

12/12/2002

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

RIGHT NUMBER: 29-13398

NAME AND ADDRESS: CUTLER DITCH
C/O RONALD VAUGHAN
PO BOX 337
MC CAMMON ID 83250

SOURCE: PORTNEUF RIVER

TRIBUTARY: SNAKE RIVER

QUANTITY: 1.000 CFS

PRIORITY DATE: 05/01/1896

POINT OF DIVERSION:

T09S R37E S21 SENE Lot 1 Within BANNOCK County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	04/15 09/15	1.000 CFS
THE USE OF WATER FOR IRRIGATION UNDER THIS RIGHT MAY BEGIN AS EARLY AS APRIL 1 AND MAY CONTINUE TO AS LATE AS OCTOBER 31, PROVIDED OTHER ELEMENTS OF THE RIGHT ARE NOT EXCEEDED. THE USE OF WATER BEFORE APRIL 15 AND AFTER SEPTEMBER 15 UNDER THIS REMARK IS SUBORDINATE TO ALL WATER RIGHTS HAVING NO SUBORDINATED EARLY OR LATE IRRIGATION USE AND A PRIORITY DATE EARLIER THAN THE DATE A PARTIAL DECREE IS ENTERED FOR THIS RIGHT.		

PLACE OF USE: IRRIGATION Within BANNOCK County

T09S R37E S17	SWSE	3.0	T09S R37E S20 Lot 1 NENE	14.4
T09S R37E S20	NWNE	11.0	T09S R37E S20 Lot 2 SWNE	9.0
T09S R37E S20	NENW	21.6	T09S R37E S20	NWNW 11.0
T09S R37E S20 Lot 3	SENE	4.0		

74 ACRES TOTAL

USE OF THIS RIGHT WITH RIGHT NO. 29-13400 IS LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 74.0 ACRES IN A SINGLE IRRIGATION SEASON.

THIS RIGHT IS LIMITED TO THE IRRIGATION OF 50.0 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 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

12/12/2002

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

ROTATION OF AVAILABLE WATER IS AUTHORIZED AS BETWEEN CUTLER
DITCH USERS

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

WATER IS DELIVERED THROUGH CUTLER DITCH.

THIS RIGHT IS A SPLIT FROM FORMER RIGHT 29-11253.



JUL 27 2003

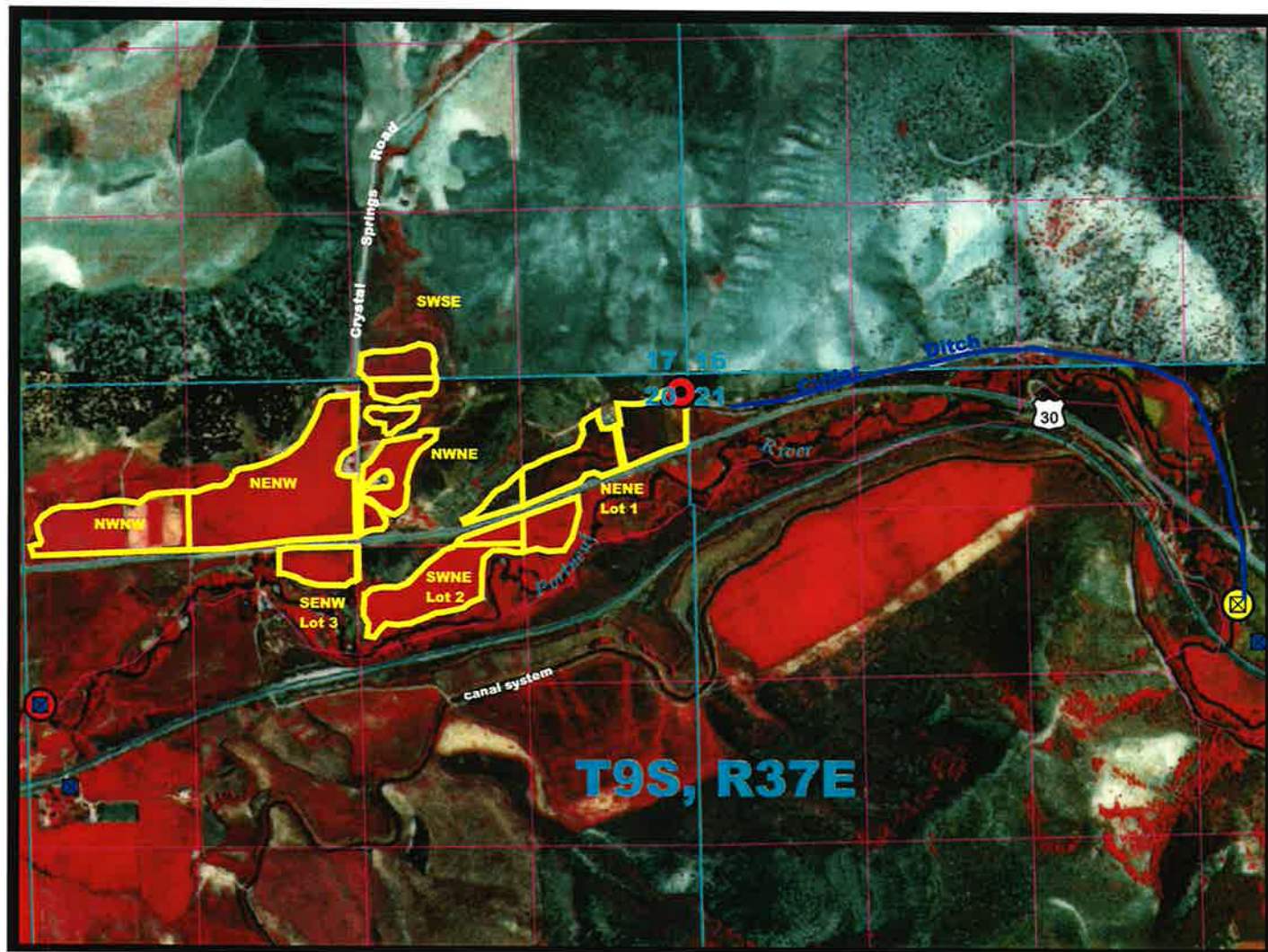
RECEIVED

SCANNED

State of Idaho

Department of Water Resources

Eastern Region



Water Right(s):

29-13398, 29-13400

Place of Use: (parts of) T9S, R37E
Sec. 17 SWSE, Sec. 20 N2N2,
SWNE (L2), SENW (L3)

Point(s) of Diversion: T9S, R37E
Sec. 21 SENE (L1)

Note: Delivery through the
Cutler Ditch



LEGEND



Point of Diversion

SESE

Place of Use



Section



Quarter-Quarter

GIS Place of Use Illustration
1987/1988 NAAPP Photography
Prepared by: A. Ruberry
Date: December 2002

all conds for cyther D. itly should
be to Forrest Whitworth at M^c Common

CHANGE IN ADDRESS

This form is solely for purposes of notifying IDWR of a change in address of an adjudication claim.

[] Water Right Number(s): A29-00041 A29-00054

RECEIVED

MAY 18 2004

A29-11253 A29-12053

A29-12557

Department of Water Resources
Eastern Region

[] Old Mailing Address:

Roger Johnson

3369 E. HY. 30

M^c Common Rd. 83250

[] New Mailing Address:

Forrest Whitworth

9083 S ~~St~~ Crystal Spr. Rd.

M^c Common Rd

208-254-3626

[] Telephone Number:

[] Signature of Claimant:

Roger Johnson

[] Date:

5-11-01

FOR IDWR USE ONLY:

Initial Review and Data-Entry

Date:

By:

Further Action Needed:

Further Action Taken

Date:

By:

Final Review and Data-Entry

Date:

By:

PROFILED

SCANNED

SEP 02 2004

Kaye and I are serving a mission
for the Church of Jesus Christ of Latter Day
Saints in Morroco Ll. We will be here
until 3-Jan-02. then we will be back to
M^c Common. We did not receive this
notice until the day after the meeting.



State of Idaho

DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Suite A, Idaho Falls, Idaho 83402-1718 - (208) 525-7161- Fax (208) 525-7177

EASTERN REGION

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

May 7, 2001

CUTLER DITCH
C/O ROGER JOHNSON
P BOX 215
NAUVOO IL 62354-0215

RE: CHANGE OF ADDRESS FOR A29-00041, A29-00054,
A29-11253, A29-12053 AND A29-12557

Dear Mr. Johnson:

It has come to our attention that your address may have recently changed. The address currently recorded on the above referenced water right(s) is as follows:

Cutler Ditch
C/O Roger Johnson
3369 E Hwy 30
McCammon ID 83250

We recommend if, in fact, the address in question has been changed, you file a "Change in Address" with this department in order that we may send all further correspondence to the appropriate address.

Enclosed is a Change in Address form. Please fill out the form completely, sign and date it and return it to my attention.

If you have any questions regarding this matter, please call 525-7161.

Respectfully submitted,

Cheri Vandermeulen

Cheri Vandermeulen
Records Clerk

Enclosure(s)

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Eastern District Office
900 N. Skyline Dr., Suite A
Idaho Falls, ID 83402-1718

RETURN SERVICE REQUESTED

29-41
29-54
29-11253
29-12053
29-12557

John 369

CUTLER DITCH
C/O ROGER JOHNSON
3369 E HWY 30
MC CAMMON ID 83250

JOHN369 832502005 1700 04 05/03/01
RETURN TO SENDER
JOHNSON
PO BOX 215
NAUVOO IL 62354-0215
RETURN TO SENDER

83250X1603

MAY 22, 2001

DEAR MR. WHITWORTH:

WATER RIGHT NUMBERS A29-00041, A29-00054, A29-11253, A29-12053
AND A29-12557 HAVE BEEN CHANGED TO REFLECT THE ADDRESS ON THE
FRONT OF THIS CARD PER ROGER JOHNSON'S REQUEST.

IF YOU HAVE ANY QUESTIONS FEEL FREE TO CONTACT THIS OFFICE
AT 208-525-7161.

RESPECTFULLY SUBMITTED,

Cheri Vandermeulen
CHERI VANDERMEULEN
RECORDS CLERK



CUTLER DITCH
C/O FORREST WHITWORTH
9083 S CRYSTAL SPRINGS RD
MC CAMMON ID 83250

2 October 2002

Cutler Ditch Assoc.
C/O Ronald Vaughan
PO Box 337
McCammon ID 83250

Kenneth and Jim Andrus
6948 East Old Oregon Trail Rd
Lava Hot Springs ID 83246

RE: Split portions of the Cutler Ditch water rights 29-11253 and 29-12053

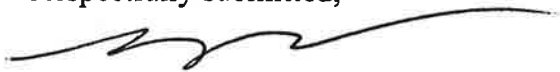
Gentlemen:

Enclosed you will find copies of the split portions of the water right claims appurtenant to the respective properties and an attached GIS illustration. I realize this is a somewhat confusing matter; therefore, I am forwarding this data prior to the Preliminary Director's Report. Hoping that, if there are errors or other matters not considered in the splitting of the water rights you would notify me so that they (it) might be corrected.

Attached hereto, you will also find notes explaining how the water rights were split based upon acreages. And the notes herein are only a guideline by which the splitting occurred. The actual water right recommendation to be presented in the Preliminary Director's Report, may, and probably will, differ from the claims as shown. Some of the elements may change to reflect actual usage.

You **do not** need to sign and/or return these documents to me; they are for your records. However, if you should find errors or should you have questions please feel free to contact me. And, thank you all for your patience and cooperation.

Respectfully submitted,



Allen B. Ruberry

Cc; files

Enclosures; Copies of claims 29-13398, 29-13400 to Cutler Ditch
Copies of claims 29-13399, 29-13401 to Andrus'
Copies of split notes and water right claims

SCANNED

JUL 27 2003

02/18/2003

NOTICE OF ERROR
REPLY

allen

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: 29-13398

CUTLER DITCH
C/O RONALD VAUGHAN
PO BOX 337
MC CAMMON ID 83250
Telephone Number: (208) 254-3962

1. Describe the portion of the proposed recommendation with which you disagree (e.g. priority date, period of use, source):

The allotment of a split

2. Describe the changes you wish to make in the proposed recommendation:

The original decreed water rights 29-55, 29-56 combined to make 29-11253 should not be split

3. Give a brief explanation as to why you disagree with these portions:

The place of use legal description does not match property that the other claimant says he bought the water rights off of, therefore he cannot own any portion of these combined rights. No change in place use is required because it was not decreed to that property. The only common thread is the delivery ditch

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

DATE: 4-17-03

SIGNATURE:

Ron Vaughan

Please print your name:

Ronald J. Vaughan

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

4/30/03

EVIDENCE TENDS TO support the split on Archie Cutler Ditch Rights - Mr. Anderson only received a proportionate share based on irrigated acres

ARM

RECEIVED

APR 24 2003

Department of Water Resources
Eastern Region

.58 A. 10.
1.40 RT. No.29-00247
29-00248

RT. No. 29-00045

YEAR 2002

STATION NUMBER

DIVERSION NAME Cutler Ditch

Day	APR	MAY	JUNE	JULY	AUG	SEPT	OCT
1		0	2.35	—			
2		0	2.35	—			
3		0	2.35	—			
4		0	2.49	—			
5		0	2.49	—			
6		0	2.49	—			
7		0	2.49	—			
8		0	2.63	—			
9		0	2.63	—			
10		0	2.63	.44			
11		0	2.63	1.92			
12		0	2.63	1.92			
13		0	2.63	2.10			
14		0	2.63	1.07			
15	0	0	2.63	2.22			
16	0	2.03	2.63	2.03			
17	0	1.97	2.63	1.97			
18	0	1.97	—	1.97			
19	0	2.70	—	1.80			
20	0	2.70	—	2.03			
21	0	2.70	—	1.97			
22	0	2.70	—	1.97			
23	0	2.70	3.07	2.03			
24	0	2.70	3.07	1.97			
25	0	2.70	3.07	2.03			
26	0	2.35	2.35	1.86			
27	0	2.35	1.92	1.86			
28	0	2.35	1.92	1.86			
29	0	2.35	—	1.86			
30	0	2.35	—	1.86			
31	—	2.35	—	1.38			

REMARKS: From June 18th - and they were shut down for construction.
 - On June 28th they shut down to clean ditch
 | no longer wanted any water)

Ruberry, Allen

From: Ruberry, Allen
Sent: Thursday, December 12, 2002 8:27 AM
To: Block, Darla
Cc: Ball, Dayna M.
Subject: FW: B29 WM records

Good morning Ladies, I need some help. I'm working on the Cutler Ditch rights in B29. This is a very contentious issue. At this point, I need immediately the Water Master's records for years 1980 to 1987. Also, the same records for 1987 to 2001, but without the urgency. There is an forfeiture/abandonment issue that's surfacing. The rights may be listed as Cutler Ditch, Roger Johnson or 29-55, 29-56, 29-247, or 29-248.

Looks like we will be going to court over these regardless of what we do but I'd like to have all the ammo available.

Thanks for the assistance..... Al Ruberry

-----Original Message-----

From: Ruberry, Allen
Sent: Wednesday, December 11, 2002 2:57 PM
To: Luke, Tim
Subject: RE: B29 WM records

The question here is in relation to Cutler Ditch delivery of 29-247 and 29-248 (1868 Indian Rights) and 29-0055 and 29-0056.. Claimed (SRBA) as 29-12053, and 29-11253, respectively, by Roger Johnson. Now Jim and Ken Andrus have submitted evidence showing purchase of the portion of ALL Cutler Ditch rights for the POU South of the Highway 30..... This is pretty messy..... If you have any input or prior knowledge of the use of these rights in this situation I would welcome your comments

Thx.....al.

-----Original Message-----

From: Luke, Tim
Sent: Wednesday, December 11, 2002 2:49 PM
To: Ruberry, Allen
Cc: Ball, Dayna M.
Subject: RE: B29 WM records

Al,
Records are on microfiche and on file in Permits Section - Darla Block's office. Dayna Ball (my clerical assistant) can retrieve certain years for you, print out the relative information and mail them to you. Darla can also copy the microfiche and send microfiche jackets to you - however she had surgery last week and will be out for the next four to five weeks. Someone in Permits or maybe Dayna can make these copies - I'm thinking it would be less time consuming to just copy the microfich jackets rather than Dayna sitting in front of a printer and printing one page at a time, but this may depend on how many years of information you want. Your message did not specify what years, how many years etc.

I would suggest contacting Dayna Ball at 327-7907.

One other comment on WD29 at about 1987 and prior, although this period is a little before my time, I think delivery records prior to 1987 may not be very reliable. I thought that many of the diversions in the district did not even have measuring devices until about the mid 1980's. I remember seeing one set of log books from this district under the watermaster just prior to Arlin Olson where X's or check marks were recorded instead of actual or real flow measurements. You might talk to Skip Jones to get some idea of the quality of data for pre 1987.

Tim

-----Original Message-----

From: Ruberry, Allen
Sent: Wednesday, December 11, 2002 2:31 PM
To: Luke, Tim
Subject: B29 WM records

Tim, can you direct me to the individual in your shop who I can contact about portneuf River delivery records prior

to 1987?

Thx.....Al

SPLIT OF CUTLER DITCH WATER RIGHTS

10/2/02

Page 1 of ____

29-11253 COMBINES DECEASED RTs: 29-00055 AND 056.

29-12053 COMBINES DECEASED RTs: 29-00247 AND 248 (OLD INDIAN RT)

29-12557 DISALLOWED - CROSS CLAIMED OF 29-12053.

I. BOTH RTs ABOVE ARE CLAIMED IN THEIR ENTIRETY BY CUTLER DITCH, % ROGER JOHNSON.

A. CLAIMS INCLUDE LANDS NOW OWNED BY L. HANDBASTLE WHO BY DEED BOUGHT THE LANDS W/O WATER RTs.

1. ALL PREVIOUSLY APPURTENANT WATER RIGHTS WERE SOLD TO KEN ANDRUS (NO TRANSFER FILED-TO DATE).

B. LANDS OTHER THAN HANDBASTLE LANDS WERE SOLD OFF TO VARIOUS PEOPLE W/ PORTIONS OF CUTLER DITCH RTs.

1. PRESENT DAY USERS OF CUTLER DITCH, INCLUDING ROGER JOHNSON, HAVE FORMED CUTLER DITCH WATER ASSOC. UNDER WHICH THE REMAINING PARTS OF THE ABOVE RTs WILL BE RECOMMENDED.

II. A COMPARISON OF ASCS ACREAGE, CLAIM ACREAS AND GPS ACREAS WAS MADE.

A. CUTLER DITCH CLAIMS 145³ AC

B. ASCS PHOTO COPY SHOWS 115⁶ AC

C. GPS ACREAS 115³ AC

1. GPS ACREAS WILL BE THE BASIS OF THE SRBA RECOMMENDATIONS OF BOTH REFERENCED CLAIMS. HOWEVER, THESE RIGHTS (TO BE SPLIT) WILL ALSO HAVE CF AND AC LIMITS BASED ON THE SPLIT ACS.

a. CUTLER DITCH WILL GET $74/116^{(115^3)}$ OF EACH RT.

b. ANDRUS WILL GET $42/116$ OF EACH RT.

III. ONCE PD's ARE ISSUED FOR EACH RT RECOMMENDED, BOTH CUTLER DITCH ASSOC AND ANDRUS PLAN TO FILE TRANSFERS ON THEIR PORTIONS OF EACH RT.

A. SEE ATTACHED SPLIT HISTORY.

29-13398 Cutler Ditch Assoc.

SPLIT PORTION $74/116$ OF $1.56 \text{ cfs} = 0.995 \Rightarrow 1.0 \text{ cfs}$
THIS RIGHT LIMITED TO 50 AC W/1
THE 74 ACRE PLACE OR USE.

29-11253

THIS CLAIM COMBINES
DECREED RTS 29-00055
AND 29-00056. SEE
UNION GRAIN & ELEVATOR
DUES (CIRCA 1932).

$\text{Cfs} = 1.56 \text{ cfs} @ 0.02 \text{ cfs/ac}$
ALLOWS IRRIG. OF 78 AC.

* ALL CLAIMED Cutler Ditch RTS.
HAVE HISTORICALLY BEEN USED
AS PERMISSIBLE PLACE OF USE.

THEREFORE, 29-11253 SERVES 78 AC.
29-12053 SERVES 99 AC.

WITH OVERTLAP OF SOME PLACE OF USE.

CLAIMS: 145° AC. ; $\text{ASCS AC} = 115^{\circ} \text{ AC.}$;

$\text{GIS AC} = 115^{\circ} \Rightarrow 116^{\circ} \text{ AC.}$

29-13399 ANDRUS, KEN & Jim

SPLIT PORTION $42/116$ OF $1.56 \text{ cfs} = 0.56 \text{ cfs}$
THIS RIGHT LIMITED TO 28 ACRES
W/1 THE 42 ACRE PLACE OR USE.

29-13400 CUTLER DITCH

SPLIT PORTION $74/116$ OF $1.98\text{cts} = 1.26\text{cts}$
THIS RIGHT IS LIMITED TO 63°AC w/1
THE 74° ACRE PLACE OF USE.

29-12053

THIS CLAIM COMBINES DECEASED
INDIAN Rts 29-00247 AND
29-00248. SEE USA vs
J. HIBNER (4/8/1929.)

$\text{Cts} = 1.98\text{cts} @ 0.02\text{cts/ac} = 99\text{ac.}$

PERMISSIBLE PLACE OF USE
DUE TO DELIVERY OF ALL
CUTLER DITCH Rts. @ SAME PDD/
DITCH SYSTEM.

THEREFORE, 29-12053 SERVES 99AC
29-11253 SERVES 78AC
WITH OVERLAP OR SOME PDD.

CLAIMS: 145°AC ; $\text{ASCSAC} = 115^{\circ}\text{AC}$

$\text{GXSAC} = 115^{\circ} \Rightarrow 116^{\circ}\text{AC}$

29-13401 KEN & SIM ANDRUS

SPLIT PORTION $42/116$ OF $1.98\text{cts} = 0.72\text{cts}$
THIS RIGHT IS LIMITED TO 36°AC w/1
THE 42° ACRE PLACE OF USE.

CHANGE IN ADDRESS

This form is solely for purposes of notifying IDWR of a change in address of an adjudication claim.

[] Water Right Number(s): *29-00047 29-00048 (A29-12053)

29-00055 29-00056 (29 11253)

[] Old Mailing Address: Roger Johnson Cutter Ditch

3369 E Hwy 30

McCammon Idaho

[] New Mailing Address: Ronald Vaughan Cutter Ditch Co.

P O Box 337

McCammon Idaho 83250

[] Telephone Number: (208) 254-3962

[] Signature of Claimant: Ron Vaughan

[] Date: 8-22-02

FOR IDWR USE ONLY:

Initial Review and Data-Entry

Date: By:

Further Action Needed:

Further Action Taken

Date: By:

Final Review and Data-Entry

Date: By:

RECEIVED
AUG 26 2002
Department of Water Resources
Eastern Region

* 29-00047 AND 29-00048 ARE ACTUALLY 29-00247
AND 29-00248. BOTH 247 AND 248 ARE 1868 RTS.

HOWEVER, PORTIONS OF EACH HAVE BEEN PURCHASED BY
ANONUS BROG. THEREFORE, 29-12053, CLAIMED 247
AND 248 IN TOTAL @ 1.98 cfs IS ACTUALLY ABOUT 1/2
BASED ON 0.02 cfs/ac $(1.98 \text{ cfs} / 0.02 \text{ cfs/ac} = 99 \text{ AC}) \approx 52 \text{ AC}^{\pm}$.

MARCEA KELLY POOL (ANONUS (NOW) HANCOCK) = 44 5/8

29-11253 CLAIMS BASIS OF RIGHT IS DEEROD.

502 #2 Below

1. NO REFERENCE IS FOUND TO CONFIRM DEEROD BASIS. THIS CLAIM, IF CHANGED TO A BU CLAIM, NEEDS THE FOLLOWING:

A. BASIS CHANGED TO BU

B. EVIDENCE TO SUPPORT A LATER PRIORITY DATE.

Q: IS LOT 5 PART OF POB? CONVEYANCE? C. CORRECTION OF PORE: SENE IS LOT 5, NOT LOT 1 AND IS WHOLLY SOUTH OF PORTNEUE RIVOTE.

Q: WMD DELIVERY How much Total Q OF ALL RTS?

NEED CC OF SURVEY PLAT FOR POB LOT CONFIG/AC. CC/ATTACHES

29-00055 SEC. 20 NW1/4 (40ac)

29-00056 SEC. 20 N2NW (80ac)

L1	37.56
L2	17.40
L3	14.50
	<u>69.50</u>

* Lot 4 is NOT DEEROD - There is NO Lot 5

Q: WHAT PRIORITIES OF RTS DELIVERED?

9/10/01

2. IT APPEARS POSSIBLE THAT THE INTENT OF THE CLAIMANT IS TO COMBINE 29-00055 AND 29-00056. BOTH DEEROD FROM CUTLOR DITCH. ELEMENTS OF CLAIMS AS:

78 ac @ 0.02
22 11.56

29-00055, 0.34 cfs, 1896, MAY 1

29-00056, 1.22 cfs, 1896, MAY 1

1.56 cfs @ 0.02 cfs/ac 78 ac

A. BY DEEROD, MAX. ACREAGE OF BOTH RTS (TOTAL) IS: 69.50 ac?

1. CLAIMS 145² OF WHOLE Lot 4 (SW1/4 - 25² ac) 24²; SEC. 17 SWS6 (40 ac) CLAIMS 6² ac; AND SEC. 19 Lot 3 (SENE - 46²⁰ ac) CLAIMS 25.2.

a.) NO BASIS BY WHICH TO RECOMMEND ANY OF THESE ACRES UNLESS AN ENLARG... CLAIM (42-1426 IC) CAN BE ADDRESSED.

2. ALSO CLAIMS USE of 29-00054. HOWEVER 'SHA' HAS BEEN CLAIMED IN-PART BY DAVID LANCASTER (CB ATTACHED).

Cutter Ditch

200	7/1/1892	.22 cts	City of McCombs
201	7/1/1892	.17 cts	
202	7/1/1892	.31 cts	

~~No claim~~

04 - Arkansas River
05 - Arkansas River (SOS 29-11743)

197 > No Claims Found
199

54 - Lancaster, David (As part 'A' - no part 'B')

55 > Cutter Ditch - R. Johnson (As 29-11253)
56

247 > Claimed by Forest Whitworth (As 29-12053)
248 > Claimed by But. Ken Andrews apparently owns 2/4/5 of 17.
2 1/2

CHANGE IN ADDRESS

This form is solely for purposes of notifying IDWR of a change in address of an adjudication claim.

[] Water Right Number(s) *29-00047 29-00048 (A29-12053)
29-00055 29-00056 (29 11253)

[] Old Mailing Address: Roger Johnson Cutler Ditch
3369 E Hwy 30
McCammon Idaho

[] New Mailing Address: Ronald Vaughan Cutler Ditch Co.
P O Box 337
McCammon Idaho 83250

[] Telephone Number: (208) 254-3962

[] Signature of Claimant: Ron Vaughan

[] Date: 8-22-02

FOR IDWR USE ONLY:

Initial Review and Data-Entry

Date: By:

Further Action Needed:

Further Action Taken

Date: By:

Final Review and Data-Entry

Date: By:

RECEIVED
AUG 26 2002
Department of Water Resources
Eastern Region

* 29-00047 AND 29-00048 ARE ACTUALLY 29-00247
AND 29-00248. BOTH 247 AND 248 ARE 1868 RTS.

HOWEVER, PORTIONS OF EACH HAVE BEEN PURCHASED BY
ANONIMUS BROS. THEREFORE, 29-12053, CLAIMED 247
AND 248 IN TOTAL @ 1.98 cfs IS ACTUALLY ABOUT 1/2
BASED ON 0.02 cfs/ac $(1.98 \text{ cfs} / 0.02 \text{ cfs/ac} = 99 \text{ AC}) \approx 52 \text{ AC}^{\pm}$.

MARCEA KELLY PRICE (ANONIMUS YOUNG NAME WITH) = 111

Cutler Ditch By-Laws

October 2001

- Meeting will take place at a place designated by the presiding president, usually at his residence or a place specified by him whenever deems necessary.
- Annual meeting will take place on a designated day in the month of February. Notice will be given to shareholders by the secretary at least three days in advance by phone. At the annual meeting the Board of Directors will be elected for the upcoming year. The board will consist of three; President, vice-president, and Secretary Treasurer.
- Each shareholder will have one vote for each acre of ground and a fraction for each fraction of ground watered. A joint ownership or corporation will have only one vote from the designated voter.
- Ditches will be assessed by the officers and repairs and improvements decided upon. The improvements, repairs, and maintenance of distributing ditch will be under the direction of the directors. Costs will be estimated and total cost will be a pro-rated charge to each shareholder proportion to the water which the owner is entitled to receive.
- A majority of the Board of Directors will constitute a quorum for the transaction of business.
- Before April 15th of each year, the secretary will notify each shareholder of the amount assessed against him for the year. This amount will be due by May 31st of that same year.
- No shareholder will be entitled to the water whenever any such assessment is due and has not been paid.
- The association may take legal action to collect any unpaid or delinquent assessments and in addition to the amount due including all penalties and interest, and all costs incurred in said action, may collect a reasonable attorney's fees in such action to be fixed by the court.
- Such association may adopt such rules and regulations for the management of laterals or distributing ditch or ditches and the delivery of water therefrom as they deem best, and may, by majority vote, if it be deemed for the best interests of the association, combine one or more laterals or ditches and abandoned ditches or laterals not in use, and do any and all things not in conflict with the laws of this state where in the best interests of the association will be furthered.
- The ditch manager will be responsible for the ditch condition and water that is in the ditch and will rotate to the person who has the water at that time.

- Shareholders will be responsible to pay assessments to the secretary. The secretary-treasurer of this association shall keep the funds of the association in the name of the association and shall draw checks on said account, which will take two signatures, secretary and president, provided for upon the order of the Board of Directors, and shall perform other duties as the association may prescribe.

I agree to support and abide by these by-laws pertaining to the Cutler Ditch.

Board of Directors
Cutler Ditch

October 15, 2001

Dear Sir;

The people who receive their water through the Cutler Ditch have shares of water from Indian water rights that are deeded with their property. In order to simplify the process, due to the amount of people involved, we are doing business as an association called the Cutler Ditch Co. Employee ID # 82-0534683. Each share of water represents 1.22" of water for a total of 145.2 shares equaling 3.54cfs.

The officers of the association called Cutler Ditch Co. are as follows:

Ron Vaughan - President
3226 E. Hwy. 30 P.O. Box 337
McCammon, Idaho 83250

Ted Pulling - Vice-President
9024 Crystal Springs Road
McCammon, Idaho 83250

Richard Vaughan - Secretary
3360 E. Hwy 30
McCammon, Idaho 83250

> Claims as follows:

29-247 }
29-248 } 29-12053*
29-55 }
29-56 } 29-11253

The names of the people who have shares delivered through the Cutler Ditch are as follows:

Dave Lancaster - He has a separate water right that was not filed on by Cutler Ditch, but uses the ditch as his delivery source.

Gordon Gene Smith - 1.6 acres

Robert Primbs - 6.0 acres

Ted Pulling - 6.0 acres

Todd Palmer - 1.0 acres

Vicki L. Gunter - .8 acres

Ernie Gunter - 3.0 acres

Gaylen Newbold - 2.0 acres

Kevin Fay - 2.0 acres

Norm Rogers - 6.0 acres

George A. Forrest Whitworth - 14.8 acres

Richard W. Vaughan - 8.6 acres

Ronald J. Vaughan - 20.0 acres

Roger Sylva Johnson - 18.0 acres

Leon Hardcastle - 55.4 acres

* KEN ANDRUS OWNS THE PORTION OF
THESE RTS THAT WERE (ARE) ON TWO
LANDS (ONCE) OWNED BY MARCIA KELLY,
NOW LEON HARDCASTLE $\approx$ 44 $\pm$ AC.
∴ Cutler Ditch CAN NOT OWN ALL
OF 29-247 & 248 AS 29-12053.

State of Idaho

DEPARTMENT OF WATER RESOURCES

900 N. Skyline Dr., Suite A, Idaho Falls, Idaho 83402-1718 - (208) 525-7161- Fax (208) 525-7177

EASTERN REGION

9/20/02 KEITH, AT THIS TIME THERE IS

DIRK KEMPTHORNE
GOVERNOR

September 10, 2001

EVIDENCE THAT INDICATES PORTIONS
OF THE BELOW ADJUDICATED RIGHTS ARE
SPLIT W/ PORTIONS GOING TO KEN ANDRUS

KARL J. DREHER
DIRECTOR

Cutler Ditch

C/O Ronald J. Vaughn

P.O. Box 337

McCammon, ID 83250

RTs 29-41 AND 54 DO NOT BELONG TO CUTLER
DITCH OR ROGER JOHANSON. SRBA CLAIMS ARE

RE: Transfer to change the point of diversion 29-00056, 29-00055, 29-00247, & 29-00248 ~~DISALLOWED~~

Dear Mr. Vaughn:

SRBA

Enclosed is the application for transfer for the above number water rights and check #1, in the amount of \$450.00.

The application for transfer is being returned for several reasons. The application for transfer filing fee (for 3.54 cfs) should be \$370.00, there is no evidence that the Cutler Ditch is a legal entity, there has been a change made on the form (form is in pencil), and there is some question as to the water rights involved in the transfer. In addition, the letter from Portneuf Marsh-Valley Canal Company indicates that the transfer is for 5.74 cfs.

The following are the adjudication claims filed under the name Cutler Ditch:

~~29-00041~~	07/01/1889	1.40 cfs	Right also claimed under A29-12079 by Indian Falls Property Association
~~29-00054~~	05/01/1909	0.80 cfs	
~~29-11253~~	05/01/1896	1.56 cfs	Combination of 29-00055 & 29-00056? <i>OK</i>
~~29-12053~~	07/06/1868	1.98 cfs	Combination of 29-00247 & 29-00248
~~29-12557~~	07/06/1868	1.98 cfs	Combination of 29-00247 & 29-00248 Decree has Toponce Creek as source.

Since the adjudication staff is currently in the process of assessing Basin 29 adjudication claims filed in the Snake River Basin Adjudication, transfers for water rights within basin 29 will be held until there has been a review of the claim(s), and a recommendation has been made for these water rights.

A transfer may be submitted to change a point of diversion for water rights in basin 29, but the transfer will be held until an adjudication recommendation has been made. For your convenience enclosed is a new transfer form and a proof report for both the water rights and adjudication claims.

Sincerely,

Keith C. Wilson

Keith C. Wilson

Senior Resource Agent

18

17

19

20

ROGERS

PULLING

PULLING

PULLING

FAY

PULLING

NEWBOLD

PALMER

GUNTER

GUNTER

VAUGHAN

WHITWORTH

VAUGHAN

GOODEY

JOHNSON

lot 4

KELLY

KELLY

lot 3

lot 3

lot 2

JOHNSON

JOHNSON

lot 7

20

lot 6

KE

KELLY

lot 8

lot 8

AVERY

T9S, R37E

Cutler Ditch

Andrus

SWSE

3

NWNE

11

NENE

Lot 1

14.4



SWNE

Lot 2

9.0

SENE

Lot 3

4.0

NENW

21.6

NWNW

11.0

SWNW

Lot 4

19.0

SENE

Lot 3

23.0



Portneuf River

canal system

UNION PACIFIC RAILROAD

CUTLER DITCH HEADING OFF POETNEUF RIVER
 POINT OF DIVERSION: T.95, R.37E.5EC.21 (LOT 1) 5E NE



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 29-13398
Date Received: 10/2/2002
Receipt No:
Received By:

A2913398

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name of Claimant(s)

CUTLER DITCH Phone: (208) 254-3962
C/O RONALD VAUGHAN
PO BOX 337
MC CAMMON ID USA 83250

*SPLIT From
29-11253*

2. Date of Priority: 05/01/1896

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

4. Point of Diversion:
Township Range Section 1/4 of 1/4 of 1/4 Lot County Type
09S 37E 21 SE NE 1 BANNOCK

5. Description of diverting works:
HEADING FOR CUTLER DITCH.

6. Water is used for the following purposes:
Purpose From To C.F.S. (or) A.F.A.
IRRIGATION 04/15 09/15 1

7. Total Quantity Appropriated is:
1 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
09S	37E	17	SW	SE		IRRIGATION	3
						Section Acres	3
09S	37E	20	NW	NW		IRRIGATION	11
			NE	NW		IRRIGATION	21.6
			SE	NW	3	IRRIGATION	4
			NW	NE		IRRIGATION	11
			SW	NE	2	IRRIGATION	9
			NE	NE	1	IRRIGATION	14.4
						Section Acres	71
						Total Acres	74

11. Place of use in counties: BANNOCK

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

13. Other Water Rights Used:

14. Remarks:

THIS CLAIM SPLIT FROM 29-11253

15. Basis of Claim: Decreed

16. Signature(s)

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

Number of attachments: _____

For Organizations:

I do solemnly swear or affirm that I am _____ of
Title

_____, that I have signed the foregoing

Organization
document in the space below as _____ of

Title
_____ and that the statements contained in the

Organization
foregoing document are true and correct. _____

Signature of Authorized Agent

Title and Organization

Date

State of Idaho)

) SS.

County of _____)

Subscribed and sworn (or affirmed) before me this

of _____ 20__

Notary Public

Residing at _____

My commission Expires _____

October 20, 2002

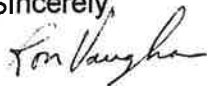
Department of Water Resources
C/O Allen Ruberry
900 N. Skyline Dr. Suite A
Idaho Falls, Idaho 83402-7161

Dear Mr. Ruberry:

The decisions for the ownership of water by the Idaho Department of Water Resources should be made on the delivery system that is in use by the land owners at present, not what may happen or change in the future. Some points that cause distress and contention are:

1. The delivery of water to the landowners since I bought this property in 1982 has always been the Cutler Ditch Co. The decisions have been made by the board for the water users interests.
2. Ken Andrus approached the President of the ditch company at one point to buy water and to take it out of the Cutler Ditch and was voted on and turned down.
3. I assume that the sale of the water that he claims hinges on the argument of a change of point of diversion which we would oppose. This sale may or may not happen or be finalized until a point of diversion is agreed upon. The owner who offered the sale of water should have approached or at least have contacted Cutler Ditch Co. The volume of water is needed using the present delivery system to reach the property or place of use. A lesser amount would not effectively be useable.
4. Due to the high cost of changing the delivery system at present makes it unfeasible to file for a point of diversion at this time It will require a grant to proceed. The cost to each landowner at present is exorbitant If Cutler Ditch applies for a transfer, it will be in the not so near future.
5. It seems unusual that water would be sold off property whose use has not changed for a number of years, always being used for agricultural purposes, water is always essential.

Sincerely,



Ron Vaughan
President, Cutler Ditch Company

PO Box 337
McCammon, ID

RECEIVED

OCT 25 2002

Department of Water Resources
Eastern Region