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DEPARTMENT OF
WATER RESOURCES

Randall C. Budge, ISB No. 1949
Thomas J. Budge, ISB No. 7465
RACINE OLSON NYE BUDGE &
BAILEY, CHARTERED
Post Office Box 1391
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Pocatello, Idaho 83204-1391
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*Attorneys for Cedron Irrigation, LLC, Teton Rainbow Ranches, Inc.,
Trees, Inc., Mahogany Ranch Holdings, and Wally Rothgeb, Jr.*

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

Case No. 39576

Subcase Nos. 22-13212 and 22-13503

AFFIDAVIT OF THOMAS J. BUDGE

STATE OF IDAHO)
 : SS
County of Bannock)

THOMAS J. BUDGE, being first duly sworn, deposes and states as follows:

1. I am the attorney representing the Objectors in the above-identified case. I am over the age of 18 and state the following based upon my own personal knowledge.

2. Attached hereto as **Exhibit A** is a copy of a Notice of Claim to Water Right (No. 22-4141) filed with the Idaho Department of Water Resources (IDWR) by LeRoy and Ruth Miller on June 30, 1983, which can be found in the records of the IDWR at http://www.idwr.idaho.gov/apps/ExtSearch/DocsImages/9mbf01_.PDF.

3. Attached hereto as **Exhibit B** is a copy of a Notice of Claim to Water Right (No. 22-4142) filed with the IDWR by Chester H. Miller on June 30, 1983, which can be found in the records of the IDWR at

http://www.idwr.idaho.gov/apps/ExtSearch/DocsImages/9mbg01_.PDF.

4. Attached hereto as **Exhibit C** is a copy of a Notice of Claim to Water Right (No. 22-4104) filed with the Idaho Department of Water Resources by LeRoy Miller on May 30, 1985, which can be found in the records of the IDWR at

http://www.idwr.idaho.gov/apps/ExtSearch/DocsImages/9mbg01_.PDF.

5. Attached hereto as **Exhibit D** is a copy of the SRBA claim number 22-13212.

6. Attached hereto as **Exhibit E** is a copy of the IDWR Director's Report for SRBA claim number 22-13212.

7. Attached hereto as **Exhibit F** is a copy of SRBA claim number 22-13503.

8. Attached hereto as **Exhibit G** is a copy of the IDWR Director's Report for SRBA claim number 22-13503.

9. Attached hereto as **Exhibit H** is a copy of SRBA claim number 22-11639.

10. Attached hereto as **Exhibit I** is a copy of the IDWR Director's Report for SRBA claim number 22-11639.

11. Attached hereto as **Exhibit J** is a copy of the IDWR Water Right Report for water right number 22-405, which can be found in the records of the IDWR at

<http://www.idwr.idaho.gov/apps/ExtSearch/RightReportAJ.asp?BasinNumber=22&SequenceNumber=405&SplitSuffix=&TypewrWaterRight=True&>

12. Attached hereto as **Exhibit K** is a map depicting the place of use of water right number 22-405 as compared to the place of use of SRBA claim numbers 22-13212, 22-13503 and 22-11639.

13. Attached hereto as **Exhibit L** is a map depicting the place of use of SRBA claim numbers 22-13212, 22-13503 and 22-11639, which can be found in the records of the IDWR at http://www.idwr.idaho.gov/apps/ExtSearch/DocsImages/9g4v01_.PDF

14. Attached hereto as **Exhibit M** are handwritten notes of the IDWR concerning the Rexburg Decree of water right number 22-405 and other matters, which can be found in the records of the IDWR at

http://www.idwr.idaho.gov/apps/ExtSearch/DocsImages/9g5801_.PDF

15. Attached hereto as **Exhibit N** are typed notes of the IDWR concerning Paradise Springs water rights, which can be found at

http://www.idwr.idaho.gov/apps/ExtSearch/DocsImages/dz4j01_.pdf

16. Attached hereto as **Exhibit O** is a copy of the electric bill submitted to the IDWR as evidence of priority for SRBA claim number 22-11639, which can be found in the records of the IDWR at http://www.idwr.idaho.gov/apps/ExtSearch/DocsImages/w3p_01_.PDF

17. Attached hereto as **Exhibit P** is a copy of the IDWR Director's Report for SRBA claim number 22-13211.

18. Attached hereto as **Exhibit Q** is a copy of the IDWR Director's Report for SRBA claim number 22-11537.

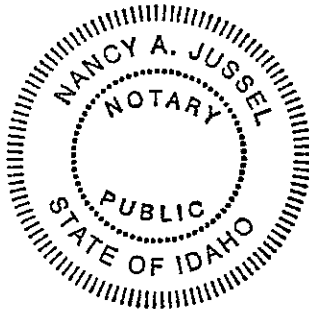
FURTHER YOUR AFFIANT SAITH NAUGHT.

DATED this 26th day of June, 2009.

RACINE, OLSON, NYE, BUDGE &
BAILEY, CHARTERED

By Thomas J. Budge
THOMAS J. BUDGE

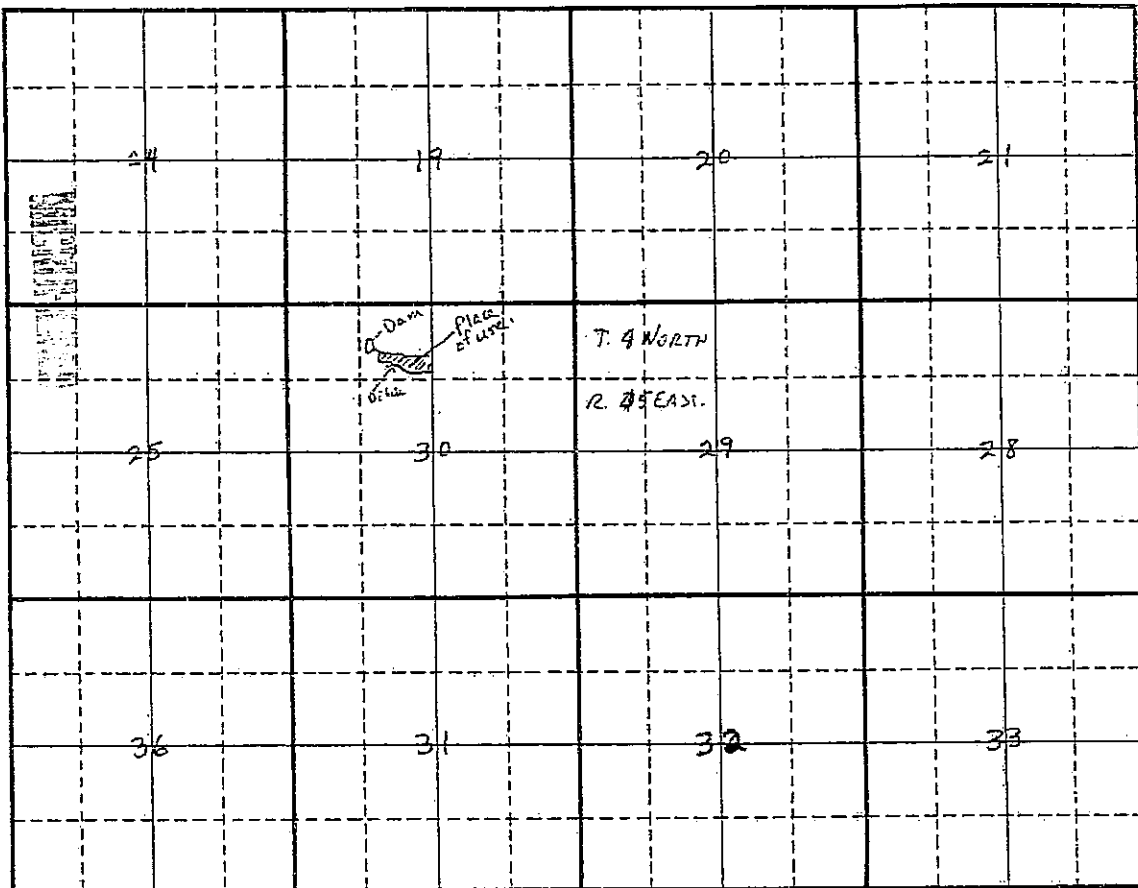
SUBSCRIBED AND SWORN TO before me this 26th day of June, 2009.



Nancy Juscel
NOTARY PUBLIC FOR IDAHO
Residing at: Locatello
My Commission Expires: 2/23/11

EXHIBIT A

(B) Remarks It is believed that this water right is on record as a grant of water
from Paradise Springs to J. J. Miller as provided in the Rexburg Decree.



Scale: 2 inches equal 1 mile.

Map should show the location of the point of diversion and the place of use of the water by 40-acre subdivisions, section, township and range of the public land survey system.

State of Idaho)
County of Madison) ss.

Be it known that the undersigned, being duly sworn, deposes and says that he, she, they subscribed the foregoing claim to a water right, together with all attached information, and that the matters and facts therein are true to the best of the affiant's knowledge.

L. Roy Miller - Ruth E. Miller
(Claimant)

Sworn to before me this 30 day of June, 1983

Wayne A. Roberts
Notary Public
Residing at Rexburg

My commission expires Dec. 25, 1985

FOR DEPARTMENT USE ONLY

Received by (initials) Date 6-30-83 Exception filed by: _____ Date _____
Prelim. check by SM Date 9-7-1983 Forwarded to claimant by: _____ Date _____
\$30.00 fee received by OW Date 6-30-83 _____
Published in Feton Valley News # 25734 _____
Dates 9/22 - 9/29/83 _____

EXHIBIT B

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

CLAIM TO A WATER RIGHT



Under the provisions of Section 42-243, Idaho Code, any person using or claiming rights to the public waters of Idaho established by diversion and application to a beneficial use must file a claim with the Department of Water Resources on or before June 30, 1983. Exempted from this filing are single family domestic uses as defined in Section 42-230(d), Idaho Code. Also exempted are rights represented by a permit, license, decree, adjudicated right, or a previously filed claim.

The filing of this claim does not confirm the water right claimed but failure to file may result in forfeiture of a water right.

Notice is hereby given that Chester H. Miller

(Name of Claimant)

Box 532 Driggs, Idaho 83422

Telephone No. 354-8365

{Mailing Address}

(Zip Code)

claims a right to the diversion and beneficial use of the surface or ground water. The extent and nature of said claim is as follows:

- (1) Date of priority: (When was the water first applied to a beneficial use) 7-1-1963

A claim is not acceptable on a ground water source with a priority later than March 25, 1963 or on a surface water source with a priority later than May 20, 1971. An exception is that a claim may be filed on single family domestic use from a ground water source.

- (2) Describe the source of water: (Name of stream, lake, spring, etc., or ground water)
Paradise Spring tributary to Teton River

- (3) Describe the purpose for which the water has been used and the time during the year when you have used the right claimed:

Connect		(Both dates inclusive)	
(cfs, m3)	(Domestic, Irrigation, Stock, Etc.)	(Mo., Day)	(Mo., Day)
Quantity <u>0.65 cfs</u>	Use <u>Irrigation</u>	Period of Use From <u>4-1</u>	To <u>11-1</u>
Quantity <u> </u>	Use <u> </u>	Period of Use From <u> </u>	To <u> </u>
Quantity <u> </u>	Use <u> </u>	Period of Use From <u> </u>	To <u> </u>
Quantity <u> </u>	Use <u> </u>	Period of Use From <u> </u>	To <u> </u>
Quantity <u> </u>	Use <u> </u>	Period of Use From <u> </u>	To <u> </u>

- (4) 0.65 cfs TOTAL QUANTITY USED.
(cfs, af)

- (5) A) Point of diversion: (Location of point where water is diverted from its source)
NE 1/4 NW 1/4, Sec. 30 Twp. 4N Rge. 45E B.M., County of Teton
 Additional points of diversion: _____

B) Describe means of diversion of water: (Pump and pipeline, well, diversion dam, reservoir, length of ditch and field, etc.). Give sizes and capacities; be as specific as possible. Describe any changes in the system and give the date of the change. Pump, pipeline and sprinkler system.

- (6) A) Describe location of use by listing number of irrigated acres within each 40-acre tract in appropriate box. If use is not for irrigation, place an "X" in appropriate box to show location.

[illegible]

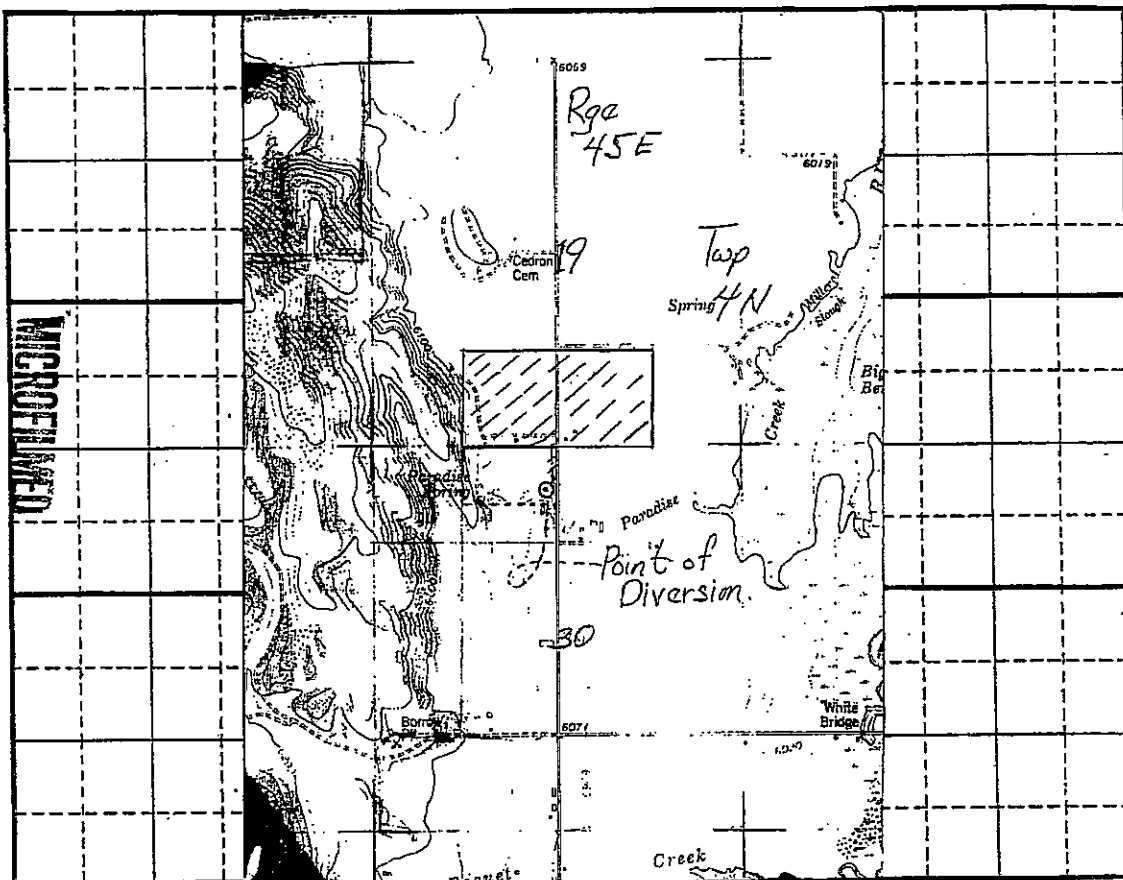
No. of acres 55

- B) If water is used for other than irrigation, fully describe that use, being as specific as possible: _____

NOTE: Include here the type and number of stock watered:

- (7) If you are claiming water as a member of an organization, list name of organization: _____

- (8) Remarks In 1963 I installed a pump and for the first time began to
sprinkler irrigate land that was historically flood irrigated by a
decreed right from Paradise Springs. In addition I also began irrigating
new lands not previously irrigated. Those lands are described above.



Scale: 2 inches equal 1 mile.

Map should show the location of the point of diversion and the place of use of the water by 40-acre subdivisions, section, township and range of the public land survey system.

State of Idaho)
 County of Bonneville) ss.

Be it known that the undersigned, being duly sworn, deposes and says that he, she, they subscribed the foregoing claim to a water right, together with all attached information, and that the matters and facts therein are true to the best of the affiant's knowledge.

Sworn to before me this 30th day of June, 1983.

Charles H. Miller
 (Claimant)

Calvin Wray
 Notary Public
 Residing at Idaho Falls

My commission expires 6-15-83

FOR DEPARTMENT USE ONLY

Received by <u>Emc</u>	Date <u>6-30-83</u>	Exception filed by:	Forwarded to	Date
Prelim. check by <u>Emc</u>	Date <u>8-17-83</u>		claimant by:	
\$30.00 fee received by <u>CW</u>	Date <u>6-30-83</u>			
Published in <u>Idaho Valley News</u>	Date <u>9/28/83</u>			
Dates <u>9/28/83</u>				

SS 4123

EXHIBIT C

The filing of this claim does not confirm the water right claimed but failure to file may result in forfeiture of a water right.

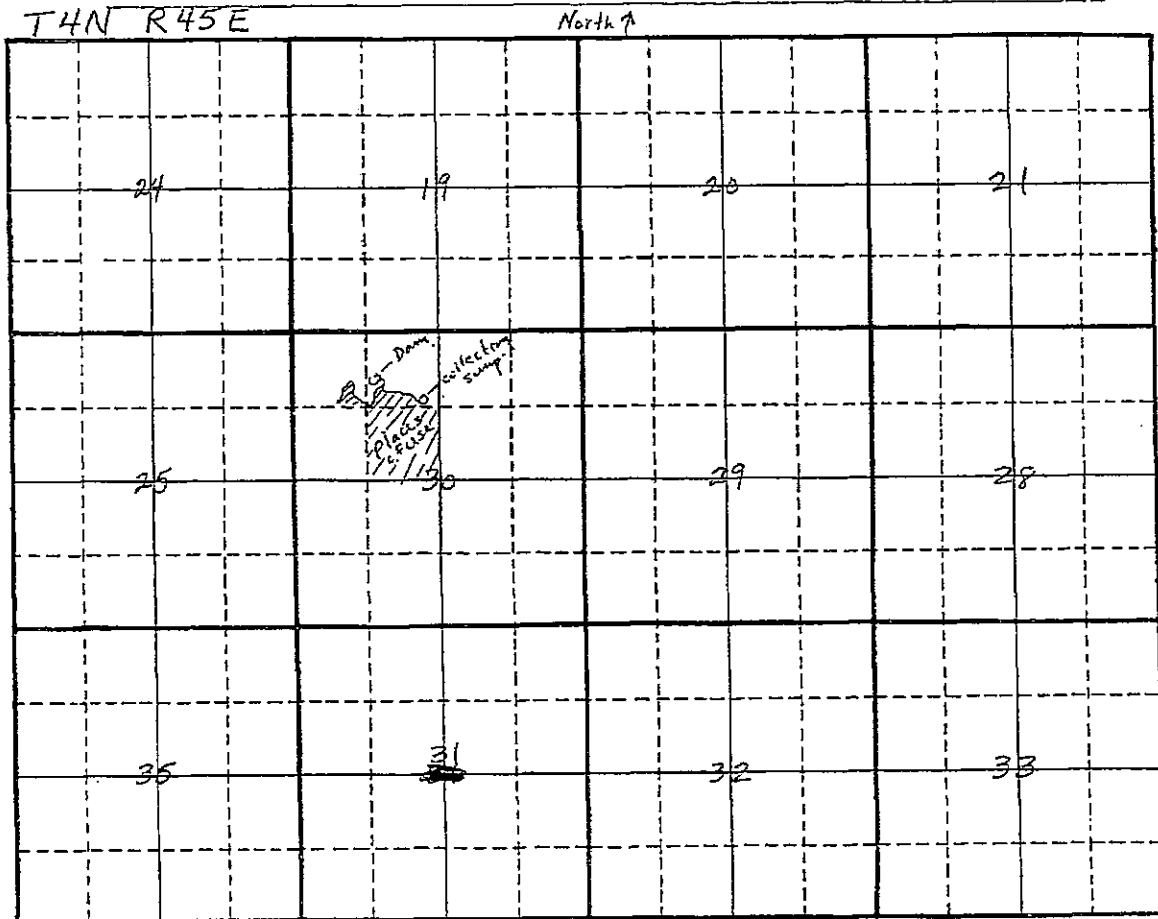
claims a right to the diversion and beneficial use of the surface or ground water. The extent and nature of said claim is as follows:

[illegible]

B) If water is used for other than irrigation, fully describe that use, being as specific as possible: _____

(7) If you are claiming water as a member of an organization, list name of organization: _____

(8) Remarks It is believed that this water right is on record as a grant of water
from Paradise Springs to J. J. Miller as provided in the Rexburg Decree.



Scale: 2 inches equal 1 mile.

Map should show the location of the point of diversion and the place of use of the water by 40-acre subdivisions, section, township and range of the public land survey system.

State of Idaho)
County of Bannock) ss.

Be it known that the undersigned, being duly sworn, deposes and says that he, she, they subscribed the foregoing claim to a water right, together with all attached information, and that the matters and facts therein are true to the best of the affiant's knowledge.

Sworn to before me this 20th day of May

J. J. Miller
(Claimant)

William Gray
Notary Public

Residing at Edwin Valley, ID.

My commission expires 6-15-85

FOR DEPARTMENT USE ONLY

Received by <u>HWJ</u>	Date <u>5/20/83</u>	Exception filed by:	Forwarded to	Date
Prelim. check by <u>RCW</u>	Date <u>5-26-83</u>		claimant by:	
\$30.00 fee received by <u>BP</u>	Date <u>5/30/83</u>	<u>26266</u>		
Published in <u>Peton Valley News</u>		<u>Deane H. Keeney</u>	<u>CU</u>	<u>7-18-83</u>
Dates <u>6/9 - 6/16/83</u>				

EXHIBIT D

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 22-13212
Date Received: 9/20/2006
Receipt No:
Received By:

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name of Claimant(s)

MICHAEL L REID Phone: (208)354 8024
550 S 450 W
VICTOR ID USA 83455

2. Date of Priority: 06/01/1904

3. Source: PARADISE SPRING Trib. to: TETON RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County	Type
04N	45E	30	SW NE NW	TETON	

5. Description of diverting works:

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
IRRIGATION	04/15	10/31	0.5	

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

8. Total consumptive use:

9. Non-irrigation uses:

10. Place of use:

Township	Range	Section	1/4 of 1/4 Lot	Use	Acres
04N	45E	30	SE NW	IRRIGATION	35.6
				Section Acres	35.6
				Total Acres	35.6

11. Place of use in counties: TETON

12. Do you own the property listed above as place of use? No

13. Other Water Rights Used:

14. Remarks:

DECREED RIGHT 22-405 WAS SPLIT BY THE MILLER BROTHERS IN ABOUT 1925-1930. PART OF 22-405 HAS BEEN CLAIMED AS 22-12714. THIS CLAIM IS FOR HALF OF THE REMAINING PORTION, PURCHASED BY CLAIMANT FROM DON MILLER.

DECREED PLACE OF USE APPEARS TO BE AN ERROR; TOPOGRAPHY PREVENTS WATER REACHING PLACE OF USE. CLAIMED PLACE OF USE IS PART OF ACTUAL ORIGINAL PLACE OF USE.

15. Basis of Claim: Decreed

EXHIBIT E

TRIBUTARY: TETON RIVER

PERIOD OF USE:	<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
	IRRIGATION	04/15 10/31	0.500 CFS
PLACE OF USE:	<u>IRRIGATION in TETON County</u>		
	T04N R45E S30	SENW 35.60	
	35.6 ACRES TOTAL		

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

EXPLANATORY MATERIAL: BASIS OF CLAIM - Decreed

EXHIBIT F

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 22-13503
Date Received: 4/6/2006
Receipt No: E031762
Received By: TG

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name of Claimant(s)

MICHAEL L REID Phone: (208)354 8024
550 S 450 W
VICTOR ID USA 83455

2. Date of Priority: 06/01/1904

3. Source: PARADISE SPRINGS Trib. to: TETON RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County	Type
04N	45E	30	SW NE NW	TETON	

5. Description of diverting works:

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
IRRIGATION	04/15	10/15	0.2	

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

8. Total consumptive use:

9. Non-irrigation uses:

10. Place of use:

Township	Range	Section	1/4 of 1/4 Lot	Use	Acres
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04N	45E	30	SE	NW	IRRIGATION	35.6
					Section Acres	35.6
					Total Acres	35.6

11. Place of use in counties: TETON

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

13. Other Water Rights Used:

14. Remarks:

This Claim is for a portion of 22-405 that is not included in claim 22.13212

15. Basis of Claim: Decreed

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

Number of attachments: _____

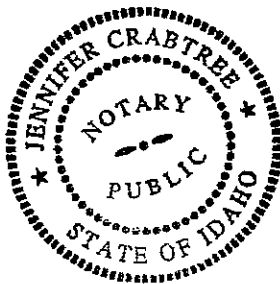
For Individuals:

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

Signature of Claimant(s): MIL (R-2) Date: 4/06/06
_____ Date: _____

State of Idaho)
County of Bonneville) SS.

Subscribed and sworn (or affirmed) before me this 6 day of April 2006



Jennifer Crabtree
Notary Public

Residing at Idaho Falls, Id

My commission Expires 9/23/09

EXHIBIT G

12/20/2006

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

RIGHT NUMBER: 22-13503

NAME AND ADDRESS: MICHAEL L REID
550 S 450 W
VICTOR ID 83455

SOURCE: PARADISE SPRINGS

TRIBUTARY: TETON RIVER

QUANTITY: 0.200 CFS

PRIORITY DATE: 06/01/1904

POINT OF

DIVERSION: T04N R45E S30 SWNW Within TETON County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE

PERIOD OF USE

QUANTITY

IRRIGATION

04/15 10/31

0.200 CFS

PLACE OF USE: IRRIGATION in TETON County

T04N R45E S30 SENW 35.60

35.6 ACRES TOTAL

The rights listed below are limited to the irrigation of a combined total of 35.6 acres in a single irrigation season. Combined Right Nos.: 22-11639, 22-13212, 22-13503.

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 - Decreed

This right is a split from former right 22-405.

EXHIBIT H

THIS CLAIM IS PREPARED AS A WORD-PROCESSING DOCUMENT ONLY
PENDING RECEIPT OF SIGNED AMENDED CLAIM.

ELECTRONIC DATABASE WILL NEED TO BE UPDATED WHEN SIGNED CLAIM
IS RECEIVED

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 22-11639
Date Received: 10/4/88
Receipt No: E002891
Received By:

AMENDED

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

AMENDED

1. Name of Claimant(s)

MICHAEL L REID

450 W 550 S
VICTOR, ID 83455

2. Date of Priority: 07/21/1969

3. Source: ~~PARADISE~~ ^{PARADISE} SPRINGS Trib. to: TETON RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot			County	Type
04N	45E	30	SW	NE	NW	TETON	

5. Description of diverting works:

DIVERSION DAM TO DITCH TO PUMP

6. Water is used for the following purposes:

Purpose
IRRIGATION

From To C.F.S.
4/15 10/31 0.59

(or) A.F.A

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

8. Total consumptive use:

9. Non-irrigation uses:

10. Place of use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
04N	45E	30	SE	NW	IRRIGATION	35.6
Section Acres						35.6
Total Acres						35.6

11. Place of use in counties: TETON

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

13. Other Water Rights Used:

14. Remarks:

THIS RIGHT REPRESENTS A PORTION OF 22-4104. CLAIM A22-11537 IS FOR THE REMAINING PORTION OF 22-4104

CLAIM AMENDED 3/2001 TO REFLECT PROPORTIONATE SHARE OF ORIGINAL RIGHT AND TO ADJUST SEASON OF USE. AMENDED CLAIM ALSO SHOWS NEW OWNERS PER NOTICE OF CHANGE OF OWNERSHIP.

15. Basis of Claim: Beneficial Use

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

Number of attachments: _____

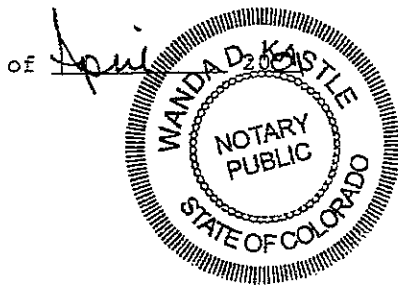
For Individuals:

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

Signature of Claimant(s): MIL R-a Date: 4/13/01 Mr

[Signature] Date: 4/13/01
State of ~~Idaho~~ Colorado Stephen Reid
County of Larimer) SS. 4/13/2001

Subscribed and sworn (or affirmed) before me this 13th day



Wanda D. Kastle

Notary Public

Residing at WIS. College, Ste 102, Fort Collins, CO
My commission Expires 5/12/01 80524

EXHIBIT I

12/20/2006

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

RIGHT NUMBER: 22-11639
NAME AND ADDRESS: MICHAEL L REID
550 S 450 W
VICTOR ID 83455

STEPHEN D REID
550 S 450 W
VICTOR ID 83455

JOY M REID
550 S 450 W
VICTOR ID 83455

SOURCE: PARADISE CREEK TRIBUTARY: TETON RIVER
QUANTITY: 0.590 CFS
PRIORITY DATE: 07/21/1969
POINT OF
DIVERSION: T04N R45E S30 SWNEW Within TETON County
PURPOSE AND
PERIOD OF USE:

	<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
	IRRIGATION	04/15 10/31	0.590 CFS
PLACE OF USE:	<u>IRRIGATION in TETON County</u>		
	T04N R45E S30 SENW	35.60	
	35.6 ACRES TOTAL		

The rights listed below are limited to the irrigation of a combined total of 35.6 acres in a single irrigation season. Combined Right Nos.: 22-11639, 22-13212, 22-13503

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

This right is a split from former right 22-4104.

EXHIBIT J

IDAHO DEPARTMENT OF WATER RESOURCES
Water Right Report

6/24/2009

WATER RIGHT NO. 22-405

Owner Type	Name and Address
Current Owner	J J MILLER

Priority Date: 06/01/1904
Basis: Decreed
Status: Active

Source	Tributary
PARADISE SPRING	

Beneficial Use	From	To	Diversion Rate	Volume
IRRIGATION	/	/	2 CFS	
Total Diversion			2 CFS	

Location of Point(s) of Diversion:

PARADISE SPRING	Sec.	Township	Range	County
-----------------	------	----------	-------	--------

Place(s) of use:

Place of Use Legal Description: IRRIGATION TETON County

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres
04N	45E	30		SWSW			SESW							
				SWSE										

		31		NENW										
--	--	----	--	------	--	--	--	--	--	--	--	--	--	--

Conditions of Approval:

1.	P/U AC. IRR. = 160.
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Dates:

Licensed Date:

Decreed Date: 12/16/1910

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

Water Supply Bank Enrollment Date Accepted:

Water Supply Bank Enrollment Date Removed:

Application Received Date:

Protest Deadline Date:

Number of Protests: 0

Other Information:

State or Federal:

Owner Name Connector:

Water District Number: 01

Generic Max Rate per Acre:

Generic Max Volume per Acre:

Civil Case Number:

Old Case Number:

Decree Plaintiff:

Decree Defendant:

Swan Falls Trust or Nontrust:

Swan Falls Dismissed:

DLE Act Number:

Cary Act Number:

Mitigation Plan: False

EXHIBIT K

Water Right 22-405
Decreed Place of Use

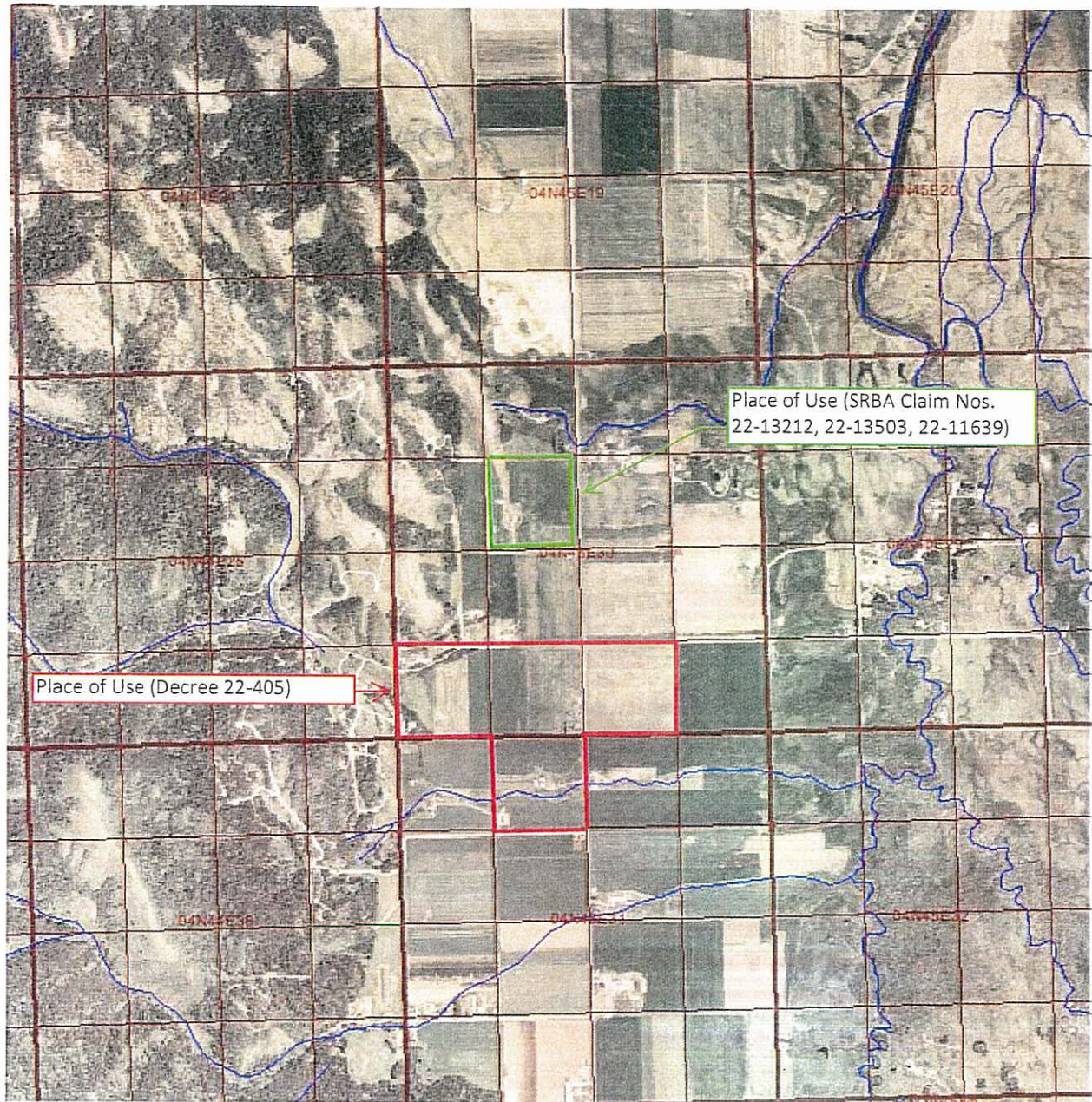


EXHIBIT L



Idaho Department of Water Resources

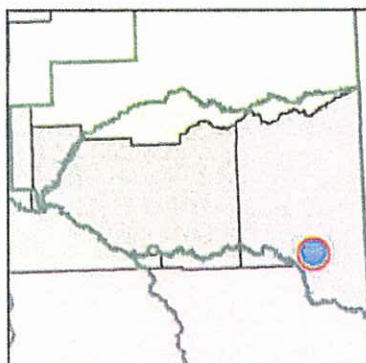
SRBA Recommendation:

22-11639, 22-13212, 22-13503

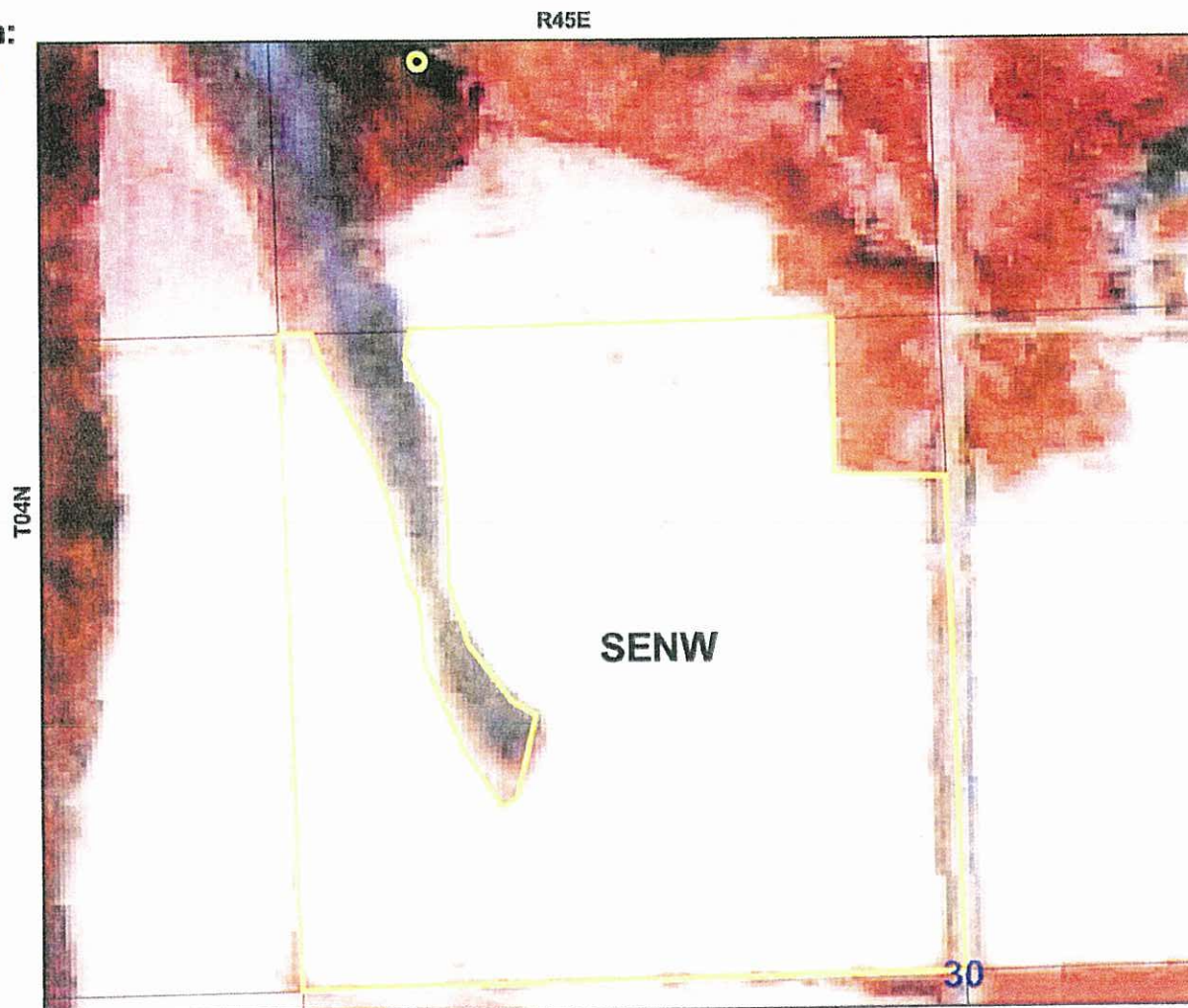
(Irrigation)

Legend

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



Teton County
IDWR Basin 22



0 0.1 0.2 Miles

Prepared by T. Galbraith
On Wednesday, September 20, 2006
1987/88 Aerial Photography

EXHIBIT M

~~22-405~~

- All claimants of 22-405 and its splits claim the decreed pov is incorrect. There is no way paradise creek to go up hill to irrigate the land. This is true. The land is uphill and could not be irrigated from decreed source. Claimants claim that JJ Miller filled a claim with Fremont county in 1901 (No copy found in files) stating Miller intended to use water on E $\frac{1}{2}$ NW Sec 30 and E $\frac{1}{2}$ SW sec 19 4N 4S E. Diverted at the NE NW of sec 30. With the water diverted there all of The E $\frac{1}{2}$ of SW se 19 could not be irrigated. It is possible some of it was irrigated by running a ditch along the hillside but there is no evidence of a ditch.

Transfers
Pending

22-405

- 13212

- 13211

- 12714A

- 12714B

- 4141

Parts of 22-405. It is my opinion 22-405 should go away recommended as 22-13212.

22-11537

- 11639

1969 "Enlargement" parent rights 22-4104

I believe these should actually be

Beneficial Use claims due to the fact they

are prior to 1971. This is if they used extra water. Claimants should get same % of enlargement as they did of 22-405. TG 4-4-06

7-5-06

- Because this is an indeterminate decree, memo #57 was used as guidance for Recommending splits of 22-405.
- The Rexburg decree gives a POV that cannot possibly be irrigated by paradise springs. J.J. Miller never owned the land described and there are no claims for any portion of 22-405 that claim that land.
- In the file is a copy of J.J.'s homestead entry and a Notice of water right stating that the ~~land~~ water was always intended to be used on:
Sec 30: NENW
 SE NW
 T 04 N 45 E
Sec 19: SESW
 NFSW
- Given this information it is believed that the rexburg decree is incorrect and the land described above will be used as the original POV.
- Taking into account the sworn statement from Rex Miller, Don Miller and Mike Reid as well as lands irrigated in 1987: Recommendations for 22-405 ~~splits~~ ^{splits} are:
 - Don Miller owns ≈ 9.6 acres and is entitled to .3 cfs
 - Mike Reid owns ≈ 38.6 acres and is entitled to .7 cfs

22-13211

22-13212

22-13503

- Called Don LERoy Miller and he said he would go through his files and get back to me. He couldn't answer any questions without his files in front of him. Wanted to ask him about 22-11537 Evidence. Maybe a meeting would be beneficial to look at his files and try to sort out 22-405 splits as well. 11-4-06 L
- LERoy & Michael Reid came in 11-6-05.

EXHIBIT N

Paradise Springs Water Rights, Basin 22, Teton County Idaho

Paradise Springs, located near Driggs Idaho in Basin 22 is the subject of much contention. The recommendations have been reported to the court for all Basin 22 claims as well as these Paradise Springs and those water rights related to Paradise Springs. Objections are now being filed with the court regarding these rights. This report is to document the reasoning behind the recommendations made on the water rights for Paradise Springs and those water rights relating.

Water Right Referenced in This Report

22-180A, 22-180B, 22-180D, 22-575A, 22-11537, 22-11639, 22-12714B, 22-13134, 22-13135, 22-13211, 22-13212, 22-13503, 22-13509, 22-13511, 22-13585, 22-13586.

Water Right 22-405

Water right 22-405 was decreed to J. J. Miller in "Rexburg Irrigation Company et al. vs. Teton Irrigation Canal Company et al.", commonly known as the Rexburg Decree. Water right 22-405 was decreed to lands located on SWSE and S½ SW Section 30, and NENW of Section 21, Township 4 North, Range 45 East, for a total of 160 acres. The decree entitled Mr. Miller to a total of 2.0 cfs from Paradise Springs. The decree stated a priority date of 6-1-1904.

Mike Reid, Don Leroy Miller and Rex Miller are the original claimants for 22-405. Rex Miller has since sold a portion of his land to John Collins, Andrew Richardson and some of his land if not all is now being subdivided. All of the original claimants claim the water had never been used on the decreed place of use. Don is J.J. Miller's son. He states along with the rest of the original claimants that J. J. Miller never owned any of the land described in the Rexburg decree, and that the land that the water was intended to be used on is located in the SESW and NESW Section 19 as well as NENW and SENW Section 30, Township 4 North, Range 45 East. After looking at the USGS topographic map, it was found that Paradise Springs' water could never have been used on the land described in the Rexburg Decree because it is up hill.

Don Miller brought in J. J. Millers Homestead description as well as a Notice Of Water Right submitted by J. J. Miller. The Homestead Entry for J. J. Miller and the land listed on his Notice of Water right are described as follows: E½ NW Section 30 and E½ SW Section 19, Township 4 North, Range 45 East.

Given this information it is believed that water right 22-405 had always been used on the land described by the claimants. It is also believed that the Rexburg Decree was in error.

Because of this error and the fact that the Rexburg Decree is an indeterminate decree in regard to exact acreage, Idaho Department of Water Resources' "Adjudication Memo #57" was used as a guide for these recommendations. "Adjudication Memo #57" states

that if the water right was part of an indeterminate decree, then the acres irrigated in 1987 will be used as the decreed place of use. In 1987 all of the E½ NW Section 30 and E½ SW Section 19, Township 4 North, Range 45 East was irrigated. This information was found through statements from the original claimants including signed statements from Rex Miller and Craig Kunz and by reviewing the aerial photos taken in 1987/1988 by the National Agriculture Imagery Program (NAIP). Though this is true, the claimants state that the NESW of Section 19 Township 4 North, 45 East was not irrigated until later (Affidavit supplied).

Rex Miller and Don Miller are brothers and each of them owned part of the land that was homesteaded by J. J. Miller. Even though the land was not split half and half between Don and Rex, the water right was. This information was obtained by a conversation with Don and a signed statement from Rex. Rex Miller and Don Miller each received 1.0 cfs of water right 22-405.

Mike Reid bought a portion of land from Don Miller therefore a portion of Don's 1.0 cfs was portrayed to him. Because of a claim that ground water users in the area were drying up Paradise Springs, Mike Reid filed a transfer to officially move the water from the decreed place of use to the land that it has always been used on. This transfer was lost in the system and when it was found it was decided that the Adjudication recommendations would accomplish the change the transfer was trying to accomplish, and the transfer was withdrawn. Rex's 1.0 cfs was also split. The recommendations for 22-405 have been created based on the above information.

Recommendations for 21-405:

- Mike Reid owns 35.6 acres of the Homesteaded land and receives 0.7 cfs and is reflected in the following claim files: 22-13212 (0.5 cfs), 22-13503 (0.2 cfs).
- Don Miller owns 9.6 acres and receives 0.3 cfs reflected in claim number 22-13211
- Rex Miller at one time irrigated 93.8 acres using water right 22-405 and water right 22-587. He owns 1.0 cfs of 22-405 and did not claim any additional water from 22-587 although he owned land covered by that right. He sold 7.2 acres and 0.08 cfs to Russel Bourne who then sold it to John Collins. John Collins' land was decreed as 22-587 and was therefore was recommended as such. Rex then sold another piece of his land to Andrew Richardson who received 0.34 cfs for 31 acres on land decreed as 22-405. Rex was left with 55.6 acres and 0.61 cfs on land covered by both 22-405 and 22-587.
- Rex Miller 55.6 acres and 0.61 cfs. Combination of 22-405 and 22-587 reflected in claim number 22-13585.
- Andrew Richardson 31 acres and 0.34 cfs. Portion of 22-405 reflected in claim number 22-13586.

- John Collins 7.2 acres and 0.08 cfs. Portion of 22-587 reflected in claim number 22-12714B.

Water Right 22-13509

Later in time the NESW of Section 19, Township 4 North, Range 45 East started being irrigated by water that came from a ditch along the Western hillside. There was an affidavit submitted by Chester Miller, one of J. J. Miller's sons. This affidavit went through some history about the water from Paradise springs but the only concrete date that can be taken from that affidavit was 1960. Because of this information the priority date that was given to water right 22-13509 for the irrigation of the NESW of Section 19, Township 4 North, Range 45 East.

Water Right 22-4104

According to the claimants in 1969 a pump went in on the East side of the spring and pumped water through a pipe for sprinkler irrigation. This pump not only irrigated all of the homesteaded land, but also began irrigating a small piece of land owned by Don Miller in the NWNW of Section 30 Township 4 North, Range 45 East. The affidavit provided by Chester Miller supports this beneficial use water right 22-4104. This right was split between Don Miller and Mike Reid.

Recommendations for 22-4104:

- Mike Reid receives 0.59 cfs reflected in claim number 22-11639.
- Don Miller receives 0.14 cfs reflected in claim number 22-11537.

Water Right 22-587

This water right was decreed in the Rexburg Decree to Caroline Withrick for an "undivided ¼ of Paradise Springs" with a priority of 6-1-1904. The land in the decree is stated as follows:

"NE1/4SE1/4, and SE1/4 of NE1/4 of Section 30, T. 4 N., R., 45 E., B. M. also, Homestead not described in pleadings."

The Homestead for Caroline Withrick was found on the BLM website (www.glorerecords.blm.gov) but her name was spelled slightly different. The homestead was issued to Carolina Wuthrick dated May 20th 1862. The land was listed as follows:

"S1/2SE Section 19 and NWNE Section 30 of T 4N R 45E"

The land listed on the decree and on the Homestead Entry total 200 acres.

7.2 acres of SWSE Section 19, Township 4 North, Range 45 East has been recommended to John Collins as 22-12714B. The remainder of that quarter-quarter has been recommended to Rex Miller as 22-13585. Duane Kunz claims 1.6 cfs of 22-587 reflected in water right claim number 22-13511. He claims the water has been used on NESW and NWSW Section 30, Township 4 North, Range 45 East, which is not the decreed place of use and no evidence has been submitted suggesting an error in the decree. As a result that claim has been disallowed.

Water Right 22-575

Water right 22-575 was decreed in the Rexburg Decree to George Walton for 100 inches (2 cfs) from Paradise Springs with a priority of 6-1-1892. The land it was decreed to is described as follows:

“NW1/4 of SW1/4 and W1/2 of NW1/4 of Section. 29, and NE1/4 of NE1/4 of Section 30, T. 4 N. R., 45 E., B. M., Containing 160 Acres.”

In water right transfer number 3555 Gary Zohner transferred 1 cfs of water right 22-575 from NWNW Section 29 and NENE Section 30, Township 4 North, Range 45 East to the NWSE and SESE Section 19, Township 4 North, Range 45 East. Also in the same transfer he moved 0.7 cfs of water right 22-180 from the NENE Section 30, Township 4 North, Range 45 East to the same place of use in Section 19.

After transfer # 3555, the land pertinent to 22-575 is as follows:

NWSW and SESE Section 19, SWNW and NWSW Section 29 all in Township 4 North, Range 45 East.

Teton Rainbow Ranch at one time prior to 1987 owned land located in the SWNW and NWSW Section 29, Township 4 North, Range 45 East. They sold that land to Peter Shields and reserved the water as stated in the warrantee deed located in the claim file for water right 22-13134. Teton Rainbow Ranch then moved the water to SENE and NESE Section 30, Township 4 North, Range 45 East. Based on this information the recommendations follow.

Recommendations for 22-575:

- Gary Zohner receives 1.0 cfs reflected in claim number 22-575A limited to 80 acres.
- Wally Rothgeb receives, as an accomplished change in place of use, 0.13 cfs for 8.9 acres reflected in claim number 22-13135.
- Teton Rainbow Ranch receives, as an accomplished change in place of use, 0.86 cfs for 54 acres reflected in claim number 22-13134.

Water Right 22-180

Water right 22-180 was decreed in the Rexburg Decree to H. C. Bowles for 140 inches (2.8 cfs) from Spring Creek, with a priority of 6-1-1889. The land describe in the decree is as follows:

“SW1/4 of SW1/4 and SW1/4 of SE1/4 of Section. 29, N1/2 of NE1/4 of Section. 30, T. 4 N., R. 45 E., B. M., containing 160 acres”.

After transfer # 3555 mentioned above the lands to which water right 22-180 was pertinent is as follows.

NWSE and SESE Section 19, SWSW and SWSE Section 29, and NWNE Section 30, Township 4 North, Range 45 East.

Though 22-180 was decreed the source of “Spring Creek”, no one knows exactly where Spring Creek is. Some of the local names for Paradise Springs are Sulfur Creek and Spring Creek. In my analysis Paradise Springs, springs up into a pond and when water is high it will flow down and add to the water down stream in what is locally known as Miller Slough or Paradise Creek. Paradise Creek is a gaining reach and water can be found in it even after water is too low for Paradise Springs to feed it. It is possible that at the time of the Rexburg decree, Paradise Springs and Paradise Creek were referred to as separate sources. It is my opinion that the Rexburg Decree decreed rights to Paradise Springs and also Paradise Creek but named it Spring Creek because it was connected to Paradise Springs at times. For lack of other evidence and the fact that for years, it has been accepted that 22-180 is part of Paradise Springs my recommendation is that 22-180 be decreed, at least in part, to Paradise Creek. A transfer was even approved by the Department for this right and no protests were received to my knowledge. The Rexburg Decree did however decree 40 acres of land to this water right on the East side of the River. This is the portion of the right that Duane Kunz is claiming. That is why I recommended Unnamed Stream to this right. Why that land was decreed is unknown to me. It may be an error, or the land on the West side of the river may be in error. It could also be that H. C. Bowles allowed the water to flow into the Teton River and then he took it out upstream in an exchange fashion, otherwise I don't understand why 80 acres would be decreed right on Paradise Creek and 80 acres decreed ½ mile upstream and 40 acres of it on the East side of the river. It may be that we want to recommend 22-180A and 22-180D as Paradise Creek to differentiate between Paradise Springs and Paradise Creek, and then have a point of injection and a point of re-diversion.

Based on that information the recommendations for 22-180 are as follows.

Recommendations for 22-180:

- Gary Zohner receives 0.7 cfs for 80 acres reflected in claim number 22-180A (Paradise Springs)

- Duane Kunz receives 0.7 for 40 acres reflected in claim number 22-180B (Unnamed Stream)
- Larell Kunz receives 0.44 cfs for 25 acres reflected in claim number 22-180D (Paradise Springs)

Report by Trent Galbraith 12-15-06: Revised 10-1-2007

EXHIBIT O

FALL RIVER RURAL ELECTRIC COOPERATIVE, INC.
 ASHTON, IDAHO 83420 • PHONE 652-7431



FIRST CLASS MAIL
 U. S. POSTAGE
 PAID 56
 PERMIT NO. 1

Electric bill
 from water
 pump, for
 1969 irrigation
 season.

Keep for
 record

22-11639

DATE	ACCOUNT NO.	CONTRIBUTED CAPITAL	PERCENTAGE FACTOR	PATRONAGE CAPITAL CREDIT
12-8-68	1300001	51.20	1.7572	

THIS PATRONAGE CAPITAL NOTICE FOR YOUR PERMANENT RECORDS

EXHIBIT P

12/20/2006

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

RIGHT NUMBER: 22-13211

NAME AND ADDRESS: DON LE ROY MILLER
1835 TETON VIEW DR
REXBURG ID 83440

SOURCE: PARADISE SPRING

TRIBUTARY: TETON RIVER

QUANTITY: 0.300 CFS

PRIORITY DATE: 06/01/1904

POINT OF

DIVERSION: T04N R45E S30 SWNEW Within TETON County

PURPOSE AND

PERIOD OF USE:

PURPOSE OF USE

PERIOD OF USE

QUANTITY

IRRIGATION

04/15 10/31

0.300 CFS

PLACE OF USE: IRRIGATION in TETON County

T04N R45E S30	NENW	9.50	T04N R45E S30 Lot 1 NWNW	2.30
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11.8 ACRES TOTAL

This right is limited to the irrigation of 5.1 acres within the place of use described above in a single irrigation season.

Right Nos. 22-13211 and 22-11537 are limited to the irrigation of a combined total of 11.8 acres in a single irrigation season.

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 - Decreed

This right is a split from former right 22-405

EXHIBIT Q

12/20/2006

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

RIGHT NUMBER: 22-11537
NAME AND ADDRESS: CLARICE S MILLER
4030 DIXIE
IDAHO FALLS ID 83401

KENNETH ROY MILLER
4030 DIXIE
IDAHO FALLS ID 83401

DON LE ROY MILLER
1835 TETON VIEW DR
REXBURG ID 83440

LYNDA C MILLER
1835 TETON VIEW DR
REXBURG ID 83440

SOURCE: PARADISE SPRINGS TRIBUTARY: TETON RIVER
QUANTITY: 0.140 CFS
PRIORITY DATE: 07/21/1969
POINT OF
DIVERSION: T04N R45E S30 SWNEW Within TETON County
PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	04/15 10/31	0.140 CFS

PLACE OF USE: IRRIGATION in TETON County

T04N R45E S30	NENW	9.50	T04N R45E S30 Lot 1 NWNW	2.30
11.8 ACRES TOTAL				

This right is limited to the irrigation of 6.7 acres within the place of use described above in a single irrigation season.

Right Nos. 22-13211 and 22-11537 are limited to the irrigation of a combined total of 11.8 acres in a single irrigation season.

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

This right is a split from former right 22-4104