

06/05/2003

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

RIGHT NUMBER: 29-13469

NAME AND ADDRESS: KENNETH M WILLIAMS
26132 S DOWNATA RD
DOWNEY ID 83234

DONNA B WILLIAMS
26132 S DOWNATA RD
DOWNEY ID 83234

SOURCE: ROWLEY CREEK

TRIBUTARY: BIRCH CREEK

QUANTITY: 2.520 CFS

The amount of water diverted under this water right may not exceed 1/4 of the stream flow of Rowley Creek at the point of diversion described below at any given time. This water right shall not provide more than .02 cubic feet per second per acre at any time.

USE OF THIS RIGHT WITH RIGHT NO. 29-328A IS LIMITED TO A TOTAL COMBINED DIVERSION RATE OF 2.52 CFS.

PRIORITY DATE: 05/01/1884

POINT OF DIVERSION:

T12S R36E S11 SWSNW Within BANNOCK County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	04/01 10/31	2.520 CFS

PLACE OF USE: IRRIGATION Within BANNOCK County

T12S R36E S12	NENW	39.0	T12S R36E S12	NWNW	21.0
T12S R36E S12	SWNW	26.0	T12S R36E S12	SENW	40.0

126 ACRES TOTAL

USE OF THIS RIGHT WITH RIGHT NO. 29-328A IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 126.0 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: Decreed

RIGHT INCLUDES ACCOMPLISHED CHANGE IN PLACE OF USE PURSUANT TO SECTION 42-1425, IDAHO CODE.

WATER IS DELIVERED THROUGH BIRCH CREEK CANAL (DITCH).

01/13/2003

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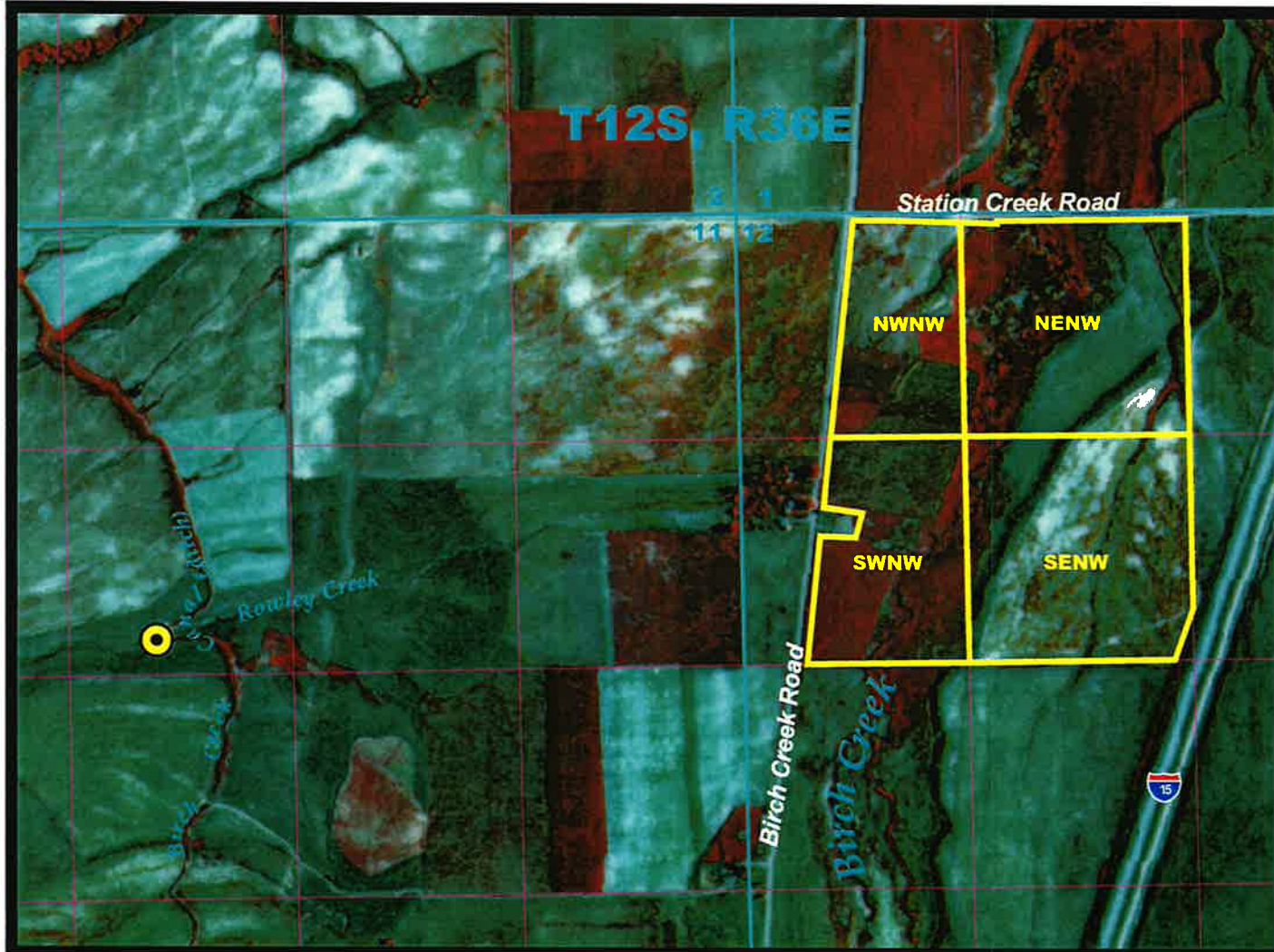
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State of Idaho

Department of Water Resources

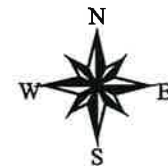
Eastern Region



Water Right(s):
29-00328A, 29-13469

Place of Use: (part of): T12S, R36E
Sec. 12 NW

Point(s) of Diversion: T12S, R36E
Sec. 11 SWNESW (Rowley Ck)
Birch Creek (not shown);
Sec. 23 SWSWNE (Rediv)
Sec. 27 SENWSW (2 PODs/POIs)



LEGEND



Point of Diversion



Place of Use



Section



Quarter-Quarter

500 0 500 1000 1500 2000 2500 3000 3500 4000 4500 5000 5500 6000 Feet

GIS Place of Use Illustration
1987/1988 NAAPP Photography
Prepared by: A. Ruberry
Date: January 2003



STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL
LAWRENCE G. WASDEN
June 4, 2003

TO: Basin 29 Surface Water User

I am writing this letter to you as a courtesy to inform you that after review of the Department of Water Resource's preliminary recommendation for your water right(s), a quantity remark has been added. The quantity remark will reflect how your water right(s) was historically decreed in a prior decree. The prior decree recognized the quantity for your water right(s) as a fractional amount of the stream flow listed from the source on your water right. You can expect the Department's Director's Report, which is to be filed with the SRBA Court sometime in July, to include a quantity remark as follows:

The amount of water diverted under this water right may not exceed (*decreed percent or fraction*) of the stream flow of (*decreed source*) at the point of diversion described above at any given time. This water right shall not provide more than .02 cubic feet per second per acre at any time.

The information in parentheses and italics will reflect whatever fraction and source is correct for your water right(s).

If you disagree with the inclusion of this quantity remark in your water right, you will be able to file an objection with the SRBA Court. A Notice of Filing Director's Report will be mailed to you along with the Director's Report for your water right(s) sometime in July. This Notice will outline the deadlines and process for filing an objection to your water right(s).

If you have any further questions regarding this matter, you can contact me at 208-327-7900.

Very truly yours,

A handwritten signature in cursive script, reading "Candice M. McHugh".

Candice M. McHugh
Deputy Attorney General, IDWR

cc: Allen Ruberry
CMM/pm

Claim No.	Claimant	Fract.	Q by Rec	Acres	Stream	Remarks
<u>Phillips vs Edwards Decree, 1924..... Rowley Creek</u>						
29-11242	Wm Phillips	1/2	1.50	75.0	Rowley Ck	
29-12020	P Fergus	1/4	2.02	100.8	Rowley Ck	
29-13469	K Williams	1/4	2.52	126.0	Rowley Ck	

Claimed in-full

<u>Wakley vs Wakley, 1904..... Station Creek</u>						
29-00321	Vaughan, et al	1/5	3.91		Station Ck	
29-00326	F Winward	1/5	1.92	96.0	Station Ck	
29-10461	Lazy VZ Trust	2/5	3.08		Station Ck	
29-11699	P Adams	1/5	5.64	282.2	Station Ck	

Decreed right(s) claimed in-full

29-13476 TJL Properties 0.065 Station Ck Recommended as BU, Priority 6/10/1904

Wakley vs Wakley, 1904.....Dry Hollow (Big Ck) and Maple Ck (Mines Canyon)

29-00317A	Vaughan, et al	4/4 0/0	3.91		Big Ck/Maple Ck	DISALLOWED-ownership not proven
29-00320	Vaughan, et al	1/4	3.91		Big Ck/Maple Ck	
29-10462	Lazy VZ Trust	4/4 1/2	1.23		Big Ck/Maple Ck	Recommended as 1/2 flow **
29-11698	P Adams	1/4	5.64	282.2	Big Ck/Maple Ck	

Claimed in-full

29-11700 P Adams XX 0.36 282.2 Unnamed Strm Beneficial Use
 29-10407 TJL Properties XX 0.07 Big Ck/Maple Ck Recommended as BU, Priority
 6/10/1904

Daniels vs Woodland, 1878..... Birch Creek

29-13103 Malad Valley Irr 3/4 6.20 Lg POU Birch Ck
 Marsh Creek side (B29) users got 1/4 of the flow of Birch Creek as shown below.

Wakley vs Wakley, 1904..... Birch Creek

29-00322	Vaughan, et al	4/24	3.91	195.3	Birch Ck	
29-00327	Marler/Gardner	2/24	2.54	128.0	Birch Ck	
29-00328A	K Williams	1/24	2.52	126.0	Birch Ck	
29-00328B	P Fergus	5/24	2.02	100.8	Birch Ck	
29-00328C	F Winward	2/24	1.92	96.0	Birch Ck	
29-00329	F Winward	2/24	0.80	40.0	Birch Ck	
29-11241	Wm Phillips	2/24	1.50	75.0	Birch Ck	
29-11650	TJL Properties	2/24	1.76	88.0	Birch Ck	
29-11697	P Adams	4/24	5.64	282.2	Birch Ck	

Claimed in-full

Notes:

** Re; 29-10462 see Transfer #3032 Claim combines 29-317 and 29-330C (which recombines A & B)
 The Decree of Davis vs Treasure only involves Birch Creek water.

02/18/2003

NOTICE OF ERROR
REPLY

Allen
RECEIVED
APR 09 2003
Department of Water Resources
Eastern Region

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: April 21, 2003

Water right number: 29-13469

KENNETH M WILLIAMS
26132 S DOWNATA RD
DOWNEY ID 83234
Telephone Number: (208)897-5718

DONNA B WILLIAMS
26132 S DOWNATA RD
DOWNEY ID 83234
Telephone Number: (208)897-5718

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:

X I AGREE with this proposed recommendation: no changes need to be made.

DATE: 1EB21-2003

SIGNATURE:

Kenneth M & Donna B. Williams

Please print your name:

KENNETH M. & DONNA B. WILLIAMS

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



STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL
ALAN G. LANCE

December 4, 2002

VIA FACSIMILE

Attn: Elaine
Archives
Bannock County Records
Facsimile No. (208) 236-7328

Re: Pleadings Request

6712 Phillips
-vs-
Edwards

Dear Elaine,

I am trying to locate court documents in the Rebecca Phillips v. Chester Edwards, Ervin Madsen and George W. Ware civil case. There is no civil case no., but the Decree is dated August 30, 1924 and was issued by Judge Terrell.

If possible, I would like copies of the Findings of Facts and Conclusions of Law, and the Decree. Please call me regarding this request at (208) 327-7928 after your research. Thanks so much for your assistance.

Sincerely,

Vicky L. Madsen
Paralegal
Idaho Department of Water Resources

I. CK is DRY for ≈ 10 yrs - 1/503 w/ Birch CK waters from BCL
AS Rowley CK is AVAILABLE.

SUB FILE OF 29-328A

Rowley Ck

253

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

BANNOCK

Rebecca Phillips,

Plaintiff,

vs.

Chester Edwards, Ervin Madson,
and George W. Ware,

defendants.

6712
DECREE
1924 10/35

This cause coming regularly on for hearing before the court sitting without a jury, on the 30 day of August 1924, upon the verified complaint of the plaintiff and the verified answer and cross-complaints of the defendants herein; plaintiff appearing in person and by her counsel, Messrs. Jones, Pomeroy & Jones, and the defendants and each of them, appearing in person and by their counsel, B. W. Davis, Esq., and after hearing the evidence offered by the parties hereto and the argument of counsel, Findings of Fact and Conclusions of Law having been expressly waived, and the Court being fully advised in the premises, makes the following Decree herein:

IT IS ORDERED, ADJUDGED, and DECREED that the parties to this action are entitled to divert from the flow of the waters of Rowley Creek for irrigation and domestic purposes, the amount of water hereinafter set out respectively and from the dates herein decreed, to-wit:

The plaintiff, Rebecca Phillips, two cubic feet per second of time of the waters of Rowley Creek during the entire season that water may be necessary for irrigation or domestic purposes, said right to date from the 1st day of May, 1884, and to be used for the irrigation of those certain premises owned by the plaintiff, described as follows:

South half of the Southeast quarter of Section 11;
North half of the Northeast quarter of Section 14; all
in Township 12, South Range 36, East of the Boise
Meridian, in Idaho, containing 160 acres, together with
the tenements, hereditaments and appurtenances thereunto
belonging or in anywise appertaining.

The defendant, Chester Edwards, two cubic feet per
second of time of the waters of Rowley Creek during the entire
season that water may be necessary for irrigation or domestic pur-
poses, said right to date from the 1st day of May, 1884, and to be
used for the irrigation of those certain premises owned by the defend-
ant, described as follows:

Beginning at a point on the East line of Section (11) Town-
ship (12) South, Range (36) East of the Boise Meridian (1830) feet
south of the northeast corner of said section; thence south on the
east line of said section (11) 323.2 feet; thence west on a line
parallel with the north line of said section (11) 2640 feet, more or
less, to the longitudinal center line of said section (11); thence
North on said longitudinal center line 323.2 feet; thence east on a
line parallel with the North line of said section (11) 2640 feet,
more or less, to the place of beginning. The same being a part of
the South half of the Northeast quarter of Section (11).

Also beginning at a point on the east line of section (11)
Township (12) South, Range 36 east of the Boise Meridian (1853.2)
feet south of the Northeast corner of said section; thence south
on the said east line of Section 11 (786.8) feet more or less, to the
quarter section corner between sections (11) and twelve (12) thence east
on the latitudinal center line of section (12), (297.5) feet to the
center of the county road; thence south 7 degrees 33' west along
the said county road (1281.6) feet more or less, to the intersection
of its center line with the south one sixteenth (1/16) line of sec-
tion (12) township (12) south, range (36) east of the Boise Meridian;
thence west on the south one sixteenth (1/16) section line of sections
(11) and (12) (1442.5) feet more or less to the east one sixteenth
(1/16) section corner on the south (1/16) section line of section (11)
thence north on the east one sixteenth (1/16) section line of section
(11) (2106.8) feet more or less to a point (1853.2) feet south of the
north line of said section; thence east on a line parallel with the
north line of said section (11) (1320) feet more or less to the place
of beginning, the said tract being in the northeast quarter of the
southeast quarter of section (11) and a part of the southeast quarter
of the northeast quarter of section (11) and a part of the northwest
quarter of the southwest quarter of section (12) township (12) south
range (36) east of the Boise Meridian, and containing (70.21) acres
more or less.

Also beginning at a point on the east (1/16) one sixteenth,
section line of section (11) township (12) south, range (36) east
of the Boise Meridian (1853.2) feet south of the east one sixteenth
(1/16) section corner on the north line of said section (11); thence
south on the said east one sixteenth (1/16) section line (2106.8) feet
more or less to the south one sixteenth (1/16) section corner on said
line; thence west on the south one sixteenth (1/16) section line of
said section (1320) feet, more or less, to the south one sixteenth
(1/16) section corner on the longitudinal center line of said section
(11) thence north on said center line (2106.8) feet more or less, to
a point on said line (1853.2) feet south of the north quarter corner
of said section (11) thence East on a line parallel with the north
line of said section (11) (1320) feet, more or less, to the place of

beginning, the same being the northwest quarter of the southeast quarter and a part of the southwest quarter of the northeast quarter of section (11) Township (12) south, Range (36) East of the Boise Meridian, in Bannock County, Idaho, containing (63.66) acres more or less.

The defendant Ervin Madsen, two cubic feet per second of time of the waters of Rowley Creek during the entire season that water may be necessary for irrigation or domestic purposes, said right to date from the 1st day of May, 1884, and to be used for the irrigation of those certain premises owned by the defendant, described as follows:

Beginning at a point on the east line of Section Eleven in Township Twelve south of range 36, East of the Boise Meridian, 1530 feet south of the northeast corner of said section; thence south on the east line of said section eleven, 323.2 feet; thence west on a line parallel with the north line of said section eleven 2640 feet more or less, to the longitudinal center line of said section eleven; thence north on said longitudinal center line 323.2 feet; thence east on a line parallel with the north line of said section eleven 2640 feet more or less to the place of beginning, the same being a part of the south half of the northeast quarter of section eleven, containing 19.58 acres, more or less.

Also beginning at a point on the latitudinal center line of section twelve in Township twelve south of range 36 East of the Boise Meridian, at its intersection with the center line of the County Road 297.5 feet east of the west quarter corner of said section twelve; thence east on the said center line of said section twelve 2342.5 feet to center quarter corner of said section twelve; thence south on the longitudinal center line of said section twelve 1320 feet; more or less, to the south 1/16 section corner of said line; thence west on the south 1/16 section line of said section twelve 2517.5 feet, more or less, to the center of the County Road; thence north 7 degrees 33 minutes east along the County Road 1331.6 feet, more or less, to the place of beginning, being the northeast quarter and a part of the northwest quarter of the southwest quarter of section twelve in township twelve south of Range 36 East of the Boise Meridian, containing 73.64 acres, more or less.

Also the south half of the southwest quarter of section twelve, and the west half of the northeast quarter (~~W₁NE₁~~) and the north half of the southeast quarter (~~NE₁SE₁~~) of Section twelve in township twelve south of range 36 East of the Boise Meridian;

The defendant, George H. Ware, two cubic feet per second of time of the waters of Rowley Creek during the entire season that water may be necessary for irrigation or domestic purposes, said right to date from the 1st day of May, 1884, and to be used for the irrigation of those certain premises owned by the defendant, described as follows:

NW Section 12, T.P. 12, S. R. 36, E.B.M., in Idaho, and containing 135.86 acres.

Also beginning at the N.E. Corner of the N.W. 1/4 N.E. 1/4 Sec. 11 T.P. 12, S.R. 36, E.B.M., in Idaho, thence south on the 1/16 line 1530 feet thence W. 1331.5 feet thence North on the 1/16 line 1530 feet to the north 1/4 corner of sec. 11 thence east on Sec. line 1331.5 feet to the point of beginning containing 46.77 acres more or less in the west half of the N.E. 1/4 Sec. 11 T.P. 12, S. R. 36, E.B.M., in Idaho.

It is further ORDERED, ADJUDGED and DECREED that the priority rights of the parties hereto to appropriate the waters of Rowley Creek, are of equal dignity and that the parties to this action are entitled to one-fourth ($\frac{1}{4}$) of the water of Rowley Creek during all seasons of the year without regard to the amount of water in said creek at low or high water mark.

It is further ORDERED, ADJUDGED and DECREED that each and every of the parties to this action, their agents, servants and employees, be and each of them are hereby enjoined ~~and~~ forever and perpetually from in any manner using the waters of Rowley Creek in any other quantity or in any other manner than as herein set forth and decreed, and authorized by this decree.

Done this 30 day of August, 1924,
in open court.



District Judge.

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 29-13469

Date Received: 1/6/2003

Receipt No:

Received By:

BP 28/25

MR

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name of Claimant(s)

KENNETH M WILLIAMS Phone: (208)897-5718
26132 S DOWNATA RD
DOWNEY ID USA 83234

DONNA B WILLIAMS Phone: (208)897-5718
26132 S DOWNATA RD
DOWNEY ID USA 83234

2. Date of Priority: 05/01/1884

3. Source: ROWLEY CREEK Trib. to: BIRCH CREEK

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County	Type
12S	36E	11	SW SE NW	BANNOCK	

5. Description of diverting works:

CREEK FLOWS INTO BIRCH CREEK CANAL (DITCH). WATER IS COMINGLED WITH BCC WATERS
SAME POU.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
IRRIGATION	04/01	10/31	2.66	

7. Total Quantity Appropriated is:

2.66 C.F.S.

8. Total consumptive use:

9. Non-irrigation uses:

10. Place of use:

Township	Range	Section	1/4 of 1/4 Lot	Use	Acres
12S	36E	12	NW NW	IRRIGATION	25
			NE NW	IRRIGATION	40
			SE NW	IRRIGATION	40
			SW NW	IRRIGATION	28
				Section Acres	133
				Total Acres	133

11. Place of use in counties: BANNOCK

2913469



RECEIVED

JAN 10 2003

1

Department of Water Resources
Eastern Region

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

13. Other Water Rights Used:

14. 14. Remarks:

FEE DUE \$50.00. CLAIM FILED PURSUANT TO PHILLIPS VS EDWARDS DECREE, 1884.

15. Basis of Claim:

16. Signature(s)

(a.) By signing below, I/We acknowledge that I/We have received, read and understand the form entitled "How you will receive notice in the Snake River Basin Adjudication." (b.) I/We do _____ do not ☒ wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments: _____

For Individuals:

I/We do solemnly swear or affirm that the statements contained in the foregoing document are true and correct.

Signature of Claimant(s):

Kenneth M. Williams
Donna B. Williams

Date: 1/9/03

Date: 1-9-03

State of Idaho)

County of Bannock)

SS.

Subscribed and sworn (or affirmed) before me this

of January 2003

9th
Lauretta M. Davis

Notary Public

Residing at

Downey, Id

My commission Expires

12-22-05

