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January 20, 2016

James Cefalo
Hearing Officer
Idaho Department of Water Resources
900 N. Skyline Drive, Suite A
Idaho Falls, ID 83402-1718

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JAN 25 2016
Department of Water Resources
Eastern Region

RE: Documents Relevant to Application for Transfer No. 80529 (Water Right No. 29-14032) Filed in the Name of Kirk Jackson.

Dear Hearing Officer Cefalo:

As you are aware, we have a prehearing conference scheduled in the above-entitled matter for February 2, 2016 in Pocatello, Idaho. In advance of that meeting, I thought it would be helpful for you to receive copies of and review the enclosed summary judgment documents that were filed last week in a lawsuit requesting the Bannock County District Court to declare that Water Right No. 29-14032 has been forfeited. Despite the filings, I hope to have a productive prehearing conference, but believe these documents will help you assist you in understanding the factual background of this matter.

If you have any questions or concerns, please let me know.

Best regards,

Robert L. Harris
HOLDEN, KIDWELL, HAHN & CRAPO, PLLC

Enclosures

cc: Kirk Jackson (w/o enclosures)

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Attorneys for Chad and Jane Barnes

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JAN 25 2016

Department of Water Resources
Eastern Region

IN THE DISTRICT COURT OF THE SEVENTH DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

CHAD BARNES and JANE BARNES,
husband and wife,

Plaintiffs/Counterdefendants,

v.

KIRK JACKSON, an individual,

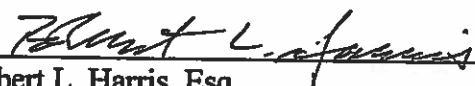
Defendant/Counterclaimant.

Case No. CV-2014-3466-OC

**PLAINTIFFS' MOTION FOR
SUMMARY JUDGMENT**

Plaintiffs, Chad and Jane Barnes, by and through their counsel of record Holden, Kidwell, Hahn & Crapo, P.L.L.C. and pursuant to Idaho Rule of Civil Procedure 56, move this Court to enter summary judgment in their behalf on all claims and counterclaims. This motion is supported by the *Memorandum in Support of Plaintiffs' Motion for Summary Judgment* and the *Affidavit of Craig V. Bloxham*.

Dated this 15th day of January 2016.


Robert L. Harris, Esq.
HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.

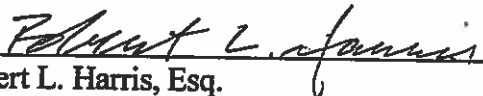
CERTIFICATE OF SERVICE

I hereby certify that I am a duly licensed attorney in the State of Idaho, resident of and with my office in Idaho Falls, Idaho; that I served a copy of the following described pleading or document on the attorneys and/or individuals listed below by hand delivery, by mailing with the correct postage thereon, or by facsimile a true and correct copy thereof on this 15th day of January 2016.

Document Served: PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT

Attorneys and/or Individuals Served:

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Department of Water Resources
Eastern Region

IN THE DISTRICT COURT OF THE SEVENTH DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BANNOCK

CHAD BARNES and JANE BARNES,
husband and wife,

Plaintiffs/Counterdefendants,

v.

KIRK JACKSON, an individual,

Defendant/Counterclaimant.

Case No. CV-2014-3466-OC

**MEMORANDUM IN SUPPORT OF
PLAINTIFFS' MOTION FOR
SUMMARY JUDGMENT**

Plaintiffs, Chad and Jane Barnes (the "Barnes"), by and through their counsel of record Holden, Kidwell, Hahn & Crapo, P.L.L.C., submit this memorandum in support of their *Motion for Summary Judgment*.

The Barnes are entitled to summary judgment, pursuant to Idaho Rule of Civil Procedure 56, because there is no genuine issue of fact concerning the forfeiture of the Defendant's water right by non-use or the Barnes' use of their water right during the periods relevant to this case and the Barnes are entitled to judgment as a matter of law. Additionally, the Barnes are entitled to attorney's fees pursuant to Idaho Code § 12-121, since the defenses and counterclaim are frivolous, unreasonable, and without foundation.

I. INTRODUCTION

The Barnes own property in Bannock County, located in the SE¼ of Section 15 and the NE¼ of Section 22, Township 11 South, Range 37 East, Boise Meridian (the “Barnes Property”). Aff. of Craig Bloxham (hereinafter “Bloxham Aff.”), ¶ 20; *Complaint*, ¶ 4; admitted in *Answer and Counterclaim*, ¶ 5. Defendant, Kirk Jackson (“Jackson”), owns some neighboring property in the SW¼ of Section 14 of the same township (the “Jackson Property”). Jackson purchased the Jackson Property from Gary R. Rainsdon, the trustee of the bankruptcy estate of Craig Bloxham. (*Complaint*, ¶ 8; admitted in this regard in *Answer and Counterclaim*, ¶ 8.) Jackson bought the property in 2012. Bloxham Aff., ¶ 16.

Certain water rights are appurtenant to the Barnes Property, No. 29-14115 (“29-14115”), and the Jackson Property, No. 29-14032 (“29-14032”), with the same priority date of May 19, 1920. (*Complaint*, ¶¶ 5, 9, 14; admitted in *Answer and Counterclaim*, ¶¶ 5, 9, 11.) Both 29-14115 and 29-14032 were decreed on March 22, 2004, by the Snake River Basin Adjudication (“SRBA”). (*Complaint*, ¶¶ 5, 16; admitted in *Answer and Counterclaim*, ¶¶ 5, 13.)

The Barnes Property has been irrigated using 29-14115 for the entirety of the period relevant to this case. In particular, Craig Bloxham used 29-14115 to irrigate the Barnes Property from 2004 (when 29-14115 was decreed) until 2014 (when he sold the property to the Barnes). Bloxham Aff., ¶ 20. Through the 2014 irrigation season, the Barnes have irrigated the Barnes property using 29-14115. *Complaint* ¶ 18; Bloxham Aff., ¶ 20.

In contrast, the Jackson Property was not irrigated using 29-14032 (*i.e.*, using water from what is known as “Spring Creek”) for a long time. In relevant part, Craig Bloxham, Jackson’s predecessor-in-interest, did not irrigate the Jackson Property with water from Spring Creek from 2004 (when 29-14032 was decreed) until 2012 (when the property was sold by the bankruptcy

trustee to Jackson). Bloxham Aff., ¶ 16. Further, Jackson had not done anything to irrigate the Jackson Property using 29-14032 until the end of August 2014, when he constructed a concrete dam on Spring Creek. Bloxham Aff., ¶ 17. Even after constructing the dam, Jackson's system for putting 29-14032 to beneficial use was not in place as late as August 2015. Bloxham Aff., ¶ 17. Jackson admits that neither he, "nor his predecessor-in-interest [*i.e.*, Bloxham] received approval of an application for extension of time to avoid forfeiture from [the Idaho Department of Water Resources] pursuant to Idaho Code § 42-222(2)." *Complaint*, ¶ 31; admitted in *Answer and Complaint*, ¶ 25.

In late August 2014, Jackson unilaterally constructed a new concrete dam on Spring Creek approximately 30 feet above the Barnes' historical point of diversion. *Complaint*, ¶ 21; admitted in relevant part in *Answer and Counterclaim*, ¶ 17; *see also* Bloxham Aff., ¶¶ 17-18. It appears that Jackson now intends to use 29-14032, the water from Spring Creek, to irrigate the Jackson Property—to the detriment of all the other water users on Spring Creek, who have come to rely on the Spring Creek system without the strain of 29-14032. *See* Bloxham Aff., ¶¶ 18-19.

The Barnes instituted this action on August 29, 2014, to have this Court declare that 29-14032 is a forfeited water right and, therefore, Jackson does not have the right to divert Spring Creek water. *Complaint*, pp. 1, 6.

II. ARGUMENT

Summary judgment is appropriate when "the pleadings, depositions and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law." I.R.C.P. 56(c). When a jury trial has been demanded, disputed facts are to be construed in favor of the non-moving party, and all reasonable inferences that can be drawn from the record are drawn in favor of the

non-moving party. Without a demand for a jury trial, however, the court may construe facts differently:

[I]f an action will be tried before the court without a jury, the judge is not constrained to draw inferences in favor of the party opposing a motion for summary judgment. Rather, the judge is free to arrive at the most probable inferences to be drawn from uncontroverted evidentiary facts.

Loomis v. City of Hailey, 119 Idaho 434, 437, 807 P.2d 1272, 1275 (1991); *Blackmon v. Zufelt*, 108 Idaho 469, 470, 700 P.2d 91, 92 (Ct. App. 1985) (citing *Riverside Development Co. v. Ritchie*, 103 Idaho 515, 519, 650 P.2d 657, 661 (1982)). Further, to survive summary judgment, the non-moving party must submit more than just conclusory assertions in response to a motion for summary judgment. In other words, “[a] mere scintilla of evidence or only slight doubt is not sufficient to create a genuine issue of material fact.” *Samuel v. Hepworth, Nungester & Lezamiz, Inc.*, 134 Idaho 84, 87, 996 P.2d 303, 306 (2000).

Here, the Barnes are entitled to summary judgment as to both of their claims and Jackson’s counterclaim. First, there is no genuine issue of material fact that 29-14032 was not applied to beneficial use between 2004 and 2014; the Barnes have made a claim of right, either by instituting this action or by using 29-14032’s water to satisfy their own water right, before Jackson has resumed use of 29-14032. Second, Jackson cannot show that 29-14115 has undergone any five-year period of non-use and, consequently, cannot show that 29-14115 has been forfeited. Finally, Jackson’s defenses and his counterclaim are frivolous, unreasonable, and without foundation and this Court should award the Barnes their reasonable attorney’s fees in bringing this action.

A. Jackson, together with his predecessor-in-interest, has by operation of law forfeited 29-14032 in failing to apply it to the beneficial use for which it was appropriated for at least five years.

In Idaho, a water right is “lost and forfeited by a failure for the term of five (5) years to apply it to the beneficial use for which it was appropriated.” I.C. § 42-222(2). While “[a]bandonments and forfeitures are not favored,” *Zezi v. Lightfoot*, 57 Idaho 707, 68 P.2d 50, 52 (1937), allowing unused water rights to perish and be beneficially used by another is an affirmation of the “traditional policy of the state of Idaho, requiring the water resources of this state to be devoted to beneficial use in reasonable amounts through appropriation.” *See* I.C. § 42-226.

Here, the testimony of the prior owner of the Jackson Property, Craig Bloxham, shows that he did not use 29-14032 to irrigate the Jackson Property between 2004, when 29-14032 was decreed by the SRBA, and 2012, when the Jackson Property was sold by the trustee of Bloxham’s bankruptcy estate. Bloxham Aff., ¶ 16.¹ Further, because he still owns property that uses water from Spring Creek, Bloxham “know[s] that water from Spring Creek has not be used by Kirk Jackson on the [Jackson Property] through the end of August 2014.” Bloxham Aff., ¶ 17. Finally, during “August 2015, Kirk Jackson was still installing his pipeline project.” Bloxham Aff., ¶ 17. Thus, there is competent evidence that from March 2004 to at least August 2015, the property owner of the Jackson Property (Bloxham and, after 2012, Jackson) was not using 29-14032. As a result, 29-14032 has been forfeited by non-use. *See* I.C. § 42-222(2).

¹ Bloxham refers to “Spring Creek water.” Bloxham Aff., ¶ 16. This refers to 29-14032, since the water for 29-14032 was taken from Spring Creek. *Complaint*, ¶ 13; admitted in *Answer and Counterclaim*, ¶ 11. Additionally, Bloxham states that the Jackson Property “has not been irrigated with Spring Creek water since the mid-1990s.” Bloxham Aff., ¶ 15.

There are some defenses at common law and provided by statute. *See id.* (referencing I.C. § 42-223). Perhaps the most applicable at this point is the “resumption-of-use doctrine,” which is described as an affirmative defense as follows:

although statutory abandonment did actually occur, the forfeiture is not effective if, after the five-year period, the original owner or appropriator resumed the use of the water prior to the claim of right by a third party.

Sagewillow, Inc. v. Idaho Dep't of Water Res., 138 Idaho 831, 836, 70 P.3d 669, 674 (2003) (quoting *Carrington v. Crandall*, 65 Idaho 525, 531–32, 147 P.2d 1009, 1011 (1944)). The Court explained that

A third party has made a claim of right to the water if [1] the third party has either instituted proceedings to declare a forfeiture, or [2] has obtained a valid water right authorizing the use of such water with a priority date prior to the resumption of use, or [3] has used the water pursuant to an existing water right.

Sagewillow, 138 Idaho at 842, 70 P.3d at 680 (internal citations omitted). Further, the resumption can be made by a successor in interest to the original appropriator. *Id.* at 839, 70 P.3d at 677. Because forfeiture is effectuated by a failure to put the water right to beneficial use for five consecutive years, any claimed resumption must put the water right to beneficial use “upon the land to which the water right is appurtenant.” *See id.* at 842, 70 P.3d at 680; *see also* I.C. § 42-222(2).

In this case, it is anticipated that Jackson will defend his position that he “resumed use of water right 29-[14032] prior to the filing of Plaintiffs’ Complaint.” *Answer and Counterclaim*, ¶ 3. However, Jackson’s attempt to invoke the resumption-of-use doctrine must fail for two alternative reasons.

First, while Jackson admits he built a concrete dam above the Barnes’ point of diversion on Spring Creek (*Answer and Counterclaim*, ¶ 17), and does not admit the specific date or

timeframe during which he constructed the dam; the evidence shows that it occurred during late August 2014. *Complaint*, ¶ 21; Bloxham Aff., ¶¶ 17-19. Further, during “August of 2015, Kirk Jackson was still installing his pipeline project. The system was not in place at the end of August of 2014.” Bloxham Aff. ¶ 17. That means that Jackson had not begun applying the water he intended to extract from Spring Creek to beneficial use for a substantial period of time, and it is our understanding that he has not yet diverted water to his property. The Court can take judicial notice of the fact that the Barnes’ *Complaint*, seeking a declaratory judgment declaring 29-14032 had been forfeited by non-use, was filed on August 29, 2014—before Jackson has applied water to beneficial use. Consequently, the Barnes have “made a claim of right to the water” by “institut[ing] proceedings to declare a forfeiture,” *Sagewillow*, 138 Idaho at 842, 70 P.3d at 680; *see also Complaint*, ¶ 20 (alleging that this action constitutes a claim of right under this rationale); admitted in *Answer and Counterclaim*, ¶ 16). The timing shows that Barnes’ claim of right occurred before Jackson had effectively resumed beneficially using 29-14032. Thus, the resumption-of-use doctrine is not a valid defense.

Second, the Barnes, through their predecessor-in-interest, Bloxham, have made a claim of right by beneficially using the water pursuant to an existing water right, 29-14115, that would otherwise have been appropriated by Jackson under 29-14032 but for his non-use. *See Sagewillow*, 138 Idaho at 842, 70 P.3d at 680 (citing *Albrethsen v. Wood River Land Co.*, 40 Idaho 49, 231 P. 418 (1924)). This must be supported as a claim of right and must also be shown to predate Jackson’s resumption of use to defeat the affirmative defense. If the Barnes’ use of water qualifies as a claim of right and predates Jackson’s resumed use of 29-14032, Jackson cannot assert the resumption-of-use doctrine as a defense for his forfeiture. *See Sagewillow*, 138 Idaho at 842, 70 P.3d at 680.

To qualify as a claim of right, the Barnes' water use requires "evidence showing that resumption of use by [Jackson] would diminish the quantity of water being used by [the Barnes] from an interconnected water source." *Sagewillow*, 138 Idaho at 846, n. 3, 70 P.3d 669, at 684, n. 3. 29-14032 and 29-14115 are interconnected because they both came from the same water right and have the same elements of use. Spring Creek is over-appropriated. Bloxham Aff., ¶ 19 ("There is typically not enough water to supply all of the water rights on the system" even without Jackson resuming use of 29-14032). That demonstrates that the Barnes and other Spring Creek water users will suffer from diminished quantities of water if Jackson resumes use of 29-14032. Bloxham Aff., ¶¶ 17-19; *see also Sagewillow*, 138 Idaho at 846, n. 3, 70 P.3d 669, at 684, n. 3 (discussing over-appropriation).

Barnes' claim of right by appropriation dates back to 2012, through their predecessor-in-interest, Craig Bloxham. Bloxham owned both the Barnes Property and the Jackson Property until 2012, when the bankruptcy trustee sold the Jackson Property to Jackson. Bloxham Aff., ¶¶ 16, 20. Before that, 29-14115 was not held by a "third party" in relation to 29-14032 and therefore could not establish a claim of right against 29-14115. However, when Jackson bought the Jackson Property in 2012 from Bloxham's bankruptcy trustee, he also became the owner of 29-14032, the appurtenant water right. Bloxham Aff., ¶ 16; *Complaint*, ¶ 9; admitted in *Answer and Counterclaim*, ¶ 9. In 2014, Bloxham sold the Barnes Property and 29-14115 to the Barnes. Bloxham Aff., ¶ 20. Thus, since 2012, 29-14115 has been held by a third party relative to 29-14032; first Bloxham and, later, the Barnes. Bloxham continued using 29-14115 to "actively irrigate" the Barnes Property until he sold it to the Barnes in 2014. Bloxham Aff., ¶ 20. Thus, any resumption of 29-14032 will diminish the overall quantity of water available for 29-14115,

which has been using the water as a third party relative to 29-14032 since 2012—well before Jackson’s resumption of use of 29-14032.

As a result, the resumption-of-use doctrine is not a defense to Jackson’s forfeiture of 29-14032 since the Barnes have a claim of right that predates any resumed beneficial use by Jackson either by (1) filing this action on August 29, 2014, or (2) relying on water from the over-appropriated Spring Creek since 2012, the quantity of which would be reduced by Jackson’s resumed use. 29-14032 was not used to irrigate the Jackson Property from 2004 to 2015; therefore the Barnes are entitled to summary judgment declaring that 29-14032 has been forfeited.

B. The Barnes, and their predecessor-in-interest, have not failed to apply 29-14115 to its beneficial use for any five-year-long period and therefore have not forfeited their water right.

The Barnes dispute Jackson’s counterclaim that “29-14115 has not been put to beneficial use on a portion of the [Barnes Property] for an excess of five years immediately prior to the filing of this counterclaim.” *Answer and Counterclaim*, ¶ 30. As the counterdefendants in this regard, the Barnes may move for summary judgment on Jackson’s claim “with or without supporting affidavits.” I.R.C.P. 56(b). The Barnes contend that they and Bloxham, their predecessor-in-interest, have applied 29-14115 to irrigate the Barnes Property continuously since 2004, when 29-14115 was decreed by the SRBA. Jackson may be claiming that the Barnes (and Bloxham before the Barnes) have not used 29-14115 to irrigate all of the property specified in the decree. However, forfeiture relates to the *water right’s* non-use and not the extent of its use within the property designated in the water right itself. *See Gilbert v. Smith*, 97 Idaho 735, 738, 552 P.2d 1220, 1223 (1976). Since there has not been a five-year period of non-use of *29-14115*

as to the Barnes Property, there is not a genuine issue of material fact and the Barnes are entitled to summary judgment dismissing Jackson's unsubstantiated counterclaim.

C. The Barnes are entitled to attorney fees as the prevailing party because Jackson's defense and counterclaim are frivolous, unreasonable, and without foundation.

Whenever a civil action is "brought, pursued or defended frivolously, unreasonably or without foundation" the prevailing party may be awarded attorney's fees. I.R.C.P. 54(e)(1); I.C. § 12-121. "When deciding whether the case was brought or defended frivolously, unreasonably, or without foundation, the entire course of the litigation must be taken into account." *Nampa & Meridian Irr. Dist. v. Washington Fed. Sav.*, 135 Idaho 518, 524, 20 P.3d 702, 708 (2001). However, a trial court may award attorney's fees on a *pro rata* basis for any claims or defenses "necessitating this lawsuit that were frivolous, unreasonable, and without adequate foundation." *Idaho Military Historical Soc'y, Inc. v. Maslen*, 156 Idaho 624, 632, 329 P.3d 1072, 1080 (2014), reh'g denied (Aug. 6, 2014) (reversing Idaho's prior interpretation of disallowing any award for attorney's fees if *any* claim or defense was not frivolous). Or, if the entire case of one party is frivolous, unreasonable, and without adequate foundation, the court may provide a complete award of attorney's fees. *See, e.g., Baird-Sallaz v. Sallaz*, 157 Idaho 342, 347, 336 P.3d 275, 280 (2014), reh'g denied (Nov. 6, 2014) (awarding attorney's fees in whole when a case was based on "mere assertion and unsubstantiated" facts). It is only if "there is a legitimate, triable issue of fact or a legitimate issue of law" that a claim or defense is not frivolous, unreasonable, and without foundation." *Brannon v. City of Coeur d'Alene*, 153 Idaho 843, 857, 292 P.3d 234, 248 (2012).

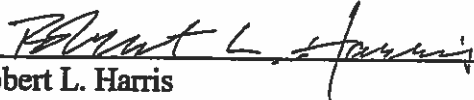
Here, Jackson has made a mere assertion, based on unsubstantiated facts, that 29-14115 was not used for five years. The Barnes have supplied an affidavit from Jackson's predecessor-

in-interest stating that he did not use 29-14032 from 2004 until the property was sold in 2012 because of his bankruptcy. Bloxham Aff., ¶ 16. Therefore, Jackson's main defense to the Barnes' claim is that he has resumed use of 29-14032 before the Barnes made a claim of right; however, that defense is also frivolous, unreasonable, and without foundation. Jackson certainly constructed a concrete dam on Spring Creek before the Barnes filed this action; but that is not the same as resuming use of 29-14032. According to Craig Bloxham, who is still familiar with the Spring Creek area since he continues to own property that relies on Spring Creek water, Jackson had not, as of August 2015, completed the system necessary to put 29-14032 to beneficial use—long after this action was filed on August 29, 2014. Bloxham Aff., ¶ 17; *Complaint*, p. 1. Additionally, Bloxham (as the Barnes' predecessor-in-interest) relied on the non-use of 29-14032 as a third party in 2012, which is also a claim of right—made long before Jackson began his construction project in 2014. Bloxham Aff., ¶¶ 16-17. Therefore, the defenses offered by Jackson are wholly without merit and present no legitimate, triable issue of fact or any legitimate issue of law. As a result, the Barnes should be awarded the entirety of their reasonable attorney's fees necessitated by this case.

III. CONCLUSION

Summary judgment should be granted on the Barnes' behalf as to their claims and Jackson's counterclaims. Jackson and his predecessor-in-interest did not use 29-14032 for more than ten years. The Barnes established a claim of right before Jackson resumed use of 29-14032. Further, Jackson cannot show a five-year period when 29-14115 was not used. Jackson's contentions are frivolous, unreasonable, and without foundation. Therefore, the Barnes should be awarded reasonable attorney's fees pursuant to Idaho Code § 12-121.

Dated this 15th day of January 2016.


Robert L. Harris
HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.

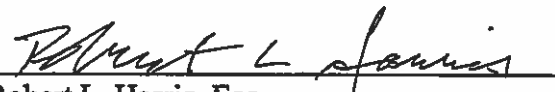
CERTIFICATE OF SERVICE

I hereby certify that I am a duly licensed attorney in the State of Idaho, resident of and with my office in Idaho Falls, Idaho; that I served a copy of the following described pleading or document on the attorneys and/or individuals listed below by hand delivery, by mailing with the correct postage thereon, or by facsimile a true and correct copy thereof on this 15th day of January 2016.

Document Served: **MEMORANDUM IN SUPPORT OF PLAINTIFFS'
MOTION FOR SUMMARY JUDGMENT**

Attorneys and/or Individuals Served:

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Robert L. Harris, Esq.
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Attorneys for Chad and Jane Barnes

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Department of Water Resources
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IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF THE
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CHAD BARNES and JANE BARNES,
husband and wife,

Plaintiff/Counterdefendants

vs.

KIRK JACKSON, an individual,

Defendant/Counterclaimant

Case No. CV-2014-3466-OC

AFFIDAVIT OF CRAIG V. BLOXHAM

STATE OF IDAHO)
) ss.
County of Bannock)

I, Craig Bloxham, do solemnly swear (or affirm) that the testimony given in this sworn statement is the truth, the whole truth, and nothing but the truth, that it is made on my personal knowledge, and that I would so testify in open court if called upon to do so.

And being so sworn I depose and say:

1. I was born on June 21, 1951. I am over the age of eighteen (18) and am competent to testify to the matters contained herein.

2. I currently reside in Bannock County, Idaho. My address is 20862 S. Cambridge Rd., Downey, Idaho 83234.
3. My father is Vern Bloxham and he resides at 494 North Main, Downey, Idaho, 83234.
4. I am familiar with a certain water right now owned by Kirk Jackson, which has been assigned the number of 29-14032. Water Right No. 29-14032 is a split of a water right that that Vern and I owned, which was numbered as Water Right No. 29-10420. This water right authorizes use of water from what is known locally as "Spring Creek."
5. When we purchased the property Wilding Place, there was a wheel line that irrigated the land in the SW1/4SW1/4 and portions of the NW1/4SW1/4 of Section 14, Township 11S, Range 37E, that only used water from a small stream near the property known as Brush Creek. This land is now owned by Kirk Jackson and was referred to by us as the "Wilding place."
6. We also owned a piece of property known as the "Penrose Place." We purchased this property in approximately May of 1974. When we purchased this property, there was a ditch that ran from Spring Creek down across the NW1/4SW1/4 of Section 14, Township 11S, Range 37E to the section line between sections 14 and 15, and the ditch turns south and follows the section line south down to Brush Creek Road. The ditch was used to divert Spring Creek water and apply it to the SE1/4SE1/4 of Section 15, Township 11S, Range 37E. This is the property now owned by Chad and Jane Barnes.
7. The ditch was also used to irrigate the portion of the NE1/4NE1/4 and the NW1/4NE1/4 of Section 22, Township 11S, Range 37E north of Brush Creek Road with water from Spring Creek. This portion was also referred to by us as a part of the "Wilding Place" which we called the "lower Wilding place." This property is also owned by Chad and Jane Barnes.

8. When we purchased the Penrose Place, Robert Wilding used the ditch to irrigate the lower Wilding place.
9. Shortly after we purchased the Penrose Place, we, along with Robert Wilding, constructed a containment and distribution pond in approximately 1975 that was used to store and deliver water from Spring Creek and water from another creek known as Yago Creek.
10. Shortly thereafter, in 1975, we replaced the ditch with a mainline that ran from the distribution pond. We used an HR-45 Lister air-cooled three cylinder diesel pump to pump water from the pond into the mainline. Water diverted through the mainline was used to irrigate the Penrose Place and the portion of the Wilding place south of the Penrose Place.
11. In approximately 1990, after we purchased the Wilding Place, we added pipe upgradient on the mainline to construct a gravity pressurized system. Water was diverted from Spring Creek just below its source by a headgate into a six-inch mainline 1100 feet down to a valve that can divert water into a pond or, if it is closed, it will divert water into the intake of the gravity pressurized system north of the distribution pond. This is how the system is used today. The gravity pressurized system replaced the need to use the diesel pump to pressurize the mainline.
12. I consulted with the United States Department of Agriculture Soil Conservation Service in the design of the gravity pressurized system, and recall that the conclusion for the flow from the spring was approximately 220 gallons per minute, or what was referred to as a "Miner's Stream." I also consulted with the USDA to assist with work for an erosion and sedimentation problem, but the landowner where the spring that feeds Spring Creek is

located would not allow us to do the project. A copy of a computation sheet outlining the project is attached as **Exhibit 1**.

13. We received funding from the USDA to also make other improvements, which included construction of a four-inch water line and a two-inch water line, both of which run southwest from the distribution pond. The USDA paid \$3,500.00 of the \$13,897.47 cost of the project (pipe and materials). A copy of documents associated with this project is attached as **Exhibit 2**.
14. At some point between 1993 and 1996, and for one summer irrigating season, I used the gravity pressurized system to try to irrigate the upper portion of the upper Wilding place. I was able to gravity sprinkle approximately 15 acres of alfalfa to get it started. The rest of the upper Wilding place was dry farmed. This is the one and only time that we irrigated the upper Wilding place.
15. I filed the claim in the Snake River Basin Adjudication (the "SRBA") for Water Right No. 29-10420. A copy of the claim filed in the SRBA on March 7, 1990 is attached hereto as **Exhibit 3**. The water right claim was processed and we received a partial decree from the SRBA court on March 17, 2004. However, the upper Wilding place has not been irrigated with Spring Creek water since the mid-1990s.
16. I am certain that Spring Creek water was not used to irrigate the upper Wilding place between 2004 and 2012 because I owned the property at that time. The property was then sold by the bankruptcy trustee as a result of my bankruptcy. As the owner of the property, I never diverted and used water on the upper Wilding place after the mid-1990s.
17. I also know that water from Spring Creek has not been used by Kirk Jackson on the upper Wilding place through the end of August 2014 because I am familiar with water

distribution from Spring Creek. I divert and use water from Spring Creek and have assisted with distribution of water from the distribution pond and the diversion near the location of the spring that feeds Spring Creek. In August of 2015, Kirk Jackson was still installing his pipeline project. The system was not in place at the end of August of 2014.

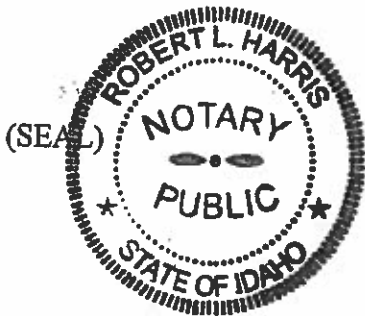
18. Kirk Jackson constructed a concrete diversion associated with his pipeline that has had an extremely negative impact on me and other users of water on Spring Creek. It slowed the flow and resulted in reduced water supply for myself and the other Spring Creek water users. It also caused the excessive building up of sediment that backed into the spring itself, which has reduced the outflow amount from the spring itself.
19. Mr. Jackson never talked to me, and to my knowledge, did not talk to any other Spring Creek water users before he constructed the concrete dam. I remain very concerned if he is able to use his diversion and use water from Spring Creek. There is typically not enough water to supply all of the water rights on the system. I have relied upon, and others have relied upon, the water that has not been diverted by Kirk Jackson from Spring Creek.
20. My family sold the Penrose Place and the lower Wilding place to Chad and Jane Barnes on January 31, 2014. We actively irrigated the property that Chad and Jane Barnes own up until the time my family sold it to them.

FURTHER YOUR AFFIANT SAYETH NAUGHT.

Dated this 8th day of December, 2015.

Craig V. Bloxham
Craig V. Bloxham

SUBSCRIBED AND SWORN TO before me this 8th day of December, 2015.



Robert L. Harris
Notary Public for the State of Idaho
Residing at: Idaho
My Commission Expires: 11/18/2016

CERTIFICATE OF SERVICE

I hereby certify that I am a duly licensed attorney in the State of Idaho, with my office in Idaho Falls, Idaho, and that on the 15th day of January, 2016, I served a true and correct copy of an Affidavit of Craig V. Bloxham on the persons listed below by first class mail, with the correct postage thereon, or by causing the same to be delivered as defined by Rule 5(b), I.R.C.P.

Persons Served:

Thomas J. Budge
Racine, Olson, Nye, Budge, & Bailey, Chartered
P.O. Box 1391
201 E. Center Street
Pocatello, ID 83204-1391
Fax: 232-6109

Method of Service:

☒ Mail
☐ Overnight Mail
☐ Facsimile
☐ Electronic Mail


Robert L. Harris
HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.

EXHIBIT 1

STATE <u>IDAHO</u>		PROJECT <u>SEDIMENT PROBLEM</u>	
BY <u>L. MONTOM</u>	DATE <u>8/4/97</u>	CHECKED BY	DATE
SUBJECT <u>DETERMINE ALTERNATIVES TO CONTROL SEDIMENTATION</u>		JOB NO.	
		SHEET <u>1</u> OF <u>2</u>	

PROBLEM:

Erosion and sedimentation is occurring on 374 Spring Development from upstream draw. This sediment is also effecting 430- Irrigation Water Conveyance, Pipeline and 552 Irrigation Reservoir. Other effects or impacts include artificial wetlands and wildlife habitat.

GIVEN:

TOPOGRAPHIC
MAP

" "

BARRECK CO. SOIL
SURVEY, USLE PLANS
BOOK, EFM-CU#2Drainage Area of upstream draw = 15 ACWatershed length from site to top of drainage area = 1300 FTWatershed slope = 8%Soils = 94) Rexburg Silt Loam 4-12%, Cap. subclass = 3E, T=5, Hg=B, K=0.43
R=46, A=8 AC, Unified Class, ML, CL-ML98) Ririe Silt Loam 4-12%, Cap. subclass 3E, T=5, Hg=B, K=0.43, R=41,
A=5 AC, Unified Class, ML, CL-ML101) Ririe-Waterton Canyon Complex 12-20%, Cap. subclass=4E, T=5, Hg=B, K=0
R=46, A=2 AC, Unified Class=ML, CL-ML (located at construction site)

Location SW 1/4 SE 1/4 NW 1/4, Sec. 14, T-11-S., R-37-E.

Storm Frequency = 10 yr. 24 hr.Rainfall, P = 2.0 inRunoff, Q = 0.125 inWORKSHEET#2
TR-55
EFM. CU#2

FIND REQUIRED STORAGE CAPACITY:

Q = 0.125 in, A = 15 AC, 325,829 gals/AC-ft

SOLUTION:

 $(Q)(A)(3630) = \text{CU-FT} = (0.125)(15 \text{ AC})(3630) = 13,612.5 \text{ FT}^3$ $(Q)(A)/12 \text{ in per AC-FT} = (0.125)(15 \text{ AC})/12 = 0.31 \text{ AC-FT.}$ OR $(0.31 \text{ AC-FT})(325,829 \text{ gals}) = 101,007 \text{ gals.}$

FIND SPACING BY USING USLE

T=5, K=0.43, R=44, C=Small Grain Residue @ 250lb = 0.34
Fallow = 0.61S = 8%, P = Cross Slope Farming, w/rough surface = 0.7 $0.95/2 = 0.48$

SOLUTION

USLE = A) R K L S C PFIND: L S $LS = \frac{5}{RKCP} = \frac{5}{(44)(0.43)(0.48)(0.7)} = \frac{5}{6.36} = 0.79$ S = 8% $\therefore L = \text{Max } 75'$ LS CUART
USLE

STATE	IDAHO	PROJECT	638 WATER & SEDIMENT CONTROL BASIN		
BY	L. MONTANA	DATE	8/6/92	CHECKED BY	DATE
SUBJECT	DESIGN	JOB NO.	FY-92 #1		
					SHEET 2 OF 2

GIVEN:

Drainage Area = 15 Ac.

Watershed slope - 8%.

Watershed length = 1300 ft.

storm Freq. = 10 yr. 24 Hr.

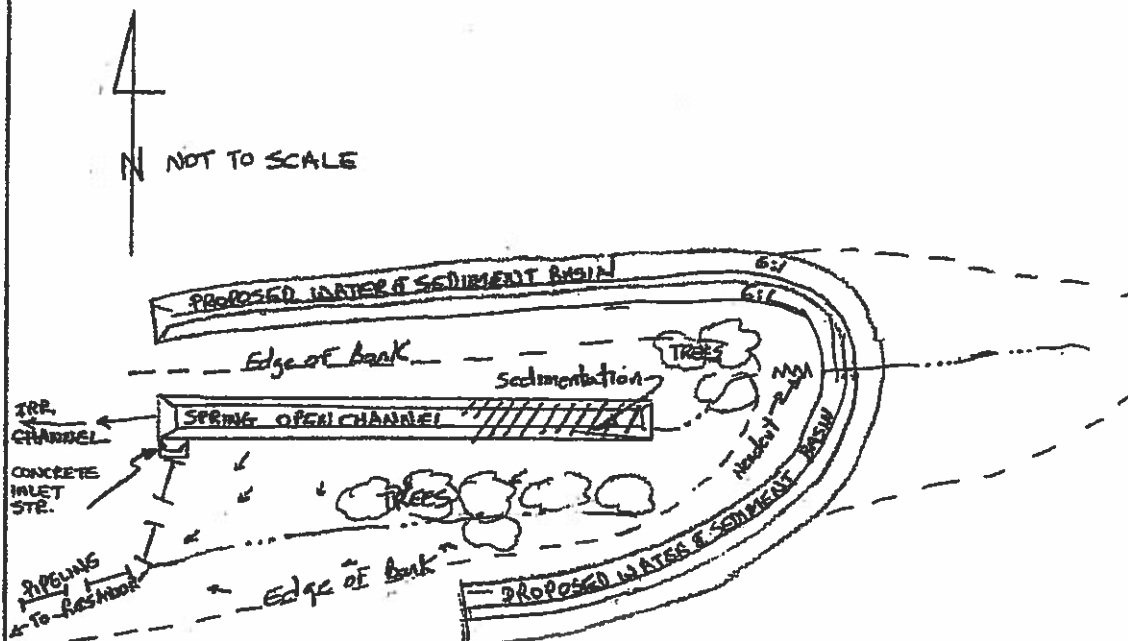
Rainfall, P_{10} = 2.0 inRunoff Q = 0.25 inRequired storage Capacity = 13,612.5 ft^3

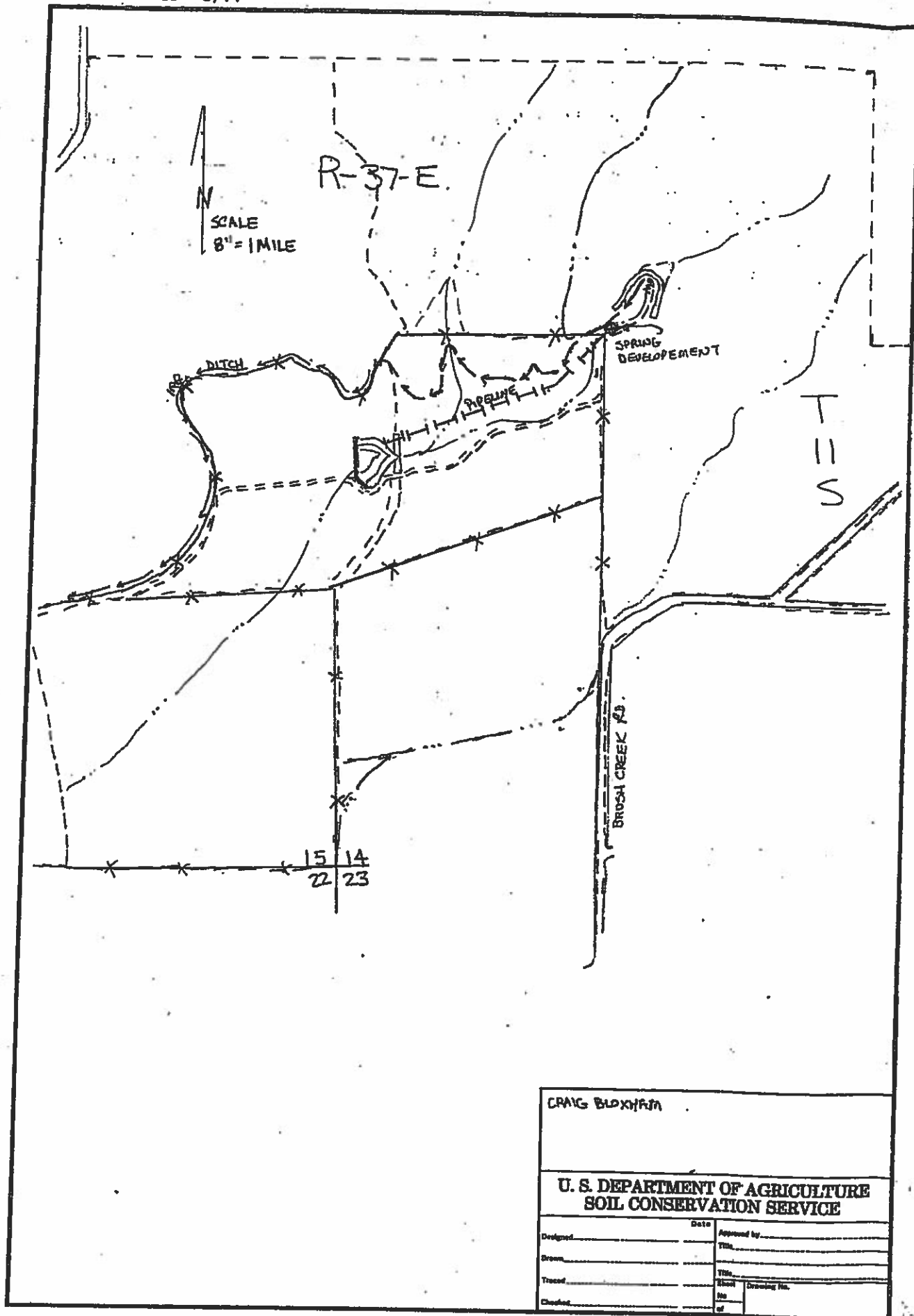
storage Capacity in Ac.Ft. & Gals = 0.31 Ac.Ft. # 101,007 Gals

DESIGN

Storage Capacity = $(WLD)(0.4) = \text{ft}^3$ $W = 600 \text{ ft}, L = 50 \text{ ft}, D = 4 \text{ ft}$ $(600)(50)(4)(0.4) = 48,000 \text{ ft}^3$

Storage Capacity in Ac.Ft & Gals

325,829 Gal/Ac.Ft., 7.48 Gals/ ft^3 $(7.48 \text{ Gals})(48,000 \text{ ft}^3) = 359,040.0 \text{ Gals}$ $359,040 \text{ Gals} / 325,829 \text{ Gals} = 1.1 \text{ Ac.Ft.}$ 



CRAIG BLOKHMAN

U. S. DEPARTMENT OF AGRICULTURE
SOIL CONSERVATION SERVICE

Designed _____	Date _____	Approved by _____
Drawn _____		Title _____
Traced _____		Title _____
Checked _____		Sheet _____ of _____
		Drawing No. _____

CRANE BLOCKHAM
638 WATER &
SEDIMENT CONTROL BASIN

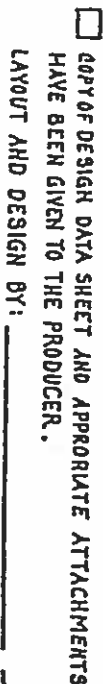
☐ located on plan/
design & SCS-ENG 6
completed

I have reviewed the plans and specifications and agree to construct this project to the best of my ability in accordance with them.

Date _____

11 CAPACITY NEEDED = ACRES X RUNOFF DEPTH X 3630
12 CAPACITY = WLD X 40%

GENERAL PROVISIONS
THE PROJECT SHALL BE CONSTRUCTED TO THE DIMENSIONS SHOWN ON THIS PLAN USING SCS CONSTRUCTION SPECIFICATION 862, ATTACHED TO THIS PLAN.
ALSO ATTACHED IS A MAP SHOWING STRUCTURE LOCATIONS.



I HAVE REVIEWED THE PLANS AND SPECIFICATIONS AND AGREE TO CONSTRUCT THIS PROJECT TO THE BEST OF MY ABILITY IN ACCORDANCE WITH THEM.

DATE _____

DATE _____

SOIL CONSERVATION SERVICE

Worksheet 2: Runoff curve number and runoff

Project SW 1/4 SE 1/4 NW 1/4, Section - 14, T-11-S. By L. MONTANA Date 8/4/92
Location R-37-E. Checked _____ Date _____

Circle one: Present Developed

1. Runoff curve number (CN)

Soil name and hydrologic group (appendix A)	Cover description (cover type, treatment, and hydrologic condition; percent impervious; unconnected/connected impervious area ratio)	CN <u>1/</u>			Area ☐ acres ☐ mi ² ☐ %	Product of CN x area
		Table 2-2	Fig. 2-3a	Fig. 2-4		
94 Rexburg Siltloam 4-12% B	Small Grain Contoured +CR Good condition		72		8 AC.	576.0
98 Ririe Siltloam 4-12% B	Small Grain Contoured +CR Good condition		72		5 AC.	360.0
101 Ririe Waterton Canyon Complex 12-20% B	Small Grain Contoured +CR Good condition		72		2 AC	144
1/ Use only one CN source per line. Totals =					15 AC.	1080.0

1/ Use only one CN source per line.

Totals =

15 AC.

1000.0

$$\text{CN (weighted)} = \frac{\text{total product}}{\text{total area}} = \frac{1080}{15} = 72$$

Use CN =

72.0

2. Runoff

Frequency yr

Rainfall, P (24-hour) in

Runoff, Q in

(Use P and CN with table 2-1, fig. 2-1, or eqs. 2-3 and 2-4.) Fig. 2-26 EFM. CH²2

Storm #1	Storm #2	Storm #3
1045		
2.0 in		
0.25 in		



(Joins sheet 39)

42°27'30"
117°27'30"

(Joins sheet 43)

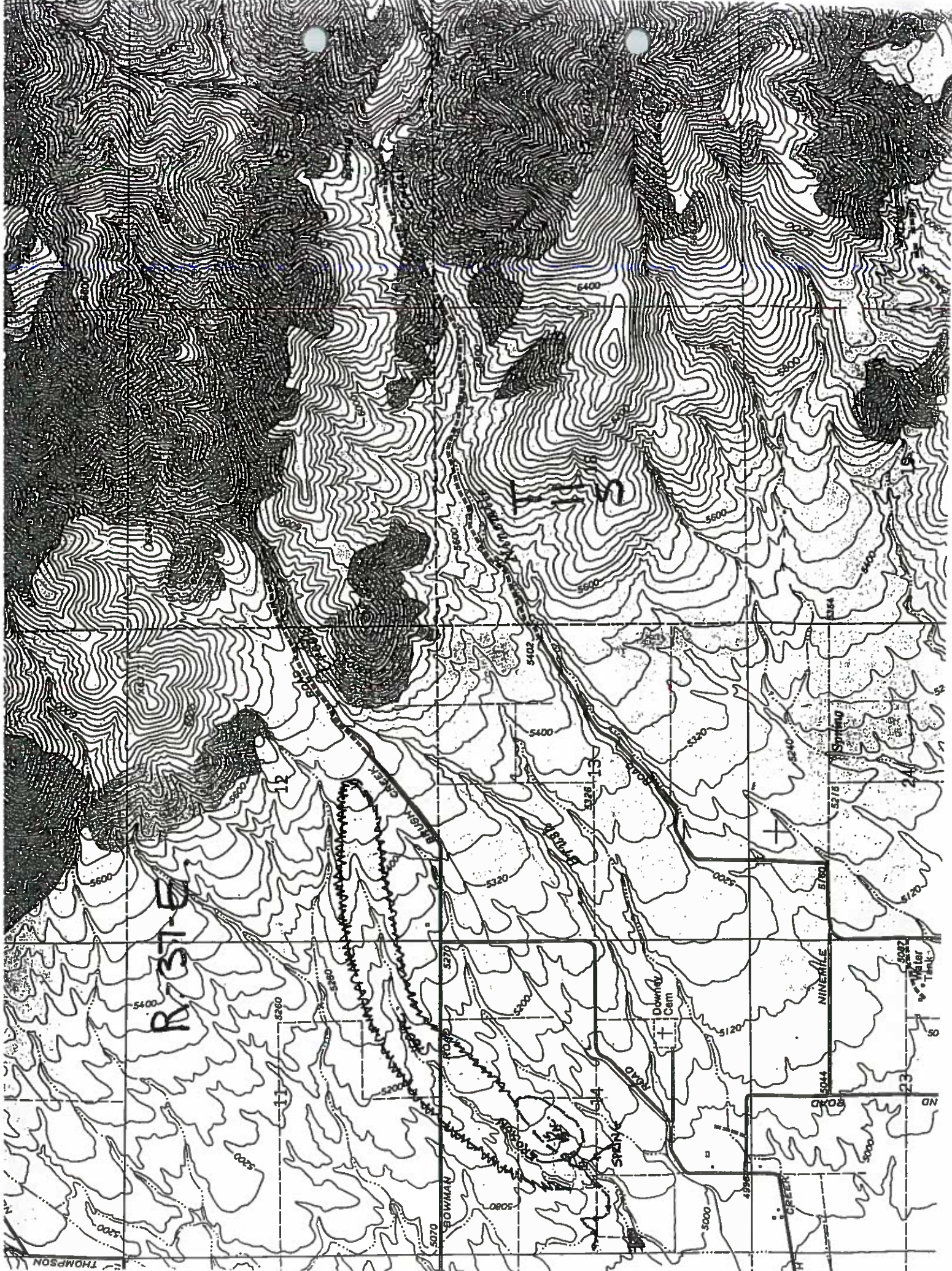


EXHIBIT 2

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE
BANNOCK COUNTY ASC COMMITTEE OFFICE
FEDERAL BUILDING, U.S. COURTHOUSE
ROOM 112, 250 SOUTH 4TH AVENUE
POCATELLO, ID 83201

July 7, 1989

Vern C. Bloxham
Box 227
Downey, ID 83234

Dear Mr. Bloxham:

Congratulations on your successful completion of your ACP project. We are enclosing the funds earned by completing this project.

At this time we wish to remind you of the specification under which payment is being made. This practice is to be maintained during a normal lifespan applicable to this particular project as determined by the County Committee.

Periodic spot checks are made on practices performed and if it is found the practice is not being maintained a refund can be requested for the cost-shares paid.

If you have any questions concerning this payment, please feel free to contact this office.

Sincerely,



Sharon Stephens
County Executive Director

CCC-184-1 (County)
(11-14-84)

USDA - ASCS

03366966

NOTE: Detach this statement and keep with your records.

PAYMENT STATEMENT

DATE: 07/07/89 PROGRAM: ACP ST & CTY: 16-005-2 REFERENCE: 890010
PRODUCER: VERN C BLOXHAM PAYEE: VERN C BLOXHAM
GROSS PAYMENT AMOUNT \$3,500.00
NET AMOUNT PAID \$3,500.00



Thank You

☐ CHECKING ☐ SAVINGS ☐ LOAN ☐ OTHER

THIS IS YOUR REGISTERED DEPOSIT RECEIPT

ALL ITEMS ARE RECEIVED SUBJECT TO CONDITIONS AND TERMS AS STATED ON DEPOSIT TICKETS CURRENTLY ISSUED.

402 IBD 7/11/89#060

\$3,500.00 D

3028073#

THIS IS YOUR RECEIPT, RETAIN UNTIL YOU HAVE VERIFIED IT WITH YOUR STATEMENT.

First Mountain Bank Note

MEMBER FDIC

SPRING CREEK RANCH
CONSERVATION WATER IMPROVEMENT
VERN C. BLOXHAM & CRAIG V. BLOXHAM

Irrigation Material

Irrigation Aid Company- Preston, Idaho
Total cost of Materials \$ 7,736.52

Monroc Inc.- Pocatello, Idaho
Cement- Diversion Box 1 1/3 yd
Cement- Spillway- 2 2/3 yd 166.95

Total Labor Cost-
Itemized listing below 5,994.00

Total Cost of Completed Project-
\$13,897.47

Itemized Labor Cost-

Ford Tractor- 24 hrs. @ 10.00 per hr	240.00
John Deere Tractor- 14 hrs. @ 10.00 hr	140.00
Ford Back Hoe- 24 hrs. @ 22.00 hr	528.00
Chev. Truck- 3 hrs @ 10.00 per hr	30.00
Covering & laying pipe @ .70 per ft. (5240 ft.)	3,668.00
Robert Baugh- Labor & Diversion material	483.00
Craig V. Bloxham- 68 hrs @ 5.00 per hr	340.00
Vern C. Bloxham- 71 hrs @ 5.00 per hr	355.00
Robert Georgson- Labor	135.00
Gavin Sorensen- Labor	75.00

Total Labor Cost \$ 5,994.00

SPRING CREEK RANCH
CONSERVATION WATER IMPROVEMENT
VERN C. BLOXHAM & CRAIG V. BLOXHAM

Irrigation Material

Irrigation Aid Company- Preston, Idaho
Total cost of Materials \$ 7,736.52

Monroc Inc.- Pocatello, Idaho
Cement- Diversion Box 1 1/3 yd
Cement- Spillway- 2/3 yd 166.95

Total Labor Cost-
Itemized listing below 5,994.00

Total Cost of Completed Project-
\$13,897.47

Itemized Labor Cost-

Ford Tractor- 24 hrs. @ 10.00 per hr	240.00
John Deere Tractor- 14 hrs. @ 10.00 hr	140.00
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Chev. Truck- 3 hrs @ 10.00 per hr	30.00
Covering & laying pipe @ .70 per ft. (5240 ft.)	3,668.00
Robert Baugh- Labor & Diversion material	483.00
Craig V. Bloxham- 68 hrs @ 5.00 per hr	340.00
Vern C. Bloxham- 71 hrs @ 5.00 per hr	355.00
Robert Georgson- Labor	135.00
Gavin Sorensen- Labor	75.00

Total Labor Cost \$ 5,994.00

SPRING CREEK DITCH
CONSERVATION WATER IMPROVEMENT
VERN C. BLOXHAM & CRAIG V. BLOXHAM

Irrigation Material

Irrigation Aid Company- Freston, Idaho
Total cost of Materials \$ 7,736.52

Monroc Inc.- Pocatello, Idaho
Cement- Diversion Box 1 1/3 yd
Cement- Spillway- 2/3 yd 166.95

Total Labor Cost-
Itemized listing below 5,994.00

Total Cost of Completed Project-
13,897.47

Itemized Labor Cost-

Ford Tractor- 24 hrs. @ 10.00 per hr	240.00
John Deere Tractor- 14 hrs. @ 10.00 hr	140.00
Ford Back Hoe- 24 hrs. @ 22.00 hr	528.00
Chev. Truck- 3 hrs @ 10.00 per hr	30.00
Covering & laying pipe @ .70 per ft. (5240 ft.)	3,668.00
Robert Baugh- Labor & Diversion material	483.00
Craig V. Bloxham- 68 hrs @ 5.00 per hr	340.00
Vern C. Bloxham- 71 hrs @ 5.00 per hr	355.00
Robert Georgson- Labor	135.00
Gavin Sorensen- Labor	75.00

Total Labor Cost \$ 5,994.00

EXHIBIT 3

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: A29-10420
Date Received: 3/07/1990
Receipt No: 8012254
Received By: PAV

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: VERN C. BLOXHAM 208-897-5261
Address: 494 NORTH MAIN
DOWNEY, ID 83234

OR

Name: CRAIG V. BLOXHAM 208-897-5971
Address: 20862 S. CAMBRIDGE RD.
DOWNEY, ID 83234

A2910420

2. Date of Priority: MAY 19, 1876

3. Source: SPRING CREEK Trib. to: SINKS

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
11S	37E	14	SW	SE	NW		BANNOCK

5. Description of diverting works:
CEMENT DIVERSION INTO PRIVATE DITCH

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	03/15	11/15	3.400		
STOCKWATER	01/01	12/31	0.030		

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

8. Total consumptive use is 481.0 Acre Feet Per Annum.

9. Non-irrigation uses:
D/ 60 RANGE.

A29-10420

Page 1

Date: 03/07/90

MICROFILMED

NOV 13 1992

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
11S	37E	14	NW	SW		IRR	37.0
			SW	SW		IRR	40.0
					Section Acres		77.0
		15	NE	SE		IRR	22.0
			SW	SE		IRR	16.0
			SE	SE		IRR	40.0
					Section Acres		78.0
		22	NE	NE		IRR	25.0
			NW	NE		IRR	5.0
					Section Acres		30.0
		23	NW	NW		IRR	7.5
					Section Acres		7.5
					Total Acres		192.5

11. Place of use in counties: BANNOCK

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

13. Other Water Rights Used:
NONE

14. Remarks:
WATER DIVERTED THROUGH THE YAGO-CAMBRIDGE DITCH

15. Basis of Claim: STATUTORY CLAIM

16. Signature(s)

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

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): Ernest Carlsson Date: 3/7/90

Date: _____

State of Idaho)
County of Bonneville) SS.

Subscribed and sworn (or affirmed) before me this 7 day
of March 19 90.

Ernest Carlsson
Notary Public



Residing at Shoshone Falls, ID
My Commission Expires 6-14-1994

Robert L. Harris, Esq. (ISB #7018)

rharris@holdenlegal.com

HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.

1000 Riverwalk Dr., Ste. 200

P.O. Box 50130

Idaho Falls, Idaho 83405

Telephone: (208) 523-0620

Facsimile: (208) 523-9518

FILED
BANNOCK COUNTY
CLERK OF THE COURT

2016 JAN 15 PM 1:16

BY _____
DEPUTY CLERK

RECEIVED
JAN 25 2016

Department of Water Resources
Eastern Region

Attorneys for Chad and Jane Barnes

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

CHAD BARNES and JANE BARNES,
husband and wife,

Plaintiff/Counterdefendants

vs.

KIRK JACKSON, an individual,

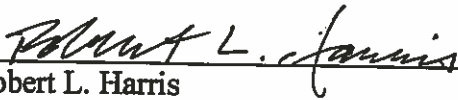
Defendant/Counterclaimant

Case No. CV-2014-3466-OC

NOTICE OF HEARING

PLEASE TAKE NOTICE, that on the 29TH day of February, 2016, at 3:00 p.m., or as soon thereafter as counsel can be heard, before the Honorable David C. Nye, Plaintiff/Counterdefendants in the above-entitled action, comprised of Chad Barnes and Jane Barnes, will call up for hearing the following petition: Motion for Summary Judgment.

Dated this 15th day of January, 2016.


Robert L. Harris
HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.

CERTIFICATE OF SERVICE

I hereby certify that I am a duly licensed attorney in the State of Idaho, with my office in Idaho Falls, Idaho, and that on the 15th day of January, 2016, I served a true and correct copy of a Notice of Hearing on the persons listed below by first class mail, with the correct postage thereon, or by causing the same to be delivered as defined by Rule 5(b), I.R.C.P.

Persons Served:

Thomas J. Budge
Racine, Olson, Nye, Budge, & Bailey, Chartered
P.O. Box 1391
201 E. Center Street
Pocatello, ID 83204-1391
Fax: 232-6109

Method of Service:

☒ Mail
☐ Overnight Mail
☐ Facsimile
☐ Electronic Mail



Robert L. Harris
HOLDEN, KIDWELL, HAHN & CRAPO, P.L.L.C.

G:\WPDATA\RLH\17992 Barnes, Chad\Pleadings\Notice of Hearing.2016-01-15.docx