

11/11/2006

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

RIGHT NUMBER: 75-4305

NAME AND ADDRESS: ALAN D HARBER
PO BOX 194
CARMEN ID 83462

VICTORIA M HARBER
PO BOX 194
CARMEN ID 83462

SOURCE: FREEMAN CREEK

TRIBUTARY: CARMEN CREEK

QUANTITY: 0.100 CFS

PRIORITY DATE: 04/01/1949

POINT OF DIVERSION:

T23N R22E S36 NWSW Within LEMHI County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE

PERIOD OF USE

QUANTITY

IRRIGATION

04/01 10/31

0.100 CFS

PLACE OF USE:

IRRIGATION in LEMHI County

T22N R22E S03 SESE 4.60

4.6 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: BASIS OF CLAIM - Beneficial Use

Void

12/13/2006

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

RIGHT NUMBER: 75-4305

NAME AND ADDRESS: ALAN D HARBER
PO BOX 194
CARMEN ID 83462

VICTORIA M HARBER
PO BOX 194
CARMEN ID 83462

SOURCE: FREEMAN CREEK

TRIBUTARY: CARMEN CREEK

QUANTITY: 0.100 CFS

PRIORITY DATE: 08/29/1918

POINT OF DIVERSION:

T23N R22E S36 NWSW Within LEMHI County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	04/01 10/31	0.100 CFS

PLACE OF USE: IRRIGATION in LEMHI County

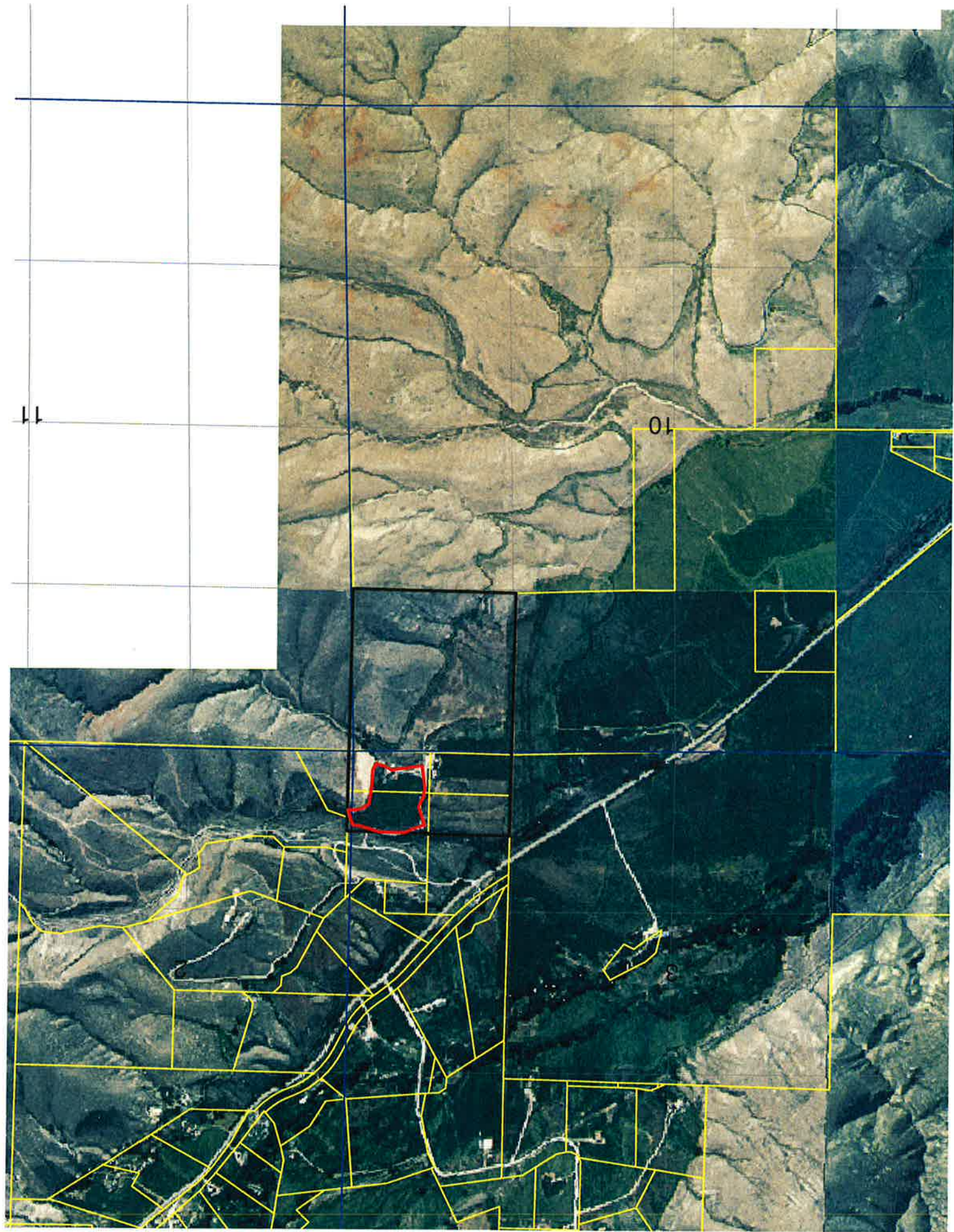
T22N R22E S03 SESE 4.60

4.6 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: BASIS OF CLAIM - Beneficial Use



H

11/20/2006

RECEIVED

NOTICE OF ERROR
REPLY

DEPARTMENT OF
WATER RESOURCES

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: 75-4305

ALAN D HARBER
PO BOX 194
CARMEN ID 83462
Telephone Number: (208)756-3531

VICTORIA M HARBER
PO BOX 194
CARMEN ID 83462
Telephone Number: (208)756-3531

SCANNED
19
DEC 20 2006

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

*I initially stated that the priority date should be 1893.
I believe this to be true. I disagree with the quantity
of 0.100 cfs. It should be more.*

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

more cfs

3. Give a brief explanation as to why you disagree with these portions:

*Priority date is incorrect. Water has been
used for many years to irrigate.*

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

DATE: 12-4-06

SIGNATURE:

Alan D Harber Victoria M Harber

Please print your name: Alan D + Victoria Harber

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



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

Phone: (208) 762-2800

Fax: (208) 762-2819

Web Site: www.idwr.idaho.gov

JAMES E. RISCH
Governor

KARL J. DREHER
Director

December 13, 2006

Alan Harber
PO Box 194
Carmen, Idaho 83462

Re: Claims 75-4305, 75-4515 and 75-14240

Dear Mr. Harber:

Enclosed are preliminary recommendations reflecting the comments you made on the Notice of Error Reply.

All three of the above mentioned claims were initially filed with a priority date of April 1, 1949. Additional evidence has been found that would support a priority date of August 29, 1918 but not 1893 as indicated on the Notice of Error Reply.

Claims 75-14240 and 75-4305 were recommended with a diversion of 0.2 cfs and 0.1 cfs respectively since those amounts are what were asked for in the original claims. Claim 75-4315 was recommended with a diversion of 0.15 cfs, which is the statutory allotment based upon 0.03 cfs per acre.

If you disagree with this recommendation, you may file an objection with the court any time prior to October 17, 2007. I have enclosed Standard Form 1 Objection for your convenience.

Sincerely,

Keith E. Franklin
Water Resources Agent

Encl/kf

11/20/2006

RECEIVED

NOTICE OF ERROR
REPLY

DEPARTMENT OF
WATER RESOURCES

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: 75-4305

ALAN D HARBER
PO BOX 194
CARMEN ID 83462
Telephone Number: (208)756-3531

VICTORIA M HARBER
PO BOX 194
CARMEN ID 83462
Telephone Number: (208)756-3531

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

I initially stated that the priority date should be 1893. I believe this to be true. I disagree with the quantity of 0.100 cfs. It should be more.

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

more cfs

3. Give a brief explanation as to why you disagree with these portions:

Priority date is incorrect. Water has been used for many years to irrigate.

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

DATE: 12-4-06

SIGNATURE: Alan D. Harber

Please print your name: Alan D + Victoria Harber

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

SCANNED
DEC 13 2006



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

SCANNED

OCT 1 1996

EASTERN REGION

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

JUNE 6, 1996

ALAN D HARBER
PO BOX 194
CARMEN ID 83462

RE: CHANGE IN OWNERSHIP FOR A75-04305

Dear Mr. Harber:

The request for Change in Ownership concerning the Notice(s) of Claim in the above reference has been processed and the Notice(s) modified to reflect you as the new owner.

Enclosed is a copy of the Notice(s) of Claim, with your name shown as the current owner. Review the forms and if there are other corrections or questions, feel free to contact this office.

If there are no questions or corrections, please keep this Notice for your records.

Respectfully submitted,


Jo Thompson
Adjudication Secretary

Enclosure: Notice of Claim

MICROFILMED

NOV 13 1996

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

CLAIM NO(s).

A75 04315 A75 04305

1. ☒ No Change NAME IS SAME

☐ NEW OWNER: _____

☒ No Change ADDRESS

☐ NEW ADDRESS: _____

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.: _____

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 <u>22N</u>	Range <u>22E</u>	Section <u>3</u>	1/4 <u>SW</u>	1/4 <u>SE</u>
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

Claim No. A7504305 place of use as corrected
Claim No A7504315 is correct
The red lines for place of use are correct.

☐ SYSTEM DIAGRAM INCLUDED ☐ NA

☐ Shown on GIS Layout

☐ CK IF IN OFFICE EXAM

DATE EXAM CONDUCTED: _____

FIELD EXAMINER: _____

Print Name

Jack F. Ellis

Signature

Alan & Victoria Harber
PO Box 194
Carmen, ID 83462
(208) 756-3531

RECEIVED
JUL 26 2005
DEPARTMENT OF
WATER RESOURCES

July 20, 2005

Idaho Department of Water Resources
PO Box 83720
Boise ID 83720-0098

RE: Priority Dates for 75-04305 and 75-04315

Dear Ms Brown:

Enclosed are documents to show water rights on our property.

Water Right Number 75-4305 includes documents that show water rights dating back to December 1, 1906.

Water Right Number 75-4315 with your requested priority date of 4/1/1874 which dates back to before the irrigation ditch was put in the 1930s. I was able to find the first document when the US Department of the Interior signed the property over on the Desert Lands Act, 8/29/1918. In order to get property under the Desert Lands act, the property had to be irrigated. Therefore, this shows proof it was irrigated. Other warranty deeds are enclosed.

Sincerely,



Victoria M. Harber

SCANNED

JUL 26 2005

IDAHO DEPARTMENT OF WATER RESOURCES
Adjudication Claim Report 75-4315RECEIVED
JUL 26 2005
DEPARTMENT OF
WATER RESOURCES

WATER RIGHT NUMBER: 75-4315

<u>Owner Type</u>	<u>Name and Address</u>
Original Owner	KAREN WOELFEL PO BOX 93 BOONEVILLE, AR 72927
Original Owner	GARLAND WOELFEL PO BOX 93 BOONEVILLE, AR 72927
Current Owner	VICTORIA M HARBER PO BOX 194 SALMON, ID 83462 (208)756-3531
Current Owner	ALAN D HARBER PO BOX 194 SALMON, ID 83462 (208)756-3531

Priority Date: 04/01/1874

Basis: Statutory Claim

Status: Active

<u>Source</u>	<u>Tributary</u>
FREEMAN CREEK	CARMEN CREEK

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	4/01	to 11/01	0.400 CFS	
	<u>Total Diversion:</u>		0.400 CFS	

Location of Point(s) of Diversion

FREEMAN CREEK	NW1/4SW1/4	Sec. 36, Twp 23N, Rge 22E, B.M.
LEMHI County		

Place of UseIRRIGATION Within LEMHI County

T22N R22E S03 SESE 10.0

Total Acres: 10

Conditions of Approval:Remarks:

SCANNED

JUL 26 2005

4-200
DEPARTMENT OF THE INTERIOR

UNITED STATES LAND OFFICE Hailey, Idaho.

ACK DESERT LANDS

Serial No. 019208

Receipt No. 1681893 - 40.00

2239187 -160.00

C E R T I F I C A T E
DUPLICATE

200.00

August 29, 1918.

IT IS HEREBY CERTIFIED that, in pursuance of the act of Congress approved March 3, 1877, as amended by the act of March 3, 1891, entitled "An Act to provide for the sale of desert lands in certain States and Territories," CHRISTINE A. CURRAN of Salmon, Lemhi County, State of Idaho has purchased of the Register of this Office, and made payment in full for the land described as follows, to wit:

~~W 1/4 SW 1/4~~ Section 2; ~~SE 1/4 SW 1/4~~ Section 3; ~~NE 1/4 NW 1/4~~ Section 10 Township 22 North, Range 22 East, Boise Meridian, containing one hundred sixty acres, at the rate of \$1.25 per acre, amounting to Two Hundred Dollars and No cents.

NOW, THEREFORE, be it known that, on presentation of this Certificate to the Commissioner of the General Land Office, the said Christine A. Curran shall be entitled to receive a Patent for the land above described if all then be found regular.

Ben R. Gray, Register.

Recorded at the request of Allen C. Merritt Sept. 9th, 1918, at --- minutes past 9 o'clock A. M., in Book Y of Deeds page 551, Records of Lemhi County, Idaho.

BY W. L. Kirtley, Jr.
Deputy.

J. L. Kirtley, Jr.,
County Recorder.

Instrument No. 20599

Revenue Stamps \$1.00 Cancelled.

THIS INDENTURE, Made on the 16th day of August, 1918, at Salmon, Lemhi County, State of Idaho, by and between A. C. CHERRY, the duly appointed, qualified and acting ADMINISTRATOR of the estate of JOHN P. DIMOCK, deceased, late of Lemhi County, Idaho, the party of the first part, and CHARLES F. SNYDER of Lemhi County, Idaho, the party of the second part, WITNESSETH:

THAT WHEREAS, On the 25th day of May, 1918, the Probate Court of Lemhi County, State of Idaho, made an order of sale authorizing and directing the said party of the first part to sell certain real estate of the estate of the said John P. Dimock, deceased situated in Lemhi County, State of Idaho, and specified and particularly described in said order of sale, and which said order of sale, now on file and of record in said Probate Court, is hereby referred to and made a part of this indenture:

AND WHEREAS, Under and by virtue of said order of sale, and pursuant to legal notices given thereof, the said party of the first part, on the 22nd day of June, 1918, at 1 o'clock, P. M., in said Lemhi County, State of Idaho, offered for sale in one parcel (the bidders refusing to bid for said property in any other way, and said Administrator judging it to be most beneficial to said estate) at public auction and subject to the confirmation of said Probate Court, and the said real estate situated in said Lemhi County, Idaho, and specified and described in said order of sale as aforesaid, and at such sale the said party of the second part became the purchaser of the said real estate hereinafter particularly described for the sum of SEVEN HUNDRED and SEVENTY-FIVE DOLLARS (\$775.00), lawful money of the United States, he being the highest and best bidder and that being the highest and best sum bid.

AND WHEREAS, The said Probate Court, upon due and legal return of the proceedings of said Administrator under the said order of sale made by the said Administrator, party of the first part, on the 10th day of July, 1918, after making such sale and after due and legal notice had been given by the Clerk of said court of hearing upon said return of said sale of real estate for the time and in the manner required by law, did, on the 22nd day of July, 1918, duly make an order confirming said sale and directing conveyances to be executed to the said party of the second part, a certified copy of which order of confirmation was recorded in the office of the County Recorder of said Lemhi County, State of Idaho, within which the said land sold is situated, on the 16th day of August, 1918, and which said order of confirmation now on file and of record in said Recorder's office

SCANNED

JUL 26 2005

This Indenture, Made this First day of December in the year of our Lord one thousand nine hundred and six between Hilliard Dahle and Gertrude Dahle his wife of the County of Lemhi, State of Idaho, the parties of the first part, and William J. Hoffman, of the County of Lemhi, State of Idaho,

This legal is no 5-3

the party of the second part, WITNESSETH, that the said part 1st of the first part, for and in consideration of Four Thousand Five Hundred (\$4,500.00) lawful money of the United States of America, to them in hand paid by the said part 2nd of the second part, the receipt whereof is hereby acknowledged, ha VE GRANTED, BARGAINED and SOLD, and by these presents do GRANT, BARGAIN, SELL, CONVEY and CONFIRM unto the said part 2nd of the second part, and to his heirs and assigns forever, all

Those certain lots, pieces or parcels of land, situate, lying and being in the County of Lemhi, State of Idaho, and particularly described as follows, to-wit: The north east quarter of the south west quarter, the west half of the south east quarter and the south half of the south west quarter of Section Three, in Township Twenty Two north of Range Twenty Two east of Boise Meridian, containing two hundred acres according to the Government Survey thereof. Together with all buildings, improvements, water rights and ditches erected thereon, belonging or appertaining thereto or used in connection therewith.

Together with all and singular the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining and the reversion and reversions, remainder and remainders, rents, issues and profits thereof, and also all estate, right, title, interest in and to the said property, possession, claim and demand whatsoever, as well in law as in equity, of the said part 1st of the first part, of, in or to the said premises, and every part and parcel thereof, with the appurtenances, to have and to hold, all and singular, the above mentioned and described premises, together with the appurtenances, unto the part 2nd of the second part, and to his heirs and assigns forever. And the said part 1st of the first part, and their heirs, the said premises in the quiet and peaceable possession of the said part 2nd of the second part, his heirs and assigns, against the said part 1st 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 part 1st of the first part ha VE hereunto set their hand and seal the day and year first above written.

Signed, sealed and delivered in the presence of

J.C. Sinclair

Hilliard Dahle (SEAL)

Witness to signature } W.C. SMITH
of Gertrude Dahle } J.C. Sinclair

Gertrude X Dahle (SEAL)

(SEAL)

STATE OF IDAHO,

County of Lemhi ss: On this First day of December in the year 1906 before me, William C. Smith Clerk of the District Court in and for said County, personally appeared Hilliard Dahle

known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same; and on this First day of December in the year 1906 before me, the officer above described, personally appeared Gertrude Dahle, his wife known to me to be the person whose name is subscribed to the within instrument, described as a married woman; and upon an examination without the hearing of her husband, I made her acquainted with the contents of the instrument, and thereupon she acknowledged to me that she executed the same, and that she does not wish to retract such execution.

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

W.C. Smith

seal.

Clerk of the District Court

Recorded at the request of Wm J. Hoffman at 10 minutes past 5 o'clock P. M., Dec. 1st 1906, in Book 8 of Deeds on Page 34 Records of Lemhi County, Idaho. W.C. Smith County Recorder. By Deputy.

SCANNED

JUL 26 2005

hundred and twenty sixth.

Seal

By the President: T. Roosevelt

By F.M. McKean Secretary.

C.W. Bush Recorder of the General Land Office.

Recorded Vol. 356, pages 247 to 249, inclusive.

Recorded at the request of Horace W. Soule Dec. 1st 1906 at 20 minutes past 11 o'clock A.M., in Book R of Deeds page 61 Records of Lemhi County, Idaho.

W.C. Smith
County Recorder

Book R Page 62

THE UNITED STATES OF AMERICA,

To all to whom these presents shall come, Greeting:

Homestead Certificate No. 929

Application 982

Whereas There has been deposited in the General Land Office of the United States a Certificate of the Register of the Land Office at Hailey, Idaho, whereby it appears that, pursuant to the Act of Congress approved 20th May, 1862, "To secure Homesteads to Actual Settlers on the Public Domain," and the acts supplemental thereto, the claim of Hilliard Dahle has been established and duly consummated, in conformity to law, for the West half of the south east quarter and the South half of the South West quarter of Section three in Township twenty two North of Range twenty two East of Boise Meridian in Idaho containing one hundred and sixty acres according to the Official Plat of the Survey of the said Land, returned to the General Land Office by the Surveyor General:

Now know ye, That there is, therefore, granted by the United States unto the said Hilliard Dahle the tract of Land above described: To have and to hold the said tract of Land, with the appurtenances thereof, unto the said Hilliard Dahle and to his heirs and assigns forever; subject to any vested and accrued water rights for mining, agricultural, manufacturing, or other purposes, and rights to ditches and reservoirs used in connection with such water rights, as may be recognized and acknowledged by the local customs, laws, and decisions of courts, and also subject to the right of the proprietor of a vein or lode to extract and remove his ore therefrom, should the same be found to penetrate or intersect the premises hereby granted, as provided by law. And there is reserved from the lands hereby granted, a right of way thereon for ditches or canals constructed by the authority of the United States.

In testimony whereof I, William McKinley, President of the United States of America, have caused these letters to be made Patent, and the seal of the General Land Office to be hereunto affixed.

Given under my hand, at the City of Washington, the Ninth day of February, in the year of our Lord one thousand nine hundred and one, and of the Independence of the United States the one hundred and twenty fifth.

Seal

By the President; William McKinley

By F.M. McKean, Secretary.

C.W. Bush, Recorder of the General Land Office.

Recorded Idaho, Vol. 46, Page 176.

Recorded at the request of Wm. J. Hoffman Dec. 1st 1906 at 5 o'clock P.M., in Book R of Deeds Page 62 Records of Lemhi County, Idaho.

W.C. Smith
County Recorder.

Desert Lands

Certificate No. 401

THE UNITED STATES OF AMERICA,

To all to whom these presents shall come, Greeting:

Whereas Hilliard Dahle of Lemhi County, Idaho has deposited in the General Land Office of the United States a Certificate of the Register of the Land Office at Hailey, Idaho, whereby it appears that full payment has been made by the said Hilliard Dahle according to the provisions of the Act of Congress of the 24th of April, 1820, entitled "An Act making further provision for the sale of the Public Lands," and the acts supplemental thereto, for the North East quarter of the South West quarter of Section three, in Township twenty two North, of Range twenty two East of Boise Meridian in Idaho, containing forty acres according to the Official plat of the Survey of the said Lands, returned to the General Land Office by the Surveyor General, which said tract has been purchased by the said Hilliard Dahle

Now know ye, That the United States of America, in consideration of the premises, and in conformity with the several acts of Congress in such case made and provided, have given and granted, and by these presents do give and grant, unto the said Hilliard Dahle and to his heirs, the said tract above described; To have and to hold the same, together with all the rights, privileges, immunities, and appurtenances, of whatsoever nature, thereunto belonging, unto the said Hilliard Dahle and to his heirs and assigns forever; subject to any vested and accrued water rights for mining, agricultural, manufacturing, or other purposes, and rights to ditches and reservoirs used in connection with such water rights, as may be recognized and acknowledged by the local customs, laws, and decisions of courts, and also subject to the right of the proprietor of a vein or lode to extract and remove his ore therefrom, should the same be found to penetrate or intersect the premises hereby granted, as provided by law; and there is reserved from the lands hereby granted, a right of way thereon for ditches or canals constructed by the authority of the United States.

In testimony whereof I, William McKinley, President of the United States of

SCANNED

JUN 26 2005

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Claim Report 75-4305

WATER RIGHT NUMBER: 75-4305

<u>Owner Type</u>	<u>Name and Address</u>
Original Owner	TIM KOEHLER PO BOX 77 CARMEN, ID 83462
Original Owner	JOE MONTERO , ID
Current Owner	ALAN D HARBER PO BOX 194 CARMEN, ID 83462 (208)756-3531
Original Owner	GLADYS O MONTERO 717 LEMHI AVE SALMON, ID 83467 (208)756-2358
Current Owner	VICTORIA M HARBER PO BOX 194 CARMEN, ID 83462 (208)756-3531

Priority Date: 04/01/1949

Basis: Statutory Claim

Status: Active

<u>Source</u>	<u>Tributary</u>
FREEMAN CREEK	CARMEN CREEK

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	4/01	to 11/01	0.100 CFS	
<u>Total Diversion:</u>			0.100 CFS	

Location of Point(s) of Diversion

FREEMAN CREEK	NW1/4SW1/4	Sec. 36, Twp 23N, Rge 22E, B.M.
LEMHI County		

Place of UseIRRIGATION Within LEMHI County

T22N R22E S03 SWSW 5.0

Total Acres: 5

Conditions of Approval:

1. MY FILE COPY OF ORIGINAL STATUTORY CLAIM SHOWS 11 ACRES IN THE SE4SE4, SEC. 3, HOWEVER, THE ADDITIONAL SIX (6) ACRES WERE BEING LEASED AND WERE NOT OWNED EITHER AT THAT TIME OR PRESENTLY. **CHANGED OWNERSHIP 6/6/96/JT/GT**

Remarks:

SCANNED

JUL 26 2005

Desert Land Act

From Wikipedia, the free encyclopedia.

The **Desert Land Act** was passed by the United States Congress on 3 March 1877 to encourage and promote the economic development of the arid and semiarid public lands of the Western United States. Through the Act, individuals may apply for a desert-land entry to reclaim, irrigate, and cultivate arid and semiarid public lands.

The act offered 640 acres (2.6 km²) of land to anyone who would pay 25 cents an acre (\$61.78/km²) and promise to irrigate the land within 3 years. Individuals taking advantage of the act were required to submit proof of their efforts to irrigate the land within three years, but as water was relatively scarce, a great number of fraudulent "proofs" of irrigation (estimated as high as 95% for early claims) were provided.

This article is based in part upon content from <http://www.blm.gov/nhp/landfacts/DesertLand.html>, a public domain resource provided by the United States federal government.

Retrieved from "http://en.wikipedia.org/wiki/Desert_Land_Act"

Categories: Law stubs

- This page was last modified 16:15, 23 May 2005.
- All text is available under the terms of the GNU Free Documentation License (see **Copyrights** for details).

SCANNED

JUL 26 2005

WARRANTY DEED

THIS INDENTURE, Made this 2nd day of February in the year of our Lord one thousand nine hundred and Forty-six between J. N. COOPER and FERN S. COOPER, husband and wife, of Salmon, County of Lemhi, State of Idaho, the parties of the first part, and FRANK PARMENTER and MARY V. PARMENTER, husband and wife of Salmon, County of Lemhi, State of Idaho, the part of the second part.

WITNESSETH, That the said parties of the first part, for and in consideration of the sum of TEN AND NO/100 (\$10.00) and Other Valuable Considerations DOLLARS, lawful money of the United States of America, to them in hand paid by the said parties 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 parties of the second part, and to their heirs and assigns forever, all of the following described real estate, situated in County of Lemhi, State of Idaho, to wit:

All of the SW $\frac{1}{4}$ NW $\frac{1}{4}$ (with the exception of 10 $\frac{1}{2}$ acres heretofore conveyed by Thomas Palmer and Sarah Ann Palmer to James A. Palmer by deed dated October 1, 1915, recorded November 4, 1915 in Book "X" of Deeds, page 13, records of Lemhi County, Idaho,) and the W $\frac{1}{2}$ SW $\frac{1}{4}$ of Section 2 and Lot 2 and the S $\frac{1}{2}$ NE $\frac{1}{4}$ and the E $\frac{1}{2}$ SE $\frac{1}{4}$ of Section 3, and the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 10, all in Township 22 North, Range 22 East of the Boise Meridian.

Together with all water and water rights, ditches and ditch rights appertaining to or used in connection therewith.

DOCUMENTARY STAMPS \$16.50 CANCELLED 2/4/46 P.P.

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 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 part 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 hand and seals the day and year first above written.

SIGNED, SEALED AND DELIVERED IN PRESENCE OF

J N Cooper (SEAL)
Fern S. Cooper (SEAL)

STATE OF IDAHO,)
: SS.
County of)

On this day of February in the year 1946, before me the undersigned, a Notary Public in and for said State, personally appeared J. N. Cooper and Fern S. Cooper, 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, the day and year in this certificate first above written.

(SEAL)

J W Herndon
Notary Public for the State of Idaho,
Residing at Salmon, Idaho

STATE OF IDAHO,)
: SS.
County of Lemhi,)

I hereby certify that this instrument was filed for record at request of Frank Parmenter at 5 minutes past 4 o'clock P. M., this 4th day of February, A. D. 1946 in my office, and duly recorded in Book 38 of Deeds at page 642.

W. W. Simmonds
Ex-Officio Recorder.

By Dorothy M. McFadden
Deputy

Fees, \$1.25 Paid

SCANNED

JUL 26 2005

This Indenture, Made this 8th day of January in the year four
Lord one thousand nine hundred and thirty-eight between

R. F. Bicknell and Helen J. Bicknell, husband and wife, of Boise, County of Ada, State
of Idaho, the parties of the first part, and

J. N. Cooper and Fern S. Cooper, husband and wife, of Salmon, County of Lemhi, State of
Idaho, the parties of the second part.

WITNESSETH, That the said parties of the first part, for and in consideration of
Ten Thousand and No/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 where of is hereby acknowledged, have GRANTED, BARGAINED and SOLD and by these presents do GRANT
BARGAIN, SELL, CONVEY and CONFIRM unto the said parties of the second part, and to their heirs and assigns forever
of the following described real estate, situated in Lemhi County, State of Idaho, to-wit:

All of the SW $\frac{1}{4}$ NW $\frac{1}{4}$ (with the exception of 10 $\frac{1}{2}$ acres heretofore conveyed by Thomas Palmer
and Sara Ann Palmer to James A. Palmer by deed dated October 1, 1915, recorded November
4, 1915 in Book "X" of Deeds, Page 13, records of Lemhi County, Idaho) and the WSW $\frac{1}{4}$ of
Section 2 and Lot 2 and the S $\frac{1}{2}$ NE $\frac{1}{4}$ and the E $\frac{1}{2}$ SE $\frac{1}{4}$ of Section 3, and the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section
10, all in Township 22 North, Range 22 East of the Boise Meridian.

Documentary stamp \$10.00 canceled RFB HJB

Together with all and singular the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining and
the reversion and reversions, remainder and remainders, rents, issues and profits thereof, and also all estate, right, title, interest in and to the
said property, possession, claim and demand whatsoever, as well in law as in equity, of the said parties of the first part, ~~of the said parties of the first part, and to their heirs and assigns forever.~~

TO HAVE AND 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 peaceful 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
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.

Signed, sealed and delivered in the presence of

R. F. Bicknell
R. F. Bicknell
Helen J. Bicknell
Helen J. Bicknell

STATE OF IDAHO, }
COUNTY OF LEMMI, } ss.

On this 8th day of January, in the year 1938, before me A. H. Caine

a Notary Public in and for said County, personally appeared

R. F. Bicknell and Helen J. Bicknell

to me to be the person whose names are subscribed to the within instrument, and acknowledged to me that they are the same.

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

(SEAL)

A. H. Caine
Notary Public for the State of Idaho
Residing at Boise, Idaho.

Recorded at request of J. W. Herndon at 1 minutes past
o'clock P.M., this 27th day of January, 1938, in my office, and duly recorded
in Book 31 of Deeds, on page 392, Records of Lemhi County
Idaho.

W. W. SIMMONDS

CANNED

26 2005

RECEIVED

JUN 03 1996



NEW PROPERTY OWNER NOTICE OF CHANGE OF WATER RIGHT OWNERSHIP

Please print or type
(see instructions on back of page)

Department of Water Resources
Eastern District Office

DATE OF CLOSING: 5-17-90

LEGAL DESCRIPTION OF PROPERTY: Township 22N Range 22E
Section 3, SW 1/4 of SW 1/4 of 1/4 Govt. Lot , BM.
Lot , Block , Subdivision/Townsite .

If you have additional legal descriptions, please attach separate sheet.

- ☐ Served Only by a Public Service Water Supply (all water is received from a city or company who maintains water supply system, owns the water right, and bills the customer on a regular basis)
- ☐ Water Right Number(s) Assigned by IDWR: A 75-04305 ^{OK} ~~AT~~ No R-
- ☐ Name and Address of Former Owner/Claimant(s)(Seller): Gladys Montero
717 Lemhi Ave
Salmon ID 83467
- ☐ New Owner/Claimant (Purchaser): Alan D. and Victoria M Harber
- ☐ New Mailing Address: PO Box 194
Carmen Idaho 83462
- ☐ New Telephone Number: (208) 756-3531
- ☐ Does the change in ownership result in a splitting of the water right owned/claimed? yes ☒ no
If yes, then describe the portion of the water right that is now owned/claimed by the new owner:

- ☐ Attach proof of ownership, describe proof attached: warranty deed
(proof of ownership must describe either the property conveyed or include the claim number. Proof of ownership is not required if this form is signed by the former owner/claimant.)
- ☐ Signature of New Owner/Claimant(s): Alan D Harber Date 5-30-96
Victoria M. Harber Date 5-30-96
- ☐ Signature of Former Owner/Claimant(s): See attached Date
Date

(Signature of former claimant(s) is not required if proof of ownership is attached.)

FOR IDWR USE ONLY:
Initial Review and Data-Entry
Date: By:
Further Action Needed:

Further Action Taken
Date: By:
Final Review and Data-Entry
Date: By:
Claim Numbers of Split, if any:

Original to be mailed to Idaho Department of Water Resources
Copies to Former Owner and New Owner

NOV 18 1996

WARRANTY DEED

For Value Received

GLADYS O. MONTERO, a single woman

the grantor, does hereby grant, bargain, sell and convey unto

ALAN D. HARBER AND VICTORIA M. HARBER, husband and wife

whose current address is

P.O. BOX 194
CARMEN, ID 83462the grantees, the following described premises, in LEMHI County Idaho:All of Lot 3 of YOUNGSTROM'S Subdivision to Lemhi County
Idaho as recorded in the office of the Lemhi County
Recorder's office.

STATE OF IDAHO
COUNTY OF LEMHI
I, ALBERTA WIEDERICK, CLERK OF THE DISTRICT COURT
OF THE SEVENTH JUDICIAL DISTRICT OF THE STATE OF
IDAHO, IN AND FOR THE COUNTY OF LEMHI, DO HEREBY
CERTIFY THAT THE PROCEEDING IS A TRUE AND CORRECT
COPY OF THE ORIGINAL ON FILE IN THIS OFFICE
IN WITNESS WHEREOF, I HAVE HEREunto SET MY
HAND AND SEAL OF OFFICE, MAY 17 1990
ALBERTA WIEDERICK
Clerk

RECEIVED
JUN 03 1996
Department of Water Resources
Eastern District Office

Together with all water, water rights, ditches and ditch rights
appurtenant thereto and used in connection therewith, to be
transferred with the property.

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantees,
their heirs and assigns forever. And the said Grantor does hereby covenant to and
with the said Grantees, that she is the owner in fee simple of said premises; that they are free
from all incumbrances

and that she will warrant and defend the same from all lawful claims whatsoever.

Dated: MAY 17, 1990

Gladys O. Montero
GLADYS O. MONTERO

STATE OF IDAHO, COUNTY OF LEMHI

On this 17th day of MAY, 1990,
before me, a notary public in and for said State, personally
appeared

GLADYS O. MONTERO, a single
woman,

known to me to be the person whose name is
subscribed to the within instrument, and acknowledged to
me that she executed the same.

Laurie M. Santee
LAURIE M. SANTEE Notary Public
Residing at SALMON, Idaho
Comm. Expires 6-19-1995

State of Idaho
County of Lemhi

No. 206511

This instrument was filed for record at
the request of American Land Title
at 1:26 o'clock P m 5-17 1990

and duly filmed and indexed in the
records of Lemhi County

Alberta Wiederick

Ex-Officio Recorder

By Laurie M. Santee DeputyFees: 3.00

Furnished by the AMERICAN LAND TITLE CO., Pocatello, Idaho

MICROFILMED
NOV 8 1996

AJ5807NP
(OD-117)

IDAHO DEPARTMENT OF WATER RESOURCES
ADJ. LISTING OF WATER RIGHTS

DATE: 02/27/96
PAGE: 412

RIGHT NUMBER	NAME & ADDRESS	PRIORITY DATE	WATER USE	USE PERIOD FROM TO	MAXIMUM DIVERSION	STAGE
A75-04305	GLADYS O MONTERO 717 LEMHI AVE SALMON ID 83467	04/01/1949	IRRIGATION	04-01 11-01	0.10 CFS	STATUTORY CLAIM

TOTAL DIVERSION RATE: 0.10 CFS
TOTAL DIVERSION VOLUME: 0.00 AFA
CONSUMPTIVE USE: 12.5 AFA

SOURCE: FREEMAN CREEK

TRIBUTARY: CARMEN CREEK

POINT OF DIVERSION:
T23N R22E S36 NWSW

PLACE OF USE: IRRIGATION
T22N R22E S03 SWSW 5.0
5.0 ACRES TOTAL

DIVERSION MEANS: DITCH, PUMP & PIPELINE

REMARKS: MY FILE COPY OF ORIGINAL STATUTORY CLAIM SHOWS 11 ACRES IN THE
SE4SE4, SEC. 3, HOWEVER, THE ADDITIONAL SIX (6) ACRES WERE
BEING LEASED AND WERE NOT OWNED EITHER AT THAT TIME OR PRESENTLY.

OTHER RIGHTS: NONE

NOV 18 1996

MICROFILMED

SCANNED

OCT 10 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: **A75-04305**
Date Received: 5/ 2/1990
Receipt No: M006846
Received By: _____

COPY FOR
YOUR FILES

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

COPY FOR
YOUR FILES

1. Name:	ALAN D HARBER	208-756-3531
Address:	PO BOX 194	
	CARMEN ID	83462
	AND/OR	
Name:	VICTORIA M HARBER	208-756-3531
Address:	PO BOX 194	
	CARMEN ID	83462

2. Date of Priority: APR 1, 1949

3. Source: FREEMAN CREEK Trib. to: CARMEN CREEK

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
23N	22E	36	NW	NW	SW		LEMHI

5. Description of diverting works:
DITCH, PUMP & PIPELINE

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	04/01	11/01	0.100		

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

8. Total consumptive use is 12.5 Acre Feet Per Annum.

9. Non-irrigation uses:

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
22N	22E	3	SW	SW		IRR	5.0

MICROFILMED

NOV 18 1996

A75-04305

Page 1

Date: 06/06/96

10. Place of Use: Continued

Section Acres 5.0

Total Acres 5.0

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:

 MY FILE COPY OF ORIGINAL STATUTORY CLAIM SHOWS 11 ACRES IN THE
 SE4SE4, SEC. 3, HOWEVER, THE ADDITIONAL SIX (6) ACRES WERE
 BEING LEASED AND WERE NOT OWNED EITHER AT THAT TIME OR PRESENTLY.
 CHANGED OWNERSHIP 6/6/96/JT/GT

15. Basis of Claim: STATUTORY CLAIM

\$55.00

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: A75-04305
Date Received: 5/02/1990
Receipt No: 1066846
Received By: _____

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: GLADYS O. MONTERO
Address: 717 LEMHI AVE.
SALMON, ID 83467 208-756-2358

2. Date of Priority: APR 01, 1949

3. Source: FREEMAN CREEK Trib. to: CARMEN CREEK

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4 of	Lot	County
23N	22E	36	NW	SW			LEMHI

5. Description of diverting works:
DITCH, PUMP & PIPELINE

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
IRRIGATION	04/01	11/01	0.100		

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

8. Total consumptive use is 12.5 Acre Feet Per Annum.

9. Non-irrigation uses:

10. Place of Use:

Township	Range	Section	1/4 of	1/4 of	Lot	Use	Acres
22N	22E	3	SW	SW		IRR	5.0
Section Acres							5.0
Total Acres							5.0



MICROFILMED
DEC 15 1992

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:

MY FILE COPY OF ORIGINAL STATUTORY CLAIM SHOWS 11 ACRES IN THE SE4SE4, SEC. 3, HOWEVER, THE ADDITIONAL SIX (6) ACRES WERE BEING LEASED AND WERE NOT OWNED EITHER AT THAT TIME OR PRESENTLY.

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): Gladys O. Montero Date: 5-2-90

Date: _____

State of Idaho)
County of Lemhi) SS.

Subscribed and sworn (or affirmed) before me this 2nd day

of May 19 90

Helen Harrington
Notary Public

Seal

Residing at Helen Harrington, Notary Public

Residing at Boise, Idaho

My Commission Expires December 1, 1994

DEC 15 1992

