

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

Ident. Number: A41-10031
Date Received: 2/27/1990
Receipt No: S011334
Received By: SCC

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: GLEN R. COX 208-678-2160
Address: 531 TETON DRIVE
BURLEY, ID 83318

AND/OR
Name: IDA F. COX 208-678-2160
Address: 531 TETON DRIVE
BURLEY, ID 83318

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	Lot	County
09S	30E	36	NE	SE			POWER

5. Description of diverting works:
DAMS AND DITCHES

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	04/01	11/01	1.680		
STOCKWATER	01/01	12/31	0.020		

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

8. Total consumptive use is 300.0 Acre Feet Per Annum.

9. Non-irrigation uses:
S/50 RANGE, HORSES

A41-10031

Page 1

Date: 02/27/90

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10. Place of Use:

Township	Range	Section	1/4	of	1/4	Lot	Use	Acres
09S	30E	36	NE		NE		IRR	20.0
			NE		NE		STOCK	
			SE		NE		IRR	40.0
			SE		NE		STOCK	
			NE		SE		IRR	40.0
			NE		SE		STOCK	
							Section Acres	100.0
							Total Acres	100.0

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:
THIS CLAIM IS A COMBINATION OF THE TWO WR'S 41-00056 & 41-04024.
THE RIGHT IS FOR THE ENTIRE FLOW OF THE STREAM WITH EXCEPTION
OF WR 41-00057 TO IRRIGATE 15 ACRES IF IT DOES NOT IMPEDE THIS
WR.

15. Basis of Claim: DECREED
Case Number:
Court :
Decree date: 6/09/1980

RACHEL HUNTER COX
Decree Plaintiff

ARTHUR H. NIELSON, JR., ET AL
Decree Defendant

vs

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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): *John A. Cox* Date: 2-27-90

Date: _____

State of Idaho)
County of Twin Falls) SS.

Subscribed and sworn (or affirmed) before me this 27th day
of February 19 90 *Steve Chell*
Notary Public

Seal

Residing at Twin Falls
My Commission Expires Dec 7, 1994

30E R.31E.

P.H.



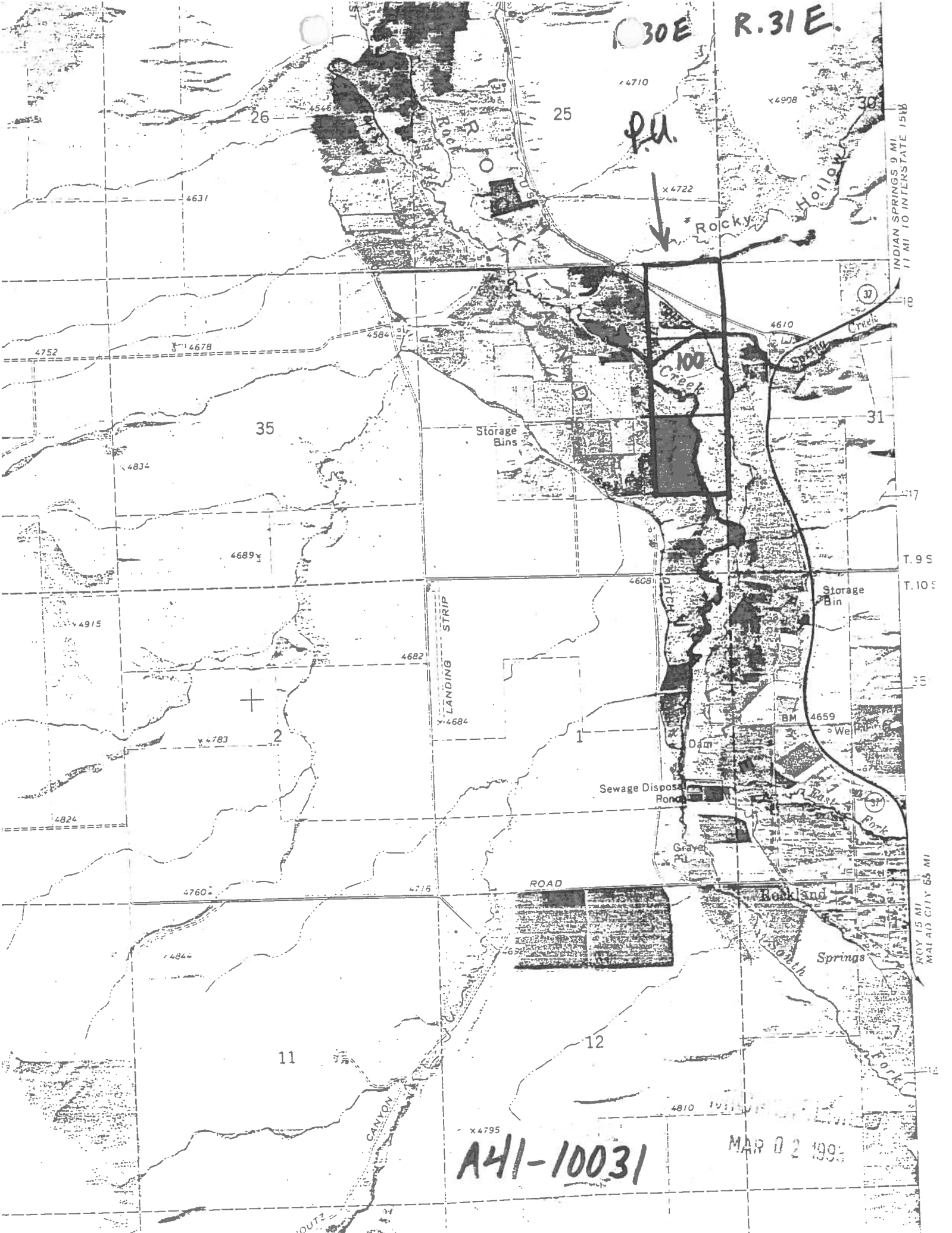
INDIAN SPRINGS 9 MI
11 MI TO INTERSTATE 15

T.9 S
T.10 S

ROY 15 MI
MALAD CITY 65 MI

A41-10031

MAR 02 1993



Case No. 6674
Instrument No. 22
Filed June 11 1980
Clerk
Deputy

COPY

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

RACHEL HUNTER COX,	)	Case No. 6674
A widow,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	<u>JUDGMENT AND DECREE</u>
	)	
ARTHUR H. NIELSON, JR. and	)	
BONNIE F. NIELSON, husband	)	
and wife, and JAMES WOODWORTH,	)	
	)	
Defendants.	)	

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

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MAR 02 1993

A41-10031

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's use of the entire natural flow of Spring Creek, except for Defendants' 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.

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

DATED this 4 day of June, 1980.

[Signature]
District Judge

Instrument No. 120724
State of Idaho }
County Power } SS
I hereby certify that this
instrument was filed for
record at the request of
Parsons, Smith, & Stone
Filed at 1:00
o'clock PM, this 11 th
day of June 1980 and
recorded as instrument
No. 120724 in Drawer
6

Helen Hall, Recorder
By Ellen Sparks
Deputy

STATE OF IDAHO }
COUNTY OF POWER } SS
I, Helen Hall, Clerk of the District Court
of Power County, Idaho do hereby certify that the
above and foregoing is a full, true and correct copy
of the original Judgment
& Decree
as the same appears of record in this office.
In Witness Whereof, I have hereunto set my hand
and affixed my official seal this 11 th day of
June, 1980
Helen Hall
Clerk
By Ellen Sparks

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Water Right Number - 41-04024

[illegible]

1 - 531 TETON DRIVE
2 -

3 - City- BURLEY

Phone -

1 - 531 TETON DRIVE

IDA F.

21

3 - City- BURLY

678-2160

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

```

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

```

SPRING CREEK

+	TWN	Rng	Sec	Tract	Lot	RFlg	County
---	-----	-----	-----	-------	-----	------	--------

	(77)	POWER
09S	36	NE SE
30E	36	

	Description	period From	Water Use period To	Diversion Rate	Diversion Volume
+	- - - - -	- - - - -	- - - - -	- - - - -	- - - - -
+	- - - - -	- - - - -	- - - - -	- - - - -	- - - - -

Code	Description		
01	TDPICANTON	04/01	11/01
			1.680
			0.030

01 - INKIGATION	01/01	12/31	0.020
04 - STOCKWATER			

+ - Total Div. Rate - +	+ - Total Div. Volume - +	+ - Total Div. Capacity - +
1.680		

[illegible]

(77) POWER
(77) POWER
(77) POWER

IRRIGATION
IRRIGATION
IRRIGATION

Total Acres: 100.0

+ - - Diversion Means - DITCHES

+ - - Non-Irrigation Use - S/50 RANGE, HORSES

Other Rights for Same Use - 41-0056.

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IDAHO DEPARTMENT OF WATER RESOURCES
WATER RIGHT CLAIMS PROOF READING REPORT
(REGIONAL)

Water Right Number - 41-00056 Adj. Flag Translation: Standard Water Right Number Old (D) Number -
+ - - - - Last Name - - - - + + - First Name - - - - + Address - - - - -

*** C - CURRENT OWNER ***
COX

RACHEL HUNTER

1 -
2 -
3 -
City-
Phone -

State- Zip-

+ - - Priority Date - - + + - - Region - - - + + - - Stage - - - + + - - Status - - - +
05/01/1880 17 D - DECREED

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

+ - - - - - - - - - - - - - - Point of Diversion - - - - - - - - - - +
Twn Rng Sec Tract Lot Rflg County

+ - - - - - - - - - - - - - - Water Use - - - - - - - - - - +
Code Description Period From Period To Diversion Rate Diversion Volume

+ - Total Div. Rate - + + - Total Div. Volume - + + - Total Div. Capacity - +

+ - - - - - - - - - - - - - - Place of Use - - - - - - - - - - +
Twn Rng Sec Tract Lot Acres Code Description County

| | | | | | | | |
|-----|-----|----|-------|----|------------|----|-------|
| 09S | 30E | 36 | NE NE | 01 | IRRIGATION | 77 | POWER |
| 09S | 30E | 36 | SE NE | 01 | IRRIGATION | 77 | POWER |
| 09S | 30E | 36 | NE SE | 01 | IRRIGATION | 77 | POWER |

Total Acres:

+ - - Diversion Means -

+ - - Non-Irrigation Use -

+ - - Other Rights for Same Use - 41-4024

+ - - - - - - - - - - - - - - Remarks - - - - - - - - - - +
RT. IS FOR ENTIRE FLOW OF CREEK, 1.2-1.6 CFS.

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

+ - - Decree Plaintiff - - - + + - - - Decree Defendant - - - + +
RACHEL HUNTER COX ARTHUR H. NIELSON, JR., ET. AL. 06/09/1980

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+ - - Audit Fields -

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[illegible]

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Department of Water Resources

APR 18 2002 4:07

DISTRICT COURT - SF-5
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 41-10031

) (Cox)

Case No. 39576

)
) ORDER GRANTING WALKER'S MOTION
) TO WITHDRAW MOTION TO RESCIND and
) SPECIAL MASTER REPORT AND
) RECOMMENDATION ON NIELSONS'
) MOTION TO RESCIND

FINDINGS OF FACT

Notice of Claim and Director's Report

Glen and Ida Cox, 531 Teton Drive, Burley, Idaho 83318, filed a *Notice of Claim to a Water Right* on February 27, 1990, claiming 1.68 cfs from Spring Creek (tributary to Rock Creek) for year-'round stockwater use and for irrigation of 100 acres from April 1 to November 1 with a priority date of May 1, 1880, based on a decree.

The Director of the Idaho Department of Water Resources filed his *Director's Reports for Irrigation and Other, Reporting Area 7, IDWR Basin 41* on November 2, 1999. The Director recommended claim 41-10031 as filed but for irrigation of 103 acres from April 1 to October 31.

Objection

Merrill E. Walker filed an *Objection* on December 27, 1999, objecting to priority date and alleging the priority date should be May 28, 1891.

SF-5, Special Master Report and Partial Decrees

On November 2, 2000, the Coxes, Mr. Walker and IDWR filed a *Standard Form 5* agreeing that claim 41-10031 should be decreed as recommended by IDWR. The Special Master filed a *Special Master Report and Recommendation* on November 2, 2000, and the Presiding Judge entered an *Order of Partial Decree* on June 5, 2001, both in accordance with the SF-5.

On August 27, 2001, the Presiding Judge entered a *Notice of Court's Intent to Correct Apparent Clerical Error in Partial Decree; I.R.C.P. 60(a)* and *Order Setting Hearing* to correct a clerical error in the remark regarding the quantity element. The hearing was held on September 18, 2001, in Pocatello, Idaho, and the same day, the Presiding Judge entered an *Order Correcting Clerical Error in Partial Decree; I.R.C.P. 60(a)* and *Order of Amended Partial Decree Entered Nunc Pro Tunc*.

Motions to Rescind

On September 24, 2001, Arthur H. Nielson, Jr., wrote to the Court a letter entitled "*Motion to Rescind Partial Decree Issued*," concerning subcase 41-10031, stating:

[The *Partial Decree*] was issued while the Spring Creek water was in the hearing stage with the settlement still pending. . . . This Partial Decree grants to Mr. Cox the rights to use the water that is Decreed to Arthur H. Jr. and Bonnie Nielson.

On September 28, 2001, Merrill E. Walker also wrote to the Court a letter entitled "*Motion to Rescind Partial Decree Issued*," in subcase 41-10031 stating the decree was granted prematurely: "All users to Spring Creek water have not totally agreed to its use, and settlement is still pending." Mr. Walker said the *Partial Decree* was premature because it was issued prior to a "hearing" before Special Master Bilyeu on June 27, 2001.¹ In addition, Mr. Walker said the *Partial Decree* should be rescinded because it granted Mr. Cox "well over the norm of one (1) inch per acre."

Orders of Reference

On September 24, 2001, the Presiding Judge entered an *Order of Reference to Special Master Dolan* concerning Mr. Nielson's *Motion to Rescind*. The purposes of the appointment included:

- a. To determine the intended purpose of the correspondence and the legal significance of the correspondence, if any. . . .;
- b. To determine whether the correspondence complies with *SRBA Administrative Order 1 (AO1)* and the Idaho Rules of Civil Procedure or whether additional time should be granted to allow the party to file an appropriate motion with the Special Master and/or to obtain counsel in the matter; whether the matter

¹ In his *Motion to Rescind*, Mr. Nielson also mentioned the "hearing" with Special Master Brigitte Bilyeu on June 27, 2001, at the city office building in Rockland, Idaho. He wrote it was during this "hearing" that he first learned about the *Order of Partial Decree* dated June 5, 2001. That hearing was actually a settlement conference conducted by Special Master Bilyeu as settlement moderator in subcase 41-00057.

should be dismissed on its face; or to determine whether the matter would be more appropriately processed administratively through the Idaho Department of Water Resources;

c. If the correspondence is ultimately deemed a sufficient motion, or in the event a new motion is filed in compliance with the applicable rule(s), the Special Master shall conduct all proceedings necessary to issue a recommendation as to the underlying merits.

On November 2, 2001, the Presiding Judge entered an *Order of Reference to Special Master Dolan, Re: Motion to Rescind Partial Decree Issued, filed by Merrill E. Walker*. The purposes of this second appointment were the same as the previous *Order of Reference* concerning Mr. Nielson's *Motion to Rescind*.

Hearing

A hearing on Mr. Nielson's *Motion to Rescind* was held on November 9, 2001, in Rockland, Idaho. Arthur and Bonnie Nielson appeared *pro se*;² David F. Shirley appeared for claimants Glen and Ida Cox; and Garrick L. Baxter appeared for IDWR.

The Nielsons said they wanted to present all their evidence in support of their *Motion to Rescind* at that hearing. The Coxes objected because of insufficient notice, but participated fully when the Nielsons were allowed to present their case through documents and witness testimony.

Post-hearing Matters

On November 13, 2001, the Coxes filed their *Objection to Motions to Rescind Partial Decree and Memorandum in Opposition to Motions to Rescind Partial Decree*. The Coxes argued: 1) the Nielsons' and Mr. Walker's *Motions to Rescind* do not comply with I.R.C.P. Rule 7(b)(1), 2) neither *Motion* sets forth any legal theory or authority under which it is filed and 3) the arguments and facts alleged in the *Motions* are insufficient grounds for rescinding a partial decree.

On November 30, 2001, Mr. Walker filed his *Pleading to Withdraw Motion to Rescind Partial Decree to Water Right* "to eliminate any further expense to the State of Idaho and all other parties involved." That left the Nielsons' *Motion to Rescind* as the only matter for determination.

² Although Mr. Nielson filed the *Motion to Rescind* in his name only, he and his wife both appeared and argued the *Motion*. Therefore, the *Motion* will be referred as their joint *Motion* hereinafter.

Following the hearing on the Nielsons' *Motion to Rescind*, the Special Master visited IDWR's state office in Boise to review its public records concerning the history of water rights in the Rockland area. Specifically, the Special Master gathered background on a "decision of arbitration" entered on April 1, 1890, recorded in the Oneida County book of judgments but never endorsed by a District Court as a judicial decree. During the hearing, the parties and witnesses variously referred to this as the "1890 decree" or the "Houtz arbitration"³ - the beginning point of water rights administration on Rock Creek.⁴

The main IDWR file reviewed by the Special Master is entitled: *In the Matter of Application for Transfer No. 3518/ Water Right No. 41-00013 & Transfer No. 3519/ Water Right No. 41-00008 in the Name of James Juan Spillett*. In the *Final Memorandum Decision and Order*, dated August 30, 1990, p. 10, the seminal importance of the 1890 "decision of arbitration" was described as follows:

For purposes of administering the water rights on Rock Creek, the Department, and the parties diverting water from Rock Creek, have recognized the decision of arbitration as a judgment decreeing the water rights in Rock Creek. The waters from Rock Creek have been administered according to the decision of arbitration since the decision was rendered. A water district has been created by the Department, and a watermaster has distributed water from Rock Creek to the respective users.

DISCUSSION

AO-1 and Rule 60(b)

SRBA Administrative Order 1, Rules of Procedure (AO-1) states in relevant part: "Parties seeking to modify a partial decree shall comply with I.R.C.P. 60(a) or 60(b)." *AO-1*, 14, d, at 22. Since the Nielsons have not alleged there were clerical mistakes in the *Partial Decree*, Rule 60(b) is the standard for reviewing their *Motion to Rescind Partial Decree*.

The Nielsons were not parties to subcase 41-10031 until they filed their *Motion to Rescind*. They failed to object to the Coxes' claim and they failed to move to alter or amend or challenge the *Special Master Report and Recommendation*. In this unique circumstance, the

³ A unique consequence of the "Houtz arbitration" was the use of a Houtz box to measure diversions of water in the Rockland area. The quantity figures recorded with this devise do not correspond to Idaho's measurement standards. Hence, IDWR had to accommodate those figures in its recommendations.

⁴ The Coxes' water right claim in the present matter, 41-10031, diverts from Spring Creek, a tributary to Rock Creek.

closest analogy is for the court to review their *Motion to Rescind* like a motion to set aside judgment entered by default, even though there was no actual default.

Under Rule 60(b), a party seeking to set aside a final judgment by default must show 1) mistake, inadvertence, surprise or excusable neglect, 2) newly discovered evidence, 3) fraud, misrepresentation or other misconduct of an adverse party, 4) the judgment is void, 5) the judgment has been satisfied, released or discharged or a prior judgment upon which it is based has been reversed or otherwise vacated, or it is no longer equitable that the judgment should have prospective application, or 6) any other reason justifying relief from operation of the judgment. Motions alleging mistake, inadvertence, surprise, excusable neglect, newly discovered evidence, fraud or any other reason justifying relief from operation of the judgment must be filed not more than 6 months after the judgment was entered.

The Nielsons filed their *Motion to Rescind* less than 4 months after the Presiding Judge entered the *Order of Partial Decree* and 6 days after entry of the *Order Correcting Clerical Error in Partial Decree; I.R.C.P. 60(a)* and *Order of Amended Partial Decree Entered Nunc Pro Tunc*. Therefore, the Nielsons' *Motion* was filed well within the 6 month deadline.

The Nielsons claimed surprise as the reason they feel they are entitled to relief from the *Partial Decree*. They said they first learned of the *Partial Decree* on June 27, 2001, during a "hearing" in Rockland, Idaho, where the Nielsons, the Coxes, Mr. Walker and others discussed settlement of other disputed water rights.

Standards for Review

A motion to set aside a default judgment presents the trial court with a factual determination. *Reeves v. Wisenor*, 102 Idaho 271, 629 P.2d 667 (1981). In determining whether to set aside a default judgment, a standard of liberality must be applied rather than one of strictness and the party moving to vacate default judgment must be given the benefit of any genuine doubt. *Johnson v. Pioneer Title Co. of Ada County*, 104 Idaho 727, 662 P.2d 1171 (App. 1983). A motion to set aside a default judgment is addressed to the sound discretion of the trial court whose discretion will not be reversed in the absence of abuse of that discretion; however, it would be an abuse of discretion for the trial court to grant such a motion without an adequate legal basis for doing so. *Newbold v. Arvidson*, 105 Idaho 663, 672 P.2d 231 (1983).

In addition to requiring a party to state a reason justifying relief from operation of the judgment, Idaho courts require more. First, a party must show that he or she has acted in good faith and exercised due diligence in the prosecution and protection of his or her rights, such as an ordinarily prudent person would exercise under similar conditions. *Council Improvement Co. v. Draper*, 16 Idaho 541, 102 P. 7 (1909) and *Kovachy v. DeLeusomme*, 122 Idaho 973, 842 P.2d 309 (App. 1992).

Second, a party must show a meritorious defense to set aside a default:

Mere mistake, inadvertence, surprise or excusable neglect without disclosure of meritorious defense or meritorious defense without disclosure of mistake, inadvertence, surprise or excusable neglect will not suffice. . . . The facts constituting the defense, whether disclosed by answer, affidavit or both, must also be detailed and must be sufficient, when established, to constitute a defense to the action on the merits. The conclusion of the party or his attorney . . . is not sufficient. Whether the pleaded facts are sufficient to constitute a defense is also one for the trial court.

Thomas v. Stevens, 78 Idaho 266, 271, 300 P.2d 811, 813 (1956).

The policy of requiring a showing of a meritorious defense is founded on the doctrine that it would be an idle exercise for a court to set aside a default if, in fact, there is no justiciable controversy. *Reeves v. Wisenor*, 102 Idaho 271, 629 P.2d 667 (1981). A party who seeks to set aside a default has the burden of supplying detailed facts of the proposed defense. *Smith Electric, Inc. v. Crandlemire*, 100 Idaho 172, 595 P.2d 321 (1979).

Meritorious Defense

Leaving aside such issues as whether the Nielsons provided the Coxes adequate notice of their *Motion to Rescind* and whether the Nielsons exercised due diligence in filing the *Motion* when they failed to join the subcase earlier, the Nielsons' *Motion* must be denied because they failed to show a meritorious defense. That being the case, the Nielsons cannot show good cause to have the *Partial Decree* modified or set aside.

Basis for Director's Recommendation

Steve Clelland, IDWR Adjudication Bureau claims investigator, testified during the hearing at the request of the Special Master concerning the basis of IDWR's recommendation for 41-10031. Mr. Clelland said he based his investigation on a 1980 *Judgment and Decree* ("1980

Decree”) entered in a lawsuit between Rachel Hunter Cox (Glen Cox’ mother and the Coxes’ predecessor-in-interest) and the Nielsons.⁵

The *1980 Decree* awarded to Ms. Cox “all the waters of Spring Creek, with a priority date of May, 1880” to irrigate certain real property (no acreage specified). The Court estimated the entire flow of Spring Creek to average between 1.1988 cfs (50 miner’s inches) and 1.6 cfs (80 miner’s inches).

The *1980 Decree* awarded to the Nielsons,
[T]he right to divert the waters of Spring Creek across a portion of their property .
... for the purpose of flood irrigating approximately fifteen (15) acres, as long as
they allow the water to then return to the natural channel of Spring Creek and
flow unimpeded to Plaintiff’s [Ms. Cox’] land for application.

Mr. Clelland said the *1980 Decree* was not appealed by either party and hence, remains valid. He also said that while the *1980 Decree* was binding on the parties to the lawsuit, it was not binding on IDWR because it was not a named party. Mr. Clelland then explained IDWR’s statutory duty to determine and report all the elements of each water right claim, including missing or vague elements. I.C. § 42-1411 That meant determining: 1) the claimants, 2) source of water, 3) quantity, 4) priority date, 5) purpose of use, 6) period of use and 7) acreage for both claims - 41-10031 (Cox) and 41-00057 (Nielson).⁶ Those are the minimum elements necessary to define and administer water rights acquired under state law. Mr. Clelland cautioned that even decreed water rights are subject to loss because of forfeiture or abandonment.

Binding Effect of Prior 1980 Decree

The Nielsons argued the SRBA *Partial Decree* is invalid because Judge Hargraves did not have complete information when he entered his *1980 Decree*, even though the information was available in Power and Oneida County records. The Nielsons said they began to find documents proving their claim 2 years ago. The Nielsons feel they are entitled to the entire flow of Spring Creek, rather than the Coxes, because the records prove an appropriation made by the

⁵ The *Judgment and Decree* was entered by District Judge George W. Hargraves on June 9, 1980, in Power County District Court, Case No. 6674, entitled: *Rachel Hunter Cox, a widow, plaintiff, v. Arthur H. Nielson Jr. and Bonnie F. Nielson, husband and wife, and James Woodworth, defendants*. The record is not clear who James Woodworth is or what his involvement was.

⁶ On April 4, 1990, the Nielsons filed a *Notice of Claim* under 41-00057 for .3 cfs from Spring Creek to flood irrigate 15 acres from March 15 to November 15 with a priority date of April 30, 1880, based on a decree. IDWR has recommended .1 cfs to irrigate 5 acres.

Coxes' predecessors-in-interest in 1880 was invalid. Finally, the Nielsons argued that if IDWR is not bound by the *1980 Decree*, neither are they.

In 1997, the Idaho Supreme Court discussed the binding effect of prior decrees on IDWR and parties:

Nowhere in Title 42 is the Director "obligated to accept a prior decree" issued in a private adjudication "as being conclusive proof of the nature of a water right." This is especially true in light of longstanding decisions in Idaho that decreed water rights, although protected like any other water right, are not insulated from re-examination by the court and may be lost or reduced based on evidence that the water right has been forfeited, abandoned or lost through adverse possession. Although a decree evidences a legal right to the use of water, it does not obligate the Director to make a recommendation contrary to his findings.

A decree issued in a private water adjudication binds only those parties to the decree. . . .

To hold that the Director is "obligated to accept prior decrees as being conclusive proof of the nature of a water right" is contrary to the Director's statutory role in the SRBA and such a holding would have the effect of binding water right owners not parties in a prior adjudication to a prior decree issued in a private adjudication. This is an untenable outcome [citations omitted].

State v. Hagerman Water Right Owners, 130 Idaho 736, 741-742, 947 P.2d 409, 414-415 (1997).

Based on a review of case law and the facts of this case, it is evident that the Nielsons have failed to show a meritorious defense and thus cannot show good cause to have the *Partial Decree* modified or set aside. They are bound by the terms of the *1980 Decree*, a private adjudication to which they were parties.

IDWR examined the Coxes' claim 41-10031 based on the *1980 Decree* and recommended the elements as required by statute. Once the *Director's Reports* were filed with the SRBA Court, its recommendation constituted *prima facie* evidence of the nature and extent of claim 41-10031. The *Partial Decree* was entered in accordance with that evidence.

ORDER

Merrill E. Walker, having filed his *Pleading to Withdraw Motion to Rescind Partial Decree to Water Right*, the *Pleading* being in the nature of a motion,

THEREFORE, IT IS ORDERED that Mr. Walker's motion is **granted**.

CONCLUSIONS OF LAW

The Nielsons have **not** shown good cause to have the *Partial Decree* entered in subcase 41-10031 modified or set aside.

RECOMMENDATION

THEREFORE, IT IS RECOMMENDED that the Nielsons' *Motion to Rescind Partial Decree Issued* in subcase 41-10031 be **denied**.

DATED April 17, 2002.



TERRENCE A. DOLAN
Special Master
Snake River Basin Adjudication

CERTIFICATE OF MAILING

I certify that a true and correct copy of the ORDER GRANTING WALKER'S MOTION TO WITHDRAW MOTION TO RESCIND and SPECIAL MASTER REPORT AND RECOMMENDATION ON NIELSONS' MOTION TO RESCIND was mailed on April 18, 2002, with sufficient first-class postage to the following:

GLEN R COX

IDA F COX

Represented by

DAVID F. SHIRLEY

137 West 13th Street

PO Box 910

Burley, ID 83318

MERRILL E WALKER

PO Box 336

Rockland, ID 83271

DIRECTOR OF IDWR

PO Box 83720

Boise, ID 83720-0098

AURTHUR H. NIELSON, JR

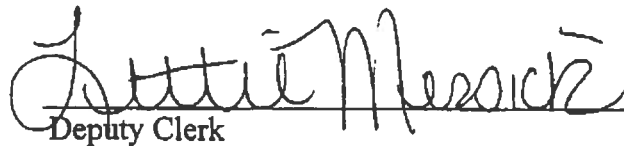
1655 East Center

Pocatello, ID 83201

GLEN R COX & IDA F COX

531 Teton Drive

Burley, ID 83318



Deputy Clerk

SEP 12 2001

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)
_____)

**MOTION TO RESCIND
PARTIAL DECREE ISSUED**

For Water Right No: 41-10030

Reason # 1.

We are asking that this decree be set aside hereby submitting this motion because it is felt the decree was granted prematurely. All users to Spring Creek water have not totally agreed to its use, and settlement is still pending.

This decree was issued 5 June 2001 which is prior to a scheduled hearing before Special Master Brigitte Bilyeu on 27 June 2001 at Rockland, Idaho with all parties present.

There has also been a Telephone Conference held on the 15 August 2001 and another dead line set for 17 Sep 2001.

We feel these Conferences have been somewhat moot and ineffective because of this partial decree being in place.

Reason # 2.

Because this decree was granted Mr. Glen Cox has well over the norm of one (1) inch per acre. He has decreed water from three (3) other sources, The U.S. Ditch, 1/2 of 3/4 share; The West Ditch, 1/2 share; and the Tyler Ditch, 6 inches; all for the same land as the Spring Creek water.

Thanking you for considering this request.

Respectfully,

Merrill E. Walker
P.O. Box 336
Rockland, Idaho
(208) 548-2343

Copy

RECEIVED

AUG 28 2001

Department of Water Resources

2001 AUG 27 AM 10:44

DISTRICT COURT-SRBA
TWIN FALLS CO., IDAHO
FILED 74

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 41-10031

Case No. 39576

)
) NOTICE OF COURT'S INTENT TO
) CORRECT APPARENT CLERICAL ERROR
) IN PARTIAL DECREE; I.R.C.P. 60(a)

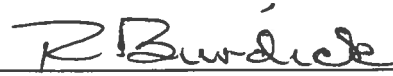
)
) ORDER SETTING HEARING

On June 5, 2001, a *Partial Decree* was issued for the above-captioned water right. On August 9, 2001, Vicki Kelly from the Idaho Department of Water Resources contacted the Court via e-mail, and indicated that the *Partial Decree* contains a clerical error. Specifically, IDWR indicated that the entire third paragraph in the remark regarding the quantity element was inadvertently included in the director's report and the *Partial Decree* for this water right. The subject paragraph is indicated on the attached copy of the *Partial Decree*.

Therefore, the parties to this subcase ARE HEREBY NOTIFIED that the Court intends to treat the inclusion of the aforementioned third paragraph as a clerical error and delete it pursuant to I.R.C.P. 60(a). However, prior to doing so, the Court will provide the parties to this subcase an opportunity to object to this proposed course of action at a hearing.

Therefore, IT IS HEREBY ORDERED that a hearing will be held in this matter on Tuesday, September 18, 2001, at 1:30 p.m. at the United States District Courthouse, 801 East Sherman, Pocatello, Idaho, 83201. Telephone participation will be available by contacting the Clerk of the SRBA Court no later than Monday, September 17, 2001. Attendance at this hearing is not mandatory, as the Court intends to issue an *Order* and *Amended Partial Decree* in substantially the same form as the drafts attached hereto, absent any objections from the parties to this subcase.

DATED: B-27-01

Handwritten signature of Roger S. Burdick in black ink, written over a horizontal line.

ROGER S. BURDICK
Presiding Judge
Snake River Basin Adjudication

CERTIFICATE OF MAILING

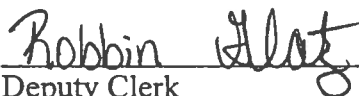
I certify that a true and correct copy of the NOTICE OF COURT'S INTENT TO CORRECT APPARENT CLERICAL ERROR IN PARTIAL DECREE; I.R.C.P. 60(A) ORDER SETTING HEARING was mailed on August 27, 2001, with sufficient first-class postage to the following:

Glen R Cox
IDA F Cox
531 Teton Drive
Burley, ID 83318

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

United States Department of Justice
Environment & Nat'l Resources Div
550 W Fort Street, MSC 033
Boise, ID 83724

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


Deputy Clerk

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

In Re SRBA)

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

Case No. 39576)

Water Right 41-10031

NAME AND ADDRESS:

GLEN R COX
IDA F COX
531 TETON DRIVE
BURLEY, ID 83318

SOURCE:

SPRING CREEK

TRIBUTARY: ROCK CREEK

QUANTITY:

1.68 CFS

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

THE APPROPRIATOR IS ENTITLED TO THE QUANTITY OF WATER
DESCRIBED FOR STOCK WATER PURPOSES AT A POINT OF MEASUREMENT
WHERE THE DELIVERY DITCH ENTERS THE PLACE OF USE DESCRIBED, SO
LONG AS THE QUANTITY DIVERTED AT THE POINT OF DIVERSION DOES NOT
CONSTITUTE UNREASONABLE WASTE.

PRIORITY DATE:

05/01/1880

POINT OF DIVERSION:

T09S R30E S36

SENE

Within Power County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE
Irrigation
Stockwater

PERIOD OF USE
04-01 TO 10-31
01-01 TO 12-31

QUANTITY
1.68 CFS
0.02 CFS

PLACE OF USE:

Irrigation
T09S R30E S36

NENE 30.0
NESE 36.0

Within Power County
SENE 37.0

103.0 Acres Total

Stockwater
T09S R30E S36

NENE
NESE

Within Power County
SENE

USE OF THIS RIGHT WITH RIGHT NO. 41-00034A IS LIMITED TO THE
IRRIGATION OF A COMBINED TOTAL OF 103 ACRES IN A SINGLE
IRRIGATION SEASON.

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. I.C. SECTION 42-1412(6).

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

In Re SRBA)
) PARTIAL DECREE PURSUANT TO
) I.R.C.P. 54(b) FOR
Case No. 39576)
) Water Right 41-10031

NAME AND ADDRESS: GLEN R COX
IDA F COX
531 TETON DRIVE
BURLEY, ID 83318

SOURCE: SPRING CREEK TRIBUTARY: ROCK CREEK
QUANTITY: 1.68 CFS

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

THE APPROPRIATOR IS ENTITLED TO THE QUANTITY OF WATER
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WHERE THE DELIVERY DITCH ENTERS THE PLACE OF USE DESCRIBED, SO
LONG AS THE QUANTITY DIVERTED AT THE POINT OF DIVERSION DOES NOT
CONSTITUTE UNREASONABLE WASTE.

THE QUANTITY LISTED ABOVE SHALL BE MEASURED AT THE POINT OF
DIVERSION LISTED FOR THIS RIGHT BY MEANS OF A MEASURING BOX OF
THE TYPE AND DIMENSIONS DECREED BY IN RE HOUTZ ET AL (ONEIDA
COUNTY, SIXTH JUDICIAL DISTRICT COURT, JUNE 6, 1903). ANY CHANGE
IN THE METHOD OF MEASUREMENT SHALL CONSTITUTE A CHANGE IN THE
POINT OF DIVERSION REQUIRING APPROVAL BY THE IDAHO DEPARTMENT OF
WATER RESOURCES AS A TRANSFER PURSUANT TO I.C. SECTION 42-222.

According to IDWR,
this paragraph was
mistakenly included
in this partial
Decree.

PRIORITY DATE: 05/01/1880

POINT OF DIVERSION: T09S R30E S36 SENENE Within Power County

| PURPOSE AND
PERIOD OF USE: | PURPOSE OF USE | PERIOD OF USE | QUANTITY |
|-------------------------------|----------------|----------------|----------|
| | Irrigation | 04-01 TO 10-31 | 1.68 CFS |
| | Stockwater | 01-01 TO 12-31 | 0.02 CFS |

| | | | |
|---------------|-------------------|-----------|---------------------|
| PLACE OF USE: | Irrigation | | Within Power County |
| | T09S R30E S36 | NENE 30.0 | SENE 37.0 |
| | | NESE 36.0 | |
| | 103.0 Acres Total | | |
| | Stockwater | | Within Power County |
| | T09S R30E S36 | NENE | SENE |
| | | NESE | |

USE OF THIS RIGHT WITH RIGHT NO. 41-00034A IS LIMITED TO THE
IRRIGATION OF A COMBINED TOTAL OF 103 ACRES IN A SINGLE
IRRIGATION SEASON.

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

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USE.

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

AUG 28 2001

2001 AUG 27 AM 10: 44

DISTRICT ATTORNEY - SRBA
TWIN FALLS CO., IDAHO
FILED RI

In Re SRBA

Subcase 41-10031

Case No. 39576

**NOTICE OF COURT'S INTENT TO
CORRECT APPARENT CLERICAL ERROR
IN PARTIAL DECREE; I.R.C.P. 60(a)**

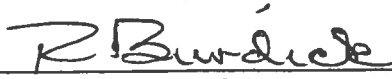
ORDER SETTING HEARING

On June 5, 2001, a *Partial Decree* was issued for the above-captioned water right. On August 9, 2001, Vicki Kelly from the Idaho Department of Water Resources contacted the Court via e-mail, and indicated that the *Partial Decree* contains a clerical error. Specifically, IDWR indicated that the entire third paragraph in the remark regarding the quantity element was inadvertently included in the director's report and the *Partial Decree* for this water right. The subject paragraph is indicated on the attached copy of the *Partial Decree*.

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DATED: 8-27-01



ROGER S. BURDICK
Presiding Judge
Snake River Basin Adjudication

CERTIFICATE OF MAILING

I certify that a true and correct copy of the NOTICE OF COURT'S INTENT TO CORRECT APPARENT CLERICAL ERROR IN PARTIAL DECREE; I.R.C.P. 60(A) ORDER SETTING HEARING was mailed on August 27, 2001, with sufficient first-class postage to the following:

Glen R Cox
IDA F Cox
531 Teton Drive
Burley, ID 83318

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

United States Department of Justice
Environment & Nat'l Resources Div
550 W Fort Street, MSC 033
Boise, ID 83724

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


Deputy Clerk

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

In Re SRBA)
Case No. 39576)
PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Water Right 41-10031

NAME AND ADDRESS: GLEN R COX
IDA F COX
531 TETON DRIVE
BURLEY, ID 83318

SOURCE: SPRING CREEK TRIBUTARY: ROCK CREEK
QUANTITY: 1.68 CFS

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

THE APPROPRIATOR IS ENTITLED TO THE QUANTITY OF WATER
DESCRIBED FOR STOCK WATER PURPOSES AT A POINT OF MEASUREMENT
WHERE THE DELIVERY DITCH ENTERS THE PLACE OF USE DESCRIBED, SO
LONG AS THE QUANTITY DIVERTED AT THE POINT OF DIVERSION DOES NOT
CONSTITUTE UNREASONABLE WASTE.

PRIORITY DATE: 05/01/1880

POINT OF DIVERSION: T09S R30E S36 SENENE Within Power County

| PURPOSE AND
PERIOD OF USE: | PURPOSE OF USE | PERIOD OF USE | QUANTITY |
|-------------------------------|----------------|----------------|----------|
| | Irrigation | 04-01 TO 10-31 | 1.68 CFS |
| | Stockwater | 01-01 TO 12-31 | 0.02 CFS |

PLACE OF USE: Irrigation Within Power County
T09S R30E S36 NENE 30.0
NESE 36.0 SENE 37.0
103.0 Acres Total

Stockwater Within Power County
T09S R30E S36 NENE
NESE SENE

USE OF THIS RIGHT WITH RIGHT NO. 41-00034A IS LIMITED TO THE
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IRRIGATION SEASON.

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ENTRY OF A FINAL UNIFIED DECREE. I.C. SECTION 42-1412(6).

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)
PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Water Right 41-10031

NAME AND ADDRESS: GLEN R COX
IDA F COX
531 TETON DRIVE
BURLEY, ID 83318

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QUANTITY: 1.68 CFS

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COUNTY, SIXTH JUDICIAL DISTRICT COURT, JUNE 6, 1903). ANY CHANGE
IN THE METHOD OF MEASUREMENT SHALL CONSTITUTE A CHANGE IN THE
POINT OF DIVERSION REQUIRING APPROVAL BY THE IDAHO DEPARTMENT OF
WATER RESOURCES AS A TRANSFER PURSUANT TO I.C. SECTION 42-222.

According to IDWR,
this paragraph was
mistakenly included
in this partial
Decree.

PRIORITY DATE: 05/01/1880

POINT OF DIVERSION: T09S R30E S36 SENENE Within Power County

| PURPOSE AND
PERIOD OF USE: | PURPOSE OF USE | PERIOD OF USE | QUANTITY |
|-------------------------------|----------------|----------------|----------|
| | Irrigation | 04-01 TO 10-31 | 1.68 CFS |
| | Stockwater | 01-01 TO 12-31 | 0.02 CFS |

PLACE OF USE: Irrigation Within Power County
T09S R30E S36 NENE 30.0 SENE 37.0
NESE 36.0
103.0 Acres Total

Stockwater Within Power County
T09S R30E S36 NENE SENE
NESE

USE OF THIS RIGHT WITH RIGHT NO. 41-00034A IS LIMITED TO THE
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DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE
ENTRY OF A FINAL UNIFIED DECREE. I.C. SECTION 42-1412(6).

(untitled)

12 Mar 2001

SUBJECT: Spring Creek Water

Glen R. Cox
531 Teton Drive
Burley, ID 83318

Dear Glen:

We have considered your proposal for use of Spring Creek Water and agree with most of the information.

We are, however, not sure that going on turns would benefit us to any degree because we only have XX number of inches available at any given time and no one to turn more down to us. We can see it might be beneficial if you and Nielson went to a turn basis. It could eliminate just having the water run in any one spot for a long time.

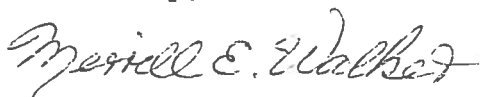
Have you heard anything as to when Water Resources will conduct another hearing on Nielson's application? We haven't heard anything at all.

These are just a few things that have come to our mind as we have thought about it.

We have appreciated hearing from you and your suggestions.

If anything else comes up we can be reached at phone # 548-2343, or drop us a letter. Thanks.

Sincerely,



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

Proposal Of Water Rights Of Spring Creek

1. Sufficient water to irrigate the 3 farms involved.
2. Change over to taking turns under the supervision of the Rockland Valley water master.
 - A. 4 days per week for Walkers to irrigate 52 acres.
 - B. 1 day per week for Nielson to irrigate 15 acres.
 - C. 2 days per week for Cox to irrigate 102 acres.

3. Changes.

- A. All parties have the same water right date.
 - B. All parties irrigate by flood or sprinkler.

1. I think flood irrigation will be the thing of the past , because of pollution to the Snake River.

- C. Parties can exchange water turns.
 - D. All parties are liable for waste water.

- 1, 1983 and 1984 Claims on waste water to Highway District with water on road.
 2. All parties liable for their own dam.
 - A. Minimum 36" gate on dam.
 - B. No dry dams.

These are my thoughts on making the Spring Creek water work for all of us.
We need to get together and discuss this matter before Spring. I am open to suggestions.

My Phone number is 208- 678-2160.

Sincerely,

Glen R. Cox
531 Teton Drive
Burley, Idaho
83318

RECEIVED

NOV - 1 2000

Department of Water Resources
Adjudication Bureau

RECEIVED
NOV 02 2000
Department of Water Resources
Southern Region

NOV - 2 2000

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

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

In Re SRBA

SUBCASE(S) 41-10031

Case No. 39576

SPECIAL MASTER'S REPORT

A notice of claim was filed for this water right pursuant to I.C. § 42-1409 (1990). The Director of the State of Idaho Department of Water Resources examined the claim and his *Report* contained a recommendation of the elements of this water right.

- ☐ There were no objections to this claim; however, this claim is used in combination with another claim which is the subject of an objection.
- ☒ All objections to this claim were resolved by stipulation of the parties at hearing or with a *Standard Form 5*. All parties to the subcase and IDWR have signed the *Standard Form 5*.
- ☐ All objections to this claim were resolved at trial. The court made oral findings of fact and conclusions of law at the trial and they are incorporated herein reference.

Therefore, based on the file and record herein, IT IS RECOMMENDED that this claim be decreed with the elements as set forth in the attached *Special Master's Recommendation for Partial Decree*.

DATED: Nov 2, 2000


Special Master
Snake River Basin Adjudication

10/31/2000

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

RIGHT NUMBER: 41-10031

NAME AND ADDRESS: GLEN R COX
IDA F COX
531 TETON DRIVE
BURLEY, ID 83318

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

SOURCE: SPRING CREEK TRIBUTARY: ROCK CREEK

QUANTITY: 1.68 CFS

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

THE APPROPRIATOR IS ENTITLED TO THE QUANTITY OF WATER
DESCRIBED FOR STOCK WATER PURPOSES AT A POINT OF
MEASUREMENT WHERE THE DELIVERY DITCH ENTERS THE PLACE OF
USE DESCRIBED, SO LONG AS THE QUANTITY DIVERTED AT THE
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WASTE.

THE QUANTITY LISTED ABOVE SHALL BE MEASURED AT THE
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HOUTZ ET AL (ONEIDA COUNTY, SIXTH JUDICIAL DISTRICT COURT,
JUNE 6, 1903). ANY CHANGE IN THE METHOD OF MEASUREMENT
SHALL CONSTITUTE A CHANGE IN THE POINT OF DIVERSION
REQUIRING APPROVAL BY THE IDAHO DEPARTMENT OF WATER
RESOURCES AS A TRANSFER PURSUANT TO I.C. SECTION 42-222.

PRIORITY DATE: 05/01/1880

POINT OF DIVERSION: T09S R30E S36 SENENE Within POWER County

PURPOSE AND
PERIOD OF USE:

| <u>PURPOSE OF USE</u> | <u>PERIOD OF USE</u> | <u>QUANTITY</u> |
|-----------------------|----------------------|-----------------|
| STOCKWATER | 1-01 12-31 | 0.02 CFS |
| IRRIGATION | 4-01 10-31 | 1.68 CFS |

PLACE OF USE:

| | | | |
|--------------------------------|------|----|---------------|
| IRRIGATION Within POWER County | | | |
| T09S R30E S36 | NENE | 30 | T09S R30E S36 |
| T09S R30E S36 | NESE | 36 | SENE |
| STOCKWATER Within POWER County | | | |
| T09S R30E S36 | NENE | | T09S R30E S36 |
| T09S R30E S36 | NESE | | SENE |
| 103 ACRES TOTAL | | | |

USE OF THIS RIGHT WITH RIGHT NO. 41-00034A IS LIMITED TO THE
IRRIGATION OF A COMBINED TOTAL OF 103 ACRES IN A SINGLE
IRRIGATION SEASON

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

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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

SCC
MEW
L
HRC
NBS

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

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

In Re SRBA)
SUBCASE(S): 41-10031
Case No. 39576)
NOTICE OF ISSUANCE and SERVICE
_____)

On Nov 2, 2000, Special Master TERRENCE A. DOLAN issued a **SPECIAL MASTER'S REPORT AND RECOMMENDATION** for the above subcase(s) pursuant to **SRBA Administrative Order 1 (AOI)**, Section 13a.

Pursuant to **SRBA Administrative Order 1**, section 13a, any party to the adjudication including parties to the subcase, may file a Motion to Alter or Amend by the 28th day of the month following the publication of the filing of the **Special Master's Report and Recommendation** in the Docket Sheet (**AOI**, Section 13a).

Failure of any party in the adjudication to pursue or participate in a Motion to Alter or Amend the **Special Master's Report and Recommendation** shall constitute a waiver of the right to challenge it before the Presiding Judge.

I certify that a true and correct copy of the **SPECIAL MASTER'S REPORT AND RECOMMENDATION** were hand delivered to the following:

Representative of IDWR:
Director of IDWR
P O Box 83720
Boise, Idaho 83720-0098

*Hand
Delivered*

Representative of:
U.S. Dept. of Justice
Environment & Natural Resources
550 West Fort Street, MSC 033
Boise, Idaho 83724

Glen Cox
Party/Attorney

Merrick Walker
Party/Attorney

DATED Nov 2, 2000

Debbie Leach
Deputy Clerk

RECEIVED

NOV - 1 2000

Department of Water Resources
Adjudication Bureau

NOV - 2 2000

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

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

In Re SRBA

Case No. 39576

) Subcase No.: 41-10031
)
)
)
)
)
)
)

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.

Glen R. Cox
Glen R. Cox Date

Ida F. Cox
Ida F. Cox Date

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

Shirley [Signature] 11-2-00
DWR Concurrence Date

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

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

10/31/2000

RIGHT NUMBER: 41-10031
NAME AND ADDRESS: GLEN R COX
IDA F COX
531 TETON DRIVE
BURLEY, ID 83318

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

SOURCE: SPRING CREEK TRIBUTARY: ROCK CREEK

QUANTITY: 1.68 CFS

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

THE APPROPRIATOR IS ENTITLED TO THE QUANTITY OF WATER
DESCRIBED FOR STOCK WATER PURPOSES AT A POINT OF
MEASUREMENT WHERE THE DELIVERY DITCH ENTERS THE PLACE OF
USE DESCRIBED, SO LONG AS THE QUANTITY DIVERTED AT THE
POINT OF DIVERSION DOES NOT CONSTITUTE UNREASONABLE
WASTE.

THE QUANTITY LISTED ABOVE SHALL BE MEASURED AT THE
POINT OF DIVERSION LISTED FOR THIS RIGHT BY MEANS OF A
MEASURING BOX OF THE TYPE AND DIMENSIONS DECREED BY IN RE
HOUTZ ET AL (ONEIDA COUNTY, SIXTH JUDICIAL DISTRICT COURT,
JUNE 6, 1903). ANY CHANGE IN THE METHOD OF MEASUREMENT
SHALL CONSTITUTE A CHANGE IN THE POINT OF DIVERSION
REQUIRING APPROVAL BY THE IDAHO DEPARTMENT OF WATER
RESOURCES AS A TRANSFER PURSUANT TO I.C. SECTION 42-222.

SCC
MWD
GR
J.C.
NBS

PRIORITY DATE: 05/01/1880

POINT OF DIVERSION: T09S R30E S36 SENENE Within POWER County

PURPOSE AND
PERIOD OF USE:

| PURPOSE OF USE | PERIOD OF USE | QUANTITY |
|----------------|---------------|----------|
| STOCKWATER | 1-01 12-31 | 0.02 CFS |
| IRRIGATION | 4-01 10-31 | 1.68 CFS |

PLACE OF USE:

| | | | | |
|--------------------------------|------|----|---------------|---------|
| IRRIGATION Within POWER County | | | | |
| T09S R30E S36 | NENE | 30 | T09S R30E S36 | SENE 37 |
| T09S R30E S36 | NESE | 36 | | |
| STOCKWATER Within POWER County | | | | |
| T09S R30E S36 | NENE | | T09S R30E S36 | SENE |
| T09S R30E S36 | NESE | | | |
| 103 ACRES TOTAL | | | | |

USE OF THIS RIGHT WITH RIGHT NO. 41-00034A IS LIMITED TO THE
IRRIGATION OF A COMBINED TOTAL OF 103 ACRES IN A SINGLE
IRRIGATION SEASON

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 - Decreed

SCC
MSW
R
ARC
NBS

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

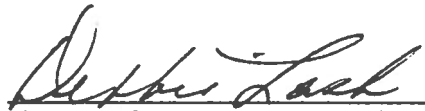
☐ Overnight Mail
☐ Regular Mail
☒ Hand-Delivered
☐ Facsimile

Glen R. Cox
Ida F. Cox
531 Teton Drive
Burley, ID 83318

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

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

MAIL



RECEIVED

FEB 22 2000

Department of Water Resources
Bozeman, Montana

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 4-1-10031
(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: Glen R. Cox - Ida F. Cox

Address: 531 Teton Drive

Burley Idaho 83318

Daytime Phone: 208-678-2160

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 Idaho 83271

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
4. ☐ Priority Date
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 Cassia)

Glen R. Cox, 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.

Glen R. Cox
(Signature of person filing response)

(Attorney signing in representative capacity)

Subscribed and sworn to before me on: January 27th 2000 -

Glenn R. Navarro

Notary Public for Idaho

Residing at: Heberland Id

My Commission Expires: 12-23-2003

531 Teton Drive
Burley, ID 83318
January 26, 2000

TO: Department of Water Resources

FROM: Glen R. Cox, son of Perry and Rachel Cox

Re: SRBA Case No. 39576
Subcase 41-10031

Responding to Recommendation No. 11 - This water right should not exist.

- A. History of Water Right of Edward Hunter relating to farm owned by Edward Hunter and sold to Perry and Rachel Cox:
1. Water right was filed May 1880.
 2. Edward Hunter sold farm to Perry and Rachel Cox in 1922.
 3. Don and Eva Robinson purchased the Del Roy Tyler farm, located just east of the Cox farm referenced above and located on Spring Creek.
 4. In 1946, a lawsuit between Don and Eva Robinson and Perry and Rachel Cox over Spring Creek water resulted in the court awarding the water to Perry and Rachel Cox, with the exception of 15 acres irrigated by Don and Eva Robinson.
 5. The Robinson farm was subsequently purchased by Art and Bonnie Nielson.
 - (a) In 1980, lawsuit between Art and Bonnie Nielson and Rachel Cox over Spring Creek Water, Case No. 6674 in the County of Power, State of Idaho, resulted in the court awarding the total flow of water to Rachel Cox, with the exception of the 15 acres. Court costs and damages were awarded to Rachel Cox.
 - (b) Ona and Merrill Walker were at the 1980 referenced trial when this water was awarded to Rachel Cox. The undersigned inquired of his mother, Rachel Cox, why the Walkers were in the courtroom and she said they had never had a water right at their place but they raised hay and grain on sub-water.

6. Glen R. and Ida Cox purchased the farm from Rachel Cox in 1982.
- (a) In 1983, the water flow went down. The undersigned discovered the Bench Ditch Company had drilled a well on the springs and it caused the water flow to decrease. A meeting was held with the undersigned, the Bench Ditch Company's attorney, Richard Nelson, and James Robinson. They agreed that the pump should be shut off.

Glen R. Cox
Glen R. Cox

STATE OF IDAHO)
) ss.
COUNTY OF CASSIA)

GLEN R. COX, duly sworn, upon oath, deposes and says:

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

Glen R. Cox
Glen R. Cox

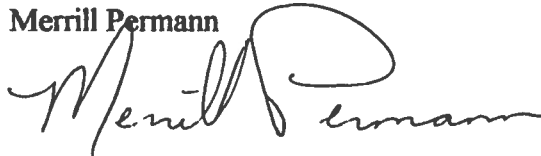
Subscribed and sworn to before me this 27th day of January, 2000.

Glenn D. Navarro
Notary Public for Idaho
Residing at: Hayden, ID.
My Commission Expires: 12-23-2003

To Whom It May Concern,

Most of the land that we farm as the partnership "Permann Bros" lies south of Rockland up the two canyons known as Dry Hollow and Sand Hollow. We have 23.7 acres of hay planted in Dry Hollow and 37.5 acres of hay planted in Sand Hollow. Because of the natural sub that occurs in the canyon bottoms we are able to cut two crops of hay every year and many years we are able to cut a third crop. If we are unable to cut a third crop we always have good pasture. Many times in the spring of the year it is so wet that we can not get on the land very early.

Merrill Permann



27 Jan. 00

Subscribed and sworn to before me this 27TH day of January, 2000



Betty Lou Inskoop
My Commission Expires 11-3-2004

Gift to the Nation

Jan 24-00

To Whom it may concern:

For the period of my remembrance, which spans 60 years. Alfalfa has been produced in the canyons of Sandhollow & Dry Hollow with no surface irrigation. These crops are equal to much of the irrigated acres in the lower valley.

Richard Nelson

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.



CERTIFICATE OF MAILING

I certify that on Jan. 31, ²⁰⁰⁰~~199~~, 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: Glen R. Cox
Address: 531 Tetou
Burley Idaho 83318

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

Name: Merrill E. Walker
Address: P.O. Box 836
Rockland, Idaho 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

Your signature or signature of attorney mailing on your behalf

RECEIVED

FEB - 1 2000

Department of Water Resources

RECEIVED

FEB 04 2000

Department of Water Resources
Southern Region

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

In Re SRBA

Case No. 39576

A. Subcase 41-10031
(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: Glen R. Cox - Ida F. Cox

Address: 531 Teton Drive

Butley Idaho 83318

Daytime Phone: 208-678-2160

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 Idaho 83271

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
- 4. ☐ Priority Date
- 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 Cassia)

Alex R. Cox, 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.

Alex R. Cox
(Signature of person filing response)

(Attorney signing in representative capacity)

Subscribed and sworn to before me on: January 27th 2000 -

Alenna R. Navarre
Notary Public for Idaho

Residing at: Boise, ID

My Commission Expires: 12-23-2003

RECEIVED

FEB - 1 2000

Department of Water Resources

531 Teton Drive
Burley, ID 83318
January 26, 2000

RECEIVED

FEB 04 2000

Department of Water Resource
Southern Region

TO: Department of Water Resources

FROM: Glen R. Cox, son of Perry and Rachel Cox

Re: SRBA Case No. 39576
Subcase 41-10031

Responding to Recommendation No. 11 - This water right should not exist.

- A. History of Water Right of Edward Hunter relating to farm owned by Edward Hunter and sold to Perry and Rachel Cox:
1. Water right was filed May 1880.
 2. Edward Hunter sold farm to Perry and Rachel Cox in 1922.
 3. Don and Eva Robinson purchased the Del Roy Tyler farm, located just east of the Cox farm referenced above and located on Spring Creek.
 4. In 1946, a lawsuit between Don and Eva Robinson and Perry and Rachel Cox over Spring Creek water resulted in the court awarding the water to Perry and Rachel Cox, with the exception of 15 acres irrigated by Don and Eva Robinson.
 5. The Robinson farm was subsequently purchased by Art and Bonnie Nielson.
 - (a) In 1980, lawsuit between Art and Bonnie Nielson and Rachel Cox over Spring Creek Water, Case No. 6674 in the County of Power, State of Idaho, resulted in the court awarding the total flow of water to Rachel Cox, with the exception of the 15 acres. Court costs and damages were awarded to Rachel Cox.
 - (b) Ona and Merrill Walker were at the 1980 referenced trial when this water was awarded to Rachel Cox. The undersigned inquired of his mother, Rachel Cox, why the Walkers were in the courtroom and she said they had never had a water right at their place but they raised hay and grain on sub-water.

RECEIVED

FEB - 1 2000

To: Department of Water Resources
January 26, 2000
Page 2

Department of Water Resources

6. Glen R. and Ida Cox purchased the farm from Rachel Cox in 1982.
- (a) In 1983, the water flow went down. The undersigned discovered the Bench Ditch Company had drilled a well on the springs and it caused the water flow to decrease. A meeting was held with the undersigned, the Bench Ditch Company's attorney, Richard Nelson, and James Robinson. They agreed that the pump should be shut off.

Glen R. Cox
Glen R. Cox

STATE OF IDAHO)
) ss.
COUNTY OF CASSIA)

GLEN R. COX, duly sworn, upon oath, deposes and says:

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

Glen R. Cox
Glen R. Cox

Subscribed and sworn to before me this 27th day of January, 2000.

Helen L. Navarro
Notary Public for Idaho
Residing at: Hayburn Id.
My Commission Expires: 12-23-2003

RECEIVED

RECEIVED

FEB 04 2000

FEB - 1 2000

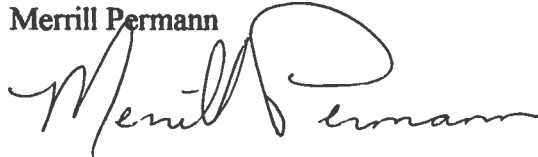
Department of Water Resources
Southern Region

Department of Water Resources

To Whom It May Concern,

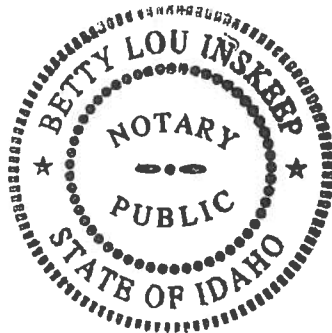
Most of the land that we farm as the partnership "Permann Bros" lies south of Rockland up the two canyons known as Dry Hollow and Sand Hollow. We have 23.7 acres of hay planted in Dry Hollow and 37.5 acres of hay planted in Sand Hollow. Because of the natural sub that occurs in the canyon bottoms we are able to cut two crops of hay every year and many years we are able to cut a third crop. If we are unable to cut a third crop we always have good pasture. Many times in the spring of the year it is so wet that we can not get on the land very early.

Merrill Permann



27 Jan. 00

Subscribed and sworn to before me this 27TH day of January, 2000



Betty Lou Inskip
My Commission Expires 11-3-2004

Send to Glen ...

Jan 24-00

RECEIVED

FEB - 1 2000

Department of Water Resources

RECEIVED

FEB 04 2000

Department of Water Resources
Southern Region

To Whom it may concern:

For the period of my remembrance, which spans 60 years. Alfalfa has been produced in the canyons of Sandhollow & Dry Hollow with no surface irrigation. These crops are equal to much of the irrigated acres in the lower valley.

Richard Nelson

RECEIVED

FEB - 1 2000

Department of Water Resources

INSTRUCTIONS FOR MAILING

RECEIVED

FEB 04 2000

Department of Water Resources
Snake River Basin

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 JAN 31, 1999²⁰⁰⁰, 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: Glen R. Cox
Address: 531 Teton
Burley Idaho 83318

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

Name: Mervill E Walker
Address: P.O. Box 336
Rockland, Idaho 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

Glen R. Cox

Your signature or signature of attorney mailing on your behalf



Glen Cox
531 Teton Dr
Burley, ID 83318-2849

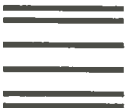
BUSINESS REPLY MAIL

FIRST-CLASS MAIL PERMIT NO. 1148 BOISE ID

POSTAGE WILL BE PAID BY ADDRESSEE

**IDAHO DEPARTMENT OF WATER RESOURCES
PO BOX 83720
BOISE ID 83707-9815**

SUBA SOUTHERN



RECEIVED

DEC 30 1999

Department of Water Resources
Southern Region

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

In Re SRBA

Case No. 39576

A. Subcase 41-10031

(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 83221

Daytime Phone: (208) 548-2343

Name & Address of Attorney, if any:

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

Name: Glen R. Cox - Ida F. Cox

Address: 531 Teton Drive

Burley, ID 83318

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: _____

4. ☒ Priority Date

Should be: May 28, 1891

5. ☐ Point(s) of Diversion

Should be: _____

6. ☐ Instream Flow Description

Should be: _____

7. ☐ Purpose(s) of Use

Should be: _____

8. ☐ Period of Year

Should be: _____

9. ☐ Place of Use

Should be: _____

11. I object because:

☐ This water right should not exist.

☒ This water right was ~~not~~ recommended, but should be recommended with the elements described above.

E. REASONS SUPPORTING OBJECTION(S): James Hunter, The original

filer of Spring Creek water sold all of Spring Creek
water to one Dell Roy Tyler for \$100.00 as recorded
in Deed Book 5 page 284 28 May 1891 Oneida County records.
This property has since become the property of Oma Walker and
Merrill Walker along with this water right.

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 December 22, 1999, 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: Robert R. Cox
Address: 10000 Teton Drive
Burley, ID 83318

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

Claim No. _____

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



12/27/99 3:05 PM

NAME:

GLEN COX

CALLIN

RE:

OBJ ON CLAIM RECEIVED

He called to ask about the process since Merrill Walker has filed an objection on his rights. I told him this is the procedure if Mr. Walker disagreed with my recommendations; which I know he does. I told him I disagreed with the interpretation of the document the Walker's submitted and I do not believe it establishes a water right that it claims to have sold. You cannot sell something you do not own.

He says he gathered all the historical documents from the Malad City archives and brought them to American Falls. I suggested he gather all the relevant information in preparation for the settlement conferences later this spring.

DATE: 06/29/99
PAGE: 1

| OWNER | NAME & ADDRESS | PRIORITY | WATER USE | USE PERIOD | DIVERSION | DIVERSION |
|-------|-----------------|------------|------------|------------------|-----------|-----------|
| CODE | | DATE | | FROM TO | RATE | VOLUME |
| C | GLEN R COX | 05/01/1980 | IRRIGATION | 04-01 10-31 | 1.68 CFS | |
| C | IDA F COX | | STOCKWATER | 01-01 12-31 | 0.02 CFS | |
| | 531 TETON DRIVE | | | | | |
| | BURLEY ID 83318 | | | | | |
| | (208) 678-2160 | | | | | |
| | | | | TOTAL DIVERSION: | 1.68 CFS | |

Stage: DECREED

POWER County

Place of use Legal Description for: IRRIGATION

[illegible]

Place of use Legal Description for: STOCKWATER

[illegible]

POU County: POWER

Other Rights: 41-00034A

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.
- N01 - THE APPROPRIATOR IS ENTITLED TO THE QUANTITY OF WATER
- DESCRIBED FOR STOCK WATER PURPOSES AT A POINT OF MEASUREMENT
- WHERE THE DELIVERY DITCH ENTERS THE PLACE OF USE DESCRIBED, SO
- LONG AS THE QUANTITY DIVERTED AT THE POINT OF DIVERSION DOES NOT
- CONSTITUTE UNREASONABLE WASTE.

Remarks: POU1

USE OF THIS RIGHT WITH RIGHT NO. 41-00034A IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 103 ACRES IN A SINGLE IRRIGATION SEASON.

EXP S/50 RANGE, HORSES

AJ0749NP
No. R41-10031

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

DATE: 06/29/99
PAGE: 2

=====

| | | | |
|--------|----------------------------|---------------------------|-----------------------|
| Dates: | Exam Made Date: 06/27/1995 | Verified Date: 06/29/1999 | Objection Filed Date: |
| Misc: | Water District Number: 41 | Field Inspection Flag: D | Presumption Flag: |

=====



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 1, 1999

**DIRK KEMPTHORNE
GOVERNOR**

**KARL J. DREHER
DIRECTOR**

**GLEN R COX
IDA F COX
531 TETON DR
BURLEY ID 83318**

RE: Revised Recommendations for Claims 41-00034A & 41-10031

Dear Mr. & Mrs. Cox,

Pursuant to your request for a change in the recommendation of your water rights, I have adjusted the reports to comply as we discussed June 29th.

Please find enclosed copies of your adjudication preliminary report, as they now appear in our records.

If you have any further corrections or questions please contact our office.

Sincerely,

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

**STEVE CLELLAND
Sr. Water Resource Agent**

ENC:

COMMUNICATION DOCUMENTATION

Claim No. see below

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

6/28/99 1:45 PM

NAME:

RE:

GLEN COX

CALLIN

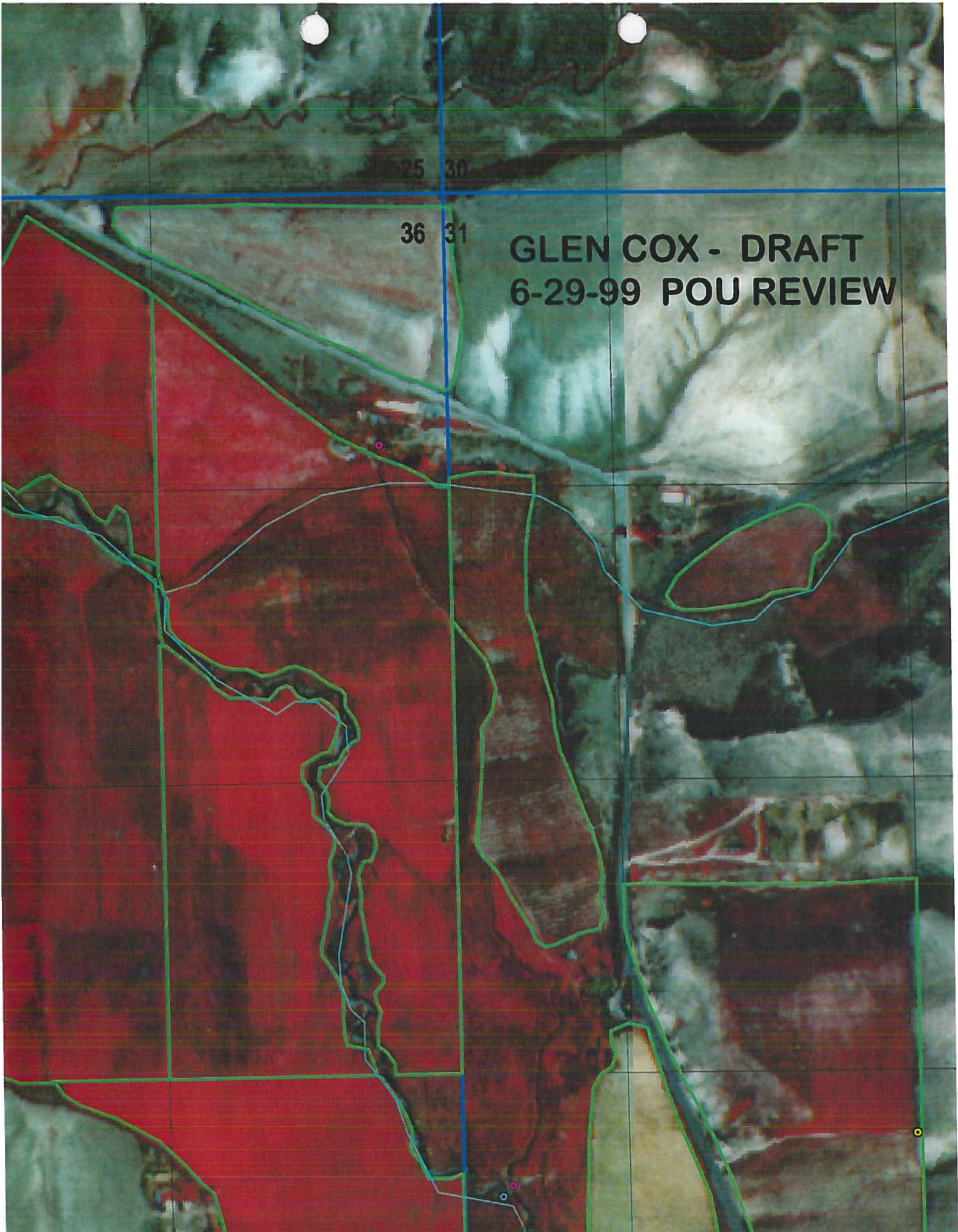
B41 RECOMMENDATION

He said a couple items were incorrect on the report, "20 acres short" & "84 acre limit" is not correct; should be 116 acres. I ask if he was going to be at the public meeting and he is not. We set-up an appt. for tomorrow during the day, no set time just when he can work it around his schedule here in Twin Falls. Claims: 41-00034A & 41-00031.

25 30

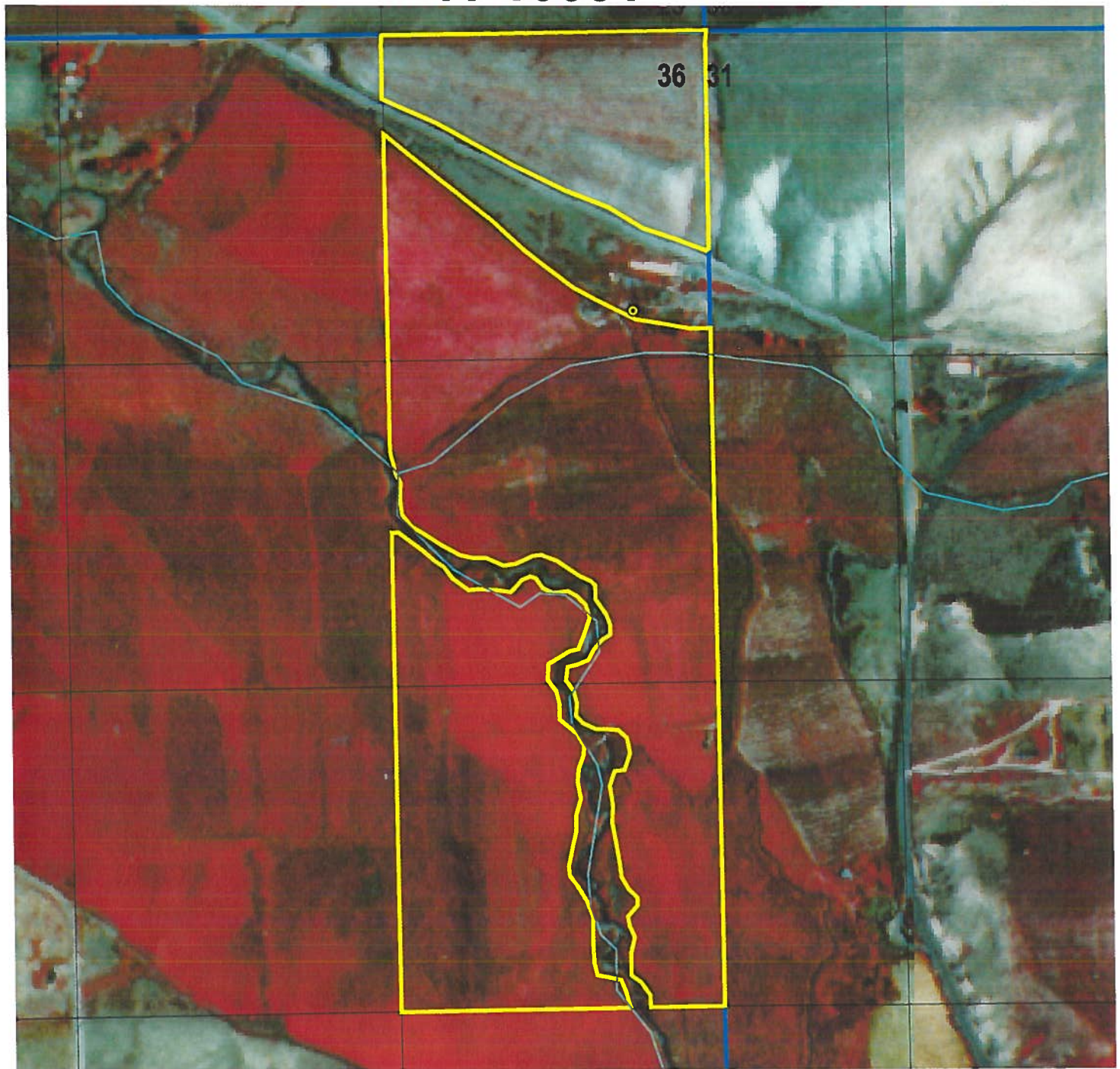
36 31

**GLEN COX - DRAFT
6-29-99 POU REVIEW**



IDAHO DEPT OF WATER RESOURCES

41-10031



660 0 660 1320 Feet

T9S, R30E, SEC. 36



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

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

*** REVISED ***

DATA ENTRY BY: STEVE CLELLAND

DATE: June 29, 1999

AJ0743NP
(CD-124)

IDAHO DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIMS PROOF READING REPORT
(REGIONAL)

06/15/99 11:55:06
Page 1

Water Right Number - R41-10031

Prefix Translation: RESEARCH

Old (D) Number -

Last Name - First Name - Address -

*** C - CURRENT OWNER ***

COX

GLEN R

1 - 531 TETON DRIVE
2 -
3 -

State- ID Zip- 83318

COX

IDA F

City- BURLEY
Phone - 208-678-2160
1 - 531 TETON DRIVE
2 -
3 -
City- BURLEY
Phone - 208-678-2160

State- ID Zip- 83318

Priority Date - Region - Stage - Status -
05/01/1880 17 SOUTHERN D - DECREED

Source - Tributary -
SPRING CREEK ROCK CREEK

TwN Rng Sec Tract Lot RFlg County Point of Diversion -
09S 30E 36 SE NE NE (77) POWER

| Code | Description | Period From | Period To | Water Use | Diversion Rate | Diversion Volume |
|-----------------|-------------|-------------|-----------|-----------|----------------|------------------|
| 01 - IRRIGATION | | 04/01 | 10/31 | | 1.680 | |
| 04 - STOCKWATER | | 01/01 | 12/31 | | 0.020 | |

Total Div. Rate - + Total Div. Volume - + Total Consumptive Use - + KW Usage - +
1.680 0.0

| TwN | Rng | Sec | Tract | Lot | Acres | Place of Use | Code | Description | County |
|-----|-----|-----|-------|-----|-------|--------------|------|-------------|------------|
| 09S | 30E | 36 | NE NE | | 11.9 | | 01 | IRRIGATION | (77) POWER |
| 09S | 30E | 36 | SE NE | | 37.0 | | 01 | IRRIGATION | (77) POWER |
| 09S | 30E | 36 | NE SE | | 36.0 | | 01 | IRRIGATION | (77) POWER |
| 09S | 30E | 36 | NE NE | | | | 04 | STOCKWATER | (77) POWER |
| 09S | 30E | 36 | SE NE | | | | 04 | STOCKWATER | (77) POWER |
| 09S | 30E | 36 | NE SE | | | | 04 | STOCKWATER | (77) POWER |

Total Acres:

84.0

+ - - Diversion Means - DAMS AND DITCHES

+ - - Non-Irrigation Use -

+ - - Other Rights for Same Use - 41-00034A

2950
2950
101

add: 18 Ac above the road
+ 1 over in same Q-Q man ditch
Revised data file
See

REUSED
6/29/99
See

Water right number - R41-10031

Prefix Translation: RESEARCH

Remarks

QNT USE OF THIS RIGHT WITH RIGHT NO. 41-00034A IS LIMITED TO A
TOTAL COMBINED DIVERSION RATE OF 1.68 CFS.

POU1 USE OF THIS RIGHT WITH RIGHT NO. 41-00034A IS LIMITED TO THE
IRRIGATION OF A COMBINED TOTAL OF 84 ACRES IN A SINGLE
IRRIGATION SEASON.

EXP S/50 RANGE, HORSES

4100056
4104024

Old Water Right Numbers

Conditions of Approval
No Conditions of Approval found.

Decree Plaintiff
RACHEL HUNTER COX

Decree Defendant
ARTHUR H. NIELSON, JR., ET AL

Decree Date
06/09/1980

Comments
Date: 06/15/1999 User Id: JROBERTS Subject: COPIED FROM REMARKS
THIS CLAIM IS A COMBINATION OF THE TWO WR'S 41-00056 & 41-04024.
OF MR 41-00057 TO IRRIGATE 15 ACRES IF IT DOES NOT IMPEDE THIS
AMENDMENT NOTES
ADJUSTED ACRES IN *-# TRACTS TO SHOW ACTUAL P/U ACRES.

Audit Fields
06/15/99 JROBERTS

Adjudication Rights Dates and Flags Area

| Court Report Filing | Field Inspection Made | Civil Case Number |
|-----------------------------------|-----------------------|-------------------------|
| Objection Filed Date - 00/00/0000 | Field Inspection Flag | Old Case Number - 39576 |
| Response Filed Date - 00/00/0000 | Verified Date | Old Judicial District |
| Claim Received Date - 02/27/1990 | Last Amended Date | Temporary Right |
| | Receipt Number | Water District |
| | POU Ownership Flag | Federal/State Indicator |
| | Name Connector | Presumption Flag |
| | | Notice of Error Flag |

41

Old (D) Number -

| | |
|----------------------|----------------------|
| 1 - 531 TETON DRIVE | State- ID Zip- 83318 |
| 2 - | |
| 3 - | |
| City- BURLEY | |
| Phone - 208-678-2160 | |
| 1 - 531 TETON DRIVE | |
| 2 - | |
| 3 - | |
| City- BURLEY | |
| Phone - 208-678-2160 | State- ID Zip- 83318 |

- - Tribut
ROCK CREEK

| | | | |
|-----------------|-------|-------|-------|
| 01 - IRRIGATION | 04/01 | 11/01 | 1.680 |
| 04 - STOCKWATER | 01/01 | 12/31 | 0.020 |

| + | Ring | Sec | Tract | Lot | Acres | Code | Description | County |
|-----|------|-----|-------|-----|-------|------|-------------|--------|
| Two | | | | | | | | |

| 09S | 30E | 36 | NE | NE | 01 | IRRIGATION | (77) | POWER |
|-----|-----|----|----|----|----|------------|------|-------|
| 09S | 30E | 36 | SE | SE | 01 | IRRIGATION | (77) | POWER |
| 09S | 30E | 36 | NE | SE | 01 | IRRIGATION | (77) | POWER |
| 09S | 30E | 36 | NE | NE | 04 | STOCKWATER | (77) | POWER |
| 09S | 30E | 36 | SE | NE | 04 | STOCKWATER | (77) | POWER |
| 09S | 30E | 36 | NE | SE | 04 | STOCKWATER | (77) | POWER |

~~100.0~~ 84.4

(S/50 RANGE, HORSES) EXP

Non-Irrigation Use (S/50 RANGE, HORSES)

+ - - Other Rights for Same Use - ~~NONE~~

41-00034A

Water right number - R41-10031

Prefix Translation: RESEARCH

----- Remarks -----

GEN THIS CLAIM IS A COMBINATION OF THE TWO WR'S 41-00056 & 41-04024.
THE RIGHT IS FOR THE ENTIRE FLOW OF THE STREAM WITH EXCEPTION
OF WR 41-00057 TO IRRIGATE 15 ACRES IF IT DOES NOT IMPEDE THIS
MR.
AMENDMENT NOTES
ADJUSTED ACRES IN *-# TRACTS TO SHOW ACTUAL P/U ACRES.

copy to POU 1 4/26/99
ANT EBI @ 1.68 cfs

----- Old Water Right Numbers -----

A4100056
A4104024

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

----- Decree Plaintiff ----- + Decree Defendant ----- + Decree Date ----- +
RACHEL HUNTER COX ARTHUR H. NIELSON, JR., ET AL 06/09/1980

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

----- Audit Fields ----- +
06/14/99 JROBERTS

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

| | | | | | |
|----------------------|--------------|-----------------------|--------------|-------------------------|---------|
| Court Report Filing | - 00/00/0000 | Field Inspection Made | - 06/00/0000 | Civil Case Number | - 39576 |
| Objection Filed Date | - 00/00/0000 | Field Inspection Flag | - | Old Case Number | - |
| Response Filed Date | - 00/00/0000 | Verified Date | - 00/00/0000 | Old Judicial District | - |
| Claim Received Date | - 02/27/1990 | Last Amended Date | - 03/26/1990 | Temporary Right | - P |
| | | Receipt Number | - S011334 | Water District | - |
| | | POU Ownership Flag | - Y | Federal/State Indicator | - S |
| | | Name Connector | - AND/OR | Presumption Flag | - D |
| | | | | Notice of Error Flag | - |

CLAIM NUMBER 41-10031 DATE 5/27/99 TRANSFER NUMBER _____
41-00034A AGENT sun CLAIMED ACRE TOTAL 100
 _____ GIS ACRE TOTAL _____

| | 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>30E</u> | <u>36</u> | <u>20</u> | | | <u>40</u> | | | | | | | | | <u>40</u> | | | | <u>100</u> |
| GIS | | | | <u>11</u> | | | <u>37.4</u> | | | | | | | | | <u>36</u> | | | | <u>84.4</u> |
| RECOM | | | | <u>12</u> | | | <u>37</u> | | | | | | | | | <u>36</u> | | | | |
| CLAIM | <u>add: Hill side</u> | | | | | | | | | | | | | | | | | | | |
| GIS | | | | <u>18</u> | | | | | | | | | | | | | | | | |
| RECOM | | | | <u>30</u> | | | | | | | | | | | | | | | | |
| CLAIM | | | | | | | | | | | | | | | | | | | | |
| GIS | | | | | | | | | | | | | | | | | | | | |
| RECOM | | | | | | | | | | | | | | | | | | | | |

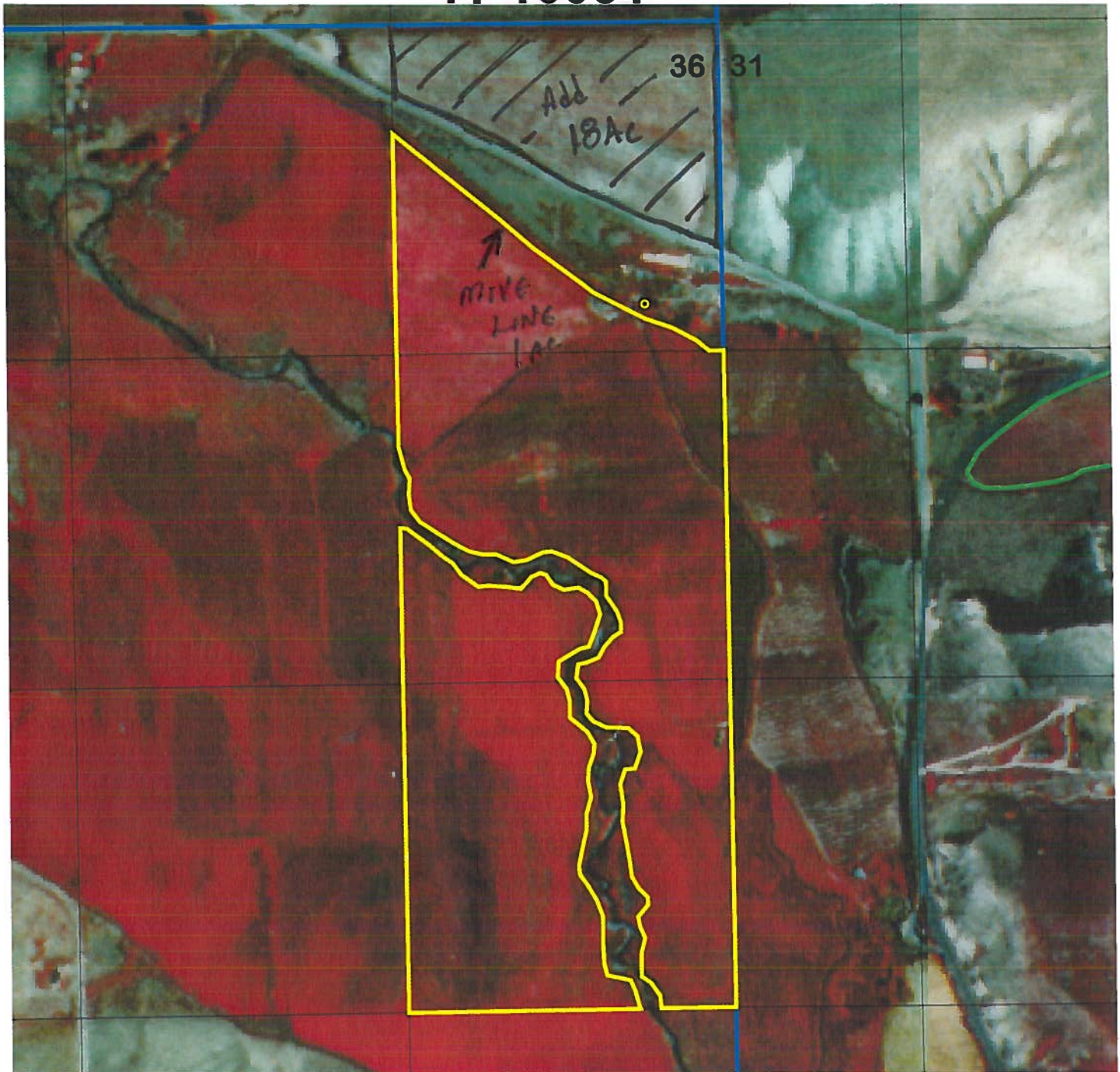
B41-POU.SHP (Combined Rt #5 41-00056 & 41-04024)
 SHAPE NOS. (North Hill)
128 (East parcel) = 54 Ac. 41-10031: POU 84.0 Ac in
25 (South west parcel) 30 Ac. PPU of 10
24

B41-POD.SHP
 NOS. DESCRIPTION Combined limits:
18 (SE NENE S.36 T9S, R30E) 41-10031 POU1 = K06, E11
41-00034A - TYLER DITCH QNT = E01
@ 1.68 cfs

DBF TABLES UPDATED
 B41-DBPOU.DBF See 3/9/00
 B41-DBPOD.DBF Revised 6/29/99
 JPEG LAYOUT 41-10031.jpg & 41-00034A.jpg

IDAHO DEPT OF WATER RESOURCES

41-10031



660 0 660 1320 Feet

T9S R30E SEC. 36



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

*Revised
6/29/30*

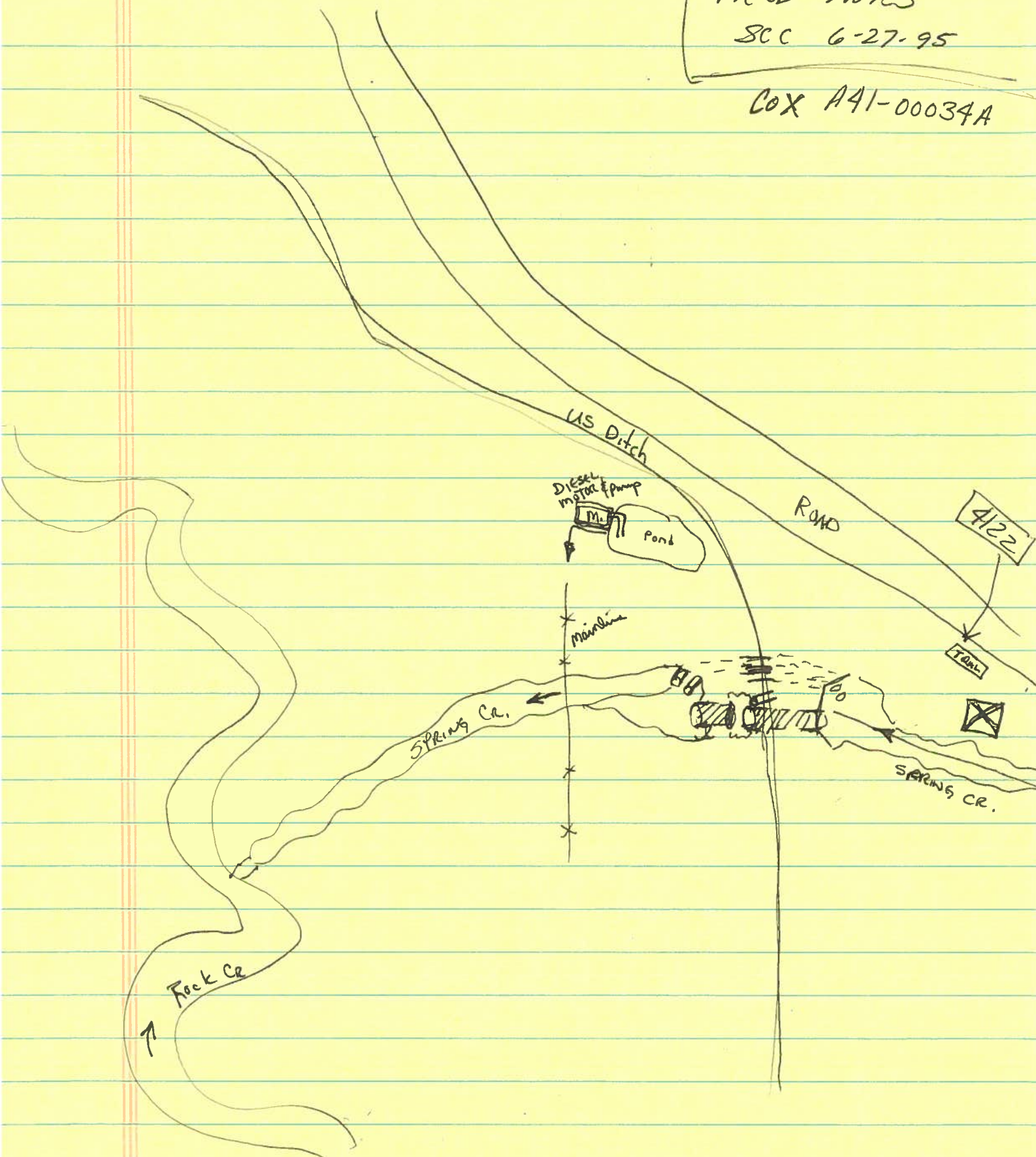
GIS PLACE OF USE PRESENTATION
1987 &/OR 1988 NAPP PHOTOGRAPHY

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

Field Notes

SCC 6-27-95

COX A41-00034A





State of Idaho

DEPARTMENT OF WATER RESOURCES

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

~~KEGLED ANDRUS~~

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

A41-10031



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

RECEIVED

MEMORANDUM

TO: Loren Holmes

THRU: Bob Fleenor *BDF*

FROM: Dave Tuthill *DRT*

DATE: December 6, 1983

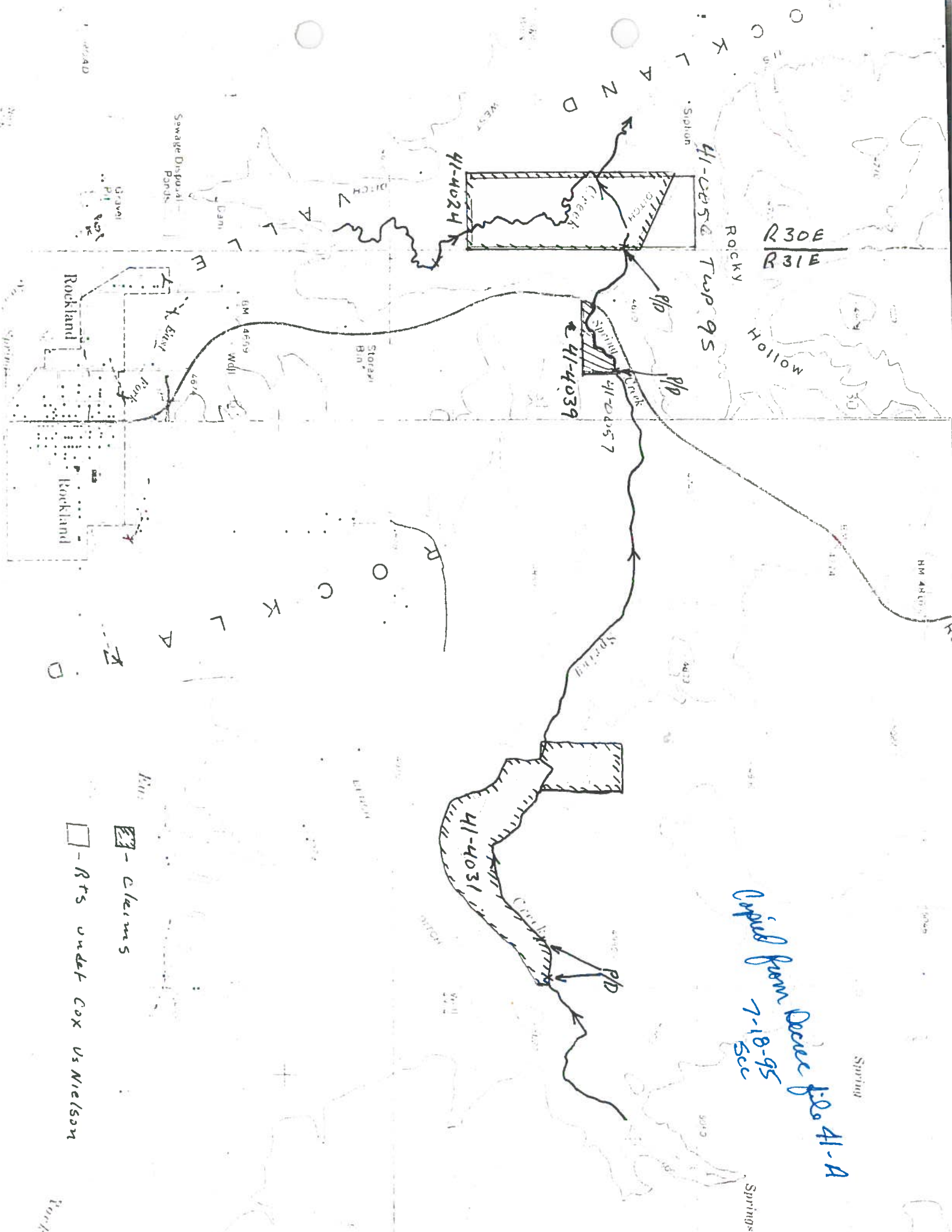
RE: Delivery of Water on Spring Creek tributary to Rock Creek

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.



R30E
R31E

41-4056 Two 95

41-4039

41-4057

41-4031

Copied from Deere file 41-A
7-18-95

☒ - Claims
☐ - RTs under Cox vs Nielson

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM VERIFICATION REPORT

PAGE: 13
QUICKLOOK INFORMATION

CLAIM NUMBER: A41-10031

16:54:04
04/22/91

| 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 | Y | | 6-21-95 | | | | | |
| POINT OF DIV | Y | | | | | | | |
| SOURCE | Y | | | | | | | |
| PLACE OF USE | Y | | | | | | | |
| DIV. AMOUNT
CFS/VOLUME | Y | | | | | | | |
| CONSUMPTIVE USE | - | | | | | | | |
| PURPOSES | Y | | | | | | | |
| PERIOD OF USE | Y | | | | | | | |
| 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.

LISTING OF MAPS USED IN REVIEW OF THIS FILE

CLAIM NUMBER: _____.

| DESCRIPTION OF MAP | ID NUMBERS | MAP DATE | COPY IN FILE? |
|----------------------|------------|----------|---------------|
| ORTHOPHOTOQUAD (OPQ) | _____ | _____ | YES / NO |
| SCS MAP | _____ | _____ | YES / NO |
| AIR PHOTO | _____ | _____ | YES / NO |
| LM AERIAL | _____ | _____ | YES / NO |
| UBDIVISION PLAT | _____ | _____ | YES / NO |
| TOPOGRAPHIC QUAD | _____ | _____ | YES / NO |
| GOVERNMENT LOT MAP | _____ | _____ | YES / NO |
| CS SOILS MAP | _____ | _____ | YES / NO |
| OTHER: | | | |
| _____ | _____ | _____ | YES / NO |
| _____ | _____ | _____ | YES / NO |
| _____ | _____ | _____ | YES / NO |
| _____ | _____ | _____ | YES / NO |
| _____ | _____ | _____ | YES / NO |
| _____ | _____ | _____ | YES / NO |

=====

REMARKS:

Water Right Number - A41-10031

Prefix Translation: ADJUDICATION CLAIM

Old (D) Number -

+ - - - - Last Name - - - - +

+ - First Name - - +

+ - - - - Address - - - - +

*** C - CURRENT OWNER ***
COX

GLEN R.

1 - 531 TETON DRIVE
2 -
3 -

State- ID Zip- 83318

COX

IDA F.

City- BURLEY
Phone - 208-678-2160
1 - 531 TETON DRIVE
2 -
3 -
City- BURLEY
Phone - 208-678-2160

State- ID Zip- 83318

+ - - Priority Date - - +
05/01/1880

+ - - - - Region - - - +
17 SOUTHERN

+ - - - - Stage - - - +
D - DECREED

+ - - - - Status - - - +

Source - - - - +
SPRING CREEK

+ - - - - Tributary - - - - +
ROCK CREEK

+ - - - - Point of Diversion - - - - +
Stream Index (Blank if no Index Code)

Twn Rng Sec Tract Lot Rflg County
09S 30E 36 NE SE (77) POWER

+ - - - - Code Description Period From Period To Water Use Diversion Rate Diversion Volume

01 - IRRIGATION 04/01 11/01 1.680
04 - STOCKWATER 01/01 12/31 0.020

+ - Total Div. Rate - + + - Total Div. Volume - + + - Total Div. Capacity - + + - Total Consumptive Use - + + - KW Usage - +
1.680 300.0

| Twn | Rng | Sec | Tract | Lot | Acres | Place of Use | Description | County |
|-----|-----|-----|-------|------|-------|--------------|--------------|--------|
| 09S | 30E | 36 | NE NE | 30.0 | 01 | IRRIGATION | (77)) POWER | |
| 09S | 30E | 36 | SE NE | 35.0 | 01 | IRRIGATION | (77)) POWER | |
| 09S | 30E | 36 | NE SE | 35.0 | 01 | IRRIGATION | (77)) POWER | |
| 09S | 30E | 36 | NE NE | | 04 | STOCKWATER | (77)) POWER | |
| 09S | 30E | 36 | SE NE | | 04 | STOCKWATER | (77)) POWER | |
| 09S | 30E | 36 | NE SE | | 04 | STOCKWATER | (77)) POWER | |

Total Acres: 100.0

+ - - Diversion Means - DAMS AND DITCHES
+ - - Non-Irrigation Use - S/50 RANGE, HORSES
+ - - Other Rights for Same Use - NONE

Water right number - A41-10031

Prefix Translation: ADJUDICATION CLAIM

Remarks - - - - -

THIS CLAIM IS A COMBINATION OF THE TWO WR'S 41-00056 & 41-04024.
THE RIGHT IS FOR THE ENTIRE FLOW OF THE STREAM WITH EXCEPTION
OF WR 41-00057 TO IRRIGATE 15 ACRES IF IT DOES NOT IMPEDE THIS
WR.

AMENDMENT NOTES
ADJUSTED ACRES IN J-J TRACTS TO SHOW ACTUAL P/U ACRES.

A4100056
A4104024

Old Water Right Numbers - - - - -
Conditions of Approval - - - - -
No Conditions of Approval found.

Decree Plaintiff - - - +
ARTHUR H. NIELSON, JR., ET AL
Decree Date - +
06/09/1980

Audit Fields - 02/27/90 CLELLAND 03/26/90 CLELLAND

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 | - 00/00/0000 | Old Judicial District | - |
| Claim Received Date | - 02/27/1990 | Last Amended Date | - 03/26/1990 | Temporary Right | - P |
| Proof Due Date | - 00/00/0000 | Proof Made Date | - 00/00/0000 | Water District | - |
| Licensed Date | - 00/00/0000 | Receipt Number | - S011334 | Federal/State Indicator | - S |
| Claims Tape Error Flag | - | POU Ownership Flag | - Y | Presumption Flag | - D |
| Fee Exempt Flag | - | Name Connector | - AND/OR | | |

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM VERIFICATION REPORT

16:54:04
04/22/91

PAGE: 1
GENERAL INFORMATION

CLAIM NUMBER: A41-10031

LAST: COX FIRST: GLEN R.
ADDRESS: 531 TETON DRIVE
CITY: BURLEY STATE: ID ZIP: 83318
PHONE NUMBER: 208-678-2160
OWNER CODE: C

LAST: COX FIRST: IDA F.
ADDRESS: 531 TETON DRIVE
CITY: BURLEY STATE: ID ZIP: 83318
PHONE NUMBER: 208-678-2160

OWNER CODE: C

FIELD EXAM REQUIRED? DATABASE FIELD
VERIFICATION REQUIRED DUE TO REMARKS? Y EXAMINER

CLAIM REMARKS: THIS CLAIM IS A COMBINATION OF THE TWO WR'S 41-00056 & 41-04024.
THE RIGHT IS FOR THE ENTIRE FLOW OF THE STREAM WITH EXCEPTION
OF WR 41-00057 TO IRRIGATE 15 ACRES IF IT DOES NOT IMPEDE THIS
WR.
AMENDMENT NOTES
ADJUSTED ACRES IN A-J TRACTS TO SHOW ACTUAL P/U ACRES.

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:

A. AJ CLAIM: # A41-10031 PRIORITY DATE: 05-01-1880 STAGE: D

B. WR RECORD: NO WATER RIGHT RECORD TO MATCH THIS AJ CLAIM

C. FIELD EXAM REQUIRED?

DUE TO PRIORITY DATE DISCREPANCY? (Y/N) DATABASE FIELD EXAMINER
Y _____

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

REMARKS: _____

RECOMMENDED PRIORITY DATE:

_____-_____-____

REVIEWED BY _____ DATE _____

A. AJ CLAIM POINT OF DIVERSION AND SOURCE:

| RIGHT | TWP. | RGE. | SEC. | 1/4 | 1/4 | 1/4 | LOT | CNTY |
|-----------|------|------|------|-----|-----|-----|-----|-------|
| A41-10031 | 09S | 30E | 36 | | NE | | SE | POWER |

OTHER AJ CLAIMS WITH SAME AJ POD

MR RECORDS IN SAME 40 ACRE TRACT

A PREFIX
A41-04024
A41-00056

R PREFIX
41-04024

SOURCE: SPRING CREEK

TRIB: ROCK CREEK

B. MR POINT OF DIVERSION AND SOURCE:

THERE IS NO WATER RIGHT RECORD WITH THE SAME CLAIM NUMBER

SOURCE: NO SOURCE FOR RECORD

TRIB: NO TRIBUTARY FOR RECORD

C. FIELD EXAM REQUIRED?

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

REMARKS:

| RECOMMENDED POINT(S) OF DIVERSION AND SOURCE: | | | | |
|---|------|------|-----|-----|
| TWP. | RGE. | SEC. | 1/4 | 1/4 |
| --- | --- | --- | --- | --- |
| --- | --- | --- | --- | --- |
| SOURCE: _____ | | | | |
| REVIEWED BY: _____ | | | | |
| DATE: _____ | | | | |
| TRIB: _____ | | | | |

A. ROOT WATER RIGHT NUMBERS: A41-10031

B. POU LISTING

| TWP | RNG | SEC | 1/4 | 1/4 | LOT | NAME | AJ
#/ACRES | WR
#/ACRES | LANDSAT
DATA | FIELD
EXAM. | RECOMM.
ACRES |
|-------------|-----|-----|-----|-----|-----|-------------------------|------------------|-----------------|-----------------|----------------|------------------|
| 09S | 30E | 36 | NE | NE | NE | COX , GLEN R. | A41-10031 / 30.0 | - / | | | 25.0 |
| | | | NE | NE | NE | COX , GLEN R. | A41-10032 / | - / | | | |
| | | | NE | NE | NE | UNITED STATES DITCH CO. | A41-00046 / 18.0 | 41-00046 / | | | |
| | | | NE | NE | NE | UNITED STATES DITCH CO. | A41-00039 / 18.0 | 41-00039 / | | | |
| | | | NE | NE | NE | COX , RACHEL HUNTER | 41-00056 / | 41-00056 / | | | |
| | | | NE | NE | NE | COX , GLEN R. | 41-04024 / 20.0 | 41-04024 / 20.0 | | | |
| | | | NE | NE | NE | MONTROSS , ERNIE | 41-07078 / 5.0 | 41-07078 / 5.0 | | | |
| 09S | 30E | 36 | NE | NE | NE | COX , GLEN R. | A41-10031 / | - / | | | 25.0 |
| | | | NE | NE | NE | COX , GLEN R. | A41-10032 / | - / | | | |
| | | | NE | NE | NE | UNITED STATES DITCH CO. | A41-00046 / 18.0 | 41-00046 / | | | |
| | | | NE | NE | NE | UNITED STATES DITCH CO. | A41-00039 / 18.0 | 41-00039 / | | | |
| | | | NE | NE | NE | COX , RACHEL HUNTER | 41-00056 / | 41-00056 / | | | |
| | | | NE | NE | NE | COX , GLEN R. | 41-04024 / 20.0 | 41-04024 / 20.0 | | | |
| | | | NE | NE | NE | MONTROSS , ERNIE | 41-07078 / 5.0 | 41-07078 / 5.0 | | | |
| 09S | 30E | 36 | SE | SE | SE | COX , GLEN R. | A41-10031 / 35.0 | - / | | | 41.0 |
| | | | SE | SE | SE | WEST DITCH COMPANY | A41-00037 / 9.0 | 41-00037 / | | | |
| | | | SE | SE | SE | UNITED STATES DITCH | 41-00039 / | 41-00039 / | | | |
| | | | SE | SE | SE | UNITED STATES DITCH | 41-00046 / | 41-00046 / | | | |
| | | | SE | SE | SE | COX , RACHEL HUNTER | 41-00056 / | 41-00056 / | | | |
| | | | SE | SE | SE | COX , GLEN R. | 41-04024 / 40.0 | 41-04024 / 40.0 | | | |
| 09S | 30E | 36 | SE | SE | SE | COX , GLEN R. | A41-10031 / 35.0 | - / | | | 40.0 |
| | | | SE | SE | SE | WEST DITCH COMPANY | A41-00037 / 20.0 | - / | | | |
| | | | SE | SE | SE | UNITED STATES DITCH | 41-00039 / | 41-00039 / | | | |
| | | | SE | SE | SE | UNITED STATES DITCH | 41-00046 / | 41-00046 / | | | |
| | | | SE | SE | SE | COX , RACHEL HUNTER | 41-00056 / | 41-00056 / | | | |
| | | | SE | SE | SE | COX , GLEN R. | 41-04024 / 40.0 | 41-04024 / 40.0 | | | |
| 09S | 30E | 36 | NE | SE | SE | COX , GLEN R. | A41-10031 / | - / | | | 40.0 |
| | | | NE | SE | SE | WEST DITCH COMPANY | A41-00037 / 20.0 | - / | | | |
| | | | NE | SE | SE | UNITED STATES DITCH | 41-00039 / | 41-00039 / | | | |
| | | | NE | SE | SE | UNITED STATES DITCH | 41-00046 / | 41-00046 / | | | |
| | | | NE | SE | SE | COX , RACHEL HUNTER | 41-00056 / | 41-00056 / | | | |
| | | | NE | SE | SE | COX , GLEN R. | 41-04024 / 40.0 | 41-04024 / 40.0 | | | |
| TOTAL ACRES | | | | | | | A41-10031 | 100.00 | | | 212.00 |

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: D

REMARKS:

RECOMMENDATIONS:

TOTAL ACRES: _____

REVIEWED BY: _____

DATE: _____

A. DOES DIVERSION RATE CLAIMED AGREE WITH EXISTING RECORDS? Y() N()

AJ TOTAL CLAIMED DIVERSION RATE: 1.680 CFS
WR ROOT RIGHT TOTAL DIVERSION RATE: 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

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

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

LIST ALL RIGHTS WITH A SAME POU AND IRRIGATION USAGE:

| CLAIM | SOURCE | NAME | DIV. RATE | DIV. RATE/ACRE | DIV. VOL. | DIV. VOL./ACRE |
|-----------|--------------|-------------------------|-----------|----------------|-----------|----------------|
| A41-10031 | SPRING CREEK | COX , GLEN R. | 1.680 | 0.016 | | |
| A41-00046 | ROCK CREEK | UNITED STATES DITCH CO. | 7.000 | 0.010 | | |
| A41-00039 | ROCK CREEK | UNITED STATES DITCH CO. | 1.000 | 0.001 | | |
| A41-00037 | ROCK CREEK | WEST DITCH COMPANY | 5.500 | 0.013 | | |

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

| CLAIM NO. | PURPOSES | NAME | MONTH/DAY | RATE | VOLUME |
|-----------|------------|---------------|---------------------|----------|--------|
| A41-10031 | STOCKWATER | COX , GLEN R. | FROM 01-01 TO 12-31 | .020 CFS | |
| A41-10032 | DOMESTIC | COX , GLEN R. | 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 = 300.0 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
FROM TO | REC. DIV
RATE CFS | REC. DIV
VOL. AF/A | REC. CONS.
USE |
|----------------------|------------------------|----------------------|-----------------------|-------------------|
| | | DATABASE EXAMINER | DATABASE EXAMINER | DATABASE EXAMINER |
| | | | | |
| | | | | |
| TOTAL FOR THIS RIGHT | | | | |

REVIEWED BY: _____

DATE: _____

A. CHECK ONLY THE FOLLOWING THAT APPLY:

OWNERSHIP _____
FORFEIT/ABANDON _____
ADDITIONAL DIV. AMOUNT _____

ACCEPTED
AS CLAIMED
()
()
()
()

NEEDS
REVIEW
()
()
()
()

B. SPLIT WATER RIGHT REVIEW

ROOT WATER RIGHT NUMBER: 41-10031
TOTAL DIVERSION RATE OF WR SPLITS

DATABASE
1.680

EXAMINER

CFS

SPLITS:

| OLD RIGHT
NUMBERS | CURRENT
CLAIM NUMBERS | DIVERSION
RATE | CURRENT "R"
CLAIM NUM. | "R" DIV.
RATE | WR RIGHT
NUMBERS | DIVERSION
RATE |
|----------------------|--------------------------|-------------------|---------------------------|------------------|---------------------|-------------------|
| A41-00056 | A41-10031 | 1.680 | - | - | 41-00056 | 1.680 |
| A41-04024 | A41-10031 | 1.680 | - | - | 41-04024 | 1.680 |

TOTAL CFS 3.360

1.680

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: _____

Photo: R41-21
 by JCC
 6-27-95



↑
 FLOW @
 SPRING CREEK
 SPRING CREEK
 Control & Diversions

→
 SITE
 OF
 Diversions
 AS
 SHOWN
 ABOVE
 IN
 PHOTO



A41-10031

Photo: RA1-21
Aug 95
6-27-95



Place of Use
Overview.

A41-10031

Photo. R41-21
by scc
6-27-95



← US Ditch
& Flow

Pump pond Below US Ditch,
@ Cox

A41-00034 A
→ A41-10031

Water Right Number - 41-00056

Prefix Translation:

WATER RIGHT

Old (D) Number -

Last Name -

First Name -

Address -

*** C - CURRENT OWNER ***
COX

RACHEL HUNTER

1 -

2 -

3 -

City-
Phone -

State- Zip-

Priority Date - 05/01/1980

Region - 17 SOUTHERN

Stage - D - DECREED

Status -

Source -
SPRING CREEK

Tributary -
ROCK CREEK

| Twn | Rng | Sec | Tract | Lot | Rflg | County | Point of Diversion - | Diversion Name | Diversion Rate | Diversion No. |
|-----|-----|-----|-------|-----|------|--------|----------------------|----------------|----------------|---------------|
|-----|-----|-----|-------|-----|------|--------|----------------------|----------------|----------------|---------------|

| Code | Description | Period From | Period To | Water Use | Diversion Rate | Diversion Volume |
|------|-------------|-------------|-----------|-----------|----------------|------------------|
|------|-------------|-------------|-----------|-----------|----------------|------------------|

Total Div. Rate - Total Div. Volume - Total Div. Capacity -

| Twn | Rng | Sec | Tract | Lot | Acres | Place of Use | Code | Description | County |
|-----|-----|-----|-------|-----|-------|--------------|------------|-------------|--------|
| 09S | 30E | 36 | NE NE | | | 01 | IRRIGATION | (77) POWER | |
| 09S | 30E | 36 | SE NE | | | 01 | IRRIGATION | (77) POWER | |
| 09S | 30E | 36 | NE SE | | | 01 | IRRIGATION | (77) POWER | |

Diversion Means -

Non-Irrigation Use -

Other Rights for Same Use - 41-4024

Remarks -
RT. IS FOR ENTIRE FLOW OF CREEK, 1.2-1.6 CFS.

Old Water Right Numbers -
No Old Water Right Numbers found.

Conditions of Approval -
No Conditions of Approval found.

Decree Plaintiff - RACHEL HUNTER COX
Decree Defendant - ARTHUR H. NIELSON, JR., ET. AL.
Decree Date - 06/09/1980

WATER RIGHT

No Comments Found

Water Rights Dates and Flags Area

Water Right Number - 41-04024

Prefix Translation:

WATER RIGHT

Old (D) Number -

*** C - CURRENT OWNER ***

COX

GLEN R.

1 - 531 TETON DRIVE
2 -
3 -

State- ID Zip- 83318

COX

IDA F.

City- BURLEY
Phone -
1 - 531 TETON DRIVE
2 -
3 -

State- ID Zip- 83318

Priority Date - 05/01/1880

Region - 17 SOUTHERN

Stage - S - STATUTORY CLAIM

Status -

Source - SPRING CREEK

Tributary - ROCK CREEK

| Twn | Rng | Sec | Tract | Lot | Rflg | County | Point of Diversion | Diversion Name | Diversion Rate | Diversion No. |
|-----|-----|-----|-------|------|------|--------|--------------------|----------------|----------------|---------------|
| 09S | 30E | 36 | NE SE | (77) | | POWER | | | | |

| Code | Description | Period from | Period to | Water Use | Diversion Rate | Diversion Volume |
|-----------------|-------------|-------------|-----------|-----------|----------------|------------------|
| 01 - IRRIGATION | | 04/01 | 11/01 | | 1.680 | |
| 04 - STOCKWATER | | 01/01 | 12/31 | | 0.020 | |

Total Div. Rate - 1.680
Total Div. Volume -
Total Div. Capacity -

| Twn | Rng | Sec | Tract | Lot | Acres | Place of Use | Description | County |
|-----|-----|-----|-------|-----|-------|--------------|-------------|------------|
| 09S | 30E | 36 | NE NE | | 20.0 | 01 | IRRIGATION | (77) POWER |
| 09S | 30E | 36 | SE NE | | 40.0 | 01 | IRRIGATION | (77) POWER |
| 09S | 30E | 36 | NE SE | | 40.0 | 01 | IRRIGATION | (77) POWER |

Total Acres: 100.0

- - - - - Diversion Means - DITCHES
- - - - - Non-Irrigation Use - S/50 RANGE, HORSES
- - - - - Other Rights for Same Use - 41-0056.
- - - - - Remarks -
No Remarks found.

Water right number - 41-04024

Prefix Translation:

WATER RIGHT

+ - - - - - Old Water Right Numbers - - - - - +

+ - - - - - Old Water Right Numbers - - - - - +
No Old Water Right Numbers found.

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

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

+ - - - - - Comments - - - - - +
No Comments found

+ - - Audit Fields - 01/28/86 05/28/88 CONVERT

+ - - - - - Water Rights Dates and Flags Area - - - - - +

| | | | | | |
|-------------------|--------------|-----------------|--------------|--------------------|-----|
| 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 | DLE/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 | Name Connector | - | POU Ownership Flag | - |
| Presumption Flag | - | | | | |