

05/27/2005

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

RIGHT NUMBER: 37-21453

NAME AND ADDRESS: PORTUGUESE CREEK PARTNERSHIP LLC
1992 E 1775 S
GOODING ID 83330

SOURCE: GROUND WATER

TRIBUTARY:

QUANTITY: 0.040 CFS

The quantity of water under this right shall not exceed 2,500 gallons per day.

PRIORITY DATE: 11/03/1980

POINT OF DIVERSION:

T05S R15E S32 NESE Within GOODING County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE

PERIOD OF USE

QUANTITY

DOMESTIC

01/01 12/31

0.040 CFS

Domestic use is in a commercial building.

PLACE OF USE: DOMESTIC Within GOODING County

T05S R15E S32 NESE

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.

The quantity of water decreed for this water right is not a determination of historical beneficial use.

EXPLANATORY MATERIAL: Beneficial Use



State of Idaho

DEPARTMENT OF WATER RESOURCES

1341 Fillmore Street, Suite 200, Twin Falls, ID 83301-3380

Phone: (208) 736-3033 FAX: (208) 736-3037 DEPT INTERNET WEB SITE: www.idwr.idaho.gov

SOUTHERN REGION

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

April 8, 2005

RECEIVED

APR 11 2005

Department of Water Resources

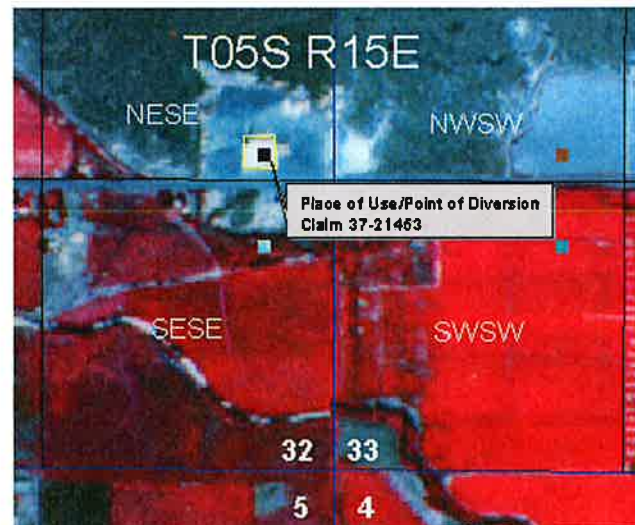
Portuguese Creek Partnership LLC
1992 E 1775 S
Gooding, ID 83330

RE: SNAKE RIVER BASIN ADJUDICATION (SRBA) CLAIM (S): 37-21453

Dear Portuguese Creek Partnership LLC

We have received and processed your form of "Notice of Claim to a Water Right" along with an application fee of \$25.00. The assigned claim number is 37-21453.

Please review the enclosed claim to verify correct data such as place of use, point of diversion, date of priority and other important information. If there should be any questions or changes to this claim, please contact the regional office at the number above.



Sincerely

Nick Treasure

Water Resource Agent

E-mail address: nick.treasure@idwr.idaho.gov

Enclosures

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 37-21453
Date Received: 4/8/2005
Receipt No: 5027550
Received By: NT

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name of Claimant(s)

PORTUGUESE CREEK PARTNERSHIP LLC Phone: (303) 650-2762
1992 E 1775 S
GOODING ID USA 83330

2. Date of Priority: 11/03/1980

3. Source: GROUND WATER Trib. to:

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County	Type
05S	15E	32	NE SE	GOODING	

5. Description of diverting works:

Existing well drilled in 1980, down to 171 feet. Drilling Co. was "Elsing Drilling" Firm #31. Pump was put into place by "Bobs" electric of Gooding, Id.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
DOMESTIC	01/01	12/31	0.04	

7. Total Quantity Appropriated is:
0.04 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
05S	15E	32	NE SE	DOMESTIC	

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:

14. Remarks:

The quantity of water under this right shall not exceed 2,500 gallons per day.

The quantity of water decreed for this water right is not a determination of historical beneficial use.

15. Basis of Claim: Beneficial Use

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

Identification No. 37-21453Date Received 4/8/05Receipt Number 5027550

NOTICE OF CLAIM
TO A
WATER RIGHT

RECEIVED

APR 08 2005

Department of Water Resources
Southern Region

ACQUIRED UNDER STATE LAW

For Domestic and/or Stockwater Purposes

Where Daily Use is less than 13,000 gallons per day.

Filing Fee \$25

Please type or print clearly

1. Name of Claimant (s) Portuguese Creek Partnership(LLLPA) Phone (303) 650-2762Mailing Address 1992 East 1775 St./Gooding ID. Zip 833302. Date of Priority (Only one per claim) 11/3/1980 Month/Day/Year3. Source of water supply (Check one) ☒ Groundwater or Other () (a) _____

which is tributary to (b) _____ Name or kind of source

4. Location of point of diversion is: Township See P/U KKC (use same) Range _____Section 32 , NE 1/4 of SE 1/4 of _____ 1/4, Govt. Lot _____, BM.,County of Gooding County, IDAHO

Additional points of diversion if any: _____

5. Description of existing diversion works (Ditches, Wells, Pumps, Pipelines, Headgate 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. Existing Well Drilled in 1980, down to 171 feet. Drilling Co. was "Elsing Drilling" firm # 31. Pump was put into place by "MARTIN BOBBS" Electric of Gooding, ID.

6. Water is claimed for the following: (limited to Domestic and/or Stockwater only. See Instructions.)

For Domestic purposes from 1-1 Month/Day to 12-31 Month/Day amount .04 cfs (cfs)

(Both dates are inclusive)

For _____ purposes from _____ to _____ amount _____

7. Total quantity claimed .04 (cfs)8. Total consumptive use claimed is de minimus9. Non-irrigation uses. Describe fully. (Domestic: give number of households served if single ownership; Stockwater: Type and Number of livestock) -1-

10. Place of use is: Township: 5 South Range 15 East Boise Meridian

Section 32 NE 1/4 of SE 1/4, Govt. Lot _____, B.M.,

for (Circle One) Domestic Stock Domestic and Stock

Additional places of use, if any _____

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

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

() None or _____

14. Remarks: _____

15. Basis of Claim (Circle One) Beneficial Use Posted Notice License Permit Decree

Court _____ Decree Date _____ Plaintiff vs Defendant _____

If applicable provide IDWR Water Right Number _____

16. Signature (s)

(a.) By signing below, I/We acknowledge that I/We have received, read and understood the form entitled "How you will receive notice in the Snake River Basin Adjudication". (b.) I/We do not 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) James Dreal

Date 4/6/05

Date _____

For Organizations: I do solemnly swear or affirm that I am MANAGING General Partner

of Portuguese Creek Partnership LLP, that I have signed the foregoing

document in the space below as MANAGING General Partner of Portuguese Creek Partnership LLP.

and that the statements contained in the foregoing document are true and correct.

Signature of Authorized Agent James Dreal

Date 4/6/05

Title and Organization _____

State of Idaho/or _____)

County of Twin Falls)

SS.

NOTARIZATION REQUIRED FOR EACH CLAIM

Subscribed and sworn (or affirmed) before me this 8th day of April 19 05

Notary Public Mary A. Baldwin

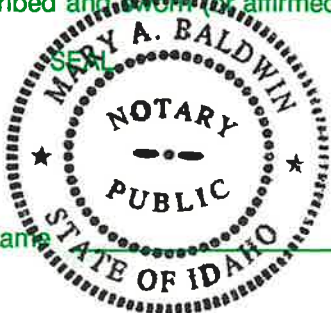
Residing at Twin Falls, Id

My Commission Expires 10/16/2010

Last Name _____

Ident No. _____

Copies: White-State, Yellow-Claimant



Portuguese Creek Management LLC.

6614 Stuart Court.
Arvada, Colorado 80003
Voice: 303-650-2762 or: 303-693-0308 Fax: 303-693-1164

April 6, 2005

RECEIVED

APR 08 2005

Department of Water Resources
Southern Region

Jeanie Robertson
Sr. Water Resource Agent
C/O Department of Water Resources
1341 Fillmore St. Suite 200
Twin Falls, Idaho. 83301-3380

Re: Notice of Claim to a Water Right by:
Portuguese Creek Partnership LLLP.

Dear Mrs. Robertson,

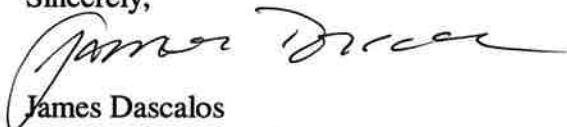
Thank you for taking the time to visit with me regarding water issues for our business start-up in Gooding, County.

I hereby have submitted the "Notice of Claim to a Water Right" along with a check for the application fee in the amount of \$25.00.

Please let me know if I have not completed the application form correctly and or how next to proceed with this filing.

Thank you again for your time and patience.

Sincerely,



James Dascalos
Managing General Partner
Portuguese Creek Management LLC.

Submitted for and on Behalf of /
Portuguese Creek Partnership LLLP.



State of Idaho

DEPARTMENT OF WATER RESOURCES

1341 Fillmore Street, Suite 200, Twin Falls ID 83301-3380

Phone: (208) 736-3033 FAX: (208) 736-3037

SOUTHERN REGION

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

March 21, 2005

ROCI

C/O James Dascalos, President

6614 Stuart Court

Arvada, CO 80003

RE: Water use for plant in or near Gooding Idaho

Dear Mr. Dascalos:

This letter is intended to describe what water uses would be exempt from needing a recorded water right for your proposed plant near Gooding Idaho.

I understand you have recently purchased a property in or near Gooding. On the property there exists a "domestic" well and you have inquired of this office the potential for using the well in your proposed facility. As you know our staff have researched well logs and water rights for this well and did not find a water right record associated with the well.

As has been discussed, there is potential to use water from a well (existing or new) without having a water right recording as allowed by Section 42-227 of the Idaho Code but this potential exception is limited to the "domestic" definition as defined by Section 42-111 of the Idaho Code which states:

42-111. DOMESTIC PURPOSES DEFINED. (1) For purposes of sections 42-221, 42-227, 42-230, 42-235, 42-237a, 42-242, 42-243 and 42-1401A, Idaho Code, the phrase "domestic purposes" or "domestic uses" means:

(a) The use of water for homes, organization camps, public campgrounds, livestock and for any other purpose in connection therewith, including irrigation of up to one-half (1/2) acre of land, if the total use is not in excess of thirteen thousand (13,000) gallons per day, or

(b) Any other uses, if the total use does not exceed a diversion rate of four one-hundredths (0.04) cubic feet per second and a diversion volume of twenty-five hundred (2,500) gallons per day.

(2) For purposes of the sections listed in subsection (1) of this section, domestic purposes or domestic uses shall not include water for multiple ownership subdivisions, mobile home parks, or commercial or business establishments, unless the use meets the diversion rate and volume limitations set forth in subsection (1)(b) of this section.

(3) Multiple water rights for domestic uses or domestic purposes, as defined in this section, shall not be established or exercised in a manner to satisfy a single combined water use or purpose that would not itself come within the definition of a domestic use or purpose under this section. The purpose of this limitation is to prohibit the diversion and use of water, under a combination of domestic purposes or domestic uses as defined in this section, to provide a supply of water for a use that does not meet the exemption of section 42-227, Idaho Code, and is required to comply with the mandatory application and permit process for developing a right to the use of water pursuant to chapter 2, title 42, Idaho Code.

The highlighted exception above allows operation of a commercial type facility you have described to me in letters and phone conversations. To reiterate, if your water use is limited to divert at a rate not to exceed 0.04 cfs (18 gallons per minute) and your total daily water diversion for your facility is 2500 gallons or less (This includes facility cleaning, charging of process tanks, water in restrooms and kitchen facilities) your facility qualifies for the exception. Understand that the 2500 gallons per day is not an average use to be calculated over several days; it is a limit for any one day.

I understand your proposed facility will have tanks or vats that have a volume of approximately 25,000 gallons. I understand that you will fill these containers with water, chemicals, minerals, ores, etc. The water fill rate will be limited to 18 gpm and no more than 2500 gpd (will take 10 days to fill containers). After the initial charging of the containers makeup water will be added and process water will be re-circulated. (Only occasional cleaning of tanks will require refilling.)

If you design and operate your facility within the parameters described above you are exempt from the water right recording requirement. If your facility exceeds these parameters a water right is required. To operate over the limits without a water right is illegal and you will be subject to civil penalties.

If you desire to expand the operation of the facility or wish to operate the facility beyond the limit described above you will require a water right. Since there are moratoriums for establishment of new water right permits in the Gooding area you may need to purchase a privately held (existing) water right and file a "transfer" to associate it with the facility. This "transfer" process may require consultation with knowledgeable experts (engineers, lawyers) in this process. The "transfer" procedure also may involve significant processing time (several months) and involves public notice providing opportunity for protest by those who may be affected.

If you have questions regarding these matters please feel free to contact this office.

Respectfully,



Allen Merritt, PE
Southern Region Manager

CC: Jeanie Robertson, Jeff Peppersack – IDWR
Cindy Yenter – Watermaster District 130

Merritt, Allen

From: James Dascalos [j.dascalos@comcast.net]
Sent: Monday, March 21, 2005 11:37 AM
To: 'Merritt, Allen'
Subject: Water well



Dept of Water
Resources 3-21-0...

Allen: As per our conversation this morning, I have attached a letter identifying the specifics of ROCI's water usage.

Let me know if modifications to the letter are needed.

I can be reached at: 303-650-2762

Thanks in advance for your prompt attention into this matter.

Sincerely,

Jim Dascalos



6614 Stuart Court • Arvada, CO 80003 • Phone: (303) 650-2762
Fax: (303) 650-2762 • Email: jdmrsand@msn.com

March 21, 2005

Allen Merritt / Regional Manger
C/O Department of Water Resources
1341 Fillmore Street
Suite 200
Twin Falls, ID. 83331

Re: Commercial Well Exemption Letter

Dear Mr. Merritt,

Let this letter serve to more specifically provide your office specific information regarding my company's water usage and needs.

The plant will have a series of tanks that once filled would have a capacity of approximately 25,000 gallons of water in them. The water along with the reagents and slurry will be re-circulated continuously throughout the system. Additional water may be needed to make-up for lost water due to evaporation.

Your requirements as indicated, are that our operations keep our pumping below the 18 gal. per minute, with a total volume not to exceed 2500 gal of water per day.

Base on this requirement, our operation would be more than capable of complying with this water output. The operation would fill the tanks only during business hours or during 10 hours per day for a total of no more than 4.1 gal. per-minute output, or 2460 gal per day, during tank filling. After the tanks are filled, normal plant usage for water would prevail, as indicated in my previous letter to Mrs. Robertson.

Let me know if there you need any additional information.

Sincerely,

James Dascalos
President / ROCI

Merritt, Allen

From: James Dascalos [j.dascalos@comcast.net]
Sent: Monday, March 21, 2005 9:42 AM
To: allen.merritt@idwr.idaho.gov
Subject: Water Well Exemption



Dept of Water
Resources 3-18-0...

Allen: Because of Mrs. Robertson's absence this week, you have been chosen to look at the attached correspondence in reference to a commercial property located in Gooding, Idaho that has what seems to be a domestic un-qualified (no historical information) well on the property.

This well will need to be used for the commercial operations business, but its use would fall below the exemption amount or under the 2500 gal. per day usage.

Therefore, the discussions that have taken place with Mrs. Robertson, were that your department after receiving a letter from us, would issue an exemption letter for our submittal to the Gooding Planning and Zoning Commissioners.

We have been given a timeline for this letters submittal, that would fall short, if we waited for Mrs. Robertson's return at the end of the week. It would be my hope that you could intervene and assist in its submittal in her absence.

Please call me so that we may discuss the matter.

Sincerely,

Jim Dascalos
President/ ROCI
Tel. 303-650-2762



ecofriendly metallurgy

6614 Stuart Court • Arvada, CO 80003 • Phone: (303) 650-2762
Fax: (303) 650-2762 • Email: jdmrsand@msn.com

March 18, 2005

Jenie Robertson
C/O Department of Water Resources
1341 Fillmore Street
Suite 200
Twin Falls, ID. 83331

Re: Commercial Well Exemption Letter

Dear Mrs. Robertson,

ROCI purchased a commercial building located at, 1992 East 1775 South Gooding, Idaho in November of 2004. The building has a water well located on the property the usage output of which is 13,000 + gallons per day, however, according to your search there are no records of this well being drilled or qualifications of its use.

As we discussed the Gooding Planning & Zoning officials have requested that ROCI produce appropriate paperwork that demonstrates that it has the authority to use this well for its commercial operations.

Uses:

Our business will need water for several uses, which include: 1. Wash facilities (2), in the plant area, and wash facilities and kitchen in the office area. 2. The commercial application for the business's water needs will be that of filling tanks for its mine process applications. The amount of water that it will need for this application is estimated at between 40,000 and 80,000 semi-annually, or approximately 80,000 and 160,000 gallons annually.

As per our conversation, you indicated that our business might be able to use this well for our uses under the "B" exemption under Idaho State water law. My understanding of this exemption is that we would be limited to 2,500 gallons per day. Accordingly, our operations would have no trouble meeting this requirement.

If we can qualify for this exemption, we would we ask that your department issue ROCI, a letter stating the terms or authorization of the exemption use?

If you need any additional information please feel free to call.

Sincerely,

James Dascalos
President / ROCI

March 18, 2005

Jenie Robertson
C/O Department of Water Resources
1341 Fillmore Street
Suite 200
Twin Falls, ID. 83331

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If you need any additional information please feel free to call.

Sincerely,


James Dascalos
President / ROCI