



State of Idaho

DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Suite A, Idaho Falls, Idaho 83402-1718 - (208) 525-7161- Fax (208) 525-7177

EASTERN REGION

March 16, 2001

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

LEVEL CANAL CO INC
C/O WILFRIED SCHMITT
HC 63 BOX 2585
MONTEVIEW ID 83435

RE: NOTICE OF ERROR

Dear Mr. Schmitt:

Water Agent Bryce Contor has finished reviewing your Notice of Error for water right numbers 31-00005, 31-00189 and ~~31-11335~~, and has adjusted the claims accordingly.

Enclosed for your records are copies of the recommendations and an aerial photo of the property.

If you have any questions feel free to contact Bryce Contor at this office.

Respectfully submitted,

A handwritten signature in cursive script that reads "Cheri Vandermeulen".

Cheri Vandermeulen
Records Clerk

RECEIVED

RECEIVED

JUL - 2 2001

AUG 0 8 2001

Department of Water Resources

Department of Water Resources
Eastern Region

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

In Re SRBA

A: Subcase 31-11335

(Insert water right number)

Case No. 39576

STANDARD FORM 1
OBJECTION

Please fill in the following information:

B. NAME AND ADDRESS OF PERSON OBJECTING

Name: Level Canal Co Inc

Address: c/o Don Parker

2032 W 4200 S Rexburg ID 83440

Daytime Phone: (208) 356-5091

Name & Address of Attorney, if any:

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

Name: Level Canal Co Inc

Address: c/o Don Parker

2032 W 4200 S Rexburg ID 83440

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

1. ☐ Name and Address
Should be: _____
2. ☐ Source
Should be: _____
3. ☐ Quantity
Should be: _____
4. ☒ Priority Date
Should be: Should not have substitution
removal of an enlargement
5. ☐ Point(s) of Diversion
Should be: _____
6. ☐ Instream Flow Description
Should be: _____
7. ☐ Purpose(s) of Use
Should be: _____
8. ☐ Period of Year
Should be: _____
9. ☐ Place of Use
Should be: _____

11. I object because:

☐ This water right should not exist.

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

E. REASONS SUPPORTING OBJECTION(S): The recommended
priority date is based on good evidence
and is BEFORE THE MANDATORY PERMIT
REQUIREMENT. The right is not an enlargement
but a beneficial use right.

F,

VERIFICATION (Must be Completed)

State of Idaho)

County of Jefferson)ss.

Don Parker, duly sworn, upon oath, deposes and says:
(Name of person filing objection)

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

Don Parker
(Signature of person filing objection)

(Attorney signing in representative capacity)

Subscribed and sworn to before me on: June 28th 2001

Shawna Bare
Notary Public for The Bank of Commerce
Residing at: Terreton, Idaho
My Commission Expires: 5-24-02

Claim A31-11335
Doc Source 1975 U-2
photo - Scott King
Date 11/1/00 Sig. bac

INSTRUCTIONS FOR FILING
OBJECTIONS TO WATER RIGHTS IN THE
SNAKE RIVER BASIN ADJUDICATION

The attached form is for your use if you file an objection to a water right. You may copy or reproduce this blank form.

To object to more than one water right, you must use a separate form for each objection and there must be only one objector for each form.

Your objection must be received by the court on or before the deadline specified in the notice that the Idaho Department of Water Resources mailed to you. If you are filing 25 or more objections you must contact the Clerk of the SRBA court at least 14 days before the filing deadline and arrange an appointment for filing.

You may attach any explanation or documentation that you feel is necessary to support your objection.

INSTRUCTIONS FOR COMPLETING THE OBJECTION FORM

- A. **Subcase.** Fill in the water right number to which you are objecting at the top of the form in the blank following "Subcase." The water right number will become the Subcase Number.
- B. **Name and Address of Person Objecting.** Enter your name, address and daytime telephone in the blanks provided.
- C. **Claimant of Water Right As Listed in Director's Report.** Fill in the claimant/owner blank of the water right to which you are objecting as it is listed in the Director's Report.
- D. **Elements of the Water Right.** If you disagree with one or more of the elements in the Director's Report, check the appropriate box(es) and write in the space provided what you think the element "should be." If you are objecting because you do not think a water right should exist or because a water right was not recommended and should be recommended, mark the appropriate box under No. 11 and explain your reason in paragraph E.
- E. **Reasons supporting objection.** State the reason supporting your objection(s).
- F. **Verification.** You must sign the Objection form in front of a notary. By filing this objection form, you are certifying that the objection is well-grounded in fact; that it is warranted by existing law or a good-faith argument for the extension, modification or reversal of existing law; and that it is not filed for any improper purpose, such as to harass, cause unnecessary delay or needlessly increase the cost of litigation.
- G. **Certificate of Mailing.** Fill in the appropriate blanks for the date and the owner of the water right, and sign the form. Remember that the original copy of this Objection must be mailed to the Clerk of the SRBA District Court with copies mailed to the parties listed in this section.

RECEIVED

JUL - 2 2001

Department of Water Resources

INSTRUCTIONS FOR MAILING

You must mail the objection, to the Clerk of the Court. FAX filings will not be accepted. You must also send a copy to all the parties listed below in the Certificate of Mailing.

G. CERTIFICATE OF MAILING

I certify that on June 28, 2001, I mailed the original and copies of this objection, including all attachments, to the following persons:

1. Original to:

Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
PO Box 2707
Twin Falls, ID 83303-2707

2. One copy to the claimant of the water right at the following address:

Name: Level Canal Co Inc
Address: c/o Don Parker
2032 W 4200 S Rexburg ID 83440

3. Copies to:

IDWR Document Depository
PO Box 83720
Boise, ID 83720-0098

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

United States Department of Justice
Environment and Natural Resource Division
550 West Fort Street, MSC 033
Boise, ID 83724

Don Parker
Signature of Objector or attorney
mailing on Objector's behalf

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 31-11335 V2

WATER RIGHT NUMBER: 31-11335 V2

<u>Owner Type</u>	<u>Name and Address</u>
Original Owner	BERTHA I OWSLEY
	, ID
Current Owner	LEVEL CANAL CO INC C/O DON PARKER 2032 W 4200 S REXBURG, ID 83440 (208)356-5091

Priority Date: 06/01/1952

Basis: Beneficial Use

Status: Active

<u>Source</u>	<u>Tributary</u>
MUD LAKE	SINKS

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION FROM STORAGE	04/01 to 10/31		816.00 AF
IRRIGATION STORAGE	01/01 to 12/31		816.00 AF
	<u>Total Diversion:</u>		816.00 AF

Location of Point(s) of Diversion

MUD LAKE NW1/4SW1/4SW1/4 Sec. 34, Twp 07N, Rge 34E, B.M.
JEFFERSON County

Place of UseIRRIGATION FROM STORAGE Within JEFFERSONCounty

T06N R33E S01 Lot 1 NENE 40.0	T06N R33E S01 Lot 2 NWNE 40.0
T06N R33E S01 SWNE 40.0	T06N R33E S01 SENE 40.0
T06N R33E S01 Lot 3 NENW 40.0	T06N R33E S01 Lot 4 NWNW 39.0
T06N R33E S01 SWNW 39.0	T06N R33E S11 NENE 23.0
T06N R33E S11 NWNE 2.0	T06N R33E S11 SENE 0.1
T06N R33E S01 SENW 40.0	T06N R33E S01 NESW 40.0
T06N R33E S01 NWSW 39.0	T06N R33E S01 SWSW 38.0
T06N R33E S01 SESW 39.0	T06N R33E S12 NENW 39.0
T06N R33E S12 NWNW 39.0	T06N R33E S12 SWNW 25.0
T06N R33E S12 SENW 40.0	T06N R34E S06 Lot 3 NENW 40.0
T06N R34E S06 Lot 4 NWNW 39.0	T06N R34E S06 Lot 5 SWNW 39.0
T06N R34E S06 SENW 40.0	T07N R33E S36 NENE 40.0
T07N R33E S36 NWNE 40.0	T07N R33E S36 SWNE 40.0
T07N R33E S36 SENE 40.0	T07N R33E S36 NENW 40.0
T07N R33E S36 SENW 40.0	T07N R33E S36 NESW 40.0
T07N R33E S36 NWSW 39.0	T07N R33E S36 SWSW 38.0
T07N R33E S36 SESW 38.0	T07N R33E S36 NESE 40.0
T07N R33E S36 NWSE 40.0	T07N R33E S36 SWSE 38.0
T07N R33E S36 SESE 36.0	T07N R34E S31 NENW 40.0
T07N R34E S31 Lot 1 NWNW 39.0	T07N R34E S31 Lot 2 SWNW 39.0
T07N R34E S31 SENW 40.0	T07N R34E S31 NESW 40.0
T07N R34E S31 Lot 3 NWSW 39.0	T07N R34E S31 Lot 4 SWSW 33.0
T07N R34E S31 SESW 37.0	

Total Acres: 1656.1

IDAHO DEPARTMENT OF WATER RESOURCES
Adjudication Recommendation Report 31-11335 V2

IRRIGATION STORAGE same as IRRIGATION FROM
STORAGE

Conditions of Approval:

1. C18 THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE ENTRY OF A FINAL UNIFIED DECREE. SECTION 42-1412(6), IDAHO CODE.
2. C19 THE ADMINISTRATION OF THIS WATER RIGHT IS ALSO SUBJECT TO THE AGREEMENT OF WATER RIGHT OWNERS REGARDING MUD LAKE WATER DELIVERY DATED APRIL 17, 2001, WHICH IS ON FILE IN THE RECORDS OF THE CLERK AND RECORDER OF JEFFERSON COUNTY, IDAHO, INSTRUMENT NUMBER 307626.

Remarks:

1. Place of Use - Irrigation USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 1656.1 ACRES IN A SINGLE IRRIGATION SEASON. COMBINED RIGHT NOS.: 31-5, 31-189.
2. Quantity USE OF THIS RIGHT WITH RIGHT NO. 31-189 IS LIMITED TO A TOTAL COMBINED ANNUAL DIVERSION VOLUME OF 5510.4 AF.
3. Place of Use - Irrigation THIS RIGHT IS LIMITED TO THE IRRIGATION OF 213.1 ACRES WITHIN THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.

Comments:

1. bcontor 8/8/01 Version 2

Comment: Version 2 created to change remarks for SF5. Recommendation included enlargement remarks but this right pre-dates the mandatory permit date and therefore is not an enlargement.

Dates and Other Information:

Decreed Date:
Enlargement Use Priority Date:
Enlargement Statute Priority Date:
Defendant:
Plaintiff:
Civil Case Number:
Judicial District:
Notice of Error Flag:
State or Federal: S
Owner Name Connector: OR
Water District Number: 31
Generic Max Rate Per Acre:
Generic Max Volume Per Acre:
Swan Falls Trust or Nontrust:
Swan Falls Dismissed:
DLE Act Number:
Carey Act Number:
Mitigation Plan: False

Element Reviewed/Verified Dates:

<u>Element</u>	<u>Last Reviewed Date</u>	<u>Reviewer</u>	<u>Last Verified Date</u>	<u>Verifier</u>	<u>Status</u>
Summary	8/8/01 1:20:02 PM		8/8/01 1:20:02 PM	bcontor	Active

Verification Log:

<u>Element</u>	<u>Date Time Stamp</u>	<u>Reviewer</u>	<u>Log text</u>
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IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 31-11335 V2

Summary	8/8/01 1:19:58 PM	bcontor	1. (YES) The basis of the claim is beneficial use. 2. (YES) All the water being used for all the purposes is being claimed and to the extent it was claimed. 5. (NO) General remark was not required. 6. (NO) Explanatory remark was not required. 7. (YES) Additional condition was required. 8. (YES) Wanted to view the recommended right. 9. (NO) This is not a split right. 10. (NO) This is not a combined right. 11. (NO) Documents were not linked or attached to this file. 12. (YES) Set the verification date.
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State of Idaho
DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Suite A, Idaho Falls, Idaho 83402-1718 - (208) 525-7161- Fax (208) 525-7177

EASTERN REGION

May 16, 2001

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

Level Canal Co Inc
c/o Don Parker
2032 W 4200 S
Rexburg, Idaho 83440

Re: Objection to recommendation 31-11335

Dear Mr. Parker:

Enclosed is an objection form for you to disagree with the subordination/enlargement language on your recommendation.

Fill out the yellow items on the objection form and have a notary certify your signature. There is a place on the form to identify your attorney, but an attorney is not required. Mail copies to all the parties listed on the back of the last page, and sign the certificate of mailing.

The process will be that about September or October, the court will notify you of a hearing date. You and I will appear at the hearing, where I plan to sign the stipulation agreeing to take that remark off the recommendation. We will report our agreement to the Special Master, and that should be the end of the issue.

I apologize for this error on your recommendation. The attached preliminary recommendation shows what I believed I was recommending. There is a particular little computer nuance that, if I overlooked it last March, could possibly have caused this to occur. Thank you for your patience in this matter.

Sincerely,

Bryce A. Contor
Senior Water Resource Agent

enclosures: Objection Form
Copy of Preliminary Recommendation - 3/16/2001

INSTRUCTIONS FOR FILING
OBJECTIONS TO WATER RIGHTS IN THE
SNAKE RIVER BASIN ADJUDICATION

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- C. **Claimant of Water Right As Listed in Director's Report.** Fill in the claimant/owner blank of the water right to which you are objecting as it is listed in the Director's Report.
- D. **Elements of the Water Right.** If you disagree with one or more of the elements in the Director's Report, check the appropriate box(es) and write in the space provided what you think the element "should be." If you are objecting because you do not think a water right should exist or because a water right was not recommended and should be recommended, mark the appropriate box under No. 11 and explain your reason in paragraph E.
- E. **Reasons supporting objection.** State the reason supporting your objection(s).
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- G. **Certificate of Mailing.** Fill in the appropriate blanks for the date and the owner of the water right, and sign the form. Remember that the original copy of this Objection must be mailed to the Clerk of the SRBA District Court with copies mailed to the parties listed in this section.

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

In Re SRBA)

A: Subcase 31-11335

(insert water right number)

Case No. 39576)

STANDARD FORM 1
OBJECTION

Please fill in the following information:

B: NAME AND ADDRESS OF PERSON OBJECTING

Name: Level Canal Co Inc.

Address: c/o Don Parker

2032 W 4200 S Rexburg ID 83440

Daytime Phone: _____

Name & Address of Attorney, if any:

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

Name: Level Canal Co Inc.

Address: c/o Don Parker

2032 W 4200 S Rexburg ID 83440

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

1. ☐ Name and Address
Should be: _____
2. ☐ Source
Should be: _____
3. ☐ Quantity
Should be: _____
4. ☒ Priority Date
Should be: Should not have subordination
remains of an enlargement
5. ☐ Point(s) of Diversion
Should be: _____
6. ☐ Instream Flow Description
Should be: _____
7. ☐ Purpose(s) of Use
Should be: _____
8. ☐ Period of Year
Should be: _____
9. ☐ Place of Use
Should be: _____

11. I object because:

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

E. REASONS SUPPORTING OBJECTION(S): The recommended
priority date is based on good evidence
and is BEFORE THE MANDATORY PERMIT
REQUIREMENT. The right is not an enlargement
but a new beneficial use right.

F.

VERIFICATION (Must be Completed)

State of _____)
)ss.
County of _____)

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

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

(Signature of person filing objection)

(Attorney signing in representative capacity)

Subscribed and sworn to before me on: _____

Notary Public for _____
Residing at: _____
My Commission Expires: _____

INSTRUCTIONS FOR MAILING

You must mail the objection, to the Clerk of the Court. FAX filings will not be accepted. You must also send a copy to all the parties listed below in the Certificate of Mailing.

G. CERTIFICATE OF MAILING

I certify that on _____, 199__, I mailed the original and copies of this objection, including all attachments, to the following persons:

1. Original to:

Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
PO Box 2707
Twin Falls, ID 83303-2707

2. One copy to the claimant of the water right at the following address:

Name: Level Canal Co Inc
Address: c/o Don Parker
2032 W 4200 S Rexburg ID 83440

3. Copies to:

IDWR Document Depository
PO Box 83720
Boise, ID 83720-0098

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

United States Department of Justice
Environment and Natural Resource Division
550 West Fort Street, MSC 033
Boise, ID 83724

Signature of Objector or attorney
mailing on Objector's behalf

To: File A31-11335
Fr: Bryce A. Contor
Date: 12/8/2000



Re: Phone conversation with Garth Soderquist

Garth Soderquist told me on the phone that he found aerial photographs indicating that his memory is off a year, that the irrigation on the Section 12 lands must have commenced at the first of June, 1952. The lands north of the road (in section 1) were irrigated in 1951 or earlier.

IDWR
c/o Bryce Contor

Terreton, ID
11-14-2000

Dear Bryce,

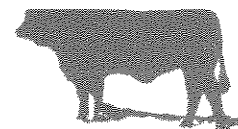
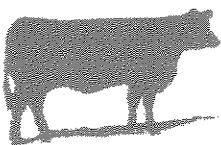
I moved to the Mud Lake area in August 1948. At that time the SW¼ Sec 1 Twp6N R33EBM and the NE¼ Sec 12 Twp6N R33EBM were not being farmed. I worked for the old government PMA office out of Rigby, Idaho, the summer of 1950 surveying grain, potatoes, and sugar beets. I also did enrolment survey for school district #251 the summer of 1949. Through these jobs I became quite familiar with the area.

I went back to school for a year, in 1950. I then returned to Terreton in 1951. At this time the above-described land had been plowed and drilled with peas.

Sincerely,


Garth Soderquist

RECEIVED
DEC 01 2000
Department of Water Resources
Eastern Region



13 November 2000
Tendoy, Idaho

To Whom it May Concern

This letter concerns what I personally know about the Reed Campbell property that was sold to the Parkers back in 1977.

We moved to Montevue, Idaho in the spring of 1954, and our new sage brush land was located just across the highway, south of the land in question. Phil and Larry Weiser owned this farm at that time. They bought the place from Merritt Owsley who had the land broken out of sagebrush a few years earlier. The Weisers bought the farm in 1951 or 1952, as I remember, and had the place all in alfalfa in 1954. helped them bale and stack the hay that year. It averaged 3 ton per acre that first crop, which really encouraged us.

The Weisers sold the land to Joe and Russ Rammell about 1958. The Rammell Brothers sold the farm to Reed Campbell in 1961. I know these facts to be true because we lived there at the time and had a close association with all these people during the years 1954 to 1977.

Respectfully Yours,

A. Leroy Bird

Don E. Parker
2032 W. 4200th S.
Rexburg, ID 83440-4317

Dept. of Water Resources
Attention: Bryce Cantor
900 North Skyline Drive
Idaho Falls, Idaho

IPWR
900 N Skyline Ste A
Idaho Falls ID
83402



Don Parker
2032 W 4200 S
Plexburg ID
83440

USPS 1297 recycled

Could you please call me about
the priority date for the enlargement
of area for Level Canal?

home 663-4853
office - 525-7161

Thanks
Deyra Contreras



ACCURACY STANDARD
MENLO PARK, CAL

NAPP W 38
8/24/1

NAPP W 88
(not dated)

Claim 31-11335
Doc Source NAPP W 38 (1980)
NAPP W 88 (no date)
Date 10/30/00 Sig. Boe



State of Idaho
DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Suite A, Idaho Falls, Idaho 83402-1718 - (208) 525-7161- Fax (208) 525-7177

EASTERN REGION

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

✓ Level Canal Co.
c/o Wilfried
Schmitt
HC 63 Box 2585
Monteview, Idaho 83435

Independent Water Users of Mud Lake
c/o Don Parker
2032 W 4200 S
Rexburg, Idaho 83440

Re: Place of Use

Dear Mr. Schmitt and Mr. Parker:

Enclosed are draft maps of the tentative place of use for water rights under the Level Canal and Independent Water Users.

Please review them carefully and contact me if there are problems or concerns.

Especially please look at the enclosed detail map of lands in T6N R33E Section 11. The yellow shape north of the Salmon Highway and West of the Monteview Highway is the place of use I believe should be recommended. The blue shape behind Holdaway's place is the place of use that is claimed. I need to know which of these is correct. If the yellow shape is correct, I'll need to prepare amended claims for your signatures. There will be no fee.

I'll be out of town on Wednesday, Thursday, and Friday. You may call me at home, 663-4853, this weekend, or you may call me at the office, 525-7161, next week.

Sincerely,


Bryce A. Contor
Senior Water Resource Agent

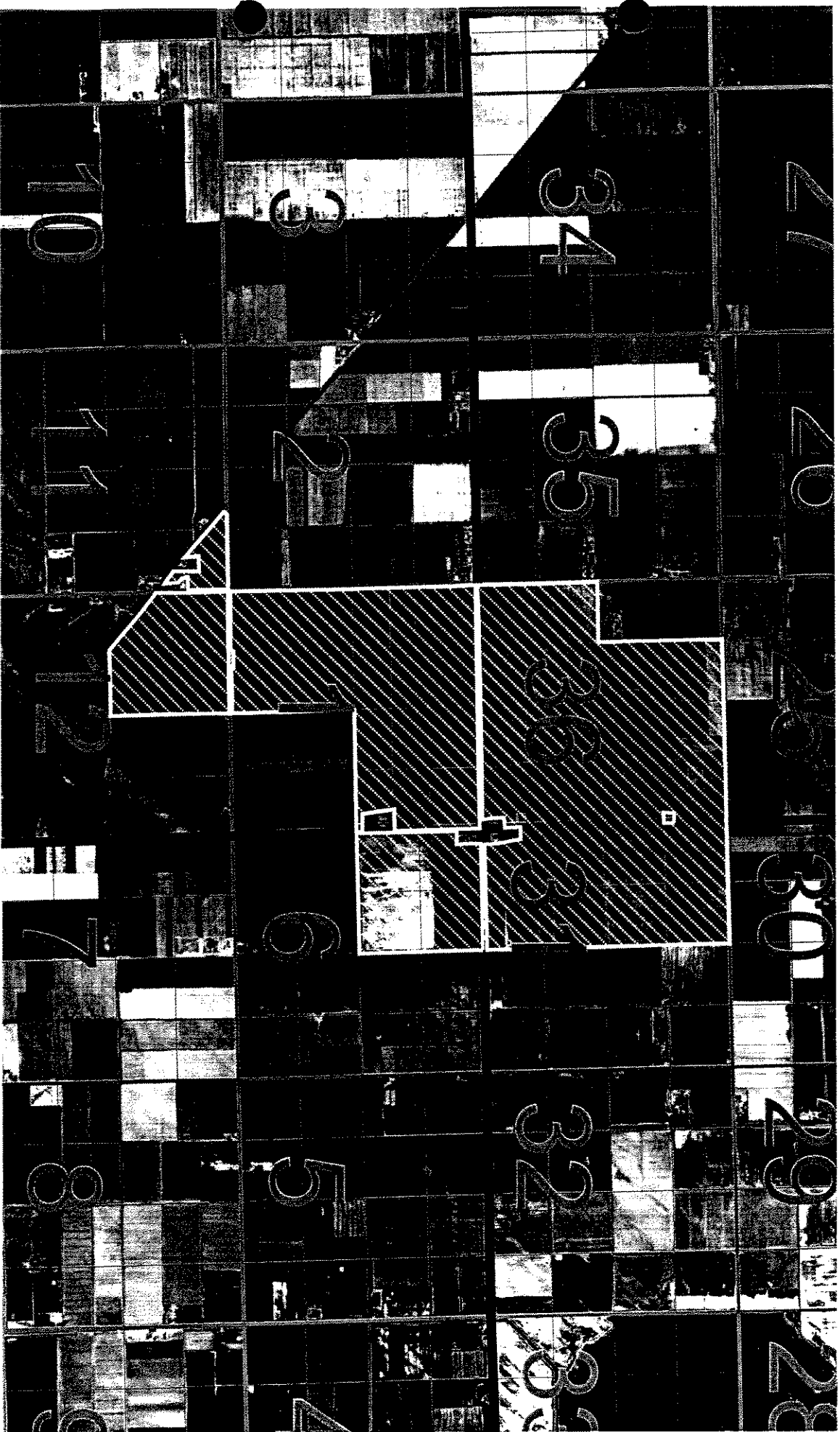
Level Canal/Independent Water Users Place of Use Question

October 9, 2000

Yellow - Presumed Place of Use. Blue - Claimed Place of Use



Working Map of Level Canal Place of Use -
October 9, 2000



Working Map of Independent Water Users Place of Use
October 9, 2000 - Version 1



Need to pull

C11 & K09 of

this recommendation,

pull K01

of 31-189

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

RIGHT NUMBER: 31-11335

NAME AND ADDRESS: LEVEL CANAL CO INC
C/O DON PARKER
2032 W 4200 S
REXBURG, ID 83440

SOURCE: MUD LAKE TRIBUTARY: SINKS

816 AFY

USE OF THIS RIGHT WITH RIGHT NO. 31-189 IS LIMITED TO A
TOTAL COMBINED ANNUAL DIVERSION VOLUME OF 5510.4 AF.

PRIORITY DATE: 06/01/1952

POINT OF DIVERSION: T07N R34E S34 NWSWSW Within JEFFERSON County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
IRRIGATION STORAGE	01-01 12-31	816.00 AFY
IRRIGATION FROM STORAGE	04-01 10-31	816.00 AFY

PLACE OF USE:

IRRIGATION FROM STORAGE Within
JEFFERSON County

T06N R33E S1	LOT 1	NENE	40	T06N R33E S1	LOT 2	NWNE	40
T06N R33E S1		SWNE	40	T06N R33E S1		SENE	40
T06N R33E S1	LOT 3	NENW	40	T06N R33E S1	LOT 4	NWNW	39
T06N R33E S1		SWNW	39	T06N R33E S11		NENE	23
T06N R33E S11		NWNE	2	T06N R33E S11		SENE	0.1
T06N R33E S1		SENE	40	T06N R33E S1		NESW	40
T06N R33E S1		NWSW	39	T06N R33E S1		SWSW	38
T06N R33E S1		SESW	39	T06N R33E S12		NENW	39
T06N R33E S12		NWNW	39	T06N R33E S12		SWNW	25
T06N R33E S12		SENE	40	T06N R34E S6	LOT 3	NENW	40
T06N R34E S6	LOT 4	NWNW	39	T06N R34E S6	LOT 5	SWNW	39
T06N R34E S6		SENE	40	T07N R33E S36		NENE	40
T07N R33E S36		NWNE	40	T07N R33E S36		SWNE	40
T07N R33E S36		SENE	40	T07N R33E S36		NENW	40
T07N R33E S36		SENE	40	T07N R33E S36		NESW	40
T07N R33E S36		NWSW	39	T07N R33E S36		SWSW	38
T07N R33E S36		SESW	38	T07N R33E S36		NESE	40
T07N R33E S36		NWSE	40	T07N R33E S36		SWSE	38
T07N R33E S36		SESE	36	T07N R34E S31		NENW	40
T07N R34E S31	LOT 1	NWNW	39	T07N R34E S31	LOT 2	SWNW	39
T07N R34E S31		SENE	40	T07N R34E S31		NESW	40
T07N R34E S31	LOT 3	NWSW	39	T07N R34E S31	LOT 4	SWSW	33
T07N R34E S31		SESW	37				

1656.1 ACRES TOTAL

USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED
TO THE IRRIGATION OF A COMBINED TOTAL OF 1653.1 ACRES IN A
SINGLE IRRIGATION SEASON. COMBINED RIGHT NOS.: 31-5, 31-189.

THIS RIGHT IS LIMITED TO THE IRRIGATION OF 213.1 ACRES
WITHIN THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION
SEASON.

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

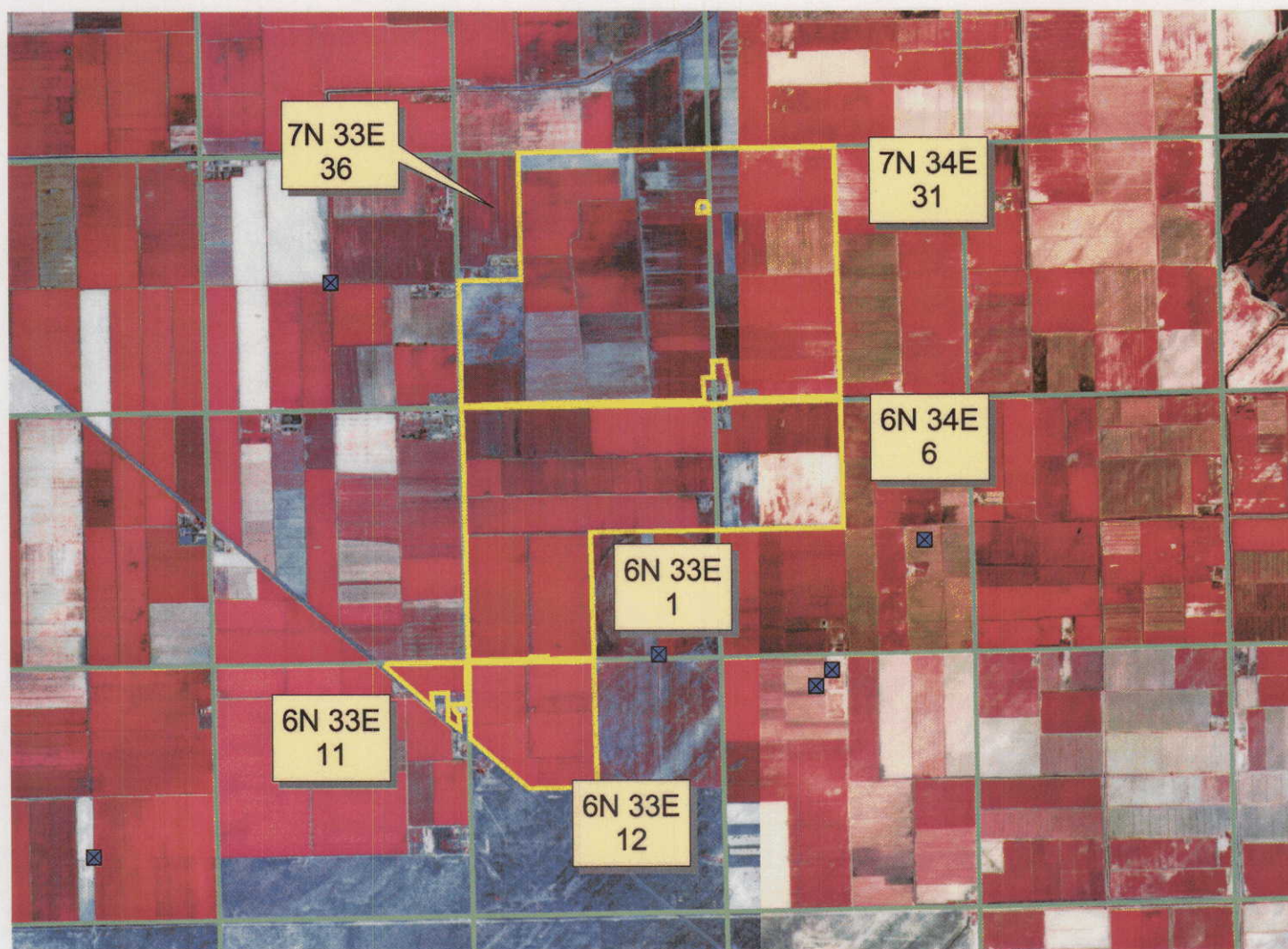
THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS
NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE
EFFICIENT ADMINISTRATION OF THE WATER RIGHTS AS MAY BE
ULTIMATELY DETERMINED BY THE COURT AT A POINT IN TIME NO LATER
THAN THE ENTRY OF A FINAL UNIFIED DECREE. SECTION 42-1412(6),
IDAHO CODE.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use

Idaho Department of Water Resources

Water Right 31-5, 31-189, 31-11335

Township 6N and 7N,
Range 33E and 34E



0 1320 Feet

- Point of Diversion
- Point of Diversion - Other Rights
- Place of Use
- Place of Use - Other Rights
- Quarter-quarter Sections
- Section Lines



GIS Illustration prepared from 1987/1988 NAPP photography by B. Contor 10/2000

IDAHO DEPARTMENT OF WATER RESOURCES
Adjudication Recommended Right Report

WATER RIGHT NO. 31-11335

Owner Type Name and Address
Current Owner LEVEL CANAL COMPANY INC
C/O DON PARKER
2032 W 4200 S
REXBURG, ID 83440
(208)356-5091

Original Owner BERTHA IOWSLEY

Priority Date: 06/01/1952
Basis: Beneficial Use
Status: Valid

Source Tributary to
MUD LAKE SINKS

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>	<u>Subuse Code</u>
IRRIGATION STORAGE	01/01	12/31		816 AFA	
IRRIGATION FROM STORAGE	04/01	10/31		816 AFA	
Total Diversion				816 AFA	

Location of Point(s) of Diversion:

MUD LAKE NWSWSW Sec. 34 Township 07N Range 34E JEFFERSON County

IRRIGATION FROM STORAGE Use:
Acre Limit: 1653.1

Place(s) of use:

Place of Use Legal Description: IRRIGATION FROM STORAGE JEFFERSON County

<u>Township</u>	<u>Range</u>	<u>Section</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>
06N	33E	1	1	NENE	40	2	NWNE	40		SWNE	40		SENE	40
			3	NENW	40	4	NWNW	39		SWNW	39			
		11		NENE	23		NWNE	2		SENE	0.1			
		1		SENE	40									
				NESW	40		NWSW	39		SWSW	38		SESW	39
		12		NENW	39		NWNW	39		SWNW	25		SENE	40
	34E	6	3	NENW	40	4	NWNW	39	5	SWNW	39		SENE	40
07N	33E	36		NENE	39		NWNE	40		SWNE	40			
				NENW	40		SENE	40						
				NESW	40		NWSW	39		SWSW	38		SESW	38
				NESE	40		NWSE	40		SWSE	38		SESE	36
	34E	31		NENW	40	1	NWNW	39	2	SWNW	39		SENE	40
				NESW	40	3	NWSW	39	4	SWSW	31		SESW	37

Total Acres: 1653.1

Conditions of Approval:

- C18 THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE ENTRY OF A FINAL UNIFIED DECREE. SECTION 42-

1412(6), IDAHO CODE.

Remarks:

1. Place of Use - Irrigation USE OF THIS RIGHT WITH THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 1653.1 ACRES IN A SINGLE IRRIGATION SEASON. COMBINED RIGHT NOS.: 31-5, 31-189.
2. Quantity USE OF THIS RIGHT WITH RIGHT NO. 31-189 IS LIMITED TO A TOTAL COMBINED ANNUAL DIVERSION VOLUME OF 5510.4 AF.
3. Place of Use - Irrigation THIS RIGHT IS LIMITED TO THE IRRIGATION OF 213.1 ACRES WITHIN THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.

Comments:

<u>Author</u>	<u>Date</u>	<u>Subject</u>	<u>Comment</u>
bcontor	10/30/00	diversion rate & volume	This is an enlargement of a surface right which was described in the Sauve Decree as a rate but the decree actually specifies administration as a volume, which historically has been done. Therefore the enlargement is also recommended as a volume.
bcontor	10/30/00	enlargement	This is claimed as a beneficial use claim with priority 1952. Pending documentation of priority I recommend 8/24/1980 per NAPP and put on subordination language.
bcontor	10/30/00	combined use limit	This right will bear the combined volume limitation with 31-189 even if recommended as a beneficial use right instead of as an enlargement because no additional volume was obtained, only additional acres.
bcontor	10/30/00	POD	Point claimed as PO Rediversion is actually on the private canal and not a rediversion from public source. POD from public source is recommended per field inspection July 2000 and GIS.
bcontor	10/30/00	volume	Underlying volume is 22.5 cfs X 2 af/day X 123 days = 5510.4 acre feet. Original right is for 1440 acres, 5510.4/1440 = 3.83 af/acre. Enlargement is for 213.1 acres; 213.1 X 3.83 = 816 acre feet, limited to 5510.4 in combination w. original right.
bcontor	11/1/00	Priority Date	1975 U-2 photo in file shows enlargement in place as of that date. Claimant invited to submit evidence for earlier priority. If evidence pre-dates 3/25/1963, remove condition C11.
bcontor	12/1/00	Priority Date	Priority date modified per affidavit from Garth Soderquist. Soderquist affirms that land was farmed in 1951 but does not directly affirm date of beginning of beneficial use. Per instructions I use 12/31/1951.

Dates:

Licensed Date:
Claim Received Date: 03/16/2000
Enlargement Use Priority Date:
Enlargement Statute Priority Date:
Decreed Date:
Date Filed with Court:
Objection Filed Date:
SF5 Filed:
Special Master Recom Signed Date:

Element Reviewed/Verified Dates:

<u>Element</u>	<u>Last Review Date</u>	<u>Reviewer</u>	<u>Last Verified Date</u>	<u>Verifier</u>	<u>Status</u>
POD	10/31/00 2:59:34 PM	bcontor			In Process
	10/30/00 11:42:53 AM	bcontor			In Process
	10/30/00 11:33:35 AM	bcontor			In Process
POU	10/31/00 3:00:25 PM	bcontor			In Process
	10/30/00 11:52:13 AM	bcontor			In Process
Priority Date	10/31/00 2:58:54 PM	bcontor			In Process
	10/30/00 11:33:33 AM	bcontor			In Process
Quantity	10/31/00 3:02:14 PM	bcontor			In Process
	10/30/00 11:33:39 AM	bcontor			In Process
Season	10/31/00 3:01:21 PM	bcontor			In Process
	10/30/00 11:33:38 AM	bcontor			In Process
Source	10/31/00 3:00:01 PM	bcontor			In Process
	10/30/00 11:48:20 AM	bcontor			In Process
	10/30/00 11:33:36 AM	bcontor			In Process
Summary	10/31/00 3:02:54 PM		10/31/00 3:02:54 PM	bcontor	Complete
Use	10/31/00 3:00:48 PM	bcontor			In Process
	10/30/00 2:23:27 PM	bcontor			In Process
	10/30/00 11:33:37 AM	bcontor			In Process

Other Information:

Receipt Number(s):
 State or Federal: S
 Owner Name Connector: OR
 Water District Number: 31
 Generic Max Rate per Acre:
 Generic Max Volume per Acre:
 Civil Case Number:
 Old Case Number:
 Decree Plaintiff:
 Decree Defendant:
 PresumptionFlag:
 Notice of Error Flag:
 Swan Falls Trust or Nontrust:
 Swan Falls Dismissed:
 DLE Act Number:
 Cary Act Number:
 Mitigation Plan: False

Verification Log:

<u>Element</u>	<u>Date Time Stamp</u>	<u>Reviewer</u>
POD	10/31/00 2:59:32 PM	bcontor
POD	10/30/00 11:43:26 AM	bcontor
POD	10/30/00 11:43:11 AM	bcontor
POD	10/30/00 11:42:51 AM	bcontor
POD	10/30/00 11:33:33 AM	bcontor
POU	10/31/00 3:00:24 PM	bcontor
POU	10/30/00 11:52:12 AM	bcontor
Priority Date	10/31/00 2:58:53 PM	bcontor
Priority Date	10/30/00 11:33:31 AM	bcontor

Log Text

1. (YES) The basis is beneficial use.
 4. (NO) There is not evidence that there has been a change in the Point of Diversion.
 6. (YES) The file contains all the necessary information to verify the POD.
 Comment for 6: Field inspection and GIS. See comments.
 8. (NO) Point of Diversion remark was not required.
 9. (NO) Point of Diversion condition was not required.
 Edited PLS
 Edited point location
 1. (YES) The basis is beneficial use.
 4. (NO) There is not evidence that there has been a change in the Point of Diversion.
 6. (YES) The file contains all the necessary information to verify the POD.
 Comment for 6: See file "Mud Lake Storage" for field notes. Field inspection & GIS.
 8. (NO) Point of Diversion remark was not required.
 9. (NO) Point of Diversion condition was not required.
 1. (YES) The basis is beneficial use.
 1. (YES) The POU is required.
 2. (YES) The basis of claim is beneficial use.
 5. (NO) There is no evidence that there has been a change in the POU.
 9. (YES) The file contains all the necessary information to verify the POU.
 Comment for 9: 1980 NAPP, GIS
 12. (NO) POU remark was not required.
 13. (NO) POU condition was not required.
 1. (YES) The POU is required.
 2. (YES) The basis of claim is beneficial use.
 5. (NO) There is no evidence that there has been a change in the POU.
 9. (YES) The file contains all the necessary information to verify the POU.
 Comment for 9: GIS
 12. (YES) POU remark was required.
 13. (NO) POU condition was not required.
 1. (NO) There has not been a later court decree of the water right(s) from the water source.
 4. (YES) The basis of claim is beneficial use.
 4b. (YES) The priority date was claimed after the date a permit was required for the source and water use.
 9. (YES) The claim was for an expansion or enlargement under 42-1416B or 42-1426.
 10. (YES) The claim file contains sufficient evidence of priority date.
 12. (YES) The claim is recommended.
 13. (YES) The claim is coded correctly.
 14. (NO) Priority remark was not required.
 15. (NO) Priority condition was not required.
 1. (NO) There has not been a later court decree of the water right(s) from the water source.
 4. (YES) The basis of claim is beneficial use.
 4b. (NO) The priority date was not claimed after the date a permit was required for the source and water use.

Quantity	10/31/00 3:02:12 PM	bcontor	10. (NO) The claim file does not contains sufficient evidence of priority date. 11. (NO) Additional evidence of priority date has not been submitted. 12. (YES) The claim is recommended. 1. (YES) The basis of claim is beneficial use. 5. (NO) A flow measurement was not required. Comment for 5: See comments. 6. (YES) The source is ground water and the purpose of use requires a diversion volume limit. 8. (YES) Irrigation is a purpose of use. Comment for 8: Volume based on provisions of Suave Decree, limited in combination of right from which this was enlarged. 9. (NO) Quantity remark was not required. 10. (NO) Quantity condition was not required. 1. (YES) The basis of claim is beneficial use. 1. (YES) The basis of claim is beneficial use. 4. (NO) There is not evidence that there has been a change to the period of use. 9. (YES) The file contains all the necessary information to verify the period of use. 11. (NO) The basis of is not a decree, license, or a transferred beneficial use right that has had the period of use administratively determined. 13. (YES) Irrigation is the purposed use. 15. (NO) Period of Use remark was not required. 16. (NO) Period of Use condition was not required. 1. (YES) The basis of claim is beneficial use. 1. (YES) The basis is beneficial use. 4. (NO) There is not evidence that there has been a change in the Source. 7. (YES) The file contains all of the necessary information to verify the source. Comment for 7: Field inspection 8. (YES) The source is surface water. 9. (YES) The source is a standard source. 10. (NO) Source remark was not required. 11. (NO) Source condition was not required. 1. (YES) The basis is beneficial use. 4. (NO) There is not evidence that there has been a change in the Source. 7. (YES) The file contains all of the necessary information to verify the source. Comment for 7: Field inspection, see file "Mud Lake Storage" 8. (YES) The source is surface water. 9. (YES) The source is a standard source. 10. (NO) Source remark was not required. 11. (NO) Source condition was not required. 1. (YES) The basis is beneficial use. 1. (YES) The basis of the claim is beneficial use. 2. (YES) All the water being used for all the purposes is being claimed and to the extent it was claimed. 5. (NO) General remark was not required. 6. (NO) Explanatory remark was not required. 7. (YES) Additional condition was required. 8. (YES) Wanted to view the recommended right. 9. (NO) This is not a split right. 10. (NO) This is not a combined right. 11. (NO) Documents were not linked or attached to this file. 12. (YES) Set the verification date. 1. (YES) The basis of claim is beneficial use. 4. (NO) There is not evidence that there has been a change to the purpose of use. 9. (YES) The file contains all the necessary information to verify the purpose of use. 11. (NO) Purpose of Use remark was not required. 12. (NO) Purpose of Use condition was not required. 1. (NO) The basis of claim is not beneficial use. 1. (YES) The basis of claim is beneficial use.
Quantity Season	10/30/00 11:33:38 AM 10/31/00 3:01:20 PM	bcontor bcontor	
Season Source	10/30/00 11:33:37 AM 10/31/00 2:59:59 PM	bcontor bcontor	
Source	10/30/00 11:48:18 AM	bcontor	
Source Summary	10/30/00 11:33:35 AM 10/31/00 3:02:53 PM	bcontor bcontor	
Use	10/31/00 3:00:46 PM	bcontor	
Use Use	10/30/00 2:23:25 PM 10/30/00 11:33:36 AM	bcontor bcontor	

50

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

IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM.

CIVIL CASE NUMBER: 39576

Ident. Number: A31-11335
Date Received: 11/21/1988
Receipt No: E025670
Received By: HWT

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: LEVEL CANAL COMPANY INC 208-356-5091
Address: C/O DON PARKER
2032 W. 4200 S.
REXBURG ID 83440

2. Date of Priority: MAY 1, 1952

3. Source: MUD LAKE Trib. to: SINKS

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
07N	34E	33	SW	SW	SW	R	JEFFERSON
			SE	SE	SE		JEFFERSON

5. Description of diverting works:
WATER FROM LAKE FREE FLOWS INTO CHANNEL TO REDIVERSION PUMPS

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
IRRIGATION	04/01	11/01	11.090		

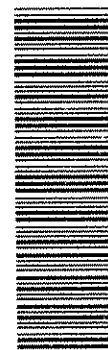
7. Total Quantity Appropriated is:
11.090 C.F.S. (and/or) A.F.A.

8. Total consumptive use is Acre Feet Per Annum.

9. Non-irrigation uses:
NONE

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
06N	33E	1	NE	NE		IRR	40.0
			NW	NE		IRR	40.0



10. Place of Use: Continued

Township	Range	Section	1/4	of	1/4	Lot	Use	Acres
06N	33E	1	SW		NE		IRR	40.0
			SE		NE		IRR	40.0
			NE		NW		IRR	40.0
			NW		NW		IRR	40.0
			SW		NW		IRR	40.0
			SE		NW		IRR	40.0
			NE		SW		IRR	40.0
			NW		SW		IRR	40.0
			SW		SW		IRR	40.0
			SE		SW		IRR	40.0
							Section Acres	480.0
		11	SW		NE		IRR	5.0
			SE		NE		IRR	25.0
							Section Acres	30.0
		12	NE		NW		IRR	40.0
			NW		NW		IRR	40.0
			SW		NW		IRR	25.0
			SE		NW		IRR	40.0
							Section Acres	145.0
	34E	6	NE		NW		IRR	40.0
			NW		NW		IRR	40.0
			SW		NW		IRR	40.0
			SE		NW		IRR	40.0
							Section Acres	160.0
07N	33E	36	NE		NE		IRR	40.0
			NW		NE		IRR	40.0
			SW		NE		IRR	40.0
			SE		NE		IRR	40.0
			NE		NW		IRR	40.0
			SE		NW		IRR	40.0
			NE		SW		IRR	40.0
			NW		SW		IRR	40.0
			SW		SW		IRR	40.0
			SE		SW		IRR	40.0
			NE		SE		IRR	40.0
			NW		SE		IRR	40.0
			SW		SE		IRR	40.0
			SE		SE		IRR	40.0

10. Place of Use: Continued

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
					Section Acres	560.0
	34E	31	NE	NW	IRR	40.0
			NW	NW	IRR	40.0
			SW	NW	IRR	40.0
			SE	NW	IRR	40.0
			NE	SW	IRR	40.0
			NW	SW	IRR	40.0
			SW	SW	IRR	40.0
			SE	SW	IRR	40.0
					Section Acres	320.0
					Total Acres	1695.0

11. Place of use in counties: JEFFERSON

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

13. Other Water Rights Used:
A31-00005 AND A31-00189.

14. Remarks:
TRANS. TO CHANGE P/D.
THIS IS AN EXPANSION CLAIM OF DECREE 31-00189 AND IS LIMITED TO
856.7 acres HWJ 3-10-2000

15. Basis of Claim: BENEFICIAL USE

16. Signature(s)

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

Number of attachments: _____

For Organizations:

I do solemnly swear or affirm that I am V.P. Level Canal of
Title
Level Canal, that I have signed the foregoing
Organization
document in the space below as Vice President of
Title
Level Canal and that the statements contained in the
Organization
foregoing document are true and correct.

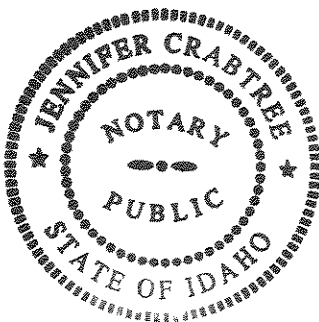
Don Parker
Signature of Authorized Agent
V.P. of Level Canal
Title and Organization
3/16/2000
Date

State of Idaho)
County of Bonneville) SS.

Subscribed and sworn (or affirmed) before me this 16th day
of March 20 00

Jennifer Crabtree
Notary Public

Seal



Residing at Idaho Falls, Idaho
My Commission Expires 9/23/03