

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

IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM.

CIVIL CASE NUMBER: 39576

Ident. Number: A43-10655
Date Received: 5/10/1991
Receipt No: S013332
Received By: Sc

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: RANDALL JAY FARLEY 208-824-5577
Address: HC 72
MALTA, ID 83342
AND/OR
Name: LINDA DIANE FARLEY 208-824-5577
Address: HC 72
MALTA, ID 83342

2. Date of Priority: JAN 1, 1935

3. Source: GROUNDWATER Trib. to:

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
15S	26E	23	SW	NW	NW		CASSIA

5. Description of diverting works:

WELL 430' DEEP, 12" CASING-ARTESIAN, DITCH TO POND-PUMP FROM POND

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
RECREATION	01/01	12/31	0.070		
RECREATION STORAGE	01/01	12/31			2.00
WILDLIFE	01/01	12/31	0.070		
WILDLIFE STORAGE	01/01	12/31			2.00
AESTHETIC	01/01	12/31	0.070		
AESTHETIC STORAGE	01/01	12/31			2.00

7. Total Quantity Appropriated is:

0.210 C.F.S. (and/or) 2.00 A.F.A.

8. Total consumptive use is Acre Feet Per Annum.

9. Non-irrigation uses:

RECREATION, AESTHETIC & WILDLIFE USES OF THE WATER IN THE POND

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
15S	26E	23	SW	NE		WILD S	
			SW	NE		REC S	
			SW	NE		AES S	

11. Place of use in counties: CASSIA

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

13. Other Water Rights Used:
A43-04098A

14. Remarks:

THIS CLAIM IDENTIFIES SOME OF THE BENEFICIAL USE OF THE HEAT
VALUE OF THE WATER AS DESCRIBED IN THE AGREEMENT BETWEEN H. CRANK
AND I. DARRINGTON.

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):

Ronald J. Harley
Linda Diane Harley

Date: *May 10, 1991*

Date: *May 10, 1991*

State of Idaho)
County of Twin Falls) SS.

Subscribed and sworn (or affirmed) before me this 10th day
of May 19 91

Shirley A. [Signature]
Notary Public

Seal

Residing at Twin Falls
My Commission Expires Dec 7 1994



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

CECIL D. ANDRUS
Governor

December 5, 1991

R. KEITH HIGGINSON
Director

A43-10655
RANDALL JAY FARLEY
LINDA DIANE FARLEY
HC 72
MALTA

ID 83342

RE: Evidence of Priority

RESPONSE DEADLINE
FEBRUARY 3, 1992

Dear Claimant:

The Notice(s) of Claim identified with the number shown above your name on the mailing label has been filed in the Snake River Basin Adjudication (SRBA). The Notice(s) indicate your water usage is based on "Beneficial Use" or a "Statutory Claim". Water rights of this type are established by the historical use of water, dating back to when water was first used for the purpose claimed. The date of first use, known as the priority date, has not been confirmed by a License, Decree or Permit. The Department will soon conduct reviews &/or field exams for the claims in your area. Since the priority date of a beneficial use water right can not be confirmed by field examination, proof must be provided supporting the priority date you have claimed.

The Department will not recommend the Notice(s) be decreed by the court as claimed if no evidence of a priority date is submitted.

Please find enclosed a computer printout of your Notice(s) and the pamphlet entitled "Evidence of Priority". The pamphlet describes the types of evidence required and suggests which documents will fulfill this requirement. I direct your attention to the two sections entitled "What Kind of Evidence is Required" and "Some Examples of Documents Which May Be Evidence of the Priority Date".

Please submit the required evidence supporting the priority date(s) by February 3, 1992, referencing all documents with the corresponding Notice number(s). If you have any questions not covered by this letter or the enclosed pamphlet, please contact this office.

Respectfully submitted,

Allen Merritt, P.E.
Water Rights Supervisor

Enclosures

MICROFILMED
MAR 05 1993

Sec?

05/09/2001

**NOTICE OF ERROR
REPLY**

Please type or print clearly, fill out this form completely and mail.

Return this reply form to IDWR by the deadline date printed below if you want IDWR to change your recommendation or you want to let IDWR know that you agree with its recommendation.

YOUR DEADLINE FOR RETURNING A NOTICE OF ERROR REPLY IS: June 15, 2001

Water right number: 43-10655

LINDA DIANE FARLEY

HC 72

MALTA ID 83342

Telephone Number: (208)824-5577

RANDALL JAY FARLEY

HC 72

MALTA ID 83342

Telephone Number: (208)824-5577

RECEIVED

JUN 08 2001

Department of Water Resources
Southern Region

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

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

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

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

DATE: 6/4/01

SIGNATURE:

Please print your name:

Randall J Farley
Randall J Farley

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

02/14/2001

IDAHO DEPARTMENT OF WATER RESOURCES
Adjudication Recommended Right Report

WATER RIGHT NO. 43-10655

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	LINDA DIANE FARLEY
Current Owner	RANDALL JAY FARLEY
	HC 72
	MALTA, ID 83342
	(208)824-5577

Priority Date: 01/01/1935
Basis: Beneficial Use
Status: Active

Source Tributary to
GROUND WATER

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>	<u>Subuse Code</u>
WILDLIFE	1/01	12/31	0.07 CFS		
WILDLIFE STORAGE	1/01	12/31		2 AFA	
RECREATION	1/01	12/31	0.07 CFS		
RECREATION STORAGE	1/01	12/31		2 AFA	
AESTHETIC	1/01	12/31	0.07 CFS		
AESTHETIC STORAGE	1/01	12/31		2 AFA	
Total Diversion			0.21 CFS	2 AFA	

Location of Point(s) of Diversion:

GROUND WATER SWNWNW Sec. 23 Township 15S Range 26E CASSIA County

Place(s) of use:

Place of Use Legal Description: WILDLIFE same as

Place of Use Legal Description: WILDLIFE STORAGE CASSIA County

<u>Townshi</u>	<u>Rang</u>	<u>Secio</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>
15S	26E	23		SWNE										

Place of Use Legal Description: RECREATION same as WILDLIFE STORAGE

Place of Use Legal Description: RECREATION STORAGE CASSIA County

<u>Townshi</u>	<u>Rang</u>	<u>Secio</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>
15S	26E	23		SWNE										

Place of Use Legal Description: AESTHETIC same as RECREATION STORAGE

Place of Use Legal Description: AESTHETIC STORAGE CASSIA County

<u>Townshi</u>	<u>Rang</u>	<u>Sectio</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>
15S	26E	23		SWNE										

Remarks:

1. Explanatory RIGHT NO. 43-04098A IS ALSO DIVERTED THROUGH POINT OF DIVERSION DESCRIBED ABOVE.

Comments:

<u>Author</u>	<u>Date</u>	<u>Subject</u>	<u>Comment</u>
CLELLAND	4/28/92	COPIED FROM	THIS CLAIM IDENTIFIES SOME OF THE BENEFICIAL USE OF THE HEAT VALUE OF THE
		REMARKS	WATER AS DESCRIBED IN THE AGREEMENT BETWEEN H. CRANK AND I. DARRINGTON.
SCLELLAN	6/17/98	REFORMAT FOR	MEMORANDUM DEC. 5/6/98 BY JUDGE HURLBUTT.
		REC/D	

Dates:

Licensed Date:
 Claim Received Date: 05/10/1991
 Enlargement Use Priority Date:
 Enlargement Statute Priority Date:
 Decreed Date:
 Date Filed with Court:
 Objection Filed Date:
 SF5 Filed:
 Special Master Recom Signed Date:

Other Information:

Receipt Number(s): S013332
 State or Federal: S
 Owner Name Connector: AND
 Water District Number:
 Generic Max Rate per Acre:
 Generic Max Volume per Acre:
 Civil Case Number:
 Old Case Number:
 Decree Plaintiff:
 Decree Defendant:
 PresumptionFlag:
 Notice of Error Flag:NONE RECEIVED
 Swan Falls Trust or Nontrust:
 Swan Falls Dismissed:
 DLE Act Number:
 Cary Act Number:
 Mitigation Plan: False

Memorandum

To: GLEN SAXTON

CC: FILE A43-04098A

From: STEVE CLELLAND *SC*

Date: 06/17/98

Re: PERMIT 43-07318

Glen, I have reviewed the Farley SRBA claims in light of the recent decision by Judge Hurlbutt. I have confirmed the database is correct for the recommendation of a partial decree by the court.

I believe the pending permit 43-07318 has potential to increase the flow rate beyond that allowed in the SRBA claims and it does not duplicate uses or flows found in those claims.

It appears the only claim that may overlap with the permit is the claim A43-04098A. They both contain uses for Heat and Domestic and the permit may result in an increase in the total flow used by the Farleys for these uses. They have changed the diversion system to deliver the water to their home since my original exam, which may have increased the total amount diverted.

The recreation use for a pool does not overlap with the other recreation uses already granted under the SRBA claim A43-10655. In my last discussion with the Farley's they indicated they had not yet fully constructed the pool under this permit, however, they are planning on the construction if the extension is granted for the permit.

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

OWNER CODE	NAME & ADDRESS	PRIORITY DATE	WATER USE	USE PERIOD FROM TO	DIVERSION RATE	DIVERSION VOLUME
C	RANDALL JAY FARLEY	01/01/1935	WILDLIFE	01-01 12-31	0.07 CFS	
C	LINDA DIANE FARLEY		WILDLIFE STORAGE	01-01 12-31		2.00 AFA
	HC 72		RECREATION	01-01 12-31	0.07 CFS	
	MALTA ID 83342		RECREATION STORAGE	01-01 12-31		2.00 AFA
	(208) 824-5577		AESTHETIC	01-01 12-31	0.07 CFS	
			AESTHETIC STORAGE	01-01 12-31		2.00 AFA
TOTAL DIVERSION:					0.21 CFS	2.00 AFA

Water Source: GROUNDWATER

Tributary to:

Stage: BENEFICIAL USE

Point(s) of Diversion: T15S R26E S23 SWNNW

CASSIA County

Place of use Legal Description for: WILDLIFE STORAGE

NE				NW				SW				SE											
T	R	S	:	NENE	NWNE	SWNE	SENE	:	NENW	NWNW	SWNW	SENW	:	NESW	NWSW	SWSW	SESW	:	NESE	NWSE	SWSE	SESE	:
			:	Lt	Ac	Lt	Ac	:	Lt	Ac	Lt	Ac	:	Lt	Ac	Lt	Ac	:	Lt	Ac	Lt	Ac	:
15S	26E	23	:					:					:					:					:
			:					:					:					:					:

Place of use location for WILDLIFE is the same location as described for: WILDLIFE STORAGE

Place of use location for RECREATION is the same location as described for: WILDLIFE STORAGE

Place of use Legal Description for: RECREATION STORAGE

NE				NW				SW				SE											
T	R	S	:	NENE	NWNE	SWNE	SENE	:	NENW	NWNW	SWNW	SENW	:	NESW	NWSW	SWSW	SESW	:	NESE	NWSE	SWSE	SESE	:
			:	Lt	Ac	Lt	Ac	:	Lt	Ac	Lt	Ac	:	Lt	Ac	Lt	Ac	:	Lt	Ac	Lt	Ac	:
15S	26E	23	:					:					:					:					:
			:					:					:					:					:

Place of use location for AESTHETIC is the same location as described for: RECREATION STORAGE

Place of use Legal Description for: AESTHETIC STORAGE

NE				NW				SW				SE											
T	R	S	:	NENE	NWNE	SWNE	SENE	:	NENW	NWNW	SWNW	SENW	:	NESW	NWSW	SWSW	SESW	:	NESE	NWSE	SWSE	SESE	:
			:	Lt	Ac	Lt	Ac	:	Lt	Ac	Lt	Ac	:	Lt	Ac	Lt	Ac	:	Lt	Ac	Lt	Ac	:
15S	26E	23	:					:					:					:					:
			:					:					:					:					:

POU County: CASSIA

Other Rights: 43-04098A

Remarks: EXP RIGHT NO. 43-04098A IS ALSO DIVERTED THROUGH POINT OF DIVERSION
DESCRIBED ABOVE.

AJ0749NP
No. R43-10655

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

DATE: 06/17/98
PAGE: 2

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Dates:	Exam Made Date: 10/08/1996	Verified Date: 06/17/1998	Objection Filed Date:
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Misc:	Water District Number:	Field Inspection Flag:
		Presumption Flag:

COPY

MAY 28 1998

Department of Water Resources
Southern Region

1998 MAY -8 AM 11:50

DEPUTY

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

In Re: SRBA
Case No. 39576

EDSIL IVAN DARRINGTON and
BARBARA DARRINGTON, husband
and wife,

Plaintiffs

v.

RANDALL J. FARLEY and LINDA
FARLEY, husband and wife,

Defendants

Cassia County Case No. CV 92-00778D

SRBA Case No. 94-00008

MEMORANDUM DECISION:

FINDINGS OF FACT AND
CONCLUSIONS OF LAW

Appearances By:

William A. Parsons, Parsons Smith & Stone, for Plaintiffs
Edsil Ivan Darrington and Barbara Darrington
Gregory W. Moeller, Rigby Thatcher Andrus Rigby
Kam & Moeller, for Defendants Randall J. Farley
and Linda Diane Farley

I.

PROCEDURAL HISTORY

Plaintiffs Edsil Ivan Darrington and Barbara Darrington, husband and wife, initiated Cassia County Case No. CV-92-00778D by filing a *Complaint* in Cassia County. Defendants Randall J.

MEMORANDUM DECISION
G:\ORDERS\DARRING.MD
5/6/98

430-10655

Farley and Linda Farley, husband and wife, answered generally denying the allegations in the complaint and counterclaimed.

The Farleys filed a *Motion for Disqualification* pursuant to I.R.C.P. 40(d)(1). An *Order of Disqualification and Assignment* was granted and the case was assigned to this court.

The Farleys filed a *Motion for Summary Judgment*, to which the Darringtons filed a *Memorandum in Opposition to Motion for Summary Judgment*. Summary judgment was granted dismissing count three of the complaint. Summary judgment was denied as to all other counts in the complaint and counterclaim on the basis that genuine issues of material fact remained.

Trial was held, during which the court found that further investigation of the water rights at issue was necessary. Therefore, the trial was bifurcated and the Idaho Department of Water Resources (IDWR) was ordered to conduct further investigation. Following IDWR's further investigation, the second phase of the trial took place. Both parties briefed all issues presented. This decision follows.

II.

FINDINGS OF FACT

This is a dispute over ownership of a water right to a "hot water well" (hot well). The water from this well was initially licenced as number 19094/43-02283 to Ben V. Schmidt in 1941. The license authorized the diversion of .92 cfs of water from a hot well for the irrigation of 46 acres. In 1954, Mr. Schmidt was granted permit number 43-02413 which allowed him to drill a cold water well to irrigate the land previously irrigated by the hot well. The rights to water from the hot well were transferred from Ben V. Schmidt to Guy and Lois I. Creek in 1966. The Creeks subsequently transferred the hot well right to Janice and Paul Crank, who, in 1969, transferred the right to Harriet P. Crank.

The Crank property was divided on May 21, 1975, when Harriet Crank sold 120 acres to the Darringtons. Harriet Crank retained ownership of the 40-acre parcel of land upon which the hot well is located. The water from the hot well flowed into a ditch on Harriet Crank's property and then into a reservoir after the "heat" has been used. The reservoir is also located on Harriet Crank's retained 40 acres.

On May 23, 1975, Harriet Crank and the Darringtons entered into a *Memorandum Agreement*. The *Memorandum Agreement* was recorded in the Cassia County Recorder's Office on October 12, 1977. The agreement, in pertinent part, states:

Darringtons shall have the right to use the water in the reservoir and the right to ingress and egress to the reservoir and the right of way for necessary ditches to remove water from the reservoir and together with the right to repair and maintain the ditches from the reservoir. No cattle shall water at the reservoir. . . .

All heat rights from the well identified in the preceding paragraph hereof, shall belong to Crank, except a 2 inch pipe of water for heat may be used by Darringtons, provided however, that all water, except that used under the amount reserved by Crank in the preceding paragraphs, shall be returned to the reservoir for the use by Darringtons for irrigation or livestock water away from the reservoir.

Memorandum Agreement (Plaintiffs' Exhibit 2) §§ 2, 5.

In 1991, the Farleys purchased the 40-acre tract of land with the hot well and reservoir from Janice Crank, Harriet Crank's daughter-in-law. The Farleys admit that, as Crank's successors in interest, they are bound by the *Memorandum Agreement* allocating the water rights from the hot well, to the extent its provisions remain enforceable.

On April 27, 1992, Steve Clelland, IDWR Field Agent, prepared a field exam covering the Farleys' property, the hot well, and the reservoir at issue. *Defendants' Exhibit I*. At the time of his 1992 investigation, Mr. Clelland observed the condition of the culvert and headgate which would remove water from the reservoir for use on the Darringtons' property. In 1992, Mr. Clelland found no water being diverted directly from the reservoir in accordance with the *Memorandum Agreement*. The only diversion made by the Darringtons in 1992 was a PVC pipe above the reservoir running from the ditch on the Farleys' property. Mr. Clelland noted that the culvert which would carry water directly away from the reservoir to the Darringtons' property looked as though it had not been used for some time. Neither did Mr. Clelland note a two-inch pipe being used for "heat purposes."

On May 4, 1992, the Farleys submitted an application for permit number 43-07138 to IDWR for the diversion of .22 cfs of groundwater from the hot well for heating, recreational, and domestic purposes. On June 22, 1992, the Darringtons filed a protest against approval of the application.

Subsequently, the Darringtons filed a complaint in the district court of Cassia County. The Darringtons assert that the Farleys illegally interfered with the Darringtons' right to the water from the hot well.

On October 8, 1996, in response to this court's *Order to IDWR for Further Investigation*, IDWR Field Agents Steve Clelland and Frank Hitchcock investigated the land and irrigation works in dispute. The Agents first met with the Farleys and observed that the hot well head was a sealed system and that there was no two-inch pipe to deliver water to the Darringtons for "heat purposes." *Response to SRBA Order* at 2. The flow from the hot well was measured at .14 cfs. *Id.* The Agents located the ditch from the hot well to the reservoir where Agent Clelland had previously seen the PVC pipe used by the Darringtons to divert water. *Id.* The Agents then examined the ditch that would have delivered water in accordance with the *Memorandum Agreement*. *Id.* Agent Clelland determined that the ditch was in unusable condition and that it appeared to not have carried water since his initial investigation in 1992. *Id.*

Agents Clelland and Hitchcock then proceeded to investigate the Darringtons' land and irrigation works. *Id.* The Agents asked to see the stock water mechanism used for the water from the hot well. *Id.* The Darringtons were only able to point out several pieces of PVC pipe laying around the fence that divided their land from the Farleys'. The Agents did not observe any stock troughs or watering sites, and the six-acre field appeared to be irrigated from the direction opposite the hot well. *Id.* When questioned about their use of the hot well water, the Darringtons conceded that they needed to supplement the hot well water to irrigate the entire acreage claimed. *Id.*

At trial, neither party established, through credible evidence, that the facts surrounding this dispute are inconsistent with the investigation by IDWR.

The Darringtons seek to enforce the *Memorandum Agreement*. *Post Trial Brief and Argument of Plaintiffs* at 2. The Farleys argue that the Darringtons' have forfeited their right to use water from the hot well. *Defendants' Post Trial Reply Brief* at 2-3. In the alternative, the Farleys assert that the Darringtons do not have a right to use the water from the hot well in any way inconsistent with the *Memorandum Agreement*. *Id.* at 3. Finally, the Farleys argue that the

Darringtons cannot be entitled to damages based on crop loss because the Farleys' were not proven to be at fault. *Id*

III.

ISSUE PRESENTED

Have the Darringtons Forfeited Their Right to Water Under the *Memorandum Agreement*?

IV.

ANALYSIS

Both the Darringtons and the Farleys admit that the *Memorandum Agreement* controls their respective rights to the water of the "hot well," absent a finding of forfeiture or abandonment. The Darringtons seek enforcement of their right to take water from the reservoir and a two-inch pipe of "heat rights" under the *Memorandum Agreement*. The Farleys allege that the Darringtons' have forfeited their rights due to five consecutive years of nonuse.

The *Memorandum Agreement* does not supersede Idaho statutory law concerning the appropriation and use of water; a contractual right to water may be lost by forfeiture. Forfeiture is not favored in Idaho and must be proven by clear and convincing evidence by the party asserting it. *Jenkins v. State Dept. of Water Resources*, 103 Idaho 384, 647 P.2d 1256 (1982). A water right is forfeited if it is unused for five years, absent a legal excuse. *Id*. Clear and convincing evidence was offered at trial to support the Farleys' allegation that the Darringtons have forfeited their right to water from the hot well.

Specifically, the evidence provided by IDWR Field Agent Steve Clelland supporting forfeiture is clear and convincing. On April 27, 1992, Agent Clelland examined the area around the reservoir. In detailed notes, Agent Clelland wrote:

There is [sic] remains of a culvert used to drain the pond through the dam but the control device looks unusable and Mrs. Farley said it does not work at all. The only way to empty the pond is to divert the incoming flows and evaporate the pond dry. Below the dam is an old ditch that hasn't carried water for over 5 years or more. This ditch runs off through the Farley property.

Defendants' Exhibit I at 2. Agent Clelland also noted that photographs taken in August 1976 and in August 1987 show no flows extending beyond the "pond." On October 8, 1996, at the request of this court, Agent Clelland reexamined the area around the reservoir. Again, the condition of the ditch was in disrepair:

This culvert was in unusable condition based upon my observations, same as my exam on 4/27/1992. I began to walk the old ditch to see the condition of the ditch and possible deliveries it could make. I traced the full length of the ditch until no ditch could be identified; the ditch appears to have not carried water in several years. There were several large breaches of the ditch along the entire length of the ditch and no observable repairs were noted anywhere on the ditch.

Response to SRBA Order at 2. Based on his examinations, Agent Clelland summarized his findings of the Darringtons' claim as:

A43-02283 is based on a license which indicated more acres than have ever been irrigated and possibly with more water than ever flowed After observing the lands and diversions claimed it appears this right has not been used in many years.

The diversion structure on the pond has deteriorated beyond use and the delivery ditch shows evidence of not carrying water for several years. The ditch is in severe disrepair and will not hold water at several points along the way. . . .

The claim for stock use did not appear valid based on the descriptions given by the claimant. . . .

Mr. Darrington claims he has photographs of the past times he used this water and he told me Ben Schmidt is still living in Nevada. It appears he has several resources to support his position and yet has not pursued them.

The recommendation for this right based on the evidence available to IDWR is for disallowal.

Id. at 5. It is found that Agent Clelland's findings and testimony are consistent and were not credibly contradicted at trial.

The testimony of George Darrington, the Darringtons' son, supported the findings of Agent Clelland. George Darrington testified that the last time he was aware that the headgate at the reservoir was actually used to deliver water to the Darringtons' property was around 1984.

The Farleys have established, by clear and convincing evidence, a *prima facie* case of forfeiture of the Darringtons' right to water from the reservoir. The Darringtons assert that the right has been used. However, the Darringtons concede that such use has been in violation of the *Memorandum Agreement*.

The Darringtons' argue that the water has been put to beneficial use by diverting it with PVC pipe above the reservoir. The Darringtons had a contractual right to take water from the reservoir. *Memorandum Agreement* at 3. The Darringtons also had the right of "ingress and egress to the reservoir and the right of way for necessary ditches [sic] to remove water from the reservoir and together with the right to repair and maintain the ditches from the reservoir." *Id*. However, the Darringtons did not have the right to divert the water above the reservoir. "[A]n easement does not give its owner the right to commit a trespass upon the servient tenement, or to exercise the use of the easement in any manner which happens to suit his pleasure." 2C. Kinney, *THE LAW OF IRRIGATION AND WATER RIGHTS*, § 992 at 1754 (1912).

One of the fundamental tenets of Idaho water law is that a trespasser cannot beneficially use water and acquire a lawful water right.¹ *Lemmon v. Hardy*, 95 Idaho 778, 780, 519 P.2d 1168, 1170 (1974). This court is equally convinced that proof of beneficial use by trespass cannot establish a "use" of water to rebut a claim of forfeiture. The Darringtons' attempts at diversion of the water above the reservoir cannot be considered instances of beneficial use.

The *Memorandum Agreement* also provides the Darringtons "heat rights" to the water from the hot well: "All heat rights from the well . . . shall belong to Crank, except a 2 inch pipe of water for heat may be used by Darringtons. . . ." The Farleys maintain that the Darringtons have forfeited the heat rights. The Darringtons assert that the water has been used for irrigation and stock water purposes.

Agent Clelland was unable to find evidence of stock watering or irrigation use from the "two inch heat right." Again, Agent Clelland's testimony was not persuasively contradicted at

1

It is generally held that a water right initiated by trespass is void. That is to say, one who diverts water and puts it to a beneficial use by aid of a trespass does not, pursuant to such trespass, acquire a water right. Any claim of right thus initiated is void. *Basset v. Swenson*, 51 Idaho 256, 259, 5 P.2d 722, 723 (1931).

trial. Nor was there mention of a "heat right" in the Darringtons' complaint. The Farleys have established, by clear and convincing evidence, that if the "heat right" ever was used by the Darringtons, it has been forfeited.

The questionable evidence of use provided by the Darringtons was also in violation of I.C. § 42-233(1). The Farleys persuasively cite I.C. § 42-233(1) as setting forth the rules for appropriations from geothermal wells:

The appropriation may be perfected by means of the application, permit and license procedure as provided in this chapter for groundwater, provided that low temperatures geothermal resources shall be utilized primarily for heat value and secondarily for the value as water. Usage of a low temperature geothermal resource primarily for reasons other than heat value is not a beneficial use of the resource, unless the director of the Department of Water Resources exempts the proposed use.

The Darringtons purported to use the "heat right" for irrigation and stock watering use. Therefore, the Darringtons' purported use of the "heat right" is in violation of I.C. § 42-233(1) which mandates that geothermal resources be used primarily for heat value and secondarily as water. Any use of water by the Darringtons in violation of I.C. § 42-233(1) cannot be considered beneficial use to rebut a claim of forfeiture.

The Darringtons have forfeited their right to water from the hot well based on clear and convincing evidence establishing five years of consecutive nonuse as recommended by IDWR.

The Farleys also seek an award of attorney's fees under I.R.C.P. 54(e)(1), which states: "[A]ttorney's fees may be awarded by the court only when it finds, from the facts presented to it, that the case was brought, pursued or defended frivolously, unreasonably or without foundation." IT IS FOUND THAT the Darringtons are not liable for attorney's fees under the above standard. The Farleys' claim for attorney's fees is DENIED.

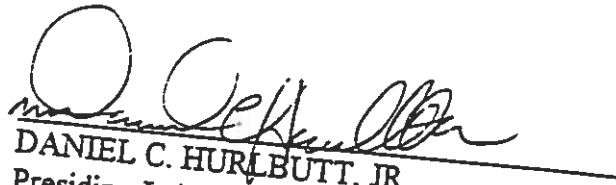
V.

ORDER

1. Claims A43-04098A, A43-109382, A43-10655 by Farleys shall be licensed in conformity with the Recommendation of IDWR Field Agent Steve Clelland.
2. Claim A43-02283 is found to be forfeited, and therefore denied.

IT IS SO ORDERED.

DATED May 6, 1998


DANIEL C. HURLBUTT, JR.
Presiding Judge
Snake River Basin Adjudication

FARLEY - 10655

(Hot well)

21 cfs

→ basically a flow to the pond
for REC - WLD - AES

Based priority
on development
of new irrig. wells
∴ abandonment
of Hot well use.

- * No Proof of Priority * 1-1-1935
- * may be for the time the Irrigation use was abandoned
- sunken boat = evidence of Rec?
 - Wild life = yes, because it's there
 - AES. ???

? Was this the intent of the diversion + use
in 1935? Permit Stated IRR

? if irrig it. is held valid - this use is Subordinate

K40 - K42

Slide

1. Shows vegetation along
upper ditch.
2. Veg. on Down + Toe
3. Post irrig. on "garden side"
4. main ditch to D. use
is visible but dry
5. 6 ac west of Home is
untilled + dry
6. Areas shown in Exam
all appear irrig.
using ditch system(?)
7. Farley Home Estab.

FORM 1
LIST OF MAPS USED AND ATTACHMENTS

CLAIM NUMBER: ~~00000000~~

MAPS AND AERIAL PHOTOGRAPHS USED TO REVIEW THIS NOTICE OF CLAIM TO A WATER RIGHT

TYPE OF MAP OR PHOTOGRAPH (CHECK IF USED)	IF USED, SUPPLY APPROPRIATE DATE AND OTHER INFORMATION	COPY INCLUDED IN FILE?
☒ ORTHOPHOTOQUAD	DATE OF PHOTO <u>8/20/1976</u> IDWR ID NO. <u>DD81</u>	Y(☒) N(☐)
☐ TOPOGRAPHIC	DATE FIELD CHECKED _____ IDWR ID NO. _____	Y(☐) N(☐)
☒ NAPP <u>389-55 8-8-87</u> <u>373-175 7-14-87</u>	DATE OF PHOTO _____ IDWR ID NO. <u>DD81 NE</u> <u>DD82 NW</u>	Y(☐) N(☒)
☒ ASCS AERIAL PHOTO # <u>16031-389</u>	DATE OF PHOTO <u>1987 flight</u> CC <u>38</u>	Y(☐) N(☐)
☐ ASCS COLOR SLIDE	DATE OF PHOTO _____	Y(☐) N(☐)
☐ BLM OR USFS AERIAL PHOTO	DATE OF PHOTO _____	Y(☐) N(☐)
☐ TOWNSHIP SURVEY (GOVERNMENT PLAT)	DATE OF SURVEY _____	Y(☐) N(☐)
☐ SCS SOIL SURVEY MAP	DATE ISSUED _____	Y(☐) N(☐)
☐ SUBDIVISION PLAT MAP	DATE OF MAP _____	Y(☐) N(☐)
☐ OTHER _____	DATE _____	Y(☐) N(☐)
☐ OTHER _____	DATE _____	Y(☐) N(☐)
☐ OTHER _____	DATE _____	Y(☐) N(☐)

LIST OF ATTACHMENTS (CHECK IF ATTACHED)	IF ATTACHED, SUPPLY APPROPRIATE INFORMATION	NO. OF PAGES	NOTES
☐ LICENSING FIELD EXAM	DATE OF FIELD EXAM _____	_____	_____
☐ WATER RIGHT LICENSE	DATE LICENSE SIGNED _____	_____	_____
☐ IDWR APPROVED TRANSFER	DATE TRANSFER APPROVED _____	_____	_____
☐ SYSTEM DESCRIPTION	DATE DRAWN _____	_____	_____
☒ PHOTOGRAPHS <u>IDWR</u>	DATE(S) PHOTOS TAKEN _____	_____	_____
☐ SPLIT RIGHT REVIEW	DATE REVIEW COMPLETED _____	_____	_____
☐ HUBBLE ANALYSIS	DATE ANALYSIS COMPLETED _____	_____	_____
☐ CONVEYANCE LOSS ANALYSIS	DATE ANALYSIS COMPLETED _____	_____	_____
☒ FLOW MEASUREMENT CALCULATIONS	DATE SYSTEM MEASURED _____	_____	_____
☐ OTHER _____	DATE _____	_____	_____
☐ OTHER _____	DATE _____	_____	_____

ORIGINAL

CLAIM _____

MEMORANDUM

TO: STEVE
FROM: FH
DATE: 10-18-1996
RE: DARRINGTON V FARLEY

Here are all the claim jackets that were involved in the trial and the specific claims that were reviewed in the field.

The A43-02283 Darrington claim jacket is full of all the related notes from the field exam, photo logs, court order, Moeller's subpoena, all our JCOMS and any explanatory journal entries to document the paper trail from the time of the contact from Moeller back in September. The originals of the court's Order and the subpoena are in this file.

The other two Farley claims have copies of the subpoena and the journal entries as needed but not the whole package as in the two main claims for each party in the case.

The litigation folder has copies of everything that I filed in the claim file for the license 43-02283 that was the subject of the court's order. There are also copies of the Cottonwood Creek research from the VAX system and miscellaneous map displays in the very back for future use.

I made separate copies of the my field notes before and after you made your additions as well as copies of the sketches you made.

The photos that I took are all marked (both sets) and the logs are tucked into each processing packet which is marked inside and out as I do my claim photos for file retrieval. Each packet has a log sheet outside for quick reference although the descriptions by print number are abbreviated.

The only thing that isn't done as of today is your set of pictures. I have included them with the rest of the claim files and exhibits but you'll have to ID them yourself. Also, I didn't tape together any of the prints that were panoramic shots unless you want me to do so.

COPY

A43-10655

6/9/94

COMMUNICATION DOCUMENTATION

Claim No. DARRINGTON

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 Frank Hitchcock

◇◇◇◇◇◇

October 17, 1996 11:41am

NAME:

FRANK HITCHCOCK

RE:

DARRINGTON V FARLEY CLAIMS

THE FOLLOWING CLAIM NUMBERS WERE UPDATED TO LOCATION-LEGAL WHEN THEY WERE TAKEN BY LEGAL FOR REVIEW. STEVE CLELLAND WAS CALLED AS A WITNESS IN THE TRIAL 09-26, 27-1996. FILES WERE RETURNED AS THE COURT ISSUED AN ORDER DIRECTING A FIELD EXAM BY STEVE.

THE CLAIM NUMBERS WERE UPDATED THIS AM (SEE ATTACHED) TO CLELLAND AND ARE HERE IN SOUTHERN OFFICE:

A43-02283	DARRINGTON
A43-02413	DARRINGTON
A43-04098A	FARLEY
A43-10382	FARLEY
A43-10655	FARLEY ✓

MEMO BY FH WHO ACCOMPANIED STEVE ON FIELD EXAM 10-08-1996. FH HAS CLAIM REVIEW RESPONSIBILTY FOR USAGES IN BASIN 43 WHERE THE USAGES ARE LOCATED SOUTH OF MALTA.

WR-Number	Location	Reg	Type-Description	Date
A36-00121	LEGAL	S	Reviewed, Conditions Pending	04/24/96
A36-04052	LEGAL	S	Legal	08/30/96
A36-07034	LEGAL	S	Legal	09/30/96
A36-07347	LEGAL	S	Legal	09/30/96
A36-10283A	LEGAL	S	Legal	08/30/96
✓A43-02283	LEGAL	S	Legal	09/27/96
✓A43-02413	LEGAL	S	Legal	09/27/96

① - 04098A " (WAR CIN 50)
 ② - 10382 " (WAR CIN 50)
 ② - 10655 ✓ " "

END OF DATA...ENTER MENU OPTION AND/OR PRESS ENTER TO CONTINUE
 (Enter=Cont) (GOLD7=This Query)

(Menu _____)

① CIX 09 F.E. Review
 ② CMC 55 REV- Cond Pending (as previously ID)

RECEIVED

OCT 16 1996

Department of Water Resources
 Southern Region

6/9/94

COMMUNICATION DOCUMENTATION

Claim No. A43-02283 ET AL

—

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 Frank Hitchcock

October 10, 1996 1:16pm

NAME:
FARLEY, RANDALL/LINDA

RE:
SRBA Case No. 39576
Darrington v Farley
Case No. 94-00008
Cassia County Case No.
92-00778D
ORDER TO IDWR FOR
FURTHER INVESTIGATION
10-02-1996

FIELD WORK DONE JOINTLY BY STEVE CLELLAND (A WITNESS IN THE CASE) AND FRANK HITCHCOCK (REVIEWING AGENT FOR CLAIMS IN THE UPPER RAFT RIVER VALLEY-BASIN 43) AS A RESULT OF JUDGE DANIEL C. HURLBUTT, JR.'S ORDER AS A RESULT OF TESTIMONY/PROCEEDINGS IN THE NOTED CASE.

A COPY OF FIELD NOTES BY FRANK HITCHCOCK HAS BEEN PLACED INTO THE FILES OF FARLEY AND DARRINGTON AS THE INVESTIGATION WAS ORDERED FOR LICENSE 43-02283 TO BE REPORTED TO THE COURT ON OR BEFORE 10-25-96.

THE CLAIM NUMBERS OF FARLEY ARE AS FOLLOWS:

A43-04098A, A43-10382, AND A43-10655.

THE CLAIM NUMBERS OF DARRINGTON ARE AS FOLLOWS:

A43-02283, A43-02327, A43-02413 BUT NOT A43-10280 (SOURCING STINE CREEK WELL AWAY FROM POD/POU OF THE SUBJECT PROPERTIES IN THE SUIT.

COMMUNICATION DOCUMENTATION

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October 2, 1996 11:25am

CALLER: CALLED TO SET UP EXAM TIME ... TUESDAY 10/8/96 @ 9 AM

6/9/94

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

October 2, 1996 10:56am

NAME:
BILL PARSONS

678-8382

RE:
ORDER TO EXAM A43-02283

I CALLED TO INFORM HIM OF THE JUDGE'S DECISION AND ASKED IF I COULD CONTACT MR. DARRINGTON DIRECTLY... HE AGREED.

October 2, 1996 11:00am

NAME:
GREG MOELLER

356-3633

RE:
ORDER TO EXAM A43-04098A

I CALLED TO INFORM HIM OF THE JUDGE'S DECISION AND ASKED IF I COULD CONTACT MR. FARLEY DIRECTLY TO SET UP THE APPT... HE AGREED. HE SAID THEY HAVE BEEN HAVING SOME PHONE PROBLEMS AND HE GAVE ME MR. FARLEY'S WORK NUMBER: 824-5519.

COMMUNICATION DOCUMENTATION

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IDWR Employee/Agent Steve Clelland

October 1, 1996 5:00 PM

DARRINGTON V. FARLEY

HE ASKED ABOUT THE POSSIBLE TIMING FOR A FIELD EXAM AND REPORT. HE HAS VISITED WITH DAVE TUTHILL AND THEY AGREE A SIMPLE REPORT IS SUFFICIENT VERSUS A FULLY PREPARED DIRECTOR'S REPORT.

WE AGREED TO SET THE DEADLINE FOR OCTOBER 25, 1996 AND HE WILL
ISSUE AN ORDER AS SUCH.

CLAIMS: A43-04098A & A43-02283.

6/9/94

COMMUNICATION DOCUMENTATION

Claim No. A43-04098A
A43-02283

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

October 1, 1996 11:17am

NAME:

GREG MOELLER

RE:

CALLOUT 356-3633

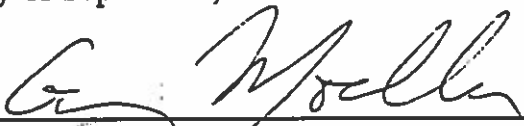
DARRINGTON V. FARLEY CASE

I CALLED TO INQUIRE ABOUT THE OUT COME OF THIS CASE. HE RELAYED THAT THE JUDGE WANTS A MORE COMPLETE FINDING BY THE DEPT. FOR ALL RIGHTS AFFECTED BY THIS DECISION. HE BELIEVED THE COURT WOULD ISSUE AN ORDER TO ME REQUESTING FURTHER EXAMINATIONS OF THESE RIGHTS. HE SUGGESTED I CALL THE COURT; I AGREED I WOULD AND LET HIM KNOW.

All records pertaining to the water rights of Plaintiffs/Counterdefendants or Defendants/Counterclaimants in possession of the Department of Water Resources

You are further notified that if you fail to appear at the place and time specified above, that you may be held in contempt of court and that the aggrieved party may recover from you the sum of \$100 and all damages which he may sustain by your failure to attend as a witness.

DATED This 23rd day of September, 1996.



Gregory W. Moeller
Attorney for Defendants/Counterclaimants

6/9/94

COMMUNICATION DOCUMENTATION

Claim No. _____

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IDWR Employee/Agent Steve Clelland

September 23, 1996 4:19pm

NAME:

BILL PARSONS

PHONE: 678-8382

CALLIN

RE:

SKAGGS OWNERSHIP ERROR

SECOND ISSUE:

HE ASKED ABOUT ME BEING THE WITNESS AT THE FARLEY TRIAL...
ASKED IF I WOULD SAY MORE THAN MY MEMO. I DIDN'T THINK SO. HE
SAID THAT DARRINGTON AND I WOULD BE AT ODDS OVER THAT IRRIGATION
USE THEN... I KNEW THAT WAS SO.

COPY

6/9/94

COMMUNICATION DOCUMENTATION

Claim No. A43-04098A

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IDWR Employee/Agent Frank Hitchcock

September 20, 1996 2:36pm

NAME:
GREGORY W. MOELLER-RIGBY THATCHER

RE:
DARRINGTON V FARLEY 09-26-
96 IN DIST. CT-JUDGE
HURLBUTT.

GREG REPRESENTS THE FARLEYS AND ARRANGED TO COME IN AT 1 PM AFTER TALKING TO SCC ON THE PHONE YESTERDAY. SCC CAME IN ALTHOUGH HE WAS SCHEDULED OFF TODAY.

SCC WENT THROUGH A43-04098A CLAIM FILE WITH GREG WHILE I OBSERVED SINCE I'VE NEVER BEEN TO THE PROPERTY EVEN THOUGH I HAVE BEEN GIVEN THE FILE TO REVIEW AS PART OF UPPER RAFT RIVER VALLEY CLAIMS IN 43.

GREG TOOK A LETTER-SIZE COPY I HAD MADE OF THE ASCS MAP CC 38 1987 FLIGHT COPIED BY FH IN 1994 FIELD SEASON FOR CLAIM REVIEWS. THE PAGE WAS OF THE NE QUADRANT OF SECTION 23 15S 26E ESPECIALLY THE SWNE SUBJECT PROPERTY CLAIMED POU BY FARLEY IN THEIR SRBA CLAIMS.

SCC WILL BE SUBPOENAED AS A WITNESS FOR THE 09-26 AND 27-1996 TRIAL TO TESTIFY TO HIS FINDINGS WHEN HE DID A FIELD REVIEW OF THE CLAIMED USAGE IN BENEFICIAL USE CLAIM A43-04098A.

SD-0401-2
MODIFY

Idaho Department of Water Resources
File Inventory Information Modify

Date: 09/20/96
Time: 16:44:01

Water Right Number: A43-10655



Office	Location	Type	Description	Reg	Date
HITCHCOC	CWC	55	Reviewed, Conditions Pending	S	09/20/96
HITCHCOC	CIN	50	Pending Claim Review	S	07/19/94
SOUTHERN	SHELVES	ZZ	Initial Entry	S	03/11/93

(GOLD2=Update)

(GOLD8=Cancel)

(GOLD9=Override Call-Up)

(Enter=Exit)

6/9/94

COMMUNICATION DOCUMENTATION

Claim No. _____

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IDWR Employee/Agent Steve Clelland

September 19, 1996 2:52pm

NAME:

GREG MOELLER

CALLIN

RE:

APPT FOR FRIDAY 20TH

HE REPRESENTS MR. & MRS. FARLEY IN BASIN 43 AND WOULD LIKE TO MEET WITH ME TOMORROW TO REVIEW THE FILE AND THE UPCOMING TRIAL ON THE 26-27. I TOLD HIM I HAD PLANNED TO BE OUT OF THE OFFICE TOMORROW. NO ALTERNATIVES SEEM POSSIBLE NEXT WEEK... I OFFERED TO COME IN FRIDAY AT 1 PM AND MEET WITH HIM.

I ALSO SUGGESTED THAT FRANK HITCHCOCK BE IN ON THIS APPT SINCE HE MUST DEAL WITH THE PARTIES IN THAT AREA.

PHONE: 356-3633

COPY

6/9/94

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 Frank Hitchcock

September 16, 1996 8:53am

NAME:
FARLEY, DARRINGTON & STEWART, REID

RE:
PARSONS ESQ. REQUEST TAKEN
BY COREY SKINNER & CCS SENT

WHEN I CAME IN MONDAY, 09-16-1996, AFTER TAKING SICK LEAVE ON 09-13-96, I FOUND A CC OF LETTER TO MR PARSONS FROM COREY LISTING PROFILE REPORTS SENT TO PARSONS PER HIS REQUEST. I RAN CCS OF THE AJ/WR PROOFS AND PROFILES RESPECTIVELY FOR FILES AND WILL ATTACH THIS JCOM ENTRY AS WELL. CHECKED WITH SRBA COURT-TIFFANY SAYS THERE IS A COURT DATE SET FOR DARRINGTON V FARLEY, 09-26 & 27. I WILL ASK SCC WHO HAS BEEN CALLED IN THE PAST BY FARLEY FOR ANY RECENT CONTACTS OR INFORMATION HE MAY HAVE RECIEVED.



State of Idaho
DEPARTMENT OF WATER RESOURCES

Southern Region, 222 Shoshone St. East, Twin Falls, Idaho 83301-6105 (208) 736-3033
Fax (208) 736-3037

PHILIP E. BATT
Governor

KARL J. DREHER
Director

September 13, 1996

William A. Parsons
Parsons, Smith, Stone & Fletcher
137 West 13th Street
Box 910
Burley, ID 83318

FRANK,
F.Y.I.

Dear Mr. Parsons:

Pursuant to your request, I have researched the department records concerning the water rights that you inquired about today. Please find the following profile reports enclosed for your convenience:

WATER RIGHT RECORDS

profiles printed ✓
✓ 43-02283
✓ 43-02327
✓ 43-02413
✓ 43-02461
✓ 43-04098

SNAKE RIVER BASIN ADJUDICATION RECORDS

✓ H-BC
FAIRLEY
FAIRLEY
DARRINGTON
DARRINGTON
STEWART, REID
" "
DARRINGTON
blue A43-04098A ✓ by SEC
blue A43-10655 ✓ by SEC
green A43-02413 ✓
green A43-02283 ✓
green A43-02327 ✓
green A43-02461 ✓
green A43-10280 ✓
blue - not ready for field work.
green - ready for field work.
4-27-92

If you have any questions, or need any further assistance, feel free to contact me at your convenience.

Sincerely,

Corey Skinner, EIT
Dam Safety Section

Enclosures

09-26+27-96
DARRINGTON
✓
FAIRLEY



State of Idaho
DEPARTMENT OF WATER RESOURCES

Southern Region, 222 Shoshone St. East, Twin Falls, Idaho 83301-6105 (208) 736-3033
Fax (208) 736-3037

PHILIP E. BATT
Governor

KARL J. DREHER
Director

September 13, 1996

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WATER RIGHT RECORDS

43-02283
43-02327
43-02413
43-02461
43-04098

SNAKE RIVER BASIN ADJUDICATION RECORDS

A43-04098A
A43-10655
A43-02413
A43-02283
A43-02327
A43-02461
A43-10280

If you have any questions, or need any further assistance, feel free to contact me at your convenience.

Sincerely,

Corey Skinner, EIT
Dam Safety Section

Enclosures

6/9/94

COMMUNICATION DOCUMENTATION

Claim No. SEE BELOW

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IDWR Employee/Agent Steve Clelland

September 6, 1996 3:51pm

NAME:

RANDY & DIANNE FARLEY

CAMEIN

RE:

QUESTIONS FOR TRIAL

THEY CAME IN WITH QUESTIONS ABOUT THE WATER USES AND RIGHTS AT THE CRANK WELL IN BASIN 43. THEY ARE PREPPING FOR A TRIAL ON SEPT. 26 BEFORE JUDGE HURLBUTT RE: DARRINGTON vs. FARLEY.

I PROVIDED THEM WITH COPY OF THE CLAIM FILED BY DARRINGTON, A43-02283 AND A POU PORTION FROM THE CLAIM A43-02413 FOR OVERLAP REVIEW. ALSO RAN A NAME QUERY TO ID ALL THE FARLEY RIGHTS AND PRINT OUT LIST OF THOSE AJ & WR NUMBERS: A43-4098A, A43-10382, A43-10655 AND PERMIT 43-07318.

I ASKED THEM IF IDWR WAS GOING TO BE INCLUDED IN THE PROCESS SINCE SOME REVIEW HAS ALREADY BEEN PREPARED BUT THEY WERE NOT SURE.

6/9/94

COMMUNICATION DOCUMENTATION

Claim No. See Below

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IDWR Employee/Agent Steve Clelland

September 9, 1996 5:01pm

NAME:

DIANE FARLEY

CALLIN

RE:

QUESTIONS

SHE ASKED SEVERAL QUESTIONS ABOUT THE RIGHTS CLAIMED BY DARRINGTON AND HOW THEY RELATE TO THE AGREEMENT BY CRANK. I TOLD HER I DO NOT KNOW BUT THESE DECISIONS AND ANSWERS ARE TO BE RESOLVED BY THE JUDGE.

SHE SAID HER ATTORNEY, GREG MULNER, WANTED TO MEET ME AND GO OVER THE RIGHTS AND ASK ME ABOUT POSSIBLE TESTIMONY. HIS NUMBER IS 356-3633.

A43-04098A

A43-10382

A43-10655

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM VERIFICATION REPORT

00:00:05
05/24/95

PAGE: 1
GENERAL INFORMATION

269
CLAIM NUMBER: A43-10655

LAST: FARLEY
ADDRESS: HC 72
CITY: MALTA
PHONE NUMBER: 208-824-5577

FIRST: RANDALL JAY
STATE: ID ZIP: 83342

OWNER CODE: C

LAST: FARLEY
ADDRESS: HC 72
CITY: MALTA
PHONE NUMBER: 208-824-5577

FIRST: LINDA DIANE
STATE: ID ZIP: 83342

OWNER CODE: C

FIELD EXAM REQUIRED?

VERIFICATION REQUIRED DUE TO REMARKS?

DATABASE
Y

FIELD
EXAMINER
Y() N()

CLAIM REMARKS: THIS CLAIM IDENTIFIES SOME OF THE BENEFICIAL USE OF THE HEAT
VALUE OF THE WATER AS DESCRIBED IN THE AGREEMENT BETWEEN H. CRANK
AND I. DARRINGTON.

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 / NOTES:

A. AJ CLAIM: # A43-10655 PRIORITY DATE: 01-01-1935 STAGE: J

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

C. CAN THE PRIORITY DATE CLAIMED BE CONFIRMED BY A DECREE OR LICENSE? Y() N()

D. HAS THERE BEEN A LATER COURT DECREE OF THE WATER RIGHT(S) FROM THIS WATER SOURCE? Y() N()

E. IS THERE ANY INDICATION THAT THERE HAS BEEN A FIVE YEAR PERIOD OF CONTINUOUS NONUSE?
(IF YES, DESCRIBE BELOW) Y() N()

F. IF THIS CLAIM IS BASED ON A PERMIT, WHERE IS THE PERMIT IN THE LICENSING PROCESS?

PROOF OF BENEFICIAL USE SUBMITTED N/A() Y() N()

FIELD EXAM COMPLETED N/A() Y() N()

FIELD EXAM SENT TO STATE OFFICE N/A() Y() N()

LICENSE ISSUED N/A() Y() N()

* IF THE PERMIT WILL NOT BE LICENSED PRIOR TO THE DIRECTOR'S REPORT,
USE CONDITION CODE A01 AND RECOMMEND AS PERMITTED.G. IF THIS CLAIM IS BASED ON BENEFICIAL USE, IS ADDITIONAL EVIDENCE
OF THE PRIORITY DATE REQUIRED? N/A() Y() N()* FOR CLAIMS BASED ON BENEFICIAL USE, DESCRIBE THE EVIDENCE OF PRIORITY SUBMITTED,
INCLUDING THE ANALYSIS OF THE EVIDENCE.

H. IS THE STAGE OF THE CLAIM CODED CORRECTLY? Y() N()

NOTES: _____

=====

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	POD FLAG	COUNTY	DIVERSION NAME	DIVERSION NUMBER
A43-10655	15S	26E	23	SW	NW	NW			CASSIA		

OTHER AJ CLAIMS WITH SAME AJ POD
A PREFIX R PREFIX
A43-02283 R43-04098A
A43-04098A

WR RECORDS IN SAME 40 ACRE TRACT

43-02034
43-04098
43-07318

SOURCE: GROUNDWATER

TRIB:

B. WR 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. IS THE CLAIMED POD WITHIN THE SAME 40 ACRE TRACT THAT IS DESCRIBED IN THE WATER RIGHT FILE? N/A() Y() N()

* IF NO, AND IF THE CHANGE IS VERIFIED AS AN ACCOMPLISHED CHANGE IN POD, DESCRIBE THE INJURY
ANALYSIS PERFORMED AND ENTER FLAG "C" WITH THE APPROPRIATE EXPLANATORY CODE.

D. CAN THE CLAIMED POD BE VERIFIED USING THE WATER RIGHT FILE OR GPS DATA? N/A() Y() N()

E. SHOULD THE CLAIMED POD BE VERIFIED BY FIELD EXAM? Y() N()

F. IS THE CLAIMED SOURCE THE SAME AS DESCRIBED IN THE WATER RIGHT FILE? N/A() Y() N()

* IF NO, AND IF THE CHANGE IS VERIFIED AS AN ACCOMPLISHED CHANGE IN SOURCE, DESCRIBE THE INJURY
ANALYSIS PERFORMED AND ENTER FLAG "C" WITH THE APPROPRIATE EXPLANATORY CODE.

G. CAN THE CLAIMED SOURCE BE VERIFIED USING THE WATER RIGHT FILE? Y() N()

H. SHOULD THE CLAIMED SOURCE BE VERIFIED BY FIELD EXAM? Y() N()

I. HOW WAS THE POD AND SOURCE VERIFIED?

LICENSING FIELD EXAM (DATE OF FIELD EXAM _____) Y() N()

AJ FIELD EXAM (DATE OF FIELD EXAM _____ NAME OF EXAMINER _____) Y() N()

OTHER (DESCRIBE IN NOTES BELOW)

NOTES: _____

=====

RECOMMENDED POINT(S) OF DIVERSION AND SOURCE: CHECK HERE IF RECOMMENDED AS CLAIMED (___)

TWP. 15S	RGE. 26E	SEC. 23	1/4 SW	1/4 NW	1/4 NW	LOT	POD FLAG	COUNTY CASSIA	DIVERSION NAME	DIVERSION NBR
_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____	_____	_____	_____	_____

SOURCE: _____

TRIB: _____

REVIEWED BY: _____ DATE: _____

=====

SYSTEM DESCRIPTION: DESCRIBED BELOW (___), SEE LICENSE FILE (___), OR SEE ATTACHMENT (___)

A. ROOT WATER RIGHT NUMBERS: A43-04098A
A43-10655

R43-04098A

R43-10655

B. POU LISTING

TWP	RNG	SEC	1/4	1/4	LOT	NAME	AJ #/ACRES	WR #/ACRES	LANDSAT DATA	FIELD EXAM.	RECOMM. ACRES
15S	26E	23	SW	NE		FARLEY, RANDALL JAY	A43-10655 /	- /	23.0		
			SW	NE		DARRINGTON, IVAN	A43-02413 / 20.0	43-02413 / 20.0			
			SW	NE		FARLEY, RANDALL JAY	A43-04098A /	- /			
			SW	NE		FARLEY, LINDA DIANE	A43-10382 /	- /			
			SW	NE		FARLEY, RANDALL JAY	R43-04098A /	- /			
			SW	NE		FARLEY, LINDA DIANE	R43-10382 /	- /			
			SW	NE		FARLEY, RANDALL JAY	R43-10655 /	- /			
			SW	NE		DARRINGTON, IVAN	A43-02283 / 6.0	43-02283 / 6.0			
			SW	NE		CRANK, HARRIETT P.		43-04098 / 1.0			
			SW	NE		FARLEY, RANDALL JAY		43-07318 /			
15S	26E	23	SW	NE		FARLEY, RANDALL JAY	A43-10655 /	- /	23.0		
			SW	NE		DARRINGTON, IVAN	A43-02413 / 20.0	43-02413 / 20.0			
			SW	NE		FARLEY, RANDALL JAY	A43-04098A /	- /			
			SW	NE		FARLEY, LINDA DIANE	A43-10382 /	- /			
			SW	NE		FARLEY, RANDALL JAY	R43-04098A /	- /			
			SW	NE		FARLEY, LINDA DIANE	R43-10382 /	- /			
			SW	NE		FARLEY, RANDALL JAY	R43-10655 /	- /			
			SW	NE		DARRINGTON, IVAN	A43-02283 / 6.0	43-02283 / 6.0			
			SW	NE		CRANK, HARRIETT P.		43-04098 / 1.0			
			SW	NE		FARLEY, RANDALL JAY		43-07318 /			
15S	26E	23	SW	NE		FARLEY, RANDALL JAY	A43-10655 /	- /	23.0		
			SW	NE		DARRINGTON, IVAN	A43-02413 / 20.0	43-02413 / 20.0			
			SW	NE		FARLEY, RANDALL JAY	A43-04098A /	- /			
			SW	NE		FARLEY, LINDA DIANE	A43-10382 /	- /			
			SW	NE		FARLEY, RANDALL JAY	R43-04098A /	- /			
			SW	NE		FARLEY, LINDA DIANE	R43-10382 /	- /			
			SW	NE		FARLEY, RANDALL JAY	R43-10655 /	- /			
			SW	NE		DARRINGTON, IVAN	A43-02283 / 6.0	43-02283 / 6.0			
			SW	NE		CRANK, HARRIETT P.		43-04098 / 1.0			
			SW	NE		FARLEY, RANDALL JAY		43-07318 /			

ADDITIONAL POU FOUND

TOTAL ACRES

A43-10655

69.00

POU COUNTY: CASSIA

C. IS WATER USAGE FOUND IN TRACTS OTHER THAN THOSE CLAIMED?

Y() N()

* IF YES, ARE THESE TRACTS LISTED ABOVE (), OR ARE THEY LISTED ON AN ATTACHED SHEET ()

LIST OF ALL RIGHTS WITH A SAME POU AND IRRIGATION USAGE

CLAIM NO.	SOURCE	NAME	DIV. RATE	DIV. RATE/ACRE	DIV. VOL.	DIV. VOL./ACRE
A43-02283	GROUNDWATER	DARRINGTON, IVAN	0.920	0.020		
A43-02413	GROUNDWATER	DARRINGTON, IVAN	2.100	0.020		

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

CLAIM NO.	PURPOSES	NAME	MONTH/DAY	RATE	VOLUME
A43-10655	RECREATION	FARLEY, RANDALL JAY	FROM 01-01 TO 12-31	0.070 CFS	
A43-10655	RECREATION STORAGE	FARLEY, RANDALL JAY	FROM 01-01 TO 12-31		
A43-10655	WILDLIFE	FARLEY, RANDALL JAY	FROM 01-01 TO 12-31	0.070 CFS	
A43-10655	WILDLIFE STORAGE	FARLEY, RANDALL JAY	FROM 01-01 TO 12-31		
A43-10655	AESTHETIC	FARLEY, RANDALL JAY	FROM 01-01 TO 12-31	0.070 CFS	
A43-10655	AESTHETIC STORAGE	FARLEY, RANDALL JAY	FROM 01-01 TO 12-31		
A43-04098A	DOMESTIC	FARLEY, RANDALL JAY	FROM 01-01 TO 12-31	0.040 CFS	
A43-04098A	HEATING	FARLEY, RANDALL JAY	FROM 01-01 TO 12-31	0.040 CFS	
A43-10382	DOMESTIC	FARLEY, LINDA DIANE	FROM 01-01 TO 12-31	0.030 CFS	
R43-04098A	DOMESTIC	FARLEY, RANDALL JAY	FROM 01-01 TO 12-31	0.020 CFS	
R43-04098A	HEATING	FARLEY, RANDALL JAY	FROM 01-01 TO 12-31	0.020 CFS	
R43-10382	DOMESTIC	FARLEY, LINDA DIANE	FROM 01-01 TO 12-31	0.030 CFS	
R43-10655	RECREATION	FARLEY, RANDALL JAY	FROM 01-01 TO 12-31	0.070 CFS	
R43-10655	RECREATION STORAGE	FARLEY, RANDALL JAY	FROM 01-01 TO 12-31		2.00 AF/A
R43-10655	WILDLIFE	FARLEY, RANDALL JAY	FROM 01-01 TO 12-31	0.070 CFS	
R43-10655	WILDLIFE STORAGE	FARLEY, RANDALL JAY	FROM 01-01 TO 12-31		2.00 AF/A
R43-10655	AESTHETIC	FARLEY, RANDALL JAY	FROM 01-01 TO 12-31	0.070 CFS	
R43-10655	AESTHETIC STORAGE	FARLEY, RANDALL JAY	FROM 01-01 TO 12-31		2.00 AF/A
A43-02283	STOCKWATER	DARRINGTON, IVAN	FROM 01-01 TO 12-31	0.040 CFS	

D. ARE OTHER WATER RIGHTS USED FOR THE SAME PURPOSE?

Y() N()

* IF YES, COMPLETE OVERLAP REVIEW:

OTHER RIGHTS LISTED IN CLAIM: A43-04098A

E. IS THE CLAIMED POU THE SAME AS DESCRIBED IN THE WATER RIGHT FILE?

N/A() Y() N()

* IF NO, AND IF THE CHANGE IS VERIFIED AS AN ACCOMPLISHED CHANGE IN POU, DESCRIBE THE INJURY ANALYSIS PERFORMED AND ENTER FLAG "C" WITH THE APPROPRIATE EXPLANATORY CODE.

F. CAN THE CLAIMED POU BE VERIFIED USING THE WATER RIGHT FILE AND AVAILABLE AERIAL PHOTOS?

N/A() Y() N()

G. SHOULD THE CLAIMED POU BE VERIFIED BY FIELD EXAM?

Y() N()

H. IS THERE ANY INDICATION THAT THERE HAS BEEN A FIVE YEAR PERIOD OF CONTINUOUS NONUSE OF THIS RIGHT, OR ANY PORTION OF THIS RIGHT?

Y() N()

A. AJ CLAIMED USES:

	PURPOSE OF USE	PERIOD OF USE (MONTH/DAY)	DIV. RATE FOR EACH USE	DIV. VOL. FOR EACH USE
A43-10655	RECREATION	FROM 01-01 TO 12-31	0.070 CFS	
A43-10655	RECREATION STORAGE	FROM 01-01 TO 12-31		2.00 AF/A
A43-10655	WILDLIFE	FROM 01-01 TO 12-31	0.070 CFS	
A43-10655	WILDLIFE STORAGE	FROM 01-01 TO 12-31		2.00 AF/A
A43-10655	AESTHETIC	FROM 01-01 TO 12-31	0.070 CFS	
A43-10655	AESTHETIC STORAGE	FROM 01-01 TO 12-31		2.00 AF/A
	TOTAL DIVERSION RATE/VOLUME		0.210 CFS	2.00 AF/A

B. WR RECORDED USES:

	PURPOSE OF USE	PERIOD OF USE (MONTH/DAY)	DIV. RATE FOR EACH USE	DIV. VOL. FOR EACH USE
--	----------------	---------------------------	------------------------	------------------------

C. DOES THE CLAIMED PURPOSE OF USE CORRECTLY DESCRIBE THE WATER USE? Y() N()

D. IS THE CLAIMED PURPOSE OF USE THE SAME AS DESCRIBED IN THE WATER RIGHT FILE? N/A() Y() N()

* IF NO, AND IF THE ACTUAL WATER USE IS VERIFIED AS AN ACCOMPLISHED CHANGE IN PURPOSE OF USE, DESCRIBE THE INJURY ANALYSIS PERFORMED AND ENTER FLAG "C" WITH THE APPROPRIATE EXPLANATORY CODE.

E. SHOULD THE CLAIMED PURPOSE OF USE BE VERIFIED BY FIELD EXAM? Y() N()

F. DOES THE CLAIMED PERIOD OF USE CONFORM TO IDWR STANDARDS? Y() N()

G. SHOULD THE PERIOD OF USE BE RECOMMENDED TO IDWR STANDARDS? Y() N()

* IF THE RECOMMENDED PERIOD OF USE IS DIFFERENT THAN IDWR STANDARDS, EXPLAIN IN NOTES BELOW.

H. IS THE CLAIMED DIVERSION RATE FOR EACH USE THE SAME AS DESCRIBED IN THE WATER RIGHT FILE? N/A() Y() N()

* IF NO, DESCRIBE IN NOTES BELOW HOW THE RECOMMENDED DIVERSION RATE FOR EACH USE WAS DETERMINED.

I. SHOULD THE CLAIMED DIVERSION RATE FOR EACH USE BE VERIFIED BY FIELD EXAM? N/A() Y() N()

J. IS THE CLAIMED DIVERSION VOLUME FOR EACH USE THE SAME AS DESCRIBED IN THE WATER RIGHT FILE? N/A() Y() N()

* IF NO, DESCRIBE IN NOTES BELOW HOW THE RECOMMENDED DIVERSION VOLUME FOR EACH USE WAS DETERMINED.

K. SHOULD THE CLAIMED DIVERSION VOLUME FOR EACH USE BE VERIFIED BY FIELD EXAM? N/A() Y() N()

NOTES: _____

AJ CLAIM TOTAL DIVERSION RATE: 0.210 CFS

WR ROOT RIGHT TOTAL DIVERSION RATE: CFS

A. IS THE CLAIMED TOTAL DIVERSION RATE THE SAME AS DESCRIBED IN THE WATER RIGHT FILE? N/A() Y() N()

B. CAN THE CLAIMED TOTAL DIVERSION RATE BE VERIFIED USING THE WATER RIGHT FILE? N/A() Y() N()

* ALL CLAIMS BASED ON BENEFICIAL USE (INCLUDING POSTED NOTICES AND STATUTORY CLAIMS) REQUIRE A FLOW MEASUREMENT.

C. IS THERE ANY INDICATION THAT THERE HAS BEEN A FIVE YEAR PERIOD OF CONTINUOUS NONUSE OF THIS RIGHT, OR ANY PORTION OF THE DIVERSION RATE? Y() N()

* IF AN AMOUNT SMALLER THAN THE ORIGINAL DIVERSION RATE IS CLAIMED AND A FIELD EXAM IS NOT REQUIRED, EXPLAIN IN NOTES.

D. SHOULD THE CLAIMED DIVERSION RATE BE VERIFIED BY FIELD EXAM? Y() N()

E. FLOW MEASUREMENT

MEASUREMENT METHOD _____, SEE ATTACHED CALCULATIONS.

F. RATE/VOLUME CALCULATIONS: (IRRIGATION)

1a. IRRIGATION RATE
ACRES _____ x 0.02 CFS/ACRE = _____ CFS
(Taken from pou review)

1b. CALCULATIONS

IS A DIVERSION RATE PER ACRE GREATER THAN 0.02 CFS/ACRE CLAIMED? Y() N()

IF YES, IS AN ADDITIONAL WATER USE FORM FILED AND ATTACHED? Y() N()

2. IRRIGATION DIVERSION VOLUME

CLAIMED DIVERSION VOLUME = 2.00 AF/A

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

TOTAL DIVERSION VOLUME _____ AF/A

3. IRRIGATION CONSUMPTIVE USE

CLAIMED CONSUMPTIVE USE = _____ AF/A

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

TOTAL CONSUMPTIVE USE _____ AF/A

4. CALCULATIONS FOR USES OTHER THAN IRRIGATION: SEE BELOW () OR SEE ATTACHMENT ()

RECOMMENDATIONS: CHECK HERE IF RECOMMENDED AS CLAIMED (___)

REC. PURPOSE OF USE	REC. PERIOD		REC. DIV		REC. DIV		REC. CONS.	
	FROM	TO	RATE CFS		VOL. AF/A		USE	
			DATABASE	EXAMINER	DATABASE	EXAMINER	DATABASE	EXAMINER
RECREATION	01-01	12-31	0.070	_____		_____	0.0	_____
RECREATION STORAGE	01-01	12-31		_____	2.00	_____	0.0	_____
WILDLIFE	01-01	12-31	0.070	_____		_____	0.0	_____
WILDLIFE STORAGE	01-01	12-31		_____	2.00	_____	0.0	_____
AESTHETIC	01-01	12-31	0.070	_____		_____	0.0	_____
AESTHETIC STORAGE	01-01	12-31		_____	2.00	_____	0.0	_____
_____	_____	_____		_____		_____		_____
_____	_____	_____		_____		_____		_____
_____	_____	_____		_____		_____		_____
_____	_____	_____		_____		_____		_____
TOTAL FOR THIS RIGHT				_____		_____		_____

NON-IRRIGATION USES CLAIMED: RECREATION, AESTHETIC & WILDLIFE USES OF THE WATER IN THE POND

NON-IRRIGATION USES RECOMMENDED: CHECK HERE IF RECOMMENDED AS CLAIMED (___)

REVIEWED BY: _____ DATE: _____

FLAG: _____

STANDARD CONDITIONS (CODE):

STANDARD REMARKS (CODE):

EXPLANATORY CONDITIONS (CODE):

EXPLANATORY REMARKS (CODE):

A. CHECK ONLY THE FOLLOWING THAT APPLY:

	ACCEPTED AS CLAIMED	NEEDS REVIEW
OWNERSHIP _____	()	()
FORFEIT/ABANDON _____	()	()
ADDITIONAL DIV. AMOUNT _____	()	()

B. SPLIT WATER RIGHT REVIEW

ROOT WATER RIGHT NUMBER: 43-10655

TOTAL DIVERSION RATE OF WR SPLITS	DATABASE 0.800	EXAMINER _____	CFS
-----------------------------------	-------------------	-------------------	-----

SPLITS:

OLD RIGHT NUMBERS	CURRENT CLAIM NUMBERS	DIVERSION RATE	CURRENT "R" CLAIM NUM.	"R" DIV. RATE	WR RIGHT NUMBERS	DIVERSION RATE
43-04098	R43-04098A	0.020	R43-04098A	0.020	43-04098	0.200
A43-04098	R43-10655	0.210	R43-10655	0.210	43-04098	0.200
43-04098	R43-04098A	0.020	R43-04098A	0.020	43-04098	0.200
A43-04098	R43-10655	0.210	R43-10655	0.210	43-04098	0.200
TOTAL CFS		0.460	0.460		0.800	

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 DESCRIBED BELOW () OR SEE ATTACHMENT ()?

DATABASE N	FIELD EXAMINER Y() N()
---------------	--------------------------------

NOTES:

AUTHENTICATION:

SIGNATURE: _____ DATE: _____

NAME OF FIELD EXAMINER: _____ TITLE: _____

MAPS AND AERIAL PHOTOGRAPHS USED TO REVIEW THIS NOTICE OF CLAIM TO A WATER RIGHT

TYPE OF MAP OR PHOTOGRAPH (CHECK IF USED)	IF USED, SUPPLY APPROPRIATE DATE AND OTHER INFORMATION	COPY INCLUDED IN FILE?
() ORTHOPHOTOQUAD	DATE OF PHOTO _____ IDWR ID NO. _____	Y() N()
() TOPOGRAPHIC	DATE FIELD CHECKED _____ IDWR ID NO. _____	Y() N()
() NAPP	DATE OF PHOTO _____ IDWR ID NO. _____	Y() N()
() ASCS AERIAL PHOTO	DATE OF PHOTO _____	Y() N()
() ASCS COLOR SLIDE	DATE OF PHOTO _____	Y() N()
() BLM OR USFS AERIAL PHOTO	DATE OF PHOTO _____	Y() N()
() TOWNSHIP SURVEY (GOVERNMENT PLAT)	DATE OF SURVEY _____	Y() N()
() SCS SOIL SURVEY MAP	DATE ISSUED _____	Y() N()
() SUBDIVISION PLAT MAP	DATE OF MAP _____	Y() N()
() OTHER _____	DATE _____	Y() N()
() OTHER _____	DATE _____	Y() N()
() OTHER _____	DATE _____	Y() N()

LIST OF ATTACHMENTS (CHECK IF ATTACHED)	IF ATTACHED, SUPPLY APPROPRIATE INFORMATION	NO. OF PAGES	NOTES
() LICENSING FIELD EXAM	DATE OF FIELD EXAM _____	_____	_____
() WATER RIGHT LICENSE	DATE LICENSE SIGNED _____	_____	_____
() IDWR APPROVED TRANSFER	DATE TRANSFER APPROVED _____	_____	_____
() SYSTEM DESCRIPTION	DATE DRAWN _____	_____	_____
() PHOTOGRAPHS	DATE(S) PHOTOS TAKEN _____	_____	_____
() SPLIT RIGHT REVIEW	DATE REVIEW COMPLETED _____	_____	_____
() HUBBLE ANALYSIS	DATE ANALYSIS COMPLETED _____	_____	_____
() CONVEYANCE LOSS ANALYSIS	DATE ANALYSIS COMPLETED _____	_____	_____
() FLOW MEASUREMENT CALCULATIONS	DATE SYSTEM MEASURED _____	_____	_____
() OTHER _____	DATE _____	_____	_____
() OTHER _____	DATE _____	_____	_____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM VERIFICATION REPORT

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QUICKLOOK INFORMATION

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CLAIM NUMBER: A43-10655

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

BARCODE UPDATED
WHOM/DATE

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM VERIFICATION REPORT

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PROFILE REPORT

CLAIM NUMBER: A43-10655

OWNER CODE	NAME & ADDRESS	PRIORITY DATE	WATER USE	USE PERIOD FROM TO	DIVERSION RATE	DIVERSION VOLUME
C	RANDALL JAY FARLEY	01/01/1935	WILDLIFE	01-01 12-31	0.07 CFS	
C	LINDA DIANE FARLEY		WILDLIFE STORAGE	01-01 12-31		2.00 AFA
			RECREATION	01-01 12-31	0.07 CFS	
			RECREATION STORAGE	01-01 12-31		2.00 AFA
			AESTHETIC	01-01 12-31	0.07 CFS	
			AESTHETIC STORAGE	01-01 12-31		2.00 AFA
TOTAL DIVERSION:					0.21 CFS	2.00 AFA

Water Source: GROUNDWATER

Tributary to:

Stage: BENEFICIAL USE

Point(s) of Diversion: T15S R26E S23 SWNW

CASSIA County

Place of use Legal Description for: WILDLIFE STORAGE

NE				NW				SW				SE								
T	R	S	:	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	:
15S	26E	23	:																	:
			:																	:

Place of use location for WILDLIFE is the same location as described for: WILDLIFE STORAGE

Place of use location for RECREATION is the same location as described for: WILDLIFE STORAGE

Place of use Legal Description for: RECREATION STORAGE

NE				NW				SW				SE								
T	R	S	:	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	:
15S	26E	23	:																	:
			:																	:

Place of use location for AESTHETIC is the same location as described for: RECREATION STORAGE

Place of use Legal Description for: AESTHETIC STORAGE

NE				NW				SW				SE								
T	R	S	:	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	:
15S	26E	23	:																	:
			:																	:

POU County: CASSIA

Non-Irrigation Uses: RECREATION, AESTHETIC & WILDLIFE USES OF THE WATER IN THE POND

Other Rights: A43-04098A

Remarks: THIS CLAIM IDENTIFIES SOME OF THE BENEFICIAL USE OF THE HEAT

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM VERIFICATION REPORT

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PROFILE REPORT CONTINUED

CLAIM NUMBER: A43-10655

Remarks: VALUE OF THE WATER AS DESCRIBED IN THE AGREEMENT BETWEEN H. CRANK
AND I. DARRINGTON.

Dates: Exam Made Date:

Verified Date:

Misc: Water District Number:

Field Inspection Flag: Y
Presumption Flag:

COMMUNICATION DOCUMENTATION A43-10382Claim No. A43-10655

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 CLELLANDDate 7-28-94Contact Person(s) DIANE FARLEYNature of Contact Called re: up & coming hearing.

Substance of Communication

She wanted to know if Loren Holmes or myself would attend the hearing of Tuesday ~~July~~ Aug 2ND 1994 in front of Judge Hurlbutt. I said I would not and didn't know about Loren. She asked if this hearing typically upheld the WR position - I said I didn't know.

She asked about SRBA progress - I told her the field exams are being done in Basin #3 by Frank Hitchcock and I would work w/ him to complete these related claims due to my previous work; based on that review done earlier, I didn't think Darrington had a right for use of the Hot water flows. She said Darrington is preparing and installing Diversion works off the Ditch.

R PROOF

X

CVR

X

MAPS

X

PHOTOS

X

MISC

MED

MAR 05 1993

Water Right Number - R43-10655

Prefix Translation: RESEARCH

Old (D) Number -

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

*** C - CURRENT OWNER ***
FARLEY

RANDALL JAY

1 - HC 72

2 -

3 -

City- MALTA

State- ID Zip- 83342

Phone - 208-824-5577

FARLEY

LINDA DIANE

1 - HC 72

2 -

3 -

City- MALTA

State- ID Zip- 83342

Phone - 208-824-5577

+ - - Priority Date - - + + - - Region - - - + + - - Stage - - - + + - - Status - - - +
01/01/1935 17 SOUTHERN J - BENEFICIAL USE+ - - - - Source - - - - + + - - - - - Tributary - - - - - +
GROUNDWATER+ - - - - Point of Diversion - - - - - +
TwN Rng Sec Tract Lot RFlg County
15S 26E 23 SW NW NW (31) CASSIA

Code	Description	Period From	Period To	Water Use	Diversion Rate	Diversion Volume
46 -	RECREATION	01/01	12/31		0.070	
47 -	RECREATION STORAGE	01/01	12/31			2.00
16 -	WILDLIFE	01/01	12/31		0.070	
17 -	WILDLIFE STORAGE	01/01	12/31			2.00
52 -	AESTHETIC	01/01	12/31		0.070	
53 -	AESTHETIC STORAGE	01/01	12/31			2.00

+ - Total Div. Rate - + + - Total Div. Volume - + + - Total Consumptive Use - + + - KW Usage - +
0.210 2.00 3.0

TwN	Rng	Sec	Tract	Lot	Acres	Code	Description	County
15S	26E	23	SW NE			17	WILDLIFE STORAGE	(31) CASSIA
15S	26E	23	SW NE			47	RECREATION STORAGE	(31) CASSIA
15S	26E	23	SW NE			53	AESTHETIC STORAGE	(31) CASSIA

Total Acres:

+ - - Diversion Means - WELL 430' DEEP, 12" CASING-ARTESIAN, DITCH TO 1 ACRE POND

+ - - Non-Irrigation Use - RECREATION, AESTHETIC & WILDLIFE USES OF THE WATER IN THE POND

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MAR 05 1993

Water right number - R43-10655

Prefix Translation: RESEARCH

+ - - Other Rights for Same Use - 43-04098A

+ - - - - - Remarks - - - - - +

WATER IS _____ TEMPERATURE GEOTHERMAL WATER.
 RIGHT NO. _____ IS ALSO DIVERTED THROUGH POINT OF DIVERSION
 DESCRIBED ABOVE, AND THE TOTAL COMBINED RATE OF DIVERSION OF
 THESE RIGHTS IS LIMITED TO _____ (capacity of
 diversion system).

+ - - - - A4304098

+ - - - - Conditions of Approval - - - - - +

No Conditions of Approval found.

+ - - - - Decree Plaintiff - - - +

+ - - - - Decree Defendant - - - +

+ - Decree Date - +
00/00/0000

+ - - - - Comments - - - - - +

Date: 04/28/1992 User Id: CLELLAND Subject: COPIED FROM REMARKS

THIS CLAIM IDENTIFIES SOME OF THE BENEFICIAL USE OF THE HEAT
AND I. DARRINGTON.

VALUE OF THE WATER AS DESCRIBED IN THE AGREEMENT BETWEEN H. CRANK

+ - - Audit Fields - - +

04/28/92 CLELLAND

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

Court Report Filing - 00/00/0000
 Objection Filed Date - 00/00/0000
 Response Filed Date - 00/00/0000
 Claim Received Date - 05/10/1991

Field Inspection Made - 00/00/0000
 Field Inspection Flag - Y
 Verified Date - 00/00/0000
 Last Amended Date - 00/00/0000
 Receipt Number - S013332
 POU Ownership Flag - Y
 Name Connector - AND/OR

Civil Case Number - 39576
 Old Case Number
 Old Judicial District
 Temporary Right
 Water District
 Federal/State Indian
 Presumption Flag
 Notice of Error Flag

NEEDS:

- Proof of Priority
- measure H₂O RATE
- meas. H₂O Temp.
- amend claim to 3 Ac FT [?] _{Division}
- measure pond site w/TAPE

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$$200' \times 200' \times 3' =$$

$$120,000 \text{ cu. ft.} = 2.75 \text{ Ac. Ft.}$$

DOG FACILITY Volume? $\langle 3 \text{ Ac. Ft.} \rangle$

FIELD EXAM NOTES

BY STEVE CLELLAND

4-27-92

A43-10655

The artesian well flows up into an old catch basin then runs out into a Ditch that flows about 2500' to a pond.

The pond is about 200' x 200', or a 1 Acre size pond. The average depth is estimated at 3 feet deep. Therefore Facility Volume is:
 $3' \times 1 \text{ Acre} = \underline{3 \text{ Ac-FT.}}$

Does not appear the water could ever flow any where else but into the pond and it does not appear the pond has ever overflowed. The culvert used to drain the pond does not look useable nor has it been used in many years. (as evidenced by the structure & Drain Ditch below.)

Also see: A5CS color slide in Microfiche cabinet:

K-40 1G-42

S-23 T-15 R-26

DATED: 21, JULY 1979

- shows garden area below dam and flow to pond. Some development on north bank.

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MAR 20 1994

FIELD EXAM NOTES

BY: STEVE CLELLAND

DATE: 4-27-92

RE: A43-04098A, A43-10382 & A36-10655

This day I went to examine the system and uses of this hot water well. I met with Mrs. Farley and then followed the ditch + pipeline flows up to the artesian wellhead. There was an old control head valve at the well site where it appears the flows from this well were controlled in the past. The water was at or near boiling point although no measurement was made. The water flows down a ditch and about 50 feet downstream is set a V-notch weir. The weir pool has been filled up with gravels and the weir edges are corroded and have mineral deposits built up. I explained to Mrs. Farley how to upgrade the weir to get a more accurate measurement. They had previously measured $4\frac{1}{2}$ " over the weir. (chart shows this flow is 0.211 cfs.) Downstream from the well, about 600', the screened inlet to a $1\frac{1}{2}$ " black plastic pipe begins and it lays in the bottom of the ditch down to the pond below. There it is buried underground and comes up in the small greenhouse beside the house on the ~~east~~^{north} side of the pond. The Ditch continues on and empties into the pond.

There was another diversion made from the ditch about 80' from the pond. This Diversion was a 6" pvc pipe placed in the side of the Ditch and

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Joan Darrington. The Diversion appears to be a brand new development. It does not follow any old diversion ditch channel and although I found some older ditch beds on the site, they all eventually dump back to the pond. Mrs. Diane Farley said this pipe was placed there this spring. No moss or corrosion on the pipe would support that statement.

Mrs. Farley said they laid the 1 1/2" pipe in the ditch last year. She said prior to their purchase of the property she had been told Harriet Crank used another pipeline from the ditch to her house. Mrs. Crank also used the pond itself for domestic uses.

There is evidence of pipelines all over the place. the pond is about 200' x 200' and has a large Dike at the east end of the pond. There is remains of a culvert used to drain the pond through the Dam but the control device looks unuseable and Mrs. Farley said it does not work at all. The only way to empty the pond is to Divert the incoming flows and evaporate the pond dry.

Below the Dam is an old ditch that hasn't carried water for over 5 years or more. This Ditch runs off through the Farley property. There was a small area below the Dam where sagebrush had been cleared off. Mrs. Farley said this was a garden site for Harriet Crank.

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At this point, based on the evidence I have seen, this well water has been running into the pond for years. It does not appear to ever overflow. It seems to be well established that Harriet Crank lived at the pond site and this water was her only source of potable water or any type water.

The OPQ DD81 is from a photograph taken on August 20, 1976 and this photo shows the water flow from the well to the pond. No flows appear to extend beyond the pond.

The same appears true for the photo taken in 8-8-87, NAPP 389-55, DD81 NE; water flows from the well to the pond.

I measured the water in the $1\frac{1}{2}$ " pipe to the house using the 5 gallon Bucket method. It was consistent at 35 seconds to fill 5 gallons. This calculates out to 0.02 cfs; the same amount claimed in the adjudication under A43-04098A.

The Farley's still need to prove the priority date claimed. Since the Diversion point is the well, changes in their delivery system do not require transfer (i.e. the addition of the $1\frac{1}{2}$ " pipe in 1991.)

I also left an application for permit with Mrs. Farley. They plan to expand their use of the water for more heating of their home. They also plan to access the actual well source and control the flows therein.

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CONVERSATION MEMORANDUM

EMPLOYEE: STEVE CLELLAND

FILE

A43-10655

A43-04098A

RE: A43-04098A; proof of priority; AMENDMENTSDATE 2-3-92

NAME OF PARTY

RANDALL + LINDA FARLEY(OFFICE VISIT)

We discussed the priority request by our office. They will be responding with affidavits. I suggested they send a copy of their easement from the BLM to access the well site. They will send it.

They are going to research the previous Warranty Deeds to see if there was any connection or mention of the water rights.

Their concern came up about the effect of a signed agreement by a previous owner + neighbor, on their water rights. I suggested they claim what they believe was correct. They told me the neighbor has been interfering with their efforts to maintain their water diversion works. He has even threatened them legally and physically. At this time no record can be found to indicate the neighbor has any claim to a water right from this same well.

I told the claimants I cannot give legal advice as a lawyer, but I did suggest ways they may pursue to support their Notice of Claims as filed.

I will present the agreement between Harriet Crank and Ivan Parrington to our legal staff to determine its effects, if any, on the water rights records.

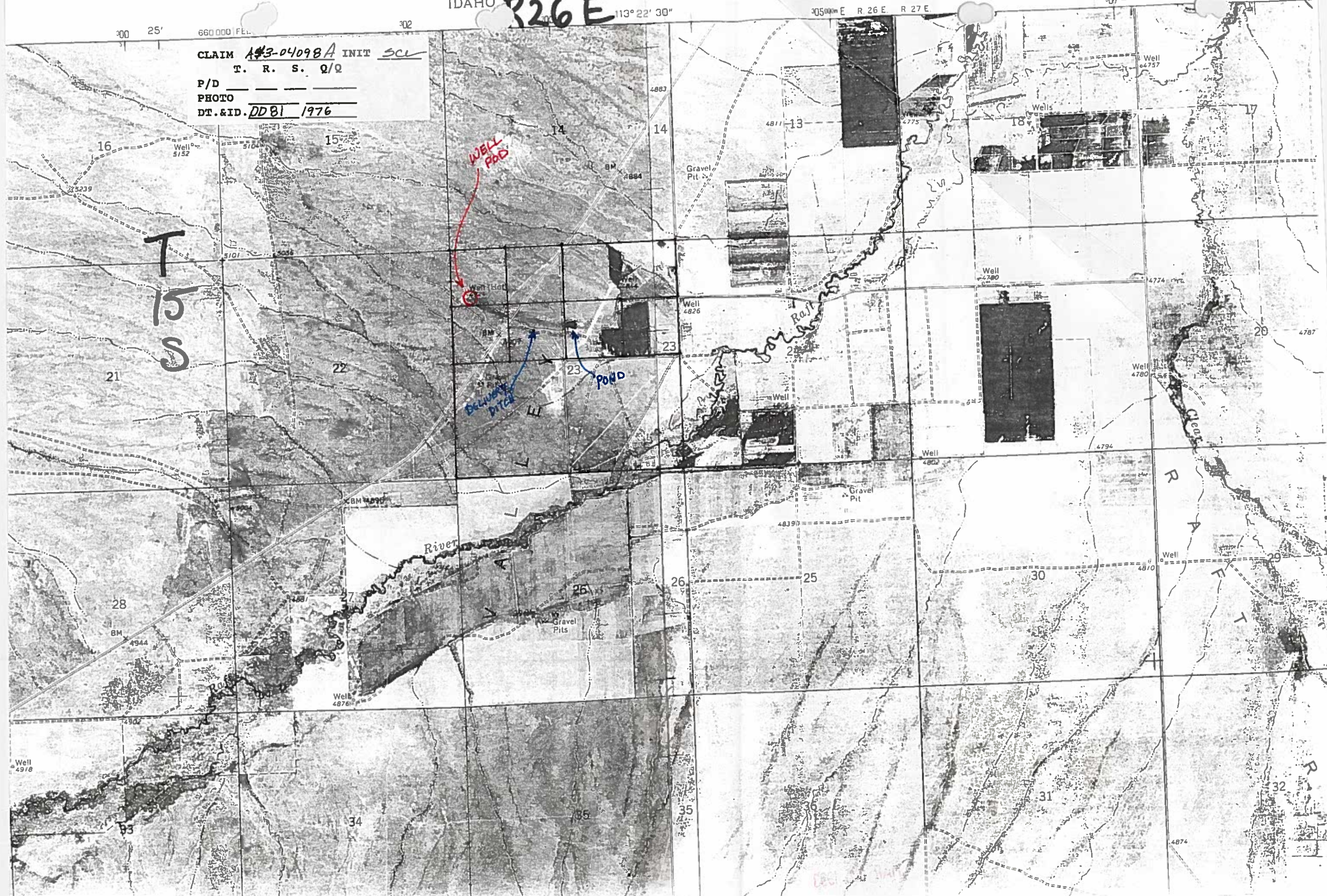
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APR 5 1993

326 E 113° 22' 30"

305000 E R 26 E R 27 E

CLAIM A#3-04098A INIT SCU
T. R. S. Q/Q
P/D _____
PHOTO _____
DT.&ID. DD81 /1976



INFLOW
LINE
OF
WATER



SYSTEM OF LINES TO DOMESTIC
and HEATING SYSTEMS IN THE
FARLEY HOUSE.

A43-10655

FARLEY

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PHOTOS BY SCC
4-27-92