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FEB 13 2009

**DEPARTMENT OF
WATER RESOURCES**

COPY

75-2091D
Joseph E. Hoy
303 So. Saint Charles St.
Salmon, Idaho 83467
Tel: 1-208-756-2657
Fax: 1-208-756-2657
January 25, 2009

Terrence A. Dolan
Special Master
Snake River Basin Adjudication
P. O. Box 2707
Twin Falls, Idaho 83303-2707

RE: Case No. 39576, Specifically Sub Case 75-2091D,
Lot 8, Lost Trail Lodge Subdivision
Change from 2.5 acres @.05 cfs to 4.3 acres @.08 cfs.

Dear Sir:

This is an ADDENDUM to our Motion to Alter or Amend the Special Master's Recommendation. Since we filed that Motion (November 16, 2008) we have done additional research, which has yielded a more comprehensive report.

The first lateral off Diversion 13 services a long bottomland meadow that comprises the majority of Lot 9 (75-2091K), proceeds through Lot 8 (75-2091D) and stops in Lot 7 (75-2091J).

The meadow lies below grade; other areas are higher benches, therefore no other areas are affected by this lateral.

Our motion for increase involves irrigable land excluded in the initial proportioning. Lots 8 and 9 are the only lots not bisected by the North Fork and are all irrigable acres. Lot 9 has rights to the full meadow, but Lot 8 is excluded at the common boundary line. (See Exhibit A) Water rights then recommence just before Lot 7. The recommencement includes a small portion of Lot 8 that has water rights. Hence, the water rights exist for the meadow, except on Lot 8.

Since our November Motion, we have obtained a copy (Exhibit B) of a undated letter from IDWR Senior Resource Agent Rodney A. Parker to the subdivision broker, Gene Robertson, Frontier Realty, stating, in part: "It is my understanding that this parcel has been subdivided and each lot would therefore be entitled to a proportional share of the water.....etc." This blanket assignment (A) grants equal land/water rights regardless of whether particular lots even have irrigable land, deprives those, such as Lot 8, with more than 2.5 irrigable acres, and (B) fails to separate Friedorf Gulch water (to those lots with irrigable land on the west side of the North Fork) from North Fork Diversion No 13, which serves irrigable land on the east side of the North Fork, as previously stated.

Examples:

Lot 1 (75-2091L): East side fully timbered.
Diversion 13 allotment: 1.9 acres @ .04 cfs.
Meadow with water rights exists on
West side from Friedorf Gulch (per
telecon with previous owner
Carol Hodges).
Since 2000, present owner has cleared a small area east
of the North Fork.

Lot 2 (75-2091M): East side fully timbered except approx. ½ acre.
Lot is undeveloped, absentee owner, water not in use.
Diversion 13 allotment: 2.1 acres @ .04 cfs. Like Lot 1,
Irrigable acreage exists west of the North Fork, per
Carol Hodges, previous Lot 2 owner.

Lots 11/12
(75-2091H): Undeveloped.
(Construction halted by Corps of Engineers.)
Diversion 13 allotment: 2.0 acres @ .04 cfs on Lot 11,
none on Lot 12.
Lot 11/12 is very rough, and includes two mountain
faces. The area allotted by IDWR is on at least a 35 degree slope and includes Hwy.
93 right of way easement. Much of the allocated area is above any water source.
The satellite photo makes it appear flat, but that is not the case.

Bob Foster, IDWR representative in Salmon, suggested proof of land clearing
prior to the 1980's might be required. July, 1959 aerial map (Exhibit C), from the
Lemhi County Assessor's files show the area in question was cleared and under
irrigation at that time.

Since the Court has adjusted certain lots to the actual irrigable acreage and
cfs, we request similar alteration/amendment.

In conclusion, we are active users. Some lots, due to absentee ownership,
haven't received water in 36 years. Currently, the lateral that would feed the lower
lots is blocked by incoming roads on Lots 7 and below.

At Lot 9, Diversion 13 crosses under Hwy 93 to the east side, isolating the
main flow of the Diversion from the subdivision's lower lots. See satellite photo,
Exhibit D, and the early (undated) map of HES 91 and HES 97, Exhibit E, (obtained
from the Lemhi County Clerk's office). Per the 1959 Lemhi County Assessor's aerial,
it appears Diversion 13 was in use east of Hwy 93 on USFS and HES 97 property at
that time.

In our November 16, 2008 Motion, we erroneously stated Diversion 13 serves properties on the east side of Hwy. 93 (HES 97). To our knowledge, no users east of the highway exist, since the diversion was sized for HES 91 property. We find no indication IDWR has addressed this issue.

Respectfully submitted,

Joseph E. Hoy
Shirley R. Hoy

Encl: A. Irrigation allotments aligned.
B. Letter, Parker to Robertson.
C. July, 1959 aerial from Lemhi County Assessor's office.
D. Satellite photo.
E. Early map of HES 91 and HES 97.

75-2091

L	Lot 1	Bullard, Maurice F Bullard, Judy K 3204 Hwy 93 N Gibbonsville, Idaho 83463	4.63 ac	1.9 ac irrig.	.04 cfs
M	Lot 2	Jefferson, Roy R Jefferson, Marion Ann 1720 Lee Avenue Arcadia, California 91006	4.63 ac	2.1 ac irrig.	.04 cfs
C	Lot 3 Lot 4	Plagens, Keith Plagens, Cheryl A. P O Box 172 North Fork, Idaho 83466	4.63 ac 4.63 ac	4.9 ac irrig.	.10 cfs
	Lot 5	Jones, Daniel Wesley Jones, Patricia Lyn Prindiville, Emmett Prindiville, Lue 30330 Watts Valley Road Tollhouse, California 93667	4.63 ac		
E	Lot 6	Bryant, Dennis C. Bryant, Kathy B. 8597 Holmes Lane Winters, California 95694	4.63 ac	3.5 ac irrig.	.07 cfs
J	Lot 7	Tenbrink, Albert Ted Tenbrink, Robin W 3234 Hwy 93 N Gibbonsville, Idaho 83463	4.63 ac	2.9 ac irrig.	.06 cfs
D	Lot 8	Hoy, Joseph E Hoy, Shirley R 303 South Saint Charles St. Salmon, Idaho 83467	4.63 ac	2.5 ac irrig.	.05 cfs
K	Lot 9 Lot 10	Egeland, Gary A. 9222 Sherry Circle Huntington Beach, California 92646	4.63 ac 1.00 ac	4.0 ac irrig.	.05 cfs
H	Lot 11 Lot 12	Lake, Allen T. 54300 Walnut Road New Carlisle, Indiana 46552	4.63 ac 4.63 ac	2.0 ac irrig.	.04 cfs

51.93 ac.

23.8^{ac} irrig.

.15 cfs

A Page 1 of 4

Lot 13	Jamison, Cort C	4.63 ac
Lot 14	Jamison, Lalanie F	4.63 ac
Lot 15	3276 Hwy 93 N	4.63 ac
Lot 16	Gibbonsville, Idaho	3.00 ac
Lot 17	83463	3.06 ac

Department of Water Resources

LOTS 1-4

2-5-09
Hoy Copy

R21E



0.15

0.3

0.6

Miles

owner: Roy R. Jefferson

NOTE: Only one owner is listed. There may or may not be more than this in the IDWR database.

SCALE ON IDWR EQUAL ON LOTS 1-4

Department of Water Resources

Lots 6 - 12
2-5-09
Hoy Copy

R21E



0.125

0.25

0.5

Miles

Owner: Joseph Hoy

NOTE: Only one owner is listed. There may or may not be more than this in the IDWR database.

Scale on IDWR progresses on 6 thru 12.
LOT 11/12 OFFSET FOR MOUNT PLEASANT

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STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
EASTERN REGION

John V. Evans
Governor

C. Stephen Allred
Director

1515 Lincoln Road
Idaho Falls, Idaho 83401
(208) 523-7186

Gene Robertson, Broker
Frontier Realty
Box 929
Salmon, Idaho 83407

Dear Mr. Robertson;

Enclosed please find a copy of our records which covers the property in question. The amount .50 is shown in c.f.s. which would be approximately 224.4 gallons per minute. It is my understanding that this parcel has been subdivided and each lot would therefore be entitled to a proportional share of the water which can still be delivered thru the existing ditches. If you have any further questions please do not hesitate to contact this office.

Respectfully,

R. A. Parker

Rodney A. Parker
Sr. Resource Agent

B 1 of 2

PERMIT AND LICENSED RIGHTS ON

Basin 75 (surface)

19 Revised

Water Dist. No.

PERMIT	NAME	AMT. c.f.s.	Date of Filing or Priority	Point of Diversion				PLACE OF USE, REMA
				Subdiv.	Sec.	Twp.	Rge.	
279	Rapp Creek Leesburg Bonanza Placer Company	20.0	7- 15- 1926	3. mi. from junction of Rapp Ck. and Arnett Ck.				Placer claims (Unsurveyed)
281	Napias Creek The Bonanza Placers, Inc.	10.0	8- 16- 1926	3,000' distant from Leesburg on unsurveyed land, approximately in Twp. 21N. Rge. 20E. B.M.				At various places within
283	Anderson Creek Royce, A. V.	0.2	5- 4- 1927	Unsurveyed land about 1300' above confluence of Anderson Ck. & Dahlonaga Creek				A tract of land (unsurveyed) west side of Dahlonaga confluence of said creek Salmon River.
284	Swan, William; Brown, Arnet Creek N. J., and Scoble, R. J.	16.0	9- 8- 1927	North 25' from con- fluence of Idaho Creek and Arnet Creek on un- surveyed land				On the Hailey placer claim Creek.
287	Fourth of July Ck. Hoffman, W. J.	1.1	7- 11- 1928	SWNE	35	24N	21E	N1/2SE1/4, SWSE, Sec. 35
290	Hammerein Creek Burrow, A. D. & Shaw, Roy L.	3.0	9- 8- 1932	Approx. 400' from con- fluence of Hammerein Ck. and North Fork of Salmon River				Sundown Placer claim on
291	No. Fk. Salmon & Wenzig, Lillian G. Buster Gulch	0.5	9- 1- 1932	Unsurveyed land in 26N 21E				Unsurveyed land in Twp
292	Rabbit Creek Brown, M. G.	5.0	11- 24- 1934	2500' up Rabbit Creek from confluence of Rabbit Creek and Napias Creek				Approx. 1/2 mi. southe
293	Iron Creek Hussey, Frank G.	0.28	4- 26- 1935	SENE	16	18N	21E	Lots 2 & 3, Sec. 9; Tw
294	Blackbird Creek Sims, Howard and J. G.	0.5	9- 18- 1937	Unsurveyed land in 28 21N 18E				At confluence of Black in unsurveyed Sec. 28;
295	Beaver Creek Bevan, Magnus	0.8	4- 12- 1940	Unsurveyed land in Salmon Nat'l Forest 22N 18E				Approx. Secs. 34 & 35;
296	Pierce & Price Cks Wenzig, L. G.	8.0	7- 29- 1940	6000' easterly from SE cor. of Trout Placer Claim				
	Carmen Creek Yakovac, Jake	0.92	9- 7- 1940	NENE SENE	31	23N	23E	SENE, N1/2SW1/4, Sec. 31 and NENE, Sec. 31
	Wallace Lake							

161-2W-114

1959



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1

W

