

OK

RECEIVED

11/14/2006

DEC 05 2006

DEPARTMENT OF
WATER RESOURCES

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: 67-363E

DONALD E HARVEY

2216 HWY 95

COUNCIL ID 83612

Telephone Number: (208)253-4257

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: 12/1/06 SIGNATURE: Donald E Harvey
Please print your name: Donald E. Harvey

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

SCANNED

DEC - 6 2006

11/28/2005

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

RIGHT NUMBER: 67-363E

NAME AND ADDRESS: DONALD E HARVEY
2216 HWY 95
COUNCIL ID 83612

SOURCE: MILL CREEK

TRIBUTARY: WEISER RIVER

QUANTITY: 0.225 CFS

PRIORITY DATE: 05/01/1889

POINT OF DIVERSION:

T17N R01W S36 NWNESE Within ADAMS County

T17N R01W S36 NENWSW Within ADAMS County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE

PERIOD OF USE

QUANTITY

IRRIGATION

03/15 11/15

0.225 CFS

PLACE OF USE: IRRIGATION Within ADAMS County

T17N R01W S36

SWNW

17.0

T17N R01W S36

NWSW

6.3

23.3 ACRES TOTAL

This right is limited to the irrigation of 18.0 acres within the place of use described above in a single irrigation season.

Right Nos. 67-363E and 67-4113 are limited to the irrigation of a combined total of 23.3 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.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Decreed

Idaho Department of Water Resources

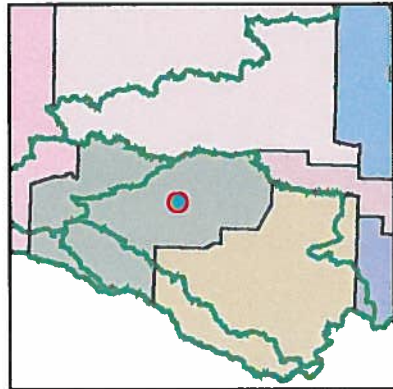


T16N R01W
T17N R01W

Adjudication Claim Number: **67-363 E**

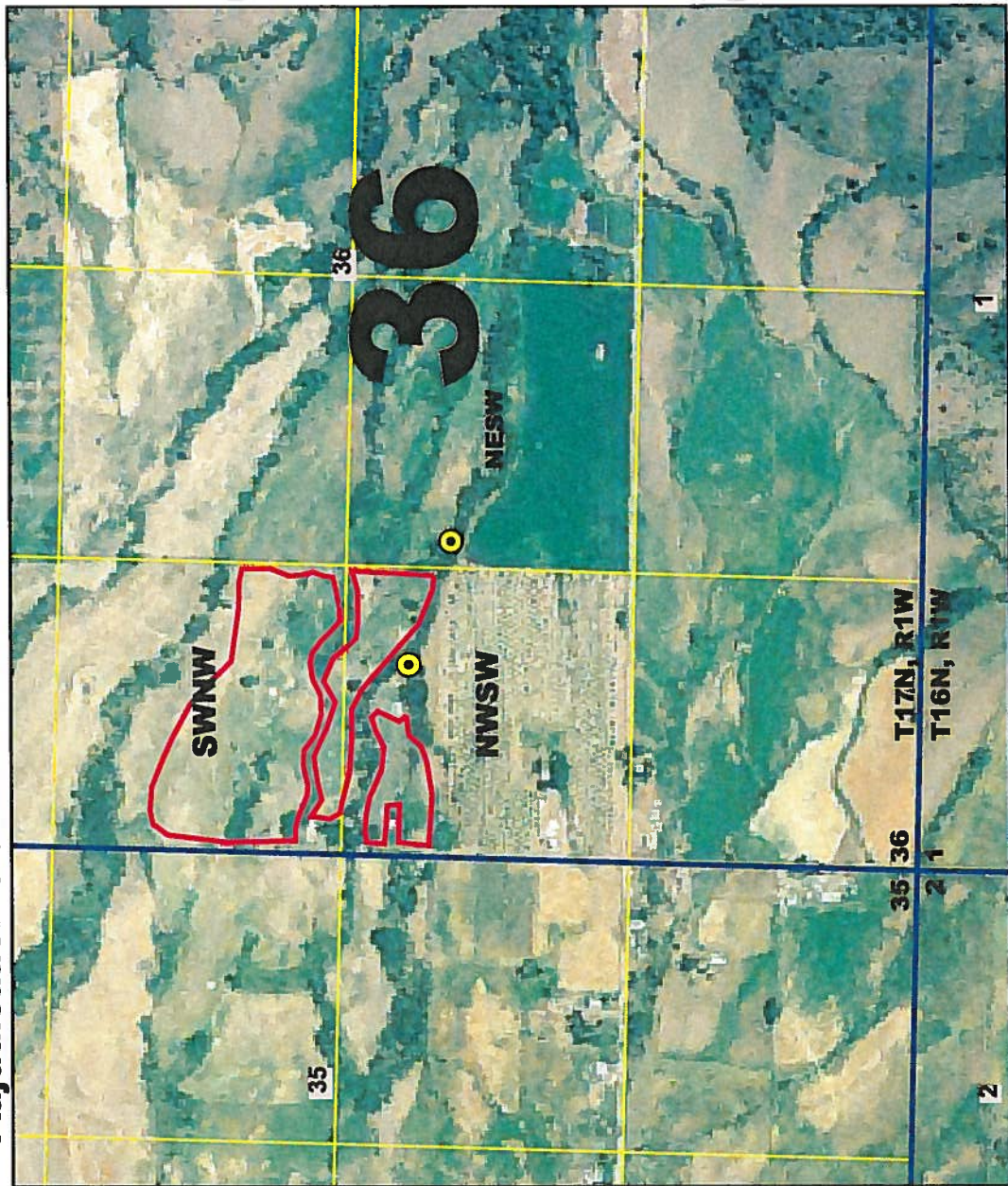
Legend

- Point of Diversion
- Place of Use
- B67 sections.shp
- T17n01w.shp



Adams County
IDWR Basin 67

Prepared by C. Saxton
On Monday, November 28, 2005
1987 Aerial Photography



0 1000 2000 Feet



IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 67-363E V1

WATER RIGHT NUMBER: 67-363E V1

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	DONALD E HARVEY 2216 HWY 95 COUNCIL, ID 83612 (208)253-4257

Priority Date: 05/01/1889

Basis: Decreed

Status: Active

<u>Source</u>	<u>Tributary</u>
MILL CREEK	WEISER RIVER

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	03/15 to 11/15	0.225 CFS	
	<u>Total Diversion:</u>	0.225 CFS	

Location of Point(s) of Diversion

MILL CREEK	NE1/4NW1/4SW1/4	Sec. 36, Twp 17N, Rge 01W, B.M.
ADAMS County		
MILL CREEK	NW1/4NE1/4SW1/4	Sec. 36, Twp 17N, Rge 01W, B.M.
ADAMS County		

Place of Use

IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
17N	01W	36							17.0				6.3						23.3

Total Acres: 23.3

Conditions of Approval:

1. K06 This right is limited to the irrigation of 18.0 acres within the place of use described above in a single irrigation season.
2. C18 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.
3. E55 Right Nos. 67-363E and 67-4113 are limited to the irrigation of a combined total of 23.3 acres in a single irrigation season.

Remarks:

IDAHO DEPARTMENT OF WATER RESOURCES
Adjudication Recommendation Report 67-363E V1

Comments:

1. csaxton 11/28/2005 Quantity

Comment: Quantity defined by TR 884. This claim represents the remaining portion of decreed right 67-363.

Dates and Other Information:

Decreed Date:
 Enlargement Use Priority Date:
 Enlargement Statute Priority Date:
 Defendant:
 Plaintiff:
 Civil Case Number:
 Judicial District:
 Notice of Error Flag:
 State or Federal: S
 Owner Name Connector:
 Water District Number:
 Generic Max Rate Per Acre:
 Generic Max Volume Per Acre:
 Swan Falls Trust or Nontrust:
 Swan Falls Dismissed:
 DLE Act Number:
 Carey Act Number:
 Mitigation Plan: False

Combined Use Limits:Element Reviewed/Verified Dates:

<u>Element</u>	<u>Last Reviewed Date</u>	<u>Reviewer</u>	<u>Last Verified Date</u>	<u>Verifier</u>	<u>Status</u>
Priority Date	8/2/2004 10:04:34 AM	segbert			Active
POD	8/2/2004 10:04:53 AM	segbert			Active
Source	8/2/2004 10:07:12 AM	segbert			Active
POU	8/2/2004 10:08:25 AM	segbert			Active
Use	8/2/2004 10:13:50 AM	segbert			Active
Season	8/2/2004 10:14:07 AM	segbert			Active
Quantity	8/2/2004 10:14:42 AM	segbert			Active
Contacts	11/28/2005 11:57:08 AM	csaxton			Active
Priority Date	11/28/2005 12:06:21 PM	csaxton			Active
POD	11/28/2005 12:06:37 PM	csaxton			Active
Source	11/28/2005 12:09:44 PM	csaxton			Active
POU	11/28/2005 12:09:53 PM	csaxton			Active
Use	11/28/2005 12:12:29 PM	csaxton			Active
Season	11/28/2005 12:12:54 PM	csaxton			Active
Quantity	11/28/2005 12:13:28 PM	csaxton			Active
Summary			11/28/2005	csaxton	Active

Verification Log:

<u>Element</u>	<u>Date Time Stamp</u>	<u>Reviewer</u>	<u>Log text</u>
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IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 67-363E V1

General	11/28/2005 12:06:28 PM	csaxton	(No) 1. Should this water use have been included in a later court decree of the water rights from this source? (Yes) 4. Is the basis of claim decree or license? (Yes) 5. Does the decree or license have a Priority Date? (Yes) 6. Did the Claimant claim the decreed or licensed Priority Date ? (Yes) 15. Is the basis of claim coded correctly? (No) 16. Is a Priority Date remark and/or condition required?
POD	11/28/2005 12:06:45 PM	csaxton	(Yes) 1. Is the basis of this claim a Decree or License? (No) 4. Does the Decree or License have a POD? (No) 6. Is there evidence that there has been a change in the POD? (Yes) 9. Does the file contain all the necessary information to verify the POD? (No) 10. Is a POD remark and/or condition required?
POU	11/28/2005 12:10:37 PM	csaxton	Updated shape for Active POU
POU	11/28/2005 12:10:47 PM	csaxton	Updated PLS for Active POU
Quantity	11/28/2005 12:13:36 PM	csaxton	(Yes) 1. Is the basis of this claim a Decree or License? (Yes) 4. Does the Decree or License have a diversion rate and/or volume? (Yes) 5. Can the claimed diversion rate and/or volume be verified using the water right file? (No) 8. Does the parent right have an annual diversion volume limit? (No) 9. Is the source Groundwater and does the purpose of use require a diversion volume limit? (No) 11. Has a diversion volume limit been established by a decree, license or transfer for this water use? (No) 12. Is a Quantity remark or condition required?
Summary	11/28/2005 12:16:03 PM	csaxton	(Yes) 1. Is the basis of this claim a Decree, License, Permit, Application or Posted Notice? (No) 2. Does any evidence indicate a five year period of continuous nonuse occurred that could result in recommending forfeiture or partial forfeiture? (Yes) 5. Does this right have any combined use limits with other rights? (Yes) 6. Is an additional remark and/or condition required? (Yes) 7. Would you like to view the recommended right? (Yes) 8. Is this a split or combined right? (No) 9. Do you have documents you would like to attach or link to the file? (Yes) 10. Would you like to set the verification date?

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 67-363E V1

Quantity	8/2/2004 10:14:41 AM	segbert	(Yes) 1. Is the basis of this claim a Decree or License? (Yes) 4. Does the Decree or License have a diversion rate and/or volume? (No) 5. Can the claimed diversion rate and/or volume be verified using the water right file?
Source	8/2/2004 10:07:11 AM	segbert	(Yes) 1. Is the basis of claim Decree or License? (Yes) 4. Does the Decree or License have a source? (Yes) 5. Can the claimed source be verified using the water right file?
Priority Date	8/2/2004 10:04:33 AM	segbert	(No) 1. Should this water use have been included in a later court decree of the water rights from this source? (Yes) 4. Is the basis of claim decree or license? (Yes) 5. Does the decree or license have a Priority Date? (Yes) 6. Did the Claimant claim the decreed or licensed Priority Date ? (Yes) 15. Is the basis of claim coded correctly?
POD	8/2/2004 10:04:53 AM	segbert	(Yes) 1. Is the basis of this claim a Decree or License? (Yes) 4. Does the Decree or License have a POD?
POU	8/2/2004 10:08:24 AM	segbert	(Yes) 1. Is the basis of this claim a Decree or License? (Yes) 2a. Is the POU required? (Yes) 5. Does the Decree or License have a POU? (Yes) 6. Can the claimed POU be verified using the water right file?
POU	8/2/2004 10:13:33 AM	segbert	Edited shape boundary
Use	8/2/2004 10:13:50 AM	segbert	(Yes) 1. Is the basis of this claim a Decree or License? (Yes) 4. Does the Decree or License have a Purpose of Use? (Yes) 5. Can the claimed Purpose of Use be verified using the water right file?
Season	8/2/2004 10:14:07 AM	segbert	(Yes) 1. Is the basis of claim Decree or License? (No) 4. Does the Decree or License have a Period of Use? (No) 6. Is there evidence that there has been a change in the Period of Use? (Yes) 12. Does the file contain all the necessary information to verify the Period of Use? (No) 13. Is the basis of claim a decree, license, or a transferred beneficial use right that has had the Period of Use administratively determined? (Yes) 15. Is irrigation claimed as a Purpose of Use?
POD	11/28/2005 12:08:54 PM	csaxton	Updated PLS

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 67-363E V1

Use	11/28/2005 12:12:37 PM	csaxton	(Yes) 1. Is the basis of this claim a Decree or License? (Yes) 4. Does the Decree or License have a Purpose of Use? (Yes) 5. Can the claimed Purpose of Use be verified using the water right file? (No) 13. Is a Purpose of Use remark and/or condition required?
Season	11/28/2005 12:13:02 PM	csaxton	(Yes) 1. Is the basis of claim Decree or License? (No) 4. Does the Decree or License have a Period of Use? (No) 6. Is there evidence that there has been a change in the Period of Use? (Yes) 12. Does the file contain all the necessary information to verify the Period of Use? (No) 13. Is the basis of claim a decree, license, or a transferred beneficial use right that has had the Period of Use administratively determined? (Yes) 15. Is irrigation claimed as a Purpose of Use? (No) 18. Is a Period of Use remark and/or condition required?
Contacts	11/28/2005 11:57:14 AM	csaxton	(No) 1. Do you want to schedule an appointment? Comment for 1: FE by Melanie Vining on 7/7/05.
POD	11/28/2005 12:08:35 PM	csaxton	Updated shape
POD	11/28/2005 12:09:21 PM	csaxton	Updated shape
POD	11/28/2005 12:09:38 PM	csaxton	Updated PLS
Source	11/28/2005 12:09:51 PM	csaxton	(Yes) 1. Is the basis of claim Decree or License? (Yes) 4. Does the Decree or License have a source? (Yes) 5. Can the claimed source be verified using the water right file? (No) 11. Is a Source remark and/or condition required?
POU	11/28/2005 12:10:01 PM	csaxton	(Yes) 1. Is the basis of this claim a Decree or License? (Yes) 2a. Is the POU required? (Yes) 5. Does the Decree or License have a POU? (Yes) 6. Can the claimed POU be verified using the water right file? (No) 14. Is a POU remark and/or condition required?

Water Supply Bank:

Contacts Data Entry Form

Claim Number: 67-363E

Owner Type	Full Name	Address	City	State	Zip	Phone
Current Owner	DONALD E HARVEY	2216 HWY 95	COUNCIL	ID	83612	(208)253-4257

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:

Contact info matches Tax lot data

Reviewer: C. G. FosterDate: 11-26-05

Priority Date Data Entry Form

Claim Number 67-363E

Claimed Priority Date: 5/1/1889

Claimed Basis: Decreed

☒ Use Claimed Priority Date and Basis as Recommended Priority Date and Basis

Water Right Priority Date:

Water Right Basis:

Recommended Priority Date ____

Recommended Basis _____

Document the evidence submitted/reviewed for the priority date claimed, include your analysis of the evidence:

As decreed

Reviewer: Date: 11-26-05

Point of Diversion and Source Data Entry Form

Claim Number 67-363E

Claimed Point of Diversion and Source

T17N R01W S36 NWNESW Within ADAMS County Source: MILL CREEK WEISER RIVER

T17N R01W S36 NWNESW Within ADAMS County Source: MILL CREEK WEISER 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

MILL Ck Weiser River

Twp	Rge	Sec	Gov Lot	QQQ of QQ of Q	County	Source
17N	1W	36		NE NW SW	Adams	MILL Ck
		36		NW NESW	"	MILL Ck

Other rights from this POD? 67-4443

Document how the POD and Source were verified:

Bosco Barker GPS on 8-2-04 A0014039
A0014041

Reviewer: C. Smith

Date: 11-26-05

Place Of Use Data Entry Form

Claim Number 67-363E

Claimed Place Of Use

T17N R01W S36 SWNW 28.0 T17N R01W S36 NWSW 10.0

Total Acres 38

☐ 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	36	SWNW		Adams		17	Irr
17N	1W	36	NWSW		"		6.3	Irr

Total Acres 23.3

Document how the POU was verified:

FE By Melanie Uining for 67-443 on 7-7-05
and ArcView calculations.

Reviewer: C. G. [Signature]Date: 11-26-05

Purpose of Use Data Entry Form

Claim Number 67-363E

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			18	

Document how the Purpose of Use was verified:

As Decreed

Reviewer:



Date: 11-26-05

Period of Use and Quantity Data Entry Form

Claim Number 67-363E

Claimed Period of Use and Diversion Rate

Water Use	Start	End	Rate	Volume
IRRIGATION	3/15	11/05	0.32	

Overall Diversion Rate 0.32 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
-----------	-------	-----	------	--------

Overall Diversion Rate Overall Diversion Volume

Recommended Period of Use and Diversion Rate

Water Use	Start	End	Rate	Volume
IRR	3-15	11-15	0.225	

Overall Diversion Rate 0.225 Overall Diversion Volume

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

Per TR 884, this is the remaining portion.

Reviewer:

C. GaultDate: 11-28-05

Claim:

Basin	Sequence	Suffix	Basis	Status	Priority Date	Rate(cfs)	Acres	Source	Water Use(s)	Owner(s)	Source Table
67	363	E	Decreed	Active	1889-05-01	0.32	38	MILL CREEK	IRRIGATION	HARVEY, C	wrAdjudicationClaim
67	4113		Beneficial	Active	6/1/1930	0.32	15	MILL CREEK	IRRIGATION, S	HARVEY, C	wrAdjudicationClaim

Recommendation:

Basin	Sequence	Suffix	Basis	Status	Priority Date	Rate(cfs)	Acres	Source	Water Use(s)	Owner(s)	Source Table
67	363	E	Decreed	Active	1889-05-01	0.225	18	MILL CREEK	IRRIGATION	HARVEY, C	wrAdjudicationClaim

Inches = 11.25

@5/8" = 18

67 4113 Beneficial Active 6/1/1930 0.3 15 MILL CREEK IRRIGATION, S HARVEY, C wrAdjudicationClaim

67-363E and 67-4113 are not claimed as a PPU, but 67-363E must overlap 67-4113 just by the lay of the land and how the acreage was claimed.

Watermaster Record				Inches		Priority			
22	7N01W363	HARV	\$	9.20	\$8.06	11.5	363	TON/SP	5/12/89

Other Water Rights:

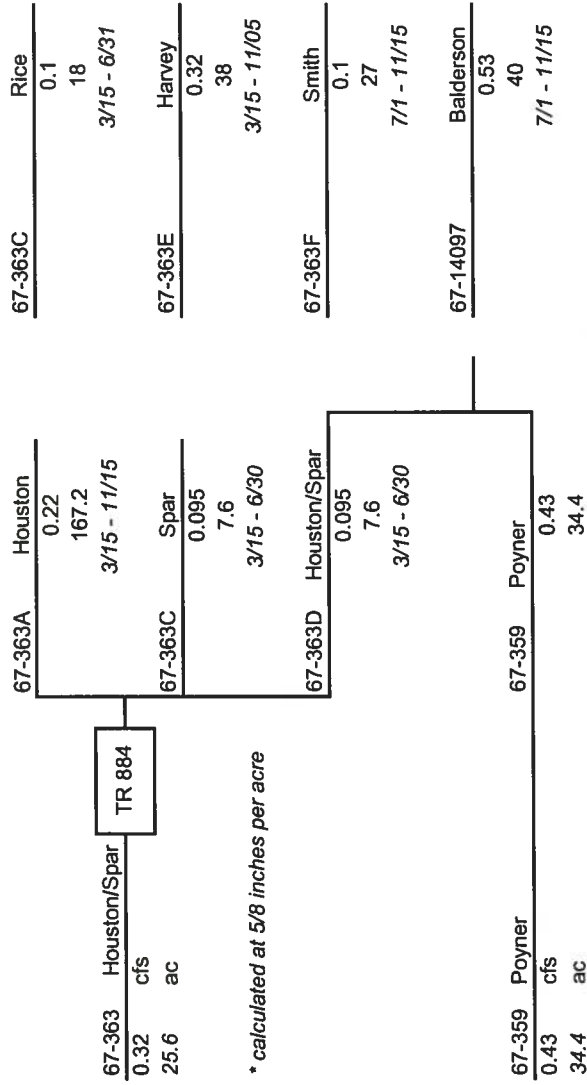
67	82	E	Decreed	Disallowed	5/27/1910	15	LOST VALLEY IRRIGATION F	HARVEY, C	Recommendation
67	353	A	Decreed	Active	1882-05-01	0.14	MILL CREEK	IRRIGATION	HARVEY, C wrAdjudicationClaim
67	7363		License	Active	10/26/1977	0.32	WEISER RIVE	IRRIGATION	HARVEY, C wrAdjudicationClaim
67	14348		Beneficial	Active	6/1/1952	0.1	WASTE WATE	IRRIGATION	HARVEY, C wrAdjudicationClaim

Split history for Decreed Right 67-363

WR History

Claim History

Recommendation



* calculated at 5/8 inches per acre

Sum CFS =	1.050
Sum Acre=	123
Sum AF =	n/a

Extra CFS =	-0.730
Extra Acre =	-97.4
Extra AFA =	n/a

Sum CFS =	0.320
Sum Acre=	26
Sum AF =	n/a

***Last updated 11-25-05 (csaxton)**

For digital copy of Excel spreadsheet file: See Craig L. Saxton

Disallow
Ready to go

***ac and cfs for 67-355C and 67-355D are only counted for once in sum calculations due to the split season of use.**

10-6-05: Called Harvey and left message to have him
Call me Back. The Question is if

67-4113 and 67-363 F Overlap, and what
is Investigated.

11-28-05: As of this Date - NO Response from Chairman.

MEMORANDUM

Date: July 15, 2005

To: File

From: Monica Van Bussum

RE: SRBA claims 67-355A, 67-355C, 67-355D, 67-363C, 67-363E, 67-363F, 67-14097, and 67-11421

Attached: Spreadsheet of water history and copy of Transfer 884

This note is being put in all files to explain allocation of water after Transfer 884, and to aid the reviewer in doing the final recommendations for these claims.

The Muir v. Allison Decree and Transfer 884

67-355

Basic decree facts:

Users: Deseret Sheep Company sub for CA Martin, Grantee of Margaret Krigbaum

Source: Mill Creek

Quantity: 41 2/3 inches = 0.83 cfs

POU: 66.7 acres at 5/8 inch to the acre

NWSE, NESE, SWSE, SESE (or, southeast quarter) of Section 34 T17N R01W

67-363

Basic decree facts:

Users: James A Huston Jr and William Spahr, Grantees of John and JD Poyner

Source: Mill Creek

Quantity: 16 inches = 0.32 cfs

POU: 25.6 acres at 5/8 inch to the acre

NWNW, SWNW, NWSW of Section 36, T17N R01W

Transfer 884

Transfer 884 was signed 29 May 1957. This transfer pertains to decreed rights 67-355 and 67-363. William Spahr was the owner of two tracts of land, one tract overlain by 355 water and another overlain by 363 water.

Spahr wanted to change the place of use for his 355 and 363 water, but only during a certain part of the season. He wanted to combine the 355 and 363 water onto 355 POU from 03/15 to 06/30 and then he wanted to combine the use of 355 and 363 water onto the 363 POU from 07/01 to 11/15. In essence, he wanted more water on the 355 POU early in the year, and then stop watering the 355 POU on 07/01 to put all the water on the 363 POU.

Since Spahr only owned part of the decreed POU for 355 and 363, when the transfer was approved and signed, decreed rights 355 and 363 were essentially split into three parts. One part of each, the larger portion, remained as it had been with the water/acreage going to parties holding the land not owned by Spahr. Two parts were dedicated to Spahr's new rights (one with a designated irrigation season 03/15 to 06/30 for the 355 POU and the other with a designated irrigation season 07/01 to 11/15 for the 363 POU). Hence, there are two splits of 355 with Spahr's name, each with a different POU and season of irrigation and the same for 363. For more information, see the left-hand tables in the attached spreadsheet.

5.5 (=0.11 cfs) inches of 355 water were allotted for this task, as were 4.75 (=0.095 cfs) inches of 363 water.

SRBA claims

For more information on the claims, see the right hand side of attached spreadsheet.

67-355

355C

Quantity: 0.11 cfs (= 5.5 inches)

Acreage: 18

Season: 03/15 to 06/30

The claimant is claiming Spahr's split of 355 (355C) for the first part of the irrigation. This complies with what we know about the outcome of Transfer 884 and appears good to go, perhaps with moderate acreage modification. This is also on the same POU as Spahr's 355 land, also making us good to go.

355D

Quantity: 0.13 cfs (= 6.5 inches)

Acreage: 27

Season : 03/15 to 11/15

This claim will have to be modified in order to be recommended. It claims a POU on Spahr's 355D property (part of the original 363 POU), but includes the entire irrigation season. We can recommend the acreage, but will have to modify season of use to 07/01

to 11/15 and quantity to 0.11 cfs to comply with Transfer 884. Spahr was not allowed to use 355 water on this POU from 03/15 to 06/30.

355A

Quantity: 0.83 cfs

Acreage: 67

Season: 03/15 to 11/15

This claim will have to be modified in order to be recommended. It appears to claim all of the original Muir v. Allison decreed quantity and acreage. Since a transfer was approved in 1959, the claim will have to be modified to comply with the transfer. The quantity will have to be modified to 0.723 cfs (0.83 was the original decreed amount and Transfer 884 appropriated 0.11 cfs as noted above, so $0.83 - 0.11 = 0.723$). The acreage may have to be modified as well. The season of use will not have to be modified.

11421

Quantity: 0.42 cfs

Acreage: 21

Season: 03/15 to 11/15

There is a long remark on 11421 that is probably worth reading. In short, it suggests 11421 may need to have its basis amended to decreed and related to 67-355. We do not believe this is the case, as all 355 water has already been appropriated, and properly so.

67-363

363C

Quantity: 0.1 cfs

Acreage: 18

Season: 03/15 – 06/30

The same claimant claiming 355C is claiming 363C. This is appropriate, as it follows Spahr's 363C water right. This claim can be recommended as is, with maybe some slight acreage modifications depending on the lay of the land. The quantity also would be more appropriately recommended as 0.095 to comply with the 4.75 inches of 363 water mentioned in the transfer.

363E

Quantity: 0.32

Acreage: 38

Season: 03/15 – 11/05

There is documentation in the 363 backfile of this claimant writing to determine when their water right was reduced. They have claimed the full water right, but this will have

to be modified in accordance with Transfer 884. Probably they should have claimed the 363A allotment of 0.225 cfs (the flow left over after Spahr's transfer with $0.32 - 0.095 = 0.225$), and that is how we should recommend it.

363F

Quantity: 0.1

Acreage: 27

Season: 07/01-11/15

The same claimant claiming 355D is claiming 363F. This is appropriate, as it follows Spahr's 363D water right. This claim can be recommended as is, with maybe some slight acreage modifications depending on the lay of the land. The quantity also would be more appropriately recommended as 0.095 to comply with the 4.75 inches of 363 water mentioned in the transfer.

14097

Quantity: 0.530 cfs

Acreage: 40 (see note below)

Season: 07/01 – 11/15

The notes in this file say it is a combination of 363D and 67-359. The full 14097 claim is for 0.530 cfs. 363D was originally claimed for 07/01 to 11/15, but when it was combined with 359, the irrigation season was changed to 03/15 to 11/15. It appears this claim should not be recommended for 363 water, but we should recommend it as 359 water. All of the 363 water has apparently been appropriated by the other 363 claims, and properly so.

STATE OF IDAHO
DEPARTMENT OF RECLAMATION

(Desert Sheep Co. sub. for
C.A. Martin, Grantee for
Margaret Krigbaum.

Certificate of Water Right
Transferred Right No. 884

THIS IS TO CERTIFY That W. H. Spahr, of Council, Idaho, is the owner of, and using a certain water right for 5.50 miner's inches with priority of May 1, 1884, and 4.75 miner's inches with priority of May 1, 1889 from the waters of Mill Creek, a tributary of Weiser River, decreed in the name of Desert Sheep Co., sub. for C.A. Martin, Grantee for Margaret Krigbaum, and Huston and Spahr, respectively, By Decree of District Court of the seventh judicial District, in the case of:

MUIR BROS., Plaintiffs

-vs-

William Allison et al,
Defendants

That said decree has been entered in the records of the State Department of Reclamation, in volume 4 of Decrees, beginning at page 354 and bearing date of June 20, 1921.

That said 5.50 miner inches, with date of priority of May 1, 1884, is made appurtenant by said decree to the following described lands to-wit:

- (1) All that part of the SE $\frac{1}{4}$ of Section 34 in Township 17 North, Range 1 West Boise Meridian, particularly described as follows:

Commencing at the Northeast corner of the Southeast Quarter of said Section 34, said Township and Range, and running thence South along the East line of said Section 34, a distance of 507 feet; thence West, at right angles, 1781 feet, more or less, to the East line of the right of way of the Pacific and Idaho Northern Railway Company (now Union Pacific Railroad Company) right of way; thence northerly on and along the easterly line of said railway right of way, 521.5 feet, more or less, to a point on the North line of the Southeast Quarter of said Section 34; thence East, on and along the North line of the Southeast Quarter of said Section 34, a distance of 1659 feet, more or less, to the point and place of beginning, and containing approximately 20.8 acres.

That said 4.75 inches, with date of priority of May 1, 1889 is made appurtenant by said decree to the following described lands to-wit:

- (2) The South 27 acres of the Northwest Quarter of the Southwest Quarter of Section 36, in Township 17 North, Range 1 West, Boise Meridian, in Adams County, Idaho.

That said water is to be limited at any given time to an amount actually needed and beneficially used for such purposes, and shall not exceed the following amount, to-wit:

5.5 miner inches with priority of May 1, 1884 and
4.75 miner inches with priority of May 1, 1889

NOT RECORDED

And that now, upon the application of W. H. Spahr of Council, Idaho, for the transfer of 5.50 miner inches of the waters of Mill Creek, with priority of May 1, 1884, made before the State Reclamation Engineer of the State of Idaho, and said application having been granted, by this certificate, the right to the use of said water shall remain appurtenant to the following described lands, to-wit:

- (1) All that part of the SE $\frac{1}{4}$ of Section 34, in Township 17 North, Range 1 West Boise Meridian, particularly described as follows:

Commencing at the Northeast corner of the Southeast Quarter of said Section 34, said Township and Range, and running thence South along the East line of said Section 34, a distance of 507 feet; thence West, at right angles, 1781 feet, more or less, to the East line of the right of way of the Pacific and Idaho Northern Railway Company (now Union Pacific Railroad Company) right of way; thence northerly on and along the easterly line of said railway right of way, 521.5 feet, more or less, to a point on the North line of the Southeast Quarter of said Section 34; thence East, on and along the North line of the Southeast Quarter of said Section 34, a distance of 1659 feet, more or less, to the point and place of beginning, and containing approximately 20.8 acres,

Said 5.50 miner inches of water to be used on the above described lands from the beginning of the irrigation season until July 1, of each year.

By this certificate, the right of use of the said 5.50 miner inches, is hereby transferred and made appurtenant to the following described lands, to-wit:

- (2) The South 27 acres of the Northwest Quarter of the Southwest Quarter of Section 36, in Township 17 North, Range 1 West, Boise Meridian, in Adams County, Idaho,

and to be used on the last above described lands from July 1, to the end of the irrigation season of each year.

And that now, upon the application of W. H. Spahr of Council, Idaho, for the transfer of 4.75 miner inches of the waters of Mill Creek, with priority of May 1, 1889, made before the State Reclamation Engineer, of the State of Idaho, and said application having been granted, by this certificate, the right to the use of said water, shall remain appurtenant to the following described lands, to-wit:

- (2) The South 27 acres of the Northwest Quarter of the Southwest Quarter of Section 36, in Township 17 North, Range 1 West, Boise Meridian, in Adams County, Idaho.

Said 4.75 miner inches to be used on the above described lands from July 1, to the end of the irrigation season of each year, and by said certificate of transfer, the right is hereby granted to transfer the use of 4.75 miner inches to the following described lands, to-wit:

(1) All that part of the SE $\frac{1}{4}$ of Section 34 in Township 17 North, Range 1 West Boise Meridian, particularly described as follows:

Commencing at the Northeast corner of the Southeast Quarter of said Section 34, said Township and Range, and running thence South along the East line of said Section 34, a distance of 507 feet; thence West, at right angles, 1781 feet, more or less, to the East line of the right of way of the Pacific and Idaho Northern Railway Company (now Union Pacific Railroad Company) right of way; thence northerly on and along the easterly line of said railway right of way, 521.5 feet, more or less, to a point on the North line of the Southeast Quarter of said Section 34; thence East, on and along the North line of the Southeast Quarter of said Section 34, a distance of 1659 feet, more or less, to the point and place of beginning, and containing approximately 20.8 acres,

and to be used on the last above described lands from the beginning of the irrigation season until July 1, of each year.

That the water right hereby transferred has heretofore been diverted from Mill Creek as follows:

That the 5.50 miner inches appurtenant to lands in Section 34 in Township 17 North, Range 1 West B.M. through a private ditch with point of diversion in the SW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 35, Township 17 North, Range 1 West, B.M.

That the 4.75 miner inches of water appurtenant to lands in Section 36, Township 17 North, Range 1 West, B.M. through a private ditch with point of diversion in the SE $\frac{1}{4}$ NW $\frac{1}{4}$ Section 36, Township 17 North, Range 1 West, B.M.

That the water right hereby transferred will hereafter be diverted from Mill Creek, with point of diversion described as being in SW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 35, Township 17 North, Range 1 West, B.M. from the beginning of the irrigation season to July 1, of each year, and from a point of diversion from Mill Creek described as being in the SE $\frac{1}{4}$ NW $\frac{1}{4}$ Section 36, Township 17 North, Range 1 West, B.M., from July 1, to the end of the irrigation season of each year.

That the right to the use of the water aforesaid, hereby confirmed is restricted to and according to the above stated provisions, as provided by the Laws of the State of Idaho.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the official seal of the Department of Reclamation of the State of Idaho to be hereunto affixed, at Boise, Idaho, this 29th day of May, 1957.

Mark R. Kulp
MARK R. KULP

State Reclamation Engineer

J F Lowe
L J Rhinehart
Loren Rhinehart
Anna Morrow

38 ✓
31 ✓
40 ✓
5 ✓

June 5, 1902 67 0344
June 5, 1902 67 0345
June 5, 1902 67 0346
June 5, 1902 67 0347

Mill Creek.

William Winkler, Lewis Winkler, Mrs F H Hayner,
John Kessler, Jim Kessler, Lewis Kessler, Bettie
Dickerson, Janie Hart, Ida Blanchard, William
Kessler, Elva Young and Rebecca Kessler, suc-
cessors of Alexander Kessler, deceased
Frederick N Watrous, Grantee of Geo M Winkler

25 ✓
16 2/3 ✓
12 1/2 ✓
33 1/3 ✓
20 3/4 ✓

67 0348
May 1, 1878 Trans 504-517-539-71 ✓
May 1, 1881 67 0349
May 1, 1884 67 0350
May 1, 1893 67 0351
May 1, 1894 67 0352
May 1, 1882 67 0353
May 1, 1891 67 0354
May 1, 1884 Trans 504 67 0355

P H Schaff and F B Galey, Grantees of Samuel Harp
Deseret Sheep Company sub for C A Martin, Grantee
of Margaret Krigbaum

37 1/2 ✓
29 ✓
41 2/3 ✓

Mill Creek (Con)

Council Valley Orchards, Grantee of J Marion
Young

10 3/4 ✓
29 ✓
37 1/2 ✓
27 1/2 ✓

May 1, 1885 67 0356
May 1, 1894 67 0357
May 1, 1889 67 0358
May 1, 1886 67 0359
May 1, 1893 67 0360
May 1, 1894 67 0361

J D Poyner and John Poyner

George T Ellis

P H Schaff and Thomas L Watt, Grantees of B F
Middleton

Charles Lappin and A E Felmley, Grantees of C S
Gibbs

54 ✓

James A Huston Jr. and William Spahr, Grantees
of John and J D Poyner

16 Trans 884

B W Turnipseed

J V Morrison

C W Holmes

Council Valley Orchards

Unnamed Stream.

Council Valley Orchards

Frank B Galey

C W Holmes

C E McDonald High water 56

Fort Hall Creek

C T Hamill

Louis Harp

100 ✓
20 ✓
10 ✓
34 ✓
4 ✓
4 ✓
6 ✓
11 ✓

May 1, 1896 67 0362
May 1, 1899 67 0363
May 1, 1903 67 0364
July 1, 1909 67 0365
May 1, 1909 67 0366
June 1, 1906 67 0367
July 3, 1911 67 0368
March 17, 1913 67 0369
May 16, 1912 67 0370
July 2, 1892 67 0371
May 1, 1882 67 0372
May 1, 1889 67 0373
May 1, 1882 67 0374
June 1, 1911 67 0375

A L Freehafer and Margaret P Pike

JUL 24 1996

WILLIAM WINKLER, LEWIS WINKLER, MISS F H HAYNER, JOHN KESSLER, JIM KESSLER, LEWIS KESSLER, BETTIE DICKERSON, JANIE HART, IDA BLANCHARD, WILLIAM KESSLER, ELVA YOUNG AND RUBEN COCA KESSLER, successors of Alexander Kessler, deceased: The Southwest Quarter of the Northeast Quarter, Section 10, the East half of the Northwest Quarter and the Southwest Quarter of the Northwest Quarter of Section 10 in Township 16 North, Range 1 West Boise Meridian.

FREDERICK N WATKINS: The South half of the Northwest Quarter and the North half of the Southwest Quarter, Section 35, Township 17 North Range 1 West Boise Meridian.

P H SCHAFY AND F B GALEY: The South half of the Northeast Quarter and the North half of the Southeast Quarter Section 35, Township 17 North, Range 1, West Boise Meridian.

DESERT SINK COMPANY: The Southeast Quarter of Section 34, Township 17 North, Range 1 West Boise Meridian.

COUNCIL VALLEY ORCHARDS: The South half of the Southeast Quarter, Section 35, Township 17 North, Range 1 West Boise Meridian and the North half of the Northeast Quarter, Section 2, Township 16 North, Range 1 West Boise Meridian.

J D POYNTER AND JOHN POYNTER: The North half of the Southwest Quarter and the West half of the Northwest Quarter of Section 36, Township 17 North, Range 1 West Boise Meridian.

GEORGE T WILLIS: The Southeast Quarter of the Southeast Quarter, Section 4, the Southwest Quarter of the Northwest Quarter, Section 3, and a tract bounded as follows, commencing at the Southwest corner of lot 1, said Section 4, thence north along the west side of said lot 20 rods, thence east 80 rods, thence south 20 rods, thence west 80 rods to the place of beginning, all in Township 16 North, Range 1 West Boise Meridian.

P H SCHAFY AND THOMAS L WATT: The North half of the Northwest Quarter Section 35, and 70 acres east of the right of way of the P & I N Ry. in the Southeast Quarter of the Southeast Quarter Section 27, and the Northeast Quarter of the Northeast Quarter Section 34, all in Township 17 North, Range 1 West Boise Meridian.

we added CHARLES LAPPIN AND A E FREMLEY: The West half of the Southwest Quarter of Section 25, and the east half of the southeast Quarter of Section 26, Township 17 North, Range 1, West Boise Meridian.

JAMES A HUSTON, JR. and WM H SPAHR: The West half of the Northwest Quarter and the Northwest Quarter of the Southwest Quarter, Section 36, Township 17 North, Range 1 West Boise Meridian.

B W TURNIPSEED: Lot 4, the Southeast Quarter of the Southwest Quarter, and the South half of the Southeast Quarter Section 31, Township 17 North, Range 1 East Boise Meridian.

J V MORRISON: The Northeast Quarter of the Southeast Quarter and the Southeast Quarter of the Southeast Quarter of Section 4, Township 16 North, Range 1 West Boise Meridian.

C W HOLMES: The Northwest Quarter of the Southwest Quarter Section 3, Township 16 North, Range 1 West Boise Meridian.

FRANK S GALEY: Northwest Quarter Southeast Quarter and Northeast Quarter Southeast Quarter Section 35, Township 17 North, Range 1 West Boise Meridian.

LOUIS HARP: The South half of the Northeast Quarter, and the Northeast Quarter of the Northeast Quarter, Section 23, and the Southeast Quarter of the Southeast Quarter Section 14, Township 17 North, Range 1 West Boise Meridian.

JUL 24 1996

MILL CREEK RIGHTS.

Deseret Sheep Company, substituted for C. A. Martin,
Grantee of Margaret Krigbaum,

41 2/3 May 1, 1884

William Winkler, Lewis Winkler,
Mrs. F. H. Hayner, John Kessler,
Jim Kessler, Lewis Kessler,
Bettie Dickerson, Janie Hart
Ida Blanchard, William Kessler,
Elva Young and Rebecca Kessler,
successors of Alexander
Kessler, deceased,

25 " " 1878

Charles Lappin and A. E.
Felmley, Grantee of C. S. Gibbs,

54 " " 1896

J. D. Poyner and John Poyner,

21 1/2 " " 1886

B. W. Turnipseed,

18 " " 1903

Frederick M. Watriss,
Grantee of Geo. M.
Winkler,

16 2/3 " " 1881
12 1/2 " " 1884
33 1/3 " " 1893
20 3/4 " " "

P. H. Schaff and
F. S. Galey, Grantees
Samuel Hark

37 1/2 " " 1882
29 " " 1891

Council Valley Orchards
Grantee J. Marion Young

10 3/4 " " 1885
29 " " 1894
37 1/2 " " 1889

James A. Huston and William
Spahr, Grantees of John and
J. D. Poyner,

16 " " 1899

P. H. Schaff and Thomas L.
Watt, Grantees of B. F.
Middleton,

37 1/2 " " 1894

George T. Ellis

27 1/2 " " 1893

J. V. Morrison,

16 July 1 1909

C. W. Holmes

8 1/2 May 1 1909

MAILED

JUL 24 1909

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 67-363E
Date Received: 9/19/1989
Receipt No: C011704
Received By:

**NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW**

1. Name of Claimant(s)

DONALD E HARVEY Phone: (208)253-4257
2216 HWY 95
COUNCIL ID USA 83612

2. Date of Priority: 05/01/1889

3. Source: MILL CREEK , MILL CREEK Trib. to: WEISER RIVER , WEISER RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot			County	Type
17N	01W	36	NW	NE	SW	ADAMS	
17N	01W	36	NW	NW	SW	ADAMS	

5. Description of diverting works:

TWO DITCHES

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
IRRIGATION	3/15	11/05	0.32	

7. Total Quantity Appropriated is:
0.32 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
17N	01W	36	NW	SW	IRRIGATION	10

SW NW

IRRIGATION 28

Section Acres 38

Total Acres 38

11. Place of use in counties: ADAMS

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

13. Other Water Rights Used:

14. Remarks:

15. Basis of Claim: Decreed

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: _____

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: A67-00363E
Date Received: 9/19/1989
Receipt No: 001104
Received By: *[Signature]*

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: DONALD HARVEY 208-253-4257
Address: HC 62 BOX 1315
COUNCIL, ID 83612

2. Date of Priority: MAY 01, 1889

3. Source: MILL CREEK Trib. to: WEISER RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4 of	Lot	County
17N	01W	36	NW	NE	SW		ADAMS
			NW	NW	SW		ADAMS

5. Description of diverting works:
TWO DITCHES

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	03/15	11/05	0.320		

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

8. Total consumptive use is 60.0 Acre Feet Per Annum.

9. Non-irrigation uses:

10. Place of Use:

Township	Range	Section	1/4 of	1/4 of	Lot	Use	Acres
17N	01W	36	SW	NW		IRR	28.0
			NW	SW		IRR	10.0

Section Acres 38.0

A67-00363E

Page 1

Date: 09/19/89

SCANNED
APR 02 2004

MICROFILMED
OCT 01 1992

10. Place of Use: Continued

Total Acres 38.0

11. Place of use in counties: ADAMS

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

13. Other Water Rights Used:
FLOOD WATER

14. Remarks:

15. Basis of Claim: DECREED
Case Number:
Court :
Decree date:

Decree Plaintiff

vs

Decree Defendant

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): Donald Harvey Date: _____
_____ Date: _____

State of Idaho)
County of Ada) SS.

Subscribed and sworn (or affirmed) before me this 19 day

of September 19 89

Seal

[Signature]
Notary Public
Boise, ID
Residing at June 10, 1994
My Commission Expires _____