

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

RIGHT NUMBER: 74-15767

NAME AND ADDRESS: RAY L KAGEL JR  
3879 E 200 N  
RIGBY ID 83442

NANCY J KAGEL  
3879 E 200 N  
RIGBY ID 83442

CHARLES E LIEBRECHT  
3879 E 200 N  
RIGBY ID 83442

SOURCE: HAWLEY CREEK

TRIBUTARY: EIGHTEENMILE CREEK

QUANTITY: 0.640 CFS

Right Nos. 74-22 and 74-15767 are limited to a total combined diversion rate of 2.00 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: T16N R28E S31 NWNW Within LEMHI County  
T16N R28E S32 NWSW 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          |               | 0.640 CFS       |
| PLACE OF USE: | <u>IRRIGATION in LEMHI County</u> |      |                      |               |                 |
|               | T16N R27E S36                     | NENE | 0.10                 | T16N R27E S36 | SENE 13.60      |
|               | T16N R27E S36                     | NESE | 0.80                 | T16N R28E S31 | NENW 4.10       |
|               | T16N R28E S31                     | NWNW | 0.80                 | T16N R28E S31 | SWNW 26.30      |
|               | T16N R28E S31                     | SENW | 13.60                |               |                 |

59.3 ACRES TOTAL

Place of use does not include federal lands and is within HES 543

Right Nos. 74-22 and 74-15767 are limited to the irrigation of a combined total of 59.3 acres 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.

This right is based upon an enlargement of Right No.74-22 pursuant to Section 42-1426, Idaho Code.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use

This right is for an enlargement of 18.9 acres within the place of use described for this right.

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 74-15767  
Date Received: 5/15/2007  
Receipt No:  
Received By:

NOTICE OF CLAIM TO A WATER RIGHT  
ACQUIRED UNDER STATE LAW

1. Name of Claimant(s)

RAY L KAGEL JR Phone: (208)523-0641

3879 E 200 N  
RIGBY ID USA 83442

NANCY J KAGEL Phone: (208)523-0641

3879 E 200 N  
RIGBY ID USA 83442

CHARLES E LIEBRECHT Phone: (208)523-0641

3879 E 200 N  
RIGBY ID USA 83442

*Emailed Kent Foster  
10/3/07 Requesting  
affidavits from Kagels  
as evidence of priority  
for this WR.*

2. Date of Priority: 03/15/1983

3. Source: BIG BEAR CREEK , BIG BEAR CREEK Trib. to: HAWLEY CREEK , HAWLEY CREEK

4. Point of Diversion:

| Township | Range | Section | 1/4 of 1/4 of 1/4 Lot | County | Type |
|----------|-------|---------|-----------------------|--------|------|
| 16N      | 28E   | 32      | NW SW                 | LEMHI  |      |
| 16N      | 28E   | 31      | NW NW                 | LEMHI  |      |

5. Description of diverting works:

Headgates and ditches

6. Water is used for the following purposes:

| Purpose    | From  | To    | C.F.S. | (or) A.F.A |
|------------|-------|-------|--------|------------|
| IRRIGATION | 03/15 | 11/15 | 2      |            |

7. Total Quantity Appropriated is:  
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 |
|---------------|-------|---------|---------------|--------|-----|------------|-------|
| 16N           | 27E   | 36      | NE            | NE     |     | IRRIGATION | 0.02  |
|               |       |         | SE            | NE     |     | IRRIGATION | 13.6  |
|               |       |         | NE            | SE     |     | IRRIGATION | 0.82  |
|               |       |         | Section Acres |        |     |            | 14.44 |
| 16N           | 28E   | 31      | NE            | NW     |     | IRRIGATION | 4.05  |
|               |       |         | NW            | NW     |     | IRRIGATION | 0.88  |
|               |       |         | SW            | NW     |     | IRRIGATION | 26.27 |
|               |       |         | SE            | NW     |     | IRRIGATION | 13.66 |
| Section Acres |       |         |               | 44.86  |     |            |       |
| Total Acres   |       |         |               | 59.3   |     |            |       |

11. Place of use in counties: LEMHI

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

13. Other Water Rights Used:

14. Remarks:

This is merely a claim to account for the balance of the acreage that has historically been irrigated under right no. 74-22. The Lemhi Decree references only 40.4 acres of irrigated land. With better technology, it appears there is 59.3. Claimants do not claim more than the 2.0 cfs of water under 74-22, just that 18.9 more acres has historically been irrigated. To conform this claim to the Lemhi Decree, a priority of March 15, 1983, has been set forth above for the extra 18.9 acres although to claimants' knowledge the same acreage has been irrigated from the time irrigation first began.

15. Basis of Claim: Beneficial Use

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

Signature of Claimant(s): \_\_\_\_\_ Date: \_\_\_\_\_

\_\_\_\_\_ Date:

State of Idaho )  
County of \_\_\_\_\_ ) SS.

Subscribed and sworn (or affirmed) before me this

of \_\_\_\_\_ 20\_\_

\_\_\_\_\_  
Notary Public

Residing at \_\_\_\_\_

My commission Expires \_\_\_\_\_

**Saxton, Craig**

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**From:** Saxton, Craig  
**Sent:** Monday, October 01, 2007 2:16 PM  
**To:** Arave, Nathaniel  
**Subject:** Late Claim ~~87~~<sup>74</sup>-15767

Hey Nathaniel,

How is it going? We just received late claim ~~87~~<sup>74</sup>-15767 and as I was looking through it I see your tracks on it. I started to make the recommendation but I ran into a couple of things that make me think someone who is more familiar with this claim should be making the recommendation.

One issue is with ~~87~~<sup>74</sup> the source. Basically, the source for both POD's appears to be Hawley Creek. But the water right for which ~~87~~<sup>74</sup>-15767 is an enlargement of is recommended with the source being Hawley and Big Bear Creek. Not to mention that the claim itself claims Big Bear Creek.

The other issue is the POU. The acreage numbers are shown in the hundredths. Not a big deal if it is just the claim, but it looks like the recommendation for 74-22 is the same. I don't want to mess up something because I am missing some information.

If you are familiar with this, please let me know and I will probably send this onto you to make the recommendation. If you are not, let me know and I will take care of it.

Thanks,

Craig

## Saxton, Craig

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**From:** Saxton, Craig  
**Sent:** Monday, October 01, 2007 1:00 PM  
**To:** 'Kent Foster'  
**Subject:** RE: Ownership of 74-15767

Kent,

Thanks for responding. Well, if we don't have anything that officially changes it at the court. I will probably have to change it back to Kagel. I just didn't know if something had gone through the court and for some reason we didn't know about it.

However, if you would like, I can send her a change of ownership form and explain why we can't change her name on the claim just by a telephone conversation.

Sorry about that.

Craig

-----Original Message-----

From: Kent Foster [mailto:kfoster@holdenlegal.com]  
Sent: Monday, October 01, 2007 11:17 AM  
To: Saxton, Craig  
Subject: Re: Ownership of 74-15767

Saxton, Craig wrote:

>  
> Good Morning Mr. Foster,  
>  
> Late claim 74-15767 appears to want to keep haunting us. Luckily, this  
> time it isn't about fees.  
>  
> As we were doing the initial review of claim 74-15767, we found in our  
> database we have one of the claimants listed as:  
>  
> NANCY J \*LIEBRECHT\*  
>  
> 3879 E 200 N  
>  
> RIGBY, ID 83442  
>  
> However, on all the court documents and everything else we could get a  
> hold of, it shows that Nancy's last name is \*Kagel\*.  
>  
> Since I cannot find a change of ownership in our records, I am  
> assuming that "Nancy J \*Liebrecht\*" is incorrect and we just made a  
> database error. But before I changed the records back to Nancy  
> \*Kagel\*, I thought I would check with you first.  
>  
> Should Nancy's last name be Kagel?  
>  
> Sorry about this.  
>  
> Thank you for your time,  
>  
> Craig L. Saxton  
>  
> 208.287.4916  
>

Craig, Nancy's maiden name is Liebrecht; Charles Liebrecht is her brother. I understand Nancy and Ray are divorced and I think someone at IDWR told me that in a telephone conversation with Nancy, she stated she was going to use her maiden name henceforth. However, she has never told me that and I can't recall who at IDWR told me of the

conversation. I think that, for now, no changes ought to be made.  
Kent

74-15767

- based on 74-22

→ increase POU to 59.3 acres as opposed to 40.4  
in Lemhi Decree

- claims all 59.3 ac

→ can we recommend 59.3, or  
do we go w/ enlargement of 18.9 acres?

→ no increase in cfs, according to claim remarks  
under I.C. 42-1426, waive mandatory  
permit requirements

- no measurement

- check to ensure don't over-recommend cfs

- may need limiting remarks

- still need eop

Decree (copy attached)

74-22

4-1-1914

Irrigation 2.0 cfs

POD: T16N R28E Sec 31 NESE

NWNW

Hawley Cr. trib. to Eighteenmile Creek

POU: T16N R27E Sec 36 SWNE 4

SENE 13

SWNE 2

~~T16~~

T16N R28E Sec 31 NENW 2

NWNW 1

SWNW 5

SENW 12

SWNE 2

Recommend

Claim

74-15767

3-15-1983

Irrigation 2.0 cfs

POD: T16N R28E Sec 32 NWSW

T16N R28E Sec 31 NWNW

Big Bear Creek trib. to Hawley Creek

POU: 16N 27E 36 NENE 0.2

SENE 13.6

NESE 0.82

16N 28E Sec 31 NENW 4.05

NWNW 0.88

SWNW 26.27

SENW 13.66

59.3

74-22 recommendation

59.3 ac w/ K06 & K01 & E 52 & C05

→ source<sup>v</sup> is Big Bear Creek - according to comment  
in Sec 31 NESE

Nathaniel Arave ~~Ad~~ changed recommendation 5/16/2007  
updated for

- ! POD in Sec 32 NWSW listed as Big Bear Creek
- Sec 31 NW NW listed as Hawley Creek

#R0416

05/04/03

STATE OF IDAHO  
DEPARTMENT OF WATER RESOURCES  
WATER RIGHTS ABSTRACT

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INDICATES TOTAL\* SOURCE: HAWLEY CREEK TRIBUTARY TO: EIGHTEENMILE CREEK

| RIGHT NUMBER | NAME AND ADDRESS | PRIORITY DATE | USE FROM TO | MAX AMOUNT MAX RATE | DIVERSION POINT | PLACE OF USE AND ACREAGE | BASIS FOR RIGHT |
|--------------|------------------|---------------|-------------|---------------------|-----------------|--------------------------|-----------------|
|--------------|------------------|---------------|-------------|---------------------|-----------------|--------------------------|-----------------|

74-0015 P.O. BOX 192 LEADORE ID 83464  
REMARKS: AC. IRR. = 76.4.  
PT. OF INJECTION INTO HAWLEY CR.: NWNW, S31, T16N, R27E.  
PT. OF REDIVERSION FROM HAWLEY CR.: LOT 1, S31, T16N, R27E.

74-0011 ELLSWORTH, JAMES  
ELLSWORTH, MAYBELLE  
P.O. BOX 27 LEADORE ID 83464  
REMARKS: AC. IRR. = 77.3.  
CHANGED FROM PROPOSED FINDING FILED WITH THE COURT PER COURT-AUTHORIZED STIPULATION.

74-0016 ELLSWORTH, JAMES  
ELLSWORTH, MAYBELLE  
P.O. BOX 27 LEADORE ID 83464  
REMARKS: AC. IRR. = 324.0.  
CHANGED FROM PROPOSED FINDING FILED WITH THE COURT PER COURT-AUTHORIZED STIPULATION.

74-0022 SKELTON RANCH CO. INC.  
P.O. BOX 1138 IDAHO FALLS ID 83401  
REMARKS: AC. IRR. = 40.4.  
P/U WITHIN M.E.S. 543.  
P/U: T16N R27E S36 SWNE(U4)  
P/U: T16N R28E S31 NENE(U2)

74-1621 SKELTON RANCH CO. INC.  
P.O. BOX 1138 IDAHO FALLS ID 83401  
REMARKS: AC. IRR. = 2.4.  
M.E.S. 543.