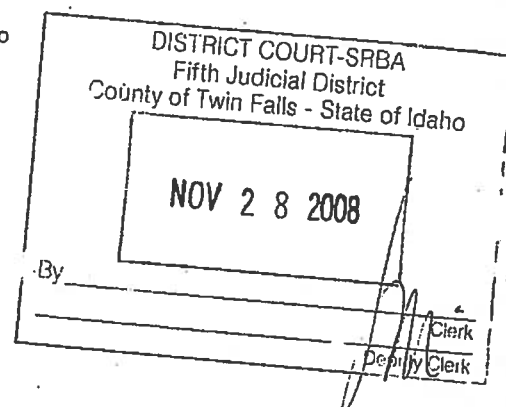


IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA)
Case No. 39576)
_____)

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

Water Right 22-00629



NAME AND ADDRESS: DEAN CRAIN FAMILY TRUST
ELVA CRAIN MARITAL TRUST
2627 E 100 N
TETON, ID 83451

SOURCE: PONY CREEK TRIBUTARY: CANYON CREEK

QUANTITY: 1.70 CFS

The quantity of water under this right for stockwater use shall
not exceed 13,000 gallons per day.

PRIORITY DATE: 06/15/1917

POINT OF DIVERSION: T06N R43E S33 SESESE Within Teton County

PURPOSE AND

PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-15 TO 10-31	1.70 CFS
	Stockwater	04-15 TO 10-31	0.04 CFS

PLACE OF USE:	Irrigation		Within Madison County
	T06N R43E S32	NENE 27.0	NWNE 39.0
		SWNE 14.0	SENE 38.0
			Within Teton County
	S33	NWNW 0.1	SWNW 0.1
	118.2 Acres Total		
Stockwater			Within Madison County
	T06N R43E S32	NENE	NWNE
		SWNE	SENE

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

The quantity of water decreed for this water right for
stockwater use is not a determination of historical beneficial
use.

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

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance
with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a
final judgment and that the court has and does hereby direct that the above judgment or order shall be a final
judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.

John M. Melanson
Presiding Judge of the
Snake River Basin Adjudication

Water Right 22-629

State of Idaho
Department of Water Resources

400 0 400 800 Feet

- 22-629.shp
- GCDB06N43E GCDB
- GCDB05N43E GCDB
- Point of Diversion



GIS Place of Use Illustration
1987/1988 NAPP Photography
Prepared by: T. Galbraith
Date: September 2005

09/21/2006

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

RIGHT NUMBER: 22-629

NAME AND ADDRESS: ELVA CRAIN
2627 E 100 N
TETON ID 83451

DEAN CRAIN
2627 E 100 N
TETON ID 83451

SOURCE: PONY CREEK

TRIBUTARY: CANYON CREEK

QUANTITY: 1.700 CFS

The quantity of water under this right for stockwater use shall not exceed 13,000 gallons per day.

PRIORITY DATE: 06/15/1917

POINT OF DIVERSION:
T06N R43E S33 SESESE Within TETON County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
STOCKWATER	04/15 10/31	0.040 CFS
IRRIGATION	04/15 10/31	1.700 CFS

PLACE OF USE: IRRIGATION Within MADISON County

T06N R43E S32	NENE	27.00	T06N R43E S32	NWNE	39.00
T06N R43E S32	SWNE	14.00	T06N R43E S32	SENE	38.00
T06N R43E S33	NWNW	0.10	T06N R43E S33	SWNW	0.10

STOCKWATER Within MADISON County

T06N R43E S32	NENE		T06N R43E S32	NWNE	
T06N R43E S32	SWNE		T06N R43E S32	SENE	

118.2 ACRES TOTAL

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

This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.

The quantity of water decreed for this water right for stockwater use is not a determination of historical beneficial use.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Decreed

This right is renumbered from former right 22-2017 .



State of Idaho

DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Suite A • Idaho Falls, Idaho 83402-1718

Phone: (208) 525-7161 • Fax: (208) 525-7177 • Web Site: www.idwr.idaho.gov

EASTERN REGION

C. L. "BUTCH" OTTER
Governor

DAVID R. TUTHILL, JR.
Director

August 1, 2008

DEAN CRAIN FAMILY TRUST
ELVA CRAIN MARITAL TRUST
2627 E 100 N
TETON ID 83451

RE: Notice of Change of Water Right Ownership (NCO) for 22-629
and Notice of Completed Administrative Proceeding (NCAP)

Dear Sir/Madam:

The Idaho Department of Water Resources (IDWR) acknowledges receipt of an NCO changing the right holder for the above referenced water right(s). Based on this NCO, IDWR water right records for the Snake River Basin Adjudication (SRBA) have been updated.

Furthermore, as directed by the SRBA Court, this office mailed a copy of the updated water right record(s) to each party listed on the enclosed NCAP. The intent of this mailing is to ensure each party has a current record of water right(s) as recorded in the SRBA.

Please feel free to contact me if you have any questions concerning this matter.

Respectfully,

Bobby Kern
Office Specialist II

Enclosure

cc Dean and Elva Crain

SCANNED

SEP 10 2008

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

In Re SRBA

Water Rights: 22-629

Case No. 39576

NOTICE OF COMPLETED
ADMINISTRATIVE
PROCEEDING

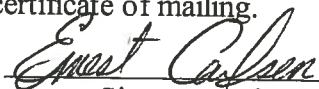
IDWR has completed the following Administrative proceeding:

- ☐ Address change
- ☒ Substitution of Party DEAN CRAIN TO CRAIN FAMILY TRUST
- ☐ I.C. § 42-222 transfer
 - ☐ point of diversion ☐ place of use
 - ☐ period of use ☐ nature of use
 - ☐ split of water right ☐ change in ownership

IDWR certifies that it has completed its investigation into the changes to the elements of the water rights listed above as set forth in the attached *Amended Director's Reports* for said water rights. No other changes have been made to the elements of these water rights except as set forth above.

IDWR has served copies of the *Notice of Completed Administrative Proceeding* and *Amended Director's Report(s)* on the claimant(s), prior claimant(s) and all parties in the subcases affected, if any, as reflected on the attached certificate of mailing.

DATED: 9-4-2008



Signature of IDWR Representative

SCANNED
SEP 10 2008

CERTIFICATE OF MAILING

I certify that on September 5, 2008, I mailed the original and copies of this form to the following persons, postage prepaid by regular mail and addressed as follows:

1. Original to:

Clerk of the District Court
Snake River Basin Adjudication
PO Box 2707
Twin Falls ID 83303-2707

2. One copy to:

Claimant/Seller for Substitution of Party or attorney of record:
Dean and Elva Crain
2627 E 100 N
Teton, ID 83451

3. One copy to:

Claimant/Purchaser for Substitution of Party, or attorney of record:
Dean Crain Family Trust
Elva Crain Marital Trust
2627 E 100 N
Teton ID 83451

4. One copy to:

Each party in the subcase, or attorney of record

5. One copy each to:

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

6. One Copy to:

United States Dept of Justice
Environment & Natural Resource Div
550 West Fort Street MSC 033
Boise ID 83724



Signature of person or attorney mailing the form

SCANNED
SEP 10 2008



State of Idaho

DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Suite A • Idaho Falls, Idaho 83402-1718

Phone: (208) 525-7161 • Fax: (208) 525-7177 • Web Site: www.idwr.idaho.gov

EASTERN REGION

C. L. "BUTCH" OTTER
Governor

DAVID R. TUTHILL, JR.
Director

July 28, 2008

BEARD, ST. CLAIR, GAFFNEY PA
DBA THATCHER, BEARD, ST. CLAIR, GAFFNEY
116 S CENTER STREET
REXBURG ID 83440

RE: WATER RIGHT OWNERSHIP CHANGE FOR 22-629 (CRAIN)

Dear CLAIMANT/REPRESENTATIVE:

Thank you for submitting the above referenced ownership change. Our office will process it as soon as possible.

There is no fee for changing ownership of rights within the boundary of the Snake River Basin Adjudication. Therefore, I am returning your check for \$25.00.

Respectfully submitted,

Bobby Kern
Office Specialists II

Enclosure

COPY

SCANNED

SEP 10 2008

DE ✓

STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

NOTICE OF CHANGE IN WATER RIGHT OWNERSHIP

Please print or type. Attach pages with additional information. Instructions are included at the end of this form. Incomplete forms will be returned.

1. Please list the water right number(s) and/or adjudication claim number(s) (if any) for each water right to be changed. List just the adjudication claim number if there is no corresponding water right record on file with the department. Indicate, by checking in the space provided (under the "split" heading), if the change in ownership is limited to a portion of a water right in which case IDWR will produce new water right number(s) for the split(s).

Water Right No(s)	Adjudication Claim No(s)	Split(s)	Water Right No(s)	Adjudication Claim No(s)	Split(s)
22-629					

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

- A. The appropriate **FILING FEE**. See instructions for fee amounts.
- B. A copy of the most recent **DEED, TITLE POLICY, CONTRACT OF SALE** or other legal document indicating your ownership of the property and water right(s) or claim(s) in question, **WITH ATTACHED LEGAL DESCRIPTION**.
- C. Either of the following (if necessary to clarify division of water rights or other complex property descriptions):
PLAT OF PROPERTY or **SURVEY MAP** clearly showing the location of the point(s) of diversion and place of use of your water right(s) and/or adjudication claim(s) (these are on file with the county Planning and Zoning or Recorder's Office).
- OR**
- D. If your water right(s) and/or adjudication claim(s) is for ten or more acres of irrigation, you must submit a USDA Farm Service Agency or equivalent **AERIAL PHOTO** with the irrigated acres outlined and point(s) of diversion clearly marked. The AERIAL PHOTO should be submitted in place of the PLAT OF PROPERTY or SURVEY MAP.

3. Name and Address of Former Owner/Claimant(s)	Dean & Elva Crain 2627 E. 100 N., Teton, Idaho 83451
4. New Owner/Claimant(s)	Dean Crain Family Trust (50%) Elva Crain Marital Trust (50%) Name Connector (Check one): ☒ and, ☐ or, ☐ and/or
New Mailing Address	2627 E. 100 N., Teton, Idaho 83451
City, State and ZIP Code	Teton, Idaho 83451
New Telephone Number	(208) 458-4480

SCANNED

SEP 10 2008

RECEIVED

JUL 28 2008

5. Date you acquired the property

August 23, 2004

6. If the change in ownership affects the entire water right for each water right or adjudication claim number listed in line 1, then skip this line and go to line 7. If the change in ownership divides the water right(s) among multiple owners, you must describe, in detail, your portion of each water right after the change. Fill in the appropriate spaces in the box(es) below to describe your water right(s) after the change (you may copy this page, if necessary). If your quantity of water is greater than a proportionate split, you must attach documentation to show justification for a larger amount. If you are not sure how to identify your portion of the original water right or adjudication claim records, please contact the nearest IDWR office for assistance.

DESCRIPTION OF YOUR PORTION OF WATER RIGHT (If the right will not be split, skip this area and proceed to line 7)		
Water Use	Diversion Rate or Volume (cubic feet per second or acre-feet per annum)	Description (acres, number and type of stock, homes, etc)
Water Right and/or Adjudication Claim Number		
Irrigation		
Stock		
Domestic		
Other		
Totals		
Water Right and/or Adjudication Claim Number		
Irrigation		
Stock		
Domestic		
Other		
Totals		
Water Right and/or Adjudication Claim Number		
Irrigation		
Stock		
Domestic		
Other		
Totals		

For Snake River Basin Adjudication Claims: Please attach a Notice of Appearance completed by your attorney, if you wish IDWR to correspond with him/her for all matters related to your claims.

7. Signature(s) of New Owner(s) or Claimant(s) (Please see Attached) _____
 (title if applicable) _____
 (title if applicable) _____

IT IS IMPORTANT TO FILE THIS COMPLETED FORM AT THE APPROPRIATE IDWR OFFICE, WITH PAYMENT OF THE FILING FEE AND THE OWNERSHIP DOCUMENT(S), AS REFERRED TO IN LINE 2.

For IDWR Office Use Only:

Received by _____ Date _____
 Receipted by _____ Date _____
 Processed by _____ AJ Date _____

Receipt Amt. _____
 Receipt No. _____
 WR _____ Date _____

SCANNED
 SEP 10 2008

7. Signature(s) of New Owners(s) or Claimants(s):

DEAN CRAIN FAMILY TRUST

BY: Elva Crain, Co-Trustee
Elva Crain

BY: Dena C Jeppesen, Co-Trustee
Dena C. Jeppesen

ELVA CRAIN MARITAL TRUST

BY: Elva Crain, Sole Trustee
Elva Crain

SCANNED
SEP 10 2008

GRANT DEED

FOR VALUE RECEIVED, **DEAN CRAIN** and **ELVA CRAIN**, husband and wife, of 2627 E. 100 N., Teton, Idaho, 83451, ("Grantors"), do hereby grant, bargain, confirm, and convey unto **MARION DEAN CRAIN** and **ELVA S. CRAIN**, Trustees, or their successors in trust, under the **DEAN & ELVA CRAIN LIVING TRUST**, dated October 14, 2003, of 2627 E. 100 N., Teton, Idaho, 83451, ("Grantee"), the following described real property located in Madison County, State of Idaho, to wit:

Tract One

Commencing at the Northwest corner of Sec. 35, Twp. 7 N., Rge. 40 E., Boise Mer., and running thence South 2 rods, thence East 180 rods, thence South 78 rods, thence East 140 rods, thence North 80 rods, thence West 320 rods to the place of beginning

Containing 72 acres.

Tract Two

Twp. 6 N., Rge. 43 E., Boise Mer.:

Section 31: S $\frac{1}{2}$ NE $\frac{1}{4}$

Section 32: S $\frac{1}{2}$ NW $\frac{1}{4}$; N $\frac{1}{2}$ SW $\frac{1}{4}$; NE $\frac{1}{4}$

Tract Three

Twp. 6 N., Rge. 41 E., Boise Mer.:

Section 4: SW $\frac{1}{4}$

Together with and including all improvements thereon all water and water rights, and all appurtenances and hereditaments thereunto belonging.

DATED This 14th day of October, 2003.


DEAN CRAIN


ELVA CRAIN

STATE OF IDAHO,)
 SS
County of Madison.)

ANNALE WILBERGA
NOTARY
PUBLIC
STATE OF IDAHO

Notary Public for Idaho
Residing at Rexburg, Idaho
My Commission expires: 7/27/2007

08/01/2008

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

RIGHT NUMBER: 22-629

NAME AND ADDRESS: DEAN CRAIN FAMILY TRUST
2627 E 100 N
TETON ID 83451

ELVA CRAIN MARITAL TRUST
2627 E 100 N
TETON ID 83451

SOURCE: PONY CREEK

TRIBUTARY: CANYON CREEK

QUANTITY: 1.700 CFS

The quantity of water under this right for stockwater use shall not exceed 13,000 gallons per day.

PRIORITY DATE: 06/15/1917

POINT OF
DIVERSION:

T06N R43E S33 SESESE Within TETON County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
STOCKWATER	04/15 10/31	0.040 CFS
IRRIGATION	04/15 10/31	1.700 CFS

PLACE OF USE: IRRIGATION in MADISON County and TETON County

T06N R43E S32	NENE	27.00	T06N R43E S32	NWNE	39.00
T06N R43E S32	SWNE	14.00	T06N R43E S32	SENE	38.00
T06N R43E S33	NWNW	0.10	T06N R43E S33	SWNW	0.10

STOCKWATER in MADISON County

T06N R43E S32	NENE	T06N R43E S32	NWNE
T06N R43E S32	SWNE	T06N R43E S32	SENE

118.2 ACRES TOTAL

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

This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.

The quantity of water decreed for this water right for stockwater use is not a determination of historical beneficial use.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Decreed

This right is renumbered from former right 22-2017 .

09/21/2006

**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:

Water right number: 22-629

ELVA CRAIN
2627 E 100 N
TETON ID 83451
Telephone Number: (208)458-4480

DEAN CRAIN
2627 E 100 N
TETON ID 83451
Telephone Number: (208)458-4480

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:

X I AGREE with this proposed recommendation: no changes need to be made.

DATE: Dec. 11, 06 SIGNATURE: Elva Crain
Please print your name: Elva Crain

IDWR Regional Office, 900 N Skyline Dr Ste A, Idaho Falls, ID 83402, 2085257161

SCANNED
JUN 29 2007

AC



State of Idaho

DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Suite A, Idaho Falls, Idaho 83402-1718 - (208) 525-7161- Fax (208) 525-7177

EASTERN REGION

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

April 27, 2000

CARTER RANCH
C/O WALTER & TRACY CARTER
PO BOX 826
ASHTON ID 83420

RE: ADJUDICATION CLAIMS A22-02017, A22-04003A

Dear Mr. & Mrs. Carter:

Our office received the above referenced claims and associated fees. A copy of the receipt and claim A22-04003A are enclosed for your records.

The place of use on claim A22-02017 was amended to reflect the map and stockwater was added as a use. If you do not want stockwater added, please line out this portion.

Please sign A22-02017 in the presence of a notary public and return to our office. We will then send you a copy for your files.

Sincerely,

Jennifer Crabtree
Technical Records Specialist

Enclosure

SCANNED

JUN 29 2007

Water Right No(s). A22-2017 + A22-4003A

GPS data - 2710630
1402988

GPS File #
22 2017

GPS DATA:

Tag # None Location: only has open ditch

Diversion Data:

Source: Pony Creek Trib to: Canyon Creek

MOTOR N/A Model: open ditch, gravity flow to P.O.U. Hp:
Make: SN:

PUMP

Make: Model: Disch:
SN:

NOTES:

Dan Crain has passed away. Wife Elva owns property &
son Ray runs property. Place of use is reduced in
size as per Ray Crain. Claim 22-40034 appears
superfluous.

Field Exam Date: 5-26-06 Agent: J. Wyman

SCANNED

JUN 29 2007

22-2017

FARM ROAD

OK
P. QU.

NO

NO

ADPH



06N43E33

22-2017

SESE



open ditch

A22-2017, Pony Creek



CANNED

JUN 29 2007



Water Troughs on Grown Browning Property above
Crain's P.O. They share P.O.D & Ditch.

A22-2017, Looking South

SCANNED
JUN 29 2007



A22-2017 Looking South

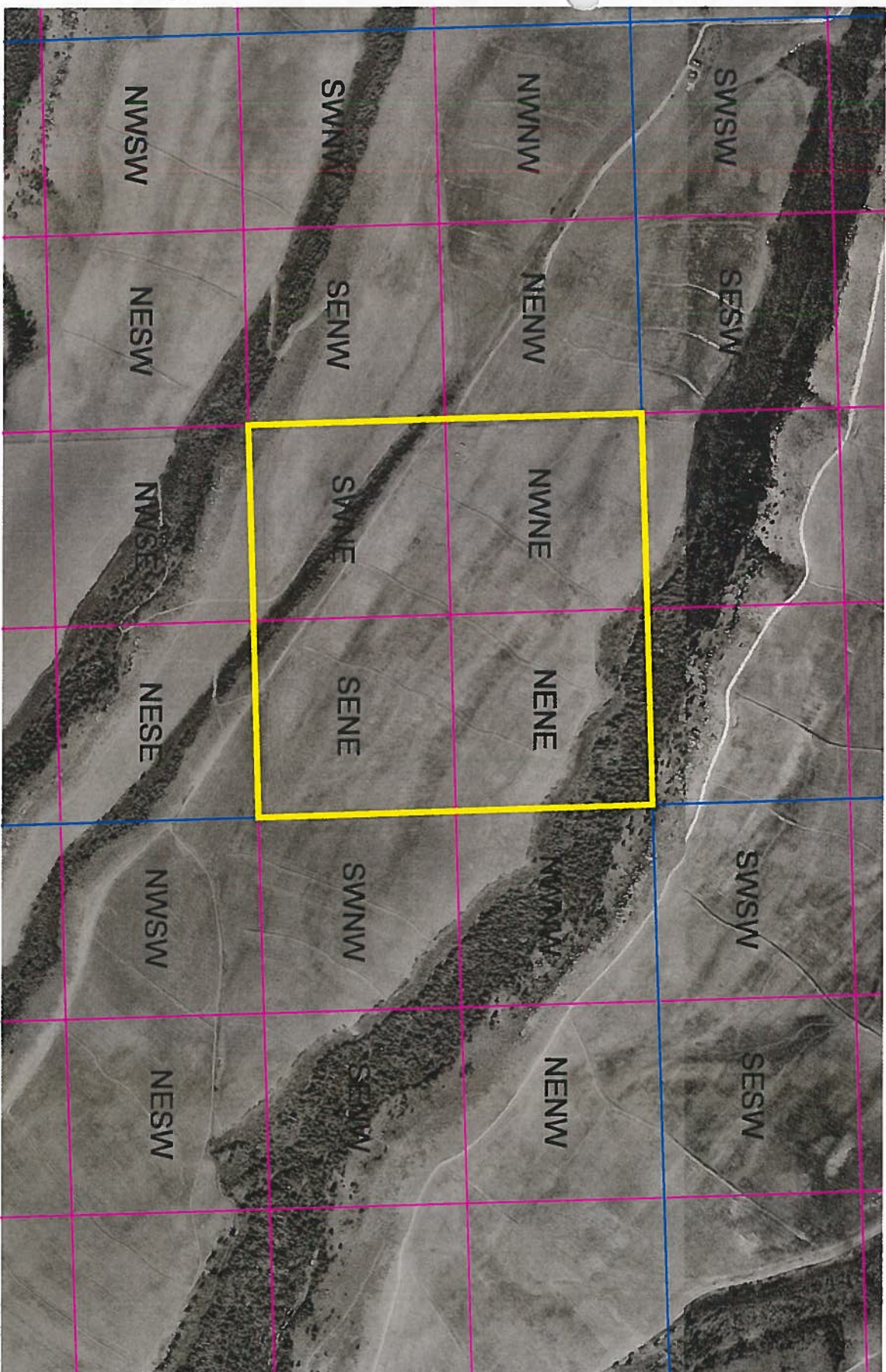


SCANNED
JUN 29 2007

Township
06N

Range
43E

Section 32



SCANNED

JUN 29 2007

Notes:

Water Right #: 2202017

Examiner

Date:



0.0400.04.08.12 Miles



DELOG AR
3/31/04 OK
8C
11-8-05

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
NOTICE OF CHANGE IN WATER RIGHT OWNERSHIP

RECEIVED
MAR 30 2004

Please print or type. Attach pages with additional information. Instructions are included at the end of this form.
Incomplete forms will be returned.

Department of Water Resources
Eastern Region

1. Please list the water right number(s) and/or adjudication claim number(s) (if any) for each water right to be changed. List just the adjudication claim number if there is no corresponding water right record on file with the department. Indicate, by checking in the space provided, if the change in ownership is limited to a portion of a water right in which case division of the existing water right or adjudication claim record will be required.

Water Right No(s).	Adjudication Claim No(s).	Split	Water Right No(s).	Adjudication Claim No(s).	Split
22-04003A					
A22-02017					

Completed
KMS 11/15/05

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

- A. The appropriate **FILING FEE**. See instructions for fee amounts.
- B. A copy of the most recent **DEED, TITLE POLICY, CONTRACT OF SALE** or other legal document indicating your ownership of the property and water right(s) or claim(s) in question, **WITH ATTACHED LEGAL DESCRIPTION**.
- C. Either of the following (if necessary to clarify division of water rights or other complex property descriptions):
PLAT OF PROPERTY or **SURVEY MAP** clearly showing the location of the point(s) of diversion and place of use of your water right(s) and/or adjudication claim(s) (these are usually attached to your deed or on file with the county).

OR

If your water right(s) and/or adjudication claim(s) are for ten or more acres of irrigation, you must submit a USDA Farm Service Agency **AERIAL PHOTO** with the irrigated acres outlined and point(s) of diversion clearly marked. The **AERIAL PHOTO** should be submitted in place of the **PLAT OF PROPERTY** or **SURVEY MAP**.

3. Name and Address of Former Owner/Claimant(s) Walter L. Carter
4560 E 1400 North, Ashton, ID. 83420
4. New Owner/Claimant(s) Dean Crain and/or Elva Crain
Name Connector (Check one): ☐ and, ☐ or, ☐ and/or
- New Mailing Address 2627 E 100 N
City, State and ZIP Code Teton, ID. 83451
New Telephone Number (208) 458-4480
5. Date you acquired the property 3/11/03

SCANNED
JUN 29 2007

County, Fremont
Stream, Pony Creek.
Amount, 2.5 sec. ft.
Use, Irrigation
Priority, 9/7/06.

STATE OF IDAHO

Water License No. 2264

22-2017

*Superseded by decree
22-0629*

WHEREAS, On the 7th day of September, A. D. 1906, DORA WEAVER,

of Sugar City, County of Fremont, State of Idaho, duly made application (No. 3181) to me for a permit to use 3.2 cubic feet per second of the waters of Pony Creek,

County of Fremont, State of Idaho, for irrigation and domestic purposes, and,

WHEREAS, On the 8th day of September, A. D. 1906, Permit No. 2264 was issued to said applicant for the diversion of said water and providing for the completion of the works of diversion therein described on or before the 8th day of September, A. D. 1909, and for the application to beneficial use of said water on or before the 8th day of March, A. D. 1913, and,

WHEREAS, On the 4th day of September, A. D. 1909, DORA WEAVER,

the holder of said permit, duly made proof of the completion of adequate works for the diversion of 3.2 cubic feet per second of said waters, as evidenced by my Certificate No. 2264 dated September 30, 1909, confirming the completion of works of sufficient capacity for diverting and conveying to the place of intended use 3.2 cubic feet per second of said water, with date of priority of September 7th, 1906 and

WHEREAS, On the 8th day of March, A. D. 1913, Dora Weaver, transferred to John Weaver all her right, title and interest in and to said permit, and,

WHEREAS, On the 8th day of March, A. D. 1913, JOHN WEAVER,

the holder of said permit, duly made proof of the application to beneficial use of 2.5 cubic feet per second of said water.

NOW, THEREFORE, By virtue of authority vested in me by the laws of the State of Idaho, I hereby grant and confirm to John Weaver,

of Canyon Creek, County of Fremont, State of Idaho, the holder and owner of said Permit No. 2264, a perpetual right, dating from Sept. 7, 1906, to the use of 2.5 cubic feet per second of the waters of Pony Creek.,

in the County of Fremont and State of Idaho, or so much thereof as may be necessary for the purposes hereinbelow mentioned, to be diverted at a point about the center of the East line of the SW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Sec. 27, T. 6 N., R. 43 E. B. M.,

and conducted to and upon 125 acres divided as follows, 40 acres in the NW $\frac{1}{4}$ of NE $\frac{1}{4}$, 25 acres in the SW $\frac{1}{4}$ of the NE $\frac{1}{4}$, 35 acres in the NE $\frac{1}{4}$ of the NE $\frac{1}{4}$ and 25 acres in the SE $\frac{1}{4}$ of the NE $\frac{1}{4}$ Section 32, T. 6 N., R. 43 E. B. M.

for the purpose of Irrigation and domestic use, subject, however, to the laws of the State of Idaho, applicable to a license for the use of the waters of the State, and subject, also, to the local or community customs, rules and regulations which have been or may be adopted from time to time by a majority of the users from a common source of supply, canal or lateral from which such water may be taken, when such rules and regulations have for their object the economical use of such water.

WITNESS, My hand and the seal of my office at Boise, Idaho, this 7th day of June, A. D., nineteen hundred and thirteen.

F.P. King,

(Seal)

State Engineer.

22-2017

Cannot plat -

The legal descrip.
does not match
the U.S.F.S. Quad
in any way, shape
or form.

Lex

6-28-74

No. 3181

A P P L I C A T I O N F O R P E R M I T

To appropriate the Public Waters of the State of Idaho.

1. Name of Applicant - DORA WEAVER
 Postoffice address: P. O. Sugar
 County - Fremont, Idaho.
2. The quantity of water claimed is 3.2 cubic feet per second.
3. Source of water supply - Pony Creek.
 County of Fremont.
4. Location of point of diversion about center of the east line of SW $\frac{1}{4}$ SW $\frac{1}{4}$ of Sec. 27,
 Twp. 6 N., R. 43 E. R. M. Unsurveyed.
5. To be used for:
 - I. Irrigation and domestic use:
 - (a) Number of acres to be irrigated 160 acres.
 - (b) In the following legal subdivisions - NE $\frac{1}{4}$ Sec. 32, Twp. 6 N., R.
 43 E. R. M.
6. Estimated cost of works - \$300.00
7. Description of Works for Diversion:
 - I. Kinds of works - reservoir, ditch.
 - II. Dimensions of Works:
 - (a) Height of dam 6 feet, length of dam at top 100 feet, length of dam
 at bottom 200 feet, material used in construction earth & stone.
 - (b) Capacity of reservoir 160 ft. wide x 500 ft. long.
 - (c) Size of headgate, width 2 $\frac{1}{2}$ feet, height 1 $\frac{1}{2}$ feet.
 - (d) Ditch (flume or pipe) width at bottom 8 ft., width at water line
 10 feet, depth of water 1 ft. Average grade per mile is 50 feet.
 Length of ditch is 2 $\frac{1}{2}$ miles, and it crosses the following quarter
 sections - SW $\frac{1}{4}$ SW $\frac{1}{4}$ Sec. 27; SE $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 28; NW $\frac{1}{4}$ NE $\frac{1}{4}$; N2 NW $\frac{1}{4}$ Sec. 33;
 to NE $\frac{1}{4}$ Sec. 32, T. 6 N., R. 43 E., which is the point of intended
 use.
8. Time required for the completion of the construction of such work is 3 years.
9. Time required for the complete application of the water to the proposed use is
 3 $\frac{1}{2}$ additional years.

Approval of state Engineer.

The number of this permit is 2264.

Date of first receipt of application 9 a. m. September 7, 1906.

Recorded in Book 7, page 2264. Approved September 8, 1906.

This is to certify that I have examined the within application for a permit to appropriate the public waters of the State of Idaho and hereby grant the same, subject to the following limitations and conditions:

Work to begin on or before November 7, 1906, and to continue diligently and un-

which permit holder has no control.

One-fifth of the work above specified to be completed on or before March 8, 1908.

The whole of said work to be completed on or before September 8, 1909.

The time for the proof of beneficial use of water appropriated in accordance herewith, to extend to March 8, 1913.

Witness my hand this 8 day of September, 1906.

Jan. Stephenson, Jr.

State Engineer.

Blank notice for proof of completion mailed application June 1,1909
Notice received June 25,1909, fixing September 4,1909 a date and Rexburg, Idaho as place of proof
Publication notice mailed Rexburg, Standard July 29,1909
Deposition blanks mailed applicant July 29,1909
J.O.Webster notified July 29,1909, to make examination of works.
His report received September 1,1909
Affidavit of publication and depositions of holder and witnesses received September 7th,1909
Fees received September 30,1909
Certificate issued September 30,1909

Permit No. 2264

CERTIFICATE OF COMPLETION OF WORKS.

To All Whom it May Concern:

This is to certify that DORA WEAVER, of Sugar City, County of Fremont, and State of Idaho. the holder of Permit No. 2264, issued upon Application No. 3181, bearing date of priority of September 7,1906, authorizing the diversion of 3.2 second feet of the waters of Pony Creek, County of Fremont, State of Idaho, for irrigation and domestic purposes, has fully complied with the provisions of the laws of the State of Idaho relating to the proof of completion of the works of diversion set out and described in said Permit; that said works are adequate for diverting and conveying to the place of intended use 3.2 second feet of the waters of Pony Creek; that the point of diversion of said waters is at a point about the center of the east line of the southwest quarter of southwest quarter of section 27, township 6 north, range 43 East of Boise meridian, (Unsurveyed) and that the lands proposed to be irrigated by the use of said water are described as follows, to-wit: Northeast quarter of section 32, township 6 North, Range 43 East of Boise Meridian.

Witness my hand this thirteenth day of September A.D.1909.

Jas. Stephenson, Jr.
State Engineer of the State of Idaho

License issued for 2.4 second feet

JOHN BUREAU, CH. ENG. IDAHO, FEB. 1, 1908
RECEIVED 1909-09-30

QUIT CLAIM DEED .

THIS INDENTURE, Made the 8th day of March, in the year of Our Lord, One thousand Nine Hundred and thirteen, Between Dora Weaver, of the County of Fremont and State of Idaho, the part_ of the first part, and John Weaver of the County of Fremont, and State of Idaho, the part_ of the second part,

WITNESSETH, That the said party of the first part, for and in consideration of the sum of one dollar and other valuable considerations, lawful money of the United States of America, to her in hand paid by the said party of the second part, the receipt whereof is hereby acknowledged, does by these presents REMISE, RELEASE, and FOREVER QUIT CLAIM unto the said party of the second part, and to his heirs and assigns, forever, all that certain water appropriation of the waters of Pony Creek, situate in Fremont County, Idaho and known as Permit No 2264 issued by the State Engineer at Boise, Idaho on the 8th day of September, A.D. 1906 and recorded in book 7 at page 2264., together with all and singular the tenements, hereditaments and appurtenances thereunto belonging, or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof.

TO HAVE AND TO HOLD, All and singular, the said premises, together with the appurtenances thereunto belonging unto said part_ of the second part, his heirs and assigns forever.

IN WITNESS WHEREOF, The said party of the first part has hereunto set her hand and seal the day and year first above written.

Signed and sealed in the presence of

Thos. Elliott.

Dora Weaver (SEAL).

STATE OF IDAHO,)
) SS.
COUNTY OF Fremont,)

On this 8th day of March, in the year of 1913, before me, a Thomas Elliott, a Notary Public in and for said County and State, personally appeared Dora Weaver known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that she executed the same.

In witness Whereof, I have hereunto set my hand and official seal the date last above written.

Thomas Elliot.

(SEAL).

Notary Public.

Received and filed for record in the office of the State Engineer at Boise, Idaho 9.00 A.M.
March 26, 1913.

F. P. KING.

State Engineer.

RECEIVED

SEP 19 2006

DEPARTMENT OF
WATER RESOURCES
IN THE DISTRICT COURT OF THE NINTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR MADISON COUNTY

O. J. NEELEY and MYRTLE NEELEY, his wife,
Plaintiffs,

vs.

GEORGE BROWNING and PHEBE BROWNING,
his wife, and MORRIS SLAYMAKER and
THELMA SLAYMAKER, his wife,

Defendants.

AMENDED
COMPLAINT

Plaintiffs complain of the Defendants and for cause of action
allege:

I

That at all times herein mentioned the Plaintiffs were, and now
are husband and wife;

II

That at all times herein mentioned the Defendants, George
Browning and Phebe Browning, his wife, were, and now are husband
and wife;

III

That at all times herein mentioned the Defendants, Morris Slay-
maker and Thelma Slaymaker, his wife, were, and now are husband and
wife;

IV

Neeley

That at all times herein mentioned the Plaintiffs were, and
now are the owners and in possession of the East Half (E $\frac{1}{2}$) of Sec-
tion Thirty (30); the Southeast Quarter of the Northwest Quarter
(SE $\frac{1}{4}$ NW $\frac{1}{4}$) and the South Half of the Southwest Quarter (S $\frac{1}{2}$ SW $\frac{1}{4}$) of
Section Thirty (30), Township Six (6) North, Range Forty-three (43)
East of the Boise Meridian; also, the Northeast Quarter of the Nor-
east Quarter (NE $\frac{1}{4}$ NE $\frac{1}{4}$) of Section Thirty-one (31), Township Six (6)
North, Range Forty-three (43), East of the Boise Meridian; 1 ac,
being, and situate in Madison County, Idaho;

480 acres

V

That for more than five years prior to the commencement of this action the Plaintiffs and their predecessors in interest have owned, used, and enjoyed 435 miners inches of the water of Pony Creek, a tributary to Snake River in Madison County, Idaho, for irrigation and domestic purposes on the above described premises; that during all of the time herein mentioned, said 435 miners inches of the water of said Pony Creek were owned and used by Plaintiffs adverse to all persons and especially the above named Defendants, and Plaintiffs have paid all taxes and assessments levied against said water rights for more than five years last past prior to the commencement of this action;

VI

That the above named Defendants, and each and all of them, claim some right, title, and interest in and to said water or some estate therein adversely to the Plaintiffs, but Plaintiffs allege that none of said Defendants had any right, title or interest, or lend upon said water or any part thereof, and that the claims of the Defendants, if any, are without any right whatsoever.

WHEREFORE, Plaintiffs pray judgment that the Defendants, and each of them, be required to set forth the nature of their several claims of, in or to, or lend upon said 435 miners inches of said water of Pony Creek, as aforesaid, or any part thereof, and that said adverse claims may be determined by this Court; that it be adjudged and decreed that the Plaintiffs are the prior owners of the said water rights and water and in possession thereof, and that none of the Defendants have any right, title, or interest whatsoever therein or thereon superior to the Plaintiffs.

That the title to said water and the use thereof be quieted in the Plaintiffs as against the Defendants, and all persons claiming under them, and that the usual decree foreclosing the Plaintiffs' rights as against the Defendants be entered.

Plaintiffs further pray for such other or further or different

relief as to the Honorable Court may seem meet and equitable in the premises, and for cost of this suit.

Dated this 20th day of May, 1954.

A. A. Merrill and
Ray W. Rigby
Attorneys for Plaintiffs

By

Ray W. Rigby

Ray W. Rigby

STATE OF IDAHO,)
County of Madison.) ss.

O. J. Nealey, being first duly sworn, deposes and says: That he is one of the Plaintiffs in the above entitled cause, that he has read the above and foregoing Amended Complaint, knows the contents thereof, and the same is true as he verily believes.

Subscribed and sworn to before me this 20th day of May, 1954.

(Seal)

My commission expires:
January 24, 1955.

Notary Public, residing at
Rexburg, Idaho

I hereby acknowledge service of a copy of this Amended Complaint, this 20th day of May, 1954.

Leonard O. Kingsford
Leonard O. Kingsford
Attorney for the Defendants

DISTRICT COURT OF THE NINTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR MADISON COUNTY

O. J. NEELEY and MYRTLE NEELEY,
his wife,

Plaintiffs,

vs.

GEORGE BROWNING and PHEBE BROWNING,
his wife, and MORRIS SLAYMAKER and
THELMA SLAYMAKER, his wife,

Defendants.

FILED 5/21 1954
4:10 P.M.

H. T. McKeen
Clerk
By *W. J. McKeen*

ANSWER TO AMENDED COMPLAINT
AND CROSS COMPLAINT.

Come now the defendants above named, and in answer to Plaintiffs' complaint on file herein, admit, deny and allege as follows:

I.

Defendants admit all allegations contained in Paragraphs I, II, III and IV of plaintiffs' complaint on file herein.

II.

Defendants deny each and every allegation in Paragraphs V and VI of plaintiffs' complaint well pleaded, except as hereinafter set forth.

III.

Defendants allege that Pony Creek is an intermittent stream, having a substantial flow of water during the spring and early summer of each year, but that such flow is substantially reduced, or that it ceases, in later parts of the summer and the autumn of each year; that the parties hereto, amongst them, have made full use of all available waters of said Pony Creek for many years, and that a fair and equitable distribution thereof has heretofore been made of such waters; but that plaintiffs' share of said waters will equal the sum of 435 miners inches of said waters only during periods of high water.

IV.

That defendants George Browning and Phebe Browning, his wife, now are, and at all times herein mentioned, have been the owners, and in the possession of the following described property, situated in Madison County, State of Idaho, to-wit:

The South Half of the Southwest Quarter and the Southwest Quarter of the Southeast Quarter of Section 29, township 6 North, Range 13 East of the Boise Meridian; and the North Half of the Northwest Quarter of Section 32, Township 6 North, Range 13 East of the Boise Meridian.

166 acres
200

V.

That James D. Browning, a predecessor in title of said George Browning and Phebe Browning, his wife, filed upon 3.2 second feet of the waters of Pony Creek, of which sum, proof was made on 1.3 second feet, and license issued to one Anne Kearney, assignee of said James D. Browning, and also a predecessor of said defendants, in title; said License being No. 1505, issued by the State of Idaho to said Anne Kearney; that the balance of the water so filed on by said James D. Browning was put to use over a period of time, although not reduced to license.

VI.

That Morris Slaymaker and Thelma Slaymaker, his wife, the other above named defendants, now are, and at all times herein mentioned, have been the owners, and in the possession of the following described property, situated in Madison County, State of Idaho, to-wit:

The South Half of the Northwest Quarter, the North Half of the Southwest Quarter, and the Northeast Quarter of Section 32, Township 6 North, Range 43 East of the Boise Meridian.

VII.

That License No. 2264 for 2.5 second feet of the Waters of Pony Creek was issued by the State of Idaho to Dora Weaver, the assignee of John Weaver, for use on 125 acres in the Northeast Quarter of Section 32, aforesaid; that additional water was put to use from time to time thereafter upon additional land by said Dora Weaver and by said John Weaver, who are predecessors in title of the said Morris Slaymaker and Thelma Slaymaker, defendants.

VIII.

That one Charles H. Casier filed on 8 second feet of the waters of Pony Creek for use on the unsurveyed South Half of the Southwest Quarter of Section 19; the West Half of Section 30; Township 6 North, Range 43 East of the Boise Meridian, now in Madison County, State of Idaho; that such filing was never reduced to license; that some part thereof, was, however, usefully applied to the irrigation of parts of said land; that a portion thereof was deeded to James A. Browning, by Quit Claim Deed dated May 31st, 1912, and recorded May 19th, 1915, in Book 17 of Deeds, at Page 320, under recorder's instrument No. 5044, records of Madison County, State of Idaho; that said James A. Browning was a predecessor in title of the defendants, George Browning and Phebe Browning, his wife; and that the plaintiffs may properly claim under the balance of said filing, insofar as actually used by them and their predecessors in title.

225
222 in
~~222~~

320
acres

4.506

IX.

That water disputes having heretofore arisen in connection with the said waters of Pony Creek, the predecessors in title of the present owners of the lands watered thereby, did, in June, 1917, form a corporation, to-wit, PONY CREEK CANAL COMPANY, to deliver said water to the various users for irrigation and domestic purposes, and did thereby, in settlement of all former disputes, make a fair and equitable division of said waters of Pony Creek, as set out in the Articles of Incorporation of said Corporation, which are filed in the records of Madison County, State of Idaho, under recorder's instrument No. 15216, a certified copy of which are hereto attached, as Exhibit "A", and which are hereby incorporated and made a part hereof, by reference, as fully as if though herein set forth in full.

X.

That plaintiffs, O. J. NEELEY and MYRTLE NEELEY, his wife, are the successors in interest to Ira J. Davis, and to one-half the holdings of E. D. Clark and Eli Clark, Jr.; that defendants, MORRIS SLAYMAKER and THELMA SLAYMAKER, his wife, are the successors in interest to one-half the holdings of E. D. Clark and Eli Clark, Jr.; and that defendants, GEORGE BROWNING and PHEBE BROWNING, his wife, are successors in interest to J. A. BROWNING and to Annie Kearney; all as mentioned and shown in the aforesaid Articles of Incorporation.

XI.

That the diversionary works used by the parties hereto, when in proper repair, are capable of carrying approximately 960 miners inches of water; that when such full stream of water is being diverted and used, the said plaintiffs would be entitled to the sum of 435 miners inches of water; the defendants, George Browning and Phebe Browning, his wife, would be entitled to the sum of 300 inches of water; and the defendants, Morris Slaymaker and Thelma Slaymaker, his wife, would be entitled to the sum of 225 inches of water; but that when the flow of water is reduced, each party is entitled to his pro rata share, on the same basis as aforesaid, without right in any party, and especially without right in the plaintiffs, to demand any given flow of water in inches; but only to demand a pro rata share of such water as may be available at any given time.

AND FOR CROSS COMPLAINT, Defendants and Cross-complainants complain of the Plaintiffs and Cross-defendants, and for cause of action allege:

I.

Defendants and Cross-complainants hereby re-plead Paragraphs I to XI of their Answer, inclusive, and by reference, hereby make same a part of this Cross-Complaint.

Pony Creek C.C.

II.

Defendants allege that for over 36 years, to-wit, since June 25th, 1917, they or their predecessors in title have owned, used, and enjoyed the uninterrupted use of their respective pro rata shares of the waters of Pony Creek, a tributary to Snake River, in Madison County, Idaho, for irrigation and domestic purposes, on the foregoing described premises, said pro rata share being determined on the basis of the contribution of their predecessors to PONY CREEK CANAL COMPANY, as set forth in Exhibit "A", hereunto attached, as above set forth..

WHEREFORE, Defendants pray judgment that the adverse claims of Plaintiff, as set forth in Plaintiff's complaint herein filed, be determined by this Court; that it be adjudged and decreed that Defendants are the prior owners of their respective pro rata shares of the waters of Pony Creek, and that Plaintiffs have no right, title or interest whatsoever therein or thereon superior to the right, title and interest of Defendants in and to their respective shares as above set forth.

That title to said respective shares of water be quieted in the Defendants as against the Plaintiffs, and all persons claiming under them; and that the usual decree foreclosing all adverse claims against these defendants be entered.

Defendants further pray for such other or further or different relief as to this Honorable Court may seem just and equitable, and for costs of this suit; and that Plaintiffs' complaint being fully answered, the plaintiffs may take nothing thereunder.

Dated this 20th day of May, 1954.

Leonard O. Kingsford
LEONARD O. KINGSFORD, Attorney for the
Defendants. Residence and Post Office
Address: Rexburg, Idaho.

STATE OF IDAHO)
 : ss.
County of Madison)

George Browning and Morris Slaymaker being first duly sworn, depose
and say, each for himself, and not one for the other:

That he is one of the parties defendant in the above and foregoing
entitled cause; that he has read the foregoing answer and cross complaint,
and knows the contents thereof; and the same is true as he verily believes.

Geo. A. Browning
Morris Slaymaker

Subscribed and sworn to before me this 21st day of May, 1954.

Leonard O. Hingford
NOTARY PUBLIC for Idaho, residing at
Rexburg, Idaho. My commission
expires: August 14th, 1957.

I hereby acknowledge service of a copy of this ANSWER TO AMENDED
COMPLAINT AND CROSS COMPLAINT, this 21st day of May, 1954.

Ray W. Rigby
RAY W. RIGBY, Attorney for the
Plaintiffs and Cross-Defendants.

O. J. NEELEY and MYRA
his wife,

Plaintiffs,

vs.

GEORGE BROWNING and PHEBE BROWNING,
his wife, and MORRIS SLAYMAKER and
THELMA SLAYMAKER, his wife,

Defendants.

STIPULATION

It is hereby stipulated and agreed by and amongst the parties hereto as follows:

That the plaintiffs are the owners of that certain property described in Paragraph IV of their amended complaint.

That the defendants, George Browning and Phebe Browning, his wife, are the owners of that certain property set forth in Paragraph IV of the Answer to Amended Complaint.

That the defendants, Morris Slaymaker and Thelma Slaymaker, his wife, are the owners of that certain property set forth in Paragraph VI of the Answer to Amended Complaint.

That for over five years last past, the various parties hereto, amongst them, have diverted and used the full flow of the waters of Pony Creek for domestic and agricultural purposes.

That the maximum flow so diverted is approximately 960 miners inches of water, and that such flow decreases during the summer months of the year.

That said parties are entitled to, and the Court may decree to them, an interest therein based on 435 miners inches to plaintiffs out of such maximum flow of 960 inches, such interest to be decreased proportionately to any decrease in the total flow of water at any given time; and on 300 miners inches to defendants George Browning and Phebe Browning, his wife, out of such maximum flow of 960 inches, such interest to be decreased proportionately to any decrease in the total flow of water at any given time; and on 225 miners inches to defendants Morris Slaymaker and Thelma Slaymaker, his wife, out of such maximum flow of 960 inches, such interest to be decreased proportionately to any decrease in the total flow of water at any given time.

That domestic use of water shall have priority over any other use during seasons when the total supply of water is inadequate to cover all needs of

the parties hereto.

That each of the parties hereto shall be liable for expenses of maintenance of the irrigation system used in common by such parties, on the basis of the share of water owned by such party.

That each party shall bear his own costs herein incurred.

That a decree may be prepared, based upon the pleadings as filed herein, and in conformity with those points herein agreed upon, and that this suit may be settled, without trial, upon the bases of such decree, said decree to have been approved by counsel for each side prior to its presentation to the Court for final approval.

Dated this 21st day of May, 1954.

O. J. Keeley
Myrtle Keeley
PLAINTIFFS.
Ray W. Rigby
ATTORNEY FOR PLAINTIFFS.

Les J. Browning
Charles Browning
Morris Slaymaker
Thelma Slaymaker
DEFENDANTS
Leonard O. Kingsford
ATTORNEY FOR DEFENDANTS.

BEFORE THE DEPARTMENT OF WATER ADMINISTRATION FOR

THE STATE OF IDAHO

IN THE MATTER OF PROTEST AGAINST)
APPROVAL OF APPLICATION FOR)
TRANSFER CLAIM TO WATER RIGHT)
#22-4003 IN THE NAME OF O. J.)
NEELEY RANCH, INC.)
-----)

The applicant, O. J. NEELEY RANCH, INC., having filed with this department an application to change the point of diversion and place of use of the above claim to a water right, and George H. Browning having filed a protest against approval of said application for the purpose of clarifying the ownership of the waters in Pony Creek;

The parties involved, O. J. Neeley Ranch, Inc., and George Browning and Phebe Browning stipulate and agree to the following:

1. The parties acknowledge and hereby refer to a decree dated May 1, 1954, wherein it was decreed that the maximum flow of Pony Creek was approximately 960 miner's inches of water; that O. J. Neeley and Myrtle Neeley were vested with title to 435 miner's inches of the waters of Pony Creek based on a maximum flow of 960 inches, such interest to be decreased proportionately to any decrease in the total flow of water at any given time. And that George Browning and Phebe Browning, husband and wife, were vested with title to 300 miner's inches of water, such interest to be
To be decreed

And that Morris Slaymaker and Thelma Slaymaker were vested with 225 miner's inches of the waters of Pony Creek, such interest to be decreased proportionately to any decrease in the total flow.

2. That the applicant, O. J. NEBLEY RANCH, INC., has purchased all title and interest to the waters of Pony Creek which were vested in O. J. Neeley and Myrtle Neeley, husband and wife, and in Morris Slaymaker and Thelma Slaymaker, husband and wife.

3. That George Browning and Phebe Browning continue to have all right, title and interest in and to 300 miner's inches out of the maximum flow of 960 inches, such interest to be decreased proportionately to any decrease in the total flow of water at any given time.

4. That George Browning and O. J. Neeley Ranch, Inc., have for over five years last past diverted and used the full flow of the waters of Pony Creek for domestic and agricultural purposes.

5. That as between the parties, except as provided in paragraph 6, O. J. Neeley Ranch, Inc., is vested with title to 660 miner's inches of the waters of Pony Creek based on a maximum flow of 960 inches, or $11/16$ ths of the flow at any given time, such interest to decreased proportionately to any decrease in the total flow of water at any given time, and that George Browning and Phebe Browning are vested with title to 300 miner's inches of the waters of Pony Creek based on a maximum flow of 960 inches, or $5/16$ ths of the flow at any given time, such interest to be decreased proportionately to any decrease in the total flow of water at any given time.

6. That George Browning and Phebe Browning agree to allow O. J. Neeley Ranch, Inc., the use of all the waters of Pony Creek during the spring of each year up until the time that the Brownings begin to irrigate. When the Brownings begin to irrigate then each

of the parties shall have the right to use their respective shares as provided in paragraph 5. At that point in time when the waters of Pony Creek no longer reach Canyon Creek, then the Brownings shall have full use of said waters except for what O. J. Neeley Ranch, Inc., needs to water its stock. It is further agreed that O. J. Neeley Ranch, Inc., shall open a roadway to the point of diversion of said waters for the use by both parties and shall install a dividing gate at the point of diversion in order that the waters may be divided as agreed herein.

7. That George Browning and Phebe Browning withdraw the protest filed against the application of O. J. Neeley Ranch, Inc. ²²⁻⁰⁶¹⁰ for the transfer of water right, No. 22-4003, ^{and} waiver further protest on the condition that their water rights are ^{GH/8} not lost or injured in any way by said transfer.

8. That the parties agree to be bound according to the above referenced decree regardless of whether any rights under the decree are transferred.

Dated this 18th day of February, 1974.

O. J. NEELEY RANCH, INC.

By Dwain J. Neeley
Its President

George Browning
George Browning

Phebe Browning

STATE OF IDAHO,)
 SS.
County of Madison.)

On this 18th day of February, 1974, before me, the undersigned, Notary Public in and for said State, personally appeared

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 22-629
Date Received: 4/26/2000
Receipt No:
Received By:

Renumbered from 22-2017

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name of Claimant(s)

ELVA CRAIN Phone: (208)458-4480
2627 E 100 N
TETON ID USA 83451

DEAN CRAIN Phone: (208)458-4480
2627 E 100 N
TETON ID USA 83451

2. Date of Priority: 09/07/1906

3. Source: PONY CREEK Trib. to: CANYON CREEK

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County	Type
06N	43E	32	NE NE	MADISON	

5. Description of diverting works:

DIVERSION PUMP IN CREEK

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
IRRIGATION	4/15	10/15	2.5	
STOCKWATER	4/15	10/15	0.04	

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

8. Total consumptive use:

9. Non-irrigation uses:

10. Place of use:

Township	Range	Section	1/4 of 1/4 Lot	Use	Acres
----------	-------	---------	----------------	-----	-------

SCANNED

JUN 29 2007

06N	43E	32	NE	NE	STOCKWATER	
			NW	NE	STOCKWATER	
			SW	NE	STOCKWATER	
			SE	NE	STOCKWATER	
			NE	NE	IRRIGATION	25
			NW	NE	IRRIGATION	39
			SW	NE	IRRIGATION	21
			SE	NE	IRRIGATION	40
					Section Acres	125
					Total Acres	125

11. Place of use in counties: MADISON

12. Do you own the property listed above as place of use? No

13. Other Water Rights Used:

14. Remarks:

LICENSE INCLUDES UNSPECIFIED DOMESTIC USE.
DOMESTIC USE SPECIFIED AS STOCKWATER 200 RANGE CATTLE BY CLAIMANT

This right is renumbered from former right 22-2017 .

15. Basis of Claim: License

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Claim Report 22-2017

WATER RIGHT NUMBER: 22-2017

<u>Owner Type</u>	<u>Name and Address</u>
Original Owner	JOHN WEAVER REXBURG, ID 83440
Original Owner	DORA WEAVER REXBURG, ID 83440
Current Owner	ELVA CRAIN 2627 E 100 N TETON, ID 83451 (208)458-4480
Current Owner	DEAN CRAIN 2627 E 100 N TETON, ID 83451 (208)458-4480
Original Owner	CARTER RANCH C/O WALTER CARTER PO BOX 826 ASHTON, ID 83420 (208)652-7234
Original Owner	TRACY CARTER PO BOX 826 ASHTON, ID 83420 (208)652-7234

Priority Date: 09/07/1906

Basis: License

Status: Active

<u>Source</u>	<u>Tributary</u>
PONY CREEK	CANYON CREEK

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
STOCKWATER	4/15 to 10/15	0.040 CFS	
IRRIGATION	4/15 to 10/15	2.500 CFS	
	<u>Total Diversion:</u>	2.500 CFS	

Location of Point(s) of Diversion

PONY CREEK	NE1/4NE1/4	Sec. 32, Twp 06N, Rge 43E, B.M.
MADISON County		

Place of Use

STOCKWATER

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
06N	43E	32	X	X	X	X													

SCANNED

JUN 29 2007

IDAHO DEPARTMENT OF WATER RESOURCES
Adjudication Claim Report 22-2017

IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				Totals
06N	43E	32	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	125.0
			25.0	39.0	21.0	40.0													

Total Acres: 125

Conditions of Approval:

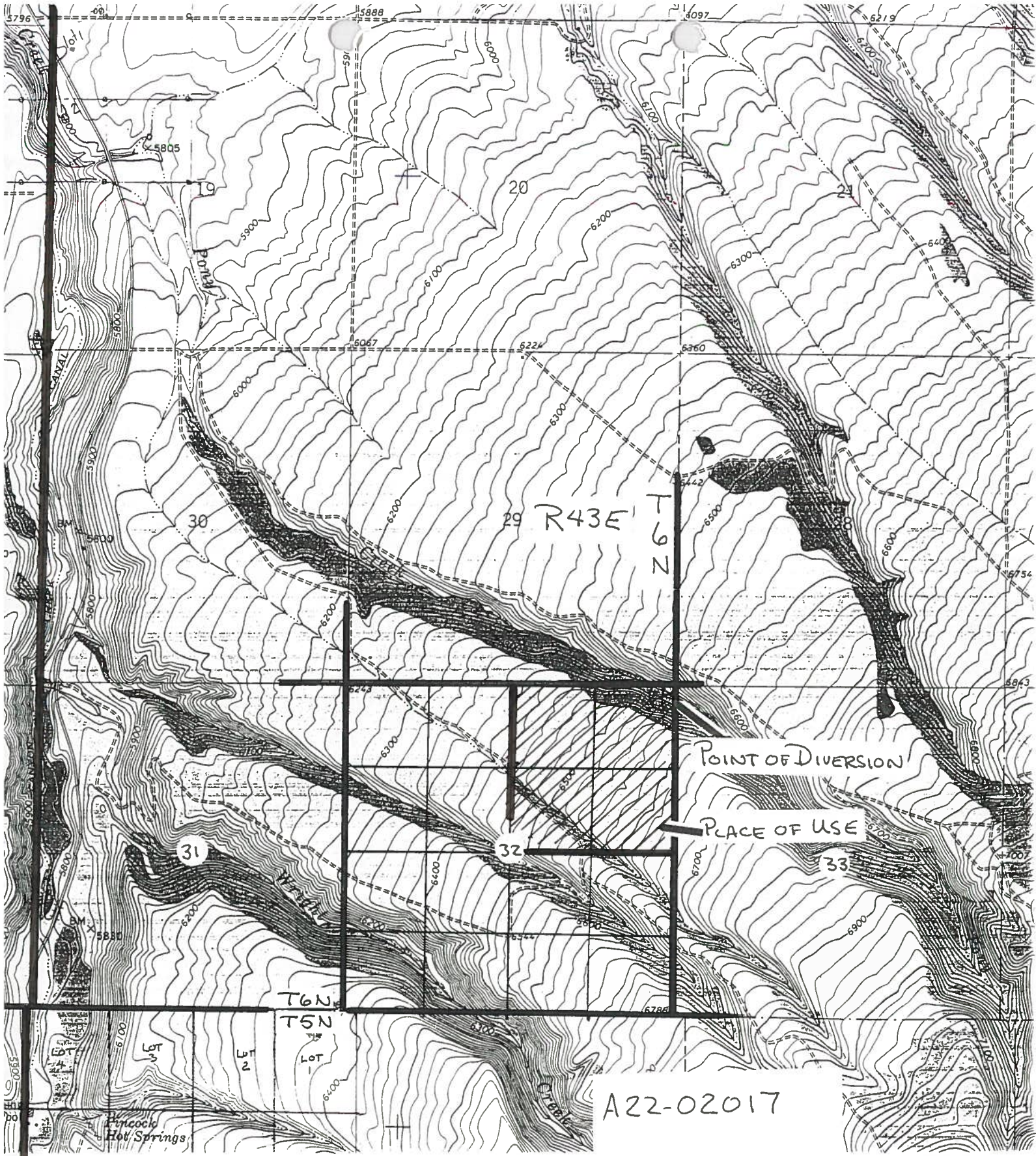
1. LICENSE INCLUDES UNSPECIFIED DOMESTIC USE.
DOMESTIC USE SPECIFIED AS STOCKWATER 200 RANGE CATTLE BY CLAIMANT

Remarks:

Comments:

Water Supply Bank:

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