

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 73-8B
Date Received: 1/6/1990
Receipt No: E011506
Received By:

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

1. Name of Claimant(s)

OLD CORRALS & SAGEBRUSH LLLP Phone: (208)893-5333
435 S FITNESS PL
EAGLE ID USA 83616

2. Date of Priority: 01/20/1910

3. Source: SULPHUR CREEK , SULPHUR CREEK Trib. to: PAHSIMEROI RIVER , PAHSIMEROI RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County	Type
14N	21E	24	SE SW SW	CUSTER	
14N	21E	24	SW NE NW	CUSTER	

5. Description of diverting works:

SUMP AND PUMP AT EACH DIVERSION POINT/SPRINKLERS (SEE ORIG. CLAIM

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
IRRIGATION	4/01	11/01	1.2	

7. Total Quantity Appropriated is:
1.2 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
14N	21E	13	SW SE	IRRIGATION	40

					Section Acres	40
14N	21E	24	NE	NE	IRRIGATION	18
			NW	NE	IRRIGATION	40
			SW	NE	IRRIGATION	40
			SE	NE	IRRIGATION	40
			NE	NW	IRRIGATION	38
			SE	NW	IRRIGATION	34
			NE	SW	IRRIGATION	36
			SW	SW	IRRIGATION	3
			SE	SW	IRRIGATION	38
			NE	SE	IRRIGATION	40
			NW	SE	IRRIGATION	40
			SW	SE	IRRIGATION	40
			SE	SE	IRRIGATION	40
					Section Acres	447
14N	21E	25	SE	NW	IRRIGATION	6
			NW	NE	IRRIGATION	40
			NE	NW	IRRIGATION	40
			NW	NW	IRRIGATION	22
			SW	NW	IRRIGATION	2
					Section Acres	110
14N	22E	18	SW	SW	IRRIGATION	9
			SE	SW	IRRIGATION	38
			SW	SE	IRRIGATION	40
					Section Acres	87
14N	22E	19	NW	NE	IRRIGATION	40
			SW	NE	IRRIGATION	40
			NE	NW	IRRIGATION	40
			NW	NW	IRRIGATION	39
			SW	NW	IRRIGATION	40
			SE	NW	IRRIGATION	40
			NW	SW	IRRIGATION	40
					Section Acres	279
					Total Acres	963

11. Place of use in counties: CUSTER

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

13. Other Water Rights Used:

14. Remarks:

P/D IDENTIFIED SAME AS RTS. 73-0002B & 73-0113 IN DECREE ROSCOE HAMILTON, ET AL. VS. W.G. SWENDSEN, ET AL.

CHANGED OWNERSHIP PER REQUEST/CV/09-11-00

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 73-8B
Date Received: 1/6/90
Receipt No:
Received By:

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

1. Name of Claimant(s)

SULPHUR CREEK LIVESTOCK Phone: (208)876-4405

PO BOX 151
MAY ID 83253

2. Date of Priority: 01/20/1910

3. Source: SULPHUR CREEK Trib. to: Pahsimeroi River

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4 Lot	County
14N	21E	24	SW	NE	NW	CUSTER
14N	21E	24	SE	SW	SW	CUSTER

5. Description of diverting works:

SUMP AND PUMP AT EACH DIVERSION POINT/SPRINKLERS (SEE ORIG. CLAIM

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
IRRIGATION	4/01	11/01	1.2	

7. Total Quantity Appropriated is:
1.2 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
14N	21E	13	SW	SE	IRRIGATION	40
					Section Acres	40
14N	21E	24	NE	NE	IRRIGATION	18
			NW	NE	IRRIGATION	40
			SW	NE	IRRIGATION	40
			SE	NE	IRRIGATION	40
			NE	NW	IRRIGATION	38
			SE	NW	IRRIGATION	34
			NE	SW	IRRIGATION	36
			SW	SW	IRRIGATION	3
			SE	SW	IRRIGATION	38
			NE	SE	IRRIGATION	40
			NW	SE	IRRIGATION	40
			SW	SE	IRRIGATION	40
			SE	SE	IRRIGATION	40
					Section Acres	447
14N	21E	25	SW	NW	IRRIGATION	2
			SE	NW	IRRIGATION	6
			NW	NE	IRRIGATION	40
			NE	NW	IRRIGATION	40
			NW	NW	IRRIGATION	22
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14N	22E	18	SW	SW	IRRIGATION	9
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			SW	SE	IRRIGATION	40
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14N	22E	19	NW	NE	IRRIGATION	40
			SW	NE	IRRIGATION	40
			NE	NW	IRRIGATION	40
			NW	NW	IRRIGATION	39
			SW	NW	IRRIGATION	40
			SE	NW	IRRIGATION	40
			NW	SW	IRRIGATION	40
					Section Acres	279
					Total Acres	963

11. Place of use in counties: CUSTER

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

13. Other Water Rights Used:

14. Remarks:

P/D IDENTIFIED SAME AS RTS. 73-0002B & 73-0113 IN DECREE ROSCOE HAMILTON, ET AL. VS. W.G. SWENDSEN, ET AL

CHANGED OWNERSHIP PER REQUEST/CV/09-11-00

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 A73-00008B
Date Received 1/5/90
Receipt Number E011506

NOTICE OF CLAIM
TO A
WATER RIGHT
ACQUIRED UNDER STATE LAW

RECEIVED

JAN - 5 1990

Department of Water Resources
Eastern District Office

Please type or print clearly

1. Name of Claimant (s) The Aetna Casualty & Surety Company Phone (203) 275-2094
Mailing Address ATTN: Ed Buckley, City Place, Hartford, CT Zip 06156

2. Date of Priority (Only one (1) per claim) 1/20/1910

3. Source of water supply (a) Sulphur Creek
which is tributary to (b) Pahsimeroi River

4. a. Location of existing point of diversion is: Township 14N Range 21E Section 24,
SE 1/4 of SW 1/4 of SW 1/4, Govt. Lot, B.M., County of Custer

Additional points of diversion if any: SW NE NW Sec. 24, T14N, R21E

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. Sump & pump at each diversion point,
water transported and applied to place of use by a sprinkler irrigation system.
First diversion point is near section line demarcating sections 24 & 25. A survey
would be required to pinpoint legal description.

6. Water is claimed for the following purposes:

(both dates are inclusive)

(cfs)

(acre feet)

For Irrigation purposes from 4/1 to 11/1 amount 1.2 or _____

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

7. Total quantity claimed (a) 1.2 (cfs) and/or (b) _____ (acre feet)

8. Total consumptive use claimed is 2407.5 acre feet per annum.

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

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	
14N	22E	18											9	38			40		87
14N	22E	19		40	40		40	39	40	40		40							279
14N	21E	13															40		40
14N	21E	24	18	40	40	40	38			34	36		3	38	40	40	40	40	447
14N	21E	25		40			40	22	2	6									110

Total number of acres irrigated 963

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

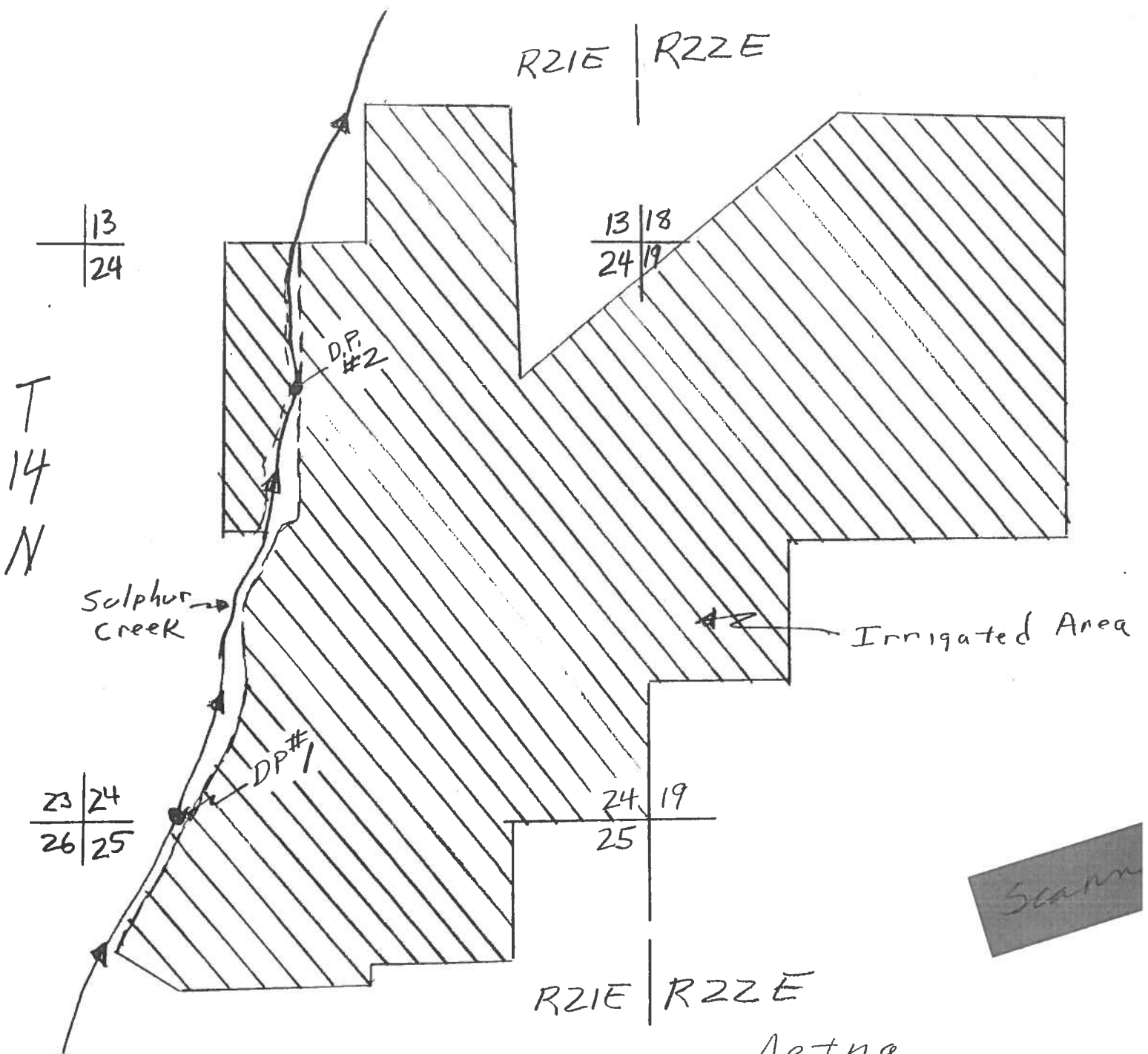
12. Do you own the property listed above as place of use? Yes X No _____
If your answer is No, describe in Remarks below the authority you have to claim this water right.

13. Describe any other water rights used at the same place and for the same purposes as described above.
#73-00113, 73-0002B, 73-00140, 73-0007A, 73-7000, 73-2164 or None ()

14. Remarks:

Last Name Aetna Ident No. _____

Copies: White -State, Yellow-Claimant



Aetna
Claim #140,

Approx Scale - 4" = 1 mile

Scale: 2 inches equals 1 mile

A 16x16 grid of squares. Each square contains a small crosshair pattern consisting of a vertical line and a horizontal line intersecting at the center. The lines are thin and black, and the grid is composed of solid black lines.

Copies: White-State, Yellow-Claimant

15. Basis of Claim (check one) Beneficial Use _____ Posted Notice _____ License _____ Permit _____
Decree X
If applicable provide IDWR Water Right Number 73-0008B
Court Sixth Judicial District Case Number _____ Decree Date 1957
Plaintiff vs Defendant Herder v. Beurstedt

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

Signature of Claimant (s) _____ Date _____

Date _____

For Organizations: I do solemnly swear or affirm that I am Edward Buckley, Vice-President
Title
of Aetna Realty Investors, Inc. , that I have signed the foregoing
Organization
document in the space below as Attorney-in-Fact of The Aetna Casualty & Surety Co.
Title Organization
and that the statements contained in the foregoing document are true and correct.

Signature of Authorized Agent Edward Buckley
Title and Organization Attorney-in-Fact, The Aetna Casualty & Surety Co. Date 12/18/89

State of Idaho/or Connecticut)
County of Hartford) SS.

Subscribed and sworn (or affirmed) before me this 18th day of December 19 89

SEAL

Notary Public Marianna Petrocelli
Residing at New Haven County
My Commission Expires March 31, 1994

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 The Aetna Casualty & Surety Co. Ident. Number _____

Copies White-State, Yellow-Claimant

05/12/2010

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

RIGHT NUMBER: 73-8B

NAME AND ADDRESS: SULPHUR CREEK--LIVESTOCK
PO--BOX--151
MAY--ID--83253

BIG CREEK RANCH LLC
280 CRANBROOK DR
HAILEY ID 83333

SOURCE: SULPHUR CREEK

TRIBUTARY: PAHSIMEROI RIVER

QUANTITY: 1.200 CFS

PRIORITY DATE: 01/20/1910

POINT OF
DIVERSION: T14N R21E S24 SENW Within CUSTER County
T14N R21E S24 SWSW Within CUSTER County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	04/01 10/31	1.200 CFS

PLACE OF USE: IRRIGATION in CUSTER County

T14N R21E S13 SWSE 40.00	T14N R21E S24 NENE 18.00
T14N R21E S24 NWNE 40.00	T14N R21E S24 SWNE 39.00
T14N R21E S24 SENE 40.00	T14N R21E S24 NENW 38.00
T14N R21E S24 SENW 34.00	T14N R21E S24 NESW 36.00
T14N R21E S24 SWSW 4.10	T14N R21E S24 SESW 40.00
T14N R21E S24 NESE 40.00	T14N R21E S24 NWSE 40.00
T14N R21E S24 SWSE 40.00	T14N R21E S24 SESE 40.00
T14N R21E S25 NWNE 40.00	T14N R21E S25 NENW 40.00
T14N R21E S25 NWNW 22.00	T14N R21E S25 SWNW 3.60
T14N R21E S25 SENW 6.80	T14N R22E S18 Lot 4 SWSW 10.00
T14N R22E S18 SESW 38.00	T14N R22E S18 SWSE 40.00
T14N R22E S19 NWNE 40.00	T14N R22E S19 SWNE 40.00
T14N R22E S19 NENW 40.00	T14N R22E S19 Lot 1 NWNW 39.00
T14N R22E S19 Lot 2 SWNW 36.00	T14N R22E S19 SENW 40.00
T14N R22E S19 Lot 3 NWSW 37.00	

961-5 951.1 ACRES TOTAL

The rights listed below are limited to the irrigation of a combined total of 961-5 951.1 acres in a single irrigation season. Combined Right Nos.: 73-2B, 73-7A, 73-7B, 73-8B, 73-113, 73-140, 73-2164, 73-7000.

This right is limited to the irrigation of 60 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.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Decreed

Right includes accomplished change in place of use pursuant to Section 42-1425, Idaho Code.

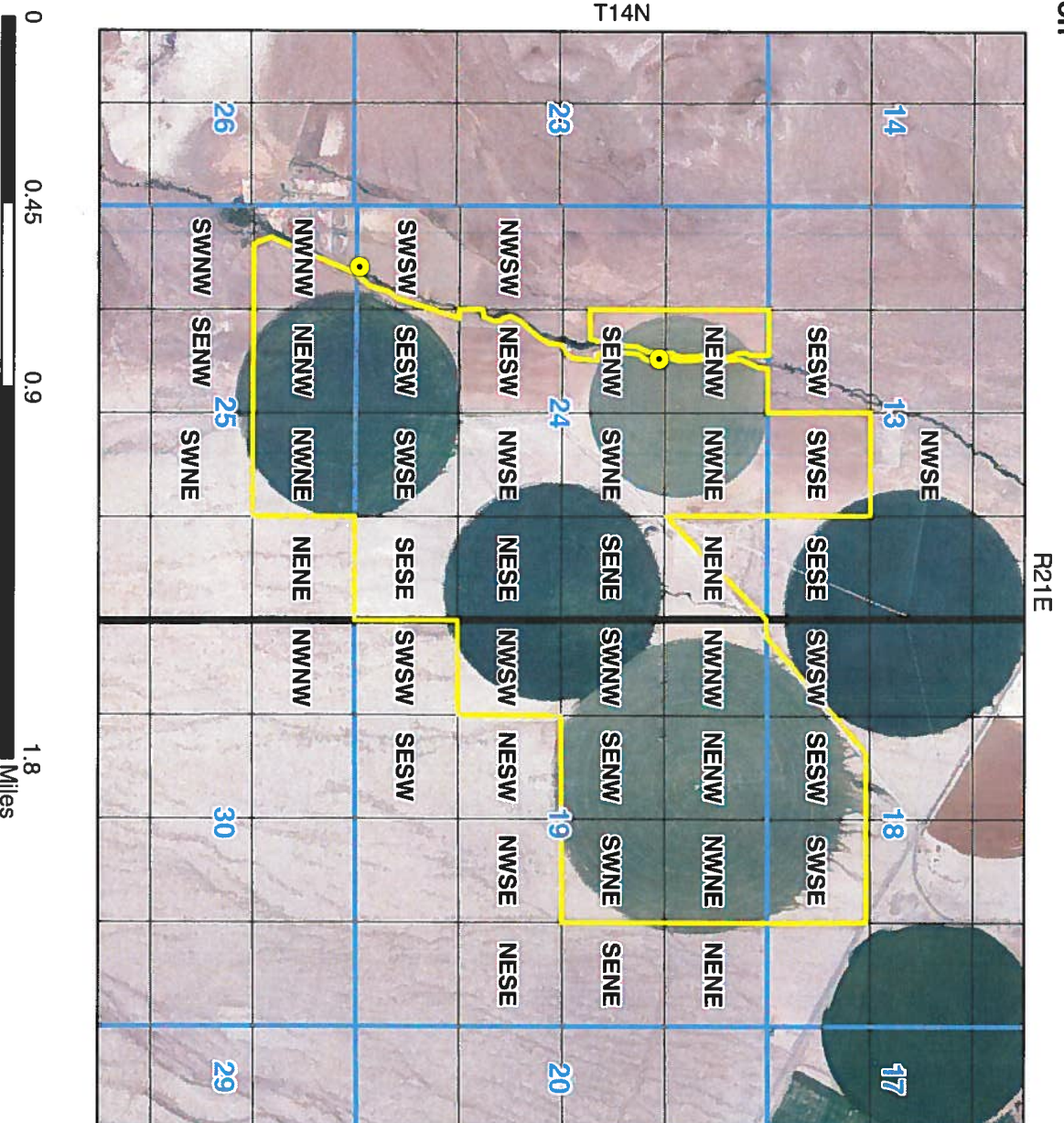
The following rights are diverted through points of diversion described above: 73-2B, 73-7A, 73-7B, 73-8B, 73-113 and 73-140.

73-8B

Legend

-

Prepared by Craig Saxton
On May 14, 2010



RECEIVED

DEC 19 2007

DEPARTMENT OF
WATER RESOURCES

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

A. Subcase 73-00008B
(Insert water right number)

STANDARD FORM 1
OBJECTION

Please fill in the following information:

B. NAME AND ADDRESS OF PERSON OBJECTING

Name: United States of America acting through the Department of Interior, Bureau
of Land Management, Idaho State Office

Address: 1387 South Vinnell Way
Boise, Idaho 83709-1657

Daytime Phone: see below

Name & Address of Attorney, if any:

Larry A. Brown (202) 305-0435 phone, (202) 305-0274 fax
United States Department of Justice
Environment and Natural Resource Division
General Litigation Section
550 West Fort Street, MSC 033
Boise, Idaho 83724

C. CLAIMANT OF WATER RIGHT AS LISTED IN DIRECTOR'S REPORT

Name: Old Corrals & Sagebrush, LLLP

Address: 435 S. Fitness Place; Eagle, Idaho 83616

Name: AIX Sponsa Company, General Partner; c/o Brett MacNeil, President

Address: 12324 W. Lanktree Gulch Road; Star, Idaho 83669-5170

Name: FOGO, L.L.C., General Partner; c/o Wilford R. Cardon, Agent

Address: 1819 E. Southern Ave., Ste B-10; Mesa, AZ 85204-5219

Name:

Address: ;

D. I object to the following elements as recommended in the Director's Report. (Please check the appropriate box(es)).

1. ☐ **Name and Address**
Should be:

2. ☐ **Source**
Should be:

3. ☐ **Quantity**
Should be:

4. ☐ **Priority Date**
Should be:

5. ☐ **Point(s) of Diversion**
Should be:

6. ☐ **Instream Flow Description**
Should be:

7. ☐ **Purpose(s) of Use**
Should be:

8. ☐ **Period of Year**
Should be:

9. ☒ **Place of Use**
Should be: See attached.

11. **I object because:**

☐ This water right should not exist.

☐ This water right was not recommended, but should be recommended with the elements described above.

E. REASONS SUPPORTING OBJECTION(S):

The United States of America, through the Bureau of Land Management, is the owner of the land upon which a portion of the use is claimed. The claimant's use of Federal land is unauthorized. Claimant's water right should not include federal public land.

F.

VERIFICATION (Must be Completed)

State of Idaho

)

) ss.

County of ADA

)

Fredric W. Price, Water Rights Specialist, duly sworn, upon oath, deposes and says:

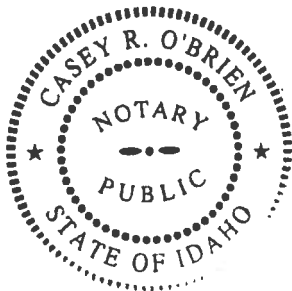
(Name of person filing objection)

That I am the party/claimant filing this objection, as defined by I.C. §§ 42-1401A(1) and (6) or that I am the attorney for the party/claimant objecting and that I have read this objection, know its contents and believe that the statements are true to the best of my knowledge.

Fredric W. Price
(Signature of person filing objection)

Casey R. O'Brien
(Attorney signing in representative capacity)

Subscribed and sworn to before me on: December 17, 2007



Casey R. O'Brien

Notary Public for State of Idaho

Residing at: Nampa, ID.

My Commission Expires: 10-31-2009

INSTRUCTIONS FOR MAILING

You must mail the objection, to the Clerk of the Court. **FAX filings will not be accepted.**
You must also send a copy to all the parties listed below in the Certificate of Mailing.

G.

CERTIFICATE OF MAILING

I certify that on November 18, 2007, I mailed the original and copies of this objection, including all attachments, to the following persons:

1. Original to:

Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
P.O. Box 2707
Twin Falls, ID 83303-2707

2. One copy to the claimant of the water right at the following address:

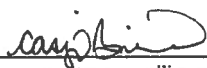
Name: Old Corrals & Sagebrush, LLLP
Address: 435 S. Fitness Place; Eagle, Idaho 83616
Name: AIX Sponsa Company, General Partner; c/o Brett MacNeil, President
Address: 12324 W. Lanktree Gulch Road; Star, Idaho 83669-5170
Name: FOGO, L.L.C., General Partner; c/o Wilford R. Cardon, Agent
Address: 1819 E. Southern Ave., Ste B-10; Mesa, AZ 85204-5219
Name:
Address: ;

3. Copies to:

IDWR Document Depository
P.O. Box 83720
Boise, ID 83720-0098

Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
P.O. Box 44449
Boise, ID 83711-4449

United States Department of Justice
Environment and Natural Resource Division
550 West Fort Street, MSC 033
Boise, ID 83724



Signature of Objector or attorney mailing on Objector's behalf

POST DIRECTOR'S REPORT NLAP

08/14/2007

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

RIGHT NUMBER: 73-8B

NAME AND ADDRESS: OLD CORRALS & SAGEBRUSH LLLP
435 S FITNESS PL
EAGLE ID 83616

SOURCE: SULPHUR CREEK

TRIBUTARY: PAHSIMEROI RIVER

QUANTITY: 1.200 CFS

PRIORITY DATE: 01/20/1910

POINT OF
DIVERSION:

T14N R21E S24 SENW Within CUSTER County
T14N R21E S24 SWSW Within CUSTER County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE		PERIOD OF USE		QUANTITY	
IRRIGATION		04/01 10/31		1.200 CFS	
PLACE OF USE:	<u>IRRIGATION in CUSTER County</u>				
T14N R21E S13	SWSE	40.00	T14N R21E S24	NENE	18.00
T14N R21E S24	NWNE	40.00	T14N R21E S24	SWNE	39.00
T14N R21E S24	SENE	40.00	T14N R21E S24	NENW	38.00
T14N R21E S24	SENW	34.00	T14N R21E S24	NESW	36.00
T14N R21E S24	SWSW	4.10	T14N R21E S24	SESW	40.00
T14N R21E S24	NESE	40.00	T14N R21E S24	NWSE	40.00
T14N R21E S24	SWSE	40.00	T14N R21E S24	SESE	40.00
T14N R21E S25	NWNE	40.00	T14N R21E S25	NENW	40.00
T14N R21E S25	NWNW	22.00	T14N R21E S25	SWNW	3.60
BLM T14N R21E S25	SENW	6.80	T14N R22E S18 Lot 4	SWSW	10.00
T14N R22E S18	SESW	38.00	T14N R22E S18	SWSE	40.00
T14N R22E S19	NWNE	40.00	T14N R22E S19	SWNE	40.00
T14N R22E S19	NENW	40.00	T14N R22E S19 Lot 1	NWNW	39.00
T14N R22E S19 Lot 2	SWNW	36.00	T14N R22E S19	SENW	40.00
T14N R22E S19 Lot 3	NWSW	37.00			

961.5 ACRES TOTAL

The rights listed below are limited to the irrigation of a combined total of 961.5 acres in a single irrigation season. Combined Right Nos.: 73-2B, 73-7A, 73-7B, 73-8B, 73-113, 73-140, 73-2164, 73-7000

This right is limited to the irrigation of 60 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.

Unauthorized Use:
- remove public land.

BLM

EXPLANATORY MATERIAL: BASIS OF CLAIM - Decreed

The following rights are diverted through points of diversion described above: 73-2B, 73-7A, 73-7B, 73-8B, 73-113 and 73-140.

Right includes accomplished change in place of use pursuant to Section 42-1425, Idaho Code.

73-00002B, 73-00007A,
73-00007B, 73-00008B,
73-00113, 73-00140

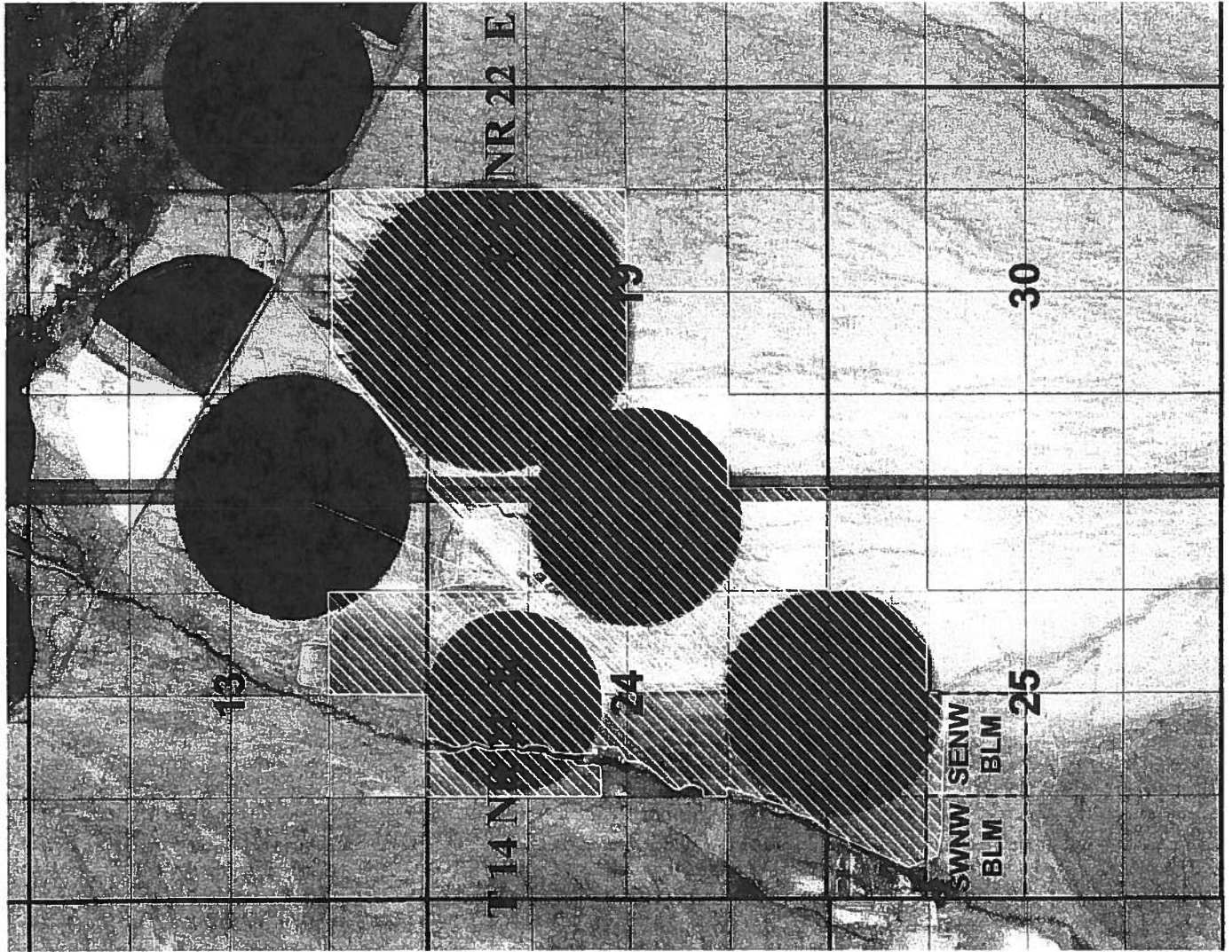
Old Corrals & Sagebrush, LLLP

POUs on BLM:

-The places of use T14N R21E S25 SWNW and
SENW are BLM land.

-Use is not authorized.

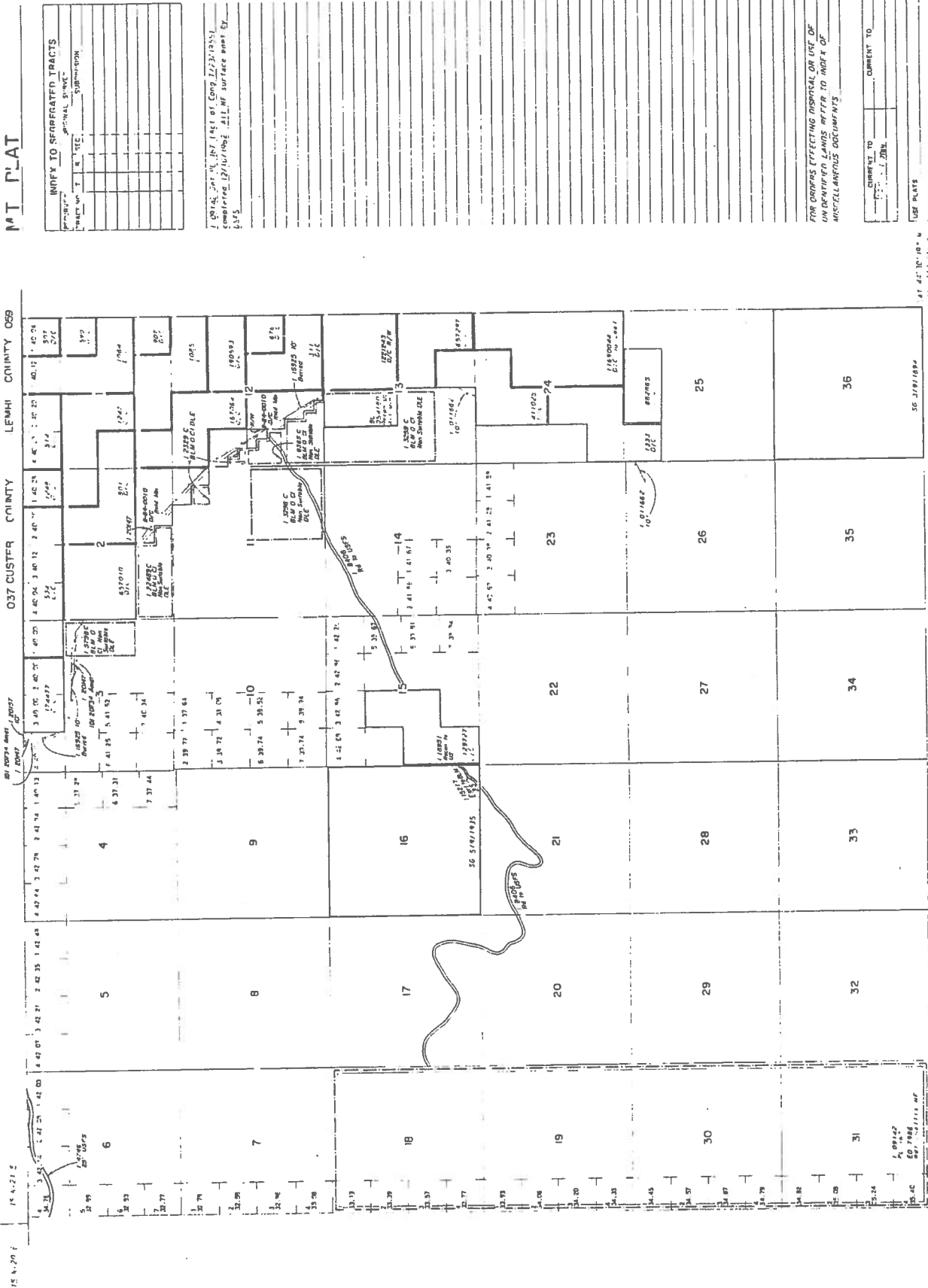
-Remove from recommendation and adjust shapefile
accordingly.



Township 14 North Range 21 East of the Boise Meridian, Idaho

STATUS OF PUBLIC DOMAIN
LAND AND MINERAL TITLES

SALMON DISTRICT SEC. 3



15 N. 20 E. 14 N. 21 E. 037 CUSTER COUNTY LEMHI COUNTY 009

INDEX TO SEPARATED TRACTS

TRACT NO.	SECTION	OWNER	ACREAGE	DATE
1	1	J. H. HARRIS	3.40	1900
2	2	J. H. HARRIS	3.40	1900
3	3	J. H. HARRIS	3.40	1900
4	4	J. H. HARRIS	3.40	1900
5	5	J. H. HARRIS	3.40	1900
6	6	J. H. HARRIS	3.40	1900
7	7	J. H. HARRIS	3.40	1900
8	8	J. H. HARRIS	3.40	1900
9	9	J. H. HARRIS	3.40	1900
10	10	J. H. HARRIS	3.40	1900
11	11	J. H. HARRIS	3.40	1900
12	12	J. H. HARRIS	3.40	1900
13	13	J. H. HARRIS	3.40	1900
14	14	J. H. HARRIS	3.40	1900
15	15	J. H. HARRIS	3.40	1900
16	16	J. H. HARRIS	3.40	1900
17	17	J. H. HARRIS	3.40	1900
18	18	J. H. HARRIS	3.40	1900
19	19	J. H. HARRIS	3.40	1900
20	20	J. H. HARRIS	3.40	1900
21	21	J. H. HARRIS	3.40	1900
22	22	J. H. HARRIS	3.40	1900
23	23	J. H. HARRIS	3.40	1900
24	24	J. H. HARRIS	3.40	1900
25	25	J. H. HARRIS	3.40	1900
26	26	J. H. HARRIS	3.40	1900
27	27	J. H. HARRIS	3.40	1900
28	28	J. H. HARRIS	3.40	1900
29	29	J. H. HARRIS	3.40	1900
30	30	J. H. HARRIS	3.40	1900
31	31	J. H. HARRIS	3.40	1900
32	32	J. H. HARRIS	3.40	1900
33	33	J. H. HARRIS	3.40	1900
34	34	J. H. HARRIS	3.40	1900
35	35	J. H. HARRIS	3.40	1900
36	36	J. H. HARRIS	3.40	1900

FOR ORDERS EFFECTING DISPOSAL OR USE OF
UNIDENTIFIED LANDS REFER TO INDEX OF
MISCELLANEOUS DOCUMENTS

CURRENT TO: _____ CURRENT TO: _____

15 N. 20 E. 14 N. 21 E. 037 CUSTER COUNTY LEMHI COUNTY 009

THE NOTATION SHOWN ON WITHDRAWALS REPRESENT THE LAST
ACTION TAKEN BUT MAY NOT BE THE EFFECTIVE DATE. SEE
THE HISTORICAL INDEX FOR THE DATE OF THE ORIGINAL WITH-
DRAWAL ORDER

ORIGINAL DIRECTOR'S REPORT

01/23/2007

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

RIGHT NUMBER: 73-8B
NAME AND ADDRESS: SULPHUR CREEK LIVESTOCK
PO BOX 151
MAY ID 83253
SOURCE: SULPHUR CREEK TRIBUTARY: PAHSIMEROI RIVER
QUANTITY: 1.200 CFS
PRIORITY DATE: 01/20/1910
POINT OF DIVERSION: T14N R21E S24 SENW Within CUSTER County
T14N R21E S24 SWSW Within CUSTER County
PURPOSE AND PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
IRRIGATION	04/01 10/31	1.200 CFS

PLACE OF USE: IRRIGATION in CUSTER County

T14N R21E S13	SWSE	40.00	T14N R21E S24	NENE	18.00
T14N R21E S24	NWNE	40.00	T14N R21E S24	SWNE	39.00
T14N R21E S24	SENE	40.00	T14N R21E S24	NENW	38.00
T14N R21E S24	SENW	34.00	T14N R21E S24	NESW	36.00
T14N R21E S24	SWSW	4.10	T14N R21E S24	SESW	40.00
T14N R21E S24	NESE	40.00	T14N R21E S24	NWSE	40.00
T14N R21E S24	SWSE	40.00	T14N R21E S24	SESE	40.00
T14N R21E S25	NWNE	40.00	T14N R21E S25	NENW	40.00
T14N R21E S25	NWNW	22.00	T14N R21E S25	SWNW	3.60
BLM T14N R21E S25	SENW	6.80	T14N R22E S18 Lot 4	SWSW	10.00
T14N R22E S18	SESW	38.00	T14N R22E S18	SWSE	40.00
T14N R22E S19	NWNE	40.00	T14N R22E S19	SWNE	40.00
T14N R22E S19	NENW	40.00	T14N R22E S19 Lot 1	NWNW	39.00
T14N R22E S19 Lot 2	SWNW	36.00	T14N R22E S19	SENW	40.00
T14N R22E S19 Lot 3	NWSW	37.00			

961.5 ACRES TOTAL

The rights listed below are limited to the irrigation of a combined total of 961.5 acres in a single irrigation season. Combined Right Nos.: 73-2B, 73-7A, 73-7B, 73-8B, 73-113, 73-140, 73-2164, 73-7000

This right is limited to the irrigation of 60 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.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Decreed

The following rights are diverted through points of diversion described above: 73-2B, 73-7A, 73-7B, 73-8B, 73-113 and 73-140.

Right includes accomplished change in place of use pursuant to Section 42-1425, Idaho Code.

POUs on BLM:

-The places of use T14N R21E S25 SWNW and SENW are BLM land.

-Use is not authorized.

-Remove from recommendation and adjust shapefile accordingly.

08/14/2007

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

RIGHT NUMBER: 73-8B

NAME AND ADDRESS: OLD CORRALS & SAGEBRUSH LLLP
435 S FITNESS PL
EAGLE ID 83616

SOURCE: SULPHUR CREEK TRIBUTARY: PAHSIMEROI RIVER

QUANTITY: 1.200 CFS

PRIORITY DATE: 01/20/1910

POINT OF DIVERSION:

T14N R21E S24 SENW Within CUSTER County
T14N R21E S24 SWSW Within CUSTER County

PURPOSE AND PERIOD OF USE:

	<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
	IRRIGATION	04/01 10/31	1.200 CFS
PLACE OF USE:	<u>IRRIGATION in CUSTER County</u>		
	T14N R21E S13 SWSE	40.00	T14N R21E S24 NENE 18.00
	T14N R21E S24 NWNE	40.00	T14N R21E S24 SWNE 39.00
	T14N R21E S24 SENE	40.00	T14N R21E S24 NENW 38.00
	T14N R21E S24 SENW	34.00	T14N R21E S24 NESW 36.00
	T14N R21E S24 SWSW	4.10	T14N R21E S24 SESW 40.00
	T14N R21E S24 NESE	40.00	T14N R21E S24 NWSE 40.00
	T14N R21E S24 SWSE	40.00	T14N R21E S24 SESE 40.00
	T14N R21E S25 NWNE	40.00	T14N R21E S25 NENW 40.00
	T14N R21E S25 NWNW	22.00	T14N R21E S25 SWNW 3.60
	T14N R21E S25 SENW	6.80	T14N R22E S18 Lot 4 SWSW 10.00
	T14N R22E S18 SESW	38.00	T14N R22E S18 SWSE 40.00
	T14N R22E S19 NWNE	40.00	T14N R22E S19 SWNE 40.00
	T14N R22E S19 NENW	40.00	T14N R22E S19 Lot 1 NWNW 39.00
	T14N R22E S19 Lot 2 SWNW	36.00	T14N R22E S19 SENW 40.00
	T14N R22E S19 Lot 3 NWSW	37.00	

961.5 ACRES TOTAL

The rights listed below are limited to the irrigation of a combined total of 961.5 acres in a single irrigation season. Combined Right Nos.: 73-2B, 73-7A, 73-7B, 73-8B, 73-113, 73-140, 73-2164, 73-7000

This right is limited to the irrigation of 60 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.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Decreed

The following rights are diverted through points of diversion described above: 73-2B, 73-7A, 73-7B, 73-8B, 73-113 and 73-140.

Right includes accomplished change in place of use pursuant to Section 42-1425, Idaho Code.



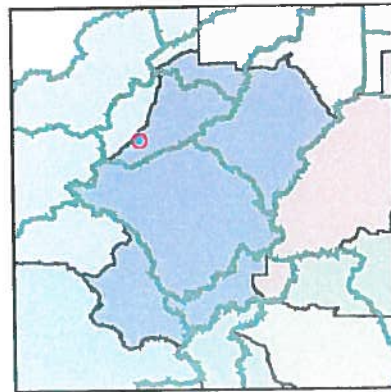
Idaho Department of Water Resources

Adjudication Claims:

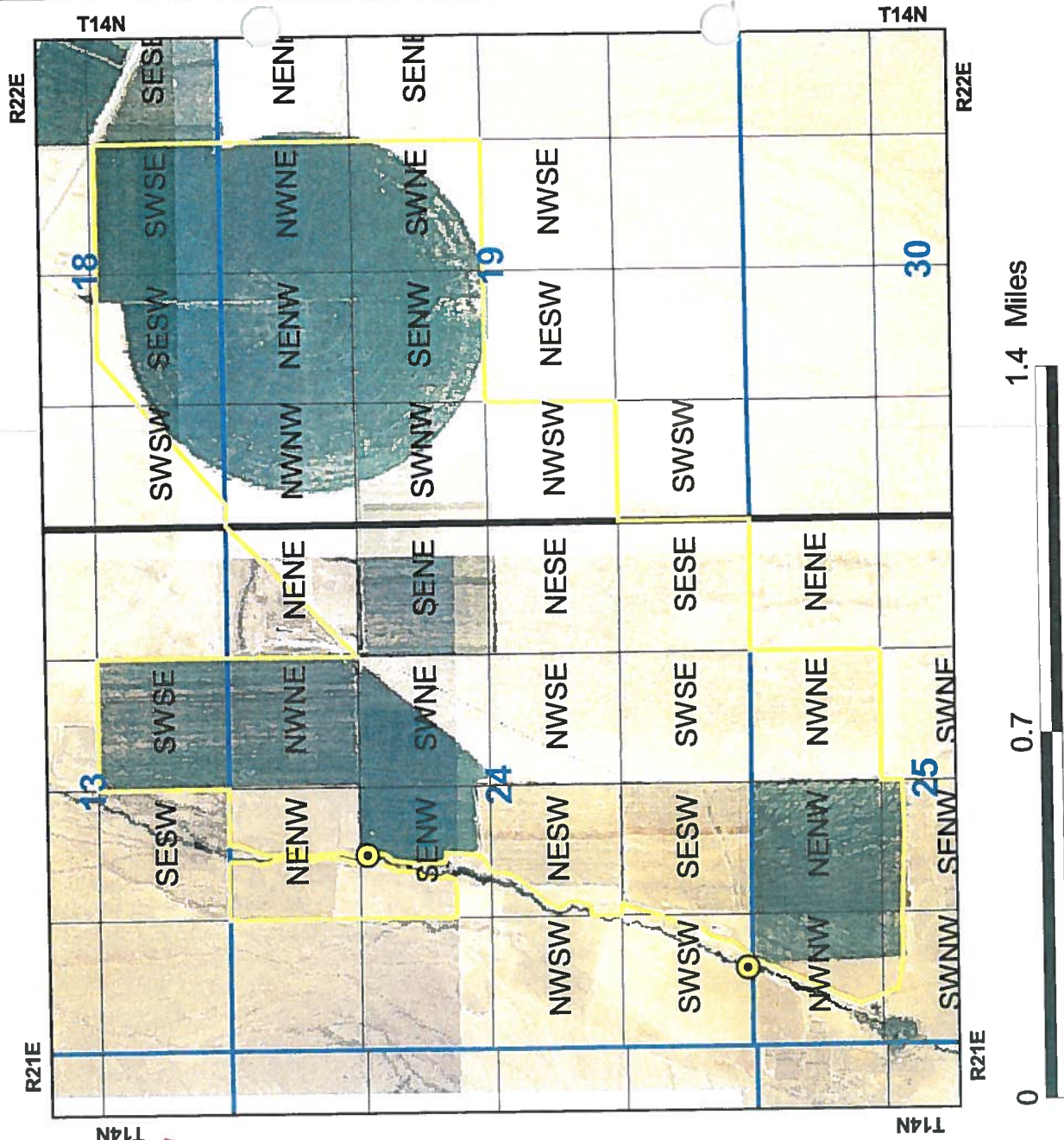
**73-2B, 73-7A,
73-7B, 73-8B, 73-113,
73-140**

Legend

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



Custer County
IDWR Basin 73



Prepared by R. Brown
On Friday, March 31, 2006
1987/88 Aerial Photography

03/31/2006

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

RIGHT NUMBER: 73-8B
NAME AND ADDRESS: SULPHUR CREEK LIVESTOCK
PO BOX 151
MAY ID 83253
SOURCE: SULPHUR CREEK TRIBUTARY: PAHSIMEROI RIVER
QUANTITY: 1.200 CFS
PRIORITY DATE: 01/20/1910
POINT OF DIVERSION:

T14N R21E S24 SENW Within CUSTER County
T14N R21E S24 SWSW Within CUSTER County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	04/01 10/31	1.200 CFS

PLACE OF USE: IRRIGATION Within CUSTER County

T14N R21E S13	SWSE	40.00	T14N R21E S24	NENE	18.00
T14N R21E S24	NWNE	40.00	T14N R21E S24	SWNE	39.00
T14N R21E S24	SENE	40.00	T14N R21E S24	NENW	38.00
T14N R21E S24	SENE	34.00	T14N R21E S24	NESW	36.00
T14N R21E S24	SWSW	4.10	T14N R21E S24	SESW	40.00
T14N R21E S24	NESE	40.00	T14N R21E S24	NWSE	40.00
T14N R21E S24	SWSE	40.00	T14N R21E S24	SESE	40.00
T14N R21E S25	NWNE	40.00	T14N R21E S25	NENW	40.00
T14N R21E S25	NWNW	22.00	T14N R21E S25	SWNW	3.60
T14N R21E S25	SENE	6.80	T14N R22E S18 Lot 4	SWSW	10.00
T14N R22E S18	SESW	38.00	T14N R22E S18	SWSE	40.00
T14N R22E S19	NWNE	40.00	T14N R22E S19	SWNE	40.00
T14N R22E S19	NENW	40.00	T14N R22E S19 Lot 1	NWNW	39.00
T14N R22E S19 Lot 2	SWNW	36.00	T14N R22E S19	SENE	40.00
T14N R22E S19 Lot 3	NWSW	37.00			

961.5 ACRES TOTAL

The rights listed below are limited to the irrigation of a combined total of 961.5 acres in a single irrigation season. Combined Right Nos.: 73-2B, 73-7A, 73-7B, 73-8B, 73-113, 73-140, 73-2164, 73-7000

This right is limited to the irrigation of 60 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.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Decreed

03/31/2006

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

The following rights are diverted through points of diversion described above: 73-2B, 73-7A, 73-7B, 73-8B, 73-113 and 73-140.

Right includes accomplished change in place of use pursuant to Section 42-1425, Idaho Code.

3-4/2	50 SHEETS, FILLER	5 SQUARE
12-381	50 SHEETS EYE-EASE®	5 SQUARE
12-382	100 SHEETS EYE-EASE®	5 SQUARE
12-385	200 SHEETS EYE-EASE®	5 SQUARE
12-392	100 RECYCLED WHITE	5 SQUARE
12-399	200 RECYCLED WHITE	5 SQUARE



Groundwater

73-2164	10/6/1966	5.0 cfs	366	XX
73-7000	10/26/1967	3.0 cfs	$\frac{232}{598}$	XX

+ trans. #1577

XX same POD as 73-7000

R Brown 3/31/06

MEMORANDUM

TO: Files Referenced in Review
FROM: Roberta Garrett *rg*
THRU: Dave Tuthill *DPT*
DATE: March 13, 1985

RE: Review of Sulphur Creek Decreed Rights Split by Decree
With Reference to Julius Maelzer's Rights in the Following Decrees:

Cochran vs. Maelzer (10-3-1901)
Hamilton vs. Swendsen (2-17-1926)
Maelzer vs. Smith (4-29-1920)
Herder vs. Burstedt (12-30-1957)

Right No. 73-0002, Cochran vs. Maelzer (10-3-1901)

The decree of Holiday H. Cochran vs. Valentine Maelzer dated October 3, 1901, awarded Cochran 370 inches (7.4 cfs) of the waters of Sulphur Creek dating from the years 1884 and 1891.

Of the 7.4 cfs waters of Sulphur Creek awarded to Cochran, 0.6 cfs (5-1-1884) was decreed to Julius Maelzer (No. 73-0001) in the decree of Roscoe Hamilton vs. W. G. Swendsen, date of February 17, 1926. The decree of 1926 split right No. 73-0002 with 6.8 cfs to Cochran and 0.6 cfs of Sulphur Creek water to Julius Maelzer.

Right No. 73-0002A, Cochran vs. Maelzer (10-3-1901)
and
Right No. 73-0002B, Hamilton vs. Swendsen (2-17-1926)

To reflect this split by decree, right No. 73-0001 is renumbered and changed to 73-0002B to identify the 0.6 cfs decreed to Julius Maelzer that was a part of Cochran's 1884 decreed right. 73-0002A is

RECEIVED
JUL 30 1996

issued to Holiday H. Cochran for his remaining 6.8 cfs from Sulphur Creek.

Right No. 73-0113 Hamilton vs. Swendsen (2-17-1926)
and
License No. 73-2079 issue date of August 7, 1916

In addition to the 0.6 cfs, No. 73-0002B (formerly 73-0001), Julius Maelzer was awarded 2.8 cfs (5-11-1911) of the waters of Sulphur Creek, decreed right No. 73-0113. At the date of the decree in 1926, the Department had on record License No. 73-2079 issued to Julius Maelzer for 3.0 cfs (5-8-1912) of the waters of Sulphur Creek for the irrigation of 150 acres. Julius Maelzer and his lands described in the license were enjoined in the decree of 1926. License No. 73-2079 is considered superseded by decree of Hamilton, et al. vs. Swendsen, et al., right No. 73-0113.

Right No. 73-0002B Trans. No. 1576
and
Right No. 73-0113 Trans. No. 1576

Bolen Uresti made Application for Transfer of the waters of Sulphur Creek in the 1926 decree of the rights under the name of Julius Maelzer. The transfer, approved December 17, 1968, removed 0.6 cfs, right No. 73-0002B (formerly 73-0001), and 2.8 cfs, right No. 73-0113, off the lands described in the decree to 160 acres in the SE4, Sec. 24, T.14N., R.21E.

License No. 73-2164, groundwater (10-9-1966). The lands described in the decree of 1926, or a portion thereof, along with other lands were placed under irrigation from a groundwater right, License No. 73-2164, with a priority date of October 9, 1966. The

JUL 30 1996

land described in the decree identified on the licensed right is as follows:

T.14N., R.21E.

Sec. 13: SW4SE4 (40 acres)

Sec. 24: NW4NE4 (40 acres)
NE4NW4 (38 acres)
SE4NW4 (34 acres)

Also appurtenant to the above described land is decreed right No. 73-0141 (number changed to 73-0008B) for 1.2 cfs (60 inches) of the waters of Sulphur Creek in the decree of December 30, 1957, William S. Herder and Blanche A. Herder vs. Claus Burstedt.

Right No. 73-0008, Maelzer vs. Smith (4-29-1920)

and

Right No. 73-0141, Herder vs. Burstedt (12-30-1957) (73-H)

The decree of Valentine Maelzer, et al. vs. J. H. Smith, et al., dated April 29, 1920, awarded J. A. Harrington a priority date of January 20, 1910, for 120 inches (2.4 cfs) of the waters of Sulphur Creek, right No. 73-0008. The lands were described as follows:

T.14N., R.21E.

Sec. 13: NE4NE4

T.14N., R.22E.

Sec. 18: NW4SW4 } Forfeited as of 1957

The decree of William S. Herder and Blanche A. Herder vs. Claus Burstedt, et al., dated December 30, 1957, declared 60 inches of the waters of Sulphur Creek appurtenant to Lot 3 (NW4SW4), Sec. 18, T.14N., R.22E., last above described land, to be forfeited, abandoned after date of April 29, 1920, by Harrington, owner of the right (No. 73-0008), in the decree of 1920.

JUL 30 1996

The Herders were awarded the 60 inches (1.2 cfs), as against defendant Burstedt, by open, notorious and adverse use of such water since 1943, and by the appropriation and use of the said water by the Herders and their predecessors in interest from the year 1920.

The use of the water was placed under the provisions of the decree dated February 17, 1926, under the name of Julius Maelzer. The lands described in the decree of 1957 are the same lands under Julius Maelzer's rights, Nos. 73-0002B and 73-0113, prior to Transfer No. 1576.

T.14N., R.21E.

Sec. 13: SW4SE4

Sec. 24: NW4NE4, E2NW4

} pow for
73-8B

The decree of 1957 split right No. 73-0008 from Sulphur Creek with 1.2 cfs (60 inches) to J. A. Harrington and 1.2 cfs (60 inches) to the Herders.

Right No. 73-0008A, Maelzer vs. Smith (4-29-1920)
and

Right No. 73-0008B, Herder vs. Burstedt (12-30-1957) 73-14

To reflect this split by decree, right No. 73-0141 is renumbered and changed to 73-0008B to identify the 60 inches (1.2 cfs) of the waters of Sulphur Creek awarded to the Herders that was a part of the 120 inches (2.4 cfs) decreed to J. A. Harrington. 73-0008A is issued to Harrington for the remaining 60 inches (1.2 cfs) of the waters of Sulphur Creek appurtenant to the NE4NE4, Sec. 13, T.14N., R.21E.

1301996

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE STATE OF IDAHO,
COUNTY OF CUSTER.

Valentine Maslner, Frankie Maslner,
J. A. Harrington, Etta M. Harrington,
Mark L. Hume, William Babcock, John
W. Norbitt, William J. Knight,
Milla Hume,

Plaintiffs,

vs.

DECREE.

J. H. Smith, State Engineer, and Ray
Mahoney, Watermaster of the Pahram-
arai River, et al.

Defendants.

This cause having been heretofore, to-wit, on March 6th, 1918, and April 22nd, 1919,
duly and regularly brought on for hearing in open Court at Challis, Custer County, Idaho,
before the Honorable F. J. Cowen, District Judge, W. W. Adamson appearing as counsel for
the plaintiffs and for Charles Warren, Intervener, and Clark & Redhead appearing as coun-
sel for the defendants and cross-complainants, William H. Brown, Adelle B. Brown, J. J.
Bauman and Celia Bauman, and A. J. Higgins and George L. Ambrose appearing as counsel for
the defendants and cross-complainants, J. W. Thompson and Malinda J. Thompson, his wife,
D. G. Taggart, William J. Frany, Ella V. Christian, Edwin Hansen and Clara Hansen, his
wife, George May, David May, John George May, Joseph C. May and Oliver William Gull, and
evidence having been submitted on the part of the plaintiffs and on the part of the de-
fendants and interveners; and the said cause having come on regularly before the said
Honorable F. J. Cowen, District Judge, in open Court at Challis, Custer County, Idaho,
on April 27th, 1920, for consideration by the said Court as to the proper findings of fact
and conclusions of law and decrees to be entered in said cause, and all parties plaintiff
and all parties defendant being represented by their respective counsel; and the Court,
having seen and understood the pleadings filed herein and the evidence submitted by the
respective parties and having duly considered the same, and having filed findings of fact
and conclusions of law,

it is by virtue of the law and in accordance with such findings of fact and conclusions
of law, by the Court, ORAINED, ADJUDGED AND DECREED as follows, to-wit:-

I.

That the plaintiff, Valentine Maslner, is entitled to and is hereby decreed 90 inches,
or 1.5 second feet, with date of priority of January 20th, 1910, of the waters of the
Pahramarai River, for use upon his said lands, and which said right is appurtenant to the
following described land, to-wit:-

S $\frac{1}{2}$ S $\frac{1}{2}$, Sec. 1, E $\frac{1}{2}$ NW $\frac{1}{4}$, Sec. 12, Twp. 14 N., R. 21 E., S. 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 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1171, 1172, 1173, 1174, 1175, 1176, 1177, 1178, 1179, 1180, 1181, 1182, 1183, 1184, 1185, 1186, 1187, 1188, 1189, 1190, 1191, 1192, 1193, 1194, 1195, 1196, 1197, 1198, 1199, 1200, 1201, 1202, 1203, 1204, 1205, 1206, 1207, 1208, 1209, 1210, 1211, 1212, 1213, 1214, 1215, 1216, 1217, 1218, 1219, 1220, 1221, 1222, 1223, 1224, 1225, 1226, 1227, 1228, 1229, 1230, 1231, 1232, 1233, 1234, 1235, 1236, 1237, 1238, 1239, 1240, 1241, 1242, 1243, 1244, 1245, 1246, 1247, 1248, 1249, 1250, 1251, 1252, 1253, 1254, 1255, 1256, 1257, 1258, 1259, 1260, 1261, 1262, 1263, 1264, 1265, 1266, 1267, 1268, 1269, 1270, 1271, 1272, 1273, 1274, 1275, 1276, 1277, 1278, 1279, 1280, 1281, 1282, 1283, 1284, 1285, 1286, 1287, 1288, 1289, 1290, 1291, 1292, 1293, 1294, 1295, 1296, 1297, 1298, 1299, 1300, 1301, 1302, 1303, 1304, 1305, 1306, 1307, 1308, 1309, 1310, 1311, 1312, 1313, 1314, 1315, 1316, 1317, 1318, 1319, 1320, 1321, 1322, 1323, 1324, 1325, 1326, 1327, 1328, 1329, 1330, 1331, 1332, 1333, 1334, 1335, 1336, 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1503, 1504, 1505, 1506, 1507, 1508, 1509, 1510, 1511, 1512, 1513, 1514, 1515, 1516, 1517, 1518, 1519, 1520, 1521, 1522, 1523, 1524, 1525, 1526, 1527, 1528, 1529, 1530, 1531, 1532, 1533, 1534, 1535, 1536, 1537, 1538, 1539, 1540, 1541, 1542, 1543, 1544, 1545, 1546, 1547, 1548, 1549, 1550, 1551, 1552, 1553, 1554, 1555, 1556, 1557, 1558, 1559, 1560, 1561, 1562, 1563, 1564, 1565, 1566, 1567, 1568, 1569, 1570, 1571, 1572, 1573, 1574, 1575, 1576, 1577, 1578, 1579, 1580, 1581, 1582, 1583, 1584, 1585, 1586, 1587, 1588, 1589, 1590, 1591, 1592, 1593, 1594, 1595, 1596, 1597, 1598, 1599, 1600, 1601, 1602, 1603, 1604, 1605, 1606, 1607, 1608, 1609, 1610, 1611, 1612, 1613, 1614, 1615, 1616, 1617, 1618, 1619, 1620, 1621, 1622, 1623, 1624, 1625, 1626, 1627, 1628, 1629, 1630, 1631, 1632, 1633, 1634, 1635, 1636, 1637, 1638, 1639, 1640, 1641, 1642, 1643, 1644, 1645, 1646, 1647, 1648, 1649, 1650, 1651, 1652, 1653, 1654, 1655, 1656, 1657, 1658, 1659, 1660, 1661, 1662, 1663, 1664, 1665, 1666, 1667, 1668, 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1835, 1836, 1837, 1838, 1839, 1840, 1841, 1842, 1843, 1844, 1845, 1846, 1847, 1848, 1849, 1850, 1851, 1852, 1853, 1854, 1855, 1856, 1857, 1858, 1859, 1860, 1861, 1862, 1863, 1864, 1865, 1866, 1867, 1868, 1869, 1870, 1871, 1872, 1873, 1874, 1875, 1876, 1877, 1878, 1879, 1880, 1881, 1882, 1883, 1884, 1885, 1886, 1887, 1888, 1889, 1890, 1891, 1892, 1893, 1894, 1895, 1896, 1897, 1898, 1899, 1900, 1901, 1902, 1903, 1904, 1905, 1906, 1907, 1908, 1909, 1910, 1911, 1912, 1913, 1914, 1915, 1916, 1917, 1918, 1919, 1920, 1921, 1922, 1923, 1924, 1925, 1926, 1927, 1928, 1929, 1930, 1931, 1932, 1933, 1934, 1935, 1936, 1937, 1938, 1939, 1940, 1941, 1942, 1943, 1944, 1945, 1946, 1947, 1948, 1949, 1950, 1951, 1952, 1953, 1954, 1955, 1956, 1957, 1958, 1959, 1960, 1961, 1962, 1963, 1964, 1965, 1966, 1967, 1968, 1969, 1970, 1971, 1972, 1973, 1974, 1975, 1976, 1977, 1978, 1979, 1980, 1981, 1982, 1983, 1984, 1985, 1986, 1987, 1988, 1989, 1990, 1991, 1992, 1993, 1994, 1995, 1996, 1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022, 2023, 2024, 2025, 2026, 2027, 2028, 2029, 2030, 2031, 2032, 2033, 2034, 2035, 2036, 2037, 2038, 2039, 2040, 2041, 2042, 2043, 2044, 2045, 2046, 2047, 2048, 2049, 2050, 2051, 2052, 2053, 2054, 2055, 2056, 2057, 2058, 2059, 2060, 2061, 2062, 2063

waters of Little Sulphur Creek, a tributary of the Pahrumpai River, with date of priority of September 16th, 1912, for use upon her said lands, and which said rights are appurtenant to the following described lands, to-wit: -

~~NW $\frac{1}{4}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$~~ , Sec. 23, Twp. 14 N., R. 21 E., B. M., containing 80 acres, more or less.

73-0008A ✓

III

~~73-0008~~

That the plaintiff, J. A. Harrington, is entitled to and is hereby decreed ^{60 inches} ~~120 inches~~, or 2.4 second feet, of the waters of Sulphur Creek, with date of priority of January 20th, 1910, for use upon his said lands, and which said right is appurtenant to the following described land, to-wit:-

NW $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 13, Twp. 14 N., R. 21 E., B. M., and the ~~NW $\frac{1}{4}$ SW $\frac{1}{4}$~~ Sec. 12 Twp. 14 N., R. 22 E., B. M., containing 80 acres, more or less.

(60 inches declared forfeited & abandoned by decree Herder vs. Burstedt)

IV.

73 0009 ✓

That the plaintiff, Etta M. Harrington, is entitled to and is hereby decreed 120 inches, or 2.4 second feet, of the waters of the Pahrumpai River, with date of priority of January 20th, 1910, for use upon her said lands, and which said right is appurtenant to the following described land, to-wit:

SW $\frac{1}{4}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$, Sec. 12, Twp. 14 N., R. 22 E., B. M., containing 160 acres, more or less.

V.

73 0010 ✓

That the plaintiff, Mark Howe, is entitled to and is hereby decreed 120 inches, or 2.4 second feet, of the waters of Pahrumpai River, with date of priority of June 24th, 1910, for use upon his said lands, and which said right is appurtenant to the following described land, to-wit:-

E $\frac{1}{2}$ NW $\frac{1}{4}$ W $\frac{1}{2}$ NW $\frac{1}{4}$, Sec. 13, Twp. 14 N., R. 21 E., B. M., containing 160 acres, more or less.

VI.

73 0011 ✓

That the plaintiff, Milla Howe, is entitled to and is hereby decreed 180 inches, or 3.6 second feet, of the waters of Pahrumpai River, with date of priority of June 24th, 1910, for use upon her said lands, and which said right is appurtenant to the following described lands, to-wit:-

N $\frac{1}{2}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 13, Twp. 14 N., R. 21 E., B. M., and the E $\frac{1}{2}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 12, Twp. 14 N., R. 22 E., B. M., containing 240 acres, more or less.

73 0012 ✓

VII.

That the plaintiff, Clarence E. Hyerley, successor in interest and title to the plaintiff, William Embert, is entitled to and is hereby decreed 60 inches, or 1.2 second feet, of the waters of the Pahrumpai River, with date of priority of April 28th, 1913, for use upon his said lands, and which said right is appurtenant to the following described land, to-wit:

E $\frac{1}{2}$ NW $\frac{1}{4}$, Sec. 12, Twp. 14 N., R. 21 East, B. M., containing 80 acres, more or less.

VIII.

73 0013 ✓

That the plaintiff, Elizabeth Barvelaw, successor in interest and title to the plaintiff

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73-4

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF CUSTER

WILLIAM S. HERDER and BLANCHE A.
HERDER, husband and wife,

Plaintiffs,

vs.

CLAUS BURSTEDT; MARK R. KULP,
Idaho State Reclamation Engineer;
CLARK FITZGERALD, Water Master of
District No. 19,

Defendants.

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Department of Reclamation

J U D G M E N T

The above entitled action came on for trial before the Court without a jury on the 7th day of May, 1957, the jury having been duly waived by the parties hereto, the plaintiffs appearing by Z. Reed Millar, Esq. of Boise, Idaho and C. Walker Lyon, Esq. of Salmon, Idaho, the defendant Burstedt appearing by Jack B. Purey, Esq. of Challis, Idaho and Louis P. Racine, Jr., Esq. of Pocatello, Idaho, the defendants, Mark R. Kulp and Clark Fitzgerald, appearing through the Attorney General's Office of the State of Idaho and not having participated in said trial, but the matter was fully tried to the Court through witnesses and introduction of documentary evidence and the Court having heretofore found, by findings of fact and conclusions of law, in favor of the plaintiffs in their claim for the water against the said defendant Burstedt and against the said plaintiffs in their request for damages against the said defendant Burstedt as appears in said findings of fact and conclusions of law and this judgment, and the Court having filed its findings of fact and conclusions of law and order for judgment; ~~73-0002~~ ~~73-0141~~ 73-0002B

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the right of the defendant, Claus Burstedt, in and to 60 inches of water from the waters of Sulphur Creek, a tributary of the Pahsimaroi River, for use and appurtenant to Lot 3 of Section 18,

also known as the Northwest Quarter of the Southwest Quarter (NW $\frac{1}{4}$ SW $\frac{1}{4}$) of Section 18, Township 14 North of Range 22 E., B.M., as provided in that certain decree dated the 29th day of April, 1920, issued by the District Court of the Sixth Judicial District of the State of Idaho in and for the County of Custer, be and the same is hereby declared to be forfeited, abandoned after said date by J. A. Harrington, the owner of the said premises at said time, and by open, notorious and adverse use of such water since 1943 by the plaintiffs, William S. Herder and Blanche A. Herder, husband and wife, and their predecessors in interest as against the defendant Burstedt, and by the appropriation and use of the said water by the said plaintiffs and their predecessors in interest from the year 1920 and thereafter continuously on the premises of the plaintiffs and their predecessors in interest, as hereinafter described, and that the right of the plaintiffs as contract purchasers of the property hereinafter described to the said 60 inches of the waters of Sulphur Creek is paramount and superior to any claim or right of the said Defendant Burstedt, and that the said plaintiffs are entitled to a continuous flow and use of the said water as against said defendant, as provided in the decree dated February 17, 1926, recorded in Book 3 of Judgments at page 114-122 under the name of Julius Maelzar, and as continuously used by plaintiffs and their predecessors in interest, as above set forth, on such lands, which are described as follows:

The Southwest Quarter of the Southeast Quarter (SW $\frac{1}{4}$ SE $\frac{1}{4}$) of Section 13; and the Northwest Quarter of the Northeast Quarter (NW $\frac{1}{4}$ NE $\frac{1}{4}$) and the East Half of the Northwest Quarter (E $\frac{1}{2}$ NW $\frac{1}{4}$) of Section 24, Township 14 N., R. 21 E., B.M., in Custer County, Idaho,

and that the defendant, Mark R. Kulp, as State Reclamation Engineer, and the water master of District No. 19 of the State of Idaho, are hereby ordered and directed to desist and refrain from permitting the said Claus Burstedt to have and receive said water under the said decree of 1920, but to deliver the same to the said plaintiffs for their use on the property of the said plaintiffs, as above described, the same being appurtenant to the property of

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the plaintiffs above described;

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the plaintiffs recover nothing from the defendant Burstedt as damages to their crops or otherwise for the diversion of the said water during the year 1956 until the said water was directed by this Court to be returned to plaintiffs;

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the plaintiffs have nothing by reason of damages for trespass in the use by the defendant Burstedt of the easement in the California Ditch across the lands of plaintiffs;

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that plaintiffs take nothing against the said defendant Burstedt for flooding the lands of the plaintiffs or the destruction of hay belonging to said plaintiffs on said premises;

That the plaintiffs have their costs and disbursements herein allowed in the sum of \$.

DATED this 30th day of December, 1957.

District Judge

No. 1702
Entered December 31, 1957

Leonard S. Baker
Clerk

(Recorded in Book 4 of Judgments at page 528)

11-23-57
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