

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

RIGHT NUMBER: 74-51

NAME AND ADDRESS: BOYD D FOSTER
PO BOX 55
LEADORE ID 83464

RICHARD E FOSTER
PO BOX 55
LEADORE ID 83464

SOURCE: BIG TIMBER CREEK

TRIBUTARY: LEMHI RIVER

QUANTITY: 6.400 CFS

PRIORITY DATE: 06/07/1909

POINT OF
DIVERSION: T15N R26E S5 SENE Within LEMHI County

PURPOSE AND
PERIOD OF USE:

	<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
	IRRIGATION	03/15 11/15	6.400 CFS
PLACE OF USE:	<u>IRRIGATION in LEMHI County</u>		
	T16N R26E S33	NESW 21.00	T16N R26E S33 NESE 40.00
	T16N R26E S33	NWSE 38.20	T16N R26E S33 SESE 40.00
	T16N R26E S34	SWSW 40.00	T16N R26E S34 SESW 37.20
	216.4 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 - Decreed

INDICATES TOTAL SOURCE: BIG TIMBER CREEK TRIBUTARY TO: LEWIS RIVER

RIGHT NUMBER	NAME AND ADDRESS	PRIORITY DATE	USE	USE PERIOD FROM TO	MAX AMOUNT MAX RATE	DIVERSION POINT	PLACE OF USE AND ACREAGE	BASIS FOR RIGHT
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74-0148	S09 SWNE(04) SESE(40) S08 SESE(05) S03 SESE(25)	SENE(09)	SESE(01) SWSE(32)	SESE(10) SWSE(25)	NESE(40) SESE(16)	NWSE(32)	SWSE(39)	
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74-1092	STATE OF IDAHO DEPT. OF LANDS STATEHOUSE BOISE	04-10-1909	STOCKWATER	03-15 11-15	.02 CFS	SWS S17 T15N R26E SWN S20 T15N R26E	DEGREE	
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74-0051	PETERSON, DONALD U. PETERSON, BILLIE P.O. BOX 144 LEADORE	06-07-1909	IRRIGATION	03-15 11-15	6.40 CFS	SENE S05 T15N R26E S34 T16N R26E NEM(21) NESE(40) NASE(38) SESE(40) S33 T16N R26E	DEGREE	
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74-0035	HARRIS, WILLIAM D. HARRIS, SHARON B. P.O. BOX 34 LEADORE	10-28-1909	IRRIGATION	03-15 11-15	6.61 CFS	SWS S17 T15N R26E	DEGREE	
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74-0054	PURCELL, KERMIT P.O. BOX 5 LEADORE	11-12-1909	IRRIGATION	03-15 11-15	3.20 CFS	NWNE S08 T15N R26E S04 T15N R26E SWN(40) NWSW(40) S03 T15N R26E * 160 ACRES*	DEGREE	
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74-0043A	ELLIS, DUANE R. ELLIS, CLARA E. P.O. BOX 146 LEADORE	02-21-1910	IRRIGATION	03-15 11-15	.04 CFS	SWN S33 T16N R26E S33 T16N R26E	DEGREE	
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74-0043B	WEAD, WILLIAM H. REMARKS: AC. IRR. #3. P/U IN LOTS 5-8, B.L.K. 18, CITY OF LEADORE.	02-21-1910	IRRIGATION	03-15 11-15		SWN S33 T16N R26E S33 T16N R26E	DEGREE	
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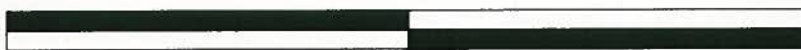
* 1 ACRES*

Idaho Department of Water Resources

A74-00051

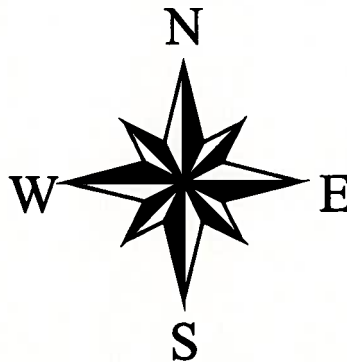


2000 0 2000 Feet



T16N, R26E, S33 & S34

*Split
21 Ave*



Prepared by Anita Warntjes
January 13, 2003
1993/94 True Color Aerial Photo

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Claim Report 74-51

WATER RIGHT NUMBER: 74-51

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	RICHARD E FOSTER PO BOX 55 LEADORE, ID 83464 (208)768-2406
Original Owner	DONALD O PETERSON PO BOX 144 LEADORE, ID 83464
Original Owner	BILLIE PETERSON PO BOX 144 LEADORE, ID 83464

Priority Date: 06/07/1909

Basis: Decreed

Status: Active

Source

BIG TIMBER CREEK

Tributary

LEMHI RIVER

Beneficial Use

IRRIGATION

From To

3/15 to 11/15

Diversion Rate

6.400 CFS ✓

Annual VolumeTotal Diversion:

6.400 CFS

Location of Point(s) of Diversion

BIG TIMBER CREEK

SE1/4NE1/4

Sec. 5, Twp 15N, Rge 26E, B.M.

LEMHI County

Place of UseIRRIGATION Within LEMHI County

T16N R26E S33 NESE 40.0 ✓ T16N R26E S33 NWSE 38.0 ✓

T16N R26E S33 SESE 40.0 ✓ T16N R26E S34 SWSW 40.0 ✓

T16N R26E S34 SESW 37.0 ✓ 37.4

Total Acres: 195

$$\text{as decreed: } 6.40 \text{ cfs} / 216.4 \text{ ac} = 0.296 \text{ cfs/ac}$$

$$195.4 \text{ ac} \left(\frac{6.40 \text{ cfs}}{216.4 \text{ ac}} \right) = \underline{\underline{5.78 \text{ cfs}}}$$

Conditions of Approval:Remarks:

1. General

AC. IRR.=195.4.

OWNER HAS SOLD PROPERTY TO MR. FOSTER, BUT HOLDS THE CONTRACT.
CONTRACT PAID IN FULL AS OF DEC 13, 1993, AS PER MR. FOSTER. PRM

This right needs to be split. Mr Foster does own what he claims. Another party owns the additional 21 acres. Unless paper work has been filed to transfer the water to his land, the quantity should be reduced to 5.76 cfs

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Claim Report 74-51

Dates and Other Information:

Claim Received Date: 5/9/1990
Enlargement Use Priority Date:
Enlargement Statute Priority Date:
State or Federal: S
Owner Name Connector: OR
Water District Number: 74W
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

RR
3/28/03



State of Idaho

DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Suite A • Idaho Falls, Idaho 83402-1718

Phone: (208) 525-7161 • Fax: (208) 525-7177 • Web Site: www.idwr.idaho.gov

EASTERN REGION

C. L. "BUTCH" OTTER
Governor

DAVID R. TUTHILL, JR.
Director

May 17, 2007

RE: Objection to WR 74-51

Mr. Richard E Foster
PO BOX 55
LEADORE, ID 83464

Dear Mr. Foster,

I have received your application for transfer and have been advised by transfer processing personnel that this transfer cannot be processed without an amended claim. This is because the transfer is based upon the amended claim submitted in 1994 in which 195.4 acres were claimed. The full 216 acres must be claimed in a manner consistent with the Lemhi Decree to make the 21 acres available for transfer. Enclosed with this letter are:

- 1.) Standard Form 4 Motion to File Amended Notice of Claim
- 2.) Amended Notice of Claim to a Water Right
- 3.) A copy of water right as decreed in the Lemhi Adjudication
- 4.) The transfer application with the check for the transfer fee.

Please retain this transfer application and resubmit this transfer application upon notification from Idaho Department of Water Resources of the Amended Director's Report.

Respectfully Submitted,

Nate Arave
Water Resource Agent
Idaho Department of Water Resources
900 N. Skyline Drive Suite A
Idaho Falls, Id 83402-1718
(208)-525-7177 ext. 2248

April 5, 2007

RE: Objection to WR 74-51

Mr. Richard E Foster
PO BOX 55
LEADORE, ID 83464

Mr. Foster,

I have reviewed your objection to water right 74-51 as it has been recommended in the SRBA (Snake River Basin Adjudication). My understanding of the recommendation for the reduction in quantity of diversion from 6.4 to 5.97 cfs was based upon the reduction of acreage of the place of use, which occurred in 1993 when 21 acres of land was sold without water rights. The result of this changed the acreage for the place of use from 216 acres to 195 acres. The diversion rate (cfs) was altered proportionately to the change in acreage. I believe there are two possible resolutions to this objection, 1.) If on the 21 acres sold in 1993 irrigation stopped prior to the initiation of the SRBA (November 19, 1987) and you have documentation of this then the quantity of diversion (cfs) for the recommendation could be reconsidered based upon this new evidence, or 2.) If the 21 acres sold in 1993 was still irrigated after the initiation of the SRBA (November 19, 1987) then an application for transfer for the purpose of the consolidation of acreage should be filed. This application for transfer would propose the transferring of water (cfs) from the 21 sold acres to the current place of use of 195 acres. I have enclosed with this letter an application for transfer.

Furthermore documentation of full delivery of this water right by the water master will also be required. If you decide to file an application for transfer please address the return letter to me as shown below. If you have any question or concerns please contact me at the phone number listed below.

Respectfully Submitted,

Nate Arave
Water Resource Agent
Idaho Department of Water Resources
900 N. Skyline Drive Suite A
Idaho Falls, Id 83402-1718
(208)-525-7177 ext. 2248