

11/19/2002

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

RIGHT NUMBER: 29-13141
NAME AND ADDRESS: KEVIN BAIRD
PO BOX 344
INKOM ID 83245

SHARON BAIRD
PO BOX 344
INKOM ID 83245

SOURCE: UPPER ROCK CREEK TRIBUTARY: PORTNEUF RIVER

QUANTITY: 0.030 CFS
THE QUANTITY OF WATER UNDER THIS RIGHT FOR STOCKWATER USE SHALL NOT EXCEED 13,000 GALLONS PER DAY.

PRIORITY DATE: 06/18/1902

POINT OF DIVERSION:
T08S R36E S11 NWNENE Within BANNOCK County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	04/01 10/01	0.030 CFS
STOCKWATER	01/01 12/31	0.020 CFS

PLACE OF USE: IRRIGATION Within BANNOCK County
T08S R36E S11 NENE 1.0
STOCKWATER Within BANNOCK County
T08S R36E S11 NENE

1 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: Beneficial Use

RIGHT INCLUDES ACCOMPLISHED CHANGE IN POINT OF DIVERSION PURSUANT TO SECTION 42-1425, IDAHO CODE.

11/06/2002

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

RIGHT NUMBER: 29-13141
NAME AND ADDRESS: WILLIAM NEALY
PO BOX 456
INKOM ID 83245

KAREN NEALY
PO BOX 456
INKOM ID 83245

SOURCE: UPPER ROCK CREEK TRIBUTARY: PORTNEUF RIVER
QUANTITY: 0.030 CFS
PRIORITY DATE: 06/18/1902
POINT OF DIVERSION:

T08S R36E S11 NWNENE Within BANNOCK County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	04/01 10/01	0.030 CFS
STOCKWATER	01/01 12/31	0.020 CFS

PLACE OF USE: IRRIGATION Within BANNOCK County
T08S R36E S11 NENE 1.0
STOCKWATER Within BANNOCK County
T08S R36E S11 NENE

1 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.

EXPLANATORY MATERIAL: Beneficial Use

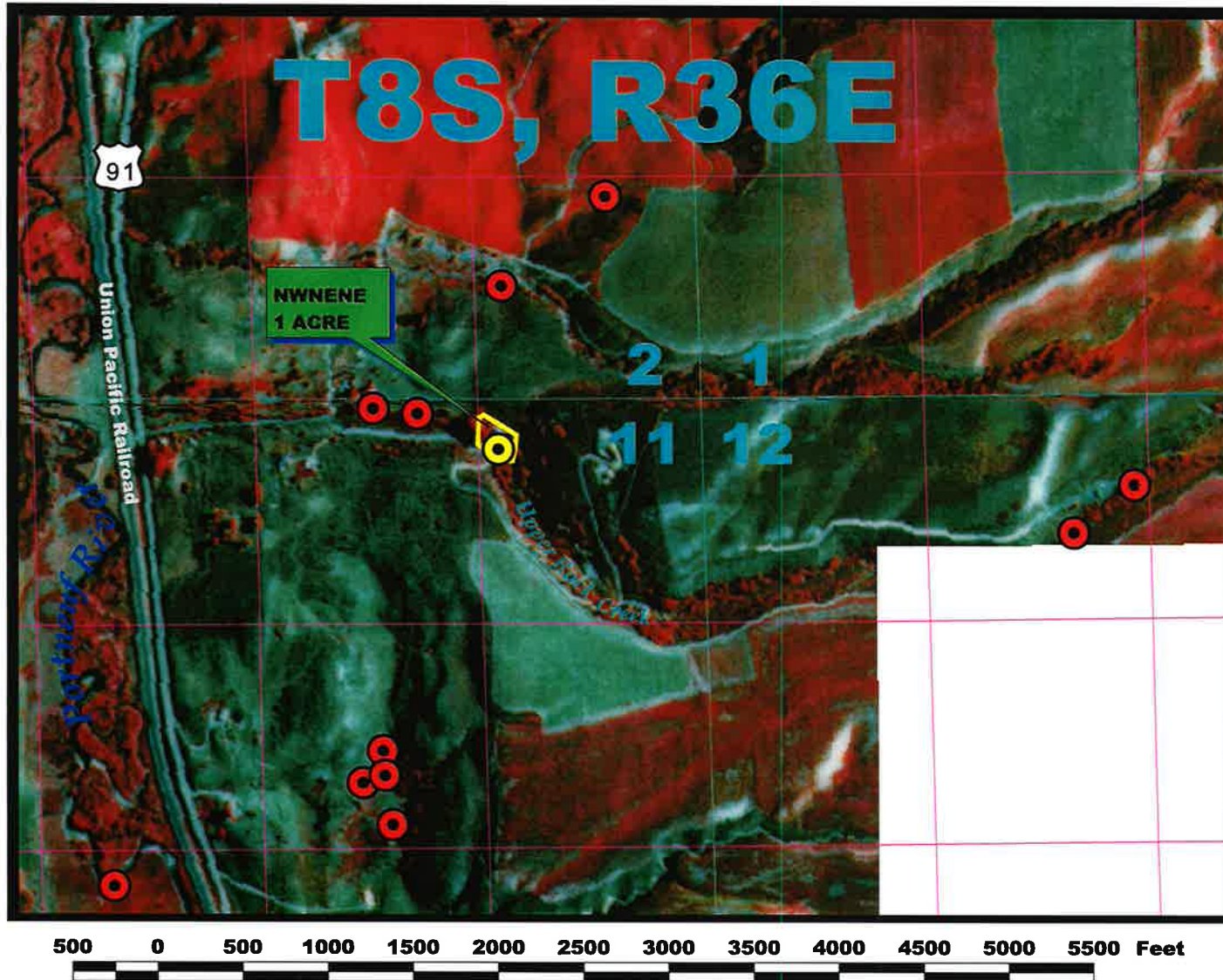
RIGHT INCLUDES ACCOMPLISHED CHANGE IN POINT OF DIVERSION
PURSUANT TO SECTION 42-1425, IDAHO CODE.



State of Idaho

Department of Water Resources

Eastern Region



Water Right(s):
29-13141

Place of Use: (part of) T8S, R36E
Sec. 11 NWNENE

Point(s) of Diversion: T8S, R36E
Sec. 11 NWNENE



LEGEND



Point of Diversion

SESE

Place of Use



Section



Quarter-Quarter



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

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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FILED *Am* SRBA
CO., IDAHO

whether the matter would be more appropriately processed administratively through the Idaho Department of Water Resources;

c. If the filing is ultimately deemed a sufficient motion, or in the event a new motion is filed in compliance with the applicable rule(s), the Special Master shall conduct all proceedings necessary to issue a recommendation as to the underlying merits. For example, if the Special Master concludes a partial decree should be set aside or amended, the recommendation should not only include that the partial decree be amended or set aside, but should also include how the elements of the water right should be partially decreed.

2. The original of this *Order* shall be placed in the subcase file and the file transferred to the Special Master for proceedings consistent with this *Order*.

3. The Special Master shall issue a *Special Master's Report and Recommendation* on the matter consistent with *AOI*.

IT IS SO ORDERED.

DATED May 25, 2004.



JOHN MELANSON
Presiding Judge
Snake River Basin Adjudication

CERTIFICATE OF MAILING

I certify that a true and correct copy of the ORDER OF REFERENCE TO SPECIAL MASTER BRIGETTE BILYEU was mailed on November 13, 2003, with sufficient first-class postage to the following:

IDWR
Eastern Regional Office
900 N Skyline Dr
Idaho Falls, ID 83402

IDWR Document Depository
PO Box 83720
Boise, ID 83720-0098

Joyce Orders
1744 S Old Hwy 91
Inkom, ID 83245

Jay Anthony
Goldie Anthony
PO Box 201
Inkom, ID 83245

Deloy Armstrong
Marjorie Armstrong
PO Box 204
Inkom, ID 83245

Kevin Baird
Sharon Baird
PO Box 344
Inkom, ID 83245

Tim Figone
Brenda Figone
PO Box 265
Inkom, ID 83245


Deputy Clerk

RECEIVED

MAY 26 2004

Department of Water Resources
Eastern Region

JUL 25 AM 10:36

FILED
CO., IDAHO

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 29-10594, 29-13117, 29-13138,
	)	29-13141, 29-11816 and 29-11817
Case No. 39576	)	ORDER OF REFERENCE TO SPECIAL
	)	MASTER BRIGETTE BILYEU

On May 24, 2003, this Court received Standard Form 1 Objections filed by Joyce Orders. Each of the Objections indicated the name and address of the claimant to the water rights for which Ms. Orders filed the objection, but no water right numbers were included. After a search of the SRBA data base, the Court has matched the claimant names and addresses to the following water right numbers: Jay and Goldie Anthony, water rights 29-10594 and 29-13117, **Partial Decrees** entered March 22, 2004; Deloy and Marjorie Armstrong, water right 29-13138, **Partial Decree** entered March 22, 2004; Kevin and Sharon Baird, water right 29-13141, **Partial Decree** entered March 22, 2004; and Tim and Brenda Figone water right 29-11816, **Partial Decree** entered March 22, 2004 and water right 29-11817, **Partial Decree** entered December 2, 1998.

THE FOLLOWING ARE HEREBY ORDERED:

1. That Brigitte Bilyeu is appointed Special Master to preside over the above-captioned water right claims for the following purposes:

a. To determine the intended purpose of the Standard Form 1 Objections. For example, the Special Master may determine whether the filing constitutes a motion to set aside a partial decree pursuant to I.R.C.P. 60(b), etc.;

b. To determine whether the filing complies with **SRBA Administrative Order 1 (AOI)** and the Idaho Rules of Civil Procedure or whether additional time should be granted to allow the party to file an appropriate motion with the Special Master and/or to obtain counsel in the matter; whether the matter should be dismissed on its face; or to determine

whether the matter would be more appropriately processed administratively through the Idaho Department of Water Resources;

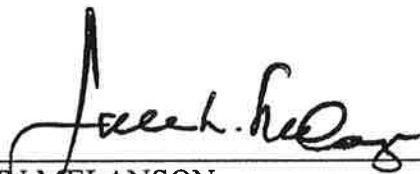
c. If the filing is ultimately deemed a sufficient motion, or in the event a new motion is filed in compliance with the applicable rule(s), the Special Master shall conduct all proceedings necessary to issue a recommendation as to the underlying merits. For example, if the Special Master concludes a partial decree should be set aside or amended, the recommendation should not only include that the partial decree be amended or set aside, but should also include how the elements of the water right should be partially decreed.

2. The original of this **Order** shall be placed in the subcase file and the file transferred to the Special Master for proceedings consistent with this **Order**.

3. The Special Master shall issue a **Special Master's Report and Recommendation** on the matter consistent with **AOI**.

IT IS SO ORDERED.

DATED May 25, 2004.



JOHN MELANSON
Presiding Judge
Snake River Basin Adjudication

CERTIFICATE OF MAILING

I certify that a true and correct copy of the ORDER OF REFERENCE TO SPECIAL MASTER BRIGETTE BILYEU was mailed on November 13, 2003, with sufficient first-class postage to the following:

IDWR
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900 N Skyline Dr
Idaho Falls, ID 83402

IDWR Document Depository
PO Box 83720
Boise, ID 83720-0098

Joyce Orders
1744 S Old Hwy 91
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Jay Anthony
Goldie Anthony
PO Box 201
Inkom, ID 83245

Deloy Armstrong
Marjorie Armstrong
PO Box 204
Inkom, ID 83245

Kevin Baird
Sharon Baird
PO Box 344
Inkom, ID 83245

Tim Figone
Brenda Figone
PO Box 265
Inkom, ID 83245


Deputy Clerk

Allen

02/08/2003

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: 29-13141

KEVIN BAIRD
PO BOX 344
INKOM ID 83245
Telephone Number: (208) 775-4983

SHARON BAIRD
PO BOX 344
INKOM ID 83245
Telephone Number: (208) 775-4983

1. Describe the portion of the proposed recommendation with which you disagree (e.g. priority date, period of use, source):
2. Describe the changes you wish to make in the proposed recommendation:
3. Give a brief explanation as to why you disagree with these portions:

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

DATE: 3/16/03 SIGNATURE: Kevin Baird
Please print your name: Kevin Baird

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

RECEIVED
MAR 25 2003
Department of Water Resources
Eastern Region

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.

DELOG
AR
RECEIVED
NOV 14 2002
Department of Water Resources
Southern 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
	29-13141				

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)

William & Karen Nealy
PO Box 59 Malad Id. 83252

4. New Owner/Claimant(s)

Kevin & Sharon Baird

Name Connector (Check one): ☒ and, ☐ or, ☐ and/or

New Mailing Address

PO Box 344

City, State and ZIP Code

Inkom, Id. 83245

New Telephone Number

208 775-4983

5. Date you acquired the property

2/7/02

WARRANTY DEED

For Value Received **WILLIAM M. NEALY JR., AN UNMARRIED MAN AND KAREN NEALY NOW KNOWN AS KAREN ARCHIBALD, A MARRIED WOMAN**

Hereinafter called the Grantor, hereby grants, bargains, sells and conveys unto

KEVIN D. BAIRD and SHARON J. BAIRD, Husband and Wife

whose address is: **698 E. Upper Rock Creek Road, Inkom, Id, 83245**

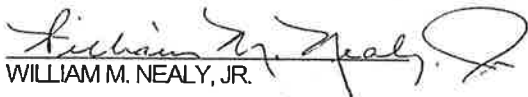
Hereinafter called the Grantee, the following described premises situated in **Bannock County, Idaho**, to-wit:

SEE EXHIBIT A ATTACHED HERETO AND MADE A PART HEREOF.

SUBJECT TO all easements, right of ways, covenants, restrictions, reservations, applicable building and zoning ordinances and use regulations and restrictions of record, and payment of accruing present year taxes and assessments as agreed to by parties above.

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantee and to the Grantee's heirs and assigns forever. And the said Grantor does hereby covenant to and with the said Grantee, that the Grantor is the owner in fee simple of said premises; that said premises are free from all encumbrances except current years taxes, levies, and assessments, and except U. S. Patent reservations, restrictions, easements of record, and easements visible upon the premises, and that Grantor will warrant and defend the same from all claims whatsoever.

Dated: June 5, 2002


WILLIAM M. NEALY, JR.

KAREN NEALY NOW KNOWN AS
KAREN ARCHIBALD

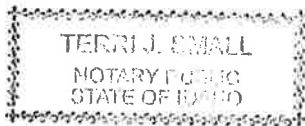
STATE OF Idaho

ss.

COUNTY OF BANNOCK

On this 5th day of June, 2002, before me TERRI J SMALL, personally appeared WILLIAM M. NEALY, JR. known or identified to me (or proved to me on the oath of), to be the person(s) whose name(s) are subscribed to the within instrument, and acknowledged to me that they executed the same.


Notary Public of Idaho
Residing at: Pocatello, Idaho
Commission Expires: 04/28/05



STATE OF Idaho

ss.

COUNTY OF BANNOCK

On this 7TH day of June, 2002, before me TERRI J SMALL, personally appeared KAREN NEALY NOWN KNOWN AS KAREN ARCHIBALD known or identified to me (or proved to me on the oath of), to be the person(s) whose name(s) are subscribed to the within instrument, and acknowledged to me that they executed the same.

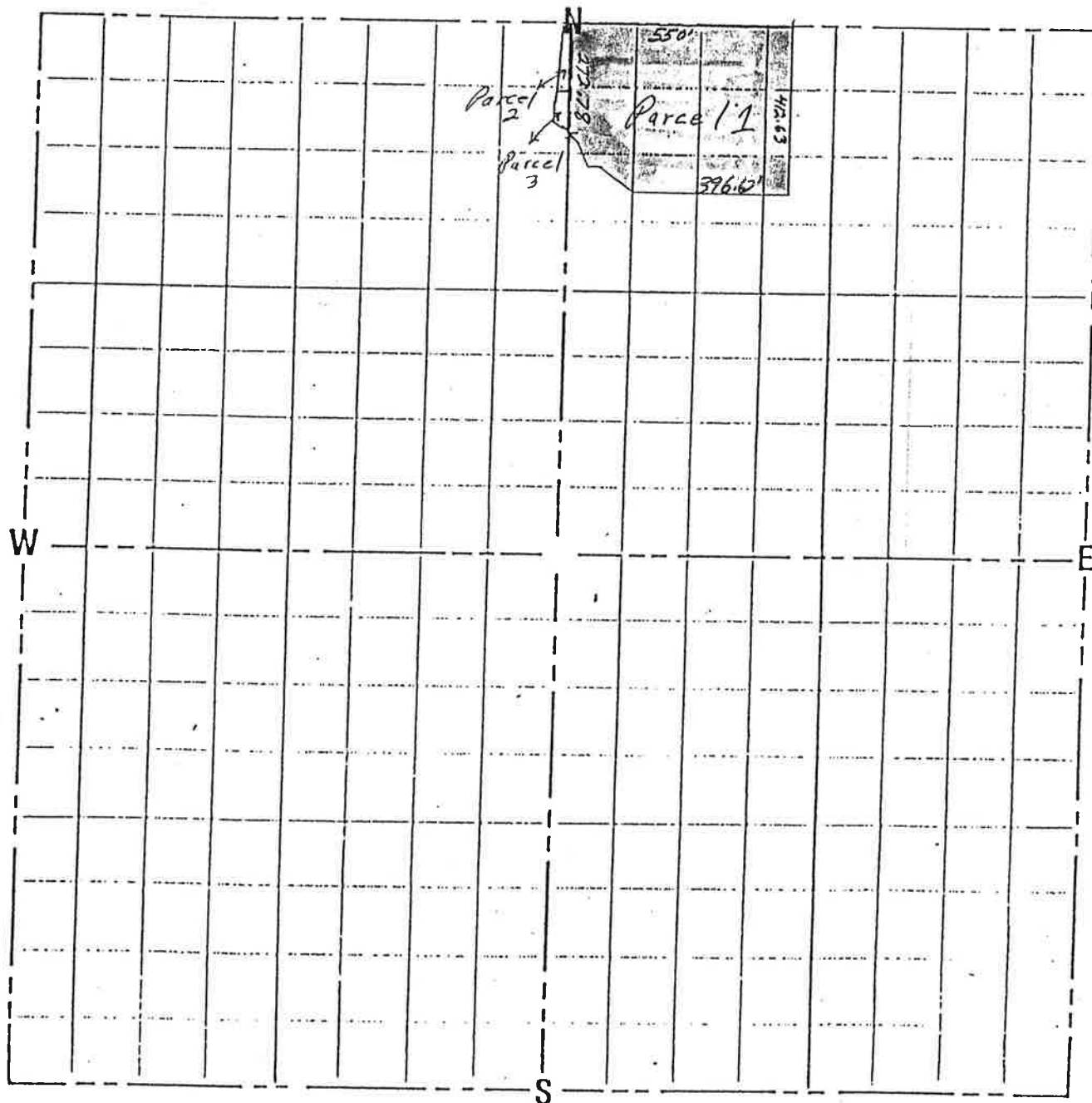
Notary Public of Idaho
Residing at: Pocatello, Idaho
Commission Expires: 04/28/05

THIS SKETCH IS MADE SOLELY FOR
THE PURPOSE OF ASSISTING IN
LOCATING THE PREMISES. THE
COMPANY ASSUMES NO LIABILITY
FOR ALLEGED LOSS OR DAMAGE WHICH
MAY RESULT FROM RELIANCE ON THIS
MAP.



NE 1/4
11-8-36

SCALE FOR QUARTER SECTION. (Each side large blue squares = 10 chains, 40 rods, 660 feet, area of square 10 acres
400 Ft. = 1 Inch) Each side small red squares = 2.5 chains, 10 rods, 165 feet, area of square .625 of 1 acre



SCALE FOR QUARTER QUARTER
SECTION, 200 Ft. = 1 Inch

(Each side large blue squares = 5 chains, 20 rods, 330 feet, area of square 2.5 acres
Each side small red squares = 1.25 chains, 5 rods, 82.5 feet, area of square .15625 of 1 acre

PRONTO LAND MEASURE 20-40 MAP SHEET

PRONTO LAND MEASURE
P.O. Box 3219, Flint, MI 48502
Phone (313) 233-7950

PARCEL 1:

A PARCEL OF LAND LOCATED IN THE NE ¼ NE ¼ SECTION 11, T.8S., R.36E., B.M., BANNOCK COUNTY, IDAHO. IT IS MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTH ¼ CORNER OF SECTION 11, A FOUND BANNOCK COUNTY MONUMENT; THENCE N 89°40'43" E ALONG THE NORTH LINE OF SECTION 11 A DISTANCE OF 1316.45 FEET TO THE EAST 1/16 CORNER OF SECTION 11, THE TRUE POINT OF BEGINNING; THENCE S 0°03'59" W ALONG THE EAST 1/16 LINE OF SECTION 11 A DISTANCE OF 272.78 FEET TO AN INTERSECTION WITH THE CENTERLINE OF UPPER ROCK CREEK ROAD; THENCE S 48°02'34" E ALONG SAID CENTERLINE A DISTANCE OF 28.26 FEET TO THE POINT OF CURVATURE OF A 47.32 FOOT RADIUS CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 72°15'25, THE RADIUS POINT OF WHICH BEARS S 41°57'26" W; THENCE ALONG SAID CURVE A DISTANCE OF 59.68 FEET; THENCE LEAVING SAID CENTERLINE N 90°00'00" E A DISTANCE OF 26.51 FEET; THENCE S 56°05'12" E A DISTANCE OF 114.95 FEET; THENCE N 90°00'00" E A DISTANCE OF 396.62 FEET; THENCE N 0°03'59" E PARALLEL TO THE EAST 1/16 LINE A DISTANCE OF 412.63 FEET TO THE NORTH LINE OF SECTION 11; THENCE S 89°40'43" W ALONG THE NORTH LINE OF SECTION 11 A DISTANCE OF 550.00 FEET TO THE TRUE POINT OF BEGINNING.

PARCEL 2:

A PARCEL OF LAND LOCATED IN THE NE ¼ NE ¼ OF SECTION 11, T.8S., R.36E., B.M., BANNOCK COUNTY, IDAHO. IT IS MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTH ¼ CORNER OF SECTION 11 A FOUND BANNOCK COUNTY MONUMENT; THENCE N 89°40'43" E ALONG THE NORTH LINE OF SECTION 11 A DISTANCE OF 1316.45 FEET TO THE EAST 1/16 CORNER OF SECTION 11, THE TRUE POINT OF BEGINNING; THENCE S 0°03'59" W ALONG THE EAST 1/16 LINE OF SECTION 11 A DISTANCE OF 165.00 FEET TO THE SOUTH LINE OF THE ARMSTRONG PROPERTY; THENCE S 89°40'43" W ALONG THE SOUTH LINE OF THE ARMSTRONG PROPERTY A DISTANCE OF 26.38 FEET TO AN EXISTING FENCE LINE; THENCE N 6°45'30" E ALONG SAID FENCE LINE A DISTANCE OF 166.26 FEET TO THE NORTH LINE OF SECTION 11; THENCE N 89°40'43" E ALONG THE NORTH LINE OF SECTION 11 A DISTANCE OF 7.00 FEET TO THE TRUE POINT OF BEGINNING.

PARCEL 3:

A PARCEL OF LAND LOCATED IN THE NE ¼ NE ¼ OF SECTION 11, T.8S., R.36E., B.M., BANNOCK COUNTY, IDAHO. IT IS MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTH ¼ CORNER OF SECTION 11, A FOUND BANNOCK COUNTY MONUMENT; THENCE N 89°40'43" E ALONG THE NORTH LINE OF SECTION 11 A DISTANCE OF 1316.45 FEET TO THE EAST 1/16 CORNER OF SECTION 11; THENCE S 0°03'59" W ALONG THE EAST 1/16 LINE OF SECTION 11 A DISTANCE OF 165.00 FEET TO THE TRUE POINT OF BEGINNING; THENCE CONTINUING S 0°03'59" W A DISTANCE OF 107.78 FEET TO THE CENTERLINE OF UPPER ROCK CREEK ROAD; THENCE N 48°02'34" W ALONG THE CENTERLINE OF UPPER ROCK CREEK ROAD A DISTANCE OF 28.17 FEET TO THE POINT OF CURVATURE OF A 253.36 FOOT RADIUS CURVE TO THE LEFT HAVING A CENTRAL ANGLE OF 3°48'48"; THENCE CONTINUING ALONG SAID CENTERLINE AND CURVE A DISTANCE OF 16.86 FEET TO A SOUTHERLY PROJECTION OF AN EXISTING FENCE LINE; THENCE N 4°54'17" E ALONG SAID PROJECTION A DISTANCE OF 50.46 FEET TO AN EXISTING FENCE LINE; THENCE N 6°45'30" E ALONG SAID FENCE LINE A DISTANCE OF 27.87 FEET TO THE SOUTH LINE OF THE ARMSTRONG PROPERTY; THENCE N 89°40'43" E ALONG THE SOUTH LINE OF THE ARMSTRONG PROPERTY A DISTANCE OF 26.38 FEET TO THE TRUE POINT OF BEGINNING.

29-13141 BU Claim

I.) Priority Based on 1902 Postcard Notice.

A. Almost everyone on the cross claims 1902 from the Postcard Notice. A few exceptions exist which date to circa 1950's.

B. Several Dosses are presented as historical perspective.

1. Catalogue Dosses chronologically

a. Listing reference / or not to WR's.

2. How do Dosses relate to poll claims / Postcard Notice and Topography?

II. Recommendation:

A. Priority Date 6/18/1902 Based on: DEGREE OF FORECLOSURE, Document (B3)

B. Qi is 0.03 cts for innig; 0.02 stock as non-
ADDITIVE VALUE.

C. IAC is OK

D. NO MEASURES $\Rightarrow (< 0.20 \text{ cts})$

III. Other Rts:

A. Consider other Rts claiming 1902 from Postcard Notice w/ Final Recommended Priority Date of 6/18/1902.

- (A) 1902 - Posted Water Right Notice - includes $N\frac{1}{2}$ of $NE\frac{1}{4}$ Sec 11 - (Nealy now)
- (B1) - 1919 - Foreclosure - $E\frac{1}{2}$ of $NE\frac{1}{4}$ Sec 11 - Full primary Right to waters of Rock Creek -
- (B2) - 1919 - Foreclosure - $W\frac{1}{2}$ $NW\frac{1}{4}$ Sec. 12 - gave $\frac{1}{8}$ interest only to waters of Rock Creek - $\frac{7}{8}$ still $E\frac{1}{2}$ of $NE\frac{1}{4}$ Sec 11.
- (B3) 1923 - Foreclosure on Parcels in Sec 1 and Sec 2 gave undivided $\frac{1}{2}$ interest in waters of Rock Creek (which was 5 cfs?)
- (C) Letter of use of water from (Lori Hoffine Bergfeld) 1929-1951 - "State place" was probably referring to

D - Group of Deeds - Chain of Title

1951 - Hoffine to Tripp

E $\frac{1}{2}$ of NE $\frac{1}{4}$ of Sec 11 with other tracts -
 also - $\frac{1}{4}$ waters of Rock Creek - ^{note} *This deed
 does not include land where Joyce Tripp
Orders claims water right in claim
 # A29-04042 and has been watering

1951 - Tripp to Nichols

No mention of water rights
 in deed but Tripp watered 39.14
 acres in the SE $\frac{1}{4}$ of NE $\frac{1}{4}$ of Sec. 11
 in doc. of Special Probate

1956

~~1956~~ - Nichols to Lloyd

Note There were no wells or any developed
water sources on the property at this
 time because on Nov. 11, 2000, Ron Lloyd
 told me that his father developed the
 only domestic ^(a spring) water that is on the
 property, except for Rock Creek. Both R
 Dale Lloyd and Ron Lloyd told me they
 used the water from the creek "at first
~~Before~~ He said it was for the orchard.
 Ron Lloyd told me that Dale, Art
 Neilson and Fred Tripp said Lloyd had
 no rights to the Rock Creek water,
 because those three had all rights

According to probate records Joyce (Fred Tripp) Orders began to irrigate the NW $\frac{1}{4}$ of SE $\frac{1}{4}$ and SW $\frac{1}{4}$ of SE $\frac{1}{4}$ of sec. 11, and told everyone who tried to use the water that Tripp and Dalke had all the rights on Rock Creek. Since all the property came from Tripp, Chase/Dalke, everyone believed them. That intimidation continued to the present time.

Because they needed the water from Rock Creek so badly, the property owners used the water anyway, in secret, sneaking it as it came down past them. They did not admit to this until they learned a few years ago that they could file claims on the water, and realized they were not "stealing" the water but ~~had~~ ^{could} ~~rights~~ to seek a water right by adjudication.

I base my claim to a right to use water from Rock Creek on the preceding info. list ^{and documents.}
 I believe the waters of Rock Creek were used on my property from 1902 until now. Mr. Lloyd had no other source of water. The spring he developed after he bought the property would not

support, 10 acres of home, garden, orchard, livestock and lawn. I know because I use the same source. I believed Mr. Lloyd is afraid of legal repercussion, ~~or shame~~ for having used the water from Rock Creek and will not admit to doing so.

The person I bought my property from was pumping with a gas water pump in July, 1998 when we looked at the property, proving that water from the creek was needed and used.

Karen (Nealy) Dickbold
Karen Nealy

Exhibit

C
1

November 20, 2000

(28) of (31)
(30) of (31)

TO WHOM IT MAY CONCERN:

RE: Upper Rock Creek

My father purchased the land lying from where the road turns north to Dalke's up to and including the "State place" to the east, in about 1929, on both sides of the stream. We lived there until about 1951.

He irrigated crop land with water from Rock Creek, and also had two diversions to serve the house, orchard and gardens now on Tax 115. These diversions came out on what is now shown as Tax Parcel 115 of the Assessor's records, one just east or upstream of the house which flowed just past the house and irrigated the lawn, trees and a small pasture to the northwest. The other diversion was about 200 feet further upstream, above the orchard, and that ditch watered the orchard and gardens.

The streams or ditches were about 2' wide by 2' deep and water flowed into them through the summer until irrigation was not needed in the fall. There were other users downstream. One ditch went to the property on the Old Highway and another went north although I don't know how far or to whom.

Sincerely,

L.H. Bergfeld

Lorraine Hoffhine Bergfeld
5085 Mahogany Drive
Pocatello, ID 83204

(25 of 31)
This is my letter to J. Jordan (25 of 31)
in an attempt to save Rock Creek.

He responded that
a "minimal flow" right did
not apply here.

November 6, 2000
Karen Nealy
698 E Upper Rock Creek Rd
Inkom, Idaho 83245
(Mailing) PO 456
Inkom, ID 83245
E-Mail wilinili@ida.net

Joseph L. Jordan
IDWR BOARD
1301 N. Orchard
Boise, ID 83706-2273

Dear Mr. Jordan;

The purpose of this correspondence is to ask for your advice and assistance in our desire to keep the water flowing in Rock Creek, Bannock County Idaho. I thank you for any time you take in consideration of the following information. I was looking for information on the IWRD web page and read about the "right of in stream (or minimal flow)". I have been searching for a way that might help preserve the waters of Rock Creek. I believe that the waters of Idaho are her most important natural resource, and I am very concerned about the misuse and abuse of Rock Creek as a part of that natural resource. I know that Rock Creek is just one small creek among many in our state. But it seems to me that it takes people like me to let people like you know when there are problems that need resolving concerning any of Idaho's wonderful waters, because without your wisdom and help, through IDWR, that natural resource is in danger.

I realize that the Snake River Basin adjudication is now in progress. I have only been a property owner along Rock Creek for two years. Had I been aware and informed of the problem here sooner, I would have been seeking a resolution before now. But perhaps this is a good time, since this creek and area will soon be one focus of the IDWR Board's attention.

I am making a request that as the waters of Rock Creek are soon to be divided up according to court decreed "rights", would the IDWR Board consider establishing a right of "minimal flow" for the creek itself? I support the need for a minimal flow right based on the following information. The information is as correct as I am able to provide. The feelings, from myself, as well as the other property owners along this creek, are from the heart. Because I am certain that you are a very busy person at IDWR, I am going to try to concentrate on the facts of this matter, and not impose too long on your time.

During the past two spring/summer seasons that I have lived here, Rock Creek has been diverted and pumped down from its' very substantial normal flow, to a mud hole without even a trickle of water.

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This year, from mid May to exactly September 18, 2000, the creek bed beyond an irrigation diversion, was dry. On November 1, 2000, my husband and I took a measurement of the water in the creek in front of our home, following directions from Keith Wilson at the Idaho Falls IDWR office. The measurements were as follows: Depth- 4.5 in., Width- 6 ft. We floated an orange peel a measured distance of 2(two) feet. It took 6 seconds for the orange peel to go that distance. (six was the average figure of three floatings done at that distance in the same spot). According to Mr. Wilson's calculations on Nov.6, 2000 and I quote, the creek was flowing at .75 cubic feet per second, and 336.7 gallons per minute. He stated that the test and its' resulting figures were approx. 90% correct. The same measurement was taken by Jay and Goldie Anthony, on October 28, 2000, at a point about downstream from our measuring point, resulting in the following figures: depth-1ft., width-4ft. The orange peel floated a distance of 2ft. in 3 seconds, so if the mathematics were applied correctly, the creek was flowing in that area at 2.64cfs and 1,184.83 gallons per minute.

Since that amount of water was measured in the creek at the end of the irrigation season, as soon as the water was released from at least one the reservoirs holding it, how much water was and is actually available from Rock Creek?

This year, my husband and I, with most of the other property owners along the creek, observed a reservoir, (described in a notice of claim filed with IDWR, Ident.number A29-04042,)throughout the irrigation season. The reservoir receives and stores water that is diverted from Rock Creek. It remained full and continuously receiving a steady flow of water through an approx. 12 inch pipeline, from mid May until mid October. I am including a picture of the reservoir and pipeline with the water flowing into the reservoir, that was taken by Deloy Armstrong at the end of September, this year. As you know, this area in Bannock County experienced a very dry irrigation season. We suggest that the picture and the statements of observation from the other property owners, clearly show that the amount of water that was stored in the reservoir was not needed or used by the person or persons who were diverting it there from Rock Creek.

We also suggest that since the reservoir remained, by our honest and mutual observations, at or very near the same depths throughout the entire very dry summer and early fall, and since a constant flow of water was going into the reservoir through the entire summer and early fall, that water from Rock Creek was diverted and stored, not used or needed, WHILE THE CREEK BED WAS EMPTY AND THE WILDLIFE, TREES, PLANTS, BIRDS, AND LAWNS AND GARDENS OF AT LEAST SIX OTHER PROPERTY OWNERS TURNED BROWN AND DRY, FROM LACK OF WATER THAT SHOULD HAVE BEEN IN ROCK CREEK.

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The diversion and reservoir I have identified by number in the preceding paragraphs, I have, as have the other property owners, been able to observe directly. However, there is another reservoir, described in Snake River Basin Adjudication claims proof reading report numbered A29-04141 and also in claim numbered A29-04107, that I have not been able to observe personally, due to its' location. Water is diverted from Rock Creek for this reservoir also. I have been told by someone who has seen it, that it also remained full and receiving water through the entire season. (The claimant on numbers A29-04141 and A29-04107, diverts water from other in addition to Rock Creek for irrigation of the same lands, so one really wonders if he needs all the water he is claiming in the Snake River Basin. These other claims are A29-04106, A29-00603A and A29-04140.)

Since water is diverted from Rock Creek for claims A29-04141 and A29-04107 BEFORE it reaches the diversion point named in claim number A29-04042, the upstream diversion claimant must feel that he has more than enough water to meet his irrigation needs, or he would not let such a large amount of water come down through his diversion to A29-04042.

During the last week of October, within just a few days of the time the measurements of Rock Creek waters were taken as detailed on page 1 of this letter, the Anthonys observed that the reservoir on claim number A29-04042, was empty. The water that was finally flowing again in Rock Creek was coming from the unused water from that reservoir, and probably from the other reservoir mentioned as well.

If there was enough unused water at the end of a very dry season to put that much water back in the creek (~~rainfall amount at the time the water was measured was~~) then couldn't a minimal flow right be a possible means of saving Rock Creek, without creating a hardship on the farmers irrigation rights? And wouldn't it be good to save Rock Creek?

Mr. Jordan, I am respectfully aware of the policy regarding water rights in Idaho, "first in time, first right." I also understand that rights can be lost if not used. I would like to express my thoughts on those two points.

First, I know from my research that the oldest priority date on the claims to waters of Rock Creek, is 1902. If I understand it correctly, the priority date is the date when someone claims that the waters of Rock Creek were first put to "beneficial use" on a certain piece of property.

But Rock Creek itself claims a priority date that is older than any.

The waters of Rock Creek were first put to "beneficial use" by the Creator for creation, or if that offends some, by nature for the natural order of living things. The waters of Rock Creek were used by trees and plants, by the birds and all the wild things that come to her banks for water, shelter, and in turn, food from those plants and trees long before they were diverted

by man. Rock Creek brings water to the Portneuf, which in turn, carries that water to other places, where it, in the end, is for "beneficial use" for untold numbers of people and living things.

There is no older "priority date" than the one Rock Creek claims for itself.

As to a water right being lost if it is not used; the only time Rock Creek has not been used by the living things that depend on it, since it first became a flowing stream of water, is when man took all the water out of its' bed.

Mr. Jordan, I am not educated or trained in the field of water resources as you are. I admit to not understanding how monitoring of a body of water by government regulation is or could be done. I am certain is not an uncomplicated matter. But there must be some way to monitor and divide the waters of Rock Creek so that there is enough, first, for the creek itself to have a constant flow, then second, for the farmers, in an amount that is honestly needed and used, not greedily diverted and stored, and third, for the property owners who only want a little to keep their lawns from dying.

I believe that given a chance, most of the property owners would monitor themselves, in all fairness for the good of the whole, including Rock Creek. They have, through many years past and in the very present, learned what bad feelings of mistrust, selfishness, and anger exist in a neighborhood where one or two land owners set about to monopolize all the natural waters in an area where water is so hard to come by. None of us want to take the irrigation water from the farmers. We know they must have water. We just want them to stop taking all of the water.

I have researched old courthouse records for weeks, in hopes of finding a solution to this growing problem, and have found, from deeds, posted water notices from 1902, as well as judgements and foreclosures from the early 1900's, that the men and women who originally settled this area including the courts, intended for the waters of Rock Creek to be used on most all of the land in the sections through which it flows. It was never their intent to have those waters held back from the land where it was needed, to be greedily used on only a few tracts of land belonging to one or two people. And I believe they had wisdom enough and moral fiber enough not to draw the creek down to a dry bed of rocks, leaving a rightful share to the natural living things to which it first belonged.

Mr. Jordan, again, we are not asking that the irrigation rights be taken away from the farmers. We are only asking that "a minimal flow" or "in stream flow" right first be established for the future of Rock Creek and the living things that depend on its' waters. And we are asking that the other property owners with claims to the water, have a monitored share of that water as was originally intended when the water was first diverted, to help water their lawns. If we cannot have both of those requests met, then the right of in stream flow, to save Rock Creek and its' habitat is the most important one.

We know sir, that is is not an eaśy issue to resolve. We thank you for your time and consideration of these requests, and for listening to this sincere need for your intervention in the situation concerning Rock Creek.

Very Truly Yours,

Karen Nealy

Note: Since I feel that I must do all I can to try to prevent the continued abuse of Rock Creek waters, I am in the process of trying to file a claim on Rock Creek to water my lawn. I have researched the matter as well as I know how, and I am convinced that if the water is allowed to flow in Rock Creek under a monitored system, the Creek will survive. If it is not monitored it will not. If an in stream flow right cannot be established, then perhaps I can attempt to show that the waters of Rock Creek were always legally meant to go with all the land for which it was first put to use in 1902, including my small 5 acre tract. I am going to take the liberty to enclose the information I have compiled since first learning of this process in September of this year. I would be grateful if you would review it also; it is a history of the waters of Rock Creek. If, however, I had to choose between a right to use the water on my lawn, or an in stream/minimal flow right to keep the creek flowing to benefit Idaho, I would cheerfully choose the latter.

Chain of Title to Nealy -
13 of 31

Deeds -

Instrument # 280796 - includes water rights - from Hopkine to Tripp =

My current legal description
from recent survey came from the
tract ^{that} was in the 1902 Notice of
water right.

(12 of 31)
(14 of 31)

b

STATE OF IDAHO,)
) ss.
COUNTY OF ONEIDA)

On this 17th day of March in the year 1951, before me T. E. Ray, a Notary Public in and for said State, personally appeared D. HOPKINS and MINNIE HOPKINS, husband and wife known to me to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, this day and year in this certificate first above written.

(SEAL)

T. E. Ray Notary Public for the
State of Idaho,
Residing at Malad, Idaho

I hereby certify that this instrument was filed for record at the request of B. T. A. Co. at 28 minutes past 3 o'clock P.M., this 17 day of April, A.D. 1951, in my office and duly recorded in Book 110 of Deeds, Page 422.

Anna Koefe, Recorder

Fee \$ 1.50

INSTRUMENT NO. 280797 *

STATE OF IDAHO

Deed No. 7809
Certificate No. 21190

Hopkins also purchased section 11 etc from state - with water rights cant locate deed!

1942

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

WHEREAS, on the 21st day of December 1942, all that tract or parcel of Normal School Foreclosed land of the State of Idaho, hereinafter mentioned and particularly described, was sold in the manner provided by law to D. HOPKINS of McCammon, State of Idaho for the aggregate price of ONE THOUSAND FIVE HUNDRED FIFTY AND NO/100 DOLLARS,

AND WHEREAS, the said sum of ONE THOUSAND FIVE HUNDRED FIFTY AND NO/100 DOLLARS has been fully paid to the proper receiving officer for the State of Idaho, by D. HOPKINS as shown by the records in the office of the State Board of Land Commissioners, the said sum being the whole amount of the purchase price for the said tract or parcel of land hereinafter described:

NOW, KNOW YE, That the said State of Idaho, in pursuance of law in such case made and provided, and in consideration of the premises aforesaid, and of the aforesaid sum of ONE THOUSAND FIVE HUNDRED FIFTY AND NO/100 DOLLARS to the said State of Idaho paid, doth by these presents grant, bargain, sell, convey and confirm, in fee, unto the said D. HOPKINS his heirs and assigns, all of the said tract and parcel of land situated in the County of Bannock and State of Idaho, and described as follows, to-wit:

The East Half of the Northwest Quarter (E1/2NW1/4), and the West Half of the Northeast Quarter (W1/2NE1/4), Section Twelve (12), Township Eight (8) South, Range Thirty-six (36) East Boise Meridian, containing One Hundred Sixty (160) acres more or less, together with all water, ditch and canal rights thereto appertaining

TO HAVE AND TO HOLD the said premises and parcel of land above particularly described, with the appurtenances thereon, unto the said D. HOPKINS his heirs and assigns.

consent, the said premises in the quiet and peaceable possession of the said party of the first part, and its heirs and assigns against the said party of the first part, and its heirs and assigns, and against all and every person and persons whomsoever, lawfully claiming or to claim the same, shall and will warrant and by these presents forever defend.

IN WITNESS WHEREOF, The said party of the first part has caused these presents to be executed and its corporate name hereunto subscribed, and its corporate seal hereunto affixed by its president and secretary, in pursuance to said resolution, the day and year first above written.

(CORPORATE SEAL)

Signed, Sealed and delivered
in the presence of:

GARRETT TERMINAL CORPORATION

A Corporation

By C. A. Garrett President
Attest:
Norman V. Stedtfeld Secretary

STATE OF IDAHO,

COUNTY OF BAILOCK

On this 1st day of March, in the year 1951, before me, Louise E. Cooper, a Notary Public in and for said State, personally appeared C. A. Garrett and Norman V. Stedtfeld, known to me to be the President and the Secretary of the corporation that executed the foregoing instrument and acknowledged to me that such corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

(SEAL)

Louise E. Cooper
Notary Public for Idaho
Residing at Coocallio, Idaho

I hereby certify that this instrument was filed for record at the request of B. T. A. Co., at 26 minutes past 3 o'clock P.M., this 11 day of April, A.D. 1951, in my office and duly recorded in Book 110 of Records, Page 421.

Anna Keefe, Recorder

Fee \$ 1.50

INSTRUMENT NO. 280796

THIS INDENTURE, Made this 17th day of March, 1951, between D. McCAHON and MINNIE MOFFINE, husband and wife, of McCammon, Idaho, the parties of the first part, and FRED J. TRIPP of McCammon, Idaho, the party of the second part.

WITNESSETH, That the said parties of the first part, for and in consideration of the sum of \$21,750.00 lawful money of the United States of America, to them in hand paid by the said party of the second part, the receipt whereof is hereby acknowledged, have granted, bargained, and sold, and by these presents do grant, bargain, sell, convey and confirm unto the said party of the second part, and to his heirs and assigns forever, all of the following described real estate, situated in the county of BAILOCK, State of Idaho, to-wit:

The Northwest quarter of the Northeast quarter of Section 11, Township 8 South, Range 36 East of the Boise Meridian, Excepting therefrom the following described tract: Beginning at the Northwest Corner of said 40-acre tract, thence running East 6 rods, thence South 10 rods, thence West 6 rods, thence North 10 rods to point of beginning of this exception.

The East half of the Northeast quarter of Section 11, and the West half, of the Northwest quarter of Section 12, Township 8 South, Range 36 East of the Boise Meridian; also one-fourth of the waters of Robk Creek;

The East half of the Northwest quarter and the West half of the Northeast quarter of Section 12, Township 8 South, Range 36 East of the Boise Meridian
(U.S.I.R. \$24.20 Attached and Cancelled)

TOGETHER, With all and singular the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining, the reversion and reversions, remainder and remainders, rents, issues and profits thereof; and all estates, right, title and interest in and to the said property, as well in law as in equity, of the said parties of the first part.

TO HAVE AND TO HOLD, All and singular the above mentioned and described premises, together with the appurtenances, unto the party of the second part, and to his heirs and assigns forever and the said parties of the first part, and their heirs, the said premises in the quiet and peaceable possession of the said party of the second part, his heirs and assigns, against the said parties of the first part, and their heirs and against all and every person and persons whomsoever, lawfully claiming or to claim the same shall and will WARRANT and by these presents forever DEFEND.

IN WITNESS WHEREOF, The said parties of the first part have hereunto set their hands the day and year first above written.

D. McCAHON

(SEAL)

Escrow #: 52026TA, DG

Approved by:

INITIALS

INITIALS

WATER RIGHT #

29-10297

Dept of Water Resources
IDA Falls- 525-7161

2-1
WARRANTY DEED

FOR VALUE RECEIVED, TOM ROMRIELL AND CHERYLE D. GARRITSON-ROMRIELL, HUSBAND AND WIFE the Grantor(s), do(es) hereby grant, bargain, sell, and convey unto WILLIAM M. NEALY JR. AND KAREN NEALY, HUSBAND AND WIFE the Grantee(s), whose address is 698 E. UPPER ROCK CREEK, INKOM, ID 83245 (Mailing Address), 698 E. UPPER ROCK CREEK, INKOM, ID 83245 the following described premises, situated in BANNOCK County, Idaho: (Property Address),

LEGAL DESCRIPTION EXHIBIT "A" ATTACHED

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantee(s) and Grantee(s) heirs, successors, and assigns forever. The Grantor(s) do(es) hereby covenant and warrant to and with the Grantee(s) that the Grantor(s) is/are the owner(s) in fee simple of such premises; that such premises are free from all encumbrances, EXCEPT those to which this conveyance is expressly made subject; those set forth in Pioneer Title Company Title of Bannock County, Commitment No. 52026TA, dated July 20, 1998; those made, suffered, assumed, or created by the Grantee(s); reservations, restrictions, dedications, covenants, easements of record or use; rights of parties in possession, encroachments, overlaps, boundary-line disputes, or other matters that would be disclosed by an accurate survey or inspection of the property; rights-of-way and agreements, if any, of record; general taxes and assessments (including irrigation and utility assessments, if any, for the current year) that are not yet due and payable; and that the Grantor(s) will warrant and defend the same from all lawful claims whatsoever.

DATED this 19 day of August, 1998.


TOM ROMRIELL


CHERYLE D. GARRITSON-ROMRIELL

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ATTACHMENT A
Property Description

A PARCEL OF LAND LOCATED IN THE NE1/4 NE1/4 OF SECTION 11,
TOWNSHIP 8 SOUTH, RANGE 36 EAST, BOISE MERIDIAN, BANNOCK
COUNTY, IDAHO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:
COMMENCING AT THE NORTH QUARTER CORNER OF SECTION 11, A
FOUND BANNOCK COUNTY MONUMENT; THENCE NORTH 89. 40 MINUTES
43 SECONDS EAST ALONG THE NORTH LINE OF SECTION 11, A
DISTANCE OF 1316.45 FEET TO THE EAST 1/16 CORNER OF SECTION
11, THE TRUE POINT OF BEGINNING; THENCE SOUTH 0. 03 MINUTES
59 SECONDS WEST ALONG THE EAST 1/16 LINE OF SECTION 11 A
DISTANCE OF 272.78 FEET TO AN INTERSECTION WITH THE
CENTERLINE OF UPPER ROCK CREEK ROAD; THENCE SOUTH 48. 02
MINUTES 34 SECONDS EAST ALONG SAID CENTERLINE A DISTANCE OF
28.26 FEET TO THE POINT OF CURVATURE OF A 47.32 FOOT RADIUS
CURVE TO THE
RIGHT HAVING A CENTRAL ANGLE OF 72. 15 MINUTES 25
SECONDS, THE RADIUS POINT OF WHICH BEARS SOUTH 41. 57
MINUTES 26 SECONDS WEST;
THENCE ALONG SAID CURVE A DISTANCE OF 59.68 FEET; THENCE
LEAVING SAID CENTERLINE NORTH 90. 00 MINUTES 00 SECONDS EAST
A DISTANCE OF 26.51 FEET; THENCE SOUTH 56. 05 MINUTES 12
SECONDS EAST A DISTANCE OF 114.95 FEET; THENCE NORTH 90. 00
MINUTES 00 SECONDS EAST A DISTANCE OF 396.62 FEET;
THENCE NORTH 0. 03 MINUTES 59 SECONDS EAST PARALLEL TO THE
EAST 1/16 LINE A DISTANCE OF 412.63 FEET TO THE NORTH LINE
-F SECTION 11; THENCE SOUTH 89. 40 MINUTES 43 SECONDS WEST
ALONG THE NORTH LINE OF SECTION 11 A DISTANCE OF 550.0 FEET
TO THE TRUE POINT OF BEGINNING.

concerning this matter of water rights on 28 of 31
Upper Rock Creek - Statement for Karen Nealy (Archibald)
In 1956, when D. (Robert) Lloyd purchased the property, the ditches and diversions were probably still in place just as they were through all the time Hofhine, Tripp, and Nichols owned the same property. Mr. D. (Robert) Lloyd told me (Karen Nealy) that he "irrigated his orchard from the creek", the same orchard that Hofhine irrigated from the creek through 1951. The lawn and garden were watered from the creek also. There was never a well on the property. There was a small undeveloped spring that fed the creek, but it did not produce enough water for stock or irrigation. Three years after Mr. Lloyd bought the property he developed another spring, the one that is in use now for domestic purposes. His priority date on that spring is 1959 and the diversion rate .060cfs. It is not enough for a home, stock, and irrigation of the 10 acres he had.

Both Mr. D. (Robert) Lloyd and his son Ron Lloyd told me that Fred Tripp, Mr. Dalke, and Art Neilson said they could not use the water from Rock Creek, because the rights belonged to those three men. Those same men, Tripp, Dalke, and Neilson, told everyone on Rock Creek Rd the same thing for as long as they owned the land. That untruth, has been passed down from owner to owner of those three properties, until this very day.

In Mr. Lloyds' day, the threat of being sued or taken to court was a serious matter. The small farmer did not have the money or the information to oppose or question such a threat. So water from Rock Creek was used in secret by everyone except the two big property owners, Tripp, (Orders now), and Dalke (Gilbert now). The ^{small} property owners, used the water but denied it. Mr. Lloyd believed that he did not have the right to use the water. But I have stated here what he and his son both told me.

If you talk to any of the property owners who have claims on Rock Creek now, you will hear the same story of false representation and intimidation. The two large property owners who claim to have the rights to all the waters of Rock Creek, say they have always had those rights.

They have taken more and more water out of Rock Creek each year until, as in the past two summers, it is literally Rock Creek. So the property owners have used the water in secret until this very day. The neighbors on either side of my property, both upstream and down, have barrels and diversion points and hoses or pipe from Rock Creek to their property that they now admit to having used for years, (Except when the creek is dry.)

I have a notarized statement from Romriel saying he used the water from May to June each year. But I saw him, as did the real estate agent, and my husband, pumping from the creek in late July. I have a sales advertisement that says water can be taken from the creek as long as there is water there. Romriel demonstrated for us in July how he pumped from the creek. So he irrigated this property when he bought it from Lloyd in 1994 until he sold it to us in 1998. We have a gas powered pump, fittings and hoses for pumping from the creek.

I believe that I have demonstrated, with documents and statements, and affidavits, that I have a valid right to the use of Rock Creek waters as I am stating in my claim.

But if I had to make a choice between a right to the waters of Rock Creek for my own property

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and a "right of minimal/in stream flow, I would choose the latter without hesitation. I want to see water in the creek all year, for the future of Rock Creek, and Idaho's wonderful natural resource, more than I want to see a "right" for myself.

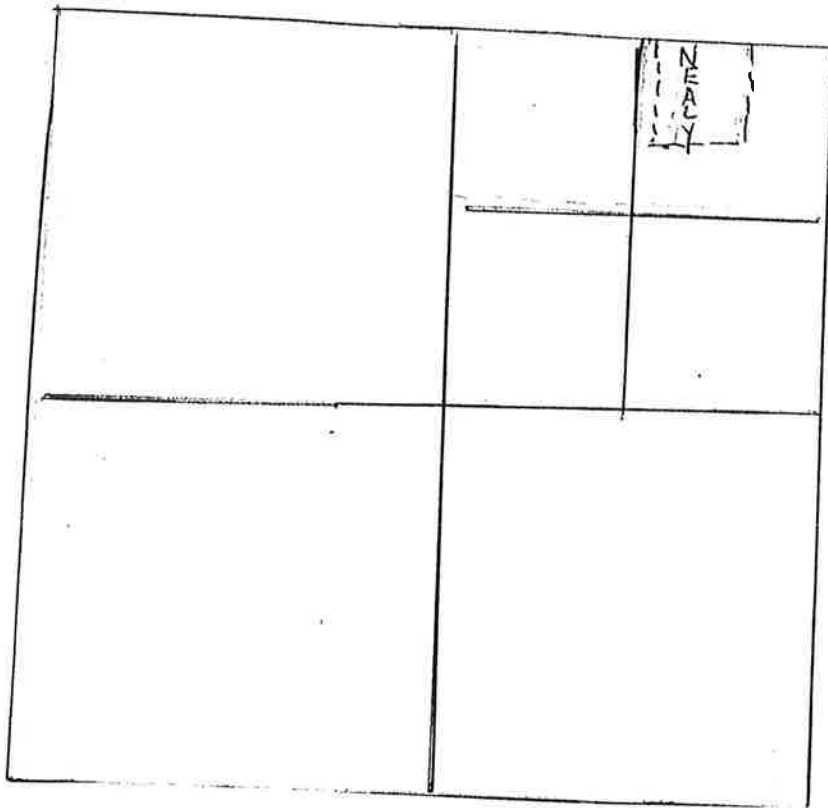
Karen (Poly) Archibald

NEALY T8SR36E

Sec. 11

NE $\frac{1}{4}$ of NE $\frac{1}{4}$ Sec 11

Commenc. at NW corner of N1 or N1



NE $\frac{1}{4}$





State of Idaho

DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Suite A, Idaho Falls, ID 83402-1718 • Phone: (208) 525-7161 FAX: (208) 525-7177

EASTERN REGION

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

November 20, 2001

William and Karen Nealey
PO Box 456
Inkom ID 83245

RE: EVIDENCE OF PRIORITY FOR A29-13141

Dear Claimant (s):

The Idaho Department of Water Resources is nearing the end of water rights review in Basin 29. The Notice(s) of Claim identified with the number shown above has been filed in the Snake River Basin Adjudication (SRBA). The Notice of Claim indicates water usage is based on "Beneficial Use". Water rights of this type are established by the historical use of water, dating back to when water was first used for the purpose claimed, at or on the place of use identified on the Claim. The date the water was first put to beneficial use, known as the priority date, has not been confirmed by License, Decree, or Permit. For this reason, proof must be provided supporting the priority date. **As the claimant, you are responsible for submitting the necessary evidence to support the priority date.**

The above referenced Claim to a water right shows a priority date of June 18, 1902, claiming a source of Upper Rock Creek. You have submitted, as evidence of priority, a document representing a Posted Notice dating to 1902. In conference with IDWR legal staff, the opinion is that a Posted Notice only represents and intent to divert water for a specific use and not the actual diversion or use. Further evidence of actual use is needed to gain a favorable recommendation of this water right claim.

It is important that each element of the Notice of Claim be verified. For instance, regarding claims for irrigation, the evidence should tend to show that diversion works were in place, that they were capable of diverting the claimed diversion rate, and that the diverted water was beneficially used on the entire claimed place of use on or before the claimed priority date.

For your reference, I have provided a printout of your Notice of Claim and the pamphlet entitled "**Evidence of Priority**". The pamphlet describes the types of evidence required and suggests which documents will fulfill this requirement. While I encourage you to read the entire pamphlet, I direct your attention to the two sections entitled "**What Kind**

of Evidence is Required” and “Some Examples of Documents Which May Be Evidence of the Priority Date”.

It is our goal to recommend historical water rights within the Snake River Basin as accurately as possible. Field exams to verify other elements of the Notice of Claim have been or soon will be conducted by Department personnel.

In addition to this request, I am enclosing copies of two other letters requesting action with respect to this water right claim, which had no response from your office.

.....
The Department will not recommend the Notice of Claim be decreed by the court if evidence of a priority date is not submitted. The Notice of Claim will be disallowed.
.....

Please submit the documentation supporting the priority date within 30 days of the date of this letter, referencing all documents with the corresponding Claim number. If you have any questions not covered by this letter or the enclosed pamphlet, please feel free to contact this office.

Respectfully submitted,

Cheri Vondermeulen

for Allen B. Ruberry
Sr. Water Resource Agent
Adjudication Bureau

cc: File

Enclosure: Brochure on “Evidence of Priority”
Notice(s) of Claim A29-13141

JUN 06 2001

Idaho Department of Water Resources Receipt

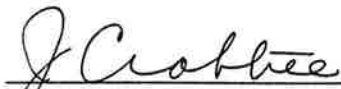
Receipt ID E026400

Payment Amount Date Received Region Status
Payment Type Check Number

Payer Comment

Fee Detail

Amount	Description	Fund	FD	PCA	SO
\$50.00	ADJUDICATION LATE FEE	0337		43503	1155
\$51.00	ADJUDICATION FILING FEE	0337		43503	1155



Signature Line (Dept. Representative)

November 28, 2000

Ms Karen Nealy

PO Box 456

Incom, ID 83245

Dear Ms Nealy:

Thank you for your letter regarding the flow of lower Rock Creek in Bannock County, Idaho. I have researched this matter with the Board's planning staff in Boise and the Department of Water Resources adjudication staff in Idaho Falls.

Based on information from the Department's adjudication staff, it appears that Rock Creek is fully appropriated. This precludes the Board from filing an application for a minimum stream-flow water right because state law requires that an appropriation for instream flow purposes not interfere with any vested water right.

Most likely your best option under existing regulation to maintain some flow in Rock Creek is to file an adjudication claim for domestic/irrigation purposes. I understand you are currently involved in filing such a claim through the Department's Eastern Region Office.

Please don't hesitate to contact me if I can be of assistance in any other way.

Sincerely,

Joe Jordan
Chairman

RECEIVED

NOV 20 2000

Department of Water Resources

November 6, 2000

29-10297 Karen Nealy

698 E Upper Rock Creek Rd

Inkom, Idaho 83245

(Mailing)PO 456

Inkom, ID 83245

E-Mail wilnili@ida.net

208/175-3246

Joseph L. Jordan
IDWR BOARD
1301 N. Orchard
Boise, ID83706-2273

Dear Mr. Jordan;

The purpose of this correspondence is to ask for your advice and assistance in our desire to keep the water flowing in Rock Creek, Bannock County Idaho. I thank you for any time you take in consideration of the following information. I was looking for information on the IWRD web page and read about the "right of in stream (or minimal flow)". I have been searching for a way that might help preserve the waters of Rock Creek. I believe that the waters of Idaho are her most important natural resource, and I am very concerned about the misuse and abuse of Rock Creek as a part of that natural resource. I know that Rock Creek is just one small creek among many in our state. But it seems to me that it takes people like me to let people like you know when there are problems that need resolving concerning any of Idaho's wonderful waters, because without your wisdom and help, through IDWR, that natural resource is in danger.

I realize that the Snake River Basin adjudication is now in progress. I have only been a property owner along Rock Creek for two years. Had I been aware and informed of the problem here sooner, I would have been seeking a resolution before now. But perhaps this is a good time, since this creek and area will soon be one focus of the IDWR Board's attention.

I am making a request that as the waters of Rock Creek are soon to be divided up according to court decreed "rights", would the IDWR Board consider establishing a right of "minimal flow" for the creek itself? I support the need for a minimal flow right based on the following information. The information is as correct as I am able to provide. The feelings, from myself, as well as the other property owners along this creek, are from the heart. Because I am certain that you are a very busy person at IDWR, I am going to try to concentrate on the facts of this matter, and not impose too long on your time.

During the past two spring/summer seasons that I have lived here, Rock Creek has been diverted and pumped down from its' very substantial normal flow, to a mud hole without even a trickle of water.

This year, from mid May to exactly September 18, 2000, the creek bed beyond an irrigation diversion, was dry. On November 1, 2000, my husband and I took a measurement of the water in the creek in front of our home, following directions from Keith Wilson at the Idaho Falls IDWR office. The measurements were as follows: Depth- 4.5 in., Width- 6 ft. We floated an orange peel a measured distance of 2(two) feet. It took 6 seconds for the orange peel to go that distance. (six was the average figure of three floatings done at that distance in the same spot). According to Mr. Wilson's calculations on Nov.6, 2000 and I quote, the creek was flowing at .75 cubic feet per second, and 336.7 gallons per minute. He stated that the test and its' resulting figures were approx. 90% correct. The same measurement was taken by Jay and Goldie Anthony, on October 28, 2000, at a point about downstream from our measuring point, resulting in the following figures: depth-1ft., width-4ft. The orange peel floated a distance of 2ft. in 3 seconds, so if the mathematics were applied correctly, the creek was flowing in that area at 2.64cfs and 1,184.83 gallons per minute.

Since that amount of water was measured in the creek at the end of the irrigation season, as soon as the water was released from at least one the reservoirs holding it, how much water was and is actually available from Rock Creek?

This year, my husband and I, with most of the other property owners along the creek, observed a reservoir, (described in a notice of claim filed with IDWR, Ident.number A29-04042,)throughout the irrigation season. The reservoir receives and stores water that is diverted from Rock Creek. It remained full and continuously receiving a steady flow of water through an approx. 12 inch pipeline, from mid May until mid October. I am including a picture of the reservoir and pipeline with the water flowing into the reservoir, that was taken by Deloy Armstrong at the end of September, this year. As you know, this area in Bannock County experienced a very dry irrigation season. We suggest that the picture and the statements of observation from the other property owners, clearly show that the amount of water that was stored in the reservoir was not needed or used by the person or persons who were diverting it there from Rock Creek.

We also suggest that since the reservoir remained, by our honest and mutual observations, at or very near the same depths throughout the entire very dry summer and early fall, and since a constant flow of water was going into the reservoir through the entire summer and early fall, that water from Rock Creek was diverted and stored, not used or needed, WHILE THE CREEK BED WAS EMPTY AND THE WILDLIFE, TREES, PLANTS, BIRDS, AND LAWNS AND GARDENS OF AT LEAST SIX OTHER PROPERTY OWNERS TURNED BROWN AND DRY, FROM LACK OF WATER THAT SHOULD HAVE BEEN IN ROCK CREEK.

The diversion and reservoir I have identified by number in the preceding paragraphs, I have, as have the other property owners, been able to observe directly. However, there is another reservoir, described in Snake River Basin Adjudication claims proof reading report numbered A29-04141 and also in claim numbered A29-04107, that I have not been able to observe personally, due to its' location. Water is diverted from Rock Creek for this reservoir also. I have been told by someone who has seen it , that it also remained full and receiving water through the entire season. (The claimant on numbers A29-04141 and A29-04107, diverts water from other in addition to Rock Creek for irrigation of the same lands, so one really wonders if he needs all the water he is claiming in the Snake River Basin. These other claims are A29-04106, A29-00603A and A29-04140.)

Since water is diverted from Rock Creek for claims A29-04141 and A29-04107 BEFORE it reaches the diversion point named in claim number A29-04042, the upstream diversion claimant must feel that he has more than enough water to meet his irrigation needs, or he would not let such a large amount of water come down through his diversion to A29-04042.

During the last week of October, within just a few days of the time the measurements of Rock Creek waters were taken as detailed on page 1 of this letter, the Anthonys observed that the reservoir on claim number A29-04042, was empty. The water that was finally flowing again in Rock Creek was coming from the unused water from that reservoir, and probably from the other reservoir mentioned as well.

If there was enough unused water at the end of a very dry season to put that much water back in the creek (rainfall amount at the time the water was measured was)then couldn't a minimal flow right be a possible means of saving Rock Creek, without creating a hardship on the farmers irrigation rights? And wouldn't it be good to save Rock Creek?

Mr. Jordan, I am respectfully aware of the policy regarding water rights in Idaho, "first in time, first right." I also understand that rights can be lost if not used. I would like to express my thoughts on those two points.

First, I know from my research that the oldest priority date on the claims to waters of Rock Creek, is 1902. If I understand it correctly, the priority date is the date when someone claims that the waters of Rock Creek were first put to "beneficial use" on a certain piece of property.

But Rock Creek itself claims a priority date that is older than any.

The waters of Rock Creek were first put to "beneficial use" by the Creator for creation, or if that offends some, by nature for the natural order of living things. The waters of Rock Creek were used by trees and plants, by the birds and all the wild things that come to her banks for water, shelter, and in turn, food from those plants and trees long before they were diverted

by man. Rock Creek brings water to the Portneuf, which in turn, carries that water to other places, where it, in the end, is for "beneficial use" for untold numbers of people and living things.

There is no older "priority date" than the one Rock Creek claims for itself.

As to a water right being lost if it is not used; the only time Rock Creek has not been used by the living things that depend on it, since it first became a flowing stream of water, is when man took all the water out of its' bed.

Mr. Jordan, I am not educated or trained in the field of water resources as you are. I admit to not understanding how monitoring of a body of water by government regulation is or could be done. I am certain is not an uncomplicated matter. But there must be some way to monitor and divide the waters of Rock Creek so that there is enough, first, for the creek itself to have a constant flow, then second, for the farmers, in an amount that is honestly needed and used, not greedily diverted and stored, and third, for the property owners who only want a little to keep their lawns from dying.

I believe that given a chance, most of the property owners would monitor themselves, in all fairness for the good of the whole, including Rock Creek. They have, through many years past and in the very present, learned what bad feelings of mistrust, selfishness, and anger exist in a neighborhood where one or two land owners set about to monopolize all the natural waters in an area where water is so hard to come by. None of us want to take the irrigation water from the farmers. We know they must have water. We just want them to stop taking all of the water.

I have researched old courthouse records for weeks, in hopes of finding a solution to this growing problem, and have found, from deeds, posted water notices from 1902, as well as judgements and foreclosures from the early 1900's, that the men and women who originally settled this area including the courts, intended for the waters of Rock Creek to be used on most all of the land in the sections through which it flows. It was never their intent to have those waters held back from the land where it was needed, to be greedily used on only a few tracts of land belonging to one or two people. And I believe they had wisdom enough and moral fiber enough not to draw the creek down to a dry bed of rocks, leaving a rightful share to the natural living things to which it first belonged.

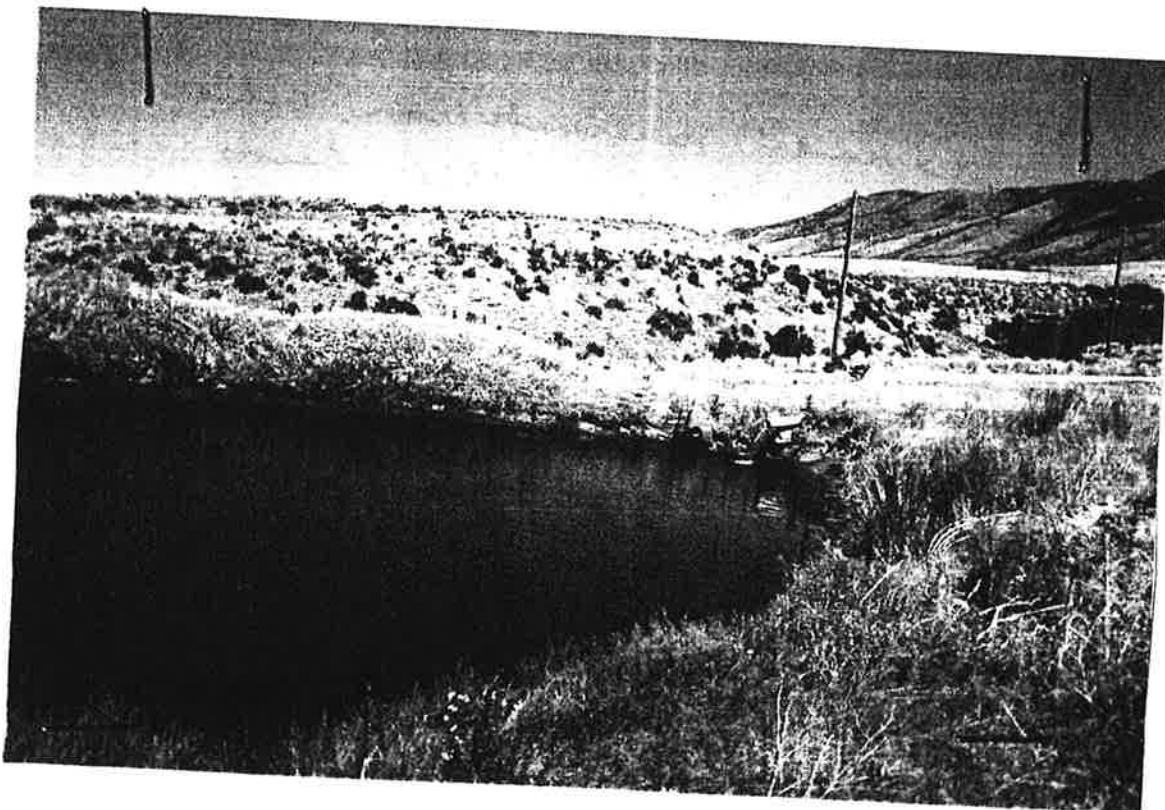
Mr. Jordan, again, we are not asking that the irrigation rights be taken away from the farmers. We are only asking that "a minimal flow" or "in stream flow" right first be established for the future of Rock Creek and the living things that depend on its' waters. And we are asking that the other property owners with claims to the water, have a monitored share of that water as was originally intended when the water was first diverted, to help water their lawns. If we cannot have both of those requests met, then the right of in stream flow, to save Rock Creek and its' habitat is the most important one.

We know sir, that is is not an easy issue to resolve. We thank you for your time and consideration of these requests, and for listening to this sincere need for your intervention in the situation concerning Rock Creek.

Very Truly Yours,

Karen Nealy

Note: Since I feel that I must do all I can to try to prevent the continued abuse of Rock Creek waters, I am in the process of trying to file a claim on Rock Creek to water my lawn. I have researched the matter as well as I know how, and I am convinced that if the water is allowed to flow in Rock Creek under a monitored system, the Creek will survive. If it is not monitored it will not. If an in stream flow right cannot be established, then perhaps I can attempt to show that the waters of Rock Creek were always legally meant to go with all the land for which it was first put to use in 1902, including my small 5 acre tract. I am going to take the liberty to enclose the information I have compiled since first learning of this process in September of this year. I would be grateful if you would review it also; it is a history of the waters of Rock Creek. If, however, I had to choose between a right to use the water on my lawn, or an in stream/minimal flow right to keep the creek flowing to benefit Idaho, I would cheerfully choose the latter.



5

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NOV 20 2000

Department of Water Resources

William and Karen Nealy

November 15, 2000

LIST OF FACTS OF SUPPORTING CLAIM
ROCK CREEK, BANNOCK COUNTY IDAHO
All in T8S, R36E, B.M.

1. Exhibit A - (In support of priority date)
1902 - Notice of water right-(posted)-part of several tracts-----NE1/4of NE1/4, Sec. 11
Waters of Rock Creek at 10cfs
2. Exhibit B - Full Primary Water Right from Rock Creek
1919- Decree of Foreclosure and Order of Sale-----E1/2 of NE1/4, Sec.11(full primary water right)
1919- Decree of Foreclosure and Order of Sale-----W1/2of NW1/4, Sec.12(1/8 interest in all the waters of Rock Creek)
1923- Decree of Foreclosure and sale—Parcels in Sec.1, and 2, T8S, R36E B.M.(undivided 1/2 interest in and right to use of the waters of Rock Creek)
3. Exhibit C. - Statements from Hofhine descendants concerning use of water on Nealy property
1930's through 1951
4. Exhibit D. - (sale or transfer of 1/4 of the waters of Rock Creek)to buyer of E1/2of NE1/4 Sec. 11
1951- Indenture/deed
5. Exhibit E.- Deeds/chain of title Nealy property parcel in the NE1/4of the NE1/4 Sec.11
1951 through present

Note: I have the above documents in my files at home. K.N.

November 15, 2000
William and Karen Nealy
698 E Upper Rock Creek Rd
Mailing address- Box 456
Inkom, ID 83245

To whom it may concern;

We believe that we have a right to the use of the waters of Rock Creek based on the following statement/s;

Rock Creek has been used for irrigation and/or domestic and stock water use on property we own on Upper Rock Creek Rd, Inkom, Bannock County Idaho, since it was diverted by Edwin Lish et al., in 1902. The documents and records, (which we have researched, listed, and included with our claim) and statements of previous owners and/or their descendants, in our opinion verify this.

In 1956, when D. (Robert) Lloyd purchased the property, the ditches and diversions were probably still in place just as they were through all the time Hofhine, Tripp, and Nichols owned the same property. Mr. D. (Robert) Lloyd told me (Karen Nealy) that he "irrigated his orchard from the creek", the same orchard that Hofhine irrigated from the creek through 1951. The lawn and garden were watered from the creek also. There was never a well on the property. There was a small undeveloped spring that fed the creek, but it did not produce enough water for stock or irrigation. Three years after Mr. Lloyd bought the property he developed another spring, the one that is in use now for domestic purposes. His priority date on that spring is 1959 and the diversion rate .060cfs. It is not enough for a home, stock, and irrigation of the 10 acres he had.

Both Mr. D. (Robert) Lloyd and his son Ron Lloyd told me that Fred Tripp, Mr. Dalke, and Art Neilson said they could not use the water from Rock Creek, because the rights belonged to those three men. Those same men, Tripp, Dalke, and Neilson, told everyone on Rock Creek Rd the same thing for as long as they owned the land. That untruth, has been passed down from owner to owner of those three properties, until this very day.

In Mr. Lloyds' day, the threat of being sued or taken to court was a serious matter. The small farmer did not have the money or the information to oppose or question such a threat. So water from Rock Creek was used in secret by everyone except the two big property owners, Tripp, (Orders now), and Dalke (Gilbert now). The property owners, used the water but denied it. Mr. Lloyd believed that he did not have the right to use the water. But I have stated here what he and his son both told me.

If you talk to any of the property owners who have claims on Rock Creek now, you will hear the same story of false representation and intimidation. The two large property owners who claim to have the rights to all the waters of Rock Creek, say they have always had those rights.

They have taken more and more water out of Rock Creek each year until, as in the past two summers, it is literally Rock Creek. So the property owners have used the water in secret until this very day. The neighbors on either side of my property, both upstream and down, have barrels and diversion points and hoses or pipe from Rock Creek to their property that they now admit to having used for years,(Except when the creek is dry.)

I have a notarized statement from Romriel saying he used the water from May to June each year. But I saw him, as did the real estate agent, and my husband, pumping from the creek in late July. I have a sales advertisement that says water can be taken from the creek as long as there is water there. Romriel demonstrated for us in July how he pumped from the creek. So he irrigated this property when he bought it from Lloyd in 1994 until he sold it to us in 1998. We have a gas pump and fittings and hose for pumping from the creek.

I believe that I have demonstrated, with documents and statements, and affidavits, that I have a valid right to the use of Rock Creek waters as I am stating in my claim.

But if I had to make a choice between a right to the waters of Rock Creek for my own property and a "right of minimal/in stream flow, I would choose the latter without hesitation. I want to see water in the creek all year, for the future of Rock Creek, and Idaho's wonderful natural resource, more than I want to see a right for myself.

Karen Neely

RECEIVED

NOV 20 2000

Department of Water Resources

Nov. 16, 2000

to 511
for Review

Dear Mr. Abraham,

This is a copy of the letter
I am sending to Mr. Jordan as
you suggested.

I thank you for your past
and future advice.

And wish you a happy
Thanksgiving today.

Sincerely,

Raven Neely

P.S. I am looking forward to your
comments.

November 6, 2000
Karen Nealy
698 E Upper Rock Creek Rd
Inkom, Idaho 83245
(Mailing)PO 456
Inkom, ID 83245
E-Mail wilini@ida.net

Joseph L. Jordan
IDWR BOARD
1301 N. Orchard
Boise, ID83706-2273

Dear Mr. Jordan;

The purpose of this correspondence is to ask for your advice and assistance in our desire to keep the water flowing in Rock Creek, Bannock County Idaho. I thank you for any time you take in consideration of the following information. I was looking for information on the IWRD web page and read about the "right of in stream (or minimal flow)". I have been searching for a way that might help preserve the waters of Rock Creek. I believe that the waters of Idaho are her most important natural resource, and I am very concerned about the misuse and abuse of Rock Creek as a part of that natural resource. I know that Rock Creek is just one small creek among many in our state. But it seems to me that it takes people like me to let people like you know when there are problems that need resolving concerning any of Idaho's wonderful waters, because without your wisdom and help, through IDWR, that natural resource is in danger.

I realize that the Snake River Basin adjudication is now in progress. I have only been a property owner along Rock Creek for two years. Had I been aware and informed of the problem here sooner, I would have been seeking a resolution before now. But perhaps this is a good time, since this creek and area will soon be one focus of the IDWR Board's attention.

I am making a request that as the waters of Rock Creek are soon to be divided up according to court decreed "rights", would the IDWR Board consider establishing a right of "minimal flow" for the creek itself? I support the need for a minimal flow right based on the following information. The information is as correct as I am able to provide. The feelings, from myself, as well as the other property owners along this creek, are from the heart. Because I am certain that you are a very busy person at IDWR, I am going to try to concentrate on the facts of this matter, and not impose too long on your time.

During the past two spring/summer seasons that I have lived here, Rock Creek has been diverted and pumped down from its' very substantial normal flow, to a mud hole without even a trickle of water.

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This year, my husband and I, with most of the other property owners along the creek, observed a reservoir, (described in a notice of claim filed with IDWR, Ident.number A29-04042,) throughout the irrigation season. The reservoir receives and stores water that is diverted from Rock Creek. It remained full and continuously receiving a steady flow of water through an approx. 12 inch pipeline, from mid May until mid October. I am including a picture of the reservoir and pipeline with the water flowing into the reservoir, that was taken by Deloy Armstrong at the end of September, this year. As you know, this area in Bannock County experienced a very dry irrigation season. We suggest that the picture and the statements of observation from the other property owners, clearly show that the amount of water that was stored in the reservoir was not needed or used by the person or persons who were diverting it there from Rock Creek.

We also suggest that since the reservoir remained, by our honest and mutual observations, at or very near the same depths throughout the entire very dry summer and early fall, and since a constant flow of water was going into the reservoir through the entire summer and early fall, that water from Rock Creek was diverted and stored, not used or needed, WHILE THE CREEK BED WAS EMPTY AND THE WILDLIFE, TREES, PLANTS, BIRDS, AND LAWNS AND GARDENS OF AT LEAST SIX OTHER PROPERTY OWNERS TURNED BROWN AND DRY, FROM LACK OF WATER THAT SHOULD HAVE BEEN IN ROCK CREEK.

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Mr. Jordan, I am respectfully aware of the policy regarding water rights in Idaho, "first in time, first right." I also understand that rights can be lost if not used. I would like to express my thoughts on those two points.

First, I know from my research that the oldest priority date on the claims to waters of Rock Creek, is 1902. If I understand it correctly, the priority date is the date when someone claims that the waters of Rock Creek were first put to "beneficial use" on a certain piece of property.

But Rock Creek itself claims a priority date that is older than any.

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I have researched old courthouse records for weeks, in hopes of finding a solution to this growing problem, and have found, from deeds, posted water notices from 1902, as well as judgements and foreclosures from the early 1900's, that the men and women who originally settled this area including the courts, intended for the waters of Rock Creek to be used on most all of the land in the sections through which it flows. It was never their intent to have those waters held back from the land where it was needed, to be greedily used on only a few tracts of land belonging to one or two people. And I believe they had wisdom enough and moral fiber enough not to draw the creek down to a dry bed of rocks, leaving a rightful share to the natural living things to which it first belonged.

Mr. Jordan, again, we are not asking that the irrigation rights be taken away from the farmers. We are only asking that "a minimal flow" or "in stream flow" right first be established for the future of Rock Creek and the living things that depend on its' waters. And we are asking that the other property owners with claims to the water, have a monitored share of that water as was originally intended when the water was first diverted, to help water their lawns. If we cannot have both of those requests met, then the right of in stream flow, to save Rock Creek and its' habitat is the most important one.

We know sir, that is is not an easy issue to resolve. We thank you for your time and consideration of these requests, and for listening to this sincere need for your intervention in the situation concerning Rock Creek.

Very Truly Yours,

Karen Nealy

Note: Since I feel that I must do all I can to try to prevent the continued abuse of Rock Creek waters, I am in the process of trying to file a claim on Rock Creek to water my lawn. I have researched the matter as well as I know how, and I am convinced that if the water is allowed to flow in Rock Creek under a monitored system, the Creek will survive. If it is not monitored it will not. If an in stream flow right cannot be established, then perhaps I can attempt to show that the waters of Rock Creek were always legally meant to go with all the land for which it was first put to use in 1902, including my small 5 acre tract. I am going to take the liberty to enclose the information I have compiled since first learning of this process in September of this year. I would be grateful if you would review it also; it is a history of the waters of Rock Creek. If, however, I had to choose between a right to use the water on my lawn, or an in stream/minimal flow right to keep the creek flowing to benefit Idaho, I would cheerfully choose the latter.

RECEIVED

DEC 14 2000

Department of Water Resources
Eastern Region

12/10/2000

Mr. Wilson,

all the above is enclosed, including
a letter of explanation concerning documents.

Thank you for your help and please
notify me if I need to do anything more.

also, if necessary, would you share
this enclosed info with Mr. Ruberry?

Sincerely,
Karen Nealy



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

November 29, 2000

Karen Nealy
P.O. Box 456
Inkom, ID 83245

RECEIVED

NOV 29 2000

Department of Water Resources
Eastern Region

RE: Adjudication Claim

Dear Mrs. Nealy:

Enclosed is your check #2485 for \$76.00, and a blank form for filing for an irrigation water right in the Snake River Basin Adjudication.

You will need to complete the adjudication claim form and return the signed, notarized copy to this office with the \$101.00 filing fee.

It is usually best to include a copy of all documentation supporting your adjudication claim at the time of filing as this could streamline the review process.

Sincerely,

Keith C. Wilson
Senior Resource Agent

602-350

November 15, 2000
William and Karen Nealy
698 E Upper Rock Creek Rd
Mailing address- Box 456
Inkom, ID 83245

To whom it may concern;

We believe that we have a right to the use of the waters of Rock Creek, and would like to have the following letter included and reviewed with our claim.

The waters of Rock Creek have been used for irrigation and/or domestic and stock water on property we own on Upper Rock Creek Rd, Inkom, Bannock County Idaho, since a Notice of Water Right was first posted in 1902. Several documents and deeds of record, as well as statements of previous owners and/or their descendants, in our opinion, verify this.

We have researched chains of title, deeds, judgements, and water right notices, that pertain to our property from 1902 through the present. According to these legal documents, as well as written statements from previous owners of this property, the waters of Rock Creek were diverted, used, and intended for use on this property since the 1902 posting and recording of that Notice of Water Right.

I believe that the IDWR and perhaps the Snake River Basin Adjudication Team, are aware of the contention that has been going on for years concerning Rock Creek waters. Current and past owners of two separate large tracts of land along the Creek have always claimed that they have had the "rights" to the waters of the creek, and that no one else has any right to the water at all.

I have spent many hours searching for and researching the information I have concerning posted notices, and several other legal documents pertaining to the "rights" to the use of Rock Creek water on our property. I have copies of those documents, in chronological order, as well as written statements from previous owners, in support of our claim, carefully filed and readily available for inspection by the Snake River Basin Adjudication Team, and IDWR.

I do realize that the adjudication team and IDWR are very busy and pressed for time, but since my claim file will become public record, accessible to anyone, I have decided to respectfully request to withhold these documents and produce them for inspection when our claim is actually reviewed. I do not wish to share the information I have with other claimants who may try to oppose my claim, until those claimants officially object to or protest my claim.

I will gladly go the extra mile, to accommodate the adjudication team when my claim is reviewed, and the documents are needed. I thank the adjudication team and IDWR for their patience in considering this request. I also ask for a reply to this letter and that the letter be

included in my file with my claim. If the documents MUST be in my file at the time of filing this claim, and I cannot withhold them until review of the claim, please inform me.

Thank you for your time, attention and assistance concerning this matter, especially to Mr. Wilson, who is a very patient and well- informed IDWR officer.

(The documents consist of five one or two page items, and three one page statements and/or affidavits.)

Sincerely,

A handwritten signature in cursive script that reads "Karen Nealy". The signature is fluid and written in dark ink.

Karen Nealy

FA # 18174
C226

WARRANTY DEED

94004427

For Value Received R. DALE LLOYD and KARLENE R LLOYD, husband and wife

Hereinafter called the Grantor, hereby grants, bargains, sells and conveys unto

TOM ROMRIELL AND LAURIE ROMRIELL, husband and wife

whose address is: 698 E. UPPER ROCK CREEK ROAD, INKOM, ID, 83245

Hereinafter called the Grantee, the following described premises situated in BANNOCK County, Idaho, to-wit:

Commencing at the Northwest corner of the NE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 11, Township 8 South, Range 36 E.B.M., BANNOCK COUNTY, IDAHO; running thence East along the section line of said Section 11 a distance of 550 feet; thence at right angles to last described line South 850 feet; thence at right angles to last described line West 550 feet; thence at right angles to last described line North 850 feet to the POINT OF BEGINNING.

SUBJECT TO all easements, right of ways, covenants, restrictions, reservations, applicable building and zoning ordinances and use regulations and restrictions of record, and payment of accruing present year taxes and assessments as agreed to by parties above.

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantee and to the Grantee's heirs and assigns forever. And the said Grantor does hereby covenant to and with the said Grantee, that the Grantor is the owner in fee simple of said premises; that said premises are free from all encumbrances except current years taxes, levies, and assessments, and except U. S. Patent reservations, restrictions, easements of record, and easements visible upon the premises, and that Grantor will warrant and defend the same from all claims whatsoever.

Dated: March 9, 1994

Karlene R. Lloyd
R Dale Lloyd

STATE OF IDAHO)
COUNTY OF BANNOCK)

On this 9TH day of MARCH, in the year 1994, before me, a Notary Public in and for said State, personally appeared R. DALE LLOYD and KARLENE R LLOYD, known or identified to me to be the person(s) whose name(s) ARE subscribed to the within instrument, and acknowledged to me that THEY executed the same

NO 94004427

Teri J. Smith Notary Public of Idaho
Residing at POCATELLO, ID.
Commission Expires: 4-28-99

FIRST AMERICAN TITLE
'94 MAR 14 AM 11:18

OFFICIAL
BANNOCK COUNTY
CLERK
EE 302 DEPUTY

QUIT CLAIM DEED

388089

THIS INDENTURE, Made the eighteenth day of February, in the
year of our Lord, One Thousand Nine Hundred and fifty six, between
EDWARD H. NICHOLS and ETTA NICHOLS, husband and wife
of County of Bannock and
State of Idaho the parties of the first part, and DALE LLOYD and
KARLENE R. LLOYD, husband and wife
of County of Bannock and
State of Idaho the parties of the second part:

WITNESSETH, That the said parties of the first part, for and in consideration of the sum of
Ten (\$10.00) Dollars and 00/100 DOLLARS
lawful money of the United States of America to them in hand paid by the said parties of
the second part, the receipt of which is hereby acknowledged, do by these presents demise, re-
lease and forever Quitclaim unto the said parties of the second part, and to their heirs
and assigns, all that certain lot, piece or parcel of land
situated in Bannock County, of the State of Idaho, particularly described as
follows, to-wit:

Commencing at the Northwest corner of the NE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 11,
Township 8 South, Range 36, E.P.M.; running thence East along
the section line of said Section 11 a distance of 550 feet;
thence at right angles to last described line South 850 feet;
thence at right angles to last described line West 550 feet;
thence at right angles to last described line North 850 feet
to the point of beginning.



Together with all and singular, the tenements, hereditaments and appurtenances thereto 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 unto
said parties of the second part, and to their heirs and assigns
forever.

IN WITNESS WHEREOF, The said parties of the first part have hereunto set their
hands and seals the day and year first above written.

Witness my hand and delivered in the presence of

Edward H. Nichols
Etta Nichols

18 of 31

388089

STATE OF IDAHO
County of Benneek

On this eighteenth day of February in the year 1956, before me, Lavern Charles Johnson, Notary Public in and for the state of Idaho, personally appeared EDWARD H. NICHOLS and SARAH NICHOLS, husband and wife, known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that they executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.

Lavern Charles Johnson
Residence: Pocatello, Idaho

388089
RECORD REQUEST OF
Dale Lloyd
Inkom, Idaho
JAN 21 2 09 PM '63
SARAH NICHOLS, CLERK
FEE \$1.50

QUIT CLAIM DEED

Dated 1956

Filed for record at the request of

minutes past o'clock

Mo. in Record of Deeds, page

County of Benneek

By Deputy

Recorder's Fees \$

D

16 & 31
~~14 & 31~~

THIS INDENTURE, made this 17th day of November in the year 1931, our Lord, One Thousand Nine Hundred and Fifty-one, between

FRED J. TRIPP and GLADYS LEE TRIPP, husband and wife,
of McCammon, County of Bannock, State of Idaho
the parties of the first part, and

EDWARD H. NICHOLS and ETTA NICHOLS, husband and wife,
of Enkom, County of Bannock, State of Idaho
the parties of the second part:

WITNESSETH: That the said parties of the first part, for and in consideration of the sum of ONE and no/100 and other good and valuable consideration lawful money of the United States of America, to them in hand paid by the said parties of second part, the receipt whereof is hereby acknowledged do by these presents, Grant, Bargain, Sell and Convey and Confirm unto said parties of the second part, and to their heirs and assigns forever: All that certain lot, piece or parcel of land situate, lying and being in the County of Bannock, State of Idaho, bounded and more particularly described as follows, to-wit:

Commencing at the Northwest corner of the NE¹/₄ NE¹/₄, Section 11, Township 8 South, Range 36, E.R.M.; running thence East along the section line of said Section 11 a distance of 550 feet; thence at right angles to last described line South 850 feet; thence at right angles to last described line West 550 feet; thence at right angles to last described line North 850 feet to the point of beginning.



Together with all and singular, the tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining, and the rents, issues and profits thereof

TO HAVE AND TO HOLD, all and singular, the said premises, together with the appurtenances and privileges thereto incident unto the said parties of the second part, and to their heirs and assigns forever and the said parties of the first part, and their heirs and assigns warrant the said premises in the quiet and peaceable possession of the said parties of the second part, their heirs and assigns against the said parties of the first part, and their heirs and assigns and every person or persons whomsoever, lawfully claiming or to claim the same, shall well warrant and by these presents forever defend.

IN WITNESS WHEREOF, the said parties of the first part have hereunto set their hands and seals the day and year first above written.

Signed, Sealed and Delivered in the Presence of

[Handwritten signatures]
[Signature] [Signature]
[Signature] [Signature]
[Signature] [Signature]

[Stamp]
[Stamp]
[Stamp]

(19) 4(31)

129725.2

THIS INDENTURE, made this 23rd day of April, 1943, between Edward H. Nichols and Etta Nichols, husband and wife of McCammon, County of Bannock, State of Idaho, the parties of the first part and R. Dale Lloyd and Karlene H. Lloyd, husband and wife of McCammon, County of Bannock, State of Idaho, the parties of the second part,

WITNESSETH, that the said parties of the first part, for and in consideration of the sum of One and no/100 Dollars lawful money of the United States of America to them in hand paid by the parties of the second part, the receipt whereof is hereby acknowledged have granted, bargained, sold, and by these presents, do grant, bargain, sell and convey and confirm unto the said parties of the second part, and to their heirs and assigns, forever, all the following described real estate, situated in the County of Bannock, State of Idaho, to-wit:

Commencing at the Northwest corner of the NE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 17, Township 8 South, Range 36, E.B.M.; running thence East along the section line of said Section 17 a distance of 950 feet; thence at right angles to last described line South 850 feet, thence at right angles to last described line West 550 feet; thence at right angles to last described line North 850 feet to the point of beginning.



TOGETHER with all and singular the tenements, hereditaments and appurtenances thereunto belonging in anywise appertaining, and the reversion and reversions, remainder and remainders, and rents, issues and profits thereof; and all estate, right, title and interest in and to the said property, as well in law as in equity of the said parties of the first part.

TO HAVE AND TO HOLD, all and singular the above mentioned and described premises together with the appurtenances unto the parties of the second part, and to their heirs and assigns forever. And the said parties of the first part, and their heirs, the said premises in the quiet and peaceable possession of the said parties of the second part, their heirs and assigns, against the said parties of the first part, and their heirs, and against all and every person and persons whomsoever, lawfully claiming or to claim the same shall and will warrant and by these presents forever defend.

IN WITNESS WHEREOF, the said parties of the first part have hereunto set their hands and seals the day and year first above written.

Executed and Delivered in the Presence of

Edward H. Nichols

B3 (B-)

6354

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

UTAH MORTGAGE LOAN CORPORATION,
a corporation,

Plaintiff.

vs.

EATHAN F. CUTLER, JR. and his
wife, IDA E. CUTLER; MELVIN F.
CUTLER and his wife, LUCY CUTLER;
GEORGE H. CUTLER and his wife,
JANE DOE CUTLER, whose true and
correct name is to plaintiff un-
known, VIVIAN E. CUTLER, an un-
married man, and NIBLEY-CHANNEL
LUMBER COMPANY, a corporation;
RENSSELAER L. CURTIS, as Receiver
of the Bannock National Bank of
Pocatello, Idaho, a corporation.

Defendants.

DECREE
OF
FORECLOSURE

The above matter having come on regularly for trial before the Court, sitting without a jury, Messrs. Peterson & Coffin appearing for the plaintiff and none of the defendants appearing, and it appearing that all of the defendants, with the exception of NIBLEY-CHANNEL LUMBER COMPANY, a corporation, had been duly and regularly served with Summons in Bannock County, Idaho, and that the time for appearance had expired, and that the default of each and all of said defendants had been heretofore duly and regularly entered, and that said default was properly entered, and it further appearing to the Court that the defendant, NIBLEY-CHANNEL LUMBER COMPANY, A corporation, had filed a Demurrer, which said Demurrer is by the Court over-ruled, and the Court having ordered that an Answer be filed forthwith, and the said defendant, NIBLEY-CHANNEL LUMBER COMPANY, a corporation, having refused to plead further, and the Court having ordered its default for refusal so to plead to be entered, and said default having been by the Clerk entered, and oral and documentary evidence having been offered by the plaintiff and received by the Court, and all and singular the law and the facts being by the Court understood and considered, and the Court having found that all of the allegations of the plaintiff's Complaint are true, and there also having been filed in Court the Disclaimer of Finis Bentley, Trustee in Bankruptcy of the estate of Melvin F. Cutler, Bankrupt.

NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the plaintiff have judgment against the defendants EATHAN F. CUTLER and Ida E. Cutler, MELVIN F. CUTLER and LUCY CUTLER in the sum of \$2625.77, together with attorney fees in the amount of \$250.00, making a total judgment in the amount of \$2875.77, together with costs taxed in the sum of \$.....

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that all and singular the mortgaged premises in said Complaint described and hereinafter in this Decree described, or so much thereof as may be necessary to satisfy the plaintiff's demands, be sold by or under the direction of the sheriff of Bannock County, Idaho, in accordance with law and the practice of this Court, and that any of the parties of this action may be purchasers at said sale.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED That if the proceeds of said sale shall be insufficient to pay the amount of the sheriff's costs and commissions on said sale and the plaintiff's demands, that upon the coming in of the return of the sheriff, that the Clerk of this Court docket a judgment against the defendants, EATHAN F. CUTLER JR., IDA E. CUTLER, MELVIN F. CUTLER and LUCY CUTLER for the amount of such deficiency, and in case the proceeds of said sale are more than sufficient to pay the costs of said sale and the plaintiff's demands as aforesaid, then the sheriff shall pay to the Clerk of this Court such excess to abide the further order of the Court.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED That the defendants, EATHAN F. CUTLER JR., IDA E. CUTLER, MELVIN F. CUTLER, LUCY CUTLER, GEORGE H. CUTLER, JANE DOE CUTLER, VIVIAN E. CUTLER, NIBLEY-CHANNEL LUMBER COMPANY, a corporation, RENSSELAER L. CURTIS, as Receiver of the Bannock National Bank of Pocatello, Idaho, a corporation, and each and all of them and all persons claiming under them or any of them, either as purchasers, encumbrancers or otherwise, subsequent to the date of record of the said mortgage, to-wit: July 2, 1921 at twelve minutes past three o'clock P. M., be, and they hereby are foreclosed of all right, claim or equity of redemption in and to said mortgaged premises, and every part and parcel thereof.

The property to which this Decree refers and which the sheriff is hereby ordered to sell in satisfaction of the plaintiff's demands as hereinbefore set forth, in the following described property, situate, lying and being in Bannock County, Idaho, and particularly described as follows, to-wit:

The Southwest Quarter of Section 1, and the North Half of the Southeast Quarter, and the Southeast Quarter of the Southeast Quarter of Section 2, in Township 8 South, of Range 36 East of the Boise Meridian, containing 280 acres;

Also beginning at the Northeast corner of the Southwest Quarter of the Southeast Quarter of Section 2, in above township and range, and running thence South 52 rods, thence West 80 rods, thence North 52 rods, thence East 80 rods to the place of beginning, containing 26 acres more or less; the entire tract containing 306 acres;

Together with all water rights belonging or in anywise appertaining thereto, and especially including an undivided one-half interest in and to a right to the use of the waters of Rock Creek in said Bannock County to the extent or amount of 10 cubic feet per second of time acquired under and by virtue of that certain notice of water appropriation dated June 18th, 1902, which is found of record in Book 2 of Water Locations, at Page 137 of the records of Bannock County, Idaho; also a right to the use of the waters of that certain unnamed stream in Bannock County, to the extent or amount of 3 cubic feet per second of time, acquired by the mortgagor under and by virtue of that certain notice of water appropriation dated June 27th, 1902, and which is found of record in Book 2 of Water Locations, at Page 183 of the records of said Bannock County, Idaho. Also together with all waters arising from numerous springs on the above described premises and which have been utilized for irrigation of certain portions of said lands during each of the years from and including the year 1902, together with the tenements, hereditaments and appurtenances and any and all water rights and irrigating ditches thereto belonging or in anywise appertaining.

DONE IN OPEN COURT in Pocatello, Idaho, this 12th day of December, 1923.

O. R. Baum,
DISTRICT JUDGE.

FILED
AT.....O'CLOCK.....M
DEC 12, 1923.
R. C. EARLEY, Clerk of District Court.
By L. Sponberg, DEPUTY.

6187

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

INTERNATIONAL MORTGAGE BANK,
a corporation,

Plaintiff.

No. 6187.

vs.

FINDINGS OF FACT AND
CONCLUSIONS OF LAW

JOSEPH A. STONES and ANNA
ELISA STONES, his wife,
JAMES R. LAKE and NORA LAKE,
his wife, and DOWNEY STATE
BANK, a corporation,

Defendants.

This matter came on regularly for hearing this 17 day of Dec. 1923, plaintiff appearing by Orval M. Fox and Parker W. Kimball, its attorneys; appearance was made on behalf of Joseph A. Stones and Anna Elisa Stones, his wife, by demurrer and said demurrer was withdrawn and said parties consented to the entry of judgment against them as prayed for in the complaint; no appearance was made on behalf of any of the balance of said defendants; upon examination of the records and files the Court finds that legal service was had upon each of said defendants and that no appearance upon behalf of James R. Lake and Nora Lake, his wife, and Downey State Bank, a corporation, has been made; that each of said defendants is in default and upon motion therefor, an order of default was entered against each of said defendants; upon examination of the records and files, the Court finds that it has jurisdiction of the subject matter of such action and of the parties thereto and that all proceedings therein have been regular and valid, and the Court makes the following:

FINDINGS OF FACT

I.

That during the times hereinafter mentioned plaintiff was and is a corporation duly organized and existing under and by virtue of the laws of the Kingdom of the Netherlands, authorized to engage in the mortgage loan business; that it has complied with the laws of the State of Idaho relative to foreign corporations.

II.

That during the times hereinafter mentioned defendants, Joseph A. Stones and Anna Elisa Stones were and are now husband and wife; James R. Lake and Nora Lake were and are now husband and wife; and Downey State Bank was and is now a corporation.

Notice of Water Location.

We the undersigned citizens of the United States hereby locate & claim by appropriation 20,000,000 Miners inches of the waters flowing in this stream known to us as Link Creek said waters to be reserved during the early months of the season & stored by constructing a dam or dams across said stream at or near the point where this notice is posted The purpose for which said waters are appropriated is irrigation mining & domestic uses along & under the ditches flumes & pipe lines & in & about the City of Pocatello The means of diversion of said waters is by ditches flumes & pipe lines to the places of use. The point of diversion will be at or near where this notice is posted.

The intention of this appropriation is done in good faith & in accordance with the Statutes of the United States which Statutes provides for the locations of reservoir sites for the storage of water for beneficial purposes & also in compliance with the statutes of Idaho.

Names of Appropriators
& notice posted
Appropriated this 17th day of June 1902.

J.J. Gusick,
Guy W. Stapleton,
P.D. Delmar,
P.R. Keeler,

Recorded at request of P.D. Delmar, at 1.11 o'clock P.M. June 18th, 1902.
By E.G. Gallet, Deputy. Fee 40¢ J.S. Campbell, Recorder.

Notice of Water Right Location.

To Whom it May Concern:

Notice is hereby Given, That F.G. Little E.B. Hicks and G.W. English of Pocatello, County of Bannock State of Idaho have this seventeenth day of June 1902 appropriated and hereby claim the use of the waters of Belle Marsh Creek to the extent of Two (2) cubic feet per second, flowing at the point of intended diversion, which said point of intended diversion is particularly described as follows, to-wit: Seven miles in a north westerly direction from McCammon.

That the special purpose or purposes for which said water is claimed Placer Mining.

The place of its intended use is The Hoosier Girl Placer Claim.

That the general course of the proposed canal or conduit is West to East.

The length of said proposed canal or conduit is not to exceed fifteen hundred (1500) feet

That it is intended to complete the works for the diversion and use of said water as aforesaid within Thirty (30) days. A copy of this notice was duly posted at or near the point of intended diversion on the seventeenth day of June 1902.

Witness our hands at Claim County of Bannock State of Idaho, this 17th day of June 1902.

Appropriators and Claimants.

(F.G. Little,
(E.B. Hicks,
(G.W. English,

State of Idaho,)
) SS.
County of Bannock.)

F.G. Little being first duly sworn, deposes and says that he is of lawful age and one of the appropriators and claimants of the Water Right described in the within and foregoing notice and whose name is subscribed thereto. That the statements in said notice are true, and that the original notice of which the foregoing is a true copy, was posted in a conspicuous place at or near the point of intended diversion at 1.15 o'clock P.M., the 17th day of June 1902.

(SEAL) Subscribed and Sworn to before me this 18th day of June 1902.
F.G. Little,
J.S. Campbell, Clerk.
By E.G. Gallet, Deputy.
Recorded at request of F.G. Little, at 4.05 o'clock P.M. June 18th 1902.
By E.G. Gallet, Deputy. Fee 80¢ J.S. Campbell, Recorder.

NOTICE OF WATER RIGHT.

STATE OF IDAHO,)
) SS.
Bannock County.)

To All Concerned Notice is hereby Given:

First. That, Edwin A. Lish, and Walter Romrell Eathen F. Cutler Jr. Eathen F. Cutler Sr. of McCammon, Bannock County, Idaho hereby claim the use of the waters of Rock Creek to the extent of Ten cubic feet per second.

Second. It is intended to divert said water at or near the point where a copy of this notice is posted, and more definitely described as follows: Near the Southeast corner of Section 1, Township 8 South of Range 36 East, B.M.

In above description give legal sub-division of land or describe the place with reference to some prominent landmark.

Third. The purpose for which said water is intended to be used is for agricultural and domestic purposes.

The place of intended use is on the land hereinafter described.

Fourth. It is intended to divert said water by means of a ditch or canal.

The general course of the proposed canal is Westerly.

The length of the proposed canal is one mile and one-half.

It is intended to use said water for irrigating the following, described land: S.E. 1/4 of S.W. 1/4 Sec. 2, E. 1/2 of N.W. 1/4, S.W. 1/4 of N.E. 1/4 of Section 11; Town 8 S. E. 1/2 of N.E. 1/4 Sec. 11 and N. 1/2 of N.W. 1/4 of Section 12, N. 1/2 of S.W. 1/4 Sec. 1, N. 1/2 of S.E. 1/4 of Section 2, S. 1/2 of S.W. 1/4 of Sec. 1, S. 1/2 of S.E. 1/4 of Section 2, all in Township 8 South of Range 36 East, B.M.

Fifth. It is intended to have the works for diversion and use of said water as aforesaid completed within one years. T

Witness our hand at McCammon, Bannock County, Idaho, this 18th day of June, 1902.

Edwin A. Lish,)
Walter Romriell,) Claimants.
Eathen F. Cutler, Jr.)
Eathen F. Cutler, Sr.)

STATE OF IDAHO,)
) SS.
Bannock County.)

Edwin A. Lish being first duly sworn deposes and says that he is of lawful age and one of the claimants of the water right mentioned in the foregoing notice and whose name is subscribed thereto. That the statements in said notice are true and that the original notice of which the foregoing is a true copy, was posted in a conspicuous place at, or near the place of intended diversion, as provided by law, on the 18th day of June, 1902, at 54 minutes past 2 o'clock P.M.

Edwin A. Lish,

Subscribed and sworn to before me this 18th day of June 1902.

J. S. Campbell,

(SEAL)

Clerk of Dist. Court.

By D. N. Campbell, Deputy.

Recorded at request of Edwin A. Lish, at 4.55 o'clock P.M. June 18th, 1902.

By D. N. Campbell,

J. S. Campbell,

Deputy.

Fee 80¢

Recorder.

NOTICE OF WATER APPROPRIATION.

STATE OF IDAHO,)
) SS.
Bannock County.)

TO ALL CONCERNED:--

Notice is hereby given:-- That James J. Scott, of McCammon, of the County of Bannock and State of Idaho, hereby claims the use of the waters of Robbers Roost Creek, here flowing to the extent or amount of Two (2) cubic feet per second of time, to be diverted at a point on said stream near the north-east corner of the south-east quarter of the south-west quarter of Section 24 in Township 8 South of Range 36 E.B.M., at which said point a copy of this notice is posted.

It is intended, to use said waters for agricultural and domestic purposes upon the following described lands, to-wit:-- The south-half of the south-east quarter of Section 23 and the north half of the north-east quarter of Section 26 in Township 8 South of Range 36 East of the Boise Meridian in Idaho, and containing 160 acres.

Said waters are to be diverted and conducted to and upon the above described lands by means of a ditch running from the above described point of diversion, in a general westerly direction, being about one (1) mile in length and having its terminus in the north-west quarter of the north-east quarter of Section 26 Township 8 South of Range 36 E.B.M.

It is intended to have the works for the diversion and distribution of the above described waters fully completed within two (2) years from the date hereof.

Witness the hand of claimant at McCammon, Bannock County, Idaho, this 17th day of June, A.D. 1902.

James J. Scott,

Claimant.

STATE OF IDAHO,)
) SS.
Bannock County.)

James J. Scott, being first duly sworn according to law deposes and says that he is of lawful age and the claimant of the water right mentioned in the foregoing notice and whose name is subscribed thereto; that the statement in said notice contained are true and that the original notice of which the foregoing is a true copy was posted in a conspicuous place at the point of diversion therein described on the 17th day of June, A.D. 1902, at 12.08 o'clock P.M.

James J. Scott,

Subscribed in my presence by the said James J. Scott, and by him sworn to before me this 19th day of June, A.D. 1902.

Theo. Turner,

Notary Public.

(SEAL)

Recorded at request of Bannock Abst. Co. at 8.55 o'clock A.M. June 19th 1902.

By E. G. Callet,

J. S. Campbell,

Deputy.

Fee 80¢

Recorder.

Notice of Water Right Location.

To Whom it May Concern:

Notice is hereby Given, That I, Gideon R. Kinports, of Pocatello, County of Bannock, State of Idaho has this 18th day of June, 1902 appropriated and hereby claims the use of the waters of the Portneuf River to the extent of Four (4) cubic feet per second, flowing at the point of intended diversion, which said point of intended diversion which said point of intended diversion is particularly described as follows, to-wit: to be diverted from the said Portneuf River at or near the point of intersection of the said river with the East line of the North-east quarter of the South-west quarter of Section twenty-two, in Township Seven (7) South, Range Thirty-five (35) East of Boise Meridian in Idaho. containing 120 acres

That the special purpose or purposes for which said water is claimed is agricultural and domestic purposes upon the above described lands.

The place of its intended use is on the E. 1/2 of S.W. 1/4, and S.W. 1/4 of S.W. 1/4 of Section Twenty-two (22), Township Seven (7), South, Range Thirty-five (35) East of the Boise Meridian in Idaho.

regular service of summons has been made upon the defendant, and that the defendant having failed to appear by answer, demurrer, or otherwise, within the time required by law, and the default of the defendant having heretofore been entered, the court proceeded to hear the testimony in behalf of the plaintiff, Warren S. Meader, and Archer Townsend were sworn, and testified on behalf of the plaintiff, and the testimony closed, and the Court being fully advised in the premises, finds that from said testimony, each of the material allegations of the complaint are true, and that the plaintiff is entitled to the relief prayed for and such is, by the court, found to be the fact.

WHEREFORE, IT IS ORDERED, ADJUDGED AND DECREED, that the bonds of matrimony heretofore existing between the plaintiff and defendant be dissolved, and that said plaintiff and defendant each be restored to all the rights and privileges of unmarried persons.

DATED this the 20th day of June, 1919.

ROBERT M. TERRELL,
District Judge.

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

THE UNION CENTRAL LIFE
INSURANCE COMPANY of Cincinnati,
Ohio, a corporation,

Plaintiff,

-vs-

DECREE OF FORECLOSURE
AND ORDER OF SALE.

EDWIN A. LISH, AXEL HJULSTROM,
THOMAS HARGRAVES AND LEE ARNETT,

Defendants,

This cause came on regularly to be heard on the 24 day of June, 1919, Budge & Merrill, attorneys at law, appearing for and on behalf of the plaintiff and none of the defendants appearing either in person or by attorney; the court, having heard all the evidence and proofs produced herein and duly considered the same and being fully advised in the premises and it appearing therefrom to the satisfaction of the court:

1. That the summons in said action, together with a copy of the complaint therein, was duly served upon the defendants Edwin A. Lish and Axel Hjulstrom and that said defendants failed within the time prescribed by law or at all, to appear and answer herein and in that respect made default, which said default has been duly and regularly entered; and it further appearing that the defendant, Thomas Hargraves, made a voluntary and personal appearance herein and declined to plead further in said action and consented that proof might be submitted to said court without further notice to him, and upon said Thomas Hargraves failing to further plead in said cause his default was duly and regularly made and entered; and it further appearing that the defendant, Lee Arnett, by and through his attorney W. H. Witty, duly appeared in said court and filed a demurrer in this action, which said demurrer was regularly called for hearing and thereupon was over-ruled by said court and the said Lee Arnett was required to answer instantly, and upon failure so to do the default of the said Lee Arnett was duly and regularly entered herein according to law; that due and sufficient proof has been produced of all matters and things as required by law.

2. That on the 21st day of May, 1919, the plaintiff herein caused to be filed and recorded in the office of the County Recorder of said County of Bannock, State of Idaho, notice of the pendency of this suit, containing the names of the parties thereto, the object thereof, and also a true and correct description of the lands and premises affected thereby;

3. That there is now due and owing the plaintiff, The Union Central Life Insurance Company of Cincinnati, Ohio, a corporation, under plaintiff's first cause of action, by the defendant, Edwin A. Lish, as evidenced by said promissory note, the principal sum of \$300.00, together with interest aggregating \$66.75, and \$50.00, attorney's fees, and that there is further due said plaintiff from said defendant under its second cause of action the principal sum of \$700.00, with interest thereon, aggregating \$30 55/100 and \$100.00 attorney's fees and \$31.51 expended for taxes duly assessed and existing upon said premises, together with interest thereon at the rate of twelve per cent per annum from the 21st day of May, 1919, amounting to \$0 25/100 and costs amounting to \$20.80, which said sums aggregate \$1299 86/100; that the said defendant last named is personally liable for the whole amount thereof; that the said aggregate amount evidenced by both mortgages in this action is a valid lien upon the grounds and premises in plaintiff's complaint and hereinafter described and is secured by the mortgages mentioned in said complaint.

4. That the terms and conditions of said notes and mortgages and each of them have been broken by the defendant last named; that plaintiff is entitled to have each of said mortgages enforced and foreclosed and the lands and premises hereinafter

described sold in the manner prescribed by law and the proceeds arising from said sale applied to and upon the payment of said aggregate sum of money so found due as aforesaid.

5. That each and all of the allegations and averments in plaintiff's complaint contained are true and correct.

NOW, THEREFORE, on motion of Budge & Merrill, counsel for the plaintiff, application therefor having been made,-

IT IS ORDERED, ADJUDGED AND DECREED, that The Union Central Life Insurance Company of Cincinnati, Ohio, a corporation, plaintiff herein, have judgment against the defendant Edwin A. Lish, on its first cause of action based upon the promissory note and mortgage for the sum of \$300.00 principal, and \$66.75 interest, and \$50.00 attorney's fees, adjudged by the court to be reasonable, and that it have judgment upon its second cause of action, evidenced by the promissory note and mortgage herein referred to, for the sum of \$700.00, principal, and \$30 55/100 interest, and \$100.00 attorney's fees, adjudged by the court to be reasonable, and and for \$31.51 paid for taxes, together with interest on the last named sum from the 21 day of May, 1919, amounting to \$0 25/100, and costs and disbursements to date of this decree, amounting to \$20.80, all of which said sums under both causes of action aggregate \$1299 86/100; that the defendant, Edwin A. Lish, is personally liable for the whole thereof and that the same is a valid lien upon the lands and premises in the complaint and hereinafter described and is secured by the terms of said mortgages.

That since the execution of said mortgages Sarah Lish, the wife of Edwin A. Lish, died; that the property herein referred to was community property of said parties.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that all and singular the mortgaged premises mentioned in said complaint and hereinafter described, or so much thereof as may be sufficient to raise the amount due the plaintiff for the principal, interest and attorney's fees, money expended under the terms of said mortgage for taxes and costs of this suit and expenses of sale and which may be sold separately without needless injury to the parties interested, be sold at public auction by the Sheriff of the County of Bannock, State of Idaho, in the manner prescribed by law and according to the course and practice of this court; and that the said sheriff, after the time allowed by law for redemption has expired, execute a deed to the purchaser or purchasers of the mortgaged premises sold at said sale.

That the said sheriff, out of the proceeds of said sale retain his fees and disbursements on said sale and pay to the plaintiff or its attorneys out of said proceeds the aggregate sum of \$1299.86, which includes the items aforesaid, together with interest thereon at the rate of seven per cent per annum from the date of this decree, or so much thereof, as the said proceeds of sale will pay of the same.

That the defendants and all persons claiming or to claim from or under them or any of them and all persons having liens subsequent to said mortgages and their heirs and personal representatives and all persons claiming to have acquired any estate or interest in said premises subsequent to the filing of said notice of the pendency of this action, with the recorder, as aforesaid, be forever barred and foreclosed of and from all equity of redemption and claim of, in and to said mortgaged premises and every part and parcel thereof, from and after the delivery of the sheriff's deed.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the purchaser or purchasers of such mortgaged premises at such sale be let into possession thereof and that any person who, since the commencement of this action, has come into possession under them or any of them deliver possession thereof to such purchaser or purchasers on production of the Sheriff's deed for such premises or any part thereof, and that in case the said purchaser be refused possession, a writ of assistance issue without further notice, requiring the sheriff of the County in which the lands are situated to place and maintain the said purchaser in quiet and peaceable possession of the lands and premises purchased by him and the whole thereof.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that if the money arising from said sale be insufficient to pay the amount so found due the plaintiff, as above stated, with interest and costs and expenses of sale, as aforesaid, the said sheriff shall specify the amount of such deficiency and balance due plaintiff in his return of said sale and that on the recording and filing of said lien the clerk of this court docket a judgment for such balance against the defendant, Edwin A. Lish, and that said defendant pay to the plaintiff the amount of such deficiency and judgment, with interest thereon at the rate of seven per cent per annum from the date of the last mentioned return and judgment, and that the plaintiff have execution therefor.

The lands and premises directed to be sold by this decree are situated in the County of Bannock, State of Idaho, and are particularly described as follows, to-wit:

The East half of the Northeast Quarter of Section eleven (11) N Township 8 south, Range 36 East, Boise Meridian, containing 80 acres of land, together with a full primary water right coming from Rock Creek, together with all the improvements, privileges and appurtenances thereto belonging or in anywise appertaining and all ditch and water rights of every nature, however evidenced, used on said lands and belonging to the same.

Done in Pocatello, Idaho, this 24 day of June, 1919.

ROBERT M. TERRELL,
District Judge.

(B2)

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

THE UNION CENTRAL LIFE INSURANCE
COMPANY of Cincinnati, Ohio, a
corporation,

-vs-

Plaintiff,

DECREE OF FORECLOSURE AND ORDER
OF SALE.

JAMES A. LISH, CLARA GRACE LISH,
his wife, ALONSON LEWIS, AXEL
HJULSTROM and THOMAS HARGRAVES,

Defendants.

This cause came on regularly to be heard this 26th day of May, 1919, Budge & Merrill, Attorneys at Law, appearing for the plaintiff and none of the defendants appearing either in person or by attorney, the court, having heard all the evidence and proofs produced herein and duly considered the same, and being fully advised in the premises, and it appearing therefrom to the satisfaction of the court:

1. That summons in said action, together with a copy of the complaint therein, was duly served on all of said defendants in this action, save and except Thomas Hargraves, who made a voluntary and personal appearance herein and declined to plead further and that said defendants so served failed, within the time prescribed by law or at all, to appear and answer herein and in that respect have made default, which default has been duly and regularly entered, as has also the default of the said Thomas Hargraves; that due and sufficient proof has been produced herein of all matters and things required by law;

2. That on the 29th day of March, 1919, the plaintiff herein caused to be filed and recorded in the office of the County Recorder of Bannock County, a notice of the pendency of this suit, containing the names of the parties thereto, the object thereof, and also a true and correct description of the lands and premises affected thereby.

3. That there is now due and owing the plaintiff, The Union Central Life Insurance Company of Cincinnati, Ohio, a corporation, by the defendants, James A. Lish and Clara Grace Lish, under the promissory note, \$650.00 principal and \$96.29 interest, and the further sum of \$18.87 paid by the plaintiff to redeem the taxes assessed against said lands for the year 1917, together with interest thereon from date of payment, amounting to 54¢ and the further sum of \$10.95, paid to redeem the taxes thereon for the year 1918, together with interest from date of payment amounting to 20¢ and the further sum of \$125.00 allowed by the Court as attorney's fees herein and \$18.00 costs of suit thus far expended, aggregating a total of \$919.85, that the said defendants last named are personally liable for the whole amount thereof; that said aggregate amount is a valid lien upon the premises in plaintiff's complaint and hereinafter described, and is secured by the mortgage mentioned in said complaint.

4. That the terms and conditions of said mortgage have been broken by said defendants last named; that the plaintiff is entitled to have said mortgage enforced and foreclosed and the lands and premises hereinafter described sold in manner prescribed by law and the proceeds arising from said sale applied to and upon the payment of said sum of money so due as aforesaid.

5. That each and all of the allegations and averments in the plaintiff's complaint contained are true and correct:

NOW, THEREFORE, on motion of Budge & Merrill, counsel for the plaintiff, application therefor having been made,-

IT IS ORDERED, ADJUDGED AND DECREED that The Union Central Life Insurance Company of Cincinnati, Ohio, a corporation, plaintiff herein, have judgment against the defendants, James A. Lish and Clara Grace Lish, on said promissory note and mortgage for \$650.00 principal and \$96.29 interest, and for the further sum of \$18.87 paid in redemption of taxes assessed against said lands for the year 1917, with interest thereon amounting to 54¢ and the further sum of \$10.95 paid as taxes on said premises, duly assessed thereon for the year 1918, with interest thereon amounting to 20¢, for \$125.00 attorney's fees, and \$18.00 costs of suit, aggregating the sum of \$919.85, and that the defendants last named are personally liable for the whole thereof and that the same is a valid lien upon the lands and premises in the complaint and hereinafter described and is secured by the terms of said mortgage.

IT IS FURTHER ADJUDGED AND DECREED that all and singular the mortgaged premises mentioned in said complaint and hereinafter described, or so much thereof as may be sufficient to raise the amount due to the plaintiff for the moneys due as aforesaid, together with accruing costs and expenses of sale and which may be sold separately without material injury to the parties interested, be sold at public auction by the Sheriff of the County of Bannock, State of Idaho, in manner prescribed by law and according to the course and practice of this court; that the sheriff, after the time allowed by law for redemption has expired, execute a deed to the purchaser or purchasers of the mortgaged premises sold at said sale; that the sheriff, out of the proceeds of said sale, retain his fees and disbursements on said sale and pay to the plaintiff or its attorneys out of said proceeds the aggregate sum of \$919.85, due as aforesaid, together with interest thereon at seven per cent per annum from the date of this decree, or so much thereof as the said proceeds of said sale will pay of the same.

That the defendants and all persons claiming or to claim from or under them and all persons having liens subsequent to said mortgage and their heirs and personal representatives and all persons claiming to have acquired any estate or interest in said premises subsequent to the filing of the notice of the pendency of this action with the recorder, as aforesaid, be forever barred and foreclosed of and from all equity of redemption and claim of, in and to said mortgaged premises and every part and parcel thereof from and after the delivery of the sheriff's deed.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the purchaser or purchasers of such mortgaged premises at such sale be let into possession thereof and any person who, since the commencement of this action, has come into possession under them or either of them deliver possession thereof to such purchaser or purchasers thereof on production of the sheriff's deed for such premises or any part thereof and that in case the said purchaser be refused possession, a writ of assistance issue without further notice, requiring the sheriff of the County of Bannock to place and maintain the said purchaser in quiet and peaceable possession of the lands and premises purchased by him and the whole thereof.

IT IS FURTHER ADJUDGED AND DECREED that if the money arising from said sale be insufficient to pay the amount found due the plaintiff as above stated, with interest and costs and expenses of sale, as aforesaid, the sheriff shall specify the amount of such deficiency and balance due plaintiff in his return of said sale and that on recording and filing of said return the clerk of this court docket a judgment for such balance against the defendants James A. Lish and Clara Grace Lish and that said last named defendants pay to the plaintiff the amount of such deficiency and judgment, with interest, thereon at the rate of seven per cent per annum from the date of the last mentioned return and judgment and that the plaintiff have execution therefor.

The lands and premises directed to be sold by this decree are situated in the County of Bannock, State of Idaho, and are bounded and particularly described as follows, to-wit:

West half of Northwest Quarter of Section twelve (12), Township eight (8) South, Range 36 East, Boise Meridian, in Idaho, containing eighty acres according to the official survey of said lands returned to the General Land Office by the Surveyor General, together with one-eighth interest in all the waters of Rock Creek, together with all the improvements, privileges and appurtenances thereunto belonging and all ditch and water rights of every nature, however evidenced, used on said lands or belonging thereto or to the said mortgagors.

DATED this 26th day of May, 1919.

ROBERT M. TERRELL,
District Judge.

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

FRANK I GUNNELL AND
EDITH GUNNELL,

-vs-

Plaintiffs.

IDAHO RANCH COMPANY,
a corporation, P. A.
MATTSON, L. W. MATTSON,
and S. R. MATTSON,

Defendants.

D E C R E E

This cause came on regularly for trial on the 17th day of February, 1919, before the court, sitting without a jury, Budge & Merrill of Pocatello, Idaho, appearing as attorneys for the plaintiffs, and James B. Bacon, Esq., of Pocatello, Idaho, appearing as attorney for the defendants. The court, having heard the evidence of the respective parties, and considered the briefs of counsel filed herein, and being fully advised in the premises, having made and signed findings of fact and conclusions of law:

NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

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 29-13141
Date Received: 1/4/01
Receipt No:
Received By:

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

A2913141



1. Name of Claimant(s)

WILLIAM NEALY Phone: (208) 775-3246

PO BOX 456
INKOM ID USA 83245

KAREN NEALY Phone: (208) 775-3246

PO BOX 456
INKOM ID USA 83245

2. Date of Priority: 06/18/1902

3. Source: UPPER ROCK CREEK Trib. to: PORTNEUF RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County
08S	36E	11	NE NE	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	04/01	10/01	0.03	
STOCKWATER	01/01	12/31	0.02	

0.03

7. Total Quantity Appropriated is:
0.05 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
08S	36E	11	NE	NE		IRRIGATION	1
			NE	NE		STOCKWATER	
						Section Acres	1
						Total Acres	1

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:

WE USE A 1 3/4" H.P. GAS PUMP WITH 3" SUCTION AND 1 1/2" DISCHARGE HOSE CONNECTED TO FOUR AND SOMETIMES FIVE 3/4" RAINBIRD TYPE IRRIGATION HEADS. IT IS ALSO PART OF THE SYSTEM TO PLACE OR DIG A PLACE TO PUT A 55 GALLON BARREL INTO THE CREEK, MIDSTREAM, APPROXIMATELY 5' 0" FROM THE SOUTH END OF THE CULVERT AS A RESERVOIR. LETTER ENCLOSED AND INTENDED FOR USE WITH THIS CLAIM. LETTER EXPLAINS EXISTENCE OF DOCUMENTS AND ASKS FOR REPLY CONCERNING FILING OF CLAIM IN REGARDS TO DOCUMENTS. STOCKWATER: 2 HORSES

15. Basis of Claim: Beneficial Use

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 29-13141
Date Received 12/19/2000 12/27/00
Receipt Number E026350 E026400

NOTICE OF CLAIM
TO A
WATER RIGHT
ACQUIRED UNDER STATE LAW

Please type or print clearly

1. Name of Claimant (s) William & Karen Nealy Phone (208) 775-3246
Mailing Address PO Box 456 Inkom ID Zip 83245

2. Date of Priority (Only one (1) per claim) June 18, 1902 (2:54 p.m.)

3. Source of water supply (a) Rock Creek
which is tributary to (b) Portneuf

4. a. Location of existing point of diversion is: Township 8 S Range 36 E Section 11,
_____ 1/4 of NE 1/4 of NE 1/4, Govt. Lot, _____ B.M., County of Bannock

Additional points of diversion if any: none

b. If instream flow, beginning point of claimed instream flow is:

Township _____ Range _____ Section _____, _____ 1/4 of _____ 1/4 of _____ 1/4,

Govt. Lot _____ B.M., County of _____

ending point is: Township _____ Range _____ Section _____, _____ 1/4 of _____ 1/4 of _____ 1/4,

_____ 1/4, Govt. Lot _____ B.M., County of _____

5. Description of existing diversion works (Dams, Reservoirs, Ditches, Wells, Pumps, Pipelines, Headgates, Etc), including the dates of any changes or enlargements in use, the dimensions of the diversion works as constructed and as enlarged and the depth of each well.

We use a 1 3/4 H.P. gas pump with 3" suction and 1 1/2" discharge hose connected to four and sometimes five 3/4" Rainbird type irrigation heads. It is also part of the system to place or dig a place to put a 55 gallon Barrel into the creek, midstream, approximately 50" from the south end of the culvert as a reservoir.

6. Water is claimed for the following purposes:

(both dates are inclusive)

(cfs)

(acre feet)

For Irrigation purposes from 04-01 to 10-01 amount 0.030 or _____

For Stock water purposes from 01-01 to 12-31 amount 0.020 or _____

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

7. Total quantity claimed (a) 0.050 (cfs) and/or (b) _____ (acre feet)

8. Total consumptive use claimed is n/a acre feet per annum.

9. Non-irrigation uses; describe fully (eg. Domestic: Give number of households served; Stockwater: Type and number of livestock Etc.) Stockwater for two horses

10. Description of place of use:

a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.

b. If water is used for other purposes, place a symbol of use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

TWP	RNG	SEC	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	
8S	36E	11	I																
			S																

Total number of acres irrigated 1 (one)

11. In which county (ies) are lands listed above as place of use located? Bannock County, ID

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

13. Describe any other water rights used at the same place and for the same purposes as described above.
NO. 29-10297 or None ()

14. Remarks: Letter enclosed and intended for use with this claim-
Letter Explains existance of documents and asks for reply concerning filing of claim in regards to documents. Telephone 208-775-3246

Last Name Nealy Ident No. _____

Copies: White -State, Yellow-Claimant

Scale: 2 inches equals 1 mile

Township 8S
Range 36E
Section 11

Neatly
Property
Location
Rock
flows
all
along
the
property
frontage

NEALY

Ident No.

Copies: White-State, Yellow-Claimant

15. Basis of Claim (check one) Beneficial Use _____ Posted Notice ☒ License _____ Permit _____
Decree _____
If applicable provide IDWR Water Right Number _____
Court _____ Case Number _____ Decree Date _____
Plaintiff vs Defendant _____

16. Signature (s)

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

Number of attachments _____

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

Signature of Claimant (s) _____

Date 12-8-00

Date 12-8-03

For Organizations: I do solemnly swear or affirm that I am _____

Title

of _____, that I have signed the foregoing
Organization

document in the space below as _____ of _____
Title Organization

and that the statements contained in the foregoing document are true and correct.

Signature of Authorized Agent _____

Title and Organization _____

Date _____

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

Subscribed and sworn (or affirmed) before me this 8 day of Dec 19 00

SEAL

Notary Public Quanna Sterner

Residing at Idaho

My Commission Expires Oct. 27, 03

Please Print Name

17. Notice of Appearance:

Notice is hereby given that I, _____ will be acting as attorney at law on behalf of the claimant signing above, and that all notices required by law to be mailed by the director to the claimant signing above should be mailed to me at the address listed below.

Signature _____

Address _____

Date _____

Last Name Nealy Ident. Number _____

Copies White-State, Yellow-Claimant

Vandermeulen, Cheri

From: Smith, Danni
Sent: Tuesday, March 20, 2001 4:36 PM
To: Vandermeulen, Cheri
Cc: Ruberry, Allen
Subject: RE: A29-10297

This is a D&S claim already decreed. It has already gone to Allocations (Karilynn) and change of ownership done to reflect Nealy. I can fax down the partial decree, but depending on what the claimant needs I suggest just printing from the microfiche rather than check in and out of the state office. Let me know if you need the partial or other info from the file that I could fax down tomorrow. Have a great day, see ya in April.

-----Original Message-----

From: Vandermeulen, Cheri
Sent: Tuesday, March 20, 2001 3:49 PM
To: Smith, Danni
Subject: A29-10297

Hi Danni!

Allen Ruberry just asked me to e-mail you about the above mentioned claim. He has a claimant coming in to the office and he needs the file.

Would you please send me the claim by friday??? Fed ex would probably be the best way to send it.

Let me know!

Thank you!
Cheri
Eastern Region

Allen,

this is Danni's response

I also have E mail
mandke@ida.net.
Thanks again!

Karen (Nealy) Archibald
Karen Archibald

Dec. 3, 2001

Mr Ruberry,
Thanks for reviewing this
info- please call me
with any questions at
747-3989 or 851-1565-

RECEIVED

DEC 04 2001

The ~~ident-number~~ ~~claim number~~ I have is 29-13141
Department of Water Resource
Eastern Region

The Box number I
have is still PO 456,
Inkom, ID- it has a temp.
forwarding to my second
residence- If your correspond-
ence to me is says no forwarding-
then please use this address-
Karen Archibald - 4699 W.
Hiway 36, Weston ID 83286