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MAY 25 2004

DEPARTMENT OF
WATER RESOURCES

MEMO

TO: Candice McHugh
FROM: Harold W Jones
dba Water Rights Contracting Services
RE: Claim A29-00448E (Duane Williams)

I met with the claimant, Duane Williams, on May 18, 2004 to review his denied claim A29-00448E. My first impression after looking at the original Taney vs Woodland decree of April 1, 1925 was that claimant Williams should possibly have filed for a portion of Decree 29-00449 also. The two rights appear stacked on the original Woodland places of use.

There has been some doubt as to the validity of historic conveyance ditches and water use on part or all of the Williams property. I started by visiting the spring site which is the source of Decree 29-00449.

Photo #1 shows a spring house used by Eugene Crandall on SRBA Recommendation 29-00449A at the source of flow. The GPS coordinates are; 2632442 No GPS tag File 29449
1298208 USR

Photo #2 shows spring flow just downstream of the origin. Photo #3 shows the split in the spring/stream flow. The portion that enters the pipe supplies water to other users of 29-00449 that are south of the South Fork, Pocatello Creek. The other branch is water that flows down into the South Fork, Pocatello Creek (Photo #4).

Claimant Williams states that prior to the 1960's the spring water (Decree 29-00449) entered the pipeline in photo #3 then entered a ditch system that ran along the hillside and ended at his upper field. This water, he states was used to irrigate this upper field as it was too high in elevation to flood irrigate using water from the Pocatello Creek system (Decree 29-00448).

Genevive Bisteline Merrill bought the farm property south of Buckskin Road which included the Williams property. Claimant Williams contends that Mrs. Merrill intended to create a subdivision and not farm the property. In so doing claimant Williams says the spring ditch was not fully used to transport irrigation water.

The map copies attached show, in part, the intended subdivision. This layout was done by Hamilton & Voller Engineering. The company no longer exists but the engineer who did the work is Tim Shurtleff, now working with Bannock County. This subdivision was never platted.

Photos #5,6,7 and 8 show the remnants of the ditch line that still exists of the system that carried the spring water. As housing was added after 1980 this ditch was systematically eliminated. Most of this spring water is now conveyed in the blue pipeline shown in photo #4.

Claimant Williams purchased his property in 1980 and diverted all his water from the South Fork, Pocatello Creek at the original diversion site shown in photos #9 and 10. One could contend that his Pocatello Creek water (29-00448) and some re-diverted spring water (29-00449) were being taken from this point of diversion. This would constitute an accomplished transfer of point of diversion for a portion of Decree 29-00449 if claimant Williams can still file a claim.

The GPS coordinates for the above site are; 2632423 File# 29449R
1298259 No GPS tag

In 1983-1984 claimant Williams says he changed his point of diversion downstream on the South Fork, Pocatello Creek adjacent to his home at a pump station. He contends he then irrigated all his property with this system. This includes the upper field which was originally served by the spring ditch. The pump station photos for this system are in Craig Saxton's exam of 10-3-2001.

It appears the upper field was not irrigated from sometime in the early 1960's until 1984. Forfeiture of the use of water on that particular place of use may be a reality. However if the waters of the spring and the South Fork, Pocatello Creek were regularly utilized on the lower field, then that 3 acres (MOL) looks like a valid place of use.

My photos #11,12 and 13 show the entire field, upper and lower in question.

At this point 0.261 cfs of the original 0.30 cfs of Decree 29-00449 has been recommended. I advised claimant Williams to explore a late claim on the remaining portion (0.039 cfs). I also advised him it might be too late in time to do so.

Included in this report is a Memorandum from Ernest Carlsen dated April 6, 2004. Also included is an unsigned memo given to me by claimant Williams dated April 9, 2004.

Attached are the following;

- a/ Recommended SRBA reports 29-449A,-449B,-449C and 29-449E
- b/ Copy of the original Taney vs Woodland Decree. Woodland rights are high lighted.
- c/ Two air photos circa 1992 and 1978 (?) showing points of diversion, places of use and the general line of the old spring ditch.