

No Color
Documents
In File

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

In Re SRBA)
Case No. 39576)
PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Water Right 72-00117A

NAME AND ADDRESS: BARBARA COBBLEY
ELVIN COBBLEY
PO BOX 537
CHALLIS, ID 83226

SOURCE: GARDEN CREEK TRIBUTARY: SALMON RIVER
QUANTITY: 0.04 CFS
PRIORITY DATE: 05/15/1884
POINT OF DIVERSION: T14N R19E S32 NENWNW Within Custer County
PURPOSE AND PERIOD OF USE: PURPOSE OF USE PERIOD OF USE QUANTITY
Irrigation 04-01 TO 10-31 0.04 CFS
PLACE OF USE: Irrigation Within Custer County
T14N R19E S32 SENE 0.9
0.9 Acres Total

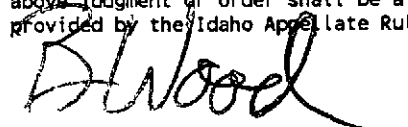
THIS RIGHT IS LIMITED TO THE IRRIGATION OF 0.40 ACRES WITHIN
THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.

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

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.


Barry Wood
Administrative District Judge
Presiding Judge of the
Snake River Basin Adjudication

FILE PROGRESS SUMMARY

APPLICANT: Custer Co Road + Bridge WATER RIGHT NO. 72-117A, Et al

[illegible]

70454

Transfer Review Sheet

Applicant Custer Co. Road & Bridge Transfer # 70454

Rights Involved with Transfer:

Revid @ S.O.
12-9-03

WR# _____

AJ# _____

Right ID Correct? Y or N Y or N Y or N Y or N Y or N Y or N

Split? Y or N Y or N Y or N Y or N Y or N Y or N

Unchanged # _____

Changed # _____

Area of Concern: _____

Comment Letters:

	Date Requested	Date Received
Watermaster: District <u>72-B</u>	<u>10/8/03</u>	<u>10/16/03</u>
Fish & Game	_____	_____
Canal Company	_____	_____
Stream Channel	_____	_____
City	_____	_____
DEQ	_____	_____
County	_____	_____
Department of Ag	_____	_____
Other	_____	_____

SDE:

Right Number	POD ID #	Shape Updated	POU ID #	Shape Updated
<u>72-117C</u>	<u>586800</u>	<u>✓</u>	<u>677252</u>	<u>✓</u>
<u>72-117A</u>	<u>586807</u>	<u>✓</u>	<u>677253</u>	<u>✓</u>
<u>72-117B</u>	<u>586808</u>	<u>✓</u>	<u>677254</u>	<u>✓</u>
<u>72-117J</u>	<u>586809</u>	<u>✓</u>	<u>683799</u>	<u>✓</u>
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

(70454)

Conditions:**GROUNDWATER:**

DRILLING PERMIT - 046
 DP upgrade req'd Y N (contact GW)

WMD - North/East/West
 ≤ 0.24 cfs/5 acres - No MD
 > 0.24 cfs/5 acres - 067

WMD
 ≤ 0.24 cfs/5 acres - No MD
 > 0.24 cfs/5 acres - 01M or 01Q

SURFACE WATER:

WD - R05
 ≤ 0.20 cfs/others - R02, 01P or No MD
 > 0.20 cfs - R43
 WD, SPRINGS/SINK, INACTIVE WD & REST OF STATE
 ≤ 0.24 cfs/5 acres - No MD
 > 0.24 cfs/5 acres - 01M or 01Q

STANDARD SEASON _____ to _____ (use X61 if extended season)
 STANDARD VOLUME _____ af/ac
 CONSUMPTIVE USE VOLUME _____ af/ac

SUPPLEMENTAL - 065-104 (where irrigation is the only use)
SUPPLEMENTAL - 100-105 (where there are other uses besides irrigation)
WITHIN ESPA - 113-114-116 (mitigation)
 - 115 (meas. Device for non-irrig uses or new irrig systems)
 - 131 (existing irrig systems)

USES:

STORAGE - 18C-R02-01P-18B-NA
 IRR ≤ 5 ac - R66/R67/R68/R69 (0.03 cfs/ac)
 > 5 ac - R62/R63/R64/R65 (0.02 cfs/ac)
 Volume only - R58/R59/R60/R61
 STOCKWATER - R37 (all BLM/USFS)
 MINING- 054-106
 FISH PROP - 029 (70's basins only)-007-122-106
 HEAT/COOL - R07 (injection well)
 FIRE PROT. - 077
 DAIRY - 082 (zoning if a concern)-106-WD8

USES:

POWER - 17H-17K (+uses)-025-106
 MUNICIPAL
 Restricted area - 022-075 RAFN - 007-109-X64
 Irr., GW supp to SW - 102
 DOMESTIC
 Surface water - WB5 (Big Wood or Boise above Star Bridge)
 - 27A (Payette River)
 > 1 in restricted area - 070-071-075 (no parks/common areas, etc)
 Irr use listed separate - WB5

MISC CONDITIONS/REMARKS:

T07 - 1 yr to develop
 T08 - comply or rescind
 T17 - > 1 pd, measure all (use w/ WB4)
 T18 - Special T17 & R43 combined -
 multiple pds in WD

Protested - 020-X19
 Water Quality - 106-R07

X27 - Number of acres/season in ppu
 X35 - Combined totals of multiple rts
 083 - replaces C11 (enlargement rights)

X49 - measure p/d's (source chg'd to orig trib)
 X51 - 2+ yrs to develop
 X53 - Use ltd to orig. source availability
 X54 - forfeited ac/rate (used rarely)
 X55 - (transfer shrinks total water to less ac)
 004 - no right-of-way
 X58 - pending claim (statutory or AJ b/u claim)
 X61 - extended irr season
 X62 - replaces N11 and N13
 X63 - replaces C12
 WB4 - + p/ds, cfs & afa (used with T17)
 WD8 - land application of waste water
 01Q - used instead of 01M when there's another meas. Cond (i.e. T17 & 01M)

Apply one to chg'd & unchg'd
 rts that are subject to SRBA:

T09 - on-going SRBA (no Dir Rpt
 yet)

T19 - replaces C18
 (if at Directors Report
 or Partial Decree stage)

T20 - use only on unchg'd rts
 not subject to SRBA

OTHER CONDITIONS/REMARKS:

R05 004

T19, T07, T08

Initial Allocation Review by _____
 SRBA Review Completed by _____
 Regional Manager Review by _____

Date _____
 Date _____
 Date _____

Comments:

72-48 51B, 51L, 51N, 80A 110A 110D

10257

Approval Updates Completed
 12-11-03 CS

(70454)

Merritt, Allen

From: Peppersack, Jeff
Sent: Thursday, December 04, 2003 3:10 PM
To: Merritt, Allen
Subject: RE: PD move on garden creek

Looks reasonable to me

-----Original Message-----

From: Merritt, Allen
Sent: Thursday, December 04, 2003 2:28 PM
To: Peppersack, Jeff
Subject: PD move on garden creek

<< File: Draft conditions of mitigation of PD move RTF >> << File: Memo regarding analysis.RTF >>

MICRO, TEMEL

Merritt, Allen

From: Falma [falma@custertel.net]
Sent: Monday, May 12, 2003 9 06 AM
To: Merritt, Allen
Subject: Re: Status of transfer application

Alan

We have the paper work, but the owners of the water rights have asked that we wait to send it in. We have just finished installing the pipe in the upper Bradbury ditch and have a little work before we can turn all of the water through the upper ditch. I am hoping to get it mailed to you within the week. Henderson and Thompson Creek are still using the lower ditch.

Falma

> From: "Merritt, Allen" <AMerritt@idwr.state.id.us>
> Date: Mon, 12 May 2003 08:58:13 -0600
> To: "Falma Culinane (E-mail)" <falma@custertel.net>
> Subject: Status of transfer application
>
> As you may recall I helped you draft a water right transfer to move the
> points of diversion for a few water rights on Garden Creek to allow
> elimination of a ditch which I understand creates a traffic problem. I was
> just wondering where you are in the process of finalizing the application
> since I have not heard from you for some time.
> If there is something I can help with let me know.
>
> Allen
>

MICRO. 10/10/03

10/10/03

Merritt, Allen

From: Merritt, Allen
Sent: Wednesday, March 05, 2003 1 21 PM
To: 'Falma'
Subject: RE: Custer Road project



Custer R and B
Transfer 70454....



t70454 map.jpg

Dear Falma:

Please find attached a word document which I indicated I would send you. The document can be used by you to modify and use as the application for transfer you desire to file. I have utilized the information you have provided to create this draft. Understand that the application is your application so please make sure the information on it is correct and represents your application. Although I helped in drafting the application it does not assure approval of same.

Also find attached a jpeg file for use as map for your application. The map again is your map. Please assure it correctly represents your application. If it is not correct you will need to create your own map.

If you have questions please feel free to contact this office.

Allen

-----Original Message-----

From: Falma [mailto:falma@custertel.net]
Sent: Thursday, February 27, 2003 5:26 PM
To: Merritt, Allen
Subject: Re: Custer Road project

Allen

The name on the Application will be:

Jim Sugden, Department Head
Custer County Road and Bridge
Custer County Courthouse Challis, Idaho, 83226

The road and Bridge crew phone number is 208-879-2379

Thanks for your help with this and Mr. Bauchman

Falma

> From: "Merritt, Allen" <AMerritt@idwr.state.id.us>
> Date: Mon, 24 Feb 2003 06:18:34 -0700
> To: "'Falma'" <falma@custertel.net>
> Subject: RE: Custer Road project
>
> The first document looks ok. The second I could not open. Don't worry
> about a map. I think that I have enough information that I can generate one
> pretty easily.
>
> I will be out of the office until Wednesday. I'm leaving for Boise. Maybe
> you can call on Wednesday afternoon.
>
> Allen

Merritt, Allen

Merritt, Allen

From: Falma [falma@custertel.net]
Sent: Thursday, February 27, 2003 5:26 PM
To: Merritt, Allen
Subject: Re: Custer Road project

Allen

The name on the Application will be:

Jim Sugden, Department Head
Custer County Road and Bridge
Custer County Courthouse Challis, Idaho, 83226

The road and Bridge crew phone number is 208-879-2379

Thanks for your help with this and Mr. Bauchman

Falma

> From: "Merritt, Allen" <AMerritt@idwr.state.id.us>
> Date: Mon, 24 Feb 2003 06:18:34 -0700
> To: "'Falma'" <falma@custertel.net>
> Subject: RE: Custer Road project
>
> The first document looks ok. The second I could not open. Don't worry
> about a map. I think that I have enough information that I can generate one
> pretty easily.
>
> I will be out of the office until Wednesday. I'm leaving for Boise. Maybe
> you can call on Wednesday afternoon.
>
> Allen
>
>
> -----Original Message-----
> From: Falma [mailto:falma@custertel.net]
> Sent: Sunday, February 23, 2003 11:19 AM
> To: Merritt, Allen
> Subject: Re: Custer Road project
>
>
> Allen
>
> will these letters work? Do we need any deed information?
>
> I went into IDWR website but could not get the mapping program to generate a
> map. As I read your list, I could get away with one map (air Photo based)
> that shows :
> 1. old POD
> 2. requested POD
> 3. points of use for 72-117A-D
>
> Is that correct?
>
> Falma
>
>> From: "Merritt, Allen" <AMerritt@idwr.state.id.us>
>> Date: Wed, 19 Feb 2003 15:44:59 -0700
>> To: "'Falma'" <falma@custertel.net>
>> Subject: RE: Custer Road project
>>
>> Here is another helpful sheet for your review. Also I have attached the,

MICRO. 12.12.12

> new
>> transfer memo which you can also find on the internet as we discussed.
>>
>> Allen
>>
>> -----Original Message-----
>> From: Falma [mailto:falma@custertel.net]
>> Sent: Wednesday, February 19, 2003 9:14 AM
>> To: amertritt@idwr.state.id.us
>> Subject: Custer Road project
>>
>>
>> Mr. Merritt
>>
>> I am working on a project with the Custer County Road crew to close about
> a
>> 1/2 mile section of an irrigation ditch along Garden Creek road west of
>> town. We realized that if the water rights in that ditch were
> transferred
>> to another diversion about 600 feet upstream that the water could still be
>> delivered to the users and allow the county to address what has become a
>> maintenance and safety issue.
>>
>> There are 4 water rights in question:
>> 72-117A Cobbley 0.04 cfs
>> 72-117B Henderson 0.04 cfs
>> 72-117C Leaton 0.09 cfs
>> 72-117D Smith 0.01 cfs
>>
>> Their legal point of diversion is confusing. On one search (your website)
>> that I did under the name Henderson, I got a legal of T14N R19E sec 32
>> quarter NE, QQ NW. On another IDWR printout that I was given, the legal
> is
>> NE1/4Nw1/4Nw1/4 same sec etc.
>>
>> The diversion that we wish to transfer to is Nw of the NW in section 32
> T14N
>> R14E. This diversion has water rights for the city of Challis , Cyprus
>> Mines and Challis Recreation and Development.
>>
>> If the Henderson diversion is in the NWNW of section 32 as shown on the
>> second printout, do we need to formally change the POD to the other legal?
>> I'm also not clear why I have ended up with 2 different legals for the
>> Henderson (and others) water rights.
>>
>> I have a copy of the application for water right transfer, which seems
>> fairly straightforward.
>>
>> The bottom line is that we want to do this by the books, but if we can
>> change the use without having to go through the paperwork because the
>> diversions are in the same NWNW of section 32, that would be ideal.
>>
>> We have looked and not found a GPS tag on the Henderson diversion. I am
> not
>> sure if IDWR has done the GPS work for Garden Creek.
>>
>> I'll plan to call you at 3:00 this afternoon. Hopefully, this background
>> will make the conversation a little more clear.
>>
>> Thanks
>>
>> Falma Cullinane 879-4508
>>
>>
>>

MICHAEL

Merritt, Allen

From: Falma [falma@custertel.net]
Sent: Friday, February 21, 2003 1:58 PM
To: Merritt, Allen
Subject: Re: Custer Road project

Allen

the tag number on the upper Bradbury ditch is "A0002509". Can I pull that up on the IDWR website to make a map? We think that the diversion is on either city or Yacomella property, so getting a letter will be no problem.

I am going to start getting the letters from water right owners and property owners. What is your schedule for next week?

Thanks for your help

Falma

> From: "Merritt, Allen" <AMerritt@idwr.state.id.us>
> Date: Wed, 19 Feb 2003 14:52:29 -0700
> To: "'Falma'" <falma@custertel.net>
> Subject: RE: Custer Road project
>
> Here are the rights in the area. Please call so we can discuss.
>
> Allen
>
> -----Original Message-----
> From: Falma [mailto:falma@custertel.net]
> Sent: Wednesday, February 19, 2003 9:14 AM
> To: amerritt@idwr.state.id.us
> Subject: Custer Road project
>
>
> Mr. Merritt
>
> I am working on a project with the Custer County Road crew to close about a
> 1/2 mile section of an irrigation ditch along Garden Creek road west of
> town. We realized that if the water rights in that ditch were transferred
> to another diversion about 600 feet upstream that the water could still be
> delivered to the users and allow the county to address what has become a
> maintenance and safety issue.
>
> There are 4 water rights in question:
> 72-117A Cobbley 0.04 cfs
> 72-117B Henderson 0.04 cfs
> 72-117C Leaton 0.09 cfs
> 72-117D Smith 0.01 cfs
>
> Their legal point of diversion is confusing. On one search (your website)
> that I did under the name Henderson, I got a legal of T14N R19E sec 32
> quarter NE, QQ NW. On another IDWR printout that I was given, the legal is
> NE1/4Nw1/4Nw1/4 same sec etc.
>
> The diversion that we wish to transfer to is Nw of the NW in section 32 T14N
> R14E. This diversion has water rights for the city of Challis, Cyprus
> Mines and Challis Recreation and Development.
>
> If the Henderson diversion is in the NWNW of section 32 as shown on the
> second printout, do we need to formally change the POD to the other legal?
> I'm also not clear why I have ended up with 2 different legals for the
> Henderson (and others) water rights.

>
> I have a copy of the application for water right transfer, which seems
> fairly straightforward.
>
> The bottom line is that we want to do this by the books, but if we can
> change the use without having to go through the paperwork because the
> diversions are in the same NWNW of section 32, that would be ideal.
>
> We have looked and not found a GPS tag on the Henderson diversion. I am not
> sure if IDWR has done the GPS work for Garden Creek.
>
> I'll plan to call you at 3:00 this afternoon. Hopefully, this background
> will make the conversation a little more clear.
>
> Thanks
>
> Falma Cullinane 879-4508
>
>

MICHAEL

11/11/04

Merritt, Allen

From: Merritt, Allen
Sent: Monday, September 29, 2003 11 44 AM
To: 'Falma'
Subject: RE: Garden Creek diversion transfer

The fee is \$100 and you can send it to my attention at our office at:

IDWR
1341 Fillmore St
Suite 200
Twin Falls, ID 83301-3380

-----Original Message-----

From: Falma [mailto:falma@custertel.net]
Sent: Wednesday, September 24, 2003 5:20 PM
To: Merritt, Allen
Subject: Garden Creek diversion transfer

Allen

We finally got all of paper work signed for the lower Bradbury diversion transfer. I will be putting it in the mail after I hear back from you.

Just working on central Idaho time' after everyone saw how well the new system worked, they were finally ready to sign.

Our transfer is for .16cfs . As I recall the fee is \$100. Is that correct?

What address do I send this to. Do I send it attention anyone in particular

Falma

> From: "Merritt, Allen" <AMerritt@idwr.state.id.us>
> Date: Mon, 12 May 2003 08:58:13 -0600
> To: "Falma Culinane (E-mail)" <falma@custertel.net>
> Subject: Status of transfer application
>
> As you may recall I helped you draft a water right transfer to move the
> points of diversion for a few water rights on Garden Creek to allow
> elimination of a ditch which I understand creates a traffic problem. I was
> just wondering where you are in the process of finalizing the application
> since I have not heard from you for some time.
> If there is something I can help with let me know.
>
> Allen
>

MICROFILMED

SEP 29 2003

MICROFILMED

SEP 29 2003
1

ersion for the Arthur Baxter Ditch, as per reservation hereinafter stated, to the tract of land last above described through the Village Pipe Line, with point of diversion in the NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 32, Township 14 North, Range 19 East, B. M., and

An amount of said water equal to the amount of water found to raise between the present intake for the Village Reservoir and the present point of diversion for the Arthur Baxter ditch, as per reservation hereinafter stated, to the tract of land last above described through the ditch with point of diversion in the NE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 32, Township 14 North, Range 19 East, B. M.;

THAT THE ABOVE Division of the said 2.04 cubic feet per second of the waters of Garden Creek is based upon the following reservation, referred to above, and contained in a stipulation signed by said applicant and former protestants of said Transfer of Water Right:

"That from said 2.04 cubic feet per second of the water of Garden Creek, there shall be deducted at the village's point of diversion an amount of water equivalent to the number of miner's inches raising in the channel of said stream between the present intake for the village reservoir and the present point of diversion for the Arthur Baxter Ditch, providing the quantity of water raising can not be used to fill decreed or licensed rights below the said point of diversion for the Arthur Baxter ditch because of scarcity of water and in accordance with the decree or licenses.

"IT IS FURTHER STIPULATED AND AGREED By and between said parties that the duly and regularly appointed water master shall determine the amount of water so raising between said points above mentioned and shall regulate the 2.04 cubic feet per second of the water as heretofore stated."

THAT THE LAST Above named lands have appurtenant to them an amount of 267 inches of the waters of Garden Creek, with various dates of priority.

THAT THE RIGHT To the water aforesaid, hereby confirmed, is restricted to the lands or place of use last above mentioned as provided by the Laws of the State of Idaho.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the Department of Reclamation, of the State of Idaho, to be affixed at Boise, Idaho, this 16th day of June, 1936.

R. W. LARUE,
Commissioner of Reclamation

Frederick E. Drager,
Director of Water Resources

72-0047
1051