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Clerk of the District Court

River Basin Adjudication

253 Third Ave North; PO Box 2707; Twin Falls, ID 83303-2707

A Motion to Set Aside the Partial Decree at the Court

RE: water right number 67-11416 partial decree issued on December 4, 2008

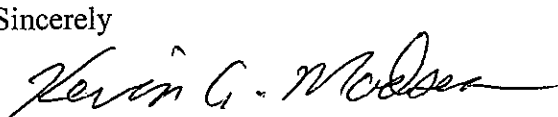
Mill Creek/East Fork Ditch Service Area

East Fork ditch, Weiser River, Council, ID 83612

Grounds: This tract, SW1/4NE1/4 Sec. 10, Township 16N and Range 1W, is naturally is in the service area of but not limited to the East fork and Mill creek water (ditches). Public information was not used even after copies of which were supplied to the Idaho Department of Water Resources, Idaho Water Center, in Boise ID by certified mail #7007 0220 0004 4974 5825 sent on May 23, 2007. This letter was signed by Chester Madsen on May 22, 2007 as witnessed by Kevin Madsen. It stated that the above tract of land "was and naturally is in the service area of but not limited to the East fork of Weiser River, Cottonwood, Grossen, and Mill creek water (ditches). Historically and currently these waters "service" this tract. Waste water and sub irrigation has ... a valued contribution (to) forage production and wetland values (wildlife habitat) of said tract. ... (This tract) had* deeded Mill Creek water (7.5 inches adjudicated in 1906**) – see enclosed deed (Book #F 559). Not including this tract in the service area of the east fork and mill creek water constitutes a take of water rights (from lands) ... historically watered by surface and sub surface follows from the time of ditch (east fork/mill creek ditch) original construction (to said tract) prior to 1906."

Therefore this tract's 7.5 to 23 acres should be added to 67 11416 East Fork Weiser/Mill Creek/Camp Creek/Grossen Creek's 2054 acres, changing it to 2061.5 to 2077 acres respectively.

Sincerely

 8/21/09

Kevin Madsen for Chester Madsen 2073 N Galena Rd, Council, ID 83612

CC: Idaho Department of Water Resources; 332 E. Front Street; Boise, Id. 83720-0098

*In or about 1933, Mill Creek Water rights from this tract, owned by Lewis E. Winkler, were transferred for use on Council Valley Orchard Tracts (now out-of-production) then owed by John W. Hoover and Ida B. Hoover, however; this tract remained in the service area.

**Decree of the District Court, Third Judicial District of the State of Idaho, Washington County

***the area that is now Adams County was then included in Washington County.