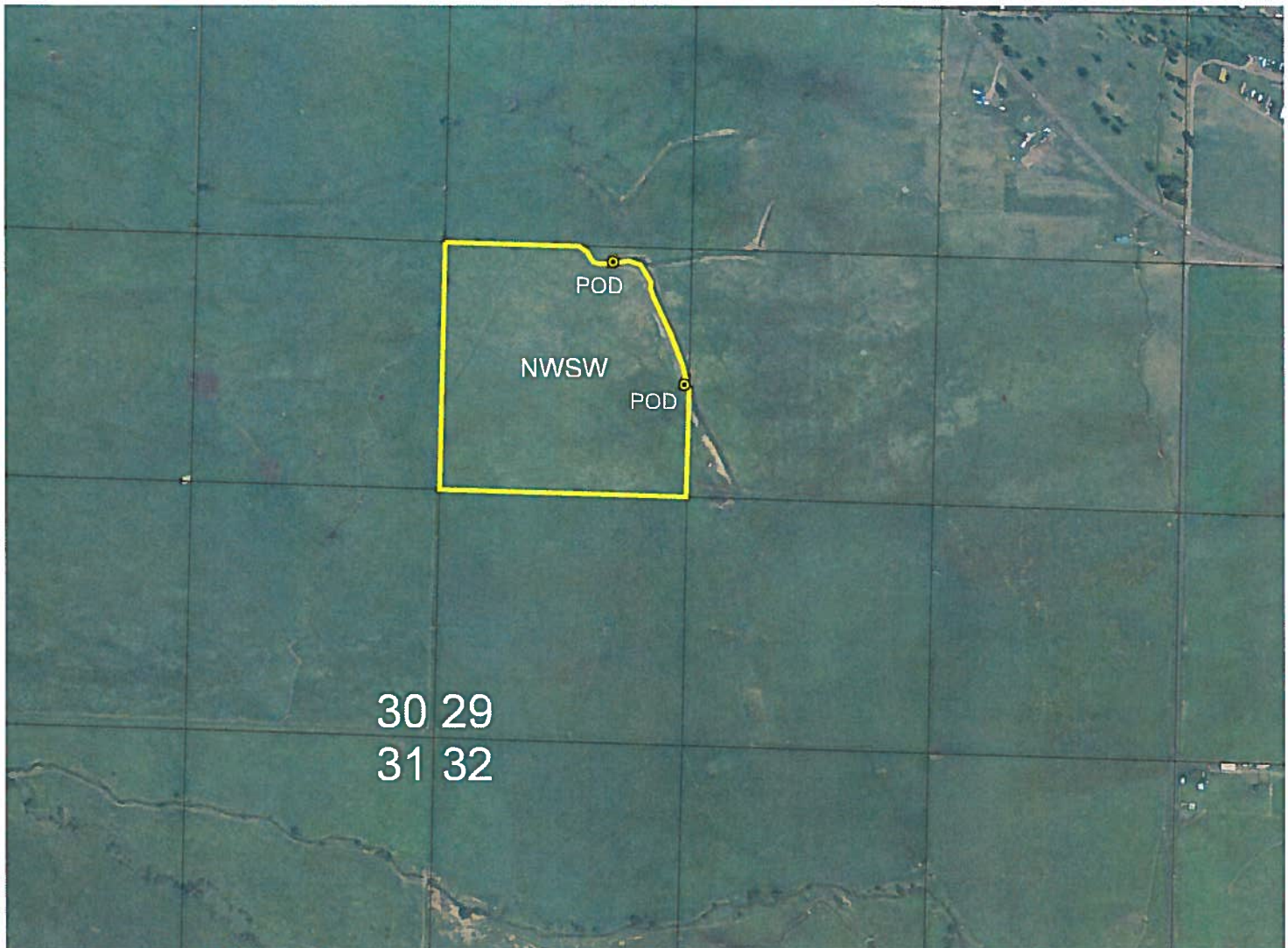


78-12131

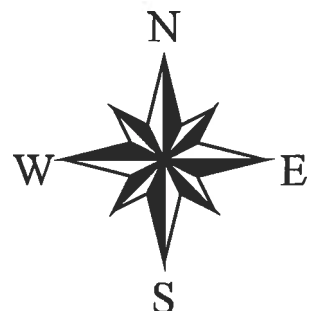


600 0 600 1200 1800 2400 Feet



T19N R02E S29

Map prepared by: Carter Fritschle
Date prepared: 11/24/06
2004 NAIP Photography
Idaho Department of Water Resources



12/19/2006

IDAHO DEPARTMENT OF WATER RESOURCES
PRELIMINARY RECOMMENDATION OF WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 78-12131

NAME AND ADDRESS: RODNEY D JOHNSON
8108 FORT WILSON DR
PAYETTE ID 83661

DARLA H JOHNSON
8108 FORT WILSON DR
PAYETTE ID 83661

SOURCE: CAMPBELL SWAMP TRIBUTARY: SINKS

QUANTITY: 0.420 CFS

The quantity of water under this right for stockwater use shall not exceed 13,000 gallons per day.

PRIORITY DATE: 06/01/1890

POINT OF DIVERSION:

T19N R02E S29 NWSW Within ADAMS County

T19N R02E S29 NWSW Within ADAMS County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
STOCKWATER	01/01 12/31	0.020 CFS
IRRIGATION	04/01 10/31	0.400 CFS

PLACE OF USE: IRRIGATION in ADAMS County

T19N R02E S29 NWSW 37.00

STOCKWATER in ADAMS County

T19N R02E S29 NWSW

37 ACRES TOTAL

The rights listed below are limited to the irrigation of a combined total of 108 acres in a single irrigation season.
Combined Right Nos.: 78-12131, 78-12136, 78-12141, 78-12144 and 78-12147

This right is limited to the irrigation of 20 acres within the place of use described above 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.

The quantity of water decreed for this water right for stockwater use is not a determination of historical beneficial use.

EXPLANATORY MATERIAL: BASIS OF CLAIM -

Use of this right is combined with water from Goose Lake Reservoir Company.

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 78-12131
Date Received: 3/20/2003
Receipt No: W030234
Received By:

**NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW**

1. Name of Claimant(s)

RODNEY D JOHNSON Phone: (208) 642-9488
8108 FORT WILSON DR
PAYETTE ID USA 83661

DARLA H JOHNSON Phone: (208) 642-9488
8108 FORT WILSON DR
PAYETTE ID USA 83661

2. Date of Priority: 06/01/1890

3. Source: CAMPBELL SWAMP Trib. to: SINKS

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County	Type
19N	02E	29	NW SW	ADAMS	

5. Description of diverting works:

Ditch, gravity flow.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
IRRIGATION	04/01	10/31	0.74	
STOCKWATER	01/01	12/31	0.04	

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

8. Total consumptive use:

9. Non-irrigation uses:
Number of other uses: 330 Range Cattle

10. Place of use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
19N	02E	29	NW	SW	IRRIGATION	37
			NW	SW	STOCKWATER	
					Section Acres	37
					Total Acres	37

11. Place of use in counties: ADAMS

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

13. Other Water Rights Used: 78-12136

14. Remarks:

Approximately 20 acres within the above described 37 acres. Acres paid for under previous Johnson claims, 78-12136 etc. Decreed right recently identified to IDWR, so late fee should not be applicable.

15. Basis of Claim: Decreed

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 A78-12131
Date Received 3/20/03
Receipt Number W030234 *fl*

NOTICE OF CLAIM
TO A
WATER RIGHT
ACQUIRED UNDER STATE LAW

Please type or print clearly

1. Name of Claimant (s) Rodney D and/or Darla H. Johnson Phone (208) 642-9488

Mailing Address 8108 FORT WILSON DR Payette ID Zip 83661

2. Date of Priority (Only one (1) per claim) June 1st 1890

3. Source of water supply (a) Campbell Swamp
which is tributary to (b) SINKS

4. a. Location of existing point of diversion is: Township 19N Range 2E Section 29,
1/4 of NW 1/4 of SW 1/4, Govt. Lot, B.M., County of Adams

Additional points of diversion if any: 2 points of diversion in NWsw

b. If instream flow, beginning point of claimed instream flow is:

Township Range Section , 1/4 of 1/4 of 1/4,

Govt. Lot B.M., County of

ending point is: Township Range Section , 1/4 of 1/4 of

 1/4, Govt. Lot B.M., County of

5. Description of existing diversion works (Dams, Reservoirs, Ditches, Wells, Pumps, Pipelines, Headgates, Etc),
including the dates of any changes or enlargements in use, the dimensions of the diversion works as
constructed and as enlarged and the depth of each well. Ditch gravity flow

6. Water is claimed for the following purposes:

(both dates are inclusive)

(cfs)

(acre feet)

For IRRIGATION purposes from 4-1 to 10-31 amount .74 or _____

For STOCK WATER purposes from 1-1 to 12-31 amount .64 or _____

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

7. Total quantity claimed (a) .78 (cfs) and/or (b) _____ (acre feet)

8. Total consumptive use claimed is _____ acre feet per annum.

9. Non-irrigation uses; describe fully (eg. Domestic: Give number of households served; Stockwater: Type and number of livestock Etc.) 330 RANGE CATTLE

10. Description of place of use:

a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.

b. If water is used for other purposes, place a symbol of use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

TWP	RNG	SEC	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	
19N	2E	29										37							37
												5							

Total number of acres irrigated 37

11. In which county (ies) are lands listed above as place of use located? Adams

12. Do you own the property listed above as place of use? Yes X No _____
If your answer is No, describe in Remarks below the authority you have to claim this water right.

13. Describe any other water rights used at the same place and for the same purposes as described above.
A78-12136 etc. or None ()

14. Remarks:

Approximately 20 Acres within the above described 37 acres
ACRES paid for under previous JOHNSON claims A78-12136 etc
DECEASED right recently identified to DAWR so 1986 fee should
not be applicable

Last Name Johnson Ident No. A78-12131

Copies: White -State, Yellow-Claimant

15. Basis of Claim (check one) Beneficial Use _____ Posted Notice _____ License _____ Permit _____
Decree X CAREY VS DRYDEN MAY 19, 1932 7th JUDICIAL COURT CASE 1

If applicable provide IDWR Water Right Number _____

Court 7th JUDICIAL Case Number 923 Decree Date 5-19-32

Plaintiff vs Defendant CAREY VS DRYDEN

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

Number of attachments 2

For Individuals: I do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant (s) Darla H Johnson Date 4-6-01

[Signature] Date 4-6-01

For Organizations: I do solemnly swear or affirm that I am _____ Title _____

of _____, that I have signed the foregoing

document in the space below as _____ of _____

and that the statements contained in the foregoing document are true and correct.

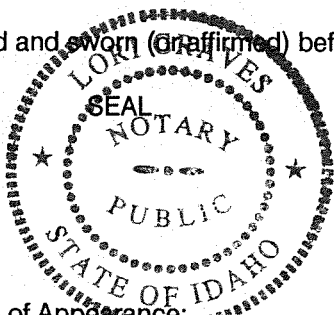
Signature of Authorized Agent _____

Title and Organization _____ Date _____

State of Idaho/or _____)

County of Ada) SS.

Subscribed and sworn (or affirmed) before me this 6th day of April 2001



Notary Public Lori Graver

Residing at Boise

My Commission Expires 6/18/04

Please Print Name

17. Notice of Appearance

Notice is hereby given that I, _____ will be acting as attorney at law on behalf of the claimant signing above, and that all notices required by law to be mailed by the director to the claimant signing above should be mailed to me at the address listed below.

Signature _____

Address _____

Date _____

Last Name Johnson Ident. Number A78-12131

Copies White-State, Yellow-Claimant

T19N R2E SEC29

Meadows

Branch

PACKER JOHNS CA
STATE PARK

POINTS OF DIVERSION (2)

APPROXIMATELY 20 ACRES WITHIN ~~40~~³⁷ ACRES
PERMISSIBLE PLACE OF USE

A78-12131

3/4 mile

WARRANTY DEED

INSTRUMENT NO. 97071
PAGE 1 OF 2

For Value Received, RANDY C. RASLEY and CYNTHIA L. RASLEY, husband and wife the grantors, do hereby grant, bargain, sell and convey unto RODNEY D. JOHNSON and DARIA H. JOHNSON, husband and wife

the grantees, whose current address is 8104 Fort Wilson Dr., Payette, ID 83651, the following described premises, in Adams County, Idaho, to-wit:

SEE ATTACHED 'EXHIBIT A' MADE A PART HEREOF

TO HAVE AND TO HOLD THE said premises, with their appurtenances unto the said Grantees, their heirs and assigns forever. And the said Grantors do hereby covenant to and with the said Grantees, that they are the owners in fee simple of said premises; that they are free from all encumbrances excepting for all easements of record, rights of way, matters visible, and all matters of record and title and that they will warrant and defend the same from all lawful claims whatsoever.

Date: October 20, 1999

Randy C. Rasley
Randy C. Rasley

Cynthia L. Rasley
Cynthia L. Rasley

STATE OF NEVADA)
COUNTY OF WASHOE) ss

On this 21 day of OCT, in the year of 1999, before me a Notary Public in and for said State, personally appeared RANDY C. RASLEY & CYNTHIA L. RASLEY known or identified to me to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same.

Tamara Lynn Jakobitz
Notary Public
Residing at
Commission expires:

STATE OF IDAHO, COUNTY OF ADAMS
I hereby certify that this instrument was filed for record at the request of Timberline Title & Escrow

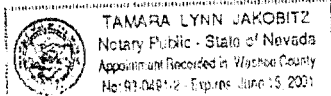
at 40 minutes past 4 o'clock PM,
this 22 day of Oct, 1999, in my
office, and duly recorded in Book
of Deeds at page

MICHAEL FISK
Ex-Officio Recorder

By: Peggy Pinkel
Deputy

Fees \$ 6.00
Mail to: Timberline Title & Escrow

#99-459



A78-12131

INSTRUMENT NO. 47211
PAGE 2 OF 3

EXHIBIT 'A'

Township 19 North, Range 2 East, Boise Meridian, Adams County Idaho
Section 29: A parcel located in the NW1/4SE1/4 and the NE1/4SW1/4 more particularly described as follows:

Commencing at a 5/8 inch diameter iron pin marking the southwesterly corner of said NW1/4SE1/4;

Thence North 00°04'59" East along the Easterly boundary of said NE1/4SW1/4 a distance of 50.00 feet to a 5/8 inch diameter iron pin and the REAL POINT OF BEGINNING;

Thence leaving said Easterly boundary North 89°23'51" West a distance of 110.24 feet to a 5/8 inch diameter iron pin;

Thence North 00°04'59" East a distance of 934.48 feet to a 5/8 inch diameter iron pin;

Thence South 89°13'32" East a distance of 1394.19 feet to a 5/8 inch diameter iron pin on the Westerly right-of-way of Raney Lane;

Thence South 00°29'20" East along said Westerly right-of-way a distance of 934.53 feet to a point;

Thence leaving said Westerly right-of-way North 89°12'56" West a distance of 1293.28 feet to the REAL POINT OF BEGINNING.

A78-12131

Johnson c 78-12131

- long history explained in Attached info.
- no charge for dues already paid in A78-12136 etc.
- no late fee.
- rate undefined in decree but entered in WR record as a convenience, .01 cts not binding.
- incorrect deed submitted but ok per prior splits for Johnson.
- my 3-21-03 & 2-8-03 info should explain things.

-JR 3/21/03

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 78-12131

WATER RIGHT NUMBER: 78-12131

Owner Type Name and Address
 Current Owner HOWARD DRYDEN
 MEADOWS, ID

Priority Date: 06/01/1890

Basis: Decreed

Status: Active

Source Tributary
 CAMPBELL SWAMP SINKS

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	04/01 to 10/31	0.010 CFS	
<u>Total Diversion:</u>		0.010 CFS	

Location of Point(s) of Diversion

CAMPBELL SWAMP
 ADAMS County

Sec. 29, Twp 19N, Rge 02E, B.M.

Place of Use

IRRIGATION

Twp	Rge	Sec	NE	NW	SW	SE	Totals
19N	02E	29			20.0		20.0

Total Acres: 20

Conditions of Approval:Remarks:

1.

The right holders are entitled to all of the water which now is or shall be diverted into the Mitchell Ditch from that portion of Campbell Swamp which lies north of the north bank of the Dryden East and West Drain and north of the line thereof extended in its same course and direction.

Comments:Dates and Other Information: Decreed Date: 5/19/1932

* RATE NOT DETERMINED IN DECREE. DATA ENTERED
 AS .01 cfs AS NOTED IN COMMENT UNDER RE/STOL
 RIGHT 78-12128 (COMMENT APPLIES TO 78-12128 -12129 -12130).
 -JL

Idaho Dept. of Water Resources
Place of Use Comparison Report

*Johnson
NWSW*

Type	WR #	Owner	Source	TRS	NENE	NWNE	SWNE	SENE	NENW	NWNW	SWNW	SENW	NESW	NWSW	SWSW	SESW	NESE	NWSE	SWSE	SESE	Total
Right	78 2085	BRUNDAGE DITCH CO.	BRUNDAGE CREEK	19N02E29																	0
Right	78 12131	HOWARD DRYDEN,	CAMPBELL SWAMP	19N02E29										20							20
Claim	78 10015	MARSHALL DEAN DRYDEN, MARSHALL L DRYDEN,	GOOSE CREEK	19N02E29					3												3
Claim	78 10104	A R KRIGBAUM,	GOOSE CREEK	19N02E29																40	40
Claim	78 10172	ED RANEY,	GOOSE CREEK	19N02E29			29									40	40				149
Claim	78 10291	PAUL ROSE, UNA ROSE,	GOOSE CREEK	19N02E29				20													20
Claim	78 12135	GARY C SWIFT, LYNDA L SWIFT,	GOOSE CREEK	19N02E29					4		20	35									59
Claim	78 12136	RODNEY D JOHNSON, DARLA H JOHNSON,	GOOSE CREEK	19N02E29									37	40							77
Claim	78 12140	GARY C SWIFT, LYNDA L SWIFT,	GOOSE CREEK	19N02E29					4		20	35									59
Claim	78 12141	RODNEY D JOHNSON, DARLA H JOHNSON,	GOOSE CREEK	19N02E29									37	40							77
Claim	78 12143	GARY C SWIFT, LYNDA L SWIFT,	GOOSE CREEK	19N02E29					4		20	35									59
Claim	78 12144	RODNEY D JOHNSON, DARLA H JOHNSON,	GOOSE CREEK	19N02E29									37	40							77
Claim	78 12146	GARY C SWIFT, LYNDA L SWIFT,	GOOSE CREEK	19N02E29					4		20	35									59
Claim	78 12147	RODNEY D JOHNSON, DARLA H JOHNSON,	GOOSE CREEK	19N02E29									37	40							77
Claim	78 12191	NEIL L TASSANO, KATHERINE TASSANO,	GOOSE CREEK	19N02E29			10		11									40			64
Claim	78 12192	JESSICA M BLANKSMA,	GOOSE CREEK	19N02E29					5			5	3								10
Claim	78 12193	NEIL L TASSANO, KATHERINE TASSANO,	GOOSE CREEK	19N02E29			10		11				3					40			64
Claim	78 12194	JESSICA M BLANKSMA,	GOOSE CREEK	19N02E29					5			5									10
Claim	78 12195	NEIL L TASSANO, KATHERINE TASSANO,	GOOSE CREEK	19N02E29			10		11				3					40			64
Claim	78 12196	JESSICA M BLANKSMA,	GOOSE CREEK	19N02E29					5			5									10
Claim	78 12197	NEIL L TASSANO, KATHERINE TASSANO,	GOOSE CREEK	19N02E29			10		11				3					40			64
Claim	78 12198	JESSICA M BLANKSMA,	GOOSE CREEK	19N02E29					5			5									10
Claim	78 157	MARSHALL DEAN DRYDEN, MARSHALL L DRYDEN,	GOOSE CREEK	19N02E29					2												2
Claim	78 159A	MARSHALL DEAN DRYDEN, MARSHALL L DRYDEN,	GOOSE CREEK	19N02E29					3												3
Claim	78 209A	TANA WILSON -KERBY, INEZ M WILSON-MORRIS,	GOOSE CREEK	19N02E29						0.5	1.5										7.7
Claim	78 209B	G DALE SMITH,	GOOSE CREEK	19N02E29																	2
Claim	78 210A	TANA WILSON -KERBY, INEZ M WILSON-MORRIS,	GOOSE CREEK	19N02E29						7.7											7.7
Claim	78 210B	G DALE SMITH,	GOOSE CREEK	19N02E29						0.5	1.5										2
Claim	78 211A	TANA WILSON -KERBY, INEZ M WILSON-MORRIS,	GOOSE CREEK	19N02E29						7.7											7.7
Claim	78 211B	G DALE SMITH,	GOOSE CREEK	19N02E29						0.5	1.5										2
Claim	78 212	TANA WILSON -KERBY, INEZ M WILSON-MORRIS,	GOOSE CREEK	19N02E29						7.7											7.7
Claim	78 216B	ED RANEY,	GOOSE CREEK	19N02E29			30				20										20
Claim	78 217B	ED RANEY,	GOOSE CREEK	19N02E29			30									40					70
Claim	78 220	GARY C SWIFT, LYNDA L SWIFT,	GOOSE CREEK	19N02E29					2							40					70
Claim	78 221	MARK D SMITH,	GOOSE CREEK	19N02E29						0.5											2
Claim	78 224	GARY C SWIFT, LYNDA L SWIFT,	GOOSE CREEK	19N02E29					2												0.5
Claim	78 225	ED RANEY,	GOOSE CREEK	19N02E29												40	40				2
Claim	78 226	ED RANEY,	GOOSE CREEK	19N02E29												40	40			40	120
Claim	78 227	ED RANEY,	GOOSE CREEK	19N02E29												40	40			40	120
Claim	78 230A	IRMA C KESKA,	GOOSE CREEK	19N02E29			5.7														120
Claim	78 230B	LORETTA MC CONNOR, JOHN L MC CONNOR,	GOOSE CREEK	19N02E29			1.2														5.7
Claim	78 231A	IRMA C KESKA,	GOOSE CREEK	19N02E29			5.7														1.2
Claim	78 231B	LORETTA MC CONNER, JOHN L MC CONNER,	GOOSE CREEK	19N02E29			1.2														5.7
Claim	78 243	A R KRIGBAUM,	GOOSE CREEK	19N02E29																40	40
Claim	78 244	A R KRIGBAUM,	GOOSE CREEK	19N02E29																40	40
Claim	78 245	A R KRIGBAUM,	GOOSE CREEK	19N02E29																40	40
Claim	78 246	A R KRIGBAUM,	GOOSE CREEK	19N02E29																40	40
Claim	78 247	A R KRIGBAUM,	GOOSE CREEK	19N02E29																40	40
Claim	78 248	A R KRIGBAUM,	GOOSE CREEK	19N02E29																40	40
Claim	78 257B	GARY H CHIPMAN, MARGARET CHIPMAN,	GOOSE CREEK	19N02E29						0.7											0.7
Claim	78 258A	PURL FRITSCHLE, DE VOTA FRITSCHLE,	GOOSE CREEK	19N02E29						2											2
Right	78 2069	NORMAN MORRIS,	GOOSE CREEK	19N02E29		4															4
Right	78 209	JOHNATHON MC MAHAN,	GOOSE CREEK	19N02E29						X											0
Right	78 210	JOHNATHON MC MAHAN,	GOOSE CREEK	19N02E29						X											0
Right	78 211	JOHNATHON MC MAHAN,	GOOSE CREEK	19N02E29						X											0
Right	78 212	MASON PHILLIPS,	GOOSE CREEK	19N02E29							20										20

- acres now claimed in A78-12131 (20 Ac.) already paid for in prior Johnson claims.
 - ownership of P/U in prior claims recorded in prior splits so it's clear Johnson
- R*

[illegible]

MEMORANDUM

TO: Glen Saxton
FROM: Steve Lester 
DATE: March 21, 2003
RE: Application to Lease Decreed Right 78-12131 to the Water Supply Bank

Rodney and Darla Johnson filed the attached application to place their decreed Campbell Swamp right in the water supply bank for the 2003 irrigation season. They did this as part of an agreement to resolve a long-term dispute culminating in recent formation of Water District 78-D. The district will be inactive this year if the water bank application is approved.

Background information summarizing this situation is attached. I also included a copy of the SRBA claim filed by Johnson yesterday for the decreed right. I hope the Johnson right can be accepted into the water bank to help settle water disputes between district members at least for this year. Efforts for a long-term solution are underway, but this short-term approach will be helpful. If the application must be denied, a second meeting will be needed to immediately activate the district for 2003 as explained in my 2-6-03 letter to the members.

A few loose ends are found in this scenario as follows.

The 20 acre P/U in 78-12131 is totally overlapped by other Johnson SRBA claims from Goose Creek: 78-12136, 78-12141, 78-12144 and 78-12147. The first three are splits from decreed rights 78-215 through 78-217, while the last claim is a split of statutory claim 78-4287. Johnson also has storage water from Goose Lake for the same land. Johnson has reported that using Goose Creek water on these acres has been difficult, perhaps removing overlap concerns from the water bank process if that is an issue.

The above splits resulted from ownership documentation previously provided by Johnson. That information showed Johnson owns the land described by 78-12131. Johnson submitted an incorrect deed in the new adjudication claim and water bank filing (describes adjacent property to the east), but prior verification of ownership in NWSW should allow the water bank application to proceed despite this error.

Johnson included Attachment A in the water bank application as the only available information about use under 78-12131. The fact that other users of Campbell Swamp have complained for a couple years about Johnson's use of this water supports

Attachment A. The information is sketchy but probably is about as good as it is going to get.

The decree did not quantify the amount of water in 78-12131 (see last page of attached 2-6-03 information). Johnson attempted to clarify the amount of water by filing an adjudication claim for 0.78 cfs. If uncertainty over the amount of water in this right complicates the water bank application, perhaps 20" associated with 20 acres in the decreed right could be authorized for use as a "temporary preliminary determination" pending final determination of the amount of water in 78-12131.

Recommendations

1. Accept 78-12131 into the water supply bank for the 2003 irrigation season.
2. Limit the quantity of water available to be leased from the bank to 0.40 cfs.
3. No payment to Johnson is needed in this process.

This will allow the 2003 season to proceed without formality of watermaster control. Other members of 78-D can use Campbell Swamp under their rights. The members can keep working on a long-term solution to the problems.

Please let me know if you need more information in this matter. As soon as a decision is issued on the water bank application, I can advise the water district members on their next step.



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190

FAX (208) 334-2348

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

February 6, 2003

To: Members of Water District No. 78-D

Re: Status of Water District

Dear Water District Member:

This letter summarizes the first annual water district meeting held February 3, 2003, in New Meadows. All three owners attended the meeting. I attended the meeting on behalf of the Idaho Department of Water Resources (IDWR).

The members discussed the situation at length. The Johnsons decided to enroll their decreed water right, no. 78-12131, in the state water bank for this year. Acceptance of the right into the water bank would preclude the use of the right on Johnson's' property. The water right would be available for use elsewhere under terms set by water bank rules.

The members agreed to make the district inactive for this year assuming the Johnson water right is accepted into the water bank. The other two members can use their water rights from Campbell Swamp during 2003. Under these conditions, reports of Johnson diverting from Campbell Swamp would be treated as an illegal diversion subject to the *notice of violation* provisions of I. C. § 42-1701(B).

Members need to protect their decreed water rights by recording Snake River Basin Adjudication claims with IDWR. Attached is a memorandum summarizing IDWR records regarding Campbell Swamp (aka Campbell Drain etc.). The memo and enclosed claim forms and instructions should provide enough information for you to file claims. Please be advised IDWR cannot prepare the claims for you. If you need assistance in preparing claims, please consult an attorney and/or technical consultant familiar with these details.

Also, please be aware that the memo is my understanding of the situation. Conclusions about the best course of action in your situation are best left to parties other than IDWR. In other words, the memo is a tool to help you but is not advice you should rely on without consulting other experts in this field.

Water District No. 78-D
February 6, 2003
Page 2

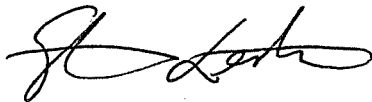
Therefore, Water District No. 78-D is inactive for 2003 if Johnson files the necessary paperwork within forty-five (45) days of the date of this letter. Assuming that happens and water right 78-12131 is accepted into the water bank, the water district will remain inactive until further notice. IDWR will contact you around October 2003 to determine how you want to proceed for 2004.

If Johnson does not apply to enroll the right in the water bank or if the right is not accepted into the water bank for some reason, the water district must be activated and operational before the 2003 irrigation season begins. IDWR will contact you about a special meeting to accomplish those steps in that unlikely scenario.

I realize this temporary solution was not completely satisfactory to everyone. I appreciate your efforts in crafting this temporary solution pending a more permanent resolution of the problems associated with Campbell Swamp. Please do not hesitate to contact me at 208-334-2190 if you have any questions or need more information.

Copies of this letter have been provided to interested parties.

Sincerely,



Steve Lester
Water Rights Supervisor

Enclosure: IDWR Summary Memo, SRBA Claim Forms and Instructions

Distribution List (with complete enclosures):

District Members Dan & Mary Hearn, Rod & Darla Johnson, and Tana Wilson-Kerby

CC: Scott Campbell, Jeanette Farrell, and Idaho First National Bank Trustee
(with copies of the IDWR memo but not claim forms and instructions)

MEMORANDUM

TO: Water District File No. 78-D

FROM: Steve Lester 

DATE: February 6, 2003

RE: Summary of Water Right and SRBA Records

This memo summarizes Idaho Department of Water Resources (IDWR) records for this newly established water district. The district resulted from the 1932 decree in *Carey vs. Dryden and Campbell* plus the 2002 IDWR Order establishing the district.

IDWR was not aware of the 1932 decree until recently. Three water right records were created by IDWR based on the decree. The rights include numbers **78-12128 for Carey, 78-12129 for Wilson and 78-12131 for Dryden**. The decree did not quantify the amount of water in each right and other expected details such as the $\frac{1}{4}$ $\frac{1}{4}$ descriptor for points of diversion. The decree identified *Campbell Swamp* as the source of water, although the IDWR Order inadvertently listed *Campbell Drain*. Efforts are underway to correct the Order in this regard.

The following summary reflects the current records of IDWR.

78-12128, apparently to serve Hearn

Decreed for land in T19N-R2E-Section 25-SE $\frac{1}{4}$. Apparently this means about 160 acres from that description. The range identifier appears to be in error – R2E is several miles east of the area served by Campbell Swamp, and R1E must be assumed to be correct. This right appears to be used by Hearn based on information leading to the Order creating the district. However, *Eberle* owns the SE $\frac{1}{4}$ of T19N-R1E-Section 25 according to IDWR and Adams County Assessor records.

Hearn appears to own land in T19N-R1E-Section 25-NE $\frac{1}{4}$ (emphasis added). That property is addressed by Snake River Basin Adjudication (SRBA) claims filed by Hearn for Goose Creek water (SRBA claims 78-182 and 78-12165). Also, the same land is described by water right license 78-2038. The license was issued to *Steckman* for 1.60 cfs diverted from Campbell Swamp under a 1929 priority. The diversion point was listed as T19N-R2E-¹Section 29- SW $\frac{1}{4}$ NW $\frac{1}{4}$, and the place of use included 160 acres in T19N-

¹ The R2E identifier appears correct in the rest of this memo. The correction to R1E only applies to T19N-R2E-Section 25, not to other sections discussed in this memo.

R1E-Section 25-NE ¼. The license has not been claimed in the SRBA. The license probably serves no purpose since the water defined by the license is presumed to be fully covered by decreed right 78-12128 with a senior (1890) priority. Even if the licensed right is claimed in the SRBA and eventually decreed by the SRBA Court, rights 78-2038 and 78-12128 would probably be limited by conditions if both describe the same source for the same acres ("1 + 1 = 1" instead of 2, for example).

If right 78-12128 serves Hearn's land, Hearn should file a SRBA claim to protect the decreed right. The claim can correct any errors and/or omissions in the decree. The license might help fill in the blanks in claiming the decreed right, e.g., quantity of water. If the decree is presumed to identify land in Section 25 SE ¼ currently owned by Eberle instead of Hearn, Hearn should document the use of this water on his property in the NE ¼ or wherever he uses it, assuming such a change from the decree occurred prior to the 1987 commencement of the SRBA. Changes to decreed rights initiated after 1987 would require an *Application for Transfer* since post-1987 changes cannot be recognized in the SRBA unless first approved by IDWR in the transfer application process.²

78-12129, apparently to serve Wilson-Kerby (abbreviated as Kerby)

Decreed for land in T19N-R2E-Section 30-W½ NE ¼ and SE ¼. Apparently this means about 240 acres from that description. The property is also described by Kerby's SRBA claims for Goose Creek water (claims 78-228 and 78-2036). In addition, water right and SRBA records 78-4085 (for a *statutory claim* or "grandfather" use) appear to cover the same water and acres as the decreed right. The 78-4085 records identify the source as Campbell Slough or an Unnamed Slough for about 4.00 cfs with either an 1890 (SRBA claim record) or a 1924 (water right record) priority. SRBA claim 78-4085 shows a 6-17-1890 priority, slightly junior to the 6-1-1890 decreed priority in 78-12129.

It appears SRBA claim 78-4085 is fully covered by the slightly older decreed right, suggesting 78-4085 serves no purpose. Kerby might wish to withdraw SRBA claim 78-4085 and instead file a SRBA claim to protect 78-12129. As in Hearn's case, the 78-4085 record might suggest details to include in claiming 78-12129 in the SRBA. If Kerby wants to protect and retain both rights from the same source serving the same acres, the likely SRBA outcome would be conditioned (1 + 1 = 1 instead of 2).

78-12131, apparently to serve Johnson

Decreed for approximately 20 acres in T19N-R2E-Section 29-NW ¼ SW ¼. The same land is described by Johnson's SRBA claims for Goose Creek water (claims 78-12136, 78-12141, 78-12144 and 78-12147). Johnson should file a SRBA claim to protect this

² The transfer process does not apply to simply changing ownership of a water right and/or SRBA claim without changing other elements of the right/claim such as the place of use.

decreed right, filling in the blanks left by the decree as in the case of the other two owners.

Johnson expressed an interest in enrolling right 78-12131 in the state water bank administered by the Idaho Water Resource Board. Johnson should submit a completed water bank application, SRBA claim and proof of ownership of the decreed right (typically a deed describing the place of use in the decree and the claim being filed) to IDWR to initiate the water bank process.

Summary

Owners should file SRBA claims to protect decreed Campbell Swamp water rights. SRBA fees include \$50 per claim plus \$1 per irrigated acre. The \$1 per acre charge does not apply if it has been paid in a SRBA claim already recorded with IDWR. In that case, the owner should identify the SRBA claim for which the acreage fee was already paid, reducing the fee for a new claim to \$50. The owner should include a request for IDWR to waive the late charge (\$50 or 15% of total fee per claim, whichever is greater). Owners can use existing records such as license 78-2038 etc. to help fill in missing details in filing the SRBA claims. Owners can correct errors found in the 1932 decree, and/or they can document changes to the decreed rights accomplished prior to November 1987.

IDWR should revise its Order to properly identify the source of water as Campbell *Swamp* instead of Campbell *Drain*. IDWR should waive late fees for SRBA claims filed to protect the decreed rights. IDWR should process Johnson's request to enroll water right no. 78-12131 in the state water bank if it is filed.

These steps should clarify and update IDWR water right and SRBA records. Steps such as these will help administer the water district and determine the final outcome of the SRBA process with respect to the decreed rights.

Copies attached:

← Copies not attached except
d'base comment in 78-12128, which also
applies to 78-12129 & 78-12131

IDWR record nos. 78-12128, 78-12129, 78-12131, 78-2038 and 78-4085.

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 78-12128

Comments:

1. scurtis 4/27/2001 Decree Info

Comment: This decree is known as the Thomas Carey v. Howard & Minnie Dryden, Loyal E. & Mary O. Campbell and George Wilson. The decree took place in 1932 but was recently found to have never been entered into the departments database. Some items of information (such as season of use) were not specifically listed in the decree, but were determined from current maps, etc. so that entry could be completed in the database. The decree allocates "all of the diverted into the Mitchell Ditch to the right holder identified in this right, but for database entry which requires a rate, 0.01 cfs was used.

Dates and Other Information:

Licensed Date:

Decreed Date: 5/19/1932

Water Supply Bank Enrollment Accepted:

Water Supply Bank Enrollment Removed:

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

State or Federal:

Owner Name Connector: And

Water District Number: 78A

Generic Max Rate Per Acre:

Generic Max Volume Per Acre:

Decree Defendant:

Decree Plaintiff:

Civil Case Number:

Judicial District:

Swan Falls Trust or Nontrust:

Swan Falls Dismissed:

DLE Act Number:

Carey Act Number:

Mitigation Plan: False