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DEPARTMENT OF
WATER RESOURCES

DISTRICT COURT-SRBA Fifth Judicial District County of Twin Falls - State of Idaho	
JUL - 2 2008	
By _____	Clerk
_____	Deputy Clerk

**SUPPLEMENTAL DIRECTOR'S REPORT
REGARDING SUBCASE NOS. 74-15537**

In Re SRBA

Twin Falls County Civil Case No. 39576

Report to the SRBA District Court

Prepared by the Idaho Department of Water Resources
David R. Tuthill, Jr., Director
Donald V. Shaff, Adjudication Bureau Chief

July 1, 2008

I. INTRODUCTION

In accordance with Idaho Code § 42-1412(4), Administrative Order 1, and Special Master Dolan's June 12, 2008 *Order Granting Motion to Alter or Amend and Setting Dates*, the Director of the Idaho Department of Water Resources ("IDWR" or "Department") submits this Supplemental Director's Report ("Report") regarding subcase no. 74-15537. The Report was prepared under the supervision of David R. Tuthill, Jr., Director, and Donald V. Shaff, Adjudication Bureau Chief.

The following Department employees have knowledge of the information contained in the Report: Nathaniel Arave, Water Resource Agent; Ernest Carlsen, Water Resource Program Manager.

II. DISCUSSION

A. Background

In 1970, the Lemhi County District Court ("Lemhi Court") commenced a general stream adjudication for the Lemhi River, known as the Lemhi Adjudication. On December 30, 1982, the Lemhi Court executed a partial decree pursuant to Idaho Rule of Civil Procedure 54(b) ("Lemhi Decree"), resolving most of the issues in the Lemhi Adjudication. On October 14, 1992, the Lemhi Court ordered the Lemhi Decree be considered a final decree. Water right nos. 74-1081 and 74-1862 were decreed by the Lemhi Court. Water right no. 74-1081 (1.96 cfs, 65 acres) was decreed with the Lemhi River as the source. The decreed source for water right no. 74-1862 (1.96 cfs, 65 acres) was unnamed stream. Water right nos. 74-1081 and 74-1862 overlap in their place of use and were decreed the same priority date, February 12, 1875.

Water right nos. 74-1081 and 74-1862 were originally claimed by Merle, Dale, and Velma Mahaffey in the SRBA. On January 4, 2005 a change of ownership was received from

Andrew and Kathleen Knight (Velma Mahaffey's daughter and son-in-law) splitting water right nos. 74-1081 and 74-1862. Water right no. 74-1081 was split into water rights 74-15534 (held by Knights) and 74-15535 (held by Mahaffey). Similarly, water right no. 74-1862 was split into water right nos. 74-15536 (held by Knights) and 74-15537 (held by Mahaffey).

Water right nos. 74-15534 and 74-15536, held by the Knights, were partially decreed in the SRBA on July 9, 2007 for the irrigation of 60.8 acres with 1.82 cfs, respectively. The sources for water right nos. 74-15534 and 74-15536 were partially decreed as Lemhi River and unnamed stream, respectively. The places of use for water right nos. 74-15534 and 74-15536 are overlapping. The remainder of water right nos. 74-1081 and 74-1862 were recommended to Mahaffey as water right nos. 74-15535¹ and 74-15537 for the irrigation of 4.5 acres with .14 cfs, respectively. Depicted in Attachment A are the points of diversion and places of use associated with water right nos. 74-1081, 74-1862, 74-15534, 74-15535, 74-15536, and 74-15537.

On March 22, 2006, the Department received an objection from Mahaffey as to water right no. 74-15537, stating that the quarter-quarter that was recommended as the point of diversion (NWSW) had been transposed and should be SWNW. During the initial hearing in Salmon, Idaho on Mahaffey's objection, Mahaffey discussed with Department staff that water right no. 74-15537 was actually used on the opposite side of the Lemhi River from how it was claimed and recommended in the SRBA. Furthermore, the source of water to irrigate that ground was different than claimed and recommended. Mahaffey later filed a Standard Form 4

¹ Water right no. 74-15535, which is not the subject of this Report, was partially decreed in the SRBA for the irrigation of 4.5 acres with .14 cfs from the Lemhi River. On January 22, 2008, Mahaffey moved the SRBA Court to set aside the partial decree in order to change the source from Lemhi River to Indian Springs Creek. The matter was referred to Special Master Dolan by Judge Melanson. On February 20, 2008, Special Master Dolan entered an order granting Mahaffey's motion to change the source of water right no. 74-15535 from Lemhi River to Indian Springs Creek. The order also allowed Mahaffey to reduce the place of use from 4.5 to 4 acres and add stockwater as a purpose of use.

Amended Notice of Claim on January 30, 2008. The Amended Claim sought “To correct how the original claim was filed. To ammend (sic) the point of diversion and point of use.”

On February 29, 2008, the Department issued its Amended Director’s Report regarding water right no. 74-15537, which recommended the claim disallowed because the “Right [was] not claimed in [the] prior adjudication.” The legal doctrine of *res judicata* bars reconsideration of the nature and extent of all water rights previously adjudicated. *See, e.g.*, Idaho Code § 42-1420. The Department considers itself barred in this instance from recommending elements inconsistent with the prior judicial determination.

On April 9, 2008, Special Master Dolan issued his Report and Recommendation agreeing with the Department’s recommendation, which disallowed water right no. 74-15537. On April 16, 2008, Mahaffey filed a Motion to Set Aside the Report and Recommendation, or in the alternative a Motion for Late Objection. Mahaffey stated that the reason she did not timely file an objection to the Amended Director’s Report was “because I’ve been ill and have had heart problems requiring the care of a doctor.” On June 12, 2008, Special Master Dolan granted Mahaffey’s requested relief and ordered the Department to prepare a 706 Report. During the June 12, 2008 status conference regarding Mahaffey’s motions, Special Master Dolan requested that the Department identify that if it were not for the right not being claimed in the Lemhi Adjudication (*res judicata*), would the Department recommend the claim in the SRBA; and if so, how would it be recommended.

B. Department’s Recommendation

In its investigation of the claim, the Department reviewed documents provided by Mahaffey regarding her use of water from springs on the opposite side of the Lemhi River from where water right nos. 74-1081 and 74-1862 were decreed in the Lemhi Adjudication and

subsequently recommended in the SRBA as 74-15534, 74-15535, and 74-15536. Copies of the information Mahaffey submitted for review by the Department are attached hereto as Attachment B. Aerial photography of the area from 1946, 1987, 1992, and 2004, attached hereto as Attachment C, demonstrates that the claimed place of use was irrigated prior to the Lemhi Adjudication and continues to be irrigated. The 1946 photograph in Attachment C was taken on August 8.

The Department cannot recommend water right no. 74-15537 as an accomplished transfer of water right no. 74-1081 because it would involve the unstacking of water right no. 74-1081 from water right no. 74-1862, without corresponding fallowing of water right no. 74-15535. Such a recommendation would result in an illegal enlargement of water right no. 74-15537 because Mahaffey still uses water right no. 74-15535 on the opposite side of the Lemhi River from the claimed place of use for water right no. 74-15537. *See* Attachment A.

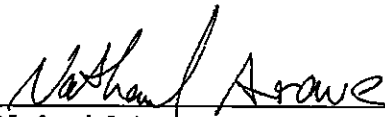
It is the Department's position that, but for *res judicata*, water right no. 74-15537 could be recommended, however, as a beneficial use claim described in Attachment D. To minimize confusion, Attachment D bears a large red stamp DRAFT across its face. Water right no. 74-15537 was not recommended by the Department as "decreed" because it was not decreed by the Lemhi Court. Water right no. 74-15537 can, however, be recommended as a beneficial use water right because information reviewed by the Department, notably aerial photography from 1946, *see* Attachment C, demonstrates that the property was irrigated prior to enactment of the 1971 mandatory permit statute. Based on information reviewed, August 8, 1946 is the earliest priority date the Department can recommend for water right no. 74-15537. While a home does not appear on the property in the 1946 aerial photograph, the Department can recommend an

accomplished change in purpose of use for domestic and heating purposes because the uses are non-consumptive and are not in addition to the recommend rate of flow.

III. CONCLUSION

But for *res judicata*, the Department's recommendation for water right no. 74-15537 is based on historical evidence of beneficial use as described in Attachment D.

Submitted this 1 day of July 2008


Nathaniel Arave
Water Resource Agent

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I served a true and correct copy of the following described document on the persons listed below by United States mail with the correct postage affixed thereto on this 15th day of July 2008.

Document Served:

Supplemental Director's Report Regarding Subcase No. 74-15537

Persons Served:

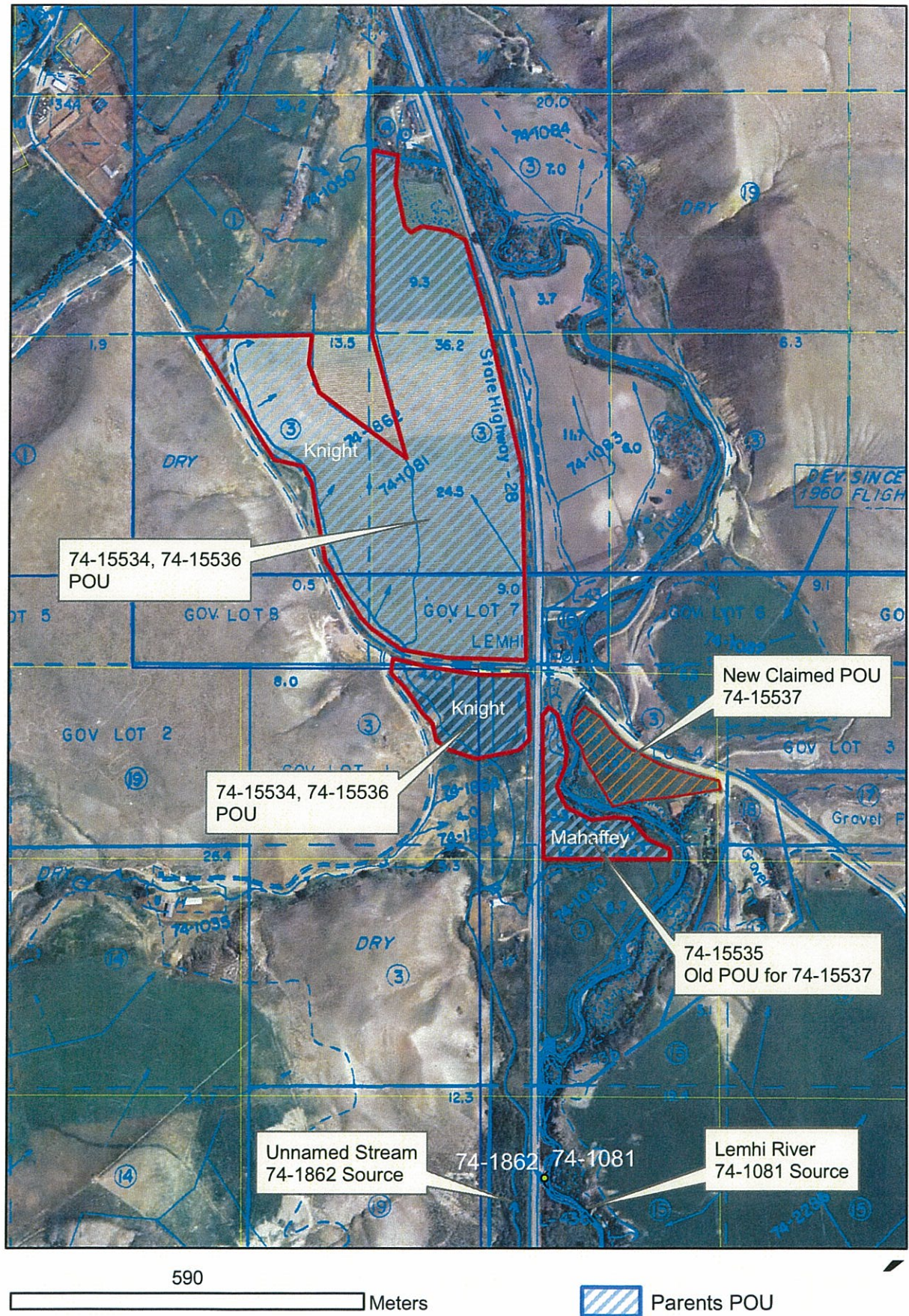
Velma Mahaffey
P.O. Box 14
Lemhi, Idaho 83465



Idaho Department of Water Resources

Attachment A

Water Rights Map



Attachment B

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

In Re SRBA

) Subcase 74-15537
)
) (Insert water right number)

Case 39576

) STANDARD FORM 4
)
)

) MOTION TO FILE:
)

) ☐ LATE NOTICE OF CLAIM
)

) ☒ AMENDED NOTICE OF CLAIM
_____)

INSTRUCTIONS

This form is used to file a late Notice of Claim or an amendment to a Notice of Claim in a reporting area where the Director's Report has been filed. Forms may be obtained from the SRBA Court, the Idaho Department of Water Resources (IDWR), or you may copy or reproduce this blank form. If you copy or reproduce this form, please copy on both sides with the even-number pages upside down.

The water right number for your late or amended claim must be indicated above in the blank space following "Subcase." You must use a **separate form for each** late or amended Notice of Claim.

This form has been adopted by the court in *SRBA Administrative Order 1, Rules of Procedure* (amended Sept. 30, 1996), Section 4, which may be consulted for further information.

By filing a *Motion to File a Late Notice of Claim* or a *Motion to File an Amended Notice of Claim*, you certify that it is well-grounded in fact; is warranted by existing law or a good-faith argument for the extension, modification or reversal of existing law; and is not filed for any improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation.

☐ I have read *SRBA Administrative Order 1, Rules of Procedure* (amended Sept. 30, 1996).

My name is Velma Mahaffey

My address is PO Box 14 Lemhi ID 83465

My phone number is: Work _____ Home (208) 768-2413

I am an attorney representing _____

My name is _____

My address is _____

My phone number is _____

MOTION TO FILE A LATE NOTICE OF CLAIM

A *Motion to File a Late Notice of Claim* will require a hearing before the Presiding Judge.

☐ I did not file a Notice of claim to the use of water in the SRBA because:

☐ I filed a Notice of Claim and elected to defer judicial proceedings on my domestic or stock watering use. I desire to reinstate my Notice of Claim for domestic or stock watering use.

☐ I am providing legal and factual documentation for my claimed use of water. You must describe these documents and attach a readable copy. (You do not need to fill this out if you are reinstating a Notice of Claim for domestic or stock watering use, but you **must** attach a copy of your Notice of Claim.)

I have attached:

- ☐ A fully completed Notice of Claim (available from IDWR).
- ☐ A claim filing fee for a domestic and stock watering use. IDWR may charge this fee pursuant to I.C. § 42-1414. To determine this amount, contact IDWR at (800) 451-4129. I have enclosed a check payable to: State of Idaho Department of Water Resources in the amount of \$ _____.
- ☐ A claim filing fee and a late claim fee for those claims other than a domestic or stock watering use for which a notice of claim was not filed. To determine this amount, contact IDWR at (800) 451-4129. I have enclosed a check payable to: State of Idaho Department of Water Resources in the amount of \$ _____.

Follow these instructions regarding the hearing on this motion.

1. Contact the Clerk of the SRBA Court (208-736-3011) to request a hearing date and time.
2. Fill in the following information:

This motion will be heard on _____
(Insert Date and Time)
at the SRBA courthouse, 253 Third Avenue North, Twin Falls, Idaho.

MOTION TO FILE AN AMENDED NOTICE OF CLAIM

A *Motion to File an Amended Notice of Claim* may require a hearing before the Presiding Judge or Special Master or may be granted by leave of the court or by written consent of the parties and the Idaho Department of Water Resources. Leave to amend a claim shall be freely given when justice so requires.

☒

I must amend my Notice of Claim to the use of water in the SRBA because:

To correct how the original claim was filed.
To ammend the point of diversion and point of use.

☒

I am providing legal and factual documentation to support my amended Notice of Claim.
You must describe these documents and attach a readable copy.

Copy of Deed ; 1961 letter Department of
Reclamation
Stinson Map

I have attached:

☒ An amended Notice of Claim (available from IDWR).

☐ Payment of the following additional fees required by IDWR:

VERIFICATION (Must be completed)

State of Idaho

County of Lemhi

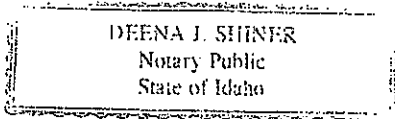
Velma Mahaffey, being first duly sworn, upon oath, deposes and says:
(Insert name of person filing form)

That I am the party/claimant filing this motion for late or amended claim (as listed on Page 2) as defined by I.C. §§ 42-1401A(1) and (7) or that I am the attorney for the party/claimant filing this motion for late or amended claim and that I have read this motion, know its contents, and believe that the statements are true to the best of my knowledge.

Velma Mahaffey
Signature of person filing motion

Attorney signing in representative capacity

Subscribed and sworn to before me on January 18, 2008
(Insert Date)



Deena J. Shiner
Notary Public for
Residing at: Lemhi
My Commission expires: 10-1-2011

INSTRUCTIONS FOR MAILING

You must mail this form, including all attachments, to the Clerk of the SRBA Court. FAX filings will not be accepted by the SRBA Clerk of the Court. You must also send a copy to all the parties listed below in the Certificate of Mailing.

CERTIFICATE OF MAILING

I certify that on 17 Jan, ²⁰⁰⁸~~199~~, I mailed the original and copies of this form, including all attachments, to the following persons by mailing the original and/or copies, postage prepaid and addressed as follows:

1. Original to:

Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
PO Box 2707
Twin Falls, ID 83303-2707

2. Copies to:

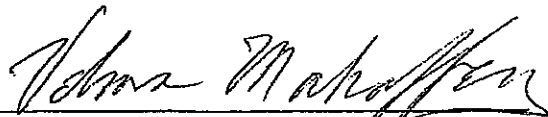
IDWR Document Depository
PO Box 83720
Boise, ID 83720-0098

Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
PO Box 44449
Boise, ID 83711-4449

United States Department of Justice
Environment and Natural Resource Division
550 West Fort Street, MSC 033
Boise, ID 83724

3. If you are filing an amended Notice of Claim in a subcase being heard before the Presiding Judge or a Special Master, you must serve a copy on all parties to that subcase.

(Insert Names/address of parties)



Signature of person or attorney mailing the form

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 74-15537
Date Received: 11/22/2004
Receipt No:
Received By:

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name of Claimant(s)

VELMA MAHAFFEY Phone: (208) 768-2413

PO BOX 14
LEMHI ID USA 83465

2. Date of Priority: 02/12/1875

3. Source: WASTE WATER , WASTE WATER , SPRINGS Trib. to: , , LEMHI RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot			County	Type
18N	24E	33	NE	NW	4	LEMHI	
18N	24E	33	NW	NW	4	LEMHI	
18N	24E	33	NW	SW	NW	LEMHI	

5. Description of diverting works:

springs and wastewater discharge into a canal which delivers to place of use

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
IRRIGATION	03/15	11/15	0.14	
STOCKWATER	01/01	12/31	0.04	
HEATING	01/01	12/31	0.04	
DOMESTIC	01/01	12/31	0.04	

7. Total Quantity Appropriated is:
0.18 C.F.S.

8. Total consumptive use:

9. Non-irrigation uses:
Number of homes: 2

10. Place of use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres	
18N	24E	33	NW	NW	4	DOMESTIC	
			NW	NW	4	HEATING	
			NW	NW	4	IRRIGATION	4.5
			NW	NW	4	STOCKWATER	
						Section Acres	4.5
						Total Acres	4.5

11. Place of use in counties: LEMHI

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

13. Other Water Rights Used:

14. Remarks:

15. Basis of Claim: Decreed

16. Signature(s) *John McChaffey*

(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 ☒ wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments: 1- IDWR Place of use Map

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): Velma M. Maffey Date: 1-17-08

_____ Date:

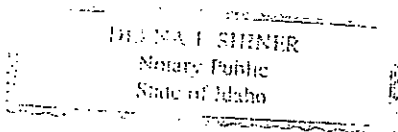
State of Idaho)
County of Lemhi) SS.

Subscribed and sworn (or affirmed) before me this
of Jan. 18th 2008

Deena J. Shiner
Notary Public

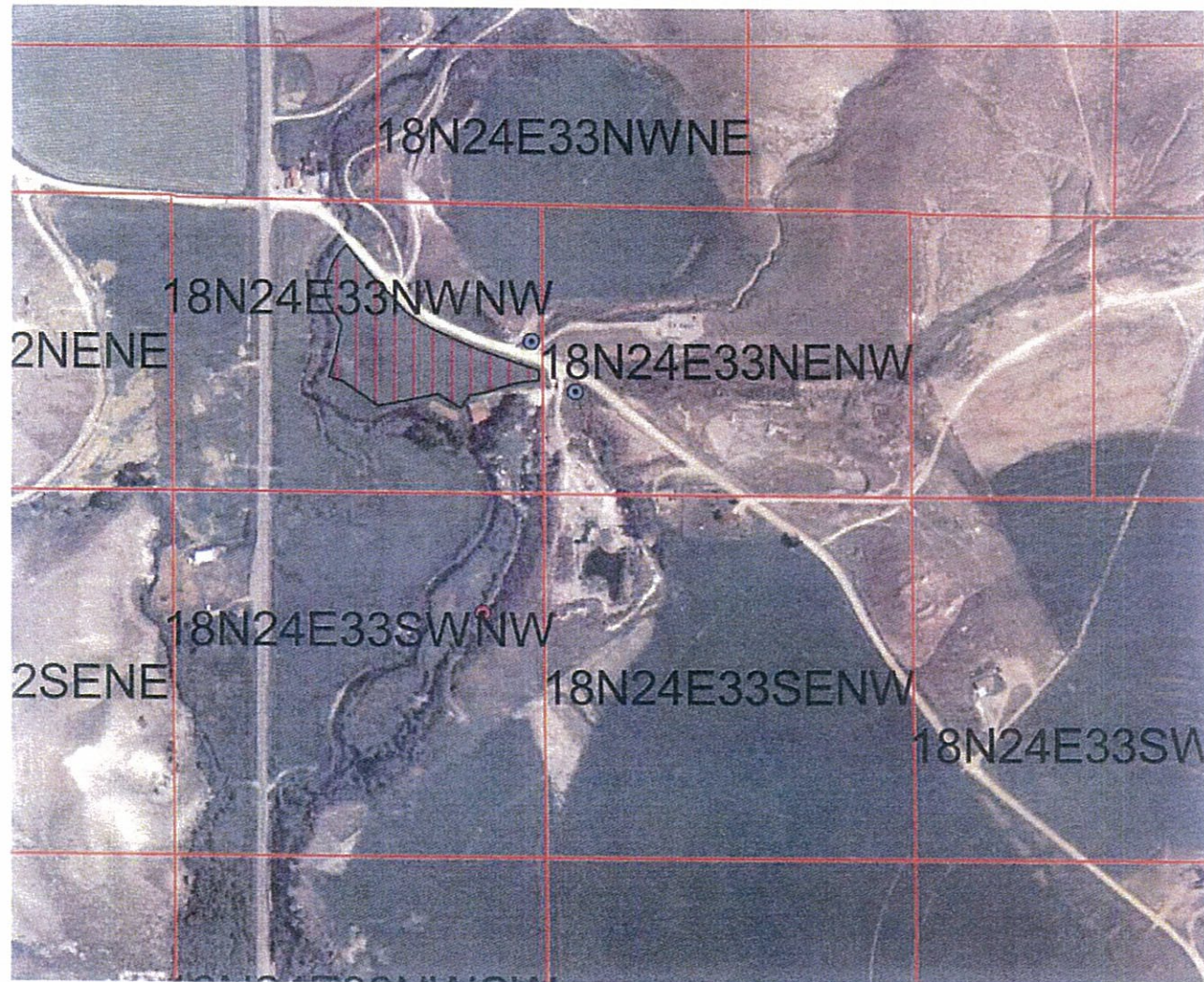
Residing at Lemhi, Id

My commission Expires 10-1-2011



Place of Use Map

74-15537



0.2 0 0.2 0.4 Miles

- Wastewater.shp
- Place Of Use
- GCDB18N24E GCDB
- Spring



Instrument No. 12773

Hailey 05756 THE UNITED STATES OF AMERICA,
TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETING:

WHEREAS, a Certificate of the Register of the Land Office at Hailey, Idaho, has been deposited in the General Land Office, whereby it appears that, pursuant to the Act of Congress of May 20, 1862, "To secure Homesteads to Actual Settlers on the Public Domain," and the acts supplemental thereto, the claim of John E. Rees has been established and duly consummated, in conformity to law, for the Southwest quarter of the Northwest Quarter and the Lots Three and Four of Section Thirty-three, and the Southeast quarter of the Northeast Quarter and the Lot One of Section Thirty-two in Township Eighteen North of Range Twenty-four East of the Boise Meridian, Idaho, containing one hundred seventy-five and sixty-four-hundredths acres, according to the Official Plat of the Survey of the said Land, returned to the General Land Office by the Surveyor-General:

NOW KNOW YE, That there is, therefore, granted by the United States unto the said claimant the tract of Land above described; To have and to hold the said tract of Land, with the appurtenances thereof, unto the said claimant, and to the heirs and assigns of the said claimant forever; subject to any vested and accrued water rights for mining, agricultural, manufacturing, or other purposes, and rights to ditches and reservoirs used in connection with such water rights, as may be recognized and acknowledged by the local customs, laws, and decisions of Courts; and there is reserved from the lands hereby granted, a right of way thereon for ditches or canals constructed by the authority of the United States.

IN TESTIMONY WHEREOF, I, William H. Taft, President of the United States of America, have caused these letters to be made Patent, and the seal of the General Land Office to be hereunto affixed. GIVEN under my hand, at the City of Washington, the sixteenth day of May in the year of our Lord one thousand nine hundred and twelve and of the Independence of the United States the one hundred and thirty-sixth.

Seal.

By the President: Wm. H. Taft.

Recorded: Patent Number 266845

By M.P. LeRoy, Secretary,

H.W. Sanford, Recorder of the General Land Office.

Recorded at the request of Frank L. Plummer, Nov. 18th, 1912, at 30 minutes past 10 o'clock A.M., in Book W of Deeds, page 64, Records of Lemhi County, Idaho.

J. A. Kirtley Jr.
County Recorder

By W. W. Simons
Deputy

Instrument No. 12774

THIS INDENTURE, made this day of September in the year of our Lord one thousand nine hundred and twelve (1912) between John E. Rees and Alice Rees his wife, of Lemhi County, Idaho, parties of the first part and L. T. Ramsey, of Lemhi County, Idaho, the party of the second part. WITNESSETH, that the said parties of the first part, for and in consideration of One thousand (\$1000.00) Dollars, lawful money of the United States of America, to them in hand paid, by the said party of the second part, the receipt whereof is hereby acknowledged, have Granted, Bargained, and sold, and by these presents do Grant, Bargain, Sell, Convey and Confirm unto the said party of the second part, and to his heirs and assigns forever, all those certain tracts of land situated in Lemhi County Idaho and described as follows, to wit: The Southwest quarter of the Northwest quarter (SW $\frac{1}{4}$ of NW $\frac{1}{4}$) and the Lots Three and Four (3 & 4) of Section Thirty-three (33) and the Southeast quarter of the Northeast quarter (SE $\frac{1}{4}$ of NE $\frac{1}{4}$) and the Lot One (1) of Section Thirty-two (32), in Township Eighteen (18) North of Range Twenty-four East of the Boise Meridian, Idaho, and containing One Hundred and seventy five and 64/100 acres, excepting and reserving therefrom, a certain strip of land running through the said property which the first parties have conveyed to the Gilmore and Pittsburgh Railroad Company for the purpose of right of way, and a description of which is found in Book B of Real Estate agreements at page 240, in the office of the County Recorder of Lemhi County Idaho, and which contains 6 and 54/100 acres.

Together with all and singular the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof, and also all estate, right, title, interest in and to the said property, possession, claim and demand whatsoever, as well in law as in equity, of the said parties of the first part, of in or to the said premises, and every part and parcel thereof, with the appurtenances, to have and hold, all and singular, the above mentioned and described premises, together with the appurtenances, unto the party of the second part, and to his heirs and assigns forever. And the said parties of the first part, and their heirs, the said premises in the quiet and peaceable possession of the said party of the second part his heirs and assigns, against the said parties of the first part and their heirs and against all and every person and persons whomsoever, lawfully claiming or to claim, the same shall and will warrant and by these presents forever defend.

IN WITNESS WHEREOF, the said parties of the first part have hereunto set their hands and seals the day and year first above written.



ROBERT E. SMYLIE
Governor

STATE OF IDAHO
DEPARTMENT OF RECLAMATION
GEO. N. CARTER, STATE RECLAMATION ENGINEER
BOISE

March 22, 1961

Velma Mahaffey
P. O. Box 14
Lemhi, Idaho

Dear Mrs. Mahaffey:

In regard to your letter of March 16, we have found the following licensed water rights, all from Lemhi River, for lands you describe.

License No. 5236 to Rees and Ramsey for 2.84 c.f.s., priority Sept. 24, 1909, point of diversion in $\text{SW}\frac{1}{4}\text{NW}\frac{1}{4}$, Sec. 33, T. 18 N., R. 24 E to irrigate 142 acres, $\text{NE}\frac{1}{4}\text{SW}\frac{1}{4}$ 40 acres; $\text{SE}\frac{1}{4}\text{SW}\frac{1}{4}$ 40 acres, $\text{SW}\frac{1}{4}\text{SE}\frac{1}{4}$ 20 acres; Sec. 28; Lot 7 14 acres Lot 4 20 acres, $\text{SW}\frac{1}{4}\text{NW}\frac{1}{4}$ 5 acres, Sec. 33; Lot 1 3 acres, Sec. 32.)

License No. 5362 to L. H. Allison, Wm. Pyeatt and O. C. Amonson for 3.6 c.f.s., priority Sept. 16, 1909, point of diversion $\text{NW}\frac{1}{4}\text{NW}\frac{1}{4}$, Sec. 28 to irrigate 180 acres, $\text{NW}\frac{1}{4}\text{NW}\frac{1}{4}$ 8 acres; $\text{SW}\frac{1}{4}\text{NW}\frac{1}{4}$ 17 acres; $\text{NW}\frac{1}{4}\text{SW}\frac{1}{4}$ 17 acres; $\text{SW}\frac{1}{4}\text{SW}\frac{1}{4}$ 18 acres, Sec. 16; $\text{NW}\frac{1}{4}\text{NW}\frac{1}{4}$ 35 acres; $\text{SW}\frac{1}{4}\text{NW}\frac{1}{4}$ 35 acres; $\text{NW}\frac{1}{4}\text{SW}\frac{1}{4}$ 5 acres; Sec. 21; $\text{NE}\frac{1}{4}\text{NE}\frac{1}{4}$ 15 acres; $\text{SE}\frac{1}{4}\text{NE}\frac{1}{4}$ 5 acres; $\text{NE}\frac{1}{4}\text{SE}\frac{1}{4}$ 15 acres; $\text{SE}\frac{1}{4}\text{SE}\frac{1}{4}$ 10 acres; Sec. 20 T. 18 N., R. 24 E., B.M.

License No. 5890 to Roscoe C. Martin for 0.5 c.f.s., priority March 25, 1910, point of diversion in $\text{SW}\frac{1}{4}\text{NW}\frac{1}{4}$, Sec. 33, to irrigate $\text{SW}\frac{1}{4}\text{SW}\frac{1}{4}$ 20 acres, Sec. 28; Lot 8 5 acres, Sec. 33 T. 18 N., R. 24 E.

License No. 8433 to Walter H. Pyeatt for 0.2 c.f.s., priority June 22, 1912, point of diversion in $\text{NE}\frac{1}{4}\text{SE}\frac{1}{4}$, Sec. 17, to irrigate $\text{SE}\frac{1}{4}\text{SE}\frac{1}{4}$ 5 acres; $\text{NE}\frac{1}{4}\text{SE}\frac{1}{4}$ 5 acres, Sec. 17, T. 18 N., R. 24 E.

You should give the point of diversion and name of stream if there are other rights for the lands described.

Very truly yours,

GEO. N. CARTER
State Reclamation Engineer

By: *Ralph W. Thomas*
RALPH W. THOMAS, Deputy
State Reclamation Engineer

page 48

Nov 27 1937

NW 1/4 sec 33

Set 34, 6, 7, 8 all

in T18 R24

To Roy Stewart



CP - 1/4 - ST. 100

D. 1/4 - ST. 100

1/4 - ST. 100

1/4 - ST. 100

1/4 - ST. 100

1/4 - ST. 100

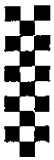
1/4 - ST. 100

1/4 - ST. 100

Set 34 SW 1/4 SEC 28, P. SW 1/4 SEC

SW 1/4 SEC 32

T. 18 N. R. 24 E.



VELMA MAHAFFEY
PO Box 14

Lemhi ID 83465

(208) 768-2413

FAX

To: Nate Arve	From: Velma
Fax: (208) 525-7177	Pages: 3
Phone:	Date: 2-26-08
Re:	cc:

Comments:

Phone call on Water

Received Time Feb. 26. 8:14AM

Feb 25, 2008

In regards to Note River phone call around
4 PM Feb 25-2008

This is to certify that came to Lemhi County Idaho
in 1949. I stayed with my aunt on Hayden Creek
two miles from where I now live. My cousin &
I rode horses around the ground of my aunt.

I bought the ground in April 1956 and the
ground was irrigated and we continued to irrigate
it since then.

In 1965 we were given the "Lemhi County
Gardener of the Year Award" for stewardship.

Lot 4 in Section 33 Township 18-24 EBM has
been irrigated as long as I can remember.

Enclosed also is a letter dated 6-11-05 we
talked about.

Sincerely,

John M. Shaffner

For
208-525-5717

Velma Mahaffey
PO Box 14
Lemhi, ID 83465

June 11, 2005

State of Idaho
Department of Water Resources
Sally Sherman
Technical Records Specialist
Adjudication Bureau

Is your RETURN ADDRESS completed on the reverse side?

SENDER:

- Complete Items 1 and/or 2 for additional services.
- Complete Items 3, 4a, and 4b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "Return Receipt Requested" on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

I also wish to receive the following services (for an extra fee):

1. ☐ Addressee's Address
2. ☐ Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:

STATE OF IDAHO
DEPT OF WTR RESCS
P.O. BOX 8327D
BOISE ID 83720-0098
ATTN: SALLY SHERMAN

4a. Article Number

4b. Service Type

- ☐ Registered ☐ Certified
☐ Express Mail ☐ Insured
☐ Return Receipt for Merchandise ☐ COD

7. Date of Delivery

JUN 20 2005
CENTRAL POSTAL SERVICES

5. Received By: (Print Name)

8. Addressee's Address (Only if requested and fee is paid)

8. Signature: (Addressee or Agent)

X

PS Form 3811, December 1994

Domestic Return Receipt

This letter is to correct the record of my pond in Lemhi County R18 -24 EBM -- Sec 33. To be used as an irrigation source.

The ranch was purchased in April 1956 with all water rights dating back to April 16, 1912. Patent Book of Deeds page 64 Recorded 11-18-1912 under the Act of Congress, April 24, 1820, signed by Woodrow Wilson and recorded November 18, 1912.

State of Idaho gave water right #5236 a perpetual right for 20 acres in Lot 4 Township 18 -- 24 E -- Sec 33.. Lot 4 ~~contains~~ contain 31.92 acres with a correction line through it. Application # 7563 recorded 2-4-1944 Book C of Water Rights Record for Lemhi County page 473.

State Highway 28, County Road named Lemhi Road, The Lemhi River and an irrigation ditch, a High Rock Bluff all take part of the land. Lemhi County changed the bridge twice on the land and a right of passage was given to the County. They cleared and leveled 2 acres of land while there.

In 1959 the State of Idaho bought land for a gravel pit and built a settling pond to wash the gravel on my land. The State Highway Engineer in charge was G. Bruce Bennett. Also at this time 11 acres was sold to Yearian Ranch to straighten a fence line, which contained a water right. Owen Wilson was the ranch Manager. No water right was transferred to Yearians.

Received Time Feb. 26. 8:14AM

The land the pond irrigates now is from springs. Before the Ranch above this property put in a sprinkler system the ground was irrigated by waste water and ditch run off. A house and a barn existed on this property before 1910.

I do not remember the date when I signed a correction on the springs as they were not listed correctly. A special meeting was held to do this. 74-1862 Sec 18-24E - Sec 33

I have no proof if the water from the pond comes from Yearian Creek or the Lemhi River as the pond is 36 feet above the river floor. Reference Basin 74 Yearian Creek #26.

I raised potatoes on this ground in 1985 from a pipe from the pond. It was pasture land before this.

Robert Mahaffey [Signature]

Subscribed and sworn to before me 6-15-2005 [date].

Natalie Banta
[Signature and seal of notary public]

Notary Public

My commission expires: 5-18-2010 [date]

Cc: Rick Sager

Bob Foster



Attachment C

1946



1987



1992



2004



Attachment D

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 74-15537

NAME AND ADDRESS: VELMA MAHAFFEY
PO BOX 14
LEMHI ID 83465

SOURCE: SPRINGS
WASTE WATER

TRIBUTARY: LEMHI RIVER
TRIBUTARY: LEMHI RIVER

QUANTITY: 0.140 CFS

PRIORITY DATE: 08/08/1946

DRAFT

POINT OF
DIVERSION: T18N R24E S33 NENW Lot 4 Within LEMHI County
T18N R24E S33 NWNW Lot 4 Within LEMHI County
T18N R24E S33 NWSWNW Within LEMHI County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	03/15 11/15	0.140 CFS
STOCKWATER	01/01 12/31	0.040 CFS
DOMESTIC	01/01 12/31	0.040 CFS
HEATING	01/01 12/31	0.040 CFS

PLACE OF USE: IRRIGATION in LEMHI County
T18N R24E S33 Lot 4 NWNW 4.50

STOCKWATER same as IRRIGATION

DOMESTIC same as IRRIGATION

HEATING same as IRRIGATION

4.5 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.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use

Right includes accomplished change in purpose of use pursuant to Section 42-1425, Idaho Code.