

12/12/2002

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

RIGHT NUMBER: 29-13401

NAME AND ADDRESS: JIM ANDRUS
6948 EAST OLD OREGON TRAIL RD
LAVA HOT SPRINGS ID 83246

KENNETH D ANDRUS
6948 EAST OLD OREGON TRAIL RD
LAVA HOT SPRINGS ID 83246

SOURCE: PORTNEUF RIVER

TRIBUTARY: SNAKE RIVER

QUANTITY: 0.720 CFS

USE OF THIS RIGHT WITH RIGHT NO. 29-13399 IS LIMITED TO A TOTAL COMBINED
DIVERSION RATE OF 0.88 CFS.

PRIORITY DATE: 07/06/1868

POINT OF DIVERSION:

T09S R37E S20 SWSWNW Lot 4 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	0.720 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 S19 Lot 3 SENE 24.0 T09S R37E S20 Lot 4 SWNW 20.0

44 ACRES TOTAL

USE OF THIS RIGHT WITH RIGHT NO. 29-13399 IS LIMITED TO THE
IRRIGATION OF A COMBINED TOTAL OF 44 ACRES IN A SINGLE IRRIGATION
SEASON.

THIS RIGHT IS LIMITED TO THE IRRIGATION OF 36 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

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

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

THIS RIGHT IS A SPLIT FROM FORMER RIGHT 29-12053.



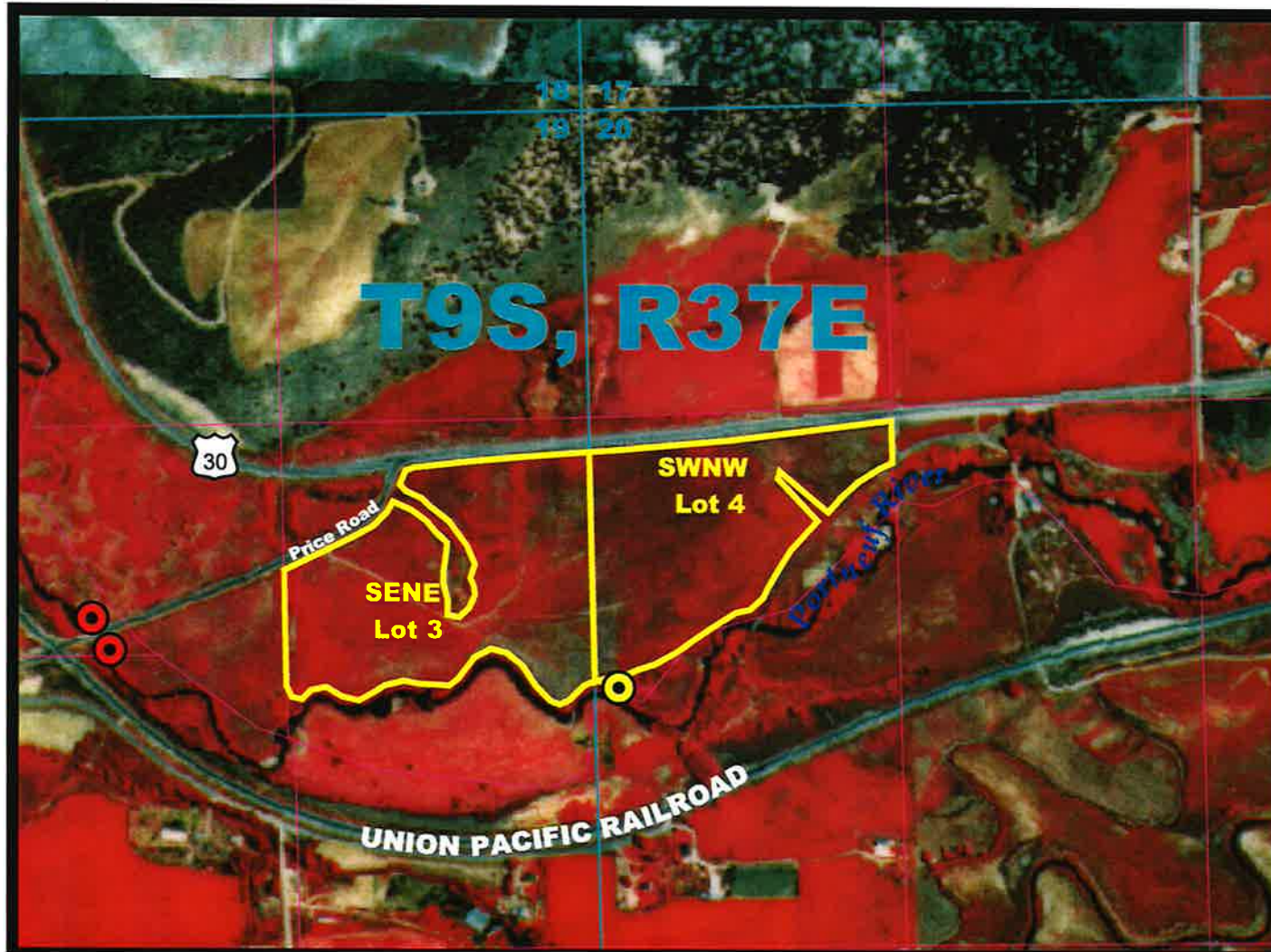
JUL 01 2004

RECEIVED

State of Idaho

Department of Water Resources

Eastern Region



Water Right(s):

29-13399

29-13401

Place of Use: T9S, R37E
(parts of) Sec. 19 SENE (L3),
Sec. 20 SWNW (L4)

Point(s) of Diversion: T9S, R37E
Sec. 20 SWSWNW (L4)



LEGEND



Point of Diversion

SENE

Place of Use



Section



Quarter-Quarter

500 0 500 1000 1500 2000 2500 3000 3500 4000 Feet

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

1 of 2

RECEIVED
FEB 06 2003
Department of Water Resources
Eastern Region

Cutler Ditch

I, Kenneth Andrus and my brother Jim Andrus leased Roger Johnson's farm from 1975 to 1980. Our older brother John Andrus and his sons had leased it for some years before that, so we were also knowledgeable of the watering practices of those years. We irrigated the ground that lays north of Highway 30 from the Cutler Ditch. We used a portable sprinkler to do this, except at least one year, we flood irrigated the field directly west of Crystal Springs road, now owned by Forrest Whitworth. The ground laying south of Highway 30 (both east and west of Roger Johnson's house), and north of the Portneuf River, we irrigated by pumping from the Portneuf River. Roger Johnson told us he had also irrigated this ground by pumping and showed us where he put his pump in the river.

During the years 1981 and 1982, Randy Morris, of Arimo, leased Roger Johnson's farm and also irrigated the ground north of Highway 30 from the Cutler Ditch and the ground south of Highway 30 to the Portneuf River by pumping from the river.

It was at this time (1981-1982) that the land north of Highway 30 was divided and sold to several different owners. One of the new owners, probably the first year of his ownership, planted corn, apparently for wildlife to eat in the winter. He used water from the Cutler Ditch. Since that time, until 2002, we only know of water being transported through the Cutler Ditch no more than probably once or twice. During the summer of 2002, water was transported through the Cutler Ditch and Roger Johnson irrigated the ground east of his house, south of Highway 30 to the Portneuf River, by taking water under Highway 30. That is the first time that any ground south of Highway 30 had been irrigated by Cutler Ditch water since several years prior to 1975.

Marcia Kelley purchased most of the remainder of Roger Johnson's farm (he retained some acres) and she agreed to sell us her portion of the Cutler Ditch rights. Since it was mortgaged she had to wait until the mortgage was cleared, whereupon we purchased her Cutler Water rights from Mid-Ohio Securities.

Since that time, there has been objection to us transferring our purchased share to a different point of diversion, up the river to Bob Smith Creek. One of the objections is that the other Cutler Ditch right holders need the full compliment of Cutler Ditch water

SCANNED
JUL 01 2004

turned in at the diversion in order for the water to reach the ground being irrigated, because of considerable shrink due to the long length of the Cutler Ditch.

Since the Idaho Department of Water Resources has apparently recognized a change of diversion for Cutler Ditch water used on the ground between Highway 30 and the Portneuf River, west of Roger Johnson's house, as being taken by pump from the Portneuf River; the Watermaster then if he delivered the full compliment of water originally decreed to the Cutler Ditch, he would be doing it illegally.

Therefore the argument that the remaining share holders of the Cutler Ditch need the full Cutler Ditch decreed amount to carry their water down the Cutler Ditch is invalid since the ground between Highway 30 and the Portneuf River west of Roger Johnson's house, now owned by Leon Hardcastle, was irrigated by pumping directly from the Portneuf River. This is the water in question. It was sold to Kenneth and Jim Andrus.

Whether or not a change in point of diversion is granted is irrelevant to the remaining rights in the Cutler Ditch since this amount of water has already been taken out of the Cutler Ditch through an established point of diversion change to the Portneuf River.

Jim Andrus 2/5/2003

Kenneth Andrus Feb. 5, 2003

STATE OF Idaho COUNTY OF Bannock

On this 5th day of February 2003
before me, a Notary Public in and for said
State, personally appeared

Jim Andrus and
Kenneth Andrus

Known to me to be the persons whose names
are subscribed to the within instrument
and acknowledged to me that they executed
the same.

Gerrit Welland
Gerrit Welland NOTARY PUBLIC
Residing at Lava Hot Springs, Idaho
Commission Expires January 2005

WR5808NP
(00-26)

IDAHO DEPARTMENT OF WATER RESOURCES
WATER RIGHT PROOF READING REPORT

Cotton Ditch Rfs.
09/10/01 10:11:52
Page 1
(Somer)

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

Tw	Rng	Sec	Tract	Lot	RFlg	County	Point of Diversion	Diversion Name	Diversion Rate	Diversion No.
09S	37E	21	NE SE	1		(29) CARIBOU				

Code	Description	Period From	Period To	Water Use	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

Tw	Rng	Sec	Tract	Lot	Acres	Place of Use	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

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

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

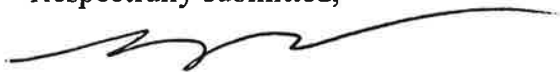
Gentlemen:

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

10/2/02

Pg 1 of _____

SPLIT OF CUTLER DITCH WATER RIGHTS

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. HANDCASTLE 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 HANDCASTLE 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 ACREAGE AND GPS ACREAGE WAS MADE.

A. CUTLER DITCH CLAIMS 145³ AC

B. ASCS PHOTO COPY SHOWS 115⁶ AC

C. GPS ACREAGE 115⁹ AC

1. GPS ACREAGE 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 $74/116$ ^(115⁹) 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
DECEASED 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 OVERLAP OF SOME PLACE OF USE.

CLAIMS: 145^3 AC. ; ASCS $\text{AC} = 115^6 \text{ AC.}$

GIS $\text{AC} = 115^8 \Rightarrow 116^0 \text{ AC.}$

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.

29-13400 CUTLER DITCH

SPLIT PORTION $\frac{74}{116}$ OF 1.98 cfs = 1.26 cfs
THIS RIGHT IS LIMITED TO 63⁹ AC W/1
THE 74⁰ 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.)

E cfs = 1.98 cfs @ 0.02 cfs/ac = 99 ac.

PERMISSIBLE PLACE OF 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 PDD.

CLAIMS: 145² AC; ASCS AC = 115⁶ AC

G&S AC = 115⁹ $\Rightarrow$ 116⁰ AC

29-13401 KEN & SIM ANDRUS

SPLIT PORTION $\frac{42}{116}$ OF 1.98 cfs = 0.72 cfs
THIS RIGHT IS LIMITED TO 36⁰ AC W/1
THE 42 ACRE PLACE OF USE.

THIS CLAIM IS A COMBINATION OF DECREE RIGHT NOS.

29-00247 AND 29-00248.* $\Rightarrow$ P15

SEE DECREE EXCERPT AND WATER RIGHT PROOF REPTS.

Sources As:
Portland R.W.

THESE ARE INDIAN RIGHTS OWNED BY OTHERS THAN INDIANS. $\phi 2$

CLAIMED AS: Priority; July 6, 1868, 1.98 cfs (TOPWATER 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

Q: $\Rightarrow$ E ϕ 4

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

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

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

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

C ϕ 5

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

② HOW IS THIS RIGHT DELIVERED?

③ CONVOYANCE LOSS ASSESSED?

* ④ ^(KUTN) 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 THON TO MID-OHIO SECURITIES. SO, ANDRUS SHOULD
GET A PORTION (UNDEFINED - AS YET) OF 247/248. SOMETHING LIKE
42%^{ET} - AC OF IT.

99-12053

pg. 202

29-247 0.58 cfs (28 inches)

29-248 1.40 cfs (70 inches)

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

9/19/02
Srok w/ Roger Johnson to addess the %
By Ken Anous of the 29-247, 248 (2000 Pk)

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

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 Catter Ditch Water Assoc. to be aware

that the 3.54 cfs addesson in their by-laws will

be proportionate to the Anous share

(06 cfs) to be split etc.

Upon Return to Reno, Roger will discuss this w
Catter Ditch members, and Anous, then call me for

further discussion

42

J. T. Gittins July 6, 1868

.50

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
Sec. 19 L3 water right was awarded in the
9537E state decree.)

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

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

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 | | | | | | | Diversion Name | Diversion Rate | Diversion No. |
|--------------------|-----|-----|-------|-----|------|--------------|----------------|----------------|---------------|
| Twn | Rng | Sec | Tract | Lot | RFlg | County | | | |
| 09S | 37E | 21 | NE SE | 1 | | (29) CARIBOU | | | |

| 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

| 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 -

*THIS RIGHT ORIGINATES AS #42 OF THE "DECREED RIGHTS
OF PORTNEUF RIVER & TRIBS, 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

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

Cutler Ditch

C/O Ronald J. Vaughn

P.O. Box 337

McCammon, ID 83250

SPLIT W/ PORTIONS GOING TO KEN ANDRUS

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:

SRB

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

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

| Tw | Rng | Sec | Tract | Lot | RFlg | County | Point of Diversion | Diversion Name | Diversion Rate | Diversion No. |
|-----|-----|-----|-------|-----|------|---------|--------------------|----------------|----------------|---------------|
| 09S | 37E | 21 | NE SE | 1 | (29) | CARIBOU | | | | |

| Code | Description | Period From | Water Use
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

| Tw | Rng | Sec | Tract | Lot | Acres | Place of Use
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 & TRUBS. 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

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 -

*THIS RIGHT ORIGINATES AS #42 OF THE "DECREED RIGHTS
OF PORTNEUF RIVER & TRABS, 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

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 29-13401
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)

JIM ANDRUS Phone: (208)776-5380
6948 EAST OLD OREGON TRAIL RD
LAVA HOT SPRINGS ID USA 83246

KENNETH D ANDRUS Phone: (208)776-5380
6948 EAST OLD OREGON TRAIL RD
LAVA HOT SPRINGS ID USA 83246

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 04/01 10/31 0.72

7. Total Quantity Appropriated is:
0.72 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 19 SE NE 3 IRRIGATION 23
Section Acres 23
09S 37E 20 SW NW 4 IRRIGATION 19
Section Acres 19
Total Acres 42

11. Place of use in counties: BANNOCK

12. Do you own the property listed above as place of use? No

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 29-13401
Date Received: 10/2/2002
Receipt No:
Received By:

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

A2913401



1. Name of Claimant(s)

JIM ANDRUS Phone: (208)776-5380
6948 EAST OLD OREGON TRAIL RD
LAVA HOT SPRINGS ID USA 83246

KENNETH D ANDRUS Phone: (208)776-5380
6948 EAST OLD OREGON TRAIL RD
LAVA HOT SPRINGS ID USA 83246

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 0.72

7. Total Quantity Appropriated is:
0.72 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 19 SE NE 3 IRRIGATION 23
Section Acres 23
09S 37E 20 SW NW 4 IRRIGATION 19
Section Acres 19
Total Acres 42

11. Place of use in counties: BANNOCK

12. Do you own the property listed above as place of use? No

13. Other Water Rights Used: 29-13399

14. Remarks:

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

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 Individuals:

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

Signature of Claimant(s): _____ Date: _____

Date:

State of Idaho)

County of _____)

SS.

Subscribed and sworn (or affirmed) before me this

of _____ 20__

Notary Public

Residing at _____

My commission Expires _____