

To: Ryan Mikesell
From: Joyce King
Date: January 3, 2006
Subject: Adjustments and notices of change to claim A21-12534

Pages including cover



Joyce King
2382 Broderick Dr.
West Jordan Ut 84084
Telephone 801-969-0554

December 31, 2005

Ryan Mikesell
State of Idaho
Department of Water Resources
900 N. Skyline Dr.
Suite A
Idaho Falls ID 83402-1718

Re: Water right claim A1-12534

Dear Ryan,

I have made some recent changes since having sent in the notice of error last spring that will have impact on the water rights claim. I believe these changes are positive changes and will not only benefit my own claim but benefit other water users in Falls River due to my being able to further reduce the amount of water I will need to claim.

A portion of land was sold for non farming purposes, that is the purpose of building a residence. On the lot sold, some irrigated acres existed and claimed in the adjudication claim. We were successful in changing the classification of a lot located on the outer boundaries of the property, through approval of the zoning and planning commission in Fremont County. The conditions of the sale as a building site, was that due to being sold as a building site, I personally could not guarantee any water rights for the lot. My understanding is that as residence the new owners could apply for water for domestic use.

This has allowed me to reduce the amount of requested water. In addition after reviewing some of the land descriptions in the original claim I believe I have the amount of acres backwards. My experience with quarter sections was and still is very limited. Since this error seems to have been carried over into the notice of error I believe to simplify the process and avoid confusion it would be best to write a new format of correct descriptions and to eliminate irrigated acres stated in the original claim after the lot has sold.

Place of use:

<i>Township</i>	<i>Range</i>	<i>Section</i>	<i>1/4 of</i>	<i>1/4</i>	<i>Lot</i>	<i>Use</i>	<i>Acres</i>
08 N	42E	23	NE	SE		IRR	38.0
			NW	SE		IRR	37.0
			SW	SE		IRR	40.0
			SE	SE		IRR	40.0
					Section Acres		155.0
08	42	26	NE	NE		IRR	2.0
			NW	NE		IRR	2.0
			NW	NW		IRR	16.5
			NE	NW		IRR	16.5
					Section Acres		37

At 0.02 per acre I believe this would be 3.84 cfs requested.

In addition I would like to take the time to report additional changes. Since the year of 1999 I have over the years had several conversations with Glen Atchley, the current renter of the Curtis Loosli land serviced by the July 1977 ground water right for place of use. The problem that existed then and continued to exist was buried mainline. What was serviceable at the time Curtis Loosli quit farming had become of no use by 1999. In all the years Mr. Reynolds has rented the land he has used hand moved sprinkler pipes in his possession and extending his existing works due to my understanding of purchasing different equipment for his own farming operation.

In defense, I would like to point out I never knew Dan Reynolds sub-letted to, first Brian Loosli then Glen Atchley some of my land until the spring of 1999. How was I to know that when my leases strictly forbid sub-letting. Had I simply been informed I would have understood since the Loosli system was a better candidate for the land sub-letted due to the land sitting directly behind the Loosli land and always watered with the Loosli system. In addition since that time I have sought ways to help myself out of the difficult position Conant Creek Canal Company and their board members had put me in and did not fully rely on the state to do that for me.

I would also like to point out as I did in my letter of explanation that I as a claimant filing an independent claim did expect to be contacted before hand, before judgment was made, and if I had been I could have shared the process I was involved in. Mr. Reynolds lease was to expire at the end of 2005 but due to my not knowing if I would be successful when the notice of error required a dead line was forced to

report the existing condition and divided the acres between to renters as evidenced in the return. Another complication was that while Curtis Loosli was most gracious in allowing me to return to the previous situation one of the requirements was having his renter rent all my land due to some concerns in the watering schedules for different land. A concern I respected.

I give notice that I have entered into discussions with Golden West to install buried mainline on my property this spring. They have assured me that this can be done quickly as soon as the ground thaws. Glen Atchley will be the new sole renter of the land, the contract has not yet been signed due to the necessity of first informing Mr. Reynolds that a new contract will not be created for him. In addition should some unforeseen complication arise, that is should Mr. Loosli back out of the his verbal agreement with me then I will go to plan B. That plan will be to obtain my own pump which will require a change in the existing diversion. Anticipating that possibility many years ago I contacted Ernest Carlson concerning a change in diversion and was told first IDWR has to recognize the diversions I have now before a change can be made. As stated in the letter of explanation I claim I have a diversion which has been the Henry diversion for many years but I respect IDWR wanting to acknowledge that.

It is my belief I would be able to do that because doing so would not result in any more draw on the river than already exists with the two pumps in current operation. I might add that at one point in time my nephew and I had plans to create our system including my land and some forty five acres of his land. This option had been discussed between my Mother and I way back in 1992 when my nephews land was added to the Conant Creek water right with the hope of one day sharing the existing delivery of the Conant Creek water should my Mother find a way to solve our shortages of water. My nephew and I respect the position of IDWR when I inquired about this small amount of land due to the fact that such plans could only have been accomplished through the canal company and IDWR cannot recommend water rights for land not watered. By law when the land was added it was done so upon the premise that the water rights were not lost due to the state not having required records of transfer during the 1940's.

Getting my own pump and going the additional expense above buried pipeline is not something I wish to do at this time but prepared to do if necessary. I am assured by Glen Atchley that this land can be included fully back into the existing works of Curtis Loosli creating three full pivots. Glen Atchley will be contributing a pivot to my farming operation. As can be seen this will result in a more efficient use of water. In addition should the necessary arise I be forced to purchase my own pump either this year or even in the few years following this change, Glen Atchley will still be renter and still provide the pivot. Toward this possibility I will consult with Golden West concerning possible future changes and the difficulty or ease a transition could be made if necessary. As stated it is my hope simply to reconnect back up to the Loosli system that was designed to water my land and spare the additional cost. I have already entered into discussions concerning the horse power of a pump needed and

prices and we are still discussing that, should that end up as the action but I hope this will not be the case. In many ways Mr. Loosli and I are in the same position. We want to hang onto our land and both of us will continue to require renters. Glen Atchley is an excellent renter to have due to his integrity and his treating rental land as if it belongs to him personally. Mr. Atchley plans on being in the farm business if only in a management capacity for many years having others in his business interests to take over various duties should the need arise in later years.

Due to the fact these changes are presently being implemented I believe you can understand why I cannot at this time submit a new existing works. I will consult with Glen Atchley as to how to describe that since he is operator and of course I will have to eliminate the lot as well as the existing works that allowed the irrigated land on that to be watered.

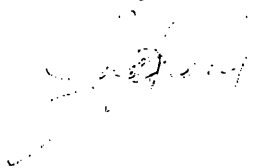
I believe you can appreciate my need to touch base with you before I go forward with these plans. Due to mail delivery being interrupted I will fax this notice of change to you on Tuesday and will follow with a telephone call. Hopefully I can make contact within a few days or even that day. I will need to know if IDWR has any problems with the plans being made.

In addition, while I realize IDWR has yet to determine priority date I would like to express faith that I will be treated fairly. Tony Olenichack told me years ago everything could be sorted out through the adjudication process. I believe a solution exists. I do not have the need to be right, nor do I have to be a victim. I have no objection with you folks being practical. I only request a water right, enough water and to have that water delivered on time to do me any good. I do however have expectations of having equal rights with everyone. For years I have taken the time for additional investigation and discovery which has not been an easy task. Honor is important to me along with wishes of being accurate.

Much like the previous time. I should present additional information but will do so in a different letter which will be sent by post. I have the obligation to protect privacy rights and because these are adjustments, by law you may be required to post them on the public web site, doing so, should I include additional letters of explanation would be a violating the rights of others privacy were it put on the public web site. For this reason another letter will be sent by post.

Thank you for making these adjustments and I will be contacting you as a follow up to this notice of changes. Thank you for your handling the notice of change.

Sincerely Yours,



Page 1

Joyce King
2382 Broderick Dr.
West Jordan Ut 84084

June 7, 2005

State of Idaho
Department of Water Resources
900 N. Skyline Dr. Suite A
Idaho Falls ID, 83402-171

RECEIVED
JUN 10 2005
Department of Water Resources
Eastern Region

Re: Claim 21-12534

Dear Mr. Mikesell,

I the letter dated June 1 2005 I indicated I would be sending additional information for claim no 21- 12534. I had hoped you would call me before you began work on my claim, and I could have cleared up some confusion at that time.

You should understand at the beginning of the adjudication process my land had a beneficial use water right in Falls River, and received the Conant Creek water right, but due to a family tragedy only one of those water rights did become adjudicated. That one was the Conant Creek water right being delivered directly into Falls River. The delivery of the decreed water by Conant Creek Canal Company into the river begin early fall of 1953. The result of Conant Creek Canal Company, hereafter CCCC having abandoned the laterals on the Western end of the system. The Van Sickle's were the first to receive the decreed water delivered directly into the river. The legal steps taken by the canal company is on record at the county court house.

“ Easement for canal over and across a portion of above described Lot 4 of Section eighteen Lot 1 of Section 19, and Lot 3 of Section 13, granted by Archie E. Hill and Arnetta Hill: I.R. Hendrickson, and Helen Hendrickson, to Conant Creek Canal Company Inc. by Miscellaneous, page 399, under recorder's instrument No. 277175 records of said County”

Having quoted that, you should understand when my parents purchased land from the Van Sickle family. The family whom the easement was obtained for, who returned to Falls River in 1950, had the two water rights in existence before my parents, (KR & Delila Henry) had purchased the land from daughters of the Van Sickle family, as well as land land in Section 26 directly behind the Van Sickle property.

At the time of the adjudication process, only the Conant Creek water right delivered

through these ditches involved in the easement became adjudicated. I can see from your comments you have some confusion regarding diversions, so I should be able to clear up the confusion there as well. At the time of actual adjudication all shareholders participated in the adjudication process. If memory serves me I believe my Mother said the group met at Fremont Madison. It has been Fremont Madison who knew the Conant Creek water right was delivered to my land, but no longer is, who has been offering me additional water until my claim is reviewed.

I might explain a family tragedy prevented the water right in Falls River from being adjudicated. I say this because my research shows no adjudication notices were sent to my Mother and I, after my Dad's death in 1989. Tony Olenichack who assisted me with my adjudication claim told me notices were sent out in the early 1990's. I co-owned the land with my Mother since the spring of 1990 but never received notice. I did have an agent research the mailing list. I did receive copy of the mailing list which did have my parents names mentioned fourteen times but these claims were mailed out in 1988.

Early in 1988 Dad suffered a stroke. He was in the hospital over a year then after a brief attempt on the part of my Mother. To care of him at home, it became necessary for my Mother, to place my Dad in a nursing home, due to one side of his body being paralyzed, and his speech affected. It was due to Dad's not being able to adjudicate the water rights himself, that my Mother and the canal company had adjudicated the water rights. The reason the canal company included the land involved in the easement, was because my parents owned the land involved in the easement. In other words my parents had purchased land from the people whom the easement as obtained for, along with land directly behind that land in Section 26.

However, in the early 1960's my parents purchased the land involved in the easement as well. At the time of actual adjudication the canal company was delivering the decreed water directly into Falls River. This was why, both my Mother as participating share holder, and the canal company did include land involved in the easement, but the land involved in the easement did not receive the decreed water right, or any water for that matter, and had not for many years. The family pasture land in Section 18 did have thirty five acre feet of storage water attached but his storage water was used in the system of the canal company for years and is used in the new pipeline today. The only reason land involved in the easement was adjudicated was because it had be in order to adjudicate my land which did receive the Conant Creek water right. If you will examine the description of the existing works you can see the canal company says some shareholders received the decreed water right in Falls River. Two shareholders received the decreed water right. KR Henry whose diversion in Falls River was SWNE Sec 23, T8N RGE 42E located in Falls River. (You may say this diversion point is the diversion point for the Curtis Loosli ground water right dated July 1977. I already know that. In fact it is my belief when WD-1 inventoried the pumps long Falls River in 1978 this was when my Dad's name as first pump was removed. I know this was a human

error, but one which cost my family thousands of dollars and likely the reason why I never received a notice to adjudicate the water right in Falls River.)

If you will bear with me, I will later explain the Henry diversion point and how it came into being but for now I will continue. What WD-1 did inventory in 1978 was the diversion for the Loosli ground water right, and the Henry diversion point in Falls River. At the time these claims were filed in the spring of 1989. The canal company considered the Henry/ Loosli diversion point in Falls River as one of their own diversion points in Falls River. This is what is being explained in the existing works. The Henry family received the decreed water right from the diversion lists on all claims filed at SW1 Section 18. The other shareholder who received the decreed water right in Falls River was Jay Hill at the diversion point in 4 NE1/4 of Section 18. I realize the way these claims were filed are misleading but two different diversions existed. WD- 1 delivered the decreed water right to Jay Hill but the canal company delivered the decreed water to my parents.

That said, everyone including my parents believed Curtis Loosli would be returning that summer of 1989 to farm. Curtis Loosli was the renter for my currently owned property. After I explain the events which took place at the time of actual adjudication, I will go back and explain why the Henry family has never owned their own pump which is why I believe WD-1 lost track of my parents water rights in Falls River.

It was because the Henry family has never owned a pump in Falls River we were in a bind, when Curtis did not return to rent in the summer of 1989. In order to understand the sequence you should understand Owen Jensen, was the second party the canal company delivered the decreed water right directly into Falls River.

Since the canal company, hereafter, CCCC, abandoned the laterals on the Western end of the system, it also involved Owen Jensen as well. I think Owen Jensen put a pump in the river around 1956. Owen Jensen also had two water rights as well for many years. A surface water right in Falls River and one from Conant Creek. My understanding is a time came when Owen Jensen could not receive his decreed water right in Falls River but by this time state laws required he obtain a permit which he did, so Owen Jensen had a permit to water from the river at the time of actual adjudication. Dan Reynolds is the son in law of Owen Jensen who currently owns the Jensen land, and who operates from the permit in Falls River obtained by Owen Jensen.

That said, a few years before the adjudication process took place Dan Reynolds had begun to lease Henry land in Section 24 T8NRge 42 & land in Section 19 T8NRGE 43 This land would be considered land in the remaining system of the canal company. For example the lot in Section 13 which is part of the lands involved in the easement is the extension of the land in Section 24, and the other parcel involved in the easement is the extension of land in Section 19. In other words Dad Reynolds rented the farm land up on top the hill and did so starting a few years prior to the adjudication process.

That said, in late spring of 1989 when I had brought Dad home from the nursing home

for a family visit. Dan Reynolds came to the house to discuss renting what is currently my land. Dad offered Dan Reynolds a five year lease and told him there was decreed water for the land. Curtis Loosli who was renter owned land on the West side of my land, Dan Reynolds owned the land East of me. The former land of Owen Jensen and the location of his pump was even closer to the ditches involved in the easement granted to CCCC and since the Owen Jensen pump was also once a diversion for the Canal Company in Falls River this transition was convenient for everyone.

Now I will digress to the time my parents purchased land from the Watts and Van Sickle family, keeping in mind the land already had two water rights before my parents (KR & Delila Henry) became part of the equation, they had become part of the picture through land purchases. You say you already have some exhibits. If you do not have what I will be referring to please let me know. You should understand I knew all this and understood it on a surface level. It was the false information given me by the agent known to Ray Rigby that created all the confusion.

You should have documentation that John Van Sickle settled along the river in the fall of 1897. That after his death in 1944, the farm was ran by a daughter and son in law, (Pearle & Cliff Watts) who did operate the farm for Catherine Van Sickle who kept the farm after her death. You should also have some Fremont Madison record for for convenience, I will enclose one you have, along with a plat, which will assist me in explanation. In 1950 the operators of the Van Sickle farm who were also family members had returned to Falls River. The documentation for the water right created is on the assessment records of Fremont Madison. When CCCC had abandoned the laterals at the Western end and the family returned to the river in 1950. The family had no place to attach the storage water. Fremont Madison or in this instance Andy Anderson, who worked for Fremont Madison attached the storage water to a portion of the lot down below, which was considered to be outside the canal system. The canal system defined as farm land up on top the hill.

I will try to blend several events taking place within a specific time frame by dates. In 1953 my Dad and a local doctor purchased from Cliff Watts the son in law and and operator of the Van Sickle a forty acre parcel in Section 26 T8NRGE 42, and ground in Section 25 T8NRGE 42. In 1956 Dad brought out the interest of the local doctor. That same year Catherine Van Sickle passed away having conveyed to three daughters the homestead. It can be said that of all land along the river . which has farm land up on top the hill and lots down by the river, that my land is the only land in this area which is platted as combining part farm land, and part lot but was the result of changes in water rights. Catherine had divided the land North to South fashion, because the family at the time of her death, was receiving all water from the river. Storage water, water from Falls River and the decreed water delivered by CCCC. She had divided the farm among three daughters. Since her daughter Pearle and Cliff, were the operators of the farm, and would continue to operate the farm for sisters living out of town, Catherine gave control of the water to Pearle. When the land

was recorded at the county court house, it was platted into three Tax numbers plus lot Seven, which is on level with the farm land up on top, and has irrigated land on a portion of Lot Seven. Keeping in mind each Tax number was part farm land and part lot down below. Pearle Watts then went to Fremont Madison having attached the storage water to Tax 2 as well since she controlled the water and she and Cliffs were operating the farm for sisters who lived out of town.

Now this is where things become a little complicated. I think it can be said from a standpoint of history had CCCC not destroyed the laterals that serviced some 360 acre's of my parents land, the history along with the confusion that existed would not have taken place. To prevent misunderstanding the laterals servicing my parents land were not the same laterals on the Western end of the system. My parents had 280 acre's in Section 30 T8NRGE 43 & 80 acre's in Section 25 T8NRGE 42 serviced by laterals coming down from Drummond Idaho. There was 147 shares of CC water stock and 143 acre feet of storage water.

You should have my Dad's hand written petition to refer to so I will only reference that. It was because my Dad had purchased land from the Watts family, and had in 1957 purchased Tax 3 from Vella Irene, that Dad saw the opportunity to put some of this 360 acre's back under water because he had the hope in 1957 that the other two daughters would sell their land as well. That being the case he would have a diversion for his fathers land, half in Section 30 half in Section 25. The half in Section 25 bordered the ground purchased from Cliff Watts in Section twenty five. Are you following me?

Having said that, for Dad to accomplish that feat he had to keep his water active, and this is where Ray Crouch came into the equation. Until Dad needed the water himself, Ray Crouch who owned one hundred and sixty acre's next to the Van Sickle farm wanted to use the water until Dad needed it, to water his one hundred and sixty acre's. According to my Mother not all daughters wanted to sell their land. This was especially so with Pearle who had a difficult relationship with my Dad. In 1957 even prior to the closing the sale which was delayed, Dad arranged with CCCC to have this water from these legal descriptions, I have stated sent down to the river through the ditches involved in the easement. CCCC had already been delivering decreed water only, before that time, since neither the Van Sickle's or Owen Jensen owned land in the remaining system.

I think it would be helpful if I explained just how CCCC did deliver the water from the system. You should understand while I had witnessed the Conant Creek water coming over the hill on my parents land. I had never in all the years after the death of my Dad ever gone up on top the hill to see how the ditches were connected. I also never knew CCCC had taken legal steps to deliver directly into Falls River. I knew they did and knew why they, did but never knew how the ditches were connected. It is not so much that my Mother didn't tell me, it was she didn't say enough to provide me with any defense. You see after the death of my Dad, have written in my early notes under

water rights. Independent rights and a partial description from land in Section 19. During the dispute over shares, when CCCC was lying to attorneys my land was not watered from Conant Creek, I examined my notes for clues but could not understand what was being written, since I was not conveyed any land in that Section. What my Mother was explaining was the easement.

It was only after I submitted my affidavit in 1999 I learned about the easement. In part first through my former brother in law, Irv Cox who farmed with my brother and Dad for several years. During this nightmare with water rights I never even thought of calling him, and only did so when in the spring of 1999, had obtained the denied applications for permits made by Dad in the seventies. Irv Cox was the co-applicant on those applications which become very useful to me at the present time, because they support my Dad's intent, to one day but water back on the land. That said, I now have a map which can be furnished but do so upon request, since as I have stated upon approval of IDWR I will release my claim against the CC water right.

For now I will explain the delivery. The ditches ran down through Section 19 T8NRge forty three. At the end of the system was a holding pond, the diversion at SW 1 Section eighteen, from the pond stemmed the ditches involved in the easement granted to CCCC which ran over the hill about mid-way between land in Section 13 & 18 then on down to the river at which point the decreed water ran into Falls River to the CCCC own diversion points in the river. I realize in 1978 WD-1 took over the delivery of the decreed water, but in this instance the delivery of the decreed water was part of the existing works of the canal company.

It was beginning in 1957 CCCC began delivering more decreed water and storage water for the first time. Lesson 101 in water rights for me has been, never use the word transfer around water rights experts, or agents from IDWR because they speak a different language. I used the term transfer because my Dad used the term but my Dad's meaning was not that he implemented an actual transfer of water rights. It simply means water that used, on some land was used on other lands. CCCC used to actually assign shares to tracts of land but ceased that policy allowing shareholders to use shares on any other land in the CCCC delivery system. My father personally never needed all the water for his own used. It was keep active to be used on my grandfathers land in future years.

The reason CCCC could deliver storage water for the first time through these ditches involved in the easement was because my parents still owned eighty acre's in Section 20 T8NRGE 43 the land Dad moved the storage water onto after the laterals were destroyed. Then of course because Ray Crouch was keeping active both resources CCCC began delivering more decreed water. In 1958 Margaret Helen sold Tax 1 leaving Pearle in the middle. According to my Mother Pearle would not prorate and of the water and only sold that when she sold Tax 2.

Since I never knew Dad brought the forty acre's from Cliff Watts I never asked if any

shares were purchased from him, and this being the case since he was a relative of the Van Sickle family more decreed water may have been delivered.

It can be said, had the Van Sickle family retained the land for a longer period in time even they would require additional water at some point. This was a transition from flood irrigation to sprinkler method which allowed more land to be watered. It was common for all early water rights in the system to have portions under water and other portions irrigated when flood irrigated was practiced.

So, it can be said that even had Ray Crouch not used the water, my Dad still needed more water as well, especially storage water to fuel the pump. The Van Sickle farm only had 29 shares to begin with. Now I will explain the Henry diversion in Falls River I already know WD-1 beginning records show Dad as first pump on this end. What I am saying is that my Dad's name as first pump should never have been removed from the records. We are still first pump but we have never owned a pump which is why the folks at WD-1 lost track in the first place. The reason Ray Crouch put a pump on Henry land on Tax 3, was because Ray was using the water as well, and this placement allowed both Dad and Ray to water each of their lands. In 1965 my Dad purchased another forty acre's in Section 26 that consisted of a long strip of land a great deal of which lies behind the former land of Ray Crouch that was put under water at that time. In 1959 Dad sold Ray Crouch a few acre's off of Tax 3 which created Tax 4 on court house records. Do you now understand why WD-1 beginning records record Henry first.

In 1970 Ray Crouch sold the one hundred and sixty acre's to Curtis Loosli who continued the same relationship until my Dad needed to use the water himself. With Curtis coming on board the diversion in Falls River became the Henry/ Loosli diversion point in the river. Curtis also became family renter in 1972 and the first to put in buried mainline. Before this time both my Dad and Ray Crouch used above ground sprinkler pipes.

Three years after Curtis did become family renter my Dad did plan on moving his diversion further up stream for better access for the land in requested water from the river to put back under water. Since water had been moved off this land in the 1940 when the state did not require records of transfers the land retained the water rights. Referencing this applications for permits in relation to my currently owned property I note my Dad informed IDWR of the water right in Falls River. Did not request water for land in Section 23 T8NRGE which is my currently owned land but do see a request for water for the Loosli land since my Dad seems to be taking Curtis Loosli with him, and include his land in his project. Dad did request water from the river for land in Section 26 but only due having plans to cross the deep gully which prevented the land on the South side of the gully from being watered. Thirty seven acre's in Section 26 was already under water and also watered from Falls River and Conant Creek. When reference is made to the Conant Creek water right it is the ditches involved in the easement that the decreed water is received from CCCC from the diversion at

SW1 Section 18.

With the exception of the first application for permit all following applications are the result of hardship placed on my parents when CCCC gave new rights to land, adding addition sections never having water rights before which choked of my parents water. Attempts were also made to provide Curtis Loosli with some water since my Dad did need use of his water. It would be my understanding due to not being able to obtain a permit for the Loosli land, nor increase decreed water coming from the diversion at SW 1 Section 18 for Curtis Loosli, that it became necessary for Curtis Loosli to find a replacement for water used. It would be my understanding when Dad's final application dated May 1977 failed. Two months later in July 1977 Curtis began the ground water right for place of use Section 23 T8NRGE42.

Dad had began discussions with Fremont Madison beginning in 1979 regarding the attachment of storage water. In 1982 Dad moved out 122 acre feet of the total 130 acre feet having been delivered buy CCCC, attaching it to my land. Instructing Fremont Madison it would water land in Section 23 & Section 26. Dad never did bother to petition to annex the balance of land in Section 23 and Section 26, since CCCC had for so many years delivered the storage water. It had only been six years from the date of attachment to the date of the stroke. It was I who petitioned Fremont Madison to annex the balance of land in Section 23 and also Section 26.

Some are confused my Dad moved out storage water used in the system. That was not the case. What he did do was to increase the decreed water in the system in an attempt to prevent yet more of his land from becoming dry farm status when these new rights were given to lands in 1974 & 1976. What Dad did do was to use storage used by Curtis, but had used some himself and decreased the decreed water. When WD-1 inventoried the pumps along Falls River for the first time in 1978 my Dad's name should have been kept on the Henry diversion point in Falls River. While Curtis Loosli does use this diversion to supplement the ground water right with storage water and may even have added land to the ground water right at some point. In 1978 the diversion was still the Henry diversion point for the beneficial use water right in Falls River and still the Henry diversion point in Falls River that received the CC water right.

My Mother believed she did not need to do anything with the water right in Falls River and because we never received notices we had no one to guide us. In 1989 the family lost not only my Dad, but two remaining siblings. All within eight and one half months of each other. We had lost my only brother in a car accident in 1979 and my parents were raising his only son. Anyone can understand why with such deep grief and shock suffered why confusion regarding adjudication would take place when the family member who handled all the farm business was gone. It was not that we did not know about the other water right. It was that my Mother believed nothing else needed to be done she referred to this other water right as independent rights to the river. Had we have received notices we would have had some guidance.

In regard to the adjudication of family land under the Conant Creek water right. To prevent confusion the only reason both my Mother, and CCCC had adjudicated family owned land in Section 13 & 18 was not because either parcel of land received the CC water right. It was adjudicated because it had to be in order to adjudicate my land which did receive the Conant Creek water right. Land in Section 13 & 18 did not receive any water of any type. There is thirty five acre feet attached to land in Section 18 but this storage water had been used in the system of the canal company for many years and currently used in the new pipeline today.

The question might arise as to how much decreed water was being delivered down to Falls River by the canal company at the time of the adjudication process. In response to that question. At the time of the adjudication process my Dad had two years before stopped paying assessments. To my Dad the shares were worthless. In 1974 & 1976 the then current board of directors had decided to issue more shares in the company. At first they sent notices around to existing shareholders telling them the new shares would be treated as secondary to existing shares designed to protect the water rights of share holders. It would seem that board made some good choices for themselves but bad one's for shareholders who owned land at the end of the system.. It was the board members themselves who purchased the shares but instead of treating them as secondary they were treated as equal placed on Sections of land never having water rights before that were located out of the boundaries of the existing system..

As a result the decreed water coming from the head gate had to be diverted from previous routes of delivery in order to pick up these additional Sections. More pumps placed to service these new lands given water rights and only then was the water delivered back to the end of the system. By the time the water got to the end it was so diluted there wasn't enough water to water the crops. Most harmed were my parents but they were not the only one's. For example examination of the files I have copies of, relating to the denied second application for permit I see my parents were willing to bear the cost of including one hundred and twenty acre's of land owned by a widow who could not defend herself. My parents were known for their protection of the underdog in the system. Since my parents had purchased land involved in the easement they had river front property so had applied for permit. They and the widow could then transfer the storage to the river.

It was judged by IDWR my Dad was speculating when he attempted to prevent yet more of his land from becoming dry farm. The only thing my parents could do was to pour more decreed water into the system in an attempt to delay the inevitable. Each year the problem worsened . Adding more land to a system not designed to handle more area's resulted in rapid decline. Severe leakage was the result, beneficial use could only be assigned to a mud hole. So much waste existed when the canal company whose policy, was to allocate waste based on shares owned. I recall my parents waste bill was equal to total assessments paid. Would you want to pay assessments on water you could not get and then the waste on water never received? My Dad didn't. He was the second biggest shareholder in the canal company but the shares

were worthless to him. He had stopped paying assessments two years before his death. My Mother and I paid them up to date hoping to solve the problems.

This account should provide a good idea. I personally was never quite sure how much water was allocated to the river. It was in fact the biggest reason I did file back onto the CCCC water right so as to have time to determine if a beneficial use water right in Falls River would harm others. By 1992 my Mother had wanted the tax deduction but I had reimbursed the first two years. Those canceled checks evidenced around one third of the CC shares owned by my parents. Just prior to my being given false information in 1997 in regard to the water right in the river. I had determined I would have sixty to seventy shares but this was determination based on shares to be received, since the new pipeline had been put in place and the family's problems solved. This determination may or may not have reflected reality.

I had witnessed the delivery of the CC water coming over the hill but never did measure it, nor was there ever any reason to go ask the ditch rider. At one point I believed I had the least amount of shares but a water right in Falls River. By fall of 1997 I had no water right in Falls River or so I was told, and more shares than anyone.

One of the reasons I did file back on the CC water right was to determine the amount of water. I was able to determine through both renters the amounts evidenced from the first two canceled checks was not the amount allocated so it was likely I reimbursed as a third party those first two years. Then I interviewed the family renters, three times over the course four years. The renter not associated with CCCC suggested a larger amount in the beginning the decreased later. I tried to determine by shares. I enclose some records I received at an annual shareholder meeting to show you how system delivered. As you can see four lines existed with percentages of shares owned applied to lines. Even if I knew which line or lines delivered the decreed water the water received was so slight it would be impossible to say.

Dan Reynolds who put a pump at the pond one year prior to the project being discussed said the decreed water ran out about noon each day. He had altered it at one point increasing the amount but this was when he knew I had a valid adjudication claim, then he decreased the amount again. There does exist a discrepancy in the amount he says I am short of the land he rents compared to the amount he says got down to the river. I shouldn't have been having to purchase water most years. In addition he had told the conservation office he had to plant more hay because it took less water. Nevertheless, he has consistently stated very little water was able to get down to the river.

Since the decreed water simply added to the river with no regulation as to who used it I should not be short of water. Renters of my land could not help but use the water. I know both IDWR and the courts recommend water rights based upon what existed at the time of actual adjudication but do not believe recommendations are made on potential. CCCC had taken the position that those who went to the river could stay in the river. The only shareholder who received the CC water in Falls

River from CCCC was my parents.

My Dad had a specific amount of decreed water allocated to my land for many many years. Each year decreed water inched back and water from Falls River increased. It was through no fault of the Henry family this took place.

Keeping in mind then the water right in Falls River did not become adjudicated in the early 1990's. Two events took place in the spring and summer of 1997 that transformed the remainder of my family's lives. It is quite distributing for me to even think of these times, much less write about them. Suffice it to say in the spring of 1997 I was given false information regarding water use in Falls River.

How this came about in detail was not fully understood until after I had submitted my affidavit. In that affidavit I say my Mother did not know the ditches were eliminated, that she told Ray Rigby the old lands were to be included. A more correct statement would have been I never knew what my Mother was accusing the canal company of trying to take away our water rights, or that she was talking about where the shares went for a diversion not for the actual pipeline. The missing piece of the puzzle was provided by Roger Bratt. It was my Mother who pushed the project to solve our problems with water. She told her fellow board members she wanted to include what is currently my land but also some land not under water but added to the CC water right in 1992. This small parcel of land consisting of sixty acre's would be watered from the new renters system. According to Roger Bratt my Mother was told she could not include our land because CCCC did not have laterals to deliver to the land. CCCC had not for many many years which is why they obtained the easement to begin with.

The same month the board voted on the new pipeline in May 1995, my Mothers attorney had advised to hang onto the shares. She then went to her attorney this same month of May preparing and amendment to her will allowing a niece to be trustee and put the shares to beneficial on land transferred from both estates of my parents. In early 1996 my Mother and I asked Ray Rigby if he would answer some questions for us concerning water rights. Anyone can understand my Mother and my confusion when we never knew we were to have adjudicated the water right in the river. We had no way to measure our needs.

Due to assignment in Washington it was almost a year before Ray Rigby found time around his busy schedule to assist us. We had asked Ray Rigby to check out our water rights in the river. My Mother had always referred to the water right in the river as independent rights which was the biggest reason she believed she didn't have to do anything. Ray Rigby had called someone he knew at either IDWR or WD-1 asking about the water right in the river but told no record existed. He reported to me, gave me the name of the party he spoke with telling me I could call myself. I was also told no water right was no record. However, because I always believed there was I say, "Doesn't a water right exist after all these years of water

use in the river?" Instead of being told about the various types of water rights and the laws in place when water use began, much less told I needed to adjudicate this long term use of water I was instead told there was no such thing as, (Grandfathers) rights to the river.

When you wrote a few months back defining beneficial use as grandfathers rights to the river I had wondered if someone told you to say that to cause me more anguish than I have already suffered. The second shock was receiving a letter from Ray Rigby who says his clients say at the time of my Dad's death my Dad watered from Falls River not from Conant Creek. I thought to myself what is going on. My Mother and nephew and I were in the process of lining up the shares. My Mother who knew Ray Rigby was assisting us had gone to his office telling him where the shares went. He had told me she did. She had said the repairs were made and now our problems solved because we received the water first.

Had Ray Rigby not said our land was not watered from CCCC I would have done anything. However, my taking action that summer cost my family more than I could ever dream. A reasoning person might ask me why I didn't just go ask my Mother more information about delivery. I could see the CC water coming over the hill. However, I had never been up in the system I had no idea how the ditches were connected. Furthermore, in May of 1995 my Mother had made a comment that had no impact on me at the time, but did when Ray Rigby told me our land was not watered from Conant Creek. It was due to that remark I believed my Mother must not know anything about the system either or she would not have said what she did. It was not until I spoke with Roger Bratt three years later, I understood the meaning of her words. It would seem I had arrived in town to assist my Mother the same month the project was voted on. When I arrived my Mother says to me we did not need shares, and could water from the river. I then tell her I believed someone was giving her false information that we did need our shares. In response, my Mother asked me how I thought I could use the shares. Only when I spoke with Roger and he told me what he did, did I understand my Mother was asking he how I could use the shares if the canal company would not let her include our land.

I could understand why my mother went to her attorney the same month. On this occasion my Mother said her attorney told her she did not need shares. I then called the attorney confronting him who advised that surly my Mother was confused by his comments that we should hang onto our shares. This was how it came about my Mother went to her attorney to protect our water rights.

However, in the summer of 1997 I believed my Mother must not know that much about the system or she wouldn't say that. I who did not even know CCCC cut off our water right reason I should correct Ray Rigby's understanding our land was not watered from CCCC. The challenge was how to do so. I then came up with I idea. Since I knew CCCC had before Dad moved out the storage water and continued decreed water only, both the storage water and CC water had come from the same

place. Therefore I reasoned by using two Fremont Madison records I could evidence our land was watered from Conant Creek.

I had copies of all the assessment records at my home so I set aside the beginning record began by the Van Sickle family as well as the Fremont Madison record existing in the 1980's, when Dad moved out 122 acre feet that had been delivered, after the decreed. I say after because the decreed was delivered first. Since I knew the CC water continue from the same place I believed this was good evidence. I call Ray Rigby telling him I believed I had some evidence which evidenced our land was watered from CCCC. I began presentation of the first record which clearly evidenced the storage water of the Van Sickle family was moved out of the system to establish the diversion point since my Dad left the forty acre feet where it was moved to. Before, I could finish my presentation. Ray Rigby had told me this was enough evidence and advised me what I should ask his clients.

Ray Rigby said this was an accomplished transfer, that I should ask his clients to formalize the site and amend any documents sent to IDWR. I assume Ray Rigby was advising me to request a diversion for a transfer of water right due. Where I was simply establishing, we were already in place. I have never to date asked Ray Rigby what his perceptions were. In his copy of the letter dated June 24, 1997 I had sent both record as well as both copies to the board of directors. As far as I can tell I don't see how my having had time to reference the second record would have changed the advisement since the second record was to evidence the delivery of the CC water right. I believe any reader my this letter can not only see I knew where the CC water right was coming from but also how only it had been delivered. It had been almost fifty years since CCCC obtained the easement. I did not know CCCC had taken legal steps to deliver but was well aware the CC water right was delivered directly into the river for many many years. At the time Ray Rigby had said his clients said they knew my Dad had watered from the river for as long as they could remember, but never knew how he got there. So in my letter I tell the board how Dad got to the river. I think I am quite clear, even if I did not know as much then as I do today.

As you can see I document with CCCC the information give me by the agent known to Ray Rigby. Since the board of directors told Ray Rigby Dad watered from the river for as long as he could remember I felt it important to explain there was no such thing as grandfathers rights to the river. In the last paragraph I am simply requesting the board formalize what already existed. Frankly since I never knew the land was cut off I had reasoned after Ray Rigby told me that, that perhaps CCCC told Ray Rigby our land was not watered from CCCC because the board had to go through some internal ritual before formally acknowledging they had been delivering to our land for almost fifty years. My reference to others was Jay Hill but since I never knew what existed up on top I always believed Jay Hill had his decreed water delivered into the river as well by the the canal company.

I suppose if I am sending these letters to explain what took place I should reference

the second paragraph on the second page. Since I had been using the storage water records to evidence the delivery of the decreed water. Note I reference the record as 1980. It was one line down, 1982. I believed it would assist the board if I quoted some lines from my Dad's petition to Fremont Madison. However, when I removed these letters from the file to make copies for you. I looked at that paragraph and could not even understand myself. Anyone having a copy of Dad's petition can see what I did. I make it sound like my Dad was saying he transferred storage water from other parts of the farm and thought it was done on a permanent basis. What Dad was saying was he had CCCC start delivering the storage water down to the river from the old lands. Sixty three acre feet of my storage water is from these old lands. However, what Dad is explaining to Fremont Madison is that he should have looked at his billing statements to see as he had been purchasing additional storage water from Fremont Madison for use in the river he believed it was being attached at the river site as he purchased it and should have looked at the billing statements to see it was not.

As stated I have learned not to use the (Transfer) word around anyone because others have a different meaning. Take for example the second paragraph in the letter dated June 24, 1997. CCCC would not have any record showing transfers because none existed. As a family we were trying to determine who got what shares. On the current books was one certificate of 40 shares still in the name of my grandfather. There was also one for 27 shares. Since we were trying to determine which shares would go where this was why we asked the questions in the first place.

I don't understand why these board members told Ray Rigby our land was not watered from Conant Creek. I spoke with both Roger Bratt and Dan Zundell. Both of whom I knew had known our land was watered from Conant Creek. They were not telling me it wasn't. I told them I knew it was and was using Fremont Madison records to support it was. Both board members agreed to my request because they knew. The only reason the transaction never went through was because my Mother passed away a few months later.

Because, I was given false information concerning this other water right my Mother fearing we might be asked to leave the river quoted me a lot more shares than had been delivered, but because I believed this agent and my first two canceled checks appeared to support a greater amount of shares this did not appear odd. I had learned only two weeks before my Mother's death my niece had power of attorney over the water rights. Had my Mother's attorney probated her will, he not a water rights expert would have at least been able to tell me I had been given false information from the agent known to Ray Ribby. I know when Dan Reynolds did first borrow the water because CCCC began to ration what we did get. Because the future was uncertain he said after five years the water right in the river would be increased. He would have at least been able to tell me I was given false information.

I wish he had probated my Mother's estate but he did not, nor my nephews and mine but someone my Mother never met who was the third attorney for my Mother's estate.

June 25, 1997

Conant Creek Canal Co.
Ashton, Idaho 83420

RE: Formalization of accomplished transfer.

Dear Ladies & Gentlemen,

We the undersigned would like to request the Conant Creek Canal Co. Board members formalize the site located in fall river that services section 26 and section 23 and has storage water attached to section 23 twp 8 rge 42.

Both properties are within the Conant Creek system as well as the Fremont Madison irrigation district. It is currently being rented and is under irrigation.

The site in Fall River was established in the late nineteen forties when the laterals were destroyed and the owners of that time had to go to the river. In 1957 K.R. Henry purchased this property and took on its established conditions. Water has been accessed off and on from this site for close to fifty years. (See attached letter to Roger Bratt.)

In addition to formalizing the established site in Fall River, we request that the proper steps be taken to document the formalization and to amend any documents previously sent to the state of Idaho (Water Resources) to include this site.

Thank you for your attention to this matter.

Sincerely Yours,

Dee Henry
Joyce King

June 24, 1997

Roger Bratt
Conant Creek Canal Co.
St Anthony, Id

Dear Roger,

Some time ago I contacted Mr. Rigby concerning some questions on water rights. He graciously looked into the matter for me. The property that related to my questions was located in section 26 twp 8 Rge 42 and section 23 twp 8 Rge 42. These two properties are located in both Conant Creek system and Fremont Madison system.

I had told Mr. Rigby I understood my father, K.R. Henry, had obtained a water right to one of these properties in 1957. I also indicated he had transferred water from within Conant Creek system to the river site. It is my understanding that Mr. Rigby spoke with several members of the board concerning this matter, and was informed that the board was unable to come up with any records or anything in the minutes that related to my understanding of this issue.

After doing some additional research I was able to come up with some information that sheds light on this transfer. I am enclosing the backup which supports my statements.

In a letter written to Fremont Madison in 1979 my father mentions some history which applies to this property. A copy of this original letter is not included as its contents also relate to other matters which are not relevant to this situation. In this letter he explains to Fremont Madison some of the history behind the water situation. He states that in the late 1940's laterals were destroyed that serviced some of the land in the Conant Creek system. (K. R. Henry along with other farmers at that time had to move the storage water to other sites or properties.)

He goes on to state that also during this period (late 1940"s) the laterals to section 23 were likewise destroyed and the water attached to this property was transferred to the river. K.R. Henry did not own the property at the time and only mentions this in the letter to indicate his connection to it.

At that point in time I do not know who used their capital stock carrying right to go to the river. That information could be obtained, by who owned it in the late 1940's. By 1957 & before that, the owner was one Pearle Watts. Prior to her it was Catherine Van Sickle. Before that Mr. & Mrs. Van Sickle. It is my understanding that Mr.

Received at board meeting 1991

Name	Owned	1 Line =	1 Line =	1 Line =	1 Line =
	Shares	32 Shares	40 Shares	48 Shares	50 Shares
Albrethsen, Marion	20	0.31	0.30	0.44	0.40
Bischoff, Bill and Kay	20	0.30	0.70	0.62	0.56
Bowersox, Bill	100	3.03	2.50	2.22	2.00
Bratt, Francis	165	5.00	4.13	3.67	3.30
Bratt, Harold	78	2.30	1.90	1.69	1.52
Bratt, Roger	21	0.64	0.53	0.47	0.42
Bratt, Wilfred	44	1.33	1.10	0.98	0.88
Butler, Shirley	161	4.88	4.03	3.58	3.22
Haukaa, Helen	10	0.40	0.40	0.36	0.32
Henry, Dee	403	12.21	10.08	8.96	8.06
Hiatt, Alvin	15	0.45	0.38	0.33	0.30
Hill, Jay	20	0.61	0.50	0.44	0.40
Jones, Frances	100	3.46	4.50	4.00	3.60
Loosli, Brian	121	3.67	3.03	2.89	2.42
Loosli, Curtis	452	13.70	11.30	10.04	9.04
Neubold, Afton	20	0.61	0.50	0.44	0.40
Oberhansley, Glade	50	1.52	1.25	1.11	1.00
Oberhansley, Kay	75	2.27	1.88	1.67	1.50
White, Clyde	140	4.24	3.50	3.11	2.80
Whitmore, Dale & Reva	88	2.67	2.20	1.96	1.76
Whitmore, Jim	28	0.79	0.65	0.58	0.52
Wong, Carla	28	0.79	0.65	0.58	0.52
Zundel Farms	115	3.48	2.88	2.56	2.30
Zundel, Dan	1	0.03	0.03	0.02	0.02
Total Shares	2363				
Total Lines		71.61	59.08	52.51	47.28

	Lines
45 cfs/day.	68
@ 80%	54
@ 70%	48
27 cfs/day.	41
@ 80%	33

YEAR	ASSESSED	WASTE LAND	BENEFITS	ACRE	ACRE	SPECIAL	ASSESSMENT	ASSESSMENTS	ACRE FEET	RECEIPT NUMBER	PAID
73	40	0	1200	21.60	14.40		5.00		40		
				2280	1560		3840				
				4200	2040		6240				
76			1200	2280	1560		3840				
				3480	2160		5640				
78				3720	1920		5640				
				3000			3000				
30				3000			3000				
				3600			3600				
72				3600			3600		45		
				4800			4800				
				18144		3-24-83 ST. 15.60	18644		189		
4				17010			17010				
				22680			22680				
76				17010			17010				

32 A.F. From
#966
61 A.F. From
#728
61 A.F. From
#761

NAME: Henry, Kenneth R; *B. 4* ADDRESS: Ashton, Idaho
 DESCRIPTION: Tax 2; Part NE 1/4 SEC 23 CANAL: Fall River Ind. Rights
 SEC: 23 TWP: 8 RND: 42 ACCT. NO. 727

ASSESSMENT RECORD
FREMONT-MADISON IRRIGATION DISTRICT-ST. ANTHONY, IDAHO

YEAR	NUMBER OF ACRES ASSESSED	WASTE LAND	ASSESSED BENEFITS	MAINT'NCE RATE PER ACRE	REPAYMENT RATE PER ACRE	SPECIAL	TOTAL ASSESSMENT	UNPAID ASSESSMENTS	ACRE FEET	RECEIPT NUMBER	PAID
73	80		2400	43.20	28.80		72.00		80		
				4560	3120		7680				
				8400	4080		12480				
76			2400	4560	3120		7680				
				6960	4320		11280				
78				7440	3840		11280				
				6000			6000				
80				6000			6000				
				7200			7200				
72				9600			9600				
				7680			7680				
74				7200			7200				
				9600			9600				
76				7200			7200				

NAME: Henry, Kenneth *B. 4* ADDRESS: *Drummond*, Idaho
 DESCRIPTION: *W. 1/4 SEC 1* CANAL: *Fall River Canal*
 SEC: 8 TWP: 7 RND: 41 ACCT. NO. 379

FE JNT-MADISON IRRIGATION DISTRICT-ST. ANTHONY, IDAHO

YEAR	NUMBER OF ACRES ASSESSED	WASTE LAND	ASSESSED BENEFITS	MAINT'NCE RATE PER ACRE	REPAYMENT RATE PER ACRE	SPECIAL	TOTAL ASSESSMENT	UNPAID ASSESSM'TS	ACRE FEET	RECEIPT NUMBER	PAID
1930	40		1200	720	2400		3120		40		
1931				480	2160		2640				
1932				600	2280		2880				
1933				600	2160		2760				
1934				600	2160		2760				
1935				420	2040		2460				
1936				420	2040		2460				
1937				420	2040		2460				
1938				440	2040		2480				
1939				480	1980		2460				
1940				540	1920		2760				
1941				1200	1920		3120				
1942											
1943											

NAME:

WATTS, PAUL E.
Van Stickle, Catherine

ADDRESS:

Drummond
St. Anthony, Ida.

DESCRIPTION:

day 12 Part N+SE 1/4

CANAL:

Gen. F. R. Reid. Right

SEC: 23

TWP: 8

RNG: 42

ACCT. NO.

ASSESSMENT RECORD
FREMONT-MADISON IRRIGATION DISTRICT-ST. ANTHONY, IDAHO

YEAR	NUMBER OF ACRES ASSESSED	WASTE LAND	ASSESSED BENEFITS	MAINT'NCE RATE PER ACRE	REPAYMENT RATE PER ACRE	SPECIAL	TOTAL ASSESSMENT	UNPAID ASSESSM'TS	ACRE FEET	RECEIPT NUMBER	PAID
1930	80		2100	1440	4800		6240		80		5
1931				960	4320		5280				
1932				1200	4560		5760				
1933				1200	4320		5520				
1934				1200	4320		5520				
1935				840	4080		4920				
1936				840	4080		4920				
1937				840	4080		4920				
1938				880	4080		4960				
1939				960	3960		4920				
1940				1080	3840		4920				
1941				2400	3840		6240				
1942											
1943											

NAME:

Rice, J. B. Henry, Kenneth

ADDRESS:

St. Anthony, Ida.

DESCRIPTION:

WATER

CANAL:

Fall River Canal

SEC: 8

TWP: 7

RNG: 41

ACCT. NO.

1

360

34

ction

Dr. J. H. Davis

Page 2 of 2

Joyce R. King
Trust

Freedom County

2385

1 2 1
28.12

20. 1 2
2387

Tax 2

Taxi

8.9.0

8.6.0

8.6.0