

No Color
Documents
In File

①

73-E

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF CUSTER.

ROSCOE HAMILTON, et al,

Plaintiffs

-vs-

W. G. SWENDSEN, Commissioner

of Reclamation, et al,

Defendant.

D E C R E E

This cause came on regularly for trial before Honorable James H. Anderson, sitting as a Referee, who by consent of all the parties to this action, and by order of the Court, was appointed Referee to try the same, and report his recommendations to the court, and the said Referee sitting without a jury, on the 12th day of August, 1924, at Challis, Challis, Custer County, State of Idaho and the plaintiffs and defendants appearing by their respective attorneys, and the default of the non-answering defendants having been duly entered and the parties hereto, by stipulation, being duly filed with the Court, having agreed upon a decree and the matter having been presented to the Referee for his findings and recommendations thereon and the findings and recommendations of the Referee, and a further stipulation having been entered into under date of November 2, 1925, and filed herein permitting Minnie W. Kerr to file her complaint in intervention and that the decree heretofore reported and recommended by the Referee be amended by adding thereto and including therein the rights said Minnie W. Kerr as claimed in her complaint in intervention, and the same having been fully considered by the court, and the court being fully advised in the premises finds that the decree should be entered in accordance with the stipulation on file herein.

RECORDED & INDEXED

JUL 30 1926

Transf
2782

73 0076

ALVIN M. ELLIS, .4 cubic feet per second of time from Duck Spring and Spring Creek, with date of priority April 1, 1912, appurtenant to the SW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 7, T. 15 N., R. 21 E. B. M., through the Ellis Ditch.

73 0077

A, 8 SAMUEL ATKINSON, 1.6 cubic feet per second of time of the waters of Spring Creek and Duck Springs, and 1. cubic feet per second of time of the flow of the waters of Pahsimeroi River and Mud Spring Creek, with date of priority April 1, 1912, appurtenant to the SE $\frac{1}{4}$ SW $\frac{1}{4}$, W $\frac{1}{2}$ SW $\frac{1}{4}$, Section 8, NE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 7, T. 15 N., R. 21 E. B. M., said water to be conveyed through the Ellis Ditch.

73 0078

JOHN JOHNSON, Intervenor, 2.1 cubic feet per second of time from Pahsimeroi River and Big Springs Creek with date of Priority April 30, 1904, appurtenant to the NW $\frac{1}{4}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 27, T. 15 N., R. 21 E. B. M., said waters to be diverted through the Johnson Ditch.

73 0079

JOHN JOHNSON, 3.2 cubic feet per second of time from Lawson Creek with date of priority June 20, 1917, the same being all of the flow of the waters of said Lawson Creek, appurtenant to the SW $\frac{1}{4}$ Section 27, T. 15 N., R. 21 E. B. M., to be diverted through the Johnson Ditch.

73 0080

J. D. BROWN, Intervenor, 3 cubic feet per second of time of the waters of Big Springs Creek, with date of priority April 25, 1904, appurtenant to Lot 2, SW $\frac{1}{4}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, Section 1, T. 14, N., R. 21 E. B. M., to be diverted through the J. D. Brown Ditch.

73 0081

T. G. MONTGOMERY-Intervenor, 4 cubic feet per second of time of the waters of the Pahsimeroi River and from Springs located on and near the Southeast quarter of Section 8, NE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 9, and the W $\frac{1}{2}$ SW $\frac{1}{4}$ Section 9, T. 15 N., R. 21 E. B. M., to be diverted through the T. G. Montgomery Ditches, appurtenant to the S $\frac{1}{2}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$, lot 7, Section 6, T. 15 N., R. 21 E. B. M., with date of priority May 4, 1904.

73 0082
A, 8
Big Spring

MINOR A. BROWN-Intervenor, 2.4 cubic feet per second of time of the waters of (Pahsimeroi River) with date of priority March 13, 1900, appurtenant to the SE $\frac{1}{4}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, Section 8, NE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 7, T. 14, N. R. 22 E. B. M., to be diverted through the Minor A. Brown Ditch.

73 0083

MINOR A. BROWN, Intervenor, .8 cubic feet per second of time of the waters from the Southwest fork of Big Springs Creek with date of priority July 14, 1917, appurtenant to SW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 6, T. 14 N., R. 23 E. B. M., through the Minor A. Brown ditch.

73 0084

MINOR A. BROWN, 4 cubic feet per second, of time of the waters of O'Neil, or Spring Creek, with date of priority July 27, 1900, appurtenant to Lot 2, S $\frac{1}{2}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 6, W $\frac{1}{2}$ SW $\frac{1}{4}$ Section 5, T. 15 N., R. 21 E. B. M., to be diverted through the Hardscrabble Ditch.

73 0085

MATILDA HOOPER - 1.6 cubic feet per second of time of the waters of Spring Creek, with date of priority May 25, 1901, appurtenant to Lots 3 and 4, Section 1, T. 14 N., R. 21 E. B. M., through the Hooper Ditch.

73 0086

ALEXANDER McDONALD, CATHERINE FRASER, and MARY ROBERTSON- 3.2 cubic feet per second of time, with date of priority February 4, 1910, through the Murphy Ditch; 1.6 cubic feet per second of time to be diverted to and through the Ellis Ditch; and 7.2

73 0087

cubic feet per second of time with date of priority May 1, 1900 through McDonald private ditch, all of the same being appurtenant to the E $\frac{1}{2}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 17, N $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 20, T. 15 N., R. 21 E. B. M.

Murphy D - Pahsimeroi

MICROFILMED MICROFILMED

SEP 1 2 2000

JUL 30 1996

Dated this 17th day of February, 1926.

Ralph W. Adair

District Judge

STATE OF IDAHO,)
 : ss.
County of Custer,)

This instrument was filed for record at the request of
Judge Ralph W. Adair at 1 o'clock P. M. Feb. 19, 1926.

Emmett Donahue

Ex-Officio Recorder

By John Boyd

Deputy

(Recorded in book 3 of Judgments at pages 114-122)

MICROFILMED

MICROFILMED

JUL 30 1968



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Boise, ID 83706 - P.O. Box 83720, Boise, ID 83720-0098

Phone: (208) 327-7900 Fax: (208) 327-7866 Web Site: www.idwr.state.id.us

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

May 12, 2003

RECEIVED

MAY 13 2003

SCOTT HAYES
2610 STARCREST DRIVE
BOISE ID 83712

Department of Water Resources

RE: CHANGE IN DISTRIBUTION SYSTEM. WATER RIGHTS NOS. 73-78 AND 73-116.

Dear Mr. Hayes:

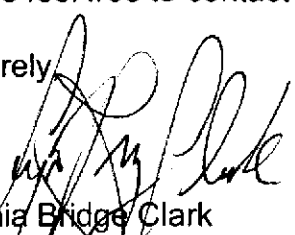
The Idaho Department of Water Resources (department) received your letter dated May 6, 2003 regarding change in the delivery of the water associated with the above referenced water rights.

Section 42-222, *Idaho Code*, requires a right holder to obtain a transfer approval from the department prior to changing: (1) the point of diversion, (2) the place of use, (3) the period of use, or (4) the nature of use of an established water right. You indicated in your letter and in our conversations that you do not plan to make any of the above noted changes to your water right, but will be modifying the system through which water is delivered to your property by replacing a portion of an existing ditch with a pipe. Based on the information you provided, it does not appear that a transfer of the rights will be required.

During your visit on May 7, 2003, you were also provided with a pamphlet with copies of various Idaho laws pertaining to water distribution on canals and laterals. It may be a useful reference to Idaho Statutes pertaining to the rights of landowners to water and the right to right-of-way.

Please feel free to contact this office if you have additional questions.

Sincerely,


Cynthia Bridge Clark
Water Allocations Bureau
Idaho Department of Water Resources

MICROFILMED
SEP 16 2003

327 2848
May 6, 2003

Ms. Cynthia Bridge Clark
Idaho Dept. of Water Resources
1301 N. Orchard Street
Boise, Idaho 83706-2237

Dear Ms. Clark,

This is confirming our conversations. I own a ranch in the Pahsimeroi Valley, your Irrigation State Water District #73.

I have two water rights: #73-78 (2.1 c.f.s.) and #73-116 (1.4 c.f.s.) that are diverted out of Big Spring Creek and the Pahsimeroi River approximately 2 ½ miles up the Valley from my ranch and flow through dirt ditches down to my ranch losing a lot of water to evaporation and dirt ditch loss. Bordering my ranch, the open dirt ditch flows through my neighbor, Billy Gyddesen, dissecting a newly seeded alfalfa field with a new pivot irrigation system. He and his renter, Ben Yates of the Circle Pi, have requested to plow in that ditch and direct my water into Mr. Gyddesen's ditch which originates at P 12 headgate. Our water rights and flow of water would then be combined and co-mingled in his P 12 ditch which he pumps out of for his pivot. Then, he would dump my water at our adjoining property line back into my ditch through a new culvert under his ranch road.

We would not change the point of diversion or the use of the water but just co-mingle our water into one ditch across his ranch. This is being done at his and his renter's request. It would be accomplished by piping underground my water through a 150 yard pipe from my ditch (P 13) into his ditch (P 12). The cost would be shared by all three involved parties.

It is paramount that we do nothing to jeopardize our existing water rights, and that you acknowledge and o.k. what we are doing.

Thank you.

William Hayes
May 6 2003

MICROFILMED
SEP 11 2003