

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

RIGHT NUMBER: 22-13509

NAME AND ADDRESS:

DANIEL D MILLER
C/O RONALD K MILLER
707 ROOSEVELT
AMERICAN FALLS ID 83211

DAVID W MILLER
C/O RONALD K MILLER
707 ROOSEVELT
AMERICAN FALLS ID 83211

LARRY J MILLER
C/O RONALD K MILLER
707 ROOSEVELT
AMERICAN FALLS ID 83211

LEWIS J MILLER
C/O RONALD K MILLER
707 ROOSEVELT
AMERICAN FALLS ID 83211

M PHILLIP MILLER
C/O RONALD K MILLER
707 ROOSEVELT
AMERICAN FALLS ID 83211

RALPH P MILLER
C/O RONALD K MILLER
707 ROOSEVELT
AMERICAN FALLS ID 83211

RONALD K MILLER
707 ROOSEVELT
AMERICAN FALLS ID 83211

SOURCE:	Source:	Tributary:
	PARADISE SPRING	TETON RIVER

QUANTITY:	<u>0.510 CFS</u>	~~0.160 CFS~~
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PRIORITY DATE: 06/01/1904

POINT OF DIVERSION:
T04N R45E S30 NENW
Within TETON County

PURPOSE AND PERIOD OF USE:	Purpose of use:	Period of use:	Quantity:
	IRRIGATION	04/15 10/31	<u>0.510 CFS</u>
			~~0.160 CFS~~

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

PLACE OF USE: IRRIGATION within TETON County

T04N R45E S19 NESW 35.0

~~T04N R45E S19 NESW 5.5~~

35 ACRES TOTAL

~~5.5 ACRES TOTAL~~

Right Nos. 22-13509 and 22-13999 are limited to the irrigation of a combined total of 35 acres in a single irrigation season.

This right is limited to the irrigation of 25.5 acres within the place of use described above in a single irrigation season.

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

This water right shall not be permitted to make a delivery call against water right nos. 22-13135, 22-13961, 22-13962, 22-13963, 22-13964, 22-2280E, 22-2296B, 22-2296D, and 22-13681, and their progeny.

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 place of use pursuant to Section 42-1425, Idaho Code.

The following rights are diverted through point of diversion described above: 22-12714B, 22-13509, 22-13586, 22-13853, 22-13854, 22-13997, 22-13998, and 22-13999.

This right is a split from former right 22-405.

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



State of Idaho

DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Suite A • Idaho Falls, Idaho 83402-1718

Phone: (208) 525-7161 • Fax: (208) 525-7177 • Web Site: www.idwr.idaho.gov

EASTERN REGION

July 14, 2009

C. L. "BUTCH" OTTER
Governor

DAVID R. TUTHILL, JR.
Director

DAVID W MILLER
C/O RON MILLER
707 ROOSEVELT
AMERICAN FALLS ID 83211

LARRY J MILLER
C/O RON MILLER
707 ROOSEVELT
AMERICAN FALLS ID 83211

RALPH P MILLER
C/O RON MILLER
707 ROOSEVELT
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M PHILLIP MILLER
C/O RON MILLER
707 ROOSEVELT
AMERICAN FALLS ID 83211

LEWIS J MILLER
C/O RON MILLER
707 ROOSEVELT
AMERICAN FALLS ID 83211

DANIEL D MILLER
C/O RON MILLER
707 ROOSEVELT
AMERICAN FALLS ID 83211

RON MILLER
707 ROOSEVELT
AMERICAN FALLS ID 83211

RE: Notice of Change of Water Right Ownership (NCO) for 22-13509 and Notice of Completed Administrative Proceeding (NCAP)

Dear Sir/Madam:

The Idaho Department of Water Resources (IDWR) acknowledges receipt of an NCO changing the right holder for the above referenced water right(s). Based on this NCO, IDWR water right records for the Snake River Basin Adjudication (SRBA) have been updated.

Furthermore, as directed by the SRBA Court, this office mailed a copy of the updated water right record(s) to each party listed on the enclosed NCAP. The intent of this mailing is to ensure each party has a current record of water right(s) as recorded in the SRBA.

Please feel free to contact me if you have any questions concerning this matter.

Respectfully,


Bobby Kern
Office Specialist II

Enclosure

cc Budge, Thomas

SCANNED
JUL 23 2009

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA

)

Water Rights: 22-13509

Case No. 39576

)

)

NOTICE OF COMPLETED
ADMINISTRATIVE
PROCEEDING

IDWR has completed the following Administrative proceeding:

- ☐ Address change
- ☒ Substitution of Party MILLER - MILLER
- ☐ I.C. § 42-222 transfer
 - ☐ point of diversion ☐ place of use
 - ☐ period of use ☐ nature of use
 - ☐ split of water right ☐ change in ownership

IDWR certifies that it has completed its investigation into the changes to the elements of the water rights listed above as set forth in the attached *Amended Director's Reports* for said water rights. No other changes have been made to the elements of these water rights except as set forth above.

IDWR has served copies of the *Notice of Completed Administrative Proceeding* and *Amended Director's Report(s)* on the claimant(s), prior claimant(s) and all parties in the subcases affected, if any, as reflected on the attached certificate of mailing.

DATED: 15 July 2009

Ernest Carlson

Signature of IDWR Representative

SCANNED

JUL 23 2009

CERTIFICATE OF MAILING

I certify that on July 17, 2009, I mailed the original and copies of this form to the following persons, postage prepaid by regular mail and addressed as follows:

1. Original to:

Clerk of the District Court
Snake River Basin Adjudication
PO Box 2707
Twin Falls ID 83303-2707

2. One copy to:

Claimant/Seller for Substitution of Party or attorney of record:
FRED MILLER TRUST
C/O RONALD K MILLER
707 ROOSEVELT
AMERICAN FALLS ID 83211

3. One copy to:

Claimant/Purchaser for Substitution of Party, or attorney of record:

DAVID W MILLER	LARRY MILLER	RALPH P MILLER
C/O RON MILLER	C/O RON MILLER	C/O RON MILLER
707 ROOSEVELT	707 ROOSEVELT	707 ROOSEVELT
AMERICAN FALLS ID 83211	AMERICAN FALLS ID 83211	AMERICAN FALLS ID 83211

M PHILLIP MILLER	LEWIS J MILLER	DANIEL D MILLER
C/O RON MILLER	C/O RON MILLER	C/O RON MILLER
707 ROOSEVELT	707 ROOSEVELT	707 ROOSEVELT
AMERICAN FALLS ID 83211	AMERICAN FALLS ID 83211	AMERICAN FALLS ID 83211

RON MILLER
707 ROOSEVELT
AMERICAN FALLS ID 83211

4. One copy to:

Each party in the subcase, or attorney of record

THOMAS J BUDGE	MICHAEL REID
201 E CENTER	PO BOX 801
PO BOX 1391	VICTOR ID 83455
POCATELLO ID 83204-1391	

5. One copy each to:

Chief Natural Resources Division
Office of the Attorney General
PO Box 44449
Boise ID 83711-4449

SCANNED

JUL 23 2009

6. One Copy to:

United States Dept of Justice
Environment & Natural Resource Div
550 West Fort Street MSC 033
Boise ID 83724

Bobby Kern

Signature of person or attorney mailing the form

SCANNED
JUL 23 2009

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

JUL 23 2008

IDAHO DEPARTMENT OF WATER RESOURCES
Adjudication Recommendation Report 22-13509 V1

Priority Date: 06/01/1960
Basis: Beneficial Use
Status: Active

Source

PARADISE SPRINGS

Tributary

TETON RIVER

Beneficial Use

IRRIGATION

From To

04/15 to 10/31

Diversion Rate

0.700 CFS

Annual Volume

Total Diversion:

0.700 CFS

Location of Point(s) of Diversion

PARADISE SPRINGS

SE1/4NE1/4SW1/4

Sec. 19, Twp 04N, Rge 45E, B.M.

TETON County

Place of Use

IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				Totals
04N	45E	19	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
											35.0								35.0

Total Acres: 35

Conditions of Approval:

1. 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.

Remarks:

Comments:

Water Supply Bank:

SCANNED

JUL 23 2022



State of Idaho

DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Suite A • Idaho Falls, Idaho 83402-1718

Phone: (208) 525-7161 • Fax: (208) 525-7177 • Web Site: www.idwr.idaho.gov

EASTERN REGION

C. L. "BUTCH" OTTER
Governor

DAVID R. TUTHILL, JR.
Director

June 12, 2009

THOMAS J BUDGE
RACINE OLSON NYE BUDGE & BAILEY CHARTERED
PO BOX 1391
POCATELLO ID 83204-0391

RE: Change of Ownership 22-13509
Check #53042 \$25.00

Dear Thomas J. Budge:

Thank you for submitting the above referenced ownership change. Our office will process it as soon as possible.

There is no fee for changing ownership of rights within the boundary of the Snake River Basin Adjudication. Therefore, I am returning your check for \$25.00.

Respectfully submitted,

Bobby Kern
Office Specialist II

Enclosure

SCANNED

JUL 23 2009

LAW OFFICES OF

**RACINE OLSON NYE BUDGE & BAILEY
CHARTERED**

201 EAST CENTER STREET
POST OFFICE BOX 1391
POCATELLO, IDAHO 83204-1391

TELEPHONE (208) 232-6101
FACSIMILE (208) 232-6109

www.racinelaw.net

SENDER'S E-MAIL ADDRESS: tjb@racinelaw.net

W. MARCUS W. NYE
RANDALL C. BUDGE
JOHN A. BAILEY, JR.
JOHN R. GOODSELL
JOHN B. INGELSTROM
DANIEL C. GREEN
BRENT O. ROCHE
KIRK B. HADLEY
FRED J. LEWIS
ERIC L. OLSEN
CONRAD J. AIKEN
RICHARD A. HEARN, M.D.
LANE V. ERICKSON
FREDERICK J. HAHN, III
DAVID E. ALEXANDER
PATRICK N. GEORGE
SCOTT J. SMITH
JOSHUA D. JOHNSON
STEPHEN J. MUHONEN
BRENT L. WHITING
JONATHAN S. BYINGTON
DAVE BAGLEY
CAROL TIPPI VOLYN
THOMAS J. BUDGE
CANDICE M. MCHUGH
JONATHAN M. VOLYN
MARK A. SHAFFER
JASON E. FLAIG

BOISE OFFICE
101 SOUTH CAPITOL
BOULEVARD, SUITE 208
BOISE, IDAHO 83702
TELEPHONE: (208) 395-0011
FACSIMILE: (208) 433-0167

IDAHO FALLS OFFICE
477 SHOUP AVENUE
SUITE 203
IDAHO FALLS, ID 83402
TELEPHONE: (208) 528-6101
FACSIMILE: (208) 528-6109

COEUR D'ALENE OFFICE
250 NORTHWEST
BOULEVARD, SUITE 106A
COEUR D'ALENE, ID 83814
TELEPHONE: (208) 765-6888

ALL OFFICES TOLL FREE
(877) 232-6101

LOUIS F. RACINE (1917-2005)
WILLIAM D. OLSON, OF COUNSEL

June 9, 2009

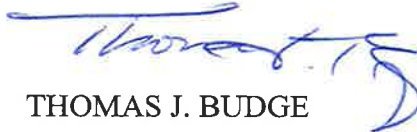
Idaho Department of Water Resources
Eastern Region
900 N. Skyline Drive, Suite A
Idaho Falls, Idaho 83402

Re: *Change of Ownership: Water Right No. 22-13509*

To Whom It May Concern:

Enclosed please find a Notice of Change in Water Right Ownership for Water Right No. 22-13509, together with a check in the amount of \$25 for the filing fee. Please call if you have any questions.

Sincerely,


THOMAS J. BUDGE

TJB:rr
Enclosures

RECEIVED

JUN 10 2009

Department of Water Resources
Eastern Region

SCANNED

JUL 2009

DEV

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
NOTICE OF CHANGE IN WATER RIGHT OWNERSHIP

Please print or type. Attach pages with additional information. Instructions are included at the end of this form.
Incomplete forms will be returned.

1. Please list the water right number(s) and/or adjudication claim numbers (s) (if any) for each water right to be changed. List just the adjudication claim number if there is no corresponding water right record on file with the department. Indicate, by checking in the space provided (under the "split" heading), if the change in ownership is limited to a portion of a water right in which case division of the existing water right or adjudication claim record will be required.

Water Right No(s)	Adjudication Claim No(s)	Split
ADJ 22-13509		

2. The following **REQUIRED** information must be submitted with this form:
- A. The appropriate **FILING FEE**. See instructions for fee amounts.
- B. A copy of the most recent, **DEED, TITLE POLICY, CONTRACT OF SALE** or other legal document indicating your ownership of the property and water right(s) or claim(s) in question, **WITH ATTACHED LEGAL DESCRIPTION**.
- C. Either of the following (if necessary to clarify division of water rights or other complex property descriptions): **PLAT OF PROPERTY** or **SURVEY MAP** clearly showing the location of the point(s) of diversion and place of use of your water right(s) and/or adjudication claim(s) (these are usually attached to your deed or on file with the county).
OR
If your water right(s) and/or adjudication claim(s) is for ten or more acres of irrigation, you must submit a USDA Farm Service Agency **AERIAL PHOTO** with the irrigated acres outlined and point(s) of diversion clearly marked. The **AERIAL PHOTO** should be submitted in place of the **PLAT OF PROPERTY** or **SURVEY MAP**.

3. Name and Address of Former Owner/Claimant(s)
Fred Kenneth Miller
c/o Ronald K. Miller
707 Roosevelt
American Falls, ID 83211

4. New Owner/Claimant(s)
Name Connector (check one) ☐ and, ☐ or, ☐ and/or
David W. Miller, Ronald K. Miller, Larry J. Miller, Ralph P. Miller
M. Phillip Miller, Lewis J. Miller and Daniel D. Miller, tenants in
common
c/o Ronald K. Miller
New Mailing Address 707 Roosevelt
City, State, Zip code American Falls, ID 83211
New Telephone Number 208-226-2976

5. Date you acquired the property 5/29/1992

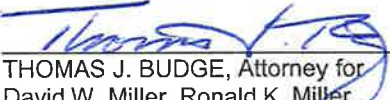
RECEIVED
JUN 11 2009
SCANNED
Department of Water Resources
Eastern Region
JUL 2 2009

6. If the change in ownership affects the entire water right for each water right or adjudication claim number list in item 1, THEN SKIP THIS ITEM AND GO TO ITEM 7. If the change in ownership divides the water right(s) among multiple owners, you must describe, in detail, your portion of each water right after the change. Fill in the appropriate spaces in the box(es) below to describe your water right(s) after the change (one water right per box, you may copy this page as necessary). If your quantity of water is greater than a proportionate split, you must attach documentation to show justification for a larger amount. If you are not sure how to identify your portion of the original water right or adjudication claim records, please contact the nearest IDWR office for assistance.

DESCRIPTION OF YOUR PORTION OF WATER RIGHT (If the right will not be split, skip this area and proceed to line7)		
Water Use	Diversion Rate or Volume (cubic feet per second or acre-feet per annum)	Description (acres, number and type of stock, homes, etc.)
Water Right and/or Adjudication Claim Number _____		
Irrigation		
Stock		
Domestic		
Other		
Totals		
Water Right and/or Adjudication Claim Number _____		
Irrigation		
Stock		
Domestic		
Other		
Totals		
Water Right and/or Adjudication Claim Number _____		
Irrigation		
Stock		
Domestic		
Other		
Totals		

For Snake River Basin Adjudication Claims: Please attach a Notice of Appearance completed by your attorney, if you wish IDWR to correspond with him/her for all matters related to your claims.

7. Signature of New Owner(s) or Claimant(s)
(include title if applicable)


THOMAS J. BUDGE, Attorney for
David W. Miller, Ronald K. Miller,
Larry J. Miller, Ralph P. Miller, M. Phillip Miller,
Lewis J. Miller and Daniel D. Miller,
Tenants in common

SCANNED
JUL 23 2009

For Snake River Basin Adjudication Claims: Please attach a Notice of Appearance completed by your attorney, if you wish IDWR to correspond with him/her for all matters related to your claims.

For Office Use Only

Received by _____	Date _____	Fee _____
Receipted by _____	Date _____	Receipt No. _____
Processed by _____ AJ	Date _____ WR _____	Date _____

SCANNED

JUL 23 2009

MAY 29 1992

TETON Co. Id.
Clerk Recorder

WARRANTY DEED

For Value Received FRED KENNETH MILLER, individually and as the sole heir at law of Guelda (Johnson) Miller, deceased

the grantor, do hereby grant, bargain, sell and convey unto DAVID W. MILLER, RONALD K. MILLER, LARRY J. MILLER, RALPH P. MILLER, M. PHILLIP MILLER, LEWIS J. MILLER and DANIEL D. MILLER, as their sole and separate property, as tenants in common

whose current address is c/o Ron Miller, 707 Roosevelt, American Falls, ID 83211

the granteeS, the following described premises, in TETON County Idaho, to wit:

South one-half (S $\frac{1}{2}$) of Lot 3 and all of Lot 4,
and the NE $\frac{1}{4}$ SW $\frac{1}{4}$, less a one acre tract deeded to Cedron Cemetary,
all in Section 19, Township 4 North, Range 45 E.B.M.
consisting of 99.53 acres more or less.

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said GranteeS, their heirs and assigns forever. And the said Grantor do hereby covenant to and with the said GranteeS, that he is the owner in fee simple of said premises; that they are free from all incumbrances

and that he will warrant and defend the same from all lawful claims whatsoever.

Dated: May 29, 1992

Fred Kenneth Miller

STATE OF IDAHO, COUNTY OF Teton
On this 29th day of May, 1992
before me, a notary public in and for said State, personally appeared

FRED KENNETH MILLER

known to me to be the person whose name is
subscribed to the within instrument, and acknowledged to
me that he executed the same.

Laurel W. Purvis
Notary Public
Residing at Boise, Idaho
Comm. Expires 5-14-94

110193

FILED

AT THE REQUEST OF

Ronald K. Miller

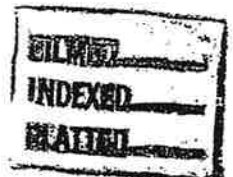
AT 10 MINUTES PAST 4 P M

DATE May 29, 1992

Asa J. Drake
CLERK OF RECORDER

BY Nora Rigby

DEPUTY



SCANNED

JUL 23 2009



State of Idaho

DEPARTMENT OF WATER RESOURCES

Eastern Region, 900 North Skyline Drive, Suite A • Idaho Falls, Idaho 83402-1718
Phone: (208) 525-7161 • Fax: (208) 525-7177 • Web Site: www.idwr.idaho.gov

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Interim Director

January 24, 2011

Dear Claimant:

As you may recall a settlement conference was recently held in Idaho Falls in hopes that the disputes regarding the water right claims from Paradise Springs could be resolved. At the settlement conference the parties in attendance and the Idaho Department of Water Resources reached a tentative agreement. However, final settlement is contingent upon additional action by the parties. The purpose of this letter is to let you know what further action needs to be taken in order to bring closure to the Paradise Springs subcases in the Snake River Basin Adjudication ("SRBA").

The table below lists the amounts agreed upon during the settlement conference followed by the tasks that need to be completed before the settlement can be finalized. Please find your subcase(s) below and take the appropriate action. IDWR would be happy to help you through the process if you need assistance, as appropriate. Because of the global nature of the settlement of Paradise Springs, SF5 settlement documents will be prepared once the late claims and amended claims are ready for resolution. In other words, all the subcases are tied together and are anticipated to progress through the SRBA resolution process as a group.

<u>Claim number</u>			<u>Owner</u>	<u>Decreed</u>	<u>Beneficial</u>	<u>Decreed</u>	<u>Beneficial</u>
- - -			-	<u>Acres</u>	<u>Use Acres</u>	<u>Quantity</u>	<u>Use Quantity</u>
22	587	A	KUNZ, LARELL A	25		0.35	
22	12714	B	SUSAN C ALDEEN TRUST	7.8		0.11	
22	13211		MILLER, DON LE ROY	8.5	3.3	0.17	0.07
22	13212		REID, MICHAEL L	26	9.6	0.52	0.19
22	13511		TETON RAINBOW RANCHES	72		1	
22	13586		RICHARDSON, ANDREW J	23.5	8.5	0.47	0.17
22	13853		MILLER, CHESTER H; MILLER, REX H	16.5	6.5	0.33	0.13
22	13854		RICHARDSON FAMILY PROPERTIES LLC	17	14	0.24	0.38
22	13509		FRED MILLER TRUST	25.5	9.5	0.51	0.19

22-587A. No need to amend the claim. Only needs to sign SF5.

22-12714B. Needs to amend claimed flow rate to 0.11 cfs.

SCANNED

JAN 24 2011

22-13211. No need to amend claim. Only needs to sign SF5. It is my understanding that the objectors to this subcase seek a subordination remark limiting a delivery call on this right to 7.6 acres and .17 cfs. Additionally, needs to set aside 22-11537, the 1969 beneficial use right, and sign an SF5 for .07 cfs and 3.3 acres.

22-13212. Needs to move to set aside and amend claim for 0.52 cfs. Eventual recommendation for -13212 will contain a subordination remark limiting a delivery call on this right to 4.5 acres and 0.16 cfs. Will receive SF5 on 22-11639 for 9.6 acres and 0.19 cfs as the beneficial use claim.

22-13511. No need to amend claim. Only needs to sign SF5.

22-13586. Needs to amend claimed flow rate to 0.47 cfs. This right is governed, in part, by the stipulation filed December 2009. Consistent with that stipulation, the eventual recommendation for -13586 will contain the following subordination remark: This water right shall not be permitted to make a delivery call against water right nos. 22-13135, 22-13961, 22-13962, 22-13963, 22-13964, 22-2280E, 22-2296B, 22-2296D, and 22-13681, and their progeny. Needs to file a new beneficial use claim for 8.5 acres and 0.17 cfs.

22-13853. Needs to amend claimed flow rate to 0.33 cfs and file a new beneficial use claim for 6.5 acres and 0.13 cfs.

22-13854. This right is governed, in part, by the stipulation filed December 2009. Needs to file a new beneficial use claim for 14 acres and 0.38 cfs.

22-13509. Consistent with the Amended Director's Report filed in July 2010, the eventual recommendation for -13509 will contain the following subordination remark: This water right shall not be permitted to make a delivery call against water right nos. 22-13135, 22-13961, 22-13962, 22-13963, 22-13964, 22-2280E, 22-2296B, 22-2296D, and 22-13681, and their progeny. Needs to file a new beneficial use claim for 9.5 acres and 0.19 cfs.

The next status conference on these subcases is set for February 2, 2011, at 9:30 a.m., during which Special Master Bilyeu agreed to hear motions to amend claims. Motions for late claims need to be heard by Judge Wildman. If you have questions about any of this, please contact your attorney, if applicable, or feel free to give me a call. Thanks in advance for your prompt action.

Sincerely,


Michael Holliday
Adjudication Bureau
Senior Water Right Agent

SCANNED

JAN 24 2011

Randall C. Budge, ISB No. 1949
 Thomas J. Budge, ISB No. 7465
 Racine Olson Nye Budge & Bailey, Chtd
 P.O. Box 1391; 201 E. Center Street
 Pocatello, Idaho 83204-1391
 208-232-6101 - Telephone
 208-232-6109 - Facsimile

*Attorneys for Cedron Irrigation, LLC, Cedron Cemetery District, Teton Rainbow
 Ranches, Inc., Mahogany Ranch Holdings, Inc., Trees, Inc., and Wally Rothgeb, Jr*



**IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
 STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS**

In Re SRBA

Subcase Nos. 22-13509

Case 39576

STIPULATION

Ronald K. Miller, Daniel D. Miller, Lewis J. Miller, M. Phillip Miller, Ralph P. Miller, Larry J. Miller, and David W. Miller (collectively, the "Claimants"), by and through their attorney, Robert L. Harris of the firm HOLDEN KIDWELL HAHN & CRAPO, PLLC, and Cedron Irrigation, LLC, Cedron Cemetery District, Teton Rainbow Ranches, Inc., Trees, Inc., Mahogany Ranch Holdings, Inc., and Wally Rothgeb, Jr. (collectively, the "Participants"), by and through their attorney, Thomas J. Budge of the firm RACINE OLSON NYE BUDGE & BAILEY, CHARTERED, jointly present this stipulation to resolve any and all objections the Participants may have against SRBA claim numbers 22-13509 and to provide for the entry of partial decrees for water right numbers 22-13509.

1. The Claimants are the claimants of SRBA claim number 22-13509 which had as its source Paradise Springs.
2. The Participants own ground water rights¹ that divert from an aquifer that is alleged to be hydraulically connected to Paradise Springs.

¹ Water Right Nos. 22-13135, 22-13961, 22-13962, 22-13963, 22-13964, 22-2280E, 22-2296B, 22-2296D and 22-13681.

STIPULATION

3. The Claimants filed an amended notice of claim for water right 22-13509 on September 3, 2009.

4. In response to the amended notice of claim, the Participants filed a Motion to Participate in this subcases on October __, 2009.

5. The Claimants and Participants have recently discussed the Participants' interest in this subcase, and hereby stipulate and agree that the Participants have an interest in this subcase that warrants their participation pursuant to SRBA Administrative Order 1 § 10.k and Rule 24(a) of the Idaho Rules of Civil Procedure.

6. The Claimants and the Participants hereby stipulate and agree that the Participants have grounds to object to water right 22-13509. The Claimants and the Participants further agree that legal and factual issues exist which, if not resolved cooperatively, will necessitate a trial at substantial expense to all involved.

7. The Claimants and Participants have engaged in settlement negotiations, and have reached a settlement that will enable water right 22-13509 to be partial decreed without resort to litigation.

9. The Claimants and the Participants hereby stipulate and agree that water right 22-13509 be decreed according to the elements defined in the Claimants' amended notice of claim filed September 3, 2009, with the exception that the following condition be added to the partial decree:

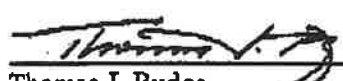
This water right shall not be permitted to make a delivery call against Water Right Nos. 22-13135, 22-13961, 22-13962, 22-13963, 22-13964, 22-2280E, 22-2296B, 22-2296D, and 22-13681.

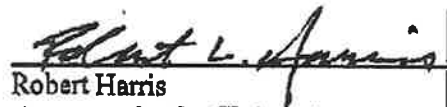
11. In consideration of the conditions and terms set out in this Stipulation, the Participants agree to refrain from filing any objections against water right 22-13509, including any amended claims that may be necessary for water right 22-13509.

DATED this 18th day of December, 2009.

RACINE, OLSON, NYE, BUDGE &
BAILEY, CHARTERED

HOLDEN KIDWELL HAHN &
CRAPO, PLLC


Thomas J. Budge
Attorneys for the Participants


Robert Harris
Attorneys for the Claimants

STIPULATION

CERTIFICATE OF MAILING

I certify that on this 18th day of December, 2009, I served the above document on the following persons in the manner specified:

1. Original via facsimile to:

Clerk of the District Court
Snake River Basin Adjudication
P.O. Box 2707
Twin Falls, Idaho 83303-2707

P21
C03

3. Copies mailed to: (mailed Dec. 21st)

Michael L. Reid
550 S 450 W
Victor, ID 83455

Robert L. Harris
P.O. Box 50130
Idaho Falls, Idaho 83405

IDWR Document Depository
P.O. Box 83720
Boise, Idaho 83720-0098

Chief, Natural Resources Division
Office of the Attorney General
P.O. Box 44449
Boise, Idaho 83711-4449

United States Department of Justice
Environment and Natural Resource Division
550 West Fort Street, MSC 033
Boise, Idaho 83724


THOMAS J. BUDGE

STIPULATION

Paradise Springs Water Rights, Basin 22, Teton County Idaho

Paradise Springs, located near Driggs Idaho in Basin 22 is the subject of much contention. The recommendations have been reported to the court for all Basin 22 claims as well as these Paradise Springs and those water rights related to Paradise Springs. Objections are now being filed with the court regarding these rights. This report is to document the reasoning behind the recommendations made on the water rights for Paradise Springs and those water rights relating.

Water Right Referenced in This Report

22-180A, 22-180B, 22-180D, 22-575A, 22-11537, 22-11639, 22-12714B, 22-13134, 22-13135, 22-13211, 22-13212, 22-13503, 22-13509, 22-13511, 22-13585, 22-13586.

Water Right 22-405

Water right 22-405 was decreed to J. J. Miller in "Rexburg Irrigation Company et al. vs. Teton Irrigation Canal Company et al.", commonly known as the Rexburg Decree. Water right 22-405 was decreed to lands located on SWSE and S½ SW Section 30, and NENW of Section 21, Township 4 North, Range 45 East, for a total of 160 acres. The decree entitled Mr. Miller to a total of 2.0 cfs from Paradise Springs. The decree stated a priority date of 6-1-1904.

Mike Reid, Don Leroy Miller and Rex Miller are the original claimants for 22-405. Rex Miller has since sold a portion of his land to John Collins, Andrew Richardson and some of his land if not all is now being subdivided. All of the original claimants claim the water had never been used on the decreed place of use. Don is J.J. Miller's son. He states along with the rest of the original claimants that J. J. Miller never owned any of the land described in the Rexburg decree, and that the land that the water was intended to be used on is located in the SESW and NESW Section 19 as well as NENW and SENW Section 30, Township 4 North, Range 45 East. After looking at the USGS topographic map, it was found that Paradise Springs' water could never have been used on the land described in the Rexburg Decree because it is up hill.

Don Miller brought in J. J. Millers Homestead description as well as a Notice Of Water Right submitted by J. J. Miller. The Homestead Entry for J. J. Miller and the land listed on his Notice of Water right are described as follows: E½ NW Section 30 and E½ SW Section 19, Township 4 North, Range 45 East.

Given this information it is believed that water right 22-405 had always been used on the land described by the claimants. It is also believed that the Rexburg Decree was in error.

Because of this error and the fact that the Rexburg Decree is an indeterminate decree in regard to exact acreage, Idaho Department of Water Resources' "Adjudication Memo #57" was used as a guide for these recommendations. "Adjudication Memo #57" states

that if the water right was part of an indeterminate decree, then the acres irrigated in 1987 will be used as the decreed place of use. In 1987 all of the E½ NW Section 30 and E½ SW Section 19, Township 4 North, Range 45 East was irrigated. This information was found through statements from the original claimants including signed statements from Rex Miller and Craig Kunz and by reviewing the aerial photos taken in 1987/1988 by the National Agriculture Imagery Program (NAIP). Though this is true, the claimants state that the NESW of Section 19 Township 4 North, 45 East was not irrigated until later (Affidavit supplied).

Rex Miller and Don Miller are brothers and each of them owned part of the land that was homesteaded by J. J. Miller. Even though the land was not split half and half between Don and Rex, the water right was. This information was obtained by a conversation with Don and a signed statement from Rex. Rex Miller and Don Miller each received 1.0 cfs of water right 22-405.

Mike Reid bought a portion of land from Don Miller therefore a portion of Don's 1.0 cfs was portrayed to him. Because of a claim that ground water users in the area were drying up Paradise Springs, Mike Reid filed a transfer to officially move the water from the decreed place of use to the land that it has always been used on. This transfer was lost in the system and when it was found it was decided that the Adjudication recommendations would accomplish the change the transfer was trying to accomplish, and the transfer was withdrawn. Rex's 1.0 cfs was also split. The recommendations for 22-405 have been created based on the above information.

Recommendations for 21-405:

- Mike Reid owns 35.6 acres of the Homesteaded land and receives 0.7 cfs and is reflected in the following claim files: 22-13212 (0.5 cfs), 22-13503 (0.2 cfs).
- Don Miller owns 9.6 acres and receives 0.3 cfs reflected in claim number 22-13211
- Rex Miller at one time irrigated 93.8 acres using water right 22-405 and water right 22-587. He owns 1.0 cfs of 22-405 and did not claim any additional water from 22-587 although he owned land covered by that right. He sold 7.2 acres and 0.08 cfs to Russel Bourne who then sold it to John Collins. John Collins' land was decreed as 22-587 and was therefore was recommended as such. Rex then sold another piece of his land to Andrew Richardson who received 0.34 cfs for 31 acres on land decreed as 22-405. Rex was left with 55.6 acres and 0.61 cfs on land covered by both 22-405 and 22-587.
- Rex Miller 55.6 acres and 0.61 cfs. Combination of 22-405 and 22-587 reflected in claim number 22-13585.
- Andrew Richardson 31 acres and 0.34 cfs. Portion of 22-405 reflected in claim number 22-13586.

- John Collins 7.2 acres and 0.08 cfs. Portion of 22-587 reflected in claim number 22-12714B.

Water Right 22-13509

Later in time the NESW of Section 19, Township 4 North, Range 45 East started being irrigated by water that came from a ditch along the Western hillside. There was an affidavit submitted by Chester Miller, one of J. J. Miller's sons. This affidavit went through some history about the water from Paradise springs but the only concrete date that can be taken from that affidavit was 1960. Because of this information the priority date that was given to water right 22-13509 for the irrigation of the NESW of Section 19, Township 4 North, Range 45 East.

Water Right 22-4104

According to the claimants in 1969 a pump went in on the East side of the spring and pumped water through a pipe for sprinkler irrigation. This pump not only irrigated all of the homesteaded land, but also began irrigating a small piece of land owned by Don Miller in the NWNW of Section 30 Township 4 North, Range 45 East. The affidavit provided by Chester Miller supports this beneficial use water right 22-4104. This right was split between Don Miller and Mike Reid.

Recommendations for 22-4104:

- Mike Reid receives 0.59 cfs reflected in claim number 22-11639.
- Don Miller receives 0.14 cfs reflected in claim number 22-11537.

Water Right 22-587

This water right was decreed in the Rexburg Decree to Caroline Withrick for an "undivided $\frac{1}{4}$ of Paradise Springs" with a priority of 6-1-1904. The land in the decree is stated as follows:

"NE1/4SE1/4, and SE1/4 of NE1/4 of Section 30, T. 4 N., R., 45 E., B. M. also, Homestead not described in pleadings."

The Homestead for Caroline Withrick was found on the BLM website (www.glorerecords.blm.gov) but her name was spelled slightly different. The homestead was issued to Carolina Wuthrick dated May 20th 1862. The land was listed as follows:

"S1/2SE Section 19 and NWNE Section 30 of T 4N R 45E"

The land listed on the decree and on the Homestead Entry total 200 acres.

7.2 acres of SWSE Section 19, Township 4 North, Range 45 East has been recommended to John Collins as 22-12714B. The remainder of that quarter-quarter has been recommended to Rex Miller as 22-13585. Duane Kunz claims 1.6 cfs of 22-587 reflected in water right claim number 22-13511. He claims the water has been used on NESW and NWSW Section 30, Township 4 North, Range 45 East, which is not the decreed place of use and no evidence has been submitted suggesting an error in the decree. As a result that claim has been disallowed.

Water Right 22-575

Water right 22-575 was decreed in the Rexburg Decree to George Walton for 100 inches (2 cfs) from Paradise Springs with a priority of 6-1-1892. The land it was decreed to is described as follows:

“NW1/4 of SW1/4 and W1/2 of NW1/4 of Section. 29, and NE1/4 of NE1/4 of Section 30, T. 4 N. R., 45 E., B. M., Containing 160 Acres.”

In water right transfer number 3555 Gary Zohner transferred 1 cfs of water right 22-575 from NWNW Section 29 and NENE Section 30, Township 4 North, Range 45 East to the NWSE and SESE Section 19, Township 4 North, Range 45 East. Also in the same transfer he moved 0.7 cfs of water right 22-180 from the NENE Section 30, Township 4 North, Range 45 East to the same place of use in Section 19.

After transfer # 3555, the land pertinent to 22-575 is as follows:

NWSW and SESE Section 19, SWNW and NWSW Section 29 all in Township 4 North, Range 45East.

Teton Rainbow Ranch at one time prior to 1987 owned land located in the SWNW and NWSW Section 29, Township 4 North, Range 45 East. They sold that land to Peter Shields and reserved the water as stated in the warrantee deed located in the claim file for water right 22-13134. Teton Rainbow Ranch then moved the water to SENE and NESE Section 30, Township 4 North, Range 45 East. Based on this information the recommendations follow.

Recommendations for 22-575:

- Gary Zohner receives 1.0 cfs reflected in claim number 22-575A limited to 80 acres.
- Wally Rothgeb receives, as an accomplished change in place of use, 0.13 cfs for 8.9 acres reflected in claim number 22-13135.
- Teton Rainbow Ranch receives, as an accomplished change in place of use, 0.86 cfs for 54 acres reflected in claim number 22-13134.

Water Right 22-180

Water right 22-180 was decreed in the Rexburg Decree to H. C. Bowles for 140 inches (2.8 cfs) from Spring Creek, with a priority of 6-1-1889. The land describe in the decree is as follows:

“SW1/4 of SW1/4 and SW1/4 of SE1/4 of Section. 29, N1/2 of NE1/4 of Section. 30, T. 4 N., R. 45 E., B. M., containing 160 acres”.

After transfer # 3555 mentioned above the lands to which water right 22-180 was pertinent is as follows.

NWSE and SESE Section 19, SWSW and SWSE Section 29, and NWNE Section 30, Township 4 North, Range 45 East.

Though 22-180 was decreed the source of “Spring Creek”, no one knows exactly where Spring Creek is. Some of the local names for Paradise Springs are Sulfur Creek and Spring Creek. In my analysis Paradise Springs, springs up into a pond and when water is high it will flow down and add to the water down stream in what is locally known as Miller Slough or Paradise Creek. Paradise Creek is a gaining reach and water can be found in it even after water is too low for Paradise Springs to feed it. It is possible that at the time of the Rexburg decree, Paradise Springs and Paradise Creek were referred to as separate sources. It is my opinion that the Rexburg Decree decreed rights to Paradise Springs and also Paradise Creek but named it Spring Creek because it was connected to Paradise Springs at times. For lack of other evidence and the fact that for years, it has been accepted that 22-180 is part of Paradise Springs my recommendation is that 22-180 be decreed, at least in part, to Paradise Creek. A transfer was even approved by the Department for this right and no protests were received to my knowledge. The Rexburg Decree did however decree 40 acres of land to this water right on the East side of the River. This is the portion of the right that Duane Kunz is claiming. That is why I recommended Unnamed Stream to this right. Why that land was decreed is unknown to me. It may be an error, or the land on the West side of the river may be in error. It could also be that H. C. Bowles allowed the water to flow into the Teton River and then he took it out upstream in an exchange fashion, otherwise I don’t understand why 80 acres would be decreed right on Paradise Creek and 80 acres decreed ½ mile upstream and 40 acres of it on the East side of the river. It may be that we want to recommend 22-180A and 22-180D as Paradise Creek to differentiate between Paradise Springs and Paradise Creek, and then have a point of injection and a point of re-diversion.

Based on that information the recommendations for 22-180 are as follows.

Recommendations for 22-180:

- Gary Zohner receives 0.7 cfs for 80 acres reflected in claim number 22-180A (Paradise Springs)

- Duane Kunz receives 0.7 for 40 acres reflected in claim number 22-180B (Unnamed Stream)
- Larell Kunz receives 0.44 cfs for 25 acres reflected in claim number 22-180D (Paradise Springs)

Report by Trent Galbraith 12-15-06: Revised 10-1-2007

04/21/2006

**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: 22-13509

FRED MILLER TRUST
C/O RONALD K MILLER
707 ROOSEVELT

AMERICAN FALLS ID 83211
Telephone Number: (208)226-2976

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: 12-5-06 SIGNATURE: Ronald K. Miller
Please print your name: Ronald K. Miller

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

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JUN 05 2007

Paradise Springs

22-405

22-405 was decreed to J. J. Miller in the Rexburg Decree to lands located on SWSE and S1/2SW Sec 30, and NENW of Sec 21 T 4 N 45 E for a total of 160 acres. The source of the decree is 2 CFS from Paradise Springs. The decree stated a priority date of 6/1/1904.

Mike Reid, Don Leroy Miller and Rex Miller are the original claimants for 22-405. Rex Miller has since sold a portion of his land to John Collins, Andrew Richardson and some of his land if not all is now being subdivided. All of the original claimants claim the water has never been used on the decreed POU. Don is J.J. Miller's son. He states as well as the rest of the claimants that J. J. Miller never owned any of the land described in the Rexburg decree, and that the land that the water was intended to be used on is SESW and NESW Sec 19 as well as NENW and SENW Sec 30 in T 4 N 45 E. Paradise Springs' water could never have been used on the land described in the Rexburg Decree because it is up hill and too far away.

Don Miller brought in J. J. Millers Homestead description as well as a Notice Of Water Right. The Homestead Entry for J. J. Miller and the land listed on his Notice of Water right are described as follows: E1/2NW Sec 30 and E1/2SW Sec 19 T 4 N 45 E.

Given this information it is believed that water right 22-405 had always been used on the land described by the claimants. It is also believed that the Rexburg Decree was in error.

Because of this error and the fact that the Rexburg Decree is an indeterminate decree when it comes to exact acreage, memo #57 was used as a guide for these recommendations. Memo #57 states that if the water right was part of an indeterminate decree, then we use the acres irrigated in 1987 as the decreed POU. In 1987 all of the E1/2NW Sec 30 and E1/2SW Sec 19 was irrigated. This information was found by looking at aerial photos of 1987 or by statements from the original claimants including signed statements from Rex Miller and Craig Kunz. Though this is true the claimants state that the NESW of Sec 19 was not irrigated until later (Affidavit supplied).

Rex Miller and Don Miller are brothers and each of them owned part of the land that was homesteaded. Even though the land was not split half and half between Don and Rex, the water right was. This information was obtained by a conversation with Don and a signed statement from Rex. Rex Miller initially had 1 CFS of 22-405 and Don had the same.

Mike Reid bought some land from Don Miller so a portion of Don's 1 CFS goes to him. Because of some issues with well users drying up Paradise Springs, Mike Reid filed a transfer to officially move the water from the decreed POU to the land that it has always been used on. This transfer was lost in the system and by the time it was found it was decided that because the Adjudication recommendations would accomplish the same thing the transfer was trying to accomplish, the transfer would be withdrawn. Rex's 1

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JUN 05 2007

CFS was also split. The recommendations for 22-405 have been created based on the above information.

Recommendations

Mike Reid owns 35.6 acres of the Homesteaded land and receives 0.7 CFS and is reflected in the following claim files: 22-13212 (0.5 CFS), 22-13503 (0.2 CFS).

Don Miller owns 9.6 acres and receives 0.3 CFS reflected in claim number 22-13211

Rex Miller at one time irrigated 93.8 acres using water right 22-405 and 22-587. He owns 1.0 CFS of 22-405 and did not claim any additional water from 22-587 although he owned land covered by that right. He sold 7.2 acres and 0.08 CFS to Russel Bourne who then sold it to John Collins. That land was decreed as 22-587 so that is how it was recommended. Rex Then split off another piece of his land to Andrew Richardson who then got a right for 0.34 CFS for 31 acres on land decreed to 22-405. Rex was left with 55.6 acres and 0.61 CFS on land covered by both 22-405 and 22-587.

Rex Miller 55.6 acres 0.61 CFS combination of 22-405 and 22-587 reflected in claim number 22-13585.

Andrew Richardson 31 acres 0.34 CFS portion of 22-405 reflected in claim number 22-13586.

John Collins 7.2 acrs .08 CFS portion of 22-587 reflected in claim number 22-12714B.

22-13509

Later in time the NESW of Sec 19 started being irrigated by water that came from a ditch along the Western Hillside. There was an affidavit submitted by Chester Miller, one of J. J. Miller's sons. This affidavit went through a lot of history about the water from Paradise springs but the only date that can be pulled from that affidavit was 1960. This is the priority date I gave 22-13509 for the irrigation of the NESW of Sec 19.

22-4104

According to the claimants in 1969 a pump went in on the east side of the spring and pumped water through a pipe for sprinkler irrigation. This pump besides irrigating all of the Homesteaded land also began irrigating a small piece of land owned by Don Miller in the NWNW of Sec 30. The affidavit provided by Chester Miller supports this beneficial use water right 22-4104. This right was split between Don Miller and Mike Reid.

Recommendations

Mike Reid receives 0.59 CFS reflected in 22-11639.

Don Miller receives 0.14 CFS reflected in 22-11537.

22-587

This water right was decreed in the Rexburg Decree to Caroline Withrick for an "undivided 1/4 of Paradise Springs" with a priority of 6/1/1904. The land stated in the decree is stated as follows:

"NE1/4SE1/4, and SE1/4 of NE1/4 of Sec 30, T. 4 N., R., 45 E., B. M. also, Homestead not described in pleadings."

The Homestead for Caroline Withrick was found on the BLM website (www.glorerecords.blm.gov) but her name was spelled a little different. The homestead was made by Carolina Wuthrick dated May 20th 1862. The land was listed as follows:

S1/2SE Sec 19 and NWN Sec 30 of T 4N R 45E

The land listed on the decree and on the Homestead Entry totals 200 acres.

7.2 acres of SWSE Sec 19 T 4N R 45E has been recommended to John Collins. The remainder of SWSE has been recommended to Rex Miller. Duane Kunz claims 1.6 CFS of 22-587. He claims the water has been used on NESW and NWSW Sec 30 T 4N R 45E which is not the decreed POU so it has been disallowed.

22-575

22-575 was decreed in the Rexburg Decree to George Walton for 100 inches (2 CFS) from Paradise Springs with a priority of 6/1/1892. The land it was decreed to is described as follows:

"NW1/4 of SW1/4 and W1/2 of NW1/4 of Sec. 29, and NE1/4 of NE1/4 of Sec. 30, T. 4 N. R., 45 E., B. M., Containing 160 Acres."

In transfer number 3555 Gary Zohner Transferred 1 CFS of 22-575 from NWNW Sec 29 and NENE Sec 30 4N 45E to NWSE and SESE Sec 19 4N 45E. Also in the same transfer he moved .7 CFS of 22-180 from NENE Sec 30 4N 45E to the same POU in Sec 19.

After the transfer, the land pertinent to 22-575 is as follows:

NWSW and SESE Sec 19, SWNW and NWSW Sec 29 all in 4N 45E.

Teton Rainbow Ranch at one time prior to 1987 owned SWNW and NWSW Sec 29. They sold that land to Peter Shields and reserved the water as stated in a warrantee deed in 22-13134. Teton Rainbow Ranch then moved the water to SENE and NESE Sec 30. Based on this information the recommendations follow.

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JUN 05 2007

Recommendations

Gary Zohner receives 1.0 CFS reflected in claim number 22-575A limited to 80 acres.

Wally Rothgeb receives, as an accomplished change in POU, 0.13 CFS for 8.9 acres reflected in claim number 22-13135.

Teton Rainbow Ranch receives, as an accomplished change in POU, 0.86 CFS for 54 acres reflected in claim number 22-13134.

22-180

22-180 was decreed in the Rexburg Decree to H. C. Bowles for 140 inches (2.8 CFS) from Spring Creek, with a priority of 6-1-1889. The land describe in the decree is as follows:

“SW1/4 of SW1/4 and SW1/4 of SE1/4 of Sec. 29, N1/2 of NE1/4 of Sec. 30, T. 4 N., R. 45 E., B. M., containing 160 acres”.

After transfer 3555 mentioned above the lands to which this water water was pertinent is as follows.

NWSE and SESE Sec 19, SWSW and SWSE Sec 29, and NWNE Sec 30.

Based on that information the recommendations for 22-180 are as follows.

Recommendations

Gary Zohner receives 0.7 CFS for 80 acres reflected in claim number 22-180A

Duane Kunz receives 0.7 for 40 acres reflected in claim number 22-180B

Larell Kunz receives .44 CFS for 25 acres reflected in claim number 22-180D

Report by Trent Galbraith 12-15-06

SCANNED

JUN 05 2007

Aug. 14, 2001

To Whom it may Concern:

One of the first ditches to be made was the one that led to our home. It came directly from the top of the upper dam over to the house by the hill and was used for drinking water and irrigation. There was a nice big culvert and the ditch was always full. In 1917 Mother got Typhoid fever and the doctor told us not to drink from the ditch so we had to carry our drinking water from the spring.

The first head gate that was put in the ditch was directly in front of the old house. A stream of water was diverted East where it was used to irrigate the South and East side of the pasture. Near the head gate Dad built a shed with a large trough where we cooled the milk. This shed also housed the cream separator and a small grist mill.

The second head gate was farther North on the main ditch. Here more water was diverted onto the North side of the pasture. There was a small section on the Northeast corner of the pasture that we could not get under irrigation.

The rest of the water continued on North to the next 40 acre field. We had a series of small ditches that ran North and East. We had water down to the house in the field and we brought some back South where we had a garden.

Dad asked me to check on the water rights for the ranch in 1939. I went to the courthouse in Driggs and found that the water rights had been altered. My Fathers name was on the paper but so were Monroe Dustin Sr. and Milford Kunz. I was very upset and we searched all of the records but could not find how their names got there. The man in charge, William Strong who was a good friend of the two men who's names had been added, finally told me that it must have been by accident but he wouldn't correct it. I then drove to Idaho Falls to check the records. I did not see the records there but the man I talked to went into the back and took down a book to see what was in it. He came back and told me that Dustin and Kunz did lay claim to some water, however he said that

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JUN 05 2007

he was well acquainted with the area and that if Monroe Dustin had ever got any water from Paradise Spring up to his property where he claimed he would have had to carry it in a barrel and Milford Kunz would have had the same problem. I believe that the man I talked with in Idaho Falls was a Mr. Christofferson.

He advised me that the claim was so silly that no one would ever try to use it or honor it. I asked him how I could make sure and he made out a little paper that he gave me. He told me to take it to the two men and have them sign it and return it to him. Monroe Dustin Sr. had died and Monroe Dustin Jr. had taken over his land and Grant Kunz had the place that Milford Kunz had owned.

I came home and drove up to see Grant Kunz. He read the paper and then said Chet, I can't imagine how my Dad's name got on that paper but any fool would know that there was no way for us to get that water up here. He signed the paper and I left to see Monroe Dustin Jr. He was out in the field so I drove out to talk to him. When I gave him the paper he read it and then said, I may need that water someday and I won't sign this paper. So much for good honest men!

About 1960 when I started going to college, Ervin Schiess rented the home place from me. He opened some of the Northern ditches and extended some of them.

When I came home from school I installed a pump at the bottom of the pond by the road. This pump was used to irrigate our farm by means of sprinklers lines. After the pump was installed out by the graveyard we began having problems using our pump because the water flow would drop too much when they were pumping out of it.

Signed Chet H. Miller

Ervin M. Schiess
notary for State of Idaho
Comm Exp 8/14/2007



SCANNED
JUN 05 2007

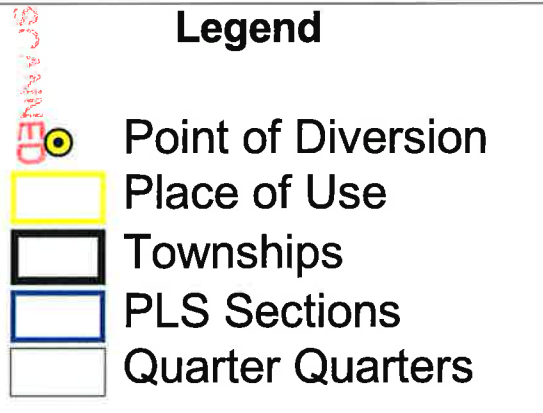


Idaho Department of Water Resources

SRBA Recommendation:

22-13509

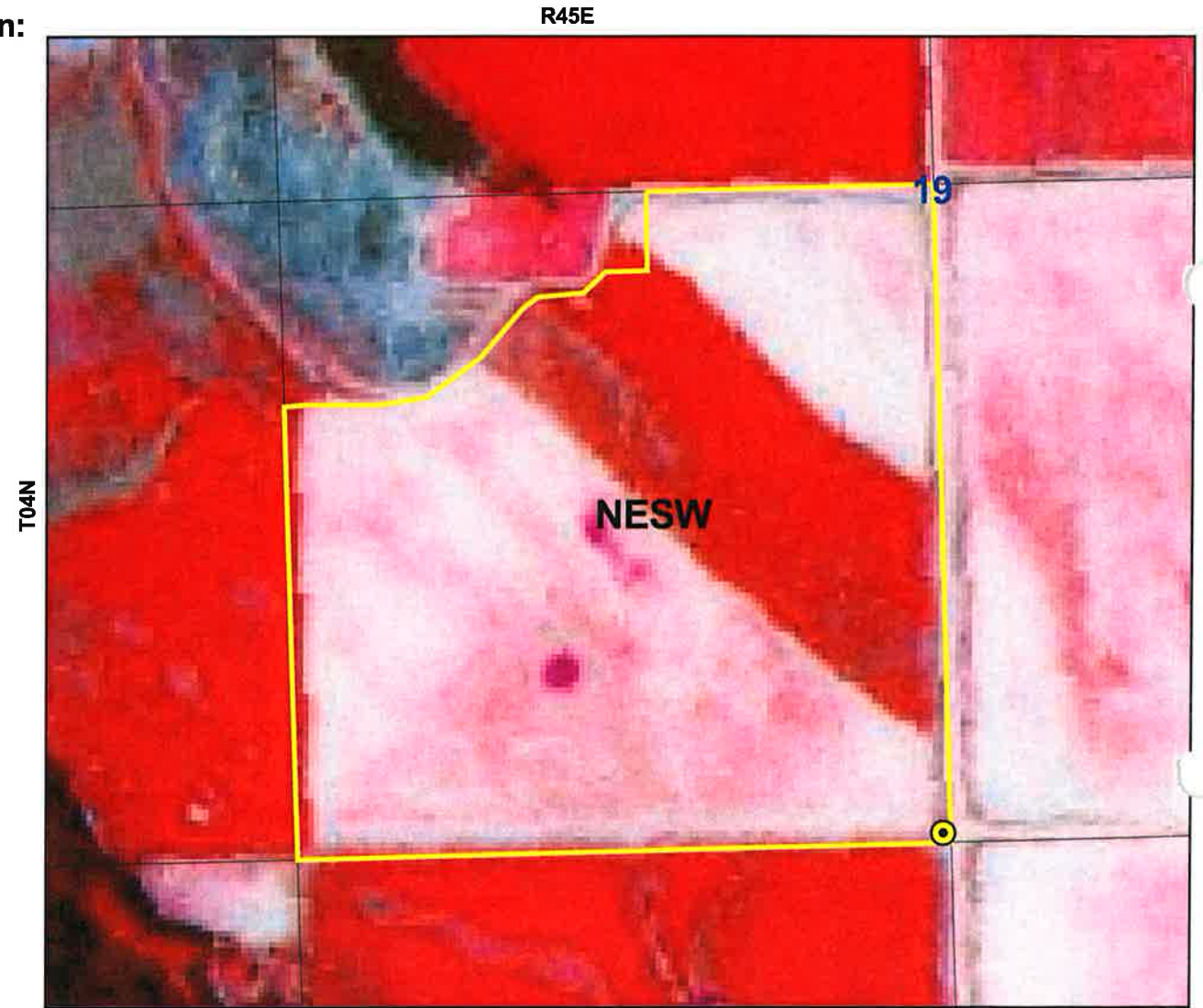
JUN 15 2007



Teton County
IDWR Basin 22



Prepared by T. Galbraith
On Friday, April 21, 2006
1987/88 Aerial Photography



0 0.1 0.2 Miles

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 22-13509

Date Received

Receipt Number

DISTRICT COURT-SRBA Fifth Judicial District County of Twin Falls - State of Idaho
DEC 22 2009
By _____ Deputy Clerk

SECOND AMENDED NOTICE OF CLAIM
TO A
WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name of Claimant(s) David W. Miller, Larry J. Miller, Ralph P. Miller, M. Phillip Miller, Lewis J. Miller, Daniel D. Miller, Ronald K. Miller Phone (208)

Mailing Address c/o Ronald K. Miller, 707 Roosevelt, American Falls, ID Zip 83211

2. Date of Priority (Only (1) per claim) June 1, 1904

3. Source of water supply (a) Paradise Springs

which is tributary to (b) Teton River

- 4.a. Location of existing point of diversion is:
Township 4N Range 45E Section 30, SE 1/4 of NE 1/4 of NW 1/4, Govt. Lot _____,
County of TETON
Parcel (PIN) No. _____

Additional points of diversion if any: _____

If Available, GPS Coordinates: _____

- 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 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. _____

6. Water is claimed for the following purposes: _____ (Both dates are inclusive) (cfs) (acre feet)

For Irrigation purposes from 04/15 to 10/31 amount 0.7 cfs or _____

7. Total quantity claimed (a) 0.7 (cfs) and/or (b) _____ (acre feet)

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

9. Description of place of use:
- If water is for irrigation, indicate acreage in each subdivision in the tabulation below.
 - If water is used for other purposes, place a symbol of use (example: D for Domestic) in the corresponding place of use below. See instruction for standard symbols.

TWP	RNG	SEC	NE 1/4				NW 1/4				SW 1/4				SE 1/4				TLS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
4N	45E	19									35								35

Parcel (PIN) No(s). _____ Total number of acres irrigated 35

10. In which county(ies) are lands listed above as place of use located? Teton
11. Do you own the property listed above as place of use? Yes ☒ No ☐
If your answer is No, describe in Remarks below the authority you have to claim this water right.
12. Describe any other water rights used at the same place and for the same purposes as described above.
_____ or None ()

13. Remarks:

14. Basis of Claim (Check one) Beneficial Use ☐ Posted Notice ☐ Permit ☐ Decree ☒ License ☐
If applicable provide IDWR Water Right Number _____
Court _____ Case Number _____ Decree Date _____
Plaintiff vs Defendant _____

15. 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 under penalty of perjury that the statements contained in the foregoing document are true and correct.

Signature of Claimant(s) Robert C. Hahn Date 12/22/2009
Attorney Date _____

17. Notice of Appearance:

Notice is hereby given that I, Robert L. Harris, 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 Robert L. Harris
Address: Holden, Kidwell, Hahn & Crapo, PLLC
PO Box 50130, Idaho Falls, ID 83405-0130
Date 12/22/2009

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 22-13509
Date Received _____
Receipt Number _____

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

RECEIVED

SEP 01 2009

County of Twin Falls
Idaho

1. Name of Claimant(s) David W. Miller, Larry J. Miller, Ralph P. Miller, M. Phillip Miller, Lewis J. Miller, Daniel D. Miller, Ronald K. Miller Phone (208)

Mailing Address c/o Ronald K. Miller, 707 Roosevelt, American Falls, ID Zip 83211

2. Date of Priority (Only (1) per claim) June 1, 1904

3. Source of water supply (a) Paradise Springs

which is tributary to (b) Teton River

4.a. Location of existing point of diversion is:
Township 4N Range 45E Section 19, SE 1/4 of NE 1/4 of SW 1/4, Govt. Lot _____,
County of TETON
Parcel (PIN) No. _____

Additional points of diversion if any: _____

If Available, GPS Coordinates: _____

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 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. _____

6. Water is claimed for the following purposes: _____ (Both dates are inclusive) (cfs) (acre feet)

For Irrigation purposes from 04/15 to 10/31 amount 0.7 cfs or _____

7. Total quantity claimed (a) 0.7 (cfs) and/or (b) _____ (acre feet)

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

9. 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 instruction for standard symbols.

TWP	RNG	SEC	NE 1/4				NW 1/4				SW 1/4				SE 1/4				TLS
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
4N	45E	19									35								35

Parcel (PIN) No(s).

Total number of acres irrigated 35

10. In which county(ies) are lands listed above as place of use located? Teton
11. Do you own the property listed above as place of use? Yes No
If your answer is No, describe in Remarks below the authority you have to claim this water right.
12. Describe any other water rights used at the same place and for the same purposes as described above.
or None ()

13. Remarks:

14. Basis of Claim (Check one) Beneficial Use Posted Notice Permit Decree License
If applicable provide IDWR Water Right Number
Court Case Number Decree Date
Plaintiff vs Defendant

15. 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 under penalty of perjury that the statements contained in the foregoing document are true and correct.

Signature of Claimant(s) Date
for Ronald K. Miller Date

Last Name Miller Ident. Number 22-13509

17. Notice of Appearance:

Notice is hereby given that I, Robert L. Harris 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 Robert L. Harris
Address P.O. Box 50130 Idaho Falls, ID 83405
Date Sept. 1, 2009

Last Name Miller Ident. Number 22-13509

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 22-13509
Date Received: 4/21/2006
Receipt No: E031812
Received By: TG

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name of Claimant(s)

FRED MILLER TRUST Phone: (208)226-2976
C/O RONALD K MILLER
707 ROOSEVELT
AMERICAN FALLS ID USA 83211

2. Date of Priority: 06/01/1960

3. Source: PARADISE SPRINGS Trib. to: TETON RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County	Type
04N	45E	19	SE NE SW	TETON	

5. Description of diverting works:

FROM PARADISE SPRINGS INTO A PIPELINE THAT WAS INSTALLED IN 1960, THEN INTO
SPRINKLERS.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
IRRIGATION	04/15	10/31	0.7	

7. Total Quantity Appropriated is:
0.7 C.F.S.

8. Total consumptive use:

9. Non-irrigation uses:

SCANNED

JUN 05 2007

10. Place of use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
04N	45E	19	NE	SW	IRRIGATION	35
					Section Acres	35
					Total Acres	35

11. Place of use in counties: TETON

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

13. Other Water Rights Used:

14. Remarks:

15. Basis of Claim: Beneficial Use

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 Trustee of
Title

FRED MILLER TRUST that I have signed the foregoing
Organization

document in the space below as Trustee of
Title

FRED MILLER TRUST and that the statements contained in the
Organization

foregoing document are true and correct.

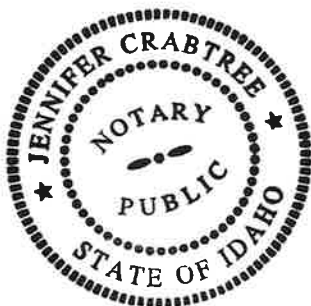
Ronald H. Miller
Signature of Authorized Agent

Trustee Fred Miller Trust
Title and Organization

4-21-06
Date

State of Idaho)
County of Bonneville) SS.

Subscribed and sworn (or affirmed) before me this 21 day of May 2001



Jennifer Crabtree
Notary Public

Residing at Idaho Falls, ID

My commission Expires 9/23/09

SCANNED

JUN 05 2007