

12/12/2002

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

RIGHT NUMBER: 29-13400

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

SOURCE: PORTNEUF RIVER

TRIBUTARY: SNAKE RIVER

QUANTITY: 1.260 CFS

PRIORITY DATE: 07/06/1868

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	1.260 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	3.1	T09S R37E S20 Lot 1 NENE	14.0
T09S R37E S20	NWNE	11.0	T09S R37E S20 Lot 2 SWNE	9.0
T09S R37E S20	NENW	22.0	T09S R37E S20 NWNW	11.0
T09S R37E S20 Lot 3 SENW		3.9		

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 63.0 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 SOURCE PURSUANT TO
SECTION 42-1425, IDAHO CODE.

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 29-12053.

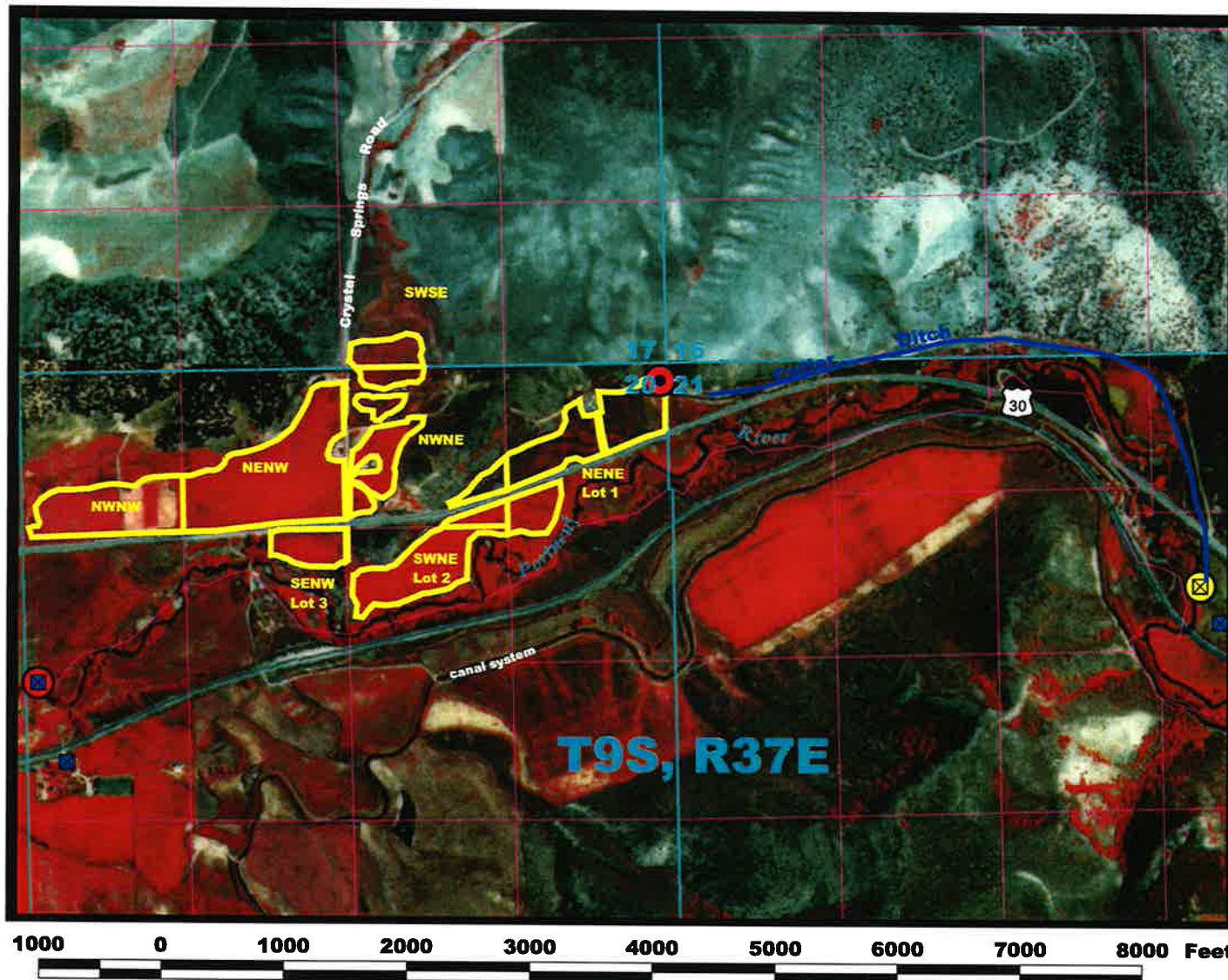


JUL 01 2004

State of Idaho

Department of Water Resources

Eastern Region



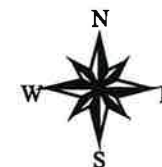
Water Right(s):

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 NAFF Photography
Prepared by: A. Ruberry
Date: December 2002

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

Cassidy Creek

UNION PACIFIC RAILROAD

17

T9S, R37E

HOWELL

WEAR

PULLING

ROGERS

PRIMBS

LANCASTER

PULLING

PULLING

PULLING

SMITH

PRIMBS

lot 4

LANCASTER

VAUGHAN

FAY

PULLING

lot 1

WHITWORTH

NEWBOLD

PALMER

GUNTER

GUNTER

JOHNSON

lot 3

lot 2

JOHNSON

lot 5

lot 6

KELLY

20

lot 7

lot 6

KELLY

KELLY

Name of Present Owner	Address	Right Ident. No	Amount Second F. (cts)	DAYS OF MONTH				
				1	2	3	4	5
Hatch Wayne	Bancroft	51-82 PM	1.0	X	X	X	X	X
Hatch Paul	Bancroft	20-87-89-61	4.0	X	X	X	X	X
Camp Nancy	Bancroft	60 PJ.	3.0	X	X	X	X	X
Hatch Lisa	Bancroft	94	1.0	X	X	X	X	X
Hansen Keri	Bancroft	43-44-45-16 64-67 3-4-13	9.0	X	X	X	X	X
Johnson Roger	Lynn	42-44-45	2.0	X	X	X	X	X
Jorgensen Paul	Bancroft	34	1.0	X	X	X	X	X
Master Dale	Downey	105-106 20-68	3.50	X	X	X	X	X
King cat trapping	Bancroft	61-62 6-8 64	9.0	X	X	X	X	X
Larson Will.	McKinnon	63 PJ	1.50	X	X	X	X	X
Maker John	Bancroft	94	1.00	X	X	X	X	X
Marley Philip	McKinnon							
Quayle John								

1985

44 $\Rightarrow$ 29-0055 @ 0.34 cts $\rightarrow$ 1.56 cts
 45 $\Rightarrow$ 29-0056 @ 1.22 cts $\rightarrow$ 1.56 cts
 RECORD shows 2.0 w/ 42, 44, 45 $\therefore$ what
 is 42 (29-0053 @ 164.43 cts to Port-Mansu Van Chan).

$$\begin{array}{r} 1.56 \\ - 2.00 \\ \hline 0.44? \end{array}$$

So where are the Indian Rts. 247.248?

Name of Present Owner	Address	Right Ident No.	Amount Second Per (cts)	DAYS OF MONTH				
				1	2	3	4	5
Walter Wayne	Bancroft	51-82A	1.0	X	X	X	X	X
Walter Paul	Bancroft 20-51-82-B	30	X	X	X	X	X	X
Comptancy	Bancroft	60PT	1.0	X	X	X	X	X
Walter Ann	Bancroft	GH	1.0	X	X	X	X	X
Harrison Mr	Bancroft 63-44-91-62-10	6.0	X	X	X	X	X	X
Johnson Roger	Lower 112-111-115	3.0	X	X	X	X	X	X
Ferguson Carl	Bancroft	11	0	0				
Walter Ann	Bancroft	11	1.0	X	X	X	X	X
Harrison Mr	Bancroft 112-111-115	11	1.0	X	X	X	X	X
Harrison Mr	Bancroft 112-111-115	11	1.0	X	X	X	X	X
Walter Ann	Bancroft	11	1.0	X	X	X	X	X
Harrison Mr	Bancroft 112-111-115	11	1.0	X	X	X	X	X
Harrison Mr	Bancroft 112-111-115	11	1.0	X	X	X	X	X

[1986]

02/18/2003

Allen

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: April 21, 2003

Water right number: 29-13400

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 asplit

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

The full recognition of Cutler Ditch's right

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

see attached paper

____ 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
See Notes on
29-13398 NOC
PBM*

RECEIVED

APR 24 2003

Department of Water Resources
Eastern Region

- The other claimant on Cutler Ditch filings should be disallowed. This right was decreed to this property, the water is presently being used on said property for the same use as always, agricultural, and by the same person who wants to transfer it, because he is a leasee.
- Because Cutler Ditch was listed as the delivery source, they should have been notified of an impending sale of water and reduction of water flow before said sale was made. The loss of volume of water directly affects all water users on the ditch.
- With the loss of head of water, the effectiveness of the water to even reach the end users is such that it won't reach there in a quantity to use effectively. Was the adjudication's purpose to dry up legitimate agricultural property?
- A point of diversion change is not cost effective. Without grant monies to offset costs we will not be filing for a point of diversion change.
- Decisions on water should be based on the water delivery system presently used and if in the future it is upgraded and less is required, then changes could be made. Predicting future projects now to base decisions on is too uncertain.

RECEIVED

APR 24 2003

Department of Water Resources
Eastern Region

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

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

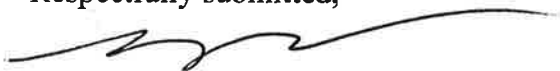
Gentlemen:

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

SPLIT OF CUTLER DITCH WATER RIGHTS

10/2/02

PG 1 OF _____

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

29-12053 COMBINES DECREASED 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. HANCASTLE 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 HANCASTLE'S 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 CFS 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 OF USE.

29-11253

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

$1 \text{ cfs} = 1.56 \text{ ac} @ 0.02 \text{ cfs/ac}$
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: 145^2 ac. ; ASCS $\text{ac} = 115^2 \text{ ac.}$;
GIS $\text{ac} = 115^2 \Rightarrow 116^2 \text{ ac.}$

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 OF USE.

WR5808NP
(OD-26)

IDAHO DEPARTMENT OF WATER RESOURCES
WATER RIGHT PROOF READING REPORT

09/10/01 10:10:53
Page 1

Water Right Number - 29-00247

Prefix Translation: WATER RIGHT

Old (D) Number -

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

*** C - CURRENT OWNER ***

GITTINS

J. T.

1 -
2 -
3 -
City-
Phone -

State- Zip-

+ - - Priority Date - - + + - - - Region - - - + + - - - Stage - - - + + - - - Status - - - +
07/06/1868 15 EASTERN D - DECREED

+ - - - - Source - - - - + + - - - - - Tributary - - - - - +
TOPONCE CREEK PORTNEUF RIVER

+ - - - - Point of Diversion - - - - - +
Twn Rng Sec Tract Lot RFlg County Diversion Name Diversion Rate Diversion No.

09S 37E 21 NE SE 1 (29) CARIBOU

+ - - - - Water Use - - - - - +
Code Description Period From Period To Diversion Rate Diversion Volume

01 - IRRIGATION 04/15 09/15 0.580

+ - Total Div. Rate - + + - Total Div. Volume - + + - Total Div. Capacity - + + - Total Consumptive Use - + + - KW Usage - +
0.580 0.0

+ - - - - Place of Use - - - - - +
Twn Rng Sec Tract Lot Acres Code Description County

09S 37E 17 SW SE 01 IRRIGATION (29) CARIBOU
09S 37E 20 NW NE 01 IRRIGATION (29) CARIBOU

+ - - Diversion Means -

+ - - Non-Irrigation Use -

+ - - Other Rights for Same Use -

+ - - - - Remarks - - - - - +

GEN RT. DIVERTED AT P/D ON PORTNEUF RIVER.
P/U INCOMPLETE.

+ - - - - Old Water Right Numbers - - - - - +
No Old Water Right Numbers found.

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

+ - - - - Decree Plaintiff - - - + + - - - - Decree Defendant - - - + + - Decree Date - +

UNITED STATES OF AMERICA

JULIA HIBNER, ET. AL.

04/08/1929

09/10/01 10:10:53
Page 2

Prefix Translation: WATER RIGHT

+ - - Audit Fields - 06/24/85 05/22/88 CONVERT

Proof Due Date	-	00/00/0000	Field Exam Made	-	00/00/0000	Field Exam Fee	-	
Approved/Denied	-	00/00/0000	Protested Date	-	00/00/0000	Swan Falls	-	
Proof Made Date	-	00/00/0000	Hearing Date	-	00/00/0000	Temporary Right	-	P
Exam to S.O. Date	-	00/00/0000	Verified Date	-	06/24/1985	DLE/Carey Act	-	
Order Show Cause	-	00/00/0000	Receipt Number	-		Water District	-	29
Licensed Date	-	00/00/0000	Appl Received	-	00/00/0000	Transfer/Amended	-	
Presumption Flag	-		Name Connector	-		POU Ownership Flag	-	
SRBA Decreed Flag	-							

WR5808NP
(OD-26)

IDAHO DEPARTMENT OF WATER RESOURCES
WATER RIGHT PROOF READING REPORT

09/10/01 10:11:19
Page 1

Water Right Number - 29-00248

Prefix Translation: WATER RIGHT

Old (D) Number -

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

*** C - CURRENT OWNER ***
GITTINS

J. T.

1 -
2 -
3 -
City-
Phone -

State- Zip-

+ - - Priority Date - - + + - - Region - - - + + - - Stage - - - + + - - Status - - - - +
07/06/1868 15 EASTERN D - DECREED

+ - - - - Source - - - - - + + - - - - Tributary - - - - - +
TOPONCE CREEK PORTNEUF RIVER

+ - - - - - - - - - - - - - Point of Diversion - - - - - +
Twn Rng Sec Tract Lot RFlg County Diversion Name Diversion Rate Diversion No.

09S 37E 21 NE SE 1 (29) CARIBOU

+ - - - - - - - - - - - - - Water Use - - - - - +
Code Description Period From Period To Diversion Rate Diversion Volume

01 - IRRIGATION 04/15 09/15 1.400

+ - Total Div. Rate - + + - Total Div. Volume - + + - Total Div. Capacity - + + - Total Consumptive Use - + + - KW Usage - +
1.400 0.0

+ - - - - - - - - - - - - - Place of Use - - - - - +
Twn Rng Sec Tract Lot Acres Code Description County

09S 37E 19 SW NE 01 IRRIGATION (29) CARIBOU
09S 37E 20 SW NW 01 IRRIGATION (29) CARIBOU

+ - - Diversion Means -

+ - - Non-Irrigation Use -

+ - - Other Rights for Same Use -

+ - - - - - - - - - - - - - Remarks - - - - - +

GEN RT. DIVERTED AT P/D ON PORTNEUF RIVER.
P/U INCOMPLETE.

+ - - - - - - - - - - - - - Old Water Right Numbers - - - - - +
No Old Water Right Numbers found.

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

+ - - - - Decree Plaintiff - - - + + - - - - Decree Defendant - - - + + - Decree Date - +

UNITED STATES OF AMERICA

JULIA HIBNER, ET. AL.

04/08/1929

IDAHO DEPARTMENT OF WATER RESOURCES
WATER RIGHT PROOF READING REPORT

Page 2

Prefix Translation: WATER RIGHT

+ - - Audit Fields - 06/24/85 05/22/88 CONVERT

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

| | | | | | | | | |
|-------------------|---|------------|-----------------|---|------------|--------------------|---|----|
| Proof Due Date | - | 00/00/0000 | Field Exam Made | - | 00/00/0000 | Field Exam Fee | - | |
| Approved/Denied | - | 00/00/0000 | Protested Date | - | 00/00/0000 | Swan Falls | - | |
| Proof Made Date | - | 00/00/0000 | Hearing Date | - | 00/00/0000 | Temporary Right | - | P |
| Exam to S.O. Date | - | 00/00/0000 | Verified Date | - | 06/24/1985 | DLE/Carey Act | - | |
| Order Show Cause | - | 00/00/0000 | Receipt Number | - | | Water District | - | 29 |
| Licensed Date | - | 00/00/0000 | Appl Received | - | 00/00/0000 | Transfer/Amended | - | |
| Presumption Flag | - | | Name Connector | - | | POU Ownership Flag | - | |
| SRBA Decreed Flag | - | | | | | | | |

29-12053

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

$E_{cts} = 1.98 cts @ 0.02 cts/ac = 99 ac.$

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

THEREFORE, 29-12053 SERVES 99 AC

29-11253 SERVES 78 AC

WITH OVERLAP OR SOME POW.

CLAIMS: $145^2 ac$; $ASCS_{ac} = 115^6 ac$

$G\&S_{ac} = 115^9 \Rightarrow 116^0 ac$

29-13400 CUTLER DITCH

SPLIT PORTION $74/116$ OF $1.98 cts = 1.26 cts$
THIS RIGHT IS LIMITED TO $63^0 ac$ w/
THE 74^0 ACRE PLACE OF USE.

29-13401 KEN & SIM ANDRUS

SPLIT PORTION $42/116$ OF $1.98 cts = 0.72 cts$
THIS RIGHT IS LIMITED TO $36^0 ac$ w/
THE 42 ACRE PLACE OF USE.

THIS CLAIM IS A COMBINATION OF DECROD RIGHT NOS.
29-00247 AND 29-00248. * $\Rightarrow$ P15

SEE DECREE EXCERPT AND WATER RIGHT PROOF REPTS. Sources As:
Portland Riv.
THESE ARE INDIAN RIGHTS OWNED BY OTHERS THAN INDIANS. $\phi 2$

CLAIMED AS: Priority: July 6, 1868, 1.98 cfs (Topover Cr via Cut/On
Ditch) PERMISSIBLE POW w/ OTHER RIGHTS AS LISTED:

29-12053 (THIS CLAIM IS P15 247 & 248)

* 29-12557 DISALLOWED - CROSS CLAIM
OF 29-12053

29-11253 (THIS CLAIM IS P15 55 & 56)

Q: $\Rightarrow$ E ϕ 4

29-00041 - DISALLOWED - SOL 41A (INDIAN FALLS WATER ASSOC.)

29-00054 - DISALLOWED - SOL 54A (D. LANCASTER)

REFER TO DECREE EXCERPT - PART OF PERMISSIBLE POW
IS DECROD (CLAIMED) UNDER THIS CLAIM. $\Rightarrow$ K ϕ 6
C ϕ 5

Q's:

① FIELD EXAM POW/POD $\Rightarrow$ POD PHOTO IN 29-11253

② HOW IS THIS RIGHT DELIVERED?

③ CONVOYANCE LOSS ASSESSED?

* ④ ^(K13N) ANDRUS BROS. PROVIDE DOCUMENTS WHICH SHOW PURCHASES
OF 29-247 AND 29-248. HOWEVER, NO TX HAS BEEN
FILED. (SEE NOTES IN 29-11681.)

ACCORDING TO ROGER JOHANSON - THE ONLY PORTION OF 247/248
THAT ANDRUS BOUGHT WAS FROM THOSE LANDS SOLD TO MARCIA
KOLLY THEN TO MID-CHIO SECURITIES. SO, ANDRUS SHOULD
GET A PORTION (UNDEVELOPED - AS YET) OF 247/248. SOMETHING LIKE
4 1/2 - AC OR IT.

99-12053

pg. 20

29-249 0.58 cfs (29 inches)

29-248 1.40 cfs (90 inches)

$$\frac{1.98 \text{ cfs}}{1.40 \text{ cfs}} \div 0.02 \text{ cfs/in} = 99 \text{ in}$$

9/19/02 Spoke w/ Roger Johnson to address the %

By Ken Anous of the 29-247, 248 (ground Pk)

and 29-55 and 56, (proportionate shares are taken.)

He seems to understand, however, he would like

Anous to leave the Pk in place, at least until

(P.D.) the Deeds are issued. I further explained

that I too have discussed that very thing w

Anous and this is in agreement.

I only want Carter Ditch Water Assoc. to be Anous

that this 3.54 cfs possession in their by-laws will

be proportionate to their due to the Anous shares

(06 cfs) to be split off.

Upon Return to Donno, Roger will discuss this w

Carter Ditch members, and Anous, then call me for

further discussion

42

J. T. Gittins July 6, 1868

.58

Said water to be diverted through the Cutler Ditch

Source: Toponce Creek VIA Portneuf River TO POD
for Cutler Ditch

(The water right here decreed is for use on acreage for which no water right was awarded in the state decree.)

(29 inches)

which has its intake from the Portneuf River in Lot 1, Section 21, Township 9 South, Range 37 East. From the NE corner of Section 21, the point of diversion bears south 32 degrees, West 1970 feet, across said Section 21, as said ditch is at present constructed, for the irrigation of lands in the NW $\frac{1}{4}$ of the NE $\frac{1}{4}$, Sec. 20, and in the SW $\frac{1}{4}$ of the SE $\frac{1}{4}$ Section 17, Twp. 9 S., R. 37 E.B.M. Said waters to be carried from Toponce Creek into the natural channel of the Portneuf River to the point of diversion above described.

POD: Sec. 21 Lot 1 9537E

POU: NWNE Sec. 20
SWSE Sec. 17 9537E

44

J. T. Gittins July 6, 1868

1.40

Source: Toponce Creek

(70 inches)

Sec. 20 L4 (The water right here decreed is for the use on acreage for which no water right was awarded in the state decree.)
Sec. 19 L3
9537E

Said water to be diverted through the said Cutler ditch last above described for the irrigation of lands in Lot 4, Sec. 20, and in Lot 3, Sec. 19, Twp. 9 S., R. 37 E.B.M., said water to be carried from Toponce Creek into the natural channel of the Portneuf River to the point of diversion above described.

EXCERPT FROM DECREED RIGHTS OF PORTNEUF RIVER
& TRIBUTARIES INCLUDING INDIAN ALLOTMENTS, 8 April 1929.
pgs. 546 (composite)

ALSO, SEE WR PROOFS 29-00247 AND 29-00248.

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

Cutler Ditch
C/O Ronald J. Vaughn
P.O. Box 337
McCammon, ID 83250

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

KARL J. DREHER
DIRECTOR

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:

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? OK |
| ~~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
Senior Resource Agent

WR5808NP
(OD-26)

IDAHO DEPARTMENT OF WATER RESOURCES
WATER RIGHT PROOF READING REPORT

04/04/01 10:22:09

Page 1

Water Right Number - 29-00248

Prefix Translation: WATER RIGHT

Old (D) Number -

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

*** C - CURRENT OWNER ***

GITTINS

J. T.

1 -
2 -
3 -
City-
Phone -

State- Zip-

+ - - Priority Date - - + + - - Region - - - + + - - Stage - - - + + - - Status - - - - +
07/06/1868 15 EASTERN D - DECREED

+ - - - - Source - - - - - + + - - - - Tributary - - - - - +
TOPONCE CREEK PORTNEUF RIVER

+ - - - - Point of Diversion - - - - - +
Twn Rng Sec Tract Lot RFlg County Diversion Name Diversion Rate Diversion No.

09S 37E 21 NE SE 1 (29) CARIBOU

+ - - - - Water Use - - - - - +
Code Description Period From Period To Diversion Rate Diversion Volume

01 - IRRIGATION 04/15 09/15 1.400

+ - Total Div. Rate - + + - Total Div. Volume - + + - Total Div. Capacity - + + - Total Consumptive Use - + + - KW Usage - +
1.400 0.0

+ - - - - Place of Use - - - - - +
Twn Rng Sec Tract Lot Acres Code Description County

09S 37E 19 SW NE 01 IRRIGATION (29) CARIBOU
09S 37E 20 SW NW 01 IRRIGATION (29) CARIBOU

+ - - Diversion Means -

+ - - Non-Irrigation Use -

+ - - Other Rights for Same Use -

*THIS RIGHT ORIGINATES AS #44 OF THE DECREED RIGHTS
OF PORTNEUF RIVER & TRBS. INCLUDING INDIAN ALLOTMENTS,
8 April 1929.*

+ - - - - Remarks - - - - - +

GEN RT. DIVERTED AT P/D ON PORTNEUF RIVER.
P/U INCOMPLETE.

+ - - - - Old Water Right Numbers - - - - - +
No Old Water Right Numbers found.

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

+ - - - - Decree Plaintiff - - - + + - - - - Decree Defendant - - - + + - Decree Date - +

UNITED STATES OF AMERICA

JULIA HIBNER, ET. AL.

04/08/1929

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

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 THE
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.

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: 29-13400
Date Received: 10/2/2002
Receipt No:
Received By:
AMENDED

AMENDED

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

2. Date of Priority: 07/06/1868

3. Source: TOPONCE CREEK Trib. to: PORTNEUF 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
IRRIGATION

From To C.F.S.
04/01 10/31 1.26

(or) A.F.A

7. Total Quantity Appropriated is:
1.26 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

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

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Date Received: 10/2/2002
Receipt No:
Received By:

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

2. Date of Priority: 07/06/1868

3. Source: TOPONCE CREEK Trib. to: PORTNEUF 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 | 1.26 | |

7. Total Quantity Appropriated is:
1.26 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 | IRRIGATION | 4 |
| | | | NW | NE | IRRIGATION | 11 |
| | | | SW | NE | IRRIGATION | 9 |
| | | | NE | NE | 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: 29-13398

14. Remarks:

THIS CLAIM IS SPLIT FROM 29-12053. RECEIPT NO. E014579.

15. Basis of Claim: Decreed

16. Signature(s)

*COMBINES 29-00055
AND 29-00056*

(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 _____