RECEIVED
OCT 02 2006
DEPARTMENT OF
WATER RESOURCES

Sept. 26, 2006

Idaho Department of Water Resources,

Enclosed is proof that James M. Shoup purchased our land through "An act making further provision for the sale of public lands" of 1820.

Through the Desert Land Act (Certificate #339) he was required to irrigate that land.

Also enclosed are affidavits from Boise H. Ellis and Burl Hamilton proving that this land was irrigated.

Instrument 29995 proving Shoup ought this land.

We are requesting a priority date of 4/1/ 1898.

David R. Ellis
Jeanne Ellis

David R Ellis

There are six water users on this ditch:

| | |
|---|---|
| David R. & Jeanne Ellis | 73-4089 & ~~73-4090~~ |
| Michael A. & Betty J. Noonan | 73-4040 |
| Patricia Mc Caffrey | 73-11972 & 73-4012 |
| Preston Dixon | 73-11971 |
| Robert & Virginia Chewning | 73-4080 |
| Bowles | 73-81 |

08/31/2006

**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: September 29, 2006**

Water right number: 73-4089

JEANNE ELLIS
HC 62 BOX 1010
ELLIS ID 83235

DAVID R ELLIS
HC 62 BOX 1010
ELLIS ID 83235
Telephone Number: (208)876-4465

1. Describe the portion of the proposed recommendation with which you disagree (e.g. priority date, period of use, source):
Priority date ~~[illegible]~~ 4/20 ~~[illegible]~~
Incomplete documentation was not filed with prior filing - documents are enclosed

2. Describe the changes you wish to make in the proposed recommendation:
We would change priority date from 1933 given to other water users on the same ditch to 1898 priority from documents enclosed

3. Give a brief explanation as to why you disagree with these portions:
Have applied for 3 inches of water per acre - if objected to - would request a Hubble analysis

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

**DATE:** _____ **SIGNATURE:** _____

Please print your name: _____

IDWR Regional Office, 322 E Front St
PO Box 83720, Boise, ID 83720-0098, 2082874800

There are six water users on this ditch

G Bowles
Mike Noonan 73-4040
Preston Dixon
Patt McCaffrey 73-4012-~~[illegible]~~
Bob Chewning
David Ellis 73-0489

08/31/2006

IDAHO DEPARTMENT OF WATER RESOURCES
PRELIMINARY RECOMMENDATION OF WATER RIGHTS ACQUIRED UNDER STATE LAW

---

RIGHT NUMBER: 73-4089

NAME AND ADDRESS: JEANNE ELLIS
HC 62 BOX 1010
ELLIS ID 83235

DAVID R ELLIS
HC 62 BOX 1010
ELLIS ID 83235

SOURCE: PAHSIMEROI RIVER TRIBUTARY: SALMON RIVER

QUANTITY: 1.500 CFS

PRIORITY DATE: 05/01/1902

POINT OF DIVERSION:
T15N R21E S8 NWNW Within LEMHI County

PURPOSE AND
PERIOD OF USE:

| PURPOSE OF USE | PERIOD OF USE | QUANTITY |
|---|---|---|
| IRRIGATION | 4/01 10/01 | 1.500 CFS |

PLACE OF USE: IRRIGATION Within LEMHI County

T16N R21E S31 NWSW 25.00

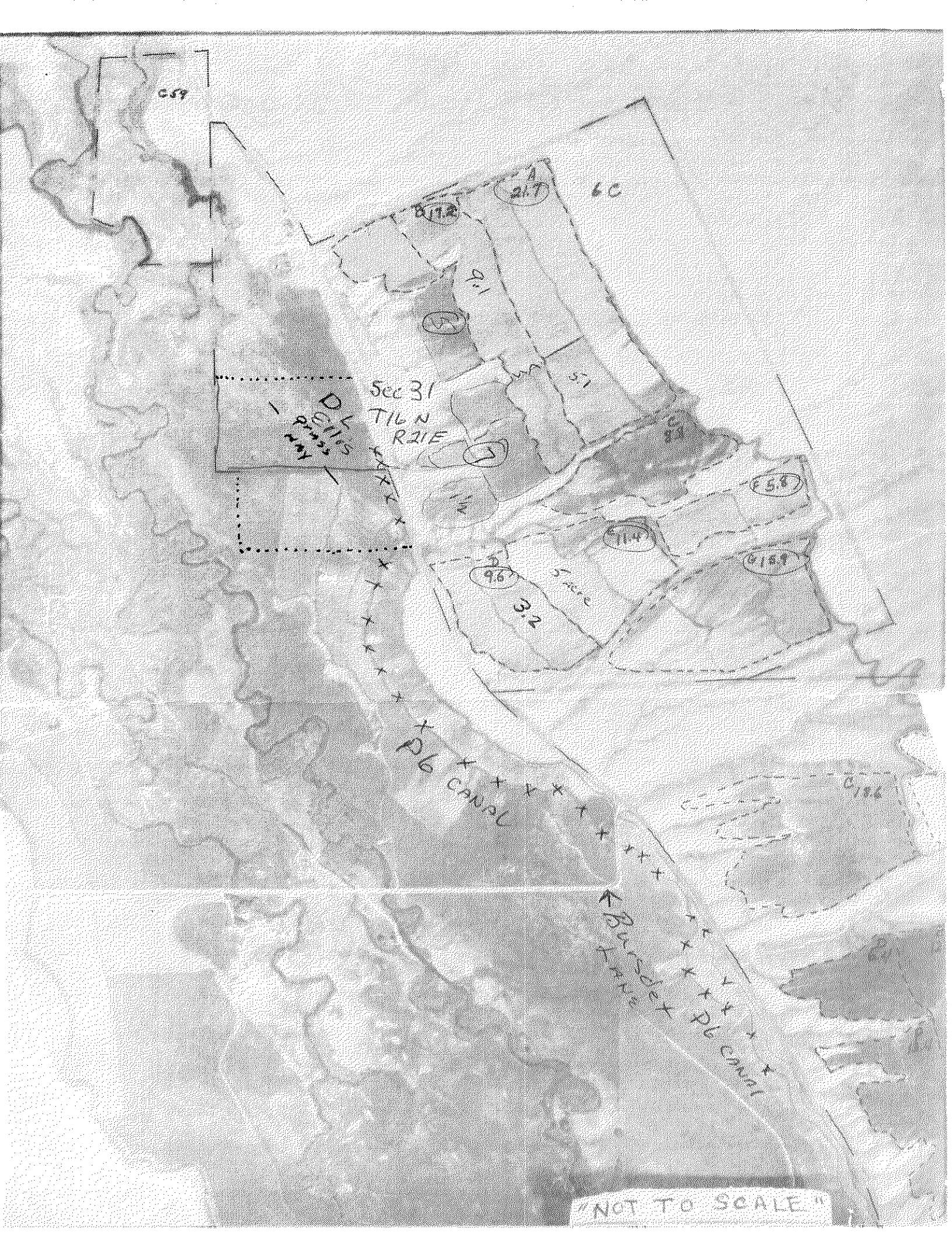
25 ACRES TOTAL

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

No lawful appropriation shown.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use

NO LAWFUL APPROPRIATION SHOWN: There are a number of circumstances in which a claim is proposed to be disallowed on this basis. This is most commonly included for a claim based on beneficial use or posted notice that is PROPOSED to be disallowed because the right claimed is not within an exception to the mandatory permit statute, and beneficial use of water prior to the mandatory permit statute was not confirmed. This is also included where a claim is PROPOSED to be disallowed because the claim is to water that is not public water subject to appropriation. This is also included where a right was determined not to exist in a prior adjudication.


C59
A
21.7
6C
B 19.2
D1
D2
S1
Sec 31
T16N
R21E
1
C 9.1
F 5.8
E 11.4
E 18.9
9.6
3.2
S Fork
PG CANAL
C 18.6
Burnside
S Fork
PG CANAL
"NOT TO SCALE"

A
19.9
B
8.8
C
18.6
G
37.1
H
39.3
F
13.1
D
6.4
E
8.4
K
31.9 ac
L
14.4
J
15.4
M
7.9
A
3.2
B
4.9
C
5.8
G
11.0
C9
C10
F
8.0
F
12.9
Burndet Lane
11 Pig Canal
Pig
Point of diversion
X = canal
"NOT TO SCALE"

STATE OF IDAHO )
) ss. AFFIDAVIT RE: WATER RIGHTS PRIORITY
County of Custer)

BOISE H. ELLIS, being first duly sworn, on his oath does depose and say:

That I am 89 years old, having been born October 30, 1888, on the old Ellis Ranch in the Pahsimeroi Valley, Custer County, where I reside at this time;

That my father, George A. Ellis, Sr., owned the North 1/2, approximately, known as the "Ellis Ranch" and owned in partnership with James M. Shoupe (Jim Shoupe) the remainder or South 1/2, approximately, known as the "Jim Shoupe Ranch" of the ranch property described in the attached Exhibit A which is a part of this Affidavit.

That the described ranch property was occupied by Jim Shoupe and my father sometime after 1863, the year my father came to Salmon, Idaho as a 6 year old boy but several years before Government Patents were issued for the property; that I recall my father stating the lands were occupied before he was old enough to file an entry with the government and that it was after occupying these lands for production of cattle and horse feed that he married my mother whose name was Mary Ellis, after marriage; that he also stated to me he had to give a man named Dan Myer, a squatter on the Ellis Ranch before Patent was issued, a few head of stock to move his horses and camp off the land because he was interfering with the irrigation, raising of crops and pasturing of cattle and horses; and that it was the hard winter of 1889 when he lost over 1000 head of cattle;

MICROFILMED
DEC 14 1992

That as a boy under six years old, I saw tall, heavy willows growing along the old Weller-Shoupe-Ellis ditch and other lower ditches as a result of irrigation water flowing each season for delivery to the ranches from the Pahsimeroi River; that these willows were tall enough to completely conceal a rider named Lee Watson as I watched him riding a half-broken horse up the ditch bottom;

That based on my own observations and the conversations had over a period of many years with my father, George A. Ellis, Sr., I state as a fact that large amounts of water were diverted from the Pahsimeroi River through the Weller-Shoupe-Ellis ditch and other ditches headed below to irrigate the Ellis and Jim Shoupe ranches herein described; and, that such waters were used with never a shortage from the late 1870's, without interruption, to this date; and

That large amounts of water are necessary in order to grow wild grass pasture and grass hay for the Ellis and Jim Shoupe ranches for the reason that they are bottom-type ground which requires large amounts of water on a regular basis to keep from burning.

Dated this 4th day of April, 1977.

Ruled H. Ellis

SUBSCRIBED and SWORN To before me this 4th day of April, 1977.

Notary Public For Idaho
Residing at Challis, therein.
My commission expires:

RECEIVED
DEC 14 1992

September 25,2006

I, Burl L. Hamilton, of Challis, Idaho , 208-879-2291, do now state that having been born on March 14, 1931 in the Pahsimeroi Valley, Idaho and having spent many years in that valley until my family sold our ranch in 1975 and are now and have been a resident of Challis, Idaho since that time.

That as a child up to the age of 7 years old and before the purchase of our ranch my father and mother rented a ranch now owned by Mr. Giorgi. We lived in a house in the same spot as Mr. Giorgi's house. On the premises of this ranch is located the head of the ditch known now as the Burns ditch (P-6 fish and game fish screen) .

This ditch is used to convey irrigation water to the properties on the east side of the Pahsimeroi River to the south and north of Burstedt Lane. These properties were known to me as a child as part of the Ellis ranch which was located on both sides of the Pahsimeroi all the way down to the Salmon River.

I recall that as a child approximately 6 years old crossing the above named ditch on a foot bridge and being knocked off the bridge by a dog and falling into the water and being rescued by my father. I also recall my uncles coming to visit my father and mother and visiting about the "old timers" constructing this ditch before the turn of the century using teams, plows and slips and what a difficult task this was to complete.

September 25, 2006

Burl L Hamilton

Burl L. Hamilton

Sworn before me Lura H Baker a Notary Public. Residing at Challis, Idaho. My commission expires 12-12-09.

Clayton Dated September 25, 2006.

LURA H. BAKER
NOTARY PUBLIC
STATE OF IDAHO

U. S. Patent.

Desert Lands
Certificate No. 339

The United States of America
To all whom these presents shall come, Greeting:

Whereas James M. Stoup, of Lemhi County, Idaho has deposited in the General Land Office of the United States a Certificate of the Register of the Land Office at Hailey, Idaho, whereby it appears that full payment has been made by the said James M. Stoup according to the provisions of the Act of Congress of the 24th of April, 1820, entitled "An Act making further provision for the sale of the Public Lands," and the acts supplemental thereto for the South East quarter of the North West quarter; the North East quarter of the South West quarter; the South half of the North East quarter and the South East quarter of Section thirty-six in Township sixteen North, and the Lots numbered one and two of Section one in Township fifteen North of Range twenty East and the Lots numbered three and four of Section six in Township fifteen North, and the Lot numbered two of Section thirty-one in Township sixteen North, of Range twenty-one East of Boise Meridian in Idaho, containing five hundred and eleven acres, and twenty-hundredths of an acre, according to the Official Plat of the Survey of the said Lands, returned to the General Land Office by the Surveyor General, which said Tract has been purchased by the said James M. Stoup

Now know ye, That the United States of America, in consideration of the premises, and in conformity with the several Acts of Congress in such case made and provided, have given and granted, and by these presents do give and grant, unto the said James M. Stoup and to his heirs, the said Tract above described: To Have and to Hold the same, together with all the rights, privileges, immunities, and appurtenances, of whatsoever nature thereunto belonging unto the said