

11/16/2006

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

RIGHT NUMBER: 75-10827

NAME AND ADDRESS: JAMES DARRELL SPAIN
PO BOX 203
CARMEN ID 83462

GERALDINE SPAIN
PO BOX 203
CARMEN ID 83462

SOURCE: CARMEN CREEK

TRIBUTARY: SALMON RIVER

QUANTITY: 0.070 CFS

PRIORITY DATE: 04/01/1915

POINT OF DIVERSION:

T22N R22E S9 SWNWSW Within LEMHI County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE

PERIOD OF USE

QUANTITY

IRRIGATION

04/01 10/31

0.070 CFS

PLACE OF USE:

IRRIGATION in LEMHI County

T22N R22E S08

NESW

3.20

T22N R22E S08

NWSE

0.50

3.7 ACRES TOTAL

The rights listed below are limited to the irrigation of a combined total of 3.7 acres in a single irrigation season. Combined Right Nos.: 75-63C, 75-10061AK, 75-10062AJ and 75-10827

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: BASIS OF CLAIM - Beneficial Use

October 17, 2005

Roxanne Brown
Senior Water Resource Agent
Idaho Department of Water Resources
322 East Front Street
P.O. Box 83720
Boise, ID 83707-9815

RECEIVED
OCT 19 2005
DEPARTMENT OF
WATER RESOURCES

REF: CIVIL CASE NUMBER: **39576**

Dear Ms. Brown:

In response to your letter of June 29, 2005, we have researched the background of Water Right Number **75-10827 (T22N R22E S08)**, which is currently listed as a Beneficial Use claim. Your letter indicated that we need to submit evidence supporting the priority date of 4/01/1915.

We met on September 10, 2005, with Jack Ellis, the contract employee for water claims in the Carmen Creek area. He indicated that our water right is part of the high-water filing made in 1982 by ranchers in the Carmen Creek drainage. Mr. Ellis also told us that Dave McFarland, Water Master for the Carmen Creek drainage, is writing a letter that establishes the basis for our claim and the rest of the claims associated with that filing, including the basis for the priority date.

Also in response to your letter of June 29, 2005, we have researched the background of Water Right Numbers –

75-10061AK (T22N R22E S08)
75- 10062AJ (T22N R22E S08)
75- 63C (T22N R22E S08)

and was advised by yourself, as well as MR. Ellis, that these are DECREED rights, and should not be in jeopardy of loss by us.

All of the above rights (total four) are in the names of James D. Spain and Geraldine Spain.

If this information is not sufficient to allow you to further process this claim, please let us know, as you indicated.

Thank you for your time and consideration.

Sincerely,


J. D. Spain
POB 203
Carmen, ID 83462

SCANNED
OCT 20 2005

AJ0749NP
No. A75-10827

IDAHO DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM PROFILE REPORT
(REGIONAL)

DATE: 11/02/98
PAGE: 1

OWNER CODE	NAME & ADDRESS	PRIORITY DATE	WATER USE	USE PERIOD FROM TO	DIVERSION RATE	DIVERSION VOLUME
C	STEVEN WALSH	04/01/1915	IRRIGATION	04-01 11-01	0.01 CFS	
C	DEBRA L WALSH 1701 MARY ST SALMON ID 83467 (208) 756-2010					
TOTAL DIVERSION:					0.17 CFS	
CONSUMPTIVE USE:						11.60 AFA

Water Source: CARMEN CREEK

Tributary to: SALMON RIVER

Stage: BENEFICIAL USE

Point(s) of Diversion: T22N R22E S09

SWNWSW

LEMHI County

Place of use Legal Description for: IRRIGATION

		NE				NW				SW				SE				
T	R S	NENE	NWNE	SWNE	SENE	NENW	NWNW	SWNW	SENW	NESW	NWSW	SWSW	SESW	NESE	NWSE	SWSE	SESE	SUM
		Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	Lt	Ac	
22N	22E 8									03					01			4.6
TOTAL ACRES																	4.6	

POU County: LEMHI

Non-Irrigation Uses: NONE

Other Rights: A75-10061AK, 63C, 10062AJ

Remarks: GEN CHANGED OWNERSHIP PER REQUEST/JH/11-2-98

Dates: Exam Made Date:

Verified Date:

Objection Filed Date:

Misc: Water District Number: 75D

Field Inspection Flag:
Presumption Flag:

11/20/2006

NOTICE OF ERROR
REPLY

Please type or print clearly, fill out this form completely and mail.

Return this reply form to IDWR by the deadline date printed below if you want IDWR to change your recommendation or you want to let IDWR know that you agree with its recommendation.

YOUR DEADLINE FOR RETURNING A NOTICE OF ERROR REPLY IS: 12/13/2006

Water right number: 75-10827

JAMES DARRELL SPAIN
PO BOX 203
CARMEN ID 83462
Telephone Number: (208)756-2334

GERALDINE SPAIN
PO BOX 203
CARMEN ID 83462
Telephone Number: (208)756-2334

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DEC 15 2006
IDWR/North

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

(See Attached letter)

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

✓ (See Attached letter)

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

(See Attached letter)

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

DATE: _____ SIGNATURE: _____

Please print your name: _____

J D Spain

IDWR Regional Office, 7600 Mineral Drive, Suite 100, Coeur D' Alene, ID 83815, 2087622800

\$ should be no less than
.017, or increased to
.070, if:

75-10061 AK is no less than
.026, or increases to .018
75-63 C remains .013

75-10062 AS is no less than
.018, and does not decrease
to .010

SCANNED
FEB 17 2009

December 8, 2006

Idaho Department of Water Resources
PO Box 83720
Boise, Idaho 83720-0098

RECEIVED
DEC 15 2006
IDWR/North

Dear Mr. Tuthill,

We are submitting this letter in addition to the Notice of Error Reply Forms IDWR recently provided to us, with a December 13, 2006 filing deadline, to provide additional justification as to why we possibly disagree or contest the preliminary IDWR recommendation(s) for water rights **#75 -10061AK, #75 - 63C, #75 - 10062AJ, and #75 - 10827.**

It is our understanding that three of these water rights are **“decreed rights”** i.e (**#75 -10061AK, #75 - 63C, and #75 - 10062AJ**), with **#75-10827** being an additional **“beneficial right”**, and all date back to the original adjudication on Carmen Creek that occurred from 1875 to 1915.

It appears the IDWR has recommended reducing our three recorded **“decreed water rights”** (**#75 -10061AK, #75 - 63C, and #75 - 10062AJ**), from a total of 0.053 cfs for the three rights, or .014 cfs per acre for the three rights, to:

.041 cfs total, or 0.011 cfs per acre

An overall reduction of .012 cfs for our combined three recorded “decreed water rights”.

The IDWR has also recommended that our original total irrigatable acres of 3.6 acres, be increased by 1/10th to 3.7 total irrigatable acres for these “decreed water rights”.

SCANNED

FEB 17 2009

Our “beneficial water right”, (#75 – 10827), has been increased from a total of .017 cfs, or .004 cfs per acre, to:

.070 total cfs, or .018 cfs per acre

The IDWR has also recommended that our original total irrigatable acres of 3.6 acres, be increased by 1/10th to 3.7 total irrigatable acres for this “beneficial water right”.

Our concerns fall into these areas:

We would like to possibly contest our “decreed water rights” being reduced, and request the decreed amount of cfs be maintained in full, as stated on our original decrees.

This is based on information originally obtained from IDWR that only our “decreed water rights”, “*are of ~~low~~ importance to our irrigation needs.*” We were advised the “beneficial rights” were “*next to worthless*”. This information was relayed by IDWR employee, Roxanne Brown.

If this is correct information we are very adamant about maintaining our original “decreed water rights” at their original decreed total/individual cfs decrees. These rights total:

.053 cfs for the three rights, or .014 cfs per acre

If this is not the case, then our total recommended cfs for our three “decreed water rights”, plus our additional “beneficial water right” which is listed at:

0.111 total cfs, or 0.03 cfs per acre

- **would be adequate and fair, if it would maintain our “standard of allotted cfs” under our original paperwork filed with IDWR.**

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IDWR/North

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FEB 17 2009

We are "new" to Idaho, and "new" to this entire process, we are confident that IDWR will assist us in maintaining our rights as outlined in our properties original water right decrees, both "decreed" and "beneficial" decrees.

Sincerely,

Jim and Geri Spain
PO Box 203
Carmen, Idaho 83462
208-756-2334 hm.
208-940-0481 wk cell

RECEIVED
DEC 15 2006
IDWR/North

SCANNED
FEB 17 2009



State of Idaho

DEPARTMENT OF WATER RESOURCES

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

EASTERN REGION

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

November 2, 1998

STEVEN & DEBRA WALSH
1701 MARY ST
SALMON ID 83467

RE: NOTICE OF CHANGE OF WATER RIGHT OWNERSHIP
NOTICE OF CLAIM TO A WATER RIGHT A75-00063C,
A75-10061AK, A75-10062AJ, A75-10827

Dear Mr. & Mrs. Walsh:

The request for Change of Water Right Ownership concerning the above-referenced Notice of Claim has been processed and the Department's records updated to reflect you as the new claimant.

The enclosed report shows this change along with the elements of the water right being claimed. Please review this report and contact this office if there are corrections or questions.

Please keep this report for your records.

Respectfully yours,

Jennifer Hoagland
Technical Records Specialist

Enclosure

DELOG SVH 10/9/98
GT 10-22-98

STATE OF IDAHO
IDAHO DEPARTMENT OF WATER RESOURCES

NOTICE OF CHANGE OF WATER RIGHT OWNERSHIP
RECEIVED
OCT 09 1998
Department of Water Resources
Eastern Region

RECEIVED
10-2-98
R. FOSTER

Please print or type. Attach pages with additional information. Instructions are on the back of this page.
Incomplete forms will be returned.

1. Water Right Number(s) OK
Adjudication Claim Number(s) A75-10062 AJ, A75-0063C, A75-10061K, A75-10827 OK OK OK OK
2. The following REQUIRED information must be submitted with this form.

- A. A copy of the most recent DEED, TITLE POLICY, CONTRACT OF SALE, or other legal document indicating your ownership of the property and water rights or claims in question, WITH ATTACHED LEGAL DESCRIPTION.
AND
B. PLAT OF PROPERTY or SURVEY MAP for parcel of ten acres or less. (These are usually on file with the county.)
OR
C. For water rights or adjudication claims involving ten or more irrigated acres, a USDA Farm Service Agency (formerly ASCS) AERIAL PHOTO with irrigated acres outlined and point(s) of diversion clearly marked.

3. Name and Address of Former Owner/Claimant(s) Ron + Linda Martin
25781 Olivas Park Rd. Valencia Ca. 91355
4. New Owner/Claimant(s) Steven Walsh Debra L. Walsh
Name connector (Check one): ☒ AND, ☐ OR, ☐ AND/OR
New Mailing Address 1701 Mary St.
City, State and ZIP Code Salmon Id. 83467
New Telephone Number (208) 756-2010
5. Date you acquired the property 6-2-98

6. If you have acquired only a portion of the former owner's property, IDWR may need to split the water right(s) or adjudication claim(s). If this applies, describe in detail your portion of each water right or adjudication claim in the spaces below. If necessary, attach additional pages.

Number of acres actually irrigated _____ Number and type of stock _____

Diversion rate in CFS _____ Number of homes _____ Other uses _____
cubic feet per second

If a water right or adjudication claim is being split and you are not sure how to identify your portion of the original right or claim, please contact the nearest IDWR office for assistance.

7. Signature of New Owner/Claimant(s) Steven Walsh Date 9-4-98
Debra L. Walsh Date 9-4-98

8. (Corporations or other organizations must submit a list of directors/officers demonstrating authority to sign form.)
For Snake River Basin Adjudication Claims: If you are represented by an attorney and you want IDWR to correspond directly with your attorney for all matters related to your claims, please attach a Notice of Appearance completed by your attorney.

SCANNED
UC1152

8

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: A75-10827
Date Received: 5/10/1990
Receipt No: E014504
Received By: pc

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: LARRY J. HOMEN 415-582-1535
Address: 35700 PALOMARES RD
CASTRO VALLEY, CA 94552

2. Date of Priority: APR 01, 1915

3. Source: CARMEN CREEK Trib. to: SALMON RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
22N	22E	9	SW	NW	SW		LEMHI

5. Description of diverting works:
HEADGATE

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
IRRIGATION	04/01	11/01	0.017		

7. Total Quantity Appropriated is:
0.170 C.F.S. (and/or) A.F.A.

8. Total consumptive use is 11.6 Acre Feet Per Annum.

9. Non-irrigation uses:
NONE

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
22N	22E	8	NE	SW		IRR	3.6
			NW	SE		IRR	1.0

10. Place of Use: Continued

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
					Section Acres	4.6
					Total Acres	4.6

11. Place of use in counties: LEMHI

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

13. Other Water Rights Used:
A75-10061AK, 63C, 10062AJ

14. Remarks:

15. Basis of Claim: BENEFICIAL USE

16. Signature(s)

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

Number of attachments: _____

For 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: _____

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 A75 -10827
Date Received 5-10-90 - P.M.
Receipt Number E014504

NOTICE OF CLAIM
TO A
WATER RIGHT
ACQUIRED UNDER STATE LAW

RECEIVED

MAY 11 1990

Department of Water Resources
Eastern District Office

Please type or print clearly

1. Name of Claimant (s) LARRY J. HOMER Phone (415) 582-1535
Mailing Address 35700 PALOMARES RD. CASTRO VALLEY, CALIF. Zip 94552

2. Date of Priority (Only one (1) per claim) April 1, 1915

3. Source of water supply (a) Carmen Creek
which is tributary to (b) Salmon River

4. a. Location of existing point of diversion is: Township 22 N Range 22 E Section 9,
SW 1/4 of NW 1/4 of SW 1/4, Govt. Lot, _____ B.M., County of Lemhi

Additional points of diversion if any: _____

b. If instream flow, beginning point of claimed instream flow is:

Township _____ Range _____ Section _____, _____ 1/4 of _____ 1/4 of _____ 1

Govt. Lot _____ B.M., County of _____

ending point is: Township _____ Range _____ Section _____, _____ 1/4 of _____ 1/4 of _____

_____ 1/4, Govt. Lot _____ B.M., County of _____

5. Description of existing diversion works (Dams, Reservoirs, Ditches, Wells, Pumps, Pipelines, Headgates, Etc),
including the dates of any changes or enlargements in use, the dimensions of the diversion works as
constructed and as enlarged and the depth of each well.

Headgate, Approximately
3' wide x 4' high x 7' long. Wooden & concrete

A7510827



MICROFILMED

DEC 15 1992

6. Water is claimed for the following purposes:

(both dates are inclusive)

(cfs)

(acre feet)

For irrigation purposes from 4/1 to 11/1 amount 0.167 or _____

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

7. Total quantity claimed (a) 0.167 (cfs) and/or (b) _____ (acre feet)

8. Total consumptive use claimed is _____ acre feet per annum.

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

10. Description of place of use:

a. If water is for irrigation, indicate acreage in each subdivision in the tabulation below.

b. If water is used for other purposes, place a symbol of use (example: D for Domestic) in the corresponding place of use below. See instructions for standard symbols.

TWP	RNG	SEC	NE 1/4				NW 1/4				SW 1/4				SE 1/4				Totals
			NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	NE1/4	NW1/4	SW1/4	SE1/4	
22N	22E	8														1			1
		8									3.63								3.63

Total number of acres irrigated 4.63

11. In which county (ies) are lands listed above as place of use located? Lamhi

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

If your answer is No, describe in Remarks below the authority you have to claim this water right.

13. Describe any other water rights used at the same place and for the same purposes as described above.

parts of 75-063, 75-055, 75-051 or None ()

14. Remarks:

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Last Name Homen Ident No. _____

Copies: White -State, Yellow-Claimant

Map of Project: show clearly the point of diversion, place of use, section number, township, and range number.

Scale: 2 inches equals 1 mile

R 21 E

T 23 N R 22 E

T 22 N



place of use

pt. of diversion

7 8

18 17

8 9

17 16

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DEC 15 1992

Last Name HOMEN

Ident No. _____

Copies: White-State, Yellow-Claimant

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

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

Signature of Claimant (s) Larry J. Homen by Michael Omeraker Date May 9, 1990
Date _____

For Organizations: I do solemnly swear or affirm that I am _____ Title _____
of _____, that I have signed the foregoing
Organization
document in the space below as _____ of _____
Title Organization
and that the statements contained in the foregoing document are true and correct.

Signature of Authorized Agent _____
Title and Organization _____ Date _____

State of Idaho/or _____)
County of Benewah) SS.

Subscribed and sworn (or affirmed) before me this 9th day of May 19 90

SEAL

Notary Public Laura S. Sodericks
Residing at Salmon

My Commission Expires 10-21-94

Please Print Name

17. Notice of Appearance:
Notice is hereby given that I, _____ will be acting as attorney at law on behalf
of the claimant signing above, and that all notices required by law to be mailed by the director to the claimant signing above
should be mailed to me at the address listed below.

Signature _____

Address _____

Date _____

Last Name Homen Ident. Number _____

MICROFILMED

DEC 15 1992

Copies White-State, Yellow-Claimant