

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: A43-00247
Date Received: 5/30/1989
Receipt No: MO03766
Received By: AB

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: ORVIL BEECHER 208-638-5564
Address: BOX 465
ELBA, ID 83326

2. Date of Priority: APR 30, 1882

3. Source: CASSIA CREEK Trib. to: RAFT RIVER

4. Point of Diversion:

Township	Range	Section	1/4	of	1/4	of	1/4	Lot	County
14S	24E	12	NW		NE		NW		CASSIA

5. Description of diverting works:
HEADGATE ON CREEK, FLOOD IRRIG.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	03/15	11/15	0.300		

7. Total Quantity Appropriated is:
0.300 C.F.S. (and/or) A.F.A.

8. Total consumptive use is Acre Feet Per Annum.

9. Non-irrigation uses:

10. Place of Use:

Township	Range	Section	1/4	of	1/4	Lot	Use	Acres
13S	25E	32	SE		SW		IRR	38.0

Section Acres 38.0

Total Acres 38.0

A43-00247

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Date: 05/30/89

MICROFILMED
MAR 02 1989

11. Place of use in counties: CASSIA

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

13. Other Water Rights Used:
A43-00247

14. Remarks:

15. Basis of Claim: DECREED
Case Number:
Court :
Decree date:

ALBION-IDAHO LAND CO.
Decree Plaintiff

vs

JOBE ADAMS ET. AL., AMENDED
Decree Defendant

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: 1

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): *Orvil E. Becker* Date: 5/30/89
Date: _____

State of Idaho)
County of Cassia) SS.

Subscribed and sworn (or affirmed) before me this 30th day

of May 1989

Anna Baunhoff
Notary Public

Seal

Residing at _____

Anna Baunhoff, Notary Public
My Commission Expires Residing at Boise, Idaho
My Commission Expires December 7, 1994



State of Idaho

DEPARTMENT OF WATER RESOURCES

1341 Fillmore Street, Suite 200, Twin Falls, ID 83301-3380

Phone: (208) 736-3033 FAX: (208) 736-3037

SOUTHERN REGION

September 13, 1999

**DIRK KEMPTHORNT
GOVERNOR**

**KARL J. DREHER
DIRECTOR**

GARY NELSON
PO BOX 465
ELBA ID 83326

RE: ADJUDICATION REVIEW OF CLAIMS A43-00246, A43-00247, A43-00248, A43-10277, AND
A43-10279

Dear Gary

I am in the process of completing the recommendations for your adjudication claims. There are a few areas that need your input.

The decreed rights A43-00246, A43-00247, A43-00248 are tentatively recommended for 36 acres within the SESW of Sec 32. A43-00246 and A43-00247 are still in Orvil Beecher's name. A change of ownership is necessary. Other than that, I do not see any problems with these rights.

Although we discussed the development for A43-10277 (the spring near the center of the property) I do not have any documentation to substantiate the claimed priority date. I have to have that information before I can make a recommendation on that right. As the property was part of the Jobe-Adams decree, the earliest priority date that can be recognized is one day after the decree date or 10-19-1928. That is assuming that the spring was developed before the decree was finalized but for some unknown reason, not included in the decree. I have identified 5.6 acres using the department GIS system as being irrigated from a gravity system. This claim is also in Orville's name and requires a change of ownership.

A43-10279 is the claim for Black Sand Creek and Franks Hollow water diverted at the point where the Barker ditch goes under Dry Creek and also meets highway. The diversion structure is a culvert leading from Dry Creek to the Barker ditch. Although the majority of water may actually arise or come from the two claimed sources, the actual diversion is from Dry Creek and any water from other sources that reach that channel is then considered to be Dry Creek water. I expect to recommend this claim with Dry Creek as the source. This claim does not have evidence of priority either. If the first time that the Dry Creek water was intentionally diverted into the Barker Ditch was when the highway department installed the culvert then that would be the priority date. If there was a previous diversion structure that the culvert replaced, then the date that the earlier structure was constructed would be the priority date. I cannot recommend this right either, until I obtain evidence of priority. This claim needs to be included in the change of ownership from Orvil to the current owner.

I did not see any problems with the claims for the home property. If you have any questions please contact me at the above number.

Sincerely

Kelly K Christensen
Sr Water Resource Agent

Enclosure

11/30/2000

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

RIGHT NUMBER: 43-247
NAME AND ADDRESS: GARY NELSON
PAULA NELSON
1950 S 1192 W
ELBA, ID 83326

VERIFIED BY KKC

SOURCE: CASSIA CREEK
CROSS CREEK
TRIBUTARY: RAFT RIVER
CASSIA CREEK

QUANTITY: 0.3 CFS

WHEN COMBINED THE FOLLOWING RIGHTS SHALL PROVIDE NO MORE THAN .02
CFS PER ACRE. COMBINED RIGHT NOS. 43-246, 43-247, 43-248, 43-10277,
AND 43-10279.

PRIORITY DATE: 04/30/1882

POINT OF DIVERSION: T14S R24E S12 NWNENW Within CASSIA County
T14S R25E S6 NWSWNE Within CASSIA County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	04-01 10-31	0.30 CFS

PLACE OF USE:

IRRIGATION Within CASSIA County
T13S R25E S32 SESW 36

36 ACRES TOTAL

USE OF THE RIGHTS LISTED BELOW IS LIMITED TO THE IRRIGATION OF
A COMBINED TOTAL OF 36 ACRES IN A SINGLE IRRIGATION SEASON.
COMBINED RIGHTS: 43-246, 43-247, 43-248, 43-10277, AND 43-10279.

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



IDAHO DEPARTMENT OF WATER RESOURCES
SOUTHERN REGION
222 SHOSHONE ST E
TWIN FALLS ID 83301
(208) 736-3033

PHILIP E BATT
GOVERNOR

KARL J DREHER
DIRECTOR

ORIVILLE BEECHER CLAIMS ANALYSIS

The claims are used on a portion of 40 acres within the SE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 32. The decree describes two exclusions of 50 feet and 20 feet along the south and east sides of the section for roadways. These exclusions total slightly greater than 2 acres. Also excluded is a lot in the southeast corner of the section of 1.5 acres. This ground is currently church property. All of the rest of the quarter is irrigated except for the pond area and ditch areas that are considered negligible. The total recommended acreage for this quarter is 36 acres. There are 3 decreed rights from Cassia Creek, one beneficial use claim from an unnamed stream locally known as Dry Wash, and one beneficial use claim for a spring fed pond all for the irrigation for all or a portion of the claimed place of use.

CASSIA CREEK - CROSS CREEK DIVERSIONS

DECREED RIGHTS: 43-00246	4-30-1880	0.30 CFS claimed as of 6-1-95
43-00247	4-30-1882	0.30 CFS claimed as of 6-1-95
43-00248	4-30-1886	<u>0.10 CFS claimed as of 8-2-95</u>
	total	0.70 CFS

The decree generically describes most tributaries as Cassia Creek within this geographical area, and Cross Creek is one so described. The Cross Creek water is delivered through the Barker ditch and irrigates a majority of the property. Cassia Creek water is delivered through the Rice Lessey Ditch and irrigates approximately 2 acres in the northwest corner of the recommended P/U. The decreed rights are taken arbitrarily from either source regardless of priority date therefore these rights are recommended for all of the P/U.

The Barker ditch enters the property at the southeast corner of the quarter/quarter and secondary ditches run north and west along the borders to irrigate the P/U via flood irrigation. The southeast corner of the property is the highest point of elevation on the property. The Barker ditch continues north (along the eastern border of the P/U to eventually reach additional users.

The re-diversion from the Rice Lessey ditch is shared with Ruel Barker for his property that lies directly north of this property.

SPRING DIVERSION

CLAIMED RIGHT: A43-10277

The spring is diverted by a small pond located in the SW $\frac{1}{4}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$ of section 32 that is within the place of use recommended for the other rights. The delivery system is ditches

running northeast and north east from the pond to the Rice Lessey Ditch. The spring water can only be applied to ground north of the pond in a roughly U shaped pattern. The pond is used to accumulate the spring water and then divert a greater flow for irrigation purposes. Water from the Barker ditch can be diverted into the pond and then delivered to the ground covered by this system.

This use was not recognized in the Jobe Adams decree, although the spring was undoubtedly being used. Therefore I am recognizing this use for a priority date of 1 day after the decree or, 10-19-1928. For the 5.6 acres identified through arcview and at 0.11 cfs.

DRY WASH DIVERSION

CLAIMED RIGHT: A43-10279

The Dry Wash is diverted into the Barker ditch via a buried pipeline that runs from a cement structure that was constructed by the highway department at the point where the Dry Wash leaves the right-of-way for the Elba-Arco highway. That stream channel is normally dry during the late spring and summer months. The diversion point is located in Twp 14S; Rng 25E; Sec 8; NE $\frac{1}{4}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$ B.M. The Dry Wash water is applied to the irrigated ground through the same delivery system as the Cross Creek Water. Although live flow from Franks Hollow and Black Sand Creek are the predominate sources for water for Dry Wash, the actual diversion is from Dry Wash and is therefore recommended as such.

This system was not identified in the Jobe Adams decree and therefore I am recognizing this use with a priority date of 1 day after the decree or 10-19-1928 for the same 36 acres covered by the decreed rights. I am recognizing this right at the claimed rate of 0.66 cfs which is slightly less than 1 in per acre.

I am recommending the source as Dry Wash per the narrative above.

WR ELEMENT	FIELD EXAM Y/N	CORRESPONDENCE SENT/RECEIVED BY WHOM/DATE	FIELD EXAM BY WHOM/DATE	CHANGE CLAIM Y/N	VERIFIED BY CODE	COMPLETED REVIEW WHOM/DATE	COMPLETED DATA ENTRY WHOM/DATE	VERIFIED DATE WHOM/DATE
PRIORITY DATE			6-12-95					
POINT OF DIV	Y							
SOURCE								
PLACE OF USE	Y							
DIV. AMOUNT CFS/VOLUME								
CONSUMPTIVE USE	-							
PURPOSES								
PERIOD OF USE	Y							
BASIS OF CLAIM								
REMARKS								

"VERIFIED BY" CODES

- TOPO MAP/ORTHO-PQ = 1
- ASCS MAP = 2
- WATERMASTER RECORDS = 3
- NAPP PHOTOS = 4
- FIELD EXAM = 5
- OTHER (SEE REMARKS) = 6

THESE CODES ARE USED TO INDICATE HOW THE FIELD EXAMINER VERIFIED THE INFORMATION
USED FOR THIS FIELD EXAMINATION. INDICATED ARE ALL CODES WHICH APPLY.

Complete overlap with 43-00246 & 43-00248

Kelly K. Christopherson
Sr. Water Resource Agent

See 43-00246
for system analysis
and recommendations.