

[Close](#)IDAHO DEPARTMENT OF WATER RESOURCES
Water Right Report

10/23/2002

WATER RIGHT NO. 29-336

Owner Type	Name and Address
Current Owner	MARY DAVIS

Priority Date: 04/01/1881

Basis: Decreed

Status: Active

Source	Tributary
BIRCH CREEK	MARSH CREEK

Beneficial Use	From	To	Diversion Rate	Volume
IRRIGATION	/	/	0.3 CFS	
Total Diversion			0.3 CFS	

Location of Point(s) of Diversion:

BIRCH CREEK	Sec.	Township	Range	County
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Place(s) of use: No POUs found for this right

Remarks:

1.	General	P/D & P/U INCOMPLETE. SOURCE LOCATION APPROX. T9S, R36E.
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Dates:

Licensed Date:

Decreed Date: 03/13/1902

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

Water Supply Bank Enrollment Date Accepted:

Water Supply Bank Enrollment Date Removed:

Application Received Date:

Protest Deadline Date:

Number of Protests: 0

Other Information:

State or Federal:

Owner Name Connector:

Water District Number:

Generic Max Rate per Acre:

Generic Max Volume per Acre:

Civil Case Number:

Old Case Number:

Decree Plaintiff:

Decree Defendant:

Swan Falls Trust or Nontrust:

Swan Falls Dismissed:

DLE Act Number:

Cary Act Number:

Mitigation Plan: False

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IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF IDAHO
IN AND FOR THE COUNTY OF BANNOCK

James Henderson, Benjamine W. Henderson,
and James Henderson Jr., partners under the firm
name and style of James Henderson & Sons, and
Melvin Henderson,

Plaintiffs

vs.

Thomas Marley, Mark R. Lawrence, William
Stinger, Mary Davis, and Gwenlion Marley
(intervenor),

Defendants.

DECREED.

This case having been commenced on May 7th. 1901, and there after all the parties having duly entered their appearance, W. T. Reeves Esq., and F. S. Dietrich Esq., appearing for the plaintiffs. S. C. Winters Esq., appearing for Thomas Marley, William Stinger and the intervenor, Gwenlion Marley, and Messers Terrell and Guheen appearing for the defendants-Mark R. Lawrence and Mary Davis.

And thereafter it was stipulated by the counsel for the respective parties that the cross complaints and the complaint in intervention should be deemed and treated as duly denied with the same force and effect as if verified answers thereto were duly filed.

And thereafter, the court having heard the evidence adduced by the several parties in support of their respective claims, and the counsel for the respective parties having made their arguments, and the court being fully advised in the premises and having made and filed herein its findings of fact and conclusions of law.

Now therefore in accordance with its findings and conclusions it is ordered, adjudged and decreed that the waters of Birch creek and of Lost Creek both of which said creeks are situate in Bannock county, State of Idaho, be, and the same are hereby,

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MAY 16 1906

distributed and decreed to the several parties to this suit for beneficial purposes and uses in amounts and of the dates with priority of rights as follows, to wit

28 0337 To James Henderson, Benjamine W. Henderson and James Henderson Jr., partners under the firm name and style of James Henderson & Sons, all of the waters of said lost creek, and one and one-tenth cubic feet per sec. of the water of Birch creek, dating from July 1st, 1879.

29 0338 To Melvin Henderson one cubic foot of water per second of the waters of Birch Creek dating from July 1 1879

29 0339 To the intervenor Gwenllion Marley two fifths of a cubic foot per second of the water of Birch creek, dating from July 1 1879

29 0340 To Mary Davis three tenths of a cubic foot per second of the water of Birch creek dating from April 1 1881:✓

29 0341 To Mark R. Lawrence, one tenth of a cubic foot per second of the water of Birch Creek dating from July 1 1888

29 0342 To Thomas Marley three tenths of a cubic foot per second of the water of Birch creek dating from July 1, 1889

That William Stinger is not entitled to any of the waters of the said Birch Creek.

That the several amounts of water above decreed be measured and distributed to the said parties at their several points of diversion from the natural channel of the said Birch creek, excepting the right decreed in the said Lost creek.

That the said waters of Birch creek be measured under the weir system in cubic feet per second of time.

It is further ordered that each of the said parties to this suit construct and maintain at their several points of diversion respectively substantial and uniform boxes head gates and weirs for the measurement of their said water.

It is further ordered, adjudged and decreed, that each and every of the parties to this suit, their agents, attorneys, assignees, and grantees be and they are hereby restrained & perpetually enjoined from in any manner interfering with the waters of the said Birch creek and of the said Lost ~~creek~~ ~~by~~ exercising any other or greater rights

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with reference to the said waters than is herein decreed to the said parties respectively.

It is further ordered that each party to this suit pay his own costs.

Dated this 13th day of March 1902

Joseph C. Rich

Judge of the District Court.

STATE OF IDAHO,)
 (SS.
County of Bannock.)

I, E. G. Gallet, Clerk of the District Court in and for said County and State, hereby certify the within and foregoing to be a full true and correct copy of the original decree as recorded at page 118 of Judgement Book No. 2 records of said County.

In testimony whereof I have hereunto set my hand and affixed the seal of said Court this 11th day of May, A.D.1903.

E. G. Gallet,
Clerk of said Court

(SEAL)

By D.N.Campbell, Deputy.

RECORDED

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