looking upstream - South west to main road
	10	Float measurement site on Dry Creek
	11	Following claimant thru brush.

Audio tape #

Notes:

FIELD EXAM NOTES AND PHOTO LOG

Claim Nos: A43-04123 Date 6-23 1999

Claimant / Area of Concern: Nicholson Page 2 of 2

Roll	Pic #	Description
12	1	Crocker Creek measurement in ditch
	2-6	Row of Pole from ^{South} Crocker Cr. Ditch West to East
	7	Irrigation cut from Crocker Creek Ditch
	8	Creek from Reservoir ^{South}
	9	Dry creek. Looking upstream - South West to main road
	10	Flat measurement site on Dry Creek
	11	Following claimant thru brush,

Audio tape #

Notes:

FIELD NOTES

267 AC SHOWN

TWP 15S ,RNG 24E
SEC 30, 31, 32

LAIM NO(S): A43-04173

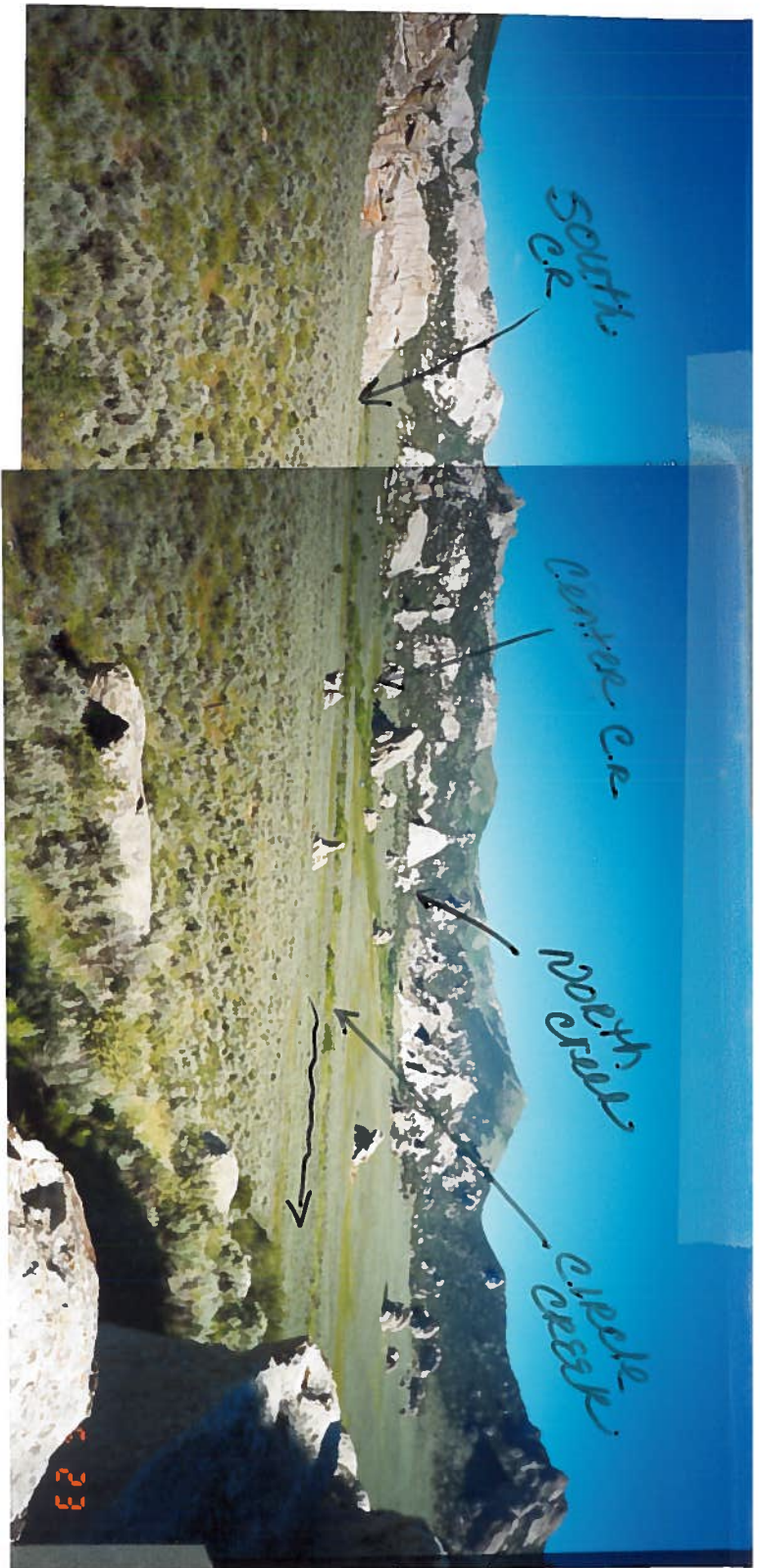


V HANCOCK

Date:

6-23-99 per claimant

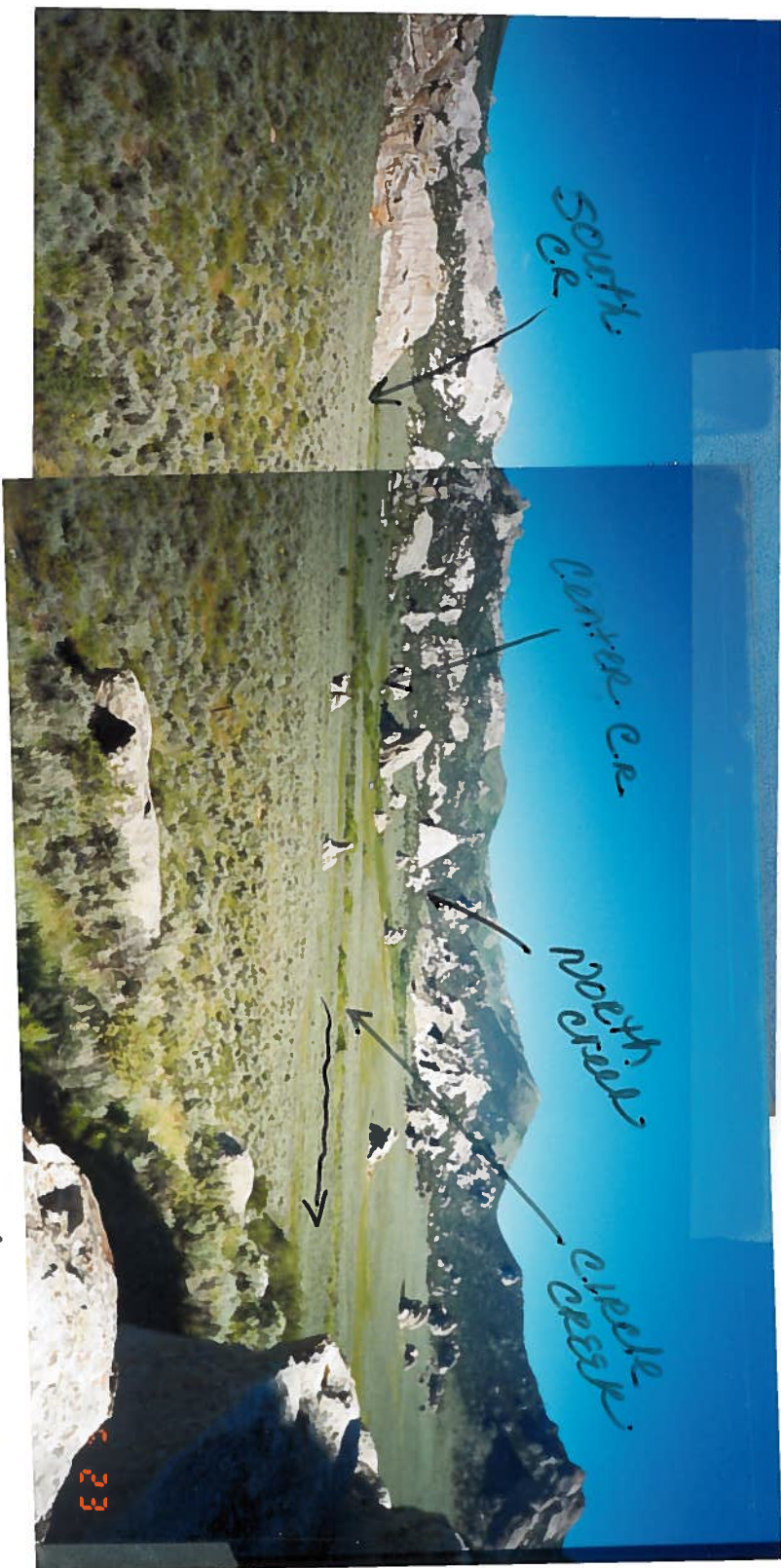
1987/1988 NAPP PHOTO



PART OF WEST PORTION OF POLU NW → NE

PIX 182 Roll 11

A43-04173



PAN OF WEST PORTION OF POU NW → NE

PIX 182 Roll 11

A43-041B



Pix 7
Roll 11

DITCH FROM NORTH CREEK LOOKING WEST



Pix 6
Roll 11

DIVERSION OUT OF NORTH CREEK DITCH
LOOKING SOUTH

A43-64172



CIRCLE Creek as it enters
Ranch - looking West
at Boundary Line

PIX 11
ROLL 11

MEASUREMENT OF
CIRCLE CREEK



- Diversion pt -
blocked off
this date

PIX 12 ROLL 11

99 6 23

A43-04173

NATURAL CHANNEL GOES
THRU here



DIVERSION
TO DITCH

Roll 11
PIX 13

↑ ~~CREEK~~ CREEK - DIVERSION POINT
SOUTH



Roll 12
PIX 1

MEASUREMENT OF ~~CREEK~~ CREEK DITCH ↑
SOUTH

A43-04173



Roll 11
Pix 8

MEASUREMENT - NORTH CREEK, LOOKING SO.



Roll 11

POW LOOKING EAST

Pix 9 & 10

A43-04173



Roll 12
pix 7

IRRIGATION CUT FROM ~~CIRCLE~~ CREEK DITCH
SOUTH

Reservoir approx here, beyond cows
measurement done just below Res.



Roll 12
pix 8

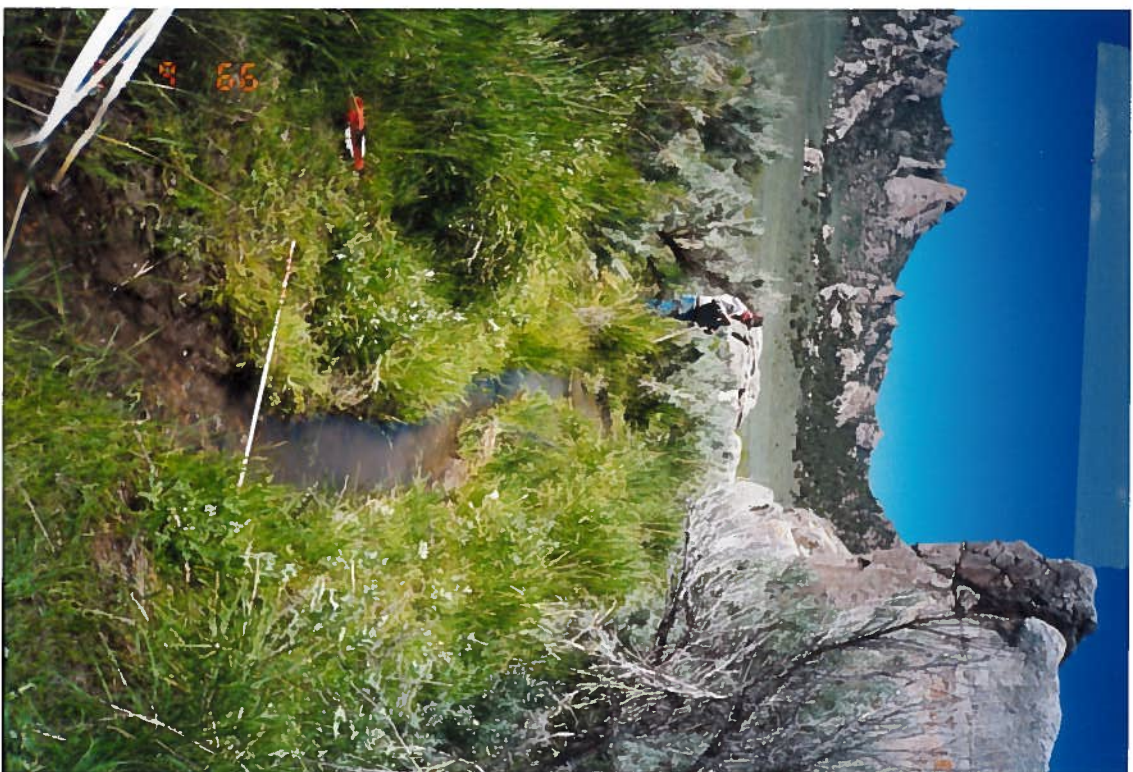
DITCH FROM RESERVOIR ON CIRCLE CR. A43-04173

Roll 12 Pix 9



Dry creek just after it
enters Ranch on North
Side of main City of Rocks
Road.

Roll 12 Pix 10



measurment site looking
N-NE from same spot as
Picture #9.

A43-04173

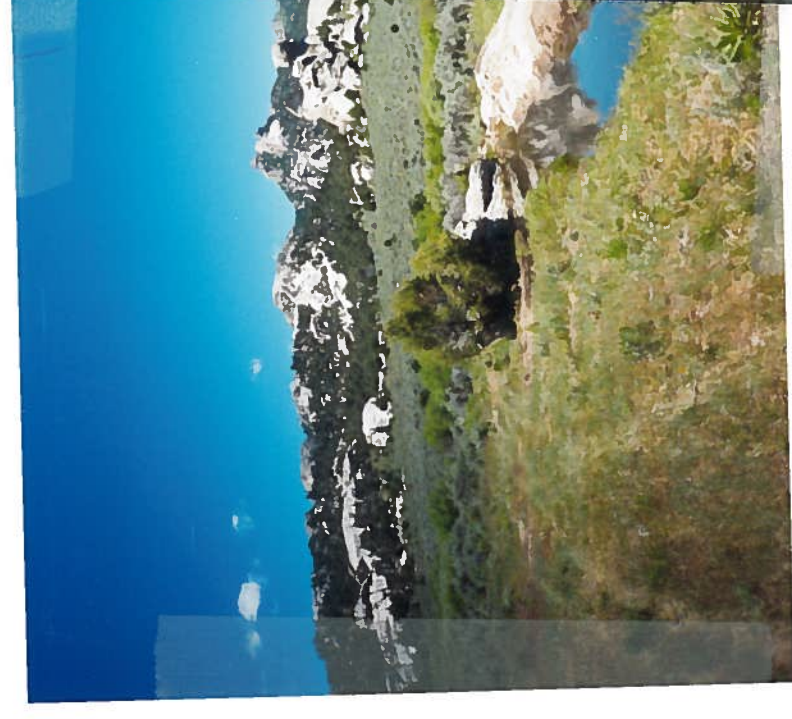


PAN OF MIDDLE SECTION POU NW $\rightarrow$ NE

PIX 345 Roll

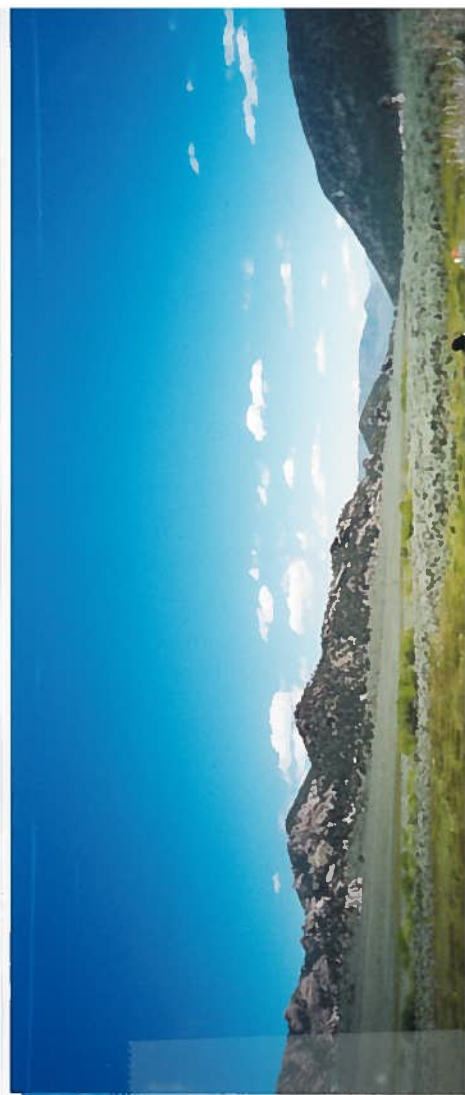
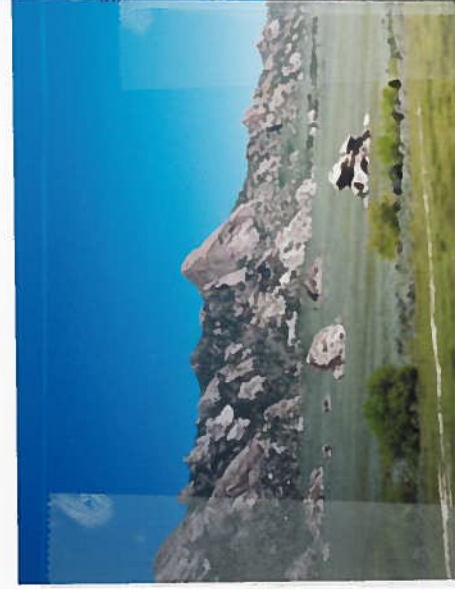
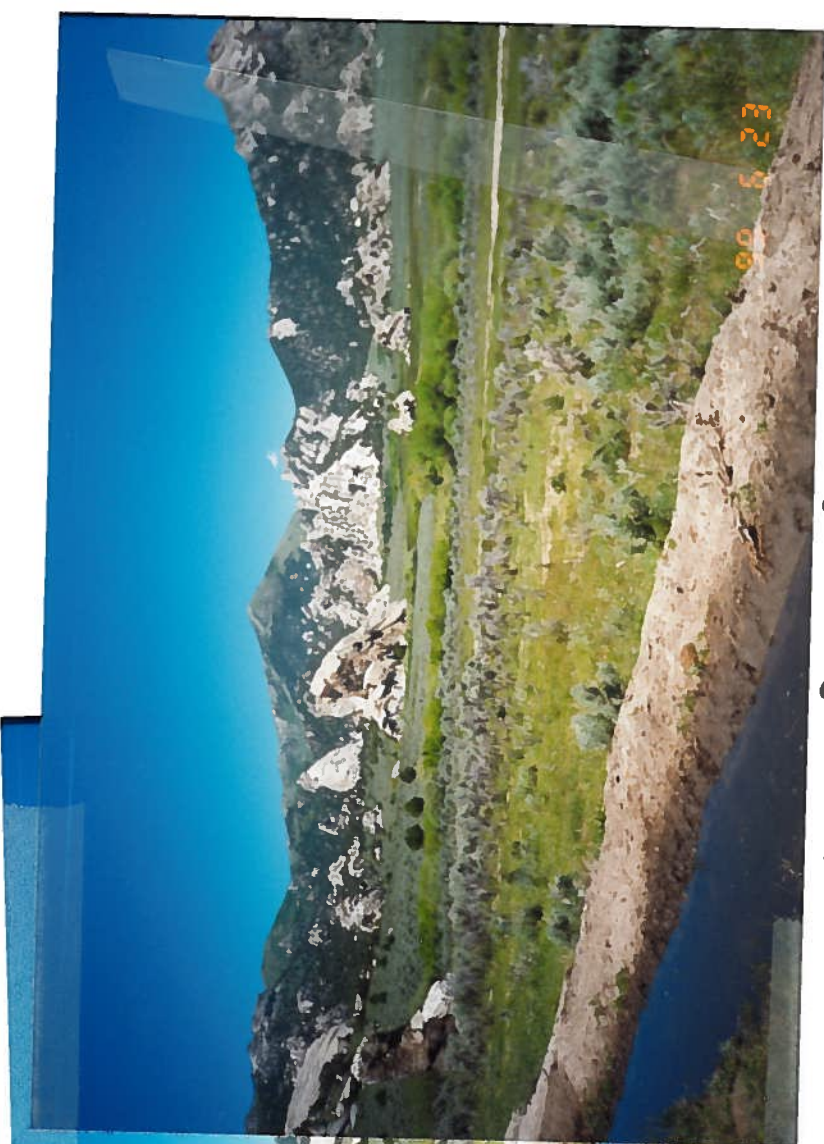
A42. 64178

A43-04172



Place of use from
~~Etete~~ creek Ditch Looking NW→N
South

PIX 2, 4, 5, 6
Roll 12



	WIDTH	DEPTH	AREA	VELOCITY	DISCHARGE
	0.5	0.2	0.1	0.29	0.029
	0.5	0.2	0.1	0.27	0.027
	0.5	0.25	0.125	0.33	0.04125
	0.5	0.25	0.125	0.31	0.03875
	0.75	0.2	0.15	0.08	0.012
			0		0
			0		0
			0		0
			0		0
			0		0
			0		0
			0		0
			0		0
			0		0
			0		0
			0		0
			0		0
			0		0
			0		0
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			0		0
			0		0
			0		0
			0		0
			0		0
			0		0
			0		0
			0		0
			0		0
			0		0
			0		0
			0		0
			0		0
			0		0
	TOTAL CFS				0.148

AGENT: V. HANCOCK

LOCATION: AT DIVERSION POINT

ALSO SEE MEASUREMENT NOTES

Open Channel Discharge Measurement Notes

A. GENERAL INFORMATION

1. Name of stream or ditch: Circle Creek
2. Location: at diversion point
3. Person(s) conducting measurement: V. Hancock
4. Date of measurement: 6-23-99 5. Weather conditions: warm
6. Measuring device size and ID no.: Swoffer
7. Spin test before: — after: —
8. Purpose of measurement: SRBA Field Exam
9. Cross section description: rocky

[illegible]

C. REMARKS SPIN SEEMED FINE

SIGNATURE

OPEN CHANNEL DISCHARGE WORKSHEET FOR CLAIM NO(S):

WIDTH	DEPTH	AREA	VELOCITY	DISCHARGE
0.5	0.4	0.2	0.37	0.074
0.5	0.5	0.25	0.57	0.1425
0.5	0.5	0.25	0.36	0.09
0.5	0.6	0.3	0.22	0.066
0.5	0.6	0.3	0.52	0.156
0.55	0.5	0.275	0.24	0.066
		0		0
		0		0
		0		0
		0		0
		0		0
		0		0
		0		0
		0		0
		0		0
		0		0
		0		0
		0		0
		0		0
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		0		0
		0		0
		0		0
		0		0
		0		0
		0		0
		0		0
		0		0
		0		0
		0		0
		0		0
TOTAL CFS				0.5945

DATE: 6-23-99

AGENT: V. HANCOCK

SOURCE: DIVERSION FROM RESERVOIR *ON CIRCLE CR*

LOCATION: AT DIVERSION POINT

ALSO SEE MEASUREMENT NOTES

Open Channel Discharge Measurement Notes

A. GENERAL INFORMATION

1. Name of stream or ditch: Diversion From Reservoir
2. Location: _____
3. Person(s) conducting measurement: V. Hancock
4. Date of measurement: 6-23-99 5. Weather conditions: warm
6. Measuring device size and ID no.: Swoffer
7. Spin test before: _____ after: _____
8. Purpose of measurement: SRBA FE
9. Cross section description: muddy

[illegible]

C. REMARKS Spin seemed erratic

SIGNATURE

Richard J. Anderson

Float measurement

DRY CREEK

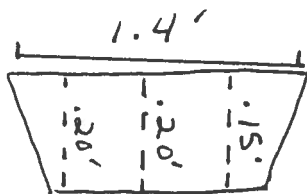
Just to North of City of Rocks Road
before first diversion.

30 feet Distance

MEAS #1	27.70	sec
#2	29.69	"
#3	29.21	"
#4	26.21	"

$$\left. \begin{array}{l} \text{MEAS #1} \\ \text{\#2} \\ \text{\#3} \\ \text{\#4} \end{array} \right\} AV = 28.2 \text{ sec}$$

$$28.2 / 30 \text{ feet} = .94 \text{ fps}$$



$$AV = .18$$

Channel shape

$$AREA = .25'$$

$$1.4 \times .18 = .252$$

$$Q = AV$$

$$Q = .25' \times .94 \text{ fps}$$

$$Q = .235 \text{ cfs}$$

Claimant uses entire flow of DRY CREEK on Ranch

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

15 INCH BROAD-CRESTED WEIR FLUME MEASUREMENT NOTES

Adjudication Claim No(s): A43-04173
Name of stream: North Creek
Person conducting measurement: J. HAWCOCK
Date: 6-23-99 Weather conditions: Warm
Notes on location: UPSTREAM OF 1st DIVERSION

DISCHARGE TABLE - POWLUS 15" BCW FLUME

claimant present

GAGE READING (CM)	FLOW RATE (CFS)	GAGE READING (CM)	FLOW RATE (CFS)
2.0	0.06	11.6	0.98
2.2	0.07	11.8	1.01
2.4	0.08	12.0	1.04
2.6	0.09	12.2	1.07
2.8	0.10	12.4	1.09
3.0	0.12	12.6	1.12
3.2	0.13	12.8	1.15
3.4	0.14	13.0	1.18
3.6	0.15	13.2	1.21
3.8	0.17	13.4	1.24
4.0	0.18	13.6	1.27
4.2	0.20	13.8	1.30
4.4	0.21	14.0	1.33
4.6	0.23	14.2	1.36
4.8	0.24	14.4	1.39
5.0	0.26	14.6	1.42
5.2	0.28	14.8	1.46
5.4	0.29	15.0	1.49
5.6	0.31	15.2	1.52
5.8	0.33	15.4	1.55
6.0	0.34	15.6	1.58
6.2	0.36	15.8	1.62
6.4	0.38	16.0	1.65
6.6	0.40	16.2	1.68
6.8	0.42	16.4	1.72
7.0	0.44	16.6	1.75
7.2	0.46	16.8	1.79
7.4	0.48	17.0	1.82
7.6	0.50	17.2	1.85
7.8	0.52	17.4	1.89
8.0	0.54	17.6	1.93
8.2	0.57	17.8	1.96
8.4	0.59	18.0	2.00
8.6	0.61	18.2	2.03
8.8	0.63	18.4	2.07
9.0	0.66	18.6	2.11
9.2	0.68	18.8	2.14
9.4	0.70	19.0	2.18
9.6	0.73	19.2	2.22
9.8	0.75	19.4	2.25
10.0	0.78	19.6	2.29
10.2	0.80	19.8	2.33
10.4	0.83	20.0	2.37
10.6	0.85	20.2	2.41
10.8	0.88	20.4	2.45
11.0	0.90	20.6	2.49
11.2	0.93	20.8	2.52
11.4	0.96	21.0	2.56

*claimant uses
entire flow
of North Cr
on ranch.*

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

15 INCH BROAD-CRESTED WEIR FLUME MEASUREMENT NOTES

Adjudication Claim No(s): A43-04173
Name of stream: ~~CHUCK~~ SOUTH Creek
Person conducting measurement: V. HAWLOCK
Date: 6-23-99 Weather conditions: warm
Notes on location: below diversion into ditch

DISCHARGE TABLE - POWLUS 15" BCW FLUME

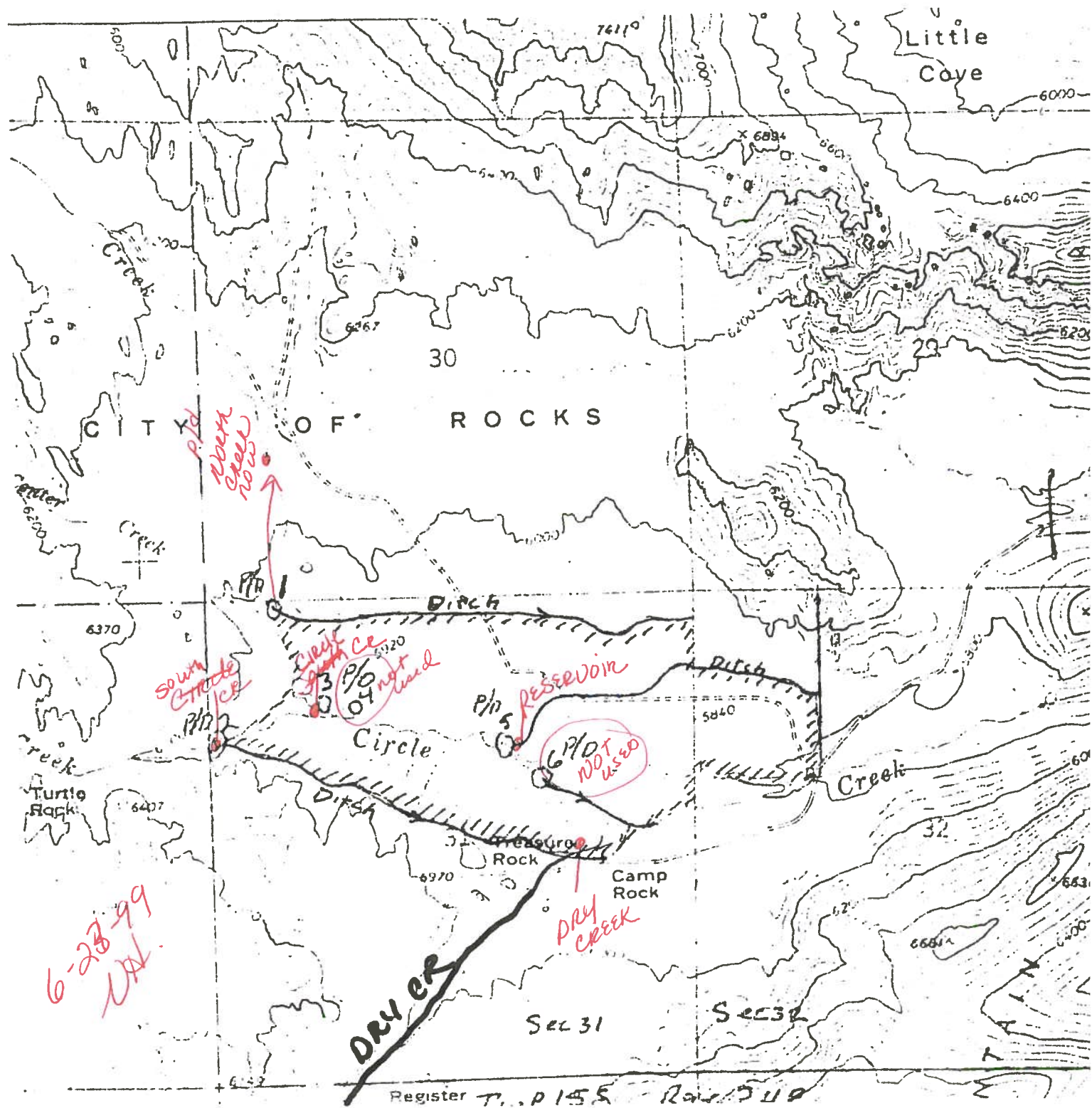
Claimant present

GAGE READING (CM)	FLOW RATE (CFS)	GAGE READING (CM)	FLOW RATE (CFS)
2.0	0.06	11.6	0.98
2.2	0.07	11.8	1.01
2.4	0.08	12.0	1.04
2.6	0.09	12.2	1.07
2.8	0.10	12.4	1.09
3.0	0.12	12.6	1.12
3.2	0.13	12.8	1.15
3.4	0.14	13.0	1.18
3.6	0.15	13.2	1.21
3.8	0.17	13.4	1.24
4.0	0.18	13.6	1.27
4.2	0.20	13.8	1.30
4.4	0.21	14.0	1.33
4.6	0.23	14.2	1.36
4.8	0.24	14.4	1.39
5.0	0.26	14.6	1.42
5.2	0.28	14.8	1.46
5.4	0.29	15.0	1.49
5.6	0.31	15.2	1.52
5.8	0.33	15.4	1.55
6.0	0.34	15.6	1.58
6.2	0.36	15.8	1.62
6.4	0.38	16.0	1.65
6.6	0.40	16.2	1.68
6.8	0.42	16.4	1.72
7.0	0.44	16.6	1.75
7.2	0.46	16.8	1.79
7.4	0.48	17.0	1.82
7.6	0.50	17.2	1.85
7.8	0.52	17.4	1.89
8.0	0.54	17.6	1.93
8.2	0.57	17.8	1.96
8.4	0.59	18.0	2.00
8.6	0.61	18.2	2.03
8.8	0.63	18.4	2.07
9.0	0.66	18.6	2.11
9.2	0.68	18.8	2.14
9.4	0.70	19.0	2.18
9.6	0.73	19.2	2.22
9.8	0.75	19.4	2.25
10.0	0.78	19.6	2.29
10.2	0.80	19.8	2.33
10.4	0.83	20.0	2.37
10.6	0.85	20.2	2.41
10.8	0.88	20.4	2.45
11.0	0.90	20.6	2.49
11.2	0.93	20.8	2.52
11.4	0.96	21.0	2.56

claimed = 273 ac

copy - map from stat claim

- ces: (1) North Creek trib to Circle Creek
(2) South Creek trib to Circle Creek
(3,4,5,6) Circle Creek trib to Raft River



BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR PERMIT
TO APPROPRIATE WATER NO. 43-07295 IN THE
NAME OF THE IDAHO WATER RESOURCE BOARD TO
ESTABLISH A MINIMUM STREAMFLOW IN THE
BIG WOOD RIVER

ORDER ADOPTING
PROPOSED MEMORANDUM
DECISION AND ORDER

A Proposed Memorandum Decision and Order in the above-captioned matter has been issued and a copy served on the parties;

WHEREAS, more than fifteen days have passed since the service of the Proposed Memorandum Decision and Order; and,

WHEREAS, no exception to that Proposed Memorandum Decision and Order has been received;

IT IS, THEREFORE, HEREBY ORDERED that said Proposed Memorandum Decision and Order be adopted and issued as the Final Decision and Order.

Dated this 2nd day of January, 1991.


R. KEITH HIGGINSON
Director

Any person seeking review and amendment of the permit or license shall file a request with the Board which request shall include the amendment sought, the reasons for the amendment and a statement of the change in circumstances since the permit or license was issued or last reviewed that merit a review of the permit or license. A copy of the petition shall be served upon the Director of the Department of Water Resources. The Board may petition the Director for an amendment to the permit or license. The petition must set forth any significant change in circumstances and evidence of public interest supporting the proposed amendment. The Director will notify the general public and specific persons or parties known to be interested in the proposed change, and conduct a hearing for the purpose of determining whether the permit or subsequent license should be amended in the public interest. The burden of proof at the hearing shall be upon the person or parties seeking the amendment to establish that amendment of the permit or license would be in the public interest.

Dated this 7th day of December, 1990.


GARY SPACKMAN, Hearing Officer
Department of Water Resources

in the NW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 31, T15S, R24E, at the confluence of North Creek and Center Creek, and extending downstream to the eastern boundary of the SW $\frac{1}{4}$ NE $\frac{1}{4}$, Section 32, T15S, R24E, B.M., Cassia County.

Rate of Flow: 1.5 cfs from 01/01 through 12/31.

Subreach B: The proposed minimum flow reach encompasses approximately two miles of North Creek, beginning at the stream's inception, located in the SW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 24, T15S, R23E, and extending downstream to its confluence with Center Creek, located in the NW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 31, T15S, R24E, B.M., Cassia County.

Rate of Flow: 0.5 cfs from 01/01 through 12/31.

Subreach C: The proposed minimum flow reach encompasses approximately one mile of Center Creek, beginning at the stream's inception, located in the SE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 25, T15S, R23E, and extending downstream to its confluence with North Creek, located in the NW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 31, T15S, R24E, B.M., Cassia County.

Rate of Flow: 0.5 cfs from 01/01 through 12/31.

Subreach D: The proposed minimum flow reach encompasses approximately one and one-half miles of South Creek, beginning at the stream's inception, located in the NW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 25, T15S, R23E, and extending downstream to its confluence with Circle Creek located in the NW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 31, T15S, R24E, B.M., Cassia County.

Rate of Flow: 0.5 cfs from 01/01 through 12/31.

5. Proof of instream beneficial use of the minimum streamflow appropriation may be submitted to the Department immediately following final approval of this permit by the legislature, but in no case shall be submitted after five (5) years following final approval by the Idaho Legislature.

6. The Director retains jurisdiction to review and amend any and all parameters of this permit and subsequent license.

streamflow is unwarranted. Maintenance of the existing riparian area requires the full sustaining flow available to maintain its current condition. The requested flows of 1.5 cfs for the main stem of Circle Creek, and 0.5 cfs for each of the tributaries are capable of being maintained.

8. Existing water rights will not be affected by the minimum streamflow.

ORDER

IT IS HEREBY ORDERED that application for permit no. 43-07295 is APPROVED subject to the following conditions:

1. Use of water under this permit shall recognize and allow the continued beneficial diversion of water under any prior existing water right established by diversion and application to beneficial use or by an application, permit, or license on file issued by the Director under provisions of Chapter 2, Title 42, Idaho Code, with a priority of the water right dated earlier than July 1, 1988, the priority date of this permit.

2. The use of water under this permit shall be non-consumptive.

3. Upon the future finding and order of the Director that gauging stations are required to maintain the approved minimum flows on Circle Creek and its tributaries, such measuring devices shall be permanently installed as specified by the Department.

4. The minimum streamflow amounts and reaches are defined as follows:

Subreach A: The proposed minimum flow reach encompasses approximately two miles of Circle Creek, beginning

3. Any right to be acquired under this application for instream non-consumptive use is subject to all vested water rights, permits, or water right applications having dates of priority earlier than July 1, 1988.

4. The proposed minimum streamflow appropriation is necessary to preserve aesthetic and recreational uses within the City of Rocks National Reserve.

5. The minimum streamflow is in the interest of the public as opposed to the private interest. Park visitorship by the public is increasing annually.

6. A year round flow of 1.5 cfs in the main stem of Circle Creek, and 0.5 cfs for the North Creek, Center Creek and South Creek, is a true minimum flow, and is not the optimum flow rate for full preservation of aesthetics and recreational use. Any further withdrawal of water would substantially reduce the small flows in Circle Creek and its tributaries and destroy the existing riparian habitat.

7. Although the flow data are somewhat incomplete, the minimum streamflow is capable of being maintained because: (1) flow has been measured at various times throughout the year at the lower end of the minimum flow reach, (2) A substantial irrigation right diverts water upstream from where flows have been measured, and (3) The existence of water right filings below where water is measured supports a conclusion water has been available to satisfy these downstream rights. Furthermore, the requested flow is so small that further reduction of the minimum

frustrating the purpose of the application, and diminishing the value of the reserve.

CONCLUSIONS OF LAW

1. Idaho Code § 42-1501 provides that streamflow preservation for the protection of aesthetic and recreational uses is in the public interest and is declared to be a beneficial use of such water.

2. Idaho Code § 42-1503 sets forth the criteria to be considered by the Department in reviewing an application for minimum streamflow:

Upon the conclusion of the hearings and completion of any investigation conducted by the director, he shall enter his findings in writing approving the application in whole, or in part, or upon conditions for rejecting said application. Approval of any such application must be based on a finding that such appropriation of minimum streamflow:

- a) will not interfere with any vested water right, permit, or water right application with priority of right date earlier than the date of receipt in the office of the director of a complete application for appropriation of minimum streamflow filed under the provisions of this act;
- b) is in the public, as opposed to the private interest;
- c) is necessary for the preservation of fish and wildlife habitat, aquatic life, recreation, aesthetic beauty, navigation, transportation, or water quality of the stream;
- d) is the minimum flow or lake level and not the ideal or most desirable flow or lake level; and,
- e) is capable of being maintained as evidenced by records of streamflows and water levels and the existing and future establishment of the necessary gauging stations and bench marks.

7. Additional water right filings, claim no. 43-4156 and water license 43-2047, cumulatively authorize the diversion of 6.01 cfs directly below the point where the water flow was measured. These water right filings are later in time than claim no. 43-4173, and water must have been available to these filings during some periods of the year.

8. One of the primary purposes for the designation for the City of Rocks Reserve was for preservation of its interpretive value. It was a well known stopping place for immigrants and pioneers travelling to California. It was mentioned as a place where the travelers could stop to bathe, rest their livestock and repair their equipment. Immigrants also registered their names and messages on the rocks for the benefit of subsequent travelers.

9. Circle Creek and its tributaries are an integral part of the unique features of the area. The riparian zones were part of what made the area pleasing to the immigrants, and are a central focus in the reserve today.

10. Visitor numbers are increasing in the City of Rocks Reserve, which is jointly administered by Parks and Recreation and the National Park Service. Both entities view the riparian habitat along the small streams and the flowing water therein as essential to the recreational value of the area.

11. Any further reduction in the water now flowing in Circle Creek and its tributaries would virtually dry up the streams,

to its confluence with North Creek, located in the NW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 31, T15S, R24E, B.M., Cassia County.

Rate of Flow: 0.5 (3.0) cfs from 01/01 through 12/31.

Subreach D: The proposed minimum flow reach encompasses approximately one and one-half miles of South Creek, beginning at the stream's inception, located in the NW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 25, T15S, R23E, and extending downstream to its confluence with Circle Creek located in the NW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 31, T15S, R24E, B.M., Cassia County.

Rate of Flow: 0.5 (3.0) cfs from 01/01 through 12/31.

2. The purpose of the minimum streamflow application is to preserve recreational and aesthetic values in the City of Rocks National Reserve.
3. Flows of Circle Creek have been measured sporadically at the lower end of the minimum streamflow reach after all of the tributaries have contributed water to Circle Creek.
4. IWRB Exhibit No. 4 depicts estimates of average flows in Circle Creek near the lower end of the minimum flow reach. The exhibit suggests that an average of 1.5 cfs is maintainable only during the months of April, May and June.
5. A water right claim, numbered by the Department as 43-4173, claims a right to divert 5.46 cfs for irrigation within the minimum flow reach, and above the place where water flows were measured. The withdrawal of irrigation water upstream reduces downstream flows.
6. In the reach of Circle Creek above the diversion for claim no. 43-4173, Circle Creek flows at a higher rate than the rate measured below the diversion.

Recreation), which requested the application. Michael V. Nicholson, Rupert, Idaho, also filed a notice of appearance, but failed to appear at the hearing.

Based upon the record and information contained in the Department files, and upon his understanding of the law, the hearing officer, as a representative of the Director, proposes the following findings, conclusions, and order:

FINDINGS OF FACT

1. Application for permit to appropriate water no. 43-07295 proposes to appropriate a minimum streamflow in Circle Creek and its tributaries as described below. The flow rates shown represent a reduction requested by the Board after its public meeting. The flow rates set forth in parentheses are the original amounts requested by the application.

Subreach A: The proposed minimum flow reach encompasses approximately two miles of Circle Creek, beginning in the NW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 31, T15S, R24E, at the confluence of North Creek and Center Creek, and extending downstream to the eastern boundary of the SW $\frac{1}{4}$ NE $\frac{1}{4}$, Section 32, T15S, R24E, B.M., Cassia County.

Rate of Flow: 1.5 (9.0) cfs from 01/01 through 12/31.

Subreach B: The proposed minimum flow reach encompasses approximately two miles of North Creek, beginning at the stream's inception, located in the SW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 24, T15S, R23E, and extending downstream to its confluence with Center Creek, located in the NW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 31, T15S, R24E, B.M., Cassia County.

Rate of Flow: 0.5 (3.0) cfs from 01/01 through 12/31.

Subreach C: The proposed minimum flow reach encompasses approximately one mile of Center Creek, beginning at the stream's inception, located in the SE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 25, T15S, R23E, and extending downstream

STATE OF IDAHO

**PROPOSED
MEMORANDUM
DECISION AND
ORDER**

A public meeting was conducted by the Board in September, 1989, for the purpose of determining whether the public would support the application. Following the local public information meeting, the Board requested that the Director of the Department consider the merits of the application.

Parties appearing in a formal capacity included the Board and the Idaho Department of Parks and Recreation (Parks and

State of Idaho
Department of Water Resources

WATER RIGHT LICENSE

WATER RIGHT NO. 43-07295

CONDITIONS/REMARKS

5. The Director retains jurisdiction to review and amend any and all parameters of this right. The Board, upon receiving a request, or upon its own initiative, may petition the Director for an amendment to the right. The petition must set forth any significant change in circumstances and evidence of public interest supporting the proposed amendment. The Director will notify the general public and specific persons or known interested parties of the proposed change, and conduct a hearing for the purpose of determining whether the right should be amended in the public interest. The burden of proof at the hearing shall be upon the persons or parties seeking the amendment to establish that the amendment of the right would be in the public interest.
6. The minimum stream flow reaches and amounts are defined as follows:
 - Subreach A: The reach encompasses approximately two miles of Circle Creek, beginning in the NWNW, S31, T15S, R24E, at the confluence of North Creek and Center Creek, and extending downstream to the eastern boundary of the SWNE, S32, T15S, R24E. Rate of Flow: 1.5 cfs
 - Subreach B: The reach encompasses approximately two miles of North Creek, beginning at the stream's inception, located in the SWNW, S24, T15S, R23E, and extending downstream to its confluence with Center Creek, located in the NWNW, S31, T15S, R24E. Rate of Flow: 0.5 cfs
 - Subreach C: The reach encompasses approximately one mile of Center Creek, beginning at the stream's inception, located in the SESW, S25, T15S, R23E, and extending downstream to its confluence with North Creek, located in the NWNW, S31, T15S, R24E. Rate of Flow: 0.5 cfs
 - Subreach D: The reach encompasses approximately one and one-half miles of South Creek, beginning at the stream's inception, located in the NWSW, S25, T15S, R23E, and extending downstream to its confluence with Circle Creek located in the NWNW, S31, T15S, R24E. Rate of Flow: 0.5 cfs

This license is issued pursuant to the provisions of Section 42-219, Idaho Code. Witness the seal and signature of the Director, affixed at Boise, this 11th day of OCTOBER, 1994.

Acting for [Signature]
R. Keith Higginson, Director

State of Idaho
Department of Water Resources

WATER RIGHT LICENSE

WATER RIGHT NO. 43-07295

Priority: July 1, 1988

This is to certify, that STATE OF IDAHO
IDAHO WATER RESOURCE BOARD
STATEHOUSE MAIL
BOISE ID 83720

has complied with the terms and conditions
of the permit, issued pursuant to Application for Permit dated July 1, 1988; and
has submitted Proof of Beneficial Use on January 13, 1994. A minimum stream flow in

CIRCLE CREEK

tributary to RAFT RIVER

has been established as follows:

<u>BENEFICIAL USE</u>	<u>PERIOD OF USE</u>	<u>RATE</u>
MINIMUM INSTREAM FLOW	01/01 to 12/31	1.50 CFS Subreach A
MINIMUM INSTREAM FLOW	01/01 to 12/31	0.50 CFS Subreach B
MINIMUM INSTREAM FLOW	01/01 to 12/31	0.50 CFS Subreach C
MINIMUM INSTREAM FLOW	01/01 to 12/31	0.50 CFS Subreach D

LOCATION OF MINIMUM FLOW REACHES:

Beginning of Subreach A
End of Subreach A

NWNW, Sec. 31, Township 15S, Range 24E
SWNE, Sec. 32, Township 15S, Range 24E

Beginning of Subreach B
End of Subreach B

SWNW, Sec. 24, Township 15S, Range 23E
NWNW, Sec. 31, Township 15S, Range 24E

Beginning of Subreach C
End of Subreach C

SESW, Sec. 25, Township 15S, Range 23E
NWNW, Sec. 31, Township 15S, Range 24E

Beginning of Subreach D
End of Subreach D

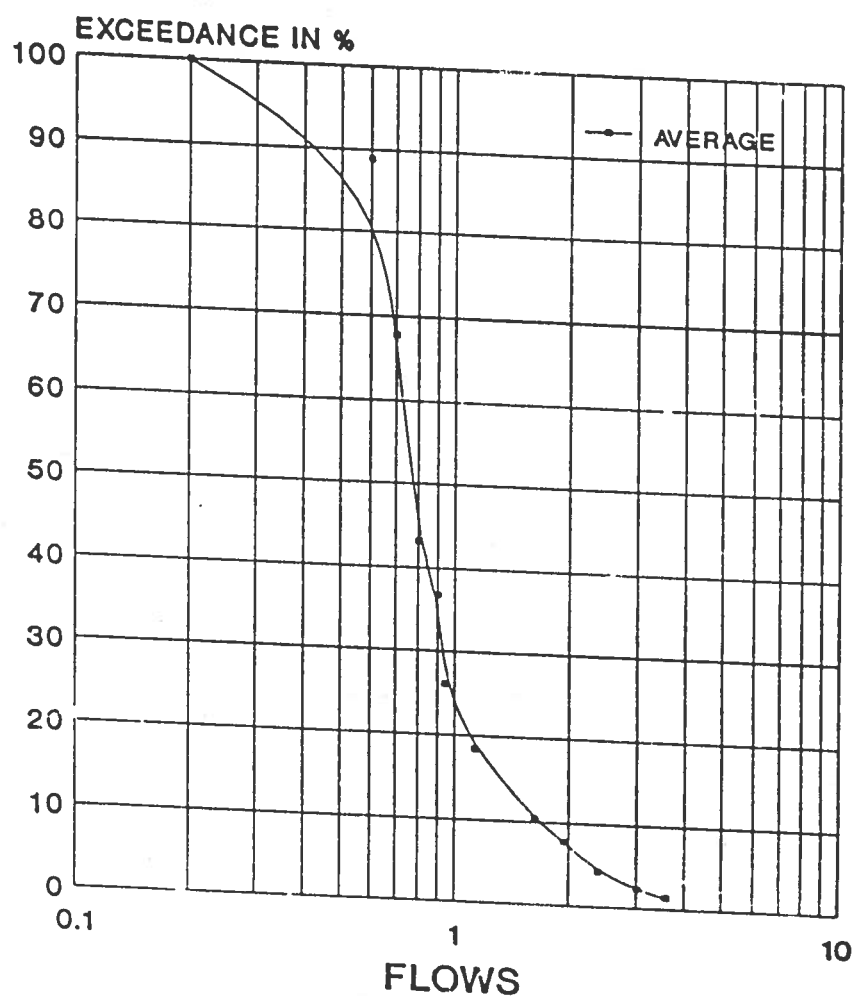
NWSW, Sec. 25, Township 15S, Range 23E
NWNW, Sec. 31, Township 15S, Range 24E
CASSIA County

CONDITIONS/REMARKS:

1. This right is subject to all prior water rights.
2. Use of water under this right shall be non-consumptive.
3. Upon the future finding and order of the Director that gauging stations are required to maintain the approved minimum flows on Circle Creek and its tributaries, such measuring devices shall be permanently installed as specified by the Department.
4. Use of water under this right shall recognize and allow the continued beneficial diversion of water under any prior existing water right established by diversion and application to beneficial use or by an application, permit, or license on file issued by the Director under provisions of Chapter 2, Title 42, Idaho Code, with the priority of the water right dated earlier than 07/01/88, the priority of this right.

IWRB
5

CIRCLE CREEK AVERAGE DURATION CURVE (1 JAN TO 31 DEC)



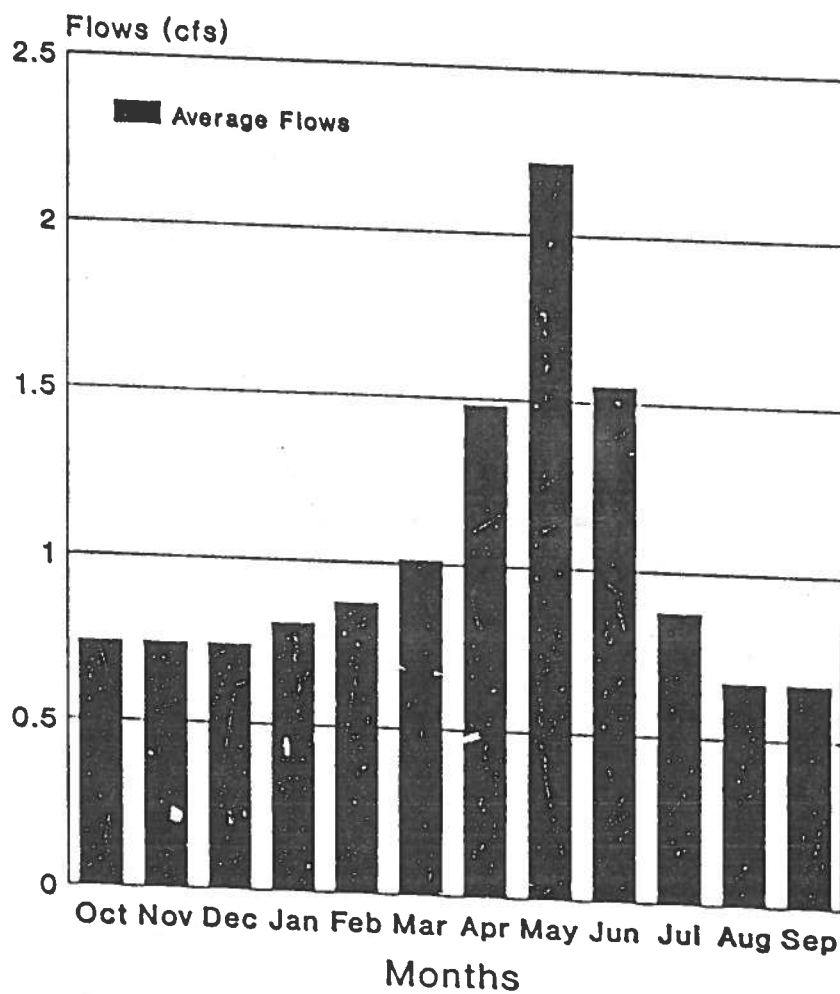
BASED ON TRAPPER CREEK FLOW MEASUREMENTS

From proposed memorandum
decision & order dated 12-7-1990

IWRB

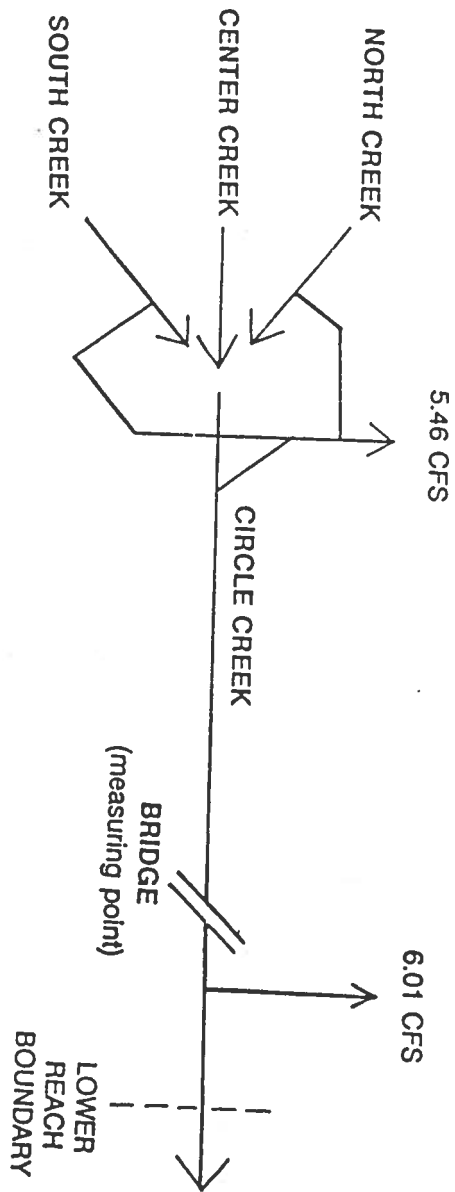
4

CIRCLE CREEK NEAR ALMO
(Sec 32, T 15 S, R 24 E)

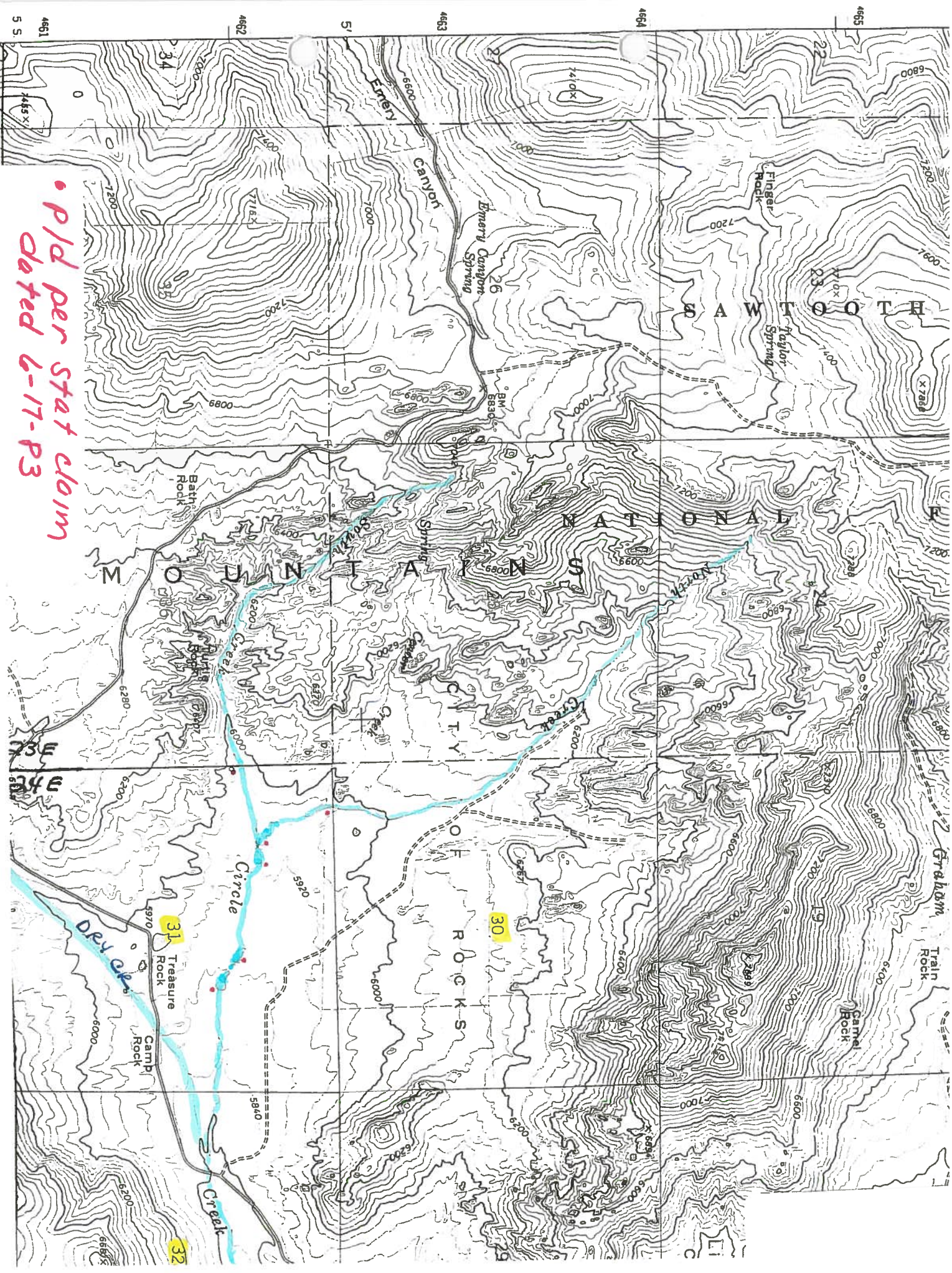


Rough Estimate of Average Flows.

License file 43-07295
From proposed memorandum
decision & Order dated 12-7-1990



LICENSE FILE 43-07295
From proposed memorandum
decision & order Dated 12-7-1990



• P/d per Stat claim
dated 6-17-P3

CONVERSATION MEMO

Date:

6-16-99

Regarding:

A43-04173

Customer:

Michael Nicholson

From: Vikie Hancock

AAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAA

Made appt to meet him at his
front gate at 10:30, Wednesday
June 23rd.

Take city of rocks rd out of Almo.
Gate is just by old burned rock
house along city of Rocks Rd.

Under the provisions of Section 42-243, Idaho Code, any person using or claiming rights to the public waters of Idaho established by diversion and application to a beneficial use must file a claim with the Department of Water Resources on or before June 30, 1983. Exempted from this filing are single family domestic uses as defined in Section 42-230(d), Idaho Code. Also exempted are rights represented by a permit, license, decree, adjudicated right, or a previously filed claim.

Notice is hereby given that A. E. Nicholson
(Name of Claimant)
805 3rd Street, Rupert, Idaho 83350 Telephone No. 436-3862
(Mailing Address) (Zip Code)

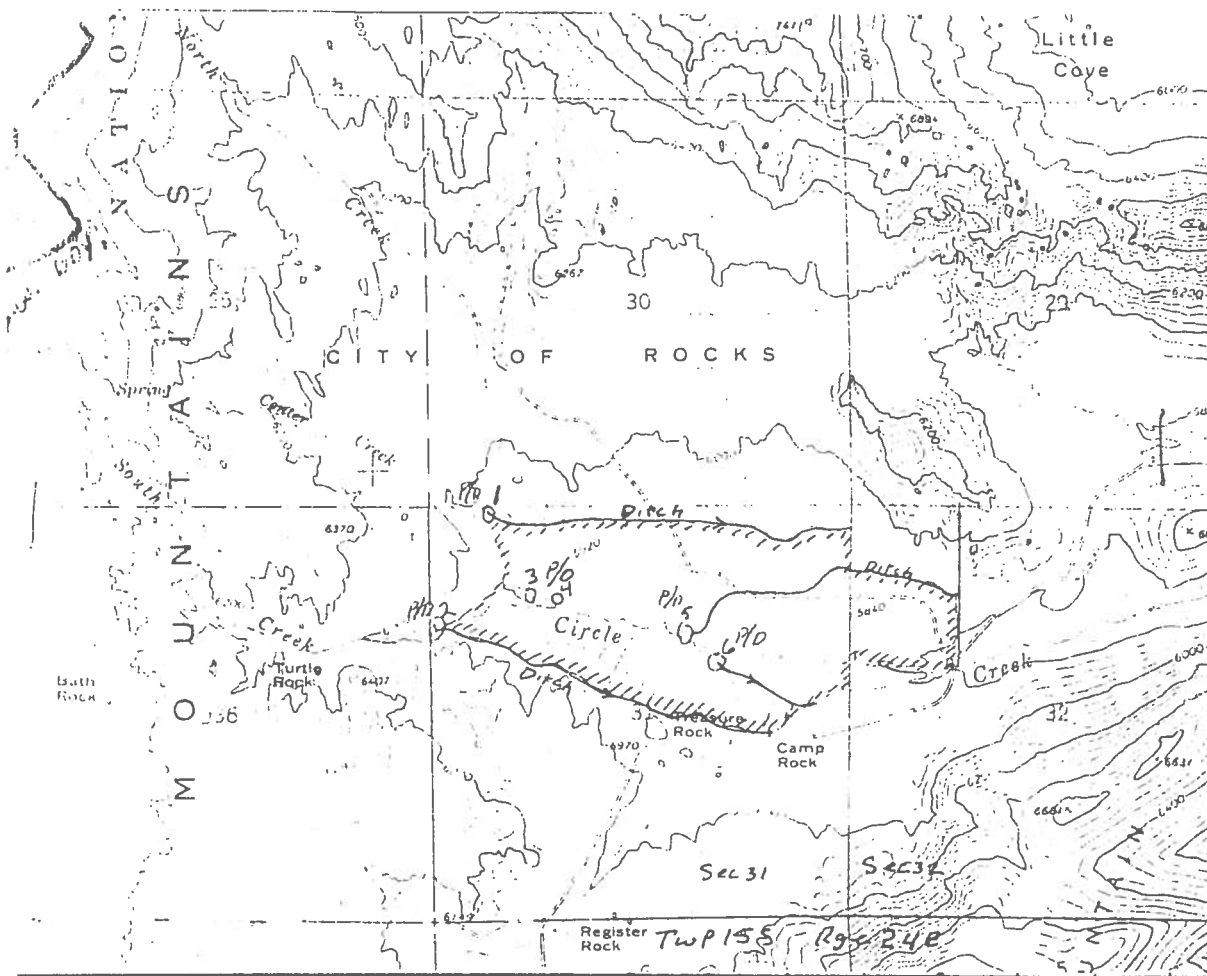
A claim is not acceptable on a ground water source, with a priority later than March 25, 1963 or on a surface water source with a priority later than May 20, 1971. An exception is that a claim may be filed on single family domestic use from a ground water source.

				[Both dates inclusive]	
(cfs, af)	(Domestic, Irrigation, Stock, Etc.)	(Mo., Day)		(Mo., Day)	
Quantity <u>5.46</u>	Use <u>irrigation</u>	Period of Use From <u>Apr 1</u>	To	<u>Nov 1</u>	
Quantity <u>.04</u>	Use <u>stockwater</u>	Period of Use From <u>Jan 1</u>	To	<u>Dec 31</u>	
Quantity _____	Use _____	Period of Use From _____	To	_____	
Quantity _____	Use _____	Period of Use From _____	To	_____	
Quantity _____	Use _____	Period of Use From _____	To	_____	

(7) If you are claiming water as a member of an organization, list name of organization:

GAT

(8) Remarks Sources: (1) North Creek trib to Circle Creek
 (2) South Creek trib to Circle Creek
 (3,4,5,6) Circle Creek trib to Raft River



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 Twin Falls) 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 affiant's knowledge.

O.E. Nicholas
 (Claimant)

Sworn to before me this 17 day of June, 1983.

Loren Holmes
 Notary Public
 Residing at Twin Falls

My commission expires Life

FOR DEPARTMENT USE ONLY

Received by LH Date 6/17/83 Exception filed by: _____ Forwarded to _____ Date _____
 Prelim. check by TGB Date 6-23-83 claimant by: _____
 \$30.00 fee received by Mary Date 6-17-83 # 30330
 Published in Booth's _____
 Dates 9/8 & 9/15/83 _____

6/9/94

COMMUNICATION DOCUMENTATION

Claim No. A43-04173

This form is to be used to document public record information requests regarding any SRBA claim or claims. The form may also be used to document IDWR communications requesting information regarding any SRBA claim or claims when the request is not made in writing or the claim verification report is not readily available to document the request. This form is to be filed in all relevant claim files or a central office file.

6:50 IDWR Employee/Agent 7H Date 05-08-95

Contact Person(s) A.E. OR MICHAEL V. NICHOLSON
436-3862

Nature of Contact Permission to measure on
Circle Creek

Substance of Communication N/A - & recorder.

7:15 might in 30's - been asked - must
25 Speak to son -
7:00 TT - N/A
PM

05-09-95 1:40 PM: gate locked.

7:20 PM: TT: let it ring... N/A.

15-10-95 left camp NW in gate - discharge
from pipe under road of circle CR is
3" @ deepest - 32" wide not enough to
measure.

PAGE: 1
GENERAL INFORMATION

CLAIM NUMBER: A43-04173

LAST: NICHOLSON
ADDRESS: 805 3RD ST
CITY: RUPERT
PHONE NUMBER: 208-436-3862
STATE: ID ZIP: 83350

OWNER CODE: C

LAST: NICHOLSON
ADDRESS: 805 3RD ST
CITY: RUPERT
PHONE NUMBER: 208-436-3862
STATE: ID ZIP: 83350
FIRST: MICHAEL V

OWNER CODE: C

FIELD EXAM REQUIRED?
VERIFICATION REQUIRED DUE TO REMARKS? DATABASE Y FIELD EXAMINER Y() N()
CLAIM REMARKS: HAVE ALWAYS USED DRY CREEK WATER & HAVE ALWAYS IRRIGATED SWSW, SEC 30...NOT INCLUDED IN ORIGINAL CLAIM.
INCREASED STATUTORY CLAIM AMOUNT FROM 5.46 TO 6.26 TO COVER ADDITIONAL 40 ACRES (.02 CFS/ACRE)

CONTACT PERSON:

Michael Nicholson

PHONE NUMBER: () - -

DATE OF FIELD EXAM:

6/23/99

APPOINTMENT MADE: Y() N()

TIME: : A() P()

ACCOMPANIED BY:

Claimant

PHONE NUMBER: () - -

RELATIONSHIP TO CLAIMANT:

DIRECTIONS TO PROPERTY / NOTES:

City of Boats
on ~~state~~ Boats Road. Gate at blind-out
back / go back home.

Father, A.E. Nicholson, now deceased. No documentation
submitted.

STAGE: S

STAGE: S

$\gamma(\frac{1}{2})N(\frac{1}{2})$

Y() N() A

() N () A

N/A() Y() N()

N/A(____) Y(____) N(____)

N/A() Y() N()

N/A() Y() N()

N/A() Y(✓) N()

$$Y(\frac{1}{N})$$

NOTES: Property date claimed 1979. File includes proof to 1914. 194 10-15-2000
Additional proof submitted. Circumstantial to 1920
194 7-10-2000

4-1-17

DATE 6-13-2008

A. AJ CLAIM POINT OF DIVERSION AND SOURCE:

RIGHT	TRP. RGE.	SEC.	1/4	1/4	1/4	LOT	FLAG	COUNTY	DIVERSION NAME	DIVERSION NUMBER
A43-04173	15S	24E	31	SW	NE			CASSIA		
A43-04173	15S	24E	31	NE	NW			CASSIA		
A43-04173	15S	24E	31	NW	NW			CASSIA		
A43-04173	15S	24E	31	SW	NW			CASSIA		

OTHER AJ CLAIMS WITH SAME AJ POD

A PREFIX R PREFIX
A43-07295 NONE

WR RECORDS IN SAME 40 ACRE TRACT

43-07295

SOURCE: NORTH CREEK

SOUTH CREEK

CIRCLE CREEK

DRY CREEK

TRIB: CIRCLE CREEK

CIRCLE CREEK

RAFT RIVER

CIRCLE CREEK

B. WR POINT OF DIVERSION AND SOURCE:

RIGHT	TRP. RGE.	SEC.	1/4	1/4	1/4	LOT	FLAG	COUNTY	DIVERSION NAME	DIVERSION NUMBER
43-04173	15S	24E	31	NW	NW			CASSIA		
43-04173	15S	24E	31	SW	NW			CASSIA		
43-04173	15S	24E	31	NE	NW			CASSIA		
43-04173	15S	24E	31	SW	NE			CASSIA		

OTHER WR RECORDS WITH SAME WR POD

AJ CLAIMS IN SAME 40 ACRE TRACT

A PREFIX R PREFIX

43-07295

NONE

NONE

SOURCE: NORTH CREEK

SOUTH CREEK

CIRCLE CREEK

TRIB: CIRCLE CREEK

CIRCLE CREEK

RAFT RIVER

C. IS THE CLAIMED POD WITHIN THE SAME 40 ACRE TRACT THAT IS DESCRIBED IN THE WATER RIGHT FILE?

N/A(☒) Y(☐) N(☐)

* IF NO, AND IF THE CHANGE IS VERIFIED AS AN ACCOMPLISHED CHANGE IN POD, DESCRIBE THE INJURY ANALYSIS PERFORMED AND ENTER FLAG "C" WITH THE APPROPRIATE EXPLANATORY CODE.

D. CAN THE CLAIMED POD BE VERIFIED USING THE WATER RIGHT FILE OR GPS DATA?

N/A(☐) Y(☐) N(☒)

E. SHOULD THE CLAIMED POD BE VERIFIED BY FIELD EXAM?

Y(☒) N(☐)

F. IS THE CLAIMED SOURCE THE SAME AS DESCRIBED IN THE WATER RIGHT FILE?

N/A () Y () N ()

* IF NO, AND IF THE CHANGE IS VERIFIED AS AN ACCOMPLISHED CHANGE IN SOURCE, DESCRIBE THE INJURY ANALYSIS PERFORMED AND ENTER FLAG "C" WITH THE APPROPRIATE EXPLANATORY CODE.

G. CAN THE CLAIMED SOURCE BE VERIFIED USING THE WATER RIGHT FILE?

Y () N ()

H. SHOULD THE CLAIMED SOURCE BE VERIFIED BY FIELD EXAM?

Y () N ()

I. HOW WAS THE POD AND SOURCE VERIFIED?

LICENSING FIELD EXAM (DATE OF FIELD EXAM _____)

Y () N ()

AJ FIELD EXAM (DATE OF FIELD EXAM 6-23-99 NAME OF EXAMINER L. Hancock)

Y () N ()

OTHER (DESCRIBE IN NOTES BELOW)

NOTES:

Pod on North creek was inaccessible with vehicle. Movement site GPS'd. Pod on South Creek & dry creek verified during field exam.

RECOMMENDED POINT(S) OF DIVERSION AND SOURCE: CHECK HERE IF RECOMMENDED AS CLAIMED ()

TWP.	RGE.	SEC.	1/4	1/4	1/4	LOT	FLAG	POD	COUNTY	DIVERSION NAME	DIVERSION NBR
15S	24E	31	~~NE~~	~~SW~~	~~NE~~	~~RESERVE~~	~~---~~	~~---~~	CASSIA		
15S	24E	31	~~NE~~	~~SW~~	~~NE~~	~~---~~	~~---~~	~~---~~	CASSIA		
15S	24E	31	~~SE~~	~~NW~~	~~NW~~	~~SOUTH Ck~~	~~---~~	~~---~~	CASSIA		
15S	24E	31	~~NW~~	~~SW~~	~~NW~~	~~CHUCK Ck~~	~~---~~	~~---~~	CASSIA		
11	31	~~NW~~	~~NE~~	~~SE~~	~~DEY Ck~~	~~---~~	~~---~~	~~---~~			
	30	~~NW~~	~~NW~~	~~SU~~	~~North Ck~~	~~---~~	~~---~~	~~---~~			
	31	~~NW~~	~~SE~~	~~NE~~	~~CIRCLE CREEK (pond)~~	~~---~~	~~---~~	~~---~~			
	31	~~SE~~	~~NW~~	~~NW~~	~~CHUCK CREEK~~	~~---~~	~~---~~	~~---~~			
	31	~~NW~~	~~SE~~	~~NW~~	~~SOUTH CREEK~~	~~---~~	~~---~~	~~---~~			

SOURCE: Various TRIB: _____

REVIEWED BY:

Flannery

DATE: 10-13-2000

SYSTEM DESCRIPTION:

DESCRIBED BELOW (15),SEE LICENSE FILE (),OR SEE ATTACHMENT (15)

SEE GIS layout.

System consists of open ditches which convey all water available ~~from~~ from 5 ~~to~~ creeks onto pastureland. Water from creeks entering at low area of meadow and ~~low~~ ^{low} ponds are formed. Stock drawn from ponds & also, ditches run from lower pond & convey water to pasture below. See GIS layout.

NOTE: Claimant's 10. of the creeks diverted & measured was incorrect per USGS maps & GPS points. The point of diversion identified by claimant as on Cuele creek as it enters the ranch on the west boundary is actually on "South Creek" upstream of its confluence with "Center Creek" which is the beginning of Cuele Creek. Claimant referred to Center Creek as "South Creek" which maybe a local or family name as it is indeed south of North Creek. See USGS Quad 0079 "Almo", and orthophotquad 0079 also.

A. ROOT WATER RIGHT NUMBERS: 443-04173

B. POU LISTING						AJ	WR	LANDSAT	FIELD	RECOMM.	
TWP	RNG	SEC	1/4	1/4	LOT	NAME	#/ACRES	#/ACRES	DATA	EXAM.	ACRES
15S	24E	30	SW	SW		NICHOLSON, A E	A43-04173 / 40.0	-	/		
			SW	SW		WATER	A43-07295 /	-	/		
15S	24E	31	NE	NE		NICHOLSON, A E	A43-04173 / 25.0	43-04173	/ 25.0		
15S	24E	31	NW	NE		NICHOLSON, A E	A43-04173 / 30.0	43-04173	/ 30.0		
15S	24E	31	SW	NE		NICHOLSON, A E	A43-04173 / 40.0	43-04173	/ 40.0		
			SW	NE		WATER	A43-07295 /	-	/		
15S	24E	31	SE	NE		NICHOLSON, A E	A43-04173 / 38.0	43-04173	/ 38.0		
			SE	NE		WATER	A43-07295 /	-	/		
15S	24E	31	NE	NW		NICHOLSON, A E	A43-04173 / 35.0	43-04173	/ 35.0		
			NE	NW		WATER	A43-07295 /	-	/		
15S	24E	31	NW	NW		NICHOLSON, A E	A43-04173 / 20.0	43-04173	/ 20.0		
			NW	NW		WATER	A43-07295 /	-	/		
15S	24E	31	SW	NW		NICHOLSON, A E	A43-04173 / 20.0	43-04173	/ 20.0		
			SW	NW		WATER	A43-07295 /	-	/		
15S	24E	31	SE	NW		NICHOLSON, A E	A43-04173 / 25.0	43-04173	/ 25.0		
			SE	NW		WATER	A43-07295 /	-	/		
15S	24E	31	NE	SE		NICHOLSON, A E	A43-04173 / 3.0	43-04173	/ 3.0		
15S	24E	32	NW	NW		NICHOLSON, A E	A43-04173 / 15.0	43-04173	/ 15.0		
15S	24E	32	SW	NW		NICHOLSON, A E	A43-04173 / 22.0	43-04173	/ 22.0		
			SW	NW		NICHOLSON, AE	A43-10189 /	-	/		
			SW	NW		WATER	A43-07295 /	-	/		

ADDITIONAL POU FOUND

TOTAL ACRES 443-04173

313.00

273.00

POU COUNTY: CASSIA

C. IS WATER USAGE FOUND IN TRACTS OTHER THAN THOSE CLAIMED?

Y() N(☒)

* IF YES, ARE THESE TRACTS LISTED ABOVE (), OR ARE THEY LISTED ON AN ATTACHED SHEET ()

LIST OF ALL RIGHTS WITH A SAME POU AND IRRIGATION USAGE

NO CLAIMS FOUND WITH SAME POU AND IRRIGATION USAGE

LIST ALL RIGHTS WITH SAME POU BUT NOT USED FOR IRRIGATION.

CLAIM NO.	PURPOSES	NAME	MONTH/DAY	RATE	VOLUME
A43-04173	STOCKWATER	NICHOLSON, A E	FROM 01-01 TO 12-31	0.040 CFS	
A43-07295	MINIMUM INSTREAM FLOW	WATER	FROM 01-01 TO 12-31	3.000 CFS	
A43-10189	DOMESTIC	NICHOLSON, AE	FROM 01-01 TO 12-31	0.040 CFS	

D. ARE OTHER WATER RIGHTS USED FOR THE SAME PURPOSE?

Y() N(☒)

* IF YES, COMPLETE OVERLAP REVIEW:

OTHER RIGHTS LISTED IN CLAIM:

E. IS THE CLAIMED POU THE SAME AS DESCRIBED IN THE WATER RIGHT FILE?

N/A(☒) Y() N()

* IF NO, AND IF THE CHANGE IS VERIFIED AS AN ACCOMPLISHED CHANGE IN POU, DESCRIBE THE INJURY ANALYSIS PERFORMED AND ENTER FLAG "C" WITH THE APPROPRIATE EXPLANATORY CODE.

F. CAN THE CLAIMED POU BE VERIFIED USING THE WATER RIGHT FILE AND AVAILABLE AERIAL PHOTOS?

N/A(☒) Y() N()

G. SHOULD THE CLAIMED POU BE VERIFIED BY FIELD EXAM?

Y(☒) N()

H. IS THERE ANY INDICATION THAT THERE HAS BEEN A FIVE YEAR PERIOD OF CONTINUOUS NONUSE OF THIS RIGHT, OR ANY PORTION OF THIS RIGHT?

Y() N(☒)

CHECK DOCUMENTS USED TO VERIFY POI: () ORTHOPHOTOQUAD, IDMR NO. 0074¹⁹⁷⁴; () TOPOGRAPHIC QUAD, IDMR NO. 0079;

() NAPP, IDMR NO. 1987; () ASCS PHOTO; () OTHER _____

NOTES:

Place of use noted on GIS layout during field exam accompanied by claimant. Place of use includes large areas of sagebrush (which) which claimant stated migrants with horses much water is available. Ditch could be located on GIS layout using 1987 NAPP aerial photography. Area (shown) will be calculated by specific.

RECOMMENDATIONS:

TOTAL ACRES: 828 N/A ()

REVIEWED BY: Alonso DATE: 6-13-2000

NOTES:

Season 3 was per 100K STAs

AJ CLAIM TOTAL DIVERSION RATE:

6.260 CFS

WR ROOT RIGHT TOTAL DIVERSION RATE:

5.460 CFS

A. IS THE CLAIMED TOTAL DIVERSION RATE THE SAME AS DESCRIBED IN THE WATER RIGHT FILE?

N/A () Y () N ()

B. CAN THE CLAIMED TOTAL DIVERSION RATE BE VERIFIED USING THE WATER RIGHT FILE?

N/A () Y () N ()

* ALL CLAIMS BASED ON BENEFICIAL USE (INCLUDING POSTED NOTICES AND STATUTORY CLAIMS) REQUIRE A FLOW MEASUREMENT.

C. IS THERE ANY INDICATION THAT THERE HAS BEEN A FIVE YEAR PERIOD OF CONTINUOUS NONUSE OF THIS RIGHT, OR ANY PORTION OF THE DIVERSION RATE?

Y () N ()

* IF AN AMOUNT SMALLER THAN THE ORIGINAL DIVERSION RATE IS CLAIMED AND A FIELD EXAM IS NOT REQUIRED, EXPLAIN IN NOTES.

D. SHOULD THE CLAIMED DIVERSION RATE BE VERIFIED BY FIELD EXAM?

Y () N ()

E. FLOW MEASUREMENT

MEASUREMENT METHOD

Alarrows

SEE ATTACHED CALCULATIONS.

F. RATE/VOLUME CALCULATIONS: (IRRIGATION)

1a. IRRIGATION ~~Rate~~ $233 \times 1.02 = 4.64$

ACRES ~~0.02~~ x 0.02 CFS/ACRE = ~~0.004~~ CFS

(Taken from pou review)

1b. CALCULATIONS

IS A DIVERSION RATE PER ACRE GREATER THAN 0.02 CFS/ACRE CLAIMED? Y () N ()

IF YES, IS AN ADDITIONAL WATER USE FORM FILED AND ATTACHED? Y () N ()

2. IRRIGATION DIVERSION VOLUME

CLAIMED DIVERSION VOLUME = AF/A

ACRES x DIVERSION VOL. AF/A FOR AREA =

TOTAL DIVERSION VOLUME AF/A

3. IRRIGATION CONSUMPTIVE USE

CLAIMED CONSUMPTIVE USE = AF/A

ACRES x CONSUMPTIVE VOL. AF/A FOR AREA =

TOTAL CONSUMPTIVE USE AF/A

4. CALCULATIONS FOR USES OTHER THAN IRRIGATION: SEE BELOW () OR SEE ATTACHMENT ()

NOTES:

Clampant stated that flows from Gents & South creeks were less than what they were one month earlier and not representative of the average diversion amounts. Month 8 creek had also diminished although not as much as the other two creeks & ribs to Circle Creek. Dry creek was characterized as very unproductive and down significantly in volume since May.

CreekMeasurement 6/23/99

Pent	0.15 cfs	Swifter
Circle (pond)	0.59 "	Swifter
Day	0.24 "	Plot
Alexis	0.34 "	Flume
South	0.54 "	Flume

MR RECORD CONDITIONS/REMARKS:

1.86 cfs

If amount doubled to account for reported diminished flows = 3.72 cfs maximum available.

$$\begin{array}{r}
 233 \\
 233 \text{ ac} \times 0.02 = 4.66 \text{ cfs.}
 \end{array}$$

RECOMMENDATIONS: CHECK HERE IF RECOMMENDED AS CLAIMED ()

PURPOSE OF USE	REC. PERIOD FROM TO	REC. DIV RATE CFS	REC. DIV VOL. AF/A	REC. CONS. USE
IRRIGATION	04-01	12-31	6.260	0.0
STOCKWATER	01-01	12-31	0.040	0.0

EXAMINER *444*

EXAMINER

TOTAL FOR THIS RIGHT

6.260 *4.44*

0.0

NON-IRRIGATION USES CLAIMED: S/150 RANGE

NON-IRRIGATION USES RECOMMENDED: CHECK HERE IF RECOMMENDED AS CLAIMED ()

REVIEWED BY: *[Signature]*

DATE: *6-15-00*

See analysis prev page

FLAG:

STANDARD CONDITIONS (CODE):

STANDARD REMARKS (CODE):

EXPLANATORY CONDITIONS (CODE):

EXPLANATORY REMARKS (CODE):

A. CHECK ONLY THE FOLLOWING THAT APPLY:

	ACCEPTED AS CLAIMED	NEEDS REVIEW
OWNERSHIP _____	()	()
FORFEIT/ABANDON _____	()	()
ADDITIONAL DIV. AMOUNT _____	()	()

B. SPLIT WATER RIGHT REVIEW

ROOT WATER RIGHT NUMBER: 43-04173

TOTAL DIVERSION RATE OF WR SPLITS

DATABASE
5.460

EXAMINER

CFS

SPLITS:

OLD RIGHT
NUMBERSCURRENT
CLAIM NUMBERSDIVERSION
RATECURRENT "R"
CLAIM NUM."R" DIV.
RATEWR RIGHT
NUMBERSDIVERSION
RATE

43-04173

5.460

TOTAL CFS

5.460

DIVERSION RATE REVIEW

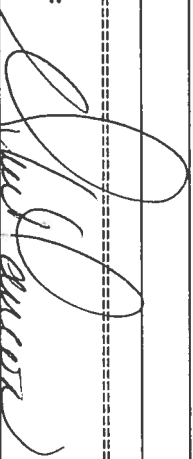
DO THE SUM CFS RATE OF THE SPLITS EQUAL THE ROOT RIGHT CFS RATE? (Y/N)
IF NO, IS THE WRITTEN REVIEW DESCRIBED BELOW () OR SEE ATTACHMENT ()?DATABASE
NFIELD
EXAMINER
Y() N()

NOTES:

No Splits

AUTHENTICATION:

SIGNATURE:



DATE:

10-14-00

NAME OF FIELD EXAMINER:

Mike Hansen

TITLE:

Sr. City Rec. Agent

MAPS AND AERIAL PHOTOGRAPHS USED TO REVIEW THIS NOTICE OF CLAIM TO A WATER RIGHT

TYPE OF MAP OR PHOTOGRAPH (CHECK IF USED)

IF USED, SUPPLY APPROPRIATE DATE AND OTHER INFORMATION

COPY INCLUDED
IN FILE?

() ORTHOPHOTOQUAD	DATE OF PHOTO _____	IDWR ID NO. _____	Y() N()
() TOPOGRAPHIC	DATE FIELD CHECKED _____	IDWR ID NO. _____	Y() N()
() MAPP	DATE OF PHOTO _____	IDWR ID NO. _____	Y() N()
() ASCS AERIAL PHOTO	DATE OF PHOTO _____		Y() N()
() ASCS COLOR SLIDE	DATE OF PHOTO _____		Y() N()
() BLM OR USFS AERIAL PHOTO	DATE OF PHOTO _____		Y() N()
() TOWNSHIP SURVEY (GOVERNMENT PLAT)	DATE OF SURVEY _____		Y() N()
() SCS SOIL SURVEY MAP	DATE ISSUED _____		Y() N()
() SUBDIVISION PLAT MAP	DATE OF MAP _____		Y() N()
() OTHER _____	DATE _____		Y() N()
() OTHER _____	DATE _____		Y() N()
() OTHER _____	DATE _____		Y() N()

LIST OF ATTACHMENTS (CHECK IF ATTACHED)

IF ATTACHED, SUPPLY APPROPRIATE INFORMATION

NO. OF
PAGES

NOTES

() LICENSING FIELD EXAM	DATE OF FIELD EXAM _____		
() WATER RIGHT LICENSE	DATE LICENSE SIGNED _____		
() IDWR APPROVED TRANSFER	DATE TRANSFER APPROVED _____		
() SYSTEM DESCRIPTION	DATE DRAWN _____		
() PHOTOGRAPHS	DATE(S) PHOTOS TAKEN _____		
() SPLIT RIGHT REVIEW	DATE REVIEW COMPLETED _____		
() HUBBLE ANALYSIS	DATE ANALYSIS COMPLETED _____		
() CONVEYANCE LOSS ANALYSIS	DATE ANALYSIS COMPLETED _____		
() FLOW MEASUREMENT CALCULATIONS	DATE SYSTEM MEASURED _____		
() OTHER _____	DATE _____		
() OTHER _____	DATE _____		

MR ELEMENT	DATA DISCREPANCY Y/N	CORRESPONDENCE SENT/RECEIVED BY WHOM/DATE	FIELD EXAM BY WHOM/DATE	CHANGE CLAIM Y/N	ELEMENT DOCUMENTED WHOM/DATE	COMPLETED REVIEW WHOM/DATE	COMPLETED DATA ENTRY WHOM/DATE	VERIFIED DATE WHOM/DATE
PRIORITY DATE	Y							
POINT OF DIV								
SOURCE	Y							
PLACE OF USE	Y							
DIV. AMOUNT CFS/VOLUME	Y							
CONSUMPTIVE USE	-							
PURPOSES OF USE								
PERIOD OF USE								
BASIS OF CLAIM	Y							
REMARKS	Y							

BARCODE UPDATED
WHOM/DATE