

Merritt, Allen

From: Jim Speck [jim@speckandaanestad.com]
Sent: Wednesday, August 29, 2012 3:12 PM
To: 'Mr. Fritz X. Haemmerle'; hobdeycraig@gmail.com
Cc: 'Rodney Ray Gonsales'; 'Greg Vik'; 'Greg Sullivan'; 'Nancy Lukacs'; Merritt, Allen
Subject: Re: Smokey Dome LLC/Application for Permit 37-8859
Attachments: 37-368A POU map.pdf; 37-368A partial decree.pdf; Permit 37-8859 Mitigation Calcs.pdf

Fritz and Craig,

Diamond-Soldier Properties LLC ("DSP"), a related entity wholly owned by the same entity that wholly owns Smokey Dome LLC, is the owner of the adjacent ranch formerly known as VM Diamond. Jerry Mobley, the prior owner of that ranch, is the other protestant in this matter and we strongly doubt he has any further interest in its outcome. DSP owns water right 37-368A and I have attached a copy of the partial decree and map of the place of use and point of diversion. The source is the same as 37-8859. We propose to permanently dry up 1.7 acres irrigated by this water right to fully mitigate for the evaporation loss from and annually filling the two ponds that are the subject of 37-8859. I have attached Brockway Engineering's calculations that arrive at this number based on the current size of the ponds determined in a recent site visit by Greg Sullivan from Brockway. With this proposal there will be no reduction in any water flowing from the West Fork of Three Mile Creek off my client's properties and down into Magic Reservoir if, in fact, that water ever reaches Magic.

Mrs. Tucker does not own any water rights which could be injured if this mitigation plan was not in place. Furthermore, the mitigation plan will assure that the flows in the West Fork of Three Mile Creek as it flows off my client's land and down to and through Mrs. Tucker's ranch will not be reduced by the diversion of water into the two ponds.

Please let me know as soon as possible if this proposal is sufficient for your clients to both withdraw their protests to this application. I will be out of the office Sept. 6 until Sept. 26 and hope to resolve this dispute before I go. Thank you.

Jim

James P. Speck
SPECK & AANESTAD
A Professional Corporation
120 East Avenue
P.O. Box 987
Ketchum, ID 83340
208.726.4421
208.726.0752 (fax)
jim@speckandaanestad.com

CONFIDENTIAL COMMUNICATION

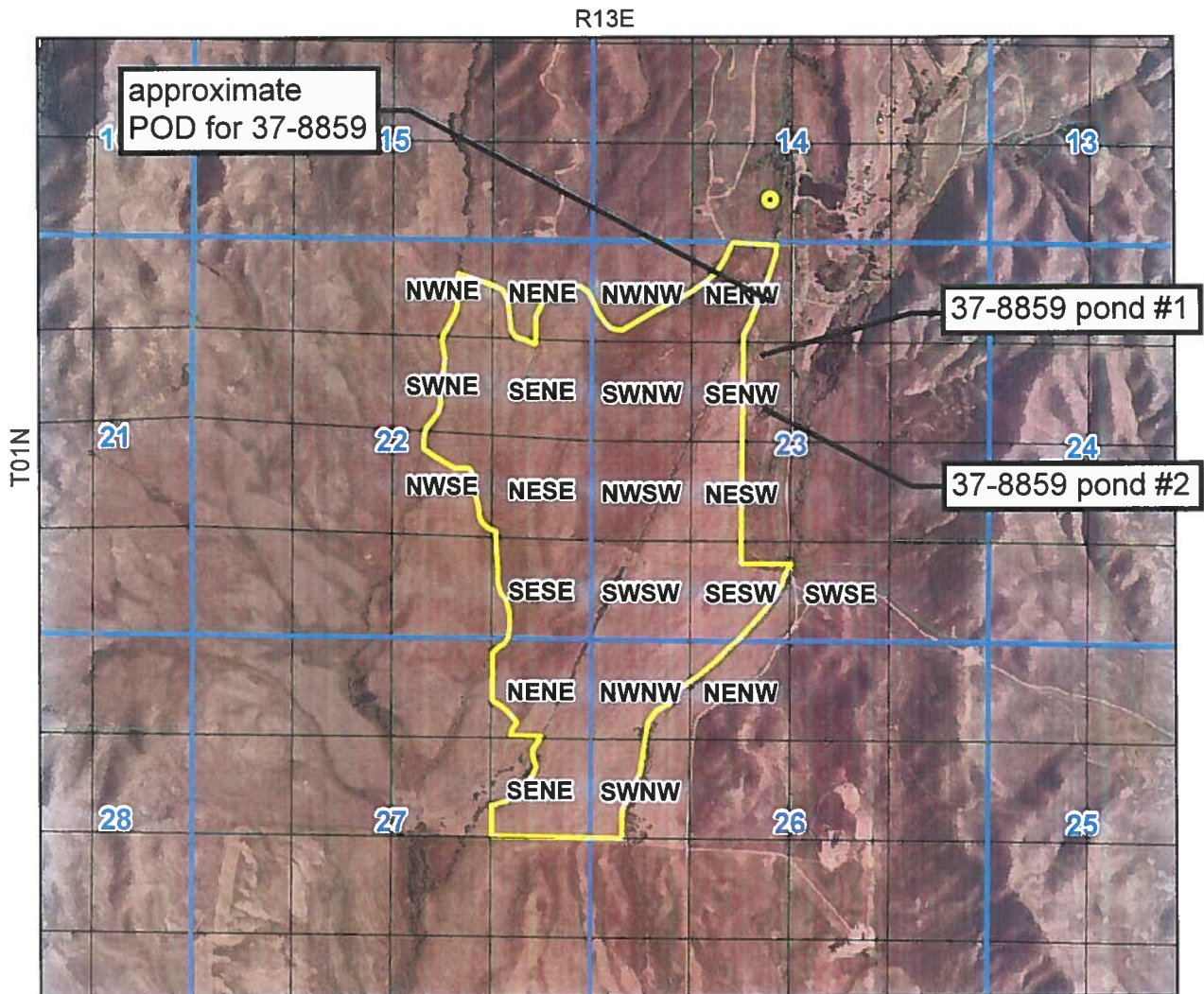
This email message and any attachments are intended only for the use of the addressee named above and may contain information that is privileged and confidential. If you are not the intended recipient, any dissemination, distribution, or copying is strictly prohibited. If you received this email message in error, please immediately notify the sender by replying to this email message or by telephone. Thank you.

State of Idaho
Department of Water Resources

Adjudication Recommendation 37-368A

IRRIGATION

The map depicts the place of use for the water use listed above and point(s) of diversion of this right as currently derived from interpretations of the paper records and is used solely for illustrative purposes. Discrepancies between the computer representation and the permanent document file will be resolved in favor of the actual water right documents in the water right file.



- Point of Diversion
- Place Of Use Boundary
- Townships
- PLS Sections
- Quarter Quarters
- Taxlots

0 0.3 0.6 1.2 Miles



DISTRICT COURT - SRBA
TWIN FALLS CO. IDAHO
FILED

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

2009 OCT 26 PM 2 18

In Re SRBA
Case No. 39576

PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Water Right 37-00368A

NAME AND ADDRESS: DIAMOND/SOLDIER PROPERTIES LLC
C/O GREGORY VIK
PO BOX 1607
BELLEVUE, WA 98009

SOURCE: WEST FORK THREEMILE CREEK

QUANTITY: 2.70 CFS

PRIORITY DATE: 06/15/1884

POINT OF DIVERSION: T01N R13E S14 SESESW Within Camas County

PURPOSE AND PERIOD OF USE:

PURPOSE OF USE	PERIOD OF USE	QUANTITY
Irrigation	04-15 TO 10-31	2.70 CFS

PLACE OF USE:

Irrigation	Within Camas County
T01N R13E S22	NENE 14.0 SWNE 22.0 NESE 40.0 SESE 37.0
S23	NWNW 10.0 SENE 40.0 NWSE 12.0
S26	NENW 22.0 SWNW 40.0 SESW 28.0 NWSW 40.0
S27	SESW 28.0 NWNW 33.0 SENE 30.0
515.6 Acres Total	

This right is limited to the irrigation of 112 acres within the place of use described above in a single irrigation season. The rights listed below are limited to the irrigation of a combined total of 515.6 acres in a single irrigation season. Combined Right Nos.: 37-368A, 37-409A, 37-2076A, 37-2455 & 37-2157.

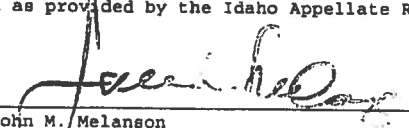
OTHER PROVISIONS NECESSARY FOR DEFINITION OR ADMINISTRATION OF THIS WATER RIGHT:

This water right shall be administered as being from a separate source pursuant to Basin 37 Part 2 General Provision No. 1.A. If the holder of this right seeks to change the right pursuant to Idaho Code Sec. 42-222 or successor statute, nothing in this general provision shall preclude any other person or entity from demonstrating that such a change in use would cause injury to its water right or from receiving any relief provided by law in the event of injury.

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. I.C. SECTION 42-1412(6).

RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.



John M. Melanson
Presiding Judge of the
Snake River Basin Adjudication

Smokey Dome LLC 37-8859

Pond	Acres	Current Depth (ft)	Pond Volume AFA	Pond Evap AFA
				1.71 ft
1	0.42	2.1	0.9	0.7
2	0.44	3.49	1.5	0.8
3				
4				
	0.86	Acres	2.4	1.5

	Pasture Grass Pdef	
	2.26 ft	
Acres needed to be dried up one time to fill the ponds	1.07 Acres	
Acres needed to be dried up permanently to offset evaporation losses		0.65 Acres
Acres to be dried up to fill ponds annually and to offset evaporation losses	1.7 Acres	

Evaporation data collected from the Evapotranspiration and Consumptive Irrigation Water Requirements for Idaho from the Fairfield Agrimet Station. Pasture grass and shallow pond evaporation values were used in calculations.