

Saxton, Craig

To: dshaw@eroresources.com
Subject: Seid, Kenneth B67 preliminary Recommendations

Good Morning Dave,

I am sending you the preliminary recommendations for Kenneth Seid a little ahead of time so you can review them. The preliminary mailing is actually going out on November 20th, but these recommendation are probably not what your claimant expected so I want you to have some time to look at them.

The main issue I can see is that as far as I can tell, Mr. Seid has enlarged his water use well over his decreed rights. I recommended as much acreage as I could base on the decreed rights. 67-14403 claims flood water on top of the decreed rights. I do not have any documentation supporting when the acres up an above those decreed were added so I recommended 67-14403 directly on top of the decreed acres for the standard 3/8 inches per acre that bring use of the flood water and the decreed water up to one inch per acre.

You will see that the shape on the layouts is larger than the 511.6 acres recommended. The shape is 667.3 acres. In order to recommend the additional acres under right 67-14403, I need some sort of evidence of when that additional ground first started being irrigated.

Anyway, you know how it goes. Take a look at the recommendations and let me know what you think. I can tell you that I am most likely not going to make changes before the preliminary mailing goes out, but hopefully, if Mr. Seid feels changes need to be made, we can get the information into me and change them before the directors report goes out so you don't have to file an objection.

67-7253B & C appear to be Mr. Seids water rights. We need a change of ownership for those.

Lastly, water master records show that 67-507, 67-509, 67-510, and 67-511 are delivered to Kennith Seid but are not claimed in the SRBA. I didn't know if there was a reason for that so I thought I would bring it to your attention.

Thanks,

Craig L. Saxton
287-4916
craig.saxton@idwr.idaho.gov



Zip Prelim Rec
Kenneth Seid (1...

11/07/2006

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

RIGHT NUMBER: 67-14404

NAME AND ADDRESS: KENNETH SEID
2504 SMITH RD
MIDVALE ID 83645

SOURCE: KEITHLY CREEK

TRIBUTARY: WEISER RIVER

QUANTITY: 0.915 CFS

PRIORITY DATE: 05/15/1883

POINT OF DIVERSION:

T13N R04W S1 NENWNW Lot 4 Within WASHINGTON County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	03/15 10/31	0.915 CFS

PLACE OF USE: IRRIGATION in WASHINGTON County

T14N R03W S30 Lot 4 SWSW	24.00	T14N R03W S30	SESW	18.00
T14N R03W S31	NENE 0.20	T14N R03W S31	NWNE	11.00
T14N R03W S31	SWNE 7.10	T14N R03W S31	SENE	0.50
T14N R03W S31	NENW 26.00	T14N R03W S31 Lot 2 SWNW		26.00
T14N R03W S31	SENW 26.00	T14N R03W S31	NESW	26.00
T14N R03W S31 Lot 3 NWSW	25.00	T14N R03W S31	NESE	17.00
T14N R03W S31	NWSE 25.00	T14N R04W S25	SESW	25.00
T14N R04W S25	NESE 0.10	T14N R04W S25	NWSE	1.80
T14N R04W S25	SWSE 25.00	T14N R04W S25	SESE	25.00
T14N R04W S35	SENE 25.00	T14N R04W S35	NESE	21.00
T14N R04W S36	NENE 25.00	T14N R04W S36	NWNE	25.00
T14N R04W S36	SWNE 25.00	T14N R04W S36	NENW	25.00
T14N R04W S36	SWNW 25.00	T14N R04W S36	SENW	25.00
T14N R04W S36	NWSW 6.90			

511.6 ACRES TOTAL

The rights listed below are limited to the irrigation of a combined total of 511.6 acres in a single irrigation season. Combined Right Nos.: 67-152, 67-153, 67-168, 67-171, 67-182B, and 67-14404

This right is limited to the irrigation of 73.2 acres within the place of use described above in a single irrigation season.

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 - Decreed

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



Idaho Department of Water Resources

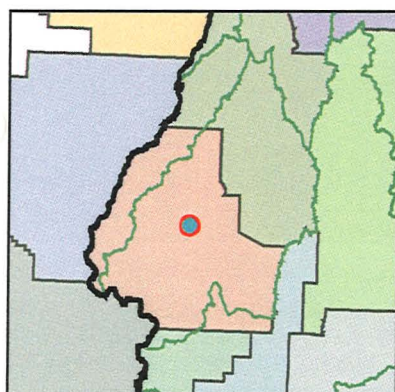
SRBA Recommendation:

67-14404

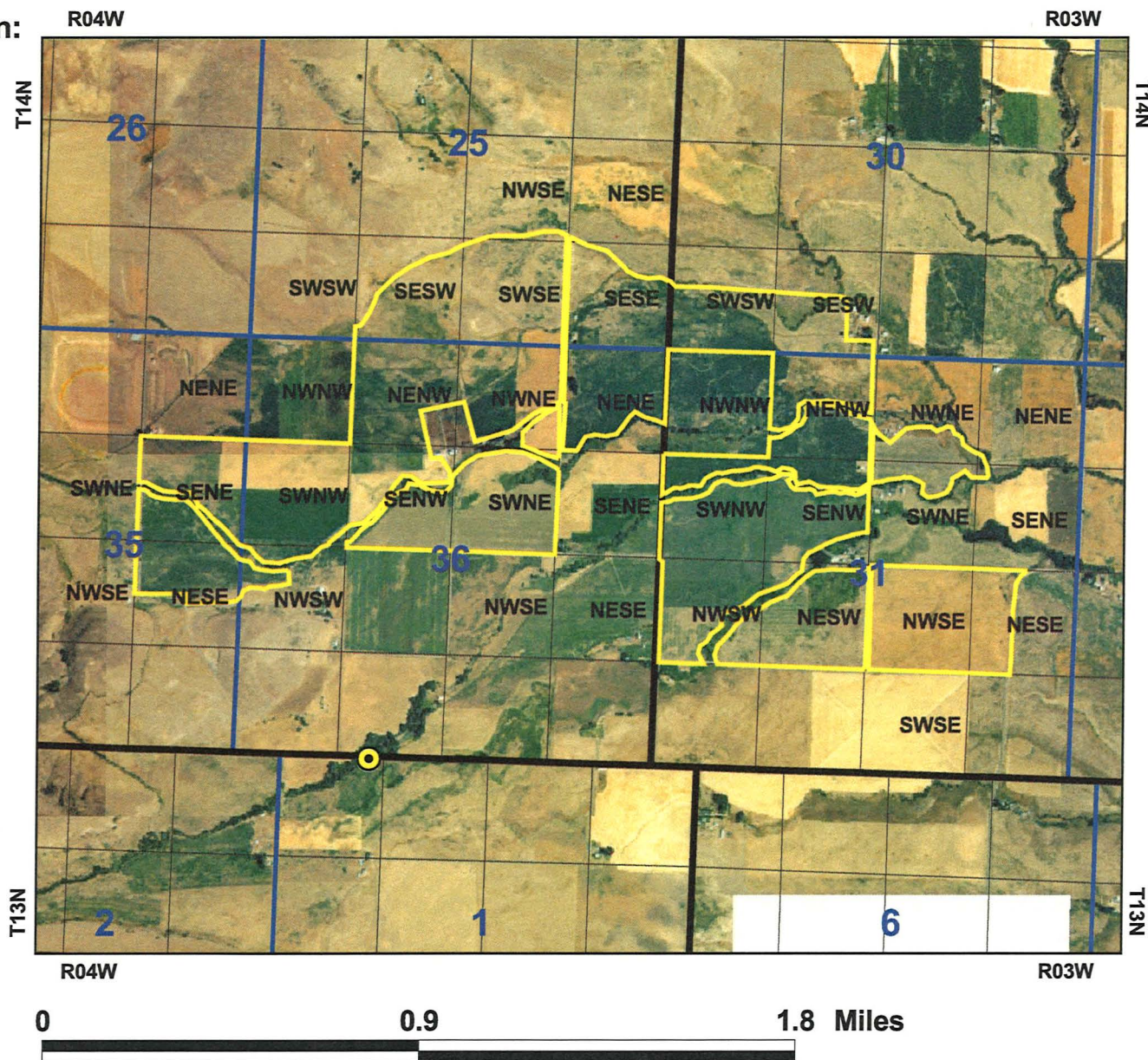
(Irrigation)

Legend

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



Washington County
IDWR Basin 67



Prepared by C. Saxton
On Tuesday, November 7, 2006
1987/88 Aerial Photography

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 67-14404 V1

WATER RIGHT NUMBER: 67-14404 V1

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	KENNETH SEID 2504 SMITH RD MIDVALE, ID 83645 (208)355-2339

Priority Date: 05/15/1883

Basis: Decreed

Status: Active

<u>Source</u>	<u>Tributary</u>
KEITHLY CREEK	WEISER RIVER

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	03/15 to 10/31	0.915 CFS	
	<u>Total Diversion:</u>	0.915 CFS	

Location of Point(s) of Diversion

KEITHLY CREEK	L4 (NE1/4NW1/4NW1/4)	Sec. 1,	Twp 13N,	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	
14N	03W	30											24.0	18.0					42.0
													L 4						
14N	03W	31	.2	11.0	7.1	.5	26.0		26.0	26.0	26.0	25.0			17.0	25.0			189.8
									L 2			L 3							
14N	04W	25												25.0	.1	1.8	25.0	25.0	76.9
14N	04W	35				25.0									21.0				46.0
14N	04W	36	25.0	25.0	25.0		25.0		25.0	25.0		6.9							156.9

Total Acres: 511.6

Conditions of Approval:

1. E56 The rights listed below are limited to the irrigation of a combined total of 511.6 acres in a single irrigation season. Combined Right Nos.: 67-152, 67-153, 67-168, 67-171, 67-182B, and 67-14404

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 67-14404 V1

2. 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.
3. C05 Right includes accomplished change in place of use pursuant to Section 42-1425, Idaho Code.
4. K06 This right is limited to the irrigation of 73.2 acres within the place of use described above in a single irrigation season.

Remarks:Comments:

1. csaxton 11/7/2006 Combined Claim

Comment: This claim combines rights 67-158 and 67-159 as they have the same priority date and source.

2. csaxton 11/7/2006 POD

Comment: POD recommended per Gene Gibson field exam on 7-20-06.

3. csaxton 11/7/2006 PPU

Comment: 67-152, 67-153, 67-168, 67-171, 67-182B, and 67-14404 are decreed rights recommended in a PPU on 511.6 acres as that is the maximum amount of acres that could be irrigated with the decreed water at 5/8 inches per acre. 67-14403 claims flood water that not only overlaps the decreed water, but adds additional acreage. However, no evidence was submitted supporting when the additional acres were added. Without additional evidence, I am going to have to recommend the flood water only for the acres that are decreed. The shape shows more acreage than being recommended. Actual acreage found is 667.3 acres.

Per Field exam By Gene Gibson on 7-20-06, water is delivered through a common system and should be recommended as a PPU. All water can get to any part of the farm.

4. csaxton 11/7/2006 From Claim (1)

Comment: This claim is a combination of 67-158 and 67-159. This water right is claimed with a permissible place of use within the 175 acres described above. Under the Muir v. Allison Decree, this right should have been allocated to 73.2 acres.

5. csaxton 11/7/2006 From Claim (2)

Comment: Other water rights used: High water claim filed in the SRBA and 67-168.

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:

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:

IDAHO DEPARTMENT OF WATER RESOURCES
Adjudication Recommendation Report 67-14404 V1

Element Reviewed/Verified Dates:

<u>Element</u>	<u>Last Reviewed Date</u>	<u>Reviewer</u>	<u>Last Verified Date</u>	<u>Verifier</u>	<u>Status</u>
Summary			11/07/2006	csaxton	Active

Verification Log:

<u>Element</u>	<u>Date Time Stamp</u>	<u>Reviewer</u>	<u>Log text</u>
POD	11/7/2006 4:12:58 PM	csaxton	Updated PLS
POU	11/7/2006 4:13:49 PM	csaxton	Updated shape for Active POU
POD	11/7/2006 4:12:50 PM	csaxton	Updated shape
POU	11/7/2006 4:14:34 PM	csaxton	Edited Season Of Use
Summary	11/7/2006 4:29:18 PM	csaxton	(Yes) 1. Is the basis of this claim a Decree, License, Permit, Application or Posted Notice? (No) 2. Does any evidence indicate a five year period of continuous nonuse occurred that could result in recommending forfeiture or partial forfeiture? (Yes) 5. Does this right have any combined use limits with other rights? (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?

Water Supply Bank:

Split Analysis

Water Right Number: Seid, Kenneth
Diversion Rate: CFS
Reviewer Name: Craig L. Saxton
Date: 11/7/2006

Acreage Analysis

Twp	Rng	Sec	Q-Q	Lot	Parent	Actual Acres Found	Recommended Land List	Children Acres					
					Claimed Seid, Kenneth								
14N	3W	30	NESW		15								
			NWSE	3	34								
			SWSW	4	36	24	24						
			SESW		32	18	18						
		31	NENE		39	0.2	0.2						
			NWNE		39	11	11						
			SWNE		38	7.8	7.1						
			SENE		39	0.5	0.5						
			NENW	3	18	36	26						
			SWNW		25	36	26						
			SENW		17	32	26						
			NESW		35	37	26						
			NWSW	3	38	34	25						
			NESE		22	17	17						
			NWSE		38	39	25						
14N	4W	25	NESW		24								
			NESE		36	0.1	0.1						
			NWSE		40	1.8	1.8						
			SWSE		40	39	25						
			SESE		38	33	25						
			SESW		34	25	25						
		35	SENE		38	37	25						
			NESE		30	21	21						
		36	NENE		36	31	25						
			NWNE		37	34	25						
			SWNE		35	37	25						
			NENW		37	35	25						
			SWNW		38	39	25						
			SENW		24	35	25						
			NWSW		5	6.9	6.9						
					957	667.3	0						
							511.6						

Claim

<u>Basin</u>	<u>Sequence</u>	<u>Suffix</u>	<u>Basis</u>	<u>Status</u>	<u>Priority Date</u>	<u>Rate(cfs)</u>	<u>Acres</u>	<u>Source</u>	<u>Water Use(s)</u>	<u>Owner(s)</u>	<u>Source Table</u>
67	152		Decreed	Active	1879-05-15	1.25	209	KEITHLY CRE IRRIGATION	SEID, KENNE	Claim	
67	153		Decreed	Active	1897-05-01	0.16	209	LITTLE KEITH IRRIGATION	SEID, KENNE	Claim	
67	168		Decreed	Active	1884-05-15	1	330	KEITHLY CRE IRRIGATION	SEID, KENNE	Claim	
67	171		Decreed	Active	1896-05-15	0.07	60	KEITHLY CRE IRRIGATION	SEID, KENNE	Claim	
67	182 B		Decreed	Active	1877-05-15	3		KEITHLY CRE IRRIGATION	SEID, KENNE	Claim	
67	2143		License	Active	6/19/1924	1		HOPPER CRE IRRIGATION	SEID, KENNE	Claim	
67	14404		Decreed	Active	1883-05-15	0.92		KEITHLY CRE IRRIGATION	SEID, KENNE	Claim	
67	7523 B		License	Active	1/29/1981	0.78	37	KEITHLY CRE IRRIGATION	CORBETT, N	wrAdjudicationClaim	
67	7523 C		License	Active	1/29/1981	0.45	26.5	KEITHLY CRE IRRIGATION	CORBETT, W	wrAdjudicationClaim	

Recommendation

<u>Basin</u>	<u>Sequence</u>	<u>Suffix</u>	<u>Basis</u>	<u>Status</u>	<u>Priority Date</u>	<u>Rate(cfs)</u>	<u>Acres</u>	<u>Source</u>	<u>Water Use(s)</u>	<u>Owner(s)</u>	<u>Source Table</u>
67	152		Decreed	Active	1879-05-15	1.25	100	KEITHLY CRE IRRIGATION	SEID, KENNE	Recommendation	
67	153		Decreed	Active	1897-05-01	0.16	12.8	HOPPER CRE IRRIGATION	SEID, KENNE	Recommendation	
67	168		Decreed	Active	1884-05-15	1	80	HOPPER CRE IRRIGATION	SEID, KENNE	Recommendation	
67	171		Decreed	Active	1896-05-15	0.07	5.6	KEITHLY CRE IRRIGATION	SEID, KENNE	Recommendation	
67	182 B		Decreed	Active	1877-05-15	3	240	KEITHLY CRE IRRIGATION	SEID, KENNE	Recommendation	
67	14404		Decreed	Active	1883-05-15	0.915	73.2	KEITHLY CRE IRRIGATION	SEID, KENNE	Recommendation	
						6.395	511.6				
67	14403		Beneficial	Active	6/21/1921	3.84	511.6	HOPPER CRE IRRIGATION	SEID, KENNE	Recommendation	
						10.232	511.6	= 1 inch per acre			
67	2143		License	Active	6/19/1924	1	60	HOPPER CRE IRRIGATION	SEID, KENNE	Recommendation	
67	7523 B		License	Active	1/29/1981	0.62	37	KEITHLY CRE IRRIGATION	CORBETT, N	Recommendation	
67	7523 C		License	Active	1/29/1981	0.45	25.5	KEITHLY CRE IRRIGATION	CORBETT, W	Recommendation	

Water Master Delivery Records

Page #	Parcel	Name	Inches	WR #	Original Owner	Priority
13	14N04W257200	SEID, KENNETH	62.50	152	C W Randleman	5/15/1879
13	14N04W257200	SEID, KENNETH	8.00	153	C W Randleman	6/8/1884
13	14N03W324810	KENNETH SEID	50.00	168	E Wiggins	5/15/1884
11	13N03W060600	VERLINDA WAITE	3.5	171	Wm Wicks	5/15/1896
12	14N04W254800	KENNETH SEID	2.00	159	W F Seid	5/15/1883
12	14N04W254800	KENNETH SEID	44.00	158	W F Seid	5/15/1883
12	14N04W254800	KENNETH SEID	100.00	182	Sara Keithley	5/15/1877
11	14N04W363600	KENNETH SEID	50.00	182	Sara Keithley	5/15/1877
14	14N03W311800	SEID, KENNETH	78	7523	Wm Corbett	6/29/1981

Claimed by Kenneth Seid

67-14404

12	14N04W263600	KENNETH SEID	2.50	507	J W Lapish	5/1/1885
12	14N03W314230	KENNETH SEID	39.00	509	J M Hopper	5/1/1897
12	14N03W314230	KENNETH SEID	20.00	510	J M Hopper	5/1/1911
12	14N03W314230	KENNETH SEID	20.00	511	L Hopper	5/1/1910
14	14N03W324810	SEID, KENNETH	35	2176	E Wiggins	5/3/1945
11	14N03W304900	SEID, KENNETH	11.00	170	W J Hopper	5/15/1885

Not claimed by Kenneth Seid

205.5

328.8

Not claimed, but are delivered

67	507	Decreed	Active	1885-05-01	0.05	HOPPER CRI IRRIGATION LAPISH, J W wrWaterRight
67	508	Decreed	Active	1886-05-01	0.8	HOPPER CRI IRRIGATION LAPISH, J W wrWaterRight
67	509	Decreed	Active	1897-05-01	0.78	HOPPER CRI IRRIGATION HOPPER, JO wrWaterRight
67	510	Decreed	Active	5/1/1911	0.4	HOPPER CRI IRRIGATION HOPPER, JO wrWaterRight
67	511	Decreed	Active	4/1/1910	0.4	HOPPER CRI IRRIGATION HOPPER, LE wrWaterRight

WR

67	7107	Closed		8/30/1972	1	WASTE WAY IRRIGATION SEID, KENNE wrWaterApplication
67	7107	Relinquished		8/30/1972	1	WASTE WAY IRRIGATION SEID, KENNE wrWaterPermit
67	507	Decreed	Active	1885-05-01	0.05	HOPPER CRI IRRIGATION LAPISH, J W wrWaterRight
67	508	Decreed	Active	1886-05-01	0.8	HOPPER CRI IRRIGATION LAPISH, J W wrWaterRight
67	509	Decreed	Active	1897-05-01	0.78	HOPPER CRI IRRIGATION HOPPER, JO wrWaterRight
67	510	Decreed	Active	5/1/1911	0.4	HOPPER CRI IRRIGATION HOPPER, JO wrWaterRight
67	511	Decreed	Active	4/1/1910	0.4	HOPPER CRI IRRIGATION HOPPER, LE wrWaterRight

Claim

<u>Basin</u>	<u>Sequence</u>	<u>Suffix</u>	<u>Basis</u>	<u>Status</u>	<u>Priority Date</u>	<u>Rate(cfs)</u>	<u>Acres</u>	<u>Source</u>	<u>Water Use(s)</u>	<u>Owner(s)</u>	<u>Source Table</u>
67		152 A		Rejected	1879-05-15	0.68		KEITHLY CREEK IRRIGATION	SEID,	KENNE	Claim
67		153 A		Rejected	1897-05-01	0.14		HOPPER CREEK IRRIGATION	SEID,	KENNE	Claim
67		159		Rejected	1883-05-15	0.92		KEITHLY CREEK IRRIGATION	SEID,	KENNE	Claim
67		167		Rejected	1886-05-15	0.1		HOPPER CREEK IRRIGATION	SEID,	KENNE	Claim
67		7072		Rejected	2/9/1972	0.04		HOT CREEK IRRIGATION	SEID,	KENNE	Claim
67		7107		Rejected	8/30/1972	1		WASTE WAY IRRIGATION	SEID,	KENNE	Claim
67		7174		Rejected	8/28/1973	0.2		UNNAMED STREAM IRRIGATION	SEID,	KENNE	Claim
67		11340		Rejected	1879-05-15	0.24		GROUND WATER DOMESTIC	SEID,	KENNE	Claim
67		11341		Rejected	1879-05-15	0.24		GROUND WATER DOMESTIC	SEID,	KENNE	Claim
67		11342		Rejected	1879-05-15	0.24		GROUND WATER STOCKWATER	SEID,	KENNE	Claim
67		11343		Rejected	1879-05-15	0.24		GROUND WATER STOCKWATER	SEID,	KENNE	Claim
67		11344		Rejected	1879-05-15	0.24		GROUND WATER DOMESTIC	SEID,	KENNE	Claim
67		11345		Rejected	1879-05-15	0.24		GROUND WATER DOMESTIC	SEID,	KENNE	Claim
67		11346		Rejected	1879-05-15	0.24		GROUND WATER STOCKWATER	SEID,	KENNE	Claim
67		11347	Beneficial	Temporary	1879-05-15	0.68		KEITHLY CREEK IRRIGATION	SEID,	KENNE	Claim

Recommendation

<u>Basin</u>	<u>Sequence</u>	<u>Suffix</u>	<u>Basis</u>	<u>Status</u>	<u>Priority Date</u>	<u>Rate(cfs)</u>	<u>Acres</u>	<u>Source</u>	<u>Water Use(s)</u>	<u>Owner(s)</u>	<u>Source Table</u>
67		152 A		Rejected	1879-05-15	0.68		KEITHLY CREEK IRRIGATION	SEID,	KENNE	Recommendation
67		153 A		Rejected	1897-05-01	0.14		HOPPER CREEK IRRIGATION	SEID,	KENNE	Recommendation
67		159		Rejected	1883-05-15	0.92		KEITHLY CREEK IRRIGATION	SEID,	KENNE	Recommendation
67		167		Rejected	1886-05-15	0.1		HOPPER CREEK IRRIGATION	SEID,	KENNE	Recommendation
67		7072		Rejected	2/9/1972	0.04		HOT CREEK IRRIGATION	SEID,	KENNE	Recommendation
67		7107		Rejected	8/30/1972	1		WASTE WAY IRRIGATION	SEID,	KENNE	Recommendation
67		7174		Rejected	8/28/1973	0.2		UNNAMED STREAM IRRIGATION	SEID,	KENNE	Recommendation
67		11340		Rejected	1879-05-15	0.24		GROUND WATER DOMESTIC	SEID,	KENNE	Recommendation
67		11341		Rejected	1879-05-15	0.24		GROUND WATER DOMESTIC	SEID,	KENNE	Recommendation
67		11342		Rejected	1879-05-15	0.24		GROUND WATER STOCKWATER	SEID,	KENNE	Recommendation
67		11343		Rejected	1879-05-15	0.24		GROUND WATER STOCKWATER	SEID,	KENNE	Recommendation
67		11344		Rejected	1879-05-15	0.24		GROUND WATER DOMESTIC	SEID,	KENNE	Recommendation
67		11345		Rejected	1879-05-15	0.24		GROUND WATER DOMESTIC	SEID,	KENNE	Recommendation
67		11346		Rejected	1879-05-15	0.24		GROUND WATER STOCKWATER	SEID,	KENNE	Recommendation

Memorandum

Date: April 20, 2006

To: Keithly Creek and Hopper Creek Files
CC: Chris Bromely

Subject: Keithly Creek and Hopper Creek decrees

Muir vs. Allison included Keithly Creek as a source. However, in the decree, Keithly Creek is recognized as having two forks that were formerly known as **Big Creek** and **Little Creek** (This information can be found on pg 107 of *Muir vs. Allison* or at the end of the section that categorizes water rights by the source.) In *Muir vs. Allison* the Keithly Creek rights are designated as 67-149 thru 67-182 and Keithly Creek is decreed as the source.

Now, what was **Little Creek** is known as **Hopper Creek** and what was **Big Creek** is known as Keithly Creek.

Issue #1: *Muir vs. Allison* decreed some rights with a source as Keithly Creek but now we call that source **Hopper Creek**.

Proposed Solution: Recommend *Muir vs. Allison* rights decreed from what was known as Little Creek with a source of Hopper Creek. No accomplished change in source because the source never really changed.

.....
John Hopper v. Leonard Hopper et al. (Washington County, August 19, 1931) decree B67-F, described decreed rights 67-507 thru 67-511 with a source as Hopper Creek. However, *Muir vs. Allison* decreed rights on this stream that were not included in ***Hopper vs. Hopper***.

The parties in *Hopper vs. Hopper* were not party to *Muir vs. Allison* (or at least are not listed in *Muir vs. Allison*).

Decreed rights 67-507 thru 67-511 have priority dates that are mixed in with the *Muir vs. Allison* priority dates. Meaning the 1931 decree didn't decree rights, as a group, for better or worse priority dates than what was decreed in *Muir vs. Allison*. It looks as if 67-507 thru 67-511 were missed in *Muir vs. Allison* but were there, so when decreed in 1931, the priority dates could date back into *Muir vs. Allison*.

Issue #2: There are two separate decrees for the same source and it does not appear that one supercedes the other.

Proposed Solution: Actually, I don't see this as a big issue. I will just recommend the *Hopper vs. Hopper* rights as they were decreed, and the *Muir vs. Allison* rights from that source as they were decreed, **except** for changing the source to Hopper Creek.

Field Investigation Information Form

Claim Number: A67-14404

Claimant: Kenneth Seid

Contact:

Address: 2504 Smith Road

City: Midvale

State: Idaho 83645

Phone: 208-355-2339

Alternate Phone:

Is there a new owner? Yes: No: X If yes, complete new owner information section

Point of Diversion Location: Township: 13N Range: 04W Section: 1 QQQ: NE QQ: NW Q: NW

Site Tag Number:

GPS Location: Section 1 = 44*29'56.23" N – 116* 46' 12.31" W

Description of Diversion Works: Headgate, Ditch, Pump, Pipeline, Sprinklers.

Examination Date and Narrative: On July 20, 2006, Gene Gibson performed a field examination on the Points of Diversion and redirection, means of Conveyance, and the Places of Use on the above claim. GPS readings were taken and an examination of the claimed Points of Diversion and redirection. Examined the means of conveyance from claimed Points of diversion and redirection to the claimed Places of Use. Reviewed the claimed Places of Use in the file and compared it to the area that could be irrigated in the field.

The following is my findings:

- a. The Point of Diversion claimed was found and is operable.
- b. The means of conveyance from the Point of Diversion to the Place of Use was found and is operable.
- c. The claimed Places of Use can be irrigated from the claimed Point of Diversion.
- d. The number of irrigated acres in the field was not measured; therefore the number of acres claimed may or may not be accurate.
- e. See pictures and map for POD and POU locations.

Field Examiner:



Date:

9-6-2006

KENNETH S. ID ●
T43N R04W S-1 NEENWN
POINT OF DIVERSION ●

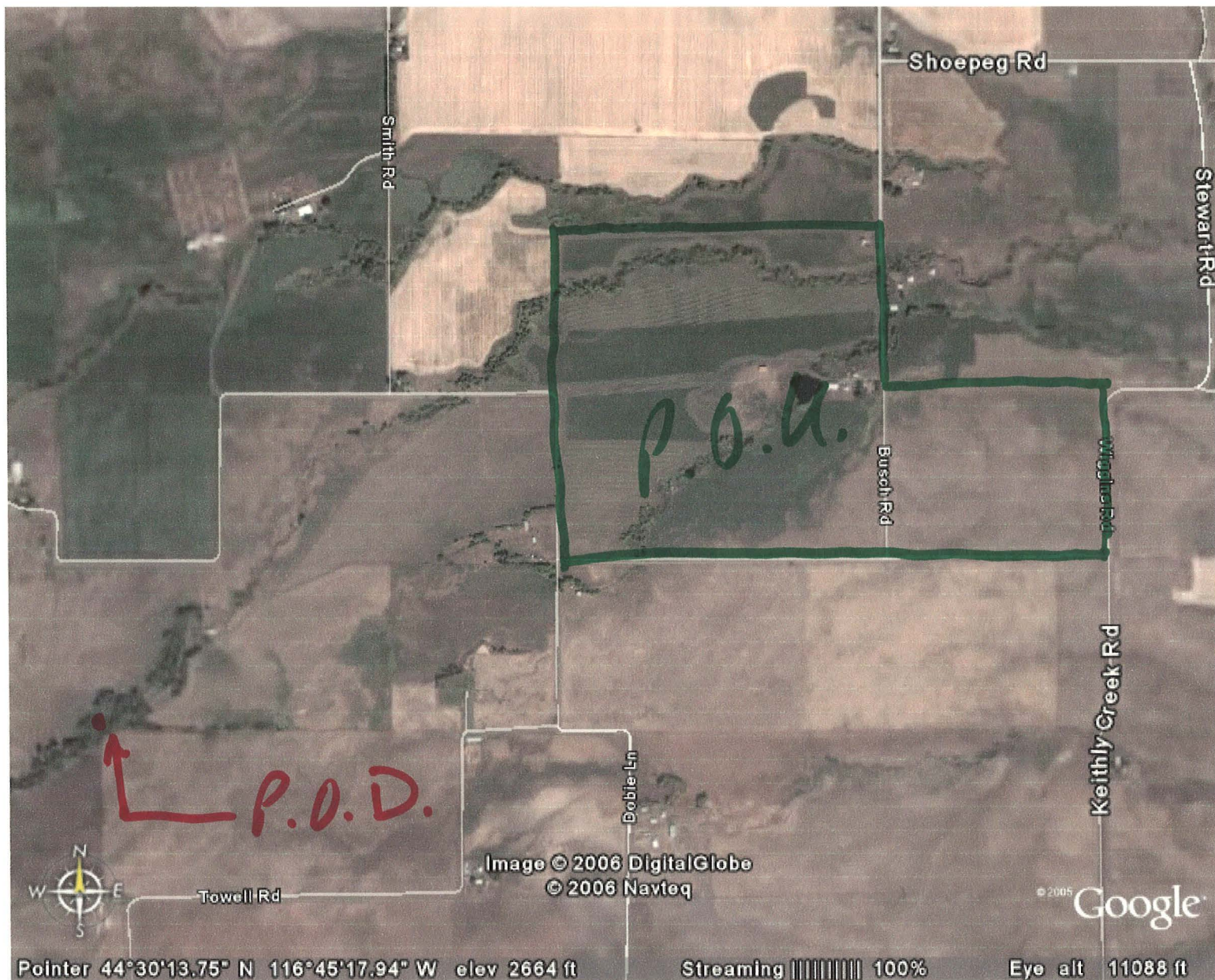




Kenneth Seid

P.O.D.

T13N R4W S-1 NENWNW



Smith Rd

Shoepeg Rd

Stewart Rd

P.O.A.

Busch Rd

Keithly Creek Rd

Keithly Creek Rd

Dobie Ln

Towell Rd

Image © 2006 DigitalGlobe
© 2006 Navteq

© 2005 Google

Pointer 44°30'13.75" N 116°45'17.94" W elev 2664 ft Streaming 100% Eye alt 11088 ft



Janet Ketchum
J S Hamilton
Whitney P James
Council Valley Orchards Company
Henry Van Kleeck

West Fork Weiser River.
E. J. Glenn Ditch.

T J Glenn
Joel Glenn
C L Ham
J H Bridgewood

Osborn-Grooms Ditch.

C. L Ham
Bridgewood and Riddell
Keithley Creek.

Andrew M Reed

Chloe Keithley
Curt W Randleman
Curt W Randleman - Little Keithley Creek
Victor L Hopper
Allen Seid
Charles T Reavis

W F Seid

William S Potter

William Wiggins
Frank Towell

Forrest Burns and Clifford Burns

Edward M Wiggins
John Zenger
Walter J Hopper
William Wicks
Otho Towell

Carrie Clayton
Jacob Ader
E M Stewart
James Keithley

20 July 1, 1905 / 67 0138
10 July 1, 1905 / 67 0139
40 July 1, 1905 / 67 0140
110 July 1, 1905 / 67 0141
274 July 1, 1905 / 67 0142

Start here

53 May 1, 1898 / 67 0143
15 May 1, 1900 / 67 0144
4 May 1, 1900 / 67 0145
8 May 1, 1900 / 67 0146
22 May 1, 1900 / 67 0147
26 May 1, 1900 / 67 0148

64 May 15, 1871 / 67 0149
64 May 15, 1906 / 67 0150
274 May 15, 1877 / 67 0151
624 May 15, 1879 / 67 0152
8 May 1, 1897 / 67 0153
64 May 15, 1879 / 67 0154
2 May 15, 1879 / 67 0155
20 May 15, 1882 / 67 0156
48 3/4 May 15, 1883 / 67 0157
43 3/4 May 15, 1883 / 67 0158
2 May 15, 1883 / 67 0159

2 May 15, 1883 / 67 0160
24 May 15, 1889 / 67 0161
7 May 15, 1901 / 67 0162
24 May 15, 1884 / 67 0163
18 3/4 May 15, 1884 / 67 0164
9 3/8 May 15, 1899 / 67 0165
74 May 15, 1884 / 67 0166
5 May 15, 1886 / 67 0167
50 May 15, 1884 / 67 0168
84 May 15, 1885 / 67 0169
11 May 15, 1885 / 67 0170
34 May 15, 1896 / 67 0171
64 May 1, 1886 / 67 0172
20 May 15, 1899 / 67 0173
2 May 15, 1886 / 67 0174
20 May 15, 1890 / 67 0175
4 May 15, 1890 / 67 0176
24 May 15, 1877 / 67 0177

inches thereof under priority date, May 15, 1883.

That the defendant, W. F. Seid, is entitled to 43 $\frac{1}{2}$ inches of water from Keithley Creek diverted therefrom to and upon the lands of the said W. F. Seid to wit: the SE $\frac{1}{4}$ NE $\frac{1}{4}$, the NE $\frac{1}{4}$ SW $\frac{1}{4}$ and Lot 3, Sec. 31, Twp. 14 N., R. 3 W., B. M., under priority date, May 15, 1883.

That the defendant, Carrie Clayton, is entitled to 2 inches of water from Little Keithley Creek a branch of Keithley Creek to and upon her lands to wit: the S $\frac{1}{2}$ NE $\frac{1}{4}$, Sec. 31, Twp. 14 N. R. 3 W., B. M., under priority date, May 15, 1886.

That the defendants, Forrest Burns and Clifford Burns are entitled to 7 $\frac{1}{2}$ inches of water from Keithley Creek diverted to and upon their lands to wit: the N $\frac{1}{2}$ SE $\frac{1}{4}$, Sec. 31, Twp. 14 N. R. 3 W., B. M. excepting therefrom 5 acres out of the NE corner, under priority date, May 15, 1884.

That the said defendants, Forrest Burns and Clifford Burns, are also entitled to 5 inches of water diverted from Keithley Creek to and upon their lands in another ditch under priority date, May 15, 1886.

That the defendant, Edward M. Wiggins is entitled to 50 inches of water diverted from Keithley Creek for use upon his land to wit: the SE $\frac{1}{4}$ Sec. 32, Twp 14 N., R. 3 W., B. M., under priority date, May 15, 1884.

That the said Edward M. Wiggins, is entitled to 12 $\frac{1}{2}$ inches of water diverted to his lands by another ditch and for use upon said lands under priority date, May 15, 1896.

That the defendant, William S. Potter, is entitled to 11 $\frac{1}{2}$ inches of water from Keithley Creek diverted upon and for use on his lands to wit: the W $\frac{1}{2}$ SE $\frac{1}{4}$, the SE $\frac{1}{4}$ SE $\frac{1}{4}$ and an irregular tract of 8 acres in the SW corner of the NE $\frac{1}{4}$ SE $\frac{1}{4}$ all in Sec. 35, Twp. 14 N. R. 4 W., B. M. under priority dates

WATER RIGHTS

acres of land situated in the E $\frac{1}{2}$ SE $\frac{1}{4}$ of Sec. 25, Twp. 14 N., R. 4 W., B. M., and Lots 3 and 4 and the NE $\frac{1}{4}$ SW $\frac{1}{4}$, Sec. 30, Twp. 14 N., R. 3 W. and the SE $\frac{1}{4}$ SW $\frac{1}{4}$ and Lot 4, Sec. 30 and the NE $\frac{1}{4}$ NW $\frac{1}{4}$ of Lot 1, Sec. 31, Twp. 14 N. R. 3 W., B. M. under priority date, May 15, 1879.

That the defendant, W. F. Seid, is entitled to 29 inches of water from Keithley Creek for use upon 46 acres of land situated in the SE $\frac{1}{4}$ NW $\frac{1}{4}$ and the NW $\frac{1}{4}$ SW $\frac{1}{4}$ and Lot 3, Sec. 31, Twp. 14 N., R. 3 W., B. M. under priority date, May 15, 1883 for 2 inches of said water and May 15, 1885 for 27 inches of said water.

That the defendant, Walter G. Keithley, is entitled to 16 inches of water from Keithley Creek for use upon the SE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 36, Twp. 14 N., R. 4 W., B. M., under priority date, May 15, 1899.

That the defendant, William Wicks, is entitled to 3 $\frac{1}{2}$ inches of water from Keithley Creek diverted from the slough in the William Seid land for use upon 5 acres in the NW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 31, Twp. 14 N., R. 3 W., B. M., Under priority date, May 15, 1896.

That the defendant, Andrew M. Reed, is entitled to 12 $\frac{1}{2}$ inches of water from Keithley Creek for use upon 20 acres of land situated in the SE $\frac{1}{4}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$ and the SW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 5, Twp. 13 N. R. 3 W., B. M., 6 $\frac{1}{2}$ inches thereof under priority date, May 15, 1871 and 6 $\frac{1}{2}$ inches thereof under priority date, May 15, 1906.

That the defendant, William Wiggins, is entitled to 2 $\frac{1}{2}$ inches of water from the Warm Springs a tributary of Keithley Creek for use upon 2 $\frac{1}{2}$ acres of land in Lot 3, Sec. 19, Twp. 14 N., R. 3 W., B. M., under priority date, May 15, 1884.

JUL 24 1896

Northeast Quarter of the Northwest Quarter and Lot 1, Section 31, Township 14 North, Range 3 West Boise Meridian.

VICTOR L HOPPER: The Southeast Quarter of the Northwest Quarter, Section 30, Township 14 North, Range 3 West Boise Meridian.

ALLEN SEID: The Southwest Quarter of the Northeast Quarter of Section 30, Township 14 North, Range 3 West Boise Meridian.

CHARLES T DEAVIS: Lots 2, 3, 4 and the Southwest Quarter of the Northwest Quarter, Section 1, Township 13 North, Range 4 West Boise Meridian, excepting a tract of about six acres out of the said Lot 4.

W F SEID: The Southeast Quarter of the Northwest Quarter, the Northeast Quarter of the Southwest Quarter, and Lot 3, Section 31, Township 14 North, Range 3 West Boise Meridian.

WILLIAM S POTTER: The West half of the Southeast Quarter and the Southeast Quarter of the Southeast Quarter, Section 35, Township 14 North, Range 4 West and Lot 2, Section 2, Township 13 North, Range 4 West Boise Meridian. Also an irregular tract of eight acres out of the Southwest corner of the Northeast Quarter of the Southeast Quarter of Section 35, Township 14 North, Range 4 West Boise Meridian.

WILLIAM WIGGINS: Lot 3, Section 19, Township 14 North, Range 3 West Boise Meridian.

FRANK TOWELL: The Northeast Quarter of the Northeast Quarter and the South half of the Northeast Quarter Section 2, Township 13 North, Range 4 West Boise Meridian.

FORREST BURNS AND CLIFFORD BURNS: The North half of the Northeast Quarter Section 31, Township 14 North, Range 3 West Boise Meridian.

EDWARD M WIGGINS: The Southeast Quarter Section 32, Township 14 North, Range 3 West Boise Meridian.

JOHN ZIMMER: The Southeast Quarter of the Northwest Quarter Section 35, Township 14 North, Range 4 West Boise Meridian.

WALTER J HOPPER: The Southwest Quarter of the Southwest Quarter Section 36, and an irregular tract out of the Southeast Corner of the Northeast Quarter of the Southeast Quarter of Section 35, all in Township 14 North, Range 4 West, and also an irregular tract of about six acres out of the Northwest corner of Lot 4, Section 1, Township 14 North, Range 4 West Boise Meridian.

WILLIAM WICKS: The Northwest Quarter of the Southeast Quarter of Section 31, Township 14 North, Range 3 West Boise Meridian.

OTHO TOWELL: The South half of the Northwest Quarter, Section 2, Township 13 North Range 4 West Boise Meridian.

CARRIE CLAYTON: The South half of the Northeast Quarter Section 31, Township 14 North, Range 3 West Boise Meridian.

JACOB ADER: The Northwest Quarter of the Southeast Quarter of Section 30, Township 14 North, Range 3 West Boise Meridian.

E M STEWART: The Southwest Quarter of the Southeast Quarter of Section 30, Township 14 North, Range 3 West Boise Meridian.

JAMES KEITHLEY: The Southeast Quarter of the Southwest Quarter and the Southwest Quarter of the Southeast Quarter of Section 36, Township 14 North, Range 4 West Boise Meridian.

WALTER C KEITHLEY: The Southeast Quarter of the Southeast Quarter of Section 36, Township 14 North, Range 4 West Boise Meridian.

JUL 24 1906

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 67-14404
Date Received: 12/18/2002
Receipt No: W029932
Received By:

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name of Claimant(s)

KENNETH SEID Phone: (208) 355-2339
2504 SMITH RD
MIDVALE ID USA 83645

2. Date of Priority: 05/15/1883

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

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County	Type
13N	04W	1	NE NW NW	WASHINGTON	

5. Description of diverting works:

Diversion and ditch to pond in SENW, Sec. 31, T14N, R3W. Pump from pond to sprinklers.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
IRRIGATION	04/01	10/31	0.92	

7. Total Quantity Appropriated is:
0.92 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
14N	03W	31	SW	NW	IRRIGATION	25 ⁷
			SE	NW	IRRIGATION	17 ⁷
			NE	SW	IRRIGATION	35 ⁷
			NW	SW	IRRIGATION	38 ⁷
			NE	SE	IRRIGATION	22 ^{7,9}
			NW	SE	IRRIGATION	38 ⁷
Section Acres						175
Total Acres						175

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:

Other water rights used: High water claim filed in the SRBA and 67-168.

This claim is a combination of 67-158 and 67-159. This water right is claimed with a permissible place of use within the 175 acres described above. Under the Muir v. Allison Decree, this right should have been allocated to 73.2 acres.

15. Basis of Claim: Decreed

Should questions arise during the processing of this application please contact:
David B. Shaw - ERO Resources Corp. (208) 373-7983

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

Date Received

Receipt Number

67-14404

0029732

NOTICE OF CLAIM
TO A
WATER RIGHT
ACQUIRED UNDER STATE LAW

RECEIVED

DEC 18 2002

WATER RESOURCES
WESTERN REGION

Please type or print clearly

1. Name of Claimant(s) Kenneth Seid Phone (208) 355-2339
Mailing Address 2504 Smith Rd., Midvale, Idaho Zip 83645
2. Date of Priority (Only one (1) per claim) 5/15/1883
3. Source of water supply (a) Keithly Creek
Which is tributary to (b) Weiser River
4. a. Location of point of diversion is: Township 13N Range 4W Section 1, NE $\frac{1}{4}$ of NW $\frac{1}{4}$ of NW $\frac{1}{4}$, Govt. Lot _____, B.M., County of Washington
Additional points of diversion if any: _____
b. If instream flow, beginning point of claimed instream flow is:
Township _____ Range _____ Section _____, _____ $\frac{1}{4}$ of _____ $\frac{1}{4}$ of _____ $\frac{1}{4}$, 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.
Diversion and ditch to pond in SE NW, Sec. 31, T14N, R3W. Pump from pond to sprinklers.

6. Water is claimed for the following purposes:

(both dates are inclusive) (cfs) (acre feet)

For Irrigation purposes from 4/1 to 10/31 amount 0.92 or _____

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

For _____ purposes from _____ to _____ amount _____ or _____

7. Total quantity claimed (a) 0.92 (cfs) and/or (b) _____ (acre feet)

8. Total consumptive use claimed is _____ acre feet per annum.

9. Non-irrigation uses; describe fully. (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 ¼				NW ¼				SW ¼				SE ¼				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
			¼	¼	¼	¼	¼	¼	¼	¼	¼	¼	¼	¼	¼	¼	¼	¼	
14N	3W	31							25	17	35	L3			22	38			175
												38							

Total number of acres irrigated 175

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 XX 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.

High water claim filed in the SRBA and 67-168

or None ()

14. Remarks:

This claim is a combination of 67-158 and 67-159. This water right is claimed with a permissible place of use within the 175 acres described above. Under the Muir v. Allison Decree, this right should have been allocated to 73.2 acres.

Last Name Seid Ident. Number _____

Kenneth Seid
67-158 67-159

Topographic map of the Shoen Valley area. The map shows various creeks including Hopper Creek, Shoe Valley Creek, Keithly Creek, and Tree Gulch. It also features a grid of red and green lines, a 'Trans. Line', 'Gravel Pit', 'Pond', 'CEM', 'R4W', 'R3W', 'T14N', 'T13N', 'T14E', 'T13E', 'T14S', 'T13S', 'T14W', 'T13W'. The map is overlaid with a grid of red and green lines.

Scale: 1 : 24,000 Zoom Level: 13-1 Datum: NAD27 Map Rotation: 0° Magnetic Declination: 16.1°E

2,000 ft

15. Basis of Claim (Check One) Beneficial Use _____ Posted Notice _____ License _____ Permit _____
Decree **XX**

If applicable provide IDWR Water Right Number 67-158 & 67-159

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 received notice in the Snake River Basin Adjudication." I/We do _____ do not **XX** 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) *Kenneth Seid* Date 12-20-02

Date _____

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
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 _____)
County of Ada) SS.

Subscribed and sworn (or affirmed) before me this 20 day of December 20 02

Notary Public Lori Harris

Residing at Bain, Idaho

My Commission Expires 12-8-06



17. Notice of Appearance

Please Print Name

Notice is hereby given that _____ 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 _____

Date _____

Last Name Seid Ident. Number _____