

06/16/2006

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

RIGHT NUMBER: 1-143B

NAME AND ADDRESS: PARKS & LEWISVILLE IRRIGATION CO INC
368 N 3600 E
RIGBY ID 83442

SOURCE: SNAKE RIVER

TRIBUTARY: COLUMBIA RIVER

QUANTITY: 0.136 CFS

PRIORITY DATE: 06/01/1883

POINT OF DIVERSION:

T04N R37E S35 NENE Within JEFFERSON County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	4/01 10/31	0.136 CFS

PLACE OF USE: IRRIGATION Within BONNEVILLE County

T03N R37E S11	NENW	36.00	T03N R37E S11	NWNW	34.00
T03N R37E S11	SWNW	37.00	T03N R37E S11	SENW	33.00
T03N R37E S11	NESW	12.00	T03N R37E S11	NWSW	38.00
T03N R37E S11	SWSW	4.30			

194.3 ACRES TOTAL

The rights listed below are limited to the irrigation of a combined total of 194.3 acres in a single irrigation season. Combined Right Nos.: 1-142B, 1-143B, 1-144B, and 1-145D.

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

Water is delivered through Kennedy Canal.

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

RECEIVED

DEC 05 2006

06/16/2006

RIGBY

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:

Water right number: 1-143B

PARKS & LEWISVILLE IRRIGATION CO INC

368 N 3600 E

~~RIGBY ID 83442~~

Telephone Number: (208)745-4746

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: 12/6/06 SIGNATURE: John Ellsworth

Please print your name: JOHN ELLSWORTH

IDWR Regional Office, 900 N Skyline Dr Ste A, Idaho Falls, ID 83402, 2085257161

2006
12/11

Added
Corrected
12/11



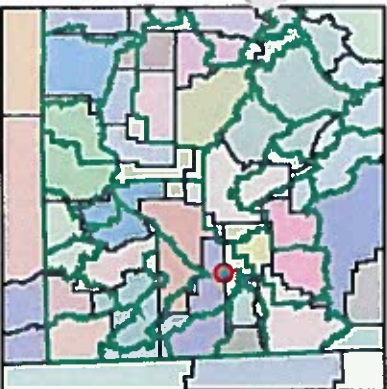
Idaho Department of Water Resources

SRBA Recommendation:

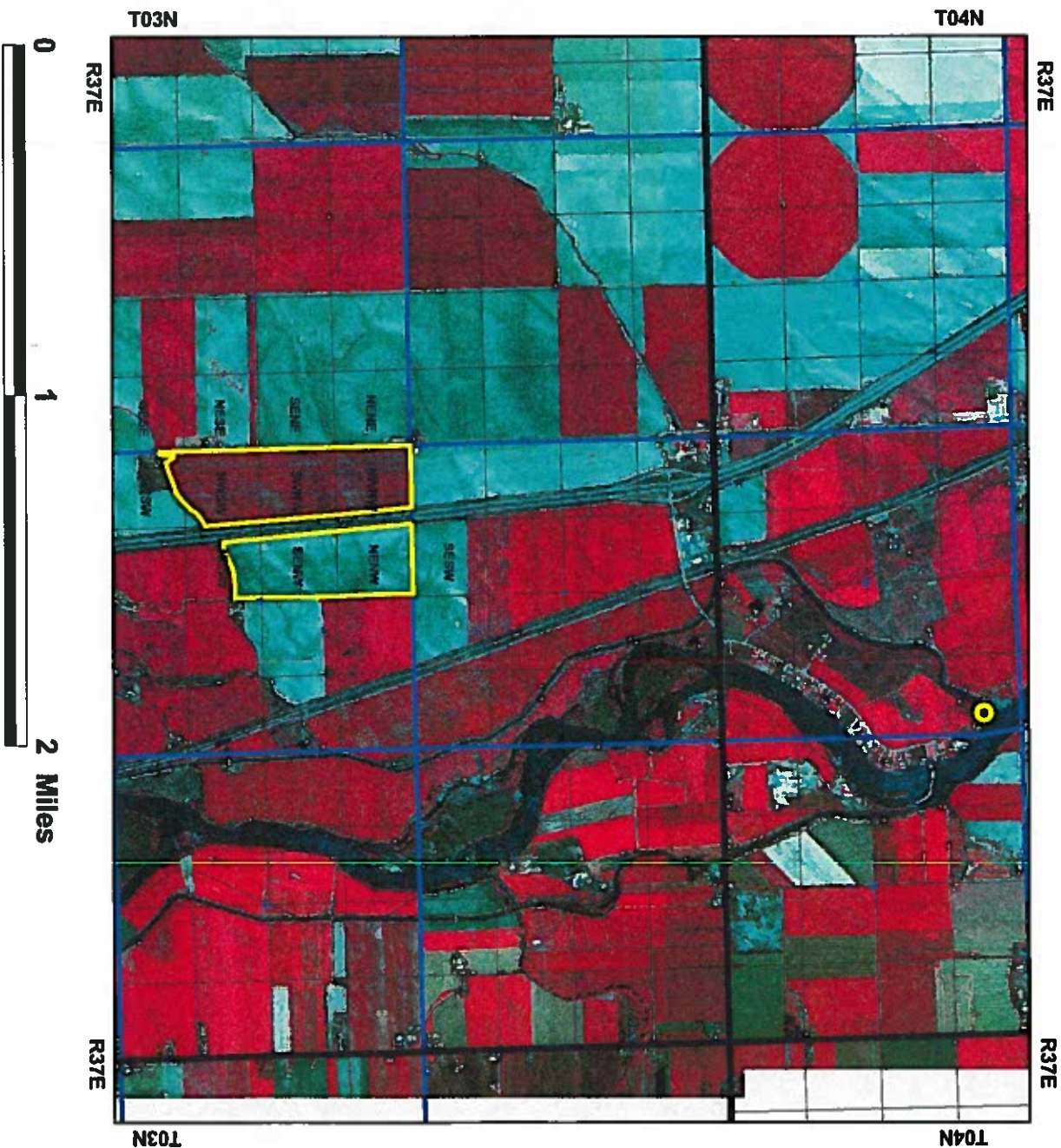
1-142B
1-143B
1-144B
1-145D

Legend

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



Bonneville, Jefferson Counties
IDWR Basin 1



Prepared by M. Holliday
On Friday, June 16, 2006
1987/88 Aerial Photography

STATE OF IDAHO
DEPARTMENT OF RECLAMATION
Certificate of Water Right
Transferred Right No. 647

THIS IS TO CERTIFY That the Beneficial Life Insurance Company, of Salt Lake City, Utah, represented by George J. Cannon, Vice President, is the owner of and using certain water rights described as being 2.60 cubic feet per second of the waters of Snake River, County of Jefferson, State of Idaho, with dates of priority as follows:

01-0143	0.143 cubic feet per second, June 1, 1883
01-0142	0.152 cubic feet per second, June 1, 1884
01-0144	0.743 cubic feet per second, June 1, 1885
01-0145	1.562 cubic feet per second, June 1, 1888

decreed to the Parks & Lewisville Canal Company, confirmed by decree of Judge Stevens, of the Sixth Judicial District of the State of Idaho, in and for the County of Fremont, in the case of

REXBURG IRRIGATION COMPANY, Plaintiff,
vs.

TETON IRRIGATION COMPANY, ET AL., Defendants
Decree bearing date of December 16, 1910

being appurtenant to the following described real property, situate, lying and being in the County of Jefferson, State of Idaho (Water District No. 36), to-wit:

E $\frac{1}{2}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 7, Township 4 North, Range 36 East, B. M.

THAT such corporation is the owner of 15.4 shares of capital stock of the Parks & Lewisville Canal Company, and as such is the owner of, and the party to whom such water was decreed, in trust, to said Canal Company.

THAT the said decree has been entered in the records of the Department of Reclamation of the State of Idaho, in Book 3 of Decrees, at page 450.

THAT NOW, Upon the application of the Beneficial Life Insurance Company, of Salt Lake City, for a transfer of water right, made before the Commissioner of Reclamation of the State of Idaho, and the said application having been granted, the right to the use of 2.60 cubic feet per second of the waters of Snake River is hereby abandoned upon the lands above described, and the place of use of water under such right, and to which the water hereby confirmed shall by this certificate become appurtenant for irrigation and domestic purposes, after a deduction of five per cent of said water rights have been abandoned to Snake River to compensate other water users for the loss caused by the change in point of diversion, is described as follows, limited at any time to an amount actually needed and beneficially used for such purposes, and shall not exceed the following amount, to-wit:

01-0143	0.136 cubic feet per second, June 1, 1883
0142	0.144 cubic feet per second, June 1, 1884
0144	0.706 cubic feet per second, June 1, 1885
0145	1.484 cubic feet per second, June 1, 1888

NW $\frac{1}{4}$ Section 11 and that part of the SW $\frac{1}{4}$ Section 11,
lying North of the Nibley Canal; all in Township 3 North,
Range 37 East, B. M., Bonneville County, Idaho

THAT the above described water has heretofore been diverted in the SR $\frac{1}{2}$ Section 9, Township 4 North, Range 38 East, B. M., through the Parks and Lewisville Canal, and will hereafter, by authority of this Certificate, be diverted from the Great Western Feeder in the NW $\frac{1}{4}$ Section 12, Township 3 North, Range 37 East, B. M., through the Kennedy Ditch.

THAT the right to the use of the water aforesaid hereby confirmed is restricted to the lands or place of use herein described, as provided by the laws of the State of Idaho, and is also subject to a certain agreement between the applicant and the Parks & Lewisville Canal Company, said instrument being recorded in Jefferson County, Idaho.

WITNESS, the seal and signature of the State Reclamation Engineer of the State of Idaho, this 14th day of April, 1945.

James Spofford
JAMES SPOFFORD
State Reclamation Engineer

STATE OF IDAHO
DEPARTMENT OF RECLAMATION

In the Matter of the Application
of

BENEFICIAL LIFE INSURANCE COMPANY

For transfer of water right from
the Perks and Lewisville Canal

inches at land. Since total
available for transfer would
State is interested in an
Court of the State has
and the owner cannot be
provided such change in
ORDER GRANTING TRANSFER
company. In this instance,
these rights are
company and are in no way
in the ditch system

WHEREAS, THE BENEFICIAL LIFE INSURANCE COMPANY, by George J. Cannon, its Executive Vice President, filed an application pursuant to the provisions of Section 41-216 of the Idaho Code, requesting a certificate of transfer for 3.08 cubic feet per second of water from the Perks and Lewisville Canal in Jefferson County into the Great Western Canal, heading in Jefferson County, and to be applied on lands in Bonneville County; and

WHEREAS, Pursuant to the provisions of the said statutes, a hearing was held before the Commissioner of Reclamation, in the Courthouse of Bonneville County, Idaho Falls, Idaho, at 10:00 A. M. on the 12th day of December, 1942, the notice of said hearing having been published in the Rigby Star for two consecutive issues as follows: November 12 and November 19, 1942; and

WHEREAS, Pursuant to the said above notice a hearing was convened at the time and place designated, to which all persons interested in the proposed transfer were permitted to appear. Representing the petitioner were Attorneys Ralph L. Albaugh and John L. Bloem, while Attorney Frank A. Miller, appeared in behalf of the protestants, the Perks and Lewisville Canal Co.; and

WHEREAS, Following statutory provision, the petition for transfer was referred to the Watermaster, Lynn Crandall, of District 36, which includes the Perks and Lewisville Canal, who approved the same and recommended favorable action thereon; and

WHEREAS, Upon a consideration of the said petition together with the facts presented at the hearing, as well as a study of all matters thereto pertaining on file in the Department of Reclamation, the following is adduced: The water right which is sought to be transferred from the Perks and Lewisville Canal in the amount of 3.08 second feet is part of a decreed right of 5.08 second feet appurtenant to certain lands in Section 7, Township 4 North, Range 38 East, B. M. The land to which the water is now appurtenant is of good quality and productive and is not to be abandoned. It is believed by the applicant land owner herein that the land can be properly farmed with less water than that now appurtenant to it. An owner of a decreed water right may transfer all or a part of this right to other lands if no one is injured thereby.

It appears that the water represented by the stock is actually 7% less than the stock would indicate; that is, the total amount of water owned by the Beneficial Life Insurance Co. is only 236 miners inches instead of 254 inches as represented in the application. Mr. L. A. Hartert testified that 80 inches on the land or slightly more than one inch per acre would be a satisfactory water right. On the basis of testimony of Mr. Sauer, the canal losses from the canal intake to the Beneficial Life lands is about 25%, thus

requiring 106 inches at head to deliver 80 inches at land. Since total water right is only 236 inches the amount available for transfer would then be 130 inches or 2.6 second feet. The State is interested in an expended use of its water resources. The Supreme Court of the State has held that a water right is a property asset and the owner cannot be deprived of the right to use it where he will, provided such change in place of use does not affect adversely the water rights of others, this rule also applying to stockholders of a mutual company. In this instance, no injury to the water rights of others can accrue, since these rights are determined at the intake or head of the Company canal and are in no way molested. It is true that additional losses might occur in the ditch system of the Company as now constructed, but these can be "obviated or corrected by making certain changes therein."

Since the water right which it is proposed to transfer is represented by stock in the Canal Company, the assessments on which are required for maintenance, operation, bond payments, etc., it is believed, the decision of the Idaho Supreme Court in the case of Rice vs. Boise City Canal Co. is fair in protecting a company against possible injury, due to transfer of water. The Court states as follows: "The decrees in these cases provide that, notwithstanding the transfer of the place of use and point of diversion of the water, the shares of stock representing the water rights shall be and continue liable for all lawful assessments levied by the appellant company to the same extent as were such shares prior to the transfer of place of use and point of diversion."

NOW, THEREFORE, It is hereby ordered that the application for transfer of 3.08 second feet be denied but substituted therefore the amount of 2.6 second feet of the decreed water of the Parks and Lewisville Canal Co., the transfer of which is hereby granted, and that a certificate evidencing the same be issued to the applicant in accordance with the laws of the State of Idaho. Such certificate shall provide for a river loss of 5% of the water transferred as between the old and new points of diversion, and said certificate shall be issued when the applicant herein shall have executed an agreement of liability for stock assessments in the Parks and Lewisville Canal Co. of the water transferred, and caused the same to be recorded in the County records of Jefferson County and a copy thereof to be filed in this office, showing that the same has been duly recorded.

/s/ E. V. Berg

Commissioner of Reclamation

Dated: December 30, 1942

RECEIVED

AUG 2 1993
State of Idaho

RECEIVED

AUG 3 1993

Department of Water Resources
REQUEST FOR EXTENSION OF TIME
TO FILE ADJUDICATION CLAIM(S)

AUG 12 1993

Department of Water Resources
Eastern District Office

Department of Water Resources

The Idaho Department of Water Resources will consider this form as a request by the claimant for an additional period of time in which to file claim(s) beyond the 90 days allowed by Section 42-1409(10), Idaho Code.

PARKS AND LEWISVILLE IRRIGATION CO INC () 745-4749
Name of Claimant Phone Number
368 N 3600E LEWISVILLE 10 83431
Mailing Address City State Zip
JEFFERSON
County(s) where place of use is located Date claim originally due

01-00142B, 01-00143B, 01-00144B, 01-00145D
Identify water right(s) for which extension is requested

State why an extension of time is requested explaining how a diligent effort has been made to meet the deadline:
Due to the complicated and confusion concerning the water rights agreement between Owners Mutual Irrigation Company Inc., and Parks & Lewisville Irrigation Company Inc., it has taken an extended period of time to sort out all the facts with respect to which entity should file. With the help Eric Verner, the filing can now take place. Each canal company has filed their own water rights on time leaving the above rights in limbo. For these reasons the Parks & Lewisville Irrigation Company Inc., was not able to meet the original deadline.

Claimant requests an extension to August 31, 19 93
David Kinghorn August 10, 19 93
Signature Date of request
Secretary
Title

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

The above request for extension of time is hereby [☒ granted] [☐ denied] for the following reasons:

and if granted the filing deadline is extended to August 31, 19 93

Signed this 13 day of August, 19 93

DAVID B. SHAW
Director or his designated agent

Mail to: Idaho Department of Water Resources
1301 N. Orchard St.
Boise, ID 83706

MICROFILME
APR 08 1994

SCANNED

AUG 2 2001

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

CIVIL CASE NUMBER: 39576

AUG 30 1993

Department of Water Resources
Eastern District Office

Ident. Number: A01-00143B

Date Received: 1 / 1

Receipt No: EO 19113/00

Received By:

No date fee

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: PARKS AND LEWISVILLE IRRIGATION CO INC 208-754-4742
Address: 368 N 3600 E
RIGBY ID 83442

2. Date of Priority: JUN 1, 1883

3. Source: SNAKE RIVER Trib. to: COLUMBIA RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
04N	37E	35	NE	NE	NE	1	JEFFERSON

5. Description of diverting works:
GREAT WESTERN TO KENNEDY DITCH.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	04/01	10/31	0.136		

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

8. Total consumptive use is 2874.0 Acre Feet Per Annum.

9. Non-irrigation uses:

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
03N	37E	11	NE	NE		IRR	6.0
			NW	NE		IRR	39.0
			SW	NE		IRR	40.0
			SE	NE		IRR	12.0
			NE	NW		IRR	37.0

A0100143B



MICROFILMED

APR 08 1994

10. Place of Use: Continued

Township	Range	Section	1/4	of	1/4	Lot	Use	Acres
03N	37E	11	NW		NW		IRR	36.0
			SW		NW		IRR	38.0
			SE		NW		IRR	35.0
			NE		SW		IRR	15.0
			NW		SW		IRR	37.0
			SW		SW		IRR	4.0
			NE		SE		IRR	2.0
			NW		SE		IRR	36.0
							Section Acres	337.0
		15	NE		NE		IRR	38.0
			NW		NE		IRR	39.0
			SW		NE		IRR	40.0
			SE		NE		IRR	38.0
			NE		NW		IRR	39.0
			NW		NW		IRR	36.0
			SW		NW		IRR	38.0
			SE		NW		IRR	40.0
			NE		SW		IRR	40.0
			NW		SW		IRR	38.0
			SW		SW		IRR	38.0
			SE		SW		IRR	40.0
			NE		SE		IRR	38.0
			NW		SE		IRR	40.0
			SW		SE		IRR	40.0
			SE		SE		IRR	39.0
							Section Acres	621.0
							Total Acres	958.0

11. Place of use in counties: BONNEVILLE

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

13. Other Water Rights Used:

01-00142B, 00144B, 00145D, 00291, 12552, 00055, 00290, 0001L, 10184

14. Remarks:

TRANS. 647. RT. OF 0.143 CFS MINUS 5% LOSS TO RIVER.
P/D GREAT WESTERN CANAL TO KENNEDY DITCH LEGAL FROM USGS MAP.
RT. SUBJECT TO LIABILITY FOR STOCK ASSESSMENTS OF
PARKS & LEWISVILLE CANAL CO.

15. Basis of Claim: DECREED

MICROFILMED
APR 08 1994

Case Number:

Court :

Decree date: / /

REXBURG IRRIGATION CO.
Decree Plaintiff

TETON IRRIGATION CANAL CO. ET
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 X wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments: Two (2)

For Organizations:

I do solemnly swear or affirm that I am Secretary of
Parks & Lewisville Irrigation Co. Inc. Title
Organization, that I have signed the foregoing
document in the space below as Secretary of
Parks & Lewisville Irrigation Co. Inc. Title
Organization and that the statements contained in the
foregoing document are true and correct.

Daniel Dughorn
Signature of Authorized Agent
Secretary,
Parks & Lewisville Irrigation Co Inc
Title and Organization
August 27, 1993
Date

State of Idaho)
County of Jefferson) SS.

Subscribed and sworn (or affirmed) before me this 27th day
of August 19 93

Margaret E. Treasure
Notary Public

Seal

Residing at *Bigley, Idaho*
My Commission Expires 1-7-99