

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

RECEIVED

FEB 11 2008

DEPARTMENT OF WATER RESOURCES

CLAIM TO A WATER RIGHT

Under the provisions of Section 42-243, *Idaho Code*, any person claiming a water right established by diversion and application of water to beneficial use must file a claim with the Department of Water Resources. **The filing of this claim does not confirm the water right claimed.** Water rights represented by a valid permit, license, decree, or previous claim are exempt from this requirement, as are uses of water for domestic purposes as defined in Section 42-111, *Idaho Code*. A filing fee must be submitted with this claim. See the instruction sheet to determine the appropriate fee.

Notice is hereby given that Gary J. Payne Marilyn M Payne
(Name of Claimant)Mailing Address: 2940 W Wapoot St Mendocino Idaho 83646-5676Telephone No: 208-884-1572 Email: _____

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

1. Date of Priority: (When the water was first applied to beneficial use) 5-1-1883
A claim is not acceptable for the use of surface water with a priority later than May 20, 1971. A claim is not acceptable for the use of ground water with a priority date later than March 25, 1963, unless the water is used for domestic purposes as defined in Section 42-111, *Idaho Code*.

2. Describe the source of water: (Name of stream, lake, spring, etc., or ground water)
Warm Creek tributary to Bear River

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

(cfs or af)	(Irrigation, Domestic, Stock, Etc.)	(Both dates inclusive) (MM/DD) (MM/DD)
Quantity <u>2.57</u>	Use <u>irrigation</u>	Period of Use From <u>4-15</u> to <u>10-31</u>
Quantity _____	Use <u>irrigation</u>	Period of Use From _____ to _____
Quantity _____	Use <u>irrigation</u>	Period of Use From _____ to _____
Quantity _____	Use <u>irrigation</u>	Period of Use From _____ to _____

4. 2.57 TOTAL QUANTITY USED.
(cfs or af)

5. A) Location of point of diversion is _____ $\frac{1}{4}$ of NE $\frac{1}{4}$ of SW $\frac{1}{4}$, Govt. Lot _____
Sec. 34 Township 14S Range 43E B.M., _____ County; additional points of diversion, if any: _____

B) Describe means of diversion of water: (Pump and pipeline, well, diversion dam, reservoir, length of ditch etc.). Give sizes and capacities. Be specific. Describe any changes in the system and give the date of the change.

Water starts at Horse Blats up warm Creek Canyon, follows the canyon down picking up water from springs along the way. Stream splits between the two gravel pits and comes into the Kroger-Payne ditch. ultimately it ends on the Payne property. Due to the condition of the ditch a lot of water is needed to reach the farm land because it - the main ditch/creek travels a long distance down the canyon.

6. A) Describe the place of use within each 40-acre tract in the appropriate box using the symbols listed below. If the use is for irrigation, describe the location by listing the number of irrigated acres within each 40-acre tract.
D - domestic, S - stockwater, M - municipal, C - Commercial, I - Industrial, X - other

Twp	Rge	Sec	NE¼				NW¼				SW¼				SE¼				TOTAL ACRES
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
14S	43E	34	7.8	14.2															22

TOTAL ACRES 22

- B) If water is used for purposes other than irrigation, fully describe the use. Be specific. _____

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

7. Remarks: During the recent drought the creek has been dry.

8. **Map** -- Attach an 8½"x11" map clearly identifying the point of diversion and the place of use by 40-acre subdivisions, section, township and range of the public land survey system. (A photocopy of a USGS 7½ minute topographic quadrangle map is preferred.) Attach an **aerial photograph** of the place of use if available.

State of IDAHO)
) ss.
 County of ADA)

Be it known that the undersigned, being duly sworn, deposes and says that he, she, they subscribed the forgoing 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.

Gary & Patsy Marilyn M. Payne
 Claimant's Signature (and title if claim is for an organization)



Sworn before me this 11th day of February, 2008.

Danni M. Smith
 Notary Public

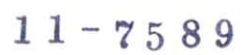
Residing at: BOISE ID

My commission expires: 12/12/2002 ^{am}

FOR DEPARTMENT USE ONLY

Received by S. Keen Date 2/11/2008
 Prelim. check by S. Keen Date 2/11/2008
 Fee 500.00 Receipt # C085921
 Receipt prepared by CM Date 2/11/2008

Published in News Examiner
 Publication dates 3-19 & 3-26-08
 Publication checked by _____ Date _____
 Exceptions filed by _____



To Idaho State Department of Water Resources

January 11, 2008

Re: to establish a Priority Claim to water rights for Gary J. Payne on land in Bear Lake County, Idaho

Tract 492 Farm # 1514 as filed with the Dept of Agriculture

The water rights on this land were included at the time of purchase by James Payne at a sheriff's sale April 17, 1947. James Payne acquired equity through the assignment as follows: J. S. Price assigned to D.E. Haddock, December 18, 1945; D. E. Haddock assigned to James Payne, April 17, 1947. On Deed # 8134, certificate No. 19973. Before J.S. Price it was owned by James Anthon Nelson and Mary Nelson who held water rights # 11-1067 and 11-1080.

I, Gary J. Payne, purchased it, approximately 68 acres, with all water rights, from my father's estate March, 2001. The land referred to here is 55 acres T-1718 F.N2NE 34-14-43 - of which 17 acres is taxed by the county as irrigated agriculture. There are ditches in this portion of the field that have been there my whole life. The priority date on this water was May 1, 1868 established by the case of Haddock Vs Thornock. On Oct 10, 1904 the waters of Worm Creek was decreed to 34 parties, defined only by name, amount, and a priority date. Later there was a 28 day water rotation of the water from Worm Creek established between Grant Haddock for 5 1/2 days, Mayo Krogue for 9 days, Dean Ward for 10 1/2 days and James Payne for 3 days, these four being sole users. We were at the end of the ditch so were able to use any leftover time not used by others.

This rotation schedule is acknowledged by Article # 4 page 3 under findings of fact in Memorandum Decision and order from the director of the Dept of Water Resources dated September 11, 1984 regarding matter of application for transfer No. 2013 of water right nos. 11-1058 etc in name of Dean Ward and Grant Haddock.

Article # 3 page 4 under CONCLUSION OF LAW of the same case states the established rotation is in the local public interest and may have become an element of the respective water rights and therefore, cannot be abandoned or changed without unanimous agreement of the parties.

Article 4 page 4 under CONCLUSION OF LAW states we have water rights even though they may not be clearly defined. Article 1 under ORDER page 4 states only land irrigated prior to 1976 can be irrigated with this water.

I know these men had been using this water for many years prior to that because, I was born in 1943 and as a child I helped my father clean and work the Krogue - Payne ditch and the main ditch up Worm Creek Canyon to the source of the water every spring I lived at home, until 1962.

A MAP listed "Exhibit A" #2 for the case of Application for transfer of No. 2013 of water right Nos. 11-1058, etc. in the name of Dean Ward & Grant Haddock shows the ditch listed as Krogue- Payne ditch. This is on file with the Idaho State Dept of Water. The 2004 map from the Dept of Agriculture for Tract 492 /Farm 1514 shows current ditches.

The water right Nos. involved on Worm Creek Ditch are 11-1058/11-1059/11-1060/11-1061/11-1062/11-1063/11-1064/11-1065/11-1066/11-1067/11-1068/11-1069/11-1070/11-1071/11-1072/11-1073/11-1074/11-1075/11-1076/11-1077/11-1078/11-1079/11-1080/11-1081/11-1082/11-1083/11-1084/11-1085/11-1086/11-1087/11-1088/11-1089/11-1090/11-1091.

Of the water rights decreed 10/10/1904, the following appear to have no place of use according to findings from Water Resources Dept site on the net. These are not currently reassigned to Haddock, Krogue or Ward. It is my belief that these are the shares that we hold and have been using during my rotation. As far as I know, these persons are no longer living and have not used the water since 1984 when the rotation decree was verified.

#	Name	Priority date	decreed date	CFS	place of use
11-1067	James A Nelson	5-01-1892	10-10-1904	0.31	none
11-1070	Livi H. Long	5-1-1884	10-10-1904	1.2	none
11-1071	Jacob Welker	5-1-1895	10-10-1904	0.01	none
11-1072	Peter Rasmusson	5-1-1895	10-10-1904	0.06	none
11-1075	N. C. Nelson	5-1-1868	10-10-1904	0.07	none
11-1080	James A. Nelson	5-1-1883	10-10-1904	0.18	none
11-1081	O.C. Dunford	5-1-1883	10-10-1904	0.04	none
11-1083	John Q. Welker	5-1-1891	10-10-1904	0.07	none
11-1085	Jacob Nelson	5-1-1893	10-10-1904	0.16	none
11-1086	Jacob Welker	5-1-1894	10-10-1904	0.17	none
11-1090	Livi H. Long	5-1-1896	10-10-1904	0.14	none
11-1074	Fred Jacobsen	5-1-1898	10-10-1904	0.04	none
11-1091	Fred Jacobsen	5-1-1898	10-10-1904	0.12	none

The above names are among those that can also be found in records from Fifth Judicial District of Idaho in and for Bear Lake County Book "B" page 243 on August 13, 1901 when water rights were established and granted to Worm Creek water users.

Attached are copies of everything referred to above, as well as any other information I have regarding the water on this property.

Gary J. Payne

Gary J. Payne

2940 W. Wapoot St.

Meridian, Idaho 83646-5670

THIS INDENTURE, Made this, the 27 day of July, 1933, between Asa Athay, the Sheriff of Bear Lake County, State of Idaho, party of the first part, and State of Idaho the party of the second part, WITNESSETH:

WHEREAS, a Judgment and Decree of Foreclosure and Sale was rendered and entered in the District Court of the Fifth Judicial District of the State of Idaho, in and for the County of Bear Lake, on the 15 day of April 1931, in an action then pending in said Court in favor of State of Idaho, as plaintiff, and against Joseph S. Price and Elizabeth S. Price, husband and wife. Defendants

And an Order of Sale issued out of and under the seal of the said District Court reciting the material parts of said Judgment and Decree, duly attested on the 23rd day of April 1932, and to the Sheriff of Bear Lake County, State of Idaho, directed and to Asa Athay as such Sheriff delivered on the 5 day of May, 1932, for execution, commanding and requiring him as such Sheriff to proceed to notice for sale and sell the premises in said writ mentioned and described in said Decree as follows, to wit:

Commencing at the Northeast corner of Section Thirty-four (34) in Township Fourteen (14), South of Range Forty-three (43) E. B. M., running thence West 80 rods, thence North 24 rods, thence West 80 rods, thence South 104 rods, thence East 18 rods, thence North 30 rods, thence Easterly 50 rods, thence North 22 degrees 50' East 16 rods, thence South 80 degrees East 24 rods, thence South 10 degrees East 18 rods, thence East 42 rods, thence North 12 rods, thence East-East 46 rods, thence North along Section line 48 rods, to the place of beginning, containing 66-1/3 acres, more or less, excepting all rights of way thereon.

Together with 35 shares in the George Reese Canal Company and all other water rights, ditch and canal rights, thereunto belonging or in anywise appertaining.

in the manner prescribed by law and to apply the proceeds of such sale to the satisfaction of said Judgment with interest thereon and costs, together with Sheriff's fees, and to execute the usual certificate and deed to the purchaser or purchasers; and

WHEREAS, In compliance with said writ, that on the 3rd day of June, 1932, between the hours of 9 o'clock in the morning and 5 o'clock in the afternoon, to-wit: at the hour of 10 o'clock in the forenoon of that day in front of the front door of the County Court House in Bear Lake County, State of Idaho, and after due and legal notice having been given in the said behalf as by the Statutes of Idaho in such case made and provided, I, Asa Athay, Sheriff, duly sold at public auction all and singular the premises above described and in said writ mentioned and described, and by said decree directed to be sold to STATE OF IDAHO who was the highest bidder therefor, in the sum of Fourteen Hundred Eleven 04/100 Dollars (\$1411.04)

And whereupon the said purchaser paid to said Sheriff the said sum of \$1411.04 so bidden by State of Idaho and thereupon Asa Athay, as such Sheriff made and issued such Certificate of sale as by law directed in duplicate and delivered one to the said purchaser and filed the other in the office of the Recorder for said Bear Lake County for record; and

WHEREAS, The period of one year has expired since the date of said sale and no redemption of or for said premises has been made

NOW THEREFORE, THIS INDENTURE WITNESSETH: That the said party of the first part, the said Asa Athay Sheriff as aforesaid, in order to carry into effect the sale so made by Asa Athay, Sheriff, as aforesaid, in pursuance of said writ and in conformity to the Statutes in such case made and provided, and also in consideration of the premises, and of the said sum of \$1411.04 so bidden and paid by the said purchaser to Asa Athay Sheriff as aforesaid, the receipt whereof is hereby acknowledged, hath Granted, Bargained, Sold and Conveyed, and by these presents doth Grant Bargain, Sell and Convey unto the party of the second part and to State of Idaho and assigns forever, all and singular the above described lands and premises.

Together with all and singular the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining.

SO HAVE AND TO HOLD All and singular the above mentioned and described premises hereby conveyed, or intended so to be, together with the appurtenances, unto the said party of the second part, and assigns forever.

IN WITNESS WHEREOF, I Asa Athay, Sheriff, the party of the first part to these presents Sheriff as aforesaid, have hereunto set my hand the day and year first above written.

Asa Athay

Sheriff of Bear Lake County, State of Idaho

STATE OF IDAHO,)
) SS.
County of Bear Lake.)

On this the 27th day of July, 1933, before me, Sam V. Tunks, Clerk of the District Court, personally appeared Asa Athay, Sheriff of the County of Bear Lake, State of Idaho, known to me to be the same person whose name is subscribed to the foregoing instrument and acknowledged to me that he as such Sheriff aforesaid executed the same.

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

Sam V. Tunks
Clerk, District Court

(SEAL)

Recorded at the request of Edith V. Kinsey at 10 o'clock A. M. August 5th, 1933.

11-7589

James Nelson was included
Additional rights were held by Quin & Dumbell
That were used on the property over the years
It was understood that the water rights from James A Nelson were included
15 1/2"
CFS 31
11-1067
11-1080
CFS 18
CFS 18
This property is a combination of the property
Previously owned by James Nelson & Mary Margaret
Bk 16 p 9639 and also the land owned by Joseph S Price
then by D E Holbrook

EX 16
pg. 639

This Indenture, Made the 19 day of July in the year of our Lord one thousand nine hundred and 11 between James Anthon Nelson and Mary E. Nelson his wife of Bloomington, County of Bear Lake, State of Idaho, part of the first part, and Joseph L. Price of Bloomington County of Bear Lake, State of Idaho, part of the second part:

Witnesseth, that the said parties of the first part, for and in consideration of the sum of One DOLLARS, lawful money of the United States of America, to them in hand paid by the said party of the second part, the receipt whereof is hereby acknowledged, have granted, bargained, sold, aliened, remised, released, conveyed and confirmed, and by these presents do GRANT, BARGAIN, SELL, ALIEN, REMISE, RELEASE, CONVEY and CONFIRM, unto the said party of the second part, and to his heirs and assigns forever, all that certain piece or parcel of land, situated in the County of Bear Lake, State of Idaho, and known and described as follows, to-wit:

7142g Commencing at the SW corner of the SE 1/4 of Sec. 27 Township 14 S of Range 43 E.B.M. and run thence Three hundred and ninety seven (397) feet North, thence Eighty Rods (80) East, thence South Three hundred and Ninety Seven (397) feet, thence West Eighty (80) Rods to place of beginning, containing Twelve (12) acres, be there more or less.

Together, with all and singular the tenements, hereditaments and appurtenances thereunto belonging, or in any wise appertaining, and the rents, issues and profits thereof; and also, all the estate, right, title, interest, property, possession, claim and demand whatsoever, as well in law as in equity, of the said parties of the first part, of, in or to said premises, and every part and parcel thereof, with the appurtenances.

To Have and to Hold, all and singular the said premises, together with the appurtenances, unto the said party of the second part, and to his heirs and assigns forever, and the said parties of the first part, and their heirs, the said premises, in the quiet and peaceable possession of the said party of the second part, his heirs and assigns, against the said parties of the first part, and their heirs, and against any and all persons whomsoever, lawfully claiming or to claim the same, shall and will warrant, and by these presents forever defend.

In Witness Whereof, the said parties of the first part have hereunto set their hands and seals the day and year first above written.

Signed, Sealed, and Delivered in the Presence of

Peter Greenhalgh	James A. Nelson	[SEAL]
Frances Greenhalgh	Mary E. Nelson	[SEAL]

UNITED STATES OF AMERICA

STATE OF IDAHO, }
County of Bear Lake } ss.

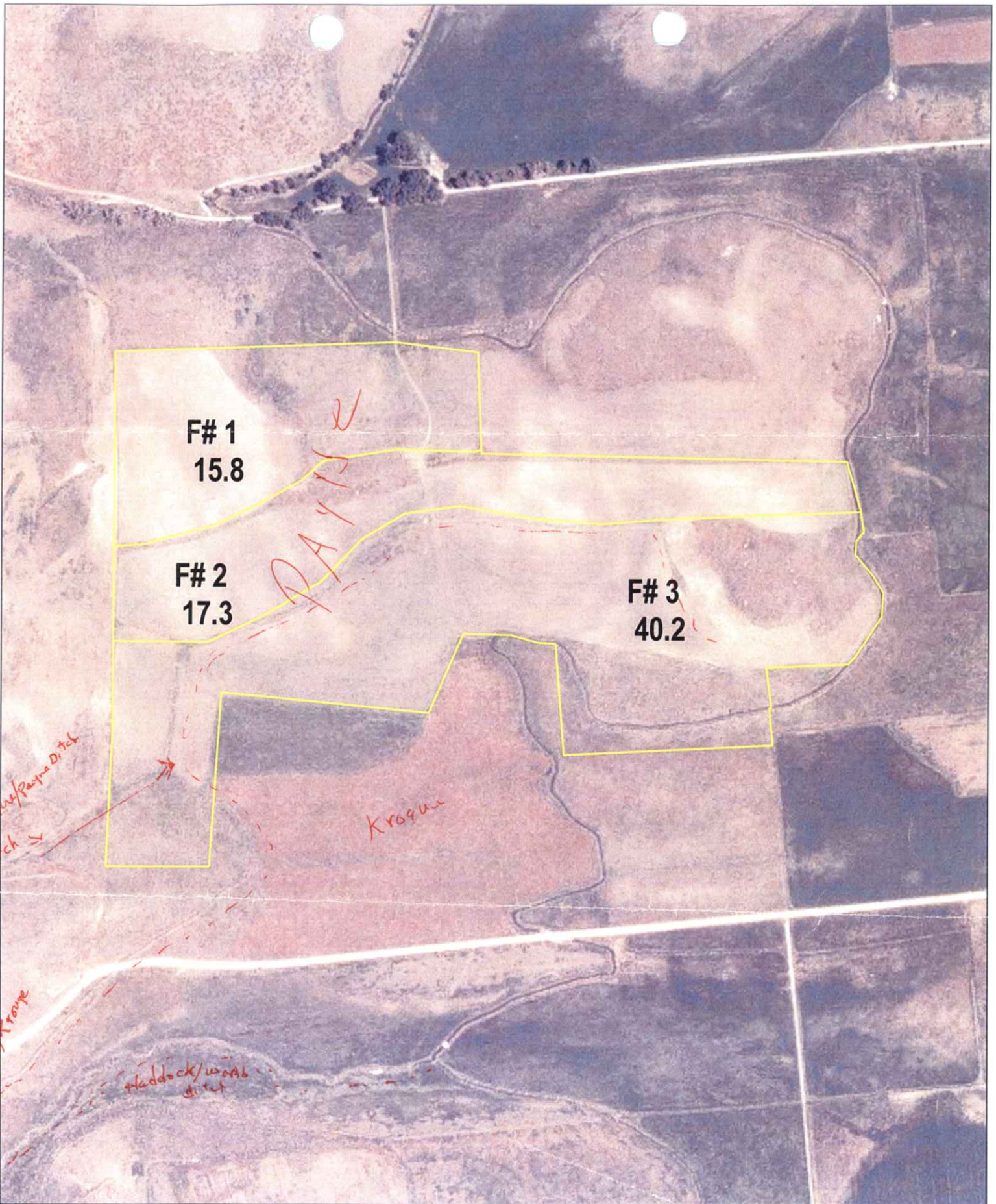
On this second day of Oct. in the year of our Lord one thousand nine hundred and Eleven, before me, Justice of the Peace within and for said County and State, personally appeared James A. Nelson and Mary E. Nelson personally known to me to be the persons whose names were subscribed to the within instrument, and duly acknowledged to me that they executed the same.

In Witness Whereof, I have hereunto set my hand and seal the day and year in this certificate first above written.

Frank Greenhalgh
Justice of Peace

Filed for Record on the 27th day of December A. D. 1901, at 4:30 o'clock P. M., at the request of Joseph L. Price
By Winnie Broomhead Deputy H. H. Broomhead County Recorder

11-7589



Tract 492
Farm 1514

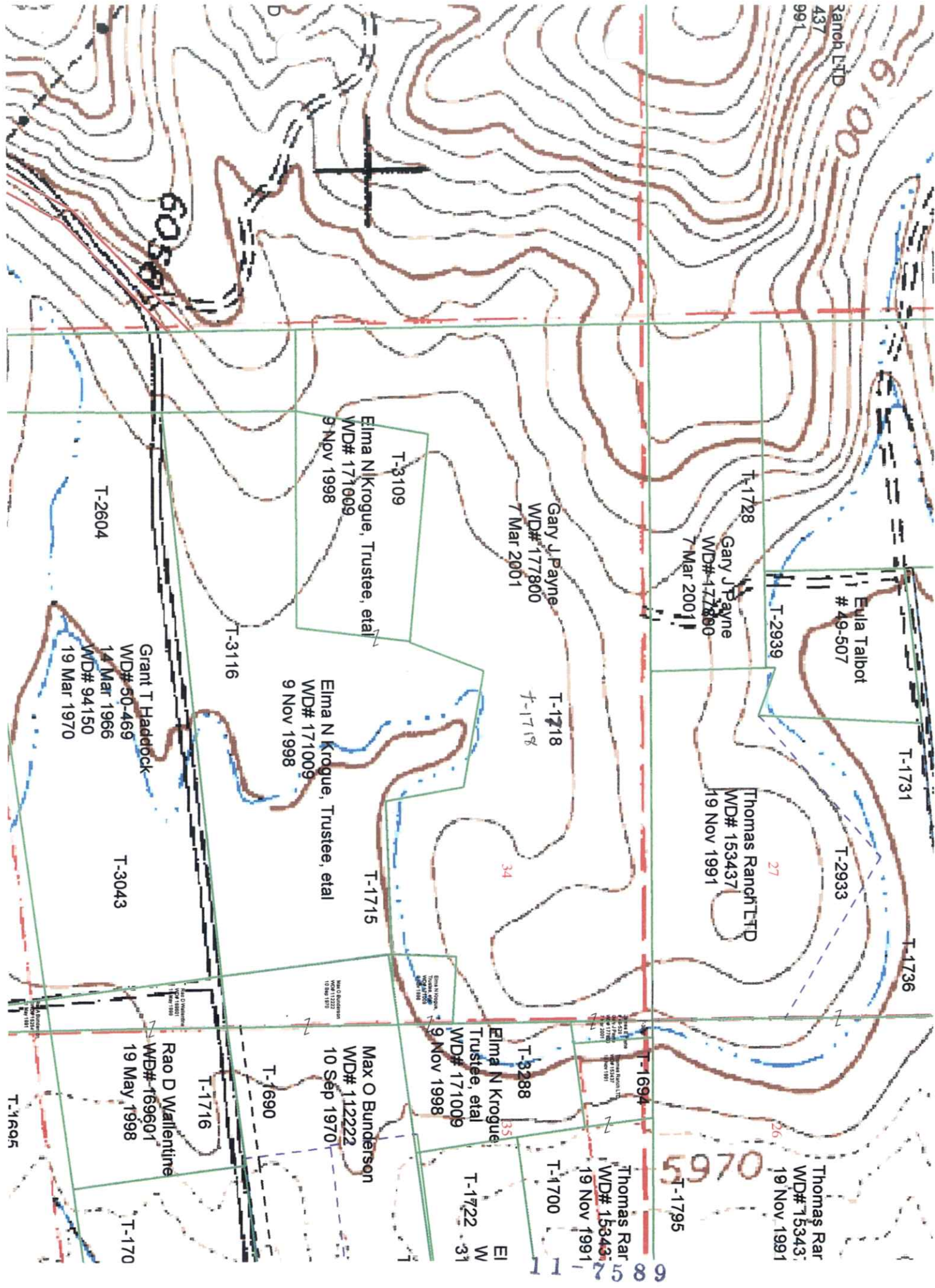
Payne Landinside yellow Boundaries

Clu16007.shp

11-7589
0.05 0 0.05 0.1 0.15 0.2 Miles



Map Printed: Jul 28, 2004



Ranch LTD
437
991

Eula Talbot
49-507

Gary J Payne
WD# 177800
7 Mar 2001

Thomas Ranch LTD
WD# 153437
19 Nov 1991

Thomas Rar
WD# 15343
19 Nov 1991

Gary J Payne
WD# 177800
7 Mar 2001

T-1718

Elma N Kroque, Trustee, et al
WD# 171009
9 Nov 1998

Elma N Kroque, Trustee, et al
WD# 171009
9 Nov 1998

Elma N Kroque
Trustee, et al
WD# 171009
9 Nov 1998

Max O Bunderson
WD# 112222
10 Sep 1970

T-2604

Grant T Haddock
WD# 50-469
14 Mar 1966
WD# 94150
19 Mar 1970

T-3043

Rao D Wallentine
WD# 169601
19 May 1998

T-3116

T-1716

T-1690

T-1695

T-1170

T-1700

Thomas Rar
WD# 15343
19 Nov 1991

T-1795

T-1731

T-1736

T-2933

T-1728

T-2939

T-3109

T-1715

T-3288

T-1722

6050

6100

5970

LYNN T LEWIS
BEAR LAKE COUNTY ASSESSOR
P.O. BOX 190
PARIS, ID 83261

2001

ASSESSMENT NOTICE
& ESTIMATE OF TAX

**THIS IS NOT A BILL.
DO NOT PAY.**

PARCEL DESCRIPTION:

T1718 F.N2NE
34-14-43
55 AC.

For any questions, please notify the Assessor's Office immediately.

Assessor's Telephone Number: (208) 945-2155

PARCEL ADDRESS:

PAYNE, GARY J.
8439 S 1275 E
SANDY, UT 84094

Appeals of your property value must be filed in
writing, on a form provided by the County, by:
06/11/2001

Tax Code Area: 21

Parcel Number: 4739.00

STATE #: 14S43E340000

ASSESSED VALUE OF YOUR PROPERTY

CURRENT DESCRIPTION	LOTS/ACRES	LAST YEAR'S VALUE	CURRENT YEAR'S VALUE
1 IRRIGD AGRICUL.	12.00	4,180	4,180
3 DRY AGRICUL.	28.20	2,945	2,945
5 DRY GRAZING	9.80	313	313
SUBTOTAL:	55.00	7,438	7,438
LESS HOMEOWNERS EXEMPTION:		7,438	7,438
NET TAXABLE PROPERTY VALUE:		7,438	7,438

These values may not include personal property values. Taxes are based on the values shown on this Notice and on the Budgets of the taxing districts.

ESTIMATED PROPERTY TAXES

TAXING DISTRICTS	LAST YEAR'S TAXES	CURRENT YEAR'S ESTIMATED TAXES	PHONE NUMBER	DATE OF PUBLIC BUDGET HEARING
COUNTY	34.20	34.20	(208) 945-2212	09/04/2001
COUNTY LIBRARY	3.08	3.08	(208) 847-1664	09/12/2001
SCHOOL DISTRICT #33	32.14	32.14	(208) 945-2891	06/12/2001
BLOOMINGTON CEM.	1.70	1.70	(208) 945-2660	NO RESPONSE
SCHOOL #33 BOND	.00	.00	(208) 945-2891	NO RESPONSE
B.L. COUNTY FIRE	4.05	4.05	(208) 847-2287	NO RESPONSE
SUBTOTAL:	75.17	75.17		
FEES:	.00	.00		
TOTAL PROPERTY TAXES & FEES:	75.17	75.17		

THIS IS NOT A BILL. DO NOT PAY.

See the back of this Notice for details.

11-7589

ASSESSMENT NOTICE

THIS IS NOT A BILL
DO NOT PAY

LYNN T LEWIS
BEAR LAKE COUNTY ASSESSOR
P. O. BOX 190
PARIS, ID 83261

2007

For any questions, please notify
the assessor's office immediately
Assessor's telephone no:
(208) 945-2155

T1728 F.SWSE
27-14-43
12 AC.

Parcel Address:

PAYNE, GARY J.
2940 W WAPOOT ST
MERIDIAN, ID 83642

Appeals of your property value must be
on a form provided by the county assessor
Appeal deadline: 06/25/2007

Tax code area: 21

Parcel Number: 4706.00

STATE #: 14S43E278920

Category & description	ASSESSED VALUE OF YOUR PROPERTY		Last Year Current year	
	Lots/acres			
3 DRY AGRICUL.	11.00		1,090	1,090
5 DRY GRAZING	1.00		10	10
Subtotal:	12.00		1,100	1,100
Less home exemption:				
Net taxable property value:			1,100	1,100

ASSESSMENT NOTICE

THIS IS NOT A BILL
DO NOT PAY

LYNN T LEWIS
BEAR LAKE COUNTY ASSESSOR
P. O. BOX 190
PARIS, ID 83261

2007

T3898 F.NWNW
35-14-43
1.5 AC.

For any questions, please notify
the assessor's office immediately
Assessor's telephone no:
(208) 945-2155

Parcel Address:

PAYNE, GARY J.
2940 W WAPOOT ST
MERIDIAN, ID 83642

Appeals of your property value must be
on a form provided by the county assessor
Appeal deadline: 06/25/2007

Tax code area: 21

Parcel Number: 4774.00

STATE #: 14S43E353110

Category & description	ASSESSED VALUE OF YOUR PROPERTY		Last Year Current year	
	Lots/acres			
5 DRY GRAZING	1.50		110	110
Subtotal:	1.50		110	110
Less home exemption:				
Net taxable property value:			110	110

STATE OF IDAHO

Deed No. 8134
Certificate No. 19976

To All to Whom These Presents Shall Come, Greetings:

Whereas, on the 29th day of March 1935 all that tract or parcel of Normal School Foreclosed land of the State of Idaho, hereinafter mentioned and particularly described, was sold in the manner provided by law to

J. S. PRICE
of _____, State of _____, for the aggregate price of
One Thousand Two Hundred and no/100 DOLLARS

And Whereas, the said sum of One Thousand Two Hundred and no/100 DOLLARS has been fully paid to the proper receiving officer for the State of Idaho, by JAMES PAYNE, who acquired the equity through assignment as follows: J. S. Price assigned to D. E. Haddock, December 18, 1945; D. E. Haddock assigned to James Payne, April 17, 1947.

as shown by the records in the office of the State Board of Land Commissioners, the said sum being the whole amount of the purchase price for the said tract or parcel of land hereinafter described:

Now, Know Ye, That the said State of Idaho, in pursuance of law in such case made and provided, and in consideration of the premises aforesaid, and of the aforesaid sum of

One Thousand Two Hundred and no/100 DOLLARS
to the said State of Idaho paid, doth by these presents grant, bargain, sell, convey and confirm, in fee, unto the said
JAMES PAYNE

his heirs and assigns, all of the said tract and parcel of land situated in the County of Bear Lake
and State of Idaho, and described as follows, to-wit:

Commencing at the Northeast (NE) corner of Section Thirty-four (34), Township Fourteen (14) South,



Commencing at the Northeast (NE) corner of Section Thirty-four (34), Township Fourteen (14) South, Range Forty-three (43) East of the Boise Meridian, running thence west 80 rods, thence north 24 rods, thence west 80 rods, thence south 104 rods, thence east 18 rods, thence north 30 rods, thence easterly 50 rods, thence north 22050' east 16 rods, thence south 80° east 24 rods, thence south 10° east 18 rods, thence east 42 rods, thence north 12 rods, thence east 16 rods, thence north along the section line 48 rods to the place of beginning, containing Seventy-seven (77) acres, more or less, subject to all rights of way thereon.



JAMES PAYNE

To have and to hold the said premises and parcel of land above particularly described, with the appurtenances thereon, unto the said

HIS heirs and assigns, in fee simple forever, subject to the provisions of Section 58-604, Idaho Code, which grants over all lands belonging to the state a right of way for ditches, ~~waterways and other purposes~~ constructed by authority of the United States; and to the provisions of Section 47-701, Idaho Code, reserving to the State all Mineral rights in lands sold subsequent to the 8th day of May, 1923.

In Witness Whereof, I, **Len Jordan**

, the Governor of the State of Idaho, have hereunto signed my name and caused the Great Seal of the State of Idaho and the Seal of the Board of Land Commissioners to be hereunto affixed, this 14th day of April, 1953 A.D.

Countersigned:

Ira H. Masters
Secretary of State.

Len Jordan
Governor of Idaho and President of State Board of Land Commissioners.

Countersigned:

Edward H. Woodley
State Land Commissioner.

STATE OF IDAHO, } ss.
County of Ada,

On this Fourteenth day of April

, in the year 1953 A.D., before

me, a Notary Public in and for said State, personally appeared **Len Jordan**, known to me to be the Governor of the State of Idaho, and **Ira H. Masters**, known to me to be the Secretary of the State of Idaho, and **Edward Woodley**, known to me to be the Land Commissioner of the State of Idaho, who executed said instrument and acknowledged to me that such State of Idaho executed the same.

In Witness Whereof, I have hereunto set my hand and seal on the day and year last above written.

W. C. Hamilton



67757

STATE OF IDAHO, }
County of Bear Lake, }

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

John D. Hope

at 10 minute past 1 o'clock

P. M., this 27 day of

April, 19 53, in my

office, and duly recorded in Book 45

Rec'd at 10 162

David V. Thwait

Notary Public

My Comm. Expires

1950

RECORDS DEPT.
INDEXED

WARRANTY DEED

For Value Received,

LEONA PAYNE, a widow,

of PO BOX 158, BLOOMINGTON, County of Bear Lake, State of ID. 83223,

THE GRANTOR(S),

do(es) hereby, grant, bargain, sell, and convey unto

GARY JAMES PAYNE,

of 8439 SOUTH 1275 EAST, SANDY, County of SALT LAKE, State of UT. 84094-1363,

THE GRANTEE(S),

For the sum of ten dollars and other good and valuable consideration, the following described tract of land in the County of Bear Lake, State of Idaho:

Commencing at the Northeast Corner of Section 34, Township 14 South, Range 43 East of the Boise Meridian, running thence West 80 rods; thence North 24 rods; thence West 80 rods; thence South 104 rods; thence East 18 rods; thence North 30 rods; thence Easterly 50 rods; thence North 22°50' East 16 rods; thence South 80° East 24 rods; thence South 10° East 18 rods; thence East 42 rods; thence North 12 rods; thence East 16 rods; thence North along the Section line 48 rods to the Place of Beginning.

ALSO: Commencing at a point 1½ rods East of the Northeast Corner of Section 34 in Township 14 South, Range 43 East of the Boise Meridian in Idaho; and running West 1½ rods to Section corner; thence South on Section line 48 rods, more or less, to Bloomington South Canal; thence Northeast, North and Northwest following the meanderings of the Bloomington South Canal 60 rods, more or less, to the Place of Beginning.

SUBJECT TO all rights of way thereon.

TOGETHER WITH all water rights appertaining thereto.

To have and to hold the said premises, with their appurtenances unto the said Grantee(s), his heirs and assigns forever. And the said Grantor(s) hereby covenant to and with the said Grantee(s) that she is the owner(s) in fee simple of said premises; that they are free from all encumbrances, and that she will warrant and defend the same from all lawful claims whatsoever.

DATED THIS March 6th, 2001..

Leona Payne
LEONA PAYNE

STATE OF IDAHO, COUNTY OF BEAR LAKE

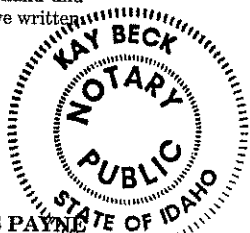
On this 6th day of March, 2001, before me a Notary Public in and for the State, personally appeared

LEONA PAYNE, a widow

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

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

Kay Beck
Notary Public
Residing at: *Idaho*
My Commission Expires: *12-01-2006*



2001 MAR 7 AM 10 32
DEPUTY
Notary Public
83.00
PM

BEAR LAKE COUNTY RECORDER
JOAN P. EBORN

177800

MAIL TAX NOTICE TO: GARY JAMES PAYNE
8439 SOUTH 1275 EAST, SANDY, UT. 84094-1363

11-7589

IN AND FOR BEAR LAKE COUNTY, IDHAO.

Edward Haddock)
Plaintiff.)
vs.)
Joseph E. Thornock,)
Defendant.)

Be it remembered that this cause was commenced by filing the complaint on the thirteenth day of August, 1901, by Edward Haddock, plaintiff, against Joseph E. Thornock; that afterward upon showing duly made to the Court that Peter Greenhalgh, James A. Nelson, E. J. Haddock, D.A. Krogue, Levi H. Long, David A. Nelson, N.P. Rasmussen, Fred Jacobson, O.C. Dunford, Jacob Welker, Nelson C. Nelson, and James G. Welker, were necessary and proper parties to this action, it was ordered that they be made parties defendant; that afterward to wit; on the 23rd day of June, 1902, all of said parties to this action agreed in writing to and did appoint Alma Findlay, J. A. Hulme, and H.H. Broomhead as Referees, to take the testimony in this case, and submit their findings of facts to the parties in this case and to the Court, and that the decree of this Court based upon said findings of fact should be entered as the decree of this court in this action with the same force and effect as if the case had been regularly tried before the Court.

That said Referees have filed their report and findings of fact in the Court, which are agreed to by all of said parties, and accepted and approved by this Court, from which findings of fact, the Court made its conclusions of law, - That each of said parties are entitled to the waters as of the amounts and dates specified in said findings of fact.

Now therefore this cause coming regularly on this 10th day of October, 1904 for the entry of Judgment, Alfred Budge Esq., appearing for the plaintiff and John A. Bagley Esq., appearing for the Defendants.

IT Is ordered adjudged and decreed that the several parties to this action are entitled to and are hereby decreed, the waters of Worm Creek, and its tributaries, a stream in Bear Lake County. State of Idaho, as of the following amounts and dates to-wit:

Name	cf	Amount	Of Date.	Name	cf	Amount	Of Date
1. E. J. Haddock	0.20	10 inches	May 1st, 1868	18. W. C. Nelson	0.07	3 1/2 inches	May 1st, 1869
2. O. C. Dunford	0.03	4 "	" 1" 1869	19. D. A. Krogue	0.06	3 "	May 1st 1869
3. E. J. Haddock	0.03	1 1/2 "	" 1" 1870	20. Peter Greenhalgh	0.40	" "	" 1" 1870
4. D. A. Nelson	0.09	4 1/2 "	" 1" 1870	21. E. J. Haddock	0.05	2 1/2 "	" 1" 1870
5. Peter Greenhalgh	0.12	6 "	" 1" 1877	22. D. A. Nelson	0.12	5 6-3/8 "	" 1" 1880
6. D. A. Krogue	0.32	16 "	" 1" 1883	23. James A. Nelson	0.15	" "	" 1" 1885
7. Levi H. Long	0.24	13 "	" 1" 1883	24. O. C. Dunford	0.04	2 "	" 1" 1885
8. E. J. Haddock	0.02	1 "	" 1" 1888	25. Peter Greenhalgh	4.00	" "	" 1" 1890
9. D. A. Nelson	0.16	8-3/8 "	" 1" 1891	26. John Q. Welker	0.07	3 1/2 "	" 1" 1891
10. James A. Nelson	0.31	15 1/2 "	" 1" 1892	27. D. A. Nelson	0.12	6-7/10 "	" 1" 1892
11. D. A. Nelson	0.34	19 1/2 "	" 1" 1893	28. Jacob Nelson	0.15	7 3/4 "	" 1" 1893
12. D. A. Nelson	0.13	6 1/2 "	" 1" 1894	29. Jacob Welker	0.10	8 1/2 "	" 1" 1894
13. Levi H. Long	1.20	60 "	" 1" 1894	30. D. A. Nelson	0.17	8 1/2 "	" 1" 1895
14. Jacob Welker	0.10	5 "	" 1" 1895	31. E. J. Haddock	0.02	1 "	" 1" 1895
15. Peter Rasmussen	0.06	3 "	" 1" 1895	32. John Q. Welker	0.07	3 1/2 "	" 1" 1895
16. D. A. Nelson	0.07	3 1/2 "	" 1" 1896	33. Levi H. Long	0.14	7 "	" 1" 1896
17. Fred Jacobsen	0.04	2 "	" 1" 1898	34. Fred Jacobsen	0.12	6 "	" 1" 1901

That an inch of water as mentioned in this decree means a miners inch of water measured under a four inch pressure, or one ~~fourth~~ fiftieth (1/50) of one (1) cubic foot of water per second of time.

Dated this 10th day of October, 1904.

James H. Stevens, Dist. Judge.

Book "B" of Judgment page 243.

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF IDAHO
IN AND FOR BEAR LAKE COUNTY, IDHAO.

Edward Haddock
Plaintiff.
vs.

Joseph E. Thorncock;

13 0069 11-1058
13 0070 11-1059
13 0071 11-1060
13 0072 11-1061
13 0073 11-1062
13 0074 11-1065
13 0075 11-1066
13 0076 11-1065
13 0077 11-1066
13 0078 11-1067
13 0079 11-1068
13 0080 11-1069
13 0081 11-1070
13 0082 11-1071
13 0083 11-1072
13 0084 11-1073
13 0085 11-1074

cause was commenced by filing the complaint August, 1901, by Edward Haddock, plaintiff; that afterward upon showing duly made by James A. Nelson, E. J. Haddock, D.A. Nelson, N.P. Rasmussen, Fred Jacobson, on C. Nelson, and James G. Welker, were this action, it was ordered that they afterward to wit; on the 23rd day of to this action agreed in writing to and Hulme, and H.H. Broomhead as Referees, to the Court, and that the decree of this of fact should be entered as the decree with the same force and effect as if the before the Court. led their report and findings of fact to by all of said parties, and accepted which findings of fact, the Court made each of said parties are entitled to dates specified in said findings of coming regularly on this 10th day of Oct- ment, Alfred Budge Esq., appearing for Esq., appearing for the Defendants. decreed that the several parties to this hereby decreed, the waters of Worm Creek, Bear Lake County, State of Idaho, as of to-wit:

X → from #2103

Name	Amount	Of Date.	Name	Amount	Of Date
1 E. J. Haddock	10 inches	May 1st, 1868	W. C. Nelson	3 1/2 inches	May 1st
20 C. Dunford	4 "	" 1" 1869	D. A. Kroge	3 "	May 1st
3 E. J. Haddock	1 1/2 "	" 1" 1870	Peter Greenhalgh	20 "	" 1" 1
4 D. A. Nelson	4 1/2 "	" 1" 1870	E. J. Haddock	2 1/2 "	" 1" 1
5 Peter Greenhalgh	6 "	" 1" 1877	D. A. Nelson	6-3/8 "	" 1" 1
6 D. A. Kroge	16 "	" 1" 1883	James A. Nelson	9 "	" 1" 1
7 Levi H. Long	13 "	" 1" 1883	C. Dunford	2 "	" 1" 1
8 E. J. Haddock	1 "	" 1" 1888	Peter Greenhalgh	4 "	" 1" 1
9 D. A. Nelson	8-3/8 "	" 1" 1891	John Q. Welker	3 1/2 "	" 1" 1
10 James A. Nelson	15 1/2 "	" 1" 1892	D. A. Nelson	6-7/10 "	" 1" 1
11 D. A. Nelson	19 1/2 "	" 1" 1893	Jacob Nelson	7 1/2 "	" 1" 1
12 D. A. Nelson	6 1/2 "	" 1" 1894	Jacob Welker	8 1/2 "	" 1" 1
13 Levi H. Long	60 "	" 1" 1894	D. A. Nelson	8 1/2 "	" 1" 1
14 Jacob Welker	5 "	" 1" 1895	E. J. Haddock	1 "	" 1" 1
15 Peter Rasmussen	2 "	" 1" 1895	John Q. Welker	21 "	" 1" 1

EXHIBIT "A"

N

Preston Thomas Land

Mayo Kroger

17. Pl. ant.
3.4.1.1.2

1 E.J. Hobbick Ditch

2 Krogue Payne Ditch

Gravel Pt.

Long Creek Road

Long Creek Road

5.4

Gravel Pt.

EXHIBIT A

S

Apple Valley

5.4.3

SEE FISH

1452
T134

4.3
1492
14753

16.2
27/26
34/35

27.1

IDAHO

Loan No. 4-1074

Record Entry No.

MORTGAGE

James E. Payne and Leona Payne,

husband and wife

to

UTAH MORTGAGE LOAN CORPORATION

\$ 3,700.00 Date March 18, 1953

STATE OF IDAHO,

County of Bear Lake

ss.

I hereby certify that this instrument was filed
for record at the request of Utah Mortgage Loan

Corporation at

20 minutes past 10

o'clock, A.M., this 23 day of

March 1953, in my

office, and duly recorded in Book 21

of Mortgages at Page 215

Sam V. Trunk
Ex-Officio Recorder

By *Ruby Docton* Deputy.

Fees: \$ 4.00

UTAH MORTGAGE LOAN CORPORATION
Logan, Utah

2,000-5-50

INDEXED
ENCLOSURE

REAL ESTATE MORTGAGE

THIS INDENTURE made on the 18th day of March 1953
by and between James E. Payne and Leona Payne, husband and wife

of Bear Lake County, State of Idaho, hereinafter called the mortgagors and UTAH MORTGAGE LOAN CORPORATION, a corporation of Logan City, Cache County, Utah, hereinafter called the mortgagee, WITNESSETH:

Said Mortgagors, for and in consideration of the sum of THREE THOUSAND SEVEN HUNDRED AND NO/100 DOLLARS, (\$ 3,700.00) lawful money of the United States and to them in hand paid, the receipt whereof is hereby acknowledged, have granted, bargained, sold and conveyed, and by these presents do grant, bargain, sell and convey unto the said mortgagee, its successors or assigns, that certain real property situate in the County of Bear Lake and State of Idaho, described as follows:

Commencing at a point 3 rods 6 inches North of the Southeast Corner of Lot 10, Block 15 of Bloomington, Idaho Townsite Survey; thence West 24 rods; thence North 10 rods 10 feet and 6 inches; thence East 12 rods; thence South 5 rods and 11 feet; thence East 12 rods; thence South 4 rods and 16 feet to the place of beginning.

Also, Commencing at the Northeast Corner of Section Thirty-four (34), Township 14 South, Range 43 East of the Boise Meridian, running thence West 80 rods, thence North 24 rods, thence West 80 rods, thence South 104 rods, thence East 18 rods, thence North 30 rods, thence Easterly 50 rods, thence North 22°50' East 16 rods, thence South 80° East 24 rods, thence South 10° East 18 rods, thence East 42 rods, thence North 12 rods, thence East 16 rods, thence North along section line 48 rods to the place of beginning, containing 66-1/3 acres, more or less, excepting all rights of way thereon.

Conveying with the above described land any and all water rights and irrigating ditches belonging or in anywise appertaining thereto, and especially including a water right out of Worm Creek for 35 acres.

TOGETHER with any and all water, water rights, irrigating ditches, aqueducts, canals, appropriations, franchises and privileges owned by said mortgagors or either of them, or belonging to, or with, leading to, connected with, or usually had and enjoyed in connection with said property or any part thereof.

TOGETHER with all and singular the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining, and the rents, issues and profits thereof TO HAVE AND TO HOLD unto the said mortgagee, its successors or assigns, forever.

The condition of this conveyance is such that:

This mortgage is given to secure an indebtedness in the principal sum of

THREE THOUSAND SEVEN HUNDRED AND NO/100 DOLLARS

evidenced by one promissory note dated March 18, 1953, made by the mortgagors to the mortgagee herein and payable at the times and place, and in the manner, and with the rate of interest therein set forth.

The said promissory note secured hereby, matures on April 1, 1963.

BEFORE THE DIRECTOR OF THE DEPARTMENT OF WATER RESOURCES

OF THE
STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR TRANSFER NO.)	PROPOSED
2103 OF WATER RIGHT NOS. 11-1058/1076/1060/)	
1077/1061/1078/1062/1079/1064/1065/1082/)	MEMORANDUM DECISION
1066/1089/1084/1068/1069/1087/1088/1073)	
IN THE NAME OF DEAN WARD AND GRANT HADDOCK)	AND ORDER

This matter was first brought to the attention of the Idaho Department of Water Resources on January 3, 1976 when a letter from Mayo Krogue was received objecting to the change in point of diversion on Worm Creek initiated by Dean Ward and Grant Haddock. This change was made without benefit of the requisite transfer approval. Dean Ward was subsequently advised by the Department that it appeared a transfer would be necessary to legally accomplish the changes he and Grant Haddock were making. In response, personnel from the Department were invited to come and review the changes in the field. Based upon the information provided at that time, it was concluded that no changes which would require a transfer were being made. The conversion from surface to sprinkler irrigation does not necessarily represent a change in the associated water rights. However, the irrigation of previously unirrigated land would require a water right permit. Mayo Krogue and Nolan Krogue responded by filing an affidavit stating that for over forty (40) years all of the water users on Worm Creek have diverted their water at the same diversion located within the NW1/4SW1/4, Sec. 34, Twp. 14S, Rge. 43E, B.M. Mr. Krogue further explained that the ditch that would be used to supply the new gravity sprinkler system was a high water ditch that was located on the property of Ardella Peterson and had not been used for years. Based upon the sworn statement of Mayo and Nolan Krogue, Dean Ward was advised that an application for transfer appeared to be appropriate.

Dean Ward and Grant Haddock responded on April 26, 1977 and application for transfer No. 11-1058/etc. was filed with the Department of Water Resources. This application included nineteen rights totaling 2.67 cubic feet per second. Notice of the proposed change was published in the News Examiner in Montpelier, Idaho on May 26 and June 2, 1977. Because of a publication error, a corrected

notice was advertised on June 23 and 30, 1977. Protests subsequently were received during the protest period from Ardella Peterson, Mayo Krogue, James E. Payne, and Arlen C. Wilkes.

A conference in the matter was held in the Bear Lake County Courthouse on September 1, 1977. The applicants were present and represented by Jay Kohler, Attorney at Law. Protestant Ardella Peterson was represented by Clyde Nelson, Attorney at Law. Protestant Mayo Krogue was represented by Leonard Kingsford, Attorney at Law. All others were without legal counsel. During the informal discussion of the matter several objections emerged.

1) The flow of water in Worm Creek is normally inadequate and has consequently been used in rotation. The protestants held that they would be injured if the applicants are permitted to separate water from the normal rotation.

2) The moving of water to the new point of diversion will cause unreasonable loss to other water users because of the increased time required to resoak the ditch.

3) Applicants plan to use a ditch which crosses Ardella Peterson's (Beck) property without first securing an easement from her.

4) The applicants do not have the necessary possessory interest in the water rights they are attempting to transfer.

5) The transfer will result in an expansion of the use of the original right.

When no agreement to resolve the objections could be reached Attorney Leonard Kingsford requested that a formal hearing be held at a later date. A hearing was scheduled for June 8, 1978. The applicants and protestants had the same legal representation they had at the previous conference. After review of the issues the parties requested an additional continuance to allow time to request a readjudication to determine the water rights on Worm Creek.

Over the next forty-eight (48) months numerous contacts were made by the Department to determine if the parties still intended to initiate a readjudication of Worm Creek. When no adjudication request was received and no apparent interest in pursuing readjudication was evident, the Department scheduled the matter for hearing on September 28, 1982. The applicant Mayo Krogue was represented by Leonard Kingsford, Attorney at Law. The remaining protestants represented themselves except Arlen Wilkes who was not present.

Review of Evidence

The following materials were submitted as evidence in this matter:

1) IDWR file No. 11-1058/etc. application for transfer.

2) Applicant's Exhibit No. 1 - Edward Haddock vs Joseph E. Thornock Judicial Decree.

3) Applicant's Exhibit No. 2 - a general sketch showing ditches, roads, lands of applicants and protestants.

4) Hearing tapes No. 1 through 5.

After reviewing the evidence and testimony presented at this hearing and based upon his understanding of the law, the hearing officer makes the following Findings of Fact, Conclusions of Law, and Order.

* FINDINGS OF FACT

1) On October 10, 1904, District Judge James M. Stevens decreed the waters of Worm Creek, Bear Lake County, Idaho to thirty-four (34) parties. The rights decreed totalled 373.58 miner's inches, 7.4716 cubic feet per second but were only defined by name, amount, and priority date.

* 2) In June, 1959, Dean Ward, Grant Haddock, Mayo Krogue and James Payne established the present rotation of Worm Creek water. The rotation usually lasts about one and one-half months during the irrigation season.

3) The ditch which crosses protestant Ardella Peterson's property, labeled No. 5 on applicant's exhibit No. 2, washed out when she was a child but was reconstructed by Utah Power and Light when they constructed a power line through that area. Mrs. Peterson has refused to grant permission to use the ditch through her property.

* 4) The earliest priority date established by the case of Haddock vs Thornock is May 1, 1868. During the summer months of August and September there is normally only enough water to supply the rights with a priority earlier than 1890. During these periods, a 28-day rotation between the parties perviously named is started with Grant Haddock getting water for five and one-half (5 1/2) days, Mayo Krogue for nine (9) days, Dean Ward for ten and onehalf (10 1/2) days and James Payne three (3) days.

5) The intake structure for a gravity irrigation system was constructed by the applicants in 1976. This structure can be used only when water is conveyed into ditch No. 5 illustrated in applicant's exhibit No. 2.

6) The distance from the diversion into ditch 5 is about one mile above the next downstream diversion.

7) The successors in interest to the water entitlement granted by Judge Stevens in 1904 is not clear because of the vagueness of the decree and

the dispute that exists among the parties.

8) Protestant Arlen Wilkes did not appear at the hearing.

CONCLUSIONS OF LAW

1) The decree handed down by the court in the case of Haddock vs Thornock does not contain the elements necessary to define the water rights for the water users on Worm Creek. A watermaster could not be elected and charged with the distribution of waters of Worm Creek without an adjudication to further define the existing water rights.

2) The ownership of the particular rights claimed by the applicants cannot be confirmed without a court adjudication.

* 3) The continuation of the established rotation is in the local public interest and may have become an element of the respective water rights and therefore, cannot be abandoned or changed without unanimous agreement of the parties.

* 4) The applicant's have water rights on Worm Creek, and although not clearly defined, are entitled to change the point of diversion and/or place of use of these rights with certain limitations to protect the rights of others.

5) Although the applicant does not have a written easement across another's land, that may be obtained through condemnation or a right-of-way may already exist due to the past use of the ditch.

6) Failure to appear at the hearing is cause for setting aside a protest.

ORDER

IT IS, THEREFORE, HEREBY ORDERED that the protest of Arden Wilkes be set aside for failure to appear and that Application for Transfer No. 2103 of Water Right Nos. 11-1058/1076/1060/1077/1061/1078/1062/1079/1064/1065/1082/1066/1089/1084/1068/1069/1087/1088/1073 is APPROVED subject to the following conditions:

* 1) Only those lands which were regularly irrigated prior to 1976 may be irrigated. If other lands are to be irrigated, a water right permit could allow irrigation of these prior to June 5 of each year or the start of the rotation.

2) The established schedule of rotation shall be continued except the applicants shall release the water a sufficient amount of time before the end of the rotation period so the water will reach the point of diversion of the person next in line to use the water at the beginning of their period of use.

3) Approval of this application does not represent a finding of possessory interest in the waters of Worm Creek. The available evidence and testimony indicates that the applicants have beneficially used the waters of Worm Creek. The point of diversion of any rights the applicants possess, as may in the future be confirmed by court action, is hereby changed pursuant to this application for transfer of water right and the limitations herein stated.

4) Approval does not grant access or easement to use the lands of another person.

Dated this 11 day of September, 1984.


BOBBY D. FLEENOR
Hearing Officer

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR TRANSFER NO.
2103 OF WATER RIGHT NOS. 11-1058/1076/1060/
1077/1061/1078/1062/1079/1064/1065/1082/
1066/1089/1084/1068/1069/1087/1088/1073 IN
THE NAME OF DEAN WARD AND GRANT HADDOCK

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this the 22nd day of October, 1984, a true and correct copy of the foregoing ORDER ADOPTING PROPOSED MEMORANDUM DECISION AND ORDER was mailed, postage prepaid to:

Dean Ward
Bloomington, ID 83223

Grant Haddock
Paris, ID 83261

Ardee Helm, Jr.
Attorney for Ardella Peterson
484 Washington St.
Montpelier, ID 83254

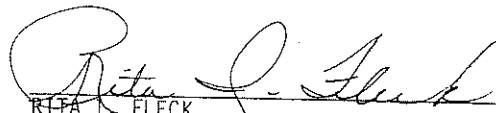
Mayo Krogue
Bloomington, ID 83223

Arlen C. Wilkes
St. Charles, ID 83272

James E. Payne
Bloomington, ID 83223

Glyde G. Nelson
Attorney at Law
P. O. Box 797
Soda Springs, ID 83276

Leonard Kingsford
Attorney at Law
P. O. Box 915
Soda Springs, ID 83276


RITA L. FLECK
Secretary/Records Manager
Idaho Department of Water Resources

2103
RECEIVED
BEFORE THE DIRECTOR OF THE DEPARTMENT OF WATER RESOURCES

OF THE
STATE OF IDAHO

OCT 24 1984

Department of Water Resources
Eastern District Office

IN THE MATTER OF PROTESTS AGAINST APPROVAL OF
APPLICATION FOR TRANSFER NO. 2103 OF WATER RIGHT
NOS. 11-1058, ETC. IN THE NAME OF DEAN WARD AND
GRANT HADDOCK

ORDER ADOPTING
PROPOSED MEMORANDUM
DECISION AND ORDER

WHEREAS, A. Kenneth Dunn, Director of the Department of Water Resources having issued and served a copy on the parties on September 11, 1984, a Proposed Memorandum Decision and Order in the above-captioned matter, pursuant to Idaho Code, Section 67-5211; and,

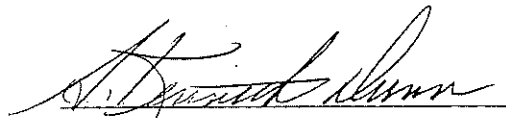
WHEREAS, on October 15, 1984, which is 34 days after the date of service of the proposed decision, an objection to the proposed decision was received from protestant Ardella Peterson; and,

WHEREAS, exceptions to be considered must be received on or before the 15th day following the service of the proposed decision; and,

WHEREAS, no timely exceptions were received to the Proposed Memorandum Decision and Order;

IT IS, THEREFORE, HEREBY ORDERED that said Proposed Memorandum Decision and Order be adopted and issued as the Final Decision and Order.

Dated this 18th day of October, 1984.



A. KENNETH DUNN

Director

Transfer No. 21Application No. 11-1058/etc.
(See attachment)STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES*Approved* APPLICATION FOR TRANSFER OF WATER RIGHT

To Change the Point of Diversion and/or the Place of Use

Name of applicant Dean Ward & Grant Haddock, Phone 945-2361
Post office address Bloomington (Ward); Paris (Haddock), Idaho

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:

a. Decree to see attachment(Name)
in case of Edward Haddock vs Joseph E. Thornick et al
dated Oct. 10, 1904 in Fifth Dist. county of Bear Lake
(Name of court)

b. License No. _____ issued by the Idaho Department of Water Resources

c. Claim No. _____ on file with the Idaho Department of Water Resources

2. If applicant is not the original holder of this right, explain how it was acquired and attach a copy of the deed or other evidence of ownership of the land to which the right is appurtenant _____

3. Source of water Worm Creek tributary to Bear River4. Date of priority see attachment

5. Water is used for the following purposes:

amount 2.67 for Irrigation purposes from Apr. 1 to Nov. 1

amount _____ for _____ purposes from _____ to _____

amount _____ for _____ purposes from _____ to _____
(month/day - both dates inclusive)6. Total amount of water under right: a. 2.67 cubic feet per second
& for
b. _____ acre feet per annum7. Location of original point of diversion is NW 1/4 of SW 1/4 of Section 34
Township 14S Range 43E U.M. in Bear Lake CountyAdditional points of diversion, if any SE 1/4 NW 1/4, Sec. 34, SW 1/4 NE 1/4, Sec. 34, T. 14S, R. 43E;
NE 1/4 NW 1/4, Sec. 4, T. 15S, R. 43E, B.M.

8. Lands irrigated or place of use:

TWP.	RANGE	SEC.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				TOTALS
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	
14S	43E	34	X	X	X	X									X	X	X	X	133.5

Total number of acres to be irrigated 133.5

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B. DESCRIPTION OF PORTION OF RIGHT FOR WHICH THE CHANGE IS REQUESTED (If the entire right is requested changed, omit part B)

1. Amount of water: a. _____ cubic feet per second
&/or
b. _____ acre feet per annum
2. Point of diversion _____ ¼ _____ ¼, Section _____ Township _____
Range _____, B.M., _____ County
Additional points _____
3. Place of use:

TWP.	RANGE	SEC.	NE¼				NW¼				SW¼				SE¼				TOTALS
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	

C. DESCRIPTION OF RIGHT OR PORTION THEREOF, AFTER THE REQUESTED CHANGE

1. Change in point of diversion
 - a. Amount of water to be diverted 2.67 c.f.s. &/or _____ acre feet
 - b. Point(s) of diversion NE ¼ NW ¼, Section 4 Township 15S
Range 43E, B.M., Bear Lake County
Additional points NW¼SW¼, Sec. 34, SE¼NW¼, Sec. 34, SW¼NE¼, Sec. 34, T. 14S,
R. 43E
 - c. Description of diverting works ditches and headgates
 - d. Describe the reasons for applying for a change in the point(s) of diversion a gravity sprinkler system is supplied from the ditch located in NE¼NW¼, Sec. 4, T. 15S, R. 43E; and will be the main point of diversion for a more efficient use of the existing water supply

2. Change in place of use

- a. Describe the lands or place of use to which the right will be transferred:

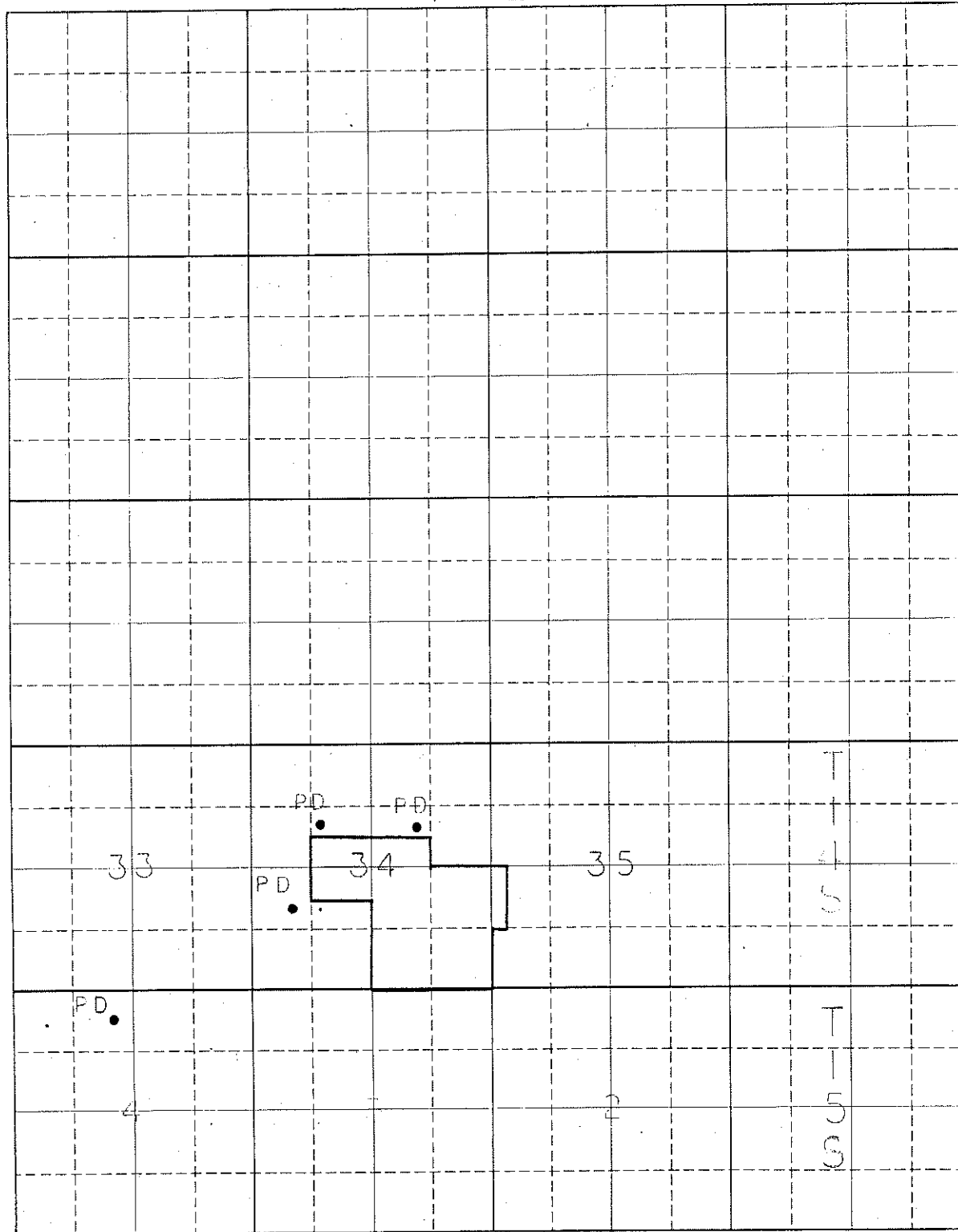
TWP.	RANGE	SEC.	NE¼				NW¼				SW¼				SE¼				TOTALS
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
14S	43E	34			10					10	15				30	25	20	20	130
		35									3.5								3.5

Total number of acres to be irrigated 133.5

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- b. Draw a map indicating the new point(s) of diversion and/or the new land to be irrigated.
Show clearly the land involved by section, township and range number.

R 47 E



SCALE: 2 inches equal 1 mile. Draw plan in ink.

3. Remarks _____

I hereby assert that no one will be injured by such change and the change does not constitute an enlargement in use of the original right. The information contained in this application is true to the best of my knowledge.

Robert A. McGaddox
Dean Ward
(Signature of applicant)

Subscribed and sworn to before me this 26th day of April, 19 77

[Signature]
(Notary public)

My commission expires 2/14/78

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

No. 2103

This is to certify that I have examined Application for Transfer of Water Rights No. 11-1058 etc., and said application is hereby APPROVED

1. Approval of said application is subject to the following limitations and conditions:
as set forth in the Proposed Memorandum Decision and Order

2. Denial of said application is for the following reasons: _____

Witness my hand this 22nd day of October, 19 84

[Signature]
A. KENNETH DUNN, Director

FOR DEPARTMENT USE ONLY

Received by [Signature] Date 4-26-77

Prelim. check by [Signature] Fee \$20.00

Receipted by [Signature] Date 4-26-77

Published in June 23 & June 30 - 1977

Pub. dates May 26 & June 2 - 1977

Watermaster recommendation requested on 6-01-77

WD #11 rec'd. 6-07-77

Russell Staker

Correction protested

Protest filed by Mayo Kroger

Robert Wilson, Jr., Arden

(C. Wilke), James C. Payne

Copies of protest forwarded by CW

Hearing held by _____ Date _____

Recommended for approval denial

by EMC

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