

Shaff, Don

From: Shaff, Don
Sent: Wednesday, July 22, 2009 5:15 PM
To: 'Karen Simpson'
Cc: Foster, Bob; Bromley, Chris; Cooley-Denney, Suzy
Subject: RE: Request on- site inspection

Hello Mr. and Mrs. Simpson,

I believe Mr. Foster in our Salmon office can make a field inspection to assess whether water from Morgan Creek is used to irrigate the upper 17 acres. I have a strong hunch he will find in 2009 the land in question has had water applied to it. Mr. Foster cannot in the field assess the history of the water use on these lands. I am influenced by writing on an aerial photograph with Pat's name in 1994 showing a pond and what I interpret are pipelines and/or sprinklers to demonstrate where the water is used on and above an airstrip. I think you would agree the pond could have been in place in 1908 (emphasis on could), but I am suspicious pipelines or sprinklers were used by the land owner in 1908. The question becomes, when was this land irrigated in addition to other fields receiving flood irrigation from the ditches? Your burden is to show when this land was first irrigated.

The 1917 decree describes the property and the place of use where the water was used for A. W. Adams vaguely referencing the unsurveyed nature of the property. My best assessment is the Adam's 160 would include part of each ranch 1/4 mile high and 1 mile long starting about 100 yards from the junction of the North Fork and Morgan Creek. Perhaps with research in the real estate transaction book at the county recorder's office you can discover which of the two ranches (160 acres and 200 acres) or part of each trace back to A W Adams to have some idea where the water right started in 1908. We know from the claims Mr. Cantlin asserted all of 73-127 was used on part of 160 in 1990.

The 2006 correspondence you sent included a reference to the application Mr. Ball filed in 1977. The application included the subject 17 acres. One of the protester's was your other predecessor, Mr. Cantlin. The following question is obvious. Why would Mr. Ball file an application for permit (new water right) if he had water from Morgan Creek and was irrigating the land for his ranch? You acquired both ranches in 1993. Changing the place of use (spreading the water) without a transfer application is recognized by law provided the change occurred prior to 1987. Mr. Cantlin's claim for 73-127 filed in 1990 was for 60 acres all in section 31. Was the place of use for 73-127 changed prior to 1987? You have the obligation to document how and when the change occurred before 1987, if it did.

We can talk more at the Initial Hearing, after I have a report from Mr. Foster, presuming he can inspect the property before the hearing. I will send him a map of the property and where his focus should be. Bob Foster will contact you at 208-940-1050 to arrange a date and time with you.

Thanks,

Don Shaff

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Happiness is a journey, not a destination.

From: Karen Simpson [mailto:lmcranch726@yahoo.com]

8/4/2009

Sent: Friday, July 17, 2009 3:00 PM
To: Shaff, Don
Subject: Request on- site inspection

Dear Don;

Our request for additional point of use, "historic ditches" approximately 15 acres was finally answered last week, with a court appearance at Custer Courthouse first week of August. We would however like to request an on site inspection of these "historic ditches". I understand a field officer will be in the Pahsimeroi Valley reviewing a similar request for North West Fidelity Trust Ranch in the near future. I was hoping we might be included in this visit. Our contact numbers are 208-940-1050 LMC Ranch lmcranch726@yahoo.com Water rights 73-127, 73-7053, 73-12041, thank you. Sincerely, Patrick Simpson