

10/31/2008

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

RIGHT NUMBER: 67-74C

NAME AND ADDRESS: KARL G COLE
2451 HWY 95
COUNCIL ID 83612

JUDIT COLE
2451 HWY 95
COUNCIL ID 83612

SOURCE: WEISER RIVER

TRIBUTARY: SNAKE RIVER

QUANTITY: 0.012 CFS

PRIORITY DATE: 05/01/1916

POINT OF DIVERSION:

T17N R01W S4 SWNE Lot 1 Within ADAMS County

T17N R01W S23 SWNE Injection Within ADAMS County

T17N R01W S23 SENW Rediversion Within ADAMS County

Water diverted under this right is exchanged by injecting water diverted under this right into Fort Hall Creek at the point of injection described above, and diverting an equal amount from Fort Hall Creek at the point of rediversion described above.

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
IRRIGATION	03/15 11/15	0.012 CFS

PLACE OF USE: IRRIGATION in ADAMS County

T17N R01W S23	SENW	5.50	T17N R01W S23	NESW	0.20
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5.7 ACRES TOTAL

Right Nos. 67-73C and 67-74C are limited to the irrigation of a combined total of 5.7 acres in a single irrigation season.

This right is limited to the irrigation of 1.0 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 includes accomplished change in point of diversion pursuant to Section 42-1425, Idaho Code.

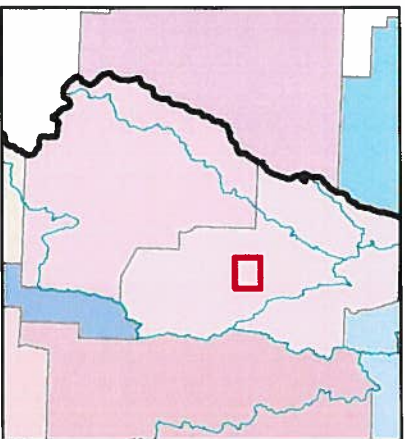
Idaho Department of Water Resources



SRBA Recommendation
67-74C
(IRRIGATION)

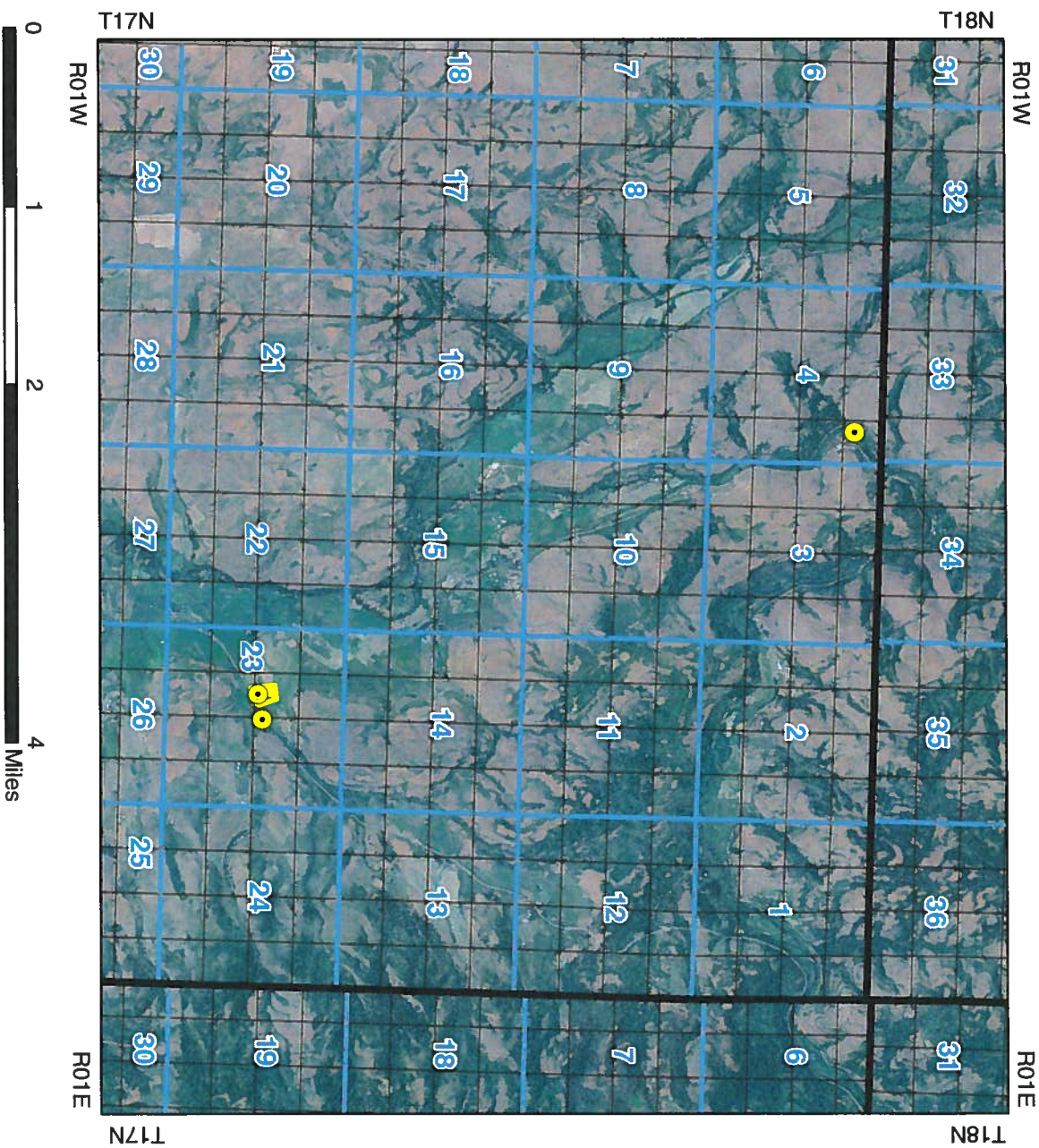
Legend

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



Adams County
IDWR Basin 67

Prepared by Craig Saxton
On October 31, 2008
2004 Aerial Photography





67-74C



Conversation Memorandum

Date: 3-27-07

To: File 67-73C and file 67-74C

Cc: Karl (Jeff) Cole

RE: Conversation with Karl (Jeff) Cole regarding Point of Re-diversion

On Monday 3-26-07 I spoke with Karl (Jeff) Cole at the Lost Valley Reservoir shareholders meeting. Jeff asked if I had added a point of re-diversion on his property where the Weiser River water under 67-73C and 67-74C is re-diverted out of Ft. Hall Creek and pumped to the south side of his property. Jeff told me we had discussed this at the NOE public meeting. I told Jeff I would have to go back to the office and look at the file.

On Tuesday 3-27-07 I pulled files 67-73C and 67-74C. I did not recommend a point of injection or point of re-diversion for the above mentioned water rights. However, I did find in the file the documentation Mr. Cole sent supporting the historical existence of the POD he was requesting.

I called Mr. Cole and told him that at this time he would need to file an objection but I felt I had enough evidence to support adding the POD. The evidence submitted does not give a date to definitively show that the point of re-diversion was in place prior to 1987, however, the air photos support irrigation of the south side of the river in 1987, then it is reasonable that the POD was in place at that time.

I am sending Mr. Cole a copy of the objection form.

RECEIVE

NOV 22 2006

DEPARTMENT OF
WATER RESOURCES

11/14/2006

NOTICE OF ERROR
REPLY

Please type or print clearly, fill out this form completely and mail.

Return this reply form to IDWR by the deadline date printed below if you want IDWR to change your recommendation or you want to let IDWR know that you agree with its recommendation.

YOUR DEADLINE FOR RETURNING A NOTICE OF ERROR REPLY IS: December 8, 2006

Water right number: 67-74C

KARL G COLE
2451 HWY 95
COUNCIL ID 83612

JUDIT COLE
2451 HWY 95
COUNCIL ID 83612

1. Describe the portion of the proposed recommendation with which you disagree (e.g. priority date, period of use, source):
2. Describe the changes you wish to make in the proposed recommendation:
3. Give a brief explanation as to why you disagree with these portions:

☒ I AGREE with this proposed recommendation: no changes need to be made.

DATE: 11/20/06 SIGNATURE: Judit Cole
Please print your name: Judit Cole

IDWR Regional Office, 322 E Front St
PO Box 83720, Boise, ID 83720-0098, 2082874800

SCANNED
NOV 27 2006

10/27/2006

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

RIGHT NUMBER: 67-74C
NAME AND ADDRESS: KARL G COLE
2451 HWY 95
COUNCIL ID 83612

JUDIT COLE
2451 HWY 95
COUNCIL ID 83612

SOURCE: WEISER RIVER TRIBUTARY: SNAKE RIVER
QUANTITY: 0.012 CFS
PRIORITY DATE: 05/01/1916
POINT OF DIVERSION:

T17N R01W S4 SWNE Lot 1 Within ADAMS County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	03/15 11/15	0.012 CFS

PLACE OF USE: IRRIGATION Within ADAMS County

T17N R01W S23	SENW	5.50	T17N R01W S23	NESW	0.20
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5.7 ACRES TOTAL

Right Nos. 67-73C and 67-74C are limited to the irrigation of a combined total of 5.7 acres in a single irrigation season.

This right is limited to the irrigation of 1.0 acres within the place of use described above in a single irrigation season.

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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

Idaho Department of Water Resources



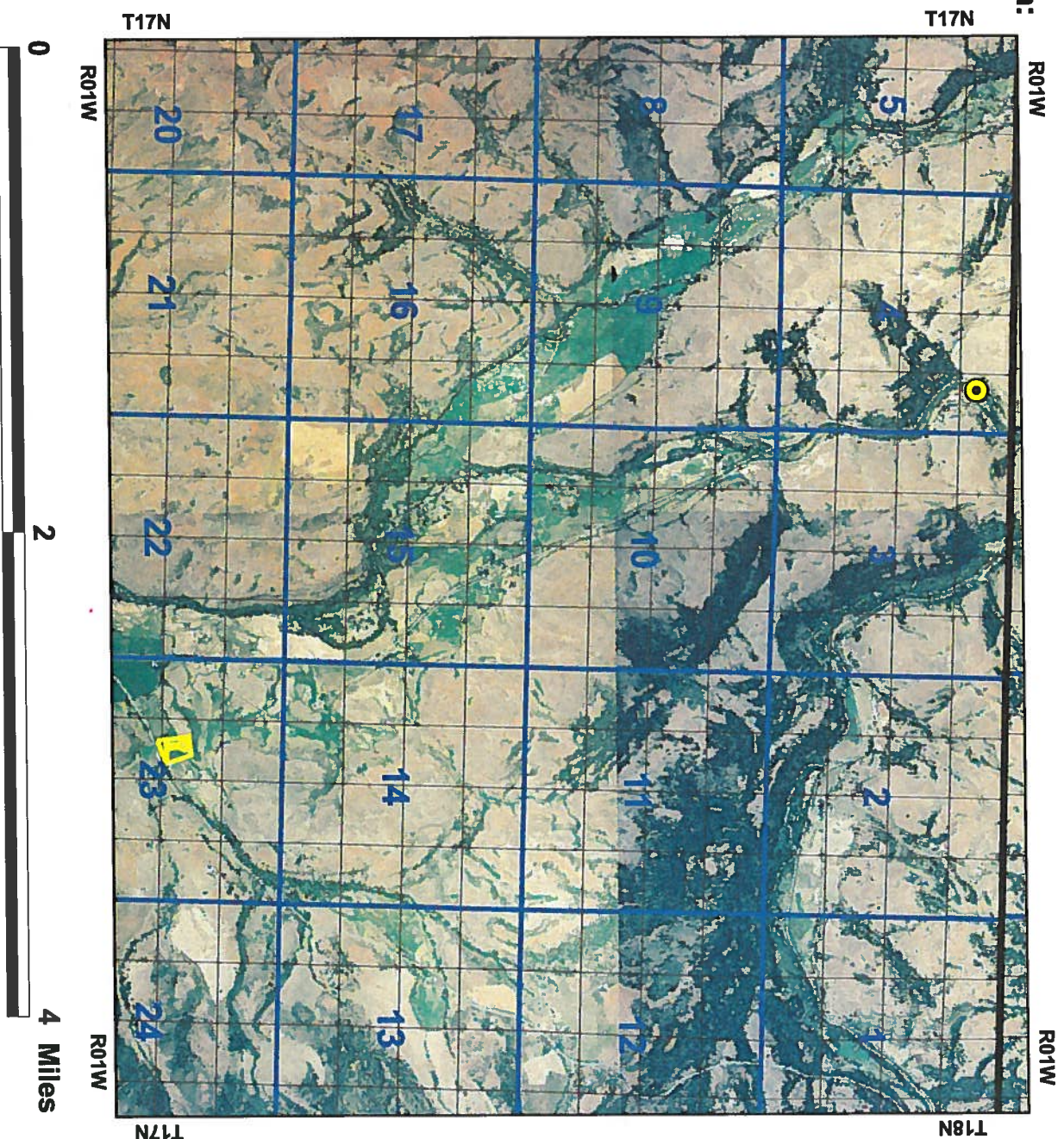
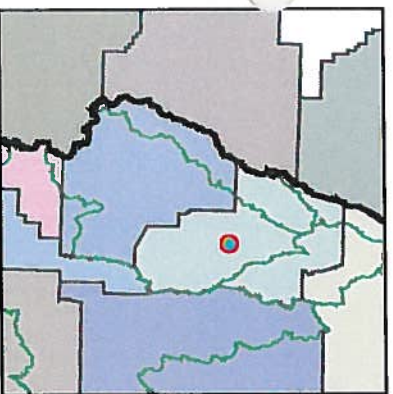
SRBA Recommendation:

67-74C

(Irrigation)

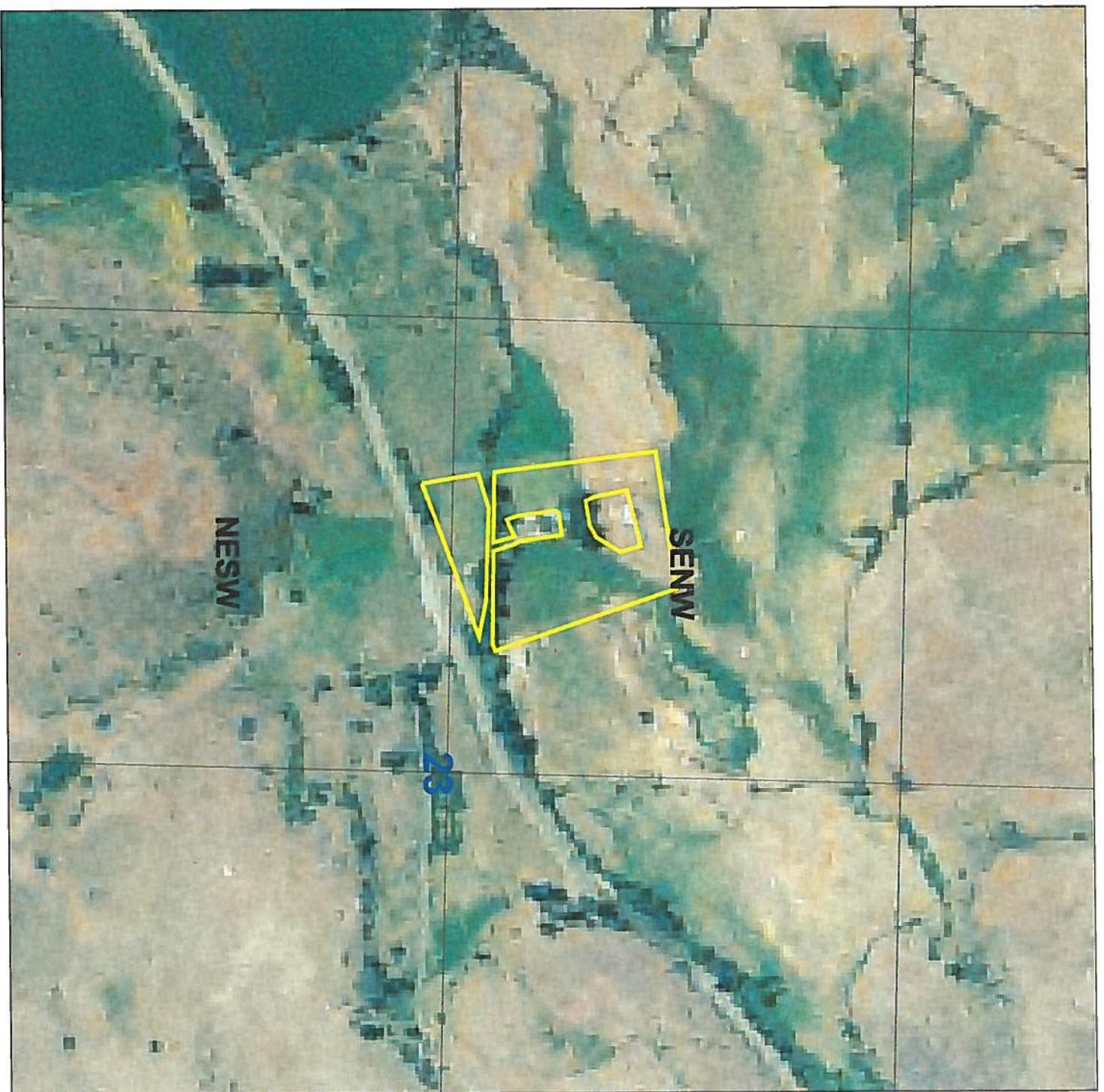
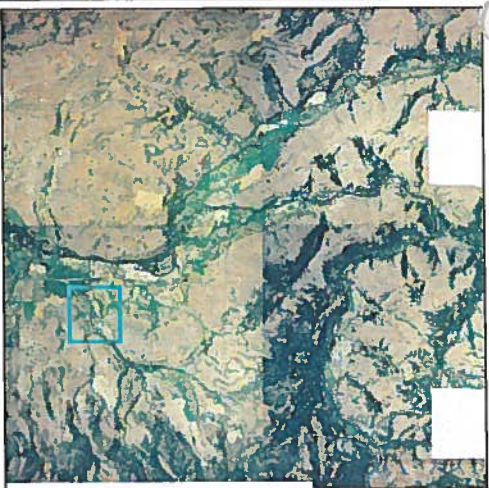
Legend

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



Prepared by C. Saxton
On Friday, October 27, 2006
1987/88 Aerial Photography

67-74C



Split history for Deceased Right 67-00074

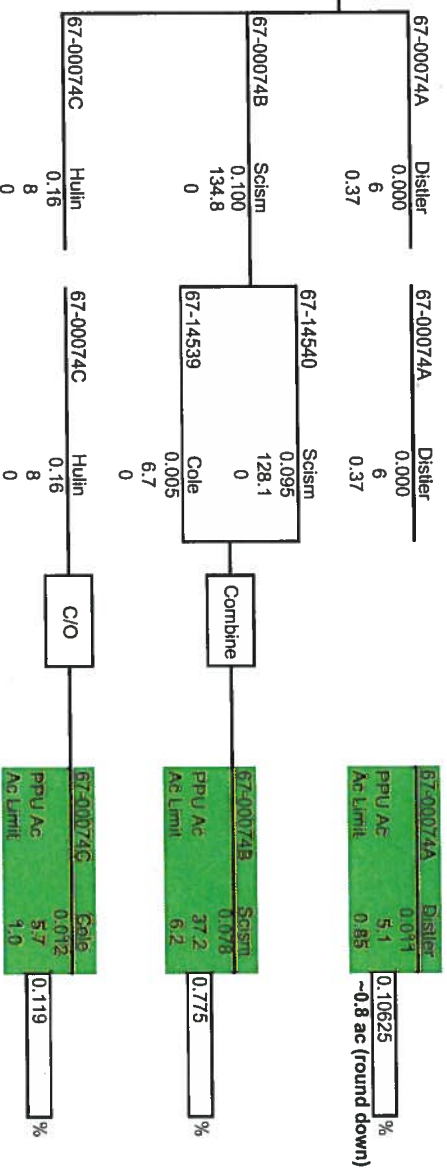
WR History

Claim History

Recommended

67-00074	G. T. Hamill	67-00074	G. T. Hamill
0.1	cfs	0.1	
48	ac	8	
0	af	0	

Acragc calculated at 5/8 in per acre
The Deceerd POU seems to be in claimed POU
This right is overclaimed



*Last updated 10-27-06 (csaxton)
For digital copy of Excel spreadsheet file: See Craig L. Saxton

Sum CFS =	0.260
Sum Acre =	148.8
Sum AF =	0.37

Sum CFS =	0.100	1.000
Sum PPU Ac =	48	
Sum Ac Limit =	8.0	

Extra CFS =	-0.160
Extra Acre =	-140.8
Extra AFA =	-0.37

Extra CFS =	0.000
Extra PPU Ac =	0
Extra Ac Limit =	0.0

Page	Parcel	Name	New Charge	New Charge	Water in	File	Original Owner	Priority
#	Number		2005	2003	Inches	#		Date
26	7N01W236BCISM, DOUD		\$ 4.00	\$3.50	5	74	HAMILL	5/1/06

Contacts Data Entry Form

Claim Number: 67-74C

Owner Type	Full Name	Address	City	State	Zip	Phone
Current Owner	KARL G COLE	2451 HWY 95	COUNCIL	ID	83612	
Current Owner	JUDIT COLE	2451 HWY 95	COUNCIL	ID	83612	
Original Owner	SILVIA HULIN	PO BOX 338	COUNCIL	ID	83612	(208)253-4378

Date of Field Exam: Desktop Review Time: _____

Accompanied By: _____ Phone Number: _____

Relationship to Claimant: _____

Directions to Property (if different from above) and/or update owner information:

Ownership looks accurate

Reviewer: Date: 11-17-05

Claim Number 67-74C

Claimed Basis: Decreed

Water Right Basis:

Ag Direct

Date: 11-17-05

Point of Diversion and Source Data Entry Form

Claim Number 67-74C

Claimed Point of Diversion and Source

T17N R01W S4 NENENE Within ADAMS County Source: WEISER RIVER SNAKE RIVER

☐ Use Claimed POD and Source as Recommended POD and Source

Water Right Point of Diversion and Source

Recommended Point of Diversion and Source

Source Information

Source

Tributary To

_____	_____
_____	_____
_____	_____

Twp	Rge	Sec	Gov Lot	QQQ of QQ of Q	County	Source
17N	1W	4		S W N E N E	Adams	Weiser

Other rights from this POD? 67-73C

Document how the POD and Source were verified:

GPS'd By Bobb Butler on 7-7-04; A0014008

Reviewer: C. SundtDate: 11-17-05

Place Of Use Data Entry Form

Claim Number 67-74C

Claimed Place Of Use

T17N R01W S23

SE1/4

8.0

Total Acres 8

☐ Use Claimed POU as Recommended POU

Water Right Place Of Use

Recommended Place of Use

☐ See corrections to claimed POU above

Twp	Rge	Sec	QQ	Q	County	Lot Num	Acres	Purpose of Use
17N	1W	23	SE1/4		Adams		2.8	Trv

Total Acres 2.8

Document how the POU was verified:

1987 NAPP Photograph
- limited to 0.5 ac

Reviewer: C. E. SmithDate: 11-17-05

Purpose of Use Data Entry Form

Claim Number 67-74C

Claimed Purpose of Use

Water Use

Number of Homes

Number of Stock

Acre Limit

IRRIGATION

☐ Use Claimed Purpose of Use as Recommended Purpose of Use

Water Right Purpose of Use

Water Use

Number of Homes

Number of Stock

Acre Limit

Recommended Purpose of Use

Water Use

Number of Homes

Number of Stock

Acre Limit

Number of Other

Irr			0.5	

Document how the Purpose of Use was verified:

Used Aerial view to calculate what acreage on the
claimants property could have been historically
Irrigated.

Reviewer: C. GumpDate: 11-21-05

Period of Use and Quantity Data Entry Form

Claim Number 67-74C

Claimed Period of Use and Diversion Rate

Water Use	Start	End	Rate	Volume
IRRIGATION	3/15	11/15	0.16	

Overall Diversion Rate 0.16 Overall Diversion Volume

 Use Claimed Period of Use and Quantity as Recommended Period of Use and Quantity

Water Right Period of Use and Diversion Rate

Water Use	Start	End	Rate	Volume
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Overall Diversion Rate Overall Diversion Volume

Recommended Period of Use and Diversion Rate

Water Use	Start	End	Rate	Volume
IRR	3-15	11-15	0.006	

Overall Diversion Rate 0.006 Overall Diversion Volume

Document how the Period of Use and/or Diversion Rate were verified:

See Memo

Reviewer: C. SmithDate: 11-21-05

MEMORANDUM

Date: November 18, 2005

To: File 67-73B, 67-73C, 67-74B, and 67-74C

From: Craig L. Saxton

Re: Diversion rate and acreage distribution

Both 67-73 and 67-74 are decreed for the same 80 acre POU. The assumption was made that the intent of the two decreed rights were to irrigate 48 acres rather than stacking them on top of each other and only irrigating 40 acres. This was made due to how the other decreed rights in Muir Vs. Allison are described and that 48 acres could reasonably be irrigated within the 80 acre parcel described in the decree.

Scism, Cole, and Distler are all land owners who filed SRBA claims within the decreed POU for 67-73 and 67-74. Using ArcView I created a 48 acre shape of what ground could be reasonably irrigated from flood irrigation from the Roberson Sevey ditch as decreed. From that shape, I calculated how much of the original irrigated ground was owned by each claimant and used that to calculate a percentage of the original right they should have based on 48 acres.

Using that percentage, the diversion rate was calculated by multiplying that percentage with the original diversion rate. Finally, that diversion rate was converted to acres that could be irrigated at 5/8 inches per acre.

Robertson Seavey Ditch.

George Robertson

Lester I McMahan

Samuel E McMahan

Rollie A McMahan

Isaac McMahan

Lillian G Spofford

Fruitvale Townsite Company and its grantees

Phillip Walston

G E Cox

A L Freehafer and Margaret E Pike

Lost Creek Res.

B D Goshert

G T Hamill

B R Windes

First Bank of Council

J J Jones

Biggerstaff Ditches.

T B Biggerstaff

Middle Fork Weiser River.

Orchards Water Company

Lost Creek Storage

A L Freehafer Lost Creek Storage

J A Carr Lost Creek Storage

W M Baccus

Catherine Austin

Ben Wooden

Henry Heimsöth

George Shaw

William B Shaw

John Sweringen

Dave Durse

C E Roper

Fall Creek.

James Harrell (Steward Ditch)

Jacob Cornett (Steward Ditch)

John Cornett

Oscar Gilbert (Steward Ditch)

5'

30'

18'

1'

22'

10'

4'

4'

45'

30'

4'

4'

24'

35'

40 A Ft

38'

25'

5'

135'

20'

5'

8'

45'

3500 Ft 1077

6250 Ft 1077

360 A Ft

300 A Ft

14'

24'

24'

30'

13'

21'

44'

6'

5'

74'

120 Ft 1764

90'

58'

40'

June 1, 1884 67 0057

June 1, 1887 67 0058

April 1, 1901 67 0059

April 1, 1901 67 0060

April 1, 1901 67 0061

April 1, 1901 67 0062

April 1, 1901 67 0063

April 1, 1905 67 0064

April 25, 1901 67 0065

Sept 23, 1901 67 0066

May 1, 1906 67 0067

May 1, 1901 67 0068

Sept 23, 1901 67 0069

June 1, 1902 67 0070

May 27, 1910 67 0071

May 1, 1906 67 0072

May 1, 1906 67 0073

May 1, 1916 67 0074

May 1, 1908 67 0075

May 18, 1910 67 0076

May 18, 1910 67 0077

May 25, 1910 67 0078

June 1, 1890 67 0079

Sept 11, 1909 67 0080

May 27, 1910 67 0081

May 27, 1910 67 0082

May 27, 1910 67 0083

May 1, 1891 67 0084

May 1, 1891 67 0085

May 1, 1901 67 0086

May 1, 1894 67 0087

May 1, 1900 67 0088

May 1, 1909 67 0089

May 1, 1903 67 0090

May 1, 1903 67 0091

May 1, 1905 67 0092

May 1, 1911 67 0093

July 1, 1883 67 0094

July 1, 1883 67 0095

Dec 30, 1907 67 0096

May 1, 1899 67 0097

JUL 24 1996

LESTER I McMAHAN: The Southeast Quarter of the Northeast Quarter of Section 15, Township 17 North, Range 1 West Boise Meridian.

GEORGE ROBERTSON: The East half of the Southwest Quarter, the Northwest Quarter of the Southwest Quarter and the Southwest Quarter of the Northwest Quarter of Section 10, Township 17 North, Range 1 West Boise Meridian.

LILLIAN G SPOFFORD: The North half of the Northwest Quarter of Section 23 and the Southeast Quarter of the Southwest Quarter of Section 14, Township 17 North, Range 1 West Boise Meridian.

FRUITVALE TOWNSITE COMPANY: The North half of the Northeast Quarter of Section 15, Township 17 North, Range 1 West Boise Meridian.

PHILIP WALSTON: The Southwest Quarter of the Southeast Quarter of Section 10, Township 17 North, Range 1 West Boise Meridian.

G E COX: A tract of four acres in the Northeast corner of the Fruitvale town-site, in Section 15, Township 17 North, Range 1 West Boise Meridian.

A L FREEHAYER and MARGARET R PIKE: The West half of the Southeast Quarter and a strip of land in the West half of the Southwest Quarter adjoining lands above described, all in Section 23, Township 17 North, Range 1 West Boise Meridian.

S D GOSHERT: The West half of the Southwest Quarter of Section 23, and the North west Quarter of the Northwest Quarter of Section 26, Township 17 North, Range 1 West.

G T HANILL: The South half of the Northwest Quarter of Section 23, Township 17 North, Range 1 West Boise Meridian.

E R WINDES: The West half of the Northeast quarter, the East half of the Northwest Quarter, the Southwest Quarter of the Northwest Quarter, the North half of the Southwest Quarter and the Southwest Quarter of the Southwest Quarter of Section 26, Township 17 North, Range 1 West Boise Meridian.

FIRST BANK OF COUNCIL: The East half of the West half of the Southeast Quarter of the Southwest Quarter of Section 26, Township 17 North, Range 1 West Boise Meridian.

J J JONES: The East half of the Southwest Quarter of Section 22 and the Northeast Quarter of the Northeast Quarter of Section 27, Township 17 North, Range 1 West Boise Meridian.

T B BIGGERSTAFF: The Southwest Quarter of the Southwest Quarter, the Southeast Quarter of the Southwest Quarter of Section 1, the South half of the Southeast Quarter of Section 2, Township 17 North, Range 1 West Boise Meridian.

ORCHARDS WATER COMPANY: The East half of the Southwest Quarter of Section 14, the Northwest Quarter of the Northwest Quarter of Section (23) and 20 acres in the West half of the Southwest Quarter of the Northwest Quarter of Section (23); all Sec. 22; the South half the North half of the Northwest Quarter and the Northwest Quarter of the Northeast Quarter of Section 15; the South half of the Southwest Quarter, and the Southwest Quarter of the Southeast Quarter of Section 10; the North half, and the East half of the Northeast Quarter of the Southeast Quarter of Section 21, the South half the North half of the Northeast Quarter and the North half of the Northwest Quarter of Section 16, the Southwest Quarter, the South half and the West half of the Northwest Quarter of Section 9; the East half; the North half of the Southwest Quarter of Section 8; the east half of the Southwest Quarter, the South half of the Northwest Quarter and the Northeast Quarter of the Northwest Quarter of Section 17; all of Section 20; the West half of the Southeast Quarter and the West half of the Northeast Quarter of Section 19; all in Township 17 North, Range 1 West Boise Meridian.

JUL 24 1936

John V. Bloor
1. Bloor Bloor

BORL ANGLON DITCH

43

174

1884 31, 1884

1884 31, 1884

GLENN McMAHON DITCH

Isaac McMahon	10	May 31, 1884
	9	" 1, 1901
for power 400		July 1, 1908
Relie A. McMahon	4	June 1, 1884
Samuel E. McMahon	22	" " "
W. M. Glenn	45	" " "
Lester I McMahon	4	May 31, "

ROBERTSON SHAVEY DITCH

George Robertson	5	June 1, 1884
	30	" " 1887
S. D. Goshert	38	May 1, 1906
Lester I. McMahon	18	April 1, 1901
G. T. Hamill	25	May 1, 1906
	5	" " 1916
Samuel E. McMahon	1	April 1, 1901
Relie A. McMahon	22	" " " "
	10	" " " "
Isaac McMahon	4	" " 1905
	4	" " 1901
Lillian G. Spofford	45	" 25, "
E. R. Windes	135	May 1, 1908
	20	" 18, 1910
First Bank of Council	10	" " "
J. J. Jones	8	" 25, "
Fruitvale Townsite Company & its Grantees	30	Sept 23, 1901
Phillip Walstrom	4	May 1, 1906
	4	" 1, 1901
C. E. Cox	24	Sept 23, 1901

ROMLINSON YANTIS DITCH

Mary E. Tomlinson	50	June 13, 1905
E. W. Tomlinson	55	" " "
Sarah Yantis	40	" " "
L. A. Spira	10	" " "
Ralph Yantis	8	Dec. 31, 1908

JUL 24 1906

the direction of the water commissioner or other officers charged by law with the execution of this decree and the waters of the said Hornet Creek Reservoir are to be distributed by the said water commissioner or other officers to the stockholders of the said Hornet Creek Water Storage Association according to their respective rights of said stockholders as the same shall appear by notice given said water commissioner for said water storage association at the commencement of each irrigation season.

It is further ordered, adjudged and decreed that the said Weiser Irrigation District may divert all of the waters flowing in said river during the low water period at the head of its canal upon delivery to the said Weiser City Water Ditch & Irrigating Company 450 inches of water, said delivery to be made at the gate or diversion point now connecting the two canals and where water has heretofore been diverted from the canal of the said Weiser Irrigation District into the canal of the said Weiser City Water Ditch and Irrigating Company.

As used in this decree the high water period shall include all that portion of the irrigation season when the river and its tributaries discharge sufficient water to supply all the allotments herein decreed on the basis of five-eighths ($\frac{5}{8}$) of an inch to the acre and the low water period shall consist of all that portion of the irrigation season when the discharge of the river and its tributaries is insufficient to supply the last named amount of water, and the foregoing allotments are made upon the basis of five-eighths ($\frac{5}{8}$) of an inch per acre, or its equivalent in irrigation heads, during the low water period, which is the maximum duty of water for said lands from said river and its tributaries, and whenever the commissioner, or other officer charged with the execution of this decree, finds the water in said river insufficient to supply the allotments as heretofore made on the basis of five-eighths ($\frac{5}{8}$) of an inch per acre, measured at the various diversion points, then and in that event the last appropriator in point of time shall be denied the use of said water.

Whenever the water flow in said river and tributaries shall be insufficient to supply the allotments as hereinbefore made, on the basis of five-eighths ($\frac{5}{8}$) of one miners' inch or its equivalent in irrigation heads, then and in that event the latest appropriator in order of time shall be denied the use of said water, and so on up the line of latest appropriators, dropping them out in chronological order, of the use of said water flow, so that the supply of water to said prior users shall be maintained in the distributing heads to five-eighths of a miners' inch per acre to the prior appropriators in the order of their priority, and the water commissioner having control of the distribution of said waters under this decree shall enforce the foregoing mentioned system and shall require measuring devices to be constructed at the various diversion points by the said appropriators so the water commissioner may be enabled to determine the measurement of the flow at such distributing points at all times.

It is further ordered, adjudged and decreed, that each of the parties hereto to whom water is allotted and decreed are hereby required to provide for the diversion of water from the said Weiser River and its tributaries in irrigating heads during the low water period, which said irrigating heads shall be the equivalent of five-eighths of a miners' inch to the acre continuous flow, and it is hereby decreed, and declared to be the duty of the water commissioner, or such other officer as is charged with the execution of this decree, to make or cause to be made necessary rules and regulations for the distribution of said water in irrigating heads during the low water period and to shut off said water supply from all ditches diverting the same whenever and wherever the parties