11/14/2006

RECEIVED
DEC 0 5 2006
DEPARTMENT OF
WATER RESOURCES

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: December 8, 2006

Water right number: 67-4108

J WAYNE BURKHARDT
2410 LITTLE WEISER RD
INDIAN VALLEY ID 83632
Telephone Number: (702)784-4588

1. Describe the portion of the proposed recommendation with which you disagree (e.g. priority date, period of use, source):
The priority date is incorrect, the irrigated acres are wrong and the quantity of water used is wrong.

2. Describe the changes you wish to make in the proposed recommendation:
The land irrigated under 67-4108 has actually been irrigated since 1883. Construction of the Ben Ross inlet canal destoried the original Burger D.Tch and in return irrigation water was taken out of the Ben Ross inlet canal (See attached Burger Statement & watermaster letter.

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

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

DATE: 12/5/06 SIGNATURE: J Wayne Burkhardt

Please print your name: _____

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

There as additional irrigated acres in the NW NW, and the NE NW (see changes on map 67-4108) The land in the NE NW I lease from the State of Idaho and approx 3-4 acres are irrigation pasture.

The total irrigated acres under both 67-4108 and 67-418 as shown on my 2004 ASCS aerial photo is [redacted] 75.6 Acres.

The quantity of water under claim 67-4108 should reflect the actual acres being irrigated at 1 inch per acre.

refer Attachments

11/14/2006

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

RIGHT NUMBER: 67-4108

NAME AND ADDRESS: J WAYNE BURKHARDT
2410 LITTLE WEISER RD
INDIAN VALLEY ID 83632

SOURCE: LITTLE WEISER RIVER TRIBUTARY: WEISER RIVER

QUANTITY: 0.650 CFS

The quantity of water under this right for stockwater use shall not exceed 13,000 gallons per day.

PRIORITY DATE: 06/01/1937

POINT OF DIVERSION:
T14N R01W S36 SESENW Within ADAMS County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
STOCKWATER	01/01 12/31	0.030 CFS
IRRIGATION	03/15 10/31	0.620 CFS

PLACE OF USE: IRRIGATION in ADAMS County

T14N R01W S36	NWNW	16.00	T14N R01W S36	SWNW	1.00
T14N R01W S36	SENW	14.00			

STOCKWATER same as IRRIGATION

31 ACRES TOTAL

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

This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.

The quantity of water decreed for this water right for stockwater use is not a determination of historical beneficial use.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use

Stockwater use is for 60 range cattle and 5 horses.

Idaho Department of Water Resources

SRBA Recommendation:

67-4108

(Irrigation)

irrigated

Note Correction to irrigated acres in red. GLB 12/5/06

irrigated

R01W

T14N

NWNW

NENW

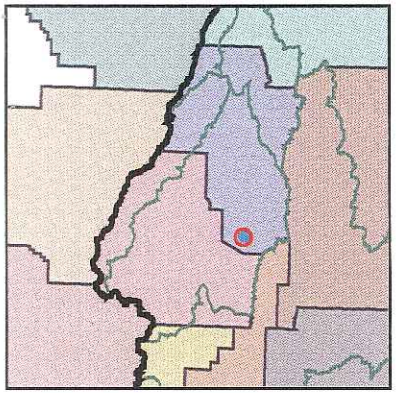
SWNW

SENW

36

Legend

- Point of Diversion
- Place of Use
- Townships
- PLS Sections
- Quarter Quarters



Adams County
IDWR Basin 67

N

0 0.2 0.4 Miles

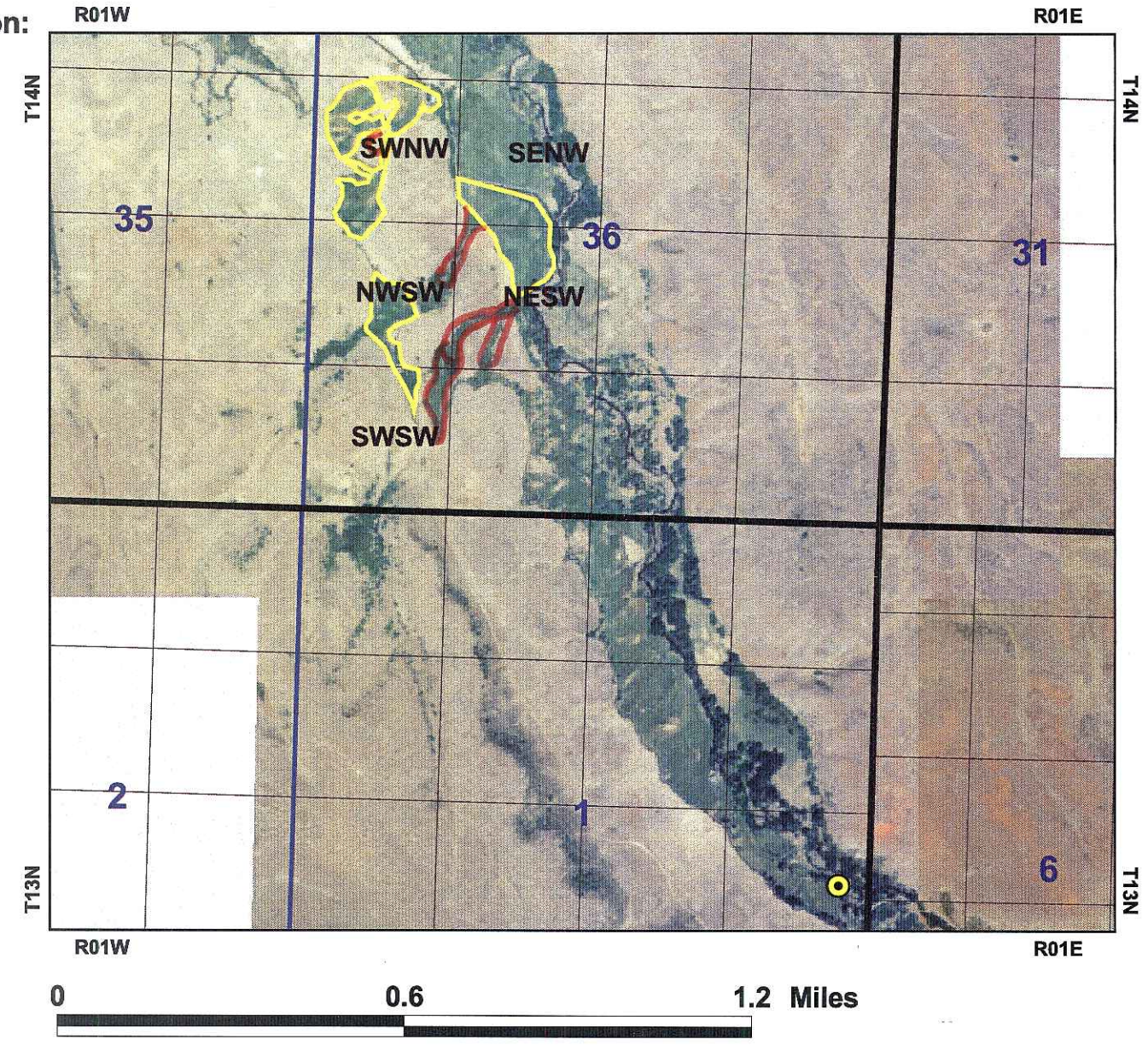
Prepared by IDWR State Office
On Tuesday, November 14, 2006
1987/88 Aerial Photography

Idaho Department of Water Resources

SRBA Recommendation:

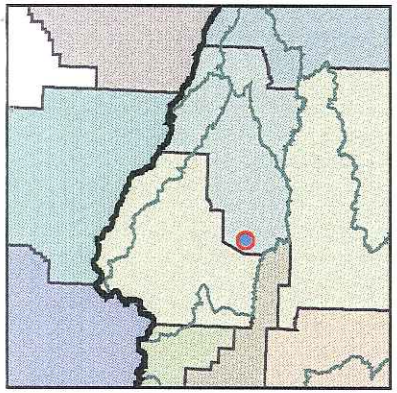
67-418

(Irrigation)



Legend

- Point of Diversion
- Place of Use
- Townships
- PLS Sections
- Quarter Quarters



Adams County
IDWR Basin 67

N

Prepared by IDWR State Office
On Tuesday, November 14, 2006
1987/88 Aerial Photography

Attachment

#88

RECEIVED
DEC 06 2006
DEPARTMENT OF WATER RESOURCES

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE STATE OF IDAHO,
IN AND FOR THE COUNTY OF TWIN FALLS

IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM.

CIVIL CASE NUMBER: 39576

Ident. Number: **A67-04108**
Date Received: 12/07/1989
Receipt No: 00133602
Received By: JRF

NOTICE OF CLAIM TO A WATER RIGHT ACQUIRED UNDER STATE LAW

1. Name: T. P. FENELON III 208-256-4318
   Address: BOX 74
   INDIAN VALLEY, ID 83632
   OR
   Name: PHYLLIS Y. FENELON 208-256-4318
   Address: BOX 74
   INDIAN VALLEY, ID 83632

2. Date of Priority: JUN 01, 1937

3. Source: LITTLE WEISER RIVER Trib. to: WEISER RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4	Lot	County
~~13N~~ 14N	01W	~~1~~ 36	NE NE ~~SE~~ SW		ADAMS

5. Description of diverting works:
   HEADGATE, DITCH

6. Water is used for the following purposes:

Purpose	From	To	C.F.S (or)	A.F.A.
IRRIGATION	05/01	09/01	0.760	
STOCKWATER	01/01	12/31	0.050	

7. Total Quantity Appropriated is:
   0.810 C.F.S. (and/or) A.F.A.

8. Total consumptive use is 114.0 Acre Feet Per Annum.

9. Non-irrigation uses:
   S/125-150 HEAD.

*** TRANSMISSION ERROR REPORT ***
DEC 5,2005 13:34 Model # Dell Photo AIO 962 000-000-00000
START TIME | SENT TO | PAGES | RESULT
01:18P | ******* | 5 | ERROR

10. Place of Use:

Township	Range	Section	1/4 of 1/4		Lot	Use	Acres
14N	01W	36	NE	NW		IRR	3.0
			NW	NW		IRR	25.0
			SW	NW		IRR	3.0
			SE	NW		IRR	7.0
					Section Acres		38.0
					Total Acres		38.0

11. Place of use in counties: ADAMS

12. Do you own the property listed above as place of use? YES

13. Other Water Rights Used:
NONE

14. Remarks:
Adjoining land is irrigated as described in A67-00418

15. Basis of Claim: STATUTORY CLAIM

16. Signature(s)

(a.) By signing below, I/We acknowledge that I/We have received, read and understand the form entitled "How you will receive notice in the Snake River Basin Adjudication." (b.) I/We do ___ do not X wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments: 2 nep addendum

For Individuals:

I/We do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant(s): X J. P. Fenelon III Date: _____

_____ Date: _____

State of Idaho)
) SS.
County of Ada)

Subscribed and sworn (or affirmed) before me this 7th day of Decemba 19 89

Helen Harrington
Notary Public

Seal

Residing at Helen Harrington, Notary Public Residing at Boise, Idaho

My Commission Expires My Commission Expires December 1, 1994

Declaration of Water Use

I began irragating from ditch known as Coriell, Anderson, and Lindsey ditch in May 1937 and irragated about 18 acres in SW¼ NW¼ and NW¼ SW¼ Section 36 Twp. 14 N. R. 1 W Boise Meridian each year until time I sold property in 1973. ~~In May 1953~~ 1937 the Little Weiser Irragation Canal was put in and I began irragating approximatly 20 acres in the NW¼ NW¼ of Section 36 from the canal, and used water from this source also until date of sale 1973.

I also used water for stock water during these years from 1937 until 1973.

I also had about 30 acres under irragation in SE¼ NW¼ and NE¼ SW¼ of Section 36, This land was under irragation each year sence 1883.

signed

Copy of Declaration I with real Deposit by George Bunger + on file with Water Resource State Building

Water Master

INDIAN VALLEY
WATER DISTRICT
67A

Roger Meyer
3035 Cemetery Rd.
Cambridge, Idaho 83610
Phone (208) 257-3418
Cell (208) 741-0859
E-mail rjmeyer@ctcweb.net

April 21, 2005

There was a ditch Corriell, Anderson, and Lindsey Ditch the water for that ditch irrigated the section as we know as Water Right #67-04108 Pri/Date 6-1-1937. This water right was split into 67-04108 A and B. Mr Burkhart now owns both W/R's and it should be known as 67-04108.

In 1937 C. Ben Ross Reservoir was built and in agreement with the board on the C. Ben Ross Reservoir and Mr George L. Burger the owner of the property at that time. The Corriell, Anderson, & Lindsey Ditch was destroyed under the conditions that the **Inlet Canal** would have Headgates on it to irrigate this property. The Richardson Ditch was born to irrigate the property above the Inlet Canal and other properties off of that ditch. With this right he owned shares in the C. Ben Ross Reservoir which was below him and could not deliver water to him. In turn he was to get his reservoir water rights out of the Little Weiser River . The reservoir was to make up the water in the river that couldn't be delivered to him. That is where the 1937 water rights came in. Those water rights are from the reservoir only and have nothing to do with his decreed water rights. Therefore, his decreed water right #67-04108 should have a Priority Date of 6-1-1883.
See George L. Burger's Certified Copy of 19th of February 1975.

Roger Meyer
Water Master