

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: A37-01231
Date Received: 10/18/1988
Receipt No: C004222
Received By: _____

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: Y-3 RANCH 208-342-8901
Address: P.O. BOX 5405
BOISE, ID 83705

2. Date of Priority: MAY 01, 1910

3. Source: UNNAMED STREAM Trib. to: BIG WOOD RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4 of	Lot	County
01S	18E	9		SE	SE		BLAINE
		10	NW	SW	NW		BLAINE

5. Description of diverting works:
SEEPAGE INTO DITCH

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	04/01	11/01	5.600		

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

8. Total consumptive use is 700.0 Acre Feet Per Annum.

9. Non-irrigation uses:

10. Place of Use:

Township	Range	Section	1/4 of	1/4 of	Lot	Use	Acres
01S	18E	9	SE	NE		IRR	40.0
			NE	SE		IRR	40.0
			SW	SE		IRR	35.0

A37-01231

Page 1

Date: 01/19/89

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FEB 23 1993

10. Place of Use: Continued

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
01S	18E	9	SE	SE		IRR	40.0
Section Acres							155.0
		10	SW	NE		IRR	40.0
			SE	NE		IRR	5.0
			SW	NW		IRR	40.0
			SE	NW		IRR	40.0
Section Acres							125.0
Total Acres							280.0

11. Place of use in counties: BLAINE

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

13. Other Water Rights Used:
37-00663, 37-07113, 37-01231

14. Remarks:
LIMITED TO 2 CFS UNTIL 1884 RT. IS CUT OFF; 5.6 CFS AFTER

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

UHRIG & BEECHER
Decree Plaintiff

vs

COFFIN, ET. AL., MODIFIED
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 Organizations:

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

Signature of Authorized Agent

Title and Organization

Date

State of Idaho)
County of _____) SS.

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

Notary Public

Seal

Residing at _____

My Commission Expires _____

120

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**

RECEIVED

OCT 25 1988

Department of Water Resources
Southern Region Office

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

CIVIL CASE NUMBER: 39576

Ident. Number

A37-01231

Date Received

10-18-88

Receipt Number

C004222

RECEIVED

OCT 18 1988

Department of Water Resources
Western Regional Office

Please type or print clearly

1. Name of Claimant (s) Y-3 RANCH Phone (208) 392-8901
Mailing Address P.O. Box 5405 Boise, ID. Zip 83705

2. Date of Priority (Only one (1) per claim) 01 MAY 1910

3. Source of water supply (a) UNNAMED STREAM
which is tributary to (b) BIG WOOD RIVER

4. a. Location of existing point of diversion is: Township Q1S Range 18E Section 10,
NW 1/4 of SW 1/4 of NW 1/4, Govt. Lot, _____ B.M., County of BLAINE

Additional points of diversion if any: SE 1/4, SE 1/4, SECT 9 T01S, R18E, B.M.

b. If instream flow, beginning point of claimed instream flow is:

Township _____ Range _____ Section _____, _____ 1/4 of _____ 1/4 of _____ 1/4,

Govt. Lot _____ B.M., County of _____

ending point is: Township _____ Range _____ Section _____, _____ 1/4 of _____ 1/4 of _____ 1/4,

_____ 1/4, Govt. Lot _____ B.M., County of _____

5. Description of existing diversion works (Dams, Reservoirs, Ditches, Wells, Pumps, Pipelines, Headgates, Etc),
including the dates of any changes or enlargements in use, the dimensions of the diversion works as
constructed and as enlarged and the depth of each well. SEEPAGE INTO

PT. DITCH

COPY

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FEB 23 1993

6. Water is claimed for the following purposes:

(both dates are inclusive)

(cfs)

(acre feet)

For IRRIGATION purposes from Apr 1 to Nov amount 5.6 or _____

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

7. Total quantity claimed (a) 5.6 cfs (cfs) and/or (b) _____ (acre feet)

8. Total consumptive use claimed is 7.00 acre feet per annum.

9. Non-irrigation uses; describe fully (eg. Domestic: Give number of households served; Stockwater: Type and number of livestock Etc.) _____

10. Description of place of use:

a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.

b. If water is used for other purposes, place a symbol of use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

TWP	RNG	SEC	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	
01S	18E	10			40	5			40	40									125
01S	18E	9			40										40			40	155

Total number of acres irrigated 280

11. In which county (ies) are lands listed above as place of use located? BLAINE

12. Do you own the property listed above as place of use? Yes X No _____
If your answer is No, describe in Remarks below the authority you have to claim this water right.

13. Describe any other water rights used at the same place and for the same purposes as described above.
37-0663 or None ()

14. Remarks:
LIMITED TO 2.0 CFS UNTIL 1984
RT IS CUT OFF 5.6 CFS AFTER

MICROFILMED

COPY

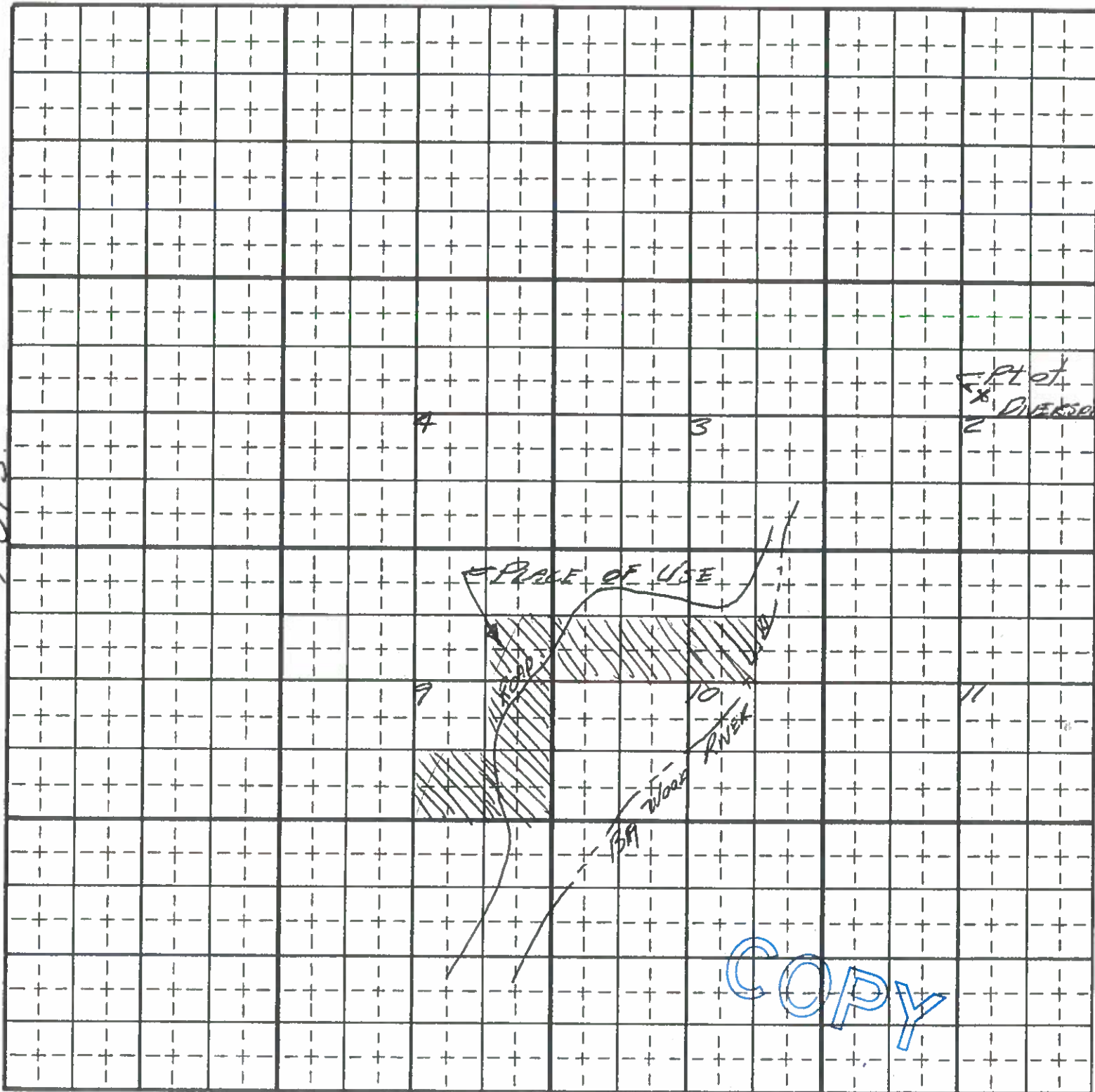
FEB 23 1993

Last Name Y-3 RANCH Ident No. _____

Copies: White -State, Yellow-Claimant

Map of Project: show clearly the point of diversion, place of use, section number, township, and range number.

Scale: 2 inches equals 1 mile



R 18 E

MICROFILMED

FEB 23 1993

Last Name

Y-3 RANCH

Ident No.

Copies: White-State, Yellow-Claimant

15. Basis of Claim (check one) ☐ Official Use ☐ Posted Notice ☐ License ☐ Permit

Decree ☒

If applicable provide IDWR Water Right Number 37-1231

Court _____ Case Number _____ Decree Date _____

Plaintiff vs 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 do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant (s) _____ Date _____

_____ Date _____

For Organizations: I do solemnly swear or affirm that I am A PARTNER

Title

of Y-3 RANCH that I have signed the foregoing

Organization

document in the space below as PARTNER of Y-3 RANCH

Title

Organization

and that the statements contained in the foregoing document are true and correct.

Signature of Authorized Agent Ronald C. Yanke

Title and Organization PARTNER Y-3 RANCH Date 18 Oct 88
RONALD C. YANKE

State of Idaho/or IDAHO)
County of ADA) SS.

Subscribed and sworn (or affirmed) before me this 18th day of October 1988

SEAL

Notary Public KEITH E. STOKES

Residing at BOISE IDAHO

My Commission Expires APR 9, 1992

Please Print Name

17. Notice of Appearance:

Notice is hereby given that I, _____ will be acting as attorney at law on behalf of the claimant signing above, and that all notices required by law to be mailed by the director to the claimant signing above should be mailed to me at the address listed below.

Signature _____

Address _____

Date _____

COPY **MICROFILMED**
FEB 23 1993

Last Name Y-3 RANCH Ident. Number _____

Copies White-State, Yellow-Claimant

09/08/2010

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

RIGHT NUMBER: 37-1231

NAME AND ADDRESS: Y 3 RANCH
PO BOX 5405
BOISE ID 83705-5405

SOURCE: UNNAMED STREAM TRIBUTARY: SINKS

Source identified as unnamed stream is water that accumulates in the delivery ditch between the Uhrig 63 diversion and the place of use for this right.

This is subject to the terms and conditions pursuant to the 1/30/1952 Uhrig et al vs. Coffin et al Idaho Supreme Court Decision No. 7801.

QUANTITY: 5.600 CFS

This right is limited to 2.0 cfs when right 37-663 is being delivered, once right 37-663 is curtailed, this right is limited to 5.6 cfs.

Right Nos. 37-51, 37-663 and 37-1231 are limited to a total combined diversion rate of 7.6 cfs.

PRIORITY DATE: 05/01/1910

POINT OF
DIVERSION:

T01S R18E S10 NWNENE Within BLAINE County

The point of diversion described above corresponds to the location on the Uhrig 63 delivery ditch as it enters the place of use for this right.

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	04/15 10/31	5.600 CFS

PLACE OF USE: IRRIGATION in BLAINE County

T01S R18E S04	NESE	37.00	T01S R18E S04	NWSE	27.00
T01S R18E S04	SWSE	20.00	T01S R18E S04	SESE	40.00
T01S R18E S09	NENE	40.00	T01S R18E S09	SENE	4.50
T01S R18E S09	SENW	4.80	T01S R18E S09	NESW	37.00
T01S R18E S09	SESW	41.00	T01S R18E S09	NESE	23.00
T01S R18E S09	NWSE	9.60	T01S R18E S09	SWSE	35.00
T01S R18E S09	SESE	31.00	T01S R18E S10	NENE	4.90
T01S R18E S10	NWNE	3.70	T01S R18E S10	NWNW	5.70
T01S R18E S10	SWNW	15.00			

379.2 ACRES TOTAL

Right Nos. 37- 51, 37-663 and 37-1231 are limited to the irrigation of a combined total of 265.7 acres in a single irrigation season.

Right Nos. 37-51, 37-663, 37-1231 and 37-22329 are limited to the irrigation of a combined total of 379.2 acres in a single irrigation season.

Right Nos. 37-663 and 37-1231 are limited to the irrigation of a combined total of 171 acres in a single irrigation season.

D.E. ✓

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 No. 37-22329 is an enlargement of this right pursuant to Section 42-1426, Idaho Code.

12/12/2006

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

RIGHT NUMBER: 37-1231

NAME AND ADDRESS: Y 3 RANCH
PO BOX 5405
BOISE ID 83705-5405

SOURCE: UNNAMED STREAM

TRIBUTARY: SINKS

Source identified as unnamed stream is water that accumulates in the delivery ditch between the Uhrig 63 diversion and the place of use for this right.

QUANTITY: 5.600 CFS

This right is limited to 2.0 cfs when right 37-663 is being delivered, once right 37-663 is curtailed, this right is limited to 5.6 cfs.

PRIORITY DATE: 05/01/1910

POINT OF DIVERSION:

T01S R18E S10 NWNE Within BLAINE County

The point of diversion described above corresponds to the location on the Uhrig 63 delivery ditch as it enters the place of use for this right.

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	04/15 10/31	5.600 CFS

PLACE OF USE:

IRRIGATION in BLAINE County

T01S R18E S09	SENE	3.80	T01S R18E S09	NESE	22.00
T01S R18E S09	SWSE	35.00	T01S R18E S09	SESE	31.00
T01S R18E S10	SWNE	10.00	T01S R18E S10	SWNW	35.00
T01S R18E S10	SENW	33.00			

169.8 ACRES TOTAL

Right Nos. 37-663, 37-1231, 37-7113A, and 37-7838A are limited to the irrigation of a combined total of 185.7 acres in a single irrigation season.

Right Nos. 37-663 and 37-1231 are limited to the irrigation of a combined total of 169.8 acres in a single irrigation season.

Right Nos. 37- 51, 37-663, 37-1231, 37-7113A, and 37-7838A are limited to the irrigation of a combined total of 265.9 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

SRBA Recommendation:

37-1231

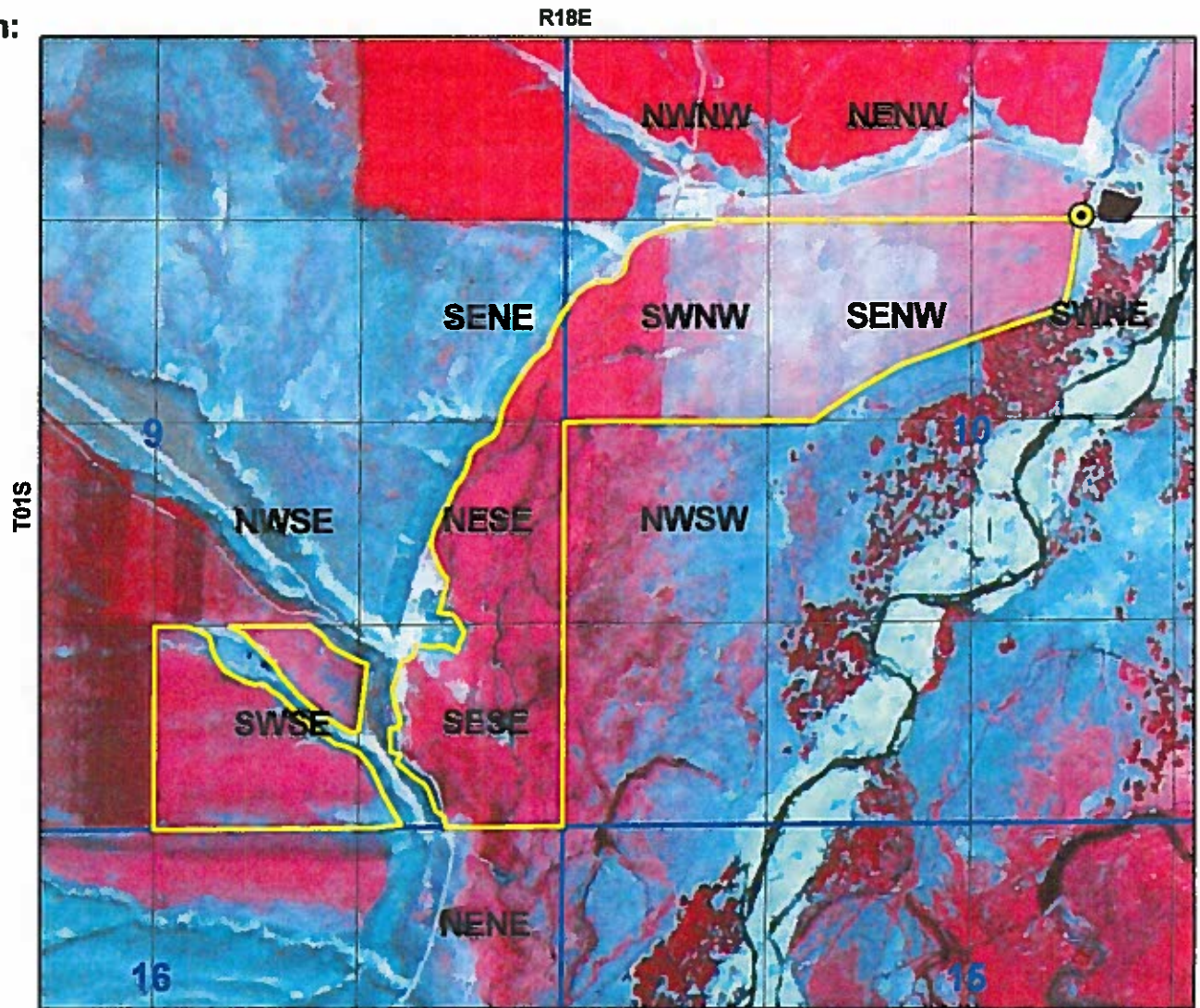
(Irrigation)

Legend

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



Blaine County
IDWR Basin 37



0 0.5 1 Miles

Prepared by C. Skinner
On Tuesday, December 12, 2006
1987/88 Aerial Photography

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BLAINE.

WILLIAM H. UHRIG, JR., and KENNETH BEECHER,

Plaintiffs,

vs.

MANS COFFIN, as Watermaster of Water
District No. 7, AB of the State of
Idaho, MARK R. KULP, as State Reclamation
Engineer, Department of Reclamation, State
of Idaho, LEONARD LAWSON and FRANCES
LAWSON, his wife,

Defendants

JUDGMENT AND DECREE

RECEIVED

JAN 18 1951

Department of Water Resources
Southern District Office

File 37-6

The above entitled matter came on for hearing before the Honorable D. H. Sutphen, District Judge, at Hailey, Idaho, on the 16th day of May, 1949, the plaintiffs appearing in person and through their attorneys Joseph McFadden and Parry, Keenan, Robertson and Daly, and the defendants Leonard Lawson and Frances Lawson, appearing in person and through their attorneys, James, Shaw and James; the matter proceeded to trial upon the Complaint of the plaintiff and the Answer of the defendants, Leonard Lawson and Frances Lawson, the default of the remaining defendants for failure to appear, answer or attend the trial having been duly ordered entered;

And the Court having made and filed its Findings of Fact and Conclusions of Law in writing constituting its decision herein,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED AS FOLLOWS:

I.

That by reason of the agreement of the parties as conceded herein that all of the waters flowing

in the ditch from Big Wood River to the division box approximately 300 feet North of the North boundary of plaintiff's lands shall, so long as water is available for the 1891 decree appurtenant to defendant's lands be divided as follows:

One-third thereof to defendants' lands, more particularly described as follows:

37-005/ North Half of the North Half ($N\frac{1}{2}N\frac{1}{2}$) of Section Ten (10) Township One (1) South, Range Eighteen (18) E.B.M., in Blaine County, Idaho and to be appurtenant thereto;

and two-thirds thereof to plaintiffs' lands, more particularly described as follows:

East Half of the Southeast Quarter ($E\frac{1}{2}SE\frac{1}{4}$) Southwest Quarter of the Southeast Quarter ($SW\frac{1}{4}SE\frac{1}{4}$); Southeast Quarter of the Northeast Quarter ($SE\frac{1}{4}NE\frac{1}{4}$) of Section 9;

37-0663 South Half of the Northeast Quarter ($S\frac{1}{2}NE\frac{1}{4}$); South Half of the Northwest Quarter ($S\frac{1}{2}NW\frac{1}{4}$) of Section 10, all in Township One (1) South, Range Eighteen (18) E.B.M., Blaine County, Idaho, and to be appurtenant thereto.

II.

That at all times from and after the time when the 1891 decree appurtenant to defendants' lands is no longer valid in each and every irrigation season, the plaintiffs are entitled to ^{280 37-123/} ~~100~~ inches of the augmented flow, over and above the amount available in said ditch from their 1884 decreed right, with a priority date of May 1, 1910, which said right is prior and superior to any rights of the defendants herein in and to said waters, said water to be diverted in the division box located on defendants' lands above described about 300 feet northerly from the south boundary thereof on the ditch now conveying water to said lands.

III.

That the plaintiffs are hereby awarded judgment against the defendants Lawsons in the sum of One Dollar (\$1.00), together with their costs incurred herein which are hereby taxed in the sum of \$ _____.

Dated this 15th day of February, 1951

East Half of the Southeast Quarter ($E\frac{1}{2}SE\frac{1}{4}$) Southwest Quarter of the Southeast Quarter ($SW\frac{1}{4}SE\frac{1}{4}$);
Southeast Quarter of the Northeast Quarter ($SE\frac{1}{4}NE\frac{1}{4}$) of Section 9;

South Half of the Northeast Quarter ($S\frac{1}{2}NE\frac{1}{4}$); South Half of the Northwest Quarter ($S\frac{1}{2}NW\frac{1}{4}$) of Section
10, all in Township One (1) South, Range Eighteen (18) E.B.M., Blaine County, Idaho, and to be appurtenant
thereto.

II.

That at all times from and after the time when the 1891 decree appurtenant to defendants' lands
is no longer valid in each and every irrigation season, the plaintiffs are entitled to 100 inches of the
augmented flow, over and above the amount available in said ditch from their 1884 decreed right, with a
priority date of May 1, 1910, which said right is prior and superior to any rights of the defendants herein
in and to said waters, said water to be diverted in the division box located on defendants' lands above de-
scribed about 300 feet northerly from the south boundary thereof on the ditch now conveying water to said
lands.

III.

That the plaintiffs are hereby awarded judgment against the defendants Lawsons in the sum of One
Dollar (\$1.00), together with their costs incurred herein which are hereby taxed in the sum of \$ _____.

Dated this 15th day of February, 1951.

D. H. Sutphen
District Judge

FILED and Entered
FEB. 15 1951
George F. McCoy
CLERK, DISTRICT COURT
BLAINE COUNTY, IDAHO

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BLAINE

COPY

Page 36
Big Wood Trib.

IN THE SUPREME COURT OF THE STATE OF IDAHO

No. 7801

WILLIAM H. UHRIG, Jr. 190" 1884 2/3 aug
and KENNETH BEECHER,

Plaintiffs-Appellants,

v.

MANS COFFIN, as watermaster of 100" 190" 1884 2/3 aug
Water District No. 7-AS of the
State of Idaho; MARK H. AULP,
as State Reclamation Engineer,
Department of Reclamation, State
of Idaho; LEONARD LAWSON and
FRANCES LAWSON, his wife,

Defendants-Respondents.

Boise, January Term, 1952

Filed January 30, 1952

(Clay Koelsch, Clerk.)

FILED

JAN 31 1952

Long & McCarty

Appeal from the District Court of the Fourth Judicial District of the State of Idaho, in and for Blaine County. Honorable D. H. Sutphen, District Judge.

Suit to quiet title to augmented water. Limiting decree for plaintiffs affirmed as modified.

Clifford E. Pix and
Joseph Schadden, Malley, Barry, Keenan, Robertson
& Daly, Twin Falls, for Appellants.
James, Shaw & James, Gooding, for Respondents.

Givens, C. J.

Appellant Beecher contracted to purchase a 240-acre farm from appellant Uhrig, and is now in possession thereof, and 'appellant' as used hereafter will refer to appellant Beecher.

Respondents Lawsons own a 180-acre farm immediately north. Both farms are on the west side of and adjacent to Wood River, shortly above Stanton's Crossing.

Respondents Coffin and Aulp are parties pro forma, merely because of their respective official positions.

The Frost Decree, December 13, 1909, adjudicating the waters of Wood River, gave appellant's lands 120 inches, priority June 1, 1934, and respondents' 100 inches, priority May 15, 1921. Appellant and respondents and their predecessors have jointly used a ditch for their decreed water taken out of Wood River about two miles northeast of their respective lands. This ditch, in traversing intermediate lands belonging to one Lete, accumulates by reason of springs and seepage therein considerable augmented water which the Court found varied in

amount, dependent upon time and circumstances, from very little up to 300 inches. The Court also found that until the 1891 water right is cut off, appellant and respondents had divided the decreed and augmented water at a point on respondents' lands about 300 feet north of appellant's northeast forty, one-third to respondents and two-thirds to appellant, approved in the decree without objection; that after the 1891 rights are cut off appellant and his predecessors in interest have used and claimed all water in the ditch, both his 1884 right and the accumulation.

July 1948 respondents asserted they were entitled to at least one-third of this accumulated water and the ensuing controversy resulted in a suit by plaintiffs to quiet their title to 360 inches of the augmented water after the 1891 water is cut off, and an injunction (so issued) restraining respondents from using any of the augmented water during such period.

Following the trial the Court found appellant's decreed water is inadequate to properly irrigate his land during the whole season and that there is needed and required on his lands some of the augmented flow, and:

"That plaintiffs and their predecessors in interest in the manner and at the times aforesaid beneficially and sufficiently used 100 inches (2 sec.-ft.) of the augmented flow of the said ditch, whenever available, in addition to their said decree of 190 inches of 1884 water, and are entitled to a supplementary decree of 100 inches of the seepage water hereinabove mentioned with a priority date of May 1, 1910." Finding A.

It will be noted the 100 inches was expressly awarded, whenever available, in addition to the decreed right of 190 inches.

The Court found that 171 acres of appellant's lands were susceptible to and had been irrigated, various crops being raised and grown thereon; thus, though not specifically finding the duty of water, Finding No. A above quoted, in effect held that the duty of water for appellant's land was 1.64 inches. Appellant contends that inasmuch as all of the augmented water has been used on his lands and that there was testimony of witnesses on his behalf, the duty of water was as high as three inches, the evidence does not support the decree in



limiting his priority of this augmented water to 100 inches, but should have been 300 inches.

Many factors enter into a determination of the duty of water, which is based upon two primary considerations: beneficial and economical use. The determination of this question is the determination of a fact. *Hillman v. Hardwick*, 3 Idaho 255, 29 P. 438; *Kirk v. Bartholomew*, 3 Idaho 367, 29 P. 40; *Farmers' etc. Co. v. Riverside Irr. Dist.*, 16 Idaho 525, 102 P. 481; *Lee v. Hanford*, 21 Idaho 327, 121 P. 558; *Washington State Sugar Co. v. Goodrich*, 27 Idaho 26, 147 P. 1073; *Beasley v. Engstrom*, 31 Idaho 14 at 18, 158 P. 1145; *Reno v. Richards*, 32 Idaho 1, 179 P. 81.

The evidence was voluminous and undoubtedly different inferences and implications could be drawn therefrom in regard to the character of the soil, the amount of water necessary, particularly with regard to the head required to cover appellant's land and what portion thereof could profitably be irrigated and the amount, if any, of water that had been wasted. The learned trial Judge viewed and carefully inspected the premises and while such is not a substitute for nor may be considered as evidence, *Tyson Creek R.R.Co. v. Empire Mill Co.*, 31 Idaho 580, 174 P. 1004, such viewing and inspection are to be considered in determining the weight and applicability of the evidence. *Dept. of Finance v. Union Pac. R.R.Co.*, 61 Idaho 494, 104 P.2d 1110.

The finding and conclusion that only 100 inches in addition to the 190 inches could beneficially and economically be used, are reasonably supported by the record. *Allen v. Petrick (Mont.)*, 222 P. 451; *Witherill v. Brehm (Cal.)*, 279 P. 432.

However, the inescapable conclusion from the wording of the finding is that 280 inches of water could be and had been beneficially used on appellant's lands and was necessary and there is no finding and no intimation in the record there would be any difference with regard to the necessity for this amount of water before or after the 1884 right is cut off. The record shows the 1884 water, between 1935 and 1948 inclusive, had been cut off nine times between July 16 and September 8 and not cut five times; thus, the use of the augmented

water after such cuts to supply the full 230 inches found by the Court to be necessary for the adequate irrigation of appellant's lands is vital, and therefore, must be protected. *Rudge v. Simmons*, 39 Idaho 22, 228 P. 170.

Therefore, the decree should be modified to provide that the limit of 100 inches of augmented water prevails only until the 1884 water is cut off and after that appellant should be entitled to 230 inches of the augmented flow. *Moe v. Mager*, 10 Idaho 302, 77 P. 845; *Muir v. Allison*, 83 Idaho 146, 191 P. 206; *McGlochlin v. Coffin*, 61 Idaho 440, 103 P.2d 703; *Beecher v. Cassia Creek Irr. Co.*, 65 Idaho 1, 154 P.2d 507.

"The utmost extent to which the court had authority to go was to declare that such waters of Alder Creek as were not necessarily required by plaintiffs in the proper and necessary irrigation of their land might be used by defendants, but that all rights of defendants to such water were and must remain inferior and subservient to the rights of plaintiffs." *Dunniway v. Lawson*, 8 Idaho 28 at 29, 51 P. 1032.

"The fundamental principle of equity in relation to judgments is that the court shall determine and adjust the rights and liabilities concerning or connected with the subject-matter of all the parties to the suit, and shall grant the particular remedy appropriate in amount and nature to each of those entitled to any relief, and against each of those who are liable, and finally shall so frame its decree as to bar all future claims of any party before it which may arise from the subject-matter, and which are within the scope of the present adjudication." 1 Pom. Eq. Jur. §115." *Union Mill & Mining Co. v. Dangberg*, 81 Fed. 73 at 119.

"While no case in this court may have required the announcement, it seems, both upon principle and authority, that one may make a prior appropriation of a certain quantity of water to be enjoyed for a designated period of time, and another person an appropriation of a like quantity from the same source during another period, and, as to the same, be a prior appropriator himself. In other words, there is no difference in principle between 'an appropriation measured by quantity and an appropriation measured by time.' *Kin. Irr.* §177 et seq., and cases cited; *Black*, Pom. Water Rights, Paragraphs 69, 91, 92, and cases cited; *Barnes v. Sabron*, 10 Nev. 217; *Smith v. O'Hara*, 43 Cal. 371, and cases cited." *Cache La Poudre Reservoir Co. v. Water Supply & S. Co. (Colo.)*, 53 P. 331 at 333; 71 Am. St.Rep. 175; 46 L.R.A. 175.

Wiggins v. Muscupiabe Land & Water Co. (Cal.), 45 P. 160; 32 L.R.A. 667, annotation 913; 54 Am. St. Rep. 337.

Thus modified, the decree is affirmed. Each party is to pay their own costs.

PORTER, TAYLOR, THOMAS and KESTON, JJ., concur.

In the Supreme Court of the State of Idaho

WILLIAM H. UHRIG, JR.,
and KENNETH BEECHER,

Plaintiffs-
Appellants,

v.

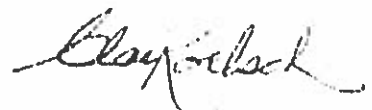
No. 7801

MANS COFFIN, as Watermaster
of Water District No. 7-AB
of the State of Idaho; MARK
R. KULP, as State Reclama-
tion Engineer, Department
of Reclamation, State of
Idaho; LEONARD LAWSON and
FRANCES LAWSON, his wife,

Defendants-
Respondents.

I, Clay Koelsch, Clerk of the Supreme Court of the State of Idaho, do hereby certify that the attached and foregoing is a true and correct copy of the opinion filed in the above entitled cause January 30, 1952, and now of record in my office.

WITNESS My hand and the seal of this Court January 30, 1952.



Clerk

Water Right Number - 37-01231

Adj. Flag Translation: Standard Water Right Number

Old (D) Number -

+ - - - - Last Name - - - - + + - First Name - - + + - - - - - Address - - - - - +

*** C - CURRENT OWNER ***
BEECHER

KENNETH

1 -
2 -
3 -City-
Phone -

State- Zip-

UHRIG

WILLIAM H.

1 -
2 -
3 -City-
Phone -

State- Zip-

+ - - Priority Date - - + + - - - Region - - - + + - - - Stage - - - + + - - - Status - - - +
05/01/1910 17 D - DECREED+ - - - - Source - - - - + + - - - - - Tributary - - - - - +
UNNAMED STREAM BIG WOOD RIVER+ - - - - Point of Diversion - - - - - +
Twn Rng Sec Tract Lot RFlg County Stream Index (Blank if no Index Code)+ - - - - Code Description Period From Period To Diversion Rate Diversion Volume +
01 - IRRIGATION 5.600+ - Total Div. Rate - + + - Total Div. Volume - + + - Total Div. Capacity - + + - Total Consumptive Use - + + - KW Usage - +
5.600+ - - - - Place of Use - - - - - +
Twn Rng Sec Tract Lot Acres Code Description County
01S 18E 9 SE NE 01 IRRIGATION (13) BLAINE
01S 18E 9 NE SE 01 IRRIGATION (13) BLAINE
01S 18E 9 SW SE 01 IRRIGATION (13) BLAINE
01S 18E 9 SE SE 01 IRRIGATION (13) BLAINE
01S 18E 10 SW NE 01 IRRIGATION (13) BLAINE
01S 18E 10 SE NE 01 IRRIGATION (13) BLAINE
01S 18E 10 SW NW 01 IRRIGATION (13) BLAINE
01S 18E 10 SE NW 01 IRRIGATION (13) BLAINE

Total Acres:

+ - - Diversion Means -
+ - - Non-Irrigation Use -
+ - - Other Rights for Same Use - 37-0663MICROFILMED
FEB 23 1993

Water right number - 37-01231

Adj. flag translation: Standard Water Right Number

+ - - - - - Remarks - - - - - +
LIMITED TO 2 CFS UNTIL 1884 RT. IS CUT OFF; 5.6 CFS AFTER
SOURCE IS SEEPAGE INTO THE IRRIG. DITCH THAT FEEDS THE P/U.
AC. IRRIG. = 170.

+ - - - - - Conditions of Approval - - - - - +
No Conditions of Approval found.

+ - - - - Decree Plaintiff - - - +
UHRIG & BEECHER

+ - - - - Decree Defendant - - - +
COFFIN, ET. AL., MODIFIED

+ - Decree Date - +
01/30/1952

+ - - Microfilm Rolls -

+ - - Audit Fields - 03/07/86

05/28/88 CONVERT

+ - - - - - Water Rights Dates and Flags Area - - - - - +

Proof Due Date	- 00/00/0000	Field Exam Made	- 00/00/0000	Field Exam Fee	-
Approved/Denied	- 00/00/0000	Protested Date	- 00/00/0000	Swan Falls	-
Proof Made Date	- 00/00/0000	Hearing Date	- 00/00/0000	Temporary Right	- P
Start Work Date	- 00/00/0000	Verified Date	- 03/07/1986	DLE/Carey Act	-
Order Show Cause	- 00/00/0000	Receipt Number	-	Water District	- 37
Licensed Date	- 00/00/0000	Appl Received	- 00/00/0000	Transfer/Amended	-
Decree Date	- 01/30/1952				

MICROFILMED

FEB 23 1993

4

$37-51-94.7$ acres
 $37-663$
 $37-1231$
 169.8 acres
 $6W$
 $37-7113A$ 76.2
 185.7

156.4 acres, the 6W

3

total limit 265.9

4/15 to 10/31

40

.6

40

7.3

40

6.6

40

25
40

21

40 35
40

.5

33

40
40

.9

6.3

40
40

5
5

10

25
40

10
35

30
40

16

15