

September 13, 2008

MsSharla Cox
DEPARTMENT OF WATER RECOURSES
900 N. Skyline Dr., Suite A
Idaho Falls, Idaho 83402

Re: Application for 75-14461

Dear Sharla,

When the adjudication process began, my mother was unaware of its purpose. I also neglected to enter this particular property into the process that has original water rights. The land has not been irrigated since 1983 so we have applied for 2007 high water rights only. During the period of high water over 200 inches of excess water flows into the river. Using the water during this period will have no effect on the following:

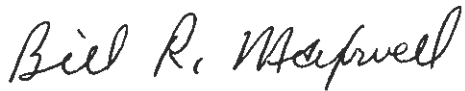
A. The juvenile Chinook salmon that use Wallace Creek as a thermal refuge: I feel that the comment by the Fish & Game (that anadromous fish are residing and being reared in Wallace Creek is misleading. I have lived at the mouth of Wallace Creek since 1949 and have never seen a salmon in the creek. Besides any attempt of an anadromous fish to migrate up the creek would be stopped by the culvert under the road located about 50 yards from the creek's entry into the Salmon River.

B: Using high water during this time period would not have any effect on the protestor's, Arden Arrington, water rights or use of water.

Arden Arrington is protesting that the place of use is outside the watershed of Wallace Creek. This is not true. When my father, William R. Maxwell, purchased the ranch in 1949 it included 1898 and 1902 water rights. See attached.

I hope the above information is helpful in your decision making.

Thank you for your consideration,


Bill R. Maxwell

For Gertrude Maxwell

Cc: Bob Foster

RECEIVED
SEP 16 2008

Department of Water Resources
Eastern Region

NOTICE OF PROTEST

This form may be used to file a protest with the department under sections 42-108B, 42-203A, 42-203C, 42-211, 42-222 and 42-224, Idaho Code. The department will also accept a timely protest not completed on this form if it contains the same information.

1. Matter being protested APPLICATION FOR WATER RIGHTS 75-14461 WALLACE CR.
IN THE NAME OF GERTRUDE/WILLIAM MAXWELL
2. Name of protestant L. ARDEN ARRINGTON
3. Protestant's Representative for service (If different than protestant)
DONALD F. CAREY, QUANE SMITH LLP
4. Service mailing address 2325 WEST BROADWAY SUITE 13, IDAHO FALLS
5. Service telephone no. 208 5290000 ID. 83402-2913
6. Basis of protest (including statement of facts and law upon which the protest is based)
WATER SUPPLY FROM WALLACE CREEK IS INSUFFICIENT.
PLACE OF USE IS OUTSIDE THE WATERSHED. APPLICANT CANNOT
DEMONSTRATE CURRENT APPLICATION TO BENEFICIAL USE.
(additional pages may be attached to describe nature of the protest)
7. What would resolve your protest? DENIAL OF APPLICATION
75-14461 BY IDWR.

I hereby, acknowledge that if I, or my designated representative, fails to appear at any regularly scheduled conference or hearing in the matter of which I have been notified at the address above, the department may issue a notice of proposed default against me in this matter for failure to appear. I also verify that I have served a copy of this protest upon the applicant.

Signed this 8 day of May, 2000. 2007

Protestant

Protestant's Representative

Receipt
E032877

STATE OF IDAHO

DEPARTMENT OF RECLAMATION

Certificate of Water Right
No. 937

THIS IS TO CERTIFY THAT William R. Maxwell of Carman, Idaho, is the owner of and using a water right for 79 inches with priority of May 13, 1898, and 40 inches with priority of June 1, 1902, of the waters of Wallace Creek, said water being decreed to J. Frank Hibbs, Marie Schoup, Edgar E. Edwards, Anna Wright, Ettie S. Suidan, and Ethel E. Sandy, by Judge Guy Stevens of the District Court, in and for the State of Idaho, in the case of

MERTHA E. KENN, et al
Plaintiffs

vs.

EVA D. WERN, et al
Defendants

said decree bearing date of January 27, 1941, and being made appurtenant to the following described lands to-wit:

Lots 8, 11, 12, 13, 4, and 9,
and the SE 1/4 of Section 6,
Township 22 North, Range 22
East, B.N.,

(Area to be irrigated)

That said decree has been entered in the records of the Department of Reclamation of the State of Idaho, in Volume 6 of Decrees beginning at Page 873;

That William R. Maxwell of Carman, Idaho, has become the owner of said described lands through mere conveyance, and,

That now, upon the application of William R. Maxwell of Carman, Idaho, for the transfer of 1.38 cubic feet per second of the waters of Wallace Creek, made before the State Reclamation Engineer of the State of Idaho, and said application having been granted the right to the use of 1.38 cubic feet per second of the waters of Wallace Creek upon the above described lands is hereby abandoned, and the lands to which the water right hereby confirmed shall, by this certificate, become appurtenant for irrigation and domestic purposes is described as follows, to-wit:

Lots 5, 8, 11, 13, 4, 9, and the
SE 1/4 of Section 6, Township 22
North, Range 22 East, B.N., and Lots
10 and 11, Section 11, Township 23
North, Range 22 East, B.N.,

That said water is to be limited at any given time to an amount actually needed and beneficially used for such purposes and shall not exceed the following amount, to-wit:

0.58 cubic feet per second with
priority of May 13, 1898, and
0.80 cubic feet per second with
priority of June 1, 1902;

FOR SALE BY

CHAS. F. METSKER
514 S. W. OAK STREET, PORTLAND, OREGON
111 SOUTH 10TH ST., TACOMA, WASHINGTON
1020 THIRD AVE., SEATTLE, WASHINGTON

TOWNSHIP 22 N., RANGE
LEMHI COUNTY, ID.

Lot No. Fk.

