

County of Blaine
County of Boise

I, A. L. Richardson Clerk of the District
Court of the Second Judicial District in and for
the County of Boise aforesaid do hereby certify
the foregoing to be a full true and correct of the
Act of Naturalization of James E. Gruchy as it
appears of Record in my office

Witness my hand and official seal
this 31st day of October 1884
A. L. Richardson

Clerk

By J. J. Brinkell

Deputy Clerk

TERRITORY OF IDAHO

District Court *Second Judicial*
District, County of *Ada* *Blaine*

Act of Naturalization

CF

James E. Gruchy

Herald Printing and Blank Book House, Omaha.

No 817 NON-MINERAL AFFIDAVIT.

COUNTY OF Boise
County OF Idaho } ss.

James De Knudsen, being duly sworn according to law, deposes and says that he is the identical James De Knudsen who is an applicant for Government title to the 3 1/2 Sec 10 and 10 1/4 Sec 8 & 20 1/4 Sec 12 and NW 1/4 NW 1/4 Sec 13 T10 R1N 12 E

that he is well acquainted with the character of said described land, and with each and every legal subdivision thereof, having frequently passed over the same; that his knowledge of said land is such as to enable him to testify understandingly with regard thereto; that there is not, to his knowledge, within the limits thereof, any vein or lode of quartz or other rock in place, bearing gold, silver, cinnabar, lead, tin, or copper, or any deposit of coal; that there is not within the limits of said land, to his knowledge, any placer, cement, gravel, or other valuable mineral deposit; that no portion of said land is claimed for mining purposes under the local customs or rules of miners or otherwise; that no portion of said land is worked for mineral during any part of the year by any person or persons, that said land is essentially non-mineral land, and that his application therefor is not made for the purpose of fraudulently obtaining title to mineral land, but with the object of securing said land for agricultural purposes.

James De Knudsen

Subscribed and sworn to before me this 25 day of July, A. D. 1878, and I hereby certify that the foregoing affidavit was read to the said James De Knudsen previous to his name being subscribed thereto; and that deponent is a respectable person, to whose affidavit full faith and credit should be given.

John Buckles
Register

No. 817

HOMESTEAD APPLICATION.

Jamies D. E. Grady
Maricopa

July 25, 1878

Sect 14, Town 7N, Range 2E

Filed Sept. 10. 1878.
41-197. 82413.

HOMESTEAD.

APPLICATION
No. 877 }

Land Office at Bozonia City Idaho

July 25th, 1878.

I, James De Grouchy, of Bozonia Co.
Bozonia Territory, do hereby apply to enter, under Section 2289,

Revised Statutes of the United States, the SE 1/4 NW 1/4 Sec 12

NW 1/4 NW 1/4 of Section 13 in Township 20N of
Range 2E, containing 160 acres.

James De Grouchy

Land Office at Bozonia City Idaho

July 25th, 1878.

I, John B. Walker, REGISTER OF THE LAND OFFICE,

do hereby certify that the above application is for Surveyed Lands of the
class which the applicant is legally entitled to enter under Section 2289,
Revised Statutes of the United States, and that there is no prior, valid,
adverse right to the same.

John B. Walker
Register.

Abby R. S.

520-

Sturgeon

noak.

20 acres

6 coals

7 years

Patent delivered to
him in this office
Nov 8 - 1886

Harbuckley
Reprints

FINAL RECEIVER'S RECEIPT, No. 490

APPLICATION, No. 817

HOMESTEAD.

Receiver's Office, Bozcity, Idaho

Oct 31, 1884.

RECEIVED of James D. Grouchy the sum
of five dollars — cents,

being the balance of payment required by law for the entry of —

6 1/2 Acres Sept 12

Mr & Mrs

PAY DELIVERED BY R.R.

of Section 13 in Township 7N of Range 2E
containing 16a acres, under Section 2291 of the
Revised Statutes of the United States.

\$ 6.00
5,50 & new books

Malachi Beck
Receiver.

HOMESTEAD PROOF.

LAND OFFICE AT

Baino City Idaho

Original Application No. *817*

Final Certificate No. *420*

Approved: *Edw. L. Curtis*, Register.

M. Krebs, Receiver.

NOTE.—The officer before whom the testimony is taken should call the attention of the witness to the following section of the Revised Statutes, and state to him that it is the purpose of the Government, if it be ascertained that he testifies falsely, to prosecute him to the full extent of the law.

TITLE LXX—CRIMES.—CH. 4.

SEC. 5392. Every person who, having taken an oath before a competent tribunal, officer, or person, in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed is true, willfully and contrary to such oath, states or subscribes any material matter which he does not believe to be true, is guilty of perjury, and shall be punished by a fine of not more than two thousand dollars, and by imprisonment, at hard labor, not more than five years, and shall, moreover, thereafter be incapable of giving testimony in any court of the United States until such time as the judgment against him is reversed. [Sec. 5 1730.]

CERTIFICATE AS TO POSTING OF NOTICE.

Land Office at *Bone City, Idaho*

Dec 31, 1884.

I, *Edw M Curtis*, Register, do hereby

certify that a notice, a printed copy of which is hereto
attached, was by me posted in a conspicuous place in my
office for a period of thirty days, I having first posted said
notice on the *23* day of *Dec*, 1884.

Edw M. Curtis
Register.

NOTICE FOR PUBLICATION.

U. S. LAND OFFICE AT BOISE CITY, IDAHO, }
Sept. 23d, 1881.
Notice is hereby given that the following-
named settler has filed notice of his intention to
make final proof in support of his claim, and
that said proof will be made before the Register
and Receiver, at Boise City, Idaho, on October
31st, 1881, viz: James De Grouchy, for the E 1/4,
SW 1/4, and SW 1/4, SW 1/4, sec 12, and NW 1/4,
NW 1/4, sec 13, T1 N 2 E, He names the fol-
lowing witnesses to prove his continuous resi-
dence upon, and cultivation of said land, viz: E.
T. Morgan, John Fenion, John Mann, W. H.
Roy.
sept23/81
EDWARD L. CURTIS,
Register.

AFIDAVIT OF PUBLICATION.

NOTICE FOR PUBLICATION.

U. S. LAND OFFICE AT BOISE CITY, IDAHO, }
Sept. 23d, 1881.
Notice is hereby given that the following-
named settler has filed notice of his intention to
make final proof in support of his claim, and
that said proof will be made before the Register
and Receiver, at Boise City, Idaho, on October
31st, 1881, viz: James De Grouchy, for the E 1/4,
SW 1/4, and SW 1/4, SW 1/4, sec 12, and NW 1/4,
NW 1/4, sec 13, T1 N 2 E, He names the fol-
lowing witnesses to prove his continuous resi-
dence upon, and cultivation of said land, viz: E.
T. Morgan, John Fenion, John Mann, W. H.
Roy.
sept23/81
EDWARD L. CURTIS,
Register.

Albion Kelly being first duly sworn, says that he
is the publisher of the "Idaho Statesman," a Tri- Weekly newspa-
per, published 3 times a week, in Boise City, in said County and Territory;
that the annexed advertisement was published once a week for 6
successive times in said newspaper; that the date of the first publication
of said advertisement was on the 23^d day of September 1881
and the date of the last publication was on the 28th day of
October 1881

Albion Kelly

Subscribed and sworn to before me, this
31 day of Oct 1881
W. H. Curtis
Register

NON-MINERAL AFFIDAVIT.

COUNTY OF Clark
City OF Shoshone } ss:

James De Gravelly Person being duly sworn according to law, deposes and says that he is the identical _____ who is an applicant

for Government title to the

62 A 2 1/2 Sec 13, T 14 R 2 E

that he is well acquainted with the character of said described land, and with each and every legal subdivision thereof, having frequently passed over the same; that his knowledge of said land is such as to enable him to testify understandingly with regard thereto; that there is not, to his knowledge, within the limits thereof, any vein or lode of ~~quartz or other rock in place, bearing gold, silver, cinnabar, lead, tin, or copper, or any deposit of coal; that there is not within the limits of said land, to his knowledge,~~ placer, cement, gravel, or other valuable mineral deposit; that no portion of said land is claimed for mining purposes under the local customs or rules of miners or otherwise; that no portion of said land is worked for mineral during any part of the year by any person or persons; that said land is essentially non-mineral land, and that his application therefor is not made for the purpose of fraudulently obtaining title to mineral land, but with the object of securing said land for agricultural purposes.

James De Gravelly

Subscribed and sworn to before me this 31st day of Oct, A. D. 1884,
 and I hereby certify that the foregoing affidavit was read to the said James De Gravelly
 previous to his name being subscribed thereto; and that deponent is a respectable person to whose affidavit full faith and credit should be given.

Michael J. Beck
Notary

Final Homestead Affidavit.

UNDER SECTION 2291, R. S.

Application No. 817

Final Certificate No. 420

I and Office at Moore City Okla

Oct 21, 1897.

HOMESTEAD PROOF.

Final Affidavit Required of Homestead Claimants.

SECTION 2291 OF THE REVISED STATUTES OF THE UNITED STATES.

I James De Kromschay, having made a Homestead entry
of the E 1/4 Sec 13 T 14 N 12 R 10 W 1/4 section No. 13
in Township No. 74 of range No. 2 E under section No. 2289 of the Revised Statutes
Bone City, Idaho of section No. 2291 of the
of the United States, do now apply to perfect my claim thereto by virtue of section No. 2291 of the
Revised Statutes of the United States; and for that purpose do solemnly swear that
I am a citizen of the United States; that I have made actual settlement upon and have cultivated said
land, having resided thereon since the 1st day of Jan, 1874
to the present time; that no part of said land has been alienated, except as provided in section 2288 of the
Revised Statutes, but that I am the sole *bona fide* owner as an actual settler; that I will bear true alle-
giance to the Government of the United States; and further, that I have not heretofore perfected or aban-
doned an entry made under the homestead laws of the United States.

James De Kromschay

I, Malachi Mabe, of the Land Office at
Bone City, do hereby certify that the above affidavit was subscribed
31st day of Oct, 1884
and sworn to before me this

Malachi Mabe
Recorder

IN District COURT OF THE Second JUDICIAL DISTRICT.
IN AND FOR THE COUNTY OF ADA.
TERRITORY OF IDAHO.

Present: Hon. Loae Broderick Judge.

In the matter of the Application of

IN OPEN COURT

James de Bruechy
AN ALIEN

August Term 1884

To become a Citizen of the United States of
AMERICA.

this 12th day of August
1884, as yet of said Term.

It appearing to the satisfaction of this court, by the oaths of

John Norman and J. S. Grant
citizens of the United States of America witnesses for that purpose, first duly sworn and examined, that James de Bruechy
a native of England

has resided within the limits and under the jurisdiction of the United States five years at least, last past, and within the Territory of Idaho for one year at least, last passed; and that during all of said time he has behaved as a man of good moral character, attached to the principles of the Constitution of the United States, and well disposed to the good order and happiness of the same; and it also appearing to the Court by competent evidence, that the said applicant has heretofore, and more than two years since, and in due form of law, declared his intention to become a citizen of the United States; and having now here, before this Court, taken an oath that he will support the Constitution of the United States of America, and that he doth absolutely and entirely renounce and abjure all allegiance and fidelity to every foreign Prince, Potentate, State or Sovereignly ruler, and particularly to Victoria
Queen of Great Britain and Ireland

It is therefore ORDERED, ADJUDGED AND DECREED, that the said James de Bruechy
be, and he is hereby admitted and declared to be a citizen of the
United States of America.

Loae Broderick Judge.

Office of the Clerk of the District Court of the
Second Judicial Dist. of Idaho, in and for the ss.
County of Ada Boise

Clerk of the District Court of

Second Judicial District of Idaho Territory, in and for the
County of Ada, said Court being a Court of Record, having a common law jurisdiction, and of Clerk and Seal, do certify that the above is a true copy of the act of Naturalization of James de Bruechy
as the same appears upon the Records of said Court now in my office in Boise City
County of Ada

IN TESTIMONY WHEREOF, I have herewith set my hand and
affixed the Seal of said Court, this 12th day of August

in the year of our Lord one thousand eight hundred and
eighty-four and in the year of our
Independence the one hundred and eight



J. S. Richardson Clerk.
By Deider Smith Deputy Clerk.

FINAL RECEIVER'S RECEIPT, No. 1130

APPLICATION, No. 8417

HOMESTEAD.

Receiver's Office, Price City, Idaho

Oct. 31, 1884

RECEIVED of James De Koveney the sum
of five dollars 1 cents,

being the balance of payment required by law for the entry of
6 1/2 NW 1/4 & NW 1/4 NW 1/4 Sec 12
Mr & Mrs

of Section 13 in Township 7N of Range 2E Birdsline
containing 160 acres, under Section 2291 of the
Revised Statutes of the United States.

\$ 6.00

Malachi Ricks

Receiver.

Final Certificate No. 420

Homestead Application No. 817

LAND OFFICE

AT

Bonne City, Idaho

Dec 8 31, 1884

Sect 12 & 13 Town 7 N Range 2 E

Approved July 17, 1885
W. J. J. J.

John Mack 20th 1885

See Vol 1. Page 416 X

21-197

HOMESTEAD.

Land Office at

Boise City Idaho
Sept 31, 1884.

FINAL CERTIFICATE,

No. 420 }

APPLICATION,

No. 817 }

It is hereby certified, That, pursuant to the provisions of the act of Congress approved May 20, 1862, entitled "An Act to secure homesteads to actual settlers on the public domain,"

has

made payment in full for

James H. Greaney
Section 13 & 14 T. 4 N. 4 R. 12

of section No. 13 in township No. 7 N
of range No. 2 E containing 160 100 acres

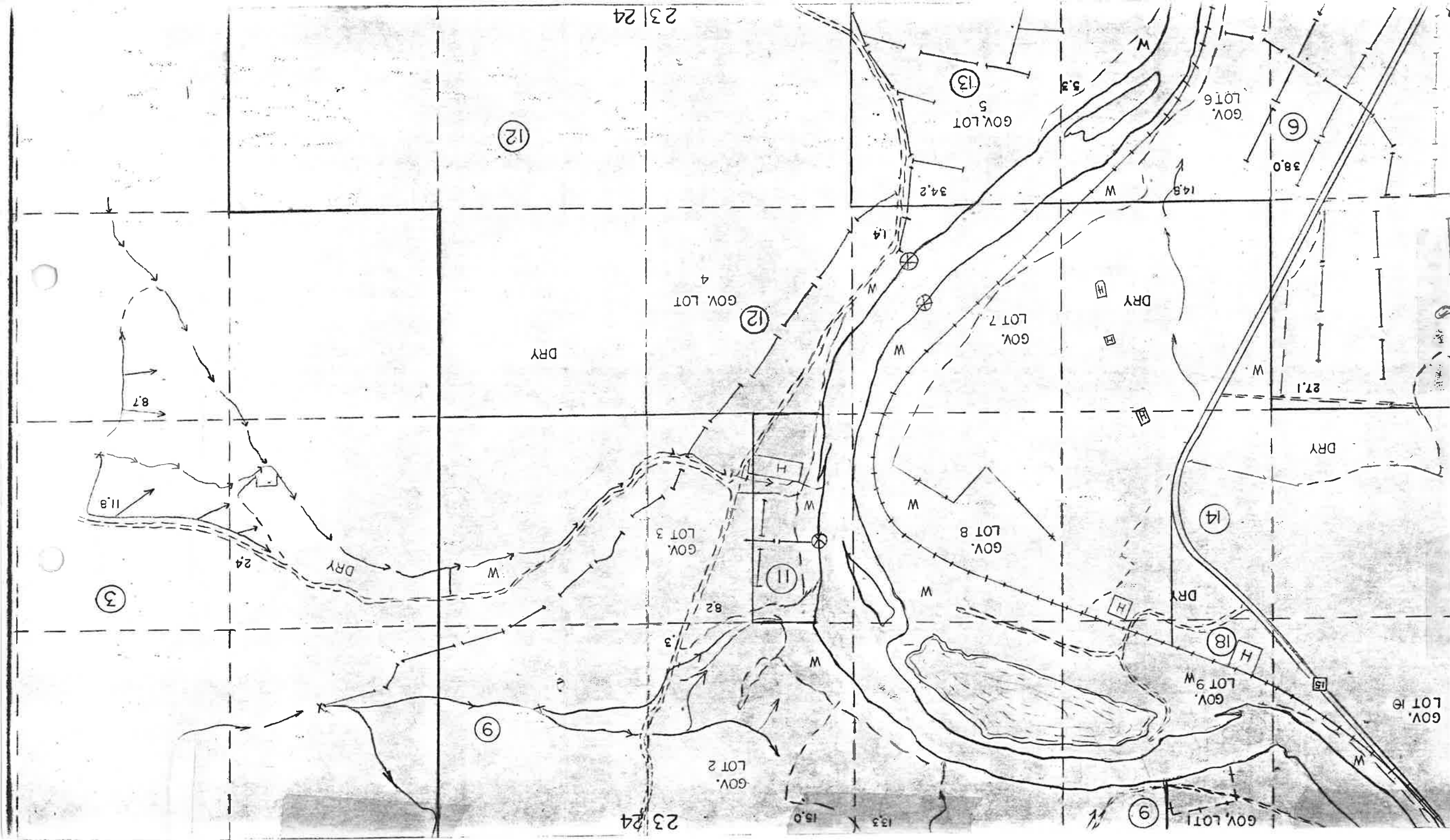
Now, therefore, be it known, That on presentation of this Certificate to the

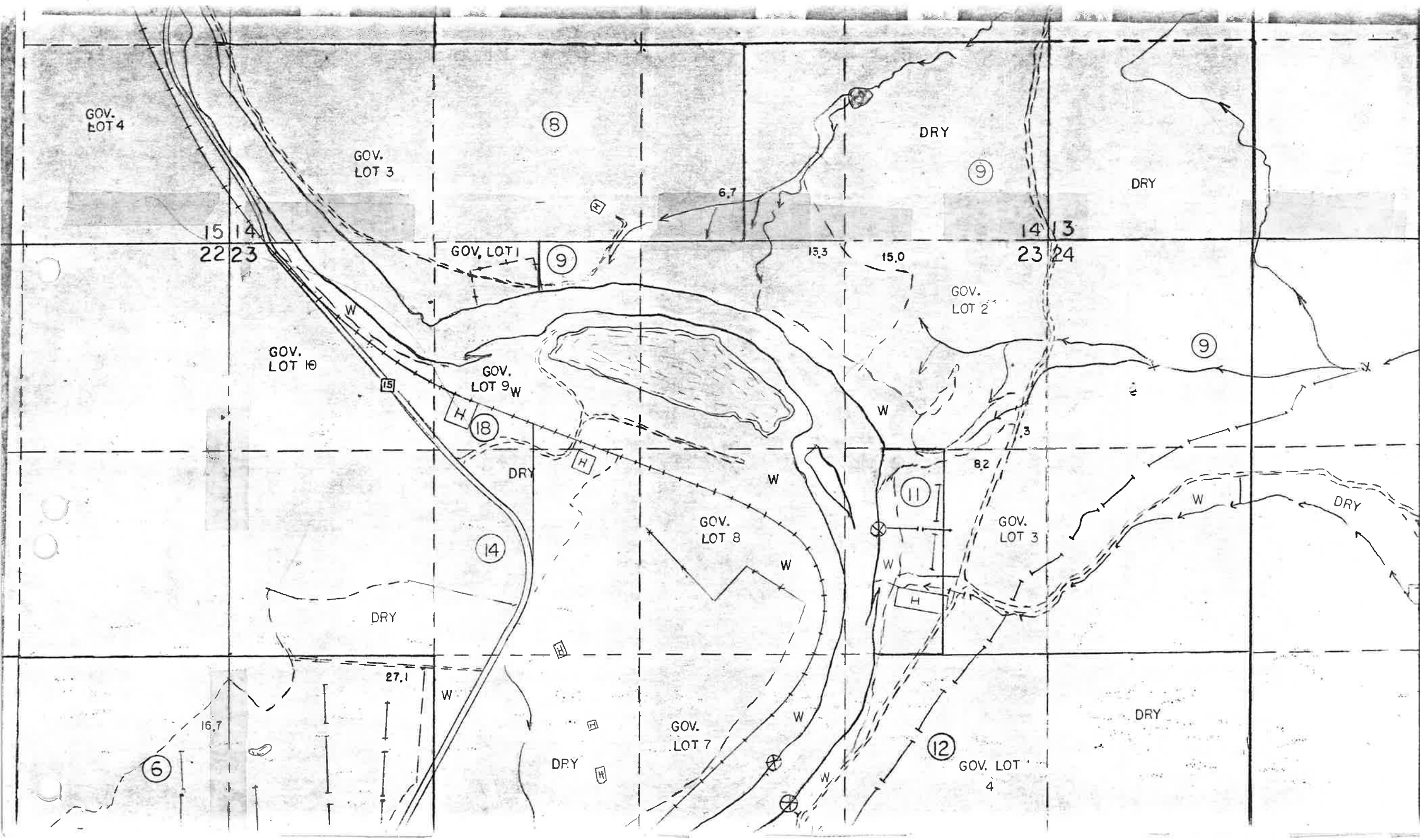
COMMISSIONER OF THE GENERAL LAND OFFICE, the said

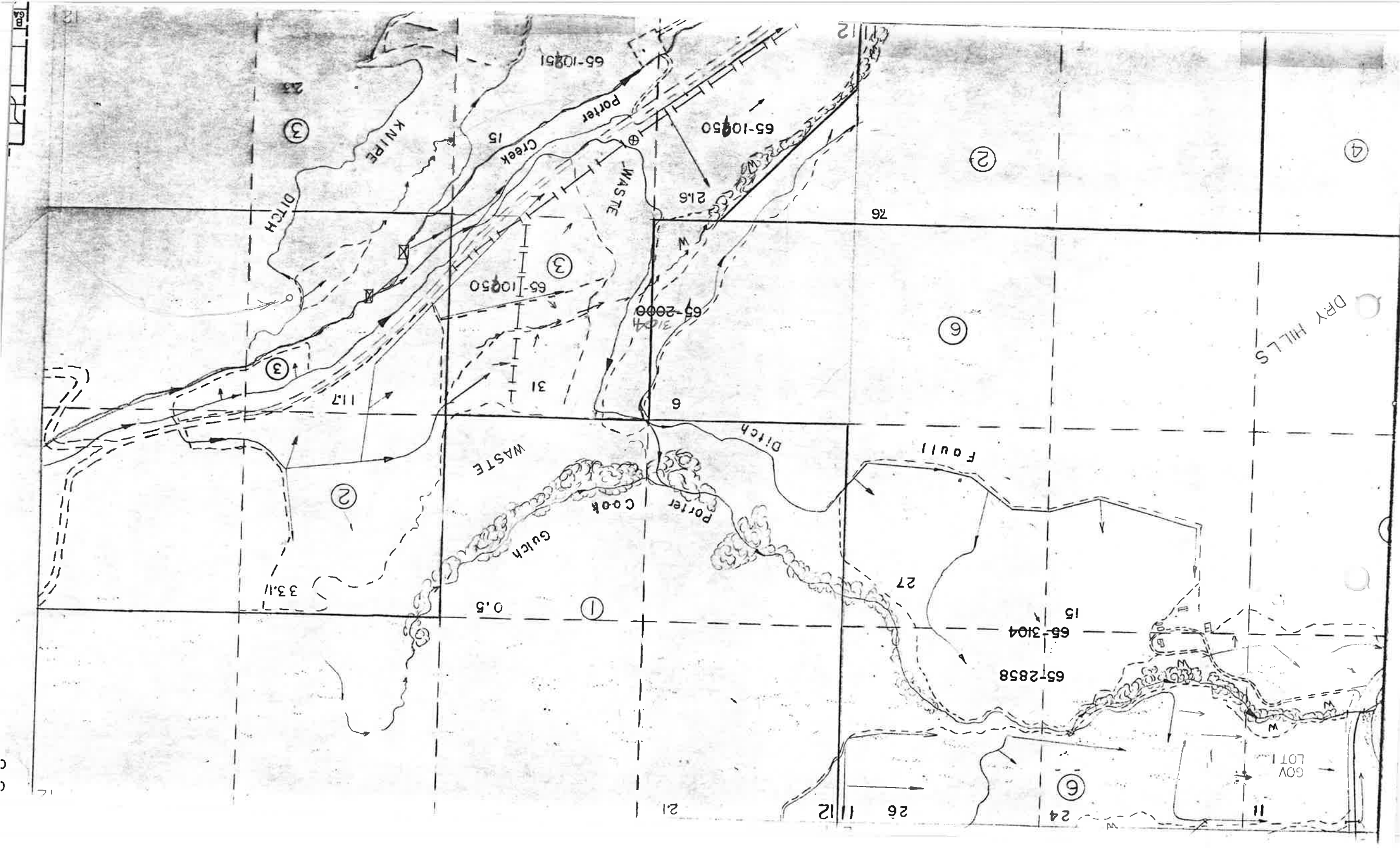
James H. Greaney

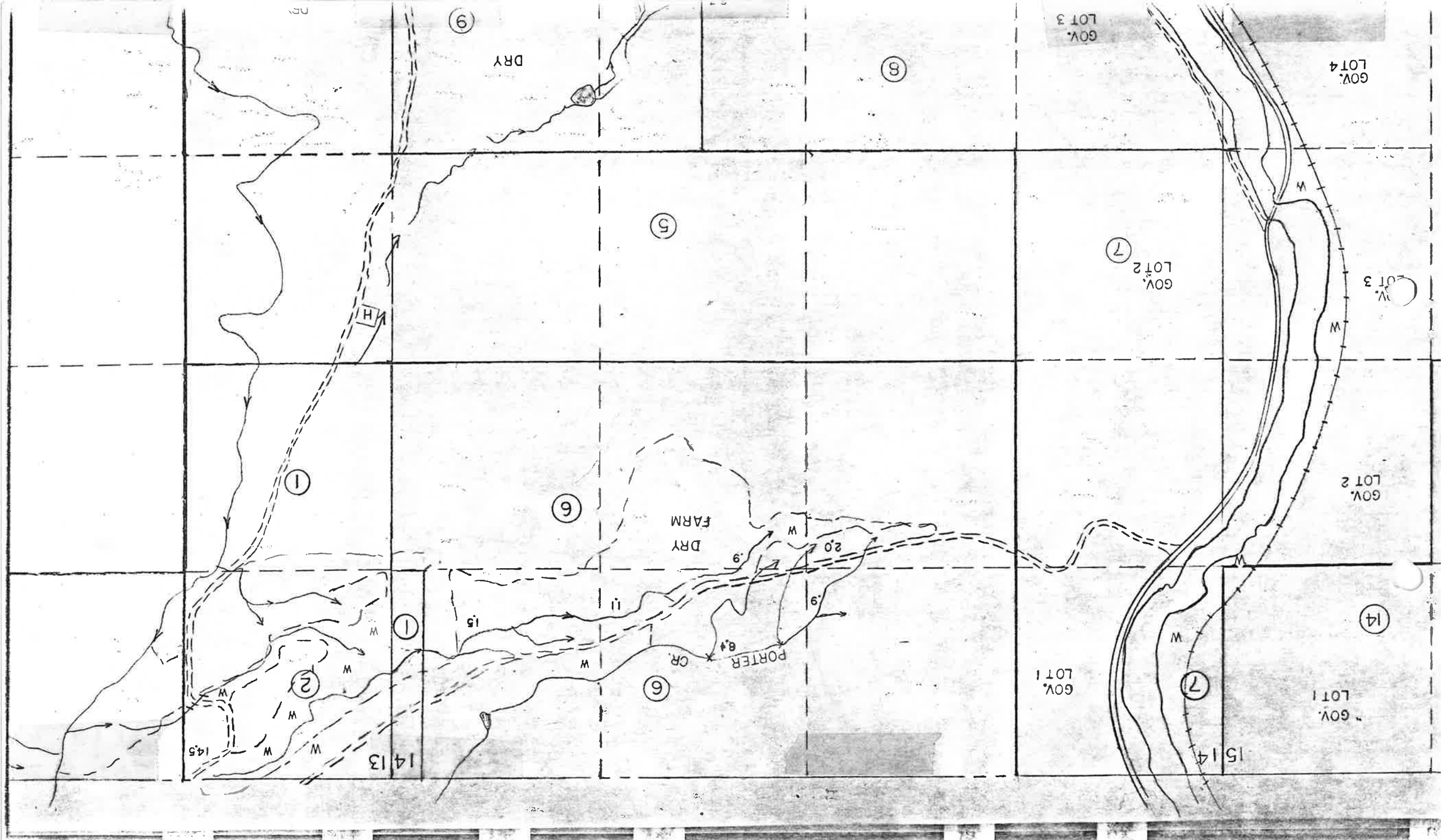
shall be entitled to a Patent for the Tract of Land above described.

Wm. H. Curtis
Register.









WILLIAM D. COLLINS
HOWARD F. MANLY
MIKEL H. WILLIAMS
CLAIRE L. DWYER

COLLINS, MANLY & WILLIAMS
ATTORNEYS AT LAW
707 NORTH 8TH STREET
P. O. BOX 2794
BOISE, IDAHO 83701

TELEPHONE 345-2811
AREA CODE 208

October 23, 1984

RECEIVED
OCT 24 1984

~~Clerk of the Court~~
~~Gem County Clerk's Office~~
~~Gem County Courthouse~~
~~Emmett, Idaho 83617~~

Department of Water Resources

Re: In the Matter of the General
Determination of the Rights
to the Use of Surface and
Ground Waters of the Payette
River Drainage Basin

Gem County Case No. 3667

C
O
P
Y

Dear Clerk:

Enclosed are an original and one copy of our Motion for Permission to File Late Claims and Objections (with attached draft of Petition to Challenge Findings), Affidavit in Support of Motion to File Late Claims and Objections, and Certificate of Mailing. We telephoned your office this week and were informed there would not be a filing fee for these documents.

We would appreciate your filing these documents with the Court at your earliest convenience and returning a conformed copy to our office in the addressed, stamped envelope enclosed for your convenience.

Thank you for your assistance in this matter.

Very truly yours,

COLLINS & MANLY

WILLIAM D. COLLINS

WDC/mkp

Enclosures

cc: David J. Barber (w/enclosures)
Mr. George Dovel (w/enclosures)

COPY

cc: David J. Barber (w/enclosures)
Mr. George Dovel (w/enclosures)

Enclosures

WDC/mkp

WILLIAM D. COLLINS

COLLINS & MANLY

Very truly yours,

Thank you for your assistance in this matter.

convenience.
our office in the addressed, stamped envelope enclosed for your
at your earliest convenience and returning a conformed copy to
We would appreciate your filing these documents with the Court

would not be a filing fee for these documents.
We telephoned your office this week and were informed there
to file late Claims and Objections, and Certificate of Mailing.
Petition to Challenge Findings), Affidavit in Support of Motion
ation to file late Claims and Objections (with attached draft of
Enclosed are an original and one copy of our Motion for Permis-

Dear Clerk:

Gem County Case No. 3667

Re: In the Matter of the General
Determination of the Rights
to the Use of Surface and
Ground Waters of the Payette
River Drainage Basin

~~Gem County Courthouse
Gem County Clerk's Office
Clerk of the Court
Bismark, Idaho 83617~~

Department of Water Resources

OCT 24 1984

RECEIVED

CLAIRE L. DWYER
MIKEL H. WILLIAMS
HOWARD F. MANLY
WILLIAM D. COLLINS

BOISE, IDAHO 83701
P.O. BOX 2794
707 NORTH 8TH STREET

ATTORNEYS AT LAW

COLLINS, MANLY & WILLIAMS

AREA CODE 508
TELEPHONE 345-5811

October 23, 1984

WILLIAM D. COLLINS
COLLINS & MANLY
Attorneys at Law
707 North Eighth Street
Post Office Box 2794
Boise, Idaho 83701
Telephone: (208) 345-2811

RECEIVED

OCT 24 1984

Department of Water Resources

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF GEM

In The Matter Of	)	
	)	
THE GENERAL DETERMINATION OF THE	)	Case No. 3667
RIGHTS TO THE USE OF SURFACE AND	)	
GROUND WATERS OF THE PAYETTE	)	AFFIDAVIT IN SUPPORT OF
RIVER DRAINAGE BASIN	)	MOTION TO FILE LATE
	)	CLAIMS AND OBJECTIONS
	)	
	)	

STATE OF IDAHO)
) ss:
County of Ada)

GEORGE DOVEL, being first duly sworn on oath, deposes and states as follows:

1. That he and his wife, AMY R. DOVEL, have moved the Court for authority to file late claims and objections to the proposed findings of the Department of Water Resources on file with this Court in accordance with the proposed Petition attached to the Motion.

2. Your Affiant re-alleges and incorporates all of the allegations in the Petition as if fully set forth herein.

3. Your Affiant met with representatives of the Department of Water Resources, including Mr. Forrest Luthy, approximately

March or April, 1982, and prior to his purchase of the property described in paragraph II of Count One of the Petition to discuss what Petitioner thought were the most current proposed findings of the Department of Water Resources dated August 7, 1978. During that discussion, there was no mention that the Department of Water Resources had issued proposed findings dated March 2, 1979. The Petitioner advised the Department that he wished to add to the water rights for the land additional stockwater and irrigation rights, since he felt the water rights listed by the Department did not fully describe the rights existing. He was told at that time that there were numerous errors or corrections needed to be made by the Department in those proposed findings, that the Department was working on those changes at that time, that it would take at least one year to prepare a complete description of the changes and a new set of proposed findings of water rights, and that after the changes were completed, Petitioner would be notified and given an opportunity to submit his requested claims at that time. The Petitioner was told not to file his claims then, but to wait until notified by the Department. The Petitioner did not receive any notice by the Department of the corrections, and in approximately April or May, 1983, again discussed submitting his requested changes with the Department. He was told then that the Department had decided not to submit a new set of proposed findings of water rights to the Court because there were too many objections and a final decision by the Court would be greatly delayed.

4. In August, 1983, Affiant first became aware that the

findings of the Department dated August 7, 1978, were not the final findings and that the findings dated March 2, 1979, were the final findings of the Department and had been submitted to the Court.

5. The Petitioner alleges that the complete findings of March 2, 1979, for the water of the Payette River Drainage Basin were not sent to all water users. At the most, only partial findings were sent to each user which primarily listed just the findings of the Department as to that claimant's water rights and did not fully apprise the users of the claims of others contrary to the provisions of Idaho Code, Section 42-1410. Unless each water user has a complete list of the findings, he cannot determine the actual status of his own right since his right is dependent upon the rights claimed by others.

6. The Petitioners have not filed their objections or claims to additional water rights prior to this date in part for the reasons stated above and for the additional reason that the factual basis for filing the objections was not readily available to Petitioners before this time.

Your Affiant states that the reasons for objecting to the findings of the Department of Water Resources with respect to claim no. 65-10773 is based upon the testimony of residents of the area who were present when the water was first put to beneficial use and upon aerial photos of the United States Department of Agriculture showing that the land remained in native vegetation and was not cultivated and water applied to beneficial use prior to 1938. It was only after 1938 that the water was

first applied to beneficial use. The acreage irrigated gradually increased to the present acreage shown by the Department on its aerial photos (of recent date) used in determining the various water rights within the Basin. The reason for not objecting to the findings earlier was that information was not obtained and fully reviewed prior to this date.

The Petitioner states that the reasons for objecting to the findings of the Department of Water Resources with respect to claim no. 65-10771 are for the same reasons as set forth in the preceding paragraph.

7. Your Affiant has discussed his claims and objections with the Department of Water Resources and they have advised your Affiant that they would like to see a full resolution of the issues raised by the Petition in order to render a factually and legally accurate decree as possible.

8. Your Movant is acting in good faith and believes that the evidence acquired by him will meet the burden of proof required to amend the Department of Water Resources' findings as stated in his Petition.


George Dovel

SUBSCRIBED AND SWORN TO BEFORE ME, a Notary Public for Idaho, this 19 day of October, 1984.


Notary Public for Idaho
Residing at Boise, Idaho

WILLIAM D. COLLINS
COLLINS & MANLY
Attorneys at Law
707 North Eighth Street
Post Office Box 2794
Boise, Idaho 83701
Telephone: (208) 345-2811



Department of Water Resources

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF GEM

In the Matter of)
)
THE GENERAL DETERMINATION OF THE) Case No. 3667
RIGHTS TO THE USE OF SURFACE AND)
GROUND WATERS OF THE PAYETTE) CERTIFICATE OF MAILING
RIVER DRAINAGE BASIN)
)
)
)

I HEREBY CERTIFY That on this 23rd day of October, 1984, I
served a true and correct copy of the MOTION FOR PERMISSION TO
FILE LATE CLAIMS AND OBJECTIONS (with attached draft of PETI-
TION TO CHALLENGE FINDINGS) and AFFIDAVIT IN SUPPORT OF MOTION
TO FILE LATE CLAIMS AND OBJECTIONS upon the following counsel
of record by placing a copy thereof in the United States Mails,
postage prepaid, addressed as follows:

David J. Barber
Deputy Attorney General
Department of Water Resources
State of Idaho
Statehouse
Boise, Idaho 83720

COLLINS & MANLY

By

WILLIAM D. COLLINS - Of the Firm
Attorneys for Petitioners GEORGE
DOVEL and AMY R. DOVEL

WILLIAM D. COLLINS
COLLINS & MANLY
Attorneys at Law
707 North Eighth Street
Post Office Box 2794
Boise, Idaho 83701
Telephone: (208) 345-2811

RECEIVED

OCT 24 1984

Department of Water Resources

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF GEM

In The Matter Of

THE GENERAL DETERMINATION OF THE
RIGHTS TO THE USE OF SURFACE AND
GROUND WATERS OF THE PAYETTE
RIVER DRAINAGE BASIN

Case No. 3667

MOTION FOR PERMISSION
TO FILE LATE CLAIMS
AND OBJECTIONS

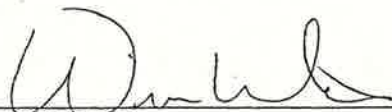
COME NOW, the Petitioners, by and through their attorney of record, WILLIAM D. COLLINS of the firm of COLLINS & MANLY, and hereby move the Court for permission to file claims to water rights to unnamed springs, the North Fork of Little Jackass Creek, Middle Fork of Little Jackass Creek and unnamed stream tributary to Porter Creek, all within the Payette River Drainage Basin in accordance with the description of the water rights as set forth in the Petition. Petitioners further move the Court for authority to file a late objection to water right no. 65-10771 and no. 65-10773 listed in the name of Arlie L. Woods as set forth in the Department of Water Resources' proposed findings of water rights dated March 2, 1979, and on file with the Court.

This motion is based upon the verified Petition and the Affidavit in support hereof of one of the Petitioners, GEORGE DOVEL. A copy of the proposed Petition is attached hereto as Exhibit A. The Affidavit in support of this motion has been filed with the Court.

Oral argument on the above motion is requested.

DATED This 19 day of October, 1984.

COLLINS & MANLY

By 
WILLIAM D. COLLINS - Of the Firm
Attorneys for Petitioners

WILLIAM D. COLLINS
COLLINS & MANLY
Attorneys at Law
707 North Eighth Street
Post Office Box 2794
Boise, Idaho 83701
Telephone: (208) 345-2811

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OCT 24 1984

Department of Water Resources

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF GEM

In The Matter Of	)	
	)	
THE GENERAL DETERMINATION OF THE	)	Case No. 3667
RIGHTS TO THE USE OF SURFACE AND	)	
GROUND WATERS OF THE PAYETTE	)	PETITION TO CHALLENGE
RIVER DRAINAGE BASIN	)	FINDINGS
	)	
	)	

COME NOW, George Dovel and Amy R. Dovel and hereby petition
the Court as follows:

COUNT ONE

I.

Petitioners are residents of Boise County, Idaho.

II.

Petitioners became the owners of the land more particularly
described below on April 5, 1982, and have owned the real prop-
erty continuously from that date through to the present:

The East Half of the Southwest Quarter and the South
Half of the Southeast Quarter all of Section 12, Town-
ship 7 North, Range 2 East, of the Boise Meridian.

The Southwest Quarter of the Southwest Quarter of Sec-
tion 12, Township 7 North, Range 2 East, of the Boise
Meridian, excepting therefrom a triangular tract of
land located in the Northwest Corner of the Southwest

Quarter of the Southwest Quarter described as follows:

Commencing at the Southwest Corner of said Section 12, thence North 6.41 chains to the place of beginning; thence North 13.60 chains; thence East 13.44 chains; thence Southwesterly 19.12 chains to the point of beginning in Section 12, Township 7 North, Range 2 East, of the Boise Meridian.

The East Half of the Northeast Quarter; the Southwest Quarter of the Northeast Quarter; the Southeast Quarter; the East Half of the Southwest Quarter; the Northwest Quarter of the Northwest Quarter; and the Southeast Quarter of the Northwest Quarter all of Section Thirteen, Township 7 North, Range 2 East, of the Boise Meridian.

Lots One to Four inclusive, the East Half of the Northwest Quarter the Southwest Quarter of the Northeast Quarter of Section 18, Township 7 North, Range 3 East, of the Boise Meridian.

III.

Petitioners are the successors in interest to Angel Madarieta and Rosa I. Madarieta, and have acquired all of their right, title and interest in and to the water rights and ditch rights appurtenant to the property described in Paragraph II, including, without limitation, those water rights denominated by the Department of Water Resources in the above action as rights Nos. 65-10950, 65-10951, 65-10952 and 65-10953 to the waters of Porter Creek, a water course in the Payette River Drainage Basin.

IV.

The petitioners, as owners of water rights to Porter Creek, are affected by the Department of Water Resource's findings of water rights to Porter Creek in this action.

V.

The Petitioners allege that the report of the Department of Water Resources submitted to the Court in this action is in error in its findings with respect to water right Nos. 65-10773 and 65-10771 listed in the name of Arlie L. Woods.

Water right No. 65-10773 as found by the Department of Water Resources is summarized as follows:

Priority:	6/1/1900
Quantity:	0.90 c.f.s. Irrigation 0.70 Acre Feet Per Year, Stockwater
Place of Use:	The SW $\frac{1}{4}$ NE $\frac{1}{4}$ and NW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 12, T.7N., R.2E., B.M.
Point of Diversion:	SW $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 7, T.7N., R.3E., B.M.

Water right no. 65-10771 as found by the Department of Water Resources is summarized as follows:

Priority:	6/1/1905
Quantity:	0.32 c.f.s. Irrigation 0.70 Acre Feet Per Year, Stockwater
Place of Use:	The SE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 11, T.7N., R.2E., B.M.
Point of Diversion:	NW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 12, T.7N., R.2E., B.M.

The petitioners allege that water right No. 65-10773 is in error in that the use of the water commenced during 1938 and is not founded upon a license and, therefore, the priority of the right can be no earlier than 1938. Petitioners further allege that water right no. 65-10773 is also in error because the total acreage irrigated as listed by the Department of Water Resources was in fact no more than ten acres when the land was first irrigated in 1938 and that the acreage irrigated has gradually increased over the years up to 45 acres.

The petitioners allege that water right No. 65-10771 is in

error to the extent of 0.32 c.f.s. listed for irrigation and stockwater purposes with a priority of June 1, 1905. The 0.32 c.f.s. listed for irrigation under that water right has not been put to beneficial use and no right should be decreed for any purpose and if ever put to use, that right has long since been either forfeited (Idaho Code, Section 42-222), abandoned or lost by prescription or adverse possession for failure of the owner to make a use of the water for more than seventy years. The 0.02 c.f.s. listed for stockwater was first put to beneficial use in approximately June, 1940, and a priority should be awarded as of that date.

VI.

The petitioners as owners of water rights junior to water right no. 65-10773 and 65-10771 will be adversely affected by the findings of the Department of Water Resources unless those water rights are corrected to reflect the allegations made in paragraph V.

COUNT TWO

I.

Petitioners re-allege the allegations contained in paragraphs I, II, III and IV of Count I.

II.

The petitioners further allege that the findings of the Department of Water Resources do not fully set forth the nature of the petitioners' claims to water rights. In addition to water right Nos. 65-10950, 65-10951, 65-10952 and 65-10953, the peti-

tioners should be granted water rights for the following uses and purposes:

- (a) Source: Unnamed springs (not tributary to Porter Creek, one pond and one stock tank)
Priority: March 2, 1917
Quantity: 0.05 c.f.s.
2.7 acre feet per year
Nature of Use: Stockwater
Period of Use: January 1 through December 31
Point of Diversion: SW $\frac{1}{4}$ NE $\frac{1}{4}$ (1 point) and SE $\frac{1}{4}$ NW $\frac{1}{4}$ (1 point) all in Sec. 13, T.7N., R.2E., B.M.
Place of Use: SW $\frac{1}{4}$ NE $\frac{1}{4}$ and SE $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 13, T.7N., R.2E., B.M.
- (b) Source: North Fork Little Jackass Creek
Priority: May 29, 1918
Quantity: 0.05 c.f.s.
2.7 acre feet per year
Nature of Use: Stockwater
Period of Use: January 1 through December 31
Point of Diversion: SE $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$, and SW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 13, T.7N., R.2E., B.M., and Lot 2 and SE $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 18, T.7N., R.3E., B.M.
Place of Use: SE $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$ and SW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 13, T.7N., R.2E., B.M., and Lot 2 and SE $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 18, T.7N., R.3E., B.M.
- (c) Source: Middle Fork Little Jackass Creek
Priority: May 29, 1918
Quantity: 0.05 c.f.s.
2.7 acre feet per year
Nature of Use: Stockwater
Period of Use: January 1 through December 31
Point of Diversion: Lot 4, Sec. 18, T.7N., R.3E., B.M.
Place of Use: Lot 4, Sec. 18, T.7N., R.3E., B.M.
- (d) Source: Unnamed springs, three (not tributary to Porter Creek, 2 ponds and 1 stock tank)
Priority: April 10, 1894
Quantity: 0.05 c.f.s.
2.7 acre feet per year
Nature of Use: Stockwater
Period of Use: January 1 through December 31

Point of Diversion:	Lot 1, (3 points), Sec. 18, T.7N., R.3E., B.M.
Place of Use:	Lot 1, Sec. 18, T.7N., R.3E., B.M.
(e) Source:	Unnamed stream tributary to Porter Creek
Priority:	April 10, 1894
Quantity:	0.1 c.f.s
Nature of Use:	Irrigation (5 acres)
Period of Use:	April 1 through November 1
Point of Diversion:	SW $\frac{1}{4}$ SE $\frac{1}{4}$ (2 points), Sec. 12, T.7N., R.2E., B.M.
Place of Use:	SW $\frac{1}{4}$ SE $\frac{1}{4}$ and SE $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 12, T.7N., R.2E., B.M.
(f) Source:	Unnamed stream (tributary to Porter Creek) and unnamed spring (not tributary to Porter Creek)
Priority:	April 10, 1894
Quantity and Use:	0.1 c.f.s , Irrigation (5 acres)
Quantity and Use:	0.05 c.f.s. (2.7 acre feet per year), Stockwater, when combined with irrigation use above does not exceed 0.1 c.f.s.
Period of Use, Irrigation:	April 1 through November 1
Period of Use, Stockwater:	January 1 through December 31
Point of Diversion: (Irrigation & Stockwater)	Lot 1, Sec. 18, T.7N., R.3E., (1 point, spring, and the SE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 12, T.7N., R.2E., (1 point, stream), B.M.
Place of Use: (Irrigation & Stockwater)	SE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 12, T.7N., R.2E., B.M.
(g) Source:	Porter Creek
Priority:	May 29, 1918
Quantity:	0.05 c.f.s. 2.7 acre feet per year
Nature of Use:	Stockwater
Period of Use:	January 1 through December 31
Point of Diversion:	NW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 12, T.7N., R.2E., B.M.
Place of Use:	SE $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 12, T.7N., R.2E., B.M.
(h) Source:	Porter Creek
Priority:	October 31, 1884
Quantity:	0.57 c.f.s.
Nature of Use:	Irrigation (20 acres)
Period of Use:	April 1 through November 1
Point of Diversion:	SW $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 7, T.7N., R.3E., B.M.

Place of Use:	NE $\frac{1}{4}$ SW $\frac{1}{4}$ and SE $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 12, T.7N., R.2E., B.M.
(i) Source:	Unnamed spring tributary to Porter Creek
Priority:	October 31, 1884
Quantity:	0.02 c.f.s.
	0.70 acre feet per annum
Nature of Use:	Stockwater
Period of Use:	January 1 through December 31
Point of Diversion:	NE $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 12, T.7N., R.2E., B.M.
Place of Use:	NE $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 12, T.7N., R.2E., B.M.

III.

Petitioners' land is arid and unproductive without irrigation, but with proper irrigation, it produces abundant crops.

IV.

Petitioners' predecessors in interest diverted and applied to beneficial use the waters in accordance with the allegations contained in paragraph II of this Count from the sources and dates listed, making a use thereof in the amount and for the purposes described, and diverting the same from the points and applying the waters to the lands described. The duty of water for the lands listed is the actual amount needed for the proper cultivation of those lands. The waters have been so used from the dates of priority (dates the waters were diverted and applied to beneficial use) continuously by the petitioners' predecessors in interest and continuously by the petitioners through to the date hereof without interference.

V.

The petitioners will be adversely affected unless the find-

ings of the Department of Water Resources are amended to list the above rights set forth in paragraph II of this Count in addition to those water rights already listed by the Department in its proposed findings.

WHEREFORE, the petitioners pray for judgment as follows:

COUNT ONE

1. That the Department of Water Resources' finding of water right no. 65-10773 be amended to change the priority from June 1, 1900 to June 1, 1938, to reduce the quantity of water from 0.9 c.f.s. to 0.20 c.f.s. for the irrigation of ten acres with the place of use and the point of diversion being the same.

2. That the Department of Water Resources' finding of water right no. 65-10771 be amended to delete therefrom all of the 0.32 c.f.s. for irrigation purposes, leaving only the 0.70 acre feet per year for stockwater purposes with a maximum rate of diversion of 0.02 c.f.s. for the place of use and point of diversion listed and having a priority of June 1, 1940.

3. That the Court enter its findings in conformity with the prayed for amendment to the Department of Water Resources' findings of water rights.

4. For such other and further relief that the Court deems just.

COUNT TWO

1. That the Department of Water Resources' findings of water rights be amended to add the additional water rights of

Petitioners as set forth in paragraph II of Count Two.

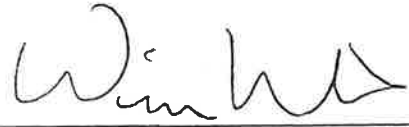
2. That the Court enter its findings in conformity with the prayed for amendment of the Department of Water Resources' findings of water rights.

3. For such other and further relief as the Court deems just.

DATED This 19 day of October, 1984.

COLLINS & MANLY

By



WILLIAM D. COLLINS - Of the Firm
Attorneys for Petitioners

RECEIVED

OCT 24 1984

VERIFICATION

STATE OF IDAHO)
) ss:
County of Ada)

Department of Water Resources

GEORGE DOVEL, being first duly sworn on oath, deposes and states that he has read the foregoing PETITION TO CHALLENGE FINDINGS, knows the contents thereof, and believes the facts therein stated to be true.

George Dovel
GEORGE DOVEL

SUBSCRIBED AND SWORN TO BEFORE ME, a Notary Public, this
19 day of October, 1984.

Wm Wb
Notary Public for Idaho
Residing at Boise, Idaho

WILLIAM D. COLLINS
COLLINS & MANLY
Attorneys at Law
707 North Eighth Street
Post Office Box 2794
Boise, Idaho 83701
Telephone: (208) 345-2811

RECEIVED
JUN 20 1985

Department of Water Resources
Western Regional Office

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF GEM

In The Matter Of	)	
	)	
THE GENERAL DETERMINATION OF THE	)	Case No. 3667
RIGHTS TO THE USE OF SURFACE AND	)	
GROUND WATERS OF THE PAYETTE	)	MOTION FOR PERMISSION
RIVER DRAINAGE BASIN	)	TO FILE LATE CLAIMS
	)	AND OBJECTIONS
	)	
	)	

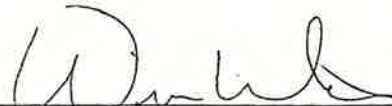
COME NOW, the Petitioners, by and through their attorney of record, WILLIAM D. COLLINS of the firm of COLLINS & MANLY, and hereby move the Court for permission to file claims to water rights to unnamed springs, the North Fork of Little Jackass Creek, Middle Fork of Little Jackass Creek and unnamed stream tributary to Porter Creek, all within the Payette River Drainage Basin in accordance with the description of the water rights as set forth in the Petition. Petitioners further move the Court for authority to file a late objection to water right no. 65-10771 and no. 65-10773 listed in the name of Arlie L. Woods as set forth in the Department of Water Resources' proposed findings of water rights dated March 2, 1979, and on file with the Court.

This motion is based upon the verified Petition and the Affidavit in support hereof of one of the Petitioners, GEORGE DOVEL. A copy of the proposed Petition is attached hereto as Exhibit A. The Affidavit in support of this motion has been filed with the Court.

Oral argument on the above motion is requested.

DATED This 19 day of October, 1984.

COLLINS & MANLY

By 
WILLIAM D. COLLINS - Of the Firm
Attorneys for Petitioners

WILLIAM D. COLLINS
COLLINS & MANLY
Attorneys at Law
707 North Eighth Street
Post Office Box 2794
Boise, Idaho 83701
Telephone: (208) 345-2811

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF GEM

In The Matter Of	)	
	)	
THE GENERAL DETERMINATION OF THE	)	Case No. 3667
RIGHTS TO THE USE OF SURFACE AND	)	
GROUND WATERS OF THE PAYETTE	)	PETITION TO CHALLENGE
RIVER DRAINAGE BASIN	)	FINDINGS
	)	
	)	

COME NOW, George Dovel and Amy R. Dovel and hereby petition
the Court as follows:

COUNT ONE

I.

Petitioners are residents of Boise County, Idaho.

II.

Petitioners became the owners of the land more particularly
described below on April 5, 1982, and have owned the real prop-
erty continuously from that date through to the present:

The East Half of the Southwest Quarter and the South
Half of the Southeast Quarter all of Section 12, Town-
ship 7 North, Range 2 East, of the Boise Meridian.

The Southwest Quarter of the Southwest Quarter of Sec-
tion 12, Township 7 North, Range 2 East, of the Boise
Meridian, excepting therefrom a triangular tract of
land located in the Northwest Corner of the Southwest

Quarter of the Southwest Quarter described as follows:

Commencing at the Southwest Corner of said Section 12, thence North 6.41 chains to the place of beginning; thence North 13.60 chains; thence East 13.44 chains; thence Southwesterly 19.12 chains to the point of beginning in Section 12, Township 7 North, Range 2 East, of the Boise Meridian.

The East Half of the Northeast Quarter; the Southwest Quarter of the Northeast Quarter; the Southeast Quarter; the East Half of the Southwest Quarter; the Northwest Quarter of the Northwest Quarter; and the Southeast Quarter of the Northwest Quarter all of Section Thirteen, Township 7 North, Range 2 East, of the Boise Meridian.

Lots One to Four inclusive, the East Half of the Northwest Quarter the Southwest Quarter of the Northeast Quarter of Section 18, Township 7 North, Range 3 East, of the Boise Meridian.

III.

Petitioners are the successors in interest to Angel Madarieta and Rosa I. Madarieta, and have acquired all of their right, title and interest in and to the water rights and ditch rights appurtenant to the property described in Paragraph II, including, without limitation, those water rights denominated by the Department of Water Resources in the above action as rights Nos. 65-10950, 65-10951, 65-10952 and 65-10953 to the waters of Porter Creek, a water course in the Payette River Drainage Basin.

IV.

The petitioners, as owners of water rights to Porter Creek, are affected by the Department of Water Resource's findings of water rights to Porter Creek in this action.

V.

The Petitioners allege that the report of the Department of Water Resources submitted to the Court in this action is in error in its findings with respect to water right Nos. 65-10773 and 65-10771 listed in the name of Arlie L. Woods.

Water right No. 65-10773 as found by the Department of Water Resources is summarized as follows:

Priority: 6/1/1900
Quantity: 0.90 c.f.s. Irrigation
0.70 Acre Feet Per Year, Stockwater
Place of Use: The SW $\frac{1}{4}$ NE $\frac{1}{4}$ and NW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 12,
T.7N., R.2E., B.M.
Point of Diversion: SW $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 7, T.7N., R.3E., B.M.

Water right no. 65-10771 as found by the Department of Water Resources is summarized as follows:

Priority: 6/1/1905
Quantity: 0.32 c.f.s. Irrigation
0.70 Acre Feet Per Year, Stockwater
Place of Use: The SE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 11, T.7N., R.2E.,
B.M.
Point of Diversion: NW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 12, T.7N., R.2E., B.M.

The petitioners allege that water right No. 65-10773 is in error in that the use of the water commenced during 1938 and is not founded upon a license and, therefore, the priority of the right can be no earlier than 1938. Petitioners further allege that water right no. 65-10773 is also in error because the total acreage irrigated as listed by the Department of Water Resources was in fact no more than ten acres when the land was first irrigated in 1938 and that the acreage irrigated has gradually increased over the years up to 45 acres.

The petitioners allege that water right No. 65-10771 is in

error to the extent of 0.32 c.f.s. listed for irrigation and stockwater purposes with a priority of June 1, 1905. The 0.32 c.f.s. listed for irrigation under that water right has not been put to beneficial use and no right should be decreed for any purpose and if ever put to use, that right has long since been either forfeited (Idaho Code, Section 42-222), abandoned or lost by prescription or adverse possession for failure of the owner to make a use of the water for more than seventy years. The 0.02 c.f.s. listed for stockwater was first put to beneficial use in approximately June, 1940, and a priority should be awarded as of that date.

VI.

The petitioners as owners of water rights junior to water right no. 65-10773 and 65-10771 will be adversely affected by the findings of the Department of Water Resources unless those water rights are corrected to reflect the allegations made in paragraph V.

COUNT TWO

I.

Petitioners re-allege the allegations contained in paragraphs I, II, III and IV of Count I.

II.

The petitioners further allege that the findings of the Department of Water Resources do not fully set forth the nature of the petitioners' claims to water rights. In addition to water right Nos. 65-10950, 65-10951, 65-10952 and 65-10953, the peti-

tioners should be granted water rights for the following uses and purposes:

- (a) Source: Unnamed springs (not tributary to Porter Creek, one pond and one stock tank)
Priority: March 2, 1917
Quantity: 0.05 c.f.s.
2.7 acre feet per year
Nature of Use: Stockwater
Period of Use: January 1 through December 31
Point of Diversion: SW $\frac{1}{4}$ NE $\frac{1}{4}$ (1 point) and SE $\frac{1}{4}$ NW $\frac{1}{4}$ (1 point) all in Sec. 13, T.7N., R.2E., B.M.
Place of Use: SW $\frac{1}{4}$ NE $\frac{1}{4}$ and SE $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 13, T.7N., R.2E., B.M.
- (b) Source: North Fork Little Jackass Creek
Priority: May 29, 1918
Quantity: 0.05 c.f.s.
2.7 acre feet per year
Nature of Use: Stockwater
Period of Use: January 1 through December 31
Point of Diversion: SE $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$, and SW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 13, T.7N., R.2E., B.M., and Lot 2 and SE $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 18, T.7N., R.3E., B.M.
Place of Use: SE $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$ and SW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 13, T.7N., R.2E., B.M., and Lot 2 and SE $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 18, T.7N., R.3E., B.M.
- (c) Source: Middle Fork Little Jackass Creek
Priority: May 29, 1918
Quantity: 0.05 c.f.s.
2.7 acre feet per year
Nature of Use: Stockwater
Period of Use: January 1 through December 31
Point of Diversion: Lot 4, Sec. 18, T.7N., R.3E., B.M.
Place of Use: Lot 4, Sec. 18, T.7N., R.3E., B.M.
- (d) Source: Unnamed springs, three (not tributary to Porter Creek, 2 ponds and 1 stock tank)
Priority: April 10, 1894
Quantity: 0.05 c.f.s.
2.7 acre feet per year
Nature of Use: Stockwater
Period of Use: January 1 through December 31

Point of Diversion:	Lot 1, (3 points), Sec. 18, T.7N., R.3E., B.M.
Place of Use:	Lot 1, Sec. 18, T.7N., R.3E., B.M.
(e) Source:	Unnamed stream tributary to Porter Creek
Priority:	April 10, 1894
Quantity:	0.1 c.f.s
Nature of Use:	Irrigation (5 acres)
Period of Use:	April 1 through November 1
Point of Diversion:	SW $\frac{1}{4}$ SE $\frac{1}{4}$ (2 points), Sec. 12, T.7N., R.2E., B.M.
Place of Use:	SW $\frac{1}{4}$ SE $\frac{1}{4}$ and SE $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 12, T.7N., R.2E., B.M.
(f) Source:	Unnamed stream (tributary to Porter Creek) and unnamed spring (not tributary to Porter Creek)
Priority:	April 10, 1894
Quantity and Use:	0.1 c.f.s , Irrigation (5 acres)
Quantity and Use:	0.05 c.f.s. (2.7 acre feet per year), Stockwater, when combined with irrigation use above does not exceed 0.1 c.f.s.
Period of Use, Irrigation:	April 1 through November 1
Period of Use, Stockwater:	January 1 through December 31
Point of Diversion: (Irrigation & Stockwater)	Lot 1, Sec. 18, T.7N., R.3E., (1 point, spring, and the SE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 12, T.7N., R.2E., (1 point, stream), B.M.
Place of Use: (Irrigation & Stockwater)	SE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 12, T.7N., R.2E., B.M.
(g) Source:	Porter Creek
Priority:	May 29, 1918
Quantity:	0.05 c.f.s. 2.7 acre feet per year
Nature of Use:	Stockwater
Period of Use:	January 1 through December 31
Point of Diversion:	NW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 12, T.7N., R.2E., B.M.
Place of Use:	SE $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 12, T.7N., R.2E., B.M.
(h) Source:	Porter Creek
Priority:	October 31, 1884
Quantity:	0.57 c.f.s.
Nature of Use:	Irrigation (20 acres)
Period of Use:	April 1 through November 1
Point of Diversion:	SW $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 7, T.7N., R.3E., B.M.

Place of Use:	NE $\frac{1}{4}$ SW $\frac{1}{4}$ and SE $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 12, T.7N., R.2E., B.M.
(i) Source:	Unnamed spring tributary to Porter Creek
Priority:	October 31, 1884
Quantity:	0.02 c.f.s. 0.70 acre feet per annum
Nature of Use:	Stockwater
Period of Use:	January 1 through December 31
Point of Diversion:	NE $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 12, T.7N., R.2E., B.M.
Place of Use:	NE $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 12, T.7N., R.2E., B.M.

III.

Petitioners' land is arid and unproductive without irrigation, but with proper irrigation, it produces abundant crops.

IV.

Petitioners' predecessors in interest diverted and applied to beneficial use the waters in accordance with the allegations contained in paragraph II of this Count from the sources and dates listed, making a use thereof in the amount and for the purposes described, and diverting the same from the points and applying the waters to the lands described. The duty of water for the lands listed is the actual amount needed for the proper cultivation of those lands. The waters have been so used from the dates of priority (dates the waters were diverted and applied to beneficial use) continuously by the petitioners' predecessors in interest and continuously by the petitioners through to the date hereof without interference.

V.

The petitioners will be adversely affected unless the find-

ings of the Department of Water Resources are amended to list the above rights set forth in paragraph II of this Count in addition to those water rights already listed by the Department in its proposed findings.

WHEREFORE, the petitioners pray for judgment as follows:

COUNT ONE

1. That the Department of Water Resources' finding of water right no. 65-10773 be amended to change the priority from June 1, 1900 to June 1, 1938, to reduce the quantity of water from 0.9 c.f.s. to 0.20 c.f.s. for the irrigation of ten acres with the place of use and the point of diversion being the same.

2. That the Department of Water Resources' finding of water right no. 65-10771 be amended to delete therefrom all of the 0.32 c.f.s. for irrigation purposes, leaving only the 0.70 acre feet per year for stockwater purposes with a maximum rate of diversion of 0.02 c.f.s. for the place of use and point of diversion listed and having a priority of June 1, 1940.

3. That the Court enter its findings in conformity with the prayed for amendment to the Department of Water Resources' findings of water rights.

4. For such other and further relief that the Court deems just.

COUNT TWO

1. That the Department of Water Resources' findings of water rights be amended to add the additional water rights of

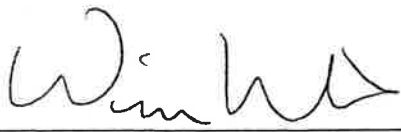
Petitioners as set forth in paragraph II of Count Two.

2. That the Court enter its findings in conformity with the prayed for amendment of the Department of Water Resources' findings of water rights.

3. For such other and further relief as the Court deems just.

DATED This 19 day of October, 1984.

COLLINS & MANLY

By 
WILLIAM D. COLLINS - Of the Firm
Attorneys for Petitioners

VERIFICATION

STATE OF IDAHO)
) ss:
County of Ada)

GEORGE DOVEL, being first duly sworn on oath, deposes and states that he has read the foregoing PETITION TO CHALLENGE FINDINGS, knows the contents thereof, and believes the facts therein stated to be true.

George Dovel
GEORGE DOVEL

SUBSCRIBED AND SWORN TO BEFORE ME, a Notary Public, this
19 day of October, 1984.

Wm W. W.
Notary Public for Idaho
Residing at Boise, Idaho

WILLIAM D. COLLINS
COLLINS & MANLY
Attorneys at Law
707 North Eighth Street
Post Office Box 2794
Boise, Idaho 83701
Telephone: (208) 345-2811

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF GEM

In The Matter Of	)	
	)	
THE GENERAL DETERMINATION OF THE	)	Case No. 3667
RIGHTS TO THE USE OF SURFACE AND	)	
GROUND WATERS OF THE PAYETTE	)	AFFIDAVIT IN SUPPORT OF
RIVER DRAINAGE BASIN	)	MOTION TO FILE LATE
	)	CLAIMS AND OBJECTIONS
	)	
	)	

STATE OF IDAHO)
) ss:
County of Ada)

GEORGE DOVEL, being first duly sworn on oath, deposes and states as follows:

1. That he and his wife, AMY R. DOVEL, have moved the Court for authority to file late claims and objections to the proposed findings of the Department of Water Resources on file with this Court in accordance with the proposed Petition attached to the Motion.

2. Your Affiant re-alleges and incorporates all of the allegations in the Petition as if fully set forth herein.

3. Your Affiant met with representatives of the Department of Water Resources, including Mr. Forrest Luthy, approximately

March or April, 1982, and prior to his purchase of the property described in paragraph II of Count One of the Petition to discuss what Petitioner thought were the most current proposed findings of the Department of Water Resources dated August 7, 1978. During that discussion, there was no mention that the Department of Water Resources had issued proposed findings dated March 2, 1979. The Petitioner advised the Department that he wished to add to the water rights for the land additional stockwater and irrigation rights, since he felt the water rights listed by the Department did not fully describe the rights existing. He was told at that time that there were numerous errors or corrections needed to be made by the Department in those proposed findings, that the Department was working on those changes at that time, that it would take at least one year to prepare a complete description of the changes and a new set of proposed findings of water rights, and that after the changes were completed, Petitioner would be notified and given an opportunity to submit his requested claims at that time. The Petitioner was told not to file his claims then, but to wait until notified by the Department. The Petitioner did not receive any notice by the Department of the corrections, and in approximately April or May, 1983, again discussed submitting his requested changes with the Department. He was told then that the Department had decided not to submit a new set of proposed findings of water rights to the Court because there were too many objections and a final decision by the Court would be greatly delayed.

4. In August, 1983, Affiant first became aware that the

findings of the Department dated August 7, 1978, were not the final findings and that the findings dated March 2, 1979, were the final findings of the Department and had been submitted to the Court.

5. The Petitioner alleges that the complete findings of March 2, 1979, for the water of the Payette River Drainage Basin were not sent to all water users. At the most, only partial findings were sent to each user which primarily listed just the findings of the Department as to that claimant's water rights and did not fully apprise the users of the claims of others contrary to the provisions of Idaho Code, Section 42-1410. Unless each water user has a complete list of the findings, he cannot determine the actual status of his own right since his right is dependent upon the rights claimed by others.

6. The Petitioners have not filed their objections or claims to additional water rights prior to this date in part for the reasons stated above and for the additional reason that the factual basis for filing the objections was not readily available to Petitioners before this time.

Your Affiant states that the reasons for objecting to the findings of the Department of Water Resources with respect to claim no. 65-10773 is based upon the testimony of residents of the area who were present when the water was first put to beneficial use and upon aerial photos of the United States Department of Agriculture showing that the land remained in native vegetation and was not cultivated and water applied to beneficial use prior to 1938. It was only after 1938 that the water was

first applied to beneficial use. The acreage irrigated gradually increased to the present acreage shown by the Department on its aerial photos (of recent date) used in determining the various water rights within the Basin. The reason for not objecting to the findings earlier was that information was not obtained and fully reviewed prior to this date.

The Petitioner states that the reasons for objecting to the findings of the Department of Water Resources with respect to claim no. 65-10771 are for the same reasons as set forth in the preceding paragraph.

7. Your Affiant has discussed his claims and objections with the Department of Water Resources and they have advised your Affiant that they would like to see a full resolution of the issues raised by the Petition in order to render a factually and legally accurate decree as possible.

8. Your Movant is acting in good faith and believes that the evidence acquired by him will meet the burden of proof required to amend the Department of Water Resources' findings as stated in his Petition.

George Dovel
George Dovel

SUBSCRIBED AND SWORN TO BEFORE ME, a Notary Public for Idaho, this 19 day of October, 1984.

Wm W. W.
Notary Public for Idaho
Residing at Boise, Idaho

WILLIAM D. COLLINS
COLLINS & MANLY
Attorneys at Law
707 North Eighth Street
Post Office Box 2794
Boise, Idaho 83701
Telephone: (208) 345-2811

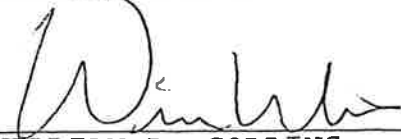
IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF GEM

In the Matter of	)	
	)	
THE GENERAL DETERMINATION OF THE	)	Case No. 3667
RIGHTS TO THE USE OF SURFACE AND	)	
GROUND WATERS OF THE PAYETTE	)	CERTIFICATE OF MAILING
RIVER DRAINAGE BASIN	)	
	)	
	)	

I HEREBY CERTIFY That on this 23rd day of October, 1984, I served a true and correct copy of the MOTION FOR PERMISSION TO FILE LATE CLAIMS AND OBJECTIONS (with attached draft of PETITION TO CHALLENGE FINDINGS) and AFFIDAVIT IN SUPPORT OF MOTION TO FILE LATE CLAIMS AND OBJECTIONS upon the following counsel of record by placing a copy thereof in the United States Mails, postage prepaid, addressed as follows:

David J. Barber
Deputy Attorney General
Department of Water Resources
State of Idaho
Statehouse
Boise, Idaho 83720

COLLINS & MANLY

By 
WILLIAM D. COLLINS - Of the Firm
Attorneys for Petitioners GEORGE
DOVEL and AMY R. DOVEL

WILLIAM D. COLLINS
COLLINS & MANLY
Attorneys at Law
707 North Eighth Street
Post Office Box 2794
Boise, Idaho 83701
Telephone: (208) 345-2811

RECEIVED
JUN 20 1985

Department of Water Resources
Western Regional Office

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF GEM

In The Matter Of	)	
	)	
THE GENERAL DETERMINATION OF THE	)	Case No. 3667
RIGHTS TO THE USE OF SURFACE AND	)	
GROUND WATERS OF THE PAYETTE	)	AFFIDAVIT IN SUPPORT OF
RIVER DRAINAGE BASIN	)	MOTION TO FILE LATE
	)	CLAIMS AND OBJECTIONS
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STATE OF IDAHO)
) ss:
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GEORGE DOVEL, being first duly sworn on oath, deposes and states as follows:

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2. Your Affiant re-alleges and incorporates all of the allegations in the Petition as if fully set forth herein.

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March or April, 1982, and prior to his purchase of the property described in paragraph II of Count One of the Petition to discuss what Petitioner thought were the most current proposed findings of the Department of Water Resources dated August 7, 1978. During that discussion, there was no mention that the Department of Water Resources had issued proposed findings dated March 2, 1979. The Petitioner advised the Department that he wished to add to the water rights for the land additional stockwater and irrigation rights, since he felt the water rights listed by the Department did not fully describe the rights existing. He was told at that time that there were numerous errors or corrections needed to be made by the Department in those proposed findings, that the Department was working on those changes at that time, that it would take at least one year to prepare a complete description of the changes and a new set of proposed findings of water rights, and that after the changes were completed, Petitioner would be notified and given an opportunity to submit his requested claims at that time. The Petitioner was told not to file his claims then, but to wait until notified by the Department. The Petitioner did not receive any notice by the Department of the corrections, and in approximately April or May, 1983, again discussed submitting his requested changes with the Department. He was told then that the Department had decided not to submit a new set of proposed findings of water rights to the Court because there were too many objections and a final decision by the Court would be greatly delayed.

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Your Affiant states that the reasons for objecting to the findings of the Department of Water Resources with respect to claim no. 65-10773 is based upon the testimony of residents of the area who were present when the water was first put to beneficial use and upon aerial photos of the United States Department of Agriculture showing that the land remained in native vegetation and was not cultivated and water applied to beneficial use prior to that date. It was only after 1938 that the water was

first applied to beneficial use. The acreage irrigated gradually increased to the present acreage shown by the Department on its aerial photos (of recent date) used in determining the various water rights within the Basin. The reason for not objecting to the findings earlier was that information was not obtained and fully reviewed prior to this date.

The Petitioner states that the reasons for objecting to the findings of the Department of Water Resources with respect to claim no. 65-10771 are for the same reasons as set forth in the preceding paragraph.

7. Your Affiant has discussed his claims and objections with the Department of Water Resources and they have advised your Affiant that they would like to see a full resolution of the issues raised by the Petition in order to render a factually and legally accurate decree as possible.

8. Your Movant is acting in good faith and believes that the evidence acquired by him will meet the burden of proof required to amend the Department of Water Resources' findings as stated in his Petition.

9. Your Affiant states that the persons having an interest in the objections to the Department of Water Resources' finding 65-10771 are the claimant, Arlie L. Woods and his spouse.

Your Affiant states that the persons having an interest in the objections to the Department of Water Resources' finding 65-10773 is the claimant, Arlie L. Woods and his spouse and his successor in interest, Donald J. Rumsey and Elizabeth E. Rumsey

and Dale M. Rumsey and Betty M. Rumsey, doing business as Double Diamond.

Your Affiant states that the persons having an interest in the Petitioners' claims to water rights not mentioned in the proposed findings of water rights are the following:

<u>RIGHT NUMBER</u>	<u>NAME</u>
65-3839	Crandall, Patricia L. Adams
65-10773	Woods, Arlie L., and his successor in interest, Donald J. Rumsey and Elizabeth E. Rumsey and Dale M. Rumsey and Betty M. Rumsey
~~65-2000~~	~~Allen, Everett K., and his successor in interest, Alfred C. Wolfgram and Margaret I. Wolfgram~~
65-10771	Woods, Arlie L.
65-10946	Ihrig, Mary C.
65-10770	Woods, Arlie L.
65-11369	Fry, Jack
65-10746	Double Diamond, Inc.

GEORGE DOVEL

SUBSCRIBED AND SWORN TO BEFORE ME, a Notary Public, this
____ day of October, 1984.

Notary Public for Idaho
Residing at Boise, Idaho

Don - FYI

July 8, 1985

Calvin C. Drake
Route 1
Horseshoe Bend, Idaho 83629

RE: Payette Adjudication (Gem County Civil Case No. 3667) -
late objections and late claims of George Doval

Dear Mr. Drake:

A hearing on Mr. Doval's motion to file late claims and objections in the Payette Adjudication has been set for Monday, July 22, 1985 at 9:30 a.m. before the district court in the County Courthouse in Emmett.

If the Department of Water Resources can be of any additional assistance to you, please contact Don Shaff at the state offices for Water Resources, 450 W. State Street (third floor), Boise (Phone 334-4440).

Very truly yours,

JOSEPHINE P. BEEMAN
Deputy Attorney General
Department of Water
Resources

JPS:plb

cc: Patricia L. Adams Crandall
Mary C. Ihrig
Jack Fry



August 23, 1984

Mr. Arlie Woods
Horseshoe Bend, ID 83629

Dear Mr. Woods:

I discussed some of the questions that you posed with some of the other folks here who are older hands with and more knowledgeable concerning water rights than I. They relate that in general, the Junior Appropriator has the right to have conditions remain the same as those that existed at the time his appropriation was first made, if a change would injure him. Also there is a hierarchy amongst the various Beneficial Uses, but nothing that would force a Senior Appropriator with an Irrigation Right to release water to a Stockwater Right that is junior to his.

On the plus side also, is the fact that no appropriator is entitled to divert more water than he can beneficially use at any particular time, even though the amount might be within the diversion limits of his right. However, after a fair amount of searching, I cannot find where anyone, including yourself, has filed for a Stockwater Use with Porter Creek Water, in Sec.13, T7N, R2E.

It would appear then, that the only Stockwater Rights which might be recognized in Sec.13 might be those incidental to the 1932 Irrigation Right, 65-10770, and those which might accompany the Domestic Right from Springs, 65-10772, which you claimed. Taking all this into consideration, if Double-Diamond is willing to install taps at various places in their pipeline for your Irrigation Right, I would say "Thank You" and go about my business. It might just be a little difficult in this situation, if one were to try to force a Senior Appropriator to put taps in on the basis of what appears to be un-claimed Stockwater Rights. This is not to imply that you were contemplating any such action.

Regarding the filling in of the ditch or the interference with your source for Irrigation or Stockwater in Sec.11, T7N, R2E, under 65-10771, some materials are enclosed. I have made some copies of the 1969 Aerial of the vicinity, and located what I believe are the Points of Diversion on the creek that you and Double-Diamond have. I also encircled by dotted red line where the lateral (I thought you had pointed out) went into the draw from which you eventually took your Stockwater in Sec.11.

I made the copies and locations for my own education as much as anything else. Is the spot I've encircled reasonably accurate, or is there some other condition that exists? Also appurtenant to the situation in Sec. 11, I have enclosed some portions of the Idaho Code that you might be interested in.

As I related to you and to the Wolfgram's when they were in, the users on the creek are going to have to obtain some measurements of flows and diversions. These will enable everyone to learn something about where to start from in the stream management. If ever a Watermaster goes on in the Payette Basin, there are going to have to be measuring devices in place anyway.

I hope that some of this is helpful and if you have any further questions, please call or write.

Sincerely

Forrest E. Luthy
Water Resource Agent

August 16, 1984

Mr. and Mrs. Alfred Wolfgram
Box 100
Horseshoe Bend, ID 83629

Dear Mr. and Mrs. Wolfgram:

After you left the office the other day, I went back through the series of Rights that Mr. and Mrs. Madarieta claimed.

From this it looks as if the Madarietas did claim a point of diversion above the Arlie Woods Property on the old K.R. Miller Property (Now Patricia Adams Crandall). The right described at this point was the June 1, 1908 right which serviced the land in sections 12 and 13. We have recommended this for a total of 57 acres of irrigation in Sections 12 and 13, Twp.7N, Rge.2E.

There were two points of diversion claimed for this right: One; The SWNW, Sec.7, Twp.7N, Rge.3E (The upper or Crandall Diversion), and Two; The NWSE, Sec.12, Twp.7N, Rge.2E. The 1912 Right claimed by the Madarietas used this Point of Diversion also. Both of these were in the same Forty-acre Tract as your Porter Creek Diversion.

According to the remarks in the recent Power Filing by Mr. Dovel, the existing pipeline starts at the Upper Point of Diversion described by the Madarietas. If this is so, there was no requirement that a Transfer be filed. The means of conveyance went from a ditch to a pipeline whenever that change took place, but no filing would have been necessary, since no physical change in location from that described by the Madarietas occurred.

I have enclosed a copy of the Madarietas' Claim and a portion of the aerial photo we were using the other day. These

may help you in sorting out some of the details. It may also bring to mind other questions you may want to ask.

All this still does not change the fact that measurement of the flows involved is still going to become necessary. This is going to have to be done by the users in order that some basis of knowledge is available from which to manage the various rights on the stream. When flows are reduced to the point that Senior Rights are denied the rate of flows to which they are entitled, then the Junior Rights, despite the fact that they may be positioned above on the streams, must reduce or cease their diversions so that the Senior Rights receive their allotted amounts.

For the Spring Filings in Sec.2 that you were interested in, the only one I find close to the spot that you pointed out is 65-12366, filed by Mel Coreyell, in the NWSE, Sec.2, Twp.7N, Rge.2E, for Stockwater. Of course, this could be across the Forty-acre tract from the one that you are interested in. We don't really have any way of telling from our information.

Hopefully this will be of some help to you. If you have any further questions please call or write.

Sincerely

Forrest E. Luthy
Water Resource Agent

SEND COPY OF NOTICE
OF HEARING TO:

CALVIN C. DRAKE

Rt. #1

HORSESHOE BEND, ID

83629

Porter Creek Aerial Photos

Dovel has 1939 photo

1964

DHU-1EE-56

-58

-296

1969

DHU-1KK-107

-105

-137

The new place of use for 65-3104 is:
SWSE (2), SESE (9) sec. 2, T. 7N, R. 2E; and
SENE (22), NNNE (16), SNNE (19), SENE (28) sec. 11,
T. 7N, R. 2E.

DECLARATION OF COVENANT RE WATER RIGHTS

This instrument made effective this 15th day of November, 1989, by and between ANGEL MADARIETA and ROSA I. MADARIETA, husband and wife, whose current address is 4104 Catalina Road, Boise, Idaho 83705, hereinafter called "Covenantors," and GEORGE DOVEL, a single man, whose current address is Route 1, Box 61, Horseshoe Bend, Idaho 83629, and ELISABETH V. WALLACE, a single woman, whose current address is P.O. Box 357, San Juan Capistrano, California 92693, hereinafter called "Covenantees."

WITNESSETH:

FOR VALUABLE CONSIDERATION, Covenantors for themselves and for their heirs, devisees, personal representatives, successors and assigns, do hereby covenant with Covenantees for themselves and for their heirs, devisees, personal representatives, successors and assigns that:

1. Covenantors have transferred or have agreed to transfer or consent to the transfer of all irrigation water rights appurtenant to or used in connection with Covenantors' lands in the NW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 13, Township 7 North, Range 2 East, BM, Boise County, Idaho particularly described on EXHIBIT B-1 attached hereto and made a part hereof, to or for the benefit of Covenantees' lands, particularly described on EXHIBIT A attached hereto and made a part hereof.

Attachment B

2. Covenantors do hereby covenant and agree that they will never apply for the appropriation of any irrigation water rights from Porter Creek to be appurtenant to or to be used in connection with their said lands described on EXHIBIT B-1 attached hereto; provided, however, that nothing contained herein shall be construed to refer to instream livestock water rights nor to affect the right of Covenantors to water livestock in Porter Creek where it crosses said lands of Covenantors described in attached EXHIBIT B-1.

3. The covenants herein from Covenantors to Covenantees shall bind and run with Covenantors' lands described on EXHIBIT B-1 attached hereto, and shall benefit and run with Covenantees' lands described on attached EXHIBIT A.

IN WITNESS WHEREOF, the parties hereto have executed this agreement in duplicate as of the day and year first above written.

Angel Madarieta
Angel Madarieta

Rosa I. Madarieta
Rosa I. Madarieta

George Dovel
George Dovel

Elisabeth V. Wallace
Elisabeth V. Wallace

George Dovel
George Dovel
Her Attorney in Fact

2

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DEC 29 1989

Department of Water Resources
Western Regional Office

DEED

This indenture made this 15th day of November, 1989 between ANGEL MADARIETA and ROSA I. MADARIETA, husband and wife, the Grantors, and GEORGE DOVEL, a single man, whose current address is Route 1, Box 61, Horseshoe Bend, Idaho 83629 and ELISABETH V. WALLACE, a single woman, whose current address is P.O. Box 357, San Juan Capistrano, California 92693, the Grantees.

WITNESSETH:

FOR VALUABLE CONSIDERATION the Grantors do hereby grant, bargain, sell and convey unto the Grantees the following described real property situate in Boise County, State of Idaho, to wit:

[Described on EXHIBIT A attached hereto and made a part hereof.]

TOGETHER WITH all and singular the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining.

SUBJECT TO a mortgage of even date herewith in the sum of \$31,000 from Grantees to Grantors recorded on 11-15-1989, 1989 as Instrument No. 134945, records of Boise County, Idaho.

TO HAVE AND TO HOLD the said premises, together with their appurtenances, unto the Grantees and their heirs, devisees, personal representatives, successors and assigns forever.

Attachment A

The E $\frac{1}{4}$ SW $\frac{1}{4}$, S $\frac{1}{4}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 12, and NW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 13, Township 7 North, Range 2 East, B.M., excepting therefrom the following described lands:

A parcel of land located in the southwest quarter of Section 12, and the northwest quarter of Section 13, T.7N.; R.2E., B.M., Boise County, Idaho, more particularly described as follows:

Beginning at the southwest corner of said Section 12, marked by a 2-inch iron pipe with brass cap, thence N.0°11'27"W., 415.00 feet on the west line of said Section 12 to a 1-inch iron pipe with brass cap; thence N.44°19'20"E., 1248.28 feet along a fence on the southeasterly side of a creek to a 1-inch iron pipe with brass cap; thence S.89°52'06"E., 418.32 feet to the southwest 1/16 corner of said Section 12, marked by a 1-inch iron pipe with brass cap; thence N.0°07'59"W., 1314.00 feet to the center west 1/16 corner of said Section 12, marked by a 1-inch iron pipe with brass cap; thence S.89°33'08"E., 1294.84 feet to the center of said Section 12, marked by a 2-inch iron pipe with brass cap; thence S.0°04'32"E., 854.02 feet on the centerline of said Section 12 to a 5/8-inch bar at the center of a county road; thence along the centerline of said road the following courses and distances: S.39°30'00"W., 364.64 feet to a 5/8-inch iron bar, a point of curvature; thence on the arc of a circle 1300 feet in radius, the chord of said arc running S.45°10'00"W., 256.73 feet to a 5/8-inch iron bar; thence S.50°50'00"W., 207.83 feet to a 5/8-inch iron bar, a point of curvature; thence on the arc of a circle 8000 feet in radius, the chord of said arc running S.49°08'00"W., 474.66 feet to a 5/8-inch iron bar; thence S.47°26'00"W., 36.26 feet to a 5/8-inch iron bar, a point of curvature; thence on the arc of a circle 1250 feet in radius, the chord of said arc running S.52°33'30"W., 223.32 feet to a 5/8-inch iron bar; thence S.57°41'00"W., 132.37 feet to a 5/8-inch iron bar, a point of curvature; thence on the arc of a circle 10,000 feet in radius, the chord of said arc running S.56°18'00"W., 482.83 feet to a 5/8-inch iron bar; thence S.54°55'00"W., 619.44 feet to a point on the south line of said Section 12; thence continuing S.54°55'00"W., 310.57 feet to a 5/8-inch iron bar, a point of curvature; thence on the arc of a circle 940 feet in radius, the chord of said arc running S.60°49'00"W., 193.25 feet to the west line of Section 13, marked by a 5/8-inch iron bar; thence leaving said county road centerline, N.0°06'52"W., 275.00 feet on the west line of said Section 13 to the point of beginning. Said parcel contains 69.82 acres, subject to county road right-of-way.

Boise County, Idaho ss
Request of

M. L. L.
Time 14:20
Date 11/15/89

134948

Arlene C. Kolar

By *Dale J. Kolar*
Deputy
Fee \$21.00

A parcel of land being a portion of the NW 1/4 of the NW 1/4 of Section 13, T.7N., R.2E., B.M., Boise County, Idaho and more particularly described as follows:

Beginning at a brass cap marking the Northwest corner of the said Section 13; thence along the Westerly boundary of the said NW 1/4 of the NW 1/4 of Section 13

South 00°06'32" East 626.00 feet to an iron pin, also said point being the REAL POINT OF BEGINNING; thence continuing

South 00°06'32" East 688.87 feet to an iron pin marking the Southwest corner of the said NW 1/4 of the NW 1/4 of Section 13; thence along the Southerly boundary of the said NW 1/4 of the NW 1/4

South 89°36'26" East 1286.78 feet to an iron pin marking the Southeast corner of the said NW 1/4 of the NW 1/4; thence along the Easterly boundary of the said NW 1/4 of the NW 1/4

North 00°07'36" East 871.07 feet to an iron pin; thence leaving said boundary

South 79°11'35" West 21.74 feet to a point marking a point of beginning of curve on the centerline of a certain County road; thence along the said centerline along a curve to the left whose central angle is 83°20'23", whose radius is 97.00 feet, whose length is 141.09 feet and whose long chord bears

North 52°28'36" West 128.98 feet to a point of tangent; thence continuing

South 85°51'13" West 84.14 feet to a point of curve; thence continuing along a curve to the right whose central angle is 90°55'46", whose radius is 93.00 feet, whose length is 147.59 feet and whose long chord bears

North 48°40'55" West 132.58 feet to a point of tangent; thence continuing

North 03°13'02" West 140.22 feet to a point of curve; thence continuing along a curve to the right whose central angle is 35°12'52", whose radius is 115.00 feet, whose length is 70.68 feet and whose long chord bears

North 14°23'24" East 69.57 feet to a point of ending of curve; thence leaving said centerline

North 58°00'10" West 38.52 feet to an iron pin; thence South 67°24'18" West 187.18 feet to an iron pin; thence South 42°58'28" West 253.77 feet to an iron pin; thence South 15°06'13" West 25.96 feet to an iron pin; thence South 35°46'24" West 379.74 feet to an iron pin; thence North 88°03'28" West 319.10 feet to an iron pin; thence North 70°57'14" West 69.93 feet to the POINT OF BEGINNING;

A parcel of land being a portion of the NW 1/4 of the NW 1/4 of Section 13, T.7N., R.2E., B.M., Boise County, Idaho and more particularly described as follows:

Beginning at a brass cap marking the Northwest corner of the said Section 13; thence along the Westerly boundary of the said NW 1/4 of the NW 1/4 of Section 13

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North $00^{\circ}07'36''$ East 871.07 feet to an iron pin; thence leaving said boundary

South $79^{\circ}11'35''$ West 21.74 feet to a point marking a point of beginning of curve on the centerline of a certain County road; thence along the said centerline along a curve to the left whose central angle is $83^{\circ}20'23''$, whose radius is 97.00 feet, whose length is 141.09 feet and whose long chord bears

North $52^{\circ}28'36''$ West 128.98 feet to a point of tangent; thence continuing

South $85^{\circ}51'13''$ West 84.14 feet to a point of curve; thence continuing along a curve to the right whose central angle is $90^{\circ}55'46''$, whose radius is 93.00 feet, whose length is 147.59 feet and whose long chord bears

North $48^{\circ}40'55''$ West 132.58 feet to a point of tangent; thence continuing

North $03^{\circ}13'02''$ West 140.22 feet to a point of curve; thence continuing along a curve to the right whose central angle is $35^{\circ}12'52''$, whose radius is 115.00 feet, whose length is 70.68 feet and whose long chord bears

North $14^{\circ}23'24''$ East 69.57 feet to a point of ending of curve; thence leaving said centerline

North $58^{\circ}00'10''$ West 38.52 feet to an iron pin; thence

South $67^{\circ}24'18''$ West 187.18 feet to an iron pin; thence

South $42^{\circ}58'28''$ West 253.77 feet to an iron pin; thence

South $15^{\circ}06'13''$ West 25.96 feet to an iron pin; thence

South $35^{\circ}46'24''$ West 379.74 feet to an iron pin; thence

North $88^{\circ}03'28''$ West 319.10 feet to an iron pin; thence

North $70^{\circ}57'14''$ West 69.93 feet to the POINT OF BEGINNING.

EXHIBIT B-1
PAGE 1 OF 1

IN WITNESS WHEREOF, the Grantors have duly executed
this instrument as of the day and year first above written.

Angel Madarieta
Angel Madarieta

Rosa I. Madarieta
Rosa I. Madarieta

STATE OF IDAHO)
County of Ada) ss.

On this 15th day of November, 1989, before me,
Notary Public, a Notary Public in and for said
state, personally appeared ANGEL MADARIETA and ROSA I. MADARIETA,
husband and wife, known or identified to me to be the persons
whose names are subscribed to the within instrument, and
acknowledged to me that they executed the same.

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

Notary Public
Notary Public for Idaho
Residing at Boise, Idaho
My commission expires 8/29, 1992



