



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, P.O. BOX 83720, Boise, Idaho 83720-0098

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

E. S. Files

PHILIP E. BATT
GOVERNOR

February 10, 1998 KARL J. DREHER
DIRECTOR

JAMES P SPECK
SPECK & ANNESTAD
PO BOX 987
KETCHUM ID 83340

RE: Recommendation of Snake River Basin Adjudication (SRBA)
Claims #34-00867 and 34-00871

Dear Jim,

As a follow up to our conversations and your correspondence concerning the issuing of partial decrees for the water rights referenced above, I have prepared a historical summary of the water rights based on the information IDWR has available at this time.

Your specific concern was the limitation on the number of acres that could be irrigated with your client's two senior water rights, 34-00867 and 34-00871. In order to get a complete picture of the historical water usage on your client's land, I have included information on the five rights that were decreed to the land now owned by your client in what is commonly known as the Utah Construction Decree (U.C. Decree) of 1923. In addition, the three most senior of these rights also appear to have been decreed in what is known as the Moe V. Harger Decree of 1903, which is an earlier decree of water rights in the Big Lost River Valley. Copies of the pages from both decrees that describe these rights are enclosed with this letter.

The following is a summary of the rights as decreed. Right nos. 34-00867, 34-00868, 34-00869, 34-00870 and 34-00871 were decreed for a total of 653 inches or 13.06 cfs on a maximum of 653 acres in the U.C. Decree. These rights were decreed to Ferdinand Zollinger and Alvin J. Zollinger. Right nos. 34-00867, 34-00870 and 34-00871 are the ones that appear to have been previously decreed in the Moe v. Harger Decree. The Moe v. Harger Decree stated "That the quantity of water required for successful irrigation and cultivation of said land is one inch per acre" (see enclosed copy). Therefore, since right 34-00867 was decreed for 160 inches it is limited to 160 acres, and since right 34-00870 was decreed for 173 inches it is limited to 173 acres, and since right 34-00871 was decreed for 80 inches it is

James P. Speck
February 11, 1998
Page 2 of 2

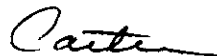
#34-00867
#34-00871

limited to 80 acres. Right nos. 34-00868 and 34-00869 have priority dates after 1903, and consequently do not appear in the Moe v. Harger Decree.

Water right #34-00868 decreed to the Zollingers had a transfer filed in 1980 to move the right to 160 acres in T08N, R22E, S27. This transfer indicated the right had been sold separate of the land (see enclosed copy). Therefore, the place of use left for the remaining rights was reduced by 160 acres to a maximum of 493 acres (653 ac. - 160 ac. = 493 ac.). Right #34-00868 was recommended in the Basin 34 Director's Report as an accomplished transfer to the new place of use since the administrative transfer was never completed.

Your client's previously decreed rights, along with beneficial use rights 34-04137 and 34-10801 have been recommended in the SRBA for a total of 617 acres, or 124 acres more than 493 acres that were left in the decreed place of use after right no. 34-00868 was sold and transferred.

Sincerely,



Carter Fritschle
Water Rights Supervisor
Adjudication Bureau

CF:cf:ss:region
Enclosures:

Pages from Utah Construction Decree
Pages from Moe V. Harger Decree
Map of decreed place of use
Copy of Transfer No. 2399

IN EQUITY NO. 222

DECREE

IN THE UNITED STATES DISTRICT COURT, IN

AND FOR THE DISTRICT OF IDAHO, EASTERN

DIVISION

THE UTAH CONSTRUCTION COMPANY, a corporation, Plaintiff,

vs.

John F. Abbott, William Adams, A. P. Adair, Esther L. Adair (successor in interest of A. P. Adair, Eugene A. Ahern, Andreas Aikele (or A. Aiken), Calvin S. Allen, Frank A. Allen, Gladys Allen, L. C. Allen, Richard Roe Alson, George L. Ambrose, Charles B. Anderson, Francis G. Anderson (or Francis C. Anderson, F. Gus Anderson (or F. G. Anderson or Gus Anderson,) H. W. Anderson, Hyrum Anderson, James E. Anderson, Jas. Earl Anderson, J. L. Anderson, James P. Anderson, Josephine Anderson, J. Wesley Anderson, Jos. W. Anderson (or J. W. Anderson), N. A. Anderson, Niels R. Anderson, Peter C. Anderson (or P. C. Anderson), S. W. Anderson, W. W. Anderson, Louis Andreason (or Lewis Andreson), H. W. Angelo (or Wallace Angelo), Frank Anthony, Marie L. Anthony, Arco Townsite Company, an unincorporated Association; Eleazer Asay, Ernest W. Asay, Emma M. Ashton, Margaretta S. Askew, Anna Atha (or Annie Atha), Ivan J. Atwood, J. H. Augustine.

Mrs. Hannah Babcock (or Mrs. Albern Babcock, A. Rowley Babcock (or R. Babcock), William Babcock (now deceased), Jacob F. Baird, Bank of Nyssa, an Oregon Banking corporation; John L. Bardsley, Josie Bardsley, Jerome K. Bartlett (or J. K. Bartlett), A. H. Bascom, E. W. Bascom, Pete Basick, Harlow Bassett (or H. Bassett), Clara M. Bate, J. M. Bate (or Joseph M. Bate), Ralph Bate, E. J. Bates, Leslie Bates, Erin Beal (or Aron Beal) or C. Beal, Eldon E. Beck; J. W. Beck and John Doe (or John Pingree) and Richard Roe (or F. S. Lack,) as statutory trustees of Beck Land/Livestock Company, a defunct Idaho Corporation; William Beck, Beck Land and Livestock Company, an Idaho corporation; A. W. Bell, Lee Bell, John C. Bell, J. L. Bell, George Bennett (or George Bennetts), James Bennetts, F. S. Bernard, John Bernard (successor in part to New World Life Insurance Company); Gus Bertsch, Agnes T. Best (or Agnes Best), Harold C. Best (or Harold Best), Alexander Beverland, Francis Beverland (successor in interest of James Beverland), George Beverland, Effie Beverland (or Mrs. George Beverland), James Beverland, as executor of the estate of Charles Beverland, deceased; James Beverland, Joana Beverland, Henry Bews (or Harry Bews), Peter Bidegain, Lota C. Billings, Elizabeth Bills, John L. Bills, Norman Bills, Ole Bills, Albert F. Bischoff (or A. F. Bischoff), Lewis A. Bitton (or John Doe Britton), Zina Bitton (or Zina Britton), B. Bjornson (or B. Bjornsen), Blackfoot City National Bank, an Idaho Banking corporation (successor in interest to Heber G. Johnson); Charles H. Black, Mary E. Black, Nils S. Bladh (successor in interest of Ole Bills), John L. Blosser (or John L. Blasser), Henry Blattner, Lulu E. Bliss, Phillip R. Bliss, Arthur L. Bodine, John J. Bodine, Oscar Bodine, William T. Bodine, Joseph A. Boillin, Rhoda Boling, Rachael Boone, Wm. A. Boone, David S. Boyack (or D. Boycock or David D. Boycock, Jr.), Sylvanus Boyack (or S. Boycock), Mary E. Boyd, Robert G. Boyd (successor in interest of Charles H. Rampton), I. W. Boyer, Elizabeth Bradshaw (now deceased), George Bradshaw, John Bradshaw, Pearl Bradshaw, William Bradshaw, William Bradshaw, as administrator of the estate of Elizabeth Bradshaw, deceased (substituted for Elizabeth Bradshaw deceased); Francis Braithwaite, R. F. Braithwaite (or Robert Braithwaite), William F. Braithwaite, H. C. Drake, William H. Brashear, H. T. Brenguan, Charles Brown, Edna Brown, Edna E. Brown, as executrix of the estate of Martin W. Brown, deceased (substituted for

Alvin J. Zollinger

✓ (a) 1893-May 1 ✓ 3.2 c.f.s.

34 0867 ✓

See 504

✓ (b) 1913-December 6 ✓ 3.2 c.f.s.

Trans 2399 34 0868 ✓

✓ (c) 1914-October 13 ✓ 1.6 c.f.s.

34 0869 ✓

No. 531.

To be diverted from Big Lost River through a private ditch having its point of diversion in the Northeast quarter of Section 31, Township 8 North, Range 23 East, B.M., for the irrigation of the following described land, to-wit:

The Southeast quarter of the Northwest quarter and the South half of the Northeast quarter of Section 6, and the Southwest quarter of the Northwest quarter of Section 5, Township 7 North, Range 23 East, B.M., the Southeast quarter of the Northeast quarter of Section 31, South half of the Northwest quarter and the Southwest quarter of the Northeast quarter of Section 32, Township 8 North, Range 23 East, B. M., and ✓

To be diverted from Big Lost River through the Davidson ditch having its point of diversion in the Northwest quarter of Section 12, Township 8 North, Range 21 East, B.M., for the irrigation of the land last above described.

To be diverted from Warm Springs Creek through a private ditch having its point of diversion in the Southwest quarter of the Northwest quarter of Section 35, Township 8 North, Range 22 East, B.M., for the irrigation of the land last above described.

Ferdinand Zollinger

✓ (a) 1893-June 1 ✓ 3.46 c.f.s.

34 0870 ✓

To be diverted from Warm Springs Creek through a private ditch having its point of diversion in the Southeast quarter of Section 34, Township 8 North, Range 22 East, B.M., for the irrigation of the following described land, to-wit:

Lot 4 in Section 5 and Lots 1 and 2 of Section 6, Township 7 North, Range 23 East, B.M., and the Southwest quarter of the Southeast quarter and the East half of the Southeast quarter of Section 31, and the West half of the Southwest quarter of Section 32, Township 8 North, Range 23 East, B.M., and ✓

✓ (b) 1885-June 1 ✓ 1.6 c.f.s.

34 0871 ✓

To be diverted from Warm Springs Creek through a private ditch having its point of diversion in the Northwest quarter of Section 36, Township 8 North, Range 22 East, B.M., for the irrigation of the land last above described.

No. 532.

Fred Zumbrum

and his successors
in interest as their
interest may appear.

To be diverted from Big Lost River through the Harris & Vaught ditch having its point of diversion in the Northwest quarter of Section 34, Township 7 North, Range 24 East, B.M., for the irrigation of the following described land, to-wit:

The Northwest quarter and the North half of the Southwest quarter of Section 6, Township 6 North, Range 25 East, B.M.

✓ 1885-February 18 ✓ 3.1 c.f.s.

2.0 Trans 718 Retrans. 862

1.1 " 710

No. 533.

34 0872 ✓

34-B2-1
IN THE DISTRICT COURT

OF THE FOURTH JUDICIAL DISTRICT OF IDAHO, IN AND FOR CUSTER COUNTY.

S.T. MOE et al.,

Vs:

HENRY HARGER et al.,

In the above entitled cause, the default of the non-answering defendants having been duly entered, and said cause having been regularly tried and submitted to the Court for its decision, and the Court having considered the evidence and being fully advised in the premises, makes and files its findings of fact, and directs judgment to be entered in accordance therewith:--

Whereupon it is ordered, adjudged and decreed as follows:--

1. That each and every of the tracts of land described in the complaint, answers and cross-complaints in this action as belonging to the said several parties plaintiff and defendant herein are arid in character and will not successfully raise any agricultural crop without the use of water thereon.

2. That the quantity of water required for the successful irrigation and cultivation of said land is one inch per acre measured under a four inch pressure, or its equivalent in cubic feet per second of time, to be measured at the point or place of diversion.

3. That each of the parties plaintiff and defendant herein-after named were, at the times of the several appropriations of water made as hereinafter set forth, the owners respectively of the several tracts of land set forth and described in the complaints, answers and cross-complaints, and that for the irrigation of the same the said parties or their predecessors in interest did respectively appropriate the quantities of water hereinafter stated and on the dates respectively as hereinafter stated and set opposite the names of each of said parties, such water being estimated and measured under a four inch pressure or its equivalent in cubic feet per second of time; and ever since said date of the said sever-

	John Davidson, Lost River,	160 inches from June 1st, 1882.	✓
	John Davidson,	80 " " June 1st, 1884.	✓
	John Davidson,	80 " " June 1st, 1887.	✓
	Benjamin Swenson,	150 " " May 31st, 1891.	✓
	David McCulloch,	100 " " May 15th, 1897.	✓
	S.C. Neilson,	160 " " June 1st, 1899.	✓
	Ferdinand Rosenkranz,	130 " " Nov. 1st, 1892.	✓
	Stephen Navarre,	160 " " Aug. 1st, 1890.	✓
	Minnie Gill Howell,	160 " " June 30th, 1897.	✓
34-00867	— Minnie Nowacki,	160 " " May 1st, 1893.	✓
34-00871	— Geo. Nowacki,	80 " " June 1st, 1885.	✓
34-00870	— Geo. Nowacki, Warm Spring Creek,	173 " " June 1st, 1893.	✓
	Thomas L. Pence, Lost River,	160 " " June 1st, 1888.	✓
	Thomas L. Pence,	175 " " June 30th, 1881.	✓
	Jas. H. Pence,	160 " " Apr. 7th, 1886.	✓
	John Gardner,	160 " " Mar. 10th, 1894.	✓
	Geo. M. McGowan,	160 " " June 1st, 1887.	✓
	Geo. M. McGowan,	160 " " Sept. 14th, 1886.	✓
	Geo. M. McGowan,	480 " " June 1st, 1889.	✓
	Jas. D. Martin,	80 " " June 1st, 1895.	✓
	Jas. McCrumb,	100 " " Mar. 23rd, 1900.	✓
	J. V. Carlson,	130 " " June 1st, 1898.	✓
	Peter Bursted	160 " " June 1st, 1896.	✓
	R. J. Walworth and		
	Emma Walworth,	320 " " June 10th, 1895.	✓
	Heber M. Pearson,	120 " " June 1st, 1899.	✓
	Chas. O. Beery,	160 " " June 10th, 1895.	✓
	Archie Beverland,	80 " " Mar. 1st, 1902.	✓
	Geo. B. Watts,	145 " " June 1st, 1900.	✓
	Erick Burstedt,	160 " " June 1st, 1894.	✓
	Peter Jenson,	80 " " June 1st, 1896.	✓
	J. C. Murray,	160 " " June 1st, 1896.	✓
	J. H. Beery,	160 " " June 30th, 1891.	✓
	W. H. Murray,	160 " " Jan. 1st, 1899.	✓

OFFICE OF THE DISTRICT CLERK,

OF THE Sixth JUDICIAL DISTRICT, STATE OF IDAHO, }
IN AND FOR Carleton COUNTY. } ss.

I, Geo. E. Rogers District Clerk of the Sixth
Judicial District Court, State of Idaho in and for Carleton County, do
hereby certify that I have compared the foregoing copy with the original.

Decree, filed in my office

and that the same is a full, true, and
correct copy of such original, and of the whole thereof.

Witness, my hand and the Seal of said Court this

31 day of April, 1893.

Geo. E. Rogers
Clerk.

By _____
Deputy Clerk.

COPPER BASIN NE QUADRANGLE
IDAHO-CUSTER CO.
7.5 MINUTE SERIES

R22E R23E

47'30"

R 22 E

R 23 E

2000

CHALLIS 36 MI
DICKEY 12 MI

113-45

44-20

Cedar Creek

6191

29

Bar

93

MACKAY 89 MI

32

36

6186

142

1

5

143

Navarre Co.

T 8 N

T 7 N

84000
FEET

57'30"

12

7

8