

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)

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR

Water Right 73-04024

DISTRICT COURT-SRBA
Fifth Judicial District
County of Twin Falls - State of Idaho

DEC 29 2009

By

Clerk
Deputy Clerk

NAME AND ADDRESS: KAREN A DOWTON
SYDNEY M DOWTON
PO BOX 7
ELLIS, ID 83235

SOURCE: PAHSIMEROI RIVER TRIBUTARY: SALMON RIVER

QUANTITY: 2.45 CFS

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

PRIORITY DATE: 02/18/1926

POINT OF DIVERSION: T15N R21E S08 SESW Within Custer County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-01 TO 10-31	2.40 CFS
	Stockwater	01-01 TO 12-31	0.05 CFS

PLACE OF USE: Irrigation Within Custer County
T15N R21E S07 SENE 31.0
S08 SWNW 36.0 SENW 2.8
69.8 Acres Total
Stockwater Within Custer County
Same as Irrigation

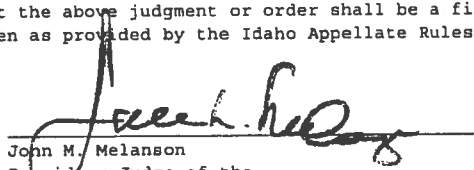
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

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

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. I.C. SECTION 42-1412(6).

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance
with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a
final judgment and that the court has and does hereby direct that the above judgment or order shall be a final
judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.


John M. Melanson
Presiding Judge of the
Snake River Basin Adjudication

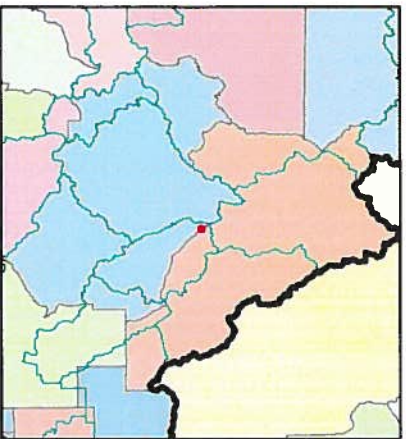


Water Right
73-4024
(IRRIGATION)

Idaho Department of Water Resources

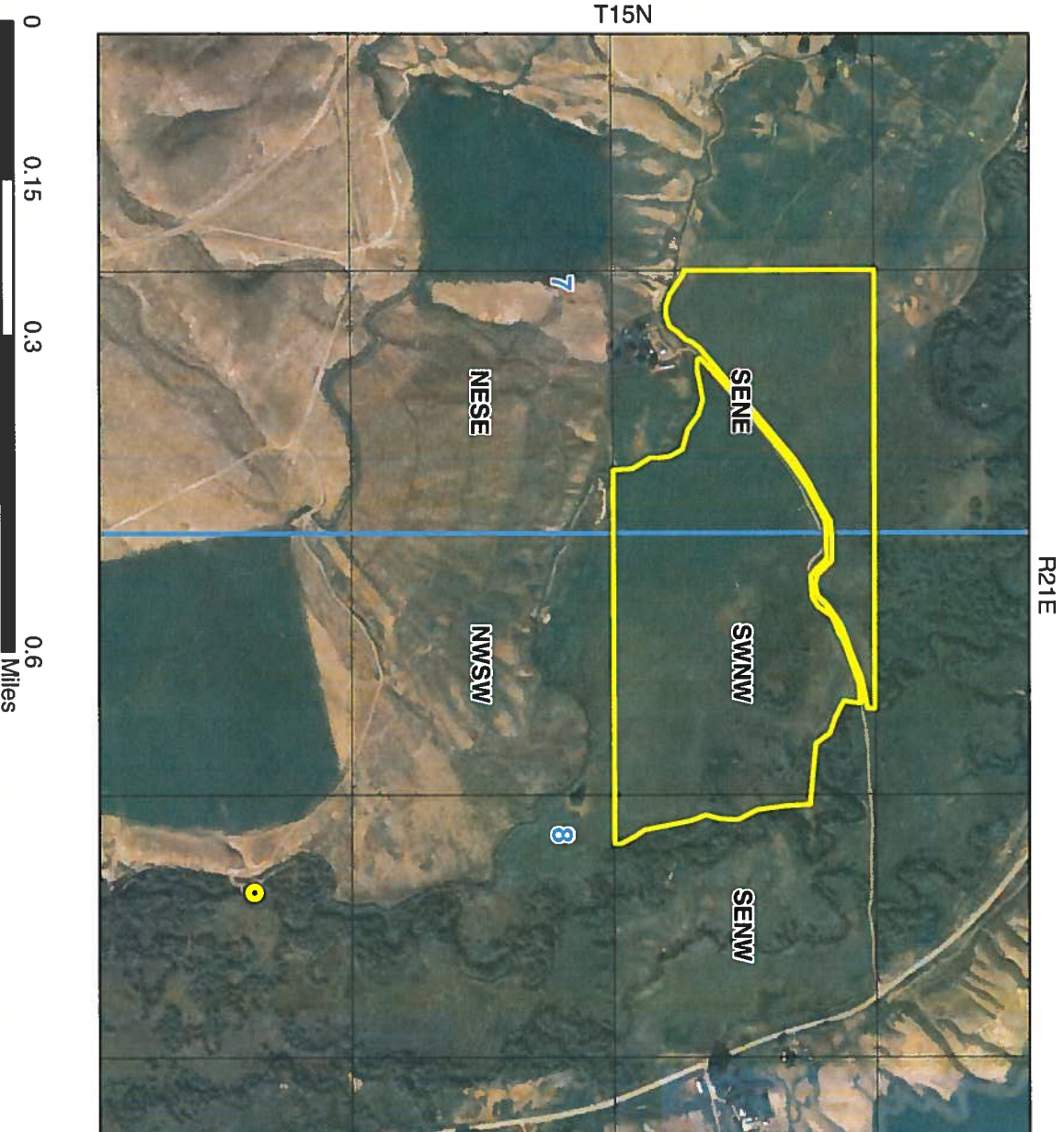
Legend

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



Custer, Lemhi Counties
IDWR Basin 73

Prepared by Craig Saxton
On April 01, 2010
2004 Aerial Photography



8/7/2009

73-4024

looking @ Craig's memo

73-10018 claim POD from Pahsimeroi 15 N 21 E 27 SESE

POU does not list same POU as 4024

note from Danielle 4/19/06: 15 N 21 E 7 SENE is listed
in POU of 73-73 but is not owned by claimant.Owner of 15 N 21 E 7 SENE did not claim a portion
of 73-73 but does have claims 73-2042,

73-2046 & 73-10039

MVB review also found 73-12047, 73-12103 & 73-12104
on south central portion of this property

73-2042 is canceled permit

So is 73-2046

NO SHOW

OSC Sept.

trial March 12

8-24-09 & No New Guidance

Memorandum

Date: July 23, 2009

To: File 73-04024

From: Craig L. Saxton

RE: Recommended priority date for 73-04024

Claimants predecessor Roscoe Hamilton was plaintiff in prior decree, *Roscoe Hamilton, et al vs W.G. Swendsen* (Decree #73-E). This decree was completed on February 17, 1926.

Roscoe was decreed 0.8 cfs from the Pahsimeroi River identified as 73-73B. The history of 73-73B is as follows:

- 73-73B was combined with 73-00073A, 73-00077A and 73-00077B to form A73-10018 in the SRBA.
- 73-10018 was then split into 73-12064 and 73-12065 and 73-12066. 73-12065 appears to have then uncombined the rights if you will and claimed the original 0.8 cfs from the Pahsimeroi River.
- 73-12065 was then split into 73-12117 and 73-12118. 73-12117 and 73-12118 are not applicable to the claimants property.

Therefore, the only water decreed to the property claimed under 73-4024 is no longer applicable to the POU. The 2.4 cfs claimed under 73-4024 was not included in the 1926 decree and therefore the best priority date that IDWR could recommend is one day after the decree, or 2-18-1926.

73-E

1. DECREE -- Roscoe Hamilton, et al. -vs- W. G. Swendsen, et al.
2. JUDGMENT AND DECREE -- Gilman Martiny, et al. -vs- Arthur Wells,
3. DECREE CORRECTING ERROR IN ORIGINAL DECREE HEREIN RENDERED -- Roscoe Hamilton, et al. -vs- W. G. Swendsen, et al.
4. APPEAL NO. 9866 -- Gilman Martiny, et al. -vs- Arthur Wells
5. TO WHOM IT MAY CONCERN -- From R. K.

NOT RECORDED

JUL 30 1986

73-0073 thru 73-0111
73-0113 " 73-0118
73-0001

①

73-E

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

ROSCOE HAMILTON, et al,

Plaintiffs

-vs-

W. G. SWENDSEN, Commissioner

of Reclamation, et al,

Defendant.

D E C R E E

This cause came on regularly for trial before Honorable James H. Anderson, sitting as a Referee, who by consent of all the parties to this action, and by order of the Court, was appointed Referee to try the same, and report his recommendations to the court, and the said Referee sitting without a jury, on the 12th day of August, 1924, at Challis, Challis, Custer County, State of Idaho and the plaintiffs and defendants appearing by their respective attorneys, and the default of the non-answering defendants having been duly entered and the parties hereto, by stipulation, being duly filed with the Court, having agreed upon a decree and the matter having been presented to the Referee for his findings and recommendations thereon and the findings and recommendations of the Referee, and a further stipulation having been entered into under date of November 2, 1925, and filed herein permitting Minnie W. Kerr to file her complaint in intervention and that the decree heretofore reported and recommended by the Referee be amended by adding thereto and including therein the rights said Minnie W. Kerr as claimed in her complaint in intervention, and the same having been fully considered by the court, and the court being fully advised in the premises finds that the decree should be entered in accordance with the stipulation on file herein.

RECORDED

JUL 30 1926

WHEREFORE, IT IS ORDERED, ADJUDGED AND DECREED as follows:

1. That the creeks named and mentioned in the decree herein are all tributaries of the Pahsimeroi River, and said river and its tributaries lie within the boundaries of Custer and Lemhi Counties, State of Idaho.

That this decree is a summary, supplemental, adjudication of waters of Pahsimeroi River and its tributaries supplemental the decrees in the actions of Lorenzo Falls and Edward O'Neil, partners, et al., plaintiffs, vs. Uriah Wells, et al, defendants, in the above entitled district court, and J. B. Morrow, et al, plaintiffs, vs. Joseph Wagner et al, defendants, in the above entitled District Court; and the rights hereby adjudicated shall be and they are subject to all the terms and conditions of such original decrees, and shall not in any manner affect any right therein established.

2. That each and every of the tracts of land described in the complaint, complaints in intervention, answers and cross-complaints, in this action belonging to the several parties plaintiff and defendant herein are arid in character and will not successfully raise any agricultural crops, without the application of water thereon for the irrigation thereof, and that all of said lands are susceptible of irrigation from the Pahsimeroi River and its tributaries.

3. That one inch of water per acre, or its equivalent in cubic feet per second of time is necessary and ample for the proper irrigation of said land.

4. That the dams and diverting works of the several parties to this action were at the time of the several appropriations and are now of sufficient size and capacity to carry and convey water so appropriated to and upon the several tracts of land of the said several parties for the irrigation thereof, and that each and every of the said several tracts of land are situated in Lemhi and Custer Counties, State of Idaho.

JUL 30 1996

5. That each of the parties to this action plaintiffs and defendants hereinafter named, or their predecessors in interest were at the time of the several appropriations of water, made as hereinafter set forth, the owners respectively of the several tracts of land set forth and described in the complaints, answers and cross-complaints, and that for the irrigation of the same the said parties, or their predecessors in interest, did respectively appropriate the quantities of water hereinafter stated, and on the dates and from the streams respectively hereinafter stated, and set opposite the names of each of said parties, such water being estimated under a four inch pressure, or its equivalent in cubic feet per second of time, and ever since said dates of the said several appropriations said water has been so diverted and used on said lands in the irrigation thereof.

6. That the following named persons parties to this suit are entitled to the uninterrupted use of the flow of the waters of Pahsimeroi River and its tributaries, forks, branches, springs and streams herein named, upon, the lands mentioned and described in the complaints, answers and cross-complaints herein and appertenant to said lands as hereinafter specified,

in the following amounts and from the following dates, to-wit:

73 0073

A Roscoe Hamilton, from Spring Creek and Duck Spring 1.4 cubic feet per second of time and .8 cubic feet per second of time from the Pahsimeroi River with date of priority April 1, 1912, appurtenant to the SE $\frac{1}{4}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 7, T. 15 N., R. 21 E. B. M. through what is known as the Ellis Ditch.

73 0074

A George A. Ellis 3.4 cubic feet per second of time, from Spring Creek and Duck Spring, and 1.6 cubic feet per second of time from the Pahsimeroi River, with date of priority April 1, 1912, appurtenant to the NW $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 35, T. 16 N., R. 20 E. B. M. said water to be diverted through the Ellis Ditch.

73 0075

A WILSON P. ELLIS-1.6 cubic feet per second of time, from Spring Creek and Duck Spring, and .8 cubic feet per second of time from the Pahsimeroi River with date of priority April 1, 1912, appurtenant to the N $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 35, T. 16 N., R. 20 E. B. M., said water to be diverted through the Ellis Ditch.

MICROFILMED

JUL 30 1996

Transf
2782

73 0076

ALVIN M. ELLIS, .4 cubic feet per second of time from Duck Spring and Spring Creek, with date of priority April 1, 1912, appurtenant to the SW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 7, T. 15 N., R. 21 E. B. M., through the Ellis Ditch.

73 0077

A, B

SAMUEL ATKINSON, 1.6 cubic feet per second of time of the waters of Spring Creek and Duck Springs, and 1. cubic feet per second of time of the flow of the waters of Pahsimeroi River and Mud Spring Creek, with date of priority April 1, 1912, appurtenant to the SE $\frac{1}{4}$ SW $\frac{1}{4}$, W $\frac{1}{2}$ SW $\frac{1}{4}$, Section 8, NE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 7, T. 15 N., R. 21 E. B. M., said water to be conveyed throu the Ellis Ditch.

73 0078

JOHN JOHNSON, Intervenor, 2.1 cubic feet per second of time from Pahsimeroi River and Big Springs Creek with date of Priority April 30, 1904, appurtenant to the NW $\frac{1}{4}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 27, T. 15 N., R. 21 E. B. M., said waters to be diverted through the Johnson Ditch.

73 0079

JOHN JOHNSON, 3.2 cubic feet per second of time from Lawson Creek with date of priority June 20, 1917, the same being all of the flow of the waters of said Lawson Creek, appurtenant to the SW $\frac{1}{4}$ Section 27, T. 15 N., R. 21 E. B. M., to be diverted through the Johnson Ditch.

73 0080

J. D. BROWN, Intervenor, 3 cubic feet per second of time of the waters of Big Springs Creek, with date of priority April 25, 1904, appurtenant to Lot 2, SW $\frac{1}{4}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, Section 1, T. 14, N., R. 21 E. B. M., to be diverted through the J. D. Brown Ditch.

73 0081

T. G. MONTGOMERY-Intervenor, 4 cubic feet per second of time of the waters of the Pahsimeroi River and from Springs located on and near the Southeast quarter of Section 8, NE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 9, and the W $\frac{1}{2}$ SW $\frac{1}{4}$ Section 9, T. 15 N., R. 21 E. B. M., to be diverted through the T. G. Montgomery Ditches, appurtenant to the S $\frac{1}{2}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$, lot 7, Section 6, T. 15 N., R. 21 E. B. M., with date of priority May 4, 1904.

Added to
Big Springs

73 0082

MINOR A. BROWN-Intervenor, 2.4 cubic feet per second of time of the waters of (Pahsimeroi River) with date of priority March 13, 1900, appurtenant to the SE $\frac{1}{4}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, Section 8, NE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 7, T. 14, N. R. 22 E. B. M., to be diverted through the Minor A. Brown Ditch.

73 0083

MINOR A. BROWN, Intervenor, .8 cubic feet per second of time of the waters from the Southwest fork of Big Springs Creek with date of priority July 14, 1917, appurtenant to SW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 6, T. 14 N., R. 23 E. B. M., through the Minor A. Brown ditch.

73 0084

T-1768

MINOR A. BROWN, 4 cubic feet per second, of time of the waters of O'Neil, or Spring Creek, with date of priority July 27, 1900, appurtenant to Lot 2, S $\frac{1}{2}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 6, W $\frac{1}{2}$ SW $\frac{1}{4}$ Section 5, T. 15 N., R. 21 E. B. M., to be diverted through the Hardscrabble Ditch.

73 0085

MATILDA HOOPER - 1.6 cubic feet per second of time of the waters of Spring Creek, with date of priority May 25, 1901, appurtenant to Lots 3 and 4, Section 1, T. 14 N., R. 21 E. B. M., through the Hooper Ditch.

73 0086

ALEXANDER McDONALD, CATHERINE FRASER, and MARY ROBERTSON- 3.2 cubic feet per second of time, with date of priority February 4, 1910, through the Murphy Ditch; 1.6 cubic feet per second of time to be diverted to and through the Ellis Ditch; and 7.2

73 0087

cubic feet per second of time with date of priority May 1, 1900 through McDonald private ditch, all of the same being appurtenant to the E $\frac{1}{2}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 17, N $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 20, T. 15 N., R. 21 E. B. M.

Murphy D - Pahsimeroi

RECORDED

JUL 30 1906

- 73 0088 ✓ LOIS P. REED, 2.3 cubic feet per second of time through the Reed & Bartlett Ditch from the Pahsimeroi River with date of priority November 5, 1889, and 1.6 cubic feet per second of time from the Pahsimeroi River with date of priority November 5, 1889, through the Murphy ditch appurtenant to the NE $\frac{1}{4}$, E $\frac{1}{2}$ SE $\frac{1}{4}$, Section 34, W $\frac{1}{2}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$, Section 35, T. 15 N., R. 21 E. B. M.
- 73 0089 ✓
- 73 0090 ✓ ODELL D. BARTLETT 2.5 cubic feet per second of time of the waters of Pahsimeroi River through the Reed and Bartlett Ditch with date of priority April 18, 1888, Appurtenant to the W $\frac{1}{2}$ SE $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$, Section 34, T. 15 N., R. 21 E. B. M.
- 73 0091 ✓ LOIS P. REED, 1.4 cubic feet per second of time of the waters of Warm Spring with date of priority November 5, 1885, appurtenant to the E $\frac{1}{2}$ SE $\frac{1}{4}$, Section 34, T. 15 N., R. 21 E. B. M. through the Reed Ditch.
- 73 0092 ✓ I. R. WILSON and F. D. KEARNS from Spring Creek 3.2 cubic feet per second of time with date of priority March 24, 1891, appurtenant to the W $\frac{1}{2}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 21, SE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 16, all in T. 15 N., R. 21 E. B. M. through the Halloran Ditch.
- 73 0093 ✓ JOHN S. NORMAN, cross-complainant, 2 cubic feet per second of time of the waters of Pahsimeroi River, with date of priority April 16, 1900, appurtenant to the SE $\frac{1}{4}$ Section 27, T. 15 N., R. 21 E. B. M., to be diverted through the Short Ditch.
- 73 0094 ✓ E. D. BROWN, defendant, 4 cubic feet per second of time of the waters of Big Spring Creek with date of priority March 24, 1891, appurtenant to the SE $\frac{1}{4}$ Section 8, NE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 17, T. 15 N., R. 21 E. B. M., to be diverted through the Halloran Ditch.
- 73 0095 ✓ E. D. BROWN, defendant, 4.8 cubic feet per second of time from Big Spring Creek with date of priority July 27, 1900, appurtenant to NW $\frac{1}{4}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 9, NW $\frac{1}{4}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, W $\frac{1}{2}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$ Section 16, T. 15, N. R. 21 E. B. M., to be diverted through the Hardscrabble Ditch.
- 73 0096 ✓ W. L. DOEYTON, from Pahsimeroi River, 3.2 cubic feet per second of time with date of priority May 10, 1901; diverted as follows, 1.8 cubic feet per second of time through the Ellis Ditch, and 1.4 cubic feet per second time through Murphey Ditch; also .8 cubic feet per second of time with date of priority April 5, 1919, through the Murphy Ditch, and .5 cubic feet per second of time from Dewton Springs through prive ditch, appurtenant to NW $\frac{1}{4}$ NW $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 21, T. 15 N., R. 21 E. B. M.
- 73 0097 ✓
- 73 0098 ✓ GEORGE HAMMOND 3.2 cubic feet per second of time of the waters of Spring Creek to date from October 30, 1902, appurtenant to the E $\frac{1}{2}$ NE $\frac{1}{4}$, Section 21, W $\frac{1}{2}$ NW $\frac{1}{4}$, Section 22, T. 15 N. R. 21 E. B. M., through the Cotter Ditch, and two other ditches.
- 73 0099 ✓ I. R. WILSON, 5.1 cubic feet per second of time of the waters of Mud Springs Creek and Pahsimeroi River to date from April 14, 1885; said 255 inches to be diverted from Mud Springs, and in so far as the same is in Mud Springs, and balance from Pahsimeroi River to be diverted as follows; 4 second feet through the Ellis Ditch, and 1.1 cubic feet per second of time through the Murphy Ditch; 2.9 cubic feet per second of time of the waters of Pahsimeroi River to date from June 11, 1901 to be diverted through the Murphy Ditch, all of said water being appurtenant to the NE $\frac{1}{4}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, Section 21, W $\frac{1}{2}$ SW $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$, Section 22, N $\frac{1}{2}$ SW $\frac{1}{4}$ Section 27, E $\frac{1}{2}$ SW $\frac{1}{4}$, S $\frac{1}{2}$ SE $\frac{1}{4}$, Section 21, all in T. 15 N., R. 21 E. B. M.
- 73 0100 ✓

73 0101✓

WOOD LIVE STOCK COMPANY, a CORPORATION, defendant and cross-complainant, from Spring Creek 2.4 cubic feet per second of time, to date from June 27, 1900, appurtenant to the W $\frac{1}{2}$ NE $\frac{1}{4}$, and NE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 35, T. 15 N., R. 21 E. B. M., Idaho, with point of diversion about south 43 degrees 20 minutes east 88 feet from the north quarter corner of section 7, T. 15 N., R. 21 E. B. M., being diverted through a private ditch, sometimes called the Campbell Ditch.

73 0102✓

WOOD LIVE STOCK COMPANY, a corporation, defendant and cross-complainant, from Spring Creek 1.6 cubic feet per second of time to date from February 20, 1901, appurtenant to the SE $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 35, in T. 15 N., R. 21 E. B. M., in Idaho, the point of diversion being about south 43 degrees 21 minutes East 88 feet from the North quarter corner of Section 7, T. 15 N., R. 21 E. B. M., said water being diverted through a private ditch sometimes called the Campbell Ditch.

73 0103✓

OLIVER Martiny from Spring Creek 2 cubic feet per second of time from August 29, 1904; the total flow of Little Spring Creek for 24 hours between the 1st and 5th of July and for 24 hours between the 1st and 5th of August of each and every year to date from May 1, 1890, appurtenant to the SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 1, T. 14 N., R. 21 E. B. M.; SW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 6, N $\frac{1}{2}$ NW $\frac{1}{4}$ Section 7, T. 14 N., R. 22 E. B. M.; the water from Big Spring Creek to be appurtenant to the SE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 1, T. 14 N., R. 21 E. B. M., and the SW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 6, N $\frac{1}{2}$ NW $\frac{1}{4}$ Section 7, T. 14 N., R. 22 E. B. M., and to be diverted in the Northwest quarter of the Northeast quarter of Section 7, T. 14 N., R. 22 E. B. M.; the flow from Little Spring Creek to be appurtenant to the NW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 7, T. 14 N., R. 22 E. B. M., and to be diverted in the SW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 7, T. 14 N., R. 22 E. B. M.

73 0104✓

73 0105✓

KIPPEN AND FREESTONE Copartnership, from Big Spring Creek, 1.6 cubic feet to date from May 1, 1906, and .2 cubic feet to date from November 30, 1907; from Mud Springs Creek, .4 cubic feet per second of time to date from May 1, 1906, and 1.2 cubic feet per second of time from the Pahsimeroi River to date from May 1, 1906; the waters from Big Spring Creek and Mud Spring Creek to be diverted from the NE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 7, T. 14 N., R. 22 E. B. M. through the Mulvania ditch; the waters from the Pahsimeroi River to be diverted in the SE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 7, T. 14 N., R. 22 E. B. M.; the above waters ~~to~~ to be appurtenant to the S $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 2, T. 14 N., R. 21 E. B. M. and the SW $\frac{1}{4}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 1, T. 14 N. R. 21 E. B. M.

73 0108✓

MINOR A. BROWN from unnamed spring 1.2 cubic feet per second of time to date from November 28, 1904, appurtenant to the S $\frac{1}{4}$ NW $\frac{1}{4}$ Section 7, T. 14 N., R. 22 E. B. M., and the SE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 12, T. 14 N., R. 21 E. B. M., to be diverted in the SE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 7, T. 14 N. R. 22 E. B. M.

73 0109✓

CHRIS CARLSON, from Big Spring Creek through the Hardscribble Ditch 5.6 cubic feet per second of time to date from July 27, 1900, and to be appurtenant to Lot 1, E $\frac{1}{2}$ SW $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 31, T. 16 N., R. 21 E. B. M.

73 0110 ✓

- A F. M. Kobbe, from Pahsimeroi River to be diverted through the Reed & Bartlett Ditch .8 cubic feet per second of time to date from March 21, 1905, appurtenant to NW $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 3, T. 14 N., R. 21 E. B. M.; from Little Spring Creek and Pahsimeroi River to be diverted through the Mulvanie Ditch; from Little Spring Creek in the SW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 7, T. 14 N., R. 22 E. B. M., and from the Pahsimeroi River in the SE $\frac{1}{4}$ NW $\frac{1}{4}$ Section 7, T. 14 N., R. 22 E. B. M.; .8 cubic feet per second of time to date from March 21, 1905, and to be appurtenant to the NW $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 3, T. 14 N., R. 21 E. B. M.
- B

73 0111 ✓ ALBERT J. EDSON, from Big Spring Creek to be diverted through the HardScrable ditch 3.2 cubic feet per second of time to date from July 27, 1900, and to be appurtenant to the SE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 5, NW $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 8, all in T. 15 N., R. 21 E. B. M.

Handwritten: 73-0004-14 N., Range 21 E. B. M., to date from May 1, 1884; also 2.8 cubic feet per second of time to be diverted in the NE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 24, T. 14 N., R. 21 E. B. M., to date from May 1, 1911; all to be appurtenant to the SW $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 13, NW $\frac{1}{4}$ of the NE $\frac{1}{4}$ and the E $\frac{1}{2}$ of the NW $\frac{1}{4}$ of Section 24, all in Township 14, N. E. 21 E. B. M., that the right for .6 cubic feet per second of time with date of priority May 1, 1884, shall be a part of the waters of Sulphur Creek, that was decreed to Holiday H. Cochran, as evidenced by that certain decree entered in an action in the District Court of the Fourth Judicial District of the State of Idaho, in and for the County of Custer wherein Holiday H. Cochran was plaintiff and Valentine Maelzer was defendant of date of October 3rd, 1901.

73 0112 ✓ JULIUS MAELZER from Sulphur Creek .6 cubic feet per second of time to be diverted in the NE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 24, T. 14 N., Range 21 E. B. M., to date from May 1, 1884; also 2.8 cubic feet per second of time to be diverted in the NE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 24, T. 14 N., R. 21 E. B. M., to date from May 1, 1911; all to be appurtenant to the SW $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 13, NW $\frac{1}{4}$ of the NE $\frac{1}{4}$ and the E $\frac{1}{2}$ of the NW $\frac{1}{4}$ of Section 24, all in Township 14, N. E. 21 E. B. M., that the right for .6 cubic feet per second of time with date of priority May 1, 1884, shall be a part of the waters of Sulphur Creek, that was decreed to Holiday H. Cochran, as evidenced by that certain decree entered in an action in the District Court of the Fourth Judicial District of the State of Idaho, in and for the County of Custer wherein Holiday H. Cochran was plaintiff and Valentine Maelzer was defendant of date of October 3rd, 1901.

73 0113 ✓

Handwritten: T-1576

73 0114 ✓ WILLIAM MILLICK from Big Spring Creek 1.6 cubic feet per second of time to be diverted in the NE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 7, T. 14 N., R. 22 E. B. M., to date from June 20, 1908, and to be appurtenant to the NE $\frac{1}{4}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 12, SE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 1, all in T. 14, N., R. 21 E. B. M.

73 0115 ✓ ED MULVANIA from Little Spring Creek to be diverted in the SE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 7, T. 14 N. R. 22 E. B. M. 2.8 cubic feet per second of time to date from April 25, 1904, and to be appurtenant to Lot 1, Section 3, Lots 2, 3 and 4, and the S $\frac{1}{2}$ NW $\frac{1}{4}$ Section 2 all in T. 14 N., R. 21 E. B. M.

73 0116 ✓ LEWIS DECOCQ, from Big Spring Creek 1.4 cubic feet per second of time to be diverted in NE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 7, T. 14 N., R. 22 E. B. M., through the Mulvanie Ditch to date from November 29, 1907, and to be appurtenant to the NE $\frac{1}{4}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 34, T. 15 N., R. 21 E. B. M.

73 0117 ✓ MINNIE W. KERR, from Spring Creek 2 cubic feet per second of time through what is known as the Hardscrable Ditch with date of priority July 27, 1900, and to be appurtenant to the S $\frac{1}{2}$ of the NE $\frac{1}{4}$, the NE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 8, and the NE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 9, T. 15 N. R. 21 E. B. M.

73 0118 ✓ MINNIE W. KERR from Spring Creek 4 cubic feet per second of time with date of priority March 24, 1891, to be conveyed through what is known as the Halleran Ditch, and to be appurtenant to the NE $\frac{1}{4}$ SE $\frac{1}{4}$, the S $\frac{1}{2}$ NE $\frac{1}{4}$, and the NW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 17, the SW $\frac{1}{4}$ NW $\frac{1}{4}$ and the NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 16, T. 15 N., R. 21 E. B. M.

7. That F. D. Kearns and I. R. Wilson have the right to flow water from the upper portion of their ranch into Hardscrabble ditch, which flows through the same, and again divert the same at four points of diversion on the lower side of said Hardscrabble ditch on their said lands, and the Water Master shall estimate, regulate and determine the amount of water so flowing therein, and being diverted therefrom.

8. That the point of diversion of the Ellis Ditch from Spring Creek is approximately 100 feet north, and 100 feet east of the southwest corner of the southeast quarter of Section 26, Township 15 North, Range 21 E. B. M.; and from Pahsimeroi River 100 feet north, and 200 feet west of the Southwest of the south east quarter corner of section 26, said township and range, and the point of diversion from Duck Spring is between said two points of diversion.

9. It is further adjudged and decreed that in all cases where the point of diversion of the waters of the streams mentioned herein are not definitely fixed by this decree, the points of diversion and measurements of the waters of said streams to said several parties to this action shall be the point where the water was diverted by said several parties on the 12 th day of August, 1924, the time of trial of this action.

10. The waters of the Pahsimeroi River as herein decreed to I. R. Wilson, and carried through the Ellis Ditch, shall be diverted by I. R. Wilson from said Pahsimeroi River at a point above the diversion of the old McGovern ditch; that is, so the waters so diverted from Pahsimeroi River will be carried to and emptied in to Mud Spring Creek above said McGovern Ditch; W. L. Dowton Pahsimeroi River water decreed through the Ellis Ditch shall be diverted through the Short Ditch to Mud Spring Creek, and flowed by said defendants into Mud Creek, and all their said waters of Pahsimeroi River, and their waters of said Mud Spring Creek that is to be diverted through said Ellis Ditch shall be measured on

JUL 30 1996

Mud Spring Creek, through a proper headgate and measuring device to be installed and maintained at the expense of said defendants on Mud Spring Creek at some suitable point not lower than the McGovern ditch point of diversion which is about one-half mile above the point of diversion of the Ellis Ditch from Mud Spring Creek, and shall be measured at said point of diversion and flowed from such point of diversion down said Mud Spring Creek to and through the Ellis Ditch, and said waters, less the losses by transportation, if any, and to be diverted from the Ellis Ditch from two points of Diversion for said I. R. Wilson, and three points of diversion for said W. L. Dowton to and upon their said lands.

11. That the plaintiffs, Roscoe Hamilton, George A. Ellis, Wilson P. Ellis and Samuel Atkinson shall have a prior right to a sufficient quantity of the waters which raise, both in the Pahsimeroi River and Mud Spring Creek, between the point where the Short Ditch Diverts water from Pahsimeroi River, and the point where the Ellis Ditch intersects the Pahsimeroi River, and in Mud Spring Creek between the point where said measuring device is placed in Mud Spring Creek at or near the McGovern ditch, approximately one-half mile above the Ellis Ditch, and the point where the Ellis Ditch intersects Mud Spring Creek to supply their said decreed rights herein; in the event there is a surplus of such waters rising as aforesaid over the amount necessary to supply the decreed rights of the above-named plaintiffs in said Ellis Ditch, that then and in such case such surplus water shall be distributed to the parties carrying water in, and diverting water from said Ellis Ditch, pro rata according to their respective rights.

JUL 30 1906

12. That the plaintiffs, Roscoe Hamilton, George A. Ellis, Wilson P. Ellis, Alvin M. Ellis and Samuel Atkinson using water as hereinbefore decreed through the Ellis Ditch shall each stand the total loss in said canal by seepage, evaporation, or otherwise, to be prorated according to the amount of their respective decrees to points of diversion on said Ellis Ditch.

13. That the waters 1.6 cubic feet per second of time to be flowed to and through said Ellis Ditch by Alexander McDonald, Catherine Fraser and Mary Robertson, Intervanors, shall be measured into said Ellis Ditch by a proper measuring devise to be constructed and maintained at their expense and be diverted from said Ellis Canal at their point of diversion, less the estimated loss by seepage and evaporation to be made by the water master thereof.

14. That each and every person hereinbefore decreed water from the Ellis Ditch shall at their own proper expense, install and maintain proper lock headgates and measuring devices at their preselective points of diversion, and there shall be delivered no water after the irrigation season of 1924 until the same are installed and kept in good condition according to the requirements of the water master of said ditch.

15. It is further adjudged and decreed that each of the parties to this action shall pay his or her preportionate share of all the costs of this action.

16. That each and every of the parties to this suit, plaintiff and defendant, their agents, ~~servants~~, attorneys and employees, and each, every and all persons action in aid of and for any of the parties to this suit are hereby forever restrained and enjoined from in any way or manner interfering with or diverting or using the waters of said streams or their tributaries except in accordance with the terms and provisions of this decree.

RECORDED
JUL 30 1926

Dated this 17th day of February, 1926.

Ralph W. Adair

District Judge

STATE OF IDAHO, ✓)
: ss.
County of Custer,)

This instrument was filed for record at the request of
Judge Ralph W. Adair at 1 o'clock P. M. Feb. 19, 1926.

Emmett Donahue

Ex-Officio Recorder

By John Boyd

Deputy

(Recorded in book 3 of Judgments at pages 114-122)

RECORDED

JUL 30 1926

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 73-4024
Date Received: 12/21/1989
Receipt No: S010745
Received By:

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

1. Name of Claimant(s)

KAREN A DOWTON Phone: (208) 876-4225

PO BOX 7
ELLIS ID USA 83235

SYDNEY M DOWTON Phone: (208) 876-4225

PO BOX 7
ELLIS ID USA 83235

2. Date of Priority: 07/15/1898

3. Source: PAHSIMEROI RIVER Trib. to: SALMON RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County	Type
15N	21E	17	NE NW	CUSTER	

5. Description of diverting works:

ROCK WING DIVERSION & DITCHES, HAMILTON-MATLEY DITCH.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
IRRIGATION	4/01	11/01	2.4	
STOCKWATER	1/01	12/31	0.05	

7. Total Quantity Appropriated is:
2.45 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
15N	21E	7	SE	NE	IRRIGATION	34
					Section Acres	34
15N	21E	8	SW	NW	IRRIGATION	37
			SE	NW	IRRIGATION	9
					Section Acres	46
					Total Acres	80

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:

LANDS LIE ON OR ALONG PAHSIMEROI WHICH IS THE CUSTER-LEMHI COUNTY LINE.
 CATTLE DRINK INSTREAM FROM RIVER AND SPRINGS.
 DWR NOTE STOCKWATER USE NOT LISTED ON ORIGINAL STATUTORY CLAIM.
 SOURCE/TRIB. TAKEN FROM 73-04024

15. Basis of Claim: Beneficial Use

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 73-4024 V1

WATER RIGHT NUMBER: 73-4024 V1

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	KAREN A DOWTON PO BOX 7 ELLIS, ID 83235 (208)876-4225
Current Owner	SYDNEY M DOWTON PO BOX 7 ELLIS, ID 83235 (208) 876-4225
Directors Report Owner	CHUCK R CHARLTON PO BOX 96 ELLIS, ID 83235 (208)876-4419
Directors Report Owner	CLAUDIA F CHARLTON PO BOX 96 ELLIS, ID 83235 (208)876-4419

Priority Date: 02/18/1926

Basis: Beneficial Use

Status: Active

<u>Source</u>	<u>Tributary</u>
PAHSIMEROI RIVER	SALMON RIVER

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	04/01 to 10/31	2.400 CFS	
STOCKWATER	01/01 to 12/31	0.050 CFS	
	<u>Total Diversion:</u>	2.450 CFS	

Location of Point(s) of Diversion

PAHSIMEROI RIVER	SE1/4SW1/4	Sec. 8,	Twp 15N,	Rge 21E, B.M.
CUSTER County				

Place of Use

IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
15N	21E	7				31.0													31.0
15N	21E	8							36.0	2.8									38.8

Total Acres: 69.8

STOCKWATER same as IRRIGATION

IDAHO DEPARTMENT OF WATER RESOURCES
Adjudication Recommendation Report 73-4024 V1

Conditions of Approval:

1. N08 The quantity of water decreed for this water right for stockwater use is not a determination of historical beneficial use.
2. C18 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.
3. N05 The quantity of water under this right for stockwater use shall not exceed 13,000 gallons per day.

Remarks:Comments:

1. zmaillard 4/11/2005 POD
Comment: Updated shape
2. rbrown 4/28/2006 POD
Comment: changed based on field exam
3. dshaff 1/9/2007 Prior decree
Comment: Claimants predecessor Roscoe Hamilton was plaintiff in prior decree; advanced priority date.

Dates and Other Information:

Decreed Date:
 Enlargement Use Priority Date:
 Enlargement Statute Priority Date:
 Defendant:
 Plaintiff:
 Civil Case Number:
 Judicial District:
 Notice of Error Flag:
 State or Federal: S
 Owner Name Connector: AND
 Water District Number: 73
 Generic Max Rate Per Acre:
 Generic Max Volume Per Acre:
 Swan Falls Trust or Nontrust:
 Swan Falls Dismissed:
 DLE Act Number:
 Carey Act Number:
 Mitigation Plan: False

Combined Use Limits:Element Reviewed/Verified Dates:

<u>Element</u>	<u>Last Reviewed Date</u>	<u>Reviewer</u>	<u>Last Verified Date</u>	<u>Verifier</u>	<u>Status</u>
Contacts	4/28/2006 2:13:32 PM	rbrown			Active
POD	4/28/2006 4:29:15 PM	rbrown			Active
Priority Date	4/28/2006 4:30:43 PM	rbrown			Active
Source	4/28/2006 4:36:28 PM	rbrown			Active
POU	4/28/2006 4:36:47 PM	rbrown			Active
Use	4/28/2006 4:50:28 PM	rbrown			Active
Season	4/28/2006 4:53:11 PM	rbrown			Active

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 73-4024 V1

Quantity	8/25/2006 4:16:34 PM	rbrown	Active
Summary	08/25/2006	rbrown	Active

Verification Log:

<u>Element</u>	<u>Date Time Stamp</u>	<u>Reviewer</u>	<u>Log text</u>
Quantity	8/25/2006 4:16:35 PM	rbrown	(No) 1. Is the basis of this claim a Decree or License? (No) 2. Is the basis of this claim a Application or Permit? (No) 6. Is the basis of claim a posted notice? (Yes) 7. Is a flow measurement required? (No) 9. Is the source Groundwater and does the purpose of use require a diversion volume limit? (No) 11. Has a diversion volume limit been established by a decree, license or transfer for this water use? (No) 12. Is a Quantity remark or condition required? Description for Question 7 - field visit noted use on weir
Summary	8/25/2006 4:19:04 PM	rbrown	(No) 1. Is the basis of this claim a Decree, License, Permit, Application or Posted Notice? (Yes) 3. Is the water being used for all of the purposes claimed and to the extent claimed? (No) 5. Does this right have any combined use limits with other rights? (No) 6. Is an additional remark and/or condition required? (Yes) 7. Would you like to view the recommended right? (No) 8. Is this a split or combined right? (No) 9. Do you have documents you would like to attach or link to the file? (Yes) 10. Would you like to set the verification date?
Contacts	4/28/2006 2:13:33 PM	rbrown	(No) 1. Do you want to schedule an appointment? Comment for 1: field review done by J. Martiny in 2004
POD	4/28/2006 4:28:48 PM	rbrown	Updated PLS
POD	4/28/2006 4:29:15 PM	rbrown	(No) 1. Is the basis of this claim a Decree or License? (No) 2. Is the basis of this claim a Application or Permit? (No) 6. Is there evidence that there has been a change in the POD? (Yes) 9. Does the file contain all the necessary information to verify the POD? (No) 10. Is a POD remark and/or condition required?
POU	4/28/2006 4:49:29 PM	rbrown	Updated shape for Active POU
POU	4/28/2006 4:50:03 PM	rbrown	Updated PLS for Active POU

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 73-4024 V1

General	4/28/2006 4:30:44 PM	rbrown	(No) 1. Should this water use have been included in a later court decree of the water rights from this source? (No) 4. Is the basis of claim decree or license? (No) 7. Is the basis of claim a Application or Permit? (No) 8. Is the basis of claim a posted notice? (No) 9. Is the Priority Date of this water use after the date a permit is required for the source and the water use? (Yes) 12. Does the claim file contain sufficient evidence of Priority Date? (Yes) 15. Is the basis of claim coded correctly? (No) 16. Is a Priority Date remark and/or condition required? Description for Question 12/13 - affidavit of Ray Hamilton in file
Source	4/28/2006 4:36:28 PM	rbrown	(No) 1. Is the basis of claim Decree or License? (No) 2. Is the basis of claim an Application or Permit? (No) 6. Is the basis of claim a Posted Notice? (No) 7. Is there evidence that there has been a change in the source? (Yes) 10. Does the file contain all the necessary information to verify the source? (No) 11. Is a Source remark and/or condition required? Description for Question 10 - USGS topo and field exam
POU	4/28/2006 4:36:48 PM	rbrown	(No) 1. Is the basis of this claim a Decree or License? (Yes) 2b. Is the POU required? (No) 3. Is the basis of claim a Application or Permit? (No) 7. Is there evidence that there has been a change in the POU? (Yes) 13. Does the file contain all the necessary information to verify the POU? (No) 14. Is a POU remark and/or condition required? Description for Question 13 - field exam
Use	4/28/2006 4:50:28 PM	rbrown	(No) 1. Is the basis of this claim a Decree or License? (No) 2. Is the basis of this claim a Application or Permit? (No) 6. Is there evidence that there has been a change in the Purpose of Use? (Yes) 11. Does the file contain all the necessary information to verify the Water Use? (No) 13. Is a Purpose of Use remark and/or condition required? Description for Question 10,11,12 - field exam
POD	4/28/2006 4:28:29 PM	rbrown	Updated shape

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 73-4024 V1

Season	4/28/2006 4:53:11 PM	rbrown	(No) 1. Is the basis of claim Decree or License? (No) 2. Is the basis of claim a Application or Permit? (No) 6. Is there evidence that there has been a change in the Period of Use? (Yes) 12. Does the file contain all the necessary information to verify the Period of Use? (No) 13. Is the basis of claim a decree, license, or a transferred beneficial use right that has had the Period of Use administrativly determined? (Yes) 15. Is irrigation claimed as a Purpose of Use? (No) 18. Is a Period of Use remark and/or condition required?
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SubCase:

SubCase Number: 73-4024
Class: 1
SF5 Filed Date:
Special Master Recom Signed Date:
Attorney Assigned:
Adjudication Agent: rbrown (N/A)
Basis of Claim: Beneficial Use
Date Filed: 10/22/2007 Objection Status: Active

Water Supply Bank:

01/09/2007

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

RIGHT NUMBER: 73-4024

NAME AND ADDRESS: CHUCK R CHARLTON
PO BOX 96
ELLIS ID 83235

SOURCE: PAHSIMEROI RIVER

TRIBUTARY: SALMON RIVER

QUANTITY: 2.450 CFS

PRIORITY DATE: 02/18/1926

POINT OF DIVERSION:

T15N R21E S8 SESW 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	2.400 CFS
STOCKWATER	01/01 12/31	0.050 CFS

PLACE OF USE: IRRIGATION in CUSTER County

T15N R21E S07	SENE	31.00	T15N R21E S08	SWNW	36.00
T15N R21E S08	SENW	2.80			

STOCKWATER same as IRRIGATION

69.8 ACRES TOTAL

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 - Beneficial Use

5. That each of the parties to this action plaintiffs and defendants hereinafter named, or their predecessors in interest were at the time of the several appropriations of water, made as hereinafter set forth, the owners respectively of the several tracts of land set forth and described in the complaints, answers and cross-complaints, and that for the irrigation of the same the said parties, or their predecessors in interest, did respectively appropriate the quantities of water hereinafter stated, and on the dates and from the streams respectively hereinafter stated, and set opposite the names of each of said parties, such water being estimated under a four inch pressure, or its equivalent in cubic feet per second of time, and ever since said dates of the said several appropriations said water has been so diverted and used on said lands in the irrigation thereof.

6. That the following named persons parties to this suit are entitled to the uninterrupted use of the flow of the waters of Pahsimeroi River and its tributaries, forks, branches, springs and streams herein named, upon, the lands mentioned and described in the complaints, answers and cross-complaints herein and appertenant to said lands as hereinafter specified,

in the following amounts and from the following dates, to-wit:

73 0073 ✓

A Roscoe Hamilton, from Spring Creek and Duck Spring 1.4 cubic
B feet per second of time and .8 cubic feet per second of time
from the Pahsimeroi River with date of priority April 1, 1912,
appurtenant to the SE $\frac{1}{4}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 7,
T. 15 N., R. 21 E. B. M. through what is known as the Ellis
Ditch.

73 0074 ✓

A George A. Ellis 3.4 cubic feet per second of time, from
B Spring Creek and Duck Spring and 1.6 cubic feet per second



Idaho Department of Water Resources

SRBA Recommendation:

73-4024

Legend

●

Point of Diversion

Place of Use

Townships

PLS Sections

Quarter Quarters

Custer County
IDWR Basin 73

The main map is an aerial photograph of a rural area. A yellow line outlines a specific region. A yellow circle marks a point of diversion. Various labels are overlaid on the map: 'R21E' at the top, 'T15N' on the left, 'SENE' and 'S2NE' in the upper left, 'SWNW' and 'NWSW' in the upper right, and 'NESE' in the lower left. Blue numbers '7' and '8' are also visible. A scale bar at the bottom indicates distances of 0, 0.3, and 0.6 miles.

Prepared by R. Brown
On Friday, August 25, 2006
1987/88 Aerial Photography

08/25/2006

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

RIGHT NUMBER: 73-4024

NAME AND ADDRESS: CHUCK R CHARLTON
PO BOX 96
ELLIS ID 83235

SOURCE: PAHSIMEROI RIVER

TRIBUTARY: SALMON RIVER

QUANTITY: 2.450 CFS

PRIORITY DATE: 07/15/1898

POINT OF DIVERSION:

T15N R21E S8 SESW 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	2.400 CFS
STOCKWATER	01/01 12/31	0.050 CFS

PLACE OF USE: IRRIGATION Within CUSTER County

T15N R21E S07	SENE	31.00	T15N R21E S08	SWNW	36.00
---------------	------	-------	---------------	------	-------

T15N R21E S08	SENW	2.80
---------------	------	------

STOCKWATER same as IRRIGATION

69.8 ACRES TOTAL

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 - Beneficial Use

A7304024

P-7

Owners

Chuck Charlton

Local Name of Ditch:

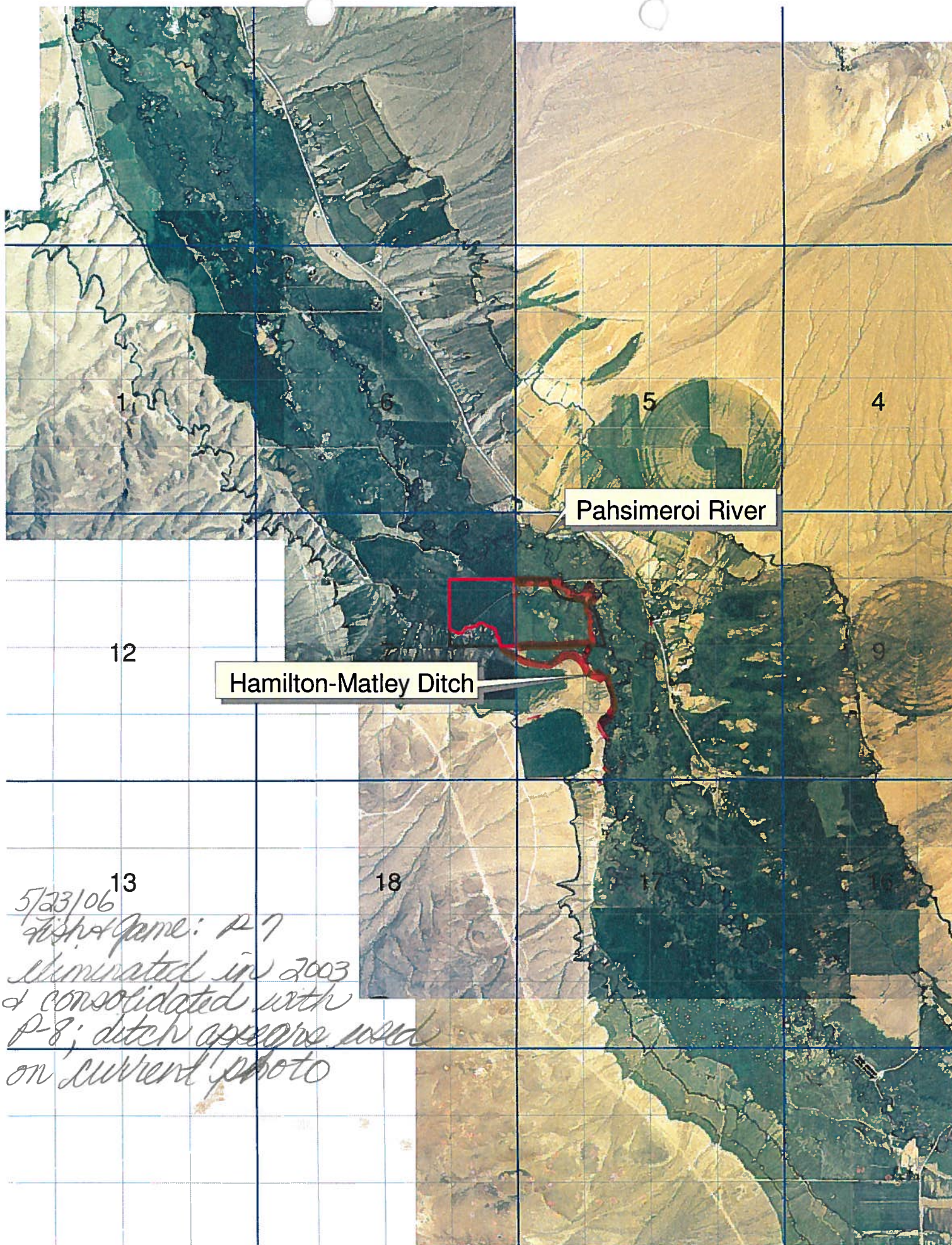
Hamilton - Mathey Ditch.

Other users

Gregory - Gunther +
Bowles Trust

Point of Diversion:

Water Normally used
4 C.F.S.

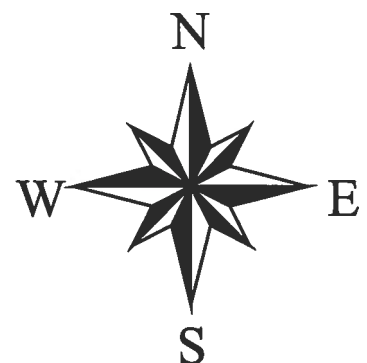
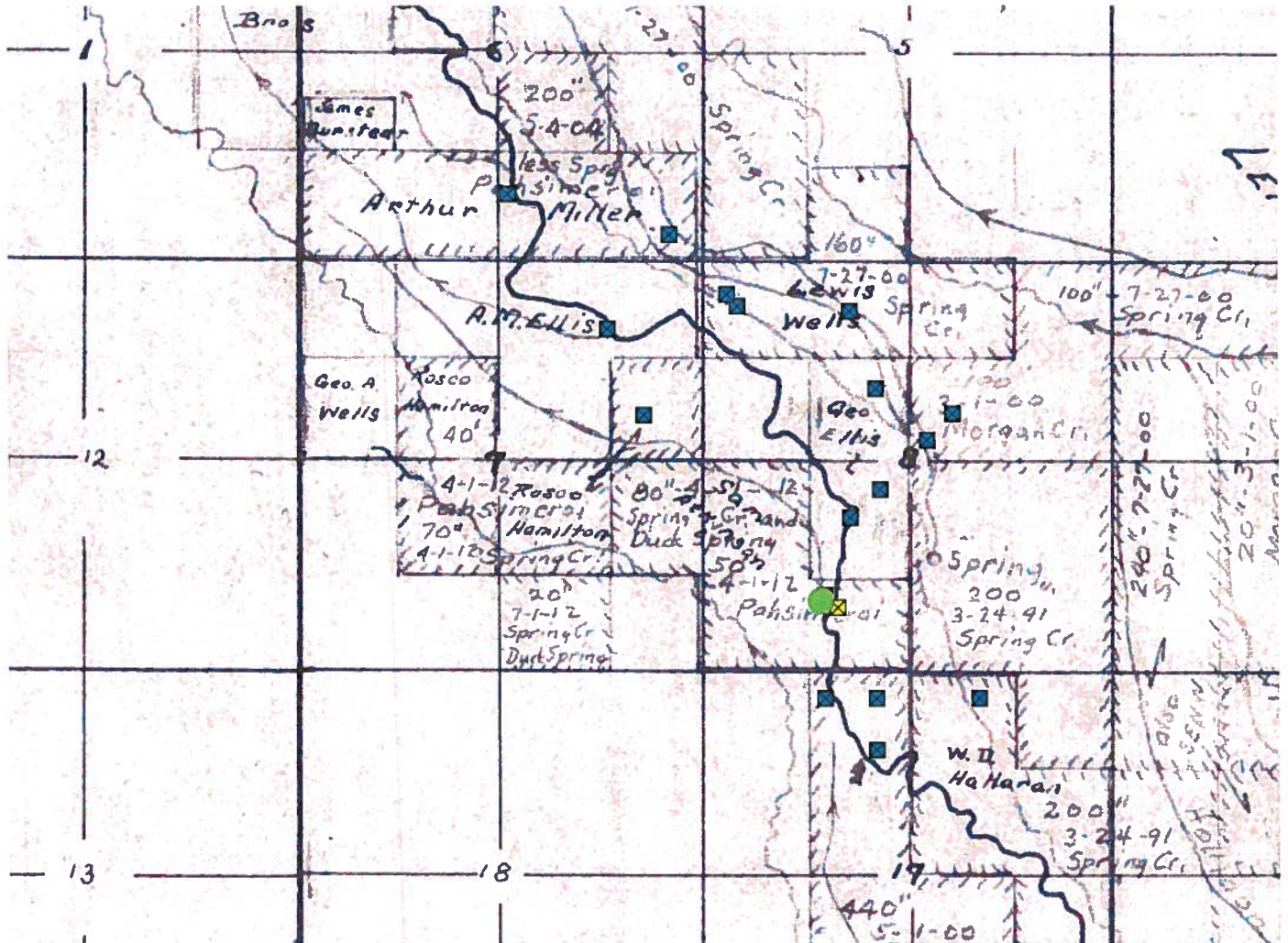


Pahsimeroi River

Hamilton-Matley Ditch

5/23/06
fish game: P 7
eliminated in 2003
& consolidated with
P-8; ditch appears used
on current photo

P-7 Lands



2/17/1926

<u>Basin</u>	<u>Sequence</u>	<u>Suff</u>	<u>Diversion</u>	<u>Basis</u>	<u>Status</u>	<u>Priority Date</u>	<u>Rate/cfs</u>	<u>Volum</u>	<u>Source</u>	<u>Water Use(s)</u>	<u>Owner(s)</u>	<u>Source Table</u>
73	81		P7	Decreed	Active	5/4/1904	4.00		PAHSIMEROI	IRRIGATION	BOWLES, GEORGE M (C w/rrAdjudicationRecomr	
73	4017		P7 1/22/1996	Beneficial I	Active	2/18/1926	1.91		PAHSIMEROI	IRRIGATION	BOWLES, GEORGE M (C w/rrAdjudicationRecomr	
73	4024		P7 7/1/1988	Beneficial I	Active	2/18/1926	2.45		PAHSIMEROI	IRRIGATION, S' CHARLTON, CHUCK R (C w/rrAdjudicationRecomr		
73	4021		P7 4/6/1922	Beneficial I	Active	2/18/1926	0.33		PAHSIMEROI	IRRIGATION	G M BOWLES TRUST (C w/rrAdjudicationRecomr	
73	10133		P7	Beneficial I	Active	12/31/1962	0.80		PAHSIMEROI	FISH PROPAG/STATE OF IDAHO (Curre w/rrAdjudicationRecomr		