1982

TITLE OF CASE: DAVID McNUTT, et al vs THOMAS PALMER, et al

Abstract revised February 1982

SOURCE: Carmen Creek and tribut

WATER DIST.: 75-D

JUDICAL DIST.:

DATE OF DECREE: May 9, 1902

P.N.	S.N.	DECREED OWNER NAME	PRESENT OWNER	AMT. INCHES SEC. FT.	PRIORITY	DIVERSION SUBDIV.	SEC.	TWP.	RG.	REMARKS, LAND TO
75	0058	Frank P. McCracken		0.60	05-01-1869					W½NW¼ Sec 17, SW¼SW¼ R22E
75	0060	Montraville White Est.		1.40	05-01-1874					SE¼NW¼, SW¼NE¼, NE¼SW¼
75	0061	Emma White		0.40	05-01-1874					NE¼SE¼ Sec 9 T22N-R22
75	0064	John F. Ferguson		1.50	05-01-1874					E½NE¼ Sec 9 NW¼NW¼ Se
75	0051	Exchange Rights		8.00	05-01-1875					to be distributed amo asterisk (*)
thru 75	0052	Exchange Rights		4.40	05-01-1882					to be distributed amo asterisk (*)
75	0075	Peter McKinney	*	0.30	05-01-1882					Portion of SW¼NE¼ abo T22N-R22E
75	0076	Ernest R. Benedict	*	3.60	05-01-1882					SW¼ Sec 24, W½NW¼ Sec 35 T23N-R22E
75	0062	A. C. Mather	*	2.50	05-02-1882					S½SW¼, NE¼SW¼, NW¼SE
75	0063	William Smith	*	1.60	05-01-1884					NW¼ Sec 8 T22N-R22E
75	0065	Hillard H. Dahle	*	1.50	05-01-1885					W½SE¼, S½SW¼ Sec 3 T22
75	0066	Wallace W. Slavin	*	1.50	05-01-1885					E½NW¼, Lot 2, NW¼NE¼ Se
75	0067	John Dimock	*	1.00	05-01-1885					S½SW¼, NW¼SW¼, SW¼SE¼ Se
75	0079	Ora L. & William L. Igou	*	1.40	05-01-1885					N½SW¼, SW¼SW¼, SW¼NE¼ Se SE¼SE¼ Sec 25 T23N-R NE¼NW¼, NW¼NE¼ Sec 31
75	0069	Thomas Palmer	*	0.40	05-01-1888					S½NE¼, NE¼SE¼ Sec 3, S
75	0071	John Palmer	*	2.00	05-01-1888					E½NW¼, NE¼SW¼, NW¼NE¼ Se
75	0081	Lemhi Placer Mining Co.		10.00	1889					Near two East Forks of
75	0072	Albert J. Mathews	*	0.20	05-01-1890					S½NE¼, NE¼NE¼ Sec 17, S
75	0070	Thomas Palmer	*	0.60	05-01-1892					See place of use for ri

t al

et al

Abstract revised February 1982

SOURCE Carmen Creek and tributaries PAGE 1

WATER DIST. 75-D COUNTY Lemhi

JUDICAL DIST. JUDGE Joseph C. Rich

DATE OF DECREE May 9, 1902 RECORDED IN BOOK NO. AT PAGE NO. FILE NO.

NAME	PRESENT OWNER	AMT. INCHES SEC. FT.	PRIORTY	DIVERSION SUBDIV.	SEC.	TWP.	RG.	REMARKS, LAND TO BE IRRIGATED, ETC.	C.T.
		0.60	05-01-1869					W½NW¼ Sec 17, SW¼SW¼ Sec 8, Lots 10 & 12 Sec 7 T22N-R22E	
t.		1.40	05-01-1874					SE¼NW¼, SW¼NE¼, NE¼SW¼, NW¼SE¼ Sec 9 T22N-R22E	
		0.40	05-01-1874					NE¼SE¼ Sec 9 T22N-R22E	
		1.50	05-01-1874					E½NE¼ Sec 9 NW¼NW¼ Sec 10 T22N-R22E	
		8.00	05-01-1875					to be distributed among the users marked with an asterisk (*)	
		4.40	05-01-1882					to be distributed among the users marked with an asterisk (*)	
	*	0.30	05-01-1882					Portion of SW¼NE¼ above Carmen Creek Ditch Sec 5 T22N-R22E	
	*	3.60	05-01-1882					SW¼ Sec 24, W½NW¼ Sec 25, E½NE¼, SE¼ Sec 26, NE¼ Sec 35 T23N-R22E	
	*	2.50	05-02-1882					S½SW¼, NE¼SW¼, NW¼SE¼ Sec 35 T23N-R22E	
	*	1.60	05-01-1884					NW¼ Sec 8 T22N-R22E	
	*	1.50	05-01-1885					W½SE¼, S½SW¼ Sec 3 T22N-R22E	
	*	1.50	05-01-1885					E½NW¼, Lot 2, NW¼NE¼ Sec 17 T22N-R22E	
	*	1.50	05-01-1885					S½SW¼, NW¼SW¼, SW¼SE¼ Sec 9 T22N-R22E	
Igou	*	1.40	05-01-1885					N½SW¼, SW¼SW¼, SW¼NE¼ Sec 30, W½NW¼ Sec 31 T23N-R23E SE¼SE¼ Sec 25, T23N-R22E; SE¼SW¼, SW¼ SE¼ Sec 30, NE¼NW¼, NW¼NE¼ Sec 31 T23N-R23E	
	*	0.40	05-01-1888					E½NE¼, NE¼SE¼ Sec 3, SW¼NW¼ Sec 2 T22N-R22E	
	*	2.00	05-01-1889					E½NW¼, NE¼SW¼, NW¼NE¼ Sec 10 T22N-R22E	
a.		10.00	1889					Near two East Forks of Carmen Creek	
	*	0.20	05-01-1890					S½NE¼, NE¼NE¼ Sec 17, SE¼SE¼ Sec 8 T22N-R22E	
	*	0.60	05-01-1892					See place of use for right 75-0069 above.	

TITLE OF CASE: vs THOMAS PALMER, et al

Abstract revised February 1982

WATER DIST. 75-D

JUDICAL DIST.

DATE OF DECREE May 9, 1902

FN.	DN.	DECREED OWNER	NAME	PRESENT OWNER	AMT. INCHES SEC.-FT.	PRIORITY	DIVERSION SUBDIV.	SEC.	TWP.	RG.	REMARKS, LAND TO
75	0077	Ernest R. Benedict		*	1.4	05-1-1892					See place of use fo
75	0080	Ora L. & Wm. L. Igou		*	2.0	05-1-1892					See place of use fo
75	0082	Lemhi Placer Mining Co.			40.0	10-15-1892					On Kirtley Creek tr water right can be
75	0059	Frank R. McCracken			0.30	05-1-1896					See place of use fo
75	0068	Eliza S. Mather			1.4	05-1-1896					SE¼SE¼ Sec 34 T23N- Sec 3 T22N-R22E
75	0074	Peter McKinney		*	1.0	05-1-1896					Desert Lot W½SE¼ Se
75	0073	Albert J. Mathews		*	0.8	05-1-1897					See place of use fo
75	0078	Elwood B. Clark		Sargs. *	[illegible]	05-1-1898					Springs on own lan No land description E½SE¼, SW¼SE¼, Sec 35
		Theodore Betson		*							W½SW¼, SE¼SW¼, SW¼SE¼
		Robert Martin		*							E½SE¼ Sec 3 - W½SW
		John Daniels		*							

WATER DIST. 75-D COUNTY Lemhi

JUDICAL DIST. JUDGE Joseph C. Rich

Abstract revised February 1982 DATE OF DECREE May 9, 1902 RECORDED IN BOOK NO. AT PAGE NO. FILE NO.

PRESENT OWNER	AMT. INCHES SEC. FT.	PRIORITY	DIVERSION SUBDIV.	SEC.	TWP.	RG.	REMARKS, LAND TO BE IRRIGATED, ETC.	C.T.
*	1.4	05-1-1892					See place of use for right 75-0076 (Page 1)	
							See place of use for right 75-0079 (Page 1)	
*	2.0	05-1-1892						
	40.0	10-15-1892					On Kirtley Creek from Oct 15 to Apr 15 except the water right can be used when excess over irrig. rts	
	0.30	05-1-1896					See place of use for right 75-0058 (Page 1)	
	1.4	05-1-1896					SE SE, Sec 34 T23N-R22E Lots 3,4 Sec. 2, Lot 1 Sec. 3 T22N-R22E	
*	1.0	05-1-1896					Desert Lot 4 SE Sec 34 T23N Sec 3 T22N-R22E	
*	0.8	05-1-1897					See place of use for right 75-0072 (Page 1)	
Sprgs.	all						Springs on own land	
*	[illegible]	05-1-1893					No land description in decree	
*							E SE, SW SE, Sec 25 T23N-R22E	
*							W SW, SE SW, SW SE, Sec 6 T22N-R22E	
*							SE SE [illegible] W SW Sec 10 T22 N-R22E	

CLAIMS TO A WATER RIGHT ON Carmen Creek & Tributaries

February 19 82 Revised

IDENTIFICATION NUMBER	NAME	AMT. cfs	Date of Filing or Priority	Point of Diversion Subdiv.	Sec.	Twp.	Rge.	P
75 - 4002	Stanley C. Daniels	1.7	8-30-1893	NENW	2	22N	22E	Carmen W½SW
		0.8	4-07-1902	NENW	2	22N	22E	
75 - 4005	Morgan DeBoard	1.5	6-13-1912	NESE	36	23N	22E	Freeman T22N- T23N-
		1.7	6-01-1948	NESW	31	23N	23E	
		0.3	5-01-1959	NESW	31	23N	23E	
75 - 4087	Erin G. Robie	0.2	9-14-1968	NWNW	2	22N	22E	Unnamed N½NW
75 - 4098	Erin G. Robie	0.2	9-14-1968	NWNW	2	22N	22E	Carmen N½NW
75 - 4124	Duane Halverson	1.75	5-25-1928	NWSE	32	23N	23E	Golway S½NE
75 - 4132	Pete Walchy	3.2	4-01-1936	NESE	25	23N	22E	Davis NW¼
				NWNE	36	23N	22E	
75 - 4186	Michael & Kathleen Zanutto	0.15	2-09-1901	SWNW	2	22N	22E	Unnamed SW¼N
75 - 4204	Jack F. Ellis	0.8	5-01-1948	NWNE	5	22N	23E	Freeman NE¼N
				NENE	6	22N	23E	
75 - 4205	Jack F. Ellis	3.0	5-01-1915	SESE	30	23N	23E	Smout N½NE
				SWNE NWNE	31	23N	23E	
75 - 4206	Jack F. Ellis	2.0	5-01-1918	NWSE SESW	32	23N	23E	Golway W½SW N½NW
				NWNW	5	22N	23E	

Carmen Creek & Tributaries — Lemhi CO., IDAHO

19 82 Revised — Water Dist. No. 75-D

NAME	AMT. cfs	Date of Filing or Priority	Point of Diversion Subdiv.	Sec.	Twp.	Rge.	PLACE OF USE, REMARKS, ETC.
els	1.7	8-30-1893	NENW	2	22N	22E	Carmen Creek-Irrig 65.3 acres SE¼SE¼ Sec 9 W½SW¼ Sec 10 T22N-R22E
	0.8	4-07-1902	NENW	2	22N	22E	
	1.5	6-13-1912	NESE	36	23N	22E	Freeman Creek-Irrig 115.2 acres NE¼NE¼ Sec 2 T22N-R22E; E½SE¼ Sec 35, SW¼, NW¼SE¼ Sec 36 T23N-R22E
	1.7	6-01-1948	NESW	31	23N	23E	
	0.3	5-01-1959	NESW	31	23N	23E	
	0.2	9-14-1968	NWNW	2	22N	22E	Unnamed springs-Irrig & stock-9 acres N½NW¼ Sec 2 T22N-R22E
	0.2	9-14-1968	NWNW	2	22N	22E	Carmen Creek-Irrig & stock-9 acres N½NW¼ Sec 2 T22N-R22E
	1.75	5-25-1928	NWSE	32	23N	23E	Golway Gulch-Irrig 65 acres S½NE¼, N½SE¼ Sec 31 T23N-R23E
	3.2	4-01-1936	NESE	25	23N	22E	Davis Canyon Creek-Irrig 160 acres NW¼ Sec 36 T23N-R22E
			NWNE	36	23N	22E	
en Zanutto	0.15	2-09-1901	SWNW	2	22N	22E	Unnamed spring-Irrig 7.5 acres SW¼NW¼ Sec 2, SE¼NE¼ Sec 3 T22N-R22E
	0.8	5-01-1948	NWNE	5	22N	23E	Freeman Creek-Irrig 10 acres S½NW¼ Sec 5, NE¼NE¼ Sec 6 T22N-R23E
			NENE	6	22N	23E	
	3.0	5-01-1915	SESE	30	23N	23E	Smout Creek-Irrig 91 acres S½SE¼ Sec 30, N½NE¼, SW¼NE¼, S½NW¼, N½SW¼ Sec 31 T23N-R23E
			SWNE NWNE	31	23N	23E	
	2.0	5-01-1918	NWSE SESW	32	23N	23E	Golway Gulch-Irrig 66 acres SE¼SE¼ Sec 31, W½SW¼, SE¼SW¼ Sec 32 T23N-R23E; NW¼NE¼, N½NW¼ Sec 5, NE¼NE¼ Sec 6 T22N-R23E
			NWNW	5	22N	23E	

Box 123
Common Idaho 83462

B4 letter of 4/9/82

Lowell Carlson
Department of Water Resources
Eastern District Office
150 Shoup Avenue
Idaho Falls, Idaho 83401

RECEIVED
MAR 26 1982
Department of Water Resources
Eastern District Office

Dear Lowell:

This letter is to comment on the 1982 revision of the abstract for Common Creek, within District 75 D, which is included herein.

The revision is useable and agrees with my interpretation of the 1902 decree and exchange agreements. The exchange rights are probably most deserving of specific mention. The names listed with an asterisk are the ones which presently receive exchange water with one exception. Each named person/place receives 45 inches of water except Theodore Bottom and Elwood C. Clark who each get ½ share or 22½ miners' inches of water. All exchange water is considered 1882 water as a matter of practicality.

The exception is the Peter McKinney right which is delivered to no one presently. Sometime shortly after 1902, Peter McKinney purchased the lands of William Smith and Robert Martin and apparently transferred his share to these lands. At least, the old watermasters' records show these lands receiving 3 shares until about 1957. No official record of this transaction has been found but old-timers testify to its use, if not truth. About 1957, the State Department of Reclamation told the watermaster to turn off the exchange rights to force the water users to come to an agreement as to where the Peter McKinney right was to be used. The watermaster just shut the Peter McKinney right off. That is the current status of the right.

Sincerely yours,
Rose McFarland
Watermaster D.S. 75-D

encl. 1 abstract

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
EASTERN REGION

John V. Evans
Governor

C. Stephen Allred
Director

1515 Lincoln Road
Idaho Falls, Idaho 83401
(208) 523-7186

May 18, 1981

Thomas R. Conrad
P.O. Box 62
Carmen, Idaho 83462

Dear Tom:

I was pleased to receive your letter this day concerning your water claim you wish to submit for Carmen Creek waters.

You asked for advice concerning a number of questions:

1. Some of your neighbors have been claiming up to four inches of water per irrigated acre. Apparently, these individuals feel that this rate of diversion accurately depicts the amount of water used.

2. When filing a claim to a water right, one should always claim the amount of water that is actually being used.

3. Then filing for a new water right application (different from a claim), the statutory limitation is the amount of water that can be filed on per irrigated acre for one inch.

Now that you have had ample time to collect the evidence identifying your water right, you should accurately display that information on a form provided by this department and which I have enclosed.

I will be in the Salmon area sometime between May 26 and May 29, 1981. I will call you so that we can make arrangement to fill out the forms and claim your water right.

Sincerely,

WILLIAM R. RHOADS
Sr. Resource Analyst

WRR:brs

enc: claim form w/ inst.

RECEIVED
MAY 18 1981
Department of Water Resources
Eastern District Office

MAY 10, 1981

Bill,

I'm sorry you don't remember me. Might be I'm the guy in the wheelchair who bumped up the road from you last night.

I'm hoping you can give me some advice on water rights. I haven't filed for mine yet for a couple of reasons. One is that I've been waiting to see what my neighbors were going to do on their [illegible]. They all seem to be asking for too much water according to the ones with pens and family that I was told to use. Last week I went down the road to talk to Doug Kinsley about his [illegible] which was going in on [illegible]. It was [illegible] that I was prepared to protect his claim as I intended to do to a couple of

other claims on this drainage
who have cause the
water. But when I talked
to him he said that
you were the one who filed
out this claim application
for him, that that was
you and he should claim
this got me to thinking
that maybe I should claim
a claim the same size
amount of water like my
neighbors. Then not be
through the trouble of
protecting all things.
I've been thinking about
this water rights thing for
a long time and would like
to get it straightened out.
One acre foot, what would
you suggest? I should
ask for one inch per acre
and protect any claims for
more or should look for
4 in. like everyone else?
I'm sorry I didn't get

down to see you when you were in Salmon. I may have to go to Idaho Falls inside next month or so and maybe I could get over to see you then. I'm working now and my free time is pretty limited.

I'd appreciate any advice you can give me.

Thanks,

Thomas R Conrad

THOMAS R CONRAD
P.O. Box 62
CARMEN, ID.
83462

756-4166 HOME
756-2279 WORK

PERMIT AND LICENSED RIGHTS ON Carmen Creek & Tributaries

February 19 82 Revised

LICENSE	PERMIT	NAME	AMT. cfs	Date of Filing or Priority	Point of Diversion Subdiv.	Sec.	Twp.	Rge.	PL
75-2002		William J. Wittenburg	1.08	10-23-1905	SESE	13	23N	22E	Irrig 64 T23N-F
75-2025		Thomas Palmer	1.02	12-22-1910	NENE	35	23N	22E	Irrig 5
75-2069		Frank W. Farmer	0.64	10-11-1920	NWSW NESE	30	23N	23E	Smout C T23N-
75-2097		Jake Yakovac	0.92	9-07-1940	SENE NENE	31	23N	23E	Smout C Sec 3
75-2118		John H. Austin	0.40	2-18-1952	SWSE	8	22N	22E	Irrig 2
75-2123		Lawrence J. Bills	6.0	5-25-1954	SWNW	36	23N	22E	Freeman S½SE
75-2126		Milton C. Slavin	0.2	2-21-1955	NWNW	2	22N	22E	Irrig 1
75-2128		Glen McFarland	0.3	3-20-1957	NWNE	24	23N	22E	Irrig 1
75-2129		Harold H. McFarland	0.14	3-28-1957	NWSW	25	23N	22E	Irrig
75-2132		Girard Cutler	0.76	3-30-1958	NWSW	31	23N	23E	Freema T22N
75-2140		Jake Yakovac	1.26	10-02-1960	NENW	33	23N	23E	Golway T23N
75-7042		U.S. Bureau of Land Management	0.02	4-03-1973	NWNE	8	22N	23E	Unname NW¼N
75-7043		U.S. Bureau of Land Management	0.02	4-03-1973	NWSW	6	22N	23E	Unname NW¼S
	75-7092	Jay D. or Germaine Kearsley	0.02	8-15-1977	SESE	8	22N	22E	Spring
	75-7136	M. A. Slavin	0.58	4-18-1979	SWSW SWSE	8	22N	22E	Carme Sec
	75-7210	Charles B. Drew	0.20	5-13-1981	SENE	3	22N	22E	Unname T22
	75-7252	Charles B. Drew	0.20	5-19-1981	SENE	3	22N	22E	Waste T22

: RIGHTS ON Carmen Creek & Tributaries Lemhi CO., IDAHO

19 82 Revised Water Dist. No. 75-D

ME	AMT. cfs	Date of Filing or Priority	Point of Diversion Subdiv.	Sec.	Twp	Rge.	PLACE OF USE, REMARKS, ETC.
burg	1.08	10-23-1905	SESE	13	23N	22E	Irrig 64 acres NW¼ Sec 24, SE¼NE¼ Sec 23 T23N-R22E
	1.02	12-22-1910	NENE	35	23N	22E	Irrig 51 acres W½NE¼ Sec 3 T22N-R22E
	0.64	10-11-1920	NWSW NESE	30	23N	23E	Smout Creek-Irrig 32 acres S½NE¼, E½ E½ Sec 30 T23N-R23E
	0.92	9-07-1940	SENE NENE	31	23N	23E	Smout Creek-Irrig 46 acres SE¼NW¼, N½SW¼ Sec 31 T23N-R23E
	0.40	2-18-1952	SWSE	8	22N	22E	Irrig 23 acres E½SW¼, NW¼SE¼ Sec 8 T22N-R22E
	6.0	5-25-1954	SWNW	36	23N	22E	Freeman Creek-Irrig 307 acres NE¼, NW¼NW¼ Sec 20 S½SE¼, NE¼SE¼ Sec 17 T22N-R22E
	0.2	2-21-1955	NWNW	2	22N	22E	Irrig 10 acres SE¼SE¼ Sec 4 T22N-R22E
	0.3	3-20-1957	NWNE	24	23N	22E	Irrig 15 acres E½SE¼ Sec 23 T23N-R22E
nd	0.14	3-28-1957	NWSW	25	23N	22E	Irrig 7 acres SW¼SW¼ Sec 25 T23N-R22E
	0.76	3-30-1958	NWSW	31	23N	23E	Freeman Creek-Irrig 38 acres N½NE¼ Sec 2 T22N-R22E
	1.26	10-02-1960	NENW	33	23N	23E	Golway Gulch-Irrig 57 acres SE¼NW¼, N½SW¼ Sec 31 T23N-R23E
nd Management	0.02	4-03-1973	NWNE	8	22N	23E	Unnamed spring-livestock & wildlife NW¼NE¼ Sec 8 T22N-R23E
nd Management	0.02	4-03-1973	NWSW	6	22N	23E	Unnamed spring-livestock & wildlife NW¼SW¼ Sec 6 T22N-R22E
e Kearsley	0.02	8-15-1977	SESE	8	22N	22E	Spring-Irrig 1.0 acre SW¼SE¼ Sec 8 T22N-R22E
	0.58	4-18-1979	SWSW SWSE	8	22N	22E	Carmen Creek-Irrig 29 acres E½SE¼ Sec 7, SW¼SW¼ Sec 8 T22N-R22E
	0.20	5-13-1981	SENE	3	22N	22E	Unnamed spring-Irrig 10 acres SE¼NE¼ Sec 3 T22N-R22E
	0.20	5-19-1981	SENE	3	22N	22E	Wastewater-Irrig 10 acres SE¼NE¼ Sec 3 T22N-R22E