

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA)
)
)
Case No. 39576)

Water Right 36-02902

ORDER AMENDING IRRIGATION PERIOD OF USE ELEMENT
IN PARTIAL DECREE AND INCORPORATING INTO PARTIAL
DECREE AN EXPRESS STATEMENT REGARDING GENERAL
PROVISIONS, *NUNC PRO TUNC*

A *Partial Decree* was entered for the above-captioned irrigation water right on December 29, 1997. The period of use element was decreed as "irrigation season." In *A&B Irrigation Dist. v. Idaho Conservation League*, 131 Idaho 411, 423, 958 P.2d 568, 580 (1998), the Idaho Supreme Court remanded with the directive to include specific dates for the period of use element. Following remand, IDWR filed a *Supplemental Director's Report, Reporting Area 3, IDWR Basin 36, Regarding Revision of Period of use (For Irrigation Water Uses) and Conjunctive Management General Provisions*, which included an irrigation period of use recommendation for this water right. No objections were filed to this recommendation and the time period for filing objections has now expired.

THEREFORE, IT IS ORDERED that the period of use for the irrigation element of the above-captioned water right is hereby amended and decreed as:

PERIOD OF USE: 03-15 11-15

IT IS FURTHER ORDERED that the *Partial Decree* for the above-captioned water right is hereby amended and decreed to contain the following:

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. I.C. section 42-1412(6).

This order is being entered *nunc pro tunc* as of the date the *Partial Decree* was issued and is not intended to modify any subsequent administrative changes for the water right, if any, which occurred following entry of the *Partial Decree*.

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.

Dated August 27, 2001



ROGER BURDICK
Presiding Judge
Snake River Basin Adjudication

RECEIVED

SEP 11 2001

Department of Water Resources

Important Information About Your Water Right

August 27, 2001

W H SHILLINGTON
PO BOX 535
RUPERT, ID 83350

Dear Water Right Claimant(s):

The reverse side of this letter contains a copy of an ***Order Amending Irrigation Period of Use Element in Partial Decree and Incorporating into Partial Decree An Express Statment Regarding General Provisions, Nunc Pro Tunc*** (hereinafter "***Order***") for water right number 36-02902. According to Idaho Department of Water Resources (IDWR) records, you are the current owner of this water right. If you are not the current owner, please contact IDWR immediately at:

Idaho Department of Water Resources
1301 North Orchard
Boise, ID 83706
800-451-4129

The Purpose of the ***Order*** is to set forth beginning and ending dates for the irrigation period of use for this water right. As stated in the face of the ***Order***, this action was necessary following the decision of the Idaho Supreme Court in *A&B Irrigation Dist. v. Idaho Conservation League*, 131 Idaho 411, 423, 958 P.2d 568, 580 (1998). This ***Order*** also incorporates into the ***Partial Decree*** an express statement that the ***Partial Decree*** is subject to such general provisions necessary for the definition or for the efficient administration of the water right. This express statement is necessary to comply with the requirements of Idaho Code section 42-1412(6). This ***Order*** in combination with the ***Partial Decree*** that was issued for this water right on December 29, 1997, sets forth all of the elements of your water right. The Snake River Basin Adjudication (SRBA) Court suggests that you keep this document in a safe location together with a copy of the ***Partial Decree*** to show evidence of the water right. The original of this ***Order*** and the original of the ***Partial Decree*** for this water right are on file with SRBA Court. If you do not have a copy of the original ***Partial Decree***, one can be obtained by contacting the SRBA Court at (208) 736-3011. Please note that the ***Order*** is entered ***Nunc Pro Tunc***, meaning that the ***Order*** will be treated as if it were issued the same date that the ***Partial Decree*** was originally issued.

Sincerely,



Diana Delaney
Case Administrator



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, P.O. Box 83720, Boise, Idaho 83720-0098

Phone: (208) 327-7900 FAX: (208) 327-7866

July 28, 1999

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

36-02902

W H SHILLINGTON
PO BOX 535
RUPERT ID 83350

RE: Water Rights in Reporting Area 3, Basin 36
Snake River Basin Adjudication (SRBA)

Dear Water Right Claimant(s):

Please find enclosed the Idaho Department of Water Resources supplemental recommendations for your water right(s) in basin 36 (the area north of the Snake River from near Lake Walcott on the east to near Hagerman on the west). We have also enclosed instructions for reviewing (1) your recommended water right(s), and (2) other recommended right(s) in your area.

In response to the Idaho Supreme Court's decision in Basin-wide Issue 5 after most water rights in Basin 36 had been decreed, the SRBA Court requested me to file supplemental reports for Basin 36 regarding the period of use for irrigation water uses and general provisions applying to all water rights in Basin 36. The enclosed documents fulfill that request. The general provision enclosed is in addition to those already adopted by the Court.

Note you have just over 30 days in which to review the water rights of other claimants and to file any objection to our recommendations. Information on the other water rights can be found at the county courthouses in Hailey, Arco, Jerome, Rupert, Gooding, and Shoshone and at all of the Idaho Department of Water Resources offices (see addresses in enclosure).

If the SRBA Court does not receive an objection to our recommendation from you and no other party objects to your water right, your water right will be decreed later this year as recommended. You will receive your decree from the SRBA Court.

Completion of the SRBA is important for the future of water management in Idaho. We invite you to contact our regional offices with any questions you have about your water right(s) or this adjudication process.

Sincerely,

Karl J. Dreher
Director

Enclosures

AJ5875NP
1742

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

DATE: July 28, 1999
PAGE: 1

RIGHT NUMBER: 36-02902

NAME AND ADDRESS: W H SHILLINGTON
PO BOX 535
RUPERT ID 83350

PURPOSE AND

PERIOD OF USE:

PURPOSE OF USE
IRRIGATION

PERIOD OF USE

03-15 11-15

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA

Case No. 39576

A. Subcase _____

STANDARD FORM 1a

OBJECTION TO IRRIGATION SEASON
AND/OR CONJUNCTIVE MANAGEMENT
GENERAL PROVISIONS

B. NAME AND ADDRESS OF PERSON OBJECTING

Name: _____

Name & address of attorney, if any: _____

Address: _____

Daytime Phone: (____) _____

C. CLAIMANT OF WATER RIGHT AS LISTED IN
SUPPLEMENTAL DIRECTOR'S REPORT

Name: _____

Address: _____

D. ELEMENTS OBJECTED TO:

8. Period (Irrigation Season) of Use

Should be: _____

12. General Provision

Number: _____ Reported in Basin: _____

Comments: _____

E. REASONS SUPPORTING OBJECTION: (if you have additional reasons, please attach to this form)

This standard form is for the sole purpose of objecting to the Director's supplemental recommendations on irrigation season of use and general provisions. This form may not be used to object to any other elements of your water right.

If you have evidence that the recommendations on irrigation season of use and/or conjunctive management adversely affect other elements of your water right, please contact the Snake River Basin Adjudication at 208-736-3011. A deputy clerk of the court will inform you of how to proceed.

F. VERIFICATION (Must be Completed)

State of _____)
)ss.
County of _____)

_____, duly sworn, upon oath, deposes and says:
(Name of person filing objection)

That I am the party/claimant filing this objection, as defined by I.C. §§ 42-1401A(1) and (6) or that I am the attorney for the party/claimant objecting and that I have read this objection, know its contents and believe that the statements are true to the best of my knowledge.

(Signature of person filing objection)

Subscribed and sworn to before me on: _____

(Attorney signing in representative capacity)

Notary Public
for _____

Residing at: _____

My Commission Expires: _____

INSTRUCTIONS FOR MAILING

You must mail the objection to the Clerk of the Court. FAX filings will not be accepted. You must also send a copy to all the parties listed below in the Certificate of Mailing.

G. CERTIFICATE OF MAILING

I certify that on _____, 199____, I mailed the original and copies of this objection, including all attachments, to the following persons:

1. Original to:

Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
PO Box 2707
Twin Falls, ID 83303-2707

2. One copy to the claimant of the water right
at the following address:

Name: _____

Address: _____

3. Copies to:

IDWR Document Depository
PO Box 83720
Boise, ID 83720-0098

Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
PO Box 44449
Boise, ID 83711-4449

United States Department of Justice
Environment and Natural Resource Division
550 West Fort Street, MSC 033
Boise, ID 83724

Signature of Objector or attorney

ADDITIONAL INFORMATION

If you have questions about the SRBA, public information brochures are available at any IDWR office. You are also welcome to call IDWR at any of its offices or the SRBA Court. You may also want to consider contacting an attorney to assist you.

Snake River Basin Adjudication

District Court

253 Third Avenue North

P.O Box 2707

Twin Falls, Idaho 83303-2707

(208) 736-3011

Idaho Department of Water Resources

1301 North Orchard

Box 83720

Boise, Idaho 83720-0098

(208) 327-7906

(800) 451-4129

Idaho Department of Water Resources

Western Region

2735 Airport Way

Boise, Idaho 83705-5082

(208) 334-2190

Idaho Department of Water Resources

Northern Region

1910 Northwest Blvd., Suite 210

Coeur d'Alene, ID 83814-2615

(208) 769-1450

Idaho Department of Water Resources

Southern Region

1341 Fillmore, Suite 200

Twin Falls, Idaho 83301-3380

(208) 736-3033

Idaho Department of Water Resources

Eastern Region

900 North Skyline, Suite A

Idaho Falls, Idaho 83402-3653

(208) 525-7161

Blaine County Courthouse

1st and Croy St.

Hailey, ID 83333

Butte County Courthouse

248 W. Grand Ave.

Arco, ID 83213

Jerome County Courthouse

300 N. Lincoln, Rm. 301

Jerome, ID 83338

Lincoln County Courthouse

111 W. B St.

Shoshone, ID 83352

Minidoka County Courthouse

715 G St.

Rupert, ID 83350

Gooding County Courthouse

624 Main St.

Gooding, ID 83330

BASIN 36 GENERAL PROVISION

The director recommends that the following general provision be included in the decree determining rights to water from Basin 36:

The following water rights from the following sources of water in Basin 36 shall be administered separately from all other water rights in Basin 36:

Water Right No.

None

Source

None

The following water rights from the following sources of water in Basin 36 shall be administered separately from all other water rights in the Snake River Basin:

Water Right No.

None

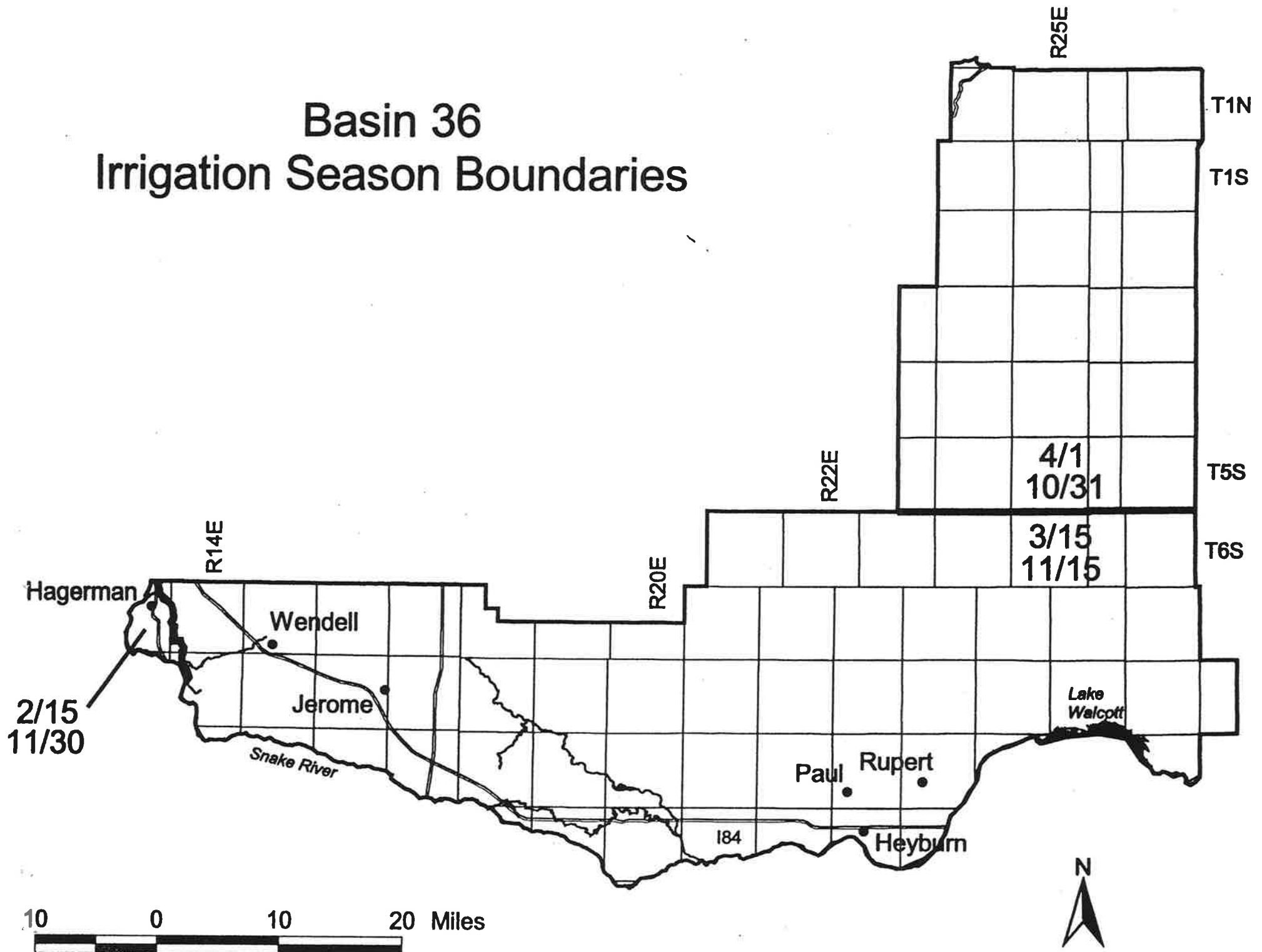
Source

None

All water rights with Basin 36 are from connected sources of water in the Snake River Basin and shall be administered conjunctively.

Basin 36

Irrigation Season Boundaries



**INSTRUCTIONS FOR FILING
OBJECTIONS TO WATER RIGHTS IN THE
SNAKE RIVER BASIN ADJUDICATION
BASED UPON THE SUPPLEMENTAL DIRECTOR'S REPORT**

The attached form is for your use if you file an objection to irrigation season recommendations and/or general provisions, as recommended in the Supplemental Director's Report. You may copy or reproduce this blank form.

To object to more than one water right, you must use a **separate form for each objection** and there must be **only one objector** for each form.

Your objection must be **received and filed** by the court on or before the deadline specified in the notice that the Idaho Department of Water Resources mailed to you. If you are filing 25 or more objections you must contact the Clerk of the SRBA court at least 14 days before the filing deadline and arrange an appointment for filing.

You may attach any explanation or documentation that you feel is necessary to support your objection.

INSTRUCTIONS FOR COMPLETING THE OBJECTION FORM

- A. **Subcase.** Fill in the water right number to which you are objecting at the top of the form in the blank following Subcase. The water right number will become the Subcase Number.
- B. **Name and Address of Person Objecting.** Enter your name, address and daytime telephone in the blanks provided.
- C. **Claimant of Water Right As Listed in Supplemental Director's Report.** Fill in the claimant/owner blank of the water right to which you are objecting as it is listed in the Supplemental Director's Report.
- D. **Elements of the Water Right.** If you disagree with irrigation season or general provisions listed in the Supplemental Director's Report, check the appropriate box(es) and write in the space provided what you think the element should be. If objecting to a general provision, please indicate the number of the provision, and the basin it was reported in.
- E. **Reasons supporting objection.** Attach to the objection form a separate sheet explaining why you are objecting. (this is optional)
- F. **Verification.** You must sign the objection form in front of a notary. By filing this objection form, you are certifying that the objection is well-grounded in fact; that it is warranted by existing law or a good-faith argument for the extension, modification or reversal of existing law; and that it is not filed for any improper purpose, such as to harass, cause unnecessary delay or needlessly increase the cost of litigation.
- G. **Certificate of Mailing.** Fill in the appropriate blanks for the date and the owner of the water right, and sign the form. Remember that the original objection form must be mailed to the Clerk of the SRBA District Court with copies mailed to the parties listed in this section.

RECEIVED
AUG 18 1999
Department of Water Resources
Southern Region

Wrong Address

TWIN FALLS
AUG-6'99
ID
PB METER
8348122
U.S. POSTAGE
0.77

IDAHO DEPARTMENT OF WATER RESOURCES
1341 Fillmore Street, Suite 200
Twin Falls, ID 83301-3380
(208) 736-3033

~~14 SHILLINGTON~~
~~PO BOX 525~~
~~RUPERT ID 83450~~

RETURN TO SENDER
UNDELIVERABLE AS ADDRESSED
FORWARDING ORDER EXPIRED

Old (D) Number - 24191

Phone - 208-436-4255

GEN THIS RIGHT IS LIMITED TO THE IRRIGATION OF 29 ACRES WITHIN THE
 PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.
 RIGHT NO. 36-02733 IS ALSO DIVERTED THROUGH POINT OF DIVERSION
 DESCRIBED ABOVE.
 USE OF THIS RIGHT WITH RIGHT NO. 36-02733 IS LIMITED TO A
 TOTAL COMBINED DIVERSION RATE OF 1.34 CFS, A TOTAL COMBINED
 ANNUAL DIVERSION VOLUME OF 272 AF, ~~A TOTAL COMBINED ANNUAL~~
~~CONSUMPTIVE USE VOLUME OF 204 AF.~~ AND TO THE IRRIGATION OF A

Water right number - 36-02902

Prefix Translation: WATER RIGHT

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

POU! EIT

COMBINED TOTAL OF 68 ACRES IN A SINGLE IRRIGATION SEASON.

+ - - - - Old Water Right Numbers - - - - - +

3602902

+ - - - - Conditions of Approval - - - - - +

C05 - RIGHT INCLUDES ACCOMPLISHED CHANGE IN PLACE OF USE PURSUANT TO
- SECTION 42-1425, IDAHO CODE.
S16 - USE OF THIS RIGHT IS COMBINED WITH WATER FROM
- MINIDOKA IRRIGATION DIST.

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

+ - Decree Date - +
00/00/0000

+ - - Audit Fields - 09/27/91 CLELLAND 07/10/92 CWU-PROD 07/18/92 POST-STD 08/28/92 PR-PRODM 11/02/92 CPSHAW
12/05/92 ADT-SHAW 03/29/95 POST-STD

+ - - Certified Numbers & Date Mailed - 258023 08/24/92

+ - - - - Comments - - - - - +

Date: 05/29/1991 User Id: WORSTELL Subject: PRIORITY AFFIDAVIT

5/29/1981 THE PRIORITY AFFIDAVIT HAS BEEN REQUESTED BUT HAS NOT BEEN RETURNED. SEE LETTER FROM ATTORNEY LARRY DUFF DATED
RVW 5/29/91 4/23/91

Date: 09/27/1991 User Id: CLELLAND Subject: CHANGE IN NUMBER

THIS CLAIM ORIGINALLY FILED UNDER A36-15183. DURING FINAL REVIEW OF EVIDENCE SUBMITTED FOR PROOF IT BECAME OBVIOUS THIS CLAIM
SHOULD HAVE BEEN GIVEN AS THIS LICENSE.

+ - - - - Adjudication Rights Dates and Flags Area - - - - - +

Court Report Filing	- 11/02/1992	Field Inspection Made	- 04/08/1991	Civil Case Number	- 39576
Objection Filed Date	- 00/00/0000	Field Inspection Flag	-	Old Case Number	-
Response Filed Date	- 00/00/0000	Verified Date	- 09/27/1991	Old Judicial District	-
Claim Received Date	- 03/29/1991	Last Amended Date	- 00/00/0000	Temporary Right	- P
Proof Due Date	- 00/00/0000	Proof Made Date	- 00/00/0000	Water District	-
Licensed Date	- 00/00/0000	Receipt Number	- S013168	Federal/State Indicator	- S
		POU Ownership Flag	- Y	Presumption Flag	- C
		Name Connector	-	Notice of Error Flag	-