

03/06/2003

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

RIGHT NUMBER: 29-4159

NAME AND ADDRESS: HARDCASTLE FAMILY TRUST
675 N 8TH E
PRESTON ID 83263

SOURCE: SPRING

TRIBUTARY: PORTNEUF RIVER

QUANTITY: 0.020 CFS

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

PRIORITY DATE: 06/01/1920

POINT OF DIVERSION:

T09S R37E S20 SWNW Within BANNOCK County Source: SPRING

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE
STOCKWATER

PERIOD OF USE
01/01 12/31

QUANTITY
0.020 CFS

PLACE OF USE: STOCKWATER Within BANNOCK County

T09S R37E S20 Lot 4 SWNW

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 IS NOT A
DETERMINATION OF HISTORICAL BENEFICIAL USE.

EXPLANATORY MATERIAL: Beneficial Use

T9S 37E

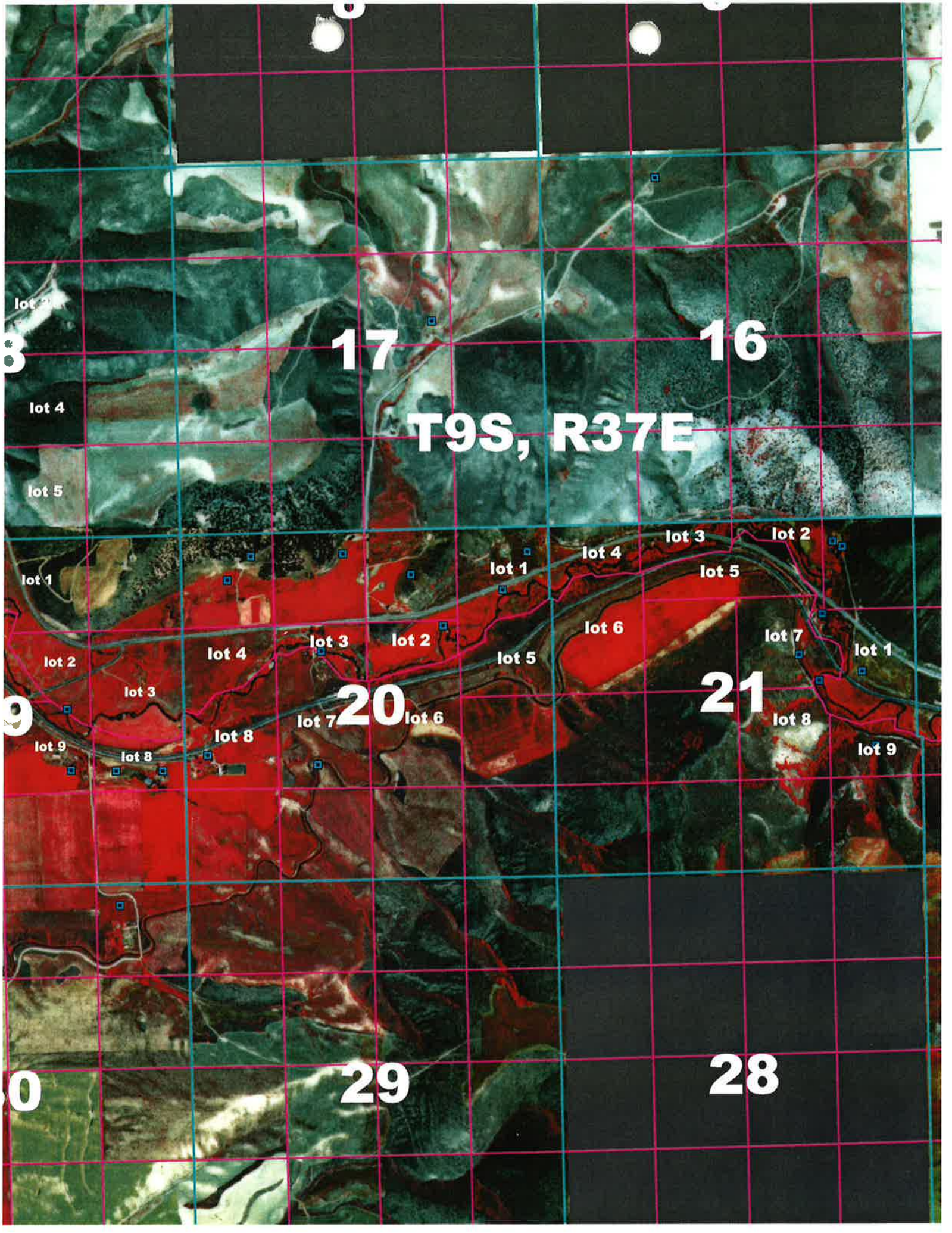
17 16

19 20

30 29

T9S

37E



17

16

T9S, R37E

20

21

29

28

lot 2

lot 4

lot 5

lot 1

lot 2

lot 3

lot 4

lot 3

lot 2

lot 1

lot 4

lot 3

lot 2

lot 5

lot 6

lot 5

lot 6

lot 7

lot 8

lot 8

lot 9

lot 7

lot 1

lot 8

lot 9

02/18/2003

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: April 21, 2003

Water right number: 29-4159

HARDCASTLE FAMILY TRUST

675 N 8TH E

PRESTON ID 83263

Telephone Number: (208)852-2455

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

Change Recommendation to allow stockwater

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

~~Recommend Pool South of river of POB AT SENW Sec 20~~

~~(So of River lot)~~

~~cts/ac~~

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:

3-3-03

SIGNATURE:

A Leon Hardcastle

Please print your name:

A Leon Hardcastle

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

*OK Done
3/6/03*

[Signature]

PROFILED

SCANNED

MAR 21 2006

29-4159

19-1-82

Qs: ① Actual Ac.

② Flow Meas.

① THE ORIGINAL 243 CLAIM FILED BY ROSOR JOHNSON, FEB. 1980 CLAIMS 0.40 cfs irrig on 10 AC (TWICE ALLOWABLE DIV RATE/AC BY STATUTE §42-220 IC AND BY THE UNION GRANT ... DECREE (CIRCA 1932). THEREFORE, 29-4159 WILL BE CONSIDERED AT 1/AC OR 0.02 cfs/AC, AND, BASED ON ACTUAL ACRES IRRIGATED AND THE MEASURED FLOW OF THIS CLAIMED SOURCE. BEST CASE (BASED ON .4 cfs) IS 20 ACRES.

→ ② EVIDENCE OF PRIORITY IS REQUIRED (letter sent, 1/31/01, B. Contor). AS OF 4/5/01 NO RESPONSE TO PRIORITY REQUEST. 9/20/02 DISALLOWED.

MEASUREMENTS MUST

CONFIRM FLOW →

③ ORIGINAL 243 CLAIM AND SRBA CLAIM BOTH ADDRESSES STOCKWATER AT 0.02 cfs AS AN ADDITIVE VALUE TO 0.40 cfs FOR IRRIG.

④ 29-04159 FILED AS PPL WITH OTHER RIGHTS AS:

~~29-200~~ DISALLOWED - SOS 29-13224 City of McCammon

29-4157

~~29-13145~~ DISALLOWED - NOTHING TO UNLANSU -

THERE EXISTS A QUESTION OF VALIDITY OF ALL OF THESE CLAIMS. PART OF THIS QUESTION IS CONTROVERSED AROUND THE CUTLER DITCH RIGHTS.

a.) ARE THERE / WHERE THERE ANY? 29-247, 248 → 29-12053
29-55, 56 → 29-11253

NO. b.) ACCOMPLISHED CHANGES IN SOURCES & PDD? WHEN

c.) DID ANY ACCOMPANYING % FOR 29-4157 STATES "... CUTLER DITCH RIGHTS WITHHELD."

1.) WHAT HAPPENED TO THEM? SOLD TO ANONOUS

2.) WHOSE NAMES / WHERE? NO TRANSFER FILED

3.) SPLITS, TRANSFERS, ANYTHING TO FOLLOW THEM? NO

FILED

FEB 25 2005

CLANNED

29-4159 Statutory Claim (BU) CONTINUED

8/13/02 VISITED CLAIMED POD/SOURCE. NO MEANS TO
DIVERT AND FLOW ESTIMATED @ 1 GALLON/5 MIN.

SOURCE IS A SPRING OUT IN THE HAY FIELD
ABOUT 100'. A DRAIN DITCH ABOUT 3' DEEP
CARRIES FLOW TO PORTNEF RIVER.

3/7/03 Aview stockwater
NOB

SCANNED
FEB 25 2005

PROFILE



IDAHO DEPARTMENT OF WATER RESOURCES

SNAKE RIVER BASIN ADJUDICATION - BASIN 29



RIGHT ID
POD ID
Quad
Claim Type
Easting
Northing
GPSID

Diversion Description

Assumptions

Invoice #

Phase-0 (No Attention)
Phase-I (Ready to Go to Field)
Phase-II (Site Visit - Data Missin)
Phase-III (Complete w/issues)
Phase-IV (Total Complete)

Linked
Photos

EPE (ft)

Date (M/D/Y)

Time

Flow Rate (CFS)

0

Open Channel Flow

☐ Complete one box from both Area and Calculation sections

Cross Sectional Area

☐ Circular Channel

- ☐ Less than half full
- ☐ Half full
- ☐ More than half full
- ☐ Full

Diameter

Depth

☐ Rectangular Channel

Width

Depth

Flow Calculation

☐ Continuity

Velocity

☐ Orifice

(Use only for head over a pipe flowing full with free discharge)

Depth of Water above orifice centerline

☐ Weir

(Use only for water flowing freely over weir)

Height of water above nappe

Width of weir

☐ Manning (If used, include photo of representative channel section)

Channel Slope

Channel Description	Concrete lined	.016
	Smooth earth	.025
	Earth	.033
	Rough bed, weeds on sides	.04
	Smooth natural stream	.033
	Rough natural stream	.1

SCANNED

FEB 25 2005

Pumped System

☐

HP

Pressure Head (psi)

Elevation Head (ft)

Motor Mfg

Motor Serial #

Pump Type

Pump Mfg

Pump Serial#

New Contact Information

☐

New Contact Comments

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PROFILED

SCANNED

JUN 06 2001

MEMORANDUM

To: File 29-200
File 29-4159
File 29-13145
Hardcastle split of 29-4157
Fr: Bryce Contor
Date: 1/31/2001
Re: Cutler Ditch

Bryce

City of McCammon

Hardcastles came in today in response to a request for a more complete chain of title for a Notice of Change of Ownership for a portion of 29-4157, and to file claims on 29-200 and 29-4159, which appear to be appurtenant to this land but have not previously been claimed in the Adjudication.

The deed specifically excludes "Cutler Ditch Water" from the sale. AJ query indicates that an entity called "Cutler Ditch" has several AJ claims, and the names in the files appear to be neighbors of Hardcastles. A search of "Cutler Ditch" on the Secretary of State website failed to produce a result, so apparently the Cutler Ditch is not a formally organized entity.

29-200 is noted in the decree as delivered via the Cutler Ditch, but it is neither decreed to nor claimed by Cutler Ditch nor any of the identified owners of Cutler Ditch. At this point I interpret this to mean 29-200 was a private right originally conveyed via the Cutler Ditch but not owned by the Ditch association. On that assumption, I accepted AJ claim 29-200 with an accomplished change in POD to the heading of the current delivery ditch.

Hardcastles have not owned this property long and are not certain exactly where the Cutler Ditch is, but the current users appear to be on the north side of the highway. The current delivery ditch for Hardcastles' land is on the south of the railroad.

The 1987 NAPP clearly indicates more acres of irrigation than the combination of 29-200, 29-4159, and Hardcastles' portion of 29-4157. At this point it is unclear whether this irrigation was from Cutler Ditch shares owned by Hardcastles' predecessors, and retained in the deed, or whether this is a beneficial use right.

I accepted claim 29-13145 as a beneficial use claim, with the intention that if evidence is not provided, it still may be possible to recommend some of it as an enlargement. I cautioned the claimants that the exclusion of the "Cutler Ditch" water in the deed (copy in Notice of Change of Ownership 29-4157) is problematic.

Harold Jones is familiar with some of the history of the Cutler Ditch, and indicated that watermaster Arlin Olsen says the Cutler Ditch had severe leakage and water seldom made it as far down the ditch as this general area. Jones says the Cutler Ditch claims were filed by Roger Johnson and there is not actually a Cutler Ditch association to his knowledge. Jones also relates that Ken Andrus and his brother have inquired about a transfer of the Cutler Ditch rights which they have purchased or intend to purchase, Jones told them to wait until the AJ determines what the rights may actually be.

NO!

Canal

OF WHAT?

*Mid Ohio Soc.
to Andrus!
Document too.*



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

MEMORANDUM

To: Hardcastle Family Trust
Fr: Bryce Contor
Date: 1/31/2001

Re: Evidence of Priority

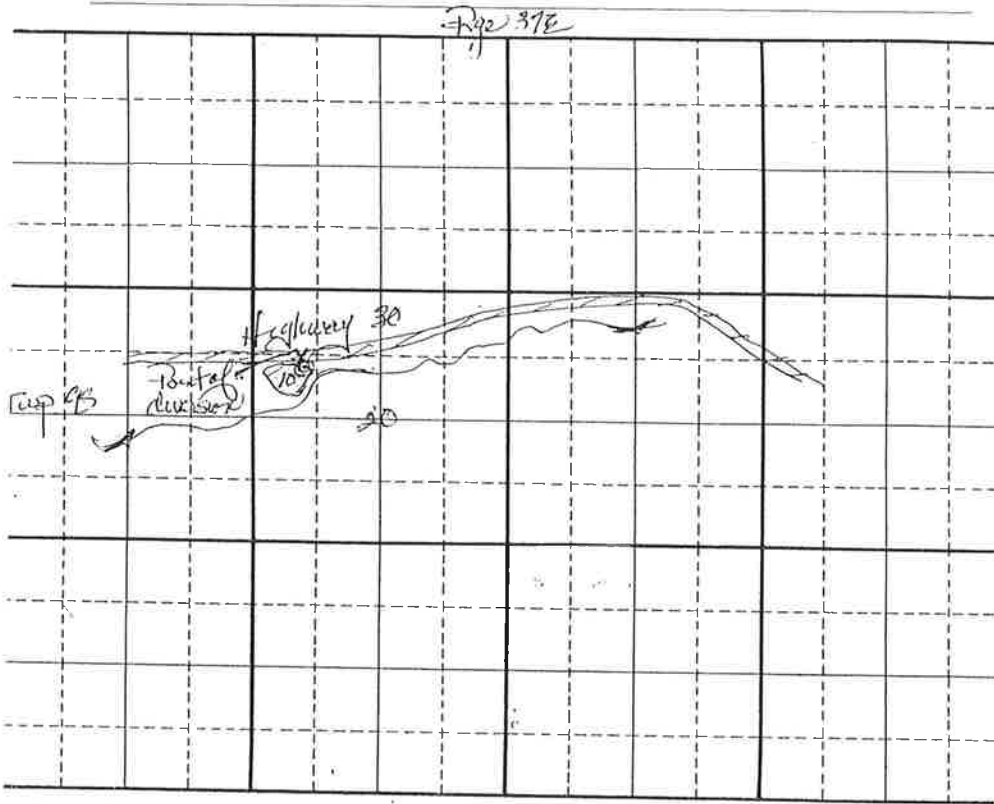
In order to recommend adjudication claims 29-4159 and 29-13145, we need documentation of the earliest date that water was put to beneficial use as claimed. The enclosed pamphlet describes some sources that may help.

If the documentation is an affidavit from a person who personally saw or performed the beneficial use of the water, some details are very important:

- The affidavit needs to clearly state "I saw..." or "I irrigated..."
- Details of dates and circumstances are very important.
- Any recollection of how much water was used, how many acres were irrigated, the type of system used and irrigation performed, is useful.
- The affidavit needs to carefully indicate where the water was used.

It will also be very helpful if you can find out the history of the use of Cutler Ditch water and use of water that was separate and independent from the Cutler Ditch water.

(8) Remarks _____



Scale: 2 inches equal 1 mile.

Map should show the location of the point of diversion and the place of use of the water by 40-acre subdivisions, section, township and range of the public land survey system.

State of Idaho)
County of Bonneville) ss.

Be it known that the undersigned, being duly sworn, deposes and says that he, she, they subscribed the foregoing claim to a water right, together with all attached information, and that the matters and facts therein are true to the best of the affiant's knowledge.

Sworn to before me this 25 day of February, 1980.

Roger Johnson
(Claimant)
Kathleen A. (Chapman)
Notary Public
Residing at Alabo Falls

My commission expires life

FOR DEPARTMENT USE ONLY			
Received by <u>AK</u>	Date <u>2-25-80</u>	Exception filed by:	Forwarded to
Prelim. check by <u>EMC</u>	Date <u>2-26-80</u>		claimant by:
\$20.00 fee received by <u>KW</u>	Date <u>2/25/80</u>	#13810	
Published in <u>Idaho State Journal</u>			
Dates <u>3/6 & 3/13/80</u>			

JUN 06 2001

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 29-4159
Date Received: 1/31/01
Receipt No: E026451
Received By: SAC

A2904159

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

1. Name of Claimant(s)

HARDCASTLE FAMILY TRUST Phone: (208) 852-2455

675 N 8TH EAST
PRESTON ID USA 83263

2. Date of Priority: 06/01/1920

*Producers Union Claim & Etc.
DESCEND (CIRCA 1932)*

3. Source: SPRING Trib. to: PORTNEUF RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County	Type
09S	37E	20	SW NW	BANNOCK	

5. Description of diverting works:

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
IRRIGATION	4/01	11/01	0.4	
STOCKWATER	1/01	12/31	0.02	

7. Total Quantity Appropriated is:
0.42 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
09S	37E	19	SE	NE 3	IRRIGATION	27
Section Acres						27

09S	37E	20	SE	NE	5	IRRIGATION	21
			SE	NW	3	IRRIGATION	3
			SW	NW	4	IRRIGATION	25
			SW	NW	7	IRRIGATION	45
			NW	SE	6	IRRIGATION	48
			NW	SW	8	IRRIGATION	15
			NE	SE		IRRIGATION	32
			SE	SE		IRRIGATION	0.5
			SW	SE		IRRIGATION	35
						Section Acres	224.5
09S	37E	21	SW	NE	7	IRRIGATION	0.1
			SE	NW		IRRIGATION	18
			NW	SW		IRRIGATION	3.3
			NW	NE	5	IRRIGATION	17
			SW	NW	6	IRRIGATION	37
						Section Acres	75.4
						Total Acres	326.9

11. Place of use in counties: BANNOCK

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

13. Other Water Rights Used:

14. Remarks:

CLAIMED ON PERMISSIBLE PLACE OF USE BASIS WITH 29-200 AND ~~31~~²⁹-4157. THIS CLAIM IS FOR 10 ACRES PER ORIGINAL RIGHT ~~31~~²⁹-4159. SEE ALSO BENEFICIAL USE CLAIM FOR SAME LANDS, PER AERIAL PHOTO.

(29-1345) 29

15. Basis of Claim: Statutory Claim

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 X wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments: One aerial photograph, copy of statutory claim.

For Organizations:

I do solemnly swear or affirm that we are Trustees of Hardcastle Family Trust, that we have signed the foregoing document in the space below as Trustees of Hardcastle Family Trust and that the statements contained in the foregoing document are true and correct.

Alice B. Hardcastle
Signature of Authorized Agent

Trustee, Hardcastle Family Trust

Alice B. Hardcastle
Date

Alice B. Hardcastle
Signature of Authorized Agent

Trustee, Hardcastle Family Trust

1-31-01
Date

State of Idaho)
County of Bonneville) SS.

Subscribed and sworn (or affirmed) before me this 31 day

of Jan 2001

Bryce A. Contor
Notary Public

Residing at Med Lake ID

My commission Expires 10/14/05

