Van Bussum, Monica

From: Shelley Davis [smd@idahowaters.com]
Sent: Tuesday, July 15, 2008 11:22 AM
To: Van Bussum, Monica
Cc: Bromley, Chris; Shelley Davis
Subject: RE: SRBA Recommendation 67-14353 (Pollard)
Attachments: Pollard Priority Date Proof 67-14353.pdf

Dear Monica and Chris:

Attached is additional proof relating to the priority date for the upper fields of the Pollard claims, 67-14353. According to the two attached affidavits those fields were originally put under water in some capacity between 1947 and 1949. The Pollards would be satisfied to have the priority reflected as 1947 rather than the 1933 that they asserted in their objection. Please let me know if this is sufficient evidence that the 1954 recommended date can be modified to reflect the 1947assertion by the prior owners.

Thanks for your assistance.

Very Truly Yours,
Shelley M. Davis

Barker Rosholt & Simpson, LLP
1010 W. Jefferson St., Ste. 102
Boise, ID 83702
(208) 336-0700

From: Van Bussum, Monica [mailto:Monica.VanBussum@idwr.idaho.gov]
Sent: Tuesday, July 08, 2008 4:12 PM
To: Shelley Davis
Subject: RE: SRBA Recommendation 67-14353 (Pollard)

Hi Shelley,

That sounds terrific. I'll just wait to hear from you. Thanks!

Monica

From: Shelley Davis [mailto:smd@idahowaters.com]
Sent: Tuesday, July 08, 2008 4:13 PM
To: Van Bussum, Monica
Cc: Bromley, Chris; Shelley Davis
Subject: RE: SRBA Recommendation 67-14353 (Pollard)

Dear Monica:

Sorry for the extended delay in responding to your inquiry. I have been in touch with my client and we are looking for further evidence of the earlier priority date on this claim. Once I hear back from them I will call you and let you know if we have that evidence or if we need to withdraw our objection. I'll talk with you soon.

Very Truly Yours,
Shelley M. Davis

Barker Rosholt & Simpson, LLP
1010 W. Jefferson St., Ste. 102
Boise, ID 83702
(208) 336-0700

From: Van Bussum, Monica [mailto:Monica.VanBussum@idwr.idaho.gov]
Sent: Wednesday, April 30, 2008 9:45 AM
To: Shelley Davis
Cc: Jennifer C. Stevens
Subject: SRBA Recommendation 67-14353 (Pollard)

Hi Shelley,

I have been looking through SRBA objections in Basin 67 in preparation for initial hearings, which as you probably know are anticipated late this summer or fall, and noticed there is one objection unresolved from Ed Pollard. We resolved his objections against Weiser Irrigation District recommendations, but the one for 67-14353 was against one of his own recommendations and concerned the priority date. I just want to see if there is additional evidence at this point and how you want to proceed - if you want to try to settle before initial hearings or go to initial hearings. Just let me know. Thanks!

Monica

Monica Van Bussum
Sr. Water Resource Agent
Idaho Department of Water Resources
322 East Front Street
PO Box 83720
Boise, ID 83720-0098

208.287.4907

Attn. Idaho Dept. of Water Resources

Re: Water Right Adjudication Claim 67-14353

We purchased the Shoesmith farm in Weiser in 1938. We owned and worked this farm until we sold it to Henry and Ann Green in 1978. Ed Pollard currently owns it.

We started irrigating the 30-acre field to the east, between the Galloway Canal and the Weiser River shortly after moving there, sometime between 1940-1942. We kept this field as irrigated pasture.

There was a delivery ditch that ran along this field and on down to our lower south fields. It is identified as Field 9 on the USDA Farm 2007 Map. It lies SE and SW in the Section 34 Township 11 N Range 4W and in the north west of Section 3 Township 10N Range 4 W.

Between 1947-1949, we installed a pump in the canal which we used to sprinkler irrigate our upper fields until we sold the place in 1972. These upper fields are approximately 79 acres between the Weiser River Road and the Galloway Canal. They are identified as Fields 6, 7, and 10 on the USDA Farm 1607 Map. They lie in the SW of Section 34 Township 11N Range 4W and the NW of Section 3 Township 10N Range 4W.

Alba Einspahr

Alba Einspahr

STATE OF IDAHO, County of Washington -ss:
On this 16 day of Sept, 2005, before me, the undersigned, a Notary Public in and for said State, personally appeared ALBA EINSPAHR known to me to be the person(s) whose name(s) are/is subscribed to the foregoing instrument and acknowledged to me that s/he executed the same.
IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

Clarence N Stark
NOTARY PUBLIC
IDAHO

Notary Public for Idaho
Residing at: Weiser, Idaho
Commission expires: 9-7-2011

12/11/2006

IDAHO DEPARTMENT OF WATER RESOURCES

PRELIMINARY RECOMMENDATION OF WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 67-14353

NAME AND ADDRESS: EDWARD L POLLARD SR
2117 WEISER RIVER RD
WEISER ID 83672

SOURCE: WEISER RIVER TRIBUTARY: SNAKE RIVER

QUANTITY: 1.480 CFS

PRIORITY DATE: 09/03/1954

POINT OF DIVERSION:

T11N R04W S35 SWNENE Within WASHINGTON County

PURPOSE AND PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
IRRIGATION	03/01 11/15	1.480 CFS

PLACE OF USE: IRRIGATION in WASHINGTON County

T11N R04W S34	SWSW	30.00	T11N R04W S34	SESW	29.00
T11N R04W S34	SWSE	15.00			

74 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

Adjudication Recommendation Report 67-14353 V1

WATER RIGHT NUMBER: 67-14353 V1

Owner Type	Name and Address
Original Owner	ANN C GREEN 2117 WEISER RIVER RD WEISER, ID 83672 (208)549-2733
Original Owner	HENRY P GREEN 2117 WEISER RIVER RD WEISER, ID 83672 (208)549-2733
Current Owner	EDWARD L POLLARD SR 2117 WEISER RIVER RD WEISER, ID 83672 (208)549-2944

Priority Date: 09/03/1954

Basis: Beneficial Use

Status: Active

Source	Tributary
WEISER RIVER	SNAKE RIVER

Beneficial Use	From To	Diversion Rate	Annual Volume
IRRIGATION	03/01 to 11/15	1.480 CFS	
	Total Diversion:	1.480 CFS	

Location of Point(s) of Diversion

WEISER RIVER SW1/4NE1/4NE1/4 Sec. 35, Twp 11N, Rge 04W, 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	
11N 04W 34											30.0	29.0			15.0		74.0

Total Acres: 74

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 67-14353 V1

Comments:

1. mvanbussum 3/9/2006 Storage Water
Comment: It appears this claim is for Crane Creek storage water per 1975 agreement between Green and WID in claim file 67-14352. This should be recommended under Crane Creek claims, so recommend this as disallowed.

2. mvanbussum 4/26/2006 copied from remarks
Comment: This claim is the result of a split due to change in ownership for a portion of 67-11027. DH 7/24/2002

3. mvanbussum 4/26/2006 copied from remarks
Comment: Split claim amended per claimant inquiry & review of claim. DH 6/27/2003

4. mvanbussum 4/26/2006 copied from remarks
Comment: Address changed by DH 4/23/2003

5. mvanbussum 12/11/2006 NOE
Comment: Per NOE process, we are recommending this as a private water right out of the Galloway Canal. See memo dated 12-7-2006.

6. mvanbussum 12/11/2006 POU
Comment: Could only find 74 acres irrigated in claimant taxlot. Recommended 74 acres and 1 inch to the acre.

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:

Element	Last Reviewed Date	Reviewer	Last Verified Date	Verifier	Status
Contacts	4/26/2006 10:30:57 AM	mvanbussum			Active
Summary			04/26/2006	mvanbussum	Active
Contacts	12/11/2006 12:26:50 PM	mvanbussum			Active
Priority Date	12/11/2006 12:27:12 PM	mvanbussum			Active
POD	12/11/2006 12:27:44 PM	mvanbussum			Active
Source	12/11/2006 12:29:50 PM	mvanbussum			Active
POU	12/11/2006 12:30:10 PM	mvanbussum			Active
Use	12/11/2006 12:39:05 PM	mvanbussum			Active

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 67-14353 V1

Season	12/11/2006 12:39:22 PM	mvanbussum		Active
Quantity	12/11/2006 12:40:27 PM	mvanbussum		Active
Summary		12/11/2006	mvanbussum	Active

Verification Log:

Element	Date Time Stamp	Reviewer	Log text
POU	12/11/2006 12:32:14 PM	mvanbussum	Updated shape for Active POU
POU	12/11/2006 12:32:30 PM	mvanbussum	Updated PLS for Active POU
POU	12/11/2006 12:37:42 PM	mvanbussum	Updated PLS for Active POU
Use	12/11/2006 12:39:04 PM	mvanbussum	(No) 1. Is the basis of this claim a Decree or License? (No) 2. Is the basis of this claim a Application or Permit? (No) 6. Is there evidence that there has been a change in the Purpose of Use? (Yes) 11. Does the file contain all the necessary information to verify the Water Use? (No) 13. Is a Purpose of Use remark and/or condition required? Description for Question 10,11,12 - Imagery and claimant correspondence.
Season	12/11/2006 12:39:20 PM	mvanbussum	(No) 1. Is the basis of claim Decree or License? (No) 2. Is the basis of claim a Application or Permit? (No) 6. Is there evidence that there has been a change in the Period of Use? (Yes) 12. Does the file contain all the necessary information to verify the Period of Use? (No) 13. Is the basis of claim a decree, license, or a transferred beneficial use right that has had the Period of Use administrativly determined? (Yes) 15. Is irrigation claimed as a Purpose of Use? (No) 18. Is a Period of Use remark and/or condition required?
Quantity	12/11/2006 12:40:26 PM	mvanbussum	(No) 1. Is the basis of this claim a Decree or License? (No) 2. Is the basis of this claim a Application or Permit? (No) 6. Is the basis of claim a posted notice? (No) 7. Is a flow measurement required? (No) 9. Is the source Groundwater and does the purpose of use require a diversion volume limit? (No) 11. Has a diversion volume limit been established by a decree, license or transfer for this water use? (No) 12. Is a Quantity remark or condition required? Description for Question 7 - Flow history provided by Weiser Irrigation District provides evidence of conveyance capacity.
POD	12/11/2006 12:29:25 PM	mvanbussum	Updated shape

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 67-14353 V1

Contacts	12/11/2006 12:26:48 PM	mvanbussum	(No) 1. Do you want to schedule an appointment? Comment for 1: Desktop review.
General	12/11/2006 12:27:11 PM	mvanbussum	(No) 1. Should this water use have been included in a later court decree of the water rights from this source? (No) 4. Is the basis of claim decree or license? (No) 7. Is the basis of claim a Application or Permit? (No) 8. Is the basis of claim a posted notice? (No) 9. Is the Priority Date of this water use after the date a permit is required for the source and the water use? (Yes) 12. Does the claim file contain sufficient evidence of Priority Date? (Yes) 15. Is the basis of claim coded correctly? (No) 16. Is a Priority Date remark and/or condition required? Description for Question 12/13 - Invoice for pump installation.
POD	12/11/2006 12:27:43 PM	mvanbussum	(No) 1. Is the basis of this claim a Decree or License? (No) 2. Is the basis of this claim a Application or Permit? (No) 6. Is there evidence that there has been a change in the POD? (Yes) 9. Does the file contain all the necessary information to verify the POD? (No) 10. Is a POD remark and/or condition required?
Source	12/11/2006 12:29:49 PM	mvanbussum	(No) 1. Is the basis of claim Decree or License? (No) 2. Is the basis of claim an Application or Permit? (No) 6. Is the basis of claim a Posted Notice? (No) 7. Is there evidence that there has been a change in the source? (Yes) 10. Does the file contain all the necessary information to verify the source? (No) 11. Is a Source remark and/or condition required? Description for Question 10 - Imagery and claimant correspondence.
POU	12/11/2006 12:30:09 PM	mvanbussum	(No) 1. Is the basis of this claim a Decree or License? (Yes) 2b. Is the POU required? (No) 3. Is the basis of claim a Application or Permit? (No) 7. Is there evidence that there has been a change in the POU? (Yes) 13. Does the file contain all the necessary information to verify the POU? (No) 14. Is a POU remark and/or condition required? Description for Question 13 - Imagery and claimant correspondence.
POU	12/11/2006 12:37:33 PM	mvanbussum	Updated shape for Active POU

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 67-14353 V1

Contacts	4/26/2006 10:30:38 AM	mvanbussum	(No) 1. Do you want to schedule an appointment? Comment for 1: Desktop review.
Summary	4/26/2006 10:32:44 AM	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? (Yes) 6. Is an additional remark and/or condition required? (Yes) 7. Would you like to view the recommended right? (Yes) 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?
Summary	12/11/2006 12:41:17 PM	mvanbussum	(No) 1. Is the basis of this claim a Decree, License, Permit, Application or Posted Notice? (Yes) 3. Is the water being used for all of the purposes claimed and to the extent claimed? (No) 5. Does this right have any combined use limits with other rights? (No) 6. Is an additional remark and/or condition required? (Yes) 7. Would you like to view the recommended right? (Yes) 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:

MEMORANDUM

TO: File

FROM: Monica Van Bussum

DATE: December 7, 2006

RE: Determination of private water rights from Galloway Canal

The first task of this memo is to summarize my current understanding of the basis of SRBA claims for private water from Galloway Canal. The second task is to make a recommendation regarding the handling of SRBA claim 67-14353. This memo assumes some passing familiarity with the Smith/Shoesmith agreement with Weiser Irrigation District (WID) of 1932 and other agreements for private water from Galloway Canal. Please reference my memo of December 2005 for a synopsis of these agreements.

67-2164A (Smith Land & Livestock) and 67-2164B (Ed Pollard)

These claims are based on a license granted to Ida Shoesmith and Polly Smith in 1933 using the Galloway Canal. This license predates the WID license 67-2169G for water off the Galloway Canal. Both claims are recommended based not only on the license, but on the 1932 WID agreement with Smith/Shoesmith. The 1932 Smith/Shoesmith agreement stated Smith/Shoesmith had 320 irrigable acres and could utilize up to 600 inches of water carried in the Galloway Canal. This water had been previously carried in the Smith/Shoesmith canal but, when WID extended the POD of the Galloway Canal to its current location, this agreement was signed to allow Smith/Shoesmith to carry their private water through the Galloway Canal. License is for 299 acres and 5.98 cfs. Combined recommended acreage is 275 acres and 5.50 cfs.

67-14444 (Smith) and 67-14445 (Ed Pollard)

The purpose of these claims was to improve upon license 67-7165 based on the Smith/Shoesmith contract with WID. 67-7165 was licensed for 72 acres and 0.62 cfs. Combined recommended acreage for 67-14444 and 67-14445 is 117 acres and 2.34 cfs. 67-7165 was for private water from the Galloway Canal. Recommended priority date is one day after license 67-2164.

67-14355 (Green) and 67-14357 (Pollard)

These claims were disallowed because they were duplicates of the claimants' 67-2169 splits. The Smith/Shoesmith agreement did not mention the license or permit WID held for water from the Galloway Canal, so any rights appurtenant to the Smith/Shoesmith agreement are considered private rights and not affiliated with WID's license.

67-14352 (Syme) and 67-14353 (Ed Pollard)

SCANNED
AUG 2 8 2007

These claims were originally thought to be storage water; we now believe them to be for live, private water from the Galloway Canal. They appear to be enlargements to again improve upon license 67-2164 and more fully claim private water from Galloway Canal granted to Smith/Shoesmith 1932 agreement. The claimants have stated they started pumping from the Galloway Canal after the WID license was granted and have provided invoices for the installation of power to the pumps. There are two apparent questions at this point that need to be answered in this review of the recommendations:

1. Did the Smith/Shoesmith agreement in any way limit the acreage that could be irrigated with the 600 inches?
2. Is it possible to establish a private water right from the Galloway Canal after WID was granted license 67-2169 on 12-18-1936?

Did the Smith/Shoesmith agreement in any way limit the acreage that could be irrigated with the 600 inches?

The Smith/Shoesmith agreement did state the combined ownership of the parties was 320 irrigable acres, but they were allotted 600 inches of water. 600 inches is far above the standard current usage on 320 acres. The department standard is to use 1 miner's inch of water per acre. 320 acres at 1 inch per acre would be 6.4 cfs.

If we combined all the recommendations among Smith Land & Livestock, Dan Smith and Ed Pollard from the Galloway Canal as they stand today, the combined cfs is 7.84 (392 inches) and acreage is 392. 392 acres is well above the 320 acres mentioned in the Smith/Shoesmith agreement. Clearly, we read the contract to mean that, in return for giving up land to allow WID to enlarge the Smith/Shoesmith canal, Smith and Shoesmith were given the right to no more than 600" of water during the irrigation season. Paragraph (f) states that "the water which [WID] is to so transport . . . shall be the waters of [Smith and Shoesmith]...."

Given our understanding, there is more water available under the contract (208 inches, or 4.16 cfs). It is possible to have a beneficial use right in an irrigation canal provided the water is unappropriated. We would not recommend a priority date the day after 67-2164 in this case because the right was not established until 1954 with the installation of the sprinkler system and pump. WID filed a beneficial use claim for water from the Galloway Canal under 67-14621 with a priority date of 4/15/1957. Invoices provided by Ed Pollard and his attorney for the installation of sprinklers and pump date from 1954, which predates the WID beneficial use claim and we would consider the water as unappropriated before 1957.

Is it possible to establish a private water right from the Galloway Canal after WID was granted license 67-2169 on 12-18-1936?

The Smiths were granted license 67-7165 in 1973, well after WID license 67-2169. WID did not object to the license at that time and the Smiths established a private water right

SCANNED
AUG 2 8 2007

from Galloway Canal nearly 40 years after 67-2169 and 16 years after WID's beneficial use right 67-14621. No rights could be established after the SRBA is completed because at this point we consider the Galloway Canal fully appropriated. However, this does open up the option for folks who have been pumping off the Galloway Canal since before 1957 to establish private beneficial use rights from the Galloway Canal.

Conclusion

From the answers to the above questions, it would appear we can recommend 67-14352 and 67-14353 as private water rights from Galloway Canal. Should we recommend 67-14352 and 67-14353, we would have to reduce the recommendation for WID beneficial use claim 67-14621 by approximately 4 cfs, from 28.18 cfs to around 24 cfs.

SCANNED
AUG 2 8 2007

MEMORANDUM

TO: File

FROM: Monica Van Bussum

DATE: December 2005

RE: 1932-1999 Contracts and Agreements between Weiser Irrigation District (WID) and individuals using water from Galloway Canal

1932
First part: WID
Second part: Ida M. Shoesmith and Polly A. Smith

Synopsis:

- Second parties own an irrigation canal (Smith/Shoesmith ditch) to irrigate their lands, approximately 320 acres.
- WID wants to take possession of Smith/Shoesmith ditch and enlarge it to serve their irrigation needs.
- WID is granted right to widen and build ditch to the capacity "as in the judgment of first party is necessary to put said ditch in proper condition to carry all of the water first party will need…and in addition thereto to carry therein water needed by second parties for the irrigation of their present lands, said amount, however, which is to be carried for second parties shall not exceed 600 miners inches."
    - WID will carry Smith/Shoesmith pre-existing water right (from pre-existing ditch) in an amount not to exceed 600 inches.
- "First party…will enter the present old canal of the first party all irrigation waters of second party, as second parties may desire same, for the irrigation of their present lands, being about 320 acres of irrigable lands, said amount, however, shall not amount to more than 600 miners inches."
    - Reiterates previous paragraph, but includes number of acres of irrigable land. So, are Smith/Shoesmith limited to 600 inches or 320 acres?
- "Ida M. Shoesmith shall have the right to install in the canal of the first party at the point covered by the present contract between the District and said Shoesmith governing the erection of such water wheel, a water wheel of size and dimension covered by said present contract. Same shall be so installed in the first place and thereafter to be so maintained by second parties that the works of the first party shall not be endangered and the flow of water in said canal shall not be impeded. Said wheel shall be used for pumping water not to exceed 25 inches on to some high lands of second party and to run a small dynamo for creating electric energy to light the Shoesmith home and run farm machinery on the Shoesmith place. The right to use such electric energy generated shall be limited to the present Shoesmith place. J Said Shoesmith shall have the right to transport through the canal of first party down to the point where said wheel is erected, such 25 miners inches of water for irrigating such high lands of said Shoesmith."

    - Shoesmith can build a water wheel to divert 25 inches for irrigation of high lands and can use the wheel to run a small dynamo for generating power.
- "It is expressly agreed that the water which first party is to so transport through its said canal…shall be the waters of the said second parties."
    - The 600 miners inches shall be Smith/Shoesmith water and not WID water.
- "…in the event that at any future time the party of the first part refuses to transport water to parties of the second part as hereinbefore agreed, then, and in that event, all rights of party of the first part in and to the Smith-Shoesmith ditch or canal as enlarged under the terms of this agreement shall cease and the exclusive right to possession and control of said ditch or canal shall be again vested in parties of the second part."
    - If WID does not comply with this agreement, all their rights to the Smith/Shoesmith ditch or what became the extended Galloway Canal on that property cease to exist.

1974
Letter to Clyde Smith from WID (only have first page)

Synopsis:

- WID investigated water used on property and found "that your predecessor in interest had considerably less land under irrigation on November 22, 1932, than is now being irrigated."
- WID set forth amount of land owned by Smith/Shoesmith (divided among three current land ownerships) and also additional acreage over the land in the contract.
    - Henry Green 160 acres
    - Claude Smith 80 acres
    - Clyde Smith (Dan Smith's dad) 80 acres
- "The District recognizes the privilege given under the Agreement of November 22, 1932."
    - If WID recognizes contract, should by default recognize similar contracts.

1975
Water Carrying Agreement between WID and Clyde Smith

First part: WID
Second part: Clyde Smith

Relates only to storage water in Crane Creek Reservoir

1932
1st party: WID
2nd party: Eva E. & William Muir and John Baker
3rd party: Washington County, Idaho

Synopsis:

- Washington County sold lands to John Baker & Eva Muir on 28 Feb 1931
- WID desired to build irrigation canal across lands
- Muir & Baker & Washington County "do hereby convey and contract to convey to first party a right of way for the purpose of building, constructing, operating 7 maintaining said irrigation canal along…"
- WID "agrees to pay in cash $250.00, $200.00 of this to be paid to Washington County to apply on the purchase price due from 2nd parties to the 3rd party for said lands, the other $50.00 to be paid to the second parties."
- "As a part of the consideration for this conveyance first party hereby grants to second parties the right to construct on said canal and right of way hereby conveyed by second parties and third party for first party one water wheel to be used in lifting water from said canal for the purpose of irrigation the lands of the second parties, and one small wheel to be used for the purpose of generating power. These two wheels are to be constructed at points on said canal within the right of way hereby conveyed, and are to be constructed by the second parties in the first place, and are to be thereafter maintained in such manner as will not impead (sic) the flow of water in said canal, or injure in any manner said ditch, or the banks thereof, and are to be so constructed as not to permit the accumulation of debris, moss etc., in said canal…"
    - Reviewer's note: So it appears Baker/Muir are building a couple of wheels off the ditch and are responsible for building/maintaining, but this is part of the consideration for the conveyance. In other words, it seems the permission to build the wheels was given by WID as part of the reimbursement to Muir/Baker for letting WID build on their lands. Evidence in favor of individual claim.
- "As part of the consideration for this conveyance, second parties are to be permitted to take and carry through said canal their private irrigation water for the irrigation of their lands through which this right of way hereby conveyed, runs. However, it is expressly contracted and agreed that the first parties are not to furnish any irrigation water to, or for, the irrigation of said lands."
    - Again, appears evidence for individual claim. Muir/Baker could take pre-existing individual water from ditch, using ditch as delivery system, but could not take water from WID's flow. But there is no decreed water on Baker land. Sent letter to Baker 12/09 asking for proof of existing canal in 1930s.

1977

Injunction against Baker Brothers

Injunction WID b. Lon K. Baker and Jack K. Baker, d/b/a Baker Brothers

- "It is hereby ordered, adjudged and decreed, that the defendants, their heirs, successors in interest and assigns be, and they are, hereby forever enjoined from appropriating or diverting any storage water or adjudicated water belonging to the plaintiff from the said Galloway ditch for use upon the defendants' lands situate (sic) in the County of Washington…(goes on to describe lands)."

- Note this says no storage or adjudicated water belonging to WID. Investigate further. Bakers, according to 1932 agreement and supported here, although not explicitly, were allowed to pull their own water from the canal.

- "Provided however, that the defendants, and each of them, their heirs, successors and assigns, are not restrained or enjoined from appropriating and diverting flood waters from the said Galloway Ditch for use upon the above described lands in times of freshet when the flow of the Weiser River and its tributaries is so abundant that it exceeds the quantity of water necessary to satisfy all adjudicated rights in the Weiser and its tributaries."
  - So, the Baker Bros *can* appropriate flood water from the Galloway Ditch when flow of Weiser is above adjudicated rights.
- "The defendants are not restrained nor enjoined from diverting from the Galloway Ditch storage water owned by the defendants and released upon the defendants' order from Crane Creek reservoir…"
  - Baker Bros have storage water and can take it from the Galloway.

1939
WID v. Wood complaint

Plaintiff: WID
Defendant: T.C. Wood, Water Master of Water District No. 41

WID says:

- Decree was entered on 11 May 1928 and decree "is now in full force and effect and has never been annulled, vacated or set aside, and this plaintiff does hereby accept said decree…"
- "That by said decree aforesaid, the duty of water was fixed at 5/8 inch to the acre with a high duty of water during periods of scarcity of 3/8 inch to the acre."
  - Just a side note, 3/8 low water curtailment was overturned by the court before this complaint.
- That under the decree, WID go the following amounts of water:
  - No. 1, 5-1-1868, 100 inches
  - No. 27, 8-29-1883, 1500 inches
  - No. 43, 5-1-1887, 250 inches
  - No. 47, 5-1-1888, 250 inches
  - No. 52, 5-1-1889, 300 inches
- All lands within WID are within Water District No. 41.
- Since decree, farming practices in WID have changed. Before, principal crops were hay and grain and 5/8 inch and 3/8 inch were sufficient for raising hay and grain. In 1939, "the best paying and the largest crops raised on said lands" were sugar beets and late potatoes and these crops required a large amount of water late in the season, so WID lands required "a great deal more water than under the conditions as they existed at the time said decree was so rendered."
- Since ditch is so long and "for many miles the ditch is all of side hill construction," ditch loss is in excess of 25% "of the amount of water turned into

the canal at the point where same is taken out of the Weiser River, with the result that the amount of water adjudicated to the lands in the Weiser Irrigation District under the decree does not supply to the lands for actual use thereon the quantity of water to which said lands are entitled under the duty water as fixed by the decree."

- WID applied for what became license 67-2169 in 1936 for 120 cfs of Weiser River water for lands within and without WID "which were then being irrigated by and out of the works of the WID. License was issued in January 1939 for 120 cfs.
- NOTE: Here missing a page. Subtitle X. Was reprinted in WID v. Wood decree.
- WID is asking the court to decree the 120 cfs as "supplemental water rights belonging to the WID, in addition to the water rights awarded and adjudicated to" WID.
- Essentially, it looks like WID is trying to get the court to decree their license.

1939
WID v. Wood decree

- Wood didn't appear at hearing.
- Court decreed 67-2169 based on WID complaint and failure of Wood or anyone else to supply contradictory evidence.

1941
WID contract with Breshears

First part: WID
Second part: A. Arthur Breshears and Eva C. Breshears

- Breshears are "desirous of obtaining land and supplemental water from the Crane Creek reservoir for irrigation of said tract of land, and if same is obtained it will be necessary that said water, and in fact, all of the water to be used in irrigating the said lands, excepting the water used from Manns Creek, shall be transported from the Weiser River to said lands throughout the irrigation canal of the party of the first part."
- Breshears pays WID $600.00 for WID to convey 200 ac-ft of Crane Creek primary storage rights.
- "And in consideration of said sum above set forth, the party of the first part does hereby sell and grant to the parties of the second part an interest in said water permit license No 18425 (sic) hereinbefore referred to, sufficient to give to the parties of the second part one hundred (100) miners inches of said water right and which water right is from the flood waters of the Weiser River, and does hereby also grant and convey to the parties of the second part the perpetual right to transport through the irrigation canal of the party of the first part annually, said one hundred (100) miners inches of flood water and said storage water which the party of the first part hereby agrees to have Frank D. Ryan convey to the parties of the second part."

- WID sells and grants 100 inches flood water to Breshears. Therefore, successors in interest should be 100 inches flood water off of license 67-2169. Danielle Favreau is recommending it as 67-2169A for Kerner. This works out to about 1 in. to the acre.

1941
WID contract with Annie Kelley

First part: WID
Second part: Annie Kelley

- Annie Kelley wanted late season and supplemental water.
- Kelley paid WID $300 and WID will deliver 100 ac-ft of Crane Creek primary storage water.
- "And in consideration of said sum above set forth, the party of the first part does hereby sell and grant to the party of the second part an interest in said water permit license #18425 (sic) hereinbefore referred to, sufficient to give to the party of the second part fifty (50) miners inches of said water right…"
    - WID sells and grants Kelley 50 inches of flood water. Therefore, successors in interest should have 50 inches flood water off of license 67-2169. Danielle Favreau is recommending it as 67-2169C for Vaughn Kelley. This works out to about 1 in. to the acre. Disallow 67-10319, as it is a BU claim and a duplicate of 67-2169C.

1941
WID contract with Donald Eugene Sinden

First part: WID
Second part: Donald Eugene Sinden

- Sinden paid $300 to WID and E.W. Horner, Trustee, will convey 100 ac-ft of Crane Creek primary storage water to Sinden.
- "Now, therefore, in consideration of said sum of $300.00 cash in hand paid by the second party to the first party, the receipt whereof is hereby acknowledged, the party of the first part does hereby sell and grant to the party of the second part an interest in said water permit license #18425 (sic) hereinbefore referred to, sufficient to give to the party of the second part seventy (70) miners inches of said water right…"
    - WID sells and grants Sinden 70 inches of flood water. Therefore, successors in interest should have 70 inches of flood water off of license 67-2169. Danielle Favreau is recommending it as 67-2169H for Robert Shirts.

1995
Letter to Kerner from Lary C. Walker, Attorney for WID

- Under Breshears' contract, WID is carrying water for Kerners "consisting of 100 miners inches which you purchased out of a 1941 water right owned by the District, plus your storage rights from Crane Creek… Breshears retained a home site now owned by Huston."
    - Walker is saying the Kerners purchased 100 miners inches out of a 1941 right (presumably this is the Breshears contract) along with storage rights, However, Breshears purchased 100 miners inches out of the 1936 license 67-2169.
- Original right was to irrigate 144.64 total acres. "Part of that, however, is now owned by Huston and Bruce. We find no formal division of the…water right."
    - 144.64 ac according to whose calculations and what paperwork? 100 inches is 100 acres at 1 inch to the acre and 62.5 acres at 5/8 inch to the acre. Potentially, storage rights from Crane Creek make up the difference.
- "You have changed your operation so that approximately 9.1 acres is irrigated with Manns Creek water, leaving 90.7 irrigated acres under the Breshears' contract."
    - Breshears contract mentions Manns Creek water. There is no evidence there was a change, so the 100 inches/100 acres stands.
- "…the records show that you have…some water rights under Muir vs. Allison totaling 23.1 inches associated with this water right."
    - Can find no record of 23.1 inches or combination thereof attached to this land.
- "Our records show that under Muir v. Allison there were only 70 miners inches that was attributable to approximately that much land which is now divided by the Weiser River."
    - 70 inches corresponds to 67-5A, which the Kerners have claimed. I have not checked splits.
- "Our records indicate that under this arrangement you have been irrigating approximately 204.4 acres."
    - Where did the 204.4 come from? Probably no bearing on final decision.
- "The District has therefore made the decision that you will be assessed on 295.1 acres…"
    - Where did the 295.1 come from? Probably no bearing on final decision.
- "You may argue that your old contract is binding; however your 1941 contract is not valid because the District had no authority to sell you a water right outside of our District boundaries.
    - We have no record of District boundaries at that time. The District's license 67-2169 with a priority date of 1936 covers the Kerners' POU, so this must have been within the District's boundaries. If WID had the authority to establish a water right outside the District's boundaries, why wouldn't they have the authority to sell said water right that is outside their boundaries?

1999

Vaughn Kelley affidavit "in support of motion for summary judgment"

- Lands are not in WID boundary.
    - License 67-2169 was for this POU, so presumably at that time the lands were in the WID boundary.
- Water in A. Kelley contract would be perpetual right for transport through irrigation canal of WID. Kelley paid $300.
- Kelley contends 1941 contract is valid and what WID proposes (new contract and assessment of contract holders same as District members) is in violation of 1941 contract.

1999
Civil No. CV98-00496
Kelley, Green, Smith Land & Livestock Co, Baker Bros and Institute Canal Co v. WID

WID (Third-Party Plaintiff) v. Kerner, Kerner & Shirts (Third-Party Defendants)

- Gives timeline of formation of WID, formation of ICC and contracts, as well as purchase of Crane Creek Reservoir water by WID
- Strengths and Weaknesses of Plaintiffs:
    - ICC
        - Since 1920 ICC has been diverting and applying water to a beneficial use from the Weiser River
        - "The problem facing the District is that the 1939 Wood decree included over 3,000 acres of non-district lands including the Plaintiffs' lands in this litigation."
        - "That the Institute Canal Co. and all other Plaintiffs (not being members of the Weiser Irrigation District) cannot be treated as District members as the District wants to do is illustrated in the case of Nampa & Meridian Irr. Dist. V. Briggs supra which stated: "Had the respondent's rights under his deeds been acquired by appellant and his property been taken into the district, the contention that no preferential right could be granted in his favor and against those situated similarly to him would be sound, but his rights were not acquired by appellant, his property was not taken into the district, the water-users who are members of the appellant corporation are not situated similarly to him and the contention is not sound."
            - This appears to strengthen the contracts. The contracts clearly state WID sold the plaintiffs/third-party defendants the water, so in this case the appellants acquired the rights.
    - Lon Baker & Jack Baker
        - Baker Bros have filed claim for 2.272 cfs with 1932 priority date, 0.360 cfs with 1957 date and 0.40 cfs with 1968 priority date.
            - 1932 is 67-10541
            - 1957 is 67-10539
            - 1968 is 67-10540

- 1932 contract said Baker/Muir could take their private irrigation water (this statement mentions that). 1977 injunction said they could not take storage or adjudicated water belonging to WID. If they can support the 1932 priority date, we can recommend that water, although not on the acreage that would have been irrigated after sprinkler addition. Anything after the 1932 the Baker Bros took out of the Galloway Canal would have been water belonging to WID or other private decreed or licensed water, so we would disallow the later Baker Bros claims. However, that additional property would most likely be covered by WID water. If Baker Bros are removing from the Weiser, the 1957 and 1968 claims would be treated as normal.

  - Baker Bros sprinkled additional acreage, hence the later claims. "The land being irrigated is the same land owned by their predecessors at the time of the 1932 contract."
    - True, Baker Bros' predecessors owned land, but it was not irrigated in 1932. Therefore, any additional water Baker Bros have diverted from Galloway is not water that belonged to Baker/Muir in 1932 and so is WID or other private water. If Baker Bros are removing from the Weiser, the 1957 and 1968 claims would be treated as normal.

- Green and Smith Land & Livestock
  - Green's predecessor was Ida M. Shoesmith. Shoesmith owned 185 acres of land in 1932 at which time 145 acres was being irrigated. "Over the years additional Shoesmith lands were placed under irrigation until at this time the Greens are irrigating 181 acres of the original lands."
  - "The Smith's predecessor owned 171 acres of land in 1932 of which 154 acres were under irrigation. Since that time additional acreage has been obtained and approximately 188 acres are now being irrigated."
  - Shoesmith and Smith applied for a permit in 1932 and were issued a license in 1935 for "5.98 cfs (299 miner's inches) divided by 145 miner's inches to Shoesmith (Green predecessor) and 154 miner's inches to Polly Smith (Smith predecessor). Since that time additional water has been diverted and applied to a beneficial use on the original Shoesmith property in the approximately amount of 36 miner's inches and on the Smith property in the approximate amount of 34 miner's inches. These claims have all been filed with the" SRBA.
    - 5.98 cfs is 67-2164.
      - SRBA claim 67-2164A, Smith Land and Livestock, 3.08 cfs (appears to be correctly claimed amount).

        - SRBA claim 67-2164B, Ed Pollard, 5.90 cfs (will need to be cut down to bring him to his proportional share).
        - See split tree for 67-2164 for acreage found.
    - "It is our position that the contract is clear that the only prohibition under the contract is the amount of water being diverted not the amount of acreage being irrigated or which could be brought under irrigation at a later date."
        - The contract said WID delivery would not exceed 600 inches. Smith/Shoesmith licensed for 299 inches and continued to develop. This appears to be within the guidelines set forth in the contract.
    - "The irrigation of the property owned by Mr. & Mrs. Green (the original property under the Shoesmith/Smith contract) has been increased by 36 acres. The diversion rate is still below the contractual amount and the lands being irrigated are the same 'present' lands referred to in the original 1932 contract."
        - Diversion rate is still below 600 inches. We have no evidence for "present" lands from 1932 contract.
    - "As to the Smith lands, the additional 34 acres that although adjoining the original Smith lands are not the lands references in the original 1932 contract. Even though the 1932 contract allows the diversion of approximately 300 miner's inches by the Smith interests the District could argue that a violation has occurred. Any damage, though, would be minimal since the Smiths are still within the diversion rates allowed by the 1932 contract…"
        - It appears that, although the contract mentions Smith/Shoesmith had 320 acres of irrigable land, it does not stipulate the 600 inches may only be used on those 320 acres of irrigable land. Therefore, the Smiths/Shoesmiths and their successors in interest would not be prohibited from using the water on additional acreage. Given WID agreed to deliver 600 inches, which would amount to 1.875 miner's inches per acre, nearly double the standard at that time even given the popularity of high water demand crops like potatoes and sugar beets, we have to assume WID and Smith/Shoesmith were accounting for future expansion of the Smith/Shoesmith holdings. However, in the SRBA when domestic rights are recommended, they are giving the limiting condition of 13,000 gpd. This condition does not mean the right-holders get 13,000 gpd. The right-holders received what has been used historically. Therefore, the license issued to Smith/Shoesmith in 1933 (67-2164) for 5.98 cfs may be the complete water right appurtenant to the land.
- Vaughn Kelley and Milton Kerner et al.

- Kelley and Kerner received similar contracts. Kelley bought 50 miner's inches and 100 ac-ft of storage water. Breshears (Kerner predecessor) bought 100 miner's inches and 200 ac-ft of storage water.
- "The District has admitted in its pleadings and other documentation that when the District was awarded the additional 6000 miner's inches of water that this included water which was to have been applied to a large number of non-district lands including the lands owned by Annie Kelley and the Breshears and that such water was not needed for irrigation of lands within the District. It was therefore surplus water not even appurtenant or dedicated to lands within the District. As case law states such waters may be transferred, sold and delivered to non-district lands without being considered as an ultra vires act."
    - We need to determine how District boundaries are established and if this has any impact on this matter. As of right now, this doesn't appear to have any impact because WID was licensed for this POU. If WID had the authority to establish a water right outside the District's boundaries, why wouldn't they have the authority to sell said water right that is outside their boundary?
- "Regarding augmentation of acreage Vaughn Kelley is irrigating the exact same acreage as defined in the original 1941 contract or 51.8 acres. He is diverting approximately 50 miner's inches and is using a measuring device for this purpose designed by the Weiser Irrigation District… In fact the contract does not restrict the acreage to be irrigated. The only restriction is the amount of water to be diverted."
    - If Kelley is using 50 inches and irrigating reasonable land as set forth in the contract, there appears to be no solution but to recommend Kelley's portion of 67-2169, which is numbered as 67-2169C. Kelley had filed 67-10319 as a duplicate of claim 67-2169C. 67-10319 is now set to disallow because we will be recommending 67-2169C.
- "The Kerners are irrigating approximately 120 acres from the Galloway Canal and are not diverting anymore (sic) than the 100 miner's inches allowed under the 1941 contract which is being measured by a measuring device of a type as specified by the District and installed at the District's request. The District is claiming that the Kerners are irrigating an additional 175 acres and have been assessing these acres in addition to the 120 acres. The additional acreage is being irrigated by direct pumping from the Weiser River and has absolutely no relationship to the Weiser irrigation District or the Galloway Canal. The 120 acres being irrigated from the Canal is the same lands as described in the 1941 contract."

- 67-4470 is the Kerner BU claim for the additional acreage. Map in file shows 2 PODs off the Weiser River. This will need a field exam to confirm. If PODs are off of the Weiser, this is not WID water, and should be treated as a regular claim.

1999

Civil No. CV98-00496 Findings

Kelley, Green, Smith Land & Livestock Co, Baker Bros and Institute Canal Co v. WID
WID (Third-Party Plaintiff) v. Kerner, Kerner & Shirts (Third-Party Defendants)

Findings

- "It is acknowledged by the parties hereto that any water rights claimed or owned by the parties are subject to the pending Snake River Adjudication Proceeding. Once such rights have been finally determined in the Snake River Adjudication Proceeding that this agreement be amended to comply therewith…"
- Findings were predominantly regarding payment of fees, not who owned water.

CONVERSATIONAL MEMORANDUM

TO: File

FROM: Monica Van Bussum

DATE: 22 September 2005

RE: Evidence of Priority for SRBA files for Dan Smith (67-10143 and 67-14444) and Ed Pollard (67-14353 and 67-14445)

I met with Dan Smith this morning to look over his evidence of priority for his land. Ed Pollard has been interested in Dan's evidence of priority because Pollard and Smith purchased (and subsequently split) the old Green place in a change of ownership a few years ago.

Dan provided me with an aerial photo from 1938 of the Weiser area. He showed me the area he owns now and the area Pollard owns (now marked on the map). He also provided a letter from WID that addresses a water carrying agreement. I asked him to make a copy of the water carrying agreement and sent it in since he didn't have a copy of the actual agreement with him.

When we get this final piece of documentation, hopefully we will be able to determine if the Smith/Pollard water is WID water or individual water.

Also, Dan said there are two licenses on the property, but the beneficial use claim adds on some acres. The 1938 photo shows irrigated acres where the unlicensed area is, so it looks like we would be able to recommend a 1938 priority date for the additional acres in the BU claim. He has personal memory of the fields dating back to 1945 because that is the year his grandmother died and he remembers walking across the fields to tell his father. He also has memory of when his father first put the northern acreage (1970s license) on sprinkler, which was in 1954. He briefly mentions this in his affidavit.

During our conversation, Dan mentioned he pays WID for ditch maintenance and for Crane Creek storage water. We need to make sure he has live flow before recommending his or Ed Pollard's claims.

SCANNED
AUG 2 8 2007

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 67-14353
Date Received: 10/19/1989
Receipt No:
Received By:

AMENDED

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name of Claimant(s)

EDWARD L POLLARD SR
2117 WEISER RIVER RD
WEISER ID USA 83672

Phone: (208) 549-2944

2. Date of Priority: 08/15/1933

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

4. Point of Diversion:

Township	Range	Section	1/4	1/4	1/4	Lot	County	Type
11N	04W	35	SW	NE	NE		WASHINGTON	

5. Description of diverting works:

GALLOWAY DAM

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
IRRIGATION	03/15	10/15	1.63	

7. Total Quantity Appropriated is:
1.63 C.F.S.

8. Total consumptive use:

9. Non-irrigation uses:

SCANNED
APR 16 2004

10. Place of use:

Township	Range	Section	1/4 of 1/4		Lot	Use	Acres
11N	04W	34	SW	SW		IRRIGATION	32
			SE	SW		IRRIGATION	33.5
			SW	SE		IRRIGATION	16
						Section Acres	81.5
						Total Acres	81.5

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:

14. Remarks:

This claim is the result of a split due to change in ownership for a portion of 67-11027. DH 7/24/2002

Address changed by DH 4/23/2003

Split claim amended per claimant inquiry & review of claim. DH 6/27/2003

15. Basis of Claim: Beneficial Use

Split for 67-11027

		67-14351 Green	67-14352 Syme	67-14353 Pollard	67-14354 Phillips	
Section	**QQ**					**Total**
4	NESE	0	0	0	3	
34	SWSW	0	0	32	0	
	SESW	0	5.5	33.5	0	
	NESE	0	5	0	0	**
	SWSE	2	17	16	0	
Total Acreage:		2	27.5	81.5	3	114
Diversion Rate @ 0.02 per acre:	***0.02***	0.04	0.55	1.63	0.06	2.28

Original claim was for 2.30 cfs - So 0.02 cfs / 114 ac = 0.0001754 cfs per acre:

Total Diversion Rate for Splits:	***0.000175***	0.040	0.555	1.644	0.061	2.300

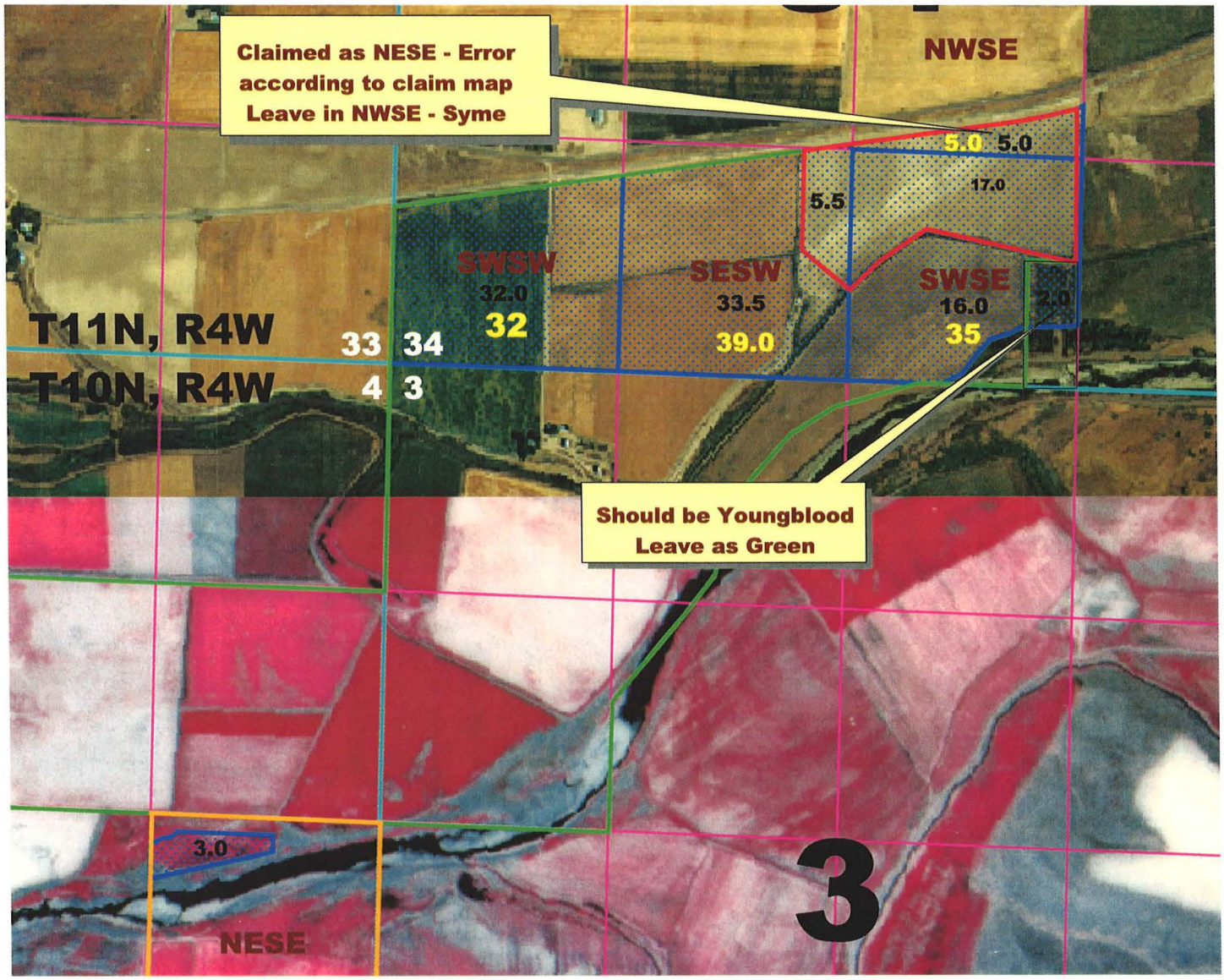
* 3 acres for Phillips is on N side of river, but could have been claimed incorrectly just due to the lay of the land.
* 0.02 cfs under after porportioning water @ 1" per acre. 0.000175 cfs per acre added to each claim.

** According to original claim map, this 5 acres should have been claimed in the NWSE. Error in claim - split claim so this 5 acres is on Syme's property

"Pollard" - 6-27-03 Amendments to Split

State of Idaho

Split for 67-11027



1320 0 1320 Feet

N
W E
S

- Originally Claimed POU
- Phillips Prop Bndy
- Pollard Prop Bndy
- Syme Prop Bndy
- Quarter Quarter Lines
- Section Lines

<Text> After Split - Claimed Acreage Per Parcel

<Text> Claimed Acreage Per QQ

Prepared By: Craig L. Saxton
Date: June 2003

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
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CIVIL CASE NUMBER: 39576

Ident. Number 67-14353
Date Received: 10/19/1989
Receipt No:
Received By:

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name of Claimant(s)

EDWARD L POLLARD SR
2117 WEISER RIVER RD
WEISER ID USA 83672

Phone: (208) 549-2944

2. Date of Priority: 08/15/1933

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

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County	Type
11N	04W	35	SW NE NE	WASHINGTON	

5. Description of diverting works:

GALLOWAY DAM

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
IRRIGATION	03/15	10/15	1.27	

7. Total Quantity Appropriated is:
1.27 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
11N	04W	34	SW	SW	IRRIGATION	32
			SE	SW	IRRIGATION	31
					Section Acres	63

Total Acres 63

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:

14. Remarks:

This claim is the result of a split due to change in ownership for a portion of 67-11027. DH 7/24/2002

Address changed by DH 4/23/2003

15. Basis of Claim: Beneficial Use

Pollard should have total of 92 acres?

Syme = 22 Approx.

April 22, '03

To: Dept. of Water Resources
From: Edward L. Pollard

RECEIVED
APR 23 2003
WATER RESOURCES
WESTERN REGION

Re; Address & Phone # Change
Water Right #s 67-10831 P.D. Issued 12-15-2000 / ownership chg. done at S.O. 4-23-03
A6702169D → 6714357 Done 7-24-02
A6711027 → 6714353 Done 7-24-02
A6702164B Done 7-24-02

This is to inform you that my address & phone have changed to:

2117 Weiser River Rd.
Weiser, Id 83672
208-549-2944 FAX 549-2966

I was informed by Shelly Keen of your office that 3 of these rights have been processed & transfered to me. I have not recieved any confirmation of this. Please change my address & send me confirmation of the approved transfers. He said two of these were divided & re numbered. I need to know what that means.

Thank You
Edward L. Pollard Sr.

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 67-14353
Date Received: 10/19/1989
Receipt No:
Received By:

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name of Claimant(s)

EDWARD L POLLARD SR
905 LIARD PL
COSTA MESA CA USA 92626

Phone: (714) 754-1148

2. Date of Priority: 08/15/1933

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

4. Point of Diversion:

Township	Range	Section	1/4 of	1/4 of	1/4 Lot	County	Type
11N	04W	35	SW	NE	NE	WASHINGTON	

5. Description of diverting works:

GALLOWAY DAM

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
IRRIGATION	03/15	10/15	1.27	

7. Total Quantity Appropriated is:
1.27 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
11N	04W	34	SW	SW		IRRIGATION	32
			SE	SW		IRRIGATION	31
						Section Acres	63
						Total Acres	63

11. Place of use in counties: WASHINGTON

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

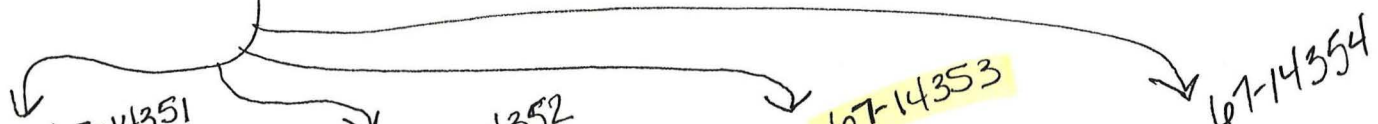
13. Other Water Rights Used:

14. Remarks:

This claim is the result of a split due to change in ownership for a portion of 67-11027. DH 7/24/2002

15. Basis of Claim: Beneficial Use

67-11027 Green 114 acres 2.3 cfs = 0.02 cfs



	Green 67-14351	Syme 67-14352	Pollard 67-14353	Phillips 67-14354
Sec 4				
NESE	∅	∅	∅	3
Sec 34	∅	∅	32	∅
SWSW				
SESW	2	6	31	∅
NESE	5	∅	∅	∅
SWSE	19	16	∅	∅
	26	22	63	3
	.33 cfs	0.44 cfs	1.27 cfs	.06 cfs

10/19/89

Form 42-248/42-1409(6) 1/9/97

RECEIVED
JUL 19 2001
WATER RESOURCES
WESTERN REGION

STATE OF IDAHO
IDAHO DEPARTMENT OF WATER RESOURCES

NOTICE OF CHANGE OF WATER RIGHT OWNERSHIP

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 No(s).: decree 67-10831, A67-02164B, A67-02169D, A67-11027

   Adjudication Claim No(s).: AJ5809NP

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 attached to your deed or on file with the county.)

   OR

   C. For water rights or adjudication claims involving ten or more irrigated acres, a USDA Farm Service Agency AERIAL PHOTO with irrigated acres outlined and point(s) of diversion clearly marked.

3. Name and Address of Former Owner/Claimant: Henry Green and Ann C. Green

   2117 Weiser River Road, Weiser, ID 83672

4. New Owner/Claimant(s): Edward L. Pollard, Sr.

   Name Connector (Check one): [ ] and, [ ] or, [ ] and/or

   New Mailing Address: 905 Liard Pl.

   City, State and ZIP Code: Costa Mesa, CA 92626

   New Telephone Number: (714) 754-1148

5. Date you acquired the property: Exchange 12/2/00 Final deed 6/4/01

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 you irrigate _____ Number and type of stock _____

   Diversion rate in CFS _____ Number of homes _____ Other uses _____

   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 or Claimant(s): Edward L. Pollard Sr.

   (Corporations or other organizations must submit a list of directors and/or officers demonstrating authority to sign form.)

8. For Snake River Basin Adjudication Claims: Please attach a Notice of Appearance completed by your attorney, if you wish IDWR to correspond with him or her for all matters related to your claims..

181531

Approved by:
Initials_____

WARRANTY DEED

FOR VALUE RECEIVED, paid by an accommodator pursuant to a 1031 property exchange, HENRY GREEN and ANN C. GREEN, husband and wife, the Grantors, do hereby, grant, bargain, sell and convey unto ELP PROPERTY EXCHANGE, LLC, the Grantee, whose address is 1700 SW Fourth Avenue, Suite 103, Portland, Or. 97201, the following described real estate situated in Washington County, State of Idaho, to-wit:

See attached Legal Description

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantee, its successors and assigns forever. And the said Grantors do hereby covenant to and with the said Grantee, that they are the owners in fee simple of said premises; that said premises are free from all incumbrances, and that they will warrant and defend the same from all lawful claims whatsoever.

DATED this 21st day of December, 2000.

Instrument # 181531
WEISER, WASHINGTON, IDAHO
2000-12-26 04:22:00 No. of Pages: 3
Recorded for : WASHINGTON COUNTY TITLE
SHARON WIDNER Fee: 9.00
Ex-Officio Recorder Deputy J. McKnight
Index to: DEED

Henry Green
Henry Green

Ann C. Green
Ann C. Green

STATE OF ARIZONA)
: ss
County of Yuma)

On this 21st day of December, 2000, before me, the undersigned, a Notary Public in and for said State, personally appeared Henry Green and Ann C. Green known to me to be the persons whose names are subscribed to the foregoing instrument and acknowledged to me that they executed the same.
IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

Mildred I Hamm
Notary Public for Arizona
Residing at: Yuma
Commission expires: 3-31-2001

"OFFICIAL SEAL"
Mildred I. Hamm
Notary Public-Arizona
Yuma County
My Commission Expires 3/31/2001

Legal Description
attached to Warranty Deed
Green / ELP

TOWNSHIP 10 NORTH, RANGE 4 WEST OF THE BOISE MERIDIAN:

Section 3: Lot 4, SW¼NW¼, and all that part of Lots 2 and 3, and the SE¼NW¼ lying northerly and westerly of the Weiser River;

Section 4: S½NE¼, EXCEPT right of way for canal;

TOWNSHIP 11 NORTH, RANGE 4 WEST OF THE BOISE MERIDIAN:

Section 34: All that part of the SW¼ and the W½SE¼ of said Section 34, lying southerly of the South right of way line of the Union Pacific Railroad as granted to Friends of Weiser River Trail, Inc., formerly known as PIN Railway (being a portion of the former Appleton Townsite); SAVE AND EXCEPT the following described tract:

#1

Beginning at the southeast corner of the W½SE¼,
Thence North 726 feet,
Thence West 306.6 feet,
Thence South 726 feet,
Thence East 299.5 feet to the point of beginning;

5 AC SWSE S-34 11N 4W
plus 1 AC NWNE S-3 10N 4W
5.1
1.0
6.1

ALSO EXCEPTING a strip of land 22 feet wide along the East side of the W½SE¼, between the South right of way line of the Union Pacific Railroad as granted to Friends of Weiser River Trail, Inc., formerly known as PIN Railway and a point 726 feet North of the southeast corner of the W½SE¼ of said Section 34;

#2

ALSO SAVE AND EXCEPT: Beginning at the southeast corner of the W1/2SE1/4 of Section 34, T.11N., R.4W., B.M.;
Thence N 0°16'49"W, a distance of 726.00 feet along the east line of said W1/2SE1/4;
Thence N 89°42'13"W, parallel to the south line of said W1/2SE1/4, a distance of 22.50 feet (22 feet Deed Record) to the TRUE POINT OF BEGINNING, which point is on the west right-of-way line of platted River Street of Appleton Townsite as the same is shown on the Official Plat thereof on file in the Office of the County Recorder of Washington County, Idaho;
Thence continuing N 89°42'13"W, parallel to the south line of said W1/2SE1/4, a distance of 28.79 feet to a point on the northerly bank of the Weiser Irrigation District Canal (Galloway Canal);

continued....

#2 con't

Thence N 79°31'18"W, a distance of 848.02 feet along the northerly bank of said Canal;
Thence S 53°48'19"W, a distance of 337.31 feet along the northwesterly bank of said Canal;
Thence S 43°49'04"W, a distance of 229.25 feet along the northwesterly bank of said Canal;
Thence N 52°20'32"W, a distance of 354.14 feet to a point within the SW1/4 of said Section 34;
Thence N 0°28'33"E, a distance of 574.49 feet to a point on the southerly right-of-way line of the Union Pacific Railroad (formerly PIN Railroad);
15.6 SWSE 5.0 SESW .34 NWSE
Thence N 80°19'58"E, a distance of 1231.83 feet along the southerly right-of-way line of said Railroad to a point of curvature within said W1/2SE1/4;
Thence along the southerly right-of-way of said Railroad along the arc of a curve to the left, with long chord bearing N 76°07'47" E a distance of 361.11 feet to a point on the west right-of-way line of said River Street;
Thence S 0°16'49"E, parallel to the east line of said W1/2SE1/4, a distance of 874.03 feet to the TRUE POINT OF BEGINNING.
TOGETHER WITH AND SUBJECT TO all rights-of-way or easements of record or in use.
ALSO TOGETHER WITH AND SUBJECT TO a 16.00 foot wide ingress-egress easement within the SW1/4 of said Section 34, more particularly described as follows:
Beginning at the southeast corner of the W1/2SE1/4 of Section 34, T.11N., R.4W., B.M.;
Easement
Thence N 0°16'49"W, a distance of 726.00 feet along the east line of said W1/2SE1/4;
Thence N 89°42'13"W, parallel to the south line of said W1/2SE1/4, a distance of 51.29 feet to a point on the northerly bank of the Weiser Irrigation District Canal (Galloway Canal);
Thence N 79°31'18"W, a distance of 848.02 feet along the northerly bank of said Canal;
Thence S 53°48'19"W, a distance of 337.31 feet along the northwesterly bank of said Canal;
Thence S 43°49'04"W, a distance of 229.25 feet along the northwesterly bank of said Canal;
Thence N 52°20'32"W, a distance of 354.14 feet to the TRUE POINT OF BEGINNING, which point is within the SW1/4 of said Section 34;
Thence N 89°42'13"W, parallel to the south line of said Section 34, a distance of 16.00 feet;
Thence N 0°28'33"E, a distance of 571.68 feet to a point on the southerly right-of-way line of the Union Pacific Railroad (formerly PIN Railroad);
Thence N 80°19'58"E, a distance of 16.25 feet along the southerly right-of-way line of said Railroad;
Thence S 0°28'33"W, a distance of 574.49 feet along the west line of the above described parcel of land to the TRUE POINT OF BEGINNING.

C

182879

BARGAIN AND SALE DEED

FOR VALUE RECEIVED, ELP PROPERTY EXCHANGE, LLC

A limited liability company, duly organized and existing under the laws of the State of Oregon, Grantor, does hereby Grant, Bargain, Sell and Convey unto

EDWARD L. POLLARD, SR.

Grantee, whose current address is: 905 Laird Place
Costa Mesa, CA 92626

the following described real estate, to-wit:

SEE EXHIBIT "A" ATTACHED

CERTIFIED TO BE A TRUE AND CORRECT
COPY OF THE ORIGINAL.

TO HAVE AND TO HOLD The said premises, with their appurtenances unto the said Grantee, heirs and assigns forever.

IN WITNESS WHEREOF, The Grantor, pursuant to the authority granted to the managing member, has caused its name to be subscribed this 4th day of June, 2001.

TOWNSHIP 10 NORTH, RANGE 4 WEST OF THE BOISE MERIDIAN:

Section 3: Lot 4, SW¼NW¼, and all that part of Lots 2 and 3, and the SE¼NW¼ lying northerly and westerly of the Weiser River;

Section 4: S½NE¼, EXCEPT right of way for canal;

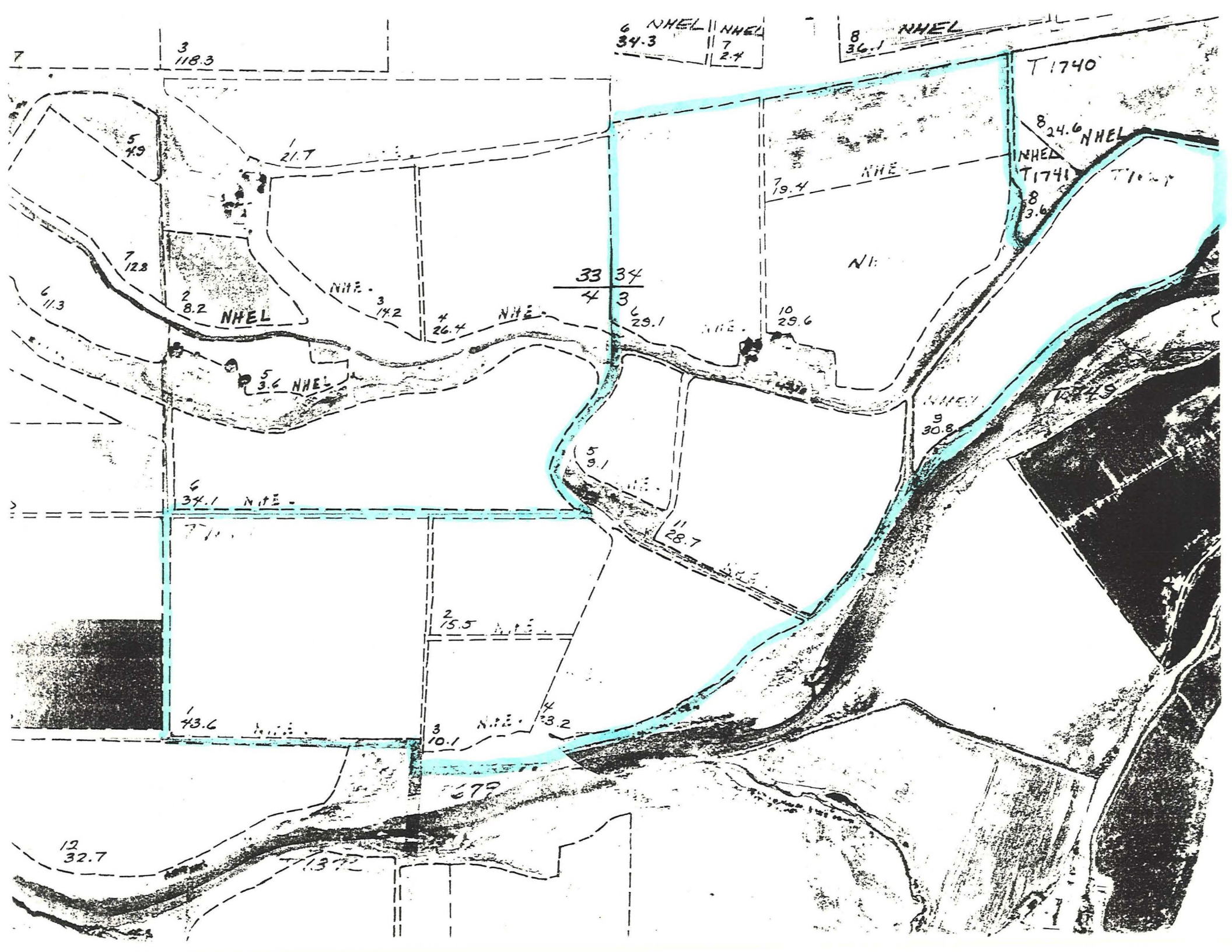
TOWNSHIP 11 NORTH, RANGE 4 WEST OF THE BOISE MERIDIAN:

Section 34: All that part of the SW¼ and the W½SE¼ of said Section 34, lying southerly of the South right of way line of the Union Pacific Railroad as granted to Friends of Weiser River Trail, Inc., formerly known as PIN Railway (being a portion of the former Appleton Townsite); SAVE AND EXCEPT the following described tract:
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Thence North 726 feet,
Thence West 306.6 feet,
Thence South 726 feet,
Thence East 299.5 feet to the point of beginning;
ALSO EXCEPTING a strip of land 22 feet wide along the East side of the W½SE¼, between the South right of way line of the Union Pacific Railroad as granted to Friends of Weiser River Trail, Inc., formerly known as PIN Railway and a point 726 feet North of the southeast corner of the W½SE¼ of said Section 34;

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Thence N 0°16'49"W, a distance of 726.00 feet along the east line of said W1/2SE1/4;
Thence N 89°42'13"W, parallel to the south line of said W1/2SE1/4, a distance of 22.50 feet (22 feet Deed Record) to the TRUE POINT OF BEGINNING, which point is on the west right-of-way line of platted River Street of Appleton Townsite as the same is shown on the Official Plat thereof on file in the Office of the County Recorder of Washington County, Idaho;
Thence continuing N 89°42'13"W, parallel to the south line of said W1/2SE1/4, a distance of 28.79 feet to a point on the northerly bank of the Weiser Irrigation District Canal (Galloway Canal);

continued....

Thence N 79°31'18"W, a distance of 848.02 feet along the northerly bank of said Canal;
Thence S 53°48'19"W, a distance of 337.31 feet along the northwesterly bank of said Canal;
Thence S 43°49'04"W, a distance of 229.25 feet along the northwesterly bank of said Canal;
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Thence N 0°28'33"E, a distance of 574.49 feet to a point on the southerly right-of-way line of the Union Pacific Railroad (formerly PIN Railroad);
Thence N 80°19'58"E, a distance of 1231.83 feet along the southerly right-of-way line of said Railroad to a point of curvature within said W1/2SE1/4;
Thence along the southerly right-of-way of said Railroad along the arc of a curve to the left, with long chord bearing N 76°07'47" E a distance of 361.11 feet to a point on the west right-of-way line of said River Street;
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TOGETHER WITH AND SUBJECT TO all rights-of-way or easements of record or in use.
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Thence N 89°42'13"W, parallel to the south line of said W1/2SE1/4, a distance of 51.29 feet to a point on the northerly bank of the Weiser Irrigation District Canal (Galloway Canal);
Thence N 79°31'18"W, a distance of 848.02 feet along the northerly bank of said Canal;
Thence S 53°48'19"W, a distance of 337.31 feet along the northwesterly bank of said Canal;
Thence S 43°49'04"W, a distance of 229.25 feet along the northwesterly bank of said Canal;
Thence N 52°20'32"W, a distance of 354.14 feet to the TRUE POINT OF BEGINNING, which point is within the SW1/4 of said Section 34;
Thence N 89°42'13"W, parallel to the south line of said Section 34, a distance of 16.00 feet;
Thence N 0°28'33"E, a distance of 571.68 feet to a point on the southerly right-of-way line of the Union Pacific Railroad (formerly PIN Railroad);
Thence N 80°19'58"E, a distance of 16.25 feet along the southerly right-of-way line of said Railroad;
Thence S 0°28'33"W, a distance of 574.49 feet along the west line of the above described parcel of land to the TRUE POINT OF BEGINNING.


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T 1742
T 1743
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34.1
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155
43.6
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23.2
32.7

DATA ENTRY BY CA

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: A67-11027
Date Received: 10/19/1989
Receipt No: C012396
Received By: _____

NOTICE OF CLAIM TO A WATER RIGHT ACQUIRED UNDER STATE LAW

1. Name: HENRY P. GREEN 208-549-2733
   Address: 2117 WEISER RIVER RD.
   WEISER, ID 83672
   AND
   Name: ANN C. GREEN 208-549-2733
   Address: 2117 WEISER RIVER RD.
   WEISER, ID 83672

2. Date of Priority: AUG 15, 1933

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

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4	Lot	County
11N	04W	35	SW NE NE		WASHINGTON

5. Description of diverting works:
   GALLOWAY DAM

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
IRRIGATION	03/15	10/15	2.300		

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

8. Total consumptive use is 399.0 Acre Feet Per Annum.

9. Non-irrigation uses:

MICROFILMED

10. Place of Use:

Township	Range	Section	1/4 of 1/4		Lot	Use	Acres
10N	04W	4	NE	SE		IRR	3.0
					Section Acres		3.0
11N	04W	34	SW	SW		IRR	32.0
			SE	SW		IRR	39.0
			NE	SE		IRR	5.0
			SW	SE		IRR	35.0
					Section Acres		111.0
					Total Acres		114.0

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:
SEE REMARKS

14. Remarks:
CRANE CREEK - 420 SHARES FILED ON BY CRANE CREEK RESERVOIR INDEPENDENT WATER USERS CO., INC.

15. Basis of Claim: BENEFICIAL USE

MICROFILMED
OCT 05 1992

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: _____

State of Idaho)
) SS.
County of _____)

Subscribed and sworn (or affirmed) before me this _____ day of _____ 19 _____

_____
Notary Public

Seal

Residing at _____

My Commission Expires _____

MICROFILMED
OCT 05 1992

State of Idaho
DEPARTMENT OF WATER RESOURCES
Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190
FAX (208) 334-2348

DIRK KEMPTHORNE
Governor
KARL J. DREHER
Director

June 27, 2003

EDWARD L POLLARD SR
2117 WEISER RIVER RD
WEISER ID 83672

Re: Original Notice of Claim to a Water Right No. 67-11027

Renumbered Notice of Claim to a Water Right No. 67-14353

Dear Claimant(s):

Enclosed is the ***amended*** claim for your portion of the original Claim to a Water Right Number as referenced above. This Change of Ownership required a split of the original claim resulting in renumbering this claim, using a new water right number to represent each split. The new Notice of Claim to a Water Right number for your portion is referenced above and a copy is enclosed.

Your portion of this claim has a specified point of diversion, nature of use and place of use. If you plan on changing the nature of use, place of use, or point of diversion under this right, including adding a new point of diversion, then an Application for Transfer on your portion of this right is required. Please contact this office for further information on the Application for Transfer form. If you do not plan on changing any items on your claim, then no further action is required at this time.

Please note that the enclosed Notice of Claim to a Water Right is not a determination of your water right. This claim represents a split of the claim filed by a previous owner during claims taking in the Snake River Basin Adjudication (SRBA) and has not yet been verified by this Department. Water rights are established and maintained by beneficial use of water for the uses designated on this claim form dating back to the priority date listed. This claim will be investigated, verified and recommended to the SRBA Court for court decree sometime in the near future. You will be notified prior to the beginning of any verification of this water right.

Thank you for your patience, as we have had several water right changes to process. Please feel free to contact this office if you have any questions concerning your claim or this letter.

Sincerely,

Adjudication Section
Western Region

DH: dh

Enclosure

SCANNED
APR 16 2004

CONVERSATION MEMO

TO: File: 67-14351, 67-14352, 67-14353, 67-14354, 67-14355, 67-14356 & 67-14357
FROM: Denise Hatfield
DATE: June 27, 2003
SUBJECT: Ownership splits - corrections

Edward Pollard, claimant for 67-14353 & 67-14357, called on June 13th and questioned the splits previously done for the above numbers. He indicated that he should have more acres than he was originally given. We have reviewed and corrected these claims according to the information provided in the files. Amended copies were mailed to the claimants. Please refer to the notes and split information in the referenced files.

State of Idaho
DEPARTMENT OF WATER RESOURCES
Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190
FAX (208) 334-2348

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

April 24, 2003

EDWARD L POLLARD SR
2117 WEISER RIVER RD
WEISER ID 83672

Re: Original Notice of Claim to a Water Right No. 67-11027
Renumbered Notice of Claim to a Water Right No. 67-14353

Original Notice of Claim to a Water Right No. 67-2169D
Renumbered Notice of Claim to a Water Right No. 67-14357

Dear Claimant(s):

Per your letter of April 23, enclosed are copies of the claims reflecting the Change of Ownership for a portion of the original Claim to a Water Right Number as referenced above. This Change of Ownership required a split of the original claim resulting in renumbering this claim, using a new water right number to represent each split. The new Notice of Claim to a Water Right number for your portion is referenced above and a copy is enclosed.

Your portion of this claim has a specified point of diversion, nature of use and place of use. If you plan on changing the nature of use, place of use, or point of diversion under this right, including adding a new point of diversion, then an Application for Transfer on your portion of this right is required. Please contact this office for further information on the Application for Transfer form. If you do not plan on changing any items on your claim, then no further action is required at this time.

Please note that the enclosed Notice of Claim to a Water Right is not a determination of your water right. This claim represents a split of the claim filed by a previous owner during claims taking in the Snake River Basin Adjudication (SRBA) and has not yet been verified by this Department. Water rights are established and maintained by beneficial use of water for the uses designated on this claim form dating back to the priority date listed. This claim will be investigated, verified and recommended to the SRBA Court for court decree sometime in the near future. You will be notified prior to the beginning of any verification of this water right.

In addition, an ownership change was also processed on claim number 67-2164B in July of 2002. Your address has been updated on all water rights. Our records have also been updated, reflecting your ownership of the waters associated with right number 67-10831. Copies of all water rights are enclosed for your records.

Please feel free to contact this office if you have any questions concerning your claim or this letter.

Sincerely,

Denise Hatfield

Denise Hatfield
Office Specialist 1
Adjudication Section
Western Region

DH: dh

Enclosure

RECEIVED
JUL 19 2001
WATER RESOURCES
WESTERN REGION

Washington County Title Co.

35 West Idaho St.
Weiser, ID 83672

(208) 549-1455
Fax (208) 549-1487

Title Insurance

Escrow Service

RECEIVED
JUN 18 2001
Department of Water Resources

June 15, 2001

Idaho Department of Water Resources
1301 N. Orchard St.
Boise, Idaho 83720

RE: Transfer of Water Right Ownership
Henry Green - Edward L. Pollard, Sr.

We have enclosed form 42-1409 which has been signed by the new owner.

Also enclosed is a copy of aerial photo supplied by USDA Farm Service Agency, together with certified copies of the exchange deed and final deed.

Please let me know if you require anything further.

ALSO, I mistakenly used our last copy of the change of ownership form. Will you please mail or FAX a copy?

Thank you,

WASHINGTON COUNTY TITLE CO.

Fran

By: G. Frances McDaniel

enc.

Albert P. Barker
John A. Rosholt
John K. Simpson
Travis L. Thompson
Shelley M. Davis
Paul L. Arrington

BARKER
ROSHOLT
&
SIMPSON
LLP

1010 W Jefferson, Suite 102
Post Office Box 2139
Boise, Idaho 83701-2139
(208) 336-0700 telephone
(208) 344-6034 facsimile
brs@idahowaters.com

113 Main Avenue West, Suite 303
Twin Falls, Idaho 83301-6167
(208) 733-0700 telephone
(208) 735-2444 facsimile
jar@idahowaters.com

Shelley M. Davis
smd@idahowaters.com

February 26, 2007

VIA US MAIL
Monica Von Bussum
David R. Tuthill, Jr., P.E.
Idaho Department of Water Resources
322 East Front St.
P.O. Box 83720
Boise, ID 83720-0098

Re: Recommendations for Pollards and Symes in Basin 67

Dear Monica:

On December 12, 2006 my clients, Ed and Sally Pollard and Greg Syme, and I met with you and Chris Bromley at your offices in Boise to discuss the recommendations that the Department had made on certain of their water right claims. At that meeting I provided the Department with a notebook full of information that demonstrates the independent ownership of water right claim nos. 67-14357 (Pollards) and 45-14356 (Syme), water that had inadvertently been recommended to the Weiser Irrigation District. During the meeting we also discussed the Department's recommendations related to water right nos. 67-14353 (Pollard) and 67-14352 (Syme) which were recommended as disallowed because the water claimed under those rights had been recommended to the Crane Creek Reservoir Board.

During the meeting I explained that two claims had been filed for the same water by Mr. and Mrs. Pollard's and Mr. Syme's predecessor in interest, Henry Green, and that 67-14352, 67-14353 and 67-14356 and 67-14357 were for the same water interests. We determined that the recommendation to Crane Creek appeared to be an anomaly, but my clients nevertheless agreed that because the two claims were for the same water that they would agree to have the Department recommend claim nos. 67-14352 and 67-14353 as disallowed rather than withdraw the claims, and for the Department to reverse its recommendation to Weiser Irrigation District and recommend claim nos. 67-14356 (Syme) and 67-14357 (Pollards) as recommended to the respective owners in an amount commensurate to their acreage proved to be irrigated by the documents I provided at the December 12 meeting. Approximately two days later Monica called

SCANNED
FEB 27 2007

to inform me that the Department had reviewed the materials and agreed to adjust their recommendations accordingly.

On January 10, 2007 the Pollards and Mr. Syme received their recommendations from the Department for the Director's report. Unfortunately the Department has recommended water right claim nos. 67-14352 and 67-14353 (the Crane Creek rights that we agreed to have disallowed) to be allowed and water right nos. 67-14356 and 67-14357 (the competing Weiser Irrigation District claims) be disallowed. This will not resolve the problem that exists in the competing claims between the Pollards and Mr. Syme and the Weiser Irrigation District. The information that was presented to the Department was to prove the independent ownership of the waters within the irrigation district as represented by the carrying agreement that has been in place between the District and the claimants' predecessors in interest for over 70 years. During our call in December after the December 12, 2006 meeting the Department, having reviewed the information submitted, recognized the validity of our position and agreed to change the recommendations accordingly. Please contact me as soon as possible so that we can remedy this problem. Thanks very much for your assistance.

Very truly yours,

BARKER ROSHOLT & SIMPSON LLP

Shelley M. Davis

Enc.
Cc: Ed and Sally Pollard
Greg and Renate Syme
Chris Bromley

SCANNED
FEB 7 7 2007

State of Idaho
DEPARTMENT OF WATER RESOURCES
322 East Front Street, P.O. Box 83720, Boise, ID 83720-0098
Phone: (208) 287-4800 Fax: (208) 287-6700 Web Site: www.idwr.idaho.gov.

JAMES E. RISCH
Governor

KARL J. DREHER
Director

January 10, 2007

RE: Water Rights in Reporting Area 19, Basin 67
Snake River Basin Adjudication (SRBA)

Dear Water Right Claimant(s):

Please find enclosed the Idaho Department of Water Resources recommendations for your water right claim(s) in Basin 67 that have been reported to the SRBA Court, covering water right claims from the Weiser River drainage. We have also enclosed instructions for reviewing (1) your recommended water right(s), and (2) other recommended water right claims in your area. Water rights for most domestic and/or stockwater rights were reported earlier to the Court, and most of those have been decreed by the SRBA Court.

Note that you have until August 22, 2007, in which to review the recommendations for your water rights or those 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 Council, Payette, and Weiser, and at all the Idaho Department of Water Resources offices (see addresses in enclosures).

If the SRBA Court does not receive an objection to our recommendation from you and no other party objects to the recommendation for your water right, your water right will be decreed in 2008 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. You may also call the adjudication staff in my office at 1-800-451-4129 who can also respond to your questions.

Sincerely,

David R Tuthill Jr

David R. Tuthill, Jr., P.E.
Interim Director

Enclosures

SCANNED
FEB 27 2007

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

RIGHT NUMBER: 67-2164B

NAME AND ADDRESS: EDWARD L POLLARD SR
2117 WEISER RIVER RD
WEISER ID 83672

SOURCE: WEISER RIVER TRIBUTARY: SNAKE RIVER

QUANTITY: 3.140 CFS

PRIORITY DATE: 08/15/1933

POINT OF DIVERSION: T11N R04W S35 SWNENE Within WASHINGTON County

PURPOSE AND PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
IRRIGATION	03/01 11/15	3.140 CFS

PLACE OF USE: IRRIGATION in WASHINGTON County

T10N R04W S03 Lot 2	NWNE	1.50	T10N R04W S03 Lot 3	NENW	21.00
T10N R04W S03 Lot 4	NWNW	31.00	T10N R04W S03	SWNW	25.00
T10N R04W S03	SENW	1.50	T10N R04W S04 Lot 1	NENE	3.00
T10N R04W S04	SWNE	38.00	T10N R04W S04	SENE	36.00

157 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 - License

Right includes accomplished change in point of diversion pursuant to Section 42-1425, Idaho Code.

FEB 27 2007

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

RIGHT NUMBER: 67-14353

NAME AND ADDRESS: EDWARD L POLLARD SR
2117 WEISER RIVER RD
WEISER ID 83672

SOURCE: WEISER RIVER TRIBUTARY: SNAKE RIVER

QUANTITY: 1.480 CFS

PRIORITY DATE: 09/03/1954

POINT OF DIVERSION: T11N R04W S35 SWNENE Within WASHINGTON County

PURPOSE AND PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
IRRIGATION	03/01 11/15	1.480 CFS

PLACE OF USE: IRRIGATION in WASHINGTON County

T11N R04W S34	SWSW	30.00	T11N R04W S34	SESW	29.00
T11N R04W S34	SWSE	15.00			

74 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

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IDAHO DEPARTMENT OF WATER RESOURCES

CLAIMS / RIGHTS NOT RECOMMENDED

W.R. NUMBER	NAME AND ADDRESS	CLAIM DISPOSITION	REASON
67-14356	GREGORY C SYME 1255 W 6TH ST WEISER ID 83672 RENATE SYME 1255 W 6TH ST WEISER ID 83672	Disallowed	Recommended as Right No. 2169G.
67-14357	EDWARD L POLLARD SR 2117 WEISER RIVER RD WEISER ID 83672	Disallowed	Recommended as Right No. 2169G.
67-14362	BETTY M BLENDU 1345 W OVERLAND MERIDIAN ID 83642 RONALD D BLENDU 1345 W OVERLAND MERIDIAN ID 83642	Disallowed	Recommended as Lost Valley Reservoir Company. Right Nos. 67-14566, 67-14567, & 67-14568.
67-14363	MARLISE JENSON 2376 US HWY 95 MIDVALE ID 83645	Disallowed	Recommended as Lost Valley Reservoir Company. Right Nos. 67-14566, 67-14567, & 67-14568.
67-14369	PAUL STRIKER 1790 STRIKER LN WEISER ID 83672 JERILYN STRIKER 1790 STRIKER LN WEISER ID 83672	Disallowed	Recommended as Right No. 67-14649.
67-14371	PAUL STRIKER 1790 STRIKER LN WEISER ID 83672 JERILYN STRIKER 1790 STRIKER LN WEISER ID 83672	Disallowed	Recommended as Right No. 67-14649.
67-14429	BETH CLANAHAN RT 1 PO BOX 211 PLAINS TX 79355 NOEL CLANAHAN RT 1 PO BOX 211 PLAINS TX 79355	Disallowed	No beneficial use found.
67-14453	WILDERNESS WEST LLC PO BOX 18213 SEATTLE WA 98118	Disallowed	Recommended as Right No. 67-14594.

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FEB 27 2007

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

RIGHT NUMBER: 67-14445

NAME AND ADDRESS: EDWARD L POLLARD SR
2117 WEISER RIVER RD
WEISER ID 83672

SOURCE: WEISER RIVER TRIBUTARY: SNAKE RIVER

QUANTITY: 1.340 CFS

PRIORITY DATE: 08/16/1933

POINT OF DIVERSION: T11N R04W S35 SWNENE Within WASHINGTON County

PURPOSE AND PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
IRRIGATION	03/01 11/15	1.340 CFS

PLACE OF USE: IRRIGATION in WASHINGTON County

T10N R04W S04 Lot	1	NENE	7.00	T10N R04W S04 Lot	2	NWNE	1.00
T11N R04W S33		SWSE	24.00	T11N R04W S33		SESE	35.00

67 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

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FEB 27 2007

BARKER
ROSHOLT
&
SIMPSON
LLP

P.O. Box 2139
Boise, ID 83701-2139



Monica Von Bussum
Idaho Department of Water Resources
322 East Front Street
P.O. Box 83720
Boise, ID 83720-0098

83720+0098

ALBERT P. BARKER
JOHN A. ROSHOLT
JOHN K. SIMPSON
TRAVIS L. THOMPSON
SHELLEY M. DAVIS
PAUL L. ARRINGTON

BARKER
ROSHOLT
&
SIMPSON
LLP

1010 W Jefferson, Suite 102
Post Office Box 2139
Boise, Idaho 83701-2139
(208) 336-0700 telephone
(208) 344-6034 facsimile
brs@idahowaters.com

113 Main Avenue West, Suite 303
Twin Falls, Idaho 83301-6167
(208) 733-0700 telephone
(208) 735-2444 facsimile
jar@idahowaters.com

Shelley M. Davis
smd@idahowaters.com

March 1, 2007

RECEIVED
MAR 06 2007
DEPARTMENT OF
WATER RESOURCES

VIA US MAIL
Monica Van Bussum
David R. Tuthill, Jr., P.E.
Idaho Department of Water Resources
322 East Front St.
P.O. Box 83720
Boise, ID 83720-0098

Re: Recommendations for Pollards and Symes in Basin 67

Dear Monica:

Thank you for your call yesterday in response to my letter of February 26, 2007 inquiring about the recommendations for water right nos. 67-14352, 67-14353, 67-14356 and 67-14357 in the names of the Pollards and Symes. In my letter I expressed my concern about what I perceived to be a mistake in the recommendations based on our discussion held on December 1, 2007. It was my understanding pursuant to the call received a few days after the December meeting that the Department would recommend claim nos. 67-14356 and 67-14357 to be allowed, and disallow claim nos. 67-14352 and 67-14353. The Department recommended the opposite.

During the December 1, 2006 meeting I provided the Department information demonstrating that the Weiser Irrigation District ("WID") and my clients' predecessors in interest had always treated the water delivered to their properties as being under independent ownership, beginning in the early 1930's with a water carrying agreement between Smith/Shoesmith and WID and continuing into the present, including litigation related to the fees charged by the District for maintenance arising out of the water carrying agreement. The Department's recommendation that WID be granted competing water right on my clients' property is of substantial concern to my clients, as those rights have never existed. The water servicing those properties has always been independently owned. Your statement that the Department determined to the leave the recommendation to the WID in place and allow competing claims to go forward does not accurately represent the historical treatment of the water rights on the properties at issue.

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MAR 06 2007

I provided considerable information regarding the historical use of water on the subject property including the affidavits of Alba Einsphar and Violet Mathews indicating their memory of historical water use on the property dating back to the late 1940's, the 1932 water carrying agreement between Smith/Shoesmith and the WID, and the 1975 water carrying agreement between Green and WID. The 1975 water carrying agreement explicitly states that the lands serviced, "seventy-eight acres situated within and being a portion of S1/2 SW1/4 and SW1/4 SE1/4 of Section 34, Township 11 North, Range 4 West of the Boise Meridian" are "seventy-eight (78) acres of Land, located outside the external boundaries of the party of the first part[.]"[1] The WID has never recognized the section 34 property of my clients as lands of the District, as is evidenced by the deposition testimony of Jonathon 'Jay' Edwards, Secretary of the Weiser Irrigation District taken in connection with the 1998 lawsuit commenced to establish the maintenance charges owed by my clients' predecessors in interest pursuant to the carrying agreements. The Mediation Stipulation and Consent to Judgment issued on August 30, 1999 resolved the issue of "the fee to be paid to the Weiser Irrigation District for the transportation of the Plaintiffs' ....private water by the Weiser Irrigation District in the District's canal known as the Galloway Canal."

On behalf of my clients, I am requesting that the Department amend its recommendations made to the Symes and Pollards disallowing 67-14356 and 45-14357, and recommending the WID competing right 67-2164G including lands owned by the claimants. There is no supportable basis for requiring the Symes and Pollards to maintain a competing claim with the WID on the lands claimed in 67-14356 and 67-14357 as the District has repeatedly disavowed any interest in the section 34 lands. Further, I request that at the time of amending the recommendations the Department adjust the priority dates to reflect the dates when Alba Einsphar and Violet Mathews testified the section 34 ground went into irrigation. Please contact me at your convenience to discuss this issue further.

Very truly yours,

BARKER ROSHOLT & SIMPSON LLP

Shelley M. Davis

Enc.
Cc: Ed and Sally Pollard
Greg and Renate Syme
Chris Bromley

[1] I have attached copies of the referenced affidavits, a copy of the 1975 Water Carrying Agreement, and excerpts of the deposition testimony of Jay Edwards for your reference.

SCANNED
MAR 0 6 2007

Attn. Idaho Dept. of Water Resources

Re. Water Right Adjudication Claim 67-14353

We purchased the Shoesmith farm in Weiser in 1938. We owned and worked this farm until we sold it to Henry and Ann Green in 1978. Ed Pollard currently owns it.

We started irrigating the 30-acre field to the east, between the Galloway Canal and the Weiser River shortly after moving there, sometime between 1940-1942. We kept this field as irrigated pasture.

There was a delivery ditch that ran along this field and on down to our lower south fields. It is identified as Field 9 on the USDA Farm 2007 Map. It lies SE and SW in the Section 34 Township 11 N Range 4W and in the north west of Section 3 Township 10N Range 4 W.

Between 1947-1949, we installed a pump in the canal which we used to sprinkler irrigate our upper fields until we sold the place in 1972. These upper fields are approximately 79 acres between the Weiser River Road and the Galloway Canal. They are identified as Fields 6, 7, and 10 on the USDA Farm 1607 Map. They lie in the SW of Section 34 Township 11N Range 4W and the NW of Section 3 Township 10N Range 4W.

Alba Einspahr

Alba Einspahr

CLARENCE R. STARK
NOTARY PUBLIC
STATE OF IDAHO

STATE OF IDAHO, County of Washington -ss:
On this 16 day of Sept, 2005, before me, the undersigned, a Notary Public in and for said State, personally appeared ALBA EINSPAHR known to me to be the person(s) whose name(s) are/is subscribed to the foregoing instrument and acknowledged to me that she executed the same.
IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

Clarence R. Stark
Notary Public for Idaho
Residing at: Weiser, Idaho
Commission expires: 9-17-2011

SCANNED
MAR 06 2007

Attn. Idaho Dept. of Water Resources

Re. Water Right Adjudication Claim 67-14353

My parents purchased the Shoesmith farm in 1938. I was 5 years old at the time.

My parents started irrigating the approx. 30 acre field to the east, between the canal and the river shortly after that, between 1940 and 1942. They kept this in irrigated pasture for our milk cows until the farm was sold in 1978. This is field 9 on the USDA Farm 2007 map.

Between 1947 and 1949 my parents installed a pump in the canal and began sprinkler irrigating our upper fields. I helped my Father irrigate the fields. These are fields 6, 7, and 10 on the USDA Farm 1605 map. We irrigated these fields until the farm was sold.

Violet Mathews

Violet Mathews

STATE OF IDAHO)
: ss
County of Washington)

On this 16 day of Sept, 2006, before me, the undersigned, a Notary Public in and for said State, personally appeared Violet Mathews known to me to be the person(s) whose name(s) are/is subscribed to the foregoing instrument and acknowledged to me that She executed the same.

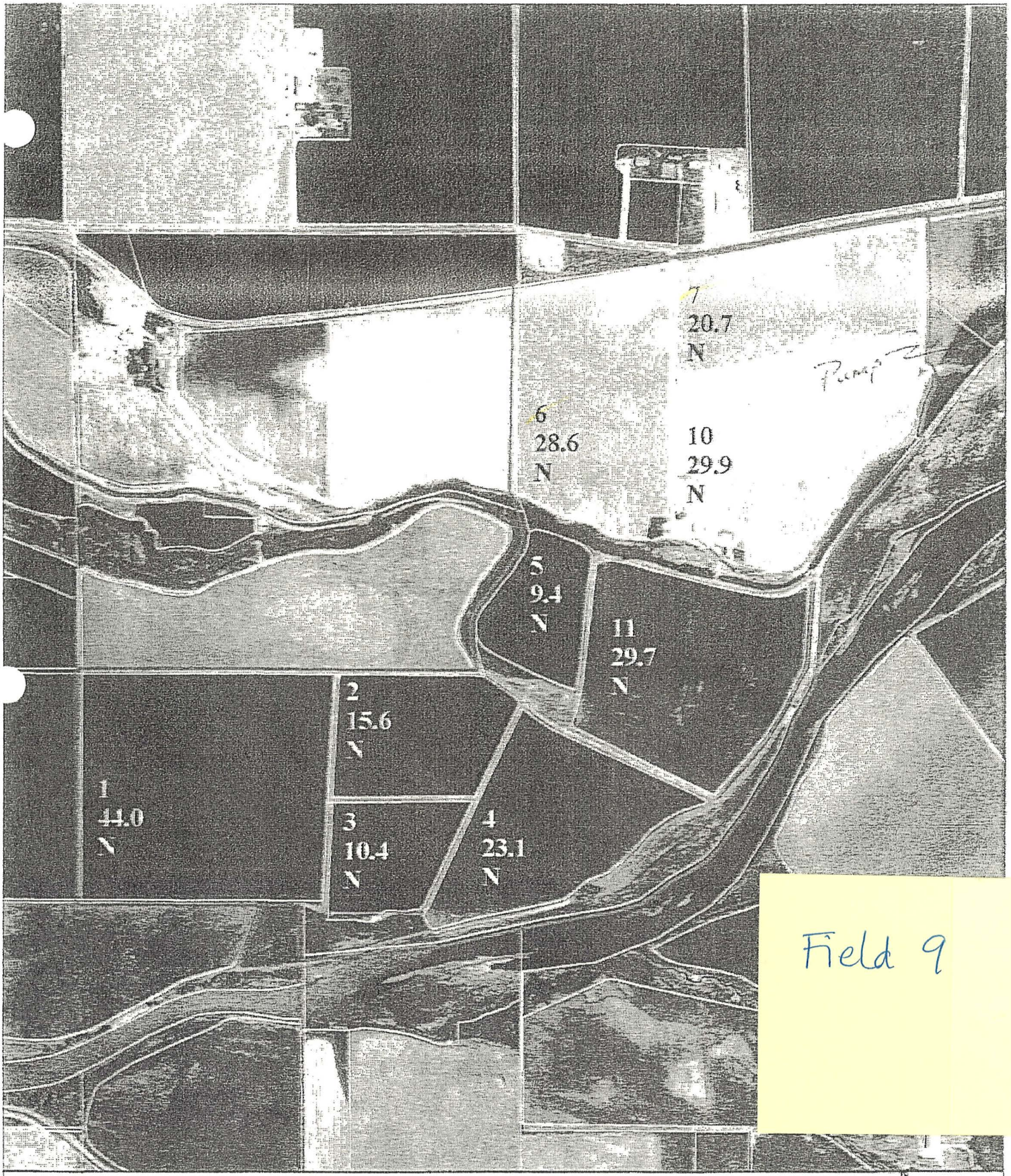
IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

CLARENCE R. STARR NOTARY PUBLIC STATE OF IDAHO

Clarence R Starr

Notary Public for Idaho
Residing at: Weiser, Idaho
Commission expires: 9/7/2011

SCANNED
MAR 0 6 2007



Field 9

Map of Washington Farm 1605
Tract 1669

N

Map Printed: Aug 27, 2004

SCANNED
MAR 0 6 2007

WATER CARRYING AGREEMENT

THIS AGREEMENT, Made and entered into this 24th day of September 19 73, at Weiser, Idaho, by and between:

THE WEISER IRRIGATION DISTRICT, a quasi-municipal corporation, organized and existing under and by virtue of the laws of the State of Idaho, with its main office and principal place of business at Weiser, Idaho, PARTY OF THE FIRST PART,

and

HENRY GREEN, of the County of Washington, State of Idaho, PARTY OF THE SECOND PART;

WITNESSETH, WHEREAS: The party of the second part is the owner of Seventy-eight (78) acres of land, located outside the external boundaries of the party of the first part but in sufficiently close proximity to the canal owned by the party of the first part and used by it for delivery of water to its patrons within its corporate boundaries so that the lands of the party of the second part can be irrigated therefrom;

AND WHEREAS: The party of the second part is the owner of Four [illegible] acre feet of storage water in Crane Creek Reservoir [illegible] irrigation of the lands belonging to the party of

AND WHEREAS: The party of the first part has sufficient additional carrying capacity in its canal, to-wit: the Galloway Ditch, to accommodate an additional Fifty (50) miner's inches of flow at any given time in that portion of its canal lying between its main point of diversion of the Weiser River at the Galloway Dam and the point of diversion for waters to be diverted and applied to the lands of the party of the second part; and it is the desire of the parties hereto to provide for the use of Fifty (50) miner's inches of the capacity of the canal of the party of the first part to carry said water so owned by the party of the second part, to his said lands.

NOW, THEREFORE, in order to accomplish the aforesaid purposes, it is mutually covenanted and agreed between the parties hereto as follows:

I.

The party of the second part is hereby granted the right to deliver Fifty (50) miner's inches of water through the canal of the party of the first

SCANNED
MAR 0 6 2007

[illegible] to the lands of the party of the second part, (consisting of Seventy-[illegible] (78) acres of the storage water owned by the party of the second part in [illegible] Reservoir by application of five-eighths (5/8) of a miner's inch to the acre of land hereinafter more particularly described, at a rate not to exceed Fifty (50) miner's inches rate of flow during the irrigation season and the party of the second part shall have the right to divert the same from the canal of the party of the first part and apply the same to beneficial use upon the lands of the party of the second part, hereinafter more particularly described.

The right herein given is subject to the condition that the party of the second part pay to the party of the first part, no later than the first day of February of each year, the sum of money equal to the operation and maintenance charge that is levied by the party of the first part on a per acre basis against lands belonging to the patrons of the party of the first part within its corporate boundaries; and, for failure to pay said sum, at the time the same shall become due, the party of the first part, in addition to all other remedies available to it and without prejudice to its right to collect the same, may, at its option, refuse to deliver any further water to the party of the second part in the year in which said default occurs and any subsequent year so long as said sum has not been paid.

As a further condition to the rights herein granted to the party of the first part by the party of the second part, the party of the second part covenants and agrees that, prior to delivery of any water, pursuant to this agreement, in the year 1975, the party of the second part will install, at his own expense, an accurate measuring device at his point of diversion, approved by the State of Idaho Department of Water Administration, to the end and purpose that the total volume of water removed by the party of the second part can readily be ascertained and read and that the rate of flow at any given time can be determined therefrom.

II.

It is mutually covenanted and agreed that, if in any given irrigation season, the party of the second part exhausts and totally consumes all

SCANNED
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part. The party of the first part may, at its option, in addition to the other remedies herein provided for and provided by law, cancel and terminate this agreement, in which case the same shall be of no further force or effect.

IV.

The lands intended to be irrigated, belonging to the party of the second part, provided for in this agreement, are located in the County of Washington, State of Idaho, more particularly described as follows, to-wit:

Seventy-eight (78) acres situated within and being a portion of the NW¼NW¼ and SW¼NW¼ of Section 34, Township 11 North, Range 4 West of the Boise Meridian.

V.

Unless terminated by breach, default, mutual consent of the parties or Donahoe, this agreement shall be a covenant running with the above described land.

IN WITNESS WHEREOF the party of the first part, by resolution of its Board of Directors, has caused this instrument to be executed and its corporate seal to be hereunto affixed, the day and year first above written; and the party of the second part has hereunto set his hand and seal the day and year first above written.

WEISER IRRIGATION DISTRICT

By _____
Chairman

ATTEST:

_____
Secretary

PARTY OF THE FIRST PART

_____
PARTY OF THE SECOND PART

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MAR 0 6 2007

[illegible] 1975, before me the undersigned, [illegible] personally appeared ELLEN BALCOMEN [illegible] personally known to be the Chairman and Secretary, respectively, of the WEISER IRRIGATION DISTRICT, the corporation executing the [illegible] acknowledged to me that said corporation executed the

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.

L. Frances McDaniel
Notary Public for Idaho
Residing at Weiser, Idaho

STATE OF IDAHO)
) ss
County of Washington)

On this 20 day of June, 1975, before me the undersigned, a Notary Public in and for said State, personally appeared HENRY GREEN, known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.

Notary Public for Idaho
Residing at Weiser, Idaho

WATER CARRYING AGREEMENT

WEISER IRRIGATION DISTRICT

AND

HENRY GREEN

Dated: September 2, 1975

Instrument No. 106400

Records of WASHINGTON County, Idaho

at the request of

Washington County Title Co.

Filed for record at 10:00 o'clock A M.

9th day of March 1976

in Book 9 of Misc. at page 608

Fee: 4.00

Deputy

Washington County Title Co.
Weiser, Id.

Page 4 - Water Carrying Agreement

Microfilmed
Returned

SCANNED

INDEXED

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT

OF THE STATE OF IDAHO,

IN AND FOR THE COUNTY OF WASHINGTON

COPY

VAUGHN W. KELLEY, an individual; HENRY P. GREEN and ANN C. GREEN, husband and wife; SMITH LAND & LIVESTOCK CO., an Idaho corporation; LON BAKER and JACK BAKER, dba BAKER BROTHERS, an Idaho general partnership; and INSTITUTE CANAL COMPANY, an Idaho corporation, Plaintiffs, vs. WEISER IRRIGATION DISTRICT, Defendant.	Case No. CV-98-00496

DEPOSITION OF JONATHAN P. EDWARDS

TAKEN ON BEHALF OF THE PLAINTIFFS

AT WEISER, IDAHO

THURSDAY, MARCH 18, 1999

REPORTED BY:

ANGELA M. CODER, CSR NO. 635
Notary Public

SCANNED
MAR 0 6 2007

besides the minutes, regular minutes and whatnot, is work on various projects, including Lost Valley Reservoir, putting all of this information -- when we first started out here, the taxing records were on a paper form. We then placed all this on a computerized system. And at the same time, then, started to do a reevaluation of the district. The last time the district had any assessment changes were around 1940, it appears.

So, what was one of my first jobs was the district bought a whole lot of -- or recent set of aerial photographs of this area. And so, we started mapping the district in, and then identifying all the grounds that had been served with Weiser Irrigation water.

Q And this evaluation, when did that start?

A Spring of '92.

Q And so if I understand your testimony, between about 1940 and 1992, there hadn't been any evaluations done during that period of time?

A That's correct. What it appears, at least what I could tell, is there were splits of property that, you know, there would be separate

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MAR 0 6 2007

tax notices sent out. But basically, from what I could tell, was that there had not been any additional acreage changes.

I think there were just two minor changes, I'm aware of, were Dan Smith and Henry Green. Their properties were visited in the '70s, and -- about their water situation, and their acreage was added on at that time. But since then there have been no other changes, just bookkeeping.

Q How did you come about becoming the district secretary?

A We were asked by the district board and interested farmers. I have a background and I have a college degree in geology and soils and hydrology and all this sort of stuff.

We had an office. We were, at the time, doing the computer -- we had worked with the Weiser labor pool. That's the hiring and the firing of the Mexican field labor, and we did all of their payroll and W-2s, and so we -- you know, we were a part of the agricultural community at that time.

And we were just approached to take over the district. And we talked around with

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some various people, particularly like Ira Burton. He thought it had been a wonderful idea that we take it over, so we did.

Q And is one of your functions as secretary, do you actually do the assessments for the land within the district, or is that done by the board?

A What we have done is, in the past there were several different assessments by area. And when we took it over, it was decided by the board at that time to assess every acre as having the same beneficial use. And what my purpose was, was to identify the number of irrigated acres on these different farms.

Q Is that -- I'm sorry. Go ahead.

A So, basically, it was identifying, yes, this field maybe back in 1930 or 1940 it was being irrigated, say, 40 acres. And now the field, the farmer has gone in and leveled it, or maybe he's put sprinklers on it, and now the field is 47 acres.

My purpose was to identify the total ground which was being -- received benefit of the Weiser Irrigation water, and then we amended their tax notices to that effect.

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Q All right. And just for clarification purposes, and I notice we're going to talk about this later, when I'm talking about assessments, I'm talking about members within the district versus our clients who are outside of the district?

A Right.

Q But I have noticed in some of the documentation, as far as my clients, what I generally call the contract holders, even though they're not all contract holders, in some of the correspondence, there is discussion about assessing their lands.

A Right.

Q Can you tell me just in a general sense, when you're talking about people outside of the district, are you actually assessing their lands?

A I think the term -- well, the way I use it is that land which was receiving water from the irrigation district, there's a duty to pay a certain amount of money. And I use the term "assessment" for that.

Q All right. So land receiving water has a duty to pay for the delivery of that water or

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for the use of that water; what's the determining factor there?

A It was just my term that I used that mainly just do the delivery, whose ever water or district water. There's water which is going to this place that is being transported down the Galloway Canal, and it was my -- it's my own terminology, that assessment is the dollar amount that would, you know, was that proportional share of the district's budget to deliver that water.

Q And in a minute here I'm going to talk about some of those particulars about how you came up with that calculation. But before we get there, what I want to know is, when you were doing this evaluation, how many acres did you come up with, and let's talk about in the district and outside the district, that were receiving beneficial use of the water?

MR. WALKER: Are you speaking there just within the district boundaries or receiving water as a benefit from the canal?

MR. TALBOY: What I want to know is, let's just divide that up between the district members and nondistrict members, and then we can talk about the canal in a minute.

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THE WITNESS: Okay. These are the figures that I came up with were, for the record, what, 9,648.58 acres, which were assessed. That lot, that property, lay within the Weiser Irrigation District.

BY MR. TALBOY:

Q Boundaries?

A Yes. We had 2,170.43 under contract. And then we had close to 942 acres which were unexplained.

Q Did you ever explain those?

A Yes. Some of this ground is under the previous lawsuit that we had with Saito and all of those various bunches of little pieces of property that intermingled back and forth.

Q Of that 942 acres, did you ever do any calculations as to whether of that 942 acres how many of those acres were within the district versus outside of the district?

A No, I did not.

Q And when did you prepare this, Jay?

A In '96.

MR. WALKER: Let me just help you out a little bit. You did them on an individual basis that gave rise to the total?

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THE WITNESS: Correct.

MR. WALKER: In other words, the total 942. So if you went down to each land owner, eventually we could chase it down.

THE WITNESS: Right, we could do that.

MR. TALBOY: And I understand that; okay. That's great.

BY MR. TALBOY:

Q So you have a total acres furnished water by the Weiser Irrigation District of 12,761.01?

A That's my best guess.

Q All right. And this was prepared in 1996, did you say?

A That's correct.

MR. TALBOY: Why don't we go ahead, and we will mark this one, or identify this one, as Exhibit A. Can we go off the record for just a second.

(A discussion was held off the record.)

BY MR. TALBOY:

Q Just kind of by way of background information, in 1992 you started this evaluation. And then you have shown me what we're going to identify as Deposition Exhibit

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things here before we get too kind of lost in this whole thing.

I'm going to hand you this document there, which you have previously identified as the notes from your evaluation; is that correct?

A That's correct.

MR. TALBOY: Why don't we go ahead and mark that as D2. This one will be D1.

MR. WALKER: I thought you marked that as --

MR. TALBOY: I'm going backwards. I apologize. I haven't gotten there yet.

(Whereupon, Exhibit No. D1 was marked for identification.)

BY MR. TALBOY:

Q Now, I'm going to hand you that document. Could you identify that for the record, please.

A This is a summary of contract water holders, with the contract water holders, what water they do own.

MR. TALBOY: Why don't we go ahead and mark that as D2.

(Whereupon, Exhibit No. D2 was marked for identification.)

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MAR 0 6 2007

MR. TALBOY: Randall, do you want to take look at that?

MR. FREDRICKS: Yeah, so I can identify it, at least.

THE WITNESS: There was field investigation for two places in those contracts, I should tell you about, if you need to know.

BY MR. TALBOY:

Q All right. Why don't you explain that for me. What are you talking about, field what?

A Field investigations.

Q Uh-huh. And tell me what that is.

A That is a field trip by myself and A.G. Salfen. We went -- the first area was the Institute Canal to investigate where the water went to. The districts kind of merge in and out with each other along the points. So we wanted to be fairly certain where the distribution of the water went to.

At that time is when we discovered there was another hundred-some acres outside the Institute Canal, which is receiving water from the Weiser Irrigation District through the Institute Canal distribution system, which is more particularly the Cheney place and Wayne

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MAR 0 6 2007

is there anything out there you can point to? I'm not trying to trick you. I just want to know.

A It's the fair thing to do. And I think that's the guiding principle behind it is, everybody benefits in the use of the water, everybody should pay a fair share.

Q Okay. And I guess what I'm getting at is, I mean I can understand that philosophy if we're all members of the district.

A Correct.

Q And that's why we form districts, and that's why we share the costs so that the person at mile whatever pays the same as mile whatever later down the canal.

A Right.

Q And I understand that. But what I'm trying to focus on here is, what basis -- if you don't know, if there's nothing out there, that's fine. But what I want to know is, I mean, these people, my clients, are not district members; we agreed to that?

A Correct.

Q And because they're not district members, that same principle as it applies to

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MAR 0 6 2007

district members does not apply to my clients; is that a yes?

A Yes.

Q Just simply because they're not members of the district?

A Yeah, right. They have no voting power, basically it would be. And they have the same privileges as everybody in the district, except they have no vote.

Q Right. And so what happens is districts are empowered by contract or empowered but statute to enter into contracts with these people who are outside of the district?

A Correct.

Q And that controls the rights and obligations between the parties?

A Right, right. From our prior lawsuit with the Saitos, and the Judge pretty much said that we're not required to deliver water outside the district; okay? That was one of the premises we're working on.

Okay. Now, all this stuff had been ignored for years. Nobody really knew -- you know, all the people kept saying, well -- as an example, I will say the Smiths. They said, well,

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MAR 0 6 2007

minute.

A Sure.

Q We will kind of go through the same kind of questions. Do you know whether the Greens, do they have any other rights? I mean, and let's explain that. I mean, do they have any wells or any other river rights or anything other than the water that's coming down the Galloway ditch that you know of?

A No, I don't think so.

Q You don't think that they do?

A Well, I don't think they have any other rights, is all I'm trying to say here.

Q Is that one that you actually went out and looked at or not?

A Yes. We looked at that several different times.

Q And do you know what the total acreage is that they are irrigating?

A Yes. 267.

MR. WALKER: Now, who is this?

THE WITNESS: For Henry Green. That figure might be 25 acres high, because the table I'm using is -- I think he has sold 25 acres to Greg Syme, I believe, so I'm probably 25 acres

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MAR 0 6 2007

high with that figure I just told you.

MR. FREDRICKS: Let me clarify something on this. There was 78 acres that was not under the contract, which, I think, is included in that figure; right?

THE WITNESS: Right, yeah. There's 189 acres underneath the Shoesmith contract. In 1974 the district met out there, and Henry Green has a separate contract for 78 acres which he pays full assessment for.

BY MR. TALBOY:

Q And he did that in 1974?

A Correct. And I believe out of that 78 acres, he has sold 25 of that to Greg Syme.

Q So if we run our math here --

A I made a mistake here. I believe that the Shoesmith people had a total of 25 inches of adjudicated water in Muir, versus Allison, M-U-I-R, versus Allison decree. So they do have, in combination with Smith, a small amount of water.

Q So, like I said, I was trying to do some math here. And if we assume for a minute that this 25 acres is gone, and we take out the 78 acres, which he is paying a full assessment

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Size of Weiser Irr. Dist.

10-1901 Utley Survey 9593.16 Wesley Monroe Creek
of which 2991.06 irrigated.

1940 water right for 10,890.9 including lands outside
District - mainly contract land East.

1945 - 8937.51 Assets with Benefits
400 Acre? City

9337.51 receiving water.

1989 9646.58 Acres within
Boundaries of Weiser Irrigation
District.

My Best - Est. 9648.58 Assessed
5/96 2170.43 Contract
942. unexplained

12761.01
Furnished water
by Weiser

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MAR 0 5 2007

EXHIBIT
D-1
Edwards
3-18-99

NAME	Contract	Contract Acres	Current Acres irrigated	Crane Creek Stamps	Other H_2O transported
Lon & Jack KER BROTHERS	59/167 [illegible]	None	173 88.6 Ac Not Canal.	315 AF	None [illegible] their water
x Dale BALDERSTON	1941 Yes	75 Ac	55.75	100 AF	70 [illegible] # 18425
Correia	19218 Davis	84	84	168 ? Some goes down Simmons	65 [illegible] by Decree
x Dickenson Cheryl	No		3	6	Make [illegible]
Ron Bean (Booth)	Decree	72	72	100	[illegible] 72 [illegible]
Henry Green Ann C.	1932 1974	160 78	189 78	420 AF	25 inches 185 inches Decree
x High Desert	1949	100	100	166 AF	None
x Milton Kerner Lola	1941 Brashears	144.64	~~[illegible]~~ NVSee 90.7	200 AF	100 miner's inch # 18425
x Milton Kerner Lola	Galloway No Contract		~~[illegible]~~ ~~[illegible]~~ 204.4	185	23.10 [illegible] Decreed [illegible] feet
x Vaughn Kelley	1-15-41	50	55	100.	50 miner's inches # 18425
x Dan Smith & [illegible] Verla M Smith	1932 1974	80 add'l 40	118	245	transport their water only

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MAR 06 2017

Smith Ind. (Livestock	1932	80Ac.	171	641	transport 2nd their water only.
Billie Youngblood (Benson)	Booth Decree.	~~75~~	75	625- Bennett piece.	per Decree
John Youngblood	0		10	75	in District
RL Slyter (Kenneth Youngblood)	Decree Booth.	25	25	0	—
Institute Canal Co.	~~1941~~ 19-561	~~800~~ $150.00 800Ac	940.8	4000 AF Primary 200 2nd ary	—
Bruce & Julie Kenner	1941 Breeshears	4.7	4.7	?	Deeds Crane Creek. H2O

EXHIBIT D-2 Edwards 49-016

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9/2/20/

Canal = 25 miles long.
Smiths + Greens 3 miles

Smiths + Green 3/25 of Canal length
Contract: Maintenance & operation
of 3 mile (3/25) to be shared
WID 24/25 And Smiths &
Green 1/25.

4,000/mile
12,000

Total Director salary - Ditch
tender salary + mileage - Secretary
salary.
Divide by 3/25 for proportionate
share (Smiths + Green 3 miles)
Divide that by 1/25 for
the ~~three~~ Assessment to be
paid by Smiths + Green

Green 1/2
Smith 1/4
Smith 1/4

EXHIBIT
D-7
3-18-96
Edwards

SCANNED
MAR 0 6 2007

M & M COURT REPORTING SERVICE, INC.
421 WEST FRANKLIN STREET
POST OFFICE BOX 2636
BOISE, IDAHO 83701-2636
208-345-9611

KELLEY, ET AL V.

Plaintiff(s),

Case No. CV-98-00496 (Washington)
M & M FILE NO: ANB0248

WEISER IRRIGATION DISTRICT
Defendant(s).

PLEASE TAKE NOTICE THAT PURSUANT TO:

IDAHO RULE 30(f)(3) NOTICE OF PREPARATION OF TRANSCRIPT AND FILING NOTICE OF MAILING IS GIVEN

THE FOLLOWING TRANSCRIPTS WERE COMPLETED, DELIVERED AND/OR MAILED:

JONATHAN P. EDWARDS
03/23/99

THE ORIGINAL DEPOSITION IS IN THE POSSESSION OF:

Ellsworth, Kallas & Talboy
Robert W. Talboy
2402 West Jefferson
Boise, Idaho 83702

COPIES SENT TO:
Mr. Lary C. Walker

NOTIFICATION TO:
Washington County Clerk

SCANNED
MAR 0 6 2007

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF THE

STATE OF IDAHO, IN AND FOR THE COUNTY OF WASHINGTON

VAUGHN W. KELLEY, an individual; HENRY P. GREEN and ANN C. GREEN, husband and wife; SMITH LAND & LIVESTOCK CO., an Idaho corporation; LON BAKER and JACK BAKER, dba BAKER BROTHERS, an Idaho general partnership; and INSTITUTE CANAL COMPANY, an Idaho corporation, Plaintiffs, vs. WEISER IRRIGATION DISTRICT, Defendant.	Case No. CV-98-00496 JUDGMENT

Filed September 28, 1999 P
SHARON WIDNER 2:01 P. M.
Clerk District Court
By Jeanette Andersson Deputy

THIS MATTER having been submitted to mediation and upon stipulation of the parties and approval of the mediator, the Hon. Dennis E. Goff, and the court being advised:

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that judgment be entered in accordance with the terms of the Stipulation attached hereto as Exhibit A and fully incorporated herein.

DATED this 28 day of September, 1999.

Stephen W. Drescher, District Judge

CERTIFICATE OF SERVICE

I HEREBY CERTIFY That on this 28th day of September, 1999, I caused to be served a true and correct copy of the foregoing document, by the method indicated below, upon the following:

Robert W. Talboy	[√]	United States Mail
Ellsworth, Kallas & Talboy, pllc	[ ]	Overnight Mail
2402 West Jefferson Street	[ ]	Hand Delivery
Boise, ID 83702	[ ]	Facsimile (208) 345-8945
Lary C. Walker	[√]	United States Mail
Attorney at Law	[ ]	Overnight Mail
232 East Main Street	[ ]	Hand Delivery
P. O. Box 828	[ ]	Facsimile (208) 549-0404
Weiser, ID 83672		

CLERK OF THE DISTRICT COURT

By Jeanette Anderson
Deputy

RECEIVED
AUG 31 1999
ELLSWORTH, KALLAS, TALBOY
ATTORNEYS AT LAW

ROBERT W. TALBOY
ELLSWORTH, KALLAS & TALBOY, P.L.L.C.
Attorneys at Law
2402 W. Jefferson Street
Boise, Idaho 83702
Telephone: (208) 336-1843
Idaho State Bar No. 3603
Fax: (208) 345-8945

RANDALL C. FREDRICKS
Attorney at Law
P. O. Box 2835
Boise, Idaho 83701-2835
Telephone: 208-384-5144
Idaho State Bar No. 989
FAX: 208-433-8976

Filed AUG 30 1999
SHARON WIDNER 1:45 P. M.
Clerk District Court
By /s/ Jeanette Anderson Deputy

ATTORNEYS FOR PLAINTIFFS AND THIRD-PARTY DEFENDANTS KERNER

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF WASHINGTON

VAUGHN W. KELLEY, an individual; HENRY P. GREEN and ANN C. GREEN, husband & wife; SMITH LAND & LIVESTOCK CO., an Idaho corporation; LON BAKER & JACK BAKER, dba BAKER BROTHERS, an Idaho general partnership; and INSTITUTE CANAL COMPANY, an Idaho Corporation Plaintiffs, vs. WEISER IRRIGATION DISTRICT, Defendant.	Civil No. CV98-00496 **MEDIATION STIPULATION AND CONSENT TO JUDGMENT**

EXHIBIT A

WEISER IRRIGATION DISTRICT,

Third-Party Plaintiff,

vs.

MILTON KERNER and LOLA KERNER, husband and wife, BRUCE KERNER and JULIE KERNER, husband and wife, ROBERT A. SHIRTS and RONALD W. SHIRTS dba SHIRTS BROTHERS,

Third-Party Defendants

Come now, Robert W. Talboy of ELLSWORTH, KALLAS & TALBOY, P.L.L.C. and Randall C. Fredricks, Attorney-at-Law, attorneys for the Plaintiffs; and Third Party Defendant Milton Kerner and Lola Kerner, husband and wife, and Bruce Kerner and Julie Kerner, husband and wife; and Lary W. Walker of Lary C. Walker Law Office, attorney for Defendant Weiser Irrigation District.

WHEREAS Stephen W. Drescher, District Judge under I.R.C.P. 16(a)(6) ordered that the parties mediate certain issues for which District Judge Dennis E. Goff was appointed as mediator; and

WHEREAS the parties were present at the mediation session held on July 20, 1999 in compliance with the order of Stephen W. Drescher which mediation resulted in an agreed compromise settlement;

NOW THEREFORE it is stipulated and agreed as follows:

1. It is acknowledged by the parties hereto that any water rights claimed or owned by the parties are subject to the pending Snake River Adjudication Proceeding. Once such rights have been finally determined in the Snake River Adjudication Proceeding that this agreement be amended to comply therewith.

2. That the basic issue for mediation was to determine a reasonable fee to be paid to the Weiser Irrigation District for the transportation of the Plaintiffs' and Third Party Defendant Kerners' private water by the Weiser Irrigation District in the District's canal known as the Galloway Canal.

3. The mediation officer Judge Dennis E. Goff made a determination that the formula set out hereafter would in his opinion result in a reasonable fee for the transportation of Plaintiffs' and Third Party Defendant's water in the Galloway Canal.

4. That the parties accepted the finding of the mediation officer and agreed that the formula to be utilized by the Weiser Irrigation District for calculation of the transportation charges to be paid by the individual Plaintiffs and Third Party Defendant Kerner shall be as follows:

a. From the total net annual expenses of the Weiser Irrigation

District (after deduction of any reimbursements and credits) that the following expenses be deducted in order to determine the approximate cost of the maintenance of the Galloway Canal: (1) all Crane Creek Reservoir costs paid by the Weiser Irrigation District; (2) all utility expenses; (3) all expenses related to any laterals (including the Mill Ditch) maintained by the District and for the year 1999 only deduct $2,600.00 of attorney fees.

b. Multiply the figure obtained above by sixteen percent (16%) representing the approximate volume of the Galloway Canal utilized by the said Plaintiffs and Third Party Defendant as a group.

c. Multiply the figure obtained above by 44% representing the percentage of the length of the canal (11/25ths) utilized by the Plaintiffs and Third Party Defendant as a group (11 miles being the Institute Canal diversion point). NOTE: In order to take into consideration any seepage or evaporation losses the assumption was made that the entire volume of water being carried for the Plaintiffs and Third Party Defendant was being transported the entire 11 miles when in fact approximately 45% of the total would be diverted within the first five (5) miles of the Galloway Canal.

d. The figure obtained above (being the total cost for transportation of the Plaintiffs' and Third Party Defendant's water to the Institute Canal diversion point) would be divided by the total amount of

miner's inches of water being carried on the Plaintiffs and Third Party Defendant's behalf to determine the amount to be paid by each said party on a miner's inch basis.

5. Based on the above formula the agreed transportation charge to be paid per miner's inch for the year 1999 based on the net 1998 District expenses is the following:

a. Net total expenses for the year 1998 = $136,230.00

(taking into account $9,916.00 reimbursement).

Less:	Crane Creek	$2,745.00	
	Attorney fee	$2,600.00	
	Utility Charge	$7,959.00	
	Laterals	$ 0.00	
	Total deduction	=	13,304.00
	Total		$122,926.00

b. $122,926.00 times 16% = $ 19,668.16

c. $19,668.16 times 44% = $ 8,653.99

d. $ 8,653.99 divided by 1470.6 = $ 5.88

(rounded to $6.00)

For the year 1999 the Plaintiffs and Third Party Defendant shall pay the sum of $6.00 per miner's inch based on the 1998 expenses as set out above.

The following is the agreed diversion rate and transportation charge for the year 1999 for each Plaintiff and the Third Party Defendant Kerner:

Plaintiff Kelley 50 miner's inches	=	$ 300.00
Plaintiff Green 181 miner's inches	=	$1,086.00
Plaintiff Smith 188 miner's inches	=	$1,128.00
Plaintiff Baker 151.6 miner's inches	=	$ 909.60
Plaintiff Institute Canal 800 miner's inches	=	$4,800.00
Third Party Kerner 100 miner's inches	=	$ 600.00

6. That subsequent years shall be calculated on the same basis with the year 2000 based on the maintenance expenses for the year 1999 and annually thereafter. The District will provide a breakdown of each year's calculation to each party.

7. That any claim by the Weiser Irrigation District for prior transportation charges be waived.

8. It is further acknowledged by the parties that the Weiser Irrigation District, through its designated water master, has the legal duty to measure the water being delivered to each party according to each party's pro rata share as set out in paragraph 5 above.

In order to do so, the Weiser Irrigation District by law retains control over the diversion points of each party and has previously required gates/weirs to be installed in order to render possible and practicable a measurement of the quantity of water being delivered. The parties agree that any such devices not already installed shall be installed during the off-irrigation season as soon as possible and shall be installed in conformity with NRCS (Natural Resources Conservation Service) standards. Regarding any pumps being utilized by the parties, the Weiser Irrigation District will contact each party and determine the most reasonable and practical method of measuring the water so being diverted, which may require, at the user's expense, the installation of an in-line measuring device meeting NRCS standards.

The parties further acknowledge that under Idaho law once the District water master has either set or shut any diversion device, no party can change same without the previous permission of the said water master. The District

does reserve the right to require locking devices to be installed on such diversion works if deemed necessary.

The Weiser Irrigation District by law is required to deliver the requested water to each party upon proper demand being made by each party. In this regard, at such time as each party may want to begin the irrigation of their lands, they will first order the delivery of water by notifying the District, which will then take steps to comply with such order. The same procedure shall be utilized when each party wants to shut off the delivery of irrigation water or to shut one gate and open another.

In regards to any Crane Creek storage water, the same procedure will take place as has been done in the past, with each party to first notify the Crane Creek Reservoir manager of the amount of storage water being ordered, with the Crane Creek manager then notifying the District water master of such order.

No part of this Stipulation or Order shall require the District to furnish any water other than water and water rights owned or claimed by the contract users as may be finally determined in the pending Snake River Adjudication Proceeding.

9. That the Weiser Irrigation District will continue to provide sufficient carrying capacity in the Galloway Canal to provide the rate of diversion as set out above for the non-district parties.

10. That Plaintiff Institute Canal Co. shall forthwith present said agreement to their members for approval acknowledging that same has been approved by said Plaintiff's Board of Directors.

11. That Judgment be entered in accordance with this stipulation with each party paying their own attorney fees and costs.

Dated this 20 day of August, 1999.

APPROVED:

ATTORNEYS FOR PLAINTIFFS AND
THIRD PARTY DEFENDANTS KERNER
ELLSWORTH, KALLAS &
TALBOY, P.L.L.C.

Robert W. Talboy Of the Firm — 8/18/99 Date

Randall C. Fredricks
Attorney at Law — 8/18/99 Date

APPROVED:
ATTORNEY FOR DEFENDANT

Lary C. Walker — 8/20/99 Date

APPROVED:

MEDIATOR

/s/ Dennis E. Goff

Dennis E. Goff, District Judge

8-23-99

Date

1

DEPARTMENT RECOMMENDATIONS

State of Idaho
DEPARTMENT OF WATER RESOURCES
322 East Front Street, P.O. Box 83720, Boise, ID 83720-0098
Phone: (208) 287-4800 Fax: (208) 287-6700 Web Site: www.idwr.idaho.gov.

JAMES E. RISCH
Governor

KARL J. DREHER
Director

November 17, 2006

To Water Users of Basin 67:

Please find enclosed the Preliminary Director's Report for your water right claims in the Snake River Basin Adjudication. This is an important opportunity to review the Idaho Department of Water Resources' (IDWR) conclusions regarding your water rights, resolve errors, and have questions answered ***before*** the report is finalized for the SRBA Court.

CONTENTS OF THIS MAILING:

- Preliminary Director's Report Instructions (colored page, front and back)
- Letter From Karl Dreher, Director of IDWR
- General Map of Basin 67, for vicinity reference
- Letter from the Presiding Judge, Snake River Basin Adjudication Court
- **Your Water Right Recommendation(s) & Map(s)** with Notice of Error form(s)

Please join us for an informational presentation at:

2:00 P.M. on November 29, 2006 at the Council Senior Center
103 Moser Ave, Council, ID 83612
Or

7:00 P.M. on November 29, 2006 at the Weiser Senior Center
115 E. Main St., Weiser, ID 83672

If you miss the informational meeting or need additional assistance then give us a call to set up an appointment.

Sincerely,

Craig L. Saxton
Sr. Water Resource Agent
Adjudication Bureau
Idaho Department of Water Resources

(Instructions on the back)

RECEIVED
NOV 27 2006

EXPLANATION OF ELEMENTS OF A WATER RIGHT

To assist you in reviewing the preliminary recommendation of your claim are the following explanations:

Water right number: This number is assigned by IDWR to identify your claim. The first two digits indicate the sub-basin of the Snake River Basin where your claim is located.

Name and address of claimant: This is the name and address shown on the notice of claim form, or on the most recent *Notice of Change of Water Right Ownership* (see enclosed form if you need to change this information) that was filed with IDWR as required by statute.

Source: The source is the natural water body to which the claimant has a right. For surface water sources, the natural water body to which the source is tributary is also shown.

Priority Date: This is the calendar date which is used to determine the relative priority of the right in relation to other rights from the same source, and is determined based on the method of appropriation (see basis of right, below). When there is insufficient water available to satisfy all existing rights, the water right holders with the oldest priorities are entitled to have their water rights satisfied before right holders with newer priorities are entitled to water.

Purpose of Use: Purpose of use indicates the general type of use made on the water, such as irrigation, domestic, or stockwater.

Period of Use: The period of use is the portion of the calendar year when water may be used for a particular purpose.

Quantity: The quantity of the right is the rate of diversion in cubic feet per second (CFS), the volume of water diverted in acre feet per calendar year (AFY), and/or the volume of water stored in AFY. The quantity for each purpose of use is shown, as well as the total quantity.

Non-irrigation Uses: If your preliminary recommendation includes purposes of use other than irrigation, then this element further describes the other purposes of use.

Point of Diversion: The point of diversion is the point at which water is diverted from the source, and is generally described by a legal description of the 40 acre tract (1/4 1/4 section or 1/16 section) or government lot within which the point of diversion is located. In some instances the point of diversion is described by a legal description of the 10 acre tract (1/4 1/4 1/4 section or 1/64 section) within which the point of diversion is located.

"B" and "E" suffixes indicate the beginning and ending points of an instream flow right. "I" and "R" suffixes indicate points of injection and redivision. Points of injection and rediversion are indicated where water is diverted from one source, injected into another source, and then rediverted, or where water from one source is exchanged with water from another source.

Place of Use: The place of use is the location where water is used, which is indicated by a legal description of the 40 acre tract (1/4 1/4 section or 1/16 section) or government lot where the water is used. For irrigation rights, the number of irrigated acres in each 40 acre tract or government lot is listed.

Remarks: Remarks, if any, further describe the particular right. PLEASE REVIEW THE REMARKS CAREFULLY.

Basis of Right: The basis of right may be a decree (where the water right was previously determined by a court); posted notice (an historical method of appropriation that is no longer available); beneficial use (another historical method of appropriation that is available today only in very limited circumstances); permit (where IDWR has granted an application seeking approval of a proposed appropriation); or license (where an appropriation has been completed pursuant to permit).

State of Idaho
DEPARTMENT OF WATER RESOURCES
322 East Front Street, P.O. Box 83720, Boise, ID 83720-0098
Phone: (208) 287-4800 Fax: (208) 287-6700 Web Site: www.idwr.idaho.gov.

JAMES E. RISCH
Governor

KARL J. DREHER
Director

November 15, 2006

Dear Water Right Claimant(s):

The Idaho Department of Water Resources (IDWR) has completed its initial investigation of your water right claim(s) in the Snake River Basin Adjudication (SRBA). We have enclosed a printout showing our preliminary recommendation for reporting your claim(s) to the SRBA District Court later in 2006.

Please review the preliminary recommendation carefully. If there is any information on the printout that you believe is inaccurate, please fill out the enclosed reply form Notice of Error indicating what changes you believe should be made. Further instructions to assist you with review are enclosed. For water rights with an irrigation water use, a Geographic Information System (GIS) computerized image of the place of use for your water right is also enclosed.

You may return this reply in person to us at a public meeting IDWR will be conducting in your area that is identified in the enclosed instructions. Please take advantage of one of the public meetings, where you will have an opportunity to find out more about the SRBA process and speak with a department staff member should you have questions regarding your water right claim(s). Please bring any and all information you have which will help the Department understand your claim(s) and describe them accurately. If you want to call my office, please call (800) 451-4129 or (208) 287-4922.

This process is intended to ensure IDWR recommends your water right accurately to the SRBA District Court. This is the easiest and least costly means for you to identify corrections you believe should be made to our recommendation. Completion of this process is an important step toward the overall success of the adjudication in Idaho. Your participation is necessary for and appreciated by IDWR to provide accurate information to the SRBA District Court.

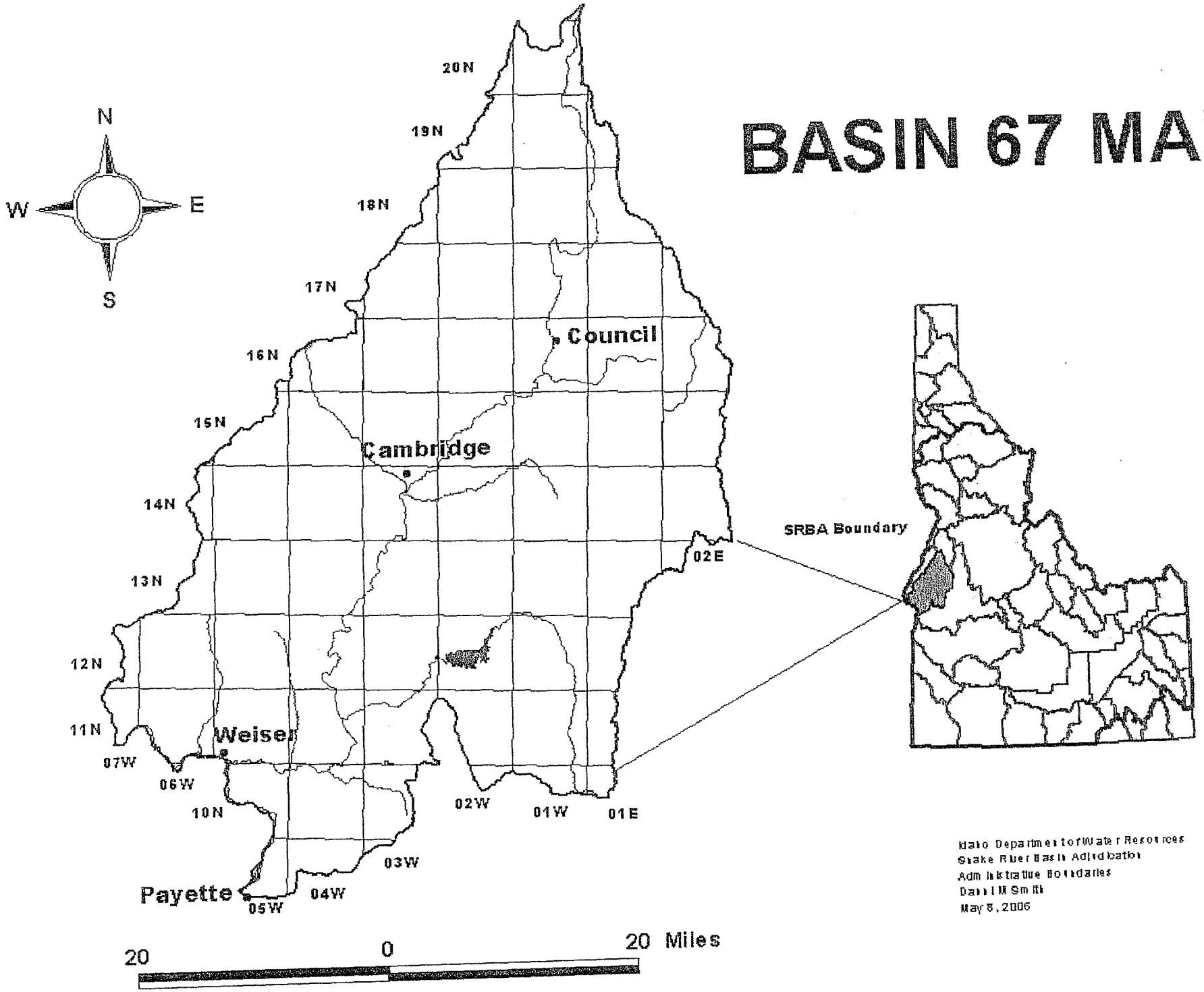
We look forward to hearing from you.

Sincerely,

Karl J. Dreher
Director

Enclosures

BASIN 67 MAP


N
W
E
S
20N
19N
18N
17N
16N
15N
14N
13N
12N
11N
07W
06W
10N
02W
01W
01E
02E
03W
04W
05W
Council
Cambridge
Weiser
Payette
SRBA Boundary
20
0
20 Miles
Idaho Department of Water Resources
Snake River Basin Adjudication
Administrative Boundaries
Dana M Smith
May 8, 2006

DISTRICT COURT
SNAKE RIVER BASIN ADJUDICATION
STATE OF IDAHO

JOHN M. MELANSON
PRESIDING JUDGE
(208) 736-3011
FAX (208) 736-2121

SRBA CHAMBERS
P.O. BOX 2707
TWIN FALLS, IDAHO 83303-2707

Dear Water Right Claimant:

To help you with your water right claim(s) in the Snake River Basin Adjudication, this letter of explanation is being sent to you along with information sent by the Idaho Department of Water Resources (IDWR). Included are the following important documents which I ask you to please read carefully because they give you the opportunity to save a great deal of time and money:

1. **Preliminary Recommendation.** This is IDWR's *initial* finding and conclusion about your water right and how it should be reported to the SRBA Court. This preliminary recommendation is not filed with the court, but is provided to you to help correct errors or resolve any disagreement you may have over its content. This document has been prepared following IDWR's investigation and may be different than the claim(s) you actually filed.

Therefore, please review this preliminary recommendation carefully to find any errors or disagreements you have with IDWR's findings.

2. **Error Correction/Settlement Process.** This preliminary recommendation is a special service provided to you by IDWR to help you correct errors and resolve any other disagreement you have before the actual recommendations are ultimately filed with the court.

A description of how to work with IDWR is included. Our experience in the SRBA shows that by working in cooperation with IDWR most errors and differences can be addressed before coming into court. It's well worth your time to take full advantage of IDWR's helpful service. If your disagreement cannot be resolved, you will be able to file an objection to IDWR's actual recommendation when it is filed in court and have the final decision made by the Presiding Judge.

This error correction service is an important opportunity for you to work together with IDWR to make sure your water right claim(s) are decreed accurately. There is no cost to you other than your time reviewing the preliminary recommendation and talking to IDWR about any problem you see. Of course, you may always employ the services of an attorney if you wish.

The goal of the SRBA is to see that your water right(s) are decreed by the court as accurately and fairly as possible. It is important to me that this is done efficiently in order to reduce your costs and present you with your decree.

I strongly encourage you to take full advantage of this opportunity to use the fine and courteous services provided by IDWR.

Sincerely yours,

John M. Melanson
Presiding Judge
Snake River Basin Adjudication

11/14/2006

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 8, 2006

Water right number: 67-2164B

EDWARD L POLLARD SR
2117 WEISER RIVER RD
WEISER ID 83672
Telephone Number: (208)549-2944

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: _____ **SIGNATURE:** _____

Please print your name: _____

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

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

RIGHT NUMBER: 67-2164B

NAME AND ADDRESS: EDWARD L POLLARD SR
2117 WEISER RIVER RD
WEISER ID 83672

SOURCE: WEISER RIVER TRIBUTARY: SNAKE RIVER

QUANTITY: 3.140 CFS

PRIORITY DATE: 08/15/1933

POINT OF DIVERSION:
T11N R04W S35 SWNENE Within WASHINGTON County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
IRRIGATION	03/01 11/15	3.140 CFS

PLACE OF USE: IRRIGATION in WASHINGTON County

T10N R04W S03 Lot 2	NWNE	1.50	T10N R04W S03 Lot 3	NENW	21.00
T10N R04W S03 Lot 4	NWNW	31.00	T10N R04W S03	SWNW	25.00
T10N R04W S03	SENW	1.50	T10N R04W S04 Lot 1	NENE	3.00
T10N R04W S04	SWNE	38.00	T10N R04W S04	SENE	36.00

157 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 - License

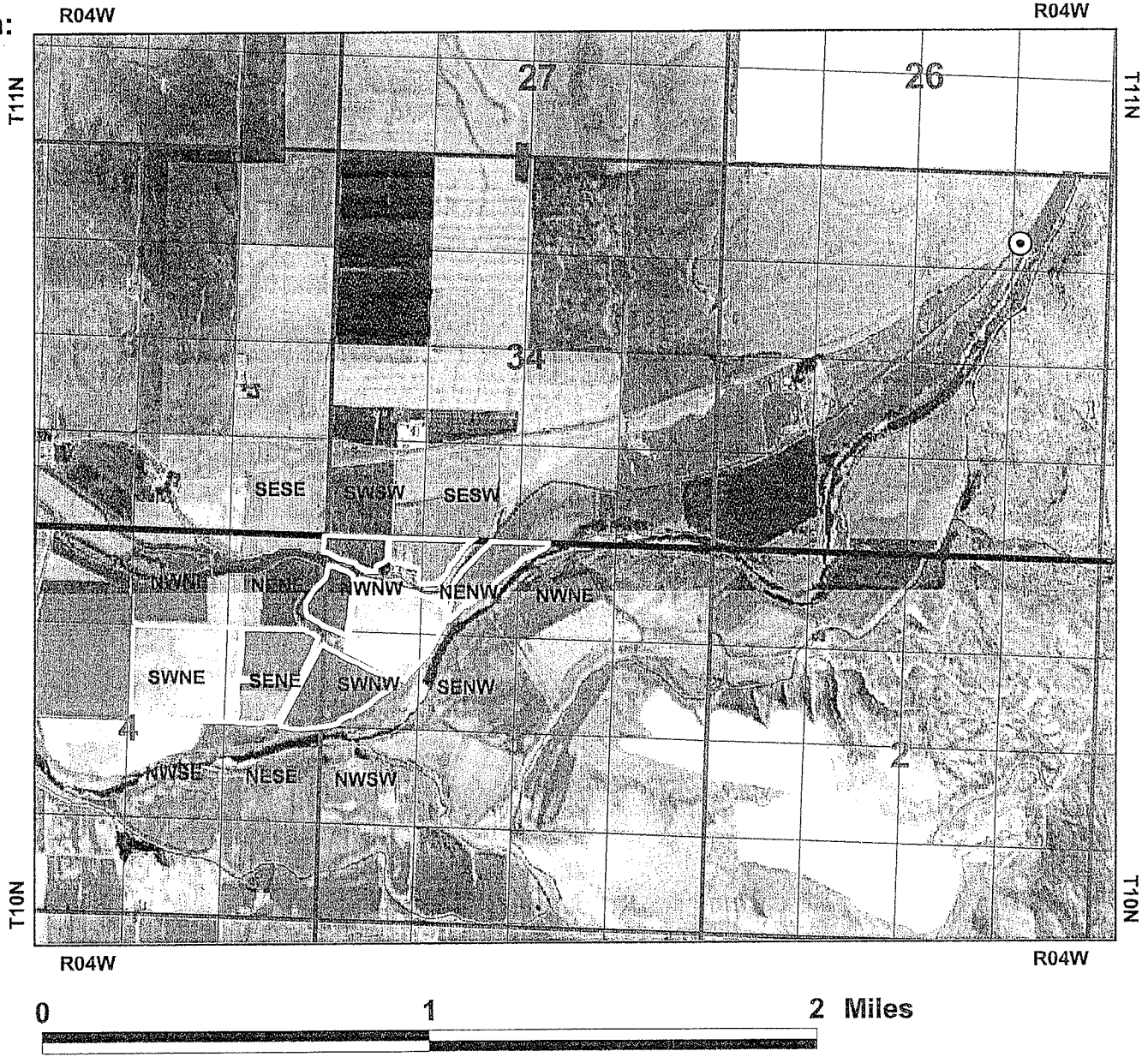
Right includes accomplished change in point of diversion pursuant to Section 42-1425, Idaho Code.

Idaho Department of Water Resources

SRBA Recommendation:

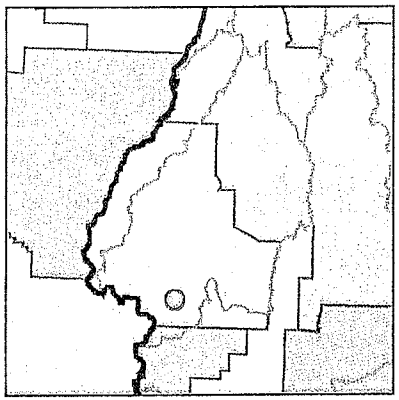
67-2164B

(Irrigation)



Legend

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

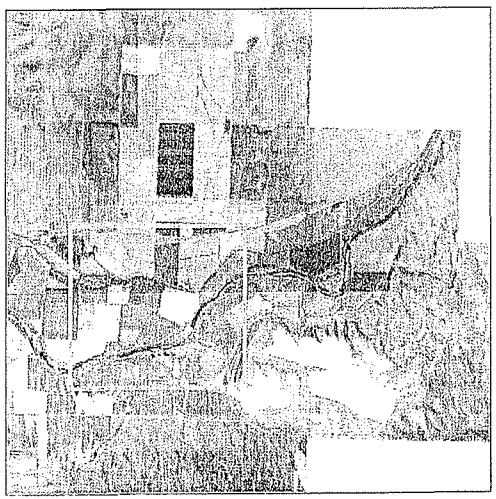


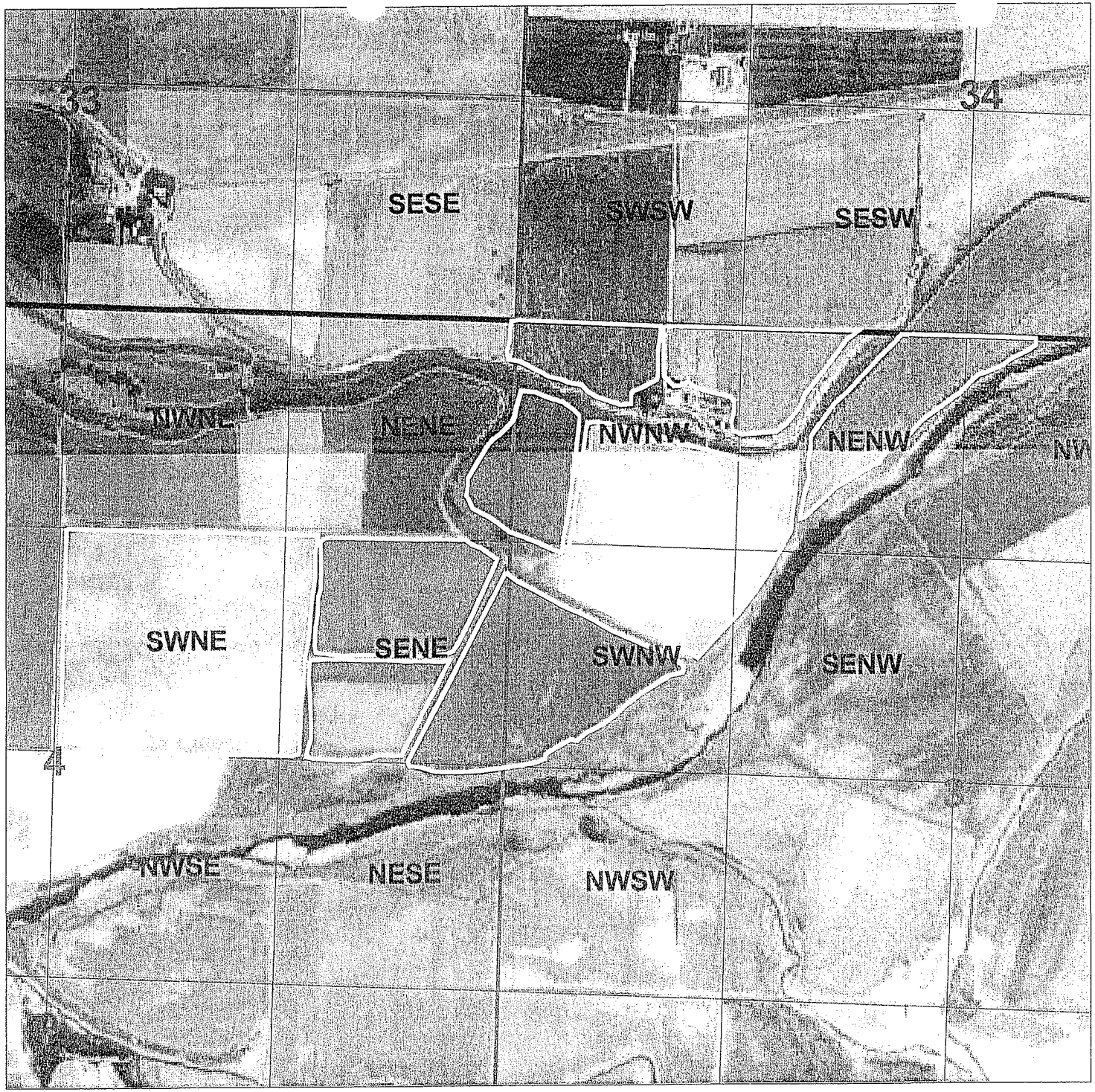
Washington County
IDWR Basin 67

N

Prepared by IDWR State Office
On Tuesday, November 14, 2006
1987/88 Aerial Photography

67-2164B




N
33
34
SESE
SWSW
SESW
NWNE
NENE
NWNW
NENW
NW
SWNE
SENE
SWNW
SENW
4
NWSE
NESE
NWSW

11/14/2006

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 8, 2006

Water right number: 67-14353

EDWARD L POLLARD SR
2117 WEISER RIVER RD
WEISER ID 83672
Telephone Number: (208)549-2944

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: _____ **SIGNATURE:** _____

Please print your name: _____

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

11/14/2006

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

RIGHT NUMBER: 67-14353

NAME AND ADDRESS: EDWARD L POLLARD SR
2117 WEISER RIVER RD
WEISER ID 83672

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

Recommended as Right Nos. 67-14703, 67-14704, and 67-14705.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Beneficial Use

Recommended as Right Nos. 67-14703, 67-14704 and 67-14705: This is included for a claim that is proposed to be disallowed because the right claimed is recommended pursuant to another right. The remark indicates the water right number of the other right that is proposed to be recommended. If you are not mailed a notice of the recommendation of the other right, then the other right is recommended in another claimants name.

11/14/2006

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 8, 2006

Water right number: 67-14357

EDWARD L POLLARD SR
2117 WEISER RIVER RD
WEISER ID 83672
Telephone Number: (208)549-2944

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: _____ **SIGNATURE:** _____

Please print your name: _____

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

11/14/2006

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

RIGHT NUMBER: 67-14357

NAME AND ADDRESS: EDWARD L POLLARD SR
2117 WEISER RIVER RD
WEISER ID 83672

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

Recommended as Right No. 2169G.

EXPLANATORY MATERIAL: BASIS OF CLAIM - Decreed

Recommended as Right No. 2169G: This is included for a claim that is proposed to be disallowed because the right claimed is recommended pursuant to another right. The remark indicates the water right number of the other right that is proposed to be recommended. If you are not mailed a notice of the recommendation of the other right, then the other right is recommended in another claimants name.

11/14/2006

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 8, 2006

Water right number: 67-14445

EDWARD L POLLARD SR
2117 WEISER RIVER RD
WEISER ID 83672
Telephone Number: (208)549-2944

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: _____ **SIGNATURE:** _____

Please print your name: _____

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

11/14/2006

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

RIGHT NUMBER: 67-14445

NAME AND ADDRESS: EDWARD L POLLARD SR
2117 WEISER RIVER RD
WEISER ID 83672

SOURCE: WEISER RIVER TRIBUTARY: SNAKE RIVER

QUANTITY: 1.340 CFS

PRIORITY DATE: 08/16/1933

POINT OF DIVERSION:
T11N R04W S35 SWNENE Within WASHINGTON County

PURPOSE AND
PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
IRRIGATION	03/01 11/15	1.340 CFS

PLACE OF USE: IRRIGATION in WASHINGTON County

T10N R04W S04 Lot 1	NENE	7.00	T10N R04W S04 Lot 2	NWNE	1.00
T11N R04W S33	SWSE	24.00	T11N R04W S33	SESE	35.00

67 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

2

RECOMMENDED AS CC STORAGE RIGHT 67-14353

Close

IDAHO DEPARTMENT OF WATER RESOURCES
Adjudication Claim Report

11/27/2006

WATER RIGHT NO. 67-14353

Owner Type	Name and Address
Current Owner	EDWARD L POLLARD SR 2117 WEISER RIVER RD WEISER, ID 83672 (208)549-2944
Original Owner	ANN C GREEN
Original Owner	HENRY P GREEN 2117 WEISER RIVER RD WEISER, ID 83672 (208)549-2733

Priority Date: 08/15/1933
Basis: Beneficial Use
Status: Active

Source	Tributary
WEISER RIVER	SNAKE RIVER

Beneficial Use	From	To	Diversion Rate	Volume
IRRIGATION	03/15	10/15	1.63 CFS	
Total Diversion			1.63 CFS	

Location of Point(s) of Diversion:

WEISER RIVER	SWNENE	Sec. 35	Township 11N	Range 04W	WASHINGTON County

Place(s) of use:

Place of Use Legal Description: IRRIGATION WASHINGTON County

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract	Acres
11N	04W	34		SWSW	32		SESW	33.5						
				SWSE	16									

Total Acres: 81.5

Conditions of Approval:

1.	Address changed by DH 4/23/2003
2.	This claim is the result of a split due to change in ownership for a portion of 67-11027. DH 7/24/2002
3.	Split claim amended per claimant inquiry & review of claim. DH 6/27/2003

Dates:
Licensed Date:
Claim Received Date:
Decreed Date:
Enlargement Use Priority Date:
Enlargement Statute Priority Date:

Other Information:
State or Federal: S
Owner Name Connector:
Water District Number:
Generic Max Rate per Acre:
Generic Max Volume per Acre:
Civil Case Number:
Old Case Number:
Decree Plantiff:
Decree Defendant:
Swan Falls Trust or Nontrust:
Swan Falls Dismissed:
DLE Act Number:
Cary Act Number:
Mitigation Plan: False

Close

9/30/05

RECEIVED
OCT 06 2005
DEPARTMENT OF
WATER RESOURCES

Attn: Idaho Dept. of Water Resources
Monica Van Bussum

Re: Claim Nos. 67-14353 & 67-14445

Enclosed is material to support Claim No. 67-14353

The documents that Dan Smith presented to support his claim 67-14444 should also support my claim 67-14445 since they are a split of the same original Claim.

Thank You

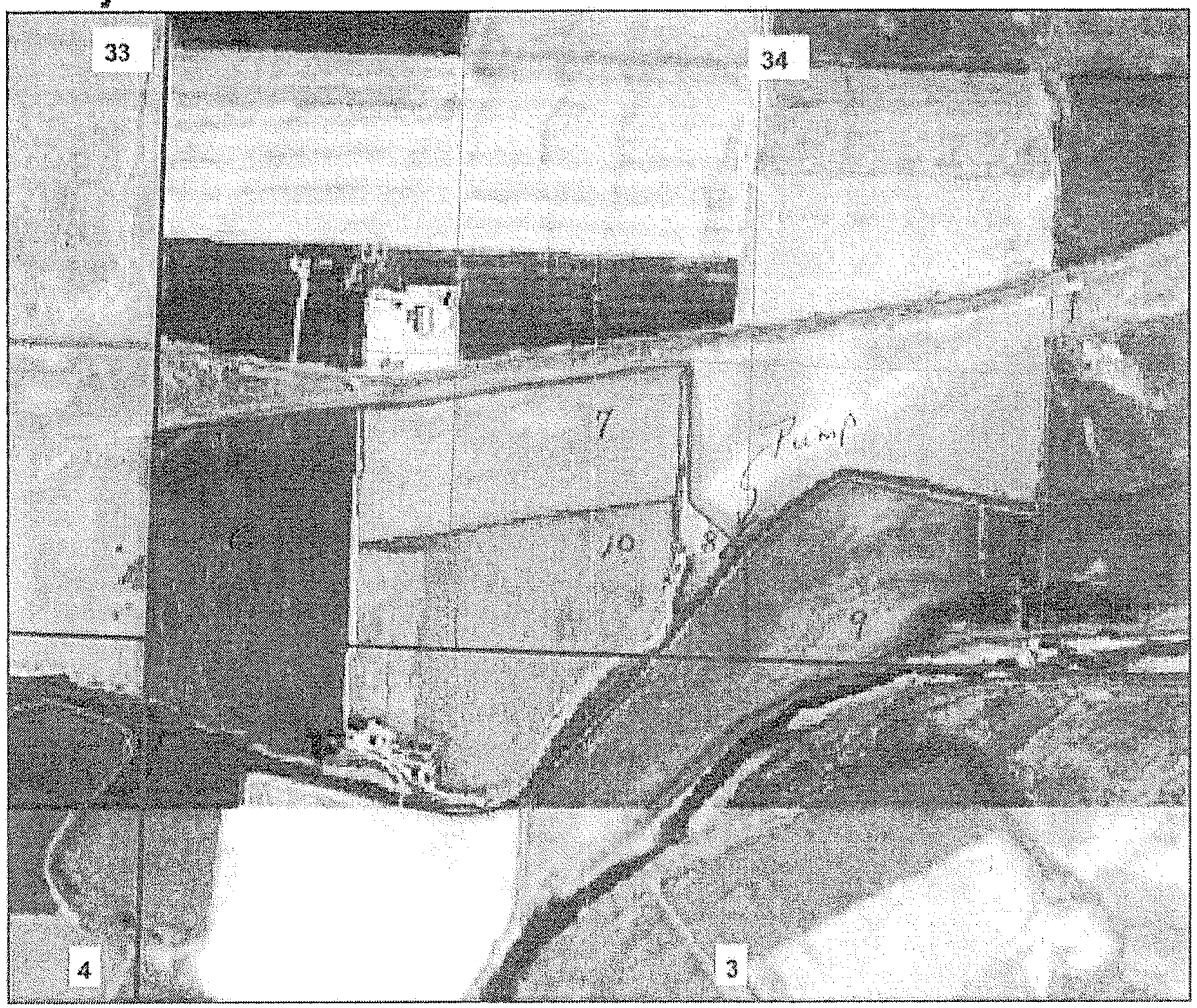
Ed Polland

Ph. 549-2944
FAX 549-2866

Idaho Department of Water Resources

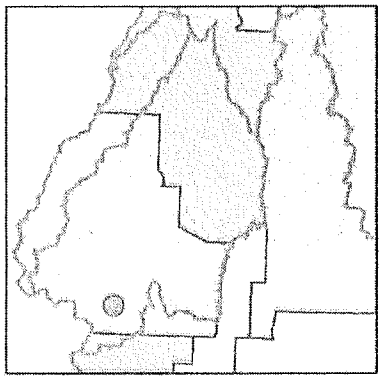
Adjudication Claim Number: *67-14353*

T11N R04W



Legend

PLS Sections
GCDBQuarter Quarters



Washington County
IDWR Basin 67

N

0 0.3 0.6 Miles

Prepared by M. Van Bussum
On Thursday, September 1, 2005
1987 Aerial Photography

Attn. Idaho Dept. of Water Resources

Re. Water Right Adjudication Claim 67-14353

We purchased the Shoesmith farm in Weiser in 1938. We owned and worked this farm until we sold it to Henry and Ann Green in 1978. Ed Pollard currently owns it.

We started irrigating the 30-acre field to the east, between the Galloway Canal and the Weiser River shortly after moving there, sometime between 1940-1942. We kept this field as irrigated pasture.

There was a delivery ditch that ran along this field and on down to our lower south fields. It is identified as Field 9 on the USDA Farm 2007 Map. It lies SE and SW in the Section 34 Township 11 N Range 4W and in the north west of Section 3 Township 10N Range 4 W.

Between 1947-1949, we installed a pump in the canal which we used to sprinkler irrigate our upper fields until we sold the place in 1972. These upper fields are approximately 79 acres between the Weiser River Road and the Galloway Canal. They are identified as Fields 6, 7, and 10 on the USDA Farm 1607 Map. They lie in the SW of Section 34 Township 11N Range 4W and the NW of Section 3 Township 10N Range 4W.

Alba Einspahr

Alba Einspahr

CLARENCE R. STARK NOTARY PUBLIC STATE OF IDAHO

STATE OF IDAHO, County of Washington -ss:
On this 16 day of Sept, 2005, before me, the undersigned, a Notary Public in and for said State, personally appeared ALBA EINSPAHR known to me to be the person(s) whose name(s) are/is subscribed to the foregoing instrument and acknowledged to me that she executed the same.
IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

Clarence R. Stark

Notary Public for Idaho
Residing at: Weiser, Idaho
Commission expires: 9-7-2011

Attn: Idaho Dept. of Water Resources

Re: Water Right Adjudication Claim 67-14353

My parents purchased the Shoesmith farm in 1938. I was 5 years old at the time.

My parents started irrigating the approx. 30 acre field to the east, between the canal and the river shortly after that, between 1940 and 1942. They kept this in irrigated pasture for our milk cows until the farm was sold in 1978. This is field 9 on the USDA Farm 2007 map.

Between 1947 and 1949 my parents installed a pump in the canal and began sprinkler irrigating our upper fields. I helped my Father irrigate the fields. These are fields 6, 7, and 10 on the USDA Farm 1605 map. We irrigated these fields until the farm was sold.

Violet Mathews

Violet Mathews

STATE OF IDAHO)
: ss
County of Washington)

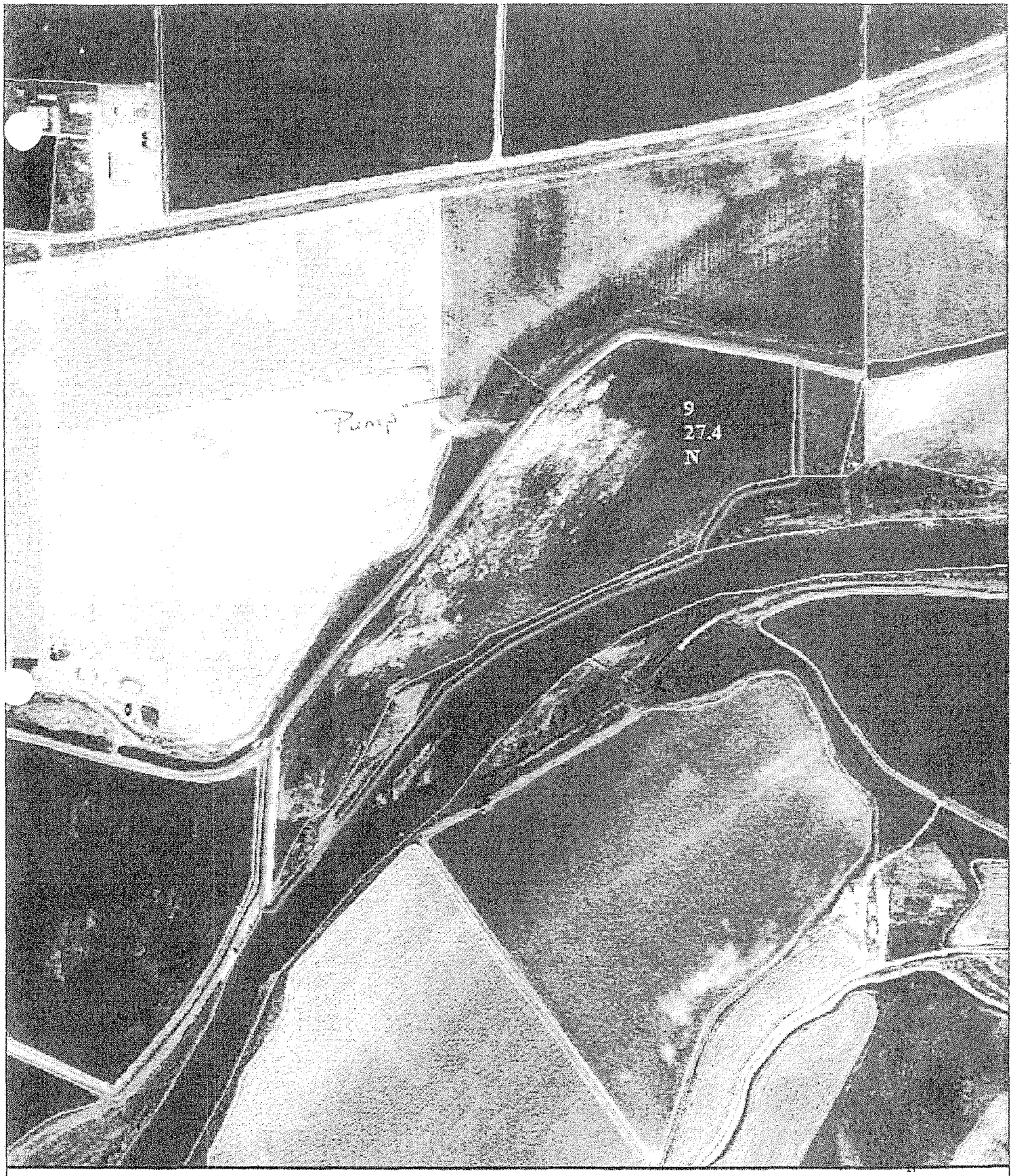
On this 16 day of Sept, 2005, before me, the undersigned, a Notary Public in and for said State, personally appeared VIOLET MATHEWS known to me to be the person(s) whose name(s) are/is subscribed to the foregoing instrument and acknowledged to me that She executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

CLARENCE R STARR NOTARY PUBLIC STATE OF IDAHO

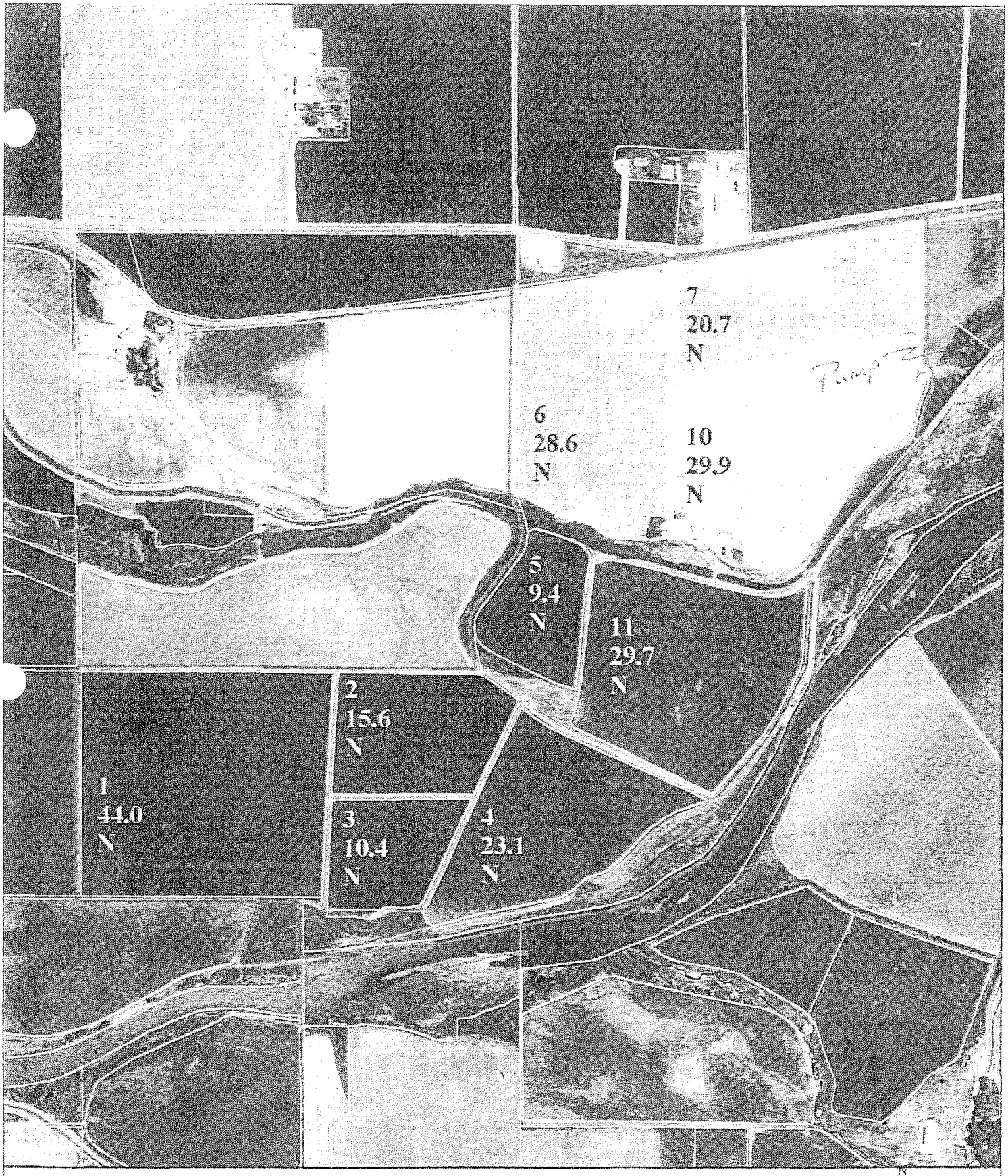
Clarence R Starr

Notary Public for Idaho
Residing at: Weiser, Idaho
Commission expires: 9/7/2011



Washington Farm 200"
Tract 1624

Map Printed: Oct 20, 2004



Map of Washington Farm 1605
Tract 1669

Map Printed: Aug 27, 2004

Crane Creek Reservoir Administration Board

Post Office Box 829
Weiser, Idaho 83672-0829
Phone (208) 549-0765

RECEIVED
APR 25 2006
DEPARTMENT OF
WATER RESOURCES

April 20, 2006

Mr. David R. Tuthill, Jr.
Chief, Adjudication Bureau
DEPARTMENT OF WATER RESOURCES
322 Front Street
Post Office Box 83720
Boise, Idaho 83720-0098

Re: Claim Nos. 67-703, 67-704 and 67-705

Dear Dave:

As you know, the Board met on the 11th for their annual meeting. The three Notice of Claims that you e-mailed to me were approved. Unfortunately, Lloyd and I were unable to get to town to have them signed before a notary public until noon today. I have enclosed the three notarized claims together with our check in the amount of $150.00 to cover the filing costs. If there is any additional information you need, please do not hesitate to get in touch with me.

Monica was inspecting Lloyd Robert's property today and they came to by to get an affidavit from me. It was good meeting her after e-mailing and talking back and forth with her on the phone. You have a very nice staff.

Sincerely,

Jacque Wray
Secretary-Treasurer

Encls.

RECEIVED
APR 25 2006
DEPARTMENT OF
WATER RESOURCES

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 67-14703
Date Received: 4/10/2006
Receipt No: CC3/001
Received By: KAW

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name of Claimant(s)

CRANE CREEK RESERVOIR ADMINISTRATION BOARD Phone: (208)549-0765

C/O JACQUE WRAY
PO BOX 829
WEISER ID USA 83672-0829

2. Date of Priority: 03/01/1912

3. Source: CRANE CREEK Trib. to: WEISER RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County	Type
12N	02W	19	SE SE	WASHINGTON	

5. Description of diverting works:

Crane Creek Dam

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
IRRIGATION STORAGE	01/01	12/31		16000
IRRIGATION FROM STORAGE	03/15	11/15		16000

7. Total Quantity Appropriated is:
16000 A.F.A.

8. Total consumptive use:

9. Non-irrigation uses:

10. Place of use:

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

11. Place of use in counties:

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

13. Other Water Rights Used:

67-14704 and 67-14705

14. Remarks:

The place of use is within Washington County, and is on land irrigated by shareholders of the Crane Creek Reservoir Administration Board.

Total storage in Crane Creek Reservoir is 56,800 AF as described in Water Right Nos. 67-14703, 67-14704, and 67-14705.

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 Organizations:

I do solemnly swear or affirm that I am Chairman of CRANE CREEK RESERVOIR ADMINISTRATIOAN BOARD, that I have signed the foregoing document in the space below as Chairman of CRANE CREEK RESERVOIR ADMINISTRATION BOARD and that the statements contained in the foregoing document are true and correct.

Signature of Authorized Agent
Lloyd Roberts, Chairman
CRANE CREEK RESERVOIR ADMINISTRATION BOARD

ATTEST:

Jacque Wray, Secretary-Treasurer

4-20-2006
Date

State of Idaho)
) SS.
County of Washington)

Subscribed and sworn (or affirmed) before me this 20th day of April, 2006.

Notary Public

TAMMY L. HICKEY
Notary Public
State of Idaho

Residing at Weiser, ID 83672

My commission Expires 8/5/2010

Close

IDAHO DEPARTMENT OF WATER RESOURCES
Adjudication Claim Report

11/27/2006

WATER RIGHT NO. 67-14703

Owner Type	Name and Address
Current Owner	CRANE CREEK RESERVOIR ADMINISTRATION BOARD C/O JACQUE WRAY PO BOX 829 WEISER, ID 83672-0829 (208)549-0765

Priority Date: 03/01/1912
Basis: Beneficial Use
Status: Active

Source	Tributary
CRANE CREEK	WEISER RIVER

Beneficial Use	From	To	Diversion Rate	Volume
IRRIGATION STORAGE	01/01	12/31		16000 AFA
IRRIGATION FROM STORAGE	03/15	11/15		16000 AFA
Total Diversion			16000 AFA	

Location of Point(s) of Diversion:

CRANE CREEK	SESE	Sec. 19	Township 12N	Range 02W	WASHINGTON County

IRRIGATION FROM STORAGE Use:
Acre Limit: 9079.1

Place(s) of use: No POUs found for this right

Conditions of Approval:

1.	The place of use is within Washington County, and is on land irrigated by shareholders of the Crane Creek Reservoir Administration Board.
2.	Total storage in Crane Creek Reservoir is 56,800 AF as described in Water Right Nos. 67-14703, 67-14704, and 67-14705.

Dates:
Licensed Date:
Claim Received Date:
Decreed Date:
Enlargement Use Priority Date:
Enlargement Statute Priority Date:

Other Information:
State or Federal:
Owner Name Connector:
Water District Number:
Generic Max Rate per Acre:
Generic Max Volume per Acre:
Civil Case Number:
Old Case Number:
Decree Plantiff:
Decree Defendant:
Swan Falls Trust or Nontrust:
Swan Falls Dismissed:
DLE Act Number:
Cary Act Number:
Mitigation Plan: False

Close

Crane Creek Reservoir Administration Board

Post Office Box 829
Weiser, Idaho 83672-0829
Phone (208) 549-0765

RECEIVED
APR 25 2006
DEPARTMENT OF
WATER RESOURCES

April 20, 2006

Mr. David R. Tuthill, Jr.
Chief, Adjudication Bureau
DEPARTMENT OF WATER RESOURCES
322 Front Street
Post Office Box 83720
Boise, Idaho 83720-0098

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Dear Dave:

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Sincerely,

Jacque Wray
Secretary-Treasurer

Encls.

RECEIVED
APR 25 2006
DEPARTMENT OF
WATER RESOURCES

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 67-14703
Date Received: 4/10/2006
Receipt No: 00816041
Received By: LAW

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name of Claimant(s)

CRANE CREEK RESERVOIR ADMINISTRATION BOARD Phone: (208)549-0765

C/O JACQUE WRAY
PO BOX 829
WEISER ID USA 83672-0829

2. Date of Priority: 03/01/1912

3. Source: CRANE CREEK Trib. to: WEISER RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County	Type
12N	02W	19	SE SE	WASHINGTON	

5. Description of diverting works:

Crane Creek Dam

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
IRRIGATION STORAGE	01/01	12/31		16000
IRRIGATION FROM STORAGE	03/15	11/15		16000

7. Total Quantity Appropriated is:
16000 A.F.A.

8. Total consumptive use:

9. Non-irrigation uses:

10. Place of use:

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

11. Place of use in counties:

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

13. Other Water Rights Used:

67-14704 and 67-14705

14. Remarks:

The place of use is within Washington County, and is on land irrigated by shareholders of the Crane Creek Reservoir Administration Board.

Total storage in Crane Creek Reservoir is 56,800 AF as described in Water Right Nos. 67-14703, 67-14704, and 67-14705.

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 Organizations:

I do solemnly swear or affirm that I am Chairman of CRANE CREEK RESERVOIR ADMINISTRATIOAN BOARD, that I have signed the foregoing document in the space below as Chairman of CRANE CREEK RESERVOIR ADMINISTRATION BOARD and that the statements contained in the foregoing document are true and correct.

Signature of Authorized Agent
Lloyd Roberts, Chairman
CRANE CREEK RESERVOIR ADMINISTRATION BOARD

ATTEST:

Jacque Wray, Secretary-Treasurer

4-20-2006
Date

State of Idaho)
) SS.
County of Washington)

Subscribed and sworn (or affirmed) before me this 20th day of April, 2006.

Notary Public

TAMMY L. HICKEY
Notary Public
State of Idaho

Residing at Weiser, ID 83672

My commission Expires 8/5/2010

Close

IDAHO DEPARTMENT OF WATER RESOURCES
Adjudication Claim Report

11/27/2006

WATER RIGHT NO. 67-14704

Owner Type	Name and Address
Current Owner	CRANE CREEK RESERVOIR ADMINISTRATION BOARD C/O JACQUE WRAY PO BOX 829 WEISER, ID 83672-0829 (208)549-0765

Priority Date: 03/01/1921
Basis: Statutory Claim
Status: Active

Source	Tributary
CRANE CREEK	WEISER RIVER

Beneficial Use	From	To	Diversion Rate	Volume
IRRIGATION STORAGE	01/01	12/31		32400 AFA
IRRIGATION FROM STORAGE	03/15	11/15		32400 AFA
Total Diversion			32400 AFA	

Location of Point(s) of Diversion:

CRANE CREEK	SESE	Sec. 19	Township 12N	Range 02W	WASHINGTON County

Place(s) of use: No POUs found for this right

Conditions of Approval:

1.	The place of use is within Washington County, and is on land irrigated by shareholders of the Crane Creek Reservoir Administration Board.
2.	Total storage in Crane Creek Reservoir is 56,800 AF as described in Water Right Nos. 67-14703, 67-14704, and 67-14705.

Dates:
Licensed Date:
Claim Received Date:
Decreed Date:
Enlargement Use Priority Date:
Enlargement Statute Priority Date:

Other Information:
State or Federal: S
Owner Name Connector:
Water District Number:
Generic Max Rate per Acre:
Generic Max Volume per Acre:
Civil Case Number:
Old Case Number:
Decree Plantiff:
Decree Defendant:
Swan Falls Trust or Nontrust:
Swan Falls Dismissed:
DLE Act Number:
Cary Act Number:
Mitigation Plan: False

Close

Crane Creek Reservoir Administration Board

Post Office Box 329
Weiser, Idaho 83672-0829
Phone (208) 549-0765

RECEIVED
APR 25 2006
DEPARTMENT OF
WATER RESOURCES

April 20, 2006

Mr. David R. Tuthill, Jr.
Chief, Adjudication Bureau
DEPARTMENT OF WATER RESOURCES
322 Front Street
Post Office Box 83720
Boise, Idaho 83720-0098

Re: Claim Nos. 67-703, 67-704 and 67-705

Dear Dave:

As you know, the Board met on the 11th for their annual meeting. The three Notice of Claims that you e-mailed to me were approved. Unfortunately, Lloyd and I were unable to get to town to have them signed before a notary public until noon today. I have enclosed the three notarized claims together with our check in the amount of $150.00 to cover the filing costs. If there is any additional information you need, please do not hesitate to get in touch with me.

Monica was inspecting Lloyd Robert's property today and they came to by to get an affidavit from me. It was good meeting her after e-mailing and talking back and forth with her on the phone. You have a very nice staff.

Sincerely,

Jacque Wray
Secretary-Treasurer

Encls.

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 67-14704
Date Received: 4/10/2006
Receipt No: 0091001
Received By: KAW

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name of Claimant(s)

CRANE CREEK RESERVOIR ADMINISTRATION BOARD Phone: (208)549-0765
C/O JACQUE WRAY
PO BOX 829
WEISER ID USA 83672-0829

2. Date of Priority: 03/01/1921

3. Source: HOG CREEK , NORTH CRANE CREEK , SOUTH CRANE CREEK Trib. to: CRANE CREEK , CRANE CREEK , CRANE CREEK

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4	Lot	County	Type
12N	02W	19	SE	SE	WASHINGTON	

5. Description of diverting works:

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
IRRIGATION STORAGE	01/01	12/31		32400
IRRIGATION FROM STORAGE	03/15	11/15		32400

7. Total Quantity Appropriated is:
32400 A.F.A.

8. Total consumptive use:

9. Non-irrigation uses:

10. Place of use:

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

11. Place of use in counties:

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

13. Other Water Rights Used:

14. Remarks:

The place of use is within Washington County, and is on land irrigated by shareholders of the Crane Creek Reservoir Administration Board.

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 Organizations:

I do solemnly swear or affirm that I am Chairman of CRANE CREEK RESERVOIR ADMINISTRATION BOARD, that I have signed the foregoing document in the space below as Chairman of CRANE CREEK RESERVOIR ADMINISTRATION BOARD and that the statements contained in the foregoing document are true and correct.

Lloyd Roberts
Signature of Authorized Agent
Lloyd Roberts, Chairman
CRANE CREEK RESERVOIR ADMINISTRATION BOARD

April 20, 2006
Date

ATTEST:

Jacque Wray
Jacque Wray, Secretary Treasurer

State of Idaho)
) SS.
County of Washington)

Subscribed and sworn (or affirmed) before me this 20th day of April, 2006.

TAMMY L. HICKEY
Notary Public
State of Idaho

Tammy L Hickey
Notary Public

Residing at Weiser, ID 83672

My commission Expires 8/5/2010

Close

IDAHO DEPARTMENT OF WATER RESOURCES
Adjudication Claim Report

11/27/2006

WATER RIGHT NO. 67-14705

Owner Type	Name and Address
Current Owner	CRANE CREEK RESERVOIR ADMINISTRATION BOARD C/O JACQUE WRAY PO BOX 829 WEISER, ID 83672-0829 (208)549-0765
Original Owner	WEISER RIVER IRRIGATION DIST
Original Owner	EDWIN SNOW WEISER, ID 83672

Priority Date: 04/09/1920
Basis: License
Status: Active

Source	Tributary
CRANE CREEK	WEISER RIVER

Beneficial Use	From	To	Diversion Rate	Volume
IRRIGATION STORAGE	01/01	12/31		8400 AFA
IRRIGATION FROM STORAGE	03/15	11/15		8400 AFA
Total Diversion			8400 AFA	

Location of Point(s) of Diversion:

CRANE CREEK	SESE	Sec. 19	Township 12N	Range 02W	WASHINGTON County

Place(s) of use: No POUs found for this right

Conditions of Approval:

1.	This right is a combination of Right Nos. 67-2384A & 67-2384B.
2.	Total storage in Crane Creek Reservoir is 56,800 AF as described in Water Right Nos. 67-14703, 67-14704, and 67-14705.
3.	The place of use is within Washington County, and is on land irrigated by shareholders of the Crane Creek Reservoir Administration Board.

Dates:
Licensed Date:
Claim Received Date:
Decreed Date:
Enlargement Use Priority Date:
Enlargement Statute Priority Date:

Other Information:
State or Federal: S
Owner Name Connector:
Water District Number:
Generic Max Rate per Acre:
Generic Max Volume per Acre:
Civil Case Number:
Old Case Number:
Decree Plantiff:
Decree Defendant:
Swan Falls Trust or Nontrust:
Swan Falls Dismissed:
DLE Act Number:
Cary Act Number:
Mitigation Plan: False
Close

Crane Creek Reservoir Administration Board

Post Office Box 829
Weiser, Idaho 83672-0829
Phone (208) 549-0765

RECEIVED
APR 25 2006
DEPARTMENT OF
WATER RESOURCES

April 20, 2006

Mr. David R. Tuthill, Jr.
Chief, Adjudication Bureau
DEPARTMENT OF WATER RESOURCES
322 Front Street
Post Office Box 83720
Boise, Idaho 83720-0098

Re: Claim Nos. 67-703, 67-704 and 67-705

Dear Dave:

As you know, the Board met on the 11th for their annual meeting. The three Notice of Claims that you e-mailed to me were approved. Unfortunately, Lloyd and I were unable to get to town to have them signed before a notary public until noon today. I have enclosed the three notarized claims together with our check in the amount of $150.00 to cover the filing costs. If there is any additional information you need, please do not hesitate to get in touch with me.

Monica was inspecting Lloyd Robert's property today and they came to by to get an affidavit from me. It was good meeting her after e-mailing and talking back and forth with her on the phone. You have a very nice staff.

Sincerely,

Jacque Wray
Secretary-Treasurer

Encls.

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 67-14705
Date Received: 4/10/2006
Receipt No: C09164
Received By: KAW

NOTICE OF CLAIM TO A WATER RIGHT ACQUIRED UNDER STATE LAW

1. Name of Claimant(s)

CRANE CREEK RESERVOIR ADMINISTRATION BOARD Phone:

C/O JACQUE WRAY
PO BOX 829
WEISER ID USA 83672-0829

2. Date of Priority: 04/09/1920

3. Source: CRANE CREEK Trib. to: WEISER RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County	Type
12N	02W	19	SE SE	WASHINGTON	

5. Description of diverting works:

Crane Creek Dam

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
IRRIGATION STORAGE	01/01	12/31		8400
IRRIGATION FROM STORAGE	03/15	11/15		8400

7. Total Quantity Appropriated is:
8400 A.F.A.

8. Total consumptive use:

9. Non-irrigation uses:

10. Place of use:

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

11. Place of use in counties:

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

13. Other Water Rights Used:

67-14703 and 67-14704

14. Remarks:

This right is a combination of Right Nos. 67-2384A & 67-2384B.

Total storage in Crane Creek Reservoir is 56,800 AF as described in Water Right Nos. 67-14703, 67-14704, and 67-14705.

The place of use is within Washington County, and is on land irrigated by shareholders of the Crane Creek Reservoir Administration Board.

15. Basis of Claim: License

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 Organizations:

I do solemnly swear or affirm that I am Chairman of CRANE CREEK RESERVOIR ADMINISTRATION BAORD, that I have signed the foregoing document in the space below as Chairman of CRANE CREEK RESERVOIR ADMINISTRATIONA BOARD and that the statements contained in the foregoing document are true and correct.

Lloyd Roberts
Signature of Authorized Agent
Lloyd Roberts, Chairman
CRANE CREEK RESERVOIR ADMINISTRATION BOARD

April 20, 2006
Date

ATTEST:

Jacque Wray
Jacque Wray, Secretary-Treasurer

State of Idaho)
) SS.
County of Washington)

Subscribed and sworn (or affirmed) before me this 20th day of April, 2006.

TAMMY L. HICKEY
Notary Public
State of Idaho

Tammy L Hickey
Notary Public

Residing at Weiser, ID 83672

My commission Expires 8/5/2010

SPLIT CLAIM

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Claim Report 67-11027

WATER RIGHT NUMBER: 67-11027

Owner Type	Name and Address
Original Owner	ANN C GREEN 2117 WEISER RIVER RD WEISER, ID 83672 (208)549-2733
Original Owner	HENRY P GREEN 2117 WEISER RIVER RD WEISER, ID 83672 (208)549-2733

Priority Date: 08/15/1933

Basis: Beneficial Use

Status: Parent

Source	Tributary
WEISER RIVER	SNAKE RIVER

Beneficial Use	From To	Diversion Rate	Annual Volume
IRRIGATION	3/15 to 10/15	2.300 CFS	
	Total Diversion:	2.300 CFS	

Location of Point(s) of Diversion

WEISER RIVER SW1/4NE1/4NE1/4 Sec. 35, Twp 11N, Rge 04W, 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	
10N 04W 4													3.0				3.0
													DK				
11N 04W 34											32.0	39.0	5.0		35.0		111.0
											30	DK	DK		37.0		

Total Acres: 114

Conditions of Approval:

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Claim Report 67-11027

Remarks:

1.	General	CRANE CREEK - 420 SHARES FILED ON BY CRANE CREEK RESERVOIR INDEPENDENT WATER USERS CO., INC.
2.	General	This claim has been split as follows: 67-14351 Green; 67-14352 Syme; 67-14353 Pollard; and 67-14354 Phillips. DH 7/24/2002

Comments:

Dates and Other Information:

Claim Received Date: 10/19/1989
Enlargement Use Priority Date:
Enlargement Statute Priority Date:
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

Element Reviewed/Verified Dates:

Element	Last Reviewed Date	Reviewer	Last Verified Date	Verifier	Status

Verification Log:

Element	Date Time Stamp	Reviewer	Log text

DATA ENTRY BY CA

N 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: A67-11027
Date Received: 10/19/1989
Receipt No: C012396
Received By: _____

NOTICE OF CLAIM TO A WATER RIGHT ACQUIRED UNDER STATE LAW

1. Name: HENRY P. GREEN 208-549-2733
   Address: 2117 WEISER RIVER RD.
   WEISER, ID 83672
   AND
   Name: ANN C. GREEN 208-549-2733
   Address: 2117 WEISER RIVER RD.
   WEISER, ID 83672

2. Date of Priority: AUG 15, 1933

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

4. Point of Diversion:

Township	Range	Section	1/4	of 1/4	of 1/4	Lot	County
11N	04W	35	SW	NE	NE		WASHINGTON

5. Description of diverting works:
   GALLOWAY DAM

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
IRRIGATION	03/15	10/15	2.300		

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

8. Total consumptive use is 399.0 Acre Feet Per Annum.

9. Non-irrigation uses:

MICROFILMED

10. Place of Use:

Township	Range	Section	1/4 of 1/4		Lot	Use	Acres
10N	04W	4	NE	SE		IRR	3.0
					Section Acres		3.0
11N	04W	34	SW	SW		IRR	32.0
			SE	SW		IRR	39.0
			NE	SE		IRR	5.0
			SW	SE		IRR	35.0
					Section Acres		111.0
					Total Acres		114.0

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:
SEE REMARKS

14. Remarks:
CRANE CREEK - 420 SHARES FILED ON BY CRANE CREEK RESERVOIR INDEPENDENT WATER USERS CO., INC.

15. Basis of Claim: BENEFICIAL USE

MICROFILMED
OCT 05 1992

6. 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: _____

State of Idaho)
) SS.
County of _____)

Subscribed and sworn (or affirmed) before me this _____ day

of _____ 19 _____ _____
Notary Public

Seal

Residing at _____

My Commission Expires _____

MICROFILMED
OCT 05 1992

Form No. 42-1409 (2) a 1/88

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 A67-11027
Date Received 10-19-89 cd
Receipt Number C0123960

NOTICE OF CLAIM TO A WATER RIGHT

ACQUIRED UNDER STATE LAW

Please type or print clearly

1. Name of Claimant (s) Henry P. and Ann C. Green Phone (208) 549-2733

   Mailing Address 2117 Weiser River Road, Weiser, Idaho Zip 83672

2. Date of Priority (Only one (1) per claim) August 15, 1933 H.R.H ~~October 17, 1989~~ A.C.G

3. Source of water supply (a) Weiser River
   which is tributary to (b) Snake River

4. a. Location of existing point of diversion is: Township 11N Range 4 Section 35,
   SW 1/4 of NE 1/4 of NE 1/4, Govt. Lot, ____ B.M., County of Washington

   Additional points of diversion if any: None

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

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

   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. Galloway Dam

MICROFILMED
OCT 05 1992

6. Water is claimed for the following purposes:

		(both dates are inclusive)		(cfs)		(acre feet)
For Flood Irrigation	purposes from 3/15	to 10/15	amount 2.3	or		
For	purposes from	to	amount	or		
For	purposes from	to	amount	or		
For	purposes from	to	amount	or		

7. Total quantity claimed (a) 2.3 (cfs) and/or (b) _____ (acre feet)

8. Total consumptive use claimed is 399 AFY ~~2.3 CFS~~ ACY acre feet per annum.

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

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	
10N	04W	34											32	39	5		35		111
10N	04W	04													3				3

Total number of acres irrigated 114

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

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.
Crane Creek - 420 shares filed on by Crane Creek Reservoir or None ( )
Independent Water Users Co., Inc.

14. Remarks:

Last Name Green Ident No. _____

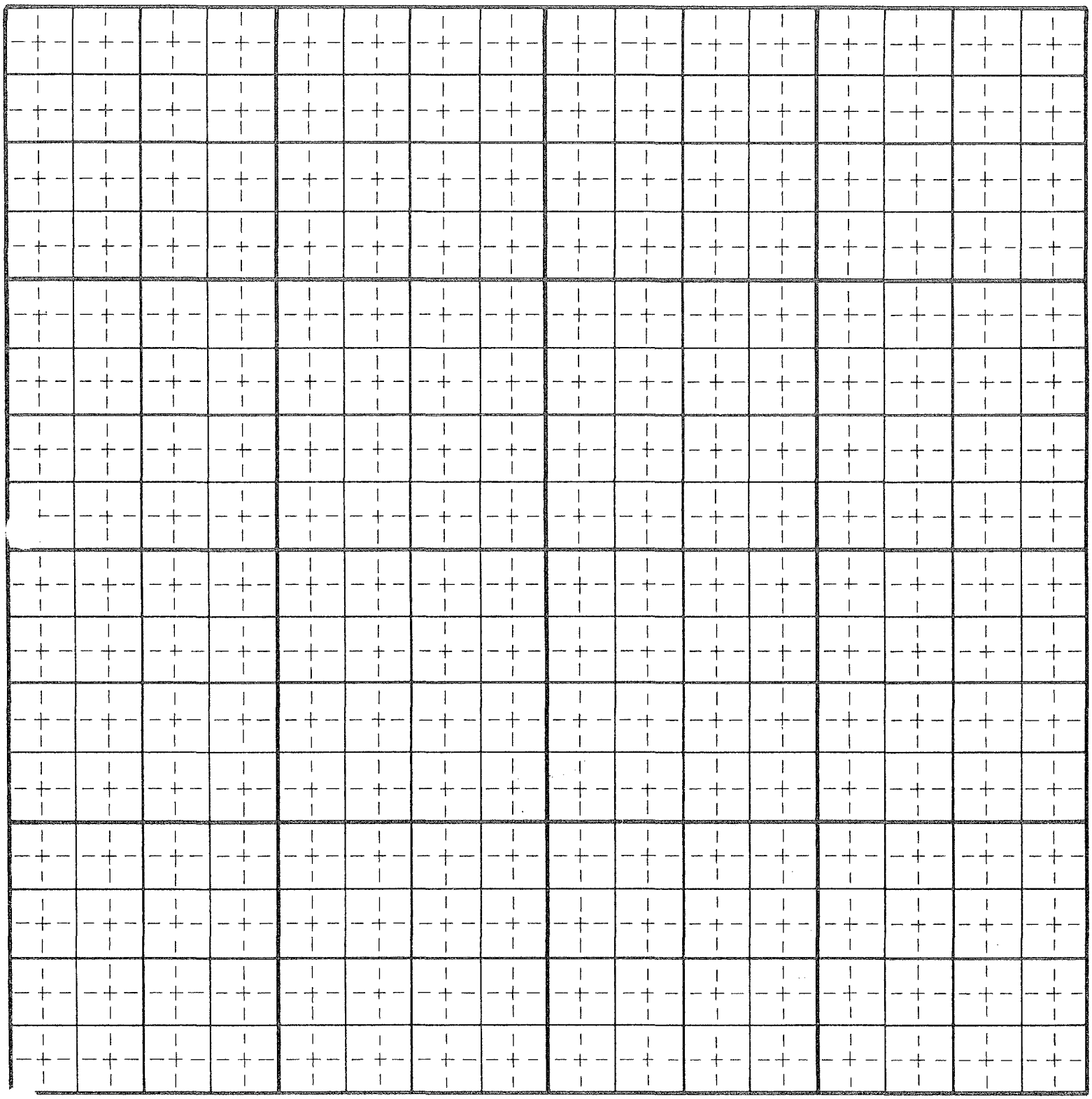
Copies: White -State, Yellow-Claimant

MICROFILMED
OCT 05 1992

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

Scale: 2 inches equals 1 mile

See Attached



Last Name Green Ident No. _____

Copies: White-State, Yellow-Claimant

MICROFILMED
OCT 05 1992

15. Basis of Claim (check one) Beneficial Use X 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 1

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

Signature of Claimant (s) Henry Green Date 10-17-89

Lorna C. Green Date 10-17-89

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 _____)
) SS.
County of WASHINGTON)

Subscribed and sworn (or affirmed) before me this 17th day of Oct. 19 89

SEAL Notary Public Robert M. Taisey Jr.

Residing at Weiser

My Commission Expires 3/93

Please Print Name

17. Notice of Appearance:
Notice is hereby given that I, Robert M. Taisey, Jr. 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.

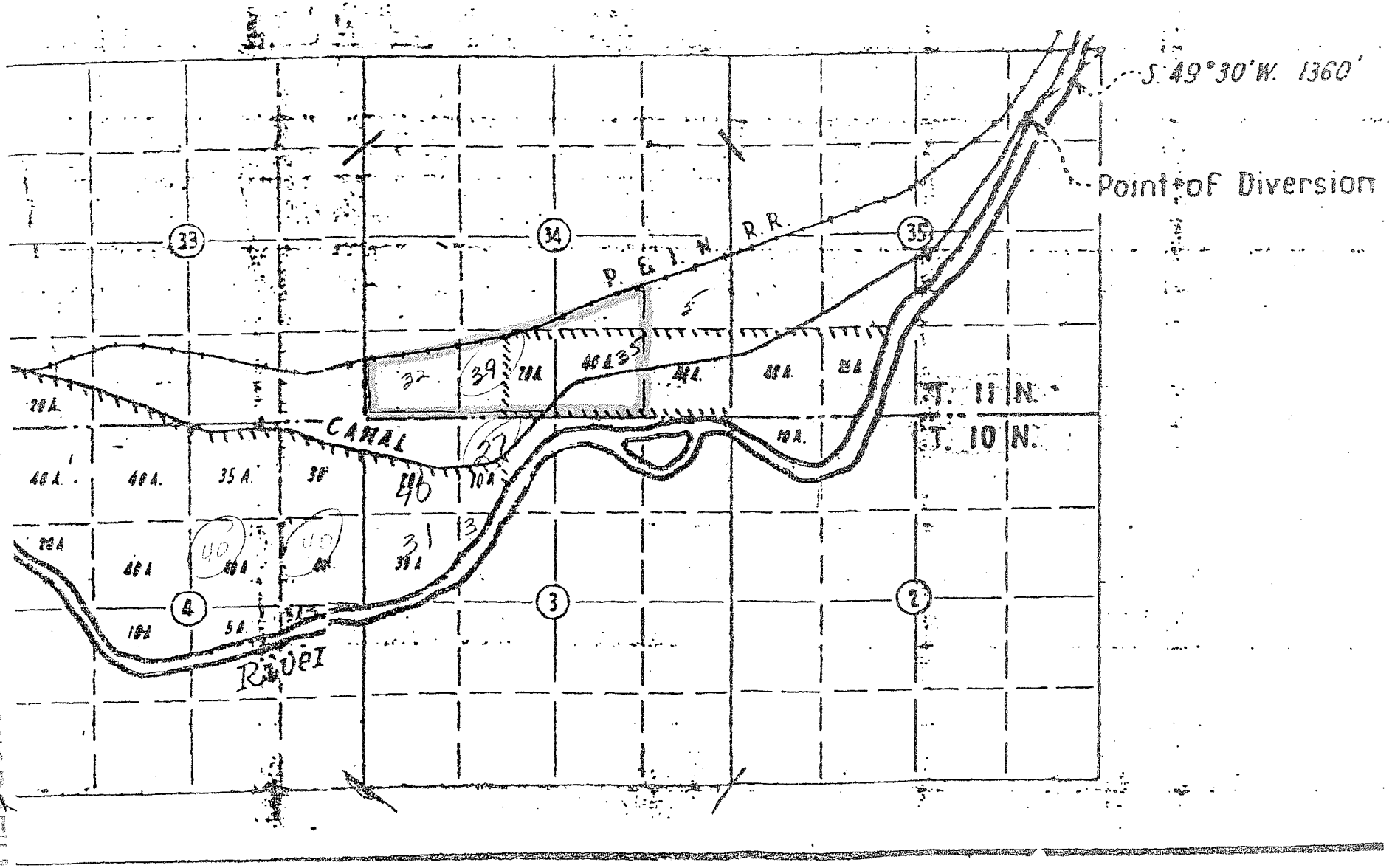
Signature _____

Address Post Office Box 725, Weiser, ID 83672

Date 10/17/89

Last Name _____ Ident. Number _____

MICROFILMED
Copies White-State, Yellow-Claimant
OCT 05 1992


S. 49°30'W. 1360'
Point of Diversion
P. E. I. N. R. R.
CANAL
River
T. 11 N.
T. 10 N.
33
34
35
4
3
2
32
39
27
40
31
CHECKED
MICROFILMED
OCT 6 5 1992

4/5/1989 SRBA CLAIMS RECEIVING CHECKLIST #2

CLAIMANT'S NAME Green CLAIM IDENT. NO. A62-11027

DATE RECEIVED 10-19-89 CK # 1750 AMOUNT $ 100 00

	YES	NO	Required Info?
1. Is the name and address complete with zip code? . CO 123.96 .	✓		*
Is a priority date entered?	✓		*
Is the priority date acceptable in view of mandatory filing dates? See Adjudication Memos #1 and #4 to determine if a Permit is required.	✓		*
3. (a) Is a source entered?	✓		*
(b) Is a tributary to entered? (if required) N/A ___	✓		
4. Is the legal description of the p.d. sufficient?	✓		*
5. Is there a description of the diverting works?	✓		
6. Are the water uses appropriate for the form? The short form is limited to domestic and stockwater uses with direct diversion. All claims that include storage or instream stockwater must use long form.	✓		*
Is the period of use included?	✓		
Is a quantity claimed for each use?	✓		*
7. Is a total quantity claimed entered?	✓		
8. If required is a consumptive use entered? N/A ___	✓		
Is the consumptive use correct? N/A ___	✓		
9. Are the non-irrigation uses listed properly? If this claim is on the short form, and more than one domestic use is listed, single ownership must be stated. If not under single ownership, see Adjudication Memo # 4. N/A ___	✓		*
10. Is (are) the place(s) of use and purpose(s) indicated?	✓	Comment*	
11. Is (are) the county(ies) entered?	✓		
Is the ownership of p.u. checked?	✓		
13. Are other water rights listed or "none" indicated?	✓		
14. If required, are remarks correct? (If the claimant does not own the place of use, authority for filing the claim must be explained in the remarks.) N/A ✓	N/A		
15. Is the basis of the claim indicated?	✓		
16. If the claimant requested a monthly docket sheet, is payment enclosed? (If yes, describe payment status in "Comments" below.) N/A ✓			
17. Is the claim signed by the claimant, and is the signature appropriate? Organizations must complete the organization block.	✓		*
18. Has the claim been signed, sealed, and dated by a notary?	✓		*
19. Was this claim filed on time, or was an extension granted?	✓		*
20. Is the fee enclosed correct? Exempt ___	✓		*
21. If this claim is based on an existing water right, has the identification number been entered? N/A ✓			
22. Should this claim be data entered?	✓		

Claim checked by: CA Date: 10-30-89

Claim must be returned to claimant: ___(Yes) X (No)

Claimant must be notified of modifications: X (Yes) ___(No)

Receipt Prepared by: CA Date: 10-19-89

Claim data entered by: CA Date: 10-30-89 Checked by: _____ Date: _____

Sent to claimant by: _____ Date: _____

Comments: Land in Sec. 34 should be "11N" instead of "10N". See Map.

MICROFILMED

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 67-14353
Date Received: 10/19/1989
Receipt No:
Received By:

AMENDED

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name of Claimant(s)

EDWARD L POLLARD SR
2117 WEISER RIVER RD
WEISER ID USA 83672

Phone: (208) 549-2944

2. Date of Priority: 08/15/1933

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

4. Point of Diversion:

Township	Range	Section	1/4	1/4	1/4	Lot	County	Type
11N	04W	35	SW	NE	NE		WASHINGTON	

5. Description of diverting works:

GALLOWAY DAM

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
IRRIGATION	03/15	10/15	1.63	

7. Total Quantity Appropriated is:
1.63 C.F.S.

8. Total consumptive use:

9. Non-irrigation uses:

SCANNED
APR 16 2004

10. Place of use:

Township	Range	Section	1/4 of 1/4		Lot	Use	Acres
11N	04W	34	SW	SW		IRRIGATION	32
			SE	SW		IRRIGATION	33.5
			SW	SE		IRRIGATION	16
						Section Acres	81.5
						Total Acres	81.5

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:

14. Remarks:

This claim is the result of a split due to change in ownership for a portion of 67-11027. DH 7/24/2002

Address changed by DH 4/23/2003

Split claim amended per claimant inquiry & review of claim. DH 6/27/2003

15. Basis of Claim: Beneficial Use

Split for 67-11027

		67-14351	67-14352	67-14353	67-14354	
		Green	Syme	Pollard	Phillips	
Section	**QQ**					**Total**
4	NESE	0	0	0	3	
34	SWSW	0	0	32	0	
	SESW	0	5.5	33.5	0	
	NESE	0	5	0	0	**
	SWSE	2	17	16	0	
Total Acreage:		2	27.5	81.5	3	114
Diversion Rate @ 0.02 per acre:	***0.02***	0.04	0.55	1.63	0.06	2.28

Original claim was for 2.30 cfs - So 0.02 cfs / 114 ac = 0.0001754 cfs per acre:

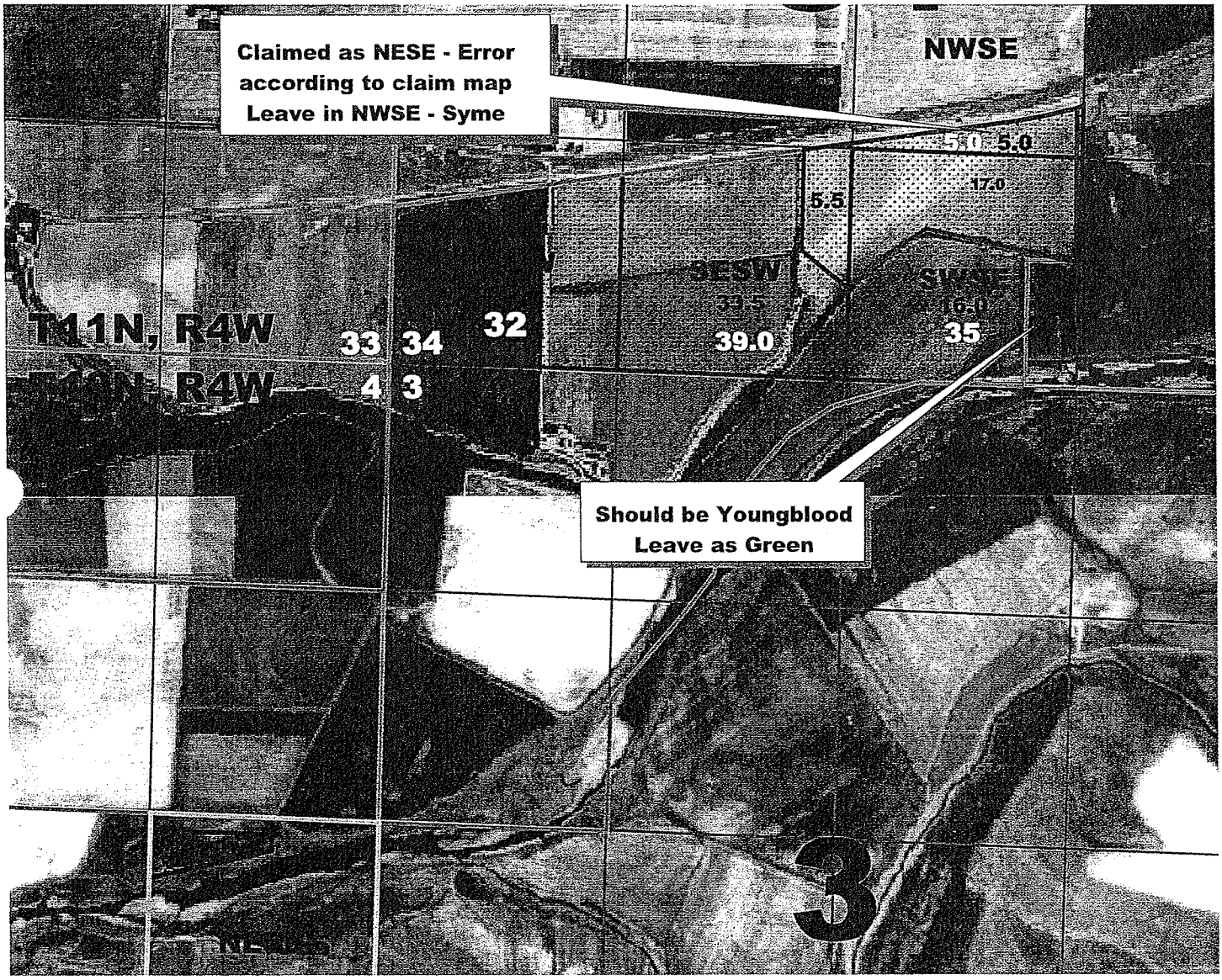
Total Diversion Rate for Splits:	***0.000175***	0.040	0.555	1.644	0.061	2.300

* 3 acres for Phillips is on N side of river, but could have been claimed incorrectly just due to the lay of the land.
* 0.02 cfs under after porportioning water @ 1" per acre. 0.000175 cfs per acre added to each claim.
** According to original claim map, this 5 acres should have been claimed in the NWSE. Error in claim - split claim so this 5 acres is on Syme's property

"Pollard" - 6-27-03 Amendments to Split

State of Idaho

Split for 67-11027



Originally Claimed POU

Phillips Prop Bndy

Pollard Prop Bndy

Syme Prop Bndy

Quarter Quarter Lines

Section Lines

<Text> After Split - Claimed Acreage Per Parcel

Claimed Acreage Per QQ

Prepared By: Craig L. Saxton

Date: June 2003

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 67-14353
Date Received: 10/19/1989
Receipt No:
Received By:

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name of Claimant(s)

EDWARD L POLLARD SR
2117 WEISER RIVER RD
WEISER ID USA 83672

Phone: (208) 549-2944

2. Date of Priority: 08/15/1933

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

4. Point of Diversion:

Township	Range	Section	1/4	1/4	1/4	Lot	County	Type
11N	04W	35	SW	NE	NE		WASHINGTON	

5. Description of diverting works:

GALLOWAY DAM

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
IRRIGATION	03/15	10/15	1.27	

7. Total Quantity Appropriated is:
1.27 C.F.S.

8. Total consumptive use:

9. Non-irrigation uses:

10. Place of use:

Township	Range	Section	1/4	1/4	Lot	Use	Acres
11N	04W	34	SW	SW		IRRIGATION	32
			SE	SW		IRRIGATION	31
						Section Acres	63

Total Acres 63

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:

14. Remarks:

This claim is the result of a split due to change in ownership for a portion of 67-11027. DH 7/24/2002

Address changed by DH 4/23/2003

15. Basis of Claim: Beneficial Use

Pollard should have total of 92 acres?

Syme = 22 Approx.

April 22, '03

To: Dept. of Water Resources
From: Edward L. Pollard

RECEIVED
APR 23 2003
WATER RESOURCES
WESTERN REGION

Re; Address & Phone # Change
Water Right # 5 67-10831 P.D. issued 12-15-2000 / ownership chg. done at S.O. 4-23-03
A6702169B → 67 14357 Done 7-24-02
A 6711027 → 67 14353 Done 7-24-02
A 6702164B Done 7-24-02

This is to inform you that my address & phone have changed to:

217 Weiser River Rd.
Weiser, Id 83672
208-549-2944 FAX 549-2866

I was informed by Shelly Keen of your office that 3 of these rights have been processed & transfered to me. I have not recieved any confirmation of this. Please change my address & send me confirmation of the approved transfers. He said two of these were divided & re numbered. I need to know what that means.

Thank You
Edward L. Pollard Sr.

State of Idaho

License and Certificate of Water Right

Water License No. 17013 Priority August 15, 1933 Amount 5.98 Sec. Ft.

THIS IS TO CERTIFY that IDA M. SHOESMITH & POLLY A. SMITH of Weiser, Idaho, made application for a permit to appropriate the public waters of the State of Idaho, dated August 15, 1933; that Permit No. 17013 was issued under said application; that Certificate of Completion of works, with a carrying capacity of 9.14 second feet, was issued thereunder on May 7, 1935, showing that said works were completed on the 6th day of January, 1934; and that on the 6th day of January, 1934,

IDA M. SHOESMITH & POLLY A. SMITH

of Weiser, State of Idaho, made proof to the satisfaction of the Commissioner of Reclamation of Idaho, of a right to the use of the waters of Weiser River, a tributary of Snake River for the purpose of irrigation and domestic use, under Use Permit No. 17013 of the Commissioner of Reclamation, and that said right to the use of said waters has been perfected in accordance with the laws of Idaho, and is hereby confirmed by the Commissioner of Reclamation of Idaho and entered of record in Volume 7 of Licenses, at page 3796, on the 25th day of June, 1935;

The right hereby confirmed dates from August 15, 1933;

The Point of Diversion is located in the NE ¼ SE ¼ Sec. 35, Tp. 11 N., R. 4 W., B. M., Washington County.

That the amount of water to which such right is entitled and hereby confirmed, for the purposes aforesaid, is limited to an amount actually needed and beneficially used for said purposes, and shall not exceed 5.98 cubic feet per second.

Description and location of use:

Twp.	Range	Section	Forty-Acre Tract	No. Acres Described in Permit	No. Acres Actually Irrigated
			Ida M. Shoesmith's Lands		
10 N.	4 W.	3	Lot 3	27	10
			Lot 4	38	20
			SW¼ NW¼	40	35
		4	SW¼ NE¼	40	40
			SE¼ NE¼	40	40
				185	145
			Polly A. Smith's Lands		
		4	Lot 3	40	40
			Lot 4	40	40
			SW¼ NW¼	32	32
11 N.	4 W.	33	SW¼ SW¼	22	22
			SE¼ SW¼	38	20
				172	154

The right to the use of the water aforesaid hereby confirmed is restricted to the lands or place of use herein described, as provided by the laws of Idaho.

WITNESS the seal and signature of the Commissioner of Reclamation, affixed at Boise, Idaho, this 25th day of June, 1935.

Commissioner of Reclamation.

STATE OF IDAHO

License and Certificate of Water Right

Water License No. 17815

To IDA M. Shoesmith & Polly A. Smith

Weiser, Idaho

Source of Supply Weiser River

Washington County

Amount 5.98 Sec. Feet

Point of Diversion NE¼ SE¼ Sec. 35,

T. 11 N., R. 4 W., B. M.

Place of Use (See License)

Purpose Irrigation and domestic Use

Date of Priority August 15, 1933

Recorded June 25, 1935

in Book 7 of Licenses Page 3796

No. 42-1409 (2) a 1/88

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

RE THE GENERAL ADJUDICATION
RIGHTS TO THE USE OF WATER FROM
E SNAKE RIVER BASIN WATER SYSTEM

CIVIL CASE NUMBER: 39576
Ident. Number A67-11027
Date Received 10-19-89 cd
Receipt Number C012396

NOTICE OF CLAIM TO A WATER RIGHT

ACQUIRED UNDER STATE LAW

se type or print clearly

lame of Claimant (s) Henry P. and Ann C. Green Phone (208) 549-2733

lailing Address 2117 Weiser River Road, Weiser, Idaho Zip 83672

ate of Priority (Only one (1) per claim) ~~October 17, 1989~~ August 15, 1933 HPA ACA

ource of water supply (a) Weiser River

hich is tributary to (b) Snake River

. Location of existing point of diversion is: Township 11N Range 4 Section 35,

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

dditional points of diversion if any: None

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

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

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

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

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

escription of existing diversion works (Dams, Reservoirs, Ditches, Wells, Pumps, Pipelines, Headgates, Etc), cluding the dates of any changes or enlargements in use, the dimensions of the diversion works as onstructed and as enlarged and the depth of each well. Galloway Dam

12
1

MICROFILMED

6. Water is claimed for the following purposes:

		(both dates are inclusive)			(cfs)		(acre feet)
For	Flood Irrigation	purposes from	3/15	to 10/15	amount	2.3	or
For		purposes from		to	amount		or
For		purposes from		to	amount		or
For		purposes from		to	amount		or

7. Total quantity claimed (a) 2.3 (cfs) and/or (b) 399 A.F. (acre feet)

8. Total consumptive use claimed is ~~2.3 CFS~~ 399 A.F. acre feet per annum.

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

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	
10N	04W	34											32	39	5		35		111
10N	04W	04													3				3

Total number of acres irrigated 114

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

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.
    Crane Creek - 420 shares filed on by Crane Creek Reservoir Independent Water Users Co., Inc. or None ( )

14. Remarks:

Last Name Green Ident No.

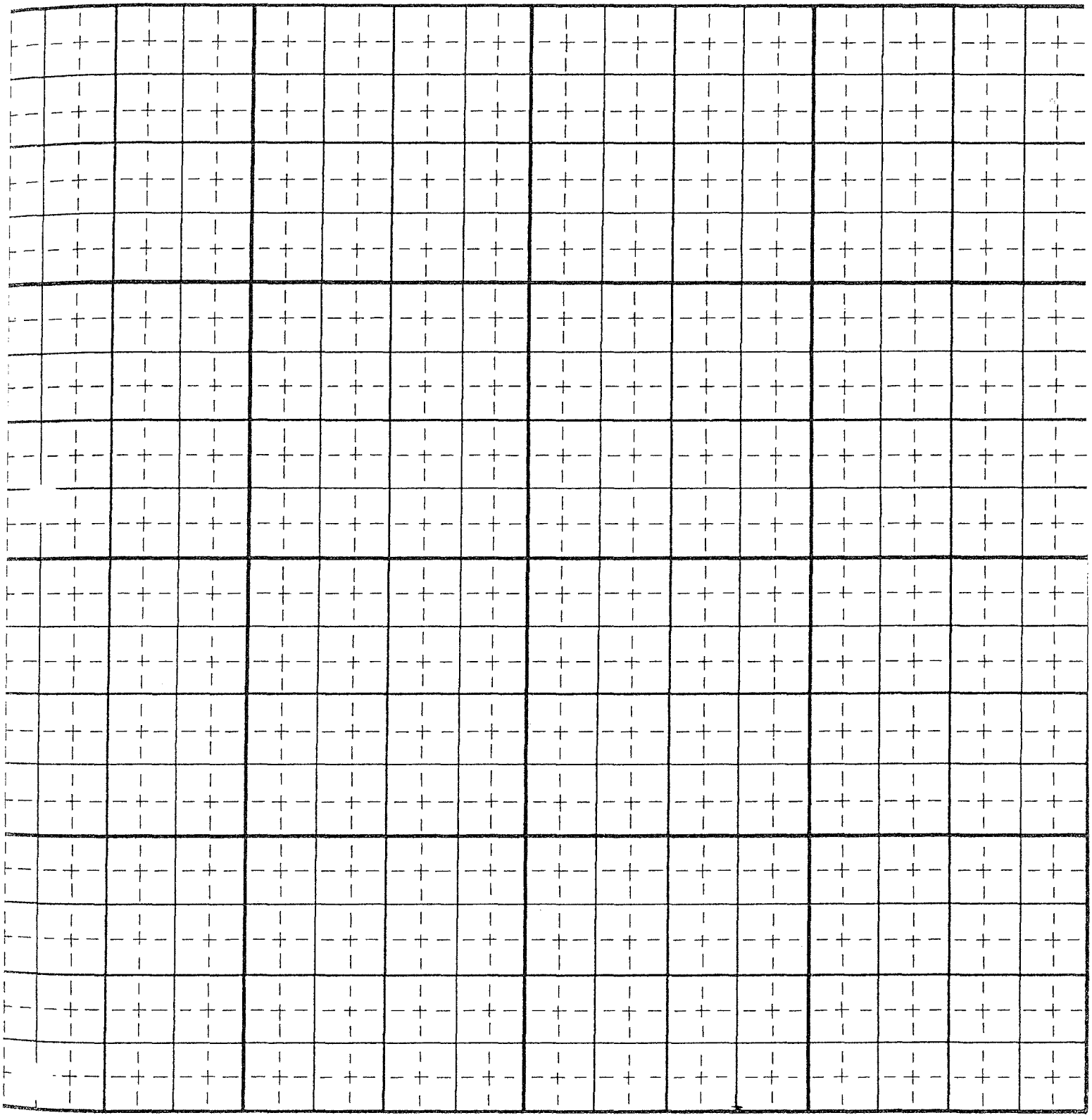
Copies: White -State, Yellow-Claimant

MICROFILMED
OCT 05 1992

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

Scale: 2 inches equals 1 mile

See Attached



Last Name Green Ident No. _____

MICROFILMED

Copies: White-State, Yellow-Claimant

OCT 05 1992

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

3. 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 1

or **Individuals:** I do solemnly swear or affirm that the statements contained in the foregoing document are true nd correct.
Signature of Claimant (s) Henry Green Date 10-17-89
Lorna C. Green Date 10-17-89

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

Signature of Authorized Agent _____

Title and Organization _____ Date _____

ate of Idaho/or _____)
) SS.
ounty of WASHINGTON)

ubscribed and sworn (or affirmed) before me this 17th day of Oct. 19 89

SEAL Notary Public Robert M. Taisey

Residing at Weiser

My Commission Expires 3/93

Please Print Name

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

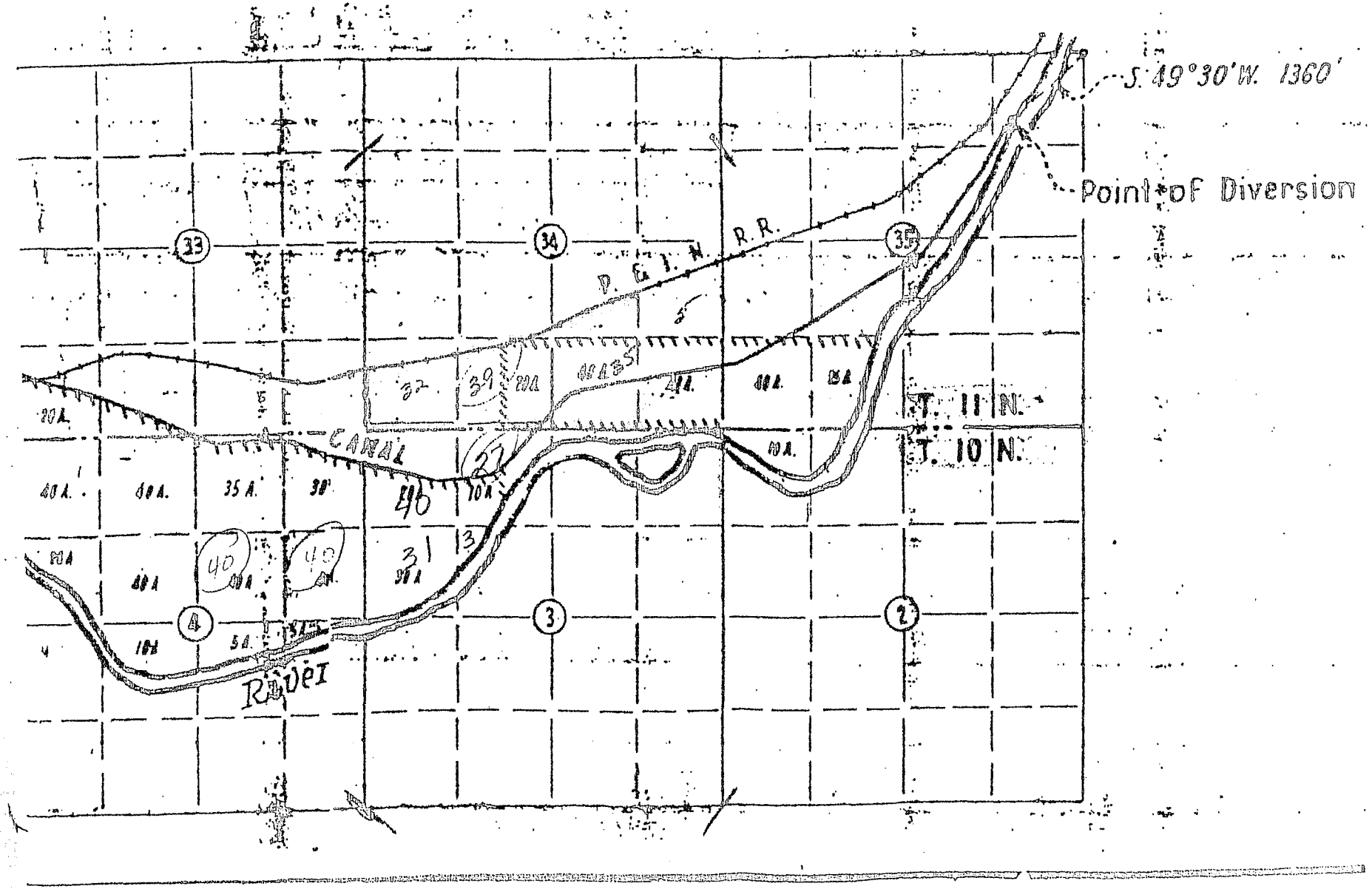
gnature _____

ddress Post Office Box 725, Weiser, ID 83672

ate 10/17/89

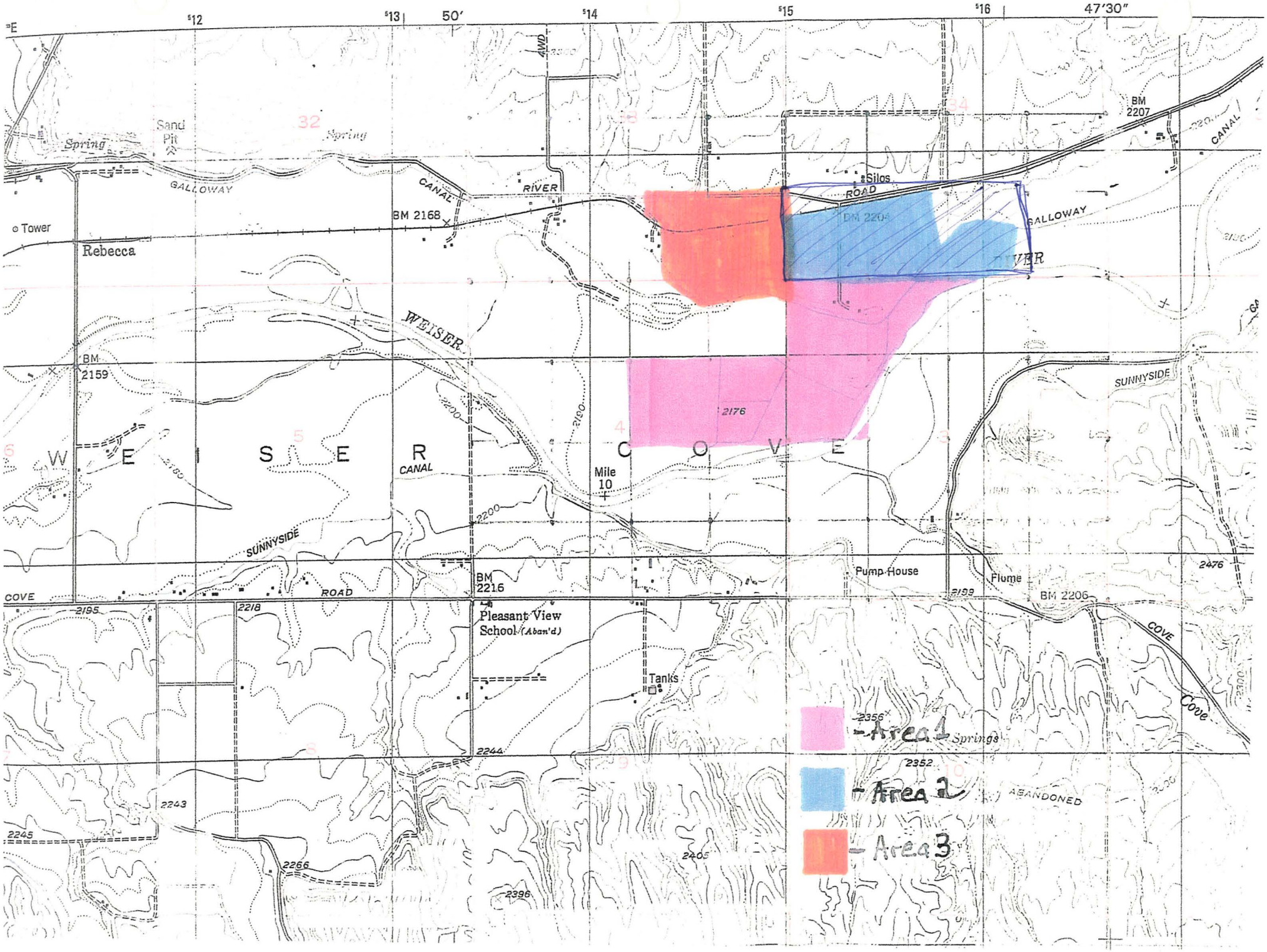
st Name _____ Ident. Number _____

MICROFILMED
Copies White-State, Yellow-Claimant
OCT 05 1992


S. 49°30'W. 1360'
Point of Diversion
P. G. I. N. R. R.
CANAL
River
T. 11 N.
T. 10 N.
33
34
35
4
3
2
20 A.
40 A.
35 A.
10 A.
40
46
31
13
12
13

U.S. GEOLOGICAL SURVEY

Claim no 67-14353 Place of use



3

RECOMMENDED TO WID 67-14357

Close

IDAHO DEPARTMENT OF WATER RESOURCES
Adjudication Recommended Right Report

6/13/2006

WATER RIGHT NO. 67-14357
Status: Disallowed

Owner Type	Name and Address
Current Owner	EDWARD L POLLARD SR
Current Owner	ANN C GREEN
Current Owner	HENRY P GREEN
Current Owner	WEISER IRRIGATION DIST
	WEISER, ID 83672
	(208)549-2944

Conditions of Approval:

1.		This claim is the result of a split due to change in ownership for a portion of 67-2169D. DH 7/25/2002
2.		Split claim amended per claimant inquiry & review of claim. DH 6/27/2003
3.		Address changed by DH 4/23/2003
4.	P16	Recommended as Right No. 2169G: This is included for a claim that is proposed to be disallowed because the right claimed is recommended pursuant to another right. The remark indicates the water right number of the other right that is proposed to be recommended. If you are not mailed a notice of the recommendation of the other right, then the other right is recommended in another claimants name.
5.	P06	Recommended as Right No. 2169G.

Form No. 42-1409 (2) a 1/88 (Internet)

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 67-2169 G
Date Received 10-8-02
Receipt Number

RECEIVED
OCT 0 8 2002
WATER RESOURCES
WESTERN REGION

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

Please type or print clearly

1. Name of Claimant (s) WEISER IRRIGATION DISTRICT Phone (208) 414-1792

Mailing Address C/O JAY EDWARDS PO BOX [illegible] WEISER ID Zip 83672

2. Date of Priority (Only one (1) per claim) 12/18/1936

Source of water supply (a) WEISER RIVER

which is tributary to (b) SNAKE RIVER

4. a. Location of existing point of diversion is: Township 11N Range 6W Section 35 ,

____ 1/4 of NW 1/4 of NW 1/4 , Govt. Lot, 1 B.M., County of WASHINGTON

Additional points of diversion if any: SWNENE S35 11N 4W

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

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

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. INTEGRATED SURFACE WATER DELIVERY SYSTEM WITHIN THE BOUNDARIES OF WEISER IRRIGATION DISTRICT.

6. Water is claimed for the following purposes:

		(both dates are inclusive)		(cfs)		(acre feet)
IRRIGATION	purposes from	3/1	to 11/15	amount 120.0	or	
For	purposes from		to	amount	or	
For	purposes from		to	amount	or	
For	purposes from		to	amount	or	

7. Total quantity claimed (a) 120.0 (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	
					PLACE OF USE IS LOCATED WITHIN THE BOUNDARIES														
					OF WEISER IRRIGATION DISTRICT.														

Total number of acres Irrigated _____

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

12. Do you own the property listed above as place of use? N/A 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.
    67-8 THROUGH 67-22, 67-2169, 67-10279 or None ( )

14. Remarks:
    SEE ATTACHMENT A.

Last Name _____ Ident No. _____

15. Basis of Claim (check one) Beneficial Use _____ Posted Notice _____ License X 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) _____ Date _____

_____ Date _____

For **Organizations:** I do solemnly swear or affirm that I am Secretary (Title) of Weiser Irrigation District (Organization), that I have signed the foregoing document in the space below as Secretary (Title) of Weiser Irrigation District (Organization) and that the statements contained in the foregoing document are true and correct.

Signature of Authorized Agent _____

Title and Organization Sec. Weiser Irrigation District Date 10-3-02

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

Subscribed and sworn (or affirmed) before me this 3rd day of October 19 2002

SEAL NOTARY PUBLIC STATE OF IDAHO

Notary Public _____

Residing at Weiser, ID

My Commission Expires 11/4/2003

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 _____

_____

Last Name _____ Ident. Number _____

Weiser Irrigation District
P.O. Box 591
Weiser, Idaho 83672
208-414-1792
fax 208-414-1794

RECEIVED
OCT 0 2 2002
WATER RESOURCES
WESTERN REGION

October 1, 2002

Lori Graves
Sr. Water Resource Agent
Western Regional Office
2735 Airport Way
Boise, Idaho 83705-5082

Re: Weiser Irrigation District

Dear Lori:

It was a pleasure to meet you on Monday. For the near future , we will be working together on this project. I will be sending you information as I gather it. I have checked out the Muir vs Allison decree and I find that all is Ok through 1904 up through 67-22. In 1936 a new dam was built upstream and a new permit was requested for an additional 120 cfs. . I am enclosing a copy of the application for permit No. 25683. When the State received it, they issued license No. 18429. In May 1939, a Decree from the 7th Judicial District of the State of Idaho awarded the 120 cfs to the Weiser Irrigation District. I am enclosing a copy of that Decree recorded in Book I of Judgments at page 431.

As the canal was moved upstream, various individual ditches and water rights were incorporated and now delivered to the land. I will research them out and send you copies of what I have. After 1940, the Weiser Irrigation District entered into several contracts to deliver a portion of the 120 cfs to lands along the Canal outside the District boundary. I will create a map and descriptions of those contracts. Many of the current land owners have filed claims on their portion of the 120 cfs.

It will be a pleasure to work with you to unravel this water situation.

Sincerely yours,

Jay Edwards
Sec.
Enc.

RECEIVED
OCT 0 2 2002
WATER RESOURCES
WESTERN REGION

COPY

(Form No. 1)

Address all communications to

P. O. .....

APPLICATION FOR PERMIT

TO APPROPRIATE THE PUBLIC WATERS OF THE STATE OF IDAHO

Application No. 25683

Permit No. .....

District No. .....

1. Name of applicant: Weiser Irrigation District

Postoffice address Weiser County Washington State Idaho

I. If applicant is a corporation, give:

(a) Date and place of incorporation: Weiser, Idaho. January 13, 1902.

(b) Amount of capital stock: $ ..... (c) Amount paid in: $ .....

(d) Names and addresses of directors: John J. McCrea, Fred Ruffner and George Cartwright, all of Weiser, Idaho

II. The financial resources of the applicant are: (a) Cash on hand: $ .....

(b) Treasury stock: None (c) Bonds to be issued: Attached hereto is financial

(d) Other resources: statement showing assets and liabilities of Weiser Irrigation District, the applicant

2. Quantity of water claimed: 120 cubic feet per second.

3. Source of water supply: Weiser River

which is a tributary of Snake River

4. Location of point of diversion: S. 49° 30' W. 1360 feet distant from the NE corner of Section 35, T. 11 N., R. 4 W., B. M., and is in the NE¼ NE¼ of Section 35, T. 11 N., R. 4 W., B. M., County of Washington

5. Water is to be used for: irrigation and domestic purposes

6. If for mining, milling, power or manufacturing purposes, give:

(a) Point of use of water: ..... feet distant from ..... corner of Section ..... T. ....., R. ....., B. M., in the ..... of Section ....., T. ....., R. ....., B. M.

(b) Amount of power generated: ..... H. P., under ..... feet head.

(c) Water is to be returned to ..... at a point ..... feet distant from the ..... corner of Section ....., T. ....., R. ....., B. M., in the ..... of Section ....., T. ....., R. ....., B. M.

7. Estimated cost of works: $ 150,000.00 work now completed.

8. Kinds of works: Concrete dam and headgates, earth ditch
(Reservoir, dam, ditch, flume, pipe, etc.)

9. Height of dam 5 feet; length of dam at top 212 feet; length of dam at bottom 212 feet
(If height of dam will exceed 10 feet, send to Department of Reclamation for Regulations)

feet; material used in dam Concrete

10. Size of headgate: Width 26 feet; Height 12 feet.

11. Ditch: Width at bottom 14 feet; Width at water line 20 feet; Depth of water 3½ feet;

Dimensions of flume ..... Diameter of pipe no inches;

12. The time required for the completion of such work is 1 years.

13. The time required for the complete application of the water to the proposed use is 1 additional years.

14. The land to be irrigated is described in the following tabulation:

(Give irrigable acreage in each 40-acre subdivision.)

Twp.	Range	Sec.	NE¼				NW¼				SW¼				SE¼				Totals
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
0 N.	4 W.	2						10											10
		3					10	20	30										60
		4	30	35	40	40	40	40	20	40	10				5	5			305
		5	35	30			35	40	5										145
		6	40	40			40	40	30	10									200
0 N.	5 W.	1	35			40	20												95
		2	10																10
1 N.	4 W.	31									5		35	40	15	20	40	40	195
		32									5	5	40	40			40	40	170
		33											20						20
		34												20			40	40	100
		35											40	25					65
1 N.	5 W.	28																10	10
		29									25	25	40	40	40	30	40	20	260
		30									40	40	40	40	20	30	40	40	290
		31	40	40	35	40	40	39	15	20.5					15	5			289.5
		32	33.2	40	40	10	40	40	40	40	25	30		25		10			373.2
		33	20	20			20	20											80
		34			20		20	40		10					20	30		10	150
		35											40	40			10		90
1 N.	6 W.	14							10		10	30	40	40					130
		15			40	20			40	40	40	40	40	40	40	40	40	40	460
		16	10	10	40	40			28	37	40	40	40	40	40	40	40	40	485
		17			6	12	12			30	30	3	37	25	40	40	40	40	315
		18															10	10	20
		19	29.5	10.5			3.3												43.3
		20	40	40	35.2	40	40	40	35.5	36.7	40	26.2	17.5	40	34.6	35.2	40	40	580.9
		21	40	40	40	40	40	40	40	40	39.8	34.7	40	40	40	40	39	39	632.5
		22	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	640
		23	10	40	40	20	40	40	40	40	40	40	40	40	40	40	40	40	590
		24									20	20	40	40		10	20		150
		25		30	40	20	40	40	40	40	40	40	38.4	39.1	40	40	40	40	567.5
		26	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	640
		27	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	640
		28	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	640
		29	40	40	40	40	40	13.2	7.3	40	24.2				40	40	21.8	40	426.5
		33	40	40	40	40	40	20	12	40.7	11.3				40				324
		34	40	40	34.7	9.8	40	40	40	40	33.5	20	20	30.5		6			394.5
		35	23.5	10			20	30											83.5
		36	39.1	40.4	10	10	40	40	12.5	18.5									210.5

WEISER IRRIGATION DISTRICT
CONSOLIDATED BALANCE SHEET
DECEMBER 31, 1936

EXHIBIT A.

ASSETS:			
CASH:			
In Office		$ 23.97	$
First Nat'l Bank-General Fund		5 504.80	
First Nat'l Bank-Time Checking		35.85	
First Nat'l Bank-Bond & Interest		60.00	
First Nat'l Bank-West Ridge "		14.47	
Total Cash			5 639.09
REVENUES RECEIVABLE:			
1935 assesament roll-unpaid Schedule A-2		9 924.14	
Tax Sale Certificates ditto		12 284.09	
Total Revenues Rec.			22 208.23
ACCOUNTS RECEIVABLE:			
Weiser Bench Irrigation Co.			
For Maintenance	2 589.04		
For Construction	2 979.10	5 568.14	
Miscellaneous accts.		886.09	
Total Acct's Receivable			6 454.23
PLANT PROPERTY & EQUIPMENT:			
Right of Way		30 000.00	
Structures		125 551.49	
Water Rights		300 000.00	
Machinery, Tools & Equip.		1 138.50	
Office Furn. & Fixtures		150.00	
Extension & Diversion Works		15 293.96	
West Ridge Line & Right of way		23 500.00	
Total Plant etc.			495 633.95
TOTAL ASSETS			$529 935.50
LIABILITIES:			
STAMP CERTIFICATES OUTSTANDING		7.00	
WEST RIDGE PIPE LINE		16.50	
WARRANTS OUTSTANDING-Schedule E-1		7 182.08	
COUPONS OUTSTANDING		141.00	
BONDS OUTSTANDING:			
Weiser Irrigation	110 000.00		
West Ridge	19 200.00		
Total Bonds Payable		129 200.00	
TOTAL LIABILITIES			136 546.58
NET SURPLUS, Detailed schedule A-6			$393 388.92

Approval of Commissioner of Reclamation

The number of this permit is.....

Recorded in Book.....Page.....Approved.....

This is to certify that I have examined the within application for a permit to appropriate the public waters of the State of Idaho, and hereby approve the same, subject to the following limitations and conditions:

Bond in the sum of $.....to be filed on or before.....

Work to begin on or before....., and to continue diligently and uninterruptedly to completion, unless temporarily interrupted by circumstances over which the permit holder has no control.

One-fifth of the work above specified to be completed on or before .....

The whole of said work to be completed on or before.....

Beneficial use of water appropriated in accordance herewith, to be made on or before.....

Witness my hand this.....day of ....., 193.....

.....
Commissioner of Reclamation.

No.....

PERMIT

Date of first receipt at office of Commissioner of Reclamation

11:00 A. M., December 18, 1936

Returned to applicant for correction

January 12, 1937

Corrected application received

February 10, 1937

Fees, $...34.75 Pd.

FILING FEES FOR USE PERMIT:

For the first Sec. Ft.....$5.00

For each additional Sec. Ft. or fraction thereof 25

378

IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF WASHINGTON.

Filed and entered May 16-1939
Ray Wilson
Clerk District Court
Recorded in Judgment Book 11
Page 431
By _____ Deputy

WEISER IRRIGATION DISTRICT, a public corporation,

Plaintiff,

vs.

T. C. WOOD, Water Master of Water District No. 41 of the State of Idaho,

Defendant.

D E C R E E

This cause came on regularly for hearing before the court in open court at the hour of ten o'clock in the forenoon of this date. Plaintiff appeared in person of Ed. R. Coulter, its attorney of record. Defendant appeared neither in person nor by attorney, and the following proceedings were had:

It appearing from the records and files in this action that due process in this action was had upon defendant T. C. Wood, as Water Master of Water District No. 41 of the State of Idaho, within Washington County, Idaho, on the 20th day of March, 1939, and that time for answer has long since expired and that the defendant has not answered or otherwise appeared, on motion of Ed. R. Coulter, attorney for the plaintiff, the default of the defendant T. C. Wood, Water Master of Water District No. 41 of the State of Idaho, is hereby entered.

And it further appearing from the records and files that the plaintiff did cause to be published in the Weiser American, a weekly newspaper of general circulation published in Washington County, Idaho, in three weekly issues of said paper, beginning with the issue of March 23,

1939, and ending with the issue of April 13, 1939, of a notice containing the title of said court and cause, the name of the stream of water in which plaintiff claims an interest, date of priority of claim and short title consisting of the name of the first plaintiff and the first defendant of the decree heretofore entered in the District Court of the Seventh Judicial District of the State of Idaho, in and for the County of Washington, adjudicating the waters of Weiser River and fixing the permanent rights in said stream; that said notice was in the form provided for and contained all of the statements required under the provisions of Section 41-1305 I C A.

And it further appearing that there has been no appearance in said action of anyone protesting the matters and things set forth in the complaint of plaintiff, on motion of Ed. R. Coulter, attorney for the plaintiff, the default of all water users of Water District No. 41 of the State of Idaho, and of all people claiming rights adverse to the rights of plaintiff as set forth in said notice and application, are hereby entered.

Thereupon the hearing was had of said petition. Witnesses were sworn and examined on behalf of the plaintiff and the taking of evidence was closed and the cause was submitted to the court for decision.

After due deliberation thereon by the court the court doth find, adjudge and decree as follows:

I.

That during all the timed mentioned in said complaint plaintiff was and still is a public corporation organized under the irrigation district laws of the State of Idaho, and situated, lying and being wholly within Washington County, Idaho.

II.

That T. C. Wood was the duly elected, qualified and acting water

master of Water District No. 41 of the State of Idaho, which water district embraces all the irrigable lands in Washington and Adams Counties, Idaho.

III.

That heretofore an action was instituted in the District Court of the Seventh Judicial District of the State of Idaho, in and for the County of Washington, by R. T. Muir et al, plaintiff, v. William Allison, et al, defendant, for the adjudication of the waters of Weiser River and its tributaries; therein such proceedings were had that the cause was tried and finally on the 11 day of May, 1918, a final decree was duly entered in said cause wherein the waters of Weiser River were adjudicated; that appeal was taken from said decree to the Supreme Court and opinion was handed down by the Supreme Court reversing said decree of the lower court in part and sustaining it in other parts, and thereafter a supplemental decree was rendered in the District Court in conformity with the remitter of the Supreme Court and said decree, as corrected, is now in full force and effect and has never been annulled, vacated or set aside, and said plaintiff accepted said decree and the findings of fact and conclusions of law upon which it is based as being binding upon it and its rights.

IV.

That by said decree aforesaid, the duty of water was fixed at five-eighths (5/8) inch to the acre with a high duty of water during periods of scarcity of three-eighths (3/8) inch to the acre.

V.

That under said decree adjudicating the waters of Weiser River there was adjudicated to the plaintiff Weiser Irrigation District and the lands thereunder, the following amounts of water, to-wit:

Dated and amounts of priorities awarded to the Weiser Irrigation District in the decree adjudicating the waters of Weiser River:

	Date of Priority	Amount-5/8ths	Amount 3/8ths
No. 1	5-1-68	100 inches	60 inches
No. 27	5-29-83	1500 "	900 "
No. 43	5-1-87	250 "	150 "
No. 47	5-1-88	250 "	150 "
No. 52	5-1-89	300 "	180 "
No. 57	5-1-90	200 "	120 "
No. 63	5-1-91	200 "	120 "
No. 66	5-1-92	150 "	90 "
No. 69	5-1-93	200 "	120 "
No. 71	5-1-94	150 "	90 "
No. 75	5-1-95	150 "	90 "
No. 79	5-1-96	150 "	90 "
No. 81	5-1-97	150 "	90 "
No. 82	5-1-98	250 "	150 "
No. 103	5-1-04	2000 "	1200 "
		6000	3600

VI.

That all of the lands embraced in the Weiser Irrigation District are within Water District No. 41, of which the defendant T. C. Wood is the water master, and all of said lands receive the direct natural flow irrigation from the waters of Weiser River and its tributaries.

VII.

That since the rendition of said decree so adjudicating the waters of Weiser River, as aforesaid, a great change has come over the farming practices in the Weiser Irrigation District; that when said decree so adjudicating the waters of Weiser River was rendered, hay and grain were the principal crops raised upon the lands of Weiser Irrigation District and the quantity of five-eighths (5/8) inch to the acre as low duty and three-eighths (3/8) inch high duty was sufficient for the raising of said crops.

That especially in late years the raising of hay and grain on the lands within Weiser Irrigation District has ceased to be the major or a substantially large portion of the crops raised on said lands; that at the present time the best paying and the largest crops raised on

said lands are sugar beets and late potatoes. That these crops require a large amount of water late in the season, so that at the present time said lands require a great deal more water than under the conditions as they existed at the time said decree was so rendered.

That since the rendition of said decree and at the present time the Weiser Irrigation District is supplying irrigation water for some 3,000 more acres of land than were being irrigated by the works of said irrigation district at the time said decree was rendered.

VIII.

That in the decree adjudicating the waters of the Weiser River no provision is made to take care of ditch losses incidental to transportation of water between the point where the water is taken from the Weiser River and the point where the same is applied upon the lands. That the canal system supplying the lands within the Weiser Irrigation District with irrigation water is some fifty miles in length; for many miles the ditch is all of side hill construction and the ditch losses will average in excess of 25% of the amount of water turned into the canal at the point where same is taken out of the Weiser River, with the result that the amount of water adjudicated to the lands in the Weiser Irrigation District under the decree does not supply to the lands for actual use thereon the quantity of water to which said lands are entitled under the duty water as fixed by the decree.

IX.

That on or about the 18th day of December, 1936, Weiser Irrigation District made application No. 25683 before the Commissioner of Reclamation of the State of Idaho, for 120 second feet of water of Weiser River for the irrigation of the said lands within and without the Weiser Irrigation District which were then being irrigated by and out

of the works of the Weiser Irrigation District; that on said application there issued from the office of the Commissioner of Reclamation of the State of Idaho permit No. 18429 authorizing the diversion of 120 second feet of water from Weiser River with the date of priority of December 18, 1936; that thereafter such acts and things were done and proceedings had so that on the 23rd day of January, 1939, water license and certificate of water right No. 18429 with a priority of December 18, 1936, for 120 second feet of the waters of Weiser River was issued to the Weiser Irrigation District and for the irrigation of the lands in said license and certificate described,

X.

That it requires said additional 120 second feet of the waters of Weiser River, in addition to the water adjudicated and awarded to the lands within Weiser Irrigation District by the decree adjudicating the waters of Weiser River in order to supply said lands with ample and sufficient water each irrigation season for the irrigation of same and in order to supply said lands with the quantity of water awarded to the district and fixed by the decree fixing and establishing the duty of water.

XI.

That said complaint was brought under and by virtue of the authority of, and provisions contained in, Section 41-1305, I. C. A., and for the purpose of having adjudicated to the Weiser Irrigation District to supply with irrigation water the lands described in said license and water certificate No. 18429, being the water not covered by and included in the waters adjudicated in the decree adjudicating the waters of Weiser River.

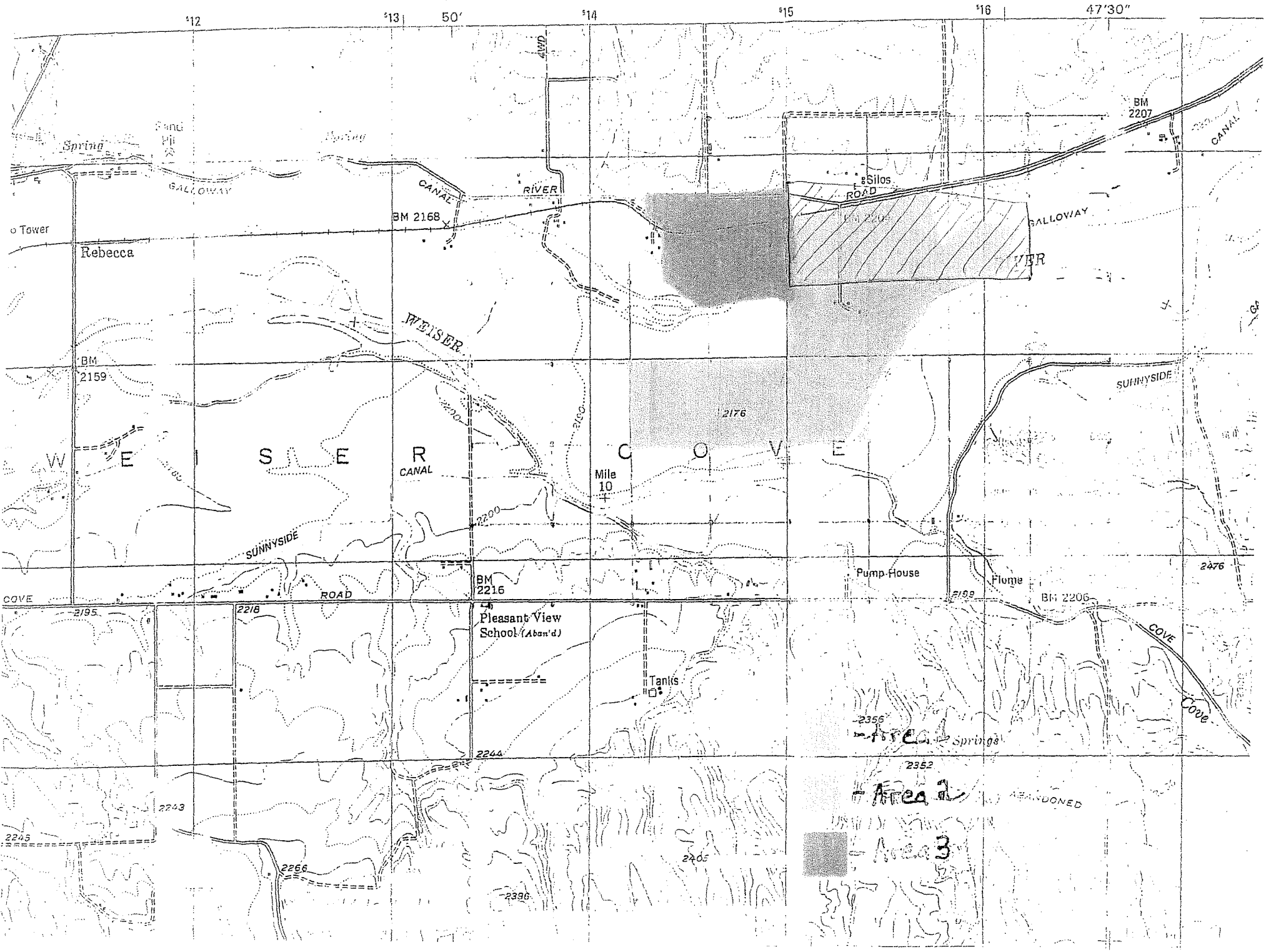
It is further ordered, adjudged and decreed that hereby there is adjudicated and awarded to the plaintiff for the irrigation of the lands in plaintiff irrigation district a supplemental water right from the waters of Weiser River with a priority of date of December 18, 1936,

for 120 second feet of the waters of Weiser River under and by virtue of the water license and certificate of water right No. 18429 which issued from the office of the Commissioner of Reclamation of the State of Idaho on the 23rd day of January, 1939.

Done in open court this the 16 day of May, 1939.

R. O. Smith
District Judge.

U.S. GEOLOGICAL SURVEY Place of use for claim no. 37-14357



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Department of Water Resources

SPLIT CLAIM

07/25/2002

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Claim Report 67-2169D

WATER RIGHT NUMBER: 67-2169D

Owner Type	Name and Address
Original Owner	WEISER IRRIGATION DIST WEISER, ID
Original Owner	HENRY GREEN 2117 WEISER RIVER RD WEISER, ID 83672-5325 (208)549-2733
Original Owner	ANN C GREEN 2117 WEISER RIVER RD WEISER, ID 83672-5325 (208)549-2733

Priority Date: 12/18/1936

Basis: Decreed

Status: Parent

Source	Tributary
WEISER RIVER	SNAKE RIVER

Beneficial Use	From	To	Diversion Rate	Annual Volume
IRRIGATION	03/15	11/15	2.220 CFS	
		Total Diversion:	2.220 CFS	

Location of Point(s) of Diversion

WEISER RIVER SE1/4NE1/4NE1/4 Sec. 35, Twp 11N, Rge 04W, 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	
11N 04W 34											32.0	39.0	5.0		35.0		111.0

Total Acres: 111

Conditions of Approval:

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Claim Report 67-2169D

Remarks:

1.	General	This claim has been split as follows: 67-14355 Green; 67-14356 Syme; and 67-14357 Pollard. DH 7/25/2002

Comments:

Dates and Other Information:

Claim Received Date: 10/9/1996
Enlargement Use Priority Date:
Enlargement Statute Priority Date:
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

Element Reviewed/Verified Dates:

Element	Last Reviewed Date	Reviewer	Last Verified Date	Verifier	Status

Verification Log:

Element	Date Time Stamp	Reviewer	Log text

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: **A67-02169D**
Date Received: 10/ 9/1996
Receipt No: W021601
Received By:

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: HENRY GREEN 208-549-2733
   Address: 2117 WEISER RIVER RD
   WEISER ID 83672-5325

   Name: ANN C GREEN 208-549-2733
   Address: 2117 WEISER RIVER RD
   WEISER ID 83672-5325

2. Date of Priority: DEC 18, 1936

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

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4	Lot	County
11N	04W	35	SE NE NE		WASHINGTON

5. Description of diverting works:
   GALLOWAY DAM, CANAL & DITCHES.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
IRRIGATION	03/15	11/15	2.220		

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

8. Total consumptive use is Acre Feet Per Annum.

9. Non-irrigation uses:

10. Place of Use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
11N	04W	34	SW SW		IRR	32.0

MICROFILMED
OCT 25 1996

10. Place of Use: Continued

Township	Range	Section	1/4 of 1/4		Lot	Use	Acres
11N	04W	34	SE	SW		IRR	39.0
			NE	SE		IRR	5.0
			SW	SE		IRR	35.0
						Section Acres	111.0
						Total Acres	111.0

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: 420 H-4
CRANE CREEK RESERVOIR - ~~410~~ SHARES.

14. Remarks:

15. Basis of Claim: DECREED

Water Right Number: 18429

Case Number:

Court :

Decree date: / /

_____ vs _____

Decree Plaintiff Decree 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: _____

MICROFILMED
OCT 25 1996

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): Henry Green Date: 10-7-96

Lorna C Green Date: 10-7-96

State of Idaho)
) SS.
County of Washington)

Subscribed and sworn (or affirmed) before me this 7 day of Oct 1996

Leslie D. Eisenbath
Notary Public

Seal

Residing at Weiser

My Commission Expires 12-04-01

MICROFILMED
OCT 25 1996

RECEIVED
OCT 0 9 1996
WATER RESOURCES
WESTERN REGION

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: **A67-02169D**
Date Received: 9/26/1989
Receipt No: W036691
Received By:

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: HENRY GREEN 208-549-2733
   Address: 2117 WEISER RIVER RD
   WEISER ID 83672-5325

   Name: ANN C GREEN 208-549-2733
   Address: 2117 WEISER RIVER RD
   WEISER ID 83672-5325

2. Date of Priority: DEC 18, 1936

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

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4	Lot	County
11N	04W	35	SE NE NE		WASHINGTON

5. Description of diverting works:
   GALLOWAY DAM, CANAL & DITCHES.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
IRRIGATION	03/15	11/15	2.220		

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

8. Total consumptive use is Acre Feet Per Annum.

9. Non-irrigation uses:

10. Place of Use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
11N	04W	34	SW SW		IRR	32.0

MICROFILMED

10. Place of Use: Continued

Township	Range	Section	1/4 of 1/4		Lot	Use	Acres
11N	04W	34	SE	SW		IRR	39.0
			NE	SE		IRR	5.0
			SW	SE		IRR	35.0
					Section Acres		111.0
					Total Acres		111.0

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:
CRANE CREEK RESERVOIR - 420 SHARES.

14. Remarks:

15. Basis of Claim: DECREED

Water Right Number: 18429

Case Number:

Court :

Decree date: / /

_____ vs _____

Decree Plaintiff Decree 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: _____

MICROFILMED
OCT 25 1996

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: _____

State of Idaho)
) SS.
County of _____)

Subscribed and sworn (or affirmed) before me this _____ day

of _____ 19 _____

_____
Notary Public

Seal

Residing at _____

My Commission Expires _____

MICROFILMED
OCT 25 1996

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: **A67-02169D**
Date Received: 10/ 9/1996
Receipt No: W021601
Received By:

COPY
FOR YOUR FILES

NOTICE OF CLAIM TO A WATER RIGHT ACQUIRED UNDER STATE LAW

1. Name: HENRY GREEN 208-549-2733
   Address: 2117 WEISER RIVER RD
   WEISER ID 83672-5325

   Name: ANN C GREEN 208-549-2733
   Address: 2117 WEISER RIVER RD
   WEISER ID 83672-5325

2. Date of Priority: DEC 18, 1936

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

4. Point of Diversion:

Township	Range	Section	1/4	of 1/4	of 1/4	Lot	County
11N	04W	35	SE	NE	NE		WASHINGTON

5. Description of diverting works:
   GALLOWAY DAM, CANAL & DITCHES.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
IRRIGATION	03/15	11/15	2.220		

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

8. Total consumptive use is Acre Feet Per Annum.

9. Non-irrigation uses:

10. Place of Use:

Township	Range	Section	1/4	of 1/4	Lot	Use	Acres
11N	04W	34	SW	SW		IRR	32.0

10. Place of Use: Continued

Township	Range	Section	1/4 of 1/4		Lot	Use	Acres
11N	04W	34	SE	SW		IRR	39.0
			NE	SE		IRR	5.0
			SW	SE		IRR	35.0
						Section Acres	111.0
						Total Acres	111.0

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:
CRANE CREEK RESERVOIR - 420 SHARES.

14. Remarks:

15. Basis of Claim: DECREED

Water Right Number: 18429

Case Number:

Court :

Decree date: / /

COPY

Decree Plaintiff vs Decree Defendant

16. Signature(s)

FOR YOUR FILES

(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: _____

State of Idaho)
) SS.
County of _____)

Subscribed and sworn (or affirmed) before me this _____ day

of _____ 19 _____

_____
Notary Public

Seal

Residing at _____

My Commission Expires _____

COPY FOR YOUR FILES

RECEIPT
For Monies Paid
to the
Idaho Department of Water Resources

Receipt No: W021601

Date: 10/ 9/1996
Time: 10:34:00

Received From: GREEN, HENRY OR ANN

Type of Payment		Program Acct		Amount
ADJUDICATION CLAIM FEE	41503	337	1155	50.00

CHECK 5353 — Total $ 50.00

Water Right Numbers

A67-02169D - - - -

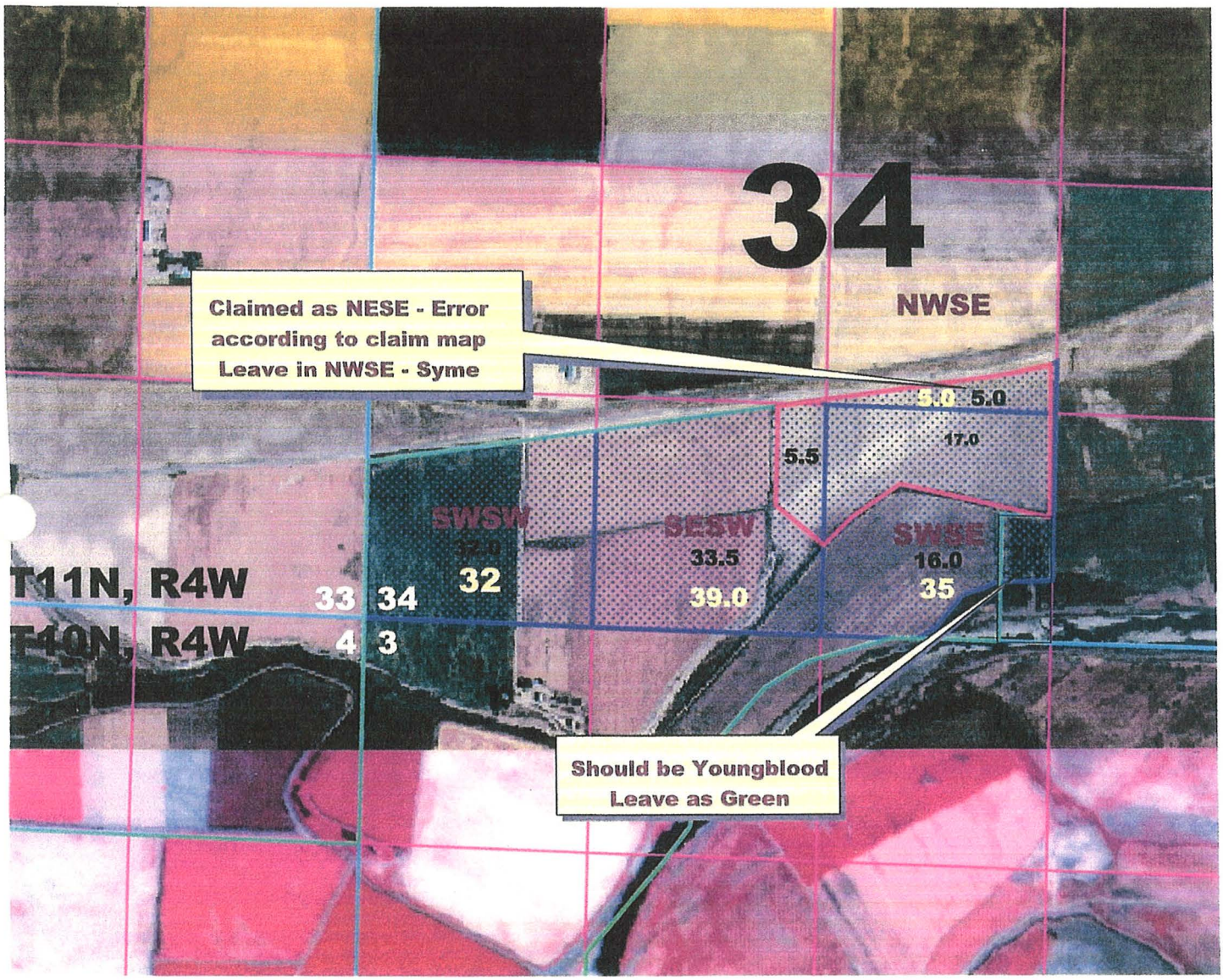
Region: WESTERN

Signature: Jan O Thute

State of Idaho

Now 67-14357 Being Disallowed

Split for 67-02169D



1320 0 1320 Feet

N
W E
S

Originally Claimed POU

Phillips Prop Bndy - N/A

Pollard Prop Bndy

Syme Prop Bndy

Quarter Quarter Lines

<Text> After Split - Claimed Acreage Per Parcel

<Text> Claimed Acreage Per QQ

Prepared By: Craig L. Saxton

STATE OF IDAHO

License and Certificate of Water Right

Water License No. 17813.....

To IDA M. Shoesmith & Polly A. Smith

.....Weiser, Idaho.....

Source of Supply Weiser River.....

.....

.....Washington..... County

Amount....5.98..... Sec. Feet

Point of Diversion...NE¼ SE¼ Sec. 35,.

..T. 11 N., R. 4 W., B. M.....

Place of Use...(See License).....

.....

Purpose ....Irrigation and domestic

.....Use.....

Date of Priority...August 15, 1933....

Recorded ...June 25, 1935.....

in Book..7... of Licenses.. Page 3796.

PERMIT NO. 17813

Certificate of Completion of Works

Dated May 7, 19 35

Stream Weiser River

County Washington

Amount 9.14 Sec. Ft.

Date of Priority August 15, 1933

Recorded in Book 64

of Permits, page 17813

SYMS-YORK CO., PRINTERS & BINDERS, BOISE 86303

FORM 22

Permit No. 17813

Certificate of Completion of Works

TO ALL WHOM IT MAY CONCERN:

This is to certify that IDA M. SHOESMITH AND POLLY A. SMITH of Weiser, County of Washington, and State of Idaho, the holders of Permit No. 17813, issued upon Application No. 24953 bearing date of priority of August 15, 1933, authorizing the diversion of 9.14 second feet of the waters of Weiser River

County of Washington, State of Idaho, for irrigation & domestic purposes, have fully complied with the provisions of the laws of the State of Idaho relating to the proof of completion of the works of diversion set out and described in said Permit; that said works are adequate for diverting and conveying to the place of intended use 9.14 second feet of the waters of Weiser River

that the point of diversion of said waters is in NE¼ SE¼, Sec. 35, T. 11 N., R. 4 W., B. M.

and that the lands proposed to be irrigated by the use of said water are described as follows, to-wit:

457 acres; Lot 3-27 acres, Lot 4-38, SW¼ NW¼, Sec. 3, SW¼ NE¼, SE¼ NE¼, Sec. 4, Lot 1-40 acres, Lot 2-40 acres, Lot 3-40 acres, Lot 4-40 acres & SW¼ NW¼-38 acres, Sec. 4, all in T. 10 N., R. 4 W., SW¼ SW¼-22 acres, SE¼ SW¼-38 acres, SW¼ SE¼-20 acres, all in Sec. 33, T. 11 N., R. 4 W., B. M.

Witness my hand this 7th day of May, A. D. 19 35.

Commissioner of Reclamation.

By

Assistant.

State of Idaho

License and Certificate of Water Right

Water License No. 17813 Priority August 15, 1933 Amount 5.98 Sec. Ft.

THIS IS TO CERTIFY that IDA M. SHOESMITH & POLLY A. SMITH of Weiser, Idaho, made application for a permit to appropriate the public waters of the State of Idaho, dated August 15, 1933; that Permit No. 17813 was issued under said application; that Certificate of Completion of works, with a carrying capacity of 9.14 second feet, was issued thereunder on May 7, 1935, showing that said works were completed on the 6th day of January, 1934; and that on the 6th day of January, 1934,

IDA M. SHOESMITH & POLLY A. SMITH

of Weiser, State of Idaho, made proof to the satisfaction of the Commissioner of Reclamation of Idaho, of a right to the use of the waters of Weiser River, a tributary of Snake River for the purpose of irrigation and domestic use, under Use Permit No. 17813 of the Commissioner of Reclamation, and that said right to the use of said waters has been perfected in accordance with the laws of Idaho, and is hereby confirmed by the Commissioner of Reclamation of Idaho and entered of record in Volume 7 of Licenses, at page 3796, on the 25th day of June, 1935;

The right hereby confirmed dates from August 15, 1933;

The Point of Diversion is located in the NE ¼ SE ¼, Sec. 35, Tp. 11 N., R. 4 W., B. M. Washington County.

That the amount of water to which such right is entitled and hereby confirmed, for the purposes aforesaid, is limited to an amount actually needed and beneficially used for said purposes, and shall not exceed 5.98 cubic feet per second.

Description and location of use:

Twp.	Range	Section	Forty-Acre Tract	No. Acres Described in Permit	No. Acres Actually Irrigated
			Ida M. Shoesmith's Lands		
10 N.	4 W.	3	Lot 3	27	10
			Lot 4	38	20
			SW¼ NW¼	40	35
		4	SW¼ NE¼	40	40
			SE¼ NE¼	40	40
					145
			Polly A. Smith's Lands	185	
		4	Lot 3	40	40
			Lot 4	40	40
			SW¼ NW¼	32	32
11 N.	4 W.	33	SW¼ SW¼	22	22
			SE¼ SW¼	38	20
				19	154

The right to the use of the water aforesaid hereby confirmed is restricted to the lands or place of use herein described, as provided by the laws of Idaho.

WITNESS the seal and signature of the Commissioner of Reclamation, affixed at Boise, Idaho, this 25th day of June, 1935.

Commissioner of Reclamation.

3

RECOMMENDED TO WID 67-14357

Close

IDAHO DEPARTMENT OF WATER RESOURCES
Adjudication Recommended Right Report

6/13/2006

WATER RIGHT NO. 67-14357
Status: Disallowed

Owner Type	Name and Address
Current Owner	EDWARD L POLLARD SR
Current Owner	ANN C GREEN
Current Owner	HENRY P GREEN
Current Owner	WEISER IRRIGATION DIST
	WEISER, ID 83672
	(208)549-2944

Conditions of Approval:

1.		This claim is the result of a split due to change in ownership for a portion of 67-2169D. DH 7/25/2002
2.		Split claim amended per claimant inquiry & review of claim. DH 6/27/2003
3.		Address changed by DH 4/23/2003
4.	P16	Recommended as Right No. 2169G: This is included for a claim that is proposed to be disallowed because the right claimed is recommended pursuant to another right. The remark indicates the water right number of the other right that is proposed to be recommended. If you are not mailed a notice of the recommendation of the other right, then the other right is recommended in another claimants name.
5.	P06	Recommended as Right No. 2169G.

Form No. 42-1409 (2) a 1/88 (Internet)

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 67-2169 G
Date Received 10-8-02
Receipt Number

RECEIVED
OCT 0 8 2002
WATER RESOURCES
WESTERN REGION

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

Please type or print clearly

1. Name of Claimant (s) WEISER IRRIGATION DISTRICT Phone (208) 414-1792

Mailing Address C/O JAY EDWARDS PO BOX [illegible] WEISER ID Zip 83672

2. Date of Priority (Only one (1) per claim) 12/18/1936

Source of water supply (a) WEISER RIVER

which is tributary to (b) SNAKE RIVER

4. a. Location of existing point of diversion is: Township 11N Range 6W Section 35 ,

____ 1/4 of NW 1/4 of NW 1/4 , Govt. Lot, 1 B.M., County of WASHINGTON

Additional points of diversion if any: SWNENE S35 11N 4W

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

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

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. INTEGRATED SURFACE WATER DELIVERY SYSTEM WITHIN THE BOUNDARIES OF WEISER IRRIGATION DISTRICT.

6. Water is claimed for the following purposes:

		(both dates are inclusive)		(cfs)		(acre feet)
IRRIGATION	purposes from	3/1	to 11/15	amount 120.0	or	
For	purposes from		to	amount	or	
For	purposes from		to	amount	or	
For	purposes from		to	amount	or	

7. Total quantity claimed (a) 120.0 (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	
					PLACE OF USE IS LOCATED WITHIN THE BOUNDARIES														
					OF WEISER IRRIGATION DISTRICT.														

Total number of acres Irrigated _____

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

12. Do you own the property listed above as place of use? N/A 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.
    67-8 THROUGH 67-22, 67-2169, 67-10279 or None ( )

14. Remarks:
    SEE ATTACHMENT A.

Last Name _____ Ident No. _____

15. Basis of Claim (check one) Beneficial Use _____ Posted Notice _____ License X 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) _____ Date _____

_____ Date _____

For **Organizations:** I do solemnly swear or affirm that I am Secretary (Title) of Weiser Irrigation District (Organization), that I have signed the foregoing document in the space below as Secretary (Title) of Weiser Irrigation District (Organization) and that the statements contained in the foregoing document are true and correct.

Signature of Authorized Agent _____

Title and Organization Sec. Weiser Irrigation District Date 10-3-02

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

Subscribed and sworn (or affirmed) before me this 3rd day of October 19 2002

SEAL NOTARY PUBLIC STATE OF IDAHO

Notary Public _____

Residing at Weiser, ID

My Commission Expires 11/4/2003

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 _____

_____

Last Name _____ Ident. Number _____

Weiser Irrigation District
P.O. Box 591
Weiser, Idaho 83672
208-414-1792
fax 208-414-1794

RECEIVED
OCT 0 2 2002
WATER RESOURCES
WESTERN REGION

October 1, 2002

Lori Graves
Sr. Water Resource Agent
Western Regional Office
2735 Airport Way
Boise, Idaho 83705-5082

Re: Weiser Irrigation District

Dear Lori:

It was a pleasure to meet you on Monday. For the near future , we will be working together on this project. I will be sending you information as I gather it. I have checked out the Muir vs Allison decree and I find that all is Ok through 1904 up through 67-22. In 1936 a new dam was built upstream and a new permit was requested for an additional 120 cfs. . I am enclosing a copy of the application for permit No. 25683. When the State received it, they issued license No. 18429. In May 1939, a Decree from the 7th Judicial District of the State of Idaho awarded the 120 cfs to the Weiser Irrigation District. I am enclosing a copy of that Decree recorded in Book I of Judgments at page 431.

As the canal was moved upstream, various individual ditches and water rights were incorporated and now delivered to the land. I will research them out and send you copies of what I have. After 1940, the Weiser Irrigation District entered into several contracts to deliver a portion of the 120 cfs to lands along the Canal outside the District boundary. I will create a map and descriptions of those contracts. Many of the current land owners have filed claims on their portion of the 120 cfs.

It will be a pleasure to work with you to unravel this water situation.

Sincerely yours,

Jay Edwards
Sec.
Enc.

RECEIVED
OCT 0 2 2002
WATER RESOURCES
WESTERN REGION

COPY

(Form No. 1)

Address all communications to

P. O. .....

APPLICATION FOR PERMIT

TO APPROPRIATE THE PUBLIC WATERS OF THE STATE OF IDAHO

Application No. 25683

Permit No. .....

District No. .....

1. Name of applicant: Weiser Irrigation District

Postoffice address Weiser County Washington State Idaho

I. If applicant is a corporation, give:

(a) Date and place of incorporation: Weiser, Idaho. January 13, 1902.

(b) Amount of capital stock: $ ..... (c) Amount paid in: $ .....

(d) Names and addresses of directors: John J. McCrea, Fred Ruffner and George Cartwright, all of Weiser, Idaho

II. The financial resources of the applicant are: (a) Cash on hand: $ .....

(b) Treasury stock: None (c) Bonds to be issued: Attached hereto is financial

(d) Other resources: statement showing assets and liabilities of Weiser Irrigation District, the applicant

2. Quantity of water claimed: 120 cubic feet per second.

3. Source of water supply: Weiser River

which is a tributary of Snake River

4. Location of point of diversion: S. 49° 30' W. 1360 feet distant from the NE corner of Section 35, T. 11 N., R. 4 W., B. M., and is in the NE¼ NE¼ of Section 35, T. 11 N., R. 4 W., B. M., County of Washington

5. Water is to be used for: irrigation and domestic purposes

6. If for mining, milling, power or manufacturing purposes, give:

(a) Point of use of water: ..... feet distant from ..... corner of Section ..... T. ....., R. ....., B. M., in the ..... of Section ....., T. ....., R. ....., B. M.

(b) Amount of power generated: ..... H. P., under ..... feet head.

(c) Water is to be returned to ..... at a point ..... feet distant from the ..... corner of Section ....., T. ....., R. ....., B. M., in the ..... of Section ....., T. ....., R. ....., B. M.

7. Estimated cost of works: $ 150,000.00 work now completed.

8. Kinds of works: Concrete dam and headgates, earth ditch
(Reservoir, dam, ditch, flume, pipe, etc.)

9. Height of dam 5 feet; length of dam at top 212 feet; length of dam at bottom 212 feet
(If height of dam will exceed 10 feet, send to Department of Reclamation for Regulations)

feet; material used in dam Concrete

10. Size of headgate: Width 26 feet; Height 12 feet.

11. Ditch: Width at bottom 14 feet; Width at water line 20 feet; Depth of water 3½ feet;

Dimensions of flume ..... Diameter of pipe no inches;

12. The time required for the completion of such work is 1 years.

13. The time required for the complete application of the water to the proposed use is 1 additional years.

14. The land to be irrigated is described in the following tabulation:

(Give irrigable acreage in each 40-acre subdivision.)

Twp.	Range	Sec.	NE¼				NW¼				SW¼				SE¼				Totals
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
0 N.	4 W.	2						10											10
		3					10	20	30										60
		4	30	35	40	40	40	40	20	40	10				5	5			305
		5	35	30			35	40	5										145
		6	40	40			40	40	30	10									200
0 N.	5 W.	1	35			40	20												95
		2	10																10
1 N.	4 W.	31									5		35	40	15	20	40	40	195
		32									5	5	40	40			40	40	170
		33											20						20
		34												20			40	40	100
		35											40	25					65
1 N.	5 W.	28																10	10
		29									25	25	40	40	40	30	40	20	260
		30									40	40	40	40	20	30	40	40	290
		31	40	40	35	40	40	39	15	20.5					15	5			289.5
		32	33.2	40	40	10	40	40	40	40	25	30		25		10			373.2
		33	20	20			20	20											80
		34			20		20	40		10					20	30		10	150
		35											40	40			10		90
1 N.	6 W.	14							10		10	30	40	40					130
		15			40	20			40	40	40	40	40	40	40	40	40	40	460
		16	10	10	40	40			28	37	40	40	40	40	40	40	40	40	485
		17			6	12	12			30	30	3	37	25	40	40	40	40	315
		18															10	10	20
		19	29.5	10.5			3.3												43.3
		20	40	40	35.2	40	40	40	35.5	36.7	40	26.2	17.5	40	34.6	35.2	40	40	580.9
		21	40	40	40	40	40	40	40	40	39.8	34.7	40	40	40	40	39	39	632.5
		22	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	640
		23	10	40	40	20	40	40	40	40	40	40	40	40	40	40	40	40	590
		24									20	20	40	40		10	20		150
		25		30	40	20	40	40	40	40	40	40	38.4	39.1	40	40	40	40	567.5
		26	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	640
		27	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	640
		28	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	640
		29	40	40	40	40	40	13.2	7.3	40	24.2				40	40	21.8	40	426.5
		33	40	40	40	40	40	20	12	40.7	11.3				40				324
		34	40	40	34.7	9.8	40	40	40	40	33.5	20	20	30.5		6			394.5
		35	23.5	10			20	30											83.5
		36	39.1	40.4	10	10	40	40	12.5	18.5									210.5

WEISER IRRIGATION DISTRICT
CONSOLIDATED BALANCE SHEET
DECEMBER 31, 1936

EXHIBIT A.

ASSETS:			
CASH:			
In Office		$ 23.97	$
First Nat'l Bank-General Fund		5 504.80	
First Nat'l Bank-Time Checking		35.85	
First Nat'l Bank-Bond & Interest		60.00	
First Nat'l Bank-West Ridge "		14.47	
Total Cash			5 639.09
REVENUES RECEIVABLE:			
1935 assesament roll-unpaid Schedule A-2		9 924.14	
Tax Sale Certificates ditto		12 284.09	
Total Revenues Rec.			22 208.23
ACCOUNTS RECEIVABLE:			
Weiser Bench Irrigation Co.			
For Maintenance	2 589.04		
For Construction	2 979.10	5 568.14	
Miscellaneous accts.		886.09	
Total Acct's Receivable			6 454.23
PLANT PROPERTY & EQUIPMENT:			
Right of Way		30 000.00	
Structures		125 551.49	
Water Rights		300 000.00	
Machinery, Tools & Equip.		1 138.50	
Office Furn. & Fixtures		150.00	
Extension & Diversion Works		15 293.96	
West Ridge Line & Right of way		23 500.00	
Total Plant etc.			495 633.95
TOTAL ASSETS			$529 935.50
LIABILITIES:			
STAMP CERTIFICATES OUTSTANDING		7.00	
WEST RIDGE PIPE LINE		16.50	
WARRANTS OUTSTANDING-Schedule E-1		7 182.08	
COUPONS OUTSTANDING		141.00	
BONDS OUTSTANDING:			
Weiser Irrigation	110 000.00		
West Ridge	19 200.00		
Total Bonds Payable		129 200.00	
TOTAL LIABILITIES			136 546.58
NET SURPLUS, Detailed schedule A-6			$393 388.92

Approval of Commissioner of Reclamation

The number of this permit is.....

Recorded in Book.....Page.....Approved.....

This is to certify that I have examined the within application for a permit to appropriate the public waters of the State of Idaho, and hereby approve the same, subject to the following limitations and conditions:

Bond in the sum of $.....to be filed on or before.....

Work to begin on or before....., and to continue diligently and uninterruptedly to completion, unless temporarily interrupted by circumstances over which the permit holder has no control.

One-fifth of the work above specified to be completed on or before .....

The whole of said work to be completed on or before.....

Beneficial use of water appropriated in accordance herewith, to be made on or before.....

Witness my hand this.....day of ....., 193.....

.....
Commissioner of Reclamation.

No.....

PERMIT

Date of first receipt at office of Commissioner of Reclamation

11:00 A. M., December 18, 1936

Returned to applicant for correction

January 12, 1937

Corrected application received

February 10, 1937

Fees, $...34.75 Pd.

FILING FEES FOR USE PERMIT:

For the first Sec. Ft.....$5.00

For each additional Sec. Ft. or fraction thereof 25

378

IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF WASHINGTON.

Filed and entered May 16-1939
Ray Wilson
Clerk District Court
Recorded in Judgment Book 11
Page 431
By _____ Deputy

WEISER IRRIGATION DISTRICT, a public corporation,

Plaintiff,

vs.

T. C. WOOD, Water Master of Water District No. 41 of the State of Idaho,

Defendant.

D E C R E E

This cause came on regularly for hearing before the court in open court at the hour of ten o'clock in the forenoon of this date. Plaintiff appeared in person of Ed. R. Coulter, its attorney of record. Defendant appeared neither in person nor by attorney, and the following proceedings were had:

It appearing from the records and files in this action that due process in this action was had upon defendant T. C. Wood, as Water Master of Water District No. 41 of the State of Idaho, within Washington County, Idaho, on the 20th day of March, 1939, and that time for answer has long since expired and that the defendant has not answered or otherwise appeared, on motion of Ed. R. Coulter, attorney for the plaintiff, the default of the defendant T. C. Wood, Water Master of Water District No. 41 of the State of Idaho, is hereby entered.

And it further appearing from the records and files that the plaintiff did cause to be published in the Weiser American, a weekly newspaper of general circulation published in Washington County, Idaho, in three weekly issues of said paper, beginning with the issue of March 23,

1939, and ending with the issue of April 13, 1939, of a notice containing the title of said court and cause, the name of the stream of water in which plaintiff claims an interest, date of priority of claim and short title consisting of the name of the first plaintiff and the first defendant of the decree heretofore entered in the District Court of the Seventh Judicial District of the State of Idaho, in and for the County of Washington, adjudicating the waters of Weiser River and fixing the permanent rights in said stream; that said notice was in the form provided for and contained all of the statements required under the provisions of Section 41-1305 I C A.

And it further appearing that there has been no appearance in said action of anyone protesting the matters and things set forth in the complaint of plaintiff, on motion of Ed. R. Coulter, attorney for the plaintiff, the default of all water users of Water District No. 41 of the State of Idaho, and of all people claiming rights adverse to the rights of plaintiff as set forth in said notice and application, are hereby entered.

Thereupon the hearing was had of said petition. Witnesses were sworn and examined on behalf of the plaintiff and the taking of evidence was closed and the cause was submitted to the court for decision.

After due deliberation thereon by the court the court doth find, adjudge and decree as follows:

I.

That during all the timed mentioned in said complaint plaintiff was and still is a public corporation organized under the irrigation district laws of the State of Idaho, and situated, lying and being wholly within Washington County, Idaho.

II.

That T. C. Wood was the duly elected, qualified and acting water

master of Water District No. 41 of the State of Idaho, which water district embraces all the irrigable lands in Washington and Adams Counties, Idaho.

III.

That heretofore an action was instituted in the District Court of the Seventh Judicial District of the State of Idaho, in and for the County of Washington, by R. T. Muir et al, plaintiff, v. William Allison, et al, defendant, for the adjudication of the waters of Weiser River and its tributaries; therein such proceedings were had that the cause was tried and finally on the 11 day of May, 1918, a final decree was duly entered in said cause wherein the waters of Weiser River were adjudicated; that appeal was taken from said decree to the Supreme Court and opinion was handed down by the Supreme Court reversing said decree of the lower court in part and sustaining it in other parts, and thereafter a supplemental decree was rendered in the District Court in conformity with the remitter of the Supreme Court and said decree, as corrected, is now in full force and effect and has never been annulled, vacated or set aside, and said plaintiff accepted said decree and the findings of fact and conclusions of law upon which it is based as being binding upon it and its rights.

IV.

That by said decree aforesaid, the duty of water was fixed at five-eighths (5/8) inch to the acre with a high duty of water during periods of scarcity of three-eighths (3/8) inch to the acre.

V.

That under said decree adjudicating the waters of Weiser River there was adjudicated to the plaintiff Weiser Irrigation District and the lands thereunder, the following amounts of water, to-wit:

Dated and amounts of priorities awarded to the Weiser Irrigation District in the decree adjudicating the waters of Weiser River:

	Date of Priority	Amount-5/8ths	Amount 3/8ths
No. 1	5-1-68	100 inches	60 inches
No. 27	5-29-83	1500 "	900 "
No. 43	5-1-87	250 "	150 "
No. 47	5-1-88	250 "	150 "
No. 52	5-1-89	300 "	180 "
No. 57	5-1-90	200 "	120 "
No. 63	5-1-91	200 "	120 "
No. 66	5-1-92	150 "	90 "
No. 69	5-1-93	200 "	120 "
No. 71	5-1-94	150 "	90 "
No. 75	5-1-95	150 "	90 "
No. 79	5-1-96	150 "	90 "
No. 81	5-1-97	150 "	90 "
No. 82	5-1-98	250 "	150 "
No. 103	5-1-04	2000 "	1200 "
		6000	3600

VI.

That all of the lands embraced in the Weiser Irrigation District are within Water District No. 41, of which the defendant T. C. Wood is the water master, and all of said lands receive the direct natural flow irrigation from the waters of Weiser River and its tributaries.

VII.

That since the rendition of said decree so adjudicating the waters of Weiser River, as aforesaid, a great change has come over the farming practices in the Weiser Irrigation District; that when said decree so adjudicating the waters of Weiser River was rendered, hay and grain were the principal crops raised upon the lands of Weiser Irrigation District and the quantity of five-eighths (5/8) inch to the acre as low duty and three-eighths (3/8) inch high duty was sufficient for the raising of said crops.

That especially in late years the raising of hay and grain on the lands within Weiser Irrigation District has ceased to be the major or a substantially large portion of the crops raised on said lands; that at the present time the best paying and the largest crops raised on

said lands are sugar beets and late potatoes. That these crops require a large amount of water late in the season, so that at the present time said lands require a great deal more water than under the conditions as they existed at the time said decree was so rendered.

That since the rendition of said decree and at the present time the Weiser Irrigation District is supplying irrigation water for some 3,000 more acres of land than were being irrigated by the works of said irrigation district at the time said decree was rendered.

VIII.

That in the decree adjudicating the waters of the Weiser River no provision is made to take care of ditch losses incidental to transportation of water between the point where the water is taken from the Weiser River and the point where the same is applied upon the lands. That the canal system supplying the lands within the Weiser Irrigation District with irrigation water is some fifty miles in length; for many miles the ditch is all of side hill construction and the ditch losses will average in excess of 25% of the amount of water turned into the canal at the point where same is taken out of the Weiser River, with the result that the amount of water adjudicated to the lands in the Weiser Irrigation District under the decree does not supply to the lands for actual use thereon the quantity of water to which said lands are entitled under the duty water as fixed by the decree.

IX.

That on or about the 18th day of December, 1936, Weiser Irrigation District made application No. 25683 before the Commissioner of Reclamation of the State of Idaho, for 120 second feet of water of Weiser River for the irrigation of the said lands within and without the Weiser Irrigation District which were then being irrigated by and out

of the works of the Weiser Irrigation District; that on said application there issued from the office of the Commissioner of Reclamation of the State of Idaho permit No. 18429 authorizing the diversion of 120 second feet of water from Weiser River with the date of priority of December 18, 1936; that thereafter such acts and things were done and proceedings had so that on the 23rd day of January, 1939, water license and certificate of water right No. 18429 with a priority of December 18, 1936, for 120 second feet of the waters of Weiser River was issued to the Weiser Irrigation District and for the irrigation of the lands in said license and certificate described,

X.

That it requires said additional 120 second feet of the waters of Weiser River, in addition to the water adjudicated and awarded to the lands within Weiser Irrigation District by the decree adjudicating the waters of Weiser River in order to supply said lands with ample and sufficient water each irrigation season for the irrigation of same and in order to supply said lands with the quantity of water awarded to the district and fixed by the decree fixing and establishing the duty of water.

XI.

That said complaint was brought under and by virtue of the authority of, and provisions contained in, Section 41-1305, I. C. A., and for the purpose of having adjudicated to the Weiser Irrigation District to supply with irrigation water the lands described in said license and water certificate No. 18429, being the water not covered by and included in the waters adjudicated in the decree adjudicating the waters of Weiser River.

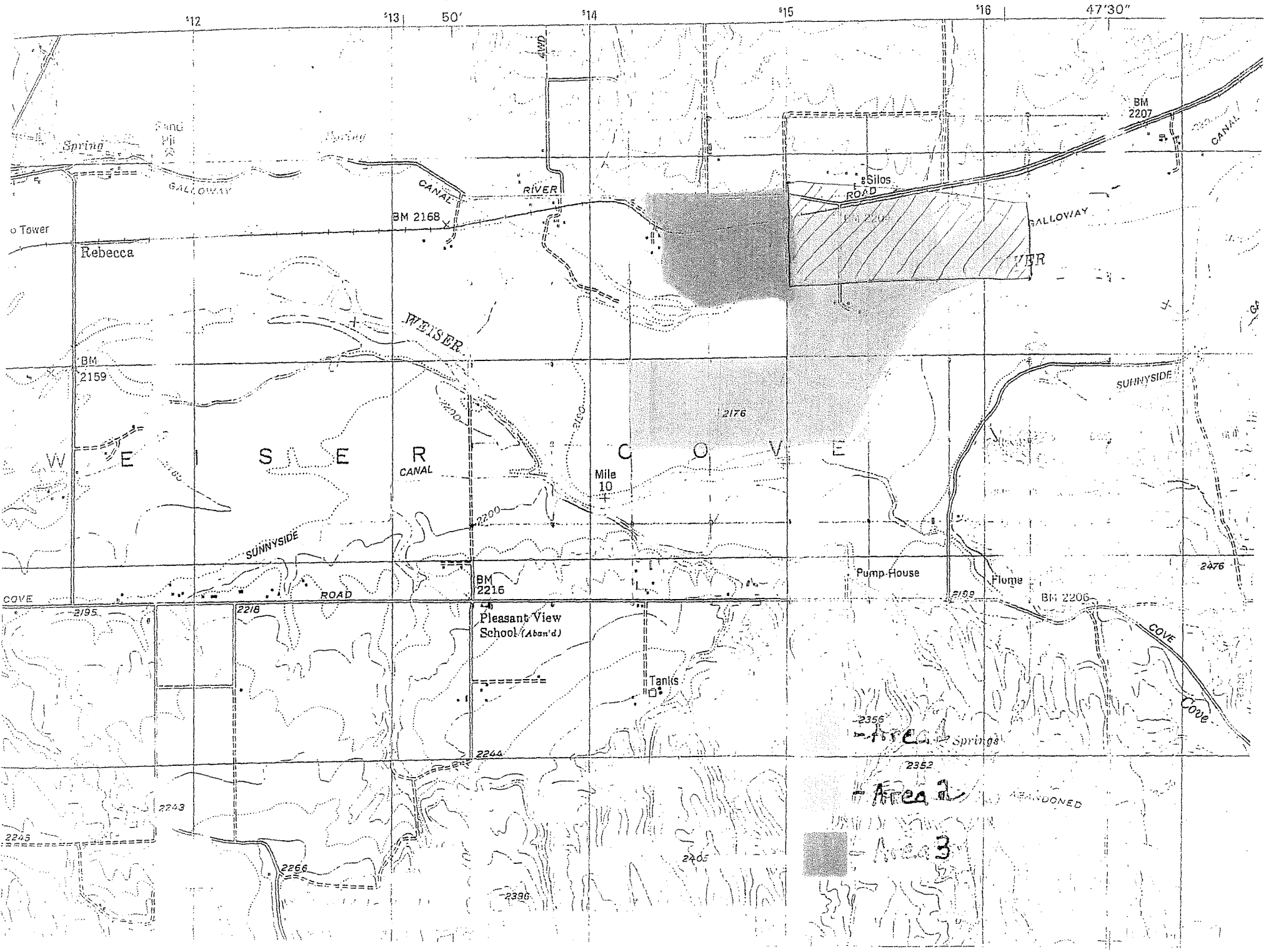
It is further ordered, adjudged and decreed that hereby there is adjudicated and awarded to the plaintiff for the irrigation of the lands in plaintiff irrigation district a supplemental water right from the waters of Weiser River with a priority of date of December 18, 1936,

for 120 second feet of the waters of Weiser River under and by virtue of the water license and certificate of water right No. 18429 which issued from the office of the Commissioner of Reclamation of the State of Idaho on the 23rd day of January, 1939.

Done in open court this the 16 day of May, 1939.

R. O. Smith
District Judge.

U.S. GEOLOGICAL SURVEY Place of use for claim no. 37-14357



RECEIVED
SEP 16 2005
Department of Water Resources

SPLIT CLAIM

07/25/2002

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Claim Report 67-2169D

WATER RIGHT NUMBER: 67-2169D

Owner Type	Name and Address
Original Owner	WEISER IRRIGATION DIST WEISER, ID
Original Owner	HENRY GREEN 2117 WEISER RIVER RD WEISER, ID 83672-5325 (208)549-2733
Original Owner	ANN C GREEN 2117 WEISER RIVER RD WEISER, ID 83672-5325 (208)549-2733

Priority Date: 12/18/1936

Basis: Decreed

Status: Parent

Source	Tributary
WEISER RIVER	SNAKE RIVER

Beneficial Use	From	To	Diversion Rate	Annual Volume
IRRIGATION	03/15	11/15	2.220 CFS	
		Total Diversion:	2.220 CFS	

Location of Point(s) of Diversion

WEISER RIVER SE1/4NE1/4NE1/4 Sec. 35, Twp 11N, Rge 04W, 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	
11N 04W 34											32.0	39.0	5.0		35.0		111.0

Total Acres: 111

Conditions of Approval:

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Claim Report 67-2169D

Remarks:

1.	General	This claim has been split as follows: 67-14355 Green; 67-14356 Syme; and 67-14357 Pollard. DH 7/25/2002

Comments:

Dates and Other Information:

Claim Received Date: 10/9/1996
Enlargement Use Priority Date:
Enlargement Statute Priority Date:
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

Element Reviewed/Verified Dates:

Element	Last Reviewed Date	Reviewer	Last Verified Date	Verifier	Status

Verification Log:

Element	Date Time Stamp	Reviewer	Log text

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: **A67-02169D**
Date Received: 10/ 9/1996
Receipt No: W021601
Received By:

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: HENRY GREEN 208-549-2733
   Address: 2117 WEISER RIVER RD
   WEISER ID 83672-5325

   Name: ANN C GREEN 208-549-2733
   Address: 2117 WEISER RIVER RD
   WEISER ID 83672-5325

2. Date of Priority: DEC 18, 1936

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

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4	Lot	County
11N	04W	35	SE NE NE		WASHINGTON

5. Description of diverting works:
   GALLOWAY DAM, CANAL & DITCHES.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
IRRIGATION	03/15	11/15	2.220		

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

8. Total consumptive use is Acre Feet Per Annum.

9. Non-irrigation uses:

10. Place of Use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
11N	04W	34	SW SW		IRR	32.0

MICROFILMED
OCT 25 1996

10. Place of Use: Continued

Township	Range	Section	1/4 of 1/4		Lot	Use	Acres
11N	04W	34	SE	SW		IRR	39.0
			NE	SE		IRR	5.0
			SW	SE		IRR	35.0
						Section Acres	111.0
						Total Acres	111.0

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: 420 H-4
CRANE CREEK RESERVOIR - ~~410~~ SHARES.

14. Remarks:

15. Basis of Claim: DECREED

Water Right Number: 18429

Case Number:

Court :

Decree date: / /

_____ vs _____

Decree Plaintiff Decree 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: _____

MICROFILMED
OCT 25 1996

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): Henry Green Date: 10-7-96

Lorna C Green Date: 10-7-96

State of Idaho)
) SS.
County of Washington)

Subscribed and sworn (or affirmed) before me this 7 day of Oct 1996

Leslie D. Eisenbath
Notary Public

Seal

Residing at Weiser

My Commission Expires 12-04-01

MICROFILMED
OCT 25 1996

RECEIVED
OCT 0 9 1996
WATER RESOURCES
WESTERN REGION

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: **A67-02169D**
Date Received: 9/26/1989
Receipt No: W036691
Received By:

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: HENRY GREEN 208-549-2733
   Address: 2117 WEISER RIVER RD
   WEISER ID 83672-5325

   Name: ANN C GREEN 208-549-2733
   Address: 2117 WEISER RIVER RD
   WEISER ID 83672-5325

2. Date of Priority: DEC 18, 1936

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

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4	Lot	County
11N	04W	35	SE NE NE		WASHINGTON

5. Description of diverting works:
   GALLOWAY DAM, CANAL & DITCHES.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
IRRIGATION	03/15	11/15	2.220		

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

8. Total consumptive use is Acre Feet Per Annum.

9. Non-irrigation uses:

10. Place of Use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
11N	04W	34	SW SW		IRR	32.0

MICROFILMED

10. Place of Use: Continued

Township	Range	Section	1/4 of 1/4		Lot	Use	Acres
11N	04W	34	SE	SW		IRR	39.0
			NE	SE		IRR	5.0
			SW	SE		IRR	35.0
					Section Acres		111.0
					Total Acres		111.0

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:
CRANE CREEK RESERVOIR - 420 SHARES.

14. Remarks:

15. Basis of Claim: DECREED

Water Right Number: 18429

Case Number:

Court :

Decree date: / /

_____ vs _____

Decree Plaintiff Decree 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: _____

MICROFILMED
OCT 25 1996

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: _____

State of Idaho)
) SS.
County of _____)

Subscribed and sworn (or affirmed) before me this _____ day

of _____ 19 _____

_____
Notary Public

Seal

Residing at _____

My Commission Expires _____

MICROFILMED
OCT 25 1996

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: **A67-02169D**
Date Received: 10/ 9/1996
Receipt No: W021601
Received By:

COPY
FOR YOUR FILES

NOTICE OF CLAIM TO A WATER RIGHT ACQUIRED UNDER STATE LAW

1. Name: HENRY GREEN 208-549-2733
   Address: 2117 WEISER RIVER RD
   WEISER ID 83672-5325

   Name: ANN C GREEN 208-549-2733
   Address: 2117 WEISER RIVER RD
   WEISER ID 83672-5325

2. Date of Priority: DEC 18, 1936

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

4. Point of Diversion:

Township	Range	Section	1/4	of 1/4	of 1/4	Lot	County
11N	04W	35	SE	NE	NE		WASHINGTON

5. Description of diverting works:
   GALLOWAY DAM, CANAL & DITCHES.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S	(or)	A.F.A.
IRRIGATION	03/15	11/15	2.220		

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

8. Total consumptive use is Acre Feet Per Annum.

9. Non-irrigation uses:

10. Place of Use:

Township	Range	Section	1/4	of 1/4	Lot	Use	Acres
11N	04W	34	SW	SW		IRR	32.0

10. Place of Use: Continued

Township	Range	Section	1/4 of 1/4		Lot	Use	Acres
11N	04W	34	SE	SW		IRR	39.0
			NE	SE		IRR	5.0
			SW	SE		IRR	35.0
						Section Acres	111.0
						Total Acres	111.0

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:
CRANE CREEK RESERVOIR - 420 SHARES.

14. Remarks:

15. Basis of Claim: DECREED

Water Right Number: 18429

Case Number:

Court :

Decree date: / /

COPY

Decree Plaintiff vs Decree Defendant

16. Signature(s)

FOR YOUR FILES

(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: _____

State of Idaho)
) SS.
County of _____)

Subscribed and sworn (or affirmed) before me this _____ day

of _____ 19 _____

_____
Notary Public

Seal

Residing at _____

My Commission Expires _____

COPY FOR YOUR FILES

RECEIPT
For Monies Paid
to the
Idaho Department of Water Resources

Receipt No: W021601

Date: 10/ 9/1996
Time: 10:34:00

Received From: GREEN, HENRY OR ANN

Type of Payment		Program Acct		Amount
ADJUDICATION CLAIM FEE	41503	337	1155	50.00

CHECK 5353 — Total $ 50.00

Water Right Numbers

A67-02169D - - - -

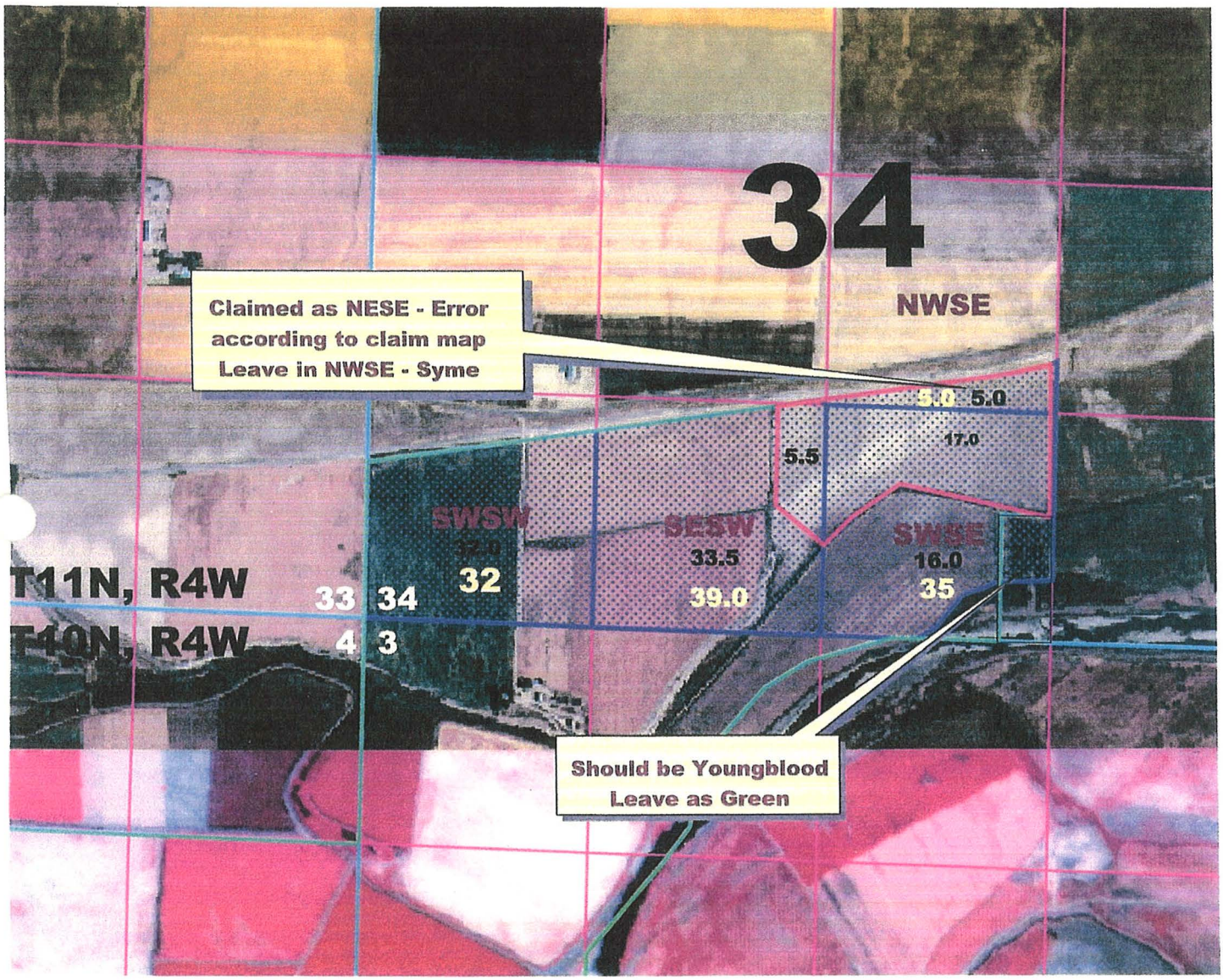
Region: WESTERN

Signature: Jan O Thute

State of Idaho

Now 67-14357 Being Disallowed

Split for 67-02169D



1320 0 1320 Feet

N
W E
S

Originally Claimed POU

Phillips Prop Bndy - N/A

Pollard Prop Bndy

Syme Prop Bndy

Quarter Quarter Lines

<Text> After Split - Claimed Acreage Per Parcel

<Text> Claimed Acreage Per QQ

Prepared By: Craig L. Saxton

STATE OF IDAHO

License and Certificate of Water Right

Water License No. 17813.....

To IDA M. Shoesmith & Polly A. Smith

.....Weiser, Idaho.....

Source of Supply Weiser River.....

.....

.....Washington..... County

Amount....5.98..... Sec. Feet

Point of Diversion...NE¼ SE¼ Sec. 35,.

..T. 11 N., R. 4 W., B. M.....

Place of Use...(See License).....

.....

Purpose ....Irrigation and domestic

.....Use.....

Date of Priority...August 15, 1933....

Recorded ...June 25, 1935.....

in Book..7... of Licenses.. Page 3796.

PERMIT NO. 17813

Certificate of Completion of Works

Dated May 7, 19 35

Stream Weiser River

County Washington

Amount 9.14 Sec. Ft.

Date of Priority August 15, 1933

Recorded in Book 64

of Permits, page 17813

SYMS-YORK CO., PRINTERS & BINDERS, BOISE 86303

FORM 22

Permit No. 17813

Certificate of Completion of Works

TO ALL WHOM IT MAY CONCERN:

This is to certify that IDA M. SHOESMITH AND POLLY A. SMITH of Weiser, County of Washington, and State of Idaho, the holders of Permit No. 17813, issued upon Application No. 24953 bearing date of priority of August 15, 1933, authorizing the diversion of 9.14 second feet of the waters of Weiser River

County of Washington, State of Idaho, for irrigation & domestic purposes, have fully complied with the provisions of the laws of the State of Idaho relating to the proof of completion of the works of diversion set out and described in said Permit; that said works are adequate for diverting and conveying to the place of intended use 9.14 second feet of the waters of Weiser River

that the point of diversion of said waters is in NE¼ SE¼, Sec. 35, T. 11 N., R. 4 W., B. M.

and that the lands proposed to be irrigated by the use of said water are described as follows, to-wit:

457 acres; Lot 3-27 acres, Lot 4-38, SW¼ NW¼, Sec. 3, SW¼ NE¼, SE¼ NE¼, Sec. 4, Lot 1-40 acres, Lot 2-40 acres, Lot 3-40 acres, Lot 4-40 acres & SW¼ NW¼-38 acres, Sec. 4, all in T. 10 N., R. 4 W., SW¼ SW¼-22 acres, SE¼ SW¼-38 acres, SW¼ SE¼-20 acres, all in Sec. 33, T. 11 N., R. 4 W., B. M.

Witness my hand this 7th day of May, A. D. 19 35.

Commissioner of Reclamation.

By

Assistant.

State of Idaho

License and Certificate of Water Right

Water License No. 17813 Priority August 15, 1933 Amount 5.98 Sec. Ft.

THIS IS TO CERTIFY that IDA M. SHOESMITH & POLLY A. SMITH of Weiser, Idaho, made application for a permit to appropriate the public waters of the State of Idaho, dated August 15, 1933; that Permit No. 17813 was issued under said application; that Certificate of Completion of works, with a carrying capacity of 9.14 second feet, was issued thereunder on May 7, 1935, showing that said works were completed on the 6th day of January, 1934; and that on the 6th day of January, 1934,

IDA M. SHOESMITH & POLLY A. SMITH

of Weiser, State of Idaho, made proof to the satisfaction of the Commissioner of Reclamation of Idaho, of a right to the use of the waters of Weiser River, a tributary of Snake River for the purpose of irrigation and domestic use, under Use Permit No. 17813 of the Commissioner of Reclamation, and that said right to the use of said waters has been perfected in accordance with the laws of Idaho, and is hereby confirmed by the Commissioner of Reclamation of Idaho and entered of record in Volume 7 of Licenses, at page 3796, on the 25th day of June, 1935;

The right hereby confirmed dates from August 15, 1933;

The Point of Diversion is located in the NE ¼ SE ¼, Sec. 35, Tp. 11 N., R. 4 W., B. M. Washington County.

That the amount of water to which such right is entitled and hereby confirmed, for the purposes aforesaid, is limited to an amount actually needed and beneficially used for said purposes, and shall not exceed 5.98 cubic feet per second.

Description and location of use:

Twp.	Range	Section	Forty-Acre Tract	No. Acres Described in Permit	No. Acres Actually Irrigated
			Ida M. Shoesmith's Lands		
10 N.	4 W.	3	Lot 3	27	10
			Lot 4	38	20
			SW¼ NW¼	40	35
		4	SW¼ NE¼	40	40
			SE¼ NE¼	40	40
					145
			Polly A. Smith's Lands	185	
		4	Lot 3	40	40
			Lot 4	40	40
			SW¼ NW¼	32	32
11 N.	4 W.	33	SW¼ SW¼	22	22
			SE¼ SW¼	38	20
				19	154

The right to the use of the water aforesaid hereby confirmed is restricted to the lands or place of use herein described, as provided by the laws of Idaho.

WITNESS the seal and signature of the Commissioner of Reclamation, affixed at Boise, Idaho, this 25th day of June, 1935.

Commissioner of Reclamation.

INSTRUMENT NO 54179

THIS CONTRACT, Made and entered into in triplicate this November 22, 1932, by and between Weiser Irrigation District, a municipal corporation, party of the first part, and Ida M. Shoesmith, a widow, and Polly A. Smith, a widow, both of Weiser, Idaho, parties of the second part;

WITNESSETH:

WHEREAS, second parties are the owners of an irrigation canal leading from Weiser River, in Township 11 North of Range 4 West of Boise Meridian, in Washington County, to, and by means of which their irrigable lands, being about 320 acres of irrigable lands, are irrigated; and,

WHEREAS, first party is desirous of taking possession of said ditch and enlarging same to a sufficient size to serve the needs of first party and using same for the purpose of carrying through same as so enlarged, water for the irrigation of lands which first party is under legal obligation to transport water to for irrigation purposes; and,

WHEREAS, first party, in making said enlargement and new works will have to take additional lands from the ranch of Mrs. Shoesmith, through which said canal so to be enlarged passes;

NOW, THEREFORE, in consideration of the premises it is hereby mutually contracted and agreed by and between said parties as follows:

a. That first party is to take over said Smith-Shoesmith canal or ditch, and is to enlarge same to such size and capacity as in the judgment of first party is necessary to put said ditch in proper condition to carry therein all of the water first party will need to carry through its system, from Weiser River, and in addition thereto to carry therein water needed by second parties for the irrigation of their present lands, said amount, however, which is to be carried for second parties shall not exceed 600 miners inches. In order to accomplish said enlargement first party is to have and second parties hereby grant to first party such additional lands as first party deems necessary to enlarge said canal in the first place and thereafter to maintain and operate same.

b. First party, during the irrigation season each year is to carry through its works, including said ditch as enlarged, from its headgate at the Weiser River down to the point where said new ditch will enter the present old canal of the first party all irrigation waters of second party, as second parties may desire same, for the irrigation of their present lands, being about 320 acres of irrigable lands, said amount, however, shall not amount to more than 600 miners inches, second parties shall have the right to say, the amounts, from time to time, during each irrigation season, first party shall so carry and deliver to them, the amount, however, at no time to amount to more than 600 miners inches. Said water is to be by first party delivered into the present conduit of second parties, at the point hereinbefore named.

c. Second parties hereby grant to first party good and sufficient right

of way for the purposes hereinbefore named, across the said lands of Ida M. Shoesmith, along the present site of said ditch, in order to connect up the said Smith-Shoesmith ditch with the present canal of first party, at a point approximately 300 to 400 feet below the present old headgate of first party.

d. All of the expense of building and enlarging said old ditch, building of new diversion works, and all other improvements hereinbefore contemplated shall be paid and bourn by first party. Thereafter all expense of maintainence of said ditch from its head in Weiser Canyon down to the point where second parties take their water from said canal shall be jointly paid by the parties hereto in the following proportions, viz: 24/25ths by first paidty and 1/25th by second parties. Each year each party shall pay same within 30 days after the amounts thereof shall be ascertained. However, it is agreed that first party shall have the sole right of possession of said canal and of making improvements and annual up-keep work thereon.

e. Said Ida M. Shoesmith shall have the right to install in the canal of the first party at the point covered by the present contract between the District and said Shoesmith governing the erection of such water wheel, a water wheel of size and dimension covered by said present contract. Same shall be so installed in the first place and thereafter to be so maintained by second parties that the works of the first party shall not be endangered and the flow of water in said canal shall not be impeded. Said wheel shall be used for pumping water not to exceed 25 inches on to some high lands of second party and to run a small dinamo for creating electric energy to light the Shoesmith home and run farm machinery on the Shoesmith place. The right to use such electric energy generated shall be limited to the present Shoesmith place. Said Shoesmith shall have the right to transport through the canal of first party down to the point where said wheel is erected, such 25 miners inches of water for irrigating such high lands of said Shoesmith.

f. It is expressly agreed that the water which first party is to so transport through its said canal for said second parties, or either of them, shall be the waters of the said second parties and first party shall not be under any obligation to furnish any water for either of the parties of the second part.

g. It is further agreed that in the event that at any future time the party of the first part refuses to transport water to parties of the second part as hereinbefore agreed, then, and in that event, all rights of party of the first part in and to the Smith-Shoesmith ditch or canal as enlarged under the terms of this agreement shall cease and the exclu-

sive right to possession and control of said ditch or canal shall be again vested in parties of the second part.

h. First party shall not be obligated to transport through its canal, for second parties, or either of them, any of the waters hereinbefore mentioned and set forth at any other times than during the irrigating season and in fall of the year when first party is operating its irrigation system for the use of its landowners within the Weiser Irrigation District.

It is stipulated that time and the strict performanceof the terms of this contract are the essence thereof and that the same shall be binding upon the parties hereto, their successors, heirs, personal representatives and assigns.

IN WITNESS WHEREOF, this contract has been executed by the respective parties hereto this the 22nd., day of November, 1932.

Seal
(Weiser Irrigation District)
(Washington County, Idaho)

WEISER IRRIGATION DISTRICT
By W. W. Lovelace, President,
Attest: Oliver J. Smith, Secretary

Mrs. Ida M. Shoesmith

Mrs. Polly A. Smith

STATE OF IDAHO)
) ss.
County of Washington)

On this the 22nd day of November, 1932, before me, Ed. R. Coulter, a Notary Public in and for the State of Idaho, personally appeared W. W. Lovelace and Oliver J. Smith, known to me to be the president and secretary, respectively, of Weiser Irrigation District, the corporation executing the within instrument, and acknowledged to me that they executed the same.

And on the same date and time also personally appeared before me, as such Notary Public, Polly A. Smith and Ida M. Shoesmith, known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that she executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and Notarial Seal this the day and year in this certificate first above written.

Seal
(Ed. R. Coulter, Notary Public)
(State of Idaho)

Ed. R. Coulter, Notary Public,
for Idaho;
Residing at Weiser, Idaho.

Filed for record at the request of Oliver J. Smith at 9:00 o'clock A. M., April 27, 1933.

Frank E. Smith, Recorder,
By Mary Werneth, Deputy.

Fee $2.60

No.

Book 2, Page 252-3, Date January 4, 1916

Grantor	Grantee
Weiser Irrigation District, a corporation, By John Blattner, President, Attest: Oliver J. Smith, Sec. (Seal)	Rollin A Shoesmith, Ida M Shoesmith, Second parties

Consideration $ Kind of Instrument Contract

Witnesseth: that whereas, the second parties are the owners of and in the possession of those certain tracts of land described as Lot 4, and SW¼ of NW¼ Sec 3 in Sec 3 in Township 10 North of Range 4 West of Boise Meridian in Idaho In Washington County, Idaho, across which run the canal of first party and over which first party has its right of way for said canal;

And Whereas, second party desires the privilege to take water from said canal to irrigate a tract of land lying in said lot 4, and SW¼ of NW¼ Sec 3, amounting to about 25 acres, for the production of crops thereon each year hereafter;

And Whereas, the first party incontract with Ernest S McCellan, Lulu B McCellan, Harvey J McNeal and Anna McNeal, predecessors in interest to second parties, September 6th, 1910 in writing contracted among other things at said time "To construct and place in said canal and maintai a good and substantial check gate at a point in the ditch where the top of the water will be on a level with the surface of the ground", and which has never been done and which is hereby abandoned and waived by second parties:

Now, therefore, in consideration of the second parties waiving all claims and benefits and rights under said clause in said contract so relating to the construction of a check gate in said canal, first party here grants to second parties the right and privilege to construct and maintain in said canal, at a point below the measuring weir in said canal on said tract, and resting upon the cement work below said weir, a water wheel to be used for and with the privilege of the use of and to take from said canal a quantity of water free of charge not to exceed one-half second foot per measurement, to be used for the irrigation of 25 acres of land lying in said tract along and below said canal and now belonging to second parties, which right whall not be transferrable to any other piece or parcel of land and shall be used exclusively upon said tract. The said water wheel so placed in said canal for the purpose of lifting said one half second foot of water from said canal shall be constructed and so placed subject to the direction and control of the engineer of the first party in order to provide a safe and substantial structure and one that will not obstruct the free flow of the water in said canal and shall be so constructed that it will not interfere with the measuring weir in said canal or prevent the water in said canal to be measured at any time. Said water wheel shall be constructed at the expense of second parties and shall be maintained by them in a safe manner. The one half second foot measurement is here held to be 25

ACKNOWLEDGMENT. Witnesses

Date	Name of Officer	Title	County	State	Wife Examined Apart	Seal

No.....

Book....., Page....., Date.....

Grantor	Grantee

Consideration $..... Kind of Instrument.....

miners inches. Second party shall also be permitted to use said power wheel in said canal so constructed to pump water from his well to and upon the table lands above said canal at his dwelling house plat, it being agreed that no greater than a 4-inch cylinder shall be used with a 8-inch stroke.

In witness whereof the said Weiser Irrigation District by its President and Secretary has affixed its name and seal and the said second party also places his name and seal hereto the day and year first above written.

ACKNOWLEDGMENT. Witnesses

Date	Name of Officer	Title	County	State	Wife Examined Apart	Seal
Feb 11 1916	Lot L Feltham	N P	Washington	Idaho	. . . .	yes

Filed December 26,1916 at 11;30 a.m.

Smith Land & Livestock

Book 2, Contracts, Pages 395 - 396 - 397

WEISER IRRIGATION DISTRICT, a municipal corporation, by W W Lovelace, President. Attest: Oliver J Smith, Secretary. (Corporate Seal.), party of the first part,		CONTRACT
		Dated November 22, 1932
		Filed July 7, 1933
AND		Book 2, Contracts, Page 395
IDA M SHOESMITH, a widow, and POLLY A SMITH, a widow, parties of the second part		

A c k n o w l e d g e d

November 22, 1932, by W W Lovelace and Oliver J Smith, President and Secretary, and Ida M Shoesmith and Polly A Smith, before Ed R Coulter, Notary Public, Weiser, Idaho. (Seal.)

WITNESSETH: WHEREAS, Second parties are the owners of an irrigating canal leading from Weiser River in Township 11 North of Range 4 West of Boise Meridian in Washington County, to, and by means of which their irrigable lands are irrigated, being about 320 acres of irrigable land, are irrigated; and

WHEREAS, First Party is desirous of taking possession of said ditch and enlarging same to a sufficient size to serve the needs of first party and using same for the purpose of carrying through same as so enlarged, water for the irrigation of lands which first party is under legal obligation to transport water for irrigating purposes; and

WHEREAS, First party in making said enlargement and new works will have to take additional lands from the ranch of Ida M Shoesmith through which said canal so to be enlarged passes;

NOW, THEREFORE, In consideration of the premises, it is hereby mutually contracted and agreed by and between the said parties, as follows:

a. That first party is to take over said Smith-Shoesmith canal or ditch and is to enlarge same to such size and capacity, as in the judgment of first party is necessary to put said ditch in proper condition to carry therein all the water first party will need to carry through its system from Weiser River and in addition thereto to carry therein water needed by second parties for the

Idaho Department of Water Resources

March 29 2004

Attn: Lori Graves

I was born on the Smith Farm in 1935.
My earliest recollection of irrigating was in 1940.

The land they were irrigating was about 40 Acres in the North East Corner of Section 4 Township 10 North, Range 4 West.

There was also about 8 Acres under a water wheel in the South West 1/4 of South East 1/4 of Section 33 Township 11 North, Range 4 West.

In 1954 Clyde Smith put a pump in the Galloway Canal to irrigate 74 Acres in the North East Corner of Section 4 Township 10 North, Range 4 West, and about 57.6 Acres in the South East Corner of Section 33 Township 11 North, Range 4 West.

Richard Smith
Richard Smith

Weiser Idaho

Dusti Lynn Kindall
expires 3/15/09
resides - 2988 Mill Rd
Cambridge ID
83610

DUSTI LYNN KINDALL
NOTARY
PUBLIC
STATE OF IDAHO

Idaho Department of Water Resources

March 29 2004

Attn: Lori Graves

My Grandfather, Richard Smith bought this farm in 1900 and 1914, after his death in 1926, my Grandmother Polly Smith along with four of her sons took care of the place.

Polly entered into an agreement with Shoesmiths in the 1920s to bring water to some land in the bottom by the Weiser River.
They gradually leveled and built ditches to carry the water.

In 1933 they agreed to let the Weiser Irrigation take over their ditch and carry water for Smith and Shoesmith.

Ida Shoesmith and Polly Smith were issued a license and certificate of water right in 1933, #17813.
The license did not include the land that I now own, however it was described in the certificate of completion of works.

It is our belief that it was all completed and irrigated prior to 1938 when Einspahrs purchased the Shoesmith place.

In 1954 my father, Clyde Smith put an additional 61.1 Acres under sprinklers.

To the best of my knowledge this is how we arrived at our conclusions.

Dan Smith

Weiser Idaho

Idaho Department of Water Resources

March 29 2004

Attn: Lori Graves

We moved to Weiser in 1938 and purchased the Shoesmith place.

I remember the Smiths irrigating the fields to the west of our place, at that time.

This land is located in the North East Corner of Section 4 Township 10 North, Range 4 West. This consists of approximately 40 Acres.
Also there was about 8 Acres in the South West 1/4 of the South East 1/4 Section 33 Township 11 North, Range 4 West under a water wheel.

Clyde Smith started watering another 3 fields West of our place in 1954.
These fields were located in the North East Corner of Section 4 Township 10 North, Range 4 West about acres and about acres in the South East Corner of Section 33 Township 11 North, Range 4 West.

Alba Einspahr

Weiser Idaho

WEISER IRRIGATION DISTRICT

ORGANIZED 1903

28 WEST IDAHO STREET

WEISER, IDAHO

Don Smith

July 3, 1974

Mr. Clyde Smith
Route 2
Weiser, Idaho 83672

Dear Mr. Smith:

The Weiser Irrigation District has conducted an extensive investigation of all of the records and files bearing upon your carriage right in the Weiser Irrigation District canal.

In the course of the investigation, the District made an in-depth investigation of the amount of land owned by your predecessor in interest at the time the agreement between the Weiser Irrigation District and Ida M. Shoesmith and Polly A. Smith was executed. This document was executed on November 22, 1932, and was filed on July 7, 1933. In the course of this investigation, the District also investigated the water right to each of the parcels of land in question.

The District's investigation disclosed that your predecessor in interest had considerably less land under irrigation on November 22, 1932, than is now being irrigated. Inasmuch as the result of this investigation affected three present land ownerships, it is only fair to set forth the amount of land then owned by your predecessor in interest, and also the amount of land owned by the predecessors in interest of each of the other affected parties, as well as the additional land over and above that which was then owned which each of you has since put under irrigation. The breakdown is as follows:

5/8 min ea

Names	Lands Owned 11/22/32	Additional Acreage Irrigated 1973
Henry Green	160 Acres	78 ACRES @ 0 + N.
Claude Smith	80 Acres	[redacted]
Clyde Smith	80 Acres	37.7 Acres

Amos. Irri = agmt w/clyde 40 acres

The District recognizes the privilege given under the Agreement of November 22, 1932. The District, however, does recognize its obligation under the law as well as its obligation to other patrons to collect the normal operation and maintenance charge for the carriage of additional water to irrigate the lands that have been developed and brought under irrigation since November 22, 1932, at the same rate that it charges the rest of its patrons.

Verbal agreement 1954 w/ [illegible]

FORM 23

Permit No. 17813

Certificate of Completion of Works

TO ALL WHOM IT MAY CONCERN:

This is to certify that IDA M. SHOESMITH AND POLLY A. SMITH of Weiser, County of Washington, and State of Idaho, the holder s of Permit No. 17813, issued upon Application No. 24953 bearing date of priority of August 15, 1933, authorizing the diversion of 9.14 second feet of the waters of Weiser River

County of Washington, State of Idaho, for irrigation & domestic purposes, has fully complied with the provisions of the laws of the State of Idaho relating to the proof of completion of the works of diversion set out and described in said Permit; that said works are adequate for diverting and conveying to the place of intended use 9.14 second feet of the waters of Weiser River

that the point of diversion of said waters is in NE¼ SE¼, Sec. 35, T. 11 N., R. 4 W., B. M.

and that the lands proposed to be irrigated by the use of said water are described as follows, to-wit:

457 acres; Lot 3-27 acres, Lot 4-38, SW¼ NW¼, Sec. 3, SW¼ NE¼, SE¼ NE¼, Sec. 4, Lot 1-40 acres, Lot 2-40 acres, Lot 3-40 acres, Lot 4-40 acres & SW¼ NW¼-22 acres, Sec. 4, all in T. 10 N., R. 4 W., SW¼ SW¼-22 acres, SE¼ SW¼-38 acres, SW¼ SE¼-20 acres, all in Sec. 33, T. 11 N., R. 4 W., B. M.

Witness my hand this 7th day of May, A. D. 19 35.

Commissioner of Reclamation.

By _____
Assistant.

WEISER IRRIGATION DISTRICT

VS.

DAN SMITH (CLYDE SMITH) 96039-01

WE FIND NO ADJUDICATED WATER FROM THE MUIR VS. ALLISON DECREE. IN 1932 THE DISTRICT ENTERED INTO A TRANSPORTATION AGREEMENT FOR DELIVERY OF SMITH-SHOESMITH WATER. CLYDE APPEARS TO HAVE SEPARATED HIS INTEREST ABOUT 1957 WHEN A SEPARATE BILLING FOR WATER TRANSPORT WAS CREATED. THIS ALSO COINCIDES WITH THE PURCHASE OF CRANE CREEK STORAGE WATER BY DEEDS 77 AT PAGE 408 AND 74 AT PAGE 602.

WE FIND THAT CLYDE RECEIVED A WATER LICENSE FOR 0.62 CFS. IN 1974 THE IRRIGATION RE-EVALUATED THE SITUATION AND FOUND CLYDE WAS IRRIGATING MORE ACREAGE AND A WATER CARRY AGREEMENT DATED SEPTEMBER 2, 1972 WAS ENTERED INTO. THE WEISER IRRIGATION DISTRICT PROVIDES SPRING FLOOD WATER FOR THIS LAND.

WATER CARRYING AGREEMENT

THIS AGREEMENT, Made and entered into this 2nd day of September 19 73, at Weiser, Idaho, by and between:

THE WEISER IRRIGATION DISTRICT, a quasi-municipal corporation, organized and existing under and by virtue of the laws of the State of Idaho, with its main office and principal place of business at Weiser, Idaho, PARTY OF THE FIRST PART,

and

HENRY GREEN, of the County of Washington, State of Idaho, PARTY OF THE SECOND PART;

WITNESSETH, WHEREAS: The party of the second part is the owner of Seventy-eight (78) acres of land, located outside the external boundaries of the party of the first part but in sufficiently close proximity to the canal owned by the party of the first part and used by it for delivery of water to its patrons within its corporate boundaries so that the lands of the party of the second part can be irrigated therefrom;

AND WHEREAS: The party of the second part is the owner of Four [illegible] acre feet of storage water in Crane Creek Reservoir; [illegible] the irrigation of the lands belonging to the party of

AND WHEREAS: The party of the first part has sufficient additional carrying capacity in its canal, to-wit: the Galloway Ditch, to accommodate an additional Fifty (50) miner's inches of flow at any given time in that portion of its canal lying between its main point of diversion of the Weiser River at the Galloway Dam and the point of diversion for waters to be diverted and applied to the lands of the party of the second part; and it is the desire of the parties hereto to provide for the use of Fifty (50) miner's inches of the capacity of the canal of the party of the first part to carry said water so owned by the party of the second part, to his said lands;

NOW, THEREFORE, in order to accomplish the aforesaid purposes, it is mutually covenanted and agreed between the parties hereto as follows:

I.

The party of the second part is hereby granted the right to deliver Fifty (50) miner's inches of water through the canal of the party of the first

[illegible] to the lands of the party of the second part, consisting of Seventy-[illegible] (78) acres of the storage water owned by the party of the second part in Lower Crater Reservoir by application of five-eighths (5/8) of a miner's inch to the acre of land hereinafter more particularly described, at a rate not to exceed Forty (40) miner's inches rate of flow during the irrigation season and the party of the second part shall have the right to divert the same from the canal of the party of the first part and apply the same to beneficial use upon the lands of the party of the second part, hereinafter more particularly described.

The right herein given is subject to the condition that the party of the second part pay to the party of the first part, no later than the first day of February of each year, the sum of money equal to the operation and maintenance charge that is levied by the party of the first part on a per acre basis against lands belonging to the patrons of the party of the first part within its corporate boundaries; and, for failure to pay said sum, at the time the same shall become due, the party of the first part, in addition to all other remedies available to it and without prejudice to its right to collect the same, may, at its option, refuse to deliver any further water to the party of the second part in the year in which said default occurs and any subsequent year so long as said sum has not been paid.

As a further condition to the rights herein granted to the party of the first part by the party of the second part, the party of the second part covenants and agrees that, prior to delivery of any water, pursuant to this agreement, in the year 1975, the party of the second part will install, at his own expense, an accurate measuring device at his point of diversion, approved by the State of Idaho Department of Water Administration, to the end and purpose that the total volume of water removed by the party of the second part can readily be ascertained and read and that the rate of flow at any given time can be determined therefrom.

II.

It is mutually covenanted and agreed that, if in any given irrigation season, the party of the second part exhausts and totally consumes all

[illegible] part. the party of the first part may, at its option, in addition to all other remedies herein provided for and provided by law, cancel and terminate this agreement, in which case the same shall be of no further force or effect.

IV.

The lands intended to be irrigated, belonging to the party of the second part, provided for in this agreement, are located in the County of Washington, State of Idaho, more particularly described as follows, to-wit:

> Seventy-eight (78) acres situated within and being a portion of the S½SW¼ and SW¼SE¼ of Section 34, Township 11 North, Range 4 West of the Boise Meridian.

V.

Unless terminated by breach, default, mutual consent of the parties or nonuser, this agreement shall be a covenant running with the above-described land.

IN WITNESS WHEREOF the party of the first part, by resolution of its Board of Directors, has caused this instrument to be executed and its corporate seal to be hereunto affixed, the day and year first above written; and the party of the second part has hereunto set his hand and seal the day and year first above written.

WEISER IRRIGATION DISTRICT

By _____
Chairman

ATTEST:

_____
Secretary

PARTY OF THE FIRST PART

_____
PARTY OF THE SECOND PART

[illegible] day of [illegible], 19[illegible], before me the undersigned, [illegible] personally appeared [illegible] known to be the [illegible] and Secretary, [illegible] DISTRICT, the corporation executing the [illegible] acknowledged to me that said corporation executed the

[illegible] I have hereunto set my hand and affixed my [illegible] and year in this certificate first above written.

Notary Public for Idaho
Residing at Weiser, Idaho

STATE OF IDAHO)
) ss
County of Washington)

On this 16 day of June, 1975, before me the undersigned, a Notary Public in and for said State, personally appeared HENRY GREEN, known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.

Notary Public for Idaho
Residing at Weiser, Idaho

MICROFILM SYSTEMS

WATER CARRYING AGREEMENT

WEISER IRRIGATION DISTRICT

AND

HENRY GREEN

Dated: September 2, 1975

[illegible] 106400

[illegible] COUNTY OF WASHINGTON ss

[illegible] at the request of

Washington County Title Co.
[illegible] on past 20:00 o'clock P M.
5th day of March 1976
9 OF Misc. PG 603
[illegible], Recorder. Fee: 4.00
[illegible] Deputy

Washington County Title Co.
Weiser, Id.

INDEXED

Form 23

STATE OF IDAHO
DEPARTMENT OF RECLAMATION
BOISE, IDAHO

REPORT OF ENGINEER

Permit No. 18429

This proof is for C. of W. & B. U. In Water District No. 4

1. Name of applicant Weiser Irrigation District

2. Source of water supply: Weiser River

3. Location of point of diversion: Is in the NE¼ NE¼ of Section 35
T. 11 N. R. 4 W. County of Washington

4. Describe works as they exist, giving dimensions and capacities of same: Works include dam of concrete 212 ft long x 5 ft high with open overflow crest 3 & 8 ft. apron also 2-12' Radial type headgates in a heavy concrete structure Canal 25 ft wide x 4 ft deep. A 10 ft concrete drop is installed at a point about 200 ft below the original point of diversion

5. Water is used for: Irrigation and domestic purposes

6. State whether or not water has been turned into works of diversion: yes

7. List legal subdivisions of lands to be irrigated. If proof is for beneficial use, give exact number of acres under cultivation in each forty-acre tract. (Describe manner and place of use if for other than irrigation): NW¼ NW¼, Sec. 2; N½ NW¼, SW¼ NW¼, Sec. 3; N½, NE¼ SW¼, N½ SE¼, Sec. 4; N½ NE¼, N½ NW¼, SW¼ NW¼, Sec. 5; N½ NE¼, NW¼, Sec. 6; T. 10 N., R. 4 W., B. M.; NE¼ NW¼, E½ NE¼, Sec. 1; NE¼ NE¼, Sec. 2, T. 10 N., R. 5 W., B. M.; NE¼ SW¼, S½ SW¼, SE¼, Sec. 31; SW¼, S½ SE¼, Sec. 32; SW¼ SW¼, Sec. 33; SE¼ SW¼, S½ SE¼, Sec. 34; S½ SW¼, Sec. 35, T. 11 N., R. 4 W., B. M.; SE¼ SE¼, Sec. 28; S½, Sec. 29; S½, Sec. 30; N½, N½ SE¼, Sec. 31; N½, N½ SW¼, SE¼ SW¼, NW¼ SE¼, Sec. 32; N½ NE¼, N½ NW¼, Sec. 35; SW¼ NE¼, N½ NW¼, SE¼ NW¼, N½ SE¼, SE¼ SE¼, Sec. 34; S½ SW¼, SW¼ SE¼, Sec. 35, T. 11 N., R. 5 W., B. M.; SW¼ NW¼, SW¼, Sec. 14; S½ NE¼, S½ NW¼, S½, Sec. 15; NE¼, S½ NW¼, S½, Sec. 16; S½ NE¼, E½ NW¼, S½, Sec. 17; S½ SE¼, Sec. 18; N½ NE¼, NE¼ NW¼, E½ NW¼ Sec. 19; All Sec. 20, 21, 22, & 23,; SW¼, W½ SE¼, Sec. 24; NW¼ NE¼, S½ NE¼, NW¼, S½, Sec. 25; All Sec. 26, 27, & 28; N½, NE¼ SW¼, SE¼, Sec. 29; N½, NE¼ SW¼, NE¼ SE¼, Sec. 33; N½, SW¼, NW¼ SE¼, Sec. 34; N½ NE¼, N½ NW¼, Sec. 35; N½, Sec. 36, T. 11 N., R. 6 W., B. M.

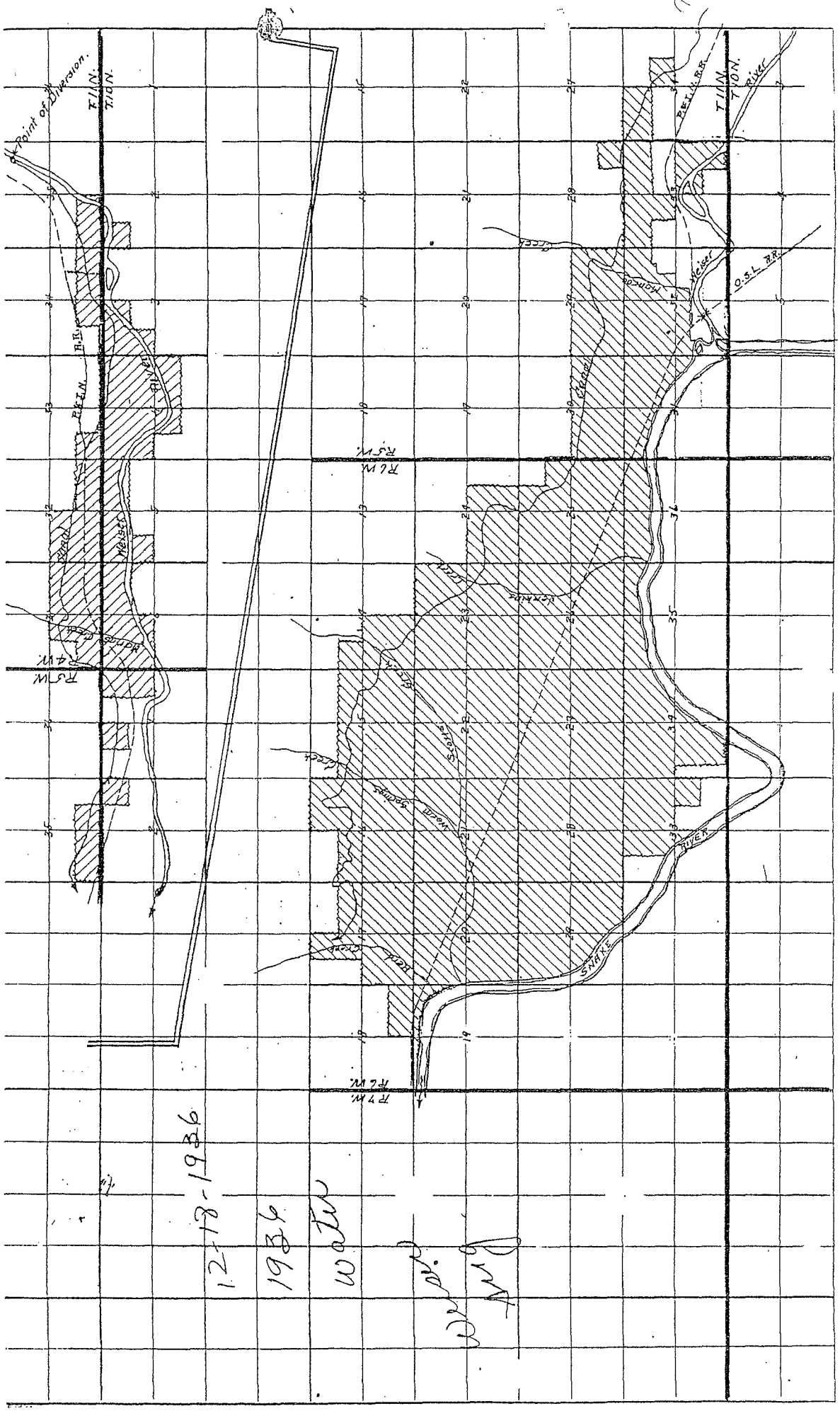
(Submit map on attached plat, showing location and details of above description.

8. What large stream would the water here appropriated finally reach? Snake River

Remarks: The above described diversion works are located about 1¾ miles above the earlier point of diversion The maximum discharge through this canal as measured by the U.S.G.S. was 221 Cu. Ft.

This examination was made on the 18th day of May, 1938.

(Signed) Robt. L. Holman
Examiner.



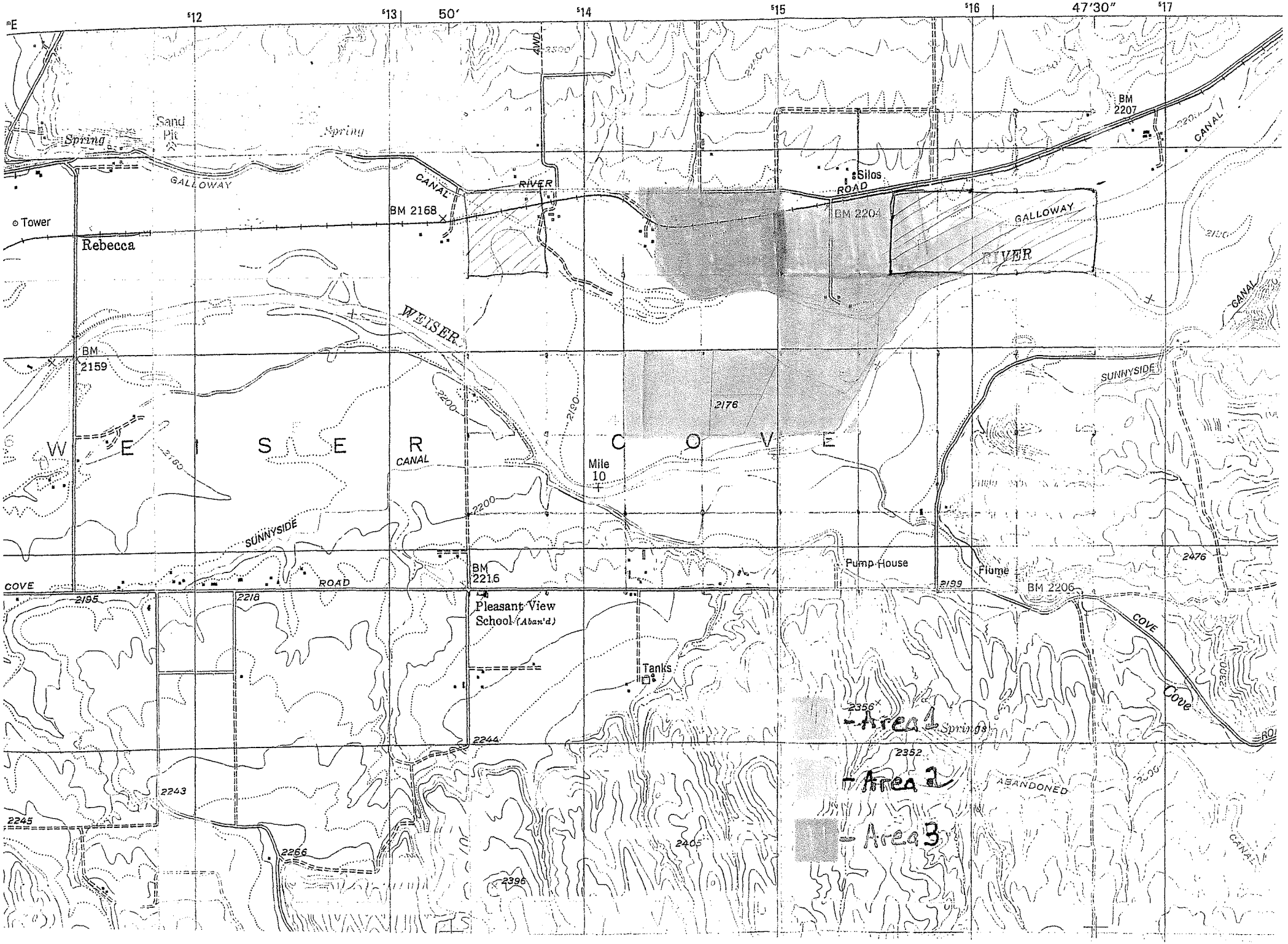
12-18-1986

1986 Water Use

SCALE: 2 INCHES EQUALS 1 MILE. DRAW MAP IN INK.

U.S. GEOLOGICAL SURVEY

Permit no. 18429 to Weis - Sec 34 place of use description



COPY

(Form No. 1)

Address all communications to .....

P. O. .....

APPLICATION FOR PERMIT

TO APPROPRIATE THE PUBLIC WATERS OF THE STATE OF IDAHO

Application No. 25685

Permit No. .....

District No. .....

Name of applicant: Weiser Irrigation District

Postoffice address Weiser County Washington State Idaho

I. If applicant is a corporation, give:

(a) Date and place of incorporation: Weiser, Idaho. January 13, 1902.

(b) Amount of capital stock: $ .....(c) Amount paid in: $ .....

(d) Names and addresses of directors: John J. McCrea, Fred Ruffner and George Cartwright, all of Weiser, Idaho

II. The financial resources of the applicant are: (a) Cash on hand: $ .....

(b) Treasury stock: None (c) Bonds to be issued: Attached hereto is financial statement showing assets and liabilities of Weiser Irrigation District, the applicant

Quantity of water claimed: 120 cubic feet per second.

Source of water supply: Weiser River

which is a tributary of Snake River

Location of point of diversion: S. 49° 30' W. 1360 feet distant from the NE corner of Section 35, T. 11 N., R. 4 W., B. M., and is in the NE¼ NE¼ of Section 35, T. 11 N., R. 4 W., B. M., County of Washington

Water is to be used for: irrigation and domestic purposes

If for mining, milling, power or manufacturing purposes, give:

(a) Point of use of water: .....feet distant from .....corner of Section .....

T....., R....., B. M., in the .....of Section....., T....., R....., B. M.

(b) Amount of power generated: .....H. P., under .....feet head.

(c) Water is to be returned to .....at a point .....feet distant from the .....corner of Section....., T....., R....., B. M., in the .....of Section....., T....., R....., B. M.

Estimated cost of works: $ 150,000.00 work now completed.

Kinds of works: Concrete dam and headgates, earth ditch
(Reservoir, dam, ditch, flume, pipe, etc.)

Height of dam 5 feet; length of dam at top 212 feet; length of dam at bottom 212 feet; (If height of dam will exceed 10 feet, send to Department of Reclamation for Regulations)

material used in dam Concrete

Size of headgate: Width 26 feet; Height 12 feet.

Ditch: Width at bottom 14 feet; Width at water line 20 feet; Depth of water 3½ feet;

Dimensions of flume .....Diameter of pipe no inches;

Length of conduit 26 miles. Average grade per mile: 2 feet.

12. The time required for the completion of such work is 1 years.

The time required for the complete application of the water to the proposed use is 1 additional years.

14. The land to be irrigated is described in the following tabulation:

(Give irrigable acreage in each 40-acre subdivision.)

Twp.	Range	Sec.	NE¼				NW¼				SW¼				SE¼				Totals
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
N.	4 W.	2						10											10
		3					10	20	30										60
		4	30	35	40	40	40	40	20	40	10				5	5			305
		5	35	30			35	40	5										145
		6	40	40			40	40	30	10									200
N.	5 W.	1	35			40	20												95
		2	10																10
N.	4 W.	31									5		35	40	15	20	40	40	195
		32									5	5	40	40			40	40	170
		33											20						20
		34												20			40	40	100
		35											40	25					65
N.	5 W.	28																10	10
		29									25	25	40	40	40	30	40	20	260
		30									40	40	40	40	20	30	40	40	290
		31	40	40	35	40	40	39	15	20.5					15	5			289.5
		32	33.2	40	40	10	40	40	40	40	25	30		25		10			373.2
		33	20	20			20	20											80
		34			20		20	40		10					20	30		10	150
		35											40	40			10		90
N.	6 W.	14							10		10	30	40	40					130
		15			40	20			40	40	40	40	40	40	40	40	40	40	460
		16	10	10	40	40			28	37	40	40	40	40	40	40	40	40	485
		17			6	12	12			30	30	3	37	25	40	40	40	40	315
		18															10	10	20
		19	29.5	10.5			3.3												43.3
		20	40	40	35.2	40	40	40	35.5	36.7	40	26.2	17.5	40	34.6	35.2	40	40	580.9
		21	40	40	40	40	40	40	40	40	39.8	34.7	40	40	40	40	39	39	632.5
		22	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	640
		23	10	40	40	20	40	40	40	40	40	40	40	40	40	40	40	40	590
		24									20	20	40	40		10	20		150
		25		30	40	20	40	40	40	40	40	40	38.4	39.1	40	40	40	40	567.5
		26	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	640
		27	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	640
		28	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	640
		29	40	40	40	40	40	13.2	7.3	40	24.2				40	40	21.8	40	426.5
		33	40	40	40	40	40	20	12	40.7	11.3				40				324
		34	40	40	34.7	9.8	40	40	40	40	33.5	20	20	30.5		6			394.5
		35	23.5	10			20	30											83.5
		36	39.1	40.4	10	10	40	40	12.5	18.5									210.5

Total Number of Acres to be Irrigated 10,890.9

Certified Copy of Water Right Proof Report

WR5808NP
(OD-26)

IDAHO DEPARTMENT OF WATER RESOURCES
WATER RIGHT PROOF READING REPORT

10/04/96 07:06:44
Page 1

Water Right Number - 67-02169 Prefix Translation: WATER RIGHT Old (D) Number - 18429

*** C - CURRENT OWNER ***
WEISER IRRIGATION DISTRICT

1 -
2 -
3 -
City- WEISER State- ID Zip-
Phone -

Priority Date: 12/18/1936
Region: 14 WESTERN
Stage: L - LICENSE
Status:

Source: WEISER RIVER
Tributary:

Point of Diversion

Twn	Rng	Sec	Tract	Lot	RFlg	County	Diversion Name	Diversion Rate	Diversion No.
11N	04W	35	NE NE			(87) WASHINGTON			

Water Use

Code	Description	Period From	Period To	Diversion Rate	Diversion Volume
01	IRRIGATION			120.000	
43	DOMESTIC			120.000	

Total Div. Rate: 120.000
Total Div. Volume:
Total Div. Capacity:

Place of Use

Twn	Rng	Sec	Tract	Lot	Acres	Code	Description	County
10N	04W	2	NW NW		10.0	01	IRRIGATION	(87) WASHINGTON
10N	04W	3	NE NW		10.0	01	IRRIGATION	(87) WASHINGTON
10N	04W	3	NW NW		20.0	01	IRRIGATION	(87) WASHINGTON
10N	04W	3	SW NW		30.0	01	IRRIGATION	(87) WASHINGTON
10N	04W	4	NE NE		30.0	01	IRRIGATION	(87) WASHINGTON
10N	04W	4	NW NE		35.0	01	IRRIGATION	(87) WASHINGTON
10N	04W	4	SW NE		40.0	01	IRRIGATION	(87) WASHINGTON
10N	04W	4	SE NE		40.0	01	IRRIGATION	(87) WASHINGTON
10N	04W	4	NE NW		40.0	01	IRRIGATION	(87) WASHINGTON
10N	04W	4	NW NW		40.0	01	IRRIGATION	(87) WASHINGTON
10N	04W	4	SW NW		20.0	01	IRRIGATION	(87) WASHINGTON
10N	04W	4	SE NW		40.0	01	IRRIGATION	(87) WASHINGTON
10N	04W	4	NE SW		10.0	01	IRRIGATION	(87) WASHINGTON
10N	04W	4	NE SE		5.0	01	IRRIGATION	(87) WASHINGTON
10N	04W	4	NW SE		5.0	01	IRRIGATION	(87) WASHINGTON
10N	04W	5	NE NE		35.0	01	IRRIGATION	(87) WASHINGTON
10N	04W	5	NW NE		30.0	01	IRRIGATION	(87) WASHINGTON
10N	04W	5	NE NW		35.0	01	IRRIGATION	(87) WASHINGTON
10N	04W	5	NW NW		40.0	01	IRRIGATION	(87) WASHINGTON
10N	04W	5	SW NW		5.0	01	IRRIGATION	(87) WASHINGTON

Water right number - 67-02169 Prefix Translation: WATER RIGHT

Place of Use

Twn	Rng	Sec	Tract	Lot	Acres	Code	Description	County
10N	04W	6	NE NE		40.0	01	IRRIGATION	(87) WASHINGTON
10N	04W	6	NW NE		40.0	01	IRRIGATION	(87) WASHINGTON
10N	04W	6	NE NW		40.0	01	IRRIGATION	(87) WASHINGTON
10N	04W	6	NW NW		40.0	01	IRRIGATION	(87) WASHINGTON
10N	04W	6	SW NW		30.0	01	IRRIGATION	(87) WASHINGTON
10N	04W	6	SE NW		10.0	01	IRRIGATION	(87) WASHINGTON
10N	05W	1	NE NE		35.0	01	IRRIGATION	(87) WASHINGTON
10N	05W	1	SE NE		40.0	01	IRRIGATION	(87) WASHINGTON
10N	05W	1	NE NW		20.0	01	IRRIGATION	(87) WASHINGTON
10N	05W	2	NE NE		10.0	01	IRRIGATION	(87) WASHINGTON
11N	04W	28	SE SE		10.0	01	IRRIGATION	(87) WASHINGTON
11N	04W	29	NE SW		25.0	01	IRRIGATION	(87) WASHINGTON
11N	04W	29	NW SW		25.0	01	IRRIGATION	(87) WASHINGTON
11N	04W	29	SW SW		40.0	01	IRRIGATION	(87) WASHINGTON
11N	04W	29	SE SW		40.0	01	IRRIGATION	(87) WASHINGTON
11N	04W	29	NE SE		40.0	01	IRRIGATION	(87) WASHINGTON
11N	04W	29	NW SE		30.0	01	IRRIGATION	(87) WASHINGTON
11N	04W	29	SW SE		40.0	01	IRRIGATION	(87) WASHINGTON
11N	04W	29	SE SE		20.0	01	IRRIGATION	(87) WASHINGTON
11N	04W	30	NE SW		40.0	01	IRRIGATION	(87) WASHINGTON
11N	04W	30	NW SW		40.0	01	IRRIGATION	(87) WASHINGTON
11N	04W	30	SW SW		40.0	01	IRRIGATION	(87) WASHINGTON
11N	04W	30	SE SW		40.0	01	IRRIGATION	(87) WASHINGTON
11N	04W	30	NE SE		20.0	01	IRRIGATION	(87) WASHINGTON
11N	04W	30	NW SE		30.0	01	IRRIGATION	(87) WASHINGTON
11N	04W	30	SW SE		40.0	01	IRRIGATION	(87) WASHINGTON
11N	04W	30	SE SE		40.0	01	IRRIGATION	(87) WASHINGTON
11N	04W	31	NE NE		40.0	01	IRRIGATION	(87) WASHINGTON
11N	04W	31	NW NE		40.0	01	IRRIGATION	(87) WASHINGTON
11N	04W	31	SW NE		35.0	01	IRRIGATION	(87) WASHINGTON
11N	04W	31	SE NE		40.0	01	IRRIGATION	(87) WASHINGTON
11N	04W	31	NE NW		40.0	01	IRRIGATION	(87) WASHINGTON
11N	04W	31	NW NW		39.0	01	IRRIGATION	(87) WASHINGTON
11N	04W	31	SW NW		15.0	01	IRRIGATION	(87) WASHINGTON
11N	04W	31	SE NW		21.0	01	IRRIGATION	(87) WASHINGTON
11N	04W	31	NE SW		5.0	01	IRRIGATION	(87) WASHINGTON
11N	04W	31	SW SW		35.0	01	IRRIGATION	(87) WASHINGTON
11N	04W	31	SE SW		40.0	01	IRRIGATION	(87) WASHINGTON
11N	04W	31	NE SE		30.0	01	IRRIGATION	(87) WASHINGTON
11N	04W	31	NW SE		25.0	01	IRRIGATION	(87) WASHINGTON
11N	04W	31	SW SE		40.0	01	IRRIGATION	(87) WASHINGTON
11N	04W	31	SE SE		40.0	01	IRRIGATION	(87) WASHINGTON
11N	04W	32	NE NE		33.0	01	IRRIGATION	(87) WASHINGTON
11N	04W	32	NW NE		40.0	01	IRRIGATION	(87) WASHINGTON
11N	04W	32	SW NE		40.0	01	IRRIGATION	(87) WASHINGTON
11N	04W	32	SE NE		10.0	01	IRRIGATION	(87) WASHINGTON
11N	04W	32	NE NW		40.0	01	IRRIGATION	(87) WASHINGTON
11N	04W	32	NW NW		40.0	01	IRRIGATION	(87) WASHINGTON

Water right number - 67-02169 Prefix Translation: WATER RIGHT

Place of Use

Twn	Rng	Sec	Tract	Lot	Acres	Code	Description	County
11N	04W	32	SW NW		40.0	01	IRRIGATION	(87) WASHINGTON
11N	04W	32	SE NW		40.0	01	IRRIGATION	(87) WASHINGTON
11N	04W	32	NE SW		30.0	01	IRRIGATION	(87) WASHINGTON
11N	04W	32	NW SW		35.0	01	IRRIGATION	(87) WASHINGTON
11N	04W	32	SW SW		40.0	01	IRRIGATION	(87) WASHINGTON
11N	04W	32	SE SW		40.0	01	IRRIGATION	(87) WASHINGTON
11N	04W	32	NW SE		10.0	01	IRRIGATION	(87) WASHINGTON
11N	04W	32	SW SE		40.0	01	IRRIGATION	(87) WASHINGTON
11N	04W	32	SE SE		40.0	01	IRRIGATION	(87) WASHINGTON
11N	04W	33	NE NE		20.0	01	IRRIGATION	(87) WASHINGTON
11N	04W	33	NW NE		20.0	01	IRRIGATION	(87) WASHINGTON
11N	04W	33	NE NW		20.0	01	IRRIGATION	(87) WASHINGTON
11N	04W	33	NW NW		20.0	01	IRRIGATION	(87) WASHINGTON
11N	04W	33	SW SW		20.0	01	IRRIGATION	(87) WASHINGTON
11N	04W	34	SW NE		20.0	01	IRRIGATION	(87) WASHINGTON
11N	04W	34	NE NW		20.0	01	IRRIGATION	(87) WASHINGTON
11N	04W	34	NW NW		40.0	01	IRRIGATION	(87) WASHINGTON
11N	04W	34	SE NW		10.0	01	IRRIGATION	(87) WASHINGTON
11N	04W	34	SE SW		20.0	01	IRRIGATION	(87) WASHINGTON
11N	04W	34	NE SE		20.0	01	IRRIGATION	(87) WASHINGTON
11N	04W	34	NW SE		30.0	01	IRRIGATION	(87) WASHINGTON
11N	04W	34	SW SE		40.0	01	IRRIGATION	(87) WASHINGTON
11N	04W	34	SE SE		40.0	01	IRRIGATION	(87) WASHINGTON
11N	04W	35	SW SW		40.0	01	IRRIGATION	(87) WASHINGTON
11N	04W	35	SE SW		40.0	01	IRRIGATION	(87) WASHINGTON
11N	04W	35	SW SE		10.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	14	SW NW		10.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	14	NE SW		10.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	14	NW SW		30.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	14	SW SW		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	14	SE SW		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	15	SW NE		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	15	SE NE		20.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	15	SW NW		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	15	SE NW		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	15	NE SW		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	15	NW SW		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	15	SW SW		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	15	SE SW		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	15	NE SE		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	15	NW SE		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	15	SW SE		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	15	SE SE		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	16	NE NE		10.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	16	NW NE		10.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	16	SW NE		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	16	SE NE		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	16	SW NW		28.0	01	IRRIGATION	(87) WASHINGTON

Water right number - 67-02169 Prefix Translation: WATER RIGHT

Place of Use

Twn	Rng	Sec	Tract	Lot	Acres	Code	Description	County
11N	06W	16	SE NW		37.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	16	NE SW		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	16	NW SW		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	16	SW SW		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	16	SE SW		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	16	NE SE		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	16	NW SE		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	16	SW SE		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	16	SE SE		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	17	SW NE		6.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	17	SE NE		12.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	17	NE NW		12.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	17	SE NW		30.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	17	NE SW		30.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	17	NW SW		3.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	17	SW SW		37.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	17	SE SW		25.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	17	NE SE		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	17	NW SE		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	17	SW SE		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	17	SE SE		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	18	SW SE		10.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	18	SE SE		10.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	19	NE NE		30.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	19	NW NE		11.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	19	NE NW		3.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	20	NE NE		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	20	NW NE		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	20	SW NE		35.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	20	SE NE		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	20	NE NW		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	20	NW NW		36.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	20	SW NW		37.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	20	SE NW		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	20	NE SW		26.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	20	NW SW		18.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	20	SW SW		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	20	SE SW		35.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	20	NE SE		35.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	20	NW SE		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	20	SW SE		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	20	SE SE		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	21	NE NE		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	21	NW NE		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	21	SW NE		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	21	SE NE		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	21	NE NW		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	21	NW NW		40.0	01	IRRIGATION	(87) WASHINGTON

Water right number - 67-02169 Prefix Translation: WATER RIGHT

Place of Use

Twn	Rng	Sec	Tract	Lot	Acres	Code	Description	County
11N	06W	21	SW NW		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	21	SE NW		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	21	NE SW		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	21	NW SW		35.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	21	SW SW		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	21	SE SW		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	21	NE SE		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	21	NW SE		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	21	SW SE		39.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	21	SE SE		39.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	22	NE NE		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	22	NW NE		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	22	SW NE		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	22	SE NE		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	22	NE NW		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	22	NW NW		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	22	SW NW		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	22	SE NW		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	22	NE SW		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	22	NW SW		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	22	SW SW		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	22	SE SW		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	22	NE SE		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	22	NW SE		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	22	SW SE		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	22	SE SE		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	23	NE NE		10.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	23	NW NE		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	23	SW NE		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	23	SE NE		20.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	23	NE NW		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	23	NW NW		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	23	SW NW		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	23	SE NW		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	23	NE SW		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	23	NW SW		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	23	SW SW		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	23	SE SW		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	23	NE SE		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	23	NW SE		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	23	SW SE		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	23	SE SE		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	24	NE SW		20.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	24	NW SW		20.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	24	SW SW		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	24	SE SW		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	24	NW SE		10.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	24	SW SE		20.0	01	IRRIGATION	(87) WASHINGTON

Water right number - 67-02169 Prefix Translation: WATER RIGHT

Place of Use

Twn	Rng	Sec	Tract	Lot	Acres	Code	Description	County
11N	06W	25	NW NE		30.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	25	SW NE		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	25	SE NE		20.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	25	NE NW		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	25	NW NW		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	25	SW NW		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	25	SE NW		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	25	NE SW		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	25	NW SW		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	25	SW SW		38.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	25	SE SW		39.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	25	NE SE		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	25	NW SE		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	25	SW SE		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	25	SE SE		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	26	NE NE		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	26	NW NE		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	26	SW NE		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	26	SE NE		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	26	NE NW		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	26	NW NW		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	26	SW NW		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	26	SE NW		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	26	NE SW		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	26	NW SW		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	26	SW SW		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	26	SE SW		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	26	NE SE		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	26	NW SE		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	26	SW SE		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	26	SE SE		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	27	NE NE		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	27	NW NE		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	27	SW NE		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	27	SE NE		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	27	NE NW		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	27	NW NW		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	27	SW NW		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	27	SE NW		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	27	NE SW		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	27	NW SW		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	27	SW SW		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	27	SE SW		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	27	NE SE		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	27	NW SE		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	27	SW SE		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	27	SE SE		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	28	NE NE		40.0	01	IRRIGATION	(87) WASHINGTON

Water right number - 67-02169 Prefix Translation: WATER RIGHT

Place of Use

Twn	Rng	Sec	Tract	Lot	Acres	Code	Description	County
11N	06W	28	NW NE		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	28	SW NE		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	28	SE NE		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	28	NE NW		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	28	NW NW		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	28	SW NW		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	28	SE NW		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	28	NE SW		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	28	NW SW		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	28	SW SW		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	28	SE SW		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	28	NE SE		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	28	NW SE		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	28	SW SE		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	28	SE SE		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	29	NE NE		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	29	NW NE		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	29	SW NE		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	29	SE NE		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	29	NE NW		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	29	NW NW		13.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	29	SW NW		7.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	29	SE NW		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	29	NE SW		24.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	29	NE SE		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	29	NW SE		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	29	SW SE		22.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	29	SE SE		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	33	NE NE		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	33	NW NE		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	33	SW NE		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	33	SE NE		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	33	NE NW		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	33	NW NW		20.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	33	SW NW		12.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	33	SE NW		41.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	33	NE SW		11.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	33	NE SE		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	34	NE NE		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	34	NW NE		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	34	SW NE		35.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	34	SE NE		10.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	34	NE NW		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	34	NW NW		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	34	SW NW		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	34	SE NW		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	34	NE SW		34.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	34	NW SW		20.0	01	IRRIGATION	(87) WASHINGTON

Water right number - 67-02169 Prefix Translation: WATER RIGHT

Place of Use

Twn	Rng	Sec	Tract	Lot	Acres	Code	Description	County
11N	06W	34	SW SW		20.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	34	SE SW		31.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	34	NW SE		6.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	35	NE NE		24.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	35	NW NE		10.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	35	NE NW		20.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	35	NW NW		30.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	36	NE NE		39.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	36	NW NE		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	36	SW NE		10.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	36	SE NE		10.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	36	NE NW		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	36	NW NW		40.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	36	SW NW		13.0	01	IRRIGATION	(87) WASHINGTON
11N	06W	36	SE NW		19.0	01	IRRIGATION	(87) WASHINGTON

Total Acres: 10795.0

Diversion Means -

Non-Irrigation Use -

Other Rights for Same Use -

Remarks

No Remarks found.

Old Water Right Numbers

No Old Water Right Numbers found.

Conditions of Approval

No Conditions of Approval found.

Decree Plaintiff	Decree Defendant	Decree Date
		00/00/0000

Comments

No Comments Found

Audit Fields - 06/03/85 05/01/88 CONVERT 01/26/92 DUPE-POU 01/26/92 DUPE-POU 01/26/92 DUPE-POU
02/10/92 CURTIS

Water Rights Dates and Flags Area

Proof Due Date	- 00/00/0000	Field Exam Made	- 00/00/0000	Field Exam Fee	-
Approved/Denied	- 11/12/1932	Protested Date	- 00/00/0000	Swan Falls	-
Proof Made Date	- 00/00/0000	Hearing Date	- 00/00/0000	Temporary Right	- P
Exam to S.O. Date	- 00/00/0000	Verified Date	- 06/03/1985	DLE/Carey Act	-
Order Show Cause	- 00/00/0000	Receipt Number	-	Water District	- 67
Licensed Date	- 01/30/1979	Appl Received	- 00/00/0000	Transfer/Amended	-

Water right number - 67-02169 Prefix Translation: WATER RIGHT

+ - Water Rights Dates and Flags Area - +

Decree Date - 00/00/0000 Name Connector - POU Ownership Flag-
Presumption Flag -

4

ADDITIONAL MATERIALS

State of Idaho

License and Certificate of Water Right

Water License No. 17813 Amount 5.98 Sec. Ft.

Water District No. Priority August 15, 1933

THIS IS TO CERTIFY that IDA M. SHOESMITH & POLLY A. SMITH of Weiser, Idaho, made application for a permit to appropriate the public waters of the State of Idaho, dated August 15, 1933; that Permit No. 17813 was issued under said application; that Certificate of Completion of works, with a carrying capacity of 9.14 second feet, was issued thereunder on May 7, 1935, showing that said works were completed on the 6th day of January, 1934; and that on the 6th day of January, 1934,

IDA M. SHOESMITH & POLLY A. SMITH

of Weiser, State of Idaho, made proof to the satisfaction of the Commissioner of Reclamation of Idaho, of the right to use the waters of Weiser River, a tributary of Snake River, for the purpose of irrigation and domestic use, under Use Permit No. 17813 of the Commissioner of Reclamation and that said right to the use of said waters has been perfected in accordance with the laws of Idaho, and is hereby confirmed by the Commissioner of Reclamation of Idaho and entered of record in Volume 7 of Licenses, at page 3796, on the 25th day of June, 1935;

The right hereby confirmed dates from August 15, 1933;

The Point of Diversion is located in the NE ¼ SE ¼, Sec. 35, Tp. 11 N., R. 4W., B. M. Washington County.

That the amount of water to which such right is entitled and hereby confirmed, for the purposes aforesaid, is limited to an amount actually needed and beneficially used for said purposes, and shall not exceed 5.98 cubic feet per second.

Description and location of use:

Twp.	Range	Sec.	Forty-acre Tract	No. Acres Described in Permit	No. Acres Actually Irrigated
			Ida M. Shoesmith's Lands		
10 N.	4 W.	3	Lot 3	27	10
			Lot 4	38	20
			SW¼ NW¼	40	35
		4	SW¼ NE¼	40	40
			SE¼ NE¼	40	40
					145
			Polly A. Smith's Lands		
		4	Lot 3	40	40
			Lot 4	40	40
			SW¼ NW¼	32	32
11 N.	4 W.	33	SW¼ SW¼	22	22
			SE¼ SW¼	38	20
					154

The right to the use of the water aforesaid hereby confirmed is restricted to the lands or place of use herein described, as provided by the laws of Idaho.

WITNESS the seal and signature of the Commissioner of Reclamation, affixed at Boise, Idaho, this 25th day of June, 1935.

R. W. FARIS
Commissioner of Reclamation

(SEAL)

67 2164

Form 23

STATE OF IDAHO

DEPARTMENT OF RECLAMATION

BOISE

REPORT OF ENGINEER

PERMIT NO. 17813

REPORT ON PROOF OF COMPLETION OF WORKS & BENEFICIAL USE

Form 23

STATE OF IDAHO

DEPARTMENT OF RECLAMATION

BOISE, IDAHO

REPORT OF ENGINEER

Permit No. 17813

This proof is for Completion of Works & Beneficial Use. In Water District No. .....

1. Name of applicant JOLLY A. SMITH & IDA M. SHOESMITH

2. Source of water supply: Weiser River

3. Location of point of diversion: Is in the NW¼ SE¼ of Section 35

T. 11 N. R. 4 W. County of Washington

4. Describe works as they exist, giving dimensions and capacities of same: Diverts from river thru the Weiser Irrig. Dist. heading by means of a concrete check dam 230 ft. long x 3 ft. high w/ flash board control 24" high. Gate structure has two 12 ft. radial gates. Main canal is 25 ft. wide w/ 2.5 ft. deep. Diversion from canal is thru a head gate 3 ft. wide and steel pipe flume 78 ft. long w/ diameter 28" to 24". Ditch is 6' wide

5. Water is used for: Irrigation and domestic use.

6. State whether or not water has been turned into works of diversion: yes

7. List legal subdivisions of lands to be irrigated. If proof is for beneficial use, give exact number of acres under cultivation in each forty-acre tract. (Describe manner and place of use if for other than irrigation): Lots 1, 2, 3, 4, SW¼ NE¼, SE¼ NE¼, & SW¼ NW¼, Sec. 4, T. 10 N., R. 4 W., B. M.; Lots 3, 4, & SW¼ NW¼, Sec. 3, T. 10 N., R. 4 W., B. M.; SW SW¼, SE¼ SW¼, & SW¼ SE¼, Sec. 33, T. 11 N., R. 4 W., B. M., Washington County.

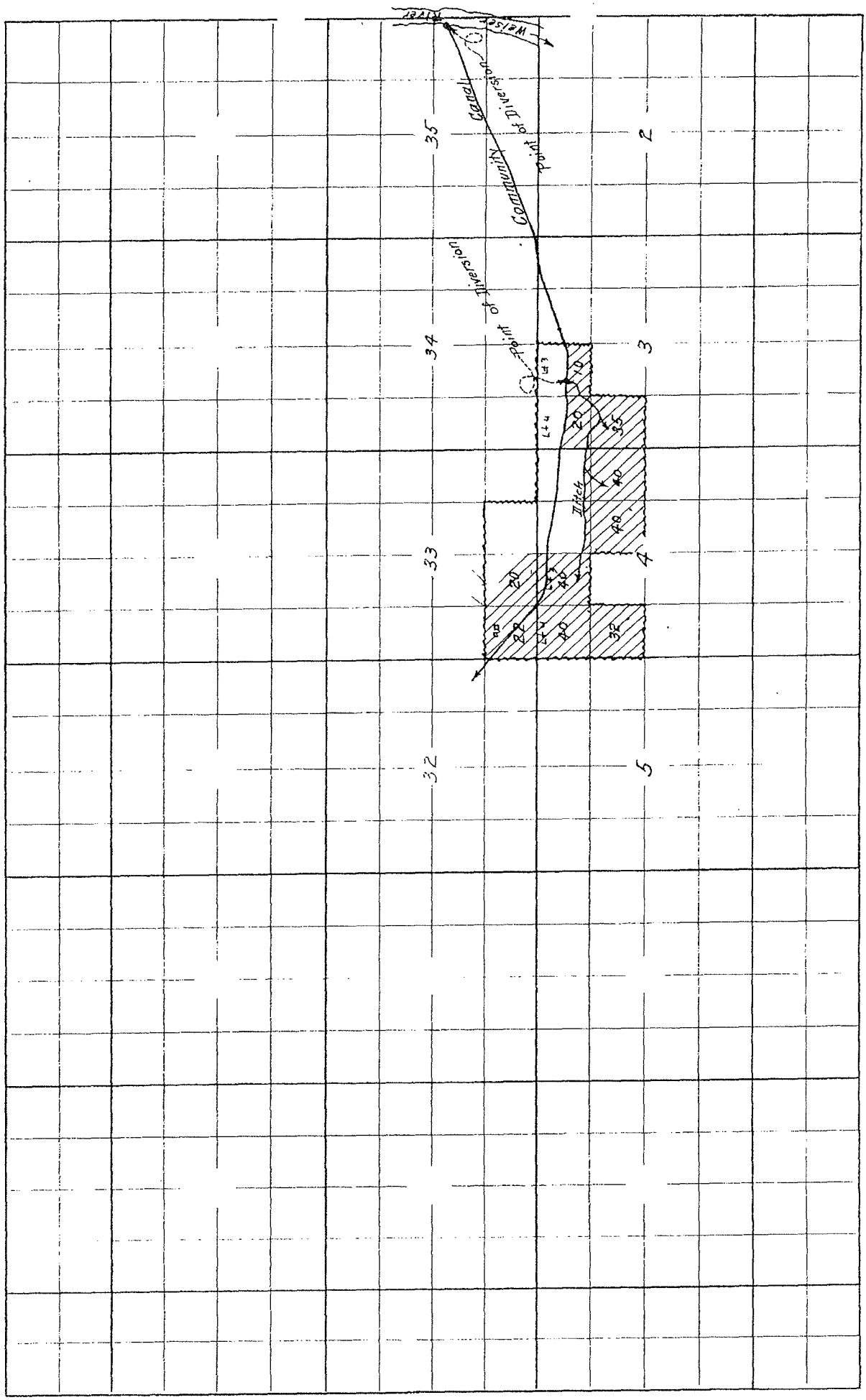
(Submit map on attached plat, showing location and details of above description.

8. What large stream would the water here appropriated finally reach? Snake River

Remarks

This examination was made on the 10th day of April, 1934.

(Signed) Fred A. Coleman
Examiner.



SCALE: 2 INCHES EQUALS 1 MILE. DRAW MAP IN INK.

17813

INSTRUMENT NO 54179

THIS CONTRACT, Made and entered into in triplicate this November 22, 1932, by and between Weiser Irrigation District, a municipal corporation, party of the first part, and Ida M. Shoesmith, a widow, and Polly A. Smith, a widow, both of Weiser, Idaho, parties of the second part;

WITNESSETH:

WHEREAS, second parties are the owners of an irrigation canal leading from Weiser River, in Township 11 North of Range 4 West of Boise Meridian, in Washington County, to, and by means of which their irrigable lands, being about 320 acres of irrigable lands, are irrigated; and,

WHEREAS, first party is desirous of taking possession of said ditch and enlarging same to a sufficient size to serve the needs of first party and using same for the purpose of carrying through same as so enlarged, water for the irrigation of lands which first party is under legal obligation to transport water to for irrigation purposes; and,

WHEREAS, first party, in making said enlargement and new works will have to take additional lands from the ranch of Mrs. Shoesmith, through which said canal so to be enlarged passes;

NOW, THEREFORE, in consideration of the premises it is hereby mutually contracted and agreed by and between said parties as follows:

a. That first party is to take over said Smith-Shoesmith canal or ditch, and is to enlarge same to such size and capacity as in the judgment of first party is necessary to put said ditch in proper condition to carry therein all of the water first party will need to carry through its system, from Weiser River, and in addition thereto to carry therein water needed by second parties for the irrigation of their present lands, said amount, however, which is to be carried for second parties shall not exceed 600 miners inches. In order to accomplish said enlargement first party is to have and second parties hereby grant to first party such additional lands as first party deems necessary to enlarge said canal in the first place and thereafter to maintain and operate same.

b. First party, during the irrigation season each year is to carry through its works, including said ditch as enlarged, from its headgate at the Weiser River down to the point where said new ditch will enter the present old canal of the first party all irrigation waters of second party, as second parties may desire same, for the irrigation of their present lands, being about 320 acres of irrigable lands, said amount, however, shall not amount to more than 600 miners inches, second parties shall have the right to say, the amounts, from time to time, during each irrigation season, first party shall so carry and deliver to them, the amount, however at no time to amount to more than 600 miners inches. Said water is to be by first party delivered into the present conduit of second parties, at the point hereinbefore named.

c. Second parties hereby grant to first party good and sufficient right

of way for the purposes hereinbefore named, across the said lands of Ida M. Shoesmith, along the present site of said ditch, in order to connect up the said Smith-Shoesmith ditch with the present canal of first party, at a point approximately 300 to 400 feet below the present old headgate of first party.

d. All of the expense of building and enlarging said old ditch, building of new diversion works, and all other improvements hereinbefore contemplated shall be paid and bourn by first party. Thereafter all expense of maintainence of said ditch from its head in Weiser Canyon down to the point where second parties take their water from said canal shall be jointly paid by the parties hereto in the following proportions, viz: 24/25ths by first paidty and 1/25th by second parties. Each year each party shall pay same within 30 days after the amounts thereof shall be ascertained. However, it is agreed that first party shall have the sole right of possession of said canal and of making improvements and annual up-keep work thereon.

e. Said Ida M. Shoesmith shall have the right to install in the canal of the first party at the point covered by the present contract between the District and said Shoesmith governing the erection of such water wheel, a water wheel of size and dimension covered by said present contract. Same shall be so installed in the first place and thereafter to be so maintained by second parties that the works of the first party shall not be endangered and the flow of water in said canal shall not be impeded. Said wheel shall be used for pumping water not to exceed 25 inches on to some high lands of second party and to run a small dinamo for creating electric energy to light the Shoesmith home and run farm machinery on the Shoesmith place. The right to use such electric energy generated shall be limited to the present Shoesmith place. Said Shoesmith shall have the right to transport through the canal of first party down to the point where said wheel is erected, such 25 miners inches of water for irrigating such high lands of said Shoesmith.

f. It is expressly agreed that the water which first party is to so transport through its said canal for said second parties, or either of them, shall be the waters of the said second parties and first party shall not be under any obligation to furnish any water for either of the parties of the second part.

g. It is further agreed that in the event that at any future time the party of the first part refuses to transport water to parties of the second part as hereinbefore agreed, then, and in that event, all rights of party of the first part in and to the Smith-Shoesmith ditch or canal as enlarged under the terms of this agreement shall cease and the exclu-

sive right to possession and control of said ditch or canal shall be again vested in parties of the second part.

h. First party shall not be obligated to transport through its canal, for second parties, or either of them, any of the waters hereinbefore mentioned and set forth at any other times than during the irrigating season and in fall of the year when first party is operating its irrigation system for the use of its landowners within the Weiser Irrigation District.

It is stipulated that time and the strict performance of the terms of this contract are the essence thereof and that the same shall be binding upon the parties hereto, their successors, heirs, personal representatives and assigns.

IN WITNESS WHEREOF, this contract has been executed by the respective parties hereto this the 22nd., day of November, 1932.

Seal
(Weiser Irrigation District)
(Washington County, Idaho)

WEISER IRRIGATION DISTRICT
By W. W. Lovelace, President,
Attest: Oliver J. Smith, Secretary

Mrs. Ida M. Shoesmith
Mrs. Polly A. Smith

STATE OF IDAHO)
) ss.
County of Washington)

On this the 22nd day of November, 1932, before me, Ed. R. Coulter, a Notary Public in and for the State of Idaho, personally appeared W. W. Lovelace and Oliver J. Smith, known to me to be the president and secretary, respectively, of Weiser Irrigation District, the corporation executing the within instrument, and acknowledged to me that they executed the same.

And on the same date and time also personally appeared before me, as such Notary Public, Polly A. Smith and Ida M. Shoesmith, known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that she executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and Notarial Seal this the day and year in this certificate first above written.

Seal
(Ed. R. Coulter, Notary Public)
(State of Idaho)

Ed. R. Coulter, Notary Public,
for Idaho;
Residing at Weiser, Idaho.

Filed for record at the request of Oliver J. Smith at 9:00 o'clock A. M., April 27, 1933.

Frank E. Smith, Recorder,
By Mary Werneth, Deputy.

Fee $2.60

WEISER IRRIGATION DISTRICT

ORGANIZED 1903

28 WEST IDAHO STREET

WEISER, IDAHO

Dan Smith

July 3, 1974

Mr. Clyde Smith
Route 2
Weiser, Idaho 83672

Dear Mr. Smith:

The Weiser Irrigation District has conducted an extensive investigation of all of the records and files bearing upon your carriage right in the Weiser Irrigation District canal.

In the course of the investigation, the District made an in-depth investigation of the amount of land owned by your predecessor in interest at the time the agreement between the Weiser Irrigation District and Ida M. Shoesmith and Polly A. Smith was executed. This document was executed on November 22, 1932, and was filed on July 7, 1933. In the course of this investigation, the District also investigated the water right to each of the parcels of land in question.

The District's investigation disclosed that your predecessor in interest had considerably less land under irrigation on November 22, 1932, than is now being irrigated. Inasmuch as the result of this investigation affected three present land ownerships, it is only fair to set forth the amount of land then owned by your predecessor in interest, and also the amount of land owned by the predecessors in interest of each of the other affected parties, as well as the additional land over and above that which was then owned which each of you has since put under irrigation. The breakdown is as follows:

5/8 min in

Names	Lands Owned 11/22/32	Additional Acreage Irrigated 1973
Henry Green	160 Acres	78 ACRES @ O + M.
Claude Smith	80 Acres	
Clyde Smith	80 Acres	37.7 Acres

Amos + Irvin = Agmt w/ clyde 40 acres

The District recognizes the privilege given under the Agreement of November 22, 1932. The District, however, does recognize its obligation under the law as well as its obligation to other patrons to collect the normal operation and maintenance charge for the carriage of additional water to irrigate the lands that have been developed and brought under irrigation since November 22, 1932, at the same rate that it charges the rest of its patrons.

Verbal agreement
@ 1254
in minutes

No.

Book 2, Page 252-3, Date January 4,1916

Grantor	Grantee
Weiser Irrigation District, a corporation, By John Blattner, President, Attest: Oliver J. Smith, Sec. (Seal)	Rollin A Shoesmith, Ida M Shoesmith, Secondparties

Consideration $ Kind of Instrument Contract

Witnesseth: that whereas, the second parties are the owners of and in the possession of those certain tracts of land described as Lot 4, and SW¼ of NW¼ Sec 3 in Sec 3 in Township 10 North of Range 4 West of Boise Meridian in Idaho in Washington County, Idaho, across which run the canal of first party and over which first party has its right of way for said canal;

And Whereas, second party desires the privilege to take water from said canal to irrigate a tract of land lying in said lot 4, and SW¼ of NW¼ Sec 3, amounting to about 25 acres, for the production of crops thereon each year hereafter;

And Whereas, the first party incontract with Ernest S McCellan, Lulu B McCellan, Harvey J McNeal and Anna McNeal, predecessors in interest to second parties, September 6th, 1910 in writing contracted among other things at said time "To construct and place in said canal and maintai a good and substantial check gate at a point in the ditch where the top of the water will be on a level with the surface of the ground", and which has never been done and which is hereby abandoned and waived by second parties:

Now, therefore, in consideration of the second parties waiving all claims and benefits and rights under said clause in said contract so relating to the construction of a check gate in said canal, first party here grants to second parties the right and privilege to construct and maintain in said canal, at a point below the measuring weir in said canal on said tract, and resting upon the cement work below said weir, a water wheel to be used for and with the privilege of the use of and to take from said canal a quantity of water free of charge not to exceed one-half second foot per measurement, to be used for the irrigation of 25 acres of land lying in said tract along and below said canal and now belonging to second parties, which right whall not be transferrable to any other piece or parcel of land and shall be used exclusively upon said tract. The said water wheel so placed in said canal for the purpose of lifting said one half second foot of water from said canal shall be constructed and so placed subject to the direction and control of the engineer of the first party in order to provide a safe and substantial structure and one that will not obstruct the free flow of the water in said canal and shall be so constructed that it will not interfere with the measuring weir in said canal or prevent the water in said canal to be measured at any time. Said water wheel shall be constructed at the expense of second parties and shall be maintained by them in a safe manner. The one half second foot measurement is here held to be 25

ACKNOWLEDGMENT. Witnesses

Date	Name of Officer	Title	County	State	Wife Examined Apart	Seal

No.....

Book....., Page....., Date.....

Grantor	Grantee

Consideration $..... Kind of Instrument.....

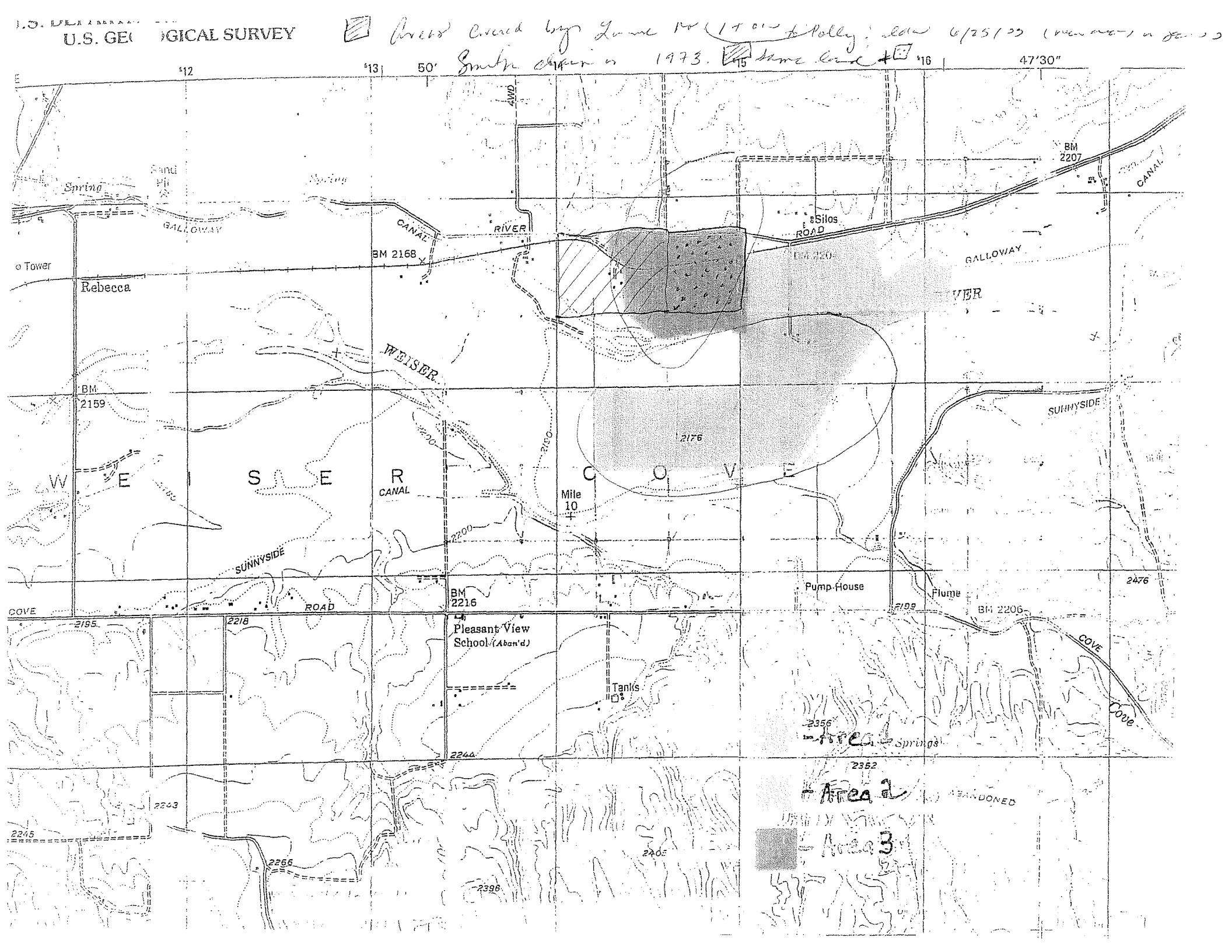
miners inches. Second party shall also be permitted to use said power wheel in said canal so constructed to pump water from his well to and upon the table lands above said canal at his dwelling house plat, it being agreed that no greater than a 4-inch cylinder shall be used with a 8-inch stroke.

In witness whereof the said Weiser Irrigation District by its President and Secretary has affixed its name and seal and the said second party also places his name and seal hereto the day and year first above written.

ACKNOWLEDGMENT. Witnesses

Date	Name of Officer	Title	County	State	Wife Examined Apart	Seal
Feb 11 1916	Lot L Feltham	N P	Washington	Idaho	. . . .	yes

Filed December 26,1916 at 11;30 a.m.


U.S. GEOLOGICAL SURVEY
Area covered by Lame Pt (14 ck) + Polly; also 6/23/93 (measured in detail)
Smoke chart in 1973.
same
50'
47'30"
12
13
14
15
16
Spring
Sand Pit
Spring
GALLOWAY
CANAL
RIVER
BM 2168
Silos
ROAD
BM 2207
CANAL
GALLOWAY
Tower
Rebecca
WEISER
BM 2159
SUNNYSIDE
2176
WEISER
CANAL
Mile 10
COVE
2200
2100
SUNNYSIDE
ROAD
BM 2216
Pump House
Flume
BM 2206
2476
2199
COVE
2195
2218
Pleasant View School (Aban'd)
Tanks
2356
Springs
2352
Area 2
ABANDONED
Area 3
2244
2243
2245
2266
2398
2205

CONVERSATIONAL MEMORANDUM

TO: File

FROM: Monica Van Bussum

DATE: 22 September 2005

RE: Evidence of Priority for SRBA files for Dan Smith (67-10143 and 67-14444) and Ed Pollard (67-14353 and 67-14445)

I met with Dan Smith this morning to look over his evidence of priority for his land. Ed Pollard has been interested in Dan's evidence of priority because Pollard and Smith purchased (and subsequently split) the old Green place in a change of ownership a few years ago.

Dan provided me with an aerial photo from 1938 of the Weiser area. He showed me the area he owns now and the area Pollard owns (now marked on the map). He also provided a letter from WID that addresses a water carrying agreement. I asked him to make a copy of the water carrying agreement and sent it in since he didn't have a copy of the actual agreement with him.

When we get this final piece of documentation, hopefully we will be able to determine if the Smith/Pollard water is WID water or individual water.

Also, Dan said there are two licenses on the property, but the beneficial use claim adds on some acres. The 1938 photo shows irrigated acres where the unlicensed area is, so it looks like we would be able to recommend a 1938 priority date for the additional acres in the BU claim. He has personal memory of the fields dating back to 1945 because that is the year his grandmother died and he remembers walking across the fields to tell his father. He also has memory of when his father first put the northern acreage (1970s license) on sprinkler, which was in 1954. He briefly mentions this in his affidavit.

During our conversation, Dan mentioned he pays WID for ditch maintenance and for Crane Creek storage water. We need to make sure he has live flow before recommending his or Ed Pollard's claims.

CONVERSATIONAL MEMORANDUM

TO: File

FROM: Monica Van Bussum

DATE: 22 September 2005

RE: SRBA claim 67-14354, conversation with Charles Phillips

Charles Phillips called this morning to discuss claim 67-14354. He started the conversation by saying he'd love to have a water right to irrigate on the property, but there is no pump. All previous water came out of Galloway Ditch. He would have to put a pump in to get water out at this point and it's really not economically feasible to do that. Also, he has to travel at least half a mile to get to this property and it is only a small piece of ground.

Mr. Phillips said the previous owners, the Greens, continued to farm this property after he purchased it in 1993, and this caused some contention because the Greens were not leasing the land from him.

Mr. Phillips said his current use of water on the property consists of funneling the wastewater from Dan Smith's and Ed Pollard's places and using it for wildlife. Since the soil on that property is so sandy, it filters the wastewater so it is clean when it returns to the river. He only has water during the irrigation season, essentially as long as Smith and Pollard irrigate.

Mr. Phillips and I discussed that he could not amend his current claim to reflect the wastewater use, but he could apply for a permit. He liked the idea of applying for a permit and I am sending him forms. I also mentioned that we would probably recommend 67-14354 as disallowed since it is no longer used, but later Craig Saxton informed me we can have Mr. Phillips withdraw the claim. I explained this in the letter I sent to Mr. Phillips today and now it is up to him if he wants the claim to be disallowed or withdrawn.

NOTE: Just a side note, since I have been working extensively on the Pollard and Smith files, there appears to be some difficulty determining if the Pollard/Smith water is Weiser Irrigation District or private water. Danielle Favreau and I are currently of the opinion it is WID water, but are waiting further documentation from Dan Smith. If it is WID water and, since Smith, Pollard and Phillips bought from the Greens, this claim would have been recommended as disallowed anyway, but would have been recommended in the name of WID. We need to check and see if WID has claimed the three acres in 67-14354 as part of its POU.

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COPY

Greens Pg 6
Pg 21-25

RANDALL C. FREDRICKS
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FAX: 208-433-8976

Good Background
Pg 2 to 10

ATTORNEYS FOR PLAINTIFFS AND THIRD-PARTY DEFENDANTS KERNER

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF WASHINGTON

VAUGHN W. KELLEY, an individual; HENRY P. GREEN and ANN C. GREEN, husband & wife; SMITH LAND & LIVESTOCK CO., an Idaho corporation; LON BAKER & JACK BAKER, dba BAKER BROTHERS, an Idaho general partnership; and INSTITUTE CANAL COMPANY, an Idaho Corporation Plaintiffs, vs. WEISER IRRIGATION DISTRICT, Defendant.	Civil No. CV98-00496 **PLAINTIFFS' MEDIATION STATEMENT**

WEISER IRRIGATION DISTRICT,

Third-Party Plaintiff,

vs.

MILTON KERNER and LOLA KERNER, husband and wife, BRUCE KERNER and JULIE KERNER, husband and wife, ROBERT A. SHIRTS and RONALD W. SHIRTS dba SHIRTS BROTHERS,

Third-Party Defendants

The following statement will be somewhat lengthy in order to give an adequate factual background, keeping in mind that this case involves seven (7) individual contracts and six (6) plaintiffs encompassing a time span of some eighty (80) years. The question involving water rights will, of course, be finally determined by the SRBA. If we can come to some solution over the "cost" of delivery of water, the ownership dispute will also be resolved.

Although the contracts have certain elements not common to each other the main element common to all of the contracts is that they are all "transportation" or "carriage" contracts by which the Weiser Irrigation District agreed to carry a certain designated amount of the private water of each contract holder for a specified contract rate. There were basically few problems involving these agreements until the year 1995 when the Weiser Irrigation District took the position that each contract holder should pay on a per acre basis the same assessment as members within the District without considering

the "actual" cost of delivery of the water to the diversion point of each contract holder and totally ignoring the plain terms of each contract.

The Weiser Irrigation District also took the position that the water being delivered to each contract holder was water owned by the District and not the individual contract holders and that the contracted rate was not valid. The District thus began charging each contract holder as if they were District members beginning in the year 1995 which charges have continued to the present time.

The contract holders filed this action for the purpose of having the court make a declaratory ruling on the validity of each contract.

This mediation was agreed to since the parties have been attempting to come to some compromise solution basically over the charges that the contract holders would be willing to pay for the transportation of their water. The basic difference at this time is that the District wants to charge on an acreage basis but is willing to reduce the normal District member assessment by some percentage. The contract holders have no real objection to paying the "actual" cost of delivery but any formula must be based on the point where each contract holder diverts their water and related directly to the maintenance and repair of the Galloway Canal. It must be kept in mind that the Plaintiffs are not District members and are not subject to the District assessments.

For example if we can come to some agreement on a reduced assessment charge that would approximate the cost of maintaining the Galloway Canal as a whole then this cost must also be prorated to the point where each contract holder diverts their water. The formula which would approximate the cost of the maintenance of the entire Galloway Canal (25 miles) would have to be divided by 25 to determine the cost to the District to maintain each mile of canal and then multiplied by the miles where each contract holder diverts their water. The Baker Brothers divert within one mile from the head of the canal; the Greens and Smith divert approximately three miles from the head of the canal; the Kelleys and Kerners divert approximately five miles from the head of the canal and the Institute Canal diverts approximately eleven miles from the head of the canal.

TIME LINE

The following is a time-line of the important dates involved for the convenience of the mediator.

Pre-1918. The Weiser Irrigation District was formed and began diverting water from the Weiser River for the irrigation of District lands. In the year 1916 Weiser Irrigation District purchased 8,400-acre feet of Crane Creek Reservoir storage water.

12/4/1918. The Weiser Irrigation District entered into a canal sharing agreement with Weiser Bench Irrigation Company (predecessor to the Institute Canal Co). The Bench Irrigation Company agreed to enlarge the canal to allow the Bench Irrigation Company to carry 2,000 miner's inches of water for their purposes and 8,000 miner's inches for Weiser Irrigation District.

6/20/1921. The Weiser Irrigation District was decreed 6,000 miner's inches (120 C.F.S.) under the Muir Decree to irrigate 8,000 acres of District lands.

4/15/1925. Due to financial difficulties the assets of the Weiser Bench Company was sold under foreclosure to L.F. Easton.

1932. The Weiser Irrigation Co. decided to move the diversion point for the Galloway Canal 1 and 3/4 miles upstream and to construct two miles of new canal across the lands now owned by the Baker Brothers and the Greens and Smiths.

10/1/1932. Contract was entered into between the Weiser Irrigation District and the predecessors to the Baker Brothers (John Baker and Eva E. Muir). The District purchased a right of way across the Baker lands and also allowed the Baker interests to carry their private water in the canal to irrigate

their lands through which the canal ran. One diversion point is approximately 1/4 mile from the head of the canal and the second diversion point approximately 1 mile from the head. The contract specified no delivery cost and no restriction on acreage or amount of water. No cost was assessed to the Baker Brothers until the year 1995. This contract has been referred to as the Muir/Baker Contract. The Bakers are presently diverting 151.6 miner's inches or approximately 1.38% of the capacity of the canal.

11/22/32. Contract was entered into between the Weiser Irrigation District and the predecessors to the Greens and Smiths (Ida M. Shoesmith and Polly A. Smith). Henry and Ann Green now own the Ida M. Shoesmith land and Smith Land & Livestock Co. owns the Polly A. Smith lands. The District purchased a right of way across their lands in order to tie into the existing Galloway Canal and agreed to carry up to 625 miner's inches (12.5 C.F.S.) of their private water and the Shoesmith/Smith parties agreed to pay 1/25th of the cost of the maintenance of the Galloway Canal from the head to their diversion point which was approximately 3 miles. The Greens are diverting approximately 181 miner's inches and the Smiths 188 miner's inches or a total of 369 miner's inches. The water is diverted at the same diversion point and is approximately 3.4% of the capacity of the canal and approximately 60% of the allowed diversion rate. At some point later in time the District, on its own volition, began using a formula to determine the delivery cost to be paid by the Shoesmith/Smith parties which formula was as follows:

(1) Add the total director salaries plus secretary salary plus water tender salaries plus mileage costs.

(2) Divide this number by 25 (length of the Galloway) which would equal an average cost per mile.

(3) Multiply this by 3 (miles from the head of the canal to the Shoesmith/Smith diversion point); and

(4) Multiply this by 1/25th as the agreed contractual carriage cost for their water.

1/9/36. The Institute Canal Co. was formed and the Institute Canal Co. purchased the irrigation assets of the defunct Bench Irrigation Co. from L. F. Easton.

1/10/36. Weiser Irrigation District entered into a contract with the Institute Canal Co. (actually an amendment of the 1918 contract with the Bench Irrigation Co.) whereby the flowage right through the Galloway Canal was reduced from 2,000 miner's inches to 1,000 miner's inches and if the Institute Canal Co. did not divert more than 800 miner's inches and allowed the District to utilize the excess then the ordinary cost of maintenance and upkeep of the Galloway canal from its head to the Institute diversion point was waived (except new construction or repairs due to Acts of God).

12/18/36. The Weiser Irrigation District applied for an additional 120 C.F.S. of water from the Weiser River (6000 miner's inches) to be applied to existing District lands and several thousand acres of non-district lands which included the lands now owned by the Plaintiffs. This application was approved by court decree dated May 16, 1939.

1939. The Weiser Irrigation District purchased an additional 6,700-acre feet of Crane Creek Reservoir storage water.

1940. The Weiser Irrigation District purchased an additional 2,500-acre feet of Crane Creek Reservoir secondary storage water.

1/15/1941. The Weiser Irrigation District entered into a contract with the predecessor to Vaughn Kelley (Annie Kelley) by which the District sold to Annie Kelley 50 miner's inches of Weiser River water from the 6000 miner's inches of water contained in the 1939 decree together with 100 acre feet of Crane Creek Reservoir water for the sum of $300.00. Annie Kelley agreed to pay an annual maintenance cost of $12.00 together with her pro rata share of the expense of any necessary improvements to the canal between the head of the canal and the Kelley diversion point. The Kelleys have been diverting approximately 50 miner's inches for irrigation of their lands which is approximately 45% of the capacity of the canal.

1/15/1941. The Weiser Irrigation District entered into a contract with the predecessor to the Kerners (Arthur Breshears) by which the District sold to the Breshears 100 miner's inches of Weiser River water from the 6000 miner's inches of water contained in the 1939 decree together with 200 acre feet of Crane Creek Reservoir water for the sum of $600.00. The Breshears agreed to pay an annual maintenance cost of $12.00 together with their pro rata share of the expense of any necessary improvements to the canal between the head of the canal and the Breshear diversion point. The Kerners have been diverting approximately 100 miner's inches which is approximately .9% of the capacity of the canal.

12/20/1954. The Weiser Irrigation District entered into a third contract with the Institute Canal Co. in order to clarify a prior dispute that had arisen over the manner of sharing costs of new construction for permanent improvements and repair to the canal made necessary by act of God and to further fix and determine the proportionate share of the reconstruction, maintenance and repair of that portion of the canal lying between the pumping plant of the Institute and the head gate of the canal. The basic agreement was that the obligations of the Institute Canal set out in the prior agreements (1918 and 1936) would be satisfied by the Institute participating in the cost of construction, improvement, repair and damages whether such repair be temporary or permanent by paying to the District the sum of $150.00 per year and further if there is any damage to said portion of the canal by an Act of God

that the Institute would pay 1/9th of the cost of such repair or 11.1%. The above was only valid so long as the Institute did not divert more than 800 miner's inches from the canal. The Institute at this time is diverting approximately 800 miner's inches at a point approximately 11 miles from the head of the canal which is 7.2% of the capacity of the canal.

WEAKNESSES AND STRENGTHS OF EACH PLAINTIFF

1. THE INSTITUTE CANAL COMPANY.

The District's main contentions regarding the Institute Canal Company are: (i) that since the Institute owns no licensed or adjudicated water that all water being delivered belongs to the District; (ii) that the contractual amount of $150.00 is invalid; and (iii) that there has been an illegal enlargement of acres being irrigated by the Institute from 800 to 957.

(a) The facts are clear that at least since the year 1920 the Institute (or its predecessor) has been diverting and applying to a beneficial use Weiser River water for the irrigation of Institute lands consisting of 800 acres. The District, for some reason, ignores the constitutional claim of the Institute.

". . . The right to divert and use the unappropriated water of any natural stream is guaranteed by the Idaho Constitution in article 15, Sec. 3. Until the law was changed in 1971, see 1971 Idaho Session Laws, ch. 177 at 843, a

person desiring to appropriate the water of a stream could do so either by actually diverting the water and applying it to a beneficial use or by pursuing the statutory method, which entailed an application to the Department of Water Resources for a permit and then fulfilling the requirements of the permit. . .Since 1971 the exclusive way to acquire a water right has been by the permit method. Nevertheless, those rights acquired by the so-called constitutional method prior to that time are still valid. (Emphasis mine.) I.C. Secs. 42-103,42-201. Thus, an appropriator, whose right is based upon a valid, although unadjudicated, constitutional method of appropriation, retains a senior claim in relation to a person holding a later issued permit. . .".

R.T. Nahas Co. v. Hulet 114 Idaho 23, 752 P.2d 625 (App. 1988) pps. 26 to 27.

This basic law was also reiterated in the case of Fremont-Madison v. Ground Water Approp. 129 Idaho 454, 926 P.2d 1301 (1996).

The Institute Canal Co. has filed its claim with the Department of Water Resources under the Snake River Adjudication for 800 miner's inches of Weiser River water. This would place the water claim of the Institute Canal Co. as senior to the 1939 Decreed right of the Weiser Irrigation District.

Examining the claim of the Weiser Irrigation District if we add the Muir Decree of 6000 miner's inches to the later 1939 Wood decree the record would support 12,000 miner's inches decreed to the Weiser Irrigation District. The problem facing the District is that the 1939 Wood decree included over 3,000 acres of non-district lands including the Plaintiffs' lands in this litigation. According to the filing made by the District in the existing Snake River Adjudication (A67-10280) the District claims 184.310 cfs of Weiser river water or 9,215.50 miner's inches to apply to 9,215 acres of District lands. The District is presently diverting 11,000+ inches of water from the river. The facts are clear that the excess water being diverted is the water claimed by the Institute and the other Plaintiffs.

It is the position of the Institute Canal Co. that the allegation of the District that the Institute does not own its own water has no merit whatsoever.

(b) If there is any weakness whatsoever in the position of the Institute Canal Co. it is the agreed $150.00 contractual maintenance cost although we have found no court decisions or other legal bases for finding this contractual term invalid. Idaho Code Sec. 42-906 states as follows:

"Amount and lien of rental or maintenance.--The amount to be paid by said party or parties for the delivery of said water, which amount may be fixed

by contract, or as may be provided by law, is a first lien upon the land for the irrigation of which said water is furnished and delivered."

From our review of the prior court decisions such contracts regarding a stipulated maintenance fee for the transportation of water through the canal system of a canal company have been upheld.

For example in the case of Nampa & Meridian Irrigation Dist. v. Briggs 27 Idaho 84, 147 Pac. 75 (1915). Nampa & Meridian sued Briggs in order to collect the Briggs pro rata share of the expenses necessarily incurred for the repair and maintenance of the ditches and canals of the entire irrigation system owned and controlled by the District. (Same position now taken by Weiser as to all Plaintiffs). The Briggs parties disputed this position and pointed out that he was the owner of his own water right and the contract provided for a specified sum of $12.00 per annum for each cubic foot of water delivered to his lands as his share of the repair and maintenance of the relevant canal. Nampa & Meridian took the position that the owners of water rights carried through the same ditch are legally liable to contribute pro rata to the maintenance of the entire system. The court stated that: "No doubt this is true in cases wherein all parties are upon equal footing and there is not contract to the contrary." The court upheld the terms of the Briggs contract.

Other cases which have upheld the right of parties to contract regarding a stipulated maintenance fee are: Nampa & Meridian Irr. Dist. v. Gess 17 Idaho 554, 106 Pac. 994 (1910); Knowles v. New Sweden Irr. Dist. 16 Idaho 217, 101 Pac. 81 (1909); Jackson v. Indian Creek Irr. Co. 16 Idaho 430, 101 Pac. 814 (1909); Booth v. Weiser Irr. Dist. 112 Idaho 684, 735 P.2d 995 (1987); Riverside Irr. Dist. v. Black 25 Idaho 98, 136 Pac. 611 (1918); Idaho Fruitland co. v. Great Western Bean Sugar Co. 18 Idaho 1, 107 Pac. 989 (1910); and Old River Rice Irr. Co. v. Stubbs 130 SW 1504 (Texas 1911).

The case of Jackson v. Indian Creek Irr. Co. supra is especially enlightening on this issue. The court in that case stated:

"This contract, it would seem, very clearly fixes and defines the respective rights of the parties. By it the company sells and conveys to the plaintiff the right to receive and use water from its reservoir and canals sufficient to irrigate certain land, and the plaintiff agrees to pay therefor an annual maintenance fee of ten cents. In case of shortage for any cause, the plaintiff agrees to receive under said contract only her pro rata share of water and consents that the company shall furnish only her pro rata share of such water. The only point urged against the validity of this contract, and the only part of such contract held to be void by the trial court is that portion which fixes the maintenance charge, and it is in the light of this provision only that this court is called upon to determine the validity of such contract. that the

parties to such contract had the capacity to contract it must be conceded, and if it was in their power to contract with reference to the maintenance charge, then so far as such contract is involved in this case, it must be held valid. The argument made against that provision in the contract which fixes the maintenance charge is based upon the provision of sec. 6, art. 15, of the constitution, which reads as follows:

'The legislature shall provide by law, the manner in which reasonable maximum rates may be established to be charged for the use of water sold, rented or distributed for any useful or beneficial purpose.'

"From this it is argued that the power to fix rates by contract is taken away and such power given solely to the legislature. Conceding, then, that the premises upon which such agreement is based are correct, still we find that the legislature of this state has by enactment authorized parties to contract with reference to the rate to be charged for furnishing water for irrigation purposes. Sec. 3288 of the Rev. Codes, among other things, provides: (The court then states the code at this point which is now Sec. 42-906 I.C. set out above.)."

The court approved the terms of the contract and the agreed maintenance charge.

That the Institute Canal Co. and all other Plaintiffs (not being members of the Weiser Irrigation District) cannot be treated as District members as the District wants to do is illustrated in the case of Nampa & Meridian Irr. Dist. v. Briggs supra which stated:

"Had the respondent's rights under his deeds been acquired by appellant and his property been taken into the district, the contention that no preferential right could be granted in his favor and against those situated similarly to him would be sound, but his rights were not acquired by appellant, his property was not taken into the district, the water-users who are members of the appellant corporation are not situated similarly to him and the contention is not sound."

The contention that the Institute Canal Co. can now be charged on a per acre basis the same as if the Institute Canal Co. was a District member is very weak and we have found to legal basis upon which to base that allegation. The only reason that we have considered mediation is to finalize once and for all the ongoing dispute. It must be kept in mind that the present costs of delivering water to the Institute members is much higher than the cost being assessed on District members so any additional cost must be reasonable and only related to the actual cost of the delivery of water to the Institute diversion point.

(c) The final major issue is the position of the District that there has been an unlawful enlargement of acres being irrigated by the Institute Canal Co. from 800 to 957. It is the position of the Institute that there are absolutely no grounds for this allegation. The contract in question allows up to 800 miner's inches to be diverted to retain the maintenance fee of $150.00. The Institute is pumping directly from the Galloway Canal and the pump cannot pump in excess of that amount. Further the contract makes no restriction on the amount of acres being irrigated but only the amount of water being diverted. Finally, the Institute Canal is composed of 800 acres which are being assessed on a per acre basis for the Institute costs. The additional 157 acres being complained of by the District is composed of non-District and non-Institute lands. The water, if any, from the Institute canal would be run-off or wastewater from Institute lands. The Institute has no control over these lands nor is it assessing these lands. The law is clear that any person can use run-off or wastewater from prior appropriators subject to the right of that person to reclaim such waters before it leaves their lands. The only concern that the District has it the amount of water being diverted by the Institute. How this water is delivered or utilized is the business of the Institute and not the District.

Section 42-913 Idaho Code states as follows: "Application for water. . . .the consumer of water shall be the judge of the amount and the duty of the water required for the irrigation of his land; and the annual charges to be

made and to be fixed under the further provisions of this title, shall hereafter be based upon the quantity of water delivered to consumers, and shall not in any case depend upon the number of acres irrigated by means of such amount of water delivered."

2. LON BAKER AND JACK BAKER dba BAKER BROTHERS, an Idaho general partnership.

As previously indicated the Baker lands are located at the very head of the Galloway Canal and their diversion point is 1/4 mile and 1 mile from the head of the canal. It is difficult to ascertain the exact position of the District regarding the Baker Brothers but the letter from the District's attorney in 1995 stated that the "original contract has no right to any acres above the canal" and therefore the Baker Brothers were in violation of the terms of the contract. (The contract has no such restriction). The District then began assessing the Baker Brothers for 173 acres of irrigated lands at the same rate of District members. The District allegations are basically the same as alleged against the Institute Canal: (i) Disputing the claim that the Baker Brothers own their own private water being carried in the Galloway Canal; (ii) the validity of the contract term which allows the Baker Brothers to carry their private water through the Canal for no cost. All parties until 1995 believed that the contract when read in total would not charge the Baker Brothers any cost of maintenance; and (iii) have the Baker Brothers breached the agreement?

(a) The Baker Brothers have filed their claims with Snake River Adjudication with an original claim for 2.272 cfs (113.6 miner's inches) which relates back to the 1932 contract and two later claims for .360 cfs (18 miner's inches) with priority of 1957 and .400 cfs (20 miner's inches) with priority of 1968. All claims predate the 1971 cut off date and thus are based on the constitutional claim of diversion and application to a beneficial use. Under the same basis as set out for the Institute Canal Co. there is no question but that the Baker Brothers have a right to 151.6 miner's inches of water. The claim that the Baker Brothers have no valid water claim is unfounded in fact and law.

(b) The 1932 contract provides for no cost to be assessed to the Baker Brothers. (The contract is silent on that point). It must be remembered that it was vital for the District to obtain the rights across the Baker lands in 1932 in order to move their diversion point upstream and build an additional two miles of canal of which more than one mile crossed the Baker lands. It also must be kept in mind that the diversion points of the Baker brothers are within one mile of the head of the canal thus the costs to deliver the water to the Bakers (1.4% of the capacity of the canal) would be minimal in any event. The contract when read as a whole would also indicate that there was no intent to charge the Bakers for use of the canal to irrigate those lands along which the canal ran. Weiser Irrigation District only paid the sum of $250.00 to obtain this extensive easement and further agreed to "maintain the ditch in a suitable

and efficient manner" including the building and maintenance of two bridges across the canal on the Baker property. The District from that date until 1995 charged no fee to the Bakers for use of the canal. The evidence is clear that the contract's intent was to allow the Bakers to use the canal at no cost.

The weakness of this issue regarding the Bakers is that it is possible that the court could construe the contract against the Bakers and that a cost of delivery should be paid by the Bakers. Although we believe that the District's position on this issue is weak the Baker Brothers would be willing to compromise the issue if it will settle all issues by paying their proportional share of the cost of maintenance of the first mile of the canal. Reference is also made to the contract decisions set out under the Institute discussion.

(c) Have the Baker Brothers breached the agreement? Again, it is unclear what the District is alleging in this regard as their only contention is that irrigating above the canal is somehow a breach of the agreement. The agreement contains no such prohibition and further contains no time line in which to bring their land under irrigation. The later claims were due to the fact that the Baker Brothers were able to begin sprinkling additional acreage, which they could not do earlier. This may be what the District is alluding to. The contract is clear that "as part of the consideration for the conveyance of the right-of-way", the Baker/Muir parties were "permitted to take and carry through said canal their private irrigation water for the irrigation of their lands

through which the right-of-way runs." The Baker Brothers are in full compliance with these terms. The land being irrigated is the same land owned by their predecessors at the time of the 1932 contract.

It is our position that the position of the District on this issue is weak.

2. HENRY and ANN GREEN and SMITH LAND & LIVESTOCK CO.

The lands of the Greens and Smiths are located next to the Baker lands and were in a similar position as the Weiser Irrigation District in order to better supply irrigation water to their constituents needed to obtain rights of way across the Green and Smith lands which is the reason for the 1932 contract. The Green's predecessor Ida M. Shoesmith owned 185 acres of land in 1932 of which (at that time) 145 acres was being irrigated. Over the years additional Shoesmith lands were placed under irrigation until at this time the Greens are irrigating 181 acres of the original lands.

The Smith's predecessor owned 171 acres of land in 1932 of which 154 acres were under irrigation. Since that time additional acreage has been obtained and approximately 188 acres are now being irrigated. The contract allowed the Shoesmith/Smith parties to carry through the Galloway Canal all irrigation water that they may desire for irrigating their present lands, being about 320 acres of irrigatable lands, not to exceed 600 miner's inches. The

contract also allowed the pumping of an additional 25 miner's inches to irrigate some high ground owned by Ida Shoesmith. The contract required that the expenses of maintenance of the canal from its head to the Shoesmith/Smith diversion point would be paid 1/25th by Shoesmith/Smith and 24/25th by the Weiser Irrigation District.

The District has made the following allegations as to the Greens and the Smiths: (i) Again contesting the ownership of the water being delivered through the Galloway Canal to the Green/Smith properties; (ii) Contesting the agreed formula for payment of the costs of delivery; and (iii) That the contract has been breached.

(a) The claims of the Greens and the Smiths can be divided into two areas. Ida Shoesmith and Polly Smith followed the statutory method of applying for a permit in 1932 and on June 25, 1935 were issued a License and Certificate of Water Right for a total of 5.98 cfs (299 miner's inches) divided by 145 miner's inches to Shoesmith (Green predecessor) and 154 miner's inches to Polly Smith (Smith predecessor). Since that time additional water has been diverted and applied to a beneficial use on the original Shoesmith property in the approximate amount of 36 miner's inches and on the Smith property in the approximate amount of 34 miner's inches. These claims have all been filed with the Snake River Adjudication and all predate the year 1971.

It is our position that the District has no grounds to contest the right of the Greens and Smith to claim their own private water and that only their own private water has been carried through the Galloway Canal for irrigation of their private grounds.

(b) The contractual formula for payment of the costs of carriage of the Green and Smith private waters through the Galloway Canal is clear and unambiguous. They are to pay 1/25th of the cost of maintenance of the canal from its head to their diversion point. Since the District was having trouble calculating this cost (which is their problem not ours) the District some years ago came up with the formula referenced earlier in this discussion. Basically adding all salaries and mileage costs and then using this figure as an approximate cost of maintaining the Galloway Canal as a whole. Although it is unclear why this particular formula was set up, it does approximate 35% to 40% of the entire costs of the District which is probably a reasonable estimate of the actual costs of maintenance of the canal itself. It must be remembered that the District has other costs not directly involved with the Galloway Canal itself such as a number of miles of laterals, bridges, roads, additional costs involved with the City of Weiser, additional costs involved by pumping from the Snake River, snow surveys and other costs.

In any event, the case law and statutory law is clear that the formula agreed to by the parties in 1932 would be enforceable. Reference is made to the legal discussion under the Institute area.

The Greens and the Smiths take a strong position on this issue. As far as mediation is concerned they would be willing to agree to the calculation previously being used by the District in assessing their costs or if another formula similar can be agreed to would consider that such as a percentage of the actual District assessment in lieu of the salary/mileage method.

(c) Has there been a breach of the Shoesmith/Smith contract?

It is our position that the contract is clear that the only prohibition under the contract is the amount of water being diverted not the amount of acreage being irrigated or which could be brought under irrigation at a later date.

The irrigation of the property owned by Mr. & Mrs. Green (the original property under the Shoesmith/Smith contract) has been increased by 36 acres. The diversion rate is still below the contractual amount and the lands being irrigated are the same "present" lands referred to in the original 1932 contract. Clearly there has been no violation of the terms of the 1932 contract by the Greens.

As to the Smith lands, the additional 34 acres that although adjoining the original Smith lands are not the lands referenced in the original 1932 contract. Even though the 1932 contract allows the diversion of approximately 300 miner's inches by the Smith interests the District could argue that a violation has occurred. Any damage, though, would be minimal since the Smiths are still within the diversion rates allowed by the 1932 contract so the District is not delivering any water in excess of that allowed by contract.

Our position thus is strong on the Green issue and except for the additional 34 acres being irrigated by the Smiths would also be strong on this issue with the Smiths but this would of course be open to discussion in order to resolve it.

3. VAUGHN KELLEY AND MILTON KERNER ET AL.

The issues involving Vaughn Kelley are very similar to the Kerners since their contracts were entered into simultaneously and except for the amount of water purchased are identical in other aspects. Just prior to the execution of the Kelley and Kerner (Breshears) contract in 1941 the Weiser Irrigation District had been awarded an additional 6000 miner's inches of water (part of which was directly related to the Kelley and Kerner properties) and had purchased some 6700 acre feet of primary storage and 2500 acre feet of secondary storage in the Crane Creek Reservoir. The District had also just

completed major work on the Galloway Canal and as indicated in their minutes were in need of funds. Thus in 1941 the District sold 50 miner's inches from the 6000 miner's inches just awarded together with 100 acre feet of storage water for the sum of $300.00 to Annie Kelley and 100 miner's inches together with 200 acre feet of storage water for the sum of $600.00 to the Kerner predecessor. The District also agreed to carry the water just sold for an annual maintenance fee of $12.00. As with all the other Plaintiffs the contracts were followed by the District until the year 1995 at which time the District began assessing Vaughn Kelley and the Kerners as if they were District members in total breach of the terms of the 1941 contracts.

The issues involving Vaughn Kelley and Milton Kerner are basically the same as involving the other Plaintiffs: (i) Questioning the ownership of the waters being carried through the Galloway Canal. The additional allegation that for some legal reason they couldn't sell the water to the predecessors of the Kelleys and Kerners; (ii) Validity of the agreed payment for delivery of the Kelley and Kerner water;and (iii) Allege that there has been an illegal enlargement of acres being irrigated.

(a) The District has admitted in its pleadings and other documentation that when the District was awarded the additional 6000 miner's inches of water that this included water which was to have been applied to a large number of non-district lands including the lands owned by Annie Kelley and the Breshears

and that such water was not needed for irrigation of lands within the District. It was therefore surplus water not even appurtenant or dedicated to lands within the District. As case law states such waters may be transferred, sold and delivered to non-district lands without being considered as an ultra vires act.

"Under the provisions of C.S., Secs. 4346 and 4355 (Secs. 43-304 and 43-322, I.C.), the power of the directors or other officers of an irrigation district is limited, and any act done in excess of the express or implied provisions of the statute by such directors or other officers is ultra vires. However, the foregoing provisions of the statutes do not prohibit the delivery of water to users outside of the district when the same is not needed by users within the district.

Jensen v. Boise-Kuna Irr. Dist. 75 Idaho 133,139, 269 P.2nd 755,761 (1954).

The case went on to state at page 141: "The incorporation, by reference, of powers of the district applicable to irrigation, includes the general powers set forth in Sec. 43-304 I.C. which specifically includes the power to "make and execute all necessary contracts." From these provisions it is clear that the subject matter of the contracts which the district made with the plaintiffs is not ultra vires. The contracts by their terms identify the water to

be made available to the plaintiffs as "seepage waters and waste waters". Hence, no attempt was made by the directors to obligate the district to deliver or make available to the plaintiffs any of the water or water rights owned by the district, and available, appurtenant and dedicated to lands within the district."

This basic legal issue has been followed in the case entitled In Re SRBA Case NO. 39576 Memorandum Decision and Order on Challenge dated April 27, 1999 at page 17.

Irrespective of the position of the District regarding their problem with the 1939 decree which covered both District and non District lands both the Kelleys and the Kerners have diverted and applied to a beneficial use the waters involved all of which occurred long prior to the year 1971. They also have a right under the constitution upon which to base their claim to their private waters. Vaughn Kelley has filed his claim under the SRBA, which shows it as a split right under the original 1939 decree. Kerners have also filed their claims under the SRBA part of which is under the same split right and part under a different number.

The position of both the Kelleys and the Kerners is that the Weiser Irrigation District has no basis to deny that the water being delivered to their properties are not their private waters.

(b) As to the $12.00 set maintenance fee provided by the two contracts we would refer to the legal decisions set out under the Institute discussion. Such terms have been upheld without exception by the courts. Irrespective of that both parties are willing to negotiate on the same basis as set out under the Baker, Smith and Green discussions that the contracts could be amended to provide some agreeable formula for determining the actual cost of delivering the water to the Kelley and Kerner properties based on the maintenance cost of the Galloway canal from its head to their diversion points which are approximately 5 miles from the head of the canal.

(c) Regarding augmentation of acreage Vaughn Kelley is irrigating the exact same acreage as defined in the original 1941 contract or 51.8 acres. He is diverting approximately 50 miner's inches and is using a measuring device for this purpose designated by the Weiser Irrigation District.

Our position regarding this issue is strong and that there has been no augmentation of acreage under the 1941 contract. In fact the contract does not restrict the acreage to be irrigated. The only restriction is the amount of water to be diverted. The Weiser Irrigation District has no interest whatsoever in the acreage involved. This is strictly up to the owner of the property. Reference is also made to Sec. 42-906 I.C.

The Kerners are irrigating approximately 120 acres from the Galloway Canal and are not diverting anymore than the 100 miner's inches allowed under the 1941 contract which is being measured by a measuring device of a type as specified by the District and installed at the District's request. The District is claiming that the Kerners are irrigating an additional 175 acres and have been assessing these acres in addition to the 120 acres. The additional acreage is being irrigated by direct pumping from the Weiser River and has absolutely no relationship to the Weiser Irrigation District or the Galloway Canal. The 120 acres being irrigated from the Canal is the same lands as described in the 1941 contract.

The Kerners are not in violation of the 1941 contract and the acreage involved is contained within the description set out in the 1941 contract. Irrespective of that the only restriction under the 1941 contract is the amount of water to be delivered not the amount of acres to be irrigated.

Respectfully submitted this 14th day of July, 1999.

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August 14, 1996

Mr. and Mrs. Henry Green
2117 Weiser River Road
Weiser, Idaho 83672

Dear Mr. and Mrs. Green:

Re: Weiser Irrigation District/Henry Green,
Our File Nos. 96038-01

I have been reviewing the various documents regarding your dispute with the Weiser Irrigation District in preparation for a meeting with Lary Walker in the near future. First, I want to verify that I have a correct list of all of your water rights on your property.

The original Water License No. 17813 which included irrigation rights of Ida M. Shoesmith and Polly A. Smith was for a total of 299 miners inches (actual use) with a priority date of August 15, 1933 (Weiser River rights). The Shoesmith acreage listed (which you purchased) was in Section 3 Lot 3 - 10 acres; Section 3 Lot 4 - 20 acres; Section 3 SW1/4 NW1/4 - 35 acres; Section 4 SW1/4 NE1/4 - 40 acres; and Section 4 SE1/4 NE1/4 - 40 acres for a total of 145 irrigated acres. The Smith portion of the License was for 154 irrigated acres located in Section 4 and Section 33. According to your Notice of Claim filed on this water right you have claimed on 181 acres in Section 3 and 4. I assume that you have been able to place more of the acreage under irrigation since the original Shoesmith filing. Please verify this.

In the contract with Weiser Irrigation District dated November 22, 1932, Weiser agreed to take over the Shoesmith/Smith canal and enlarge it and agreed to carry up to 600 miners inches to irrigate 320 acres which would include the 145 acres you purchased. In addition Weiser Irrigation District was given a right-of-way across the Shoesmith/Smith lands to connect to the existing Weiser canal. Shoesmith/Smith also agreed to pay 1/25 of maintenance expenses of the canal from the head to the point where it was diverted to the Shoesmith/Smith lands. Has there ever been any accounting of actual expenses in accordance with the contract to your

knowledge? The contract also allowed Shoesmith to carry up to 25 miners inches to irrigate some high ground. I don't have much information on this. Is this additional land? What land does it include?

In your contract of purchase you also purchased land in Section 34 which was not included in the Shoesmith water right filing. You also purchased 420 shares of Crane Creek Water from Einspahr which is the subject of your water agreement with Weiser Irrigation District dated Sept. 2, 1975. According to this agreement Weiser is to carry up to 50 miners inches for delivery of your Crane Creek Water to your lands in Section 34. For this you agreed to pay the same assessment per acre as other water users in the District.

My major questions before meeting with Lary Walker to resolve the issue is to verify the actual amount of water being diverted to your lands from the Galloway canal. Under the Shoesmith/Smith agreement, the owners were allowed up to 600 miners inches to carry their Weiser river rights. Under your claim, you have filed on 5.9 C.F.S. which is the same as 295 miners inches. In addition you have the right to divert another 50 miners inches for your Crane Creek rights (which is 1 C.F.S.). What is the actual diversion of water to your lands from the Galloway Canal over the last several years? I would also need copies of the Crane Creek Reservoir orders for diverting your 420 shares of water. I need the above to show that you are only using the canal as carriage for your own water and not District water. So far as the 1933 contract is concerned, since you are not a District member, you have no duty to pay for any expenses other than what the contract specifies.

If I have made any incorrect assumptions as to the facts regarding your position, let me know. If you have any questions, please don't hesitate to contact me.

Very truly yours,

Randall C. Fredricks

RCF:rlf

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Attorneys for Plaintiffs

COPY

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF WASHINGTON

VAUGHN W. KELLEY, an individual; HENRY P. GREEN and ANN C. GREEN, husband and wife; SMITH LAND & LIVE-STOCK CO., an Idaho corporation; LON BAKER & JACK BAKER, dba BAKER BROTHERS, an Idaho general partnership; and INSTITUTE CANAL COMPANY, an Idaho corporation,

Plaintiffs,

vs.

WEISER IRRIGATION DISTRICT,

Defendant.

Civil No. CV98-00496

PLAINTIFFS' MEMORANDUM IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT

INTRODUCTION

The Plaintiffs in this matter are farmers in the Weiser Valley. Over the years,

each of the Plaintiffs, or their predecessors in interest, have entered into contracts with the Weiser Irrigation District (WID) for the delivery of water to their lands, which lie outside the boundaries of the WID. WID has informed each of the Plaintiffs that it will no longer honor the terms of the respective contracts. Based upon this action of WID the Plaintiffs filed this matter, requesting judgment, pursuant to Idaho Code §10-1201, *et seq.*, adjudging, determining and declaring the rights and duties of the Plaintiffs regarding their respective contractual agreements with WID.

STATEMENT OF UNDISPUTED FACTS

I. FACTS IN COMMON WITH ALL PLAINTIFFS.

As noted above, the Plaintiffs are farmers in the Weiser Valley. Over the years, each of the Plaintiffs, or their predecessors in interest, have entered into various contracts with WID for the delivery of water to their lands. Each of the contracts in question have been attached to the Complaint on record. All of the land irrigated pursuant to the terms of the contracts lie outside of the boundaries of the WID (Answer to Complaint for Declaratory Relief, ¶3, p. 2).

II. FACTS PARTICULAR TO EACH PLAINTIFF.

A. PLAINTIFF KELLEY. Plaintiff Kelley irrigates approximately 57 acres, which are presently being irrigated from water owned and claimed by Kelley. A portion of this water is delivered by WID by virtue of a contract dated January 15, 1941, entered into between WID and Plaintiff Kelley's predecessor in interest, Annie Kelley. None of these lands are contained within the boundaries of WID. Pursuant to the terms of the contract dated January 15, 1941, the water being transferred by WID to Plaintiff Kelley's predecessor in interest would be a perpetual right for transport through the irrigation canal of WID fifty (50) inches of flood water and 100 acre feet of storage water. WID retained the "sole right to operate and manage all head gates leading from the canal of the party of the first part (WID.)"

WID admits to the existence of the contract and further admits that Kelley has been furnished water pursuant to the contract for the purposes of irrigating lands which he presently owns, and which were owned by his predecessors. (Answer to Complaint for Declaratory Relief, ¶4, p. 3).

B. PLAINTIFFS GREEN AND SMITH LAND & LIVESTOCK COMPANY.

The Greens are owners of certain lands comprised of 180 acres which is presently being irrigated from water owned and claimed by the Plaintiffs, and which is being delivered by WID by virtue of a contract dated November 22, 1932. (Affidavit of Henry P. Green). The Greens are the successors in interest of the Shoesmith lands referred to in the Shoesmith/Smith Contract.

Plaintiff Smith Land & Livestock owns certain lands comprising 154 acres, which is presently being irrigated from water owned and claimed by Smith Land & Livestock, and which is being delivered by WID by virtue of the contract dated November 22, 1932, referred to above as the Shoesmith/Smith Contract. Plaintiff Smith Land & Livestock Company is the successor in interest of the Smith lands referred to in the Shoesmith/Smith Contract. (Affidavit of Dick Smith).

Pursuant to the terms of the Shoesmith/Smith Contract, the Shoesmith/Smith individuals transferred to WID the existing Shoesmith/Smith Canal, which was located in their respective properties, and further allowed WID to enlarge the canal, together with a right-of-way to connect the district canal with the Shoesmith/Smith Canal. Pursuant to the terms of the contract, WID agreed to carry and deliver up to 600 miner's inches of the Shoesmith/Smith irrigation water. WID agreed to carry up to an additional 25 miner's inches to irrigate some high ground on the Shoesmith (now Green) property. The Shoesmith/Smith property owners agreed to pay 1/25 for the maintenance costs of the canal from the head of the canal to the point where the water was diverted to the Shoesmith/Smith properties. In the event WID refused to deliver water, all rights of the Shoesmith/Smith canal as enlarged would cease and revert to the owners of the

Shoesmith/Smith properties. (Affidavits of Henry P. Green and Dick Smith). In addition, WID retained the sole right of possession of the canal and has controlled the delivery of water to the lands of the Plaintiffs. The Plaintiffs Green and Smith Land & Livestock Company, and their predecessors in interest, have fully complied with the terms of the contract.

The WID, in its Answer to the Complaint for Declaratory Relief, at ¶4, admits that the District "did enter into what has been referred to as the Shoesmith Contract, the terms of which are self-explanatory." (Answer to Complaint for Declaratory Relief, ¶6, p. 5).

C. PLAINTIFFS LON BAKER AND JACK BAKER, dba BAKER BROTHERS, AN IDAHO GENERAL PARTNERSHIP.

The Plaintiffs Lon Baker and Jack Baker, dba Baker Brothers (Baker Brothers) are presently irrigating 195 acres with water owned and claimed by Plaintiffs, which was being delivered by WID, pursuant to the terms of a contract dated October 1, 1932 (the Muir Contract). (Affidavit of Lon Baker). Pursuant to the terms of the Muir Contract, dated October 1, 1932, WID desired to build a canal over and across the lands owned by the Muir and Baker interests to irrigate district lands and obtained the consent of the landowners for this purpose. WID agreed to build, construct and maintain the canal in a suitable and efficient manner. Pursuant to the terms of the contract, Muir and Baker were to be permitted to take and carry through the canal their private irrigation water for the irrigation of their lands through which the right-of-way hereby conveyed, runs. However, it was expressly contracted and agreed that WID was not to furnish any WID irrigation water to, or for, the irrigation of said land." (Affidavit of Lon Baker and Exhibit I to the Complaint).

Plaintiff Baker Brothers and their predecessors in interest fully complied with the terms of the contract and only utilized their own water to irrigate their own property. WID has maintained complete control over delivery of irrigation to Plaintiffs Baker's

property. (Affidavit Lon Baker). In its Answer to Plaintiffs' Complaint, WID admits to the existence of the contract and terms and conditions thereof which allowed the purchase of property for the canal and the obligation to deliver these Plaintiffs water. (Answer to Complaint ¶ 7, page 6).

D. INSTITUTIONAL CANAL.

Plaintiff Institute Canal Company is a mutual non-profit cooperative canal company in which the owners of shares of stock own an undivided interest in the water rights and irrigation works owned by the corporation. (Affidavit of Debra Stevens.) The water rights owned by the Institute Canal Company are delivered by WID through the district canal (Galloway Canal) to the point where the Institute Canal Company ditch intersects with the Galloway Canal for deliver of irrigation water to Institute Canal Company shareholders. (Affidavit of Debra Stevens.) The Institute Canal Company water is being delivered to the Institute Canal Company by WID under the terms of three contracts dated December 4, 1918; January 10, 1936; and December 20, 1954. (Affidavit of Debra Stevens.) None of the lands being serviced by the Institute Canal Company are within the WID. (Affidavit of Debra Stevens.)

1. Contract dated December 4, 1918.

This contract was entered into between WID and Weiser Bench (which was the predecessor Institute Canal Company). Institute originally desired to irrigate 2,500 acres, and paid to WID the sum of $9,000 for the use of the Galloway Canal for delivery of the Institute water. The canal was to be enlarged, at the cost to the Institute, to carry an additional 2,000 miner's inches over and above its then-capacity of 8,000 miner's inches. In further consideration, the Institute agreed to pay 1/5 of the costs of maintenance including improvements from the point where the Institute was to take out the water to the head of the canal (Affidavit of Debra Stevens.)

2. Contract dated January 10, 1936.

This contract changed the prior agreed flowee's rate from 2,000 miner's

inches to 1,000 miner's inches. Additionally, it gave WID the right to use any excess water owned by the Institute over 800 miner's inches if the Institute did not use the excess. (Affidavit of Debra Stevens.) For this consideration, WID agreed to not charge the originally agreed maintenance costs set out in the 1918 contract except for extraordinary charges or necessary new construction. (Affidavit of Debra Stevens.) In the event the Institute did use water in excess of the 800 miner's inches, the maintenance set out in the 1918 contract would be applicable. (Affidavit of Debra Stevens.)

3. Contract dated December 20, 1954.

This contract simply changed the maintenance charge to a flat $150 per year, so long as the Institute usage did not exceed 800 miner's inches. In event of any extraordinary expenses, the Institute would pay 1/9 of such costs. (Affidavit of Debra Stevens.)

The WID informed the Institute Canal Company, that it would no longer recognize, as binding, the above-referenced contracts. However, in its Answer to Company for Declaratory Relief, the district (WID) admits there have been various contracts for the delivery of water. (Answer to Complaint for Declaratory Relief, page 7.) WID does not challenge the contracts other than to allege that because of a change of circumstances, the assessment charges are not reasonable.

ARGUMENT

A. INTRODUCTION.

The narrow issue before the court is whether the various contracts entered into by the Plaintiffs and their respective predecessors in interest are enforceable as written. In its Answer, WID admits the existence of the contracts. Moreover, WID admits that it has delivered the Plaintiffs' water pursuant to the terms of the contracts. The district, now after many years of delivery, has attempted to re-write the contracts. This

Memorandum will establish that the contracts are enforceable as written and the district has no authority to assess these Plaintiffs' whose lands, by the district's own admission lie entirely outside of the district's boundaries.

B. STANDARD OF REVIEW.

Pursuant to I.R.C.P. 56(c), a summary judgment

> (S)hall be rendered forthwith if the pleadings, depositions, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law.

If the the record contains conflicting inferences or if reasonable minds might reach different conclusions, a Summary Judgment motion will be denied. *Kline v. Clinton,* 103 Idaho 116, 645 P.2d 350 (1982). However, when a jury has not been requested, the trial judge is not constrained to draw inferences in favor of the nonmoving party, but, rather, the trial judge is free to arrive at the most probable inferences to be drawn from the uncontroverted evidentiary facts. *Loomis v. City of Hailey*, 119 Idaho 434, 807 P.2d 1272 (1991); *Kaufman v. Fairchild*, 119 Idaho 859, 810 P.2d 1145(Ct. App.1991).

C. THE CONTRACTS DEFINE THE RIGHTS OF THE PARTIES WITH RESPECT TO THE IRRIGATION WATERS OWNED BY PLAINTIFFS.

As noted above, WID admits the contracts of Plaintiffs. The WID Answer then suggests that the contract provisions for annual maintenance fees, if any, are inadequate. As will be discussed below, the Idaho Supreme Court has routinely upheld contracts of the nature at issue. As a general rule, an irrigation district may contract to deliver the water of non-members of the district. Conversely, a district may not deliver district water outside of the district to the detriment of the district members. This is a fundamental distinction. As noted above, all of the Plaintiffs' lands lie outside of the WID boundaries and the water being delivered is water which belongs to the Plaintiffs and is not WID water.

The reasoning of the initial decision in *Knowles v. New Sweden Irrigation District*, 16 Idaho 217, 101 P. 81 (1908) is instructive as to the right of WID to increase maintenance fees and assess the Plaintiffs' land located outside of the district for these increased maintenance fees. The initial *Knowles* decision was reduced to dicta upon rehearing because the land owner was found to be a patron of the district.

In *Knowles*, the irrigation company purchased a smaller canal company that had previously sold a water right to Addison Scott by deeding the water right along with a promise to keep the canals in good repair and to deliver the water to Scott. Scott, in return, agreed to pay an annual fee of one dollar per acre for all crops and trees actually irrigated in that year. Scott's land was physically inside the boundaries of the new irrigation district, but he made the fatal assumption that he was not included in the district because of his pre-existing water right. As soon as the irrigation company bought the smaller canal company, it assessed all lands located in the district including the Scott land for the purpose of making payments on outstanding district bonds and for improvements and for maintenance. Scott refused to pay the assessments. Knowles purchased the land from Scott two years after the assessments began, and he also refused to pay the assessments. When the irrigation company threatened to sell his land to collect the assessments, Knowles paid all of the outstanding assessments under protest and brought suit against the irrigation district to recover his payments and restrain the district from levying additional assessments against his land. The initial decision in finding for Knowles said at:

> Now, it is clear to us that for the purchase of this system (New Sweden Irrigation District) could not legally and lawfully assess (Knowles') property until such time as it either purchased or acquired his water right and privileges and reduced him to a common level, and placed him on a common footing with the other land owners and water consumers in the district. To assess (Knowles) for the purchase of a water right and canal system upon the theory that his lands were to be benefited thereby on account of receiving water from such system is wholly unjustifiable,

> where (Knowles) was already the owner of sufficient interest, title and claim in the water right and canal system for his own purposes, and where the purchase was not received by him either in whole or in part, but was to be received wholly by a third party.

Knowles, 16 Idaho at 227.

The Court continued:

> The only additional right and privilege that this contract gave the purchaser over any other water user is that of receiving his water annually at the fixed and stipulated rental of one dollar per acre. On the contrary, a water consumer who had not purchased such a contract would be liable to pay such water rates as might be established from time to time in conformity with the statute. But under this contract neither the canal company nor its successors in interest could ever raise the rate as against (Knowles).

Id at 228.

Unfortunately for Mr. Knowles, he was found to be a member of the irrigation district because he did not object to inclusion when the district was formed. As such, he was subject to assessment. The Plaintiffs in the present case are not members of the WID, which is admitted by WID. They are physically located outside the WID boundaries. The reasoning of the initial *Knowles* if applied in the present case will give the Plaintiffs the relief they desire – confirmation of all of the terms of their contracts and removal of the WID assessments from their land.

The Plaintiffs' contracts have varying provisions concerning improvements and annual maintenance. Kelley's contract calls for proportional sharing of improvements made between the canal head and Kelley's land and a flat $12 annual maintenance payment. Green and Smith Land & Cattle predecessors' contract does not address improvements but calls for an annual maintenance fee of 1/25 of the maintenance expense associated with the canal between the canal head and the subject property. The Muir/Baker contract does not address either improvements or annual maintenance charges. The Institute Canal contract dated December 20, 1954, which amended the

prior two (2) contracts, stated that so long as the Institute did not divert more than 800 inches of water the annual maintenance charge would be $150 plus 1/9 of the cost of repair of any damage occasioned by an act of God. It is WID's view of the Plaintiffs' liability for annual routine maintenance that is the primary catalyst that initiated this action.

In *Nampa & Meridian Irrigation District v. Briggs*, 27 Idaho 84, 147 P. 75 (1915) the court was confronted with a virtually identical issue. In that case, the contract holder's land was excluded from the irrigation district. The irrigation district complained of low annual maintenance fees for the contract holder. In setting forth the issue the court stated:

> The main question is whether the appellant irrigation district has the right to recover from the respondent his pro rata share per annum of the expense of the management and maintenance of said canal system, or whether appellant is bound by the stipulation in said deeds which required the respondent to pay but $12 for the delivery of a cubic foot of water per second of time.

Id at 89.

The court in holding for the contract holder pointed out:

> It is not contended that, when made, the contracts now complained of were inequitable or granted preferential rights or discriminated against anyone then situated as was the grantee in the original contracts or deeds, from appellant's predecessor. . .Had the respondent's rights under his deeds been acquired by appellant and his property taken into the district, the contention that no preferential right could be granted in his favor and against those situated similarly to him would be sound, but his rights were not acquired by appellant, his property was not taken into the district, the water-users who are members of the appellant corporation are not situated similarly to him, and the contention is not sound.

Id at 89.

The *Briggs* court followed the reasoning in the initial *Knowles* decision and looked to the contracts to define the rights and duties of the parties. The contracts in the present action define the duties of the parties in this case -- nothing else. An examination of the individual contracts will spell out the specific rights and duties of the parties.

D. KELLEY.

By contract dated January 15, 1941, Vaughn Kelley's predecessor Annie Kelley, purchased from WID one hundred acre feet of primary storage in Crane Creek Reservoir together with fifty inches of water under permit license #18429 for the sum of $300. The agreement required WID to carry in perpetuity this water in its existing canal to the Kelley property, for which Annie Kelley agreed to pay a maintenance charge of $12 per year, together with any pro rata part of expense of any improvements to the canal between the head of the canal and the Kelley Property. WID retained complete control over the delivery of the water to the Kelley property.

For over 50 years this relationship continued. Then in 1995, WID attempted to unilaterally rescind the contract and substitute a new contract calling for increased annual maintenance fees.

In another case very similar to the case at bar, the Plaintiff owned water rights that the irrigation company was delivering. The contract rate for maintenance was 10 cents per inch of delivered water. The irrigation company sought a "reasonable" sum for annual maintenance while admitting the contract. The court in *Jackson v. Indian Creek Reservoir Ditch and Irrigation Co.,* Ltd., 16 Idaho 430, 101 P. 814 (1909) described the case before:

> The only point urged against the validity of this contract, and the only part of such contract held to be void by the trial court is that portion which fixes the maintenance charge, and it is in the light of this provision only that this court is called upon to determine the validity of such contract. That the parties to such contract have the capacity to contract it must be conceded, and if it was in their power to contract with

> reference to the maintenance charge, then so far as such contract is involved in this case, it must be held valid.

Id at 436.

The *Jackson* court found that the parties did have the capacity to contract for the maintenance rate and adopted the reasoning of the California courts when stating:

> (T)here is no provision of the laws of the state, and no principle of public policy, which inhibits such contracts.
>
> So, in this case, if the statute did not expressly authorize the making of such contract, still, there being no constitutional or statutory inhibition against such contracts, the parties would have the right to make the same. This necessarily leads to the inevitable conclusion that the contract involved in this case was valid and binding upon the parties thereto and their successors in interest.

Id at 438.

Public policy would not be offended by the Kelley contract or any of the contracts of the other Plaintiffs in this action.

E. GREEN, SMITH LAND & LIVESTOCK, AND BAKER.

Plaintiffs' Green, Smith Land & Livestock and Baker are on ground slightly different from Kelley because their predecessors in interest, Mrs. Shoesmith, Mrs. Smith and John Baker transferred real estate interests to WID in return for WID's promise to deliver water owned by these people to their properties. The Shoesmith / Smith contract called for a annual maintenance fee of 1/25 of the maintenance costs applied to the portion of the canal from the head to the Shoesmith / Smith land. The Baker contract had no provision for annual maintenance fees. Prior to the transaction, Shoesmith, Smith, and Baker had water rights and the rights of delivery to their land. They had the same rights after the transaction with WID assuming the responsibility to deliver the water. Similar contracts have been held valid and not *ultra vires* with

respect to an irrigation district. See, *Booth v. Weiser Irrigation District*, 112 Idaho 684, 735 P.2d 995 (1987). The transfers of an interest in real property to WID clearly continue to benefit the irrigation district today. As the court said in *Colgrove v. Hayden Lake Irrigation District*, 40 Idaho 489, 223 P. 434 (1925) at 493:

> (The Irrigation company) would not be permitted to enjoy the benefits of its predecessor's contract with (water user) without assuming the burdens.

WID's burden under the contracts is to continue to deliver water to the Plaintiffs' properties. As far as the amount for annual maintenance fees is concerned, as pointed out previously, the court in *Knowles* , instructed at 228:

> The only additional right and privilege that this contract gave the purchaser over any other water user is that of receiving his water annually at the fixed and stipulated rental of one dollar per acre. On the contrary, a water consumer who had not purchased such a contract would be liable to pay such annual water rates as might be established from time to time in conformity with the statute. But under this contract neither the canal company nor its successors in interest could ever raise the rate as against appellant.

WID is attempting to keep the benefits of its contracts with Greens, Smiths and Bakers while avoiding the burdens established by the contracts.

F. INSTITUTE CANAL.

The Institute Canal contracts combine the essence of both the Kelley (pure purchase) and Shoesmith/Smith and Baker contracts (exchange of property rights) in that Institute purchased the right to use the canal from WID and subsequently by contract in 1936 gave a right to WID for use of excess water in return for a zero annual maintenance fee and so long as the Institute did not use water in excess of 800 inches, which was changed to a flat $150 per year in a later amendment to the contract (1954).

The arguments of the other Plaintiffs apply to Institute Canal position in this matter. Additionally, the history of a series of contracts between Institute Canal and

WID addressing the annual maintenance charge should indicate that the parties had an expectation that the contract provisions would dictate the relationship of the parties with respect to annual maintenance fees.

Other irrigation districts have tried to avoid their obligations under contracts that have been in effect for decades. But as the court in *State ex rel. Squaw Mountain Cattle Company v. Wheatland Irrigation District*, 728 P.2d 172 (Wyo. 1986) observed at 178:

> Remorse on the part of Wheatland Irrigation District over the conclusion of its predecessor in interest does not serve to adjust its obligations pursuant to the contract.

Similarly, WID may regret the actions of its predecessors and prior officials in entering contracts with what is seen by today's WID as inadequate maintenance fees, but that does not serve to change the contracts.

CONCLUSION

The narrow issue before the court on Plaintiffs' Motion for Summary Judgment, is the enforceability of the various contracts entered into by the Plaintiffs with WID. All of the respective lands lie outside of WID boundaries. As such, WID has no authority over the Plaintiffs, and the contracts themselves dictate the rights between the parties.

As noted throughout this Memorandum, WID has admitted to the existence of the contracts and admits that water has been delivered to these Plaintiffs pursuant to their respective contracts. The only issue raised by WID in its Answer is that times have changed and WID should be allowed to increase the assessments for the delivery of water. Plaintiffs respectfully submit that WID's argument is without merit and should be rejected. As this Memorandum makes clear, the district has the authority to deliver non-district water to non-district members. The contracts at issue were approved by the district. Moreover, contracts of this type are enforceable and delineate the rights of

the parties. WID should not be allowed to unilaterally change the term of the agreements. Based on the foregoing, Plaintiffs respectfully request the court enter Summary Judgment in their favor.

DATED this 15th day of June, 1998.

ELLSWORTH, KALLAS & TALBOY, P.L.L.C.

By _____
Robert W. Talboy - Of the Firm

By _____
Randall C. Fredricks
Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

I HEREBY CERTIFY That on this 1st day of June, 1998, I caused to be served a true and correct copy of the foregoing document, by the method indicated below, upon the following:

Lary C. Walker, Esq.
232 East Main Street
Post Office Box 828
Weiser, ID 83672

[✓] United States Mail
[ ] Overnight Mail
[ ] Hand Delivery
[ ] Facsimile (208) 549-0404

By: Robert W. Talboy

ROBERT W. TALBOY
ELLSWORTH, KALLAS & TALBOY, P.L.L.C.
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RANDALL C. FREDRICKS
Attorney at Law
P. O. Box 2835
Boise, Idaho 83701-2835
Telephone: 208-384-5144
Idaho State Bar No. 989
FAX: 208-433-8976

ATTORNEYS FOR PLAINTIFFS AND THIRD-PARTY DEFENDANTS KERNER

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF WASHINGTON

VAUGHN W. KELLEY, an individual; HENRY P. GREEN and ANN C. GREEN, husband & wife; SMITH LAND & LIVESTOCK CO., an Idaho corporation; LON BAKER & JACK BAKER, dba BAKER BROTHERS, an Idaho general partnership; and INSTITUTE CANAL COMPANY, an Idaho Corporation Plaintiffs, vs. WEISER IRRIGATION DISTRICT, Defendant.	Civil No. CV98-00496 **MEDIATION STIPULATION AND CONSENT TO JUDGMENT**

WEISER IRRIGATION DISTRICT,

Third-Party Plaintiff,

vs.

MILTON KERNER and LOLA KERNER, husband and wife, BRUCE KERNER and JULIE KERNER, husband and wife, ROBERT A. SHIRTS and RONALD W. SHIRTS dba SHIRTS BROTHERS,

Third-Party Defendants

Come now, Robert W. Talboy of ELLSWORTH, KALLAS & TALBOY, P.L.L.C. and Randall C. Fredricks, Attorney-at-Law, attorneys for the Plaintiffs; and Third Party Defendant Milton Kerner and Lola Kerner, husband and wife, and Bruce Kerner and Julie Kerner, husband and wife; and Lary W. Walker of Lary C. Walker Law Office, attorney for Defendant Weiser Irrigation District.

WHEREAS Stephen W. Drescher, District Judge under I.R.C.P. 16(a)(6) ordered that the parties mediate certain issues for which District Judge Dennis E. Goff was appointed as mediator; and

WHEREAS the parties were present at the mediation session held on July 20, 1999 in compliance with the order of Stephen W. Drescher which mediation resulted in an agreed compromise settlement;

NOW THEREFORE it is stipulated and agreed as follows:

1. It is acknowledged by the parties hereto that any water rights claimed or owned by the parties are subject to the pending Snake River Adjudication Proceeding. Once such rights have been finally determined in the Snake River Adjudication Proceeding that this agreement be amended to comply therewith.

2. That the basic issue for mediation was to determine a reasonable fee to be paid to the Weiser Irrigation District for the transportation of the Plaintiffs' and Third Party Defendant Kerners' private water by the Weiser Irrigation District in the District's canal known as the Galloway Canal.

3. The mediation officer Judge Dennis E. Goff made a determination that the formula set out hereafter would in his opinion result in a reasonable fee for the transportation of Plaintiffs' and Third Party Defendant's water in the Galloway Canal.

4. That the parties accepted the finding of the mediation officer and agreed that the formula to be utilized by the Weiser Irrigation District for calculation of the transportation charges to be paid by the individual Plaintiffs and Third Party Defendant Kerner shall be as follows:

a. From the total net annual expenses of the Weiser Irrigation

District (after deduction of any reimbursements and credits) that the following expenses be deducted in order to determine the approximate cost of the maintenance of the Galloway Canal: (1) all Crane Creek Reservoir costs paid by the Weiser Irrigation District; (2) all utility expenses; (3) all expenses related to any laterals maintained by the District and for the year 1999 only deduct $2,600.00 of attorney fees.

b. Multiply the figure obtained above by sixteen percent (16%) representing the approximate volume of the Galloway Canal utilized by the said Plaintiffs and Third Party Defendant as a group.

c. Multiply the figure obtained above by 44% representing the percentage of the length of the canal (11/25ths) utilized by the Plaintiffs and Third Party Defendant as a group (11 miles being the Institute Canal diversion point). NOTE: In order to take into consideration any seepage or evaporation losses the assumption was made that the entire volume of water being carried for the Plaintiffs and Third Party Defendant was being transported the entire 11 miles when in fact approximately 45% of the total would be diverted within the first five (5) miles of the Galloway Canal.

d. The figure obtained above (being the total cost for transportation of the Plaintiffs' and Third Party Defendant's water to the Institute Canal diversion point) would be divided by the total amount of

miner's inches of water being carried on the Plaintiffs and Third Party Defendant's behalf to determine the amount to be paid by each said party on a miner's inch basis.

5. Based on the above formula the agreed transportation charge to be paid per miner's inch for the year 1999 based on the net 1998 District expenses is the following:

a. Net total expenses for the year 1998 = $136,230.00

(taking into account $9,916.00 reimbursement).

Less:	Crane Creek	$2,745.00		
	Attorney fee	$2,600.00		
	Utility Charge	$7,959.00		
	Laterals	$ 0.00		
	Total deduction		=	13,304.00
	Total			$122,926.00

b. $122,926.00 times 16% = $ 19,668.16

c. $19,668.16 times 44% = $ 8,653.99

d. $ 8,653.99 divided by 1470.6 = $ 5.88

(rounded to $6.00)

For the year 1999 the Plaintiffs and Third Party Defendant shall pay the sum of $6.00 per miner's inch based on the 1998 expenses as set out above.

The following is the agreed diversion rate and transportation charge for the year 1999 for each Plaintiff and the Third Party Defendant Kerner:

Plaintiff Kelley 50 miner's inches	=	$ 300.00
Plaintiff Green 181 miner's inches	=	$1,086.00
Plaintiff Smith 188 miner's inches	=	$1,128.00
Plaintiff Baker 151.6 miner's inches	=	$ 909.60
Plaintiff Institute Canal 800 miner's inches	=	$4,800.00
Third Party Kerner 100 miner's inches	=	$ 600.00

6. That subsequent years shall be calculated on the same basis with the year 2000 based on the maintenance expenses for the year 1999 and annually thereafter.

7. That any claim by the Weiser Irrigation District for prior transportation charges be waived.

8. It is further acknowledged by the parties that the Weiser Irrigation District, through its designated water master, has the legal duty to measure the water being delivered to each party according to each party's pro rata share as set out in paragraph 5 above.

In order to do so, the Weiser Irrigation District by law retains control over the diversion points of each party and has previously required gates/weirs to be installed in order to render possible and practicable a measurement of the quantity of water being delivered. The parties agree that any such devices not already installed shall be installed during the off-irrigation season as soon as possible and shall be installed in conformity with NRCS (Natural Resources Conservation Service) standards. Regarding any pumps being utilized by the parties, the Weiser Irrigation District will contact each party and determine the most reasonable and practical method of measuring the water so being diverted, which may require, at the user's expense, the installation of an in-line measuring device meeting NRCS standards.

The parties further acknowledge that under Idaho law once the District water master has either set or shut any diversion device, no party can change same without the previous permission of the said water master. The District

does reserve the right to require locking devices to be installed on such diversion works if deemed necessary.

The Weiser Irrigation District by law is required to deliver the requested water to each party upon proper demand being made by each party. In this regard, at such time as each party may want to begin the irrigation of their lands, they will first order the delivery of water by notifying the District, which will then take steps to comply with such order. The procedure for doing so will be determined by the District. The same procedure shall be utilized when each party wants to shut off the delivery of irrigation water or to shut one gate and open another.

In regards to any Crane Creek storage water, the same procedure will take place as has been done in the past, with each party to first notify the Crane Creek Reservoir manager of the amount of storage water being ordered, with the Crane Creek manager then notifying the District water master of such order.

No part of this Stipulation or Order shall require the District to furnish any water other than water and water rights owned or claimed by the contract users as may be finally determined in the pending Snake River Adjudication Proceeding.

9. That the Weiser Irrigation District will continue to provide sufficient carrying capacity in the Galloway Canal to provide the rate of diversion as set out above for the non-district parties.

10. That Plaintiff Institute Canal Co. shall forthwith present said agreement to their members for approval acknowledging that same has been approved by said Plaintiff's Board of Directors.

11. That Judgment be entered in accordance with this stipulation with each party paying their own attorney fees and costs.

Dated this _____day of July, 1999.

APPROVED:

ATTORNEYS FOR PLAINTIFFS AND
THIRD PARTY DEFENDANTS KERNER
ELLSWORTH, KALLAS &
TALBOY, P.L.L.C.

_____ _____
Robert W. Talboy Of the Firm Date

_____ _____
Randall C. Fredricks Date
Attorney at Law

APPROVED:
ATTORNEY FOR DEFENDANT

_____ _____
Lary C. Walker Date

APPROVED:

MEDIATOR

Dennis E. Goff, District Judge	Date

LAW OFFICES
RANDALL C. FREDRICKS

P. O. BOX 2835
BOISE, IDAHO 83701-2835
TELEPHONE (208) 384-5144
FAX (208) 433-8976

June 5, 2000

Contract Holders
Weiser Irrigation District
Weiser, Idaho 83672

Ladies and Gentlemen:

Re: Weiser Irrigation District/Contract Water Rights
Snake River Basin Adjudication
Our File No. 99045-00

Enclosed is copy of my proposed Protest (without Exhibits) to the Weiser Irrigation District filing. I have sent a copy to Bob Talboy for his input. Please review this document and let me know if you have any questions or problems with anything I have said. I would like to file this as soon as possible.

Best regards,

Randall C. Fredricks

RCF:rlf

CC: Baker Brothers
Mr. and Mrs. Henry Green
Institute Canal Co.
Mr. Vaughn Kelley
Mr. Dick Smith, Smith Land & Livestock Co.

DRAFT

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE STATE OF IDAHO

IN THE MATTER OF THE CLAIM TO A WATER RIGHT FILED BY WEISER IRRIGATION DISTRICT UNDER CLAIM NO. A67-10280	**PROTEST OF THE INSTITUTE CANAL CO., an Idaho Corporation; HENRY P. GREEN and ANN C. GREEN, husband and wife; SMITH LAND AND LIVESTOCK CO., an Idaho Corporation; VAUGHN W. KELLEY, an individual; And LON BAKER and JACK BAKER dba BAKER BROTHERS, An Idaho General Partnership**

Come now Randall C. Fredricks, attorney, and Robert W. Talboy of Ellsworth, Kallas & Talboy, P.L.L.C., attorneys for the above set out Protestants, whose addresses are P. O. Box 2835, Boise, Idaho 83701, and 2402 W. Jefferson St., Boise, Idaho 83702, respectively, and on behalf of said Protestants do file this protest in opposition and clarification of the above captioned Claim No. A67-10280.

Said Claim No. A67-10280 is a claim by the Weiser Irrigation District for Weiser River water as follows: 800 miner's inches with priority date of May 1, 1868; 5000 miner's inches with priority date of February 12, 1881; and 3415.57 miner's inches with priority date of Aug. 29, 1883 or a total of 9,215.57 miner's inches (184.31 CFS).

The water so claimed is diverted into the Galloway Canal at a point on the Weiser River located several miles East of the City of Weiser. All of the protestants also have claims to Weiser River water which are diverted at the same point and delivered through the Galloway Canal.

The Protestants' claims to Weiser River water being diverted at the Galloway Canal are as follows (for information only):

a. Institute Canal Co. - 800 miner's inches with priority date of April 1, 1918 set out in Claim No. A67-04250.

b. Henry P. Green and Ann C. Green - 181 miner's inches with priority date of August 15, 1933 set out in Claim No. A67-02164B.

c. Smith Land & Livestock Co. - 154 miner's inches with priority date of August 15, 1933 set out in Claim No. A67-02164A and 69 miner's inches with a priority date of August 8, 1973 set out in Claim No. A67-07156.

d. Vaughn W. Kelley - 50 miner's inches with a priority date of December 18, 1936 set out in Claim No. A67-02169C. (Note this water was purchased from the Weiser Irrigation District from the water awarded under the T. G. Wood Decree.)

e. Lon Baker & Jack Baker dba Baker Brothers - 136 miner's inches with a priority date of April 1, 1932 set out at

Claim No. A67-10541, 18 miner's inches with a priority date of April 1, 1957 set out at Claim No. A67-10539, and 20 miner's inches with a priority date of April 1, 1968 set out at Claim No. A67-10540.

Protest is based on the following facts:

1. The waters in the Weiser River were previously adjudicated in the case of Muir v. Allison et al dated June 20, 1921. In said Adjudication the following waters from the Weiser River were decreed in favor of the Weiser Irrigation District as follows:

Weiser Irrigation District	100 inches	May 1, 1868
	1500 inches	Aug. 29, 1883
	250 inches	May 1, 1887
	250 inches	May 1, 1888
	300 inches	May 1, 1889
	200 inches	May 1, 1890
	200 inches	May 1, 1891
	150 inches	May 1, 1892
	200 inches	May 1, 1893
	150 inches	May 1, 1894
	150 inches	May 1, 1895
	150 inches	May 1, 1896
	150 inches	May 1, 1897
	250 inches	May 1, 1898
	2000 inches	May 1, 1904

Total 6000 inches (120 CFS)

Attached hereto and designated Exhibit A is a copy of the portion of the Muir Decree awarding said water to the Weiser Irrigation District.

The protestants have no objection to the water awarded in the Muir Decree. Protestants do have objection to the claimed water in Claim No. A67-10280 which attempts to change the findings of the court in the Muir Decree. Said Claim No. A67-10280 should be amended to disclose the findings in the Muir Decree which is now res judicata.

2. The Court in the Muir Decree dated June 20, 1921 also made a specific finding that the Weiser Irrigation District was composed of 7200 acres actually receiving water at that time with an additional 800 acres capable of receiving water or a total of 8000 acres of District lands.

> "It is further ordered, adjudged and decreed, that the defendant Weiser Irrigation District, in addition to the allotment of five-eighths of a miner's inch per acre for the 7200 acres proven in this case to have received water for irrigation, and shall have the allowance of five-eighths of a miner's inch of flow from said river as of the dates hereinbefore mentioned, for the remaining area of 8000 acres to said Weiser Irrigation District capable to irrigation, to said 800 acres; provided, however, that the said 800 acres so capable of irrigation shall be re-claimed and brought under irrigation from said canal within a period of two years from the date of this decree, proof of which reclamation shall be submitted to this Court within the period of three years of this date, showing the number of acres so reclaimed by irrigation and the means used, and the person to whom said land belongs, as reclaimed, and the

acreage so proven shall be allotted water for the said district as of May 1st, 1904."

Attached hereto and designated Exhibit B is a copy of the portion of the Muir Decree setting out the above findings.

Claim No. A67-10280 states that there are 9215.57 acres irrigated within the District. According to the District records and assuming that there were 8000 acres being irrigated in 1921, we have the following from the records of the District:

From dates July 11, 1921 through March 15, 1961 there were a total of 498.14 acres removed (segregated) from the District. Attached hereto and designated Exhibit C is a copy of District records showing the segregations.

From December 6, 1921 through September 17, 1971 there were a total of 1120.40 acres annexed into the Weiser Irrigation District. Attached hereto and designated Exhibit D is a copy of District records showing the annexations.

Using the above calculations we have the following: 8000 acres (1921) minus segregations (498.14 acres) plus the annexations (1120.40 acres), we come up with a total of 8622.26 acres of District lands under irrigation. The District is claiming 9215.57 acres or a difference of 593.44 acres. The Protestants have no direct objection to the number of acres being irrigated within the District boundary but verification should be required.

3. Subsequent to the Muir Decree, the Weiser Irrigation District felt a need for additional water and filed for an additional 6000 miner's inches (120 CFS) for lands both within and without the District boundary under Application for Permit No. 25683 which was subsequently licensed under License and Certificate of Water Right No. 18429 with a priority date of December 18, 1936. This was subsequently affirmed by Decree dated May 16, 1939 in the case of Weiser Irrigation District v. T. G. Wood. According to the Application which was affirmed in the Wood Decree the Weiser Irrigation District requested water for irrigation of some 10,890.9 acres. The descriptions included a large number of lands not included within the District boundary including lands now owned by Protestants.

It is unclear as to the exact number of acres in the District in 1936 but, if we assume that the acreage presently claimed by the District (9215.57) is correct, the non-District lands would be at least 1,675.33 acres. Copies of the Application, License and Decree designated Exhibits E, F and G respectively are attached hereto and made a part hereof.

4. No mention is made of either the Muir Decree or the T. G. Wood Decree in the Application for Permit No. A67-10280.

5. Findings should be made that the Weiser Irrigation District has a priority right for 6000 miner's inches with dates from May 1, 1868 to May 1, 1904 and an additional supplementary right (in an amount to be determined) with a priority date of

December 18, 1936 for District lands being irrigated from the Galloway Canal.

6. The Protestants reserve the right to state additional grounds for protest as necessary.

DATED this _____ day of _____, 2000.

_____
Randall C. Fredricks
Attorney at Law

ELLSWORTH, KALLAS &
TALBOY, P.L.L.C.

_____
Robert W. Talboy Of the Firm

CERTIFICATE OF SERVICE

I HEREBY CERTIFY That on this _____ day of _____, 2000, a true and correct copy of the foregoing document was served as follows:

Weiser Irrigation District C/O Lary C. Walker Attorney at Law P. O. Box 828 Weiser, ID 83672	_X_ ___ ___ ___	FIRST CLASS MAIL HAND DELIVERED FACSIMILE OVERNIGHT EXPRESS

_____
Randall C. Fredricks

1.36 - 7-4-82

E½ SW¼, NW¼ SW¼, Part NE¼ & S½ NW¼

11; 14 N - 3 W — 223 ft. above 35 A

S 34 - T 11 N - R 4 W ~~Expanded~~ alluvial & tailings

2.25 6-1-87

~~SW¼ NE¼~~, S E¼ NW¼ ~~N½ SE¼~~

~~S E¼ SW¼~~, ~~Lots~~ 2 & 3 - T 3 - 10 N 4 W

Mrs
conn, H & John T

~~all Lot 4 - 39 41~~

Lot 3 27.06

Factor Lot 2 1-2 A

~~SE NW~~ — 40 5 A

Smith Waters

OK 1-P177 - 1000 inches 1878 clause

1884 McKinney

Daniel Jennings Law, 1877 ~~X~~ 5 1/2 acres

also Section 34 1886

also water filled

mj 5-1-02

TITLE OF CASE: [illegible] et al
v.
William Allison, et al

SOURCE [illegible]
WATER DIST. 67
JUDICIAL DIST. 7th
DATE OF DECREE 6-20-21

COUNTY Washington & Adams
JUDGE Ed L. Bryan
RECORDED IN BOOK NO. ____ AT PAGE NO. ____ FILE NO. 41-1

PN.	DN.	DECREED OWNER / PRESENT OWNER	AMT. INCHES / SEC. FT.	PRIORTY	DIVERSION SUBDIV.	SEC.	TWP.	RG.	REMARKS, LAND TO BE IRRIGATED, ETC.	C.T.
67	104	Weiser Irrigation District	2.0	5-1-68	Weiser Irrigation Ditch				Lands within District (see Decree)	
67	106	Weiser City Water Ditch & Irr. Co.	9.0	9-1-80	Weiser Mill Ditch				Lands under ditch	
67	121	Allison, Alexander	1.36	7-4-82	Allison Jewel Ditch	E½SW¼, NW¼SW¼, part NE¼ & S½NW¼,	-11;	14N-	3W 223 A.	
67	120	" Joseph	2.0	7-4-82	"	"	"	"	SE¼-11; 14N-3W 160 A.	
67	129	Looney, Eugene	2.0	7-4-82	"	"	"	"	NE¼-14; 14N-3W 160 A.	
67	130	Coon, Harry	3.3	7-4-82	"	"	"	"	SW¼SW¼-11; NE¼SE¼, N½NW¼, SE¼NW¼, NE¼, NE¼SE¼-15; W¼-14; 14N-3W 320 A.	
67	123	Middle Valley Irrigating Ditch Co.	20.0	7-7-83	Middle Valley Ditch	See Decree				
67	189	Weiser Irrigation District	30.0	8-29-83	Weiser Irr. Ditch	See Decree				
67	134	Pfost, J. Emmett	2.5	5-6-84	Post Weston Ditch	SE¼SW¼-31; 15N-2W; W½NE¼, E½NW¼, SW¼NW¼-6, 14N-2W				
67	135	Everest, Grace	0.5	5-6-84	"	"		"	Lots 3 & 4-31; 15N-2W 19.74A	
67	150	McMahon, Isaac	0.2	5-31-84	Glenn McMahon Ditch	N½SW¼, W½SE¼, NE¼SE¼-15; S½N½-14; 17N-1W				
67	156	" Lester L.	0.08	5-31-84	"	"		"	SE¼NE¼-15; 17N-1W	
67	153	" Rollie A.	0.08	6-1-84	"	"		"	NW¼SW¼-14; 17N-1W	
67	154	" Samuel E.	0.44	6-1-84	"	"		"	SW¼NE¼-25; 17N-1W	
67	155	Glenn, William M.	0.9	6-1-84	"	"		"	SW¼SW¼-14; SE¼SE¼-15; E½NE¼-22, 17N-1W	
67	157	Robertson, George	0.1	6-1-84	Robertson-Seavey Ditch				E½SW¼, NW¼SW¼, SW¼NW¼-10; 17N-1W	
67	131	James, B. F.	0.2	7-4-86	Smith James Martin Ditch				Part SW¼SW¼-12; 14N-3W	
67	132	Smith, Marion	1.2	7-4-86	"	"		"	E½ NE¼, Part W½NW¼-13; 14N-3W 140A	
67	133	Martin, R. H., Heirs of	1.3	7-4-86	"	"		"	Part SW¼-12; 14N-3W	
67	110	Weiser Irrigation Dist	.3	5-1-87	Weiser Irr. Dist.				See Decree	
67	90	Muir, Wm. H.& John T.	2.25	6-1-87	Sunnyside Ditch	SW¼NE¼, SE¼NW¼, N½SW¼, SE¼SW¼, Lots 2 & 3;-3 10N-4W 251 acres				

LEGEND: P.N. = PRIORTY NUMBER D.N. = DECREE NUMBER C.T. = CUMULATIVE TOTAL

TITLE OF CASE: [illegible] vs. William [illegible], et al

SOURCE [illegible] PAGE

WATER DIST. 67 5 COUNTY Washington & Adams

JUDICAL DIST. 7th JUDGE [illegible] Bryan

DATE OF DECREE 6-20-21 RECORDED IN BOOK NO. ___ AT PAGE NO. ___ FILE NO. 41-7

P.N.	D.N.	DECREED OWNER	NAME	PRESENT OWNER	AMT. INCHES ☐ SEC. FT. ☐	PRIORTY	DIVERSION SUBDIV.	SEC.	TWR	RG.	REMARKS, LAND TO BE IRRIGATED, ETC.	C.T.
67	51	McMahan, Isaac			0.18	5-1-01	Glen McMahon ditch				See 5-31-84 right	
67	84	Austin, Catherine	Middle Fork		0.48	5-1-01					See 5-1-91 right	
67	66	Walstrom, Phillip			0.08	5-1-01	Robertson Seavey ditch				SW¼SE¼,-10; 17N-1W	
67	64	Fruitvale Townsite			0.60	9-23-01	"		"		" W½NE¼,-15; 17N-1W	
67	69	Cox, C. F.			0.05	9-23-01	"		"		4 A in NE corner Fruitvale Townsite	
67	27	Allison, Alexander			1.08	5-1-02	Allison Jewel ditch				E½SW¼, NW¼SW¼, Part NE¼, Part S½NW¼,-11; 14N-3W, 223 A	
67	46	Hahn, Frank			0.66	6-1-02	Hahn ditch				NE¼NE¼-33; NW¼NW¼-34; 17N-1W; W½SE¼, SE¼SW¼-22; NW¼NE¼, E½NW¼, SW¼NW¼, W½SW¼,-27; SE¼NE¼, E½SE¼-28. 17N-1W	
67	70	Frehafer, A.L. & Pike, Margaret			0.7	6-1-02	Robertson Seavey ditch				W½SE¼ Part W½SW¼-23; 17N-1W	
67	90	Shaw, Wm. B.,	Middle Fork		0.88	5-1-03					NW¼NW¼,-11; SW¼SW¼-2; N½SE¼, S½NE¼, NE¼NE¼, SE¼NW¼-10; 15N-1W	
67	91	Sweringer, John	" "		0.12	5-1-03					S½S½,-4, W½SE¼,-5; 15N-1W	
67	47	Hahn, Frank			0.76	6-1-03	Hahn ditch				NE¼NE¼-33; NW¼NW¼-34; 17N-1W; W½SE¼, SE¼SW¼-22; NW¼NE¼, E½NW¼, SW¼NW¼, W½SW¼,-27; SE¼NE¼, E½SE¼-28. 17N 1W	
67	23	Weiser Irrigation District			40.00	5-1-04	Weiser Irr. ditch				See decree	
67	48	Hahn, Frank			0.72	6-1-04	Hahn ditch				See above	
67	61	McMahan, Isaac			0.08	4-1-05	Robertson Seavey ditch				See 5-31-84 right	
67	49	Hahn, Frank			1.66	6-1-05	Hahn ditch				See above	
67	92	Duree, Dave			0.10	5-1-05					NW¼NW¼NW¼-10; 15N-1W	
67	45	Gould, George			0.14	6-1-05	Farmers canal				SE¼SW¼, SW¼SE¼-27; NE¼NW¼, NW¼NE¼, Part NE¼NE¼-34; Part SE¼SE¼-27; 17N-1W	
67	104	Tomlinson, Mary	East Fork		1.0	6-13-05	Tomlinson Vantis ditch				S½SW¼, W½SE¼,-13; 17N-1W	
67	105	"	"	"	1.1	"	"	"	"	"	NW¼SE¼, NE¼NW¼,-13; NW¼NE¼,-24;	
67	106	Vantis, Sarah	"	"	0.3	"	"	"	"	"	SE¼NW¼, S½NE¼, NE¼SW¼-13; 17N-1W	
67	107	[illegible]a, L. A.	"	"	0.2	"	"	"	"	"	NW¼SW¼, SW¼NW¼,-15; 17N-1W	

LEGEND: P.N. = PRIORTY NUMBER ; D.N. = DECREE NUMBER ; C.T. = CUMULATIVE TOTAL





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from

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WATER RESOURCES