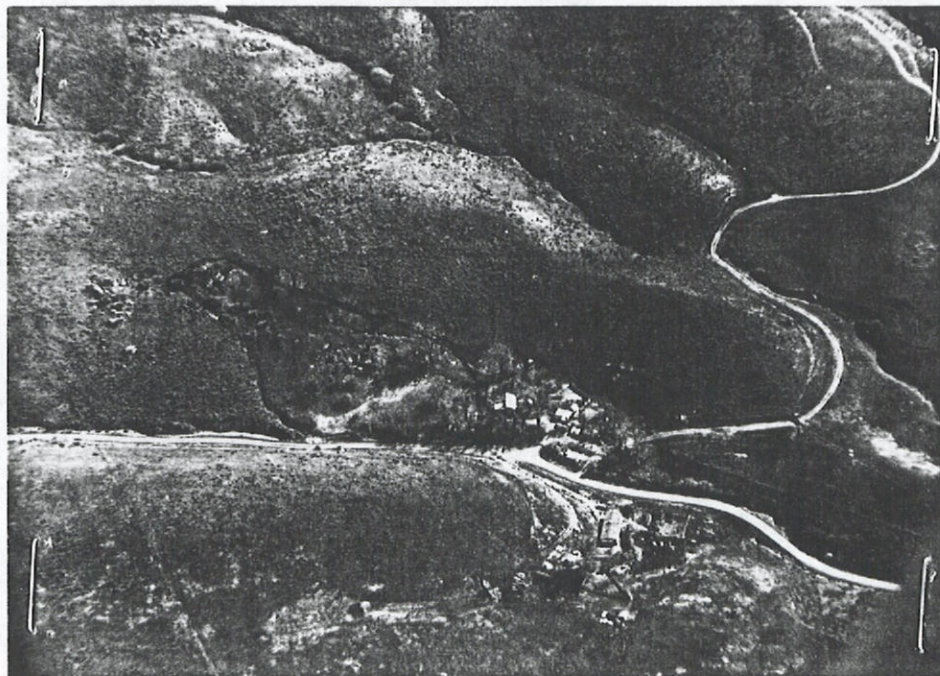


- 1987 - 1990 use of deeded Williams water continues....watering of trees, use of water for other purposes as well.
- 1990 Joe Williams readies the site for new house co-owned by Jo Ann Williams using deeded Williams water to replace damaged sewer lines and prepare lines for hook up to new house.
- March 1990 Notification to Ross, users of Watson place and users of deeded Williams water, of use of Williams water for Williams home. Immediate disconnection of Williams lines by Ross on Watson place from access to Williams water. Watson after confrontation denies Williams use of Williams water, now claimed as Watson water. Watson states he cannot sell tract retained in 1981 without full use of water for land retained in 1981. Williams forced to drill well.
- 07-08-1993 Warranty deed for said premises from Jo Ann Williams to Joe Williams, " subject to all existing easements and rights-of-way ".
" To have and to hold said premises, with their appurtenances unto the said grantees, their heirs and assigns forever ".
- 08-14-1995 Williams file claim on water deeded to them by Watson forever in 1981 and on seepage of Watson water not being put to beneficial use.
- 09-29-1995 Meeting between Watson and Williams. No agreement reached . Use of deeded Williams water decreeded in 1956 secured by Watson in 1977 and signed over via warranty deed in 1981 remains to be denied.



RECEIVED
OCT 21 1996

Form No. 42-1409

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF GEEM

IN THE MATTER OF THE GENERAL DETER-
MINATION OF RIGHTS TO THE USE OF _____
Payette River
DRAINAGE BASIN.

NOTICE OF CLAIM
TO A
WATER RIGHT

65-10690 /	
I.D. No.	Map No.
\$	
Fee Paid	Receipt No.

Notice is hereby given that Lorne W. &/or Debra A. Watson
(Name of Claimant)

Route 1, Box 101 Horseshoe Bend, ID 83629 ✓
(Mailing Address) (Zip Code)

Telephone No. _____

claims a right to the diversion and beneficial use of the surface or ground water. The extent and nature of said claim is as follows:

- claims a right to the diversion and beneficial use of the surface or ground water. The date of the original permit or decree of decreed, licensed, or permit right:
- (1) Date of priority: (When was the water first applied to a beneficial use, or priority date of decreed, licensed, or permit right):
July 1, 1956
- (2) Describe the source of water: (Name of stream, lake, spring, etc., or ground water) Payette River
Spring tributary to Payette River
- (3) Describe the purpose for which the water has been used and the time during the year when you have used the right claimed:
Quantity 0.04 cfs Use domestic Period of Use From Jan 1 To Dec 31
(CFS, GPD, AF) (Domestic, irrigation, stock, etc.) (Mo., Day) (Mo., Day)
(Both dates inclusive)
Quantity Use Period of Use From To
(CFS, GPD, AF) (Domestic, irrigation, stock, etc.) (Mo., Day) (Mo., Day)
(Both dates inclusive)
Quantity Use Period of Use From To
(CFS, GPD, AF) (Domestic, irrigation, stock, etc.) (Mo., Day) (Mo., Day)
(Both dates inclusive)
Quantity Use Period of Use From To
(CFS, GPD, AF) (Domestic, irrigation, stock, etc.) (Mo., Day) (Mo., Day)
(Both dates inclusive)
- (4) .04 cfs TOTAL QUANTITY CLAIMED.
(CFS, GPD, AF)
- (5) A) Point of Diversion: Give location of point where water is diverted from its source NF 1/4 SE 1/4 County
Sec. 22 Twp. 2N Rge. 2E B.M.,
Additional Points:
B) Describe means of diversion of water: (Pump and pipeline, well, diversion dam, reservoir, length of ditch and field, etc.). Give
sizes and capacities: be as specific as possible. Describe any changes in the system and give the date of the change.
1100' plastic pipeline
4" HDPE
- (6) A) Describe location of use by listing number of irrigated acres within each 40-acre tract in appropriate box. If use is not for
irrigation, place an "X" in appropriate box to show location.

[illegible]

Total no. of acres

B) If water is used for other than irrigation, fully describe that use, being as specific as possible:

NOTE: Include here the type and number of stock watered:

- NOTE: Include here the type and number of stock watered.
- (7) If you are claiming water as a member of an organization, list name of organization: _____
- (8) Remarks _____
- (9) Basis of claim (Check one)
- ☐ A) Right based on diversion and beneficial use.
- ☐ B) Right decreed by court, cite title of case. _____
- ☐ C) Right based on application, permit, license, or previous statutory claim filed with the Idaho Department of Water Resources. Give No. _____

Be it known that the undersigned, after being duly sworn on oath, depose(s) and say(s) that all statements included herein are true and accurate to the best of (his, her, their) knowledge.

Individual
[Signature]

August 23, 1977
(Date)

Individual Charles A. White
(Signature of Claimant)

State of Idaho

Organization

Organization

(Signature of Spouse)

County of Boise

Seal

(Signature of Authorized Agent)

County of _____, State of _____, 1977, before me
On this 23rd day of August, in the year 1977,
a notary public, personally appeared Doris A. Watson
known to me to be the person(s) whose name(s) are subscribed to the above instrument, and acknowledged to me that (he, she, they, corporation,
partnership or _____) executed the same.

My commission expires September 10, 1960

Notary Public residing at

alw 12-5-77

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: A65-10690A
Date Received: 3/17/1989
Receipt No: X999999
Received By: _____

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: LORNE W WATSON
Address: ROUTE 1 BOX 101
HORSESHOE BEND ID 83629

AND/OR

Name: DEBRA A WATSON
Address: ROUTE 1 BOX 101
HORSESHOE BEND ID 83629

2. Date of Priority: JUL 1, 1956

3. Source: SPRING Trib. to: PAYETTE RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
08N	02E	28	NE	SE			BOISE

5. Description of diverting works:

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
DOMESTIC	01/01	12/31	0.040		1.20

7. Total Quantity Appropriated is:
0.040 C.F.S. (and/or) 1.20 A.F.A.

8. Total consumptive use is Acre Feet Per Annum.

9. Non-irrigation uses:
D/1 HOUSE

10. Place of Use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
08N	02E	28	NE SE		DOMEST	

11. Place of use in counties: BOISE

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

13. Other Water Rights Used:
NONE

14. Remarks:

DUPLICATE CLAIM.

NOTE: THIS CLAIM AND CLAIM NO. A65-10690B HAVE BEEN INVOLVED IN A PROTEST HEARING FOR APP. FOR PERMIT NO. 65-13631. BASICALLY, THIS ORIGINAL DECREED RIGHT, 65-10690, WAS DECREED FOR ONE HOME WITH A 7-1-1956 PRIORITY DATE. IN THE HEARING ON THE PROTESTED APPLICATION FILED BY THE WILLIAMS (CLAIMANTS ON A65-10690B, IT WAS ESTABLISHED THAT THE CLAIMANTS UNDER THIS CLAIM, WATSON'S, HAVE USED THIS SPRING SINCE 7-1-1956 AND THE WILLIAMS HOOKED UP TO THE SPRING IN 1976. THE WATER FLOW WAS MEASURED AND IT WAS FOUND THAT THERE IS NOT ENOUGH WATER FROM THIS SPRING FOR BOTH HOMES AND USES. THE ORDER FURTHER CLARIFIED THERE IS BARELY ENOUGH FOR THE ORIGINAL DECREED RIGHT. PRIOR TO RECOMMENDING THIS CLAIM AND A65-10690B - CAREFULLY READ THE DECISION ON THE DENIED APP FOR PERMIT 65-13631. A COPY OF THIS DECISION HAS BEEN PLACED IN EACH OF THE TWO FILES A65-10690A & B.

15. Basis of Claim: DECREED

Case Number: 3667

Court :

Decree date: 1/21/1986

STATE OF IDAHO

Decree Plaintiff

A & C CORP., 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: _____

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): _____ Date: _____
_____ Date: _____

State of Idaho)
County of _____) SS.

Subscribed and sworn (or affirmed) before me this _____ day
of _____ 19 _____

Notary Public

Seal

Residing at _____

My Commission Expires _____

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR)	
PERMIT NO. 65-13631 IN THE NAME)	
OF JOE A. WILLIAMS AND EDITH K.)	FINAL ORDER
WILLIAMS)	
_____)	

On January 25, 1996, the hearing officer for the Idaho Department of Water Resources (department) issued a Recommended Order in connection with the above captioned matter. The applicant filed a Petition for Reconsideration (petition) with the department to which the protestant filed a response on February 7, 1996. After reviewing the petition and the response to it, the department changed Finding of Fact No. 6. as shown in this Final Order. Neither party filed exceptions or briefs. Based upon the facts in this matter and upon his understanding of the law, the Director makes the following Findings of Fact, Conclusions of Law and Final Order:

FINDINGS OF FACT

1. On August 14, 1995, Joe A. Williams and Edith K. Williams (applicant) filed Application for Permit No. 65-13631 (application) with the department proposing the diversion of 0.02 cubic feet per second (cfs) of water from a spring located in the NE1/4NE1/4SE1/4 Section 28, T8N, R2E, B.M., tributary to Brownlee Creek, to be used year-round for domestic purposes for one (1) home.

2. The department published notice of the application which was subsequently protested by Lorne W. Watson and Debra A. Watson (protestant).

3. On January 19, 1996, the department conducted a hearing in the matter. The applicant was present and represented himself. The protestant was present and was represented by attorney William Collins.

4. Exhibits offered and accepted as a part of the record include the following:

a. Applicant's Exhibit No. 1 - Photograph showing the general vicinity of the spring and the properties of the applicant and protestant.

- b. Applicant's Exhibit No. 2 - Photographs showing the vicinity of the spring during the fall and during the summer.
- c. Applicant's Exhibit No. 3 - Affidavit of Jo Ann Williams.
- d. Applicant's Exhibit No. 4 - Affidavit of Jack A. Williams.
- e. Applicant's Exhibit No. 5 - Affidavit of John G. Williams.
- f. Applicant's Exhibit No. 6 - Schematic drawing showing the relative locations of the spring, water lines, proposed water lines and places of use.
- g. Applicant's Exhibit No. 7 - Affidavit of Jan C. Williams.
- h. Applicant's Exhibit No. 8 - Warranty Deed from Lorne W. Watson and Debra A. Watson to Jack A. Williams and Jo Ann Williams.
- i. Applicant's Exhibit No. 9 - Warranty Deed from Jo Ann Williams to Joe A. Williams and Edith K. Williams.
- j. Applicant's Exhibit No. 10 - Letter dated January 9, 1996 to Joe and Edith Williams from Jerry Davis.
- k. Protestant's Exhibit Nos. 1 through 9 - Photographs of a water course beginning at the lowest elevation and proceeding uphill toward the spring.
- l. Protestant's Exhibit No. 10 - U.S. Geological Quadrangle Sheet showing the location of the properties of the applicant and protestant.
- m. Protestant's Exhibit No. 11 - Photograph of a water holding tank which is part of the water delivery system from the spring.
- n. Protestant's Exhibit No. 12 - Well Driller Report of a well drilled in 1981 for Jack Williams.

5. The spring is located upon land owned by the protestant approximately one-quarter (1/4) mile upgradient from the property of the applicant. Water from the spring is presently conveyed by pipeline to and used on the protestant's property (Watson property).

6. The protestant and predecessors have used water from the spring for domestic purposes on the Watson property in most years since 1956. In 1976, the protestant and Jack Williams, the predecessor of the applicant, replaced the original water line to

(

the Watson property and installed a second water line from the spring to a 11.15 acre tract (Williams property) being sold to Williams by the protestant. The water line to the Williams property provided domestic water until 1987 when the mobile home on the tract burned down. In 1990, the applicant moved a double wide mobile home onto the Williams property at which time the protestant ceased to provide water to the Williams property.

7. The applicant uses water from a well drilled on the Williams property in 1990. The well produces about 2.5 gallons per minute which is pumped to an eighty (80) gallon pressure tank and used for domestic inhouse use, irrigation of a small lawn, livestock and about 500 trees which are from 1 to 6 feet in height. The applicant stated that he plans to plant more trees.

8. Water right No. 65-10690 was decreed in 1986 to the protestant in a case titled A & C Corp., et al. v. State of Idaho, also known as the Payette River Adjudication. Elements of the water right are as follows:

Priority:	July 1, 1956
Source:	Spring tributary to Brownlee Creek
Point of div:	NE1/4SE1/4 Section 28, T8N, R2E, B.M.
Use:	Domestic - 1 home
Rate of div:	0.04 cfs (18 gallons per minute)
Volume:	1.2 acre feet per year
Season of use:	Year-round

Both the applicant and protestant have filed a claim to this right in the Snake River Basin Adjudication.

9. Flow from the spring was recently measured to be 5 gallons in 15 minutes (0.33 gallons per minute) which is equivalent to 0.00074 cfs. A continuous flow of 0.00074 cfs will produce a volume of approximately 0.5 acre feet of water per year.

CONCLUSIONS OF LAW

1. Section 42-203A, Idaho Code, provides in pertinent part as follows:

In all applications whether protested or not protested where the proposed use is such (a) that it will reduce the quantity of water under existing water rights, or (b) that the water supply is insufficient for the purpose for which it is sought to be appropriated, or (c) where it appears to the satisfaction of the director that such application is not made in good faith, is made for delay or speculative purposes, or (d) that the applicant has not sufficient financial resources with which to complete the work involved therein, or (e) that it will conflict with the local public interest, where the local public

interest is defined as the affairs of the people in the area directly affected by the proposed use, or (f) that it is contrary to conservation of water resources within the state of Idaho; the director of the department of water resources may reject such application and refuse issuance of a permit therefor...

2. The water supply available from the spring is not sufficient to provide the amount of water decreed for prior water right No. 65-10690, and clearly is not sufficient for additional uses proposed in Application for Permit No. 65-13631.

3. The department should deny the application.

ANALYSIS

The question of ownership of decreed right No. 65-10690 will be determined in the Snake River Basin Adjudication.

A second domestic water right from the spring could not have been initiated or established beginning with the Williams hookup to the spring in 1976, since such a right could have only been established following the application, permit and license procedure as provided in Section 42-103, Idaho Code.

The spring does not produce enough water to provide adequate domestic water for two (2) households.

ORDER

IT IS THEREFORE, hereby ORDERED that Application for Permit No. 65-13631 in the name of Joe A. Williams and Edith K. Williams is DENIED.

DATED this 28th day of March, 1996.



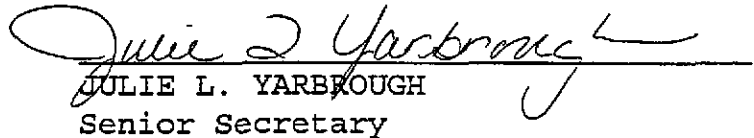
KARL J. DREHER, Director

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 29th day of March, 1995, I mailed a true and correct copy, postage prepaid, of the foregoing FINAL ORDER to the following:

Joe A. & Edith K. Williams
Rt. 1 Box 100
Horseshoe Bend, ID 83629

Lorne & Debra A. Watson
Rt. 1 Box 101
Horseshoe Bend, ID 83629


JULIE L. YARBROUGH
Senior Secretary

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: A65-10690A
Date Received: 3/17/1989
Receipt No: X999999
Received By: _____

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: LORNE W WATSON
Address: ROUTE 1 BOX 101
HORSESHOE BEND ID 83629
AND/OR
Name: DEBRA A WATSON
Address: ROUTE 1 BOX 101
HORSESHOE BEND ID 83629
2. Date of Priority: JUL 1, 1956
3. Source: SPRING Trib. to: PAYETTE RIVER
4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
08N	02E	28	NE	SE			BOISE
5. Description of diverting works:
6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
DOMESTIC	01/01	12/31	0.040		1.20
7. Total Quantity Appropriated is:
0.040 C.F.S. (and/or) 1.20 A.F.A.
8. Total consumptive use is Acre Feet Per Annum.
9. Non-irrigation uses:
D/1 HOUSE

MICROFILMED
OCT 21 1996

10. Place of Use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
08N	02E	28	NE SE		DOMEST	

11. Place of use in counties: BOISE

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

13. Other Water Rights Used:
NONE

14. Remarks:
DUPLICATE CLAIM.

15. Basis of Claim: DECREED

Case Number: 3667

Court :

Decree date: 1/21/1986

STATE OF IDAHO
Decree Plaintiff

A & C CORP., 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: _____

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): _____ Date: _____
_____ Date: _____

State of Idaho)
) SS.
County of _____)

Subscribed and sworn (or affirmed) before me this _____ day
of _____ 19 _____

Notary Public

Seal

Residing at _____

My Commission Expires _____

MEMO TO FILE

TO: A65-10690A
FR: RON HOWERTON
DT: November 2, 1995
RE: NUMBER CHANGE

1. THIS RIGHT HAD A SECOND CLAIM FILED ON IT TODAY.
2. THE NEW CLAIMANTS ARE JOE &/OR EDITH WILLIAMS.
3. THEY BELIEVE THAT THEY ARE THE GENUINE OWNERS OF THIS WATER RIGHT.

MICROFILMED
OCT 21 1996

RENUMBERED
to
A65-10690A

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: A65-10690
Date Received: 3/17/1989
Receipt No: X999999
Received By: RAJ

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: LORNE W. WATSON
Address: ROUTE 1, BOX 101
HORSESHOE BEND, ID 83629
AND/OR
Name: DEBRA A. WATSON
Address: ROUTE 1, BOX 101
HORSESHOE BEND, ID 83629
2. Date of Priority: JUL 01, 1956
3. Source: SPRING Trib. to: PAYETTE RIVER
4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
08N	02E	28	NE	SE			BOISE
5. Description of diverting works:
6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
DOMESTIC	01/01	12/31	0.040		1.20
7. Total Quantity Appropriated is:
0.040 C.F.S. (and/or) 1.20 A.F.A.
8. Total consumptive use is Acre Feet Per Annum.
9. Non-irrigation uses:
D/1 HOUSE

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
08N	02E	28	NE	SE		DOMEST	

11. Place of use in counties: BOISE

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

13. Other Water Rights Used:
NONE

14. Remarks:

15. Basis of Claim: DECREED
Case Number: 3667
Court :
Decree date: 1/21/1986

STATE OF IDAHO

Decree Plaintiff

vs

A & C CORP., 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 _____ wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments: _____

For Individuals:

I/We do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant(s): _____ Date: _____
_____ Date: _____

State of Idaho)
County of _____) SS.

Subscribed and sworn (or affirmed) before me this _____ day
of _____ 19 _____

Notary Public

Seal

Residing at _____

My Commission Expires _____

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: 65-10690

DATE RECEIVED: 3-17-89

RECEIPT NO: X99999

RECEIVED BY: *Rat*

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. NAME: LORNE W. WATSON
ADDRESS: ROUTE 1, BOX 101
HORSESHOE BEND, ID 83629

and/or
NAME: DEBRA A. WATSON
ADDRESS: ROUTE 1, BOX 101
HORSESHOE BEND, ID 83629

2. DATE OF PRIORITY: JUL 01, 1956

3. SOURCE: SPRING TRIB. TO: PAYETTE RIVER

4. POINT OF DIVERSION:

TOWNSHIP	RANGE	SECTION	1/4 OF	1/4 OF	1/4	LOT	COUNTY
08N	02E	28	NE	SE			BOISE

5. DESCRIPTION OF DIVERTING WORKS:

6. WATER IS USED FOR THE FOLLOWING PURPOSES:

PURPOSE	FROM	TO	C.F.S.	(OR)	A.F.A.
DOMESTIC	01/01	12/31	0.040		1.20

7. TOTAL QUANTITY APPROPRIATED IS:

0.040 C.F.S. (AND/OR) 1.20 A.F.A.

8. TOTAL CONSUMPTIVE USE IS ACRE FEET PER ANNUM.

9. NON-IRRIGATION USES: *1 house/WW*

POOR ORIGINAL

10. PLACE OF USE:

TOWNSHIP	RANGE	SECTION	1/4 OF 1/4	LOT	USE	ACRES
08N	02E	28	NE SE		DOMEST	

11. PLACE OF USE IN COUNTIES: BOISE, BOISE

12. DO YOU OWN THE PROPERTY LISTED ABOVE AS PLACE OF USE? YES

13. OTHER WATER RIGHTS USED: NONE *LW*

14. REMARKS:

15. BASIS OF CLAIM: DECREED

CASE NUMBER:

COURT :

DECREE DATE: 1/21/1986

STATE OF IDAHO
DECREE PLAINTIFF

A & C CORP., ET AL.
VS
DECREE DEFENDANT

-16. SIGNATURE(S)

POOR ORIGINAL

(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." (S.) 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: 0

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): Lorne W. Watson DATE: March 17, 89

DATE: _____

FOR ORGANIZATIONS:

I DO SOLEMNLY SWEAR OR AFFIRM THAT I AM _____ OF

TITLE

_____, THAT I HAVE SIGNED THE FOREGOING

ORGANIZATION

DOCUMENT IN THE SPACE BELOW AS _____ OF

TITLE

_____, AND THAT THE STATEMENTS CONTAINED IN THE
ORGANIZATION

FOREGOING DOCUMENT ARE TRUE AND CORRECT.

SIGNATURE OF AUTHORIZED AGENT

TITLE AND ORGANIZATION

DATE

STATE OF IDAHO)
COUNTY OF Ada) SS.

SUBSCRIBED AND SWORN (OR AFFIRMED) BEFORE ME THIS 17th DAY.

OF March 19 89

Helen Harrington
NOTARY PUBLIC

SEAL

RESIDING AT Helen Harrington, Notary Public
Residing at Ingham Idaho
My Commission Expires December 1, 1994
MY COMMISSION EXPIRES _____

10/12/2001

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 65-10690A
NAME AND ADDRESS: DEBRA A WATSON
29 WATSON LN
HORSESHOE BEND ID 83629

LORNE W WATSON
29 WATSON LN
HORSESHOE BEND ID 83629

SOURCE: SPRING TRIBUTARY: PAYETTE RIVER

QUANTITY: 0.040 CFS
1.20 AFY

THE QUANTITY OF WATER UNDER THIS RIGHT SHALL NOT EXCEED 13,000
GALLONS PER DAY.

PRIORITY DATE: 07/01/1956

POINT OF
DIVERSION:

T08N R02E S28 NESE Within BOISE County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
DOMESTIC	01/01 12/31	0.040 CFS 1.20 AFY

PLACE OF USE: DOMESTIC Within BOISE County
T08N R02E S28 NESE

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT IS NOT A
DETERMINATION OF HISTORICAL BENEFICIAL USE.
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: BASIS OF CLAIM - Decreed

RECEIVED

OCT 17 2001

WATER RESOURCES
WESTERN REGION

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

In Re SRBA

Case No. 39576

Water Rights: 65-10689 and
65-10690A

NOTICE OF COMPLETED
ADMINISTRATIVE
PROCEEDING

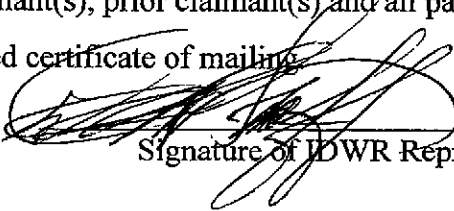
IDWR has completed the following administrative proceeding:

- ☒ Address change
- ☐ Substitution of Party
- ☐ IC § 42-222 transfer
- ☐ Point of diversion ☐ Place of use
- ☐ Period of use ☐ Nature of use
- ☐ Split of water right ☐ Change in ownership
- ☐ Other
- ☐ IC § 42-219 license

IDWR certifies that it has completed its investigation into the changes to the elements of the water rights listed above as set forth in the attached *Amended Director's Report(s)* for said water right(s). No other changes have been made to the elements of these water rights except as set forth above.

IDWR has served copies of the *Notice of Completed Administrative Proceeding* and *Amended Director's Report(s)* on the claimant(s), prior claimant(s) and all parties in the subcases affected, if any, as reflected on the attached certificate of mailing.

DATED: 10-15-01



Signature of IDWR Representative

CERTIFICATE OF MAILING

I certify that on 10/15/, 2001, I delivered the original and copies of this form, including all attachments, to the following persons, postage prepaid if required and addressed as follows:

1. Original to:

Clerk of the District Court
Snake River Basin Adjudication
P.O. Box 2707
Twin Falls, ID 83303-2707

☐ overnight mail
☒ regular mail
☐ hand-delivered
☐ facsimile

2. Copies to:

Clive Strong
Off ice of the Attorney General
P.O. Box 44449
Boise, ID 83711-4449

☐ overnight mail
☐ regular mail
☒ hand-delivered
☐ facsimile

United States Dept of Justice
Environment & Natural Resource Div
550 West Fort Street MSC 033
Boise ID 83724

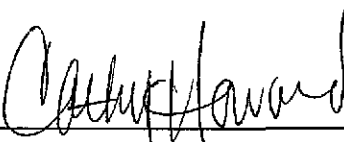
☐ overnight mail
☒ regular mail
☐ hand-delivered
☐ facsimile

3. Copies to all parties to the subcase:

Debra Watson
Lorne Watson
20 Watson Ln.
Horseshoe Bend, ID 83629

☐ overnight mail
☒ regular mail
☐ hand-delivered
☐ facsimile

☐ overnight mail
☐ regular mail
☐ hand-delivered
☐ facsimile



Signature of person mailing this document

10/12/2000

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

RIGHT NUMBER: 65-10690A

NAME AND ADDRESS: DEBRA A WATSON
LORNE W WATSON
ROUTE 1 BOX 101
HORSESHOE BEND, ID 83629

SOURCE: SPRING TRIBUTARY: Payette River

QUANTITY: 0.04 CFS
1.2 AFY

THE QUANTITY OF WATER UNDER THIS RIGHT SHALL
NOT EXCEED 13,000 GALLONS PER DAY.

PRIORITY DATE: 07/01/1956

POINT OF DIVERSION: T08N R02E S28 NESE Within BOISE County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
DOMESTIC 1 HOMES	01-01 12-31	0.04 CFS
		1.2 AFY

PLACE OF USE:

DOMESTIC Within BOISE County
T08N R02E S28 NESE

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

THE QUANTITY OF WATER DECREED FOR THIS WATER
RIGHT IS NOT A DETERMINATION OF HISTORICAL
BENEFICIAL USE.

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: BASIS OF CLAIM - Decreed

ROUTING SLIP CME 1/31/01

Distribution		Provided for your:	
Date: 8-25-2000		Information	☒
To: Rick Agnew		Comments	☒
From: Mel Schutte		Approval	
		Signature	
Special Notes:			

Hi JAN,
 I FOUND THIS
 DOCUMENT IN MY
 FILES. CAN YOU
 PLEASE RETURN
 IT TO THE CLAIM
 FILE. THANKS!

GARRICK

RECEIVED

AUG 28 2000

MEMORANDUM

Department of Water Resources

TO: NICK SPENCER

FROM: MEL SCHULTE *MS*

DATE: AUGUST 25, 2000

RE: COMPETING CLAIMS TO A65-10690

RECEIVED

MAY 28 2002

WATER RESOURCES
WESTERN REGION

We have two identical competing claims filed in the SRBA against PRBA decreed right 65-10690. A65-10690A is in the name of Watson(s) and A65-10690B in the name of Williams(s). The right was decreed to Watson(s) in the PRBA and Williams(s) contend that the ownership of the right transferred to them in the purchase of 11+ acres of land from the Watson(s).

The ownership issue of this right (65-10690) and use of water from the same Spring source is well documented in the proceedings for a protested Application for Permit (65-13631) filed by the Williams(s) in 1995 (Final Order attached).

I find no evidence in two Warranty Deeds (See attached deeds dated 1981 and 1993) that clearly shows that water right 65-10690 was conveyed with the 11+ acres from the Watson(s) to the Williams(s). Therefore, it is my intention to disallow Williams(s) claim A65-10690B and recommend Watson(s) claim A65-10690A. It is possible that no matter what our recommendation(s) are in this matter an objection is likely. Let me know if you find any evidence that suggest a different action than what I propose above.

MTS

1990 Watson say this is our H₂O Rt so Williams drill a well.

1993 - John Williams to Joe Williams

1981 - Watson to John Williams

- Williams filed SRBA claim in 1995.

- Watson filed in SRBA in 1989.

H₂O appurtenant unless expressly reserved.
Disc w/ B. W. S. mine. consistent w/ 1981 65-10690 to go to Watson although analysis says to Williams

- Decreed PRBA to Watson ~~to~~ filed claim in PRBA in 1977. Decreed as claimed to Watson, but not clear to what land. - just domestic use

- House ^{Watson} vacant 1976 to 1982 H₂O used 1976 to 1987 at Williams place. - house burns 1987

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

RECEIVED

AUG 28 2000

Department of Water Resources

IN THE MATTER OF APPLICATION FOR)
PERMIT NO. 65-13631 IN THE NAME)
OF JOE A. WILLIAMS AND EDITH K.) **FINAL ORDER**
WILLIAMS)
_____)

On January 25, 1996, the hearing officer for the Idaho Department of Water Resources (department) issued a Recommended Order in connection with the above captioned matter. The applicant filed a Petition for Reconsideration (petition) with the department to which the protestant filed a response on February 7, 1996. After reviewing the petition and the response to it, the department changed Finding of Fact No. 6. as shown in this Final Order. Neither party filed exceptions or briefs. Based upon the facts in this matter and upon his understanding of the law, the Director makes the following Findings of Fact, Conclusions of Law and Final Order:

FINDINGS OF FACT

1. On August 14, 1995, Joe A. Williams and Edith K. Williams (applicant) filed Application for Permit No. 65-13631 (application) with the department proposing the diversion of 0.02 cubic feet per second (cfs) of water from a spring located in the NE1/4NE1/4SE1/4 Section 28, T8N, R2E, B.M., tributary to Brownlee Creek, to be used year-round for domestic purposes for one (1) home.

2. The department published notice of the application which was subsequently protested by Lorne W. Watson and Debra A. Watson (protestant).

3. On January 19, 1996, the department conducted a hearing in the matter. The applicant was present and represented himself. The protestant was present and was represented by attorney William Collins.

4. Exhibits offered and accepted as a part of the record include the following:

a. Applicant's Exhibit No. 1 - Photograph showing the general vicinity of the spring and the properties of the applicant and protestant.

- b. Applicant's Exhibit No. 2 - Photographs showing the vicinity of the spring during the fall and during the summer.
- c. Applicant's Exhibit No. 3 - Affidavit of Jo Ann Williams.
- d. Applicant's Exhibit No. 4 - Affidavit of Jack A. Williams.
- e. Applicant's Exhibit No. 5 - Affidavit of John G. Williams.
- f. Applicant's Exhibit No. 6 - Schematic drawing showing the relative locations of the spring, water lines, proposed water lines and places of use.
- g. Applicant's Exhibit No. 7 - Affidavit of Jan C. Williams.
- h. Applicant's Exhibit No. 8 - Warranty Deed from Lorne W. Watson and Debra A. Watson to Jack A. Williams and Jo Ann Williams.
- i. Applicant's Exhibit No. 9 - Warranty Deed from Jo Ann Williams to Joe A. Williams and Edith K. Williams.
- j. Applicant's Exhibit No. 10 - Letter dated January 9, 1996 to Joe and Edith Williams from Jerry Davis.
- k. Protestant's Exhibit Nos. 1 through 9 - Photographs of a water course beginning at the lowest elevation and proceeding uphill toward the spring.
- l. Protestant's Exhibit No. 10 - U.S. Geological Quadrangle Sheet showing the location of the properties of the applicant and protestant.
- m. Protestant's Exhibit No. 11 - Photograph of a water holding tank which is part of the water delivery system from the spring.
- n. Protestant's Exhibit No. 12 - Well Driller Report of a well drilled in 1981 for Jack Williams.

5. The spring is located upon land owned by the protestant approximately one-quarter (1/4) mile upgradient from the property of the applicant. Water from the spring is presently conveyed by pipeline to and used on the protestant's property (Watson property).

6. The protestant and predecessors have used water from the spring for domestic purposes on the Watson property in most years since 1956. In 1976, the protestant and Jack Williams, the predecessor of the applicant, replaced the original water line to

the Watson property and installed a second water line from the spring to a 11.15 acre tract (Williams property) being sold to Williams by the protestant. The water line to the Williams property provided domestic water until 1987 when the mobile home on the tract burned down. In 1990, the applicant moved a double wide mobile home onto the Williams property at which time the protestant ceased to provide water to the Williams property.

7. The applicant uses water from a well drilled on the Williams property in 1990. The well produces about 2.5 gallons per minute which is pumped to an eighty (80) gallon pressure tank and used for domestic inhouse use, irrigation of a small lawn, livestock and about 500 trees which are from 1 to 6 feet in height. The applicant stated that he plans to plant more trees.

8. Water right No. 65-10690 was decreed in 1986 to the protestant in a case titled A & C Corp., et al. v. State of Idaho, also known as the Payette River Adjudication. Elements of the water right are as follows:

Priority:	July 1, 1956
Source:	Spring tributary to Brownlee Creek
Point of div:	NE1/4SE1/4 Section 28, T8N, R2E, B.M.
Use:	Domestic - 1 home
Rate of div:	0.04 cfs (18 gallons per minute)
Volume:	1.2 acre feet per year
Season of use:	Year-round

Both the applicant and protestant have filed a claim to this right in the Snake River Basin Adjudication.

9. Flow from the spring was recently measured to be 5 gallons in 15 minutes (0.33 gallons per minute) which is equivalent to 0.00074 cfs. A continuous flow of 0.00074 cfs will produce a volume of approximately 0.5 acre feet of water per year.

CONCLUSIONS OF LAW

1. Section 42-203A, Idaho Code, provides in pertinent part as follows:

In all applications whether protested or not protested where the proposed use is such (a) that it will reduce the quantity of water under existing water rights, or (b) that the water supply is insufficient for the purpose for which it is sought to be appropriated, or (c) where it appears to the satisfaction of the director that such application is not made in good faith, is made for delay or speculative purposes, or (d) that the applicant has not sufficient financial resources with which to complete the work involved therein, or (e) that it will conflict with the local public interest, where the local public

interest is defined as the affairs of the people in the area directly affected by the proposed use, or (f) that it is contrary to conservation of water resources within the state of Idaho; the director of the department of water resources may reject such application and refuse issuance of a permit therefor...

2. The water supply available from the spring is not sufficient to provide the amount of water decreed for prior water right No. 65-10690, and clearly is not sufficient for additional uses proposed in Application for Permit No. 65-13631.

3. The department should deny the application.

ANALYSIS

The question of ownership of decreed right No. 65-10690 will be determined in the Snake River Basin Adjudication.

A second domestic water right from the spring could not have been initiated or established beginning with the Williams hookup to the spring in 1976, since such a right could have only been established following the application, permit and license procedure as provided in Section 42-103, Idaho Code.

The spring does not produce enough water to provide adequate domestic water for two (2) households.

ORDER

IT IS THEREFORE, hereby ORDERED that Application for Permit No. 65-13631 in the name of Joe A. Williams and Edith K. Williams is DENIED.

DATED this 28th day of March, 1996.



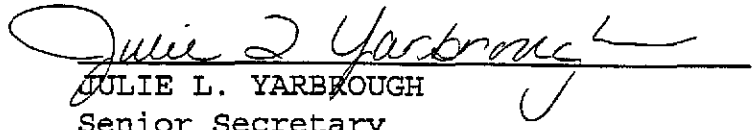
KARL J. DREHER, Director

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 29th day of March, 1995, I mailed a true and correct copy, postage prepaid, of the foregoing **FINAL ORDER** to the following:

Joe A. & Edith K. Williams
Rt. 1 Box 100
Horseshoe Bend, ID 83629

Lorne & Debra A. Watson
Rt. 1 Box 101
Horseshoe Bend, ID 83629


JULIE L. YARBROUGH
Senior Secretary

AUG 28 2000

Department of Water Resources

October 19, 1995

Telephone conversation with Mr. Tuthill. Date for conference set for Thursday Nov. 02, 1995 10:00 a.m. in Boise.

Mr. Tuthill wants to resolve the easement question along with the water rights question, he admits though that in general the easement has no impact on the decision of the issuance of water rights.

Time table

- 1956 Watson files for water rights on SE of Se 1/4 Section 28, T. 8 N. R. 2 E, B. M., Boise County on 160 acre parcel.
- 1974 - 1976 Williams rent Watson place, have use of all water originally filed for in 1956 (?) by Watson.
- 1976 Oral agreement between Watson and Williams to survey out +/-11 acres from original tract of land.
Stipulation for use of Watson water is development of Watson spring to support two homesteads on both pieces of land. Easement to lay waterlines and divert water is given by Watson.
Williams pay for costs and move on 11 acres.
Use of house on Watson property given to Williams for storage.
Use of all of Watson water by Williams permitted by Watson.
- 12-05-1977 Watson files for water rights on newly developed spring. Only place of use from 1976-1982 is tract of Watson land agreed upon for sale to Williams and signed over with appurtenances on Nov. 08, 1981.
1100 feet of plastic pipeline, domestic. Water was not being used for domestic purposes on property retained by Watson, house was given to Williams to use for storage and was used until 1982 for storage only.
- Oct. 1981(?) Well drilled on Williams place for irrigation purposes.
Permission to use all of Watson water not withdrawn, use continues.....
- 11-08-'81 Warranty deed signed by Watson while Williams have easement to use of all Watson water " subject to all existing easements and rights-of-way ".
" To have and to hold said premises, with their appurtenances unto the said grantees, their heirs and assigns forever ".
sole use of Watson water by Williams continues.....
- 1985 Oral agreement between Jo Ann Williams and her son Joe Williams to sell / purchase premises. Payments by Joe Williams start.
use of water deeded to Williams in 1981 continues.....
- 1987 Home on Williams premises is lost to fire.
- 1989 Watson files for rights to water allegedly acquired under state law, decreed rights from 1956 deeded to Williams in 1981 forever. Not protested by Joe Williams due to no notification.
Williams was overseas from 1983 to November 1989

WATSON, BOISE
OCT 21 1995

- 1987 - 1990 use of deeded Williams water continues....watering of trees, use of water for other purposes as well.
- 1990 Joe Williams readies the site for new house co-owned by Jo Ann Williams using deeded Williams water to replace damaged sewer lines and prepare lines for hook up to new house.
- March 1990 Notification to Ross, users of Watson place and users of deeded Williams water, of use of Williams water for Williams home. Immediate disconnection of Williams lines by Ross on Watson place from access to Williams water. Watson after confrontation denies Williams use of Williams water, now claimed as Watson water. Watson states he cannot sell tract retained in 1981 without full use of water for land retained in 1981. Williams forced to drill well.
- 07-08-1993 Warranty deed for said premises from Jo Ann Williams to Joe Williams, " subject to all existing easements and rights-of-way ".
" To have and to hold said premises, with their appurtenances unto the said grantees, their heirs and assigns forever ".
- 08-14-1995 Williams file claim on water deeded to them by Watson forever in 1981 and on seepage of Watson water not being put to beneficial use.
- 09-29-1995 Metting between Watson and Williams. No agreement reached . Use of deeded Williams water decreeded in 1956 secured by Watson in 1977 and signed over via warranty deed in 1981 remains to be denied.



Instrument #

POOR ORIGINAL



A Pioneer Company

PIONEER TITLE COMPANY
OF ADA COUNTY

888 North Cole Road / Boise, Idaho 83704 / Telephone (208) 377-2700

RECEIVED

AUG 28 2000

Department of Water Resources

P 115946/B KB/CTL

WARRANTY DEED Instrument # 102992
(INDIVIDUAL)

FOR VALUE RECEIVED

JOANN WILLIAMS, AN UNMARRIED PERSON NOW AND ALL TIMES SINCE JULY 17, 1984

Grantor, does hereby grant, bargain, sell and convey unto JOE A. WILLIAMS AND EDITH K. WILLIAMS,
HUSBAND AND WIFE

the Grantee s, whose current address is:
the following described real property in BOISE
follows, to-wit:
SEE ATTACHED EXHIBIT "A"

County, State of Idaho, more particularly described as

148021

10/28/2000
RECEIVED
Mt View

Dale Yorker
#6.00

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantee s, and Grantee s heirs and assigns forever. And the said Grantor does hereby covenant to and with the said Grantees, the Grantor is the owner in fee simple of said premises; that said premises are free from all encumbrances, EXCEPT those to which this conveyance is expressly made subject and those made, suffered or done by the Grantee s; and subject to reservations, restrictions, dedications, easements, rights of way and agreements, (if any) of record, and general taxes and assessments, (includes irrigation and utility assessments, (if any) for the current year, which are not yet due and payable, and that Grantor will warrant and defend the same from all lawful claims whatsoever.

Dated: July 8, 1993

Joann Williams

STATE OF IDAHO, County of ADA, ss.

On this 08 day of July, in the year of 1993, before me THE UNDERSIGNED

, a notary public, personally appeared JOANN WILLIAMS, known or identified to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that she executed the same.

Notary Public *[Signature]*
Residing at: BOISE
My Commission Expires: 05/26/94

POOR ORIGINAL

COMMITMENT FOR TITLE INSURANCE

SCHEDULE C

File Number: P115946/B

The land referred to in this Commitment is described as follows:

A TRACT OF LAND SITUATED IN THE SOUTHEAST QUARTER OF SECTION 28, TOWNSHIP 8 NORTH, RANGE 2 EAST, BOISE MERIDIAN, BOISE COUNTY, IDAHO, DESCRIBED AS FOLLOWS:
 COMMENCING AT A SET BRASS CAP REPLACING THE FOUND ORIGINAL STONE MONUMENTING THE SOUTHEAST CORNER OF SAID SECTION 28, THENCE ALONG THE EASTERLY LINE OF SAID SECTION 28, NORTH 0 29'25" EAST A DISTANCE OF 2642.95 FEET TO A SET BRASS CAP REPLACING THE FOUND ORIGINAL STONE MONUMENTING THE EAST QUARTER CORNER OF SAID SECTION 28, THENCE LEAVING SAID EASTERLY LINE ALONG THE EAST-WEST CENTER OF SECTION LINE OF SAID SECTION 28, SOUTH 89 52'07" WEST A DISTANCE OF 160.88 FEET TO A SET STEEL PIN AT THE INTERSECTION OF SAID EAST WEST CENTER OF SECTION LINE WITH THE WESTERLY RIGHT OF WAY OF AN EXISTING COUNTY ROAD, SAID STEEL PIN BEING THE REAL POINT OF BEGINNING, THENCE CONTINUING ALONG SAID EAST WEST CENTER OF SECTION LINE SOUTH 89 52'07" WEST A DISTANCE OF 673.18 FEET TO A SET STEEL PIN, THENCE LEAVING SAID EAST WEST CENTER OF SECTION LINE SOUTH 23 20'26" WEST A DISTANCE 829.83 FEET TO A SET STEEL PIN, THENCE SOUTH 64 13'00" EAST A DISTANCE OF 272.22 FEET TO A SET STEEL PIN ON THE WESTERLY RIGHT OF WAY OF SAID COUNTY ROAD, THENCE ALONG SAID WESTERLY RIGHT OF WAY THE FOLLOWING COURSES:
 NORTHEASTERLY 116.45 FEET ALONG THE ARC OF A CIRCULAR CURVE CONCAVE TO THE SOUTHEAST, SAID CURVE HAVING A RADIUS OF 215.00 FEET, A CENTRAL ANGLE OF 31 01'55". AND A LONG CHORD WHICH BEARS NORTH 71 02'02" EAST A CHORD DISTANCE OF 115.03 FEET TO A POINT, THENCE NORTHEASTERLY 90 97 FEET ALONG THE ARC OF A CIRCULAR CURVE CONCAVE TO THE NORTHWEST, SAID CURVE HAVING A RADIUS OF 110.43 FEET, A CENTRAL ANGLE OF 47 12'00" AND A LONG CHORD WHICH BEARS NORTH 62 57'00" EAST A CHORD DISTANCE OF 88 43 FEET TO A POINT, THENCE NORTH 39 21'00" EAST A DISTANCE OF 180.57 FEET TO A POINT, THENCE NORTH 53 19'00" EAST A DISTANCE OF 147 54 FEET TO A POINT, THENCE NORTH 28 41'00" EAST A DISTANCE OF 338.13 FEET TO A POINT, THENCE NORTH 31 54'00" EAST A DISTANCE OF 329.66 FEET TO THE REAL POINT OF BEGINNING.

END OF LEGAL DESCRIPTION

POOR ORIGINAL

WARRANTY DEED

For Value Received

LORNE W. WATSON and DEBRA A. WATSON, husband and wife,

the grantors, do hereby grant, bargain, sell and convey unto
JACK A. WILLIAMS or JO ANN WILLIAMS, husband and wife,
Route 1 Box 100 Horseshoe Bend, Idaho 83629

the grantees, the following described premises, to-wit:

A tract of land situated in the Southeast $\frac{1}{4}$ of Section 28, Township 8 North, Range 2 East, Boise Meridian, Boise County, Idaho, described as follows.

Commencing at a set brass cap replacing the found original stone monumenting the Southeast Corner of said Section 28, thence along the easterly line of said Section 28 N0°-29'-25"E a distance of 2642.95 feet to a set brass cap replacing the found original stone monumenting the East $\frac{1}{4}$ Corner of said Section 28, thence leaving said easterly line along the east-west center-of-section line of said Section 28 S89°-52'-07"W a distance of 160.88 feet to a set steel pin at the intersection of said east-west center-of-section line with the westerly right-of-way of an existing county road, said steel pin being the REAL POINT OF BEGINNING.

Thence continuing along said east-west center-of-section line S89°-52'-07"W a distance of 673.18 feet to a set steel pin,
Thence leaving said east-west center-of-section line S23°-20'-26"W a distance of 829.83 feet to a set steel pin,
Thence S64°-13'-00"E a distance of 272.22 feet to a set steel pin on the westerly right-of-way of said county road.
Thence along said westerly right-of-way the following courses:
Northeasterly 116.45 feet along the arc of a circular curve concave to the southeast, said curve having a radius of 215.00 feet, a central angle of 31°-01'-55", and a long chord which bears N71°-02'-02"E a chord distance of 115.03 feet to a point,
Thence northeasterly 90.97 feet along the arc of a circular curve concave to the northwest, said curve having a radius of 110.43 feet, a central angle of 47°-12'-00", and a long chord which bears N62°-57'-00"E a chord distance of 88.42 feet to a point,
Thence N39°-21'-00"E a distance of 180.57 feet to a point,
Thence N53°-19'-00"E a distance of 147.54 feet to a point,
Thence N28°-41'-00"E a distance of 338.13 feet to a point,
Thence N31°-54'-00"E a distance of 329.66 feet to the REAL POINT OF BEGINNING.

The above described tract of land contains 11.15 acres, more or less, subject to all existing easements and rights-of-way.

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantees, their heirs and assigns forever. And the said Grantors do hereby covenant to and with the said Grantees, that they are the owners in fee simple of said premises, that said premises are free from all incumbrances

and that they will warrant and defend the same from all lawful claims whatsoever.

Dated: .

Lorne W. Watson
Lorne W. Watson

Debra A. Watson
Debra A. Watson

STATE OF IDAHO, COUNTY OF BOISE

On this 8th day of November 10 81
before me, a notary public in and for said State, personally
appeared:

Lorne W. Watson and Debra A. Watson,
husband and wife,

known to me to be the persons whose names are
subscribed to the within instrument, and acknowledged to
me that they executed the same.

Marcie Wood
Notary Public

Residing at Horseshoe Bend, Idaho
Comm. Expires

STATE OF IDAHO, COUNTY OF BOISE

I hereby certify that this instrument was filed for record at
the request of *Men New*

at 52 minutes past 3 o'clock p.m.,
this 2nd day of December 1981, in my office, and duly recorded in Book 83
of Deeds at page 299

Carlson C. Kolar
Ex-Officio Recorder, MICROFILM

Celeste Bartlett
Deputy

Fees \$2.00
Mail to.

INSTRUMENT No. 102992

DEC 21 1981

MEMORANDUM

TO: NICK SPENCER

FROM: MEL SCHULTE 

DATE: AUGUST 25, 2000

RE: COMPETING CLAIMS TO A65-10690

We have two identical competing claims filed in the SRBA against PRBA decreed right 65-10690. A65-10690A is in the name of Watson(s) and A65-10690B in the name of Williams(s). The right was decreed to Watson(s) in the PRBA and Williams(s) contend that the ownership of the right transferred to them in the purchase of 11+ acres of land from the Watson(s).

The ownership issue of this right (65-10690) and use of water from the same Spring source is well documented in the proceedings for a protested Application for Permit (65-13631) filed by the Williams(s) in 1995 (Final Order attached).

I find no evidence in two Warranty Deeds (See attached deeds dated 1981 and 1993) that clearly shows that water right 65-10690 was conveyed with the 11+ acres from the Watson(s) to the Williams(s). Therefore, it is my intention to disallow Williams(s) claim A65-10690B and recommend Watson(s) claim A65-10690A. It is possible that no matter what our recommendation(s) are in this matter an objection is likely. Let me know if you find any evidence that suggest a different action than what I propose above.

MTS

WR5809NP
No. 65-10690

IDAHO DEPARTMENT OF WATER RESOURCES
WATER RIGHT PROFILE REPORT

DATE: 10/12/00
PAGE: 1

OWNER CODE	NAME & ADDRESS	PRIORITY DATE	WATER USE	USE PERIOD FROM TO	DIVERSION RATE	DIVERSION VOLUME
C	LORNE W. WATSON	07/01/1956	DOMESTIC	01/01 12/31	0.040 CFS	1.20 AFA
C	DEBRA A. WATSON ROUTE 1, BOX 101 HORSESHOE BEND ID 83629					
TOTAL DIVERSION:					0.040 CFS	1.20 AFA

Water Source: SPRING

Tributary to: PAYETTE RIVER

Stage: DECREED

Point(s) of Diversion:

T08N R02E S28

NESE

BOISE County

Place of use Legal Description for: DOMESTIC

				NE				NW				SW				SE				
T	R	S	:	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	:
---	---	---	:	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	:
08N	02E	28	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:	:

Pou County: BOISE

Dates:	App. Received:	Priority Date:	07/01/1956
	Proof Due Date:	Proof Made Date:	
	Exam Made Date:	Exam Sent to S.O.:	
	Licensed Date:		

Misc: Water District Number: 65 Field Exam Fee:

Audit: 04/02/86 04/30/88 CONVERT

AJ5809NP
No. A65-10690A

IDAHO DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM PROFILE REPORT

DATE: 10/12/00
PAGE: 1

OWNER CODE	NAME & ADDRESS	PRIORITY DATE	WATER USE	USE PERIOD FROM TO	DIVERSION RATE	DIVERSION VOLUME
C	LORNE W WATSON	07/01/1956	DOMESTIC	01-01 12-31	0.040 CFS	1.20 AFA
C	DEBRA A WATSON					
	ROUTE 1 BOX 101					
	HORSESHOE BEND ID 83629			TOTAL DIVERSION:	0.040 CFS	1.20 AFA

Water Source: SPRING

Tributary to: PAYETTE RIVER

Stage: DECREED

Point(s) of Diversion:

T08N R02E S28

NESE

BOISE County

Place of use Legal Description for: DOMESTIC

NE				NW				SW				SE													
T	R	S		NENE	NWNE	SWNE	SENE	:	NENW	NWNW	SWNW	SENW	:	NESW	NWSW	SWSW	SESW	:	NESE	NWSE	SWSE	SESE	:		
---	---	---	---	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	:	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	:
08N	02E	28	:					:					:					:	D					:	

POU County: BOISE

Non-Irrigation Uses: D/1 HOUSE

Other Rights: NONE

Remarks: GEN DUPLICATE CLAIM.

NOTE: THIS CLAIM AND CLAIM NO. A65-10690B HAVE BEEN INVOLVED IN A PROTEST HEARING FOR APP. FOR PERMIT NO. 65-13631. BASICALLY, THIS ORIGINAL DECREED RIGHT, 65-10690, WAS DECREED FOR ONE HOME WITH A 7-1-1956 PRIORITY DATE. IN THE HEARING ON THE PROTESTED APPLICATION FILED BY THE WILLIAMS (CLAIMANTS ON A65-10690B, IT WAS ESTABLISHED THAT THE CLAIMANTS UNDER THIS CLAIM, WATSON'S, HAVE USED THIS SPRING SINCE 7-1-1956 AND THE WILLIAMS HOOKED UP TO THE SPRING IN 1976. THE WATER FLOW WAS MEASURED AND IT WAS FOUND THAT THERE IS NOT ENOUGH WATER FROM THIS SPRING FOR BOTH HOMES AND USES. THE ORDER FURTHER CLARIFIED THERE IS BARELY ENOUGH FOR THE ORIGINAL DECREED RIGHT. PRIOR TO RECOMMENDING THIS CLAIM AND A65-10690B - CAREFULLY READ THE DECISION ON THE DENIED APP FOR PERMIT 65-13631. A COPY OF THIS DECISION HAS BEEN PLACED IN EACH OF THE TWO FILES A65-10690A & B.

Dates: Exam Made Date:

Verified Date:

Objection Filed Date:

Misc: Water District Number: 65

Field Inspection Flag:
Presumption Flag:

Audit: 11/02/95 RHOWERTO 10/26/98 JSHURTE

N11 + N13 + C18

A65-10690A

MAR 02, 1979

PROPOSED FINDING OF WATER RIGHTS - PAYETTE RIVER DRAINAGE

PAGE 412

INDICATES TOTAL

SOURCE: SPRING

TRIBUTARY TO: PAYETTE RIVER

RIGHT NUMBER	NAME AND ADDRESS	PRIORITY DATE	USE	USE PERIOD FROM TO	MAX AMOUNT MAX RATE	DIVERSION POINT	PLACE OF USE AND ACREAGE	BASIS FOR RIGHT
65-1401	BROWN, JOHN C. ROUTE 3, BOX 326, EMMETT, IDAHO 83617 REMARKS: THIS RIGHT WHEN COMBINED WITH RIGHT 65-4035 & EMMETT IRRIGATION DISTRICT SHALL PROVIDE NO MORE THAN .02 CFS/ACRE.	6/ 1/1950	IRRIGATION	3/15 11/15	--- AFA .80 CFS	LOT 1 S28 T 7N R 1W	SWSE(9) LOT 1(33) S28 T 7N R 1W *42*	BENEFICIAL USE
			STOCKWATER	1/ 1 12/31	8.10 AFA .14 CFS *---*AFA *.80*CFS		SAME AS OTHER USE	
65-1404	BROWN, JOHN C. ROUTE 3, BOX 326, EMMETT, IDAHO 83617 REMARKS: THIS RIGHT WHEN COMBINED WITH RIGHTS 65-4035 & 65-1399 SHALL PROVIDE NO MORE THAN .02 CFS/ACRE.	6/ 1/1950	IRRIGATION	3/15 11/15	--- AFA .16 CFS	LOT 8 S33 T 7N R 1W	NESE(2) S32 T 7N R 1W LOT 8(6) S33 T 7N R 1W *8*	BENEFICIAL USE
			STOCKWATER	1/ 1 12/31	4.10 AFA .14 CFS *---*AFA *.16*CFS		SAME AS OTHER USE	
65-10585	OREGON SHORT LINE RAILROAD COMPANY & UNION PACIFIC RAILROAD COMPANY, LESSEE, P. O. BOX 1592, POCAHELLO, IDAHO 83201	11/24/1950	DOMESTIC	1/ 1 12/31	1.20 AFA .04 CFS	LOT 2 S32 T 9N R 3E	LOT2 S32 T 9N R 3E	BENEFICIAL USE
65-3945	RAINBOW RANCH, INC. P.O. BOX 637, LAKE FORK, IDAHO 83635	4/ 1/1951	DOMESTIC	1/ 1 12/31	1.20 AFA .02 CFS	SENE S35 T 8N R 2E	SENE S35 T 8N R 2E	BENEFICIAL USE
65-3812	CHURCH, ARTHUR L. BANKS, IDAHO 83602	1/ 1/1956	DOMESTIC	1/ 1 12/31	1.20 AFA .02 CFS	LOT 2 S32 T 9N R 3E	LOT2 S32 T 9N R 3E	BENEFICIAL USE
65-10690	WATSON, LORNE W. & WATSON, DEBRA A. ROUTE 1, BOX 101, HICKS SHOE BEND, IDAHO 83629	7/ 1/1956	DOMESTIC	1/ 1 12/31	1.20 AFA .04 CFS	NESE S28 T 8N R 2E	NESE S28 T 8N R 2E	BENEFICIAL USE
65-3799	ALLEN, EVERETT K. CASCADE, IDAHO 83611	4/ 1/1959	STOCKWATER	1/ 1 12/31	2.70 AFA .05 CFS	SWSW S 2 T 7N R 2E	SWSW S 2 T 7N R 2E	BENEFICIAL USE
65-10620	HOPKINS, DOROTHY J. BANKS, IDAHO 83602 REMARKS: COMMERCIAL USE TRAILER PARK.	6/ 1/1959	COMMERCIAL	1/ 1 12/31	4.80 AFA .04 CFS	LOT 2 S29 T 9N R 3E	LOT2 S29 T 9N R 3E	BENEFICIAL USE

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF GEFF

IN THE MATTER OF THE GENERAL DETER-
MINATION OF RIGHTS TO THE USE OF,
Payette River

**NOTICE OF CLAIM
TO A
WATER RIGHT**

65-10600	
I.D. No.	Map No.
\$	
Fee Paid	Receipt No.

Notice is hereby given that Lorne W. &/or Debra A. Watson
(Name of Claimant)

Route 1, Box 101 Horseshoe Bend, ID 83629 ✓
(Mailing Address) (Zip Code)

claims a right to the diversion and beneficial use of the surface or ground water. The extent and nature of said claim is as follows:

- (1) Date of priority: (When was the water first applied to a beneficial use, or priority date of decreed, licensed or permit right) July 1, 1956

- (2) Describe the source of water (Name of stream, lake, spring, etc., or ground water) Spring tributary to Pavante River

- 1.2 (3) Describe the purpose for which the water has been used and the time during the year when you have used the right claimed:
Quantity 71 AFS Use Domestic Period of Use From Jan 1 To Dec 31
(CFS, GPD, AF) (Domestic, Irrigation, stock, etc.) (Mo., Day) (Mo., Day)
(Both dates inclusive)

Quantity _____	Use _____	Period of Use From _____ To _____
(CFS, GPD, AF)	(Domestic, Irrigation, Stock, etc.)	(Mo., Day) (Mo., Day) (Both dates inclusive)

Quantity	Use	Period of Use From	To
(CFS, GPD, AF)	(Domestic, irrigation, stock, etc.)	(Mon, Day)	(Mon, Day)
		(Both dates inclusive)	

Quantity	Use	Period of Use From	To
(CFS, GPD, A/F)	(Domestic, Irrigation, stock, etc.)	(Mo., Day)	(Mo., Day)
		(Both dates inclusive)	

- (4) .01 cfs TOTAL QUANTITY CLAIMED.
(CFS, GPD, AF)

- (5) A) Point of Diversion: Give location of point where water is diverted from its source _____ 11° _____ 54' _____
Sec. _____ 27, Twp. _____ 21, Rge. _____ 25, S. & M. _____ County _____

Additional Points:

B) Describe means of diversion of water: (Pump and pipeline, well, diversion dam, reservoir, length of ditch and field, etc.). Give sizes and capacities. be as specific as possible. Describe any changes in the system and give the date of the change. _____

1100' plastic mulch
4000'

- (6) A) Describe location of use by listing number of irrigated acres within each 40-acre tract in appropriate box. If use is not for irrigation, place an "X" in appropriate box to show location.

[illegible]

Total no. of acres _____

B) If water is used for other than irrigation, fully describe that use, being as specific as possible.

NOTE. Include here the type and number of stock watered.

- (7) If you are claiming water as a member of an organization, list name of organization.

- [illegible]

- (9) Basis of claim (Check one) ☐ A) Right based on diversion and beneficial use.
☐ B) Right decreed by court, cite title of case, _____
☐ C) Right based on application, permit, license, or previous statutory claim filed with the Idaho Department of Water Resources. Give No. _____

Be it known that the undersigned, after being duly sworn on oath, depose(s) and say(s) that all statements included herein are true and accurate to the best of (his, her, their) knowledge.

Aug 27, 1977
(Date)

Individual John A. Smith
(Signature of Claimant)

State of Y. D. S. S.

(Signature of Spouse)

County of San Diego

Organization

Seal

(Signature of Authorized Agent)

On this 23rd day of March, in the year 1977 before me
a notary public, personally appeared John J. McGeehan

known to me to be the person(s) whose name(s) are subscribed to the above instrument, and acknowledged to me that (he, she, they, corporation, partnership or _____) executed the same.

My commission expires January 10, 1970

Notary Public residing at _____

alw 12-5-77

From: DWR03::RMCCARTH 12-FEB-1996 12:34:09.41
To: DWR80::JSHURTE
CC: RMCCARTH
Subj: copies to file...

Would you make sure that someone places copies of app. 65-13631 and the protest and decisions in A65-10690A&B...The claimant of the A portion was just in and concerned about her neighbor seeking to appropriate from a spring on her land...their app. was apparently denied and it's for the same spring under the adj. claim...Thanks!

MICROFILMED
007 21 1996



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

January 31, 1996

RECEIVED

FEB 06 1996

Joe A. & Edith Williams
Rt 1, Box 100
Horseshoe Bend, ID 83629

WATER RESOURCES
WESTERN REGION

RE: APPLICATION FOR PERMIT NO. 65-13631 FILED IN THE NAME
OF JOE A. WILLIAMS AND EDITH K. WILLIAMS

Dear Mr. and Mrs. Williams:

I have received the Petition for Reconsideration (petition) which you submitted to this office on January 31, 1996. As indicated in my prior letter to you, the Administrative Procedures Act requires you to serve a copy of documents including the Petition for Reconsideration on the protestants.

Since I can not determine from your submittal that you have served the protestants, by copy of this letter, I am forwarding a copy of your Petition for Reconsideration to the protestants. I also wish to provide you notice that any future documents which you may file without properly serving the protestants, will be considered as incomplete and will not be further considered in the matter.

If you have questions relative to procedure, please feel free to contact the department.

Sincerely,

L. GLEN SAXTON, Chief
Water Allocation Bureau

c: William Collins w/ enclosure
Dave Tuthill - IDWR

MICROFILMED

OCT 21 1996

Joe & Edith Williams



Telephone : 208 369 0306

**RRt 1 Box 100
Horseshoe Bend, ID 83629**

RECEIVED

JAN 31 1996

January 30, 1996

Department of Water Resources

RE: Application for Permit No. 65-13631, Recommended Order dated January 25, 1996

Dear Mr. Saxton :

At this time we would like to take exception to Nos. 6., 7., and 9. of the " Findings of Fact " in the above mentioned Recommended Order.

No. 6 : The protestant and predecessors have not used water from this spring for domestic purposes since 1956. From 1976 to 1982 no domestic water was being used, and **could not have been used** by protestants on their property due to the fact, that the house on this property was rented to Jack and JoAnn Williams for storage purposes for this time period. Jack and JoAnn Williams did not use any domestic water during this time frame in the Watson house.

The water line was never "extended from the Watson property to the Jack Williams property". The old line from 1956 was permanently disconnected from the Watson house in 1976 and at the same time **one** totally new water line was established leading from the Watson spring directly to the Williams home on then Watson property.

On November 08, 1981 the tract of Watson property Watson water was claimed to be used on by Mrs. Watson in a "Notice of Claim" dated August 23, 1977, and on which claimed water was in fact used from 1976 to 1990, was deeded to Jack and JoAnn Williams with appurtenances by Mr. and Mr. Watson.

In 1982 a renter installed a new, second water line to reconnect the Watson house, which he was getting ready to rent at the time, to the Williams storage tank. Since that time water from this spring was again used for domestic purposes on Watson property, but to the best of our knowlege without prior application to and permitt from the Department of Water Resources.

**MICROFILMED
OCT 21 1996**

The statement that "the applicant subsequently purchased the Williams property from his mother and in 1990 moved a double wide mobile home onto the property" is misleading.

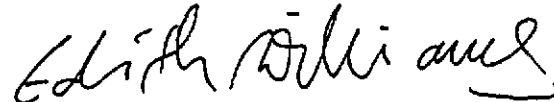
The fact is that the mobile home was moved onto the property by the applicant in 1990, but the applicant's mother JoAnn Williams owned the property, and co-owned the double wide mobile home until July 08, 1993, and even briefly again lived on her property before she signed it over to her son.

No. 7 : The statement that applicant uses his well water among other things to water 500 trees and plans to plant more trees is misleading as well. These 500 trees are primarily between 12" and 6' tall and are only watered alternatly untill they establish a root system to "find their own water".

We would like to have included the fact that the applicant's water supply is solely dependent on electricity, and that during long lasting power outages there is no domestic water available to the applicants.

No. 9 : We take exception to the spring flow being accepted to be 0.33 gal/min. Since we are not allowed on the Watson property to verify the actual spring flow, and Mr. Watson has not offered certifiable measurements of the spring flow, we ask that the Department of Water Resources verify the water flow at the spring box before issuing a **Final Order**.

Sincerely,

 
Joe Williams Edith Williams

MICROFILMED
OCT 21 1996



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

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

RECEIVED

JAN 26 1996

WATER RESOURCES
WESTERN REGION

January 25, 1996

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

RE: In the matter of Application for Permit No. 65-13631 in the name of Joe A. and Edith K. Williams

Dear Interested Party:

The accompanying order is a "**recommended order**" issued by the department pursuant to Section 67-5243, Idaho Code. The provisions of this order will not become effective until the Director issues a final order in this matter.

Each party to these proceedings who appeared at the hearing may file a petition for reconsideration, briefs and exceptions to the recommended order and may request oral argument before the Director of the department as further described below:

PETITION FOR RECONSIDERATION

Any party may file a petition for reconsideration of a recommended order with the hearing officer issuing the order within fourteen (14) days of the service date of the order. The hearing officer will act on a petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. See Section 67-5243(3), Idaho Code.

EXCEPTIONS AND BRIEFS

Within twenty-one (21) days after (a) the service date of this recommended order, (b) the service date of a denial of a petition for reconsideration from this recommended order, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration from this recommended order, any party may in writing support or take exceptions to any part of a recommended order and may file briefs in support of the party's position on any issue in the proceeding. Written briefs in support of or taking exceptions to the recommended order shall be filed with the Director. Opposing parties shall have twenty-one (21) days to respond.

ORAL ARGUMENT

MICROFILMED
OCT 21 1996

The Director may schedule oral argument in the matter before issuing a final order. Oral argument on exceptions to a recommended order shall be heard at the discretion of the Director. If oral arguments are to be heard, the Director will, within a reasonable time, notify each party of the place, date and hour for the argument of the case. Unless the Director orders otherwise, all oral arguments will be heard in Boise, Idaho.

CERTIFICATE OF SERVICE

All exceptions, briefs, requests for oral argument and any other matters filed with the Director in connection with the recommended order shall be served on all other parties to these proceedings in accordance with Rules of Procedure 302 and 303.

FINAL ORDER

The Director will issue a final order within fifty-six (56) days of receipt of the written briefs, oral argument or response to briefs, whichever is later, unless waived by the parties or for good cause shown. The agency may remand the matter for further evidentiary hearings if further factual development of the record is necessary before issuing a final order. The department will serve a copy of the final order on all parties of record.

APPEAL OF FINAL ORDER TO DISTRICT COURT

A party aggrieved by a final order of the Director is entitled to judicial review in compliance with sections 67-5271 through 67-5279, Idaho Code.

Sincerely,



L. GLEN SAXTON
Chief, Water Allocation Bureau

Enclosure

cc: IDWR - Region

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR)
PERMIT NO. 65-13631 IN THE NAME)
OF JOE A. WILLIAMS AND EDITH K.)
WILLIAMS)
_____)

RECOMMENDED ORDER

This matter having come before the Idaho Department of Water Resources (department) in the form of a protested application for permit, the department having held a conference and a hearing in the matter, the hearing officer recommends the following Findings of Fact, Conclusions of Law and Order:

FINDINGS OF FACT

1. On August 14, 1995, Joe A. Williams and Edith K. Williams (applicant) filed Application for Permit No. 65-13631 (application) with the department proposing the diversion of 0.02 cubic feet per second (cfs) of water from a spring located in the NE1/4NE1/4SE1/4 Section 28, T8N, R2E, B.M., tributary to Brownlee Creek, to be used year-round for domestic purposes for one (1) home.

2. The department published notice of the application which was subsequently protested by Lorne W. Watson and Debra A. Watson (protestant).

3. On January 19, 1996, the department conducted a hearing in the matter. The applicant was present and represented himself. The protestant was present and was represented by attorney William Collins.

4. Exhibits offered and accepted as a part of the record include the following:

a. Applicant's Exhibit No. 1 - Photograph showing the general vicinity of the spring and the properties of the applicant and protestant.

b. Applicant's Exhibit No. 2 - Photographs showing the vicinity of the spring during the fall and during the summer.

c. Applicant's Exhibit No. 3 - Affidavit of Jo Ann Williams.

d. Applicant's Exhibit No. 4 - Affidavit of Jack A. Williams.

e. Applicant's Exhibit No. 5 - Affidavit of John G. Williams.

f. Applicant's Exhibit No. 6 - Schematic drawing showing the relative locations of the spring, water lines, proposed water lines and places of use.

g. Applicant's Exhibit No. 7 - Affidavit of Jan C. Williams.

h. Applicant's Exhibit No. 8 - Warranty Deed from Lorne W. Watson and Debra A. Watson to Jack A. Williams and Jo Ann Williams.

i. Applicant's Exhibit No. 9 - Warranty Deed from Jo Ann Williams to Joe A. Williams and Edith K. Williams.

j. Applicant's Exhibit No. 10 - Letter dated January 9, 1996 to Joe and Edith Williams from Jerry Davis.

k. Protestant's Exhibit Nos. 1 through 9 - Photographs of a water course beginning at the lowest elevation and proceeding uphill toward the spring.

l. Protestant's Exhibit No. 10 - U.S. Geological Quadrangle Sheet showing the location of the properties of the applicant and protestant.

m. Protestant's Exhibit No. 11 - Photograph of a water holding tank which is part of the water delivery system from the spring.

n. Protestant's Exhibit No. 12 - Well Driller Report of a well drilled in 1981 for Jack Williams.

5. The spring is located upon land owned by the protestant approximately one-quarter (1/4) mile upgradient from the properties of the applicant and the protestant. Water from the spring is presently conveyed by pipeline to and used on the protestant's property (Watson property).

6. The protestant and predecessors have used water from the spring for domestic purposes on the Watson property since 1956. In 1976, the protestant and Jack Williams, the predecessor of the applicant, extended the water line from the Watson property to a 11.15 acre tract (Williams property) being sold to Williams by the protestant. The extended line provided domestic water to the Williams property until 1987 when the mobile home on the tract burned down. The applicant subsequently purchased the Williams property from his mother and in 1990 moved a double wide mobile home onto the property. In 1990, the protestant ceased to provide water to the Williams property.

7. The applicant uses water from a well drilled on the Williams property in 1990. The well produces about 2.5 gallons per minute which is pumped to an eighty (80) gallon pressure tank and used for domestic inhouse use, irrigation of a small lawn, livestock and about 500 trees. The applicant plans to plant more trees.

8. Water right no. 65-10690 was decreed in 1986 to the protestant in a case titled A & C Corp., et al. v. State of Idaho, also known as the Payette River Adjudication. Elements of the water right are as follows:

Priority: July 1, 1956
Source: Spring tributary to Brownlee Creek
Point of div: NE1/4SE1/4 Section 28, T8N, R2E, B.M.
Use: Domestic - 1 home
Rate of div: 0.04 cfs (18 gallons per minute).
Volume: 1.2 acre feet per year
Season of use: Year-round

Both the applicant and protestant have filed a claim to this right in the Snake River Basin Adjudication.

9. Flow from the spring was recently measured to be 5 gallons in 15 minutes (0.33 gallons per minute) which is equivalent to 0.00074 cfs. A continuous flow of 0.00074 cfs will produce a volume of approximately 0.5 acre feet of water per year.

CONCLUSIONS OF LAW

1. Section 42-203A, Idaho Code, provides in pertinent part as follows:

In all applications whether protested or not protested where the proposed use is such (a) that it will reduce the quantity of water under existing water rights, or (b) that the water supply is insufficient for the purpose for which it is sought to be appropriated, or (c) where it appears to the satisfaction of the director that such application is not made in good faith, is made for delay or speculative purposes, or (d) that the applicant has not sufficient financial resources with which to complete the work involved therein, or (e) that it will conflict with the local public interest, where the local public interest is defined as the affairs of the people in the area directly affected by the proposed use, or (f) that it is contrary to conservation of water resources within the state of Idaho; the director of the department of water resources may reject such application and refuse issuance of a permit therefor...

2. The water supply available from the spring is not sufficient to provide the amount of water decreed for prior water right no. 65-10690, and clearly is not sufficient for additional uses proposed in Application for Permit No. 65-13631.

3. The department should deny the application.

ANALYSIS

The question of ownership of decreed right no. 65-10690 will be determined in the Snake River Basin Adjudication.

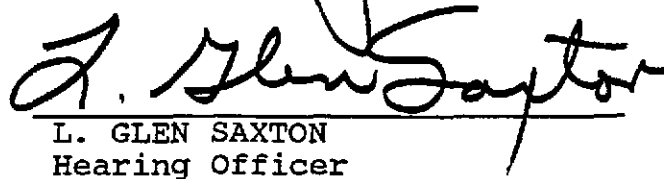
A second domestic water right from the spring could not have been initiated or established beginning with the Williams hookup to the spring in 1976, since such a right could have only been established following the application, permit and license procedure as provided in Section 42-103, Idaho Code.

The spring does not produce enough water to provide adequate domestic water for two (2) households.

ORDER

IT IS THEREFORE, hereby ORDERED that Application for Permit No. 65-13631 in the name of Joe A. Williams and Edith K. Williams is DENIED.

DATED this 25th day of January, 1996.

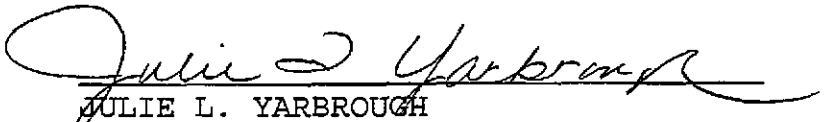

L. GLEN SAXTON
Hearing Officer

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 25th day of January, 1996,
I mailed a true and correct copy, postage prepaid, of the foregoing
RECOMMENDED ORDER to the following:

Joe A. & Edith K. Williams
Rt. 1 Box 100
Horseshoe Bend, ID 83629

Lorne & Debra A. Watson
Rt. 1 Box 101
Horseshoe Bend, ID 83629


JULIE L. YARBROUGH
Senior Secretary



State of Idaho
DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190
FAX (208) 334-2348

November 2, 1995

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

Lorne W Watson and/or
Debra A Watson
RT 1 Box 101
Horseshoe Bend ID 83629

Ref: Number Change A65-10690 to A65-10690A

Dear Lorne and Debra,

Enclosed is a computer generated copy of your Claim No. A65-10690A which was previously numbered A65-10690 when originally filed.

During normal claims taking a duplicate claim was filed on this same water right, causing the original water right to be split into parts A & B. The Department assigned new split suffixes to this right by the addition of the second claim. This number change is to match any claim to the same water right. Your claim has now been renumbered to A65-10690A.

This renumbering does not affect any other items on your claim at this time however, before we can recommend this claim to the court, clear evidence will need to be shown to the Department who genuinely is the owner of this water right.

If you have any questions concerning this claim in the future, please refer to this new claim number.

Feel free to contact this office if you have any questions concerning this letter.

Sincerely,

Ron Howerton
ADJUDICATION BUREAU
Department of Water Resources
Western Region Office
(208) 334-2190

Attachments:

MICROFILMED
OCT 21 1996