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WATER RESOURCES
WESTERN REGION

MEMORANDUM

TO: Kay Walker
FROM: John Homan, Deputy Attorney General 
DATE: February 12, 2009
RE: Ownership of WR 79-4009B

Ownership of Right 79-4009B

There are three different strands at work that need to be unraveled to establish ownership of this water right.

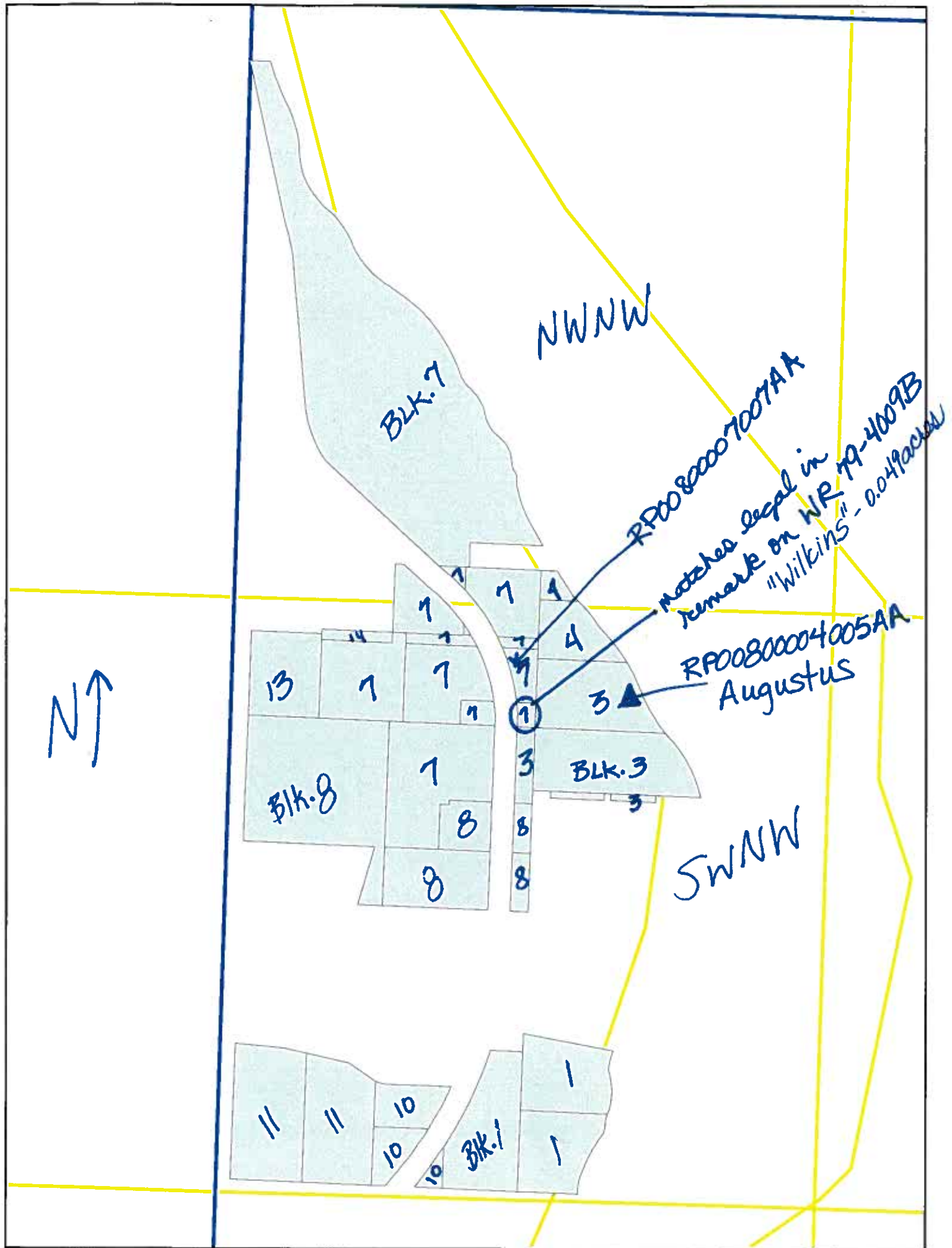
Background

Harvey Hosley filed a beneficial use claim for a water right in January 1972 for water appurtenant to Blocks 4, 7, 14, & 21. Harvey Hosley quitclaimed all interest in Block 7 together with water right # 79-4009B to Gerald Hosley in January 1979. Harvey Hosley subsequently signed away all of his rights in an Assignment of Permit in September 1986 to 79-4009P, aka 79-4009 to Roberta Simonsen which also included a reference to Block 7 in an attachment to the Assignment of Permit.

Gerald Hosley Strand: This WR passed to Gerald Hosley in 1979. IDWR recommended the WR in the name of Gerald Hosley to the SRBA Court in 2000. Hosley conveyed Block 7 to Wilkins in 2006 together with appurtenances which included WR 79-4009B. Wilkins filed a Change in Ownership with IDWR in 2006 for WR 79-4009B together with 79-13993 and 79-10092. WR 79-10092 is for a well physically located in Block 7. My review concluded that it was appropriate for IDWR to process this change as all of the water rights are appurtenant to Block 7 and were not sold off earlier.

Jaros Strand: Jaros acquired Block 4 under a warranty deed from Martha Beck/Victoria Wells which specifically included WR 79-4009B in 1998. Any water appurtenant to Block 4 was assigned 12 years earlier to Simonsen. Moreover water under 79-4009B that was appurtenant to Block 7 was deeded to Gerald Hosley 19 years earlier in 1979. Although Jaros produced a warranty deed from Beck/Wells conveying WR 79-4009B, there has been no evidence presented showing that Harvey Hosley or for that matter Simonsen conveyed WR 79-4009B to Beck/Wells. Unless Jaros could produce a deed conveying WR 79-4009B to Beck / Wells predecessor from Harvey Hosley that predates 1979, title to WR 79-4009B passed to Gerald Hosley in 1979. My review concluded that Jaros did not acquire ownership of WR 79-4009B as his predecessor in interest did not have ownership interest in the WR at the time of conveyance in 1998.

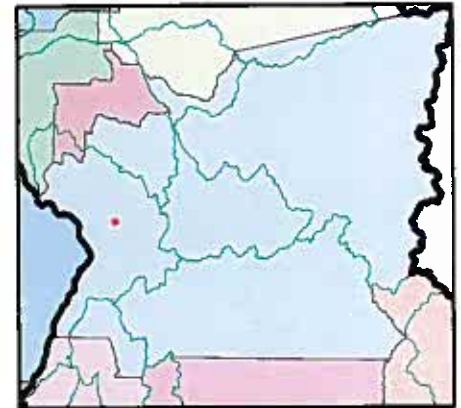
Simonsen / Glen Hosley Strand: This strand involves the water appurtenant to Block 14 and Block 21 from the original beneficial use claim filed by Harvey Hosley. Simonsen acquired this water under an assignment of permit in 1986. She filed an SRBA claim in 1988 for 79-4009A. Simonsen conveyed Block 14 and Block 21 to Glen Hosley in 1995 and Hosley files a Change in Ownership identifying Block 14 and Block 21. SRBA claim identifies Glen Hosley as the owner for 79-4009A. WR 79-4009A is subsequently split into 79-13993 in the name of Wilkins and 79-13994 in the name of Cullins. My review concluded that WR 79-4009A and its progeny have been processed appropriately by IDWR.





Legend

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Idaho County
IDWR Basin 79

R01E



Prepared by Steve Lester
On January 20, 2009
2004 Aerial Photography