

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: **A43-10279**
Date Received: 5/30/1989
Receipt No: M003760
Received By: _____

**COPY FOR
YOUR FILES**

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

**COPY FOR
YOUR FILES**

1. Name:	GARY NELSON	208-638-5534
Address:	1950 S 1192 W	
	ELBA ID	83326
AND/OR		
Name:	PAULA NELSON	208-638-5534
Address:	1950 S 1192 W	
	ELBA ID	83326

2. Date of Priority: APR 30, 1880

3. Source:	BLACK SAND CREEK	Trib. to:	SINKS
	FRANKS HOLLOW		SINKS

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
14S	24E	8	SE	SE	NW		CASSIA

5. Description of diverting works:
HEADGATE ON CREEK, DITCHES FLOOD IRRIG.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
IRRIGATION	03/15	11/15	0.660		

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

8. Total consumptive use is Acre Feet Per Annum.

9. Non-irrigation uses:

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
13S	25E	32	SE	SW		IRR	38.0
Section Acres							38.0
Total Acres							38.0

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:
A4300247, A4300246

14. Remarks:
CHANGE OF OWNERSHIP ENTERED 5-25-00 BASED UPON WARRANTY DEED. KKC

15. Basis of Claim: BENEFICIAL USE

STATE OF IDAHO
IDAHO DEPARTMENT OF WATER RESOURCES

NOTICE OF CHANGE OF WATER RIGHT OWNERSHIP

Please print or type. Attach pages with additional information. Instructions are on the back of this page.
Incomplete forms will be returned.

1. Water Right No(s).: _____
 Adjudication Claim No(s).: A43-10277 - A43-10279

2. The following REQUIRED information must be submitted with this form:
 - A. A copy of the most recent DEED, TITLE POLICY, CONTRACT OF SALE or other legal document indicating your ownership of the property and water rights or claims in question, WITH ATTACHED LEGAL DESCRIPTION.
AND
 - B. PLAT OF PROPERTY or SURVEY MAP for parcel of ten acres or less. (These are usually attached to your deed or on file with the county.)
OR
 - C. For water rights or adjudication claims involving ten or more irrigated acres, a USDA Farm Service Agency AERIAL PHOTO with irrigated acres outlined and point(s) of diversion clearly marked.

3. Name and Address of Former Owner/Claimant Orvil Beecher
Elba ID 83324

4. New Owner/Claimant(s) GARY or Paula Nelson
 Name Connector (Check one): ☐ and, ☐ or, ☐ and/or
 New Mailing Address 1950 S 1192 W Elba ID 83324
 City, State and ZIP Code _____
 New Telephone Number (208) 638-5534

5. Date you acquired the property March 21 - 1997

6. If you have acquired only a portion of the former owner's property, IDWR may need to split the water right(s) or adjudication claim(s). If this applies, describe in detail your portion of each water right or adjudication claim in the spaces below. If necessary, attach additional pages.
 Number of acres you irrigate 34 Number and type of stock _____
 Diversion rate in CFS _____ Number of homes _____ Other uses _____

If a water right or adjudication claim is being split and you are not sure how to identify your portion of the original right or claim, please contact the nearest IDWR office for assistance.

7. Signature of New Owner or Claimant(s) GARY C. Nelson. Paula B. Nelson

(Corporations or other organizations must submit a list of directors and/or officers demonstrating authority to sign form.)

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

247999

PERSONAL REPRESENTATIVE'S
WARRANTY DEED

No #

For Value Received

DEBORAH B. JONES, Personal Representative of the Estate of Orvil E. Beecher,
deceased

Hereinafter called the Grantor, hereby grants, bargains, sells and conveys unto

GARY C. NELSON and PAULA BEECHER NELSON, husband and wife
Address: Elba, Idaho 83326

Hereinafter called the Grantee, the following described premises situated in Cassia County, Idaho, to-wit:

See attached Exhibit "A" for legal description

SUBJECT TO:

All reservations in patents or deeds in the chain of title.

Accruing taxes, levies and assessments; easements and rights of way of record if any.

TO HAVE AND TO HOLD, the said premises, with their appurtenances unto the said Grantee and to the successors heirs and assigns of the Grantee forever. The Grantor does hereby covenant to and with the said Grantee, that the Grantor is the owner in fee simple of said premises; that they are free from all incumbrances except as above described and that Grantor will warrant and defend the same from all lawful claims whatsoever.

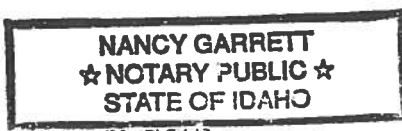
Dated: December 19, 1996

ESTATE OF ORVIL E. BEECHER

By: Deborah B. Jones
Deborah B. Jones, Personal Representative

STATE OF IDAHO)
) ss.
COUNTY OF Cassia)

On this 20th day of March, 1997, Before me, the undersigned, a Notary Public in and for said State, personally appeared DEBORAH B. JONES, known or identified to me to be the person whose name is subscribed to the within instrument as Personal Representative of the Estate of Orvil E. Beecher, and acknowledged to me that she executed the same as such Personal Representative.



Nancy Garrett
Notary Public
Residing at: Burley, Idaho
My Commission expires: 2-5-02

Part of the SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 32 of Township 13 South, Range 25 East of the Boise Meridian, Cassia County, State of Idaho.

Beginning at the south $\frac{1}{4}$ section corner of Section 32 of T.13 S., R.25 E., B.M., said corner marked by a 5/8" rebar with 3" Cassia County Survey cap; Thence North 00 degrees 12 minutes 44 seconds East (N 00°13'09"E, rec.) along the east line of the SE $\frac{1}{4}$ SW $\frac{1}{4}$ for a distance of 408.93 feet which shall be the Point of Beginning;

THENCE North 86 degrees 07 minutes 24 seconds West for a distance of 39.03 feet to a $\frac{1}{4}$ " rebar;

THENCE North 86 degrees 07 minutes 24 seconds West for a distance of 248.27 feet to a $\frac{1}{4}$ " rebar;

THENCE South 00 degrees 37 minutes 10 seconds East for a distance of 138.52 feet to a $\frac{1}{4}$ " rebar;

THENCE South 01 degrees 27 minutes 16 seconds East for a distance of 290.09 feet to a $\frac{1}{4}$ " rebar on the south line of Section 32;

THENCE South 89 degrees 58 minutes 00 seconds West along the south line of Section 32 for a distance of 216.63 feet to a $\frac{1}{4}$ " rebar;

THENCE North 01 degrees 27 minutes 16 seconds West for a distance of 402.16 feet to a $\frac{1}{4}$ " rebar;

THENCE South 89 degrees 58 minutes 00 seconds West for a distance of 216.63 feet to a $\frac{1}{4}$ " rebar;

THENCE South 01 degrees 27 minutes 16 seconds East for a distance of 402.16 feet to a $\frac{1}{4}$ " rebar on the south line of Section 32;

THENCE South 89 degrees 58 minutes 00 seconds West along section line for a distance of 603.91 feet to a 5/8" rebar at the SW corner of the SE $\frac{1}{4}$ SW $\frac{1}{4}$;

THENCE North 00 degrees 01 minutes 04 seconds West along the west line of the SE $\frac{1}{4}$ SW $\frac{1}{4}$ for a distance of 1324.11 feet to a 5/8" rebar at the NW corner of the SE $\frac{1}{4}$ SW $\frac{1}{4}$;

THENCE North 89 degrees 55 minutes 46 seconds East along the north line of the SE $\frac{1}{4}$ SW $\frac{1}{4}$ for a distance of 1032.05 feet to a $\frac{1}{4}$ " rebar;

THENCE South 00 degrees 12 minutes 44 seconds West for a distance of 151.93 feet to a $\frac{1}{4}$ " rebar;

THENCE North 89 degrees 55 minutes 46 seconds East for a distance of 229.41 feet to a $\frac{1}{4}$ " rebar;

THENCE North 89 degrees 55 minutes 46 seconds East for a distance of 57.30 feet to the east line of the SE $\frac{1}{4}$ SW $\frac{1}{4}$;

THENCE South 00 degrees 12 minutes 44 seconds West along the east line of the SE $\frac{1}{4}$ SW $\frac{1}{4}$ for a distance of 764.12 feet to the Point of Beginning.

Said property contains 34.31 acres more or less and is subject to any easements or right of ways, existing or of record.

PREPARED BY:
Desert West Land Surveys
1751 Overland Ave.
Burley, Idaho 83318



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: A43-10279

Date Received: 5/30/1989

Receipt No: 2003766

Received By: B

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: ORVIL BEECHER 208-638-5564
Address: BOX 465
ELBA, ID 83326
2. Date of Priority: APR 30, 1880
3. Source: BLACK SAND CREEK Trib. to: SINKS
FRANKS HOLLOW SINKS
4. Point of Diversion:
- | Township | Range | Section | 1/4 of | 1/4 of | 1/4 of | Lot | County |
|----------|-------|---------|--------|--------|--------|-----|--------|
| 14S | 24E | 8 | SE | SE | NW | | CASSIA |
5. Description of diverting works:
HEADGATE ON CREEK, DITCHES FLOOD IRRIG.
6. Water is used for the following purposes:
- | Purpose | From | To | C.F.S. | (or) | A.F.A. |
|------------|-------|-------|--------|------|--------|
| IRRIGATION | 03/15 | 11/15 | 0.660 | | |
7. Total Quantity Appropriated is:
0.660 C.F.S. (and/or) A.F.A.
8. Total consumptive use is Acre Feet Per Annum.
9. Non-irrigation uses:
10. Place of Use:
- | Township | Range | Section | 1/4 of | 1/4 of | Lot | Use | Acres |
|---------------|-------|---------|--------|--------|-----|-----|-------|
| 13S | 25E | 32 | SE | SW | | IRR | 38.0 |
| Section Acres | | | | | | | 38.0 |

A43-10279

Page 1

Date: 05/30/89

MICROFILMED

MAR 04 1993

10. Place of Use: Continued

Total Acres 38.0

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:
A4300247, A4300246

14. Remarks:

15. Basis of Claim: BENEFICIAL USE

16. Signature(s)

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

Number of attachments: 1

For Individuals:

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

Signature of Claimant(s): X Orvil E. Becker Date: 5/30/89
Date: _____

State of Idaho)
County of Cassia) SS.

Subscribed and sworn (or affirmed) before me this 30th day
of May 19 89

Seal

Anna Baunhoff
Notary Public
Anna Baunhoff, Notary Public
Residing at Boise, Idaho
My Commission Expires December 7, 1994
My Commission Expires _____



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

September 13, 1999

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

GARY NELSON
PO BOX 465
ELBA ID 83326

RE: ADJUDICATION REVIEW OF CLAIMS A43-00246, A43-00247, A43-00248, A43-10277, AND
A43-10279

Dear Gary

I am in the process of completing the recommendations for your adjudication claims. There are a few areas that need your input.

The decreed rights A43-00246, A43-00247, A43-00248 are tentatively recommended for 36 acres within the SESW of Sec 32. A43-00246 and A43-00247 are still in Orvil Beecher's name. A change of ownership is necessary. Other than that, I do not see any problems with these rights.

Although we discussed the development for A43-10277 (the spring near the center of the property) I do not have any documentation to substantiate the claimed priority date. I have to have that information before I can make a recommendation on that right. As the property was part of the Jobe-Adams decree, the earliest priority date that can be recognized is one day after the decree date or 10-19-1928. That is assuming that the spring was developed before the decree was finalized but for some unknown reason, not included in the decree. I have identified 5.6 acres using the department GIS system as being irrigated from a gravity system. This claim is also in Orville's name and requires a change of ownership.

A43-10279 is the claim for Black Sand Creek and Franks Hollow water diverted at the point where the Barker ditch goes under Dry Creek and also meets highway. The diversion structure is a culvert leading from Dry Creek to the Barker ditch. Although the majority of water may actually arise or come from the two claimed sources, the actual diversion is from Dry Creek and any water from other sources that reach that channel is then considered to be Dry Creek water. I expect to recommend this claim with Dry Creek as the source. This claim does not have evidence of priority either. If the first time that the Dry Creek water was intentionally diverted into the Barker Ditch was when the highway department installed the culvert then that would be the priority date. If there was a previous diversion structure that the culvert replaced, then the date that the earlier structure was constructed would be the priority date. I cannot recommend this right either, until I obtain evidence of priority. This claim needs to be included in the change of ownership from Orvil to the current owner.

I did not see any problems with the claims for the home property. If you have any questions please contact me at the above number.

Sincerely

Kelly K Christensen
Sr Water Resource Agent

Enclosure

A43-10279

4E R25E





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

A43-10279
ORVIL BEECHER
BOX 465

ELBA

ID 83326

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

11/30/2000

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

RIGHT NUMBER: 43-10279

NAME AND ADDRESS: GARY NELSON
PAULA NELSON
1950 S 1192 W
ELBA, ID 83326

VERIFIED BY: KKC

SOURCE: DRY WASH

TRIBUTARY: CASSIA CREEK

QUANTITY: 0.66 CFS

WHEN COMBINED THE FOLLOWING RIGHTS SHALL PROVIDE NO MORE THAN .02
CFS PER ACRE. COMBINED RIGHT NOS. 43-246, 43-247, 43-248, 43-10277,
AND 43-10279.

PRIORITY DATE: 10/19/1928

POINT OF DIVERSION: T14S R25E S8

NESENW

Within CASSIA County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE
IRRIGATION

PERIOD OF USE
04-01 10-31

QUANTITY
0.66 CFS

PLACE OF USE:

IRRIGATION Within CASSIA County
T13S R25E S32 SESW 36

36 ACRES TOTAL

USE OF THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A
COMBINED TOTAL OF 36 ACRES IN A SINGLE IRRIGATION SEASON. COMBINED
RIGHTS: 43-246, 43-247, 43-248, 43-10277, AND 43-10279.

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

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

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use



ORIVILLE BEECHER CLAIMS ANALYSIS

The claims are used on a portion of 40 acres within the SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 32. The decree describes two exclusions of 50 feet and 20 feet along the south and east sides of the section for roadways. These exclusions total slightly greater than 2 acres. Also excluded is a lot in the southeast corner of the section of 1.5 acres. This ground is currently church property. All of the rest of the quarter is irrigated except for the pond area and ditch areas that are considered negligible. The total recommended acreage for this quarter is 36 acres. There are 3 decreed rights from Cassia Creek, one beneficial use claim from an unnamed stream locally known as Dry Wash, and one beneficial use claim for a spring fed pond all for the irrigation for all or a portion of the claimed place of use.

CASSIA CREEK - CROSS CREEK DIVERSIONS

DECREED RIGHTS: 43-00246	4-30-1880	0.30 CFS claimed as of 6-1-95
43-00247	4-30-1882	0.30 CFS claimed as of 6-1-95
43-00248	4-30-1886	<u>0.10 CFS claimed as of 8-2-95</u>
	total	0.70 CFS

The decree generically describes most tributaries as Cassia Creek within this geographical area, and Cross Creek is one so described. The Cross Creek water is delivered through the Barker ditch and irrigates a majority of the property. Cassia Creek water is delivered through the Rice Lessey Ditch and irrigates approximately 2 acres in the northwest corner of the recommended P/U. The decreed rights are taken arbitrarily from either source regardless of priority date therefore these rights are recommended for all of the P/U.

The Barker ditch enters the property at the southeast corner of the quarter/quarter and secondary ditches run north and west along the borders to irrigate the P/U via flood irrigation. The southeast corner of the property is the highest point of elevation on the property. The Barker ditch continues north (along the eastern border of the P/U to eventually reach additional users.

The re-diversion from the Rice Lessey ditch is shared with Ruel Barker for his property that lies directly north of this property.

SPRING DIVERSION

CLAIMED RIGHT: A43-10277

The spring is diverted by a small pond located in the SW $\frac{1}{4}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$ of section 32 that is within the place of use recommended for the other rights. The delivery system is ditches

running northeast and north east from the pond to the Rice Lessey Ditch. The spring water can only be applied to ground north of the pond in a roughly U shaped pattern. The pond is used to accumulate the spring water and then divert a greater flow for irrigation purposes. Water from the Barker ditch can be diverted into the pond and then delivered to the ground covered by this system.

This use was not recognized in the Jobe Adams decree, although the spring was undoubtedly being used. Therefore I am recognizing this use for a priority date of 1 day after the decree or, 10-19-1928. For the 5.6 acres identified through arcview and at 0.11 cfs.

DRY WASH DIVERSION

CLAIMED RIGHT: A43-10279

The Dry Wash is diverted into the Barker ditch via a buried pipeline that runs from a cement structure that was constructed by the highway department at the point where the Dry Wash leaves the right-of-way for the Elba-Arco highway. That stream channel is normally dry during the late spring and summer months. The diversion point is located in Twp 14S; Rng 25E; Sec 8; NE $\frac{1}{4}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$ B.M. The Dry Wash water is applied to the irrigated ground through the same delivery system as the Cross Creek Water. Although live flow from Franks Hollow and Black Sand Creek are the predominate sources for water for Dry Wash, the actual diversion is from Dry Wash and is therefore recommended as such.

This system was not identified in the Jobe Adams decree and therefore I am recognizing this use with a priority date of 1 day after the decree or 10-19-1928 for the same 36 acres covered by the decreed rights. I am recognizing this right at the claimed rate of 0.66 cfs which is slightly less than 1 in per acre.

I am recommending the source as Dry Wash per the narrative above.

PAULA NELSON
1950S H92W
Elba Idaho
83326
(208)638-5534

RECEIVED

JUN 30 2000

Department of Water Resources
Southern Region

Water resource:

I am the daughter of Orvil Beecher I am 46 years old . When I was a child I stayed with my dad as my mother worked teaching school so I spent many hours with him. I remember distinctly being with dad and watching him stomping straw in the ditch for the Black Sand diversion. Later I remember when they were working on the diversion to make improvements by cementing the diversion so it would be more efficient. It also makes sense to me if they hadn't been the ones that used the water from Black Sand why would they have worked and spent the money to fix the diversion to control the water better.

It is our understanding that Arlo Lloyd has filed for a diversion on the Black Sand water we are protesting that. We are positive that he has not had a right on the Black Sand drainage even though he has tried to use it before. Black Sand drainage came through the diversion on the Elba highway and hits the Barker ditch equally used by those on the ditch.

We appreciate water resource for taking time to rectify this situation.

Paula B. Nelson
Gary C. Nelson

Gary and Paula B Nelson

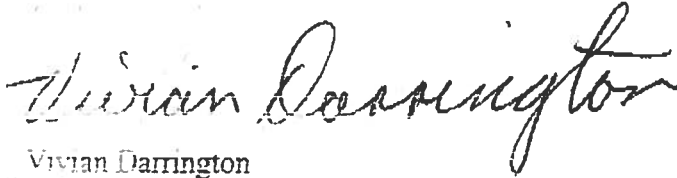
VIVIAN DARRINGTON
1191E 2000S
ELBA IDAHO, 83326

WATER RESOURCE :

Black Sands Hollow - this water is subjected to the snow pack on the east hills of Elba this water has always been used by the Darrington and Orvil Beecher (Fred Parish) place as it is caught by the Barker ditch through a diversion right along the Almo/Elba Highway this diversion has been constructed two or three times to handle the early run off. The existing diversion of cement and pipe was installed in approximately the mid 1960's this water was shared equally by all on the ditch.

The spring west of the Elba Church on Gary and Paula Nelson's land formerly the Orvil Beecher ranch. It has been put into a pond for storage and better utilization. Water Usage started approximately before 1880. This water has been used only on that piece of ground for irrigation for as long as I remember.

I am the wife of Keith Darrington and have been in Elba since 1958. I believe these facts to be true as stated.


Vivian Darrington