

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

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

CIVIL CASE NUMBER: 39576

Ident. Number: A29-11681
Date Received: 4/24/1990
Receipt No: EC13584
Received By: JAT

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: KENNETH ANDRUS 208-776-5380
Address: 6948 E. OLD OREGON TRAIL RD.
LAVA HOT SPRINGS, ID 83246
AND/OR
Name: COLLEEN L. ANDRUS 208-776-5380
Address: 6948 E. OLD OREGON TRAIL RD.
LAVA HOT SPRINGS, ID 83246
AND/OR
Name: JIM ANDRUS 208-776-5380
Address: 6948 E. OLD OREGON TRAIL RD.
LAVA HOT SPRINGS, ID 83246

A291681



2. Date of Priority: JUL 01, 1902

3. Source: EAST BOB SMITH CREEK Trib. to: PORTNEUF RIVER
Springs East Bob Smith Creek

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
09S	37E	12	NE	SE	SW		BANNOCK

5. Description of diverting works:
DITCH; ALSO, PORTABLE PUMP INTO SPRINKLER SYSTEM AT VARIOUS PTS.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	09/15	04/15	6.960		

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

8. Total consumptive use is 870.0 Acre Feet Per Annum.

9. Non-irrigation uses:

A29-11681

Page 1

Date: 04/24/90

MICROFILMED

NOV 16 1992

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
09S	37E	12	SW	SW		IRR	10.0
			SE	SW		IRR	10.0
			Section Acres				20.0
		13	NW	NW		IRR	30.0
			SW	NW		IRR	30.0
			NW	SW		IRR	30.0
			SW	SW		IRR	30.0
			Section Acres				120.0
		14	NE	NE		IRR	13.0
			SE	NE		IRR	30.0
			NE	SE		IRR	35.0
			SE	SE		IRR	35.0
			Section Acres				113.0
		23	NE	NE		IRR	20.0
			NW	NE		IRR	20.0
			SE	NE		IRR	30.0
			NE	NW		IRR	15.0
			Section Acres				85.0
		24	NW	NW		IRR	10.0
			Section Acres				10.0
			Total Acres				348.0

11. Place of use in counties: BANNOCK

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

13. Other Water Rights Used:

A29-11679, 29-11678, 00188, 00191, 00193

14. Remarks:

THE DECREE RECOGNIZED AN IRRIGATION SEASON OF APRIL 15 TO SEPT. 15. THE ACTUAL IRRIGATION PRACTICE ON THESE ACRES HISTORICALLY HAS BEEN TO USE THE WATER ANY TIME NEEDED DURING THE NON-IRRIGATION SEASON, ON A FIRST COME, FIRST SERVE BASIS. THE PURPOSE OF THIS CLAIM IS TO ESTABLISH THIS HISTORICAL PRACTICE AS A LEGITIMATE WATER RIGHT AS USED, DATED BACK TO THE BEGINNING OF OUR DECREED WATER RIGHTS.

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 _____ wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments: 9

For Individuals:

I/We do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant(s): Kenneth Andrew Date: 24 Apr. 1990

Date: _____

State of Idaho)
County of Bonnerville) SS.

Subscribed and sworn (or affirmed) before me this 24th day
of April 19 90
Helen Harrington
Notary Public

Seal

Residing at Helen Harrington, Notary Public
Residing at Boise, Idaho
My Commission Expires December 1, 1994

Log for claim A29-11681

Spatial Dynamics PJM

9/12/00

TR	SEC	QQ	Acres Claimed	Acres Found	COMMENT
09s37e	12	SWSW	10	0.2	
09s37e	12	SESW	10	12	
09s37e	13	NWNW	30	15	
09s37e	13	SWNW	30	28	
09s37e	13	NWSW	30	20	
09s37e	13	SWSW	30	17	
09s37e	14	NENE	13	6.9	
09s37e	14	SENE	30	27	
09s37e	14	NESE	35	34	
09s37e	14	SESE	35	33	
09s37e	23	NENE	20	37	
09s37e	23	NWNE	20	28	
09s37e	23	SENE	30	42	Indiscernible
09s37e	23	NENW	15	34	Indiscernible
09s37e	24	NWNW	10	31	Indiscernible
Totals:			348	365.1	

AJ5809NP
No. A29-11681

IDAHO DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM PROFILE REPORT

DATE: 05/22/00
PAGE: 223

OWNER CODE	NAME & ADDRESS	PRIORITY DATE	WATER USE	USE PERIOD FROM TO	DIVERSION RATE	DIVERSION VOLUME
C	KENNETH D ANDRUS	07/01/1902	IRRIGATION	09-15 04-15	6.960 CFS	
C	COLLEEN L ANDRUS					
C	JIM ANDRUS					
	6948 E OLD OREGON TRAIL RD			TOTAL DIVERSION:	6.960 CFS	
	LAVA HOT SPRINGS ID 83246			CONSUMPTIVE USE:		870.00 AFA
	(208) 776-5380					

Water Source: EAST BOB SMITH CREEK
SPRINGS

Tributary to: PORTNEUF RIVER
EAST BOB SMITH CREEK

Stage: BENEFICIAL USE

Point(s) of Diversion: T09S R37E S12 NESESW

BANNOCK County

Place of use Legal Description for: IRRIGATION

			NE				NW				SW				SE					
T	R	S	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	SUM	
09S	37E	12	:												10	10	:		20.0	
09S	37E	13	:						30	30	:			30	30	:			120.0	
09S	37E	14	:	13				30	:								35	35	113.0	
09S	37E	23	:	20	20			30	:	15									85.0	
09S	37E	24	:						:	10									10.0	
																			TOTAL ACRES	348.0

POU County: BANNOCK

Other Rights: A29-11679, 29-11678, 00188, 00191, 00193

Other Water Rights with Same Point(s) of Diversion with Stage (Includes All Sources):
A29-00187 A29-00188 A29-00191 A29-00193 A29-11678

Other Water Rights Listing Overlapping Place(s) of Use:
A29-00187 A29-00188 A29-00189 A29-00190 A29-00191 A29-00192 A29-00193 A29-11678 A29-11679

Remarks: GEN THE DECREE RECOGNIZED AN IRRIGATION SEASON OF APRIL 15 TO
SEPT. 15. THE ACTUAL IRRIGATION PRACTICE ON THESE ACRES
HISTORICALLY HAS BEEN TO USE THE WATER ANY TIME NEEDED DURING
THE NON-IRRIGATION SEASON, ON A FIRST COME, FIRST SERVE BASIS.
THE PURPOSE OF THIS CLAIM IS TO ESTABLISH THIS HISTORICAL
PRACTICE AS A LEGITIMATE WATER RIGHT AS USED, DATED BACK TO THE
BEGINNING OF OUR DECREED WATER RIGHTS.

Dates: Exam Made Date:

Verified Date:

Objection Filed Date:

Misc: Water District Number:

Field Inspection Flag:
Presumption Flag:

AJ5809NP
No. A29-11681

IDAHO DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM PROFILE REPORT

DATE: 05/22/00
PAGE: 224

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Audit: 04/24/90 ESRBA 09/09/94 JTHOMPSO 03/29/95 POST-STD 04/12/00 CVANDERM



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720 - (208) 334-7900

September 16, 1988

Lyndon Green
105 E 16th Street
McCammon, ID 83250

Re: Water District 29, Portneuf River

Dear Mr. Green:

In your telephone call of September 14, 1988, you stated that the irrigation season in Water District 29 under the Portneuf River decree ends on September 15. You asked me what action, if any, should be taken by the watermaster after that date.

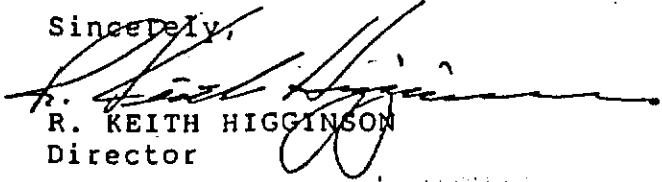
The historical practice on the Portneuf is for the watermaster to stop delivering water rights under the decree on September 15. After that date it has been the practice of the waterusers to divert water as needed irrespective of the priorities under the decree.

It is the normal duty of a watermaster to delivery water rights on a stream in accordance with the terms of the applicable decrees. Consistent with court decree, it has been the long-standing practice on the Portneuf for the formal irrigation season to end on September 15 and for the watermaster to discontinue delivering irrigation water rights after that date. I do not find it appropriate to order the watermaster to alter that longstanding practice this year.

Waterusers who have historically diverted water and put it to beneficial use after September 15 each year may have established legal rights to continue that practice. The extent of any such rights will be determined in the pending Snake River basin water rights adjudication.

I hope this letter has adequately answered your question.

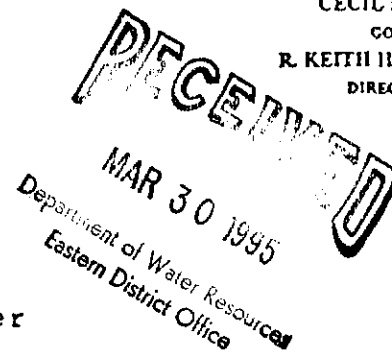
Sincerely,



R. KEITH HIGGINSON
Director

cc: Eastern Region
Tom Bloxham

NOV 14 1988



CECIL D. ANDRUS

GOVERNOR

R. KEITH HIGGINSON

DIRECTOR

AT 5809NP

No. A29-11681

Lava Hot Springs, Idaho

28 March 1995

My family moved from Utah and purchased this property in 1959. The water right has an interesting history. The property was once a part of the Fort Hall Indian Reservation. Tradition has it and it has been told to us by neighbors who are now dead that an Indian named Bob Smith was given this property by his commanding officer in payment for some scouting services he had performed for the army. Mr. Smith irrigated some of the land along Bob Smith Creek; he raised cattle and horses. Subsequently the government did not recognize his (Mr. Smith's) right to the land, but he wouldn't move off. One winter Mr. Smith went to the Washakie Reservation near Portage, Utah. He contracted pneumonia and died. Some of his family also died there; the remainder of them never returned.

In 1902 the land was opened for homesteading and has a 1902 decreed water right.

Bob Smith's grandson, Chester Ottogary visited our place about 1976 and confirmed the above story and said he was going to establish an Indian water right for the property. He never did and is also now deceased.

Carrol Willmore, a neighbor who died in 1993 at age 85 stated on several occasions that he knew and worked with Hen Monroe and Bill Godfrey, the three of them all being employed by Dave Monroe, the man who owned and homesteaded this property, that these men conversed with common knowledge about the Indians irrigating this property prior to 1902.

Because of the water right date recognized by the Idaho Department of Water Resources rather than the traditional use right established by Bob Smith, it is necessary to irrigate and use water on this property outside of the normal irrigation season of Apr. 15 to Sept. 15. This is a common practice of land owners along the Portneuf river or its tributaries. Bob Smith ^{Creek} being one of those tributaries. This has been the case on this property since 1902 when it was homesteaded by Dave Monroe.

NOV 14 1996

AJ 5809 NP

No. A29-11681

Lava Hot Springs, Idaho
28 Mar. 1995

On most years and especially during drought years we use the water from Bot Smith Creek for irrigation purposes both before the regular irrigation season starts on April 15 in this area and after the irrigation season ends on Sept. 15th. We have done this since my family acquired this farm in 1959.

Many neighbors also do the same especially those with later decreed water rights.

Lave Monroe (Martin) homesteaded this farm in 1902. I saw and talked with him before he died (about 1960-62) at Oro, Idaho. He testified to me and my father that he used the water any time of the year he wanted regardless of the designated irrigation season. Some people even talk of irrigating the snow off from the fields on this farm.

Kenneth Andrew

Lava Hot Springs, Idaho 83546

Signed before me this 28th day
of March, 1995.

Sheryl Doyle, Notary Public
My commission expires
9/4/96.

RECEIVED
MAR 30 1995
Department of Water
Eastern District C

RECORDED

NOV 14 1995

28 March 1995

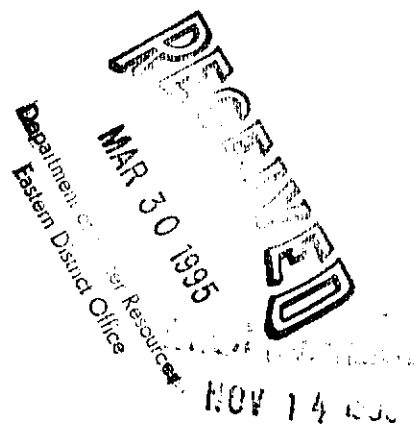
I Wayne Avery know that Andruses have used water for irrigations before and after the irrigation season. This is a common practice in this area for people with a late water right.

It is my understanding that this was a practice that has went on since the ground was first irrigated.

Wayne Avery

Signed before me this 28th day
of March, 1995.

Sheryl Doyle, Notary Public
My Commission expires 9/4/96



OWNER CODE	NAME & ADDRESS	PRIORITY DATE	WATER USE	USE PERIOD FROM TO	DIVERSION RATE	DIVERSION VOLUME
C	KENNETH ANDRUS	07/01/1902	IRRIGATION	09-15 04-15	6.96 CFS	
C	COLLEEN L ANDRUS					
C	JIM ANDRUS					
	6948 E OLD OREGON TRAIL RD					
	LAVA HOT SPRINGS ID 83246					
	(208) 776-5380					
				TOTAL DIVERSION:	6.96 CFS	
				CONSUMPTIVE USE:		870.00 AFA

Water Source: EAST BOB SMITH CREEK
SPRINGS

Tributary to: PORTNEUF RIVER
EAST BOB SMITH CREEK

Stage: BENEFICIAL USE

Point(s) of Diversion: T09S R37E S12 NESESW

BANNOCK County

Place of use Legal Description for: IRRIGATION

				NE				NW				SW				SE																				
				NENE	NWNE	SWNE	SENE					NENW	NWNW	SWNW	SENW					NESW	NWSW	SWSW	SESW					NESE	NWSE	SWSE	SESE					
T	R	S	:	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	:	Lt	Ac	Lt	Ac	Lt	Ac	:	Lt	Ac	Lt	Ac	Lt	Ac	:	Lt	Ac	Lt	Ac	Lt	Ac	:	SUM		
09S	37E	12	:									:							:						:							:	20.0			
09S	37E	13	:									:		30		30			:			30		30	:							:	120.0			
09S	37E	14	:		13				30			:							:						:	35				35		:	113.0			
09S	37E	23	:		20		20		30			:		15					:						:							:	85.0			
09S	37E	24	:									:		10					:						:							:	10.0			
																TOTAL ACRES																				348.0

POU County: BANNOCK

Other Rights: A29-11679, 29-11678, 00188, 00191, 00193

Remarks: THE DECREE RECOGNIZED AN IRRIGATION SEASON OF APRIL 15 TO SEPT. 15. THE ACTUAL IRRIGATION PRACTICE ON THESE ACRES HISTORICALLY HAS BEEN TO USE THE WATER ANY TIME NEEDED DURING THE NON-IRRIGATION SEASON, ON A FIRST COME, FIRST SERVE BASIS. THE PURPOSE OF THIS CLAIM IS TO ESTABLISH THIS HISTORICAL PRACTICE AS A LEGITIMATE WATER RIGHT AS USED, DATED BACK TO THE BEGINNING OF OUR DECREED WATER RIGHTS.

Dates: Exam Made Date:

Verified Date:

Misc: Water District Number:

Field Inspection Flag:
Presumption Flag:

NOV 14 1998

● Lava Hot Springs Idaho ●
April 9, 1990

Idaho State Water
Resources Board:

I am writing this as a member
of The Lava Irrigation Co., or the
Sunny Side Ditch as it is commonly
known; and also as a member of
the Kidd family. We are the only
family to still own our original
homesteads, all the rest have changed
ownership times without number.
I am the oldest living person to have
known constantly about the
irrigation situation in this
community.

I went to college with Elmo
Heggerson, in Pocatello in 1929 and
1930. He was your hydrologist
and I believe his son is your
hydrologist now.

Our project is small, only slightly
more than a thousand acres in
the beginning, Highway 30 has

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NOV 16 1992

Taken away some of our lands
There was plenty of water, for
everyone in the beginning. They
turned what water they needed
into our canal and turned it
back into the river when they were
through using it. They always tried
to keep some water in the canal
through the winters for livestock.
Sheepmen would buy hay from the
farmers and feed the sheep in the
fields and have canal water
for the sheep to drink.

They built the reservoir at
Chatterfield, they tried turning the
stored water down the Portneuf
River, which would not carry the
extra water. They paid damages
for several years to farmers
downstream for flooding the fields.
They then built the long outlet canal
to bypass the farms. In the beginning
the canal would not carry the

water, but the canal eroded until we have the bad situation we have today.

The McCammon Mill sued to get its water, and they won the lawsuit, and a decree was handed down about the various water rights. Since then, the McCammon Mill sold its water right, I believe to either the McCammon Canal Co. or to some of its members.

Ever since, our project has had less and less water, so we have tried to get water into our canal before the irrigation season began, and also after the irrigation season had ended, to soak up our fields for the next season. I personally have watered fields when several inches of snow were on the ground. I have done this all through my lifetime. Nobody has ever tried to stop me, and I feel that

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NOV 16 1992

4

we have established a right to do this.

Now, companies have planned to build hydropower plants in the river, and they intend to demand the entire river flow when the irrigation season ends until the spring when the season begins again. The way things are shaping up, we will have scarcely any water at all. They should not be allowed to do this to us. The plants are not needed at all, and the Federal Government should never have approved their building.

Sincerely

P.O. Box 137 William Kidd
Lava Hot Springs
Idaho, 83246

MICROFILMED

NOV 16 1992

STATE OF IDAHO, COUNTY OF BANNOCK

On this 9th day of APRIL, 1990, before me, a notary public in
and for said State, personally appeared

WILLIAM KIDD

known to me to be the person whose name ~~is~~ ^{HE} subscribed to the within
instrument, and acknowledged to me that ~~HE~~ executed the same.

Robert Bergendorf
NOTARY PUBLIC

Residing at LAVA HOT SPRINGS, Idaho

Commission Expires LIFETIME

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NOV 16 1992

TO WHOM IT MAY CONCERN:

I, Fred G. Walker, would like to say, I was born and raised on the Walker Ranch located near Lava Hot Springs, Idaho, and lived there until February 1953. I was also the Ditch Checker for one summer while living there. There was plenty of water for all of the ranches in the area before the Chesterfield Dam was constructed, no one in the area had any water problem until after the construction of that Dam. Then the situation seemed to change a very great deal. The Sunnyside Ditch Company had plenty of water for all users at the beginning as well as at the ending of the season. They all irrigated and used the water all season until it froze up in the winter. We had all the water for all the ranchers in the area all season long. Everyone had all the water needed to irrigate their land from early in the spring until it all froze up with the winter. My folks before me had plenty and I had plenty for the same acres and the same farm from early spring until it froze up with the winter.

Signed Fred G. Walker
Fred G. Walker

Subscribed and sworn to before me this 4th day of April 1990, at
Cokeville, Lincoln County, State of Wyoming.

My Commission expires: Dec. 1, 1993

Marcel D. Reed
Notary Public

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NOV 16 1992

APPENDAGE TO THE FILING OF WATER OF Kenneth, Colleen, & Jim Andrus

Our present decreed water rights are jeopardized by

1. Illegal loss free transportation of storage water in the river channel. We ask the adjudication process to correct this situation by requiring the users of the storage water to stand the loss or require all the water users in the river district to share in the loss on a percentage basis according to the cubic feet of water they have decreed to them.
2. Many years after established use rights and decreed rights numerous wells have been allowed in the upper basin area, draining the aquifer. We ask an in depth study be made to determine the affect on the river flow before a decision is made.

Historically the amount of our water has been cut down during the irrigation season because there is not enough water to fill all the rights. Of necessity we have used the water at any time during the non irrigating season in any amount needed first come first serve down the river. We request this use right recognized and established as a legitimate water right.

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NOV 16 1992

NAME OF CLAIMANT and
DATE OF PRIORITY

AMOUNT IN
SECOND FEET

POINT OF DIVERSION AND
PLACE OF USE

140. *Martin, D. A. M.*

1902—July 1 .80 c. f. s.
1903—March 1 1.1 c. f. s.
1903—March 1 .36 c. f. s.
1903—Nov. 1 2.06 c. f. s.
1903—March 1 1.54 c. f. s.
1902—July 2 1.0 c. f. s.

(50 miners inches)
source being that cer-
tain Spring which rises
700 feet East of the
West quarter corner of
Section 13, Township
9 South, Range 38 East

portions of the South half of the South-
west quarter, Section 13, and the North
half of the Northwest quarter, Section 24,
Township 9 South, Range 37 E. B. M., not
hereinafter described as belonging to D. A.
M. Martin.

Said waters to be diverted through the fol-
lowing described ditches:

Through a ditch having its intake North
15 degrees West, 1090 feet from the
South quarter corner of Section 12, Town-
ship 9 South, Range 37 E. B. M.

Through a ditch having its intake South
86 degrees and 30 minutes East, 1275 feet
from the Northwest corner of Section 13,
same Township and Range.

Through a ditch having its intake South
34 degrees and 30 minutes East, 330 feet
from the West quarter corner of said Sec-
tion 13, same Township and Range.

Through a ditch having its intake South
25 degrees East, 770 feet from the West
quarter corner of Section 13, same Town-
ship and Range.

Through a ditch having its intake North
2 degrees East, 960 feet from the South-
west corner of Section 13, same Township
and Range.

Through a ditch having its intake 700 feet
East of the West quarter corner of Sec-
tion 13, same Township and Range.

For the irrigation of two parcels of land
described as follows: Beginning at the
South 1-16 section corner on the section
line between Sections 13 and 14, thence
South along section line of Sections 13
and 14, 262.5 feet, thence North 20 degrees
and 34 minutes East, 280.5 feet to the
South 1-16 Section line of said Section 13,
thence West along the 1-16 section line of
said Section 13, 98.5 feet to the place of
beginning; Also, the Northeast quarter,
the North half of the Southeast quarter,
the Southeast quarter of the Southeast