

River at—

[illegible]

SCANNED
JUL 07 2023

State of Idaho
Department of Water Resources
Water District _____

Meas. No.

Comp. by.

Sta. No. **DISCHARGE MEASUREMENT NOTES** Checked by

Morrow Res. Ditch Div.

Date *10-22*, 19*96* Party *T. LUKE*

Width Area Vel. G. H. Disch. *0.94 cfs*

Method *4/10* No. secs. *12* G. H. change. in hrs. Susp.

Method coef. Hor. angle coef. Susp. coef. Meter No.

Type of meter Date rated Tag checked

Meter ft. above bottom of wt. Spin before meas. after

Meas. plots. % diff. from. rating. Levels obtained.

GAGE READINGS						WATER QUALITY MEASUREMENTS		
Time		Inside	HM	Chart	Outside	No	Yes	Time
.....						<u>Samples Collected</u>		
.....						No	Yes	Time
.....						<u>Method Used</u>		
.....						EDI	EWI	Other
.....						<u>SEDIMENT SAMPLES</u>		
.....						No	Yes	Time
.....						<u>Method Used</u>		
.....						EDI	EWI	Other
Weighted M.G.H.						<u>BIOLOGICAL SAMPLES</u>		
G. H. correction						Yes		Time
Correct M.G.H.						No		Type

Check bar. chain found changed to at

Wading, cable, ice, boat, upstr., downstr., side bridge. feet, mile, above, below gage.

Measurement rated excellent (2%), good (5%), fair (8%), poor (over 8%); based on the following cond:

Flow. *shallow, somewhat fast*

Cross section *cobble bottom, shallow depth*

Control

Gage operating Weather *cool, overcast*

Intake/Orifice cleaned Air °C@ Water °C@

Record removed Extreme Indicator: Max. Min.

Manometer N₂ Pressure Tank Feed Bbl rate per min.

CSG checked Stick reading

Observer

HWM outside, in well

Remarks *H.G. A.D.S. = 3 inches = 12 threads*

GPS LAT\LONG

G.H. of zero flow ft. Sheet No. of sheets

Checked by _____

G. H. of zero flow _____ ft.

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River at—

[illegible]

[illegible]

[illegible]

26

27

28

29

30

11

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13

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19

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22

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24

25

26

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29

30

11

12

13

14

15

[illegible]

1

2

3

4

5

Month of

Mar - Nov

19

96

NOTE — Figures to be given in cubic feet per second for 24-hour periods, or 24-hour and feet. Give name of owner of water rights, not tenant.

Name of Present Owner	WATER RIGHT IDENTIFICATION NO.	Amount Second Feet (cfs)	REMARKS
Mar 18, 1996			
walked down			
in Canyon unlock			
April 4 Slick ditch			
✓ April 13 Viner			
✓ April 15 - Viner	Phone Call		
B April 18 - Batruel	4-15 - 2 phone calls		
B April 26 Batruel (Canyon)	4-18 - phone call		
	4-25 phone call		
B 5-31 - Batruel	5-31 phone call		
✓ 6-7-96 Spring gulch			
B/v 6-9-96 Smith/Batruel			
Stockwater	June 20		
B 6-20 Batruel	4 phone calls		
6-21-96			
Water Reservoir			
Came down			
B 6-24-96 Batruel			
✓ 8-8 - Smith	8/18 2 phone calls		
B 8-12 Batruel	2 phone calls		
✓ B 8-14 Bat + Viner	2 phone calls		
9-22 - Blackwell			
9-27	phone call		
10-96 Close up			

Time of Water Master and Assistants

Month of _____

NAMES

1 2 3 4 5 6 7 8

9 10 11 12 13 14 15 16

17 18 19 20 21 22 23 24

25 26 27 28 29 30 31 Total

REMARKS

GUIDELINES FOR RECORDKEEPING

1. Use the official daily record book. Do not use substitutes. If you prefer to record notes in another text, transcribe to the daily record book immediately.
2. Use a separate daily record book for each stream you administer. Do not mix the users of several streams into one daily record.
3. If the water being delivered is measured and the headgate set on a particular day, record the flow in cubic feet per second in the proper grid space. If water diverted at a particular diversion is not measured on a given day, but you believe that water continues to be delivered without a change in the flow or headgate setting, place an "A" in the grid space for that day. The "A" represents that the previous flow and headgate setting is "assumed." An "A" must always be preceded by an actual numerical flow rate.
4. If the water being delivered is not actually measured, enter an "E" in the fraction portion of the grid space for the particular day that the flow rate is estimated. An "E" should always follow an estimated numerical flow that is observed and set in the field.
5. If water is not being delivered, enter a "0" (zero) in the proper grid space. If the water right is cut off because of unavailability of water, a zero may be entered in the grid space corresponding to the day the right could no longer be satisfied, and all subsequent days when water is not deliverable may be designated with a horizontal line through the grids that represent the days of nondelivery.
6. A blank grid space means that the watermaster has no knowledge of the amount of water being delivered on that day. A grid should never be blank while the watermaster is delivering water.
7. If possible, please list the water right no. in the daily record rather than a number assigned by the district or by the decree. Future users of the records will likely look for a water right reference.
8. Record unusual or noteworthy happenings. For instance, if a senior downstream right holder's water right is no longer available because the creek dries up upstream, and junior upstream rightholders are allowed to divert remaining water upstream, this event should be recorded on the day it happens.

Form No. 300-W

WATERMASTER'S

DAILY RECORD

Stream Little Canyon Creek

Water District 61-D

Month of March - Nov, 19 96

Watermaster Dan Hall

P.O. Address Box 644 Glenns Ferry
83623

Ten days after the close of the
irrigation season the Watermaster
must forward this book to

DEPARTMENT OF
WATER RESOURCES
STATEHOUSE
BOISE, IDAHO 83720

RECEIVED

OCT 09 1996

WATER RESOURCES
WESTERN REGION

If this book is lost, the finder will please
return it to the Watermaster of the district, as
it contains valuable records.

09-20-170
1990 D-4013, 1,000

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JUL 07 2023



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720-9000

Phone: (208) 327-7900 FAX: (208) 327-7866

CECIL D. ANDRUS
GOVERNOR

R. KEITH HIGGINSON
DIRECTOR

MEMORANDUM

TO: Dave Tuthill^{Dt} and Rob Whitney^{RW}
FROM: John Homan^{JH}
DATE: April 25, 1994
RE: Water Delivery Instructions for Little Canyon Creek

**THIS MEMORANDUM REPLACES THE PREVIOUS DRAFT MEMORANDUM
DATED APRIL 11, 1994.**

On April 7, 1994, I accompanied Roxanne McCarthy and Rob Whitney on a visit to Sand Springs Gulch to meet with Watermaster Dan Hall and walk the gulch. Sand Springs Gulch is tributary to Little Canyon Creek and waters from the gulch have historically been delivered by the watermaster of Water District 61-D. The watermaster expressed concern that the most recent court decision was being interpreted to require the delivery of water differently than the historical method. The watermaster requested that the Department provide him with instructions to deliver the water in light of the recent court decisions.

After finishing our business with the watermaster at the site, we drove to the courthouse in Mountain Home to search the court files for any additional decisions that addressed water delivery on Sand Springs Gulch. We discovered that the court had appointed Carlyle Briggs, P.E. as Special Master in an attempt to resolve the water delivery problems. Mr. Briggs filed a preliminary report with the court on August 14, 1991 and filed the final report on November 19, 1991. Briggs' report concluded it was not practical to mix and deliver Batrue's reservoir water with Viner's rising and flowing waters in the gulch. Briggs suggested in his final report that a better solution to the problem is to have Batrue construct 400 feet of new ditch to avoid the commingling of reservoir water with Viner's waters. The court issued a supplemental decision and order dated September 14, 1992 confirming and approving in all respects the report prepared by Briggs.

Attachment B

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Gary,
Little Canyon 61D
(Sand Springs Info)
Attached Documents
From 1994-1997
We can discuss at
your conven. RW

I am not sure what effect the court confirming Briggs' report has on the water delivery issue. Evidently, according to the watermaster, Viner believes the court order entitles her to split all the water that rises and flows in the first reach of the gulch with Batruel. The watermaster has not historically delivered the water in this manner and is concerned that this latest court decision changes the delivery as Viner suggests. Historically, under the 1904 decree Batruel received 100% of the waters rising and flowing in the first reach of the gulch (between the reservoir and the pond diversion) and 50% of the waters rising and flowing in the second reach of the gulch (between the pond diversion and the 50/50 diversion. Briggs' suggestion that Batruel construct a new separate ditch as a solution to avoid mixing his reservoir water with Viner's water ignores the obvious fact that Batruel would also lose all his rising and flowing waters he has historically used in the gulch.

It is difficult for me to believe that the court intended in its order to have Batruels forego their traditional water conveyance route, bear the costs of constructing 400 feet of new ditch and just walk away from all the rising and flowing waters that surface in the gulch. The court's supplemental decision and order only confirms the Briggs' report, it does not order Batruel to take any action or specifically order that the water be delivered in a described manner.

The Second Amended Findings of Fact, Conclusion of Law and Judgment dated July 13, 1987 as later clarified by the Memorandum Decision dated March 21, 1989 determined that some of the water had historically flowed from the first reach of the gulch into the second reach of the gulch. Although the 1904 decree originally awarded all of the water in the first reach of the gulch to Batruel's predecessors, the later court decisions appear to have interpreted the original decree to give Viner the right to water in an amount equal to the amount that has historically flowed past the pond diversion. To assure that Viner receive this amount of water, the court ordered Batruel to either:

(a) Make a reasonable good faith attempt to modify his pond diversion so that approximately the same amount of water is allowed to pass on down the gulch at the point as passed prior to 1984; or

(b) Weir his live reservoir water in and out of Sand Springs Gulch so that he do not divert any of the water that rises and flows in Sands Springs Gulch into his pond.

The watermaster indicated that Batruel had replaced the overflow pipe in the pond diversion presumably to allow water to pass on down the gulch and comply with the 1989 court order. Evidently Viner was not satisfied with Batruel's efforts to comply with the court order and has installed a new headgate at the pond diversion as an alternative. The latest report from the watermaster indicates that Batruel has buried the new headgate.

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APR 21 2023

under a large amount of dirt. Except for Batruel's existing headgate, the dirt completely blocks off all water in the gulch from flowing down the gulch past the pond diversion. The watermaster needs to take steps to insure that the headgate at the pond diversion is in working order and can be locked to prevent tampering. The Elmore County Sheriff's Department has informed the Western Region that it intends to explore criminal charges against Batruel for burying Viner's headgate. Batruel has indicated that he is no longer interested in working with attorneys and is ready to go to jail or do whatever to get his water.

Pending further interpretation by the court, the watermaster should deliver the water according to the following instructions assuming the facts remain as described.

A. Viner is presently receiving the entire flow of water in the second reach of the gulch as Batruel has not made a call to the watermaster for water at the 50/50 diversion. As long as Batruel does not make a call to the watermaster for water at the 50/50 diversion, the watermaster need not take any action. The watermaster's inaction will allow Viner to continue to take all the water originating in the second reach of the gulch. In the event Batruel does make a call for water at the 50/50 diversion, the watermaster should deliver 50% of the flow to Batruel but allow an equal amount of water to pass through the headgate at the pond diversion.

B. If Viner attempts to make a call for water at the pond diversion based upon her interpretation of the later court decisions, the watermaster should inform Viner that he, the watermaster, cannot deliver the water unless he is provided with some guidance as to how much water needs to be delivered. Presently the 1904 decree provides that only Batruel is to receive water at the pond diversion. The later court decisions suggest that a certain quantity of water is to be passed from the first reach of the gulch into the second reach at the pond diversion to be split equally between Viner and Batruel. Without a specific quantity of water designated by the court to pass at the pond diversion, the watermaster is unable to effectuate delivery.



If the parties on the creek are still in disagreement on how the water should be delivered either party can file a motion for clarification with the court asking for further interpretation of the court's previous order. To the extent the confusion centers around "excess" water spilling past the pond diversion into the second reach of the gulch or quantifying a specific amount of water passing through a new headgate from the first reach of the gulch into the second reach, the court may need to provide additional direction to the parties. I am not sure whether the court has looked at this issue.

Attachments

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APR 21 2023

MEMORANDUM

TO: Dave Tuthill and Rob Whitney 
FROM: John Homan 
DATE: April 11, 1994
RE: Water Delivery Instructions for Little Canyon Creek

On April 7, 1994, I accompanied Roxanne McCarthy and Rob Whitney on a visit to Sand Springs Gulch to meet with Watermaster Dan Hall and walk the gulch. Sand Springs Gulch is tributary to Little Canyon Creek and waters from the gulch have historically been delivered by the watermaster of Water District 61D. The watermaster expressed concern that the most recent court decision was being interpreted to require the delivery of water differently than the historical method. The watermaster requested that the Department provide him with instructions to deliver the water in light of the recent court decisions.

After finishing our business with the watermaster at the site, we drove to the courthouse in Mountain Home to search the court files for any additional decisions that addressed water delivery on Sand Springs Gulch. We discovered that the court had appointed Carlyle Briggs, P.E. as Special Master in an attempt to resolve the water delivery problems. Mr. Briggs filed a preliminary report with the court on August 14, 1991 and filed the final report on November 19, 1991. Briggs' report concluded it was not practical to mix and deliver Batruel's reservoir water with Viner's rising and flowing waters in the gulch. Briggs suggested in his final report that a better solution to the problem is to have Batruel construct 400 feet of new ditch to avoid the commingling of reservoir water with Viner's waters. The court issued a supplemental decision and order dated September 14, 1992 confirming and approving in all respects the report prepared by Briggs.

I am not sure what effect the court confirming Briggs' report has on the water delivery issue. Evidently, according to the watermaster, Viner's believe the court order entitles them to split all the water that rises and flows in the first reach of the gulch with Batruel. The Watermaster has not historically delivered the

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APR 21 2023

water in this manner and is concerned that this latest court decision changes the delivery as Viner suggests. Historically, under the 1904 decree Batruel received 100% of the waters rising and flowing in the first reach of the gulch (between the reservoir and the pond diversion) and 50% of the waters rising and flowing in the second reach of the gulch (between the pond diversion and the 50/50 diversion. Briggs' suggestion that Batruel construct a new separate ditch as a solution to avoid mixing his reservoir water with Viner's water ignores the obvious fact that Batruel would also lose all his rising and flowing waters he has historically used in the gulch.

It is difficult for me to believe that the court intended in its order to have Batruels forego their traditional water conveyance route, bear the costs of constructing 400 feet of new ditch and just walk away from all the rising and flowing waters that surface in the gulch. The court's supplemental decision and order only confirms the Briggs' report, it does not order Batruel to take any action or specifically order that the water be delivered in a described manner. If the parties on the creek are still in disagreement on how the water should be delivered, either party can file a motion for clarification with the court asking for further interpretation of the court's previous order. To the extent the confusion centers around excess water spilling through the overflow pipe from the first reach of the gulch into the second reach, the overflow water appears to be waste water. Under Idaho Law Batruel can not be compelled to continue to waste water for the benefit of others. I am not sure whether the court has looked at this issue. Pending further interpretation by the court, the watermaster should continue to deliver the water in the manner it has always been delivered.

Attachments

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APR 21 2023



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, P.O. BOX 83720, Boise, Idaho 83720-0098

Phone: (208) 327-7900 FAX: (208) 327-7866

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JUL 07 1997

WATER RESOURCES
WESTERN REGION

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

July 3, 1997

Ray and Carlene Smith
Rt 1, Box 420
Glenns Ferry, ID 83623

Jim Allen
Water District 61-D Watermaster
Rt 1 Box 14C
King Hill ID 83633

Re: Little Canyon Creek Water Delivery

Dear Mr. and Mrs Smith, and Mr. Allen:


Enclosed with this letter is a revised copy of my memorandum dated October 25, 1996. A copy of the original memo was sent to the Smiths just prior to the 1997 water district meeting.

Some revisions and comments were made to my original memo of October 25, 1996 by both the director, Karl Dreher, and Norman Young, Water Management Division administrator. Unfortunately, I received the comments of the director and administrator sometime after your annual meeting. I recently learned that Mr. Allen is the new watermaster and realized that he would need to be updated with the Department's direction regarding distribution on the creek. I apologize for getting these revisions to you at this late date.

Revisions to the memo may be found on pages four and five. Specifically, direction is given regarding determination of a futile call on Little Canyon Creek. This direction should be followed by the watermaster when addressing questions about futile calls for water.

If there are questions concerning the content of the updated memo, please contact me directly at 327-7864 or representatives at the Western regional office.

Respectfully,


Tim Luke

cc: Western Region
Norm Young

enclosure

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JUL 07 2023

MEMORANDUM

TO: Karl Dreher, Director

THRU: Norm Young, Administrator

FROM: Tim Luke

DATE: 10/25/1996, Revised 7/2/1996 *TL*

RE: Little Canyon Creek Field Visit

This memo summarizes my field visit to Little Canyon Creek on October 22. I have listed my observations and measurements in the table below. A more detailed narrative of my field investigation follows the table.

Diversion or Site	Flow
Morrow Reservoir Ditch at heading	0.94 cfs (47 inches)
Little Canyon Creek abv. Morrow Resrvr. Ditch	1.30 cfs (65 inches) (estimated)
Little Canyon Creek below Morrow Res. Ditch	$1.30 - 0.94 = 0.36$ cfs or approx. 18 inches
Little Canyon Ck. above Trail Res. Div Dam (immed. above and 2.2 miles above diversion dam)	0 cfs
Morrow Reservoir Ditch at road culvert near Trail Div. Dam.	0.94 cfs (47 inches)
Inflow to Morrow Reservoir	30 inches (estimated)
Outflow from Morrow Resrvr.	30 inches (estimated)
Little Canyon Ck. below Trail Res. Diversion Dam	0 cfs
Little Canyon Ck. at Smith-Blackwell Divs.	0 cfs

On Tuesday, October 22, I traveled to Glenns Ferry and met for about 45 minutes with Dan Hall, watermaster of Little Canyon Creek. Following this meeting, I met with Carlene Smith as was arranged the prior day when the Smiths visited our office.

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Dan Hall and I decided to meet before the 9 am meeting with Mrs. Smith because it was understood that Mrs. Smith and I would be looking at some diversions together in the field and that this would consume much of the day. Dan said his time would be limited that day and wanted to meet with me before my appointment with Mrs. Smith. I thought it was important to meet with Dan and inform him about my visit and activities.

Dan and I traveled together to look at the Morrow Reservoir, the Morrow Reservoir Ditch at the road culvert near the Trail Reservoir main diversion dam, the Trail Reservoir diversion dam and outlet gate structures, and the Trail Reservoir diversion ditch headgate. I also used my time with Dan to ask questions about the different diversions and water delivery on the creek.

After visiting with Dan, I met Mrs. Smith for our scheduled appointment. Mrs. Smith showed me the Smith's diversions on the creek and provided some explanation about her recent and past experiences with water delivery on the creek. Mrs. Smith identified four points of diversion from the creek, including three ditch diversions and one pump diversion. We discovered that the SRBA claim for Little Canyon Creek only identifies two points of diversions. I advised her that an amendment should be filed on her adjudication claim to include the other points of diversion.

I physically walked the diversion ditch which takes out of the creek at a point upstream of the Smith-Blackwell diversions. This ditch has no headgate structure. I also did not observe a measuring device but Mrs. Smith said she had recently removed a weir and showed me the weir location. It did appear that a weir had been installed at that particular location (about 100 yards below the ditch heading). From the upper ditch, I could see the other Smith-Blackwell ditches downstream, but I did not visit those ditch headings or walk any of those ditches and thus can not confirm the condition of any headgates or measuring devices etc.

From the lower diversions on the creek, Mrs. Smith and I went upstream to the heading of the Morrow Reservoir ditch. I current metered the ditch about 50 ft. below the headgate and measured a total diversion rate of 47 inches. I walked about the first 75 yards of the ditch and could not find a measuring device.

I observed that a small quantity of water was also going past the Morrow Ditch headgate and flowing downstream in the creek. I made two attempts at metering the creek above the headgate and had great difficulty finding a suitable location to measure. This part of the creek has many large boulders and pools which make measurement very difficult at low flows. The vegetation here and through much of the creek is also very dense, which further complicates measurement of the channel. I completed a measurement at one of the two sites but had problems with obtaining accurate velocity measurements, which would have made the total flow less than the ditch diversion. I therefore did not calculate my field notes and instead estimated the total creek flow to be about 65 inches.

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Mrs. Smith and I then drove by the ditch downstream at the road culvert to observe the flow. We observed cattle in this area and Mrs. Smith confirmed that the cattle belonged to Blackwell, but she thought they had only been turned out in this area a few days prior to my visit. I then dropped Mrs. Smith off at her home as she needed to tend to other obligations. I went back to the Morrow ditch at the road culvert and current metered the ditch just downstream of the culvert. The flow measured at this point was also 47 inches, indicating no reach loss or gain between this point and the ditch heading. I also looked at Little Canyon Creek above the main Trail diversion dam and reservoir and found that there was no inflow into the diversion dam reservoir. I inspected the creek 2 miles upstream of the diversion dam and again found the creek bed to be dry.

The main Trail Reservoir diversion dam on Little Canyon Creek does contain storage water. The elevation of the pool however is below the elevation of the outlet gates which control flow to the creek downstream and the diversion to Trail Reservoir, and thus no flow was observed in the creek below the dam or the ditch to the reservoir. The headgate for this ditch was locked, but the gate was open about 1 foot. Dan Hall told me that both he and the owners of the Trail Reservoir have keys to this locked gate. Dan said that the Trail and Morrow Reservoir owners have keys to their ditch headgates so that they can regulate the water during the storage or non-irrigation season, which is after Dan's term of service as watermaster.

My final visit of the day was again to the Morrow Reservoir. I looked at both the inflow and outflow of the reservoir and estimated that the two flows were about the same. The flows appeared to be less than the ditch flow measured upstream at the road culvert (perhaps 20 to 30 inches). A very small and shallow pool of water was in the reservoir, which may have been water that could not be drained. I concluded that the small inflow was not being stored.

When I completed the metering of the Morrow Ditch heading with Mrs. Smith, but before calculating my field notes, I informed her that I thought the flow of the ditch was more than the 20 inch stock right authorized for delivery at this time, and that the flow of the creek was certainly more than 20 inches. I asked her what she wanted to do about any call for water given this information. She indicated that it was now too late in the season to do anything, that the weather had gotten cold and the ground had begun freezing. After my final visit to the Morrow Reservoir, I completed the calculation of my field notes and dropped by the Smith residence to tell Mr. and Mrs. Smith of the computed flows in the Morrow Ditch, plus my observations of the creek above the diversion dam. The Smiths again indicated at this time that they would not renew or pursue their call for water this late in the season. They did express concern about delivery for future seasons and the manner in which a futile call is determined.

Dan Hall called me by phone on October 23 and told me that there should have been a weir in the Morrow Ditch about 300 yards below the headgate. The headgate was locked at the time of my visit. Dan had told me that both he and Mr. Batreul have keys to the lock on this gate. Dan said he turned water down the ditch on September 27 in 2023.

response to a request for stockwater by Blackwell. He did not measure the flow using the ditch weir but believed the flow to be about 20 inches based on his past experience setting this headgate. When Dan called me on October 23, I asked him to explain again how he had last set the gate (i.e., length of gate stem/number of threads above the nut). Dan's description matched the setting which I had observed, thus indicating that the gate probably has not been adjusted since Dan's last adjustment. (Note: After my visit to the gate on 10/22, I thought that the gate may have been adjusted since Dan's first setting, but I apparently misunderstood Dan's description.)

Dan also told me that when he turned water down the Morrow Ditch on September 27, that he also opened or adjusted the outlet gate (the gate located on the west end of the reservoir) and turned down the creek whatever water he could from the main Trail diversion reservoir. He estimated this flow at about 150 inches. He believes that this water disappeared within a few days as the reservoir level fell below the elevation of the outlet gate.

Comments/Recommendations

- 1) Based on my field measurements of Morrow Ditch and observations of the creek at the Morrow Ditch heading and above the Trail diversion dam, I believe that the estimated 65 inches of water in the creek above the Morrow Ditch heading would have difficulty reaching the Trail diversion dam and below at this particular time. I can not conclude that water would not have reached the diversion dam during the latter half of September. However, the watermaster should limit diversions to authorized rates of flow to keep water in the stream to the extent possible.
- 2) I recommend that users not possess keys to storage reservoir ditch headgates prior to the date that storage water can be diverted. Only the watermaster should possess a key to these gates during the term of his service. The gates should remain locked and closed while the watermaster is on duty, unless there are natural flow rights which can be delivered at any time. After the watermaster completes his term of service, the users may have a key to control diversion of storage water during the storage season.
- 3) Some consideration should be given to fixing and/or using the Trail diversion dam gate located on the upstream side of the dam. This might help assure that small reservoir inflows would be by-passed through the dam, particularly at times when a futile call is being determined. My list of water rights shows a water right for this reservoir is a 1957 beneficial use claim for year round wildlife and recreational storage, and winter irrigation storage.
- 4) To assure proper delivery of natural flow rights below the Trail diversion dam, the water district and watermaster must rely on measuring devices or current meter measurements of reservoir inflow and outflow. Perhaps smaller temporary or portable measuring devices can be installed for the lower flows. If district members want to insist on properly delivery of low flows, then the district should budget for purchase of current metering equipment or other measuring

COPIED
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devices.

5) Futile Call Determination

The following should be considered when a holder of a junior water right seeks an out-of-priority delivery by asserting that it is futile to attempt delivery to a downstream senior right.

a) Water should not be turned out of the stream above the Trail diversion dam or to Trail Reservoir, if it would result in stopping an on-going delivery of water to a senior downstream right.

b) Using water stored at Trail diversion dam to maintain the flow to the downstream senior right in order to deliver water out-of-priority to an upstream junior right should not occur without the appropriate water right filings and an agreement with the downstream user.

c) The department and the watermaster should take flow measurements and assemble existing flow records needed to document the loss in the stream reach from the Morrow ditch diversion to the Trail diversion dam and in the stream reach from the Trail diversion dam to the Smith headgates under various climatic, seasonal, and other conditions to aid in determining whether the stream flow at the Morrow ditch heading is adequate to reach the Smith diversions in a useable amount. This data would then aid in determining whether it would be futile to turn off an upstream junior right to commence or re-establish delivery to the senior downstream rights.

cc: Carlene Smith
Jim Allen, Watermaster
Western Region

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JUL 07 2023



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720-9000
Phone: (208) 327-7900 FAX: (208) 327-7866

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

June 20, 1996

Thomas A. Miller, Esq.
HAWLEY TROXELL ENNIS & HAWLEY
P.O. Box 1617
Boise, Idaho 83701-1617

VIA FAX & U.S. MAIL

Mr. Paul Batruel
Route 1, Box 426
Glenns Ferry, ID 83623

VIA U.S. MAIL

Re: Diversion of Water at Pond Diversion

Messrs. Miller and Batruel:

Pursuant to the Supplemental Judgment of the Fourth District Court dated July 5, 1995 and the Notice of Violation/Order of the Idaho Department of Water Resources (Department) dated May 15, 1996, you are hereby directed to cease and desist the diversion of all waters at the "pond diversion" from Sand Springs Gulch by 12:00 noon on Friday, June 21, 1996.

Failure to comply with this order will result in the Department filing documents with the Court seeking judicial enforcement. The water master will inspect the "pond diversion" as soon as possible Friday afternoon and report his findings to the Department.

Sincerely,

Norman C. Young
Administrator
Water Management Division

NCY/dde

cc: Dan Hall
Steve Lester

SCANNED

JUL 07 2023

State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720-9000
Phone: (208) 327-7900 FAX: (208) 327-7866



PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

Carlene Smith
Lava Rim Ranch
Route 1, Box 420
Glenns Ferry, Idaho 83623

Re: Water Delivery from Sand Springs Gulch

Dear Mrs. Smith:

This letter is a response to your letter of June 18, 1996, to Mr. David Tuthill. I am responding rather than Dave because he has undertaken a temporary change of assignment and because your letter includes some questions concerning a field inspection that I made last week.

First, with respect to the field visit, I requested a field visit of Sand Springs Gulch to improve my understanding of the physical layout to assist the watermaster in responding to requests for delivery. The visit was made on Wednesday, June 12, as I and another IDWR employee traveled through the Glenns Ferry area on other business. Mr. Dan Hall showed us your diversion for livestock, the 50-50 diversion, and the diversion to Batruel's pond. We did not go up to Morrow Reservoir, but did see the lower end of the ditch that Mr. Batruel is constructing and the new pond.

IDWR approval is not required for a pond if it is simply a re-regulation reservoir for the stored water released from Morrow Reservoir and it does not involve an embankment large enough to fall under the safety of dams program (more than 10 feet high or storing more than 50 acre feet).

An application for transfer has not been filed with IDWR for a change of the point of diversion for the Batruel's right from Little Canyon Creek. If an application is filed in the future, notice will be given as required in Section 42-222, Idaho Code, and protests against approval can be filed at that time. IDWR is not authorized to consider your June 18, 1996 letter as a valid protest against an application filed in the future.

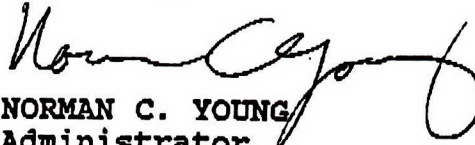
IDWR issued an order in May to Mr. Batruel requiring among other things that he stop diverting at the pond diversion. At a recent compliance conference, he demonstrated that progress had been made toward building a ditch to avoid commingling Morrow Reservoir water with Sand Springs Gulch water. We received assurance that when all approvals were received and the ditch could be completed, diversions at the pond diversion would be stopped. Based upon the efforts made to comply with the IDWR

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Carlene Smith
Lava Rim Ranch
June 20, 1996
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order, additional time has been allowed to meet the conditions of the order, with the understanding that diversion at the pond diversion must stop whenever the flow in the Gulch is not adequate to satisfy other rights calling for water even if the bypass ditch was not completed. His attorney has been informed of your call for water. I understand that you and Batruels are presently negotiating an agreement that could resolve the conflict on Sand Springs Gulch. I hope you are successful. In the event the conflict remains and Batruel has not voluntarily stopped diverting water at the pond diversion, IDWR will prepare documents to flush out the issues with the Court. IDWR will file a motion seeking to enforce the terms of the Court's July 5, 1995 order or in the alternative to amend the order to reflect current water delivery practices in the gulch.

Sincerely,



NORMAN C. YOUNG
Administrator
Water Management Division

c. Tom Miller
Steve Lester, IDWR

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RECEIVED

JUL 29 1996

WATER RESOURCES
WESTERN REGION

RECEIVED

JUL 26 1996

Department of Water Resources

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ELMORE

RICHARD P. VINER and CARLENE)
R. VINER, husband and wife,)

Plaintiffs,)

vs.)

PETER BATRUEL, MARY N.)
BATRUEL, husband and wife,)
and PAUL BATRUEL,)

Defendants.)

CASE NO. CV-OC-82-08224

MEMORANDUM OPINION DENYING
ALTERNATIVE MOTIONS TO
AMEND OR TO STAY SUPPLEMENTAL
JUDGMENT AND GRANTING MOTION
FOR ENFORCEMENT OF JUDGMENT

APPEARANCES: D. BLAIR CLARK, for Plaintiffs
THOMAS A. MILLER, for Defendants
JOHN W. HOMAN, for Cross-Defendant, Idaho
Department of Water Resources

This matter came before the court for hearing on July 3, 1996, upon a motion filed by the Third-Party Defendant, Idaho Department of Water Resources (hereafter "the Department") for enforcement of the court's Supplemental Judgment of July 5, 1995, or in the alternative, to amend the Supplemental Judgment to conform to existing practices.

Immediately prior to the hearing, defendants (hereafter "the Batruels") filed a motion to amend or to stay the supplemental judgment and notice of hearing for the same date.

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While objecting to the timeliness of the Rule 60 motion and asserting that there was no basis for granting the requested relief, counsel for plaintiffs (hereafter "the Smiths"¹) waived objection to the timeliness of the notice of hearing. This matter proceeded to hearing. The court received evidence and heard argument of counsel and the matter was fully submitted.

HISTORY OF THE CASE

This case, initiated in 1982², primarily relates to a dispute over the right to divert and use water from a stream known as "Sand Springs Gulch." The duration of this litigation, the size of the court file and the emotional intensity displayed in the courtroom all serve to emphasize the importance of these water rights to each of the parties.

Sand Springs Gulch is a tributary of a stream known as Little Canyon Creek. For purposes of this opinion, focus begins at the Morrow reservoir. Sand Springs Gulch flows downstream from the Morrow reservoir to a point known as the Pond diversion. From the Pond diversion, it flows down to the 50-50 diversion. From there, it flows down to join with Little Canyon Creek.

There is no dispute over the fact that the Batruels are

¹Since this lawsuit was initiated, Carlene Viner has re-married. She has married Ray Smith and is presently known as "Carlene Smith." She continues to own the property which is the subject of the instant water rights dispute.

²The Hon. Robert M. Rowett was originally assigned to this case. He presided over this action until his retirement in June, 1996.

entitled to the water behind the Morrow reservoir. The Morrow reservoir is situated behind a dam which has serious structural problems and a significant amount of water is lost to seepage. There is no dispute that the Batruels are entitled to recover that water.

It is also clear that the parties were, under the terms of previous decreed water rights, to share water rising and flowing in Sand Springs Gulch below the Morrow reservoir. The difficulty is that water lost from seepage from the Morrow reservoir dam has been commingled with the water rising and flowing in Sand Springs Gulch.

On October 1, 1985, Judge Rowett entered Findings of Fact and Conclusions of Law and entered a Judgment. Following defendant's motion to reconsider and to alter or amend his judgment, on December 1, 1986, Judge Rowett issued Amended Findings of Fact, Conclusions of Law and an Amended Judgment.

This Amended Judgment was greeted with yet another motion by the Batruels to reconsider, alter or amend. On July 13, 1987, Judge Rowett filed his Second Amended Findings of Fact, Conclusions of Law and Judgment. Plaintiffs then asked Judge Rowett to reconsider, alter or amend this second amended judgment. Plaintiffs subsequently asked Judge Rowett to find the Batruels in contempt for violation of the terms of the second Amended Judgment.

After hearing on the motion for contempt, the motion was denied. While Judge Rowett found that there was a violation of the spirit of this judgment, he reluctantly reached the conclusion that

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material terms of the judgment had been omitted, requiring yet a third amended judgment. See, Memorandum Decision of April 5, 1989.

In response to the Memorandum Decision of April 5, 1989, the Batruels requested that the court enter an order for quantification of the parties' water rights in Sand Springs Gulch. It appears that rather than taking steps to physically isolate the water lost through seepage from that rising and flowing in Sand Springs Gulch, the Batruels sought to quantify the respective amounts of water (i.e., water from seepage and that rising and flowing) so that an appropriate proportional allocation could be effectuated at a diversion to be situated in Sand Springs Gulch.

On March 19, 1991, pursuant to a stipulation of the parties, Judge Rowett entered an order appointing Carlyle Briggs as a special master for the purpose of quantifying the water which rises and flows in Sand Springs Gulch. On August 14, 1991, Mr. Briggs prepared his findings and report. On November 19, 1991, Mr. Briggs prepared an addendum to his report. Plaintiffs requested that the court adopt the report and the Batruels objected.

Mr. Briggs' report concluded that it was "impractical and uneconomical to attempt to quantify" the water in Sand Springs Gulch in the matter requested by the Batruels. Rather, physical steps to separate of the water by ditch or weir were more practical or feasible. Memorandum Decision of January 15, 1992. The Batruels continued to assert that the water could be quantified and Judge Rowett afforded the Batruels "a reasonable opportunity to

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obtain and present expert opinion to support their claim that it can be quantified." Id.

The Batruels failed to present such evidence and on September 15, 1992, Judge Rowett entered an order confirming and approving the Briggs Report.

On July 5, 1995, Judge Rowett entered the Supplemental Judgment which is at issue. In that Supplemental Judgment, Judge Rowett specifically directed that:

1. The Batruels were to construct a ditch from the Morrow reservoir to the Batruel pond and that water was not to be diverted from the Morrow reservoir into Sand Springs Gulch unless ordered to do so by the Department because of concerns about the structural integrity of the Morrow reservoir dam.

2. The Batruels were to remove all obstructions to the flow of water in Sand Springs Gulch down to the 50-50 diversion. Specifically, the Batruels were prohibited from diverting water at the Pond diversion and were directed to permit all water to flow to the 50-50 diversion.

3. The Department was instructed to "endeavor to allocate the water rights of the parties in conformance" with the Supplemental Judgment.

On July 10, 1995, the Batruels requested that the Supplemental Judgment be set aside. They argued, *inter alia*, that requiring them to construct a ditch was a "gross miscarriage of justice" and that they were being deprived of water rights which had been

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previously adjudicated. On September 8, 1995, this motion was denied. No appeal was taken from this judgment.

HISTORY OF THE PRESENT ISSUE

This matter came back before this court because of the requirement that the Department "endeavor to allocate the water rights of the parties in conformance" with the Supplemental Judgment.

The watermaster assigned this unpleasant responsibility, Dan Hall, reported by affidavit to the court that the Batruels continued to divert water at the Pond diversion and that he was unable to shut off that diversion without the use of heavy equipment.

Faced with the inability to comply with the court's order, the Department, on June 26, 1996, filed a motion to enforce the Supplemental Judgment. In the alternative, the Department requested that the Supplemental Judgment be amended to conform to the existing practice. At hearing, the Department was clear in its position: It did not desire to advocate the positions advanced by either the Smiths or the Batruels; rather, the Department simply did not want to be in violation of the court's orders as set forth in the Supplemental Judgment.

FACTUAL FINDINGS RELATING TO THE PRESENT MOTION

Based upon Paul Batruel's testimony and demeanor at hearing, it is clear that he has no intention of complying with the Supplemental Judgment. He has taken steps in flagrant violation of

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that order. Despite Judge Rowett's order, the Batruels have not eliminated the Pond diversion. Rather, the Batruels made improvements on the Pond diversion since July, 1995.

The Batruels have continued to divert water from Sand Springs Gulch at the Pond diversion. They are not permitting water to flow past that point down Sand Springs Gulch. As a result of the Batruels' failure to eliminate the Pond diversion, no significant amounts of water have flowed to the 50-50 diversion. Consequently, the Smiths have not had adequate water for their crops and have been damaged.

While there was contradictory evidence presented at hearing, the court finds that the Smiths can put the water that they are to receive under the terms of the Supplemental Judgment to beneficial use, specifically for the irrigation of hay and for stock watering purposes. There will be no waste of the Smiths' water in the event the Pond diversion is eliminated and the water is equally divided at the 50-50 diversion.

While the Batruels assert that they will lose \$17,000 in hay and barley crops if the Pond diversion is eliminated, this is not the result of any material change in circumstances. It appears that the Batruels planted barley in the expectation that there would be no effort to enforce the Supplemental Judgment. Similarly, it appears that the Batruels either planted or left other fields in hay, rather than take steps reasonably necessary to ameliorate the impact of the Supplemental Judgment.

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It is clear to the court that all losses that the Batruels claim will flow from enforcement of the Supplemental Judgment are not the product of a change in circumstances. Rather, those losses simply the consequence of the Batruels having planted or continued farming in the apparent expectation that the court would not enforce the order.

ANALYSIS

The Batruels have moved, under authority of Rule 60(b)(5), I.R.C.P., for an order staying the Supplemental Judgment, or in the alternative, for a stay of enforcement of that order. The Batruels argue that it is inequitable for the court to order that the Supplemental Judgment be enforced.

The Smiths have argued that the motion is untimely. It is true that such a motion must be made within a reasonable time. Devine v. Cluff, 111 Idaho 476, 478-79, 725 P.2d 181 (Ct.App. 1986). Viewing the history of this case and the facts presented at hearing, this court is at a loss to understand the one-year delay in presenting this matter to the court. The Batruels have simply continued to operate as they always have, although this conduct is now in violation of this court's order.

The evidence presented by the Batruels at the hearing appeared to be largely focused on the Batruels' dissatisfaction with the Supplemental Judgment. While there was some evidence relating to the value of the imminent loss of crops if the judgment is enforced, the primary focus of Paul Batruel's testimony was that

the judgment was unjust and should not have been entered. Other than the Batruels' actions in disregard of the existence of the order, there have been no new developments in this conflict. Accordingly, this court cannot conclude that the motion has been filed in a reasonable time.

Nevertheless, this court declines the Smiths' request that the Batruels' motion be denied for untimeliness. Rather, this court will rule upon this motion on the merits as the Batruels have failed to persuade this court that they would be entitled to relief under Rule 60(b)(5) were the motion timely filed.

A Rule 60(b) motion is not a substitute for a timely appeal. Dustin v. Beckstrand, 103 Idaho 780, 783, 654 P.2d 368 (1982); Hoopes v. Bagley, 117 Idaho 1091, 1093, 793 P.2d 1263 (Ct.App. 1990) (analyzing Rule 60(b)(6)).

In order to rely on Rule 60(b)(5), I.R.C.P, the "movant must show two things: (1) that the judgment is prospective in nature; and (2) that it is no longer equitable to enforce the judgment as written." Rudd v. Rudd, 105 Idaho 112, 118, 666 P.2d 639 (1983).

The determination of whether to grant relief under Rule 60(b)(5), I.R.C.P, is directed to the sound discretion of the trial court. Gordon v. Gordon, 118 Idaho 804, 806, 800 P.2d 1018 (1990). Indeed, the court emphasized the broad measure of discretion afforded the district court on such motions because "motions under Rule 60(b) involve a nice balance between the interest in finality and the desire to achieve justice". Id., quoting, 11 Wright and

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Miller, Federal Practice and Procedure: Civil, § 2872, p. 261 (1973).

Injunctive relief in the judgment satisfies the requirement that the judgment be prospective in nature. Id.; Devine, 111 Idaho at 479. However, this court is not satisfied that the Batruels have demonstrated that it is inequitable to enforce the Supplemental Judgment.

In order to meet this second requirement, it is clear that there must be some substantial change in the circumstances of the parties in order to make the prospective application of the judgment inequitable. "Under Rule 60(b)(5), a movant must also show a sufficient change of circumstances rendering enforcement of the judgment inequitable." Rudd, 105 Idaho at 119. In Gordon, the court, borrowing liberally from Wright and Miller, explained the tension between the competing interests of finality and justice more completely:

A motion pursuant to the "no longer equitable" language of Rule 60(b)(5) however, implies some change in circumstances.

The rule allows relief if it is "no longer equitable" for the judgment to have prospective application. This provision is not a substitute for an appeal. It does not allow relitigation of issues that have been resolved by the judgment. Instead it refers to some change in conditions that makes continued enforcement inequitable.

11 Wright and Miller, Federal Practice and Procedure: Civil, § 2863, p. 206-07 (1973).

Therefore, we are of the opinion and hold that the condition for relief pursuant to Rule 60(b)(5) is similar to the requirement of I.C. § 32-709, i.e., some change in the circumstances of the parties is necessary to make the

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CERTIFICATE OF MAILING

I hereby certify that on this 25th day of July, 1996, I mailed (served) a true and correct copy of the within instrument to:

D. Blair Clark
RINGERT CLARK CHARTERED
455 South Third, P.O. Box 2773
Boise, ID 83701-2773

Thomas A. Miller
HAWLEY TROXELL ENNIS & HAWLEY
P.O. Box 1617
Boise, ID 83701

John W. Homan
DEPUTY ATTORNEY GENERAL
Department of Water Resources
1031 N. Orchard St.
Boise, ID 83706

DOLORES ROBISON
Clerk of the District Court

By: 
Deputy Court Clerk

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State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720-9000

Phone: (208) 327-7900 FAX: (208) 327-7866

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

February 20, 1997

Carlene Smith
Rt 1 Box 420
Glenns Ferry ID 83623

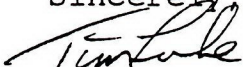
Dear Ms. Smith:

As per our phone call this morning, I am forwarding you a copy of my memo dated October 25, 1996. I could not find a signed copy of the Director's cover letter which I thought had been sent to you. The Director is out of town until next week. I will try to get a copy of the signed letter to you after the Director returns.

I encourage you to review the memo. I don't believe I can add much more to the comments in my memo if I were to attend the water district meeting. Dan Hall should have a copy of the memo. I feel that you should attend the meeting and ask that issues or recommendations from the memo be discussed. The district may want to consider adopting resolutions related to the recommendations in the memo.

If you have further questions about this matter, please call me at 327-7864.

Sincerely,



Tim Luke

cc: Western Region

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MEMORANDUM

TO: Karl Dreher, Director

THRU: Norm Young, Administrator

FROM: Tim Luke

DATE: 10/25/1996

RE: Little Canyon Creek Field Visit

This memo summarizes my field visit to Little Canyon Creek on October 22. I have listed my observations and measurements in the table below. A more detailed narrative of my field investigation follows the table.

Diversion or Site	Flow
Morrow Reservoir Ditch at heading	0.94 cfs (47 inches)
Little Canyon Creek abv. Morrow Resrvr. Ditch	1.30 cfs (65 inches) (estimated)
Little Canyon Creek below Morrow Res. Ditch	$1.30 - 0.94 = 0.36$ cfs or approx. 18 inches
Little Canyon Ck. above Trail Res. Div Dam (immed. above and 2.2 miles above diversion dam)	0 cfs
Morrow Reservoir Ditch at road culvert near Trail Div. Dam.	0.94 cfs (47 inches)
Inflow to Morrow Reservoir	30 inches (estimated)
Outflow from Morrow Resrvr.	30 inches (estimated)
Little Canyon Ck. below Trail Res. Diversion Dam	0 cfs
Little Canyon Ck. at Smith-Blackwell Divs.	0 cfs

On Tuesday, October 22, I traveled to Glenns Ferry and met for about 45 minutes with Dan Hall, watermaster of Little Canyon Creek. Following this meeting, I met with Carlene Smith as was arranged the prior day when the Smiths visited our office.

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Dan Hall and I decided to meet before the 9 am meeting with Mrs. Smith because it was understood that Mrs. Smith and I would be looking at some diversions together in the field and that this would consume much of the day. Dan said his time would be limited that day and wanted to meet with me before my appointment with Mrs. Smith. I thought it was important to meet with Dan and inform him about my visit and activities.

Dan and I traveled together to look at the Morrow Reservoir, the Morrow Reservoir Ditch at the road culvert near the Trail Reservoir main diversion dam, the Trail Reservoir diversion dam and outlet gate structures, and the Trail Reservoir diversion ditch headgate. I also used my time with Dan to ask questions about the different diversions and water delivery on the creek.

After visiting with Dan, I met Mrs. Smith for our scheduled appointment. Mrs. Smith showed me the Smith's diversions on the creek and provided some explanation about her recent and past experiences with water delivery on the creek. Mrs. Smith identified four points of diversion from the creek, including three ditch diversions and one pump diversion. We discovered that the SRBA claim for Little Canyon Creek only identifies two points of diversions. I advised her that an amendment should be filed on her adjudication claim to include the other points of diversion.

I physically walked the diversion ditch which takes out of the creek at a point upstream of the Smith-Blackwell diversions. This ditch has no headgate structure. I also did not observe a measuring device but Mrs. Smith said she had recently removed a weir and showed me the weir location. It did appear that a weir had been installed at that particular location (about 100 yards below the ditch heading). From the upper ditch, I could see the other Smith-Blackwell ditches downstream, but I did not visit those ditch headings or walk any of those ditches and thus can not confirm the condition of any headgates or measuring devices etc.

From the lower diversions on the creek, Mrs. Smith and I went upstream to the heading of the Morrow Reservoir ditch. I current metered the ditch about 50 ft. below the headgate and measured a total diversion rate of 47 inches. I walked about the first 75 yards of the ditch and could not find a measuring device.

I observed that a small quantity of water was also going past the Morrow Ditch headgate and flowing downstream in the creek. I made two attempts at metering the creek above the headgate and had great difficulty finding a suitable location to measure. This part of the creek has many large boulders and pools which make measurement very difficult at low flows. The vegetation here and through much of the creek is also very dense, which further complicates measurement of the channel. I completed a measurement at one of the two sites but had problems with obtaining accurate velocity measurements, which would have made the total flow less than the ditch diversion. I therefore did not calculate my field notes and instead estimated the total creek flow to be about 65 inches.

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Mrs. Smith and I then drove by the ditch downstream at the road culvert to observe the flow. We observed cattle in this area and Mrs. Smith confirmed that the cattle belonged to Blackwell, but she thought they had only been turned out in this area a few days prior to my visit. I then dropped Mrs. Smith off at her home as she needed to tend to other obligations. I went back to the Morrow ditch at the road culvert and current metered the ditch just downstream of the culvert. The flow measured at this point was also 47 inches, indicating no reach loss or gain between this point and the ditch heading. I also looked at Little Canyon Creek above the main Trail diversion dam and reservoir and found that there was no inflow into the diversion dam reservoir. I inspected the creek 2 miles upstream of the diversion dam and again found the creek bed to be dry.

The main Trail diversion dam on Little Canyon Creek does contain storage water. The elevation pool however is below the elevation of the outlet gates which control flow to the creek downstream, and thus no flow was observed in the creek and below the dam.

There also was no flow in the Trail Reservoir diversion ditch. The headgate for this ditch was locked, but the gate was open about 1 foot. Dan Hall told me that both he and the owners of the Trail Reservoir have keys to this locked gate. Dan said that the Trail and Morrow Reservoir owners have keys to their ditch headgates so that they can regulate the water during the storage or non-irrigation season, which is after Dan's term of service as watermaster.

My final visit of the day was again to the Morrow Reservoir. I looked at both the inflow and outflow of the reservoir and estimated that the two flows were about the same. The flows appeared to be less than the ditch flow measured upstream at the road culvert (perhaps 20 to 30 inches). A very small and shallow pool of water was in the reservoir, which may have been water that could not be drained. I concluded that the small inflow was not being stored.

When I completed the metering of the Morrow Ditch heading with Mrs. Smith, but before calculating my field notes, I informed her that I thought the flow of the ditch was more than the 20 inch stock right authorized for delivery at this time, and that the flow of the creek was certainly more than 20 inches. I asked her what she wanted to do about any call for water given this information. She indicated that it was now too late in the season to do anything, that the weather had gotten cold and the ground had begun freezing. After my final visit to the Morrow Reservoir, I completed the calculation of my field notes and dropped by the Smith residence to tell Mr. and Mrs. Smith of the computed flows in the Morrow Ditch, plus my observations of the creek above the diversion dam. The Smiths again indicated at this time that they would not renew or pursue their call for water this late in the season. They did express concern about delivery for future seasons and the manner in which a futile call is determined.

Dan Hall called me by phone on October 23 and told me that there should have been a weir in the Morrow Ditch about 300 yards below the headgate. The headgate was locked at the time of my visit. Dan had

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told me that both he and Mr. Batreul have keys to the lock on this gate. Dan said he turned water down the ditch on September 27 in response to a request for stockwater by Blackwell. He did not measure the flow using the ditch weir but believed the flow to be about 20 inches based on his past experience setting this headgate. When Dan called me on October 23, I asked him to explain again how he had last set the gate (i.e., length of gate stem/number of threads above the nut). Dan's description matched the setting which I had observed, thus indicating that the gate probably has not been adjusted since Dan's last adjustment. (Note: After my visit to the gate on 10/22, I thought that the gate may have been adjusted since Dan's first setting, but I apparently misunderstood Dan's description.)

Dan also told me that when he turned water down the Morrow Ditch on September 27, that he also opened or adjusted the outlet gate (the gate located on the west end of the reservoir) and turned down the creek whatever water he could from the main Trail diversion reservoir. He estimated this flow at about 150 inches. He believes that this water disappeared within a few days as the reservoir level fell below the elevation of the outlet gate.

Comments/Recommendations

- 1) Based on my field measurements of Morrow Ditch and observations of the creek at the Morrow Ditch heading and above the Trail diversion dam, I believe that the estimated 65 inches of water in the creek above the Morrow Ditch heading would have difficulty reaching the Trail diversion dam and below at this particular time. I can not conclude that water would not have reached the diversion dam during the latter half of September.
- 2) I recommend that users not possess keys to storage reservoir ditch headgates prior to the date that storage water can be diverted. Only the watermaster should possess a key to these gates during the term of his service. The gates should remain locked and closed while the watermaster is on duty, unless there are natural flow rights which can be delivered at any time. After the watermaster completes his term of service, the users may have a key to control diversion of storage water during the storage season.
- 3) Some consideration should be given to fixing and/or using the Trail diversion dam gate located on the upstream side of the dam. This might help assure that small reservoir inflows would be by-passed through the dam, particularly at times when a futile call is being determined. My list of water rights shows a water right for this reservoir is a 1957 beneficial use claim for year round wildlife and recreational storage, and winter irrigation storage.
- 4) To assure proper delivery of natural flow rights below the Trail diversion dam, the water district and watermaster must rely on measuring devices or current meter measurements of reservoir inflow and outflow. Perhaps smaller temporary or portable measuring devices can be installed for the lower flows. If district members want to insist on properly delivery of low flows, then the district should budget for purchase of current metering equipment or other measuring

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devices.

5) Several recommendations are offered in regard to determination of a futile call:

a) The watermaster should periodically measure or monitor the supply of water near the Morrow ditch heading and above the Trail diversion dam, as well as the amount of water between the Trail diversion dam and the lower diversions. If the watermaster detects or measures significant losses between in these reaches, then that information should be relayed to the downstream senior water right users.

b) Water should not be turned out of the stream above the Trail diversion dam, or to the Trail Reservoir (offstream reservoir), if it would result in a break of Little Canyon Creek downstream. Some assurance must be made that downstream rights can not be delivered before making a futile call and turning water out to upstream diversions. Moreover, downstream water users must be notified by the watermaster when a futile call is determined before water is turned out to upstream diversions.

cc: Carlene Smith
Dan Hall
Dave Tuthill
Western Region

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Field visit w/ Dan Hall 8¹⁵ AM

- Morrow Res. → DRAINAGE.

Very small flow appears to be coming into res., w/ small flow leaving gate. OB serves very small flow in ditch by Battlevale → which is reservoir H₂O AS per Dan Hall.

- Checked Morrow Res. ditch @ culvert @ road.

DAN est. ≈ 20 inches of H₂O for Blackwell stock. OB serves cattle in AREA, which belonged to Blackwell AS per DAN H. MRS. Smith says these cattle probably moved in w/in past 5 days - wk. Cattle were not here on 10/13 AS per Smith prior to 10/15. DAN said he Adjusted H.G. up Canyon for Blackwell

stock or several days prior to 10/11.

DAN said this Adj. normally done on about 10/11, But he did it a few days early this yr. Smith says moss ditch a culvert w. L. lined. Blw culv. = 14" high

- Visited Div DAM on CK - Blair Trail Res. Div. DAM. NO flow into Blair TR. Res Ditch,

& NO flow in CK Below Dam or through Headgates on Dam outlet.

- met w/ Mrs. Smith ≈ 9³⁰ AM. She was upset about my mtg. w/ Hall. MT @ Smith Res.



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190
FAX (208) 334-2348

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

October 16, 1996

Attn: Carol Olds
Board of County Commissioners
Elmore County
Elmore County Courthouse
Mountain Home, ID 83647

RE: Water District No: 61D
STREAM: Little Canyon Creek
PERIOD: 1996 Irrigation Season
AMOUNT: Gross Salary & Expenses--\$ 990.36
FICA--\$ 27.54

WATERMASTER--Dan Hall
Box 644
Glenns Ferry, ID 83623

COMMISSIONERS:

Transmitted herewith is the Watermaster's Report and Claim for Services.

The various items in the report have been checked, and have been found to be a proper charge against the waterusers therein named. Section 42-612, 42-613 and 42-6614 of the Idaho Code provides the procedure under which this claim shall be paid from the funds of the above named district.

If you have any questions, please contact me.

Sincerely,

John Westra
Western Region

Enclosure: Watermaster's Report
cc: Watermaster, Secretary

SCANNED
JUL 07 2023

telephone
CONVERSATION MEMORANDUM
File

DATE 10/16/86

FILE 61D
Little Canyon Creek
Water Dist.

NAME OF PARTY Carol Olds Treas. Elmore

EMPLOYEE J Westra, Western Reg.

RE: County Keeping the district account.

Carol Olds is going to request the District begin keeping its
own account. She will pay the Watermaster for 1996 and turn
the account to the district March 1st 1997 for the new season. (1997)
I stated, there were provisions in the Idaho Code for this action,
and to proceed.

→ Note to File: WD:61D[#] Watermaster Report - Assessments.

The assessment of 50% of the district costs to regulated
deliveries was because the Watermaster was called for regulation by
the Department for issues not related directly to Water district
operations; thus a surcharge is justified. (similar to WD[#]63S assessments)

* Discussed/approved, Steve Lester Deputy Manager; J Westra, Eng.

J. Westra

SCANNED

JUL 07 2023



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720-9000
Phone: (208) 327-7900 FAX: (208) 327-7866

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

October 15, 1996

Carlene and Lowell Smith
Lava Rim Ranch
Rt. 1, Box 420
Glenns Ferry, Idaho 83623

Re: Little Canyon Creek

Dear Mr. and Mrs. Smith:

This letter acknowledges receipt of your letter of October 1, 1996. I have discussed your concerns with IDWR staff and have determined that your request for water delivery from Little Canyon Creek could not be satisfied because the rate of flow in the creek is not adequate to reach your point of diversion in an amount sufficient for diversion and beneficial use under your right.

You have arranged a meet with Karl Dreher and me on October 21, 1996, here in Boise. I will be happy to hear your views on this matter and to work with you to improve the delivery of water under your rights.

Sincerely,

NORMAN C. YOUNG
Administrator
Water Management Division

SCANNED

JUL 07 2023

CONVERSATION MEMORANDUM

DATE 10/15/96FILE 610NAME OF PARTY Norm YoungEMPLOYEE Steve LesterRE: CURRENT STATUS
INFO For 10/21/96 mtg.

- Future call still in place -

Carlene Smith plus her attorney have meeting 11:00 10/21 with NCG's Director. Norm needs to continue current situation in order to send brief reply letter to her.

✓ completed Check with Watermaster:

• Q in creek

" " " ditch

no flow into storage & Morrow Res.

✓ completed Then call Rita with this information so letter can be sent.

Is there ~~data~~ data & Q needed to reach her pld? ORT?

I called watermaster @ 599-7779:

status • @ 30" into headgate up above

• @ 20" of this reaching Blackwell's stock

• no flow into M. Res.

• rest of flow @ 120 ±" continuing

creek but does not reach her pld.

est. @ 150 ±" in ck. up above & pld for reservoir.

SCANNED
JUL 07 2023

From: DWR80::SLESTER
To: DWR03::NYOUNG
CC: SLESTER
Subj: LITTLE CANYON CREEK

1-OCT-1996 12:02:33.98

Norm, Carlene Smith just finished a long telephone conversation with Rob about creek water -- sounds similar to at least part of the same stuff she called you about a little while ago (@ a week ago?).

Basically, she is once again calling for water to be siphoned over the diversion dam in the creek so that this minor flow can be delivered a considerable distance downstream to her P/D. Past experience has shown this to be a futile call, especially this late in the season when creek flow is minimal (as you probably know, Dave T. and John H. are very familiar with this futile call syndrome experienced every year).

In response to her call to the Watermaster (between her call to you last week and her call to Rob today?), Dan has made all of the deliveries that he has determined to be appropriate given current conditions. He also told this office that little or no irrigation is occurring via creek water at this time (final cuttings done etc.). It is doubtful if any beneficial use would even occur even if the minor flow could reach Carlene's diversion.

It was suggested to Carlene that she put her complaints about this and the many other issues she once again raised into a letter to IDWR. It would not be surprising if a letter -- or even phone call -- reaches you or the director soon.

If so, please let me know if this office can supply any assistance in responding. Based on the available information and given the track record, there is nothing for the dept. to do at this point but to see if a letter/call shows up. A field trip based on this matter does not appear justified at this time.

Bottom line: futile call once again.

thanks,

Steve

SCANNED

JUL 07 2023

L A V A R I M R A N C H
LOWELL AND CARLENE SMITH
RT.1, BOX 420
GLENN'S FERRY, ID 83623

TELEPHONE (208) 366-2711

Please look into this
RECEIVED

OCT 03 1996

Department of Water Resources

October 1, 1996

Norman C. Young
Administrator, Water Management
Idaho Department of Water Resources
1301 N. Orchard
Boise, ID 83720-9000

Dear Mr. Young:

We am writing this letter in total frustration over what we have to go through to get our water delivered to us. Until Dan Hall became water master for Little Canyon Creek, we had water in the creek to fill our senior right all season except on poor water years. Now we are able to get our senior right on the creek filled only until the middle of July or the first of August. Except for last year when Paul Batruel was not allowed to put any water into the reservoir, then we had water coming down to us until they started filling the reservoirs in November.

I (Carlene) talked to you about the problems we have been having last Thursday and your response indicated that Dan would be turning the water down that day. I called Dan on Friday morning and he said he was not to do anything about it until I called him. So I made a call for water at that time. On Saturday morning, water was coming over the Blair-Trail diversion dam spillway and down the creek. However, Dan did not turn all the water back down the creek. There continued to be seventy inches of water flowing in the ditch to Batruel's reservoir. I was unable to get Dan on the telephone to see why he had left the headgate open to Batruel's reservoir but he was not home. Evidently he had gone to California. This morning there was no water coming past the reservoir diversion and seventy plus inches was going down the Batruel ditch. Sam Blackwell has no cattle in his allotment and BLM could not tell me when he intended to turn them in. This year we have totally lost all of the water in the creek for irrigation purposes since the last week in July when the weather got very hot and the evaporation from the Blair-Trail diversion increased.

As I (Carlene) was unable to get in touch with Dan Hall today, I called Rob Whitney, who as usual was rude and unwilling to do anything about the water delivery. He stated that I always complained about the water delivery but Dan was always right and that for him to come down here was just a

*not true
my only response
was to call
Dan Hall
to go thru
the channels
my*
SCANNED

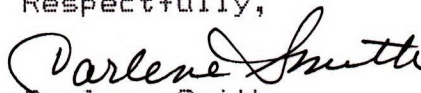
JUL 07 2023

waste of his time. I told him I was going to write you a letter about this matter and also get in touch with my attorney, Blair Clark. He told me to go right ahead.

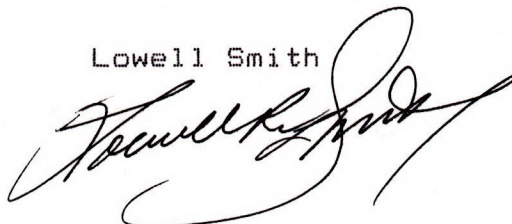
We are including copies of the decisions of the Idaho Department of Water Resources for both the diversion of water at the Batruel headgate for Sam Blackwell's stockwater right and the establishment of the right to store water in the Blair-Trail diversion reservoir. We have contacted our attorney who has other information of the results of the study your department did on the evaporation and seepage from the Blair-Trail diversion reservoir and the determinations made at that time.

We would like to get these problems with water delivery taken care of as soon as possible. We know you are tired of hearing from us and frankly we are tired of the battle. We appreciate any help you can give us.

Respectfully,


Carlene Smith

Lowell Smith



copies:
Karl Dreher
Blair Clark

SCANNED

JUL 07 2023

AW
SL

Glenn -
Please look into
this

RECEIVED

OCT 03 1996

Department of Water Resources

L A V A R I M R A N C H
LOWELL AND CARLENE SMITH
RT.1, BOX 420
GLENNS FERRY, ID 83623

TELEPHONE (208) 366-2711

October 1, 1996

RECEIVED

OCT 08 1996

WATER RESOURCES
WESTERN REGION

Norman C. Young
Administrator, Water Management
Idaho Department of Water Resources
1301 N. Orchard
Boise, ID 83720-9000

Dear Mr. Young:

We am writing this letter in total frustration over what we have to go through to get our water delivered to us. Until Dan Hall became water master for Little Canyon Creek, we had water in the creek to fill our senior right all season except on poor water years. Now we are able to get our senior right on the creek filled only until the middle of July or the first of August. Except for last year when Paul Batruel was not allowed to put any water into the reservoir, then we had water coming down to us until they started filling the reservoirs in November.

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see

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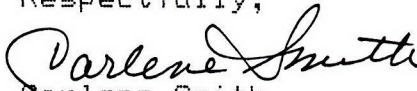
SCANNED
JUL 07 2023

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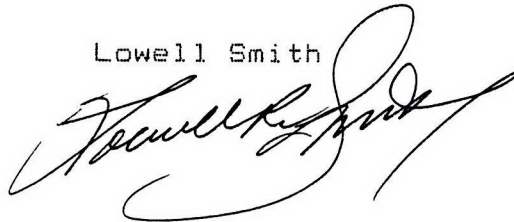
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We would like to get these problems with water delivery taken care of as soon as possible. We know you are tired of hearing from us and frankly we are tired of the battle. We appreciate any help you can give us.

Respectfully,


Carlene Smith

Lowell Smith



copies:
Karl Dreher
Blair Clark

SCANNED
JUL 07 2023

BEFORE THE DIRECTOR OF THE DEPARTMENT OF WATER ADMINISTRATION
OF THE
STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR)
PERMIT NO. 61-7079 in the names of) MEMORANDUM DECISION
LEE T. TRAIL AND MARY A. BLAIR)
_____)

On November 16, 1970, Lee T. Trail and Mary A. Blair submitted an Application for a permit to appropriate 65 acre-feet of water per annum at the rate of 13 cubic feet of water per second from Little Canyon Creek in Elmore County. The storage is for recreation and Fish Propagation and the maintenance of 65 acre-feet to facilitate irrigation of 633 acres within Sections 21 and 28, T. 5S, R. 9E, B.M., in conjunction with other water rights held by the applicants. The lands described are included within the place of use under License No. 61-2228 (R-959), for the off-stream storage of 2532 acre-feet for irrigation purposes and License No. 61-2107 (25631), for diversion of water to the off-stream storage described in License No. 61-2228.

The water right developed under Licenses 61-2228 and 61-2107, in the opinion of the Department, allows the licensee to fill and utilize the diversion dam for diverting 2532 acre-feet per year to off-stream storage. However, it does not allow the licensee to maintain storage at the diversion dam during the times when no diversion is taking place under the above described licenses.

Application No. 61-7079 was filed to provide for maintenance of storage at the diversion dam during the irrigation season, subject to prior rights below the diversion.

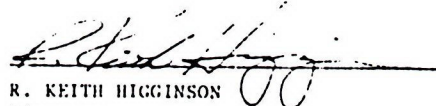
Since the irrigation of lands described is covered by valid water rights to the extent provided by law, no additional rate of diversion of water to said lands may be allowed and the applicant should be authorized to store water at any rate that such water is available, subject to downstream prior rights, in order to fill the storage behind the diversion dam. It is also recognized that the 65 acre-feet requested will not be used for the actual physical application to irrigated crops, but is intended to provide a means of readily-diverting water to off-stream storage

61-7079
SCANNED
JUL 07 2023

when available under previous licenses and to provide water for fish, wildlife, and recreational purposes.

Therefore, it is hereby ordered and Application for Permit No. 61-7079 is approved only for the storage of 65 acre-feet of water, subject to the condition that measuring devices of a type approved by the Department be installed and maintained above and below the reservoir, and that any use of water under this permit be subject to the control and regulation of the Watermaster of Water District No. 61-D, Little Canyon Creek.

Dated this 15th day of April, 1971.


R. KEITH HIGGINSON
Director

BDF:DR

61-7079

SCANNED
JUL 07 2023

required by the watermaster to insure that diversion at the new upstream point of diversion does not injure the senior water right on Little Canyon Creek. If this additional care is applied, the senior water right will be protected. The watermaster will need to anticipate downstream flow availability and will likely need to reduce the flow at the new upstream point of diversion several days prior to the date that the senior water right is expected to experience a shortfall.

Local Public Interest

11. Use of an open ditch to provide water for stockwater purposes allows greater losses via seepage and evaporation than use of a pipeline system. Nevertheless, the open ditch system of stockwater delivery is considered to be a beneficial use of water in Idaho.

ORDER

IT IS, THEREFORE, HEREBY ORDERED and Application for Transfer of Decreed Water Right No. 61-0371B is APPROVED subject to the following conditions:

1. Water right No. 61-0371A is defined as the 0.80 cfs which remains appurtenant to ^{16 Acres in} the original place of use, and water right No. 61-0371B is defined as the 0.40 cfs that is hereby transferred. Subsequent conditions of approval apply to water right No. 61-0371B.

2. This water right is subject to all existing senior water rights.

3. A measuring device and lockable diverting works of a type acceptable to the Department shall be installed and maintained at the diverting works.

4. This water right is subject to delivery by the watermaster of Water District No. 61-D, Little Canyon Creek.

5. This water right shall be delivered only from April 1 through July

15, and October 1 through November 1, during periods when delivery will not adversely impact delivery of the downstream senior water right. For purposes of protection of the downstream senior water right on Little Canyon Creek, the watermaster shall anticipate the impact of the diversion under this water right and shall discontinue delivery of this right during periods when the flows are anticipated to be required to satisfy the prior senior water right.

6. The issuance of this transfer in no way grants any right-of-way or easement for use of a delivery system owned by a person other than the water right holder. Use of water under this transfer may be affected by an agreement between the water right holder and the owner of the conveyance works.

Dated this 22nd day of April, 1987.

Bobby D. Fleenor
BOBBY D. FLEENOR, HEARING OFFICER

From: DWR80::SLESTER
To: DWR03::NYOUNG
CC: SLESTER
Subj: LITTLE CANYON CREEK

1-OCT-1996 11:59:18.28

Rob
copy for you

Norm, Carlene Smith just finished a long telephone conversation with Rob about creek water -- sounds similar to at least part of the same stuff she called you about a little while ago (@ a week ago?).

Basically, she is once again calling for water to be siphoned over the diversion dam in the creek so that this minor flow can be delivered a considerable distance downstream to her P/D. Past experience has shown this to be a futile call, especially this late in the season when creek flow is minimal (as you probably know, Dave T. and John H. are very familiar with this futile call syndrome experienced every year).

In response to her call to the Watermaster (between her call to you last week and her call to Rob today?), Dan has made all of the deliveries that he has determined to be appropriate given current conditions. He also told this office that little or no irrigation is occurring via creek water at this time (final cuttings done etc.). It is doubtful if any beneficial use would even occur even if the minor flow could reach Carlene's diversion.

It was suggested to Carlene that she put her complaints about this and the many other issues she once again raised into a letter to IDWR. It would not be surprising if a letter -- or even phone call -- reaches you or the director soon.

If so, please let me know if this office can supply any assistance in responding. Based on the available information and given the track record, there is nothing for the dept. to do at this point but to see if a letter/call shows up. A field trip based on this matter does not appear justified at this time.

Bottom line: futile call once again.

thanks,

Steve

SCANNED
JUL 07 2023

From: DWR80::SLESTER
To: DWR03::NYOUNG
CC: SLESTER
Subj: LITTLE CANYON CREEK

1-OCT-1996 11:59:18.28

61-D

Norm, Carlene Smith just finished a long telephone conversation with Rob about creek water -- sounds similar to at least part of the same stuff she called you about a little while ago (@ a week ago?).

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Bottom line: futile call once again.

thanks,

Steve

SCANNED
JUL 07 2023

CONVERSATION MEMORANDUM

DATE 9/26/96FILE 610

NAME OF PARTY

Dan Hall

EMPLOYEE

Steve Lester

RE:

Call for Water?

Said has not heard from Carlene s. e
any calls for water. All of creek now going
to Smith except minor stock right upstream
for Blackwell.

stated that Carlene has driven right past
him several times in last few days as he was
working on fencing - never stopped to talk
to him - so doesn't know what she's talking
e re calls for water.

SCANNED

JUL 07 2023

CONVERSATION MEMORANDUM

DATE 7/26/96

FILE 610

NAME OF PARTY

EMPLOYEE Steve Latta

RE: Carlene Smith - Call for water?

Regin staff - no contacts @ 610 since @ Lisbon
Day.

Watermaster - has not had call for water from
Carlene.

Norm - let's treat this as call for water.

he will call Carlene, tell her to contact
Watermaster

I → left msg. with Wm mobile 599-7779)
to contact ~~the~~ Carlene - treat as call
for water, reservoir factors, priorities etc.
Contact me @ Regin if need any ~~help~~
help.

Remember futile call guidelines.

No followups needed unless hear more from
S.O. or water district @ this.

Sent email to RBW, JFW, Noy @ current

SCANNED
JUL 27 2023

CONVERSATION MEMORANDUM

DATE 9/28/96FILE 61D

NAME OF PARTY

Norm Young

EMPLOYEE

Steve LesterRE: CARLENE SMITH - CALL FOR WATER?

Relayed conv. to me: Carlene called him a
call for Little Canyon Cr water. She alleged
that

- CK. H2O going to Batonsol's Reservoir
- Regier told her (who? when? Norm ~~last~~ ^{had} no info) was futile call

DAVE H. ~~at~~ letter to B. that Res. must be dry
by 9/15 (OK if midstream id = main stream
out if futile call is correct assessment).



Does Regier have cc this letter to Smith?

Following

Region staff

✓ no info

Watermaster

✓ no call for water

Norm needs to know

prior: it won't deliver to Smith

After: Any other solution

RUB? John? what's status

SCANNED
Contact
JUL 11 / 2023

CONVERSATION MEMORANDUM

DATE 8/15/96 4:30 p.m.
FILE 61-DNAME OF PARTY Norm YoungEMPLOYEE Steve LesterRE: VINGER - SMITH CALL FOR WATER

Attorney for V-S called Norm. Said V-S pump has been repaired & can now divert & use water.

Norm asked Regid to contact watermaster. If legitimate call for water found per watermaster's observations, then deliver water.

Not a matter of dividing water between Batroul & ~~the~~ V-S - instead:

if valid call exists, Batroul hdgate should be closed.

if not valid call found, Batroul hdgate does not have to be closed.

So watermaster to determine:

- 1) pump works
- 2) can apply ~~to~~ water to b. use

Return

Left message 8/16 - 8:50 AM to call JFW

10:00 AM - Talked with Dan. He indicated they were not pumping and there was abundance of water to use at pump site. No delivery needed at ~~Batroul~~. JFW

SCANNED

2023

JFW

Follow-up
JFW

RECEIVED
JUL 29 1996
WATER RESOURCES
WESTERN REGION

RECEIVED
JUL 26 1996

Department of Water Resources

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ELMORE

RICHARD P. VINER and CARLENE
R. VINER, husband and wife,

Plaintiffs,

vs.

PETER BATRUEL, MARY N.
BATRUEL, husband and wife,
and PAUL BATRUEL,

Defendants.

CASE NO. CV-OC-82-08224

MEMORANDUM OPINION DENYING
ALTERNATIVE MOTIONS TO
AMEND OR TO STAY SUPPLEMENTAL
JUDGMENT AND GRANTING MOTION
FOR ENFORCEMENT OF JUDGMENT

APPEARANCES: D. BLAIR CLARK, for Plaintiffs
THOMAS A. MILLER, for Defendants
JOHN W. HOMAN, for Cross-Defendant, Idaho
Department of Water Resources

This matter came before the court for hearing on July 3, 1996, upon a motion filed by the Third-Party Defendant, Idaho Department of Water Resources (hereafter "the Department") for enforcement of the court's Supplemental Judgment of July 5, 1995, or in the alternative, to amend the Supplemental Judgment to conform to existing practices.

Immediately prior to the hearing, defendants (hereafter "the Batruels") filed a motion to amend or to stay the supplemental judgment and notice of hearing for the same date.

MEMORANDUM OPINION DENYING
MOTIONS TO AMEND OR STAY
SUPPLEMENTAL JUDGMENT AND GRANTING
MOTION TO ENFORCE JUDGMENT 1

SCANNED
JUL 07 2023

While objecting to the timeliness of the Rule 60 motion and asserting that there was no basis for granting the requested relief, counsel for plaintiffs (hereafter "the Smiths¹") waived objection to the timeliness of the notice of hearing. This matter proceeded to hearing. The court received evidence and heard argument of counsel and the matter was fully submitted.

HISTORY OF THE CASE

This case, initiated in 1982², primarily relates to a dispute over the right to divert and use water from a stream known as "Sand Springs Gulch." The duration of this litigation, the size of the court file and the emotional intensity displayed in the courtroom all serve to emphasize the importance of these water rights to each of the parties.

Sand Springs Gulch is a tributary of a stream known as Little Canyon Creek. For purposes of this opinion, focus begins at the Morrow reservoir. Sand Springs Gulch flows downstream from the Morrow reservoir to a point known as the Pond diversion. From the Pond diversion, it flows down to the 50-50 diversion. From there, it flows down to join with Little Canyon Creek.

There is no dispute over the fact that the Batruels are

¹Since this lawsuit was initiated, Carlene Viner has re-married. She has married Ray Smith and is presently known as "Carlene Smith." She continues to own the property which is the subject of the instant water rights dispute.

²The Hon. Robert M. Rowett was originally assigned to this case. He presided over this action until his retirement in June, 1996.

entitled to the water behind the Morrow reservoir. The Morrow reservoir is situated behind a dam which has serious structural problems and a significant amount of water is lost to seepage. There is no dispute that the Batruels are entitled to recover that water.

It is also clear that the parties were, under the terms of previous decreed water rights, to share water rising and flowing in Sand Springs Gulch below the Morrow reservoir. The difficulty is that water lost from seepage from the Morrow reservoir dam has been commingled with the water rising and flowing in Sand Springs Gulch.

On October 1, 1985, Judge Rowett entered Findings of Fact and Conclusions of Law and entered a Judgment. Following defendant's motion to reconsider and to alter or amend his judgment, on December 1, 1986, Judge Rowett issued Amended Findings of Fact, Conclusions of Law and an Amended Judgment.

This Amended Judgment was greeted with yet another motion by the Batruels to reconsider, alter or amend. On July 13, 1987, Judge Rowett filed his Second Amended Findings of Fact, Conclusions of Law and Judgment. Plaintiffs then asked Judge Rowett to reconsider, alter or amend this second amended judgment. Plaintiffs subsequently asked Judge Rowett to find the Batruels in contempt for violation of the terms of the second Amended Judgment.

After hearing on the motion for contempt, the motion was denied. While Judge Rowett found that there was a violation of the spirit of this judgment, he reluctantly reached the conclusion that

MEMORANDUM OPINION DENYING
MOTIONS TO AMEND OR STAY
SUPPLEMENTAL JUDGMENT AND GRANTING
MOTION TO ENFORCE JUDGMENT 3

SCANNED
JUL 07 2023

material terms of the judgment had been omitted, requiring yet a third amended judgment. See, Memorandum Decision of April 5, 1989.

In response to the Memorandum Decision of April 5, 1989, the Batruels requested that the court enter an order for quantification of the parties' water rights in Sand Springs Gulch. It appears that rather than taking steps to physically isolate the water lost through seepage from that rising and flowing in Sand Springs Gulch, the Batruels sought to quantify the respective amounts of water (i.e., water from seepage and that rising and flowing) so that an appropriate proportional allocation could be effectuated at a diversion to be situated in Sand Springs Gulch.

On March 19, 1991, pursuant to a stipulation of the parties, Judge Rowett entered an order appointing Carlyle Briggs as a special master for the purpose of quantifying the water which rises and flows in Sand Springs Gulch. On August 14, 1991, Mr. Briggs prepared his findings and report. On November 19, 1991, Mr. Briggs prepared an addendum to his report. Plaintiffs requested that the court adopt the report and the Batruels objected.

Mr. Briggs' report concluded that it was "impractical and uneconomical to attempt to quantify" the water in Sand Springs Gulch in the matter requested by the Batruels. Rather, physical steps to separate of the water by ditch or weir were more practical or feasible. Memorandum Decision of January 15, 1992. The Batruels continued to assert that the water could be quantified and Judge Rowett afforded the Batruels "a reasonable opportunity to

MEMORANDUM OPINION DENYING
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obtain and present expert opinion to support their claim that it can be quantified." Id.

The Batruels failed to present such evidence and on September 15, 1992, Judge Rowett entered an order confirming and approving the Briggs Report.

On July 5, 1995, Judge Rowett entered the Supplemental Judgment which is at issue. In that Supplemental Judgment, Judge Rowett specifically directed that:

1. The Batruels were to construct a ditch from the Morrow reservoir to the Batruel pond and that water was not to be diverted from the Morrow reservoir into Sand Springs Gulch unless ordered to do so by the Department because of concerns about the structural integrity of the Morrow reservoir dam.

2. The Batruels were to remove all obstructions to the flow of water in Sand Springs Gulch down to the 50-50 diversion. Specifically, the Batruels were prohibited from diverting water at the Pond diversion and were directed to permit all water to flow to the 50-50 diversion.

3. The Department was instructed to "endeavor to allocate the water rights of the parties in conformance" with the Supplemental Judgment.

On July 10, 1995, the Batruels requested that the Supplemental Judgment be set aside. They argued, *inter alia*, that requiring them to construct a ditch was a "gross miscarriage of justice" and that they were being deprived of water rights which had been

previously adjudicated. On September 8, 1995, this motion was denied. No appeal was taken from this judgment.

HISTORY OF THE PRESENT ISSUE

This matter came back before this court because of the requirement that the Department "endeavor to allocate the water rights of the parties in conformance" with the Supplemental Judgment.

The watermaster assigned this unpleasant responsibility, Dan Hall, reported by affidavit to the court that the Batruels continued to divert water at the Pond diversion and that he was unable to shut off that diversion without the use of heavy equipment.

Faced with the inability to comply with the court's order, the Department, on June 26, 1996, filed a motion to enforce the Supplemental Judgment. In the alternative, the Department requested that the Supplemental Judgment be amended to conform to the existing practice. At hearing, the Department was clear in its position: It did not desire to advocate the positions advanced by either the Smiths or the Batruels; rather, the Department simply did not want to be in violation of the court's orders as set forth in the Supplemental Judgment.

FACTUAL FINDINGS RELATING TO THE PRESENT MOTION

Based upon Paul Batruel's testimony and demeanor at hearing, it is clear that he has no intention of complying with the Supplemental Judgment. He has taken steps in flagrant violation of

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that order. Despite Judge Rowett's order, the Batruels have not eliminated the Pond diversion. Rather, the Batruels made improvements on the Pond diversion since July, 1995.

The Batruels have continued to divert water from Sand Springs Gulch at the Pond diversion. They are not permitting water to flow past that point down Sand Springs Gulch. As a result of the Batruels' failure to eliminate the Pond diversion, no significant amounts of water have flowed to the 50-50 diversion. Consequently, the Smiths have not had adequate water for their crops and have been damaged.

While there was contradictory evidence presented at hearing, the court finds that the Smiths can put the water that they are to receive under the terms of the Supplemental Judgment to beneficial use, specifically for the irrigation of hay and for stock watering purposes. There will be no waste of the Smiths' water in the event the Pond diversion is eliminated and the water is equally divided at the 50-50 diversion.

While the Batruels assert that they will lose \$17,000 in hay and barley crops if the Pond diversion is eliminated, this is not the result of any material change in circumstances. It appears that the Batruels planted barley in the expectation that there would be no effort to enforce the Supplemental Judgment. Similarly, it appears that the Batruels either planted or left other fields in hay, rather than take steps reasonably necessary to ameliorate the impact of the Supplemental Judgment.

MEMORANDUM OPINION DENYING
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It is clear to the court that all losses that the Batruels claim will flow from enforcement of the Supplemental Judgment are not the product of a change in circumstances. Rather, those losses simply the consequence of the Batruels having planted or continued farming in the apparent expectation that the court would not enforce the order.

ANALYSIS

The Batruels have moved, under authority of Rule 60(b)(5), I.R.C.P., for an order staying the Supplemental Judgment, or in the alternative, for a stay of enforcement of that order. The Batruels argue that it is inequitable for the court to order that the Supplemental Judgment be enforced.

The Smiths have argued that the motion is untimely. It is true that such a motion must be made within a reasonable time. Devine v. Cluff, 111 Idaho 476, 478-79, 725 P.2d 181 (Ct.App. 1986). Viewing the history of this case and the facts presented at hearing, this court is at a loss to understand the one-year delay in presenting this matter to the court. The Batruels have simply continued to operate as they always have, although this conduct is now in violation of this court's order.

The evidence presented by the Batruels at the hearing appeared to be largely focused on the Batruels' dissatisfaction with the Supplemental Judgment. While there was some evidence relating to the value of the imminent loss of crops if the judgment is enforced, the primary focus of Paul Batruel's testimony was that

the judgment was unjust and should not have been entered. Other than the Batruels' actions in disregard of the existence of the order, there have been no new developments in this conflict. Accordingly, this court cannot conclude that the motion has been filed in a reasonable time.

Nevertheless, this court declines the Smiths' request that the Batruels' motion be denied for untimeliness. Rather, this court will rule upon this motion on the merits as the Batruels have failed to persuade this court that they would be entitled to relief under Rule 60(b)(5) were the motion timely filed.

A Rule 60(b) motion is not a substitute for a timely appeal. Dustin v. Beckstrand, 103 Idaho 780, 783, 654 P.2d 368 (1982); Hoopes v. Bagley, 117 Idaho 1091, 1093, 793 P.2d 1263 (Ct.App. 1990) (analyzing Rule 60(b)(6)).

In order to rely on Rule 60(b)(5), I.R.C.P., the "movant must show two things: (1) that the judgment is prospective in nature; and (2) that it is no longer equitable to enforce the judgment as written." Rudd v. Rudd, 105 Idaho 112, 118, 666 P.2d 639 (1983).

The determination of whether to grant relief under Rule 60(b)(5), I.R.C.P., is directed to the sound discretion of the trial court. Gordon v. Gordon, 118 Idaho 804, 806, 800 P.2d 1018 (1990). Indeed, the court emphasized the broad measure of discretion afforded the district court on such motions because "motions under Rule 60(b) involve a nice balance between the interest in finality and the desire to achieve justice". Id., quoting, 11 Wright and

Miller, Federal Practice and Procedure: Civil, § 2872, p. 261 (1973).

Injunctive relief in the judgment satisfies the requirement that the judgment be prospective in nature. Id.; Devine, 111 Idaho at 479. However, this court is not satisfied that the Batruels have demonstrated that it is inequitable to enforce the Supplemental Judgment.

In order to meet this second requirement, it is clear that there must be some substantial change in the circumstances of the parties in order to make the prospective application of the judgment inequitable. "Under Rule 60(b)(5), a movant must also show a sufficient change of circumstances rendering enforcement of the judgment inequitable." Rudd, 105 Idaho at 119. In Gordon, the court, borrowing liberally from Wright and Miller, explained the tension between the competing interests of finality and justice more completely:

A motion pursuant to the "no longer equitable" language of Rule 60(b)(5) however, implies some change in circumstances.

The rule allows relief if it is "no longer equitable" for the judgment to have prospective application. This provision is not a substitute for an appeal. It does not allow relitigation of issues that have been resolved by the judgment. Instead it refers to some change in conditions that makes continued enforcement inequitable.

11 Wright and Miller, Federal Practice and Procedure: Civil, § 2863, p. 206-07 (1973).

Therefore, we are of the opinion and hold that the condition for relief pursuant to Rule 60(b)(5) is similar to the requirement of I.C. § 32-709, i.e., some change in the circumstances of the parties is necessary to make the

MEMORANDUM OPINION DENYING
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prospective application of the judgment inequitable.

Gordon, 118 Idaho at 806-07 (emphasis added).

This court does not intend to cavalierly dismiss the impact of the Supplemental Judgment on the Batruels. However, the evidence and argument presented at the hearing on July 3, 1996, are those which were or should have been raised at the last hearing. The court is not persuaded that actions taken by the Batruels in complete disregard of the order should provide a basis for relief from that order.

Accordingly, the court determines that the alternative motions to stay or amend should be denied.

MATTERS PRESENTED SUBSEQUENT TO THE HEARING

Both parties have submitted, in letter form, materials relating to post-hearing negotiations relating to potential resolution of this conflict. The matter before the court is a simple one: Should the court enforce the Supplemental Judgment or not? The parties had ample opportunity at hearing to present the facts and arguments in support of their respective positions. To permit the parties to continue to present additional matters for the court's consideration would only serve to prolong litigation that has already continued far too long.

Further, the fundamental policy underlying Rule 408, I.R.E, would be eviscerated were this court to consider the parties' positions relative to a potential compromise. Accordingly, the court has not considered the factual or legal arguments presented

MEMORANDUM OPINION DENYING
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in those letters.

CONCLUSION

For the foregoing reasons, the Department's motion for enforcement of the Supplemental Judgment is granted. The alternative motion to amend the Supplemental Judgment is denied.

For the same reasons, the Batruels' motions to amend, or in the alternative, to stay the Supplemental Judgment are denied.

In the event that any party wishes to enforce the terms of the Supplemental Judgment, the court will entertain a motion for contempt, provided that such motion is supported by appropriate affidavit(s).

IT IS SO ORDERED.

DATED this 20 day of July, 1996.



JOEL D. HORTON
District Judge

MEMORANDUM OPINION DENYING
MOTIONS TO AMEND OR STAY
SUPPLEMENTAL JUDGMENT AND GRANTING
MOTION TO ENFORCE JUDGMENT 12

SCANNED
JUL 07 2023

CERTIFICATE OF MAILING

I hereby certify that on this 25th day of July, 1996, I mailed (served) a true and correct copy of the within instrument to:

D. Blair Clark
RINGERT CLARK CHARTERED
455 South Third, P.O. Box 2773
Boise, ID 83701-2773

Thomas A. Miller
HAWLEY TROXELL ENNIS & HAWLEY
P.O. Box 1617
Boise, ID 83701

John W. Homan
DEPUTY ATTORNEY GENERAL
Department of Water Resources
1031 N. Orchard St.
Boise, ID 83706

DOLORES ROBISON
Clerk of the District Court

By: 
Deputy Court Clerk

SCANNED
JUL 07 2023

CONVERSATION MEMORANDUM

DATE

6/24/96

FILE

610

NAME OF PARTY

DAN HALL, WATERMASTER

EMPLOYEE

STEVE LESTER

RE:

IDWR ORDER - POND DIVERSION

DAN returned my calls this afternoon.

Said that Paul has not removed pond

diversion nor ceased diverting.

TO CONTACT DAN

home 366-7779

→ mobile 599-7779

fax USE home #, call 15 s
can switch to fax mode.

best - can leave msg. e this number, also

✓ FAX CC TO NORM YOUNG & JOHN HUMAN.

SCANNED
JUL 07 2023



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720-9000

Phone: (208) 327-7900 FAX: (208) 327-7866

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

June 20, 1996

Thomas A. Miller, Esq.
HAWLEY TROXELL ENNIS & HAWLEY
P.O. Box 1617
Boise, Idaho 83701-1617

VIA FAX & U.S. MAIL

Mr. Paul Batruei
Route 1, Box 426
Glenns Ferry, ID 83623

VIA U.S. MAIL

Re: Diversion of Water at Pond Diversion

Messrs. Miller and Batruei:

Pursuant to the Supplemental Judgment of the Fourth District Court dated July 5, 1995 and the Notice of Violation/Order of the Idaho Department of Water Resources (Department) dated May 15, 1996, you are hereby directed to cease and desist the diversion of all waters at the "pond diversion" from Sand Springs Gulch by 12:00 noon on Friday, June 21, 1996.

Failure to comply with this order will result in the Department filing documents with the Court seeking judicial enforcement. The water master will inspect the "pond diversion" as soon as possible Friday afternoon and report his findings to the Department.

Sincerely,

Norman C. Young
Administrator
Water Management Division

NCY/dde

cc: Dan Hall
Steve Lester

SCANNED
JUL 07 2023



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720-9000
Phone: (208) 327-7900 FAX: (208) 327-7866

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

Carlene Smith
Lava Rim Ranch
Route 1, Box 420
Glenns Ferry, Idaho 83623

Re: Water Delivery from Sand Springs Gulch

Dear Mrs. Smith:

This letter is a response to your letter of June 18, 1996, to Mr. David Tuthill. I am responding rather than Dave because he has undertaken a temporary change of assignment and because your letter includes some questions concerning a field inspection that I made last week.

First, with respect to the field visit, I requested a field visit of Sand Springs Gulch to improve my understanding of the physical layout to assist the watermaster in responding to requests for delivery. The visit was made on Wednesday, June 12, as I and another IDWR employee traveled through the Glenns Ferry area on other business. Mr. Dan Hall showed us your diversion for livestock, the 50-50 diversion, and the diversion to Batruel's pond. We did not go up to Morrow Reservoir, but did see the lower end of the ditch that Mr. Batruel is constructing and the new pond.

IDWR approval is not required for a pond if it is simply a re-regulation reservoir for the stored water released from Morrow Reservoir and it does not involve an embankment large enough to fall under the safety of dams program (more than 10 feet high or storing more than 50 acre feet).

An application for transfer has not been filed with IDWR for a change of the point of diversion for the Batruel's right from Little Canyon Creek. If an application is filed in the future, notice will be given as required in Section 42-222, Idaho Code, and protests against approval can be filed at that time. IDWR is not authorized to consider your June 18, 1996 letter as a valid protest against an application filed in the future.


IDWR issued an order in May to Mr. Batruel requiring among other things that he stop diverting at the pond diversion. At a recent compliance conference, he demonstrated that progress had been made toward building a ditch to avoid commingling Morrow Reservoir water with Sand Springs Gulch water. We received assurance that when all approvals were received and the ditch could be completed, diversions at the pond diversion would be stopped. Based upon the efforts made to comply with the IDWR

RECORDED
JUL 17 2023

Carlene Smith
Lava Rim Ranch
June 20, 1996
Page 2

order, additional time has been allowed to meet the conditions of the order, with the understanding that diversion at the pond diversion must stop whenever the flow in the Gulch is not adequate to satisfy other rights calling for water even if the bypass ditch was not completed. His attorney has been informed of your call for water. I understand that you and Batruels are presently negotiating an agreement that could resolve the conflict on Sand Springs Gulch. I hope you are successful. In the event the conflict remains and Batruel has not voluntarily stopped diverting water at the pond diversion, IDWR will prepare documents to flush out the issues with the Court. IDWR will file a motion seeking to enforce the terms of the Court's July 5, 1995 order or in the alternative to amend the order to reflect current water delivery practices in the gulch.

Sincerely,



NORMAN C. YOUNG
Administrator
Water Management Division

c. Tom Miller
Steve Lester, IDWR

SCANNED
JUL 07 2023



State of Idaho
DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190
FAX (208) 334-2348

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

FAX TRANSMITTAL COVER SHEET

FAX # (208) 334-2348

DATE:

6/20/96

TO:

DAN HALL

FROM:

Steve Lester

366-7779

DOCUMENT DESCRIPTION:

CEASE & DESIST ORDER PLUS RESPONSE
TO C. SMITH'S LETTER TO D. TUTTILL

TOTAL PAGES SENT:

3

+ COVER SHEET

SCANNED

JUL 07 2023

CONTACT:

DAN - NEED TO HAVE YOU DO A WATERMASTER
CHORE TOMORROW 6/21 AFTER 12:00 (NOON) &
THEN CALL, LET ME KNOW

HAS BATRUEL TAKEN OUT HIS POND DIVERSION
BY THE DEADLINE IN ORDER?

Thanks, Steve L.

334-2190



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Statehouse Mail, Boise, Idaho 83720-9000
Phone: (208) 327-7900 FAX: (208) 327-7866

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

FACSIMILE COVER SHEET

CONFIDENTIAL

THIS IS A CONFIDENTIAL DOCUMENT INTENDED ONLY FOR REVIEW BY THE DESIGNATED INDIVIDUAL(S) SET FORTH BELOW. IF YOU HAVE RECEIVED THIS FAX IN ERROR DO NOT READ OR REVIEW THE DOCUMENT. RETURN THE DOCUMENT AND ALL COPIES TO THE SENDER OR CONTACT THE SENDER IMMEDIATELY FOR FURTHER INSTRUCTION.

Date: June 20, 1996

To: Steve Leuter
Company: Western
Fax number: _____

From: John Homan
Division: Legal
Phone number: 327-7924

Message/document information: Please see attached
copies of letters re: Paul Batruel.
Please fax a copy to the water master
H5AP.

This fax consists of 4 pages.

Please contact Debbie Ellis if there is a problem with this transmission at the following number 327-7920.

SCANNED
JUL 07 2023

From: DWR03::DTUTHILL 20-JUN-1996 10:17:18.52
To: DWR03::NYOUNG DWR01::JHOMAN DWR80::RWHITNEY DWR80::SLESTER
CC:
Subj: Batrue1

61-P

I just received a call from Del Bale who stated that the easement for Paul Batrue1's ditch across the BLM land was issued on Friday June 14, 1996. Paul had stated that the ditch would require two days for construction, so it might be constructed, although Del did not know this status.

Dave

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JUL 07 2023

From: DWR80::JWESTRA 20-JUN-1996 15:14:54.86
To: DWR03::NYOUNG
CC: JWESTRA
Subj: Little Canyon Dam

Norm,

I was in the Glenns Ferry area yesterday 6/19 and stopped at the Little Canyon Dam. Mr. Batruel accompanied me. The reservoir has been drawn down to approx. 6 feet below the spillway crest. Seepage along the old embankment portion toe has decreased to a trickle, no other changes were noted.

Mr. Batruel was making releases from the reservoir into the left ditch just below the reservoir to Sand Springs Gulch. Flows were being diverted out of the gulch at the "pond diversion" into the dairy pond ditch (several CFS).

An alternate delivery system was recently constructed to deliver storage flows utilizing the upper far right ditch just below the reservoir. A new redirection pond and rerouted ditch have been constructed, which allows storage flows to bypass the gulch, and discharge directly into the dairy pond ditch (you may have seen this on-site previously). Presently, storage flows were also being diverted through this system.

Please call me, if you have any questions.

John

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JUL 07 2023

CONVERSATION MEMORANDUM

DATE

6/19/96

FILE

61-D

NAME OF PARTY DAN Hall 599-7779 (mobile #)EMPLOYEE Steve LethRE: Carlene Smith Call For Water* - Sand Sp. gubel

I returned DAN's call to office made yesterday a.m.

He said that all water below pond is being delivered to Smiths - not aware of any other flows he can deliver at this site.

I told him that dept. would respond with letter to answer C. Smith's letter.

RBW → said Norm indicated response will be from Norm.

* Fax letter rec'd 6/18/96 c Regis

SCANNED
JUL 07 2023

Per Telecon w/ Norm 6-19-96
He will send Response

David Tuthill
334-2348

LAVA RIM RANCH

LOWELL AND CARLENE SMITH
Route 1, Box 420
Glenns Ferry, Idaho 83623
Telephone (208) 366-2711

RECEIVED

JUN 18 1996

WATER RESOURCES
WESTERN REGION

Rec'd by
fax.

June 18, 1996

Mr. David Tuthill, Director
Western Regional Office
Idaho Department of Water Resources
Boise, Idaho

Dear Mr. Tuthill:

As you requested we are addressing our water problems to you first. Our problem at this time is still delivery of the water from Sand Spring Gulch.

Last night, at about 8 p.m., Ray called Dan Hall and requested our water from the gulch for irrigation purposes as well as for watering the livestock in the feedlot. Dan's reply, as usual, was that he would get with you and see what he should do. When he says this, it generally takes three to four weeks and much prompting to get any kind of answer. For this reason, we are making you aware of our call for water.

When we talked to Dan he stated a group of people from the Department had been down and he had taken them around and shown them the dam and gulch. Our question is did he show them everything or only what he and Paul Batruel wanted them to see. Did he show them where Paul was putting water back into the gulch above the 50 - 50 diversion from his pond diversion. Or did he make it seem like all the water at the 50 - 50 was springing up between the dam at the pond diversion and the 50 - 50? Also did he show them the new reservoir Paul put in just between the Morrow Reservoir and the pond diversion?

We are sure you have given Paul permission for the new small reservoir but we are concerned about the purpose for it. Our concern is that it is just another way for Batruels to mine the water from the gulch. We are so tired of having to deal with all the obstacles they put up to keep us from getting our water.

Another concern we have is the Batruel's plan to transfer the diversion of their water right in Little Canyon Creek from the "Slick Ditch" to their reservoir diversion. We feel there are several problems with such a transfer and are therefore making a formal protest to such a transfer.

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← What transfer?
Nothing found
in APPS. 615
-82

← Norm Young
was down
here last
wk.
-82

Following are our reasons for requesting such a transfer not be made:

1. The point of diversion would be 13 miles upstream and the water would have to go through an open ditch in the dry desert to get to the reservoir. The only way they would get any water from such a transfer is if extra water was diverted to supplement the 50 inches. This is what has happened in the past with the 20 inch transfer Sam Blackwell made to this diversion.
2. The present "Slick Ditch" is adequate to deliver their water to them and we have no problem with them using it. It is less than a mile from this diversion to the place of use and they have ditches in place to carry it. We have purchased a backhoe and plan to enlarge the ditch this fall.
3. It is very difficult to reach the headgate on the Batruels' reservoir diversion and it is almost impossible for us to get Dan Hall to go into the diversion and turn it down or off. For years we have had not been able to get our senior water right filled because of the change in diversion which was given to Sam Blackwell. Any time we ask for the water to be turned back into the creek from this diversion we have been refused and told it was a futile call for water.
4. From the past and what has happened with the Blackwell transfer we can only assume that such a change in diversion would amount to giving Batruels' a flow right from Little Canyon Creek to their reservoir all summer in excess of their allotment and deny all down stream users of their rights.
5. The transfer would allow Batruels to pass the water through their reservoir, somehow into their pond, and then through their pipeline on to their "80" acres. When they do this they dump the waste manure, urine and other matter from their dairy feedlot through the pipeline and out onto the "80" because they do not have a proper dairy waste disposal system. They have saturated this ground with the waste until it subs underground onto our property and is ruining our field. It is also washed directly into Little Canyon Creek and into the Snake River polluting the river. The effects of this pollution are easy to see if you want to come down and let us show it to you.

This is rather a lengthy letter but I did want you to know our concerns as well as asked that our water be delivered according to the orders of the court. We need to

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JUL 07 2023

have the dam removed from the gulch and the Batruels diversion to their pond closed in order that we might be delivered out water without interference.

Please get with us quickly as the water in the creek is falling and we need our water for irrigation as well as for stock water.

Thank you for your assistance.

Respectfully,

Carlene Smith
Carlene Smith

copy: Karl Dreher

Followup
- Watermaster
- Her
Letter
- Let Director
? New
Know
(+ John H.?)

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JUL 01 2023



State of Idaho

DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190

FAX (208) 334-2348

April 29, 1990

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

Mr. Dan Hall, Watermaster
Water District 61D
Box 644
Glenns Ferry, ID 83623

Mr. Paul Batruel
Rt. 1 Box 426
Glenns Ferry, ID 83623

RE: Adjustment of Headgate on Little Canyon Creek for Morrow Reservoir Diversion

Gentlemen:

This letter is written as a follow-up to recent telephone conversations regarding diversions from Little Canyon Creek to Morrow Reservoir.

On about Thursday, April 17, I called Paul Batruel to advise that the maximum fill that the Department would be able to allow even if the Consent Agreement were to be signed was 2.0 feet below the spillway. The Department had determined that full fill would not be safe the first year after major reconstruction. Accordingly, I stated that we would be directing the Watermaster to decrease the diversion from Little Canyon Creek to a rate of 200 to 300 miner's inches. I relayed this information to Dan Hall, who stated that he would reduce the flow as soon as he could get into the area, possibly the next day. Dan later affirmed that he had reduced the flow as planned.

On Friday, April 25, Mike Stubblefield visited the site and determined that the reservoir had filled to a point about one foot below the spillway. Because this fill exceeded the amount of fill authorized for the reservoir, Mike advised the Watermaster that the diversion ditch needed to be shut off. I telephoned the Watermaster at about 3:30 pm, and he advised me that he planned to visit the headgate the next day to shut off the flow in the ditch.

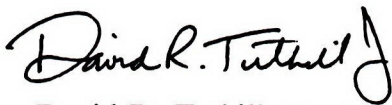
It is our position that the headgate for this diversion shall not be reopened unless specifically authorized by the Department. As a reminder to Mr. Batruel, the Department considers he and his mother Mary Batruel to have been responsible for the initial opening of the headgate. This opening was conducted by a person other than the Watermaster and without the authority of the Watermaster and was therefore a violation. We are formulating the manner in which this violation will be addressed. This letter will serve as a warning that any additional tampering with the headgate by any party other than the Watermaster is illegal and must be addressed as such.

SCANNED
JUL 07 2023

April 29, 1996

I will be out of the office during the period from 29 April through 10 May. During this period your continuing contact for water delivery is Rob Whitney and for safety of dams is John Westra. We will continue to work with staff from our State Office in this matter. If you wish to respond to this letter, please do so via the regional office. Relative to the Consent Agreement the state office personnel are in contact with your attorney.

Sincerely,



David R. Tuthill, Jr., P. E.
Manager, Western Region Office

BCC: Rob Whitney, John Westra, Mike Stubblefield, John Homan, Phil
Rassier, Norm Young

SCANNED
JUL 07 2023



State of Idaho
DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190
FAX (208) 334-2348

April 29, 1990

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

Mr. Dan Hall, Watermaster
Water District 61D
Box 644
Glenns Ferry, ID 83623

Mr. Paul Batruel
Rt. 1 Box 426
Glenns Ferry, ID 83623

RE: Adjustment of Headgate on Little Canyon Creek for Morrow Reservoir Diversion

Gentlemen:

This letter is written as a follow-up to recent telephone conversations regarding diversions from Little Canyon Creek to Morrow Reservoir.

On about Thursday, April 17, I called Paul Batruel to advise that the maximum fill that the Department would be able to allow even if the Consent Agreement were to be signed was 2.0 feet below the spillway. The Department had determined that full fill would not be safe the first year after major reconstruction. Accordingly, I stated that we would be directing the Watermaster to decrease the diversion from Little Canyon Creek to a rate of 200 to 300 miner's inches. I relayed this information to Dan Hall, who stated that he would reduce the flow as soon as he could get into the area, possibly the next day. Dan later affirmed that he had reduced the flow as planned.

On Friday, April 25, Mike Stubblefield visited the site and determined that the reservoir had filled to a point about one foot below the spillway. Because this fill exceeded the amount of fill authorized for the reservoir, Mike advised the Watermaster that the diversion ditch needed to be shut off. I telephoned the Watermaster at about 3:30 pm, and he advised me that he planned to visit the headgate the next day to shut off the flow in the ditch.

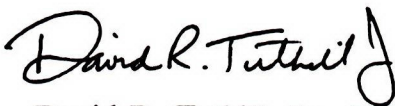
It is our position that the headgate for this diversion shall not be reopened unless specifically authorized by the Department. As a reminder to Mr. Batruel, the Department considers he and his mother Mary Batruel to have been responsible for the initial opening of the headgate. This opening was conducted by a person other than the Watermaster and without the authority of the Watermaster and was therefore a violation. We are formulating the manner in which this violation will be addressed. This letter will serve as a warning that any additional tampering with the headgate by any party other than the Watermaster is illegal and must be addressed as such.

SCANNED
JUL 07 2023

April 29, 1996

I will be out of the office during the period from 29 April through 10 May. During this period your continuing contact for water delivery is Rob Whitney and for safety of dams is John Westra. We will continue to work with staff from our State Office in this matter. If you wish to respond to this letter, please do so via the regional office. Relative to the Consent Agreement the state office personnel are in contact with your attorney.

Sincerely,



David R. Tuthill, Jr., P. E.
Manager, Western Region Office

BCC: Rob Whitney, John Westra, Mike Stubblefield, John Homan, Phil
Rassier, Norm Young

SCANNED
JUL 07 2023

From: DWR80::DTUTHILL 22-APR-1996 16:22:25.78
To: DWR01::DHOLLING DWR01::MSTUBBLE DWR03::BFLEENOR DWR03::NYOUNG DWR01::JHO
CC:
Subj: Update on Morrow Reservoir

We have been advised that sometime prior to this morning a dam was constructed at the pond diversion on Sand Springs Gulch. Ray Smith reported to the watermaster that he felt the dam was constructed by Paul Batruel.

The watermaster has reported that he did throttle back the diversion into Morrow Dam on Friday afternoon as I had requested, to about 4 to 6 cfs (enough to provide for seepage and irrigation needs without increasing the fill of the reservoir).

John Westra has agreed to visit the site tomorrow to observe (1) the flow in Little Canyon Creek, (2) the flow in the Morrow Reservoir ditch, (3) the level of fill in Morrow Reservoir, (4) the outflow from the reservoir, and (5) the status of the pond diversion.

Dave

SCANNED
JUL 07 2023

4/18/96

JFW

Batrueals:

Trail Weir on Creek = $2\frac{1}{4}$ " - 2.78 CFS

Trail Diversion Ditch = OFF

Trail Dam Outlet = OFF

Trail Res. = Full

Culverts @ Batrueals ditch + Road.

	UPSTREAM	DNSTREAM
3'	13"	22"
2'	4"	12"

Measurement from top of culvert down.

Morrow Res.

Res. Level - $3\frac{1}{2}$ Ft from Full

Outlet Releasing \approx 2 CFS

(Flows passing to pond near house)

Sprinklers operating south + east of house.

New embankment appears OK.

New Crest width 44 FT

Dnslope 2:1

SCANNED
JUL 07 2023



State of Idaho
DEPARTMENT OF WATER RESOURCES

Western Region, 2735 Airport Way, Boise, Idaho 83705-5082 - (208) 334-2190
FAX (208) 334-2348

PHILIP E. BATT
GOVERNOR

KARL J. DREHER
DIRECTOR

April 16, 1996

Lowell and Carlene Smith
Rt. 1, Box 420
Glenns Ferry ID 83623

RE: Delivery of Water from Little Canyon Creek

Dear Mr. and Mrs. Smith:

I am in receipt of a copy of the letter that you faxed to Director Karl Dreher and copied to me yesterday. Mr. Dreher is out of town, and I am preparing this response because I have been involved in this delivery matter.

On Wednesday, April 10, Watermaster Dan Hall called to notify me that he observed that flows were entering Morrow Reservoir. He was surprised because he had shut and locked the headgate for the ditch which supplies water to the reservoir. I telephoned Paul Batruel, who acknowledged that the gate to his ditch had been opened. After discussing the issue with personnel from our state office, I planned to visit the site the next day.

On the morning of Thursday, April 11, I conducted a field visit to Little Canyon Creek. I began by measuring the flow in the Cippoletti weir located at the bridge near the Blair/Trail Diversion Dam, which measured a flow of 13.97 cfs. I proceeded to the location where Morrow Reservoir ditch crosses the county road. At that location both the Morrow Reservoir ditch and the Blair/Trail diversion ditch appeared to be conveying about twice the flow in the creek, or about 25 cfs. I proceeded to observe the reservoir, and to discuss the flows and the reservoir status with Paul Batruel. I advised him that we will be taking punitive action of some nature in response to the illegal tampering with the headgate, and returned to the office to determine regulatory action regarding the fill of the reservoir.

Based on discussions with the IDWR administration and with the Batruels' engineer, we concluded that we would issue a Notice of Violation but would temporarily allow diversion into the reservoir because it is only about half full and the available flows are probably short-lived. I briefly advised the Watermaster of this on April 12 by leaving the telephone answering system message to which your letter refers. In leaving the message I did not address the possibility of the flows in the creek being reduced between April 11 and April 15 to the point that you would not have sufficient water for irrigation downstream on Little Canyon Creek. Had I known about the flow reductions I would have directed the Watermaster to turn more water downstream, but I can see that Mr. Hall would interpret my message as allowing Batruels to fill without regard to other priorities.

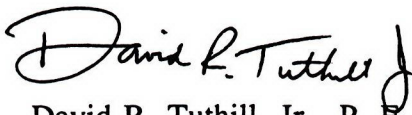
SCANNED
JUL 07 2023

April 16, 1996

Department staff met on the morning of April 15 to discuss the fill of the reservoir, and determined to allow one more day of fill pending the receipt of additional engineering information. When I returned to the office in the afternoon and found your fax and a telephone message from Dan Hall, I called the Watermaster and we determined that his first step would be to release downstream the water that had been flowing to Blair-Trail Reservoir, as the reservoir was full and spilling. He called back about an hour later to state that he had turned down the creek an additional 300 inches, and it should be available to be diverted into the Slick Ditch this morning. If this flow is insufficient he will return to turn water down from the Morrow Reservoir ditch.

Each spring variations in snowpack, temperature and precipitation cause fluctuations in streamflow. Therefore, accurate delivery on Little Canyon Creek where headgates are miles apart is tricky. Communication between waterusers and the Watermaster is important. I would recommend that a representative from your ranch attend the annual water district meeting in Glenns Ferry in March to discuss improvement in this regard. In the meantime, I would encourage your continued contact with the Watermaster. Your contact with our regional office is still Mr. Rob Whitney, with myself as a backup when he is not available.

Sincerely,



David R. Tuthill, Jr., P. E.
Manager, Western Region Office

cc: Dan Hall, Rob Whitney, Norm Young, Karl Dreher

SCANNED
JUL 07 2023

9

1-208- 366 2375

4/12/96

D. Tuttle

Computations of Flow in Little Canyon Creek & diversions
from the creek based on measurements taken on 4/11/96

1. Flow in Creek:

Measured 0.50' depth on a 10' Cipolletti Weir:

$$4.69 \text{ cfs for } 4 \text{ ft} + 6(1.16') = 11.65 \text{ cfs}$$

2. Flow in Blair-Trail diversion ditch: Estimated to
be about twice as much as flow in creek, or
about 25 cfs.

3. Flow in Morrow Res diversion ditch:

See culvert diagram on attached page

SCANNED
JUL 07 2023

STATE OF IDAHO
Department of Water Resources

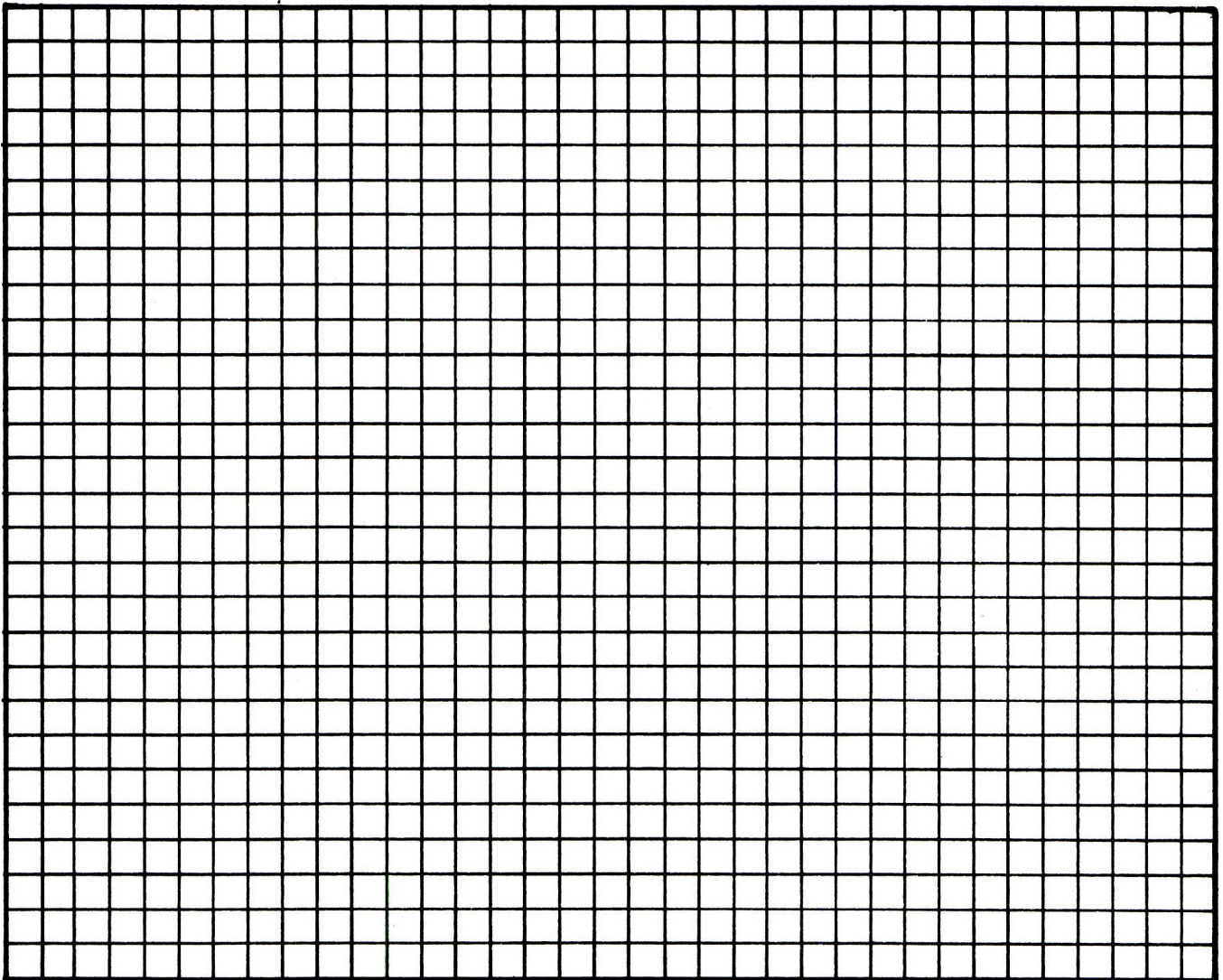
FIELD INSPECTION REPORT

1. Date: 11 Apr 96 Time: 10:00 am Photos: ☒ Yes ☐ No
2. Inspection involves: ☐ Water Rights ☒ Dam Safety ☐ Well Construction or Driller
☐ Waste Well ☐ Stream Channel Alteration ☐ Water Distribution
☐ Other _____
3. Reason for inspection: Allegation of illegal diversion
4. Stream name: Little Canyon Creek
5. Stream characteristics: _____
6. Stream width: _____ Depth: _____ Gradient: _____ Q: _____ est. _____
meas. _____
7. Location: _____ 1/4 _____ 1/4, Sec. _____, Twp. _____, Rge. _____, County _____
Landmark: _____
8. Person(s) contacted: _____
9. Dam name: _____ Spilling: ☐ No ☐ Yes Q _____
Outlet open: ☐ No ☐ Yes Q _____ Spillway open: ☐ Yes ☐ Fibrd ☐ Gate open
Freeboard: Spillway _____ Crest _____ Res. stage: ☐ Rising ☐ Falling _____ Rate _____
10. Area characteristics: _____
11. Weather conditions: Cool, windy, sunny
12. Describe activity/conditions inspected: Measured weir on Little canyon creek @ King Hill Rd
to be 0.50' deep, for a flow of 11.65 cfs. Measured the Morrow Res
ditch to carry water via 2' & 3' culverts as shown on attached page. Estimated
flow in Blair/Trail ditch to be twice the flow in the creek.
13. Are all requirements being met? ☐ Yes
If not, check type violated: ☐ Statutory ☐ Rules & Regs ☐ Permit
14. Describe impact on others: _____
15. Describe alternatives: _____

16. Remarks _____

17. Followup Necessary: ☐ Yes ☐ No Describe: _____

18. Sketch: Include direction, important dimensions, photo locations, landmark or reference point



19. Action taken at time of inspection: _____

20. Signed: _____

21. Follow up action: Date: _____ Additional Memo Prepared: ☐ Yes ☐ No

Describe: _____

22. Signed: _____

SCANNED
JUL 07 2023

SCANNED
JUL 07 2023

From: DWR80::DTUTHILL 23-APR-1996 17:04:29.09
To: DWR03::NYOUNG DWR03::BFLEENOR DWR01::MSTUBBLE DWR01::JHOMAN RWHITNEY JWE
CC:
Subj: Morrow Reservoir

John returned from Morrow Reservoir to report that (1) flow in the creek is ample to provide for downstream water rights, (2) flow into reservoir is enough to provide for seepage plus the present outlet discharge of 4 cfs, (3) the reservoir is presently filled to within two feet of the spillway, and (4) it appears the the Batruels have done some work this year at the pond diversion, although it is not clear how recently the work was done.

Dave

Dave,

Dan Hall will be shutting off the Batraul
Diversion this afternoon completely. S.O.
and Mike contacted Dan.

JFW.

4/25/96

DAN HALL
PO BOX 644
GLENN'S FERRY ID 83623

THOMAS MILLER ESQ
HAWLEY TROXELL ENNIS & HAWLEY
877 MAIN
BOISE ID 83702

DEL BALE
BUREAU OF LAND MGMT
3948 DEVELOPMENT AVE
BOISE ID 83705

DON WATTS PE
A & B ENGINEERING
836 LA CASSIA DR
BOISE ID 83705

*Carol Olds - Assessor Elmore Co.
587-2138*

Dan Hall

366-7779

599-7779 Mobile.

ANNED
07 2023

Watermaster's check
compliance with order &
report to Regis Friday
afternoon 6/21/96

-JK

~~X~~ JOHN
Re ROB

fyi: 6/21

Watermaster to call
this afternoon &
compliance.

SC
JUL

PLEASE return this to me when
HAVE Read.

-JK

Morrow Reservoir

John W.

4/23/96

- Culverts at Road + Trail Ditch.

	UPSTREAM	DOWNSTREAM
2 ft dia. -	1.6	1.7
3 ft dia. -	2.3	2.6

(measurement from top of culverts)

- Trail Ditch - .3 Ft over 12 Ft Weir in ditch.

Trail outlet - off.

- Creek Weir .7 Ft. over 10 Ft Weir.

- Reservoir Level - 2 Ft. of being full

Outlet \approx ditch full 4 CFS. releasing

- Outlet releasing to pond diversion then pond at house.

Appears new pipe placed in pond diversion.

Pipe to Sand springs (Viner) covered over.

Dam across the entire draw.

- Some standing seepage/saturation along toe left of outlet.

SCANNED

JUL 07 2023

RECEIVED

MAR 28 1996

WATER RESOURCES
WESTERN REGION

LITTLE CANYON CREEK
61-D
2:00 P.M.

MARCH 4, 1996
CITY HALL

1. Meeting called to order by Sam Blackwell at 2:00 P.M. at Glenns Ferry City Hall.
2. Election of Chairman
Ralph Crane was nominated Chairman by Sam Blackwell and seconded by Bob Hall . Elected unanimously.
3. Election of Secretary
Bob Hall was nominated Secretary by Ralph Crane and seconded by Dick Anderson. Elected unanimously.
4. Credentials Committee will be all waterusers. Unanimous.
5. Dick Anderson nominated Dan Hall watermaster for 1996 with compensation \$50.00 call out. Seconded by Sam Blackwell and passed unanimously.
6. Treasurer Report / Secretary-Treasurer Bob Hall
\$332.49 on hand
8.43 owed from 1994.
7. Dick Anderson made motion for \$832.00 budget with \$700.00 for watermaster and \$132.00 miscellaneous. Seconded by Dick Anderson. Passed unanimously.
8. Advisory Committee
All members.
9. 1997 meeting first Monday in March at 2:00 P.M. Glenns Ferry City Hall.
10. People present: Benny Morin, Robert Hall, Earl Gardner, Ralph Crane, Dewey Crane, Margaret Pruett, Alice Trail, Mary Batruel, Dick Anderson, Sam Blackwell, Mrs. Blackwell.

A motion by Dick Anderson to open a bank account, seconded by Earl Gardner, passed unanimously.

Robert Hall
Robert Hall, Secretary

Post-it® Fax Note	7671	Date	7-16-96	# of pages	1
To	Tom Miller	From	R Whitrey		
Co./Dept.	Esq.	Co.	IDWR		
Phone #		Phone #			
Fax #	344-6505	Fax #			

PETITION FOR WATERMASTER'S SERVICES

Boise, Idaho

3/18, 1996

RE: Water District No. 61D

Stream: Little Canyon Creek

TO: IDAHO DEPARTMENT OF WATER RESOURCES

We, the undersigned, ^{IDWR} owners or managers of ditches or persons controlling ditches in Water District No. 61D, hereby request the services of a watermaster for the reason that there is a necessity for the use and control of the waters of the District.

Date watermaster is to start: 3/18/96

If known, the date services of watermaster are to terminate: _____

* J. Winter, Idaho Dept. of Water Resources Western Region
signature address telephone water right ident no.

signature address telephone water right ident no.

signature address telephone water right ident no.

W A R N I N G : Watermaster cannot begin services until ALL conditions of appointment have been fulfilled.

* Close headgate to Batruals - Little Canyon (Morrow) Reservoir.
Storage not authorized per Dam Safety. IDWR.


STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

CERTIFICATE OF APPOINTMENT

This is to certify that I have this day appointed DAN HALL *as*
WATERMASTER *of* LITTLE CANYON CREEK WATER DISTRICT *for*
1996 IRRIGATION SEASON *or until his successor is appointed and qualified*
under the provisions of Section 42-605 *, Idaho Code, at such rate of compensation as established by*
applicable law.

This certificate has been issued and the seal of the
Director affixed at Boise, Idaho this 18th
day of March *19* 96 *.*



REPORTS OF WATERMASTERS. All watermasters shall make an annual report to the department of water resources prior to the expiration of the watermaster's appointment for the current year. This report shall show the total amount of water delivered by the watermaster during the preceding year, the amount delivered to each water user, the total expense of delivery and the apportionment of expenses among users and all debits and credits to be carried over to the following year. Such report shall also include records of stream flow the watermaster used or made in the process of distributing water supplies. The director may ask for other information deemed necessary in assuring proper distribution of water supplies within the district. The reports of watermasters to the department of water resources shall be filed and kept in the office of the department.

Instructions For Completing Annual Watermaster's Report

This form has been developed to assist the watermaster in complying with some of the annual reporting requirements of Section 42-606, Idaho Code. The form provides for summary of the amount of water delivered by the watermaster to each user, the total expense of delivery and the apportionment of expenses among water users, including debits and credits. **Water distribution and hydrologic information including stream flow records, daily diversion data, water right information and water right priority cut summaries should be presented in a separate water distribution report.**

Complete this annual report form of delivery and costs as follows:

- 1) Enter water right holder name, corresponding IDWR water right number or numbers, and corresponding diversion name and/or remarks on page 2;
- 2) Enter the total amount of water delivered to each user as total 24-hour second feet under column 1, page 3. Total **24-hour second feet** is a flow rate expressed in terms of one day or 24 hours. For example, a continuous diversion of 2 cfs over 20 days would equal 40 24-hour second feet.
- 3) Under column 3, page 3, enter the amount of money assessed or billed to each user at the beginning of the year. The assessment may be found in the previous year's adopted budget report.
- 4) In the work space provided on the right hand side of page 3, add up total watermaster salary costs and expenses and enter as 'TOTAL COST'. Then divide this total cost by the total number of 24-hour second feet delivered (sum of column 1) to obtain the cost per 24 hour second feet delivered, or the unit cost factor.
- 5) Under column 2, page 3, multiply the unit cost factor (obtained in step number 4 above) by each user's total 24-hour second feet delivery in column 1 to obtain the total cost against each user.
- 6) For each user, subtract the total cost amount in column 2 from the adopted budget in column 3 and enter the difference either as a credit or debit (negative differences entered as debits, positive differences entered as credits).
- 7) Sign the report before a notary public and submit the original to the appropriate regional office of the Department of Water Resources. Retain one copy for the Water District.

WATERMASTER'S REPORT

From March, 19 ~~95~~⁹⁶ To November, 19 ~~95~~⁹⁶

Water District No. 61-D
 Name of Watermaster Dan Hall
 P.O. Address Box 644 Glenns Ferry, Id. 83623

AFFIDAVIT OF WATERMASTER

STATE OF IDAHO }
 COUNTY OF Elmore } ss.

Dan Hall, being first duly sworn, deposes and says that he is Watermaster of Water District 61-D, having been lawfully appointed by R. Keith Higginsin, Director, Idaho Department of Water Resources, and that the volumes of water, as stated in this report and prorated by him to the water right holders of the district are correct.

Dan Hall
 (Deputy) Watermaster District No. 61-D

Subscribed and sworn to before me, this 30th day of October, 19 96.
Shirley C. Cawley
 Notary Public

(SEAL)

My Commission expires 5-8-99

Boise, Idaho, OCTOBER 16, 19 96

I HEREBY CERTIFY, that DAN HALL was lawfully appointed by me as Water Master of Water District No. 61D, and that the information contained in this report, as herein sworn to, is, to the best of my knowledge and belief, correct.

KARL DREHER
 Director, Department of Water Resources
 By Steve Lester
 STEVE LESTER, DEPUTY REGIONAL MANAGER

Telecon Memo

Paul Batrud

366-2375

Notes by D. Tutthill

10 Apr 96

2% Left for initial repair

Engineer here yesterday

Engineer is under contract - Don Watts

Meeting desired Mon or Tues to review findings

Wants to review document before it is signed,
with meeting between Tom Miller, Don Watts,
& Batruds.

First Phase : First half of outlet / part w/ gravel patch

Second Phase:

Third Phase:

Work is on govt ground - inhibits financing

Yesterday 6" rise

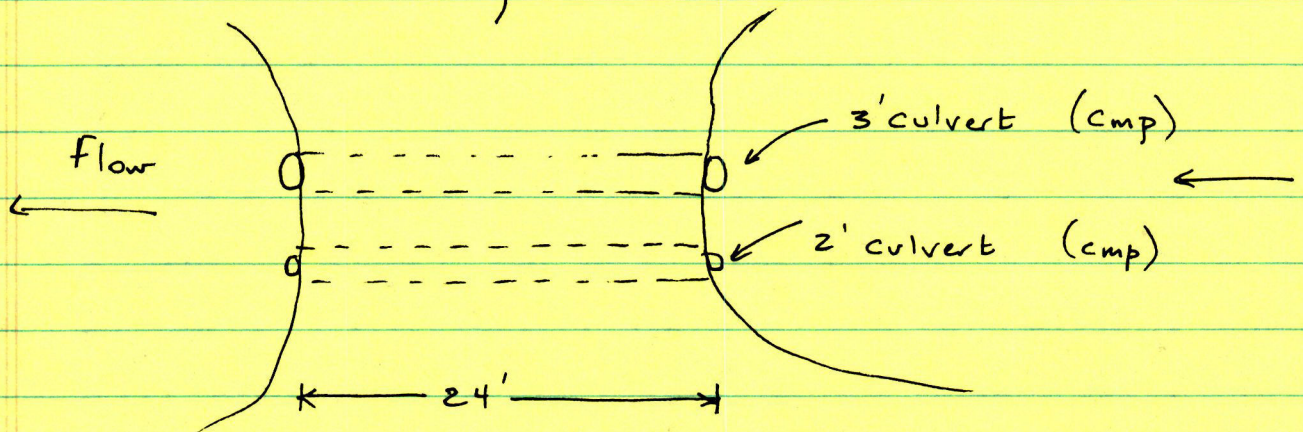
2 more days to cement box

Reservoir in better position now than before

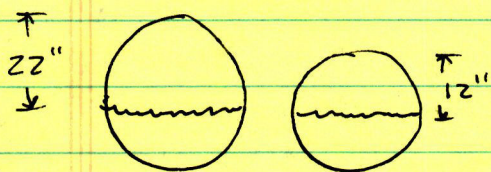
15' below spillway now

10:30 am 11 Apr 96

Culvert Measurements for Morrow Res Ditch



Outlet Flow Levels



Inlet Flow levels:



required by the watermaster to insure that diversion at the new upstream point of diversion does not injure the senior water right on Little Canyon Creek. If this additional care is applied, the senior water right will be protected. The watermaster will need to anticipate downstream flow availability and will likely need to reduce the flow at the new upstream point of diversion several days prior to the date that the senior water right is expected to experience a shortfall.

Local Public Interest

11. Use of an open ditch to provide water for stockwater purposes allows greater losses via seepage and evaporation than use of a pipeline system. Nevertheless, the open ditch system of stockwater delivery is considered to be a beneficial use of water in Idaho.

ORDER

IT IS, THEREFORE, HEREBY ORDERED and Application for Transfer of Decreed Water Right No. 61-0371B is APPROVED subject to the following conditions:

1. Water right No. 61-0371A is defined as the 0.80 cfs which remains appurtenant to ^{16 Acres in} the original place of use, and water right No. 61-0371B is defined as the 0.40 cfs that is hereby transferred. Subsequent conditions of approval apply to water right No. 61-0371B.

2. This water right is subject to all existing senior water rights.

3. A measuring device and lockable diverting works of a type acceptable to the Department shall be installed and maintained at the diverting works.

4. This water right is subject to delivery by the watermaster of Water District No. 61-D, Little Canyon Creek.

5. This water right shall be delivered only from April 1 through July

15, and October 1 through November 1, during periods when delivery will not adversely impact delivery of the downstream senior water right. For purposes of protection of the downstream senior water right on Little Canyon Creek, the watermaster shall anticipate the impact of the diversion under this water right and shall discontinue delivery of this right during periods when the flows are anticipated to be required to satisfy the prior senior water right.

6. The issuance of this transfer in no way grants any right-of-way or easement for use of a delivery system owned by a person other than the water right holder. Use of water under this transfer may be affected by an agreement between the water right holder and the owner of the conveyance works.

Dated this 22nd day of April, 1987.

Bobby D. Fleenor
BOBBY D. FLEENOR, HEARING OFFICER

BEFORE THE DIRECTOR OF THE DEPARTMENT OF WATER ADMINISTRATION
OF THE
STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR)
)
PERMIT NO. 61-7079 in the names of) MEMORANDUM DECISION
)
LEE T. TRAIL AND MARY A. BLAIR)
)

On November 16, 1970, Lee T. Trail and Mary A. Blair submitted an Application for a permit to appropriate 65 acre-feet of water per annum at the rate of 13 cubic feet of water per second from Little Canyon Creek in Elmore County. The storage is for recreation and Fish Propagation and the maintenance of 65 acre-feet to facilitate irrigation of 633 acres within Sections 21 and 28, T. 5S, R. 9E, B.M., in conjunction with other water rights held by the applicants. The lands described are included within the place of use under License No. 61-2228 (R-959), for the off-stream storage of 2532 acre-feet for irrigation purposes and License No. 61-2107 (25631), for diversion of water to the off-stream storage described in License No. 61-2228.

The water right developed under Licenses 61-2228 and 61-2107, in the opinion of the Department, allows the licensee to fill and utilize the diversion dam for diverting 2532 acre-feet per year to off-stream storage. However, it does not allow the licensee to maintain storage at the diversion dam during the times when no diversion is taking place under the above described licenses.

Application No. 61-7079 was filed to provide for maintenance of storage at the diversion dam during the irrigation season, subject to prior rights below the diversion.

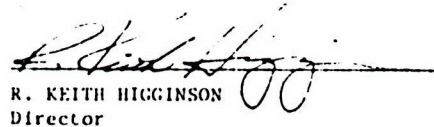
Since the irrigation of lands described is covered by valid water rights to the extent provided by law, no additional rate of diversion of water to said lands may be allowed and the applicant should be authorized to store water at any rate that such water is available, subject to downstream prior rights, in order to fill the storage behind the diversion dam. It is also recognized that the 65 acre-feet requested will not be used for the actual physical application to irrigated crops, but is intended to provide a means of readily-diverting water to off-stream storage

61-7079

when available under previous licenses and to provide water for fish, wildlife, and recreational purposes.

Therefore, it is hereby ordered and Application for Permit No. 61-7079 is approved only for the storage of 65 acre-feet of water, subject to the condition that measuring devices of a type approved by the Department be installed and maintained above and below the reservoir, and that any use of water under this permit be subject to the control and regulation of the Watermaster of Water District No. 61-D, Little Canyon Creek.

Dated this 15th day of April, 1971.


R. KEITH HIGGINSON
Director

BDF:DR

61-7079

OD-5816
WR5816NP
SELECTION FILE: LCNYN_WR

IDAHO DEPARTMENT OF WATER RESOURCES
SOURCE SUMMARY REPORT
BY WATER SOURCE/PRIORITY DATE

DATE: 10/21/96
TIME: 16:28:26
PAGE: 2

WATER RIGHT NUMBER	OWNER NAME	O C	PRIORITY DATE	STG	POINT OF DIVERSION	POD FLAG	TOTAL DIVERSION	TOTAL ACRES	WATER USES
85-07225	HAIRSTON, MARVIN D.	C	03/25/1980	P	36N 01E 21	NWNW	0.940 CFS	20.0	01,02,03,43,49
85-07229	WALKER, RICHARD I	C	05/12/1980	L	36N 01E 20	NENE	0.040 CFS	3.5	01,43
61-07575	SMITH, CARLENE	C	02/24/1986	P	05S 10E 18	SESE	0.800 CFS	40.0	01
85-07608	MC CLERE, CECIL J	C	08/30/1994	P	36N 01W 13	NENE	0.040 CFS		43
85-07628	LADOUX, MARK	C	11/01/1995	A	36N 01W 14	SENE	0.120 CFS	4.0	01
85-07627	LADOUX, MARK	C	11/01/1995	P	36N 01W 14	SENE	0.040 CFS		04,43

WATER SOURCE: WASTE WATER

61-07575	SMITH, CARLENE	C	02/24/1986	P	05S 10E 18	SESE	0.800 CFS	40.0	01
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OD-5816
WR5816NP
SELECTION FILE: LCNYN_WR

IDAHO DEPARTMENT OF WATER RESOURCES
SOURCE SUMMARY REPORT
BY WATER SOURCE/PRIORITY DATE

DATE: 10/21/96
TIME: 16:28:26
PAGE: 1

WATER RIGHT NUMBER	OWNER NAME	O C	PRIORITY DATE	STG	POINT OF DIVERSION	POD FLAG	TOTAL DIVERSION	TOTAL ACRES	WATER USES
=====									
WATER SOURCE: LITTLE CANYON CREEK									

61-00299	VINER, RICHARD P.	P	05/01/1871	D			0.600 CFS		01
61-00371	BLACKWELL, SAMUEL D.	P	05/02/1872	D			1.200 CFS		01
61-00307	ANDERSON, RICHARD W.	P	02/01/1880	D			12.000 CFS		13,01
61-00297	MC GREW, W. H.	P	06/01/1883	D	04S 10E 4	SWSE	2.000 CFS		01
61-00298	MC GREW, W. H.	P	05/25/1885	D	04S 10E 4	SWSE	0.500 CFS		01
61-00294	MAGIC WEST	C	03/15/1886	D			1.180 CFS		01
61-00295	ANDERSON, DON L.	P	11/18/1888	D			0.340 CFS		01
61-00295	ANDERSON, DON L.	P	11/18/1888	D			0.340 CFS		01
61-00303	VINER, RICHARD P.	P	05/02/1892	D			0.500 CFS		01
61-00305	JOHN, SAMUEL M.	P	05/03/1892	D			0.400 CFS		01
61-00370	VINER, RICHARD P.	P	05/05/1892	D			1.400 CFS		01
61-00372	BLACKWELL, SAMUEL D.	P	05/06/1892	D			1.600 CFS		01
61-00304B	VINER, RICHARD P.	P	05/07/1892	D			0.400 CFS		01
61-00304A	VINER, RICHARD P.	C	05/07/1892	D	05S 10E 8	NWSW	1.600 CFS	80.0	01
61-00304A	VINER, RICHARD P.	C	05/07/1892	D	05S 10E 8	SENW	1.600 CFS	80.0	01
61-00306	JOHN, SAMUEL M.	P	05/08/1892	D			2.000 CFS		01
61-04132	BATRUEL, PETER	C	04/01/1895	S	04S 10E 9	SWNE	10.230 CFS	225.0	01,04
61-00308	BATRUEL, PETER	P	08/07/1895	D			200.000 CFS		55
85-04446	LANGDON, JAMES R.	C	01/01/1903	S	35N 01E 35	NENE	0.003 CFS		04
61-02000	VINER, RICHARD P.	C	12/07/1903	L	05S 10E 18	SESE	3.100 CFS	95.0	01
61-02000	VINER, RICHARD P.	C	12/07/1903	L	05S 10E 8	NENW	3.100 CFS	95.0	01
61-02000	VINER, RICHARD P.	C	12/07/1903	L	05S 10E 8	NWSW	3.100 CFS	95.0	01
61-04015	VINER, RICHARD P.	C	06/01/1910	S	05S 10E 8	NWSW	4.000 CFS	185.0	01
61-04015	VINER, RICHARD P.	C	06/01/1910	S	05S 10E 8	SENW	4.000 CFS	185.0	01
61-02223	HALL, ROBERT K.	P	11/08/1911	L	05S 09E 36	SWNE	0.240 CFS	12.0	01,43
61-02044	HALL, ROBERT K.	P	05/19/1915	L	05S 09E 36	SWNE	0.360 CFS	18.0	01,43
61-02046	HALL, ROBERT K.	P	11/05/1915	L	05S 09E 36	NWNW	0.340 CFS	17.0	01,43
85-04430	LANGDON, MABLE	C	01/01/1917	S	35N 01E 36	SWSW	0.010 CFS		04
61-02055	BATRUEL, PETER	P	12/28/1918	L	04S 10E 9	SWNE	0.600 CFS	30.0	01,43
61-02224	BATRUEL, PETER	P	12/28/1918	L	04S 10E 9	SWNE	700.00 AFA	30.0	02
61-04113	VINER, RICHARD	C	06/05/1928	S	05S 10E 8	SWSW	0.300 CFS	40.0	01
61-04041	HALL, VAN T.	C	06/01/1940	S	05S 10E 30	SESE	0.050 CFS	1.0	01
61-02074	WHITE, MARK	C	10/27/1942	L	05S 10E 31	NENE	0.160 CFS	5.0	01
61-02076	STATE OF IDAHO	P	08/16/1944	L	05S 10E 32	NWNW	0.300 CFS	15.0	01
61-02083	CRANE, B. E.	C	06/02/1949	L	05S 10E 32	NWNW	0.040 CFS	2.0	01
61-02084	WHITE, MARK	C	06/02/1949	L	05S 10E 32	NWNW	0.100 CFS	5.0	01
61-02228A	TRAIL, LEE T.	C	01/21/1955	L	04S 10E 28	SWNW	1280.00 AFA	320.0	02
61-02228B	TRAIL, LEE T.	C	01/25/1955	L	04S 10E 28	SWNW	1252.00 AFA	640.0	02,03
61-02107A	TRAIL, LEE T.	C	04/14/1955	L	04S 10E 28	SWNW	6.400 CFS	320.0	01
61-02107B	TRAIL, LEE T.	C	04/14/1955	L	04S 10E 28	SWNW	6.260 CFS	640.0	01
85-02118	WARGI, RAYMOND	C	02/14/1957	L	36N 01W 14	NENE	0.600 CFS	31.0	01
61-04123	BLAIR TRAIL PARTNERSHIP	C	03/02/1957	S	04S 10E 28	SWNW	143.00 AFA		02,17,19
85-04214	WARGI, RAYMOND	C	06/01/1959	S	36N 01W 14	NENE	0.340 CFS	17.0	01
61-02086	HALL, ROBERT K.	P	07/05/1961	L	05S 09E 36	NWNW	0.820 CFS	41.0	01
61-04079	TRAIL, LEE T.	C	04/01/1967	S	04S 10E 28	NWNW	0.710 CFS	47.0	01,02,03
61-07011	ANDERSON, DON L.	P	11/09/1967	L	05S 10E 31	SWNE	0.080 CFS	4.0	01
61-07039	ANDERSON, DON L.	P	07/29/1968	L	05S 10E 31	SWNE	0.070 CFS	2.0	01
61-04090	BLAIR, MARY	C	01/01/1970	S	04S 10E 28	SWNW	0.360 CFS	18.0	01

OD-5816
AJ5816NP
SELECTION FILE: LCNYN_AJ

IDAHO DEPARTMENT OF WATER RESOURCES
ADJUDICATION SOURCE SUMMARY REPORT
BY WATER SOURCE/PRIORITY DATE

DATE: 10/21/96
TIME: 16:35:26
PAGE: 1

WATER RIGHT NUMBER	CURRENT OWNER NAME	PRIORITY DATE	STG	POINT OF DIVERSION	POD FLAG	TOTAL DIVERSION	TOTAL ACRES	WATER USES
=====								
WATER SOURCE: LITTLE CANYON CREEK								

A61-00299	SMITH, CARLENE	05/01/1871	D	05S 10E 8	NWNESW	0.600 CFS	30.0	01
A61-00299	SMITH, CARLENE	05/01/1871	D	05S 10E 8	NESWSW	0.600 CFS	30.0	01
A61-00371B	BLACKWELL, SAMUEL D	05/02/1872	D	04S 10E 9	NENWNE	0.400 CFS		04,04
A61-00371B	BLACKWELL, SAMUEL D	05/02/1872	D	04S 09E 36	SESESE	0.400 CFS		04,04
A61-00371A	BLACKWELL, SAMUEL D	05/02/1872	D	05S 10E 8	NWSWSW	0.800 CFS	105.0	01
A61-00371A	BLACKWELL, SAMUEL D	05/02/1872	D	05S 10E 8	SENWSW	0.800 CFS	105.0	01
A61-00371B	BLACKWELL, SAMUEL D	05/02/1872	D	04S 10E 9	SENWSE	0.400 CFS		04,04
A61-00297	MC GREW, W H	06/01/1883	D	04S 10E 10	SESESW	2.000 CFS	280.0	01
A61-00297	MC GREW, W H	06/01/1883	D	04S 10E 9	SESWNE	2.000 CFS	280.0	01
A61-00298	MC GREW, W H	05/25/1885	D	04S 10E 9	SESWNE	0.500 CFS	280.0	01
A61-00298	MC GREW, W H	05/25/1885	D	04S 10E 10	SESESW	0.500 CFS	280.0	01
A61-00294	MAGIC WEST INC	03/15/1886	D	05S 10E 31	NESENE	1.180 CFS	65.0	01
A61-00295A	MAGIC WEST INC	11/18/1888	D	05S 10E 31	SWNW	0.340 CFS	17.1	01
A61-00295B	MARTELL, JAMES R	11/18/1888	D	05S 10E 32	NWNW	0.340 CFS	17.0	01
A61-00295B	MARTELL, JAMES R	11/18/1888	D	05S 10E 31	SWNE	0.340 CFS	17.0	01
A61-00303A	SMITH, CARLENE	05/02/1892	D	05S 10E 8	NESWSW	0.300 CFS	15.0	01
A61-00304A	SMITH, CARLENE	05/02/1892	D	05S 10E 8	NESWSW	1.200 CFS	60.0	01
A61-00304A	SMITH, CARLENE	05/02/1892	D	05S 10E 8	NWNESW	1.200 CFS	60.0	01
A61-00303B	BATRUER, PETER	05/02/1892	D	05S 10E 8	NWSW	0.200 CFS	73.0	01
A61-00370	SMITH, CARLENE	05/05/1892	D	05S 10E 8	NESWSW	1.500 CFS	70.0	01,04
A61-00370	SMITH, CARLENE	05/05/1892	D	05S 10E 8	NWNESW	1.500 CFS	70.0	01,04
A61-00372	BLACKWELL, SAMUEL D	05/06/1892	D	05S 10E 8	SENWSW	1.600 CFS	105.0	01
A61-00372	BLACKWELL, SAMUEL D	05/06/1892	D	05S 10E 8	NWSWSW	1.600 CFS	105.0	01
A61-00304B	BATRUER, PETER	05/07/1892	D	05S 10E 8	NWSW	0.800 CFS	73.0	01
A61-10642	JOHN, SAMUEL M	05/08/1892	D	05S 10E 19	NENE	2.400 CFS	125.0	01
A61-10642	JOHN, SAMUEL M	05/08/1892	D	05S 10E 19	SWSE	2.400 CFS	125.0	01
A61-04132	BATRUER, PETER	04/01/1895	S	04S 10E 9	SWNE	10.230 CFS	225.0	01,04
A61-00308	BATRUER, PETER	08/07/1895	D	04S 10E 9	SWNE	200.000 CFS	298.0	55,02,03
A61-10382	BATRUER, PETER	03/29/1903	J	05S 10E 8	NWSW	0.720 CFS	73.0	01
A61-02000	SMITH, CARLENE	12/07/1903	L	05S 10E 18	NESESE	3.100 CFS	95.0	01,04
A61-02000	SMITH, CARLENE	12/07/1903	L	05S 10E 8	NWSENE	3.100 CFS	95.0	01,04
A61-02223	HALL, ROBERT K	11/08/1911	L	05S 09E 36	NWNW	0.240 CFS	12.0	01
A61-02044	HALL, ROBERT K	05/19/1915	L	05S 09E 36	NWNW	0.360 CFS	18.0	01
A61-10834	BATRUER, PETER	12/28/1918	L	04S 10E 9	SWNE	0.600 CFS	30.0	01,02,03
A61-10834	BATRUER, PETER	12/28/1918	L	05S 09E 12	NESW	0.600 CFS	30.0	01,02,03
A61-04113	SMITH, CARLENE	06/05/1928	S	05S 10E 8	NESWSW	0.800 CFS	40.0	01
A61-04041	HALL, VAN T	06/01/1940	S	05S 10E 30	NESESE	0.050 CFS	1.0	01
A61-10116	GARCIA, ANN MARIE	05/01/1943	J	05S 10E 30	NESESE	0.030 CFS		43
A61-02228A	CRANE, VERNES	01/21/1955	L	04S 10E 28	SWNW	1280.000 AFA	320.0	02,03,55
A61-02228B	TRAIL, LEE T	01/25/1955	L	04S 10E 28	NWNW	1252.000 AFA	633.0	02,03
A61-02107A	CRANE, RALPH	04/14/1955	L	04S 10E 28	SWNW	6.400 CFS	320.0	01
A61-02107B	TRAIL, LEE T	04/14/1955	L	04S 10E 28	NWNW	6.260 CFS	633.0	01
A85-02118A	WARGI, RAYMOND	02/14/1957	L	36N 01W 14	SENESE	0.100 CFS	5.0	01
A85-02118B	MILLER, GEORGE D	02/14/1957	J	36N 01W 14	SENESE	0.150 CFS	3.7	01
A85-02118C	PETTENGILL, LEWIS E	02/14/1957	J	36N 01W 14	SENESE	0.450 CFS	11.3	01
A61-04123A	CRANE, RALPH	03/02/1957	S	04S 10E 28	SWNW	71.500 AFA		02,17,47
A61-04123B	TRAIL, LEE	03/02/1957	S	04S 10E 28	SWNW	71.500 AFA		02,17,47
A85-04214	WARGI, RAYMOND	06/01/1959	S	36N 01W 14	SENESE	0.340 CFS	17.0	01
A61-02086	HALL, ROBERT K	07/05/1961	L	05S 09E 36	NWNW	0.820 CFS	41.0	01

A61-04079 TRAIL, LEE T
A61-07011 ALLEN, JOEL
A61-07039 MARTELL, JAMES R
A61-04090 CRANE, RALPH
A85-07229 WALKER, RICHARD I

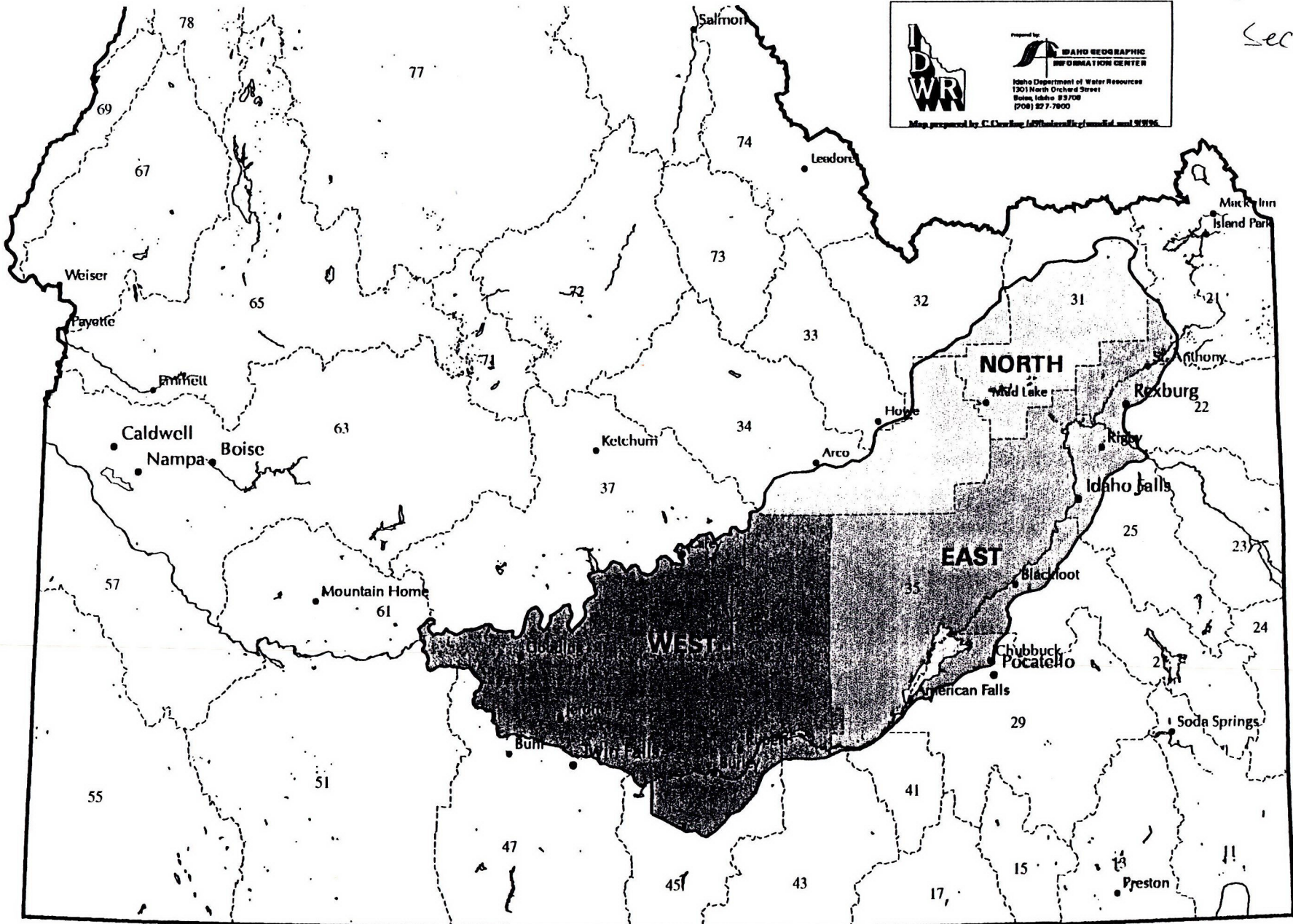
04/01/1967 S 04S 10E 28 NWNW
11/09/1967 L 05S 10E 31 NWSENE
07/29/1968 L 05S 10E 31 SWNE
01/01/1970 S 04S 10E 28 SWNW
05/12/1980 P 36N 01E 20 NENE

0.710 CFS 47.0 01,02,03
0.080 CFS 4.0 01
0.070 CFS 2.0 01
0.360 CFS 18.0 01
1.120 CFS 6.0 01,28,49

Need
- 1,500K

Township
Range
Section

Eastern Snake Plain Aquifer - Water Measurement Districts



RESOLUTIONS PERTAINING TO THE TIME AND MANNER OF COLLECTING THE BUDGET AS
ADOPTED AT THE ANNUAL MEETING OF THE WATER USERS OF

WATER DISTRICT No. _____

RECEIVED
APR 30 1996
WATER RESOURCES
WESTERN REGION

(An executed copy of this form must be made and filed with the State Department of Water Resources, Boise, Idaho, and with the County Auditor of each designated county.)

ADOPTED BUDGET AND RESOLUTIONS
PERTAINING TO THE COLLECTION THEREOF

FOR 19 96

WATER DISTRICT NO. 61-D

STREAM LITTLE Canyon Creek

COUNTY Elmore

NAME OF SECRETARY Robert Hall

ADDRESS OF SECRETARY RT1 Box 107 Glens Ferry Id 83623

Sections 42-613 and 42-617, Idaho Code Annotated, provide:

"42-613. Said budget when approved shall be filed with the secretary of said meeting and thereupon he shall immediately prepare and file a certified copy thereof with the Director Department of Water Resources and a certified copy with the county auditor of such county or counties designated at said water users' meeting. If more than one county is designated then said budget shall show the amount to be collected in each county and the water users from which each county shall make collection. * * *"

"42-617. * * * All resolutions adopted under the provisions of this section shall be filed with the secretary of said meeting and thereupon he shall immediately prepare and file a certified copy thereof with the Director Department of Water Resources and a certified copy with the county auditor of such county or counties as designated at said water users' meeting. * * *"

Glens Ferry, Idaho, 28 Apr, 19 96

I HEREBY CERTIFY That the within is a true and correct copy of the budget as adopted at the annual Water Users' Meeting of Water District No. 61-D, held at Glens Ferry on the 24th day of Apr, 19 96, and all resolutions adopted at said meeting pertaining to the time and the manner of collecting the amounts provided for in the said budget.

Robert Hall

Secretary, Water District No. 61-D

SCANNED
JUL 07 2023

WATER DISTRICT No. 61-D

Estimated Amount for Watermaster's Salary ----- \$ 700

Estimated Amount for Assistant Watermaster ----- \$ _____

Estimated Amount for Other Expenses ----- \$ 500

TOTAL ESTIMATED EXPENSES FOR 19 96 ----- \$ 1250

[illegible][illegible]





WD-61-D

1996





11 4'96



STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
1301 North Orchard Street, P.O. Box 83720
Boise, Idaho 83720-0098

Return Service Requested

SCANNED
JUL 07 2023