

11/17/2000

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

RIGHT NUMBER: 74-14980
NAME AND ADDRESS: JAMES WHITTAKER
PAULA WHITTAKER
TWO DOT RANCH
BOX 240
LEADORE, ID 83464

SOURCE: BIG TIMBER CREEK TRIBUTARY: LEMHI RIVER

QUANTITY: 1.46 CFS

USE OF THIS RIGHT WITH RIGHT NO. 74-01102 IS LIMITED TO A
TOTAL COMBINED DIVERSION RATE OF 6.4 CFS.

PRIORITY DATE: 06/01/1982

THIS WATER RIGHT IS SUBORDINATE TO ALL WATER RIGHTS WITH A
PRIORITY DATE EARLIER THAN APRIL 12, 1994, THAT ARE NOT
DECREEED AS ENLARGEMENTS PURSUANT TO SECTION 42-1426, IDAHO
CODE. AS BETWEEN WATER RIGHTS DECREEED AS ENLARGEMENTS
PURSUANT TO SECTION 42-1426, IDAHO CODE, THE EARLIER PRIORITY
RIGHT IS THE SUPERIOR RIGHT.

POINT OF DIVERSION: T15N R26E S20 SWSWNW Within LEMHI County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
IRRIGATION	03-15 11-15	1.46 CFS

PLACE OF USE:

IRRIGATION Within LEMHI County			
T15N R26E S21	SWSE	12	T15N R26E S21 SESE 17
T15N R26E S27	NWNW	16	T15N R26E S27 SWNW 9.3
T15N R26E S27	SENW	0.9	T15N R26E S28 NENE 9.3

64.5 ACRES TOTAL

USE OF THIS RIGHT WITH RIGHT NO. 74-01102 IS LIMITED TO THE
IRRIGATION OF A COMBINED TOTAL OF 299 ACRES 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.

THIS RIGHT IS BASED UPON AN ENLARGEMENT OF RIGHT NO. 74-
01102 PURSUANT TO SECTION 42-1426, IDAHO CODE.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use

THIS RIGHT IS FOR AN ENLARGEMENT OF 65 ACRES WITHIN THE
PLACE OF USE DESCRIBED FOR THIS RIGHT.

Need #119 for

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AUG 18 1999

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

CIVIL CASE NUMBER: 39576

Ident. Number: A74-14980
Date Received: 8/12/1999
Receipt No: EO25222
Received By: JKH

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: JAMES WHITTAKER 208-768-2491
Address: TWO DOT RANCH
BOX 240
LEADORE ID 83464
OR
Name: PAULA WHITTAKER 208-768-2491
Address: TWO DOT RANCH
BOX 240
LEADORE ID 83464

2. Date of Priority: JUN 1, 1982
3. Source: BIG TIMBER CREEK Trib. to: LEMHI RIVER
4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
15N	26E	20		SW	NW		LEMHI

5. Description of diverting works:
DITCH TO FLOOD IRRIGATION

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
IRRIGATION	03/15	11/15	1.460		

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

8. Total consumptive use is Acre Feet Per Annum.

9. Non-irrigation uses:
NONE

A7414980



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Department of Water Resources
Eastern Region

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
15N	26E	21	SW	SE		IRR	14.0
			SE	SE		IRR	14.0
			Section Acres				28.0
		27	NW	NW		IRR	10.0
			SW	NW		IRR	15.0
			Section Acres				25.0
		28	NE	NE		IRR	16.0
			Section Acres				16.0
			Total Acres				69.0

11. Place of use in counties: LEMHI

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

13. Other Water Rights Used:

14. Remarks:

THIS RIGHT IS BASED UPON AN ENLARGEMENT OF RIGHT
NO. 74-01102 PURSUANT TO SECTION 42-1426, IDAHO CODE.

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: _____

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): James Whitaker Date: 8/16/99

Date: _____

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AUG 18 1999

Department of Water Resources
Eastern Region

State of Idaho)
County of Lemhi) SS.

Subscribed and sworn (or affirmed) before me this 17 day
of August 19 99

Lavinna Stroud
Notary Public

Seal

Residing at Leadore, ID

My Commission Expires 10-26-99

A74-14980

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AUG 8 1999

Department of Water Resources
Eastern Region



NCP

Rd

Road

NCP?

NCP

NCP?

NCP

Rd

NCP

NCP

20

20

Shed in photo

Pasture?

14

21 22

28 27

10

16

10

7/12/47

1

15

89.4

NW

915.3

R26E

T
15N

329.

Carlsen, Ernie

From: Carlsen, Ernie
Sent: Friday, November 17, 2000 9:10 AM
To: Young, Norm
Cc: Tuthill, Dave
Subject: Evaluation of SRBA Claim 74-14980

Good Morning Norm,

I have completed an initial evaluation of 74-14980 filed by James Whittaker. You may recall Mr. Whittaker filed this claim to resolve part of a NOV issued for irrigating land without a water right. Attached to this email is a memorandum stating my findings and a layout illustrating the place of use. If you have questions please let me know.
Ernie



MEMO 74-14980.doc



74-14980.jpg

March 30, 1999
Leadore, Idaho 83434

To Whom It May Concern:

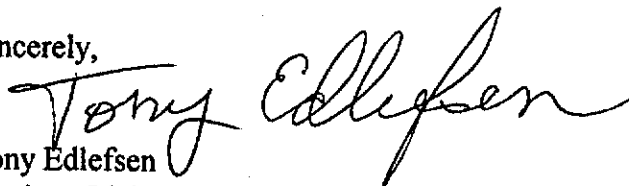
I worked for James Whittaker starting April 15, 1987 through 1994.

During this time I irrigated everything under the Timber Creek Ditch which is called the Badger Hole field every year. This irrigated with water from Decree #74-1102, Date 4-1-1947, priority. I irrigated this field every year for as long as the water held out. Some years I could get over it twice and some years I could only get over half of it.

The Badger Hole Field is adjacent to Warm Springs.

My father, Bruce Edlefsen, irrigated this same Badger Hole field for two years prior to my starting to work for Whittakers, years 1985 and 1986.

Sincerely,

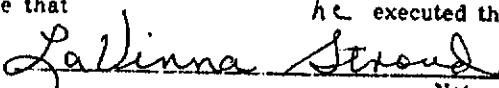

Tony Edlefsen
Leadore, Idaho 83464

STATE OF IDAHO, COUNTY OF Lemhi

On this 29th day of March, 1999,
before me, a notary public in and for said State, personally appeared

Tony Edlefsen

known to me to be the person whose name
subscribed to the within instrument, and acknowledged
to me that he executed the same.


Notary Public
Residing at Leadore, Idaho
Comm. Expires October 26, 1999

March 30, 1999
Leadore, Idaho 83464

To Whom It May Concern:

I started working for James Whittaker in November of 1994 and am still employed with him to the present date.

I have irrigated everything under the Timber Creek Ditch every year since 1994. This field is known as the Badger Hole field and it is adjacent to Warm Springs.

The decree for this is Decree #74-1102, Date 4-1-1947, priority.

Sincerely,

Rod Taylor
Rod Taylor
Leadore, Idaho 83464

STATE OF IDAHO, COUNTY OF Lemhi

On this 29th day of March, 1999,
before me, a notary public in and for said State, personally appeared

Rod Taylor

known to me to be the person whose name
subscribed to the within instrument, and acknowledged
to me that he executed the same.

Lavinna Stroud

Notary Public

Residing at Leadore, Idaho
Comm. Expires October 26, 1999

To whom it may Concern

I went to work for Bob
Adams in September of 1986, and
moved cattle around Warm Springs
At that time everything under the
timber creek ditch was under
cultivation. I moved cattle by the
warm springs every year from 1986
untill 1995

James C Malcom

STATE OF IDAHO, COUNTY OF Lemhi

On this 29th day of March, 1999,
before me, a notary public in and for said State, personal-
ly appeared

James C. Malcom

known to me to be the person whose name
subscribed to the within instrument, and acknowledged
to me that he executed the same.

Lavinna Strand

Notary Public

Residing at Leadore, Idaho

Comm. Expires October 26, 1999

March 30, 1999
Leadore, Idaho 83464

To Whom It May Concern:

I irrigated everything under the Timber Creek Ditch in 1982, with a portable sprinkler outfit. I moved all the pipe on this field known as the Badger Hole field. This ground had just been broken out of the sage brush and irrigated for the first time. I was working for James Whittaker at this time.

This was irrigated with water from Decree # 74-1102, Date 4-1-1947, priority.

The Badger Hole Field is adjacent to Warm Springs.

Sincerely,

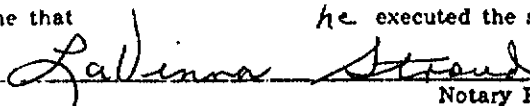


Kyle Anderson
Leadore, Idaho 83464

STATE OF IDAHO, COUNTY OF Lemhi
On this 29th day of March, 1999,
before me, a notary public in and for said State, personally appeared

Kyle J. Anderson

known to me to be the person whose name
subscribed to the within instrument, and acknowledged
to me that he executed the same.


Notary Public

Residing at Leadore, Idaho

Comm. Expires October 26, 1999

Jones, Harold (Skip)

From: Carlsen, Ernie
Sent: Tuesday, August 15, 2000 10:13 AM
To: Foster, Bob
Cc: Jones, Harold (Skip)
Subject: Enlargement Claim 74-14980, Whitaker

Good Morning Bob,

I am hoping you can do a little leg work for me concerning the above claim. Norm has asked that the validity of this enlargement claim be assessed. We have aerial photos from 1993/1994 that clearly show the land in question was being farmed and in all likely hood also irrigated. Unfortunately we don't have good coverage for years 1987 back to 1982. My hope is that the FSA might have slides for those years. I have attached a jpeg file showing the property in question. Could you please drop by the FSA office and see if they have slides or aerial photos dated 1982 thru 1987. 1982 is important because that is the priority date being claimed. Thanks for you help.

Ernie



74-14980.jpg

MEMORANDUM

TO: DAVE TUTHILL *DT*
FROM: NORM YOUNG *NY*
RE: SRBA CLAIM NO. 74-14980
DATE: July 28, 2000

This claim was filed last year as a follow-up to a compliance conference with the claimant, James Whittaker. A Notice of Violation had been issued to Whittaker because he appeared to be irrigating land without a water right. The action was taken in response to complaints from a neighboring landowner. At the conference Whittaker asserted that irrigation of a portion of the land in question had commenced in the early 1980's. The consent agreement reached at the conference provided for Whittaker to file the expansion claim with supporting documentation to resolve that part of the NOV. The claim with supporting affidavits was filed.

The neighboring landowner visited this office on July 26, 2000 with copies of aerial photos she believes demonstrates that the expansion claimed by Claim No. 74-14980 did not occur prior to 1988. Attached to this memo are copies of two photos she left with me.

This information may be useful as the validity of the claim is reviewed in the preparation of the Director's Report for Basin 74. However, given the role that this claim played in resolving the NOV, I do not believe the matter should be delayed until Basin 74 is submitted to the SRBA court. I would like IDWR staff to independently review the photographic evidence available at IDWR, FSA (ASCS and NRCS), and other sources with the intent of renewing the NOV (or other appropriate action) if the claim does not appear to be valid.

Please have appropriate SRBA staff review this matter. If Bob Foster or other staff can provide assistance together information, please let me know.

RECEIPT
For Monies Paid
to the
Idaho Department of Water Resources

Receipt No: E020222

Date: 07/10/1999
Time: 1315E-00

Received
From: WHITTAKER, JAMES

Type of Payment

Program Acct

Amount

ADJUDICATION FEE

41500

327

1155.

169.00

Total

\$

169.00

CHECK

20073

Water Right Numbers

A74-149B0

Region: EASTERN

Signature:

J Hoagland

MEMORANDUM

TO: NORM YOUNG
THRU: DAVE TUTHILL
FROM: ERNIE CARLSEN
RE: SRBA CLAIM 74-14980
DATE: November 17, 2000

My review of the information associated with this claim reveals there is sufficient evidence to support a favorable recommendation of this enlargement claim. This information includes aerial photography from the FSA from 1986, 1987 NAPP photography, and affidavits from three individuals.

The aerial photography and NAPP both show actively growing vegetation in the Badger Hole Field. Native vegetation lacking irrigation looks distinctively different than the Badger Hole Field.

The affidavits are from individuals who actually worked for the claimant. The affidavit from Kyle Anderson states he irrigated the entire Badger Hole Field with a portable sprinkler system in 1982. This was the first year the field was irrigated. Affidavits from Tony Edlefsen and Rod Taylor state the field has been irrigated every year since 1985.

Using 1987 NAPP and GIS reveals the Badger Hole Field contains 65 acres.