

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 43-13024
Date Received: 5/25/01
Receipt No:
Received By:

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name of Claimant(s)

IVAN DARRINGTON Phone: (208)824-5511
PO BOX 136
ALMO ID USA 83312

2. Date of Priority: 04/01/1880

3. Source: STINES CREEK Trib. to: ALMO CREEK

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot			County	Type
15S	24E	7	SE	SW		CASSIA	
15S	24E	17	NE	SE	SW	CASSIA	R
15S	24E	17	SW	SW	SE	CASSIA	R

5. Description of diverting works:

DIVERSION FROM STINES CREEK INTO HOGLAND DITCH IN SECTION 7. TWO REDIVERIONS
IN SECTION 17 SERVE LATERALS TO IRRIGATE SESW SEC 17.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
IRRIGATION	04/01	10/31	0.59	

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

8. Total consumptive use:

9. Non-irrigation uses:

10. Place of use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
15S	24E	17	SW	SE	IRRIGATION	41
					Section Acres	41
					Total Acres	41

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:

05-25-2001: OWNERSHIP CHANGE DARRINGTON TO DURFEE SPLIT CLAIM 43-10280 INTO 43-13024 (DARRINGTON) AND 43-10325 (DURFEE). REDIVERSIONS TO SPECIFIC LAND IN SWSE SEC 17 RETAINED BY DARRINGTON WAS DETERMINED BY PRIOR FIELD EXAM CONDUCTED 8-12-1999. VH

15. Basis of Claim: Decreed

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
MAY 11 2001
 Department of Water Resources
 Southern Region

1. 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
43-10280	43-10280	___	_____	_____	___
_____	_____	___	_____	_____	___
_____	_____	___	_____	_____	___
_____	_____	___	_____	_____	___
_____	_____	___	_____	_____	___

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

- A. The appropriate **FILING FEE**. See instructions for fee amounts. *none required*
- 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**.

3. Name and Address of Former Owner/Claimant(s)

4. New Owner/Claimant(s)

Name Connector (Check one): [] and, [] or, [] and/or

New Mailing Address

City, State and ZIP Code

New Telephone Number

() _____

5. Date you acquired the property

already Recd →
NOT Required →

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 (acres, 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 (acres, number and type of stock, homes, etc)
Irrigation	_____	_____
Stock	_____	_____
Domestic	_____	_____
Other _____	_____	_____
Total	_____	_____

X 7. Signature of New Owner(s) or Claimant(s) Christie Dwyer
(include title if applicable) _____

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 _____ Date _____ Fee _____
 Receipted by _____ Date _____ Receipt No. _____
 Processed by _____ AJ Date _____ WR _____ Date _____

To: Curtis and Mary Lou Durfee
PO Box 185
Almo, Idaho 83312

Split of right 43-10280, source Stines Creek

A signed Change of Ownership form was not received in time change my Preliminary Recommendation of the above referenced right in the name of Ivan Darrington. The enclosed documents describe the right as it existed when I did my field exam. If a signed Change of Ownership form is received, the right will be split into two portions, and will be reflected in my actual recommendation to the SRBA Court as two separate water rights. Your water right well encompass the SW $\frac{1}{4}$ Section 17, Ivan Darrington's the SWSE Section 17.

If you have any questions, please don't hesitate to call me here, or to contact me at the public meeting scheduled for Malta.



Vikie Hancock



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

MEMO

May 4, 2001

To: Curt Durfee -

Bill Parsons sent me a copy of the warranty deed conveying the SW 1/4 of Section 17 to you from IVAN Darrington, but I need your signature on the enclosed form before I can change it into your name. Please sign & return as soon as you can

A handwritten signature in cursive script, appearing to read 'Vikie', is written above the typed name.

Vikie Hancock
Water Resource Agent

PARSONS, SMITH & STONE, LLP

ATTORNEYS AT LAW

137 WEST 13TH STREET

P. O. BOX 910

BURLEY, IDAHO 83318

WILLIAM A. PARSONS
wparsons@pmt.org

RICHARD K. SMITH
smithrk@pmt.org

RANDOLPH C. STONE
rcstone@pmt.org

LANCE A. LOVELAND
love9593@pmt.org

DAVID F. SHIRLEY
dshirley@pmt.org

TELEPHONE
(208) 678-8382
FAX NO.
(208) 678-0146

May 2, 2001

RECEIVED

MAY 03 2001

Department of Water Resources
Southern Region

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

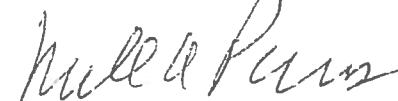
Dear Vikie:

Enclosed is a copy of the Warranty Deed for the Claim No.
43-10280 Ivan Darrington.

If you need anything in addition to this, please advise.

Very truly yours,

PARSONS, SMITH & STONE



William A. Parsons

WAP:cr

MAY 03 2001

274640

WARRANTY DEEDDepartment of Water Resources
Southern Region

THIS INDENTURE, made this 27 day of JANUARY, 2000, between EDSIL IVAN DARRINGTON and BARBARA DARRINGTON, husband and wife, ("Grantor"), and CURTIS L. DURFEE and MARY LOU DURFEE, husband and wife, whose address is Box 185, Almo, Idaho 83312, ("Grantee").

W I T N E S S E T H:

The Grantor for and in consideration of the sum of Ten Dollars (\$10.00), lawful money of the United States of America, and other good and valuable consideration, to the Grantor in hand paid by the Grantee, the receipt whereof is hereby acknowledged, has granted, bargained, and sold and by these presents does grant, bargain and sell, convey and confirm unto the Grantee, and to the heirs and assigns of Grantee forever, all of the following described real estate situated in the County of Cassia, State of Idaho, to-wit:

The Southwest Quarter (SW $\frac{1}{4}$) of Section 17, Township 15 South, Range 24 East, Boise Meridian, and TOGETHER with an easement for ingress and egress to the foregoing parcel on, over and across the following described parcel: Beginning at the Southwest corner of the Southwest Quarter Southeast Quarter (SW $\frac{1}{4}$ SE $\frac{1}{4}$) of Section 17, Township 15 South, Range 24 East, Boise Meridian; thence continuing along the South boundary of said Southwest Quarter Southeast Quarter (SW $\frac{1}{4}$ SE $\frac{1}{4}$) to the Southeast corner thereof; thence continuing to the Southeast Quarter Southeast Quarter (SE $\frac{1}{4}$ SE $\frac{1}{4}$) of Section 17, Township 15 South, Range 24 East,

Boise Meridian a distance of 50 feet; thence North 50 feet; thence West to the West boundary of the said Southwest Quarter Southeast Quarter (SW $\frac{1}{4}$ SE $\frac{1}{4}$) of Section 17; thence South 50 feet to the Point of Beginning.

Said easement is for the benefit of the Southwest Quarter (SW $\frac{1}{4}$) of Section 17, Township 15 South, Range 24 East, Boise Meridian, and for ingress and egress thereto.

SUBJECT TO: Accruing taxes, levies and assessments, and easements of record, if any.

TOGETHER with all and singular the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining, the reversion and reversions, remainder and remainders, rents, issues and profits thereof, and all water rights appurtenant to said property, including, but not limited to that portion of water right appurtenant to the above described property as evidenced by A43-10280, and all estate, right, title and interest in and to said property as well in law as in equity of the Grantor.

TO HAVE AND TO HOLD, all and singular the above-mentioned and described premises, together with appurtenances unto the Grantee and to the heirs and assigns of Grantee forever.

The Grantor shall and will warrant and by these presents will forever defend the said premises in the quiet and peaceable possession of the Grantee, and the heirs and assigns

1 of Grantee against all and every person and persons whomsoever
2 lawfully claiming the same, except as aforesaid.

3 IN WITNESS WHEREOF, the Grantor has executed this
4 Deed the day and year first above written.

5 Edsil Ivan Darrington
6 Edsil Ivan Darrington

7 Barbara Darrington W.D.
8 Barbara Darrington

9 STATE OF IDAHO)
10) ss
11 County of Cassia)

12 On this 29th day of January, in the year 2000,
13 before me, the undersigned, a Notary Public in and for said
14 State, personally appeared EDSIL IVAN DARRINGTON and BARBARA
15 DARRINGTON, husband and wife, known or identified to me to be
16 the persons whose names are subscribed to the within
17 instrument, and acknowledged to me that they executed the same.

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TIMOTHY J. SCHNEIDER
NOTARY PUBLIC
STATE OF IDAHO

[Signature]
Notary Public for Idaho
Residing at Hydrex, ID
My Commission Expires: 5/30/06

RECEIVED
FOR DEPOSIT OF
[Signature]

01 APR 26 PM 3 58

CASSIA COUNTY, IDAHO
DARRELL M. ROSKELLEY
RECORDER
FEE \$ 9.00 DEPUTY [Signature]

274640

RECEIVED

FEB 16 2000

Department of Water Resources
Southern Bank

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: A43-10280

Date Received: 5/31/1989

Receipt No: S007397

Received By: _____

AMENDED

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

AMENDED

1. Name: IVAN DARRINGTON 208-824-5511
Address: BOX 136
ALMO ID 83312

2. Date of Priority: MAR 17, 1879

3. Source: STINE CREEK Trib. to: SINKS

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
15S	24E	17		SW	SW		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	03/15	11/15	3.200		

7. Total Quantity Appropriated is:
3.200 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
15S	24E	17	NE	SW		IRR	40.0
			NW	SW		IRR	40.0
			SW	SW		IRR	40.0
			SE	SW		IRR	40.0
			SW	SE		IRR	40.0

10. Place of Use: Continued

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
					Section Acres	200.0
					Total Acres	200.0

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:
NONE

14. Remarks:

SEE ATTACHED DECREE. ENTIRE CREEK DECREED TO 4 SEPERATE
PARTIES AND DIVIDED ACCORDING TO SHARES OWNED.
CLAIMANT OWNS 8.5 SHARES.

2-7-2000: AMENDED CLAIM PER PHONE CONVERSATION WITH CLAIMANT IN
RESPONSE TO MY LETTER OF 2-1-2000. ADDED SESW SEC 17 TO CLAIMED
POU.- VH

15. Basis of Claim: DECREED

Case Number:

Court :

Decree date: 7/ 8/1969

ALMO WATER CO.

Decree Plaintiff

IVAN DARRINGTON

vs

Decree Defendant

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: _____

For Individuals:

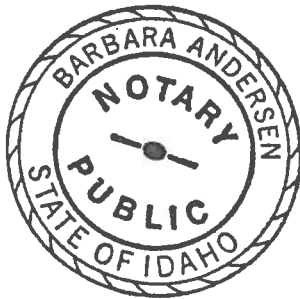
I/We do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant(s) *Ivan Derington* Date: *Feb 14-2000*
_____ Date: _____

State of Idaho)
County of *CASSIA*) SS.

Subscribed and sworn (or affirmed) before me this *14th* day
of *February* 20 *00* *Barbara Andersen*
Notary Public

Seal



Residing at *Albion Rd*
My Commission Expires *7-23-05*

05/25/2001

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

RIGHT NUMBER: 43-13024

NAME AND ADDRESS: IVAN DARRINGTON
PO BOX 136
ALMO, ID 83312

SOURCE: STINES CREEK TRIBUTARY: ALMO CREEK

QUANTITY: 0.59 CFS

USE OF THE RIGHTS LISTED BELOW IS LIMITED TO A TOTAL
COMBINED DIVERSION RATE OF 2.74 CFS. COMBINED RIGHT NOS.: 43-
00011, 43-00012, 43-00014, 43-13024 & 43-13025.

PRIORITY DATE: 04/01/1880

POINT OF DIVERSION:	T15S R24E S7	SENW		Within CASSIA County
	T15S R24E S17	NESESW	Rediversion	Within CASSIA County
	T15S R24E S17	SWSWSE	Rediversion	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	0.59 CFS

PLACE OF USE:

<u>IRRIGATION Within CASSIA County</u>	
T15S R24E S17	SWSE 41

41 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.

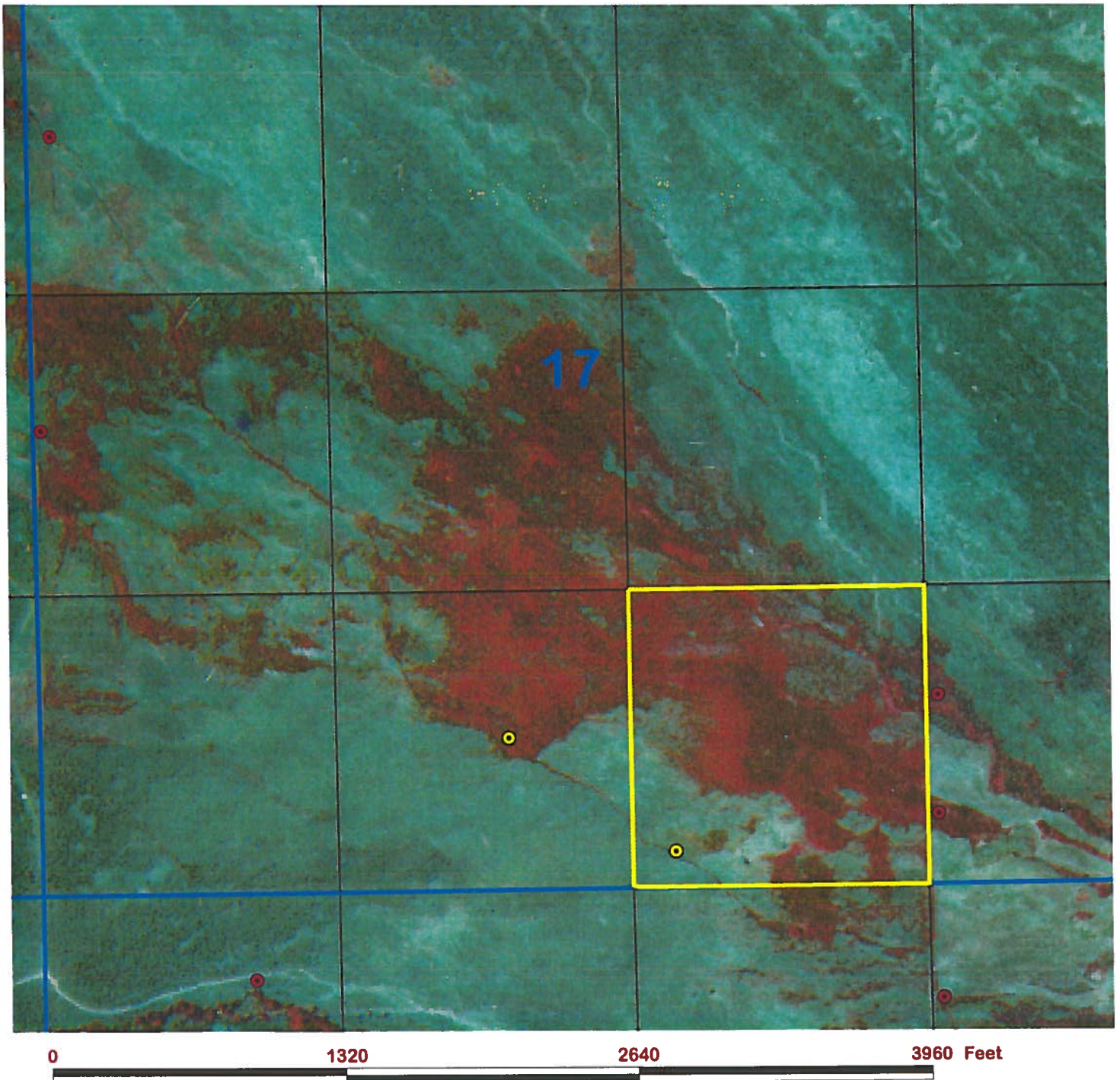
EXPLANATORY MATERIAL: BASIS OF CLAIM - Decreed

RIGHT INCLUDES ACCOMPLISHED CHANGE IN PLACE OF USE PURSUANT
TO SECTION 42-1425, IDAHO CODE.

THE FOLLOWING RIGHTS ARE ALSO DIVERTED THROUGH POINT OF
DIVERSION DESCRIBED ABOVE AS SW NW SEC 7, T15S, R24E: 43-00011
43-00012, 43-00014, 43-13025.

RIGHT: 43-13024

RECOMMENDED PLACE OF USE
TWP 15S, RNG 24E, Sec 17
Data entry on May 25, 2001



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



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



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

October 23, 2001

Bruesch Family Trust
Richard Bruesch
2513 E. Loyola Drive
Tempe, AZ 85284

Ted Tracy
PO Box 197
Almo, Idaho 83312

Neil Durfee
PO Box 174
Almo, Idaho 83312

Ivan Darrington
PO Box 136
Almo, Idaho 83312

Curtis Durfee
PO Box 185
Almo, Idaho 83312

RE: Snake River Basin Adjudication (SRBA)
Stines Creek Diversions
43-0011 Breusch Family, 43-0012 Ted Tracy, 43-0014 Neil Durfee,
43-13024 (split from 43-10280) Ivan Darrington
43-13025 (split from 43-10280) Curtis Durfee

Dear Claimants,

You should now have received your copies of my recommendations of your individual water right claims to the SRBA Court. The above referenced water right claims are those from Stines Creek based upon the rights included in the 1970 Almo Water Company -v- Darrington court action. This letter is to help explain the water right documents that you received.

All of the above rights were recommended with a priority date of April 1, 1880. According to a 1939 affidavit signed by George Durfee, Alice Rice and J.A. Graham, the common diversion works which I have seen referred to as the Hogland Ditch, was constructed in 1880. It is probable that all the acreage now being irrigated on your separate parcels was not developed at the same time, but as some succession of now unknown developments. To preserve the status quo, I have recommended all of your rights with equal priority.

As there were no measurements of historic flow from the diversion on Stines Creek, and as you all expressed that flow was much diminished from its spring high when I conducted my field exams, I returned in September 1999 with an engineer from our State Office to do a theoretical calculation of the capacity of the Hogland Ditch. Richard Bruesch accompanied us, and we took our measurements above the first diversion. Our Department engineer determined that the capacity of the ditch was close to 2.74 cfs (137 inches).

As you are all aware, the combined total of all your claims would exceed the capacity of the ditch, and successful irrigation of each of your lands relies on the rotational use that has historically been practiced among the various land owners. IDWR cannot recognize that rotational use as part of your water right.



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

May 25, 2001

Ivan Darrington
PO Box 136
Almo, Idaho 83312

RE: Snake River Basin Adjudication (SRBA)
Claim No.: 43-13024 (split of original claim 43-10280)

Dear Ivan,

Documents conveying ownership of the SW $\frac{1}{4}$ of Section 17 from you to Curtis and Mary Lou Durfee were not received in time to change our records for the Preliminary Recommendation Report recently sent to you. They have now been updated. *The enclosed documents reflect your portion of water right 43-10280 as I will recommend it to the SRBA Court.* As you can see, the right has been renumbered to 43-13024.

Please contact me as previously instructed if you have any questions or concerns, and remember that the public meeting is scheduled for May 30th in Malta.

Sincerely,

Vikie Hancock
Sr. Water Resource Agent

Idaho Department of Water Resources

Analysis for Recommendation after Split by Ownership

Prepared by: Vikie Hancock

5/25/01

Regarding: 43-10280

An ownership change split the above right into two portions. 147 irrigated acres in the SW¼ Section 17, T15S, R14E were purchased by Curtis Durfee of Almo. 41 irrigated acres in the SWSE Section 17 were retained by Ivan Darrington.

The entire parcel containing 188 irrigated acres had been irrigated by Ivan Darrington using 2.74 cfs, which was not 1 inch per acre, but was the maximum capacity of the Hogland Ditch from Stines Creek. 2.74 cfs for 188 acres was my recommendation for claim 43-10280 prior to information being received that the parcel had been split.

Since the entire 188 acres had historically been irrigated using 2.74 cfs, the split in ownership would split the 2.74 cfs proportionately.

Claim 43-13024

$2.74/188 \times 41 = 0.59\text{cfs}$ for Ivan Darrington on 41 acres

Claim 43-13025

$2.74/188 \times 147 = 2.14\text{cfs}$ for Curt Durfee on 147 acres

Note: Claim file 43-13025 contains all materials relating to the SRBA investigation and recommendation of parent right 43-10280.

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

01/26/2001

RIGHT NUMBER: 43-10280

NAME AND ADDRESS: IVAN DARRINGTON
BOX 136
ALMO, ID 83312

SOURCE: STINES CREEK TRIBUTARY: ALMO CREEK

QUANTITY: 2.74 CFS

USE OF THE RIGHTS LISTED BELOW IS LIMITED TO A TOTAL
COMBINED DIVERSION RATE OF 2.74 CFS. COMBINED RIGHT NOS.: 43-
00011, 43-00012, 43-00014, & 43-10280.

PRIORITY DATE: 04/01/1880

POINT OF DIVERSION:	T15S R24E S7	SENW		Within CASSIA County
	T15S R24E S17	NWSWNW	Rediversion	Within CASSIA County
	T15S R24E S17	NWNWSW	Rediversion	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	2.74 CFS

PLACE OF USE:

<u>IRRIGATION Within CASSIA County</u>					
T15S R24E S17	NESW	41	T15S R24E S17	NWSW	41
T15S R24E S17	SWSW	28	T15S R24E S17	SESW	37
T15S R24E S17	SWSE	41			

188 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.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Decreed

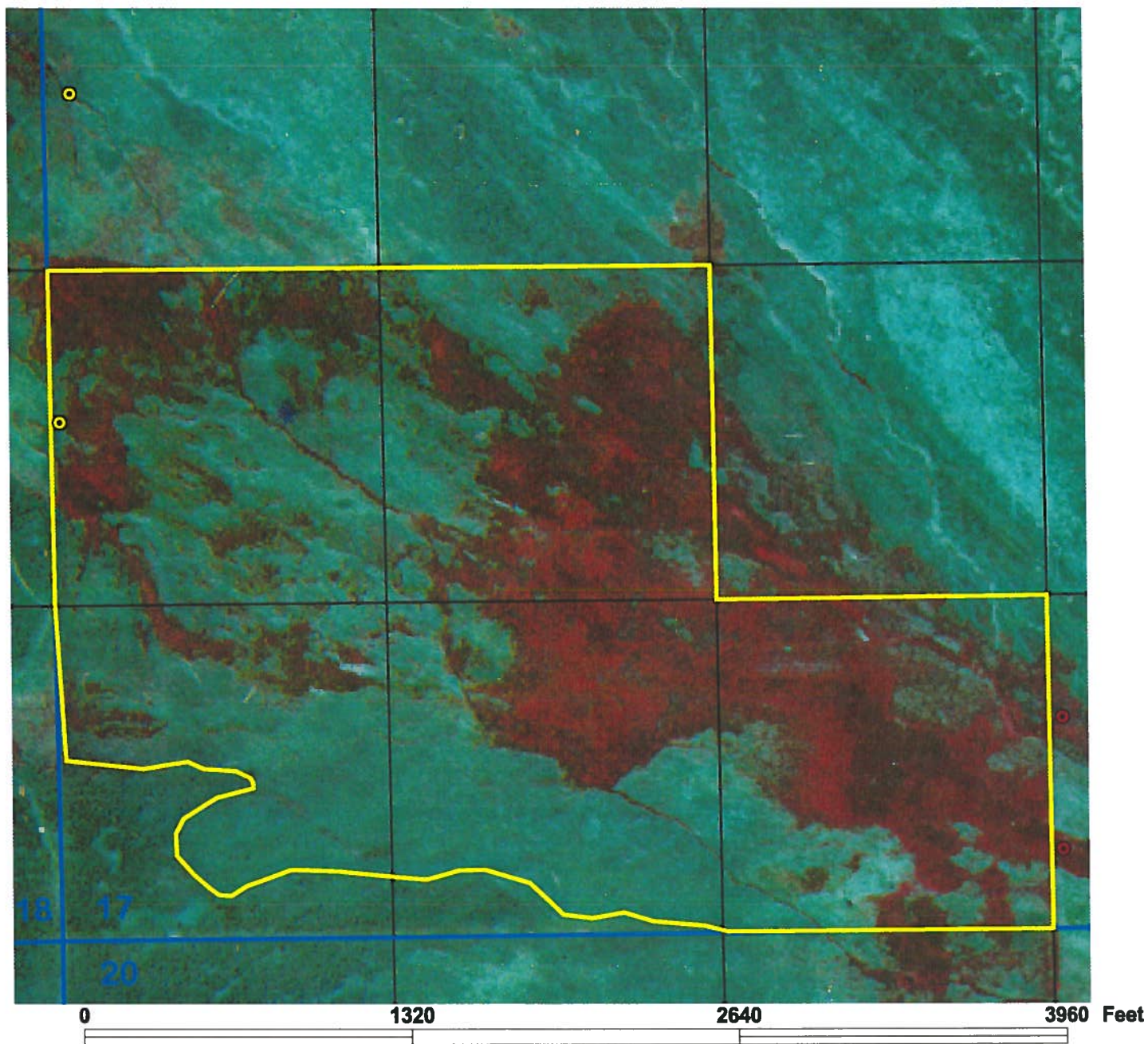
RIGHT INCLUDES ACCOMPLISHED CHANGE IN PLACE OF USE PURSUANT
TO SECTION 42-1425, IDAHO CODE.

THE FOLLOWING RIGHTS ARE ALSO DIVERTED THROUGH POINT OF
DIVERSION DESCRIBED ABOVE AS SW NW SEC 7, T15S, R24E: 43-00011
43-00012, 43-00014.

Idaho Department of Water Resources

Parent
RIGHTS: 43-10280

RECOMMENDED PLACE OF USE
TWP 15S, RNG 24E, SEC 17
Data entry on February 16, 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

Superseded 5-25-01 By 43-13024 & 43-13025

RECOMMENDATION NOTES

From: Vikie Hancock

2/16/00

Regarding: Claim A43-10280

Parent

This claim is for a portion of Stines Creek based upon an ambiguous decree from 1970. This claimant one of four parties listed as owners of all the waters of Stines Creek with no diversion amounts or priority dates mentioned. This claim is for 1 inch per acre on 160 acres.

See file notes for background information regarding all the claims to Stines Creek included in this Hogland Ditch system: A43-00011, -00012, -00014 and -10280.

The Claimant, Ivan Darrington was a named party in the 1970 Almo Water Company – vs – Ivan Darrington Decree, and his right given number 43-00013. The decree failed to specify any elements of the water right except the place of use and source. The place of use claimed under 43-10280 is different in some respects from that identified in the decree, however other users of this Hogland Ditch system agree that a portion of the original 20 shares of water of Stines Creek is appurtenant to Mr. Darrington's property.

The point of diversion from Stines Creek to the Hogland Ditch is in T15S, R24E, Sec 7 SENW. Irrigation water is re-diverted from the Hogland Ditch in two locations along the boundary line between sections 18 and 17. The NWSWNW Sec 17 re-diversion splits the ditch and conveys half the water south along the section line and half southeasterly through the SWNW Section 17. In the NWNWSW Section 17, the ditch is split again with half continuing south, the remainder running southeast. Water is subsequently diverted into laterals in numerous locations. All the water diverted eventually turns east and enters the property of Ted Tracy.

During my field exam, I found 188 irrigated acres ~~within the claimed 200 acres~~ in the SW quarter and SWSE of section 17. The place of use is all flood irrigated and used for cattle pasture. Along the southern boundary of the SW $\frac{1}{4}$ of section 17 there are two connected dry knobs that are not irrigated. The southernmost ditch runs along the north flank of these sagebrush covered knobs.

Part of the tracts identified in the 1970 Decree as the place of use belonging to Mr. Darrington has now been sold to Curtis Durfee. This property is the W $\frac{1}{2}$ NW $\frac{1}{4}$ section 17, and Mr. Durfee's deed specifically conveys to him all water rights appurtenant to the property. A diversion from the Hoff Ditch to the N $\frac{1}{2}$ NW $\frac{1}{4}$ was shown to me during my field exam of the Bruesch property, and Mr. Darrington confirmed that Durfee was irrigating up there, though there was no

adjudication claim on that place of use. A subsequent conversation with Zenith Taylor confirmed a comment by Bruesch tenant rancher Cordell Sheridan that historically water was never diverted from the Hogland Ditch up that high and never used in the NW quarter of section 17. Based upon the information available to me at this time, I don't believe that water was ever used upon the entire place of use decreed to Mr. Darrington in 1970, and specifically never used in the N½ NW¼ of Section 17. Any water legitimately appurtenant to the NW ¼ would have been effectively moved by accomplished transfer to the SW quarter according to this adjudication claim filed by Darrington 6 years before the date on Durfee's warranty deed. Therefore, no legitimate water rights existed to convey to Durfee in the deed. I received no response from Curtis Durfee to a letter from me regarding the possible filing of a claim to water on this land.

The claimed priority date, like all the Stines Creek claims on this system, is based upon a miss-interpretation of the 1970 Decree. The actual priority date should be based upon the 1939 affidavit signed by George Durfee, Alice Rice and J. A. Graham that stipulates that 1880 was the date water was first put to use with the Hogland Ditch. To preserve the status quo, I am recommending this as the priority date of all claims on this ditch system regardless of place of use.

Based upon the information available, I recommend a maximum diversion rate of 2.74 cfs, which is the maximum capacity of the Hogland Ditch estimated using measurements taken 9-20-1999. As the field examiner, I recognize that an informal rotational agreement exists between the parties which makes all the water in the Hogland Ditch available to the Darrington property for approximately 4.5 days every 10 days. I also recognize that the water available in the ditch changes daily.

NOTE TO FILE

From: Vikie Hancock

2/16/00

Regarding: Claim numbers 43-00011, -00012, -00014, -10280.
Source: Stines Creek
Conveyance System: Hogland Ditch
Location: T15S, R24E, Sections 7, 17, 18, 20, 21.

Irrigation from Stines Creek using the Hogland Ditch system goes back to 1880 when the ditch was first constructed by Ed and Abe Hogland to irrigate 320 acres of land within the valley west of Almo locally known as the Big Cove. The valley lies between Graham Creek in the south and Stines Creek in the north.

The ditch diverts all the water of Stines Creek close to the center of section 7. I have identified the location as the SENW of section 7. The ditch flows roughly south traversing the hillside, while the original Stines Creek channel falls vertically down the hill in a gully running easterly (see exhibit). At a point in section 8 water begins to flow in the natural Stines Creek channel again, gaining water from Johnson Creek (an ephemeral stream) and from runoff coming down gradient from the north. That water is not included in the description of this system.

Twenty shares of Stines Creek water are included in the 1903 incorporation papers of the Almo Water Company. 10 shares are identified as owned by Lorenzo Durfee and 10 shares by Alice Rice, but no place of use is specified for either party, and no diversion value is given for each share. At some unknown point in time, the water of Stines Creek is separated from Almo Water Company. One of the intentions of the 1970 Almo Water Company -v-Ivan Darrington Decree, in fact, is to rule that the water of Stines Creek is not tributary to Almo Creek and not subject to regulation by the watermaster. But this description of 20 shares is the basis for the rotational distribution system that exists today.

Information about the history of irrigation from the Hogland ditch came from Zenith Taylor, with corroboration from Neil Durfee and Ivan Darrington, all elderly gentlemen. Ted Tracy, who purchased property from Taylor and knew that he had some knowledge of area history, introduced me to Mr. Taylor.

Everyone I talked to agreed that there were 20 shares of water on Stines Creek, that a share equaled $\frac{1}{2}$ day of all the water available in the ditch, and that it took 10 days to complete the rotation. Taylor said that his recollection was that all the shares belonged to the Rice Ranch at one time and during this time, the Rice widow, Alice Durfee Rice, traded 2 shares to the Bruesch Ranch. He said that the Bruesch Ranch also got their right to Lone Rock about this time. That left 18 shares reportedly owned by Rice in the lower valley. The property was then split, and Richardson owned half the ranch and 9 of the 18 shares of Stines Creek while Rice retained half the ranch and 9 of the 18 shares.

Wesley Rice was now managing the Rice portion, and sometime around the end of WWII, Rice sold 80 acres and 1 share of water to a son, Billy Rice. This 80 is now owned and irrigated by Neil Durfee. Arthur and Zenith Taylor purchased both the Rice and Richardson properties, combined the 17 remaining shares of water back into one operation, and ran it together for years. Art and Zen Taylor then split the property between them and split the water shares equally. Art sold his portion to Ivan and Barbara Darrington and Zen eventually sold his portion to Ted Tracy.

There was some confusion as to how many days of water Darrington and Tracy were now entitled to, as Zen believed they each had 4.5 days, but that would have amounted to 9 shares each. We went over the math several times, and Zen agreed that there had to have been 17 shares left when he and Art bought the place, and the split would have been 8.5 each. Ted Tracy wondered if the Billy Rice share came out of his half making his allotment less than Darrington's. Taylor said no, that he and Art had split the water equally between them before he sold to Ted.

The irrigation practice in this valley is to flood out from the main ditches, catching and re-directing the water over and over as it makes its way downhill through the various pastures. There are no furrows or corrugates. As water moves downhill from the topmost claimant in section 18, the lower users begin diverting what could be called wastewater from the neighbor's system, which increases the efficiency of water use. Although each of the four claimants has a time when all the water in the ditch is exclusively theirs, each user in the system is also dependent on the tail water of the user above him, and the springs that pop up in the lower valley when abundant water is applied to the upper valley. For sufficient water to be available to all the claimants, the valley must be managed as one system, similar to what would be done if the land were under one owner. Water availability ranges from over-abundant in a wet spring to non-existent in a dry fall.

The original system constructed by Ed and Abe Hogland in 1880 irrigated 320 acres according to a 1939 affidavit signed by George Durfee, Alice Rice and J.A. Graham. The acreage has been increased over time, with 668 irrigated acres identified using 1987 NAPP aerial photos verified by field exam. Part of the property now being irrigated is undoubtedly land that has been irrigated continuously since 1880. Some has undoubtedly been developed in a progression of unknown later dates. Since *all the water* of Stines Creek has been diverted into the Hogland ditch since 1880, the increase of acres irrigated has not meant an increase in diversion amount, but rather an increase in industry to spread the water as far and as thinly as possible while still getting improved grass yields. This would result in an increase in the consumptive use of the creek, but since Stines Creek has been ruled to be a separate system not tributary to Almo Creek, this would cause no injury to users on Almo Creek (Almo Water Company -v- Darrington, 1970).

In my opinion, an important aspect of this system is that all the water users agree to distribute the water according to shares of time with no difference noted as to priority date of use, and I believe the department should preserve that aspect of this system. I therefore recommend that all claims in this system receive a priority date of 04-01-1880.

There were no records of historic flow rates on Stines Creek, and I conducted my field exams of all the claims in late summer, when the water available was much diminished from the higher flows of spring. On September 20th 1999 I returned to the area with Cindy Bird of the State Office and measured the current discharge of the Hogland ditch and made measurements of the ditch to determine bankful capacity. She determined a conservative capacity of 1.7 cfs but agreed that a more liberal capacity could be estimated at 2.7 cfs. I have chosen the more liberal number as the maximum capacity of the system.

It is obvious that there is not enough water available in the system to continuously apply the standard 1-inch per acre to all 668 acres currently being irrigated. However, with the rotational distribution developed by historical property owners, this system is delivering sufficient water to these lands to effect increased crop yields. Based upon the information available at this time, and baring a more accurate measurement of high water flows, I am recommending a diversion rate of 1 inch, or 0.02 cfs, per irrigated acre up to the maximum capacity of 2.74 cfs for all the claims in this system.

The foregoing information regarding the informal rotational distribution system is included for historical notation only, and does not indicate that the Department in any way recognizes the rotation as part of the

eventual SRBA Decreed water right. A letter explaining the limited elements of a water right issued by the department, and encouraging all parties to enter into a civil agreement regarding water use from the Hogland Ditch, should be sent as part of the adjudication review.

*SEE Claim File 43-00011 for GIS
map of entire System.*