

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: **A41-10243**
Date Received: 7/23/1999
Receipt No: S022388
Received By: See

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

DE. *Correction*
see 8/10/99

1. Name: UDY BROTHERS *Partnership* 208-548-2636
Address: 5111 SOUTH HWY 37
ROCKLAND ID 83271

2. Date of Priority: APR 1, 1886

3. Source: UNNAMED STREAM Trib. to: LANDING CREEK

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
11S	31E	23	NW	NW	SE		POWER

5. Description of diverting works:
2 PUMPS, SPRINKLERS

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
IRRIGATION	04/01	10/31	0.200		

7. Total Quantity Appropriated is:
0.200 C.F.S. (and/or) A.F.A.

8. Total consumptive use is Acre Feet Per Annum.

9. Non-irrigation uses:

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
11S	31E	23	NW	SE		IRR	10.0
Section Acres							10.0

10. Place of Use: Continued

Total Acres 10.0

11. Place of use in counties: POWER

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

13. Other Water Rights Used:
41-00016

14. Remarks:
THIS RIGHT WAS DECREED AS AN INCREASE OF 41-00016 BY JUDGE ALFRED
BUDGE ON 9/22/1903.

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 Organizations:

I do solemnly swear or affirm that I am partner of
Title
Tidy Bros, that I have signed the foregoing
Organization
document in the space below as partner of
Title
Tidy Bros. and that the statements contained in the
Organization
foregoing document are true and correct.

M. George Tidy
Signature of Authorized Agent

partner Tidy Bros
Title and Organization

July 23 1999
Date

State of Idaho)
County of Twin Falls) SS.

Subscribed and sworn (or affirmed) before me this 23RD day

of July 19 99

Seal

Steve Cell
Notary Public

Residing at Twin Falls ID

My Commission Expires 12/7/2000

7/

Sheet #1.

COY
B.S.
U. H. R.
South
Fork

Instrument #

DECREE

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR ONEIDA COUNTY.

JOSEPH A. FIRKINS,
PLAINTIFF,

VS

THE USERS OF THE WATERS OF
ROCK CREEK,

DEFENDANTS.

DECREE.

Falls Abn

This cause coming on regularly for trial this day, before the Court, D. C. McDougall, appearing as counsel for the plaintiff and Geo. E. Gray appearing as counsel for the defendants; and the evidence on the part of the plaintiff having been introduced and received by the Court; and no evidence having been offered by the defendants; and the matter being fully understood by the Court and findings of fact and conclusions of law having been made and filed by the Court;

Now therefore it is ordered adjudged and decreed, that the plaintiff Joseph A. Firkins, is the owner and at all times entitled to the use of all the waters now flowing in the South Fork of Landing Creek, to the extent of 1/2 cubic feet per second of time;

That the said plaintiff is entitled to develop and increase the flow of the said stream and is at all times entitled to the use of such increase.

That the plaintiff may store the said water and the increase in reservoirs and the water so stored at all times upon his said land for irrigation purposes;

That the plaintiff's land is described as follows:-
SW $\frac{1}{2}$ NE $\frac{1}{2}$, SE $\frac{1}{2}$ NW $\frac{1}{2}$ and N $\frac{1}{2}$ SE $\frac{1}{2}$, Sec. 25, Township 11 S. R. 31 E. B. M.

Done in open Court, this 22nd day of September, 1903.

Alfred Budge, District Judge.

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE STATE

(continued on next sheet)

14

Sheet # 2.

OF IDAHO, IN AND FOR ONEIDA COUNTY.

Joseph A. Firkins,
Plaintiff,)

vs.)

FINDINGS AND CONCLUSIONS.

The users of Rock Creek,
Defendants.)

This cause coming on regularly for trial this day, D. C. McDougall appearing for the plaintiff and Geo. E. Gray, appearing for the defendant; And it appearing to the Court, that due and legal notice of this action had been given by publication as required by law; and the Court heard the evidence of T. H. Heward and Jos A. Firkins, on behalf of the plaintiff, and no evidence being offered or heard on behalf of the defendants;

Whereupon the Court after due deliberation finds the following facts,

That plaintiff is the owner of the following described land:- SW $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$ and N $\frac{1}{2}$ SE $\frac{1}{4}$, Sec. 25, T. 11 S., R. 31 E. B. M.

That the same is dry and arid and without the use of water will not raise crops;

That the South Fork of Landing Creek is made of springs, which originally flowed 15 inches; that the plaintiff has increased the flow thereof to 25 inches, and that he has from the spring of 1885 diverted and used all the waters therefrom upon said land; that said springs are capable of further increase; that the nature of the land and soil is such that the same will reach back and spring up in the channel below without any practicable decrease. That the water of said stream can be stored in a reservoir and put to an increased beneficial use.

The Court finds as a matter of law:- That the plaintiff is the owner and entitled to the use of at all times of the water of the South Fork of Landing Creek to the extent of 25 inches, or $\frac{1}{2}$ cubic feet per second of time for use upon said lands. That plaintiff is entitled to increase the flow of the water of said springs and that he is the owner of such increase;

That the plaintiff may store said water in a reservoir and use the same at all times upon his said land above described.

Alfred Budge, Judge.

Recorded September 22, 1903, in Book "B" of Judgments at page 256, Original Oneida County, Records, and transcribed to Book 1 of judgments page 64, records of Lower County, Idaho.

Hyrum Frodsham and James Frodsham made settlement on the land heretofore described sold by James Frodsham to S. N. Morris and S. C. Hatch in the fall of 1897 and on May 17th 1880 by means of a ditch constructed from the east side of said stream and from a ditch constructed on the west side of said stream in the spring of 1881 conveyed water to and upon said land and continued the use of said water jointly untill the fall of 1883 when the said Hyrum Frodsham removed therefrom and made settlement on the following described tract S W 1/4 sec 33 tp 11 S R 31 E containing 160 acres and has continued to reside thereon ever since and has used thereon before acquired by him on the James Frodsham claim and now has in cultivation 7 acres of grain 16 acres of lucerne and 22 acres of wild hay; that he also claims the right to the use of said water to be conveyed through what is known as the Landon Ditch. That he is entitled to a flow at all times to 40 inches of the water of said South Fork for the purposes of irrigating the tract of land last above described the same to be used through the ditch last above described the use through said ditches not at any time to exceed in the aggregate 40 inches of water his right to date from May 17th 1880.

Ady B. W. That on the 18th day of April 1884 Hyrum Hartley made settlement upon the following described tract to wit: S E 1/4 N W 1/4 S 1/2 E E 1/4 sec. 22 and S W 1/4 N W 1/4 sec 23 tp 11 S R 31 E containing 160 acres and has homestead receipt therefor dated Oct 27th 1883 that on May 8th 1884 he constructed a ditch from Landon Creek, a tributary of South Fork Creek, and diverted said water to and upon the above described tracts of land and has continued to use the same untill he now has in cultivation about 12 acres of grain 5 or 6 acres of lucerne and 30 acres of meadow. That the said Hyrum Hartley is entitled to the use at all times of 48 inches of the waters of said Landon Creek and the springs tributary thereto, except during the months of July and August when he is entitled to the flow of 18 inches of said water to be used upon the land above described his right to the use thereof to date from May 8th 1884.

That I L Stewart on the 3rd day of Oct 1885 made settlement upon the following described tract of land; N E 1/4 S W 1/4 N 1/2 S E 1/4 sec 22 and N W 1/4 S W 1/4 sec 23 tp 11 S R 31 and has homestead receipt therefor; that in the spring of 1886 he diverted and appropriated the water from certain springs tributary to the South Fork of Rock Creek rising upon and near said land and has continued to use said water each and every season since.

That said I. L. Stewart is entitled at all times to the use of the water of said springs, his right of said use to date from April 1st 1886 we find that Joseph Ferkins

(con. on next sheet)

Sheet # 34.

Instrument #

MORTGAGE.

Lafayette Skeen and
Margaret Skeen, husband
and wife,

Grantors,

TO

The Union Central Life Insurance
Company, a corporation, of
Cincinnati, Ohio,

Grantee.

Dated, August 19, 1914.
Consideration, \$7000.00. Due February 1, 1925.
Recorded, August 21, 1914 in
Book 26 of Mortgages at Page 634.

Acknowledged, August 19, 1914
Before James E. Ogden, Notary Public,
whose commission expires April 25, 1918.
Notarial Seal Attached. Regular.

DESCRIPTION AND REMARKS:

The East half of the Northwest quarter and the Northwest quarter of the Northeast quarter; the South half of the Northeast quarter, in Section Twenty-two; and the West half of the Southeast quarter of Section Fifteen; and the Northwest quarter, and the Southwest quarter of the Northeast quarter, and North half of the Southeast quarter in Section Twenty-three; all in Township Eleven South of Range Thirty-one, East of the Boise Meridian, containing Five Hundred Sixty (560) acres of land.

Together with seventy-five (75) inches of primary water right from Landing Creek.

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IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE STATE
OF IDAHO, WITHIN AND FOR POWER COUNTY.

J. E. Hedley, Samuel Hedley
and Elizabeth Hedley,

Plaintiffs,

DECREES

-vs-

Isaac Thorne, water master,

Defendant.

This cause coming on for hearing before the court on the 26th day of September, 1916, McDougall & Jones appearing for the plaintiff and no one appearing for the defendant, and it duly appearing to the court that the defendant in this action has been duly and regularly served with summons and the time for answer having expired and no answer or demurrer having been filed that the default of the defendant for failure to answer or appear has been duly entered according to law.

The court having heard the evidence thereof offered, on the part of the plaintiff, both oral and documentary, from which it appears that all of the material allegations of the complaint are true, and that the plaintiffs are and they and their predecessors have been the owners of and in the peaceable possession since April 1, 1884 of the East Half of the Northeast quarter of Section Twenty-one, and the West Half of the Northwest quarter of Section Twenty-two, Township Eleven, South Range Thirty-one, East of the Boise Meridian, together with 17½ miner's inches of water from Landing Creek and 17½ inches of water from the south fork of Rock Creek in Power County, Idaho, and a proportional amount of any surplus flowing in said streams, and also a proportional amount of any surplus water which arises and flows in the South fork of Rock Creek over said lands of the plaintiff;

That the said lands of the plaintiff are arid and dry and without the aid of irrigation will not raise an agricultural crop in paying quantities, and that on April, 1, 1884, the plaintiffs predecessors diverted, by means of a ditch, 17½ miner's inches of water from Landing Creek to and upon said land and diverted from the south fork of Rock Creek by means of a tight dam across said south fork of Rock Creek the water therein flowing to the extent of 17½ inches, to and upon the said land, and that the plaintiff and his predecessors in interest have each and every year continuously since said date used the same and a proportional interest of any surplus therefrom for the irrigation of the crops growing on said premises, and that said use has been open, notorious, continuous, and undisputed, except by the acts of this defendant, acting as water master; that the defendant Isaac Thorne, is the duly appointed, qualified, and acting water master for the said south fork of Rock Creek and Landing Creek, operating under a decree of this court under date of June 6, 1907, but in said decree the water rights of this plaintiff were not adjudicated and were not involved in the issues in said case, and the court had no jurisdiction to adjudicate the same; that the said defendant, so acting as water master on the 12th and 22nd days of June, 1916, turned the said water off the lands of the plaintiff and deprived him of the use thereof and threatened to prosecute him if he interfered therewith and gave as his reason therefore that the said decree did not decree water to the plaintiff's land, and it was, therefore, his duty, under the law, to prevent the use of any of the waters not decreed by the court.

That said interference with the plaintiff's right to the use of said water was unjustifiable and unwarranted and the plaintiff is entitled to have his rights to the use of the said water and to a proportional amount of the surplus thereof quieted, and the defendant and his successor in office enjoined from interfering with his right to the use thereof.

NOW, THEREFORE, by reason of the law and the premises, it is ORDERED, ADJUDGED AND DECREED:

That the right of the plaintiffs to the use of 36 inches of water as aforesaid from the water of Landing Creek and south fork of Rock Creek be, and the same is hereby quieted and that the plaintiffs have the further right to at all times use his proportion of any surplus that may be running in said streams at the point of their diversion, and the defendant and his successor in interest are hereby perpetually enjoined and restrained from interfering with their use thereof upon the lands described as follows: E $\frac{1}{2}$ of the NE $\frac{1}{4}$ of Section 21, W $\frac{1}{2}$ of the NW $\frac{1}{4}$ of Section 22, Tp. 11, S. R. 31, E.B.M., the said water to be diverted 17 $\frac{1}{2}$ inches from Landing Creek at the point where the dam of the plaintiffs have been for many years last past been located, and 17 $\frac{1}{2}$ inches of the water of south fork of Rock Creek diverted by a tight dam where the same has been and now is located and maintained by the plaintiff.

Done in open court this the 26th day of September, 1916.

J. J. Guheen
District Judge.

RECEIVED

NOV 27 2001

Department of Water Resources
Southern Region

Snake River Basin Adjudication

CHANGE IN ADDRESS OF NOTICE OF CLAIM

RECEIVED

OCT 29 2001

Claim Number(s):

See attached list

Department of Water Resources

Previous Mailing Address:

Udy Brothers Partnership

5111 S. Hwy 37

Rockland, ID 83271

New Mailing Address:

Udy Brothers Partnership

455 Pierce

American Falls, ID 83211

Telephone Number:

(208) 226-7857

Signature of Claimant(s):

Udy Bros by George Udy ^{11/2/01}

Please return this completed form to:

Adjudication Bureau
Idaho Dept. of Water Resources
1301 N. Orchard St.
Boise, ID 83706-2237
Ph. 1/800/451-4129 or
FAX 208/327-5400

Adjudication Bureau
Idaho Dept. of Water Resources
2735 Airport Way
Boise, ID 83705-5082
Ph. 208/334-2190 or
FAX 208/334-2348

Adjudication Bureau
Idaho Dept. of Water Resources
1341 Fillmore St., Ste. 200
Twin Falls, ID 83301-3380 or
FAX 208/736-3037

Adjudication Bureau
Idaho Dept. of Water Resources
900 N. Skyline, Ste. A
Idaho Falls, ID 83402-3653 or
FAX 208/525-7177

CLAIM NUMBER

41-10243

DATE

3/10/00

TRANSFER NUMBER

AGENT

scu

CLAIMED ACRE TOTAL

GIS ACRE TOTAL

	TWP	RNG	SEC	NE				NW				SW				SE			
				NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE
CLAIM																			
GIS																			
RECOM																			
CLAIM																			
GIS																			
RECOM																			
CLAIM																			
GIS																			
RECOM																			

B41-POU.SHP

overlap w/ 41-00016

SHAPE NOS.

145

B41-POD.SHP

NOS. DESCRIPTION

40

DBF TABLES UPDATED

B41-DBPOU.DBF

✓ scu 3/10/00

B41-DBPOD.DBF

JPEG LAYOUT

DATE: 10/27/99
PAGE: 1

Stage: DECREED

POWER County

25.0

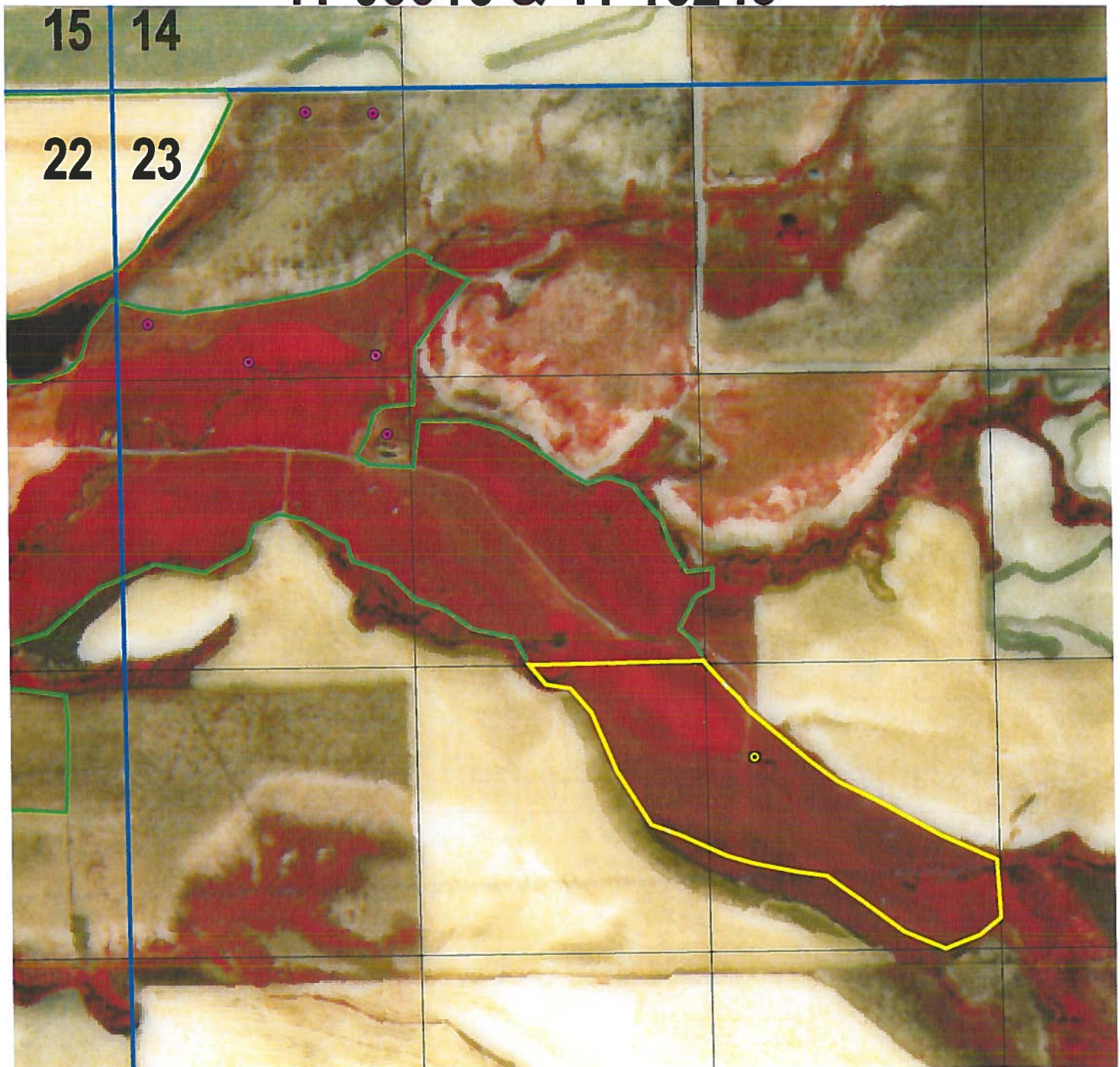
Other Rights: 41-00016

Dates:	Exam Made Date:	Verified Date:	10/27/1999	Objection Filed Date:
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Misc: Water District Number: 41 Field Inspection Flag:
Presumption Flag:

IDAHO DEPT OF WATER RESOURCES

41-00016 & 41-10243



660 0 660 1320 Feet



T11S, R31E, SEC. 23, NESW & NWSE

GIS PLACE OF USE PRESENTATION
1987 &/OR 1988 NAPP PHOTOGRAPHY

DATA ENTRY BY: STEVE CLELLAND
DATE: October 27, 1999

- RECOMMENDED PLACE OF USE
- POINT OF DIVERSION
- ~ SECTION LINES
- 1/4 - 1/4 LINES

10/27/99
see

Quick Review - 41-10243

I reviewed this decree right at the time of filing and it appears to be valid. (See 41-00016)

The system & POA is tied in w/ 41-00016 and has already been confirmed & Rec'd. Although late Claim filing it is allowed for that reason.

Change in POA from Decree to part of NESW can be accomplished Transfer or under 41-00016 Combined POA with this right and 41-00016 to show common system

QQ acres:	NESW	8.4
	NWSE	16.6
		25.0

POU 1 - ~~EH combined use~~ (not needed)
K06 per right limits

Priority Date is same as 41-00016; lacking a later date from the court, it cannot be earlier than the "base" right from which it was developed (ie 41-00016).