

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

AUG 22 2008

By _____

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

) Subcase No.: 74-15661

)

) ORDER OF AMENDED PARTIAL
) DECREE

)

)

)

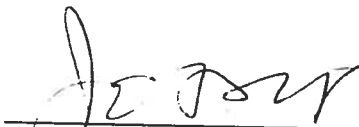
)

A *Partial Decree* for the above-captioned water right claim was issued on January 26, 2007. On February 12, 2007, the claimant filed a *Motion to Set Aside Partial Decree*. On July 29, 2007, a *Special Master's Report and Recommendation* was filed recommending that the *Partial Decree* be set aside. No Challenges were filed to the *Special Master's Report and Recommendation*.

On September 21, 2007, the Court issued an *Order Granting Motion to Set Aside Partial Decree and Request for Amended Director's Report*. On May 8, 2008, an *Amended Director's Report* was filed. Notice was pursuant to Docket Sheet procedure. No objections were filed.

Therefore, IT IS ORDERED that the above-captioned water right is hereby decreed as set forth in the *Amended Partial Decree Pursuant to I.R.C.P. 54(b)*. The previously issued *Partial Decree* is replaced and superseded thereby.

Dated August 22, 2008


JOHN M. MELANSON
Presiding Judge
Snake River Basin Adjudication

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

AMENDED

In Re SRBA)
Case No. 39576)

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Water Right 74-15661

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

AUG 22 2008

NAME AND ADDRESS: F JAMES WHITTAKER
PAULA J WHITTAKER
83 BIG EIGHT MILE RD
PO BOX 240
LEADORE, ID 83464

SOURCE: LITTLE TIMBER CREEK TRIBUTARY: BIG TIMBER CREEK

QUANTITY: 1.00 CFS

Right Nos. 74-55 and 74-15661 are limited to a total combined
diversion rate of 6.2 cfs.

PRIORITY DATE: 03/15/1983

This water right is subordinate to all water rights with a
priority date earlier than April 12, 1994, that are not decreed
as enlargements pursuant to Section 42-1426, Idaho Code. As
between water rights decreed as enlargements pursuant to Section
42-1426, Idaho Code, the earlier priority right is the superior
right.

POINT OF DIVERSION: T15N R25E S26 NWNE Within Lemhi County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	03-15 TO 11-15	1.00 CFS

PLACE OF USE:	Irrigation	Within Lemhi County
T15N R25E S14	SWNE 19.0 SENE 35.0 NWSW 12.0 SESW 1.0 SWSE 4.0 SESE 6.0	SWNW 8.2 NESW 22.0 SWSW 16.0 NWSE 38.0
S15		
161.2 Acres Total		

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

This right is based upon an enlargement of Right No. 74-55
pursuant to Section 42-1426, Idaho Code.

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).

CERTIFICATE OF MAILING

I certify that a true and correct copy of the ORDER OF AMENDED PARTIAL DECREE was mailed on August 22, 2008, with sufficient first-class postage to the following:

F JAMES WHITTAKER

PAULA J WHITTAKER

Represented by:

SCOTT L CAMPBELL

101 S CAPITOL BLVD 10TH FLOOR

PO BOX 829

BOISE, ID 83701-0829

Phone: 208-345-2000

DIRECTOR OF IDWR

PO BOX 83720

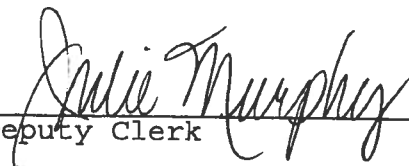
BOISE, ID 83720-0098

ORDER

Page 1 8/22/08

FILE COPY FOR 00794

Deputy Clerk

A handwritten signature in cursive script, appearing to read "Julie Murphy", is written over a horizontal line.

The following claims to water rights have been filed in the Snake River Basin Adjudication as enlargements to existing water rights under Idaho Code §42-1426. Note that the places of use in Elmore County are shown to the nearest section - more specific locations are available upon request.

Water Right: 74-14980

Name & Address:
F JAMES & PAULA J WHITTAKER
PO BOX 240
LEADORE ID 83464
SOURCE: BIG TIMER CREEK,
TRIBUTARY TO: LEMHI RIVER
PRIORITY DATE: 08/01/1982
POINT OF DIVERSION: T15N R26E
S20 SWNW
PURPOSE OF USE: IRRIGATION
PLACE OF USE: T15N R26E S21
SWSE SESE
S27 NWNW SWNW SENW
S28 NENE

This right is for an enlargement of 42.7 acres irrigation within the place of use described for this right.

Water Right: 74-15072

NAME & ADDRESS:
DARRELL J & VERNA M NEF
1019 LEE CREEK RD
LEADORE ID 83464
SOURCE: BIG EIGHTMILE CREEK,
TRIBUTARY: LEMHI RIVER
PRIORITY DATE: 06/19/1982
POINT OF DIVERSION: T16N R25E
S33 SWNW
PURPOSE OF USE: IRRIGATION
PLACE OF USE: T16N R25E S20
NESW SWSW SESW NWSE SWSE
S29 NWNE NENW NWNW

This right is for an enlargement of 59 acres within the total acres recommended.

Water Right: 74-15533

NAME & ADDRESS:
JUNE PLAYFAIR
PO BOX 38
LEMHI ID 83465
SOURCE: LEMHI RIVER, TRIBU-
TARY: SALMON RIVER
PRIORITY DATE: 03/15/1957
POINT OF DIVERSION: T18N R24E
S33 LOT 7 (NWNW)
PURPOSE OF USE: IRRIGATION
PLACE OF USE: T18N R24E S28
NESW

This right is for an enlargement of 4 acres within the total acres recommended.

Water Right: 74-15655

NAME & ADDRESS:
F JAMES & PAULA J WHITTAKER
PO BOX 240 LEADORE ID 83464
SOURCE: BIG EIGHTMILE CREEK,
TRIBUTARY TO: LEMHI RIVER
PRIORITY DATE: 05/01/1973
POINT OF DIVERSION: T15N R25E
S05 SENE, S08 NENW
PURPOSE OF USE: IRRIGATION
PLACE OF USE: T16N R25E, S34
NESE NWSE SWSE SESE
S35 SWNW SENW NESW NWSW
SWSW SESW NWSE

This right is for an enlargement of 153.7 acres irrigation within the place of use described for this right

Water Right: 74-15661

NAME & ADDRESS:
F JAMES WHITTAKER
PO BOX 240
LEADORE ID 83464
SOURCE: BIG TIMBER CREEK,
TRIBUTARY TO: LEMHI RIVER
PRIORITY DATE: 03/15/1983
POINT OF DIVERSION: T15N R25E
S26 NWNE
PURPOSE OF USE: IRRIGATION
PLACE OF USE: T15N R25E S14
SWNE SWNW SENW NESW
NWSW SWSW SESW NWSE SWSE
S15 SESE

This right is for an enlargement of 18.4 acres irrigation within the place of use described for this right.

The water rights will be subject to all prior water rights. Those asserting injury from the enlargements may file petitions with the Director, Idaho Department of Water Resources, State Office, P.O. Box 83720, Boise, ID 83720-0098 on or before September 26, 2006.

Affidavit of Publication

RECEIVED

SEP 05 2006

DEPARTMENT OF
WATER RESOURCES

STATE OF IDAHO

County of Lemhi

ss.

RICKY G. HODGES being first duly sworn, deposes and says he is one of the publishers (printers) of The Recorder Herald, a newspaper published weekly at Salmon, Lemhi County, Idaho, and of general circulation therein. That the NOTICE OF ENLARGEMENT, a true printed copy of which is attached to the margin hereof, has been and was correctly printed and published in the regular and entire issue of every number of said newspaper and not in any supplement thereof or thereto for TWO (2) consecutive issue(s), commencing with the issue dated 8-17-2006 and ending with the issue dated 8-24-2006.

STATE OF IDAHO

County of Lemhi

ss.

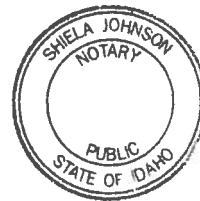
On this 28th day of August in this year of 2006 before me, A Notary Public, personally appeared RICKY G. HODGES, known or identified to me to be the person whose name subscribed to the within instrument, and being by me first duly sworn, declared that the statements therein are true, and acknowledged to me that he executed the same.

Sheila Johnson
Notary Public for Idaho

Residing At Salmon, Idaho

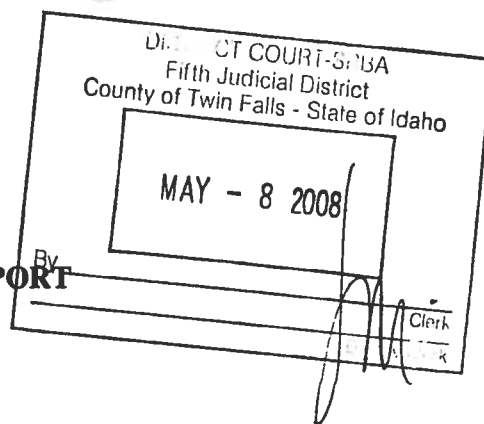
My Commission expires: 01-02-2007

Publication Fee \$168.48



AMENDED DIRECTOR'S REPORT

Subcase No. 74-15661



In Re SRBA

Twin Falls County Civil Case No. 39576

Report to the SRBA District Court

**Prepared by the Idaho Department of Water Resources
David R. Tuthill, Interim Director
Donald V. Shaff, Adjudication Bureau Chief**

May 6, 2008

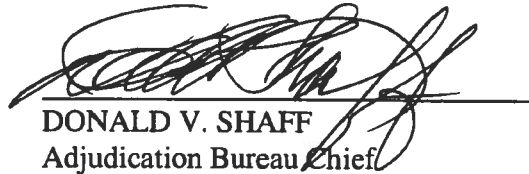
DESCRIPTIVE SUMMARY

This is an Amended Director's Report submitted by the Director of the Idaho Department of Water Resources.

DISCUSSION

Pursuant to the Special Master's *Order Granting Motion to Set Aside Partial Decree and Request for Amended Director's Report* dated September 20, 2007, the Director submits for filing with the Court an Amended Director's Report for the aforementioned subcase.

Respectfully submitted this 6th day of May, 2008.


DONALD V. SHAFF
Adjudication Bureau Chief

AMENDED DIRECTOR'S REPORT

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

RIGHT NUMBER: 74-15661

NAME AND ADDRESS: F JAMES WHITTAKER
PAULA J WHITTAKER
83 BIG EIGHT MILE RD
PO BOX 240
LEADORE ID 83464

SOURCE: LITTLE TIMBER CREEK

TRIBUTARY: BIG TIMBER CREEK

QUANTITY: 1.000 CFS

Right Nos. 74-55 and 74-15661 are limited to a total combined diversion rate of 6.2 cfs.

PRIORITY DATE: 03/15/1983

This water right is subordinate to all water rights with a priority date earlier than April 12, 1994, that are not decreed as enlargements pursuant to Section 42-1426, Idaho Code. As between water rights decreed as enlargements pursuant to Section 42-1426, Idaho Code, the earlier priority right is the superior right.

POINT OF
DIVERSION: T15N R25E S26 NWNE 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	1.000 CFS

PLACE OF USE: IRRIGATION in LEMHI County

T15N R25E S14	SWNE	19.00	T15N R25E S14	SWNW	8.20
T15N R25E S14	SENE	35.00	T15N R25E S14	NESW	22.00
T15N R25E S14	NWSW	12.00	T15N R25E S14	SWSW	16.00
T15N R25E S14	SESW	1.00	T15N R25E S14	NWSE	38.00
T15N R25E S14	SWSE	4.00	T15N R25E S15	SESE	6.00

161.2 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.

This right is based upon an enlargement of Right No. 74-55 pursuant to Section 42-1426, Idaho Code.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use

This right is for an enlargement of 16.4 acres within the place of use described for this right.

CERTIFICATE OF SERVICE

I certify that on May 7th, 2008, I caused to be served a true and correct copy of this Amended Director's Report, to the following persons, in the manner indicated and addressed as follows:

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

☒ Overnight Mail
☒ Regular Mail
☐ Hand-Delivered
☐ Facsimile

2. Copies to:

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

☐ Overnight Mail
☒ Regular Mail
☒ Hand-Delivered
☐ Facsimile

United States Department of Justice
Environment & Natural Resources Div.
550 W. Fort Street MSC 033
Boise, ID 83724

☐ Overnight Mail
☒ Regular Mail
☐ Hand-Delivered
☐ Facsimile

Lemhi County Courthouse
206 Courthouse Dr.
Salmon, ID 83467

☐ Overnight Mail
☒ Regular Mail
☐ Hand-Delivered
☐ Facsimile

F. James Whittaker
Paula J Whittaker
83 Big Eight Mile Rd .
PO Box 2401
Salmon, ID 83464

☐ Overnight Mail
☒ Regular Mail
☐ Hand-Delivered
☐ Facsimile


Signature of person delivering form

February 8, 2007

State of Idaho
District Court
Snake River Basin Adjudication
PO Box 2707
Twin Falls, ID 83303-2707

To Whom It May Concern:

Please correct Water Right # 74-15661 by adding the name, Paula J. Whittaker, and changing the source from Big Timber Creek to Little Timber Creek and the tributary from the Lemhi River to Big Timber Creek to correspond with Water Right # 74-55.

Thank you for your help in this matter.

Sincerely,



James Whittaker
PO Box 240
Leadore, Idaho 83464

CLERK OF DISTRICT COURT
TWIN FALLS, IDAHO
FILED
2007 FEB 14 AM 11 07

RECEIVED

FEB 14 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)
PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Water Right 74-15661

NAME AND ADDRESS: F JAMES WHITTAKER
PO BOX 240
LEADORE, ID 83464

SOURCE: *PAULA*
Big Timber Creek
~~LITTLE~~ ~~TIMBER CREEK~~ TRIBUTARY: ~~LEADORE RIVER~~

QUANTITY: 1.00 CFS

Right Nos. 74-55 and 74-15661 are limited to a total combined
diversion rate of 6.2 cfs.

PRIORITY DATE: 03/15/1983

This water right is subordinate to all water rights with a
priority date earlier than April 12, 1994, that are not decreed
as enlargements pursuant to Section 42-1426, Idaho Code. As
between water rights decreed as enlargements pursuant to Section
42-1426, Idaho Code, the earlier priority right is the superior
right.

POINT OF DIVERSION: T15N R25E S26 NWNE Within Lemhi County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	03-15 TO 11-15	1.00 CFS

PLACE OF USE:	Irrigation	Within Lemhi County
	T15N R25E S14	SWNE 19.0 SENE 35.0 NWSW 12.0 SESW 1.0 SWSE 4.0 SESE 6.0
	S15	SWNW 8.2 NESW 22.0 SWSW 16.0 NWSE 38.0
	161.2 Acres Total	

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

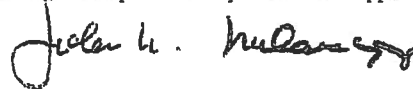
This right is based upon an enlargement of Right No. 74-55
pursuant to Section 42-1426, Idaho Code.

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).

SRBA Partial Decree Pursuant to I.R.C.P. 54(b) (continued)

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

01/19/2006

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

RIGHT NUMBER: 74-55

NAME AND ADDRESS: F JAMES WHITTAKER
PO BOX 240
LEADORE ID 83464

PAULA J WHITTAKER
PO BOX 240
LEADORE ID 83464

SOURCE: LITTLE TIMBER CREEK

TRIBUTARY: BIG TIMBER CREEK

QUANTITY: 6.200 CFS

Right Nos. 74-55 and 74-15661 are limited to a total combined diversion rate of 6.2 cfs.

PRIORITY DATE: 08/19/1910

POINT OF
DIVERSION: T15N R25E S26 NWNE Within LEMHI County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	3/15 11/15	6.200 CFS

PLACE OF USE: IRRIGATION Within LEMHI County

T15N R25E S14	SWNE	19.00	T15N R25E S14	SWNW	8.20
T15N R25E S14	SENE	35.00	T15N R25E S14	NESW	22.00
T15N R25E S14	NWSW	12.00	T15N R25E S14	SWSW	16.00
T15N R25E S14	SESW	1.00	T15N R25E S14	NWSE	38.00
T15N R25E S14	SWSE	4.00	T15N R25E S15	SESE	6.00

161.2 ACRES TOTAL

This right is limited to the irrigation of 144.8 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 No. 74-15661 is an enlargement of this right pursuant to Section 42-1426, Idaho Code.

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

PPU/Enlargement Analysis

Claim No. 74-15661

Twsp	Rng	Sec	Lot	QQ	74-15661 (Little Timber Creek)	74-55 (Little Timber Creek)	74-1104 (Milk Creek)	PPU (as mapped)
15N	26E	14		NENE				
				NWNE				
				SWNE	23.0	2.0		19.0
				SESE				
				NENW				
				NWNW				
				SWNW		8.0		8.2
				SENE	4.4	35.0		35.0
				NESW	17.0	22.0	4.0	22.0
				NWSW		12.0	12.0	12.0
				SWSW		16.0	16.0	16.0
				SESW	2.4	1.0		1.0
				NESE				
				NWSE	0.3	38.0		38.0
				SWSE		4.0		4.0
				SESE				
		15		SESE		6.0	6.0	6.0
					47.1	144.8	38.5	161.2

01/16/2006

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

RIGHT NUMBER: 74-15661
NAME AND ADDRESS: F JAMES WHITTAKER
PO BOX 240
LEADORE ID 83464
SOURCE: BIG TIMBER CREEK TRIBUTARY: LEMHI RIVER
QUANTITY: 1.000 CFS
Right Nos. 74-55 and 74-15661 are limited to a total combined diversion rate of 6.2 cfs.
PRIORITY DATE: 03/15/1983
This water right is subordinate to all water rights with a priority date earlier than April 12, 1994, that are not decreed as enlargements pursuant to Section 42-1426, Idaho Code. As between water rights decreed as enlargements pursuant to Section 42-1426, Idaho Code, the earlier priority right is the superior right.

POINT OF DIVERSION:

T15N R25E S26 NWNE 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	1.000 CFS

PLACE OF USE:

IRRIGATION Within LEMHI County

T15N R25E S14	SWNE	19.00	T15N R25E S14	SWNW	8.20
T15N R25E S14	SENE	35.00	T15N R25E S14	NESW	22.00
T15N R25E S14	NWSW	12.00	T15N R25E S14	SWSW	16.00
T15N R25E S14	SESW	1.00	T15N R25E S14	NWSE	38.00
T15N R25E S14	SWSE	4.00	T15N R25E S15	SESE	6.00

161.2 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.

This right is based upon an enlargement of Right No. 74-55 pursuant to Section 42-1426, Idaho Code.

EXPLANATORY MATERIAL: BASIS OF CLAIM -

This right is for an enlargement of 16.4 acres within the place of use described for this right.



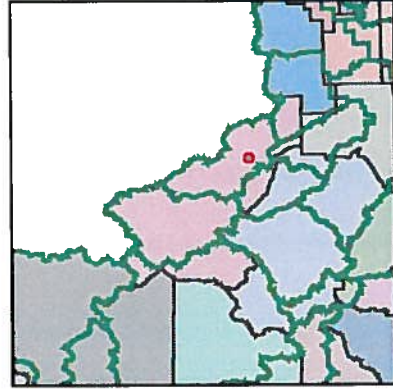
Idaho Department of Water Resources

Adjudication Claim Number: **74-55, 74-15661**

T15N R25E

Legend

-  Place of Use
-  Township/Range
-  Sections
-  GCDB15N25E GCDB



Lemhi County
IDWR Basin 74

Prepared by R. Brown
On Monday, January 16, 2006
1993/94 Aerial Photography

