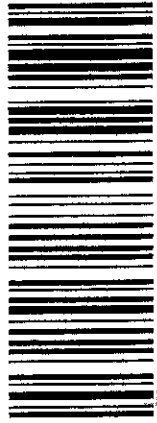


CERTIFIED MAIL

ARBON VALLEY SIMMENTAL
Barry and Valorie Williams
Arbon, Idaho 83212



7000 1670 0010 7307 236A

FIRST CLASS

Bryce A. Contor
Senior Water Resource Agent
900N Skyline STE A
Idaho Falls, ID 83204



NAME
1st CLASS
2nd CLASS
Return

Check on Status
of 29-12848 }
add Substitution
language

5-27-93

Dear Sir:

This claim shows a change in the use period of the irrigation water. The previous claim showed use from 4-01 to 11-01. The change is from 3-15 to 11-15.

RECEIVED

Bary T. Williams

JUN 01 1993

Department of Water Resources
Eastern District June 8

6-2-93

Changes were made as requested.

Jo Thompson

MICROFILMED

APR 14 1994

01/10/2003

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

RIGHT NUMBER: 29-10990

NAME AND ADDRESS: BARRY T WILLIAMS
1277 MINK CREEK RD
ARBON ID 83212

TRIBUTARY: BANNOCK CREEK

SOURCE: RATTLESNAKE CREEK

QUANTITY: 4.200 CFS

PRIORITY DATE: 04/01/1892

POINT OF DIVERSION: T09S R34E S35 NESWSE Within POWER County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE
IRRIGATION

PERIOD OF USE
04/01 10/31

QUANTITY
4.200 CFS

PLACE OF USE:

IRRIGATION Within POWER County

T10S R33E S12	SWSE	19.0
T10S R33E S13	NENE	40.0
T10S R34E S18 Lot 1 NWNW		29.0

T10S R33E S12
T10S R33E S13

SESE	39.0
NWNE	40.0

167 ACRES TOTAL

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: Decreed

This water right will be delivered in accordance with the 1990 Fort Hall
Indian Water Rights Agreement where the parties agreed to "continue the
historic water allocations pursuant to the Bannock Creek Decree [the decree
in United States v. Daniels, (D.Idaho April 9, 1907, unpublished)]." 1990
Fort Hall Indian Water Rights Agreement, p. 8 para. 4. In times of shortage,
this water right and other water rights decreed in United States v. Daniels,
are superior to the federal based natural flow right nos. 29-466, 29-467,
29-469, 29-470, 29-471, 29-472, 29-473, 29-474, 29-12049 and 29-12848.

RIGHT INCLUDES ACCOMPLISHED CHANGE IN PLACE OF USE PURSUANT
TO SECTION 42-1425, IDAHO CODE.

THIS RIGHT IS A COMBINATION OF OLD RIGHT NOS. 29-468 AND 29-475.

SCANNED

MAY 16 2001

RECEIVED

JUN 01 1993

Department of Water Resources
Eastern District Office

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

CIVIL CASE NUMBER: 39576

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

Ident. Number: A29-10990
Date Received: 4/3/1990
Receipt No: E012740
Received By:

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

208-335-2354

A2910990



1. Name: BARRY T. WILLIAMS
Address: 1277 MINK CREEK RD
ARBON ID

83212

2. Date of Priority: APR 1, 1892

3. Source: RATTLESNAKE CREEK

Trib. to: BANNOCK CREEK

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
09S	34E	35	NE	SW	SE		POWER

5. Description of diverting works:
DAM/ DITCHES TO FLOOD IRRIGATION AND SPRINKLER SYSTEM

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	04/01	11/01	4.200		
	03/15	11/15			

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

A.F.A.

8. Total consumptive use is

475.0 Acre Feet Per Annum.

9. Non-irrigation uses:
NONE

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
10S	33E	12	SW	SE		IRR	30.0
			SE	SE		IRR	40.0

MICROFIL

Date: 10/16/98 APR 14

10. Place of Use: Continued

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
					Section Acres	70.0
		13	NE	NE	IRR	40.0
			NW	NE	IRR	40.0
					Section Acres	80.0
	34E	18	NW	NW	IRR	40.0
					Section Acres	40.0
					Total Acres	190.0

11. Place of use in counties: POWER

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

13. Other Water Rights Used:
NONE

14. Remarks:

THIS RIGHT COMBINES 29-00468 AND 29-00475

15. Basis of Claim: DECREED

Case Number:

Court :

Decree date: / /

UNITED STATES, ET. AL.
Decree Plaintiff

GEORGE DANIELS, ET. AL.
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: _____

MICROFILM

Date: 10/16/92 APR 14 1992

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): Barry T. Williams Date: 10-26-92

Date: _____

State of Idaho)
County of Power) ss.

Subscribed and sworn (or affirmed) before me this 26 day
of Oct 19 92

Deborah Biddle
Notary Public

Seal

Residing at Am. Falls, Idaho
My Commission Expires May 5, 1994

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: A29-10990
Date Received: 4/03/1990
Receipt No: EO12740
Received By: DC

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

208-335-2354

1. Name: BARRY T. WILLIAMS
Address: 1277 MINK CREEK RD
ARBON, ID

83212

2. Date of Priority: APR 01, 1892

3. Source: RATTLESNAKE CREEK

Trib. to: BANNOCK CREEK

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
09S	34E	35	NE	SW	SE		POWER

5. Description of diverting works:
DAM/ DITCHES TO FLOOD IRRIGATION AND SPRINKLER SYSTEM

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	04/01	11/01	4.200		

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

A.F.A.

8. Total consumptive use is

475.0 Acre Feet Per Annum.

9. Non-irrigation uses:
NONE

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
10S	33E	12	SW	SE		IRR	30.0
			SE	SE		IRR	40.0
						Section Acres	70.0

A29-10990

Page

1

Date: 04/03/90

MICROFILM
NOV 16 199

10. Place of Use: Continued

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
10S	33E	13	NE	NE	IRR	40.0
			NW	NE	IRR	40.0
					Section Acres	80.0
	34E	18	NW	NW	IRR	40.0
					Section Acres	40.0
					Total Acres	190.0

11. Place of use in counties: POWER

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

13. Other Water Rights Used:
NONE

14. Remarks:
THIS RIGHT COMBINES 29-00468 AND 29-00475

15. Basis of Claim: DECREED
Case Number:
Court :
Decree date:

UNITED STATES, ET. AL.
Decree Plaintiff

vs

GEORGE DANIELS, ET. AL.
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 X 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): Barry T. Williams Date: 4-3-90

Date: _____

State of Idaho)
County of Bonneville) ss.

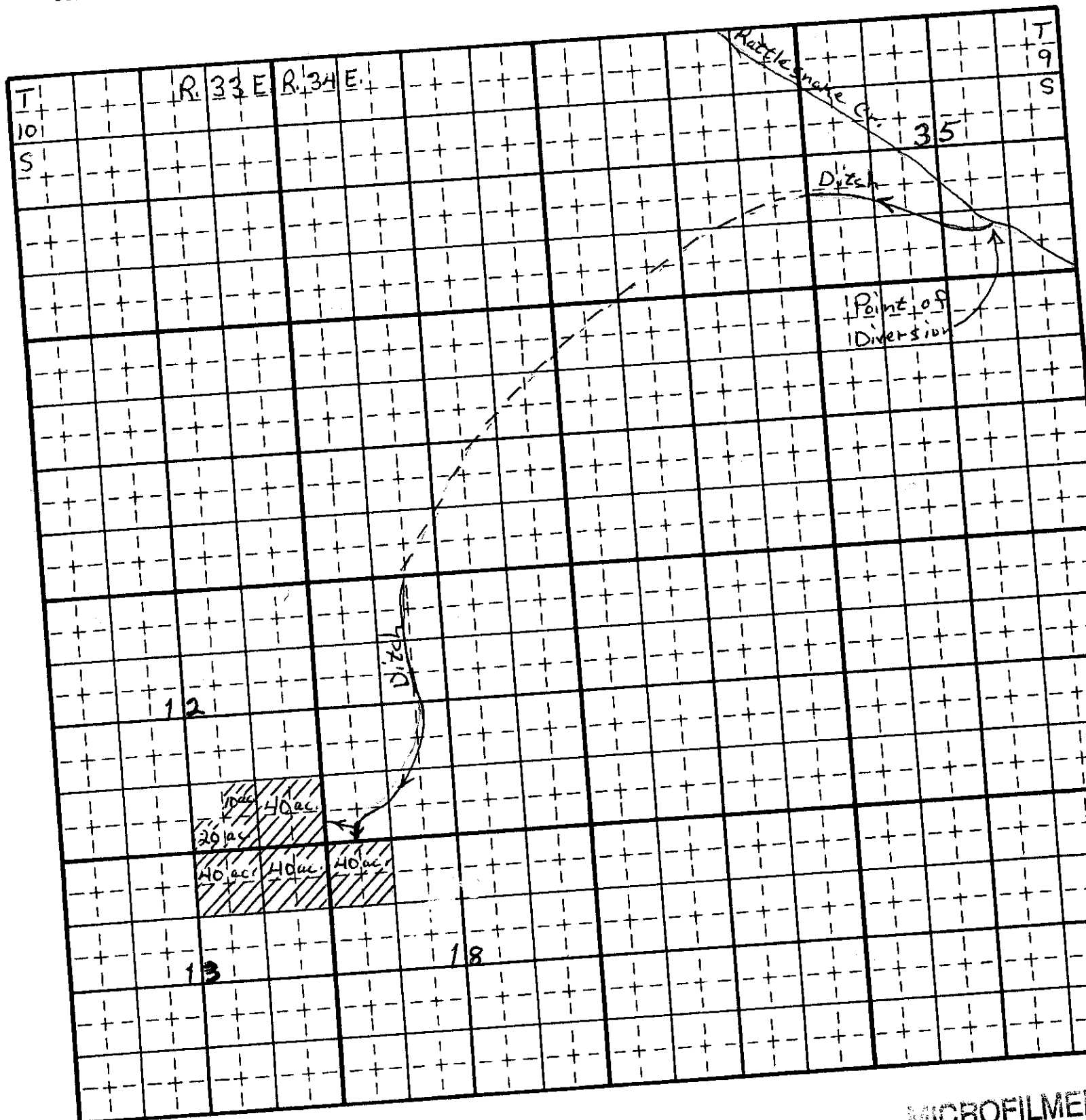
Subscribed and sworn (or affirmed) before me this 3 day
of April 19 90 Alene Carl
Notary Public

Seal

Residing at Heise, Id
My Commission Expires 2/26/96

Map of Project: show clearly the point of diversion, place of use, section number, township, and range number.

Scale: 2 inches equals 1 mile



MICROFILME

NOV 16 1992

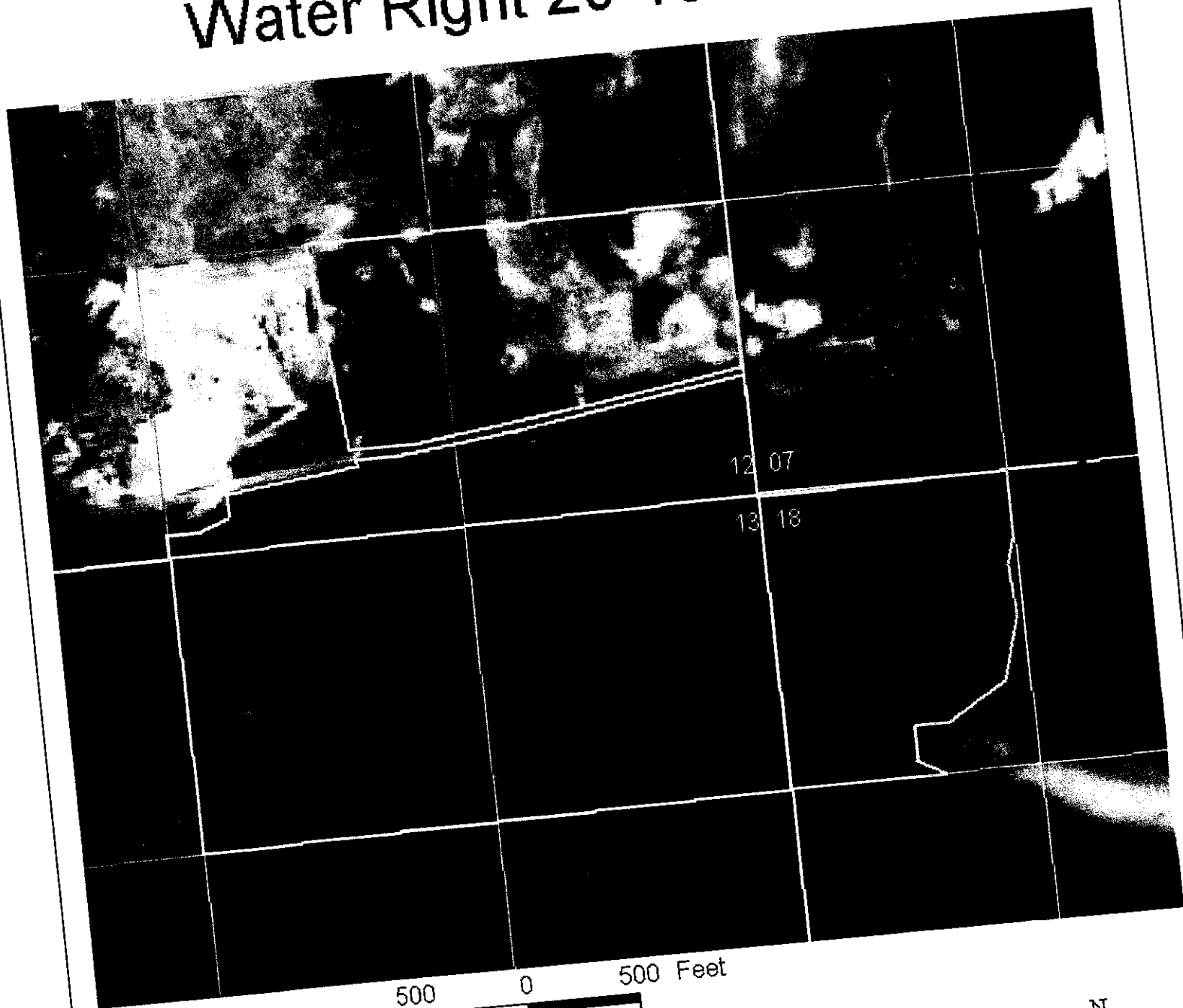
Copies: White-State, Yellow-Claimant

Last Name Williams

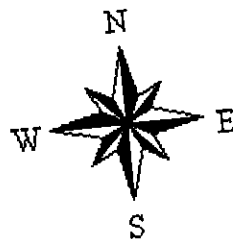
Ident No. _____

Idaho Department of Water Resources

Water Right 29-10990



- ⊙ Point of Diversion - This Right
- Point of Diversion - Other Rights
- Place of Use - This Right
- Place of Use - Other Rights
- Township
- Section
- Quarter-quarter Section



Township 10S Range 33E and 34E

Prepared from 1987/1988 NAPP photography by B. Contor, 9/2001.

09/13/2001

Page 2

IDAHO DEPARTMENT OF WATER RESOURCES
Adjudication Recommendation Report 29-10990 V1

Remarks:

1. Explanatory THIS RIGHT IS A COMBINATION OF OLD RIGHT NOS. 29-468 AND 29-475.

Comments:

1. bcontor 9/13/2001 Recommendation
Comment: This preliminary recommendation 9/13/2001 assumes that tribal right 29-12848 is NOT based upon decreed right 29-468. This recommendation is for original decreed rights 29-468 and 29-475. If deputy attorneys general decide 29-12848 IS a renumbering of 29-468, this recommendation will have to be reduced by 3.00 cfs and perhaps and enlargement filed for additional acres.

2. bcontor 9/13/2001 POU
Comment: POU based on black marker sketch on contractor shape, done in the field w. Mr. Williams looking on. He acknowledged verbally that this is more or less correct. The lands excluded on the west side of SWSE of 12 are very steep and rough, covered with tall juniper (cedar) trees, do not appear to have been irrigated for many years, if ever.

3. bcontor 9/13/2001 Season
Comment: Claim was amended to 3/15 - 11/15. Original decree has no season of use. I told claimant that if he could document that longer season was both required and historically practiced I could recommend it, otherwise I would recommend standard. No documentatin provided, so I recommend standard season per map.

4. bcontor 9/13/2001 additional documentation
Comment: In my desk drawer is a paper file titled "Bannock Cr. Decree" which contains additional information.

5. bcontor 9/13/2001 Diversion rate per acre
Comment: Recommended rate exceeds 0.02 cfs/acre but reflects historical practice of wild flooding per Claims Verification Manual instructions. Ditch loss also justifies additional Q

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:
Water District Number:
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:

Element	Last Reviewed Date	Reviewer	Last Verified Date	Verifier	Status
Priority Date	9/13/2001 8:49:03 AM	bcontor			Active
POD	9/13/2001 8:51:57 AM	bcontor			Active
Source	9/13/2001 8:52:08 AM	bcontor			Active
POU	9/13/2001 9:03:28 AM	bcontor			Active
Use	9/13/2001 9:05:09 AM	bcontor			

Season

9/13/2001 9:06:07 AM bcontor

Active

09/13/2001

Page 3

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 29-10990 V1

Summary	9/13/2001 9:14:28 AM	bcontor	9/13/2001 9:14:28 AM	bcontor	Active
Quantity	9/13/2001 9:45:50 AM	bcontor	9/13/2001 9:14:28 AM	bcontor	Active

Verification Log:

Element
Contacts

Date Time Stamp

9/13/2001 8:48:06 AM

Reviewer

bcontor

Log text

(No) 1. Do you want to schedule an appointment?

Comment for 1: Field work completed

Edited point location

Edited PLS

POD

9/13/2001 8:49:35 AM

bcontor

POD

9/13/2001 8:49:48 AM

bcontor

Source

9/13/2001 8:50:46 AM

bcontor

(Yes) 1. Is the basis of claim decree or license?
(Yes) 4. Does the parent right have a source?
(Yes) 5. Can the claimed source be verified using the water right file?
(No) 11. Is a Source remark and/or condition required?

Priority Date

9/13/2001 8:47:40 AM

bcontor

(No) 1. Should this water use have been included in a later court decree of the water rights from this source?
(Yes) 4. Is the basis of claim decree or license?
(Yes) 5. Does the decree or license have a Priority Date?
(Yes) 6. Did the Claimant claim the decreed or licensed Priority Date ?
(No) 15. Is the basis of claim coded correctly?
(No) 16. Is a Priority Date remark and/or condition required?

POD

9/13/2001 8:50:34 AM

bcontor

(Yes) 1. Is the basis of this claim a Decree or License?
(No) 4. Does the parent right have a POD?
(No) 6. Is there evidence that there has been a change in the POD?
(Yes) 8. Does the file contain all the necessary information to verify the POD?
(No) 10. Is a POD remark and/or condition required?
Description for Question 8 - GPS, field inspection

POU

9/13/2001 8:54:07 AM

bcontor

POU

9/13/2001 8:58:37 AM

bcontor

Edited shape boundary

Edited PLS

09/13/2001

Page 4

IDAHO DEPARTMENT OF WATER RESOURCES
Adjudication Recommendation Report 29-10990 V1

POU

9/13/2001 9:02:06 AM

bcontor

(Yes) 1. Is the basis of this claim a Decree or License?
(Yes) 2a. Is the POU required?
(Yes) 5. Does the parent right have a POU?
(No) 6. Can the claimed POU be verified using the water right file?
(Yes) 7. Is there evidence that there has been a change in the POU?
(Yes) 8. Can the claim be verified as an accomplished transfer?
(Yes) 13. Does the file contain all the necessary information to verify the POU?
(No) 14. Is a POU remark and/or condition required?

Description for Question 8 - Field inspection, GIS, interview with claimant. See paper file for contractor layout with black marker editing done in field with claimant watching.
Description for Question 13 - See #6 above.

Use

9/13/2001 9:03:47 AM

bcontor

(Yes) 1. Is the basis of this claim a Decree or License?
(No) 4. Does the parent right have a Purpose of Use?
(No) 6. Is there evidence that there has been a change in the Purpose of Use?
(Yes) 11. Does the file contain all the necessary information to verify the Water Use?
(No) 13. Is a Purpose of Use remark and/or condition required?
Description for Question 10,11,12 - Field inspection, GIS

Season

9/13/2001 9:04:45 AM

bcontor

(Yes) 1. Is the basis of claim decree or license?
(No) 4. Does the parent right have a Period of Use?
(No) 6. Is there evidence that there has been a change in the Period of Use?
(Yes) 12. Does the file contain all the necessary information to verify the Period of Use?
(No) 13. Is the basis of claim a decree, license, or a transferred beneficial use right that has had the Period of Use administratively determined?
(Yes) 15. Is irrigation claimed as a Purpose of Use?
(No) 18. Is a Period of Use remark and/or condition required?

Summary

9/13/2001 9:13:05 AM

bcontor

(Yes) 1. Is the basis of this claim a Decree, License, Permit, Application or Posted Notice?
(No) 2. Does any evidence indicate a five year period of continuous nonuse occurred that could result in recommending forfeiture or partial forfeiture?
(Yes) 5. Is an additional remark and/or condition required?
(Yes) 6. Would you like to view the recommended right?
(Yes) 7. Is this a split or combined right?
(No) 8. Do you have documents you would like to attach or link to the file?
(No) 9. Would you like to set the verification

date?

09/13/2001

Page 5

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 29-10990 V1

POD

9/13/2001 9:44:28 AM

bcontor

- (Yes) 1. Is the basis of this claim a Decree or License?
- (Yes) 4. Does the parent right have a diversion rate and/or volume?
- (Yes) 5. Can the claimed diversion rate and/or volume be verified using the water right file?
- (No) 8. Does the parent right have an annual diversion volume limit?
- (No) 9. Is the source Groundwater and does the purpose of use require a diversion volume limit?
- (No) 11. Has a diversion volume limit been established by a decree, license or transfer for this water use?
- (No) 12. Is a Quantity remark or condition required?

Contor, Bryce

From: Contor, Bryce

Sent: Thursday, September 13, 2001 9:33

To: 'eteton@shoshone-bannock.com'

Subject: Barry Williams recommendations

Else, we still don't know what we're going to do with Mr. Williams' claims. I told you I'd let you know what we decided, but I have accepted a different job and likely will leave the dept. before the decision is made.

Mr. Williams asserts that the issue was settled at a meeting at the Pocatello Airport in February, 1994. He says Clive Strong, Dave Shaw, Lynn Collins, Robert Fenton, and Candy Jackson were all present. He believes Ms. Jackson represented the tribes. Perhaps this information will help you find out what exactly was the tribes' understanding of whatever agreement was reached. We are working with Clive Strong's office to find out what his understanding was.

I'll be here until Sept. 21, after that I'll be available at "bcontor@hotmail.com"

9/13/2001

MEMORANDUM

To: 29-10990
Fr: Bryce Contor
Date: 9/13/2001



Re: Chain of Title

Vicky Music had requested a deed showing conveyance to Mr. Williams' father (grandfather?), which she says Mr. Williams has provided.

She still would like to have conveyance from Williams' ancestor to himself, but as there is no dispute of ownership within the Williams family I have made the recommendation without requiring this additional step. The documentation seems to be adequate that Mr. Williams' predecessors and not the Shoshone-Bannock tribe are the owners of the original lands discussed in Jeff Peppersack's and the BIA's analyses.

Blue = claims
 Water Dist. 71
 Circuit Court
 Judicial Dist. Southern Div.
 Judge da
 Recorded
 in Book N

Title of Case
George Daniels, et al

Date of Decree 4-9-07

REMARKS, 1

NAME

AMOUNT
 ACRES OR
 SECOND FEET

PRIORITY

SUBDIV.

SEC.

TWP.

RG.

Indian Lands

14.25
 100.00

Indian Service

29-466

29-466

Sub-Bun
 16.25

4-1-87

W 1/4 SW 1/4 NW 1/4 Lot 4 2, E

Indian Service

29-467

29-467

Sub-Bun
 0.8

4-1-89

W 1/4 SW 1/4 NW 1/4 Lot 4 2, E

David M. X

29-467

29-467

Sub-Bun
 0.8

4-1-89

W 1/4 SW 1/4 NW 1/4 Lot 4 2, E

Gertrude Daniels

29-468

29-468

Sub-Bun
 2.5

4-1-92

W 1/4 SW 1/4 NW 1/4 Lot 4 2, E

Thomas D. X

29-469

29-469

Sub-Bun
 3.0

4-1-92

W 1/4 SW 1/4 NW 1/4 Lot 4 2, E

Sarah Daniels

29-470

29-470

Sub-Bun
 1.0

4-1-92

W 1/4 SW 1/4 NW 1/4 Lot 4 2, E

W. Lusk

29-471

29-471

Sub-Bun
 2.0

4-1-94

W 1/4 SW 1/4 NW 1/4 Lot 4 2, E

John R. Daniels

29-472

29-472

Sub-Bun
 1.3

4-1-94

W 1/4 SW 1/4 NW 1/4 Lot 4 2, E

Kennette Price

29-473

29-473

Sub-Bun
 1.3

4-1-94

W 1/4 SW 1/4 NW 1/4 Lot 4 2, E

Henry Daniels

29-474

29-474

Sub-Bun
 1.0

4-1-98

W 1/4 SW 1/4 NW 1/4 Lot 4 2, E

David Bolingbroke

29-475

29-475

Sub-Bun
 1.0

4-1-98

W 1/4 SW 1/4 NW 1/4 Lot 4 2, E

George Daniels

29-476

29-476

Sub-Bun
 1.0

4-1-98

W 1/4 SW 1/4 NW 1/4 Lot 4 2, E

John M. Daniels

29-477

29-477

Sub-Bun
 1.0

4-1-98

W 1/4 SW 1/4 NW 1/4 Lot 4 2, E

Thomas Williams

29-478

29-478

Sub-Bun
 1.2

4-1-98

W 1/4 SW 1/4 NW 1/4 Lot 4 2, E

W.C. Snyder

29-479

29-479

Sub-Bun
 0.4

4-1-98

W 1/4 SW 1/4 NW 1/4 Lot 4 2, E

George M. Bradley

29-480

29-480

Sub-Bun
 0.6

4-1-98

W 1/4 SW 1/4 NW 1/4 Lot 4 2, E

J.H. Meadows

29-481

29-481

Sub-Bun
 0.6

4-1-98

W 1/4 SW 1/4 NW 1/4 Lot 4 2, E

W.E. Velez

29-482

29-482

Sub-Bun
 0.6

4-1-98

W 1/4 SW 1/4 NW 1/4 Lot 4 2, E

Also

29-12049

1867-6-14

1887-4-1

0.42

also claimed. Subordinated to Decree 4-9-07

ates et al Blue = Claims

maids, et al

Source Bannock Co & Trib. County Power
Water Dist. 71 Judge das. H. Beatty
Judicial Dist. Southern Div. Recorded at Page No. File No. 71-1
Date of Decree 4-9-07 in Book No. REMARKS, LAND TO BE IRRIGATED, ETC.

AE	AMOUNT ADJUSTED OR SECOND FEET	PRIORITY	DIVERSION				REMARKS
			SUBDIV.	SEC.	TWP.	RG.	
29-466	29-466	4-1-87					Indian Lands
	2.0	"					
29-467	29-467	4-1-89					W 1/2 SW 1/4 NW 1/4 Lot 4 2 1/2 E 3/4 S 1/4 NE 1/4 Lot 1 3-105-33E
	0.8	"					"
29-467	29-467	"					"
	2.5	"					"
West Ek.	2.5	"					"
29-10990	29-10990	4-1-92					W 1/2 SW 1/4 NW 1/4 Lot 4 2 1/2 E 3/4 S 1/4 NE 1/4 Lot 1 3-105-33E
Rattlesnake Co.	3.0	"					"
468	29-468	5-1-94					"
West Ek.	1.0	"					"
469	29-469	4-1-92					"
West Ek.	1.0	"					"
475	29-475	"					"
Rattlesnake Co.	1.2	"					"
29-476	29-476	"					"
Hayden	2.0	"					"
29-476	29-476	"					"
West Ek.	1.3	"					"
9-470	29-470	4-1-94					"
West Ek.	1.3	"					"
9-471	29-471	"					"
West Ek.	1.3	"					"
29-477	29-477	4-1-92					"
Rattlesnake Co.	0.7	"					"
29-478	29-478	4-1-98					"
West Ek.	1.0	"					"
472	29-472	"					"
West Ek.	1.0	"					"
19-473	29-473	"					"
West Ek.	1.0	"					"
29-474	29-474	4-1-01					"
West Ek.	1.0	"					"
29-474	29-474	29-13415					"
West Ek.	1.0	"					"
9-478	29-478	9-29-02					"
Rattlesnake Co.	1.2	"					"
29-479	29-479	5-6-02					"
West Ek.	0.4	"					"
29-480	29-480	10-1-03					"
West Ek.	0.6	"					"
29-481	29-481	"					"
West Ek.	0.6	"					"
1867-6-14	1867-6-14	98887					"
1887-4-1	1887-4-1	0.42					"

Claim Bannock/Rattlesnake
Doc Source Home Hayden
Red Blue note B. Conter



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

September 13, 2001

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

Barry T. Williams
1277 Mink Creek Road
Arbon, Idaho 83212

Re: A29-10990

Dear Mr. Williams:

On August 26, you sent me a letter with additional information regarding this adjudication claim, and asking several questions. I drafted a response, but did not mail it at the request of one of the deputy attorneys general assigned to IDWR. She felt that by the end of that week, she would have some better answers for you.

Due to illness and scheduling difficulties, the IDWR personnel and Clive Strong's personnel still have not been able to meet. I want to assure you that we're working the issue and you haven't "fallen through the cracks."

A new wrinkle is that I have accepted a job with University of Idaho and will be leaving the department. My supervisor, Ernie Carlsen, is fully aware of your situation and will be handling the final recommendation. My plan before I leave is to do as much as can be done now, to reflect the information I gathered the day you and I spent in the field.

Please call me (before September 21) or Mr. Carlsen if you have further questions.

Sincerely,

Bryce A. Contor
Bryce A. Contor
Senior Water Resource Agent

Contor, Bryce

From: McHugh, Candice
Sent: Wednesday, August 29, 2001 10:52
To: Contor, Bryce
Cc: Music, Vicky

Subject: RE: Todays letter to Mr. Williams

Can you hold off sending this letter until after my discussion with Susan? I hope to have a final answer by Friday.
Thanks

-----Original Message-----

From: Contor, Bryce
Sent: Wednesday, August 29, 2001 10:44 AM
To: McHugh, Candice
Cc: Music, Vicky
Subject: Todays letter to Mr. Williams



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

August 29, 2001

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

Barry T. Williams
1277 Mink Creek Road
Arbon, Idaho 83212

Re: A29-10990

Dear Mr. Williams:

This letter is a response to your letter of August 26, referring specifically to the part of your claim 29-10990 that is based upon old decree number 29-468. It will be a couple of weeks before I can answer all your questions, but I'll do the best I can today.

1. Historical use and documentation of 29-468.

The Peppersack and BIA analyses both refer to a need for full documentation of the chain of title from Daniels to you. Vicky Music (paralegal at IDWR in Boise) e-mailed me requesting a copy of the deed from Price to D.T. Williams. If you can send us a copy of that, it would help a great deal. You can FAX it to me at 525-7177, or to Vicky at 208-327-5400. I can't read all the stuff in my file (FAX of a copy of a FAX of a copy - you get the picture), but it looks like that one isn't there.

Vicky also needs a copy of the two posted notices you have referred to in your letter. The IDWR attorneys are going to meet and review this, the sooner you can get it to them the better.

Personally I agree with Jeff Peppersack's finding that it is highly unlikely that Rattlesnake water was used on the west side of Bannock creek, and my field inspection confirms current use on your claimed place of use. My conversation with Mr. Bolingbroke supports what you have told me, as well.

To strengthen my recommendation it would help me to know (and have documentation) when the accomplished transfer from the decreed places of use to the current place of use occurred. When did irrigation begin in section 18, and in the SWSE of 12? When did irrigation cease in SENE of section 2, and in section 13? I remember you said that one of the decreed 40 acre

*Not
marked*

Barry Williams 8/29/2001

tracts was just an error in the decree, that it had never been irrigated. Remind me again which tract that was.

Not marked

2. Documentation of the recommendation of 29-12848.

Years ago I lived in Tehran, Iran. In May they tore up our street and fixed the water lines, then re-paved. In July they tore up the street and fixed the sewer lines, then re-paved. In September they tore up the street and installed buried phone lines, then repaved. One of our neighbors asked a city official why there wasn't more communication. The answer was "There is no need for communication. We work in different departments." Some of that goes on in my world, too.

The Fort Hall agreement regarding the tribal rights was handled at a different time, and by a different group of people, than are doing the non-tribal rights in Basin 29. As promised Saturday, I have asked our Deputy Attorney General to communicate with Clive Strong's office to clarify indeed whether 29-12848 is a renumbering of 29-468 or is a different right. As I said Saturday, I hope it is a different right; this interpretation would allow me to continue investigating your claim to 29-468.

If it turns out that 29-12848 is 29-468, then I will do my best to get the documentation of how that determination was made and forward it to you, or find out who can document it for you.

If the recommendation 29-12848 is incorrect, I can't do anything about that. It was confirmed by the court in the Final Consent Decree of 1995. To adjust that recommendation would require working with the court to set aside the Final Consent Decree and file a late objection.

3. How could Rattlesnake water have been adjudicated to the Tribe?

The Ft. Hall agreement was a negotiated settlement. I wasn't in on the negotiations, so I can't really answer that. It is clear that 29-12848 is Rattlesnake water, it was recommended to the tribe, and it is subordinated to rights decreed in the old decree. It is not clear what the basis of that right is. It could have been based on 29-468, and it could have been based on some other historical practice or legal theory. Will Rogers' comments about laws and sausages sometimes apply also to negotiated settlements.

What is not clear is the status of 29-468. Either it was recommended to the tribe as 29-12848, or it wasn't. The IDWR attorneys are working hard to get an answer to that question.

4. Why wasn't anything noted in your claim file regarding the status of 29-468.

Barry Williams 8/29/2001

I'm as frustrated as you are by this, and can't give you a good answer. It is likely that someone with intentions as good as mine, and limitations as great as mine, just plain forgot.

5. Immediate notification of the standing of your water right.

I am investigating 29-10990 and at this point I believe I can recommend the portion based on 29-475. I would very much like to also recommend the portion based on 29-468, and the field work points me in that direction. The decision hinges mostly on the decision of the IDWR attorneys and Clive Strong's office, and on the additional documentation requested in item (1) above. Vicky assures me that we have copies of all the documentation that was in the Ft. Hall negotiation files. I suspect that some of your documentation was examined at these meetings you attended but copies were not taken.

Because the tribe is very interested in this right, my investigation will be thorough and no doubt I will pester you again for more details. I will work hard to lay a careful paper trail justifying my decisions.

*Not
mailed*

6. Why didn't I warn you in advance?

I apologize; I didn't know you didn't know that there was a concern. My main goal was to confirm current place of use and point of diversion, that's what I was focusing on when I set up the visit. Sorry 'bout that.

The attorneys are going to meet and get back with me on whether or not 29-12848 is or isn't 29-468. Clive Strong's office is going to provide direction on what kind of language should go in the report about the subordination of tribal rights. I will continue to investigate, and will request additional information if the need arises.

It will be a couple of weeks before the attorneys and Clive's office do their work. I'll let you know if things look ugly.

Sincerely,



Bryce A. Contor
Senior Water Resource Agent

MEMORANDUM

To: Barry Williams File 29-10990
Fr: Bayce Couto
Date: 8/30/01
Re: Follow-up on well complaints

1) Bill Cunny well. GPS # 605,
map places this at 115 33E 12 NENW.

Query for Claims, Permits, App, WR,
115 33E 12 NENW Irrigation GW
produces these results:
WR 29-2458
Claim 29-2458A

2) Ward Well. GPS # 606
map places this at 115 33E 36 NWSW
or 115 33E 35 NESE

Query for Claims, Permits, Apps, WR, POB.
115 33E 36 NWSW produces:
Permit 29-2931A

Well complaint 8/30/01 p 2

Query for Permit, App, Claim, WR, POD
115 33E 35 produces:

29-7291 License

29-7291 Claim

~~29-7931A Permit~~

Copies attached:

29-7291 Claim

29-7291 License

29-2458 A Claim

29-2458 License

29-7931A Permit

(no other)

(note that query
shows no other)

08/30/2001

Page 1

IDAHO DEPARTMENT OF WATER RESOURCES
Water Right Report 29-2458

WATER RIGHT NUMBER: 29-2458

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	FRANK L JOHNSON

Priority Date: 01/19/1962

Basis: License

Status: Active

Tributary

Source

GROUND WATER

Beneficial Use

IRRIGATION

<u>From</u>	<u>To</u>
3/15	11/15

Diversion Rate

1.370 CFS

Annual Volume

560.00 AF

560.00 AF

Total Diversion:

1.370 CFS

Location of Point(s) of Diversion

GROUND WATER

POWER County

NE1/4NW1/4

Sec. 12, Twp 11S, Rge 33E, B.M.

Place of Use

IRRIGATION Within POWER County

T11S R33E S01	SWNE	40.0
T11S R33E S01	NWSE	40.0
T11S R33E S12	NWNW	38.0
T11S R33E S12	SENE	40.0
Total Acres: 275		

T11S R33E S01	SENE	40.0
T11S R33E S12	NENE	38.0
T11S R33E S12	SWNE	39.0

Conditions of Approval:

Remarks:

Comments:

Dates and Other Information:

IDAHO DEPARTMENT OF WATER RESOURCES
Water Right Report 29-2458

Dates and Other Information:

Licensed Date: 8/21/1979
Decreed Date:
Water Supply Bank Enrollment Accepted:
Water Supply Bank Enrollment Removed:
Enlargement Use Priority Date:
Enlargement Statute Priority Date:
State or Federal:
Owner Name Connector:
Water District Number:
Generic Max Rate Per Acre:
Generic Max Volume Per Acre:
Decree Defendant:
Decree Plaintiff:
Civil Case Number:
Judicial District:
Swan Falls Trust or Nontrust:
Swan Falls Dismissed:
DLE Act Number:
Carey Act Number:
Mitigation Plan: False

IDAHO DEPARTMENT OF WATER RESOURCES
Water Right Report 29-7291

WATER RIGHT NUMBER: 29-7291

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	WARD & SONS CO INC

Priority Date: 10/22/1975

Basis: License

Status: Active

<u>Source</u>	<u>Tributary</u>
GROUND WATER	

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	3/15 to 11/15	4.530 CFS	1,142.80 AF
	<u>Total Diversion:</u>	4.530 CFS	1,142.80 AF

<u>Location of Point(s) of Diversion</u>		
GROUND WATER	NW1/4SW1/4	Sec. 35, Twp 11S, Rge 33E, B.M.
POWER County		

Place of Use

IRRIGATION Within POWER County

T11S R33E S34	NESE	38.0	T11S R33E S34	SWSE	33.0
T11S R33E S34	SESE	35.0	T11S R33E S35	NESW	37.0
T11S R33E S35	NWSW	35.0	T11S R33E S35	SWSW	35.0
T11S R33E S35	SESW	39.0	T11S R33E S35	NWSE	2.0
T11S R33E S35	SWSE	2.5	T12S R33E S03	NENE	35.0
T12S R33E S03	NWNE	35.0			
Total Acres: 326.5					

Conditions of Approval:

Remarks:

Comments:

Dates and Other Information:

IDAHO DEPARTMENT OF WATER RESOURCES
Water Right Report 29-7291

Dates and Other Information:

Licensed Date: 3/9/1989
Decreed Date:
Water Supply Bank Enrollment Accepted:
Water Supply Bank Enrollment Removed:
Enlargement Use Priority Date:
Enlargement Statute Priority Date:
State or Federal:
Owner Name Connector:
Water District Number:
Generic Max Rate Per Acre:
Generic Max Volume Per Acre:
Decree Defendant:
Decree Plaintiff:
Civil Case Number:
Judicial District:
Swan Falls Trust or Nontrust:
Swan Falls Dismissed:
DLE Act Number:
Carey Act Number:
Mitigation Plan: False

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 29-7291
Date Received: 3/15/1990
Receipt No: E012380
Received By:

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

1. Name of Claimant(s)

WARD & SONS CO INC Phone: (208)335-2263
5336 ARBON HWY
ARBON ID 83212

2. Date of Priority: 10/22/1975

3. Source: GROUND WATER Trib. to:

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County	Type
11S	33E	35	NW NW SW	POWER	

5. Description of diverting works:

WELL, 710' DEEP, 20" CASING, 400HP DIESEL ENGINE PIPED TO SPRINKLER SY

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
IRRIGATION	3/15	11/15	4.53	1142.8

7. Total Quantity Appropriated is:
4.53 C.F.S. and/or 1142.8 A.F.A.

8. Total consumptive use:

9. Non-irrigation uses:

10. Place of use:

Township	Range	Section	1/4 of 1/4 Lot	Use	Acres	
11S	33E	34	NE	SE	IRRIGATION	38
			SW	SE	IRRIGATION	33
			SE	SE	IRRIGATION	35

					Section Acres	106
11S	33E	35	NW	SE	IRRIGATION	2
			SW	SE	IRRIGATION	2.5
			NE	SW	IRRIGATION	37
			NW	SW	IRRIGATION	35
			SW	SW	IRRIGATION	35
			SE	SW	IRRIGATION	39
					Section Acres	150.5
12S	33E	3	NE	NE	IRRIGATION	35
			NW	NE	IRRIGATION	35
					Section Acres	70
					Total Acres	326.5

11. Place of use in counties: POWER

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

13. Other Water Rights Used:

14. Remarks:

ADDRESS CHANGE FOR LIENHOLDER 7/30/1999 SS

15. Basis of Claim: License

16. Signature(s)

IDAHO DEPARTMENT OF WATER RESOURCES

Water Permit Report 29-7931A

WATER RIGHT NUMBER: 29-7931A

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	WARD & SONS CO INC

Priority Date: 03/15/1990

Basis:

Status: Active

<u>Source</u>	<u>Tributary</u>
GROUND WATER	

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	3/15 to 11/15	7.850 CFS	
STOCKWATER	1/01 to 12/31	0.070 CFS	
	<u>Total Diversion:</u>	7.850 CFS	

Location of Point(s) of Diversion

GROUND WATER	NW1/4NW1/4SW1/4	Sec. 36, Twp 11S, Rge 33E, B.M.
POWER County		

Place of UseIRRIGATION Within POWER County

T11S R33E S35	NENE	39.0	T11S R33E S35	NWNE	40.0
T11S R33E S35	SWNE	40.0	T11S R33E S35	SENE	37.0
T11S R33E S35	NESE	39.0	T11S R33E S35	NWSE	40.0
T11S R33E S35	SWSE	39.0	T11S R33E S35	SESE	39.0
T11S R33E S36	NESW	40.0	T11S R33E S36	NWSW	39.0
T11S R33E S36	SWSW	39.0	T11S R33E S36	SESW	39.0
T11S R33E S36	NWSE	39.0	T11S R33E S36	SWSE	38.0

Total Acres: 547

STOCKWATER same as IRRIGATIONConditions of Approval:

1. 26A Project construction shall commence within one year from the date of permit issuance and shall proceed diligently to completion unless it can be shown to the satisfaction of the Director of the Department of Water Resources that delays were due to circumstances over which permit holder had no control.
2. 01C A flow measurement port or other device as specified by the Department shall be installed by the right holder to provide for the installation of measuring equipment and the determination of the rate of diversion by the Department.
3. 046 Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code.
4. 048 The use of water under this right shall not give rise to any claim against the holder of a senior water right based upon the theories of forfeiture, abandonment, adverse possession, waiver, equitable estoppel, estoppel by laches or customary preference.
5. 049 The Director retains jurisdiction of the right to incorporate the use into a water district, require streamflow augmentation or other action needed to protect prior surface water and groundwater rights.
6. 03A The rate of diversion of water for irrigation under this right and all other water rights on the same land shall not exceed 0.02 cubic feet per second for each acre of land.

IDAHO DEPARTMENT OF WATER RESOURCES
Water Permit Report 29-7931A

Remarks:

1. General Stockwater use is for 300 range cattle.^^

Comments:

1. VAULT 11/9/1994 Extension of Time Received
Comment: Extension of Time Received
2. VAULT 1/16/1998 Extension of Time Received
Comment: Extension of Time Received
3. JJOHNSON 6/24/1998 Ownership Change
Comment: An ownership change split this right into A and B

Dates and Other Information:

Permit Proof Due Date: 2/1/2000
Permit Proof Made Date: 2/16/2000
Permit Approved Date: 1/22/1991
Permit Moratorium Expiration Date:
Enlargement Use Priority Date:
Enlargement Statute Priority Date:
Field Exam Date:
Date Sent to State Office:
Date Received at State Office:
State or Federal:
Owner Name Connector:
Water District Number:
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

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 29-2458A
Date Received: 3/8/1990
Receipt No: M006193
Received By:

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

1. Name of Claimant(s)

BILL CURRY Phone: (208)335-2123

PO BOX 21
ARBON ID USA 83212

DEANNA CURRY Phone: (208)335-2123

PO BOX 21
ARBON ID USA 83212

2. Date of Priority: 01/19/1962

3. Source: GROUND WATER Trib. to:

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4 Lot	County	Type
11S	33E	12	NW	NE	NW	POWER	

5. Description of diverting works:

WELL & PUMP, GRAVITY IRRIGATION

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
IRRIGATION	3/15	11/15	1.37	

7. Total Quantity Appropriated is:
1.37 C.F.S.

8. Total consumptive use:

9. Non-irrigation uses:

10. Place of use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
11S	33E	12	NE	NW	IRRIGATION	38
			NW	NW	IRRIGATION	38
			SW	NW	IRRIGATION	39
			SE	NW	IRRIGATION	40
					Section Acres	155
					Total Acres	155

11. Place of use in counties: POWER

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

13. Other Water Rights Used:

14. Remarks:

THIS CLAIM REPRESENTS A PORTION OF LICENSED RIGHT 29-02458
CLAIMING THE ENTIRE DIVERSION RATE OF 1.37 CFS BUT ONLY 155 ACRES ALL IN SECTION 12
THE NW 1/4

15. Basis of Claim: License

Bany Williams

335-2354

8/29

1) Period of use -

2) 3 yrs -

3) Letter describing A pool-well
well-shared - traded -

4) Ron told Haytal that Bany hasn't
got a water right - what means?

5) Well - Forfeiture - I said "objection"

6) Well - Conj Mgt
I said "letter to Ron Carlson"

8/29/01 7:30 AM Msgs in phone:

- 1) Fern Deutscher 208 662 5423
please call
- volume of lake, Fax?
- 2) Barry Williams 29-00468
letter - mtgs
335-2354 please call
- 3) Kirk Jacobs - will call
- 4) Jim Stevenson - 236-8212
Asteris - please call

8/29/01 Barry Williams msg in Martin's

- 1) Clive & Candice are communicating,
looks like it will work out?
- 2) I need copy of Price → DT Williams
Dad please FAX or mail to Bo/Sr
- 3) I will respond to letter

Barry T. Williams
1277 Mink Creek Road
Arbon, Idaho, 83212

RECEIVED

AUG 28 2001

Department of Water Resources
Eastern Region

August 26, 2001

Bryce A. Contor
Senior Water Resource Agent
900 N Skyline STE A
Idaho Falls, Idaho 83204

Dear Bryce:

Because of the questions involving water right number A29-00468, I am sending you some information on this right. This right was combined with right A29-00475 and assigned a new number of A29-10990.

On March 9, 1889, John W. Lusk and others claimed on the South Fork of Rattle Snake Creek, 12 CFS of water at a diversion point being the same as we now divert our irrigation water. This Notice of Water Location is found in Book 36, page 17 in the Power County Court House. On July 7, 1902, a Notice of Water Location was filed on the South Fork of Rattle Snake Creek and its tributaries with the diversion point being the same as before. This was filed by Daniel M. Daniels, Thomas D. Daniels, John W. Lusk and John H. Bolingbroke. The number four statement in this notice reads: 4. That they have been in the full and complete use and control of said water for nine years last past continuously.

On August 23, 1907 the Equity Decree of the United States and Pocatello Tom et al Vs. George Daniels et al was signed and sealed. In this decree, Thomas D. Daniels and Sarah Daniels, husband and wife, were entitled to three cubic feet per second of time of water to be diverted from Rattle Snake Creek with a priority date of April 1, 1892. One cubic foot per second of was to be diverted from the West Fork of Bannock Creek with a priority date of May 1, 1894. The land watered by Rattle Snake Creek and owned by us was then listed followed by a semi colon. The two hundred forty acres watered by West Fork was then listed. This two hundred forty acres was sold to Alfred Bolingbroke on March 27, 1929 with the West Fork water right. This water right (29-00469) was specifically listed in the Warranty Deed (Instrument No. 51407) with no mention of the Rattle Snake water. This land was sold to the United States Government on October 12, 1935. The description on this land is: SE 1/4 of the SW 1/4 of Section 2, the NW 1/4, and the SW 1/4 of the NE 1/4 of Section 11, all in T 10 S of R 33 E of the Boise Meridian in Idaho.

The only way the tribe could show any claim to water right number 29-00468 is through the 240 acres of land previously owned by Tom and Sarah Daniels. There are several sources of proof that Rattle Snake Creek water never watered this land plus common sense because of where this land is located in relation to Rattle Snake Creek, our Rattle Snake Ditch, Bannock Creek and West Fork Creek.

When I met with you on August 25, 2001, you said you could recommend right number 29-00475 be adjudicated to me but not right number 29-00468 if right number 29-12848, adjudicated to the Indians, was the same right. If they are indeed the same right, then the Idaho Department of Water Resources would have needed proof that this right belonged to the Indians in order to have allowed it to be adjudicated. If this is the case, I would like for you to send me this verification of proof as soon as possible as this is a very important matter to me.

On February 7, 1994, I met with Clive Strong (Deputy Attorney General), Dave Shaw (Idaho Department of Water Resources), Lynn R. Collins (Regional Solicitor with the U. S. Department of the Interior), Candy Jackson (Tribal Attorney), Robert Fenton (Bureau of Indian Affairs at Portland), Ross Wappels (with HKM out of Montana hired to represent the U. S. Government on fact finding) and others. Ross said it looked to him like only the West Fork water went with the land in Sections 2 and 11 (the 240 acres) as that is what is

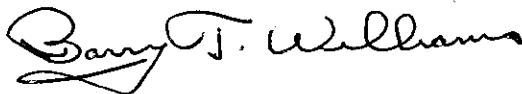
listed in the deed from Daniels to Bolingbroke. Clive Strong said everything indicates that the 3 CFS of Rattle Snake water belongs to me. Robert Fenton said he would call me the next day with an answer from the tribe.

On February 8, 1994, I sent full copies of Abstracts of Title #399 to Lynn R. Collins and Clive Strong. On February 22, 1994, I talked to Clive Strong and he said the U. S. Government and the Tribe had conceded that the 3 CFS belongs to me but they wanted to leave the 3 CFS in their agreement to maintain the 581,031 AFY. On April 1, 1994, I called Clive Strong and he said that the claim number had been changed and a 3 CFS right on Rattle Snake had been retained in the 1990 Fort Hall Indian Water Rights Agreement but the U. S. Government and the Tribe agreed that my rights were to be met first.

I was truly sturned when you said you couldn't recommend right 29-00468 be adjudicated to me. If you would have warned me in advance, I would have been prepared to present you with the necessary information. I attended several meetings with top officials involved in the adjudication process of the Indian Water Rights and had many phone conversations. I provided all the necessary documents and information to prove my water right and language to guarantee this right was included in The Fort Hall Consent Decree. What is hard for me to understand, is how nothing was noted in my file with my water right after these concessions and agreements were reached.

Please let me know immediately the standing of my water right after you receive this additional information. Thank you.

Sincerely yours,

A handwritten signature in cursive script that reads "Barry T. Williams". The signature is written in dark ink and is positioned above the printed name.

Barry T. Williams

Contor, Bryce

From: Contor, Bryce
Sent: Saturday, August 25, 2001 7:06
To: McHugh, Candice
Cc: Music, Vicky
Subject: Heads up for phone call

You may be getting a phone call from Clive Strong. When I stopped at Barry Williams' place this morning he was on the phone with Clive. I didn't talk to Clive, but here's what Barry says Clive says:

1. The recommendation of 29-12848 to the tribe does not preclude Barry's claim to 29-468. Barry says in the February 1994 meeting at the Pocatello airport, Dave Shaw, Clive Strong, Lynn Collins, Robert Fenton, and Candy Jackson all agreed with Jeff Peppersack's analysis that 29-468 could not have been appurtenant to the land eventually acquired by the tribe because the place of use is on the west of Bannock Creek and there has never been a flume to convey the Rattlesnake Creek water (which comes in from a ditch on the east) across the creek to the tribe's POU.
2. Once the dept. issues recommendations on the old decreed rights in the Bannock Decree, all the tribes rights (especially the senior right 29-466 for 16.25 cfs) will be subordinated to rights based on the Bannock Decree. Only 29-12049 and 29-12848 appear to specifically bear the subordination language, but page eight of the director's report states "Thus, the parties agreed to continue the historic water allocations pursuant to the Bannock Creek Decree. Barry repeated several times that Clive said "once you get your rights through the adjudication you won't have to worry about the 16.25 cfs."
3. Barry said Clive said to "make sure the department notes the subordination" on the recommendations. I don't really understand this; I thought the subordination language goes on the tribes rights, which are already recommended. Do you suppose he means the non-tribal rights should have some kind of language saying the tribal rights are subordinated to them?
4. I like Mr. Williams but I don't know him well enough to know if I should trust him. So the story direct from Clive might not be exactly the same.

I did tell Williams I would ask you to get clarification from Clive on whether 29-12848 is or is not the Daniels right originally numbered 29-648. If it is, I think the only path is to disallow Williams' claim and let him object. If it is not, the documentation and field work I have seen today convinces me to recommend Williams' claim and let the tribe object.

Guidance please.

Meeting / Fieldwork w/ Barry Williams 8/25/01

1) Mr Williams was on phone w/ Clive Strong -
Once Williams' is adjudicated, Indians will
subordinate to Decrees -

2) 29-12848

1930's - sold to GSA - "LU" (Limited use)
Bannock Creek portion sold by original
owner - 1970's Frank Church gave
land to reservation

Williams' Understanding was that 29-12848
did not supersede 29-468. He feels
Clive Strong's representation is that the
subordination language protects Williams'
enjoyment of 29-468.

We discussed the apparent indication
that Cardin & I see 29-12848 as
a replacement for 29-468. Mr Williams
is certain Clive Strong assures him 29-12848
is subordinate to 29-468. Mr.
Williams questioned allowing inclusion
of 29-12848 but Clive assured
him the subordination language

Barry Williams p2 8/25/01

protects 29-468. I agreed to
revisit this with Candice McHugh.

Feb 1994
Lynn Collins
Robert Fenton
Mr Williams challenged clive at
the time, Clive, Dave Shaw, Ted
Attorneys were in understanding &
agreement. Candy Jackson = FH&H attorney.

- Currently, used as rotation w/ Haybo
& Bolingbroke. Bolingbroke has been
historically, used out of priority.

3) Bill Curry well. 1992 reinstatement -
I don't recall a claim - Mr Williams
assets injury -

4) Bill Curry well - Bowen lane east of
Arden highway 619352
155279

Waypoint 605

Well in farmyard near tanks - 60' S of 615 point,
15' East.

Bannock creek dry just east. Mr Williams
says this never happened and, etc

11533E12
NEW

Barry Williams p3 8/25/01

of well started in 1992 - about 2 miles
of creek is Williams' shade water & is
dewatered by Ward / Curry wells.
Ward well - 4 or 5 years ago?

2 miles N of Curry creek is dry but
has not been dry too long.

5) Ward well @ New location

Waypoint 606

618845

148026

Old well was 1 mile west, didn't
seem to affect creek.

6) Bent Marvel Well 1 1/2 miles S doesn't
seem to affect creek -

7) POU ~ 200 acres

Tailwater fr. Rattlesnake runs into Banner
Williams doesn't re-use

8) Janet Harburt Meadow -

CRP on N of road - used to see ice from ditch -
Contractor POU seems about right -

Barry Williams p4 8/25/01

9) Mr Williams says Clive says even 16.25 gs is subordinate to other Rattlesnake Decrees. He says ~~even~~ we should be sure our recommendations reference the subordination.

10) Rattlesnake PD - 2 photos

Waypoint 607

627782

166815

Dyke A. Condon
8/25/01

11) Spring always runs into meadows - never leaves property. Use goes back to homestead

12) High Pressure Pump can pressurize water from all sources - fr. pond.

photo

Waypoint 608

42hp

Westinghouse

2978410632

621296

164031

Pump Berthel

3E PBL

BM # 2503

SN 6107659

13) Well - GE 15 HP Series TWB 629280

photo

GPS 609

621362

164157

These are Bob's book notes

portion of the existing Snake River Fort Hall Irrigation Project water right necessary to satisfy their contract entitlements. The United States will ensure that the non-Indian Fort Hall Project water users' legal entitlement is met from the Snake River water right quantified for the non-Indian project water users and the 25,500 AFY of storage from Blackfoot Reservoir set aside for these water users.

3. *Ross Fork Creek and Lincoln Creek water rights*

The Tribes shall have the right to divert 5,000 AFY of natural flows from Ross Fork Creek and 5,700 AFY from Lincoln Creek under the water rights in water right nos. 27-11373 and 27-11374 of the Agreement. The basis for both diversion rights is the Winters Doctrine. The Tribes may opt to divert either groundwater or surface water to satisfy such rights, and may exceed limitations on diversions provided that any excesses are charged against tribal groundwater rights in water right no. 27-11376.

4. *Bannock Creek water rights*

Water right nos. 29-00466, 29-00467, 29-12848, 29-00469, 29-00470, 29-00471, 29-00472, 29-00473, 29-00474 and 29-12049 are Tribal surface water rights to divert natural flows of Bannock Creek and its tributaries. The basis for these rights is the Winters Doctrine. The combined maximum diversion volume of such rights amounts to 24,384 AFY.

The priority date of the water right in water right no. 29-12049 is the establishment of the Fort Hall Reservation (1867). Priority dates for the other water rights in the Bannock Creek Basin vary according to the priorities for water allocations under the Bannock Creek Decree. *United States v. Daniels* (D. Idaho April 9, 1907, unpublished).

A strict application of the Tribes' Winters rights to natural flow would be inconsistent with the federal court decree in *United States v. Daniels* and would have displaced existing non-Indian water rights within the Basin. Thus, the parties agreed to continue the historic water allocations pursuant to the Bannock Creek Decree. Although the water right nos. (new Rattlesnake No.) and 29-12049 have a priority date as of the establishment of the Fort Hall Reservation, they will be delivered subject to satisfaction of the Bannock Creek decreed water rights.

5. *Portneuf River water rights*

Water right nos. 29-12050, 29-00231, 29-00238, and 29-12051 are Tribal water rights to divert natural flows of the Portneuf River and its tributaries. The basis for each of these water rights is the Winters Doctrine. The priority date for the water right in water right no. 29-12050 is the date the Fort Hall Reservation was created. Priority dates of the other water rights vary according to the priority dates established in *United States v. Hibner*, 27 F.2d 909 (D. Idaho, E.D. 1928). The priority date for the water right in water right no. 29-12051 is per the decree of the District Court of the Fifth Judicial District Court of the State of Idaho, in and for the County of Bannock dated June 5, 1926, in *Smith v. City of Pocatello*, Case No. 6669.

Claim 29-10990
Doc Source Dir Rept part I, II, III
for Ft Hall 1990 agreement
Date 8/20/01 Sig. SAC

8/16/2001

Dear Mr. Williams

Tentatively I plan to come to Arbon to look at your place of use under claim 29-10990 on Wednesday August 29. It would be helpful but not essential to meet with you that day.

Please call me at 525-7161 (office) or 663-4853 (home) to confirm this or make other arrangements.

Thank you,

Bryce A. Contor
Senior Water Resource Agent

*also phone msg on
answering machine 8/16/01
cbac*

BARRY T WILLIAMS
1277 MINK CREEK RD
ARBON ID 83212

20USA

900 N SKYLINE STE A
IDAHO FALLS IDAHO 83402

MEMORANDUM

TO: Barry Williams / Rottusuahe files
FR: Bryce Conto.
Date: 8/16/01

Re: office visit w/ Gail Martin

I gave Gail the following:

- 1) Copy of map showing work areas
- 2) Blank "Notice of Change of Ownership"
- 3) Copy of old decree sheet w/ my red / ^{blue} ~~black~~ notes
- 4) List of Clifton Creek WR & AS listings from AS database (enterprise) query.
- 5) Copy of prog report of claim 29-12848
- 6) Copy of directors report from 1995 consent decree for 29-12848 & 29-12049.
- 7) Copy of Peppersack & BIA analyses.

8/16/01 Office Visit w/ Gail Martin

p 2

I told her at this point I believed Consent decree (1995) 29-12848 was a re-numbering of 29-468 and superseded the BIA & Peppersade memos, that I did not plan to recommend that part of Williams' claim. I also told her that I would investigate the rest of Williams' claim and that likely something would be recommended to Williams & therefore a meas. device would also be necessary. I also told her Williams may wind up with a ben. use right which would be for the tribe.

We reviewed the decreed rights that have not yet been claimed & the pending claim 29-13215 by Hayden.

She asked about irr. recommendations that overlapped Ft Hall project. I told her I have not recommended any yet but would notify her or Else if I did.

We talked about Δ ownership & administration of state-based rights that may be purchased by the tribe. I told her I didn't know.

BAC 8/16/01

Gail Martin / Elsie Teton phone call 8/16/01 Ann
PO Box 306 Ft Hall 83203 -

copy of decree sheet - Gail will pick up -

Elsie Teton - 238-9375

- 1) As near as I can tell 29-468 awarded
to Tribe as 29-~~155~~ 12848. Unless
Candice has discovered otherwise I
plan to disallow Williams' claim
to 29-468 (part of 29-10990).
- 2) I have not looked at ownership
of Barry Williams lands / claims
- 3) Barry Williams' claim is also
based on 29-475 which I see
no competition for. I will proceed
with review & recommend it
appropriate; therefore a means device
still will likely be req.
- 4) We reviewed other Rattlesnake claims.
- 5) Copy of BIA letter & Peppasade response
discussed - I will give to Gail when
she comes to visit.



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

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

TRANSMITTAL COVER SHEET

FAX NUMBER: (208) 327-5400

DATE: 8-16-01

TO: BYULL

FROM: V. NM91C

DOCUMENT DESCRIPTION: 29-12840, 29-12849
DRS

COVER SHEET + PAGES

CONTACT: 327-1928 IF YOU DO NOT RECEIVE ALL THE PAGES.

THANK YOU!

- .i Source: Bannock Creek, West Fork Bannock Creek
- .ii Annual Diversion Volume: 629 AFY
- .iii Diversion Rate: 3.30 CFS
- .iv Annual Volume of Consumptive Use: 374 AFY
- .v Priority Date: April 1, 1889
- .vi Existing Points of Diversion:
 - NENWSE Sec 32 Twp 7S Rge 33E BM
 - SWSWSE Sec 21, NESWNW Sec 25 (2 POD) all in Twp 8S Rge 33E BM
 - NWSENE Sec 9, SWNESW Sec 22, SENESW Sec 27 all in Twp 9S Rge 33E BM
- .vii Purpose and Period of Use:
 - Irrigation 3/15 - 11/15
- .viii Place of Use: 157 present and future acres within the Reservation.
- .ix Basis of Right: The basis of the right is the Winters Doctrine with the relative share and priorities of the water allocations determined by the Bannock Creek Decree [United States v. Daniels (D. Idaho April 9, 1907)].
- .x Remarks: None.

Right No. 29-12848 --

- .i Source: Rattlesnake Creek
- .ii Annual Diversion Volume: 571 AFY
- .iii Diversion Rate: 3.00 CFS
- .iv Annual Volume of Consumptive Use: 340 AFY

- .v Priority Date: June 14, 1867
- .vi Existing Points of Diversion:
 - NENWSE Sec 32 Twp 7S Rge 33E BM
 - SWSWSE Sec 21, NESWNW Sec 25 (2 POD) all in Twp 8S Rge 33E BM
 - NWSENE Sec 9, SWNESW Sec 22, SENESW Sec 27 all in Twp 9S Rge 33E BM
- .vii Purpose and Period of Use:
 - Irrigation 3/15 - 11/15
- .viii Place of Use: 143 present and future acres within the Reservation.
- .ix Basis of Right: Winters Doctrine
- .x Remarks:
 - .a The Tribes and the United States shall exercise this right in a manner that ensures persons with water rights decreed in the Bannock Creek Decree [United States v. Daniels (D. Idaho April 9, 1907)] and that are confirmed in the SRBA continue to receive their full legal entitlement.

Right No. 29-00469

- .i Source: West Fork Bannock Creek
- .ii Annual Diversion Volume: 190 AFY
- .iii Diversion Rate: 1.00 CFS
- .iv Annual Volume of Consumptive Use: 113 AFY
- .v Priority Date: May 1, 1894
- .vi Existing Points of Diversion:

Right No. 29-00474

- .i Source: West Fork Bannock Creek
- .ii Annual Diversion Volume: 190 AFY
- .iii Diversion Rate: 1.00 CFS
- .iv Annual Volume of Consumptive Use: 113 AFY
- .v Priority Date: April 1, 1901
- .vi Existing Points of Diversion:
 - NENWSE Sec 32 Twp 7S Rge 33E BM
 - SWSWSE Sec 21, NESWNW Sec 25 (2 POD) all in Twp 8S Rge 33E BM
 - NWSENE Sec 9, SWNESW Sec 22, SENESW Sec 27 all in Twp 9S Rge 33E BM
- .vii Purpose and Period of Use:
 - Irrigation 3/15 - 11/15
- .viii Place of Use: 48 present and future acres within the Reservation.
- .ix Basis of Right: The basis of the right is the Winters Doctrine with the relative share and priorities of the water allocations determined by the Bannock Creek Decree [United States v. Daniels (D. Idaho April 9, 1907)].
- .x Remarks: None.

Right No. 29-12049

- .i Source: Bannock Creek
- .ii Annual Diversion Volume: 18,833 AFY
- .iii Diversion Rate: 98.87 CFS

- .iv Annual Volume of Consumptive Use: 11,205 AFY
- .v Priority Date: June 14, 1867
- .vi Existing Points of Diversion:
 - NENWSE Sec 32 Twp 7S Rge 33E BM
 - SWSWSE Sec 21, NESWNW Sec 25 (2 POD) all in Twp 8S Rge 33E BM
 - NWSENE Sec 9, SWNESW Sec 22, SENESW Sec 27 all in Twp 9S Rge 33E BM
 - NESWSE Sec 6 Twp 7S Rge 33E BM
 - (3 - 20 HP pumps for Michaud Project)

Future Points of Diversion may be developed within the Bannock Creek basin to utilize this water right within the Bannock Creek drainage basin.
- .vii Purpose and Period of Use:
 - Irrigation 3/15 - 11/15
- .viii Place of Use: 4,708 present and future acres within the Reservation.
- .ix Basis of Right: Winters Doctrine
- .x Remarks:
 - .a The Tribes and the United States shall exercise this right in a manner that ensures persons with water rights decreed in the Bannock Creek Decree [United States v. Daniels (D. Idaho April 9, 1907)] and that are confirmed in the SRBA continue to receive their full legal entitlement.

Right No. 29-12050

SRBA

SUBCASE SUMMARY REPORT 29-12848

[Return to SRBA Home Page](#)

SRBA
08-09-2001

SUBCASE SUMMARY REPORT

HTML12

SUBCASE: 29-12848 FILE#: 00003
CLAIMANT: U.S.A.
STATUS: PD ISSUED
WATER SOURCE: * ERROR,
ISSUES: QUANTITY OF WATER USED
PRIORITY DATE
PURPOSE OF USE DESCRIPTION
PERIOD OF YEAR WHEN WATER IS USED
PLACE OF USE OR IRRIGATED ACRES IN EACH 40 A.
WATER RIGHT RECOMMENDATION
11
12

****** PARTIES INVOLVED ******

U.S.A.

C ATTY: CANDY L. JACKSON

****** ROA ENTRIES ******

06-01-1994	OBJ#1 FORTHALL AGRM F/B SUNDANCE, INC	RF	10-03-1994	0001
06-01-1994	OBJ 02 F/B MCFARLAND, DON & CAROL			0002
08-01-1994	NTC OF WITHDRAWAL OF OBJECTION #1 BY SUNDANCE, INC.			0001
08-01-1994	NTC OF WITHDRAWAL OF OBJECTION #2 BY DON & CAROL MCFARLAND			0002
08-01-1994	(ONE NOTICE FOR BOTH WITHDRAWALS)	??		
08-02-1995	PARTIAL FINAL CONSENT DECREE DETERMINING THE RIGHTS OF THE SHO-BAN TRIBES TO THE USE OF WATER IN THE UPPER SNAKE RIVER BASIN		08-02-1995	

[Return to SRBA Home Page](#)

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Claim Report 29-12848

WATER RIGHT NUMBER: 29-12848

<u>Owner Type</u>	<u>Name and Address</u>
Also Known As	SHOSHONE-BANNOCK TRIBES
Current Owner	FORT HALL, ID 83203 SHOSHONE-BANNOCK TRIBES FORT HALL INDIAN RESERVATION FORT HALL BUSINESS COUNCIL PO BOX 306 FORT HALL, ID 83203 (208)238-3820
Attorney	CANDY L JACKSON FORT HALL INDIAN RESERVATION TRIBAL ATTORNEY'S OFFICE PO BOX 306 FORT HALL, ID 83203 (208)238-3820

Priority Date: 06/14/1867

Basis: Reserved

Status: Active

<u>Source</u>	<u>Tributary</u>
RATTLESNAKE CREEK	BANNOCK CREEK

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	3/15 to 11/15	3.000 CFS	571.00 AF
	<u>Total Diversion:</u>	3.000 CFS	571.00 AF

Location of Point(s) of Diversion

RATTLESNAKE CREEK POWER County	NE1/4NW1/4SE1/4	Sec. 32, Twp 07S, Rge 33E, B.M.
RATTLESNAKE CREEK POWER County	SW1/4NE1/4SW1/4	Sec. 22, Twp 09S, Rge 33E, B.M.
RATTLESNAKE CREEK POWER County	NE1/4SW1/4NW1/4	Sec. 25, Twp 08S, Rge 33E, B.M.
RATTLESNAKE CREEK POWER County	SE1/4NE1/4SW1/4	Sec. 27, Twp 09S, Rge 33E, B.M.
RATTLESNAKE CREEK POWER County	SW1/4SW1/4SE1/4	Sec. 21, Twp 08S, Rge 33E, B.M.
RATTLESNAKE CREEK POWER County	NW1/4SE1/4NE1/4	Sec. 9, Twp 09S, Rge 33E, B.M.

Place of UseConditions of Approval:

1. U13 THIS WATER RIGHT IS A PART OF THE 1990 FORT HALL INDIAN WATER RIGHTS AGREEMENT.

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Claim Report 29-12848

2. U14 LEGAL DESCRIPTION OF RESERVATION: THOSE LANDS WITHIN THE BOUNDARIES OF THE RESERVATION, AS ORIGINALLY ESTABLISHED UNDER THE SECOND TREATY OF FORT BRIDGER OF JULY 3, 1868, 15 STAT. 673, AND COMPANION EXECUTIVE ORDERS OF JUNE 14, 1867, 1 C. KAPPLER 835-837 (1904), AND JULY 30, 1869, 1 C. KAPPLER 838-839 (1904), AS FIXED BY THE FEDERAL SURVEY OF 1873 THAT HAVE NOT BEEN CEDED BY THE TRIBES TO THE UNITED STATES PURSUANT TO THE FOLLOWING TRIBAL/FEDERAL AGREEMENTS: AGREEMENT OF MAY 14, 1880, RATIFIED BY THE ACT OF FEBRUARY 23, 1889, CH. 203, 25 STAT. 687. AGREEMENT OF JULY 18, 1881, RATIFIED BY THE ACT OF JULY 3, 1882, CH. 268, 22 STAT. 148. AGREEMENT OF MAY 27, 1887, RATIFIED BY THE ACT OF SEPTEMBER 1, 1888, CH. 936, 25 STAT. 452, EXCEPTING THOSE LOTS WITHIN THE POCA TELLO TOWNSITE WHICH WERE NOT CEDED BY SUCH AGREEMENT.
3. U15 AGREEMENT OF FEBRUARY 5, 1898, RATIFIED BY THE ACT OF JUNE 6, 1900, CH. 813, 31 STAT. 672, EXCEPTING ALLOTMENT NOS. T-8, 45, 46, 48, 50, 61, AND 71 OWNED BY THE TRIBES OR HELD IN RESTRICTED FEE OR TRUST STATUS FOR THE TRIBES BY THE UNITED STATES.
4. U16 BASIS OF WATER RIGHT: THE BASIS FOR THE RIGHTS TO USE WATERS ARISING ON, UNDER, FLOWING ACROSS, ADJACENT TO, OR OTHERWISE APPURTENANT TO THE RESERVATION TO SATISFY THE PURPOSES OF THE RESERVATION AS SET FORTH IN THE SECOND TREATY OF FORT BRIDGER OF JULY 3, 1868 AND COMPANION EXECUTIVE ORDERS OF JUNE 14, 1867 AND JULY 30, 1869, IS THE WINTERS DOCTRINE. THE BASIS FOR THESE RIGHTS IS REAFFIRMED IN THE FOLLOWING ACTS AND AGREEMENTS BETWEEN THE TRIBES AND THE UNITED STATES: AGREEMENT OF MAY 14, 1880, RATIFIED BY THE ACT OF FEBRUARY 23, 1889, CH. 203, 25 STAT. 687. AGREEMENT OF JULY 18, 1881, RATIFIED BY THE ACT OF JULY 3, 1882, CH. 268, 22 STAT. 148. AGREEMENT OF MAY 27, 1887, RATIFIED BY THE ACT OF SEPTEMBER 1, 1888, CH. 936, 25 STAT. 452. AGREEMENT OF FEBRUARY 5, 1898, RATIFIED BY THE ACT OF JUNE 6, 1900, CH. 813, 31 STAT. 692.

Remarks:

1. General TWO POINTS OF DIVERSION IN TWP 8S RGE 33E SEC 25 NESWNW BM.^^ PLACE OF USE: 143 PRESENT AND FUTURE ACRES WITHIN RESERVATION BASIS OF RIGHT: THE BASIS OF THE RIGHT IS THE WINTERS DOCTRINE.^^ THE TRIBES AND THE UNITED STATES SHALL EXERCISE THIS RIGHT IN A MANNER THAT ENSURES PERSONS WITH WATER RIGHTS DECREED IN THE BANNOCK CREEK DECREE [UNITED STATES V. DANIELS (D. IDAHO APRIL 9, 1907)] AND THAT ARE CONFIRMED IN THE SRBA CONTINUE TO RECEIVE THEIR FULL LEGAL ENTITLEMENT.^^

Comments:Dates and Other Information:

Claim Received Date: 7/10/1990
 Enlargement Use Priority Date:
 Enlargement Statute Priority Date:
 State or Federal: F
 Owner Name Connector: AND
 Water District Number:
 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:

Element	Last Reviewed Date	Reviewer	Last Verified Date	Verifier	Status
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Verification Log:

IDAHO DEPARTMENT OF WATER RESOURCES

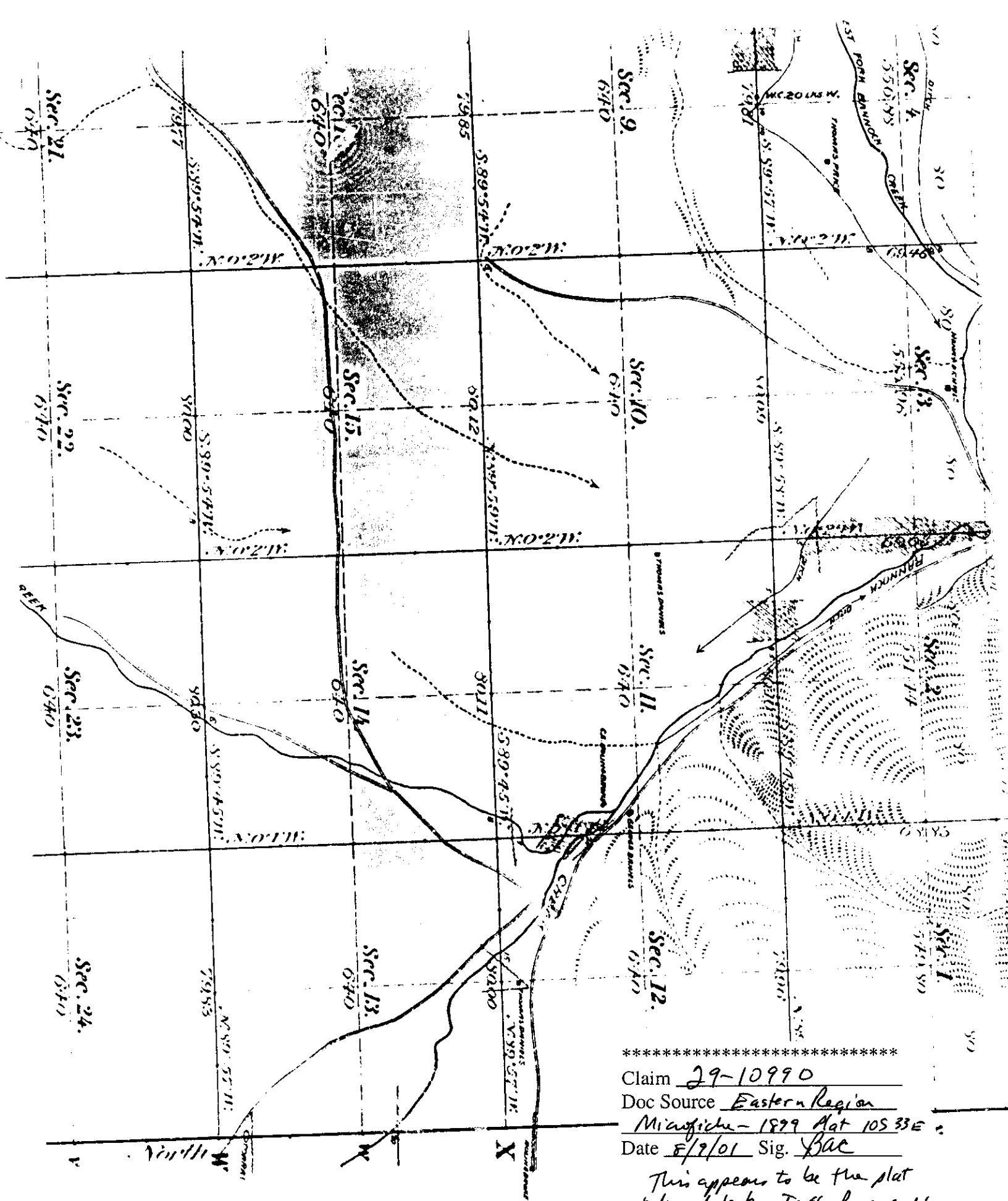
Adjudication Claim Report 29-12848

Element

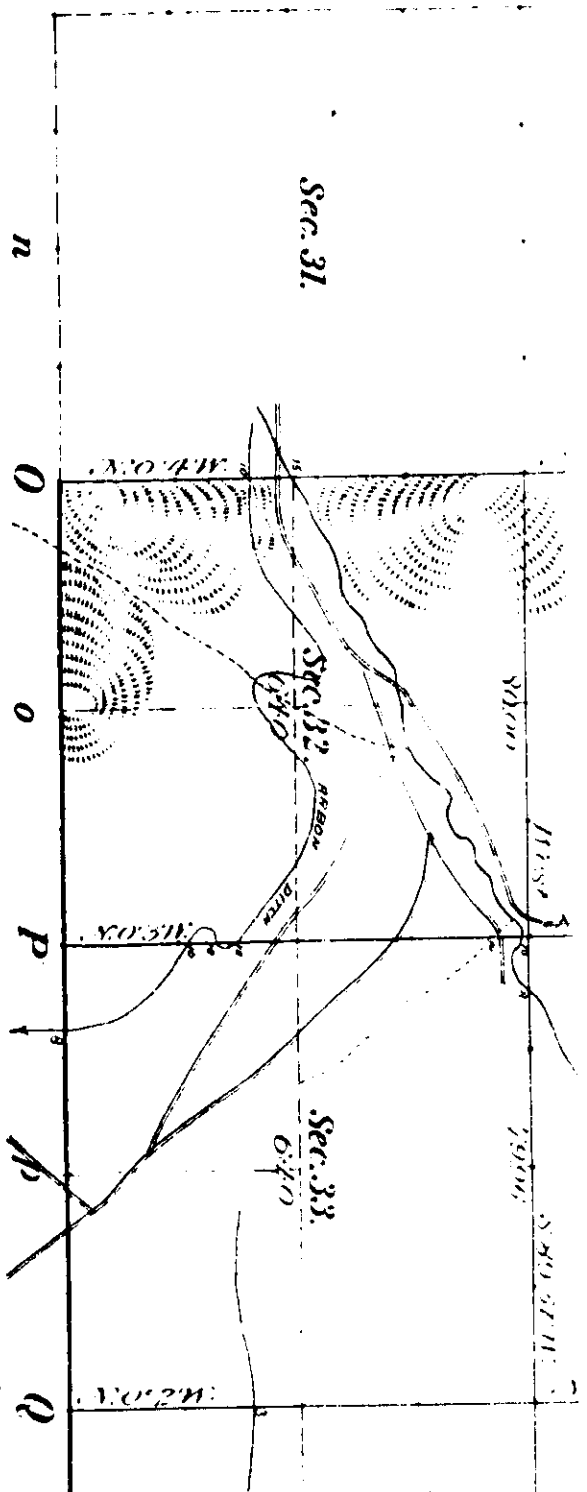
Date Time Stamp

Reviewer

Log text



 Claim 29-10990
 Doc Source Eastern Region
 Micograph - 1899 Plat 105 33E
 Date 8/9/01 Sig. BAC
 This appears to be the plat
 referred to by Felt Peppersack's
 1994 memo



Total number of Acres 78770.02

 Claim 29-10990
 Doc Source Eastern Region
 Microfilm - 1899 Plat 105 33 E
 Date 8/9/21 Sig. BAC

Survey Designated	By Whom Surveyed	No.	Date of Contract	Amount of Survey Acres	When Surveyed	Where Located
Township lines	Oscar Sonnenkall	197	Feb. 9, 1899	10	June 26-July 15, 1899	1745 E.
Subdivisions				34	August 14-22, 1899	
Connections	For Hall, for Line Miller & White	137	June 21, 1892	5	June 26-July 22, 1899	
				78	May 18-19, 1892	
				72		

Contor, Bryce

From: Bryce Contor [bcontor@hotmail.com]
Sent: Wednesday, August 08, 2001 4:46 PM

To: cmchugh@idwr.state.id.us
Cc: vmusic@idwr.state.id.us; bcontor@idwr.state.id.us; ecarlsen@idwr.state.id.us

Candice, I have started plowing through the Barry Williams/Shoshone-Bannock mess. More questions than answers at this point.

1) What is the status of the agreement (we have a copy here)? Two things confuse me:

- a) There is a right assigned to the tribe in the agreement for which neither an AJ claim, nor an updated WR decree record is present on the IDWR database, nor any record on IWATRS. (29-468).
- b) There is correspondence in the file Vicky sent me from both BIA and IDWR indicating that the ownership of 29-468 is still in question, even though the agreement clearly states it belongs to the tribe. The correspondence post-dates the agreement. Does that mean the agreement is negotiable, or subject to AJ review?

If it weren't for (b) above, I would simply disallow Mr. Williams' claim for 29-468 based on the fact that the agreement gave it to the tribe. Is it more complicated than that?

The correspondence that has me wondering is a Jan 18, 1994 cover letter to Clive Strong from Lynn Collins of USDI solicitor's office, referencing a November 1993 analysis of Barry Williams' claim 29-10990, done by BIA, concluding that "Mr. Williams may be able to claim 0.9 cfs from Rattlesnake Creek based on a demonstrated ownership of three out of ten quarter-quarter sections listed in 29-00468..." The other confusing correspondence is a February 1, 1994 memo from Jeff Peppersack to Dave Shaw, detailing his review of the BIA analysis. Peppersack finds that the BIA analysis was incomplete and suggests further investigation that needs to be done.

2) Do I

- a) Rely upon the agreement and disallow the portion of Williams' claim based upon 29-468?
- b) Rely upon the BIA analysis and recommend 0.9 cfs to Williams (he claims 3.0)?
- c) Pursue Peppersack's plan for further investigation?

3) Also, what about the absence of a claim or decree in the name of the tribe? Does somebody need to invite the tribe to submit a claim? Or does somebody need to just do some database maintenance?

I have a query of all claims on Rattlesnake and Bannock creeks and I plan to investigate them as a unit.

Thanks, Bryce

Get your FREE download of MSN Explorer at <http://explorer.msn.com>

THE 1990 FORT HALL INDIAN
WATER RIGHTS AGREEMENT

* * *

By and Between

THE SHOSHONE-BANNOCK TRIBES
OF THE FORT HALL INDIAN RESERVATION,
THE STATE OF IDAHO, THE UNITED STATES,
and CERTAIN IDAHO WATER USERS

*FOR eastern-region files
8/8/01 BAC*

groundwater by the Tribes in excess of 5,700 AFY from the Lincoln Creek basin shall be charged against the Tribal groundwater right set forth in Article 7.2.1 of this Agreement.

.4 Right No. 29-00466

- .i Source: Bannock Creek
- .ii Annual Diversion Volume: 3,095 AFY
- .iii Diversion Rate: 16.25 CFS
- .iv Annual Volume of Consumptive Use: 1,842 AFY
- .v Priority Date: June 14, 1867
- .vi Existing Points of Diversion:
 - NENWSE Sec 32 Twp 7S Rge 33E BM
 - SWSWSE Sec 21, NESWNW Sec 25 (2 POD) all in Twp 8S Rge 33E BM
 - NWSENE Sec 9, SWNESW Sec 22, SENESW Sec 27 all in Twp 9S Rge 33E BM
- .vii Purpose and Period of Use:
 - Irrigation 3/15 - 11/15
- .viii Place of Use: 774 present and future acres.
- .ix Basis of Right: The basis of the right is the Winters Doctrine with the relative share and priorities of the water allocations determined by the Bannock Creek Decree [United States v. Daniels (D. Idaho April 9, 1907)].
- .x Remarks:

.5 Right No. 29-00467

- .i Source: Bannock Creek, West Fork Bannock Creek
- .ii Annual Diversion Volume: 629 AFY
- .iii Diversion Rate: 3.30 CFS
- .iv Annual Volume of Consumptive Use: 374 AFY
- .v Priority Date: April 1, 1889
- .vi Existing Points of Diversion:
 - NENWSE Sec 32 Twp 7S Rge 33E BM
 - SWSWSE Sec 21, NESWNW Sec 25 (2 POD) all in Twp 8S Rge 33E BM
 - NWSENE Sec 9, SWNESW Sec 22, SENESW Sec 27 all in Twp 9S Rge 33E BM
- .vii Purpose and Period of Use:
 - Irrigation 3/15 - 11/15
- .viii Place of Use: 157 present and future acres.
- .ix Basis of Right: The basis of the right is the Winters Doctrine with the relative share and priorities of the water allocations determined by the Bannock Creek Decree [United States v. Daniels (D. Idaho April 9, 1907)].
- .x Remarks:

.6 Right No. 29-00468

- .i Source: Rattlesnake Creek
- .ii Annual Diversion Volume: 571 AFY

- .iii Diversion Rate: 3.00 CFS
- .iv Annual Volume of Consumptive Use: 340 AFY
- .v Priority Date: April 1, 1892
- .vi Existing Points of Diversion:
NENWSE Sec 32 Twp 7S Rge 33E BM
SWSWSE Sec 21, NESWNW Sec 25 (2 POD) all in
Twp 8S Rge 33E BM
NWSENE Sec 9, SWNESW Sec 22, SENESW Sec 27 all
in Twp 9S Rge 33E BM
- .vii Purpose and Period of Use:
Irrigation 3/15 - 11/15
- .viii Place of Use: 143 present and future acres.
- .ix Basis of Right: The basis of the right is the
Winters Doctrine with the relative share and
priorities of the water allocations determined
by the Bannock Creek Decree [United States v.
Daniels (D. Idaho April 9, 1907)].
- .x Remarks:

.7 Right No. 29-00469

- .i Source: West Fork Bannock Creek
- .ii Annual Diversion Volume: 190 AFY
- .iii Diversion Rate: 1.00 CFS
- .iv Annual Volume of Consumptive Use: 113 AFY
- .v Priority Date: May 1, 1894
- .vi Existing Points of Diversion:
NENWSE Sec 32 Twp 7S Rge 33E BM

TO AIR Eastern Region files

Contor, Bryce

From: Contor, Bryce
Sent: Friday, August 03, 2001 9:59
To: Carlson, Ron
Subject: RE: Barry T. Williams

Thanks, this helps.

-----Original Message-----

From: Carlson, Ron
Sent: Friday, August 03, 2001 8:50 AM
To: Contor, Bryce
Subject: RE: Barry T. Williams

Bryce

The oldest rights on Rattlesnake Ck have been diverted above the Reservation boundary. Barry Williams is a majority user in this diversion. He has been a major pain to deal with both on and off of the ditch which may be why the Tribe claimed right 29-00468. This is a 3.00 cfs right which in the 1990 Fort Hall agreement was listed in the rights of the tribe and given an 1867 reserved right priority. As I recall I questioned the tribe's claim to this right at the time but it is in the list of rights granted by the adjudication court. Because of this conflict I am still distributing water in the Bannock Ck drainage based upon the Bannock Creek decree. There is a 16.5 cfs water right on Bannock Creek that pre-dates all of the rights on Rattlesnake Creek (even before the agreement). When the flow on Bannock drops below 16.5 cfs then the tribe and BIA want Rattlesnake curtailed. The dispute arises over where and how the 16.5 cfs should be measured. I do not remember how 29-00466 relates to this. Sharla has a Rattlesnake file in her Special Area File drawer if you want to take a look at it.

Ron

-----Original Message-----

From: Contor, Bryce
Sent: Friday, August 03, 2001 8:29 AM
To: Carlsen, Ernie; Carlson, Ron; Tuthill, Dave
Cc: McHugh, Candice; Music, Vicky
Subject: Barry T. Williams

Cheri gave me a copy of the e-mail re: Barry Williams/Shoshone Bannock tribe and asked that I file it with claim 29-466, since that is in my geographic area.

There is no current claim in the name of Barry Williams for right 29-466, and we don't have the file for the tribe's claim here at the region.

Williams has claimed 29-10990, which is a combined claim for original decreed numbers 29-468 and 29-478. This is the only claim that appears under Mr. Williams' name with either the new system or the VAX. It is possible that Mr. Williams has additional claims under a corporate name but he has not indicated that to me. Shoshone-Bannock tribe is the only claimant that appears under a claims query under 29-466, though it is possible that a 10000-series claim applies to that decreed number. When I begin investigating Williams' claim I will query for all claims from the same source.

Mr. Williams represented to me that the conflict between himself and the tribe is over 29-468. He acknowledges that the tribe received 29-466 via a sale of part of the original ranch to which both were appurtenant. His representation is that Sarah Daniels retained 29-468 and sold it to his predecessors, he says the tribe contends 29-468 was conveyed to the tribe. He tells me that the tribe attempted to receive 29-468 in the Ft. Hall negotiation but that he prevailed. Vicky Music has given me 5/8" of materials from that file, which I haven't pawed through yet. If the documentation says what Williams says it does, I will continue to investigate his claim to see if all the other pieces fall into place.

Else Teton told me that the tribe intends to object to Barry Williams' filing, but she did not identify the

8/3/2001

Contor, Bryce

From: Contor, Bryce
Sent: Friday, August 03, 2001 8:29 AM
To: Carlsen, Ernie; Carlson, Ron; Tuthill,
Cc: McHugh, Candice; Music, Vicky
Subject: Barry T. Williams

Cheri gave me a copy of the e-mail re: Barry Williams/Shoshone Bannock tribe and asked that I file it with claim 29-466, since that is in my geographic area.

There is no current claim in the name of Barry Williams for right 29-466, and we don't have the file for the tribe's claim here at the region.

Williams has claimed 29-10990, which is a combined claim for original decreed numbers 29-468 and 29-478⁴⁷⁵. This is the only claim that appears under Mr. Williams' name with either the new system or the VAX. It is possible that Mr. Williams has additional claims under a corporate name but he has not indicated that to me. Shoshone-Bannock tribe is the only claimant that appears under a claims query under 29-466, though it is possible that a 10000-series claim applies to that decreed number. When I begin investigating Williams' claim I will query for all claims from the same source.

Mr. Williams represented to me that the conflict between himself and the tribe is over 29-468. He acknowledges that the tribe received 29-466 via a sale of part of the original ranch to which both were appurtenant. His representation is that Sarah Daniels retained 29-468 and sold it to his predecessors, but he says the tribe contends 29-468 was conveyed to the tribe. He tells me that the tribe attempted to receive 29-468 in the Ft. Hall negotiation but that he prevailed. Vicky Music has given me 5/8" of materials from that file, which I haven't pawed through yet. If the documentation says what Williams says it does, I will continue to investigate his claim to see if all the other pieces fall into place.

Else Teton told me that the tribe intends to object to Barry Williams' filing, but she did not identify the claim by number. Based on the conversation I had had with Williams, I assumed she meant the claim based on decreed right 29-468. I told her I would carefully review the documentation Vicky sent, and confer with Candice, before recommending anything to Williams.

Carlsen, Ernie

From: Tuthill, Dave
Sent: Wednesday, July 18, 2001 1:20 PM
To: Carlson, Ron
Cc: Carlsen, Ernie; McHugh, Candice
Subject: RE: Administration of Fort Hall Agreement

Hi, Ron.

Thanks for the heads-up. It sounds like for this year, the delivery to Mr. Williams is being allowed by the tribe -- perhaps the big fight will be over the recommendation of Mr. Williams' rights in the SRBA.

I am sending this email exchange to Ernie and Candice. We are aware that the interface between tribal and non-tribal rights will be a major focus in Basin 29. Perhaps we can use Mr. Williams' situation as a good case-in-point for an assessment of this interface, and we can take an early look at how our recommendations for him will be constructed.

Please advise if you think that this issue will be a focus of the tribe during this water year, in which case we might want to accelerate our efforts there.

Regards, Dave

-----Original Message-----

From: Carlson, Ron
Sent: Tuesday, July 17, 2001 2:42 PM
To: Tuthill, Dave
Subject: Administration of Fort Hall Agreement

Dave-

I have been meeting with the Tribal Water Committee four or five times during the past few months related to a number of matters including administration of non-Indian water rights above the reservation boundary. Their Engineer is Elese Teton and she and I have been trying to work out a process including deputizing someone to deliver both the state and Indian entitlements. I have done a couple tours of parts of the Reservation with her, the latest of which was today.

29-469?
Over the years there has been some issues with Berry Williams who diverts most of the water from upper Rattlesnake Creek. It appeared to me that all of the oldest water rights on Rattlesnake were owned by non-Indians for use on non-Indian lands. I remember during the negotiations that this issue arose and the tribe simply claimed Williams' right (A29-00466). I do not remember that there was much of a basis for this claim and I wondered then how the conflict would ever be resolved when we finally got around to the state rights portion of the adjudication. I currently am delivering this right to Berry Williams because it is part of the Bannock Creek Decree. However, it now exists in the both the Bannock Creek decree and the list of rights with changed priority that were given to the Indians pursuant to the 1990 Fort Hall Indian Agreement. Any thoughts about how to keep this train from wrecking? Is there anything I should communicate to Mr. Williams?

Ron

MEMO

February 1, 1994

RECEIVED

JUN 06 2001

Department of Water Resources
Eastern Region

To: Dave Shaw

From: Jeff Peppersack

Subject: Bureau of Indian Affairs' Analysis of Water Right Claim
No. A29-10990, Barry T. Williams

I have reviewed the BIA analysis of Barry Williams' claim and have found that the proration of the amount of water in the Bannock Creek Decree No. 29-00468 should be calculated differently than that which is suggested by BIA.

The BIA concluded that, "Since the Bannock Creek Decree does not specify which parcels should be served from each stream the water rights should be prorated among all the parcels listed in the decree." Although this proration may seem reasonable at first, it requires an assumption that it is both physically possible and logical that water from Rattlesnake Creek was used to irrigate the lands in Township 10S Range 33E Sections 2 and 11. A closer look revealed that although it may be physically possible to irrigate a small portion of those lands, it certainly is not logical that any of those lands were ever irrigated using water from Rattlesnake Creek.

The topography of the area would require that water be conveyed along the east side of Bannock Creek to the place of use and only those lands on the east side of Bannock Creek could be irrigated with that water. It does not seem logical, reasonable or practical to convey water from Rattlesnake Creek alongside Bannock Creek to the place of use; it is more likely that either the east side was never irrigated or it was irrigated with water directly from Bannock Creek.

Lands in sections 2 and 11 on the west side of Bannock Creek could not be irrigated with water from Rattlesnake Creek due to the physical constraint of Bannock Creek and the elevation of those lands.

Government plats (attached) of the area dated late 1890's and early 1900's show early development including ditch locations. The diversion from Rattlesnake Creek to the vicinity of Township 10S Range 33E Section 13 can be seen but no ditches are shown

From Fort Hall Settlement
Documents



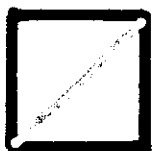
No. 399 Abstract of Title
Sarah E. Daniels 6/1929



Deed 51407^{3/1929} Daniels to Bolingbroke
Deed 51406_{10/1935} Bolingbroke to U.S.



Deed 55311^{11/1938} Daniels to Price



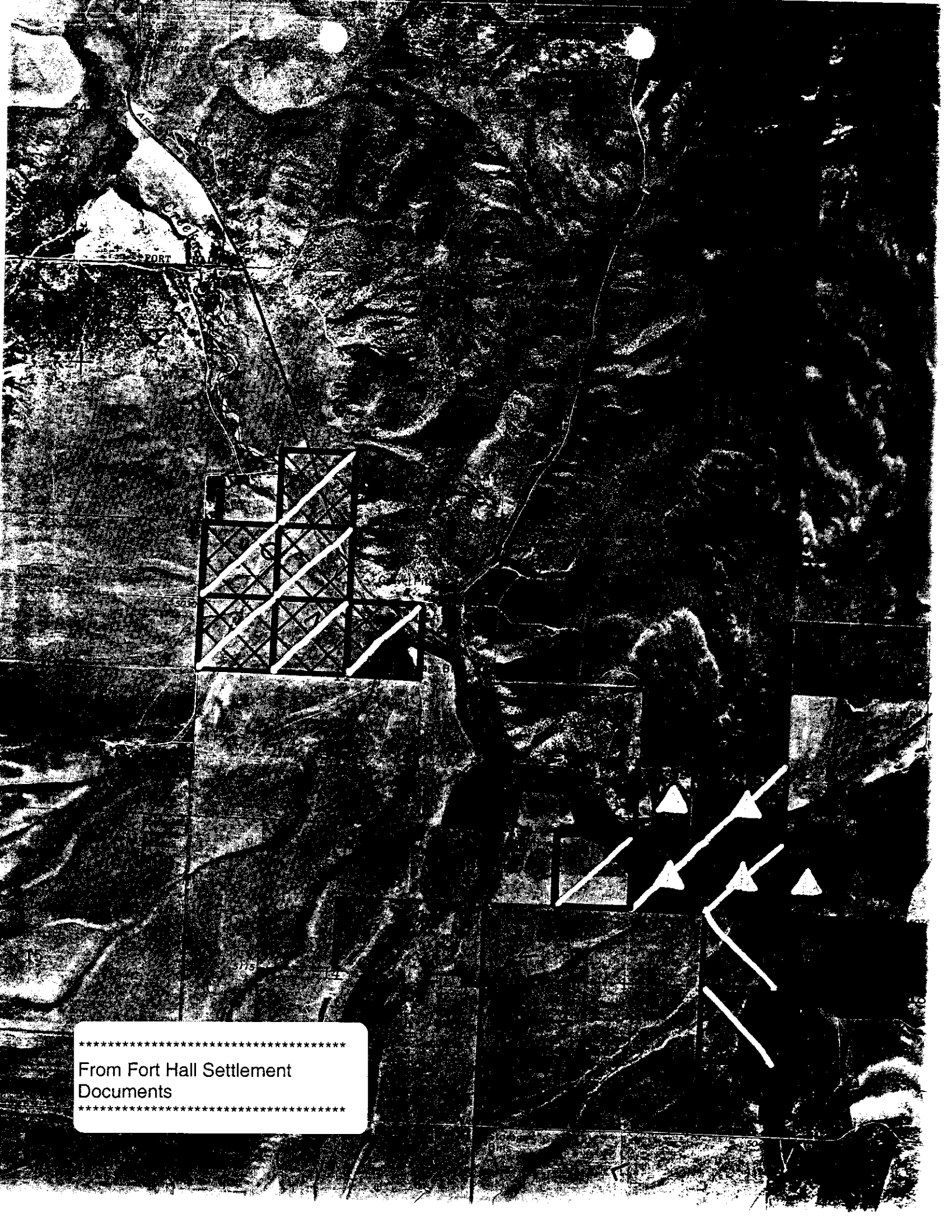
Decrees 29-0468 + 29-0469
(3 CFS RATTLESNAKE) (1 CFS W. FK. BANNOCK)



Decree 29-0475
(1.2 CFS RATTLESNAKE)



Claim A29-10990
Barry T. Williams



From Fort Hall Settlement
Documents



United States Department of the Interior

OFFICE OF THE SOLICITOR

SUITE 6201, FEDERAL BUILDING
125 SOUTH STATE STREET
SALT LAKE CITY, UTAH 84138

RECEIVED

JAN 20 1994

Department of Water Resources
Adjudication Bureau

January 18, 1994

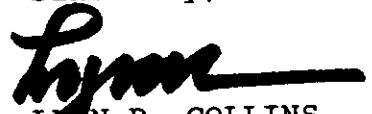
Clive J. Strong
Deputy Attorney General
Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
P.O. Box 44449
Boise, Idaho 83711-4449

Dear Clive:

Enclosed is an analysis prepared by the staff of the Portland Area Office, Bureau of Indian Affairs, of Barry Williams' water right claim for Rattlesnake Creek. As you will note, BIA disagrees significantly with Mr. Williams' claim as filed.

As the analysis concludes, Mr. Williams might be able to establish a right to 0.9 cubic feet per second (cfs) from Rattlesnake Creek under right number 29-00468, provided he can satisfactorily document title to three of the ten quarter-quarter sections listed in that right. It appears to us, however, that his claim of 4.2 cfs is not supported, at least by the evidence available to us.

Sincerely,


LYNN R. COLLINS
Regional Solicitor

Enclosures

LRC:mdn:1\18\94:Lynn:Letter to C. Strong

From Fort Hall Settlement
Documents

RECEIVED

JAN 20 1994

Analysis of
Water Right Claim of Barry T. Williams
No. A29-10990
Snake River Adjudication

Department of Water Resources
Adjudication Bureau

November 5, 1993

Bureau of Indian Affairs
Portland Area Office
Water Resources and Water Rights Section

According to Idaho Department of Water Resources Adjudication Claim Profile Report No. A29-10990 (Attachment 1), Barry T. Williams claims a diversion rate of 4.2 cubic feet per second (cfs) from Rattlesnake Creek. Remarks in the report indicate that this claim combines rights 29-00468 (3.0 cfs) and 29-0475 (1.2 cfs) described in the Bannock Creek Decree (United States, et al. v. George Daniels, et al., April 9, 1907).

In the 1990 Fort Hall Indian Water Rights Agreement right number 29-00468 is listed with a diversion rate of 3.0 cfs from Rattlesnake Creek and right number 29-00469 is listed with a diversion rate of 1.0 cfs from West Fork Bannock Creek. The places of use are not specified. The Agreement cites the Winters Doctrine and the Bannock Creek Decree as the bases of these rights. Attachment 2 is a copy of pages 25-27 of the 1990 Fort Hall Indian Water Rights Agreement.

The State of Idaho provided this office with several documents, which include:

- Bannock Creek Decree (Attachment 3);
- Warranty Deed No. 51406 (Attachment 4);
- Warranty Deed No. 51407 (Attachment 5);
- Warranty Deed No. 55311 (Attachment 6);
- Abstract of Title Sheet 9 (Attachment 7); and
- Legal descriptions depicting lands appurtenant to water rights in dispute (Attachment 8).

The Bannock Creek Decree (Attachment 3) shows right 29-0468 to include 3.0 cfs from Rattlesnake Creek with a date of April 1, 1892 and right 29-0469 to include 1.0 cfs from West Fork Bannock Creek with a date of May 1, 1894. Said waters to be used on and appurtenant to the following lands, which were owned by Thomas D. and Sarah Daniels:

From Fort Hall Settlement
Documents

Analysis of Water Right Claim of Barry T. Williams, No. A29-10990,
in the Snake River Adjudication
Page 2 of 4

NE1/4 NW1/4 Sec. 13, Twp. 10S, Rng. 33E
N1/2 NE1/4 Sec. 13, Twp. 10S, Rng. 33E
SE1/4 SE1/4 Sec. 12, Twp. 10S, Rng. 33E
NW1/4 Sec. 11, Twp. 10S, Rng. 33E
SW1/4 NE1/4 Sec. 11, Twp. 10S, Rng. 33E
SE1/4 SW1/4 Sec. 2, Twp. 10S, Rng. 33E.

The Bannock Creek Decree (Attachment 3) shows right 29-0475 to include 1.2 cfs from Rattlesnake Creek with a date of April 1, 1892. Said water to be used on and appurtenant to the following lands, which were owned by J.W. Lusk:

SE1/4 NE1/4 Sec. 13, Twp. 10S, Rng. 33E
NE1/4 SE1/4 Sec. 13, Twp. 10S, Rng. 33E.

The Abstract of Title, dated June 7, 1929, (Attachment 7) describes Sarah Daniels as the sole heir of Thomas D. Daniels and describes the following lands as having been their community property:

SE1/4 SE1/4 Sec. 12, Twp. 10S, Rng. 33E
N1/2 NE1/4 Sec. 13, Twp. 10S, Rng. 33E
Lot 1 Sec. 18, Twp. 10S, Rng. 34E

containing 153.07 acres with an unspecified volume of water from "Rattle Snake Canyon;" and

SE1/4 SW1/4 Sec. 2, Twp. 10S, Rng. 33E.
NW1/4 Sec. 11, Twp. 10S, Rng. 33E
SW1/4 NE1/4 Sec. 11, Twp. 10S, Rng. 33E

containing 240.0 with an unspecified volume of water from "West Fork Canyon [sic]." Since the Bannock Creek Decree does not specify which parcels should be served from each stream the water rights should be prorated among all the parcels listed in the Decree.

Warranty Deed 51407 (Attachment 5), dated March 27, 1929, transferred the following described lands from the ownership of Sarah Daniels to Alfred Bolingbroke:

SE1/4 SW1/4 Sec. 2, Twp. 10S, Rng. 33E.
NW1/4 Sec. 11, Twp. 10S, Rng. 33E
SW1/4 NE1/4 Sec. 11, Twp. 10S, Rng. 33E

with all water and water rights "...particularly an independent water right of Fifty (50) inches [1.0 cfs as defined in the Decree] of the flow of the waters of what is known as West Fork Canyon Creek...." Warranty Deed 51406 (Attachment 4), dated October 12, 1935, transferred ownership of those same lands from

From Fort Hall Settlement
Documents

Alfred Bolingbroke to the United States "...with all and singular,
the tenements, hereditaments and appurtenances...."

Warranty Deed 55311 (Attachment 6), dated November 18, 1938,
transferred the following described lands from the ownership of
Sarah Daniels to the ownership of John D. Price:

SE1/4 SE1/4 Sec. 12, Twp. 10S, Rng. 33E
N1/2 NE1/4 Sec. 13, Twp. 10S, Rng. 33E
Lot 1 Sec. 18, Twp. 10S, Rng. 34E
SW1/4 SE1/4 Sec. 12, Twp. 10S, Rng. 33E.

"Together with all water appurtenant thereto, or used in connection
therewith." The legal descriptions provided by the State
(Attachment 8) suggest that these lands were subsequently sold to
D. T. Williams and then passed to Barry Williams; however, the
legal descriptions do not accurately reflect the lands described in
Warranty Deed 55311.

Three of the quarter-quarter sections listed in Claim Profile
Report No. A29-10990 (Barry T. Williams) are found in right 29-0468
as decreed by Judge Beatty. These are:

SE1/4 SE1/4 Sec. 12, Twp. 10S, Rng. 33E
NE1/4 NE1/4 Sec. 13, Twp. 10S, Rng. 33E
NW1/4 NE1/4 Sec. 13, Twp. 10S, Rng. 33E.

The other two quarter-quarter sections listed in Claim Profile
Report No. A29-10990 (Barry T. Williams) are listed under neither
right 29-0468, 29-0469, nor 29-0475 in the Bannock Creek Decree.
None of the quarter-quarter sections listed in Claim Profile Report
No. A29-10990 (Barry T. Williams) is listed under right 29-0475 in
the Bannock Creek Decree.

The Bannock Creek Decree does not specify which lands described in
rights 29-0468 and 29-0469 are to be served from each stream. The
language in Warranty Deed 51407 suggests that the entire 1.0 cfs
from West Fork Bannock Creek was transferred to Bolingbroke and
thence to the United States and that a prorated share of the 3.0
cfs from Rattlesnake Creek was also transferred to Bolingbroke and
thence to the United States. Therefore, the United States should
claim the entire 1.0 cfs from the West Fork of Bannock Creek
decreed as right number 29-00469 and 1.8 cfs from Rattlesnake
Creek, based on ownership of six out of the ten quarter-quarter
sections listed in right number 29-00468. That is, a U.S. claim of
2.8 cfs based on rights 29-00468 and 29-00469 as described in the
Bannock Creek Decree.

Analysis of Water Right Claim of Barry T. Williams, No. A29-10990,
in the Snake River Adjudication
Page 4 of 4

Mr. Williams may be able to claim 0.9 cfs from Rattlesnake Creek based on a demonstration of ownership of three out of ten quarter-quarter sections listed in 29-00468. We do not have confirmation of Mr. Williams' title to the lands for which water right 29-0468 was decreed. The information available to us provides no information on the basis for Barry T. Williams' claim for water right 29-0475.

From Fort Hall Settlement
Documents

DATE: 09/11/92
PAGE: 6

IDAHO DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM PROFILE REPORT

AJS809WP
No. A29-10990

OWNER CODE NAME & ADDRESS
C BARRY T. WILLIAMS
1277 WINK CREEK RD
ARBON ID 83212
(208) 335-2356

PRIORITY DATE WATER USE
04/01/1892 IRRIGATION

USE PERIOD FROM TO
04-01 11-01

DIVERSION RATE
4.20 CFS

DIVERSION VOLUME
4.20 CFS

TOTAL DIVERSION:
CONSUMPTIVE USE: 475.0 AFA

Water Source: RATTLESNAKE CREEK Tributary to: BANNOCK CREEK Stage: DECREEED
Point(s) of Diversion: T09S R34E S35 NESUSE POWER County

Place of Use Legal Description for: IRRIGATION

NE		NW		SW		SE	
T	R	S	Ac	Lt	Ac	Lt	Ac
10S 33E 12	40	40	40	40	40	40	40
10S 33E 13	40	40	40	40	40	40	40
10S 34E 18	40	40	40	40	40	40	40
TOTAL ACRES							190.0

POU County: POWER

Non-Irrigation Uses: NONE

Other Rights: NONE

Remarks: THIS RIGHT COMBINES 29-00463 AND 29-00475

Dates: Exam Made Date: Verified Date: 06/24/1985

Misc: Water District Number: Field Inspection Flag: Presumption Flag:

From Fort Hall Settlement
Documents

SWSWSE Sec 21, NESWNW Sec 25 (2 POD) all in
Twp 8S Rge 33E BM

NWSENE Sec 9, SWNESW Sec 22, SENESW Sec 27 all
in Twp 9S Rge 33E BM

.vii Purpose and Period of Use:

Irrigation 3/15 - 11/15

.viii Place of Use: 48 present and future acres.

.ix Basis of Right: The basis of the right is the
Winters Doctrine with the relative share and
priorities of the water allocations determined
by the Bannock Creek Decree (United States v.
Daniels (D. Idaho April 9, 1907)).

.x Remarks:

.8 Right No. 29-00470

.i Source: West Fork Bannock Creek

.ii Annual Diversion Volume: 248 AFY

.iii Diversion Rate: 1.30 CFS

.iv Annual Volume of Consumptive Use: 147 AFY

.v Priority Date: April 1, 1894

.vi Existing Points of Diversion:

NENWSE Sec 32 Twp 7S Rge 33E BM

SWSWSE Sec 21, NESWNW Sec 25 (2 POD) all in
Twp 8S Rge 33E BM

NWSENE Sec 9, SWNESW Sec 22, SENESW Sec 27 all
in Twp 9S Rge 33E BM

From Fort Hall Settlement
Documents

- .iii Diversion Rate: 3.00 CFS
- .iv Annual Volume of Consumptive Use: 340 AFY
- .v Priority Date: April 1, 1892
- .vi Existing Points of Diversion:
NENWSE Sec 32 Twp 7S Rge 33E BM
SWSWSE Sec 21, NESWNW Sec 25 (2 POD) all in
Twp 8S Rge 33E BM
NWSENE Sec 9, SWNESW Sec 22, SENESW Sec 27 all
in Twp 9S Rge 33E BM
- .vii Purpose and Period of Use:
Irrigation 3/15 - 11/15
- .viii Place of Use: 143 present and future acres.
- .ix Basis of Right: The basis of the right is the
Winters Doctrine with the relative share and
priorities of the water allocations determined
by the Bannock Creek Decree [United States v.
Daniels (D. Idaho April 9, 1907)].
- .x Remarks:

.7 Right No. 29-00469

- .i Source: West Fork Bannock Creek
- .ii Annual Diversion Volume: 190 AFY
- .iii Diversion Rate: 1.00 CFS
- .iv Annual Volume of Consumptive Use: 113 AFY
- .v Priority Date: May 1, 1894
- .vi Existing Points of Diversion:
NENWSE Sec 32 Twp 7S Rge 33E BM

From Fort Hall Settlement
Documents

.5 Right No. 29-00467

- .i Source: Bannock Creek, West Fork Bannock Creek
- .ii Annual Diversion Volume: 629 AFY
- .iii Diversion Rate: 3.30 CFS
- .iv Annual Volume of Consumptive Use: 374 AFY
- .v Priority Date: April 1, 1889
- .vi Existing Points of Diversion:
 NENWSE Sec 32 Twp 7S Rge 33E BM
 SWSWSE Sec 21, NESWNW Sec 25 (2 POD) all in
 Twp 8S Rge 33E BM
 NWSENE Sec 9, SWNESW Sec 22, SENESW Sec 27 all
 in Twp 9S Rge 33E BM
- .vii Purpose and Period of Use:
 Irrigation 3/15 - 11/15
- .viii Place of Use: 157 present and future acres.
- .ix Basis of Right: The basis of the right is the
Winters Doctrine with the relative share and
 priorities of the water allocations determined
 by the Bannock Creek Decree [United States v.
Daniels (D. Idaho April 9, 1907)].
- .x Remarks:

.6 Right No. 29-00468

- .i Source: Rattlesnake Creek
- .ii Annual Diversion Volume: 571 AFY

IN THE CIRCUIT COURT OF THE UNITED STATES, IN AND FOR
OF IDAHO, SOUTHERN DIVISION.

UNITED STATES, and Pontalio Tom,
Snooks Mosho, Emby Pocstello, and
Joe Yupe, on behalf of themselves
and their other members of the Ban-
nock and Shoshone Tribes of Indians;

Complainants

vs.

George Daniels, Tom Williams, J. H.
Daniels, Tom Daniels, Henry Daniels,
David M. Daniels, John Bollenbrooke,
and J. W. Lusk;

Respondents;

(In Equity)

DECREE.

This cause came on for hearing, this the 20th day of March, 1907, before the Hon. James H. Beatty, presiding, and was heard upon the bill, answers, cross-bills, exhibits, agreements of the parties, proof in the cause and arguments of counsel;

And it appearing to the court that the true names of the above named defendants are, George Daniels, Thomas J. Williams, John M. Daniels, Thomas D. Daniels, Henry Daniels, David M. Daniels, John Bollenbrooke and J. W. Lusk;

And it further appearing that by order of this court, duly made and entered on the 6th day of October, 1904, Jeannette Price, Sarah E. Daniels David Bollenbrooke, Mary E. Bollenbrooke, Cortrude Daniels, George Bradley, (whose true name is George W. Bradley) Henry Meadows (whose true name is J. H. Meadows) Ed Verley, (whose true name is E. E. Verley), John Snyder, (whose true name is J. C. Snyder), T. E. Davis, (whose true name is D. T. Davis), Charles Bailey, John Gibbons, Thomas Gibbons, Julius Aberture, and William Orin, were brought into said action as parties thereto;

And it further appearing that all of said last named parties so brought in as aforesaid, were duly served with process in said cause, and the said Jeannette Price, Sarah E. Daniels, Mary E. Bollenbrooke, Cortrude Daniels, George W. Bradley, J. H. Meadows, W. E. Verley, and W. C. Snyder thereafter duly appeared by their respective counsel and filed their several answers and cross-bills herein;

And it further appearing that the said D. T. Davis, Charles Bailey, John Gibbons, Thomas Gibbons, Julius Aberture and William Orin, have failed to file any plea, demurrer, or answer, and the time for such appearance and plea having expired, a judgment pro confesso was duly entered against said last named parties, and the bill of complaint and the several cross-bills taken as confessed by them;

And it further appearing that the bill filed herein and the several cross-bills, were and are for the purpose of quieting the title and right of the several parties to said action, to the use of the waters of Bannock Creek, and its tributaries, streams lying within Oneida County, State of Idaho;

IT IS THEREFORE ADJUDGED, ORDERED AND DECREED AS FOLLOWS:

That the United States of America, as guardian and trustee of the Bannock and Shoshone tribes of Indians, occupying the Fort Hall Indian Reservation, in the State of Idaho, and said complaint

From Fort Hall Settlement
Documents

29 0466 Indians are entitled, at all times, for the use and benefit of said Indians, for irrigating the lands lying adjacent to said Lannock Creek, and for domestic and stock purposes, to sixteen and one-fourth cubic feet per second of time of the waters of said Lannock Creek and its tributaries, a stream flowing through the western part of the Fort Hall Indian Reservation and into the Portneuf River, in Cassia County, State of Idaho; said right to date from the 1st day of April, 1887, and to be the first and prior right to all other rights to the use of the waters of said stream; and in addition to the above allowance, the said complainants are allowed an additional one inch for each additional acre of land, over and above what they now have in cultivation, which they shall cause to be put into cultivation within two years from the first day of May, 1907, but not to exceed one hundred inches, or their equivalent two cubic feet flow per second of time. That subject to said prior rights of the complainants as above decreed, it is further ordered, adjudged and decreed, that the defendants, as among themselves, shall be allowed and decreed any of the waters of said creeks and streams remaining after complainants shall have received their amount, above decreed to them, as follows, to-wit: the said David M. Daniels and Gertrude Daniels, husband and wife, are entitled, at all times, for the irrigation of the lands hereinafter described and for stock purposes thereon, to the use of three and three-tenths (3.3) cubic feet per second of time of the waters of said Lannock Creek and its tributaries, said right to date from the 1st day of April, 1889, said water to be diverted from said stream and its tributaries as follows: four-fifths of one cubic foot per second of time to be diverted from what is known as the main channel of said Lannock Creek, flowing north and south, through the lands of the said David M. Daniels and Gertrude Daniels, hereinafter described, and two and one-half per second of time of what is known as the West Fork of said Lannock Creek; all of said water to be used upon and become appurtenant to the following described lands, the community property of the said David M. Daniels and Gertrude Daniels, to-wit: The West half of the southwest quarter, the southwest quarter of the northeast quarter, and lot four of section two; and the east half of the southeast quarter and the south half of the northeast quarter, and lot one of section three; all in Township ten, south of Range thirty-three East of Boise Meridian in Oneida County, State of Idaho;

29 0468 That said Thomas D. Daniels and Sarah Daniels, husband and wife, are entitled, at all times, for the irrigation of the lands hereinafter described, and for stock purposes thereon, to the use of four cubic feet per second of time of the waters of said Lannock Creek and its tributaries; said right to date and said water to be diverted as follows: three cubic feet per second of time to be diverted from Huttlesboro Creek, a tributary of said Lannock Creek, and to date from the 1st day of April, 1892, and one cubic foot per second of time to be diverted from the West Fork of said Lannock Creek, and to date from the 1st day of May, 1894; all of said water to be used upon and become appurtenant to the following described lands; the community property of said Thomas D. Daniels and Sarah Daniels, to-wit: The northeast quarter of the northwest quarter and the north half of the northeast quarter of section thirteen, and the southeast quarter of the southeast quarter of section twelve, in Township ten, south of Range thirty-three East of Boise Meridian; and the northwest quarter, and the southwest quarter of the northeast quarter of section eleven, and the southeast quarter of the southwest quarter of section two, in said Township and Range; in Oneida County, State of Idaho;

29 0470 That said Jeannette Price, is entitled, at all times, for the irrigation of her lands hereinafter described, and for domestic and stock purposes thereon, to the use of one and three-tenths (1.3) cubic feet per second of time, of the waters of the West Fork of said Lannock Creek, her right to date from the 1st day of April, 1894, to be used upon and become appurtenant to the following described lands, to-wit: The south half of the southeast quarter and the northeast quarter of the southeast quarter, and the southeast quarter of the southeast quarter of section four, in Township ten, south of Range thirty-three East of Boise Meridian, in Oneida County, Idaho;

29 0471 That the said Henry Daniels is entitled, at all times for the irrigation of his lands hereinafter described, and for domestic and

stock purposes thereon, to the use of one and three tenths (1.3) cubic feet per second of time, of the waters of the West Fork of said Hannock Creek, his right to date from the 1st day of April, 1894, to be used upon and become appurtenant to the following described lands, to-wit: The south half of the northwest quarter and the northwest quarter of the southwest quarter of section three, and the northeast quarter of the southeast quarter of section four, Township ten, South of Range thirty-three East of Boise Meridian, in Oneida County, Idaho;

29 0472 That said George Daniels is entitled, at all times, for the irrigation of his lands hereinafter described, and for domestic and stock purposes thereon, to the use of one cubic foot per second of time, of the waters of said West Fork of said Hannock Creek, said right to date from the 1st day of April, 1898 to be used upon and become appurtenant to the following described lands, to-wit: The southwest quarter of section five, in township ten, south of Range thirty-three, East Boise Meridian, in Oneida County, State of Idaho;

29 0473 That the said John M. Daniels, is entitled at all times, for the irrigation of his lands hereinafter described, and for domestic and stock purposes thereon, to the use of one cubic foot per second of time, of the waters of said West Fork of said Hannock Creek, said right to date from the 1st day of April, 1898, to be used upon and become appurtenant to the following described lands, to-wit: The west half of the southwest quarter of section four, and the north half of the northwest quarter of section nine, in Township ten, South of Range thirty-three, East of Boise Meridian, in Oneida County, Idaho;

29 0474 That the said Thomas J. Williams is entitled at all times, for the irrigation of his lands hereinafter described, and for domestic and stock purposes thereon, to the use of one cubic foot per second of time of the waters of said West Fork of said Hannock Creek, said right to date from the 1st day of April, 1901, to be used upon and become appurtenant to the following described lands, to-wit: the northeast quarter of the southwest quarter, and the southeast quarter of the northwest quarter, and the south half of the northeast quarter of section four, in Township ten, South of Range thirty-three East of Boise Meridian, in Oneida County, State of Idaho;

29 0475 That the said J. W. Lusk is entitled at all times, for the irrigation of his lands hereinafter described, and for domestic and stock purposes thereon, to the use of one and one-fifth (1.2) cubic feet per second of time of the waters of Hattlesnake Creek, a tributary of said Hannock Creek, said right to date from the 1st day of April, 1892, to be used upon and become appurtenant to the following described lands, to-wit: The southeast quarter of the northeast quarter and the northeast quarter of the southeast quarter of section thirteen, in Township ten, South of Range thirty-three East of Boise Meridian, in Oneida County, State of Idaho;

29 0476 That said John Bolingbroke is entitled at all times, for the irrigation of his lands hereinafter described, and for domestic and stock purposes thereon, to the use of two cubic feet per second of time of the waters of said Hattlesnake Creek, a tributary of said Hannock Creek, said right to date from the 1st day of April, 1892, to be used upon and become appurtenant to the following described lands, to-wit: Lot four and the southeast quarter of the southwest quarter of section seven, and the northeast quarter of the northwest quarter, and the northwest quarter of the northeast quarter of section eighteen, in Township ten, South of Range thirty-four East of Boise Meridian, in Oneida County, Idaho;

29 0477 That said David Bolingbroke and Mary E. Bolingbroke, husband and wife, are entitled at all times, for the irrigation of their lands hereinafter described, and for domestic and stock purposes thereon, to the use of seven-tenths of one cubic foot per second of time, of the waters of said Hattlesnake Creek, a tributary of said Hannock Creek, their right to the use of the same to date from the 1st day of April, 1897, to be used upon and become appurtenant to the following described lands, the community property of the said David and Mary E. Bolingbroke, to-wit: Lot three and the northeast quarter of the southeast quarter, and the northwest quarter of the southeast quarter, and the south half

of the northeast quarter, and the northeast quarter of the northeast quarter of section seven, and the northeast quarter of the northeast quarter of section eight, in Township ten, South of Range thirty-four East of Boise Meridian, in Oneida County, Idaho;

29 0478 That said W. C. Snyder is entitled, at all times, for the irrigation of his lands hereinafter described, and for domestic and stock purposes thereon, to the use of one and one-fifth cubic foot per second of time of the waters of said Battlesnake Creek, a tributary of said Bannock Creek, said right to date from the 29th day of September, 1902, to be used upon and become appurtenant to the following described lands, to-wit: The northeast quarter of the northwest quarter and the north half of the northeast quarter and the southeast quarter of the northeast quarter of section seventeen, in Township nine, South of Range thirty-four East of Boise Meridian, in Oneida County, Idaho;

29 0479 That said George W. Bradley is entitled, at all times, for the irrigation of his lands hereinafter described, and for domestic and stock purposes thereon, to the use of two-fifths of one cubic foot per second of time of the waters of said Battlesnake Creek, a tributary of said Bannock Creek, said right to date from the 1st day of May, 1902, to be used upon and become appurtenant to the following described lands, to-wit: The northwest quarter of the northeast quarter and the northeast quarter of the northeast quarter section ten, in Township ten, South of Range thirty-four East of Boise Meridian, in Oneida County, Idaho;

29 0480 That said J. H. Meadows is entitled, at all times, for the irrigation of his lands hereinafter described, and for domestic and stock purposes thereon, to the use of three-fifths of one cubic foot per second of time of the waters of Battlesnake Creek, a tributary of Bannock Creek, said right to date from the 1st day of October, 1903, to be used upon and become appurtenant to the following described lands, to-wit: The east half of the southeast quarter of section eight, in Township nine, South of Range thirty-four East of Boise Meridian, in Oneida County State of Idaho;

29 0481 That said W. E. Verley is entitled at all times, for the irrigation of his lands hereinafter described, and for domestic and stock purposes thereon, to the use of three-fifths of one cubic foot per second of time, of the waters of said Battlesnake Creek, a tributary of said Bannock Creek, said right to date from the 1st day of October, 1903, to be used upon and become appurtenant to the following described lands, to-wit: The southeast quarter of the southeast quarter of section six, and the northeast quarter of the northeast quarter of section seven, in Township nine, South of Range thirty-four East of Boise Meridian, in Oneida County, State of Idaho.

That any of the foregoing respondents and cross-complainants, who are entitled to the use of any of the waters of said Bannock Creek or its tributaries, as herein decreed, may pool or unite the waters so decreed to them respectively, and use the same jointly or alternately, or in any manner that will secure the greatest benefits and best results in the use of said water, so that the waters so united or pooled, do not exceed in the aggregate the amount so decreed to the parties entering into such arrangements.

That the said D. T. Davis, Charles Bulloy, John Gibbons, Thomas Gibbons, Julius Aberture and William Oxin, have no right, title, interest or claim in or to the use of any of the waters of said Bannock Creek, or its tributaries, and are hereby forever enjoined from in any manner diverting or using the same to the injury of any of the parties to whom the rights to the use of said waters are herein decreed;

That each and every of the parties hereto, their agents, servants, employees, attorneys, counselors, heirs, administrators, successors and assigns, and all and every person or persons acting by, or under, or in assistance of them or any of them, be and they are hereby forever and perpetually restrained and enjoined from in any manner using the waters of said Bannock Creek or any of its tributaries, in any other quantity or in any other manner than is herein set out, defined and decreed, and each of the parties hereto shall respect the superior rights of all others under this decree. This decree must be construed in connection with the opinion filed herewith in this cause.

From Fort Hall Settlement
Documents

That the costs herein shall be paid by the respective parties in the amount which each of them has incurred.

Done in open Court on this the 9 day of April, 1907.

Jas. H. Beatty, District Judge.

From Fort Hall Settlement

Documents

IN WITNESS WHEREOF, we hereunto set my hand and seal
and year in this certificate above written.

Attachment 4

(Seal)

W. W. HOWARD, Proba
Idaho.

Recorded at the request of Jones, Pomeroy & Jones at 9 05 o'clock A. M. this 22nd day of
October, 1935, in Book 86 of Deeds, at page 621.

H. C. Allen, Recorder.

By E. C. Winter, Deputy.

Instrument No. 51406.

INDEXED WARRANTY DEED

COMPARED

THIS INDENTURE, made this 12th day of October in the year of our Lord, One Thousand
Nine Hundred and thirty-five, between Alfred Bolingbroke, a bachelor, of Arbon, County of
Power, State of Idaho the party of the first part, and United States of America the party
of the second part.

WITNESSETH, That the said party of the first part, for and in consideration of the
sum of Seventy-five Hundred Ninety-three and 60-100ths DOLLARS, lawful money of the
United States of America, to him in hand paid by the said party of the second part, the
receipt whereof is hereby acknowledged does by these presents, Grant, Bargain, Sell and
Convey and Confirm unto said party of the second part, and to its successors and assigns
forever. All those certain lots, pieces or parcels of land situate, lying and being in
the County of Power, State of Idaho, bounded and more particularly described as follows,
to-wit:

The Southeast Quarter of the Southwest Quarter of Section Two, the North-
west Quarter, and the Southwest Quarter of the Northeast Quarter of Section
Eleven, all in Township Ten South of Range Thirty-three, East of the Boise
Meridian in Idaho.

U. S. I. R. Stamps in the amount of \$2.00 affixed and cancelled.

Together with all and singular, the tenements, hereditaments and appurtenances ther-
unto belonging or in anywise appertaining, and the rents, issues and profits thereof.

TO HAVE AND TO HOLD, all and singular, the said premises, together with the appur-
tenances and privileges thereunto incident unto the said party of the second part, and to
its successors and assigns forever and the said party of the first part, and his heirs
and assigns warrant the said premises in the quiet and peaceable possession of the said
party of the second part, its successors and assigns against the said party of the first
part, and his heirs and assigns and against all and every person or persons whomsoever,
lawfully claiming or to claim the same, shall and will warrant and by these presents for-
ever defend.

IN WITNESS WHEREOF, The said party of the first part has hereunto set his hand and
seal the day and year first above written.

Signed, Sealed and Delivered in the
Presence of.

ALFRED BOLINGBROKE

From Fort Hall Settlement
Documents

THIS INDENTURE, Made this 27th day of March in the year of our Lord one thousand nine hundred and twenty-nine between Sarah E. Daniels, a widow of Malad City, County of Oneida State of Idaho, the party of the first part, and Alfred Bollingbroke of Pauline, County of Power, State of Idaho, the party of the second part.

WITNESSETH, That the said party of the first part, for and in consideration of the sum of Four Thousand & No-100 DOLLARS lawful money of the United States of America, to her in hand paid by the said party of the second part, the receipt whereof is hereby acknowledged, has granted, bargained and sold, and by these presents does grant, bargain, sell, convey and confirm unto the said party of the second part, and to his heirs and assigns forever, all the following described real estate, situated in Power County, State of Idaho, to-wit:

The Southeast quarter of the Southwest quarter of Section Two (2), and the Northwest quarter, and the Southwest quarter of the Northeast quarter of Section Eleven (11), in Township Ten (10) South, of Range Thirty-three (33) East of the Boise Meridian, Idaho, containing (240) acres.

the right, title, and interest of grantor in all Together with all water and water rights thereunto belonging or in anywise used in connection therewith, particularly an independent water right of Fifty (50) inches of the flow of the waters of what is known as West Fork Canyon Creek, in Power County, Idaho.

TOGETHER With all and singular the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining, the reversion and reversions, remainder and remainders, rents, issues and profits thereof, and all estate, right, title and interest in and to the said property, as well in law as in equity, of the said party of the first part.

TO HAVE AND TO HOLD, All and singular the above mentioned and described premises, together with the appurtenances, unto the party of the second part, and to his heirs and assigns forever. And the said party of the first part, and her heirs, the said premises in the quiet and peaceable possession of the said party of the second part, his heirs and assigns, against the said party of the first part, and her heirs, and against all and every person and persons whomsoever, lawfully claiming or to claim the same, shall and will WARRANT and by these presents forever DEFEND.

IN WITNESS WHEREOF, The said party of the first part have hereunto set her hand and seal the day and year first above written.

Signed, Sealed and Delivered in the Presence of. SARAH E. DANIELS
GUY BOLLINGBROKE
LEWIS DANIELS
JNO. W. CLARK

STATE OF IDAHO

County of Oneida.

On this 27th day of March, in the year 1929, before me, Jno. W. Clark, a Notary Public for said State, personally appeared Sarah E. Daniels, a widow known to me (or proved to me on the oath of--- to be the person whose name is subscribed to the within instrument, and acknowledged to me that she executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.

(Seal)

JNO. W. CLARK, Notary Public in and for the State of Idaho, residing at Malad City, Oneida County therein.

Recorded at the request of Jones, Fomeroy & Jonen at 9.10 o'clock A. M. this 22nd day of October, 1935, in Book 66 of Records, at page 623.

H. C. Allen, Ex-Officio Recorder.

by H. C. Winter, Deputy

51407

From Fort Hall Settlement
Documents

Instrument No. 55311 INDEXED

WARRANTY DEED

UNRECORDED

THIS INDENTURE, made this eighteenth day of November in the year of our Lord, One thousand Nine Hundred and Thirty-eight, between SARAH E. LATTIN, a widow of Pocatello, County of Bannock, State of Idaho the party of the first part, and JOHN D. FRICK of Arbon, County of _____ State of Idaho, the party of the second part:

WITNESSETH: That the said party of the first part, for and in consideration of the sum of FIVE THOUSAND FIVE HUNDRED and no/100 DOLLARS, lawful money of the United States of America, to her in hand paid by the said party of the second part, the receipt whereof is hereby acknowledged does by these presents, Grant, Bargain, Sell and Convey and Confirm unto said party of the second part, and to his heirs and assigns forever: All those certain lots, pieces or parcels of land situate, lying and being in the County of Power State of Idaho, bounded and more particularly described as follows, to-wit:

The Southeast Quarter of the Southeast Quarter of Section 12, Township 10 South, Range 33 E.B.M.; the North Half of the Northeast Quarter of Section 13, Township 10 South, Range 33, E.B.M.; Lot 1, Section 16, Township 10 South, Range 34, E.B.M.; the Southwest Quarter of the Southeast Quarter, Section 12, Township 10 South, Range 33, E.B.M.

Together with all water appurtenant thereto, or used in connection therewith.

Together with all and singular, the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining, and the rents, issues and profits thereof.

TO HAVE AND TO HOLD, all and singular, the said premises, together with the appurtenances and privileges thereunto incident unto the said party of the second part, and to his heirs and assigns forever and the said party of the first part, and her heirs warrant the said premises in the quiet and peaceable possession of the said party of the second part, his heirs and assigns against the said party of the first part, and her heirs and against all and every person or persons whomsoever, lawfully claiming or to claim the same, shall and will warrant and by these presents forever defend.

IN WITNESS WHEREOF, the said party of the first part has hereunto set her hand and seal the day and year first above written.

Signed, Sealed and Delivered in
the presence of

SARAH E. LATTIN

U. S. T. R. Stamps in the amount of \$3.50 affixed and cancelled.

STATE OF IDAHO,

ss:

County of Bannock.

On this 18th day of November, in the year 1938, before me C. W. Pomeroy, a Notary Public in and for said County and State, personally appeared SARAH E. LATTIN, a widow known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that she executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.

(Seal)

C. W. POMEROY, Notary Public.
Residence Pocatello, Idaho.

Recorded at the request of Jones, Pomeroy & Jones at 9:15 o'clock A.M. this 5th day of December, 1938, in Book 91 of Deeds, at page 431. Fee \$1.20

E. S. ALLEN, Ex-Officio Recorder.

By Hazel Stuart, Deputy

Instrument No. 55317

WARRANTY DEED

UNRECORDED

THIS INDENTURE, Made this 28th day of July in the year of our Lord one thousand nine hundred and thirty-two, between Peter Larsen and his wife Ann Larsen of Arbon, County of Cassia, State of Idaho, the parties of the first part, and Guy Larsen of Arbon County of Cassia, State of Idaho the party of the second part.

WITNESSETH, That the said parties of the first part, for and in consideration of

From Fort Hall Settlement
Documents

appointed according to law and said appraisers having returned said in Attachment 7 appraisement together with a copy, placing value on said property on the 1st day, 1929; and thirty days having expired from the filing of such appraisement, and no written objections having been filed as provided by law; And after due consideration by the court;

"It is hereby ordered, That the report and return of appraisement of said appraisers in said estate, be and the same are hereby confirmed; and the value of the property hereinafter described, is assessed and fixed at the sum of Eight Thousand & no/100 Dollars, (\$8000.00).

The said property is described and appraised as follows: The Southeast quarter of the Southeast quarter of Section 12, and the Northhalf of the Northeast quarter of Section 13, in township 10 South of Range 33 East and the Lot one of Section 18 in township 10 South of Range 34 East of the Boise Meridian, Idaho, containing, 153.07 acres. Together with _____ inches water Battle Snake Canyon. Appraised \$4500.00

Also the Southeast quarter of the Southwest quarter of Section 2, and the Northwest quarter and the Southwest quarter of the Northeast quarter of Section 11 in township 10 South of Range 33 East of the Boise Meridian, Idaho, containing 240 acres, together with _____ water west Fork Canyon Appraised \$3500.00.

"Dated this 7th day of June, 1929. R. O. Jones, Probate Judge (Court Seal)

Filed: June 8, 1929, R. O. Jones, Probate Judge.

DECREE ESTABLISHING THE HEIRS, THEIR DEGREE OF KINSHIP, AND THE RIGHT OF DESCENT OF REAL PROPERTY. (Same title court and case)

"The petition of Sarah E. Daniels, praying that this Court determine the time of the death of the above named decedent, the heirs of said decedent and their degree of kinship to said decedent, and the right of descent of the real community property belonging to said decedent, coming on this day regularly to be heard, and due proof having been made to this Court that the Clerk thereof has given due notice of the hearing of said petition in the manner and for the time and in the particulars heretofore ordered and directed by the Court and provided by the law;

"And it appearing to the Court that more than two (2) years have elapsed since the date of the death of said decedent; that said decedent died intestate seized of an estate of inheritance in this state and that no application has been made in the State of Idaho for the appointment of an administrator or administratrix of the estate of said decedent; and all and singular the law and the evidence being by the Court fully understood and considered together with documentary evidence as to the source of the title of said property of the said decedent;

"Whereupon, it is by the Court hereby adjudged and determined: that the petitioner, Sarah E. Daniels is the surviving wife of said decedent and sole heir of all the community property; that the property herein described is community property of which the decedent died seized; and the said Sarah E. Daniels is entitled to all of the community property of said decedent.

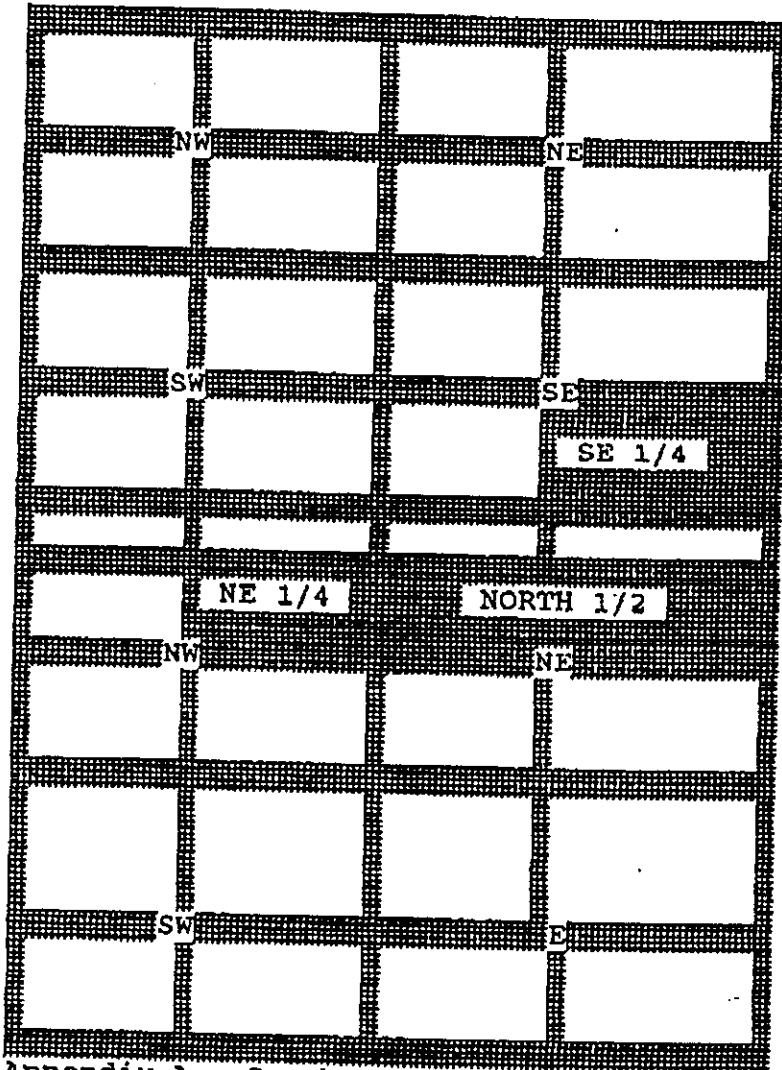
"Wherefore, by reason of the law and the premises aforesaid It is hereby Ordered, Adjudged, and Decreed by the Court; That Thomas D. Daniels died on the 9th day of August, 1916, in the County Oneida, at Valad, Idaho; that more than two (2) years have elapsed since the date of the death of said decedent; that said decedent died intestate seized of an estate of inheritance in the State of Idaho; that the property of which the said decedent died seized was community property and described as follows, to-wit:

The Southeast quarter of the Southeast quarter, (SE $\frac{1}{4}$ SE $\frac{1}{4}$), of Section Twelve (12) and the Northhalf of the Northeast quarter, (N $\frac{1}{2}$ NE $\frac{1}{4}$) of Section Thirteen (13) in Township Ten (10) South of Range Thirty-three (33) East, and the Lot One (1) of Section Eighteen (18) in Township Ten (10) South, of Range Thirty-four (34) East, of the Boise Meridian, Idaho, containing 153.07 acres.

Also the Southeast quarter of the Southwest quarter (SE $\frac{1}{4}$ SW $\frac{1}{4}$), of Section Two (2)

No. 399 Abstract of Title Sheet 9

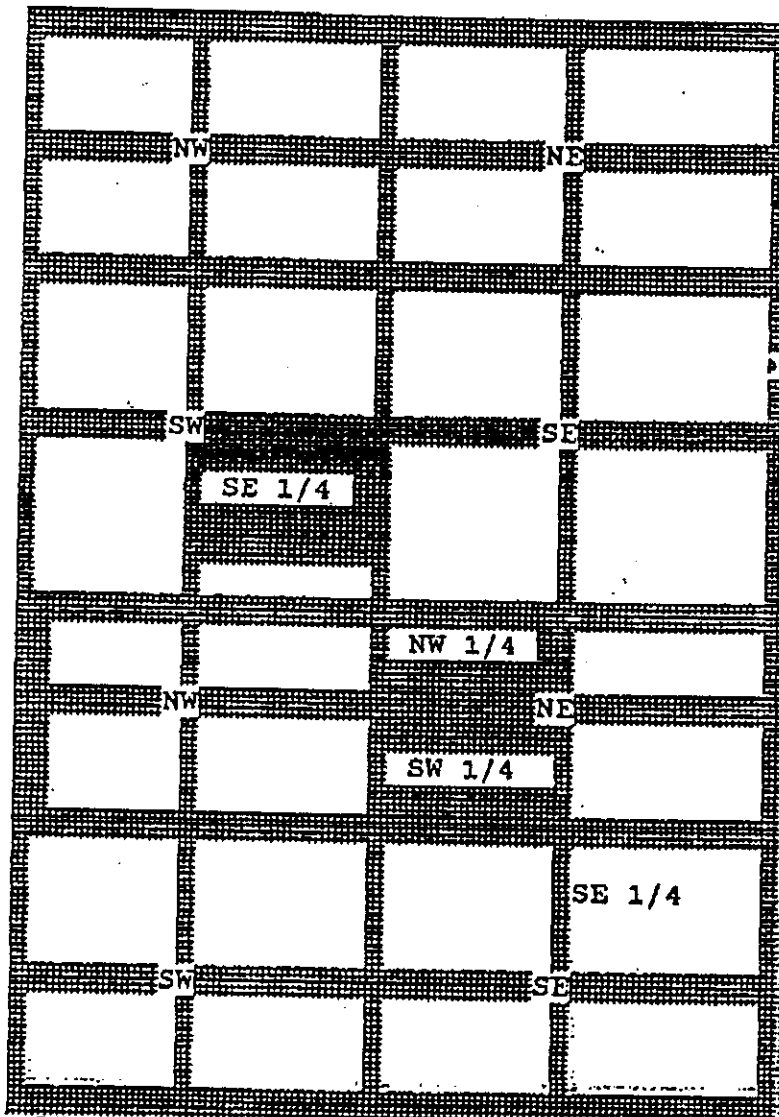
BANNOCK DECREE, APRIL 9, 1907
 TOWNSHIP 10 SOUTH, RANGE 33 EAST, SECTION 12
 ONEIDA COUNTY
 WATER RIGHT NO. 29-00468
BANNOCK DECREE, APRIL 9, 1907
 TOWNSHIP 10 SOUTH, RANGE 33 EAST, SECTION 13
 ONEIDA COUNTY
 WATER RIGHT NO. 29-00468



Appendix A - Sarah Daniels to John D. Price, ^{Price} → D.T. Williams - Barry Williams
 November 18, 1938; Warranty Deed 55311

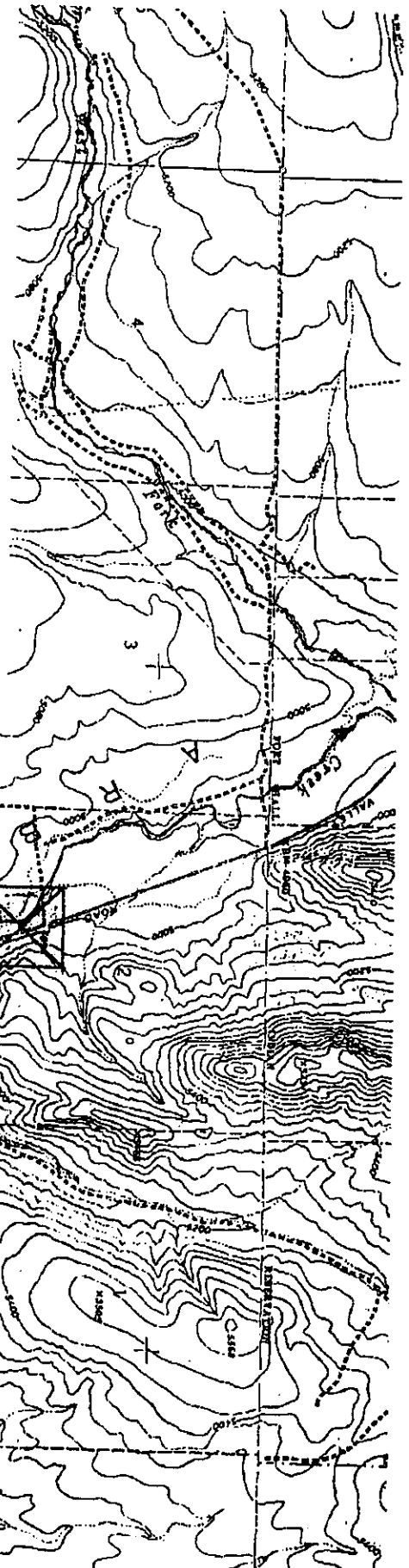
 From Fort Hall Settlement
 Documents

BANNOCK DECREE, APRIL 9, 1907
 TOWNSHIP 10 SOUTH, RANGE 33 EAST, SECTION 2
 ONEIDA COUNTY
 WATER RIGHT NO. 29-00469
BANNOCK DECREE, APRIL 9, 1907
 TOWNSHIP 10 SOUTH, RANGE 33 EAST, SECTION 11
 ONEIDA COUNTY
 WATER RIGHT NO. 29-00469



Appendix A - Sarah Daniels to Alfred Bolingbroke,
 March 27, 1929; Warranty Deed 51407
 Appendix B - Alfred Bolingbroke to United States of America
 October 12, 1935; Warranty Deed 51406

 From Fort Hall Settlement
 Documents



LANDS DESCRIBED IN 29-0468 AND
29-0469 OF THE BANNOCK CREEK DECREE



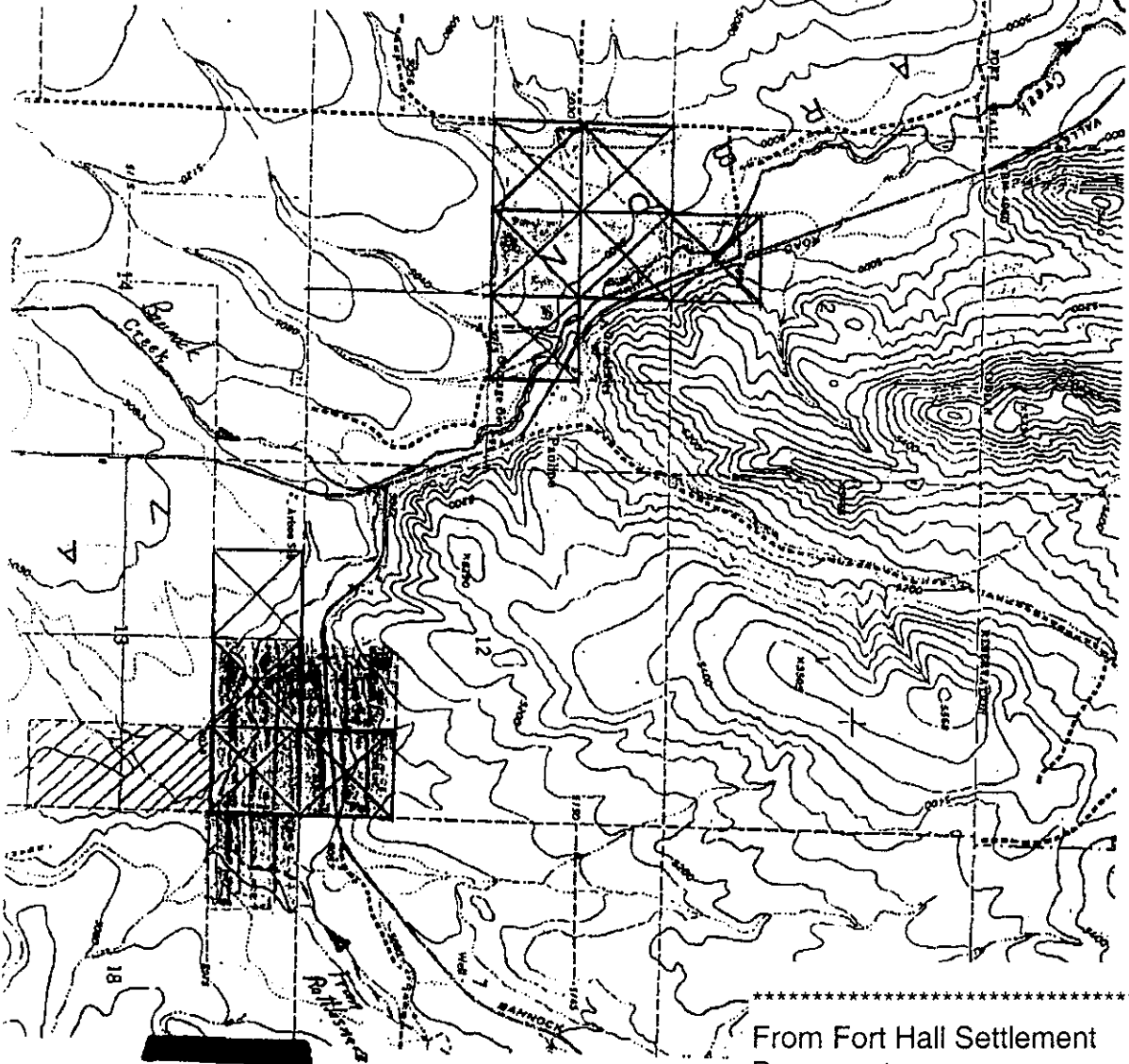
LANDS DESCRIBED IN 29-0475 OF THE
BANNOCK CREEK DECREE



TITLE TRANSFERRED FROM DANIELS TO
BOLINGBROKE (DEED 51407) AND FROM
BOLINGBROKE TO U.S. (DEED 51406)



TITLE TRANSFERRED FROM DANIELS TO PRICE
(DEED 55311) AND FOR WHICH WILLIAMS CLAIMS
4.2 CFS FROM RATTLESNAKE CREEK



From Fort Hall Settlement
Documents



STATE OF IDAHO

OFFICE OF THE ATTORNEY GENERAL
BOISE 83720-1000

LARRY ECHOHAWK
ATTORNEY GENERAL

TELEPHONE
(208) 334-2400

TELECOPIER
(208) 334-2530

NATURAL RESOURCES
TELECOPIER
(208) 334-2690

October 9, 1992

Les and Janet Hayball
P.O. Box 725
Ft. Hall, ID 83203

Re: Bannock Creek Water Rights

Dear Mr. & Mrs. Hayball:

Our meeting yesterday was very productive. As we discussed, you may divert up to one-half of the current flow of Rattlesnake Creek at your diversion works during the period of use of your water rights while we resolve the relative entitlements of each party. My understanding is that the flow of the creek as of this date is 3.4 c.f.s.

John Bushman, the United States' chief negotiator, advised me that the United States is researching archival records to determine the scope and nature of the tribal water rights under the Bannock Creek Decree. He expects this work to take approximately one month. Assuming the United States is able to complete its work within a month, we should be able to determine the entitlements of each party to divert water from Bannock Creek prior to the first of next year.

Enclosed is a copy of The 1990 Fort Hall Indian Water Rights Agreement. This document provides the framework for future administration of the Bannock Creek basin water rights. The United States will provide the September 10th measurements from the Bannock Creek basin under separate cover letter.

I look forward to working with you to reach a mutually satisfactory resolution of this matter.

Sincerely,

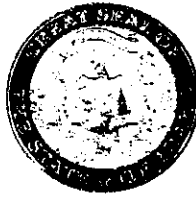
A handwritten signature in cursive script, reading "Clive J. Strong".

Clive J. Strong
Deputy Attorney General
Chief, Natural Resources Division

CJS/cjc
Enclosure
L2283NSA

cc: John Bushman
Candy Jackson
David Shaw

From Fort Hall Settlement
Documents



STATE OF IDAHO

OFFICE OF THE ATTORNEY GENERAL
BOISE 83720-1000

LARRY ECHOHAWK
ATTORNEY GENERAL

TELEPHONE
(208) 334-2400

TELECOPIER
(208) 334-2530

NATURAL RESOURCES
TELECOPIER
(208) 334-2690

October 9, 1992

Glen Bolingbroke
4365 South Eph Lane
Arbon, ID 83212

Re: Bannock Creek Water Rights

Dear Mr. Bolingbroke:

Our meeting yesterday was very productive. As we discussed, you may divert up to one-half of the current flow of Rattlesnake Creek at your diversion works during the period of use of your water rights while we resolve the relative entitlements of each party. My understanding is that the flow of the creek as of this date is 3.4 c.f.s.

John Bushman, the United States' chief negotiator, advised me that the United States is researching archival records to determine the scope and nature of the tribal water rights under the Bannock Creek Decree. He expects this work to take approximately one month. Assuming the United States is able to complete its work within a month, we should be able to determine the entitlements of each party to divert water from Bannock Creek prior to the first of next year.

Enclosed is a copy of The 1990 Fort Hall Indian Water Rights Agreement. This document provides the framework for future administration of the Bannock Creek basin water rights. The United States will provide the September 10th measurements from the Bannock Creek basin under separate cover letter.

I look forward to working with you to reach a mutually satisfactory resolution of this matter.

Sincerely,

Clive J. Strong
Deputy Attorney General
Chief, Natural Resources Division

CJS/cjc
Enclosure
L2283NSA

cc: John Bushman
Candy Jackson
David Shaw

From Fort Hall Settlement
Documents



STATE OF IDAHO

OFFICE OF THE ATTORNEY GENERAL
BOISE 83720-1000

LARRY ECHOHAWK
ATTORNEY GENERAL

TELEPHONE
(208) 334-2400

TELECOPIER
(208) 334-2530

NATURAL RESOURCES
TELECOPIER
(208) 334-2690

October 9, 1992

Barry Williams
1277 Mink Creek Road
Arbon, ID 83212

Re: Bannock Creek Water Rights

Dear Barry:

Our meeting yesterday was very productive. As we discussed, you may divert up to one-half of the current flow of Rattlesnake Creek at your diversion works during the period of use of your water rights while we resolve the relative entitlements of each party. My understanding is that the flow of the creek as of this date is 3.4 c.f.s.

John Bushman, the United States' chief negotiator, advised me that the United States is researching archival records to determine the scope and nature of the tribal water rights under the Bannock Creek Decree. He expects this work to take approximately one month. Assuming the United States is able to complete its work within a month, we should be able to determine the entitlements of each party to divert water from Bannock Creek prior to the first of next year.

Enclosed is a copy of The 1990 Fort Hall Indian Water Rights Agreement. This document provides the framework for future administration of the Bannock Creek basin water rights. The United States will provide the September 10th measurements from the Bannock Creek basin under separate cover letter.

I look forward to working with you to reach a mutually satisfactory resolution of this matter.

Sincerely,

Clive J. Strong
Deputy Attorney General
Chief, Natural Resources Division

CJS/cjc
Enclosure
L2283NSA

cc: John Bushman
Candy Jackson
David Shaw

From Fort Hall Settlement
Documents

LOUIS F. RACINE, JR.
WILLIAM D. OLSON
W. MARCUS W. NYE
GARY L. COOPER
RANDALL C. BUDGE
JOHN A. BAILEY, JR.
JOHN R. GOODELL
JOHN B. INGELSTROM
DANIEL C. GREEN
REED W. LARSEN
BRENT O. ROCHE
FRED J. LEWIS
KIRK B. HADLEY
MITCHELL W. BROWN
ERIC S. HUNN
DAVID E. ALEXANDER

*ALSO MEMBER IL & WY BARS

LAW OFFICES OF
RACINE, OLSON, NYE, COOPER & BUDGE
CHARTERED
CENTER PLAZA-CORNER FIRST & CENTER
POST OFFICE BOX 1391
POCATELLO, IDAHO 83204-1391

TELEPHONE
AREA CODE 208
232-6101
—
FAX
208-232-6109

November 24, 1992

RECEIVED

NOV 25 1992

Department of Water Resources

Clive J. Strong
Deputy Attorney General
Statehouse Mail
Boise, ID 83720-1000

Re: Bannock Creek Water Rights - Glen Bolingbroke

Dear Clive:

For some years I have represented Glen Bolingbroke of Arbon with respect to his decreed water rights on Rattlesnake Creek which is tributary to Bannock Creek and identified by IDWR No. A29-00477.

Glen has discussed with me your recent letter of October 9 and provided a copy of his Adjudication Claim Profile Report which he obtained from Fort Hall Agency, a copy of which is enclosed. This report appears to correctly reflect Glen's water right as decreed and based on his SRBA claim.

However, Glen indicated that at a recent meeting in early October at the Airport with the water right holders under the Bannock Creek decree, either you or David Shaw mentioned that there was an error in his filing number or perhaps one of the legal descriptions. From my review, everything appears to be in order. If there is some question or error that needs to be corrected, please advise. Thank you.

Sincerely,



RANDALL C. BUDGE

RCB/ns

cc: David Shaw
Glen Bolingbroke

From Fort Hall Settlement
Documents

DATE: 09/11/92
PAGE: 2

Place of use Legal Description for: IRRIGATION																		
	NE			NW			SW			SE								
	NENE	NUNE	SUNE	SENE	NENW	NUNW	SWNW	SENW	NESE	NUSW	SUSW	SESW	NESE	NUSE	SUSE	SESE	SUM	
T R S	lt	Ac	lt	Ac	lt	Ac	lt	Ac	lt	Ac	lt	Ac	lt	Ac	lt	Ac	lt	Ac
10S 34E 7	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	164.0
10S 34E 8	:	:	38	36	:	:	:	:	:	:	:	:	:	25	35	30	:	140.0
TOTAL ACRES	:	:	:	:	:	:	40	20	:	40	40	:	:	:	:	:	304.0	

Dates:	Exam Mode Date:	Verified Date:	06/24/1985
Misc:	Water District Number:	Field Inspection flag:	
		Presumption flag:	

Tribal Council Record



From Fort Hall Settlement Documents

September 21, 1992

Mr. Ron Carlson, Eastern Region Supervisor
 Department of Water Resources
 150 Shoup Suite 15
 Idaho Falls, Idaho 83402

RECEIVED

SEP 22 1992

Department of Water Resources

Dear Mr. Carlson:

In reference to our conversation on September 9, 1992, I am sending you a copy of the certified letter we sent to Mr. Duane F. Thompson, Superintendent, plus copies of the letters listing the water measurements. The last water measurement we received was dated July 31, 1992 and showed a total flow of 14.45 cfs. From the previous measurement on July 2, 1992, this was a drop of 1.65 cfs on Bannock Creek above Pabawenas and a drop of 1.92 cfs on Rattle Snake Creek. I felt that there was outside influence to cause a drop of this magnitude.

Andy Cates, Water Master, tore our dam out on July 15, 1992. We had no idea who had done this until after we had put it back and I called Andy inquiring if he knew anything about it. Alan Oliver tore it out on August 7, 1992 and again on August 10th. This time with a backhoe, gutting the stream bed for about 45 feet. My irrigation pump ran without water in excess of 24 hours after Alan tore the dam out on Friday, August 7th. When I put the dam back on Sunday morning, I left one fourth of the stream running down Rattle Snake Creek and had the remaining three fourths of the stream running into Bannock Creek at Pauline. This is where the water was running when Alan tore the dam out with the backhoe. I called Andy Cates at his home on Sunday morning, August 9th, to inquire if he knew who had torn the dam out the previous Friday. Andy told me Alan had and that Alan threatened to use a backhoe on the dam. I told Andy there was no need for that and I would turn some more water down Rattle Snake Creek on Monday, talk to someone at the Department of Water Resources and get back to him. I came back to the house from baling hay shortly after 10:00 A.M. on Monday morning to call the Department of Water Resources. My neighbor called as I walked in and said the Bureau of Indian Affairs was at the diversion dam with their backhoe. I called the B.I.A. at Fort Hall and asked Angelow Hernandez to radio Alan and ask him to wait until I got there and not to tear the dam out. Angelow said the radio wouldn't reach that far.

Harald Jones from the Department of Water Resources had called and talked to my wife, Valorie, before I got home. When Valorie told Harald about Alan tearing our dam out and running our pump dry, he said "Alan would rather take care of the problem and suffer the consequences later rather than to confront us and get into an argument." I have never met Alan, have never had any correspondence with him and have talked to him on the telephone only once. I called him after he tore the dam out with the backhoe. He had no reason to believe he would get into an argument with me.

All Harald would have had to tell Alan when he called was "Let me talk to the water users on the Rattle Snake ditch before you do anything drastic." Instead, Harald told Alan "You have to do what you have to do to protect your water rights." After I called Harald and talked to him, I felt that we were water users with no rights. I then called the Power County Sheriff's office.

 From Fort Hall Settlement
 Documents

Deputy Skinner came out and took some pictures. Alan had left before we got there.

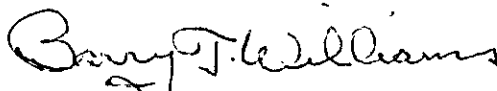
Our stream of water was running 4.35 cfs of water so this made a total of 18.8 cfs of water running onto the reservation after our dam was torn out. The Bureau of Indian Affairs has had approximately 2.55 cfs of water that we have a right to for over a month. We haven't received a response to our letter nor have we received any water measurements since the one dated July 31st. Andy told me by phone the water was measured on July 13th but we never received a copy of this measurement.

Apparently the B.I.A. has a misconception that they have a 3 cfs water right on Rattle Snake Creek. This misconception could have been rectified through communication with us. I feel poor judgement was used by the B.I.A. to file on this 3 cfs right. Anyone acquainted with this area knows Rattle Snake Creek has never been used to irrigate any of the L.U. land purchased by the government. Both the 3 cfs from Rattle Snake Creek, right number 2900468 and the 1 cfs from the West Fork of Bannock Creek, right number 2900469 were decreed to land owned by Thomas D. Daniels. The land descriptions for these two rights were listed in the same paragraph in the 1907 Decree with no reference as to which land went with which water right. The land which I own belongs with the 3 cfs right from Rattle Snake Creek and the land in sections eleven and two belong with the 1 cfs right from the West Fork of Bannock Creek and was part of the L.U. land purchased by the government.

Through lack of communication, we've had dams torn out and our stream of water taken unlawfully. We have lost a considerable amount of hay and pasture as a result of this. A sizeable portion of the Bannock Creek stream is now running into the Portneuf River and still we have received no word from the B.I.A.. We are also concerned because the B.I.A. feels it has no jurisdiction over water users with rights junior to ours but can take our water at will.

We look forward to a meeting and hope communication and understanding can be improved.

Sincerely yours,



Barry T. Williams

Glen Bolingbroke

Janet Bolingbroke Hayball

From Fort Hall Settlement

Documents

August 24, 1992

Mr. Duane F. Thompson, Superintendent
Bureau of Indian Affairs
Fort Hall Agency
Fort Hall, Idaho 83203

We are writing in reference to the irrigation water in the 1907 decree. This decree shows 16.25 C F S to the reservation with an additional 2 C F S if certain criteria was met. We have found no record of the additional 2 C F S being in effect. We have asked both Mr. Cates and Mr. Oliver for varification and have received none. We will consider the 16.25 C F S to be correct unless we receive varification to the contrary.

We have received several letters from you listing the inflows onto the reservation and requesting all users above the reservation to reduce or discontinue the use of water. You have stated in your letter that it has been sent to all water users above the reservation when in reality it has been sent only to those on our ditch. All the measurements we have received, except the one dated July 31, 1992, have been above 16.25 C F S. This measurement shows an 1.65 C F S drop on Bannock Creek and an 1.92 C F S drop on Rattlesnake Creek from the July 2, 1992 measurement. Considering the size of the flows, this amount of drop would be unlikely without outside influence.

When Mr. Cates tore our dam out on July 15, 1992, the last measurement we had received, which was July 2, 1992, showed an inflow of 18.09 C F S. Mr. Cates tore this diversion dam out with no prior notification. When Mr. Oliver tore the dam out on August 7, 1992, one half of the stream was running into Bannock Creek. When Mr. Oliver used a backhoe on our diversion dam on August 10, 1992, one fourth of the stream was running down Rattlesnake Creek and the remaining three fourths was running into Bannock Creek. Our diversion dam was tore out each time with no prior notification to us. After the dam was taken out on July 15, 1992, Mr. Cates was told not to tear out any more dams without prior notification as an irrigation pump could be damaged. When Mr. Oliver removed the dam on August 7, 1992, an irrigation pump belonging to Barry Williams run in excess of 24 hours with no water. When I talked to Mr. Jones at the Department of Water Resources, he said that Mr. Oliver would rather tear the dam out and suffer the consequences than to confront us, the water users. It would have been one thing to remove the straw bales and divert the water but quite another to use a backhoe and gut the stream bed. In light of the conversation Mr. Oliver had with Mr. Jones and due to the poor judgement used by Mr. Oliver, we will keep track of the cost of replacing the diversion dam and the cost of repairing the Williams pump.

As we have a senior water right above the reservation, we felt that there are some problems with loss of water which should have been addressed prior to the taking of the entire stream of our water.

1. A reservoir with no usable headgate on the Thompson property.
2. Numerous beaver dams on Rattlesnake Creek backing the water out wide on land which is absorbing a good portion of the water.
3. A well which began pumping in July of this year after being idle for over ten years. This well dried Bannock Creek up in the 1970's for a two mile stretch and has done the same this year.

From Fort Hall Settlement
Documents

We trust that you will continue to measure the inflows to the reservation on Bannock Creek and it's tributaries on the same time schedule you have been previous and will send us a copy. If we receive no measurement by the second of each month, we will take that to mean that you are receiving sufficient water and we will take a portion of the stream.

Sincerely yours,

Barry Williams

Glen Bolingbroke

Janet Hayball

From Fort Hall Settlement

Documents



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
FORT HALL AGENCY
FORT HALL, IDAHO 83203

June 5, 1992

Mr. D.T. 'Sod' Williams
Arbon,
Idaho 83212

Dear Mr. Williams:

On Friday, June 5, 1992, the inflows to the Fort Hall Indian Reservation on Bannock Creek and its tributaries measured 17.40 cubic feet per second. This is 0.85 cubic feet per second below the 1907 decree of 18.25 cfs. Therefore, we are notifying all users above the reservation to reduce or discontinue the use of water, to allow the 18.25 cfs to come onto the reservation as per the Bannock Creek decree.

We will be measuring the water again around the later part of June.

For your information the inflows were found to be as follows:

Bannock Creek above Pabweenas	8.10	8.10
Pabaweena Springs	.95	.69
Moonshine Creek	4.19	3.49
Rattlesnake Creek	3.69	5.24
Starlite Creek	.27	.32
Birch Creek	.20	.25
Total:	17.40	18.09

Your cooperation in this matter will be greatly appreciated.

Sincerely,

ACTING Superintendent

From Fort Hall Settlement
Documents



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
FORT HALL AGENCY
FORT HALL, IDAHO 83203

July 2, 1992

Mr. D.T. 'Sod' Williams
Arbon,
Idaho 83212

Dear Mr. Williams:

On Thursday, July 2, 1992, the inflows to the Fort Hall Indian Reservation on Bannock Creek and its tributaries measured 18.09 cubic feet per second. This is 0.16 cubic feet per second below the 1907 decree of 18.25 cfs. Therefore, we are notifying all users above the reservation to reduce or discontinue the use of water, to allow the 18.25 cfs to come onto the reservation as per the Bannock Creek decree.

We will be measuring the water again around the later part of July.

For your information the inflows were found to be as follows:

Bannock Creek above Pabweenas	8.10
Pabaweenas Springs	.69
Moonshine Creek	3.49
Rattlesnake Creek	5.24
Starlite Creek	.32
Birch Creek	.25

Total: 18.09

Your cooperation in this matter will be greatly appreciated.

Sincerely,

Superintendent

From Fort Hall Settlement
Documents

7-15-92 Fort Hall. Take one dam out.

7-16-92

238-0586

Called Andy Cates / Head water master @ BIA.

Seland Miller is in charge of water measurement.

Fort Hall measured water on July 13th. Bannock Creek measured 6.10 cfs
Total measurement was 16.10 cfs.



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
FORT HALL AGENCY
FORT HALL, IDAHO 83203

July 31, 1992

Mr. Barry Williams
1277 Mink Creek Rd.
Arbon, Idaho 83212

Dear Mr. Williams:

On Thursday, July 31, 1992, the inflows to the Fort Hall Indian Reservation on Bannock Creek and it's tributaries measured 14.45 cubic feet per second. This is 3.80 cubic feet per second below the 1907 decree of 18.25 cfs. Therefore, we are notifying all users above the reservation to reduce or discontinue the use of water, to allow the 18.25 cfs to come onto the reservation as per the Bannock Creek decree.

We will be measuring the water again around the later part of August.

For your information the inflows were found to be as follows:

Bannock Creek above Pabweenas	6.10	6.45	8.10	1.65
Pabaweenas Springs		.73	.69	<.04>
Moonshine Creek		3.56	3.49	<.07>
Rattlesnake Creek		3.32	5.24	1.92
Starlite Creek		.25	.32	.07
Birch Creek		.14	.25	.11
Total:	14.45	18.09		3.64

Your cooperation in this matter will be greatly appreciated.

Sincerely,

Acting *Eric J. LaPointe*
Superintendent

From Fort Hall Settlement
Documents

Andy Cates 238-0586
Seland Miller
Δ

Gary Williams
1277 Munk Creek
Orben, Id. 83212

Dave Shaw
Department of Water Resources
1301 N. Orchard
Statehouse Mail
Boise, Idaho 83720



From Fort Hall Settlement
Documents

DATE: 11/27/92
PAGE: 1

DIVERSION
VOLUME

00-00 00-00
00-00 00-00
00-00 00-00
00-00 00-00

0.70 CFS

Stage: DECEED

SESW	NESE	MNSE	SWSE	SESE
Lt AC	Lt AC	Lt AC	Lt AC	Lt AC
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	I	I		
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Priority Date: 04/01/1897
Proof Made Date:
Exam Sent to S.O.:

Field Exam Fee:

 * * * * *
 From Fort Hall Settlement
 Documents
 * * * * *



State of Idaho

MAY 16 2001

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
GOVERNORKARL J. DREHER
DIRECTOR*May 2*
April 4, 2001Barry T. Williams
1277 Mink Creek Road
Arbon, Idaho 83212

Re: Adjudication Claim 29-10990

Dear Water User:

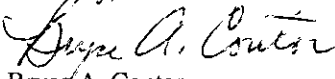
Attached is a copy of an Adjudication Claim for a water right near American Falls or Pocatello, Idaho. This claim is based upon "beneficial use." This means that the underlying water right was perfected by the original user simply developing a diversion and using the right. This was completely legal and appropriate up until March 25, 1963, for ground water uses, or up until May 20, 1971 for surface water uses. However, this method of perfecting a water right did not result in a paper record of the water right with the department.

In order to recommend your adjudication claim to the court, I need you to supply "evidence of priority" and "evidence of beneficial use." The enclosed pamphlet describes some typical sources that may be used. If an affidavit is used, it must clearly show that the person making the affidavit personally observed the water use. The more detail the affidavit gives, indicating dates, circumstances, amounts and details of water use, the better. As I review the documentation provided, my standard will be:

The documentation should tend to indicate that diversion works were in place and had adequate capacity for the claimed use. The documentation should also tend to indicate that water was applied to the claimed beneficial use on the claimed place of use.

Please review these documents, and provide documentation of the historical use of this right. Feel free to call me if you have questions. You should be able to reach me Thursday or Friday mornings.

Sincerely,


Bryce A. Contor
Senior Water Resource Agent

Log for claim A29-10990

Spatial Dynamics AMH

7/19/00

TR	SEC	QQ	Acres Claimed	Acres Found	COMMENT
10s33e	12	SWSE	30	40	
10s33e	12	SESE	40	40	
10s33e	13	NENE	40	40	
10s33e	13	NWNE	40	40	
10s34e	18	NWNW	40	33	
Totals:			190	193	

DATE: 05/23/00
PAGE: 102

DIVERSION

1
2
3
4
5
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4

2010

Boiler

70.0
80.0

190.0

A29-00468

Objection Filed Date:

Field Inspection Flag:
Presumption Flag:

Audit:	04/03/90	DCARLSON	06/02/93	THOMPSON	08/04/94	THOMPSON	03/29/95	POST-STR
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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

August 30, 2001

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

Barry Williams
1277 Mink Creek Road
Arbon, Idaho 83212

Re: Wells

Dear Mr. Williams:

Enclosed are copies of the water right and claim records for the two wells we looked at Saturday.

29-2458 and 29-7291 are pre-adjudication licenses, and claims 29-2458A and 29-7291 have been filed on these. Permit 29-7931A is a post-adjudication permit, so no adjudication claim is required.

As we discussed on the phone the other day, there are two options for you to address your concerns with these wells. The validity of the claims can be challenged in an objection to the adjudication recommendations, once the directors report is issued. This is likely to be in about a year. The objection process is where you would raise your concerns about possible forfeiture. These claims haven't been investigated yet, so I can't tell you what the recommendations might look like. The protest period for the permit is passed, so there isn't really a way to dispute the validity of that right.

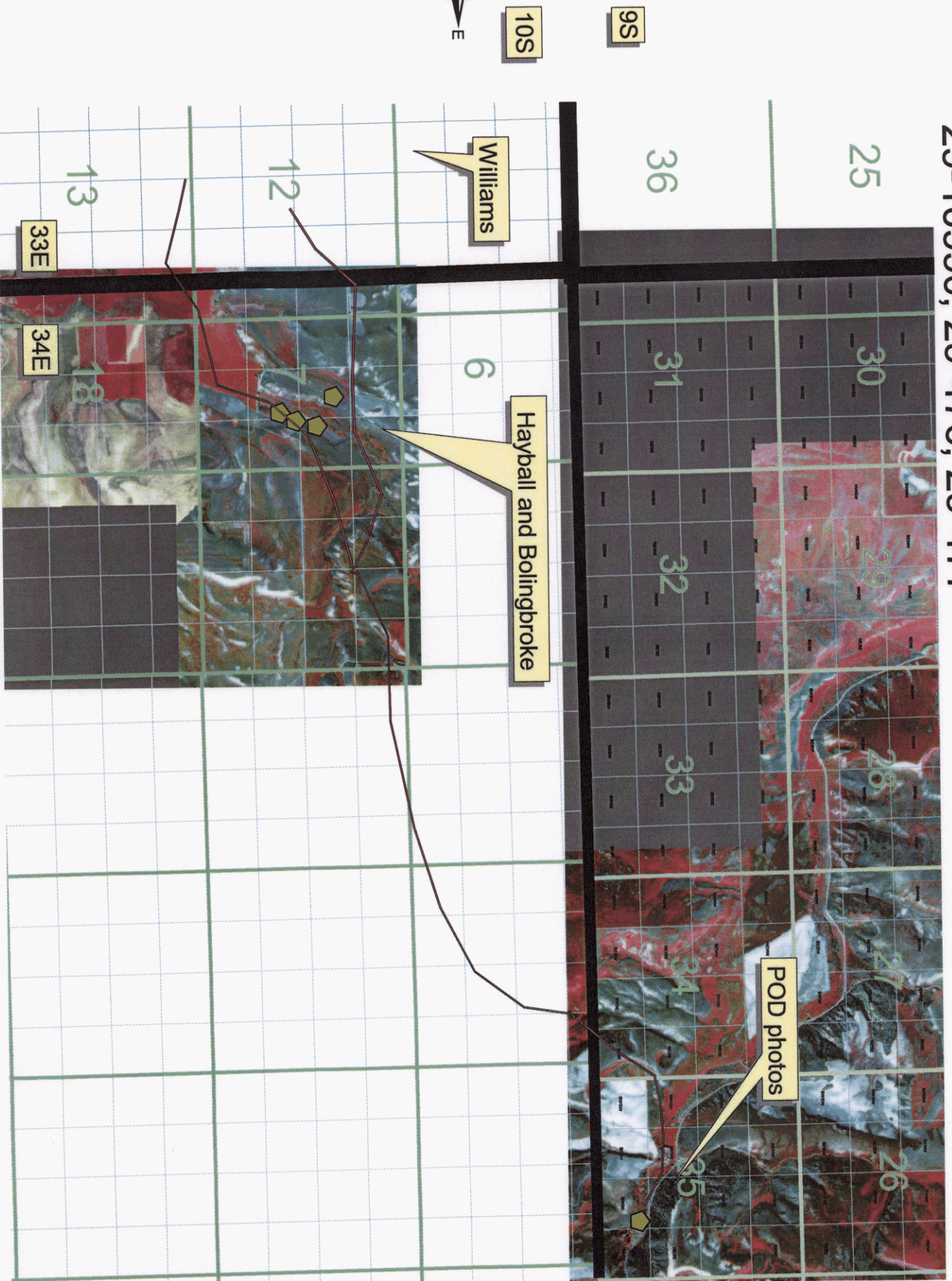
The other option is to seek relief from well interference under "conjunctive management." This is still an evolving process, probably the best way to approach it would be in a letter to the regional manager Ron Carlson. Any kind of ground water right would be subject to conjunctive management.

Please give me a call if you have questions.

Sincerely,

Bryce A. Contor
Senior Water Resource Agent

Rattlesnake Creek Locator Map 29-10990, 29-476, 29-477



Photos of Rattlesnake Creek Diversion for claims 29-10990, 29-476, 29-477.
Photos taken by B. Contor 8/25/2001 accompanied by Barry Williams.
Both photos looking downstream.



Bac

Ditch



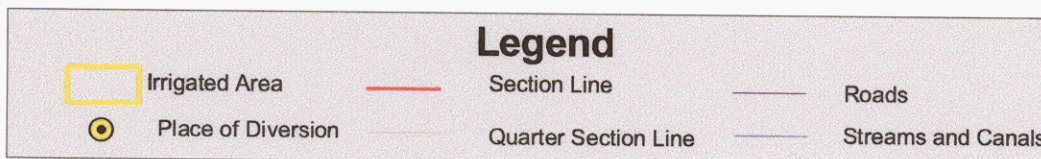
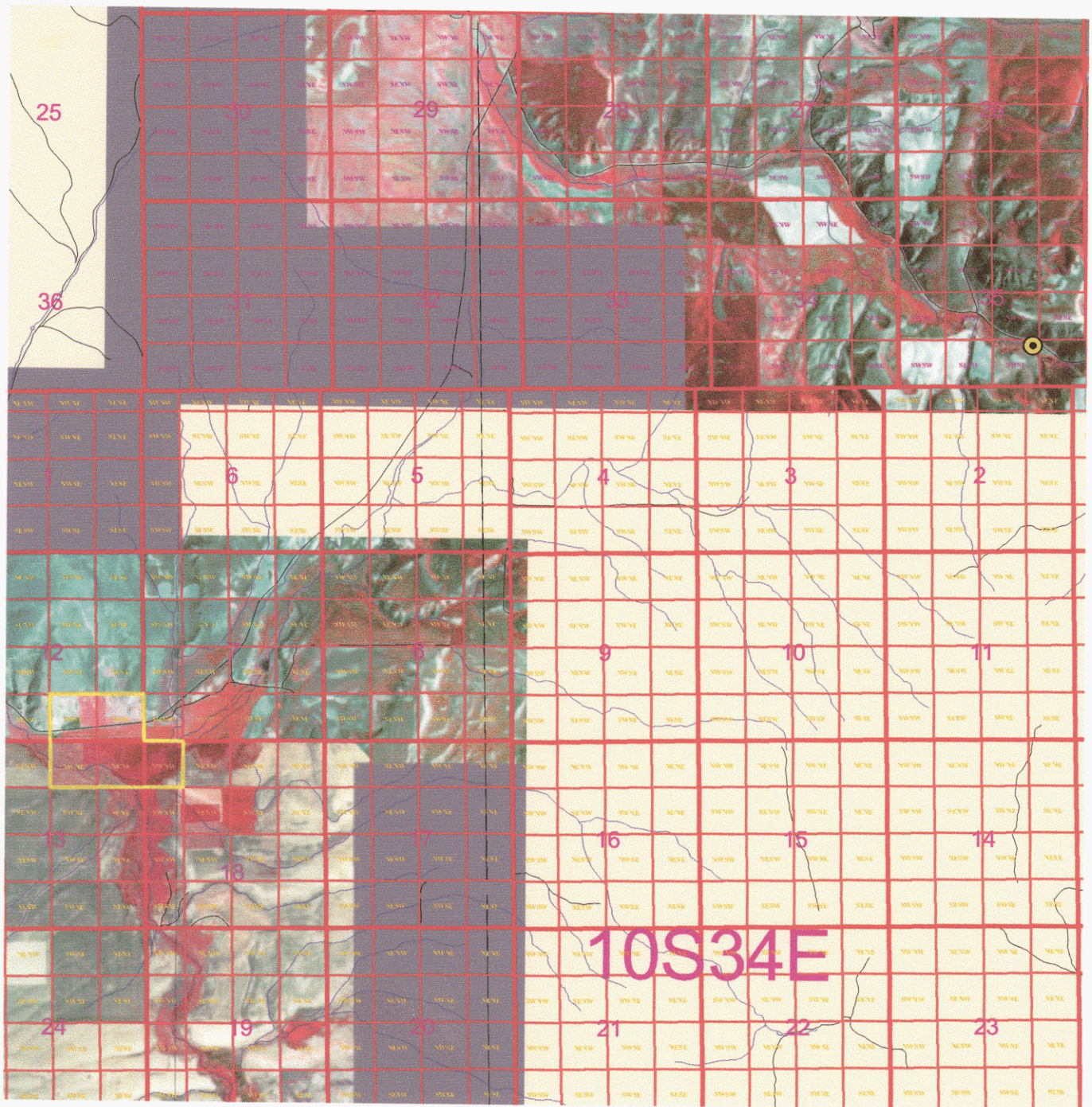
Bac

Original (color) in 29-10990

Water Right Claim Number A29-10990

07/19/2000

Townships , 10S34E, 10S33E



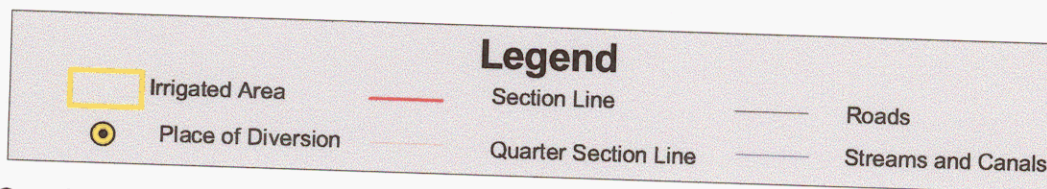
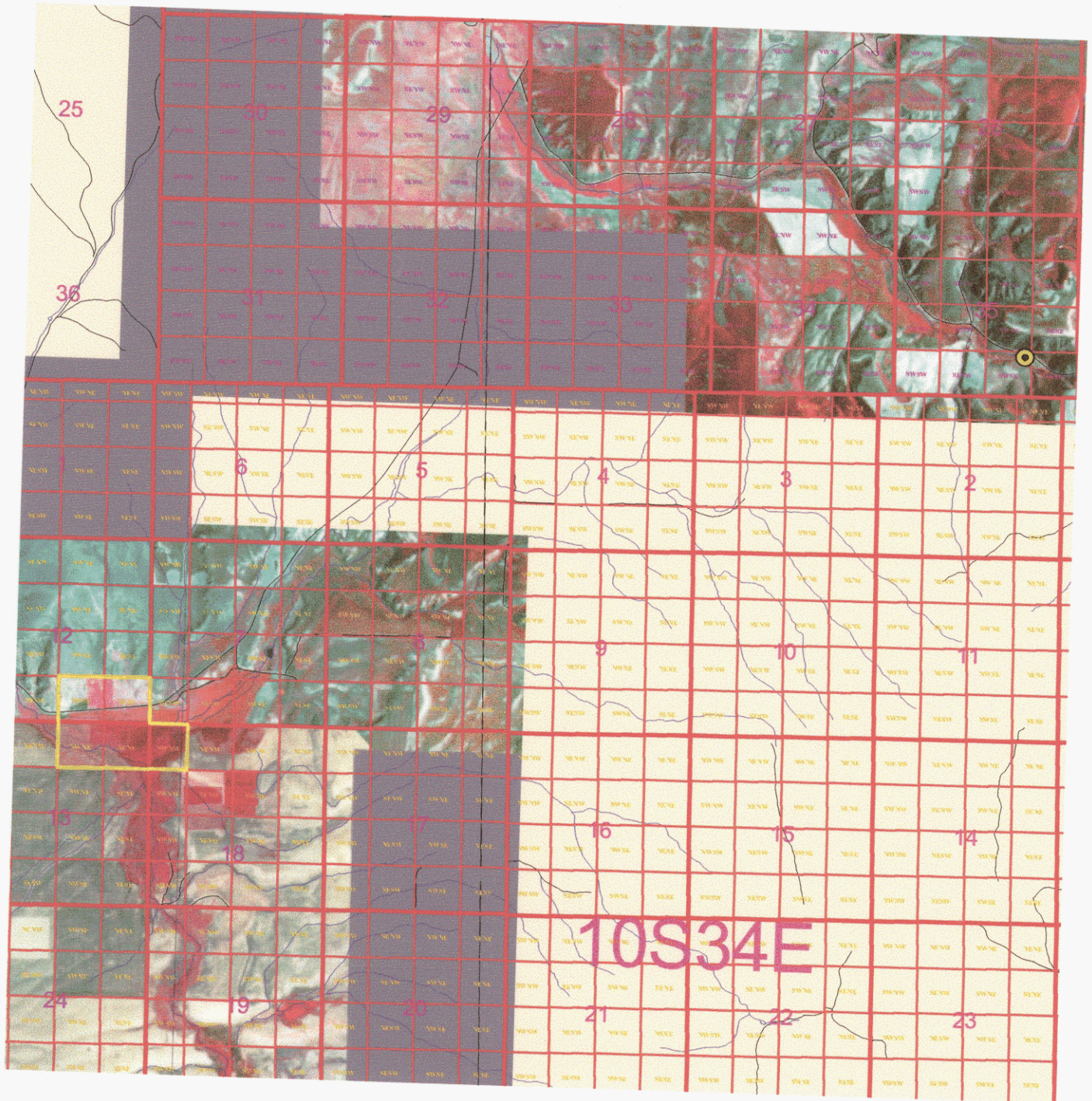
2250 0 2250 4500 Feet



Water Right Claim Number A29-10990

07/19/2000

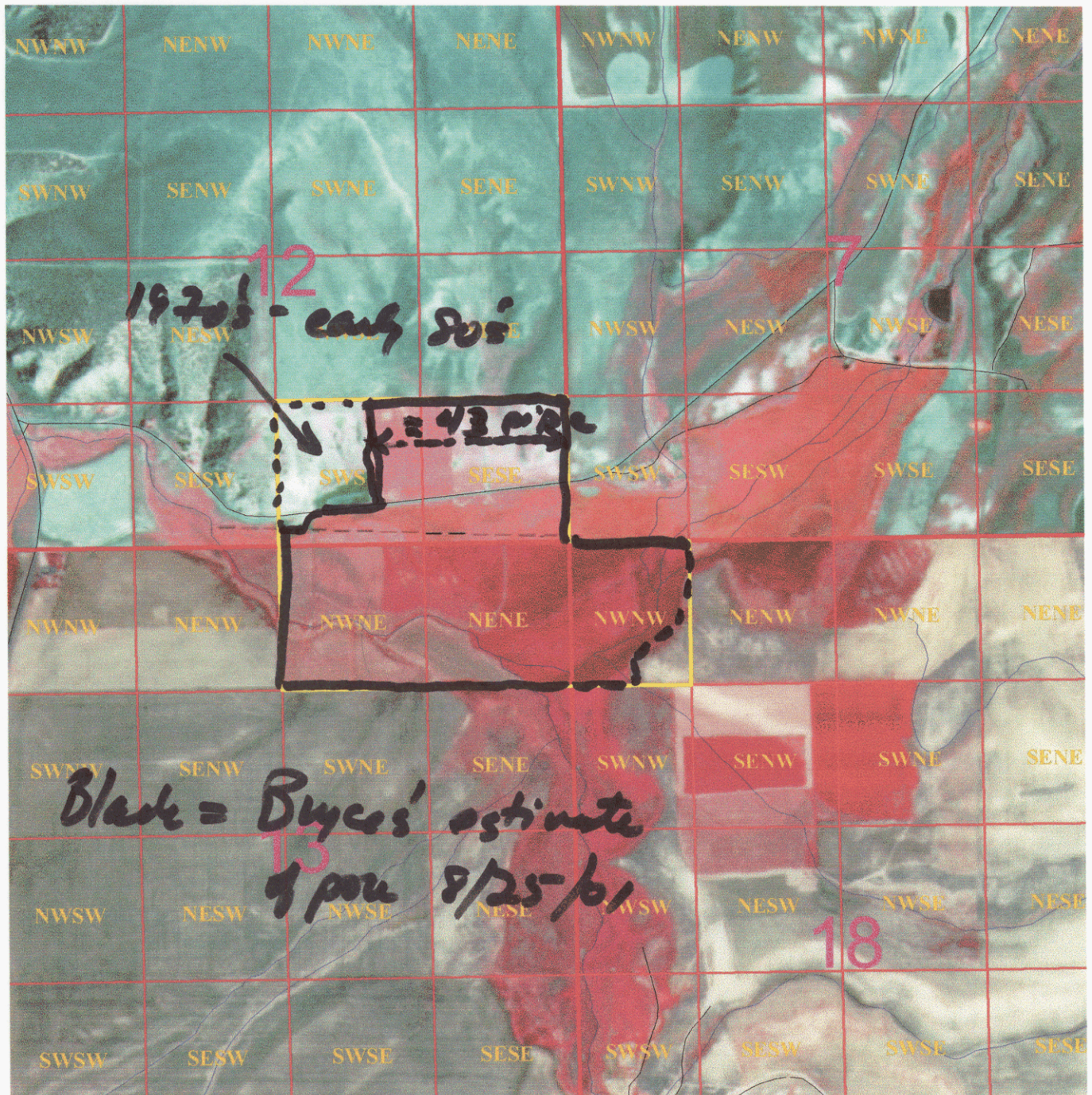
Townships , 10S34E, 10S33E



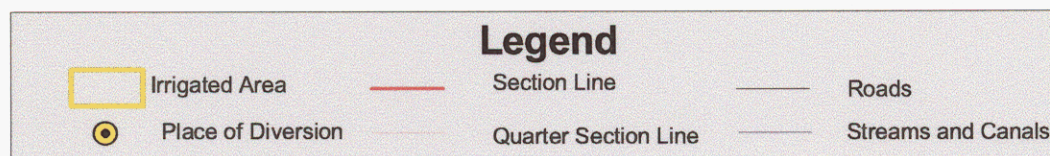
2250 0 2250 4500 Feet



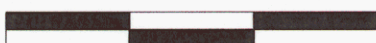
Townships , 10S34E, 10S33E



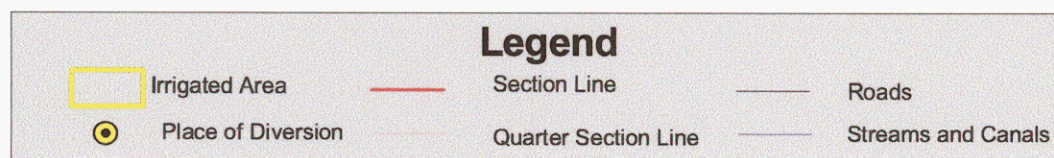
Black = Byrnes' estimate
of pour 8/25/61



900 0 900 1800 Feet



07/19/2000



900 0 900 1800 Feet



Water Right Claim Number A29-10990

Townships , 10S34E, 10S33E

07/19/2000

