

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 43-11258
Date Received: 9/27/00
Receipt No: X777777
Received By:

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

1. Name of Claimant(s)

FRED BULLERS TRUST Phone: (208)775-4954

2877 W PORTNEUF RD
INKOM ID 83245

2. Date of Priority: 06/10/1942

3. Source: UNNAMED STREAM Trib. to: Cottonwood Creek

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County
16S	23E	30	SW NE	CASSIA

5. Description of diverting works:

EARTHEN DAM

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
IRRIGATION	04/01	11/01	1.0	
STOCKWATER	01/01	12/31	0.04	

7. Total Quantity Appropriated is:
1.0 C.F.S.

8. Total consumptive use:

9. Non-irrigation uses:
Number of other uses: 150

10. Place of use:

Township	Range	Section	1/4	of 1/4	Lot	Use	Acres
16S	23E	19	SW	SW		STOCKWATER	~~10~~
			NW	SW		STOCKWATER	~~10~~
			SW	NW		STOCKWATER	~~10~~
			SW	SW		IRRIGATION	10
						Section Acres	40
16S	23E	29	SW	NW		IRRIGATION	20
			NW	SW		IRRIGATION	20
						Section Acres	40
						Total Acres	~~80~~ 50

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:

THIS CLAIM IS A PORTION OF CLAIM 43-10204 AND REPRESENTS ORIGINAL LICENSED RIGHT 43-2599. LICENSED RIGHT 43-2599 AND LICENSED RIGHT 43-2120 WERE COMBINED IN 1989 AND CLAIMED AS 43-10240, USING THE PRIORITY DATE OF THE SENIOR LICENSE. TO AVOID LOSS OF THE PRIORITY DATE, AND TO MORE EASILY UNDERSTAND THE RIGHTS, THE COMBINED RIGHT HAS BEEN SPLIT INTO 43-11257 AND 43-11258.

15. Basis of Claim: License

11257

11257

A43-10204

Split to reflect each license

43-11257

43-2120

AS Lic

12-17-1912

.36 cfs

S. Cottonwood Cr

pod = SW NE Sec 30

NW SW Sec 29

POU = 18 AC

3 ac NESE 30

15 ac NW SW 29

IRR & domestic

claim

43-11258

43-2599

6-10-1942

0.8 cfs

unnamed stream

pod = SW NE :

POU = 40 ac

20 SW NW.

20 NW SW.

IRRIGATION

12-17-1912

.36 cfs

unnamed stream

pod = 16 S 23 E 19 NW SW SE

POU SESE 19 SWSE 19

NW NE 30 NENE 30

18 AC - PPU

IRR & domestic

rec

6-10-1942

.8

unnamed stream

pod - SW NE 30

POU - ~~40~~ 40

Sec 29 NW SW & SW SW

Sec 29 NW SW & SW NW :

IRRIGATION

PPU 18 AC w/w

overlap limits w/11230

Water Right Number - A43-10204

Prefix Translation: ADJUDICATION CLAIM

Old (0) Number -

+ - - - - Last Name - - - - + - - - - First Name - - - - + - - - - Address - - - - +
 *** C - CURRENT OWNER ***
 FRED BULLERS TRUST

1 - 2877 W. PORTNEUF RD.
 2 -
 3 -

City- INKOM
 Phone - 208-775-4954

State- ID Zip- 83245

+ - - Priority Date - - + - - - - Region - - - + - - - Stage - - - + - - - Status - - - +
 06/10/1912 ERROR IN REGION J - BENEFICIAL USE

+ - - - - Source - - - - - + - - - - Tributary - - - - -
 UNNAMED STREAM COTTONWOOD CREEK

+ - - - - Point of Diversion - - - - -
 Twn Rng Sec Tract Lot Rflg County
 16S 23E 30 SW NE (31) CASSIA

+ - - - - Water Use - - - - -
 Code Description Period From Period To Diversion Rate Diversion Volume
 01 - IRRIGATION 04/01 11/01 1.000
 04 - STOCKWATER 01/01 12/31 0.040

+ - - Total Div. Rate - + - - Total Div. Volume - + - - Total Consumptive Use - + - - KW Usage - +
 1.000 0.0

+ - - - - Place of Use - - - - -
 Twn Rng Sec Tract Lot Acres Code Description County
 16S 23E 19 SW SW 01 IRRIGATION (31) CASSIA
 16S 23E 29 SW NW 01 IRRIGATION (31) CASSIA
 16S 23E 29 NW SW 01 IRRIGATION (31) CASSIA

Total Acres: 50.0

+ - - Diversion Means - EARTHEN DAM

+ - - Non-Irrigation Use - S/150 BEEF STOCK

+ - - Other Rights for Same Use - A43-10197, 02600, 02117

+ - - - - Remarks
 BASED ON LICENSE 43-02599 A43-02120. CLAIMANT FEELS BOTH
 LICENSES REPRESENT PART OF THIS CLAIM. DECIDED TO FILE FOR
 50 ACRES WITH PRIORITY DATE OF 1912.

MICROFILMED
 MAR 04 1993

Water right number - A43-10204

Prefix Translation: ADJUDICATION CLAIM

+ - - - - - Old Water Right Numbers - - - - - +
+ - - - - - Old Water Right Numbers - - - - - +
+ - - - - - No Old Water Right Numbers Found - - - - - +

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

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

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

+ - - Audit Fields - - +
01/07/92 WORSTELL

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

Court Report Filing	- 00/00/0000	Field Inspection Made	- 00/00/0000	Civil Case Number	- 39576
Objection Filed Date	- 00/00/0000	Field Inspection Flag	-	Old Case Number	-
Response Filed Date	- 00/00/0000	Verified Date	- 00/00/0000	Old Judicial District	-
Claim Received Date	- 05/22/1989	Last Amended Date	- 00/00/0000	Temporary Right	- P

Receipt Number	- S007230	Water District	-
POU Ownership Flag	- Y	Federal/State Indicator	- S
Name Connector	-	Presumption Flag	-
		Notice of Error Flag	-

MICROFILMED
MAR 0 4 1993

05/09/2001

**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: 43-11258

FRED BULLERS TRUST
2877 W PORTNEUF RD
INKOM ID 83245
Telephone Number: (208)775-4954

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

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

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

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

DATE: 5-23-01

SIGNATURE: Chloe Bullers White

Please print your name: Chloe Bullers White

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

09/28/2000

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

RIGHT NUMBER: 43-11258

NAME AND ADDRESS: FRED BULLERS TRUST
2877 W PORTNEUF RD
INKOM, ID 83245

SOURCE: UNNAMED STREAM TRIBUTARY: Cottonwood Creek

QUANTITY: 0.8 CFS

PRIORITY DATE: 06/10/1942

POINT OF DIVERSION: T16S R23E S30 SESWNE Within CASSIA County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
STOCKWATER	04-01 10-31	0.04 CFS
IRRIGATION	04-01 10-31	0.80 CFS

PLACE OF USE:

IRRIGATION Within CASSIA County			
T16S R23E S29	SWNW	18	T16S R23E S29 NWSW 18
T16S R23E S29	SWSW	3.7	
STOCKWATER Within CASSIA County			
T16S R23E S29	SWNW		T16S R23E S29 NWSW
T16S R23E S29	SWSW		
39.7 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.

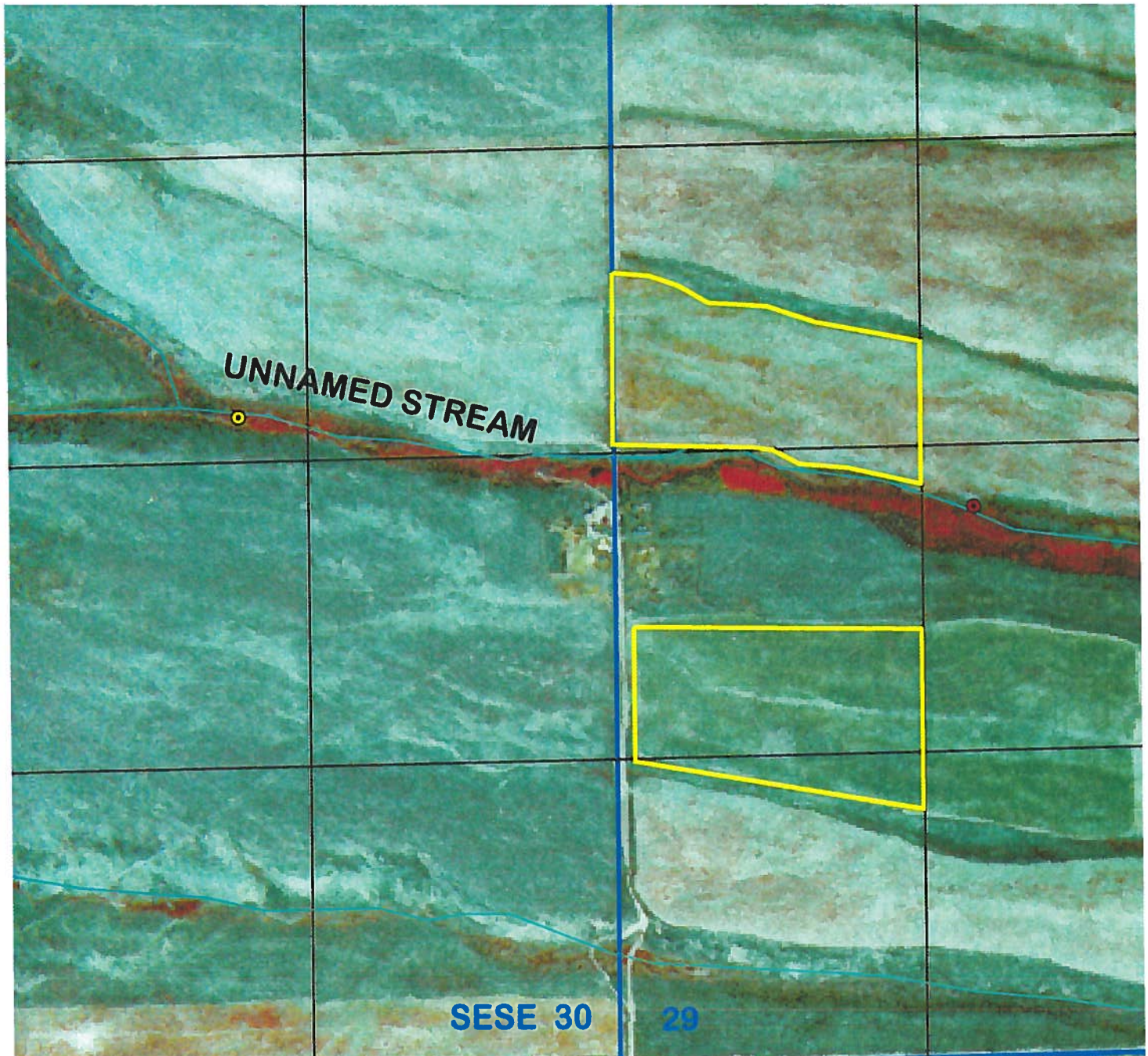
THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT FOR STOCKWATER USE IS NOT A DETERMINATION OF HISTORICAL BENEFICIAL USE.

EXPLANATORY MATERIAL: BASIS OF CLAIM - License

Idaho Department of Water Resources

43-11258
RIGHT: ~~43-02599~~

RECOMMENDED PLACE OF USE
TWP 16S, RNG 23E, SEC 29
Data entry on July 21, 2000



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



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

JPEG RENAMED 43-11258

RECOMMENDATION NOTES

From: Vikie Hancock

9/28/00

Regarding: Claim 43-12258

This claim is a split portion of beneficial use combined right claim 43-10204, filed in 1989 by Chloe White. This claim represents licensed right 43-2599 filed by Chester Bullers in 1942. The other portion of the claim represented licensed right 43-2120 filed by Kidman and Yonk in 1912.

It is not known why Ms. White filed this as a portion of a beneficial use claim in 1989. During a meeting with me in July of 2000, she was of the opinion that she needed to split the combined claim to preserve the priority date of the 1912 senior right. She did not recall the reason that she had filed a combined right for 50 acres based upon rights that, together, gave the Trust a right to irrigate 58 acres, as she did not believe that the irrigated acres had been reduced. From my conversation with Ms. White, I believe there was some confusion on her part as to what claims she was filing in 1989.

Based upon the information available to me, I believe that the elements of licensed right 43-2599 can be recommended. There may be a small change in place of use, or the licensed place of use legal calculation may have been off by approximately 4 acres into the SWSW of section 29. The 1942 field exam report is not specific enough to identify the exact 40 acres that were found irrigated at that time.

Note that the stream identified on the 1942 license and field exam as Unnamed Stream was identified in the 1912 license as South Cottonwood Creek. The two licenses share the same point of diversion.

NOTE TO FILE

From: Vikie Hancock 

7/14/00

Regarding: Claim number VARIOUS Fred Bullers Trust

Chloe White came into the office to discuss the various claims and issues regarding irrigation on the ranch she owns with her brother in Junction Valley. She had not yet received my letter and exhibits sent to her July 11, 2000, so the first thing she did was read a copy of the letter in the claim file, and look over the GIS exhibits also in the file.

Chloe has been in the process of documenting the history of her father's ranch for some time now. There are many archeological sites from Indian activities, and the Applegate Cutoff of the California Trail cut through the valley as well. She has amassed the homestead patents of the various settlers and subsequent deeds documenting the history of ownership of the various portions of the ranch. I believe that she is interested in preserving the actual record of development on the ranch and that the observations she related to me in regard to the dates of first water use and the locations of water use are correct to her best knowledge. The trust is also in the process of reconstructing some of the irrigation works and may possibly need to transfer some of the water as they are attempting to restore some habitat or may want to use water to irrigate the old cemetery. According to Chloe, one of their problems involves the spring sources of the unnamed streams, as there has been much degradation by cattle.

We went over a 1987 NAPP photo of the ranch and Chloe pointed out the fields that were dry farmed and those that were historically irrigated. Much of the ranch has been in Brohm grass and rye grass in the past, and some of it is meadowland irrigated by sub-waters from the streams and draws. Some of the ranch has been in and out of the CRP. It was determined, however, that there are irrigated acres for which no water right claim had been filed.

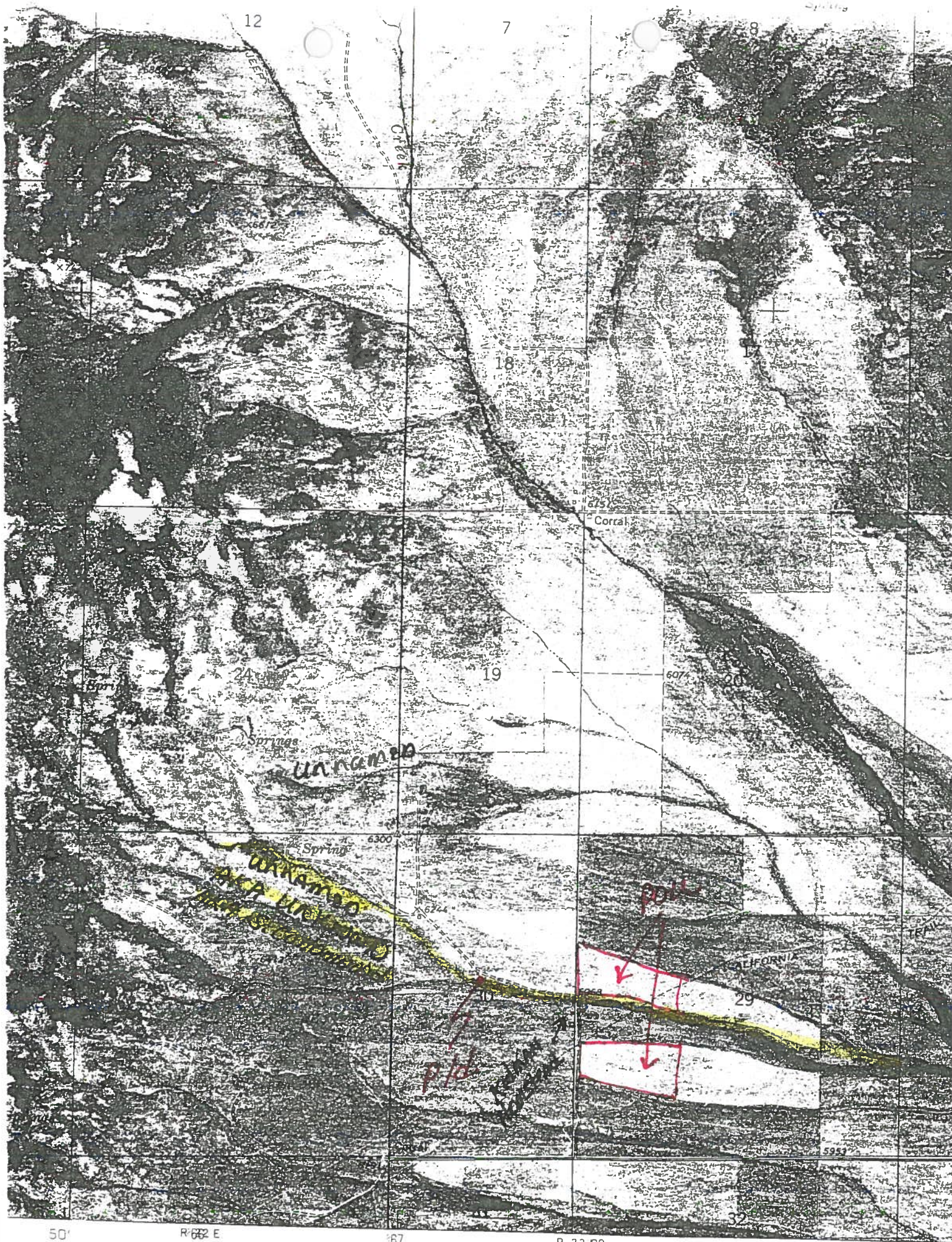
Thirty-seven irrigated acres were licensed under **43-2153**, a valid license not claimed in the adjudication, and Chloe filed a claim based upon that license this date. There were two accomplished transfers of licensed rights noted. The 20 acre POU of license **43-2117** was moved from the SWNE Sec 31 north into the NWNE & NENE Section 31. The original POU was no longer irrigated. The 18 acre place of use for water right license **43-2120** (original combined claim filed as 43-10204) in sections

29 and 30 was moved to the SESE section 19. The three acre original POU in section 30 was a garden that is no longer cultivated, and the 15 acres in section 29, just east of the Yonk homestead, have not been irrigated for years. This transfer also represents an accomplished change of source. The place of use of **43-2600** remains basically as licensed, as does the place of use of **43-2599** (original combined claim filed as 43-10204). Three additional beneficial use claims were filed for acres irrigated: **43-11230**, priority date 1950, **43-11231**, priority date 1924, **43-11232**, priority date 1924. Proof of priority documents were submitted at the time of filing. See GIS layouts with claims.

Claim **43-10204** was filed as a combination of license 43-2599 with a priority date 1942, and license 43-2120 priority date 1912. The claim listed a 1912 priority date. In order to preserve the priority date of license 43-2120, the claim will be split with each portion representing the licensed right or licensed right as transferred per IC 42-1425.

*Licensed Right 43-2599 now represented
by AJ Claim 43-11258.*

43-11258



50'

R 662 E

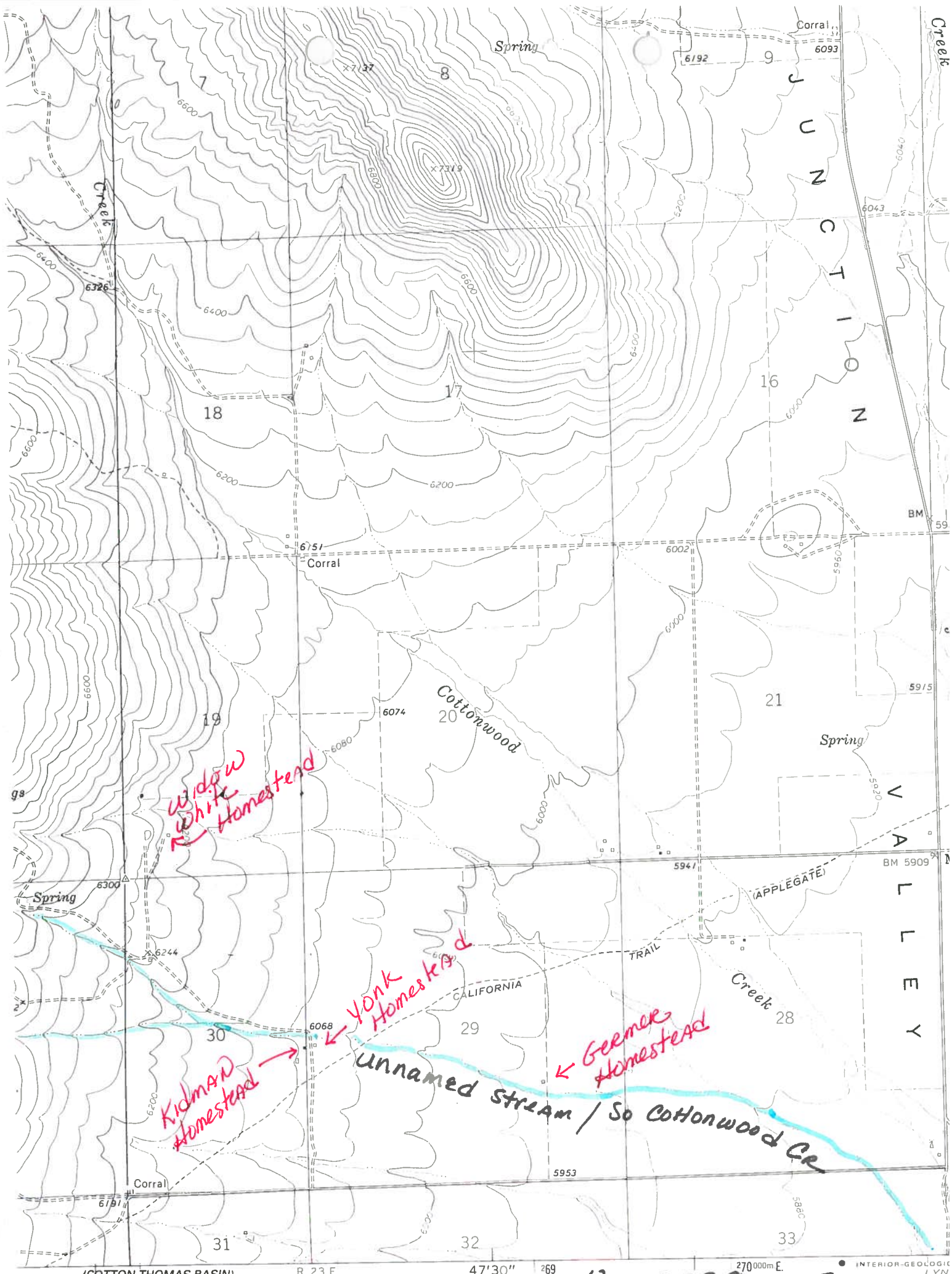
67

R 23 68

47' 30" 69

SCALE 1:24 000

43-11258



(COTTON THOMAS BASIN)

R. 23 E.

47°30"

269

270000m E.

INTERIOR-GEOLOGIC LYN

43-~~22599~~ 11258

State of Idaho

License and Certificate of Water Right

Water License No. 19285
Water District No. _____

Amount 0.8 second foot
Priority June 10, 1942

THIS IS TO CERTIFY that CHESTER BULLERS of Oakley, Idaho, made application for a permit to appropriate the public waters of the State of Idaho, dated April 20, 1942; that Permit No. 19285 was issued under said application; that Certificate of Completion of works, with a carrying capacity of 0.8 second feet, was issued thereunder on May 15, 1943, showing that said works were completed on the 12th day of May, 1943 and that on the 28th day of June, 1944,

CHESTER BULLERS

of Oakley, State of Idaho, made proof to the satisfaction of the State Reclamation Engineer of Idaho, of the right to use the waters of an unnamed stream, a tributary of Cottonwood Creek, for the purpose of irrigation, under Use Permit No. 19285 of the Department of Reclamation and that said right to the use of said waters has been perfected in accordance with the laws of Idaho, and is hereby confirmed by the Commissioner of Reclamation of Idaho and entered of record in Volume 7 of Licenses, at page 4244, on the 26th day of February, 1945;

The right hereby confirmed dates from June 10, 1942;

The Point of Diversion is located 3000 ft. from Northwest corner Sec. 29, T. 16 S., R. 23 E., B.M. in the SW $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 30, Tp. 16 S., R. 23 E., B.M. Cassia County

That the amount of water to which such right is entitled and hereby confirmed, for the purposes aforesaid, is limited to an amount actually needed and beneficially used for said purposes, and shall not exceed 0.8 cubic feet per second.

Description and location of use:

Twp.	Range	Sec.	Forty-acre Tract	No. Acres Described in Perm.	No. Acres Actually Irrigated
16 S.	23 E.	29	NE $\frac{1}{4}$ NW $\frac{1}{4}$	40	-
			NW $\frac{1}{4}$ NW $\frac{1}{4}$	40	-
			SE $\frac{1}{4}$ NW $\frac{1}{4}$	40	20
			NW $\frac{1}{4}$ SW $\frac{1}{4}$	40	20
			SW $\frac{1}{4}$ SW $\frac{1}{4}$	40	-
			SE $\frac{1}{4}$ SW $\frac{1}{4}$	40	-
			Number of Acres Actually Irrigated -	-	40

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

WITNESS the seal and signature of the State Reclamation Engineer of the Commissioner of Reclamation, at Boise, Idaho, this 26th day of February, 1945

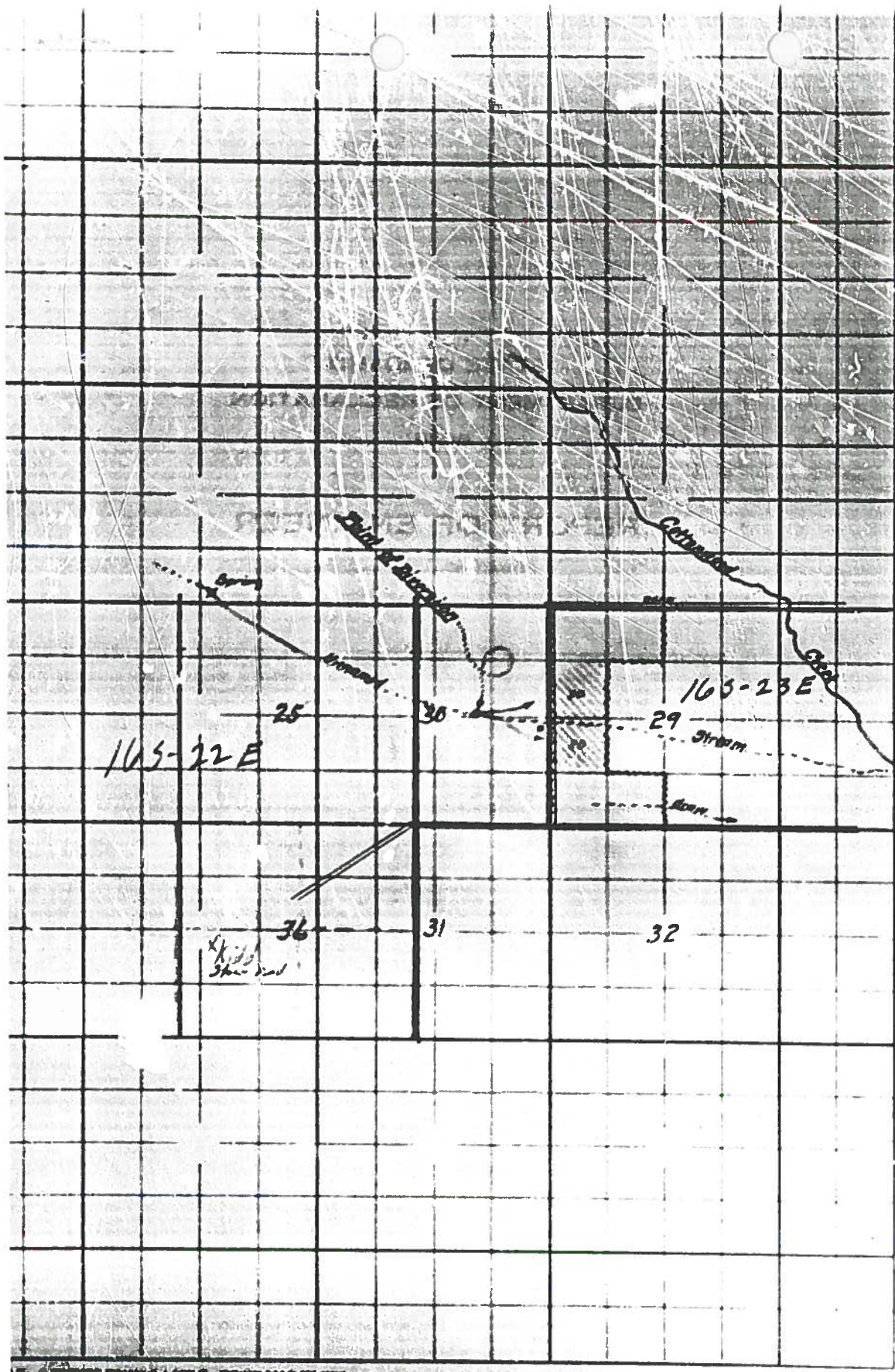
MARK R. HILL

Commissioner of Reclamation

(SEAL)

43-02599

43-11258



1/4 MILE

19285

43-02599

43-11258

att. Bob Vorstell

File # 43-11258-204

RECEIVED

To Department of Water Resources
Southern Region

JAN 27 1992

Department of Water Resources
Southern Region Office

I Fred Bullers (age 68) thru my own knowledge and thru that of my Father's knowledge, Do state that the water of the unnamed stream & tributary of Cottonwood Creek has been used on this property since the filling date of 6/10/1912 and as of the first homesteading of William Kidman. Later owned and used by Fred Kidman as both domestic stockwater and irrigation for meadow land. Bought from Fred Kidman by my father Chester Bullers whom used the water as stockwater, irrigation of meadow lands and for garden and fruit trees as well as underground supply to domestic well. The House well is only 10 to 12 ft from the stream bed. Since my father's death in 1972, I Fred Bullers have owned and am using the water for stockwater, garden irrigation and irrigation

43-11258