

11/20/2006

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

RIGHT NUMBER: 75-4010

NAME AND ADDRESS: JENNIE NELSON
3527 FEDERAL WAY #63
BOISE ID 83705

HERMAN V NELSON
3527 FEDERAL WAY #63
BOISE ID 83705

SOURCE: LAKE CREEK

TRIBUTARY: SALMON RIVER

QUANTITY: 0.520 CFS

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

PRIORITY DATE: 09/28/1922

POINT OF DIVERSION:

T23N R17E S19 SWSE Within LEMHI County
T23N R17E S19 SWSE Within LEMHI County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
DOMESTIC	01/01 12/31	0.020 CFS
IRRIGATION	04/01 11/01	0.500 CFS

PLACE OF USE: IRRIGATION in LEMHI County

T23N R17E S19	SWSE	9.00	T23N R17E S30	NWNE	15.00
T23N R17E S30	NENW	1.00			

DOMESTIC in LEMHI County

T23N R17E S19 SWSE

25 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.

Property is within Homestead Entry Survey No. 426.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use

05/15/2006

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T23N R17E S30	NENW	1.00			

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25 ACRES TOTAL

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EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use



Idaho Department of Water Resources

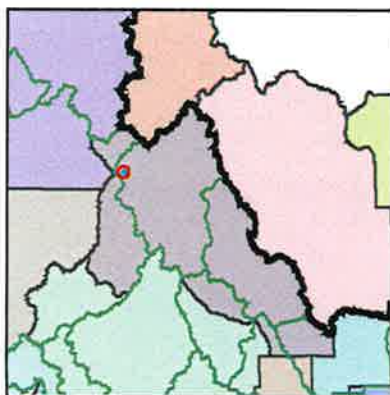
SRBA Recommendation:

75-4010

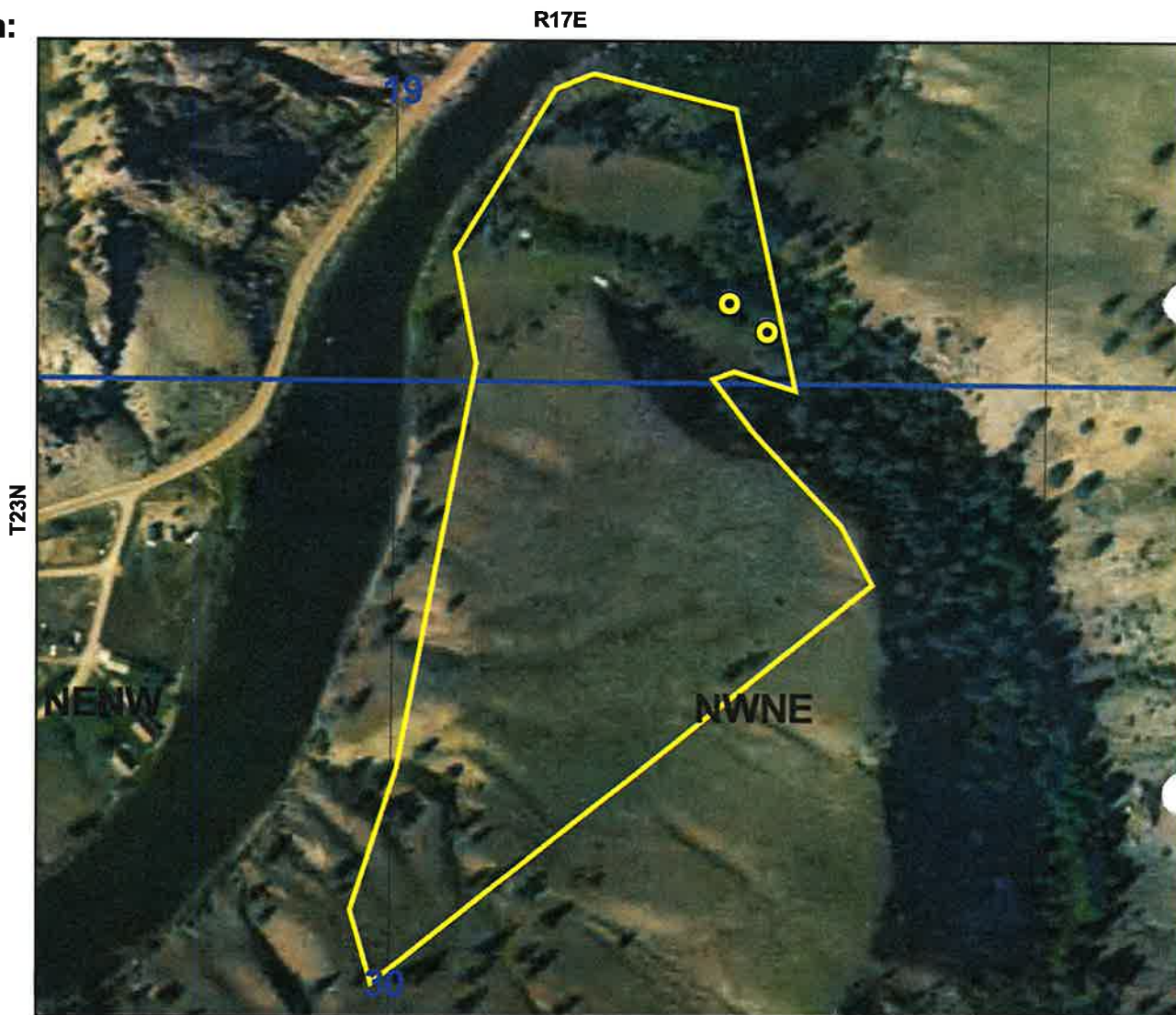
(Irrigation)

Legend

-  Point of Diversion
-  Place of Use
-  Townships
-  PLS Sections
-  Quarter Quarters



Lemhi County
IDWR Basin 75



0 0.1 0.2 Miles

Prepared by M. Ciscell
On Sunday, November 19, 2006
2004 Aerial Photography

Idaho Department of Water Resources

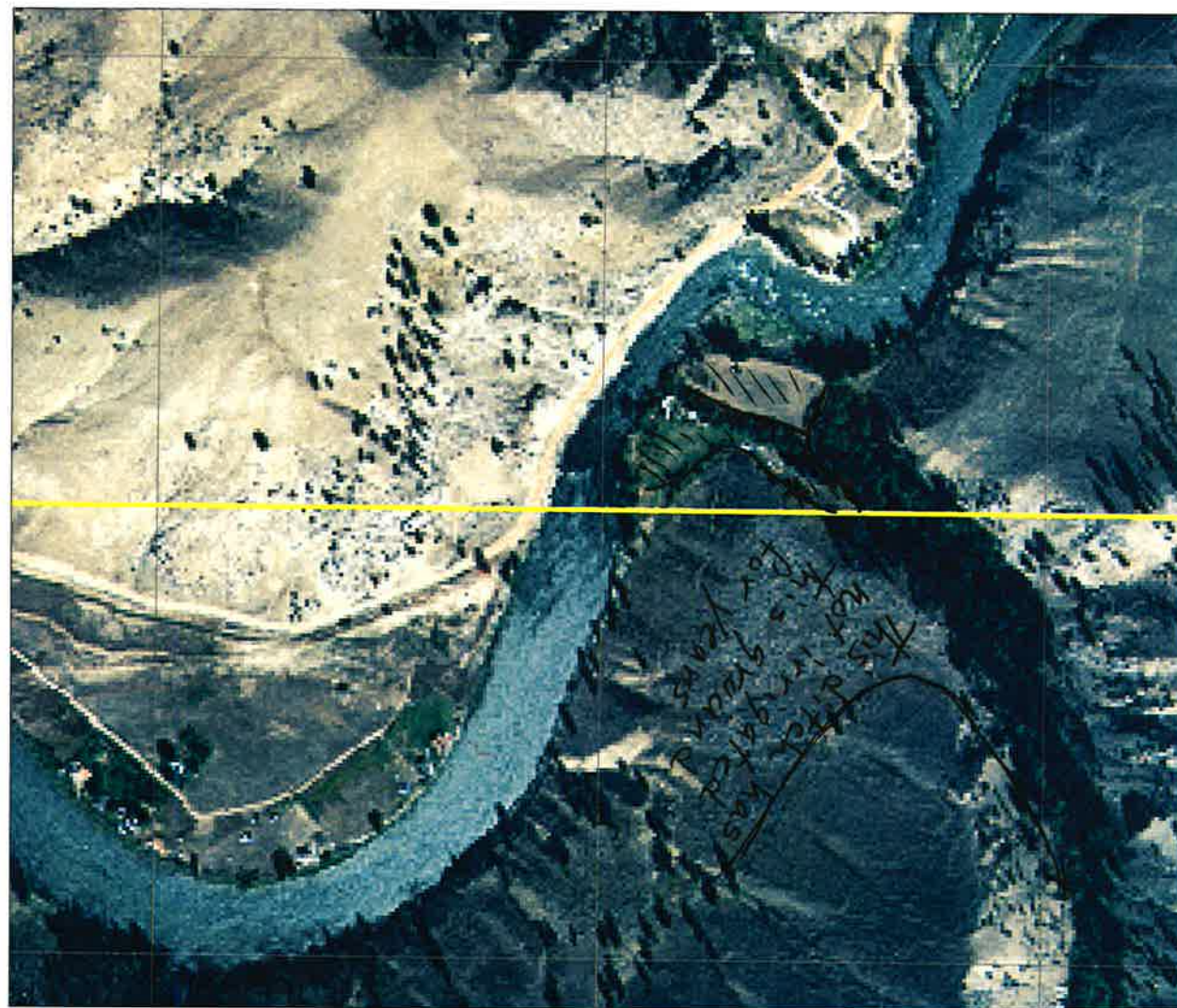


Adjudication Claim Number: **75-4010**



Legend

- Section Lines
- 23N17E GCDB
- 23N16E GCDB



0 0.2 0.4 Miles

A scale bar with markings for 0, 0.2, and 0.4 miles.

Prepared by M. Van Bussum
On Friday, April 29, 2005
1991 Aerial Photography

sp. 12
sp. 13
sp. 14

25 X 50



28

25 X 50

RECEIVED
OCT 19 2007
DEPARTMENT OF
WATER RESOURCES

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)

Subcase No. 75-4010

Case No. 39576)

STANDARD FORM 1
OBJECTION

NAME AND ADDRESS OF PERSONS OBJECTING

Name: Herman V. Nelson
Jennie Nelson
c/o Clyde G. Nelson
Address: P. O. Box 797
Soda Springs, Idaho 83276

Daytime Phone: (208) 547-2135

Name & Address of Attorney, if any:

Josephine P. Beeman
Beeman & Associates, P.C.
409 West Jefferson Street
Boise, Idaho 83702
(208) 331-0950
(208) 331-0954
jo.beeman@beemanlaw.com

CLAIMANT OF WATER RIGHT AS LISTED IN DIRECTOR'S REPORT

Herman V. Nelson
Jennie Nelson
c/o Clyde G. Nelson
P. O. Box 797
Soda Springs, ID 83276
(208) 547-2135

I object to the following elements as recommended in the Director's Report.

1. ☐ **Name and Address**
Should be: _____
2. ☐ **Source**
Should be: _____
3. ☒ **Quantity**
Should be: 1.02 cfs, as claimed. The irrigation portion of the right was claimed as 1 cfs, but recommended for .5 cfs. The domestic portion of the right was claimed and recommended for .02 cfs and is not objected.
4. ☐ **Priority Date**
Should be: _____
5. ☒ **Point(s) of Diversion**
Should be: Three separate points of diversion, all described with respect to HES #426. Two within HES #426 and a third ½ mile to ¾ mile upstream of HES #426 along Lake Creek. Points of diversion listed by legal description are only a reference because the land is unsurveyed.
6. ☐ **Instream Flow Description**
Should be: _____
7. ☐ **Purpose(s) of Use**
Should be: _____
8. ☐ **Period of Year**
Should be: _____
9. ☒ **Place of Use**
Should be: 25 acres within HES #426. Legal descriptions by township, range, section, and quarter-quarter are only a reference because the land is unsurveyed.
11. **I object because:**
 - ☐ This water right should not exist.
 - ☐ This water right was not recommended, but should be recommended with the elements described above.

REASONS SUPPORTING OBJECTION(S)

PROPERTY IS IN AN UNSURVEYED AREA: The property is in an area that lacks official surveys, so identification of points of diversion and places of use must be made first with reference to Homestead Entry Survey #426. This objection should be able to be resolved based on the listing of Homestead Entry Survey #426 as described above.

POINTS OF DIVERSION AND PLACE OF USE FOR IRRIGATION: The irrigated land for claim 75-4010 is 25 acres within HES #426 (Sections 19 and 30 are only a reference because the land is unsurveyed). The IDWR and SRBA files for 75-4010 refer to three irrigation ditches from Lake Creek. The SRBA recommendation lists only two points of diversion. There should be at least one additional point of diversion $\frac{1}{2}$ mile to $\frac{3}{4}$ mile upstream of HES #426 along Lake Creek. The two points of diversion recommended should first be described as from Lake Creek within HES #426 (Section 19 is only a reference because the land is unsurveyed).

VERIFICATION

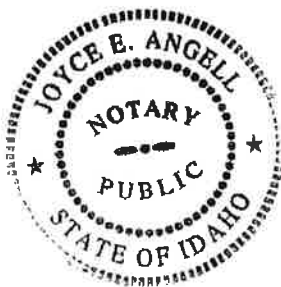
State of Idaho)
)ss.
County of Ada)

Josephine P. Beeman, duly sworn, upon oath, deposes and says:

That I am the attorney for the party/claimant filing this objection, as defined by I.C. §§ 42-1401A(i) and (6), and that I have read this objection, know its contents, and believe that the statements are true to the best of my knowledge.

Josephine P. Beeman
Josephine P. Beeman, Attorney

Subscribed and sworn to before me on: October 17, 2007



Joyce E. Angell
Notary Public for the State of Idaho
Residing at: Boise, Idaho
My Commission Expires: July 29, 2008

CERTIFICATE OF MAILING

I certify that on October 17, 2007, I mailed the original and copies of this objection, including all attachments, to the following persons:

1. Original to:

Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
PO Box 2707
Twin Falls, ID 83303-2707

2. One copy to the claimant of the water right at the following address:

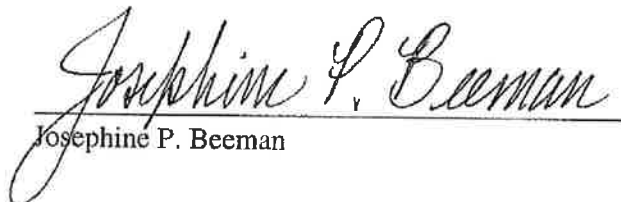
Herman V. Nelson
Jennie Nelson
c/o Clyde G. Nelson
P. O. Box 797
Soda Springs, ID 83276

3. Copies to:

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

United States Department of Justice
Environment and Natural Resource Division
550 West Fort Street, MSC 033
Boise, ID 83724

Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
P. O. Box 44449
Boise, ID 83711-4449


Josephine P. Beeman

SCANNED
MAR 19 2007

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

CHANGE IN ADDRESS

This form can be used to notify the Department of a change in
Address of the owners of record for the listed water rights.
(Please print or type)

RECEIVED
MAR 19 2007
IDWR/North

☒ Water Right Number(s): 75-4010

☒ Names(s): Herman V. Nelson and

Jennie J. Nelson

☒ Old Mailing Address: 3527 Federal Way #63

Boise, Idaho 83705

☒ New Mailing Address: c/o Clyde G. Nelson

P. O. Box 797

Soda Springs, ID 83276

Telephone Number: (208) 547 - 2135

☒ Signature(s) of Owner(s)



Personal Representative - Estates of

Herman V. Nelson and Jennie J. Nelson

(Include your title if on behalf of company or organization)

Date: March 16, 2007

CLYDE G. NELSON

ATTORNEY AT LAW

172 SOUTH MAIN STREET
P.O. Box 797
SODA SPRINGS, IDAHO 83276

CLYDE G. NELSON

TELEPHONE
(208) 547-2135
FAX
(208) 547-2136

March 16, 2007

RECEIVED

MAR 19 2007

IDWR/North

Idaho Department of Water Resources
7600 Mineral Drive, Suite 100
Coeur d'Alene, Idaho 83815

Attn: Kenneth Knoblock
Water Rights Supervisor

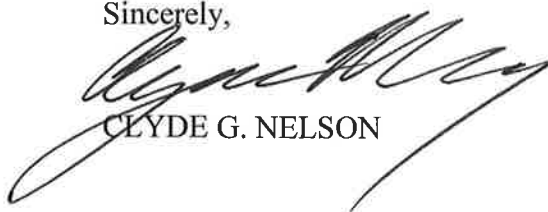
Re: Water Right 75-4010

Dear Mr. Knoblock:

Pursuant to your letter of February 14, 2007, I am enclosing a change in address form. All future correspondence should be mailed to me as Personal Representative of the Estates of Herman and Jennie Nelson. Copies of the Letters Testamentary are enclosed to establish authorization to receive this correspondence.

Thank you for alerting us to this matter.

Sincerely,



CLYDE G. NELSON

CGN:jn
Enc.

RECEIVED
MAR 19 2007
IDWR/North

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF CARIBOU
MAGISTRATE'S DIVISION

IN THE MATTER OF THE ESTATE)
) Case No. CV-07- 494
JENNIE J. NELSON,) LETTERS TESTAMENTARY
Deceased.)

1. Clyde G. Nelson was duly appointed and qualified as General Personal Representative of the estate of the above named decedent on the 14 day of March, 2007, by the Magistrate Court with all authority pertaining thereto.
2. Administration of the estate is unsupervised.

These letters are issued to evidence the appointment, qualification and authority of the said Personal Representative.

WITNESS, my signature and the Seal of this Court, this 14 day of March, 2007.

STATE OF IDAHO }
COUNTY OF CARIBOU } ss.

I HEREBY CERTIFY THAT THE ABOVE AND FOREGOING IS A FULL TRUE AND CORRECT COPY OF THE ORIGINAL AS THE SAME APPEARS OF RECORD OR ON FILE IN THIS OFFICE.

IN WITNESS THEREOF, I HAVE HEREUNTO SET MY HAND AND AFFIXED THE OFFICIAL SEAL OF THIS OFFICE AT SODA SPRINGS, IDAHO, THIS 14 DAY OF March 20 07

Veda Mascarano
Clerk of the District Court
Sharon Skella
Deputy Clerk



Ronald M. Hart
Magistrate Judge

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF CARIBOU
MAGISTRATE DIVISION

RECEIVED
MAR 19 2007
IDWR/North

IN THE MATTER OF THE ESTATE)

OF)

HERMAN VAN NELSON,)

Deceased.)

Case No. SP 98-1321

LETTERS TESTAMENTARY

1. CLYDE G. NELSON was duly appointed and qualified as General Personal Representative of the estate of the above named decedent on the 15 day of May, 1998, by the Court, with all authority pertaining thereto.

2. Administration of the estate is unsupervised.

These letters are issued to evidence the appointment, qualification and authority of the said personal representative.

WITNESS my signature and the Seal of this Court, this 15 day of May, 1998.

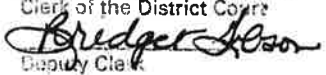


RONALD M. HART
Lawyer Magistrate

STATE OF IDAHO ss.
COUNTY OF CARIBOU

I HEREBY CERTIFY THAT THE ABOVE AND FOREGOING IS A FULL, TRUE AND CORRECT COPY OF THE ORIGINAL AS THE SAME APPEARS OF RECORD OR ON FILE IN THIS OFFICE.

IN WITNESS THEREOF, I HAVE HEREUNTO SET MY HAND AND AFFIXED THE OFFICIAL SEAL OF THIS OFFICE AT SODA SPRINGS, IDAHO THIS 18 day of May, 1998.

Edie Izatt
Clerk of the District Court

Deputy Clerk



State of Idaho

DEPARTMENT OF WATER RESOURCES

7600 Mineral Drive, Suite 100 • Coeur d'Alene, Idaho 83815

Phone: (208) 762-2800 • Fax: (208) 762-2819 • Web Site: www.idwr.idaho.gov

NORTHERN REGION

C. L. "BUTCH" OTTER
Governor

DAVID R. TUTHILL, JR.
Interim Director

February 14, 2007

Herman Nelson
C/O Clyde G. Nelson
Attorney At Law
P.O. Box 797
Soda Springs, ID 83276

SCANNED
FEB 14 2007

Re: 75-4010

Dear Nelson:

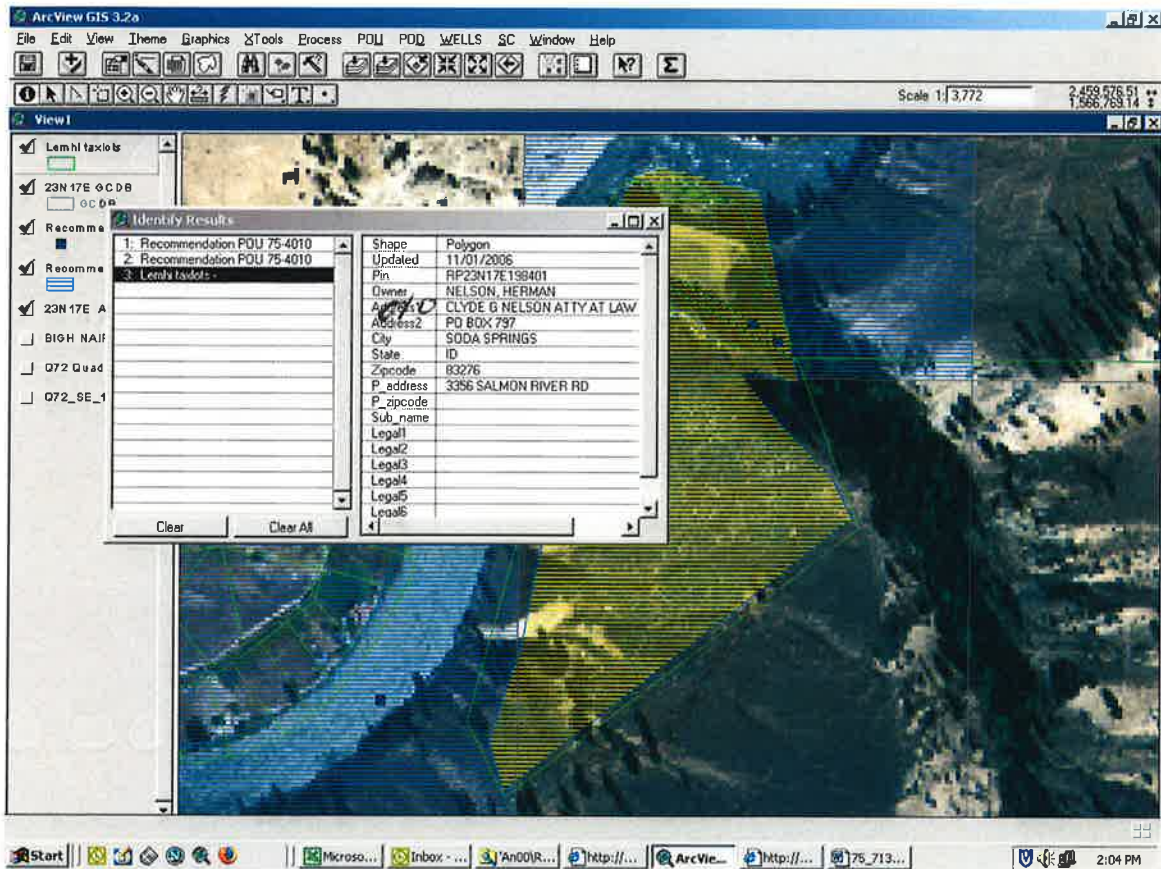
This packet was mailed to Boise and was returned to our office. It appears that it should have been mailed to Soda Springs. In order for you to receive future correspondence you need to file the enclosed change of address form and return it to this office.

Sincerely,

Kenneth Knoblock
Water Rights Supervisor

KK: cm

Encl.





State of Idaho

DEPARTMENT OF WATER RESOURCES

Northern Region, 1910 Northwest Blvd. Suite 210, Coeur d'Alene, Idaho 83814-2615

Phone: (208) 769-1450

Fax: (208) 769-1454

Web Site: www.idwr.idaho.gov

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

March 30, 2006

Clyde Nelson
Box 797
Soda Springs, ID 83276

RE: 75-4010

Dear Mr. Nelson:

I am reviewing the Snake River Adjudication Claim that your mother and father submitted. The statements regarding the date of priority do suffice to support your claim. I measured 25 acres of irrigation rather than 27. In answer to your question in your July 22, 2005, letter, you need to file a change in water right ownership form and mail it to this office. Be sure to include a copy of the warranty deed or other document as described in item 2. B.

Sincerely,

A handwritten signature in black ink, appearing to read 'Kenneth Knoblock', written over a horizontal line.

Kenneth Knoblock
Water Resources Agent

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
ADJUDICATION SECTION
CLAIM VERIFICATION FIELD EXAM SHEET
(Use with the ECVR)

CLAIM NO(s).

A75-04010

1. ☐ No Change NAME IS SAME

☐ NEW OWNER: Nelson Family Trust % Clyde Nelson

☐ No Change ADDRESS

☐ NEW ADDRESS: P.O. Box 797 172 So. Main St Soda Springs, Id 83276

2. ☐ No Change - DATE OF PRIORITY: Completed evidence submitted

☐ Incomplete - Claimant should be asked during the exam when was water first used and submit proof of date of priority.

Priority date, per claimant, is: _____

(If the priority date, based on your exam, seems questionable, explain below.)

3. ☒ No Change — SAME SOURCE

☐ Source is different than that claimed:

Source found: _____

4. ☐ No Change — POINT OF DIVERSION

☐ Point of diversion is different than the claim and/or new P/D's:

GPS Site Tag No.: A0014979

GPS 065
GPS 066
A0014966

Township _____ Range _____ Section _____ 1/4 _____ 1/4 _____ 1/4 _____
Township _____ Range _____ Section _____ 1/4 _____ 1/4 _____ 1/4 _____

5. ☒ No Change - DESCRIPTION OF DIVERTING WORKS

☐ Incomplete description, list below:

6. ☒ No Change - WATER USES
☐ Different uses, (list uses found):

Use _____	From _____	To _____	Amount _____	CFS _____	AFA _____
Use _____	From _____	To _____	Amount _____	CFS _____	AFA _____
Use _____	From _____	To _____	Amount _____	CFS _____	AFA _____

7. ☐ No Change - TOTAL VOLUME

☐ Incomplete on claim, the total is, Amount _____ CFS _____ AFA _____

☐ Changes found, the new total is, Amount _____ CFS _____ AFA _____

8. ☒ No Change - NON-IRRIGATION USES:

☐ Changes Exam found:

Domestic # of homes: _____ Stock # _____ List types: _____

Additional comments: _____

9. ☒ No Change — PLACE OF USE: (If changed, list below.)

Use: _____	Township _____	Range _____	Section _____	1/4 _____	1/4 _____
Use: _____	Township _____	Range _____	Section _____	1/4 _____	1/4 _____
Use: _____	Township _____	Range _____	Section _____	1/4 _____	1/4 _____
Use: _____	Township _____	Range _____	Section _____	1/4 _____	1/4 _____

Remarks: (Comments pertinent to field examination) ☐ See additional attachment

*I did not take a GPS shot on the high ditch
as it has not been used for many years.*

☐ SYSTEM DIAGRAM INCLUDED ☐ NA

☐ Shown on GIS Layout

☐ CK IF IN OFFICE EXAM

DATE EXAM CONDUCTED: _____

FIELD EXAMINER:

Print Name

Jack F. Ellis

Signature

11/20/2006

**NOTICE OF ERROR
REPLY**

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

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

YOUR DEADLINE FOR RETURNING A NOTICE OF ERROR REPLY IS: 12/13/2006

Water right number: 75-4010

JENNIE NELSON
3527 FEDERAL WAY #63
BOISE ID 83705
Telephone Number: (208)343-2078

HERMAN V NELSON
3527 FEDERAL WAY #63
BOISE ID 83705
Telephone Number: (208)343-2078

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: _____ SIGNATURE: _____

Please print your name: _____

IDWR Regional Office, 7600 Mineral Drive, Suite 100, Coeur D' Alene, ID 83815, 2087622800

RECEIVED

AUG 09 2005

DEPARTMENT OF
WATER RESOURCES

TELEPHONE
(208) 547-2135
FAX
(208) 547-2136

CLYDE G. NELSON

ATTORNEY AT LAW

172 SOUTH MAIN STREET
P.O. Box 797
SODA SPRINGS, IDAHO 83276

CLYDE G. NELSON

August 4, 2005

Department of Water Resources
322 East Front Street
P.O. Box 83720
Boise, ID 83707-9815

Attention: Roxanne Brown
Sr. Water Resource Agent
Adjudication Bureau

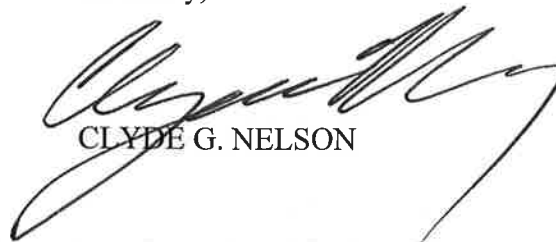
Re: Water Right No. 75-04010 / Evidence of Priority Date

Dear Ms. Brown:

Reference is made to your letter of June 29, 2005, requesting Evidence of Priority Date in regard to Water Right No. 75-04010. In support thereof, I am enclosing three Affidavits, the first of which is from my mother Jennie Nelson, the second from my cousin Paul Cornaby, and an affidavit from myself. Please review the same. If you feel that further information is necessary, I can obtain additional affidavits from my brothers. The property was homesteaded with a patent being received in 1921. My great-uncle Ed Gwyther lived on the property before he actually purchased it in 1926.

Again, if you feel that the Department may require further verification of the Date of Priority, please contact me. Otherwise, I will assume that these will suffice. The address to which all further communications should be sent in regard to this claim is set forth above. Thank you for your assistance.

Sincerely,



CLYDE G. NELSON

CGN:sh
Enc.

SCANNED

AUG 09 2005

AUG 09 2005

DEPARTMENT OF
WATER RESOURCES

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

In Re SRBA)

Subcase No. 75-04010

Case No. 39576)

AFFIDAVIT OF JENNIE NELSON

STATE OF IDAHO)

) ss:

COUNTY OF CARIBOU)

Jennie Nelson, being first duly sworn, deposes and says:

1. I was born April 28, 1909, and was raised in Vernal, Uintah County, Utah. My husband Herman and I have owned property located in Lemhi County, Idaho, at Lake Creek, a tributary of the Salmon River, in Sections 19 and 30, Township 23 North, Range 17 East, B.M. in H.E.S.426 since November 4, 1944, when we purchased it from my mother, Mary Gwyther Johnson. Herman and I lived on this property for many years. I continue to reside there each year for a portion of the year.

2. Prior to our acquisition of the property, the property was owned by my mother who acquired the property from her brother, my uncle, William Gwyther. William Gwyther inherited the property from his brother John Gwyther who died on December 24, 1938. John inherited the property from his brother Edward Gwyther who died on July 29, 1934. The property was first homesteaded by Charles R. Putt who received a patent dated September 28, 1921. The property was inherited as part of Mr. Putt's estate by one Patrick Lennan on or about January 17, 1924. Mr. Lennan conveyed the property to my uncle Edward Gwyther in 1926.

3. A stream known as Lake Creek runs through the property described in paragraph 1 above. The water from Lake Creek is utilized for the irrigation of adjacent grounds and has been so for as long as I can remember. My uncles Edward Gwyther and John Gwyther irrigated the property for hay, potatoes, orchard, and grass for grazing cattle and horses. The water was also used to provide stock water for these animals. My husband and I irrigated the property from Lake Creek since acquiring the same, and my sons, Bryce, Van, and Clyde, have continued to irrigate the property to the present time.
4. Water from Lake Creek has also been used as a domestic supply for two homes on the property described above. The first home was built in the early 1920's, and the second home was built in 1961-1962. Edward Gwyther, John Gwyther, my husband and I, and my son Van have actually lived on the property. My other sons and their families have used the property extensively for the last 50 years. I recall visiting the property with my husband in the 1930's, and hay, potatoes and an orchard were being grown, and livestock was being grazed. The land was irrigated from Lake Creek. The livestock were watered from Lake Creek.
5. There are three primary ditches for irrigation on the property, which are described in the Claim to a Water Right dated November 30, 1972, filed with the Department of Water Resources. The representations contained in that document are true and correct to the best of my knowledge. My husband and I, our sons, and caretakers have maintained these ditches. We continue to irrigate the land at the present time. The property requires a great deal of water due to its rocky-sandy soil and steep terrain.

6. I presently live alone in my apartment located at 351 South 1 West, Apt. #26, Soda Springs, Idaho, 83276. I manage my own business affairs, care for myself, drive an automobile, play bridge, am active on the internet, and am fully aware and knowledgeable of the facts set forth in this affidavit. I also continue to reside at the Lake Creek property described above each year for a portion of the year.
7. In addition to my personal knowledge, I am aware that my uncle Ed occupied this property in the early to mid 1920's after World War I. Uncle Ed had been seriously wounded in World War I and desired to have a place where he could farm, raise cattle, and be free of any embarrassment from wounds he received in the war. I am aware from talking with my mother, and various other relatives in the Gwyther family, that Uncle Ed and his predecessors grew hay, potatoes and other produce upon the property, farmed the same, had a herd of cattle upon the property and irrigated the land and watered livestock from Lake Creek. This was common knowledge in our family.

DATED this 27 day of July 2005.

Jennie Nelson
Jennie Nelson

SUBSCRIBED AND SWORN to before me this 27th day of July 2005.



Susan E. Hunzeker
Notary Public in and for the State of Idaho
Residing at Soda Springs, Idaho
My Commission Expires: 07/01/08

RECEIVED

AUG 09 2005

DEPARTMENT OF
WATER RESOURCES

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

In Re SRBA)
)
Case No. 39576)
)
_____)

Subcase No. 75-04010

AFFIDAVIT OF PAUL CORNABY

STATE OF WASHINGTON)
) ss:
COUNTY OF CALLAM)

COMES NOW Paul Cornaby, upon oath duly deposes and says:

1. I am the son of Les and Mary Cornaby. My mother, now deceased, was a sister to Jennie Nelson. Jennie Nelson is the owner of property located at the mouth of Lake Creek and the Salmon River.
2. I can recall being on the Lake Creek property now owned by Jennie Nelson in 1935. My father, mother, and I had traveled down river that year in order to help my great-uncle John (Jack) Gwyther harvest hay upon the property. We had to walk to the property as there was no road.
3. This was a memorable occasion for me as I recall riding a pony on the property while my parents assisted in the harvesting of the hay crop, I recall dynamiting being done on the other side of the river by the C.C.C. which was constructing a road along the river. The sound of the dynamite scared the pony which I was riding.
4. Hay, potatoes, and garden produce were being grown upon the property. In addition, my great-uncle had an orchard on the property. I recall the haying being done with horses and hay sleds owned by my great-uncle. I also recall cows upon the property. My father, mother, and I stayed in a tent on the property. Uncle Jack occupied the homestead cabin.

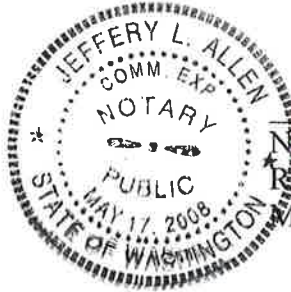
SCANNED

AUG 09 2005

DATED this 28th day of July 2005.

Paul Cornaby
Paul Cornaby

SUBSCRIBED AND SWORN to before me this 28th day of July 2005.



Jeffery Allen
Notary Public in and for the State of Washington
Residing at Port Angeles, Washington
My Commission Expires: 5-17-08

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

In Re SRBA)
)
Case No. 39576)
)
_____)

Subcase No. 75-04010

AFFIDAVIT OF CLYDE NELSON

STATE OF IDAHO)
) ss:
COUNTY OF CARIBOU)

Clyde Nelson, being first duly sworn, deposes and says:

1. I was born April 28, 1943, and was raised in Boise, Idaho. I presently reside at 1766 Cedar View Drive, Soda Springs, Idaho. Herman and Jennie Nelson, my mother and father, owned property in Lemhi County, Idaho, at Lake Creek, a tributary of the Salmon River, in H.E.S.426. They have owned the property since November 4, 1944, when it was purchased from my grandmother, Mary Gwyther Johnson.
2. My father and mother continuously used this property after they purchased it in 1944. They also had caretakers on the property. One of the caretakers was Charles Harkey and another caretaker was a Colon Smith. My parents and the caretakers used water from Lake Creek for domestic supply for the cabin located on the property and irrigated from the creek for hay, potatoes, garden and orchard as well as grazing ground for cattle.
3. I started going up to the Lake Creek property in the late 1940's when I was a small child. I can recall from the late 1940's or early 1950's that this property was being irrigated from Lake Creek, and livestock was being watered from the creek. In addition, I am aware that the water is used from Lake Creek for both cabins on the property. My parents constructed a second home on the property in the early 1960's.

4. I have regularly gone to the Salmon property to visit my parents who resided much of the year on the property. I am aware that they continued to irrigate the property growing crops and watering horses, an orchard and grazing ground. I am also aware they continued to use water for domestic supply in both homes.

I participated in the irrigation of this property on numerous occasions. We used a flood irrigation procedure, and I helped cleaned ditches on the property. The use of the water has continued to the present time. While I have not been on the property this year, I was on the property last year, and the property was irrigated during that time.

5. It is common knowledge that my great-uncle Edward Gwyther first irrigated this property in the early 1920's. It is also common knowledge that this irrigation continued and that hay, potatoes, gardens, and grazing ground were irrigated from Lake Creek. Also, it is common knowledge that livestock was grazed on the property which were watered from Lake Creek.

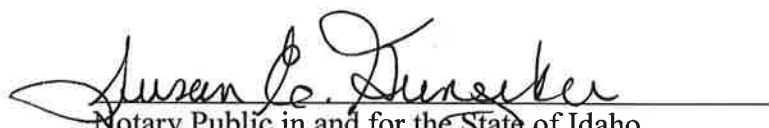
6. There are no other water users on Lake Creek.

DATED this 4th day of August 2005.


Clyde G. Nelson

SUBSCRIBED AND SWORN to before me this 4th day of August, 2005.




Notary Public in and for the State of Idaho
Residing at Soda Springs, Idaho
My Commission Expires: 7/1/08

CLYDE G. NELSON

Telephone
(208) 547-2135

Attorney at Law
P.O. BOX 797, 172 S. MAIN
SODA SPRINGS, ID 83276

Facsimile
(208) 547-2136

FACSIMILE TRANSMITTAL MEMO

DATE: July 22, 2005

TO: Department of Water Resources
Attention: Roxanne Brown

FAX: : (208) 287-6700

RE: Water Right No. 75-04010 / Owner: Herman V. Nelson and Jennie Nelson

NUMBER OF PAGES INCLUDING COVER PAGE: 3

COMMENTS:

HARD COPY TO FOLLOW VIA U.S. MAIL X YES NO

IF YOU DO NOT RECEIVE ALL PAGES OF TRANSMISSION, PLEASE CALL

(208) 547-2135 AS SOON AS POSSIBLE. THANK YOU FOR YOUR QUICK RESPONSE.

THE INFORMATION CONTAINED IN THIS TRANSACTION IS PRIVILEGED AND CONFIDENTIAL. IT IS INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY NAMED ABOVE. IF THE READER OF THIS MESSAGE IS NOT THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISSEMINATION, DISTRIBUTION OR COPY OF THIS COMMUNICATION IS STRICTLY PROHIBITED BY LAW. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE NOTIFY US IMMEDIATELY BY TELEPHONE AND RETURN THE ORIGINAL MESSAGE TO US AT THE ABOVE ADDRESS VIA U.S. POSTAL SERVICE.

CLYDE G. NELSON
ATTORNEY AT LAW

CLYDE G. NELSON

172 SOUTH MAIN STREET
P.O. BOX 797
SODA SPRINGS, IDAHO 83276

TELEPHONE
(208) 547-2135
FAX
(208) 547-2136

July 22, 2005

SENT VIA FACSIMILE: (208) 287-6700

Department of Water Resources
322 East Front Street
P.O. Box 83720
Boise, ID 83720-0098

Attention: Roxanne Brown

Re: Water Right No. 75-04010
Owner: Herman V. Nelson and Jennie Nelson

Dear Ms. Brown:

I appreciate receiving your telephone response so quickly. Thank you for extending additional time for the submission of a response and evidence of priority date for the Department. It is my understanding that we can submit the same through August of this year. As I have advised you by telephone message, I will attempt to submit evidence of the same by the first week of August at the latest, and hopefully by the previous deadline of July 29, 2005, which the Department imposed.

In regard to my telephone message to you, I can obtain an affidavit from my mother who is 96 years of age and in good health verifying the use of irrigation water on the place and the raising of crops and grazing of livestock. In addition, I can submit an affidavit as to my knowledge that irrigation water has been applied to the place. I started going up to the Lake Creek property in the 1940's. I have a cousin who is approximately 75 years of age who can also state that he was on the place in 1935 and hay and potatoes were being grown and animals were grazed and watered from the creek. Of course, there was a cabin on this place in 1921 or 1922 which is the original homestead cabin. That is still in use. In addition, my parents built another place in the early 1960's, and water from Lake Creek has been used for culinary purposes in both houses.

Please advise me as to whether you think that this information will be sufficient for the Department. I can also obtain affidavits from my two brothers, who live out of state, that irrigation water has been continuously used on this property since their earliest recollections in

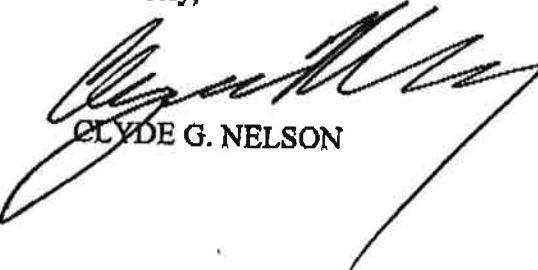
Department of Water Resources
Attn: Roxanne Brown
July 22, 2005
Page 2

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Also, the ownership of the property is now vested in the Herman V. Nelson Trust at my address. What do we need to do to change ownership on the water right?

Thank you for your assistance in this matter. It is greatly appreciated.

Sincerely,



CLYDE G. NELSON

CGN:sh

CLYDE G. NELSON

ATTORNEY AT LAW

172 SOUTH MAIN STREET
P.O. BOX 797
SODA SPRINGS, IDAHO 83276

CLYDE G. NELSON

July 22, 2005

RECEIVED

JUL 22 2005

DEPARTMENT OF
WATER RESOURCES

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JUL 25 2005

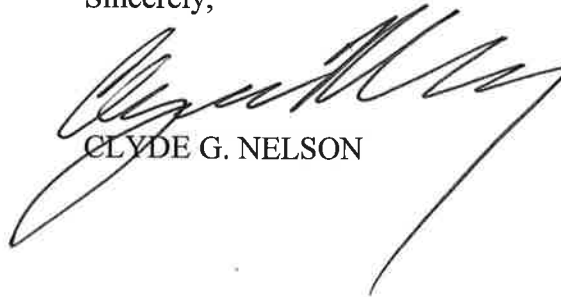
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Sincerely,



CLYDE G. NELSON

CGN:sh

SCANNED

JUL 25 2005

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: A75-04010
Date Received: 2/21/1990
Receipt No: C014853
Received By: CA

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: HERMAN V. NELSON 208-343-2078
Address: 3527 FEDERAL WAY #63
BOISE, ID 83705

AND/OR

Name: JENNIE NELSON 208-343-2078
Address: 3527 FEDERAL WAY #63
BOISE, ID 83705

2. Date of Priority: SEP 28, 1922

3. Source: LAKE CREEK Trib. to: SALMON RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4 of	Lot	County
23N	17E	19	NE	SE	SW		LEMHI
			SW	SW	SE		LEMHI
		30	SE	SW	NE		LEMHI

5. Description of diverting works:
3 ROCK AND EARTH DIVERSION DAMS, DITCHES

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	04/01	11/01	1.000		
DOMESTIC	01/01	12/31	0.020		

7. Total Quantity Appropriated is:
1.020 C.F.S. (and/or) A.F.A.

8. Total consumptive use is 67.5 Acre Feet Per Annum.

9. Non-irrigation uses:
DOMESTIC, 2 HOMES

A75-04010

Page 1

Date: 02/21/90

A7504010



MICROFILMED

DEC 15 1992

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
23N	17E	19	SE	SW		IRR	12.0
			SE	SW		DOMEST	
			SW	SE		IRR	3.0
					Section Acres		15.0
		30	NE	NW		IRR	12.0
					Section Acres		12.0
					Total Acres		27.0

11. Place of use in counties: LEMHI

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

13. Other Water Rights Used:
NONE

14. Remarks:
PLACE OF USE IS H.E.S. 426

15. Basis of Claim: STATUTORY CLAIM

16. Signature(s)

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

Number of attachments: -/-

For Individuals:

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

Signature of Claimant(s): Norman V. Nelson Date: FEB. 21, 1990

Date: _____

State of Idaho)
County of Ada) SS.

Subscribed and sworn (or affirmed) before me this 21st day
of February 19 90
Seal

Carter Fritschle
Notary Public

Residing at _____
My Commission Expires _____

Carter Fritschle, Notary Public
Residing at Eagle, Idaho
My Commission Expires March 21, 1994

