

12/18/2006

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

RIGHT NUMBER: 67-144B

NAME AND ADDRESS: JOHN F FISK
2922 COMANCHE ST
NAMPA ID 83686

SOURCE: WEST FORK WEISER RIVER

TRIBUTARY: WEISER RIVER

QUANTITY: 0.065 CFS

PRIORITY DATE: 05/01/1900

POINT OF DIVERSION:

T18N R01W S32 SWSE Within ADAMS County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE

PERIOD OF USE

QUANTITY

IRRIGATION

03/15 11/15

0.065 CFS

PLACE OF USE: IRRIGATION in ADAMS County

T17N R01W S09 SESE 5.00

5 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

Saxton, Craig

From: Randy Fisk [ranfisk@hotmail.com]
Sent: Monday, December 04, 2006 7:59 PM
To: Saxton, Craig
Subject: RE: claim 67-144B and 67-2053U

Dear Mr. Saxton:

I apologize for taking so long to respond to your email. I am impressed you took the time to do all the research. Your answers helped explain a lot to me.

I think I agree with your recommendation that the .07 cfs should be adequate for the irrigation of the five acres. I'm not quite sure how or why the whole amount still shows in dad's name. The ranch was split between the brothers long ago. Dale Fisk thinks there must have been some oversight. At any rate, they will attempt to figure out their claims. We have never claimed the entire water right for the 5 acres alone. We all assumed that the water had been allocated as originally shown in the claims. If we had used that entire .38cfs on the 5 acres I fear it would be a swamp. I have no desire to supercede Larry and Dale's claims. The only way I would do that is if it was the only way they could get water rights for their part of the original farm. Unless you think they may lose their claims, I am satisfied with the .07 cfs for the 5 acres. I know dad would not have wanted to deprive his nephews of water rights....

I will get the proper forms mailed to you right away. Thanks again for going far beyond what I expected and answering my questions. It certainly makes more sense now.

Sincerely,
Randy Fisk

>From: "Saxton, Craig" <Craig.Saxton@idwr.idaho.gov>
>To: <ranfisk@hotmail.com>
>Subject: RE: claim 67-144B and 67-2053U
>Date: Sun, 26 Nov 2006 09:10:04 -0700

>
>Dear Mr. Fisk,

>
>***** I am attaching the contents of this E-mail as a word document as it
>might be easier to read due to e-mail formatting constraints. Both the
>e-mail and word document say the same thing so you don't need to feel like
>you need to read them both. *****

>
>I really am sorry that we haven't been able to cross paths via the phone.
>I will be in the office Monday and Tuesday from 8 to 5. I will be in
>Wednesday morning till probably 10 am, but will be in and out of my office
>as we round things up for the public meetings that afternoon and evening.

>
>That being said, let me try to address your questions via e-mail.

>
>67-144B (Live water):

>
>This right was originally decreed in Muir V. Allison (1918) for 15 inches
>or 0.30 cfs. When the Muir v. Allison rights were decreed, the judge
>decreed the duty of water to be 5/8 inches per acre. What that means is
>that the judge was saying that in order to irrigate an acre of property, a
>person would need 5/8 of a miners inch of water, or 0.0125 cfs. This is
>important for because the acreage that was decreed under a water right can
>be calculated by taking the decreed diversion rate and calculating how many
>acres could be irrigated at 5/8 inches.

>
>Ex: (15 inches)/(5/8) = 24 acres

>

>So the parent or original decreed right 67-144 was decreed for 15 inches
>(0.30 cfs) to be used on 24 acres.

>

>When Snake River Basin Adjudication (SRBA) claims were filed, three people
>claimed portions of 67-144 (see attached).

>

>67-144A:	Dale Fisk	0.02 cfs,	2 ac
>67-144B:	John Fisk	0.15 cfs,	5 ac
>67-144C:	Larry Fisk	0.21 cfs,	17 ac

>-----

>total = 0.38 cfs, 24 ac

>

>So the acreage was claimed within the original decreed amount, but the
>diversion rate was over-claimed significantly. So what happened, was when
>the recommendations were made, the diversion rate was proportioned out
>based on acres. Actually while re-visiting this, I have already changed
>the diversion rate on your fathers right to 0.07 cfs because that is what
>it should actually be. However, that isn't what you were looking for.

>

>As I dug into this deeper to try to understand what the other agent that
>recommended these rights did, I found something I think was overlooked.

>

>1: John Fisk is actually the only person that owns property within the
>original decreed 40 acre tract. Dale and Larry are adjacent, but are
>actually in different 40's.

>

>2: Water master delivery records show delivery of 67-144 in full to John
>Fisk.

>

>What this means is that an argument could be made that Dale and Larry do
>not have any of water right 67-144. This would mean that by Johns claim,
>he was saying that the original 0.15 cfs was consolidated and instead of
>being applied to 24 acres, is now all applied to 5 acres. Is that what is
>going on? That is 1.5 inches per acre which is above the standard of 1
>inch, but can be considered reasonable for parcels of 5 acres or less.

>

>If this is what has been going on out there, I feel there is enough
>evidence to disallow Dale and Larry's claims to portions of water right
>67-144 and recommend it all to John. Of course Dale and Larry will have
>the opportunity to object and provide evidence that the water master
>records are wrong or whatever they have. I would like to have some
>confirmation from yourself or the representative of Johns estate supporting
>that the water has been used all on his five acres simply because of the
>other claims for the water (competing claims). This could be in the form
>of the Notice of Error form you were mailed with the preliminary
>recommendations.

>

>67-2053U (Storage Water):

>

>This water is water stored and controlled by the Lost Valley Reservoir
>company. What appears to have happened here is that John, as well as many
>many others claimed a part of 67-2053 as private water rights based on the
>fact that they own shares of storage water. I think this was done because
>at the time, I don't think Lost Valley Reservoir company had filed claims.
>My understanding is that the individuals filed in order to protect their
>rights since Lost Valley did not.

>

>Later, Lost Valley Reservoir Co, filed claims 67-14566, 67-14567, and
>67-14568 which claimed the storage water that is being delivered to the
>share holders.

>

>So what was done, was the storage water was recommended in the name of Lost
>Valley Reservoir Company. All individual claims were recommended as
>disallowed because the water claimed was recommended under Lost Valley
>Reservoir claims 67-14566, 67-14567, and 67-14568.

>

>The shares your father owns and that is used on the property will not be
>affected. You will still have water on the property. It is just that the
>water right is in the name of the company. This is not unlike you owning
>shares in Micron. You have shares or partial ownership of the company.
>

>An example is that I own one share in Boise City Canal company. I have
>right to irrigate my lawn from the canal and it is my water right. Boise
>City Canal company cannot take my share back from me and give it to someone
>else. But I don't hold a water right with the State. The water I use is
>recorded with the State in the name of Boise City Canal Company.
>

>*I have to mentioned at this point that the history on this is very
>complicated and therefore the recommendations for Lost Valley Reservoir
>company and the respective individual competing claims where made by Dave
>Tuthill. If I have not answered your questions sufficiently, then I
>encourage you to contact him at 287-4800.
>

>*****
>Lastly:
>

>Let me try to answer some of your questions directly:
>

>Question: What is the competing claim?
>Answer: When two or more SRBA claims are filed for the same water right we
>refer to them as competing claims.
>

>How is the recommendation made and changed?
>Answer: SRBA claims are reviewed by water right agents that review the
>claimed elements and recommend a water right based on beneficial use (that
>the water is being used) and within the constraints of Idaho code and
>historical documentation. The recommendations can be changed by the agent
>until the time that the directors report is filed. That is when we submit
>our findings to the court and say "Here are what we think are the water
>rights." At that time to change a recommendation, an objection needs to be
>filed with the court.
>

>Question: How can the water rights be discarded after over a hundred years
>have passed since the claim?
>Answer: Statue on the books say that 5 years of continuous non-use of a
>water right makes your right subject to forfeiture. So if water isn't
>being used, the water right can be lost.
>

>However, I think in the context of your e-mail maybe the better answer is
>that when SRBA claims were filed, a person could claim whatever they wanted
>to and many times an original 1910 priority water right was claimed by many
>people as they all use water. But in reality, what had happened is over
>time, not only that original 1910 water right was being used, but
>additional water started being appropriated. That additional water really
>is a new water right.
>

>Perhaps in 1930 some land was leveled and 10 more acres started being
>irrigated. Someone who buys the property in 1960 just assumes that the
>1930 10 acres is part of the old historical 1910 water right when it isn't.
> Then when the claim for that 10 acres is disallowed, it appears that the
>state took the water right away when it was never really there. A 1930
>water right was what was there.
>*****
>

>Again, I am sorry that we haven't been able to talk in person at this
>point, but hopefully this will explain some. When you get a chance, give
>me a call or drop me an e-mail I would like to know how you feel about the
>split of 67-144... if the recommendations are ok, or if you would like to
>pursue the entire water right as your father had claimed.
>

>Respectfully submitted,
>
>

>Craig L. Saxton
>Sr. Water Resource Agent
>Adjudication Bureau
>208-287-4916

>
>-----Original Message-----
>From: Randy Fisk [mailto:ranfisk@hotmail.com]
>Sent: Friday, November 24, 2006 9:29 PM
>To: Sherman, Sally
>Subject: claim 67-144B and 67-2053U

>
>Hi Sally:
> This is Randy from Beet Road in Caldwell. I haven't had much luck
>contacting Craig Saxton. Perhaps this could be forwarded to him.
>
>I'm still trying to figure out what is going on with the water rights
>issue.
> Dad may have been working on this, but he never said anything about it
>before he died a couple of weeks ago. I'm not sure why or who has a
>competing claim for the water rights on our land. The decree for 144b and
>2053B was 1900 and 1910, respectively. The recommendation (from whom?)
>lists the same date in their claim. The diversion rate is substantially
>different, with the recommended claim dropping us to 2/3 of our original
>right (from .15 to .06 cfs). I know dad bought shares for irrigation
>storage in the Lost Valley Reservoir. He had 1798 afa on right number
>67-14567, 6950 afa on 67-14566, and 835 afa on 67-14568 according to the
>records I found.
>
>What is the competing claim? How is the recommendation made and changed?
>How can the water rights be discarded after over a hundred years have
>passed
>since the claim? Any suggestions? Thanks for your time.
>Randy Fisk
>16657 Beet Road
>Caldwell, Idaho 83607
>208-459-0622
>ranfisk@hotmail.com or rfisk@vallivue.org

>
>Talk now to your Hotmail contacts with Windows Live Messenger.
>[http://clk.atdmt.com/MSN/go/msnnkwme0020000001msn/direct/01/?](http://clk.atdmt.com/MSN/go/msnnkwme0020000001msn/direct/01/?href=http://get.live.com/messenger/overview)
>[href=http://get.live.com/messenger/overview](http://get.live.com/messenger/overview)
>

><< Split67-00144.xls >>

><< RandyFiskE-mail(11-26-06).doc >>

Visit MSN Holiday Challenge for your chance to win up to \$50,000 in Holiday cash!
<http://www.msnholidaychallenge.com/default.aspx?ocid=tagline&locale=en-us>

Saxton, Craig

From: Saxton, Craig
Sent: Tuesday, July 31, 2007 1:31 PM
To: 'Randy Fisk'
Subject: RE: claim 67-144B and 67-2053U

Hey Randy,

The change of ownership form and Deeds can be sent to:

IDWR
ATTN: ADJUDICATION BUREAU
PO BOX 83720
BOISE ID 83720-0098

Regarding the 0.065 cfs vs. the 0.070 cfs. I am afraid that I didn't make the change. The problem is that when I search the water right it rounds up and shows that the recommendation is 0.070. But when you print it out, it is still 0.065. Now I can't change it without you filing an objection. I guess I would ask you if 0.005 cfs is measurable (2.25 gallons per minute).

I am attaching the objection form. If you choose to file an objection, I will have no problem making the change and we can do it through the mail without a hearing so it would be easy. We just have to go through the court now. I am very sorry about this.

Lastly, 67-2053U has been recommended as disallowed because that water has been recommended in the name of Lost Valley Reservoir. Your share of that water is recorded with Lost Valley rather than IDWR.

Thanks,

Craig

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

From: Randy Fisk [mailto:ranfisk@hotmail.com]
Sent: Tuesday, July 31, 2007 12:21 PM
To: Saxton, Craig
Subject: Re: claim 67-144B and 67-2053U

Dear Mr. Saxton:

I finally got around to getting copies of the quitclaim deed putting the water rights we discussed earlier (see below) in my name. I called this morning and left a message on your machine to get the address where to send these copies. If you'd like, you can email that address to me.

In a letter I got this spring (and can no longer find) I was told my allocation would be .065 inches and you had mentioned you had already changed it to .07: *"Actually while re-visiting this, I have already changed the diversion rate on your fathers right to 0.07 cfs because that is what it should actually be."* I don't know if this is a significant change or if I understood it correctly, but the recent letter did not seem to agree with what you had

7/31/2007

stated regarding the amount of water to be allocated.

I am looking at the court case on this water (civil case #39576, dated 12/15/1989) which allows a "total consumptive use" of 15.0 acre feet per annum on 5 acres (A67-02053U). It shows dad paid \$105 adjudication fee. Does this court decision have any effect on what is being done now? Anyway, I greatly appreciate your time. Thanks

Randy Fisk

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

From: Saxton, Craig

To: ranfisk@hotmail.com

Sent: Sunday, November 26, 2006 10:10 AM

Subject: RE: claim 67-144B and 67-2053U

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I really am sorry that we haven't been able to cross paths via the phone. I will be in the office Monday and Tuesday from 8 to 5. I will be in Wednesday morning till probably 10 am, but will be in and out of my office as we round things up for the public meetings that afternoon and evening.

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Ex: $(15 \text{ inches}) / (5/8) = 24 \text{ acres}$

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*I have to mentioned at this point that the history on this is very complicated and

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Again, I am sorry that we haven't been able to talk in person at this point, but hopefully this will explain some. When you get a chance, give me a call or drop me an e-mail I would like to know how you feel about the split of 67-144... if the recommendations are ok, or if you would like to pursue the entire water right as your father had claimed.

Respectfully submitted,

Craig L. Saxton
Sr. Water Resource Agent
Adjudication Bureau
208-287-4916

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Randy Fisk

16657 Beet Road

Caldwell, Idaho 83607

208-459-0622

ranfisk@hotmail.com or rfisk@vallivue.org

Talk now to your Hotmail contacts with Windows Live Messenger.

<http://clk.atdmt.com/MSN/go/msnnkwme0020000001msn/direct/01/?>

[href=http://get.live.com/messenger/overview](http://get.live.com/messenger/overview)

09/01/2006

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

RIGHT NUMBER: 67-144B

NAME AND ADDRESS: JOHN F FISK
2922 COMANCHE ST
NAMPA ID 83686

SOURCE: WEST FORK WEISER RIVER

TRIBUTARY: WEISER RIVER

QUANTITY: 0.060 CFS

PRIORITY DATE: 05/01/1900

POINT OF DIVERSION:

T18N R01W S32 SWSE Within ADAMS County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE

PERIOD OF USE

QUANTITY

IRRIGATION

03/15 11/15

0.060 CFS

PLACE OF USE: IRRIGATION Within ADAMS County

T17N R01W S09 SESE 5.00

5 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



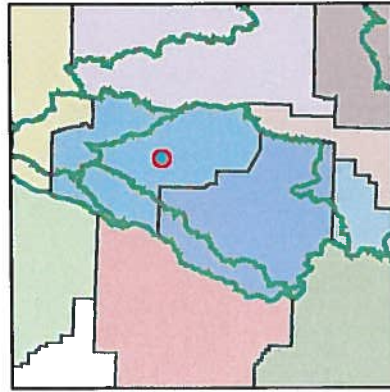
Idaho Department of Water Resources

SRBA Recommendation:

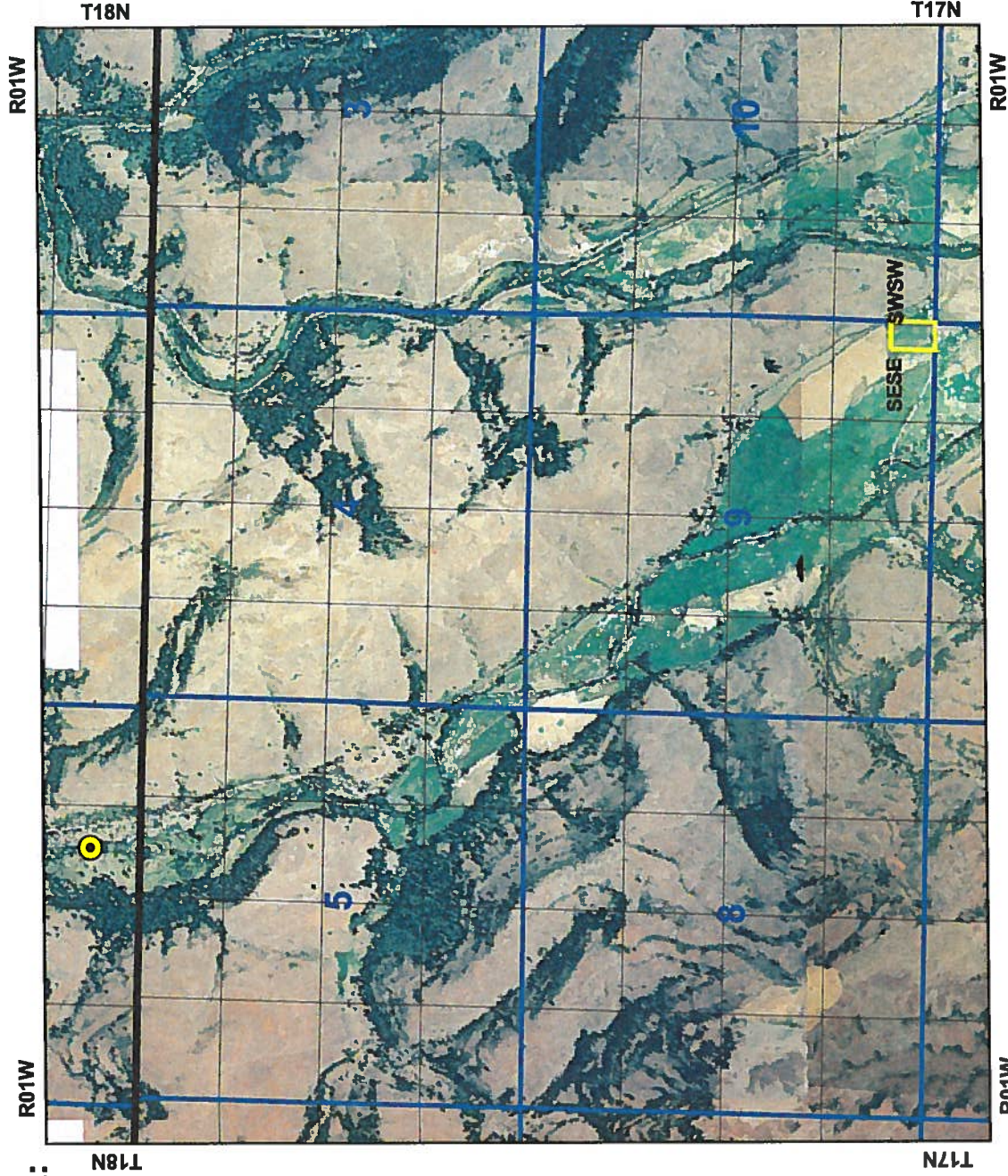
67-144B

Legend

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

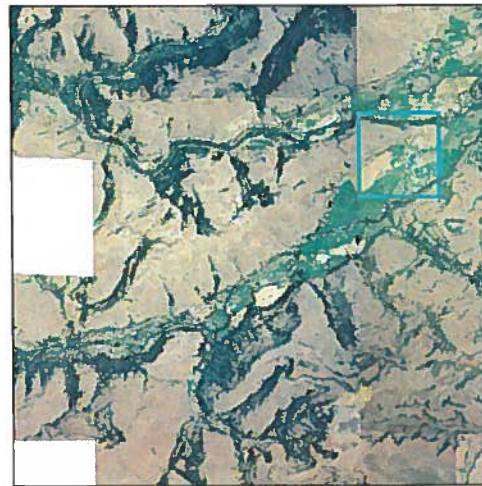
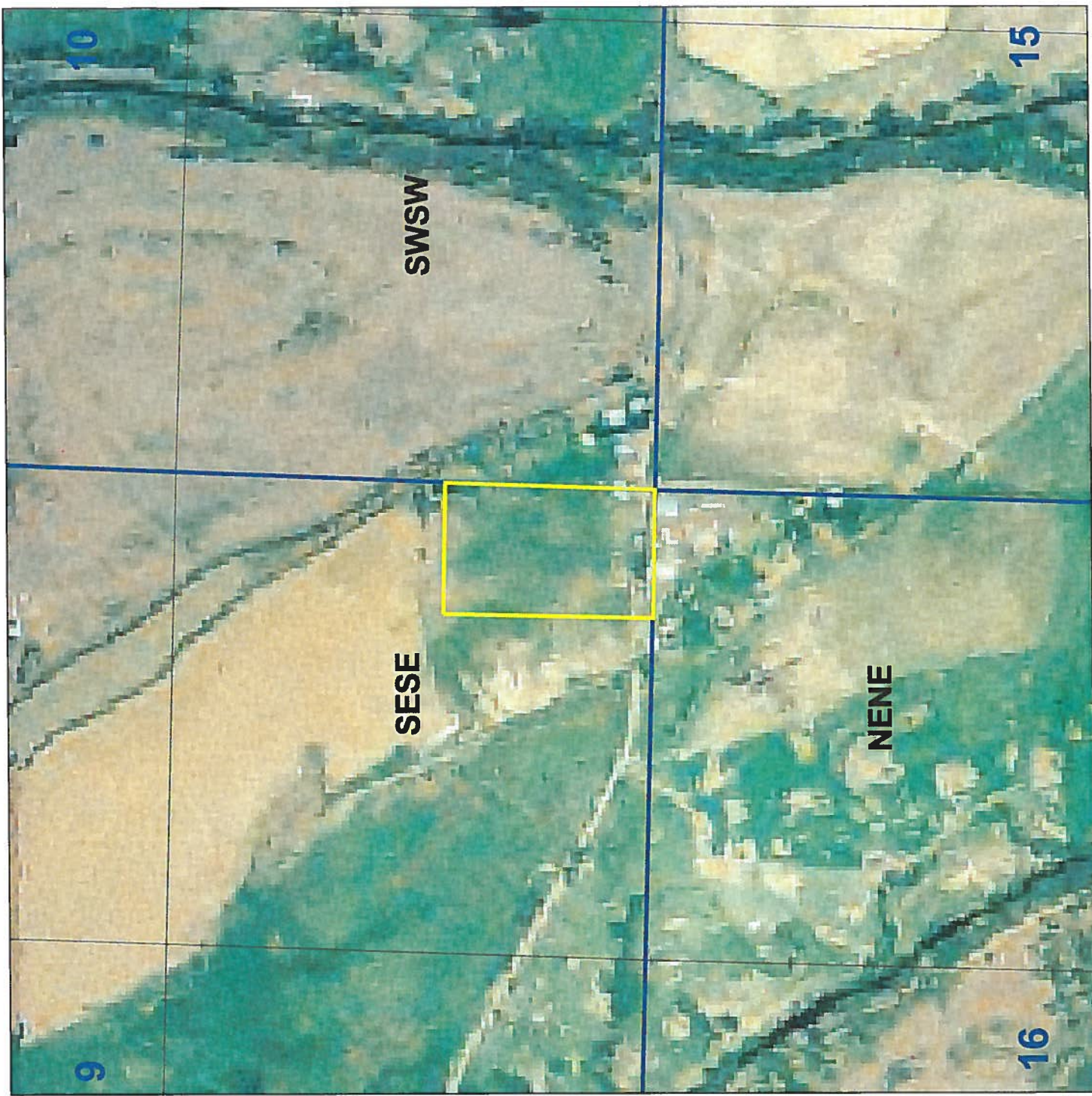


Adams County
IDWR Basin 67



Prepared by M. Mount
On Friday, September 1, 2006
1987/88 Aerial Photography

67-144B





State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, P.O. Box 83720, Boise, Idaho 83720-0098

Phone: (208) 327-7900 FAX: (208) 327-7866

July 20, 1998

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

MR. JOHN F FISK
2922 COMANCHE ST
NAMPA ID 83686

RE: Snake River Basin Adjudication (SRBA)
Notice of Claim A67-13910, A67-00144B, & A67-02053U
Change of Address

Dear MR. FISK:

The Department has been notified the address presently in our records is incorrect. Although we have reached you at the address above, we need your written confirmation this is your correct mailing address before we can change our records. Future notices related to your water rights can be sent only to the address on your water rights or as otherwise changed by you.

Please sign your name at the bottom of this letter and return it to this office. Make corrections to your name and address if necessary before returning this letter. Please return the letter by August 31, 1998. Thank you for your help.

If your mail delivery address changes in any form, please contact us in writing so we can update our records.

If there has been a change in ownership of the property connected with the water rights referenced above, please call this office toll-free at 1-800/451-4129 to obtain a form to make this required change to the claim record.

Sincerely,

Anita L. Warntjes
Anita L. Warntjes
Administrative Assistant
Adjudication Bureau

#####

ALW
CC:region

The address is correct as shown above or as otherwise changed.

Claimant Signature

John F. Fisk

RECEIVED
JUL 23 1998
Department of Water Resources

*No change in ownership of the
Tract in Section 9 in
Adams Co.*

Page #	Parcel Number	Name		New Charge	New Charge	Water In	File	Original Owner	Priority Date
				2005	2003	Inches	#		
14	RP17N01W050600	HARRINGTON, DEAN		\$ 6.40	\$5.60	8	146	BRIDGEWOOD	5/1/00
14	RP17N01W050600	HARRINGTON, DEAN			\$7.78	11.11		50 AF STG	
14	RP17N01W081200	FISK, LARRY		\$ 12.00	\$10.50	15	144	PG GLENN	5/1/00
14	RP17N01W081200	FISK, LARRY			\$4.20	3.33		15 AF STG	
14	RP17N01W091200	SCISM, DOUG		\$ 42.40	\$37.10	53	143	TJ GLENN	5/1/98
14	RP17N01W094200	MERK, LADELL		\$ 3.20	\$2.80	4	145	CL HAM	5/1/00
14	RP17N01W094200	MERK, LADELL			\$4.66	4.44		20 STG	
14	RP17N01W091200	SCISM, DOUG			\$15.56	22.22		100 STG	
14	RP17N01W106300	FISK, DALE			\$7.50	0.67		3 STG	
14	RP17N01W099901	FISK, JOHN				2.22		10 STG	
14	RP17N01W092407	MARTIN, JERRY				0.67		3 STG	
14	RP17N01W153151	BELLIN, BRUCE				2.22		10 STG	
14	RP17N01W160060	BELL, KEN				0.44		2 STG	
				\$ 64.00	\$95.70	127.32			