

AJ5809NP
No. R45-10837

IDAHO DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM PROFILE REPORT

DATE: 10/29/97
PAGE: 21

OWNER CODE	NAME & ADDRESS	PRIORITY DATE	WATER USE	USE PERIOD FROM TO	DIVERSION RATE	DIVERSION VOLUME
C	PICKETT RANCH & SHEEP COMPANY RT 1 BOX 80 OAKLEY ID 83346 (208) 862-3482	06/22/1914	STOCKWATER	04-01 11-01	0.06 CFS	
					TOTAL DIVERSION:	0.06 CFS

Water Source: SPRING

Tributary to: SINKS

Stage: BENEFICIAL USE

Point(s) of Diversion: T15S R22E S03 NWSWN CASSIA County

Place of use Legal Description for: STOCKWATER

NE				NW				SW				SE																			
NENE		NWNE		SWNE		SENE		NENW		NWNW		SWNW		SENW		NESW		NWSW		SWSW		SESW		NESE		NWSE		SWSE		SESE	
T	R	S	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	
---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---
15S	22E	4	:		:		:		:		:		:		:		:		:		:		:		:		:		:		

POU County: CASSIA

Non-Irrigation Uses: STOCKWATER, 200 RANGE, 1600 SHEEP

Other Rights: NONE

Remarks: BEN PARCEL NO. 15S22E040000

Dates: Exam Made Date:

Verified Date:

Objection Filed Date:

Misc: Water District Number:

Field Inspection Flag:

Presumption Flag:

Comments: Date: 06/22/1992 User-ID: WHITE Subject: COPIED FROM REMARKS
SECTION 4 OWNED. IN ACCORDANCE WITH AGREEMENT WITH CITY OF
OAKLEY, DIVERSION POINTS ALSO LOCATED IN SEC. 10, T15S. R22E.
VIA GRAZING PERMIT.
SEE ATTACHMENT "AGREEMENT TO ALLOCATE WATER RIGHTS"

Audit: 06/22/92 WHITE 03/30/95 POST-STD

(see Comments)

EXP 7-3-97

SD-0420-2
MODIFY RECORD

Idaho Department of Water Resources
Modify Comment

Date: 02/02/98
Time: 11:50:33

Water Right Number: R45-10837

Comment Date: 2/ 2/1998 User ID: JROBERTS

Subject: QUESTIONS ON POD? _____

SOME AMBIGUITY EXISTS REGARDING LOCATION OF POD. ACCORDING TO
ORIGINAL CLAIM, THERE IS AN AGREEMENT BETWEEN CLAIMANTS AND CITY
OF OAKLEY DIVERTING THE WATER FROM VARIOUS LOCATIONS IN SECTIONS
3, 10 AND 14. ORIGINAL CLAIM ONLY STATES SECTION 3 AS POD BUT
REFERS TO THIS AGREEMENT. WILL RECOMMEND AS CLAIMED FOR NOW. jr

(ENTER=Continue/Exit) (Gold2=Update) (Gold3=Delete) (Gold4=Prev) (Gold5=Next)

SD-0420-2
ADD COMMENT

Idaho Department of Water Resources
Modify Comment

Date: 02/02/98
Time: 11:38:49

Water Right Number: R45-10837

Comment Date: 2/ 2/1998 User ID: JROBERTS

Subject: QUESTIONS ON POD?

SOME AMBIGUITY EXISTS REGARDING LOCATION OF POD. ACCORDING TO
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(ENTER=Add) (Gold4=Prev) (Gold5=Next) (Gold7=Return to Comment Selection)

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: A45-10837
Date Received: 7/07/1989
Receipt No: S007335
Received By: 3cc

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: PICKETT RANCH & SHEEP COMPANY 208-862-3482
Address: RT. 1 BOX 80
OAKLEY, ID 83346

2. Date of Priority: JUN 22, 1914

3. Source: SPRING Trib. to: SINKS

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
15S	22E	3	NW	SW	NW		CASSIA

5. Description of diverting works:
MAIN PIPELINE FOR CITY OF OAKLEY.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
STOCKWATER	04/01	11/01	0.060		

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

8. Total consumptive use is Acre Feet Per Annum.

9. Non-irrigation uses:
S/200 RANGE, 1600 SHEEP

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
15S	22E	4	NW	SE		STOCK	

11. Place of use in counties: CASSIA

A45-10837

Page 1

Date: 07/07/89

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

13. Other Water Rights Used:
NONE

14. Remarks:
SECTION 4 OWNED. IN ACCORDANCE WITH AGREEMENT WITH CITY OF
OAKLEY, DIVERSION POINTS ALSO LOCATED IN SEC. 10, T15S. R22E.
VIA GRAZING PERMIT.
SEE ATTACHMENT "AGREEMENT TO ALLOCATE WATER RIGHTS"

15. Basis of Claim: BENEFICIAL USE

16. Signature(s)

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

Number of attachments: _____

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): _____ Date: _____
_____ Date: _____

State of Idaho)
County of _____) SS.

Subscribed and sworn (or affirmed) before me this _____ day
of _____ 19 _____

Notary Public

Seal

Residing at _____

My Commission Expires _____

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

Identification No. 445-10837

Date Received _____

Receipt Number 5007325

NOTICE OF CLAIM
TO A
WATER RIGHT

RECEIVED

MAY 25 1989

ACQUIRED UNDER STATE LAW
For Domestic and/or Stockwater Purposes
Where Daily Use is less than 13,000 gallons per day. Department of Water Resources
Southern Region Office

Filing Fee \$25

Please type or print clearly

1. Name of Claimant (s) Pickett Ranch & Sheep Company Phone (208) 862-3482

Mailing Address Route 1 Box 80 Oakley, Idaho Zip 83346

2. Date of Priority (Only one per claim) June 22, 1914 Month/Day/Year

3. Source of water supply (Check one) () Groundwater or Other (x) (a) Unnamed Spring

which is tributary to (b) Sinks Name or kind of source

4. Location of point of diversion is: Township 15 South Range 22 East

Section 3 NW 1/4 of SW 1/4 of NW 1/4, Govt. Lot _____, BM.,
As originally diverted. Presently diverted in accordance with
County of Cassia attached agreement with City
of Oakley.

Additional points of diversion if any: _____

5. Description of existing diversion works (Ditches, Wells, Pumps, Pipelines, Headgate Etc.), including the dates of any changes or enlargements in use, the dimensions of the diversion works as constructed and as enlarged and the depth of each well. Presently, the City of Oakley is diverting all water into a main pipeline, a right to which the City has given us all in accordance with the attached agreement.

6. Water is claimed for the following: (limited to Domestic and/or Stockwater only. See Instructions.)

For Stockwater purposes from April 1 to November 1 amount 0.06 (cfs)

(Both dates are inclusive)

For _____ purposes from _____ to _____ amount _____

7. Total quantity claimed 0.06 (cfs)

8. Total consumptive use claimed is de minimus

9. Non-irrigation uses. Describe fully. (Domestic: give number of households served if single ownership; Stockwater: Type and Number of livestock) 200 head of range cattle; 1600 head of sheep

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10. Place of use is: Township: 15 South Range 22 East

Section 4, NW 1/4 of SE 1/4, Govt. Lot _____, B.M.,

County of Cassia for (Circle One) Domestic Stock Domestic and Stock

Additional places of use, if any See Attached Agreement

11. In which county (ies) are lands listed above as place of use located? Cassia

12. Do you own the property listed above as place of use? Yes Sec. 4 No BLM
If your answer is No, describe in Remarks below the authority you have to claim this water right.

13. Describe any other water rights used at the same place and for the same purposes as described above. None (x)

14. Remarks: Section 4 owned. In accordance with agreement with City of Oakley, diversion points also located in Sec. 10, T15S, R22E via Grazing Permit.

15. Basis of Claim (Circle One) Beneficial Use Posted Notice License Permit Decree

Court _____ Decree Date _____ Plaintiff vs Defendant _____

If applicable provide IDWR Water Right Number 10324/45-2141

16. Signature (s)

Number of Attachments 8 page agreement.

For Individuals: I do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant (s) _____ Date _____
_____ Date _____

For Organizations: I do solemnly swear or affirm that I am Vice President
of Pickett Ranch & Sheep Co, that I have signed the foregoing
document in the space below as Vice President of Pickett Ranch & Sheep Co
and that the statements contained in the foregoing document are true and correct.

Signature of Authorized Agent [Signature] Date 05/25/89

Title and Organization Vice President Pickett Ranch & Sheep Co

State of Idaho/or _____)
County of TF) SS.

Subscribed and sworn (or affirmed) before me this 28th day of May 19 89

SEAL

Notary Public [Signature]

Residing at TF

My Commission Expires 5/94

Last Name _____ Ident No. _____

Copies: White-State, Yellow-Claimant

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MAR 08 1993

AGREEMENT TO ALLOCATE WATER RIGHTS

THIS AGREEMENT, dated as of the 1 day of May, 1989, between PICKETT RANCH & SHEEP COMPANY, a corporation, having its principal office at Oakley, Cassia County, Idaho (hereinafter called the "Company"), and the CITY OF OAKLEY, a subdivision of Cassia County, Idaho, (hereinafter called the "City").

WHEREAS, the parties hereto desire to file their respective claims to water as required by Civil Case Number 39576, Fifth Judicial District of the State of Idaho, in and for the County of Twin Falls, commonly known as the Snake River Water Rights Adjudication; and

WHEREAS, the parties hereto have entered into an agreement dated April 7, 1982, duly filed with the Recorder's Office, Cassia County, Idaho, Index # 142541, giving City a pipeline right-of-way across Company's real property located at Section 4, Township 15 South, Range 22 East, Boise Meridian, in exchange for certain rights to the use of a specified amount of water from City's pipeline during the term of the aforesaid Easement, and also acknowledging in Section Twelve thereof that Company may be the rightful owner certain water rights in the City's present system which are superior to those of City's; and

WHEREAS, the Company is the owner of a certain License of Water Right filed with the Idaho Department of Water Resources and recorded under License Number 10324/45-2141, bearing a priority

date of June 22, 1914 for the appropriation of 0.24 cfs between April 1 and November 1, said water to be diverted at any one time within the Southwest Quarter of the Northwest Quarter of Section 3, Township 15 South, Range 22 East, Boise Meridian; and

WHEREAS, a certain deed dated November 12, 1925, on file with the Recorder's Office, Cassia County, Idaho, located in Book 35 of Deeds, Page 348, Index #80059, conveys to City "....all the waters of that certain spring, located in the East Half of section three, township fifteen South; Range twenty-two East, Boise Meridian, commonly known as the Cove or Bates Springs, together with all easements, licenses, privileges, canals, flumes, ditches and rights-of-way used in connection therewith or appurtenant thereto."; and

WHEREAS, it is believed by the parties hereto that either all or part of the water source for Company's License Number 10324/45-2141 originates from the same spring or springs as conveyed or intended to be conveyed to City in the aforementioned deed (Index #80059), it also being believed by the parties hereto that some of the water presently diverted by the City is located in the West Half of Section 3 rather than in the said East Half; and

WHEREAS, there is no clear indication that Company at any time ever abandoned or intended to abandon, forfeited or intended to forfeit, its licensed right to 0.24 cfs of water by virtue of City's use of water from the said spring sources in Section 3 at

some point in time subsequent to June 22, 1914; and

WHEREAS, Company is presently unable to divert water from its aforementioned point of diversion sufficient to satisfy its licensed right as a result of City's having appropriated the same for its own use and for the use of Company as evidenced by the parties' aforementioned agreement dated April 7, 1982; and

WHEREAS, City is the owner of a certain License of Water Right filed with the Idaho Department of Water Resources and recorded as License Number 45-4184, bearing a priority date of 1930 (no month and day recorded) for the appropriation of the entire flow of thirty springs and a well to be diverted from a number of locations including but not limited to sources within Sections 3, 10 and 14, Township 15 South, Range 22 East; and

WHEREAS, the history of the settlement of the Oakley valley indicates that water from all springs in Sections 3, 10, and 14 of Township 15 South, Range 22 East, Boise Meridian, were used on an annual basis for the watering of domestic livestock long before City's priority date of 1930, and that Company's earliest acquisition of range and accompanying water rights apparently came from certain leases acquired from George Day in 1933 or 1934; and

WHEREAS, a certain deed dated September 19, 1941, on file with the Recorder's Office, Cassia County, Idaho, located in Book 46 of Deeds, page 541, Index #139970, conveys to Company "...one spring in the Northwest quarter of the Northwest quarter

(NW1/4NW1/4) of Section 14, Twp. 15 S.R. 22 E.B.M., and the water from any and all other springs appurtenant to the above described real estate that will not flow by gravity unto the pipe line of the Oakley Canal Company;"

NOW, THEREFORE, in consideration of the foregoing recitals and the mutual promises and covenants, it is mutually agreed that Company shall allow City to claim an uncontested right to 0.18 cfs of Company's aforementioned License #10324/45-2141, and City shall allow Company to claim an uncontested right to 0.06 cfs of water from City's water system, subject to the following terms and conditions:

1. That this agreement shall otherwise be deemed approvable by the Idaho Department of Water Resources and the District Court of the Fifth Judicial District of the State of Idaho, as well as any other courts to which the respective water claims of the parties may be appealed; and

2. That this agreement shall be interpreted so far as possible so as not to conflict with any terms and conditions of the parties' aforementioned agreement dated April 7, 1982; and

3. That neither City nor Company shall at any time in the future claim that the other has abandoned or forfeited any right or rights to any water from any source within the contemplation of this agreement, including but not limited to the Company's inability to show that it is appropriating specific molecules of

water from its licensed right in Section 3 either as a result of City's piping of such water to a point below Company's established place of use or as a result of Company's failure to divert such water from its established point of diversion as specified by its aforementioned License #10324/45-2141.

4. That the term of this agreement shall be the same as that term specified in the parties' aforementioned agreement dated April 7, 1982, such term to be so long as City's pipeline and appurtenances constructed pursuant to that easement agreement shall be maintained and operated by City.

5. That the parties mutually promise and agree that at the termination of this agreement, City will immediately execute a Quitclaim deed to Company conveying to Company without any reservations, reversions or restrictions, its aforementioned 0.06 cfs right to water, and Company will immediately execute a Quitclaim deed to City conveying to City without any reservations, reversions or restrictions, its aforementioned 0.18 cfs right to water, all from those springs located in Section 3.

6. That the parties mutually promise and agree that despite the aforementioned long and continued diversion of water for the watering of domestic livestock from said springs in Sections 10 and 14 pre-dating City's priority date of 1930 and also despite Company's aforementioned deed (Index #139970) for a right to certain water in the Northwest Quarter of the Northwest Quarter

of Section 14, Township 15 South, Range 22 East, Boise Meridian (commonly known as Choke Cherry Spring), Company shall not contest City's proclaimed superior right to any water in said Sections 10 or 14; provided that, if the purpose of this agreement should become frustrated or rendered impossible to perform for any reason whatsoever, the parties mutually agree and promise that either party may demand upon the other an exchange of quitclaim deeds allowing Company a vested water right for 0.06 cfs in the said Choke Cherry Spring (or, if the parties mutually agree, in Wildcat Spring located in Section 10) in exchange for Company's quitclaim deed to City conveying its said 0.06 cfs water right in Section 3.

7. That it is mutually understood that this agreement is the compromise of water claims bearing uncertain backgrounds and circumstances relating to their present and respective validities and priorities, and that the execution of this agreement is not to be construed as an admission of any fact or circumstance by any person or organization not a party to this agreement in any court of law or in any agency of the State of Idaho or United States.

8. That the terms of this agreement are intended by the parties to be contractual and not mere recitals. With the exception of the aforementioned agreement between the parties dated April 7, 1982, this agreement for the allocation of water rights contains the entire agreement between the parties, and no promise, inducement, or agreement not herein expressed has been made to the

undersigned.

IN WITNESS WHEREOF, the parties hereto have executed this agreement at Oakley, Idaho, the day and year first herein written.

COMPANY

PICKETT RANCH & SHEEP COMPANY

By

Ennis Pickett
Ennis Pickett, President

Attest

Steph J. Pickett
Secretary

CITY

CITY OF OAKLEY

By

George Trombley
George Trombley, Mayor

Attest

Norothy Robinson
Secretary

STATE OF IDAHO)
) ss.
County of Cassia)

On this 1 day of MAY, 1989, before me, the undersigned, a notary public in and for said state, personally appeared ENNIS PICKETT and FLOYD J. PICKETT, known to me to be the President and Secretary of PICKETT RANCH & SHEEP COMPANY, and who subscribed the name of said Pickett Ranch & Sheep Company to the foregoing instrument and acknowledged to me that they executed the same in the name of Pickett Ranch & Sheep Company.

IN WITNESS WHEREOF I have hereunto set my hand and official seal the day and year first herein written.

(SEAL)

Martin A. Smith
Notary Public for Idaho
Residing at: OAKLEY, ID.
My Commission Expires: 12-10-94

STATE OF IDAHO)
) ss.
County of Cassia)

On this 3 day of May, 1989, before me, the undersigned, a notary public in and for said state, personally appeared GEORGE TROMBLEY and DOROTHY ROBINSON, known to me to be the Mayor and Secretary of the Oakley City Council, State of Idaho, and who subscribed the name of the said City of Oakley, State of Idaho, to the foregoing instrument and acknowledged to me that they executed the same in the name of the City of Oakley.

IN WITNESS WHEREOF I have hereunto set my hand and official seal the day and year first herein written.

(SEAL)

Robert W. Fehlman
Notary Public for Idaho
Residing at: Oakley, Id
My Commission Expires: 8-15-91

WATER RIGHT NUMBER - A45-10831

PREFIX TRANSLATION: ADJUDICATION CLAIM

OLD (D) NUMBER -

+ - - - - LAST NAME - - - - +

+ - FIRST NAME - - +

+ - - - - ADDRESS - - - - - +

*** C - CURRENT OWNER ***
MERRILL

DONALD G.

1 - BOX 486
2 -
3 -
CITY- ALBION
PHONE - 208-673-6649

STATE- ID ZIP- 83311

+ - - PRIORITY DATE - - +
05/10/1940

+ - - - REGION - - - +
17 SOUTHERN

+ - - - STAGE - - - +
J - BENEFICIAL USE

+ - - - STATUS - - - - +

+ - - - - SOURCE - - - - - +
GROUNDWATER

+ - - - - TRIBUTARY - - - - - +

+ - - - - POINT OF DIVERSION - - - - - +

TWN

RNG

SEC

TRACT

LOT

RFLG

COUNTY

STREAM INDEX (BLANK IF NO INDEX CODE)

12S

25E

6

NW SW NE

(31) CASSIA

+ - - - - WATER USE - - - - - +

CODE

DESCRIPTION

PERIOD FROM

PERIOD TO

DIVERSION RATE

DIVERSION VOLUME

43 - DOMESTIC

01/01

12/31

0.040

04 - STOCKWATER

01/01

12/31

0.020

+ - TOTAL DIV. RATE - +

+ - TOTAL DIV. VOLUME - +

+ - TOTAL DIV. CAPACITY - +

+ - TOTAL CONSUMPTIVE USE - +

+ - KW USAGE - +

0.060

0.0

+ - - - - PLACE OF USE - - - - - +

TWN

RNG

SEC

TRACT

LOT

ACRES

CODE

DESCRIPTION

COUNTY

12S

25E

6

SW NE

04

STOCKWATER

(31) CASSIA

12S

25E

6

SW NE

43

DOMESTIC

(31) CASSIA

+ - - DIVERSION MEANS - WELL

+ - - NON-IRRIGATION USE - D/ 1 HOUSE, S/ 50 HD. BEEF 6 HORSES

+ - - OTHER RIGHTS FOR SAME USE - NONE

+ - - - - REMARKS - - - - - +
NO REMARKS FOUND.

+ - - - - 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

MICROFILMED
OCT 28 1994

