

STARTING LEFT SIDE OF FILE

SCANNED
MAR 05 2008

AMENDED

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

AMENDED

TRANSFER OF WATER RIGHT

TRANSFER NO. 69538

This is to certify that: CHAPMAN RANCH LLC

737 N 7TH ST
BOISE ID 83702
(208)342-2563

has requested a change to the water right(s) listed below. This change in water right(s) is authorized pursuant to the provisions of Section 42-222, Idaho Code. A summary of the changes is also listed below. The authorized change for each affected water right, including conditions of approval, is shown on the following pages of this document.

Summary of Water Rights Before the Proposed Change

Right	Origin/Basis	Priority	Rate	Volume	Acre Limit	Total Acres	Source
63-5332	AJC/Beneficial Use	07/23/1900	0.2 cfs	N/A		10.0	CORRAL CREEK
63-5334	AJC/Beneficial Use	08/15/1889	1.94 cfs	N/A		46.0	MINNEHA CREEK

Purpose of Transfer (Changes Proposed)

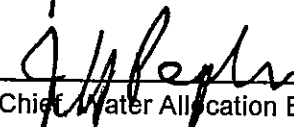
Current Number	Split	POD	POU	Add POD	Period of Use	Nature of Use
63-5332	NO	NO	YES	YES	NO	NO
63-5334	NO	NO	YES	YES	NO	NO

Summary of Water Rights After the Approved Change

Existing Right	New No. (changed portion)	Transfer Rate	Transfer Volume	Acre Limit	Total Acres	New No. (remaining portion)	Remaining Rate	Remaining Volume	Remaining Acre Limit	Remaining Total Acres
63-5332	63-5332	0.2 cfs	59.6 af	10.0	60.0		N/A	N/A	N/A	N/A
63-5334	63-5334	1.94 cfs	221.6 af	46.0	60.0		N/A	N/A	N/A	N/A
COMBINED TOTALS		2.14 cfs	266.6 af	56	60		N/A	N/A	N/A	N/A

Detailed Water Right Description(s) attached

Dated this 2nd day of May, 2003


For Chief, Water Allocation Bureau

MICROFILMED
MAY 21 2003

WATER RIGHT NO. 63-5332
As Modified by Transfer No. 69538

In accordance with the approval of Transfer No. 69538, Water Right No. 63-5332 is now described as follows.

Right Holder: CHAPMAN RANCH LLC
 737 N 7TH ST
 BOISE ID 83702

Priority Date: July 23, 1900

Source: CORRAL CREEK
 MORES CREEK

Tributary: MORES CREEK
 BOISE RIVER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
STOCKWATER	01/01 to 12/31		0.10 CFS	14.6 AF
IRRIGATION	04/01 to 11/01		0.10 CFS	45.0 AF
			0.20 CFS	59.6 AF

LOCATION OF POINT(S) OF DIVERSION:

CORRAL CREEK	SENE	Sec. 2 Twp 04N Rge 04E	BOISE County
MORES CREEK	NWNESW	Sec. 35 Twp 05N Rge 04E	BOISE County

PLACE OF USE: STOCKWATER, same as Irrigation

PLACE OF USE: IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
04N	04E	2		10.0	10.0	4.0	10.0												34.0
				L 2			L 3												
05N	04E	35								5.0	15.0	5.0				1.0			26.0

Total Acres: 60

CONDITIONS OF APPROVAL

1. The right holder shall accomplish the change authorized by this transfer within one (1) year of the date of this approval.
2. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
3. Pursuant to Section 42-1412(6), Idaho Code, this water right is subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as may be determined by the Snake River Basin Adjudication court at a point in time no later than the entry of the final unified decree.
4. Prior to diversion of water under this approval, the right holder shall provide a means of measurement acceptable to the Department from all authorized points of diversion which will allow determination of the total rate of diversion. Measuring devices shall also be installed and maintained at a) the mouth of Corral Creek where it discharges into Mores Creek and b) the mouth of Minneha Creek where it discharges into Mores Creek.

MICROFILMED
 MAY 21 2003

WATER RIGHT NO. 63-5332
As Modified by Transfer No. 69538

CONDITIONS OF APPROVAL

5. The total instantaneous diversion of water from all points of diversion under Rights 63-5332 and 63-5334 shall not exceed 2.14 cfs, nor total combined annual volume of 266.6 af and the irrigation of 56 acres within the place of use described above in a single irrigation season.
6. Diversion from Mores Creek under this right is limited to those times water is available for diversion under this right and priority from Corral Creek. Availability of water from Corral Creek shall be determined based on the lesser of the flow in Corral Creek at the authorized point of diversion or at the mouth of Corral Creek. The total instantaneous diversion of water from all points of diversion under this right shall not exceed 0.20 cfs.
7. The total diversion of water from Mores Creek under Rights 63-5332 and 65-5334 shall not exceed 1.12 cfs.
8. The right holder shall designate one person who is responsible for monitoring and recording the flow rates measured and diverted from the various sources and points of diversion from the sources described by these water rights. Every year the main address and telephone number of the person responsible for monitoring and recording shall be sent to the Department of Water Resources prior to the irrigation season. Any change in the responsible person must be sent to the department within one week following the change. The notice of the responsible person must also reference the water rights that are being monitored and recorded.
9. The person in charge of monitoring and recording the diversion of water must submit measurement records for the first two (2) years of water use. Following the first two years of water use, reports need not be submitted to the department unless specifically required by subsequent written request by the department.
10. Use of water under this right will be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 63.
11. The right holder shall maintain lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion.
12. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.5 afa per acre at the field headgate for irrigation of the lands above.
13. This right is limited to the irrigation of 10 acres within the place of use described above in a single irrigation season.
14. The period of use for the irrigation described in this approval may be extended to a beginning date of 3/1 and an ending date of 11/15 provided that beneficial use of the water can be shown and other elements of the right are not exceeded. The use of water before 4/1 and after 11/1 is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than the date of this approval.
15. The quantity of water decreed for this water right for stockwater use is not a determination of historical beneficial use and shall not exceed 13,000 gallons per day.

This water right is subject to all prior water rights and shall be administered in accordance with Idaho law and applicable rules of the Department of Water Resources.

Dated this 2nd day of May, 20 03


For Chief, Water Allocation Bureau

MICROFILMED
MAY 21 2003

WATER RIGHT NO. 63-5334
As Modified by Transfer No. 69538

In accordance with the approval of Transfer No. 69538, Water Right No. 63-5334 is now described as follows.

Right Holder: CHAPMAN RANCH LLC
 737 N 7TH ST
 BOISE ID 83702

Priority Date: August 15, 1889

Source: MINNEHA CREEK
 MORES CREEK

Tributary: MORES CREEK
 BOISE RIVER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	03/15	11/15	1.94 CFS	207.0 AF
STOCKWATER	01/01	12/31	0.03 CFS	14.6 AF
			1.94 CFS	221.6 AF

LOCATION OF POINT(S) OF DIVERSION:

MORES CREEK	NWNESW	Sec. 35 Twp 05N Rge 04E	BOISE County
MINNEHA CREEK	NWSE	Sec. 36 Twp 05N Rge 04E	BOISE County

PLACE OF USE: STOCKWATER, same as Irrigation

PLACE OF USE: IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE					
04N	04E	2		10.0	10.0	4.0	10.0											34.0	
				L2			L3												
05N	04E	35								5.0	15.0	5.0			1.0			26.0	

Total Acres: 60

CONDITIONS OF APPROVAL

1. The right holder shall accomplish the change authorized by this transfer within one (1) year of the date of this approval.
2. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
3. Approval of this transfer does not preclude the opportunity for review of the validity of this water right in the ongoing Snake River Basin Adjudication.
4. Prior to diversion of water under this approval, the right holder shall provide a means of measurement acceptable to the Department from all authorized points of diversion which will allow determination of the total rate of diversion. Measuring devices shall also be installed and maintained at a) the mouth of Corral Creek where it discharges into Mores Creek and b) the mouth of Minneha Creek where it discharges into Mores Creek.
5. The total instantaneous diversion of water from all points of diversion under Rights 63-5332 and 63-5334 shall not exceed 2.14 cfs, nor total combined annual volume of 266.6 af and the irrigation of 56 acres within the place of use described above in a single irrigation season.

MICROFILMED
 MAY 21 2003

WATER RIGHT NO. 63-5334
As Modified by Transfer No. 69538

CONDITIONS OF APPROVAL

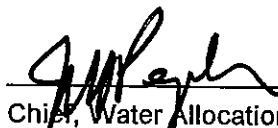
6. Diversion from Mores Creek under this right is limited to those times water is available for diversion under this right and priority from Minneha Creek. Availability of water from Minneha Creek shall be determined based on the lesser of the flow in Minneha Creek at the authorized point of diversion or at the mouth of Minneha Creek. The total instantaneous diversion of water from all points of diversion under this right shall not exceed 1.94 cfs.
7. The total diversion of water from Mores Creek under Rights 63-5332 and 65-5334 shall not exceed 1.12 cfs.
8. The right holder shall designate one person who is responsible for monitoring and recording the flow rates measured and diverted from the various sources and points of diversion from the sources described by these water rights. Every year the main address and telephone number of the person responsible for monitoring and recording shall be sent to the Department of Water Resources prior to the irrigation season. Any change in the responsible person must be sent to the department within one week following the change. The notice of the responsible person must also reference the water rights that are being monitored and recorded.
9. The person in charge of monitoring and recording the diversion of water must submit measurement records for the first two (2) years of water use. Following the first two years of water use, reports need not be submitted to the department unless specifically required by subsequent written request by the department.
10. Use of water under this right will be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 63.
11. The right holder shall maintain lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion.
12. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.5 afa per acre at the field headgate for irrigation of the lands above.
13. This right is limited to the irrigation of 46 acres within the place of use described above in a single irrigation season.
14. The period of use for the irrigation described in this approval may be extended to a beginning date of 3/1 and an ending date of 11/15 provided that beneficial use of the water can be shown and other elements of the right are not exceeded. The use of water before 5/1 and after 10/1 is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than the date of this approval.
15. The quantity of water decreed for this water right for stockwater use is not a determination of historical beneficial use and shall not exceed 13,000 gallons per day.
16. The portion of Right 63-5334 used for conveyance losses limited to diversion from Minneha Creek is 1.02 cfs.

This water right is subject to all prior water rights and shall be administered in accordance with Idaho law and applicable rules of the Department of Water Resources.

Dated this 2nd day of May, 2003

MICROFILMED

MAY 21 2003

For  Chief, Water Allocation Bureau

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF TRANSFER NO.)
69538 IN THE NAME OF CHAPMAN)
RANCH LLC)
_____)

**ORDER GRANTING PETITION
FOR RECONSIDERATION**

On March 19, 2003, the Department of Water Resources ("Department") issued a Preliminary Order approving the transfer captioned above ("transfer").

On March 28, 2003, Wilderness Ranch Owners Association, Inc., protestant, filed a Petition for Reconsideration ("petition") with the Department asking for reconsideration of the transfer and/or postponement of further action until the parties can propose alternate language for conditions of approval of the transfer.

ORDER

The Department has reviewed the petition and HEREBY ORDERS that the petition is **GRANTED** under the following terms:

1. Granting of the petition does not represent Department agreement with any provision of the petition.
2. The parties shall propose alternate language for conditions of approval of the transfer on or before April 30, 2003.
3. The Department retains jurisdiction of the matter in order to review and consider any additional information submitted by the parties.

Dated this 31st day of March, 2003.



L. GLEN SAXTON, P.E.
Chief, Water Allocation Bureau

MICROFILMED
MAY 21 2003

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
TRANSFER OF WATER RIGHT
TRANSFER NO. 69538

This is to certify that: CHAPMAN RANCH LLC
737 N 7TH ST
BOISE ID 83702
(208)342-2563

has requested a change to the water right(s) listed below. This change in water right(s) is authorized pursuant to the provisions of Section 42-222, Idaho Code. A summary of the changes is also listed below. The authorized change for each affected water right, including conditions of approval, is shown on the following pages of this document.

Summary of Water Rights Before the Proposed Change

<u>Right</u>	<u>Origin/Basis</u>	<u>Priority</u>	<u>Rate</u>	<u>Volume</u>	<u>Acre Limit</u>	<u>Total Acres</u>	<u>Source</u>
63-5332	AJC/Beneficial Use	07/23/1900	0.2 cfs	N/A		10.0	CORRAL CREEK
63-5334	AJC/Beneficial Use	08/15/1889	1.94 cfs	N/A		46.0	MINNEHA CREEK

Purpose of Transfer (Changes Proposed)

<u>Current Number</u>	<u>Split</u>	<u>POD</u>	<u>POU</u>	<u>Add POD</u>	<u>Period of Use</u>	<u>Nature of Use</u>
63-5332	NO	NO	YES	YES	NO	NO
63-5334	NO	NO	YES	YES	NO	NO

Summary of Water Rights After the Approved Change

<u>Existing Right</u>	<u>New No. (changed portion)</u>	<u>Transfer Rate</u>	<u>Transfer Volume</u>	<u>Acre Limit</u>	<u>Total Acres</u>	<u>New No. (remaining portion)</u>	<u>Remaining Rate</u>	<u>Remaining Volume</u>	<u>Remaining Acre Limit</u>	<u>Remaining Total Acres</u>
63-5332	63-5332	0.2 cfs	59.6 af	10.0	60.0		N/A	N/A	N/A	N/A
63-5334	63-5334	1.94 cfs	221.6 af	46.0	60.0		N/A	N/A	N/A	N/A
COMBINED										
TOTALS		2.14 cfs	266.6 af	56	60		N/A	N/A	N/A	N/A

Detailed Water Right Description(s) attached

Dated this 18 day of March, 2003

For 
Chief, Water Allocation Bureau

SUPERSEDED

MICROFILMED

MAR 20 2003

WATER RIGHT NO. 63-5332
As Modified by Transfer No. 69538

In accordance with the approval of Transfer No. 69538, Water Right No. 63-5332 is now described as follows.

Right Holder: CHAPMAN RANCH LLC
 737 N 7TH ST
 BOISE ID 83702

Priority Date: July 23, 1900

Source: CORRAL CREEK
 MORES CREEK

Tributary: MORES CREEK
 BOISE RIVER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
STOCKWATER	01/01 to	12/31	0.10 CFS	14.6 AF
IRRIGATION	04/01 to	11/01	0.10 CFS	45.0 AF
			0.20 CFS	59.6 AF

LOCATION OF POINT(S) OF DIVERSION:

CORRAL CREEK	SENE	Sec. 2 Twp 04N Rge 04E	BOISE County
MORES CREEK	NWNESW	Sec. 35 Twp 05N Rge 04E	BOISE County

PLACE OF USE: STOCKWATER, same as Irrigation

PLACE OF USE: IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
04N	04E	2		10.0	10.0	4.0	10.0												34.0
				L 2			L 3												
05N	04E	35								5.0	15.0	5.0				1.0			26.0

Total Acres: 60

CONDITIONS OF APPROVAL

1. The right holder shall accomplish the change authorized by this transfer within one (1) year of the date of this approval.
2. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
3. Pursuant to Section 42-1412(6), Idaho Code, this water right is subject to such general provisions necessary for the definition of the rights or for the efficient administration of water rights as may be determined by the Snake River Basin Adjudication court at a point in time no later than the entry of the final unified decree.
4. Prior to diversion of water under this approval, the right holder shall provide a means of measurement acceptable to the Department from all authorized points of diversion which will allow determination of the total rate of diversion. Measuring devices shall also be installed and maintained at a) the mouth of Corral Creek where it discharges into Mores Creek and b) the mouth of Minneha Creek where it discharges into Mores Creek.

SUPERSEDED

MICROFILMED
 MAR 20 2000

WATER RIGHT NO. 63-5332
As Modified by Transfer No. 69538

CONDITIONS OF APPROVAL

5. The total instantaneous diversion of water from all points of diversion under Rights 63-5332 and 63-5334 shall not exceed 2.14 cfs, nor total combined annual volume of 266.6 af and the irrigation of 56 acres within the place of use described above in a single irrigation season.
6. Diversion from Mores Creek under this right is limited to those times water is available for diversion under this right and priority from Corral Creek. Availability of water from Corral Creek shall be determined based on the lesser of the flow in Corral Creek at the authorized point of diversion or at the mouth of Corral Creek. The total instantaneous diversion of water from all points of diversion under this right shall not exceed 0.20 cfs.
7. The right holder shall designate one person who is responsible for monitoring and recording the flow rates measured and diverted from the various sources and points of diversion from the sources described by these water rights. Every year the main address and telephone number of the person responsible for monitoring and recording shall be sent to the Department of Water Resources prior to the irrigation season. Any change in the responsible person must be sent to the department within one week following the change. The notice of the responsible person must also reference the water rights that are being monitored and recorded.
8. The person in charge of monitoring and recording the diversion of water must submit measurement records for the first two (2) years of water use. Following the first two years of water use, reports need not be submitted to the department unless specifically required by subsequent written request by the department.
9. Use of water under this right will be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 63.
10. The right holder shall maintain lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion.
11. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.5 afa per acre at the field headgate for irrigation of the lands above.
12. This right is limited to the irrigation of 10 acres within the place of use described above in a single irrigation season.
13. The period of use for the irrigation described in this approval may be extended to a beginning date of 3/1 and an ending date of 11/15 provided that beneficial use of the water can be shown and other elements of the right are not exceeded. The use of water before 4/1 and after 11/1 is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than the date of this approval.
14. The quantity of water decreed for this water right for stockwater use is not a determination of historical beneficial use and shall not exceed 13,000 gallons per day.

This water right is subject to all prior water rights and shall be administered in accordance with Idaho law and applicable rules of the Department of Water Resources.

Dated this 18 day of March, 20 03

SUPERSEDED

MICROFILMED
For J. H. Peck
Chief, Water Allocation Bureau
MAR 21 2003

WATER RIGHT NO. 63-5334
As Modified by Transfer No. 69538

In accordance with the approval of Transfer No. 69538, Water Right No. 63-5334 is now described as follows.

Right Holder: CHAPMAN RANCH LLC
 737 N 7TH ST
 BOISE ID 83702

Priority Date: August 15, 1889

Source: MINNEHA CREEK
 MORES CREEK

Tributary: MORES CREEK
 BOISE RIVER

<u>BENEFICIAL USE</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	03/15	to 11/15	1.94 CFS	207.0 AF
STOCKWATER	01/01	to 12/31	0.03 CFS	14.6 AF
			1.94 CFS	221.6 AF

LOCATION OF POINT(S) OF DIVERSION:

MORES CREEK	NWNESW	Sec. 35 Twp 05N	Rge 04E	BOISE County
MINNEHA CREEK	NWSE	Sec. 36 Twp 05N	Rge 04E	BOISE County

PLACE OF USE: STOCKWATER, same as Irrigation

PLACE OF USE: IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
04N	04E	2		10.0	10.0	4.0	10.0												34.0
				L 2			L 3												
05N	04E	35								5.0	15.0	5.0				1.0			26.0

Total Acres: 60

CONDITIONS OF APPROVAL

1. The right holder shall accomplish the change authorized by this transfer within one (1) year of the date of this approval.
2. Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
3. Approval of this transfer does not preclude the opportunity for review of the validity of this water right in the ongoing Snake River Basin Adjudication.
4. Prior to diversion of water under this approval, the right holder shall provide a means of measurement acceptable to the Department from all authorized points of diversion which will allow determination of the total rate of diversion. Measuring devices shall also be installed and maintained at a) the mouth of Corral Creek where it discharges into Mores Creek and b) the mouth of Minneha Creek where it discharges into Mores Creek.
5. The total instantaneous diversion of water from all points of diversion under Rights 63-5332 and 63-5334 shall not exceed 2.14 cfs, nor total combined annual volume of 266.6 af and the irrigation of 56 acres within the place of use described above in a single irrigation season.

SUPERSEDED

MICHAEL R. HARRIS
 MAR 20 2003

WATER RIGHT NO. 63-5334
As Modified by Transfer No. 69538

CONDITIONS OF APPROVAL

6. Diversion from Mores Creek under this right is limited to those times water is available for diversion under this right and priority from Minneha Creek. Availability of water from Minneha Creek shall be determined based on the lesser of the flow in Minneha Creek at the authorized point of diversion or at the mouth of Minneha Creek. The total instantaneous diversion of water from all points of diversion under this right shall not exceed 1.94 cfs.
7. The right holder shall designate one person who is responsible for monitoring and recording the flow rates measured and diverted from the various sources and points of diversion from the sources described by these water rights. Every year the main address and telephone number of the person responsible for monitoring and recording shall be sent to the Department of Water Resources prior to the irrigation season. Any change in the responsible person must be sent to the department within one week following the change. The notice of the responsible person must also reference the water rights that are being monitored and recorded.
8. The person in charge of monitoring and recording the diversion of water must submit measurement records for the first two (2) years of water use. Following the first two years of water use, reports need not be submitted to the department unless specifically required by subsequent written request by the department.
9. Use of water under this right will be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, this water right is within State Water District No. 63.
10. The right holder shall maintain lockable controlling works of a type approved by the Department in a manner that will provide the watermaster suitable control of the diversion.
11. This right when combined with all other rights shall provide no more than 0.02 cfs per acre nor more than 4.5 afa per acre at the field headgate for irrigation of the lands above.
12. This right is limited to the irrigation of 46 acres within the place of use described above in a single irrigation season.
13. The period of use for the irrigation described in this approval may be extended to a beginning date of 3/1 and an ending date of 11/15 provided that beneficial use of the water can be shown and other elements of the right are not exceeded. The use of water before 5/1 and after 10/1 is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than the date of this approval.
14. The quantity of water decreed for this water right for stockwater use is not a determination of historical beneficial use and shall not exceed 13,000 gallons per day.
15. The portion of Right 63-5334 used for conveyance losses limited to diversion from Minneha Creek is 1.02 cfs.

This water right is subject to all prior water rights and shall be administered in accordance with Idaho law and applicable rules of the Department of Water Resources.

Dated this 18 day of March, 2003

SUPERSEDED

For *[Signature]*
Chief, Water Allocation Bureau

MAR 20 2003

JUN. 7, 1963

Claim No. ~~65~~²-5334

STATE OF IDAHO

Department of Water Resources
Western Regional Office

DEPARTMENT OF WATER RESOURCES

RECEIVED

JUN 7 1983

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 Horace Chapman and Earl Chapman

(Name of Claimant)

c/o Idaho City Stage, Boise, ID 83706

Telephone No. 343-0076

(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) August 15, 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)

Minneha Cr. (aka Minnehaha Cr.) tributary to Mores Creek

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

(Both dates inclusive)

{Mo., Day}

(Mo., Day)

(cfs, af)	(Domestic, Irrigation, Stock, Etc.)	(Mo., Day)	(Mo., Day)
Quantity <u>3.2 cfs</u>	Use <u>Irrigation & stock</u>	Period of Use From <u>May 1</u>	To <u>October 1</u>
Quantity _____	Use <u>water</u>	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) 3.2 cfs TOTAL QUANTITY USED.
(cfs. af)

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

NW 1 SE 1/4, Sec. 36 Twp. 5N Rge. 4E B.M., County of Boise

Additional points of diversion: See attached map

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. Diversion dam, reservoir and headgate, approximately 2 miles of ditch
approximately 2' x 3' in dimension.

(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 50 A.

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: 70 head of cattle

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

[illegible]

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.

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.

Sworn to before me this 2nd day of June, 19 83

My commission expires Life

6-7-83 FOR DEPARTMENT USE ONLY

Received by SRL Date 6/6/83 Exception filed by: _____ Forwarded to _____ Date _____

Prelim. check by GLS Date 3/14/84 claimant by: _____

\$30.00 fee received by JP Date 6/17/83 28955

Published in the Ocala Star _____

Dates 3/28 & 4/4/84 _____

For
Dates

Location of Point of Diversion,
and Irrigated field

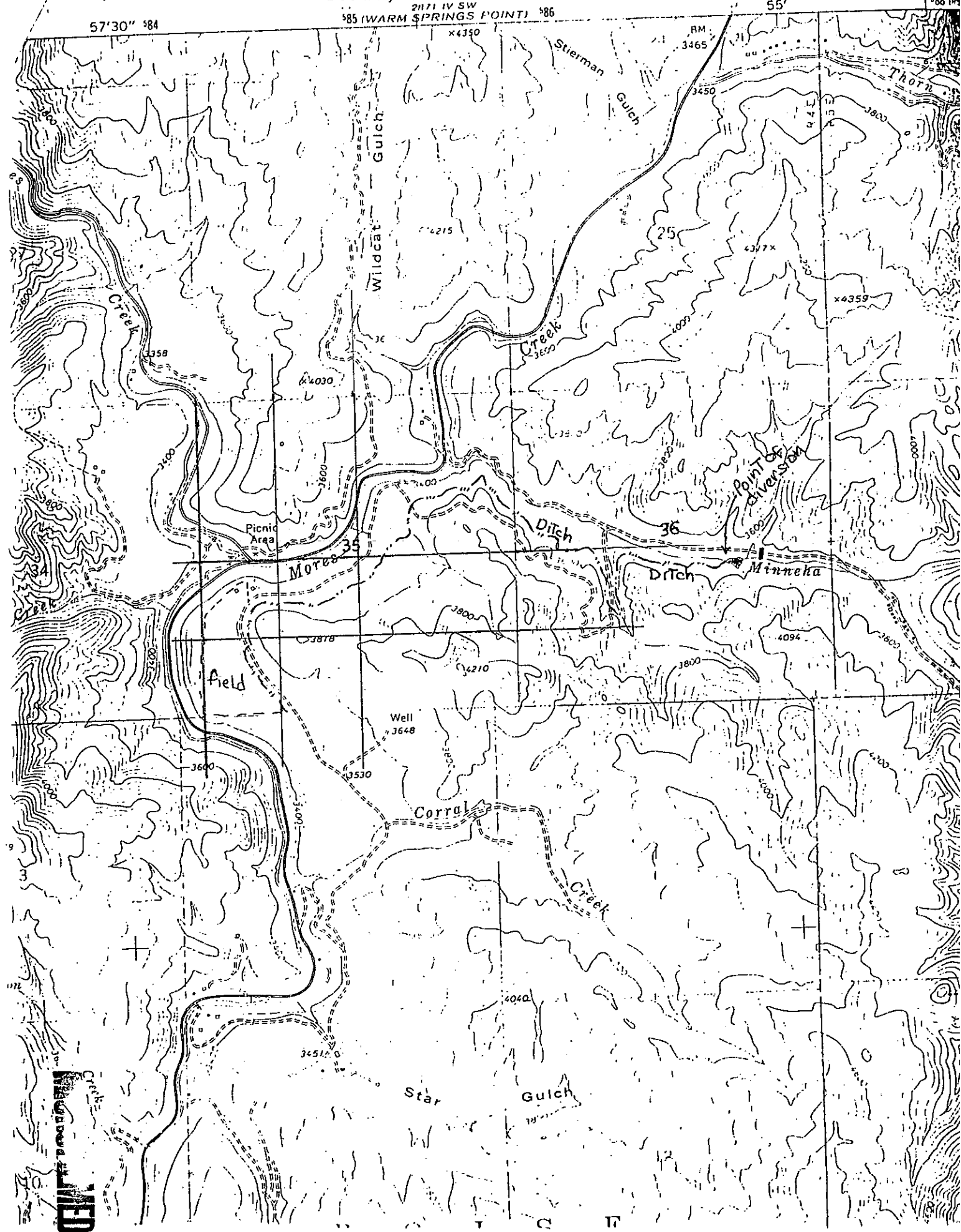
1.5N., R.4E. B.M.

2171 IV SW
985 (WARM SPRINGS POINT) 986

57°30" 984

55'

988



Minnehaha

Notice of Water Right

Boise County L. I. Aug 15th 1889.

Notice is hereby given that the undersigned ^{has} located and claims 500 inches of water to be taken from this Gulch for mining purposes. Said right is situated in Minnehaha Gulch and commencing at or near the old station or crossing of said Minnehaha Gulch or creek and conveying water on to the site of what is known as the logging camp.

Recorded at the request of J. J. Elliott Aug 15th 1889
 Wm Warner Recorder

State of Idaho

County of Boise

} SS.

I hereby certify that the foregoing instrument is a full true and correct copy of the original recorded in this office.

MICRO

Minnehaha

Notice of Water Right

Boise County I. T. Aug 15th 1889.

Notice is hereby given that the undersigned ^{has} located and claims 500 inches of water to be taken from this gulch for mining purposes. Said right is situated in Minnehaha Gulch and commencing at or near the old station or crossing of said Minnehaha Gulch or creek and conveying water on to the site of what is known as the logging camp.

Recorded at the request of J. J. Elliott Aug 15th 1889
 Wm Warner Recorder

State of Idaho

County of Boise

SS.

I hereby certify that the foregoing instrument is a full true and correct copy of the original recorded in this office.

Dated May 20, 1889

ARLENE C. KOLAR, Auditor and Recorder

By James H. Kolar
Deputy

MICROFILMED

State of Idaho }
County of Boise } SS.

I hereby certify that the foregoing instrument is a full true and correct copy of the original recorded in this office.

Dated July 20, 1895
ARLENE C. KOLAR, Auditor and Recorder
By [Signature] Deputy

Notice of Water Right.

State of Idaho } ss.
County of Boise }

To all Concerned:

Notice is hereby given:

- 1st That J. F. High of Moons Creek District of Moons Creek, Boise Co., Idaho hereby claims the use of the waters of Minnehaha Gulch to the extent of 2 cubic feet per second.
 - 2^d It is intended to divert said water by changing the point of diversion of branches from ditch $\frac{1}{2}$ mi below on said stream, at or near the point where a copy of this notice is posted and more definitely described as follows: at the forks of the north and south Minnehaha Gulches, being about $\frac{1}{4}$ miles from the mouth of said Minnehaha Gulch.
 - 3^d The purpose for which said water is intended to be used is mining irrigating and domestic purposes. The place of intended use is on bench ground south side of Moons Creek near what is known as the old "Elliott Ranch."
 - 4th It is intended to divert said water by means of a ditch. The general course of the proposed canal is West. The length of the proposed canal is Four miles. It is intended to use said water for irrigating the following described lands: That certain bench ground on south side Moons Creek being 80 acres more or less, said parcel of ground being situate just below Log Camp Flat.
 - 5th It is intended to have the works for diversion and use of said water as aforesaid completed within five years.
- Witness my hand at Moons Creek Boise County Idaho this 22 day of July 1895.

J. F. High

Cl.

RECORDED

State of Idaho } ss
County of Boise }

J. F. High being first duly sworn, deposes and says that he is of lawful age and is claimant of the Water Right mentioned in the foregoing notice and whose name is subscribed thereto. That the statements in the said notice are true, and that the original notice of which the foregoing is a true copy, was posted in a conspicuous place at or near the place of intended diversion (as provided by law) on the 22 day of July, 1895 at 10 o'clock A.M.

J. F. High

Subscribed and sworn to before me this 1 day of August 1895
(Seal) W. F. Connaughton
County Recorder

State of Idaho } ss
County of Boise }

I hereby certify that this instrument was filed for record at request of J. F. High at 25 minutes past 7 o'clock P.M. this 1 day of August AD 1895.

W. F. Connaughton
County Recorder

State of Idaho } ss.
County of Boise }
I hereby certify that the foregoing instrument is a full true and correct copy of the original recorded in this office.
Dated Aug 30 1895
ARLENE C. KOLAR, Auditor and Recorder
By [Signature] Deputy

Notice of Water Right

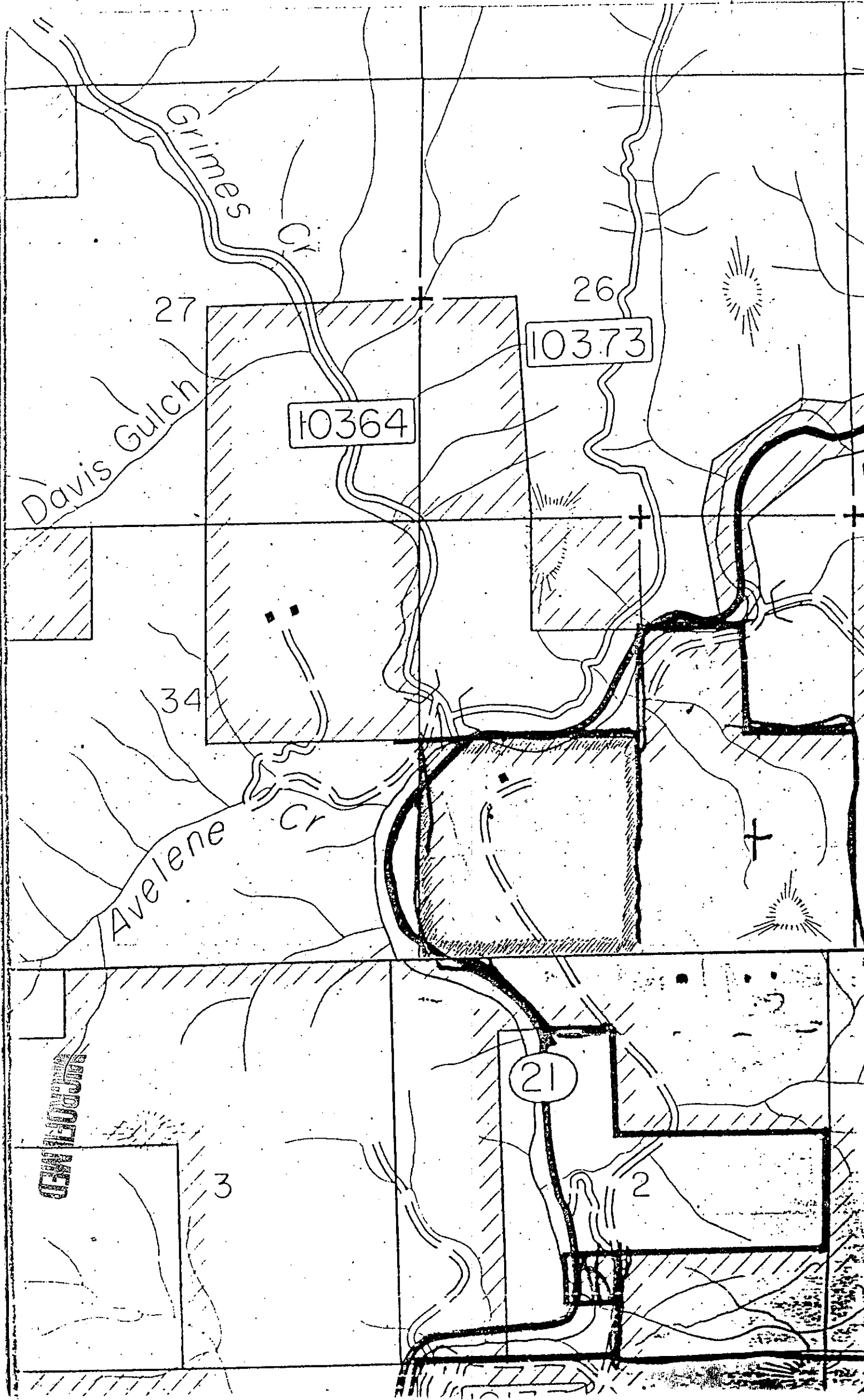
State of Idaho } ss.
County of Boise }

To all Concerned:

Notice is hereby given:

- 1st That we the undersigned citizens of the United States hereby claim the use of the waters of West Fork of Charlotte Gulch to the extent of 3 cubic feet per second.
- 2nd It is intended to divert said water at or near the point where a copy of this notice is posted and more definitely

MICROFILMED





COURT DISTRICT, FOURTH JUDICIAL, ADA Case No. 60122
CAPTION ADAMS & CHAPMAN, IN THE MATTER OF
DEPOSITION OF MINNIE ANN LAFLIN Taken on FEBRUARY 16, 197
Mailed or delivered to the Clerk of the District Court on MARCH 18, 1977
NOTICE OF FILING TO: MARCUS & MARCUS
JOSEPHINE P. BEEMAN
GLEN SAXTON

CHANGES OR CORRECTIONS:

Page 2	Line 1	"Royce" should be "Roice"
Page 2	Line 2	"Royce" should be "Roice"
Page 2	Line 10	"Auburn" should be "Osburn"
Page 2	Line 23	"Robert Lee" should be "R. Dee"
Page 3	Line 23	"card" should be "cord"
Page 4	Line 2	should read, "we followed the loggers"
Page 7	Line 23	Delete, "flat"
Page 14	Line 18	"out" should be "off"
Page 16	Line 23	Delete, "that I was bore it out."

MICROFILMED

STATE OF IDAHO, }
County of Boise }

Rose Gudgeon, being
duly sworn, deposes and says:
that he is the manager and prin-
cipal clerk of THE IDAHO
WORLD, a weekly newspaper
published at Idaho City, in the
County of Boise and State of Ida-
ho; that said paper has been and
is in general circulation in the
county aforesaid, and in the vi-
cinity of Idaho City; that the
advertisement, a copy of which is
hereto attached, was published in
said newspaper once a week for
thru... consecutive weeks in
the entire and regular issue of
every number of said paper dur-
ing the period and time of publi-
cation and was published in the
newspaper and not a supplement;
that said paper has been estab-
lished and regularly and continu-
ously published for more than
seventy-eight weeks past previ-
ous to the first publication of
this notice. Such notice was pub-
lished in the issue beginning with

April 18, 1984 and end-

ing with the issue of *April 25*
19 *84*.

Rose Gudgeon

Subscribed and sworn to before

me this *7th* day of *May*, 19*84*
L. S. Hoffman

RECEIVED
MAY 10 1984
Department of Water Resources
Western Regional Office

Wednesday, Apr:

LEGAL NOTICES

NOTICE OF CLAIMS TO WATER RIGHTS

The following claim(s) have been filed on
water right(s) created by diversion and bene-
ficial use:

63-5232

BRASSEY, VERNON K.

3200 TREASURE, BOISE, ID 83703

Source: WOLF CREEK TRIB. to GRANITE
CREEK

Priority Date: 02/03/1913

Diversion Pt.: Lot 07 (NESW) Sec 23 T 07N R 04E

use: IRRIGATION	(1.20 CFS)
MINING	(1.00 CFS)
DOMESTIC	(0.12 CFS)
MINING	(1.00 CFS)
DOMESTIC	(0.12 CFS)

In: LOT 03 (SWNW) LOT 04 (SENW) LOT 07
(NESW) Sec 23 T 07N R 04E NESW
(Sec 23 T 07N R 04E FOR 60 ACRES,

63-5324

MT. HO MINING

C/O ELAINE EDGERTON, 6402 NORTHVIEW,
BOISE, ID 83704

Source: GRANITE CREEK, WEST FORK
TRIB. TO GRIMES CREEK

Priority Date: 03/15/1942

Diversion Pt: SWNE Sec 16 T 07N R 04E

Use: MINING (0.08 CFS)

In: NENE NWNE SWNE SENE NENW NWNW
SWNW SENW NWSE Sec 16 07N R 04E

63-5332

CHAPMAN, HORACE &/or EARL

C/O IDAHO CITY STAGE, BOISE, ID 83706

Source: CORRAL CREEK trib. to MORES
CREEK

Priority Date: 07/23/1900

Diversion Pt.: SWNE Sec 02 T 04N R 04E

Use: IRRIGATION (0.10CFS)
STOCKWATER (0.10CFS)

In: SWNE Sec 02 T 04 R 04E FOR 10 ACRES

63-5334 - See too!

CHAPMAN, HORACE &/or EARL

C/O IDAHO CITY STAGE, BOISE, ID 83706

Source: MINNEHA CREEK trib. to MORES
CREEK

Priority Date: 08/15/1889

Diversion Pt: NWSE Sec 36 T 05N R 04E FOR
50 ACRES

Exceptions to a claim may be filed with the
Director, Dept. of Water Resources, Western
Region, Statehouse, Boise, Idaho 83720.

KEN DUNN, Dir.

Published in the Idaho World, Idaho City, ID
on March 28, and April 4, 1984

NOTICE OF CLAIMS TO WATER RIGHTS

The following claim has been filed on water
right created by diversion and beneficial use:
63-5334 ✓JP

CHAPMAN, HORACE &/or EARL
C/O IDAHO CITY STAGE, BOISE 83706
Source: MINNEHA CREEK trib. to MOORES
CREEK

Priority Date: 08/15/1889

Diversion Pt.: NWSE Sec 36 T 05N R 04E

Use: Irrigation (3.20CFS)
Stockwater (3.20CFS)

In: NWSW SWSW Sec 35 T 05N R 04E for 50
acres.

Exceptions to a claim may be filed with the
Director, Dept. of Water Resources, Western
Region, Statehouse, Boise, ID 83720.

KEN DUNN, Dir.

Published in the Idaho World in Idaho City, ID
on April 18, 25, 1984.

**STARTING
RIGHT
SIDE OF
FILE**

CLAUDE V. MARCUS
CRAIG MARCUS
BARRY MARCUS*
GALE M. MERRICK
MICHAEL CHRISTIAN†
TRENT MARCUS
DANIEL R. HARDEE

MARCUS, MERRICK, CHRISTIAN & HARDEE LLP

LAW OFFICES
THE MARCUS LAW BUILDING
737 NORTH 7TH STREET
BOISE, IDAHO 83702-5595

TELEPHONE
(208) 342-3563
TELEFAX
(208) 342-2170

RECEIVED**MAY - 1 2003**

Department of Water Resources

April 30, 2003

*Also Admitted to the California State Bar
† Also Admitted to the Washington State Bar

Idaho Department of Water Resources
Attn: Karl Dreher, Director
1301 N. Orchard St.
Boise, ID 83720-0098

Re: Transfer No. 69538 (Chapman Ranch, LLC)

Dear Mr. Dreher:

The undersigned have agreed that the following condition may be added to Paragraph 5 of the Approvals issued March 18, 2003 with respect to Water Right Nos. 63-5332 and 63-5334 in the above transfer application proceeding:

"The total diversion of water from Mores Creek under both water rights shall not exceed 1.12 cfs."

The Objection filed by Wilderness Ranch Owners Association, Inc., to the above referenced Approvals is hereby withdrawn, upon insertion of the above condition.

Thank you for your assistance.

Very truly yours,

Givens Pursley, LLP

By 

Michael C. Creamer
Attorneys for Protestant, Wilderness
Ranch Owners Association, Inc.

MARCUS, MERRICK, CHRISTIAN & HARDEE, L.L.P.

By 

Barry Marcus
Applicant,
Chapman Ranch, LLC

MICROFILMED**MAY 2 1 2003**

FAX COVER SHEET

DATE: Wednesday, April 30, 2003

PAGES (INCLUDING COVER): 2

ORIGINAL TO FOLLOW: No

From:

MICHAEL C. CREAMER
GIVENS PURSLEY LLP
Suite 200, Park Place
277 North Sixth Street
Post Office Box 2720
Boise, Idaho 83701-2720
Telephone: (208) 388-1200
Facsimile: (208) 388-1300
Email: mcc@givenspursley.com
Web: www.givenspursley.com

RE: Wilderness Ranch Owners' Association—Chapman Ranch Transfer
Our File No. 4477-4

TO:

	Voice	Fax
Glen Saxton	327-7955	327-7866
Gary Spackman	334-2190	334-2348

MESSAGE:

Please see attached.

— Mike

RECEIVED

APR 30 2003

Department of Water Resources

If this fax does not transmit fully or is difficult to read, please contact
me or my secretary, Katrina Thomas, at (208) 388-1227.

CONFIDENTIALITY NOTICE

This facsimile may contain confidential information that is protected by the attorney-client or work product privilege. It is intended only for the use of the individual(s) named above. If you are not a named recipient or an employee responsible for delivering the facsimile, you are instructed not to deliver, distribute or copy this facsimile, nor should you disclose its contents or take any action in reliance on the information it contains. If you have received this facsimile in error, please notify us immediately by telephone to arrange for the return of the transmitted documents to us. Thank you.

S:\CLIENTS\4477-4\MCC Fax to Saxton & Spackman.DOC

MICROFILMED

MAY 21 2003

MARCUS MERRICK

02

CLAUDE V. MARCUS
CRAIG MARCUS
BARRY MARCUS
DALE M. MERRICK
MICHAEL CHRISTIAN
TRENT MARCUS
DANIEL R. HARDEE

LAW OFFICES
MARCUS, MERRICK, CHRISTIAN & HARDEE LLP

THE MARCUS LAW BUILDING
737 NORTH 7TH STREET
BOISE, IDAHO 83702-5595

TELEPHONE
(208) 342-3560
TELEFAX
(208) 342-2170

*Also Admitted to the California State Bar
† Also Admitted to the Washington State Bar

April 30, 2003

Idaho Department of Water Resources
Attn: Karl Dreher, Director
1301 N. Orchard St.
Boise, ID 83720-0098

Re: Transfer No. 69538 (Chapman Ranch, LLC)

Dear Mr. Dreher:

The undersigned have agreed that the following condition may be added to Paragraph 5 of the Approvals issued March 18, 2003 with respect to Water Right Nos. 63-5332 and 63-5334 in the above transfer application proceeding:

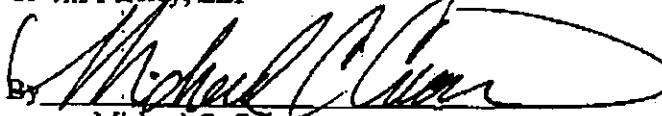
"The total diversion of water from Mores Creek under both water rights shall not exceed 1.12 cfs."

The Objection filed by Wilderness Ranch Owners Association, Inc., to the above referenced Approvals is hereby withdrawn, upon insertion of the above condition.

Thank you for your assistance.

Very truly yours,

Givens Pursley, LLP

By 

Michael C. Creamer
Attorneys for Protestant, Wilderness
Ranch Owners Association, Inc.

MARCUS, MERRICK, CHRISTIAN & HARDEE, L.L.P.

By 

Barry Marcus
Attorneys for Applicant,
Chapman Ranch, LLC

MICROFILMED

MAY 21 2003

RECEIVED

MAR 28 2003

Department of Water Resources

Michael C. Creamer (Idaho State Bar #4030)
GIVENS PURSLEY LLP
277 North 6th Street, Suite 200
P.O. Box 2720
Boise, ID 83701
Telephone: (208) 388-1200
Facsimile: (208) 388-1300
S:\clients\44774\pleadings\2003-03-28 chapman petition for recon.doc

Attorneys for Protestant Wilderness Ranch Owners Association, Inc.

**BEFORE THE DIRECTOR OF THE
IDAHO DEPARTMENT OF WATER RESOURCES**

**IN THE MATTER OF APPLICATION
FOR TRANSFER NO. 69538 IN THE
NAME OF CHAPMAN RANCH LLC**

**PETITION FOR
RECONSIDERATION AND/OR
FOR HEARING**

Protestant, Wilderness Ranch Owners Association, Inc., an Idaho non-profit corporation ("WROA"), by and through its attorneys Givens Pursley LLP, hereby petitions for reconsideration of the Department's Preliminary Order dated March 19, 2003 in the above-referenced Transfer No. 69538 ("Transfer"). The grounds for this Petition are as follows:

1. In an effort to resolve this matter short of a hearing, WROA entered into a Stipulation with the Applicant by which WROA and the Applicant agreed to the imposition of certain conditions on the Transfer. (Copy attached hereto as Exhibit A). In the Stipulation, WROA agreed that its Protest would be withdrawn provided that the

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MAY 21 2003

Department included the stipulated conditions in substantially the form agreed to by the parties in any Transfer approval.

2. Among the stipulated conditions is a condition limiting the quantity of water that the Applicant may divert from Mores Creek under the subject water rights to no more than 0.02 cfs per irrigated acre.

3. Among other things, the conditions in the Department's Preliminary Order authorize a diversion rate from Mores Creek that exceeds the 0.02 cfs per irrigated acre stipulated limitation.

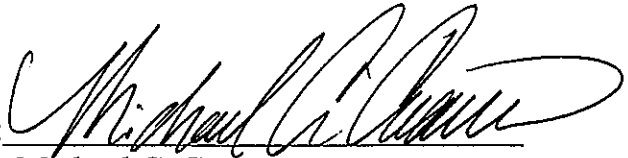
4. WROA received no notice from the Department prior to the issuance of its Preliminary Order indicating that it would not include the stipulated conditions.

5. Because the fundamental premise for WROA's conditional withdrawal of its Protest (i.e., the inclusion of the stipulated conditions in the Transfer approval) has not been met, WROA requests that the Department either reconsider its Preliminary Order, and revise its conditions to substantially conform with the Stipulation, or grant the WROA the opportunity for a hearing.

6. Counsel for WROA has spoken with Mr. Barry Marcus, who is counsel for the Applicant, and it is likely that the Parties will, in short order, be able to agree on, and present to the Department, amendatory language for the conditions contained in the Preliminary Order acceptable to the Department and the parties. However, as of the date of this Petition, Mr. Marcus is unavailable. WROA therefore requests that the Department withhold action on this Petition until Mr. Marcus is available and the parties have an opportunity to approach the Department together with such language.

DATED this 28th day of March, 2003.

GIVENS PURSLEY LLP

BY: 
Michael C. Creamer
Attorney for Protestant Wilderness
Ranch Owners Association, Inc.

CERTIFICATE OF SERVICE

I hereby certify that on this 28th day of March, 2003 I caused to be served a true and correct copy of the foregoing by the method indicated below, and addressed to the following:

Karl Dreher, Director
Idaho Department of Water Resources
1301 North Orchard Street
P.O. Box 83720
Boise, ID 83720-0098

X Hand Delivery
 U.S. Mail
 Overnight Mail
 Facsimile

Gary Spackman
Regional Manager
Western Regional Office
Idaho Department of Water Resources
2735 Airport Way
Boise, ID 83705-5082

 Hand Delivery
 U.S. Mail
 Overnight Mail
✓ Facsimile

Chapman Ranch LLC
c/o Mr. Barry Marcus
737 N. 7th Street
Boise, ID 83702-5595

 Hand Delivery
✓ U.S. Mail
 Overnight Mail
✓ Facsimile

COPY

Michael C. Creamer (ISB # 4030)

GIVENS PURSLEY LLP

P.O. Box 2720

277 No. 6th Street, Suite 200

Boise, Idaho 83701

Telephone: (208) 388-1200

Facsimile: (208) 388-1300

S:\clients\4477\4\Stipulation for Withdrawal of Protest (Final).doc

Attorneys for Wilderness Ranch Owners' Association, Inc.

EXHIBIT A

RECEIVED

MAR 29 2002

Givens Pursley, LLP

BEFORE THE DIRECTOR

IDAHO DEPARTMENT OF WATER RESOURCES

IN THE MATTER OF THE APPLICATION)
FOR TRANSFER NO. 69538 IN THE NAME) STIPULATION
OF CHAPMAN RANCH LLC)
_____)

Applicant Chapman Ranch LLC, an Idaho limited liability company ("Chapman"), and Protestant Wilderness Ranch Owners' Association, Inc., an Idaho non-profit corporation ("WROA"), through its attorneys Givens Pursley LLP, stipulate as follows:

1. Chapman has filed a transfer application ("Transfer Application") with the Department to change the point of diversion and place of use of water right nos. 63-5332 and 63-5334 authorized for irrigation and stockwater purposes (the "Chapman Rights"). The current sources and points of diversion for rights 63-5332 and 63-5334 are Corral Creek and Minneha Creek, respectively. Corral Creek and Minneha Creek each are tributary to Mores Creek.
2. WROA holds water rights ("WROA Rights") with points of diversion downstream from the points of diversion of the Chapman Rights. WROA has protested the Transfer Application.
3. WROA and Chapman agree that the following conditions of transfer approval will provide reasonable assurance of non-injury to the WROA Rights:

MICROFILMED

MAY 21 2003

- a) Diversion from Mores Creek under Right No. 63-5332 is limited to those times when water is available for diversion under such right and priority from Corral Creek at the original point of diversion of Right No. 63-5332.
 - b) Diversion from Mores Creek under Right No. 63-5334 is limited to those times when water is available for diversion under such right and priority from Minneha Creek at the original point of diversion of Right No. 63-5334.
 - c) Prior to diversion of water under the transfer approval, Chapman shall provide a location and method of measurement reasonably acceptable to the Department for measuring the flow in Minneha Creek and Corral Creek to confirm compliance with the above conditions.
 - d) The combined diversion rate under the Chapman Rights from Mores Creek for irrigation shall not exceed 0.02 cubic feet per second ("cfs") for each acre actually irrigated within the Osprey Subdivision, not to exceed 56 acres. Diversion under the Chapman Rights from Mores Creek for stockwater shall be limited to that amount reasonably necessary to provide for the actual number of livestock maintained from time to time within the Osprey Subdivision, provided that the combined diversion rate under the Chapman Rights for stockwater shall not exceed 0.13 cfs.
 - e) Chapman has filed claims in the Snake River Basin Adjudication ("SRBA") for the Chapman Rights, claiming among other things, the right to divert 3.20 cfs under right 63-5334 for the irrigation of 50 acres. WROA and Chapman anticipate that the Department will submit its recommendations for the Chapman Rights with the SRBA Court at some point after the Department's determination of the Transfer Application, and that the Department's recommendation for 63-5334 will be for irrigation of 46 acres. WROA and Chapman agree that if the SRBA Court decrees 63-5334 for irrigation of more than 46 acres, the transfer approval may be amended upon the Court's entry of a partial decree for Right 63-5334 to recognize any additional decreed acres, not to exceed 50 acres under Right 63-5334, and a combined total of 60 acres under the Chapman Rights. The Department shall retain jurisdiction over the transfer until the partial decrees for the Chapman Rights have been entered to permit amendment consistent with this condition, if appropriate.
4. Provided the Department will incorporate the above conditions in substantially the form set forth herein in any approval of the Transfer Application, WROA hereby agrees to withdraw its protest to the Transfer Application.

DATED this 27 day of March, 2002.

GIVENS PURSLEY LLP

BY: 

Michael C. Creamer
Attorneys for Protestant, Wilderness Ranch
Owners' Association, Inc.

CHAPMAN RANCH LLC

BY: 

CERTIFICATE OF SERVICE

I hereby certify that on this 27 day of March, 2002, I caused to be served a true and correct copy of the foregoing by the method indicated below, and addressed to the following:

Karl Dreher, Director
Idaho Department of Water Resources
1301 North Orchard Street
P.O. Box 83720
Boise, ID 83720-0098

☐ Hand Delivery
☒ U.S. Mail
☐ Overnight Mail
☐ Facsimile

Chapman Ranch LLC
737 N. 7th Street
Boise, ID 83702-5595

☐ Hand Delivery
☒ U.S. Mail
☐ Overnight Mail
☐ Facsimile

Michael C. Creamer
Givens Pursley LLP
277 North 6th Street, Suite 200
P.O. Box 2720
Boise, ID 83701-2720

☐ Hand Delivery
☒ U.S. Mail
☐ Overnight Mail
☐ Facsimile

Barry Marcus



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Boise, ID 83706 - P.O. Box 83720, Boise, ID 83720-0098
Phone: (208) 327-7900 Fax: (208) 327-7866 Web Site: www.idwr.state.id.us

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

April 1, 2003

CHAPMAN RANCH LLC
737 N 7TH ST
BOISE ID 83702

RE: Order In the Matter of Transfer No. 69538

Dear Water Right Holder(s):

Enclosed please find Order Granting Extension of Time to Complete Transfer issued by the department in reference to the above listed information.

If you have any questions regarding this matter, please call me at 327-7940.

Sincerely,


Jeff Peppersack, Manager
Water Right Permits Section

JP:klt

Enclosure

cc: Michael C. Creamer
Givens Pursley LLP
PO Box 2720
Boise, ID 83701

MICROFILMED

MAY 21 2003



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Boise, ID 83706 - P.O. Box 83720, Boise, ID 83720-0098

Phone: (208) 327-7900 Fax: (208) 327-7866 Web Site: www.idwr.state.id.us

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

March 19, 2003

CHAPMAN RANCH LLC
737 N 7TH ST
BOISE ID 83702

RE: Transfer No.: 69538 - Water Rights 63-5332, 63-5334
Transfer Approval Notice

Dear Water Right Holder(s):

The Department of Water Resources has issued the enclosed approved Transfer of Water Right(s). Please be sure to thoroughly review the conditions of approval and remarks listed on the approval document.

The Transfer of Water Right(s) is a PRELIMINARY ORDER issued by the Department pursuant to section 67-5243, Idaho Code. It can and will become a final order without further action by the Department unless the APPLICANT petitions for reconsideration or files an exception and/or brief within fourteen (14) days of the service date as described in the enclosed information sheet.

ANY PERSON aggrieved by any decision, determination, order or action of the Department and who has not previously been afforded an opportunity for a hearing on the matter may request a hearing pursuant to section 42-1701A(3), Idaho Code. A written petition contesting the action of the Department and requesting a hearing shall be filed within fifteen (15) days after receipt of the denial or conditional approval.

If the transfer approval includes a condition requiring measuring and recording devices, such devices shall comply with specifications established by the Department. Detailed specifications are available on the Department's homepage on the Internet, or you can request a copy by contacting any office of the Department. Please be sure to thoroughly review the specifications to avoid unnecessary costs for reinstallation or modification due to non-conforming or improperly installed devices.

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MAY 21 2003

Please note that water right owners are required to report any change of water right ownership and/or mailing address to the Department within 120 days of the change. Failure to report these changes could result in a \$100 late filing fee. Contact any office of the Department or visit the Department's homepage on the Internet to obtain the proper forms and instructions.

If you have any questions, please contact me at 208-327-7940.

Sincerely,



for Jeff Peppersack, Manager
Water Rights Permits Section

Enclosure(s)

cc: Scanlan Engineering
600 East River Park Ln, #105
Boise, ID 83706

Wilderness Ranch Owners Assn
c/o Michael C. Creamer
PO Box 2720
Boise ID 83701

MICROFILMED

MAY 21 2003

**EXPLANATORY INFORMATION
TO ACCOMPANY A
PRELIMINARY ORDER**

The accompanying order or approved document is a "Preliminary Order" issued by the department pursuant to section 67-5243, Idaho Code. It can and will become a final order without further action of the Department of Water Resources (department) unless a party petitions for reconsideration, files an exception and brief, or requests a hearing as further described below:

PETITION FOR RECONSIDERATION

Any party may file a petition for reconsideration of a preliminary order with the department within fourteen (14) days of the service date of this order. The department will act on a petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. See Section 67-5243(3) Idaho Code.

EXCEPTIONS AND BRIEFS

Within fourteen (14) days after (a) the service date of a preliminary order, (b) the service date of a denial of a petition for reconsideration from this preliminary order, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration from this preliminary order, any party may in writing support or take exceptions to any part of a preliminary order and may file briefs in support of the party's position on any issue in the proceeding with the Director. Otherwise, this preliminary order will become a final order of the agency.

REQUEST FOR HEARING

Unless a right to a hearing before the department or the Idaho Water Resource Board (Board) is otherwise provided by statute, any person aggrieved by any final decision, determination, order or action of the Director of the department and who has not previously been afforded an opportunity for a hearing on the matter may request a hearing pursuant to section 42-1701A(3), Idaho Code. A written petition contesting the action of the Director and requesting a hearing shall be filed within fifteen (15) days after receipt of the denial or conditional approval.

ORAL ARGUMENT

If the Director grants a petition to review the preliminary order, the Director shall allow all parties an opportunity to file briefs in support of or taking exceptions to the preliminary order and may schedule oral argument in the matter before issuing a final order. If oral arguments are to be heard, the Director will within a reasonable time period notify each party of the place, date and hour for the argument of the case. Unless the Director orders otherwise, all oral arguments will be heard in Boise, Idaho.

CERTIFICATE OF SERVICE

All exceptions, briefs, requests for oral argument and any other matters filed with the Director in connection with the preliminary order shall be served on all other parties to the proceedings in accordance with IDAPA Rules 37.01.01302 and 37.01.01303 (Rules of Procedure 302 and 303).



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Boise, ID 83706 - P.O. Box 83720, Boise, ID 83720-0098
Phone: (208) 327-7900 Fax: (208) 327-7866 Web Site: www.idwr.state.id.us

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

March 18, 2003

LEE SISCO
WATERMASTER
6616 OVERLAND RD
BOISE ID 83709

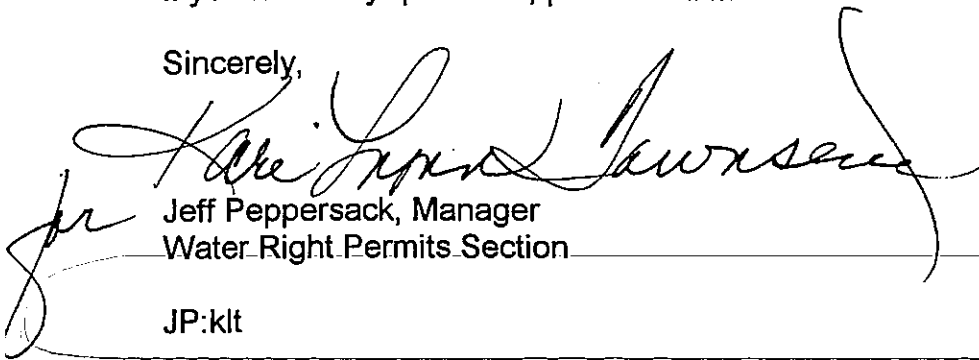
RE: TRANSFER OF WATER RIGHTS 63-5332, 63-5334 - (Transfer 69538)

Dear Lee:

Enclosed is a copy of the recently approved Transfer of Water Right for the above referenced water rights (Transfer 69538) in the name of Chapman Ranch LLC.

If you have any questions, please call me at 208-327-7940.

Sincerely,


Jeff Peppersack, Manager
Water Right Permits Section

JP:klt

Enclosure

MICROFILMED
MAY 21 2003

MEMORANDUM

TO: FILE 63-05334

FROM: VAULT

RE: TRANSFER # 69538

DATE: 2/08/02

=====

**Original Transfer Application, Form and correspondence regarding the above
referenced Transfer is located within:**

FILE # 63-05332

MICROFILMED

MAR 20 2003

State of Idaho
Department of Water Resources

CLAIM ANALYSIS SHEET

INITIAL REVIEW BY: GLS

Right Number 63-5334 Applicant Chapman ~~Chapman~~

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.

FINAL REGIONAL PROCESSING REVIEW:

- ☒ Affidavit of publication received.
- ☒ Claim published correctly. the ID. world
3/28 & 4/4/84 30/22935
- ☒ Exceptions processed.

By DBS Date 5/16/84

STATE OFFICE PROCESSING:

- ☒ Claim review complete.

By SC Date 5/16/84

RECEIVED

RECEIVED
MAY 16 1984

Department of Water Resources

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
Western Region

Statehouse
Boise, Idaho 83720
(208) 334-2190

APRIL 18, 1984

HORACE CHAPMAN
EARL CHAPMAN
C/O IDAHO CITY STAGE
BOISE

ID 83706

RE: Claim No. 63-5334

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.

Sincerely,
yours truly,

DAVID B. SHAW
Western Region Supervisor

Enclosure

RECORDED

63-5334-

CHAPMAN, HORACE &/or EARL

C/O IDAHO CITY STAGE, BOISE, ID 83706

Source: MINNEHA CREEK trib. to MORES CREEK

Priority Date: 08/15/1889

Diversion Pt: NWSE Sec 36 T 05N R 04E

Use: IRRIGATION	(3.20 CFS)
STOCKWATER	(3.20 CFS)

In: NWSW SWSW Sec 35 T 05N R 04E FOR 50 ACRES

RECORDED

TITLE IX. WATER RIGHTS AND IRRIGATION.

CHAPTER I.

WATER RIGHTS.

SECTION	SECTION
3155. Rights to water may be acquired by appropriation.	3161. Diligence in appropriation.
3156. Appropriation must be for a useful purpose.	3162. Completion defined.
3157. Point of diversion may be changed.	3163. Doctrine of relation applied.
3158. Water may be turned into natural channels.	3164. Forfeiture.
3159. First in time, first in right.	3165. Ditches, etc., heretofore made.
3160. Notice of appropriation.	3166. Rights of present claimant.
	3167. Recorder to keep book in which to record notices.

SECTION 3155. The right to the use of running water flowing in a river, or stream, or down a cañon or ravine, may be acquired by appropriation.

Right to water, how acquired. Act Feb. 10, 1881. §3155 Chap. I Am'd'd. Laws '85, pgs. 174, 183, 215.

SEC. 3156. The appropriation must be for some useful or beneficial purpose, and when the appropriator or his successor in interest ceases to use it for such a purpose, the right ceases.

Appropriation to be for useful purposes.

SEC. 3157. The person entitled to the use may change the place of diversion, if others are not injured by such change, and may extend the ditch, flume, pipe or aqueduct by which the diversion is made, to places beyond that where the first use was made.

Point of diversion may be changed.

SEC. 3158. The water appropriated may be turned into the channel of another stream and mingled with its water, and then reclaimed; but in reclaiming it the water already appropriated by another must not be diminished.

Water may be turned into natural channels.

SEC. 3159. As between appropriators, the one first in time is the first in right.

First in time, first in right.

SEC. 3160. A person desiring to appropriate water must post a notice in writing in a conspicuous place at the point of intended diversion, stating therein:

§3159 2 Idaho, pg. 1087
Notice of appropriation.

1. That he claims the water there flowing to the extent of (giving the number) inches, measured under a four inch pressure, and accurately describing the point of diversion;

2. The purpose for which he claims it, and the place of intended use;

3. The means by which he intends to divert it, and the size of the flume, ditch, pipe or aqueduct in which he intends to divert it; a copy of the notice must, within ten days after it is posted, be recorded in the office of the Recorder of the county in which it is posted.

SEC. 3161. Within sixty days after the notice is posted, the claimant must commence the excavation or construction of the works in which he intends to divert the water, and must prosecute the work diligently and uninterruptedly to completion, unless temporarily interrupted by snow or rain.

Diligence in appropriating. §3161 32 Pacific, pg. 251

SEC. 3162. By "completion" is meant conducting the waters to the place of intended use.

Completion defined.

SEC. 3163. By a compliance with the above rules, the claimant's right to the use of the water relates back to the time the notice was posted.

Doctrine of relation applied.

Forfeiture.

SEC. 3164. A failure to comply with such rules deprives the claimants of the right to the use of the water as against a subsequent claimant who complies therewith, except as provided in the next section.

§3165
2 Idaho,
pg. 489

Ditches, etc.,
heretofore
made.
11 sec., 268-9.

SEC. 3165. All ditches, canals, and other works heretofore made, constructed, or provided, by means of which the waters of any stream have been diverted and applied to any beneficial use, must be taken to have secured the right to the waters claimed, to the extent of the quantity which said works are capable of conducting, and not exceeding the quantity claimed, without regard to or compliance with, the requirements of this chapter.

Rights of
present claim-
ant.

SEC. 3166. Persons who have heretofore claimed the right to water, and who have not constructed works in which to divert it and who have not diverted nor applied it to some useful purpose, must, after this Title takes effect, and within ninety days thereafter, proceed as in this Title provided, or their right ceases.

Recorder to
keep book.

SEC. 3167. The Recorder of each county must keep a book, in which he must record the notices provided for in this Title.

CHAPTER II.

RIGHT OF WAY FOR DITCHES.

SECTION

3180. Right of land owners.
3181. Land owners entitled to right of way.
3182. When right of way is refused, to petition County Commissioners.
3183. Oath of appraiser; must hear proofs and make certificates.
3184. Rights of riparian owners.

SECTION

3185. Right of way.
3186. Ditches, etc., to be kept in good repair.
3187. Not to interfere with prior rights.
3188. Insufficiency of supply of water.
3189. Order of right to use of water; repair of ditches.
3190. Use of excess of water.

§3180
Chap. II Am'd'd
Laws '95, pgs.
174, 183, 215.

Right of land
owners.
11 sec., 269.

SECTION 3180. All persons, companies, and corporations, owning or claiming any lands situated on the banks or in the vicinity of any stream, are entitled to the use of the waters of such stream for the purpose of irrigating the land so held or claimed.

Land owners
entitled to
right of way.
11 sec., 269.

SEC. 3181. When any such owners or claimants to land have not sufficient length of frontage on a stream to afford the requisite fall for a ditch, canal, or other conduit on his own premises for the proper irrigation thereof, or where the land proposed to be irrigated is back from the banks of such stream, and convenient facilities otherwise for the watering of said lands cannot be had, such owner or claimants are entitled to a right of way through the lands of others, for the purposes of irrigation; *Provided*, That in the making, constructing, keeping up, and maintenance of such ditch, canal or conduit, through the lands of others, the person, company, or corporation, proceeding under this section, and those succeeding to the interests of such person, company, or corporation, must keep such ditch, canal, or other conduit in good repair, and are liable to the owners or claimants of the lands crossed by such work or aqueduct, for all damages occasioned by the overflow thereof, or resulting from any neglect or accident (unless the same be unavoidable) to such ditch or aqueduct.

To keep
conduit in
good repair.

Damages.

When right
of way is
refused.
11 sec., 269.

SEC. 3182. In case of the refusal of the owners or claimants of any lands through which such ditch, canal, or other works are proposed to be made or constructed, to al-

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RECEIVED

State of Idaho }
County of Boise }

J. F. High being first duly sworn, deposes and says that he is of lawful age and is claimant of the Water Right mentioned in the foregoing notice and whose name is subscribed thereto. That the statements in the said notice are true, and that the original notice of which the foregoing is a true copy, was posted in a conspicuous place at or near the place of intended diversion (as provided by law) on the 22 day of July 1895 at 10 o'clock A.M.

J. F. High

Subscribed and sworn to before me this 1 day of August 1895
(Seal)

W. F. Connaughton

County Recorder

State of Idaho }
County of Boise }

I hereby certify that this instrument was filed for record at request of J. F. High at 25 minutes past 7 o'clock P.M. this 1 day of August AD 1895.

W. F. Connaughton

Ex officio Recorder

State of Idaho }
County of Boise } SS.

I hereby certify that the foregoing instrument is a full true and correct copy of the original recorded in this office.

Dated May 30, 1983

ARLENE C. KOLAR, Auditor and Recorder

By [Signature]
Deputy

Notice of Water Right

State of Idaho }
County of Boise }

To all Concerned:

Notice is hereby given:

- 1st That we the undersigned citizens of the United States hereby claim the use of the waters of West Fork of Charlotte Gulch to the extent of 3 cubic feet per second.
- 2nd It is intended to divert said waters at or near the point where a copy of this notice is posted and more definitely

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State of Idaho

SS.

County of Boise

I hereby certify that the foregoing instrument is a full true and correct copy of the original recorded in this office.

Dated May 20, 1893
ARLENE C. KOLAR, Auditor and Recorder

By [Signature]
Deputy

Notice of Water Right.

State of Idaho } ss.
County of Boise }

To all Concerned:

Notice is hereby given:

- 1st That J. F. High of Moons Creek District of Moons Creek, Boise Co., Idaho hereby claims the use of the waters of Minnehaha Gulch to the extent of 2 cubic feet per second.
 - 2^d It is intended to divert said water by changing the point of diversion of Minnehaha from ditch $\frac{1}{2}$ mi below on said stream, at or near the point where a copy of this notice is posted and more definitely described as follows: at the forks of the north and south Minnehaha Gulches, being about $\frac{1}{4}$ mile from the mouth of said Minnehaha Gulch.
 - 3^d The purpose for which said water is intended to be used is mining irrigating and domestic purposes. The place of intended use is on bench ground south side of Moons Creek near what is known as the old "Elliott Ranch."
 - 4th It is intended to divert said water by means of a ditch. The general course of the proposed canal is West. The length of the proposed canal is 7 acres miles. It is intended to use said water for irrigating the following described lands: That certain bench ground on south side Moons Creek being 80 acres more or less, said parcel of ground being situated just below Log Camp Flat.
 - 5th It is intended to have the works for diversion and use of said water as aforesaid completed within five years.
- Witness my hand at Moons Creek Boise County Idaho this 22 day of July 1895.

J. F. High Claimant

MICROFILMED

POOR QUALITY ORIGINAL

63-5334

APPROVAL OF STATE ENGINEER

The number of this permit is 5569
Date of first receipt of application: 4.00 P.M. December 15, 1909
Recorded in Book 16, page 5569, Approved December 15, 1909

This is to certify that I have examined the within application for a permit to appropriate the public waters of the State of Idaho and hereby grant the same, subject to the following limitations and conditions:

Work to begin on or before February 13, 1910 and to continue diligently and uninterruptedly to completion, unless temporarily interrupted by circumstances over which permit holder has no control.

One-fifth of the work above specified to be completed on or before June 15, 1911.

The whole of said work to be completed on or before December 15, 1912.

The time for proof of beneficial use of water appropriated in accordance herewith, extended to December 15, 1914.

Witness my hand this 15th day of December, 1909.

Jas Stephenson, Jr
State Engineer.

Proof of completion of works received December 17, 1912
Fee Received May 1, 1913

Certificate of completion of works issued May 10, 1913.

PERMIT NO. 5569
CERTIFICATE OF COMPLETION OF WORKS.

To all Whom It May Concern:

This is to certify that Robert D. Swan of Idaho City, County of Boise, and State of Idaho, the holder of Permit No. 5569, issued upon Application No. 8069, bearing date of priority of December 15, 1909, authorizing the diversion of 3.2 second feet of the waters of Minneha Creek, County of Boise, State of Idaho, for irrigation and domestic purposes, has fully complied with the provisions of the laws of the State of Idaho relating to the proof of completion of the works of diversion set out and described in said permit: That said works are adequate for diverting and conveying to the place of intended use 3.2 second feet of the water in Minneha Creek, that the point of diversion of said waters is in SE $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 36, T. 6 N.R. 4 E.B.M., and that the lands to be irrigated by the use of said water are described as follows, to-wit: SW $\frac{1}{4}$ Sec. 35, T. 5 N. R. 4 E.B.M. containing 160 acres.

RECORDED

18

POOR QUALITY ORIGINAL

-2-

State of Idaho

-to-

Robert D. Swan

APPLICATION FOR PERMIT TO APPROPRIATE
THE WATERS OF THE STATE OF IDAHO
Filed April 9th, 1935
Book 9 Miscellaneous Page 308

1. Name of applicant: Robert D. Swan, Postoffice Address:
Swan's Ranch, Idaho City Road,
County: Boise State: Idaho
 2. The quantity of water claimed is 3.2 cubic feet per second
 3. Source of water supply: Minneha Creek, tributary to Mores
Creek, County of Boise.
 4. Location of point of diversion: SE $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 36, T. 5 N. R. 4
E.B.M.
 5. To be used for:
 - I. Irrigation and domestic use:
 - (a) Amount of land to be irrigated: 160 acres.
 - (b) In the following legal subdivisions: SW $\frac{1}{4}$ Sec. 36,
T. 5 N. R. 4 E.B.M.
 6. Estimated cost of works: \$500.00
 7. Description of works for diversion:
 - I. Kind of works: Ditch
 - II. Dimensions of works:
 - (c) Size of headgate: Width 2 feet, height 2 feet.
 - (d) Conduit ditch, width at bottom 2 feet, width at
water line 2.5 feet, depth of water 1 foot. Average
grade per mile is 7 feet. Length of conduit is 2
miles, and it crosses the following quarter sections:
NW $\frac{1}{4}$, Sec. 36, NE $\frac{1}{4}$ Sec. 35, NW $\frac{1}{4}$, Sec. 35, and the
SW $\frac{1}{4}$ Sec. 35, in T. 5 N. R. 4 E.B.M to land des-
cribed in 5 1 (b) above which is the point of
intended use.
 8. The time required for the completion of the construction of
such work is 3 years.
 9. Time required for the complete application of the water to the
proposed use is 2 additional years.
- BE IT KNOWN That the undersigned hereby makes application for
a permit to appropriate the public waters of the State of Idaho
as herein set forth.

Robert D. Swan
Applicant.

RECORDED



Witness my hand this 10th day of May, A.D. 1913.

F. P. King
State Engineer of the
State of Idaho.

On proper request of the holder of the above numbered Permit I have this 16th day of October 1914, extended the time for Beneficial Use of Water thereunder to the 15th day of December, 1918.

Herbert Wing
Acting State Engineer.

Acknowledged on the 17th day of October 1934, by Paul L. Henry, Custodian of Records of the Department of Reclamation of the State of Idaho, to be a true and correct copy of the Permit to appropriate the Public Waters of the State of Idaho No. 5569, as appears of record in the Department of Reclamation. (STATE SEAL).

POOR QUALITY ORIGINAL

MICROFILMED

19

Mimnehaha

Notice of Water Right
Boise County I. I. Aug 15th 1889.

Notice is hereby given that the undersigned has located and claims 500 inches of water to be taken from this gulch for mining purposes. Said right is situated in Mimnehaha Gulch and conveying at or near the old station or crossing of said Mimnehaha Gulch or creek and conveying water on to the flat of what is known as the logging camp.

Recorded at the request of J. F. Elliott
Wm Warner Recorder Aug 15th 1889

RECORDED

State of Idaho }
County of Boise } SS.
I hereby certify that the foregoing instrument is a full true and correct copy of the original recorded in this office.
Dated May 20, 1983
ARLENE C. KOLAR, Auditor and Recorder
By [Signature]
Deputy

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

In the Matter of the Petition)
of BILL ADAMS, HORACE CHAPMAN)
and EARL CHAPMAN to perpetuate)
the testimony of Minnie Swan,)
Bill Adams and George Emerson.)

Case No. 60122

NO.

FILED

A.M.

P.M.

JUN - 1 1983

JOHN BASTIDA, Clerk
By MARY A. LINDE
DEPUTY

DEPOSITION OF GEORGE HAROLD EMERSON, taken

at the instance of Bill Adams, Horace Chapman and
Earl Chapman, at the Law Offices of Marcus & Marcus,
737 North Seventh Street, in the City of Boise, State
of Idaho, commencing at 2:00 p.m. on Wednesday,
September 21, 1977, before JOHN C. TUCKER, CSR, a
Notary Public in and for the State of Idaho, pursuant
to stipulation by and between counsel, and in
accordance with the Idaho Rules of Civil Procedure.

APPEARANCES:

For Petitioners

MARCUS & MARCUS
by BARRY MARCUS, Esq.
737 North Seventh Street
Boise, Idaho 83702

For Idaho
Department of
Water Resources

JOSEPHINE P. BEEMAN
Assistant Attorney General
Department of Water Resources
Statehouse
Boise, Idaho
(Not present)

COPY

VOLUME I

Page 1 to 13

TUCKER & ASSOCIATES
COURT AND DEPOSITION REPORTERS

POST OFFICE BOX 1625

BOISE, IDAHO 83701

TELEPHONE 345-3704

I N D E X

Examination by:

WITNESS

MR. MARCUS

MS. BEEMAN

George Harold
Emerson

1

--

E X H I B I T S

DEPOSITION EXHIBIT

PAGE

1. Map

6

1 BOISE, IDAHO, WEDNESDAY, SEPTEMBER 21, 1977, 2:00 P.M.

2
3
4 MR. MARCUS: This deposition is taken pursuant
5 to stipulation and the Idaho Rules of Civil Procedure
6 for the purpose of perpetuating George Emerson's
7 deposition.

8 The attorney representing the
9 Water Resources Board, Mrs. Beeman, is not present
10 by stipulation.

11 The deposition will be continued after
12 I have examined Mr. Emerson, in order to permit
13 Mrs. Beeman a chance to examine him.

1 GEORGE HAROLD EMERSON,
2 produced as a witness at the instance of Bill Adams,
3 Horace Chapman and Earl Chapman, after having first
4 been duly sworn, was examined and testified as
5 follows:

6
7 EXAMINATION

8 BY MR. MARCUS:

9 Q George, would you state your full name.

10 A George Harold Emerson.

11 Q How do you spell your last name?

12 A E-m-e-r-s-o-n.

13 Q Where do you reside?

14 A Idaho City, Idaho.

15 Q How long have you resided there?

16 A Thirty years.

17 Q What is your age?

18 A Seventy-five, in December.

19 Q What is your occupation at this time?

20 A I am retired.

21 Q What did you do prior to retirement?

22 A I worked for about 30 years for the
23 Reclamation, and accumulated three farms in that
24 same period. I operated the farms in connection
25 with my occupation.

1 Then when I moved to Idaho City, I
2 served two terms as Sheriff of Boise County and one
3 term, elected term, and one appointed as county
4 commissioner.

5 Q Now, did you work for the State
6 Reclamation Department?

7 A No. I worked for the Boise Reclamation
8 Project.

9 Q That was a federal government project?

10 A It was for the first three years that
11 I worked, and then it went into a private operation.

12 Q What did you do during that employment?

13 A My principal job was measuring water for
14 the Reclamation.

15 Q Did you have occasion to measure water
16 in Boise County?

17 A Only on occasion with the Soil Conservation
18 Service. On a couple of occasions, we took the
19 measurements in the existing -- of a couple of
20 existing wells to test the water depth.

21 Q Did you have occasion to measure the
22 snowpack?

23 A Yes.

24 Q While serving in that capacity?

25 A Yes, on Mores Creek Summit when the

1 25-station survey, and Bennock Creek, Bald Mountain-
2 25-station snow survey.

3 Then another one at Jackson at the head
4 of Pike's Fork, snow course.

5 I think that's all.

6 Q Are you acquainted with Bill Adams,
7 Horace Chapman, and Earl Chapman?

8 A Yes.

9 Q Are you acquainted with Adams Ranch,
10 the ranch that they owned?

11 A Yes.

12 Q Approximately where is that ranch located?

13 A It is in the area of Minneha and
14 Smith Creek.

15 Q Between those two creeks?

16 A I'm not familiar with the boundaries of
17 the ranch, but that is the boundaries that I am more
18 familiar with, because the road that I traveled went
19 up Smith Creek and through the Adams Ranch and down
20 Minneha, came out at Minneha.

21 Q Okay. That was the access road to get
22 to the ranch property?

23 A Yes.

24 Q Now, Minneha Creek and Smith Creek are
25 tributaries of what stream?

1 A Mores Creek.

2 Q Is that property located in Boise County?

3 A Yes.

4 Q When was the first time that you became

5 acquainted with that property at the Adams Ranch

6 property, in that general area of Smith Creek and

7 Minneha Creek?

8 A At that time, the first time I traveled

9 through that property was about in June of 1920.

10 Q Were you acquainted with the property

11 in that area, and did you have occasion to become

12 acquainted with what is going on in that area,

13 generally from 1920 up to the present time?

14 A Yes, I had occasion to, since I had

15 traveled both the old road and the new road for --

16 Q Now, where was the old road located in

17 that area?

18 A It went right through the Adams Ranch.

19 Q From Minneha Creek south, could you

20 generally describe the course of that old road?

21 A It contoured on around, meandered on

22 around on a bluff above the mouth of Grimes Creek,

23 and contoured on around to Minneha -- I'm not

24 familiar with how far up Minneha that the existing

25 ditch came out.

1 MR. MARCUS: Let's mark this as an exhibit,
2 please.

3 (Emerson Deposition Exhibit No. 1,
4 map, was marked for identification.)

5 MR. MARCUS: Let's go back on the record.

6 We have marked as Emerson Deposition
7 Exhibit No. 1 a Boise National Forest map, and it's
8 entitled "Dunnigan Creek Quadrangle."

9 Q BY MR. MARCUS: Now, referring your
10 attention to the map, George, on the map Minneha Creek
11 is shown, or the mouth of Minneha Creek is shown
12 first in Section 35.

13 MR. MARCUS: Let's go off the record just a
14 minute.

15 (Off the record discussion.)

16 MR. MARCUS: Back on the record.

17 Q BY MR. MARCUS: That's Township 5 north,
18 range 4 east, Boise Meridian.

19 Now, directing your attention to
20 Minneha Creek, George, did you have occasion to drive
21 up Minneha Creek past the Swan Place, Swan property?

22 I'm going back to your testimony about
23 being acquainted with this general area between
24 Minneha Creek and Smith Creek.

25 Does that generally go to what is called

1 the Swan Ditch, or the Minneha Ditch running out of
2 Minneha Creek and irrigating the property that lies
3 in Section 35, east of the State Highway 21?

4 A I had occasion to go up Minneha Creek
5 in about 1957 as dispatcher for the Forest Service,
6 when we had fires at the head of Minneha.

7 We had two or three fires start, and I
8 had occasion to go up. That was about 1957, but
9 not until then.

10 Q How many years did you serve as
11 dispatcher?

12 A About six years.

13 Q Are you acquainted with the use of the
14 water in that ditch that runs out of Minneha Creek
15 and irrigates what is known as the Old Swan Place?

16 A I saw water in an existing ditch along
17 the old road through the Swan Place, and also in
18 what is now known as the Adams property.

19 Q Now, were you acquainted with the
20 Swans, George? Do you know them?

21 A I knew of them, but not personally. I
22 remember the Swan property.

23 Q Now, on Deposition Exhibit No. 1, there
24 is a black mark that appears in Section 36 on
25 Minneha Creek, and there is also a broken blue line

1 that appears just south of the blue line that
2 represents Minneha Creek, and it generally follows
3 Minneha Creek on the south into Section 35, and
4 generally parallels Mores Creek into the southwest
5 corner of Section 35.

6 That broken blue line is identified on
7 the map as "ditch".

8 Does that depict the Minneha Ditch
9 that you were talking about that carried water to
10 the Swan Place?

11 A Well, since this pond is about a mile and
12 a half, approximately, up Minneha, I would have
13 reason to believe that in order to irrigate the
14 Swan property and continue down to the Adams property
15 on a grade, that I would be -- I assumed it would
16 have to run on a grade, on a degree to take it
17 ultimately down to the Adams property.

18 Then since I had seen the pond up there --
19 that was the head of the ditch -- it reasons that
20 it would have to contour on a grade to reach that
21 position.

22 Q So can you say from looking at the map,
23 George, that the broken blue line does represent
24 the approximate location of the Minneha Ditch?

25 A I would say it would be necessary to reach

1 the Adams property.

2 Q Okay. And the pond that you were
3 referring to is represented by a little blue dot in
4 Section 36?

5 A I wasn't familiar with what section, but
6 I remember seeing the pond.

7 Q But we are looking at the map now and
8 I am referring to the map.

9 A Yes, that would be in 36, yes.

10 Q In looking at the map, which is
11 Exhibit No. 1, is it fair to say that the Swan Place,
12 or the field that was irrigated by the ditch is in
13 the southwest corner of Section 35?

14 A It would be in relation to the old road.

15 Q We have marked an area by a dotted black
16 line that appears in the southwest corner of
17 Section 35 and lies west of the broken blue line
18 that represents the Minneha Ditch.

19 Now, is that the field that was irrigated
20 by the Minneha Ditch?

21 A Yes.

22 Q To the best of your recollection?

23 A To the best of my recollection, that is
24 the approximate location of that field, yes.

25 Q And we have marked that field as "field"

1 written on Exhibit No. 1.

2 Now, again, approximately how far up
3 Minneha Creek does the ditch take off from
4 Minneha Creek?

5 A I would say that the pond is probably
6 approximately a mile and a half from the mouth of
7 Minneha Creek.

8 Q And that's where the headwater of the
9 ditch is?

10 A Yes.

11 Q That's where the ditch takes off?

12 A It would have to be approximately that
13 to meet that destination.

14 Q Now, approximately what size was the
15 ditch, to the best of your recollection?

16 A I would guess it to be about 12 to
17 18 inches on the bottom.

18 Q Is that in width?

19 A Yes.

20 Q About how deep?

21 A It was variable in depth, of course.

22 Q Could you estimate the average depth
23 of it?

24 A It would be difficult, on account of
25 it was such an irregular course, that it would have

1 to be all the way from, oh, a foot to three feet,
2 depending on whether it was going through a cut or
3 not.

4 Q George, are you acquainted or is it
5 fair to say, then, that of your own knowledge, are
6 you acquainted with the use of the water that was
7 in Minneha Ditch from about 1920 up to the present
8 time?

9 A I seen it spread on the field below
10 the house, below the Adams house.

11 Q Now, to the best of your memory and of
12 your own knowledge, was there any five-year period
13 during the time from 1920 up to the present that
14 the water was not used in the ditch?

15 A To the best of my knowledge, it was
16 used continuously.

17 Q Is that --

18 A There was no such a thing as a five-year
19 period that I didn't travel the road. I traveled
20 it in one capacity or another.

21 Q Okay. So you were, for any given
22 five-year period, you were aware of the use of the
23 water in Minneha Ditch?

24 A Yes.

25 Q For irrigation purposes?

1 A. For irrigation purposes, yes.

2 Q. Now, from your own knowledge, approximately
3 when would the irrigation season have begun? We
4 are talking now about the Minneha Ditch; when, in
5 the year?

6 A. I first seen it in the month of June in
7 1920, but the seasons would vary with the amount of
8 snowfall, or the source of water would vary. The
9 amount of water would vary with the amount of snow.

10 Generally, it would be variable from
11 year to year.

12 Q. Generally speaking, when would the
13 irrigation season be, taking an average year, an
14 average water year?

15 A. Oh, it could be as early as May and
16 until the middle of September.

17 Q. To the best of your recollection, George,
18 what was the approximate size of the field that
19 was irrigated by that ditch?

20 A. The only way that I could possibly tell
21 is by estimating. It appeared to be, oh, at least
22 a 20-acre to maybe 30 acres in area.

23 Q. It would be the field that lies below
24 the ditch off the hill above Mores Creek?

25 A. Yes.

1 Q You said that you dispatched for the
2 Forest Service. What period of time did you
3 dispatch for the Forest Service?

4 A 1955 through 1960, about five years,
5 and then I continued on occasion to scale timber
6 for the Forest Service.

7 Q In what general area did that cover?

8 A Grimes Creek.

9 Q Is Grimes Creek shown on the map?

10 A Yes, it is.

11 MR. MARCUS: Off the record for just a minute.

12 (Off the record discussion.)

13 MR. MARCUS: Back on the record.

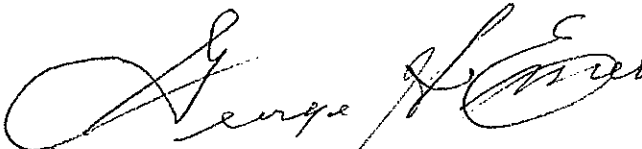
14 Q BY MR. MARCUS: George, can you recall
15 what crops, or types of crops were grown in the
16 field that was irrigated by the Minneha Ditch?

17 A Hay and pasture is about all I ever
18 observed, alfalfa hay and pasture.

19 MR. MARCUS: Those are all the questions I
20 have.

21 (The deposition concluded at 2:25 p.m.)

22 STATE OF IDAHO }
COUNTY OF ADA } SS.
I, John Bastida, Clerk of the District Court of the
Fourth Judicial District of the State of Idaho, in and for
the County of Ada, do hereby certify that the foregoing
is a true and correct copy of the original on file in this
office. In witness whereof, I have hereunto set my
hand and affixed my official seal this 1st
day of June, 1983
JOHN BASTIDA, Clerk
By Mary R. Linder Deputy

23 --o0o--
24
25 

VERIFICATION

STATE OF IDAHO)
) ss
County of Ada)

I, GEORGE HAROLD EMERSON, being first duly sworn
on my oath, depose and say:

That I am the witness named in the foregoing deposition,
consisting of pages numbered 1 to 13, inclusive;

That I have read the said deposition and know the contents thereof; that the questions contained therein were propounded to me; that the answers to said questions were given by me, and that the answers as contained therein (or as corrected by me therein) are true and correct.

George H. Emerson
Witness

Subscribed and sworn to before me this 1st day of

June, 1983
1977.

Alice L. Hoover
Notary Public for Idaho
Residing at Boise, Idaho

STATE OF IDAHO)
) ss
County of Ada)

On this 16th day of October, 1977, before me,
the undersigned, a Notary Public in and for said State,
personally appeared GEORGE HAROLD EMERSON, known to me to
be the person whose name is subscribed to the foregoing
Deposition and acknowledged to me that he executed same.

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

(SEAL)

Barry Marcus
Notary Public for Idaho
Residing at Boise, Idaho

Filed
10/28/77

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IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

In the Matter of the Petition	)	Case No. 60122
of BILL ADAMS, HORACE CHAPMAN	)	
and EARL CHAPMAN to perpetuate	)	RESPONSE OF DEPARTMENT OF
the testimony of Minnie Swan,	)	WATER RESOURCES TO
Bill Adams and George Emerson.	)	DEPOSITION OF GEORGE
	)	HAROLD EMERSON

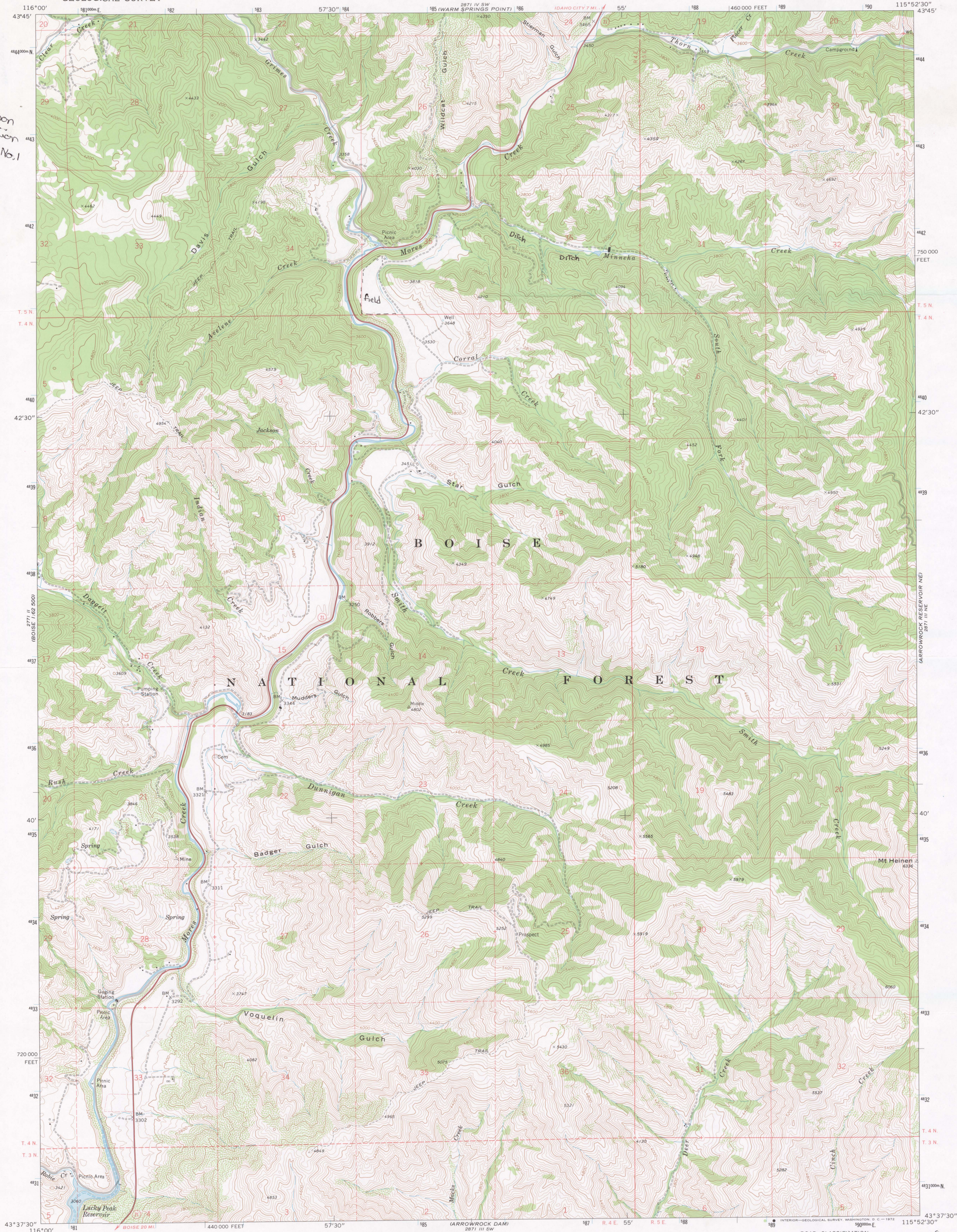
COMES NOW the Idaho Department of Water Resources,
by and through its undersigned Counsel, and states for the
record that after a review of the court reporter's transcription
of the deposition of George Harold Emerson, the Department of Water
Resources has no further questions which it would like to ask the
deponent beyond what is present in the deposition already on file.

DATED this 18th day of October, 1977.

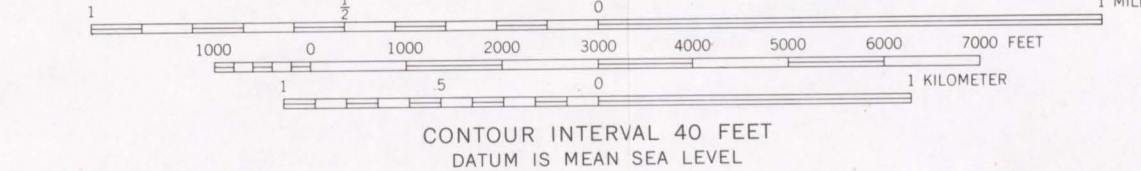
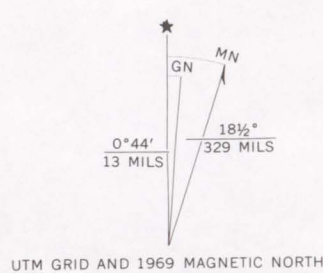
Josephine P. Beeman
JOSEPHINE P. BEEMAN
Assistant Attorney General
Legal Counsel, Idaho Department
of Water Resources

MICROFILMED

Emerson
Degostion
Exhibit No.1



Maped by the U. S. Forest Service
Edited and published by the Geological Survey
Control by the USGS, USC&GS, and USFS
Topography by photogrammetric methods from aerial
photographs taken 1963. Field checked by USGS 1969
Underwater contours by USCE
Polyconic projection. 1927 North American datum
10,000-foot grid based on Idaho coordinate system,
west zone
1000-meter Universal Transverse Mercator grid ticks,
zone 11, shown in blue
Fine red dashed lines indicate selected fence lines



ROAD CLASSIFICATION
Primary highway, all weather. Light-duty road, all weather,
hard surface. Improved surface.
Unimproved road, fair or dry
weather.
State Route

DUNNIGAN CREEK, IDAHO
N4337.5-W11552.5/7.5

1969

AMS 2871 III NW-SERIES V893

THIS MAP COMPLIES WITH NATIONAL MAP ACCURACY STANDARDS
FOR SALE BY U. S. GEOLOGICAL SURVEY, DENVER, COLORADO 80225, OR WASHINGTON, D. C. 20242
A FOLDER DESCRIBING TOPOGRAPHIC MAPS AND SYMBOLS IS AVAILABLE ON REQUEST

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

In the Matter of the Petition) Case No. 60122
of BILL ADAMS, HORACE CHAPMAN)
and EARL CHAPMAN to perpetuate)
the testimony of MINNIE SWAN,)
BILL ADAMS and GEORGE EMERSON.)

DEPOSITION OF MINNIE ANN LAFLIN, taken at
the instance of Bill Adams, Horace Chapman and
Earl Chapman at 1111 Leadville Street, in the City of
Boise, State of Idaho, commencing at 10:00 a.m., on
Wednesday, February 16, 1977, before
CATHERINE A. TERRY, CSR, a Notary Public in and for the
State of Idaho, pursuant to stipulation by and between
counsel, and in accordance with the Idaho Rules of
Civil Procedure.

APPEARANCES:

For Bill Adams, Horace and
Earl Chapman

MARCUS & MARCUS
by BARRY L. MARCUS, Esq.
737 North 7th Street
Boise, Idaho 83702

For Department of Water
Resources

JOSEPHINE P. BEEMAN
Assistant Attorney General
373 West Franklin
Boise, Idaho 83702

-and-

GLEN SAXTON
Western Regional Supervisor
29 South Cole Road
Boise, Idaho

ORIGINAL

TUCKER & ASSOCIATES
COURT AND DEPOSITION REPORTERS
POST OFFICE BOX 1625 BOISE, IDAHO 83701
TELEPHONE 345-3704

I N D E X

Examination by:

WITNESS

MR. MARCUS

MS. BEEMAN

Minnie Ann Laflin

1
24

23

E X H I B I T S

PAGE

1. Map of Mores Creek, Daggett Creek and Minneha Creek.

4

RECEIVED

1 BOISE, IDAHO, WEDNESDAY, FEBRUARY 16, 1977, 10:00 A.M.

2
3
4 MR. MARCUS: This deposition is taken
5 pursuant to stipulation and the Idaho Rules of
6 Civil Procedure for the purpose of perpetuating
7 Minnie Swan's deposition. Minnie Swan is the same
8 individual as Minnie Laflin.

9
10 MINNIE ANN LAFLIN,
11 produced as a witness at the instance of
12 Bill Adams, Horace and Earl Chapman, having been
13 first duly sworn, was examined and testified as
14 follows:

15
16 EXAMINATION

17 BY MR. MARCUS:

18 Q Mrs. Laflin, what is your full name?

19 A Minnie Ann Laflin.

20 Q And that's spelled L-a-f-l-i-n?

21 A Yes.

22 Q Are you the same person as Minnie Swan?

23 A Yes.

24 Q And Swan was your name before you
25 married?

1 A. No. Royce. RS
2 Q. Royce was your maiden name?
3 A. He's Swan.
4 Q. You're pointing to your son,
5 Bob Swan?
6 A. Yes.
7 Q. Mrs. Swan, when were you born?
8 A. 1883.
9 Q. Where were you born?
10 A. OS RS
Aburn, Kansas.
11 Q. When did you come to Idaho?
12 A. 1890. We got here on the 11th day of
13 July.
14 Q. The 11th of July?
15 A. Yes, and Boise was admitted as a
16 state on the 4th.
17 Q. Idaho was admitted to the union as a
18 state on the 4th of July, 1890?
19 A. Yes.
20 Q. How old were you at that time?
21 A. Seven.
22 Q. Now, who was your first husband?
23 A. RS
Robert Dee Swan.
24 Q. When did you marry him?
25 A. 1901.

1 Q Where did you get married?

2 A Daggett Creek.

3 Q On Daggett Creek, and that is in
4 Boise County?

5 A That's just a little ways below
6 Minneha, about six miles below Minneha.

7 Q And Minneha is a tributary of the
8 Mores Creek?

9 A Yes.

10 Q And Daggett Creek also runs into
11 Mores Creek; doesn't it?

12 A Yes. Minneha comes in this way and
13 Daggett Creek comes in this way.

14 Q Were you and your husband living on
15 Daggett Creek when you got married?

16 A Yes.

17 Q Then did you move to Minneha Creek
18 after that?

19 A Oh, a long time after that, about
20 seven years.

21 Q What did you do between the time you
22 got married --

23 A Got card wood and cut logs.

24 Q And you were living on Daggett Creek
25 at that time before you moved to Minneha Creek?

1 A I don't know where I was at -- we
2 followed the loggers there were three or four loggers
3 in there and wherever we got work, why, wherever he
4 got work, we lived there.

5 Q What year did you move to Minneha?

6 A 1907.

7 Q Now, Mrs. Laflin, I've got a map here.
8 Why don't we have this marked as an exhibit.

9 (Laflin Deposition Exhibit No. 1 was
10 marked for identification.)

11 Q BY MR. MARCUS: Mrs. Laflin, this map
12 shows Mores Creek and Minneha Creek and Daggett Creek
13 and Grimes Creek and you're acquainted with all of
14 those creeks?

15 A Yes.

16 Q I want you to look at the map and
17 I want you to point out on the map, Mrs. Laflin,
18 to where you and your husband settled close to
19 Minneha Creek?

20 A On top of Stearman Hill.

21 Q On top of Stearman Hill?

22 A Yes. We was about a quarter of a mile
23 from the top of Stearman Hill.

24 Q Where is Stearman Hill?

25 A That's out -- I wish I'd known you was

1 going to ask that question. I would have brought
2 the pictures. It's an awful steep hill coming up
3 that ridge and coming out of Minneha.

4 Q Is Stearman Hill south of Minneha?

5 A North.

6 Q Now, Mrs. Laflin, looking at this map,
7 here is Grimes Creek coming down.

8 A That was emptied into Mores Creek right
9 down under our house.

10 Q Under your house?

11 A Yes.

12 Q And here is Minneha Creek coming over.

13 A It's about a mile or so farther north.

14 Q Farther north of your property?

15 A Yes.

16 Q Now, I have taken the liberty of
17 shading in this quarter section, Mrs. Laflin, but it
18 includes a road that's shown on there in this broken
19 dotted line and a little black square. Is that the
20 approximate location of your property?

21 A That little square right there?

22 Q Yes, the one that's shaded in here.

23 A Yes. Well, I'd say it would be close
24 to it, anyway.

25 Q That shows approximately where it is

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1 with respect to Grimes Creek and Mores Creek?

2 A Yes. Now, put your finger down there
3 on where Grimes Creek comes into Mores Creek. Our
4 house was right up on the bank when you was down
5 on the river down there. Back just a little ways,
6 you could see the housetop.

7 Q Just for the record, Mrs. Laflin,
8 so Cathy gets it down on the machine, as you're
9 looking upstream, up Mores Creek, your property was
10 up on the hill to the right?

11 A Yes.

12 Q And Grimes Creek ran into the left?

13 A Yes.

14 MR. MARCUS: Off the record.

15 (Discussion off the record.)

16 Q BY MR. MARCUS: How long did you live
17 on that property, Mrs. Laflin?

18 A From 1907 until 1921.

19 Q Then how long were you married to
20 Mr. Swan?

21 A From 1901 until 1921.

22 Q Where did you go in 1921?

23 A I come to Boise.

24 Q After that, you married Mr. Laflin?

25 A Eight years later.

1 Q Did you homestead that property?

2 A Yes. We homesteaded it in August
3 and we had a certain time to get on and we had to
4 get on by the 7th of February and we was there.

5 Q That was in 1907?

6 A Yes.

7 Q How many acres did you homestead,
8 Mrs. Laflin? Do you remember?

9 A What was the homestead then in them
10 days? 100?

11 Q I think it was 160.

12 A I think so.

13 Q But whatever the number of acreage you
14 could homestead, that's the amount you did homestead?

15 A That's a great big old mountain that
16 comes almost to the door. We went around that
17 mountain and farmed this flat here. I don't know
18 how many acres was in it.

19 Q Did you farm the ground from 1907
20 until 1921 when you left?

21 A That flat there was covered with these
22 little pine trees about so big around and we had to
23 -- we ~~flat~~ burned them first and let them stand a
24 year and then we went in there and I drove the team
25 and he'd dig a big hole here in the back and lay a

RECORDED

1 cord wood stick here in the front and then put a
2 chain way up in the top of the tree. When the horses
3 pulled that tree over, and the tap began to show,
4 he'd hit it with an ax and chop it off and the
5 horses would pull the rest of it out.

6 Then we had to plow that. He
7 couldn't drive the team and hold the plow. I had
8 to hold the team because it jerked him around so
9 much.

10 Q How long did it take you to clear and
11 plow that?

12 A I guess we got that done in about
13 two years.

14 Q Was it ready for planting then in
15 1909?

16 A Yes.

17 Q Now, did you take the water out of
18 Minneha Creek to irrigate that land?

19 A Yes. We had the ditch half or more
20 done before we got the thing placed.

21 Q When did you start building the
22 ditch out of Minneha Creek?

23 A I couldn't tell you.

24 Q Approximately what year was it, to the
25 best of your recollection?

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1 A Well, I suppose it would be somewhere
2 near 1909. I don't know. I couldn't swear to that.
3 I wouldn't know what it was.

4 Q But to the best of your memory, it
5 was around 1909?

6 A Yes, I think so.

7 Q How long did it take you to build that
8 ditch?

9 A Let's see. We got a man to come up
10 there and just as soon as -- about the last of
11 April, that's when the snow would begin to go off,
12 and we worked on the ditch. You can't plant
13 anything up there much before the 10th of June.
14 You can plant it before and guess on how long it
15 will take it to come up. If you can get it so it
16 isn't up out of the ground before the 10th of June,
17 about the 10th of June, they have a really heavy
18 frost.

19 It freezes everything down and we'd
20 plant so that they wouldn't quite be up the 10th of
21 June. Then we was working on the ditch all that
22 time from about the last of April until the 10th of
23 June when we had the water ready to come through.

24 Q Can you describe how you built the
25 ditch?

1 A With shovels.

2 Q How did you determine what grade to
3 put it on?

4 A We had a 16 foot 2 by 4 and we had a
5 level right in the middle of it. The front leg was
6 about an inch -- now, am I telling that right -- it
7 would be an inch shorter than the hind one. That
8 would make the ditch keep running downhill all the
9 time.

10 We're not mormons, so we couldn't make
11 it go uphill. Mormons can make the water run
12 uphill, but we can't.

13 So we had to have a level with a short
14 leg on it to tell us when we had it deep enough.

15 Q Then you dug it by hand?

16 A Yes.

17 Q Did you use a horse, too?

18 A No.

19 Q Just by hand?

20 A You couldn't get a horse in there.

21 Q Did you have to cut some trees to get
22 the ditch through there?

23 A Yes.

24 Q What kind of ground did the ditch
25 go across?

1 A Just good old black ground.
2 Q Was it steep on the hillside?
3 A You bet your life it was, and whenever
4 one of them sheep come along and run across our
5 ditch, there was war.

6 Q About how long was the ditch,
7 Mrs. Laflin, from the point where it left Minneha
8 Creek until it got over to your property?

9 A (Indicating.) You guess that.

10 Q Just approximately. I know you don't
11 know exactly.

12 A I'd say I don't know. I can't tell
13 you what a mile is like I used to know my figures,
14 but I can't anymore. I forgot them. I don't know
15 how long it was.

16 We just dug it from where we could get
17 the water out down to where we wanted to irrigate.
18 That's all I paid any attention to.

19 Q Would it be fair to say that it was
20 between a mile and two miles?

21 A Well, that's what I'd say. I said all
22 the time it was about a mile and a half or two
23 miles from the house up to the head of the ditch.
24 What would you say it was?

25 EARL CHAPMAN: That's what it is.

1 THE WITNESS: I'm just guessing that. I
2 don't know for sure.

3 Q BY MR. MARCUS: You never did measure
4 it, so you wouldn't know for sure?

5 A No.

6 Q Now, what we're trying to do,
7 Mrs. Laflin, is get the location of the headgate
8 identified on the record as close as we can. So from
9 the mouth of Minneha Creek where it runs into
10 Mores Creek, about how far up the creek do you think
11 the ditch ran?

12 A Do you know how far it is?

13 Q We'll take his deposition later.

14 A He's got to help me too.

15 Q Just based on your best estimate now,
16 and I'm not asking you to say exactly how much it
17 was because I know that you didn't measure it, but
18 just your best estimate, about how far is it up the
19 creek?

20 MR. CHAPMAN: Now, are you asking in the
21 Minneha in particular?

22 Q BY MR. MARCUS: Right. I'm talking
23 about up the creek from where Minneha runs into
24 Mores Creek. In other words, Mrs. Laflin, if you
25 were telling somebody to go up the creek from the

1 mouth of Minneha, how far would they expect to go
2 before they got to the ditch?

3 A I don't know. I'd tell them to go
4 through all that brush and climb that there steep
5 hill and when they come to the open land, then
6 commence to look for the ditch and go to the head
7 of it.

8 It's probably better than a half mile
9 because that's awful steep there. That's just awful
10 steep.

11 Q Would it be maybe between a half a mile
12 and a mile up there?

13 A Oh, something like that.

14 Q Mrs. Laflin, approximately how big was
15 the ditch?

16 A It was about that wide and it was
17 about that deep. Now, you guess.

18 Q Now, you indicated by your hands about
19 how wide and about how deep?

20 A It was just about -- you had to take
21 a good big step to step across it.

22 Q About 18 inches wide?

23 A Yes, every bit of that.

24 Q And a foot and a half to two feet wide
25 and maybe two feet deep?

UNRECORDED

1 A No, it wasn't two feet wide, I don't
2 think, but it was about a foot and a half deep.

3 Q Was it about a foot and a half wide
4 and about a foot and a half deep?

5 A I suppose, just about that. That would
6 probably make an average of it. Some places, it
7 would be deeper and some places wherever that bank
8 came down too high, why, we had to dig more dirt
9 away.

10 Q Now, how much of the water in
11 Minneha Creek could that ditch carry?

12 A I don't know.

13 Q Let's say in August, how much of the
14 water in Minneha Creek would go down the ditch?

15 A We took all of it.

16 Q You took all of it out?

17 A ~~off~~ Didn't I tell you about the time of
18 taking ~~out~~ my underskirt and catching the fish?

19 Q Where was that?

20 A At the head of the ditch.

21 Q You scooped them up?

22 A No. There was a big pond. When we
23 would take the headgate out, it would pour down
24 there and washed out a hole and when we cut the
25 water off and put it all in the ditch, why, then that

1 left that hole there full of fish and we didn't have
2 a thing up there to catch them with and they'd die
3 if we left them in there. They'd die because the
4 water would get hot and kill them. So I took my
5 underskirt off and took some wire and doubled it
6 together and made a figure four.

7 Q And scooped them out?

8 A No. We dug a ditch and put my skirt
9 down in there, that figure four down in there and
10 let the water run through. The fish went in my
11 skirt and caught them. I think it was either 42 or
12 46 fish that we got out of there. There was only
13 just a few of them that wasn't full size.

14 Q I bet they were good eating?

15 A We had a feast on fish.

16 Q Now, Mrs. Laflin, when in the normal
17 year would that ditch begin carrying all the water
18 in Minneha Creek?

19 A Oh, I suppose the middle of July.
20 Them days, we had hot summers.

21 Q So usually in the middle of July, you
22 would start turning down all of the water into the
23 ditch that was in Minneha Creek?

24 A Some years, we didn't have to take it
25 all out. Some years, we had snow enough that it

1 held the water back until we didn't have to take it
2 all out.

3 Q Mrs. Laflin, were those years
4 exceptional years when you didn't have to take all
5 of the water out?

6 A I don't know whether they was
7 exceptional or not, but we just had more snow,
8 whatever the snowfall was.

9 Q If we were just talking about the
10 average year, would you take all of the water out
11 in late July and August?

12 A Well, I'd have to say it would be
13 according to how much was in the creek. We could
14 only put so much in the ditch.

15 Q In other words, you would run the
16 ditch full of water all year around and if there
17 was more water than that in the creek, some went
18 on down, but if there wasn't, it all went down the
19 ditch?

20 A Yes. We had a headgate fixed so it
21 just let so much go into the ditch and then the other
22 went and that's where I told you this here hole was,
23 ~~that I was bore it out.~~ ²⁴

24 Q Now, is that true in all of the years
25 that you were there, Minnie?

RECORDED

1 A Yes.

2 Q Mrs. Laflin, was there anybody else
3 that took water out of Minneha Creek during those
4 years from 1909 until 1921?

5 A No. There wasn't anyplace for them
6 to take it. Where we took the water out, it was
7 just beginning to get steep there and it's steep,
8 too, on farther up.

9 Q During those years from 1909 until
10 1921 did you maintain the ditch? Did you and your
11 husband keep the ditch up?

12 A Yes.

13 Q You mentioned some sheep going across
14 the ditch.

15 A Yes. Them old Spaniards just run
16 them sheep anyplace they got a chance. The boss
17 would tell them, "You're not supposed to go down
18 around Swan's ranch there. You're supposed to go
19 up on the hill, but you take them sheep wherever
20 you can get feed for them."

21 Them sheepherders would bring them
22 right down to the door and I set the dog on them.
23 Did he yell and holler and scream around there.
24 He just said anything under the sun. "Don't set
25 them on me. Don't set them on me."

RECEIVED

1 I was saying, "Sic 'em. Sic 'em.
2 Sic 'em."

3 That was the big steep bank there and
4 when they got out a little ways from the house, it
5 was 100 feet, anyway to the bottom and led them right
6 into a big pile of lava. Where one of them goes,
7 they all go. He was just begging and when he got
8 out of there, he knew what I thought of him, too.

9 Q When would the sheep go through there?
10 What part of the year?

11 A Spring of the year.

12 Q Typically, Mrs. Laflin, when did you
13 turn the water into the ditch?

14 A Well, whenever we got our crop
15 planted, then we always had our ditch cleaned out.
16 We had to go up and clean it out because there was
17 limbs off the trees that would break off and fall in
18 them and we had to keep all that cleaned out.

19 We'd go over the ditch and clean it
20 out and take all that silt out of the bottom of it
21 and we'd just keep it clean and then whenever we got
22 our crop planted, we'd bring the water down.

23 Q Was that usually the first part of
24 June that you'd begin irrigating?

25 A Well, it would be long about the 10th,

1 the first part of June, yes.

2 Q When would you usually stop
3 irrigating in the fall?

4 A When we took our last crop of hay off.

5 Q What month would that be in, usually?

6 A Probably the latter part of August
7 or first of September. It was getting pretty cold
8 up there at that time.

9 Q What crops did you grow up on your
10 land?

11 A We had a little corn, potatoes, raised
12 lots of potatoes, and I just had a regular general
13 garden. We had it fixed with a netting fence and
14 we'd turn the water on in front of the house and I'd
15 water my garden. Then we had a headgate up aways
16 and then take it down on the field whenever they
17 needed it.

18 Q Did you use that water for domestic
19 purposes, too?

20 A No. We had a spring about 300 feet
21 from the house up on the hillside. It would almost
22 make your teeth ache to drink it because it was so
23 cold.

24 A bunch of them sheep come across there.
25 We made a big lid. It was about seven feet long and

1 about six feet wide and we made a lid for it to get
2 the leaves and stuff out of it. He drove his sheep
3 down there and they went across the top and broke
4 it in. One old sheep got in and couldn't get out.

5 I went to get a bucket of water and
6 you know what kind of water I got. We went looking
7 around to find out what it was and there was that
8 old sheep standing there in the middle of the tank.
9 We took him down to the house and chopped his head
10 off and boiled him and ate him.

11 Q Had a little mutton?

12 A We sure did. Then we had to get in
13 there with the broom and scrub it all out and clean
14 it and take all that dirty water out of there and
15 everything.

16 Of course, we had an opening down at the
17 bottom at the house where that water kept going out
18 and we kept flowing clean water in there until we
19 got it cleaned out.

20 Q Now, you said that you raised hay?

21 A Yes, alfalfa, and we had a little bit
22 of clover and we had corn and we had beans and
23 potatoes. We couldn't raise tomatoes. It wasn't
24 a long enough season for it.

25 Q Mrs. Laflin, were those crops raised

UNRECORDED

1 for your own cattle?

2 A. Yes.

3 Q And your own consumption?

4 A. Sometimes we sold some hay if we had
5 hay enough that we could sell some. Not always, but
6 then part of the time we did.

7 Q How many cattle did you raise on the
8 property?

9 A We had about 12 or 15.

10 Q About 12 or 15 head of cows?

11 A Yes. We had about 5 head of horses.

12 Q Now, when you left in 1921, .

13 Mrs. Laflin, did Mr. Swan stay on the property?

14 A Yes.

15 Q When did he die?

16 MR. SWAN: I'll have to check the bible on
17 that.

18 Q BY MR. MARCUS: Was he on that
19 property, to the best of your knowledge, until he
20 died?

21 A No.

22 MR. SWAN: May 3, 1957.

23 THE WITNESS: No, he sold it. I don't know
24 when and I don't know who he sold it to.

25 Q BY MR. MARCUS: He died in approximately

1 1957?

2 A. Yes.

3 MR. MARCUS: Let's go off the record.

4 (Discussion off the record.)

5 Q BY MR. MARCUS: Mrs. Laflin, I'm just
6 going to ask you a couple more questions and then
7 we'll be all through.

8 What water did you use to water the
9 cows and the horses?

10 A. Water from the spring.

11 Q Is that water from the spring?

12 A We had cut a 50 gallon barrel, a
13 little over half of the bigger part of it for the
14 bottom and that set under the spout and we kept that
15 full all the time.

16 Q So all the water you took out of
17 Minneha Creek was used for irrigating the land?

18 A That's all we used it for. If the
19 cattle come along and wanted to drink out of it,
20 they could drink. When they come to it when it was
21 open, they could get a drink, but they usually come
22 down and drank out of the tub.

23 Q Can you estimate how many acres you had
24 crops planted on in your garden?

25 A No. You go up there and look at that

1 place there from where the house was down around
2 that way and then you decide it up because I don't
3 have any idea how many acres was in there. It was
4 ours. I didn't have to bother about it. All we
5 could get under water, we put it under water and
6 that was the size of it.

7 Q In other words, you cultivated as much
8 land as you could irrigate with the water from
9 Minneha Creek?

10 A As much land as we could get ahold of.
11 There was a little more land that we could get, but
12 we didn't have the money to buy it.

13 MR. MARCUS: Let's go off the record.

14 (Discussion off the record.)
15

16 EXAMINATION

17 BY MS. BEEMAN;

18 Q Mrs. Laflin, are you aware of how
19 many rows of corn or potatoes you planted,
20 approximately?

21 A I think we had about a half acre of
22 potatoes. I don't know how many rows was in it.
23 We usually had four or five rows of corn and they
24 would be the longest is from here, almost across
25 the street. Now, if you people know anything about

1 how far that is and how long and how many rows, you
2 got it, because I don't know.

3 Q You planted your corn in rows. How
4 about the hay and alfalfa?

5 A It was just sowed.

6 Q Do you remember how long it took you
7 to sow, like, how many days, you or your husband
8 would be out there with the horse and the plow?

9 A Maybe a week. I don't know.

10 Q And if you were out there for a week,
11 were you working eight or ten hours a day?

12 A We worked from daylight to dark.

13 Q Sowing the entire time.

14 A Sowing part of the time. Up in there,
15 we don't have very much wind. You can sow any time
16 you want to.

17 (Discussion off the record.)

18

19 FURTHER EXAMINATION

20 BY MR. MARCUS:

21 Q Mrs. Laflin, we're talking about the
22 land that was irrigated. We're trying to get that
23 identified a little bit.

24 Is it fair to say that the land that
25 was irrigated was the land below the ditch down to

REPRODUCED

1 Rim Rock? Between the ditch and the edge of the
2 Rim would be the area in which the crops were grown?

3 A Yes.

4 MR. MARCUS: That's all.

5 (The deposition was then concluded.)

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§ 8 .

Grünitz-Lafien

My commission expires 8-20-78

24
25

1 REPORTER'S CERTIFICATE

2
3 STATE OF IDAHO)
4 County of Ada) ss.

5
6 I, Catherine A. Terry, a Notary Public
7 in and for the State of Idaho, do hereby certify:

8 That prior to being examined, the witness
9 named in the foregoing deposition was by me duly
10 sworn to testify the truth, the whole truth, and
11 nothing but the truth;

12 That said deposition was taken down by me in
13 shorthand at the time and place therein named and
14 thereafter reduced to typewriting under my direction,
15 and that the foregoing transcript contains a full,
16 true, and verbatim record of the said deposition.

17 I further certify that I have no interest in
18 the event of the action.

19 WITNESS my hand and seal this 17th day
20 of February, 19 77.

21
22
23 Catherine A. Terry
24 NOTARY PUBLIC in and for the
25 State of Idaho; residing at
Boise, Idaho.

My commission expires 5/31/78

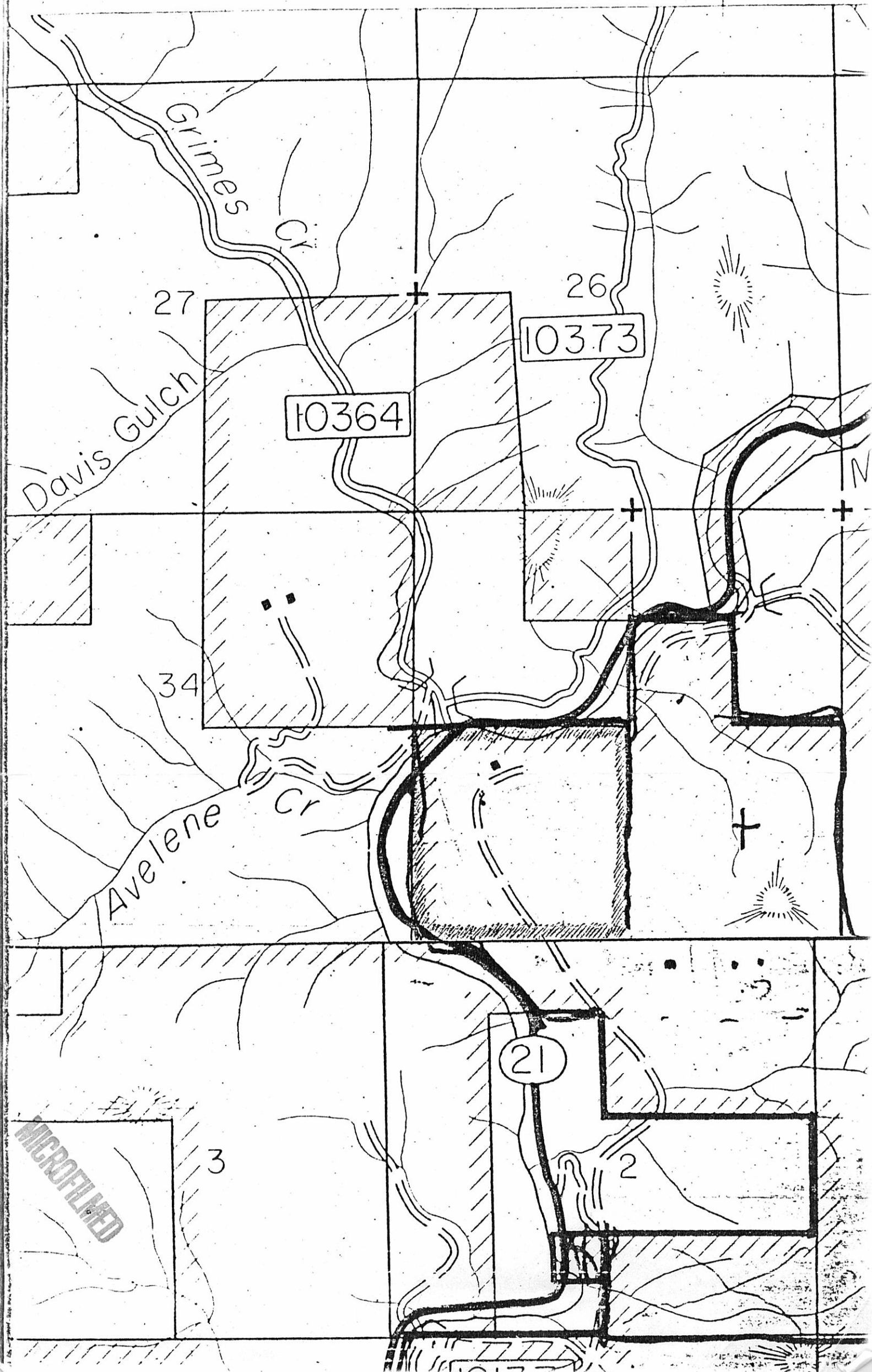
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STATE OF IDAHO
COUNTY OF ADA
SS.
I, JOHN BASTIDA, CLERK OF THE DISTRICT COURT OF THE FOURTH
JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE
COUNTY OF ADA, DO HEREBY CERTIFY THAT THE FOREGOING IS A
TRUE AND CORRECT COPY OF THE ORIGINAL ON FILE IN THIS OFFICE.
IN WITNESS WHEREOF, I HAVE HEREUNTO SET MY HAND AND AF-

FIXED MY OFFICIAL SEAL THIS 24 DAY OF May, 1983.

JOHN BASTIDA, CLERK

BY Farrell A. Benson DEPUTY



COURTDISTRICT, FOURTH JUDICIAL, ADA

Case No. 60122

CAPTION ADAMS & CHAPMAN, IN THE MATTER OF

DEPOSITION OF MINNIE ANN LAFLIN

Taken on FEBRUARY 16, 197

Mailed or delivered to the Clerk of the District Court on MARCH 18, 1977

NOTICE OF FILING TO: MARCUS & MARCUS

JOSEPHINE P. BEEMAN

GLEN SAXTON

CHANGES OR CORRECTIONS:

Page 2	Line 1	"Royce" should be "Roice"
Page 2	Line 2	"Royce" should be "Roice"
Page 2	Line 10	"Auburn" should be "Osburn"
Page 2	Line 23	"Robert Lee" should be "R. Dee"
Page 3	Line 23	"card" should be "cord"
Page 4	Line 2	should read, "we followed the loggers"
Page 7	Line 23	Delete, "flat"
Page 14	Line 18	"out" should be "off"
Page 16	Line 23	Delete, "that I was bore it out."

NOTICE OF FILING REPORTER'S TRANSCRIPT

TUCKER & ASSOCIATES

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