

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: A75-10475
Date Received: 5/ 3/1990
Receipt No: M006881
Received By: _____

**COPY FOR
YOUR FILES**

**NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW**

**COPY FOR
YOUR FILES**

1. Name: SILVER PEAK RANCH TRUST
Address: C/O MYRTHUS AUSTIN/RON AUSTIN
TRUSTEES
1029 HWY 93 N
SALMON ID

208-756-3368

83467

2. Date of Priority: APR 1, 1894

3. Source: JESSE CREEK

Trib. to: SALMON RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4 of	Lot	County
21N	22E	1	SW	NW			LEMHI
22N	22E	31	NE	SW			LEMHI
			NW	SE			LEMHI

5. Description of diverting works:
HEADGATE, 2 DITCHES, FLOOD IRRIGATION

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
IRRIGATION	04/01	11/01	1.940		

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

8. Total consumptive use is 335.0 Acre Feet Per Annum.

9. Non-irrigation uses:

10. Place of Use:

Township	Range	Section	1/4 of	1/4 of	Lot	Use
22N	22E	31	NE	NE		IRR

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Acres
N440101550

10. Place of Use: Continued

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
22N	22E	31	SE	NE		IRR	40.0
			NE	SE		IRR	10.0
Section Acres							54.0
		32	NE	NW		IRR	4.0
			NW	NW		IRR	4.0
			SW	NW		IRR	40.0
			SE	NW		IRR	17.0
			NE	SW		IRR	3.0
			NW	SW		IRR	12.0
Section Acres							80.0
Total Acres							134.0

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:
NONE

14. Remarks:

THIS CLAIM IS FOR COMBINED DECREED RTS. 75-0009 AND 0003 IN
IN TOTAL. CLAIMANTS LAND IS VERY ROCKY AND REQUIRES ABOUT
4 INCHES PER ACRE TO IRRIGATE ADEQUATELY.
THIS IS A HIGH WATER RIGHT AND IS USUALLY AVAILABLE ONLY FOR A
SHORT PERIOD OF THE IRRIGATION SEASON.
CHANGED OWNERSHIP 3/8/95/JT

15. Basis of Claim: DECREED

Case Number:

Court :

Decree date: / /

Decree Plaintiff

vs

Decree Defendant

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NOV 18 1996

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: A75-10475
Date Received: 5/03/1990
Receipt No: MOO 6881
Received By: RAA

RECEIVED
MAY 3 1990
Department of Water Resources

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: JOHN W. AUSTIN 208-756-3368
Address: 1029 HWY 93 NORTH
SALMON, ID 83467

OR

Name: MYRTHUS AUSTIN 208-756-3368
Address: 1029 HWY 93 NORTH
SALMON, ID 83467

2. Date of Priority: APR 01, 1894

3. Source: JESSE CREEK Trib. to: SALMON RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4 of	Lot	County
21N	22E	1	SW		NW		LEMHI
22N	22E	31	NE		SW		LEMHI
			NW		SE		LEMHI

5. Description of diverting works:
HEADGATE, 2 DITCHES, FLOOD IRRIGATION

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	04/01	11/01	1.940		

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

8. Total consumptive use is 335.0 Acre Feet Per Annum.

9. Non-irrigation uses:

A75-10475

Page 1

Date: 05/03/90

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DEC 15 1992

A7510475



10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
22N	22E	31	NE	NE		IRR	4.0
			SE	NE		IRR	40.0
			NE	SE		IRR	10.0
						Section Acres	54.0
		32	NE	NW		IRR	4.0
			NW	NW		IRR	4.0
			SW	NW		IRR	40.0
			SE	NW		IRR	17.0
			NE	SW		IRR	3.0
			NW	SW		IRR	12.0
						Section Acres	80.0
						Total Acres	134.0

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:

~~NONE~~ Norton Ditch M.C.

14. Remarks:

THIS CLAIM IS FOR COMBINED DECREED RTS. 75-0009 AND 0003 IN
IN TOTAL. CLAIMANTS LAND IS VERY ROCKY AND REQUIRES ABOUT
4 INCHES PER ACRE TO IRRIGATE ADEQUATELY.
THIS IS A HIGH WATER RIGHT AND IS USUALLY AVAILABLE ONLY FOR A
SHORT PERIOD OF THE IRRIGATION SEASON.

15. Basis of Claim: DECREED

Case Number:

Court :

Decree date:

Decree Plaintiff

vs

Decree Defendant

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: 1

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): L. M. [Signature] Date: May 3 - 1990

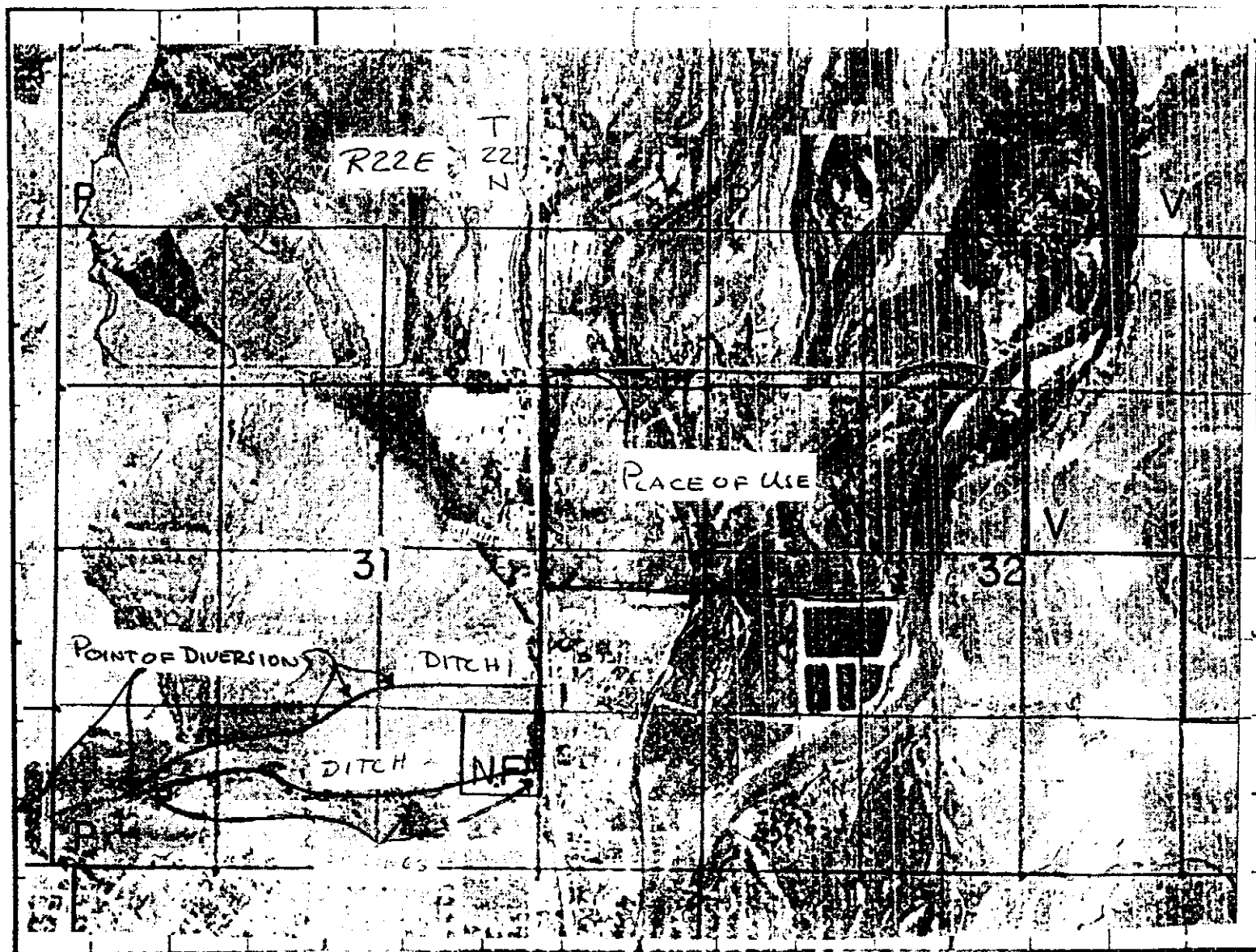
Date: _____

State of Idaho)
County of Lemhi) SS.

Subscribed and sworn (or affirmed) before me this 3rd day
of May 19 90 [Signature]
Notary Public

Seal

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



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DEC 15 1992

MARCH 8, 1995

SILVER PEAK RANCH TRUST
C/O MYRTHUS AUSTIN/RON AUSTIN TRUSTEES
1029 HWY 93 N
SALMON ID 83467

RE: CHANGE IN OWNERSHIP FOR A75-10475

Dear Mr. Austin:

The request for Change in Ownership concerning the Notice(s) of Claim in the above reference has been processed and the Notice(s) modified to reflect you as the new owner.

Enclosed is a typed Notice with your name shown as the current owner. Review the forms and if there are other corrections or questions, feel free to contact this office.

If there are no questions or corrections, please keep this Notice for your records.

Respectfully submitted,

Jo Thompson
Adjudication Secretary

Enclosure: Notice of Claim

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NEW PROPERTY OWNER NOTICE OF CHANGE OF WATER RIGHT OWNERSHIP

Please print or type
(see instructions on back of page)

DATE OF CLOSING: 3/7/95

LEGAL DESCRIPTION OF PROPERTY: Township 21.N. 22.N Range 22E
Section 31, SE SE 1/4 of NE SE 1/4 of SE NE 1/4, Govt. Lot _____, BM.
Lot 1, Block, _____, Subdivision/Townsite _____.
If you have additional legal descriptions, please attach separate sheet.

- ☐ Served Only by a Public Service Water Supply (all water is received from a city or company who maintains water supply system, owns the water right, and bills the customer on a regular basis)
- ☐ Water Right Number(s) Assigned by IDWR: A75-10475 --- 75-04471 - Filed new claim/late Done - gone to Austin
- ☐ Name and Address of Former Owner/Claimant(s)(Seller): Austin Myrthus and Austin John W.
1029 HWY 93 N. and 1035 HWY 93 N.
- ☐ New Owner/Claimant (Purchaser): Silver Peak Ranch Trust
- ☐ New Mailing Address: Austin Myrthus And Austin Ron -- Trustees
1029 HWY 93 N.
- ☐ New Telephone Number: (208) 756-3368
- ☐ Does the change in ownership result in a splitting of the water right owned/claimed? yes no
If yes, then describe the portion of the water right that is now owned/claimed by the new owner:
~~A75-10475~~ and ~~75-04471~~

- ☐ Attach proof of ownership, describe proof attached: A75-10475 and 75-04471

(proof of ownership must describe either the property conveyed or include the claim number. Proof of ownership is not required if this form is signed by the former owner/claimant.)

- ☐ Signature of New Owner/Claimant(s): Myrthus Austin Trustee Date 3/7/95
Ron Austin Trustee Date 3/7/95
- ☐ Signature of Former Owner/Claimant(s): Myrthus Austin Date 3-7-95
John Austin Betty Austin Date 3/7/95

(Signature of former claimant(s) is not required if proof of ownership is attached.)

3-8-95 Mr. Austin was here today to change ownership to Trust. New claim was filed on 75-04471 (\$100.00) changed OS on 75-10475 to Trust. Jo

FOR IDWR USE ONLY:
Initial Review and Data-Entry
Date: _____ By: _____
Further Action Needed:
Further Action Taken
Date: _____ By: _____
Final Review and Data-Entry
Date: _____ By: _____
Claim Numbers of Split, if any:

Original to be mailed to Idaho Department of Water Resources
Copies to Former Owner and New Owner

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State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720-9000

Phone: (208) 327-7900 FAX: (208) 327-7866

FILE: A75-10475

RECEIVED

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

August 2, 1994

AUG - 5 1994

Myrthus Austin
John W. Austin
1029 Hwy 93 North
Salmon, ID 83467

Department of Water Resources
Eastern District Office

Re: Water Right Numbers 75-0003 & 75-0009

Gentlemen:

In 1992 Department staff assisted the Jesse Creek watermaster in compiling a water right delivery list for water district 75A, Jesse Creek and tributaries. This list indicates that you own water right numbers 75-0003 and 75-0009. Both rights have the same priority date, 4/1/1894, and were claimed in the Snake River Basin Adjudication (SRBA) as combined rights under claim number A75-10475 with a total combined diversion rate of 1.94 cfs. Our list shows that both rights are diverted from Jesse Creek at the head of the Farmer's Ditch. Right 75-0003 was originally decreed for 1.44 cfs. Right 75-0009 was originally decreed for 1.5 cfs.

In response to recent inquiries and information requests regarding these rights and Jesse Creek water district records, we find that our records do not show that you have had any interest and/or use of water right 75-0009 prior to 1992. Your SRBA claim and water district records from 1992 are the only documents in our records which show your possessory interest in right 75-0009. Your name is linked with right 75-0009 in the 1992 records probably as the result of our delivery list given to the watermaster in that year. The watermaster's daily log books do not indicate that more than 1.5 cfs was delivered under your name in that year. Subsequent water district records do not make any specific reference to your ownership of right 75-0009. Similarly, water district records which we reviewed from the 1970's through 1991 do not make any specific reference to your ownership of right 75-0009. Attached to this letter is a summary of a review of rights 75-0009 and 75-0003 and Jesse Creek water district records.

The purpose of this letter is to ask that you submit any and all documentation which you have concerning your possessory interest in water right 75-0009. If you can not submit sufficient documentation concerning your ownership of right 75-0009, then the Department will revise its 1992 water right delivery list to be consistent with information and evidence found in the water district records prior to 1992.

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Please submit the requested information at your earliest convenience. Since water rights 75-0003 and 75-0009 are not likely

deliverable for the remainder of this year, our revision of the listing is not critical at this time. However, we do wish to revise the list in respect to this matter prior to the ensuing irrigation season.

Please contact me directly at 327-7864 if you have questions concerning this matter.

Sincerely,

A handwritten signature in cursive script that reads "Tim Luke".

Tim Luke
Water Allocations

cc: Eastern Region
Mickey Berbeck, Watermaster

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MEMORANDUM

TO: NORM YOUNG

FROM: TIM LUKE

DATE: June 22, 1994

RE: RESEARCH OF WATER DISTRICT 75A RECORDS - BOB BLACKADAR MATTER
AND REQUEST

=====

I have reviewed water district 75A records from 1980 through 1990 which are on file here at the state office. My research may substantiate Blackadar's claim, that Myrthus Austin owns or is entitled to less water than he has claimed in the SRBA. A water right list provided by us to the watermaster in 1992 also appears to be inconsistent with the records I have reviewed in regard to Austin's rights. In particular, our list showed two rights owned and claimed by Austin but the water district records indicate that Austin only owned one of these rights.

For your purpose, I have attached a copy of the water right list provided to the watermaster in 1992. Blackadar has complained to me that this list is in error concerning Austin's rights. Specifically, I believe he stated that Austin has never owned or used at least one of the two rights which are shown on our list, and/or that Austin is entitled to either much less water than shown on the list or no water at all.

Summary of Records Reviewed:

The water district records from 1987 through 1990 provide the most complete information about water rights and delivery. The better quality of records in this period are due in part to the more active or robust efforts of the watermaster who was elected during this period, and in part because of Eastern Region's intervention and assistance provided during 1987. The 1987 file contains a listing of water rights which was compiled and dated June 16, 1987. This list shows Austin as owning only one water right, 75-0003 for 1.44 cfs. The other water right claimed by Austin, 75-0009, is listed as being owned by the Gilmore and Pittsburgh Railroad (GPR). Along with this list is a map showing the various diversions within the district and the water rights associated with each diversion. Both the map and June 16 water rights list appear to have been prepared by IDWR. The map does show right 75-0003 as being diverted at the Farmer's Ditch. Right 75-0009 is not listed on the map. Both the watermaster report and budget report show Austin as owning right 75-0003. The watermaster report and log books confirm delivery of water to Austin under right 75-0003, and Austin received a bill for this right as well. The budget report lists right 75-0009 as owned by GPR, but GPR did not receive a bill, presumably due to non-use in the prior year. The 1987 log books and watermaster report do not show any use of water under 75-0009.

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Also, the 1987 file does contain a second water rights list which was compiled and dated February 12, 1973. It is not clear who prepared this list but again it looks like a Department document. This list shows Austin has owning only right no. 75-0003 for 1.44 cfs. Right 75-0009 is not even showed on this list.

Watermaster reports, water district budget reports and daily log books for years 1988 through 1990 all show right 75-0003 as owned and used by Austin. No direct references are made to right 75-0009, nor are there any deliveries recorded for this right. Deliveries under right 75-0003 range from 0.5 cfs to 1.5 cfs. The right is generally showed as being delivered in May and June, and cut sometime in June or early July.

Water district records from 1980 through 1986 are less complete and are of poorer quality than those for 1987 through 1990. The watermaster and budget reports for these years all identify Austin as a water user. These reports do not identify the water rights owned by the different users within the district. There are no daily log books for these years, other than 1981. The 1981 log books shows daily delivery of 85 inches (1.7 cfs) to Austin.

The 1992 watermaster and budget records indicate that Austin owned both rights 75-0003 and 75-0009. This notation is likely a result of the waer right list compiled by George Austiguy. The daily log books for that year show Austin's name next to right 75-0009 only, with a water right diversion rate of 1.5 cfs. No more than 1.5 cfs is reported as being delivered in that year. The 1993 annual report, budget and daily log books all identify right 75-0003 as being owned by Austin while no reference at all is given to 75-0009. The 1991 documents also refer only to Austin having right 75-0003, while no reference at all is given to 75-0009.

Finally, I have looked at the decreed places of use as recorded in our water rights database. There is some overlap in the place of use between rights 75-0003 and 75-0009. This overlap looks like the only thing connecting Austin's ownership or interest in 75-0009. Copies of the place of use descriptions for 75-0003 and 75-0009 and corresponding SRBA claims are attached.

In addition, I did discuss this matter with the present Jesse Creek watermaster last week when I visited Salmon. The watermaster described Austin's use of water on the Farmer's Ditch as primarily use of wastewater. Austin is at the end of the ditch and there is almost always some waste water for him to divert at that point, even when rights 75-0003 and 75-0009 are not deliverable. Since the Farmer's Ditch is the last diversion on Jesse Creek, I believe the watermaster indicated that most or all of the available natural flow is diverted at that point. Since Austin's right or rights have a late priority date, and because of the available return flow at the end of the ditch, it appears that the watermaster is not deliberately trying to deliver a specific quantity of water to Austin at the head of the Farmer's Ditch.

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