

07/26/2006

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

RIGHT NUMBER: 67-170

NAME AND ADDRESS: TOM SEID
2451 BUSCH RD
MIDVALE ID 83645

KELLY SEID
2451 BUSCH RD
MIDVALE ID 83645

SOURCE: KEITHLY CREEK

TRIBUTARY: WEISER RIVER

QUANTITY: 0.220 CFS

PRIORITY DATE: 05/15/1885

POINT OF DIVERSION:

T13N R04W S2 NESWNE Within WASHINGTON County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE

PERIOD OF USE

QUANTITY

IRRIGATION

03/15 10/31

0.220 CFS

PLACE OF USE: IRRIGATION Within WASHINGTON County

T14N R04W S35 SWNE 17.60

17.6 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

Right includes accomplished change in source pursuant to Section 42-1425, Idaho Code.

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

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

Idaho Department of Water Resources

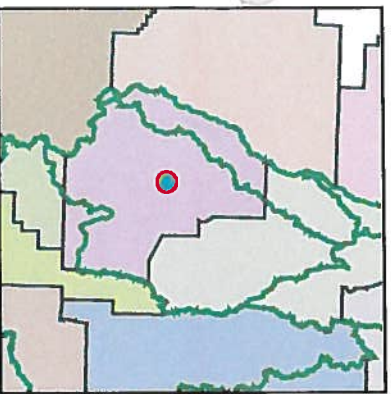


SRBA Recommendation:

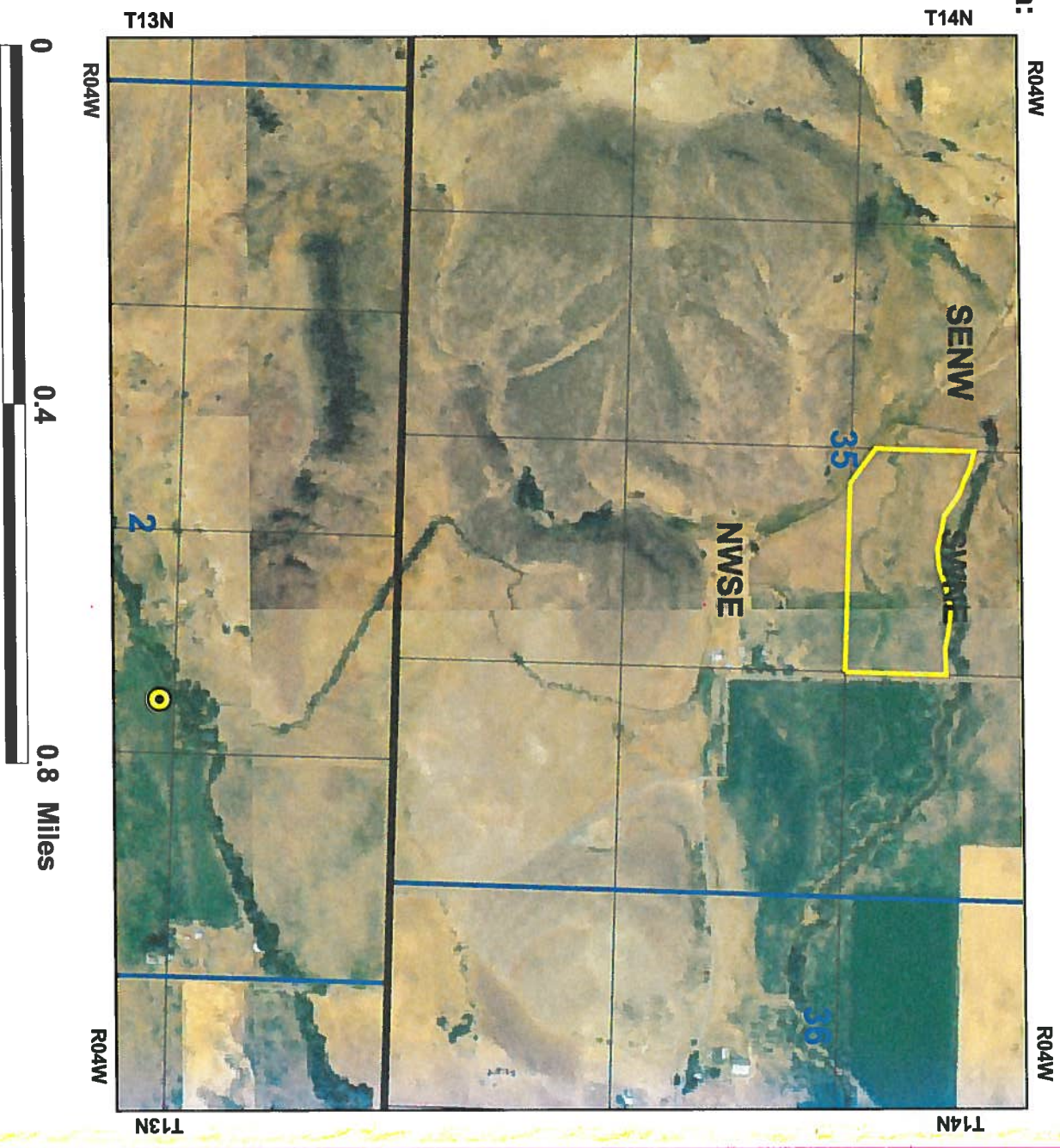
67-170

Legend

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

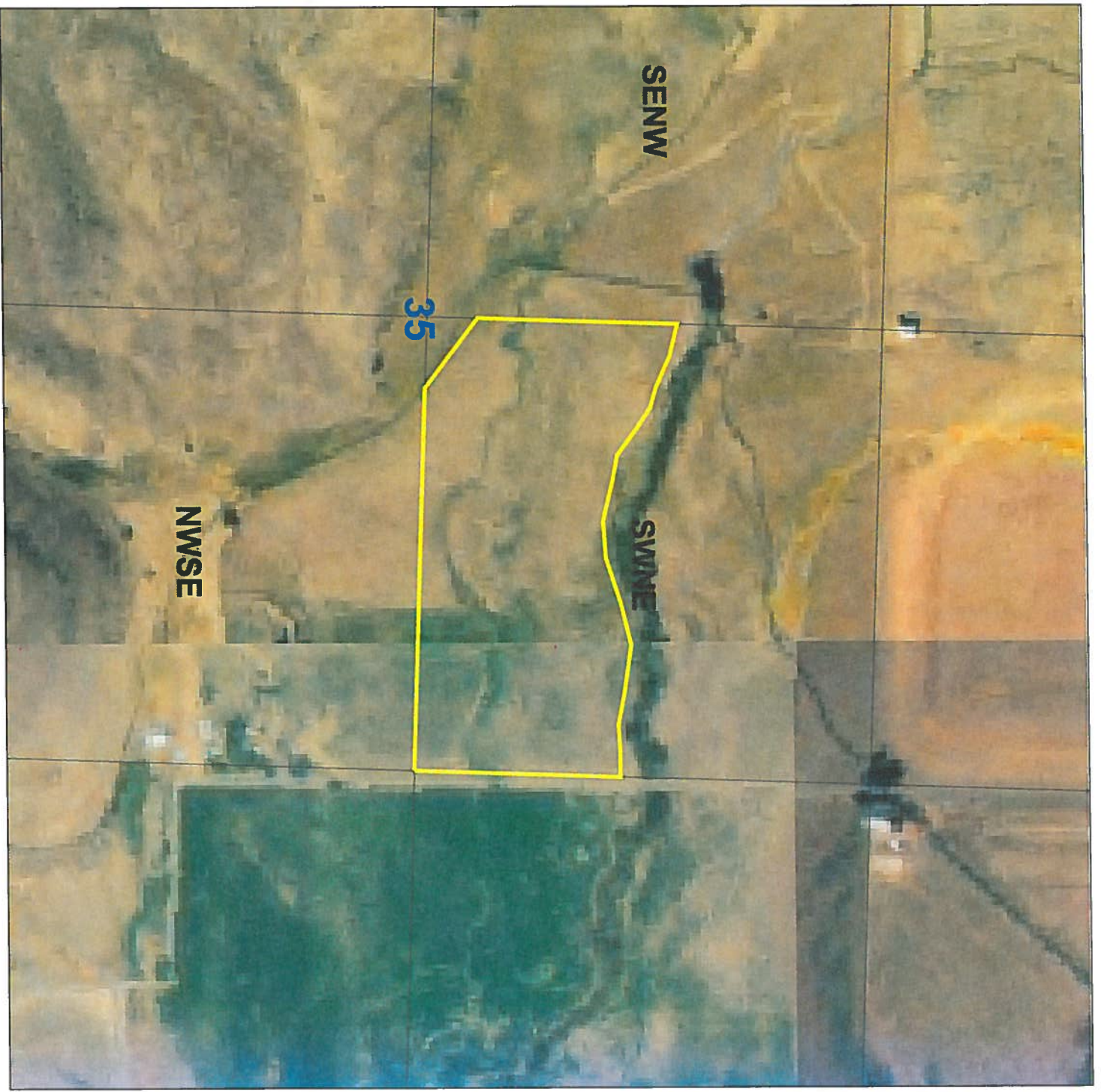


Washington County
IDWR Basin 67



Prepared by C. Saxton
On Wednesday, July 26, 2006
1987/88 Aerial Photography

67-170



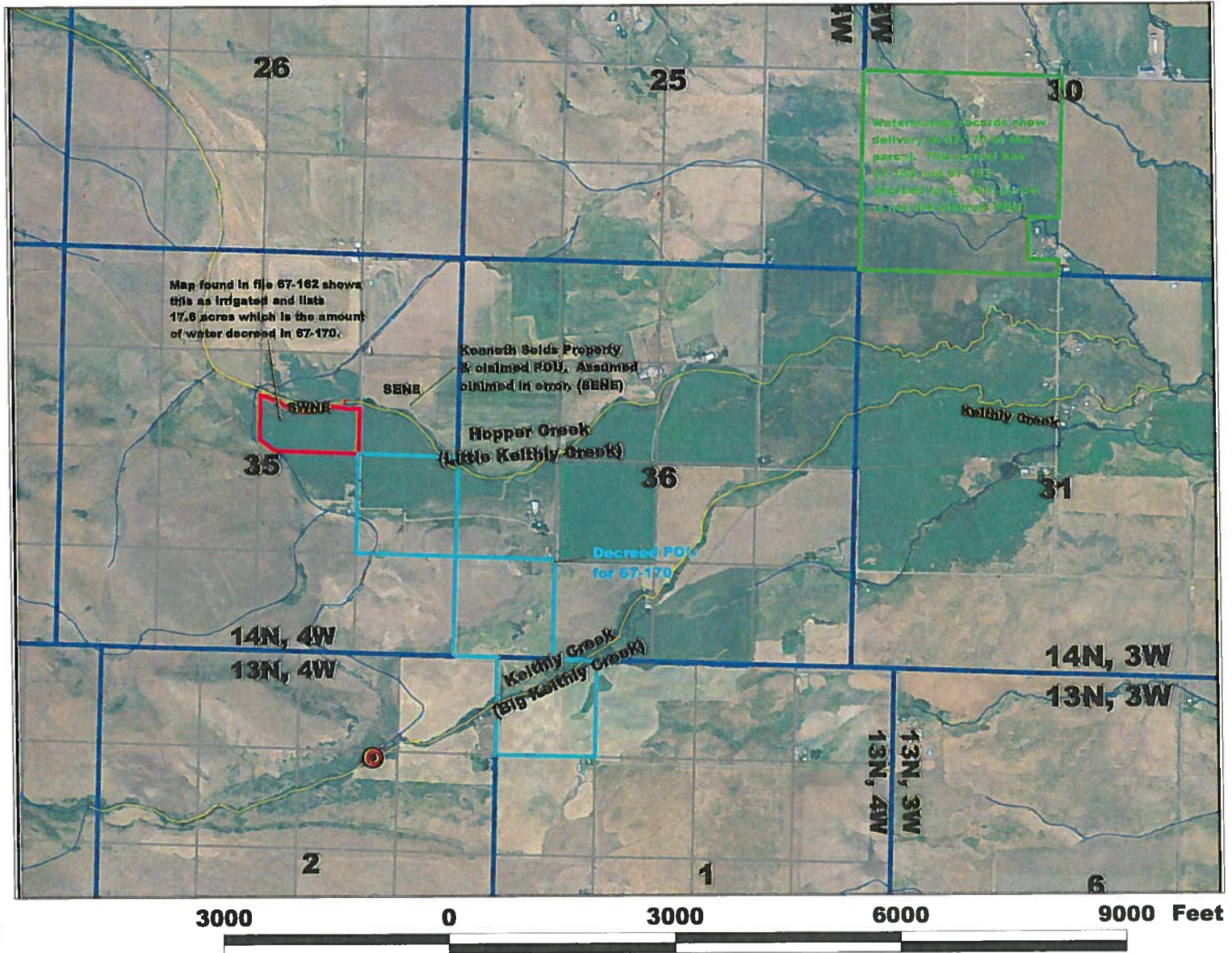


State Of Idaho

Reference Map

Water Right #(s): 67-170

Photo Source: 2004 SID



Point(s) of Diversion **Claimed Irrigated Acres = n/a**

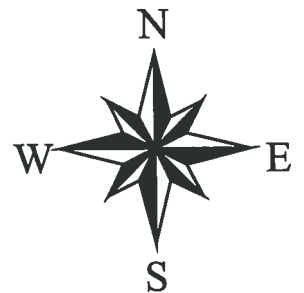
Recommended Place of Use

Evidence that Delivery records are wrong.

Decreed POU for 67-170 (nothing fits this)

Sections

Quarter Quarter



Prepared by: Craig L. Saxton
Date: July 2006

Claim												
Basin	Sequence	Suffix	Basis	Status	Priority	D ₂	Rate(cfs)	Acres	Source	Water Use(s)	Owner(s)	Source Table
67	160		Decreed	Active	1883-05-15		0.04	4.2	KEITHLY CR	IRRIGATION	SEID, KELLY (1	Claim
67	161		Decreed	Active	1889-05-15		0.05	4	KEITHLY CR	IRRIGATION	SEID, KELLY (1	Claim
67	162		Decreed	Active	5/15/1901		0.14	11	KEITHLY CR	IRRIGATION	SEID, KELLY (1	Claim
67	170		Decreed	Active	1885-05-15		0.22	17.6	KEITHLY CR	IRRIGATION	POTTER, OTIS	Claim

Recommendation											
Basin	Sequence	Suffix	Basis	Status	Priority D ₂	Rate(cfs)	Acres	Source	Water Use(s)	Owner(s)	Source Table
67	160		Decreed		1883-05-15	0.04	3.2	KEITHLY CR	IRRIGATION	SEID, KELLY (	Recommendation
67	161		Decreed		1889-05-15	0.05	4	KEITHLY CR	IRRIGATION	SEID, KELLY (	Recommendation
67	162		Decreed		5/15/1901	0.14	11.2	KEITHLY CR	IRRIGATION	SEID, KELLY (	Recommendation
						0.23	18.4				
67	170		Decreed		1885-05-15	0.22	17.6	KEITHLY CR	IRRIGATION	POTTER, OTIS	Recommendation

WR											
Basin	Sequence	Suffix	Basis	Status	Priority D ₂	Rate(cfs)	Volume	Source	Water Use(s)	Owner(s)	Source Table
67	10605		Decreed	Active	1899-12-24	0.06		SPRING	STOCKWATER SEID,	KELLY (1	wrWaterRight
67	10606		Decreed	Active	1899-12-24	0.06		SPRING	STOCKWATER SEID,	KELLY (1	wrWaterRight
67	10607		Decreed	Active	1899-12-24	0.06		SPRING	STOCKWATER SEID,	KELLY (1	wrWaterRight

Water Master Records						
Page #	Parcel #	Name	Inches	File #	Original Owner	Priority Date
11	14N03W36	SEID, KENNETH	11.00	170	W J Hopper	5/15/1885
11	14N04W36	SEID, TOM	2.00	160	Wm Potter	5/15/1883
11	14N04W36	SEID, TOM	2.50	163	Wm Wiggins	5/15/1884
11	14N04W36	SEID, TOM	8.50	169	J Zencher	5/15/1885

MEMORANDUM

Date: July 26, 2006

To: 67-170

From: Craig L. Saxton

Re: POU and Ownership Question

Here are the facts about this claim:

- Claimed POU is on Kenneth Seid's property
- Map in claim file puts POU on Tom Seid's property.
- Neither the claimed POU or the claim map POU are in the Decreed POU
- Claim is in the name of Otis Potter.
- It is my belief that the map in file 67-162 should have been with file 67-170 as it shows the same acreage as is claimed in 67-170.

Water master records show delivery to Kenneth Seid but not on the parcel described in the claim. In fact the records show delivery of 67-170 roughly 2 miles from the claimed POU on ground that is irrigated with decreed rights 67-152 and 67-153 which have been claimed by Kenneth Seid.

My conclusion is that the POU claimed under 67-170 was claimed incorrectly and should have been claimed where the map from 67-162 shows the POU which is property owned by Tom Seid.

Tom Seid filed a change of ownership but 67-170 was not put in his name because it was not claimed on Tom's property (This appears to be an error). If we make the assumption that the claimed POU for 67-170 is wrong and should be on Tom's property, then we should change ownership on 67-170.

Conclusion: Recommend 67-170 on Tom Seid's property and in Tom's name.

Found this in
file 67-162. I think
It should go w/this
file. C. E. [unclear]

20 25
35 36

NE 1/4 & SW 1/4 & NE 1/4

KEITHLEY DITCH
IN FLOW END

SW 1/4 & SE 1/4 & NW 1/4
SPRING

17.6 Acres

SE 1/4 & NW 1/4 & SE 1/4
SPRING

35 36

2

2

SE 1/4 & NW 1/4 & NE 1/4 KEITHLEY DITCH
DIVERSION

FOR

OCT 11 1992

Memorandum

Date: April 20, 2006

To: Keithly Creek and Hopper Creek Files
CC: Chris Bromely

Subject: Keithly Creek and Hopper Creek decrees

Muir vs. Allison included Keithly Creek as a source. However, in the decree, Keithly Creek is recognized as having two forks that were formerly known as **Big Creek** and **Little Creek** (This information can be found on pg 107 of *Muir vs. Allison* or at the end of the section that categorizes water rights by the source.) In *Muir vs. Allison* the Keithly Creek rights are designated as 67-149 thru 67-182 and Keithly Creek is decreed as the source.

Now, what was **Little Creek** is known as **Hopper Creek** and what was **Big Creek** is known as Keithly Creek.

Issue #1: *Muir vs. Allison* decreed some rights with a source as Keithly Creek but now we call that source **Hopper Creek**.

Proposed Solution: Recommend *Muir vs. Allison* rights decreed from what was known as Little Creek with a source of Hopper Creek. No accomplished change in source because the source never really changed.

.....
John Hopper v. Leonard Hopper et al. (Washington County, August 19, 1931) decree B67-F, described decreed rights 67-507 thru 67-511 with a source as Hopper Creek. However, *Muir vs. Allison* decreed rights on this stream that were not included in ***Hopper vs. Hopper***.

The parties in *Hopper vs. Hopper* were not party to *Muir vs. Allison* (or at least are not listed in *Muir vs. Allison*).

Decreed rights 67-507 thru 67-511 have priority dates that are mixed in with the *Muir vs. Allison* priority dates. Meaning the 1931 decree didn't decree rights, as a group, for better or worse priority dates than what was decreed in *Muir vs. Allison*. It looks as if 67-507 thru 67-511 were missed in *Muir vs. Allison* but were there, so when decreed in 1931, the priority dates could date back into *Muir vs. Allison*.

Issue #2: There are two separate decrees for the same source and it does not appear that one supercedes the other.

Proposed Solution: Actually, I don't see this as a big issue. I will just recommend the *Hopper vs. Hopper* rights as they were decreed, and the *Muir vs. Allison* rights from that source as they were decreed, **except** for changing the source to Hopper Creek.

Janet Ketcham
J B Hamilton
Whitney P James
Council Valley Orchards Company
Henry Van Kleeck

West Fork Weiser River.
E. J. Glenn Ditch.

T J Glenn
Joel Glenn
C L Ham
J H Bridgewood

Osborn-Grooms Ditch.

C. L Ham
Bridgewood and Riddell

Keithley Creek.

Andrew M Reed

Oliver Keithley
Curt W Randleman
Curt W Randleman - Little Keithley Creek

Victor L Hopper
Allen Seid
Charles T Reavis

W F Seid

William D Potter

William Wiggins
Frank Towell

Forrest Burns and Clifford Burns

Edward M Wiggins
John Zenger
Walter J Hopper
William Wicks
Otho Towell

Carrie Clayton
Jacob Ader
E M Stewart
James Keithley

20 July 1, 1905 / 67 0138
10 July 1, 1905 / 67 0139
40 July 1, 1905 / 67 0140
110 July 1, 1905 / 67 0141
274 July 1, 1905 / 67 0142

Start here

53 May 1, 1898 / 67 0143
15 May 1, 1900 / 67 0144
4 May 1, 1900 / 67 0145
8 May 1, 1900 / 67 0146
22 May 1, 1900 / 67 0147
26 May 1, 1900 / 67 0148

64 May 15, 1871 / 67 0149
64 May 15, 1906 / 67 0150
274 May 15, 1877 / 67 0151
624 May 15, 1879 / 67 0152
8 May 15, 1897 / 67 0153
64 May 15, 1879 / 67 0154
2 May 15, 1879 / 67 0155
20 May 15, 1882 / 67 0156
48 3/4 May 15, 1883 / 67 0157
43 3/4 May 15, 1883 / 67 0158
2 May 15, 1883 / 67 0159
2 May 15, 1883 / 67 0160
24 May 15, 1889 / 67 0161
7 May 15, 1901 / 67 0162
24 May 15, 1884 / 67 0163
18 3/4 May 15, 1884 / 67 0164
9 3/8 May 15, 1899 / 67 0165
74 May 15, 1884 / 67 0166
5 May 15, 1886 / 67 0167
50 May 15, 1884 / 67 0168
84 May 15, 1885 / 67 0169
11 May 15, 1885 / 67 0170
34 May 15, 1896 / 67 0171
64 May 1, 1886 / 67 0172
20 May 15, 1899 / 67 0173
2 May 15, 1886 / 67 0174
20 May 15, 1890 / 67 0175
4 May 15, 1890 / 67 0176
24 May 15, 1877 / 67 0177

JUL 24 1996

Northeast Quarter of the Northwest Quarter and Lot 1, Section 31, Township 14 North, Range 3 West Boise Meridian.

VICTOR L HOPPER: The Southeast Quarter of the Northwest Quarter, Section 30, Township 14 North, Range 3 West Boise Meridian.

ALLEN SKID: The Southwest Quarter of the Northeast Quarter of Section 30, Township 14 North, Range 3 West Boise Meridian.

CHARLES T REAVIS: Lots 2, 3, 4 and the Southwest Quarter of the Northwest Quarter, Section 1, Township 13 North, Range 4 West Boise Meridian, excepting a tract of about six acres out of the said Lot 4.

W F SKID: The Southeast Quarter of the Northwest Quarter, the Northeast Quarter of the Southwest Quarter, and Lot 3, Section 31, Township 14 North, Range 3 West Boise Meridian.

WILLIAM S POTTER: The West half of the Southeast Quarter and the Southeast Quarter of the Southeast Quarter, Section 35, Township 14 North, Range 4 West and Lot 2, Section 2, Township 13 North, Range 4 West Boise Meridian. Also an irregular tract of eight acres out of the Southwest corner of the Northeast Quarter of the Southeast Quarter of Section 35, Township 14 North, Range 4 West Boise Meridian.

WILLIAM WIGGINS: Lot 3, Section 19, Township 14 North, Range 3 West Boise Meridian.

FRANK TOWELL: The Northeast Quarter of the Northeast Quarter and the South half of the Northeast Quarter Section 2, Township 13 North, Range 4 West Boise Meridian.

FOURKST BURNS AND CLIFORD BURNS: The North half of the Northeast Quarter Section 31, Township 14 North, Range 3 West Boise Meridian.

EDWARD M WIGGINS: The Southeast Quarter Section 32, Township 14 North, Range 3 West Boise Meridian.

JOHN ZIMMER: The Southeast Quarter of the Northwest Quarter Section 35, Township 14 North, Range 4 West Boise Meridian.

MALTER J HOPPER: The Southwest Quarter of the Southwest Quarter Section 36, and an irregular tract out of the Southeast Corner of the Northeast Quarter of the Southeast Quarter of Section 35, all in Township 14 North, Range 4 West, and also an irregular tract of about six acres out of the Northwest corner of Lot 4, Section 1, Township 13 North, Range 4 West Boise Meridian.

WILLIAM WICKS: The Northwest Quarter of the Southeast Quarter of Section 31, Township 14 North, Range 3 West Boise Meridian.

OTHO TOWELL: The South half of the Northwest Quarter, Section 2, Township 13 North Range 4 West Boise Meridian.

CARRIE CLAYTON: The South half of the Northeast Quarter Section 31, Township 14 North, Range 3 West Boise Meridian.

JACOB ADER: The Northwest Quarter of the Southeast Quarter of Section 30, Township 14 North, Range 3 West Boise Meridian.

E M STEWART: The Southwest Quarter of the Southeast Quarter of Section 30, Township 14 North, Range 3 West Boise Meridian.

JAMES KEITHLEY: The Southeast Quarter of the Southwest Quarter and the Southwest Quarter of the Southeast Quarter of Section 36, Township 14 North, Range 4 West Boise Meridian.

WALTER C KEITHLEY: The Southeast Quarter of the Southeast Quarter of Section 36, Township 14 North, Range 4 West Boise Meridian.

JUL 24 1906

O L Weid	10	2.27	2.10	.17	
F B Weymouth	30	6.81	4.00	2.81	
John Ingram	20	4.54	4.00	.54	
C F Lappin	30	6.81	6.30	.51	
A E Felrley	20	4.54	2.70	1.84	
H W Anderson	10	2.27	2.50		.23
E Medley	5	1.13	.50	.633	
W H Upchurch	10	2.27	1.00	1.27	
C T Ward	2½	.67	.25	.42	
Minnie Rambo	5	1.13		1.13	
E C Smith	3½	.89		.89	
Carrie M Lowe	3	.68	.60	.08	
J D Neale	3	.68		.68	
Riley Atkinson	14	3.37		3.37	
Fay McBirney	20	4.54	4.00	.54	
Janey Ketchum	20	4.54	4.00	.54	
J S Hamilton	10	2.27		2.27	
Whitney P James	40	9.08	15.60		.92
Council Valley Orchards	110	24.97	23.10	1.87	
Henry Van Kaseok	27½	6.34	6.00	.34	
T J Glenn	53	12.03	9.00	3.03	
Joel Glenn	15	3.41	2.30	1.11	
J H Bridgewood	8	1.82	2.40		.58
C L Ham	26	5.90	3.00	2.90	
Bridgewood and Middell	26	5.90	6.80		.90
Andrew M Reed	12½	2.94	4.00		1.06
Chloe Keithley	27½	6.35	5.88	.47	
Curt W Randleman	26½	13.68	13.23	.45	
Curt W Randleman	8	1.82	1.68	.14	
Victor L Hopper	6½	1.58	1.47	.11	
Allen Seid	2	.45	.42	.03	
Charles T Neavis	68 ¾	15.67	14.50	1.17	
W F Seid	45½	10.43	9.66	.77	
Wm S Potter	11½	2.71	2.52	.19	
Wm Wiggins	2½	.67	2.25		1.58
Frank Towell	28½	6.57	7.50		.93
Forrest & Clifford Burns	12½	2.94	3.73		.79
Edward M Wiggins	62½	14.31	13.25	1.06	
John Zenoher	8½	2.03	1.89	.14	
Walter J Hopper	11	2.50	4.00		1.50
William Wicks	3½	.91	1.00		.09
Otho Towell	26½	6.12	5.67	.45	
Carrie Clayton	2.	.45	1.27		.82
Jacob Ader	20	4.54	4.20	.34	
E M Stewart	4	.91	4.00		3.09