

12/05/2006

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: December 13, 2006

Water right number: 67-4595

ROYCE A SCHWENKFELDER
3381 SCHWENKFELDER RD
CAMBRIDGE ID 83610
Telephone Number: (208)257-3591

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

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

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

☒ I AGREE with this proposed recommendation; no changes need to be made.

DATE: 12/14/06

SIGNATURE: Royce A. Schwenkfelder

Please print your name: ROYCE A. SCHWENKFELDER

IDWR Regional Office, 322 E Front St
PO Box 83720, Boise, ID 83720-0098, 2082874800

SCANNED

DEC 18 2006

12/14/2006

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

RIGHT NUMBER: 67-4595

NAME AND ADDRESS: ROYCE A SCHWENKFELDER
3381 SCHWENKFELDER RD
CAMBRIDGE ID 83610

SOURCE: LITTLE WEISER RIVER

TRIBUTARY: WEISER RIVER

QUANTITY: 0.800 CFS

PRIORITY DATE: 05/04/1940

POINT OF DIVERSION:

T14N R02W S1 SENESW Within ADAMS County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE

PERIOD OF USE

QUANTITY

IRRIGATION

03/15 10/31

0.800 CFS

PLACE OF USE: IRRIGATION in WASHINGTON County

T14N R02W S16 SWNE 40.00

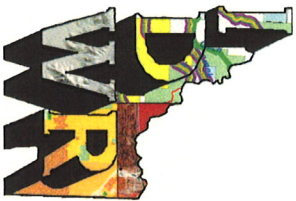
40 ACRES TOTAL

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: BASIS OF CLAIM - Beneficial Use

Idaho Department of Water Resources

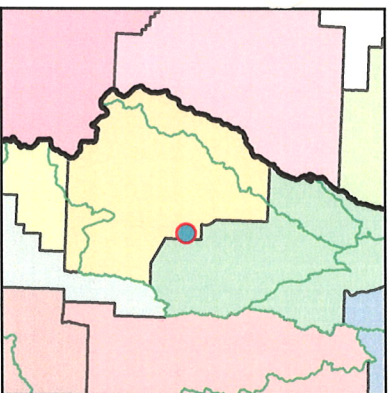


SRBA Recommendation:

67-4595
(Irrigation)

Legend

-  Point of Diversion
-  Place of Use
-  Townships
-  PLS Sections
-  Quarter Quarters

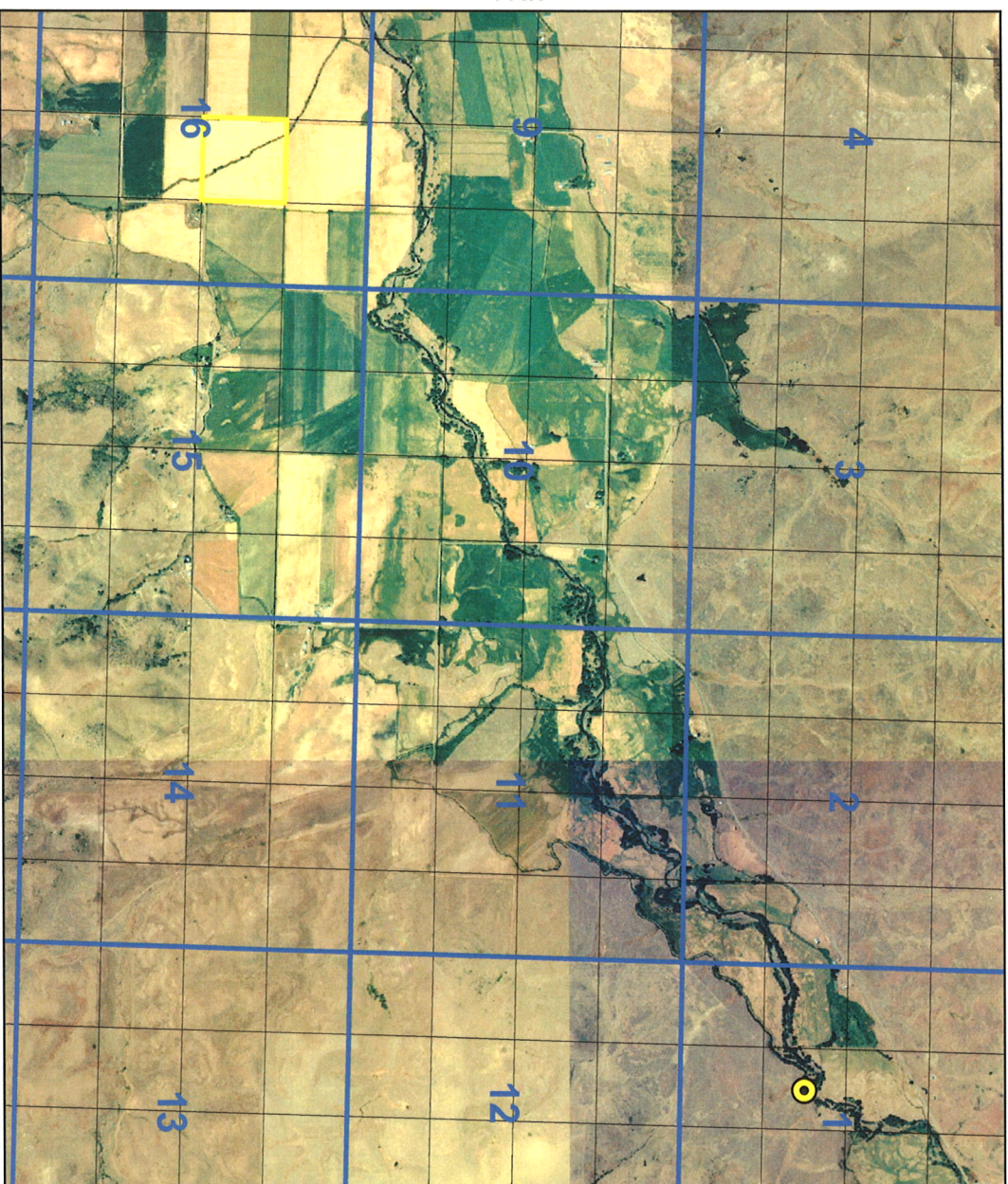


Washington County
IDWR Basin 67



T14N

R02W



Prepared by IDWR State Office
On Thursday, December 14, 2006
1987/88 Aerial Photography

67-4595



IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 67-4595 V1

WATER RIGHT NUMBER: 67-4595 V1

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	ROYCE A SCHWENKFELDER 3381 SCHWENKFELDER RD CAMBRIDGE, ID 83610 (208)257-3591

Priority Date: 05/04/1940

Basis: Beneficial Use

Status: Active

<u>Source</u>	<u>Tributary</u>
LITTLE WEISER RIVER	WEISER RIVER

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	03/15 to 10/31	0.800 CFS	
	<u>Total Diversion:</u>	0.800 CFS	

Location of Point(s) of Diversion

LITTLE WEISER RIVER	SE1/4NE1/4SW1/4	Sec. 1, Twp 14N, Rge 02W, B.M.
ADAMS 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	
14N	02W	16			40.0														40.0

Total Acres: 40

Conditions of Approval:

1. C18 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.

Remarks:

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 67-4595 V1

Comments:

1. mvanbussum 12/4/2006 Priority Date and Disallow

Comment: Craig Saxton spoke with Royce Schwenkfelder on 9-14-2005 and discussed evidence of priority. Mr. Schwenkfelder was also sent the B67 2005 mass mailing asking for evidence of priority. No evidence of priority was submitted. Recommend as disallowed.

2. csaxton 12/14/2006 NOE

Comment: Recommendation amended through the NOE process. Recommend priority date of one day after the licensing FE for LWID

Dates and Other Information:

Decreed Date:

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

Defendant:

Plaintiff:

Civil Case Number:

Judicial District:

Notice of Error Flag:

State or Federal: S

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>
Contacts	12/4/2006 1:03:22 PM	mvanbussum			Active
Summary			12/04/2006	mvanbussum	Active

Verification Log:

<u>Element</u>	<u>Date Time Stamp</u>	<u>Reviewer</u>	<u>Log text</u>
POU	12/14/2006 11:47:39 AM	csaxton	Updated shape for Active POU
POU	12/14/2006 11:47:57 AM	csaxton	Edited Season Of Use
POD	12/14/2006 11:50:28 AM	csaxton	Updated PLS
POU	12/14/2006 11:47:48 AM	csaxton	Updated PLS for Active POU
POD	12/14/2006 11:50:06 AM	csaxton	Updated shape
Summary	11/13/2006 2:13:38 PM	cfritsch	Bulk Copy
Contacts	12/4/2006 1:03:16 PM	mvanbussum	(No) 1. Do you want to schedule an appointment?
			Comment for 1: Desktop review.

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 67-4595 V1

Summary	12/4/2006 1:03:53 PM	mvanbussum	(No) 1. Is the basis of this claim a Decree, License, Permit, Application or Posted Notice? (No) 3. Is the water being used for all of the purposes claimed and to the extent claimed? (No) 4. Is any portion of the claim be recommended? (No) 6. Is an additional remark and/or condition required? (Yes) 7. Would you like to view the recommended right? (No) 8. Is this a split or combined right? (No) 9. Do you have documents you would like to attach or link to the file? (Yes) 10. Would you like to set the verification date?
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Water Supply Bank:

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 67-4595 V1

WATER RIGHT NUMBER: 67-4595 V1

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	ROYCE A SCHWENKFELDER 3381 SCHWENKFELDER RD CAMBRIDGE, ID 83610 (208)257-3591

Priority Date: 05/05/1892

Basis: Beneficial Use

Status: **Disallowed**

<u>Source</u>	<u>Tributary</u>
LITTLE WEISER RIVER	WEISER RIVER

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	4/01 to 11/15	0.800 CFS	
	<u>Total Diversion:</u>	0.800 CFS	

Location of Point(s) of Diversion

LITTLE WEISER RIVER	SE1/4NE1/4SW1/4	Sec. 1, Twp 14N, Rge 02W, B.M.
WASHINGTON 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	
14N	02W	16			40.0														40.0

Total Acres: 40

Conditions of Approval:

1. P13 No beneficial use found: This is included for a claim based on beneficial use that is proposed to be disallowed because beneficial use of water was not confirmed by IDWRs field examination or by other evidence submitted by the claimant.
2. P03 No beneficial use found.

Remarks:Comments:

1. mvanbussum 12/4/2006 Priority Date and Disallow

Comment: Craig Saxton spoke with Royce Schwenkfelder on 9-14-2005 and discussed evidence of priority. Mr. Schwenkfelder was also sent the B67 2005 mass mailing asking for evidence of priority. No evidence of priority was submitted. Recommend as disallowed.

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 67-4595 V1

Dates and Other Information:

Decreed Date:
 Enlargement Use Priority Date:
 Enlargement Statute Priority Date:
 Defendant:
 Plaintiff:
 Civil Case Number:
 Judicial District:
 Notice of Error Flag:
 State or Federal: S
 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>
Contacts	12/4/2006 1:03:22 PM	mvanbussum			Disallowed
Summary			12/04/2006	mvanbussum	Disallowed

Verification Log:

<u>Element</u>	<u>Date Time Stamp</u>	<u>Reviewer</u>	<u>Log text</u>
Summary	11/13/2006 2:13:38 PM	cfritsch	Bulk Copy
Contacts	12/4/2006 1:03:16 PM	mvanbussum	(No) 1. Do you want to schedule an appointment? Comment for 1: Desktop review.
Summary	12/4/2006 1:03:53 PM	mvanbussum	(No) 1. Is the basis of this claim a Decree, License, Permit, Application or Posted Notice? (No) 3. Is the water being used for all of the purposes claimed and to the extent claimed? (No) 4. Is any portion of the claim be recommended? (No) 6. Is an additional remark and/or condition required? (Yes) 7. Would you like to view the recommended right? (No) 8. Is this a split or combined right? (No) 9. Do you have documents you would like to attach or link to the file? (Yes) 10. Would you like to set the verification date?

Water Supply Bank:

CONVERSATIONAL MEMORANDUM

Date: September 14, 2005

To: File 67-4306, 67-4592, 67-4595

From: Craig L. Saxton

Subject: Evidence of priority

Spoke with Royce Schwenkfelder. We discussed EOP for three water rights.

67-4306 – analyzed this on the phone and confirmed that there is a direct overlap with decreed water so no need for EOP. Give one day after decree.

67-4592 – despite that this claims 81 acres and the decreed water is for 56 acres, Mr. Schwenkfelder admitted that they only irrigate 60.4 acres according to the ASCS map. I told him that this was close enough that I didn't need EOP and could give one day after the decree.

67-4595 – no direct overlap with decreed water. He will need to supply IDWR with EOP. He said he will be working on it and get it to us asap.

I also sent Mr. Schewenkfelder a change of ownership form.

September 30, 2005:

Spoke with Roy Schewenkfelder again. He is going to try to find FSA photo's that go back before 1971 and or water delivery records. This is a private held water right despite that the land is also irrigated with C Ben Ross Storage water.

He said that the ownership history is as such.

Roy Schewenkfelder

Al Taylor

Donald Mortz (resumed use with sprinkler irrigation)

Tony Mortz (Did not irrigate for 25 years, but was billed for delivery)

Albert Mortz

Jacob Mortz (homesteaded the ground)

Other history. In 1932, Schewenkfelder Ditch Assn was established. At that time the little ditches were put into a big ditch and used.

I also told Royce to see if through the ditch assessment fees, he could establish that fees were paid prior to the release of storage water. This would distinguish the difference between storage water vs live water on his property.

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: A67-04595
Date Received: 10/19/1989
Receipt No: W006449
Received By: _____

COPY FOR
YOUR FILES

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

COPY FOR
YOUR FILES

1. Name: ROYCE A SCHWENKFELDER
Address: 3381 SCHWENKFELDER RD
CAMBRIDGE ID

208-257-3591

83610

2. Date of Priority: MAY 5, 1892

3. Source: LITTLE WEISER RIVER Trib. to: WEISER RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4 of	Lot	County
14N	02W	1	SE	NE	SW		WASHINGTON

5. Description of diverting works:
DIVERSION DAM & GRAVITY DITCH

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
IRRIGATION	04/01	11/15	0.800		

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

A.F.A.

8. Total consumptive use is 120.0 Acre Feet Per Annum.

9. Non-irrigation uses:
NONE

10. Place of Use:

Township	Range	Section	1/4 of	1/4 of	Lot	Use	Acres
14N	02W	16	SW	NE		IRR	40.0

A67-04595

Page 1

Date: 02/23/93

MICROFILMED

AUG 05 1994

SCANNED
APR 14 2004

10. Place of Use: Continued

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
					Section Acres	40.0
					Total Acres	40.0

11. Place of use in counties: WASHINGTON

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

13. Other Water Rights Used:
67002385.

14. Remarks:

15. Basis of Claim: STATUTORY CLAIM

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: A67-04595
Date Received: 10/02/1989
Receipt No: _____
Received By: _____

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: ROYCE A. SCHWENKFELDER 208-257-3591
Address: 3381 SCHWENKFELDER RD.
CAMBRIDGE, ID 83610

2. Date of Priority: MAY 05, 1892

3. Source: LITTLE WEISER RIVER Trib. to: WEISER RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4 of	Lot	County
14N	02W	1	SE	NE	SW		WASHINGTON

5. Description of diverting works:
DIVERSION DAM & GRAVITY DITCH

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
IRRIGATION	04/01	11/15	0.800		

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

8. Total consumptive use is 120.0 Acre Feet Per Annum.

9. Non-irrigation uses:
NONE

10. Place of Use:

Township	Range	Section	1/4 of	1/4 of	Lot	Use	Acres
14N	02W	16	SW	NE		IRR	40.0
Section Acres							40.0

A67-04595

Page 1

Date: 10/02/89

MICROFILMED
AUG 05 1994

10. Place of Use: Continued

Total Acres 40.0

11. Place of use in counties: WASHINGTON

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

13. Other Water Rights Used:
67002385.

14. Remarks:

15. Basis of Claim: STATUTORY CLAIM

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): Ryan A. Schuyler Date: 10/2/89

Date: _____

State of Idaho)
County of Wash) SS.

Subscribed and sworn (or affirmed) before me this 2 day
of Oct 19 89

John Dal Carer
Notary Public

Seal

Residing at Bon Pl
My Commission Expires 4/1/94