

MEMORANDUM

TO: Water Right Files 13-2081, 13-2286, 13-927, 13-928, 13-929, 13-930, 13-984, 13-2290, 13-2303 and 13-2305

FROM: Clay Webster

DATE: August 22, 2017

RE: Research into Strong Arm Reservoir Co. Inc./Strong Arm Irrigation District Water Rights

I have reviewed the water right records for the following water rights to clarify what water rights are valid rights. The following is a timeline of events from the water right review.

June 23, 1903 Armstrong vs Griffis decree of water rights 13-140, 13-141, & 13-142 (irrigation of lands and filling of reservoirs)

Onsida, State of Idaho.

13 0140 That plaintiffs are the owners of, in the possession, and entitled to the possession, and have used for many years upon said property above described, all of the waters, excepting as hereinafter stated, of that certain stream known as Battle Creek, with all its springs, rivulets, and sources flowing into the same, said Battle Creek being located in Bannock and Omside counties, State of Idaho, and carrying waters to said land.

13 0141 That plaintiffs are the owners of all of said waters during the whole of each year, excepting as follows: That between the 20th day of June and the 20th day of October of each year said defendants Charles Bent, Charles Williams, and John Hillington own and they are entitled to the use of enough water from said stream to irrigate each one acre of land, aggregating in all three acres of land, during said period, and no more water whatever than said amount, and excepting that between the date of the 20th day of October and the 20th day of June of the succeeding year, said defendants Charles Bent, Charles Williams, and John Hillington own and are entitled to the use of only the amount of water that was used by them and that was necessary for the proper cultivation of the land owned and irrigated by them on the 20th day of August, 1895, and no more; and that the remaining defendants excepting

13 0142 Ralph Gordon, are entitled to all of the waters of said creek between said days, October 20th and June 20th, excepting the water used by these plaintiffs for the irrigation of their lands and for the filling of their reservoirs.

That said Ralph Gordon owns no right, title, or interest in or to said water, or property, or any part thereof.

That plaintiffs' title in and to said property, water, and water rights as above stated be and the same are hereby quieted as against said defendants, and each of them, and they, and their agents, servants, and employees, are hereby enjoined from interfering with said water or water rights owned by said plaintiffs.

Done this 23rd day of June, A.D. 1903.

Alfred Budge,
Judge.

July 21, 1917 Application R18704 (Permit No R76) Filed (1,772 af storage for irrigation and domestic)

July 21, 1917 Application 18705 (Permit No 13149) Filed (70 cfs for irrigation 3,882 acres and domestic)

July 21, 1917 Application R23218 (Permit No R383) Filed (1800 af storage for irrigation and domestic)

August 3, 1917 Application 18705 returned for correction

August 22, 1917 Application 18705 correction received

July 4, 1920 - Final Decree Utah Power & Light Company Vs. The Last Chance Canal Company in Equity No.203 (according to interoffice memo in file this decree superseded 13-140, 13-141 and 13-142.) Superseded by 13-927, 13-928 & 13- 929.

DATE OF PERMIT	AMOUNT IN SECONDS FEET	POINT OF DIVERSION AND PLACE OF USE
492. Strong Arm Reservoir Company, a corporation:		ter of Section 7, Township 13 South, Range 40 East.
(a) 1874—May 1	2 c.f.s.	To be diverted from the said Battle Creek in the Southeast quarter of Section 2, Township 14 South, Range 39 East, B.B. M., for the irrigation of 3300 acres of land in Sections 1 and 12, Township 14 South, Range 38 East, B.B.M., and Sections 6, 7, 8, 9, 10, 16, 17, 20, 21, 23, 29, Township 14 South, Range 39 East, B.B.M.
1883—May 1	6 c.f.s.	
1883—May 1	688 ac. ft.	
(b) 1917—July 21	70 c.f.s.	Said waters to be diverted through the last above mentioned ditch, for the supplement- tal irrigation of the lands last above de- scribed, provided, however, that the pri- ority and amount of these appropriations are conditioned upon a compliance with the terms of the permit upon which said appropriations are based, to wit: Permit No. 13149 and Permit No. R 76, issued by the State Engineer of the State of Idaho, and the same are subject to the provisions of the laws of the State of Idaho govern- ing the issuance of water licenses by the Commissioner of Reclamation.
1917—July 21	1084 ac. ft.	

June 6, 1922 Proof Due Notice sent on Permit 13149 (due date September 10, 1922)

August 1, 1922 Letter addressed to Peterson & Coffin Attorneys at Law, which explains the Commissioner of Reclamation's interpretation of Senate Bill 232 from the 1921 Session. He states, "It is my interpretation of this bill and the statute that such partial completion can be made and time for ultimately completing the additional reservoir might be extended under the provisions of the above bill."

August 10, 1922 Legal notice for submission of proof was publicized and submitted for the diversion of 70 cfs and 984.24 af for storage for permits 13149 and R76. It also said that it was for 3,882 acres.

August 24, 1922 Hearing held for Extension of Time for Completion of Works for Permit Nos. 13149 and R76

August 30, 1922 Application for extension of time with publication for permits 13149 and R76 for two additional years.

September 1, 1922 Certificate of completion of reservoir and right to store water sent to Water District 5-J for Reservoir No 1 and No 2 under Use Permit No 13149 and Reservoir Permit No R76 for 984.24 af.

September 23, 1922 Proof of completion of works depositions submitted for Permit 13149 (all referenced reservoirs Nos 1 & 2 being completed) 835 acres

April 19, 1923 Beneficial Use Field Exam completed for permit 13149 (13-2286)

April 21, 1923 Notice of publication (publication ran Aug 16 – September 6, 1922 for proof of completion of works for diversion of 70 cfs and 924.24 af for storage from Battle Creek for Permits 13149 and R76 for 3,882 acres. Date set for completion of works is Mar 10th 1922.

September 1, 1924 Extension of time approved for Permits 13149 and R76.

September 23, 1924 Certificate of completion of works issued.

September 24, 1924 Receipt letter for Permits 13149 and R76 with Certificates of Completion of Works to William Shuldberg. Also had an Amendment Application for Permit 13149 that changed to a total of 908 acres.

February 15, 1930 Acknowledgment letter sent to Arthur Hart to let them know that an additional proof for 300 af could not be approved for Permits 13149 and R76. It went on to inform him that Strongarm Reservoir District applied to enlarge Reservoir No. 1 to store an additional 1800 af in November 1925 under application R383.

December 1, 1930 Proof due notice sent for permit R383.

April 15, 1931 Hold for cancelation notice sent for permit R383.

May 21, 1931 Order of cancelation issued for permit R383.

November 4, 1940 Application R26478 received for permit R689. Originally received August 29, 1940. It was returned for corrections on September 28, 1940 and again on October 25, 1940.

August 27, 1945 Letter from State Reclamation Engineer to appraiser that Strong Arm No. 1 has been raised to the height shown by their 1940 application with water surface elevation to 129.3 giving capacity of 1,335 af. Strong Arm No 2 is approximately 30 feet height and holds about 380 af.

December 28, 1945 Protest hearing for permit R689 application for extension of time.

March 5, 1946 Decision of the State Reclamation Engineer issued granting extension of time for permit R689.

October 13 & November 3, 1949 Publication for Permit R76 for 984.24 af (with priority date of 8/14/1940.)

November 4, 1949 Notice of proof of beneficial use filed for Permit R76 for 984.24 af (the affidavit of publication showed a priority date of 8/14/1940).

February 25, 1953 Beneficial Use Field Exam for R76 (capacity of large reservoir 1850 af and capacity of smaller reservoir 400 af. License 984.28 af under this permit. All requirements on both dams has been met.)

December 20, 1954 Application G33181 received for 10 cfs for irrigation of 945 acres.

December 23, 1954 Permit G25332 issued from application G33181.

December 23, 1958 License and certificate of water right was approved for;
Permit No. 13149 for 70 cfs & Permit No. R76 for 984.28 af storage for irrigation (908 acres) and domestic
Permit No. R689 for 577.72 af storage for irrigation (908 acres) and domestic

January 18, 1963 Application (R38995) for permit R1144 received for 600 af storage for irrigation of 2,135 acres.

January 30, 1963 Permit R1144 issued for 600 af with receipt 31413 for \$5.50

February 11, 1966 Application (R40887) for Permit R1218 received

February 21, 1966 Permit R1218 issued for 154 af with receipt 33104 for \$5.00

February 3, 1967 License G25332 issued for 1.11 cfs and 908 acres

November 1, 1967 Proof Due Notice sent for Permit R1144

March 27, 1968 Extension of Time approved on permit R1144

July 18, 1969 Order Modifying Requirements for Completion of Permit to Appropriate Water for R1144 issued to comply with new legislation.

December 11, 1969 Notice of Existing Water Permit received and published January 1, 1970 and January 8, 1970 for permit R1144 (13-2303)

January 19, 1970 Affidavit of publication submitted for application R1144 (13-2303)

January 30, 1970 Protest filed against 13-2303 by Cleveland Irrigation Company

June 15, 1970 Order Modifying Requirements for Completion of Permit to Appropriate Water for R1218/13-2305 issued to comply with new legislation.

March 4, 1970 Proof of Beneficial Use received for 13-2303

September 8, 1970 Notice of Conference and/or hearing mailed to Cleveland Irrigation Company

October 8, 1970 Conference held for protest of 13-2303, (recognition of earlier water rights and condition 13-2303 to only be used when water is not available from Battle Creek).

December 23, 1970 Proof of Beneficial Use received for 13-2305

January 4, 1971 Notice of Existing Water Permit received and published January 21, 1971 and January 28, 1971 for permit R1218 (13-2305)

August 31, 1972 Field exam performed for 13-2303 and 13-2305

May 10, 1973 Application for amendment received for 13-2303

June 15, 1973 License signed for R1144/13-2303 for 600 af storage for irrigation and irrigation from storage (landlist for 2,135 acres)

June 25, 1973 License signed for R1218/13-2305 for 154 af storage for irrigation and irrigation from storage (landlist for 2,135 acres)

June 26, 1973 Licenses issued for R1144 (13-2303) and R1218 (13-2305)

October 15, 1979 Orders issued Amending Licenses 13-2303 and 13-2305 to correct season of use.

November 16, 1981 Claim filed for 90 af storage & irrigation from storage of 2,035 acres (13-4194)

March 14, 1991 Letter sent to Strong Arm Reservoir Irrigation District from Director Higginson addressing why WR 13-2303 cannot be delivered through Banida-Treasureton Canal.

April 8, 2009 Inter-office memorandum from John Falk in WR 13-929, 13-2286 & 13-140 (aided in clarifying some of the facts that were tracked through this memo).

Conclusions

13-140, 13-141 and 13-142 were decreed in 1903. These decrees were superseded by decree in 1920. The 1920 decrees were labeled by the department as 13-927, 13-928 and 13-929 after first labeling them as 11-867, 11-868 and 11-869.

- 13-927 - Has a priority date of 5/1/1874 and is decreed for 2.00 cfs. The beneficial use is irrigation with conditions stating P/D incomplete and P/U incomplete ac. irr = 3300. This water right was part of the 1920 Bear River decree and can be found in the old decree book volume 4 on pg 580 under item 492.
- 13-928 - Has a priority date of 5/1/1883 and is decreed for 6.00 cfs. The beneficial use is irrigation with conditions stating P/D incomplete and P/U incomplete ac. irr = 3300. This water right was part of the 1920 Bear River decree and can be found in the old decree book volume 4 on pg 580 under item 492.
- 13-929 - Has a priority date of 5/1/1883 and is decreed for 688.0 af. The beneficial use is irrigation with conditions stating P/D incomplete and P/U incomplete ac. irr = 3300. This water right was part of the 1920 Bear River decree and can be found in the old decree book volume 4 on pg 580 under item 492. A copy of this decree was placed in this right with WR numbers listed for basin 11 (see image below). They were lined out and then basin 13 WRs were written in. All of these handwritten right numbers coincide with what I found in the database except for water right 13-984. The copy of the decree below had 0931 written on it. (13-0931 does not exist in the database.) 13-984 has a priority date of 7/21/1917 and is for 1084 af and reflects data from the 1920 decree above that has 13-0931 handwritten by it.

13-0927 492. Strong Arm Reservoir Company,
a corporation:
11-0867 1874 May 1 2 c.f.s.
0928 11-0868 1883 May 1 6 c.f.s.
0929 11-0869 1883 May 1 688 ac. ft.

11-0870 0930
(b) 1917 July 21 70 c.f.s.
11-0871 1917 July 21 1084 ac. ft.
0931

written
right?
of permit

To be diverted from the said Battle Creek in the Southeast quarter of Section 2, Township 14 South, Range 39 East, B.B.M.; for the irrigation of 3300 acres of land in Sections 1 and 12, Township 14 South, Range 38 East, B.B.M., and Sections 6, 7, 8, 9, 10, 16, 17, 20, 21, 28, 29, Township 14 South, Range 39 East, B.B.M.

Said waters to be diverted through the last above mentioned ditch, for the supplemental irrigation of the lands last above described, provided, however, that the priority and amount of these appropriations are conditioned upon a compliance with the terms of the permit upon which said appropriations are based, to-wit: Permit No. 13149 and Permit No. R-76, issued by the State Engineer of the State of Idaho, and the same are subject to the provisions of the laws of the State of Idaho governing the issuance of water licenses by the Commissioner of Reclamation.

Permit 13149 was decreed in 1920 with the requirement that the administrative appropriation process be completed. The department labeled the decreed record as 13-930 after first labeling it as 11-870. (This permit came from application 18705). It was licensed jointly with permit R76 for 70 cfs and 984.28 af for the irrigation of 908 acres. The department numbered this license 13-2286.

- The advertisements and the deposition of the applicant both show a priority date of 8/14/1940. The priority date was licensed at 9/17/1940 changing the original priority date from the decreed permits. I have looked at the other water rights licensed in 1939 & 1940. The priority date being declared and advertised was the normal practice at that time. Proof was due on July 21, 1922 and was received on September 23, 1922. This advanced the priority date to 9/17/1940 upon licensing. This license was issued with no protests.

Permit R76 was decreed in 1920 with the requirement that the administrative appropriation process be completed. The department labeled the decreed record as 13-984 after first labeling it as 11-871. (This permit came from application R18704). It was licensed jointly with permit 13149. (See permit 13149 above for licensed amounts) The department numbered this license 13-2286.

13-2081 is not a valid water right. It was a duplicate data entry of water right 13-2286. This became evident since both rights 13-2286 and 13-2081 had the joint license from permits 13149 and R76 in the files.

Permit R383 for 1800 af originated from Application R23218. An Order of Cancellation was issued on May 21, 1931.

Permit R689 was licensed in 1958 with a priority date of August 29, 1940 for 577.72 af. The department labeled this right as 13-2290.

Permit G25332 was licensed in 1967 the department labeled this right 13-2183.

Permit R1218 was licensed in 1973 with a priority date of February 8, 1966 for 154 af. (This came from application R40887). The department labeled this right 13-2305.

Permit R1144 was licensed in 1979 with a priority date of January 18, 1963 for 600 af as supplemental water from Cottonwood Creek and Shingle Creek when Battle Creek flows were not available. The department labeled this license 13-2303.

Claim 13-4194 is on file with the department and was received in 1981.

Strong Arm Reservoir Co Inc Review		
Application	Permit	Decree/License/Claim (Current Water Right Number) or order of cancellation
		13-927 (2.0 cfs) 1920 decree (originally numbered 11-867 this superseded 1903 decree numbered 13-140)
		13-928 (6.0 cfs) 1920 decree (originally numbered 11-868 this superseded 1903 decree numbered 13-141)
		13-929 (688 af) 1920 decree (originally numbered 11-869 this superseded 1903 decree numbered 13-142)
18705 (for 70 cfs irrigation & domestic)	13149 (1920 decreed permit 11-870 renumbered to 13-930)	*13-2286 (70 cfs/ 908 acres irrigation and domestic) (history in backfile of 13-2081)
R18704 (for 1772 af irrigation & domestic)	R76 (1920 decreed permit 11-874 renumbered to 13-984)	*13-2286 (984.28 af storage) (history in backfile of 13-2286)
R26478 (for 1000 af storage for irrigation 908 acres & domestic)	R689	13-2290 (577.72 af storage for 908.0 acres irrigation & domestic)
R38995 (for 600 af storage for irrigation 2,135 acres & domestic)	R1144	13-2303 (supplemental 600.0 af storage for irrigation & irrigation from storage for 2,135 acres) Shingle Cr. 200 af/Cottonwood Cr. 400 af only to be diverted when Battle Cr. flows are insufficient to fill Strong Arm Reservoirs 1 & 2
R40887 (for 154 af storage for irrigation 2,135 acres & domestic)	R1218	13-2305 (154.0 af storage & 2,135 acres irrigation)
R23218 (for 1800 af storage for irrigation 1,440 acres & domestic)	R383	Order of cancellation 5/21/1931
G33181 (for 10 cfs for irrigation 945 acres)	G25332	13-2183 (ground water 1.11 cfs for irrigation 908 acres)
Claim (90 af storag/irrigation from storage, 15 cfs irrigation 2,035 acres)		13-4194
* Note Permit 13149 (application 18705) and permit R76 (application R18704) were licensed together and labeled by the department as 13-2286.		
This spreadsheet reads from the left to the right. You can follow a line for the history of an application to the permit issued to the licensed water right/decreed number/claim or the order of cancellation on the left.		
Quick reference attachment to Strong Arm Reservoir Co/Strong Arm Irrigation District Memo 2017		