

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: A37-04325
Date Received: 9/22/1989
Receipt No: 509293
Received By: SCC

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: ANN LOUISE ANDERSON 208-423-5493
Address: 423 WASHINGTON ST.
KIMBERLY, ID 83341
2. Date of Priority: JUN 01, 1889
3. Source: CAMAS CREEK Trib. to: BIG WOOD RIVER
4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4 of	Lot	County
02S	11E	5	SW	SW	NW		ELMORE
5. Description of diverting works:
CHECK DAM AND DITCHES
6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
IRRIGATION	06/01	09/01	4.000		
7. Total Quantity Appropriated is:
4.000 C.F.S. (and/or) A.F.A.
8. Total consumptive use is Acre Feet Per Annum.
9. Non-irrigation uses:
10. Place of Use:

Township	Range	Section	1/4 of	1/4 of	Lot	Use	Acres
01S	11E	32	SW	SE		IRR	18.0
			SE	SE		IRR	36.0
Section Acres							54.0

10. Place of Use: Continued

Township	Range	Section	1/4	of	1/4	Lot	Use	Acres
02S	11E	5	NE		NE	1	IRR	45.0
			NW		NE	2	IRR	45.0
			SW		NE		IRR	40.0
			SE		NE		IRR	40.0
			NE		NW	3	IRR	45.0
			NW		NW	4	IRR	35.0
			SW		NW		IRR	30.0
			SE		NW		IRR	40.0
							Section Acres	320.0
							Total Acres	374.0

11. Place of use in counties: ELMORE

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

13. Other Water Rights Used:
NONE

14. Remarks:

15. Basis of Claim: STATUTORY CLAIM

MICROFILMED
FEB 24 1993

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): Ann Louise Anderson Date: 9-22-89

Date: _____

State of Idaho)
County of TF) SS.

Subscribed and sworn (or affirmed) before me this 22 day

of Sept 19 89

nd
Loe W. White
Notary Public

Seal

Residing at TF

My Commission Expires 5/94

COPY

2008 APR 9 2 11 35
TWIN FALLS CO. ID 10410
FILED

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

Case No. 39576

Subcase No. 37-4323, 37-4325

NOTICE OF COMPLETED
ADMINISTRATIVE PROCEEDING

IDWR has completed the following Administrative proceeding: **SUBSTITUTION OF PARTY**

Does the change in "ownership" result in a splitting of the water right claimed? ☐ Yes ☒ No

IDWR certifies that it has completed its investigation into the changes to the elements of the water rights listed above as set forth in the attached *Amended Director's Reports* for said water rights. No other changes have been made to the elements of these water rights except as set forth above.

IDWR has served copies of the *Notice of Completed Administrative Proceeding* and *Amended Director's Report(s)* on the claimant(s), prior claimant(s) and all parties in the subcases affected, if any, as reflected on the attached certificate of mailing.

Dated: 4/3/08

Douglas Jones
Signature of IDWR Representative

CERTIFICATE OF MAILING

I certify that on 4/4, 2008, I delivered the original and copies of this form, including all attachments, to the following persons, postage prepaid if required and addressed as follows:

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. Copies to:

Chief Natural Resources Division
Office of the Attorney General
PO Box 44449
Boise ID 83711-4449

United States Dept Of Justice
Environment & Natural Resource Div
550 West Fort Street MSC 033
Boise ID 83724

Clare Olson
Karen Olson
PO Box 136
Hill City ID 83337

Ann Louise Anderson
423 Washington St
Kimberly ID 83341



Signature of person or attorney mailing the form

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

RIGHT NUMBER: 37-4323

NAME AND ADDRESS: CLARE M OLSON
PO BOX 136
HILL CITY ID 83337

KAREN Y OLSON
PO BOX 136
HILL CITY ID 83337

SOURCE: CAMAS CREEK

QUANTITY: 2.800 CFS

PRIORITY DATE: 04/15/1945

TRIBUTARY: BIG WOOD RIVER

POINT OF
DIVERSION:

T02S R11E S5 NWSWNE Within ELMORE County

PURPOSE AND
PERIOD OF USE:

	<u>PURPOSE OF USE</u>		<u>PERIOD OF USE</u>		<u>QUANTITY</u>
	IRRIGATION		06/01 09/01		2.800 CFS
PLACE OF USE:	<u>IRRIGATION in ELMORE County</u>				
	T01S R11E S32	NESE	0.20	T01S R11E S32	NWSE 2.20
	T01S R11E S32	SWSE	40.00	T01S R11E S32	SESE 34.50
	T02S R11E S05 Lot 1	NENE	30.00	T02S R11E S05 Lot 2	NWNE 26.00
	T02S R11E S05	SWNE	6.30	T02S R11E S05	SENE 0.80

140 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

03/24/2008

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

RIGHT NUMBER: 37-4325

NAME AND ADDRESS: CLARE M OLSON
PO BOX 136
HILL CITY ID 83337

KAREN Y OLSON
PO BOX 136
HILL CITY ID 83337

SOURCE: CAMAS CREEK

TRIBUTARY: BIG WOOD RIVER

QUANTITY: 3.620 CFS

PRIORITY DATE: 04/15/1945

POINT OF
DIVERSION:

T02S R11E S5 SWSWNW Within ELMORE County

PURPOSE AND
PERIOD OF USE:

	<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
	IRRIGATION	06/01 09/01	3.620 CFS
PLACE OF USE:	<u>IRRIGATION in ELMORE County</u>		
	T02S R11E S05 Lot 1 NENE	9.00	T02S R11E S05 Lot 2 NWNE 17.00
	T02S R11E S05 SWNE	32.00	T02S R11E S05 SENE 38.00
	T02S R11E S05 Lot 3 NENW	40.00	T02S R11E S05 Lot 4 NWNW 26.00
	T02S R11E S05 SENW	19.00	

181 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



State of Idaho

DEPARTMENT OF WATER RESOURCES

Southern Region, 1341 Fillmore Street, Suite 200 • Twin Falls, Idaho 83301-3380
Phone: (208) 736-3033 • Fax: (208) 736-3037 • Web Site: www.idwr.idaho.gov

April 4, 2008

C. L. "BUTCH" OTTER
Governor

DAVID R. TUTHILL, JR.
Director

CLARE OLSON
KAREN OLSON
PO BOX 136
HILL CITY ID 83724

RE: SRBA Claim(s) 37-4323, 37-4325

Dear Claimant:

Please find the enclosed copy of the Notice of Completed Administrative Proceeding, which the department has filed with the SRBA Court regarding the above referenced claims. You have received this notice pursuant to SRBA Court Administrative Order 11 requiring IDWR to report to the court and interested parties any pending changes to adjudication claims in basins for which a Director's Report has been filed with the court.

Please contact this office if you have any questions about the notice or the administrative process.

Sincerely,

Trish Fawcett
Technical Records Specialist

cc: Ann Louise Anderson
423 Washington St
Kimberly ID 53341

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

RECEIVED

MAR 14 2008

WATER RESOURCES
WESTERN REGION

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

1. Please list the water right number(s) and/or adjudication claim number(s) (if any) for each water right to be changed. List just the adjudication claim number if there is no corresponding water right record on file with the department. Indicate, by checking in the space provided (under the "split" heading), if the change in ownership is limited to a portion of a water right in which case IDWR will produce new water right number(s) for the split(s).

Water Right No(s)	Adjudication Claim No(s)	Split(s)	Water Right No(s)	Adjudication Claim No(s)	Split(s)
37-4323					
37-4325					

RECEIVED

MAR 18 2008

DEPARTMENT OF
WATER RESOURCES

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 on file with the county Planning and Zoning or Recorder's Office).
- OR**
- D. If your water right(s) and/or adjudication claim(s) is for ten or more acres of irrigation, you must submit a USDA Farm Service Agency or equivalent **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)	Anderson, Malcomson, Swenson
4.	New Owner/Claimant(s)	Clare M. Olson & Karen Y. Olson
		Name Connector (Check one): ☐ and, ☐ or, ☐ and/or
	New Mailing Address	PO Box 136
	City, State and ZIP Code	Hill City, Id 83337
	New Telephone Number	()

SCANNED

MAR 18 2008

5. Date you acquired the property _____

6. If the change in ownership affects the entire water right for each water right or adjudication claim number listed in line 1, then skip this line and go to line 7. If the change in ownership divides the water right(s) among multiple owners, you must describe, in detail, your portion of each water right after the change. Fill in the appropriate spaces in the box(es) below to describe your water right(s) after the change (you may copy this page, if necessary). If your quantity of water is greater than a proportionate split, you must attach documentation to show justification for a larger amount. If you are not sure how to identify your portion of the original water right or adjudication claim records, please contact the nearest IDWR office for assistance.

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

For Snake River Basin Adjudication Claims: Please attach a Notice of Appearance completed by your attorney, if you wish IDWR to correspond with him/her for all matters related to your claims.

7. Signature(s) of New Owner(s) or Claimant(s) X

X Clare McEwen (title if applicable)
 X Randy Olson (title if applicable)

IT IS IMPORTANT TO FILE THIS COMPLETED FORM AT THE APPROPRIATE IDWR OFFICE, WITH PAYMENT OF THE FILING FEE AND THE OWNERSHIP DOCUMENT(S), AS REFERRED TO IN LINE 2.

For IDWR Office Use Only:

Received by [Signature] Date March 14, 08
 Received by [Signature] Date 3/19/08
 Processed by _____ AJ Date _____

Receipt Amt. 50.00
 Receipt No. 108033
 WR _____ Date _____

SCANNED

MAR 19 2008

WARRANTY DEED

FOR VALUE RECEIVED

Mary L. Swenson and Severt Swenson, wife

GRANTOR(S), does(do) hereby GRANT, BARGAIN, SELL and CONVEY unto
Clare M. Olson and Karen Y. Olson, husband and wifeGRANTEE(S), whose current address is: PO Box 136
the following described real property in Elmore
more particularly described as follows, to wit:

Hill City, ID 83337

County, State of Idaho,

Township 1 South, Range 11 East, Boise Meridian, Elmore County,
Idaho.

Section 32: W1/2NE1/4, E1/2NW1/4, SE1/4

SAVE AND EXCEPT those portions used for Roadway
purposes.Township 2 South, Range 11 East, Boise Meridian, Elmore County,
Idaho.

Section 5: U.S. Government Lots 1, 2, 3, 4 and S1/2N1/2

TOGETHER WITH WATER RIGHT NUMBERS: 37-4323

37-4325

IDWR

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantee(s), and Grantee(s) heirs and assigns forever. And the said Grantor(s) does(do) hereby covenant to and with the said Grantee(s), that Grantor(s) is/are the owner(s) in fee simple of said premises; that said premises are free from all encumbrances, EXCEPT those to which this conveyance is expressly made subject and those made, suffered or done by the Grantee(s); and subject to reservations, restrictions, dedications, easements, rights of way and agreements, (if any) of record, and general taxes and assessments, (including irrigation and utility assessments, if any) for the current year, which are not yet due and payable, and that Grantor(s) will warrant and defend the same from all lawful claims whatsoever. , except those of record.

Dated: March 7, 2008

Mary L. Swenson
Mary L. Swenson

Severt Swenson
Severt Swenson

STATE OF Idaho, County of Twin Falls.On this 11th day of Marchin the year of 2008, before me, the undersigned, a Notary

Public in and for said State, personally appeared

Mary L. Swenson, Severt Swensonknown or identified to me to be the persons whose nameare subscribed to the within instrument, andacknowledged to me that they executed the same.Signature: *Reva J. Gunter*Name: Reva J. Gunter
(type or print)Residing at: FilerMy commission expires: 4-28-10

REVA J. GUNTER
☆ NOTARY PUBLIC ☆
STATE OF IDAHO

SCANNED

MAR 11 2008

WARRANTY DEED

FOR VALUE RECEIVED

Ann Anderson aka Ann L. Anderson aka Ann Louise Anderson, a widow

GRANTOR(S), does(do) hereby GRANT, BARGAIN, SELL and CONVEY unto
Clare M. Olson and Karen Y. Olson, husband and wifeGRANTEE(S), whose current address is: PO Box 136 Hill City, ID 83337
the following described real property in Elmore County, State of Idaho,
more particularly described as follows, to wit:Township 1 South, Range 11 East, Boise Meridian, Elmore County,
Idaho.Section 32: W1/2NE1/4, E1/2NW1/4, SE1/4
SAVE AND EXCEPT those portions used for Roadway
purposes.Township 2 South, Range 11 East, Boise Meridian, Elmore County,
Idaho.

Section 5: U.S. Government Lots 1, 2, 3, 4 and S1/2N1/2

TOGETHER WITH WATER RIGHT NUMBERS: 37-4323

37-4325

IDWR

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantee(s), and Grantee(s) heirs and assigns forever. And the said Grantor(s) does(do) hereby covenant to and with the said Grantee(s), that Grantor(s) is/are the owner(s) in fee simple of said premises; that said premises are free from all encumbrances, EXCEPT those to which this conveyance is expressly made subject and those made, suffered or done by the Grantee(s); and subject to reservations, restrictions, dedications, easements, rights of way and agreements, (if any) of record, and general taxes and assessments, (including irrigation and utility assessments, if any) for the current year, which are not yet due and payable, and that Grantor(s) will warrant and defend the same from all lawful claims whatsoever, except those of record.

Dated: March 7, 2008

Ann L. Anderson
Ann Anderson

STATE OF IDAHO, County of Twin Falls ss.

On this 11th day of MARCH
in the year of 2008, before me, the undersigned, a Notary
Public in and for said State, personally appeared
Ann Anderson

known or identified to me to be the person^s whose name
are subscribed to the within instrument, and
acknowledged to me that they executed the same.

Signature: Ann AndersonName: Reva J. Gunter
(type or print)Residing at: File
My commission expires: 4-28-10

REVA J. GUNTER

☆ NOTARY PUBLIC ☆

STATE OF IDAHO

COPIED

MAR 11 2008

WARRANTY DEED

FOR VALUE RECEIVED

Sharon Malcomson and LeRoy Olsen, wife and husband

GRANTOR(S), does(do) hereby GRANT, BARGAIN, SELL and CONVEY unto
Clare M. Olson and Karen Y. Olson, husband and wifeGRANTEE(S), whose current address is: PO Box 136
the following described real property in ElmoreHill City, ID 83337
County, State of Idaho,

more particularly described as follows, to wit:

Township 1 South, Range 11 East, Boise Meridian, Elmore County,
Idaho.

Section 32: W1/2NE1/4, E1/2NW1/4, SE1/4

SAVE AND EXCEPT those portions used for Roadway
purposes.Township 2 South, Range 11 East, Boise Meridian, Elmore County,
Idaho.

Section 5: U.S. Government Lots 1, 2, 3, 4 and S1/2N1/2

TOGETHER WITH WATER RIGHT NUMBERS: 37-4323
37-4325

IDWR

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantee(s), and Grantee(s) heirs and assigns forever. And the said Grantor(s) does(do) hereby covenant to and with the said Grantee(s), that Grantor(s) is/are the owner(s) in fee simple of said premises; that said premises are free from all encumbrances, EXCEPT those to which this conveyance is expressly made subject and those made, suffered or done by the Grantee(s); and subject to reservations, restrictions, dedications, easements, rights of way and agreements, (if any) of record, and general taxes and assessments, (including irrigation and utility assessments, if any) for the current year, which are not yet due and payable, and that Grantor(s) will warrant and defend the same from all lawful claims whatsoever. , except those of record.

Dated: March 7, 2008

LeRoy Olsen
LeRoy Olsen

Sharon Malcomson
Sharon Malcomson

STATE OF Idaho, County of Twin Falls
On this 11th day of March
in the year of 2008, before me, the undersigned, a Notary
Public in and for said State, personally appeared
Sharon Malcomson, LeRoy Olsen

known or identified to me to be the person S whose name
are they subscribed to the within instrument, and
acknowledged to me that they executed the same.

Signature: Reva J. GunterName: Reva J. Gunter
(Type or print)Residing at: FilerMy commission expires: 4-28-10

REVA J. GUNTER
☆ NOTARY PUBLIC ☆
STATE OF IDAHO

SCAFFED

MAY 1 - 2008

Clare Olson
OKC Ranches
P. O. Box 136
Hill City, ID 83337

RECEIVED
FEB 13 2008
DEPT. OF WATER RESOURCES
SOUTHERN REGION

RE: Snake River Basin Adjudication; Claims #37-04323, #37-04325 and #37-4061

February 13, 2008

Kelly Christensen
Department of Water Resources
1341 Filmore St., Ste. 200
Twin Falls, ID 83301

Dear Mr. Christensen,

This letter is concerning the water rights in the case filed with the SRBA District Court Case #39756. I am objecting to the recommendations of IDWR concerning the above mentioned water rights. The evidence I am presenting here will also be presented to the court.

The reasons for the objection are mainly a question of fairness and equality on the part of IDWR, and how they came to their decisions. The Gwinn Rice claim #37-4061 is the right I am using for comparison as to the information used to establish this right, as opposed to the information given for claims #37-04323 and #37-04325 belonging to Fred Malcomsen.

I am requesting that the water rights on claims #37-04323 and #37-04325 remain as they were originally applied for by Fred Malcomsen in 1983. Fred's claim was never protested as to priority date or place of use. The claim was publicly advertised in area newspapers. Information provided by Fred is the most accurate reflection for these water rights. The water has been used to irrigate this ground continuously over the years. Yet, IDWR recommended changes to the priority date, amount of water to be used and place of use. Gwinn Rice's claim #37-4061 was protested, and upheld by IDWR. Rice, using only his aunt's, Elsie Francis's affidavit, whom had never owned nor irrigated the related ground to this claim, secured IDWR's recommendation for approval. IDWR accepted her affidavit without question or exception.

In comparison, claims #37-04323 and #37-04325 (Malcomsen's) IDWR recommended a different priority date, less acreage for place of use and a lesser quantity of water, for no justifiable reason, during the adjudication process. The evidence for these claims is more extensive and certainly better documented than Rice's claim was. This evidence attached to this letter will show why claims #37-04323 and #37-04325 should remain as they were historically and claimed by Fred Malcomsen in 1983.

Please consider also, additional water rights obtained by Fred Malcomsen from Charles Hobdey. This right became part of Fred's claim. The water was diverted from Camas Creek through the Woods Ditch to Zapal Lake and used in Section 32, refer to Exhibits 4 and 5. This right had a priority date of Oct. 8, 1900, and was part of water right #37-04403. This further documents use of Camas Creek water in Sec. 32 and establishes a priority date of 1900.

My farther Charles Olson, has presented most of the evidence herein. I have leased this ground for many years and am currently under contract to purchase it. Please reconsider your recommendation on Malcomsen's claims, so as to let the water originally claimed for this ground remain as it was.

Any further questions please contact me at the phone number listed below. I would be more than pleased to meet with IDWR at your convenience.

Respectfully Submitted,

A handwritten signature in cursive script that reads "Clare Olson". The signature is written in dark ink and is positioned below the "Respectfully Submitted," text.

Clare Olson
208-764-2588

Attachments enclosed

25
Spring

30

29

28

NATIONAL FOREST

36 River

Malad

32

5081

33

5081

Zappel lake

woods ditch

River

C A M A S

184c

364c

Lot 4

Lot 3

Lot 2

Lot 1

35

45

45

45

Point of diversion

30 Spring

40

40

40

Camas

374 Acres

Creek

P R A I R I

4

37-4325

Freis claim in 198:
40 cfs

Priority June 1, 1889

Lobby
5352

1

Creek

Camas

5095

5083

F O R E S T

Creek

BOUNDARY

25
Spring

30

29

28

NATIONAL FOREST

36 River

Malad

31

32

33

River

C A M A

Camas

37-4325

181 AC

P R A I R

IDWR Recommendation

3.62 CFS

Priority 4-15-45

Lobby
5352

Point of
Diversion

Spring

19

32

38

Creek

Creek

River

Alalad

River

C A M A S

Camas

Point of
diversion

Spring

140 Acres
Creek

P R A I R I E

Creek

37-4323

IDWR Recommendation

2.8 CFS

Priority - 4-15-45

25
Spring

30

29

28

NATIONAL FOREST

36 River

Malad

31

32

5081

33

5081

River

C A M A S

Lobby
5352

1

Point of
diversion

Spring

5

15

1

Camas

140 Acres

Creek

P R A I R I

37-4323

Jonnie's Spring

Fred's claim 1983

Priority June 1, 1881

3.0 CFS

5095

5083

CAMAS

Creek

8 February 2008

Charles J. Olson
8813 Old Hiway 30
Mountain Home ID 83647

Kelly Christensen
Snake River Basin Adjudication
Department of Water Resources
1341 Fillmore Street, Suite 200
Twin Falls ID 83301

RE: Snake River Basin Adjudication
Claims 37-04323 and 37-04325

Sir:

I am Charles J. Olson, son of Axel and Lela Olson, born 14 January 1931. The priority date of 1945 on water rights 37-04323 and 37-04325 is not correct from my understanding of how the water was put to beneficial use in the settlement of the property. Following are a list of statements with documents as exhibits that show how these property settlements evolved..

In 1924 my father purchased the North East quarter of Sec. 5 T 02S R 11E from the heirs of Louis A Nelson who received a homestead patent on this property dated 13 June 1906. See Exhibits 1. My father was acquainted with Louis A. Nelson and how he had put the water from John's Spring to beneficial use in the North East quarter of Sec.5 T02S R 11 E, which is known as water right 37-04323. My father related to me how the Louis A Nelson had irrigated the marsh lands to produce hay for the cattle , and other lands for summer grazing, of both dairy and beef, and horses used to pull farm implements and transportation, for Louis's sustenance during the year.

In the deed from Louis Nelson to Axel Olson, my father, in 1924, water rights are mentioned as one of the improvements. See Exhibit 2. Therefore these water rights had to be established prior to 1924 and the date of June 1906 is proper. My father also knew John Johnson

who received a homestead patent on the North West 1/4 of Sec 5 T 02S R 11E on 16 November 1894 See Exhibit 3. My father's account of this property is very similar to the account of the North East 1/4 of Sec 5 T 02S R 11E , except the water source was from Camas Creek. This is water right 37-04323.

The adjoining South West 1/4 Sec 32 T 01S R 11E carries a quit claim deed from T P Zaspel to Otto Johnson , dated 8 October 1900, where improvements state water right from Spring Creek ,Zaspel Lake and Malad River, a 2 room dwelling home, dairy house, sheds and corrals. The water right on this property is now part of water right 37-03425. See Exhibit 4.

I am personally familiar with water right 37-04323 because I helped my father irrigate and harvest crops on this land in the late 1930s and all of the 1940s. And my father related to me that we were irrigating and harvesting this hay as it had been irrigated and harvested from the early 1900s.

After I completed my schooling and military service, in early 1956, I returned to the area where I resided and rented my father's land and also rented that portion of Fred Malcomson's farm located in the North 1/2 of Sec 5 T 02S R 11 E. Fred outlined to me that the water right on Camas Creek and John's Spring were the earliest on Camas Creek and John's Spring going back to the homestead days. The volume of water was the total flow of Camas Creek and John's Spring once the snow peak water was gone.

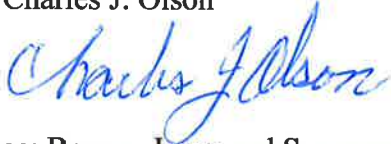
I was made aware of the Malcomson -Hobdey water right agreement in 1951. The result of this agreement gave Malcomson the sole senior water right and additional water on Camas Creek and John's Spring to irrigate their lands in north 1/2 of Sec.5 T02S R11E and the SW 1/4 of Sec 32 T 01S R11E . See Exhibit 5.

In summary, I would like to state that Malcomson's claim to a water right presented to

IDWR in 22 April 1983 and legally advertised in the Mountain Home News , which received no protest, is a very good summary of water rights 37-04323 and 37-04325. See Exhibit 6. If I can be of any help in resolving the objection filed in the SRBA concerning the priority dates on water rights 37-04323 and 37-04325, please contact me,

Sincerely.

Charles J. Olson



cc: Brown, Jones and Swenson
Attorneys at Law
130 Fourth Avenue West
Gooding ID 83330

Clare Olson
Post Office Box 136
Hill City ID 83337

Exhibit 1

THE UNITED STATES OF AMERICA.

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETING:

Homestead Certificate No. 1228

Application 1336

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 Act of Congress approved 20th May, 1862, "To secure Homesteads to actual Settlers on the Public Domain," and the acts supplementary thereto, the claim of Louis A. Nelson has been established and duly consummated

conformity to law, for the Lots numbered one and two and the South half of the North East quarter of Section Five in Township two South of Range Eleven East of Boise Meridian in Idaho containing one hundred and Sixty two Acres and fifty-three hundredths of an acre.

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 Louis A. Nelson the tract of land above described, to have and to hold the said tract of land, with the appurtenances thereof unto the said Louis A. Nelson and to his heirs 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 land hereby granted, a right of way thereon for ditches or canals constructed by the authority of the United States.

IN TESTIMONY WHEREOF, I, Theodore Roosevelt 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 thirtieth day of June in the year of our Lord one thousand nine hundred and six and of the Independence of the United States, the one hundred and thirtieth

By the President: T. Roosevelt

By F. M. McLean Secretary

C. H. Brush Recorder of the General Land Office.

Recorded, Vol. 65 Page 31

STATE OF IDAHO,
County of Elmore, ss.

I hereby certify that this instrument was filed for record at request of A. C. Howie at 38 minutes past 10 o'clock A. M., this 10 day of October A. D. 1913, in my office and duly recorded in Book of at page 70

F. C. Smith

1906 Nelson



Exhibit 2

THIS INDENTURE, Made this 1st day of October

in the year of our Lord one thousand nine hundred and Twenty-four between
Glaus Nilsson, Mariann Nilsson, Charlotta Nilsson, Julia Nilsson
and

of Rouhos Lan ~~#County#~~ of Sweden

the part 199 of the first part, and

Axel Olson, single,

of Hills City County of Camas:

State of Idaho the part y of the second part.

WITNESSETH, That the said part y of the first part, for and in consideration of the sum of

Thirty-two Hundred and no/100(\$3200.00) Dollars
Lawful money of the United States of America, to them in hand paid by the said
part y 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 part y
of the second part, and to his heirs and assigns forever, all the following described real estate,
situated in the , County of Elmore , State of Idaho, to-wit:

Lots one and two (1 & 2), South Half of the Northeast Quarter (SE NE¹) of section five (5), Township two(2) South, Range Eleven(11) East, Boise Meridian, together with all water rights belonging or in anywise appertaining to said property

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 part 109 of the first part.

TO HAVE AND TO HOLD, All and singular the above mentioned and described premises, together with the appurtenances, unto the part y 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 and seals the day and year first above written.

SIGNED, SEALED AND DELIVERED IN PRESENCE OF *2200 Og Markers shifted 13 June 1941*

Berndes

King of Aachen

Aug 0 case for Charlotta Nilsons Co

Julie Nelson

Maclean Wilson

STATE OF IDAHO,

County of Ada

On this

13

day of

January

in the year 1926, before me

a Notary Public

~~Olaf Nilsson, Marius Nilsson, Charlotte Nilsson, Julia Nilsson, and~~

in and for said State, personally appeared

~~and~~ Mariens Nilsson, ~~Julia Nilsson~~
known to me to be the person whose name is subscribed to the within instrument, and
acknowledged to me that she 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.

*Thyfor sit skolekuen
betalt for 6- seks.
Avgjort ved skolekuen
skolekuen.*

Notary Public Residing at

13 January 1926
Aug 0 1926
Idaho.



No.	TO	Dated, 19..	STATE OF IDAHO	I hereby certify that this instrument was filed	at	minutes past	o'clock	M., this	day	of	A. D. 19..	in my office and duly recorded in Book	of	at page	By	Ex-Officio Recorder.	Deputy.	Fees, \$	Stateman Shop, Boise, Idaho 613A
WARRANTY DEED																			

CONSULATE GENERAL OF THE
UNITED STATES OF AMERICA,
CITY OF CHRISTIANIA, Oslo } SS:
KINGDOM OF NORWAY.

Sigurd W. Roll, Vice Consul of the United States of America in and
for the district of ^{Oslo} Christiania, Norway, do certify that the signature of

Aug. O. Aaset, notary public at

Idø og Marker, Norway

scribed to the annexed instrument is his true and genuine signature and that as such
entitled to full faith and credit.

In testimony whereof, I have hereunto subscribed my name and affixed my seal of
office this 23rd day of January A. D. 1926

Serial No. 986

Fee \$ 2.00. -kr. 10.40



..... Vice Consul of the United States of America.

PATENT.

THE UNITED STATES OF AMERICA.

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETING:

Read Certificate No. 548.)
SECTION 530.) WHEREAS THERE has been deposited in the GENERAL LAND
of the United States a CERTIFICATE OF THE REGISTER OF THE LAND OFFICE AT Hailey, Idaho,
y it appears that, pursuant to the Act of Congress approved 20th May, 1862, " TO
HOMESTEADS TO ACTUAL SETTLERS ON THE PUBLIC DOMAIN," and the acts supplemental thereto,
aim of John Johnson has been established and duly consummated, in conformity to law,
e Lots numbered three and four and the South half of the North West quarter of
n five, in Township two south, of Range eleven East of Boise Meridian in Idaho,
ning one hundred and sixty-two acres and eighty- one hundredths of an acre according
OFFICIAL PLAT of the Survey of the said Land, returned to the GENERAL LAND OFFICE
Surveyor General;

OW KNOW YE, that there is, therefore, granted by the UNITED STATES unto the said
ranch of land above described: To have and to hold the said tract of land, with the appurtenances thereof,
Johnson, and to his heirs and assigns forever; subject to any vested and accrued
rights for mining, agricultural, manufacturing or other purposes, and rights to
s and reservoirs used inconnection with such water rights, as may be recognized and
ledged by the local customs, laws, and decisions of courts, And also subject to the
of the proprietor of a vein or lode to extract and remove his ore therefrom, should
be found to penetrate or intersect the premises hereby granted, as provided by law.
TESTIMONY WHEREOF, I, Grover Cleveland, PRESIDENT OF THE UNITED STATES OF AMERICA,
used these letters to be made Patent, and the seal of the GENERAL LAND OFFICE to be
o affixed.

VEN under my hand , at the CITY OF WASHINGTON, the Sixteenth day of November, in
of our Lord one thousand eight hundred and ninety-four, and of the Independence of
the United States the one hundred and nineteenth.

BY THE PRESIDENT: Grover Cleveland.

By M. McKean, Secretary.

General Land Office Seal.

L. Q. C Lamar,

D: Vol. 1. Page 368.

Recorder of The General Land office.

F IDAHO,)
:SS
OF ELMORE.)

ereby certify that this instrument was filed for record at request of John Johnson

IDAHO,)
:SS
OF ELMORE.)

reby certify that this instrument was filed for record at request of John Johnson
ates past 2 o'clock P. M., This 28th day of August A. D. 1917 in my office, and duly
in Book 17 of Patents at page 373.

F. K. Hobbs,

Ex. Officio Recorder.

By O. E. Cannon, Deputy

Exhibit 3

Exhibit 4

10-8-1900

C-1

Form D 3002

emulating
accepted
used

Oscar J. Zaspel
To
Otto Johnson
Oct 8th 1900.

This Indenture, made this eighth day
of October in the year of our Lord one
thousand nine hundred.

Between Oscar J. Zaspel of Mountain
Home, County of Elmore, State of Idaho, the party
of the first part, and Otto Johnson of
Mountain Home, County of Elmore, State of Idaho, the party
of the second part;

Witnesseth, That the said party of the first part,
for and in consideration of the sum of eight hundred
dollars, ^{xxx} of the United States of America, to him in
hand paid by the said party of the second part, the
receipt whereof is hereby acknowledged, has Remised,
Released, and forever Quit Claimed, and by these presents
do Remise, Release, and Forever Quit Claim unto
the said party of the second part, and to his heirs
and assigns forever, all the following described
real estate Situate in the County of Elmore and
State of Idaho, and bounded and particularly de-
scribed as follows, to wit:

South West quarter of Section thirty-two, in
Township one South of Range Eleven East of
Basis Meridian in Idaho, containing one hundred
and sixty acres, and all the improvements thereon
including a 2 room dwelling house, Dairy house,
sheds & Corral, and all my right in the waters from
Spring Creek, the Zaspel Lake and the Malad River. (X)

Together with all and singular the tenements,
hereditaments and appurtenances thereto belonging,
or in any wise appertaining, and the reversion
and reversions, Remainder and remainders, Rent,
issues and profits thereof.

To have, and to hold, All and singular,

unto the party of the second part, and to his heirs and assigns forever.
In witness whereof, the said part of the first part has hereunto set his hand and seal the day and year first above written.
Signed sealed & delivered in presence of } Oscar T. Zaspel Seal
Geo. Johnson

C-2

State of Idaho, } ss.
County of Elmore. On this 8th day of October 1900 before me J.E. Smith, a Clerk Dist. Court in and for said County, personally appeared Oscar T. Zaspel known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he 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.
J.E. Smith

State of Idaho, } ss.
County of Elmore. I, J.E. Smith, Clerk Dist. Court, do hereby certify that this instrument was filed for record at the request of Otto Johnson at 10:20 o'clock a.m., this 8th day of October 1900 in my office.
J.E. Smith
By J.E. Smith, Deputy.

Form 600
Frank Lee Jackson
to
N.E. Blackman
June 19th 1900
Deed of Mining Claim
This Indenture, made the 19th day of June in the year of our Lord one thousand nine hundred between Frank Lee Jackson the party of the first part and N.E. Blackman the party of the second part.

Zaspel and Johnson Deed

The Indenture made the eighth day of October in the year of our Lord one thousand Nine hundred between Oscar T P Zaspel of Mountain Home, County of Elmore, State of Idaho, the party of the first part, and Otto Johnson of Mountain Home, County of Elmore, State of Idaho, the party of the second part for and in consideration of the sum of eight hundred dollars— of the United States of America, to him in hand paid by the said party of the Second remised the receipt whereif is hereby acknowledged he remised, Released and forever Quit Claimed, and by these presents, do Remise, Release, and Forever Quit Claim unto the said party of the Second part, and to his heirs and assign forever all the following described real estate in the County of Elmore and State of Idaho and bounded and particularly described as follows, towit:

South West quarter of Section thirty-two in Township One South of Range Eleven East of Boise Meridian in Idaho, containing one hundred and Sixty acres, and all the improvements thereon including a 2 room dwelling home, Dairy house sheds and corrals, and all my right in the water from Spring Creek, the Zaspel Lake and the Malad River Together with all and singular the tenements hereditaments and appurtenances there unto 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 th appurtenances unto the party of the second part and to his heirs and assign forever

In witness thereof The said party of the first part has hereunto set his hand and seal the day and year first above written.

Signed Sealed and Delivered Oscar T P Zaspel in the presence of
Asa Johnson.

Exhibit 5

Water Right Trade Agreement

In 1951 Fred Malcomsen and Charles Hobdey made a verbal water right trade agreement. Charles Hobdey would trade all of his water in Camas Creek and Johnson Spring being delivered by the Woods ditch to Fred Malcomsen in exchange for all of Malcomsen's water right to Dyer Creek, a tributary of the Malad River.

We the daughters of Charles Hobdey attest that this is what was ~~to~~ told to us and is how the water has been used since that date.

Mayvis Thompson Mayvis Thompson date 1-17-08

Lorna Bard Lorna Bard date 1-16-08

Exhibit 6

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES



CLAIM TO A WATER RIGHT

Under the provisions of Section 42-243, Idaho Code, any person using or claiming rights to the public waters of Idaho established by diversion and application to a beneficial use must file a claim with the Department of Water Resources on or before June 30, 1983. Exempted from this filing are single family domestic uses as defined in Section 42-230(d), Idaho Code. Also exempted are rights represented by a permit, license, decree, adjudicated right, or a previously filed claim.

The filing of this claim does not confirm the water right claimed but failure to file may result in forfeiture of a water right.

Notice is hereby given that Fred Malcomsen / or Agnes Malcomsen
(Name of Claimant)
329 Utah St. Gooding, ID 83330 Telephone No. 934-5985
(Mailing Address) (Zip Code)

claims a right to the diversion and beneficial use of the surface or ground water. The extent and nature of said claim is as follows:

- follows:
- (1) Date of priority: (When was the water first applied to a beneficial use) June 1, 1899
- A claim is not acceptable on a ground water source with a priority later than March 25, 1963 or on a surface water source with a priority later than May 20, 1971. An exception is that a claim may be filed on single family domestic use from a ground water source.
- (2) Describe the source of water: (Name of stream, lake, spring, etc., or ground water)
Camas Creek tributary to Big wood River
- (3) Describe the purpose for which the water has been used and the time during the year when you have used the right claimed:

(cfs, sf)		(Domestic, Irrigation, Stock, Etc.)	(Both dates inclusive) (Mo., Day)	
Quantity	<u>4.0</u>	Use <u>Irrigation</u>	Period of Use From <u>June</u>	To <u>Sept</u>
Quantity		Use	Period of Use From	To
Quantity		Use	Period of Use From	To
Quantity		Use	Period of Use From	To
Quantity		Use	Period of Use From	To

- (4) 4.0 TOTAL QUANTITY USED.
(cfs, af)
- (5) A) Point of diversion: (Location of point where water is diverted from its source)
SW 1/4 NW 1/4, Sec. 5 Twp. 2S Rge. 11E B.M., County of Elmore
Additional points of diversion: _____

B) Describe means of diversion of water: (Pump and pipeline, well, diversion dam, reservoir, length of ditch and field, etc.). Give sizes and capacities: be as specific as possible. Describe any changes in the system and give the date of the change. *Check Dam & Ditches*

- (6) A) Describe location of use by listing number of irrigated acres within each 40-acre tract in appropriate box. If use is not for irrigation, place an "X" in appropriate box to show location.

[illegible]

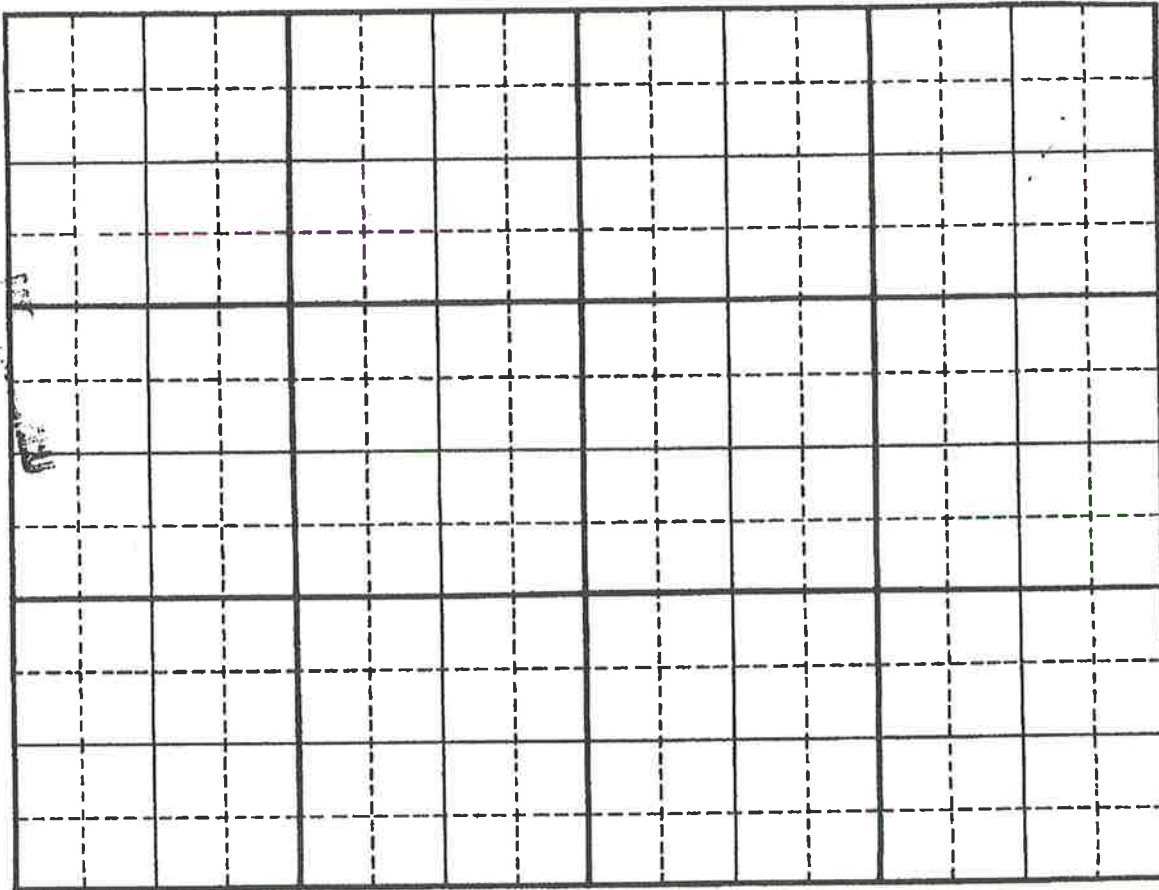
No. of acres 374

- B) If water is used for other than irrigation, fully describe that use, being as specific as possible: _____

NOTE: Include here the type and number of stock watered:

- (7) If you are claiming water as a member of an organization, list name of organization: _____

(8) Remarks _____



Scale: 2 inches equal 1 mile.

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

State of Idaho)
County of Blaine) ss.

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

Fred Malcomson

Agnes Malcomson
(Claimant)

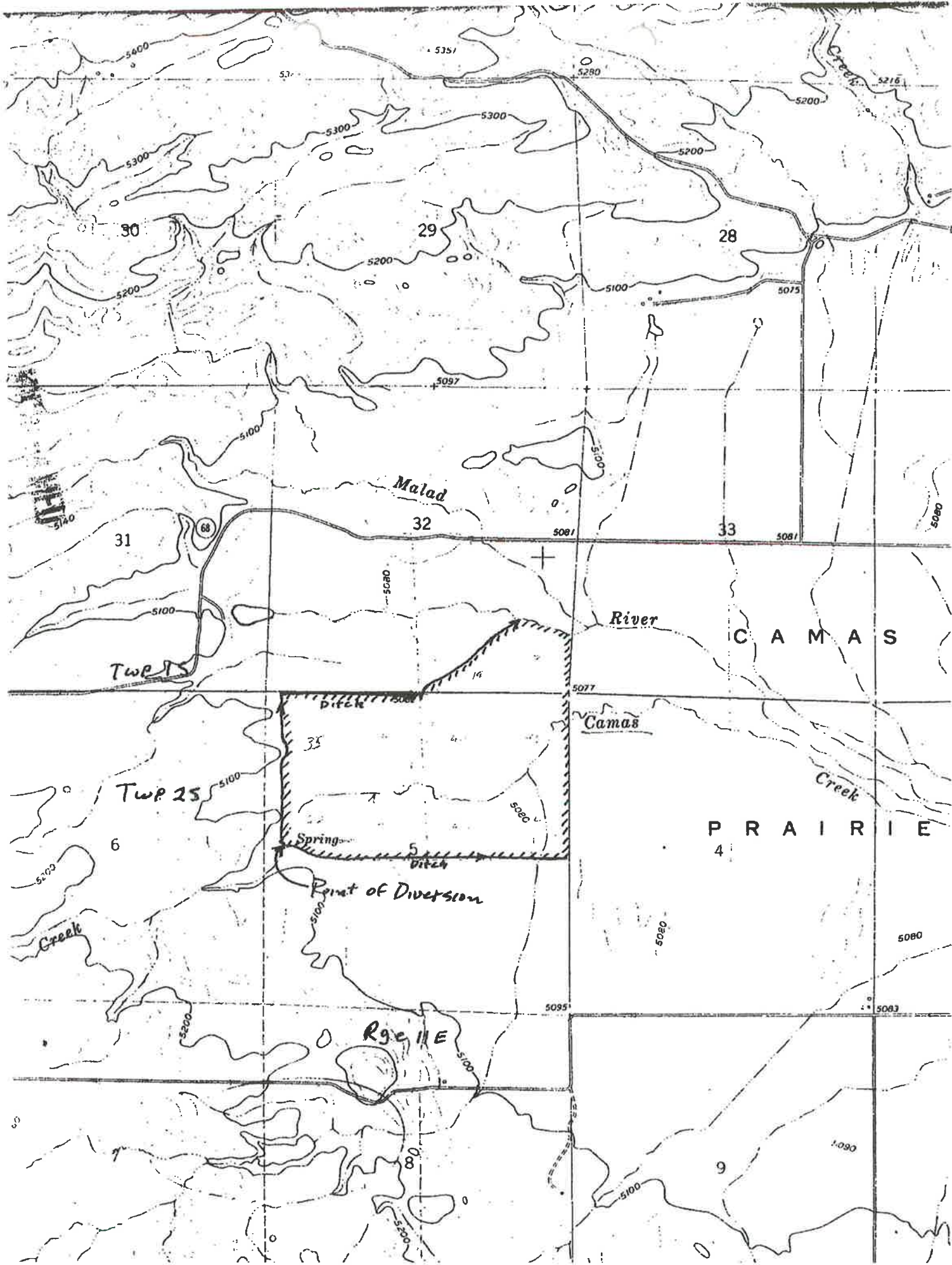
Sworn to before me this 22 day of April, 1953.

Notary Public
Residing at Blaine

My commission expires 2/10/54

FOR DEPARTMENT USE ONLY

Received by <u>J.F. Stanton</u>	Date <u>4-22-53</u>	Exception filed by:	Date
Prelim. check by <u>ADA</u>	Date <u>5-4-53</u>	Forwarded to	
\$30.00 fee received by <u>DA</u>	Date <u>4-28-53 7:27 AM</u>	claimant by:	
Published in <u>Mountain Home News</u>			
Dates <u>6/30 & 7/7/53</u>			



**NOTICE OF CLAIMS
TO WATER RIGHTS**

Notice is hereby given that the following claims to water rights have been established by diversion and application to beneficial use:
37-4323

MALCOMSON, FRED &/or
AGNES
329 UTAH ST., GOODING, ID
83330
Source: JOHNNY'S SPRING trib.
to CAMAS CREEK
Priority Date: 06/01/1881
Diversion Pt: SENW Sec 05 T 02S
R 11E
Use: IRRIGATION (3.00 CFS)
In: SWSE SESE Sec 32 T 01S R
11E LOT 01 (NENE) LOT 02
(NWNE) SWNE SENE Sec 05 T
02S R 11E FOR 140 ACRES
37-4324

MALCOMSON, FRED &/or
AGNES
329 UTAH ST., GOODING, ID
83330
Source: SPRING trib. to SINKS
Priority Date: 06/01/1889
Diversion Pt: NESW Sec 25 T 01S
R 11E
Use: STOCKWATER (2.00 CFS)
In: NENW Sec 25 T 01S R 11 E
37-4325

MALCOMSON, FRED &/or
AGNES
329 UTAH ST., GOOD, ID 83330
Source: CAMAS CREEK trib. to
BIG WOOD RIVER
Priority Date: 06/01/1889
Diversion Pt: SWNW Sec 05 T 02S
R 11E
Use: IRRIGATION (4.00 CFS)
In: SWSE SESE Sec 32 T 01S R
11E LOT 01 (NENE) LOT 02
(NWNE) SWNE SENE LOT 03
(NENW) LOT 04 (NWNW) SWNW
SENW Sec 05 T 02S R 11E FOR 374
ACRES
37-4326

MALCOMSON, FRED &/or
AGNES
329 UTAH ST., GOODING, ID
83330
Source: WILD HORSE CREEK
trib. to CAMAS CREEK
Priority Date: 06/01/1961
Diversion Pt: NENE Sec 28 T 01S
R 11E
Use: IRRIGATION (0.25 CFS)
In: SWNW Sec 27 T 01S R 11E
FOR 3 ACRES
37-4348

BENNETT, EMMA MALCOM-
SON
BOX 120, HILL CITY, ID 83337
Source: SPRING trib. to MALAD
RIVER
Priority Date: 07/01/1903
Diversion Pt: SWSE Sec 28 T 01S
R 11E
Use: IRRIGATION (2.40 CFS)
In: SWSE Sec 28 T 01S R 11E
NWNE SWNE Sec 33 T 01S R 11E
FOR 120 ACRES

Any exception to any claim of wa-
ter right may be filed with the Direc-
tor of the Idaho Department of Water
Resources, 1041 Blue Lakes Blvd.
North, Twin Falls, Idaho 83301.

A. KENNETH DUNN
Director

Published 8/30 & 7/7/83.

Affidavit of Publication

County of Elmore } ss.
STATE OF IDAHO }

I, Lloyd S. Waters, do
solemnly swear that I am the foreman, or
publisher of the

MOUNTAIN HOME NEWS

a weekly newspaper of general circulation,
published once a week at MOUNTAIN HOME,
IDAHO, that the notice attached hereto and
which is a part of the proof of publication
thereof, was published in said newspaper for

2 consecutive weeks, the first publica-
tion having been made on the 30 day
of June, 1983, and
the last publication having been made on the
7 day of July,
1983; every Thursday issue of the paper

during the period and time of publication and
that the notice was published in the newspaper
proper and not in a supplement thereof.

And I further swear that the said MOUN-
TAIN HOME NEWS has been continuously and
uninterruptedly published in said Elmore County
during a period of 78 consecutive weeks prior
to the first publication of the attached notice.

Lloyd S. Waters
Subscribed and sworn to me this 7th
day of July, 1983

RECEIVED

JUL 12 1983

Department of
Southern District

Notary Public

37-4323

Malcomson, Fred and or Agnes

329 Utah Street, Gooding ID 83330

Source - Johnny's Spring trib to CAMAS CREEK

Priority Date - 06-01-1881

Diversion Pt. - SE NW Sec5 T02 R11E

Use - Irrigation (3.00 CFS)

In SE SE SESE Sec 32 , T 01 S R11E

Lot 01(NENE) Lot 02 (NWNE) SWNE SENE

Sec . 05 T 02S R.11E for 140 ACRES

37-4325

Malcomson, Fred and or Agnes

329 Utah Street, Gooding ID 83330

Source - Camas Creek trib. to BIG WOOD RIVER

Priority Date - 06-01-1889

Diversion Point - SWNW Sec 05 T 02S R11 E

Use - IRRIGATION (4.0CFS)

In - SWSE SESE Sec.32 T01S R11E

LOT 01 (NENE) Lot 02(NWNE) SWNE SENE

Lot 03 (NENW) Lot 04 (NWNW) SWNW SENW

Sec. 05 T 02 S R 11E FOR374 ACRES

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
Southern Region

1041 Blue Lakes Blvd. N.
Twin Falls, Idaho 83301
(208) 734-3578

19
JULY 15 1983

RECEIVED
JUL 15 1983

FRED MALCOMSON
AGNES MALCOMSON
329 UTAH ST.
GOODING

ID 83330

RE: Claim No. 37-4325

Dear Claimant:

The Department of Water Resources has completed the advertising of your claim to a water right, and no further action is authorized under Section 42-243 and 42-244, IDAHO CODE. Your claim will be retained in our files and will be available at any time for use by you or the court.

The filing and advertising of the claim does not confirm the water right claimed, but will serve to record and preserve the information and the evidence which you included in your claim.

If, at a later date, you find that you have additional information or supporting evidence that you would like to have included with the claim, you may have that information or evidence added at any time. Please refer to the claim identification number when corresponding with this office.

We are enclosing a copy of your claim for your records. If you have questions, or if this office may be of further assistance, please feel free to contact us.

Yours truly,



ALLEN D. MERRITT
Senior Water Resource Analyst

Enclosure

NOTICE OF CLAIMS TO WATER RIGHTS

Notice is hereby given that the following claim(s) to water right(s) have been established by diversion and application to beneficial use:

32-4325-

MALCOMSON, FRED &/or AGNES

329 UTAH ST., GOODING, ID 83330

Source: CAMAS CREEK trib. to BIG WOOD RIVER

Priority Date: 06/01/1889

Diversion Pt: SWNW Sec 05 T 02S R 11E

Use: IRRIGATION (4.00 CFS)

In: SWSE SESE Sec 32 T 01S R 11E LOT 01 (NENE) LOT 02 (NWNE) SWNE SENE
LOT 03 (NENW) LOT 04 (NWNW) SWNW SENW Sec 05 T 02S R 11E FOR 374 ACR

Any exception to any claim of water right may be filed with the Director of the Idaho Department of Water Resources, 1041 Blue Lakes Blvd. North, Twin Falls, Idaho 83301.

A. KENNETH DUNN

Director

Published 6/30 & 7/7/83.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
Southern Region

1041 Blue Lakes Blvd N.
Twin Falls, Idaho 83301
(208) 734-3578

JUNE 22, 1983

Mountain Home News
P.O. Drawer 0
Mountain Home, ID 83647

Gentlemen:

Enclosed you will find a legal notice which we wish to have published on the dates indicated (once a week for two consecutive weekly issues) in your newspaper. We have allowed ample time for you to submit a galley proof to this office for review before the first publication date. If you cannot publish the notice on the proposed dates, please contact us immediately.

An affidavit of publication must be submitted to the Department along with the publication bill. Your cooperation is appreciated.

Please send the affidavit of publication and publication billing to this office before .

Yours truly,

Mary A. Newby
Secretary

Encl.

IDENT. NO. 37-4385

**WATER RIGHT
DATA ENTRY LOG**

Date _____

Item

gc

$$\begin{array}{r|l} 6 & 15 \\ \hline & 83 \end{array}$$

Original form entered

Edit Report Correct

Date Protested

Date of Hearing

Date Approved/Denied
(Proof due date, stage and/or status,
conditions of approval, water district)

Record Verified

Amendment Approved

Extension Approved

Partial Proof

Proof Complete

Field Exam Received

Field Exam Accepted
and changes entered

License Updated

Transfer Updated

Keypunched by State Office

State of Idaho
Department of Water Resources

CLAIM ANALYSIS SHEET

INITIAL REVIEW BY: ADM

Right Number 37-4325 Applicant MALCOMSON, Fred &/or Agnes

NOTE: IF ANY OF THE ITEMS BELOW ARE MISSING, THE CLAIM IS INCOMPLETE AND MUST BE RETURNED IMMEDIATELY TO THE CLAIMANT ALONG WITH THE APPROPRIATE COVER LETTER.

CHECK:

- ☒ Name and address.
- ☒ Date of priority. (Check for a date past the mandatory filing dates.) (One date only.)
- ☒ Source.
- ☒ Quantity, use, period.
- ☒ Point(s) of diversion.
- ☒ Location of use.
- ☒ Signature/notarization/fee.

~~Send copy to W.M.
Dist. 37~~

FINAL REGIONAL PROCESSING REVIEW:

- ☒ Affidavit of publication received.
- ☒ Claim published correctly.
- ☒ Exceptions processed.

By ADM Date 7/19/83

STATE OFFICE PROCESSING:

- ☒ Claim review complete.

By J. V. V. Date 7-22-83

RECEIVED
JUL 22 1983

Department of Water Resources

Clare Olson
OKC Ranches
P. O. Box 136
Hill City, ID 83337

RECEIVED
FEB 13 2008
DEPT. OF WATER RESOURCES
SOUTHERN REGION

RE: Snake River Basin Adjudication; Claims #37-04323, #37-04325 and #37-4061

February 13, 2008

Kelly Christensen
Department of Water Resources
1341 Filmore St., Ste. 200
Twin Falls, ID 83301

Dear Mr. Christensen,

This letter is concerning the water rights in the case filed with the SRBA District Court Case #39756. I am objecting to the recommendations of IDWR concerning the above mentioned water rights. The evidence I am presenting here will also be presented to the court.

The reasons for the objection are mainly a question of fairness and equality on the part of IDWR, and how they came to their decisions. The Gwinn Rice claim #37-4061 is the right I am using for comparison as to the information used to establish this right, as opposed to the information given for claims #37-04323 and #37-04325 belonging to Fred Malcomsen.

I am requesting that the water rights on claims #37-04323 and #37-04325 remain as they were originally applied for by Fred Malcomsen in 1983. Fred's claim was never protested as to priority date or place of use. The claim was publicly advertised in area newspapers. Information provided by Fred is the most accurate reflection for these water rights. The water has been used to irrigate this ground continuously over the years. Yet, IDWR recommended changes to the priority date, amount of water to be used and place of use. Gwinn Rice's claim #37-4061 was protested, and upheld by IDWR. Rice, using only his aunt's, Elsie Francis's affidavit, whom had never owned nor irrigated the related ground to this claim, secured IDWR's recommendation for approval. IDWR accepted her affidavit without question or exception.

In comparison, claims #37-04323 and #37-04325 (Malcomsen's) IDWR recommended a different priority date, less acreage for place of use and a lesser quantity of water, for no justifiable reason, during the adjudication process. The evidence for these claims is more extensive and certainly better documented than Rice's claim was. This evidence attached to this letter will show why claims #37-04323 and #37-04325 should remain as they were historically and claimed by Fred Malcomsen in 1983.

Please consider also, additional water rights obtained by Fred Malcomsen from Charles Hobdey. This right became part of Fred's claim. The water was diverted from Camas Creek through the Woods Ditch to Zapal Lake and used in Section 32, refer to Exhibits 4 and 5. This right had a priority date of Oct. 8, 1900, and was part of water right #37-04403. This further documents use of Camas Creek water in Sec. 32 and establishes a priority date of 1900.

My farther Charles Olson, has presented most of the evidence herein. I have leased this ground for many years and am currently under contract to purchase it. Please reconsider your recommendation on Malcomsen's claims, so as to let the water originally claimed for this ground remain as it was.

Any further questions please contact me at the phone number listed below. I would be more than pleased to meet with IDWR at your convenience.

Respectfully Submitted,

A handwritten signature in cursive script that reads "Clare Olson". The signature is written in dark ink and is positioned below the "Respectfully Submitted," text.

Clare Olson
208-764-2588

Attachments enclosed

Spring

NATIONAL

FOREST

River

Malad

5081

5087

Zaspel lake

woods ditch

River

C A M A S

Camas

374

Creek

P R A I R I

Lobby
5052

Point of
version

Spring

40 41

Creek

Camas

5095

5093

27-4-35

1000 ft. above sea level

4/20/35

Priority June 1, 1935

F O R E S T

BOUNDARY

Spring

NATIONAL

FOREST

River

Malad

5081

River

C A M A

Camas

Lobby
5352

Spring

Creek

Creek

P R A I R

NATIONAL

FOREST

River

Alalad

River

C A M A S

Camas

Spring

Creek

Creek

P R A I R I E

TOWNE

Friday - 7-20-02

Spring

NATIONAL

FOREST

River

Malad

5081

5081

River

C A M A S

Camas

Creek

P R A I R I

Spring

Creek

Camas

5095

5083

8 February 2008

Charles J. Olson
8813 Old Hiway 30
Mountain Home ID 83647

Kelly Christensen
Snake River Basin Adjudication
Department of Water Resources
1341 Fillmore Street, Suite 200
Twin Falls ID 83301

RE: Snake River Basin Adjudication
Claims 37-04323 and 37-04325

Sir:

I am Charles J. Olson, son of Axel and Lela Olson, born 14 January 1931. The priority date of 1945 on water rights 37-04323 and 37-04325 is not correct from my understanding of how the water was put to beneficial use in the settlement of the property. Following are a list of statements with documents as exhibits that show how these property settlements evolved..

In 1924 my father purchased the North East quarter of Sec. 5 T 02S R 11E from the heirs of Louis A Nelson who received a homestead patent on this property dated 13 June 1906. See Exhibits 1. My father was acquainted with Louis A. Nelson and how he had put the water from John's Spring to beneficial use in the North East quarter of Sec.5 T02S R 11 E, which is known as water right 37-04323. My father related to me how the Louis A Nelson had irrigated the marsh lands to produce hay for the cattle , and other lands for summer grazing, of both dairy and beef, and horses used to pull farm implements and transportation, for Louis's sustenance during the year.

In the deed from Louis Nelson to Axel Olson, my father, in 1924, water rights are mentioned as one of the improvements. See Exhibit 2. Therefore these water rights had to be established prior to 1924 and the date of June 1906 is proper. My father also knew John Johnson

who received a homestead patent on the North West 1/4 of Sec 5 T 02S R 11E on 16 November 1894 See Exhibit 3. My father's account of this property is very similar to the account of the North East 1/4 of Sec 5 T 02S R 11E , except the water source was from Camas Creek. This is water right 37-04323.

The adjoining South West 1/4 Sec 32 T 01S R 11E carries a quit claim deed from T P Zaspel to Otto Johnson , dated 8 October 1900, where improvements state water right from Spring Creek ,Zaspel Lake and Malad River, a 2 room dwelling home, dairy house, sheds and corrals. The water right on this property is now part of water right 37-03425. See Exhibit 4.

I am personally familiar with water right 37-04323 because I helped my father irrigate and harvest crops on this land in the late 1930s and all of the 1940s. And my father related to me that we were irrigating and harvesting this hay as it had been irrigated and harvested from the early 1900s.

After I completed my schooling and military service, in early 1956, I returned to the area where I resided and rented my father's land and also rented that portion of Fred Malcomson's farm located in the North 1/2 of Sec 5 T 02S R 11 E. Fred outlined to me that the water right on Camas Creek and John's Spring were the earliest on Camas Creek and John's Spring going back to the homestead days. The volume of water was the total flow of Camas Creek and John's Spring once the snow peak water was gone.

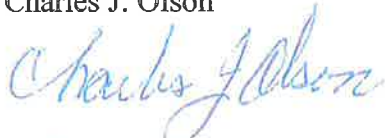
I was made aware of the Malcomson -Hobdey water right agreement in 1951. The result of this agreement gave Malcomson the sole senior water right and additional water on Camas Creek and John's Spring to irrigate their lands in north 1/2 of Sec.5 T02S R11E and the SW 1/4 of Sec 32 T 01S R11E . See Exhibit 5.

In summary, I would like to state that Malcomson's claim to a water right presented to

IDWR in 22 April 1983 and legally advertised in the Mountain Home News , which received no protest, is a very good summary of water rights 37-04323 and 37-04325. See Exhibit 6. If I can be of any help in resolving the objection filed in the SRBA concerning the priority dates on water rights 37-04323 and 37-04325, please contact me,

Sincerely.

Charles J. Olson



cc: Brown, Jones and Swenson
Attorneys at Law
130 Fourth Avenue West
Gooding ID 83330

Clare Olson
Post Office Box 136
Hill City ID 83337

Exhibit 1

Instrument No. 17273

THE UNITED STATES OF AMERICA.

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETING:

Homestead Certificate No. 1208

Application 1336

WHEREAS, there has been deposited in the General Land Office of the Un

States a certificate of the Register of the Land Office at Hailey Idaho, whereby it appears that pursuant to

Act of Congress approved 20th May, 1862, "To secure Homesteads to actual Settlers on the Public Domain," and the acts supplement

thereto, the claim of Louis A. Nelson has been established and duly consummated

conformity to law, for the

Lots numbered one and two and the South half of the North East quarter of Section Five in Township two South of Range Eleven East of Boise Meridian in Idaho containing one hundred and Sixty two Acres and fifty-three hundredths of an acre.

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 Louis A. Nelson the tract of land above described, to have and to hold the said tract of land, with the appurtenances thereof unto the said Louis A. Nelson and to his heirs a assigns forever; subject to any vested and accrued water rights for mining, agricultural, manufacturing or other purposes, and right 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 land hereby granted, a right of way thereon for ditches or canals constructed by the authority of the United States.

IN TESTIMONY WHEREOF, I, Theodore Roosevelt 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 thirtieth day of June in the year of our Lord one thousand nine hundred and six and of the Independence of the United States, the one hundred and thirtieth

By the President: T. Roosevelt

By F. M. McLean Secretary

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



Recorded, Vol. 65 Page 31

STATE OF IDAHO, }
County of Elmore, } ss.

I hereby certify that this instrument was filed for record at request of A. C. Lewis at 38 minutes past 10 o'clock A. M., this 10 day of October A. D. 1913, in my office and duly recorded in Book of at page

J. C. Smith

1906 Nelson

Exhibit 2

THIS INDENTURE, Made this 1st day of October
 in the year of our Lord one thousand nine hundred and Twenty-four between
 Claus Nilsson, Mariann Nilsson, Charlotta Nilsson, Julia Nilsson
 and _____

of Bouhos Lan _____ County of Sweden
 the parties of the first part, and
 State of _____

Axel Olson, single,
 of Hills City _____ County of Camas.
 State of Idaho the party of the second part.

WITNESSETH, That the said party of the first part, for and in consideration of the sum of

Thirty-two Hundred and no/100 (\$3200.00) Dollars ~~THIRTY-TWO~~
 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 the following described real estate,
 situated in the _____, County of Elmore, State of Idaho, to-wit:

Lots one and two (1 & 2), South Half of the Northeast
 Quarter (SE 1/4 NE 1/4) of section five (5), Township two(2)
 South, Range Eleven(11) East, Boise Meridian, together
 with all water rights belonging or in anywise appertaining
 to said property

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 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, law-
 fully 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.

SIGNED, SEALED AND DELIVERED IN PRESENCE OF

Burmes.

by Markers shifted 13 June 1965 [Seal]

Ango O. Oasch [Seal]

Ango O. Oasch for Charlotta Nilsson Co [Seal]

Julia Nilsson [Seal]

Mariann Nilsson

County of Ada

On this

13

day of

January

in the year 1926, before me

a Notary Public

~~Maria Nilsson, Herman Nilsson, Charles Nilsson, Julia Nilsson, and~~

in and for said State, personally appeared

~~_____~~, Marians Nilsson, ~~_____~~, Julia Nilsson
known and ~~_____~~, ~~_____~~, ~~_____~~,
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.

Handwritten notes:
Hence in shoshone
about 6-8 miles
away from the place
where the instrument is.

Notary Public Residing at

Idaho.
Aug 0 Casper



No. _____
WARRANTY DEED

TO

Dated _____, 19____

STATE OF IDAHO

County of _____

I hereby certify that this instrument was filed
for record at request of _____

at _____ minutes past _____

o'clock _____ M., this _____ day

of _____, A. D. 19____

In my office, and duly recorded in Book _____

of _____ at page _____

Ex-Officio Recorder.

By _____ Deputy.

Fees, \$ _____

numd Stateman Shop, Boise, Idaho 61A

CONSULATE GENERAL OF THE
UNITED STATES OF AMERICA,
CITY OF CHRISTIANIA:Oslo
KINGDOM OF NORWAY. } SS:

Sigurd E. Roll, Vice Consul of the United States of America in and
for the district of ^{Oslo} Christiania, Norway, do certify that the signature of

Aug. O. Aaset, notary public at

Idd og Marker, Norway

scribed to the annexed instrument is his true and genuine signature and that as such
entitled to full faith and credit.

In testimony whereof, I have hereunto subscribed my name and affixed my seal of
office this 23rd day of January A. D. 1926

Serial No. 986

Fee \$ 2.00. -kr.10.40

Vice Consul of the United States of America.



Exhibit 3

(4-405)

PATENT.

THE UNITED STATES OF AMERICA.

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETING:

AND Certificate No. 548.)
) WHEREAS THERE has been deposited in the GENERAL LAND
 TION 530.)
 of the United States a CERTIFICATE OF THE REGISTER OF THE LAND OFFICE AT Halley, Idaho,
 it appears that, pursuant to the Act of Congress approved 20th May, 1862, "TO
 HOMESTEADS TO ACTUAL SETTLERS ON THE PUBLIC DOMAIN," and the acts supplemental thereto,
 im of John Johnson has been established and duly consummated, in conformity to law,
 Lots numbered three and four and the South half of the North West quarter of
 five, in Township two south, of Range eleven East of Boise Meridian in Idaho,
 ing one hundred and sixty-two acres and eighty- one hundredths of an acre according
 OFFICIAL PLAT of the Survey of the said Land, returned to the GENERAL LAND OFFICE
 Surveyor General:

WE KNOW YE, that there is, therefore, granted, by the UNITED STATES unto the said
 of land above described: To have and to hold the said tract of land, with the appurtenances thereof,
 nson, and to his heirs and assigns forever; subject to any vested and accrued
 ights for mining, agricultural, manufacturing or other purposes, and rights to
 and reservoirs used in connection with such water rights, as may be recognized and
 edged by the local customs, laws, and decisions of courts, And also subject to the
 of the proprietor of a vein or lode to extract and remove his ore therefrom, should
 e be found to penetrate or intersect the premises hereby granted, as provided by law.
 TESTIMONY WHEREOF, I, Grover Cleveland, PRESIDENT OF THE UNITED STATES OF AMERICA,
 used these letters to be made Patent, and the seal of the GENERAL LAND OFFICE to be
 o affixed.

VEN under my hand, at the CITY OF WASHINGTON, the Sixteenth day of November, in
 of our Lord one thousand eight hundred and ninety-four, and of the Independence of
 the United States the one hundred and nineteenth.

BY THE PRESIDENT: Grover Cleveland.

By M. McKean, Secretary.

L. Q. C. Lamar,

Recorder of The General Land office.

General Land Office Seal.
 D: Vol. 1. Page 368.

OF IDAHO,)
 :SS
 OF ELMORE.)

erby certify that this instrument was filed for record at request of John Johnson

IDAHO,)
 :SS
 OF ELMORE.)

erby certify that this instrument was filed for record at request of John Johnson
 utes past 2 o'clock P. M., This 28th day of August A. D. 1917 in my office, and duly
 in Book 17 of Patents at page 373.

F. M. Hobbs,

Ex. Officio Recorder.

By O. E. Cannon, Deputy

Exhibit 4

10-8-1900

(C-1)

From D Book

unintentionally
reused

Oscar P. Zappel
To
Otto Johnson
Oct 8th 1900

This Indenture, made this eighth day
of October in the year of our Lord one
thousand nine hundred
Between Oscar P. Zappel of Mountain
Home, County of Elmore, State of Idaho, the party
of the first part, and Otto Johnson of
Mountain Home, County of Elmore, State of Idaho. the party
of the second part;

Witnesseth, That the said party of the first part,
for and in consideration of the sum of eight hundred
dollars, ^{xxx} of the United States of America, to him in
hand paid by the said party of the second part, the
receipt whereof is hereby acknowledged, has Remised,
Released, and forever Quit Claimed, and by these presents
do Remise, Release, and Forever Quit Claim unto
the said party of the second part, and to his heirs
and assigns forever, all the following described
real estate situate in the County of Elmore and
State of Idaho, and bounded and particularly de-
scribed as follows, to wit:

South West quarter of section thirty-two, in
Township one South of Range Eleven East of
Basis Meridian in Idaho, containing one hundred
and sixty acres, and all the improvements thereon
including a 2 room dwelling house, Dairy house,
sheds & Corral, and all my right in the waters from
Spring Creek, the Zappel Lake and the Malad River. (X)

Together with all and singular the tenements,
hereditaments and appurtenances thereto belonging,
or in anywise appertaining, and the possession
and remainders, Remainder and remainder, Rent,
issues and profits thereof.

To have, and to hold, All and Singular,

unto the party of the second part, and to his heirs and assigns forever.
In witness whereof, The said party of the first part has hereunto set his hand and seal the day and year first above written.
Signed sealed & delivered in presence of Oscar T. Zaspel
Geo. Johnson

C-2

State of Idaho, } ss.
County of Elmore }
me H. Smith, a Clerk Dist. Court in and for said County,
personally appeared Oscar T. Zaspel known to me to be
the person whose name is subscribed to the within in-
strument, and acknowledged to me that he executed the
same.

In witness whereof, I have hereunto set my hand and
affixed my official seal, the day and year in this certifi-
cate first above written.
H. Smith

State of Idaho, } ss.
County of Elmore }
me H. Smith, a Clerk Dist. Court,
By B. Eniffitt Deputy.
I hereby certify that this instrument
was filed for record at the request of Otto Johnson
at 10:20 o'clock a.m., this 8th day of October 1900
in my office.
H. Smith, Official Rec.
By B. Eniffitt Deputy.

Form 600
Frank Lee Jackson
H.E. Blackman
June 19th 1900
Deed of Mining Claim
This Indenture, made the 19th day of
June in the year of our Lord one
thousand nine hundred between Frank
Lee Jackson the party of the first part
and H.E. Blackman the party of the second part,
Witness the hand of said parties and the

Zaspel and Johnson Deed

The Indenture made the eighth day of October in the year of our Lord one thousand Nine hundred between Oscar T P Zaspel of Mountain Home, County of Elmore, State of Idaho, the party of the first part, and Otto Johnson of Mountain Home, County of Elmore, State of Idaho, the party of the second part for and in consideration of the sum of eight hundred dollars— of the United States of America, to him in hand paid by the said party of the Second remised the receipt whereif is hereby acknowledged he remised, Released and forever Quit Claimed, and by these presents, do Remise, Release, and Forever Quit Claim unto the said party of the Second part, and to his heirs and assign forever all the following described real estate in the County of Elmore and State of Idaho and bounded and particularly described as follows, towit:

South West quarter of Section thirty-two in Township One South of Range Eleven East of Boise Meridian in Idaho, containing one hundred and Sixty acres, and all the improvements thereon including a 2 room dwelling home, Dairy house sheds and corrals, and all my right in the water from Spring Creek, the Zaspel Lake and the Malad River Together with all and singular the tenements hereditaments and appurtenances there unto 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 th appurtenances unto the party of the second part and to his heirs and assign forever

In witness thereof The said party of the first part has hereunto set his hand and seal the day and year first above written.

Signed Sealed and Delivered Oscar T P Zaspel in the presence of
Asa Johnson.

Exhibit 5

Water Right Trade Agreement

In 1951 Fred Malcomsen and Charles Hobdey made a verbal water right trade agreement. Charles Hobdey would trade all of his water in Camas Creek and Johnson Spring being delivered by the Woods ditch to Fred Malcomsen in exchange for all of Malcomsen's water right to Dyer Creek, a tributary of the Malad River.

We the daughters of Charles Hobdey attest that this is what was told to us and is how the water has been used since that date.

Mayvis Thompson Mayvis Thompson date 1-17-08

Lorna Bard Lorna Bard date 1-16-08

Exhibit 6

Under the provisions of Section 42-243, Idaho Code, any person using or claiming rights to the public waters of Idaho established by diversion and application to a beneficial use must file a claim with the Department of Water Resources on or before June 30, 1983. Exempted from this filing are single family domestic uses as defined in Section 42-230(d), Idaho Code. Also exempted are rights represented by a permit, license, decree, adjudicated right, or a previously filed claim.

Notice is hereby given that Frank Malcomson, for Agnes Malcomson
(Name of Claimant)
329 Utah St. Coaling, ID 83320 Telephone No. 934-5985
(Mailing Address) (Zip Code)

claims a right to the diversion and beneficial use of the surface or ground water. The extent and nature of said claim is as follows:

- (1) Date of priority: (When was the water first applied to a beneficial use) June 1, 1899

A claim is not acceptable on a ground water source with a priority later than March 25, 1963 or on a surface water source with a priority later than May 20, 1971. An exception is that a claim may be filed on single family domestic use from a ground water source.

- (2) Describe the source of water: (Name of stream, lake, spring, etc., or ground water)

Describe the source of water: (Name of stream, lake, spring, etc., or ground water)
Carnas Creek tributary to Big Wood River

- (3) Describe the purpose for which the water has been used and the time during the year when you have used the right claimed:

claimed:		(Both dates inclusive)	
(cfs, af)	(Domestic, Irrigation, Stock, Etc.)	(Mo., Day)	(Mo., Day)
Quantity <u>4.0</u>	Use <u>Irrigation</u>	Period of Use From <u>June 1</u>	To <u>Sept 1</u>
Quantity _____	Use _____	Period of Use From _____	To _____
Quantity _____	Use _____	Period of Use From _____	To _____
Quantity _____	Use _____	Period of Use From _____	To _____
Quantity _____	Use _____	Period of Use From _____	To _____

- (4) 4.0 TOTAL QUANTITY USED.
(cfs, af)
- (5) A) Point of diversion: (Location of point where water is diverted from its source)

A) Point of diversion: (Location or point where water is diverted from its source,
SW ¼ NW ¼, Sec. 5 Twp. 2S Rgs. 11E B.M., County of Elmore
Additional points of diversion:

B) Describe means of diversion of water: (Pump and pipeline, well, diversion dam, reservoir, length of ditch and field, etc.). Give sizes and capacities: be as specific as possible. Describe any changes in the system and give the date of the change. Check Dam & Ditches

- (6) A) Describe location of use by listing number of irrigated acres within each 40-acre tract in appropriate box. If use is not for irrigation, place an "X" in appropriate box to show location.

[illegible]

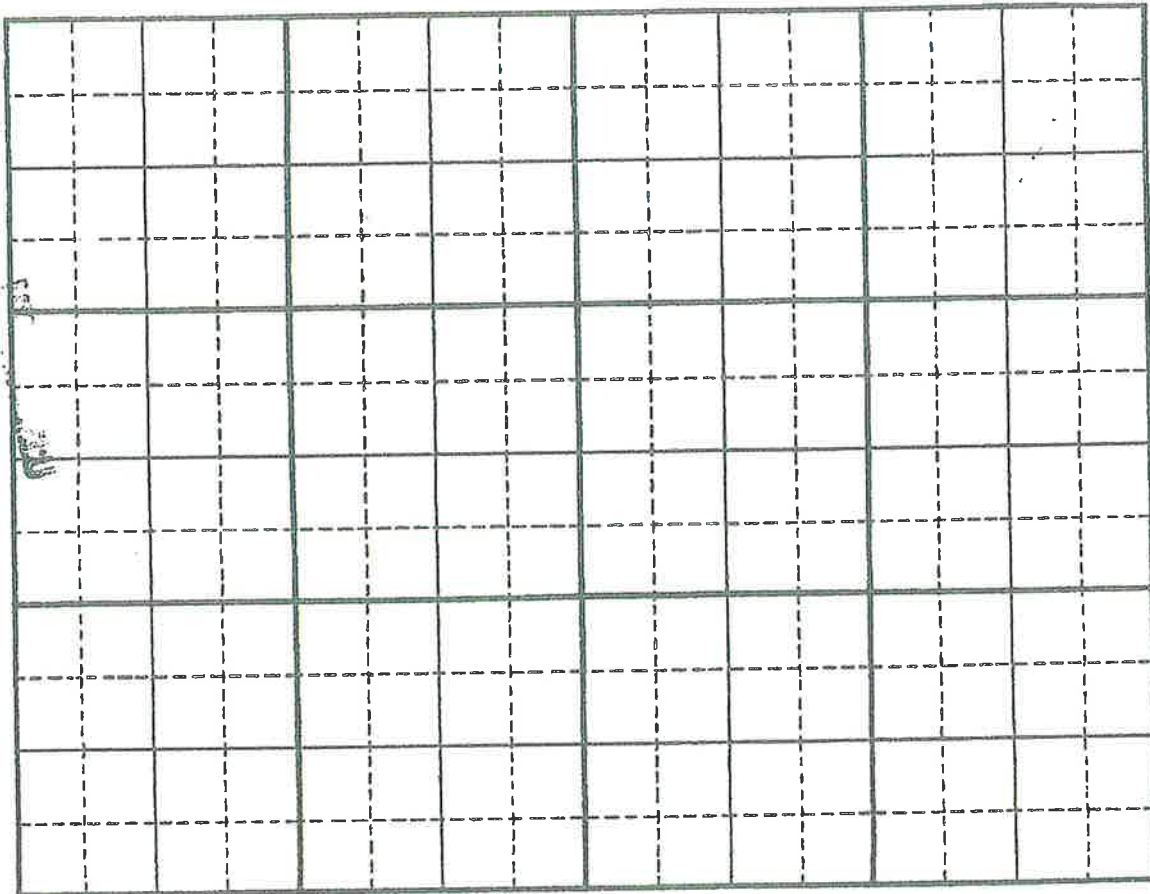
No. of acres 374

B) If water is used for other than irrigation, fully describe that use, being as specific as possible: _____

NOTE: Include here the type and number of stock watered:

- (7) If you are claiming water as a member of an organization, list name of organization:

(8) Remarks _____



Scale: 2 inches equal 1 mile.

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

State of Idaho)
County of Landing) ss.

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

Frederick M. Madsen

Agnes Madsen
(Claimant)

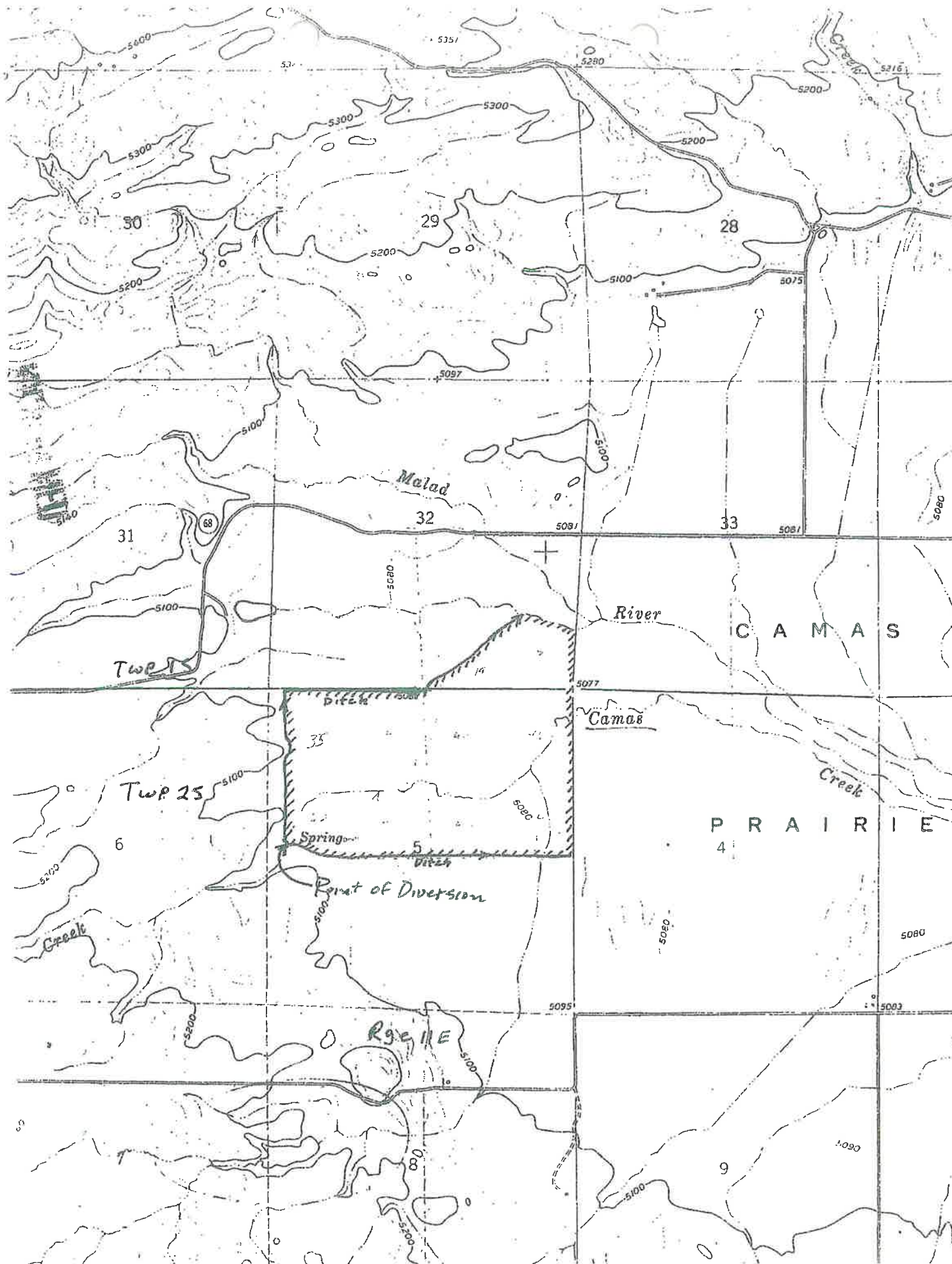
Sworn to before me this 22 day of April, 1953.

Notary Public
Residing at Landing

My commission expires 2/10/54

FOR DEPARTMENT USE ONLY

Received by <u>J.F. Statton</u>	Date <u>4-22-53</u>	Exception filed by: _____	Forwarded to _____	Date _____
Prelim. check by <u>Adm</u>	Date <u>5-4-53</u>		claimant by: _____	
\$30.00 fee received by <u>Adm</u>	Date <u>4-22-53 7:27 AM</u>			
Published in <u>Mountain Home News</u>				
Dates <u>10/30 & 7/7/53</u>				



Notice is hereby given that the following claims for rights have been established by diversion and application to beneficial use:
37-4323

MALCOMSON, FRED &/or
AGNES
329 UTAH ST., GOODING, ID
83330
Source: JOHNNY'S SPRING trib.
to CAMAS CREEK
Priority Date: 06/01/1881
Diversion Pt: SENW Sec 05 T 02S
R 11E
Use: IRRIGATION (3.00 CFS)
In: SWSE SESE Sec 32 T 01S R
11E LOT 01 (NENE) LOT 02
(NWNE) SWNE SENE Sec 05 T
02S R 11E FOR 140 ACRES
37-4324

MALCOMSON, FRED &/or
AGNES
329 UTAH ST., GOODING, ID
83330
Source: SPRING trib. to SINKS
Priority Date: 06/01/1889
Diversion Pt: NESW Sec 25 T 01S
R 11E
Use: STOCKWATER (2.00 CFS)
In: NENW Sec 25 T 01S R 11 E
37-4325

MALCOMSON, FRED &/or
AGNES
329 UTAH ST., GOOD, ID 83330
Source: CAMAS CREEK trib. to
BIG WOOD RIVER
Priority Date: 06/01/1889
Diversion Pt: SWNW Sec 05 T 02S
R 11E
Use: IRRIGATION (4.00 CFS)
In: SWSE SESE Sec 32 T 01S R
11E LOT 01 (NENE) LOT 02
(NWNE) SWNE SENE LOT 03
(NENW) LOT 04 (NWNW) SWNW
SENW Sec 05 T 02S R 11E FOR 874
ACRES
37-4326

MALCOMSON, FRED &/or
AGNES
329 UTAH ST., GOODING, ID
83330
Source: WILD HORSE CREEK
trib. to CAMAS CREEK
Priority Date: 06/01/1881
Diversion Pt: NENE Sec 28 T 01S
R 11E
Use: IRRIGATION (0.25 CFS)
In: SWNW Sec 27 T 01S R 11E
FOR 3 ACRES
37-4343

BENNETT, EMMA MALCOM-
SON
BOX 120, HILL CITY, ID 83337
Source: SPRING trib. to MALAD
RIVER
Priority Date: 07/01/1903
Diversion Pt: SWSE Sec 28 T 01S
R 11E
Use: IRRIGATION (2.40 CFS)
In: SWSE Sec 28 T 01S R 11E
NWNE SWNE Sec 33 T 01S R 11E
FOR 120 ACRES

Any exception to any claim of wa-
ter right may be filed with the Direc-
tor of the Idaho Department of Water
Resources, 1041 Blue Lakes Blvd.
North, Twin Falls, Idaho 83301.

A. KENNETH DUNN
Director

Published 6/30 & 7/7/83.

Affidavit of Publication

County of Elmore }
STATE OF IDAHO } ss.

I, Floyd S. Waters, do
solemnly swear that I am the foreman, or
publisher of the

MOUNTAIN HOME NEWS

a weekly newspaper of general circulation,
published once a week at MOUNTAIN HOME,
IDAHO, that the notice attached hereto and
which is a part of the proof of publication
thereof, was published in said newspaper for

2..... consecutive weeks, the first publica-
tion having been made on the 30.... day
of June....., 1983, and
the last publication having been made on the
7..... day of July.....
1983.....; every Thursday issue of the paper

during the period and time of publication and
that the notice was published in the newspaper
proper and not in a supplement thereof.

And I further swear that the said MOUN-
TAIN HOME NEWS has been continuously and
uninterruptedly published in said Elmore County
during a period of 78 consecutive weeks prior
to the first publication of the attached notice.

Floyd S. Waters
Subscribed and sworn to me this 7th....
day of July....., 1983

RECEIVED

JUL 11 1983

Department of
Southern District

Olson W. Swenson
Notary Public

37-4323

Malcomson, Fred and or Agnes

329 Utah Street, Gooding ID 83330

Source - Johnny's Spring trib to CAMAS CREEK

Priority Date - 06-01-1881

Diversion Pt. - SE NW Sec5 T02 R11E

Use - Irrigation (3.00 CFS)

In SE SE SESE Sec 32 , T 01 S R11E

Lot 01(NENE) Lot 02 (NWNE) SWNE SENE

Sec . 05 T 02S R.11E for 140 ACRES

37-4325

Malcomson, Fred and or Agnes

329 Utah Street, Gooding ID 83330

Source - Camas Creek trib. to BIG WOOD RIVER

Priority Date - 06-01-1889

Diversion Point - SWNW Sec 05 T 02S R11 E

Use - IRRIGATION (4.0CFS)

In - SWSE SESE Sec.32 T01S R11E

LOT 01 (NENE) Lot 02(NWNE) SWNE SENE

Lot 03 (NENW) Lot 04 (NWNW) SWNW SENW

Sec. 05 T 02 S R 11E FOR374 ACRES

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
Southern Region

1041 Blue Lakes Blvd. N.
Twin Falls, Idaho 83301
(208) 734-3578

JULY 19 1983

RECEIVED
JUL 20 1983

FRED MALCOMSON
AGNES MALCOMSON
329 UTAH ST.
GOODING

ID 83330

RE: Claim No. 37-4325

Dear Claimant:

The Department of Water Resources has completed the advertising of your claim to a water right, and no further action is authorized under Section 42-243 and 42-244, IDAHO CODE. Your claim will be retained in our files and will be available at any time for use by you or the court.

The filing and advertising of the claim does not confirm the water right claimed, but will serve to record and preserve the information and the evidence which you included in your claim.

If, at a later date, you find that you have additional information or supporting evidence that you would like to have included with the claim, you may have that information or evidence added at any time. Please refer to the claim identification number when corresponding with this office.

We are enclosing a copy of your claim for your records. If you have questions, or if this office may be of further assistance, please feel free to contact us.

Yours truly,



ALLEN D. MERRITT
Senior Water Resource Analyst

Enclosure

NOTICE OF CLAIMS TO WATER RIGHTS

Notice is hereby given that the following claim(s) to water right(s) have been established by diversion and application to beneficial use:

17-4325

MALCOMSON, FRED &/or AGNES

329 UTAH ST., GOODING, ID 83330

Source: CAMAS CREEK trib. to BIG WOOD RIVER

Priority Date: 06/01/1889

Diversion Pt: SWNW Sec 05 T 02S R 11E

Use: IRRIGATION (4.00 CFS)

In: SWSE SESE Sec 32 T 01S R 11E LOT 01 (NENE) LOT 02 (NWNE) SWNE SENE
LOT 03 (NENW) LOT 04 (NNW) SWNW SENW Sec 05 T 02S R 11E FOR 374 ACR.

Any exception to any claim of water right may be filed with the Director of the Idaho Department of Water Resources, 1041 Blue Lakes Blvd. North, Twin Falls, Idaho 83301.

A. KENNETH DUNN

Director

Published 6/30 & 7/7/83.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
Southern Region

1041 Blue Lakes Blvd N.
Twin Falls, Idaho 83301
(208) 734-3578

JUNE 22, 1983

Mountain Home News
P.O. Drawer 0
Mountain Home, ID 83647

Gentlemen:

Enclosed you will find a legal notice which we wish to have published on the dates indicated (once a week for two consecutive weekly issues) in your newspaper. We have allowed ample time for you to submit a galley proof to this office for review before the first publication date. If you cannot publish the notice on the proposed dates, please contact us immediately.

An affidavit of publication must be submitted to the Department along with the publication bill. Your cooperation is appreciated.

Please send the affidavit of publication and publication billing to this office before .

Yours truly,

Mary A. Newby
Secretary

Encl.

3/83

IDENT. NO. 37-4325

I D A H O D E P A R T M E N T O F W A T E R R E S O U R C E S

WATER RIGHT
DATA ENTRY LOG

Initials

Date

Item

JC

6/15/83

Original form entered

Edit Report Correct

Date Protested

Date of Hearing

Date Approved/Denied
(Proof due date, stage and/or status,
conditions of approval, water district)

Record Verified

Amendment Approved

Extension Approved

Partial Proof

Proof Complete

Field Exam Received

Field Exam Accepted
and changes entered

License Updated

Transfer Updated

Key punched by State Office

State of Idaho
Department of Water Resources

CLAIM ANALYSIS SHEET

INITIAL REVIEW BY: ADM

Right Number 37-4325 Applicant MALCOMSON, Fred &/or Agnes

NOTE: IF ANY OF THE ITEMS BELOW ARE MISSING, THE CLAIM IS INCOMPLETE AND MUST BE RETURNED IMMEDIATELY TO THE CLAIMANT ALONG WITH THE APPROPRIATE COVER LETTER.

CHECK:

- ☒ Name and address.
- ☒ Date of priority. (Check for a date past the mandatory filing dates.) (One date only.)
- ☒ Source.
- ☒ Quantity, use, period.
- ☒ Point(s) of diversion.
- ☒ Location of use.
- ☒ Signature/notarization/fee.

~~Send copy to W.D.
Dist. 37~~

FINAL REGIONAL PROCESSING REVIEW:

- ☒ Affidavit of publication received.
- ☒ Claim published correctly.
- ☒ Exceptions processed.

By ADM Date 7/19/83

STATE OFFICE PROCESSING:

- ☒ Claim review complete.

By J.V.V. Date 7-22-83

RECEIVED
JUL 22 1983

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)

A. Subcase 37-4325

(Insert water right number)

Case No. 39576)

STANDARD FORM 1

AMENDED OBJECTION

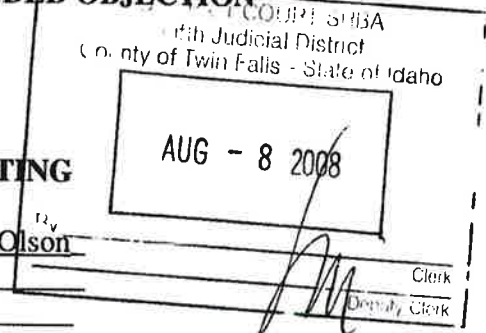
Please fill in the following information:

B. NAME AND ADDRESS OF PERSON OBJECTING

Name: Clare M. Olson and Karen Y. Olson

Address: P.O. Box 136
Hill City, ID 83337

Daytime Phone: (208) 764-2588



Name & Address of Attorney, if any:

Shelley M. Davis

Paul L. Arrington

Barker Rosholt & Simpson, LLP

205 N. 10th Street, Ste. 520, Boise ID 83702

C. CLAIMANT OF WATER RIGHT AS LISTED IN DIRECTOR'S REPORT

Name: Clare M. Olson and Karen Y. Olson

Address: P.O. Box 136
Hill City, ID 83337

D. I object to the following elements as recommended in the Director's Report. (Please check the appropriate box(es)).

1. ☐ **Name and Address**

Should be: _____

2. ☐ **Source**

Should be: _____

3. ☒ **Quantity:**

Should be: As Claimed

4. ☒ **Priority Date**

Should be: The development of this water right dates to 1894 rather than 1945 as recommended.

5. ☐ **Point of Diversion**

Should be: _____

6. ☐ **Instream Flow Beginning and Ending Point**

Should be: _____

7. ☐ **Purpose(s) of Use**

Should be: _____

8. ☐ **Period of Year**

Should be: _____

9. ☒ **Place of Use**

Should be: As Claimed

10 ☐ **I object because:**

☐ This water right Should not exist.

☐ This water right was not recommended, but Should be recommended with the elements described above.

E. REASONS SUPPORTING OBJECTIONS(S): Claimant can provide documentation regarding the settling of the ground on which this water right is recommended and evidence of use dating to as early as 1894.

F. VERIFICATION (must be completed)

State of Twin Falls)
)ss.
County of Idaho)

Paul L. Arrington _____, duly sworn, upon oath,
deposes and says:
(Name of person filing objection)

That I am the party/claimant filing this objection, as defined by I.C. §§ 42-1401A(1) and(6) or that I am the attorney for the party/claimant objecting and that I have read this objection, know its contents and believe that the statements are true to the best of my knowledge.

(Signature of person filing objection)

(Attorney signing in representative capacity)

Subscribed and sworn to before me on: August 8, 2008



Jessica Forbis
Notary Public for Idaho
Residing at: Twin Falls
My Commission Expires: 4/3/12

1287

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

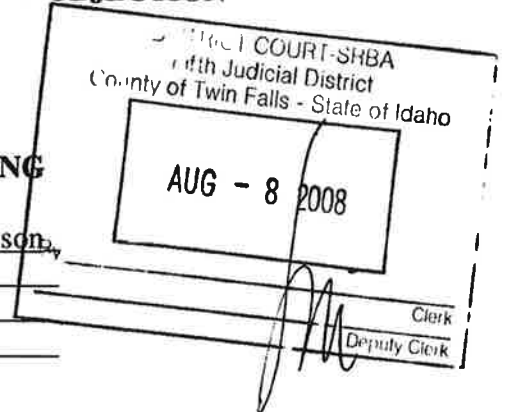
In Re SRBA) **A. Subcase** 37-4323
(Insert water right number)
)
Case No. 39576) **STANDARD FORM 1**
)

AMENDED OBJECTION

Please fill in the following information:

B. NAME AND ADDRESS OF PERSON OBJECTING

Name: Clare M. Olson and Karen Y. Olson
Address: P.O. Box 136
Hill City, ID 83337
Daytime Phone: (208) 764-2588



Name & Address of Attorney, if any:

Shelley M. Davis
Paul L. Arrington
Barker Rosholt & Simpson, LLP
205 N. 10th Street, Ste. 520, Boise ID 83702

C. CLAIMANT OF WATER RIGHT AS LISTED IN DIRECTOR'S REPORT

Name: Clare M. Olson and Karen Y. Olson
Address: P.O. Box 136
Hill City, ID 83337

D. I object to the following elements as recommended in the Director's Report. (Please check the appropriate box(es)).

1. ☐ **Name and Address**

Should be: _____

2. ☐ **Source**

Should be: _____

3. ☒ **Quantity:**

Should be: As Claimed

4. ☒ **Priority Date**

Should be: The development of this water right dates to 1894 rather than 1945 as recommended.

5. ☐ **Point of Diversion**

Should be: _____

6. ☐ **Instream Flow Beginning and Ending Point**

Should be: _____

7. ☐ **Purpose(s) of Use**

Should be: _____

8. ☐ **Period of Year**

Should be: _____

9. ☒ **Place of Use**

Should be: As Claimed

10 ☐ **I object because:**

☐ This water right Should not exist.

☐ This water right was not recommended, but Should be recommended with the elements described above.

E. REASONS SUPPORTING OBJECTIONS(S): Claimant can provide documentation regarding the settling of the ground on which this water right is recommended and evidence of use dating to as early as 1894.

F. VERIFICATION (must be completed)

State of Twin Falls)
)ss.
County of Idaho)

Paul L. Arrington, duly sworn, upon oath,
deposes and says:
(Name of person filing objection)

That I am the party/claimant filing this objection, as defined by I.C. §§ 42-1401A(1) and(6) or that I am the attorney for the party/claimant objecting and that I have read this objection, know its contents and believe that the statements are true to the best of my knowledge.

(Signature of person filing objection)

(Attorney signing in representative capacity)

Subscribed and sworn to before me on: August 8, 2008



Jessica Forbis
Notary Public for Idaho
Residing at: Twin Falls
My Commission Expires: 4/3/12

In Re SRBA	)	Subcase No.: 37-4325
	)	
Case No. 39576	)	
	)	STANDARD FORM 5
	)	
	)	STIPULATED ELEMENTS OF A
	)	WATER RIGHT

09/23/2009

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

RIGHT NUMBER: 37-4325

NAME AND ADDRESS: CLARE M OLSON
PO BOX 136
HILL CITY ID 83337

KAREN Y OLSON
PO BOX 136
HILL CITY ID 83337

SOURCE: CAMAS CREEK

TRIBUTARY: BIG WOOD RIVER

QUANTITY: ~~3.62~~ 4.000 CFS

PRIORITY DATE: ~~04-15-1945~~ 12/14/1909

POINT OF
DIVERSION:

T02S R11E S5 SWSWNW Within ELMORE County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	06/01 09/01	~~3.62~~ 4.000 CFS

PLACE OF USE: IRRIGATION in ELMORE County

T02S R11E S05 Lot 1 NENE	~~9.20~~ 9.00	T02S R11E S05 Lot 2 NWNE	17.00
T02S R11E S05 SWNE	32.00	T02S R11E S05 SENE	38.00
T02S R11E S05 Lot 3 NENW	~~40.0~~ 42.00	T02S R11E S05 Lot 4 NWNW	~~26.0~~ 30.00
<u>T02S R11E S05 SWNW</u>	<u>13.00</u>	T02S R11E S05 SENW	~~19.0~~ 34.00
181 215.2 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

09/23/2009

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

RIGHT NUMBER: 37-4325
NAME AND ADDRESS: CLARE M OLSON
PO BOX 136
HILL CITY ID 83337-0136

KAREN Y OLSON
PO BOX 136
HILL CITY ID 83337

VERIFIED BY KKC
9-23-09

SOURCE: CAMAS CREEK TRIBUTARY: BIG WOOD RIVER

QUANTITY: ~~3.62~~ 4.000 CFS

PRIORITY DATE: ~~04-15-1945~~ 12/14/1909

POINT OF
DIVERSION:

T02S R11E S5 SWSWNW Within ELMORE County

PURPOSE AND
PERIOD OF USE:

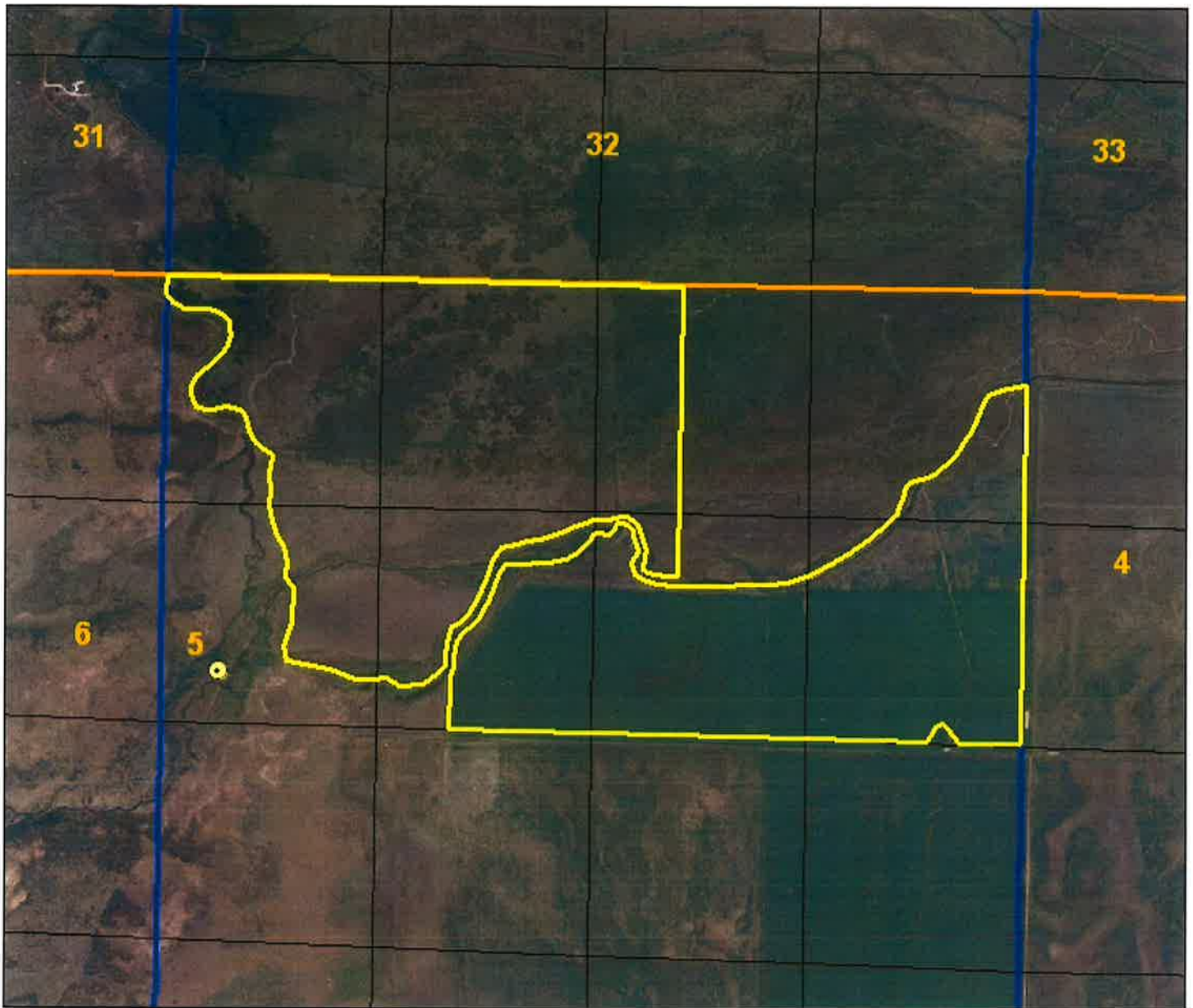
	<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
	IRRIGATION	06/01 09/01	~~3.62~~ <u>4.000</u> CFS
PLACE OF USE:	<u>IRRIGATION in ELMORE County</u>		
	T02S R11E S05 Lot 1 NENE	9.20	T02S R11E S05 Lot 2 NWNE 17.00
	T02S R11E S05 SWNE	32.00	T02S R11E S05 SENE 38.00
	T02S R11E S05 Lot 3 NENW	40 <u>42.00</u>	T02S R11E S05 Lot 4 NWNW ~~26~~ <u>30.00</u>
	T02S R11E S05 SWNW	13.00	T02S R11E S05 SENW ~~19~~ <u>34.00</u>
	<u>181 215.2 ACRES TOTAL</u>		

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

RECOMMENDED PLACE OF USE FOR 37-4325 OLSON



PLACE OF USE
TWP 02S, RNG 11E, SEC 5
Data Entry on SEPTEMBER 22, 2009

★ LOCATION IN BASIN

- ★ Recommended point of diversion
- Yellow outline Recommended place of use
- Orange line Township lines
- Blue line Section lines
- White line Quarter/quarter lines

*GIS PLACE OF USE PRESENTATION
2004 AERIAL PHOTOGRAPHY
BY KELLY K CHRISTENSEN*



Basin 37



Christensen, Kelly

From: Christensen, Kelly
Sent: Wednesday, June 03, 2009 11:43 AM
To: Bromley, Chris; Kelly, Vicki
Subject: RE: Olson

I have drafted the tentative sf-5 recommendations for 37-4323 and 37-4325. As soon as Arrington gives us the go-a-head I will forward them to Vicki for final review and routing.

From: Bromley, Chris
Sent: Wednesday, June 03, 2009 10:17 AM
To: Christensen, Kelly
Subject: Olson

When you've got your review thought out, let me know and we'll talk with Paul Arrington.

6/3/2009

06/03/2009

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

RIGHT NUMBER: 37-4325
NAME AND ADDRESS: CLARE M OLSON
PO BOX 136
HILL CITY ID 83337-0136

KAREN Y OLSON
PO BOX 136
HILL CITY ID 83337

VERIFIED BY KKC
6-3-09

SOURCE: CAMAS CREEK TRIBUTARY: BIG WOOD RIVER

QUANTITY: ~~3.62~~ 4.000 CFS

PRIORITY DATE: 12/14/1909 ~~04/15/1945~~

POINT OF
DIVERSION:

T02S R11E S5 SWSWNW Within ELMORE County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	06/01 09/01	~~3.62~~ <u>4.000</u> CFS

PLACE OF USE: IRRIGATION in ELMORE County

T02S R11E S05 Lot 1 NENE	9.20	T02S R11E S05 Lot 2 NWNE	17.00
T02S R11E S05 SWNE	32.00	T02S R11E S05 SENE	38.00
T02S R11E S05 Lot 3 NENW	40 <u>42.00</u>	T02S R11E S05 Lot 4 NWNW	~~26~~ <u>30.00</u>
T02S R11E S05 SWNW	13.00	T02S R11E S05 SENW	19 34.00

~~181~~-215.2 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

TRANSFER NUMBER _____

CLAIM NUMBERS _____ DATE _____

AGENT _____

GEOGRAPHIC INFO ACRES _____

RIGHT NO				NE				NW				SW				SE			
	TNS	RNG	SEC	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE
CLAIM	4323		32															18.36	54
Rec	4323		32													.2	2.2	40	34
	4																		
CLAIM	4323		5	25	45	15	1												86
Rec	4323		5	30	26	6.3	.8												63.1
CLAIM	4325		32															18.36	54
Rec	4325																		0
CLAIM	4325		5	45	45	40	40	45	35	30	40								320
GIS	4325		5	9	17	32	38	40	26		19								181

UPDATED

POLYGON #

UPDATED

B71-DBPOU.DBF _____

POLYGON CREATED ON 604 () _____

ATTRIBUTES OF B71-POU.SHP () _____

B71-DBPOD.DBF _____

ATTRIBUTES OF B71-POD.SHP () _____

4323 Claim = 1409c 3.00cb

Rec = 140ac 2.80cb

4325 Claim = 374ac 4.00cb

Rec = 181ac 3.62cb

11/01/2006

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: November 21, 2006

Water right number: 37-~~4329~~ **4325**

ANN LOUISE ANDERSON
423 WASHINGTON ST
KIMBERLY ID 83341

Telephone Number: (208)423-5493

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

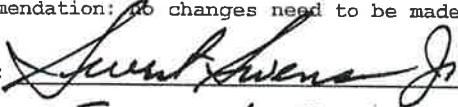
See Attached

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: 11/20/06

SIGNATURE: 

Please print your name: SEVERT SWENSON, JR.

IDWR State Office, 322 E Front St
PO Box 83720, Boise, ID 83720-0098, (800)451-4129

SCANNED
NOV 27 2006

RE: Right 37-4325

The objection to this preliminary recommendation is to the priority date and the source of the water.

With respect to the priority date, the priority date on the original application which was filed in 1993, was done with the knowledge of persons who are now deceased. The priority date granted on the original application should be granted a strong presumption unless disproved by other evidence. This date is June 1, 1889.

A request for the right to attempt to secure other evidence is now being made with respect to the priority date.

- 11/01/2006

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

RIGHT NUMBER: 37-4325

NAME AND ADDRESS: ANN LOUISE ANDERSON
423 WASHINGTON ST
KIMBERLY ID 83341

SOURCE: CAMAS CREEK

TRIBUTARY: BIG WOOD RIVER

QUANTITY: 3.620 CFS

PRIORITY DATE: 04/15/1945

POINT OF DIVERSION:

T02S R11E S5 SWSWNW Within ELMORE County

PURPOSE AND

PERIOD OF USE:

	<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
	IRRIGATION	06/01 09/01	3.620 CFS
PLACE OF USE:	<u>IRRIGATION</u> Within ELMORE County		
	T02S R11E S05 Lot 1 NENE 9.00	T02S R11E S05 Lot 2 NWNE	17.00
	T02S R11E S05 SWNE 32.00	T02S R11E S05 SENE	38.00
	T02S R11E S05 Lot 3 NENW 40.00	T02S R11E S05 Lot 4 NWNW	26.00
	T02S R11E S05 SENW 19.00		
	181 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

SCANNED

NOV 27 2006



Idaho Department of Water Resources

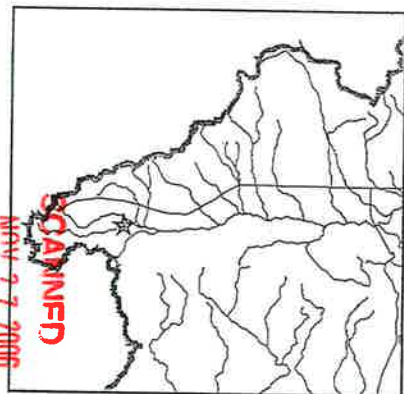
SRBA Recommendation:

37-4325

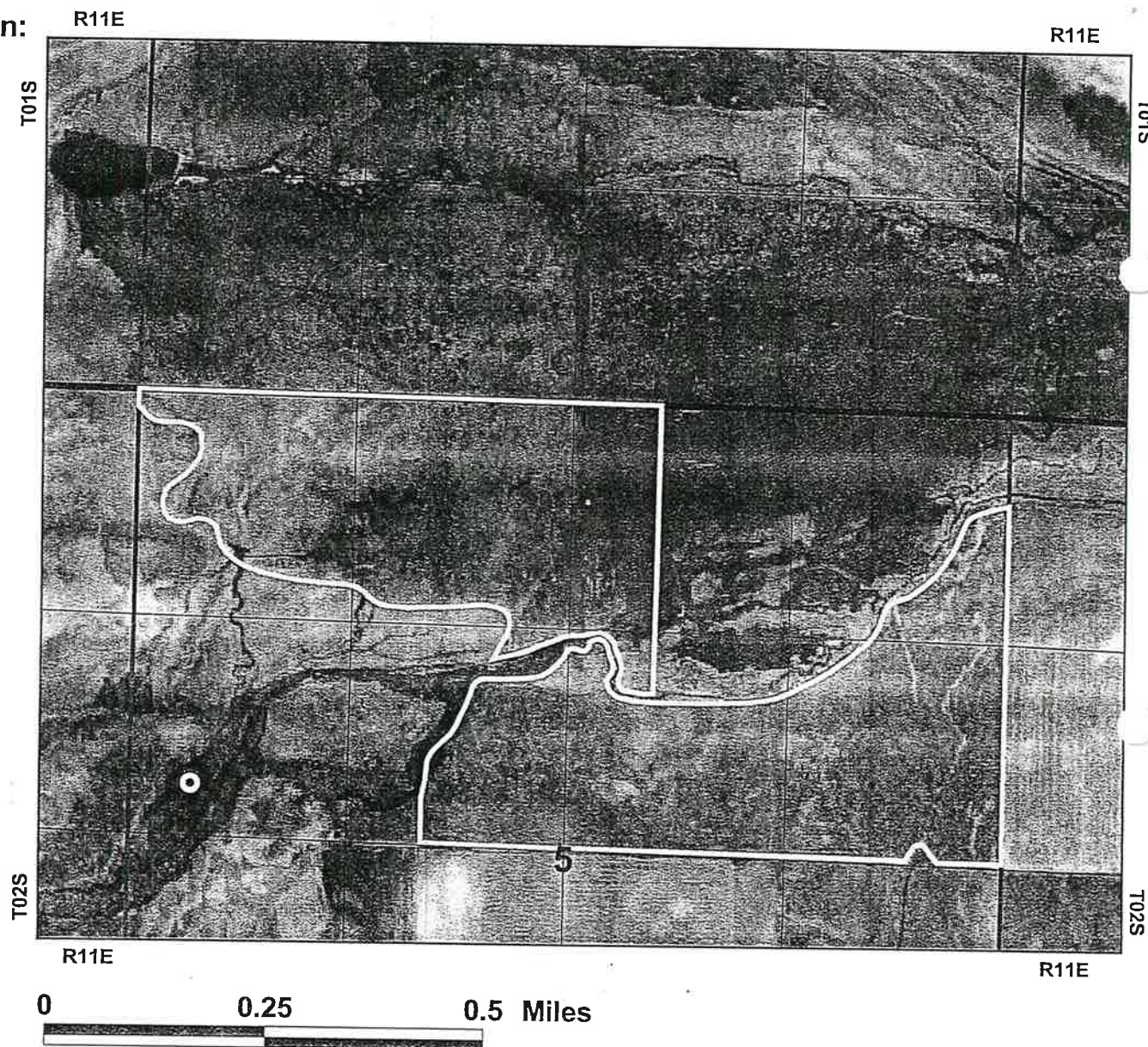
Legend

⊙ Point of Diversion
Place of Use

▭ Townships
▭ PLS Sections
▭ Quarter Quarters



Elmore County
IDWR Basin 37



Prepared by M. Anders
On Monday, October 16, 2006
1987/88 Aerial Photography

10/16/2006

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

RIGHT NUMBER: 37-4325

NAME AND ADDRESS: ANN LOUISE ANDERSON
423 WASHINGTON ST
KIMBERLY ID 83341

SOURCE: CAMAS CREEK

TRIBUTARY: BIG WOOD RIVER

QUANTITY: 3.620 CFS

PRIORITY DATE: 04/15/1945

POINT OF DIVERSION:

T02S R11E S5 SWSWNW Within ELMORE County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE

PERIOD OF USE

QUANTITY

IRRIGATION

06/01 09/01

3.620 CFS

PLACE OF USE:

IRRIGATION Within ELMORE County

T02S R11E S05 Lot 1 NENE	9.00	T02S R11E S05 Lot 2 NWNE	17.00
T02S R11E S05 SWNE	32.00	T02S R11E S05 SENE	38.00
T02S R11E S05 Lot 3 NENW	40.00	T02S R11E S05 Lot 4 NWNW	26.00
T02S R11E S05 SENW	19.00		

181 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



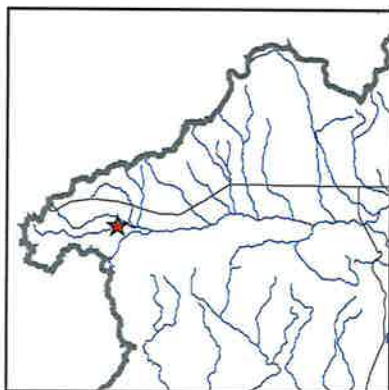
Idaho Department of Water Resources

SRBA Recommendation:

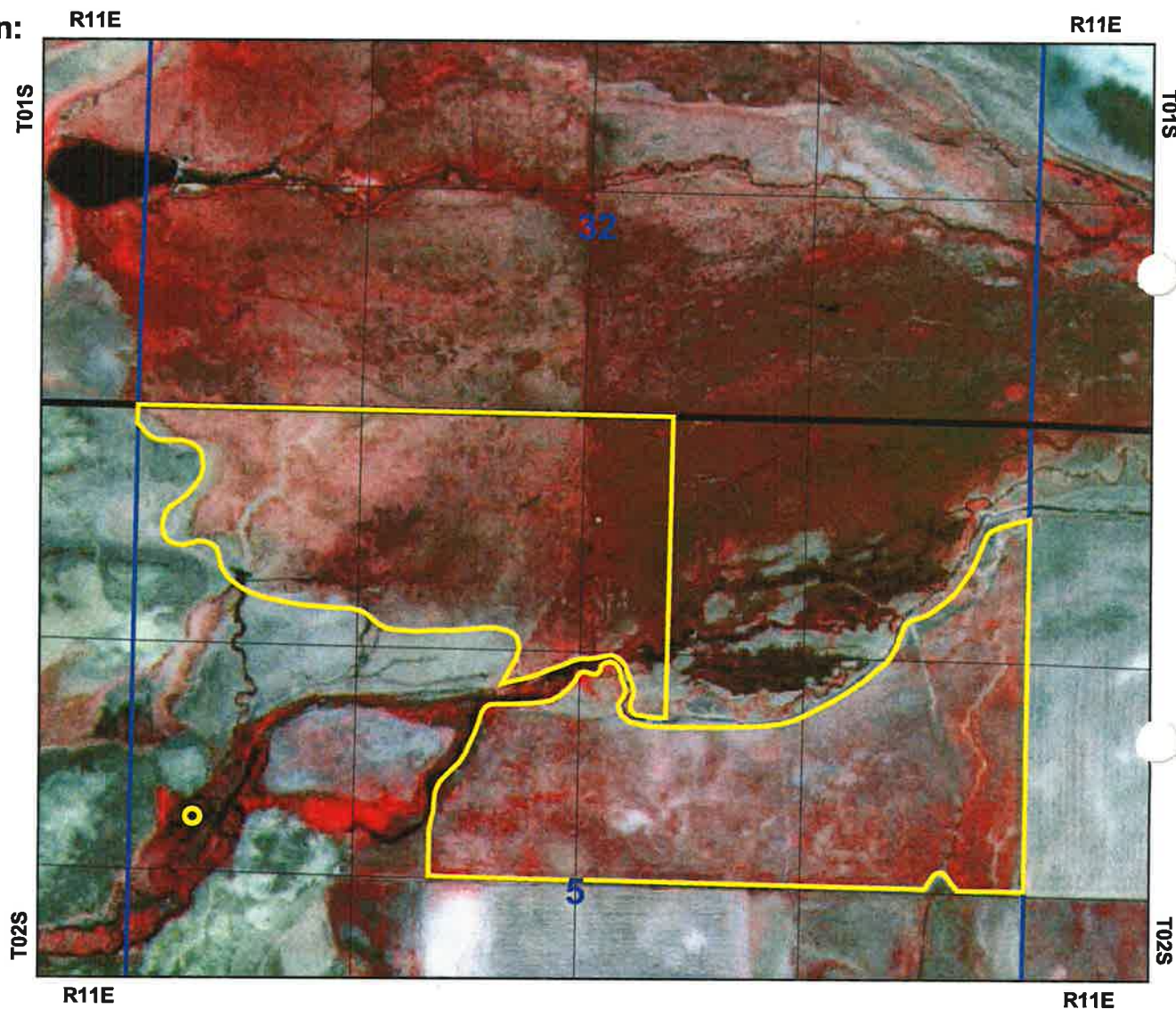
37-4325

Legend

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



Elmore County
IDWR Basin 37



0 0.25 0.5 Miles



Prepared by M. Anders
On Monday, October 16, 2006
1987/88 Aerial Photography

STATE OF IDAHO

County of Gooding

Ann Louise Anderson, being first duly sworn upon oath, deposes and states, that she is making this affidavit for filing with the Idaho Department Of Water Resource concerning Water Right Claim No. 37-04325 in the Snake River Basin Water System Adjudication.

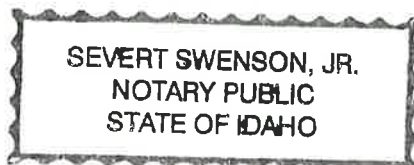
Your affiant states that her earliest recollection of the use of said water rights on the real property described in the claim was the summer of 1945. Your affiant can remember observing her parents farm the premises and use the water from Camas Creek for irrigation purposes.

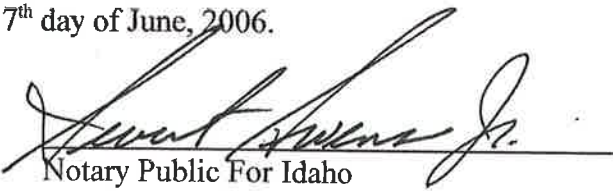
Your affiant's parents used and applied the water for irrigation purposes and farming until the early 1950s, when the land was leased by them to various tenants. Your affiant and her sisters have owned the real property since 1988 to the present date. The water rights described in the water claim have been used continuously since the summer of 1945 to the present date to irrigate the real property described in claim number 37-04325.

Dated: June 7, 2006.


Ann Louise Anderson

SUBSCRIBED AND SWORN to before me this 7th day of June, 2006.




Notary Public For Idaho
Residing at Gooding, Idaho
Commission expires on 3/13/2010

SCANNED

JUN 15 2006

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES



Under the provisions of Section 42-243, Idaho Code, any person using or claiming rights to the public waters of Idaho established by diversion and application to a beneficial use must file a claim with the Department of Water Resources on or before June 30, 1983. Exempted from this filing are single family domestic uses as defined in Section 42-230(d), Idaho Code. Also exempted are rights represented by a permit, license, decree, adjudicated right, or a previously filed claim.

The filing of this claim does not confirm the water right claimed but failure to file may result in forfeiture of a water right.

Notice is hereby given that Fred Malcomson / or Agnes Malcomson
(Name of Claimant)
329 Utah St. Gooding, ID 83330 Telephone No. 934-5985
(Mailing Address) (Zip Code)

claims a right to the diversion and beneficial use of the surface or ground water. The extent and nature of said claim is as follows:

(1) Date of priority: (When was the water first applied to a beneficial use) June 1, 1889

A claim is not acceptable on a ground water source with a priority later than March 25, 1963 or on a surface water source with a priority later than May 20, 1971. An exception is that a claim may be filed on single family domestic use from a ground water source.

(2) Describe the source of water: (Name of stream, lake, spring, etc., or ground water)

(3) Describe the purpose for which the water has been used and the time during the year when you have used the right claimed:

(cfs, af)		(Domestic, Irrigation, Stock, Etc.)	(Both dates inclusive)	
			(Mo., Day)	(Mo., Day)
Quantity	<u>4.0</u>	Use <u>Irrigation</u>	Period of Use From <u>June 1</u>	To <u>Sept 1</u>
Quantity	_____	Use _____	Period of Use From _____	To _____
Quantity	_____	Use _____	Period of Use From _____	To _____
Quantity	_____	Use _____	Period of Use From _____	To _____
Quantity	_____	Use _____	Period of Use From _____	To _____

(4) 4.0 TOTAL QUANTITY USED.

(5) A) Point of diversion: (Location of point where water is diverted from its source)

SW $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 5 Twp. 2S Rge. 11E B.M., County of Elmore

Additional points of diversion:

B) Describe means of diversion of water: (Pump and pipeline, well, diversion dam, reservoir, length of ditch and field, etc.). Give sizes and capacities: be as specific as possible. Describe any changes in the system and give the date of the change. check Dam & Ditches

(6) A) Describe location of use by listing number of irrigated acres within each 40-acre tract in appropriate box. If use is not for irrigation, place an "X" in appropriate box to show location.

[illegible]

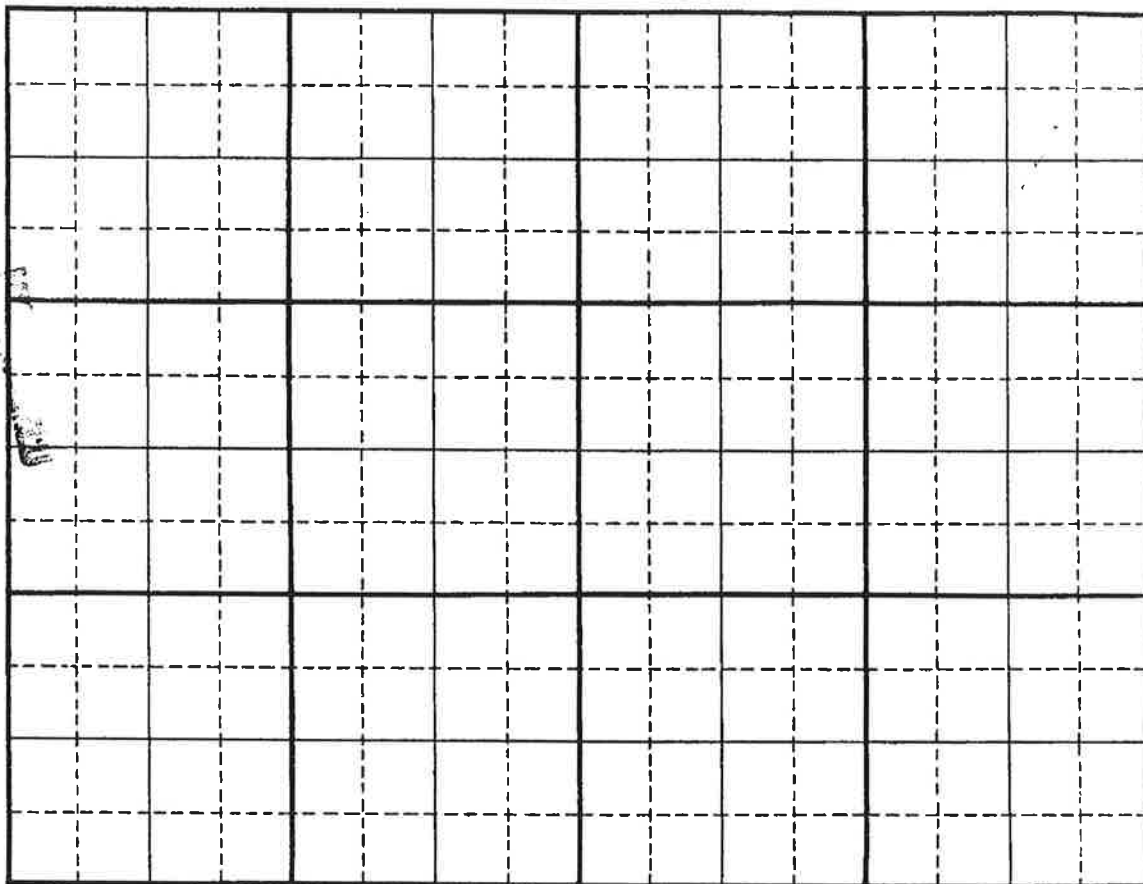
No. of acres 374

B) If water is used for other than irrigation, fully describe that use, being as specific as possible: _____

NOTE: Include here the type and number of stock watered:

(7) If you are claiming water as a member of an organization, list name of organization: _____

(8) Remarks _____



Scale: 2 inches equal 1 mile.

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

State of Idaho)
County of Leading) ss.

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

Fred Malcomson Agnes Malcomson
(Claimant)

Sworn to before me this 22 day of April, 1983.

W. J. Jewell
Notary Public
Residing at Leading

My commission expires 2/10/84

FOR DEPARTMENT USE ONLY

Received by JF Stetson Date 4-22-83 Exception filed by: _____ Date _____
Prelim. check by ADM Date 5-4-83 Forwarded to claimant by: _____
\$30.00 fee received by 99 Date 4-22-83 12/25
Published in Mountain Home News
Dates 6/30 & 7/7/83

BROWN, JAMES & SWENSON

ATTORNEYS AT LAW
130 FOURTH AVENUE WEST
GOODING, IDAHO 83330

Philip A. Brown
Joseph F. James
Severt Swenson Jr.

RECEIVED

MAY 25 2006

DEPARTMENT OF
WATER RESOURCES

Telephone: (208) 934-8185

(208) 934-8414

Facsimile: (208) 934-4101

May 24, 2006

Matt Anders
GIS Specialist - Snake River Basin Adjudication
Department of Water Resources
P. O. Box 83720
Boise, ID 83720-0098

RE: Snake River Basin Adjudication claims 37-4323 and 37-4325

Dear Mr. Anders:

I have enclosed a duplicate copy of several deeds and patents pertaining to the land on which this water is used and diverted. Please place a copy with each claim. The reason for the joint exhibit is because Johnson Spring is adjacent to Camas Creek and one of the points of diversion is at the confluence of the creek and the watercourse from Johnson Spring. The other point of diversion is upstream on Camas Creek. The water from both sources is used on the same land. I would request you put a copy with each application.

These documents show some of the chain of title on the transfer and purchase of the land to the present. As you note we are back to the 1920's on the land. I could not find any specific document which establishes the particular date of the initial diversion of the irrigation water. I would assume the dates of priority would be based upon the date the land was settled and proved up or the date of the patent. Also it could have been determined by the first adjudication of many years past.

To my knowledge there has been no objection to the use of the water in these claims during the years I have been in the family, which has been approximately 20 years. During the dry years the amounts used would be 100% of the flow from Johnson Springs and Camas Creek at those two points of diversion. During this use I do not believe there was any objection made. My wife who now owns the land with her sisters cannot recall any time the water was not used by her father and grandfather.

SCANNED

MAY 25 2006

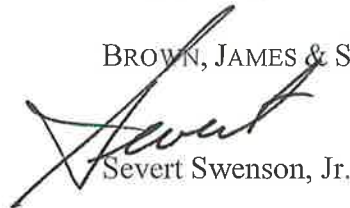
Matt Anders
May 24, 2006
Page two

I checked with the Big Wood River Water Master's office and they have records back to the 1920's, but nothing earlier. Too many people have died to give historical information.

Ann Anderson will attempt to garner further historical information in the future and it will be provided, if any.

Respcctfully,

BROWN, JAMES & SWENSON



Severt Swenson, Jr.

SS/vlp
enc.

SCANNED

MAY 25 2006

PERSONAL REPRESENTATIVE'S DEED

RECEIVED

MAY 25 2003

DEPARTMENT OF
WATER RESOURCES

THIS DEED, made by Ann Anderson, as personal representatives of the joint estate of Oscar Frederick Malcomson and Agnes Malcomson, deceased, Grantor, to Ann Anderson, Sharon Malcomson (Olson), and Mary L. Swenson, as tenants-in-common, Grantee.

WHEREAS, Grantor is the qualified personal representative of said estate, filed as Probate Number 20582, in Gooding County, Idaho;

THEREFORE, in accordance with the will of the deceased filed herein and for valuable consideration received, Grantor sells and conveys to Grantee the following described real property in Elmore County, Idaho:

TOWNSHIP 2 NORTH, RANGE 9 EAST OF THE BOISE MERIDIAN

Section 27: SW $\frac{1}{4}$ SW $\frac{1}{4}$

Section 28: SE $\frac{1}{4}$ SE $\frac{1}{4}$

Section 33: N $\frac{1}{2}$ NE $\frac{1}{4}$

TOWNSHIP 1 SOUTH, RANGE 10 EAST OF THE BOISE MERIDIAN

Section 13: S $\frac{1}{2}$ SE $\frac{1}{4}$

Section 24: NE $\frac{1}{4}$, SE $\frac{1}{4}$, S $\frac{1}{2}$ SW $\frac{1}{4}$

Section 25: N $\frac{1}{2}$, SW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$,
together with all water
rights in unnamed spring

TOWNSHIP 1 SOUTH, RANGE 11 EAST OF THE BOISE MERIDIAN

Section 16: S $\frac{1}{2}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$

Section 17: S $\frac{1}{2}$ S $\frac{1}{2}$

Section 18: Lot 4, SE $\frac{1}{4}$ SW $\frac{1}{4}$, S $\frac{1}{2}$ SE $\frac{1}{4}$

Section 19: N $\frac{1}{2}$, SW $\frac{1}{4}$, SE $\frac{1}{4}$, except the following described
parcel known as Tax Lot 1, to wit:
A tract of land located in Elmore County,
Idaho, commencing at a section corner common
to Section 19, 20, 29, and 30, in Township 1
South, Range 11 East, Boise Meridian running

Hill City-Pine Public Road. The reference to the Hill City-Pine Public Road is as it existed on July 1, 1949. Together with water rights in unnamed spring.

Section 29: W $\frac{1}{2}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$

Section 30: N $\frac{1}{2}$, N $\frac{1}{2}$ S $\frac{1}{2}$

Section 32: W $\frac{1}{2}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$ together with all water rights from Johnson Spring and Camas Creek appurtenant thereto.

with all appurtenances.

TOWNSHIP 2 SOUTH, RANGE 11 EAST OF THE BOISE MERIDIAN

Section 5: N $\frac{1}{2}$ together with all water rights from Johnson Spring and Camas Creek appurtenant thereto.

EXECUTED this 4th day of ~~October~~ December, 1988.

Ann Anderson

Personal Representative of the estate of Oscar Frederick Malcomson and Agnes Malcomson, deceased.

STATE OF IDAHO)
)ss.
County of Gooding)

On the 4th day of ~~October~~ December, 1988, before me, a notary public in and for said State, personally appeared Ann Anderson, known to me to be the person whose name is subscribed to the within instrument, as personal representative of the estate of Oscar Frederick Malcomson and Agnes Malcomson, and acknowledged to me that she executed the same as such personal representative.

IN THE PROBATE COURT

OF THE COUNTY OF ELMORE, STATE OF IDAHO

In the Matter of the Estate of

NELS MALCOMSON,

Deceased.

Decree of Settlement of Final
Account and Final
DistributionFred Malcomsonthe Administratorof the estate of NelsMalcomsondeceased, having on the 10th.day of December, 1949, rendered and presented for settlement and filed in this Courthis final account and report of his administration of said estate, which account was for a final settlement, and having with said account filed a petition for the final distribution of the estate;

And the said account and petition this day coming on regularly to be heard, and proof having been made to the satisfaction of the Court that notice of the day appointed for the settlement of said account and hearing of said petition had been duly given as required by law and the order of this Court, and no exception or objection in writing to said account or petition having been filed or made; the said

Fred Malcomson, appearing personally and also appearing byCharles Scoggin, his

attorney

And it appearing to the Court after having fully examined the said account and the vouchers filed herein and heard the testimony in support thereof, that said account is in all respects true and correct;

that the residue of money in the hands of the Administrator at thetime of filing said account was One Hundred Twenty-one and 98/100 Dollars; that the sum of Thirty-four HundredThirty-two & 84/100 Dollars has been expended by said Administrator

as necessary charges, debts, claims and expenses of administration, the vouchers whereof have been presented and filed; and that said account is in all respects true and correct and entitled to be settled, allowed and approved, and the Court having duly considered all the matters aforesaid;

It is Ordered and Decreed, That the said final account be and the same hereby is in all respects as the same was rendered and presented for settlement, approved, allowed and settled;

No. _____ Filed _____, 19____, Clerk

Recorded in Book _____, Page _____

SCANNED

MAY 25 2006

And it further appearing that since the rendition of said final account there has been received by said

~~said Administrator~~

the sum of nothing

and that there has been disbursed by said Administrator

the sum of nothing

the vouchers whereof, together with a statement of said receipts and disbursements, is now reported and filed, the said statement, receipts and disbursements are settled, allowed and approved, and it further

appearing that the estimated expense of closing the estate will amount to Two Dollars and

Fifty Cents

, leaving a

residue of One Hundred Nineteen and 48/100 Dollars; and it appearing that all claims and debts against the said decedent, and all State, County and Municipal taxes legally levied on the personal property of said estate, and all transfer and estate taxes that have attached to or accrued against the said estate, and all debts, expenses and charges of administration have been fully paid and discharged, and that said estate is ready for distribution and in condition to be closed:

And it further appearing to the court that the said Nels Malcomson

died intestate, in the County of Gooding, state of Idaho, being at that time a resident of Elmore County, Idaho, on the 30th day of May, A.D. 1949, leaving surviving

two children, namely:

Fred Malcomson, a son, over 21 years old, of Hill City, Idaho.

Emma Bennett, a daughter, over 21 years old, of Fallon, Nevada.

That the said Fred Malcomson and Emma Bennett are

entitled to the whole of the residue of said estate
as their sole and separate property, share and share alike.

It Is Further Ordered, Adjudged and Decreed, That the residue of said estate of

Nels Malcomson

, deceased, hereinafter particularly described

and now remaining in the hands of said Fred Malcomson, Administrator,

SCANNED

MAY 25 2006

described as follows, to-wit: all cash on hand and deposit amounting to \$110.43; \$- \$100 maturity value, U.S. Series E Bonds; all stock and dividend certificates of the Cassia Prairie Grain Growers, Inc., of Fairfield, Idaho, of which the deceased had any interest; the M brand, duly recorded in the State of Idaho; a one-half undivided interest in 405 head of mixed beef cattle and their increase branded with the above said brand on the right hip; one-half interest in two saddle horses, with above said brand; a one-half undivided interest in a 1940 Chev. pick-up, 1948 1 1/2 T. Chev. truck, Grain-Horse plow, D-4 Cat. tractor, WC Allis-Chalmers tractor, Massey-Harris self-propelled combine, AG Allcrop combine, Case hay baler, side-delivery rake, harrow, plow, 3 discs, stacker, drills, and general small farm machinery and equipment, all located on the Malcomson Ranches near Hill City, in Elmore County, Idaho, and also all grains and hay on hand.

A one-half undivided interest in the following real estate:

The W1/2 NE1/4, E1/2 NW1/4 and SE1/4 Section 32 and the SW1/4 Section 33 all in Twp. 15., Rge. 11 ERM; the S1/2 NW1/4 Sec. 4, Lots 3 & 4 and the S1/2 NW1/4 Sec. 5 all in Twp. 23., Rge. 11 ERM.

The NE1/4 Sec. 5; the NW1/4 Sec. 15; and the SW1/4 & S1/2 NW1/4 Sec. 10 all in Twp. 23., Rge. 11 ERM.

The total interest in the following real estate:

The E1/2 NW1/4 Sec. 4, Twp. 23., Rge. 11 ERM; the NW1/4 and W1/2 NE1/4 Sec. 33; the E1/2 NE1/4 Sec. 33; the E1/2 NW1/4 and E1/4 Sec. 29; the W1/2 NE1/4 and W1/4 Sec. 33; the NW1/4, NE1/2 NW1/4, and E1/2 SE1/4, also S1/2 NE1/4 and NW1/4 Sec. 30; and the W1/2 SE1/4, E1/2 NW1/4 and SW1/2 NW1/4 Sec. 10, all in Twp. 15., Rge. 11 ERM; and the SW1/2 NW1/4 Sec. 37, SE1/4 SE1/4 Sec.

28 and the NE1/4 Sec. 33 all in Twp. 2N., Rge. 9 ERM, and all of the above described real estate being located in Elmore County, Idaho, 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 deceased Nels Malcomson and his estate

and any other property not now known discovered, which may belong to the said estate or to which the said estate may have any interest, be and the same is hereby distributed as follows, to-wit: to

Fred Malcomson and Emma Bennett, brother and sister, share and share alike, as their sole and separate property.

This Court further orders that the typographical error in the description heretofore in this record made, be corrected to read properly as the W1/2 NE1/4 Sec. 33, Twp. 15., Rge. 11 ERM, instead as the E1/2 NE1/4 as it appears in the Petition for Distribution of the Estate and E1/2 NE1/4 as it appears in the Inventory & Appraisement and the Petition for Letters of Administration.

79443

No.

PROBATE COURT

STATE OF IDAHO,

ss.

County of Elmore

In the Matter of the Estate of

W. H. Malcolmson

Deceased.

Decree of Settlement of Final Account and Final Distribution

STATE OF IDAHO,

ss.

County of Elmore

I hereby certify that this instrument was filed for record at request of

W. H. Malcolmson

at 25 minutes past 11

o'clock A.M., this 21st

day of December A. D., 1949

in my office, and duly recorded in Book

40 of Miscellaneous

at Page 311

Filed James A. C. Hite

Ex Officio Recorder,

By Dona Friedman

Clerk.

Deputy

Fees \$ 2.75

Sum, \$ 2.75

1949.
(Court Seal)

WITNESS MY HAND and the official seal, this 21st, day of December,

Probate Judge & Ex-Officio Clerk,
Probate Court Elmore County, Idaho.

[Signature]

I, H. W. Latimore, Probate Judge and Ex-Officio Clerk in and for the County of Elmore, State of Idaho, do hereby certify that the above is a true and correct copy of the original DECREE OF SETTLEMENT OF FINAL ACCOUNT AND FINAL DISTRIBUTION, now on file in my office.

STATE OF IDAHO,
COUNTY OF ELMORE,
) ss.

CERTIFICATE OF TRUE COPY

THIS INDENTURE, Made this 1st day of July
 in the year of our Lord one thousand nine hundred and forty-nine between
Emma Bennett and Elmer T. Bennett, Husband and wife
 of Hill City, County of Camas, State of Idaho,
 the parties of the first part, and Fred Malcomson

of Hill City, County of Camas, State of Idaho,
 the party of the second part:

WITNESSETH, That the said parties of the first part, for and in consideration of the sum of
Ten DOLLARS,
lawful money of the United States of America, and other valuable consideration
 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 Elmore, State of Idaho, to-wit: That part of the North West Quarter
 (NW $\frac{1}{4}$) and the East Half of the North East Quarter (E $\frac{1}{2}$ NE $\frac{1}{4}$) lying north
 of the Hill City-Pine Public Road, being approximately 100 acres and
 being all of the North West Quarter of the North East Quarter (NW $\frac{1}{4}$ NE $\frac{1}{4}$)
 and a fraction of the South West Quarter of the North East Quarter (SW $\frac{1}{4}$ NE $\frac{1}{4}$),
 the South East Quarter of the North West Quarter (SE $\frac{1}{4}$ NW $\frac{1}{4}$), the North East
 Quarter of the North West Quarter (NE $\frac{1}{4}$ NW $\frac{1}{4}$) and the North West Quarter of
 the North West Quarter (NW $\frac{1}{4}$ NW $\frac{1}{4}$), all in Section Twenty-eight (28) in Town-
 ship One (1) South of Range Eleven (11) East of the Boise Meridian;
 The South West Quarter of the South West Quarter (SW $\frac{1}{4}$ SW $\frac{1}{4}$), the East Half
 of the South West Quarter (E $\frac{1}{2}$ SW $\frac{1}{4}$) and the West Half of the South East
 Quarter (W $\frac{1}{2}$ SE $\frac{1}{4}$) in Section Nineteen (19) and the North West Quarter (NW $\frac{1}{4}$)
 The North Half of the South West Quarter (N $\frac{1}{2}$ SW $\frac{1}{4}$), the North Half of the
 South East Quarter (N $\frac{1}{2}$ SE $\frac{1}{4}$), the South Half of the North East Quarter (S $\frac{1}{2}$ NE $\frac{1}{4}$)
 and the North West Quarter of the North East Quarter (NW $\frac{1}{4}$ NE $\frac{1}{4}$) of Section
 Thirty (30) all in Township One (1) South of Range Eleven (11) East of
 the Boise Meridian.

The North East Quarter (NE $\frac{1}{4}$) of Section Five Township Two (2) South of
 Range Eleven, East of the Boise Meridian.
 The North West Quarter (NW $\frac{1}{4}$) of Section Five (5) Township Twp (2) South
 of Range Eleven (11) East of the Boise Meridian.
 The South East Quarter (SE $\frac{1}{4}$) of Section Thirty-two (32) Township One (1)
 South of Range Eleven (11) East of the Boise Meridian.
 The East Half of the North West Quarter (E $\frac{1}{2}$ NW $\frac{1}{4}$) and the West Half of the
 North East Quarter (W $\frac{1}{2}$ NE $\frac{1}{4}$) of Section Thirty-two (32) Township One (1)
 South of Range Eleven (11) East of the Boise Meridian.
 The South West Quarter of the South West Quarter (SW $\frac{1}{4}$ SW $\frac{1}{4}$) of Section

Twenty-seven (27); the South East Quarter of the South East Quarter
 (SE $\frac{1}{4}$ SE $\frac{1}{4}$) of Section Twenty-eight (28) and the North Half of the North
 East Quarter (N $\frac{1}{2}$ NE $\frac{1}{4}$) of Section Thirty-three (33) all in Township Two
 (2) North of Range Nine (9) East of the Boise Meridian.

The grantor herein also hereby transfer and convey all of their
 right, title and interest in and to all of the general farm machinery
 and equipment in the Nels Malcomson Estate, now all located on the Mal-
 comson Farm, except the 1940 chevrolet pickup, D-4 Catipillar Tractor
 and 1947 Massey-Harris combine. Grantors herein also convey their full
 right to the Malcomson brand and all the Malcomson cattle more fully
 shown in the Nels Malcomson Estate and Decree now of record, together
 with the alfalfa and wheat also shown of record in said estate and
 decree.

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 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.

SCANNED

MAY 25 2006

The other valuable consideration herein referred to is the
deeding by the grantee herein the balance of the Nels Malcomson Estate
to the grantors herein.

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

Signed, Sealed and Delivered in the Presence of:

Emma Bennett (SEAL)

Elmer T. Bennett (SEAL)

(SEAL)

(SEAL)

NEVADA
STATE OF ~~IDAHO~~,
County of Churchill } ss.

On this 11th day of March, in the year 19 50, before me,
Harner D. Bowers, a Notary Public in and for said State,
personally appeared Emma Bennett and Elmer Bennett, Wife and husband
known to me (or proved to me on the oath of _____)

to be the { persons whose names are _____ subscribed to }
_____ of the corporation that executed } 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.

Harner D. Bowers

(NOTARY SEAL)

Nevada
Notary Public in and for the State of ~~Idaho~~, residing
at Fallon, Churchill County therein.

My Commission Expires October 21, 1950

No. 80002

WARRANTY DEED

Emma Bennett

TO

Nels Malcomson

Dated January 1, 19 49

STATE OF IDAHO,

ss.

County of Elmore

I Hereby Certify That this instrument
was filed for record at the request of

Nels Malcomson

at 20 minutes past 3

o'clock P. M., this 24 day

of April, A.D. 1950,
in my office and duly recorded in Book

50 of Warranty Deeds

at page 338

James A. O. Smith

Ex-Officio Recorder.

By Donald B. Smith Deputy

Fees, \$ 1.00

SYN-VORK CO. PRINTERS & BINDERS, BOISE 19723

Nels Malcomson

SCANNED

MAY 25 2006

Instrument No. 81802
203- Warranty Deed - Short

THIS INDENTURE, Made this 22nd day of December, in the year of our Lord one thousand nine hundred and Fifty, between Axel Olson and Lela May Olson, husband and wife of Hill City, County of Elmore, State of Idaho, the parties of the first part, and of Hill City, County of Elmore, State of Idaho, the party of the second part.

WITNESSETH: That the said parties of the first part, for and in consideration of the sum of Three thousand Two hundred and no/100- - - - - DOLLARS,

lawful money of the United States of America, to second part, the receipt whereof is hereby acknowledged, ha them in hand paid by the said part y of the bargain, sell, convey and confirm unto the said part y of the second part, and to his heirs and assigns forever, all of the following described real estate, situated in the State of Idaho, to wit: County of Elmore

An undivided one half interest in Lots One (1) and Two (2) and the South Half of the Northeast quarter (S $\frac{1}{2}$ NE $\frac{1}{4}$) of Section Five (5), Township Two (2) South, Range Eleven (11) East of the Boise Meridian.

Grantor covenants that he has had no other wife than Lela May Olson since acquiring title.

\$2.95 Revenue Stamps 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 estate, right, title and interest in and to the said property, as well in law as in equity, of the said part 1st 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 part 1st of the first part, and their heirs, the said premises in the quiet and peaceable possession of the said part y 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 s and seal s the day and year first above written.

Signed, sealed and delivered in Presence of
Axel Olson (SEAL)
Lela May Olson (SEAL)

STATE OF Idaho }
County of Camas } ss

On this 22nd day of December, in the year 1950, before me, Ben Wehrens, a Notary Public in and for said State, personally appeared Axel Olson and Lela May Olson, Husband and wife.

known to me to be the person s and acknowledged to me that they executed the same, whose name s are subscribed to the within instrument,

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)
Notary Seal

Ben Wehrens
Notary Public in and for the State of Idaho, Residing at Fairfield Camas
Idaho - My Commission Expires On 11th, 1952

STATE OF IDAHO }
County of Elmore } ss

I hereby certify that this instrument was filed for record at the request of Fred Malcomson at 4 minutes past 3 o'clock P.M., this 17 day of April, A. D. 1951

SCANNED

MAY 25 2006

THIS INDENTURE, Made this 14th day of May
 in the year of our Lord one thousand nine hundred and Forty-nine between
Nels Malcomson, a widower
 of Hill City, County of Elmore, State of Idaho,
 the part y of the first part, and Fred Malcomson
 of Hill City, County of Elmore, State of Idaho,
 the part y 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, and other considerations
 to him in hand paid by the said part y 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 part y of the second part, and to his heirs and assigns
 forever, all of the following described real estate, situated in the, County
 of Elmore, State of Idaho, to-wit: An Undivided one half interest
in and to The East half of the Northwest quarter, the West half of the
Northeast quarter and the Southeast quarter of Section Thirty-two (32)
and the Southwest quarter of Section Thirty-three (33), Township One
(1) South, Range Eleven (11) and the South half of the Northwest quarter
of Section Four (4) and the Lots Three (3) and Four (4) and the South
half of the Northwest quarter of Section Five (5), Township Two (2)
South, Range Eleven (11) East of the Boise Meridian

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 part y of the first part:

TO HAVE AND TO HOLD, All and singular the above mentioned and described premises, together
 with the appurtenances, unto the part y of the second part, and to his heirs and assigns
 forever. And the said part y of the first part, and his heirs, the said premises in the quiet and
 peaceable possession of the said part y of the second part, his heirs and assigns, against the said
 part y of the first part, and his 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.

SCANNED

MAY 25 2006

No. 78263

WARRANTY DEED

Nels Malcomson

TO

Nels Malcomson

Dated May 14, 1949

STATE OF IDAHO,

COUNTY OF Elmore

I Hereby Certify That this instrument was filed for record at the request of

Nels Malcomson

at 47 minutes past 11

o'clock P.M., this 17th day

of May, A.D. 1949, in my office and duly recorded in Book

49 of Warranty Deeds

at page 544

James A. Lindman
Ex-Officio Recorder

By Donna Lindman, Deputy

Fees, \$1.50

SYMS-YORK CO., PRINTERS & BINDERS, BOISE 18307

IN WITNESS WHEREOF, The said party of the first part has hereunto set his hand and seal the day and year first above written.

Signed, Sealed and Delivered in the Presence of:

Nels Malcomson

(SEAL)

(SEAL)

(SEAL)

(SEAL)

STATE OF IDAHO,
COUNTY OF Camas } ss.

On this 14th day of May, in the year 1949 before me,
Tom Wokersien, a Notary Public in and for said State,
personally appeared Nels Malcomson, a widower
known to me (or proved to me on the oath of)

to be the { person whose name is subscribed to } the within instrument,
of the corporation that executed

and acknowledged to me that he 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.

Tom Wokersien

Notary Public in and for the State of Idaho, residing
at Fairfield, Camas County therein.

My Commission expires October 11th, 1952.

SCANNED

MAY 25 2006

This Indenture, Made this 22nd day of May
 in the year of our Lord one thousand nine hundred and thirty between
Nel Olson and Lela Olson, husband and wife
 of Hill City County of Elmore
 State of Idaho the part 1st of the first part, and
Nels Malcomson
 of Hill City County of Elmore
 State of Idaho the part 2d of the second part.

WITNESSETH, That the said parties of the first part, for and in consideration of the sum of
One Dollar and other valuable considerations DOLLARS
 lawful money of the United States of America, to them in hand paid by the said
 part 2d 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 part 2d of the
 second part, and to his heirs and assigns forever, all the following described real estate,
 situated in the County of Elmore, State of Idaho, to wit:

one half
An undivided interest in and to Lots One (1) and Two (2) and the
South half of the Northeast Quarter (25 1/4) of Section Five (5),
Township Two (2) South, Range Eleven (11) East of the Boise Meridian

TOGETHER, With all and singular the tenements, hereditaments and appurtenances thereunto

State of Idaho,

County of Camas

ss.

On this 22nd day of May in the year 1930, before me

Tom Wokorsien

a Notary Public

in and for said State, personally appeared Axel Olson and Lela Olson, husband and wife

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

Tom Wokorsien

Notary Public Residing at Boise, Idaho.
Commission expires October 11th, 1932.

PROOF READ INDEXED

No. 15624

WARRANTY DEED

Axel Olson, et ux

-TO-

Wesley W. Wokorsien

Dated May 22nd 1930

State of Idaho,

County of Blaine } ss.

I hereby certify that this instrument was filed for record at the request of *Wesley W. Wokorsien*

at 45 minutes past 10 o'clock a. m., this 2 day of July A. D. 1930, in my office, and duly recorded in Book 44 of

Warranty Deeds at page 218. *Recorded*

Ex-Officio Recorder.

By *Wesley W. Wokorsien* Deputy.

Fees, \$ 1.20

ccndd Statesman Shop, Boise, Idaho. 613

Wesley W. Wokorsien

E. W. Wokorsien

SCANNED

MAY 25 2006

Instrument No. 78263

203--WARRANTY DEED--Short

THIS INDENTURE, Made this 11th day of May in the year of our Lord one thousand nine hundred and Forty-nine between Nels Malcomson, a widower of Hill City, County of Elmore, State of Idaho, the party of the first part, and Fred Malcomson of Hill City, County of Elmore, State of Idaho, the party 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, and other considerations to him 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 Elmore, State of Idaho, to-wit: An Undivided one half interest in and to The East half of the Northwest quarter, the West half of the Northeast quarter and the Southeast quarter of Section Thirty-two (32) and the Southwest quarter of Section Thirty-three (33), Township One (1) South, Range Eleven (11) and the South half of the Northwest quarter of Section Four (4) and the Lots Three (3) and Four (4) and the South half of the Northwest quarter of Section Five (5), Township Two (2) South, Range Eleven (11) East of the Boise Meridian

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 party of the first parts

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 party of the first part, and his 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 party of the first part, and his 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 party of the first part has hereunto set his hand and seal the day and year first above written.

Signed, Sealed and Delivered in the Presence of:

Nels Malcomson

(Seal)

STATE OF IDAHO,)
)SS.
COUNTY of Camas)

On this 11th day of May, in the year 1949, before me, Tom Wokersien, a Notary Public in and for said State, personally appeared Nels Malcomson, a widower known to me (or proved to me on the oath of -) to be the person whose name is subscribed to the within instrument, and acknowledged to me that he 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.

Notary Seal

Tom Wokersien
Notary Public in and for the State of Idaho,
residing at Fairfield, Camas County therein.
My commission expires October 11th, 1952.

STATE OF IDAHO,)
)SS.
COUNTY OF Elmore)

I Herely Certify That this instrument was filed for record at the request of Fred Malcomson at 47 minutes past 11 o'clock A.M., this 17th day of May, A.D. 1949, in my office and duly recorded in Book 49 of Warranty Deeds at page 544

James A. O'Neill
Ex-Officio Recorder

Fees, \$1.50

By Donald Friedman, Deputy

THIS INDENTURE, Made this 26th day of June
 in the year of our Lord one thousand nine hundred and Forty-seven
 between Andrew Malcolmson and Otelia Malcolmson, husband and wife
 of Bullaren, Bohus Lan, Sweden, County of
State of, the parties of the first part, and
Fred Malcomson
 of Hill City, County of Elmore
 State of Idaho, the party of the second part:

WITNESSETH, That the said parties of the first part, for and in consideration of the sum of
One Thousand and no/100 -- -- -- -- -- DOLLARS,
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 the following described real estate, situated in the, County
 of Elmore, State of Idaho, to-wit:

The northwest quarter of the southwest quarter of Section
thirty-three and the north half of the southeast quarter and the
southwest quarter of the southeast quarter of Section thirty-two
in Township one south, and the Lots two and three, the southwest
quarter of the northeast quarter and the southeast quarter of the
northwest quarter of Section five in Township two south all in Range
ten east of the Boise Meridian, Idaho, containing three hundred
nineteen and thirty hundredths acres, according to the official
plat of the survey of said land on file in the General Land Office.

The Grantor Andrew Malcolmson covenants that he has had no
other wife than Otelia Malcolmson all during the time that he has
held title to the above property.

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 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.

SCANNED

MAY 25 2006



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:

Guinn N. Erickson

Guinn N. Erickson

Andrew Malcolmson
(Signature of Andrew Malcolmson) (SEAL)

Otelia Malcolmson
(Signature of Otelia Malcolmson) (SEAL)

(SEAL)

STATE OF IDAHO,

COUNTY OF _____

Kingdom of Sweden
Province of Östergötland & Bohus
Consulate General of the United States
of America at Östergötland

On this 11th day of July, in the year 1947, before me, LaMar D. Mulliner, Vice Consul of the United States, Notary Public for said State, personally appeared Andrew Malcolmson and Otelia Malcolmson, husband and wife known to me (or proved to me on the oath of _____)

to be the { person whose name _____ are _____ subscribed to } the within instrument,
_____ of the corporation that executed _____
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.



LaMar D. Mulliner
Notary Public in and for the State of Idaho, residing at
LaMar D. Mulliner
Vice Consul of the
County therein. United States of America



Notary No. 3077
Fee \$5.00, 1947

No. 77923

WARRANTY DEED

Andrew Malcolmson

Otelia Malcolmson

TO

Guinn N. Erickson

Dated June 26, 1947

STATE OF IDAHO,

COUNTY OF _____

I Hereby Certify That this instrument was filed for record at the request of _____

Guinn N. Erickson

at _____ minutes past _____

o'clock A. M., this 19th day

of _____, A.D. 1947,

in my office and duly recorded in Book

47 of Warranty Deeds

at page 519

Guinn N. Erickson

Ex-Officio Recorder.

By *Guinn N. Erickson*, Deputy.

Fees, \$1.20

SYMS-YORK CO., PRINTERS & BINDERS, BOISE 105861

SCANNED

MAY 25 2006

THIS INDENTURE, Made this 30th day of June,
in the year of our Lord one thousand nine hundred and thirty-six, between
Axel H. Johnson and Ellen Johnson, his wife, Ewin E. Mattox and Ellen Mattox
his wife, & Anna Johnson by J. E. Graham, Atty. in fact
of Grangeville, County of Idaho, State of Idaho, parties of the first part, and
Nels Malcomson

of Hill City, County of Camas, State of Idaho, part y of the second part:

WITNESSETH, That the said parties of the first part, for and in consideration of the sum
of One dollar and other valuable considerations DOLLARS
in hand paid by the said party of the second part, the receipt whereof is hereby acknowledged,
do by these presents, 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 Camas County, State of Idaho, to-wit:
SE $\frac{1}{4}$ and the W $\frac{1}{2}$ NE $\frac{1}{4}$ and the E $\frac{1}{2}$ NW $\frac{1}{4}$ in Section 32; E $\frac{1}{2}$ SW $\frac{1}{4}$ and the W $\frac{1}{2}$ SW $\frac{1}{4}$ in
Section 33, Township 1 South, Range 11 East of the Boise Meridian. Lots
3 and 4 and the S $\frac{1}{2}$ NW $\frac{1}{4}$ of Section 5; the S $\frac{1}{2}$ NW $\frac{1}{4}$ of Section 4 in Township
2 South of Range 11 East of the Boise Meridian, containing in all
722.81 acres more or less.



TOGETHER with all and singular, the hereditaments and appurtenances thereunto belonging
or in any wise appertaining, and the reversion and reversions, remainder and remainders, rents,
issues, and profits thereof, and all estate, right, title, and interest in and to said property of the
said party 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 covenant that they have
good and lawful right to sell and convey the said land and that they possessed of fee sim-
ple title thereto and that they and their heirs and assigns will forever
WARRANT and DEFEND the same against all persons lawfully claiming the same

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:

Ellen Mattox (Seal)
Ewin E. Mattox (Seal)
Axel H. Johnson (Seal)
Ellen Johnson (Seal)

SCANNED
MAY 7 5 2004
Anna Johnson
By J. E. Graham attorney in

STATE OF IDAHO,)
County of Idaho,) ss.

On this 12th day of July in the year 1936, before me
Deebee Campbell a Notary Public in and for said County and State, per-
sonally appeared Ellen Mattox, Ewin E. Mattox
Axel H. Johnson, & Ellen Johnson known to me to be the
person-s 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.

Deebee Campbell, Notary Public,
of State of Idaho, Residing
My commission expires on the 1st day of August, 1937
at Grangeville Idaho

59154 Indexed ✓
Proof Read

WARRANTY DEED

Axel H. Johnson, Ellen John-
son, Ewin E. Mattox, Ellen
Mattox, & Anna Johnson by
J. E. Graham, Atty. in fact

—TO—

Nels Malcomson

STATE OF IDAHO,) ss.
County of Elmore

Filed for record in the office of
the Recorder of Elmore County at
the request of Canner Abstract Co
on the 31 day of May
A. D., 1938, at 9¹⁰ o'clock A.M.
and recorded in Book 47 of
Deeds at page 47 of the
records of said county.

Quentin M. Mear
County Recorder.

By _____ Deputy.

Fees, \$ 1.40

Nels Malcomson
Co. Clerk Idaho

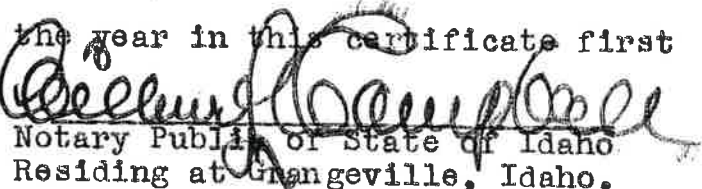
SCANNED

MAY 25 2008

State of Idaho, |
 : ss.
County of Idaho. |

On this 1st day of July, in the year 1936, before me,
Wilbur L. Campbell, a Notary Public of the State of Idaho,
personally appeared, J. E. Graham, whos name is subscribed
to the within instrument as the attorney-in-fact of Anna Johnson,
and acknowledged to me that he subscribed the name of Anna John-
son thereto as principal, and his own name as attorney in fact.

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


Notary Public of State of Idaho
Residing at Grangeville, Idaho.

Blackfoot 038570.

The United States of America,

To all to whom these presents shall come, Greeting:

WHEREAS, a Certificate of the Register of the Land Office at Blackfoot, Idaho,

has been deposited in the General Land Office, whereby it appears that, pursuant to the Act of Congress of May 20, 1862,

"To Secure Homesteads to Actual Settlers on the Public Domain," and the acts supplemental thereto, the claim of

Nils F. Malcomson

has been established and duly consummated, in conformity to law, for the southwest quarter of the southwest quarter of Section twenty-eight, the southeast quarter of the southeast quarter, the west half of the southeast quarter, the east half of the southwest quarter and the east half of the northwest quarter of Section twenty-nine, the east half of the northeast quarter of Section thirty-two and the west half of the northwest quarter of Section thirty-three in Township one south of Range eleven east of the Boise Meridian, Idaho, containing four hundred eighty 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 claimant the tract of Land above described; TO HAVE AND TO HOLD the said tract of Land, with the appurtenances thereof, unto the said claimant and to the heirs and assigns of the said claimant 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 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. Excepting and reserving, however, to the United States all the coal and other minerals in the lands so entered and patented, together with the right to prospect for, mine, and remove the same pursuant to the provisions and limitations of the Act of December 29, 1916 (39 Stat., 862).

IN TESTIMONY WHEREOF, I, Calvin Coolidge,

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 FOURTEENTH

day of JANUARY In the year of our Lord one thousand nine hundred and TWENTY-SIX and of the Independence of the

United States the one hundred and FIFTIETH

By the President: *Calvin Coolidge*

By *Viola B. Pugh*, Secretary.

M. D. LeRoy
Recorder of the General Land Office.

RECORDED: Patent Number 972478

SCANNED

MAY 7 5 2006

39891

Patent

United States of America

Wm. F. Malcomson

STATE OF ILLINOIS, }
COUNTY OF FULTON, } ss.

I, the undersigned, Clerk of the Court, do hereby certify that the foregoing is a true and correct copy of the original as the same appears in the records of the Court.

Wm. F. Malcomson
at 15 N. 3rd St. Chgo. Ill.

Charles A. Jones, d. D. 19 27
day of June, 1927

in my office, by recorded in
Book 18 of Patents

at Page 598.
F. M. Wells

Ex. Official Recorder.
By Wm. A. Ferguson Deputy.

Fees \$ 1.00

Wm. F. Malcomson

THIS INDENTURE, Made this 1st day of October

in the year of our Lord one thousand nine hundred and Twenty-four between
Claus Nilsson, Marians Nilsson, Charlotta Nilsson, Julia Nilsson
and _____

of Soubos Lan ~~County of~~ Sweden
~~State of~~

the parties of the first part, and

Axel Olson, single,
of Hills City
State of Idaho

County of Camas
the part y of the second part.

WITNESSETH, That the said part y of the first part, for and in consideration of the sum of

Thirty-two Hundred and no/100 (\$3200.00) Dollars ~~DOLLARS~~,
lawful money of the United States of America, to them in hand paid by the said

part y 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 part y
of the second part, and to his heirs and assigns forever, all the following described real estate,
situated in the _____, County of Elmore _____, State of Idaho, to-wit:

Lots one and two (1 & 2), South Half of the Northeast
Quarter (S1 NE1) of section five (5), Township two(2)
South, Range Eleven(11) East, Boise Meridian, together
with all water rights belonging or in anywise appertaining
to said property

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 part y 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, law-
fully 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.

SIGNED, SEALED AND DELIVERED IN PRESENCE OF

Burdnes

og Markers skifteret 13 febr 1924
[Seal]

Ango Aaseh [Seal]

for Charlotta Nilsson Co [Seal]

Julie Nilsson [Seal]

Maecane Nilsson

SCANNED

MAY 7 5 2006

MAY 25 2006

CONSULATE GENERAL OF THE
UNITED STATES OF AMERICA,
CITY OF CHRISTIANIA, Oslo } SS:
KINGDOM OF NORWAY.

Sigurd E. Roll, Vice Consul of the United States of America in and
for the district of ^{Oslo} ~~Christiania~~, Norway, do certify that the signature of

Aug. O. Aaset, notary public at

Idd og Marker, Norway

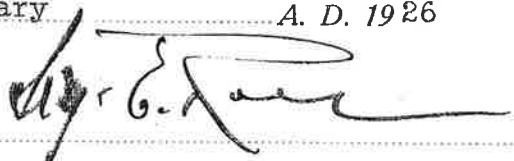
scribed to the annexed instrument is his true and genuine signature and that as such
entitled to full faith and credit.

In testimony whereof, I have hereunto subscribed my name and affixed my seal of
office this 23rd day of January A. D. 1926

Serial No. 926

Fee \$ 2.00. -kr. 10.40




Vice Consul of the United States of America.

SCANNED

MAY 25 2006



State of Idaho

DEPARTMENT OF WATER RESOURCES

1341 Fillmore Street, Suite 200, Twin Falls ID 83301-3380

Phone: (208) 736-3033 FAX: (208) 736-3037

SOUTHERN REGION

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

April 15, 2005

X
X
X
X

RESPONSE DEADLINE
JUNE 17, 2005

Re: Evidence of Priority

Dear Claimant:

The Notice of Claim identified with the number shown above your name on the mailing label has been filed in the Snake River Basin Adjudication (SRBA). The Notice indicates your water usage is based on "Beneficial Use" or a "Statutory Claim." 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. The date of first use, known as the priority date, has not been confirmed by a License, Decree or Permit. The Department will, in the coming year, conduct reviews and/or field exams for the claims in your area. Since the priority date of a beneficial use water right cannot be confirmed by field examination, **proof must be provided by the claimant** supporting the priority date claimed.

If you no longer own the property to which the claim is appurtenant please forward this correspondence to the present owner, or return it to the Department. If you have received this correspondence from the previous owner of the property it is required that you file a Change of Ownership form with the Department in order to receive future mailings and to continue to be a party in the adjudication.

Enclosed you will find a computer 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.

PLEASE NOTE: The Department will not recommend the court decree the notice **as claimed** if no evidence of a priority date is submitted – it may be disallowed. It will be to your advantage to provide clear and convincing evidence. If you choose to submit statements from individuals as evidence, the statement does **not** need to be in the form of a notarized affidavit as described in the brochure, but must relate first hand knowledge of the water right in question and include dates, quantities of water and extent of water use.

Submit the required evidence supporting the priority date by the date shown above, referencing all documents with the corresponding Notice of Claim number (i.e. 37-____). If you have questions not covered by this letter or the enclosed pamphlet, please contact this office.

Sincerely,

Douglas Jones, P.E.
Water Rights Supervisor

Enclosures