State of Idaho
DEPARTMENT OF WATER RESOURCES
Western Region, 2735 Airport Way, Boise, Idaho 83705-5082
Phone: (208) 334-2190 FAX: (208) 334-2348 www.idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Interim Director

August 31, 2009

ORIGINAL

RE: Dean Ranch Subdivision (37-353 et al.) information and proposed recommendations

To Whom It May Concern:

The Department was directed to prepare a proposal to resolve the objections and responses to the subcases listed below and to develop a method of sharing that information with all interested parties. A document repository has been created on the Department's web site at the following location:

http://www.idwr.idaho.gov/WaterManagement/AdjudicationBureau/Reports_Presentations/DeanRanch/default.htm

Currently, all proposed recommendations associated with the base right 37-353 have been placed on the web site. A brief summary and explanation concerning the proposed recommendations and proportional split analysis are located on the web site. You will also find two 1987 aerial photos that include the Dean Ranch Subdivision. The photos have been included as the Department's mosaiced image for this area was joined in the center of the subdivision making potential irrigation harder to determine. The two flights were approximately 2 months apart.

Please monitor the web site, as additional information may be added.

Sincerely,

Kelly K. Christensen

Kelly K Christensen
Sr Water Resource Agent
E-mail address: kelly.christensen@idwr.idaho.gov

Subcase Nos:	
37-353	37-353B
37-353D	37-353E
37-353F	37-353G
37-353H	37-353J
37-353K	37-353L
37-20348	37-21146
37-22042	37-22043

3-9-10

Status Conf

37-353- Dean Ranch Subdivision

April. call in number will be Changing codes not anticipated to Change

Arrington - Turco. (Tyrec Representing) Nod second Round drafts.

Chris - Proposal - issue ADR's by the end of this month. set status Conf after response Period.

Fritz - 21148 - 21146 wanted settlement

Lawrence - ok with Chris's proposal (client ok with rec at this time.

ADR due Mar 31
obj (21 day) due Apr 29
Resp (14 day) due May 12
Status Conf. ~~June~~ Chris's at June 29. 10:30 AM.

Gardner Comb use Rmk.
need to chg Rmks on Place of Use. see 37-353D proof Rpt for Notes.

37-353H No Change

Christensen, Kelly

From: Dylan Lawrence [DBL@moffatt.com]
Sent: Monday, March 01, 2010 4:32 PM
To: Bromley, Chris; Christensen, Kelly
Subject: Dean Ranch questions
Attachments: 1549744_1_1993-11-16 letter from IDWR.PDF; 1549746_1_Transfer 3678.PDF; 1549749_1_Preliminary 37-353H.PDF; 1549750_1_Transfer 3679.PDF

Chris and Kelly:

I have been reviewing IDWR's revised proposed recommendations for the Dean Ranch Subdivision water rights, in preparation for next week's status conference. Both of my clients' (Olsen and Goicoechea) recommendations were reduced, so I have been trying to understand the history of the various transfers and splits, so that I can advise them on the situation and how to proceed. Obviously, the documentation regarding the various Dean Ranch water rights is complicated and extensive, so I cannot say that I have yet thoroughly reviewed all of it. However, there are a couple of issues that have jumped out at me that would be helpful to clarify. If you could help me fill in these gaps, that would be extremely helpful as I try to recommend a course of action to my clients in this matter. Even though I know you already have access to them, for ease of reference, I am attaching some relevant documents from the water right files.

My first question relates to 37-353C, 37-353G, and 37-353H. My understanding is that 37-353C was split equally into 37-353G and 37-353H. This split is documented in the attached November 16, 1993 letter and internal documentation from IDWR. IDWR is currently proposing to recommend 353G and 353H equally in the amount of 0.20 cfs, meaning that prior to the split, 353C had to have had a diversion rate of 0.40 cfs. Based upon my review of the file, it appears that 353C was created by transfer 3678, as reflected by Part 1.B.1 of that transfer application/approval (attached). However, when I review that transfer approval, it looks like 353C was created with a quantity of 0.20 cfs, rather than 0.40 cfs. This is reflected in Parts 1.B.1 and 2.B.1 of the approved transfer application. I am sure there is some explanation for this apparent discrepancy, and you guys are so much more familiar with this matter than I am, so I am hoping you can point me to the documents in the file demonstrating that 353C was originally created with a diversion rate of 0.40 cfs, rather than 0.20 cfs.

I also have a question regarding the relationship between 37-353F and 37-353H. When IDWR issued its preliminary recommendation for 353H (attached), it included a remark that 353H "was formerly known as Right 37-353F." It is my understanding that 353F was created by transfer 3679 with a diversion rate of 0.20 cfs, as reflected in the attached transfer application/approval. However, IDWR is proposing to recommend both of those rights (353F and 353H) with diversion rates of 0.20 cfs, i.e., with a total diversion rate between them of 0.40 cfs, which would seem to exceed the diversion rate provided in the transfer approval. Again, I am sure there is an explanation for this, but I am having a difficult time finding it. So, if you can point me to the relevant documentation/explanation of these two water rights, that would be great.

Thanks in advance for your time and attention. Please do not hesitate to call to discuss if that would be easier for you.

Also, even before you review this in detail, if you could confirm receipt with a reply e-mail, that would be great. Since I am sending attachments, I want to make sure this e-mail is not blocked.

Thanks again,
Dylan

Dylan Lawrence
Moffatt Thomas Barrett Rock & Fields, Chtd.
P.O. Box 829
Boise, Idaho 83701-0829
Phone & fax: (208) 385-5417

NOTICE: This e-mail, including attachments, constitutes a confidential attorney-client communication. It is not intended for transmission to, or receipt by, any unauthorized persons. If you have received this communication in error, do not read it. Please delete it from your system without copying it, and notify the sender by reply e-mail or by calling (208) 345-2000, so that our address record can be corrected. Thank you.

EASEMENT AGREEMENT

THIS GRANT OF EASEMENT ("Agreement") is made and entered into this 19th day of August, 2002, by and among: Robert L. Fosnot, a married man (hereinafter "GRANTOR") and James R. Super (hereinafter "GRANTEE")

Part of right sold off in 1995.



RECITALS:

A. GRANTOR currently owns two parcels of land described in Exhibit A (hereinafter "Lot A and/or Servient Estate") and Exhibit B (hereinafter "Lot B and/or Dominant Estate"), both Exhibits attached hereto, according to the records and plats thereof on file in the records of Blaine County, Idaho:

Mark Gowe

B. Water right 37-11688 is appurtenant to Lot A, and water right 37-00665D is appurtenant to Lot B; ← Super

→ James Super

C. There exists on Lot A an irrigation system (hereinafter "irrigation system") that serves Lot B, said irrigation system located, more or less, on the southerly most forty (40) feet of Lot A. The irrigation system is used to deliver and convey water rights 37-11688 and 37-00665D;

Fosnot Super

D. The GRANTOR desires to sell Lot B to GRANTEE; and

Super Lot B

E. Both the GRANTOR and GRANTEE desire to create an easement on Lot A for the benefit of the GRANTEE for the use of the irrigation system on Lot A;

Gowe Lot A

T-2949
37-665D aj claim 37-11689

T-2948
37-11688 aj = WR 37-353B
(Fosnot to miller 11689 (1995)

11689A 11689B

TERMS AND CONDITIONS

NOW THEREFORE, the parties mutually covenant and agree as follows:

1. GRANT OF EASEMENT. GRANTOR hereby grants to GRANTEE a permanent, perpetual, and exclusive easement over, across and through forty (40) feet of the southern boundary of Lot A (hereinafter "Easement Premises") for the purposes and subject to the terms, covenants and conditions hereinafter set forth. The GRANTOR reserves the right to use the easement for any use that will not interfere with the GRANTEE'S full enjoyment of the rights granted hereunder. The irrigation system shall not be moved outside of the easement premises without the written consent of the GRANTEE.

2. USE AND PURPOSE OF EASMENT. GRANTEE shall have the right to use the Easement Premises for any purpose necessary to access the irrigation system on Lot A.

3 TERMINATION OF EASEMENT. The Easement shall automatically expire should the owner of Lot B abandon or forfeit water right 37-00665D. The Easement shall also expire should water right 37-00665D be transferred to some place of use other than Lot B. If any portion of water right 37-00665D is transferred off of Lot B, then the owner of the transferred

Instrument # 471628
HAILEY, BLAINE, IDAHO
2002-10-03 01:55:08 No. of Pages: 9
Recorded for: JAMES R SUPER
MARSHA RIEMANN Fee: 15.00
Ex-Officio Recorder Deputy
Index to: EASEMENTS

PC Docs Backfile
37-22042
Pgs 25 → 28

portion shall not have any access under this Agreement to Lot A, without the express written consent of the owner of Lot A.

4. MAINTENANCE, REPAIR, REPLACEMENT AND OPERATION OF IRRIGATION SYSTEM. The GRANTEE and GRANTOR shall be responsible for all costs and fees necessary for the routine maintenance, repair, replacement, and operation of the irrigation system located on Lot A, including, but not limited to, the cost of power bills. The proportionate responsibility for each party is based on the number of irrigable acres established for each water right. If the number of irrigable acres for each water is changed or altered, as determined by the Idaho Department of Water Resources ("IDWR") or the Snake River Basin Adjudication ("SRBA") Court, then the proportionate share of costs and fees will be adjusted accordingly. At the time of this Agreement, the proportionate share of costs and fees is as follows: GRANTEE is responsible for sixty-nine percent (69%) of all costs and fees, and GRANTOR is responsible for thirty-one percent (31%) of all costs and fees. The failure to pay the proportionate costs or fees described herein shall allow either party to enjoin the other from using the irrigation system located on the easement premises.

5. DAMAGE TO IRRIGATION SYSTEM OR EASEMENT PREMISES. Notwithstanding the provisions of Paragraph 4, each party shall be solely responsible for any damage to the irrigation system that is proximately caused by that party's conduct. Furthermore, GRANTEE shall be responsible for any damage caused to the Easement Premises, where such damage was proximately caused by the GRANTEE.

6. INDEMNIFICATION. GRANTEE hereby agrees to fully indemnify and hold GRANTOR harmless from any and all inquiries, claims and expenses, whether known or unknown, including but not limited to personal injury or damage to property arising out of or relating to the exercise by GRANTEE , or his guests, licensees or invitees, or any of the rights granted herein.

7. COVENANTS RUNNING WITH THE LAND. All of the terms and conditions of this Agreement shall be covenants running with the land which shall inure to the benefit of and be binding upon Lots A and B, the parties hereto and all of their heirs, assigns and successors in interest.

8. EXECUTION OF ADDITIONAL DOCUMENTS. Each of the parties hereto agrees to promptly execute such other and further documents as may be reasonably required by the other to carry out the purpose and intent of this Agreement.

9. ENTIRE AGREEMENT. This Agreement constitutes the entire agreement and understanding concerning the subject matter between the parties and supercedes and replaces all prior discussions or written instruments that are inconsistent with the terms and conditions contained in this agreement.

10. AMENDMENT TO AGREEMENT. This Agreement may be amended only in writing signed by the parties, and no provision of this Agreement may be waived or modified, except by an instrument in writing signed by all parties.

11. GOVERNING LAW. This Agreement shall be construed according to the laws of the State of Idaho.

12. ATTORNEY FEES AND COSTS. If any party is required to file suit to enforce any provision of this agreement, the prevailing party shall be entitled to reasonable attorney fees and costs.

13. SEVERANCE AND VALIDITY. In the event any provision of this Agreement or any part thereof shall be determined by any court of competent jurisdiction to be invalid, void, or otherwise unenforceable, the remaining provisions hereunder, or party thereof, shall remain fully in force and effect, and shall in no way be affected, impaired, or invalidated thereby, it being agreed that such remaining provision shall be construed in a manner most closely approximate to the intention of the parties with respect to the invalid, void, or unenforceable provision or part thereof.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed on the day and year first above written.

GRANTOR, Robert E. Fosnot

By: Robert E. Fosnot
Robert E. Fosnot

DATED: 8-19-2002

STATE OF IDAHO)
) ss.
County of Blaine)

On this 19 day of August, 2002, before me, a Notary Public in and for the State of Idaho, personally appeared Robert E. Fosnot, Grantor, known to me to be the person whose name is subscribed to the foregoing document, and acknowledged 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 Acknowledgement first above written.

Heidi Southward
NOTARY PUBLIC FOR IDAHO
Residing at: Hailey Idaho
Commission expires: 12-8-2004

HEIDI SOUTHWARD NOTARY PUBLIC STATE OF IDAHO

GRANTEE, (Insert name)

By: James R. Super (Insert name) DATED: 10/03/02

STATE OF IDAHO)
) ss.
County of Blaine)

On this 3 day of Oct, 2002, before me, a Notary Public in and for the State of Idaho, personally appeared James R Super, Grantee, known to me to be the person whose name is subscribed to the foregoing document, and acknowledged 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 Acknowledgement first above written.

NOTARY PUBLIC FOR IDAHO
Residing at: Hailey
Commission expires: 6/23/05

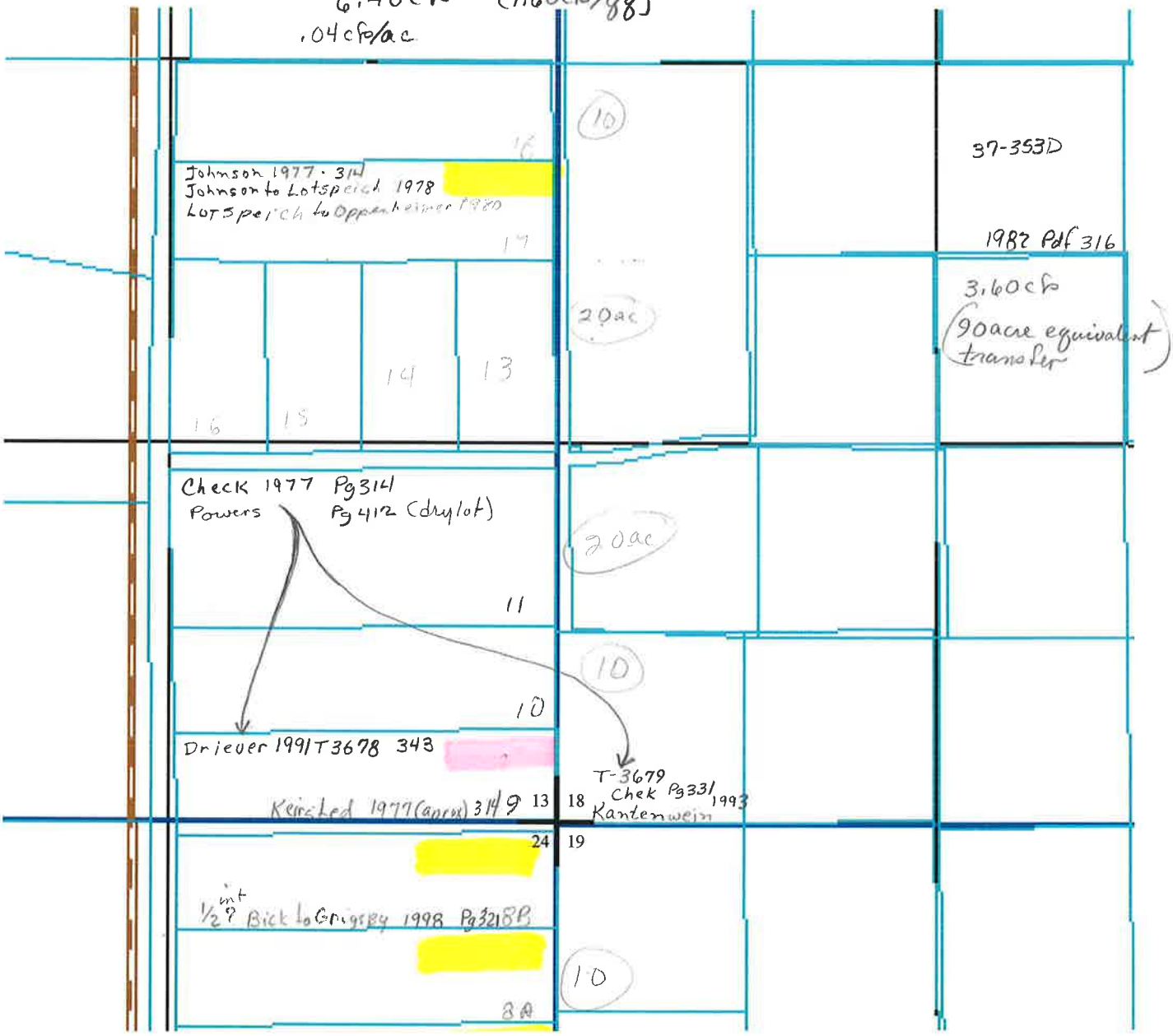
Dean Purchase Prop

1969 Pdf pg 270

37-353

6.40 cfs (1.60 cfs/88)

.04 cfs/ac



Christensen, Kelly

From: Christensen, Kelly
Sent: Wednesday, December 23, 2009 1:03 PM
To: Bromley, Chris; Ridgeway, Renea
Subject: RE: 37-353

Of the lots found dry 4 were recommended. Two based upon Norm's non-ruling and two based upon Jim Stanton's irrigation findings in 2004. My proposal did not address any forfeiture issues as I was (kind of) expecting claimants to provide some information supporting their position.

Lot
2 Olsen Livestock 37-353J recommended related to Norm memo
3 Goicoechea 37-353L recommended by Jim based upon 2004 development Objection by Barry but no documentation for obj submitted
7 Fischer 37-353K recommended by Jim based upon 2004 development Objection by Barry but no documentation for obj submitted
8A Oosting 37-353F recommended related to Norm Zicker memo

From: Bromley, Chris
Sent: Tuesday, December 22, 2009 3:31 PM
To: Christensen, Kelly
Subject: RE: 37-353

Did you recommend to any of the other dry lots?

From: Christensen, Kelly
Sent: Tuesday, December 22, 2009 3:19 PM
To: Bromley, Chris
Subject: RE: 37-353

Turco's claim is on lot 10.
I believe that they also now own lot 11 which 37-363D is appurtenant.

Allen found lots 2, 3, 7, 8A, 10, 13, 14, 15, 16, and 18 dry in the report that was ultimately submitted to Norm . Once he noted that they were dry "forfeited" he just ducked.

I was expecting that somebody within this group would have the impetus to take a position.

kkc

From: Bromley, Chris
Sent: Tuesday, December 22, 2009 2:54 PM
To: Christensen, Kelly
Cc: Ridgeway, Renea
Subject: RE: 37-353

Kelly,

Does Turco have another water right? Their documents say no, but I wonder what you've found and if they're correct.

Do you see a basis to recommend Turco, or do you think the right's been forfeited (curious since you raised it below), and if so, why.

Chris

From: Christensen, Kelly
Sent: Tuesday, December 22, 2009 2:47 PM
To: Bromley, Chris; Kelly, Vicki
Subject: RE: 37-353

I looked over the paperwork submitted by Turco. They ignore the issue of forfeiture. The only thing that they stated that won't fly is that they felt that the difference between the claimed rate and recommended rate for Goicoechea, Olsen, and Gardner represented water that would satisfy their claimed rate.

My proposal accounts for the entire decreed rate for 37-353. To recognize Turco somebody would have to be reduced.

kkc

From: Bromley, Chris
Sent: Monday, December 21, 2009 10:58 AM
To: Christensen, Kelly
Subject: RE: 37-353

I'm just now getting to mail that was scanned by Sally on 12/16. It has a filing from Tyree for Turco in it. He filed it with the court.

Chris

From: Christensen, Kelly
Sent: Monday, December 14, 2009 9:46 AM
To: Bromley, Chris
Subject: RE: 37-353

No.

From: Bromley, Chris
Sent: Friday, December 11, 2009 4:17 PM
To: Christensen, Kelly
Subject: 37-353

Did you get anything from Tyree today on this?

Nov 6 - 2009
Dean Ranch Subdivision

37-20348

Haemmerle wants overlapping right recommendations

Lawrence
No opinion thinks his is straightforward.
not complicated.

Arrington
in line with Lawrence. go with ADR.
Potential issue → motion to file late obj.
Possible issue with Turco's pending obj.

Tyree
Turco - Late Obj. hearing Dec. L {Resp. deadline 14 days. Nov 20
Standard - not willful
1989 transfer
Turco Mistorius position
Paul Arrington comment. ~~1989~~
Jim Speck.

Booth ruling on obj - grant motion.
Deadline for info. Dec 11. *
To complete Turco & Stacked Rights.
My Dead line Jan 29.
Send another round of Proposed Recommend.
Mar. 9 @ 9:30 AM.

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

July 31, 2009

Re: Water Right Nos. 37-00353, 37-00353B, 37-00353D, 37-00353E, 37-00353F, 37-00353G, 37-00353H, 37-00353J, 37-00353K, 37-00353L, 37-20348, 37-21146, 37-22042, and 37-22043

Dear Water Right Claimant:

The above-listed water right claims each claim a portion of a water right that was decreed to James Johnson in the case of *Frost v. Alturas Water Co.*, (Fourth Dist.) (Dec. 3, 1909). The right decreed therein to James Johnson was for 6.4 cubic feet per second (320 miner's inches) with a priority date of June 12, 1886. The sum of the quantity of water claimed in the Snake River Basin Adjudication under the Johnson right exceeds what is available under that right – i.e. 6.4 cfs.

The *Director's Report* for water right claim 37-00353G (claimant Barbara Berry) recommended that the claim be disallowed. Barbara Barry, through her attorney Paul Arrington filed objections in the SRBA to the *Director's Report* for her water right claim, asserting that it should not be disallowed. Barbara Barry also filed objections to the *Director's Report* for claims 37-00353F (James Oosting); 37-00353J (Olsen Livestock Consulting); 37-00353K (Danette Fisher and Mark Fisher); and 37-00353L (Annette Goicoechea and Tom Goicoechea), asserting that these claims should either have reduced diversion rates or alternatively be disallowed.

Barbara Berry has not filed objections to the remainder of the Johnson derivative claims. However, those claims have been identified by the Idaho Department of Water Resources (IDWR) as uncontested claims that may be affected by the outcome of the contested matter. Idaho Code § 42-1412(7).

At a status conference held on July 28, 2009, IDWR proposed that the parties (**including the claimants of the uncontested claims**) participate in a mandatory settlement conference. The purpose of this letter is to identify potential dates for this mandatory settlement conference. The potential dates are **October 23, 2009, or November 6, 2009**. The settlement conference will be held at the Gooding County Courthouse and will likely be moderated by Hon. Barry Wood, District Judge. A telephonic status conference will be held on **August 18, 2009, at 11:30 AM** for the purpose of fixing a date and time certain for the settlement conference. A separate notice is enclosed herewith regarding the status conference.

Sincerely,

Theodore R. Booth
Special Master
Snake River Basin Adjudication

Christensen, Kelly

From: Christensen, Kelly
Sent: Friday, November 06, 2009 3:53 PM
To: Ridgeway, Renea
Subject: RE: 37-353 Dean Ranch overlapping rights list

No, I got a hold of her and she got the e-mail.
kkc

From: Ridgeway, Renea
Sent: Friday, November 06, 2009 3:36 PM
To: Christensen, Kelly; Bromley, Chris; 'ddelaney@srba.state.id.us'
Subject: RE: 37-353 Dean Ranch overlapping rights list

I think Diana asked that this information be given by phone not e-mail because the Court is still having issues with their internet. Do you want me to call and give this information to her?

Renea Ridgeway
Paralegal
Office of the Attorney General
Natural Resources Division
Idaho Department of Water Resources
(208) 287-4814 office
(208) 287-6700 fax

From: Christensen, Kelly
Sent: Friday, November 06, 2009 3:21 PM
To: Bromley, Chris; Ridgeway, Renea; 'ddelaney@srba.state.id.us'
Subject: 37-353 Dean Ranch overlapping rights list

I included Diana in this e-mail just because I had generated it. I called a little earlier to get her this info but she was out to lunch. Will try again around 3:30

Kelly

37-8012 Grigsby unobjected to
37-21267 Briggs unobjected to
37-7310 Briggs unobjected to
37-363D Turco
37-21148 Gower ✓
37-11689B Swenke ✓
37-21147 Super ✓

The next 13 are all Gardner overlaps
37-418D
37-419D
37-2345A

37-11671
37-443
37-480B
37-637
37-665H
37-666F
37-667K
37-713B
37-802
37-2684

Kelly K Christensen
Sr Water Resource Agt
Boise, Western Region
(208)-334-2190

DISTRIBUTATION ANALYSIS FOR 37-353 AND ASSOCIATED SPLITS

Prepared by: Kelly K. Christensen, IDWR

ORIGINAL

Water right no. 37-353 was originally decreed for 6.40 cfs on 160 acres (0.04 cfs/acre). Some documents suggest that Dean sold lots at varying rates per acre but all warranty deeds at best state "with appurtenances". The delivery ditch system has historically been acknowledged to have significant conveyance losses. Although no documentation of any scientific determination of conveyance losses are available, it has historically been estimated to be as much as 50%. This would be in line with the decree of 0.04 cfs/acre, where assuming a 50% conveyance loss, the result would be 3.20 cfs on 160 acres, or one inch per acre.

Some information exists that suggests that irrigation ceased on various lots for 20± years. The dry lots identified in 1997 were lots 2, 3, 7, 8A, 10, 13, 14, 15, 16, and 18.

No claims were filed against lots 10, 11, 13, 14, 15, 16, and 18. The Dean Ranch Subdivision is shown in Figure 1.

Of the 14 claims filed against 37-353 a proportionate share analysis considering 8 claims was made.

Claims 37-353G, 37-353H, 37-21146, 37-22042, and 37-22043 and their respective diversion rates were excluded from the analysis as they were based upon approved transfers. The combined transfer rates total 0.80 cfs. This leaves 5.60 cfs available for the 8 active claims that were not subject to transfer. 37-20348 was excluded as that claim was recommended for disallowal and no objections were filed. The Proposed Calculations are shown in Table 1.

The analysis includes a tentative modification to the POU for 37-353J (Olsen Livestock) from 7.8 acres to 10 acres, as there were no farmstead buildings on lot 2 in 1987. All of the property was therefore available for irrigation. After reviewing the 1987 aerial photography, the analysis for 37-353K (Fisher) also includes a modification to the POU from 6.3 acres to 7.9 acres.

The combined found and adjusted irrigated acreage for those claims is 137.7 acres. Distributing the remaining 5.60 cfs across those acres results in a calculated rate per acre of ≈ 0.041 cfs/acre, this is slightly greater than the decreed rate of 0.04 cfs/acre. Most of the lots recognized as valid apply water from the main ditch to the ground through various sprinkler irrigation systems. Considering the system's 50% conveyance loss, 2 inches per acre appears reasonable.

The Proposed Calculations in Table 1 show the values used in calculating a proportionate split of the 5.60 cfs across the found 137.7 acres for the 8 non-transferred claims. The calculated rates were done in two stages. After the first iteration, the calculated diversion rate exceeded the claimed rate for claims 37-353D, 37-353F and 37-353J. The recognized rates for those rights are capped at the claimed rate. A second iteration was then run for the remaining 5 claims with the results for all claims being displayed in the last column.

The proposed rates from Table 1 and the rights associated with the transfers are then combined and shown in Proposed Recommendations in Table 2.

At this point overlapping rights are being addressed through combined right conditions that would limit the rights to one inch per acre at the field headgate for irrigation purposes. Some overlapping rights have also been objected to and are subject to further review that could ultimately require additional condition modification.

TRANSFER ISSUES

Three transfers were issued by the department directly relating to portions of 37-353.

T-3678 (37-353G Barry) was issued for 0.20 cfs and 6 ac. The transfer was approved Sept 8, 1991. Although the original recommendation was for disallowal, further review indicates that this right is valid and the proposed recommendation basically reflects the transferred elements.

T-3679 (37-353H Benson) was issued for 0.20 cfs and 7.5 ac. The transfer was approved Nov 3, 1993. On 8-9-1990 an application for permit for the irrigation of 6 acres In 1N, 19E Sec 18 SWSW from a ground water source. That application was ultimately approved, conditioned that 0.20 cfs of allocations right 37-353F remain in the Big Wood River for mitigation purposes. Adjudication claim 37-353H was based upon the allocations record 37-353F and is currently being recommended as a mitigation right.

T-2948 was filed by Fosnot based upon a portion of 37-353 for irrigation of 5.5 acres within Lot 1(now associated with claims 37-21146 Gower, 37-22042 Fosnot/Swenke disallowed, and 37-22043 Super).

T-2949 was filed by Fosnot based upon a portion of 37-665 for irrigation of 18.5 acres within 1N, 19E, Sec 24 NESE (now associated with claims 37-21148 Gower, 37-11689B Swenke, and 37-21147 Super). In filing the original adjudication claims Fosnot asserting accomplished transfers for the rights associated with each parcel. Each claim reflected the same POU of 27.9 which included Lot 1 and that portion of Sec 24 NESE associated with T-2949. Upon second review proportional splits were calculated for each of the 6 claims and acre limits specific to each right identified.

Another accomplished transfer (the Gardner claim 37-353D for 3.60 cfs) was identified. At this time the specific place of use from which the right was transferred has not been identified. The initial recommendation did not include an acre limit but at 0.04 cfs per acre this right should be limited to 90 acres which became the basis for this right in the proportional split analysis.

PROPOSED PROPORTIONAL CALCULATIONS

POU changes were made to Lt 2 and Lt 7 based upon objections and additional research.
POU objection to 37-21146 seeks additional acreage. Recommendation reflects transfer acre limits.
The Lt 9 claim is being recognized as valid and the T-3678 information is being used in this analysis to determine the total rate.

No other adjustments to the POU are considered as of 6-16-2009.
* Proportional rate meets or exceeds claimed rate. Proposed proportional rate capped at claimed rate.

		Rec Acres	Adjusted POU acres	Claim rate	Director report rec rate	1st iteration Prop allocation	1st iteration modified per claim	2nd iteration	Proposed Diversion rate distribution
37-353J Olsen Livestock	Lt 2	7.2	10	0.400	0.320	0.407	* 0.4		* 0.400
37-353L Goicoechea	Lt 3	8.4	8.4	0.360	0.280	0.342	0.34	0.038	* 0.360
37-353B Briggs/ Arrington	Lt 4, 5, & 6	0.4	0.4	0.400	0.4	0.016	0.02	0.002	0.040
37-353K Fisher	Lt 7	6.3	7.9	0.360	0.280	0.321	0.32	0.036	* 0.360
37-353F Oosting/ Ziker	Lt 8A	6.8	6.8	0.200	0.160	* 0.277	* 0.2		* 0.200
37-353 Grigsby	Lt 8B	6.9	6.9	0.400	0.400	0.281	0.28	0.031	0.310
37-353E Van Der Meulen	Lt 17	7.3	7.3	0.400	0.400	0.297	0.3	0.033	0.330
37-353D Gardner		280	90	3.6	3.600	3.660	* 3.6		* 3.600
	totals	323.3	137.7	6.120	5.840	5.6	5.46	0.140	5.600
	Div rate	5.6							
	Tot Lts less Lts 8A & 9 (acres)	30.9							
	Diff 1st iteration modified vs Div rate	0.14							
37-353G Barry	Lt 9				0.20				0.20
37-21146 Gower	Lt 1	5.5 ac comb with 37-22042 & 37-22043			0.11				0.11
37-22042 Swenke	Sec 24 NESE (part)	5.5 ac comb with 37-21146 & 37-22043			0				0.04
37-22043 Super	Sec 24 NESE (part)	5.5 ac comb with 37-21146 & 37-22042			0.25				0.25
37-353H Benson	Sec 18 SWSW	Limited to mitigation			0.20				0.20
		Sub total							0.80
		Total							**6.40**

IDAHO DEPARTMENT OF WATER RESOURCES

RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 37-353

NAME AND ADDRESS: JUDITH P GRIGSBY
PO BOX 254
BELLEVUE ID 83313

2010 ADR

SOURCE: BIG WOOD RIVER TRIBUTARY: MALAD RIVER

QUANTITY: 0.270 CFS

This right when combined with all other rights shall provide no more than 0.02 cfs per acre at the field headgate for irrigation of the place of use described for this water right.

The quantity of water under this right for stockwater use shall not exceed 13,000 gallons per day.

PRIORITY DATE: 06/12/1886

POINT OF DIVERSION:

T02N R18E S36 NESWNW Within BLAINE County

PURPOSE AND PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
STOCKWATER	01/01 12/31	0.020 CFS
IRRIGATION	04/15 10/31	0.270 CFS

PLACE OF USE: IRRIGATION in BLAINE County

T01N R18E S24 NENE 6.90

STOCKWATER in BLAINE County

T01N R18E S24 NENE

6.9 ACRES TOTAL

Right Nos. 37-353 and 37-8012 are limited to the irrigation of a combined total of 7.8 acres 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.

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

EXPLANATORY MATERIAL: BASIS OF CLAIM - Decreed

This right is a portion of former Right 37-353.

The place of use is further described as Lot 8B of the Dean Ranch Subdivision.

03/09/2010

IDAHO DEPARTMENT OF WATER RESOURCES

RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 37-353B

NAME AND ADDRESS: NOEL BRIGGS
2050 E 3000 S
WENDELL ID 83355

DAN ARRINGTON
2998 APRIL DRIVE
TWIN FALLS ID 83301

2010 ADR

SOURCE: BIG WOOD RIVER TRIBUTARY: MALAD RIVER

QUANTITY: 0.020 CFS

This right when combined with all other rights shall provide no more than 0.02 cfs per acre at the field headgate for irrigation of the place of use described for this water right.

PRIORITY DATE: 06/12/1886

POINT OF DIVERSION:

T02N R18E S36 NESWNW Within BLAINE County

PURPOSE AND PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
IRRIGATION	04/15 10/31	0.020 CFS

PLACE OF USE: IRRIGATION in BLAINE County

T01N R18E S24	NENE	0.30	T01N R18E S24	SENE	0.10

0.4 ACRES TOTAL

Right Nos. 37-353B and 37-21267 are limited to the irrigation of a combined total of 0.4 acres 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

The place of use is a portion of the lawn and trees located on the west end of Lot 5 of the Dean Ranch Subdivision.

IDAHO DEPARTMENT OF WATER RESOURCES

RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 37-353D



NAME AND ADDRESS: ROBERT E GARDNER
PO BOX 1200
HAILEY ID 83333

KATHRYN ALLRED GARDNER
PO BOX 1200
HAILEY ID 83333

SOURCE: BIG WOOD RIVER TRIBUTARY: MALAD RIVER

QUANTITY: 3.600 CFS

This right when combined with all other rights shall provide no more than 0.02 cfs per acre at the field headgate for irrigation of the place of use described for this water right.

PRIORITY DATE: 06/12/1886

POINT OF DIVERSION:

T02N R18E S36 NESWNW Within BLAINE County

PURPOSE AND PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
IRRIGATION	04/15 10/31	3.600 CFS

PLACE OF USE: IRRIGATION in BLAINE County

T01N R19E S18	SWNE	40.00	T01N R19E S18	SENE	37.00
T01N R19E S18	NESE	40.00	T01N R19E S18	NWSE	40.00
T01N R19E S18	SWSE	40.00	T01N R19E S18	SESE	40.00
T01N R19E S19	NENE	40.00	T01N R19E S19	NWNE	40.00

317 ACRES TOTAL

Right Nos. 37-353D, 37-418D, 37-419D, 37-2345A and 37-11671 Part are limited to the irrigation of a combined total of 317 acres in a single irrigation season for that land in Sec. 18 & 19 known as the Buhler Ranch.

This right is limited to the irrigation of 90 acres within the place of use described above in a single irrigation season.

Right Nos. 37-353D, 37-418D, 37-419D, 37-443, 37-480B, 37-637, 37-665H, 37-666F, 37-667K, 37-713B, 37-802, 37-2345A, 37-2684 and 37-11671 are limited to the irrigation of a combined total of 1528 acres 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.

This right is a portion of former Right 37-353E.

03/09/2010

IDAHO DEPARTMENT OF WATER RESOURCES

RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 37-353E

NAME AND ADDRESS: PETER D VAN DER MEULEN
PO BOX 537
HAILEY ID 83333

LINDA VAN DER MEULEN
PO BOX 537
HAILEY ID 83333

2010 ADR

SOURCE: BIG WOOD RIVER TRIBUTARY: MALAD RIVER

QUANTITY: 0.290 CFS

This right when combined with all other rights shall provide no more than 0.02 cfs per acre at the field headgate for irrigation of the place of use described for this water right.

PRIORITY DATE: 06/12/1886

POINT OF DIVERSION:

T02N R18E S36 NESWNW Within BLAINE County

PURPOSE AND PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
IRRIGATION	04/15 10/31	0.290 CFS

PLACE OF USE: IRRIGATION in BLAINE County

T01N R18E S13 NESE 7.30

7.3 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 - Decreed

This right is a portion of former Right 37-353.

The place of use is also known as Lot 17 of the Dean Ranch Subdivision.

03/09/2010

IDAHO DEPARTMENT OF WATER RESOURCES

RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 37-353F

NAME AND ADDRESS: JAMES M OOSTING
PO BOX 386
BELLEVUE ID 83313

2010 ADR

SOURCE: BIG WOOD RIVER TRIBUTARY: MALAD RIVER

QUANTITY: 0.200 CFS

This right when combined with all other rights shall provide no more than 0.02 cfs per acre at the field headgate for irrigation of the place of use described for this water right.

PRIORITY DATE: 06/12/1886

POINT OF DIVERSION:

T02N R18E S36 NESWNW Within BLAINE County

PURPOSE AND PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
IRRIGATION	04/15 10/31	0.200 CFS

PLACE OF USE: IRRIGATION in BLAINE County

T01N R18E S24	NENE	6.80

6.8 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 - Decreed

The place of use is Lot 8A of the Dean Ranch Subdivision.

03/09/2010

IDAHO DEPARTMENT OF WATER RESOURCES

RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 37-353G

NAME AND ADDRESS: BARBARA A BARRY
PO BOX 1197
BELLEVUE ID 83313

2010 ADR

SOURCE: BIG WOOD RIVER TRIBUTARY: MALAD RIVER

QUANTITY: 0.200 CFS
18.00 AFY

This right when combined with all other rights shall provide no more than 0.02 cfs per acre at the field headgate for irrigation of the place of use described for this water right.

PRIORITY DATE: 06/12/1886

POINT OF DIVERSION:

T02N R18E S36 NESWNW Within BLAINE County

PURPOSE AND PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
IRRIGATION	04/15 10/31	0.200 CFS 18.00 AFY

PLACE OF USE: IRRIGATION in BLAINE County

T01N R18E S13 SESE 6.00

6 ACRES TOTAL

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

This right is a portion of former Right 37-353.

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

The place of use is further described as Lot 7 of the Dean Ranch Subdivision.

03/09/2010

IDAHO DEPARTMENT OF WATER RESOURCES

RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 37-353J

NAME AND ADDRESS: OLSEN LIVESTOCK CONSULTING
228 S COLE RD
BOISE ID 83709



SOURCE: BIG WOOD RIVER TRIBUTARY: MALAD RIVER

QUANTITY: 0.390 CFS

This right when combined with all other rights shall provide no more than 0.02 cfs per acre at the field headgate for irrigation of the place of use described for this water right.

PRIORITY DATE: 06/12/1886

POINT OF DIVERSION:

T02N R18E S36 NESWNW Within BLAINE County

PURPOSE AND PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
IRRIGATION	04/15 10/31	0.390 CFS

PLACE OF USE: IRRIGATION in BLAINE County

T01N R18E S24 SENE 10.00

10 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 - Decreed

The place of use is also known as Lot 2 of the Dean Ranch Subdivision.

This right is a portion of former Right 37-353.

03/09/2010

IDAHO DEPARTMENT OF WATER RESOURCES

RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 37-353K

NAME AND ADDRESS: MARK D FISHER
PO BOX 650
BELLEVUE ID 83313

DANETTE L FISHER
PO BOX 650
BELLEVUE ID 83313

2010 ADR

SOURCE: BIG WOOD RIVER TRIBUTARY: MALAD RIVER

QUANTITY: 0.310 CFS

This right when combined with all other rights shall provide no more than 0.02 cfs per acre at the field headgate for irrigation of the place of use described for this water right.

PRIORITY DATE: 06/12/1886

POINT OF DIVERSION:

T02N R18E S36 NESWNW Within BLAINE County

PURPOSE AND PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
IRRIGATION	04/15 10/31	0.310 CFS

PLACE OF USE: IRRIGATION in BLAINE County

T01N R18E S24 NENE 7.90

7.9 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 - Decreed

The place of use is further described as Lot 7 of the Dean Ranch Subdivision.

This right is a portion of former Right 37-353.

03/09/2010

IDAHO DEPARTMENT OF WATER RESOURCES

RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 37-353L

NAME AND ADDRESS: TOM GOICOECHEA
PO BOX 193
HAILEY ID 83333

ANNETTE GOICOECHEA
PO BOX 193
HAILEY ID 83333

2010 ADR

SOURCE: BIG WOOD RIVER TRIBUTARY: MALAD RIVER

QUANTITY: 0.320 CFS

This right when combined with all other rights shall provide no more than 0.02 cfs per acre at the field headgate for irrigation of the place of use described for this water right.

PRIORITY DATE: 06/12/1886

POINT OF DIVERSION:

T02N R18E S36 NESWNW Within BLAINE County

PURPOSE AND PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
IRRIGATION	04/15 10/31	0.320 CFS

PLACE OF USE: IRRIGATION in BLAINE County

T01N R18E S24 SENE 8.40

8.4 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 - Decreed

The place of use is also known as Lot 3 of the Dean Ranch Subdivision.

This right is a portion of former Right 37-353.

03/09/2010

IDAHO DEPARTMENT OF WATER RESOURCES

RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 37-20348

NAME AND ADDRESS: JERRY TURCO
525 RIVERSIDE AVE
LYNDHURST NJ 07071

2010 ADR

SOURCE: BIG WOOD RIVER TRIBUTARY: MALAD RIVER

QUANTITY: 0.200 CFS

This right when combined with all other rights shall provide no more than 0.02 cfs per acre at the field headgate for irrigation of the place of use described for this water right.

PRIORITY DATE: 06/12/1886

POINT OF DIVERSION:

T02N R18E S36 NESWNW Within BLAINE County

PURPOSE AND PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
IRRIGATION	04/15 10/31	0.200 CFS

PLACE OF USE: IRRIGATION in BLAINE County

T01N R18E S13 SESE 8.40

8.4 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 - Decreed

This claim is a portion of former Right 37-353.

The place of use is further described as Lot 10 of the Dean Ranch Subdivision.

03/09/2010

IDAHO DEPARTMENT OF WATER RESOURCES

RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 37-21146

NAME AND ADDRESS: BETTE GOWER
P O BOX 912
BELLEVUE ID 83313

MARK GOWER
P O BOX 912
BELLEVUE ID 83313

2010 ADR

SOURCE: BIG WOOD RIVER TRIBUTARY: MALAD RIVER

QUANTITY: 0.110 CFS

This right when combined with all other rights shall provide no more than 0.02 cfs per acre at the field headgate for irrigation of the place of use described for this water right.

PRIORITY DATE: 06/12/1886

POINT OF DIVERSION:

T02N R18E S36 NESWNW Lot 3 Within BLAINE County

PURPOSE AND PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
IRRIGATION	04/15 10/31	0.110 CFS

PLACE OF USE: IRRIGATION in BLAINE County

T01N R18E S24 SENE 6.20

6.2 ACRES TOTAL

Rights 37-21146 and 37-21148 when combined shall not exceed the irrigation of 6.2 acres.

This right is limited to the irrigation of 1.4 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

Property is also known as Lot 1 of the Dean Ranch Subdivision.

This right is a split from former right 37-353.

03/09/2010

IDAHO DEPARTMENT OF WATER RESOURCES

RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 37-22042

NAME AND ADDRESS: ROBERT EARL FOSNOT
PO BOX 290
BELLEVUE ID 83313

PAUL R FOSNOT
837 LAUREL AVE
POMONA CA 91767

2010 ADR

SOURCE: BIG WOOD RIVER TRIBUTARY: MALAD RIVER

QUANTITY: 0.040 CFS

This right when combined with all other rights shall provide no more than 0.02 cfs per acre at the field headgate for irrigation of the place of use described for this water right.

PRIORITY DATE: 06/12/1886

POINT OF DIVERSION:

T02N R18E S36 NESWNW Within BLAINE County

PURPOSE AND PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
IRRIGATION	04/15 10/31	0.040 CFS

PLACE OF USE: IRRIGATION in BLAINE County

T01N R18E S24 NESE 2.00

2 ACRES TOTAL

This right is limited to the irrigation of 0.50 acres within the place of use described above in a single irrigation season.

Rights 37-22042 and 37-11689B when combined shall not exceed the irrigation of 2 acres.

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

This claim is a split from former right 37-353.

03/09/2010

IDAHO DEPARTMENT OF WATER RESOURCES

RECOMMENDED WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 37-22043

NAME AND ADDRESS: JAMES R SUPER
PO BOX 598
BELLEVUE ID 83313

JANET A SUPER
PO BOX 598
BELLEVUE ID 83313

2010 ADR

SOURCE: BIG WOOD RIVER TRIBUTARY: MALAD RIVER

QUANTITY: 0.250 CFS

This right when combined with all other rights shall provide no more than 0.02 cfs per acre at the field headgate for irrigation of the place of use described for this water right.

PRIORITY DATE: 06/12/1886

POINT OF DIVERSION:

T02N R18E S36 NESWNW Within BLAINE County

PURPOSE AND PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
IRRIGATION	04/15 10/31	0.250 CFS

PLACE OF USE: IRRIGATION in BLAINE County

T01N R18E S24 NESE 16.00

16 ACRES TOTAL

This right is limited to the irrigation of 3.6 acres within the place of use described above in a single irrigation season.

Right Nos. 37-21147 and 37-22043 are limited to the irrigation of a combined total of 16 acres 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

This right is a split from former right 37-353 and 37-21145.

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 37-353

WATER RIGHT NUMBER: 37-353

Proposal 1-27-2010

updated 3-9-10 KKC

Owner Type	Name and Address
Current Owner	JUDITH P GRIGSBY PO BOX 254 BELLEVUE, ID 83313 (208)788-4454

Priority Date: 06/12/1886

Basis: Decreed

Status: Active

Source	Tributary
BIG WOOD RIVER	MALAD RIVER

Beneficial Use	From	To	Diversion Rate	Annual Volume
STOCKWATER	01/01	12/31	0.020 CFS	
IRRIGATION	04/15	10/31	0.270 CFS	
		Total Diversion:	0.270 CFS	

Location of Point(s) of Diversion

BIG WOOD RIVER NE1/4SW1/4NW1/4 Sec. 36, Twp 02N, Rge 18E, B.M.

BLAINE County

Place of Use

STOCKWATER

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
01N	18E	24	X																

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	
01N	18E	24	6.9																6.9

Total Acres: 6.9

Conditions of Approval:

1. The place of use is further described as Lot 8B of the Dean Ranch Subdivision.
2. N05 The quantity of water under this right for stockwater use shall not exceed 13,000 gallons per day.
3. N08 The quantity of water decreed for this water right for stockwater use is not a determination of historical beneficial use.
4. 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.
5. This right is a portion of former Right 37-353.
6. E55 Right Nos. 37-353 and 37-8012 are limited to the irrigation of a combined total of 6.9 acres in a single irrigation season.

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 37-353B

WATER RIGHT NUMBER: 37-353B

Proposal Jan-2010 updated 3-9-10

Owner Type	Name and Address
Current Owner	NOEL BRIGGS 2050 E 3000 S WENDELL, ID 83355
Current Owner	DAN ARRINGTON 2998 APRIL DRIVE TWIN FALLS, ID 83301 (208)720-4578

Priority Date: 06/12/1886

Basis: Decreed

Status: Active

Source	Tributary
BIG WOOD RIVER	MALAD RIVER

Beneficial Use	From To	Diversion Rate	Annual Volume
IRRIGATION	04/15 to 10/31	0.020 CFS	
	Total Diversion:	0.020 CFS	

Location of Point(s) of Diversion

BIG WOOD RIVER NE1/4SW1/4NW1/4 Sec. 36, Twp 02N, Rge 18E, B.M.

BLAINE 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	
01N	18E	24	.3			.1													.4

Total Acres: 0.4

used Remks fm 21267 & or 7310

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.
2. The place of use is a portion of the lawn and trees located on the west end of Lot 5 of the Dean Ranch Subdivision.
3. ~~An undetermined~~ portion of this right is allowed for conveyance loss in the District Canal.
4. E55 Right Nos. 37-353B and 37-21267 are limited to the irrigation of a combined total of 0.4 acres in a single irrigation season.
5. ~~Right Nos. 37-353B,~~ 37-7310 and 37-21267 are limited to the irrigation of a combined total of 17 acres in a single irrigation season.
6. X31 ~~This right when~~ combined with all other rights shall provide no more than 0.02 cfs per acre at the field ~~headgate~~ for irrigation of the land described above.

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 37-353D

WATER RIGHT NUMBER: 37-353D

Proposal Jan-2010

updated 3-9-10

Owner Type	Name and Address
Current Owner	ROBERT E GARDNER PO BOX 1200 HAILEY, ID 83333 (208)788-2568
Current Owner	KATHRYN ALLRED GARDNER PO BOX 1200 HAILEY, ID 83333 (208)788-2568

Priority Date: 06/12/1886

Basis: Decreed

Status: Active

Source	Tributary
BIG WOOD RIVER	MALAD RIVER

Beneficial Use	From	To	Diversion Rate	Annual Volume
IRRIGATION	04/15	10/31	3.600 CFS	
		Total Diversion:	3.600 CFS	

Location of Point(s) of Diversion

BIG WOOD RIVER NE1/4SW1/4NW1/4 Sec. 36, Twp 02N, Rge 18E, B.M.

BLAINE 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	
01N	19E	18			40.0	37.0									40.0	40.0	40.0	40.0	237.0
01N	19E	19	40.0	40.0															80.0

Total Acres: 317

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.
2. E55 Right Nos. 37-353D, 37-418D, 37-419D, 37-2345A and 37-11671 Part are limited to the irrigation of a combined total of 317 acres in a single irrigation season for that land in Sec. 18 & 19 known as the Buhler Ranch.
3. C05 Right includes accomplished change in place of use pursuant to Section 42-1425, Idaho Code.
4. Right Nos. 37-353D, 37-418D, 37-419D, 37-443, 37-480B, 37-637, 37-665H, 37-666F, 37-667K, 37-713B, 37-802, 37-2345A, 37-2684 and 37-11671 are limited to the irrigation of a combined total of 1528 acres in a single irrigation season.
5. This right is a portion of former Right 37-353E.
6. This right is limited to the irrigation of 90 acres within the place of use recommended above in a single irrigation season.
7. X31 This right when combined with all other rights shall provide no more than 0.02 cfs per acre at the field headgate for irrigation of the land described above.

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 37-353E

WATER RIGHT NUMBER: 37-353E

Proposal Jan-2010 updated 3-9-10

Owner Type	Name and Address
Current Owner	PETER D VAN DER MEULEN PO BOX 537 HAILEY, ID 83333 (208)788-4410
Current Owner	LINDA VAN DER MEULEN PO BOX 537 HAILEY, ID 83333 (208)788-4410

Priority Date: 06/12/1886

Basis: Decreed

Status: Active

Source	Tributary
BIG WOOD RIVER	MALAD RIVER

Beneficial Use	From	To	Diversion Rate	Annual Volume
IRRIGATION	04/15	10/31	0.290 CFS	
		Total Diversion:	0.290 CFS	

Location of Point(s) of Diversion

BIG WOOD RIVER NE1/4SW1/4NW1/4 Sec. 36, Twp 02N, Rge 18E, B.M.

BLAINE 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	
01N	18E	13													7.3				7.3

Total Acres: 7.3

Conditions of Approval:

1. The place of use is also known as Lot 17 of the Dean Ranch Subdivision.
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. This right is a portion of former Right 37-353.
4. X31 This right shall provide no more than 0.02 cfs per acre at the field headgate for irrigation of the land described above.

Remarks:

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 37-353F

WATER RIGHT NUMBER: 37-353F

Proposal Jan-2010 updated 3-9-10

Owner Type	Name and Address
Current Owner	JAMES M OOSTING PO BOX 386 BELLEVUE, ID 83313 (208)788-3356

Priority Date: 06/12/1886

Basis: Decreed

Status: Active

Source	Tributary
BIG WOOD RIVER	MALAD RIVER

Beneficial Use	From	To	Diversion Rate	Annual Volume
IRRIGATION	04/15	10/31	0.200 CFS	
		Total Diversion:	0.200 CFS	

Location of Point(s) of Diversion

BIG WOOD RIVER NE1/4SW1/4NW1/4 Sec. 36, Twp 02N, Rge 18E, B.M.

BLAINE 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	
01N	18E	24	6.8																6.8

Total Acres: 6.8

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.
2. The place of use is Lot 8A of the Dean Ranch Subdivision.
3. X31 This right shall provide no more than 0.02 cfs per acre at the field headgate for irrigation of the land described above.

08/25/2009

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 37-353G V1

WATER RIGHT NUMBER: 37-353G V1

Proposal Jan-2010 updated 3-9-10

Owner Type	Name and Address
Current Owner	BARBARA A BARRY PO BOX 1197 BELLEVUE, ID 83313

Priority Date: 06/12/1886

Basis: Decreed

Status: Active

Source	Tributary
BIG WOOD RIVER	MALAD RIVER

Beneficial Use	From	To	Diversion Rate	Annual Volume
IRRIGATION	4/01	11/01	0.200 CFS	
		Total Diversion:	0.200 CFS	

Location of Point(s) of Diversion

BIG WOOD RIVER SW1/4NW1/4 Sec. 36, Twp 02N, Rge 18E, B.M.

BLAINE 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	
01N	18E	13																6.0	6.0

Total Acres: 6

Conditions of Approval:

1. This right is a portion of former Right 37-353.
2. R24 This right when combined with all other rights shall provide no more than 0.02 cfs per acre at the field headgate and 3.0 afa per acre for irrigation of the lands above.
3. The place of use is further described as Lot 7 of the Dean Ranch Subdivision.
4. 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 37-353H V1

WATER RIGHT NUMBER: 37-353H V1

Proposal Jan-2010

No Changes needed

Owner Type	Name and Address
Current Owner	BARBARA BENSON 97 FREEDOM LOOP BELLEVUE, ID 83313-5013 (208)788-2111

Priority Date: 06/12/1886

Basis: Decreed

Status: Active

Source	Tributary
BIG WOOD RIVER	MALAD RIVER

Beneficial Use	From	To	Diversion Rate	Annual Volume
MITIGATION	04/15	10/31	0.200 CFS	
		Total Diversion:	0.200 CFS	

Location of Point(s) of Diversion

BIG WOOD RIVER NE1/4SW1/4NW1/4 Sec. 36, Twp 02N, Rge 18E, B.M.

BLAINE County

Place of Use

MITIGATION

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
01N	19E	18											X						
													L 4						

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.
2. To mitigate for the depletion of water resulting from the use of water under Permit 37-8660, and to prevent injury to senior water right holders, the right holder shall cease using 0.20 cfs formerly diverted from the Big Wood River under Right 37-353H. Said water right shall be left in the Big Wood River for mitigation purposes.
3. This right is a portion of former right 37-353.

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 37-353J

WATER RIGHT NUMBER: 37-353J

Proposal Jan-2010 updated 3-9-10

Owner Type	Name and Address
Current Owner	OLSEN LIVESTOCK CONSULTING 228 S COLE RD BOISE, ID 83709 (208)323-1555

Priority Date: 06/12/1886

Basis: Decreed

Status: Active

Source	Tributary
BIG WOOD RIVER	MALAD RIVER

Beneficial Use	From	To	Diversion Rate	Annual Volume
IRRIGATION	04/15	10/31	0.390 CFS	
		Total Diversion:	0.390 CFS	

Location of Point(s) of Diversion

BIG WOOD RIVER NE1/4SW1/4NW1/4 Sec. 36, Twp 02N, Rge 18E, B.M.

BLAINE 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	
01N	18E	24				10													10

Total Acres: 10

Conditions of Approval:

1. The place of use is also known as Lot 2 of the Dean Ranch Subdivision.
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. This right is a portion of former Right 37-353.
4. X31 This right when combined with all other rights shall provide no more than 0.02 cfs per acre at the field headgate for irrigation of the land described above.

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 37-353K

WATER RIGHT NUMBER: 37-353K

Proposal Jan-2010

updated 3-9-10

Owner Type	Name and Address
Current Owner	MARK D FISHER PO BOX 650 BELLEVUE, ID 83313 (208)578-0094
Current Owner	DANETTE L FISHER PO BOX 650 BELLEVUE, ID 83313 (208)578-0094

Priority Date: 06/12/1886

Basis: Decreed

Status: Active

Source	Tributary
BIG WOOD RIVER	MALAD RIVER

Beneficial Use	From	To	Diversion Rate	Annual Volume
IRRIGATION	04/15	10/31	0.310 CFS	
		Total Diversion:	0.310 CFS	

Location of Point(s) of Diversion

BIG WOOD RIVER NE1/4SW1/4NW1/4 Sec. 36, Twp 02N, Rge 18E, B.M.

BLAINE 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	
01N	18E	24	7.9																7.9

Total Acres 7.9

Conditions of Approval:

1. This right is a portion of former Right 37-353.
2. The place of use is further described as Lot 7 of the Dean Ranch Subdivision.
3. 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.
4. X31 This right when combined with all other rights shall provide no more than 0.02 cfs per acre at the field headgate for irrigation of the land described above.

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 37-353L

WATER RIGHT NUMBER: 37-353L

Proposal Jan-2010

updated 3-9-10

Owner Type	Name and Address
Current Owner	TOM GOICOECHEA PO BOX 193 HAILEY, ID 83333 (208)788-4892
Current Owner	ANNETTE GOICOECHEA PO BOX 193 HAILEY, ID 83333 (208)788-4892

Priority Date: 06/12/1886

Basis: Decreed

Status: Active

Source	Tributary
BIG WOOD RIVER	MALAD RIVER

Beneficial Use	From	To	Diversion Rate	Annual Volume
IRRIGATION	04/15	10/31	0.320 CFS	
		Total Diversion:	0.320 CFS	

Location of Point(s) of Diversion

BIG WOOD RIVER NE1/4SW1/4NW1/4 Sec. 36, Twp 02N, Rge 18E, B.M.

BLAINE 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	
01N	18E	24				8.4													8.4

Total Acres: 8.4

Conditions of Approval:

1. The place of use is also known as Lot 3 of the Dean Ranch Subdivision.
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. This right is a portion of former Right 37-353.
4. X31 This right when combined with all other rights shall provide no more than 0.02 cfs per acre at the field headgate for irrigation of the land described above.

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 37-20348 V1

WATER RIGHT NUMBER: 37-20348 V1

Proposal Jan-2010

updated 3-9-10

Owner Type	Name and Address
Attorney	FRITZ HAEMMERLE THE ROARK LAW FIRM 409 N MAIN ST HAILEY, ID 83333 (208)788-2427
Current Owner	JERRY TURCO 525 RIVERSIDE AVE LYNDHURST, NJ 07071 (917)859-8959

Priority Date: 06/12/1886

Basis:

Status: Active

Source	Tributary
BIG WOOD RIVER	MALAD RIVER

Beneficial Use	From	To	Diversion Rate	Annual Volume
IRRIGATION	04/15	10/31	0.200 CFS	
		Total Diversion:	0.200 CFS	

Location of Point(s) of Diversion

BIG WOOD RIVER SW1/4NW1/4 Sec. 36, Twp 02N, Rge 18E, B.M.

BLAINE 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	
01N	18E	13																8.4	8.4

Total Acres: 8.4

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.
2. The place of use is Lot 10 of the Dean Ranch Subdivision.
3. X31 This right shall provide no more than 0.02 cfs per acre at the field headgate for irrigation of the land described above.

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 37-21146 V1

WATER RIGHT NUMBER: 37-21146 V1

Proposal Jan-2010 updated 3-9-10

Owner Type	Name and Address
Current Owner	BETTE GOWER P O BOX 912 BELLEVUE, ID 83313 (208)788-0839
Current Owner	MARK GOWER P O BOX 912 BELLEVUE, ID 83313 (208)788-0839

Priority Date: 06/12/1886

Basis: Decreed

Status: Active

Source	Tributary
BIG WOOD RIVER	MALAD RIVER

Beneficial Use	From	To	Diversion Rate	Annual Volume
IRRIGATION	04/15	10/31	0.110 CFS	
		Total Diversion:	0.110 CFS	

Location of Point(s) of Diversion

BIG WOOD RIVER L3 (NE1/4SW1/4NW1/4) Sec. 36, Twp 02N, Rge 18E, B.M.

BLAINE 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	
01N	18E	24				6.2													6.2

Total Acres: 6.2

Conditions of Approval:

1. Property is also known as Lot 1 of the Dean Ranch Subdivision.
2. P21 This right is a split from former right 37-353.
3. Rights 37-21146 and 37-21148 when combined shall not exceed the irrigation of 6.2 acres.
4. 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.
5. K06 This right is limited to the irrigation of 1.4 acres within the place of use described above in a single irrigation season.
6. X31 This right when combined with all other rights shall provide no more than 0.02 cfs per acre at the field headgate for irrigation of the land described above.

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 37-22042 V1

WATER RIGHT NUMBER: 37-22042 V1

Proposal Jan-2010 updated 3-9-10

Owner Type	Name and Address
Current Owner	ROBERT EARL FOSNOT PO BOX 290 BELLEVUE, ID 83313 (208)788-3642
Current Owner	PAUL R FOSNOT 837 LAUREL AVE POMONA, CA 91767
Present Owner	MARK J SWENKE PO BOX 3630 HAILEY, ID 83333 (208)788-1160

Priority Date: 06/12/1886

Basis: Decreed

Status: Active

Source	Tributary
BIG WOOD RIVER	MALAD RIVER

Beneficial Use	From To	Diversion Rate	Annual Volume
IRRIGATION	0415 to 10/31	0.040 CFS	
	Total Diversion:	0.040 CFS	

Location of Point(s) of Diversion

BIG WOOD RIVER L3(NE1/4SW1/4NW1/4) Sec. 36, Twp 02N, Rge 18E, B.M.

BLAINE 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	
01N	18E	24													2				2

Total Acres: 2

Conditions of Approval:

1. P21 This right is a split from former right 37-353.
2. Rights 37-22042 and 37-11689B when combined shall not exceed the irrigation of 2 acres.
3. 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.
4. K06 This right is limited to the irrigation of 0.5 acres within the place of use described above in a single irrigation season.
5. X31 This right when combined with all other rights shall provide no more than 0.02 cfs per acre at the field headgate for irrigation of the land described above.

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 37-22043 V1

WATER RIGHT NUMBER: 37-22043 V1

Proposal Jan-2010 updated 3-9-10

Owner Type	Name and Address
Current Owner	JAMES R SUPER PO BOX 598 BELLEVUE, ID 83313 (208)788-7731
Current Owner	JANET A SUPER PO BOX 598 BELLEVUE, ID 83313 (208)788-7731

Priority Date: 06/12/1886

Basis: Decreed

Status: Active

Source: BIG WOOD RIVER

Tributary: MALAD RIVER

Beneficial Use	From	To	Diversion Rate	Annual Volume
IRRIGATION	04/15	10/31	0.250 CFS	

Total Diversion: 0.250 CFS

Location of Point(s) of Diversion

BIG WOOD RIVER NE1/4SW1/4NW1/4 Sec. 36, Twp 02N, Rge 18E, B.M.

BLAINE 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	
01N	18E	24													16.0				16.0

Total Acres: 16

Conditions of Approval:

1. E55 Right Nos. 37-21147 and 37-22043 are limited to the irrigation of a combined total of 16 acres in a single irrigation season.
2. This right is a split from former right 37-353 and 37-21145.
3. K06 This right is limited to the irrigation of 3.6 acres within the place of use described above in a single irrigation season.
4. 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.
5. X31 This right when combined with all other rights shall provide no more than 0.02 cfs per acre at the field headgate for irrigation of the land described above.

FIGURE 1
DEAN RANCH SUBDIVISION

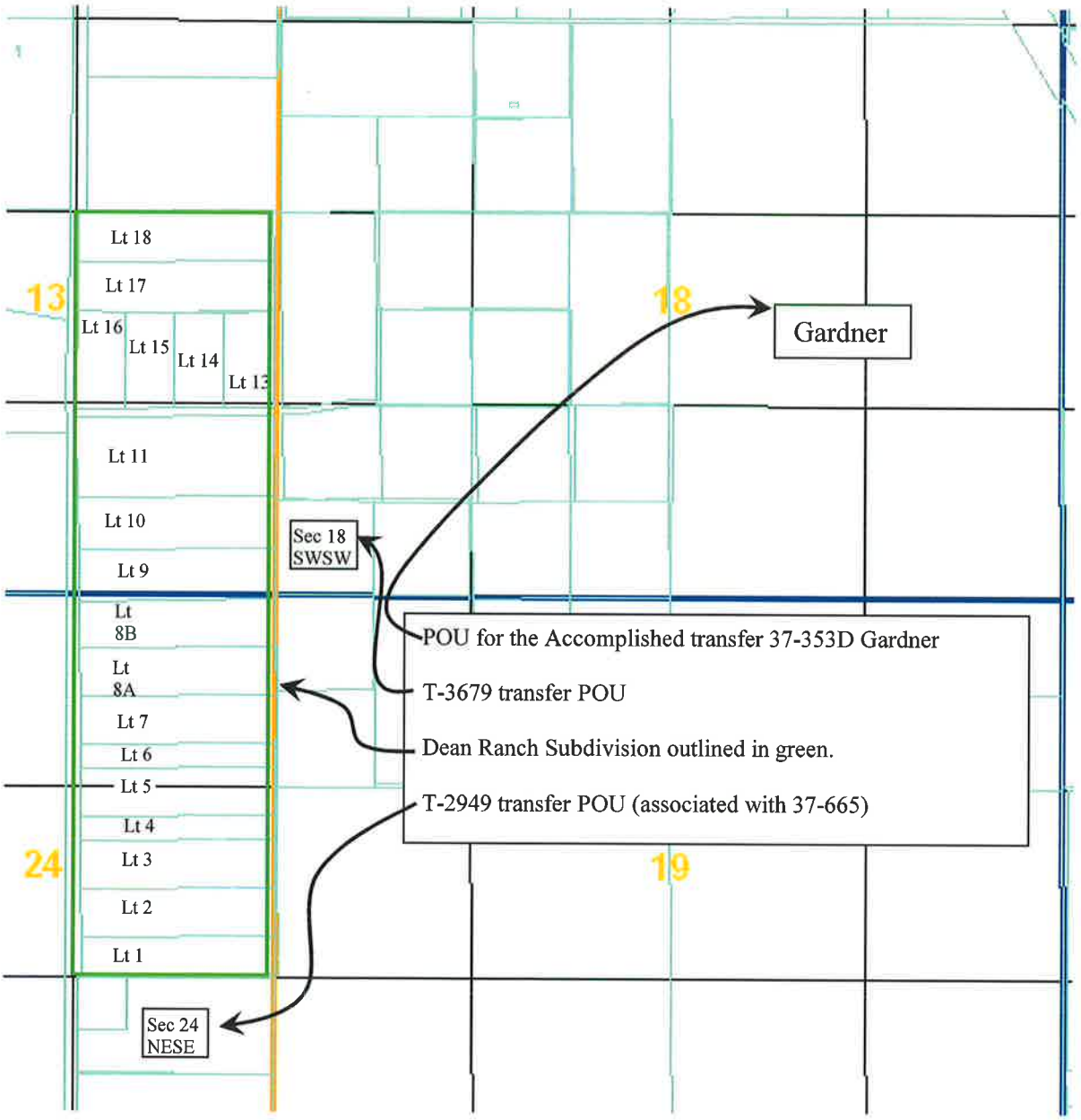


Table 1
37-353 PROPOSED CALCULATIONS

POU changes were made to Lt 2 and Lt 7 based upon objections and additional research.
POU objection to 37-21146 seeks additional acreage. Recommendation should reflect the transfer acre limits.
The Lt 9 claim 37-353G is being recognized as valid and the T-3678 information is being used in evaluating the total proposed rate.

No other adjustments to the POU are considered as of 6-16-2009.
* Proportional rate meets or exceeds claimed rate. Proposed proportional rate capped at claimed rate.

		Rec Acres	Adjusted POU acres	Claim rate	Director report rec rate	1st iteration Prop allocation	1st iteration modified per claim	2nd iteration	Proposed Diversion rate distribution	
37-353J Olsen Livestock	Lt 2	7.2	10	0.400	0.320	0.407	* 0.4		* 0.400	* dry
37-353L Goicoechea	Lt 3	8.4	8.4	0.360	0.280	0.342	0.34	0.038	* 0.360	*
37-353B Briggs/ Arrington	Lt 4, 5, & 6	0.4	0.4	0.400	0.4	0.016	0.02	0.002	0.040	
37-353K Fisher	Lt 7	6.3	7.9	0.360	0.280	0.321	0.32	0.036	* 0.360	*
37-353F Oosting/ Ziker	Lt 8A	6.8	6.8	0.200	0.160	* 0.277	* 0.2		* 0.200	*
37-353 Grigsby	Lt 8B	6.9	6.9	0.400	0.400	0.281	0.28	0.031	0.310	
37-353E Van Der Meulen	Lt 17	7.3	7.3	0.400	0.400	0.297	0.3	0.033	0.330	
37-353D Gardner		280	90	3.6	3.600	3.660	* 3.6		* 3.600	* not valid?
	totals	323.3	137.7	6.120	5.840	5.6	5.46	0.140	5.600	
	Div rate	5.6	Base Values							

Tot Lts less Lts 2, 8A & Gardner (acres)	30.9
Diff 1st iteration modified vs Div rate	0.14

137.7ac

5.6 / 137.7 = 0.041 cfs/ac

Table 2
37-353 PROPOSED RECOMMENDATIONS

37-353 decreed to 160 acres at 6.40 cfs. The duty of water is 6.40 / 160 = 0.04 cfs/acre

			Claim rate	Claimant	Proposed Rec rate	Transfer rate	Transfer No.	
37	353		0.4	GRIGSBY, JUDITH P	0.31			
37	353	B	0.4	ARRINGTON, DAN ; BRIGGS, NOEL	0.04			
37	353	D	3.6	GARDNER, KATHRYN ALLRED ; GARDNER, ROBERT E	3.6			
37	353	E	0.4	VAN DER MEULEN, LINDA ; VAN DER MEULEN, PETER D	0.33			
37	353	F	0.2	OOSTING, JAMES M	0.2			
37	353	G	0.2	BARRY, BARBARA A	0.2	0.2	T-3678	
37	353	H	0.2	BENSON, BARBARA	0.2	0.2	T-3679	
37	353	J	0.4	OLSEN LIVESTOCK CONSULTING	0.4			
37	353	K	0.36	FISHER, DANETTE L ; FISHER, MARK D	0.36			
37	353	L	0.36	GOICOECHEA, ANNETTE ; GOICOECHEA, TOM	0.36			
37	20348		0.2	TURCO, JERRY				disallowed
37	21146		0.11	GOWER, BETTE ; GOWER, MARK	0.11	0.4	T-2948	
37	22042		0.04	FOSNOT, PAUL R ; FOSNOT, ROBERT EARL	0.04			
37	22043		0.25	SUPER, JAMES R ; SUPER, JANET A	0.25			
		TOTAL	7.12		6.40			

3-18-09

37-353F hearing on Motion to File Late Obj
353J
353L
Dillan Laurand - Olson Livestock James Ooting
Paul Arrington - Barbara Barrie
Fritz Hammerlee - Ols
Goicoechea
Booth has Fischer 353K. hearing on 24th @ 9:30

Brigette -

Paul Arrington
Standard - Good cause -
Laurence - 353J - Olson there is prejudice
no meritorious position.
No transfers. Real Prop records establish ownership of water rights
Obj found meritorious.
Response End of April.

1999

Pg 94-95 Draft Assessment of Claims

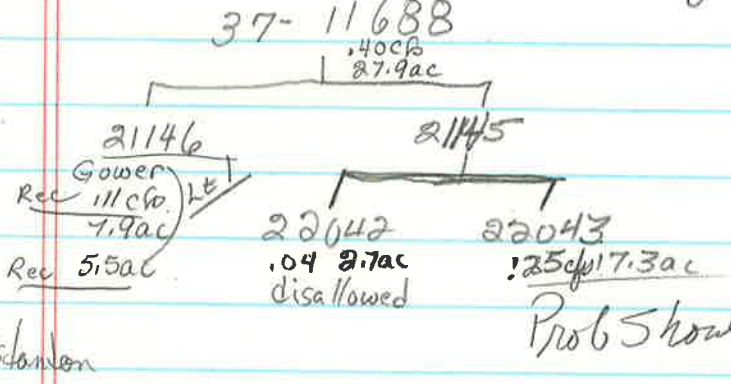
~~Lee~~ Norm to Lee

Gardner 180
Fosnot 20
Bick → GRIGSBY 20
Kantenwein 10
Oppenheimer 20
Stricker 20
Driever 10 Lt 9?

Lot 1 analysis

Transfer 2948 was filed to move 0.40cfs to 5.5ac on Lot 1 from an unknown POU. See WR 37-353B approved in 1984.

Claim 37-11688 was filed for 27.9ac & 0.40cfs P/U is Lt 1 & additional grnd in NESE Sec 24.



Prob 5 should be disallowed

JStanton

.14

78
78
156 ÷ 100ac

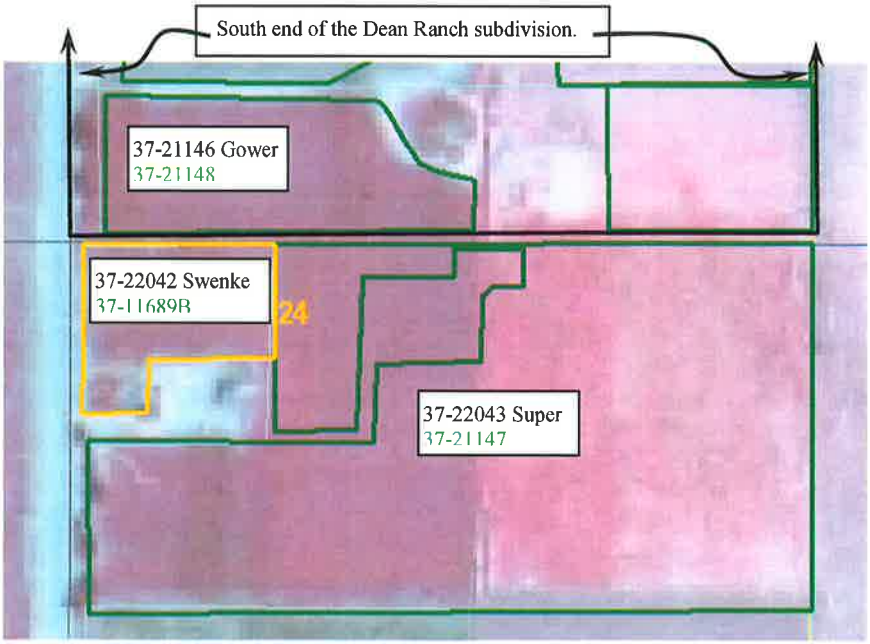
37-353

SYSTEM REVIEW FOR
Claims against Base right 37-353, 37-21146, 37-22042, and 37-22043
Claims against Base right 37-665, 37-11689B, 37-21147, and 37-21148

Claims associated with 37-353 are based upon transfer T-2948 which established 0.40 cfs on 5.5 acres within Lot 1 of the Dean Ranch Subdivision.

Claims associated with 37-665 are based upon transfer T-2949 which established 1.00 cfs on 18.5 acres within Sec 24 N½NESE. That ground was not a part of the Dean Ranch Subdivision or a part of the historical decreed POU for 37-353.

Both transfers were approved on April 3, 1984.



As the transfers established an acre limit for each historic parcel, any subsequent unrecorded transfer will be limited to the established acreage. This acre limit needs to be split proportionately according to ownership to prevent enlarging the transferred POUs. Calculations follow below.

Fosnot filed claims 37-11688 and 37-11689 both for 27.9 acres associated with the ground shown to the right. When the two transfers are combined, the acre limit would be 24 acres.

37-11688 was filed against base right 37-353. That right was subsequently split through ownership changes as shown in the pedigree tree below.



The first ownership change submitted was by Gower which identified .11 cfs on 7.9 ac being associated with Lot 1 of the Dean Ranch Subdivision 37-21146). The balance of .29 cfs was associated with ground in Sec 24 NESE (37-21145). Super filed a change of ownership 12-04-06 and identified 0.23 cfs as his share of 37-21145. The right was ultimately split based upon a proportional acreage basis 17.3 ac /20 ac * 0.29 cfs = 0.25 cfs on 17.3 ac (37-22043). The remainder is 0.04 cfs for 2.7 ac for Fosnot (37-22042). Fosnot no longer owns land in the claimed area. Swenke was added to claim (37-22042) as a present owner as he was the only other land owner in this area. This claim probably should be recognized as valid and associated with the Swenke property.

37-11689 was filed against base right 37-665. On 5-11-1995 the department received a change of ownership from Fosnot to Miller for a 2.7 acre parcel. The warranty deed specified 6.875 inches of 37-665. 37-11689 was split into 37-11689A and 37-11689B On October 5, 2000 Swenke submitted a change of ownership and the attached warranty deed described the same lot and the 6.875 inches of 37-665 for 37-11689B. On July 23 2003 Gower purchased lot 1 (7.9 ac) of the Dean Ranch Subdivision. The change of ownership and warranty deed only identified appurtenances; therefore 37-11689A was split on a proportional basis. 37-11689A was split into 37-21147 for Super and 37-21148 for Gower.

Currently the only objection filed against this group is by Gower and that objection was to change the POU recommendation from 5.5 acres to 7.9 acres as claimed. The claimed rates were derived through the change of ownership process based upon either a specific rate identified in the warranty deed or through a department proportional diversion rate calculation. Although a proportional split analysis based upon the modified POUs could slightly alter the respective diversion rates I have not changed any diversion rate recommendations at this time. The acre limit per claim calculations are shown in Table 2 below

Gower Analysis 37-21146 (1886) and 37-21148 (1884): In reviewing the recommendations associated with Lot 1 in light of the objection it appears to me that there is a reasonable basis to increase the recommended PPU from 5.5 acres to 6.2 acres based upon the 1987 and 1992 aerial photos although it does not appear that 6.2 acres are now being irrigated. It appears that the recommendation was made based upon the irrigated POU as found in the 2004 aerial photo. A proportionate split analysis was made with the transfer acre limits for both rights as the basis. The acre limits per claim are shown in Table 2.

Swenke Analysis 37-22042 (1886) and 37-11689B (1884): A major issue regarding the Swenke property is whether or not 37-22042 is appurtenant to his 2 acres or not. As previously described the change of ownership for 37-11689 (1884 water) included a warranty deed that only described that right. There was no mention of 37-11688 (the 1886 water). Subsequent changes of ownership identified appurtenances rather than any specific right and/or amount. The end result in splitting the rights for Gower and Super is that 0.04 cfs for 2.7 acres remained in Fosnot's name as 37-22042 (1886 water). By default that right is technically appurtenant to the Swenke property as no additional documentation has been provided to the department to deal with this water. Therefore Swenke was added to the right as the present owner. Fosnot does not own any property in this area any more.

Super Analysis 37-22043 (1886) and 37-21147 (1884): The values associated with the claims associated with the Super property were established through a proportional split analysis done for the ownership change submitted to the department. No changes have been contemplated for the recommendations at this time other than adding the right acre limits per claim as calculated and shown in Table 2.

Table 1

Claim No	Claimant	Priority dt	base Rt	Claim Acres	Recom Acres	Claim Rate	Recom Rate	
37-21148	Gower	10-15-1884	37-665	7.9 ac	6.2 ac	0.272 cfs	0.27 cfs	Obj
37-21146		06-12-1886	37-353	7.9 ac	6.2 ac	0.11 cfs	0.11 cfs	Obj
37-11689B	Swenke	10-15-1884	37-665	2.7 ac	2.0 ac	0.137 cfs	0.137 cfs	No Obj
37-22042		06-12-1886	37-353	2.7 ac	2.0 ac	0.04 cfs	0.04 cfs	No Obj
37-21147	Super	10-15-1884	37-665	17.2 ac	16 ac	0.59 cfs	0.59 cfs	No Obj
37-22043		06-12-1886	37-353	17.3 ac	16 ac	0.25 cfs	0.25 cfs	No Obj

All rights are subject to their respective transfers and the transfer elements. The argument is that there were unrecorded transfers accomplished prior to the commencement of the SRBA. The recommendations should reflect this factor. There should be individual acreage limits for each right and combined rights acreage limits based upon the proportional share of the 5.5 and 18.5 transferred acreages. They would be additive on each parcel.

Table 2

Proportional split calculation				
claims against		37-353		37-665
Transfer ac		5.5		18.5
		ac limit		ac limit
37-21146	6.2	1.4	37-21148	4.7
37-22042	2	0.5	37-11689B	1.5
37-22043	16	3.6	37-21147	12.2
total	24.2	5.5		18.5

State of Idaho
DEPARTMENT OF WATER RESOURCES
Western Region, 2735 Airport Way, Boise, Idaho 83705-5082
Phone: (208) 334-2190 FAX: (208) 334-2348 www.idwr.idaho.gov

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Interim Director

August 31, 2009

RE: Dean Ranch Subdivision (37-353 et al.) information and proposed recommendations

To Whom It May Concern

The Department was directed to prepare a proposal to resolve the objections and responses to the subcases listed below and to develop a method of sharing that information with all interested parties. A document repository has been created on the Department's web site at the following location:

http://www.idwr.idaho.gov/WaterManagement/AdjudicationBureau/Reports_Presentations/DeanRanch/default.htm

Currently all proposed recommendations associated with the base right 37-353 have been placed on the web site. A brief summary and explanation concerning the proposed recommendations and proportional split analysis are located on the web site. You will also find two 1987 aerial photos that include the Dean Ranch Subdivision. The photos have been included as the Department's mosaiced image for this area was joined in the center of the subdivision making potential irrigation harder to determine. The two flights were approximately 2 months apart.

Please monitor the web site, as additional information may be added.

Sincerely

Kelly K Christensen
Sr Water Resource Agent
E-mail address: kelly.christensen@idwr.idaho.gov

Subcase Nos:	
37-353	37-353B
37-353D	37-353E
37-353F	37-353G
37-353H	37-353J
37-353K	37-353L
37-20348	37-21146
37-22042	37-22043

DISTRIBUTATION ANALYSIS FOR 37-353 AND ASSOCIATED SPLITS

Prepared by: Kelly K. Christensen, IDWR

Water right no. 37-353 was originally decreed for 6.40 cfs on 160 acres (0.04 cfs/acre). Some documents suggest that Dean sold lots at varying rates per acre but all warranty deeds at best state "with appurtenances". The delivery ditch system has historically been acknowledged to have significant conveyance losses. Although no documentation of any scientific determination of conveyance losses are available, it has historically been estimated to be as much as 50%. This would be in line with the decree of 0.04 cfs/acre, where assuming a 50% conveyance loss, the result would be 3.20 cfs on 160 acres, or one inch per acre.

Some information exists that suggests that irrigation ceased on various lots for 20± years. The dry lots identified in 1997 were lots 2, 3, 7, 8A, 10, 13, 14, 15, 16, and 18.

No claims were filed against lots 10, 11, 13, 14, 15, 16, and 18. The Dean Ranch Subdivision is shown in Figure 1.

Of the 14 claims filed against 37-353, a proportionate share analysis considering 8 claims was made.

Claims 37-353G, 37-353H, 37-21146, 37-22042, and 37-22043 and their respective diversion rates were excluded from the analysis as they were based upon approved transfers. The combined transfer rates total 0.80 cfs. This leaves 5.60 cfs available for the 8 active claims that were not subject to transfer. 37-20348 was excluded as that claim was recommended for disallowal and no objections were filed. The Proposed Calculations are shown in Table 1.

The analysis includes a tentative modification to the POU for 37-353J (Olsen Livestock) from 7.8 acres to 10 acres, as there were no farmstead buildings on lot 2 in 1987. All of the property was therefore available for irrigation. After reviewing the 1987 aerial photography, the analysis for 37-353K (Fisher) also includes a modification to the POU from 6.3 acres to 7.9 acres.

The combined found and adjusted irrigated acreage for the 8 non-transferred claims (37-353, -353B, -353D, -353E, -353F, -353J, 353K, and -353L) is 137.7 acres. Distributing the remaining 5.60 cfs across the claimed acres results in a calculated rate per acre of ≈ 0.041 cfs/acre, which is slightly greater than the decreed rate of 0.04 cfs/acre. Most of the lots recognized as valid apply water from the main ditch to the ground through various sprinkler irrigation systems. Considering the system's 50% conveyance loss, 2 inches per acre appears reasonable.

The Proposed Calculations in Table 1 show the values used in calculating a proportionate split of the 5.60 cfs across the found 137.7 acres for the 8 non-transferred claims. The calculated rates were done in two stages. After the first iteration, the calculated diversion rate exceeded the claimed rate for claims 37-353D, 37-353F and 37-353J. The recognized rates for those rights are

capped at the claimed rate. A second iteration was then run for the remaining 5 claims with the results for all claims being displayed in the last column.

The proposed rates from Table 1 and the rights associated with the transfers are then combined and shown in Proposed Recommendations in Table 2.

At this point, overlapping rights are being addressed through combined right conditions that would limit the rights to one inch per acre at the field headgate for irrigation purposes. Some overlapping rights have also been objected to and are subject to further review that could ultimately require additional condition modification.

TRANSFER ISSUES

Three transfers were issued by the Department directly relating to portions of 37-353. T-3678 (37-353G Barry) was issued for 0.20 cfs and 6 acres The transfer was approved September 8, 1991. Although the original recommendation was for disallowal, further review indicates that this right is valid and the proposed recommendation reflects the transferred elements.

T-3679 (37-353H Benson) was issued for 0.20 cfs and 7.5 acres. The transfer was approved Nov 3, 1993. On August 9, 1990 an application for permit for the irrigation of 6 acres in 1N, 19E, S18 SWSW from a ground water source. That application was ultimately approved, conditioned that 0.20 cfs of allocation's right 37-353F remain in the Big Wood River for mitigation purposes. Adjudication claim 37-353H was based upon allocation's record 37-353F and is currently being recommended as a mitigation right.

T-2948 was filed by Fosnot based upon a portion of 37-353 for irrigation of 5.5 acres within Lot 1, now associated with claims 37-21146 (Gower), 37-22042 (Fosnot/Swenke disallowed), and 37-22043 (Super).

T-2949 was filed by Fosnot based upon a portion of 37-665 for irrigation of 18.5 acres within 1N, 19E, S24 NESE, now associated with claims 37-21148 (Gower), 37-11689B (Swenke), and 37-21147 (Super). In filing the original adjudication claims, Fosnot asserted an accomplished transfer for the rights associated with each parcel. Each claim reflected the same POU of 27.9 acres, which included Lot 1 and that portion of S24 NESE associated with T-2949. Upon second review, proportional splits were calculated for each of the 6 claims and acre limits specific to each right identified.

Another accomplished transfer (the Gardner claim 37-353D for 3.60 cfs) was identified. At this time, the specific place of use from which the right was transferred has not been identified. The initial recommendation did not include an acre limit but at 0.04 cfs per acre this right should be limited to 90 acres which became the basis for this right in the proportional split analysis.

FIGURE 1
DEAN RANCH SUBDIVISION

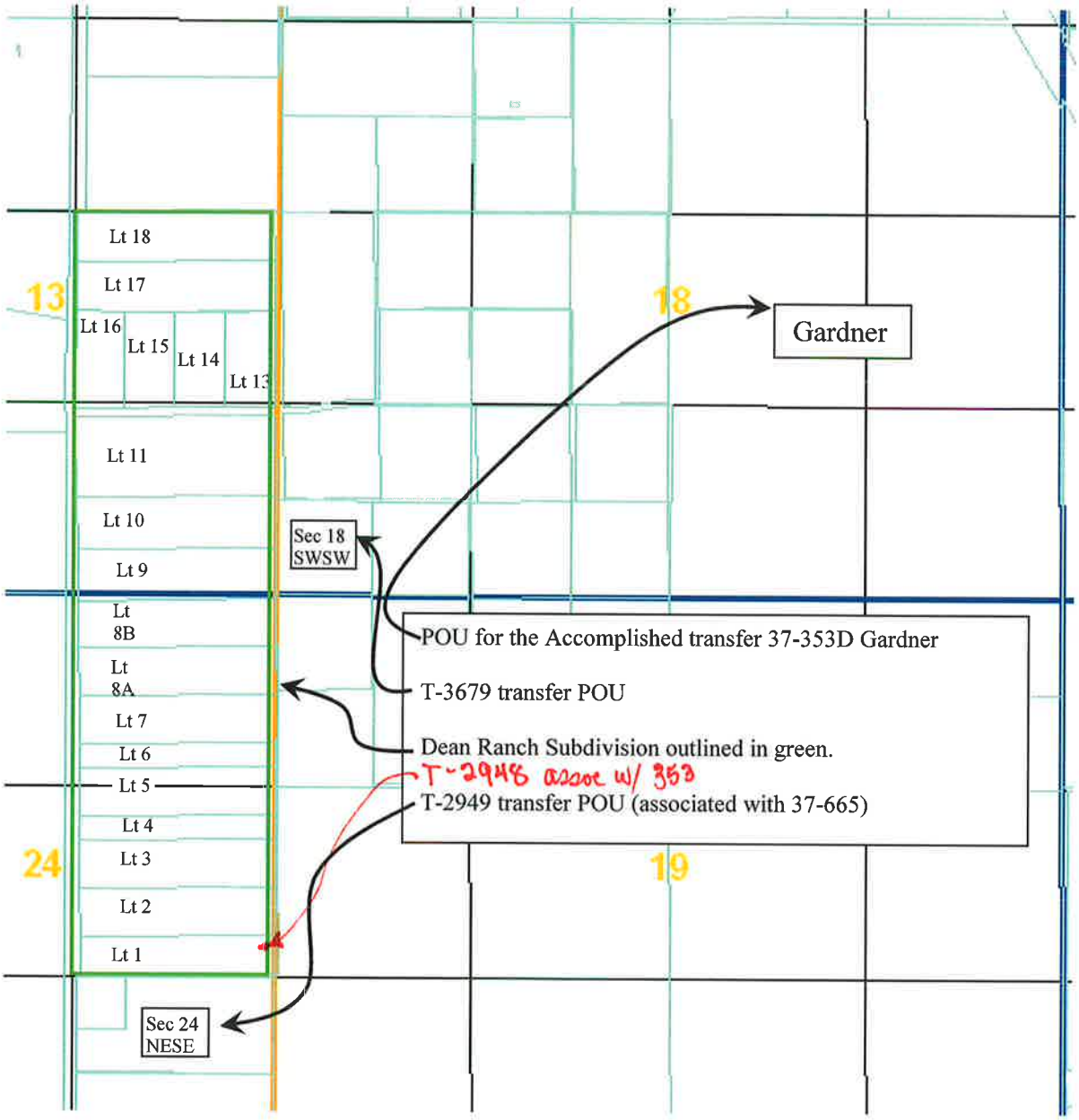


Table 1
37-353 PROPOSED CALCULATIONS

POU changes were made to Lt 2 and Lt 7 based upon objections and additional research.
POU objection to 37-21146 seeks additional acreage. Recommendation should reflect the transfer acre limits.
The Lt 9 claim 37-353G is being recognized as valid and the T-3678 information is being used in evaluating the total proposed rate.

No other adjustments to the POU are considered as of 8-31-2009.
* Proportional rate meets or exceeds claimed rate. Proposed proportional rate capped at claimed rate.

		Rec Acres	Adjusted POU acres	Claim rate	Director report rec rate	1st iteration Prop allocation	1st iteration modified per claim	2nd iteration	Proposed Diversion rate distribution
37-353J Olsen Livestock	Lt 2	7.2	10	0.400	0.320	0.407	* 0.4		* 0.400
37-353L Goicoechea	Lt 3	8.4	8.4	0.360	0.280	0.342	0.34	0.038	* 0.360
37-353B Briggs/ Arrington	Lt 4, 5, & 6	0.4	0.4	0.400	0.4	0.016	0.02	0.002	0.040
37-353K Fisher	Lt 7	6.3	7.9	0.360	0.280	0.321	0.32	0.036	* 0.360
37-353F Oosting/ Ziker	Lt 8A	6.8	6.8	0.200	0.160	* 0.277	* 0.2		* 0.200
37-353 Grigsby	Lt 8B	6.9	6.9	0.400	0.400	0.281	0.28	0.031	0.310
37-353E Van Der Meulen	Lt 17	7.3	7.3	0.400	0.400	0.297	0.3	0.033	0.330
37-353D Gardner		280	90	3.6	3.600	3.660	* 3.6		* 3.600
	totals	323.3	137.7	6.120	5.840	5.6	5.46	0.140	5.600
	Div rate	5.6	Base Values						

Tot Lts less Lts 2, 8A & Gardner (acres)	30.9
Diff 1st iteration modified vs Div rate	0.14

Table 2
37-353 PROPOSED RECOMMENDATIONS

37-353 decreed to 160 acres at 6.40 cfs. The duty of water is 6.40 / 160 = 0.04 cfs/acre

			Claim rate	Claimant	Proposed Rec rate	Transfer rate	Transfer No.	
37	353		0.4	GRIGSBY, JUDITH P	0.31			
37	353	B	0.4	ARRINGTON, DAN ; BRIGGS, NOEL	0.04			
37	353	D	3.6	GARDNER, KATHRYN ALLRED ; GARDNER, ROBERT E	3.6			
37	353	E	0.4	VAN DER MEULEN, LINDA ; VAN DER MEULEN, PETER D	0.33			
37	353	F	0.2	OOSTING, JAMES M	0.2			
37	353	G	0.2	BARRY, BARBARA A	0.2	0.2	T-3678	
37	353	H	0.2	BENSON, BARBARA	0.2	0.2	T-3679	
37	353	J	0.4	OLSEN LIVESTOCK CONSULTING	0.4			
37	353	K	0.36	FISHER, DANETTE L ; FISHER, MARK D	0.36			
37	353	L	0.36	GOICOECHEA, ANNETTE ; GOICOECHEA, TOM	0.36			
37	20348		0.2	TURCO, JERRY				disallowed
37	21146		0.11	GOWER, BETTE ; GOWER, MARK	0.11			
37	22042		0.04	FOSNOT, PAUL R ; FOSNOT, ROBERT EARL	0.04	0.4	T-2948	
37	22043		0.25	SUPER, JAMES R ; SUPER, JANET A	0.25	—	T-2949 (for 665)	
		TOTAL	7.12		6.40			

State of Idaho
DEPARTMENT OF WATER RESOURCES
Western Region, 2735 Airport Way, Boise, Idaho 83705-5082
Phone: (208) 334-2190 FAX: (208) 334-2348 www.idwr.idaho.gov

w/Attachment

C.L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Interim Director

August 4, 2009

COPY

RE: PROPOSED SETTLEMENT FOR CLAIMS FILED AGAINST DECREED RIGHT 37-353

To Whom It May Concern

The department was directed to prepare a proposal to resolve the Objections and Responses to the sub cases listed below. Objections and/or responses were filed against 6 recommendations and no objections were filed against 8 recommendations. Of the 8 unobjected to rights, changes are proposed for 6 of them. Five claims are associated with three transfers that have completed the administrative process and are being recommended based upon those transfers.

A proportional split analysis was then developed for the claims where no transfers exist. The proportional split analysis identifies the ratio of irrigated acreage to the total irrigated place of use (POU). This ratio is then applied to the available diversion rate and compared to the claimed rate ultimately distributing the entire 6.40 cfs across the claims recognized as valid (see Table 1 of the attachment).

The proposal does not address any overlapping right issues that may exist with individual rights within this group.

Sincerely

Kelly K. Christensen

Kelly K Christensen
Sr Water Resource Agent
E-mail address: kelly.christensen@idwr.idaho.gov

Subcase Nos:

37-353	37-353B
37-353D	37-353E
37-353F	37-353G
37-353H	37-353J
37-353K	37-353L
37-20348	37-21146
37-22042	37-22043

Aug 4 Mailing

DISTRIBUTATION ANALYSIS FOR 37-353 AND ASSOCIATED SPLITS

Prepared by: Kelly K. Christensen, IDWR

COPY

Water right no. 37-353 was originally decreed for 6.40 cfs on 160 acres (0.04 cfs/acre). Some documents suggest that Dean sold lots at varying rates per acre but all warranty deeds at best state "with appurtenances". The delivery ditch system has historically been acknowledged to have significant conveyance losses. Although no documentation of any scientific determination of conveyance losses are available, it has historically been estimated to be as much as 50%. This would be in line with the decree of 0.04 cfs/acre, where assuming a 50% conveyance loss, the result would be 3.20 cfs on 160 acres, or one inch per acre.

Some information exists that suggests that irrigation ceased on various lots for 20± years. No claims were filed against lots 10, 11, 13, 14, 15, 16, and 18. The Dean Ranch Subdivision is shown in Figure 1.

In reviewing the 13 claims recognized as valid, which are associated with this historic right (including previously disallowed 37-353G and 37-22042), the found/recommended acreage was compared against the decreed rate per acre to determine a proportional share of the decreed 6.40 cfs. Three transfers established the rate and acreage limits for their respective rights (37-353G, 37-353H, 37-21146, 37-22042, and 37-22043) and are therefore not included as a part of the Proposed Calculations shown in Table 1.

The analysis includes a tentative modification to the POU for 37-353J (Olsen Livestock) from 7.8 acres to 10 acres, as there were no farmstead buildings on lot 2 in 1987. All of the property was therefore available for irrigation. After reviewing the 1987 aerial photography, the analysis for 37-353K (Fisher) also includes a modification to the POU from 6.3 acres to 7.9 acres.

The combined transfer rates total 0.80 cfs. This leaves 5.60 cfs available for the 8 active claims that were not subject to transfer. The combined found and adjusted irrigated acreage for those claims is 137.7 acres. Distributing the remaining 5.60 cfs across those acres results in a calculated rate per acre of ≈ 0.041 cfs/acre, which is slightly greater than the decreed rate of 0.04 cfs/acre. Most of the lots recognized as valid apply water from the main ditch to the ground through various sprinkler irrigation systems. Considering the system's 50% conveyance loss, 2 inches per acre appears reasonable.

The Proposed Calculations in Table 1 show the values used in calculating a proportionate split of the 5.60 cfs across the found 137.7 acres for the 8 non-transferred claims. The calculated rates were done in two stages. After the first iteration, the calculated diversion rate exceeded the claimed rate for claims 37-353D, 37-353F and 37-353J. The recognized rates for those rights are capped at the claimed rate. A second

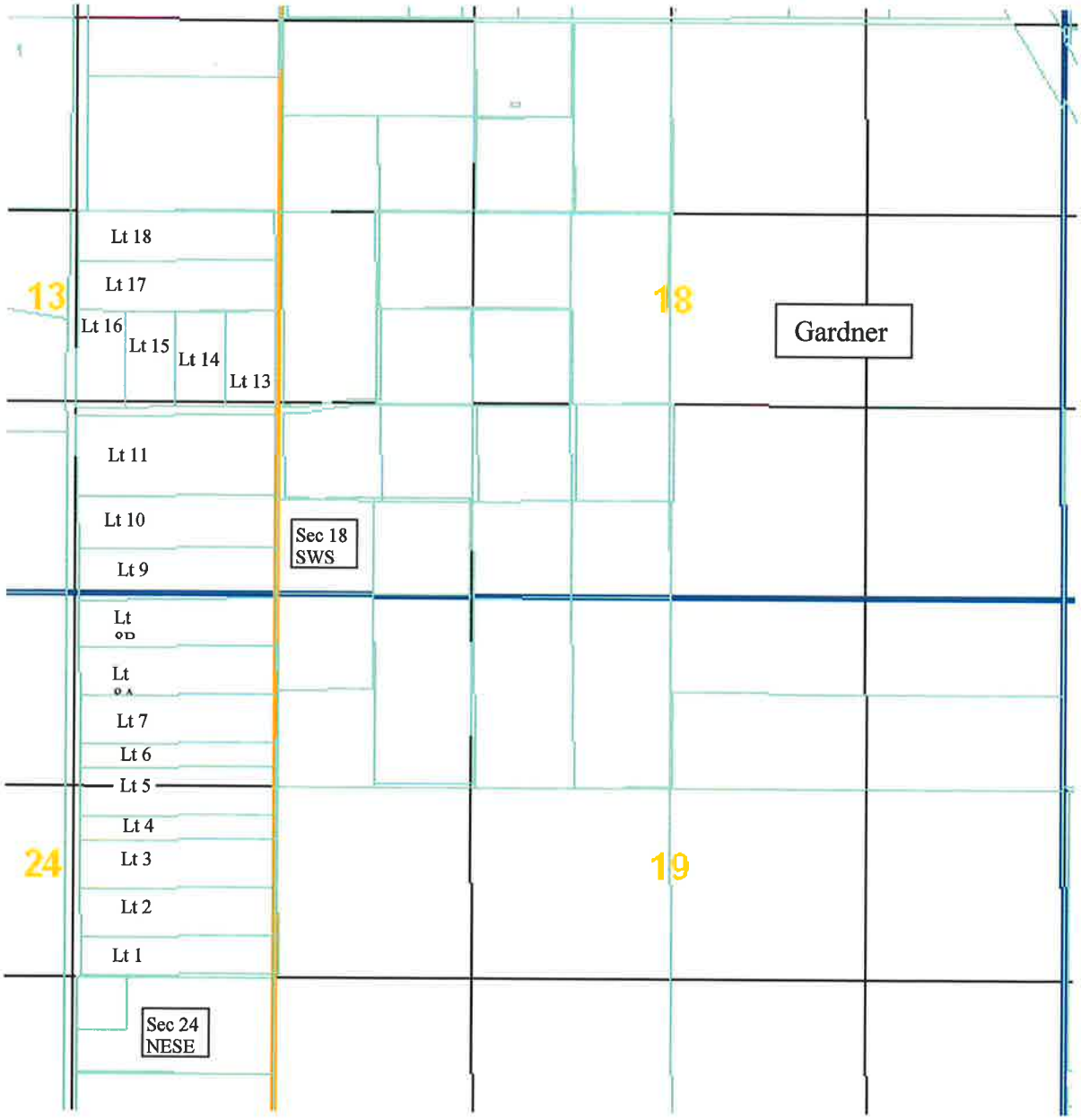
COPY Aug 4 Mailing

iteration was then run for the remaining 5 claims with the results for all claims being displayed in the last column.

The proposed rates from Table 1 and the rights associated with the transfers are then combined and shown in Proposed Recommendations in Table 2.

Please note, that at this time, the analysis does not include or recognize any overlapping rights. Any overlap should not affect the validity of any of the claims against 37-353, but would affect how that overlap will be addressed in any combined right language. For those rights that the POU acreage has been adjusted and the change stands, the same change should apply to any overlapping right(s).

FIGURE 1
DEAN RANCH SUBDIVISION



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Table 1
37-353 PROPOSED CALCULATIONS

POU changes were made to Lt 2 and Lt 7 based upon objections and additional research.
POU objection to 37-21146 seeks additional acreage. Recommendation should reflect the transfer acre limits.
The Lt 9 claim 37-353G is being recognized as valid and the T-3678 information is being used in evaluating the total proposed rate.

No other adjustments to the POU are considered as of 6-16-2009.
* Proportional rate meets or exceeds claimed rate. Proposed proportional rate capped at claimed rate.

		Rec Acres	Adjusted POU acres	Claim rate	Director report rec rate	1st iteration Prop allocation	1st iteration modified per claim	2nd iteration	Proposed Diversion rate distribution
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37-353D Gardner		280	90	3.6	3.600	3.660	* 3.6		* 3.600
	totals	323.3	137.7	6.120	5.840	5.6	5.46	0.140	5.600
	Div rate	5.6	Base Values						

Tot Lts less Lts 2, 8A & Gardner (acres)	30.9
Diff 1st iteration modified vs Div rate	0.14

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Table 2
37-353 PROPOSED RECOMMENDATIONS

37-353 decreed to 160 acres at 6.40 cfs. The duty of water is 6.40 / 160 = 0.04 cfs/acre

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37	353	B	0.4	ARRINGTON, DAN ; BRIGGS, NOEL	0.04			
37	353	D	3.6	GARDNER, KATHRYN ALLRED ; GARDNER, ROBERT E	3.6			
37	353	E	0.4	VAN DER MEULEN, LINDA ; VAN DER MEULEN, PETER D	0.33			
37	353	F	0.2	OOSTING, JAMES M	0.2			
37	353	G	0.2	BARRY, BARBARA A	0.2	0.2	T-3678	
37	353	H	0.2	BENSON, BARBARA	0.2	0.2	T-3679	
37	353	J	0.4	OLSEN LIVESTOCK CONSULTING	0.4			
37	353	K	0.36	FISHER, DANETTE L ; FISHER, MARK D	0.36			
37	353	L	0.36	GOICOECHEA, ANNETTE ; GOICOECHEA, TOM	0.36			
37	20348		0.2	TURCO, JERRY				disallowed
37	21146		0.11	GOWER, BETTE ; GOWER, MARK	0.11	0.4	T-2948	
37	22042		0.04	FOSNOT, PAUL R ; FOSNOT, ROBERT EARL	0.04			
37	22043		0.25	SUPER, JAMES R ; SUPER, JANET A	0.25			
		TOTAL	7.12		6.40			

Christensen, Kelly

From: Christensen, Kelly
Sent: Friday, June 19, 2009 11:38 AM
To: Bromley, Chris
Subject: RE: 37-353 PRELIMINARY PROPORTIONATE SPLIT ANALYSIS

This sounds good to me. It was that I just had this new thought process as I was trying to clean up this mess and decided that I would give it a shot. I'll just set on this one then until the next deadline or correspondence.

kkc

From: Bromley, Chris
Sent: Friday, June 19, 2009 10:58 AM
To: Christensen, Kelly; Shaff, Don; Fritschle, Carter
Cc: Ridgeway, Renea
Subject: RE: 37-353 PRELIMINARY PROPORTIONATE SPLIT ANALYSIS

Kelly,

I've been thinking about how best to proceed with this one and I think we ought to wait to talk with the parties until the next status conference at the end of July. That was when SM Booth expected us to have an answer anyway. I think at that status conference we ought to ask SM Booth to set a date for a settlement conference, a trial date, and a deadline after the settlement conference but prior to trial for us to submit a 706 report with new recommendations. At the settlement conference we can explain what you've developed and see what the parties think. If they don't like it, then we put it into a 706 report and present it to SM Booth at trial.

Anyone else have additional thoughts on how to proceed?

Chris

From: Christensen, Kelly
Sent: Wednesday, June 17, 2009 8:05 AM
To: Bromley, Chris; Shaff, Don; Fritschle, Carter
Cc: Ridgeway, Renea
Subject: 37-353 PRELIMINARY PROPORTIONATE SPLIT ANALYSIS

Attached is my attempt to draft a proportionate split. I can see where, if this hits the fan, there will be a lot of discussion and negotiations. There were two independent objections to the POU recommendations and I modified the analysis to include an increase in acreage for those rights. I tried to include as much information as I could that I used in the final product. Hopefully the tables are not overly cryptic.

I did not include any preamble directed to the various parties in an effort to sell this as a possible solution. If this ultimately flies, I wouldn't mind some input in that area.

<< File: 37-353 data for Amend Dir Rpt.doc >>

Kelly K Christensen
Sr Water Resource Agt
Boise, Western Region
(208)-334-2190

37-353 DEAN RANCH SUBDIVISION
ANALYSIS OF A PROPORTIONAL RECOMMENDATION SOLUTION.

OBJECTIONS FILED

Barbara Barry filed an objection to her recommendation for 37-353G (recommended for disallowal) and four additional claims (37-353F Oosting, 37-353J Olsen, 37-353K Fisher, and 37-353L Goicoechea) basically requesting that either they be disallowed or that the recommended diversion rate be adjusted.

Olsen and Gribsby filed a response to 37-353G, no significant information. Oosting filed a response to 37-353F, no additional information.

Olsen also filed an objection to 37-353J stating that the rate should be 0.40 cfs and the POU should be 10 ac. The recommendation appears to be based upon the 2004 aerial photo and a field exam conducted by Jim Stanton (IDWR Sr Agent). In reviewing the 1987 aerial photos, it shows that no farmstead existed at that date. If forfeiture is not found then the recommendation should be for the entire lot which is just shy of 10 acres. Olsen also filed a response to the Barry objection with a long narrative attached that basically states that the status of 37-353G should not have an affect on the Olsen claim.

Fisher filed an objection against 37-353K stating that the rate should be 0.36 cfs and the POU should be 9 acres. This was also one of the lots identified as dry, but assuming that it is recommended as valid and then considering the 1987 aerial photography the recommended POU should be increased by approximately 1.6 ac. The 1987 farmstead foot print is considerably smaller than the 2004 foot print that apparently was used to generate the current recommendation. Grigsby (37-353) filed a response but with no attached documentation.

Gower filed an objection to his claim (37-21146) stating that the POU should be 7.9 acres. This claim was split from 37-11688 which is based upon the right associated with T-2948. When all three split rights associated with 37-11688 are combined they should be limited to 5.5 acres. The POU should not be increased for this recommendation. A response to this objection was filed by the Concerned Users group and the Big Wood Canal Co. No documentation included in the response.

DEPARTMENT TRANSFERS

Three transfers were issued by the department. T-2948 (now associated with claims 37-21146 Gower, 37-22042 Fosnot disallowed, and 37-22043 Super) issued for 0.40 cfs and 5.5 ac
T-3678 (37-353G Barry) issued for 0.20 cfs and 6 ac and T-3679 (37-3353H Benson) issued for 0.20 cfs and 7.5 ac.

UNRECORDED TRANSFERS

Two unrecorded transfers were claimed. 37-11688 was claimed as an expansion of the POU for Lot 1 onto Sec 24 NESE. The right associated with Lot 1 was established through transfer T-2948. While, assuming that the change in POU was prior to Nov 19, 1987, that change can be acknowledged but limited to the transfer amounts of 0.40 cfs and 5.5 acres.

The second unrecorded transfer was the Gardner claim 37-353D for 3.60 cfs. The initial recommendation did not include an acre limit but at 0.04 cfs per acre this right should be limited to 90 acres.

CLAIMS RECOMMENDED FOR DISALLOWAL

Three claims were recommended for disallowal and only one disallowal recommendation was objected to which is 37-353G (Barry). As this right was based upon T-3678 which was approved after

the commencement of the adjudication I am recognizing this right as valid. The other two disallowed claims were not objected to and therefore not considered in this analysis.

1999 FOUND DRY LOTS

Some information exists that suggests that irrigation ceased on various lots for 20± years. The lots identified in 1997 were lots 2, 3, 7, 8A, 10, 13, 14, 15, 16, and 18. No claims were filed against lots 10, 11, 13, 14, 15, 16, and 18. Of the 10 lots 4 associated rights were recommended as valid and are considered in this analysis. They are Lt 2 -- 37-353J, Lt 3 -- 37-353L, Lt 7 -- 37-353K, and Lt 8A -- 37-353F. The Dean Ranch Subdivision is shown in Figure 1.

No claims were filed against 6 lots. 5 of the unclaimed lots were a part of the 1997 dry lot determination. The 6th lot with no claim against a portion of 37-353 was the "from" POU for Transfers 3678 and 3679.

PROPORTIONAL DISTRIBUTATION ANALYSIS

The original decree was for 6.40 cfs for 160 acres which is 0.04 cfs/acre. Some documents suggest that Dean sold lots at varying rates per acre but all warranty deeds at best state "with appurtenances". The delivery ditch system has historically been acknowledged to have significant conveyance losses. Although no documentation of any scientific determination of conveyance losses are available, it has historically been estimated to be as much as 50%. This would be in line with the decree of 0.04 cfs/acre where assuming a 50% conveyance loss the result would be 3.20 cfs on 160 acres or one inch per acre.

In reviewing the 12 valid claims (which includes 37-353G previously disallowed) associated with this historic right I ultimately compared the found/recommended acreage against the decreed rate per acre. For analysis purposes I excluded the lots/systems associated with the approved transfers.

The analysis also includes a tentative modification to the POU for 37-353J from 7.8 ac to 10 ac as there were no farmstead buildings on lot 2 in 1987. All of the property was therefore available for irrigation.

The POU for 37-353K (Fisher) was also objected to and after reviewing the 1987 aerial photography I adjusted the POU acreage from 6.3 ac to 7.9 ac. This change was made using the same basic rational as the change made to 37-353J.

Total recorded transfer rates = 0.80 cfs. This leaves 5.60 cfs available for the remaining 9 active claims. The found and adjusted irrigated acreage was 137.7 acres and distributing the 5.60 cfs across the 137.7 acres I found ≈ 0.041 cfs/acre rate, slightly greater than the decreed rate per acre of 0.04 cfs. Most of the lots recognized as valid, apply water from the main ditch to the ground through various sprinkler irrigation systems. Considering the 50% system's conveyance loss, the 2 inches per acre again appear reasonable.

The following table shows the values used in calculating a proportionate split of the 5.60 cfs across the found 137.7 acres. The complicating factor is that the rates associated with some claims become the limiting factor. I calculated a proportionate rate in two stages. After the first iteration the calculated diversion rate exceeded the claimed rate for claims 37-353J, 37-353F and 37-353D. A second iteration was then run for the remaining 5 claims with the results being displayed in the last column. This is the proposed rates for this group of 9 claims and the remaining calims recommended will reflect the transfer information.

LOT / CLAIM INFORMATION FOR ANALYSIS

Lot # and Rec status	Right #	claimant	Claim Rt Acres	Rec Rate Acres		Acres for analysis purposes	Transfer / notes
1 active	37-21146 Obj to POU - rate	Gower/ Fosnot	0.11 cfs 7.9 ac	0.11 cfs 5.5 ac	* 0.11 cfs	** 5.5 ac	T-2948 (wr # 37-353B)
Sec 24 NESE part) active	37-22043	Super/ Fosnot	0.25 cfs 16 ac	0.25 cfs 17.3 ac	* 0.25 cfs	** 5.5 ac	Associated with T-2948 third part of split disallowed possibly could be included in this group. Possibly was never irrigated and possibly should have not received any of the right.
2 active	37-353J Obj to POU - rate	Olsen Livestock	.040 cfs 10 ac	0.32 cfs 7.8 ac		**** 10 ac	
3 active	37-353L	Goicoechea	0.36 cfs 10 ac	0.28 cfs 8.4 ac		8.4 ac	
4,5,6 active	37-353B	Briggs/ Arrington	0.40 cfs 20 ac	0.40 cfs 0.40 ac		0.4 ac	
7 active	37-353K	Fisher	0.36 cfs 9.0 ac	0.28 cfs 6.3 ac		6.3 ac	
8A active	37-353F	Oosting/ Ziker	0.20 cfs 10 ac	0.16 cfs 6.8 ac		6.8 ac	
8B active	37-353	Grigsby	0.40 cfs 10.0 ac	0.40 cfs 6.9 ac		6.9 ac	
9 disallowed	37-353G Obj to POU - rate	Barry	0.20 cfs ac	-0-	* 0.20 cfs	** 6 ac	Rec Disallow T-3678 approved in 1991 Pc Doc pgs 280 – 286. Owner considered lot dry prior to transfer
10 disallowed	37-20348	Turco	0.20 cfs 10.0 ac	-0-			Late obj being filed. 9-1-2009
17 active	37-353E	Van Der Meulen	0.40 cfs 10.0 ac	0.40 cfs 7.3 ac		7.3 ac	
Sec 18 SE¼ Sec 19 N½NE¼ active	37-353D	Gardner	3.60 280 ac	317 ac		*** 90 ac	
Sec18 SWSW active	37-353H	Benson	0.20 cfs	mitigation	*.20 cfs	7.5 ac	T-3679.
11	No claim	To Chek					From POU for T-3678 and T-3679
13	No claim	Riese					
14	No claim	Porath					
15	No claim	Alger					
16	No claim						
18	No claim	Holmes Jr					w/ appurt

* Rate set by a transfer. Possible adjustment to rate for 37-21146 and 37-22043
** Acre limit set by transfer.
*** Acre limit calculated at 2 inches per acre based upon recommended rate (3.60 cfs/ 0.04 cfs per ac = 90 acres)
**** The POU did not include a farmstead in 1987 therefore that ground should not be excluded if the right is valid at all.

Sec 24 NESE part) disallowed	37-22042	Swenke/ Fosnot	0.04 cfs 2.7ac				Associated with T-2948

OBJECTION / RESPONSE REVIEW				
Claim Claimant	Objection Response	Attorney	Basis for objection, response	Comments
37-353 Grigsby	Uncontested			
37-353B Briggs	Uncontested			
37-353D Gardner	Uncontested			
37-353E Van Der Meulen	Uncontested			
37-353F Oosting	Objection by Barry (353G)	Arrington	Adjust div rate or disallow	
	Response by Oosting	Pro Sae	No specific information	
37-353G Barry *	Objection by Barry (353G)	Arrington	Right should be valid DISALLOWED	
	Response by Olsen (353J)		Has interest in Barry objection outcome	
	Response by Grigsby	Dutcher	No specific information	
37-353H Benson	Uncontested			
37-353J Olsen	Objection by Barry (353G)	Arrington	Adjust div rate or disallow	
*	Objection by Olsen		Rate should be 0.40 cfs POU should be 10 ac	1987 aerial photo shows no structures on property. If any irrigation then logic would suggest all of the lot is irr.
	Response to Barry Objection By Olsen	Waldera	Long narrative. Basically, status of Barry should not affect 353J	
37-353K Fisher	Objection by Barry (353G)	Arrington	Adjust div rate or disallow	
*	Objection by Fisher	Haemmerle	Rate should be 0.36 cfs POU should be 9 acres.	
	Response by Grigsby	Dutcher	No specific information	
37-353L Goicoechea	Objection by Barry (353G)	Arrington	Adjust div rate or disallow	
37-20348 Turco	Uncontested Late Obj.		DISALLOWED	
37-21146 Gower	Objection by Gower	Haemmerle	POU should be 7.9 acres	
*	Response by Concerned Users Big Wood Canal Co	Barker Hobdey	No specific information.	
37-22042 Fosnot	Uncontested		DISALLOWED	
37-22043 Super	Uncontested			

Overlap analysis generated through Arc Map spatial data selection. Domestic and stockwater rights deleted from the list. (list generated 6-12-2009)

37	21147		1	Active	Decreed	10/15/1884	JANET A SUPER	S 24 NESE	BIG WOOD RIVER
37	22043		1	Active	Decreed	6/12/1886	JANET A SUPER	S 24 NESE	BIG WOOD RIVER
37	353	F	1	Active	Decreed	6/12/1886	JAMES M OOSTING	Lt 8A	BIG WOOD RIVER
37	353		1	Active	Decreed	6/12/1886	JUDITH P GRIGSBY	Lt 8B	BIG WOOD RIVER
37	8012		1	Active	License	6/2/1982	JUDITH P GRIGSBY	Lt 8B	GROUND WATER
37	21146		1	Active	Decreed	6/12/1886	MARK GOWER	Lt 1	BIG WOOD RIVER
37	21148		1	Active	Decreed	10/15/1884	MARK GOWER	Lt 1	BIG WOOD RIVER
37	353	K	1	Active	Decreed	6/12/1886	MARK D FISHER	Lt 7	BIG WOOD RIVER
37	12952		1	Closed	Ben Use	12/31/1972	WM WD 37O	Lt 7	GROUND WATER
37	353	B	1	Active	Decreed	6/12/1886	NOEL BRIGGS	Lt 4, 5, & 6	BIG WOOD RIVER
37	7310		1	Active	License	6/10/1983	NOEL BRIGGS	Lt 4, 5, & 6	GROUND WATER
37	21267		1	Active	Decreed	6/15/1891	NOEL BRIGGS	Lt 4, 5, & 6	BIG WOOD RIVER
37	353	J	1	Active	Decreed	6/12/1886	OLSEN LIVESTOCK CONSULTING	Lt 2	BIG WOOD RIVER
37	353	E	1	Active	Decreed	6/12/1886	PETER D VAN DER MEULEN	Lt 17	BIG WOOD RIVER
37	11689	A	1	Parent	Decreed	10/15/1884	ROBERT EARL FOSNOT	Lt 1 & S 24 NESE	BIG WOOD RIVER
37	353	L	1	Active	Decreed	6/12/1886	TOM GOICOECHEA	Lt 3	BIG WOOD RIVER

Following are rights associated with lots where no part of 37-353 was claimed

37	363	D	1	Active	Decreed	4/12/1883	LAURI CRANDALL-COOPER	Lt 11	BIG WOOD RIVER
37	10722		1	Closed	Ben Use	5/1/1974	LAURI CRANDALL-COOPER	Lt 11	GROUND WATER
37	11689	B	1	Active	Decreed	10/15/1884	MARK J SWENKE	S 24 NESE	BIG WOOD RIVER
37	12074		1	Closed	Ben Use	12/31/1979	STEPHEN L DICK	Lt 18	GROUND WATER
37	12634		1	Closed	Ben Use	9/4/1986	STEVEN A HANSEN	Lt 16	GROUND WATER

37-353 decreed to 160 acres at 6.40 cfs. The duty of water is 6.40 / 160 = 0.04 cfs/acre

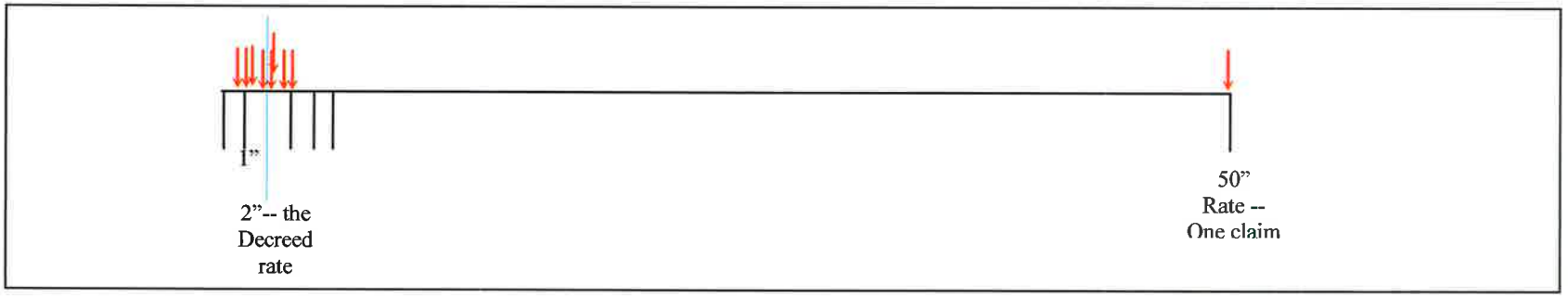
			Claim rate	Claimant	Proposed Rec rate	Transfer rate	Transfer No.	
37	353		0.4	GRIGSBY, JUDITH P	0.31			
37	353	B	0.4	ARRINGTON, DAN ; BRIGGS, NOEL	0.04			
37	353	D	3.6	GARDNER, KATHRYN ALLRED ; GARDNER, ROBERT E	3.6			
37	353	E	0.4	VAN DER MEULEN, LINDA ; VAN DER MEULEN, PETER D	0.33			
37	353	F	0.2	OOSTING, JAMES M	0.2			
37	353	G	0.2	BARRY, BARBARA A	0.2	0.2	T-3678	
37	353	H	0.2	BENSON, BARBARA	0.2	0.2	T-3679	
37	353	J	0.4	OLSEN LIVESTOCK CONSULTING	0.4			
37	353	K	0.36	FISHER, DANETTE L ; FISHER, MARK D	0.36			
37	353	L	0.36	GOICOECHEA, ANNETTE ; GOICOECHEA, TOM	0.36			
37	20348		0.2	TURCO, JERRY				disallowed
37	21146		0.11	GOWER, BETTE ; GOWER, MARK	0.11			
37	22043		0.25	SUPER, JAMES R ; SUPER, JANET A	0.25	0.4	T-2948	
37	22042		0.04	FOSNOT, PAUL R ; FOSNOT, ROBERT EARL	0.04			disallowed
		TOTAL	7.12		6.40			

1. There are 14 claims against the decreed right. 11 are recommended as valid and 3 are recommended for disallowal.
2. The Gardner sale appears to be the latest in time sale.
3. Three transfers were approved from 1984 thru 1993. Two were moving water around within the subdivision. Transfers were filed although the initial lot sale included appurtenances (2 transfers). The third transfer moved water outside of the subdivision.
4. It appears that the adjudication claim and ultimate recommendations associated with T-2948 greatly expanded the transfer acreage and recognized an unrecorded transfer. Recommendations of rights split from 37-11688 probably need revision.
5. 10 lots were found dry through department research in the late 1990s. Starting in 1996 six individuals filed late claims for their respective lots. All but one were recommended as valid rights.
6. Claim/Recommendation statistics
   7.08 cfs covering 130 acres (excluding the 280 claimed acres by Gardner)
   6.40 cfs covering 65.4 acres (excluding the 317 recommended acres to Gardner)
   11 claims were recommended at the claimed diversion rate for the found acres
   3 claims were recommended at ≈ 80% of the claimed rate. Rights 37-353J; K; & L
7. The recommendation rates/acre range from a low of 0.016 cfs/ac to a high of 1.00 cfs/ac. (again, this is excluding the Gardner claim)
8. Based upon transfers 2948 and 3678 where lot owners voluntarily filed transfers to shift water to their respective lots within the subdivision it they effectively recognized that a portion of 37-353 was no longer appurtenant to the lots even though early warranty deeds indicate a sale with appurtenances.
9. Norm Young Prelim order Olsen 1999
10. " " " " Zikes 1997

System issues.

1. It appears that all or nearly all lots were sold with appurtenances before the sale to Gardner. Few if any warranty deeds identified the rate per acre sold with the lot. Dean did specify associated rates to 5 individuals in a 1977 letter to District 45. (Pc Docs Pg 249). There were 3 transfers filed with the department, T-2948 (approved in 1984), T-3678 (approved in 1991), and T-3679 (approved in 1993). T-2948 moved 0.20 cfs from an unknown location to Lot 1 and was claimed on that lot plus additional ground in Sec 24 NESE. T-3678 moved 0.20 cfs from lot 11 to Lot 9 (aj claim 37-353G). T-3679 moved 0.20 cfs from lot 11 to Sec 18 SWSW (aj claim 37-353H). This would suggest that although the initial sale Lot 1 in 1974, Lot 9 in 1977 included appurtenances, they were recognized as being dry as of the date of the transfers.

None of the claims based upon lot acreage exceeded the decreed rate of 2 in/acre but several exceeded that rate in the recommendations. The recommendation rates per acre clustered on either side of the decreed rate. The recommendations recognized the irrigated acres within each lot but in general did not change the claimed diversion rate. See line chart below for depiction of the rates per acre recommended as compared to the light blue line which shows the 2" per acre decreed rate. The anomaly is 37-353B which was claimed at 0.40 cfs on 20 acres (1 in/acre) but recommended for 0.4 ac (lawn area) at the claimed rate, giving the 50 in/acre rate.



2. Can the lots historically identified as dry be recommended for disallowal or are they protected against forfeiture?
Lots found dry but having claims filed for that lot and the date of claim filing.

Lot #	Claim	Filing date	Recommendation status
Lt 2	37-353J	12-16-96	active
Lt 3	37-353L	8-5-98	active
Lt7	37-353K	2-23-98	active
Lt 8A	37-353F	1-22-90	active
Lt 10	37-20348	10-6-00	disallowed

3. Assuming that forfeiture cannot be established for any lot, then the next logical step would to recommend the Gardner claim for disallowal or at least significantly reduced.

4. Where a lot is claimed for up to 2 in per acre and the found POU is less (at times considerably less) do we recognize the decreed rate of 2 inches per acre as a cap for the found POU?

5. There is some information available to suggest that Dean sold some lots at an equivalent of 1 inch per acre. Assuming that the found POU for those specific lots is ½ or less of the total acreage is that water then available to be transferred to Gardner? Additional research would be necessary to document facts associated with this proposition.

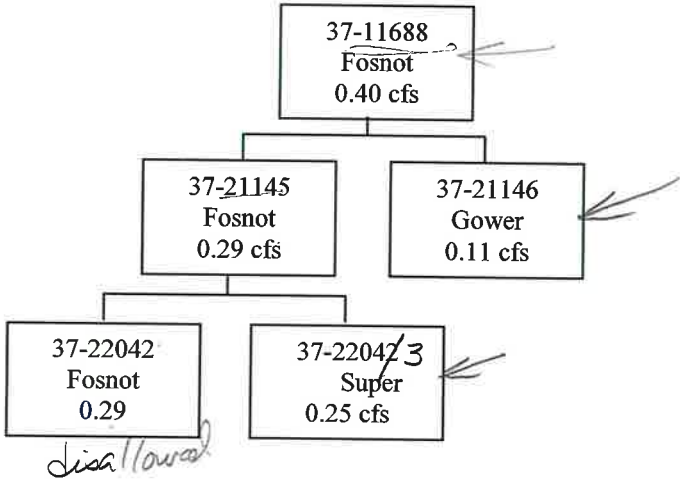
6. T-2948 moved 0.40 cfs for 5.5 acres to Lot 1. The transfer was filed by Fosnot. Adjudication claim 37-11688 was filed for 0.40 cfs on 27.9 acres which covered Lot 1 and additional ground to the south in Sec 24 NESE. 37-11688 was split through an ownership change into 37-21145 for 0.29 cfs and 20 acres in Sec 24 NESE, and 37-21146 for .11 cfs and 7.9 acres. 37-21145 was later split into 37-22024 to Fosnot for 0.04 cfs on 2.7 ac (rec – disallow) and 37-22025 to Super for 0.25 cfs on 17.3 ac all in Sec 24 NESE.

Preliminary review suggests that the Fosnot associated claims should be limited to 5.5 acres regardless of location. As the transfer was approved in 1984 there is room for a possible unrecorded transfer of a portion of the acreage to Sec 24 NESE however, the overall acreage should be limited to a total of 5.5 acres.

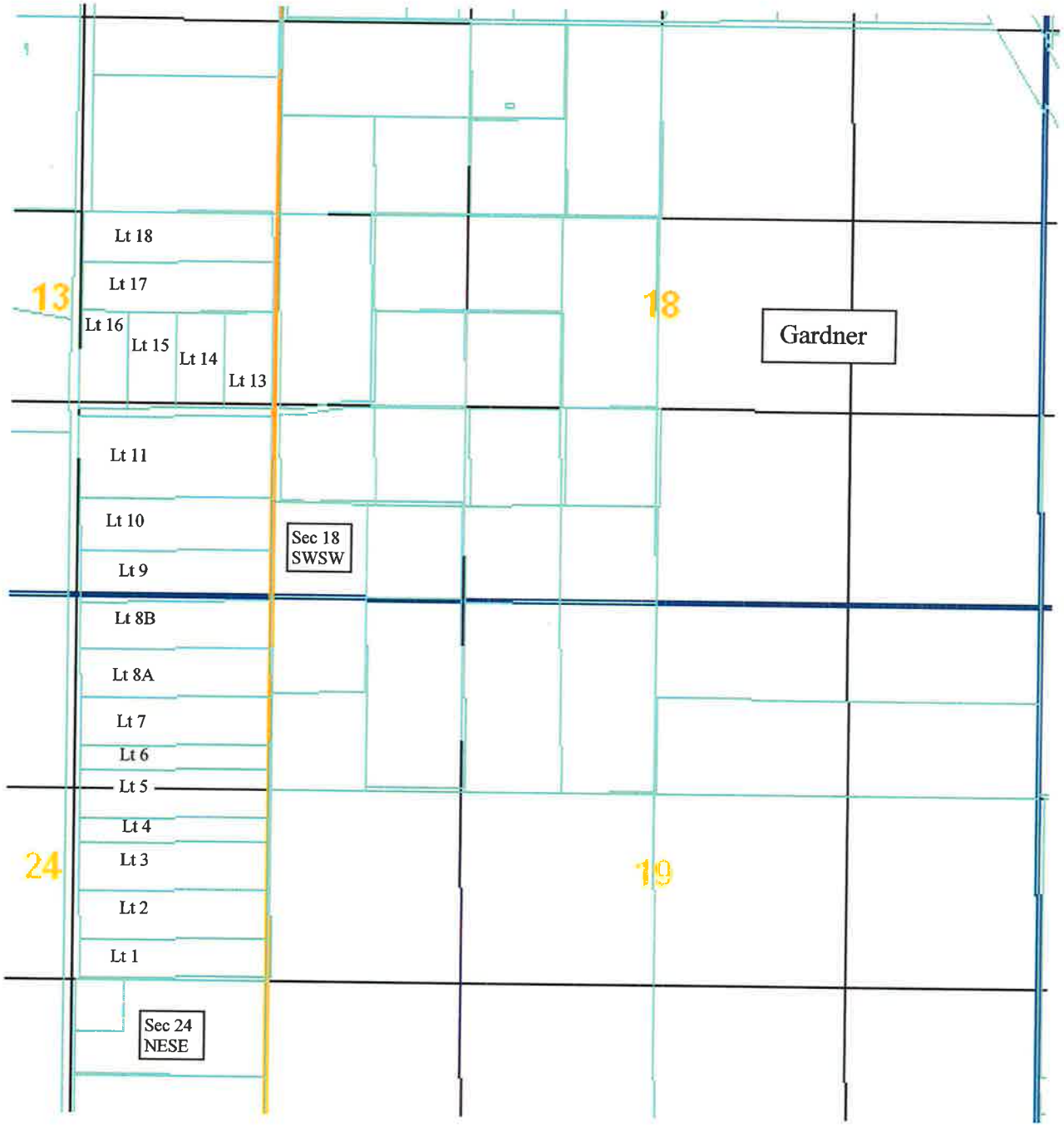
7. Claim 37-353H Benson was involved in T-3679 that moved water off of a part of Lot 11 (T-3678 moves 37-353G from the remainder of Lot 11 to Lot 9). The transfer leaves 37-363D on Lot 11 as a valid right. Tim Luke addresses the issue Pc Doc pg 339 memo dated July 13, 1990. The recommendation reflects permit conditions associated with permit 37-8660. Until the permit is licensed the right probably should reflect the transfer and not the permit conditions.

Lot #	Right #	claimant	Claim Rt Acres	Rec Rate Acres	status		Claim date	Purchase date	Ided As dry	Transfer / notes
1	37-21146 10-17-88	Gower/ Fosnot	0.11 cfs 7.9 ac	0.11 cfs 5.5 ac	active	Dean to Curtis Doc pg 155-156	10-17-88	11-1-74		T-2948 (wr # 37-353B)
2	37-353J 12-16-96	Olsen Livestock	.040 cfs 10 ac	0.32 cfs 7.8 ac	active	Dean to Curtis Doc pg 155-156	12-16-96	11-1-74	╬	Focus of Dec 29 amend prelim order for water delivery by Norm Young Pgs 167—173 Dry per Pc Doc Pg 93 ≈20"
2	Previous	Curtis	0.40 cfs					12-9-1974 *		Quit Claim deed Appurt to NE of Sec 24
3	37-353L 8-5-98	Goicoechea	0.36 cfs 10 ac	0.28 cfs 8.4 ac	active		8-5-98		╬	Dry per Pc Doc Pg 93 ≈20"
4,5,6	37-353B 9-22-88	Briggs/ Arrington	0.40 cfs 20 ac	0.40 cfs 0.40 ac	active					
Lot 4, 5, 6	Previous	Stricker						7-26-1973 8-17-1971 7-12-1973 *		Reverted back to Dean
7	37-353K 2-23-98	Fisher	0.36 cfs 9.0 ac	0.28 cfs 6.3 ac	active			11-1-1977 *	╬	Dry per Pc Doc Pg 93 ≈20"
Part of Lot 7	N/A	Boller						9-5-1972 *		
8A	37-353F 1-22-90	Oosting/ Ziker	0.20 cfs 10 ac	0.16 cfs 6.8 ac	active	Dean to Dingle-Koontz Doc pg 78	1-22-90	1-10-1974 *	╬	Focus of Dec 29 prelim order for water delivery by Norm Young Pc Docs Pg 11—17 Dry per Pc Doc Pg 93 ≈20"
8B	37-353 9-20-88	Grigsby	0.40 cfs 10.0 ac	0.40 cfs 6.9 ac	active	Dean to Dingle-Koontz Doc pg 78		1-10-1974 *		
9	37-353G 7-28-88	Barry	0.20 cfs ac	-0-	disallowed		7-28-88	5-13-1977 *		Rec Disallow T-3678 approved in 1991 Pc Doc pgs 280 – 286. Owner considered lot dry prior to transfer
9	Previous	Kierstad ?								
10	37-20348 10-6-00	Turko	0.20 cfs 10.0 ac	-0-	disallowed				╬	Rec Disallow Dry per Pc Doc Pg 93 21"
		Craig						2-6-1978 *		
11	No claim	To Chek						6-12-1973 *		From POU for T-3678 and T-3679
13	No claim	Riese						11-18-1977 *	╬	Dry per Pc Doc Pg 93 ≈10"
14	No claim	Porath						10-7-1976 *	╬	Dry per Pc Doc Pg 93 ≈10"
15	No claim	Alger						8-4-191975 *	╬	Dry per Pc Doc Pg 93 ≈10"
16	No claim								╬	Dry per Pc Doc Pg 93 ≈10"

17	37-353E 1-3-89	Van Der Meulen	0.40 cfs 10.0 ac	0.40 cfs 7.3 ac	active			11-30-1977 *		
17	Previous	Oppenheimer								
										* Dates from Merritt's notes PC Doc pgs 106 -- 110
18	No claim	Holmes Jr						7-16-1976 *		w/ appurt
Sec 18 SE¼ Sec 19 N½NE¼	37-353D 10-17-88	Gardner	3.60 280 ac	317 ac	active					Unrecorded transfer. Documented by a notarized letter from Dean to Gardner PC Doc Pg 253. Sale documented in 1973
Sec18 SWSW	37-353H 7-28-88	Benson	0.20 cfs	mitigation	active					T-3679. approved in 1993. Used for mitigation for 37-8660
Sec 24 NESE part)	37-22042 10-17-88	Swenke/ Fosnot	0.04 cfs 2.7ac		disallowed		10-17-88			Associated with T-2948
Sec 24 NESE part)	37-22043 10-17-88	Super/ Fosnot	0.25 cfs 16 ac	0.25 cfs 17.3 ac	active		10-17-88			Associated with T-2948
										Dry Lot rate total ≈180" includes 40" from lt 9



Dean Ranch Subdivision.



By Kelly K Christensen
June 10, 2009

37-353 PC Docs pg index

1	Pg 8	Norm young Memo to file RE: Meeting concerning Ziker order		Feb 8 2000
2	Pg 11—17	Norm Young Preliminary order RE: call for delivery of 37-353 (Ziker) RE: call for delivery of 37-353 (Ziker)		20-Dec-99
3	Pg 59—60	Norm Young letter to Lee Peterson (watermaster) Lists probable owners of 37-353		20-Dec-99
4	Pg 61—63	James Speck to Norm Request for dept to order delivery of Ziker water Includes Speck to Watermaster with warranty deeds		2-Aug-99
5	Pg 64—68	Speck to Norm Fax warranty deeds RE: Zicker property		17-Dec-99
6	Pg 73—87	Speck to Norm Request for dept to order delivery of Zicker water. Includes Speck to watermaster with warranty deeds		2-Aug-99
7	Pg 88—90	Speck to Norm Fax RE: Affidavit by Koztz about water use, 1973 purchase with water		30-Sep-99
8	Pg 91	Norm to Speck RE: working draft of Ziker Order		17-Dec-99
9	Pg 92	Stockman thru to Siker/Sikes trust split tree (no Date)		
10	Pg 93	Subdivision plat showing lot owners with in of water and dry lots		Assume 1999 date
11	Pg 94—95	Draft letter, Norm to Lee (watermaster) see also pg 59—60		
12	Pg 98	Handwritten list of people showing $ amt or inches of water Probably from WM records, no date		
13	Pg 99—100	Speck to WM via fax July 2, 1999 Request for delivery		2-Jul-99
14	Pg 101	Lee to Norm Request on dir for delivery of 353		6-Apr-99
15	Pg 102	Ownership list of 353 presumably from WM around 1999		
16	Pg 103	Tax lot plat annotated with ownership info 1999?		
17	Pg 104	Hand note of owners, acres, WD #s		
18	Pg 105	Tax lot plat showing lots deeded from Dean direct		
19	Pg 106—110	Hand notes of owners, date of transaction, WD#s		
20	Pg 112—121	Aj proof rpts of claims		
21	Pg 123—131	Amended Prelim order RE: call for water by Olsen Livestock (draft)		27-Aug-97
22	Pg 132	Speck to Norm Question: Can payment of Delivery or delivery to headgate sufficient to prevent forfeiture of ground with no use for up to 15 years		27-Aug-97
23	Pg 133	Memo Allen Merritt to Norm young RE: History of ownership of Aj 37-353H Kantenwein		31-Jul-97
24	Pg 134—135	WM to Norm Request for clarification of Olsen Order		July 30-1997
25	Pg 136—145	Proof reports Aj generated 6-13-1997		6/13/1997
26	Pg 146	Norm to Scott Campbell 6-13-1997 RE: Olsen livestock water		6/13/1997
27	Pg 147—154	Jeffery Drake to Scott Campbell RE: Post 1969 transfer inst following 42-222 sighting Id code and subsequent analysis of code.		6/6/1997
28	Pg 155—159	WD Dean to curtis RE Lt 2 etal.		
29	Pg 160—166	Norm Prelim order see also Pg 11—17 RE call for delivery Zicker		29-Dec-97
30	Pg 167 -173	Amended preliminary order Re Olsen Livestock Delivery call. Repeat Pg 174—179		25-Aug-97
31	Pg 180—186	Repeat of Pg 11—17 Perliminary order call for delivery Zicker		
32	Pg 187—189	Land Grant E½ of NE¼ Sec 24		
33	Pg 190—191	Frost vs Alturis Water Co RE Johnson WR 37-353		
34	Pg 192	Land Grant E½ of NE¼ Sec 24		
35	Pg 194	WD dated 1916		
36	Pg 195—208	Petition to form water district Nov 1915 WDs etc up to 1969 Driven from title search for Burke & Elam and Olsen Livestock May 1997		
37	Pg 210—211	Scott Campbell to Norm RE: Tom Olsen delivery of 37-353J		6/6/1997
38	Pg 212	Fax Schlender to Campbell / faxed to Allen Merritt RE: Olsen water right does not exist.		June 2 1997
39	Pg 215	WR printout with hand sketch of splits for Gus Chek Also Pg 218 WM records 5-20-1997		5/20/1997
40	Pg 223—228	Jim Stanton to Allen RE: Olsen water call and photos of POU.		22-May-97
41	Pg 232	Fosnot affidavit		
42	Pg 235—236	Elam and Burke RE Various letters re Olsen Livestock		19-May-97
43	Pg 241	Letter Wood river Dist 45 to Scott Campbell RE: Olsen Property being dry for years		5/5/1997
44	Pg 242	WD 37 and 37M to Campbell RE: delivery req for Olsen water		5/5/1997

45	Pg 246	Cherl Chapman to WD 45 RE: Wants delivery of Olsen Water		6-Feb-97
46	Pg 247—248	Summary of Sale of 37-353 parts with inches and dates.		
47	Pg 249—250	Dean to Dist 45 Dean's understanding of ownership & Billing sold to Curtis 20" then to Forrester, Johnson 20", Stricker 20", Gus Chek 20", Keirstead 40" (Keirstead going back to Dean)		In 1977
48	Pg 251	Reed Newby WM dist 37-37M to Dean referencing 3 Oct letters and 1 Nov letter 12-5-77 Regarding water sold. Lists sales lots and inches		12/5/1977
49	Pg 252	WD Osborn to Fosnot		11-Mar-82
50	Pg 253	Dean to Gardner Letter confirming sale of 180 " of 1886 water (notarized)		2-Jul-82
51	Pg 254	Dean to Blaine Co treasurer day and mo not clear but yr = 1972 Stricker to use 50" of 1886 water in 1973 season		1972
52	Pg 255	Purchase order Gus Chek sold 10" to Kantenwien		1/30/1990
53	Pg 256	WD Lotspeich to Oppenheimer Not readable in part		10-Mar-80
54	Pg 257	Quit claim Peterson to Bick Part of 37-353 and 8012		4-Nov-93
55	Pg 258—259	Quit Claim Bick to Grigsby RE: Lot 8B of Blk 1		17-Apr-98
56	Pg 260—261	WD Bick to Grigsby ½ interest		Apr 27, 1998 (recorded date)
57	Pg 262—265	Aj claim 37-353F		
58	Pg 267	WR transfer summary (activity log) Shows T-2948, T-3678, and T-3679		
59	Pg 268—277	T-3679 Gus Chek		Approved Nov 3, 1993
60	Pg 280—286	T-3678 Gus Chek		Approved Sept 9, 1991
61	Pg 287—290	Voided transfer app from Fosnot		4-Feb-83
62	Pg 292—295	T-2948 Fosnot		Approved April 3, 1984
63	Pg 296	1 page from Frost decree Lists rights from 37-350 thru 37-374		
64	Pg 299	Amendment to Check transfer advertisement		
65	Pg 301—302	Loren Holmes memo to file RE: T3679 and app 37-8660 Processing history and recommendation		19-Oct-93
66	Pg 303	Dean subdivision plat notes Chek prop, Driever, Kantenwien		
67	Pg 306	Reed Newby WM recom RE: T-3679 Gus Chek		
68	Pg 307—314	assorted correspondence mostly form letter stuff.		
69	Pg 315—317	Tim Luke to Chek RE: T-3678, 3679 and the 3.5 acres originally applied for		7/13/1990
70	Pg 318—324	misc advertising letters RE: Chek transfers		
71	Pg 325	Stanton Memo to file RE: Chek transfer discussion		1/23/1990
72	Pg 329—337	Misc correspondence RE: Chek property		
73	Pg 338	Memo Tim Luke to file RE: transfer 3678		5-Sep-91
74	Pg 339	see pg 315 (a copy)		
75	Pg 340	WM comments Chek property		
76	Pg 341—346	Advertisement documents and form letters		
77	Pg 347	see pg 325 (a copy)		
78	Pg 348	purchase agreement Chek to Powers Lt 11		
79	Pg 349	Powers buys lt 11 with 1883 water, no 1886 water.		
80	Pg 350	Letter from Chek to Jim Johnson RE: sale of 37-363A effective July 1, 1990		Received Feb 5, 1990
81	Pg 353	Jim Johnson memo to file RE: 37-353 – 665 ownership Fosnot/Olsen. No good info referenced		12-Mar-84
82	Pg 354—355	Fosnot Transfer analysis		11/18/1983
83	Pg 356—361	Adv Fosnot transfer and misc correspondence		Nov-83
84	Pg 362—366	Real estate purchase agreement by Fosnot RE: Lot 1 Dean subdivision and other adjoining property		Feb-82

	Allen's list Pgs 105-110	Amended Preliminary Order by Norm Young August 1997	claimed POU as of 2009
Lt			
18	7-16-1976 Holmes W/appurt 167107		No Claim
17	11-30-1977 Johnson w- 20" water 178471	Oppenheimer 20" water re: 10-27-1977 Dean to Johnson to Lotspeich to Oppenheimer (in 1980)	37-353E Van Der Meulen 0.40 cfs
16			No Claim
15	8-4-1975 Alger W/appurt 161094		No Claim
14	10-7-1976 Porath W/appurt 168841		No Claim
13	2-13-1976 Riese 164512 11-18-1977 Gene Smith (No water) 17820		No Claim
12	Derby Rd		
11	6-12-1973 Chek Lt11? 149678		No Claim (From POU for T-3678 and 3679)
10	2-6-1978 Dennis Craig 180200		37-20348 Turco 0.20 cfs Disallowed
9	5-13-1977 Robert Keirstad 173540 5-21-1979 Stephen Bixby restriction with appurtenances 193513	10-4-1991 letter Chek to Driever 10" T-3678	37-353G Barbara Barry 0.20 cfs Disallowed
8B	1-10-1974 Dingel & Koonz W/appurt 152658		37-353 Grigsby 0.40 cfs
8A	1-10-1974 Dingel & Koonz W/appurt 152658	Ziker order for delivery 1999	37-353F Oosting/Ziker 0.16 cfs
7	9-5-1972 Stephen Boller part of lt 7 145384 11-1-1977 Boller 177772 9-13-1985 Title & Trust to First Security Bank 266607		37-353K Fisher 0.28 cfs
6	7-12-1973 Ed Stricker w/ appurt 150132		37-353B Arrington 0.40 cfs
5	8-17-1971 Ed Stricker 139960		37-353B Arrington 0.40 cfs
4			37-353B Arrington 0.40 cfs
3			37-353L Goicoechea 0.36 cfs
2	9-25-1996 Head to Olsen W/Appurt 169670 Plat 394995	11-1-1974 Dean to Curtis 12-5-1978 Curtis to Call W 20" 1887 water 8-5-1991 Call to Head W 20" 1887 water 10-25-1996 Head to Olsen W/Appurt	37-353J Olsen Livestock 0.04 cfs
1		11-1-1974 Dean to Curtis 10-19-1978 Curtis to Fosnot Fosnot 20" Transfer 2948	37-21146 Gower/Fosnot 0.11 cfs Transfer 2948
Sec 24 NE	12-9-1974 Curtis 20" quit claim 157341		37-22042 Swenke/Fosnot 0.04 cfs Disallowed Transfer 2948
Sec 24 NE			37-22043 Super 0.25 cfs Transfer 2948
unknown Lt	6-20-1994? Craig to Goitiandiz W/appurt 367424	Stricker 20" re: letter from Dean confirming sale.	

Olsen Prelim order for delivery 1997

Sec 18 SWSW		Kantenwein 10" IDWR approved transfer 3679 filed by Chek The 10" of Kantenwien 37-353 water to be left in Big Wood for mitigation for 37-8660	37-353H Benson 0.20 cfs
unknown Lt	7-26-1988 Oppenheimer to Oppenheimer 296703		
Sec 18 E1/2		**6-25-1982 notarized letter from Dean to Gardner 180" (unrecorded transfer off of Dean Ranch subdivision)**	37-353D Gardner 3.60 cfs
unknown Lt	5-7-1973 Dean to Grant W/Appurt 149263 8-20-1981 Grant to Russell W/Appurt 218862	Bick 20" 6-25-1982 basis, letter Dean to Peterson 11-3-1993 quit claim deed Peterson to Bikc	
	7-10-1990 Chek to Powers with 16" of 1883 water 321682		
unknown Lt	11-27-1972 Dean to Stricker W/Appurt (Parcel A) 150132 11-27-1972 Dean to Stricker W/Appurt 150287		
unknown Lt	3-30-1993 Ziker to Trust 351275 Amended Plat split lot 8 197927		
unknown Lt	6-27-1981 Peterson to Peterson 216421 11-4-1993 Peterson to Bick W/appurt 358776		
unknown Lt	7-21-1985 Bixler to Bixler 265670 2-11-1988 Broup to Driever 292661-663		

Pdf doesn't found in file 359 & Start on Pg 65 1/

6.40 cfs. duty of water = 0.04 cfs/acre
160 ac decreed Pkt.

37-353 6-12-1886

Docs added to file
Subtract 63 fm
Pg # to Find
Doc

Notes on: WD transfers of Parts of Rt 169 → 173

Proof of Ownership 165

WD copies 128 →

353F Ooeting Lt 8A

128 Ziker as trustee to Ziker Lt 8A June 3, 1994
129 Long to Ziker Lt 8A June 9, 1994 with appurtenances
130 Paula Ziker to Richard Ziker Lt 8A June 29 1999
131 Richard Z to R & P Ziker as trustees Lt 8A Oct 14-1999

140 Not readable

37-353 Grigoby Lt 8B 78 141 Dean to Dingel & Koontz Lt 8B Nov 19 1973 Recorded date, w appurtenances

353F Ooeting Lt 8A

142 Dingel / Koontz to Potter Lt 8A Oct 30, 1979 w appurtenances
143 Sara Koontz to Potter (Q claim) Lot 8A Nov 19, 1979 recorded
144 Francine Dingle to Cecil & Magurite Dingle Lt 8A " " "
145 Potter to Stockmen WD Lt 8A Oct 17, 1983 recorded
146 Stockman to Stockman (QC) " Nov 25 1989
147 Stockman to Long (WD) Lt 8A Dec? 26, 1989 w appurt
148 Ziker to Long (QC) Feb 28, 1990
149 R. Ziker to R & P Ziker (QC) 1-29 1993
150 Long to Ziker (QC) 6-2-93

Subtract 63 for pg #

152 Affidavit Koontz stating Purchase of 10 ac in 1973 (with Dingel) doc date Sept 29, 1999

37-353 Lt 8B 153 Dean to Dingel & Koontz WD Lt 8B Nov 19, 1973 w appurt

123 157 Letter Norm Young to Lee Peterson Listing of Probable users w/ ownership interests
158

delivery directive
Claimants w/o probable ownership
1. Olsen Livestock Consulting
2. Ziker
3. Price
4. Goicoechea

1. Gardner	3.60 cfs
2. Foos not	.40 cfs
3. Grigoby	.40 cfs
4. Kantenwein	.20 cfs
5. Oppenheimer	.20 cfs
6. Stricker	.40 cfs
7. Driever	.20 cfs.
	5.40 cfs

37-353 PDF file review continued

159 Letter Norm to Lee Pending users meeting

160 353F Proof Rpt

161 164 Letter Lee to Norm - requesting guidance Re 353 over claimed

★ 165 W.M. records listing of users & amounts ✓ APR. 6/1999
shows 6.7cfs on WM Bortes.

★ 103 166 Plat map showing ownership as of 1999(?)

★ 167 Hand note owns — ac — deed #

★ 169 } WD Grants/Grantees Lot # & WD #
★ 170 }
★ 171 }

★ 173

174 Plat map w claim location

Subtract 63 for pg no

Proof RPTS

175/205 37-353G Proof Rpt (AJ) DRIEVER

176/202 353D Gardner (AJ)

177/200 353 Blick (AJ)

178 353L Goicoechea

179/206 353H Kantenwein T-3679

180/204 353F Long

181/207 353J Olsen Livestock Lot 2

182/203 353E Oppenheimer Jr.

183 353K Price Lot 7 claim filed in 1998

184/201 353B Strickler

Prelim order 186 → 192 Amended Preliminary Order RE 37-353 Olsen Livestock

Olsen (353J) (Lt 2) Also 230-236, 237-243 Order to deliver .40 cfs to Olsen Livestock (Lt 2),

196 Merritt to Peterson re the Prelim order discussion

197 Peterson to Norm delivery discussion RE Olsen et al.

208 Proof 11688

3/

37-353 Pdf file review cont

209 ltr Norm to Campbell RE Olsen Livestock 353J 6-13 1997

210 ↘ 217 Jeff Drake to Scott Campbell - memo RE, post 69 trans of WR. 6-6-97

RE Transfer Statutes - accomplished transfers

Pg 155

218 WD Dean to Curtis Parcel 1 N 320' of Sec 24 NESE (37-81145) now

219 with appurtenances Parcel 2 ↗ P1 320 / 267 / 267 SPS 5.97 ↗ now Claim covers both Parcels

WD

220 WD Curtis to Call. Lt 2 Nov 1974

Lt 2 includes 20" 1887 water Dec 1978 (37-353J)

37-353 J now Olsen & Livestock

221 WD Call to Head " Lt 2 Aug 5 1991

Pg 159

222 WD Head to Olsen Livestock Lt 2 w appurt. Sept 25, 1996

Prelim order (353F) Lt 8A 74 80 87 Also 243 to 249 104/110 Draft 125/126

223 ↘ 228 Preliminary Order 37-353 (F for Lt 8A) wm to deliver Paula Zikun current owner - James Cooling 0.20cfs

250 Deed US to William ? SPARR? E½NE

251 State of Id to ? Back taxes Dec 23 1898

252 Sharp to Johnson May 18 1987

253 ↘ 254 Frost vs Altmas Water Co decree 12-12-09

WD etc

255 Johnson to Carr Sept 1909

256 Creating Wood Riv Valley Irr dist Jan 19 1918

257 Carr to Hugees Apr 1916

264 ↘ 265 Hughes et al vs Coffin (WM) July 18 1941

Dry beds · Bypas Decree

266 Find Facts Conc law

Subtract 63

270 WD Geary to Dean ORIG Sale w appurtenances Nov 1969

310

316 Gardner Notarized letter getting 180" of water from Dean 1982

SD-0604-2 Township: 01N Range: 18E Section: 24 Tract: SENE Lot:

SEL	Tract	LOT	Water Right No.	STATE Name Last, First	OWN	AC	STG	Max # Records 50 Priority Date	Use Code	Use Desc
_	SENE		37-00353B	JOHNSON, JAMES	O	6	D	06/12/1886	01	IRR
				FOSNOT, ROBERT E.	C					
_	SENE		37-00353E	JOHNSON, JAMES	C		D	06/12/1886	01	IRR
_	SENE		37-07310	STRICKER, EDWARD W.	C	7	L	06/10/1983	01	IRR
									04	STOCK
									43	DOMEST
_	SENE		37-07310	STRICKER, EDWARD W.	C		L	06/10/1983	01	IRR
									04	STOCK
									43	DOMEST

(Enter=Continue) (GOLD 7=This Query) (Menu _____)

WM. Records 5/20/97

- Doug Drieverkhek)	10"	Lt 9?
- Gus Clux (Kantenwein)	10"	fmlt? Transfer to Sec 18 SWSW now Benson
- Robert Foshot	20"	Lt 1
- Robert Gruber	180"	unrec transfer fm Lots not known
Robert Kierstad	40"	? Lt 9?
- Henry Oppenheiner	20"	Lt 17
- Ed Stricker	20"	Lt 5
- Jay Bick	20"	Lt 8B
	320"	

TO: Allen Merritt DATE: May 22, 1997

FROM: Jim Stanton

SUBJECT: Water Call From Thomas Olsen, 37-00353 Part

I have reviewed the 1987 NAPP photo for the Dean Ranch Subdivision where the Olsen property is located (Y 25 SW). The photo was confusing at first, but finally made sense. Lots 4, 5 & 6 are owned by the same person, and appear as a single tract within the subdivision. The other lots then match the plat. The 20 acres just south of the subdivision is irrigated, as is Lot 1 at the south end of the subdivision. Lot 2 is clearly not irrigated on the NAPP photo, being gray instead of red or pink like the surrounding land. There does not appear to be a home on Lot 2, either. The only mark on Lot 2 is an irrigation ditch running southeasterly thru the center of the tract.

The 1974 Advance Print of the Y24 & Y25 orthophotoquad maps shows Lots 1, 2, & 3 of the subdivision to be dry land without visible plant cover. Although the land NE of the ditch is lighter in color than the land SW of the ditch, neither area looks like farm ground. Many nearby areas are irrigated with different crops and different systems, giving a good basis for comparison.

On 5-23-97, I visited the Olsen property accompanied by Watermaster Lee Peterson. We looked at both ends of the property. The old ditch that ran thru the center of the lot has been filled in, and has no visible connection to the District Canal. According to Lee, Jim Eakin (who runs the District Canal) filled in the ditch many years ago. The land is very flat and very gravelly, and has been historically very difficult to irrigate properly according to Mr. Eakin. The District Canal runs along the west side of the lot, as does a small ditch that takes water from the Canal to land south of the Olsen ground. The Olsen ground shows signs of irrigation, and no diversion works were found (except for the lawn around the home, and trees that were being installed along the ditch, which presumably are watered from the domestic well). Photos were taken.

I looked at ASCS master photos and slides. No development was seen on the 1987 photo. The 1990 and 1992 slides showed no development, only dry land. The 1996 slide showed the home but no irrigation.

There appears to be clear evidence that the Olsen property has not been irrigated for many years. Therefore, the claimed right may have been lost under Sec. 42-222(2) of the Idaho Code; as there are no ending actions before IDWR, this will ultimately be determined in the SRBA, however. If this right is again put to use on the Olsen property, the SRBA should consider advancing the priority date to the date the new usage begins.

Lee Peterson, Watermaster
Water District 37
PO Box R T
Shoshone, Idaho 83352

DRAFT

Re: Assessment of Claims to Right No. 37-00353 (Frost Decree – James Johnson)

Dear Lee:

You have requested guidance from the Department of Water Resources on which claimants to parts of Right No. 37-00353 should be included in the Water District 37 "Decree Book." Claims to various parts of the right have been filed in the Snake River Basin Adjudication. The claims, in total, exceed the decreed amount of the right. Some of the new claimants were not previously identified in the Water District records as having an ownership interest in the water right and have not been previously assessed by the Water District. Some of the claimants not previously identified in the Water District's records have called for water delivery based upon their claims. It is my understanding that the right is delivered by the Water District to the head of the District 45 canal along which most of the claimants are located. Because the Water District does not control delivery from the canal, your records do not verify use of water under the rights by the claimants.

Based upon this understanding Water District 37 should include in its Decree Book each of the water users claiming a part of Right No. 37-00353 that have demonstrated a probable ownership. Those having a probable ownership in the right include:

a. Water users listed in the Water District Records as having an ownership interest. These include:

1. Gardner	180 inches
2. Fosnot	20 inches – LL
3. Grigsby (formerly Bick)	20 inches
4. Kantenwein	10 inches
5. Oppenheimer	20 inches
6. Stricker	20 inches
7. Driever	10 inches
	280 = 5.6 cfs

It is my understanding that the Water District Records also at one time listed Robert Keirstad as the owner of 40 miners inches. Because Mr. Keirstad has not filed a claim in the SRBA, the county records cast doubt on his continued ownership of any of the right, and he has not called for water for many years, I suggest that Mr. Keirstad not be listed in the Decree Book until these issues are resolved.

b. Claimants not previously listed in the Water District records which have now filed a claim in the SRBA and for which IDWR has entered a preliminary order in

DRAFT

DRAFT

response to a petition for distribution by the watermaster. Olsen Livestock Consulting falls into this category.

Other claimants who have not demonstrated a probable ownership to a part of the right, even though they have claims pending in the SRBA, should not be include in the Decree Book until such time as the court confirms their right or IDWR has entered a preliminary order recognizing, at least for the interim period prior to action by the court, that a probable ownership exists by the claimant. The claims filed by Ziker, Price, and Goicoechea are in this category. Ziker has a pending petition calling for distribution of water and has supplied some ownership information. If an order to deliver results from the petition, Ziker should then be included in the Decree Book.

Le3 –

At this time the claimants calling for water that have demonstrated a probable ownership in the right do not exceed the amount of the right. It is easy to see that this will not be the case if all existing claimants call for delivery of water. The preliminary order entered in response to the Olsen Livestock Consulting petition indicates that the amount of water would be prorated among all the claimants if others demonstrate probable ownership to the amounts they are claiming. It is important that all claimants be advised of petitions calling for water under the new claims to allow them to participate in administrative actions. IDWR will provide copies of all preliminary orders to all claimants. Action to resolve the matter in the SRBA is still off in the future because the preliminary Director's Report for Basin 37 is scheduled to be available in December 2002.

Sincerely,

Norman C. Young
Administrator
Water Management Division

Lee & Norm —
Please review & give me a call before I send as a final.
Norm

DRAFT

ELAM & BURKE
A Professional Association
ATTORNEYS AND COUNSELORS AT LAW
KEY FINANCIAL CENTER
702 WEST IDAHO
POST OFFICE BOX 1539
BOISE, IDAHO 83701

TELEPHONE
208-343-5454
FACSIMILE
208-384-5844

SCOTT L. CAMPBELL

June 6, 1997

VIA HAND DELIVERY

RECEIVED
JUN 09 1997
Department of Water Resources
Southern Region

Norman C. Young, Administrator
Water Management Division
IDAHO DEPARTMENT OF WATER RESOURCES
1301 North Orchard
Boise, Idaho 83706

Re: Tom Olsen
Water Right No. 37-00353J

Dear Norm:

Pursuant to our discussions at the meeting in Shoshone, Idaho, on June 3, 1997, I have enclosed copies of the real property records, produced from the title search conducted by Sun Valley Title, for the property which includes Mr. Olsen's ten-acre parcel. His property is located in the Southeast 1/4 of the Northeast 1/4 of Section 24, Township 1 North, Range 18 East. In prior correspondence to Lee Peterson and Allen Merritt, I inaccurately described this property as being located in the Southwest 1/4 of the Northwest 1/4, Section 36, Township 2 North, Range 18 East. This inaccuracy should be corrected in any future references.

In addition to the copies of the real property instruments which I have provided to you with this correspondence, I have enclosed a copy of a research memorandum, prepared at my request, which discusses the pertinent Idaho statutes and case law relating to the issues involved in this matter. Based upon the analysis contained in this memorandum, unless all of the individuals who are listed in the water right records of Lee Peterson as owning the water rights under the original 37-00353 right have filed an adjudication claim and obtained a final decree, specifying an accomplished transfer under the provisions of Idaho Code §42-1425, it appears that Mr. Olsen should be entitled to delivery of water, based upon his real property records and his adjudication claim for 20 inches of water appurtenant to his ten-acre parcel.

I have not reviewed all the adjudication claims, if there are any, for the individuals listed on Mr. Peterson's records. I will rely upon the Department to undertake that evaluation. Any adjudication claim filed after the date of this letter on behalf of those parties would not be legitimate in the analysis of the present controversy.

In short, until the SRBA District Court determines that the accomplished transfer provisions of Idaho Code §42-1425 apply to any or all of the "transfers" which have been listed by Mr. Peterson in his records, I believe that the real property records which we have provided for Mr. Olsen's property should be afforded superior status. They clearly indicate a chain of title to the real property and the appurtenant water right to Mr. Olsen. There is no indication of an exception or reservation of the water right in the real property instruments. Consequently, unless the SRBA District Court adjudicates a post-1969 "accomplished transfer" of the water rights appurtenant to Mr. Olsen's property, he should be entitled to delivery of water under that right until the Court determines otherwise.

I have not yet had the opportunity to undertake a detailed analysis of the records provided by you from Lee Peterson's files. However, based upon a cursory examination at the meeting of June 3rd, I saw no evidence of real property transfer records or approved transfers by the Department of Water Resources for all of the water under right 37-00353. Therefore, I believe a presumption exists that a valid transfer of the water right appurtenant to Mr. Olsen's property did not occur. Unless specific additional relevant documentation is provided which conclusively demonstrates the post-1969 transfers apply to Mr. Olsen's water right, I believe that he is entitled to delivery of that water until the SRBA District Court concludes otherwise.

I am hopeful that the Department's analysis of this issue will produce a speedy conclusion which will allow delivery of water to Mr. Olsen's property in the very near future. Please advise me of the Department's position in this matter as soon as possible, so that I can advise Mr. Olsen of his options.

I will be happy to answer any questions you may have concerning this matter. Please contact me at your convenience.

Very truly yours,

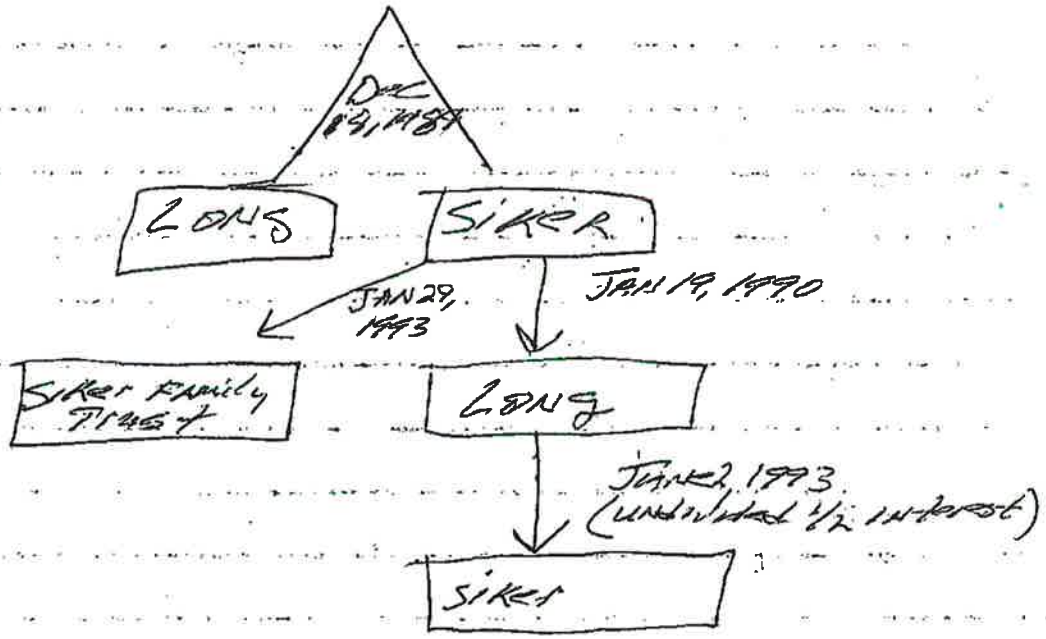
ELAM & BURKE
A Professional Association

Scott L. Campbell

SLC:kp g:\kcc\wpdata\7055\00008
Enclosure

c/enc: Tom Olsen
Sherl Chapman
Allen Merritt
Lee Peterson

STOCKMAN


DEC 23, 1987
LONG
SIKER
JAN 29, 1993
JAN 19, 1990
SIKER FAMILY TRUST
LONG
JUNE 2, 1993 (UNDIVIDED 1/2 INTEREST)
SIKER

Allen Arnaudo
Route 2
Box 2613
Sun Valley
Nev 89433

Wood River Irrigation

I have your bill for 182.45 for water tax including 2 years for the water for Bob Kunstad. I believe there is a mistake on the bill.

Water has been sold as follows.

Jerry Lee Johnson - 20"
Ed Hunter - 20"
Lucas Creek - 20
Bob Kunstad - 40
120

Hailey
Ketchum
Carbonate
Old
74003
Gannett/Ketchum - 320 - 00 balance is 200

plus the 40" back from Kunstad. Also you sent me a bill April 4th of 10.44 for Kunstad which I paid. Your recent bill shows

24th for Knisley for 1978 - is this a duplicate in different amounts ??

also I think for several years since I was not using the water it was distributed among the members & I was not assessed. What happened to that deal? Please advise & I will pay promptly.

M. L. Allen
1306 Benitone
Okla City, Okla
73120

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

BARKER
ROSHOLT
&
SIMPSON
LLP

113 Main Avenue West, Suite 303
Post Office Box 485
Twin Falls, Idaho 83303-0485
(208) 733-0700 telephone
(208) 735-2444 facsimile
jar@idahowaters.com

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brs@idahowaters.com

Paul L. Arrington
pla@idahowaters.com

September 5, 2008

SENT VIA EMAIL (Kelly.Christensen@idwr.idaho.gov)

Kelly Christensen
Sr. Water Resource Agenct
Boise, Western Region

RE: Water Right 37-353G

Dear Kelly:

Thanks for sending the spread sheet over for my review. I have made an initial review of the spread sheet and back file for water right 37-353G. Based on this information, it is clear that an error was made in determining that water right 37-353G was part of the over-claimed portion of the original water right 37-353.

Attached, you will see a spread sheet I created from the information you provided, as well as information from IWATRS, the Department's website and the back file for 37-353G.

- Column 1 is the current claimant of the water right.
- Columns 3-5 are taken directly from your spreadsheet (with the exception of water right 37-21146, which has been split again as indicated on my spread sheet).
- Column 6 is the recommended diversion rate for the water rights. A "D" indicates that the recommendation was for disallowal.
- Column 7 provides a few notes for convenience relative to the splitting of portions of water right 37-353.
- Column 8 provides information gathered from a December 20, 1999, letter from Norm Young to Lee Peterson, Watermaster for Water District 37. In that letter, Mr. Young provided a list of all those water users "listed in the Water District Records as having an ownership interest" in water right 37-353. You will notice that Douglas

Driever, the predecessor in interest to Barbara Barry, is listed as an owner of a portion of water right 37-353. You will also notice that there are several individuals with water rights from 37-353 that are not recognized as owners of record in the letter. The relative water rights are indicated with "NONE" in column 8. You will also notice that, notwithstanding the lack of any ownership records, all but one of these rights has been recommended.

- Columns 9 is pulled from a *Preliminary Order* In the Matter of a Call for Delivery of Water Right No. 37-353 to Olsen Livestock Consultants, Inc. (dated July 25, 1997). There is no indication that this *Preliminary Order* was ever appealed or modified. In that Order, at 2, Mr. Young, acting as administrator, provided a list of "the current owners of water right 37-353." Once again, Mr. Driever was listed as owning 10 inches of water. This is the same 10 inches now owned by Ms. Barry. Again, you will notice that there are water users with recommended 37-353 water rights that were not owners of record at that time.

- Column 10 is also pulled form that *Preliminary Order*. On page 3 of that *Order*, Mr. Young provides a list of all claims to water right 37-353. Again, Mr. Driver is recognized to have claimed 10 inches. Also, again, there are a number of recommended water rights for 37-353 water that were not recognized to have claims as of 1997. The total of the claims recognized in the 1997 *Preliminary Order* equals 303.5 inches – much less that the 320 inches decreed under the original 37-353 water right.

It appears there has been an error in determining that Ms. Barry's water right is a portion of the excess claimed water right.

I understand from our conversation that Ms. Stanton conducted the field exam and recommended that water right 37-353G be disallowed, at least in part, because there was no record of delivery to Mr. Driever by the water district. This would make sense, since Ms. Barry purchased the property in 2000. However, the name was not changed on the water right until just a few months ago.

Please review this information. I will contact you in the next week or so to discuss further.

Yours truly,
/S/
Paul L. Arrington

PLA/jf

Encs.

cc: Barbara Barry

State of Idah
DEPARTMENT OF WATER RESOURCES
1301 North Orchard Street, P.O. Box 83720, Boise, Idaho 83720-0098
Phone: (208) 327-7900 FAX: (208) 327-7866

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

December 20, 1999

RECEIVED
DEC 28 1999
Department of Water Resources
Southern Region

Lee Peterson, Watermaster
Water District 37
P.O. Box P
Shoshone, Idaho 83352

Re: Assessment of Claims to Right No. 37-00353 (Frost Decree – James Johnson)

Dear Lee:

You have requested guidance from the Department of Water Resources on which claimants to parts of Right No. 37-00353 should be included in the Water District 37 "Decree Book." Claims to various parts of the right have been filed in the Snake River Basin Adjudication. The claims, in total, exceed the decreed amount of the right. Some of the new claimants were not previously identified in the Water District records as having an ownership interest in the water right and have not been previously assessed by the Water District. Some of the claimants not previously identified in the Water District's records have called for water delivery based upon their claims. It is my understanding that the right is delivered by the Water District to the head of the District 45 canal along which most of the claimants are located. Because the Water District does not control delivery from the canal, your records do not verify use of water under the rights by the claimants.

Based upon this understanding Water District 37 should include in its Decree Book each of the water users claiming a part of Right No. 37-00353 that have demonstrated a probable ownership. Those having a probable ownership in the right include:

a. Water users listed in the Water District Records as having an ownership interest. These include:

1. Gardner	180 inches
2. Fosnot	20 inches
3. Grigsby (formerly Bick)	20 inches
4. Kantenwein	10 inches
5. Oppenheimer	20 inches
6. Stricker	20 inches
7. Driever	10 inches

It is my understanding that the Water District Records also at one time listed Robert Keirstad as the owner of 40 miners inches. Because Mr. Keirstad has not filed a claim in the SRBA, the county records cast doubt on his continued ownership of any of the right, and he has not called for water for many years, I suggest that Mr. Keirstad not be listed in the Decree Book until these issues are resolved.

b. Claimants not previously listed in the Water District records which have now filed a claim in the SRBA and for which IDWR has entered a preliminary order in response to a petition for distribution by the watermaster. Olsen Livestock Consulting falls into this category.

Other claimants who have not demonstrated a probable ownership to a part of the right, even though they have claims pending in the SRBA, should not be include in the Decree Book until such time as the court confirms their right or IDWR has entered a preliminary order recognizing, at least for the interim period prior to action by the court, that a probable ownership exists by the claimant. The claims filed by Ziker, Price, and Goicoechea are in this category. Ziker has a pending petition calling for distribution of water and has supplied some ownership information. If an order to deliver results from the petition, Ziker should then be included in the Decree Book.

At this time the claimants calling for water that have demonstrated a probable ownership in the right do not exceed the amount of the right. It is easy to see that this will not be the case if all existing claimants call for delivery of water. The preliminary order entered in response to the Olsen Livestock Consulting petition indicates that the amount of water would be prorated among all the claimants if others demonstrate probable ownership to the amounts they are claiming. It is important that all claimants be advised of petitions calling for water under the new claims to allow them to participate in administrative actions. IDWR will provide copies of all preliminary orders to all claimants. Action to resolve the matter in the SRBA is still off in the future because the preliminary Director's Report for Basin 37 is scheduled to be available in December 2002.

Sincerely,

Norman C. Young
Administrator
Water Management Division

A37-00353	BICK, J KARL	C	06/12/1886	D/	BIG	WOOD	RIVER	1 IRR
	BICK, JUDITH G	C						4 STOCK
A37-00353A	SPLIT RIGHT,	C	06/12/1886	/Z	BIG	WOOD	RIVER	1 IRR
					SPL	IT RI	GHT	
A37-00353B	STRICKER, EDWARD W	C	06/12/1886	D/	BIG	WOOD	RIVER	1 IRR
	STRICKER, JEANNINE	C						4 STOCK
A37-00353C	SPLIT RIGHT,	C	06/12/1886	/Z	BIG	WOOD	RIVER	1 IRR
					SPL	IT RI	GHT	
A37-00353D	GARDNER, ROBERT	C	06/12/1886	D/	BIG	WOOD	RIVER	1 IRR
	GARDNER, KATHRYN	C						
A37-00353E	OPPENHEIMER JR, HARRY	C	06/12/1886	D/	BIG	WOOD	RIVER	1 IRR
A37-00353F	ZIKER TRUSTEE, RICHARD	C	06/12/1886	D/	BIG	WOOD	RIVER	1 IRR
	ZIKER TRUSTEE, PAULA	C						
[illegible]	DRIEVER, DOUGLAS	C	06/12/1886	D/	BIG	WOOD	RIVER	1 IRR
A37-00353H	KANTENWEIN, REID	C	06/12/1886	D/	BIG	WOOD	RIVER	1 IRR
A37-00353J	OLSEN LIVESTOCK CONSUL	C	06/12/1886	D/	BIG	WOOD	RIVER	1 IRR
A37-00353K	PRICE, SHERRY	C	06/12/1886	D/	BIG	WOOD	RIVER	1 IRR
	PRICE, BRUCE	C						
A37-00353L	GOICOECHEA, TOM	C	06/12/1886	D/	BIG	WOOD	RIVER	1 IRR
	GOICOECHEA, ANNETTE	C						

fm Dec 9, 1999 Norm to Lee

From Prelim order Pg 2 item 4

From Prelim order Pg 3 item 7

1	3	4	5	6	7	8	9	10
Claimant	**WR # 37-**	**Suffix**	**Div. Rate**	**Rec.**	**Notes**	**12/20/99 Ltr**	**7/24/97 Order - Ownership**	**7/24/97 Order - Claims**
Grigsby	353		0.4	0.4		Gribsby = 20 inces	Bick = 20 inches	Bick = 20 inches
Arrington	353	B	0.4	0.4		Stricker = 20 inches	Stricker = 20 inches	Stricker = 20 inches
Gardner	353	D	3.6	3.6		Gardner = 180 inces	Gardner = 180 inches	Gardner = 180 inches
Van Der Meulen	353	E	0.4	0.4		NONE	Oppenheimer = 20 inches	Oppenheimer = 20 inches
Oosting	353	F	0.2	0.16		NONE		Long = 10 inches
Barry	353	G	0.2	D		Driever = 10 inces	Dreiver = 10 inches	Dreiver = 10 inches
Benson	353	H	0.2	0.2		Kantenwein = 10 inches	Kantenwein = 10 inches	Kantenwein = 10 inches
Olsen Livestock	353	J	0.4	0.32		NONE		Olsen = 13.5 inches
Fisher	353	K	0.36	0.28		NONE	NONE	NONE
Goicoechea	353	L	0.36	0.28		NONE	NONE	NONE
Gower	21146		0.11	0.11	11688 split to create 21145 & 21146	Fosnot = 20 inces	Fosnot = 20 inches	Fosnot = 20 inches
Turco	20348		0.2	D		NONE	NONE	NONE
Fosnot	22042		0.04	D	21145 split to create 22042 & 22043	Fosnot = 20 inces	Fosnot = 20 inches	Fosnot = 20 inches
James Super	22043		0.25	0.25	21145 split to create 22042 & 22043	Fosnot = 20 inces	Fosnot = 20 inches	Fosnot = 20 inches
							Kierstad = 40 inches	
TOTALS			**7.12**	**6.4**	**Original 37-353 decreed for 6.4 cfs or 320 inches**	**260 inches**	**320 inches**	**303.5 inches**

OBJ

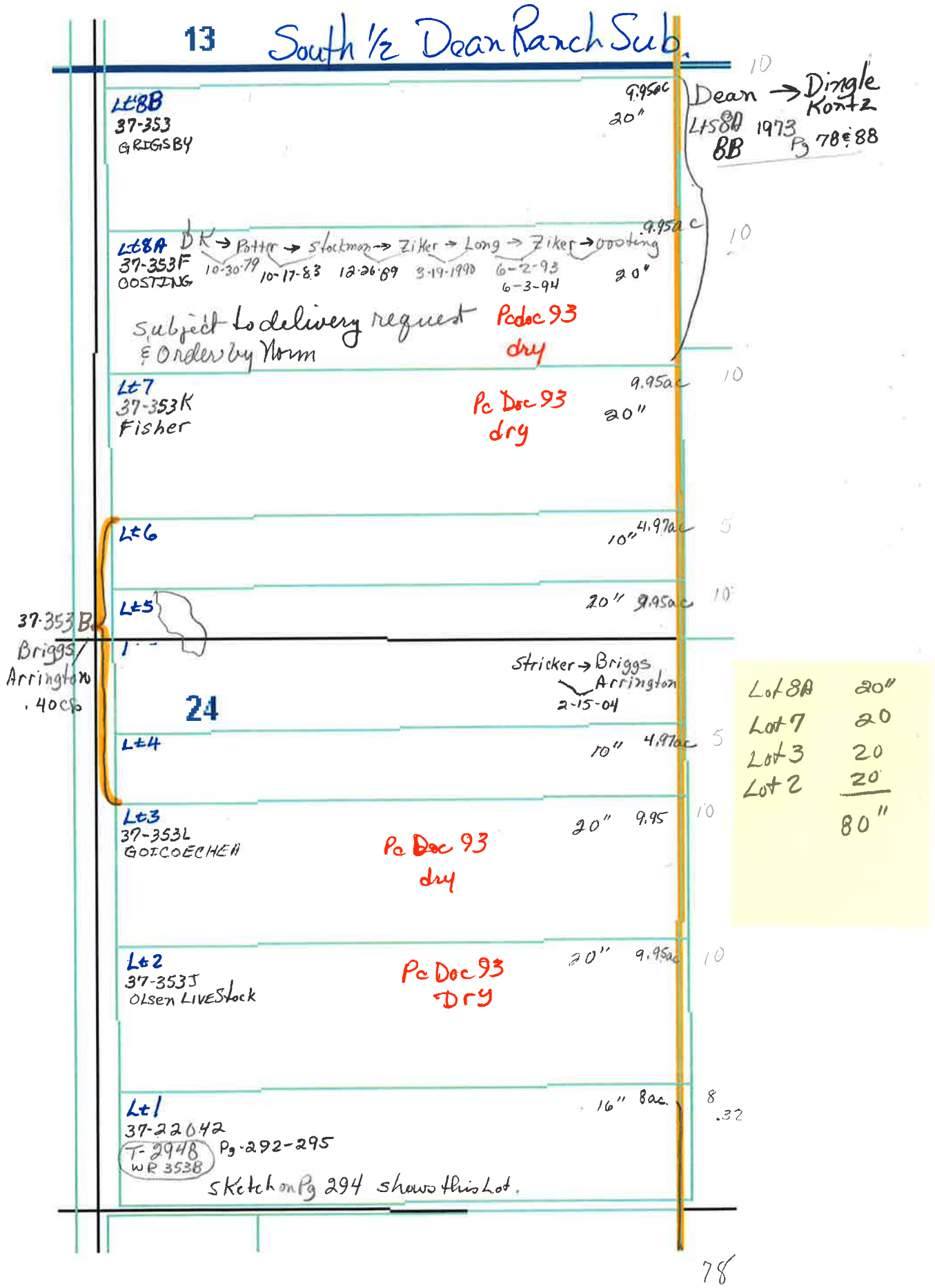
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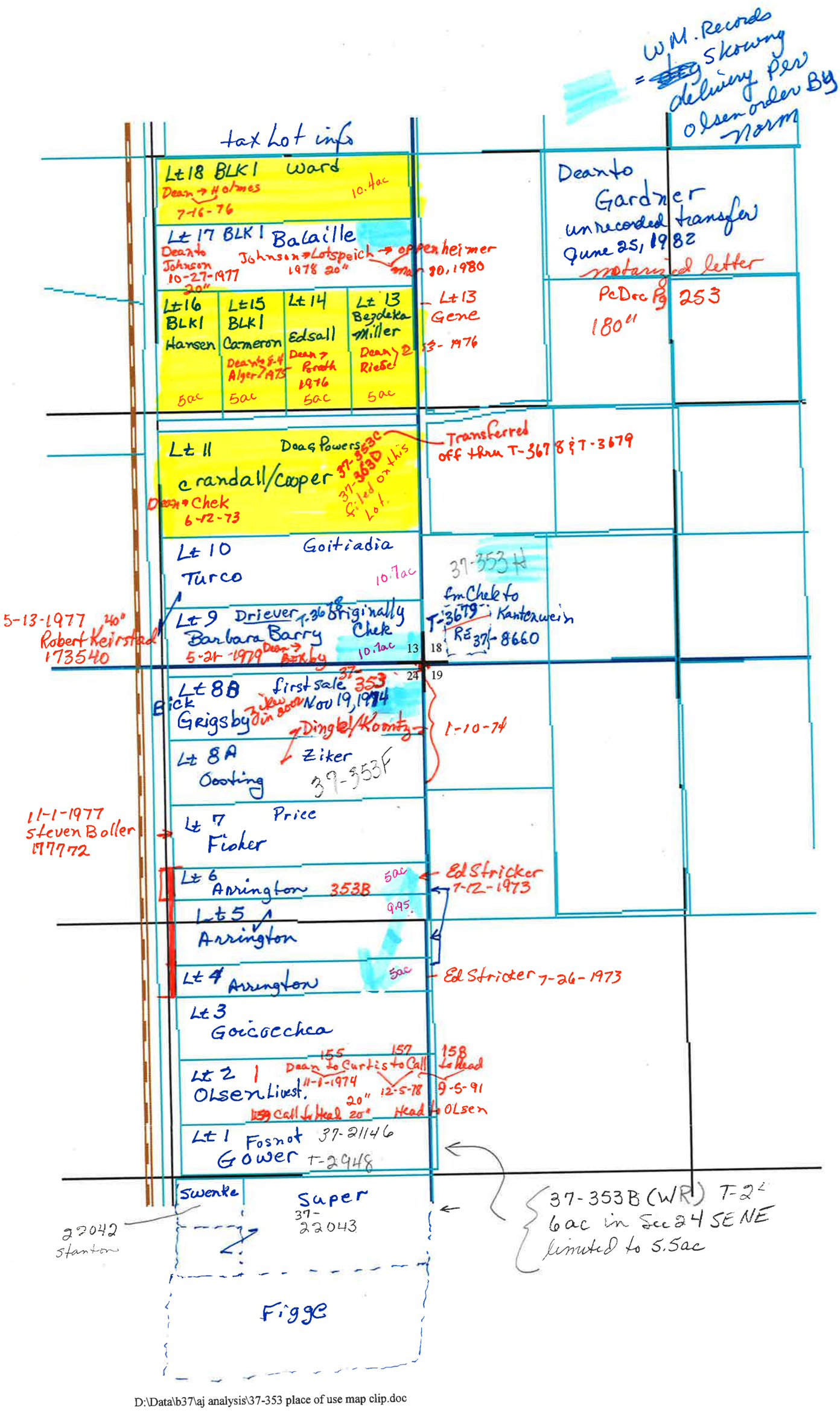
T 2948

T 2948

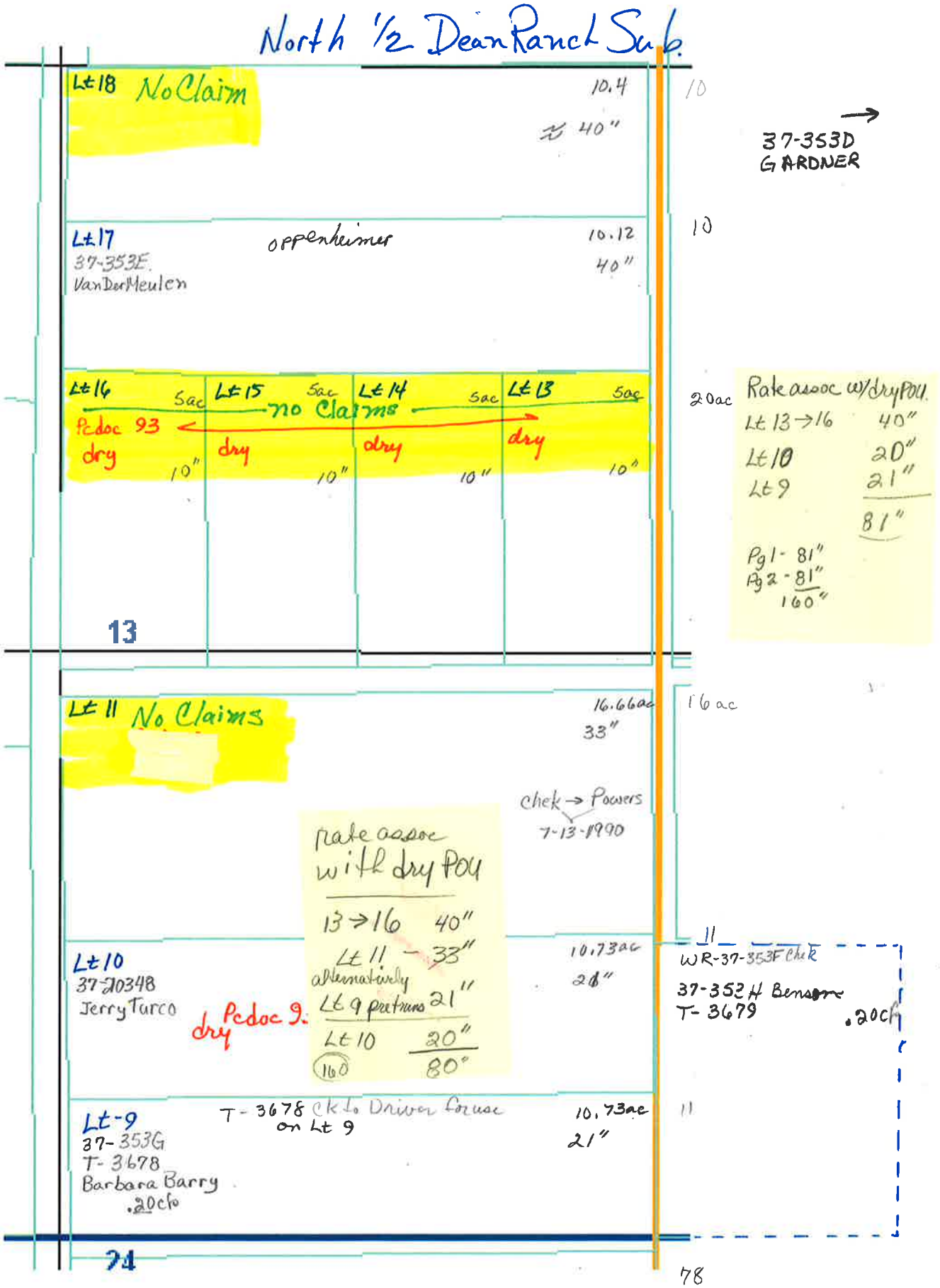
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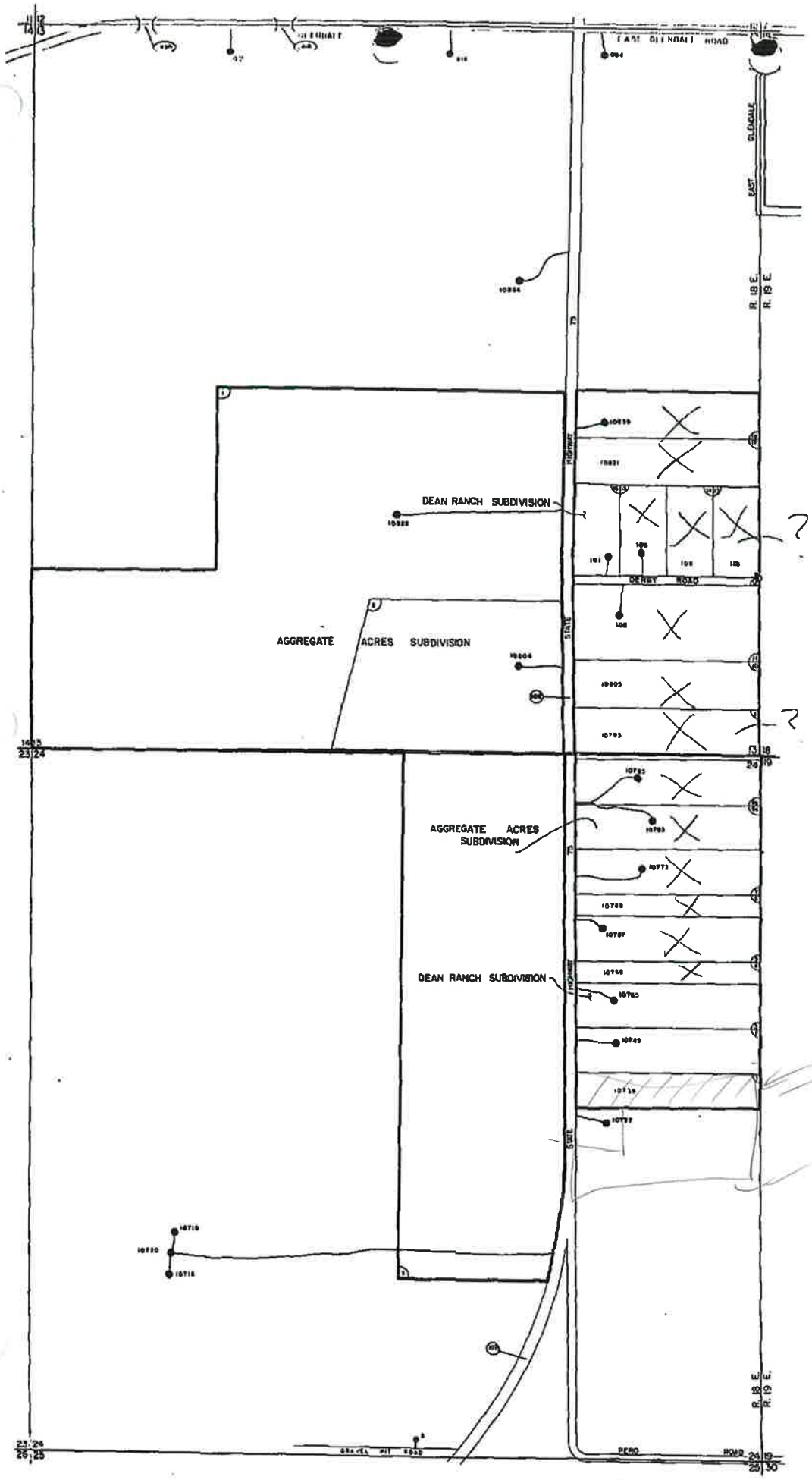
* Fosnot 20" total


13
South ½ Dean Ranch Sub.
Lt8B
37-353
GRIGSBY
9.95ac
20"
10
Dean → Dingle Kontz
Lt8B 1973 Pg 78 & 88
Lt8A
37-353F
OOSTING
DR → Potter → Stockman → Ziker → Long → Ziker → Ooosting
10-30-79 10-17-83 12-26-89 3-19-1990 6-2-93 6-3-94
9.95ac
20"
10
Subject to delivery request & Order by Norm
Pc Doc 93
dry
Lt7
37-353K
Fisher
Pc Doc 93
dry
9.95ac
20"
10
Lt6
10"
4.97ac
5
Lt5
20"
9.95ac
10
37-353B
Briggs/
Arrington
.40cfs
Stricker → Briggs
Arrington
2-15-04
24
Lt4
10"
4.97ac
5
Lt3
37-353L
GOICOECHEA
Pc Doc 93
dry
20"
9.95
10
Lt2
37-353J
Olsen Livestock
Pc Doc 93
Dry
20"
9.95ac
10
Lt1
37-22042
T-2948
WR 3538
Pg-292-295
Sketch on Pg 294 shows this Lot.
16"
Bac.
8
.32
Lot 8A 20"
Lot 7 20
Lot 3 20
Lot 2 20
80"
78



D:\Data\b37\aj analysis\37-353 place of use map clip.doc


North ½ Dean Ranch Sub.
Lt 18 No Claim
10.4
≈ 40"
10
37-353D
GARDNER
Lt 17
37-353E
VanDerMeulen
oppenheimer
10.12
40"
10
Lt 16 5ac
Lt 15 5ac
Lt 14 5ac
Lt 13 5ac
no Claims
Pcdoc 93
dry 10"
dry 10"
dry 10"
dry 10"
20ac
Rate assoc w/dry Pcu
Lt 13→16 40"
Lt 10 20"
Lt 9 21"
81"
Pg 1 - 81"
Pg 2 - 81"
160"
13
Lt 11 No Claims
16.66ac
33"
16 ac
chek → Powers
7-13-1990
rate assoc with dry Pcu
13→16 40"
Lt 11 33"
alternatively
Lt 9 pretrans 21"
Lt 10 20"
160
80"
Lt 10
37-20348
Jerry Turco
dry Pcdoc 9
10.73ac
28"
11
WR-37-353F Chk
37-352H Benson
T-3679
.20cfs
Lt-9
37-353G
T-3678
Barbara Barry
.20cfs
T-3678 ck to Driver for use on Lt 9
10.73ac
21"
11
24
78



Lots deeded from M.D. Dean direct

Pc Doc Pg 105

Deed M.D. → Robert Keivstad 173540
5/13/1977 (Lot 9)
with Remnt.

Deed M.D. → Stephen Boller 177772
11/1/1977 All of Lot 7

Deed M.D. → Gene Sr. & conflict with entry 178210
11/18/1977 Lot 13 excepting next page
mineral & water rights

Deed M.D. → Jerry Lee Johnston 178471
11/30/1977 Lot 17 with
20" 1886 water

Deed M.D. → Dennis J. & Craig 180200
2/6/1978 (Lot 10)

~~Deed M.D. → Gene W. Rose 185947~~
~~7/27/1978~~

Deed M.D. → Stephen W. Boller 195384
9/5/1972 Part Lot 7

Deed M.D. → Edward Stricker 139960
8/17/1977 (Lot 5)

Pc D.c Pg 106

Deed M.D. 5/21/1975	⇒	Stephen Bixler Lot 9 Blk 1	193 513 ✓ Restriction with Apport
Deed M.D. 6/12/1973	⇒	Gus Chak (Lot 11)?	149 678 ✓ with Apport.
Deed M.D. 7/12/1973	⇒	Edward Stricker (Lot 6)	150.132 with Apport
Deed M.D 7/26/1973	⇒	Edward Stricker (Lot 4)	150287 with Apport
Deed M.D 1/10/1974	⇒	M Allyn Diesel & Koontz (Lot 8A & 8B)	152658 with Apport
Deed M.D. 2/26/1974	⇒	Tokays Manville Ida. Inc.	153261
Deed M.D. 12/9/1974	⇒	Charles Curtis 6/12/1886 20" Quit Clm Apport to NE Sec 24	157341
Deed M.D. 8/4/1975	⇒	James D Alger (Lot 15)	161098 with Apport
Deed M.D. 2/13 1976	⇒	Robert Riese (Lot 13)	164 512 ? conflict with prev page
Deed M.D. 7/16/1976	⇒	John R. Holmes, Jr (Lot 18)	167 107 with Apport
Deed M.D 10/7/1976	⇒	Robert J. Povetko (Lot 14)	168 841 with Apport

PcDoc Pg 107

367424 - Evans → Goitia-diz
6/20/1994 - ink - Appr.

321682 - Gas Chek → Douglas Powers
7/10/1990 - Together with 16" of 1883 water

296703 - Oppenheimer → Oppenheimer
7/26/1984

PcDocPg 108

12/15/1968

8/17/1971
Adm to Dec

Pe Doc Pg 109

394495 — Deed to Olsen — (169670 Plat)
9/25/1996 — with Apport. — Deer Subdivision
Doc#9,59 - Lot 2 — No mention of water on plat.

218862 — Grant to Russell — 149262
8/20/1981 — with Apport. — 5/15/1973

149263 — Deed to Grant
5/7/1973 — with Apport

150132 — Deed to Strickler — Parcel "A"
11/27/1972 — with Apport.

150287 — Deed to Strickler
11/27/1972 — with Apport.

266607 — Title of Trust → First Security Bank — 177772
9/13/1985 — Deed → Boller
11/1/1977 — with Apport.

351275 — Zilker → trust — 197927
3/30/1993 — Amended Plat
Split lot 8

216421 — Peterson → Peterson
6/23-81

358776 — Peterson → Dick
11/4/1993 — with Apport.

265670 — Bixler → Bixler
7/21/1985

292661 – 663 — group → Driever
2/11/1988

Pc Doc 110

RECEIVED
JUN 09 1997
Department of Water Resources
Southern Region

WARRANTY DEED

For Value Received

M D. DEAN and KATHERINE DEAN, husband and wife

Hereinafter called the grantor, hereby grants, bargains, sells and conveys unto

CHARLES A. CURTIS and DEBRA ANNE CURTIS, husband and wife
2654 University Heights, Apt G, Boise Avenue, Boise, Idaho 83706
Hereinafter called the grantee, the following described premises, in .....Blaine..... County, Idaho, to-wit:

Township 1 North, Range 18 East, B.M., Blaine County, Idaho

Section 24: A parcel of land in the NE¼, more particularly described as follows:

Commencing at a one-inch pipe marking the Northeast corner of said Section 24;
thence South 0°31'00" East 2,010.85 feet along the East boundary of said Section 24, to an iron pin marking the REAL POINT OF BEGINNING;
thence continuing South 0°31'00" East 330.00 feet along said East boundary to an iron pin;
thence South 89°29'00" West 1,313.25 feet to a point on the East boundary of U.S. Highway No. 93;
thence North 0°31'00" West 330.00 feet along said East boundary of U.S. Highway No. 93;
thence North 89°29'00" East 1,313.25 feet to the point of beginning.

Lt 2

AND

Township 1 North, Range 18 East, B.M., Blaine County, Idaho

Section 24: A parcel of land in the SE¼NE¼, more particularly described as follows:

Commencing at the Northeast corner of said Section 24;

Lt 1

see attached

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantee and to the Grantee's heirs and assigns forever. And the said Grantor does hereby covenant to and with the said Grantee, that the Grantor is the owner in fee simple of said premises; that they are free from all incumbrances except as described above and that Grantor will warrant and defend the same from all lawful claims whatsoever.

TO Bk 156 Pg

Dated: November 1, 1974

M. D. Dean

Katherine Dean

STATE OF , COUNTY OF
On this 8TH day of November, 1974 before me, a notary public in and for said State, personally appeared

M. D. Dean and Katherine Dean, husband and wife

known to me to be the person s whose name s are subscribed to the within instrument, and acknowledged to me that they executed the same.

Notary Public
Residing at Hailey, Idaho
Comm. Expires 11-14-1977.

STATE OF IDAHO, COUNTY OF Blaine
I hereby certify that this instrument was filed for record at the request of Sawtooth title Co
at 45 minutes past 1:00 o'clock P m. this 9 day of December 1974 in my office, and duly recorded in Book of Deeds at page

Ex-Officio Recorder

By Deputy.

Fees $ 3.00
Mail to:

Dean to Curtis
Lts 1 & 2
Recorded Nov 8, 1974
Pc Doc Pg 155

Lt 1

thence South 0°31'00" East 2,340.85 feet along the East boundary of said Section 24 to an iron pin marking the REAL POINT OF BEGINNING;

thence continuing South 0°31'00" East 247.09 feet along said East boundary to an iron pin marking the East ¼ corner of said Section 24;

thence South 89°40'30" West 1,313.26 feet along the South boundary of said SE¼NE¼, Section 24, to an iron pin on the East boundary of U.S. Highway No. 93;

thence North 0°31'00" West 262.70 feet along said highway to an iron pin;

thence North 89°29'00" East 1,313.25 feet to the point of beginning.

Pg Doc Pg 156

Mr. Reynolds
R.R. Wood River Irrigation

I have your bill for 182.43 for water tax including 2 years for the water for Bob Kunstad. I believe there is a mistake on the bill.

Water has been sold as follows.

Harry Kuhlmann Jr. Box 2613 Sun Valley — Charles Curtis Lt 2 — 20" to Robert Fossett
Olsen Livestock 3535
Lt 17 37-353E
Jerry Lee Johnson — 20"
Lt 4,5,6 31-353
Ed Stuckey — 20"
split thru transfers 353G 353H
Geo Chick — 20 Assume transfer Lt 11 & trans to Sec 18 SWSW
dry@claims
Bob Kunstad — 40 assume Lt 9

120

14003
Carlinville/Kad - 320 - 00 balance is 200

plus the 40" back from Kunstad.

Also you sent me a bill April 4th of 10.44 for Kunstad which I paid. Your recent bill shows

PcDoc Pg249

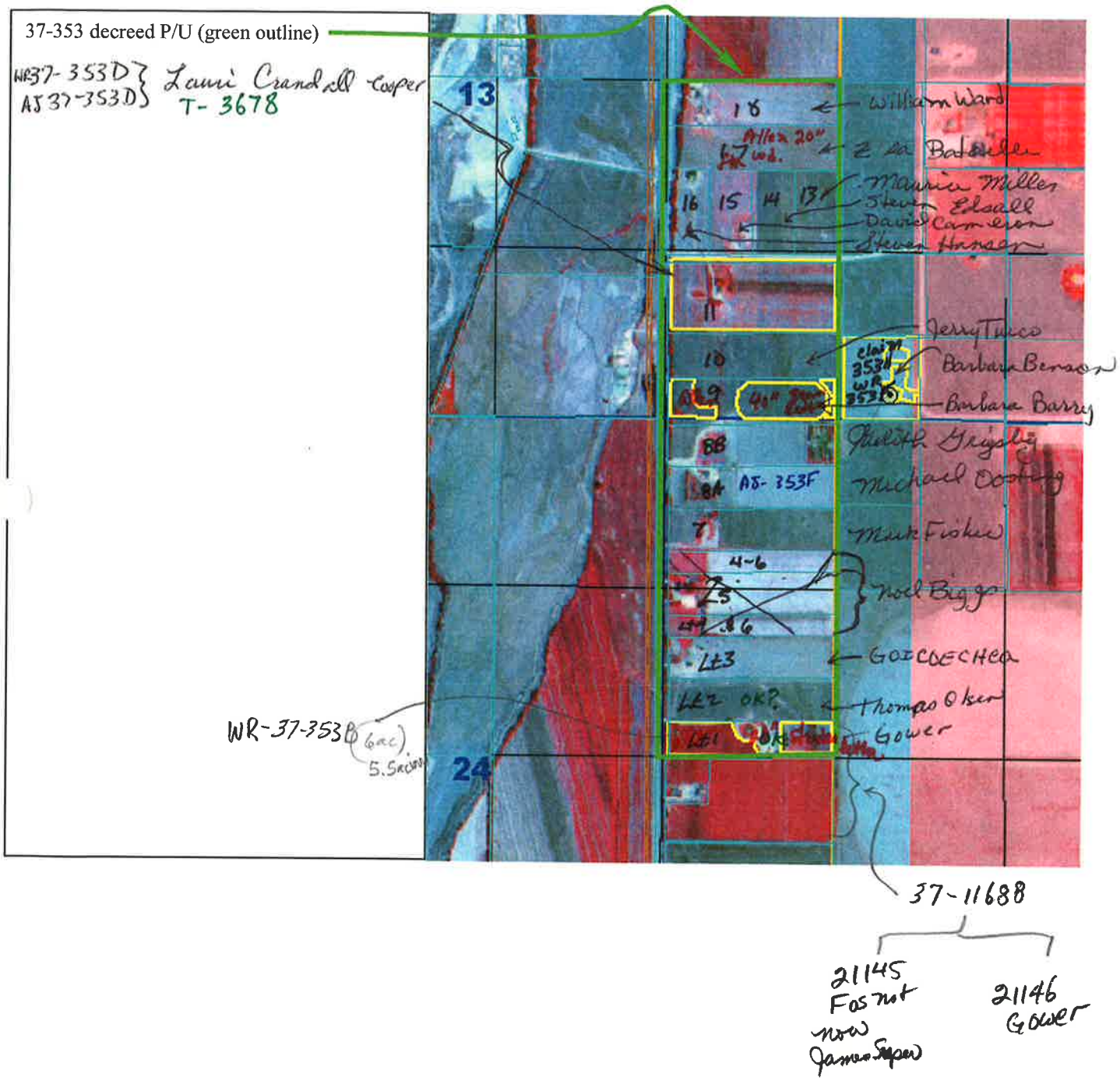
24th for Trustee for 1978 - is this a duplicate in different amounts ??

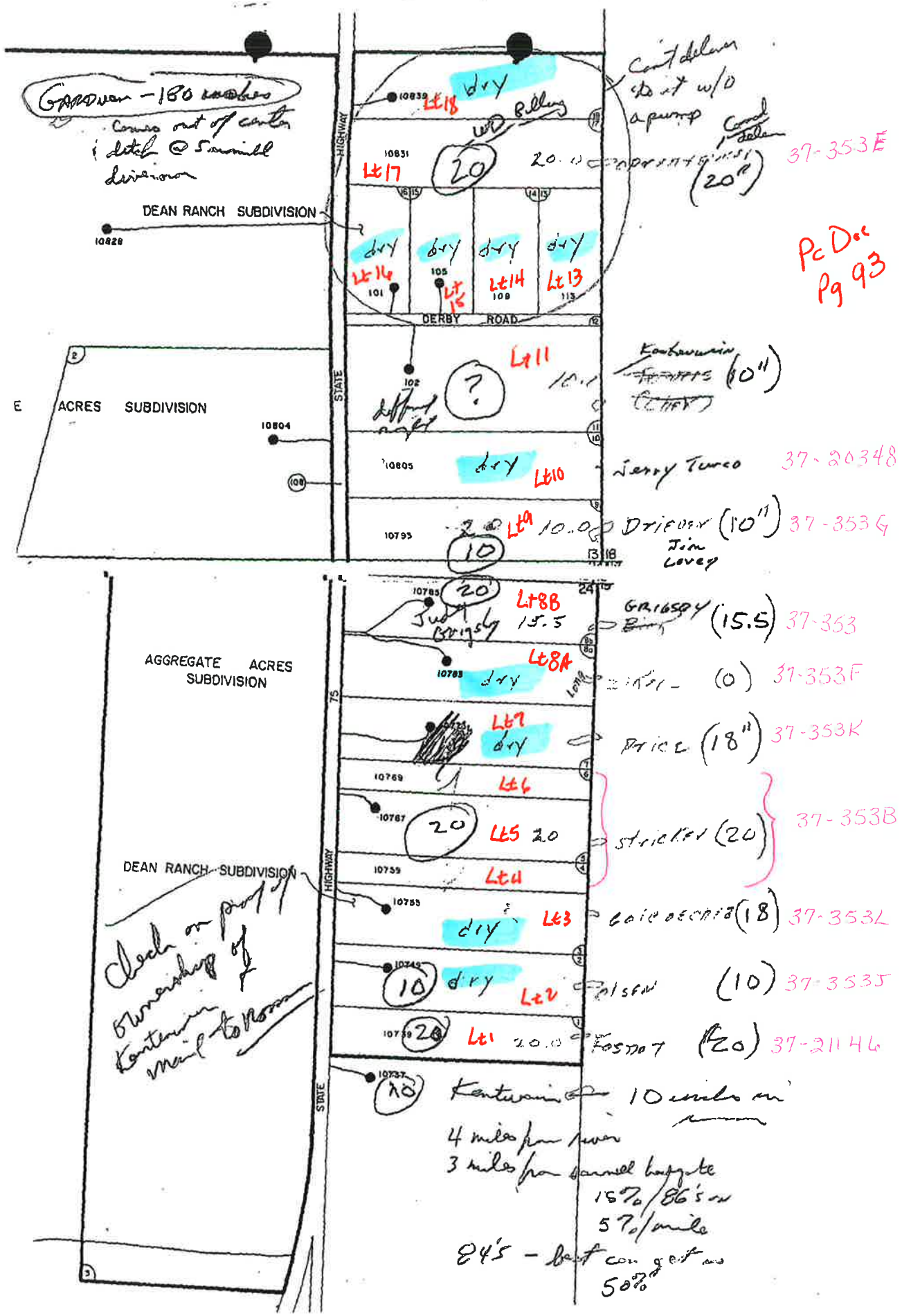
also I think for several years since I was not using the water it was distributed among the members & I was not assessed. What happened to that deal? Please advise & I will pay promptly.

M. L. Allen
11306 Benttree
Okla City, Okla
73120

Pcdoc Pg250

DEAN RANCH SUBDIVISION




Gardner - 180 inches
Comes out of canal ditch @ Sawmill diversion
DEAN RANCH SUBDIVISION
10828
10839
Lt 18
dry
WD Billing
10831
Lt 17
20
20.0
Conf delivers to it w/o a pump
Good delivery
(20")
37-353E
PC Doc Pg 93
HIGHWAY
dry
Lt 16
101
105
Lt 15
Lt 14
109
Lt 13
113
DERBY ROAD
Lt 11
?
10.1
Kantewan
(10")
(CHEV)
E ACRES SUBDIVISION
10804
10805
Lt 10
Jerry Turco
37-20348
STATE
10795
Lt 9
10.0
Driver (10")
37-353G
Jim Lovey
10
10785
20
Lt 8B
15.5
GRIGSBY
(15.5)
37-353
Judy Grigsby
10783
Lt 8A
dry
(0)
37-353F
AGGREGATE ACRES SUBDIVISION
Lt 7
dry
Price (18")
37-353K
10769
Lt 6
10767
20
Lt 5
2.0
Strickler (20)
37-353B
10759
Lt 4
DEAN RANCH SUBDIVISION
10755
Lt 3
dry
Cole Descrip (18)
37-353L
HIGHWAY
Check on proof of ownership of Kantewan main to Rose
10745
10
dry
Lt 2
Olsen
(10)
37-3535
10739
20
Lt 1
20.0
Fosdot
(20)
37-21146
75
10737
10
Kantewan
10 miles in
4 miles from river
3 miles from Sawmill Lateral
15% / 86's in
5%/mile
84's - best can get is
50%

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

WATER DISTRICT NO. 37 & 37 M
P.O. Box T
Shoshone, Idaho 83352
(208) 886-2451

RECEIVED
APR 0 9 1999
Department of Water Resources

LEE R. PETERSON
Watermaster

April 6, 1999

Norm Young
IDWR
1301 North Orchard St.
P O Box 83720
Boise, Idaho 83720-0098

RE: Water Right 37-00353

Dear Norm:

We are writing once again for direction as to how to enter the information in our decree book. The ditch rider, for Dist 45 Canal Co., uses the District 45 section of this book to determine how much water to deliver and to whom. The water right 37-00353 originally decreed, by the Frost Decree, to James Johnson was decreed for 320 inches, 6.40 CFS. On the chart I have enclosed you will note that this water right is now over allocated. We need guidance from the Department as to how to handle this matter.

At your earliest convenience please drop us a line and let us know what to do.

It seems people are coming out of the woodwork to claim a portion of this right, since the Tom Olson matter.

Thank you for your help.

Sincerely,

Norma Peterson

Norma Peterson
Secretary/Treasurer

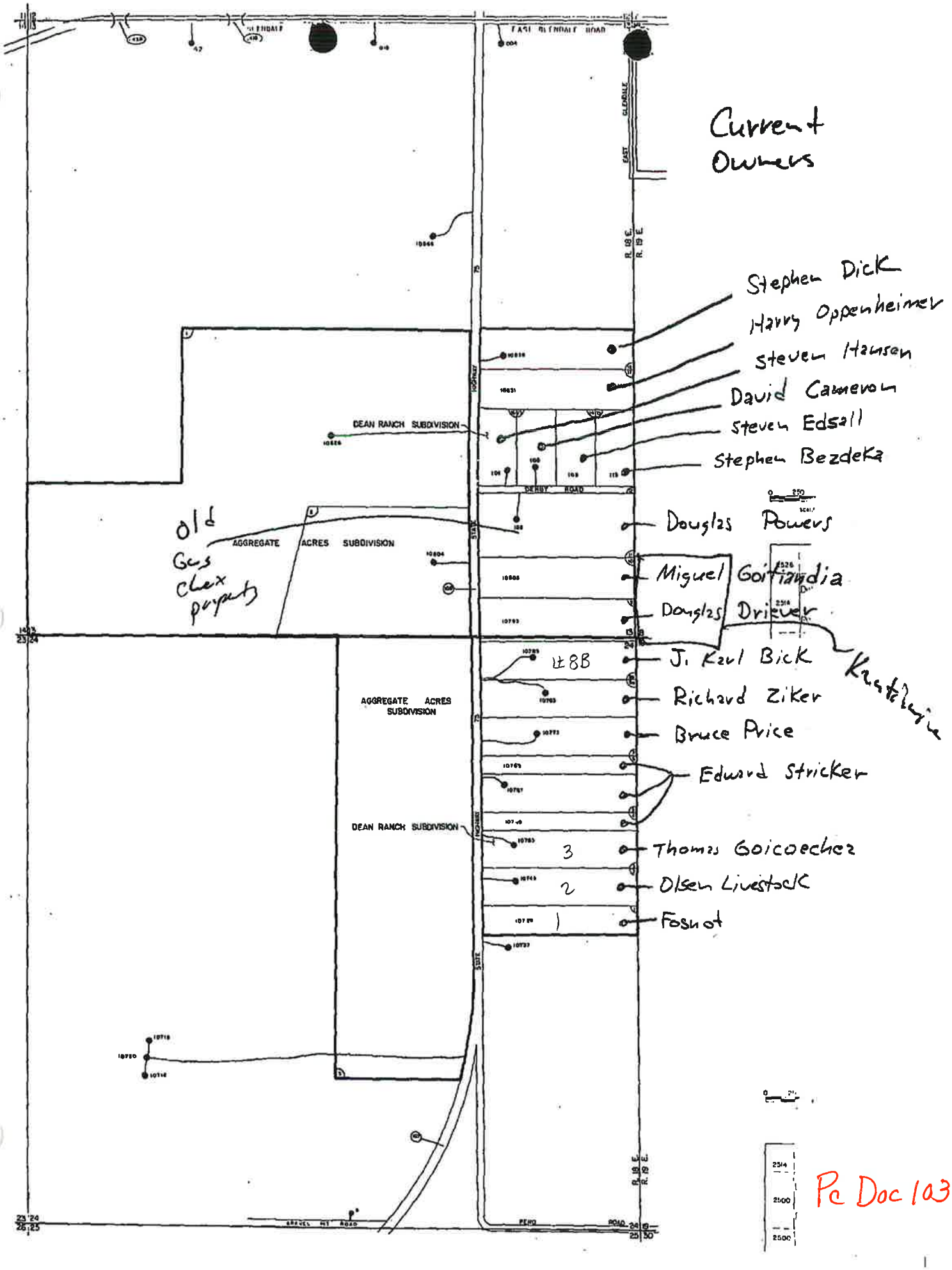
Pc Doc 101

WATER RIGHT 37-0353 ORGINALLY DECREED TO JAME JOHNSON

DATE 6/12/1886 320 Inches 6.40 CFS

	NAME	PROOF OF OWNERSHIP	AJ NO	INCHES	CFS
T-3678 Lt 9	Douglas Driever T-	None	A37-00353G	10	0.20
Lt 1	Robert Fosnot	Deed	A37-00353B	20	0.40
Agree transfer	Robert Gardner	Notarized Letter	A37-00353D	180	3.20
Lt 8B	J Karl Bick/ Judith Grigsby	Deed	A37-00353	20	0.40
Lt 3	Tom Goicoechea	Deed Coming	A37-0353L	18	0.36
T-3679 to Sec 18	Reid Kantewein	Receipt of Purchase	A37-00353H	20	0.40
Lt 8A	William R. Long	None	A37-00353F	10	0.20
Lt 2	Tom Olson	Deed	A37-00353J	20	0.40
Lt 17	Harry Oppenheimer	Deed	A37-0353E	20	0.40
Lt 7	Bruce Price		A37-0353K	18	0.36
Lts 4,5,6	Ed Stricker	Letter	A37-00353B	20	0.40
				356	6.72

PcDoc 102


Current Owners
Stephen Dick
Harry Oppenheimer
Steven Hansen
David Cameron
Steven Edsall
Stephen Bezdeka
Douglas Powers
Miguel Goitiandia
Douglas Driever
J. Karl Bick
Richard Ziker
Bruce Price
Edward Stricker
Thomas Goicoechea
Olsen Livestock
Fosnot
Kraftheim
DEAN RANCH SUBDIVISION
DERBY ROAD
AGGREGATE ACRES SUBDIVISION
old Gas Clex property
EAST GLENDALE ROAD
R. 18 E.
R. 19 E.
Pc Doc 103

Current Owners Dec.

Foshot	8.0 Ac.	
Olsen	9.95 Ac.	394945, 332486
Goicoechea	9.95 Ac.	229996 3, 218862
Stricker	4.97 Ac. Ct 4 4.97 Ac Ct 6	150132, 150287
Stricker	9.95 Ac. Ct 5	
Price	9.95 Ac.	372333, 271824, 266607
Ziker (Long)	9.95 Ac.	351275, 367096, 353904
Bick	9.95 Ac.	358776, 216421
Driever	10.73 Ac.	29266 1-63, 265670
Goitiandia	10.73 Ac.	367424
Powers (Chex)	16.66 Ac.	321682
Bazdek 2	5.0 Ac	384555, 310532, 286779-0
Edsall	5.0 Ac.	336002, 334616
Cameron	5.0 Ac.	
Hansen	5.0 Ac.	261036, 218550
Oppenheimer	10.12 Ac.	296703
Dick	10.4 Ac.	298901, 229148

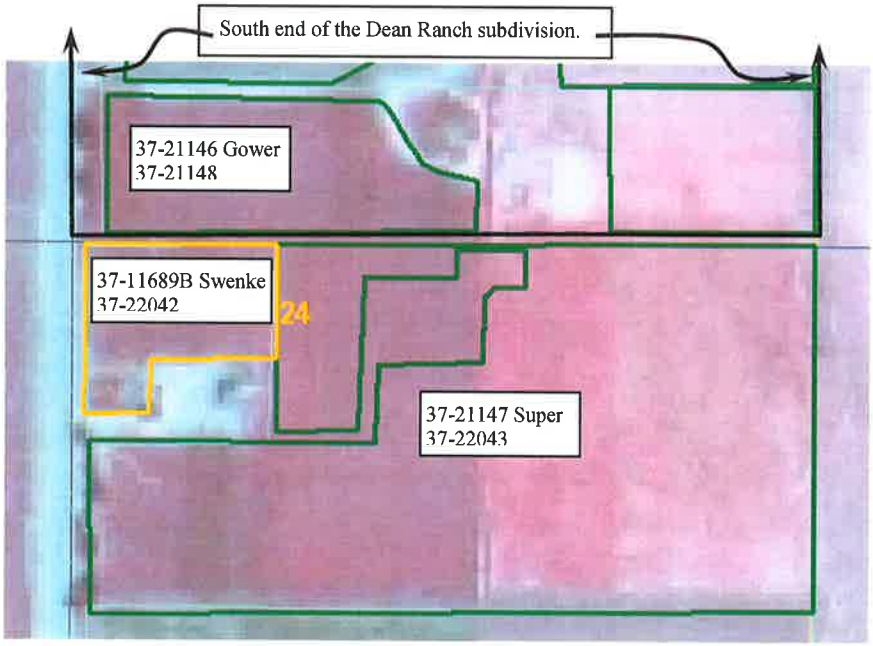
Pc Doc 104

SYSTEM REVIEW FOR
Claims against Base right 37-353, 37-21146, 37-22042, and 37-22043
Claims against Base right 37-665, 37-11689B, 37-21147, and 37-21148

Claims associated with 37-353 are based upon T-2948 which established 0.40 cfs on 5.5 acres within Lot 1 of the Dean Ranch Subdivision.

Claims associated with 37-665 are based upon T-2949 which established 1.00 cfs on 18.5 acres within Sec 24 N½NESE. That ground was not a part of the Dean Ranch Subdivision or a part of the historical decreed POU for 37-353.

Both transfers were approved on April 3, 1984.



As the transfers established an acre limit for each historic parcel, any subsequent unrecorded transfer will be limited to the established acreage. This acre limit needs to be split proportionately according to ownership to prevent enlarging the transferred POUs. Calculations follow below.

Fosnot filed claims 37-11688 and 37-11689 both for 27.9 acres associated with the ground shown to the right.

37-11688 was filed against base right 37-353. That right was subsequently split through ownership changes as shown in the pedigree tree below.



The first ownership change submitted was by Gower which identified .11 cfs on 7.9 ac being associated with Lot 1 of the Dean Ranch Subdivision 37-21146). The balance of .29 cfs was associated with ground in Sec 24 NESE (37-21145). Super filed a change of ownership 12-04-06 and identified 0.23 cfs as his share of 37-21145. The right was ultimately split based upon a proportional acreage basis 17.3 ac /20 ac * 0.29 cfs = 0.25 cfs on 17.3 ac (37-22043). The remainder is 0.04 cfs for 2.7 ac for Fosnot (37-22042). Fosnot no longer owns land in the claimed area. Swenke was added to claim (37-22042) as a present owner as he was the only other land owner in this area. This claim probably should be recognized as valid and associated with the Swenke property.

37-11689 was filed against base right 37-665. On 5-11-1995 the department received a change of ownership from Fosnot to Miller for a 2.7 acre parcel. The warranty deed specified 6.875 inches of 37-665. 37-11689 was split into 37-11689A and 37-11689B On October 5, 2000 Swenke submitted a change of ownership and the attached warranty deed described the same lot and the 6.875 inches of 37-665 for 37-11689B. On July 23 2003 Gower purchased lot 1 (7.9 ac) of the Dean Ranch Subdivision. The change of ownership and warranty deed only identified appurtenances; therefore 37-11689A was split on a proportional basis. 37-11689A was split into 37-21147 for Super and 37-21148 for Gower.

Currently the only objection filed against this group is by Gower and that objection was to change the POU recommendation from 5.5 acres to 7.9 acres as claimed. The claimed rates were derived through the change of ownership process based upon either a specific rate identified in the warranty deed or through a department proportional diversion rate calculation. Although a proportional split analysis based upon the modified POUs could slightly alter the respective diversion rates I have not changed any diversion rate recommendations at this time. The acre limit per claim calculations are shown in Table 2 below

Gower Analysis 37-21146 (1886) and 37-21148 (1884): In reviewing the recommendations associated with Lot 1 in light of the objection it appears to me that there is a reasonable basis to increase the recommended PPU from 5.5 acres to 6.2 acres based upon the 1987 and 1992 aerial photos although it does not appear that 6.2 acres are now being irrigated. It appears that the recommendation was made based upon the irrigated POU as found in the 2004 aerial photo. A proportionate split analysis was made with the transfer acre limits for both rights as the basis. The acre limits per claim are shown in Table 2.

Swenke Analysis 37-22042 (1886) and 37-11689B (1884): A major issue regarding the Swenke property is whether or not 37-22042 is appurtenant to his 2 acres or not. As previously described the change of ownership for 37-11689 (1884 water) included a warranty deed that only described that right. There was no mention of 37-11688 (the 1886 water). Subsequent changes of ownership identified appurtenances rather than any specific right and/or amount. The end result in splitting the rights for Gower and Super is that 0.04 cfs for 2.7 acres remained in Fosnot's name as 37-22042 (1886 water). By default that right is technically appurtenant to the Swenke property as no additional documentation has been provided to the department to deal with this water. Therefore Swenke was added to the right as the present owner. Fosnot does not own any property in this area any more.

Super Analysis 37-22043 (1886) and 37-21147 (1884): The values associated with the claims associated with the Super property were established through a proportional split analysis done for the ownership change submitted to the department. No changes have been contemplated for the recommendations at this time other than adding the right acre limits per claim as calculated and shown in Table 2.

Table 1

Claim No	Claimant	Priority dt	base Rt	Claim Acres	Recom Acres	Claim Rate	Recom Rate	
37-21148	Gower	10-15-1884	37-665	7.9 ac	6.2 ac	0.272 cfs	0.27 cfs	Obj
37-21146		06-12-1886	37-353	7.9 ac	6.2 ac	0.11 cfs	0.11 cfs	Obj
37-11689B	Swenke	10-15-1884	37-665	2.7 ac	2.0 ac	0.137 cfs	0.137 cfs	No Obj
37-22042		06-12-1886	37-353	2.7 ac	2.0 ac	0.04 cfs	0.04 cfs	No Obj
37-21147	Super	10-15-1884	37-665	17.2 ac	16 ac	0.59 cfs	0.59 cfs	No Obj
37-22043		06-12-1886	37-353	17.3 ac	16 ac	0.25 cfs	0.25 cfs	No Obj

All rights are subject to their respective transfers and the transfer elements. The argument is that there were unrecorded transfers accomplished prior to the commencement of the SRBA. The recommendations should reflect this factor. There should be individual acreage limits for each right and combined rights acreage limits based upon the proportional share of the 5.5 and 18.5 transferred acreages. They would be additive on each parcel.

Table 2
Proportional split calculation

claims against		37-353		37-665
Transfer ac		5.5		18.5
		ac limit		ac limit
37-21146	6.2	1.4	37-21148	4.7
37-22042	2	0.5	37-11689B	1.5
37-22043	16	3.6	37-21147	12.2
total	24.2	5.5		18.5

Form No. 522 10/80

Transfer No. 2948

Water Right No 37-0353

37-353

T-2948

STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

APPROVED

To Change the Point of Diversion and/or the Place of Use

Name of applicant Robert E. Fosnot Phone 788-3642

Post Office address P. O. Box 290 [illegible] ID 83313

A. DESCRIPTION OF RIGHT AS REC[illegible]

1. Right evidenced by:

   a. Decree No. James Johnson (Name)

   In case of S. C. et al vs Alturas Water Co. et al

   dated in 12-13-1909 in Fourth District (Name of court) county of Lincoln

   b. License No. _____ issued by the Idaho Department of Water Resources

   c. Claim No. _____ on file with the Idaho Department of Water Resources

2. If applicant is not the original holder of this right, explain how it was acquired and attach a copy of the deed or other evidence of ownership of the land to which the right is appurtenant

   purchase of land & water

3. Source of water Big Wood River tributary to Malad River

4. Date of priority 6-12-1886

5. Water is used for the following purposes:

   amount 6.4 cfs for Irrigation purposes from _____ to _____

   amount _____ for _____ purposes from _____ to _____

   amount _____ for _____ purposes from _____ to _____ (month/day — both dates inclusive)

6. Total amount of water under right: a. 6.4 cubic feet per second &/or

   b. _____ acre feet per annum

7. Location of original point of diversion is SW ¼ of NW ¼ of Section 36

   Township 2N Range 18E, B.M., in Blaine County

   Additional points of diversion, if any _____

8. Lands irrigated or place of use:

TWP.	RANGE	SEC.	NW¼				NE¼				SW¼				SE¼				TOTALS
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
2N	18E	13													X			X	
		24	X			X													

Total number of acres to be irrigated _____

9. Describe any other water rights used for the same purpose as described above _____

10. To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of nonuse? No If yes, describe in Item D, REMARKS.

B. DESCRIPTION OF PORTION OF RIGHT OWNED BY APPLICANT (If the entire right is owned by the applicant, omit part B).

1. Amount of water: a. 0.40 cubic feet per second
   &/or
   b. _____ acre feet per annum

2. Point of diversion SW ¼ NW ¼, Section 36 Township 2N
   Range 18E, B.M., Blaine County
   Additional points _____

3. Place of use: Since water has been used on present land for so long, original P. U. for all 20" is not known.

TWP.	RANGE	SEC.	NE¼				NW¼				SW¼				SE¼				TOTALS
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
1N	18E	13													X			X	
		24	X			X													

Total number of acres to be irrigated 10

C. DESCRIPTION OF RIGHT OR PORTION THEREOF, AFTER THE REQUESTED CHANGE

1. General information

   a. Amount of water to be diverted 0.40 c.f.s. &/or _____ acre feet

   b. Description of diverting works Headgate & Bellevue Canal; private ditch from Canal; pump in ditch

   c. Describe the reasons for the proposed changes Tie land & water together as they have been used for many years.

2. Change in point of diversion No Change

   Point of diversion _____ ¼ _____ ¼, Section _____ Township _____
   Range _____, B.M., _____ County
   Additional points _____

3. Change in place of use

   a. Are there leins, mortgages, or contracts on the lands from which you propose to transfer the water right which limit your authority to make the proposed change? Yes _____ No X If yes, provide a statement agreeing to the proposed change from the holder of the lien, mortgage or contract.

   b. Describe the affect on the land now irrigated if the place of use is changed pursuant to this transfer Unknown, as actual change (if any) occured years ago.

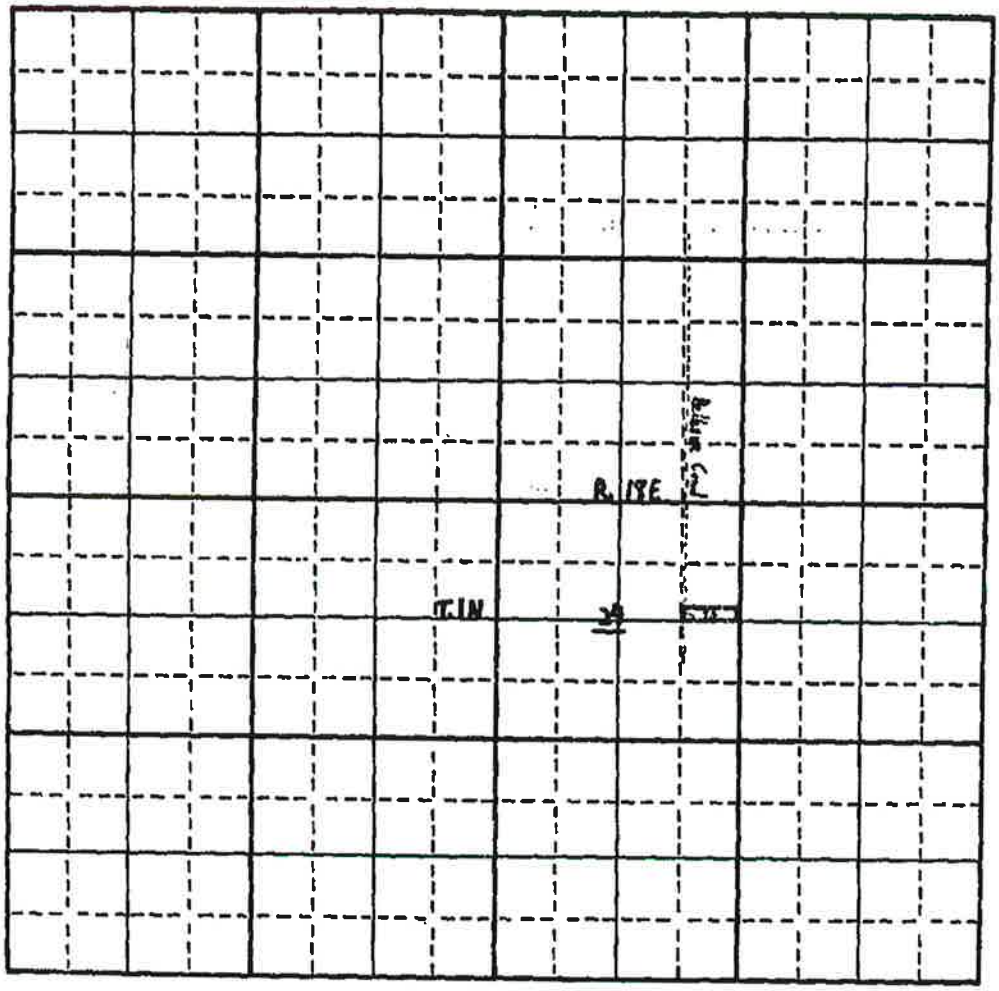
c. Describe the land or place of use to which the right will be transferred:

TWP	RANGE	SEC.	NE¼				NW¼				SW¼				SE¼				TOTALS
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
1N	1RE	24				5.5													5.5

Total number of acres to be irrigated 5.5

4. Describe any other water rights used for the same purpose as described above. _____

5. Draw a map indicating the new point(s) of diversion and/or the new land to be irrigated. Show clearly the land involved by section, township and range number.



SCALE: 2 inches equal 1 mile. Draw plan in ink.

D. REMARKS

I hereby assert that no one will be injured by such change and that the change does not constitute an enlargement in use of the original right. The information contained in this application is true to the best of my knowledge.

I understand that any willfull misrepresentations made in this application may result in voiding its approval.

Robt E. Grant
(Signature of Applicant)

Subscribed and sworn to before me this 21st day of September, 19 83

Patricia Larsen
(Notary Public)

My commission expires Life

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Application for Transfer of Water Rights No. 37-03538

and said application is hereby APPROVED, subject to the following limitations and conditions:

1. A measuring device and lockable controlling works of a type acceptable to the Department shall be permanently installed and maintained as part of the diverting works. 2. Use of water under this right is subject to control by the watermaster of State Water District No. 37, Big Wood River. 3. No more water may be diverted under this transfer than that amount which may be beneficially used.

Witness my hand this 3rd day of April, 19 84

L. Glen Saxton
Chief, Operations Bureau

FOR DEPARTMENT USE ONLY

Received by marya Date 9/27/83 Protest filed by None

Prelim. check by ADA Fee $50.00 #29195

Receipted by marya Date 7-13-83

Published in Wood River Journal

Pub. dates 10/27 & 11/3/83

Copies of protest forwarded by

Hearing held by Date

Watermaster recommendation requested on 10/6/83 Recommended for approval denial

rec'd. 11/10/83 by ADA

Form No. 222 10/80

Transfer No. 2949

Water Right No. 37-0665

37-665 T-2949

STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

APPROVED

To Change the Point of Diversion and/or the Place of Use

Name of applicant Robert E. Fosnot Phone 788+ 3642

Post Office address P. O. Box 290, Bellevue, ID 83313

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:

   a. Decree No. _____ Decreed to Utah & Idaho Improvement Co. (Name)

   in case of S. C. Frost et al vs Alturas Water Co.

   dated in 12-13-1909 in Fourth District (Name of court) county of Lincoln

   b. License No. _____ issued by the Idaho Department of Water Resources

   c. Claim No. _____ on file with the Idaho Department of Water Resources

2. If applicant is not the original holder of this right, explain how it was acquired and attach a copy of the deed or other evidence of ownership of the land to which the right is appurtenant

   purchase of land & water

3. Source of water Big Wood River tributary to Malad River

4. Date of priority 10-15-1884

5. Water is used for the following purposes:

   amount 26.00 cfs for irrigation purposes from Apr 1 to Nov 1

   amount _____ for _____ purposes from _____ to _____

   amount _____ for _____ purposes from _____ to _____ (month/day — both dates inclusive)

6. Total amount of water under right: a. 26.0 cubic feet per second &/or b. _____ acre feet per annum

7. Location of original point of diversion is SW ¼ of NW ¼ of Section 36 Township 2N Range 18E, B.M., in Blaine County

   Additional points of diversion, if any _____

8. Lands irrigated or place of use:

TWP.	RANGE	SEC.	NE¼				NW¼				SW¼				SE¼				TOTALS
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
1N	19E	20	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	
		28					X	X			X	X	X	X			X		
		29	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	
		32	X	X	X	X	X	X	X	X					X	X			
		33					X	X	X	X	X	X	X	X					

Total number of acres to be irrigated 2190

9. Describe any other water rights used for the same purpose as described above

   37-0664, 0666, 0667

10. To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of nonuse? No If yes, describe in item D, REMARKS.

B. DESCRIPTION OF PORTION OF RIGHT OWNED BY APPLICANT (If the entire right is owned by the applicant, omit part B).

1. Amount of water: a. 1.00 cubic feet per second
&/or
b. _____ acre feet per annum

MICROFILMED

2. Point of diversion SW ¼ NW ¼, Section 36 Township 2N
Range 18E, B.M., Blaine County
Additional points _____

3. Place of use: Note: Original land is unknown & impossible to trace back.

TWP.	RANGE	SEC.	NE¼				NW¼				SW¼				SE¼				TOTALS
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	

Total number of acres to be irrigated _____

C. DESCRIPTION OF RIGHT OR PORTION THEREOF, AFTER THE REQUESTED CHANGE

1. General Information

a. Amount of water to be diverted 1.00 c.f.s. &/or _____ acre feet

b. Description of diverting works Bellevue Canal & headgate from Canal to private ditch; pump in ditch to sprinkler system

c. Describe the reasons for the proposed changes To tie the land & water together as I purchased them

2. Change in point of diversion No Change

Point of diversion _____ ¼ _____ ¼, Section _____ Township _____
Range _____, B.M., _____ County
Additional points _____

3. Change in place of use

a. Are there leins, mortgages, or contracts on the lands from which you propose to transfer the water right which limit your authority to make the proposed change? Yes _____ No X. If yes, provide a statement agreeing to the proposed change from the holder of the lien, mortgage or contract.

b. Describe the affect on the land now irrigated if the place of use is changed pursuant to this transfer
/No/affect// Unknown, as change occurred years ago.

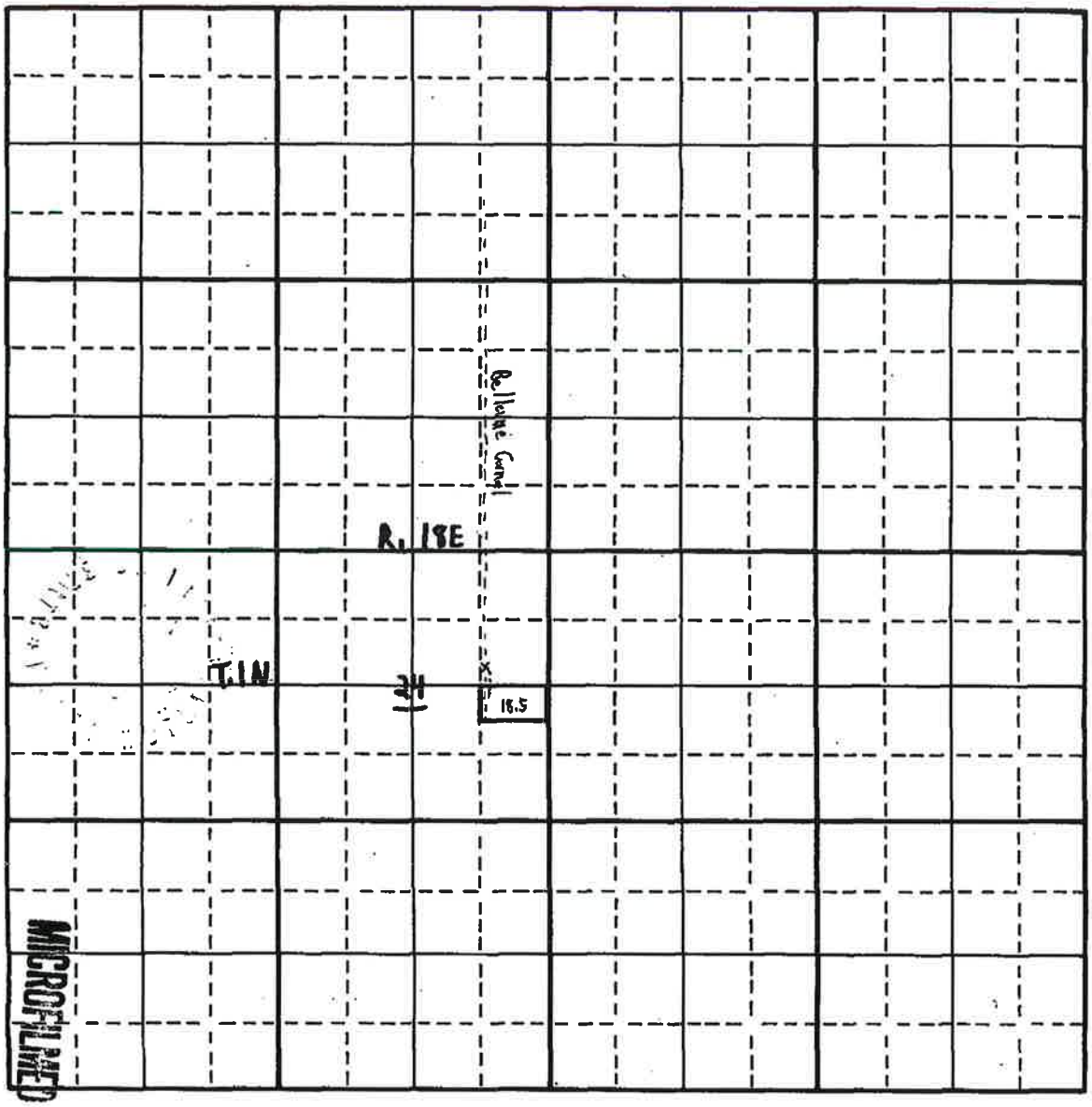
c. Describe the land or place of use to which the right will be transferred:

TWP.	RANGE	SEC.	NE¼				NW¼				SW¼				SE¼				TOTALS
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	
1N	18E	24													18.5				18.5

Total number of acres to be irrigated 18.5

4. Describe any other water rights used for the same purpose as described above. None

5. Draw a map indicating the new point(s) of diversion and/or the new land to be irrigated. Show clearly the land involved by section, township and range number.



MICROFILMED

SCALE: 2 inches equal 1 mile. Draw plan in ink.

D. REMARKS

MICROFILMED

This is one of four rights decreed to the same right holder for use on 3 farms. It is impossible to tell what rights went where, so transfer is based on limited knowledge of these water rights.

I hereby assert that no one will be injured by such change and that the change does not constitute an enlargement in use of the original right. The information contained in this application is true to the best of my knowledge.

I understand that any willfull misrepresentations made in this application may result in voiding its approval.

Robert E. Fosnett
(Signature of Applicant)

Subscribed and sworn to before me this 4th day of February, 19 83.

Loren O Holmes
(Notary Public)

My commission expires Life

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Application for Transfer of Water Rights No. 37-06658 and said application is hereby APPROVED, subject to the following limitations and conditions:

1. A measuring device and lockable controlling works of a type acceptable to the Department shall be permanently installed and maintained as part of the diverting works. 2. Use of water under this right is subject to control by the watermaster of State Water District No. 37, Big Wood River. 3. No more water may be diverted under this transfer than that amount which may be beneficially used.

Witness my hand this 3rd day of April, 19 84.

A. Glen Saxton
Chief, Operations Bureau

FOR DEPARTMENT USE ONLY

Received by JO Date 7-12-83 Protest filed by None

Prelim. check by _____ Fee $50.00 # 29,195

Receipted by marcye Date 7/13/83

Published in Wood River Journal

Pub. dates 10/27 & 11/3/83

Copies of protest forwarded by _____

Hearing held by _____ Date _____

Watermaster recommendation requested on 10/21/83

_____ rec'd. 11/4/83

Recommended for (approval) denial

by ADM Jim

Form 222
1-87

Page 1 of 6

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Transfer No. 3678

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 1

APPROVED

Name of applicant Gus Chek Phone 788-3779

Post Office address P. O. Box 1984, Hailey, ID 83333

A. PURPOSE OF TRANSFER

1. ☐ Change point of diversion ☐ Add diversion point(s) ☒ Change place of use
   ☐ Change nature of use ☐ Change period of use ☐ Other _____

2. Describe the reason for the proposed changes The 1886 water is not needed on the property, as there is enough 1883 to take care of the place.

B. DESCRIPTION OF RIGHT(S) OR PORTION THEREOF, AFTER THE REQUESTED CHANGE

1.

Right Number	Priority	Amount (cfs/ac-ft)	Nature of Use	Period of Use		
37-00353 Part	6-12-1886	0.20	Irrigation	Apr 1	to	Nov 1
					to	
					to	
					to	

2. Total amount of water being transferred 0.40 0.20 cubic feet per second and/or _____ acre-feet per annum.

3. Source of water Big Wood River tributary to Malad River

4. Point(s) of Diversion: No Change

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
		SW	NW	36	2N	18E	Blaine	Headgate & ~~Bellevue~~ District Canal
		NE	SE	13	1N	18E	"	Re-diversion from ~~Bellevue~~ District Canal

5. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
1N	18E	13																6	6

Total acres 6

AJ claim
37-353G
Barbara
Barry

Transfer No. 3678

PART 1

6. General Information:

a. Description of diversion system Existing canal & ditch to P/U. Additional ditch & ditch pump to be installed.

b. Are the lands from which you propose to transfer the water right subject to any liens, deeds of trust, mortgages, or contracts? XX Yes _____ No. If yes, provide a notarized statement from the holder of the lien, deed of trust, mortgage or contract agreeing to the proposed changes.

c. Describe the affect on the land now irrigated if the place of use is changed pursuant to this transfer:

Land will continue to be irrigated with 1883 decreed water.

d. Remarks:

Water is being sold to Douglas Driever for use on Lot 9 of Dean Ranch Subdiv. Transfer is made to split SRBA Claim A37-00353C. Please send copy of transfer with final action to Mr. Driever at P. O. Box 2072, Hailey, ID 83333. This transfer application is based on data claimed under SRBA.

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Application for Transfer of Water Rights No. 37-00353A

And said application is hereby APPROVED, subject to the following limitations and conditions:

See attached sheet for conditions of approval.

Witness my hand this 9th day of September, 19 91.

L. Glen Saxton

Chief, Water Allocation Bureau

ATTACHMENT
CONDITIONS OF APPROVAL

Transfer of Water Right No. 37-00353A

Transfer No. 3678

1. The change authorized by this transfer shall be accomplished within (1) year of the date of this approval.

2. Failure to comply with the conditions of this transfer is cause for the director to issue an order to show cause why the approval of the transfer should not be rescinded.

3. Approval of this transfer does not preclude the opportunity for review of the validity of the water right(s) in the ongoing Snake River Basin Adjudication.

4. Use of water under this water right is subject to control by the watermaster of State Water District No. 37, Big Wood River.

5. This right when combined with all other rights shall provide no more than 3.0 afa per acre for the lands above.

Dated this 9th day of September, 1991.

L. Glen Saxton

L. GLEN SAXTON
Chief, Water Allocation Bureau

Transfer No. 3671

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:

   a. Decree No. 37-00353A Decreed to James Johnson

   In case of S. C. Frost, Et. Al. vs. Alturas Water Company, Et. Al.

   dated 12-13-1909 in Fourth District county of Lincoln

   b. License No. _____ issued by the Idaho Department of Water Resources.

   c. Claim No. _____ on file with the Idaho Department of Water Resources.

   d. Transfer No. 2948 which produced this right.

2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

   ☐ Tax Notice ☐ Warranty Deed ☒ Other Deed of Sale

3. Source of water Big Wood River tributary to Malad River

4. Date or priority 6-12-1886

5. Water is used for the following purpose:

   amount 6.0 cfs (cfs/ac-ft) for Irrigation purposes from Apr 1 to Nov 1

   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

6. Total amount of water under right 6.0 cubic feet per second and/or _____ acre-feet per annum.

7. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
		SW	NW	36	2N	18E	Blaine	Headgate #45 & District Canal

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
1N	18E	13													X			X	
		24	X			X													

Total acres _____

9. Describe any other water rights used for the same purpose as described above 37-0363

PART 2

Transfer No. 3678

10. To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of non-use?
Unknown If yes, describe _____

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

(If the entire right is to be changed by the applicant, omit part B and C.)

1. amount (cfs/ac-ft) 0.20 cfs for Irrig. purposes from Apr 1 to Nov 1
amount (cfs/ac-ft) _____ for _____ purposes from _____ to _____
amount (cfs/ac-ft) _____ for _____ purposes from _____ to _____

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
		SW	NW	36	2N	18E	Blaine	Headgate #45 & District Canal
		NE	SE	13	1N	18E	"	Re-diversion from District Canal

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
1N	18E	13																7.5	7.5

Total acres 7.5

C. DESCRIPTION OF UNCHANGED PORTION OF RIGHT *(omit if there is no change)*

1. amount (cfs/ac-ft) 5.8 cfs for Irrig. purposes from Apr 1 to Nov 1
amount (cfs/ac-ft) _____ for _____ purposes from _____ to _____
amount (cfs/ac-ft) _____ for _____ purposes from _____ to _____

2. Point(s) of Diversion: Same

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion

3. Lands irrigated or place of use: Same

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	

Total acres _____

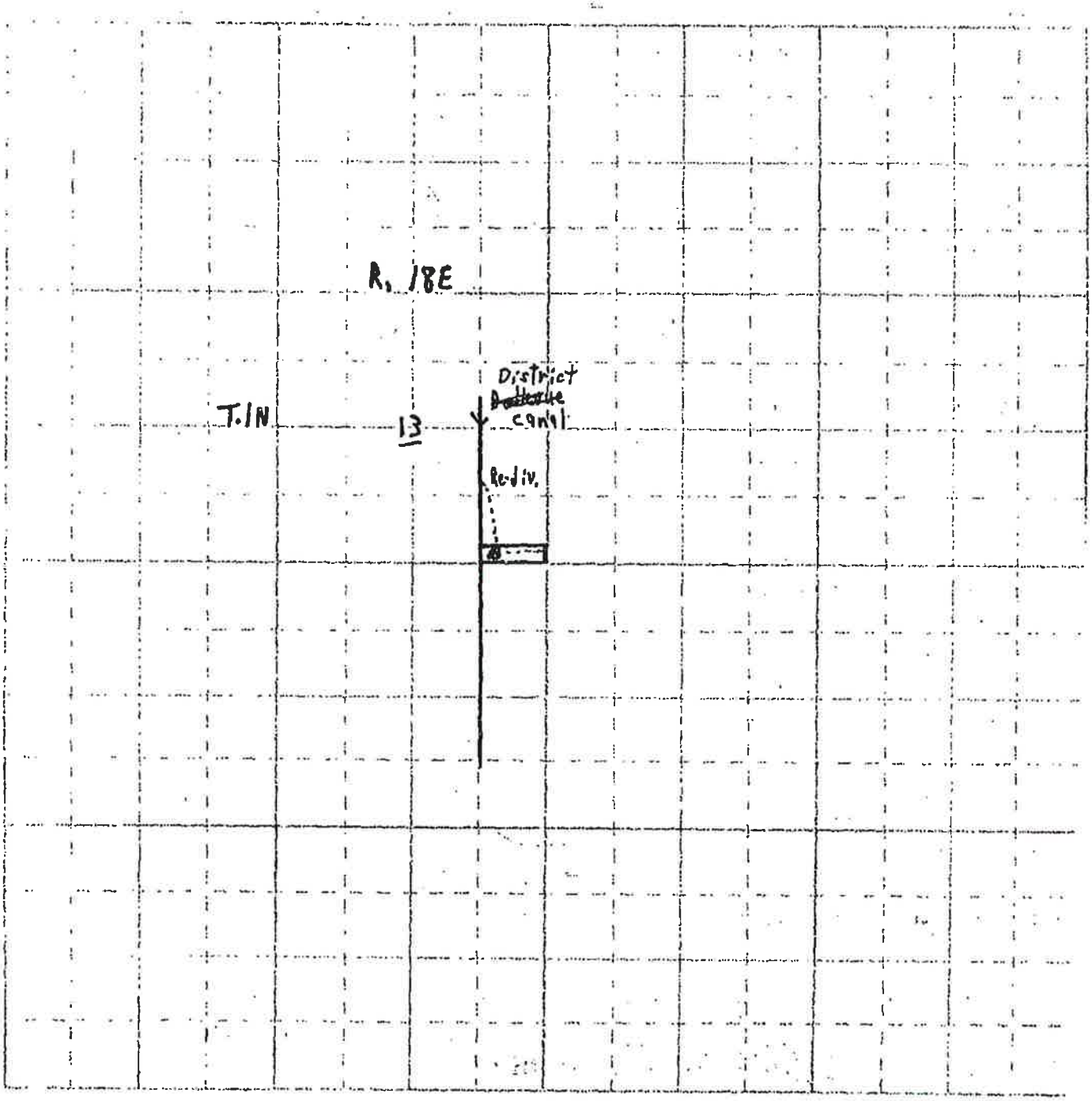
Transfer No. 3678

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 3

A. Draw a map or attach a USGS map indicating the new point(s) of diversion and/or the new place of use for rights described in part 1. Clearly depict the land by section, township and range number.



SCALE: 2 inches equal 1 mile. Draw plan in ink.

Transfer No. 3678

PART 3

B. CHANGES IN NATURE OF USE

1	New Nature of Use	Amount (cfs/ac-ft)	Hours/days/year	Period of Use
				to
				to

2. Quantity and quality of return flows and location of discharge:

3. Describe effects on other water uses resulting from the proposed change:

I hereby assert that no one will be injured by such change and that the change does not constitute an enlargement in use of the original right. The information contained in this application is true to the best of my knowledge.

I understand that any willful misrepresentations made in this application may result in voiding its approval.

Gus Chek
(Signature of Applicant)

Subscribed and sworn to before me this 30th day of 1/22, 1990.

Twin Falls, Idaho — Gladys Edwards
(Notary Public)

My commission expires July 18, 1995

FOR DEPARTMENT USE ONLY

Transfer contains 6 pages and 4 attachments

Received by J Eldridge — Date 1-22-90 — Protest filed by

Prelim. check by DRJ — Fee $30.50/1025

Receipted by JE — Date 1-22-90

Published in Wood River Journal — Copies of protest forwarded by

Pub. dates 5/9 & 5/16/90 — Hearing held by — Date

Watermaster recommendation requested on 5/1/90 — Recommended for ☐ approval ☐ denial

rec'd. 5/9/90 — by

Copy of transfer sent to lien holder

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

TRANSFER OF WATER RIGHT

TRANSFER NO. 3679
WATER RIGHT NO. 37-00353F

This is to certify that: **GUS CHEK**
PO BOX 1984
HAILEY ID 83333

has requested a change to the above captioned water right(s). This change in water right(s) is authorized pursuant to the provisions of Section 42-222, Idaho Code, provided the conditions listed below are met.

BENEFICIAL USE	PERIOD OF USE	DIVERSION RATE	ANNUAL VOLUME
IRRIGATION	04/15 to 10/15	0.20 CFS	26.3 AF

SOURCE	TRIBUTARY OF
BIG WOOD RIVER	MALAD RIVER

Priority: 06/12/1886

LOCATION OF POINT(S) OF DIVERSION: SWNW , Sec. 36, Township 02N, Range 18E
BLAINE County

PLACE OF USE: IRRIGATION

TWN	RGE	SEC		ACRES	ACRES	ACRES	TOTAL
01N	19E	18	SWSW	7.5			7.5
					Total number of acres irrigated:		7.5

CONDITIONS/REMARKS:

1. Use of water under this water right will be regulated by the watermaster of State Water District No. 37.
2. This right when combined with all other rights shall provide no more than 3.5 afa per acre for the lands above.
3. The change authorized by this transfer shall be accomplished within one (1) year of the date of this approval.
4. Approval of this transfer does not preclude the opportunity for review of the validity of the water right(s) in the ongoing Snake River Basin Adjudication.
5. Failure to comply with the conditions of this transfer is cause for the director to issue an order to show cause why the approval of the transfer should not be rescinded.

Pc Doc Pg 268
277

TRANSFER NO. 3679
WATER RIGHT NO. 37-00353F

CONDITIONS/REMARKS:

Dated this 3rd day of November, 1993.

Chief, Water Alloc. Bureau

Form 3720
1-87

Page 1 of 6

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Transfer No. 3679

AMENDED

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 1

RECEIVED
OCT 26 1993
Department of Water Resources

Name of applicant Gus Chekk Phone 788-3779

Post Office address P. O. Box 1984, Hailey, ID 83333

A. PURPOSE OF TRANSFER

1. ☐ Change point of diversion ☐ Add diversion point(s) ☒ Change place of use
   ☐ Change nature of use ☐ Change period of use ☐ Other _____

2. Describe the reason for the proposed changes The 1886 water is being sold, as it is not needed on my land. It will supplement groundwater rights on the new P/U.

B. DESCRIPTION OF RIGHT(S) OR PORTION THEREOF, AFTER THE REQUESTED CHANGE

1. Right Number	Priority	Amount (cfs/ac-ft)	Nature of Use	Period of Use
(Part of) 37-0035 (F)	6-12-1886	0.20 cfs	Irrig.	Apr 1 to Nov 1
				to
				to
				to

2. Total amount of water being transferred 0.20 cubic feet per second and/or _____ acre-feet per annum.

3. Source of water Big Wood River tributary to Malad River

4. Point(s) of Diversion: No Change

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion

5. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
~~1N~~	~~19E~~	~~18~~											~~7.5~~						~~7.5~~
1N	19E	18											7.5*						7.5*
							"Change/Amended By letter of 7-18-90												
							By R. Davis. R. Hardenstein TJL 7-20-90												

Total acres ~~7.5~~

Transfer No. 3679

PART 1

6. General Information:

a. Description of diversion system Existing Bellevue Canal & lateral. Additional ditch to sump & pump to be installed.

b. Are the lands from which you propose to transfer the water right subject to any liens, deeds of trust, mortgages, or contracts? XX Yes _____ No. If yes, provide a notarized statement from the holder of the lien, deed of trust, mortgage or contract agreeing to the proposed changes.

c. Describe the effect on the land now irrigated if the place of use is changed pursuant to this transfer:

Land will continue to be irrigated with 1883 water.

d. Remarks:

Water is being sold to Reid Kantenwein. Transfer represents a split of SRBA Calim A37-00353C. Please send copy of transfer with final action to Mr. Kantenwein at P. O. Box 1525, Hailey, ID 83333. Application for Permit 37-8384 has been reduced to 3 acres so it and this transfer can be approved.

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Application for Transfer of Water Rights No. _____

And said application is hereby _____, subject to the following limitations and conditions:

Witness my hand this _____ day of _____, 19____

_____

Page _____ of _____ TRANS NO. 3679

PART 2

A. DESCRIPTION OF RIGHT AS RECORDED:

Water Right No. 37-00353C

STAGE: DECREED

BENEFICIAL USE	PERIOD OF USE	DIVERSION RATE
IRRIGATION	04/01 to 11/01	5.80 CFS

SOURCE	TRIBUTARY OF
BIG WOOD RIVER	MALAD RIVER

Priority: 06/12/1896

LOCATION OF POINT(S) OF DIVERSION: SWNW , Sec. 36, Township 02N, Range 18E
BLAINE County

PLACE OF USE: IRRIGATION

TWN	RGE	SEC	ACRES	ACRES	ACRES	TOTAL
01N	18E	13	NESE	SESE		
		24	NENE	SENE		

CONDITIONS/REMARKS:

Page ... of ...

Transfer No. 2679

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:

a. Decree No. 37-00353A Decreed to James Johnson

in case of S. C. Frost, Et. Al. vs. Alturas Water Company, Et. Al.

dated 12-13-1909 in Fourth District county of Lincoln

b. License No. _____ issued by the Idaho Department of Water Resources.

c. Claim No. _____ on file with the Idaho Department of Water Resources.

d. Transfer No. 2948 which produced this right.

2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:

☐ Tax Notice ☐ Warranty Deed ☒ Other Deed of Sale

3. Source of water Big Wood River tributary to Malad River

4. Date of priority 6-12-1886

5. Water is used for the following purpose:

amount 6.0 cfs (cfs/ac-ft) for Irrigation purposes from Apr 1 to Nov 1

amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

6. Total amount of water under right 6.0 cubic feet per second and/or _____ acre-feet per annum.

7. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp	Rge	County	Local name for diversion
		SW	NW	36	2N	18E	Blaine	Headgate #45 & District Canal

8. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
1N	18E	13													X			X	
		24	X			X													

Total acres _____

9. Describe any other water rights used for the same purpose as described above 37-05343

_____

PART 2

Transfer No. 76 74

10 To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of non-use?

Unknown If yes, describe _____

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

(If the entire right is to be changed by the applicant, omit part B and C.)

1. amount 0.20 cfs (cfs/ac-ft) for Irrig. purposes from Apr 1 to Nov 1
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
		SW	NW	26	2N	18E	Blaine	Headgate #45 & District Canal
		NE	SE	13	1N	18E	"	Re-diversion from District Canal

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
1N	18E	13																7.5	7.5

Total acres 7.5

C. DESCRIPTION OF UNCHANGED PORTION OF RIGHT *(omit if there is no change)*

1. amount 5.8 cfs (cfs/ac-ft) for Irrig. purposes from Apr 1 to Nov 1
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____

2. Point(s) of Diversion: Same

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion

3. Lands irrigated or place of use: Same

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	

Total acres _____

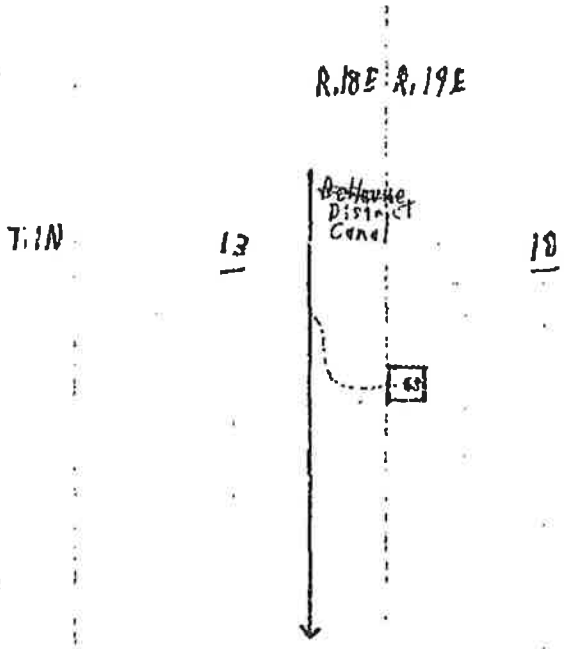
Transfer No. 36279

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 3

A. Draw a map or attach a USGS map indicating the new point(s) of diversion and/or the new place of use for rights described in part 1. Clearly depict the land by section, township and range number.



SCALE: 2 inches equal 1 mile. Draw plan in ink.

Transfer No. 3679

PART 3

B. CHANGES IN NATURE OF USE

	New Nature of Use	Amount (cfs/ac-ft)	Hours/days/year	Period of Use
				to
				to

2. Quantity and quality of return flows and location of discharge:

3. Describe effects on other water uses resulting from the proposed change:

I hereby assert that no one will be injured by such change and that the change does not constitute an enlargement in use of the original right. The information contained in this application is true to the best of my knowledge.

I understand that any willful misrepresentations made in this application may result in voiding its approval.

Signature of Applicant

Subscribed and sworn to before me this 26th day of January, 1990.

Twin Falls, Idaho

(Notary Public)

My commission expires ~~July 18, 1995~~

FOR DEPARTMENT USE ONLY

Transfer contains 6 pages and 5 attachments

Received by JF Date 1-22-90 Protest filed by

Prelim. check by DRJ Fee 830 00

Receipted by JF Date 5/1/024

Published in Wood River Journal Copies of protest forwarded by

Pub. dates 5/9 & 5/16/90, 8/15 & 8/22/90 Hearing held by Date

Watermaster recommendation requested on 5/1/90, 8/22/90 Recommended for ☐ approval ☐ denial

rec'd. 5/8/90, 8/24/90 by

Copy of transfer sent to lien holder

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

RECEIVED
AUG 27 1997
Department of Water Resources
Southern Region

IN THE MATTER OF A CALL FOR DELIVERY OF WATER RIGHT NO. 37-0353 TO OLSEN LIVESTOCK CONSULTANTS, INC.	)	**AMENDED PRELIMINARY ORDER**

Scott Campbell, an attorney representing Olsen Livestock Consultants, Inc., requested delivery of 0.40 cfs (20 miners inches) of water from the Big Wood River under water right No. 37-0353. After reviewing the files and records of the Department, Water District 37, and Blaine County, the Department of Water Resources enters the following Findings of Fact, Conclusions of Law, and Preliminary Order.

FINDINGS OF FACT

1. Water Right No. 37-0353 was decreed to James Johnson in the case of S. C. Frost, et al vs. Alturas Water Co., et al. The right is for 6.4 cfs (320 miners inches) to be diverted from the Big Wood River for irrigation of the E1/2SE1/4 of Section 13 and the E1/2NE1/4, Section 24, T1N R18E, B.M., Blaine County (approximately 160 acres). The water right has been diverted into the Wood River Valley Irrigation District No. 45 canal located within the SW1/4NW1/4, Section 36, T2N, R18E, for delivery to users of the water. The priority of right No. 37-0353 is June 12, 1886.

2. The decreed place of use for right No. 37-0353 was divided in the early 1970's into an 18 lot subdivision known as the Dean Ranch Subdivision. The records of the Department and Water District 37 indicate that right No. 37-0353 was appurtenant to and used upon the decreed place of use up to the time the land was subdivided and on some of the subdivision lots and other land each year thereafter. Lot 2, Block 1 of the subdivision has not been irrigated for more than 10 years as evidenced by a review of aerial photographs and other information available to the department.

3. Olsen Livestock Consultants, Inc. claims ownership of Lot 2, Block 1, Dean Ranch Subdivision. The deeds in the chain of title filed with Blaine County for this lot from the creation of the subdivision to the present are summarized as follows:

a. M.D. and Katherine Dean deeded Lot 1 (approximately 8 acres) and Lot 2 (approximately 10 acres) with appurtenances to Charles A. and Debra Anne Curtis on November 1, 1974. Appurtenant water rights were not specifically described.

Backfile 37-353
Pgs 167 → 172

b. Charles A. and D. Anne Curtis deeded Lot 1 with appurtenances to Robert E. Fosnot on October 19, 1978. Appurtenant water rights were not specifically described.

c. Charles A. and Debra Anne Curtis deeded Lot 2 with appurtenances to Dean R. and Judene Call on December 5, 1978. A water right with an 1887 priority date for 20 inches was specifically included.

d. Dean R. and Judene Call deeded Lot 2 with appurtenances to Robert D. and Sharyl M. Head on August 5, 1991. A water right with an 1887 priority date for 20 inches was specifically included.

e. Robert D. and Sharyl M. Head deeded Lot 2 with appurtenances to Olsen Livestock Consultants, Inc. on September 25, 1996. Appurtenant water rights were not specifically described.

4. Blaine County does not have any record of deeds transferring title of any part of Water Right No. 37-0353 separately from the appurtenant land during the time period of December 15, 1969 (the date the land was deeded to M. D. Dean) to November 1, 1974 (the date of the initial sale of Lot 1 and 2).

5. As of July 22, 1997, Water District 37 records listed the following as the current owners of water right No. 37-0353:

Lt 17
der Meulen
-353E

a. Harry L. Oppenheimer (20 miners inches) based upon a letter dated October 27, 1977 from M. D. Dean confirming the sale of the water to Jerry Lee Johnson, a February 16, 1978 warranty deed from Jerry Lee Johnson to Marvin Lotspeich, and a 1980 warranty deed from Marvin Lotspeich to Harry L. Oppenheimer.

7-353B
Lt 8B

b. Ed Stricker (20 miners inches) based upon an October 29, 1977, letter from M. D. Dean confirming sale of the water to Mr. Stricker.

c 18 SWSW
7-353H
enson

c. Reid Kantenwein (10 miners inches) based upon IDWR approved transfer No. 3679 filed by Gus Chek. Mr. Chek's ownership was based upon a November 1, 1977, letter confirming sale of 20 inches of water to Mr. Chek by Mr. Dean. Mr. Chek subsequently sold 10 inches to Douglas Driever. The water is to be used upon 10 acres in the SW1/4SW1/4, Section 18, T1N R19E. Based upon approved permit No. 37-08660, the 10 inches of water held by Kantenwein under right No. 37-0353 is to be left undiverted from the Big Wood River to mitigate depletions in flow of the river resulting from pumping ground water under Permit No. 37-08660.

Lt 9
37-353G
Barry

d. Douglas Driever (10 miners inches) based upon an October 4, 1991 letter from Gus Chek confirming sale of the water and Transfer No. 3679 approved by the department.

37-353D
Sec 18 E½ +

e. Robert Gardner (180 miners inches) based upon a June 25, 1982 letter from M. D. Dean confirming sale of the water to Mr. Gardner.

37-353
Grigsby

f. J Karl Bick (20 miners inches) based upon a June 25, 1982 letter from M. D. Dean to John Peterson and a quit claim deed dated November 3, 1993 from John Peterson to J Karl Bick.

37-11146
Lt 1

g. Robert Fosnot (20 miners inches) based upon Transfer No. 2948 approved by the department.

6. The records of Water District 37 list a current owner for 280 inches of the 320 miners inches) of right No. 37-0353. Olsen Livestock Consultants, Inc. is not listed as a current owner by the water district. The watermaster records indicate that an assessment has not been paid for delivery of water for use on Lot 2, Block 1, Dean Ranch Subdivision since 1982 or earlier.

7. The following have claimed portions of right 37-0353 in the Snake River Basin Adjudication (SRBA):

✓ a.	A37-0353 J Karl & Judith G. Bick (This claim was originally filed by John Peterson.)	20 miners inches
✓ b.	A37-0353B Edward & Jeannine Stricker	20 miners inches
✓ c.	A37-0353D Robert & Kathryn Gardner	180 miners inches
✓ d.	A37-0353E Harry L. Oppenheimer, Jr.	20 miners inches
e.	A37-0353F William R. Long	10 miners inches
✓ f.	A37-0353G Douglas Driever (This is one half of claim A37-0353C filed by Gus Chek.)	10 miners inches
✓ g.	A37-0353H Reid Kantenwein (This is one half of claim A37-0353C filed by Gus Chek.)	10 miners inches
h.	A37-0353J Tom Olsen	13.5 miners inches
✓ i.	A37-11688 Paul R. & Robert E. Fosnot (This claim is based upon water right No. 37-0353.)	20 miners inches

8. The SRBA claims on file total 303.5 miners inches.

9. The Water District 37 records show that Wood River Valley Irrigation District No. 45 has paid the Water District 37 assessments for 1997 for Gus Chek and for 1996 and 1997 for Robert Kierstad. The chain of title for Lot 9, Block 1, Dean Ranch Subdivision indicates that the ownership interest of Robert Kierstad was reassumed by M. D. Dean in 1978 or 1979. Letters in the files of Water District 37 indicate that any ownership interest of Mr. Kierstad in the 40 inches of water was also reassumed by Mr. Dean.

10. The Department, Water District 37, and Blaine County records do not show the transfer of an 1887 water right to Lot 2, Block 1, Dean Ranch Subdivision.

11. Water District 37 has been active each year since 1974 and earlier.

12. Rule 104 of the "Rules of Procedure of the Idaho Department of Water Resources", IDAPA 37.01.01, authorize the department to initiate a formal proceeding by issuing an informal determination that will become final in the absence of further action by the person(s) to whom the document is addressed.

13. Wood River Valley Irrigation District #45 indicates that because of the long delivery ditch, a right of less than 20 inches cannot be delivered to Lot 2, Block 1, Dean Ranch Subdivision. District #45 recommends that the ownership records be clarified for the 40 miners inches attributed to Robert Kierstad under Water District 37 records by dividing it between Olsen Livestock Consultants and Tom Goicoechea, owner of Lot 3, Block 1, Dean Ranch Subdivision.

CONCLUSIONS OF LAW

1. Water right No. 37-0353 has not been forfeited as evidenced by the Water District 37 records of delivery and use, although use has not occurred on Lot 2, Block 1 Dean Ranch Subdivision for many years.

2. Lot 2, Block 1 Dean Ranch Subdivision was included in the decreed place of use of water right No. 37-0353. Unless a change in place of use was made in accordance with a valid transfer procedure, water right No. 37-0353 is prorated uniformly to the place of use; i.e., 2 miners inches to each acre of the place of use, *Crow v. Carlson*, 107 Idaho 461 (1984).

3. A water right is an appurtenance to the land and passes by conveyance of the land unless it was specifically reserved in the deed or it can be clearly shown that it was known to both parties that the water right was not intended to be conveyed. *Russell v. Irish*, 20 Idaho 194, 118 P. 501 (1911). Because the 1974 deed from M. D. and Katherine Dean to Charles A. and Debra Anne Curtis did not specifically reserve water rights from the sale, a proportionate share of water right 37-0353 remained appurtenant to the parcel. Deeds and letters confirming the sale of portions of the decreed water right issued by M. D. Dean subsequent to the 1974 deed to Curtis purporting to convey water rights could not have moved the water right from Lot 2.

4. The reference to an "1887" water right in the chain of title to Lot 2, Block 1, Dean Ranch Subdivision, appears to be a typographical error in describing the appurtenant May 12, 1886 priority water right because documentation has not been found to associate an 1887 priority water right with Lot 2, Block 1, Dean Ranch Subdivision. The inclusion of this reference to a water right in the deed to Mr. Call indicates that Mr. Curtis understood that a water right was appurtenant to Lot 2, Block 1, Dean Ranch Subdivision.

5. Section 42-607, Idaho Code, provides that a water user can not adversely possess the water rights of another user in an active water district.

6. The information available to the department indicates that a proportionate share of water right No. 37-0353 is appurtenant to Lot 2, Block 1, Dean Ranch Subdivision owned by Olsen Livestock Consultants, Inc. The watermaster of Water District 37 should be instructed to deliver the water to the authorized point of diversion for delivery and irrigation use.

7. Because some of the persons presently owning part of water right No. 37-0353 are not claiming ownership and are not calling for delivery under the right, the watermaster can satisfy the Olsen Livestock Consultant, Inc. call without otherwise changing the delivery to those entitled to use the water.

8. Mr. Tom Goicoechea has not asserted a claim to own a part of right No. 37-0353. If he or others having a potential ownership claim to right No. 37-0353 make a call for delivery and provide information to support ownership, IDWR will consider the validity of the call by providing notice to other affected users and providing opportunity to participate. A ruling by IDWR with respect to a call, including the present Olsen Livestock Consultants, Inc. call, is an interim determination subject to review and revision by the SRBA Court.

9. IDWR is not authorized to divide or otherwise assign the 40 miners inches at one time shown in the Water District 37 records as owned by Robert Keirstad to satisfy the call by Olsen Livestock Consultants, Inc. or any other claimant. The order to deliver 20 miners inches to Olson Livestock Consultants, Inc. should not be viewed as making such a determination.

ORDER

IT IS, THEREFORE, HEREBY ORDERED:

1. The watermaster of Water District 37 is instructed to deliver 0.40 cfs of water right 37-0353 with a June 12, 1886 priority date to the Wood River Valley Irrigation District No. 45 headgate in the SW1/4NW1/4, Section 36, T2N, R18E for use by Olsen Livestock Consultants, Inc. Prior to delivery of the water under this order, Olsen Livestock Consultants, Inc. shall have paid any applicable Water District 37 assessments.

2. This Order does not constitute a determination that Olsen Livestock Consultants, Inc. has a right-of-way, easement, or other necessary authorities and approvals needed to convey water through the Wood River Valley Irrigation District headgate and canal system.

3. This Order is a preliminary determination subject to revision if additional information is submitted indicating that water right No. 37-0353 is no longer appurtenant to Lot 2, Block 1, Dean Ranch Subdivision. All persons receiving this order and others using or claiming the use of water under right No. 37-0353 have the opportunity to seek reconsideration or file exceptions in accordance with Rule 730 of the "Rules of Procedure of the Department of Water Resources," IDAPA 37.01.01.

4. Ownership of water right no. 37-0353 will be finally fully determined by the SRBA District Court.

Signed at Boise, Idaho, this 25th day of August, 1997.

NORMAN C. YOUNG
Administrator
Water Management Division

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE
STATE OF IDAHO

IN THE MATTER OF A CALL FOR DELIVERY OF WATER RIGHT NO. 37-00353 TO RICHARD AND PAULA ZIKER, TRUSTEES	)	**PRELIMINARY ORDER**

James Speck, an attorney representing Richard and Paula Ziker, requested delivery of 0.20 cfs (10 miners inches) of water from the Big Wood River under water right No. 37-00353. After reviewing the files and records of the Department, Water District 37, and Blaine County, the Department of Water Resources enters the following Findings of Fact, Conclusions of Law, and Preliminary Order.

FINDINGS OF FACT

6.4 cfs - 320 in

1. Water Right No. 37-00353 was decreed to James Johnson in the case of S. C. Frost, *et al* v. Alturas Water Co., *et al*. The right is for 6.4 cfs to be diverted from the Big Wood River for irrigation of the E1/2SE1/4 of Section 13 and the E1/2NE1/4, Section 24, T1N, R18E, B.M., Blaine County (approximately 160 acres). The water right has been diverted into the Wood River Valley Irrigation District No. 45 canal located within the SW1/4NW1/4, Section 36, T2N, R18E, for delivery to users of the water. The priority of right No. 37-00353 is June 12, 1886.

2. The decreed place of use for right No. 37-00353 was divided in the early 1970's into an 18 lot subdivision known as the Dean Ranch Subdivision. The records of the Department and Water District 37 indicate that right No. 37-00353 was appurtenant to and used upon the decreed place of use up to the time the land was subdivided and on some of the subdivision lots and other land each year thereafter. Lot 8A, Block 1 of the subdivision has not been irrigated for more than 10 years as evidenced by a review of aerial photographs and other information available to the department.

3. Richard and Paula Ziker, as Trustees of the Ziker Family Trust, dated July 20, 1992, claim ownership of Lot 8A, Block 1, Dean Ranch Subdivision. The deeds in the chain of title filed with Blaine County for this lot from the creation of the subdivision to the present are summarized as follows:

PcDocs Pge 11 → 17

a. On November 19, 1974, M.D. and Katherine J. Dean conveyed by warranty deed approximately 20 acres in the NE1/4NE1/4, Section 24, T1N, Range 18E including what is now Lot 8A, Block 1, of Dean Ranch Subdivision to M. Allyn Dingel and Robert J. Koontz, as tenants in common. The deed includes appurtenances, but does not describe appurtenant water rights.

b. On October 30, 1979, M. Allyn Dingel and Robert J. Koontz, as tenants in common, conveyed by warranty deed Lot 8A, Block 1, Dean Ranch Subdivision (about 10 acres) to Cecil L. Potter and Marguerite Potter, husband and wife. The deed includes appurtenances, but does not describe appurtenant water rights.

c. On October 17, 1983, Cecil L. Potter and Marguerite Potter, husband and wife, conveyed by warranty deed Lot 8A, Block 1, Dean Ranch Subdivision to James B. Stockman. The deed is silent concerning appurtenances.

d. On December 18, 1989, James B. Stockman conveyed by warranty deed Lot 8A, Block 1, Dean Ranch Subdivison to William R. Long and Richard Ziker. The deed includes appurtenances, but does not describe appurtenant water rights.

e. On January 19, 1990, Richard Ziker conveyed by quit-claim deed Lot 8A, Block 1, Dean Ranch Subdivision to William R. Long. The deed includes appurtenances, but does not describe appurtenant water rights.

f. On January 29, 1993, Richard Ziker conveyed by quit-claim deed his ownership interest in Lot 8A, Block 1, Dean Ranch Subdivision to Richard Ziker and Paula Ziker, as trustees of the Ziker Family Trust. The deed is silent concerning appurtenances.

g. On June 2, 1993, William R. Long conveyed by quitclaim deed a one-half (1/2) undivided interest in Lot 8A, Block 1, Dean Ranch Subdivision to Richard Ziker, a married man as his sole and separate property. The deed is silent concerning appurtenances.

h. On June 3, 1994, Richard and Paula Ziker, as trustees of the Ziker Family Trust, conveyed by warranty deed Lot 8A, Block 1, Dean Ranch Subdivision to themselves as husband and wife. The deed includes appurtenances, but does not describe appurtenant water rights.

i. On June 3, 1994, William R. Long conveyed by warranty deed Lot 8A, Block 1, Dean Ranch Subdivision to Richard and Paula Ziker, as husband and wife. The deed includes appurtenances, but does not describe appurtenant water rights.

j. On January 22, 1999, Paula Ziker conveyed by quitclaim deed Lot 8A, Block 1, Dean Ranch Subdivision to Richard Ziker, a married man as his sole and separate property. The deed includes appurtenances, but does not describe appurtenant water rights.

k. On October 14, 1999, Richard Ziker conveyed by quitclaim deed Lot 8A, Block 1, Dean Ranch Subdivision to Richard and Paula Ziker, as trustees for Ziker Family Trust. The deed is silent concerning appurtenances.

4. Blaine County does not have any record of deeds transferring title of any part of Water Right No. 37-00353 separately from the appurtenant land during the time period of December 15, 1969 (the date land was deeded to M. D. Dean) to November 19, 1974 (the date of the initial sale of Lot 8).

5. Water District 37 records list the following as the current owners of water right No. 37-00353:

a. Harry L. Oppenheimer (20 miners inches) based upon a letter dated October 27, 1977 from M. D. Dean confirming the sale of the water to Jerry Lee Johnson, a February 16, 1978 warranty deed from Jerry Lee Johnson to Marvin Lotspeich, and a 1980 warranty deed from Marvin Lotspeich to Harry L. Oppenheimer.

b. Ed Stricker (20 miners inches) based upon an October 29, 1977 letter from M. D. Dean confirming sale of the water to Mr. Stricker.

c. Reid Kantenwein (10 miners inches) based upon IDWR approved transfer No. 3679 filed by Gus Chek. Mr. Chek's ownership was based upon a November 1, 1977 letter confirming sale of 20 inches of water to Mr. Chek. Mr. Chek subsequently sold 10 inches to Douglas Driever. The water is to be used upon 10 acres in the SW1/4SW1/4, Section 18, T1N, R19E. Pursuant to permit No. 37-08660, the 10 inches of water held by Kantenwein under right No. 37-00353 is to be left undiverted from the Big Wood River to mitigate depletions in flow of the river resulting from pumping of ground water under permit No. 37-08660.

d. Douglas Driever (10 miners inches) based upon an October 4, 1991 letter from Gus Chek confirming sale of the water and Transfer No. 3679 approved by the department.

e. Robert Gardner (180 miners inches) based upon a June 25, 1982 letter from M. D. Dean confirming sale of the water to Mr. Gardner.

f. Judy Grigsby (20 miners inches) based upon a June 25, 1982 letter from M. D. Dean to John Peterson, a quitclaim deed dated November 3, 1993 from

John Peterson to J. Karl Bick, and warranty and quitclaim deeds dated April 17, 1998 from J. Karl Bick to Judy Grigsby.

g. Robert Fosnot (20 miners inches) based upon Transfer No. 2948 approved by the department.

h. Olsen Livestock Consulting (20 miners inches) based upon an amended preliminary order issued by the Department on August 25, 1997.

6. Water District 37 records include documents indicating that Robert Kierstad had an ownership interest in 0.8 cfs (40 miners inches) of right No. 37-00353. Mr. Kierstad has not filed a claim in the Snake River Basin Adjudication (SRBA), has not called for water for many years, and the county records indicate that his ownership interest may no longer exist.

7. The records of Water District 37 do not list Ziker Family Trust as an owner of part of right No. 37-00353. The watermaster records indicate that an assessment has not been paid for delivery of water for use on Lot 8A, Block 1, Dean Ranch Subdivision since 1982 or earlier.

8. The following have claimed portions of right No. 37-00353 in the Snake River Basin Adjudication (SRBA):

Lt 8B	a.	A37-00353 J. Karl & Judith G. Bick	20 miners inches
Lts 4,5,& 6	b.	A37-00353B Edward & Jeannine Stricker	20 miners inches
UnRec transfer	c.	A37-00353D Robert & Kathryn Gardner	180 miners inches
Lt 17	d.	A37-00353E Harry L. Oppenheimer, Jr.	20 miners inches
Lt 8A	e.	A37-00353F Ziker Family Trust	10 miners inches
Lt 9	f.	A37-00353G Douglas Driever Barry	10 miners inches
T-3679 Sec 18	g.	A37-00353H Reid Kantenwein	10 miners inches
Lt 2	h.	A37-00353J Olsen Livestock Consult.	20 miners inches
Lt 7	i.	A37-00353K Sherry Price	18 miners inches
Lt 3	j.	A37-00353L Tom Goicoechea	18 miners inches
Lt 1	k.	A37-11688 Paul R. & Robert E. Fosnot (This claim is based upon water right No. 37-00353.)	20 miners inches

9. The SRBA claims on file total 346 miners inches. The claims exceed the amount of the diversion rate authorized by Right No. 37-00353 by 26 miners inches.

10. The Water District 37 records show that Wood River Valley Irrigation District No. 45 has paid the Water District 37 assessments for 1997 for Gus Chek and for 1996 and 1997 for Robert Kierstad.

11. Water District 37 has been active each year since 1974 and earlier.

12. Rule 104 of the "Rules of Procedure of the Idaho Department of Water Resources," IDAPA 37.01.01, authorize the department to initiate a formal proceeding by issuing an informal determination that will become final in the absence of further action by the person(s) to whom the document is addressed.

CONCLUSIONS OF LAW

1. Water right No. 37-00353 has not been forfeited as evidenced by the Water District 37 records of delivery and use, although use has not occurred on Lot 8A, Block 1 Dean Ranch Subdivision for many years.

2. Lot 8A, Block 1 Dean Ranch Subdivision was included in the decreed place of use of water right No. 37-00353. Unless a change in place of use was made in accordance with a valid transfer procedure, water right No. 37-00353 is prorated uniformly to the place of use; i.e., two miners inches to each acre of the place of use, Crow v. Carlson, 107 Idaho 461 (1984).

3. A water right is an appurtenance to the land and passes by conveyance of the land unless it was specifically reserved in the deed or it can be clearly shown that it was known to both parties that the water right was not intended to be conveyed. Russell v. Irish, 20 Idaho 194, 118 P. 501 (1911). Because the 1974 deed from M. D. and Katherine Dean to M. Allyn Dingel and Robert J. Koontz does not specifically reserve water rights from the sale, a proportionate share of water right 37-00353 remains appurtenant to the parcel. Deeds and letters confirming the sale of portions of the decreed water right issued by M. D. Dean subsequent to the 1974 deed to Curtis purporting to convey water rights could not have moved the water right from Lot 8A.

4. Section 42-607, Idaho Code, provides that a water user can not adversely possess the water rights of another user in an active water district.

5. The information available to the department indicates that a proportionate share of water right No. 37-00353 is appurtenant to Lot 8A, Block 1, Dean Ranch Subdivision. The watermaster of Water District 37 should be instructed to deliver the water to the authorized point of diversion for delivery and irrigation use.

6. The department is not able with the information presently available to determine which of the persons presently listed in the Water District 37 records as owning a portion of water right No. 37-00353 are not entitled to the full amount attributed to them. This matter is left for further determination by the department or the district court. Because some of the persons listed as owning part of the right are not calling for delivery under the right and have not done so for several years, the watermaster can satisfy Richard and Paula Ziker's call without otherwise changing the delivery to those entitled to use the water. If calls for water by those entitled to receive the water exceed the total amount of the right, delivery to each user will be proportionately reduced until the ownership issue is resolved.

7. A ruling by the Department with respect to a call, including the present Ziker Family Trust call, is an interim determination subject to review and revision by the SRBA Court.

ORDER

It is, therefore, hereby ordered:

1. The watermaster of Water District 37 is instructed to deliver 0.20 cfs of water right 37-00353 with a June 12, 1886 priority date to the Wood River Valley Irrigation District No. 45 headgate in the SW1/4NW1/4, Section 36, T2N, R18E for use by Richard and Paula Ziker, as trustee for Ziker Family Trust. Prior to delivery of the water under this order, Richard and Paula Ziker, as trustees for Ziker Family Trust, shall have paid any applicable Water District 37 assessments.

2. This Order does not constitute a determination that Ziker Family Trust has a right-of-way, easement, or other necessary authorities and approvals needed to convey water through the Wood River Valley Irrigation District headgate and canal system.

3. This Order is a preliminary determination subject to revision if additional information is submitted indicating that water right No. 37-00353 is no longer appurtenant to Lot 8A, Block 1, Dean Ranch Subdivision. All persons receiving this order and others using or claiming the use of water under right No. 37-00353 have the opportunity to seek reconsideration or file exceptions in accordance with Rule 730 of the "Rules of Procedure of the Department of Water Resources," IDAPA 37.01.01.

Signed at Boise, Idaho this 29TH day of December, 1999.

NORMAN C. YOUNG
Administrator
Water Management Division

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 30th day of December, 1999, the above and foregoing document was served upon the following by placing a copy of the same in the United States Mail, postage prepaid and properly addressed to the following:

James P. Speck
Speck & Aanestad
P.O. Box 987
Ketchum ID 83340

Scott Campbell
Elam & Burke
P.O. Box 1539
Boise, ID 83701

Robert and Kathryn Gardner
P.O. Box 470
Bellevue, ID 83313

Robert Earl Fosnot
P.O. Box 290
Bellevue, ID 83313

Paul R. Fosnot
837 Laurel Avenue
Pomona, CA 91767

Reid Kantenwein
P.O. Box 1525
Hailey, ID 83333

Harry L. Oppenheimer, Jr.
246 Summit Drive
Corde Madera, CA 93925

Edward and Jeannine Stricker
10767 State Highway 75
Bellevue, ID 83313

Douglas Driever
P.O. Box 2072
Hailey, ID 83333

J. Karl and Judith G. Bick
P.O. Box 2014
Sun Valley, ID 83353

Judith Grigsby
P.O. Box 254
Bellevue, ID 83313

E. Lee Schlender
P.O. Box 296
Hailey, ID 83333

Jim Eakin
Wood River Valley
Irrigation District 45
P.O. Box 296
Bellevue, ID 83313-0296

Bruce & Sherry Price
P.O. Box 1022
Bellevue, ID 83313

Tom & Annette Goicoechea
P.O. Box 193
Hailey, ID 83333

Lee Peterson
Watermaster
Water District 37
P.O. Box T
Shoshone, ID 83352

Deborah Drew-Ellis
Administrative Asst., Legal Services

37-353 Lt 8B unobjected to

O/L with 37-8012 (source = ground water) (no obj here either)

Claim	0.40 cfs	10.0 ac
Recom	0.40 cfs	6.9 ac
Adjusted	0.31 cfs	----

POU at 2" per acre	Existing Rate per acre
6.9 ac	0.31 cfs / 6.9 ac =
*0.04 cfs/ac	0.045 cfs/ac
0.276 cfs	

37-8012 was licensed for 0.16 cfs on 4.5 ac or 0.036 cfs/ac. There was no combined right language. Priority date = 6-2-1982

The application for permit was for 5 ac. The application states that surface water was not purchased (possibly referring to water district fees)

At this point combined Remarks would be,

When 353 and 8012 are combined limit to 6.9 ac

alternative - disallow right; surface water forfeited

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 37-353

WATER RIGHT NUMBER: 37-353

Sept 09 Proposal

need to change COM b. Rmk

Owner Type	Name and Address
Current Owner	JUDITH P GRIGSBY PO BOX 254 BELLEVUE, ID 83313 (208)788-4454

Priority Date: 06/12/1886

Basis: Decreed

Status: Active

Source	Tributary
BIG WOOD RIVER	MALAD RIVER

Beneficial Use	From	To	Diversion Rate	Annual Volume
STOCKWATER	01/01	12/31	0.020 CFS	
IRRIGATION	04/15	10/31	0.310 CFS	
		Total Diversion:	0.310 CFS	

6.9 +.9 7.8

Location of Point(s) of Diversion

BIG WOOD RIVER NE1/4SW1/4NW1/4 Sec. 36, Twp 02N, Rge 18E, B.M.

BLAINE County

Place of Use

STOCKWATER

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
01N	18E	24	X																

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	
01N	18E	24	6.9																6.9

Total Acres: 6.9

Conditions of Approval:

1. The place of use is further described as Lot 8B of the Dean Ranch Subdivision.
2. N05 The quantity of water under this right for stockwater use shall not exceed 13,000 gallons per day.
3. N08 The quantity of water decreed for this water right for stockwater use is not a determination of historical beneficial use.
4. 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.
5. This right is a portion of former Right 37-353.
6. E55 Right Nos. 37-353 and 37-8012 are limited to the irrigation of a combined total of 6.9 acres in a single irrigation season.
7. X31 This right when combined with all other rights shall provide no more than 0.02 cfs at the field headgate for irrigation of the land described above.

7.8 acre

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 37-353

WATER RIGHT NUMBER: 37-353

Proposal

Owner Type	Name and Address
Current Owner	JUDITH P GRIGSBY PO BOX 254 BELLEVUE, ID 83313 (208)788-4454

Priority Date: 06/12/1886

Basis: Decreed

Status: Active

Source: BIG WOOD RIVER

Tributary: MALAD RIVER

Beneficial Use	From	To	Diversion Rate	Annual Volume
STOCKWATER	01/01	12/31	0.020 CFS	
IRRIGATION	04/15	10/31	0.310 CFS	
		Total Diversion:	0.310 CFS	

Location of Point(s) of Diversion

BIG WOOD RIVER NE1/4SW1/4NW1/4 Sec. 36, Twp 02N, Rge 18E, B.M.

BLAINE County

Place of Use

STOCKWATER

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
01N	18E	24	X																

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	
01N	18E	24	6.9																6.9

Total Acres: 6.9

Conditions of Approval:

1. The place of use is further described as Lot 8B of the Dean Ranch Subdivision.
2. N05 The quantity of water under this right for stockwater use shall not exceed 13,000 gallons per day.
3. N08 The quantity of water decreed for this water right for stockwater use is not a determination of historical beneficial use.
4. 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.
5. This right is a portion of former Right 37-353.
6. E55 Right Nos. 37-353 and 37-8012 are limited to the irrigation of a combined total of 6.9 acres in a single irrigation season.

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 37-353 V1

WATER RIGHT NUMBER: 37-353 V1

Owner Type	Name and Address
Current Owner	JUDITH P GRIGSBY PO BOX 254 BELLEVUE, ID 83313 (208)788-4454
Original Owner	JOHN R PETERSON PO BOX 1702 HAILEY, ID 83333 (208)788-4367

Priority Date: 06/12/1886

Basis: Decreed

Status: Active

claim date 9-20-88

Source	Tributary
BIG WOOD RIVER	MALAD RIVER

Beneficial Use	From	To	Diversion Rate	Annual Volume
STOCKWATER	01/01	12/31	0.020 CFS	
IRRIGATION	04/15	10/31	0.400 CFS	
		Total Diversion:	0.400 CFS	

Rate/Ac = 0.058 cfs/Ac

Location of Point(s) of Diversion

BIG WOOD RIVER NE1/4SW1/4NW1/4 Sec. 36, Twp 02N, Rge 18E, B.M.

BLAINE County

Place of Use

STOCKWATER

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
01N	18E	24	X																

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	
01N	18E	24	6.9																6.9

Total Acres: 6.9

Lt 8B

Conditions of Approval:

1. The place of use is further described as Lot 8B of the Dean Ranch Subdivision.
2. N05 The quantity of water under this right for stockwater use shall not exceed 13,000 gallons per day.
3. N08 The quantity of water decreed for this water right for stockwater use is not a determination of historical beneficial use.
4. 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.
5. This right is a portion of former Right 37-353.
6. E55 Right Nos. 37-353 and 37-8012 are limited to the irrigation of a combined total of 6.9 cres in a single irrigation season.

Comments:

1. TBACKLUN 3/1/1995 COPIED FROM REMARKS
Comment: SPLIT INTO 37-0353A & 37-0353B BY TRANS. 2948. IDWR NOTE:STOCKWATER P/U OVERLAPS ACRES WITH A37-08012 CLAIM. ********** OWNERSHIP CHANGE

MADE 2-28-95 BY TLB, PETERSON-OLD OWNER, BICK-NEW OWNER. BOTH SIGNATURES AND QUITCLAIM DEED INCLUDED.

2. TFAWCETT 3/7/2000 OWNERSHIP CHANGE
Comment: OWNERSHIP CHANGED BICK TO GRIGSBY PER 1409(6) AND DEEDS RECD 2/11/2000.

3. jstanton 11/20/2006 Site Visit
Comment: Last Friday I visited the subject property to determine the extent of beneficial use. Nobody was home, so I looked around on my own. A pump in the District Canal at the NW corner of the property provides water for a mainline and wheel lines for land on both sides of the home. The owner is known to the Watermaster, so I am recommending the present pou for decree.

4. mvanbussum 2/20/2007 SOU
Comment: Changed stock SOU to standard.

SubCase:

SubCase Number: 37-353
Class: 1
SF5 Filed Date:
Special Master Recom Signed Date:
Attorney Assigned:
Adjudication Agent: Jim Stanton
Basis of Claim: Decreed

Water Supply Bank:

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Claim Report 37-353

WATER RIGHT NUMBER: 37-353

Owner Type	Name and Address
Current Owner	JUDITH P GRIGSBY PO BOX 254 BELLEVUE, ID 83313 (208)788-4454
Original Owner	JOHN R PETERSON
Attorney	JAMES P SPECK SPECK & AANESTAD PO BOX 987 KETCHUM, ID 83340 (208)726-4421

Priority Date: 06/12/1886

Basis: Decreed

Status: See Remarks

Source	Tributary
BIG WOOD RIVER	MALAD RIVER

Beneficial Use	From To	Diversion Rate	Annual Volume
STOCKWATER	1/01 to 12/31	0.100 CFS	
IRRIGATION	4/01 to 10/01	0.300 CFS	
	Total Diversion:	0.400 CFS	

Location of Point(s) of Diversion

BIG WOOD RIVER NE1/4SW1/4NW1/4 Sec. 36, Twp 02N, Rge 18E, B.M.

Place of Use

STOCKWATER

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
01N	18E	24	X																

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	
01N	18E	24	10.0																10.0

Total Acres: 10

Conditions of Approval:

1. SPLIT INTO 37-0353A & 37-0353B BY TRANS. 2948.
IDWR NOTE:STOCKWATER P/U OVERLAPS ACRES WITH A37-08012 CLAIM.
********** OWNERSHIP CHANGE MADE 2-28-95 BY TLB, PETERSON-OLD OWNER, BICK-NEW OWNER. BOTH SIGNATURES AND QUITCLAIM DEED INCLUDED.
********** 3/7/2000 TF; OWNERSHIP CHANGED BICK TO GRIGSBY PER 1409(6) AND DEEDS REC'D 2/11/2000.

Remarks:

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 37-8012 V1

WATER RIGHT NUMBER: 37-8012 V1

9k with 37-353

Owner Type	Name and Address
Original Owner	JOYCE M PETERSON BOX 1702 HAILEY, ID 83333 (208)788-4367
Current Owner	JUDITH P GRIGSBY PO BOX 254 BELLEVUE, ID 83313 (208)788-4454
Original Owner	JOHN R PETERSON PO BOX 1702 HAILEY, ID 83333 (208)788-4367

Priority Date: 06/02/1982

Basis: License

Status: Active

Source: GROUND WATER

Tributary

Beneficial Use	From	To	Diversion Rate	Annual Volume
DOMESTIC	01/01	12/31	0.020 CFS	1.20 AF
IRRIGATION	04/01	11/01	0.140 CFS	13.50 AF
		Total Diversion:	0.160 CFS	14.70 AF

Location of Point(s) of Diversion

GROUND WATER — NW1/4NE1/4NE1/4 — Sec. 24, Twp 01N, Rge 18E, B.M.

BLAINE County

Place of Use

DOMESTIC

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
01N	18E	24	X																

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	
01N	18E	24	4.5																4.5

Total Acres: 4.5

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 37-8012 V1

Total Acres: 4.5

Conditions of Approval:

1. E55 Right Nos. 37-353 and 37-8012 are limited to the irrigation of a combined total of 6.9 acres in a single irrigation season.
2. X01 Domestic use includes stockwater for 5 horses.
3. X60 Place of use is located within Lot 8b of the Dean Ranch Subdivision, 10785 Hwy. 75.
4. X59 Point of diversion is located within Lot 8b of the Dean Ranch Subdivision, 10785 Hwy. 75.
5. Parcel No. RP00120001008BA.
6. 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:

Comments:

1. TBACKLUN 3/1/1995 COPIED FROM REMARKS
Comment: OWNERSHIP CHANGE MADE 3-1-95 BY TLB. PETERSON-FORMER OWNER, BICK-NEW OWNER. BOTH SIGNATURES AND QUITCLAIM DEED INCLUDED.

2. TFAWCETT 3/7/2000 OWNERSHIP CHANGE
Comment: OWNERSHIP CHANGED BICK TO GRIGSBY PER 1409(6) AND DEEDS RECD 2/11/2000. BASIS OF CLAIM UPDATED TO REFLECT ISSUANCE OF LICENSE 10/4/1989.

3. DJONES 3/9/2000 COPIED FROM REMARKS
Comment: OWNERSHIP CHANGE MADE 3-1-95 BY TLB. PETERSON-FORMER OWNER, BICK-NEW OWNER. BOTH SIGNATURES AND QUITCLAIM DEED INCLUDED. RECOMMENDATION MODIFIED RECORD MODIFIED TO REFLECT APPROVED LICENSE. REFORMATTED TO CONFORM WITH STANDARDS. COMBINED USE REMARKS AND CONDITIONS MAY BE NEEDED AFTER REVIEW OF A37-00353(PART).

4. jstanton 11/20/2006 Site Visit
Comment: I attempted to visit this property last Friday, but two mean-looking dogs on the adjacent property prevented access (the two parcels share a common access road). I was able to determine that surface water is also used on this property via a pump in the District Canal, and am relying on the license for the rest of the data. I could not be sure what the recommended pou for irrigation, so am showing the same shape in SDE for both 8012 and 353 (with a limit of 6.9 acres). The licensed domestic volume includes water for lawn irrigation, so that is not included in the irrigation limit.

5. mvanbussum 2/8/2007 Conditions
Comment: Updated conditions

Water Supply Bank:

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Claim Report 37-8012

WATER RIGHT NUMBER: 37-8012

Owner Type	Name and Address
Attorney	JAMES P SPECK SPECK & AANESTAD PO BOX 987 KETCHUM, ID 83340 (208)726-4421
Original Owner	JOYCE M PETERSON BOX 1702 HAILEY, ID 83333 (208)788-4367
Original Owner	JOHN R PETERSON PO BOX 1702 HAILEY, ID 83333 (208)788-4367
Current Owner	JUDITH P GRIGSBY PO BOX 254 BELLEVUE, ID 83313 (208)788-4454

Priority Date: 06/02/1982

Basis: License

Status: Active

Source	Tributary
GROUND WATER	

Beneficial Use	From To	Diversion Rate	Annual Volume
DOMESTIC	1/01 to 12/31	0.020 CFS	
IRRIGATION	4/01 to 11/01	0.140 CFS	
	Total Diversion:	0.160 CFS	14.70 AF

Location of Point(s) of Diversion

GROUND WATER NE1/4NE1/4NE1/4 Sec. 24, Twp 01N, Rge 18E, B.M.

BLAINE County

Place of Use

DOMESTIC

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
01N 18E 24	X																

IRRIGATION

Twp Rge Sec	NE	NW	SW	SE

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Claim Report 37-8012

	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
01N 18E 24	4.5																4.5

Total Acres: 4.5

Conditions of Approval:

1. OWNERSHIP CHANGE MADE 3-1-95 BY TLB. PETERSON-FORMER OWNER, BICK-NEW OWNER. BOTH SIGNATURES AND QUITCLAIM DEED INCLUDED.
********** 3/7/2000 tf; OWNERHSIP CHANGED BICK TO GRIGSBY PER 1409(6) AND DEEDS REC'D 2/11/2000. BASIS OF CLAIM ALSO UPDATED TO REFLECT THE ISSUANCE OF LICENSE 10/4/1989.
********** 3/9/2000, DJ: CLAIM AMENDED TO REFLECT WATER RIGHT ELEMENT SPECIFICS CONTAINED ON ISSUED LICENSE. ADDITIONAL CORRESPONDENCE SENT.

Remarks:

Comments:

Water Supply Bank:

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 37-8012

WATER RIGHT NUMBER: 37-8012

Owner Type	Name and Address
Current Owner	JOHN R PETERSON PO BOX 1702 HAILEY, ID 83333 (208)788-4367

Priority Date: 06/02/1982

Basis: License

Status: Active

Source: GROUND WATER

Tributary:

Beneficial Use	From	To	Diversion Rate	Annual Volume
DOMESTIC	1/01	12/31	0.020 CFS	1.20 AF
IRRIGATION	4/01	11/01	0.140 CFS	13.50 AF
		Total Diversion:	0.160 CFS	14.70 AF

Location of Point(s) of Diversion

GROUND WATER NE1/4NE1/4 Sec. 24, Twp 01N, Rge 18E, B.M.

BLAINE 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	
01N	18E	24	4.5																4.5

Total Acres: 4.5

DOMESTIC same as IRRIGATION

Conditions of Approval:

1. Domestic use is for 1 home.

Remarks:

Comments:

IDAHO DEPARTMENT OF WATER RESOURCES
Water Right Report 37-8012

Water Supply Bank:

Christensen, Kelly

From: Christensen, Kelly
Sent: Wednesday, August 19, 2009 10:42 AM
To: Bromley, Chris; Shaff, Don; Fritschle, Carter; Jones, Doug; Kelly, Vicki
Subject: 37-353B Briggs/Arrington overlap analysis

Attachments: 37-353B BRIGGS ARRINGTON rec summary sheet and analysis.doc

Basically the problem is primarily with the recommendation for overlapping right 37-21267. It was recommended for 1.50 cfs for the irrigation of 0.40 ac. Yes the numbers and decimal points are correct.

At this point I do not know how to recommend a rate limit for this group of 3 rights as no objections have been filed on any of them. I understand that I can change the recommendation for 37-353B through the objection process to this group but can I also revisit the recommendations for 37-21267 and 37-7310?



37-353B BRIGGS ARRINGTON rec ...

Kelly K Christensen
Sr Water Resource Agt
Boise, Western Region
(208)-334-2190

37-353B Lts 4, 5, & 6 No obj as of 8-19-2009

O/L with 37-21267 (source = Big Wood River) No obj as of 8-19-2009
37-7310 (source = Ground Water) No obj as of 8-19-2009

Claim	0.40 cfs	20.0 ac
	0.02 cfs	stockwater
Recom	0.40 cfs	0.4 ac
Adjusted	0.04 cfs	----

POU at 2" per acre	Existing Rate per acre
0.4 ac *0.04 cfs/ac 0.016 cfs	0.04 cfs / 0.4 ac = 0.10 cfs/ac Or 5 inches/acre

37-21267 was claimed for 1.50 cfs on 20 acres and was recommended for 1.50 cfs for 0.40 acres or 3.75 cfs/ac. There was no combined right language regarding diversion rate. An undetermined portion of the diversion rate is considered conveyance loss. This right when combined with 37-353B is limited to the irrigation of 0.4 ac. Priority date = 6-15-1891.

37-7310 is a ground water right for 0.20 cfs for the irrigation of 17 acres. The right was also licensed for domestic use at 0.04 cfs and stockwater at 0.02 cfs. The application for permit and field examination were silent regarding any surface water use. Licensing review found that 37-353A and 37-353B (allocations Numbers pre SRBA) were appurtenant to this location but not specifically identified as being tied to the same irrigated acreage. Ultimately the right was licensed with a remark limiting this right when combined with all other rights to one inch per acre. This remark was not carried forward to the recommendation.

At this point combined Remarks would be,
When 37-353B, 37-21267, and 37-7310 are combined limit to 17 ac.
When 37-353B and 37-21267 are combined limit to 0.40 ac.

Alternative = disallow right, surface water forfeited
= Recom ≈ 17ac as licensed thru 7310 (surface W.)

All the Property appears irrigated in 1987 & again in 1992
Source Unk.

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 37-353B

WATER RIGHT NUMBER: 37-353B

Owner Type	Name and Address
Current Owner	NOEL BRIGGS 2050 E 3000 S WENDELL, ID 83355
Current Owner	DAN ARRINGTON 2998 APRIL DRIVE TWIN FALLS, ID 83301 (208)720-4578



Priority Date: 06/12/1886

Basis: Decreed

Status: Active

Source	Tributary
BIG WOOD RIVER	MALAD RIVER

Beneficial Use	From	To	Diversion Rate	Annual Volume
IRRIGATION	04/15	10/31	0.040 CFS	
		Total Diversion:	0.040 CFS	

Location of Point(s) of Diversion

BIG WOOD RIVER NE1/4SW1/4NW1/4 Sec. 36, Twp 02N, Rge 18E, B.M.

BLAINE 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	
01N	18E	24	.3			.1													.4

Total Acres: 0.4

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.
2. The place of use is a portion of the lawn and trees located on the west end of Lot 5 of the Dean Ranch Subdivision.
3. An undetermined portion of this right is allowed for conveyance loss in the District Canal.
4. E55 Right Nos. 37-353B and 37-21267 are limited to the irrigation of a combined total of 0.4 acres in a single irrigation season.
5. Right Nos. 37-353B, 37-7310 and 37-21267 are limited to the irrigation of a combined total of 17 acres in a single irrigation season.
6. X31 This right when combined with all other rights shall provide no more than 0.02 cfs at the field headgate for irrigation of the land described above.

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 37-353B

WATER RIGHT NUMBER: 37-353B

Owner Type	Name and Address
Current Owner	NOEL BRIGGS 2050 E 3000 S WENDELL, ID 83355
Current Owner	DAN ARRINGTON 2998 APRIL DRIVE TWIN FALLS, ID 83301 (208)720-4578

Proposal

Priority Date: 06/12/1886

Basis: Decreed

Status: Active

Source	Tributary
BIG WOOD RIVER	MALAD RIVER

Beneficial Use	From	To	Diversion Rate	Annual Volume
IRRIGATION	04/15	10/31	0.040 CFS	
		Total Diversion:	0.040 CFS	

Location of Point(s) of Diversion

BIG WOOD RIVER NE1/4SW1/4NW1/4 Sec. 36, Twp 02N, Rge 18E, B.M.
BLAINE 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	
01N	18E	24	.3			.1													.4

Total Acres: 0.4

Conditions of Approval:

Lots 4, 5 & 6

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.
2. The place of use is a portion of the lawn and trees located on the west end of Lot 5 of the Dean Ranch Subdivision.
3. An undetermined portion of this right is allowed for conveyance loss in the District Canal.
4. E55 Right Nos. 37-353B and 37-21267 are limited to the irrigation of a combined total of 0.4 acres in a single irrigation season.
5. The domestic portion of Right 37-7310 is also used on the place of use described above.

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 37-353B V1

WATER RIGHT NUMBER: 37-353B V1

Owner Type	Name and Address
Current Owner	NOEL BRIGGS 2050 E 3000 S WENDELL, ID 83355
Current Owner	DAN ARRINGTON 2998 APRIL DRIVE TWIN FALLS, ID 83301 (208)720-4578
Original Owner	EDWARD W STRICKER

Priority Date: 06/12/1886

Basis: Decreed

Status: Active

claim date 9-22-88

Source	Tributary
BIG WOOD RIVER	MALAD RIVER

Beneficial Use	From	To	Diversion Rate	Annual Volume
IRRIGATION	04/15	10/31	0.400 CFS	
		Total Diversion:	0.400 CFS	

Rate/Ac = 1.0 cfs/Ac

Location of Point(s) of Diversion

BIG WOOD RIVER NE1/4SW1/4NW1/4 Sec. 36, Twp 02N, Rge 18E, B.M.

BLAINE 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	
01N	18E	24	.3			.1													.4

Total Acres: 0.4

Lts 4-5-6

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.
2. The place of use is a portion of the lawn and trees located on the west end of Lot 5 of the Dean Ranch Subdivision.
3. An undetermined portion of this right is allowed for conveyance loss in the District Canal.
4. E55 Right Nos. 37-353B and 37-21267 are limited to the irrigation of a combined total of 0.4 acres in a single irrigation season.
5. The domestic portion of Right 37-7310 is also used on the place of use described above.

Comments:

1. jstanton 11/20/2006 Site Visit
Comment: Last Friday is visited this property to determine the extent of water use. There is a headgate in the District Canal north of the buildings that feeds two small ditches that wander through the yard, apparently dead ending there. There were a few pieces of wheel line scattered around, but I could not see any way to get water from the Canal into the sprinklers. The pasture area was in weeds, and I did not see any signs of recent irrigation or use by livestock. There was no fencing between the buildings and pasture to control livestock. There is also a groundwater irrigation right on this land, and I found the well at the SE corner of the building area. There was a large hole in the top of the well casing (it has a submersible pump), and the system appeared to be in generally poor condition. The present pou for this claim does not appear to exceed 1/2 acre, so that is what I am recommending. Dave T said we could still recommend the decreed flow rate, with a statement that some is allowed for conveyance loss.

2. jstanton 12/11/2006 NOE Response
Comment: Addresses of claimants have been changed per noe. Related claim 37-21267 was recommended for disallowal, but is now recommended for decree. Added condition E55 limiting both rights to same acres allowed for each. Revised recommendation created.

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Claim Report 37-353B

WATER RIGHT NUMBER: 37-353B

Owner Type	Name and Address
Original Owner	EDWARD W STRICKER
Original Owner	JEANNINE F STRICKER
Current Owner	NOEL BRIGGS 2050 E 3000 S WENDELL, ID 83355
Current Owner	DAN ARRINGTON 2998 APRIL DRIVE TWIN FALLS, ID 83301 (208)720-4578

Priority Date: 06/12/1886

Basis: Decreed

Status: Active

Source	Tributary
BIG WOOD RIVER	MALAD RIVER

Beneficial Use	From	To	Diversion Rate	Annual Volume
STOCKWATER	4/01	12/01	0.020 CFS	
IRRIGATION	4/01	11/01	0.400 CFS	
		Total Diversion:	0.400 CFS	0.57 AF

Location of Point(s) of Diversion

BIG WOOD RIVER NE1/4SW1/4NW1/4 Sec. 36, Twp 02N, Rge 18E, B.M.

Place of Use

STOCKWATER

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
01N	18E	24																	

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	
01N	18E	24	10.0			10.0													20.0

Total Acres: 20

Conditions of Approval:

Remarks:

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 37-21267 V1

WATER RIGHT NUMBER: 37-21267 V1

Owner Type	Name and Address
Original Owner	JEANNINE F STRICKER 10767 STATE HWY 75 BELLEVUE, ID 83313 (208)788-6255
Current Owner	NOEL BRIGGS 2050 E 3000 S WENDELL, ID 83355
Current Owner	DAN ARRINGTON 2998 APRIL DRIVE TWIN FALLS, ID 83301 (208)720-4578

unobjected to as of 8-19-09

Priority Date: 06/15/1891

Basis: Decreed

Status: Active

Source	Tributary
BIG WOOD RIVER	MALAD RIVER

Beneficial Use	From	To	Diversion Rate	Annual Volume
IRRIGATION	04/15	10/31	1.500 CFS	
		Total Diversion:	1.500 CFS	

Location of Point(s) of Diversion

BIG WOOD RIVER NE1/4SW1/4NW1/4 Sec. 36, Twp 02N, Rge 18E, B.M.

BLAINE 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	
01N	18E	24	.3			.1													.4

Total Acres: 0.4

Conditions of Approval:

1. An undetermined portion of this right is allowed for conveyance loss in the District Canal.
2. E55 Right Nos. 37-353B and 37-21267 are limited to the irrigation of a combined total of 0.4 acres in a single irrigation season.
3. P21 This right is a split from former right 37-480.
4. 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.
5. The place of use is a portion of the lawn and trees located on the west end of Lot 5 of the Dean Ranch Subdivision.

Comments:

1. jstanton 11/20/2006 Site Visit
Comment: I visited this property last Friday to determine the extent of use for Claim 37-353B. A headgate north of the buildings can be opened to allow water to flow into two ditches that meander thru the trees and lawn before disappearing. Only about 0.4 acres appeared to be irrigated with surface water, and the remaining 17 acres of pasture did not appear to be irrigated at all. Claim 37-353B (1886 priority) is recommended for the claimed 0.40 cfs, which appears to be more than enough water to irrigate this small area even allowing for conveyance loss in the District Canal. I am therefore recommending the 1891 claim for disallowal for lack of beneficial use. It is simply not needed here.

2. jstanton 12/11/2006 NOE
Comment: This claim was originally recommended for disallowal, as I felt it was not a beneficial use of water to allow even more than 10 inches per acre for this property. A notice of errror was received. Based on a discussion with Doug Jones, I am now recommending the claim for decree (even though I still think it is not a beneficial use).

3. jdean 2/7/2007 Updated Conditions
Comment: Updated Conditions

Water Supply Bank:

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Claim Report 37-21267

WATER RIGHT NUMBER: 37-21267

Owner Type	Name and Address
Original Owner	JEANNINE F STRICKER 10767 STATE HWY 75 BELLEVUE, ID 83313 (208)788-6255
Current Owner	NOEL BRIGGS 2050 E 3000 S WENDELL, ID 83355
Current Owner	DAN ARRINGTON 2998 APRIL DRIVE TWIN FALLS, ID 83301 (208)720-4578

Priority Date: 06/15/1891

Basis: Decreed

Status: Active

Source	Tributary
BIG WOOD RIVER	MALAD RIVER

Beneficial Use	From To	Diversion Rate	Annual Volume
IRRIGATION	04/15 to 10/31	1.500 CFS	
	Total Diversion:	1.500 CFS	

Location of Point(s) of Diversion

BIG WOOD RIVER NE1/4SW1/4NW1/4 Sec. 36, Twp 02N, Rge 18E, B.M.

BLAINE 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	
01N	18E	24	10.0			10.0													20.0

Total Acres: 20

Conditions of Approval:

1. THIS CLAIM REPREENTS A PORTION OF DECREED RIGHT 37-480 DEEDED TO STRICKER FROM HURST IN 1978. PLACE OF USE KNOWN AS LOTS 4,5, 6 OF DEAN RANCH SUBDIVISION.

Remarks:

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 37-7310 V1

WATER RIGHT NUMBER: 37-7310 V1

Owner Type	Name and Address
Current Owner	NOEL BRIGGS 2050 E 3000 S WENDELL, ID 83355
Current Owner	DAN ARRINGTON 2998 APRIL DRIVE TWIN FALLS, ID 83301 (208)720-4578

Priority Date: 06/10/1983

Basis: License

Status: Active

Source: GROUND WATER

Tributary

Beneficial Use	From	To	Diversion Rate	Annual Volume
DOMESTIC	01/01	12/31	0.040 CFS	1.20 AF
STOCKWATER	01/01	12/31	0.020 CFS	0.50 AF
IRRIGATION	04/01	11/01	0.200 CFS	51.00 AF
		Total Diversion:	0.200 CFS	52.70 AF

Location of Point(s) of Diversion

GROUND WATER NW1/4SE1/4NE1/4 Sec. 24, Twp 01N, Rge 18E, B.M.
BLAINE County

GROUND WATER NW1/4SE1/4NE1/4 Sec. 24, Twp 01N, Rge 18E, B.M.
BLAINE County

Place of Use

DOMESTIC

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
01N	18E	24	X			X													

STOCKWATER

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
01N	18E	24	X			X													

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	
01N	18E	24	7.5			9.5													17.0

Total Acres: 17

Conditions of Approval:

1. Right 37-353B is also used for outside watering around the home covered under Right 37-7310.
2. J01 The place of use is also known as Lots 4,5 and 6 of the Dean Ranch Subdivision.
3. 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.
4. The points of diversion are located on Lot 5 of the Dean Ranch Subdivision.

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 37-7310 V1

Comments:

1. jstanton 11/21/2006 Site Visit
Comment: Last Friday I visited this property to determine the extent of beneficial use. The surface right on this property appeared to only irrigate the lawn, so I am only recommending it that way; the gw right will be the primary right for this property if the recommendations hold. The well and irrigation system were in poor condition, and did not show signs of recent use. The pasture area was full of weeds, and was not fenced off from the home area. It would not make sense to irrigate pasture without cattle to graze it, and who would want cattle running thru their yard? However, the licensing exam was conducted in 1986, and the SRBA claim was filed in 1988. Since the system is still in place for irrigation, it would probably be difficult to successfully recommend disallowal of that portion of the right; I do not plan to contact Idaho Power in order to find out when the irrigation well was last used. The stockwater portion of the right appears to be unused also, but I probably cannot disallow that either. The irrigation well was measured at 0.40 cfs, and recommended at 0.34 cfs for 17 acres, but was only licensed for 0.20 cfs because the former owner only paid the minimum examination fee for 0.20 cfs (after filing proof 9 years late).

2. mvanbussum 2/7/2007 Conditions
Comment: Updated conditions

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Claim Report 37-7310

WATER RIGHT NUMBER: 37-7310

Owner Type	Name and Address
Current Owner	NOEL BRIGGS 2050 E 3000 S WENDELL, ID 83355
Current Owner	DAN ARRINGTON 2998 APRIL DRIVE TWIN FALLS, ID 83301 (208)720-4578

Priority Date: 06/10/1983

Basis: License

Status: Active

Source: GROUND WATER

Tributary:

Beneficial Use	From To	Diversion Rate	Annual Volume
DOMESTIC	1/01 to 12/31	0.040 CFS	
STOCKWATER	1/01 to 12/31	0.020 CFS	
IRRIGATION	4/01 to 11/01	0.200 CFS	
	Total Diversion:	0.200 CFS	52.70 AF

Location of Point(s) of Diversion

GROUND WATER NW1/4SE1/4NE1/4 Sec. 24, Twp 01N, Rge 18E, B.M.

BLAINE County

Place of Use

DOMESTIC

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
01N	18E	24				X													

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	
01N	18E	24	10.0			7.0													17.0

Total Acres: 17

STOCKWATER same as DOMESTIC

Conditions of Approval:

1. R29 This right when combined with all other rights shall provide no more than .02 cfs per acre nor more than 3.0 afa per acre for irrigation of the lands above.

Remarks:

Comments:

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 37-7310

WATER RIGHT NUMBER: 37-7310

Owner Type	Name and Address
Current Owner	EDWARD W STRICKER 10767 STATE HWY 75 BELLEVUE, ID 83313 (208)788-2781

Priority Date: 06/10/1983

Basis: License

Status: Active

Source Tributary

Beneficial Use	From To	Diversion Rate	Annual Volume
IRRIGATION	4/01 to 11/01	0.200 CFS	51.00 AF
DOMESTIC	1/01 to 12/31	0.040 CFS	1.20 AF
STOCKWATER	1/01 to 12/31	0.020 CFS	0.50 AF
	Total Diversion:	0.200 CFS	52.70 AF

Location of Point(s) of Diversion

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	
01N	18E	24	10.0			7.0													17.0

Total Acres: 17

DOMESTIC

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
01N	18E	24				X													

STOCKWATER same as IRRIGATION

Conditions of Approval:

1. R29 This right when combined with all other rights shall provide no more than .02 cfs per acre nor more than 3.0 afa per acre for irrigation of the lands above.

37-353D Sec 18 ½ No obj as of 8-19-2009

Overlapping rights 37-353D, 37-418D, 37-419D, 37-2345A and 37-11671
Possible overlap with 37-21974 (currently recommended for disallowal) filed by Struthers as an enlargement claim for base right 37-2593 with the POU being the Gardner property. (Objection filed for this claim)

Claim	3.60 cfs	280 ac PPU
Recom	3.60 cfs	317 ac PPU
Adjusted	---- cfs	90 ac within the PPU

POU at 2" per acre
90 ac
*0.04 cfs/ac
3.60 cfs

Existing Rate per acre
3.60 cfs / 90 ac =
0.040 cfs/ac
Or 2.00 inches/acre

The Gardner purchase of this 3.60 cfs was done in 1982. All subdivision lots had been sold by Dean prior to this sale. It is not clear just what acres were dried up for this sale. Lots 18, 16, 15, 14, 13, 9, and possibly 1 were apparently dry around the 1982 date. (no claims filed or associated with a transfer that indicated that the ground was dry at that time. Approximately 50 acres are associated with those lots.

Currently the combined total diversion rate for the Gardner PPU is 12.44 cfs on 317 acres. (this includes 37-353D) This calculates to be 0.039 cfs/acre. Excluding 37-353D the total diversion rate would be 8.84 cfs or 0.028 cfs/acre.

Overlapping remarks subject to further review. Resolution of 37-21974 will have a bearing on the final remarks

At this point combined Remarks would be,
When 37-353D, 37-418D, 37-419D, 37-2345A and 37-11671 are combined they are limited to the irrigation of 317 ac.

Also -- 6. X31 This right when combined with all other rights shall provide no more than 0.02 cfs at the field headgate for irrigation of the land described above.

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 37-353D

WATER RIGHT NUMBER: 37-353D

Sept 09 Proposal

Owner Type	Name and Address
Current Owner	ROBERT E GARDNER PO BOX 1200 HAILEY, ID 83333 (208)788-2568
Current Owner	KATHRYN ALLRED GARDNER PO BOX 1200 HAILEY, ID 83333 (208)788-2568

Priority Date: 06/12/1886

Basis: Decreed

Status: Active

Source	Tributary
BIG WOOD RIVER	MALAD RIVER

Beneficial Use	From	To	Diversion Rate	Annual Volume
IRRIGATION	04/15	10/31	3.600 CFS	
		Total Diversion:	3.600 CFS	

Location of Point(s) of Diversion

BIG WOOD RIVER NE1/4SW1/4NW1/4 Sec. 36, Twp 02N, Rge 18E, B.M.

BLAINE 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	
01N	19E	18			40.0	37.0									40.0	40.0	40.0	40.0	237.0
01N	19E	19	40.0	40.0															80.0

Total Acres: 317

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.
2. E55 Right Nos. 37-353D, 37-418D, 37-419D, 37-2345A and 37-11671 Part are limited to the irrigation of a combined total of 317 acres in a single irrigation season for that land in Sec. 18 & 19 known as the Buhler Ranch.
3. C05 Right includes accomplished change in place of use pursuant to Section 42-1425, Idaho Code.
4. Right Nos. 37-353D, 37-418D, 37-419D, 37-443, 37-480B, 37-637, 37-665H, 37-666F, 37-667K, 37-713B, 37-802, 37-2345A, 37-2684 and 37-11671 are limited to the irrigation of a combined total of 1528 acres in a single irrigation season.
5. This right is a portion of former Right 37-353E.
6. This right is limited to the irrigation of 90 acres within the place of use recommended above in a single irrigation season.
7. X31 This right when combined with all other rights shall provide no more than 0.02 cfs at the field headgate for irrigation of the ~~land~~ described above.

Place of use.

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 37-353D

WATER RIGHT NUMBER: 37-353D

Owner Type	Name and Address
Current Owner	ROBERT E GARDNER PO BOX 1200 HAILEY, ID 83333 (208)788-2568
Current Owner	KATHRYN ALLRED GARDNER PO BOX 1200 HAILEY, ID 83333 (208)788-2568

Proposal

Priority Date: 06/12/1886

Basis: Decreed

Status: Active

Source	Tributary
BIG WOOD RIVER	MALAD RIVER

Beneficial Use	From	To	Diversion Rate	Annual Volume
IRRIGATION	04/15	10/31	3.600 CFS	
		Total Diversion:	3.600 CFS	

Location of Point(s) of Diversion

BIG WOOD RIVER NE1/4SW1/4NW1/4 Sec. 36, Twp 02N, Rge 18E, B.M.

BLAINE 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	
01N	19E	18			40.0	37.0									40.0	40.0	40.0	40.0	237.0
01N	19E	19	40.0	40.0															80.0

Total Acres: 317

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.
2. E55 Right Nos. 37-353D, 37-418D, 37-419D, 37-2345A and 37-11671 Part are limited to the irrigation of a combined total of 317 acres in a single irrigation season for that land in Sec. 18 & 19 known as the Buhler Ranch.
3. C05 Right includes accomplished change in place of use pursuant to Section 42-1425, Idaho Code.
4. Right Nos. 37-353D, 37-418D, 37-419D, 37-443, 37-480B, 37-637, 37-665H, 37-666F, 37-667K, 37-713B, 37-802, 37-2345A, 37-2684 and 37-11671 are limited to the irrigation of a combined total of 1528 acres in a single irrigation season.
5. This right is a portion of former Right 37-353E.
6. This right is limited to the irrigation of 90 acres within the place of use recommended above in a single irrigation season.

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 37-353D V1

WATER RIGHT NUMBER: 37-353D V1

Owner Type	Name and Address
Current Owner	ROBERT E GARDNER PO BOX 1200 HAILEY, ID 83333 (208)788-2568
Current Owner	KATHRYN ALLRED GARDNER PO BOX 1200 HAILEY, ID 83333 (208)788-2568

Priority Date: 06/12/1886

Basis: Decreed

Status: Active

claim date 10-17-88

Source	Tributary
BIG WOOD RIVER	MALAD RIVER

Beneficial Use	From	To	Diversion Rate	Annual Volume
IRRIGATION	04/15	10/31	3.600 CFS	
		Total Diversion:	3.600 CFS	

should have an acre limit

Location of Point(s) of Diversion

BIG WOOD RIVER NE1/4SW1/4NW1/4 Sec. 36, Twp 02N, Rge 18E, B.M.

BLAINE 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	
01N	19E	18			40.0	37.0									40.0	40.0	40.0	40.0	237.0
01N	19E	19	40.0	40.0															80.0

Total Acres: 317

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.
2. E55 Right Nos. 37-353D, 37-418D, 37-419D, 37-2345A and 37-11671 Part are limited to the irrigation of a combined total of 317 acres in a single irrigation season for that land in Sec. 18 & 19 known as the Buhler Ranch.
3. C05 Right includes accomplished change in place of use pursuant to Section 42-1425, Idaho Code.
4. Right Nos. 37-353D, 37-418D, 37-419D, 37-443, 37-480B, 37-637, 37-665H, 37-666F, 37-667K, 37-713B, 37-802, 37-2345A, 37-2684 and 37-11671 are limited to the irrigation of a combined total of 1528 acres in a single irrigation season.
5. This right is a portion of former Right 37-353E.

1. jstanton 11/28/2006 Claim Review
Comment: Mr. Gardner bought this water from former owner Dean in 1982, and has owned it ever since. It came from an undescribed portion of what is now the Dean Ranch Subdivision. This is the last claim on 37-353 that I am reviewing. The right was over-claimed, but I have recommended enough of the claims for disallowal that the full amount claimed by Gardner can be recommended; until now, I was not sure what to do with these claims. This same property has numerous other rights, which have been reviewed and recommended by Michael Ciscell. I have coordinated my efforts with his, and will use his shape and conditions.

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Claim Report 37-353D

WATER RIGHT NUMBER: 37-353D

Owner Type	Name and Address
Current Owner	ROBERT E GARDNER PO BOX 1200 HAILEY, ID 83333 (208)788-2568
Current Owner	KATHRYN ALLRED GARDNER PO BOX 1200 HAILEY, ID 83333 (208)788-2568

Priority Date: 06/12/1886

Basis: Decreed

Status: Active

Source	Tributary
BIG WOOD RIVER	MALAD RIVER

Beneficial Use	From	To	Diversion Rate	Annual Volume
IRRIGATION	4/01	11/01	3.600 CFS	
		Total Diversion:	3.600 CFS	

Location of Point(s) of Diversion

BIG WOOD RIVER NE1/4SW1/4NW1/4 Sec. 36, Twp 02N, Rge 18E, B.M.

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	
01N	19E	18			40.0	40.0									40.0	40.0	40.0	40.0	240.0
01N	19E	19	40.0	X															40.0

Total Acres: 280

Conditions of Approval:

1. OTHER WR; A37-00667K, A37-11671.
THIS IS A PART OF WR #37-00353A, UNRECORDED TRANS. TO P/U LISTED.

Remarks:

37-353E Lt 17 No obj as of 8-19-2009

No overlapping rights (including domestic rights)

Claim	0.40 cfs	10.0 ac
Recom	0.40 cfs	7.3 ac
Adjusted	0.33 cfs	----

POU at 2" per acre	Existing Rate per acre
7.3 ac *0.04 cfs/ac 0.292 cfs	0.33 cfs / 7.3 ac = 0.045 cfs/ac Or 2.26 inches/acre

No obvious irrigation visible in the 1987 or 1992 aerial photos.

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 37-353E

WATER RIGHT NUMBER: 37-353E

Owner Type	Name and Address
Current Owner	PETER D VAN DER MEULEN PO BOX 537 HAILEY, ID 83333 (208)788-4410
Current Owner	LINDA VAN DER MEULEN PO BOX 537 HAILEY, ID 83333 (208)788-4410

Sept 09 Proposal

Priority Date: 06/12/1886

Basis: Decreed

Status: Active

Source	Tributary
BIG WOOD RIVER	MALAD RIVER

Beneficial Use	From	To	Diversion Rate	Annual Volume
IRRIGATION	04/15	10/31	0.330 CFS	
		Total Diversion:	0.330 CFS	

Location of Point(s) of Diversion

BIG WOOD RIVER NE1/4SW1/4NW1/4 Sec. 36, Twp 02N, Rge 18E, B.M.

BLAINE 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	
01N	18E	13													7.3				7.3

Total Acres: 7.3

Conditions of Approval:

1. The place of use is also known as Lot 17 of the Dean Ranch Subdivision.
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. This right is a portion of former Right 37-353.
4. X31 This right shall provide no more than 0.02 cfs at the field headgate for irrigation of the land described above.

Remarks:

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 37-353E

WATER RIGHT NUMBER: 37-353E

Owner Type	Name and Address
Current Owner	PETER D VAN DER MEULEN PO BOX 537 HAILEY, ID 83333 (208)788-4410
Current Owner	LINDA VAN DER MEULEN PO BOX 537 HAILEY, ID 83333 (208)788-4410

Proposal

Priority Date: 06/12/1886

Basis: Decreed

Status: Active

Source	Tributary
BIG WOOD RIVER	MALAD RIVER

Beneficial Use	From	To	Diversion Rate	Annual Volume
IRRIGATION	04/15	10/31	0.400 CFS	
		Total Diversion:	0.400 CFS	

Stock Rate updated 7-30-09 → .33

Location of Point(s) of Diversion

BIG WOOD RIVER NE1/4SW1/4NW1/4 Sec. 36, Twp 02N, Rge 18E, B.M.

BLAINE 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	
01N	18E	13													7.3				7.3

Total Acres: 7.3

Conditions of Approval:

1. The place of use is also known as Lot 17 of the Dean Ranch Subdivision.
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. This right is a portion of former Right 37-353.

Remarks:

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 37-353E V1

WATER RIGHT NUMBER: 37-353E V1

Owner Type	Name and Address
Previous Owner	HARRY L OPPENHEIMER JR
Directors Report Owner	ZSA BATAILLE
Current Owner	PETER D VAN DER MEULEN PO BOX 537 HAILEY, ID 83333 (208)788-4410
Current Owner	LINDA VAN DER MEULEN PO BOX 537 HAILEY, ID 83333 (208)788-4410

claim date 1-3-89

Priority Date: 06/12/1886

Basis: Decreed

Status: Active

Source	Tributary
BIG WOOD RIVER	MALAD RIVER

Beneficial Use	From	To	Diversion Rate	Annual Volume
IRRIGATION	04/15	10/31	0.400 CFS	
		Total Diversion:	0.400 CFS	

0.055 cfs/Ac

Rate/Ac =

Location of Point(s) of Diversion

BIG WOOD RIVER NE1/4SW1/4NW1/4 Sec. 36, Twp 02N, Rge 18E, B.M.

BLAINE 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	
01N	18E	13													7.3				7.3

Total Acres: 7.3

Conditions of Approval:

1. The place of use is also known as Lot 17 of the Dean Ranch Subdivision.
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. This right is a portion of former Right 37-353.

Comments:

1. jstanton 11/18/2006 Site Visit
Comment: Yesterday I visited this property. I knocked on the house door, but nobody answered, so I looked things over on my own. A pump at the NW corner of the property feeds water from the District Canal to a surface mainline and sprinklers that irrigate everything but the building area for pasture. The owner is recorded with the water district, so I am recommending this claim for re-decree. The owner came out as I was leaving, so we spent a couple minutes discussing the water use. I told her that everything appeared to be in order.

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Claim Report 37-353E

WATER RIGHT NUMBER: 37-353E

Owner Type	Name and Address
Previous Owner	HARRY L OPPENHEIMER JR
Directors Report Owner	ZSA BATAILLE
Current Owner	PETER D VAN DER MEULEN PO BOX 537 HAILEY, ID 83333 (208)788-4410
Current Owner	LINDA VAN DER MEULEN PO BOX 537 HAILEY, ID 83333 (208)788-4410

Priority Date: 06/12/1886

Basis: Decreed

Status: Active

Source	Tributary
BIG WOOD RIVER	MALAD RIVER

Beneficial Use	From To	Diversion Rate	Annual Volume
IRRIGATION	3/15 to 10/31	0.400 CFS	
	Total Diversion:	0.400 CFS	

Location of Point(s) of Diversion

BIG WOOD RIVER NE1/4SW1/4NW1/4 Sec. 36, Twp 02N, Rge 18E, B.M.

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	
01N	18E	13													10.0				10.0

Total Acres: 10

Conditions of Approval:

1. 12/6/96 TF; ATTORNEY ADDED.

37-353F Lt 8A Objection filed by Barbara Barry – right should not exist

Overlapping right 37-13063 (a groundwater domestic stockwater right)

Claim	0.20 cfs	10.0 ac
Recom	0.16 cfs	6.8 ac
Adjusted	0.20 cfs	----

POU at 2" per acre	Existing Rate per acre
6.8 ac *0.04 cfs/ac 0.272 cfs	0.20 cfs / 6.8 ac = 0.029 cfs/ac Or 1.47 inches/acre

No combined right language expected.

This lot was one of the lots identified as "dry" in the subdivision plat annotation prepared in approximately 1997.

Claim received 1-22-1999.

This right is also subject to the Norm Young order signed Dec 29, 1999. The order indicates that the water assessment for this lot had not been paid for delivery of water since 1982 or earlier. In item 6 of the "Conclusions of Law" Norm states that the department is not able to determine which of the persons presently listed in the Water District 37 records as owning a portion of right 37-353 are not entitled to the full amount attributed to them.

Alternative = disallow right, water forfeited

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 37-353F

WATER RIGHT NUMBER: 37-353F

Owner Type	Name and Address
Current Owner	JAMES M OOSTING PO BOX 386 BELLEVUE, ID 83313 (208)788-3356



Priority Date: 06/12/1886

Basis: Decreed

Status: Active

Source	Tributary
BIG WOOD RIVER	MALAD RIVER

Beneficial Use	From To	Diversion Rate	Annual Volume
IRRIGATION	04/15 to 10/31	0.200 CFS	
	Total Diversion:	0.200 CFS	

Location of Point(s) of Diversion

BIG WOOD RIVER NE1/4SW1/4NW1/4 Sec. 36, Twp 02N, Rge 18E, B.M.

BLAINE 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	
01N	18E	24	6.8																6.8

Total Acres: 6.8

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.
2. The place of use is Lot 8A of the Dean Ranch Subdivision.
3. X31 This right shall provide no more than 0.02 cfs at the field headgate for irrigation of the land described above.

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 37-353F

WATER RIGHT NUMBER: 37-353F

Owner Type	Name and Address
Current Owner	JAMES M OOSTING PO BOX 386 BELLEVUE, ID 83313 (208)788-3356

Proposal

Priority Date: 06/12/1886

Basis: Decreed

Status: Active

Source	Tributary
BIG WOOD RIVER	MALAD RIVER

Beneficial Use	From	To	Diversion Rate	Annual Volume
IRRIGATION	04/15	10/31	0.200 CFS	
		Total Diversion:	0.200 CFS	

Location of Point(s) of Diversion

BIG WOOD RIVER NE1/4SW1/4NW1/4 Sec. 36, Twp 02N, Rge 18E, B.M.

BLAINE 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	
01N	18E	24	6.8																6.8

Total Acres: 6.8

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.
2. The place of use is Lot 8A of the Dean Ranch Subdivision.

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 37-353F V1

WATER RIGHT NUMBER: 37-353F V1

Owner Type	Name and Address
Previous Owner	ZIKER FAMILY TRUST
Original Owner	WILLIAM R LONG
Current Owner	JAMES M OOSTING PO BOX 386 BELLEVUE, ID 83313 (208)788-3356

Priority Date: 06/12/1886

Basis: Decreed

Status: Active

claim date 1-22-1990

Source	Tributary
BIG WOOD RIVER	MALAD RIVER

Beneficial Use	From	To	Diversion Rate	Annual Volume
IRRIGATION	04/15	10/31	0.160 CFS	
		Total Diversion:	0.160 CFS	

Rate/Ac = 0.024

Location of Point(s) of Diversion

BIG WOOD RIVER NE1/4SW1/4NW1/4 Sec. 36, Twp 02N, Rge 18E, B.M.

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	
01N	18E	24	6.8																6.8

Total Acres: 6.8

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.
2. The place of use is Lot 8A of the Dean Ranch Subdivision.

Comments:

1. jstanton 11/18/2006 Claim Validity
Comment: Yesterday I visited the subject property in order to verify the ability of this claim to be diverted from the District Canal. A couple of mean-looking dogs prevented me from seeing most of the property, but I was able to view the Canal where it flowed along the west edge of the property. I saw no re-diversion works in the Canal that would actually allow this water to be used for irrigation on Lot 8A, so I am recommending disallowal (even though Oosting is apparently paying the annual water-district assessment.

2. jstanton 11/18/2006 Comments
Comment: TRANS. 2948.
P/D NOT GIVEN IN DECREE BUT SHOWN ON TRANSFER.
THIS CLAIM IS A SPLIT FROM A37-00353A. 1/15/1990, RVW.
********** 1/6/99 tf; OWNERSHIP CHANGED LONG TO ZIKER FAMILY TRUST, RICHARD AND PAULA ZIKER AS TRUSTEES PER 1409(6) AND DEEDS RECD 6/29/98.

3. jstanton 12/19/2006 Owner Contact
Comment: Today I got a call from Mr. Oosting. He had just received the recommendation, and wanted to discuss the situation. He said that he bought the property 3 years ago, and was doing his best to irrigate it. Health problems have not allowed him to irrigate as much as he wanted, but he was still interested in maintaining the water right. He said that there is pumping system on the SW corner of the property that was there when he bought it, and that the pump feeds a mainline that runs along the south side of the property to irrigate land on both sides of the home. He also said that James Super, who lives further south, leased this property from the Zikers before Oosting bought it. I met Mr. Super at the Sun Valley public meeting, and he told me that he helped install the pump on the Oosting property in 1998. I told Mr. Oosting to send in the NOE so that I could take another look at the recommendation, and explained that he could file a

formal objection later on if needed. It appears that my recommendation for disallowal was in error, however, so I will probably end up recommending the claim for decree. This will compound the problem of overclaiming, however, so some adjustments will have to be made somehow. I planned to wait for the NOE period to end before deciding on what to do.

4. jstanton 12/26/2006 NOE
Comment: An NOE from the claimant was received today. I will now proceed with recommending the claimed use with a reduced flow rate in order to avoid over-decreeing of rights based on 37-353.

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Claim Report 37-353F

WATER RIGHT NUMBER: 37-353F

Owner Type	Name and Address
Previous Owner	ZIKER FAMILY TRUST
Previous Owner	ZIKER FAMILY TRUST
Original Owner	WILLIAM R LONG
Current Owner	JAMES M OOSTING PO BOX 386 BELLEVUE, ID 83313 (208)788-3356

Priority Date: 06/12/1886

Basis: Decreed

Status: Active

Source	Tributary
BIG WOOD RIVER	MALAD RIVER

Beneficial Use	From To	Diversion Rate	Annual Volume
IRRIGATION	4/01 to 11/01	0.200 CFS	
	Total Diversion:	0.200 CFS	

Location of Point(s) of Diversion

BIG WOOD RIVER NE1/4SW1/4NW1/4 Sec. 36, Twp 02N, Rge 18E, B.M.

BLAINE 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	
01N	18E	24	10.0																10.0

Total Acres: 10

Conditions of Approval:

1. TRANS. 2948.
P/D NOT GIVEN IN DECREE BUT SHOWN ON TRANSFER.
THIS CLAIM IS A SPLIT FROM A37-00353A. 1/15/1990, RVW.
********** 1/6/99 tf; OWNERSHIP CHANGED LONG TO ZIKER FAMILY TRUST, RICHARD AND PAULA ZIKER AS TRUSTEES PER 1409(6) AND DEEDS REC'D 6/29/98.

Christensen, Kelly

From: Christensen, Kelly
Sent: Wednesday, December 10, 2008 11:41 AM
To: 'Shelley Davis'
Cc: Kelly, Vicki; Bromley, Chris; Homan, John
Subject: RE: Question regarding claim no. 37-353G

Should it have been recommended? Yes it appears that it probably should have.

Fairly simple to resolve? Not as easy. The recommendation of the Barry claim id directly tied to what other claim (s) should be recommended for disallowal. The Norm letter points to a possibility but unless the claimants currently recommended as valid wish to accept that their claim(s) should be disallowed then ultimately this group will go to the SRBA court for the final decision.

I am assuming that Paul has filed late objections to the claims he believes should be disallowed. I haven't checked lately.

My initial thought is assuming that the late objections have been filed then I would want to look at any responses from those individuals before spending much time on this one.

kkc

From: Shelley Davis [mailto:smd@idahowaters.com]
Sent: Wednesday, December 10, 2008 11:23 AM
To: Christensen, Kelly
Subject: Question regarding claim no. 37-353G

Hi Kelly,

Last I heard I thought you were retiring. I am very glad to hear you decided to stick with it, and nice to have you nearby as well.

Yesterday Paul Arrington asked me to do some looking into the progress on the disallowance of Barbara Barry's claim numbered 37-35G. Based on my initial review of the record I can't find any reason why it would be disallowed. In mid-November Paul sent a letter to the client indicating that you were doing some research to figure out why it might have been disallowed. Have you found anything?

It would be ideal if we could work something out in the short term. Based on the Olsen Livestock opinion by Norm Young, it looks like it should be a fairly simple matter to resolve.

-Shelley

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SRBA
SUBCASE SUMMARY REPORT 37-00353G

Return to SRBA Home Page

SRBA SUBCASE SUMMARY REPORT HTML12
12-10-2008

SUBCASE: 37-00353G FILE#: 01726
CLAIMANT: BARRY, BARBARA A
PO BOX 1197

BELLVUE ID 83313
STATUS: LATE OBJ/RESP (SUB) SPECIAL MASTER: BILYEU, BRIGETTE
WATER SOURCE:
ISSUES: 0

****** PARTIES INVOLVED ******

BARBARA A BARRY C ATTY: PAUL L ARRINGTON
BARBARA A BARRY O ATTY: PAUL L ARRINGTON

****** ROA ENTRIES ******

04-25-2008	MOTION TO FILE LATE OBJECTION	MG	07-23-2008	0001
04-25-2008	LDGED: OBJECTION F/B BARRY			
04-25-2008	AFFIDAVIT OF BARBARA BARRY IN SUPPORT OF MOTION TO FILE LATE OBJECTION			
04-29-2008	NOTICE SETTING HEARING MOTION TO FILE LATE OBJECTION	HS	07-23-2008	0130
06-25-2008	NOTICE OF COMPLETED ADMINISTRATIVE PROCEEDING		06-25-2008	
06-25-2008	AMENDED DIRECTOR'S REPORT CHANGE: SUBSTITUTION OF PARTY			
07-23-2008	HEARING HELD	HH	07-23-2008	0130
07-23-2008	MINUTES			
07-23-2008	ORAL ORDER GRATING MOTION TO FILE LATE OBJ			
07-23-2008	OBJ 1 F/B CLAIMANT,BARBARA BARRY	RB	08-21-2008	0001
07-25-2008	ORDER GRANTING MOTION TO FILE LATE OBJECTION AND SETTING DEADLINE			
07-25-2008	DEADLINE TO FILE RESPONSE	ZS	08-21-2008	0445
07-25-2008	STATUS CONFERENCE	US	11-17-2008	1030
11-17-2008	HEARING HELD	HH	11-17-2008	1030
11-17-2008	MINUTES			
11-17-2008	NOTICE SETTING SCHEDULING CONFERENCE	SS	06-03-2009	1000

Return to SRBA Home Page

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

BARKER
ROSHOLT
&
SIMPSON
LLP

113 Main Avenue West, Suite 303
Post Office Box 485
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(208) 733-0700 telephone
(208) 735-2444 facsimile
jar@idahowaters.com

205 North 10th Street, Suite 520
Post Office Box 2139
Boise, Idaho 83701-2139
(208) 336-0700 telephone
(208) 344-6034 facsimile
brs@idahowaters.com

Paul L. Arrington
pla@idahowaters.com

September 5, 2008

SENT VIA EMAIL (Kelly.Christensen@idwr.idaho.gov)

Kelly Christensen
Sr. Water Resource Agenct
Boise, Western Region

RE: Water Right 37-353G

Dear Kelly:

Thanks for sending the spread sheet over for my review. I have made an initial review of the spread sheet and back file for water right 37-353G. Based on this information, it is clear that an error was made in determining that water right 37-353G was part of the over-claimed portion of the original water right 37-353.

Attached, you will see a spread sheet I created from the information you provided, as well as information from IWATRS, the Department's website and the back file for 37-353G.

- Column 1 is the current claimant of the water right.
- Columns 3-5 are taken directly from your spreadsheet (with the exception of water right 37-21146, which has been split again as indicated on my spread sheet).
- Column 6 is the recommended diversion rate for the water rights. A "D" indicates that the recommendation was for disallowal.
- Column 7 provides a few notes for convenience relative to the splitting of portions of water right 37-353.
- Column 8 provides information gathered from a December 20, 1999, letter from Norm Young to Lee Peterson, Watermaster for Water District 37. In that letter, Mr. Young provided a list of all those water users "listed in the Water District Records as having an ownership interest" in water right 37-353. You will notice that Douglas

Driever, the predecessor in interest to Barbara Barry, is listed as an owner of a portion of water right 37-353. You will also notice that there are several individuals with water rights from 37-353 that are not recognized as owners of record in the letter. The relative water rights are indicated with "NONE" in column 8. You will also notice that, notwithstanding the lack of any ownership records, all but one of these rights has been recommended.

- Columns 9 is pulled from a *Preliminary Order* In the Matter of a Call for Delivery of Water Right No. 37-353 to Olsen Livestock Consultants, Inc. (dated July 25, 1997). There is no indication that this *Preliminary Order* was ever appealed or modified. In that Order, at 2, Mr. Young, acting as administrator, provided a list of "the current owners of water right 37-353." Once again, Mr. Driever was listed as owning 10 inches of water. This is the same 10 inches now owned by Ms. Barry. Again, you will notice that there are water users with recommended 37-353 water rights that were not owners of record at that time.

- Column 10 is also pulled form that *Preliminary Order*. On page 3 of that *Order*, Mr. Young provides a list of all claims to water right 37-353. Again, Mr. Driver is recognized to have claimed 10 inches. Also, again, there are a number of recommended water rights for 37-353 water that were not recognized to have claims as of 1997. The total of the claims recognized in the 1997 *Preliminary Order* equals 303.5 inches – much less that the 320 inches decreed under the original 37-353 water right.

It appears there has been an error in determining that Ms. Barry's water right is a portion of the excess claimed water right.

I understand from our conversation that Ms. Stanton conducted the field exam and recommended that water right 37-353G be disallowed, at least in part, because there was no record of delivery to Mr. Driever by the water district. This would make sense, since Ms. Barry purchased the property in 2000. However, the name was not changed on the water right until just a few months ago.

Please review this information. I will contact you in the next week or so to discuss further.

Yours truly,
/S/
Paul L. Arrington

PLA/jf

Encs.

cc: Barbara Barry

1	3	4	5	6	7	8	9	10
Claimant	**WR # 37-**	**Suffix**	**Div. Rate**	**Rec.**	**Notes**	**12/20/99 Ltr**	**7/24/97 Order - Ownership**	**7/24/97 Order - Claims**
Grigsby	353		0.4	0.4		Gribsby = 20 inces	Bick = 20 inches	Bick = 20 inches
Arrington	353	B	0.4	0.4		Stricker = 20 inches	Stricker = 20 inches	Stricker = 20 inches
Gardner	353	D	3.6	3.6		Gardner = 180 inces	Gardner = 180 inches	Gardner = 180 inches
Van Der Meulen	353	E	0.4	0.4		NONE	Oppenheimer = 20 inches	Oppenheimer = 20 inches
Oosting	353	F	0.2	0.16		NONE		Long = 10 inches
Barry	353	G	0.2	D		Driever = 10 inces	Dreiver = 10 inches	Dreiver = 10 inches
Benson	353	H	0.2	0.2		Kantenwein = 10 inches	Kantenwein = 10 inches	Kantenwein = 10 inches
Olsen Livestock	353	J	0.4	0.32		NONE		Olsen = 13.5 inches
Fisher	353	K	0.36	0.28		NONE	NONE	NONE
Goicoechea	353	L	0.36	0.28		NONE	NONE	NONE
Gower	21146		0.11	0.11	11688 split to create 21145 & 21146	Fosnot = 20 inces	Fosnot = 20 inches	Fosnot = 20 inches
Turco	20348		0.2	D		NONE	NONE	NONE
Fosnot	22042		0.04	D	21145 split to create 22042 & 22043	Fosnot = 20 inces	Fosnot = 20 inches	Fosnot = 20 inches
James Super	22043		0.25	0.25	21145 split to create 22042 & 22043	Fosnot = 20 inces	Fosnot = 20 inches	Fosnot = 20 inches
							Klerstad = 40 inches	
TOTALS			**7.12**	**6.4**	**Original 37-353 decreed for 6.4 cfs or 320 inches**	**260 inches**	**320 inches**	**303.5 inches**

State of Idah
DEPARTMENT OF WATER RESOURCES
1301 North Orchard Street, P.O. Box 83720, Boise, Idaho 83720-0098
Phone: (208) 327-7900 FAX: (208) 327-7866

DIRK KEMPTHORNE
GOVERNOR

KARL J. DREHER
DIRECTOR

December 20, 1999

RECEIVED
DEC 28 1999
Department of Water Resources
Southern Region

Lee Peterson, Watermaster
Water District 37
P.O. Box P
Shoshone, Idaho 83352

Re: Assessment of Claims to Right No. 37-00353 (Frost Decree – James Johnson)

Dear Lee:

You have requested guidance from the Department of Water Resources on which claimants to parts of Right No. 37-00353 should be included in the Water District 37 "Decree Book." Claims to various parts of the right have been filed in the Snake River Basin Adjudication. The claims, in total, exceed the decreed amount of the right. Some of the new claimants were not previously identified in the Water District records as having an ownership interest in the water right and have not been previously assessed by the Water District. Some of the claimants not previously identified in the Water District's records have called for water delivery based upon their claims. It is my understanding that the right is delivered by the Water District to the head of the District 45 canal along which most of the claimants are located. Because the Water District does not control delivery from the canal, your records do not verify use of water under the rights by the claimants.

Based upon this understanding Water District 37 should include in its Decree Book each of the water users claiming a part of Right No. 37-00353 that have demonstrated a probable ownership. Those having a probable ownership in the right include:

a. Water users listed in the Water District Records as having an ownership interest. These include:

1. Gardner	180 inches
2. Fosnot	20 inches
3. Grigsby (formerly Bick)	20 inches
4. Kantenwein	10 inches
5. Oppenheimer	20 inches
6. Stricker	20 inches
7. Driever	10 inches

It is my understanding that the Water District Records also at one time listed Robert Keirstad as the owner of 40 miners inches. Because Mr. Keirstad has not filed a claim in the SRBA, the county records cast doubt on his continued ownership of any of the right, and he has not called for water for many years, I suggest that Mr. Keirstad not be listed in the Decree Book until these issues are resolved.

b. Claimants not previously listed in the Water District records which have now filed a claim in the SRBA and for which IDWR has entered a preliminary order in response to a petition for distribution by the watermaster. Olsen Livestock Consulting falls into this category.

Other claimants who have not demonstrated a probable ownership to a part of the right, even though they have claims pending in the SRBA, should not be include in the Decree Book until such time as the court confirms their right or IDWR has entered a preliminary order recognizing, at least for the interim period prior to action by the court, that a probable ownership exists by the claimant. The claims filed by Ziker, Price, and Goicoechea are in this category. Ziker has a pending petition calling for distribution of water and has supplied some ownership information. If an order to deliver results from the petition, Ziker should then be included in the Decree Book.

At this time the claimants calling for water that have demonstrated a probable ownership in the right do not exceed the amount of the right. It is easy to see that this will not be the case if all existing claimants call for delivery of water. The preliminary order entered in response to the Olsen Livestock Consulting petition indicates that the amount of water would be prorated among all the claimants if others demonstrate probable ownership to the amounts they are claiming. It is important that all claimants be advised of petitions calling for water under the new claims to allow them to participate in administrative actions. IDWR will provide copies of all preliminary orders to all claimants. Action to resolve the matter in the SRBA is still off in the future because the preliminary Director's Report for Basin 37 is scheduled to be available in December 2002.

Sincerely,

Norman C. Young
Administrator
Water Management Division

A37-00353	BICK, J KARL	C	06/12/1886	D/	BIG	WOOD	RIVER	1 IRR
	BICK, JUDITH G	C						4 STOCK
A37-00353A	SPLIT RIGHT,	C	06/12/1886	/Z	BIG	WOOD	RIVER	1 IRR
					SPL	IT RI	GHT	
A37-00353B	STRICKER, EDWARD W	C	06/12/1886	D/	BIG	WOOD	RIVER	1 IRR
	STRICKER, JEANNINE	C						4 STOCK
A37-00353C	SPLIT RIGHT,	C	06/12/1886	/Z	BIG	WOOD	RIVER	1 IRR
					SPL	IT RI	GHT	
A37-00353D	GARDNER, ROBERT	C	06/12/1886	D/	BIG	WOOD	RIVER	1 IRR
	GARDNER, KATHRYN	C						
A37-00353E	OPPENHEIMER JR, HARRY	C	06/12/1886	D/	BIG	WOOD	RIVER	1 IRR
A37-00353F	ZIKER TRUSTEE, RICHARD	C	06/12/1886	D/	BIG	WOOD	RIVER	1 IRR
	ZIKER TRUSTEE, PAULA	C						
A37-00353G	DRIEVER, DOUGLAS	C	06/12/1886	D/	BIG	WOOD	RIVER	1 IRR
A37-00353H	KANTENWEIN, REID	C	06/12/1886	D/	BIG	WOOD	RIVER	1 IRR
A37-00353J	OLSEN LIVESTOCK CONSUL	C	06/12/1886	D/	BIG	WOOD	RIVER	1 IRR
A37-00353K	PRICE, SHERRY	C	06/12/1886	D/	BIG	WOOD	RIVER	1 IRR
	PRICE, BRUCE	C						
A37-00353L	GOICOECHEA, TOM	C	06/12/1886	D/	BIG	WOOD	RIVER	1 IRR
	GOICOECHEA, ANNETTE	C						

A37-00353C

BEFORE THE DEPARTMENT OF WATER RESOURCES

OF THE

STATE OF IDAHO

RECEIVED
JUL 24 1997
Water Resources

IN THE MATTER OF A CALL FOR DELIVERY OF WATER RIGHT N0. 37-0353 TO OLSEN LIVESTOCK CONSULTANTS, INC.

PRELIMINARY ORDER

See p3 186 for Amended Preliminary Order

Scott Campbell, an attorney representing Olsen Livestock Consultants, Inc., requested delivery of 0.40 cfs (20 miners inches) of water from the Big Wood River under water right No. 37-0353. After reviewing the files and records of the Department, Water District 37, and Blaine County, the Department of Water Resources enters the following Findings of Fact, Conclusions of Law, and Preliminary Order.

FINDINGS OF FACT

1. Water Right No. 37-0353 was decreed to James Johnson in the case of S. C. Frost, et al vs. Alturas Water Co., et al. The right is for 6.4 cfs to be diverted from the Big Wood River for irrigation of the E1/2SE1/4 of Section 13 and the E1/2NE1/4, Section 24, T1N R18E, B.M., Blaine County (approximately 160 acres). The water right has been diverted into the Wood River Valley Irrigation District No. 45 canal located within the SW1/4NW1/4, Section 36, T2N, R18E, for delivery to users of the water. The priority of right No. 37-0353 is June 12, 1886.

2. The decreed place of use for right No. 37-0353 was divided in the early 1970's into an 18 lot subdivision known as the Dean Ranch Subdivision. The records of the Department and Water District 37 indicate that right No. 37-0353 was appurtenant to and used upon the decreed place of use up to the time the land was subdivided and on some of the subdivision lots and other land each year thereafter. Lot 2, Block 1 of the subdivision has not been irrigated for more than 10 years as evidenced by a review of aerial photographs and other information available to the department.

3. Olsen Livestock Consultants, Inc. claims ownership of Lot 2, Block 1, Dean Ranch Subdivision. The deeds in the chain of title filed with Blaine County for this lot from the creation of the subdivision to the present are summarized as follows:

a. M.D. and Katherine Dean deeded Lot 1 (approximately 8 acres) and Lot 2 (approximately 10 acres) with appurtenances to Charles A. and Debra Anne Curtis on November 1, 1974. Appurtenant water rights were not specifically described.

b. Charles A. and D. Anne Curtis deeded Lot 1 with appurtenances to Robert E. Fosnot on October 19, 1978. Appurtenant water rights were not specifically described.

c. Charles A. and Debra Anne Curtis deeded Lot 2 with appurtenances to Dean R. and Judene Call on December 5, 1978. A water right with an 1887 priority date for 20 inches was specifically included.

d. Dean R. and Judene Call deeded Lot 2 with appurtenances to Robert D. and Sharyl M. Head on August 5, 1991. A water right with an 1887 priority date for 20 inches was specifically included.

e. Robert D. and Sharyl M. Head deeded Lot 2 with appurtenances to Olsen Livestock Consultants, Inc. on September 25, 1996. Appurtenant water rights were not specifically described.

4. Blaine County does not have any record of deeds transferring title of any part of Water Right No. 37-0353 separately from the appurtenant land during the time period of December 15, 1969 (date land was deeded to M. D. Dean) to November 1, 1974 (the date of the initial sale of Lot 1 and 2).

5. Water District 37 records list the following as the current owners of water right No. 37-0353:

a. Harry L. Oppenheimer (20 miners inches) based upon a letter dated October 27, 1977 from M. D. Dean confirming the sale of the water to Jerry Lee Johnson, a February 16, 1978 warranty deed from Jerry Lee Johnson to Marvin Lotspeich, and a 1980 warranty deed from Marvin Lotspeich to Harry L. Oppenheimer. 353E

b. ~~Robert Kierstad (40 miners inches) based upon an October 28, 1977 letter from M. D. Dean confirming sale of water to Mr. Kierstad.~~ deleted on Award pg 16?

c. Ed Stricker (20 miners inches) based upon an October 29, 1977, letter from M. D. Dean confirming sale of the water to Mr. Stricker. 353B

d. ~~Gus Chek (10 miners inches) based upon a November 1, 1977, letter confirming sale of 20 inches of water to Mr. Chek.~~ Mr. Chek subsequently sold 10 inches to Douglas Driever. Re T-3679 353H

e. Douglas Driever (10 miners inches) based upon an October 4, 1991 letter from Gus Chek confirming sale of the water and Transfer No. 3679 approved by the department. 353G

f. Robert Gardner (180 miners inches) based upon a June 25, 1982 letter from M. D. Dean confirming sale of the water to Mr. Gardner. 353D

g. J Karl Bick (20 miners inches) based upon a June 25, 1982 letter from M. D. Dean to John Peterson and a quit claim deed dated November 3, 1993 from John Peterson to J Karl Bick. 353

h. Robert Fosnot (20 miners inches) based upon Transfer No. 2948 approved by the department. 11688 split into 22046 22042 22043

6. The records of Water District 37 list a current owner for all 6.4 cfs (320 miners inches) of right No. 37-0353. Olsen Livestock Consultants, Inc. is not listed as a current owner by the water district. The watermaster records indicate that an assessment has not been paid for delivery of water for use on Lot 2, Block 1, Dean Ranch Subdivision since 1982 or earlier.

7. The following have claimed portions of right 37-0353 in the Snake River Basin Adjudication (SRBA):

a.	A37-0353 J. Karl & Judith G. Bick (This claim was originally filed by John Peterson.)	20 miners inches
b.	A37-0353B Edward & Jeannine Stricker	20 miners inches
c.	A37-0353D Robert & Kathryn Gardner	180 miners inches
d.	A37-0353E Harry L. Oppenheimer, Jr.	20 miners inches
e.	A37-0353F William R. Long	10 miners inches
f.	A37-0353G Douglas Driever (This is one half of claim A37-0353C filed by Gus Chek.)	10 miners inches
g.	A37-0353H Reid Kantenwein (This is one half of claim A37-0353C filed by Gus Chek.)	10 miners inches
h.	A37-0353J Tom Olsen	13.5 miners inches
i.	A37-11688 Paul R. & Robert E. Fosnot (This claim is based upon water right No. 37-0353.)	20 miners inches

8. The SRBA claims on file total 303.5 miners inches.

9. The Water District 37 records show that Wood River Valley Irrigation District No. 45 has paid the Water District 37 assessments for 1997 for Gus Chek and for 1996 and 1997 for Robert Kierstad.

10. The Department, Water District 37, and Blaine County records do not show the transfer of an 1887 water right to Lot 2, Block 1, Dean Ranch Subdivision.

11. Water District 37 has been active each year since 1974 and earlier.

12. Rule 104 of the "Rules of Procedure of the Idaho Department of Water Resources", IDAPA 37.01.01, authorize the department to initiate a formal proceeding by issuing an informal determination that will become final in the absence of further action by the person(s) to whom the document is addressed.

CONCLUSIONS OF LAW

1. Water right No. 37-0353 has not been forfeited as evidenced by the Water District 37 records of delivery and use, although use has not occurred on Lot 2, Block 1 Dean Ranch Subdivision for many years.

2. Lot 2, Block 1 Dean Ranch Subdivision was included in the decreed place of use of water right No. 37-0353. Unless a change in place of use was made in accordance with a valid transfer procedure, water right No. 37-0353 is prorated uniformly to the place of use; i.e., 2 miners inches to each acre of the place of use, Crow v. Carlson, 107 Idaho 461 (1984).

3. A water right is an appurtenance to the land and passes by conveyance of the land unless it was specifically reserved in the deed or it can be clearly shown that it was known to both parties that the water right was not intended to be conveyed. Russell v. Irish, 20 Idaho 194, 118 P. 501 (1911). Because the 1974 deed from M. D. and Katherine Dean to Charles A. and Debra Anne Curtis did not specifically reserve water rights from the sale, a proportionate share of water right 37-0353 remained appurtenant to the parcel. Deeds and letters confirming the sale of portions of the decreed water right issued by M. D. Dean subsequent to the 1974 deed to Curtis purporting to convey water rights could not have moved the water right from Lot 2.

4. The reference to an "1887" water right in the chain of title to Lot 2, Block 1, Dean Ranch Subdivision, appears to be a typographical error in describing the appurtenant May 12, 1886 priority water right because documentation has not been found to associate an 1887 priority water right with Lot 2, Block 1, Dean Ranch Subdivision. The inclusion of this reference to a water right in the deed to Mr. Call indicates that Mr. Curtis understood that a water right was appurtenant to Lot 2, Block 1, Dean Ranch Subdivision.

5. Section 42-607, Idaho Code, provides that a water user can not adversely possess the water rights of another user in an active water district.

6. The information available to the department indicates that a proportionate share of water right No. 37-0353 is appurtenant to Lot 2, Block 1, Dean Ranch Subdivision owned by Olsen Livestock Consultants, Inc. The watermaster of Water District 37 should be instructed to deliver the water to the authorized point of diversion for delivery and irrigation use.

7. The department is not able with the information presently available to determine which of the persons presently listed in the Water District 37 records as owning a portion of water right No. 37-0353 are not entitled to the full amount attributed to them. This matter is left for further determination by the department or the district court. Because some of the persons listed as owning part of the right are not calling for delivery under the right and have not done so for several years, the watermaster can satisfy the Olsen Livestock Consultant, Inc. call without otherwise changing the delivery to those entitled to use the water. If calls for water by those entitled to receive the water exceed the total amount of the right, delivery to each user will be proportionately reduced until the ownership issue is resolved.

ORDER

IT IS, THEREFORE, HEREBY ORDERED:

1. The watermaster of Water District 37 is instructed to deliver 0.20 cfs of water right 37-0353 with a June 12, 1886 priority date to the Wood River Valley Irrigation District No. 45 headgate in the SW1/4NW1/4, Section 36, T2N, R18E for use by Olsen Livestock Consultants, Inc. Prior to delivery of the water under this order, Olsen Livestock Consultants, Inc. shall have paid any applicable Water District 37 assessments.

2. This Order does not constitute a determination that Olsen Livestock Consultants, Inc. has a right-of-way, easement, or other necessary authorities and approvals needed to convey water through the Wood River Valley Irrigation District headgate and canal system.

3. This Order is a preliminary determination subject to revision if additional information is submitted indicating that water right No. 37-0353 is no longer appurtenant to Lot 2, Block 1, Dean Ranch Subdivision. All persons receiving this order and others using or claiming the use of water under right No. 37-0353 have the opportunity to seek reconsideration or file exceptions in accordance with Rule 730 of the "Rules of Procedure of the Department of Water Resources," IDAPA 37.01.01.

Signed at Boise, Idaho, this 22ND day of July, 1997.

NORMAN C. YOUNG
Administrator
Water Management Division

CERTIFICATE OF MAILING

I hereby certify that on the 23rd day of July, 1997, I served a true and correct copy of the foregoing document on the following person(s) by mailing in the U.S. mail, first class, with the correct postage affixed thereto:

Scott Campbell
Elam & Burke
PO Box 1539
Boise, Idaho 83701

J Karl and Judith G. Bick
PO Box 2014
Sun Valley, Idaho 83353

Gus Chek
PO Box 1984
Hailey, Idaho 83333

Robert and Kathryn Gardner
PO Box 470
Bellevue, Idaho 83313

William R. Long
11710 Mayfield Avenue
Los Angeles, California 90049

Robert Earl Fosnot
PO Box 290
Bellevue, Idaho 83313

E. Lee Schlender
PO Box 296
Hailey, Idaho 83333

Edward and Jeannine Sticker
10767 State Highway 75
Bellevue, Idaho 83313

Douglas Driever
POBox 2072
Hailey, Idaho 83333

Harry L. Oppenheimer, Jr.
246 Summit Drive
Corde Madera, California 93925

Reid Kantenwein
PO Box 1525
Hailey, Idaho 83333

Paul R. Fosnot
837 Laurel Avenue
Pomona, California 91767

Deborah Drew-Ellis

DEBORAH DREW-ELLIS
Legal Secretary

Christensen, Kelly

From: Christensen, Kelly
Sent: Wednesday, November 12, 2008 1:37 PM
To: pla@idahowaters.com; Jones, Doug
Cc: Baxter, Garrick; Kelly, Vicki
Subject: 37-353G

Attachments: 37-353 database summary 2008.xls; Place of use for 37-353 as split.doc

Paul, I have attached 2 different documents that should help you get somewhat of a handle on 37-353, the way it was split and claimed and also where the POU for each piece fits. This is a quick search and there is a chance I missed something but I do not think so.

Also additional information can be obtained from the allocations back file for this right. You can access the information by going to the department web site and searching on 37-353. Highlight 37-353 (nothing showing a suffix) and clicking on Related Documents. Please note that the back file for this right also includes a significant number of pages associated with 37-359 which has nothing to do with 37-353. A good place to start would be pg 74 of that file. Once you get it all figured out give me a call and we can discuss things further.

Garrick, I do not believe that any attorney has been assigned this case as it did not originate through the Hailey hearings so I am including you in the loop with the information already researched.


37-353 database summary 2008.x...

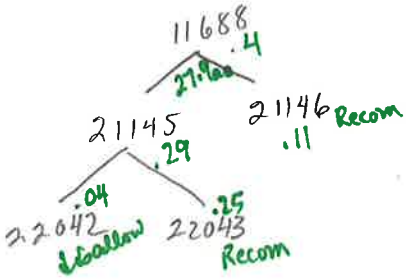

Place of use for 37-353 as spl...

Kelly K Christensen
Sr Water Resource Agt
Boise, Western Region
(208)-334-2190

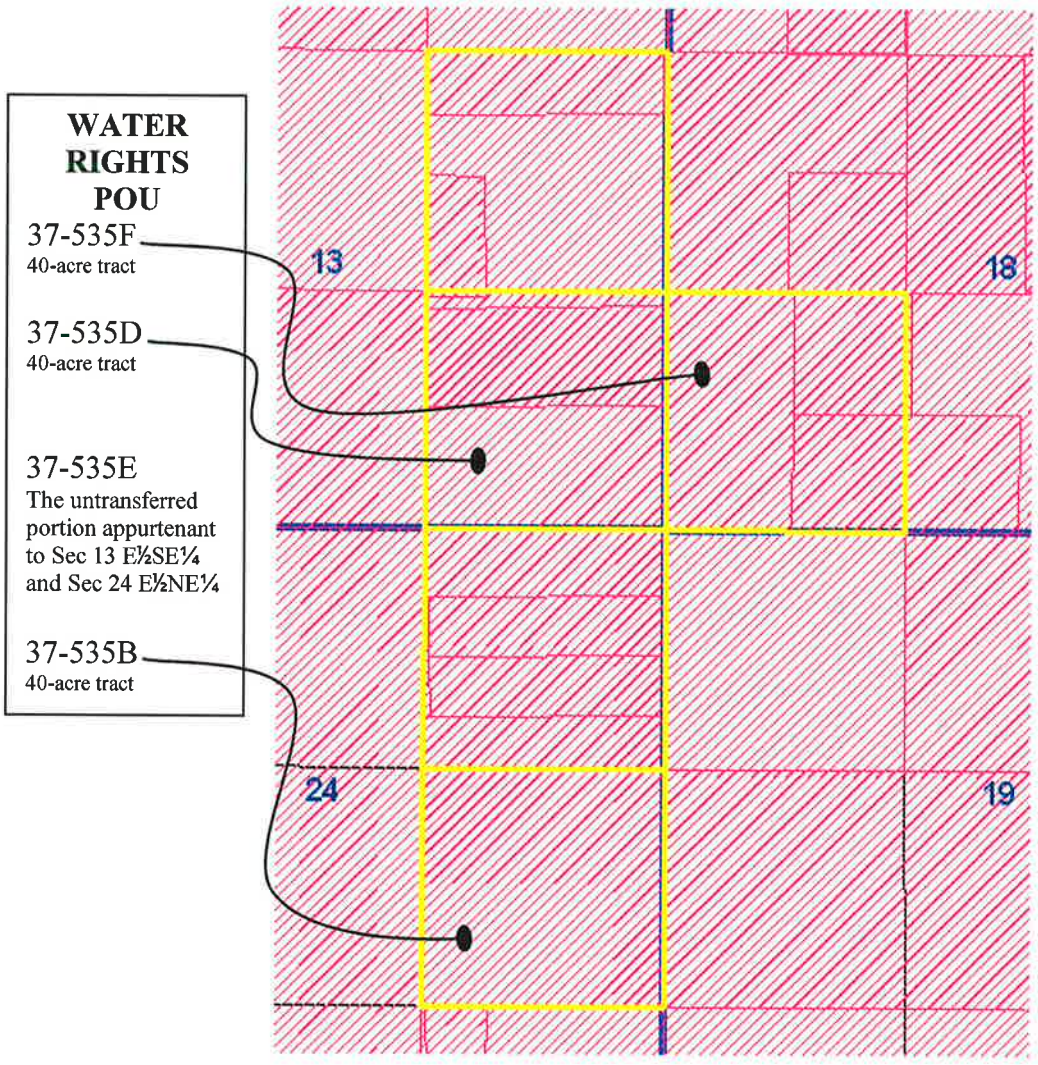
Received date

Basin	Sequence	Suffix	Status	Rate (cfs)	Water Use(s)	Owner(s)	Version	Source Table
37	353		Active	0.4	Irr	GRIGSBY, JUDITH P		Aj Claim
37	353	B	Active	0.4	Irr	ARRINGTON, DAN ; BRIGGS, NOEL		Aj Claim
37	353	D	Active	3.6	Irr	GARDNER, KATHRYN ALLRED ; GARDNER, ROBERT E		Aj Claim
37	353	E	Active	0.4	Irr	VAN DER MEULEN, LINDA ; VAN DER MEULEN, PETER D		Aj Claim
37	353	F	Active	0.2	Irr	OOSTING, JAMES M		Aj Claim
37	353	G	Active	0.2	Irr	BARRY, BARBARA A		Aj Claim
37	353	H	Active	0.2	Irr	BENSON, BARBARA		Aj Claim
37	353	J	Active	0.4	Irr	OLSEN LIVESTOCK CONSULTING		Aj Claim
37	353	K	Active	0.36	Irr	FISHER, DANETTE L ; FISHER, MARK D		Aj Claim
37	353	L	Active	0.36	Irr	GOICOECHEA, ANNETTE ; GOICOECHEA, TOM		Aj Claim
37	20348		Active	0.2	Irr	TURCO, JERRY		Aj Claim
37	21146		Active	0.11	Irr	GOWER, BETTE ; GOWER, MARK		Aj Claim
37	22042		Active	0.04	Irr	FOSNOT, PAUL R ; FOSNOT, ROBERT EARL		Aj Claim
37	22043		Active	0.25	Irr	SUPER, JAMES R ; SUPER, JANET A		Aj Claim
			TOTAL	7.12				
37	353		Active	0.4	Irr	GRIGSBY, JUDITH P	1	Aj Recom
37	353	B	Active	0.4	Irr	ARRINGTON, DAN ; BRIGGS, NOEL	1	Aj Recom
37	353	D	Active	3.6	Irr	GARDNER, KATHRYN ALLRED ; GARDNER, ROBERT E	1	Aj Recom
37	353	E	Active	0.4	Irr	VAN DER MEULEN, LINDA ; VAN DER MEULEN, PETER D	1	Aj Recom
37	353	F	Active	0.16	Irr 1-22-90	OOSTING, JAMES M	1	Aj Recom
37	353	H	Active	0.2	Irr	BENSON, BARBARA	1	Aj Recom
37	353	J	Active	0.32	Irr 12-16-96	OLSEN LIVESTOCK CONSULTING	1	Aj Recom
37	353	K	Active	0.28	Irr	FISHER, DANETTE L ; FISHER, MARK D	1	Aj Recom
37	353	L	Active	0.28	Irr 8-5-98	GOICOECHEA, ANNETTE ; GOICOECHEA, TOM	1	Aj Recom
37	21146		Active	0.11	Irr 10-17-88	GOWER, BETTE ; GOWER, MARK	1	Aj Recom
37	22043		Active	0.25	Irr 10-17-88	SUPER, JAMES R ; SUPER, JANET A	1	Aj Recom
			TOTAL	6.4				
37	353	G	Disallow	0.2	Irr 7-28-88	BARRY, BARBARA A	1	Aj Recom
37	20348		Disallow	0.2	Irr	TURCO, JERRY	1	Aj Recom
37	22042		Disallow	0.04	Irr 10-17-88	FOSNOT, PAUL R ; FOSNOT, ROBERT EARL	1	Aj Recom
			TOTAL	0.44				
37	353	B	Active	0.4	Irr	FOSNOT, ROBERT EARL		Wtr Right
37	353	D	Active	0.2	Irr	DRIEVER, DOUGLAS		Wtr Right
37	353	E	Active	5.6	Irr	JOHNSON, JAMES		Wtr Right
37	353	F	Active	0.2	Irr	CHEK, GUS A		Wtr Right
			TOTAL	**6.4**				
37	11688		PAREN	0.4	Irr 10-17-88	FOSNOT, PAUL R ; FOSNOT, ROBERT EARL		Aj Claim
37	21145		Parent	0.29	Irr 10-17-88	FOSNOT, PAUL R ; FOSNOT, ROBERT EARL		Aj Claim
37	21145		Parent	0.29	Irr	FOSNOT, PAUL R ; FOSNOT, ROBERT EARL	1	Aj Recom
37	353	A	See Rei	6	Irr			Aj Claim
37	353	C	See Rei	0.4	Irr			Aj Claim

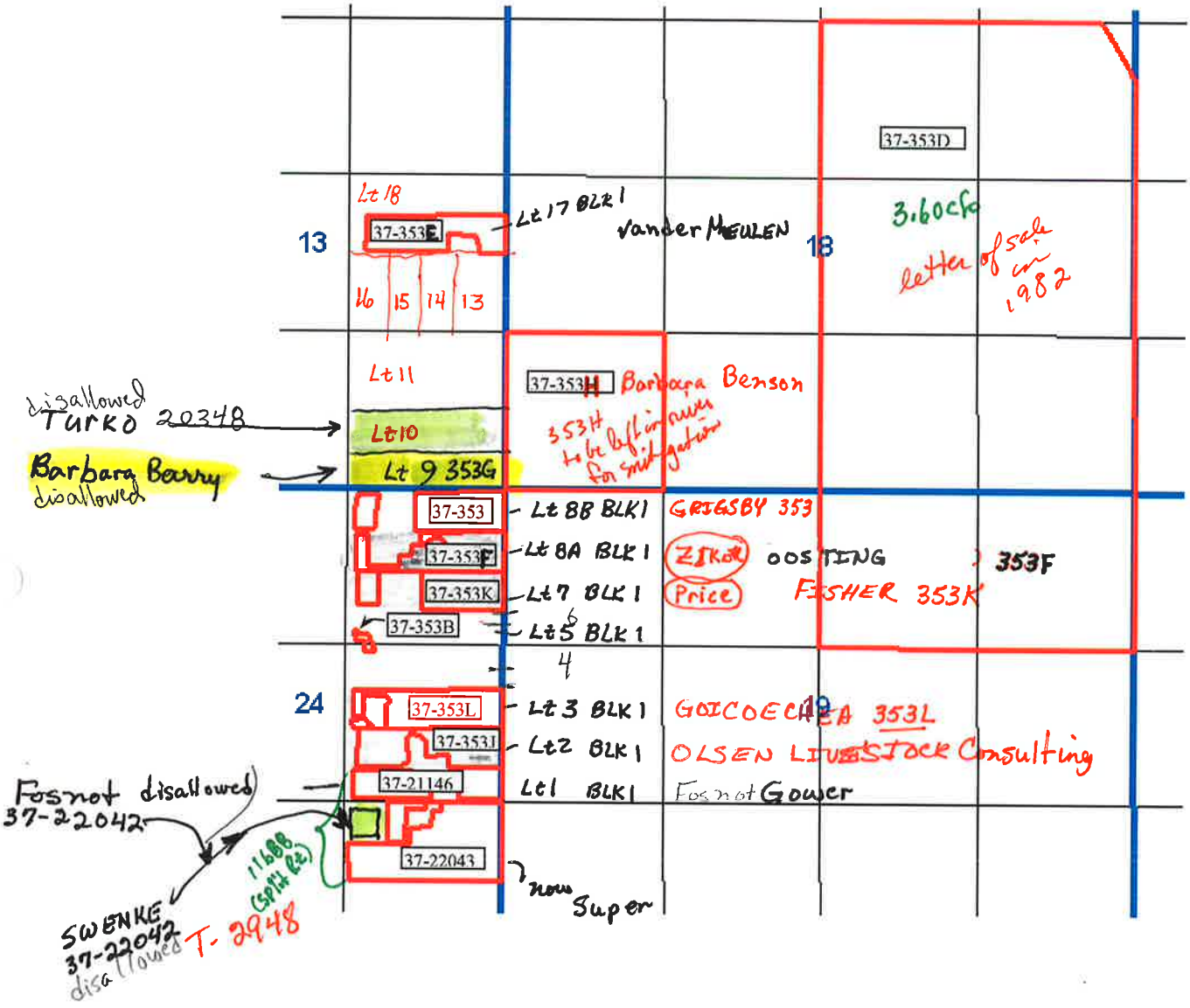
Recom



Place of use for 37-353 as split by transfers on the allocations database.



Recommended places of use for rights claimed against 37-353. Claims and disallowed rights are not shown on this display.



By Kelly K Christensen
November 12, 2008
D:\Data\b37\objection resolution area 3\Place of use for 37-353 as split.doc

37-353G Lt 9 Obj filed by Barry right should exist

No Overlapping rights associated with Lot 9

Claim	0.20 cfs	6.0 ac
Recom	----	----
Adjusted	0.20 cfs	6.0 ac

POU at 2" per acre	Existing Rate per acre
6.0 ac *0.04 cfs/ac 0.24 cfs	0.20 cfs / 6.0 ac = 0.033 cfs/ac Or 1.66 inches/acre

Allocations record 37-353D, Driever

This claim is based upon approved transfer 3678 approved Sept 8, 1991. As the basis for this transfer is a post SRBA action this right should be recognized as valid based upon the transfer data.

No combined right language necessary.

08/25/2009

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 37-353G V1

WATER RIGHT NUMBER: 37-353G V1

Sept 09 Proposal

Owner Type	Name and Address
Current Owner	BARBARA A BARRY PO BOX 1197 BELLEVUE, ID 83313

Priority Date: 06/12/1886

Basis: Decreed

Status: Active

Source	Tributary
BIG WOOD RIVER	MALAD RIVER

Beneficial Use	From To	Diversion Rate	Annual Volume
IRRIGATION	4/01 to 11/01	0.200 CFS	
	Total Diversion:	0.200 CFS	

Location of Point(s) of Diversion

BIG WOOD RIVER SW1/4NW1/4 Sec. 36, Twp 02N, Rge 18E, B.M.

BLAINE 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	
01N	18E	13																6.0	6.0

Total Acres: 6

Conditions of Approval:

1. This right is a portion of former Right 37-353.
2. R24 This right when combined with all other rights shall provide no more than 0.02 cfs at the field headgate and 3.0 afa per acre for irrigation of the lands above.
3. The place of use is further described as Lot 7 of the Dean Ranch Subdivision.
4. 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 37-353G V1

WATER RIGHT NUMBER: 37-353G V1

Owner Type	Name and Address
Current Owner	BARBARA A BARRY PO BOX 1197 BELLEVUE, ID 83313
Original Owner	DOUGLAS DRIEVER PO BOX 2072 HAILEY, ID 83333 (208)788-2991

Priority Date: 06/12/1886

Basis:

Status: Disallowed

Source	Tributary
BIG WOOD RIVER	MALAD RIVER

Beneficial Use	From To	Diversion Rate	Annual Volume
IRRIGATION	4/01 to 11/01	0.200 CFS	18.00 AF
	Total Diversion:	0.200 CFS	18.00 AF

Location of Point(s) of Diversion

BIG WOOD RIVER SW1/4NW1/4 Sec. 36, Twp 02N, Rge 18E, B.M.

BLAINE 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	
01N	18E	13																6.0	6.0

Total Acres: 6

Conditions of Approval:

1. P01 No lawful appropriation shown.
2. P11 No lawful appropriation shown: There are a number of circumstances in which a claim is proposed to be disallowed on this basis. This is most commonly included for a claim based on beneficial use or posted notice that is proposed to be disallowed because the right claimed is not within an exception to the mandatory permit statute, and beneficial use of water prior to the mandatory permit statute was not confirmed. This is also included where a claim is proposed to be disallowed because the claim is to water that is not public water subject to appropriation. This is also included where a right was determined not to exist in a prior adjudication.

Comments:

1. jstanton 11/18/2006 Claim Validity
Comment: Although T 3678 tied 0.20 cfs to Lot 9 (Driever), current watermaster records show no such person under any portion of 37-353. The right is over-claimed, but the owners known to the watermaster account for all the decreed diversion rate. I am therefore recomending this claim for disallowal. I visited the property yesterday, but nobody was home. I do not remember seeing any diversion works.

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Claim Report 37-353G

WATER RIGHT NUMBER: 37-353G

Owner Type	Name and Address
Original Owner	DOUGLAS DRIEVER PO BOX 2072 HAILEY, ID 83333 (208)788-2991
Current Owner	BARBARA A BARRY PO BOX 1197 BELLEVUE, ID 83313

claim date 7-28-88

Priority Date: 06/12/1886

Basis: Decreed

Status: Active

Source	Tributary
BIG WOOD RIVER	MALAD RIVER

Beneficial Use	From To	Diversion Rate	Annual Volume
IRRIGATION	4/01 to 11/01	0.200 CFS	18.00 AF
	Total Diversion:	0.200 CFS	18.00 AF

Location of Point(s) of Diversion

BIG WOOD RIVER SW1/4NW1/4 Sec. 36, Twp 02N, Rge 18E, B.M.

BLAINE 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	
01N	18E	13																6.0	6.0

Total Acres: 6

Lt-9

Conditions of Approval:

1. CLAIM BASED ON 37-0353 DECREE, SPLIT OFF FROM PART A.
********** THIS CLAIM RESULT OF APPROVED TRANSFER NO. 3678: 1. THE CHANGE AUTHORIZED BY THIS TRANSFER SHALL BE ACCOMPLISHED WITHIN ONE (1) YEAR OF THE DATE OF THIS APPROVAL.
2. FAILURE TO COMPLY WITH THE CONDITIONS OF THIS TRANSFER IS CAUSE FOR THE DIRECTOR TO ISSUE AN ORDER TO SHOW CAUSE WHY THE APPROVAL OF THE TRANSFER SHOULD NOT BE RESCINDED.
3. APPROVAL OF THIS TRANSFER DOES NOT PRECLUDE THE OPPORTUNITY FOR REVIEW OF THE VALIDITY OF THE WATER RIGHT(S) IN THE ONGOING SRBA.
4. USE OF WATER UNDER THIS WATER RIGHT IS SUBJECT TO CONTROL BY THE WATERMASTER OF STATE WATER DISTRICT NO. 37, BIG WOOD RIVER.
5. THIS RIGHT WHEN COMBINED WITH ALL OTHER RIGHTS SHALL PROVIDE NO MORE THAN 3.0 AFA PER ACRE FOR THE LANDS ABOVE.

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 37-353D

WATER RIGHT NUMBER: 37-353D

Owner Type	Name and Address
Current Owner	DOUGLAS DRIEVER PO BOX 2072 HAILEY, ID 83333 (208)788-2991
Original Owner	JAMES JOHNSON

Priority Date: 06/12/1886

Basis: Decreed

Status: Active

Source	Tributary
BIG WOOD RIVER	MALAD RIVER

Beneficial Use	From To	Diversion Rate	Annual Volume
IRRIGATION	4/01 to 11/01	0.200 CFS	
	Total Diversion:	0.200 CFS	

Location of Point(s) of Diversion

BIG WOOD RIVER BLAINE County	SW1/4NW1/4	Sec. 36,	Twp 02N, Rge 18E, B.M.
BIG WOOD RIVER BLAINE County	NE1/4SE1/4 (Rediversion)	Sec. 13,	Twp 01N, Rge 18E, B.M.

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	
01N	18E	13																6.0	6.0

Total Acres: 6

Conditions of Approval:

1. R24 This right when combined with all other rights shall provide no more than 3.0 afa per acre for irrigation of the lands above.
2. R04 Use of water under this water right will be regulated by the watermaster of State Water District No. &DISTRICT.
3. T08 Failure of the right holder to comply with the conditions of this transfer is cause for the Director to rescind approval of the transfer.
4. T07 The right holder shall accomplish the change authorized by this transfer within one (1) year of the date of this approval.
5. T09 Approval of this transfer does not preclude the opportunity for review of the validity of the water right(s) in the ongoing Snake River Basin Adjudication.

Comments:

1. LUKE 9/5/1991 TRANSFER NOS. 2948 & 3678
Comment: TRANSFER NO. 2948 SPLIT RIGHT NO. 37-0353 INTO PARTS A & B. TRANSFER NO. 3678 SPLIT RIGHT NO. 37-0353A INTO PARTS C & D, AND CHANGED THE PLACE OF USE FOR A PORTION OF THE RIGHT. THE POINT OF DIVERSION WAS NOT LISTED ON THE DECREE BUT IS LISTED ON THE TRANSFER.

37-353H Sec 18 SWSW No objection filed

No Overlapping rights associated with this parcel pre adjudication.

Claim	0.20 cfs	7.5 ac
Recom	0.20	Mitigation
Adjusted	----	----

for their 7.5 ac

19 Nov 3, 1993

This claim is based upon approved transfer 3678 approved Sept 8, 1991. As the basis for this transfer is a post SRBA action this right should be recognized as valid based upon the transfer data. Permit 37-8660 was approved on the condition that this right be used for mitigation and was updated accordingly.

No combined right language necessary.

~~SRBA approved~~
~~May 19, 1994~~
Priority dt
8-9-1990

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 37-353H V1

WATER RIGHT NUMBER: 37-353H V1

Owner Type	Name and Address
Current Owner	BARBARA BENSON 97 FREEDOM LOOP BELLEVUE, ID 83313-5013 (208)788-2111

Sept 09 Proposal

Priority Date: 06/12/1886

Basis: Decreed

Status: Active

Source	Tributary
BIG WOOD RIVER	MALAD RIVER

Beneficial Use	From	To	Diversion Rate	Annual Volume
MITIGATION	04/15	10/31	0.200 CFS	
		Total Diversion:	0.200 CFS	

Location of Point(s) of Diversion

BIG WOOD RIVER NE1/4SW1/4NW1/4 Sec. 36, Twp 02N, Rge 18E, B.M.

BLAINE County

Place of Use

MITIGATION

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
01N	19E	18											X						
													L 4						

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.
2. To mitigate for the depletion of water resulting from the use of water under Permit 37-8660, and to prevent injury to senior water right holders, the right holder shall cease using 0.20 cfs formerly diverted from the Big Wood River under Right 37-353H. Said water right shall be left in the Big Wood River for mitigation purposes.
3. This right is a portion of former right 37-353.

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 37-353H V1

WATER RIGHT NUMBER: 37-353H V1

Owner Type	Name and Address
Current Owner	BARBARA BENSON 97 FREEDOM LOOP BELLEVUE, ID 83313-5013 (208)788-2111
Original Owner	REID E KANTENWEIN

Priority Date: 06/12/1886

Basis: Decreed

Status: Active

Source	Tributary
BIG WOOD RIVER	MALAD RIVER

Beneficial Use	From	To	Diversion Rate	Annual Volume
MITIGATION	04/15	10/31	0.200 CFS	
		Total Diversion:	0.200 CFS	

no diversion water to be left in Big Wood

Location of Point(s) of Diversion

BIG WOOD RIVER NE1/4SW1/4NW1/4 Sec. 36, Twp 02N, Rge 18E, B.M.

Place of Use

MITIGATION

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
01N	19E	18											X L 4						

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.
2. To mitigate for the depletion of water resulting from the use of water under Permit 37-8660, and to prevent injury to senior water right holders, the right holder shall cease using 0.20 cfs formerly diverted from the Big Wood River under Right 37-353H. Said water right shall be left in the Big Wood River for mitigation purposes.
3. This right was formerly known as Right 37-353F.

Comments:

1. jstanton 11/21/2006 Claim Review
Comment: This right, listed as 37-353F in our records, is left in the Big Wood River to mitigate for Permit 37-8660. This groundwater permit was approved conditioned on the availability of this right, allowing 6 acres to be irrigated from a new well in the BWRGWMA. Irrigation under the permit is now allowed unless this right is available for delivery. Permit 37-8384 covers 3 ac of irrigation, plus domestic use, on the 10 acres owned by Ms. Benson. The first permit was examined in 1992, when the examiner found 3 acres of irrigation plus a home and lawn, but this permit is not tied to 37-353 as a mitigation requirement. The methodology for dealing with these mitigation rights has not yet been worked out, so I will wait until it is.

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Claim Report 37-353H

WATER RIGHT NUMBER: 37-353H

Owner Type	Name and Address
Current Owner	BARBARA BENSON 97 FREEDOM LOOP BELLEVUE, ID 83313-5013 (208)788-2111
Original Owner	REID E KANTENWEIN PO BOX 1525 HAILEY, ID 83333-1525 (208)788-9776

Priority Date: 06/12/1886

Basis: Decreed

Status: Active

Source	Tributary
BIG WOOD RIVER	MALAD RIVER

Beneficial Use	From To	Diversion Rate	Annual Volume
IRRIGATION	4/15 to 10/15	0.200 CFS	26.30 AF
	Total Diversion:	0.200 CFS	26.30 AF

Location of Point(s) of Diversion

BIG WOOD RIVER SW1/4NW1/4 Sec. 36, Twp 02N, Rge 18E, B.M.

BLAINE County

claim date 7-28-88

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	
01N	19E	18											7.5						7.5

Total Acres: 7.5

Conditions of Approval:

Lt 2 now Sec 18 SWSW

1. CLAIM BASED ON 37-0353 DECREE, SPLIT OFF FROM PART A.
********** THIS CLAIM RESULT OF APPROVED TRANSFER NO. 3679: 1. USE OF WATER UNDER THIS RIGHT WILL BE REGULATED BY THE WATERMASTER OF STATE WATER DISTRICT NO. 37.
2. THIS RIGHT WHEN COMBINED WITH ALL OTHER RIGHTS SHALL PROVIDE NO MORE THAN 3.5 AFA PER ACRE FOR THE LANDS ABOVE.
3. THE CHANGE AUTHORIZED BY THIS TRANSFER SHALL BE ACCOMPLISHED WITHIN ONE (1) YEAR OF THE DATE OF THIS APPROVAL.
4. APPROVAL OF THIS TRANSFER DOES NOT PRECLUDE THE OPPORTUNITY FOR REVIEW OF THE VALIDITY OF THE WATER RIGHT(S) IN THE ONGOING SRBA.
5. FAILURE TO COMPLY WITH THE CONDITIONS OF THIS TRANSFER IS CAUSE FOR THE DIRECTOR TO ISSUE AN ORDER TO SHOW CAUSE WHY THE APPROVAL SHOULD NOT BE RESCINDED.

IDAHO DEPARTMENT OF WATER RESOURCES

Water Permit Report 37-8660

WATER RIGHT NUMBER: 37-8660

Owner Type	Name and Address
Original Owner	REID E KANTENWEIN PO BOX 1525 HAILEY, ID 83333-1525 (208)788-9776
Current Owner	BARBARA BENSON 97 FREEDOM LOOP BELLEVUE, ID 83313-5013 (208)788-2111

Priority Date: 08/09/1990

Basis:

Status: Active

Source	Tributary
GROUND WATER	

Beneficial Use	From To	Diversion Rate	Annual Volume
IRRIGATION	4/15 to 10/15	0.090 CFS	
	Total Diversion:	0.090 CFS	

Location of Point(s) of Diversion

GROUND WATER L4 (SW1/4SW1/4SW1/4) Sec. 18, Twp 01N, Rge 19E, B.M.

BLAINE 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	
01N	19E	18											6.0						6.0
													L 4						

Total Acres: 6

Conditions of Approval:

1. 03A The rate of diversion of water for irrigation under this right and all other water rights on the same land shall not exceed 0.02 cubic feet per second for each acre of land.

2. This water right application is approved in conjunction with an exchange of surface water rights which will remain in the Big Wood River pursuant to the exchange provisions contained in Section 42-105, Idaho Code.
   A flow rate of 0.20 cfs authorized by right no. 37-00353F must remain in the Big Wood River at its described point of diversion to compensate for depletion of groundwater authorized authorized by this permit.
   For purposes of regulating this permit with respect to other groundwater rights, the priority of this right shall be August 9, 1990.
   The Director retains jurisdiction over the use of water under this right to adjust the mitigation and to require the collection and reporting of pumpage and use data.
   Diversion under this right may occur as long as Big Wood River can supply water to water right 37-00353F with a priority date of June 12, 1886.

Remarks:

IDAHO DEPARTMENT OF WATER RESOURCES

Water Permit Report 37-8384

WATER RIGHT NUMBER: 37-8384

Owner Type	Name and Address
Current Owner	BARBARA BENSON 97 FREEDOM LOOP BELLEVUE, ID 83313-5013 (208)788-2111
Original Owner	REID E KANTENWEIN PO BOX 1525 HAILEY, ID 83333-1525 (208)788-9776

Priority Date: 08/29/1988

Basis:

Status: Active

Source	Tributary
GROUND WATER	

Beneficial Use	From To	Diversion Rate	Annual Volume
DOMESTIC	1/01 to 12/31	0.040 CFS	
IRRIGATION	4/01 to 11/01	0.090 CFS	
	Total Diversion:	0.130 CFS	

Location of Point(s) of Diversion

GROUND WATER SW1/4SW1/4SW1/4 Sec. 18, Twp 01N, Rge 19E, B.M.

BLAINE 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	
01N	19E	18											3.0						3.0

Total Acres: 3

DOMESTIC same as IRRIGATION

Conditions of Approval:

1. 057 The rate of diversion of water for irrigation under this right and all other water rights on the same land shall not exceed 0.03 cubic feet per second for each acre of land.
2. 046 Right holder shall comply with the drilling permit requirements of Section 42-235, Idaho Code.
3. 041 Irrigation use under this right is authorized only in connection with a domestic use.
4. 016 See remarks for additional conditions of approval.
5. The maximum rate of diversion under this permit shall not exceed 0.09 cfs, nor shall the irrigation exceed 3 acres.

37-353J Lt 2 Obj filed by Barry

No overlapping rights (including domestic rights)

Claim	0.40 cfs	10.0 ac
Recom	0.32 cfs	7.8 ac
Adjusted	0.40 cfs	10.0 ac

POU at 2" per acre	Existing Rate per acre
10 ac	0.40 cfs / 10 ac =
*0.04 cfs/ac	0.04 cfs/ac
0.40 cfs	Or 2.00 inches/acre

No combined right language expected.

One of the Dry Lots in 1997

This right is also subject to the Norm Young order signed Aug 25, 1997. In the findings of fact # 2 it states that Lot 2 has not been irrigated for 10+ years. In item 6 it was found that Water District 37 has no records of any assessment for Lot 2 since 1982 or earlier.

Alternative recommend this right for disallowal – forfeited.

Moffatt Thomas
MOFFATT THOMAS BARRETT ROCK & FIELDS, CHTD.

Boise
Idaho Falls
Pocatello
Twin Falls

Eugene C. Thomas
John W. Barrett
Richard C. Fields
John S. Simko
John C. Ward
D. James Manning
David B. Lincoln
Gary T. Dance
Larry C. Hunter
Randall A. Peterman
Mark S. Prusynski
Stephen R. Thomas
Glenna M. Christensen
Gerald T. Husch
Scott L. Campbell
Robert B. Burns
Michael E. Thomas
Patricia M. Olsson
Christine E. Nicholas
Bradley J Williams
Lee Radford
Michael O. Roe
Nancy J. Garrett
David S. Jensen
James L. Martin
C. Clayton Gill
Michael W. McGreaham
David P. Gardner
Julian E. Gabiola
Tara Martens
Kimberly D. Evans Ross
Mark C. Peterson
Tyler J. Anderson
Jon A. Stenquist
Jason G. Murray
Rebecca A. Rainey
Paul D. McFarlane
Tyler J. Henderson
C. Edward Cather III
Andrew J. Waldera
Dylan B. Lawrence
Benjamin C. Ritchie
Tonn K. Petersen
Matthew J. McGee
David J. Dance

Robert E. Bakes, *of counsel*

Willis C. Moffatt, 1907-1980
Kirk R. Helvie, 1956-2003

US Bank Plaza Building
101 S Capitol Blvd 10th Fl
PO Box 829
Boise Idaho 83701 0829

208 345 2000
800 422 2889
208 385 5384 Fax
www.moffatt.com

April 29, 2010

RECEIVED
APR 30 2010
WATER RESOURCES
WESTERN REGION

Idaho Department of Water Resources-Southern Region
1341 Fillmore Street, Suite 200
Twin Falls, ID 83301-3380

Re: Ownership and Address Change Forms for 37-353J (Olsen Livestock Consultants, Inc.)
MTBR&F File No. 23091.0000

Dear Sir or Madam:

Enclosed please find:

1. A Notice of Change in Water Right Ownership for water right 37-353J, signed by Tom Olsen, President of Olsen Livestock Consultants, Inc.

2. A Change in Address form for water right 37-353J, signed by Tom Olsen, President of Olsen Livestock Consultants, Inc.

3. A copy of the most recent deed for the land to which water right 37-353J is appurtenant, which shows conveyance to Olsen Livestock Consultants, Inc. in 1996.

To be clear, ownership of 37-353J has not recently changed, and IDWR previously recognized "Olsen Livestock Consultants, Inc." as the owner of this water right. However, an objection to the "name and address" portions of this water right are currently pending in the SRBA, and Renea Ridgeway therefore requested that we submit these forms in order to resolve that objection. Because clarification of division of the water right is not necessary, and because IDWR already possesses many aerial photos and maps related to this water right, Renea and I felt it was unnecessary to include additional plats, maps, and aerial photos. Because water right 37-353J is still pending in the SRBA, no fee is required.

If you have any questions or need any additional information, please do not hesitate to contact me. Thank you for your attention to this matter.

Very truly yours,

Dylan B. Lawrence

DBL/llw
Enclosures (3)
cc: Tom Olsen
Renea Ridgeway
Kelly Christensen
Scott L. Campbell

Form 42-248/42-1409(6) 10/07

RECEIVED
APR 30 2010
WATER RESOURCES
WESTERN REGION

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
NOTICE OF CHANGE IN WATER RIGHT OWNERSHIP

Please print or type. Attach pages with additional information. Instructions are included at the end of this form. Incomplete forms will be returned.

1. Please list the water right number(s) and/or adjudication claim number(s) (if any) for each water right to be changed. List just the adjudication claim number if there is no corresponding water right record on file with the department. Indicate, by checking in the space provided (under the "split" heading), if the change in ownership is limited to a portion of a water right in which case IDWR will produce new water right number(s) for the split(s).

Water Right No(s).	Adjudication Claim No(s).	Split(s)	Water Right No(s).	Adjudication Claim No(s).	Split(s)
37-353J	37-353J	N			

The following **REQUIRED** information must be submitted with this form:

A. The appropriate **FILING FEE.** See instructions for fee amounts.

B. A copy of the most recent **DEED, TITLE POLICY, CONTRACT OF SALE** or other legal document indicating your ownership of the property and water right(s) or claim(s) in question, **WITH ATTACHED LEGAL DESCRIPTION.**

C. Either of the following (if necessary to clarify division of water rights or other complex property descriptions):
PLAT OF PROPERTY or **SURVEY MAP** clearly showing the location of the point(s) of diversion and place of use of your water right(s) and/or adjudication claim(s) (these are on file with the county Planning and Zoning or Recorder's Office).

OR

D. If your water right(s) and/or adjudication claim(s) is for ten or more acres of irrigation, you must submit a USDA Farm Service Agency or equivalent **AERIAL PHOTO** with the irrigated acres outlined and point(s) of diversion clearly marked. The AERIAL PHOTO should be submitted in place of the PLAT OF PROPERTY or SURVEY MAP.

3. Name and Address of Former Owner/Claimant(s): Robert D. Head and Sharyl M. Head
P.O. Box 203
Bellevue, ID 83313

4. New Owner/Claimant(s): Olsen Livestock Consultants, Inc.
Name Connector (Check one): [ ] and, [ ] or, [ ] and/or

New Mailing Address: P.O. Box 1145

City, State and ZIP Code: Bellevue, ID 83313

New Telephone Number: (208) 788-4149 Email: _____

CLIENT:1615180.1

5. Date you acquired the property September 25, 1996

6. **If the change in ownership affects the entire water right for each water right or adjudication claim number listed in line 1, then skip this line and go to line 7.** If the change in ownership divides the water right(s) among multiple owners, you must describe, in detail, your portion of each water right after the change. Fill in the appropriate spaces in the box(es) below to describe your water right(s) after the change (you may copy this page, if necessary). If your quantity of water is greater than a proportionate split, you must attach documentation to show justification for a larger amount. If you are not sure how to identify your portion of the original water right or adjudication claim records, please contact the nearest IDWR office for assistance.

DESCRIPTION OF YOUR PORTION OF WATER RIGHT
(If the right will not be split, skip this area and proceed to line 7)

Water Use	Diversion Rate or Volume (cubic feet per second or acre-feet per annum)	Description (acres, number and type of stock, homes, etc)
Water Right and/or Adjudication Claim Number		
Irrigation		
Stock		
Domestic		
Other		
Totals		
Water Right and/or Adjudication Claim Number		
Irrigation		
Stock		
Domestic		
Other		
Totals		
Water Right and/or Adjudication Claim Number		
Irrigation		
Stock		
Domestic		
Other		
Totals		

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

7. **Signature(s) of New Owner(s) or Claimant(s)** _____ President
(title if applicable)

_____
(title if applicable)

IT IS IMPORTANT TO FILE THIS COMPLETED FORM AT THE APPROPRIATE IDWR OFFICE, WITH PAYMENT OF THE FILING FEE AND THE OWNERSHIP DOCUMENT(S), AS REFERRED TO IN LINE 2.

For IDWR Office Use Only:

Received by _____ Date _____ Receipt Amt. _____
Receipted by _____ Date _____ Receipt No. _____
Processed by _____AJ Date _____ WR _____ Date _____

4/08

For Office Use Only
Updated by _____
Date _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

CHANGE IN ADDRESS

This form can be used to notify the Department of a change in address of the owners of record for the listed water rights.
(Please print or type)

[ ] Water Right Number(s): 37-353J

[ ] **Name(s)**: Olsen Livestock Consultants, Inc.

[ ] Old Mailing Address: 228 S. Cole Rd.
Boise, ID 83709

[ ] **New Mailing Address**: P.O. Box 1145
Bellevue, ID 83313

Telephone Number: (208) 788 - 4149

Email:

[ ] Signature(s) of Owner(s)

Tom Olsen, President
(Include your title if on behalf of company or organization)

Date: 4-24-10

Send a signed original to your closest regional office:

IDWR Northern Region
7600 Mineral Dr., Suite 100
Coeur d'Alene, ID 83815
(208) 762-2800

IDWR Western Region
2735 Airport Way
Boise, ID 83705-5082
(208) 334-2190

IDWR Eastern Region
900 N. Skyline Dr., Suite A
Idaho Falls, ID 83402-1718
(208) 525-7161

IDWR Southern Region
1341 Fillmore St., Suite 200
Twin Falls, ID 83301-3380
(208) 736-3033

CLIENT:1613922.1

Order No. 19384

WARRANTY DEED

For Value Received Robert D. Head and Sharyl M. Head, husband and wife

Hereinafter called the Grantor, hereby grants, bargains, sells and conveys unto
Olsen Livestock Consultants, Inc., an Idaho Corporation
whose address is: 228 S. Cole Rd., Boise, ID 83709

Hereinafter called the Grantee, the following described premises situated in Blaine County, Idaho, to-wit:

Lot 2 in Block 1 of DEAN RANCH SUBDIVISION, according to the official plat thereof, recorded as Instrument No. 169670, records of Blaine County, Idaho.

TO HAVE AND TO HOLD the said premises, with their appurtenances unto the said Grantee and to the Grantee's heirs and assigns forever. And the said Grantor does hereby covenant to and with the said Grantee, that the Grantor is the owner in fee simple of said premises; that said premises are free from all encumbrances except current years taxes, levies, and assessments, and except U. S. Patent reservations, restrictions, easements of record, and easements visible upon the premises, and that Grantor will warrant and defend the same from all claims whatsoever.

Dated: September 25, 1996

Robert D. Head
Robert D. Head

Sharyl M. Head
Sharyl M. Head

State of Idaho

County of Blaine

On September 26, 1996 before me, the undersigned, a Notary Public in and for said State, personally appeared Robert D. Head ~~and Sharyl M. Head~~ personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) are subscribed to the within instrument and acknowledged to me that they executed the same.

WITNESS my hand and official seal.

Signature

Commission Expires: 7-12-2000

TAMI K. SORENSON NOTARY PUBLIC STATE OF IDAHO

BLAINE CO. REQUEST OF FIRST AMERICAN TITLE CO.
1996 SEP 27 P 4:31
MARY GREENE, CLERK
FEES $ 3.00
394945

STATE OF IDAHO
COUNTY OF Blaine } ss.
On September 27, 1996 before me, the undersigned, a Notary Public in and for said State, personally appeared Sharyl M. Head

personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same.

WITNESS my hand and official seal.

Signature

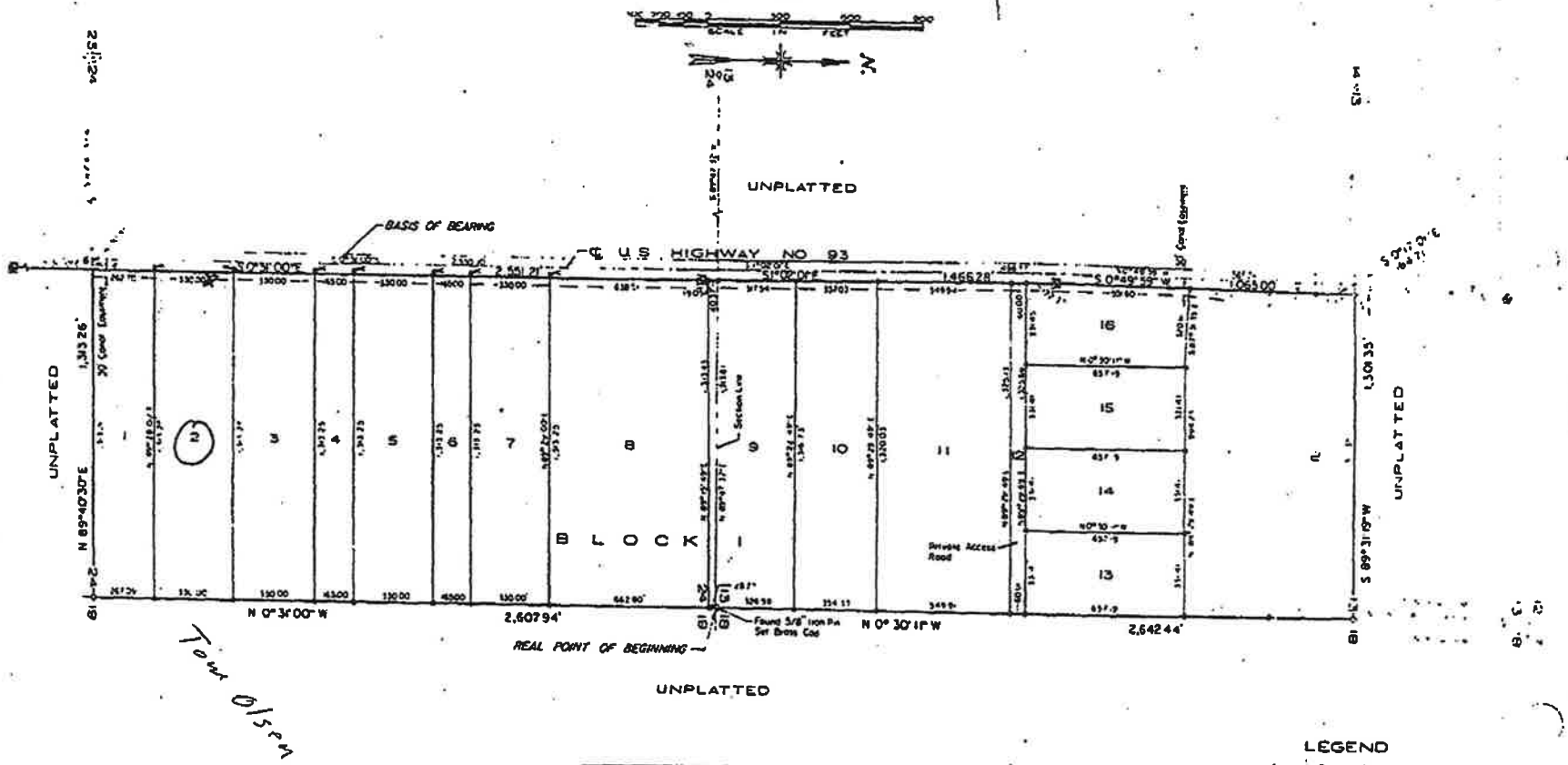
Expires 7-12-2000

TAMI K. SORENSON NOTARY PUBLIC STATE OF IDAHO

(This area for official notarial seal)

3001 (6/82) (Individual) First American Title Company

PLAT SHOWING
DEAN RANCH SUBDIVISION
PORTIONS OF
THE E1/2 SE1/4, SECTION 13, AND E1/2 NE1/4, SECTION 24, T1N, R18E., B.M.,
BLAINE COUNTY, IDAHO
1975



This map is a photographic reproduction of that on file in either the Recorder's or the Surveyor's Office. The company assumes no liability for variation, if any, with another or re-survey.
Courtesy Of:
First American Title Co.
Box 756
Ketchum, Idaho 83340

STATE OF IDAHO }ss
COUNTY OF ADA }

I, Harold J. Cox, being first duly sworn, deposes and says That he is a professional engineer, licensed to practice by the State of Idaho, that he has compared the above copy with the original plat and that the same is a true and exact copy of said plat

Subscribed and sworn before me this 2nd day of December, 1975

Notary Public for Idaho My Commission Expires
Residing at Boise, Idaho 2-11-78

LEGEND
- Brass Cap
- Found Stone Monument
- Found Highway R/W Monument
- Found Iron Pin
- 5/8" x 30" Set Iron Pin
- Set 5/8" x 30" Iron Pin at Witness Corner 10.00' West of Property Corner

I-U-B ENGINEERS, INC
Engineers Planners
Boise, Idaho

Moffatt Thomas

MOFFATT THOMAS BARRETT ROCK & FIELDS, CHTD.

Boise
Idaho Falls
Pocatello
Twin Falls

Eugene C. Thomas
John W. Barrett
R. B. Rock
Richard C. Fields
John S. Simko
John C. Ward
D. James Manning
David B. Lincoln
Gary T. Dance
Larry C. Hunter
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Tyler J. Henderson
C. Edward Cather III
Andrew J. Waldera
Dylan B. Lawrence
Benjamin C. Ritchie
Matthew J. McGee
David J. Dance

Robert E. Bakes, *of counsel*

Willis C. Moffatt, 1907-1980
Kirk R. Helvie, 1956-2003

US Bank Plaza Building
101 S Capitol Blvd 10th Fl
PO Box 829
Boise Idaho 83701 0829

208 345 2000
800 422 2889
208 385 5384 Fax
www.moffatt.com

RECEIVED
SEP 30 2009
WATER RESOURCES
WESTERN REGION

September 29, 2009
via E-mail
and U.S. Mail

Chris Bromley
Idaho Department of Water Resources
P.O. Box 83720
Boise, ID 83720-0003

Kelly Christensen
Idaho Department of Water Resources Western Region Office
2735 Airport Way
Boise, ID 83705

Re: Comments on Proposed Amended Recommendation for Water Right No. 37-00353J (Olsen Livestock Consultants, Inc.)
MTBR&F File No. 23091.0000

Dear Chris and Kelly:

I write on behalf of Olsen Livestock Consultants, Inc., in response to Kelly's letter of August 31, 2009. As you know, Special Master Booth's order of August 18, 2009 in the Dean Ranch Subdivision subcases provides the parties with an opportunity to respond to the proposed amended recommendations that were attached to Kelly's letter.

As an initial matter, thank you for the Department's willingness to re-evaluate the Dean Ranch Subdivision recommendations. Olsen's comments follow.

First, as Olsen provided in its original objection, the name and address information is incorrect. It should be:

Olsen Livestock Consultants, Inc.
P.O. Box 1145
Bellevue, ID 83313
(208) 788-4149

Exhibit D to the Affidavit of Andrew J. Waldera, filed with the SRBA District Court on February 13, 2009, includes a Warranty Deed of September 25, 1996, demonstrating that "Olsen Livestock Consultants, Inc." is the owner of the real property and associated water rights, rather than "Olsen Livestock Consulting." In addition, annual reports on file with the Idaho Secretary of State reflect the above contact information.

Second, Olsen questions the Department's inclusion of the following new remark in this recommendation:

> This right shall provide no more than 0.02 cfs at the field headgate for irrigation of the land described above.

The narrative explanation that accompanies the proposed amended recommendations states that, "[a]lthough no documentation of any scientific determination of conveyance losses are available, it has historically been estimated to be as much as 50%." However, Olsen questions whether this is a sufficient basis to include the new remark. Additional information regarding the basis for the new remark would greatly assist Olsen in its consideration of the Department's proposal.

Thank you for your attention to this matter.

Very truly yours,

Dylan B. Lawrence

DBL/llw
cc: Tom Olsen
Scott L. Campbell

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 37-353J

WATER RIGHT NUMBER: 37-353J



Owner Type	Name and Address
Current Owner	OLSEN LIVESTOCK CONSULTING 228 S COLE RD BOISE, ID 83709 (208)323-1555

Priority Date: 06/12/1886

Basis: Decreed

Status: Active

Source	Tributary
BIG WOOD RIVER	MALAD RIVER

Beneficial Use	From	To	Diversion Rate	Annual Volume
IRRIGATION	04/15	10/31	0.400 CFS	
		Total Diversion:	0.400 CFS	

Location of Point(s) of Diversion

BIG WOOD RIVER NE1/4SW1/4NW1/4 Sec. 36, Twp 02N, Rge 18E, B.M.

BLAINE 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	
01N	18E	24				10													10

Total Acres: 10

Conditions of Approval:

1. The place of use is also known as Lot 2 of the Dean Ranch Subdivision.
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. This right is a portion of former Right 37-353.
4. X31 This right shall provide no more than 0.02 cfs at the field headgate for irrigation of the land described above.

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 37-353J

WATER RIGHT NUMBER: 37-353J

Owner Type	Name and Address
Current Owner	OLSEN LIVESTOCK CONSULTING 228 S COLE RD BOISE, ID 83709 (208)323-1555



Priority Date: 06/12/1886

Basis: Decreed

Status: Active

Source	Tributary
BIG WOOD RIVER	MALAD RIVER

Beneficial Use	From	To	Diversion Rate	Annual Volume
IRRIGATION	04/15	10/31	0.400 CFS	
		Total Diversion:	0.400 CFS	

Location of Point(s) of Diversion

BIG WOOD RIVER NE1/4SW1/4NW1/4 Sec. 36, Twp 02N, Rge 18E, B.M.

BLAINE 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	
01N	18E	24				10													10

Total Acres: 10

Conditions of Approval:

1. The place of use is also known as Lot 2 of the Dean Ranch Subdivision.
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. This right is a portion of former Right 37-353.

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Claim Report 37-353J

WATER RIGHT NUMBER: 37-353J

Owner Type	Name and Address
Original Owner	TOM OLSEN PO BOX 1145 BELLEVUE, ID 83313 (208)788-4149
Attorney	MOFFATT THOMAS BARRETT ROCK & FIELD CHTD C/O SCOTT L CAMPBELL PO BOX 829 BOISE, ID 83701-0829 (208) 345-2000
Current Owner	OLSEN LIVESTOCK CONSULTING 228 S COLE RD BOISE, ID 83709 (208)323-1555
Original Owner	JOHN R PETERSON PO BOX 1702 HAILEY, ID 83333 (208)788-4367

Priority Date: 06/12/1886

Basis: Decreed

Status: Active

Claim date 12-16-1996

Source	Tributary
BIG WOOD RIVER	MALAD RIVER

Beneficial Use	From To	Diversion Rate	Annual Volume
IRRIGATION	4/14 to 10/15	0.400 CFS	
	Total Diversion:	0.400 CFS	

Location of Point(s) of Diversion

BIG WOOD RIVER NE1/4SW1/4NW1/4 Sec. 36, Twp 02N, Rge 18E, B.M.

BLAINE 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	
01N	18E	24				10.0													10.0

Total Acres: 10

Conditions of Approval:

1. ALSO KNOWN AS LOT 2, BLOCK 1, DEAN RANCH SUBDIVISION **** CORRECTED ADDRESS LINE TO DATA ENTRY STANDARDS FOR ROD TO RD KKC 12-13-96 **** *AMENDED 09-03-98: ADDED ATTORNEY, NEW NAME, AND CHANGE QUANTITY.

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 37-353J V1

WATER RIGHT NUMBER: 37-353J V1

Owner Type	Name and Address
Present Owner	TOM OLSEN
Attorney	MOFFATT THOMAS BARRETT ROCK & FIELD CHTD C/O SCOTT L CAMPBELL PO BOX 829 BOISE, ID 83701-0829 (208) 345-2000
Current Owner	OLSEN LIVESTOCK CONSULTING
Original Owner	JOHN R PETERSON

Priority Date: 06/12/1886

Basis: Decreed

Status: Active

Source	Tributary
BIG WOOD RIVER	MALAD RIVER

Beneficial Use	From	To	Diversion Rate	Annual Volume
IRRIGATION	04/15	10/31	0.320 CFS	
		Total Diversion:	0.320 CFS	

Rate/Ac = 0.041 cfs/Ac

Location of Point(s) of Diversion

BIG WOOD RIVER NE1/4SW1/4NW1/4 Sec. 36, Twp 02N, Rge 18E, B.M.

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	
01N	18E	24				7.8													7.8

Total Acres: 7.8

Conditions of Approval:

1. The place of use is also known as Lot 2 of the Dean Ranch Subdivision.
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. This right is a portion of former Right 37-353.

Comments:

1. jstanton 11/18/2006 Claim Validity
Comment: After at least 10 years of non-use, the claimant called for delivery of this water in 1997. A thorough review of the pertinent facts detailed the long period of non-use, which should have resulted in a finding of forfeiture. However, IDWR ordered the watermaster to deliver this water to Lot 2. My site visit yesterday found a pump in the District Canal supplying a sprinkler system on almost 8 acres of pasture. The land condition appeared to indicate recent irrigation (although there were a couple inches of snow on the ground). It appears that the owner has resumed use of this right based on our instructions for delivery, and it would not seem fair at this time to disallow the claim.

2. jstanton 1/4/2007 Flow Reduction
Comment: Right 37-353 has been over-claimed, so some reduction is needed to stay within the decreed diversion rate. Based on my original recommendations, 0.28 cfs needs to go away. Four claims are not traceable to previous owners from the early 1980s, so I am proposing to reduce 37-353F, J, K & L by 21.2% to fix this problem.

DISTRICT COURT-SRBA
Fifth Judicial District
County of Twin Falls - State of Idaho

MAR 3 1 2010

By _____ Clerk
Deputy Clerk

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

In Re SRBA)
)
Case No. 39576)
)

A. Subcase 37-00353J
(Insert water right number)

STANDARD FORM 1
OBJECTION

Please fill in the following information:

B. NAME AND ADDRESS OF PERSON OBJECTING

Name: Olsen Livestock Consultants, Inc.

Address: P.O. Box 1145
Bellevue, ID 83313

Daytime Phone: (208) 788-4149

Name & Address of Attorney, if any:
Scott L. Campbell / Dylan B. Lawrence
Moffatt, Thomas, Barrett, Rock & Fields
P.O. Box 829, Boise, ID 83701-0829

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

Name: Olsen Livestock Consulting

Address: 228 S. Cole Road
Boise, Idaho 83709

D. I object to the following elements as recommended in the Director's Report. (Please check the appropriate box(es)).

1. ☑ **Name and Address**
   Should be: Olsen Livestock Consultants, Inc., P.O. Box 1145, Bellevue, ID 83313

2. ☐ **Source**
   Should be: _____

3. ☐ **Quantity**
   Should be: _____

4. ☐ **Priority Date**
   Should be: _____

5. ☐ **Point of Diversion**
   Should be: _____

6. ☐ **Instream Flow Beginning and Ending Point**
   Should be: _____

7. ☐ **Purpose(s) of Use**
   Should be: _____

8. ☐ **Period of Year**
   Should be: _____

9. ☐ **Place of Use**
   Should be: _____

10 ☐ **I object because:**

☐ This water right Should not exist.

☐ This water right was not recommended, but Should be recommended with the elements described above.

E. **REASONS SUPPORTING OBJECTIONS(S):** Deed to property shows the grantee as "Olsen Livestock Consultants, Inc." Idaho Secretary of State records reflect the above address information.

F. **VERIFICATION** (must be completed)

State of Idaho)
)ss.
County of Ada)

Dylan B. Lawrence, duly sworn, upon oath, deposes and says:
(Name of person filing objection)

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

(Signature of person filing objection)

(Attorney signing in representative capacity)

Subscribed and sworn to before me on: March 29, 2010

Lela Peña
Notary Public for Idaho
Residing at: Boise, Ada County
My Commission Expires: 5-31-2012

Lela Peña NOTARY PUBLIC STATE OF IDAHO

37-353K Lt 7 Obj filed by Barry right should be disallowed
Obj filed by Fisher rate should be .36 cfs and POU 9 ac

37-12952 Price / WM WD 37O a ground water domestic stockwater right also claimed on Lot 7.

Claim	0.36 cfs	9.0 ac
Recom	0.28 cfs	6.3 ac
Adjusted	0.36 cfs	7.9 ac

POU at 2" per acre	Existing Rate per acre
7.9 ac *0.04 cfs/ac 0.316 cfs	0.36 cfs / 7.9 ac = 0.046 cfs/ac Or 2.28 inches/acre

No combined right language expected.

1997 finding was that the lot was dry.

Alternative = disallow right, water forfeited

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 37-353K

WATER RIGHT NUMBER: 37-353K



Owner Type	Name and Address
Current Owner	MARK D FISHER PO BOX 650 BELLEVUE, ID 83313 (208)578-0094
Current Owner	DANETTE L FISHER PO BOX 650 BELLEVUE, ID 83313 (208)578-0094

Priority Date: 06/12/1886

Basis: Decreed

Status: Active

Source	Tributary
BIG WOOD RIVER	MALAD RIVER

Beneficial Use	From To	Diversion Rate	Annual Volume
IRRIGATION	04/15 to 10/31	0.360 CFS	
	Total Diversion:	0.360 CFS	

Location of Point(s) of Diversion

BIG WOOD RIVER NE1/4SW1/4NW1/4 Sec. 36, Twp 02N, Rge 18E, B.M.

BLAINE 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	
01N	18E	24	7.9																7.9

Total Acres 7.9

Conditions of Approval:

1. This right is a portion of former Right 37-353.
2. The place of use is further described as Lot 7 of the Dean Ranch Subdivision.
3. 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.
4. X31 This right when combined with all other rights shall provide no more than 0.02 cfs at the field headgate for irrigation of the land described above.

Remarks:

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 37-353K

WATER RIGHT NUMBER: 37-353K

Owner Type	Name and Address
Current Owner	MARK D FISHER PO BOX 650 BELLEVUE, ID 83313 (208)578-0094
Current Owner	DANETTE L FISHER PO BOX 650 BELLEVUE, ID 83313 (208)578-0094

Proposal

Priority Date: 06/12/1886

Basis: Decreed

Status: Active

Source	Tributary
BIG WOOD RIVER	MALAD RIVER

Beneficial Use	From	To	Diversion Rate	Annual Volume
IRRIGATION	04/15	10/31	0.360 CFS	
		Total Diversion:	0.360 CFS	

Location of Point(s) of Diversion

BIG WOOD RIVER NE1/4SW1/4NW1/4 Sec. 36, Twp 02N, Rge 18E, B.M.

BLAINE 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	
01N	18E	24	7.9																7.9

Total Acres 7.9

Conditions of Approval:

1. This right is a portion of former Right 37-353.
2. The place of use is further described as Lot 7 of the Dean Ranch Subdivision.
3. 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 Claim Report 37-353K

WATER RIGHT NUMBER: 37-353K

Owner Type	Name and Address
Current Owner	MARK D FISHER PO BOX 650 BELLEVUE, ID 83313 (208)578-0094
Current Owner	DANETTE L FISHER PO BOX 650 BELLEVUE, ID 83313 (208)578-0094
Original Owner	SHERRY L PRICE
Original Owner	WM WD 37O

Priority Date: 06/12/1886

Basis: Decreed

Status: Active

Source	Tributary
BIG WOOD RIVER	MALAD RIVER

Beneficial Use	From To	Diversion Rate	Annual Volume
IRRIGATION	4/15 to 10/15	0.360 CFS	
	Total Diversion:	0.360 CFS	

claim date. 2-23-98

Location of Point(s) of Diversion

BIG WOOD RIVER SW1/4NW1/4 Sec. 36, Twp 02N, Rge 18E, B.M.

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	
01N	18E	24	9.0																9.0

Total Acres: 9

Lt 7

Conditions of Approval:

1. PLACED CLAIM ON HOST TEMP AS SHE DECIDED TO RESEARCH WARRANTY DEED AND WATERMASTER RECORDS TO DETERMINE HISTORY OF WATER USE. SHE MAY COME IN LATER TO FILE THE CLAIM. KKC 2-17-98 ********** 2/23/1998, DJ: CLAIM FILED THIS DAY. PLACE OF USE ALSO KNOWN AS LOT 7, BLOCK 1 DEAN RANCH SUBDIVISION.

Remarks:

Comments:

1. LUKE 9/5/1991 TRANSFER NOS. 2948 & 3678
Comment: TRANSFER NO. 2948 SPLIT RIGHT NO. 37-0353 INTO PARTS A & B. TRANSFER NO. 3678 SPLIT RIGHT NO. 37-0353A INTO PARTS C & D, AND CHANGED PLACE OF USE FOR PORTION OF RIGHT. THE POINT OF DIVERSION IS NOT GIVEN IN THE DECREE BUT IS SHOWN ON THE TRANSFER.

2. SKAGGS 11/2/1993 TRANSFER NO. 3679
Comment: Transfer No. 3679 changes the place of use of a portion of Right No. 37-00353C, splitting the right into Parts E and F.

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 37-353K V1

WATER RIGHT NUMBER: 37-353K V1

Owner Type	Name and Address
Current Owner	MARK D FISHER PO BOX 650 BELLEVUE, ID 83313 (208)578-0094
Current Owner	DANETTE L FISHER PO BOX 650 BELLEVUE, ID 83313 (208)578-0094
Original Owner	SHERRY L PRICE
Original Owner	WM WD 37O

Priority Date: 06/12/1886

Basis: Decreed

Status: Active

Source	Tributary
BIG WOOD RIVER	MALAD RIVER

Beneficial Use	From	To	Diversion Rate	Annual Volume
IRRIGATION	04/15	10/31	0.280 CFS	
		Total Diversion:	0.280 CFS	

Rate/Ac = 0.044 CFS/Ac

Location of Point(s) of Diversion

BIG WOOD RIVER NE1/4SW1/4NW1/4 Sec. 36, Twp 02N, Rge 18E, B.M.

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	
01N	18E	24	6.3																6.3

Total Acres: 6.3

Conditions of Approval:

1. This right is a portion of former Right 37-353.
2. The place of use is further described as Lot 7 of the Dean Ranch Subdivision.
3. 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.

Comments:

1. jstanton 11/18/2006 Site Visit
Comment: Yesterday I visited the subject property. Nobody was home, so I looked around on my own. A pump on the NW corner of the property brings water from the District Canal to a buried mainline and sprinklers serving the pasture portion of the property. The owner is known to the watermaster, so I am recommending the claimed amount for use on the pasture. I believe that the lawn and trees are watered with the domestic well to avoid weed contamination and to insure a steady water supply; this is a fairly late priority that often gets cut off before the irrigation season ends.

2. jstanton 1/4/2007 Flow Reduction
Comment: Right 37-353 has been over-claimed, so some reduction is needed to stay within the decreed diversion rate. Based on my original recommendations, 0.28 cfs needs to go away. Four claims are not traceable to previous owners from the early 1980s, so I am proposing to reduce 37-353F, J, K & L by 21.2% to fix this problem.

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 37-12952 V1

WATER RIGHT NUMBER: 37-12952 V1

Owner Type	Name and Address
Current Owner	SHERRY L PRICE PO BOX 326 CAREY, ID 83320 (208)788-3789
Original Owner	WILLIAM E LEWIS JR PO BOX 1576 HAILEY, ID 83333 (208)788-9724
Current Owner	WM WD 37O PO BOX 326 CAREY, ID 83320 (208)788-3789

Priority Date: 12/31/1972

Basis: Beneficial Use

Status: Closed

Source	Tributary
GROUND WATER	

Beneficial Use	From To	Diversion Rate	Annual Volume
DOMESTIC	1/01 to 12/31	0.040 CFS	
STOCKWATER	1/01 to 12/31	0.020 CFS	
	Total Diversion:	0.060 CFS	

Location of Point(s) of Diversion

GROUND WATER NE1/4NE1/4 Sec. 24, Twp 01N, Rge 18E, B.M.

BLAINE County

Place of Use

DOMESTIC

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
01N	18E	24	X																

STOCKWATER

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
01N	18E	24	X																

Conditions of Approval:

1. N13 THE QUANTITY OF WATER UNDER THIS RIGHT SHALL NOT EXCEED 13,000 GALLONS PER DAY.
2. N11 THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT IS NOT A DETERMINATION OF HISTORICAL BENEFICIAL USE.
3. PARCEL NO. 001200010070A STOCKWATER, 4 CATTLE
4. 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.

Comments:

1. CORR4 10/16/1997 COPIED FROM REMARKS
Comment: PARCEL NO. 001200010070A PROPERTY ALSO KNOWN AS 10773 STATE HWY 75 PROPERTY ALSO KNOWN AS LOT 7, BLOCK 1, DEAN RANCH SUBD

SRBA
PARTIAL DECREE 67-00381

Issued on 10-20-2008.

This is not an official copy.

Contact IDWR or the Court for a Certified Copy.

Choose Landscape Orientation when printing.

NAME AND ADDRESS:	JAMES HINSON ROBERTA HINSON PO BOX 1417 MC CALL, ID 83638
SOURCE:	HORNET CREEK TRIBUTARY: WEISER RIVER
QUANTITY:	0.50 CFS
PRIORITY DATE:	06/01/1881
POINT OF DIVERSION:	T17N R01W S31 NWNE Within Adams County
PURPOSE AND PERIOD OF USE:	PURPOSE OF USE PERIOD OF USE QUANTIT Irrigation 03-15 TO 11-15 0.50 C
PLACE OF USE:	Irrigation Within Adams C T16N R01W S05 NESW 9.0 NWSW 5.1 SWSW 6.9 SESW 19.0 40.0 Acres Total

OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:
THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIO
NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFI
ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY
DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN T
ENTRY OF A FINAL UNIFIED DECREE. I.C. SECTION 42-1412(6).

Return to SRBA Home Page

37-353L Lt 3 Obj filed by Barry right should be disallowed

No overlap found

Claim	0.36 cfs	10.0 ac
Recom	0.28 cfs	8.4 ac
Adjusted	0.36 cfs	---- ac

POU at 2" per acre	Existing Rate per acre
8.4 ac *0.04 cfs/ac 0.168 cfs	0.36 cfs / 8.4 ac = 0.043 cfs/ac Or 2.14 inches/acre

No combined right language expected.

1997 finding was that the lot was dry.

Alternative = disallow right, water forfeited

Moffatt Thomas

MOFFATT THOMAS BARRETT ROCK & FIELDS, CHTD.

Boise
Idaho Falls
Pocatello
Twin Falls

Eugene C. Thomas
John W. Barrett
R. B. Rock
Richard C. Fields
John S. Simko
John C. Ward
D. James Manning
David B. Lincoln
Gary T. Dance
Larry C. Hunter
Randall A. Peterman
Mark S. Prusynski
Stephen R. Thomas
Glenna M. Christensen
Gerald T. Husch
Scott L. Campbell
Robert B. Burns

Michael E. Thomas
Patricia M. Olsson
Christine E. Nicholas
Bradley J Williams
Lee Radford
Michael O. Roe
Nancy J. Garrett
David S. Jensen
James L. Martin
C. Clayton Gill
Michael W. McGreaham
David P. Gardner
Julian E. Gabiola
Tara Martens
Kimberly D. Evans Ross
Mark C. Peterson
Tyler J. Anderson

Jon A. Stenquist
Jason G. Murray
Rebecca A. Rainey
Paul D. McFarlane
Tyler J. Henderson
C. Edward Cather III
Andrew J. Waldera
Dylan B. Lawrence
Benjamin C. Ritchie
Matthew J. McGee
David J. Dance

Robert E. Bakes, *of counsel*

Willis C. Moffatt, 1907-1980
Kirk R. Helvie, 1956-2003

US Bank Plaza Building
101 S Capitol Blvd 10th Fl
PO Box 829
Boise Idaho 83701 0829

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208 385 5384 Fax
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September 29, 2009
via E-mail
and U.S. Mail

RECEIVED
SEP 30 2009
WATER RESOURCES
WESTERN REGION

Chris Bromley
Idaho Department of Water Resources
P.O. Box 83720
Boise, ID 83720-0003

Kelly Christensen
Idaho Department of Water Resources Western Region Office
2735 Airport Way
Boise, ID 83705

Re: Comments on Proposed Amended Recommendation for Water Right No. 37-00353L (Tom and Annette Goicoechea)
MTBR&F File No. 24158.0000

Dear Chris and Kelly:

I write on behalf of Tom and Annette Goicoechea, in response to Kelly's letter of August 31, 2009. As you know, Special Master Booth's order of August 18, 2009 in the Dean Ranch Subdivision subcases provides the parties with an opportunity to respond to the proposed amended recommendations that were attached to Kelly's letter. As an initial matter, thank you for the Department's willingness to re-evaluate the Dean Ranch Subdivision recommendations.

The Goicoecheas question the Department's inclusion of the following new remark in this recommendation:

> This right shall provide no more than 0.02 cfs at the field headgate for irrigation of the land described above.

The narrative explanation that accompanies the proposed amended recommendations states that, "[a]lthough no documentation of any scientific determination of conveyance losses are available, it has historically been estimated to be as much as 50%." However, the Goicoecheas question whether this is a sufficient basis to include the new remark. Additional information regarding the basis for the new remark would greatly assist the Goicoecheas in their consideration of the Department's proposal.

Thank you for your attention to this matter.

Very truly yours,

Dylan B. Lawrence

DBL/llw
cc: Tom and Annette Goicoechea
Scott L. Campbell

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 37-353L

WATER RIGHT NUMBER: 37-353L

Owner Type	Name and Address
Current Owner	TOM GOICOECHEA PO BOX 193 HAILEY, ID 83333 (208)788-4892
Current Owner	ANNETTE GOICOECHEA PO BOX 193 HAILEY, ID 83333 (208)788-4892



Priority Date: 06/12/1886

Basis: Decreed

Status: Active

Source	Tributary
BIG WOOD RIVER	MALAD RIVER

Beneficial Use	From To	Diversion Rate	Annual Volume
IRRIGATION	04/15 to 10/31	0.360 CFS	
	Total Diversion:	0.360 CFS	

Location of Point(s) of Diversion

BIG WOOD RIVER NE1/4SW1/4NW1/4 Sec. 36, Twp 02N, Rge 18E, B.M.

BLAINE 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	
01N	18E	24				8.4													8.4

Total Acres: 8.4

Conditions of Approval:

1. The place of use is also known as Lot 3 of the Dean Ranch Subdivision.
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. This right is a portion of former Right 37-353.
4. X31 This right shall provide no more than 0.02 cfs at the field headgate for irrigation of the land described above.

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 37-353L

WATER RIGHT NUMBER: 37-353L

Owner Type	Name and Address
Current Owner	TOM GOICOECHEA PO BOX 193 HAILEY, ID 83333 (208)788-4892
Current Owner	ANNETTE GOICOECHEA PO BOX 193 HAILEY, ID 83333 (208)788-4892

Proposal

Priority Date: 06/12/1886

Basis: Decreed

Status: Active

Source	Tributary
BIG WOOD RIVER	MALAD RIVER

Beneficial Use	From	To	Diversion Rate	Annual Volume
IRRIGATION	04/15	10/31	0.360 CFS	
		Total Diversion:	0.360 CFS	

Location of Point(s) of Diversion

BIG WOOD RIVER NE1/4SW1/4NW1/4 Sec. 36, Twp 02N, Rge 18E, B.M.

BLAINE 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	
01N	18E	24				8.4													8.4

Total Acres: 8.4

Conditions of Approval:

1. The place of use is also known as Lot 3 of the Dean Ranch Subdivision.
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. This right is a portion of former Right 37-353.

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Claim Report 37-353L

WATER RIGHT NUMBER: 37-353L

Owner Type	Name and Address
Current Owner	TOM GOICOECHEA PO BOX 193 HAILEY, ID 83333 (208)788-4892
Current Owner	ANNETTE GOICOECHEA PO BOX 193 HAILEY, ID 83333 (208)788-4892

Priority Date: 06/12/1886

Basis: Decreed

Status: Active

Source	Tributary
BIG WOOD RIVER	MALAD RIVER

Beneficial Use	From To	Diversion Rate	Annual Volume
IRRIGATION	4/14 to 10/15	0.360 CFS	
	Total Diversion:	0.360 CFS	

Location of Point(s) of Diversion

BIG WOOD RIVER NE1/4SW1/4NW1/4 Sec. 36, Twp 02N, Rge 18E, B.M.

BLAINE County

8-5-98 claim date.

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	
01N	18E	24				10.0													10.0

Total Acres: 10

Lt 3

Conditions of Approval:

1. ALSO KNOWN AS LOT 3, BLOCK 1, DEAN RANCH SUBDIVISION

Remarks:

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 37-353L V1

WATER RIGHT NUMBER: 37-353L V1

Owner Type	Name and Address
Current Owner	TOM GOICOECHEA PO BOX 193 HAILEY, ID 83333 (208)788-4892
Current Owner	ANNETTE GOICOECHEA PO BOX 193 HAILEY, ID 83333 (208)788-4892

Priority Date: 06/12/1886

Basis: Decreed

Status: Active

Source	Tributary
BIG WOOD RIVER	MALAD RIVER

Beneficial Use	From	To	Diversion Rate	Annual Volume
IRRIGATION	04/15	10/31	0.280 CFS	
		Total Diversion:	0.280 CFS	

Rate/Ac = 0.033 CFS/Ac

Location of Point(s) of Diversion

BIG WOOD RIVER NE1/4SW1/4NW1/4 Sec. 36, Twp 02N, Rge 18E, B.M.

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	
01N	18E	24				8.4													8.4

Total Acres: 8.4

Conditions of Approval:

1. The place of use is also known as Lot 3 of the Dean Ranch Subdivision.
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. This right is a portion of former Right 37-353.

Comments:

1. jstanton 11/20/2006 Site Visit
Comment: Last Friday I viewed the subject property to verify the extent of use. A pump in the District Canal at the SW corner of the property feeds a mainline and sprinkler system that waters a small area along the Canal plus pasture east of the house. My visit was about over when Mr. Goicoechea arrived, so we spent a few minutes discussing his water use. Water use in confirmed, and he is known to the Watermaster, so the claim is recommended for decree for the land actually irrigated with this system.

2. jstanton 12/7/2006 Correction
Comment: The claimant visited with Doug Jones at the public meeting in Sun Valley, stating that additional land north of his home was irrigated with surface water. He drew in the additional area on the layout map in the claim file. Based on this information, I am revising the pou acres upward. The ArcView shape file will be modified accordingly.

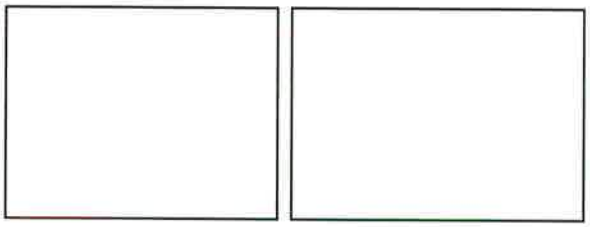
3. jstanton 1/4/2007 Flow Reduction
Comment: Right 37-353 has been over-claimed, so some reduction is needed to stay within the decreed diversion rate. Based on my original recommendations, 0.28 cfs needs to go away. Four claims are not traceable to previous owners from the early 1980s, so I am proposing to reduce 37-353F, J, K & L by 21.2% to fix this problem. Recommended acres will not be affected.

37-20348 Lt 10 No obj filed

Found 37-10722 a domestic claim in Turco's name and is associated with Lot 11. Also associated with lot 11 is 37-363D now also in Turco's name.

Found 37-20349 a domestic claim in Turco's name. This claim was filed 10-06-2000. In comments the place of use is further described as Lot 10 Dean Ranch Subdivision.

Claim	0.~~02~~ .20 cfs	10.0 ac
Recom	.2 cfs	10 ac
Adjusted	---- cfs	---- ac



No combined right language expected.

1997 finding was that the lot was dry.

OBJ filed Now Recom

Dean to Jay Craig WD 180200 2-6-1978 Lt 10
Per Pc Doc pg 106.

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 37-20348 V1

WATER RIGHT NUMBER: 37-20348 V1

Owner Type	Name and Address
Attorney	FRITZ HAEMMERLE THE ROARK LAW FIRM 409 N MAIN ST HAILEY, ID 83333 (208)788-2427
Current Owner	JERRY TURCO 525 RIVERSIDE AVE LYNDHURST, NJ 07071 (917)859-8959

Sept 09 Proposal

Priority Date: 06/12/1886

Basis:

Status: Disallowed

Source	Tributary
BIG WOOD RIVER	MALAD RIVER

Beneficial Use	From To	Diversion Rate	Annual Volume
IRRIGATION	04/01 to 11/01	0.200 CFS	
	Total Diversion:	0.200 CFS	

Location of Point(s) of Diversion

BIG WOOD RIVER SW1/4NW1/4 Sec. 36, Twp 02N, Rge 18E, B.M.

BLAINE 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	
01N	18E	13																10.0	10.0

Total Acres: 10

Conditions of Approval:

1. This claim is a portion of former Right 37-353.
2. P01 No lawful appropriation shown.

Remarks:

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 37-20348 V1

WATER RIGHT NUMBER: 37-20348 V1

Owner Type	Name and Address
Attorney	FRITZ HAEMMERLE THE ROARK LAW FIRM 409 N MAIN ST HAILEY, ID 83333 (208)788-2427
Current Owner	JERRY TURCO 525 RIVERSIDE AVE LYNDHURST, NJ 07071

Priority Date: 06/12/1886

Basis:

Status: Disallowed

claim date 10-6-2000

Source	Tributary
BIG WOOD RIVER	MALAD RIVER

Beneficial Use	From To	Diversion Rate	Annual Volume
IRRIGATION	04/01 to 11/01	0.200 CFS	
	Total Diversion:	0.200 CFS	

Rate/Ac = 0.02cfs/Ac

Location of Point(s) of Diversion

BIG WOOD RIVER SW1/4NW1/4 Sec. 36, Twp 02N, Rge 18E, B.M.

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	
01N	18E	13																10.0	10.0

Total Acres: 10

Conditions of Approval:

1. This claim is a portion of former Right 37-353.
2. P01 No lawful appropriation shown.

OK with Lt 10

Remarks:

Comments:

1. jstanton 11/20/2006 Claim Validity
Comment: This person is not known to the watermaster, so could not legally use water from the Big Wood River. The claim will be recommended for disallowal. The claim was not filed until 2000, so could have easily been forfeited for non-use. I did not view the property during my area visit last Friday.

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Claim Report 37-20348

WATER RIGHT NUMBER: 37-20348

Owner Type	Name and Address
Current Owner	JERRY TURCO 525 RIVERSIDE AVE LYNDHURST, NJ 07071
Attorney	FRITZ HAEMMERLE THE ROARK LAW FIRM 409 N MAIN ST HAILEY, ID 83333 (208)788-2427

Priority Date: 06/12/1886

Basis: Decreed

Status: Active

Source	Tributary
BIG WOOD RIVER	MALAD RIVER

Beneficial Use	From	To	Diversion Rate	Annual Volume
IRRIGATION	04/01	11/01	0.200 CFS	
		Total Diversion:	0.200 CFS	

Location of Point(s) of Diversion

BIG WOOD RIVER SW1/4NW1/4 Sec. 36, Twp 02N, Rge 18E, B.M.

BLAINE 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	
01N	18E	13																10.0	10.0

Total Acres: 10

Conditions of Approval:

1. Based on part of decreed right number 37-00353 from Frost v Alturas Water Company, 12/13/1909. Place of use further described as Lot 10 Dean Ranch Subdivision.

Remarks:

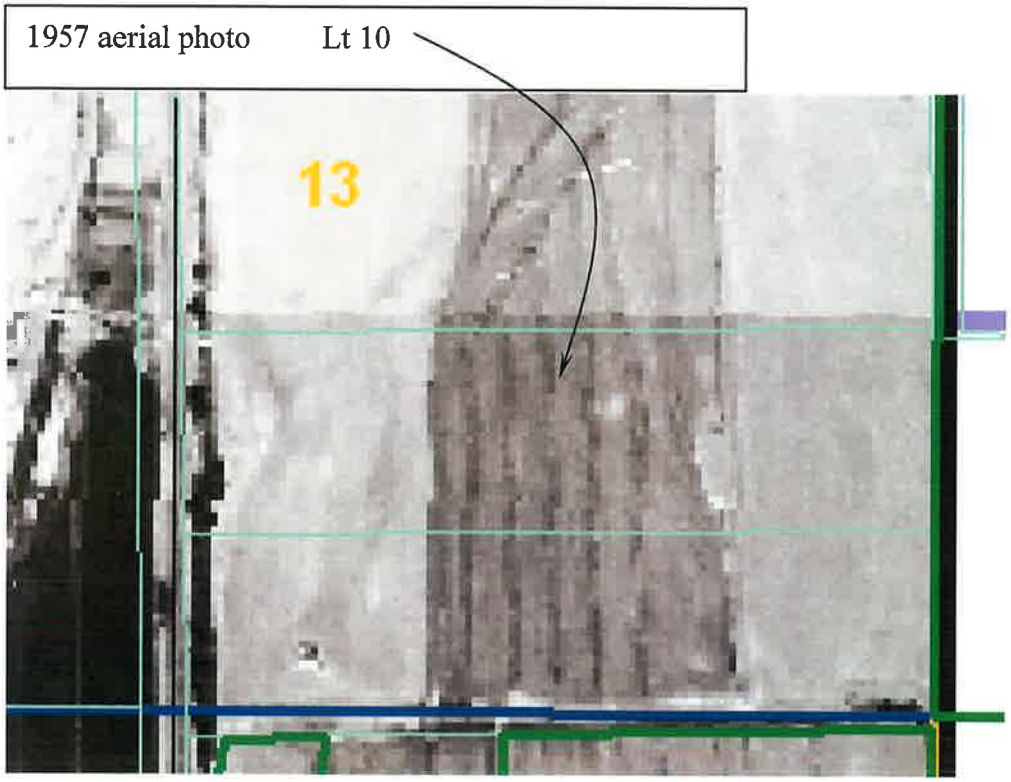
Comments:

1. mciscell 1/25/2007 POD
Comment: PODID 516259 correlated from SpatialDataID 217639 to SpatialDataID 365161

37-20348 Turco

e-mailed to
Tim Tyree
8-20-2009
11:33 AM

Aerial photo comparison for lot 10 of the Dean Ranch Subdivision all in 1N, 18e Sec 13 SESE.



1987/1988 aerial photo Lt 10



The difference between the blue area and the pink area is the aerial photo development from two different aerial flights. It is not necessarily a difference in vegetation growth. I have not researched the day, month, and year for each flight.

1992 aerial photo Lt 10



2004 aerial photo Lt 10



2006 aerial photo Lt 10



IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 37-363D V1

WATER RIGHT NUMBER: 37-363D V1

Owner Type	Name and Address
Current Owner	JERRY TURCO 525 RIVERSIDE AVE LYNDHURST, NJ 07071 (917)859-8959
Original Owner	GUS A CHEK PO BOX 1984 HAILEY, ID 83333 (208)788-3779
Previous Owner	LAURI CRANDALL-COOPER PO BOX 5502 KETCHUM, ID 83340 (208)578-0773

Priority Date: 04/12/1883

Basis: Decreed

Status: Active

Source	Tributary
BIG WOOD RIVER	MALAD RIVER

Beneficial Use	From	To	Diversion Rate	Annual Volume
IRRIGATION	04/15	10/31	0.300 CFS	
		Total Diversion:	0.300 CFS	

Location of Point(s) of Diversion

BIG WOOD RIVER L3 (NE1/4SW1/4NW1/4) Sec. 36, Twp 02N, Rge 18E, B.M.

BLAINE 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	
01N	18E	13																16.0	16.0

Total Acres: 16

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.

2. The portion of Right 37-363D used for conveyance losses is 0.02 cfs per approved transfer #3404.

Comments:

1. jroberts 11/10/2006 Basis of Recommendation
Comment: Basis is Decree and conveyance loss remark per transfer 3404.

Form 222
1-87

Page 1 of 16

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Transfer No. 3404

APPROVED

APPLICATION FOR TRANSFER OF WATER RIGHT
PART 1

APPROVED
Jan 3, 1989

Name of applicant Gus Chek Phone 788-3779

Post Office address P. O. Box 1984, Hailey, ID 83333

A. PURPOSE OF TRANSFER

1. ☒ Change point of diversion ☐ Add diversion point(s) ☒ Change place of use
   ☐ Change nature of use ☐ Change period of use ☐ Other _____

2. Describe the reason for the proposed changes To provide an earlier water right for my land. I presently have 1886 water, but this is cut off early in the season. This will require a new point of diversion for the water being purchased.

B. DESCRIPTION OF RIGHT(S) OR PORTION THEREOF, AFTER THE REQUESTED CHANGE

1.

Right Number	Priority	Amount (cfs/ac-ft)	Nature of Use	Period of Use		
37-0363D	4-12-1883	0.30 cfs	Irrigation	Apr 1	to	Nov 1
					to	
					to	
					to	

2. Total amount of water being transferred 0.30 cubic feet per second and/or _____ acre-feet per annum.

3. Source of water Big Wood River tributary to Malad River

4. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
		SW	NW	36	2N	18E	Blaine	Headgate #45 & District Canal

5. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
1N	18E	13																16	16

RECEIVED
WATER RIGHTS
MAY 29 1990

37-363 Back File PcDoc Pg 73 → 78

Total acres 16

PART 1

6. General Information:

a. Description of diversion system Headgate #45 & District Canal to P/U. Headgate & ditch from District Canal to land.

b. Are the lands from which you propose to transfer the water right subject to any liens, deeds of trust; mortgages, or contracts? _____ Yes No No. If yes, provide a notarized statement from the holder of the lien, deed of trust, mortgage or contract agreeing to the proposed changes.

c. Describe the affect on the land now irrigated if the place of use is changed pursuant to this transfer:

Land will be irrigated until the 1887 water still on this land is sold. The land has been subdivided for domestic lots. Water for lawns is available from the City of Hailey.

d. Remarks:

There is 1886 water for the new P/U, so moving only one water right from the original P/U will not result in an expansion of water usage.

ACTION OF THE DIRECTOR, DEPARTMENT OF WATER RESOURCES

This is to certify that I have examined Application for Transfer of Water Rights No. 37-0363D

And said application is hereby APPROVED, subject to the following limitations and conditions:

1. A measuring device of a type approved by this Dept. shall be maintained as a part of the diverting works. 2. A lockable device subject to the approval of the Dept. shall be maintained on the diverting works in a manner that will provide the watermaster suitable control of the diversion. 3. Use of water under this right is subject to control by the watermaster of State Water District No. 37, Big Wood River. 4. The rate of diversion under this right shall not exceed 0.28 cfs to allow for a conveyance loss of 6.66%.

MICROFILMED

MAY 29 1990

Witness my hand this 3rd day of January, 19 89

L. Mike Seaton

Chief, Operations Bureau

Transfer No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT

PART 2

(Attach one copy for each right)

A. DESCRIPTION OF RIGHT AS RECORDED

1. Right evidenced by:
   a. Decree No. 37-0363A Decreed to U. S. Justus
      in case of S. C. Frost, Et. Al. vs. Alturas Water Company, Et. Al
      dated 12-13-1909 in Fourth District county of Lincoln
   b. License No. _____ issued by the Idaho Department of Water Resources.
   c. Claim No. _____ on file with the Idaho Department of Water Resources.
   d. Transfer No. 1740 which produced this right.
2. Attach a copy of last year's tax notice for the property to which the water right is appurtenant or other documents which show ownership. Label document as attachment A. Check appropriate box below:
   ☐ Tax Notice ☐ Warranty Deed ☐ Other _____
3. Source of water Big Wood River tributary to Malad River
4. Date or priority 4-12-1883
5. Water is used for the following purpose:
   amount 1.04 cfs (cfs/ac-ft) for Irrigation purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
   amount _____ (cfs/ac-ft) for _____ purposes from _____ to _____
6. Total amount of water under right 1.04 cubic feet per second and/or _____ acre-feet per annum.
7. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
		SE	NW	9	2N	18E	Blaine	Headgate & Justus Ditch

8. Lands irrigated or place of use: P/U does not include previously owned by Wm. Cloughton east of Justus Ditch.

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
2N	18E	16	X	X	9	X													3
		15	4						X										

RECEIVED
MAY 29 1990

Total acres _____

9. Describe any other water rights used for the same purpose as described above _____
   28th 37-0364

PART 2

Transfer No. _____

10. To your knowledge, has any portion of this water right undergone a period of five or more consecutive years of non-use?

No If yes, describe _____

B. DESCRIPTION OF PORTION OF RIGHT BEING TRANSFERRED

(If the entire right is to be changed by the applicant, omit part B and C.)

1. amount (cfs/ac-ft) 0.30 cfs for Irrigation purposes from _____ to _____
   amount (cfs/ac-ft) _____ for _____ purposes from _____ to _____
   amount (cfs/ac-ft) _____ for _____ purposes from _____ to _____

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
		SE	NW	9	2N	18E	Blaine	Headgate & Justus Ditch

3. Lands irrigated or place of use:

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	
2N	18E	16	3.5	2.5	10														16

Total acres 16

C. DESCRIPTION OF UNCHANGED PORTION OF RIGHT *(omit if there is no change)*

1. amount (cfs/ac-ft) 0.74 cfs for Irrigation purposes from _____ to _____
   amount (cfs/ac-ft) _____ for _____ purposes from _____ to _____
   amount (cfs/ac-ft) _____ for _____ purposes from _____ to _____

2. Point(s) of Diversion:

Lot	¼	¼	¼	Sec.	Twp.	Rge.	County	Local name for diversion
		SE	NW	9	2N	18E	Blaine	Headgate & Justus Ditch

3. Lands irrigated or place of use: Unknown; other owners of this right are not known to me.

Twp.	Rge.	Sec.	NE ¼				NW ¼				SW ¼				SE ¼				Totals
			NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	

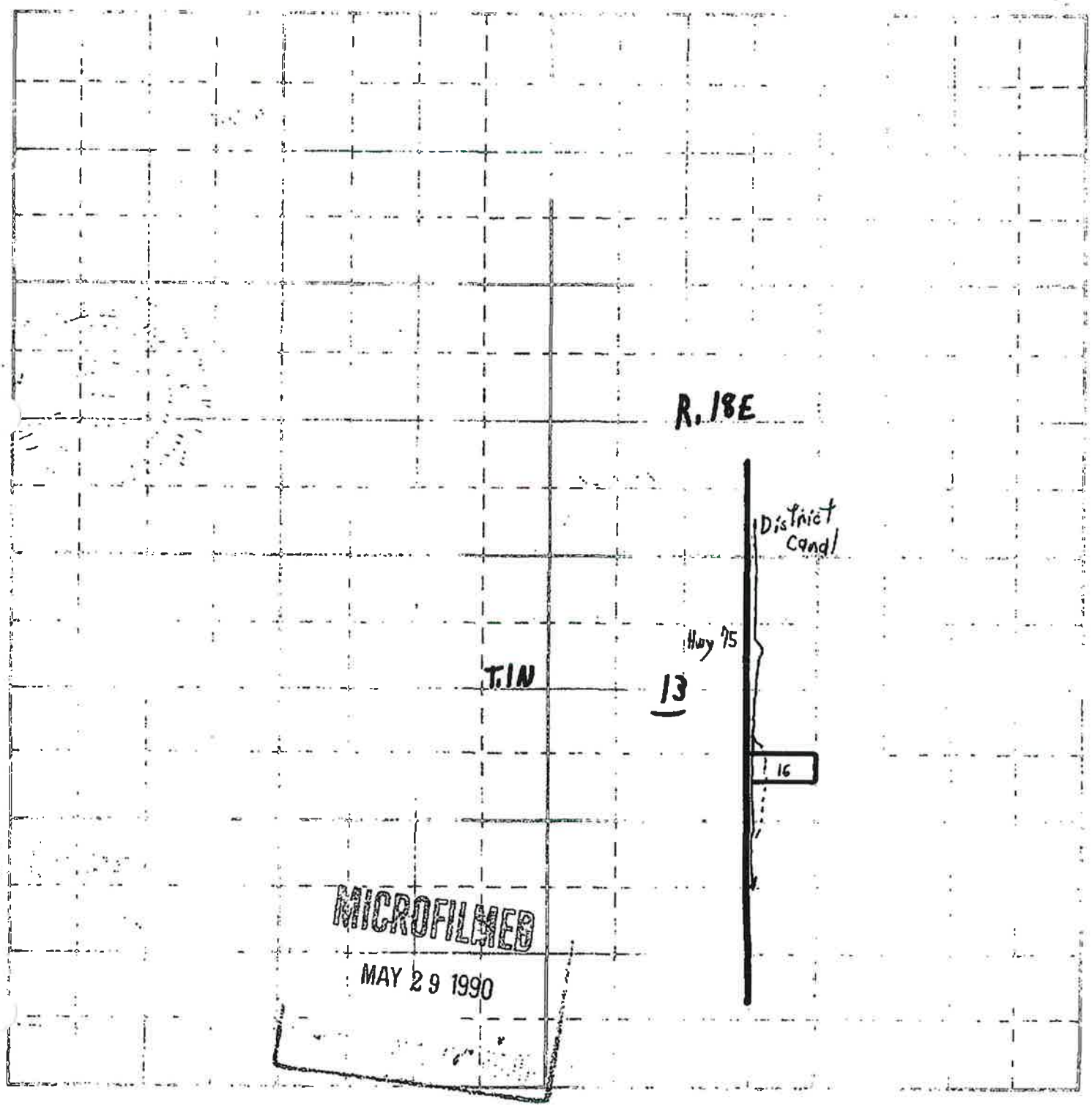
RECEIVED
MAY 29 1990

Total acres _____

Transfer No. _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
APPLICATION FOR TRANSFER OF WATER RIGHT
PART 3

A. Draw a map or attach a USGS map indicating the new point(s) of diversion and/or the new place of use for rights described in part 1. Clearly depict the land by section, township and range number.



MICROFILMED
MAY 29 1990

SCALE: 2 inches equal 1 mile. Draw plan in ink.

Transfer No. _____

PART 3

B. CHANGES IN NATURE OF USE

1. New Nature of Use	Amount (cfs/ac-ft)	Hours/days/year	Period of Use
			to
			to

2. Quantity and quality of return flows and location of discharge:

3. Describe effects on other water uses resulting from the proposed change:

I hereby assert that no one will be injured by such change and that the change does not constitute an enlargement in use of the original right. The information contained in this application is true to the best of my knowledge.

I understand that any willful misrepresentations made in this application may result in voiding its approval.

Gus Clark
(Signature of Applicant)

Subscribed and sworn to before me this 5th day of January, 19 88.

Mary A. Baldwin
(Notary Public)

My commission expires 10/16/92

FOR DEPARTMENT USE ONLY

Transfer contains 6 pages and _____ attachments

Received by J Estanton Date 1-5-88 Protest filed by None

Prelim. check by T Blair Fee $50.00

Receipted by J Estanton Date 1-5-88 #45429

Published in Wood River Journal Copies of protest forwarded by _____

Pub. dates 2/3 & 2/10/88 Hearing held by _____ Date _____

Watermaster recommendation requested on 1/27/88 Recommended for ☒ approval ☐ denial

_____ rec'd. 1/29/88 by AD ~ Jim

Copy of transfer sent to lien holder _____

MICROFILMED
MAY 29 1990

Christensen, Kelly

From: Christensen, Kelly
Sent: Monday, November 02, 2009 1:59 PM
To: Bromley, Chris
Subject: 37-20348 Turco and associated claim 37-363D (1883) water

Transfer 3404 was approved Jan 3, 1989 moving 0.30 cfs of a portion of 37-363 (1883 water) to the same lot. In reviewing the memos and such associated with the transfer one of the comments was that 37-363 was associated with property where 37-364 was also appurtenant(the from POU). The department had approved 1 or more transfers allowing the rights to be "unstacked" for other transfers against 37-363 and/or 37-364. Therefore, this portion of the right could also be moved. Also, it was going to ground where a portion of 37-353 was appurtenant(Turco's Lot 10) therefore no 'new' acres would be irrigated. No information regarding an issue of forfeiture of the 37-353 for lot 10 was addressed in the documents. There was concern of expansion but ultimately it was decided that that would not be an issue.

In arguing 37-20348 I would argue that basically the department recognized it as valid in 1989 even though the aj claim was not filed until 10-6-2000. By 1997 the department found the lot dry for an extended period of time, long enough to ultimately recognize 37-20348 as forfeited. Further argument for 37-363D is that it would be valid as a transfer was approved in 1989 after the commencement of the SRBA therefore forfeiture would not be an issue for this claim.

All this to say that this issue is as clear cut as the rest of the pieces.

As it stands, the proportionate calculation treated the Turco claim, as implied, as part of the Gardner claim . An alternative analysis would be to identify some rate (probably the 0.20 cfs claimed) as being appurtenant to the Turco lot 0 but forfeited, therefore the analysis for the other claims should have been based upon 6.20 cfs rather than 6.40 cfs.

Kelly K Christensen
Sr Water Resource Agt
Boise, Western Region
(208)-334-2190

37-21146 Lt 1 Objection filed by Gower POU should be 7.9 acres

Overlapping right 37-21148 (1884 BW River for irrigation)
Right 37-11686 (domestic/stockwater right)

Claim	0.11 cfs	7.9 ac
Recom	0.11 cfs	5.5 ac
Adjusted	---- cfs	---- limit to 1.4 ac within the PPU

POU at 2" per acre	Existing Rate per acre
1.4 ac *0.04 cfs/ac 0.056 cfs	0.11 cfs / 1.4 ac = 0.079 cfs/ac Or 3.93 inches/acre

Overlapping acreage would be additive.

Transfer 2948 moved 0.11 cfs to 5.5 acres to Lot 1 on April 3, 1984. Through the adjudication process an unrecorded transfer was identified spreading this right to a portion of Sec 24 N½NE¼SE¼ (the POU for 37-21148).

In reviewing the 1987 and 1992 aerial photographs it appears that an additional 0.7 acres may have been irrigated from the surface water source giving a total POU of 6.2 acres.

Overlapping right 37-21148 analysis

Transfer 2949 moved 0.272 cfs to 18.5 acres within Sec 24 N½NE¼SE¼. Through the adjudication process an unrecorded transfer was identified spreading this right to Lot 1 of the Dean Ranch Subdivision (the POU for 37-21146).

Claim	0.272 cfs	7.9 ac
Recom	0.27 cfs	5.5 ac
Adjusted	---- cfs	---- limit to 4.7 ac within the PPU

POU at 2" per acre	Existing Rate per acre
4.7 ac *0.04 cfs/ac 0.188 cfs	0.27 cfs / 4.7 ac = 0.057 cfs/ac Or 2.87 inches/acre

See also system analysis titled
"System Review for 37-11689B, 21147, 21148, 21146, 22042 and 22043"

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 37-21146 V1

WATER RIGHT NUMBER: 37-21146 V1

Owner Type	Name and Address
Current Owner	BETTE GOWER P O BOX 912 BELLEVUE, ID 83313 (208)788-0839
Current Owner	MARK GOWER P O BOX 912 BELLEVUE, ID 83313 (208)788-0839

Sept 09 Proposal

Priority Date: 06/12/1886

Basis: Decreed

Status: Active

Source	Tributary
BIG WOOD RIVER	MALAD RIVER

Beneficial Use	From	To	Diversion Rate	Annual Volume
IRRIGATION	04/15	10/31	0.110 CFS	
		Total Diversion:	0.110 CFS	

Location of Point(s) of Diversion

BIG WOOD RIVER L3 (NE1/4SW1/4NW1/4) Sec. 36, Twp 02N, Rge 18E, B.M.

BLAINE 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	
01N	18E	24				6.2													6.2

Total Acres: 6.2

Conditions of Approval:

1. Property is also known as Lot 1 of the Dean Ranch Subdivision.
2. P21 This right is a split from former right 37-353.
3. Rights 37-21146 and 37-21148 when combined shall not exceed the irrigation of 6.2 acres.
4. 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.
5. K06 This right is limited to the irrigation of 1.4 acres within the place of use described above in a single irrigation season.
6. X31 This right when combined with all other rights shall provide no more than 0.02 cfs at the field headgate for irrigation of the land described above.

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 37-21146 V1

WATER RIGHT NUMBER: 37-21146 V1

Owner Type	Name and Address
Original Owner	PAUL R FOSNOT
Original Owner	ROBERT EARL FOSNOT
Current Owner	BETTE GOWER P O BOX 912 BELLEVUE, ID 83313 (208)788-0839
Current Owner	MARK GOWER P O BOX 912 BELLEVUE, ID 83313 (208)788-0839

Parent 11688 claim date 10-17-88

Priority Date: 06/12/1886

Basis: Decreed

Status: Active

Source	Tributary
BIG WOOD RIVER	MALAD RIVER

Beneficial Use	From	To	Diversion Rate	Annual Volume
IRRIGATION	04/15	10/31	0.110 CFS	
		Total Diversion:	0.110 CFS	

Rate/ac = 0.02 cfs/ac

Location of Point(s) of Diversion

BIG WOOD RIVER L3 (NE1/4SW1/4NW1/4) Sec. 36, Twp 02N, Rge 18E, B.M.

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	
01N	18E	24				5.5													5.5

Total Acres: 5.5

Lt-1

Conditions of Approval:

1. Property is also known as Lot 1 of the Dean Ranch Subdivision.
2. P21 This right is a split from former right 37-353.
3. Rights 37-21146 and 37-21148 when combined shall not exceed the irrigation of 5.5 acres.
4. 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.

Comments:

1. jstanton 11/18/2006 Site Visit
Comment: Yesterday I visited the subject property, where I spoke with Mrs. Gower. I saw a pump station on the SW corner of the property. The pump feeds a buried mainline with risers to sprinklers for watering land on both sides of their buildings. Claims 37-11246 (1886 priority) and 37-21148 (1884 priority) cover this land, and they should be limited to 5.5 ac each and as a combined total.

2. jstanton 11/18/2006 Ownership
Comment: 8/05/2003: CLAIM 37-11688 WAS SPLIT BY OWNERSHIP INTO 37-21145 (FOSNOT) AND 37-21146 (GOWEN). - VH

3. jstanton 11/18/2006 Season Of Use
Comment: Season use changed to present standard per Doug Jones.

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Claim Report 37-21146

WATER RIGHT NUMBER: 37-21146

Owner Type	Name and Address
Original Owner	PAUL R FOSNOT
Original Owner	ROBERT EARL FOSNOT
Current Owner	BETTE GOWER P O BOX 912 BELLEVUE, ID 83313 (208)788-0839
Current Owner	MARK GOWER P O BOX 912 BELLEVUE, ID 83313 (208)788-0839

Priority Date: 06/12/1886

Basis: Decreed

Status: Active

Source	Tributary
BIG WOOD RIVER	MALAD RIVER

Beneficial Use	From	To	Diversion Rate	Annual Volume
IRRIGATION	04/01	11/01	0.110 CFS	
		Total Diversion:	0.110 CFS	

Location of Point(s) of Diversion

BIG WOOD RIVER L3 (NE1/4SW1/4NW1/4) Sec. 36, Twp 02N, Rge 18E, B.M.

BLAINE 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	
01N	18E	24				7.9													7.9

Total Acres: 7.9

Conditions of Approval:

1. 8/05/2003: CLAIM 37-11688 WAS SPLIT BY OWNERSHIP INTO 37-21145 (FOSNOT) AND 37-21146 (GOWEN). - VH
2. COPIED FROM REMARKS CLAIM 37-11688:
OTHER WATER RIGHTS USED - 37-11689. THIS CLAIM WAS PART OF DECREED RIGHT NUMBER 37-353.

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 37-21148 V1

WATER RIGHT NUMBER: 37-21148 V1

Owner Type	Name and Address
Current Owner	BETTE GOWER MARK GOWER P O BOX 912 BELLEVUE, ID 83313 (208)788-0839

Overlapping Right.

Priority Date: 10/15/1884

Basis: Decreed

Status: Active

Source	Tributary
BIG WOOD RIVER	MALAD RIVER

Beneficial Use	From	To	Diversion Rate	Annual Volume
IRRIGATION	04/15	10/31	0.270 CFS	
		Total Diversion:	0.270 CFS	

Location of Point(s) of Diversion

BIG WOOD RIVER NE1/4SW1/4NW1/4 Sec. 36, Twp 02N, Rge 18E, B.M.

BLAINE 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	
01N	18E	24				5.5													5.5

Total Acres: 5.5

Conditions of Approval:

1. C05 Right includes accomplished change in place of use pursuant to Section 42-1425, Idaho Code.
2. Property is also known as Lot 1 of the Dean Ranch Subdivision.
3. P21 This right is a split from former right 37-665B.
4. 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.
5. Rights 37-21146 and 37-21148 when combined shall not exceed the irrigation of 5.5 acres.

Comments:

1. jstanton 11/18/2006 Claim Validity
Comment: Robert Fosnot transferred 1 cfs of Rt. 37-665 to roughly the north half of the NE/SE Sec. 24 in 1984, explaining that this was how he purchased the land and water; the transfer just recorded what he thought he head. But in 1988, he filed an SRBA claim that covered both the transferred pou and land just to the north in the SE/NE (Lot 1 of Dean Ranch Sub). This water was not decreed to this tract, and was never legally transferred to it. The watermaster data on Matts computer shows 0.86 cfs of this right to Fosnot, but Fosnot has no claims in the SRBA. Fosnot sold Lot 1 to Gower; water was not mentioned in the deed. SRBA claims show a total of 0.86 cfs claimed by Gower (Lot 1) and Super (NE/SE), which agrees with the WM records in terms of diversion rate. The pod shown on the 1984 transfer is on Lot 1, so both parcels could have been irrigated with this right. Lot 1 looks just about the same on the 1987 photo as it does now, so I am inclined to recommend both this right and the 1886 right for this property.

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Claim Report 37-21148

WATER RIGHT NUMBER: 37-21148

Owner Type	Name and Address
Original Owner	PAUL R FOSNOT ROBERT EARL FOSNOT
Current Owner	MARK GOWER BETTE GOWER P O BOX 912 BELLEVUE, ID 83313 (208)788-0839

Priority Date: 10/15/1884

Basis: Decreed

Status: Active

Source	Tributary
BIG WOOD RIVER	MALAD RIVER

Beneficial Use	From To	Diversion Rate	Annual Volume
IRRIGATION	04/01 to 11/01	0.272 CFS	
	Total Diversion:	0.272 CFS	

Location of Point(s) of Diversion

BIG WOOD RIVER NE1/4SW1/4NW1/4 Sec. 36, Twp 02N, Rge 18E, B.M.

BLAINE 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	
01N	18E	24				7.9													7.9

Total Acres: 7.9

Conditions of Approval:

1. 8/05/2003: CLAIM 37-11689A WAS SPLIT BY OWNERSHIP INTO 37-21147 (FOSNOT) AND 37-21148 (GOWEN). - VH
2. COPIED FROM REMARKS CLAIM 37-11689:
OTHER WATER RIGHTS USED - 37-11688. THIS CLAIM WAS PART OF DECREED RIGHT NUMBER 37-665.

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 37-11686

WATER RIGHT NUMBER: 37-11686

Owner Type	Name and Address
Previous Owner	ROBERT EARL FOSNOT PO BOX 290 BELLEVUE, ID 83313 (208)788-3642
Current Owner	MARK GOWER P O BOX 912 BELLEVUE, ID 83313 (208)788-0839
Current Owner	BETTE GOWER P O BOX 912 BELLEVUE, ID 83313 (208)788-0839

OL right (dom/stock)

Priority Date: 05/22/1975

Basis: Decreed

Status: Active

Source: GROUND WATER

Tributary

Beneficial Use	From	To	Diversion Rate	Annual Volume
DOMESTIC	1/01	12/31	0.040 CFS	
STOCKWATER	1/01	12/31	0.020 CFS	
		Total Diversion:	0.060 CFS	

Location of Point(s) of Diversion

GROUND WATER SW1/4SE1/4NE1/4 Sec. 24, Twp 01N, Rge 18E, B.M.

BLAINE County

Place of Use

DOMESTIC

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
01N	18E	24				X													

STOCKWATER

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
01N	18E	24				X													

Conditions of Approval:

1. N11 THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT IS NOT A DETERMINATION OF HISTORICAL BENEFICIAL USE.
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. N13 THE QUANTITY OF WATER UNDER THIS RIGHT SHALL NOT EXCEED 13,000 GALLONS PER DAY.
4. PARCEL NO.01N18024075A STOCKWATER, 20 HORSES

353 Boac

37-22042 A portion of Sec 24 N½NE¼SE¼ No objection filed

DISALLOWED

Overlapping right 37-11689B (1884 BW River for irrigation)
Right 37-11685 (domestic/stockwater right) In Fosnot's name

Claim	0.04 cfs	2.7 ac
Recom	---- cfs	---- (disallowed)
Adjusted	0.04 cfs	2.0 ac limit to 1.6 ac within the PPU

POU at 2" per acre	Existing Rate per acre
2.7 ac *0.04 cfs/ac 0.108 cfs	0.04 cfs / 1.6 ac = 0.028 cfs/ac Or 1.25 inches/acre

~~Overlapping acreage would be additive.~~

When Miller (predecessor to Swenke) purchased 2.7 acres the warranty deed was silent regarding 6-12-1886 (37-353) water rights. The warranty deed specifically identified 6.875 inches of 37-665 (ownership change created 37-11689B). Subsequent ownership changes to Gower and Super split both claims associated with the Fosnot property. After all sales were final and the rights split this portion of 37-353 remained in Fosnot's name. Lacking additional information it appears that this claim should be associated with the Swenke property. Regardless of its ultimate destination it should be recognized as a valid claim as forfeiture is not an issue at this time.

Overlapping right 37-11689B analysis

Transfer 2949 moved 1.00 cfs to 18.5 acres to Sec 24 N½NE¼SE¼ on April 3, 1984. Through the adjudication process an unrecorded transfer was identified spreading this right to Lot 1, the POU for 37-22042).

PPU = 2ac

(.4 remainder)

37-11689B

Claim	0.137 cfs	2.7 ac
Recom	0.137 cfs	2.0 ac
Adjusted	---- cfs	---- limit to ~~4.3~~ .8 ac within the PPU

POU at 2" per acre	Existing Rate per acre
2 ac *0.04 cfs/ac 0.08 cfs	0.137 cfs / 2.0 ac = 0.069 cfs/ac Or 3.43 inches/acre

See also system analysis titled
"System Review for 37-11689B, 21147, 21148, 21146, 22042 and 22043"

E62 This right when combined with Right No. [list] shall provide no more than .02 cfs per acre.

X31
This right when combined with all other rights shall provide no more than 0.02 cfs at the field headgate for irrigation of the land described above.

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 37-22042 V1

WATER RIGHT NUMBER: 37-22042 V1

Owner Type	Name and Address
Current Owner	ROBERT EARL FOSNOT PO BOX 290 BELLEVUE, ID 83313 (208)788-3642
Current Owner	PAUL R FOSNOT 837 LAUREL AVE POMONA, CA 91767
Present Owner	MARK J SWENKE PO BOX 3630 HAILEY, ID 83333 (208)788-1160

Sept 09 Proposal

Priority Date: 06/12/1886

Basis: Decreed

Status: Active

Source	Tributary
BIG WOOD RIVER	MALAD RIVER

Beneficial Use	From To	Diversion Rate	Annual Volume
IRRIGATION	0415 to 10/31	0.040 CFS	
	Total Diversion:	0.040 CFS	

Location of Point(s) of Diversion

BIG WOOD RIVER L3(NE1/4SW1/4NW1/4) Sec. 36, Twp 02N, Rge 18E, B.M.

BLAINE 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	
01N	18E	24													2				2

Total Acres: 2

Conditions of Approval:

1. P21 This right is a split from former right 37-353.
2. Rights 37-22042 and 37-11689B when combined shall not exceed the irrigation of 2 acres.
3. 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.
4. K06 This right is limited to the irrigation of 0.5 acres within the place of use described above in a single irrigation season.
5. X31 This right when combined with all other rights shall provide no more than 0.02 cfs at the field headgate for irrigation of the land described above.

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 37-22042 V1

WATER RIGHT NUMBER: 37-22042 V1

Owner Type	Name and Address
Current Owner	ROBERT EARL FOSNOT PO BOX 290 BELLEVUE, ID 83313 (208)788-3642
Current Owner	PAUL R FOSNOT 837 LAUREL AVE POMONA, CA 91767
Present Owner	MARK J SWENKE

Priority Date: 06/12/1886

Basis:

Status: Disallowed

Source	Tributary
BIG WOOD RIVER	MALAD RIVER

Beneficial Use	From	To	Diversion Rate	Annual Volume
IRRIGATION	04/01	11/01	0.040 CFS	
		Total Diversion:	0.040 CFS	

Rate/Ac = 0.015 cfs/Ac disallowed

Location of Point(s) of Diversion

BIG WOOD RIVER NE1/4SW1/4NW1/4 Sec. 36, Twp 02N, Rge 18E, B.M.

SEC 24 SENE

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	
01N	18E	24													2.7				2.7

Total Acres: 2.7

Conditions of Approval:

1. P13 No beneficial use found: This is included for a claim based on beneficial use that is proposed to be disallowed because beneficial use of water was not confirmed by IDWRs field examination or by other evidence submitted by the claimant.
2. This claim is a split from former right 37-353 and former claim 37-21145.
3. P03 No beneficial use found.

Comments:

1. jstanton 12/26/2006 Review
Comment: This claim represents a proportional split of Right 37-353 that formerly belong to Robert Fosnot. The property is just south of the Dean Ranch Sub. While the land was formerly owned by Fosnot, this water was never legally transferred to it. The chain of title to the property, now owned by Mark Swenke, makes it clear that none of this right went with the property. The Super & Gower portions of the Fosnot 1886 water will be recommended, leaving 0.06 cfs to be disallowed under this portion. The deeds for the other portions are essentially silent on water, so they received simple proportional splits based on acrees.

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Claim Report 37-22042

WATER RIGHT NUMBER: 37-22042

Owner Type	Name and Address
Current Owner	ROBERT EARL FOSNOT PO BOX 290 BELLEVUE, ID 83313 (208)788-3642
Current Owner	PAUL R FOSNOT 837 LAUREL AVE POMONA, CA 91767

Priority Date: 06/12/1886

Basis: Decreed

Status: Active

Source	Tributary
BIG WOOD RIVER	MALAD RIVER

Beneficial Use	From To	Diversion Rate	Annual Volume
IRRIGATION	04/01 to 11/01	0.040 CFS	
	Total Diversion:	0.040 CFS	

Location of Point(s) of Diversion

BIG WOOD RIVER NE1/4SW1/4NW1/4 Sec. 36, Twp 02N, Rge 18E, B.M.

Place of Use

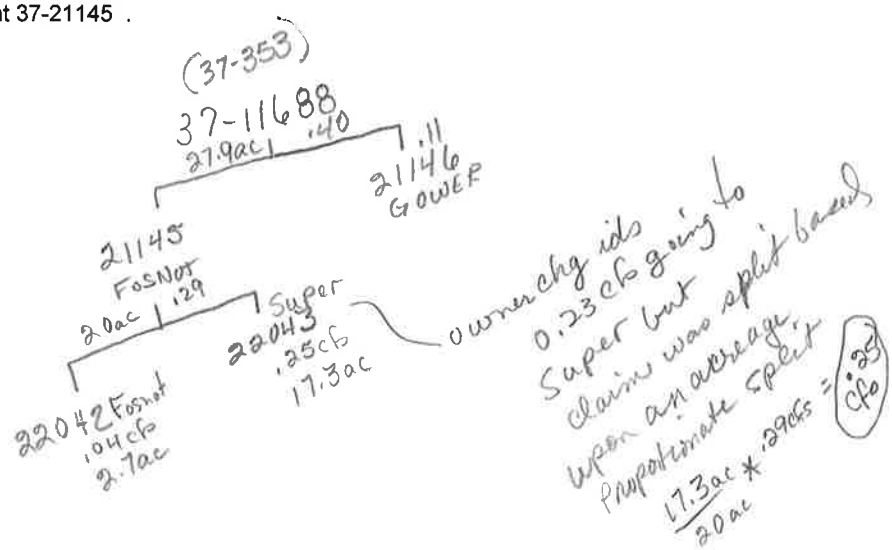
IRRIGATION

Twp Rge Sec	NE				NW				SW				SE				Totals
	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
01N 18E 24													2.7				2.7

Total Acres: 2.7

Conditions of Approval:

1. 8/05/2003: CLAIM 37-11688 WAS SPLIT BY OWNERSHIP INTO 37-21145 (FOSNOT) AND 37-21146 (GOWEN). NOTE THAT THERE ARE 2.7 ACRES IN THE NWNESE SEC 24 THAT ARE NOT OWNED BY FOSNOT BUT INCLUDED IN THIS CLAIM. CURRENT OWNER OF 2.7 ACRES IS MARK SWENKE PO BOX 3630 HAILEY. SEE 37-11689B AND WDEED WITH THAT CLAIM. - VH
2. COPIED FROM REMARKS CLAIM 37-11688:
OTHER WATER RIGHTS USED - 37-11689. THIS THIS CLAIM WAS PART OF DECREED RIGHT NUMBER 37-353.
3. This right is a split from former right 37-21145 .



IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 37-11689B V1

WATER RIGHT NUMBER: 37-11689B V1

Owner Type	Name and Address
Current Owner	MARK J SWENKE PO BOX 3630 HAILEY, ID 83333 (208)788-1160

OL Right
OL with 37-22042
initial Rec = disallow

Priority Date: 10/15/1884
Basis: Decreed
Status: Active

Source	Tributary
BIG WOOD RIVER	MALAD RIVER

Beneficial Use	From	To	Diversion Rate	Annual Volume
IRRIGATION	04/15	10/31	0.137 CFS	
		Total Diversion:	0.137 CFS	

Location of Point(s) of Diversion

BIG WOOD RIVER NE1/4SW1/4NW1/4 Sec. 36, Twp 02N, Rge 18E, B.M.
BLAINE 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	
01N	18E	24													2.0				2.0

Total Acres: 2

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.

Comments:

1. JROBERTS 5/11/1995 COPIED FROM REMARKS
Comment: THIS CLAIM WAS PART OF DECREED RIGHT NUMBER 37-00665
This is a portion of A37-11689 which was split into parts A and B through an ownership change. This represents the 2.75 acre parcel sold to the Millers along with 6.875 inches of water. jr 5/11/95

2. TFAWCETT 3/30/2000 OWNER CHANGE
Comment: OWNERSHIP CHANGED MILLER TO SWENKE PER 1409(6) AND QUITCLAIM DEED RECD 3/10/2000.

3. tfawcett 12/28/2000 owner change
Comment: ownership changed David Swenke to Mark Swenke per 1409(6) and warranty deed received 10/5/00.

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Claim Report 37-11689B

WATER RIGHT NUMBER: 37-11689B

Owner Type	Name and Address
Current Owner	MARK J SWENKE PO BOX 3630 HAILEY, ID 83333 (208)788-1160

OL Right

Priority Date: 10/15/1884

Basis: Decreed

Status: Active

Source	Tributary
BIG WOOD RIVER	MALAD RIVER

Beneficial Use	From To	Diversion Rate	Annual Volume
IRRIGATION	4/01 to 11/01	0.137 CFS	
	Total Diversion:	0.137 CFS	

Location of Point(s) of Diversion

BIG WOOD RIVER NE1/4SW1/4NW1/4 Sec. 36, Twp 02N, Rge 18E, B.M.
BLAINE 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	
01N	18E	24													2.7				2.7

Total Acres: 2.7

Conditions of Approval:

1. THIS CLAIM WAS PART OF DECREED RIGHT NUMBER 37-00665
This is a portion of A37-11689 which was split into parts A and B through an ownership change. This represents the 2.75 acre parcel sold to the Miller's along with 6.875 inches of water. jr 5/11/95
3/30/2000 tf; OWNERSHIP CHANGED MILLER TO SWENKE PER 1409(6) AND QUITCLAIM DEED REC'D 3/10/2000.

12/28/00 tf; ownership changed David Swenke to Mark Swenke per 1409(6) and warranty deed received 10/5/00.

Remarks:

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Claim Report 37-21145

WATER RIGHT NUMBER: 37-21145

Owner Type	Name and Address
Current Owner	ROBERT EARL FOSNOT PO BOX 290 BELLEVUE, ID 83313 (208)788-3642
Current Owner	PAUL R FOSNOT 837 LAUREL AVE POMONA, CA 91767

Priority Date: 06/12/1886

Basis: Decreed

Status: Parent

Source	Tributary
BIG WOOD RIVER	MALAD RIVER

Beneficial Use	From To	Diversion Rate	Annual Volume
IRRIGATION	04/01 to 11/01	0.290 CFS	
	Total Diversion:	0.290 CFS	

Location of Point(s) of Diversion

BIG WOOD RIVER NE1/4SW1/4NW1/4 Sec. 36, Twp 02N, Rge 18E, B.M.

BLAINE 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	
01N	18E	24													20.0				20.0

Total Acres: 20

Conditions of Approval:

1. COPIED FROM REMARKS CLAIM 37-11688:
OTHER WATER RIGHTS USED - 37-11689. THIS THIS CLAIM WAS PART OF DECREED RIGHT NUMBER 37-353.
2. SPLIT RIGHT: SEE RIGHT NOS. 37-22042 and 37-22043.
3. 8/05/2003: CLAIM 37-11688 WAS SPLIT BY OWNERSHIP INTO 37-21145 (FOSNOT) AND 37-21146 (GOWEN). NOTE THAT THERE ARE 2.7 ACRES IN THE NWNESE SEC 24 THAT ARE NOT OWNED BY FOSNOT BUT INCLUDED IN THIS CLAIM. CURRENT OWNER OF 2.7 ACRES IS MARK SWENKE PO BOX 3630 HAILEY. SEE 37-11689B AND WDEED WITH THAT CLAIM. - VH

Remarks:

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 37-11685

WATER RIGHT NUMBER: 37-11685

Owner Type	Name and Address
Current Owner	PAUL R FOSNOT ROBERT EARL FOSNOT 837 LAUREL AVE POMONA, CA 91767

Priority Date: 06/10/1920

Basis: Decreed

Status: Active

Source: GROUND WATER

Tributary:

Beneficial Use	From	To	Diversion Rate	Annual Volume
DOMESTIC	1/01	12/31	0.040 CFS	
STOCKWATER	1/01	12/31	0.020 CFS	
		Total Diversion:	0.060 CFS	

Location of Point(s) of Diversion

GROUND WATER — NW1/4NE1/4SE1/4 — Sec. 24, Twp 01N, Rge 18E, B.M.

BLAINE County

Place of Use

DOMESTIC

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
01N	18E	24													X				

STOCKWATER

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
01N	18E	24													X				

Conditions of Approval:

1. PARCEL NO. RP01N180240700T STOCKWATER, 4 HORSES
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. N13 THE QUANTITY OF WATER UNDER THIS RIGHT SHALL NOT EXCEED 13,000 GALLONS PER DAY.
4. N11 THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT IS NOT A DETERMINATION OF HISTORICAL BENEFICIAL USE.

Comments:

1. CORR3 9/30/1997 COPIED FROM REMARKS
Comment: PARCEL NO. RP01N180240700T PROPERTY ALSO KNOWN AS 10749 STATE HIGHWAY 75

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 37-22043 V1

WATER RIGHT NUMBER: 37-22043 V1

Owner Type	Name and Address
Current Owner	JAMES R SUPER PO BOX 598 BELLEVUE, ID 83313 (208)788-7731
Current Owner	JANET A SUPER PO BOX 598 BELLEVUE, ID 83313 (208)788-7731

Sept 09 Proposal

Priority Date: 06/12/1886

Basis: Decreed

Status: Active

Source	Tributary
BIG WOOD RIVER	MALAD RIVER

Beneficial Use	From To	Diversion Rate	Annual Volume
IRRIGATION	04/15 to 10/31	0.250 CFS	
	Total Diversion:	0.250 CFS	

Location of Point(s) of Diversion

BIG WOOD RIVER NE1/4SW1/4NW1/4 Sec. 36, Twp 02N, Rge 18E, B.M.

BLAINE 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	
01N	18E	24													16.0				16.0

Total Acres: 16

Conditions of Approval:

1. E55 Right Nos. 37-21147 and 37-22043 are limited to the irrigation of a combined total of 16 acres in a single irrigation season.
2. This right is a split from former right 37-353 and 37-21145.
3. K06 This right is limited to the irrigation of 3.6 acres within the place of use described above in a single irrigation season.
4. 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.
5. X31 This right when combined with all other rights shall provide no more than 0.02 cfs at the field headgate for irrigation of the land described above.

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 37-22043 V1

WATER RIGHT NUMBER: 37-22043 V1

Owner Type	Name and Address
Original Owner	ROBERT EARL FOSNOT
Original Owner	PAUL R FOSNOT
Current Owner	JAMES R SUPER PO BOX 598 BELLEVUE, ID 83313 (208)788-7731
Current Owner	JANET A SUPER PO BOX 598 BELLEVUE, ID 83313 (208)788-7731

Parent 37-7168 claim date 10-17-88

Priority Date: 06/12/1886

Basis: Decreed

Status: Active

Source	Tributary
BIG WOOD RIVER	MALAD RIVER

Beneficial Use	From	To	Diversion Rate	Annual Volume
IRRIGATION	04/15	10/31	0.250 CFS	
		Total Diversion:	0.250 CFS	

Rec/Rate/Ac = 0.016 cfs/Ac

Location of Point(s) of Diversion

BIG WOOD RIVER NE1/4SW1/4NW1/4 Sec. 36, Twp 02N, Rge 18E, B.M.

BLAINE 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	
01N	18E	24													16.0				16.0

Total Acres: 16

Conditions of Approval:

1. E55 Right Nos. 37-21147 and 37-22043 are limited to the irrigation of a combined total of 16 acres in a single irrigation season.
2. This right is a split from former right 37-353 and 37-21145.
3. 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.

Comments:

1. jstanton 12/26/2006 Review
Comment: This claim was originally recommended for disallowal, as the water was never legally appurtenant to this land & because the owner already has plenty of 1884 water for the property. But he filed an ownership change, and asked that the claim be recommended. Everything seems to be in order, so I am recommending it. I split the former claim for the ownership change based on the recommended acres, but Trish split it based on the taxlot acres. I am recommending 16 acres as the pou to go along with 37-21147, but am keeping the higher flow rate as determined by Trish.

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Claim Report 37-22043

WATER RIGHT NUMBER: 37-22043

Owner Type	Name and Address
Original Owner	ROBERT EARL FOSNOT
Original Owner	PAUL R FOSNOT
Current Owner	JAMES R SUPER PO BOX 598 BELLEVUE, ID 83313 (208)788-7731
Current Owner	JANET A SUPER PO BOX 598 BELLEVUE, ID 83313 (208)788-7731

Priority Date: 06/12/1886

Basis: Decreed

Status: Active

Source	Tributary
BIG WOOD RIVER	MALAD RIVER

Beneficial Use	From	To	Diversion Rate	Annual Volume
IRRIGATION	04/01	11/01	0.250 CFS	
		Total Diversion:	0.250 CFS	

Location of Point(s) of Diversion

BIG WOOD RIVER NE1/4SW1/4NW1/4 Sec. 36, Twp 02N, Rge 18E, B.M.

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	
01N	18E	24													17.3				17.3

Total Acres: 17.3

Conditions of Approval:

1. This right is a split from former right 37-21145 .
2. COPIED FROM REMARKS CLAIM 37-11688:
   OTHER WATER RIGHTS USED - 37-11689. THIS THIS CLAIM WAS PART OF DECREED RIGHT NUMBER 37-353.
3. 8/05/2003: CLAIM 37-11688 WAS SPLIT BY OWNERSHIP INTO 37-21145 (FOSNOT) AND 37-21146 (GOWEN). NOTE THAT THERE ARE 2.7 ACRES IN THE NWNESE SEC 24 THAT ARE NOT OWNED BY FOSNOT BUT INCLUDED IN THIS CLAIM. CURRENT OWNER OF 2.7 ACRES IS MARK SWENKE PO BOX 3630 HAILEY. SEE 37-11689B AND WDEED WITH THAT CLAIM. - VH

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 37-21147 V1

WATER RIGHT NUMBER: 37-21147 V1

Owner Type	Name and Address
Current Owner	JAMES R SUPER PO BOX 598 BELLEVUE, ID 83313 (208)788-7731
Current Owner	JANET A SUPER PO BOX 598 BELLEVUE, ID 83313 (208)788-7731

O/Lwith 22043

Priority Date: 10/15/1884

Basis: Decreed

Status: Active

Source	Tributary
BIG WOOD RIVER	MALAD RIVER

Beneficial Use	From	To	Diversion Rate	Annual Volume
IRRIGATION	04/15	10/31	0.590 CFS	
		Total Diversion:	0.590 CFS	

Location of Point(s) of Diversion

BIG WOOD RIVER NE1/4SW1/4NW1/4 Sec. 36, Twp 02N, Rge 18E, B.M.

BLAINE 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	
01N	18E	24													16.0				16.0

Total Acres: 16

limit to 12.6 ac

Conditions of Approval:

1. G05 Water diverted from Headgate #45 delivered through District Canal.
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. P21 This right is a split from former right 37-665.
4. E55 Right Nos. 37-21147 and 37-22043 are limited to the irrigation of a combined total of 16 acres in a single irrigation season.

Comments:

1. jstanton 12/26/2006 E55 Condition
Comment: This condition was added after completion of recommendation for 37-22043, as both rights are recommended on the same land.

21147 acLim = 12.6 ac

22043 3.7 ac

16.3 ac

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Claim Report 37-21147

WATER RIGHT NUMBER: 37-21147

Owner Type	Name and Address
Current Owner	JAMES R SUPER PO BOX 598 BELLEVUE, ID 83313 (208)788-7731
Current Owner	JANET A SUPER PO BOX 598 BELLEVUE, ID 83313 (208)788-7731

Priority Date: 10/15/1884

Basis: Decreed

Status: Active

Source	Tributary
BIG WOOD RIVER	MALAD RIVER

Beneficial Use	From	To	Diversion Rate	Annual Volume
IRRIGATION	04/01	11/01	0.590 CFS	
		Total Diversion:	0.590 CFS	

Location of Point(s) of Diversion

BIG WOOD RIVER NE1/4SW1/4NW1/4 Sec. 36, Twp 02N, Rge 18E, B.M.

BLAINE 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	
01N	18E	24													17.2				17.2

Total Acres: 17.2

Conditions of Approval:

1. COPIED FROM REMARKS CLAIM 37-11689:
OTHER WATER RIGHTS USED - 37-11688. THIS THIS CLAIM WAS PART OF DECREED RIGHT NUMBER 37-665.

2. 8/05/2003: CLAIM 37-11689A WAS SPLIT BY OWNERSHIP INTO 37-21147 (FOSNOT) AND 37-21148 (GOWEN). - VH

Remarks:

Comments:

Dean Ranch Sub Claim Analysis As of 12-19-06

1. 6.4 cfs decreed under 37-353

2. 5.34 cfs claimed & recommended can be traced to prior owners. Recommend as claimed

3. Leaves 1.06 cfs that was claimed but not traceable to known prior owners but could be recommended

4. Remaining claims (Oesting, Olsen, Fisher, Goicoechea) total 1.32 cfs; 0.28 cfs is in excess of decree = 24.53% over-claimed. Reduce each claim by ~~20~~ 21.2%

5. With 3 Reduced 4 claims - 37-353F Oesting 0.20 x .803 = 0.16 cfs

353J ~~Fisher~~ Olsen .40 x " = 0.32 cfs

353K Fisher .36 x " = 0.28 cfs

353L Goicoechea .36 x " = .28 cfs

1.04 cfs

Check Against "Current Ownership" Sheet 1982

20" Oppenheimer = Battaile Ok

20" Strider = Briggs/Arrington Ok

20" Foerst = Bower/Super/Swenke Ok

~~10" Drieves - disallowed .20 cfs . Lot 11 bought by Powers in 1990, no 1886 water~~
~~water to Petersen → Beeson~~

20" Rick = Grigsby Ok

10" Chek = Beeson Ok T3679

180" Gardner = Gardner Ok

40" Kierstad = for for Lot 9 (not claimed)

10" Drieves - disallowed trans to Lot 9 in 1991 T3678 now Barry

total ↑ KKC notes
320" or 6.4cfs

total excludes the 10" Drieves crossed out
includes last 10" Drieves entry

Current Ownership according to Watermaster Records.

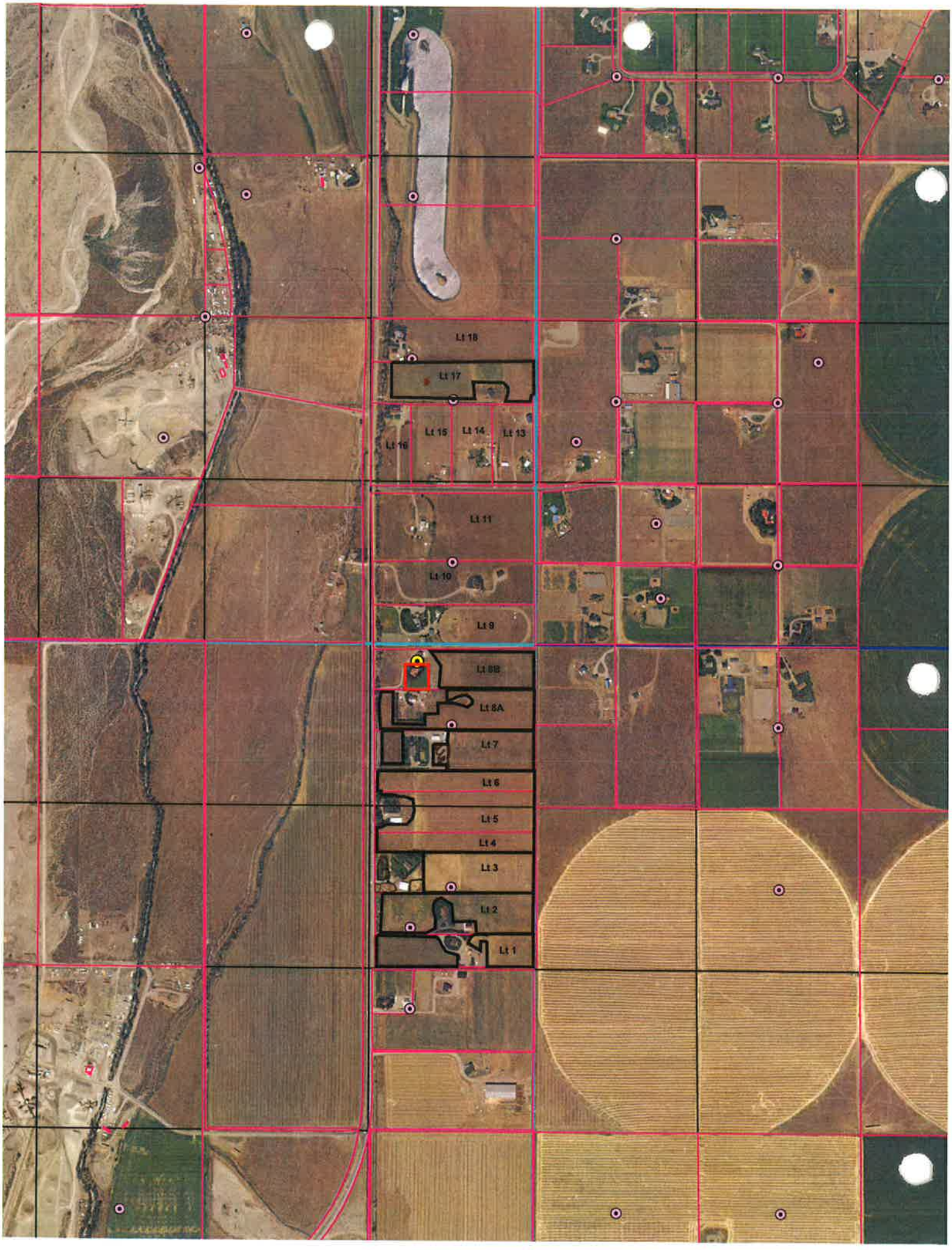
		Lt			AJ
Battaile	Harry L. Oppenheimer	17	20 inches	353 E	✓
	Robert Kierstad		40 inches		
Bowers/Sipes/Swake	Ed Stricker	Lt 1	20 inches	353 B	✓
	Gus Chek	Lt 11(1/2)	10 inches		
Diedrich	Douglas Driever	Lt 9	10 inches	353 G	✓
	Robert Gardner	trans	180 inches	353 D	✓
Wigsby	J Karl Bick		20 inches	353	✓
	Robert Fosnot		20 inches	11688	✓

(Powers) Kuntzweiler

Total 320 inches

The water rights listed above are shown as reflected in the Water District's records. This compilation is provided for your information only and is not a representation, guaranty, warranty or opinion that the water rights are valid or in effect and should not be relied upon as such.

Kuntzweiler H
Long F
Olsen J


Lt 18
Lt 17
Lt 16
Lt 15
Lt 14
Lt 13
Lt 11
Lt 10
Lt 9
Lt 8B
Lt 8A
Lt 7
Lt 6
Lt 5
Lt 4
Lt 3
Lt 2
Lt 1

Claims
37-353 ~~Rights~~ For Use In Cutback to 6.4 cfs

Ok	37-353	0.40 cfs	Grigsby	* on 82 list .40
Ok	353E	0.40	~~Bethke~~	
	353F	0.20	Oosting	disallowed, claims usage from 1998
	353J	0.40	Olsen	
	353K	0.36	Fisher	
	353L	0.36	Goicoechea	
Ok	21146	0.11	Bowers	
Ok	21145	~~0.29~~ 0.23	Foust/Lupes/Swenke	disallowed - allow 0.23 Lupes
Ok	353B	0.40	Briggs/Brovington	* on 82 list as striker .40
Ok	353H	0.20	Benson conv. loss	* on 82 list .20 as Clark
Ok	353D	3.60	Gardner	* on 82 list 3.10
		6.66 ~~6.72~~ cfs		

~~-0.49 disallowed~~

6.66 ~~6.23~~ cfs recommended

6.40 cfs decreed

0.26 overclaimed & not disallowed

37-353 Analysis

	1. Right 37-353		6.4 cfs	160 ac	6-12-1886	WM ✓
Lot 8B	2. Chain - 37-353		0.40 cfs	10 ac	Grigsby	✓✓
Lot 17 ok		353E	0,40 cfs	10 ac	Battaile	✓✓
~~Lot 8A~~		~~353F~~	~~0,20 cfs~~	~~10 ac~~	~~Costing~~	~~✓✓~~
~~Lot 11~~ 9		~~3536~~	~~0.20~~	~~6 ac~~	~~Drieves~~	
Lot 2		353J	0,40	10 ac	Olsen Livestock	✓✓
Lot 7		353K	0,36	9 ac	Fisher	✓
Lot 3		353L	0.36	10 ac	Bicoleha	✓✓
Lot 1		21146	0,11 (~~Upper WM~~)	7.9	Bowers	✓✓
		~~21145~~	~~0,29~~	~~20 ac~~	~~Forrest~~	~~✓~~
Lot 4,5,6		353B	0,40 3,12 cfs	20 ac 112,9	Briggs/Arrington	✓✓
~~Lot 4,5,6~~	see 37-8660	353H	0,20	7,5	Benson (was Lantermann)	✓
~~not in subdiv.~~		~~21147~~	~~0,159~~	~~17,2~~	~~Stuper~~	
~~Lot 10~~		~~20348~~	~~0.20~~	~~10 ac~~	~~Turco~~	
		353D	3.6	320 ~~280~~ ac	Gardiner	✓✓

Battaile - pump in canal at NW corner of property, surface mainline to wheel lines on land N of access road except home area

Brigsby - same, wheel lines for pasture on both sides of home, headgate NW corner of property

Costing - no div works

Dreier - no div works

Fisher - OK - pump & buried mainline to risers NW corner of property

Briggs/Arrington - headgate north of building feeds 2 ditches that wander thru back of lawn before dead ending. No pump in canal. a few short pieces of wheel line scattered around pasture but appear unused. small well at SE corner of buildings to buried mainline appears in poor shape - big hole in top of casing. pasture area all in weeds & not fenced off from home area - good indication of lack of intention to irrigate. nobody home.

Biocchea - pump at SW corner of property feeds small area along hwy plus back pasture w/wheel lines. talked to owner on site

Olsen Livestock - pump at NW corner of property, wheel lines to pasture

Bowen - check GW right for land - should water 1 ac. pumps canal water to both sides of property for wheel lines. Pump in SW corner

12-4-06 James Luper told me that he installed a pump in the canal at the SW corner of the Costing property in 1998

37-353 - Recommended Parts (Not County disallowed)

	1. 37-353 Right		6.4 cfs	160 ac	
					WM Ok
✓	2. Recommend - 37-21/46	Bowers	0.11 cfs	5.5 ac	✓
	353J	Olsen	0.40	7.8	✓
✓	353E	Battaille	0.40	7.2	✓
	353K	Fisher	0.36	6.3	✓
	353L	Goicoechea	.36	8 ac	✓
✓	353	Brigsby	0.40	6.9	✓
✓	353B	Briggs/Orr.	0.40	0.4	✓
✓	* 353H	Benson	0.20		✓
			2.63 cfs		
✓	353D	Gardener	3.6		✓
			6.23		
✓	21/45	Foerst	.29		
			6.52		

* Mitigation for GW permit

37-353 Analysis 11-27-06

1. Right 6.4 cfs ~~320~~ 160 ac

2. WM Data Olsen 0.4 cfs

~~Ostling 0.2~~ disallowed, no div works in canal

Goicoechea 0.36

Benson 0.2 (mitigation for GW permit)

Briggs 0.4

Bower 0.11

Lupes 0.24 } claimed by Forest 37-21145
~~recommend make 666~~

S Weeks .05

Battaile .40

Fisher .36

Gardner 3.6
6.12

Grigsby 0.4
0.12 cfs over

37-353 Notes

1. Part NE/SE (NW part, 2½ ac) owned by Mark Swenke is covered by Claim 37-11...9B w/1884 priority. Not part of Dean Ranch sub.

2. Claim 37-353 H (Benson) was established by transfer by Gus Clek under 37-353F. Sold to Kantenwein & Ellen Benson.

3.

DEPARTMENT OF WATER ADMINISTRATION
WATER DISTRICT NO. 37 & 37M
P.O. Box N
Shoshone, Idaho 83352
886-2041

REID J. NEWBY
Watermaster

Dec. 5, 1977

Mr. M.D. Dean
4907 North Brunsen
Oklahoma City, Oklahoma 73112

Dear Mr. Dean:

As per your letters of October 27, 1977, Oct. 28, October 29 and November 1, 1977 you state that you have sold water to the following:

10 acres — 20 inches to Johnston for Lot 17, Block 1
10 acres — 40 inches to Keirstead for Lot 9 Block 1
30 acres — 20 Inches to Stricker for Lot 1
approx 18 acres — 20 Inches to Chek for Lot 11

All of the above being in the Dean Subdivision.

This office has no way of knowing how many acres of land or what the legal description of the lands in the Dean Subdivision you have sold are. Could you please supply us with the legal description of what land each new owner is going to apply the water that they purchased.

Very truly yours,

Reid J. Newby

Reid J. Newby, Watermaster

RJN:blln

RECEIVED
DEC 12 1977
WATERMASTER SHOSHONE

Pc Doc Pg 251

WATER RIGHT 37-00353 ORIGINALLY DECREED TO JAMES JOHNSON DATED 6/12/1886

20

1. Oct. 27, 1977 letter from M. D. Dean, confirming sale of 20 inches 1886 water to Jerry Lee Johnson.

Lt 17

2. Feb. 16, 1978 Warranty Deed from Jerry Lee Johnson to Marvin Lotspeich, confirming sale of 20 inches of 1886 water. Lot 17 Block 1.

3. March 10, 1980 Warranty Deed from Marvin Lotspeich to Harry L. Oppenheimer, confirming sale of 20 inches of 1886 water. Lot 17 Blk 1.

40

4. Oct. 28, 1977 letter from M. D. Dean, confirming sale of 40 inches 1886 water to Robert Kierstad. Lot 9 Block 1.

20

5. Oct. 29, 1977 letter from M. D. Dean, confirming sale of 20 inches 1886 water to Ed Stricker. ~~Block~~ Lt 1.

20

6. Nov. 1, 1977 letter from M. D. Dean, confirming sale of 20 inches 1886 water to Gus Chek. Lt 11

7. Oct. 4, 1991 letter confirming Gus Chek sold 10 inches 1886 water to Douglas Driever. Also see TR# 3679.

180

8. June 25, 1982 notarized letter from M. D. Dean, confirming sale of 180 inches 1886 water to Robert Gardner.

20

300"

9. June 25, 1982 notarized letter from M. D. Dean, confirming sale of 20 inches of 1886 water to John Peterson.

10. Nov 3, 1993 Quit Claim deed from John Peterson to J Karl Bick, confirming sale of 20 inches 1886 water

20

320"

11. Approved transfer of 20 inches of 6/12/1886 #37-00353 in the name of Robert Fosnot.

09/23/2003

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Claim Report 37-353A

WATER RIGHT NUMBER: 37-353A

Owner Type	Name and Address
Original Owner	JAMES JOHNSON
	, ID

Priority Date: 06/12/1886

Basis:

Status: See Remarks

Source	Tributary
BIG WOOD RIVER	MALAD RIVER

Beneficial Use	From	To	Diversion Rate	Annual Volume
IRRIGATION	/	/	6.000 CFS	
		Total Diversion:	6.000 CFS	

Location of Point(s) of Diversion

BIG WOOD RIVER SW1/4NW1/4 Sec. 36, Twp 02N, Rge 18E, B.M.

BLAINE 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	
01N	18E	13													X			X	
01N	18E	24	X			X													

Conditions of Approval:

Remarks:

1. General TRANS. 2948. ********** (37-00353B) THIS IS A SEPARATE WR SPLIT BY TRANS. 2948 CLAIMED UNDER A37-11688, 0.4 CFS BY FOSNOT A37-00353B (ASSIGNED WRONG NUMBER) 0.40 CFS, STRICKER A37-00353C, 0.4 CFS, GUS CHEK (AMENDED FROM 1.0 CFS) A37-00353D, 3.6 CFS, ROBERT GARDNER A37-00353E, 0.4 CFS, HARRY OPPENHEIMER, JR.

(REPRESENTS A37-00353F, 0.2 CFS, WILLIAM R. LONG A37-11688 , 0.4 CFS, FOSNOT PORTION 37-00353B ON WR)

11/12/2006

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Claim Report 37-353H

WATER RIGHT NUMBER: 37-353H

Owner Type	Name and Address
Current Owner	BARBARA BENSON PO BOX 645 BELLEVUE, ID 83313 (208)788-2111
Original Owner	REID E KANTENWEIN PO BOX 1525 HAILEY, ID 83333-1525 (208)788-9776

Priority Date: 06/12/1886

Basis: Decreed

Status: Active

Source	Tributary
BIG WOOD RIVER	MALAD RIVER

Beneficial Use	From	To	Diversion Rate	Annual Volume
IRRIGATION	4/15	10/15	0.200 CFS	26.30 AF
		Total Diversion:	0.200 CFS	26.30 AF

Location of Point(s) of Diversion

BIG WOOD RIVER SW1/4NW1/4 Sec. 36, Twp 02N, Rge 18E, B.M.

BLAINE 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	
01N	19E	18											7.5						7.5

Total Acres: 7.5

Conditions of Approval:

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Claim Report 37-353H

1. CLAIM BASED ON 37-0353 DECREE, SPLIT OFF FROM PART A.
********** THIS CLAIM RESULT OF APPROVED TRANSFER NO. 3679: 1. USE OF WATER UNDER THIS RIGHT WILL BE REGULATED BY THE WATERMASTER OF STATE WATER DISTRICT NO. 37.
2. THIS RIGHT WHEN COMBINED WITH ALL OTHER RIGHTS SHALL PROVIDE NO MORE THAN 3.5 AFA PER ACRE FOR THE LANDS ABOVE.
3. THE CHANGE AUTHORIZED BY THIS TRANSFER SHALL BE ACCOMPLISHED WITHIN ONE (1) YEAR OF THE DATE OF THIS APPROVAL.
4. APPROVAL OF THIS TRANSFER DOES NOT PRECLUDE THE OPPORTUNITY FOR REVIEW OF THE VALIDITY OF THE WATER RIGHT(S) IN THE ONGOING SRBA.
5. FAILURE TO COMPLY WITH THE CONDITIONS OF THIS TRANSFER IS CAUSE FOR THE DIRECTOR TO ISSUE AN ORDER TO SHOW CAUSE WHY THE APPROVAL SHOULD NOT BE RESCINDED.

Remarks:

Comments:

Dates and Other Information:

Claim Received Date: 7/28/1988
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

Combined Use Limits:

Water Supply Bank:

11/12/2006

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Claim Report 37-20348

WATER RIGHT NUMBER: 37-20348

Owner Type	Name and Address
Current Owner	JERRY TURCO 313 W 53RD NEW YORK, NY 10019 (201)460-8981
Attorney	FRITZ HAEMMERLE THE ROARK LAW FIRM 409 N MAIN ST HAILEY, ID 83333 (208)788-2427

Priority Date: 06/12/1886

Basis: Decreed

Status: Active

Source	Tributary
BIG WOOD RIVER	MALAD RIVER

Beneficial Use	From	To	Diversion Rate	Annual Volume
IRRIGATION	04/01	11/01	0.200 CFS	
		Total Diversion:	0.200 CFS	

Location of Point(s) of Diversion

BIG WOOD RIVER SW1/4NW1/4 Sec. 36, Twp 02N, Rge 18E, B.M.

BLAINE 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	
01N	18E	13																10.0	10.0

Total Acres: 10

Conditions of Approval:

1. Based on part of decreed right number 37-00353 from Frost v Alturas Water Company, 12/13/1909. Place of use further described as Lot 10 Dean Ranch Subdivision.

Remarks:

Comments:

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Claim Report 37-20348

Dates and Other Information:

Claim Received Date: 10/6/2000
Enlargement Use Priority Date:
Enlargement Statute Priority Date:
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:

Water Supply Bank:

Stanton, Jim

From: Stanton, Jim
Sent: Sunday, November 12, 2006 2:06 PM
To: Southern Region
Subject: Looking For Claims

Folks - I have most of the claims based on Rt. 37-353, but need 3 more; 37-353H (Benson), 37-20348 (Turco) and 37-353D (Gardner; this could be part of 666, but the claim says it is part of 353A). Please check your files to see if you have these. Thanks.