

02/10/2005

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

RIGHT NUMBER: 37-8165

NAME AND ADDRESS: ROBERT A ERKINS
PO BOX 108
BLISS ID 83314

BERNARDINE M ERKINS
PO BOX 108
BLISS ID 83314

SOURCE: WHITE ARROW HOT SPRING

TRIBUTARY: CLOVER CREEK

QUANTITY: 3.000 CFS

PRIORITY DATE: 06/30/1983

THIS RIGHT IS CONDITIONED UPON COMPLETION OF THE APPROPRIATION IN ACCORDANCE WITH THE STATUTORY PROCEDURE FOR APPROPRIATION OF WATER RIGHTS. THIS RIGHT REMAINS SUBJECT TO ALL CONDITIONS SET FORTH IN THE PERMIT UPON WHICH THIS RIGHT IS BASED, AND WILL BE SUBJECT TO ALL CONDITIONS SET FORTH IN THE LICENSE ISSUED BY IDWR UPON COMPLETION OF THE STATUTORY APPROPRIATION PROCESS.

POINT OF DIVERSION:

T04S R13E S30 SENE Within GOODING County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	4/01 10/31	3.000 CFS
RECREATION	1/01 12/31	0.300 CFS
DOMESTIC	1/01 12/31	0.060 CFS
HEATING	1/01 12/31	3.000 CFS
FISH PROPAGATION	1/01 12/31	3.000 CFS

PLACE OF USE: IRRIGATION Within GOODING County

T04S R13E S30	NESE	30.0	T04S R13E S30	SWSE	40.0
T04S R13E S30	SESE	30.0	T04S R13E S31	NENE	20.0
T04S R13E S31	NWNE	30.0	T04S R13E S31	SWNE	20.0
T04S R13E S31	SENE	20.0			

RECREATION same as IRRIGATION
DOMESTIC same as IRRIGATION
HEATING same as IRRIGATION
FISH PROPAGATION same as IRRIGATION

190 ACRES TOTAL

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: Permit

MEMORANDUM

Date: January 5, 2005

To: Application, Permit, Claim or Water Right Files 37-4040, 37-4041, 37-7426, 37-8165, 37-7999, 37-11069, and 37-11072
Appl. Decree Decree

Copy: Don Shaff *DS*

From: Jeff Peppersack

Re: Notice of Change in Water Right Ownership

Two Notices of Change in Water Right Ownership were filed March 5, 2004 for the records referenced above by Bliss Valley Properties LLC and Devils Corral LLC. The notices included several documents showing court judgments, deeds, etc. as proof of ownership. There is some question regarding the sufficiency of documentation for the application and permits involved. One of the court decisions appears to convey the application and permits to an intermediate owner, but subsequent quit claim deeds failed to include the personal property in the conveyance to Bliss Valley or Devils Corral.

On October 18, 2004, Notices of Federal Bankruptcy Court Stay on Scheduled Assets Re: Water Rights were filed in relation to the water right records. Legal review determined that the bankruptcy stay may not affect the water rights because the court judgment occurred prior to the bankruptcy filing. The legal review is based on documents currently submitted to IDWR. However, it is possible that the court judgment is under appeal (as indicated by one of the parties). Additional documentation regarding an appeal is expected. These Notices of Change in Water Right Ownership should be held for 15 days pending receipt of further documentation.

*Carter
Steve C.
37-4040, 37-4041
I changed owner
to make
existing. Current
Bliss Valley - Present
37-810, 37-811
DS
1-06-05*

MEMORANDUM

Date: January 6, 2005

To: Application, Permit, Claim or Water Right Files 37-4040, 37-4041, 37-7426, 37-8165, 37-7999, 37-11069, and 37-11072

Copy: Don Shaff

From: Jeff Peppersack

Re: Notice of Change in Water Right Ownership

My memo of January 5, 2005 notes that additional documentation regarding an appeal of court judgments possibly affecting water right ownership would be forthcoming. The documentation was received by IDWR on January 5, 2005 in the form of a letter and attachments faxed to John Homan. John indicated that the cautious approach would be to hold action regarding the Notices of Change in Water Right Ownership for the water right records referenced above until the ownership issue is fully resolved.

IDAHO DEPARTMENT OF WATER RESOURCES

Water Permit Report 37-8165

WATER RIGHT NUMBER: 37-8165

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	BERNARDINE M ERKINS PO BOX 108 BLISS, ID 83314 (208)352-4460
Current Owner	ROBERT A ERKINS PO BOX 108 BLISS, ID 83314 (208)352-4460

*Permit approved 1990
Proof Filed 1992*

Priority Date: 06/30/1983

Basis:

Status: Active

<u>Source</u>	<u>Tributary</u>
WHITE ARROW HOT SPRING	CLOVER CREEK

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	4/01 to 10/31	3.000 CFS	
HEATING	1/01 to 12/31	3.000 CFS	
DOMESTIC	1/01 to 12/31	0.060 CFS	
FISH PROPAGATION	1/01 to 12/31	3.000 CFS	
RECREATION	1/01 to 12/31	0.300 CFS	
	<u>Total Diversion:</u>	3.000 CFS	

Location of Point(s) of Diversion

WHITE ARROW HOT SPRING	SE1/4NE1/4	Sec. 30, Twp 04S, Rge 13E, B.M.
GOODING County		

Place of Use

IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
04S	13E	30													30.0		40.0	30.0	100.0
04S	13E	31	20.0	30.0	20.0	20.0													90.0

Total Acres: 190

HEATING same as IRRIGATION
 DOMESTIC same as IRRIGATION
 FISH PROPAGATION same as IRRIGATION
 RECREATION same as IRRIGATION

Conditions of Approval:

IDAHO DEPARTMENT OF WATER RESOURCES

Water Permit Report 37-8165

1. 01G Prior to the diversion of water under this right a flow measurement port or other device as specified by the Department shall be installed to provide for the installation of measuring equipment and the determination of the rate of diversion by the Department.
2. 03A The rate of diversion of water for irrigation under this right and all other water rights on the same land shall not exceed 0.02 cubic feet per second for each acre of land.
3. 042 The right holder shall provide the Department, upon request, information showing volume changes per hour necessary to maintain an adequate environment for the fish propagation facility. Volume changes per hour shall be based upon actual fish production.
4. 044 Use of water under this right is subject to policies set forth in the State of Idaho Water Plan, including Policy No. 5G.
5. 051 Any license issued by IDWR pursuant to the right or portion thereof for the use of trust water is subject to a term review of 20 years after the date of this approval to determine availability of water for the use and to re-evaluate the public interest at the end of the term.
6. 052 Diversion and use of water under this right is subject to an annual use fee if rules are subsequently promulgated which provide for the submittal of the fee.
7. 053 The Director retains jurisdiction over this right and may change, add, or remove any requirement as determined to be appropriate.
8. 07A Assignment or sale of this right is subject to a determination by the Department that the right holder has proceeded to develop the right with due diligence and without speculation.
9. 09D Water used under this right if discharged into a natural channel shall meet Idaho Water Quality Standards.

Remarks:

1. General Domestic use is for 2 homes.

Comments:

1. VAULT 6/1/1992 Proof of Beneficial Use Rcvd
Comment: Proof of Beneficial Use Rcvd

Dates and Other Information:

Permit Proof Due Date: 6/1/1992
 Permit Proof Made Date: 6/1/1992
 Permit Approved Date: 4/23/1990
 Permit Moratorium Expiration Date:
 Enlargement Use Priority Date:
 Enlargement Statute Priority Date:
 Field Exam Date:
 Date Sent to State Office:
 Date Received at State Office:
 State or Federal:
 Owner Name Connector:
 Water District Number:
 Generic Max Rate Per Acre:
 Generic Max Volume Per Acre:
 Swan Falls Trust or Nontrust:
 Swan Falls Dismissed:
 DLE Act Number:
 Carey Act Number:
 Mitigation Plan: False

Combined Use Limits:Element Reviewed/Verified Dates:

<u>Element</u>	<u>Last Reviewed Date</u>	<u>Reviewer</u>	<u>Last Verified Date</u>	<u>Verifier</u>	<u>Status</u>
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IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Claim Report 37-8165

WATER RIGHT NUMBER: 37-8165

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	ROBERT A ERKINS PO BOX 108 BLISS, ID 83314 (208)352-4460
Current Owner	BERNARDINE M ERKINS PO BOX 108 BLISS, ID 83314 (208)352-4460

Priority Date: 06/30/1983

Basis: Permit

Status: Active

<u>Source</u>	<u>Tributary</u>
WHITE ARROW HOT SPRING	CLOVER CREEK

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	4/01 to 10/31	3.000 CFS	
RECREATION	1/01 to 12/31	0.300 CFS	
DOMESTIC	1/01 to 12/31	0.060 CFS	
HEATING	1/01 to 12/31	3.000 CFS	
FISH PROPAGATION	1/01 to 12/31	3.000 CFS	
	<u>Total Diversion:</u>	3.000 CFS	

Location of Point(s) of Diversion

WHITE ARROW HOT SPRING	SE1/4NE1/4	Sec. 30, Twp 04S, Rge 13E, B.M.
GOODING County		

Place of Use

IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				Totals			
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE				
04S	13E	30																	30.0	40.0	30.0	100.0
04S	13E	31	20.0	30.0	20.0	20.0																90.0

Total Acres: 190

RECREATION same as IRRIGATIONDOMESTIC same as IRRIGATIONHEATING same as IRRIGATIONFISH PROPAGATION same as IRRIGATIONConditions of Approval:

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Claim Report 37-8165

Remarks:

1. General WATER FIRST USED IN 1882. SECTION 37 0810 & SECTION 37 0811 GIVE A COURT DECREE OF APRIL 1, 1982, AND JUNE 1, 1884 TO THIS WATER. EXPANDED USE OF THE WATER STARTED BY PRESENT OWNERS IN JULY, 1973 FARM USES WATER FROM 4 DIFFERENT CLAIMS FOR A TOTAL OF 13.39 CFS. TOTAL ACRES COVERED = 309 ACRES.
2. Explanatory IDWR NOTE: (11-10-04, DJ) BASIS OF CLAIM UPDATED TO PERMIT. PROOF OF B/U FILED AND PERMIT IS AWAITING LICENSING EXAM.

Comments:

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: A37-08165
Date Received: 8/22/1988
Receipt No: 5002564
Received By: gj

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: ROBERT A. ERKINS 208-352-4460
Address: P.O. BOX 108
BLISS, ID 83314

Name: BERNARDINE M. ERKINS
Address: P.O. BOX 108
BLISS, ID 83314

2. Date of Priority: JUN 30, 1983

3. Source: WHITE ARROW HOT SPRINGS Trib. to: CLOVER CREEK

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4	Lot	County
04S	13E	30	SE	NE			GOODING

5. Description of diverting works:
DIVERSION DAM, PIPE, DITCHES, RESERVOIRS, PONDS

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
IRRIGATION	04/01	10/31	3.000		
FISH PROPAGATION	01/01	12/31	3.000		
HEATING	01/01	12/31	3.000		
DOMESTIC	01/01	12/31	0.060		
RECREATION	01/01	12/31	0.300		

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

8. Total consumptive use is Acre Feet Per Annum.

9. Non-irrigation uses:
D/2 HOMES, S/100 RANGE, 150 HOGS, 11 FISH PONDS

A37-08165

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Date: 08/22/88

SCANNED

FEB 07 2005

MICROFILMED

FEB 24 1993

10. Place of Use:

Township	Range	Section	1/4 of	1/4	Lot	Use	Acres
04S	13E	30	NE	SE		IRR	30.0
			SW	SE		IRR	40.0
			SE	SE		IRR	30.0
			Section Acres				100.0
		31	NE	NE		IRR	20.0
			NW	NE		IRR	30.0
			SW	NE		IRR	20.0
			SE	NE		IRR	20.0
			Section Acres				90.0
			Total Acres				190.0

11. Place of use in counties: GOODING

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

13. Other Water Rights Used:
A37-07426, A37-04040, A37-04041

14. Remarks:
WATER FIRST USED IN 1882. SECTION 37 0810 & SECTION 37 0811 GIVE
A COURT DECREE OF APRIL 1, 1982, AND JUNE 1, 1884 TO THIS WATER.
EXPANDED USE OF THE WATER STARTED BY PRESENT OWNERS IN JULY, 1973
FARM USES WATER FROM 4 DIFFERENT CLAIMS FOR A TOTAL OF 13.39 CFS.
TOTAL ACRES COVERED = 309 ACRES.

15. Basis of Claim: APPLICATION

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 X 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):

Robert E. Erkins Date: 9/27/88
Bernardus Erkins Date: 9/27/88

State of Idaho

County of Twin Falls) SS.

Subscribed and sworn (or affirmed) before me this 27th day

of September 19 88

Roxanne Storey
Notary Public

Seal

Residing at Buhl, Id

My Commission Expires 6-30-94