

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

IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM

CIVIL CASE NUMBER: 39576

Ident. Number 63-2134
Date Received: 6/29/1994
Receipt No: X999999
Received By:

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name of Claimant(s)

UNITED STATES OF AMERICA ACTING THROUGH Phone: (208)378-5306

BUREAU OF RECLAMATION
REGIONAL DIRECTOR PN CODE-3100
1150 N CURTIS RD STE 100
BOISE ID USA 83706-1234

2. Date of Priority: 04/25/1910

3. Source: DEER FLAT CALDWELL CANAL Trib. to: BOISE RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County	Type
03N	03W	26	SW SE	CANYON	

5. Description of diverting works:

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
IRRIGATION	4/01	10/31	2.4	
DOMESTIC	1/01	12/31	2.4	

7. Total Quantity Appropriated is:
2.4 C.F.S.

8. Total consumptive use:

9. Non-irrigation uses:

10. Place of use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
03N	03W	23			IRRIGATION	
03N	03W	24			IRRIGATION	
03N	03W	25			IRRIGATION	
03N	03W	26			IRRIGATION	

11. Place of use in counties: CANYON

12. Do you own the property listed above as place of use? No

13. Other Water Rights Used:

14. Remarks:

120 acres within any one year in T03N R02W, Sections 23, 24, 25 and 26 between the Deer Flat Caldwell Canal and the Upper Embankment Drain as shown on the attached map.

The name of the United States of America acting through the Bureau of Reclamation appears in the Name and Address sections of this partial decree. However, as a matter of Idaho Constitutional and Statutory Law, title to the use of the water is held by the consumers or users of the water. The irrigation organizations act on behalf of the consumers or users to administer the use of the water for the landowners in the quantities and/or percentages specified in the contracts between the Bureau of Reclamation and the irrigation organizations for the benefit of the landowners entitled to receive distribution of this water from the respective irrigation organizations. The interest of the consumers or users of the water is appurtenant to the lands within the boundaries of or served by such irrigation organizations, and that interest is derived from law and is not based exclusively on the contracts between the Bureau of Reclamation and the irrigation organizations.

15. Basis of Claim: License

16. Signature(s)

(a.) By signing below, I/We acknowledge that I/We have received, read and understand the form entitled "How you will receive notice in the Snake River Basin Adjudication." (b.) I/We do _____ do not _____ wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments: _____

For Organizations:

I do solemnly swear or affirm that I am _____ of
Title
_____, that I have signed the foregoing
Organization
document in the space below as _____ of
Title
_____ and that the statements contained in the
Organization
foregoing document are true and correct. _____
Signature of Authorized Agent

Title and Organization

Date

State of Idaho)
County of _____) SS.

Subscribed and sworn (or affirmed) before me this
of _____ 20_____

Notary Public

Residing at _____

My commission Expires _____

RECEIVED

JUN 29 1994

Department of Water Resources

RECEIVED

JUL 15 1994

WATER RESOURCES
WESTERN REGION

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

IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM.

CIVIL CASE NUMBER: 39576

Ident. Number: A63-02134
Date Received: 6-29-94
Receipt No: 21111
Received By: RT

D.E. = [Signature]

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name: UNITED STATES OF AMERICA, ACTING THROUGH 208-378-5322
Address: REGIONAL DIRECTOR, P.N. REGION
BUREAU OF RECLAMATION
1150 NORTH CURTIS ROAD
BOISE, ID 83706-1234

2. Date of Priority: APR 25, 1910

3. Source: UPPER DEER FLAT DRAW Trib. to: BOISE RIVER

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4	Lot	County
3N	3W	26	SE SE		CANYON

5. Description of diverting works:

HEADGATE OF DEER FLAT CALDWELL CANAL

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or)	A.F.A.
IRRIGATION	04/01	10/31	2.40		
DOMESTIC	01/01	12/31			

7. Total Quantity Appropriated is:

2.40 C.F.S. (and/or) A.F.A.

8. Total consumptive use is Acre Feet Per Annum.

9. Non-irrigation uses:

DOMESTIC

MICROFILMED
OCT 02 1996

10. Place of Use:

Township	Range	Section	1/4 of 1/4	Lot	Use	Acres
3N	3W	25	SW NW	NW NW	IRR IRR	23
		24	SW SE NW NE NW	SW SW SW SW SE	IRR IRR IRR IRR IRR	97

11. Place of use in counties: CANYON

12. Do you own the property listed above as place of use? NO

13. Other Water Rights Used:

63-04868

14. Remarks:

WATERS ARE CONSUMPTIVELY USED FROM APRIL 1 THROUGH OCTOBER 31.

DURING NON-IRRIGATION SEASON WATERS ARE STORED IN LAKE LOWELL AS PART OF THE BOISE FEDERAL RECLAMATION PROJECT.

15. Basis of Claim: DECREE

Water Right Number: 2134

OLD LICENSE NUMBER 6284 DATED JANUARY 24, 1921

Case Number:

Court :

Decree date: 2/14/1929

PIONEER IRRIGATION DISTRICT
Decree Plaintiff

vs

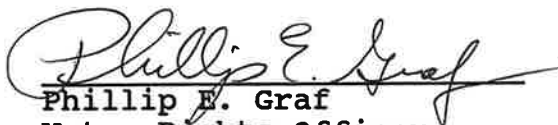
AMERICAN DITCH COMPANY
Decree Defendant

MICROFILMED
OCT 02 1996

Verification of Bureau of Reclamation Claim:

As the Water Rights Officer for the Pacific Northwest Region of the United States Bureau of Reclamation, I verify under penalty of perjury under the laws of the United States of America that, to the best of my knowledge and belief, the statements made in the claim filed herewith on behalf of the United States Department of the Interior -- Bureau of Reclamation are true and correct.

Executed on June 29, 1994.


Phillip E. Graf

Water Rights Officer
Pacific Northwest Region
U.S. Bureau of Reclamation
U.S. Department of the Interior
1150 North Curtis Road
Boise, Idaho 83706-1234

Attachment:
A36-02134

State of Idaho)
) SS.
County of Ada)

Subscribed and sworn (or affirmed) before me this 29th day of
June 1994.

Notary Public Marva Watson
Residing at Boise Idaho
My Commission Expires 1-30-97

MICROFILMED

OCT 02 1996

Shurte, Jan

From: Shurte, Jan
Sent: Thursday, June 20, 2013 11:16 AM
To: emcgarry@usbr.gov; Spencer, Nick; Fritschle, Carter
Subject: Amended Director's Report 63-2134
Attachments: ADR 63-2134.docx

Gail,

Attached is a draft copy of the Amended Director's Report for 63-2134 which is due June 28th in response to the amended claim filed by the BOR on February 22, 2013.

As you can see the source reflects springs rather than the Deer Flat Caldwell Canal. After looking back at the original field exam and all information available it appears the water is actually springs rising up from seepage out of Lake Lowell at the Upper Embankment area into the canal. The Department's data entry standards do not use the names of canals as sources because the source is usually something other than the canal itself.

The place of use reflects the legal description from the amended claim and map. This place of use is considered a permissible place of use with a 120 acre limiter based on the number of acres originally licensed.

Please let me know if you have any questions concerning this recommendation.

Thanks,

Jan Shurte

Adjudication Technical Analyst
Idaho Dept of Water Resources
322 E Front St
Boise, Idaho 83720
(208) 287-4992

DRAFT

DRAFT

IDAHO DEPARTMENT OF WATER RESOURCES
RECOMMENDATION OF WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 63-2134

NAME AND ADDRESS: UNITED STATES OF AMERICA ACTING THROUGH
BUREAU OF RECLAMATION
REGIONAL DIRECTOR PN CODE-3100
1150 N CURTIS RD STE 100
BOISE ID 83706-1234

SOURCE: SPRINGS

TRIBUTARY: BOISE RIVER

QUANTITY: 2.400 CFS

PRIORITY DATE: 04/25/1910

POINT OF DIVERSION:

T03N R03W S26 SWSE Within CANYON County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
IRRIGATION	03/01 11/15	2.400 CFS

PLACE OF USE: IRRIGATION in CANYON County

T03N R03W S23	SENE	0.20	T03N R03W S23	NESE	38.00
T03N R03W S23	NWSE	34.00	T03N R03W S23	SWSE	21.00
T03N R03W S23	SESE	40.00	T03N R03W S24	SWNW	0.40
T03N R03W S24	NWSW	25.00	T03N R03W S24	SWSW	27.00
T03N R03W S25	NWNW	17.00	T03N R03W S25	SWNW	5.10
T03N R03W S25	NWSW	1.60	T03N R03W S26	NENE	40.00
T03N R03W S26	NWNE	8.90	T03N R03W S26	SWNE	1.40
T03N R03W S26	SENE	39.00	T03N R03W S26	NESE	38.00
T03N R03W S26	NWSE	6.30			

342.9 ACRES TOTAL

This right is limited to the irrigation of 120 acres within the place of use described above in a single irrigation season.

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

The name of the United States of America acting through the Bureau of Reclamation appears in the Name and Address sections of this partial decree. However, as a matter of Idaho Constitutional and Statutory Law, title to the use of the water is held by the consumers or users of the water. The irrigation organizations act on behalf of the consumers or users to administer the use of the water for the landowners in the quantities and/or percentages specified in the contracts between the Bureau of Reclamation and the irrigation organizations for the benefit of the landowners entitled to receive distribution of this water from the respective irrigation organizations. The interest of the consumers or users of the water is appurtenant to the lands within the boundaries of or served by such irrigation organizations, and that interest is derived from law and is not based exclusively on the contracts between the Bureau of Reclamation and the irrigation organizations.

This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.

EXPLANATORY MATERIAL: BASIS OF CLAIM - License

Source of water is seepage from Lake Lowell.

Right includes accomplished change in point of diversion pursuant to Section 42-1425, Idaho Code.

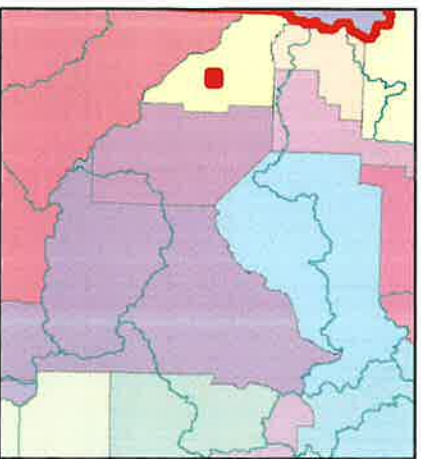
Right includes accomplished change in place of use pursuant to Section 42-1425, Idaho Code.

Idaho Department of Water Resources

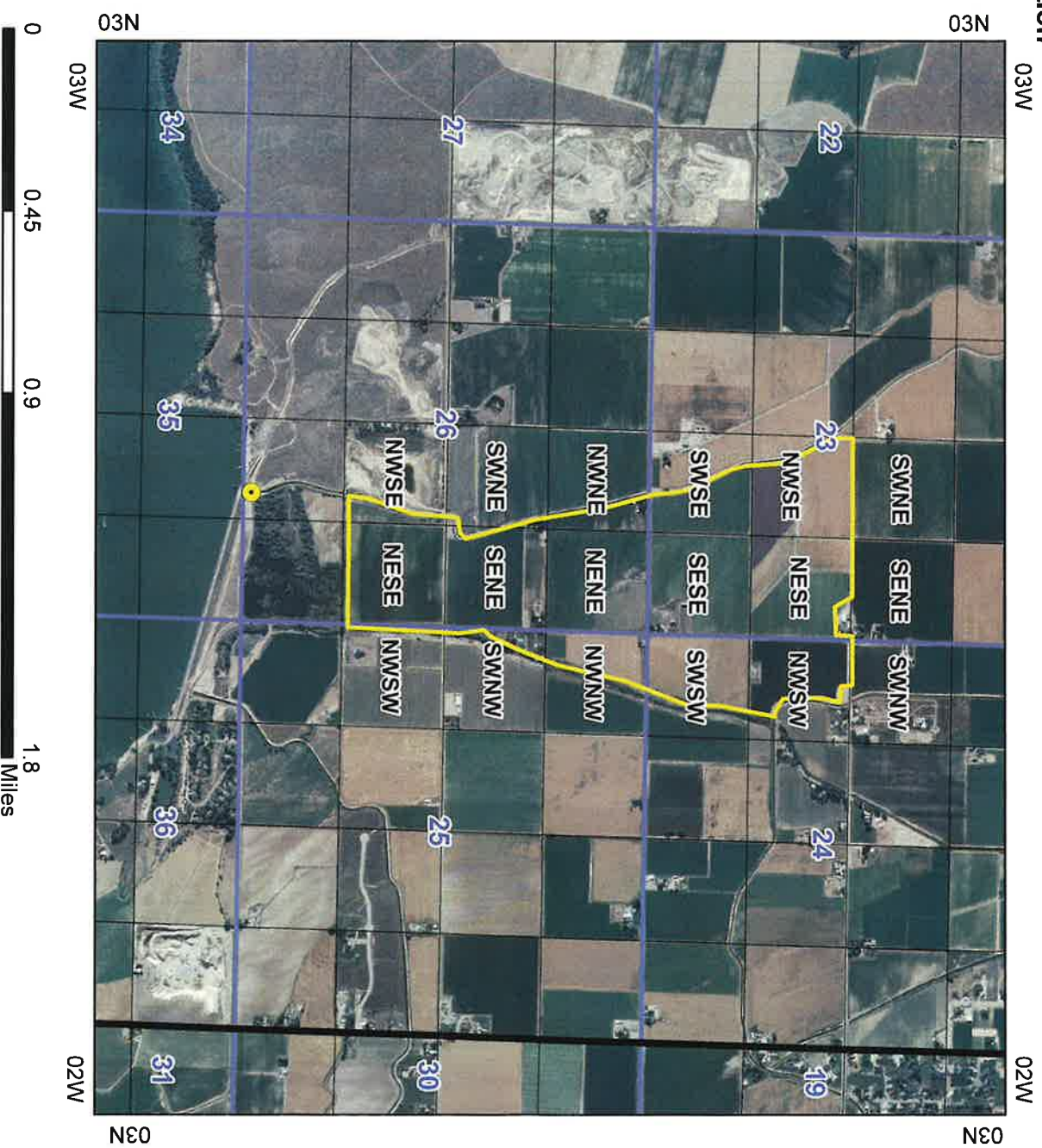


Adjudication Recommendation 63-2134 (IRRIGATION)

- Point of Diversion
- Place of Use
- State Outline
- Townships
- PLS Sections
- Quarter Quarters



Canyon County
IDWR Basin 63



IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 63-2134 V2

WATER RIGHT NUMBER: 63-2134 V2

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	UNITED STATES OF AMERICA ACTING THROUGH BUREAU OF RECLAMATION REGIONAL DIRECTOR PN CODE-3100 1150 N CURTIS RD STE 100 BOISE, ID 83706-1234 (208)378-5306
Attorney	JACK HAUGRUD US DEPT OF JUSTICE LAND & NATURAL RESOURCE SEC PO BOX 663 WASHINGTON, DC 20044-0663

Priority Date: 04/25/1910

Basis: License

Status: Active

<u>Source</u>	<u>Tributary</u>
SPRINGS	BOISE RIVER

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	03/01	to 11/15	2.400 CFS	
	<u>Total Diversion:</u>		2.400 CFS	

Location of Point(s) of Diversion

SPRINGS	SW1/4SE1/4	Sec. 26, Twp 03N, Rge 03W, B.M.
CANYON County		

Place of Use

IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
03N	03W	23				.2									38.0	34.0	21.0	40.0	133.2
03N	03W	24						.4			25.0	27.0							52.4
03N	03W	25					17.0	5.1			1.6								23.7
03N	03W	26	40.0	8.9	1.4	39.0									38.0	6.3			133.6

Total Acres: 342.9

IDAHO DEPARTMENT OF WATER RESOURCES
Adjudication Recommendation Report 63-2134 V2

Conditions of Approval:

1. C05 Right includes accomplished change in place of use pursuant to Section 42-1425, Idaho Code.
2. K06 This right is limited to the irrigation of 120 acres within the place of use described above in a single irrigation season.
3. 200 The name of the United States of America acting through the Bureau of Reclamation appears in the Name and Address sections of this partial decree. However, as a matter of Idaho Constitutional and Statutory Law, title to the use of the water is held by the consumers or users of the water. The irrigation organizations act on behalf of the consumers or users to administer the use of the water for the landowners in the quantities and/or percentages specified in the contracts between the Bureau of Reclamation and the irrigation organizations for the benefit of the landowners entitled to receive distribution of this water from the respective irrigation organizations. The interest of the consumers or users of the water is appurtenant to the lands within the boundaries of or served by such irrigation organizations, and that interest is derived from law and is not based exclusively on the contracts between the Bureau of Reclamation and the irrigation organizations.
4. C18 This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.
5. C03 Right includes accomplished change in point of diversion pursuant to Section 42-1425, Idaho Code.
6. Source of water is seepage from Lake Lowell.

Remarks:

Comments:

1. jshurte 6/20/2013 Source

Comment: The licensed source for this right was originally documented as the upper deer flat draw. In the original field exam it speaks to there being seepage from the Upper Deer Flat embankment. The description of the diverting works were for a canal. It appears that the system is more correctly described in the amended claim than it ever has been. However, the amended claim states the source as the Deer Flat Caldwell Canal and the source being recommended is springs with a remark that the source of water is seepage from Lake Lowell. This seepage results in spring water appearing in the Deer Flat Caldwell Canal. We cannot show the source as the canal, but can list this as a separate source of water coming into the canal as springs from the seepage of Lake Lowell.

2. jshurte 6/20/2013 PPU

Comment: This is a permissible place of use listed with the limiter of 120 acres based on the amount of acres originally licensed. See email dated 6/20/13 in the file.

Water Supply Bank:

Shurte, Jan

From: McGarry, Elizabeth [emcgarry@usbr.gov]
Sent: Wednesday, March 27, 2013 5:55 PM
To: ddelaney@idcourts.net
Cc: Gehlert, David (ENRD); Shurte, Jan
Subject: 63-3124 Amended Claim
Attachments: 2013-02-22 63-2134 amended claim color.pdf

Diane,

Attached is the Amended Claim for 63-3124. As we discussed today, the claim was filed with IDWR Feb 22, 2013, which you let me know was sufficient, so there will not be an additional filing pursuant to the Order with the March 29th deadline.

Thank you. And would you let me know that you received this email.

Gail

E. Gail McGarry
Program Manager Water Rights and Acquisition
PN-3100, Bureau of Reclamation Pacific Northwest Region
1150 North Curtis Road, Suite 100
Boise, ID 83706
208-378-5306

SRBA

SUBCASE SUMMARY REPORT 63-02134

[Return to SRBA Home Page](#)

SRBA
03-27-2013

SUBCASE SUMMARY REPORT

HTML12

SUBCASE: 63-02134 FILE#: 02250
CLAIMANT: UNITED STATES OF AMERICA
REGIONAL DIRECTOR PN REGION
BUREAU OF RECLAMATION PN-3100
1150 N CURTIS RD STE 100
BOISE ID 83706

STATUS: WAITING DIR'S RPT SPECIAL MASTER: BOOTH, THEODORE R.
WATER SOURCE: UNNAMED STREAM TRIBUTARY: BOISE RIVER

**** PARTIES INVOLVED ****

UNITED STATES OF AMERICA C PRO SE

**** ROA ENTRIES ****

<u>10-23-2012</u>	ORDER SETTING STATUS CONFERENCE	US	12-06-2012 1130
12-06-2012	STATUS CONFERENCE HELD	UH	12-06-2012 1130
12-06-2012	MINUTES		
<u>12-06-2012</u>	ORDER SETTING STATUS CONFERENCE	US	02-26-2013 1030
02-26-2013	STATUS CONFERENCE HELD	UH	02-26-2013 1030
02-26-2013	MINUTES		
02-26-2013	ORAL MOTION TO FILE AMENDED NOTICE OF CLAIM	MG	02-26-2013
02-26-2013	BENCH ORDER GRANTING MOTION TO AMEND CLAIM		
03-05-2013	ORDER GRANTING MOTION TO FILE AMENDED CLAIM		
<u>03-05-2013</u>	ORDER REQUESTING AMENDED DIRECTORS REPORT		
	ORDER SETTING DEADLINES:		
	DEADLINE FOR FILING AMENDED CLAIM	ZZ	03-29-2013 0500
	AMENDED DIRECTORS REPORT DUE	2B	06-28-2013 0500
	OBJECTIONS TO ADR DUE	8B	07-29-2013 0500
	RESPONSES TO OBJECTIONS DUE	RB	08-12-2013 0500

[Return to SRBA Home Page](#)

*Filed claim w/IDWR & not Court
Informed Gail Mc Garry of this
on 3/27/13. Note: the amended
claim we rec'd still did not have
1/4' x 1/4' with acres on the POA.*

Shurte, Jan

From: Shurte, Jan
Sent: Tuesday, February 26, 2013 9:19 AM
To: Spencer, Nick
Cc: Cooley-Denney, Suzy; White, Kimi
Subject: RE: 63-2134 (BOR)

Hi Nick,

I looked at this file on Friday, checked for the amended claim and found just what you have – no amended claim. Gail has not contacted me concerning this file. So, I guess we just see what they have to say.

Just as an fyi, this one started out as a call from SM Booth concerning the lack of acres per quarter-quarter in the recommendation. At the time Kay did the recommendation she could not get the number of acres per place of use out of BOR, time was running short, so we just put the quarter-quarters listed on the license without the acres. There was a remark stating what the license had on it. The license stated 97 acres in the SW1/4, NWSE, S24 and 23 acres in the W1/2NW1/4, S25, T3N, R3W without designating which acres were in each quarter-quarter. It is impossible to tell just looking at a map, so I started asking Gail.

Thought I would give you a little run down for your legal files.

Jan

From: Spencer, Nick
Sent: Monday, February 25, 2013 5:49 PM
To: Shurte, Jan
Cc: Cooley-Denney, Suzy; White, Kimi
Subject: 63-2134 (BOR)

Hi Jan. We have a telephone status conference with SM Booth on this subcase at 10:30 Tuesday morning. This is the one with the old license with the screwy POU description that lists quarter quarters without listing acres within them. At the time of the last hearing in early December Gail McGarry had gone out to look at the screwy POU and found that it had—presumably through and accomplished transfer—migrated to the west. My notes from that hearing indicate that BOR needed to file an amended claim to address the migration (and that the amended claim would fix the screwy POU description) and notice up the hearing on the motion for leave to file an amended claim for tomorrow's status conference. I can find no indication that BOR has prepared an amended claim or filed a motion to amend. In fact, in looking at the legal file and IWATRS it looks like nothing has yet been done by BOR. Has Gail by any chance contacted you about this situation since the December 6th hearing? If she has, please let me know what BOR has been up to. Thanks. NBS

63-2434 - BOR

Dave Gellert - BOR, Nick Jan & Juggy
Statutory Conf - 12/12 BOR going to file
an amended claim. None filed.

BOR has not filed an amended claim
but still plans to file one. ^{Amended} Notice of
motion granted & due March 29th
for amended notice of claim. AOR
due June 28th, Doc sheet July 8th
objections due July 29th & responses
due Aug. 12th.

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 63-2134

WATER RIGHT NUMBER: 63-2134

Owner Type Name and Address
 Current Owner US DEPT OF INTERIOR
 BUREAU OF RECLAMATION
 1150 N CURTIS RD STE 100
 BOISE, ID 83706-1234
 (208) 378-5306

Priority Date: 04/25/1910

Basis: License

Status: Active

Source Tributary
 UPPER DEER FLAT DRAW CREEK BOISE RIVER

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	/ to /	2.400 CFS	
DOMESTIC	/ to /		
<u>Total Diversion:</u>		2.400 CFS	

Location of Point(s) of Diversion

UPPER DEER FLAT DRAW CREEK SE1/4SE1/4 Sec. 26, Twp 03N, Rge 03W, B.M.
 CANYON County

Place of Use

IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
03N	03W	24									X	X	X	X			X		
03N	03W	25						X	X										

DOMESTIC same as IRRIGATIONConditions of Approval:

1. P/D IN S26, T3N, R3W.
AC. IRR.=120.

Remarks:Comments:

Bryan Decree

(39)

637

IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR CANYON COUNTY

PIONEER IRRIGATION DISTRICT,
An Irrigation District,

Plaintiff

vs

AMERICAN DITCH ASSOCIATION,
a corporation,

BOISE CITY CANAL COMPANY,
a corporation,

BOISE RAPID TRANSIT COMPANY
a Corporation

BOISE VALLEY IRRIGATING DITCH
COMPANY, a Corporation,

BARBER LUMBER COMPANY, a
Corporation,

CANYON DITCH COMPANY, a
Corporation,

CANYON COUNTY CANAL COMPANY,
a Corporation,

CANYON COUNTY WATER COMPANY,
A Corporation,

CANYON COUNTY IRRIGATION COMPANY,
a Corporation,

CANYON IRRIGATION COMPANY, a
Corporation,

DRY CREEK DITCH COMPANY, a
Corporation,

EUREKA DITCH COMPANY, A
Corporation,

EUREKA DITCH COMPANY NO. 2,
a Corporation,

EUREKA WATER COMPANY, a
Corporation,

DECREE

Note: ~~This~~ ^{Copper Deer Flat draw}
Source not
discussed in
this decree -
Rec. as licensed
right in
SRBA.
KW
8/24/06

RECEIVED
JUN 21 1996

1934

FARMERS' CO OPERATIVE DITCH COMPANY,
LTD. a corporation,

FARMERS' UNION DITCH COMPANY,
a corporation,

FRANKLIN DITCH COMPANY,
a Corporation

HILL CREST IRRIGATION DISTRICT,
An Irrigation District,

JACOBS' CANAL COMPANY
a Corporation,

LOWER BOISE DITCH COMPANY
a corporation,

LOWER CENTER POINT DITCH COMPANY,
a Corporation,

MIDDLETON CANAL COMPANY, a
corporation,

MIDDLETON MILL DITCH COMPANY,
a Corporation,

MIDDLETON WATER COMPANY, a
Corporation,

MASON CREEK DITCH COMPANY
a Corporation,

NAMPA MERIDIAN IRRIGATION DISTRICT,
An Irrigation District,

NEW YORK CANAL COMPANY, A
Corporation,

NEW DRY CREEK DITCH COMPANY
A corporation,

PIONEER DIXIE DITCH COMPANY
a Corporation,

RIVERSIDE IRRIGATION DISTRICT,
LTD., a Corporation,

SETTLERS' CANAL COMPANY,
a corporation,

SETTLERS' IRRIGATION DISTRICT
an Irrigation District,

SIEBENBERG CO-OPERATIVE DITCH COMPANY
a Corporation

SOUTH BOISE MUTUAL IRRIGATION COMPANY
a Corporation,

UPPER CENTER POINT DITCH COMPANY ,
a corporation,

JUN 21 1936

RED-45 CORPORATION
EVIDENCE, GO. SHAGIAE DITCH COMPANY
UNION DITCH COMPANY,
a corporation,

PAYETTE-BOISE WATER USERS' ASSOCIATION,
a Corporation,

C. H. ALLEN, THOS. AIKEN, THOS

ANDREWS, J. T. BARBER, ISAAC BEDAL,

JAS. B. BELL, BERT BLACK, W. A. BLACK

BERT BOWMAN, Heirs of EDWARD AND MARY

CLARK, (Mary J. Clark, Daniel Clark,

Annie D. Clark, Lewis D. Clark) CUDDY &

PERKINS, JOHN COFFEY, JOHN CECIL, D. D.

CAMPBELL, T. C. CATLIN, GRACE CALL,

SAMUEL H. CANFIELD, W. U. CONWAY, EDGAR

DILLEY, THOMAS DAVIS, MARY G. DAVIS,

ANNA H. FOGARTY, WALTER GRIFFITHS, H.A.

GRIFFITHS, H. D. GOODMAN, AND DORA GOODMAN,

JAS L. GRAHAM, LEWIS T. GRAHAM, FRANK N.

GRAHAM, WM. GILBERT, Est. of JAMES H.

GALLAGHER, JOSEPH GOBLE, W. J. HAMMING,

LOOMIS E. HOSELEY, EDWARD N. HART, ANDREW

J. JOPLIN, SONORA JOPLIN, ISHAM JOPLIN,

J. M. JOHNSON, RICHARD JOHNSON, WILLIAM

KENNEDY, JANE KEOGH, FRANK LEONARD, A.V.

LINDER, et al, CHARLES S. MILLER, MRS. A.

MILLER, JOHN MAMMON, JULIA MAMMON, J.D.S.

MANVILLE, MARTHA E. MCCARTHY, CHARLES

OAKES, JOSEPH PERRAULT, PERRY PARISH,

W. H. ROSS, ^C O. B. ROSS, MARY ROE, OLLIE

RIFE, CHARLES REIN, ^{Meves} PETER MEVES, W. H.

RIDENBAUGH, A. R. ROSSI, _____

RICE, Estate of ALBERT SHERWIN, MARTHA

RECORDED

JUN 21 1996

GILGAN SARCHET, SMITH STOCKTON, R.H.
STOCKTON, JOHN TUCKER, Adm, Estate of
J.N. TUCKER, deceased, C.B. TAYLOR,
STEPHEN UTTER, JOHN UTTER, ALLEN VWEBSTER,
____ WILSON, J. R. YARYAN, ESTELLA YOUNG, LIZZIE YOUNG
WILLIAM C. YOUNG

DEFENDANTS

This cause heretofore came regularly
on for trial before the Court sitting without a jury.
J. M. Thompson and Frank T. Wyman appeared as attorneys
for the plaintiff, Pioneer Irrigation District;
Fremont Wood and Scatterday & Stone appeared for the
Farmers' Co-Operative Ditch Company; Rice & Bicknell
for the defendant, Riverside Irrigation District;
Oppenheim & Lampert and Charles P. McCarthy, for the
defendant, New York Irrigation District; G. W. Grebe,
for the defendant, Boise-Kuna Irrigation District;
T. L. Martin for the defendants, South Boise Mutual
Irrigation Company, Stephen Utter, John Utter, and
C. B. Taylor and Farmers' Union Ditch Company, Limited,
and B. E. Stoutemyer, H. E. Ray, John C. Rice and G. W.
Grebe for the intervenor, United States of America.

It appearing to the Court that all of the other
defendants to this action have been duly and regularly
served within the State of Idaho with summons issued out
of this Court in this cause and have been duly and regular-
ly served with the cross-complaints of the several de-
fendants and of the intervenor, and that none of said

JUN 21 1906

defendants

has filed any answer to any of them, and that the time for such answer had heretofore expired, the default of each and every of said defendants, both as to the complaint, the cross-complaints and the complaint in intervention was duly and regularly entered.

Whereupon, the parties to this cause not in default being present in Court and represented by counsel, evidence was offered on behalf of each of said parties on the issues in the said cause and certain stipulations appearing in the Reporter's Transcript and upon the minutes of the Court were duly entered into, and the taking of evidence was duly closed and, after argument of counsel, the cause was submitted to the Court for decision; that it was stipulated upon the trial of this cause, by and between counsel for the respective parties, that the complaint, answers, cross-complaints and complaints in intervention and all pleadings filed in this cause should be deemed to be amended to conform to the proof offered by the respective parties, and, based upon said stipulation, it was so ordered by the Court;

And the Court having considered the evidence and being fully advised in the premises, made and filed its Findings of Fact and Conclusions of Law herein and directed that decree should be entered in accordance therewith.

WHEREFORE, In consideration of the premises, it is ORDERED, ADJUDGED AND DECREED as follows:-

1-

That all of the lands affected by this

RECEIVED

JUN 21 1938

litigation under the several canals and ditches of the parties to this action are arid in character, and require water artificially applied for their successful reclamation and irrigation and the reising of crops thereon, and that the only source of water for the irrigation of said lands is from the Boise River.

11-

That the several parties to this suit are the owners of the respective ditches and canals, headgates, diversion works, reservoirs, including their entire irrigation system claimed by them, as shown by their respective pleadings and the evidence in this cause; that corporations or associations which are parties to this action are, and each of them is, a unit, or as a single claimant, and that the findings, conclusions and decree in this case shall run to such corporation or association rather than to the individuals who take or receive water under the same.

111-

That this suit was brought and prosecuted to this decree for the purpose of determining the rights of the several parties to such waters of Boise River as remained after satisfying the awards made in that certain decree rendered on January 18, 1906, in this Court in the suit brought by Farmers' Co-Operative Ditch Company, vs Riverside Irrigation District, Ltd., et al, known and hereinafter referred to as the Stewart Decree; and all rights and amounts of water herein awarded are and are hereby decreed to be subject, subsequent and inferior to all the rights and priorities established

112-411-57

JUN 21 1996

by and awarded in said Stewart Decree.

1V-

That the quantity of water to which each of the parties of this action is awarded under this decree shall be measured at the points of diversion thereof in each instance, except that in the case of water to be impounded in Arrowrook Reservoir, the same shall be measured at the head, or where the water flows into the same. That the duty of water (being the amount of water required successfully to irrigate said lands) under this decree is hereby decreed to be as follows:-

That, so long as the natural flow of the Boise River is sufficient to supply the waters decreed in this case and the rights heretofore decreed from the Boise River at the rate of one miner's inch per acre, measured at the respective points of diversion, the duty of water shall be determined and decreed to be one miner's inch per acre, measured at the points of diversion of the parties hereto;

That, as the season advances and the flow of the river drops, and on account of the longer nights and cooler weather, rising water table and other conditions, a higher duty of water is practical, and when the natural flow of the Boise River becomes insufficient to supply the waters herein decreed, and the rights prior thereto, at the rate of one miner's inch per acre at the points of diversion, the Court decrees that the amount of water required for the irrigation of the said lands is and the amount delivered to each appropriator

JUN 21 1996

under this decree in this action shall be cut to the basis of .75 of a miner's inch per acre at the points of diversion, beginning at the latest right, and then cutting, in succession, each right to the earliest right involved herein;

That, thereafter, when the natural flow of the Boise River becomes insufficient to supply the rights involved in this case, and the rights prior thereto, at the rate of .75 of a miner's inch, measured at the points of diversion, another out shall be made to and the Court decrees that the amount of water required for the irrigation of said lands is .6 of a miner's inch per acre, measured at the points of diversion, said out to begin with the latest right, and then cutting, in succession, each right to the earliest right involved herein, and that the distribution of water to supply the rights involved in this case shall be continued on a basis of .6 of a miner's inch per acre, measured at the points of diversion, so long as the natural flow of the Boise River is sufficient in volume to supply water to any of the rights involved in this case.

And the Court further decrees with respect to the duty of water as herein established and decreed that the Arrowrock Reservoir right, under License No. 7180, shall not be subject to cut until the flow of the Boise River is insufficient to supply the said right and all rights prior thereto, and that, after the flow of the Boise River becomes insufficient to supply the said right, under License No. 7180, and all rights prior thereto, then the said right, under License

JUN 21 1996

No. 7180, shall be out in its entirety, before any right prior thereto shall be out.

That in making the respective cuts to seventy-five per cent and to sixty per cent, it is meant that the reasonable amount of water so required for the irrigation of lands involved herein is such that when the cut to seventy-five per cent is made, the amount of water so required and to be delivered, respectively, shall be seventy-five per cent of the amount to which each claimant is decreed to be entitled herein; and, further, that when the cut to sixty per cent is made, the amount of water so required and to be delivered shall be sixty per cent of the respective amounts to which each claimant is decreed to be entitled herein, regardless of the number of acres upon which the said waters may be spread or used by each claimant.

V-

It is further ORDERED, ADJUDGED AND DECREED that none of the parties hereto, or their successors in interest, shall have the right to the use of the waters of Boise River herein awarded, except for a beneficial purpose; and that whenever the beneficial use has ceased, such party or parties shall cease to divert and have no right to divert the said waters; that each and every of the parties hereto, their servants, attorneys, employees, privies and successors in interest, are hereby enjoined and restrained from any and all interference with or diversion or use of the waters of said Boise River which are herein decreed except as provided in the said Stewart Decree,

JUN 21 1996

whenever such interference, diversion or use would in any manner interfere with the quantity of water awarded by this decree to any of the other parties to this suit.

VI-

That each of the parties to this suit or their predecessors in interest, whose rights are adjudicated hereby, did by actual appropriation and diversion from Boise River or by compliance with the statutes of this State become entitled to the quantities of water hereinafter decreed and used such waters for a beneficial purpose and such parties are now entitled to the same as hereinafter set forth.

VII-

That each party hereto shall pay his own costs and disbursements.

VIII-

That subject to the duty of water and the limitations upon its use as provided in paragraph.IV hereof, each of the parties to this suit is entitled to the use of the said waters of the said Boise River (subject to the awards made in the Stewart Decree) in the quantity and of the date of each appropriation or right as follows, to-wit:

PIONEER IRRIGATION DISTRICT.

That, subject to the awards made in the said Stewart Decree, the plaintiff Pioneer Irrigation District is entitled to and is hereby awarded the said use of the waters of the Boise River diverted through its canals commonly known as the Phyllis and Caldwell Highline

JUN 21 1996

Canals for domestic purposes and for use upon lands lying under the same in the following amounts from the following dates:

63 0294	306.56	second feet from April 1, 1905
63 0295	54.5	" " " " 1, 1908

FARMERS' CO-OPERATIVE DITCH COMPANY

That, subject to the awards made in the Stewart Decree, the defendant Farmers' Co-Operative Ditch Company is entitled to and is hereby awarded ^{said} the use of the waters of the Boise River diverted through its canal commonly known as the Farmers' Co-Operative Canal for domestic purposes and for use upon lands lying under the same in the following amount from the following date:

63 0290	154.455	second feet from April 1, 1905.
---------	---------	---------------------------------

NEW YORK IRRIGATION DISTRICT
BOISE-KUNA IRRIGATION DISTRICT.

That neither the defendant New York Irrigation District nor the defendant Boise-Kuna Irrigation District is entitled to any waters whatsoever (in addition to that awarded thereunder in the Stewart Decree) under or by virtue of the water filing of W.C. Annett made on March 23, 1900.

FARMERS' UNION DITCH COMPANY

That, subject to the awards made in the said Stewart Decree, the defendant Farmers' Union Ditch Company is entitled to and is hereby awarded the said use of the waters of the Boise River diverted through its canal commonly known as the Farmers' Union Canal for domestic purposes and for use upon lands lying

JUN 21 1906

under the same in the following amount from the following date;

63 0297

54.46 second feet from July 2, 1894.

SOUTH BOISE MUTUAL DITCH COMPANY

That, subject to the awards made in the said Stewart Decree, the defendant South Boise Mutual Ditch Company is entitled to and is hereby awarded the said use of the waters of the Boise River diverted through its canal commonly known as the South Boise Mutual Canal for domestic purposes and for use of lands lying below the same in the following amount from the following date:

63 0298

5.4 second feet from April 1, 1905

RIVERSIDE IRRIGATION DISTRICT, LIMITED.

That, subject to the awards made in the said Stewart Decree, the defendant Riverside Irrigation District, Limited, is entitled to and is hereby awarded the said use of the waters of the Boise River diverted through its canal commonly known as the Riverside Canal for domestic purposes and for use upon lands lying under the same in the following amounts from the following date;

63 0299

63.78 second feet from April 1, 1910

63 0300

17.70 " " " " 1, 1914

UNITED STATES OF AMERICA

That the intervenor United States of America is not entitled to any waters whatsoever (in addition to that awarded thereunder in the Stewart Decree) under or by virtue of the water filing of W.C.

RECORDED

JUN 21 1996

Annett made on March 23, 1900/ but subject to the
awards made in the said Stewart Decree it is entitled
to the use of the waters of said Boise River diverted
through what is commonly known as the New York Canal
for domestic purposes and (except as herein specifically
limited) for use of lands lying under the same in the
following amounts from the following dates:

[63 0311 1062.08 second feet from Dec 14, 1903] + Superseded by
63 0312 834.00 " " " June 16 1909 Sutton Order dated
1-30-1932,

That subject to the awards made in
said Decree it is entitled to (1500.00 second
63-026) feet from June 16, 1909 for power purposes only at
the Government power plant at its diversion dam
at the head of the New York Canal; and to
63 0312 8000.00 second feet from January 13,
1911, for storage in Arrowrock Reservoir during the
flood water season only and thereafter to be drawn
out and used in the irrigation of lands of the
Boise Project, and other lands entitled to the same.

And subsequent
continuation
by Eversland
dated June 23,
1932. Watermaster
records indicate
that 1254.58 cfs
are delivered
under this order
as defined in
the Sutton Order
D.R.T.
1-27-83

Dated February 14th, 1929

Ed L. Bryan
District Judge

Entered and Filed
9:30 A.M. Feb 16, 1929
Myrtle Bernard, Clerk
Rose Edwards, Deputy

11-529
Compared

JUN 2 1996

STATE OF IDAHO, }
County of Canyon, } ss.

I, Myrtle Bernard, Clerk of the District Court and Ex-officio Recorder of the County of Canyon, State of Idaho, do hereby certify that the foregoing copy of Deed

has been compared by me with the original, and that it is a correct transcript therefrom, and of the whole of such original.

as the same appears

Deed in my office

In TESTIMONY WHEREOF I have hereunto set my hand and affixed my seal this 26th

day of Feb, 1929.

Myrtle Bernard
Clerk of the District Court and Ex-officio Recorder.

By For Edwards Deputy.

JUN 21 1996

STATUS CONFERENCE NOTES:

RIGHT NO. 63-2134

DATE: 12-7-12

Gail states that the place of use is wrong - needs additional or diff 1/4's. Gail will file a motion to file an amended notice of claim by 1/4/13. Published ^{NO?} docket sheet - Feb., Amended Director's Report. Status conference on 2/26 at 10:30 AM. May claim an acc. user of POW - watch for change prior to 1987 & for change in source - see map.

Shurte, Jan

From: Shurte, Jan
Sent: Wednesday, December 05, 2012 11:20 AM
To: Spencer, Nick
Subject: FW: SRBA - Water Right No. 63-2134

Nick,

As far as I have this is the last email correspondence. I think it got lost in the shuffle and Gail probably figured it would wash out in the end with the other BOR rights. It really should be tracking on its own since it was not objected to and only held out because the SM had a question.

In doing a little research on the place of use for this one it is impossible to tell which acres, if any, are being irrigated from this source in the legal description licensed. Kay made this recommendation and it looks like she gave up and just listed what was in the license. Probably just trying to meet the deadline.

I made a little packet for you from the original water right file. They had filed a transfer on this one in 1994 to change the pod, but then withdrew it. The file has some interesting letters and documentation of how screwed up this right has always been.

In the end we just need the place of use from the BOR.

Jan

From: McGarry, Elizabeth G [<mailto:EMcgarry@usbr.gov>]
Sent: Friday, October 28, 2011 5:49 PM
To: Paul Harrington; Shurte, Jan
Cc: Ted Booth
Subject: RE: SRBA - Water Right No. 63-2134

I'm sorry there isn't. The Project's attorney said he'd talk with the Boise Project Manager on Monday. There is an incident with the New York canal and flooded Boise homes that has been diverting Manager's attention for last couple months.

Perhaps you could set a status conference for late November?

Gail

From: Paul Harrington [<mailto:pharrington@idcourts.net>]
Sent: Tuesday, October 25, 2011 2:51 PM
To: McGarry, Elizabeth G; Shurte, Jan
Cc: Ted Booth
Subject: RE: SRBA - Water Right No. 63-2134

Gail:
Any headway on this?

Sincerely,

Paul Harrington
SRBA District Court
(208) 736-3011

From: McGarry, Elizabeth G [<mailto:EMcgarry@usbr.gov>]
Sent: Wednesday, September 21, 2011 11:29 AM
To: Paul Harrington; Shurte, Jan
Subject: RE: SRBA - Water Right No. 63-2134

I talked to his attorney last week – I'll check with him this afternoon to see if he has made any headway.

Gail

From: Paul Harrington [<mailto:pharrington@idcourts.net>]
Sent: Wednesday, September 21, 2011 10:35 AM
To: McGarry, Elizabeth G; Shurte, Jan
Cc: Ted Booth
Subject: RE: SRBA - Water Right No. 63-2134

Gail: Any update on this? Thanks.

Sincerely,

Paul Harrington
SRBA District Court
(208) 736-3011

From: McGarry, Elizabeth G [<mailto:EMcgarry@usbr.gov>]
Sent: Friday, September 02, 2011 11:58 AM
To: McGarry, Elizabeth G; Paul Harrington; Shurte, Jan
Cc: Ted Booth
Subject: RE: SRBA - Water Right No. 63-2134

We haven't heard back from the Manager, so left a message with his attorney, who's out until next Thursday. So we'll be in touch after that.

Gail

E. Gail McGarry P.E.
Manager, Water Rights and Acquisition
(208) 378-5306
Bureau of Reclamation, Pacific Northwest Region
Atten: PN3100
1150 N Curtis Rd
Boise ID 83706
Fax 208-378-5305

From: McGarry, Elizabeth G
Sent: Friday, August 26, 2011 5:29 PM
To: 'Paul Harrington'; Shurte, Jan
Cc: Ted Booth
Subject: RE: SRBA - Water Right No. 63-2134

We are checking on some facts with the Manager of the Boise Project. We had a call into him a while back, so called again today. We'll make sure we make contact with him next week and get back to you shortly after that.

Gail

From: Paul Harrington [<mailto:pharrington@idcourts.net>]
Sent: Friday, August 26, 2011 1:03 PM
To: Shurte, Jan; McGarry, Elizabeth G
Cc: Ted Booth
Subject: RE: SRBA - Water Right No. 63-2134

Jan: Sounds good. Thanks.

Gail: Any thoughts to add on this?

Sincerely,

Paul Harrington
SRBA District Court
(208) 736-3011

From: Shurte, Jan [<mailto:Jan.Shurte@idwr.idaho.gov>]
Sent: Friday, August 26, 2011 11:57 AM
To: Paul Harrington; emcgarry@pn.usbr.gov
Cc: Ted Booth
Subject: RE: SRBA - Water Right No. 63-2134

Hi Paul,

I checked on this one and the last email I had was December 13, 2010 where I told Ray that Matt Howard, BOR attorney, said he was working on it. Ray just confirmed that was the last he had heard. So, I need to talk with Gail and see where they are at. Maybe she has an update to this one.

If we do not hear from her soon, I will give her a call. How does that sound?

Thanks,
Jan

From: Paul Harrington [<mailto:pharrington@idcourts.net>]
Sent: Wednesday, August 17, 2011 2:06 PM
To: Shurte, Jan; emcgarry@pn.usbr.gov
Cc: Ted Booth
Subject: SRBA - Water Right No. 63-2134

Jan and Gail:

How is everything? Can either of you give me an update on where we are with this claim? It is an uncontested claim, but the file contains a series of emails dating back to last year which appear to raise a couple of issues that may need to be addressed before the claim can be partially decreed. The chain of emails raises an issue pertaining to place of use, and maybe source. In any event, please let me know what you think needs to be done with respect to this claim before it can be partially decreed. Thanks.

Sincerely,

Paul Harrington
SRBA District Court

04/08/2009

IDAHO DEPARTMENT OF WATER RESOURCES
PRELIMINARY RECOMMENDATION OF WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 63-2134

NAME AND ADDRESS: UNITED STATES OF AMERICA ACTING THROUGH
BUREAU OF RECLAMATION
REGIONAL DIRECTOR PN CODE-3100
1150 N CURTIS RD STE 100
BOISE ID 83706-1234

SOURCE: UNNAMED STREAM

TRIBUTARY: BOISE RIVER

QUANTITY: 2.400 CFS

This right when combined with all other rights shall not exceed 0.02 cfs per acre at the field headgate.

PRIORITY DATE: 04/25/1910

POINT OF DIVERSION:

T03N R03W S26 SWSE Within CANYON County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
DOMESTIC	01/01 12/31	2.400 CFS
IRRIGATION	03/01 11/15	2.400 CFS

PLACE OF USE: IRRIGATION in CANYON County

T03N R03W S24	NESW	11.00	T03N R03W S24	NWSW	2.00
T03N R03W S24	SWSW	10.00	T03N R03W S24	SWSW	
T03N R03W S24	SESW	40.00	T03N R03W S24	NWSE	2.00
T03N R03W S25	NWNW	20.00	T03N R03W S25	SWNW	35.00

DOMESTIC same as IRRIGATION

120 ACRES TOTAL

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

This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.

EXPLANATORY MATERIAL: BASIS OF CLAIM - License

Source is also known as Upper Deer Flat Draw.

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 63-2134 V1

WATER RIGHT NUMBER: 63-2134 V1

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	UNITED STATES OF AMERICA ACTING THROUGH BUREAU OF RECLAMATION REGIONAL DIRECTOR PN CODE-3100 1150 N CURTIS RD STE 100 BOISE, ID 83706-1234 (208)378-5306
Attorney	JACK HAUGRUD US DEPT OF JUSTICE LAND & NATURAL RESOURCE SEC PO BOX 663 WASHINGTON, DC 20044-0663

Priority Date: 04/25/1910

Basis: License

Status: Active

<u>Source</u>	<u>Tributary</u>
UNNAMED STREAM	BOISE RIVER

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
DOMESTIC	01/01	to 12/31	2.400 CFS	
IRRIGATION	03/01	to 11/15	2.400 CFS	
	<u>Total Diversion:</u>		2.400 CFS	

Location of Point(s) of Diversion

UNNAMED STREAM	SW1/4SE1/4	Sec. 26, Twp 03N, Rge 03W, B.M.
CANYON County		

Place of Use

IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
03N	03W	24									X	X	X	X		X			
03N	03W	25					X	X											

Total Acres: 35

DOMESTIC same as IRRIGATIONConditions of Approval:

1. C18 This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 63-2134 V1

2. B01 Source is also known as Upper Deer Flat Draw.
3. This right when combined with all other rights shall not exceed 0.02 cfs per acre at the field headgate.
4. Place of use includes 23 acres within the W1/2NW1/4, Sec. 25; and 97 acres within the SW1/4, NW1/4SE1/4, Sec. 26; Twp. 3N, Rge. 3W.

Remarks:

Comments:

1. kwalker 8/25/2006 Source

Comment: The source of water under this permit is not named on topo X55. Recommend source as unnamed stream since this is not a named source. The claim stated that the diversion works is the headgate of Deer Flat Caldwell Canal so have used that as the point of diversion for this recommendation. This point is located in SWSE, S26 rather than SESE, S26 as claimed.

2. jshurte 4/8/2009 Acres Calc PD

Comment: Prior to issuance of a partial decree I calculated the acres within the pou. Previously we had left the acres blank with a remark that the W1/2NW1/4 S. 24 included 23 acres and the SW1/4, NWSE, included 97 acres. It was rejected by SM Booth and asked if we could put it in regular pou form. I digitized the acres in these quarter-quarters below the Upper Embankment Drain and calculated 55 acres in S25 and 65 acres in S24 all below this drain. It would be extremely difficult to cross the drain and irrigate. It appears to be coming from the upper embankment drainage area of Lake Lowell. This area begins the Upper Embankment drain to drain this seepage water away from Lake Lowell, then it is used for irrigation. So, by using the quarter-quarters below the Upper Embankment Drain with the slope of the land the number of acres possible to be irrigated was calculated. The license did not specify which acres are being irrigated only that there is a total of 120 acres in all the above quarter-quarters.

NOTE: BOR is going to submit an amended notice of claim changing the pou to ? by Jan 4 2013. Will re-evaluate then. Acc. transfer

Water Supply Bank:

will need pou irrigated prior to 11/19/87.

Source is also a question.



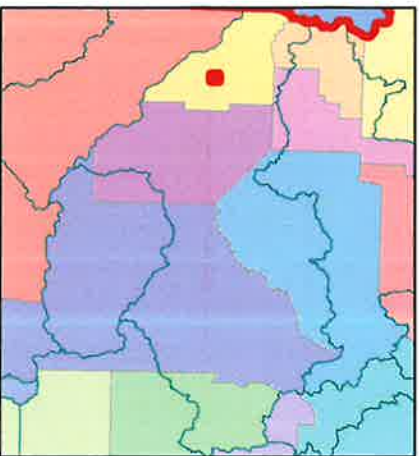
Idaho Department of Water Resources

Adjudication Recommendation

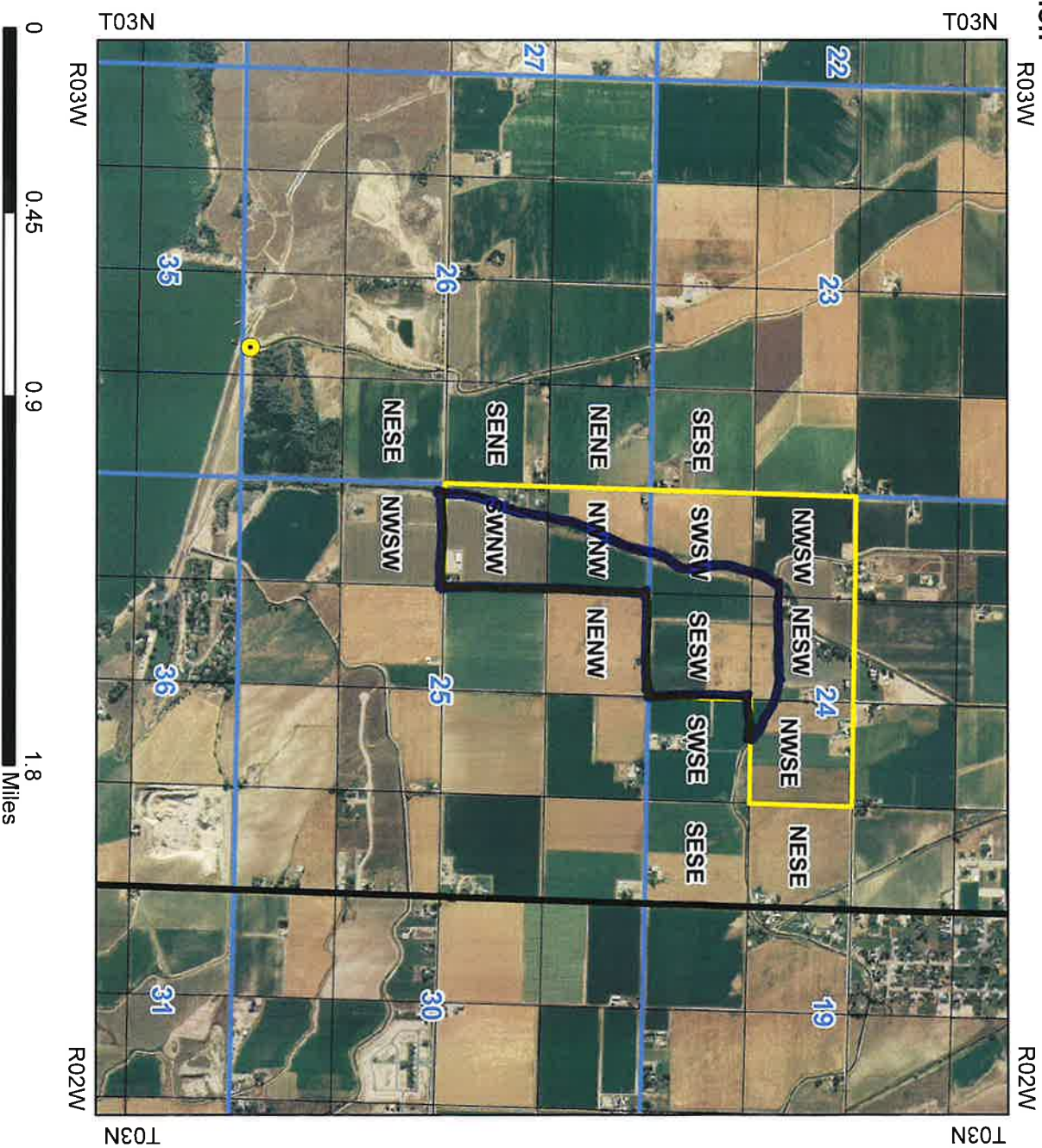
63-2134

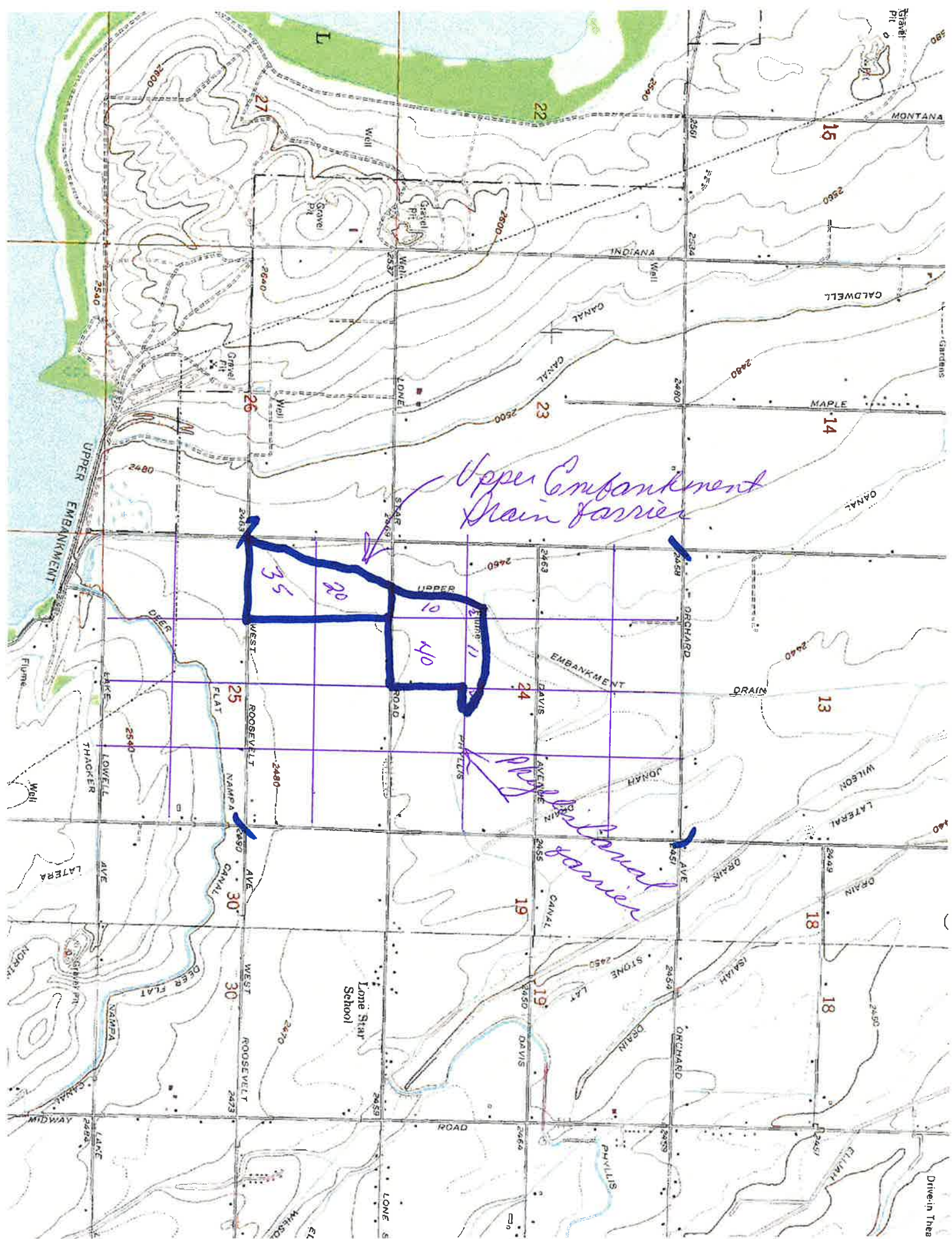
(IRRIGATION)

- Point of Diversion
- Place of Use
- State Outline
- Townships
- PLS Sections
- Quarter Quarters



Canyon County
IDWR Basin 63





Shurte, Jan

From: McGarry, Elizabeth G [EMcgarry@usbr.gov]
Sent: Friday, October 28, 2011 5:49 PM
To: Paul Harrington; Shurte, Jan
Cc: Ted Booth
Subject: RE: SRBA - Water Right No. 63-2134

I'm sorry there isn't. The Project's attorney said he'd talk with the Boise Project Manager on Monday. There is an incident with the New York canal and flooded Boise homes that has been diverting Manager's attention for last couple months.

Perhaps you could set a status conference for late November?

Gail

From: Paul Harrington [mailto:pharrington@idcourts.net]
Sent: Tuesday, October 25, 2011 2:51 PM
To: McGarry, Elizabeth G; Shurte, Jan
Cc: Ted Booth
Subject: RE: SRBA - Water Right No. 63-2134

Gail:
Any headway on this?

Sincerely,

Paul Harrington
SRBA District Court
(208) 736-3011

From: McGarry, Elizabeth G [mailto:EMcgarry@usbr.gov]
Sent: Wednesday, September 21, 2011 11:29 AM
To: Paul Harrington; Shurte, Jan
Subject: RE: SRBA - Water Right No. 63-2134

I talked to his attorney last week – I'll check with him this afternoon to see if he has made any headway.

Gail

From: Paul Harrington [mailto:pharrington@idcourts.net]
Sent: Wednesday, September 21, 2011 10:35 AM
To: McGarry, Elizabeth G; Shurte, Jan
Cc: Ted Booth
Subject: RE: SRBA - Water Right No. 63-2134

Gail: Any update on this? Thanks.

Sincerely,

Paul Harrington
SRBA District Court
(208) 736-3011

From: McGarry, Elizabeth G [<mailto:EMcGarry@usbr.gov>]
Sent: Friday, September 02, 2011 11:58 AM
To: McGarry, Elizabeth G; Paul Harrington; Shurte, Jan
Cc: Ted Booth
Subject: RE: SRBA - Water Right No. 63-2134

We haven't heard back from the Manager, so left a message with his attorney, who's out until next Thursday. So we'll be in touch after that.

Gail

E. Gail McGarry P.E.
Manager, Water Rights and Acquisition
(208) 378-5306
Bureau of Reclamation, Pacific Northwest Region
Atten: PN3100
1150 N Curtis Rd
Boise ID 83706
Fax 208-378-5305

From: McGarry, Elizabeth G
Sent: Friday, August 26, 2011 5:29 PM
To: 'Paul Harrington'; Shurte, Jan
Cc: Ted Booth
Subject: RE: SRBA - Water Right No. 63-2134

We are checking on some facts with the Manager of the Boise Project. We had a call into him a while back, so called again today. We'll make sure we make contact with him next week and get back to you shortly after that.

Gail

From: Paul Harrington [<mailto:pharrington@idcourts.net>]
Sent: Friday, August 26, 2011 1:03 PM
To: Shurte, Jan; McGarry, Elizabeth G
Cc: Ted Booth
Subject: RE: SRBA - Water Right No. 63-2134

Jan: Sounds good. Thanks.

Gail: Any thoughts to add on this?

Sincerely,

Paul Harrington
SRBA District Court
(208) 736-3011

From: Shurte, Jan [<mailto:Jan.Shurte@idwr.idaho.gov>]
Sent: Friday, August 26, 2011 11:57 AM
To: Paul Harrington; emcgarry@pn.usbr.gov

Cc: Ted Booth

Subject: RE: SRBA - Water Right No. 63-2134

Hi Paul,

I checked on this one and the last email I had was December 13, 2010 where I told Ray that Matt Howard, BOR attorney, said he was working on it. Ray just confirmed that was the last he had heard. So, I need to talk with Gail and see where they are at. Maybe she has an update to this one.

If we do not hear from her soon, I will give her a call. How does that sound?

Thanks,

Jan

From: Paul Harrington [<mailto:pharrington@idcourts.net>]

Sent: Wednesday, August 17, 2011 2:06 PM

To: Shurte, Jan; emcgarry@pn.usbr.gov

Cc: Ted Booth

Subject: SRBA - Water Right No. 63-2134

Jan and Gail:

How is everything? Can either of you give me an update on where we are with this claim? It is an uncontested claim, but the file contains a series of emails dating back to last year which appear to raise a couple of issues that may need to be addressed before the claim can be partially decreed. The chain of emails raises an issue pertaining to place of use, and maybe source. In any event, please let me know what you think needs to be done with respect to this claim before it can be partially decreed. Thanks.

Sincerely,

Paul Harrington
SRBA District Court
(208) 736-3011

Shurte, Jan

From: McGarry, Elizabeth G [EMcgarry@usbr.gov]
Sent: Friday, December 10, 2010 11:51 AM
To: Williams, Ray
Cc: Shurte, Jan; Gehlert, David (ENRD)
Subject: RE: 63-2134

No, I'll look at that.

From: Williams, Ray [<mailto:Raymond.Williams@idwr.idaho.gov>]
Sent: Friday, December 10, 2010 11:34 AM
To: McGarry, Elizabeth G
Cc: Shurte, Jan
Subject: FW: 63-2134

Gail,

Have you had a chance to check on this one?

Thanks,

Ray

From: Shurte, Jan
Sent: Friday, December 10, 2010 11:13 AM
To: Williams, Ray
Subject: FW: 63-2134

From: Shurte, Jan
Sent: Thursday, August 19, 2010 2:50 PM
To: emcgarry@pn.usbr.gov
Cc: 'Ted Booth'
Subject: FW: 63-2134

Gail,

We spoke about this on the phone, but I can't remember where we left off. Could you have someone check this out. If you look at the map the Upper Embankment Drain comes right off the toe of the upper embankment dam (Lake Lowell), flows north and dumps into the Wilson Drain, I think. The place of use on this right was listed with the remark "Place of use includes 23 acres within the W1/2NW1/4, Sec. 25; and 97 acres within the SW1/4, NW1/4SE1/4, Sec. 26, Twp. 3N, Rge. 3W". In our place of use we just listed the 1/41/4's. That is inconsistent with other rights for irrigation.

I guess my question is whether or not the above legal is actually irrigated directly from the Upper Embankment Drain anymore or does the water go into the Bureau's system and used within an irrigation district?

Would you please check this out for me and let me know at your earliest convenience. We need to get this one decreed.

Thanks,
Jan

From: Ted Booth [<mailto:tbooth@srba.state.id.us>]

Sent: Friday, June 04, 2010 2:55 PM

To: Shurte, Jan

Subject: 63-2134

Jan,

Could you please check and see if this right is still on your radar? We exchanged emails back in March about whether the description of the POU could be conformed to the standard format. Is there something peculiar about this right that requires describing the POU in an unusual format? The last note I have is to the effect that you were going to contact Gail McGarry about it.

Let me know,

Ted

Shurte, Jan

From: Ted Booth [tbooth@srba.state.id.us]
Sent: Friday, January 02, 2009 11:28 AM
To: Shurte, Jan
Subject: 63-2134

Jan,

This right has a goofy (i.e. out of the ordinary) description of the POU. Please determine whether the description can be conformed to the usual format.

Ted

Eliminate annoying spam!

My mailbox is protected by iHateSpam, the #1-rated spam buster.
<http://www.ihatespam.net>

Ted,

Attached is the recommendation for the above right with the acres assigned to 1/41/4's. The original license did not have acres attached to each 1/41/4 and when you look at the 1987 aerial all the 1/41/4's look irrigated. So, what I did is to recommend the acres below the ~~Lower~~ ^{UPPER} Embankment Drain considering gravity flow in 1910. Do I need to submit an Amended Director's Report or is it ok to change it considering the number of acres will not change and the pou remark in the original recommendation stated which 1/41/4's were included?

From: Ted Booth [mailto:tbooth@srba.state.id.us]

Sent: Friday, January 02, 2009 11:28 AM

To: Shurte, Jan

Subject: 63-2134

Jan,

This right has a goofy (i.e. out of the ordinary) description of the POU. Please determine whether the description can be conformed to the usual format.

Ted

Eliminate annoying spam!

My mailbox is protected by iHateSpam, the #1-rated spam buster.

<http://www.ihatespam.net>

4-17/09

Called Gail McGary to hear
her side of the story & it's
OK to change acres per my idea.

4/23 Gail will call Dad when
she picks the file.

Shurte, Jan

From: Ted Booth [tbooth@srba.state.id.us]
Sent: Friday, January 02, 2009 11:28 AM
To: Shurte, Jan
Subject: 63-2134

Jan,
This right has a goofy (i.e. out of the ordinary) description of the POU. Please determine whether the description can be conformed to the usual format.
Ted

Eliminate annoying spam!

My mailbox is protected by iHateSpam, the #1-rated spam buster.
<http://www.ihatespam.net>

Recommended per
Linnar - shows no
injected acres - ? on
domestic.
Map on transfer maybe
useful. Also 1939 aerial
I looked at. Hold for
later review.

2/20/2009

Kay

Harris, Lori

From: Ted Booth [tbooth@srba.state.id.us]
Sent: Friday, January 02, 2009 11:28 AM
To: Shurte, Jan
Subject: 63-2134

Jan,

This right has a goofy (i.e. out of the ordinary) description of the POU. Please determine whether the description can be conformed to the usual format.

Ted

Eliminate annoying spam!

My mailbox is protected by iHateSpam, the #1-rated spam buster.
<http://www.ihatespam.net>

Ask Jan if fixed.

5/21/2009

08/25/2006

IDAHO DEPARTMENT OF WATER RESOURCES
PRELIMINARY RECOMMENDATION OF WATER RIGHTS ACQUIRED UNDER STATE LAW

RIGHT NUMBER: 63-2134

NAME AND ADDRESS: UNITED STATES OF AMERICA ACTING THROUGH
REGIONAL DIRECTOR PN REGION
BUREAU OF RECLAMATION
1150 N CURTIS RD STE 100
BOISE ID 83706-1234

SOURCE: UNNAMED STREAM

TRIBUTARY: BOISE RIVER

QUANTITY: 2.400 CFS

This right when combined with all other rights shall not exceed 0.02 cfs per acre at the field headgate.

PRIORITY DATE: 04/25/1910

POINT OF DIVERSION:

T03N R03W S26 SWSE Within CANYON County

PURPOSE AND
PERIOD OF USE:

<u>PURPOSE OF USE</u>	<u>PERIOD OF USE</u>	<u>QUANTITY</u>
DOMESTIC	01/01 12/31	2.400 CFS
IRRIGATION	03/01 11/15	2.400 CFS

PLACE OF USE: IRRIGATION Within CANYON County

T03N R03W S24	NESW	T03N R03W S24	NWSW
T03N R03W S24	SWSW	T03N R03W S24	SESW
T03N R03W S24	NWSE	T03N R03W S25	NWNW
T03N R03W S25	SWNW		
<u>DOMESTIC same as IRRIGATION</u>			

Place of use includes 23 acres within the W1/2NW1/4, Sec. 25; and 97 acres within the SW1/4, NW1/4SE1/4, Sec. 26; Twp. 3N, Rge. 3W.

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

This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.

EXPLANATORY MATERIAL: BASIS OF CLAIM - License

Source is also known as Upper Deer Flat Draw.



Idaho Department of Water Resources

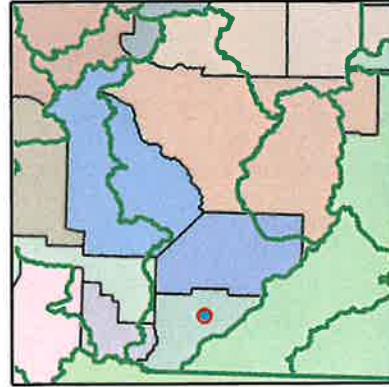
SRBA Recommendation:

63-2134

Area = 120

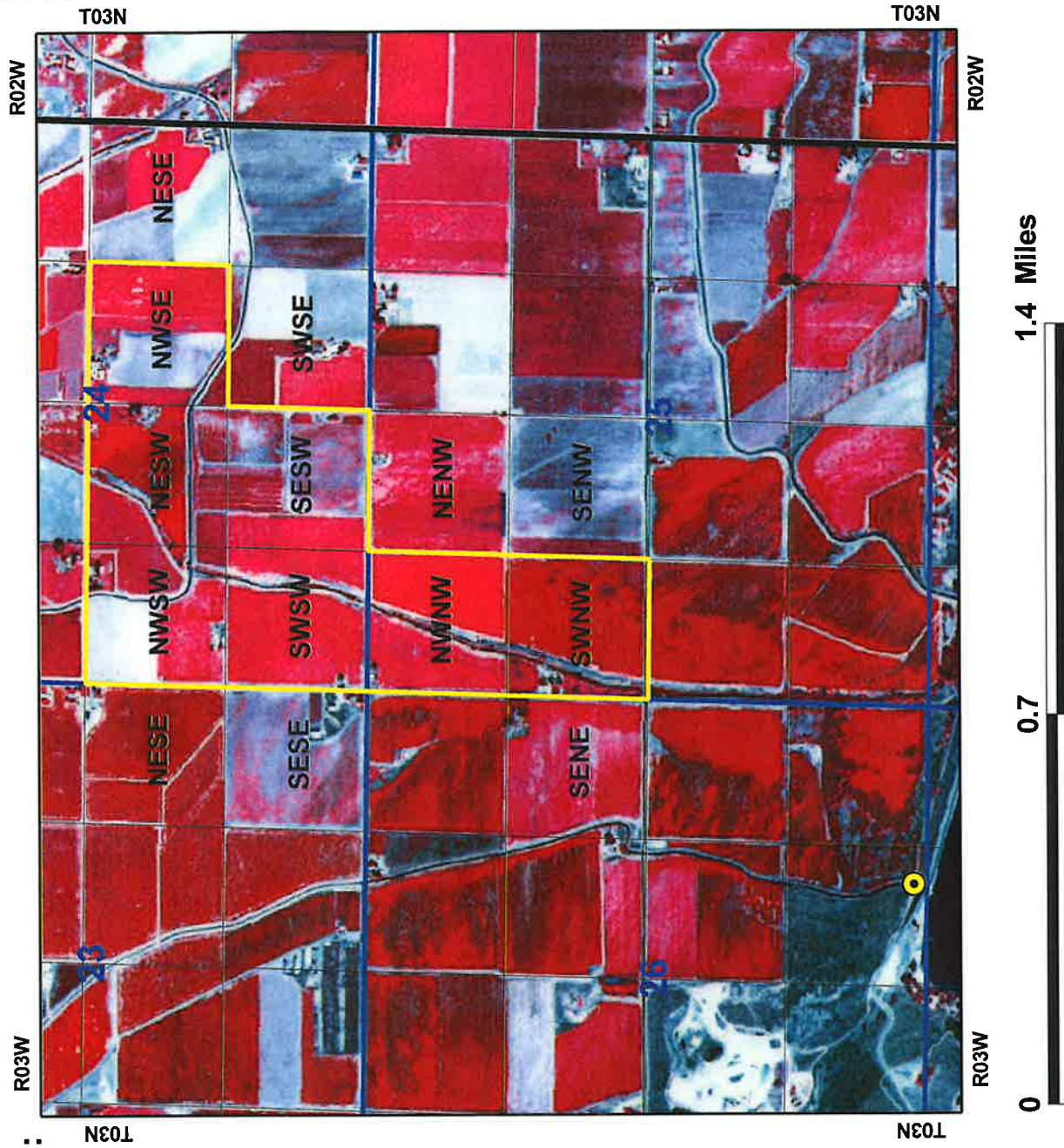
Legend

- Point of Diversion
- Place of Use
- Townships
- PLS Sections
- Quarter Quarters



Canyon County
IDWR Basin 63

Prepared by K. Walker
On Friday, August 25, 2006
1987/88 Aerial Photography



IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Claim Report 63-2134

WATER RIGHT NUMBER: 63-2134

*in office review
by kw 8/25/04*

Owner Type

Current Owner

Name and Address

UNITED STATES OF AMERICA ACTING THROUGH
REGIONAL DIRECTOR PN REGION
BUREAU OF RECLAMATION
1150 N CURTIS RD STE 100
BOISE, ID 83706-1234
(208)378-5322

Attorney

JACK HAUGRUD
US DEPT OF JUSTICE
LAND & NATURAL RESOURCE SEC
PO BOX 663
WASHINGTON, DC 20044-0663

Priority Date: 04/25/1910

Basis: ~~Decreed~~

Status: Active

*License - Rt. not included in decree - source
not included in decree - see copy of
decree below -*

Source *unnamed stream*
UPPER DEER FLAT DRAW CREEK

Tributary
BOISE RIVER

Beneficial Use

DOMESTIC

IRRIGATION

From To

1/01 to 12/31

4/01 to 10/31

Diversion Rate

2.400 CFS

2.400 CFS

Total Diversion:

2.400 CFS

Annual Volume

*N/A - surface
water*

Location of Point(s) of Diversion

UPPER DEER FLAT DRAW CREEK

SE1/4SE1/4

Sec. 26, Twp 03N, Rge 03W, B.M.

CANYON County

Place of Use

IRRIGATION

Twp	Rge	Sec	NE	NW	SE	SW	SE	NE	NW	SE	SW	SE	NE	NW	SE	SW	SE	Totals
03N	03W	24	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	97
03N	03W	25		X	X													23

120

DOMESTIC same as IRRIGATION

Conditions of Approval:

*shape created
by "generate shape
from PLS" since
no map or direction
on area irrigated.*

*x55
check
topo
if not
named
use
unnamed
stream*

*Not on
Lic-
Rec
Standard*

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Claim Report 63-2134

1. POU = 120 ACRES WITH 23 ACRES IN SEC. 25 AND 97 ACRES IN SEC. 24 IN TRACTS SHOWN ABOVE.
WATERS ARE CONSUMPTIVELY USED FROM APRIL 1 THROUGH OCTOBER 31.
DURING NON-IRRIGATION SEASON WATERS ARE STORED IN LAKE LOWELL AS PART OF THE BOISE FEDERAL RECLAMATION PROJECT.

Remarks:

Comments:

Water Supply Bank: