

10/25/2002

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

RIGHT NUMBER: 29-4271

DISALLOWED

NAME AND ADDRESS: DELENE C COVERT
769 FAIRWAY DR
POCATELLO ID 83201

SOURCE: SPRING

TRIBUTARY: SINKS

QUANTITY: ~~0.000 CFS~~ 0.35 cfs.

PRIORITY DATE: 04/01/1955

POINT OF DIVERSION: 1940

T11S R37E S2 NWNW Within BANNOCK County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE
IRRIGATION

PERIOD OF USE
04/01 10/31

QUANTITY
0.35 cfs.

PLACE OF USE: IRRIGATION Within BANNOCK County

T11S R37E S02

NENW

T11S R37E S02

NWNW

T11S R37E S02

SWNW

~~0.0~~ 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.

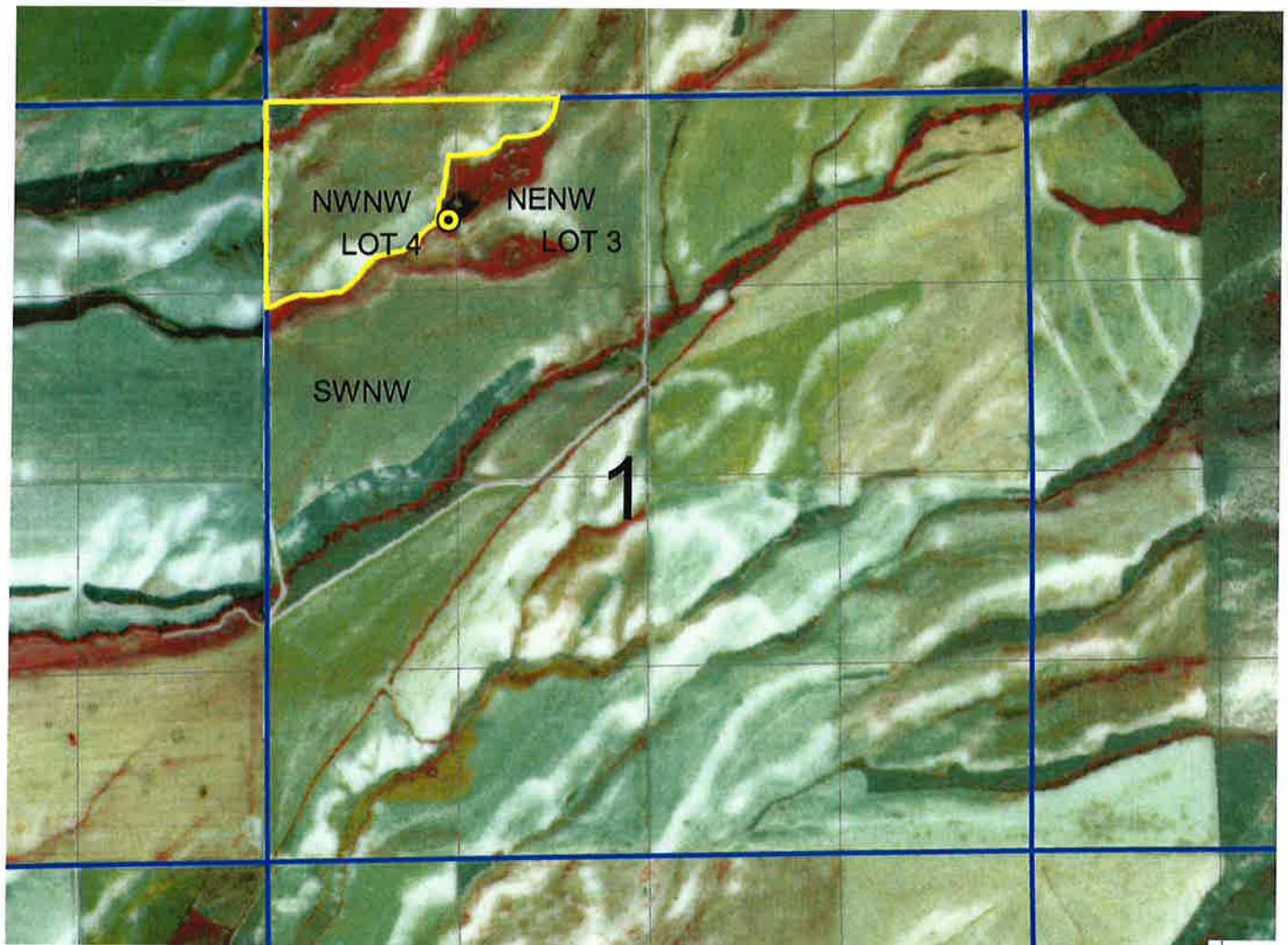
NO BENEFICIAL USE FOUND: This is included for a claim based on beneficial use that is PROPOSED to be disallowed because beneficial use of water was not confirmed by IDWRs field examination or by other evidence submitted by the claimant.

NO BENEFICIAL USE FOUND.

EXPLANATORY MATERIAL: Beneficial Use

DEPARTMENT OF WATER RESOURCES

Claim No.: 29-4271

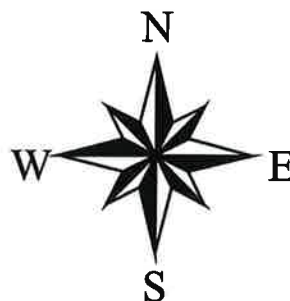


0 1320 2640 3960 5280 Feet

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-  Point of diversion.shp
-  Place of use.shp
-  Sections
-  QQ



GIS Place of Use Illustration
1987/1988 NAPP Photography
Prepared by: E. Carlsen
Date: May 2004

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

RIGHT NUMBER: 29-4271

NAME AND ADDRESS:

DOROTHY CURTIS TRUST
769 FAIRWAY DR
POCATELLO ID 83201

~~DELENE C COVERT~~

SOURCE:

Source:
SPRING

Tributary:
SINKS

QUANTITY:

0.350 CFS ~~0.000 CFS~~

0.000 AFY

PRIORITY DATE:

04/01/1940

~~04/01/1955~~

POINT OF DIVERSION:

~~T11S R37E S2 NWNW~~

~~Within BANNOCK County~~

T11S R37E S2 SENWNW Lot 4

Within BANNOCK County

PURPOSE AND
PERIOD OF USE:

Purpose of use

Period of use:

Quantity:

IRRIGATION

04/01 10/31

0.350 CFS

~~0.000 CFS~~

PLACE OF USE:

IRRIGATION

within BANNOCK County

~~T11S R37E S02 NENW 0.0~~

T11S R37E S02 NENW Lot 3 4.7

~~T11S R37E S02 NWNW 0.0~~

T11S R37E S02 NWNW Lot 4 34.0

T11S R37E S02 SWNW 0.4

~~T11S R37E S02 SWNW 0.0~~

39.1 ACRES TOTAL

~~0 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.

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~~NO BENEFICIAL USE FOUND: This is included for a claim based on beneficial use that is PROPOSED to be disallowed because beneficial use of water was not confirmed by IDWRs field examination or by other evidence submitted by the claimant.~~
~~NO BENEFICIAL USE FOUND.~~

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use

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 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
29-04271					

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**.

See attached Dorothy Curtis Trust

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) is 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) **Delene C. Covert - Previously**
Guy and Dorothy Curtis, both now deceased
4. New Owner/Claimant(s) **Dorothy Curtis Trust**
Name Connector (Check one): ☐ and, ☐ or, ☐ and/or
c/o Delene C. Covert, Trustee
- New Mailing Address **769 FairwayDr., Pocatello, ID 83201**
- City, State and ZIP Code **769 FairwayDr., Pocatello, ID 83201**
- New Telephone Number **() 208-237-6142**
5. Date you acquired the property **February 10, 2000**

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enault

6. If the change in ownership affects the entire water right for each water right or adjudication claim number listed in item 1, THEN SKIP THIS ITEM AND GO TO ITEM 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 (one water right per box, you may copy this page as 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(s) will not be split, skip this area and proceed to item 7)		
Water Right and/or Adjudication Claim Number _____		
Water Use	Diversion Rate or Volume (cubic feet per second or acre-feet per annum)	Description (acres, number and type of stock, homes, etc)
Irrigation	_____	_____
Stock	_____	_____
Domestic	_____	_____
Other _____	_____	_____
Total	_____	_____

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

7. Signature of New Owner(s) or Claimant(s) *Delene C. Covert*
(include title if applicable)
Delene C. Covert, Trustee of the
Dorothy Curtis Trust

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.

For Office Use Only

Received by _____	Date _____	Fee _____
Received by _____	Date _____	Receipt No. _____
Processed by _____ AJ	Date _____	WR _____ Date _____

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JAN 26 2005

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

RECEIVED

MAY 14 2004

Department of Water Resources

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

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Water Right No(s).	Adjudication Claim No(s).	Split	Water Right No(s).	Adjudication Claim No(s).	Split
<u>29-04271</u>	_____	___	_____	_____	___
_____	_____	___	_____	_____	___
_____	_____	___	_____	_____	___
_____	_____	___	_____	_____	___
_____	_____	___	_____	_____	___

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**.

See attached Dorothy Curtis Trust

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).

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3. Name and Address of Former Owner/Claimant(s) Delene C. Covert - Previously
Guy and Dorothy Curtis, both now deceased
4. New Owner/Claimant(s) Dorothy Curtis Trust
Name Connector (Check one): [] and, [] or, [] and/or
c/o Delene C. Covert, Trustee
 New Mailing Address 769 FairwayDr., Pocatello, ID 83201
 City, State and ZIP Code
 New Telephone Number () 208-237-6142
5. Date you acquired the property February 10, 2000

*Changed
5/28/04
JC
SFS sent
5/28/04*

6. **If the change in ownership affects the entire water right for each water right or adjudication claim number listed in item 1, THEN SKIP THIS ITEM AND GO TO ITEM 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 (one water right per box, you may copy this page as 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.

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Total	_____	_____

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Irrigation	_____	_____
Stock	_____	_____
Domestic	_____	_____
Other _____	_____	_____
Total	_____	_____

7.

Signature of New Owner(s) or Claimant(s) *Delene C. Covert*
(include title if applicable)

**Delene C. Covert, Trustee of the
Dorothy Curtis Trust**

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.

For Office Use Only

Received by *AM*Date 5/14/04Fee 25.00Received by *AM*Date 5/14/04Receipt No. 0073859

Processed by _____

AJ

Date _____

WR _____

Date _____

THE AMENDED AND RESTATED DOROTHY CURTIS TRUST

THIS AMENDED AND RESTATED TRUST AGREEMENT is made this 3rd day of May, 2002, by DOROTHY J. CURTIS, as Grantor of the Dorothy Curtis Trust dated February 10, 2000. The Dorothy Curtis Trust is hereby amended and restated as set forth herein. Delene C. Covert shall remain as Trustee.

ARTICLE 1: CREATION OF TRUST

1.01 Initial Trust Estate. By this Agreement, Grantor assigns, conveys, transfers and delivers to the Trustee the property described in Schedule "A" attached hereto and the Trustee accepts such property as the initial trust estate. Such property shall be held IN TRUST and shall be administered and distributed upon the terms and conditions herein set forth.

1.02 Character of Property. The property described in Schedule "A" is the sole property of Grantor, except as otherwise may be noted in Schedule "A", and shall retain its character as such in the trust estate.

1.03 Additions to Trust. Grantor or any other person may from time to time transfer or devise additional property to the Trustee upon the terms of this Trust Agreement.

1.04 Name of Trust. The trust hereby created shall be known as THE AMENDED AND RESTATED DOROTHY CURTIS TRUST.

ARTICLE 2: ADMINISTRATION AND DISPOSITION OF TRUST ESTATE DURING GRANTOR'S LIFE

2.01 Powers Reserved by Grantor.

(a) Amendment. While Grantor is living, this Agreement may be amended in any respect by an instrument signed by Grantor and delivered to the Trustee.

(b) Revocation. While Grantor is living, the trust created by this instrument may be revoked, in whole or in part, by an instrument signed by Grantor and delivered to the Trustee. Upon revocation, the Trustee shall promptly distribute to Grantor all or the designated portion of the property comprising the trust estate.

(c) Scope of Powers. The powers reserved by Grantor under this Article are exercisable in Grantor's absolute discretion and neither the Trustee nor any beneficiary hereunder shall have any right or power to enforce or object to the exercise of such powers.

2.02 Distributions of Income and Principal.

During the lifetime of Grantor, the Trustee shall hold, manage, invest and reinvest the Trust Estate, collect the income therefrom, and pay to Grantor, or apply for Grantor's benefit, so much of the net income and principal as she may request or as the Trustee may determine to be necessary for her medical care, maintenance, support, and reasonable comfort in her accustomed manner of living.

ARTICLE 3: ADMINISTRATION AND DISTRIBUTION FOLLOWING DEATH OF GRANTOR.

Distribution to Family. Upon the death of Grantor, and after the payment of expenses and taxes as provided in Article 4, the property then comprising the trust estate that has not been effectively disposed of shall be distributed as follows:

- (1) The 1.83 acres (Tax Parcel No. RDCPD000201) north of my former home at 157 North Main in Downey, Idaho, including the shop building and access through the alley, I devise and bequeath to DEANNE CHRISTENSEN and DELENE COVERT, share and share alike.
- (2) Proceeds from the sale of the former Bob Morrison house at 156 N. 200 East and my mobile home at 142 N. 200 East (Tax Parcel RDDOW012400, Lots 12 and 13 plus 10' of Lot 11 Block 35, Township of Downey) I devise and bequeath to DEANNE CHRISTENSEN and DELENE COVERT to be set aside exclusively for them within this trust, in their names.
- (3) My interest in property identified as the Weston land, located in Section 16, 17, T12S R37E (Tax Parcel R4471009600), I bequeath and devise to my daughter DEANNE CHRISTENSEN. My interest in the property identified as the Dad Curtis Farm, located in Section 7, 18, T12S R37E (Tax Parcel Nos. R4471010400, R4471005100, and R4471010000), I bequeath and devise to my daughter, DELENE COVERT.
- (4) The bequests made to each of my daughters in the above paragraphs are subject to the right of my son, ROBERT CURTIS, of first refusal to buy each of such places at the values appraised, and on such terms and conditions as are mutually agreeable to each of DEANNE CHRISTENSEN and DELENE COVERT.
- (5) My interest in the property identified as the Christensen Place, located in Section 2, T11S R37E (Tax Parcel Nos. R4433000500 and R4433000702), I bequeath and devise to DEANNE CHRISTENSEN and DELENE COVERT. My interest in the property identified as the Jones Field (Tax Parcel No. R4263021900) and the Davis

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Field (Tax Parcel No. R4263021800), located in Section 35, T10S R37E, I bequeath and devise to the children of my son ROBERT GUY CURTIS, being CAROLYN CURTIS, GUY CURTIS, and CARL CURTIS, in Trust until each has reached the age of majority. My daughter DELENE COVERT shall act as Trustee of the Trust.

(6) The bequests made to the children of ROBERT GUY CURTIS are subject to the right of my daughters, DEANNE CHRISTENSEN and DELENE COVERT, of first refusal to buy any such properties at the values appraised, and on such terms and conditions as are mutually agreeable to the parties.

(7) The remainder of the trust estate shall be divided equally in three shares, one share to DEANNE CHRISTENSEN, one share to DELENE C. COVERT, and one share to the children of ROBERT G. CURTIS, being CAROLYN CURTIS, GUY CURTIS, and CARL CURTIS, equally.

(8) In the event any of the above trust beneficiaries predecease Grantor, their share shall go to their surviving issue by right of representation.

(9) JOY C. HADLEY is not provided for in this trust, as she received her inheritance during Grantor's life.

ARTICLE 4: PAYMENT OF EXPENSES AND TAXES.

Upon the death of Grantor, the Trustee shall pay (1) the expenses of Grantor's last illness, funeral and burial; (2) all inheritance, estate and other death taxes that may become payable by reason of such Grantor's death, and all unpaid income and gift taxes, and (3) the expenses of administering such Grantor's estate. Said expenses shall be paid before making distributions pursuant to Article 3.

ARTICLE 5: PROVISIONS RELATING TO DISTRIBUTION OF TRUST ASSETS

5.01 Distributions During Administration. During the period after the death of Grantor and before final distribution to the residual beneficiaries, the Trustee may distribute all, none or any part of the net income of the Trust Estate to those persons who would have been entitled to receive such income, and any powers herein granted to the Trustee to allocate income and invade principal shall be exercisable by the Trustee.

5.02 Distribution or Continuation in Trust. Any assets or shares of any trust that, by reason of a person's attained age or death or otherwise, would already have become distributable by the trustee of such trust if such trust had previously been established, shall be distributed upon their receipt by the trustee of such trust, or, if they have become distributable prior to the establishment of such trust, may be distributed directly by the trustee without requiring that such trust be established or that distribution be made by the trustee of such trust.

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5.03 Distribution to Minors and Disabled Persons.

(a) Grant of Permissive Authority. If any property hereunder at any time vests outright under the provisions of this instrument in a minor or in a person who, in the judgment of the trustee, is unable to effectively manage or apply his estate to necessary ends, then the trustee, in its discretion, in any jurisdiction, without giving or requiring bond, without intervention of a guardian, conservator or other representative, and without supervision of any Court, may hold or distribute such property in accordance with Article 5.03(b).

(b) In Trust. The trustee may hold any protected property in a separate trust for such person, exercising as trustee of such trust all the administrative powers conferred in this instrument upon the trustee. The trustee shall pay to such person all, none or such part of the net income and principal of such trust as the trustee may in its discretion from time to time determine. Such trust shall terminate when such person attains majority and becomes able, in the judgment of the trustee, to effectively manage and apply his estate to necessary ends, or when such person dies, or when the trust assets are exhausted by discretionary distribution or otherwise. Upon such termination, the trustee shall distribute all property then belonging to such trust to such person or, if the trust terminates at such person's death, to the personal representative of such person's estate.

5.04 Discretion of Fiduciaries. Discretionary powers are exercisable in the discretion of the trustee and no beneficiary shall have any right or power to enforce or object to the reasonable exercise of such powers.

ARTICLE 6: TRUSTEE

6.01 Resignation of Trustee. Any Trustee may resign from office at any time by giving written notice, delivered in person or mailed to the last known address of Grantor and each beneficiary then receiving or who would then be eligible in the discretion of the trustee to receive the income of such trust, such resignation to be effective upon the acceptance of the Trusteeship by a properly designated substitute trustee. Notice shall be effectively given in the case of a beneficiary who is under a legal disability if given to the parent, guardian or other person or institution having custody of such beneficiary.

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6.02 Substitute Trustee. Grantor intends that DELENE C. COVERT be the sole trustee. In the event DELENE C. COVERT becomes deceased or incapacitated, the substitute trustee shall be DEANNE CHRISTENSEN.

6.03 Powers of Substitute Trustees. Every substitute trustee shall have all the title, rights, powers, privileges and duties herein conferred or imposed upon the original trustee without any act of conveyance or transfer. No substitute trustee shall be obligated to examine the accounts, records and acts of any previous trustee or any allocation or any trust estate, nor shall such substitute trustee be required to proceed against a previous trustee for any act or omission to act on the part of such previous trustee.

6.04 Bonds Waived. Each trustee, including substitutes, shall be permitted to qualify without the necessity of giving a bond or other undertaking in this or any other jurisdiction for the faithful performance of such trustee's duties, or if any bond shall be required by law, statute or rule of Court, without the necessity of sureties thereon.

ARTICLE 7: POWERS OF BENEFICIARIES WITH RESPECT TO TRUST ASSETS

7.01 Disclaimer. Any beneficiary under this instrument may disclaim, in whole or in part, any gift, interest, right or power under this instrument. In the event of any disclaimer of any interest in any trust established under this instrument, the property to which such disclaimer is made, shall be disposed of in the manner provided in this instrument as though the person disclaiming had not survived.

7.02 Spendthrift Clause. Except as to Grantor's retained interests, no principal or income payable or to become payable under any trust established under this instrument may be assigned or encumbered by any beneficiary thereof, or be attached by or subjected to the interference or control of any creditor of such beneficiary or reached by any legal or equitable process in satisfaction of any debt or liability of such beneficiary prior to its actual receipt by such beneficiary.

ARTICLE 8: ADMINISTRATION OF TRUSTS

8.01 Administration of Trust. Each trust created by this instrument shall be administered free and clear from the active supervision of the Court having jurisdiction over such trust. This provision shall not limit the power of the trustee to take action for the judicial settlement of its accounts or the power of any beneficiary to bring suit for an accounting.

8.02 Administrative Powers of Trustee. In addition to the powers it would otherwise have by reason of any statute or rule of law, the Trustee shall have power, without prior authorization or approval of any Court, to do everything it shall consider advisable in the management of each trust created by this instrument, even though it would not otherwise be authorized for trustees under any statute or rule of law, including in this grant, without impairing its plenary nature, the following powers:

(a) Tax Elections. To make all elections and to take all other appropriate actions with respect to taxation of every kind applying to Grantor or the trust estate.

(b) Method of Payment. To pay or apply any money or other property payable to any person, including but not limited to persons under a legal disability, (1) through payment directly to such person, even though he may be under a legal disability; (2) to any parent, guardian, committee, conservator or other personal representative of such person, or to any adult person with whom such person resides; (3) through direct expenditure, for example, for the purchase of and payment of premiums on policies of insurance on the life of such person owned by such person or his conservator or custodian, or through payment to doctors, nurses, hospitals, schools or other persons or institutions supplying them with food, shelter, care or maintenance, or other goods, property or services of any kind, not limited to necessities; or (4) to any custodian of the property of such person, including custodians acting pursuant to the Idaho Uniform Gifts to Minors Act or similar statutes; and the receipt of any such payee shall be a full discharge for all property so paid or applied.

(c) Occupancy of Real Property. To permit any person having any interest in any trust to occupy any real property forming part of such trust upon such terms as the Trustee shall consider proper, whether rent free or in consideration of the payment of taxes, insurance, maintenance and ordinary repairs, or otherwise.

(d) Distribution in Kind. To make distributions in kind or in specific property, real or personal, or in undivided interests therein, or partly in cash and partly in such property or interests therein, even if shares be composed differently. Except as otherwise expressly provided, the trustee shall have absolute discretion in the selection of property to be allocated in satisfaction of any gift without regard to the income tax basis of such property and shall not be required to adjust the amount

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of any gift in order to compensate for the income tax liability inherent in appreciated property distributed in kind in satisfaction of such gift.

8.03 Release of Powers. Every administrative power created by this instrument is releasable in whole or in part, temporarily or irrevocably. Any such release may be accomplished by a written instrument filed with the records of the trust or by any other method allowed by law.

8.04 Reports. Periodic reports shall be rendered by the trustee to each beneficiary eligible to receive the current income, showing the assets then held as the principal of the trust and all of the receipts, disbursements and distributions during the period. Such reports shall be rendered not less frequently than annually. Reports to any beneficiary who is under a legal disability may be rendered directly to such beneficiary or to any parent, guardian, committee, conservator or other personal representative of such beneficiary, or to any adult person with whom such beneficiary resides. The records of the Trustee with respect to each trust shall be open at all reasonable times to the inspection of the beneficiaries of such trust and their accredited representatives.

ARTICLE 9: CONSTRUCTIONAL RULES

9.01 Issue. "Issue" means all persons who are descended from the person referred to for purposes of intestate succession as determined under the laws of Idaho as those exist on the date of Grantors' death. However, for the purposes of the foregoing, an adopted person shall be considered as descended from the person referred to only if he had been adopted while under the age of 18.

9.02 Distributions by Representation. In every case in which any interest is given to the issue of a person, distributions (other than discretionary distributions of income and principal among the members of a class) shall be made by representation. Whenever a distribution to issue is to be made by representation, the distributable assets shall be divided into as many shares as there are, at the time such assets are distributable, then living children of such person and then deceased children of such person who left issue who are then living, even if at such time all children of such person are then deceased, and each living child of such person, if any, shall receive one share, and the share of each then deceased child shall be distributed to such child's issue collectively, such issue taking by representation the share which their parents should have taken if living.

9.03 Determination of Distributees. If under any provision of this instrument a distribution of any trust estate is to be made to the issue of any person, the trustee shall make distributions to

those persons whom it believes, after making such inquiry as it thinks reasonable, to be the persons so described, or if after making such inquiry it believes there is no such person, it may act upon such assumption. The trustee shall not be obliged to secure judicial ascertainment of the identity of such issue or the lack thereof and shall be immune from all liability which it might otherwise incur by reason of making distribution without the aid of judicial settlement of decree.

9.04 Court Decrees. All decrees of adoption of persons under the age of 18 when such decrees are rendered and all decrees of divorce at any time rendered by Courts of record shall be considered valid for all purposes of this instrument.

9.05 Child in Gestation. A child in gestation who is later born alive shall be considered as a living child throughout the period of gestation.

9.06 Trustee. Unless a contrary meaning or reference shall be expressly indicated or clearly implied from the context, the term "trustee" and the pronoun "it" in reference to trustee always refer interchangeably to the male or female person or persons or to the institution or any combination of them then acting as trustee of any trust established hereunder.

9.07 Governing Law. The laws of the State of Idaho shall govern all questions as to the validity and construction of this instrument and of all trusts created by this instrument.

9.08 Other Principles of Construction. Words in any gender shall be deemed to include the other genders; the singular shall be deemed to include the plural and vice versa; the words "pay" and "distribute" shall also mean assign and convey; and the table of contents, headings and paragraph titles are for guidance only and shall have no significance in the interpretation of this instrument.

IN WITNESS WHEREOF, the parties have executed this instrument on the day and year first above written.

GRANTOR:

Dorothy J. Curtis
DOROTHY J. CURTIS

TRUSTEE:

Deleene C. Covert
DELENE C. COVERT

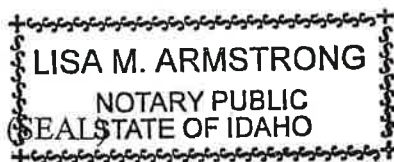
STATE OF IDAHO)

: ss

County of Bannock)

On this 3rd day of May, 2002, before me, the undersigned, a Notary Public in and for said State, personally appeared DOROTHY J. CURTIS, Grantor, and DELENE C. COVERT, Trustee, known to me to be the persons whose names are subscribed to the foregoing and acknowledged to me that they executed the same.

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



Lisa M. Armstrong
NOTARY PUBLIC FOR IDAHO
Residing at Portillo Idaho
My Commission expires: 2-1-07

SCHEDULE "A"

Personal Property:

1. 1993 Toyota Camry
2. First Security Bank Checking Account No. 004-11099-50
3. Merrill Lynch Account Nos. 24F10188, 24F11149, and 24F11712
4. 1992 Guerdon 27 X 44 Mobile Home

Real Property:

- | | |
|---|--|
| 1. Parcel No. R4433000702
TR NW4SW4 Tax 3 7.58 AC
S2-T11S-R37E | 7. Parcel No. R4433000500
TAX 2 153.27 AC
S2-T11S-R37E |
| 2. Parcel No. R4471009600
TR S2NW4 TAX 3 193.94 AC
S16-T12S-R37E | 8. Parcel No. R4471010000
TR E2NE4 TAX 5 25 AC
S17-T12S-R37E |
| 3. Parcel No. RDCPD000201
TR NE4SW4 TAX 96 1.83 AC
S27-T11S-R37E | 9. Parcel No. R4471005100
TR LOT 4 TAX 1 18.25 AC
S7-T12S-R37E |
| 4. Parcel No. R4263021900
NW4 160 AC
S35-T10S-R37E | 10. Parcel No. R4471010400
LOTS 1 & 2 112.88 AC
S-18-T12S-R37E |
| 5. Parcel No. R4263021800
TR SW4 TAX 2 158 AC
TR SW4 TAX 1 2.0 AC
S35-510S-R37E | 11. Parcel No. MH004001600 |
| 6. Parcel No. RDDOW012400
N10' LOT 11
LOT 12 & 13
BLOCK 35
TOWNSITE OF DOWNEY | |

LAW OFFICES OF

**RACINE, OLSON, NYE, BUDGE & BAILEY
CHARTERED**

LOUIS F. RACINE, JR.
WILLIAM D. OLSON
W. MARCUS W. NYE
RANDALL C. BUDGE
JOHN A. BAILEY, JR.
JOHN R. GOODELL
JOHN B. INGELSTROM
DANIEL C. GREEN
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CENTER PLAZA-CORNER FIRST & CENTER
POST OFFICE BOX 1391
POCATELLO, IDAHO 83204-1391

TELEPHONE (208) 232-6101
FACSIMILE (208) 232-6109

SENDER'S E-MAIL ADDRESS: rcb@racinelaw.net

BOISE OFFICE

CONRAD J. AIKEN
THEODORE C. PETERS
DEBORAH L. LEHOSIT
LISA R. TANNER (CA ONLY)

101 SOUTH CAPITOL
BOULEVARD, SUITE 208
BOISE, IDAHO 83702
TELEPHONE: (208) 395-0011
FACSIMILE: (208) 433-0167

IDAHO FALLS OFFICE

477 SHOUP AVENUE
SUITE 203A
IDAHO FALLS, ID 83402
TELEPHONE: (208) 528-6101
FACSIMILE: (208) 528-6109

May 10, 2004

Candice McHugh
Deputy Attorney General
Idaho Department of Water Resources
P.O. Box 83720
Boise, Idaho 83720-0098

Ernest Carlson
Water Right Analyst
Idaho Department of Water Resources
900 N. Skyline Drive
Idaho Falls, Idaho 83402

Re: *Dorothy Curtis Trust/Water Right No. 29-4271*

Dear Candice and Ernie:

This will follow up on our discussions following the initial hearing on this matter April 22, 2004.

At the conclusion of our discussions, Ernie indicated that if we would submit a letter from Delbert Christensen setting forth his personal knowledge and observations concerning the irrigation practices, a SF5 Settlement Agreement could be entered into providing for this water right with the claimed April 1, 1940 priority date and a quantity of 0.35 cfs. The place of use will be identified based upon the map prepared by Delbert Christensen and attached to his letter.

Accordingly, I am enclosing a sworn letter signed by Delbert Christensen with attached map.

Also enclosed is a Form 42-248 Notice of Change in Water Right Ownership, together with our check in the amount of \$25 for filing fees. This is to reflect the Dorothy C. Curtis Trust is the

SCANNED

JAN 26 2005

FILED

May 10, 2004

Page 2

proper owner, in care of Delene C. Covert, Trustee. Delene C. Covert inadvertently filed the claim in this matter in her name individually, although her intent was to file as trustee of the Trust.

Based on this information, would you kindly prepare and forward a proposed SF5 Settlement Agreement. If you have any questions or need additional information, please contact me. Thank you for your cooperation and assistance in settling this matter.

Sincerely,



RANDALL C. BUDGE

RCB:rr

Enclosures

cc: Delbert Christensen
Delene C. Covert

PLANNED

JAN 26 2005

PROFILED

Delbert Christensen
6012 W. 10050 N.
Highland, Utah 84003

May 7, 2004

Ernest Carlson
Water Right Analyst
Eastern Region
Idaho Department of Water Resources
900 N. Skyline Drive
Idaho Falls, Idaho 83402

*Re: Dorothy C. Curtis Trust
Subcase No. 29-04271*

Dear Mr. Carlson:

This letter is written pursuant to your request following our discussions at the initial hearing of this subcase held before Special Master Brigitte Bilyeu on April 22, 2004. The claimant is the Dorothy Curtis Trust. Dorothy J. Curtis died in December, 2002. She was predeceased by her husband Guy Curtis, who died in 1985. Guy and Dorothy Curtis filed a Form 243 "Claim to a Water Right" on November 24, 1982. The information contained in this claim was the basis of the Claim to Water Right No. 29-4271 filed by Delene C. Covert as Trustee of the Dorothy Curtis Trust. Delene C. Covert and my wife Deanne Christensen are the daughters of Guy Curtis and Dorothy J. Curtis and are the beneficiaries of the Dorothy Curtis Trust. At their request I assisted them in preparing and filing the Standard Form 1 Objection. The information contained in the attached Statement in Support of the Objection, together with the attached Exhibits A, B and C are true and correct to the best of my knowledge, information and belief.

To further substantiate and support the Trust's Water Right Claim No. 29-4271, particularly the claimed priority date of April 1, 1940, you requested I send you this letter to set forth and confirm my personal observations and knowledge of the irrigation practices.

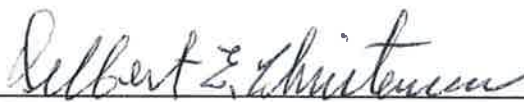
I was raised in the area and as a small boy remember seeing in the early 1950s a Minneapolis Moline diesel tractor with a portable pump located in the south end of the pond in the NW1/4 NW1/4, Section 2, Township 11 South, Range 37 East, Bannock County, Idaho. The tractor and pump were used to pump water from the pond into a 1/4 mile hand line sprinkler which was used to irrigate land located to the north and west of the pond. I estimate approximately 48 acres were irrigated as described in the Notice of Claim. Attached is a map which identifies the pond, the location of the tractor and pump, and the irrigated land.

PROFILED

SCANNED
JAN 26 2005

Ernest Carlson
Page 2
May 7, 2004

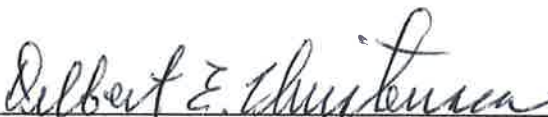
The same irrigation practices continued and I was on the property more frequently beginning in 1962, when my wife Deanne and I were married. The same irrigation practices continued by my father-in-law Guy Curtis until the property was put in the Conservation Reserve Program in the fall of 1986. The property has remained in the CRP program under four different contracts which currently run through September 30, 2007. A copy of the CRP contracts are attached as Exhibit B to the Standard Form 1 Objection. The water was not used while the property was enrolled in the CRP program, at which time there was no abandon or forfeiture in accordance with Idaho law.



DELBERT CHRISTENSEN

STATE OF IDAHO)
 : ss
County of Bannock)

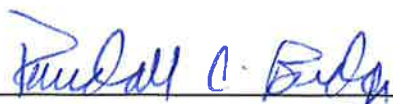
The undersigned, being duly sworn, deposes and says that the foregoing information and the matters and facts therein are true and correct to the best of his knowledge, information and belief.



DELBERT CHRISTENSEN



SUBSCRIBED AND SWORN TO before me this 12th day of May, 2004.



NOTARY PUBLIC FOR IDAHO,
Residing at Pocatello.
My Commission Expires 10/11/2006.

cc: Randall C. Budge
Candice McHugh, Deputy Attorney General
Delene C. Covert, Trustee

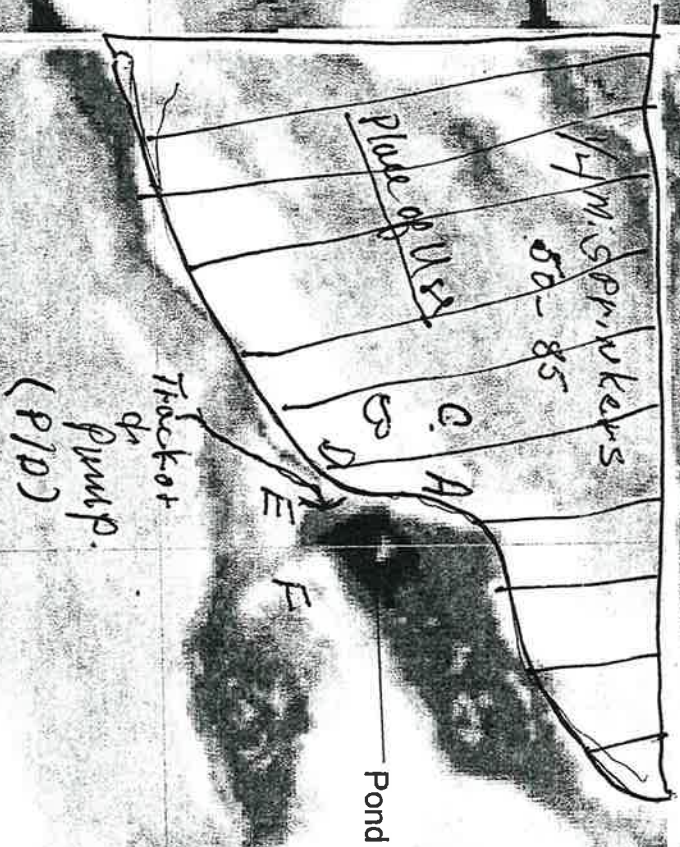
PROFILED

SCANNED
JAN 26 2005

HOMP

NEW

NOV 16



PROTECTED

SCANNED
JAN 26 2005

34 35

3 2

T10S, R37E

T11S, R37E

COVERT, DELENE C TRUSTEE FOR



NW



NE

SCANNED
JUN 9 2004

RECEIVED

MAY 14 2004

Department of Water Resources
BOISE OFFICE

CONRAD J. AIKEN
THEODORE C. PETERS
DEBORAH L. LEHOSIT
LISA R. TANNER (CA ONLY)

101 SOUTH CAPITOL
BOULEVARD, SUITE 308
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May 10, 2004

Candice McHugh
Deputy Attorney General
Idaho Department of Water Resources
P.O. Box 83720
Boise, Idaho 83720-0098

Ernest Carlson
Water Right Analyst
Idaho Department of Water Resources
900 N. Skyline Drive
Idaho Falls, Idaho 83402

Re: *Dorothy Curtis Trust/Water Right No. 29-4271*

Dear Candice and Ernie:

This will follow up on our discussions following the initial hearing on this matter April 22, 2004.

At the conclusion of our discussions, Ernie indicated that if we would submit a letter from Delbert Christensen setting forth his personal knowledge and observations concerning the irrigation practices, a SF5 Settlement Agreement could be entered into providing for this water right with the claimed April 1, 1940 priority date and a quantity of 0.35 cfs. The place of use will be identified based upon the map prepared by Delbert Christensen and attached to his letter.

Accordingly, I am enclosing a sworn letter signed by Delbert Christensen with attached map.

Also enclosed is a Form 42-248 Notice of Change in Water Right Ownership, together with our check in the amount of \$25 for filing fees. This is to reflect the Dorothy C. Curtis Trust is the

SCANNED

JUN 10 2004

May 10, 2004
Page 2

proper owner, in care of Delene C. Covert, Trustee. Delene C. Covert inadvertently filed the claim in this matter in her name individually, although her intent was to file as trustee of the Trust.

Based on this information, would you kindly prepare and forward a proposed SF5 Settlement Agreement. If you have any questions or need additional information, please contact me. Thank you for your cooperation and assistance in settling this matter.

Sincerely,


RANDALL C. BUDGE

RCB:rr

Enclosures

cc: Delbert Christensen
Delene C. Covert

RECEIVED

MAY 14 2004

Department of Water Resources

Delbert Christensen
6012 W. 10050 N.
Highland, Utah 84003

May 7, 2004

Ernest Carlson
Water Right Analyst
Eastern Region
Idaho Department of Water Resources
900 N. Skyline Drive
Idaho Falls, Idaho 83402

*Re: Dorothy C. Curtis Trust
Subcase No. 29-04271*

Dear Mr. Carlson:

This letter is written pursuant to your request following our discussions at the initial hearing of this subcase held before Special Master Brigitte Bilyeu on April 22, 2004. The claimant is the Dorothy Curtis Trust. Dorothy J. Curtis died in December, 2002. She was predeceased by her husband Guy Curtis, who died in 1985. Guy and Dorothy Curtis filed a Form 243 "Claim to a Water Right" on November 24, 1982. The information contained in this claim was the basis of the Claim to Water Right No. 29-4271 filed by Delene C. Covert as Trustee of the Dorothy Curtis Trust. Delene C. Covert and my wife Deanne Christensen are the daughters of Guy Curtis and Dorothy J. Curtis and are the beneficiaries of the Dorothy Curtis Trust. At their request I assisted them in preparing and filing the Standard Form 1 Objection. The information contained in the attached Statement in Support of the Objection, together with the attached Exhibits A, B and C are true and correct to the best of my knowledge, information and belief.

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I was raised in the area and as a small boy remember seeing in the early 1950s a Minneapolis Moline diesel tractor with a portable pump located in the south end of the pond in the NW1/4 NW1/4, Section 2, Township 11 South, Range 37 East, Bannock County, Idaho. The tractor and pump were used to pump water from the pond into a 1/4 mile hand line sprinkler which was used to irrigate land located to the north and west of the pond. I estimate approximately 48 acres were irrigated as described in the Notice of Claim. Attached is a map which identifies the pond, the location of the tractor and pump, and the irrigated land.

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DELBERT CHRISTENSEN

STATE OF IDAHO)
 : ss
County of Bannock)

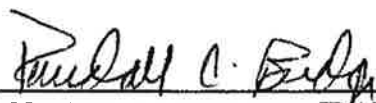
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DELBERT CHRISTENSEN

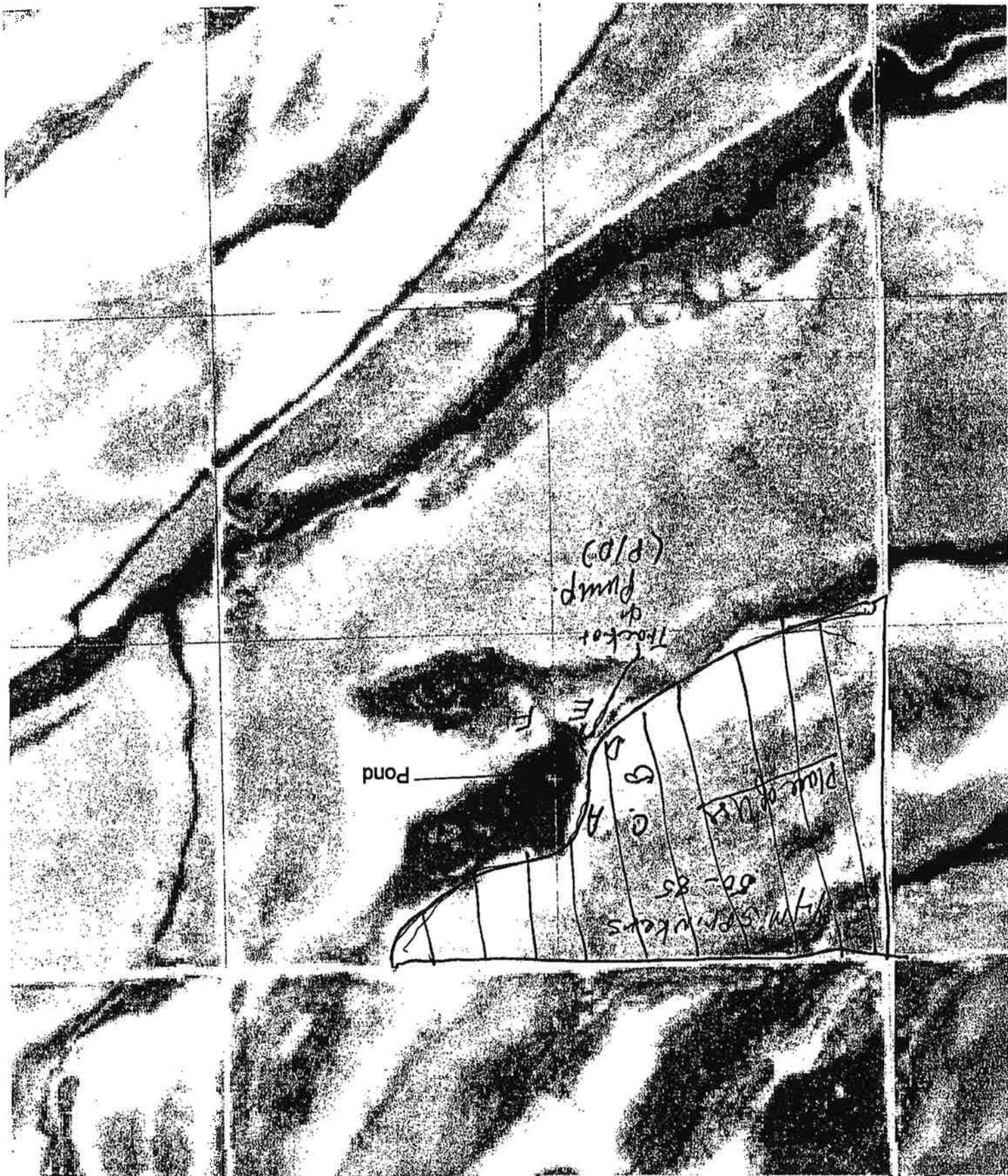


SUBSCRIBED AND SWORN TO before me this 12th day of May, 2004.



NOTARY PUBLIC FOR IDAHO,
Residing at Pocatello.
My Commission Expires 10/11/2006.

cc: Randall C. Budge
 Candice McHugh, Deputy Attorney General
 Delene C. Covert, Trustee



NEW 1
HOMER
11001

MEMORANDUM

DATE: July 24, 2003

FROM: Ernie Carlsen

TO: 29-4271

RE: Telecon with Delbert Christensen

The father of Mr. Christensen's wife owned and operated the property covered by this claim. He remembers the sprinkler irrigation system and believes the property was last irrigated in 1985 just a couple of years before the property was entered in CRP. I sent him an objection form and color aerial of the property. On the aerial photo he agreed to outline the land irrigated and to provide a written statement describing the irrigation system and when it actually started. He will submit this information along with the objection form.

There is no evidence of irrigation because the system was all portable consisting of a tractor pump, portable mainline and hand line.

150

29-4271 BU

I. Claims 1940 Priority - Evidence supports mid 1950's →?

A. Recommend BEGINNING OF IRRIGATION SEASON

AS: 4/1 1955. SOU 4/1 to 10/31.

II. MEASURES TAKEN - 0.56 cts on 4BAC

A. NO MEASURES TAKEN DUE TO TIME CONSTRAINTS

B. SPRING IS TEND TO SINKS, i. no injury.

III. RECOMMENDATION: THIS CLAIM IS DISALLOWED.

THERE IS NO PHYSICAL EVIDENCE OF IRRIGATION
SUCH AS DITCHES, PUMPS, PIPELINES, SPRINKLER PIPES.

VISITED THIS PROPERTY ON AUG. 8, 02 - NO BU
FOUND. ⇒ Pp 3

April 5, 2002

Mr. Ernie Carlson
IDWR, Eastern Region
900 N. Skyline Drive, Suite A
Idaho Falls, ID 83402

E027635
\$148-
4-12-02

RECEIVED
APR 12 2002
Department of Water Resources
Eastern Region

Dear Mr. Carlson,

On January 4, 2002 I met with you in your office to discuss filing Claim No. 29-4271 for retention of water rights. This meeting was a response to the letter I received from the Department of Water Resources, Civil No. 39576 – Second Round Service of Commencement Notice - Basin 29.

I am the trustee for my elderly mother's estate. She and her family want to preserve the water rights. I have followed your recommendation to find verification of water use on her land, known as the Christensen Place, located in Section 2, T11S R37E, (Tax Parcel Nos. R4433000500 and R4433000702) between the years 1940-1982. The attached letter provides a statement from my sister-in-law, wife at the time to my brother who worked that farm. Also included is a letter from Dale Criddle, who owned the farm just west of the property in question.

Enclosed, also, is a check in the amount of \$148.00 for the filing fee. Please advise what steps follow.

Respectfully,

Delene C. Covert

Delene C. Covert
769 Fairway Drive
Pocatello, ID 83201

Ph: 208-237-6142

enclosures

RECEIVED

APR 17 2002

Department of Water Resources
Eastern Region

RECEIVED
APR 16 2002
Department of Water Resources
Eastern Region

RECEIVED

APR 12 2002

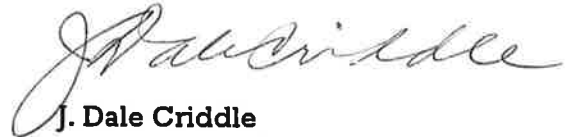
Department of Water Resources
Eastern Region

April 5, 2002

Mr. Ernie Carlson
IDWR Eastern Region
900 N. Skyline Drive, Suite A
Idaho Falls, ID 83402

Dear Mr. Carlson,

In 1953 I bought a farm just west of Guy Curtis' land which he called the Christensen Place. I remember seeing Guy irrigate with a pump from his tractor during the mid 1950's. I remember him getting his tractor with pump stuck in the water below the dam that held the water in the pond.



J. Dale Criddle
377 East 4 North
Downey, ID 83234

*Used as Priority
Envelopes*

RECEIVED

APR 17 2002

Department of Water Resources
Eastern Region

RECEIVED
APR 16 2002
Department of Water Resources
Eastern Region

RECEIVED
APR 12 2002
Department of Water Resources
Eastern Region

March 31, 2002

Mr. Ernie Carlson
IDWR Eastern Region
900 N. Skyline Drive, Suite A
Idaho Falls, ID 83402

Dear Mr. Carlson,

During the early 1970's I helped my husband, Robert Curtis, son of Guy Curtis, clean the pump which we were using to irrigate a portion of the Christensen Place.

*of no particular use
to Priority Data*

Janice Curtis

Janice Curtis

246 Warren Avenue
Pocatello, ID 83201

RECEIVED
APR 17 2002
Department of Water Resources
Eastern Region

RECEIVED
APR 16 2002
Department of Water Resources
Eastern Region

RECEIVED

APR 16 2002

Department of Water Resources
Eastern Region

April 13, 2002

Mr. Ernie Carlson
IDWR Eastern Division
900 N. Skyline Drive, Suite A
Idaho Falls, ID 83402

Dear Mr. Carlson,

In further response to filing claim No. 29-4271 for retention of water rights, I have enclosed one additional testimony which verifies the use of water on my mother's land, known as the Christensen Place, located in Section 2, T11S R37E (Tax Parcel Nos. R4433000500 and R4433000702).

This letter and the two I sent you earlier this week are in response to the letter I received from the Department of Water Resources, Civil No. 39576 – Second Round Service of Commencement Notice – Basin 29.

Thank you for your assistance in getting the claim filed.



Delene C. Covert
769 Fairway Drive
Pocatello, ID 83201

enclosure

April 9, 2002

RECEIVED

APR 16 2002

Department of Water Resources
Eastern Region

To whom it may concern:

I can recollect Guy Curtis using a tractor and pump to water land on his farm, which we call the Christensen Place, during the later 1960's and early 1970's. This water was pumped from a small pond on the West side of the property.

Sincerely,

Delbert E. Christensen

Delbert E. Christensen
6012 West 10050 North
Highland, Utah 84003

*no particular value
to priority date issue.*

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 29-4271
Date Received: 4/12/2002
Receipt No: E027635
Received By: JC

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name of Claimant(s)

DELENE C COVERT Phone: (208)237-6142
769 FAIRWAY DR
POCATELLO ID USA 83201

2. Date of Priority: 04/01/1940

3. Source: SPRING Trib. to: SINKS

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County	Type
11S	37E	2	NW 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	0.96	

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

8. Total consumptive use:

9. Non-irrigation uses:

A2904271



RECEIVED
APR 17 2002
Department of Water Resources
Eastern Region

11S

37E 2

NE NW
NW NW
SW NW

IRRIGATION 8
IRRIGATION 38
IRRIGATION 2

Section Acres 48

Total Acres 48

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:

PARCEL NOS. R4433000500 AND R4433000702

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.

RECEIVED
APR 17 2002
Department of Water Resources
Eastern Region

RECEIVED
APR 16 2002
Department of Water Resources
Eastern Region

Number of attachments: 3

For Individuals:

I/We do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

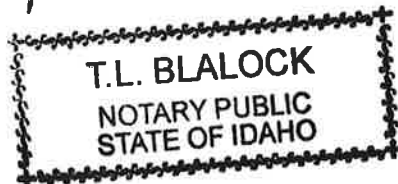
Signature of Claimant(s): Helen C. Covert Date: April 15, 2002

Date:

State of Idaho)

County of Bannock) SS.

Subscribed and sworn (or affirmed) before me this 15th Day
of April 2002 T.L. Blalock



Notary Public

Residing at Pocatello, ID

My commission Expires 12-2-2004

RECEIVED
APR 17 2002
Department of Water Resources
Eastern Region

RECEIVED
APR 16 2002
Department of Water Resources
Eastern Region