

10/17/2005

**NOTICE OF ERROR
REPLY**

Please type or print clearly, fill out this form completely and mail.

Return this reply form to IDWR by the deadline date printed below if you want IDWR to change your recommendation or you want to let IDWR know that you agree with its recommendation.

YOUR DEADLINE FOR RETURNING A NOTICE OF ERROR REPLY IS:

Water right number: 21-12893

MICHAEL & CATHERINE LEGGE FAMILY LIMITED PARTNERSHIP
C/O HOLDEN KIDWELL HAHN & CRAPO
PO BOX 50130
IDAHO FALLS ID 83401
Telephone Number: (208)523-0620

1. Describe the portion of the proposed recommendation with which you disagree (e.g. priority date, period of use, source):

The disagreement is with the 10/31/1950 priority date

2. Describe the changes you wish to make in the proposed recommendation:

The appropriate priority date is July 20, 1897 based on a Notice of Water Right Filed by Joseph Sherwood in Fremont County, Idaho.

3. Give a brief explanation as to why you disagree with these portions:

The Posted Notice of the Water Right Filed by Joseph Sherwood was for 10cfs of irrigation use from the diversion point on Timber Creek and Henry's Lake. The 25 acres that we are filing to use the water on/for is

I AGREE with this proposed recommendation: no changes need to be made.

DATE: November 21, 2005 SIGNATURE: Michael Legge

Please print your name: Michael Legge

↓ IDWR Regional Office, 900 N Skyline Dr Ste A, Idaho Falls, ID 83402, 2085257161

clearly a part of the original land the Joseph Sherwood irrigated as evidenced by the numerous cuts in the irrigation ditch running from the diversion point in Section 25.

I would also note that, in a search of the IDWR website on 10/1/05 the correct priority date for the Posted Notice was 07/20/1897.

11/28/05

Ryan Mikesell
Water Agent
State of Idaho
Department of Water Resources

11/21/05

Dear Ryan,

I appreciate the time that you had spent with me on the phone a couple of weeks ago and I wanted to give you some background on how and why we filed the claim. Also I do have concerns about other Filings on Timber Creek because the diversion point in Section 25 for the irrigation canal is above our property and diversions during these drought years have left our pasture significantly deteriorated in just the past couple of years. In 2003 we found that our neighbors immediately to the South of us were diverting to fill a pond which was not permitted and they had no water rights to maintain that pond. Consequently Timber Creek was nearly dry because of the drought and the diversion.

I found, as I had said earlier, two Filings posted on the website:

(1) Martin Berowitz # 21-4153

(2) John Gerlach

Barbara Eddy # 21-11069

(This was a change of ownership Filed over the Notice of Claim by Ronald and Sallie Stocum and Richard and Cheri Lewis & I have attached a simple map showing how this Filing was not bona fide).

and both pose concerns.

The Filing by Berowitz # 21-4153, is very confusing to me, but essentially it involved diverting above our property and conveying water by the irrigation canal to the Staley Springs area to

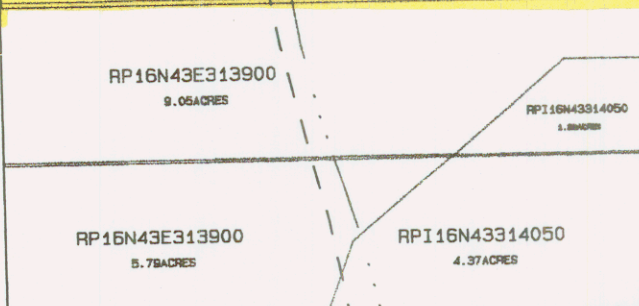
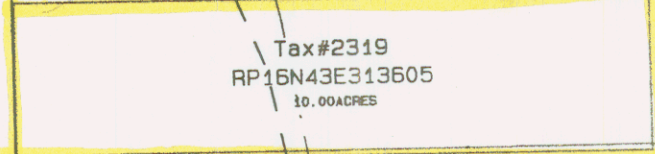
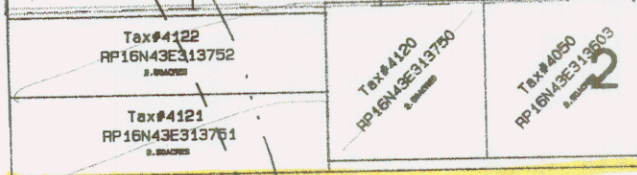
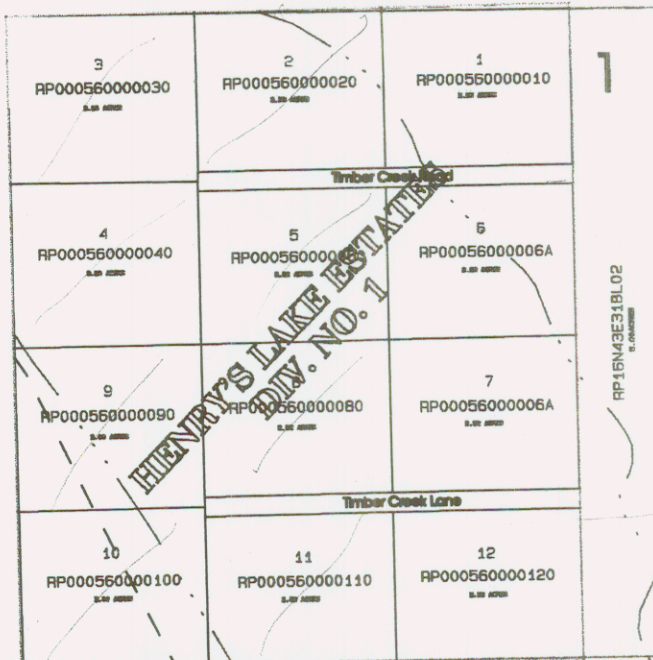
use to provide domestic water for four cabins and stockwater for 200 cattle. Also they want to impound some amount of water for fish propagation.

Regarding the Benowitz claim, #21-4153, I walked the entire irrigation canal, from the point of diversion to the Staley Springs road with Roger Warner from your Idaho Falls office and he determined that the canal had not been in a usable condition in years so the possibility that such water could ~~it~~ has been conveyed through that canal to the Staley Springs area for maybe 10-15 years is remote. Further I have talked to Alan Steinke, who runs cattle on the property above us and owns the property where the diversion is made, and ~~he~~ indicated that his father had conflicts with people at Staley Springs in the early 1970's but that since then water has not been diverted down that canal for beneficial use at Staley's. We have not observed 200 cattle grazing in the Staley Springs area in the 8 years we have lived near Timber Creek and I question where they would graze because of the development of cabins and other private property.

I can visit you at any time in the Idaho Falls office to handle any questions you may have of me regarding the process, my concerns, etc. Also, I would encourage you to talk to Roger Warner as he had become very engaged with what we were trying to accomplish, and he has walked our property and the irrigation ditch to understand what the situation was really like at the site.

Thanks sincerely,

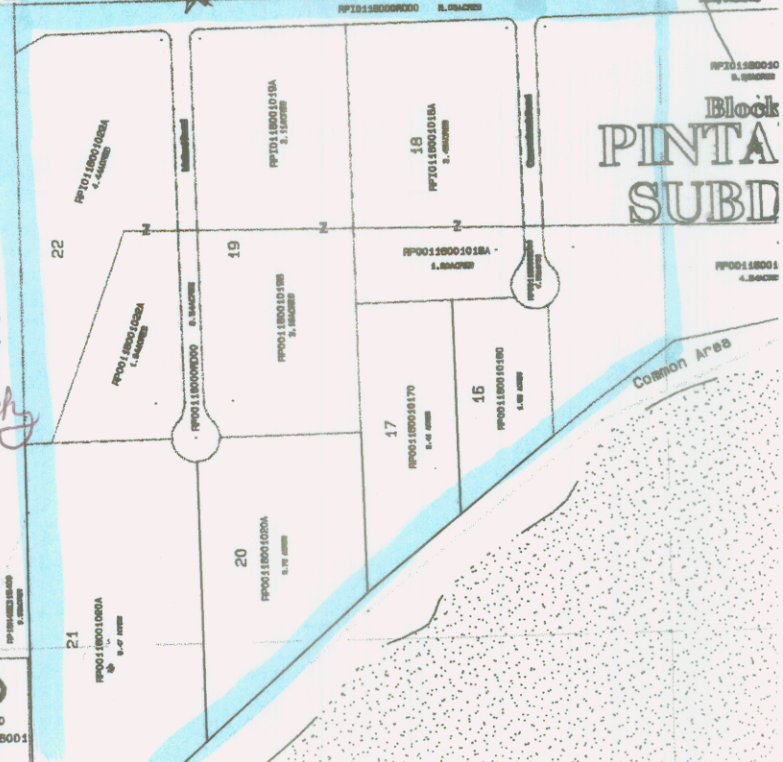
Mike Legge



Property that John Cerlach and Barbara Eddy purchased from Richard Lewis on August 30, 2000.



Property that Ronald and Sallie Slocum & Richard and Cheri Lewis filed a Notice To A Claim of A Water Right on March 23, 1989. This is the same claim that John Cerlach & Barbara Eddy attached to their change of ownership claim on Oct 3, 2005.





State of Idaho

DEPARTMENT OF WATER RESOURCES

900 N. SKYLINE DR., SUITE A, IDAHO FALLS, ID 83402-1718

PHONE: (208) 525-7161 FAX: (208) 525-7177 WEB SITE: www.idwr.state.id.us

EASTERN REGION

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

RECEIVED

NOV 25 2005

Department of Water Resources
Eastern Region

November 2, 2005

Dear Sir or Madam:

Please find enclosed the **Preliminary** Director's Report for your water right claim in the Snake River Basin Adjudication (SRBA). This is an important opportunity to review the Idaho Department of Water Resources' (IDWR) conclusions regarding your water rights, resolve errors, and have questions answered **before** the report is finalized for the SRBA Court.

- Your name, water right number and address have been pre-printed on this reply for your convenience. Check to be sure that the pre-printed information on this form is accurate.
- Please fill in your daytime and evening telephone numbers.
- If you agree with the preliminary recommendation, please check on the form where indicated. If there is any portion of the preliminary recommendation with which you disagree, or is inaccurate, please complete items number 1, 2 and 3.
- Sign the form where indicated, and return in the envelope provided as soon as possible.

If you have questions or do not understand this process, please contact Water Agent Ryan Mikesell at (208) 525-7161.

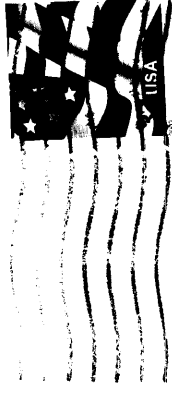
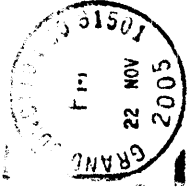
Respectfully yours,

Jennifer Crabtree
Technical Records Specialist

Enclosure

RECEIVED NOV 8 - 2005

Mike Legge
P.O. Box 795
Coalville, UT 84017



Attention: Ryan Mike sell
State of Idaho
Department of Water Resources
900 N. Skyline Drive, Suite A
Idaho Falls, ID 83402-1718

83402#1718

