

THE STATE



OF WYOMING

JIM GERINGER
GOVERNOR

GORDON W. FASSETT
STATE ENGINEER

Board of Control

PO BOX 271
COKEVILLE, WY 83114

(307) 279-3441

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ALLAN CUNNINGHAM
ADJUDICATION OFFICER

7 February 1998

Reed Christensen
Christensen Family Trust
1331 N. Dixie Downs #132
Saint George, UT 84770

WILLIAM JONES, SUPERINTENDENT
WATER DIVISION NO. 1
MICHAEL WHITAKER, SUPERINTENDENT
WATER DIVISION NO. 2
CRAIG COOPER, SUPERINTENDENT
WATER DIVISION NO. 3
JADE HENDERSON, SUPERINTENDENT
WATER DIVISION NO. 4

Re: Irrigation near Driggs

Dear Mr. Christensen:

Thank you for responding to my letter of 21 January 1998. It was helpful for you to provide such detailed information about your use of Teton Creek water. We were particularly interested in the copy of your claim No. A22-11900 filed with Idaho Department of Water Resources in 1988.

As you have clarified, this claim is based upon a Wyoming diversion from Teton Creek called South Side Canal which headgates in the NE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 22, T44N R118W, and was authorized by Wyoming Permit 7420 dated 10/02/1906 for irrigation of specific acreages in both states. Unfortunately, that Wyoming water right has never included your 120 acres, as you will be able to verify from the enclosed copies of Permit 7420 and its map. (The lands permitted in Section 30 of T5N R46E are all north of your land.)

The references made to Case No. 2447 of 2/04/1941 actually relate to the interstate Roxanna Decree of the U.S. District Court which decreed no new water rights but instead divided the flow of Teton Creek between the 2 states. Each state's portion is to be distributed according to the water rights that already existed. (See yellow highlights on your returned copy of the Roxanna Decree.)

These facts lead us to conclude that your land does not have a water right to divert in Wyoming from Teton Creek.

However, my Water Commissioner informs me that, while your land has the ability of being irrigated from this pipeline lateral of Wyoming's South Side Canal, your lessee mainly irrigates from an Idaho well. (The copy of your Idaho claim additionally refers to a well being used.)

Unless an existing Teton Creek water right can be transferred onto your land under the

laws of Wyoming, it would appear that you have 2 options:

- You may apply for a new Wyoming permit called an enlargement of South Side Canal to supplement irrigation of these 120 acres from this pipeline lateral of South Side Canal. This option would require hiring a Wyoming-licensed surveyor to submit the map & application.
- You may elect to disconnect the pipeline so that it cannot bring Teton Creek water underneath the road to your land, as you show in red on your map, and rely instead solely on the Idaho well.

Please consider what course of action you would like to take, and let us know at your earliest convenience. We are not trying to oppose your ability to irrigate with water from Teton Creek, but rather want you to secure water rights which would legally protect that ability. It would be a disservice to let you believe your use of Teton Creek water is protected, and have you later find out during a crisis that you have no right.

We will be happy to clarify or discuss this further if you would like. Otherwise, please let us know how you will proceed.

Best regards,



Jade Henderson
Water Superintendent

JH/lif
encls.

copy: South Side Canal
c/o Steve Green
Rt 1 Box 3530
Alta, WY 83422

Meredith Wilson, Water Commissioner
Loren Smith, Assistant Superintendent
John Barnes, Surface Water
Sue Lowry, Interstate Streams

✓ Ernest Carlsen, Adjudication Supervisor
Idaho Department of Water Resources
900 N Skyline Dr, Suite A
Idaho Fall, ID 83402

Adjudication Bureau, Central Office
Idaho Dept of Water Resources
1301 N Orchard St, Statehouse Mail
Boise, ID 83706;

152
1694

80 A. E. NE $\frac{1}{4}$,
30 A. NW $\frac{1}{4}$ NE $\frac{1}{4}$,
25 A. SW $\frac{1}{4}$ NE $\frac{1}{4}$,
80 A. E. SE $\frac{1}{4}$,
25 A. NW $\frac{1}{4}$ SE $\frac{1}{4}$,
20 A. SW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 20,
40 A. NW $\frac{1}{4}$ SW $\frac{1}{4}$,
20 A. SW $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 21, T. 44 N., R. 118 W.

Permit No. 7168 -- Brown-Clement Ditch

Issued to Roland W. Brown, Lucy Brown, and Heber Clement with priority of January 15, 1906. Proposed irrigation of 480 acres of land described as follows:

SE $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 18,
SW $\frac{1}{4}$ NW $\frac{1}{4}$,
SE $\frac{1}{4}$ NW $\frac{1}{4}$,
NW $\frac{1}{4}$ NE $\frac{1}{4}$,
SW $\frac{1}{4}$ NE $\frac{1}{4}$,
NE $\frac{1}{4}$ SW $\frac{1}{4}$,
NW $\frac{1}{4}$ SE $\frac{1}{4}$,
SW $\frac{1}{4}$ SE $\frac{1}{4}$,
SE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 17,
NE $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 20, T. 44 N., R. 118 W.
And a tract of unsurveyed land.

All of this land except the NW $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 17, was described in Permit No. 6840. Notice of completion was received October 2, 1909 and the time for completion of the application of water to beneficial use expired December 31, 1910. Proof of appropriation was submitted and the right adjudicated for 75 acres of land under this permit.

C. R. 43, P. 637 -- Roland W. Brown

1.07 second feet --- 75 acres.
17.5 A. SW $\frac{1}{4}$ NW $\frac{1}{4}$,
40.0 A. SE $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 17,
17.5 A. SE $\frac{1}{4}$ NE $\frac{1}{4}$ (L.2), Sec. 18, T. 44 N., R. 118 W.

Permit 7420 -- South Side Canal

Issued to Robert Dalley, et al with priority of October 2, 1906 for irrigation purposes. The permit lists 1557 acres of land (1552.54 acres shown on map) in both Wyoming and Idaho, but permit bears limitation "Approved for lands to be irrigated in Wyoming only". Notice of completion was received December 17, 1910 and the time for completion of application of water to beneficial use expired December 31, 1912. The lands listed in permit are as follows:

WYOMING LANDS

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SW, NE,
 SE, NE,
 11.0 A. NW, NE,
 35.0 A. SE, NW,
 17.0 A. SW, NW,
 NW, SW,
 NE, SW,
 NW, SE,
 NE, SE,
 SE, SE,
 SW, SE,
 SE, SW,
 SW, SW, Sec. 29,
 SE, SE, Sec. 30,
 NE, NE,
 NW, NE,
 NE, NW,
 SE, NW,
 SW, NE,
 SW, SW, Sec. 32,
 SE, SE, Sec. 31, T. 44 N., R. 118 W.
 NW, NW, Sec. 5,
 NE, NE, Sec. 6, T. 43 N., R. 118 W.

27
 20
 20
 16

IDAHO LANDS

30.0 A. SW, NE,
 NW, SE,
 SW, SW, Sec. 20,
 SE, SE,
 SE, SE, Sec. 19,
 NE, NE,
 NW, NE,
 SE, NE,
 SW, NE,
 SE, NW, Sec. 30,
 SE, SW,
 SW, SE, Sec. 29,
 NE, NE,
 NW, NE,
 SE, NE,
 SE, NW,
 NW, SW,
 NW, SE, Sec. 32, T. 5 N., R. 46 E.

Proof of appropriation has been submitted and rights adjudicated
 under this permit for 567.54 acres of land in Wyoming as shown
 by the following certificates of appropriation.

C. R. 32, P. 293 -- Robert F. Galley

0.57 second feet -- 40 acres.

40.0 A. Lot 4, Sec. 30, T. 44 N., R. 118 W.

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Final Court Order

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE DISTRICT OF WYOMING

FILED

FEB 4 1941

IN EQUITY NO. 2447

Charles J. Ohlman, Clerk

ROXANE CANAL COMPANY, a corporation; SIDDOWAY
IRRIGATING & MANUFACTURING COMPANY, A Corporation;
THE SALEM IRRIGATION CANAL COMPANY, LIMITED, a
Corporation; TETON IRRIGATING & MANUFACTURING COM-
PANY, a Corporation; ISLAND WARD CANAL COMPANY,
LIMITED, a Corporation; WILFORD IRRIGATION & MANU-
FACTURING COMPANY, a Corporation; THE TETON-ISLAND
CANAL COMPANY, a Corporation; WOODMANSEE-JOHNSON-
REXBURG MILL DITCH, INCORPORATED, a Corporation;
NORTH SALEM AGRICULTURAL & MILLING CANAL COMPANY,
a Corporation; CANYON CREEK IRRIGATION DISTRICT,
a Quasi-municipal Corporation; CHARLES SAUREY,
NICHOLAS SOMMERS, KATHERINE BAKER, WHITNEY PINCOCK,
FRANK PINCOCK, LAWRENCE GARNER, LYMAN GARNER, A. N.
MURDOCK, FERN PINCOCK, FRED PINCOCK, LAGRANDE SMITH
and ELEANORA RQW, Plaintiffs,
vs.
CHARLES DANIELS, LELAND SORENSEN, D. L. WADDELL,
CHARLES CHRISTENSEN, E. E. RIGBY, T. ROSS WILSON,
WILLARD MORGAN, CARL CARLSON, MILTON DALLEY, FRED
MORGAN, MILTON SHEETS, RUDOLPH KAUFMAN, KENT SHIPP,
ELMER CHRISTENSEN, RUSSELL CHRISTENSEN, WILLARD BROWN,
TED BROWN, JOSIAH BROWN, CHARLES WADDELL, MALCOLM
WADDELL, FREDERICK DEURTCH, L. Y. MATTHEWS, JOSEPH
PEACOCK, JR., J. E. RIGBY, W. E. RIGBY, LAVINIA CORD,
ELEANORA WADDELL and J. L. TENNANT, Defendants.

WHEREAS, the parties to said action now appearing herein, have made
and entered into, the following stipulations:

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NOV 06 1992