

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: **A41-04031**
Date Received: 3/14/1990
Receipt No: M006241
Received By: _____

**COPY FOR
YOUR FILES**

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

**COPY FOR
YOUR FILES**

1. Name: MERRILL E WALKER 208-548-2343
Address: PO BOX 336
ROCKLAND ID 83271
OR
Name: DONNA D WALKER 208-548-2343
Address: PO BOX 336
ROCKLAND ID 83271

2. Date of Priority: MAY 1, 1880

3. Source: SPRING CREEK Trib. to: ROCK CREEK

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
09S	31E	32	SW	SW	NE		POWER
			SW	SE	NE		POWER
		33	SE	SE	NW		POWER
			NW	NE	SW		POWER
			SE	NW	SW		POWER

5. Description of diverting works:
DAMS IN CREEK, OPEN DITCHES PORTABLE PUMP, HANDLINES

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
IRRIGATION	03/01	11/01	2.260		
STOCKWATER	01/01	12/31	0.050		

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

8. Total consumptive use is 327.5 Acre Feet Per Annum.

9. Non-irrigation uses:
S/150-200 RANGE

10. Place of Use:

Township	Range	Section	1/4	of	1/4	Lot	Use	Acres
09S	31E	32	SW		NE		IRR	34.0
			SW		NE		STOCK	
			SE		NE		IRR	16.0
			SE		NE		STOCK	
			SE		NW		IRR	7.0
			SE		NW		STOCK	
			NE		SE		IRR	21.0
			NE		SE		STOCK	
			NW		SE		IRR	2.0
			SE		SE		IRR	3.0
							Section Acres	83.0
		33	SE		NW		IRR	5.0
			SE		NW		STOCK	
			NE		SW		IRR	15.0
			NE		SW		STOCK	
			NW		SW		IRR	18.0
			NW		SW		STOCK	
			SW		SW		IRR	8.0
			SE		SW		IRR	2.0
							Section Acres	48.0
							Total Acres	131.0

11. Place of use in counties: POWER

12. Do you own the property listed above as place of use? YES

13. Other Water Rights Used:
NONE

14. Remarks:

THE BASIS OF THIS CLAIM IS FROM THE SALE OF ALL THE WATER FLOWING IN SPRING CREEK ABOVE THE BOUNDARY OF THE FARM (TYLER PROPERTY) AS WAS SOLD TO D. TYLER BY JAMES HUNTER ON 5-28-1891. THE WATER SOLD WAS BASED UPON AN ORIGINAL FILING FOR A WATER RIGHT IN MAY 1880.

THE TYLER PROPERTY IS THAT LISTED IN ITEM #10 AS THE PLACE OF USE WHICH HAS BEEN OWNED BY SINCE THE EARLY 1960'S BY O. WALKER.

15. Basis of Claim: BENEFICIAL USE

COPY

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

RECEIVED

APR 10 1990

Ident. Number: A41-04031
Date Received: 3/14/1990
Receipt No: MOB6241
Received By: AS

Department of Water Resources
Southern Region Office

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: ONA V. WALKER 208-548-2361
Address: P.O. BOX 273
ROCKLAND, ID 83271
OR
Name: GLENNA WALKER 208-548-2361
Address: P.O. BOX 273
ROCKLAND, ID 83271

2. Date of Priority: MAY 01, 1880

3. Source: SPRING CREEK Trib. to: ROCK CREEK

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4 of	Lot	County
09S	31E	32	SW	SW	NE		POWER
			SW	SE	NE		POWER
		33	SE	SE	NW		POWER
			NW	NE	SW		POWER
			SE	NW	SW		POWER

5. Description of diverting works:
DAMS IN CREEK, OPEN DITCHES PORTABLE PUMP, HANDLINES

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	03/01	11/01	2.260		
STOCKWATER	01/01	12/31	0.050		

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

8. Total consumptive use is 327.5 Acre Feet Per Annum.

9. Non-irrigation uses:
S/150-200 RANGE

A41-04031

Page 1

Date: 03/14/90

MICROFILMED
MAR 02 1993

10. Place of Use:

Township	Range	Section	1/4	of	1/4	Lot	Use	Acres
09S	31E	32	SW		NE		IRR	34.0
			SW		NE		STOCK	
			SE		NE		IRR	16.0
			SE		NE		STOCK	
			SE		NW		IRR	7.0
			SE		NW		STOCK	
			NE		SE		IRR	21.0
			NE		SE		STOCK	
			NW		SE		IRR	2.0
			SE		SE		IRR	3.0
						Section Acres	83.0	
		33	SE		NW		IRR	5.0
			SE		NW		STOCK	
			NE		SW		IRR	15.0
			NE		SW		STOCK	
			NW		SW		IRR	18.0
			NW		SW		STOCK	
			SW		SW		IRR	8.0
			SE		SW		IRR	2.0
				Section Acres	48.0			
				Total Acres	131.0			

11. Place of use in counties: POWER

12. Do you own the property listed above as place of use? YES

13. Other Water Rights Used:
NONE

14. Remarks:

THE BASIS OF THIS CLAIM IS FROM THE SALE OF ALL THE WATER FLOWING IN SPRING CREEK ABOVE THE BOUNDARY OF THE FARM (TYLER PROPERTY) AS WAS SOLD TO D. TYLER BY JAMES HUNTER ON 5-28-1891. THE WATER SOLD WAS BASED UPON AN ORIGINAL FILING FOR A WATER RIGHT IN MAY 1880.

THE TYLER PROPERTY IS THAT LISTED IN ITEM #10 AS THE PLACE OF USE WHICH HAS BEEN OWNED BY SINCE THE EARLY 1960'S BY O. WALKER.

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: 2

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 Anna V Walker Date: 3/14/90

Date: _____

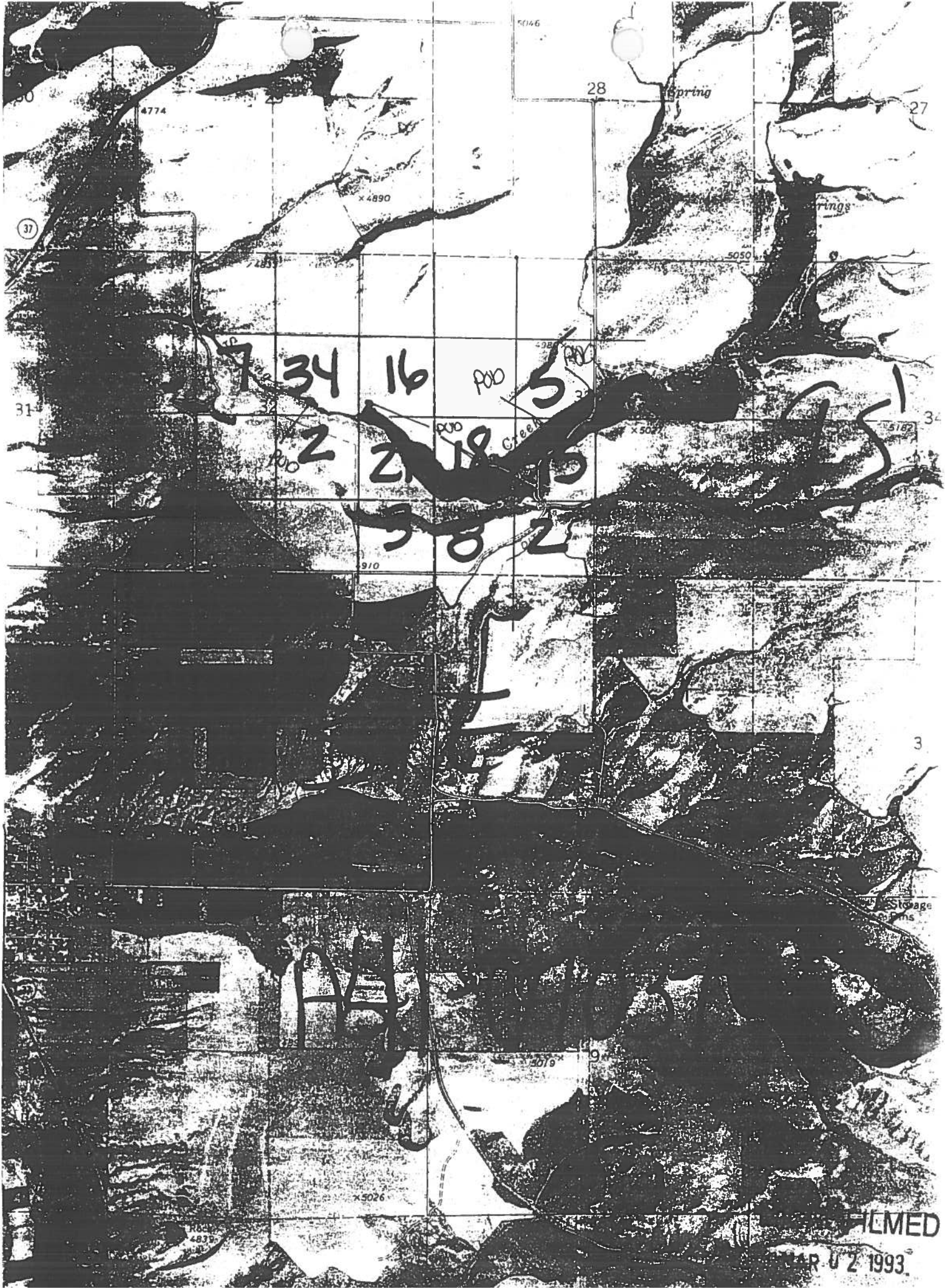
State of Idaho)
County of Power) SS.

Subscribed and sworn (or affirmed) before me this 14th day
of March 19 90

Anna Baumhoff
Notary Public

Seal

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



FILED
MAR 12 1993

James Hunter

Delroy Tyler.

Rockland. Nevada to State of Idaho May 28. 189.
Know all men by these presents that I James Hunter of Nevada
County, State of Idaho in consideration of one hundred Dollars to
me paid by Delroy Tyler Rockland in Nevada County State
of Idaho the receipt whereof is hereby acknowledged do by these presents
grant sell and convey unto said Delroy Tyler and his heirs
and assigns a certain stream of water known as Spring Creek sit-
uated in Rockland Nevada County State of Idaho with all its
tributaries excepting what runs below the said Delroy
Tyler place to have and to hold the above granted water to the
with all the privileges and appurtenances thereto belonging to
the said James Hunter and his heirs and assigns and to their
own use and behoof forever and I the said James Hunter
for myself my heirs executors and administrators do covenant
with said Delroy Tyler that I am lawfully seized in fee
simple of the above granted water and that it is true from all

CONT II

incumbrances and that I have a right to sell and convey
the same as aforesaid and that I will and my heirs, executors
and administrators shall warrant and defend the same
to the said grantee and his heirs and assigns forever against
the lawful demand of all persons.

In witness whereof I have set my hand and seal this
the twenty eight day of May 1891.

Signed and sealed in the presence of

Lot S. Smith

Robert Hunter

Litha Hunter

James Hunter
Catherine Hunter X

The above named James Hunter personally appeared before
me and acknowledged the foregoing instrument to be a free act
and deed.

C. A. Warner
Justice of Peace.

Recorded at the request of D. R. Tyler April 15th 1903 At 10 A.M. :

Oneida County Records

Deed Book 5. page 284



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

A41-04031
ONA V. WALKER
GLENN WALKER
P.O. BOX 273
ROCKLAND

ID 83271

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,

A handwritten signature in cursive script, reading 'Allen Merritt'.

Allen Merritt, P.E.
Water Rights Supervisor

Enclosures

MICROFILMED
MAR 12 1993

11/20/2000

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

RIGHT NUMBER: 41-4031

NAME AND ADDRESS: DONNA D WALKER
MERRILL E WALKER
PO BOX 336
ROCKLAND, ID 83271

SOURCE: SPRING CREEK TRIBUTARY: ROCK CREEK

QUANTITY: 1 CFS

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

PRIORITY DATE: 05/01/1880

POINT OF DIVERSION: T09S R31E S33 SESENW Within POWER County

TWO POINTS OF DIVERSION LOCATED IN T09S, R31E, S32, SESENW

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
STOCKWATER	01-01 12-31	0.05 CFS
IRRIGATION	04-01 10-31	1.00 CFS

PLACE OF USE:

STOCKWATER Within POWER County			
T09S R31E S32	SENE	T09S R31E S32	NESE
T09S R31E S33	SENE	T09S R31E S33	NESW
T09S R31E S33	NWSW		
IRRIGATION Within POWER County			
T09S R31E S32	SENE	0.8	T09S R31E S32
T09S R31E S33	SENE	3	T09S R31E S33
T09S R31E S33	NWSW	15	T09S R31E S33
			NESE 12
			NESW 11
			SWSW 2.2

44 ACRES TOTAL

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

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

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

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use

RECEIVED

NOV - 1 2000

Department of Water Resources
Adjudication Bureau

NOV - 2 2000

DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED

Docket Sheet

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.: 41-04031

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 initialing each of the attached pages.

Merrill E. Walker 11-2-00
Merrill E. Walker Date

Donna D. Walker Date

Steve Walker 11-2-00
IDWR Concurrence Date

Nick Spencer 11-2-00
Approved as to form Date

Glen R. Cox
OBJECTOR GLEN R. COX

Ida F. Cox
OBJECTOR IDA F. COX

STANDARD FORM 5

11/20/00 - modify V-2 record with updates. scc

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

11/01/2000

RIGHT NUMBER: 41-4031
NAME AND ADDRESS: DONNA D WALKER
MERRILL E WALKER
PO BOX 336
ROCKLAND, ID 83271

NOV - 2 2000
DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED

SOURCE: SPRING CREEK TRIBUTARY: ROCK CREEK

QUANTITY: ~~0.61~~ 1.0 CFS

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

PRIORITY DATE: 05/01/1880

POINT OF DIVERSION: T09S R31E S33 SESENW Within POWER County

TWO POINTS OF DIVERSION LOCATED IN T09S, R31E, S32, SESENW

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
STOCKWATER	1-01 12-31	0.05 CFS
IRRIGATION	4-01 10-31	~~0.61~~ CFS
		1.0

NBS
HRC
L.S.F.

PLACE OF USE:

IRRIGATION Within POWER County			
T09S R31E S32	SENE	0.8	T09S R31E S32
T09S R31E S33	SENE	3	T09S R31E S33
T09S R31E S33	NWSW	15	T09S R31E S33
STOCKWATER Within POWER County			
T09S R31E S32	SENE		T09S R31E S32
T09S R31E S33	SENE		T09S R31E S33
T09S R31E S33	NWSW		T09S R31E S33
44 ACRES TOTAL			

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

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

THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL
PROVISIONS NECESSARY FOR THE DEFINITION OF THE RIGHTS OR
FOR THE EFFICIENT ADMINISTRATION OF THE WATER RIGHTS AS
MAY BE ULTIMATELY DETERMINED BY THE COURT AT A POINT IN

TIME NO LATER THAN THE ENTRY OF A FINAL UNIFIED DECREE.
SECTION 42-1412(6), IDAHO CODE.

NBS

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use

SCU
MEW
S.G.
B.R.C

CERTIFICATE OF SERVICE

I certify that on Nov 2, 2000, I caused to be served true and correct copies of the Standard Form 5, to the following persons, in the manner indicated and addressed as follows:

1. Original to:

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

☐ Overnight Mail
☐ Regular Mail
☒ Hand-Delivered
☐ Facsimile

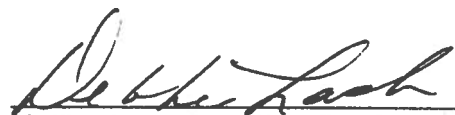
2. Copies to:

IDWR Document Repository
P.O. Box 83720
Boise, ID 83720-0098

☐ Overnight Mail
☐ Regular Mail
☒ Hand-Delivered
☐ Facsimile

Donna D. & Merrill E. Walker
P.O. Box 336
Rockland, ID 83271

☐ Overnight Mail
☐ Regular Mail
☒ Hand-Delivered
☐ Facsimile



Signature of person or attorney mailing the form

Henry R. Boomer
ATTORNEY-AT-LAW
P.O. Box 70
American Falls, Idaho 83211
(208) 226-2562

DRAFT

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	)	MEMORANDUM OF FACT AND LAW-
	)	SPRING CREEK WATER DISPUTE
Case No. 39576	)	
	)	Subcase No: 41-00047

In the Rockland Valley of Power County, Idaho, there exists a tiny stream called Spring Creek. Spring Creek rises in the foothills of the east side of the Rockland Valley. Like its name suggests, its source is from various springs. Those springs contribute to Spring Creek flows all along its course, from beginning to end. With respect to the various parties involved in this dispute, there are several springs that flow into the creek above or on the Walker property, at least one spring that comes in on the Neilsen property, immediately above the Cox property. The Walkers are on the upstream end of Spring Creek, just below its first source, the Neilsens are in the middle, and the Coxes are on the lower end of the creek, where it actually crosses a ditch known as the U.S. Ditch.

The waters of Spring Creek have been used to irrigate portions of the three parties' properties since at least May of 1880. (see James Hunter Notice of Water Appropriation. The notice purports to claim all of the waters of Spring Creek and its tributaries, but does not specify or designate the lands being irrigated, nor a point or points of diversion)

It appears that, for more than a century, the relatively level strips of bottomland now owned by the three parties next to the creek have been irrigated, with hay, small grains, and pasture being the primary crops. Flood irrigation was the sole method of diversion until after 1982, when sprinklers were used by the Coxes, and, when water was available, sprinklers have been used by the Walkers.

Historically, at least since 1929 (see Ivan Haskell affidavit, plus photo of large barn on the Rock place), and probably since 1880, the pattern of use of Spring Creek water has been consistent, with one exception, which will be addressed later. The customary use has been as follows:

The Walkers

The Walkers and their predecessors, being the uppermost irrigators on the creek, have historically used earthen and plastic dams to flood irrigate the following described property:

This property is a strip of relatively level bottomland consisting of approximately 39.2 acres.

Creek flows vary seasonally, and from year to year. The James Robinson affidavit indicates a flow of 70 inches on the upper end of the Walker property during spring flow conditions.

The Walkers and their predecessors take and have taken the entire flow of Spring Creek for irrigation. Depending upon the flow, some water has returned to Spring Creek while still on Walker property. Such return flows, along with springs below the Walker property replenish the stream and has historically provided irrigation for the Neilsen property and Cox property.

Since 1988, the Walkers have also sprinkled approximately acres of additional low lying lands, when water has been available, which has been approximately out of the last years.

The Neilsens

The Neilsens and their predecessors flood irrigate about 15 acres of land just above the Cox place. Their rights have been limited by a Judgment and Decree dated June 11, 1980. That Decree followed litigation between the Neilsens and Rachel Hunter Cox, the Cox's immediate predecessor in interest. The Walkers and their predecessors were not named as defendants in the suit brought by Mrs. Hunter. Mrs. Hunter successfully prevented the Neilsens from allegedly blocking the entire flow of Spring Creek in 1979, and refusing "to release any part of the water necessary to permit Plaintiff to use the quantity to which she is entitled."

It is important to note that not only were the Walkers not joined in this lawsuit, but their historic pattern of irrigation, i.e. taking the entire flow of Spring Creek as it existed on their own property, was in effect before, during, and after, the litigation, with no record of complaint from Mrs. Hunter or the Neilsens.

The Cox's

The Cox's and their predecessors have historically flood irrigated their property (and more recently have sprinkled) with a combination of Spring Creek flow, U.S. Ditch water, West Ditch water, and "six inches of water in the Tyler Ditch".

Our present understanding is that the Cox's do not dispute the facts about the lengthy historical use of Spring Creek flows as described above. However, this author's understanding is that the Cox's do claim the right to use the entire flow of Spring Creek, if they ever need it.

RECEIVED

FEB 22 2000

Department of Water Resources
Twin Falls

RECEIVED

FEB 14 2000

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 SRBA

Case No. 39576

A. Subcase 41-04031
(Insert water right number
From the Objection Form)

STANDARD FORM 2
RESPONSE TO OBJECTION

Please print or type the following information:

B. NAME AND ADDRESS OF PERSON RESPONDING

Name: Merrill E. Walker

Address: P.O. Box 336

Rockland, ID 83221

Daytime Phone: (208) 548-2343

Name & Address of Attorney, if any:

C. NAME AND ADDRESS OF PERSON WHO FILED THE OBJECTION TO WHICH
YOU ARE RESPONDING

Name: Merrill E. Walker

Address: P.O. Box 336

Rockland, ID 83221

D. I am responding to the objections to the following elements. (Please check the appropriate box(es)).

1. ☐ Name and Address
2. ☐ Source
3. ☒ Quantity *50-80 miner Inch. we have additional evidence*
4. ☒ Priority Date *To substantiate this claim.*
5. ☐ Point(s) of Diversion
6. ☐ Instream Flow Description
7. ☐ Purpose(s) of Use
8. ☐ Period of Year
9. ☐ Place of Use
11. Recommendation
 - ☐ This water right should not exist.
 - ☒ This water right was not recommended, but should be recommended with the elements described above.

E. VERIFICATION (Must be Completed)

State of Idaho)
)ss.
County of Power)

Merrill E. Walker, duly sworn, upon oath, deposes and says:
(Name of person filing response)

That I am the party/claimant filing this response as defined by I.C. §§ 42-1401A(1) and (6) or that I am the attorney for the party/claimant responding and that I have read this response, know its contents and believe that the statements are true to the best of my knowledge.

Merrill E. Walker
(Signature of person filing response)

(Attorney signing in representative capacity)

Subscribed and sworn to before me on: February 9, 2000

Kevin H. Dean
Notary Public for Idaho
Residing at: Rockland
My Commission Expires: 1/12/02

INSTRUCTIONS FOR MAILING

You must mail the response, including all attachments, 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.

F.

CERTIFICATE OF MAILING

I certify that on 10 February, 2000, I mailed the original and copies of this response, 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: Merrill E. Walker
Address: P.O. Box 336
Rockland, ID 83271

3. One copy to the party who filed the objection at the following address:

Name: Merrill E. Walker
Address: P.O. Box 336
Rockland, ID 83271

4. Copies to:

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

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

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

Merrill E. Walker
Your signature or signature of attorney mailing on your behalf

MAIL



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 41-04031
(Insert water right number)

STANDARD FORM 1
OBJECTION

Please fill in the following information:

B. NAME AND ADDRESS OF PERSON OBJECTING

Name: Merrill E. Walker

Address: P.O. Box 336

Rockland, ID 83271

Daytime Phone: (908) 548-2343

Name & Address of Attorney, if any:

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

Name: Merrill E. & Donna D. Walker

Address: P.O. Box 336

Rockland, ID 83271

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: _____
3. ☒ **Quantity**
Should be: Between 1.1988 cfs and 1.6 cfs
4. ☒ **Priority Date**
Should be: May 1, 1880
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.

*We request a measurement be made
③ in the year 2000 to establish flow.*

E. REASONS SUPPORTING OBJECTION(S): 0.6 cfs was measured on an

extremely dry year. Late in the fall when stream flow was very low.

④ We are being penalized with a priority date of 1929 because we cannot find a person old enough to establish priority date of 1880 even though courthouse records support this claim along with land deeds which were used for that purpose at the time.

F.

VERIFICATION (Must be Completed)

State of Idaho)
) ss.
County of Power)

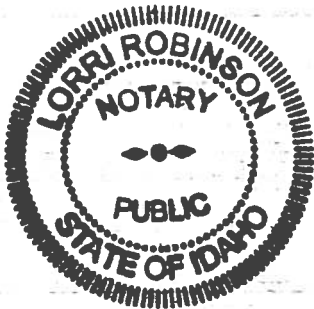
Merrill E. Walker, duly sworn, upon oath, deposes and says:
(Name of person filing objection)

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.

Merrill E. Walker
(Signature of person filing objection)

(Attorney signing in representative capacity)

Subscribed and sworn to before me on: December 22, 1999



Lorri Robinson
Notary Public for Power
Residing at: Rockland
My Commission Expires: 7-23-2004

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 _____, 199__, 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: Merrill E. Walker

Address: P.O. Box 336
Rockland, ID 83221

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

Merrill E. Walker
Signature of Objector or attorney
mailing on Objector's behalf

AFFIDAVIT

STATE OF IDAHO

SS.

COUNTY OF POWER

KNOW ALL YE MEN BY THESE PRESENTS.

That on this 22 day of December 1999, personally came and appeared before me James Robinson of Rockland, Idaho known, and known to me, who after being first duly sworn, deposes and says:

Concerning the water that is in spring creek where it crosses the road and combines with the Stream from the north, at about the midpoint of Sec 33 T9S R31E B.M.

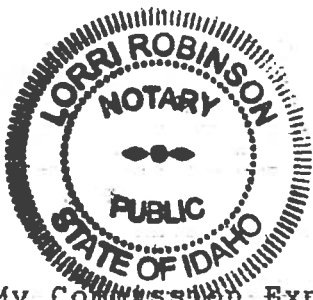
I have been going back and forth on this road many times over the last 30 yrs as I farm on it.

I would estimate that most of the year there is about 70 inches of water after the 2 streams combine. There would probably be a little more than that in the spring, and a little less in the fall.

FURTHER AFFIANT SAYETH NOT:

James B. B.

SUBSCRIBED TO AND SWORN TO before me this 22 day of
December 1999.



Lorri Robinson

My Commission Expires: 7-23-2004

COMMUNICATION DOCUMENTATION

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.

IDWR Employee/Agent: Steve Clelland

1/7/2000 8:40 AM

NAME:

GLEN COX

CALLIN

RE:

REQUEST COPIES

He called and asked if he could get copies of the affidavits in the Walker file, 41-04031. I told him they would be waiting at the front desk. I copied all the documents relating to the affidavits.

IDWR Employee/Agent: Steve Clelland

1/6/2000 10:00 AM

RE:

OBJ FILED ON CLAIM

I gave them some Response forms to fill out and return. I told them I could not give details on the forms nor could I give legal advice. I suggested they gather all necessary documents and records in preparation for the next meeting that is set by the court; a form of a settlement conference.

I looked up the Walker license, 41-07069, a groundwater right that irrigates 5 acres and appears to overlap 100% with the surface right. The exam shows lands south of the house and barn.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECEIVED

MAY 17 1983

CLAIM TO A WATER RIGHT

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.

The filing of this claim does not confirm the water right claimed but failure to file may result in forfeiture of a water right.

Notice is hereby given that ONAN and Glenna WALKER
(Name of Claimant)
Rockland, Idaho 83271 Telephone No. 548-2861
(Mailing Address) (Zip Code)

claims a right to the diversion and beneficial use of the surface or ground water. The extent and nature of said claim is as follows: May 1, 1880 AS per Phone Conv with Merrill Walker 5-6-83

(1) Date of priority: (When was the water first applied to a beneficial use) Oct 12, 1900 TGB

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.

(2) Describe the source of water: (Name of stream, lake, spring, etc., or ground water)
Spring Creek tributary to Rock Creek

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

Quantity	(cfs, af)	Use	(Domestic, Irrigation, Stock, Etc.)	(Both dates inclusive)	
				(Mo., Day)	(Mo., Day)
Quantity <u>3.0 cfs</u>		Use <u>Irrigation</u>		Period of Use From <u>Mar. 1</u>	To <u>Nov. 1</u>
Quantity <u>.05 cfs</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 _____

(4) 3.05 cfs TOTAL QUANTITY USED.
(cfs, af)

(5) A) Point of diversion: (Location of point where water is diverted from its source)
SE 1/4 NW 1/4, Sec. 33 Twp. 9 S. Rge. 31 E B.M., County of Power
Additional points of diversion: NE 1/4 SW 1/4 Sec 33 Twp 9 S Rge 31 E

B) Describe means of diversion of water: (Pump and pipeline, well, diversion dam, reservoir, length of ditch and field, etc.). Give sizes and capacities: be as specific as possible. Describe any changes in the system and give the date of the change. Culverts with headgates Earth ditches.

(6) A) Describe location of use by listing number of irrigated acres within each 40-acre tract in appropriate box. If use is not for irrigation, place an "X" in appropriate box to show location.

T	R	SEC.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				TOTAL
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	
9S	31E	32			12	16									29			4	61
9S	31E	33								11	13	19	6						49

Stockwater used in all of above Tracts

No. of acres 110

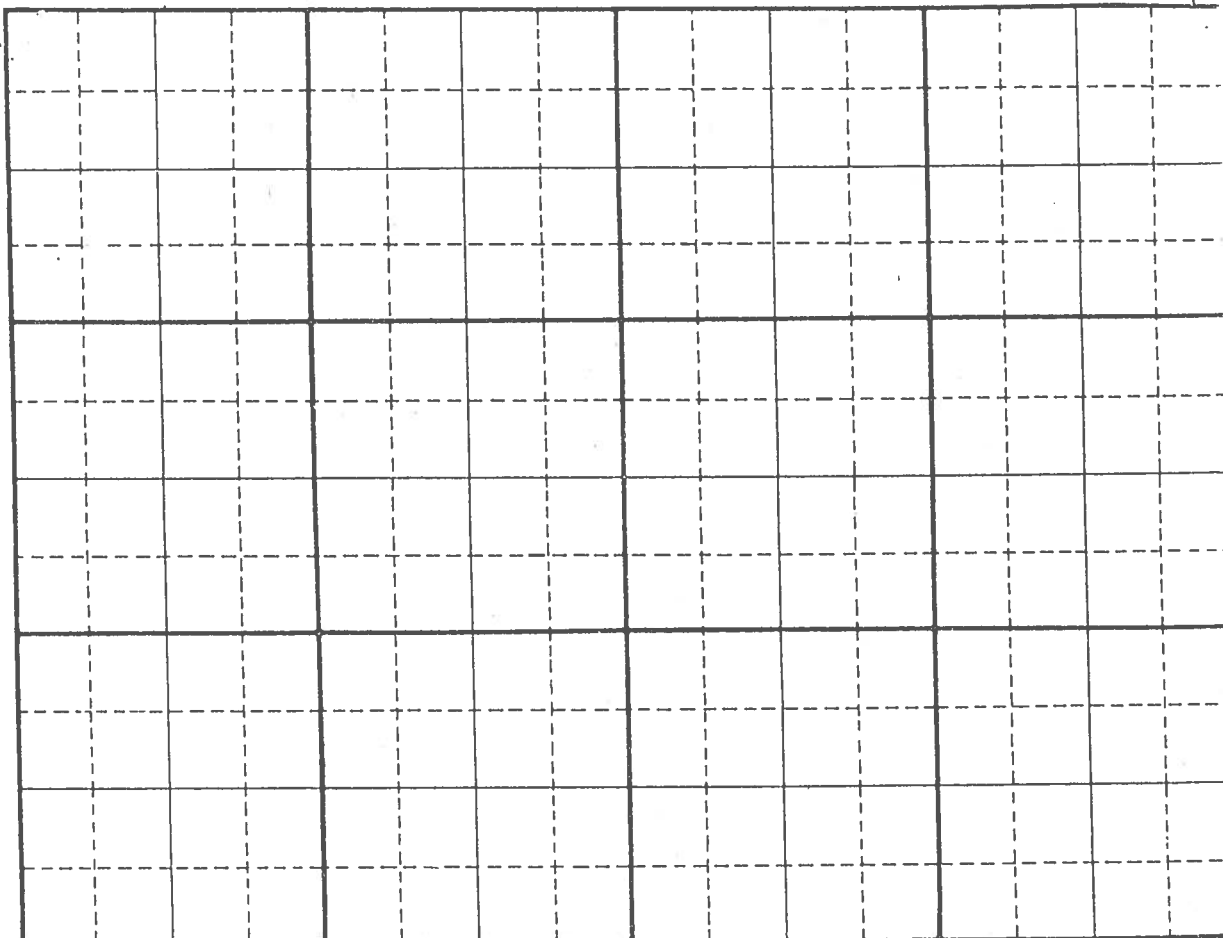
B) If water is used for other than irrigation, fully describe that use, being as specific as possible:

NOTE: Include here the type and number of stock watered: 150-200 hd Rge Cattle

(7) If you are claiming water as a member of an organization, list name of organization:

41-4031

(8) Remarks _____



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 Power) 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.

Orin J. Walker

(Claimant)

Sworn to before me this 20 day of April, 1983.

Samuel Cammach

Notary Public

Residing at

Rockland, Id.

My commission expires 4-20-84

FOR DEPARTMENT USE ONLY

Received by snuff Date 4/5/83 Exception filed by: _____ Forwarded to _____ Date _____
Prelim. check by snuff Date 5-2-83 claimant by: _____
\$30.00 fee received by snuff Date 4/13/83 # 27577
Published in Power County Press
Dates 6/29 & 7/6/83

Burley, Idaho
September 19, 1983

RECEIVED

SEP 23 1983

Department of Water Resources
1041 Blue Lakes Blvd. North
Twin Falls, Idaho 83301

Department of Water Resources
Southern District Office

Dear Mr. Holmes:

Glen R. Cox and Ida F. Cox Protest any claim filed on Spring Creek Water. The Spring Creek water was filed on May 1880 by Edward Hunter. Ordered, Adjudged, and Decreed, is recorded in Book A and Book B of waters locations on pages 5 and 108 respectively of the original Oneida County records, as indicated in book 36, page 55 and page 7 of the county Recorder, in and for the County of Power, State of Idaho.

The total flow of Spring Creek was given to Rachel Hunter Cox, June 4, 1980 with the exception of 15 acres, Case #6674. The Claim filed by Ona and Glenna Walker is not valid. There is no record in Power or Oneida County of any Claim filed on Spring Creek Water, other than Edward Hunter. Ona Walker was at the Court Hearing when Judge Hargraves gave the total flow to Rachel Hunter Cox, with the exception of 15 acres.

I have mailed copies of the filing of May 1880 and the Court Decree of June 4, 1980 to The Department of Water Resources and to James Robinson, President of the Bench Ditch Irrigation Co.

James Robinson, the Water Master, was supposed to regulate the Spring Creek water, but nothing was done. Please make sure he regulates this water for the season of 1984..

If there is any more information needed, please let me know..

Sincerely,

Ellen A. Cox

record in the office of the County Recorder, in and for the County of Power, State of Idaho; as corroborated by the undisputed evidence before the Court, for the purpose of irrigating the following described real property, located in Power County, Idaho:

The East Half of the Northeast Quarter (E $\frac{1}{2}$ NE $\frac{1}{4}$), and the Northeast Quarter of the Southeast Quarter (NE $\frac{1}{4}$ SE $\frac{1}{4}$) of Section Thirty-six (36), Township Nine (9) South, Range Thirty (30) East, Boise Meridian.

The entire flow of Spring Creek is estimated to average between 1.1988 cubic feet per second, i.e., 50 miner's inches, and 1.6 cubic feet per second, i.e., 80 miner's inches.

Plaintiff's right recognizes the right of the Defendant to divert waters from Spring Creek as hereinafter set out.

2. Defendants, Arthur H. Nielson, Jr. and Bonnie F. Nielson, own and have the right to divert the waters of Spring Creek across a portion of their property, as hereinafter described, for the purpose of flood irrigating approximately fifteen (15) acres so long as they allow the water to then return to the natural channel of Spring Creek and flow unimpeded to Plaintiff's land for application

Defendants' real property, entitled to flood irrigation is located in the County of Power, State of Idaho, more particularly described as follows:

A part of (approximately 15 acres) the Southeast Quarter Northwest Quarter (SE $\frac{1}{4}$ NW $\frac{1}{4}$) of Section 31, Township 9 South, Range 31 East, Boise Meridian.

3. The Defendants, their heirs and successors in interest, are permanently restrained from interfering with Plaintiff use of the entire natural flow of Spring Creek, except for Defendant's right to flood irrigation, as herein provided; Defendants are further restrained from attempting to change or changing the place of diversion, or place of use of the waters of Spring Creek in any manner which is injurious to Plaintiff's water right as hereinabove decreed.

4. Plaintiff is awarded costs and disbursements of suit in the amount of \$_____.

DATED this ____ day of June, 1980.

District Judge



STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
SOUTHERN REGION

John V. Evans
Governor

1041 Blue Lakes Blvd. North
Twin Falls, Idaho 83301
(208) 734-3578

C. Stephen Allred
Director

October 26, 1983

Ona V. &/or Glenna Walker
Rockland,
Idaho 83271

Re: Claim to a Water Right No. 41-4031

Dear Ona V. & Glenna Walker:

We are enclosing a copy of an affidavit in Opposition to your claim to a water right, submitted by Glen R. Cox.

The following is a quote from the provisions under which this claim has been filed (section 42-243b, of the Idaho Code):

42-243b. Recording of claims by Department, Corrections

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

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

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

Sincerely,

LOREN O. HOLMES
Southern Region Supervisor

LOH:marya

1-4031

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

RACHEL HUNTER COX,
A widow,

Plaintiff,

vs.

ARTHUR H. NIELSON, JR. and
BONNIE F. NIELSON, husband
and wife, and JAMES WOODWORTH,
Defendants.

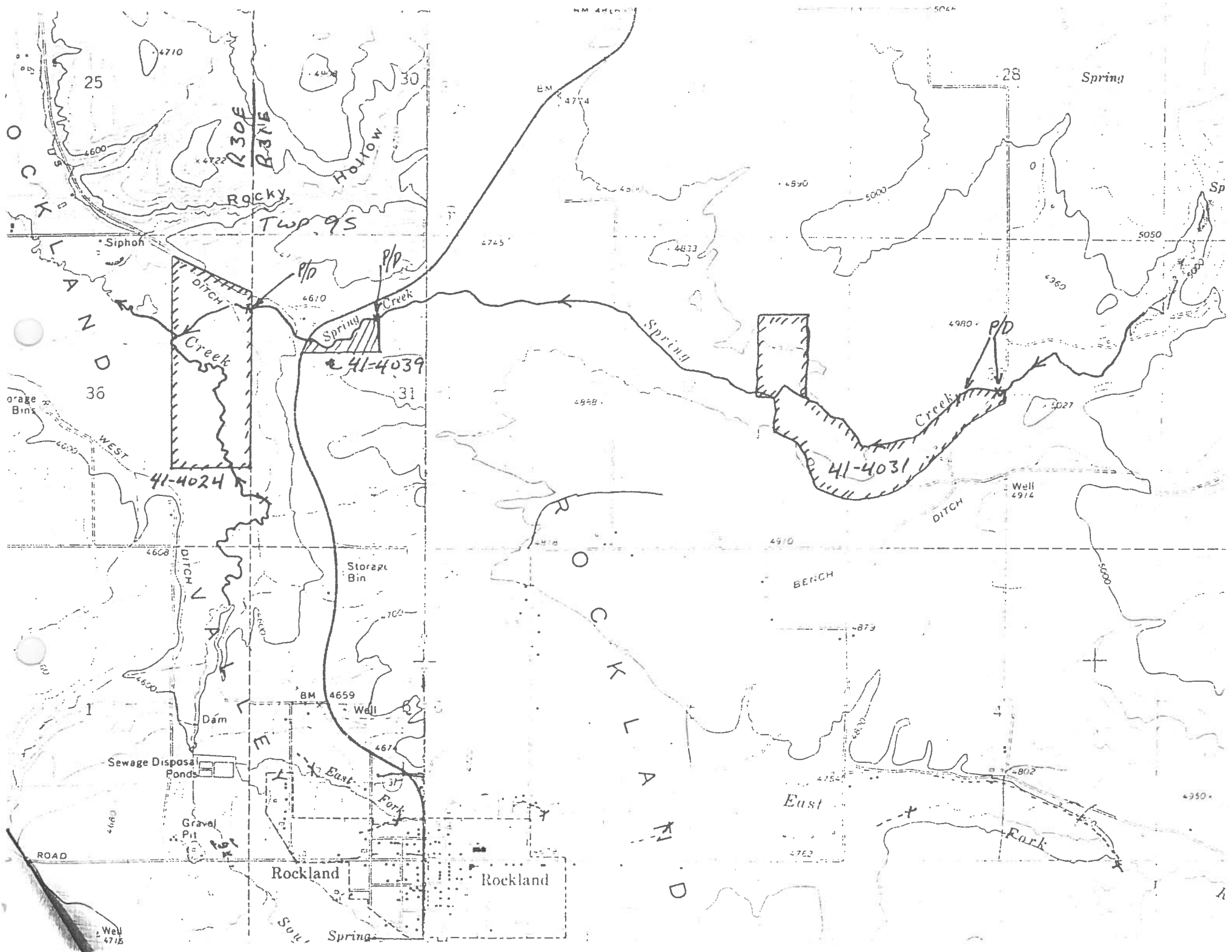
Case No. 6674

JUDGMENT AND DECREE

The motion by the Plaintiff above named for summary judgment in her favor, determining water rights, and requesting a permanent restraining order, having been duly brought on to be heard, and the Court having made an order pursuant thereto granting the Plaintiff's motion and directing that judgment be entered herein in favor of the Plaintiff determining her water right and for a permanent restraining order, it is hereby

ORDERED, ADJUDGED AND DECREED:

1. Rachel Hunter Cox is the owner and has the right to the utilization of all of the waters of Spring Creek, with a priority date of May, 1880, according to the Water Location Notices recorded in Book "A" and Book "B" of Water Locations at page 5 and page 108 respectively of the original Oneida County records, as indicated in Book 36, page 55 and page 7 of the Book of Water Locations on



6/9/94

COMMUNICATION DOCUMENTATION

Claim No. 41-04031

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.

IDWR Employee/Agent D Jones Date 12/17/99

Contact Person(s) Merrill & Brent Walker

Nature of Contact Issues with 1) Priority Date
2) Flow Rate

Substance of Communication Greatly concerned with
priority since, as junior (per rein) &
upstream, Nielsen & Cox can
call on water. He possessed deed
conveying all 1880 water to him,
less any return flow. Maintains
decree from (1980) didn't join him & err'd
in assigning 1880 to Cox. Walkers also
took exception to Aug. flow rate as rein.
I gave them A.O.#1 w/ SF-1. Told
them to object & consider objecting to
Cox (no way - they just want equal priority).
Described whole process, disclaimed
legal advice, assured them of user-friendly
process, attorney as they need it.

AJ0749NP
No. R41-04031

IDAHO DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM PROFILE REPORT
(REGIONAL)

DATE: 08/10/99
PAGE: 1

OWNER CODE	NAME & ADDRESS	PRIORITY DATE	WATER USE	USE PERIOD FROM TO	DIVERSION RATE	DIVERSION VOLUME
C	MERRILL E WALKER	05/01/1929	IRRIGATION	04-01 10-31	0.610 CFS	
C	DONNA D WALKER		STOCKWATER	01-01 12-31	0.050 CFS	
	PO BOX 336					
	ROCKLAND ID 83271					
	(208) 548-2343					
				TOTAL DIVERSION:	0.610 CFS	

Water Source: SPRING CREEK

Tributary to: ROCK CREEK

Stage: BENEFICIAL USE

Point(s) of Diversion: T09S R31E S33 SESENW

POWER County

Place of use Legal Description for: IRRIGATION

				NE				NW				SW				SE								
T	R	S	:	NENE	NWNE	SWNE	SENE	:	NENW	NWNW	SWNW	SENW	:	NESW	NWSW	SWSW	SESW	:	NESE	NWSE	SWSE	SESE	:	SUM
				Lt	Ac	Lt	Ac		Lt	Ac	Lt	Ac		Lt	Ac	Lt	Ac		Lt	Ac	Lt	Ac		
09S	31E	32	:				.8	:					:					:	12					: 12.8
09S	31E	33	:					:				03	:	11	15	02		:						: 31.2
																							TOTAL ACRES	44.0

Place of use Legal Description for: STOCKWATER

				NE				NW				SW				SE							
T	R	S	:	NENE	NWNE	SWNE	SENE	:	NENW	NWNW	SWNW	SENW	:	NESW	NWSW	SWSW	SESW	:	NESE	NWSE	SWSE	SESE	:
				Lt	Ac	Lt	Ac		Lt	Ac	Lt	Ac		Lt	Ac	Lt	Ac		Lt	Ac	Lt	Ac	
09S	31E	32	:				S	:					:					:	S				:
09S	31E	33	:					:				S	:	S	S			:					:

POU County: POWER

Other Rights: NONE

Conditions of Approval:

- N05 - THE QUANTITY OF WATER UNDER THIS RIGHT FOR STOCKWATER USE
- SHALL NOT EXCEED 13,000 GALLONS PER DAY.
- N08 - THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT FOR
- STOCKWATER USE IS NOT A DETERMINATION OF HISTORICAL BENEFICIAL
- USE.

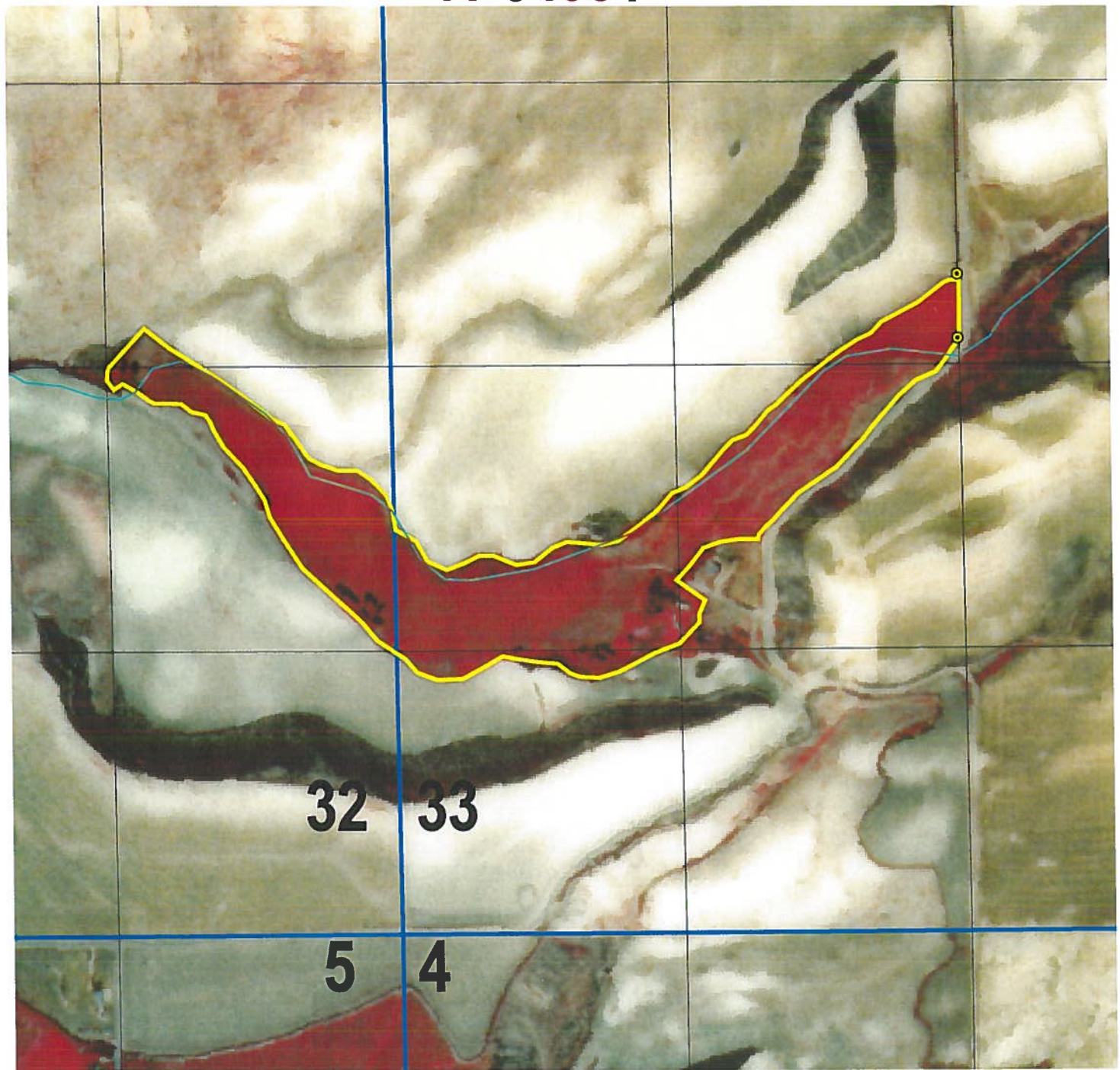
Remarks: POD TWO POINTS OF DIVERSION LOCATED IN T09S, R31E, S32, SESENW.

Dates: Exam Made Date: 07/21/1995 Verified Date: 08/10/1999 Objection Filed Date:

Misc: Water District Number: 41 Field Inspection Flag:
Presumption Flag:

IDAHO DEPT OF WATER RESOURCES

41-04031



660 0 660 1320 1980 Feet

T09S, R31E, SEC. 32 & 33



- RECOMMENDED PLACE OF USE
- POINT OF DIVERSION
- SECTION LINES
- 1/4 - 1/4 LINES

GIS PLACE OF USE PRESENTATION
1987 &/OR 1988 NAPP PHOTOGRAPHY

DATA ENTRY BY: STEVE CLELLAND
DATE: August 10, 1999

**STATE OF IDAHO
IDAHO DEPARTMENT OF WATER RESOURCES**

NOTICE OF CHANGE OF WATER RIGHT OWNERSHIP

RECEIVED
JUL 15 1999
Department of Water Resources

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): 41-04031

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 One V. Walker
Glenna Walker

4. New Owner/Claimant(s) Merrill E. Walker Donna D. Walker
Name Connector (Check one): [] and, [] or, ☒ and/or
New Mailing Address P.O. Box 336
City, State and ZIP Code Rockland, ID 83271
New Telephone Number (208) 548-2343

5. Date you acquired the property 1 Jun 1995

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 _____ 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) Merrill E. Walker
(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..

8/10/99 Data Entry ✓
SW

**PERSONAL REPRESENTATIVE'S DEED
OF DISTRIBUTION**

THIS DEED made by Merrill E. Walker, as personal representative of the estates of Ona V. Walker and Glenna M. Walker, deceased, Grantor, to Merrill E. Walker, a married person, as and for her sole and separate property, Grantee, whose address is Box 336, Rockland, Idaho 83271.

WHEREAS, Grantor is the qualified personal representative of said estate, filed as Case No.SP-95-00090, Magistrates Division, Sixth District Court, Power County, Idaho;

AND WHEREAS, Grantee is entitled to distribution of the herinafter described real property;

NOW THEREFORE, for valuable consideration received, Grantor conveys and releases to Grantee the following described real property located in Power County, Idaho:

The East Half of the Southwest Quarter (E 1/2 SW 1/4)
of Section 28, Township 9 South, Range 31 E.B.M.
The Northeast Quarter of the Northeast Quarter
(NE 1/4 NE 1/4);
The South Half of the Northeast Quarter (S 1/2 NE 1/4);
The Southeast Quarter of the Northwest Quarter
(SE 1/4 NW 1/4);
The Northeast Quarter of the Southeast Quarter
(NE 1/4 SE 1/4);
Beginning at the center of said Section 32, the
true point of beginning;
Thence East Eighty (80) rods;
Thence South Thirty (30) rods;
Thence Northwest Eighty Six (86) rods, more or less,
to the true point of beginning;

Beginning at the Southwest corner of the Northeast
Quarter of the Southeast Quarter of Section 32, /
the true point of beginning;
Thence running South Thirty Four (34) rods;
Thence Southeast Eighty One (81) rods, more or less,
to a point Thirty Nine (39) rods North of the South-
east corner of said Section 32;
Thence North Forty One (41) rods;
Thence West Eighty (80) rods to the true point of
beginning.
All in Section 32, Township 9 South, Range 31 E.B.M.

The Northwest Quarter (NW 1/4);
The Southwest Quarter (SW 1/4);

The North Half of the Southeast Quarter (N 1/2 SE 1/4)
All in Section 33, Township 9 South, Range 31 E.B.M.

The North Half of the Southwest Quarter (N 1/2 SW 1/4)
in Section 34, Township 9 South, Range 31 E.B.M.

Together with all appurtenances.

DATED this day of June, 1995.

Merrill E. Walker

MERRILL E. WALKER

Personal Representative of the
estates of Ona V. Walker and
Glenna M. Walker

STATE OF IDAHO)
 SS
COUNTY OF POWER)

On the day of June, 1995, before me, a notary public,
personally appeared MERRILL E. WALKER, known to me to be the
person whose name is subscribed to the within instrument as
personal representative of the estates of Ona V. Walker and
Glenna M. Walker, and acknowledge to me that this deed was exe-
cuted by the same as such personal representative.

Notary Public

Residing at American Falls, Idaho
My Commission Expires 4-19-98

RECEIVED

AUG 02 1999

Department of Water Resources
Southern Region

29 Jul 1999

Dept. of Water Resources
1341 Fillmore Street, Suite 200
Twin Falls, Idaho 83301-3380

RE: SRBA Claim No. A41-04031 and additional filings

Dear Mr. Clelland;

We wish to have the two additional filings be included in the SRBA.

Enclosed find affidavits verifying beneficial use of the Spring Creek Water in claim #A41-04031.

Priority date of 1880 was established by court house records in your files. Beneficial use cannot be established back to that early date. However we don't think we should lose that date because the rules have changed. We have land deeds showing this water being transferred from owner to owner to our present ownership. Deeding water with the land was the way those people did business and should be honored as such.

Hope this information is sufficient. Thank you for your help in this matter.

Sincerely,



Merrill E. Walker
P.O. Box 336
Rockland, Idaho 83271

4
enc.

AFFIDAVIT

STATE OF IDAHO
COUNTY OF POWER

SS.

RECEIVED

AUG 02 1999

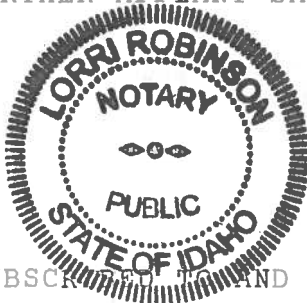
Department of Water Resources
Southern Region

KNOW ALL YE MEN BY THESE PRESENTS.

That on this 28 day of July 1999, personally came and appeared before me Ivan Haskell of American Falls, Idaho known, and known to me, who after being first duly sworn, deposes and says:

I have personal knowledge that crops of hay
and grain were raised on The "Rock" farm
above and below The Barn from The Spring
Creek water. We moved to Rockland in 1929
and we were neighbors to The Rock family.
Walker's now own that property and have also
raised hay and grain using Spring Creek water.

FURTHER AFFIANT SAYETH NOT;



Ivan Haskell

SUBSCRIBED AND SWORN TO before me this 28 day of July
1999.

Lorri Roberson

My Commission Expires: 7-23-04

RECEIVED

AUG 02 1999

Department of Water Resources
Southern Region

AFFIDAVIT

State of Idaho

County of Power

Know by these presents:

That on this day....29.....of July, 1999, personally came and appeared before me Joseph L. May of Rockland, Idaho, known, and known to me, who after being sworn, deposes and says:

As a former water master of then District #29, and being acquainted with the sources of water that was used for cropping purposes in the district do swear that water known as SPRING CREEK WATER was used annually for many years on what, to me then was the Henry Rock ranch and is now owned by Merrill Walker who uses the water for the same purposes as was formerly used by the previous users. This is a small stream and to my knowledge no measuring devices were used.

Further affiant sayeth not.

Joseph L. May
Joseph Lee May

Subscribed and sworn before me this...29.....day of July, 1999

ROBIN

Note: Back in the late 30s or early 40s I assisted Victor Moss who was then operating the Rock Ranch. His neighbor, Raymond Haskell, operating the Allen Ranch just to the east of the Rock place, was also assisting. We were putting up the hay on land irrigated by said Spring Creek water. The Haskell boys were toddling around the team and wagon as children.

RECEIVED

AUG 02 1999 U/LM

Department of Water Resources
Southern Region



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

August 4, 1999

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

MERRILL E WALKER
DONNA D WALKER
PO BOX 336
ROCKLAND ID 83271

RE: SRBA CLAIM NOS. 41-10246 & 41-10247 & 41-04031

Dear Mr. & Mrs. Walker,

Your Claims have been successfully recorded with our department and will appear in the up coming Director's Report for Basin 41. Enclosed are the computer copies for your records.

I have reviewed the affidavits you submitted for 41-04031 and will recommend the right with a priority of 1929.

If you have further questions feel free to contact me at our office.

Sincerely,

A handwritten signature in black ink, appearing to read 'Steve Clelland'.

Steve Clelland

Sr. 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

July 21, 1999

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

MERRILL E WALKER
DONNA D WALKER
PO BOX 336
ROCKLAND ID 83271

RE: SRBA CLAIM NOS. 41-04031, 41-10094, 41-10238 & 41-10239

Dear Mr. & Mrs. Walker,

You recently submitted several checks, claims, and ownership changes with our department and the following is a summary of the review of those documents.

First, the changes of ownership on 41-04031 & 41-10094 do not require payment of fees so I am returning your checks #3470 & 3471; each for \$25.00. Secondly, I have enclosed the receipt and claim copy for the two new claims you have filed; A41-10238 & A41-10239. Third, you will find the remaining two claims being returned along with the checks attached; checks #3466 & #3467 each for \$25.00. These each claim surface water after 1971 and therefore are required to be licensed under the mandatory permit statutes. However, if you still wish to file these claims in the SRBA simply return them with a letter stating you still want them filed.

Finally, enclosed you will find a brochure "Evidence of Priority" which describes the establishment of the priority date of your water right. Your claim A41-04031 lists a priority date of 1880, which has not been supported by any further documentation or evidence. In order to recommend the right as a valid irrigation right, I will need evidence of the use for irrigation. At this time, I cannot confirm the claim for irrigation.

Sincerely,

Steve Clelland

Sr. Water Resource Agent

June 11, 1999

**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: July 9, 1999

Water right number: 41-04031

ONA V WALKER
GLENN A WALKER
PO BOX 273
ROCKLAND ID 83271

Needs Name Change

Daytime Telephone Number:

Evening Telephone Number:

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:

I disagree with this decision because beneficial use was use to raise feed for the horses used to farm this ground when water right was purchased in

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

DATE: 30 Jun 99

SIGNATURE: Merrill E. Walker

Please print your name: Merrill E. Walker

IDWR Southern Regional Office, 1341 Fillmore Street, Suite 200, Twin Falls, ID 83301-3380, (208) 736-3033

8/10/99 scw : Affidavits submitted support 1929 date.

Water Right Number - R41-04031

Prefix Translation: RESEARCH

Old (D) Number -

+ - - - - Last Name - - - - + + - First Name - - + + - - - - - Address - - - - - +

*** C - CURRENT OWNER ***
WALKER

ONA V

1 - PO BOX 273

2 -

3 -

City- ROCKLAND

State- ID Zip- 83271

Phone - 208-548-2361

1 - PO BOX 273

2 -

3 -

City- ROCKLAND

State- ID Zip- 83271

Phone - 208-548-2361

WALKER

GLENNA

+ - - Priority Date - - + + - - - Region - - - + + - - - Stage - - - + + - - - Status - - - +
08/20/1976 17 SOUTHERN I - DISALLOWED

+ - - - - Source - - - - - + + - - - - Tributary - - - - - +
SPRING CREEK ROCK CREEK

+ - - - - - - - - - - - - - Point of Diversion - - - - - +
TwN Rng Sec Tract Lot RFlg County
09S 31E 33 SE SE NW (77) POWER

+ - - - - - - - - - - - - - Water Use - - - - - +
Code Description Period From Period To Diversion Rate Diversion Volume
01 - IRRIGATION 03/15 11/15 0.610
04 - STOCKWATER 01/01 12/31 0.050

+ - Total Div. Rate - + + - Total Div. Volume - + + - Total Consumptive Use - + + - KW Usage - +
0.610 0.0

+ - - - - - - - - - - - - - Place of Use - - - - - +
TwN Rng Sec Tract Lot Acres Code Description County
09S 31E 32 SE NE 0.8 01 IRRIGATION (77) POWER
09S 31E 32 NE SE 12.0 01 IRRIGATION (77) POWER
09S 31E 33 SE NW 3.0 01 IRRIGATION (77) POWER
09S 31E 33 NE SW 11.0 01 IRRIGATION (77) POWER
09S 31E 33 NW SW 15.0 01 IRRIGATION (77) POWER
09S 31E 33 SW SW 2.2 01 IRRIGATION (77) POWER
09S 31E 32 SE NE 04 STOCKWATER (77) POWER
09S 31E 32 NE SE 04 STOCKWATER (77) POWER
09S 31E 33 SE NW 04 STOCKWATER (77) POWER
09S 31E 33 NE SW 04 STOCKWATER (77) POWER
09S 31E 33 NW SW 04 STOCKWATER (77) POWER

Total Acres: 44.0

+ - - Diversion Means - DAMS IN CREEK, OPEN DITCHES PORTABLE PUMP, HANDLINES

Prefix Translation: RESEARCH

+ Remarks +

+ - - - - - 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-----

Date: 05/27/1999 User Id: SCLELLAN Subject: COPIED FROM REMARKS
THE BASIS OF THIS CLAIM IS FROM THE SALE OF ALL THE WATER FLOWING IN SPRING CREEK ABOVE THE BOUNDARY OF THE FARM (TYLER PROPERTY)
AS WAS SOLD TO D. TYLER BY JAMES HUNTER ON 5-28-1891. THE WATER SOLD WAS BASED UPON AN ORIGINAL FILING FOR A WATER RIGHT IN MAY
1880.

THE TYLER PROPERTY IS THAT LISTED IN ITEM #10 AS THE PLACE OF USE WHICH HAS BEEN OWNED BY SINCE THE EARLY 1960'S BY O. WALKER.

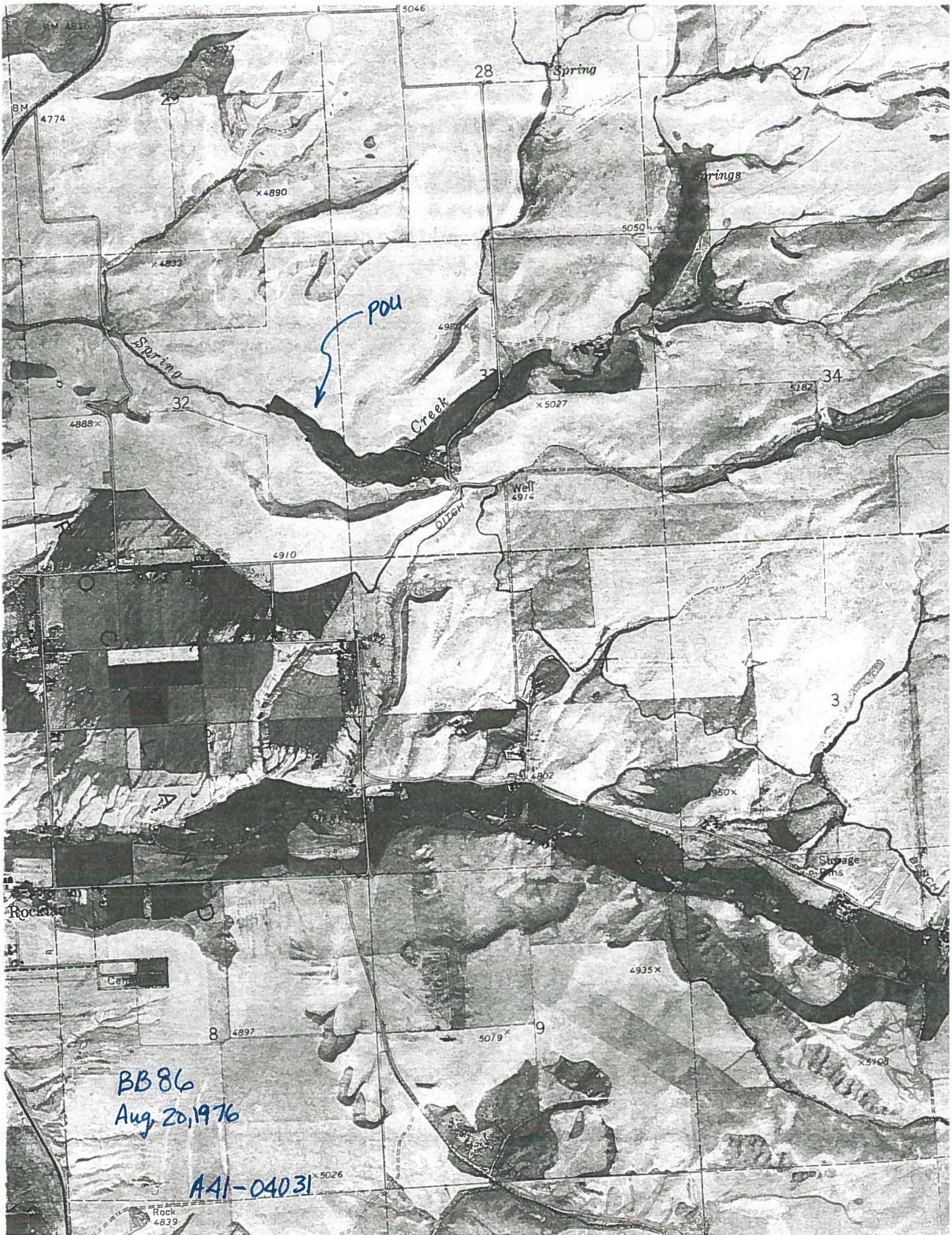
Date: 05/27/1999 User Id: SCLELLAN Subject: DISALLOW

SALE OF STREAM IN 1891 DOES NOT SUPPORT IRRIGATION USES OF WATER RIGHTS ON THE STREAM.

+ - - Audit Fields - - +
05/27/99 SCLELLAN

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

| | | | | | |
|----------------------|--------------|-----------------------|--------------|-------------------------|---------|
| Court Report Filing | - 00/00/0000 | Field Inspection Made | - 07/21/1995 | Civil Case Number | - 39576 |
| Objection Filed Date | - 00/00/0000 | Field Inspection Flag | - | Old Case Number | - |
| Response Filed Date | - 00/00/0000 | Verified Date | - 05/27/1999 | Old Judicial District | - |
| Claim Received Date | - 03/14/1990 | Last Amended Date | - 00/00/0000 | Temporary Right | - P |
| | | Receipt Number | - M006241 | Water District | - |
| | | POU Ownership Flag | - Y | Federal/State Indicator | - S |
| | | Name Connector | - OR | Presumption Flag | - |
| | | | | Notice of Error Flag | - |



CLAIM NUMBER

A41-04003

DATE

5/27/99

TRANSFER NUMBER

AGENT

SCVCLAIMED ACRE TOTAL 131.

GIS ACRE TOTAL

44.

| | TWP | RNG | SEC | NE | | | | NW | | | | SW | | | | SE | | | |
|-------|-----------|------------|-----------|----|----|-----------|------------|----|----|----|----------|-----------|-----------|------------|----------|-----------|----------|----|----------|
| | | | | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE | NE | NW | SW | SE |
| CLAIM | <u>9S</u> | <u>31E</u> | <u>32</u> | | | <u>34</u> | <u>16</u> | | | | <u>7</u> | | | | | <u>21</u> | <u>2</u> | | <u>3</u> |
| GIS | | | | | | <u>0</u> | <u>0.8</u> | | | | <u>0</u> | | | | | <u>12</u> | <u>0</u> | | <u>0</u> |
| RECOM | | | | | | | | | | | | | | | | | | | |
| CLAIM | | | <u>33</u> | | | | | | | | <u>5</u> | <u>15</u> | <u>18</u> | <u>8</u> | <u>2</u> | | | | <u>4</u> |
| GIS | | | | | | | | | | | <u>3</u> | <u>11</u> | <u>15</u> | <u>2.3</u> | <u>0</u> | | | | <u>3</u> |
| RECOM | | | | | | | | | | | | | | | | | | | |
| CLAIM | | | | | | | | | | | | | | | | | | | |
| GIS | | | | | | | | | | | | | | | | | | | |
| RECOM | | | | | | | | | | | | | | | | | | | |

B41-POU.SHP

SHAPE NOS.

27

B41-POD.SHP

NOS. DESCRIPTION

20North pod21South pod

DBF TABLES UPDATED

B41-DBPOU.DBF

see 3/9/00

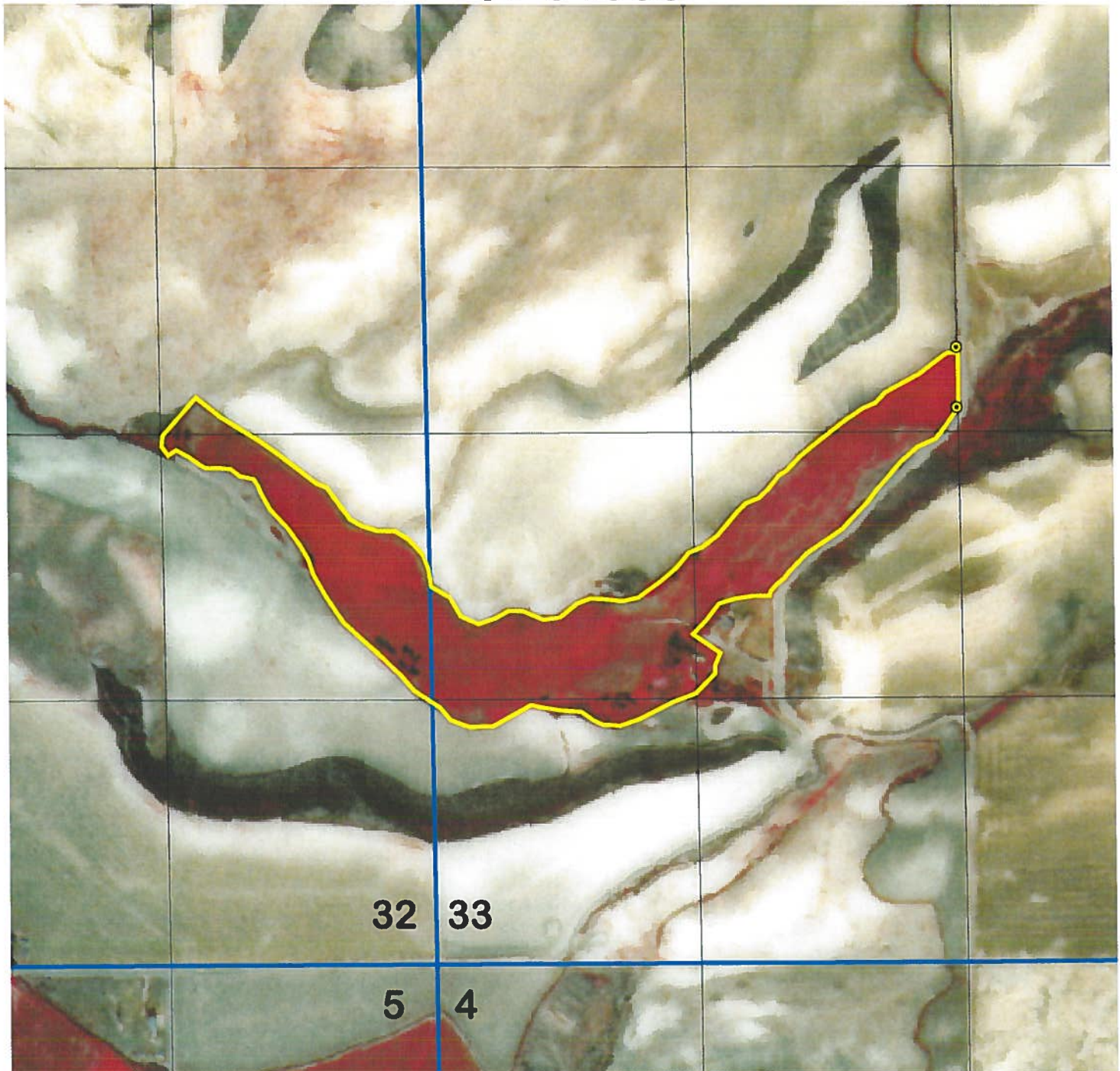
B41-DBPOD.DBF

JPEG LAYOUT

✓41-04031.jpg

IDAHO DEPT OF WATER RESOURCES

41-04003



660 0 660 1320 Feet

T9S R31E SEC. 32 & 33



- RECOMMENDED PLACE OF USE
- POINT OF DIVERSION
- SECTION LINES
- 1/4 - 1/4 LINES

GIS PLACE OF USE PRESENTATION
1987 &/OR 1988 NAPP PHOTOGRAPHY

DATA ENTRY BY: STEVE CLELLAND
DATE: May 27, 1999

8-1-95

Field Notes
SCC

Spring Creek Mass.

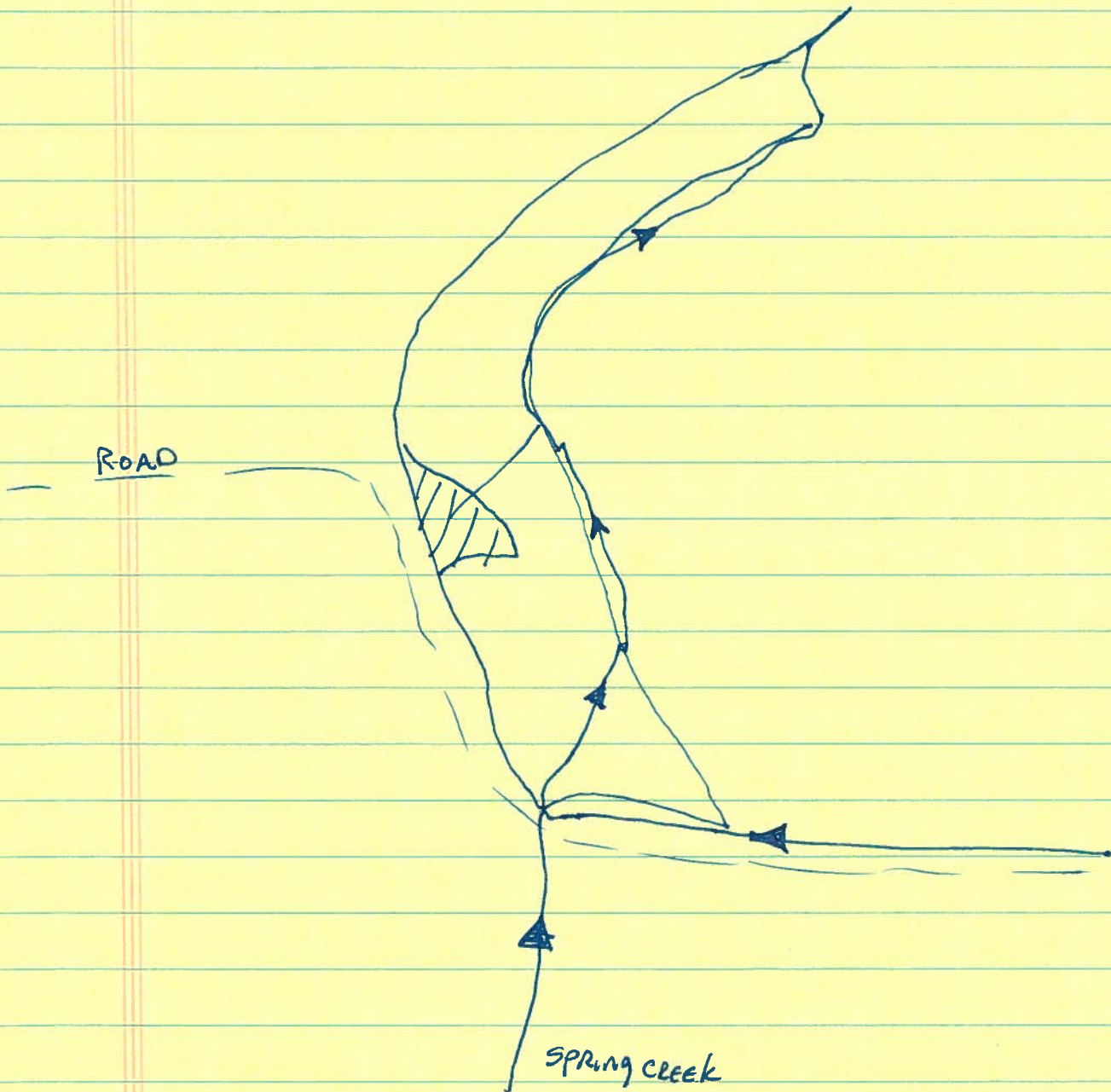
North Fork Spring Creek
@ Road culvert of Spring Creek

2.8 cm = 0.10 cfs (photos R41-2)

8.6 cm = 0.61 cfs = (0.51 + 0.10)

A41-04031

Field Notes
7-21-95
34



WALKER
AAI-4031



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

~~KEITH ANDERSON~~
Governor PHILIP E. BATT

R. KEITH HIGGINSON
Director

February 10, 1995

Dear Wateruser:

In response to the Bench Ditch Irrigation Company's letter to IDWR dated January 25, 1995, this letter is being sent to all waterusers of record in the Basin 41 Water District.

As you may know, the arbitration for delivery of water that has operated in the Rockland valley for over 100 years has been very effective in allowing the delivery of water rights by the local watermaster. The box method described in the arbitration has worked to divide the waters fairly, but recent studies of the boxes have determined the actual flow rates that have been delivered for years are different than the rates listed in the arbitration. This is largely due to the fact that the box method, as applied in the valley, is not a standard measuring device.

It is IDWR's position that:

Rights recommended in the ongoing Snake River Basin Adjudication, will be based on the historical beneficial use and historical diversion rate represented by use of the box method.

Conversion to an approved, standard measuring device is encouraged but should not result in a increase in the amount of water diverted. IDWR requests, before any old diversion structure is removed or destroyed, to view and measure the historical diversion rate as delivered by the box described in the arbitration.

Any change in measuring devices or structures that results in an increase of diversion rates above the historical beneficial use will result in injury to junior right holders within the Rock Creek system.

We look forward to working with all waterusers in the district. SRBA examinations will resume in the spring of 1995 and IDWR will measure and evaluate all of the structures diverting from Rock Creek and the East Fork of Rock Creek. If you have questions please contact me at my office in Twin Falls.

Sincerely,

STEVE CLELLAND
Water Resource Agent

A41- 04031



State of Idaho

DEPARTMENT OF WATER RESOURCES

STATE OFFICE, 450 W. State Street, Boise, Idaho

JOHN V. EVANS

Governor

A. KENNETH DUNN

Director

Mailing address:

Statehouse

Boise, Idaho 83720

(208) 334-4440

MEMORANDUM

TO: Loren Holmes

THRU: Bob Fleenor *BDF*

FROM: Dave Tuthill *DRT*

DATE: December 6, 1983

RE: Delivery of Water on Spring Creek tributary to Rock Creek

*Copied: Dec 7-1-84
5u*

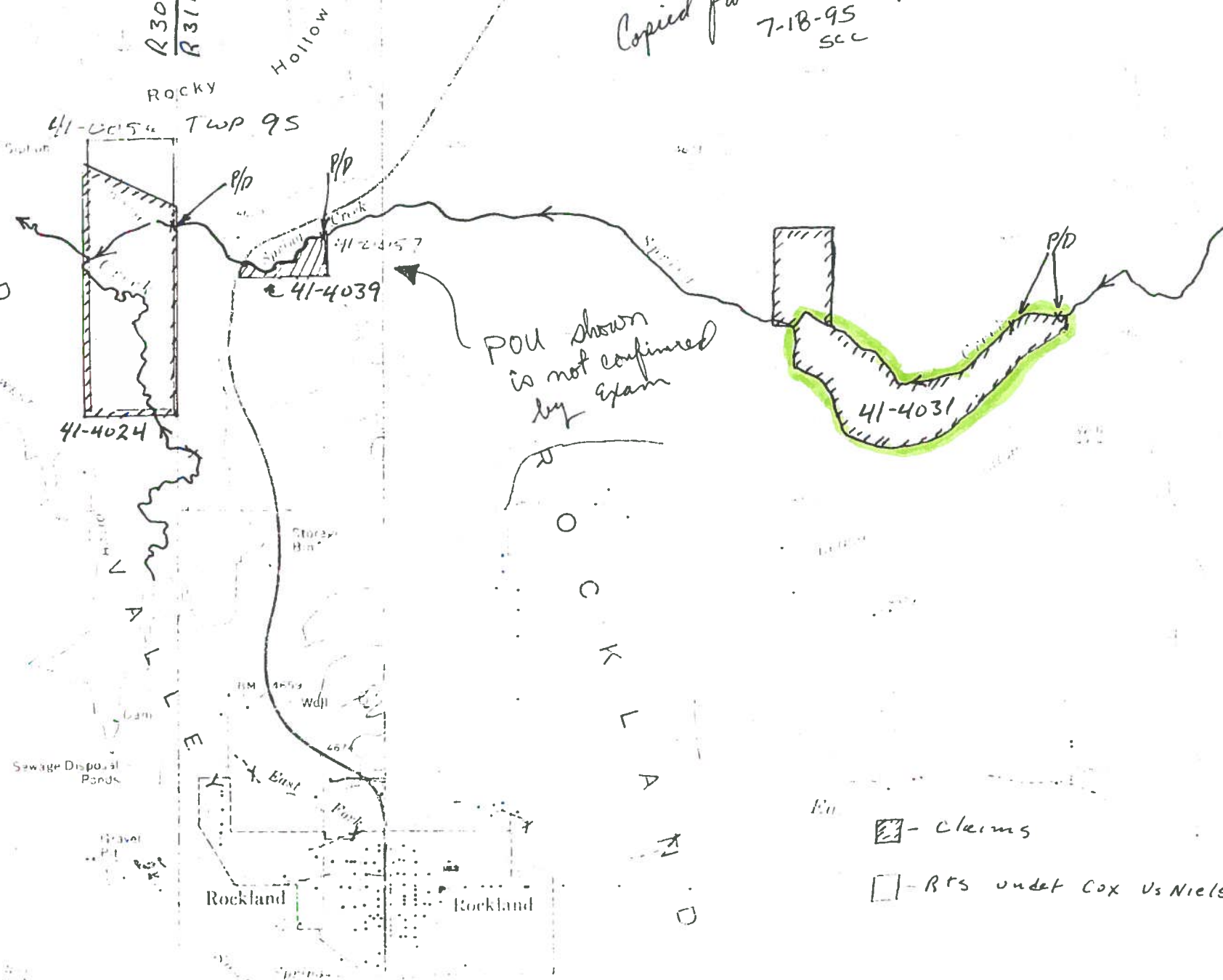
In response to your memorandum dated October 26, 1983, this office has investigated the water right situation on Spring Creek tributary to Rock Creek.

We find that the Cox v. Nielson et. al. decree identified two distinct water rights. Water right No. 41-0056 in the name of Rachel Hunter Cox has a priority date of May 1880, a rate of flow equal to the entire flow of the creek, and a place of use including three forty acre tracts. Water right No. 41-0057 in the name of Arthur H. Nielson Jr. and Bonnie F. Nielson has a priority date of just prior to water right No. 41-0056 (use April 31, 1880 for practical purposes), an undefined rate of flow and a place of use of 15 acres.

Claims Nos. 41-4024 and 41-4039 serve to clarify decreed rights Nos. 41-0056 and 41-0057 respectively, but they are not identical and thus have been recommended to retain their original numbers, recognizing that each claim seeks to further describe rather than be in addition to the associated decreed right.

Regarding water delivery, the watermaster should be instructed to deliver the two decreed rights prior to any other diversions from the stream. Based on the decree, water will be available to satisfy the beneficial use right defined by claim No. 41-4031 only after the two decreed rights are completely satisfied.

Copied from Deeds file 41-A
7-18-95
SEC



41-4031

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM VERIFICATION REPORT

15:11:52
04/22/91

PAGE: 13
QUICKLOOK INFORMATION

CLAIM NUMBER: A41-04031

| WR ELEMENT | FIELD EXAM
Y/N | CORRESPONDENCE
SENT/RECEIVED
BY WHOM/DATE | FIELD EXAM
BY WHOM/DATE | CHANGE
CLAIM
Y/N | VERIFIED BY
CODE | COMPLETED
REVIEW
WHOM/DATE | COMPLETED
DATA ENTRY
WHOM/DATE | VERIFIED
DATE
WHOM/DATE |
|---------------------------|-------------------|---|----------------------------|------------------------|---------------------|----------------------------------|--------------------------------------|-------------------------------|
| PRIORITY DATE | | | | | | | | |
| POINT OF DIV | Y | | | | | | | |
| SOURCE | | | | | | | | |
| PLACE OF USE | Y | | | | | | | |
| DIV. AMOUNT
CFS/VOLUME | Y | | | | | | | |
| CONSUMPTIVE USE | - | | | | | | | |
| PURPOSES | | | | | | | | |
| PERIOD OF USE | | | | | | | | |
| BASIS OF CLAIM | Y | | | | | | | |
| REMARKS | Y | | | | | | | |

"VERIFIED BY" CODES

TOPO MAP/ORTHO-PQ = 1
ASCS MAP = 2
WATERMASTER RECORDS = 3
NAPP PHOTOS = 4
FIELD EXAM = 5
OTHER (SEE REMARKS) = 6

THESE CODES ARE USED TO INDICATE HOW THE FIELD EXAMINER VERIFIED THE INFORMATION
USED FOR THIS FIELD EXAMINATION. INDICATED ARE ALL CODES WHICH APPLY.

Water Right Number - A41-04031

Prefix Translation: ADJUDICATION CLAIM

Old (D) Number -

+ - - - - Last Name - - - - + + - First Name - - + + - - - - Address - - - - - +

*** C - CURRENT OWNER ***

WALKER

ONA V.

1 - P.O. BOX 273

2 -

3 -

City- ROCKLAND

State- ID Zip- 83271

Phone - 208-548-2361

WALKER

GLENNA

1 - P.O. BOX 273

2 -

3 -

City- ROCKLAND

State- ID Zip- 83271

Phone - 208-548-2361

+ - - Priority Date - - + + - - Region - - - + + - - Stage - - - + + - - Status - - - +
 05/01/1880 17 SOUTHERN J - BENEFICIAL USE

+ - - - - Source - - - - - + + - - - - Tributary - - - - - +
 SPRING CREEK ROCK CREEK

+ - - - - Point of Diversion - - - - - +
 TwN Rng Sec Tract Lot RFlg County Stream Index (Blank if no Index Code)

09S 31E 32 SW SW NE (77) POWER
 09S 31E 32 SW SE NE (77) POWER
 09S 31E 33 SE SE NW (77) POWER
 09S 31E 33 NW NE SW (77) POWER
 09S 31E 33 SE NW SW (77) POWER

+ - - - - Water Use - - - - - +
 Code Description Period From Period To Diversion Rate Diversion Volume
 01 - IRRIGATION 03/01 11/01 2.260
 04 - STOCKWATER 01/01 12/31 0.050

+ - Total Div. Rate - + + - Total Div. Volume - + + - Total Div. Capacity - + + - Total Consumptive Use - + + - KW Usage - +
 2.670 327.5

+ - - - - Place of Use - - - - - +
 TwN Rng Sec Tract Lot Acres Code Description County
 09S 31E 32 SW NE 34.0 01 IRRIGATION (77) POWER
 09S 31E 32 SE NE 16.0 01 IRRIGATION (77) POWER
 09S 31E 32 SE NW 7.0 01 IRRIGATION (77) POWER
 09S 31E 32 NE SE 21.0 01 IRRIGATION (77) POWER
 09S 31E 32 NW SE 2.0 01 IRRIGATION (77) POWER
 09S 31E 32 SE SE 3.0 01 IRRIGATION (77) POWER
 09S 31E 33 SE NW 5.0 01 IRRIGATION (77) POWER
 09S 31E 33 NE SW 15.0 01 IRRIGATION (77) POWER
 09S 31E 33 NW SW 18.0 01 IRRIGATION (77) POWER
 09S 31E 33 SW SW 8.0 01 IRRIGATION (77) POWER
 09S 31E 33 SE SW 2.0 01 IRRIGATION (77) POWER
 09S 31E 32 SW NE 04 STOCKWATER (77) POWER

Water right number - A41-04031

Prefix Translation: ADJUDICATION CLAIM

| Tw | Rng | Sec | Tract | Lot | Acres | Code | Description | County |
|-----|-----|-----|-------|-----|-------|------|-------------|-------------|
| 09S | 31E | 32 | SE NE | | | 04 | STOCKWATER | (77) POWER |
| 09S | 31E | 32 | SE NW | | | 04 | STOCKWATER | (77) POWER |
| 09S | 31E | 32 | NE SE | | | 04 | STOCKWATER | (77) POWER |
| 09S | 31E | 33 | SE NW | | | 04 | STOCKWATER | (77) POWER |
| 09S | 31E | 33 | NE SW | | | 04 | STOCKWATER | (77) POWER |
| 09S | 31E | 33 | NW SW | | | 04 | STOCKWATER | (77) POWER |

Total Acres: 131.0

+ - - Diversion Means - DAMS IN CREEK, OPEN DITCHES PORTABLE PUMP, HANDLINES

+ - - Non-Irrigation Use - S/150-200 RANGE

+ - - Other Rights for Same Use - NONE

Remarks

THE BASIS OF THIS CLAIM IS FROM THE SALE OF ALL THE WATER FLOWING IN SPRING CREEK ABOVE THE BOUNDARY OF THE FARM (TYLER PROPERTY) AS WAS SOLD TO D. TYLER BY JAMES HUNTER ON 5-28-1891. THE WATER SOLD WAS BASED UPON AN ORIGINAL FILING FOR A WATER RIGHT IN MAY 1880.

THE TYLER PROPERTY IS THAT LISTED IN ITEM #10 AS THE PLACE OF USE WHICH HAS BEEN OWNED BY SINCE THE EARLY 1960'S BY O. WALKER.

Old Water Right Numbers

No Old Water Right Numbers found.

Conditions of Approval

No Conditions of Approval found.

Decree Plaintiff

Decree Defendant

Decree Date - 00/00/0000

+ - - Audit Fields - 03/14/90 BAUMHOFF

Comments

No Comments Found

+ - - Adjudication Rights Dates and Flags Area

| | | | | | |
|-----------------------|--------------|-----------------------|--------------|-------------------------|---------|
| Court Report Filing | - 00/00/0000 | Field Inspection Made | - 00/00/0000 | Civil Case Number | - 39576 |
| Objection Filed Date | - 00/00/0000 | Field Inspection Flag | - | Old Case Number | - |
| Response Filed Date | - 00/00/0000 | Verified Date | - 01/28/1986 | Old Judicial District | - |
| Claim Received Date | - 03/14/1990 | Last Amended Date | - 00/00/0000 | Temporary Right | - P |
| Proof Due Date | - 00/00/0000 | Proof Made Date | - 00/00/0000 | Water District | - |
| Licensed Date | - 00/00/0000 | Receipt Number | - M006241 | Federal/State Indicator | - S |
| Claims Tape Error Flg | - | POU Ownership Flag | - Y | Presumption Flag | - |
| Fee Exempt Flag | - | Name Connector | - OR | | |

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM VERIFICATION REPORT

15:11:52
04/22/91

PAGE: 1
GENERAL INFORMATION

CLAIM NUMBER: A41-04031

LAST: WALKER
ADDRESS: P.O. BOX 273
CITY: ROCKLAND
PHONE NUMBER: 208-548-2361

FIRST: ONA V.
STATE: ID ZIP: 83271

OWNER CODE: C

LAST: WALKER
ADDRESS: P.O. BOX 273
CITY: ROCKLAND
PHONE NUMBER: 208-548-2361

FIRST: GLENNA
STATE: ID ZIP: 83271

OWNER CODE: C

FIELD EXAM REQUIRED?

FIELD
EXAMINER
DATABASE
Y

VERIFICATION REQUIRED DUE TO REMARKS?

CLAIM REMARKS: THE BASIS OF THIS CLAIM IS FROM THE SALE OF ALL THE WATER FLOWING
IN SPRING CREEK ABOVE THE BOUNDARY OF THE FARM (TYLER PROPERTY)
AS WAS SOLD TO D. TYLER BY JAMES HUNTER ON 5-28-1891. THE WATER
SOLD WAS BASED UPON AN ORIGINAL FILING FOR A WATER RIGHT IN MAY
1880.
|
THE TYLER PROPERTY IS THAT LISTED IN ITEM #10 AS THE PLACE OF USE
WHICH HAS BEEN OWNED BY SINCE THE EARLY 1960'S BY O. WALKER.

CONTACT PERSON: _____

PHONE NUMBER: (____) ____-____

DATE OF FIELD EXAM: ____/____/____

APPOINTMENT MADE: Y(____) N(____)

TIME: ____:____ A(____) P(____)

ACCOMPANIED BY: _____

PHONE NUMBER: (____) ____-____

RELATIONSHIP TO CLAIMANT: _____

DIRECTIONS TO PROPERTY / REMARKS:

5/27/99 sc - Disallow -
Proof of priority is not supportive of irrigation uses.

A. AJ CLAIM: # A41-04031 PRIORITY DATE: 05-01-1880 STAGE: J

B. WR RECORD: # 41-04031 PRIORITY DATE: 05-01-1880 STAGE: S

C. FIELD EXAM REQUIRED?

DATABASE FIELD
N EXAMINER

DUE TO PRIORITY DATE DISCREPANCY? (Y/N)

ARE THERE OBVIOUS REASONS TO QUESTION THE PRIORITY DATE CLAIMED? Y() N()
IF YES EXPLAIN.

REMARKS:

Proof supplied indicates James Hunter ^{sold to D. Tyler} "bought" a stream of water. There is no reference to the use of water or development of a water right. Statement was written in 1891 but was not recorded until 1903 (time of public notice).

=====

RECOMMENDED PRIORITY DATE:

~~05-01-1880~~

REVIEWED BY _____

DATE _____

=====

A. AJ CLAIM POINT OF DIVERSION AND SOURCE:

| RIGHT | TWP. | RGE. | SEC. | 1/4 | 1/4 | 1/4 | LOT | CNTY |
|-----------|------|------|------|-----|-----|-----|-----|-------|
| A41-04031 | 09S | 31E | 32 | SW | SW | NE | | POWER |
| A41-04031 | 09S | 31E | 32 | SW | SE | NE | | POWER |
| A41-04031 | 09S | 31E | 33 | SE | SE | NW | | POWER |
| A41-04031 | 09S | 31E | 33 | NW | NE | SW | | POWER |
| A41-04031 | 09S | 31E | 33 | SE | NW | SW | | POWER |

OTHER AJ CLAIMS WITH SAME AJ POD
A PREFIX R PREFIX
NONE NONE

WR RECORDS IN SAME 40 ACRE TRACT

41-07069

SOURCE: SPRING CREEK

TRIB: ROCK CREEK

B. WR POINT OF DIVERSION AND SOURCE:

| RIGHT | TWP. | RGE. | SEC. | 1/4 | 1/4 | 1/4 | LOT | CNTY |
|----------|------|------|------|-----|-----|-----|-----|-------|
| 41-04031 | 09S | 31E | 33 | | SE | NW | | POWER |
| 41-04031 | 09S | 31E | 33 | | NE | SW | | POWER |

OTHER WR RECORDS WITH SAME WR POD

AJ CLAIMS IN SAME 40 ACRE TRACT
A PREFIX R PREFIX

41-07069

NONE

NONE

SOURCE: SPRING CREEK

TRIB: ROCK CREEK

C. FIELD EXAM REQUIRED?

| | DUE TO POD DISCREPANCY? (Y/N) | DUE TO SOURCE DISCREPANCY? (Y/N) | DATABASE | FIELD EXAMINER |
|--|-------------------------------|----------------------------------|----------|----------------|
| | | | Y | _____ |
| | | | N | _____ |

REMARKS:

RECOMMENDED POINT(S) OF DIVERSION AND SOURCE:

TWP. RGE. SEC.

1/4

1/4

1/4

LOT

COUNTY

SOURCE: SPRING CREEK

TRIB: ROCK CREEK

REVIEWED BY: _____

DATE: _____

A. ROOT WATER RIGHT NUMBERS: A41-04031

B. POU LISTING

| TWP | RNG | SEC | 1/4 | 1/4 | LOT | NAME | AJ
#/ACRES | WR
#/ACRES | LANDSAT
DATA | FIELD
EXAM. | RECOMM.
ACRES |
|-------------|-----|-----|-----|-----|-----|------------------|-----------------|----------------|-----------------|----------------|------------------|
| 09S | 31E | 32 | SW | NE | | WALKER , ONA V. | A41-04031 /34.0 | 41-04031 /12.0 | 13.0 | | |
| 09S | 31E | 32 | SE | NE | | WALKER , ONA V. | A41-04031 /16.0 | 41-04031 /16.0 | 6.0 | | |
| 09S | 31E | 32 | SE | NW | | WALKER , ONA V. | A41-04031 / 7.0 | - / | 16.0 | | |
| 09S | 31E | 32 | NE | SE | | WALKER , ONA V. | A41-04031 /21.0 | 41-04031 /29.0 | 24.0 | | |
| 09S | 31E | 32 | NW | SE | | WALKER , ONA V. | A41-04031 / 2.0 | - / | 6.0 | | |
| | | | NW | SE | | ROBINSON , LOGAN | A41-04038 / | 41-04038 / | | | |
| 09S | 31E | 32 | SE | SE | | WALKER , ONA V. | A41-04031 / 3.0 | 41-04031 / 4.0 | | | |
| 09S | 31E | 33 | SE | NW | | WALKER , ONA V. | A41-04031 / 5.0 | 41-04031 /11.0 | 11.0 | | |
| 09S | 31E | 33 | NE | SW | | WALKER , ONA V. | A41-04031 /15.0 | 41-04031 /13.0 | 24.0 | | |
| | | | NE | SW | | WALKER , ONA | | 41-07069 / 3.0 | | | |
| 09S | 31E | 33 | NW | SW | | WALKER , ONA V. | A41-04031 /18.0 | 41-04031 /19.0 | 23.0 | | |
| | | | NW | SW | | WALKER , ONA | | 41-07069 / 2.0 | | | |
| 09S | 31E | 33 | SW | SW | | WALKER , ONA V. | A41-04031 / 8.0 | 41-04031 / 6.0 | 1.0 | | |
| 09S | 31E | 33 | SE | SW | | WALKER , ONA V. | A41-04031 / 2.0 | - / | | | |
| 09S | 31E | 33 | SE | NW | | WALKER , ONA V. | A41-04031 / | 41-04031 /11.0 | 11.0 | | |
| 09S | 31E | 33 | NE | SW | | WALKER , ONA V. | A41-04031 / | 41-04031 /13.0 | 24.0 | | |
| | | | NE | SW | | WALKER , ONA | | 41-07069 / 3.0 | | | |
| 09S | 31E | 33 | NW | SW | | WALKER , ONA V. | A41-04031 / | 41-04031 /19.0 | 23.0 | | |
| | | | NW | SW | | WALKER , ONA | | 41-07069 / 2.0 | | | |
| 09S | 31E | 32 | SW | NE | | WALKER , ONA V. | A41-04031 / | 41-04031 /12.0 | 13.0 | | |
| 09S | 31E | 32 | SE | NE | | WALKER , ONA V. | A41-04031 / | 41-04031 /16.0 | 6.0 | | |
| 09S | 31E | 32 | SE | NW | | WALKER , ONA V. | A41-04031 / | - / | 16.0 | | |
| 09S | 31E | 32 | NE | SE | | WALKER , ONA V. | A41-04031 / | 41-04031 /29.0 | 24.0 | | |
| TOTAL ACRES | | | | | | | A41-04031 | 131.00 | 210.00 | 241.00 | |

ARE IRRIGATED ACRES FOUND IN TRACTS OTHER THAN INDICATED ABOVE, Y() N()
IF YES SEE ATTACHED SHEET:

C. FIELD EXAM REQUIRED?

DUE TO POU DISCREPANCY? (Y/N)

DATABASE
Y

FIELD
EXAMINER

PRESUMPTION FLAG:

REMARKS:

=====

RECOMMENDATIONS:

TOTAL ACRES: _____

REVIEWED BY: _____

DATE: _____

=====

A. AJ CLAIMED USES:

| PURPOSES | MONTH/DAY | DIVERSION QUANTITY |
|-------------------------------------|---------------------|--------------------|
| A41-04031 IRRIGATION | FROM 03-01 TO 11-01 | 2.260 CFS |
| A41-04031 STOCKWATER | FROM 01-01 TO 12-31 | .050 CFS |
| TOTAL DIVERSION RATE/VOLUME CLAIMED | | 2.670 CFS |

B. WR RECORDED USES:

| PURPOSES | MONTH/DAY | DIVERSION QUANTITY |
|-------------------------------------|---------------------|--------------------|
| 41-04031 IRRIGATION | FROM 03-01 TO 11-01 | 3.000 CFS |
| 41-04031 STOCKWATER | FROM 01-01 TO 12-31 | .050 CFS |
| TOTAL DIVERSION RATE/VOLUME CLAIMED | | 3.050 CFS |

PRESUMPTION FLAG:

C. FIELD EXAM REQUIRED?

| | DATABASE | FIELD EXAMINER |
|--|----------|----------------|
| DUE TO WATER-USE DISCREPANCY? (Y/N) | N | _____ |
| DUE TO DIVERSION RATE DISCREPANCY? (Y/N) | Y | _____ |
| DUE TO PERIOD FROM/TO DISCREPANCY? (Y/N) | N | _____ |

D. PERIOD OF USE:

RECOMMEND AS CLAIMED? Y() N()

RECOMMEND TO WR STANDARDS OR OTHER? Y() N() Explain in remarks, below.

REMARKS:

A. DOES DIVERSION RATE CLAIMED AGREE WITH EXISTING RECORDS?

Y() N()

AJ TOTAL CLAIMED DIVERSION RATE: 2.670 CFS
WR ROOT RIGHT TOTAL DIVERSION RATE: 3.050 CFS

*** IF NO or IF STATUTORY CLAIM or BENEFICIAL USE then flow measurement required. ***
** If an amount smaller than the original diversion rate is **
** claimed and an exam is NOT required, explain in remarks. **

FLOW MEASUREMENT REQUIRED?

FIELD
DATABASE EXAMINER
Y

DUE TO STAGE OR DIVERSION RATE DISCREPANCY? (Y/N)

B.

FLOW MEASUREMENT

MEASUREMENT METHOD _____, SEE ATTACHED CALCULATIONS.

C. ARE OTHER WATER RIGHTS USED? Y() N() IF YES COMPLETE OVERLAP REVIEW.

OTHER RIGHTS LISTED IN CLAIM: NONE

NO CLAIMS FOUND WITH SAME POI AND IRRIGATION USAGE

LIST ALL RIGHTS WITH SAME POI BUT NOT USED FOR IRRIGATION.

| CLAIM NO. | PURPOSES | NAME | MONTH/DAY | RATE | VOLUME |
|-----------|------------|------------------|---------------------|----------|--------|
| A41-04031 | STOCKWATER | WALKER , ONA V. | FROM 01-01 TO 12-31 | .050 CFS | |
| A41-04038 | STOCKWATER | ROBINSON , LOGAN | FROM 01-01 TO 12-31 | .040 CFS | |

D.

RATE/VOLUME CALCULATIONS: (IRRIGATION)

1a. IRRIGATION RATE

ACRES _____ x 0.02 CFS/ACRE = _____ CFS
(Taken from p/u review)

1b. CALCULATIONS

DOES AMOUNT CLAIMED EXCEED 0.02 CFS/ACRE? Y(____) N(____)

*** IF YES ADDITIONAL WATER USE FORM FILED AND ATTACHED? Y(____) N(____) ***

2. IRRIGATION CONSUMPTIVE USE

CLAIMED CONSUMPTIVE USE = 327.5 AF/A

ACRES _____ x CONSUMPTIVE VOL. AF/A FOR AREA _____ =

TOTAL CONSUMPTIVE USE _____ AF/A

3. IRRIGATION DIVERSION VOLUME

CLAIMED DIVERSION VOLUME = _____ AF/A

ACRES _____ x DIVERSION VOL. AF/A FOR AREA _____ =

TOTAL DIVERSION VOLUME _____ AF/A

4. CALCULATIONS FOR USES OTHER THAN IRRIGATION:

SEE ATTACHED SHEET? Y(____) N(____)

REMARKS: (Include limitations on CONSUMPTIVE USE for combined rights.)

=====

RECOMMENDATIONS:

| REC.
PURPOSES | REC. PERIOD | | REC. DIV | | REC. DIV | | REC. CONS. | |
|----------------------|-------------|-------|----------|----------|-----------|----------|------------|----------|
| | FROM | TO | RATE CFS | | VOL. AF/A | | USE | |
| | | | DATABASE | EXAMINER | DATABASE | EXAMINER | DATABASE | EXAMINER |
| IRRIGATION | 03-01 | 11-01 | 2.260 | _____ | | _____ | 327.5 | _____ |
| STOCKWATER | 01-01 | 12-31 | 0.050 | _____ | | _____ | | _____ |
| TOTAL FOR THIS RIGHT | | | 2.670 | | | | | |

REVIEWED BY: _____ DATE: _____

=====

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: 41-04031

| TOTAL DIVERSION RATE OF WR SPLITS | DATABASE
3.050 | EXAMINER
_____ | CFS |
|-----------------------------------|-------------------|-------------------|-----|
|-----------------------------------|-------------------|-------------------|-----|

SPLITS:

| OLD RIGHT
NUMBERS | CURRENT
CLAIM NUMBERS | DIVERSION
RATE | CURRENT "R"
CLAIM NUM. | "R" DIV.
RATE | WR RIGHT
NUMBERS | DIVERSION
RATE |
|----------------------|--------------------------|-------------------|---------------------------|------------------|---------------------|-------------------|
| - | A41-04031 | 2.670 | - | | 41-04031 | 3.050 |
| TOTAL CFS | | 2.670 | | | | 3.050 |

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 sheet attached? (Y/N)

| DATABASE
N | FIELD
EXAMINER

_____ |
|---------------|-------------------------------------|
|---------------|-------------------------------------|

REMARKS:

AUTHENTICATION:

SIGNATURE: _____ DATE: _____

NAME OF FIELD EXAMINER: _____ TITLE: _____

Photos
R41-23
by Sec
7-21-95



Small
Stream
N. Rockland

- Old
Farm



Photo: R41-24
by sec
8-1-95



Photo: R41-2A
by su

8-1-95



old farm
N. Rockwell



Water Right Number - 41-04031

Prefix Translation: WATER RIGHT

Old (D) Number -

+ - - - - Last Name - - - - + + - First Name - - + + - - - - - Address - - - - - +

*** C - CURRENT OWNER ***

WALKER

ONA V.

1 -

2 -

3 -

City- ROCKLAND

State- ID Zip- 83271

Phone -

WALKER

GLENNA

1 -

2 -

3 -

City- ROCKLAND

State- ID Zip- 83271

Phone -

+ - - Priority Date - - +
05/01/1880+ - - Region - - - +
17 SOUTHERN+ - - Stage - - - +
S - STATUTORY CLAIM

+ - - Status - - - +

+ - - - - Source - - - - - +
SPRING CREEK+ - - - - Tributary - - - - - +
ROCK CREEK+ - - - - Point of Diversion - - - - - +
TwN Rng Sec Tract Lot RFlg County Stream Index (Blank if no Index Code)09S 31E 33 SE NW (77) POWER
09S 31E 33 NE SW (77) POWER+ - - - - Water Use - - - - - +
Code Description Period From Period To Diversion Rate Diversion Volume
01 - IRRIGATION 03/01 11/01 3.000
04 - STOCKWATER 01/01 12/31 0.050+ - Total Div. Rate - + + - Total Div. Volume - + + - Total Div. Capacity - +
3.050+ - - - - Place of Use - - - - - +
TwN Rng Sec Tract Lot Acres Code Description County
09S 31E 32 SW NE 12.0 01 IRRIGATION (77) POWER
09S 31E 32 SE NE 16.0 01 IRRIGATION (77) POWER
09S 31E 32 NE SE 29.0 01 IRRIGATION (77) POWER
09S 31E 32 SE SE 4.0 01 IRRIGATION (77) POWER
09S 31E 33 SE NW 11.0 01 IRRIGATION (77) POWER
09S 31E 33 NE SW 13.0 01 IRRIGATION (77) POWER
09S 31E 33 NW SW 19.0 01 IRRIGATION (77) POWER
09S 31E 33 SW SW 6.0 01 IRRIGATION (77) POWER

Total Acres: 110.0

+ - - Diversion Means - EARTH DITCHES

+ - - Non-Irrigation Use - S/150-200 RANGE

Prefix Translation: WATER RIGHT

| | | | | | |
|-------------------|--------------|------------------|--------------|------------------|-----|
| Proof Due Date | - 00/00/0000 | Field Exam Made | - 00/00/0000 | Field Exam Fee | - |
| Approved/Denied | - 00/00/0000 | Protested Date | - 00/00/0000 | Swan Falls | - |
| Proof Made Date | - 00/00/0000 | Hearing Date | - 00/00/0000 | Temporary Right | - P |
| Exam to S.O. Date | - 00/00/0000 | Verified Date | - 01/28/1986 | OLE/Carey Act | - |
| Order Show Cause | - 00/00/0000 | Receipt Number | - | Water District | - |
| Licensed Date | - 00/00/0000 | Appl Received | - 00/00/0000 | Transfer/Amended | - |
| Decree Date | - 00/00/0000 | Presumption Flag | - | | |