

Claim Investigation Notes
Joe Clark (Flying Joseph Ranch)
Site Visit March 8, 2006 with Susie and Hadley Morton,
Sherman _____, Jim Martiny and Ted O'Neal

Pahsimeroi River

SRBA Claim ~~73-147A~~

SRBA Claim ~~73-189~~

Point of Diversion

The point of diversion claimed in T13N, R23E, S02 was discussed. It was agreed that this point of diversion is no longer used. Sherm agreed to meet with Idaho Power and determined facts surrounding power at that location. Susie called IDWR 3/15/2006 to report the power at that location was removed by Idaho Power in 1986. The ranch will send copies of the information they received from Idaho Power. This point of diversion will not be recommended.

The two points of diversion claimed in T13N, R23E, S19 were also discussed. It was agreed that these points of diversion are not from the natural stream channel of the Pahsimeroi River, but from a ditch that has carried most of the river water during the irrigation season for at least 30 years. These points of diversion will not be recommended.

All parties agreed that the only diversion from the Pahsimeroi River on to the ranch occurs in T13N, R23E, S20. The point of diversion is recommended in the SWNESW based on GPS data collected by IDWR in 2003 while conducting a diversion inventory in Basin 73.

Place of Use

The place of use for this claim was determined using 1988 aerial photography after a discussion with the ranch managers. The area is significantly smaller than that claimed because the original claimant had described entire 40-acre tracts when the actual irrigation occurred in irregular fields. In addition, there is a large area roughly in the center of the ranch that appears to be wet due to numerous springs and streams but is not deliberately irrigated.

SRBA Claim ~~73-150D~~

Point of Diversion

The point of diversion claimed in T13N, R23E, S02 was discussed. It was agreed that this point of diversion is no longer used. Sherm agreed to meet with Idaho Power and determined facts surrounding power at that location. Susie called IDWR 3/15/2006

to report the power at that location was removed by Idaho Power in 1986. The ranch will send copies of the information they received from Idaho Power. This point of diversion will not be recommended.

It was agreed that the point of diversion claimed in T12N, R23E, S02 has not been used to deliver water to the ranch and will not be recommended.

The two points of diversion claimed in T13N, R23E, S19 were also discussed. It was agreed that these points of diversion are not from the natural stream channel of the Pahsimeroi River, but from a ditch that has carried most of the river water during the irrigation season for at least 30 years. These points of diversion will not be recommended.

All parties agreed that the only diversion from the Pahsimeroi River on to the ranch occurs in T13N, R23E, S20. The point of diversion is recommended in the SWNESW based on GPS data collected by IDWR in 2003 while conducting a diversion inventory in Basin 73. This point of diversion is treated as an accomplished transfer, pursuant to §42-1425, Idaho Code, based on information found in the file for Transfer #777 for a portion of 73-150. (The transfer file describes the point of diversion for water right 73-150 in the NE¼, S18, T11N, R24E.)

Place of Use

Although a different land list is claimed under 73-150D, there was only one point of diversion and conveyance system, so logically one place of use. A permissible place of use is recommended for this claim with other claims from the Pahsimeroi River.

Quantity

Transfer #777 moved a portion of 73-150 (currently claimed by Friehe as 73-150B) from a point of diversion upstream from its current point of diversion. The "Decision of the State Reclamation Engineer" in that administrative action found a 12.6% loss in the Pahsimeroi River channel between the old point of diversion, known at the time as "Pines ditch" and the new point of diversion, known as the "Stanley Hull ditch". Although the water right claimed here as 73-150D was not part of the administrative action at the time Transfer #777 was approved, the finding that a 12.6% channel loss applies to moving the point of diversion downstream is applied to this recommendation. It should be noted that the accomplished transfer of the point of diversion for 73-150D moves the diversion even further downstream than Transfer #777 contemplated and the loss may in fact be much larger than 12.6%.

The rate of diversion claimed under 73-150D is 4.0 cfs, but an analysis of the split of 73-150 indicates it may be under claimed. The claimant will be given an opportunity to amend the claim and the diversion rate will be recommended consistent with the split analysis found in the file.

Big Creek

SRBA Claim ~~73-2126A~~

This beneficial use claim was based on a Permit (73-2126) that was cancelled in 1971 after a lengthy protest. This claim will not be recommended in the SRBA.

SRBA Claim ~~73-10041~~ (combines decreed rights 73-18 and 73-19)

Point of Diversion

The point of diversion claimed is from Big Creek, into a ditch that flows into Goldberg Creek. Goldberg Creek is tributary to the Pahsimeroi River and the water from Big Creek is rediverted from the Pahsimeroi River on to the ranch. The recommended point of diversion is based on GPS data collected by IDWR. The point of injection into Goldberg Creek was taken from the 1988 aerial photo and corresponds to remarks on the claim.

All parties agreed that the only diversion from the Pahsimeroi River on to the ranch occurs in T13N, R23E, S20. The point of rediversion is recommended in the SWNESW based on GPS data collected by IDWR in 2003 while conducting a diversion inventory in Basin 73.

Place of Use

The place of use for this claim was determined using 1988 aerial photography after a discussion with the ranch managers. The area is significantly smaller than that claimed because the original claimant had described entire 40-acre tracts when the actual irrigation occurred in irregular fields. In addition, there is a large area roughly in the center of the ranch that appears to be wet due to numerous springs and streams but is not deliberately irrigated.

SRBA Claim ~~73-10069~~

This beneficial use claim appears to be on BLM ground. There is no evidence of diversion, a conveyance ditch or irrigation at the location claimed. This claim will not be recommended in the SRBA.

Goldberg Creek

SRBA Claim ~~73-147C~~

Point of Diversion and Source

The point of diversion for this claim is from the Pahsimeroi River, shared with all other diversions from the river on to the ranch. There is no evidence of a current or past

diversion directly from Goldberg Creek. The SRBA recommendation for this claim will recognize an accomplished change in source to the Pahsimeroi River, pursuant to §42-1425, Idaho Code. A condition is added limiting the use of water under this right to those times when the water is actually available in Goldberg Creek.

Place of Use

The place of use for this claim is the permissible place of use determined for the Pahsimeroi River rights.

SRBA Claim 73-2048

The point of diversion and place of use for this old license are outside of the ranch boundary. There is no evidence to suggest the water right was conveyed to Joe Clark, Pines Grazing or their predecessors. The claim to this water right will not be recommended in the SRBA.

Spring Creek

SRBA Claim 73-147B

Point of Diversion

Pines Grazing Association stipulated to the point of diversion from Spring Creek for 73-259 in 1981. (See Stipulation in IDWR records vault, filed as decree 73-M) This is the only known diversion from Spring Creek and will be used for both 73-259 and 73-147B.

Place of Use

The place of use for this claim was determined using 1988 aerial photography and USGS topographic maps for evidence of gravity irrigation from the ditch carrying Spring Creek water. This creates a PPU within a larger PPU for all of the other rights used.

SRBA Claim 73-259

Basis of Claim

Although the claimed basis of use is "Decree", there is no evidence this right was previously decreed. This right is subject to a stipulation signed by the District Judge of the Seventh Judicial District, for Custer County on June 26, 1989. That stipulation requires the filing of 73-259 in the SRBA.

Point of Diversion

Pines Grazing Association stipulated to the point of diversion from Spring Creek for 73-259 in 1981. (See Stipulation in IDWR records vault, filed as decree 73-M) This is the only known diversion from Spring Creek and will be used for both 73-259 and 73-147B.

Place of Use

The place of use for this claim was determined using 1988 aerial photography and USGS topographic maps for evidence of gravity irrigation from the ditch carrying Spring Creek water. This creates a PPU within a larger PPU for all of the other rights used.

SRBA Claim 73-10054

Priority Date

This beneficial use claim is based on a lapsed permit to build a reservoir (R1097). Filipe Yribar filed the application in 1961. Jim Martiny and Ted O'Neal agreed the reservoir was built in 1963, followed by Mr. Yribar's death in 1964. Mr. Yribar did not file a completion of works and the permit subsequently lapsed.

Source

Sherman Furey, attorney for Mr. Yribar, provided an explanatory letter during the application process in which he states, "The dam site dams off Spring Creek only, and does not dam any part of the Pahsimeroi River." GPS data collected at the existing dam site shows the reservoir impounding Spring Creek. At some time, a ditch was constructed from the Pahsimeroi River, conveying water from the river, Big Creek and Goldberg Creek to the reservoir. A right to impound these other sources in the reservoir will not be recommended under claim 73-10054.

Purpose of Use

All parties agree the reservoir is not used for irrigation. It is, however, a much-enjoyed site for waterfowl habitat. In a letter dated March 28, 2005, James Speck (attorney for the claimant) suggests the claim should be amended to reflect this change. It will be assumed, without an amended claim, that the change in nature of use is an accomplished change, pursuant to §42-1425, Idaho Code.

Quantity

The surface area of the reservoir was taken from the 1988 aerial photo, using ArcView GIS software. The surface area was found to be 11 acres. The volume of the reservoir was estimated using the surface area and an estimated depth of 15 feet. This yields a total of 165 acre feet. The claimed volume of 160 acre feet will be recommended.

Summary

Claim No.	Source	Point of Diversion	Place of Use (acres)	Notes
73-147A	Pahsimeroi River	13N 23E S20 SWNESW	1857.6	220 acres within 1857.6 acres
73-147B	Spring Creek	13N 23E S29 NWNW	1677.3	300 acres within 1677.3 acres
73-147C	Pahsimeroi River	13N 23E S20 SWNESW	1857.6	240 acres within 1857.6 acres; limited to availability in Goldberg Creek
73-150D	Pahsimeroi River	13N 23E S20 SWNESW	1857.6	200 acres within 1857.6 acres
73-189	Pahsimeroi River	13N 23E S20 SWNESW	1857.6	320 acres within 1857.6 acres
73-259	Spring Creek	13N 23E S29 NWNW	1677.3	Within 1677.3 acres
73-2165	Ground water	13N 22E S13 NENW	294	Within 1857.6
73-10040	Pahsimeroi River	13N 23E S20 SWNESW	1857.6	560 acres within 1857.6 acres
73-10041	Big Creek	13N 23E S13 NENW	1857.6	Rediverted in 13N 23E S20 SWNESW
73-10054	Spring Creek	13N 22E S14 NENE		Wildlife use only