

Amended Director's Report  
Right No. 63-7075B

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

RIGHT NUMBER: 63-7075B

NAME AND ADDRESS: DAVID DANIEL  
12197 DEER FLAT RD  
NAMPA ID 83686

ANGELA DANIEL  
12197 DEER FLAT RD  
NAMPA ID 83686

SOURCE: GROUND WATER

TRIBUTARY:

QUANTITY: 0.350 CFS  
137.500 AFY

Right Nos. 63-3330B and 63-7075B are limited to a total combined diversion rate of .8 cfs and to a total combined annual diversion volume of 180 AF.

PRIORITY DATE: 03/11/1968

POINT OF DIVERSION:

T02N R03W S24 SENW Within CANYON County

PURPOSE AND  
PERIOD OF USE:

| <u>PURPOSE OF USE</u>                                                                                                                                                                                                                                                                                                                                                                                                                 | <u>PERIOD OF USE</u> | <u>QUANTITY</u>         |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------|-------------------------|
| IRRIGATION                                                                                                                                                                                                                                                                                                                                                                                                                            | 04/01 10/15          | 0.350 CFS<br>137.50 AFY |
| The use of water for irrigation under this right may begin as early as March 1 and may continue to as late as November 15, provided other elements of the right are not exceeded. The use of water before April 1 and after October 15 under this remark is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than the date a partial decree is entered for this right. |                      |                         |

PLACE OF USE: IRRIGATION in CANYON County

|               |      |       |               |      |       |
|---------------|------|-------|---------------|------|-------|
| T02N R03W S24 | SWNE | 34.00 | T02N R03W S24 | SENE | 14.00 |
|---------------|------|-------|---------------|------|-------|

48 ACRES TOTAL

This right is limited to the irrigation of 40 acres within the place of use described above in a single irrigation season.

Right Nos. 63-3330B and 63-7075B are limited to the irrigation of a combined total of 40 acres in a single irrigation season.

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

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

EXPLANATORY MATERIAL: BASIS OF CLAIM - License

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

Amended Director's Report  
Right No. 63-7075B

Sent to D.O. on 12/19/08

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TRIBUTARY:

QUANTITY: 0.350 CFS  
137.500 AFY

Right Nos. 63-3330B and 63-7075B and ~~63-31189~~ are limited to a total combined diversion rate of .8 cfs and to a total combined annual diversion volume of 180 AF.

PRIORITY DATE: 03/11/1968

POINT OF DIVERSION:

T02N R03W S24 SENW Within CANYON County

PURPOSE AND  
PERIOD OF USE:

| <u>PURPOSE OF USE</u> | <u>PERIOD OF USE</u> | <u>QUANTITY</u>         |
|-----------------------|----------------------|-------------------------|
| IRRIGATION            | 04/01 10/15          | 0.350 CFS<br>137.50 AFY |

The use of water for irrigation under this right may begin as early as March 1 and may continue to as late as November 15, provided other elements of the right are not exceeded. The use of water before April 1 and after October 15 under this remark is subordinate to all water rights having no subordinated early or late irrigation use and a priority date earlier than the date a partial decree is entered for this right.

PLACE OF USE: IRRIGATION in CANYON County

|               |      |              |                  |               |      |              |
|---------------|------|--------------|------------------|---------------|------|--------------|
| T02N R03W S24 | SWNE | <u>34.00</u> | <del>39.00</del> | T02N R03W S24 | SENE | <u>14.00</u> |
|---------------|------|--------------|------------------|---------------|------|--------------|

48 ACRES TOTAL ~~39 ACRES TOTAL~~

This right is limited to the irrigation of 40 acres within the place of use described above in a single irrigation season.

Right Nos. 63-3330B and 63-7075B and ~~63-31189~~ are limited to the irrigation of a combined total of 40 acres in a single irrigation season.

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

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

EXPLANATORY MATERIAL: BASIS OF CLAIM - License

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

To: 63-3330B, 7075B & 31189 – David Daniels

From: Jan Shurte

Date: 10-7-08

Subject: Amended Claims Review

Per a phone call from David Daniels on 10-7-08, I began reviewing the amended claims submitted to the SRBA Court on 9-15-2008. In so doing I discovered other factors involved as follows:

Amended claim was filed to create a PPU for both 63-3330B (1963 priority) & 63-7075B (1968 priority). This PPU removes 5 acres from both rights and spreads out the acres onto the neighboring 1/41/4, NENW, Sec. 24, 2N, 3W. Basically the amended claims are filed for a ppu in the SWNE (34 ac) and NENW (14 ac) with the restriction that no more than 40 acres could be irrigated in any given irrigation season. **NOTE:** The legal description is wrong on the amended claims for the 14 acres listed in Sec. 24. Rather than the NENW, S24, the 14 acres are in the SENE, S24 per the map and a check of taxlot ownership info.

During my research on these amended claims and overlaps, I found Transfer No. 73818 pending since 2005 (in the hold drawer) proposing to transfer 1 acre from 63-31189 (1967 priority right previously split from 63-3599D) from the 5 acres listed on this right also located in the SWNE, S24. It appears that 1 acre of water rights may already have been sold from these 5 acres.

Originally, Right Nos. 63-3330B, 7075B and 31189 were recommended in the Director's Report with a limitation of .80 cfs and 180 (4.5 afacre) when all three were combined. They were all recommended for land in the SWNE, S.24.

Objection filed stating that 63-31189 needs to be taken out of this combined limits for various reasons cited in the objection. I believe it does need to be taken out of the equation in order for the transfer now pending to be approved. The only way the transfer will be approved is if the 5 acres covered by 63-31189 is removed from 63-3330B & 7075B in an ADR which would show no stacking of these rights and allow the transfer to be approved.

However, if we take out the 5 acres for 63-31189 we will need to reduce the original rights by 5 acres to avoid an expansion. In other words, we cannot unstack these in the SRBA by doing a ppu and leave the 5 acres just on 63-31189. My recommendation will be to allow the ppu with a condition that states a 35 acre limitation within the 48 acre ppu.

Cell - 340-5555  
David Daniels

Shurte, Jan

**From:** Courtney, Andrea  
**Sent:** Tuesday, August 05, 2008 10:52 AM  
**To:** Egbert, Sandy; Williams, Ray; Shurte, Jan  
**Subject:** RE: 63-3330B, 63-7075B & 63-31189 (Daniel)

Sandy~

David has retained Roxanne Brown and SPF to help him with these rights. Evidently, he hired SPF back when he was purchasing the water for his 5 acres. So they are back on the scene. Roxanne said in '87 56 acres were irrigated and really all he wants is to be able to irrigate 45 acres, he'll dry up the other 11 and not seek an enlargement.

Looks to me that all three of these are based on licenses so I don't know that adjudication can help him, but Roxanne seemed to think there was merit in meeting with us and talking informally. I agreed so we could get a clear picture of what he wants. I mentioned we thought he was pursuing a transfer to resolve this, and Roxanne said she thought there was a less messy way of doing it. I don't know what she has in mind, but we'll see. Sounds like the transfer avenue is on hold for the time being.

Anyway, she'll call/email with potential meeting dates. We have a status conference set for 10/28 at 3pm so we need to have met with them before that day. I'll be in touch with dates.

Andrea

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**From:** Egbert, Sandy  
**Sent:** Monday, August 04, 2008 7:16 AM  
**To:** Williams, Ray; Shurte, Jan  
**Cc:** Courtney, Andrea  
**Subject:** RE: 63-3330B, 63-7075B & 63-31189 (Daniel)

Ray,

I have been in contact with David Daniel and also Pam Skaggs about these water rights. David Daniel has decided to file a transfer and at the same time try to prove that these water rights should not be stacked since he says he has not use 63-3330B and 63-7075B. Pam thought there might be a chance that he could accomplish what he wants. It depends on the information he submits with his transfer. Now we are waiting for him to submit a transfer and see if it will be approved. My last contact with him was 7-29-08 so he may have already submitted the transfer.

Sandy

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**From:** Williams, Ray  
**Sent:** Friday, August 01, 2008 9:43 AM  
**To:** Egbert, Sandy; Shurte, Jan  
**Cc:** Courtney, Andrea  
**Subject:** FW: 63-3330B, 63-7075B & 63-31189 (Daniel)

Sandy & Jan,

There is a status conference for these subcased on Aug. 5. After the initial hearings, you were going to talk with Shelley/Allocations about voiding the transfer or transferring another portion. This is the one where the claimant actually purchased an additional water right as a safety net. Have you been able to find anything out from Allocations?

Thanks!

Ray

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**From:** Williams, Ray  
**Sent:** Thursday, May 15, 2008 2:06 PM  
**To:** Egbert, Sandy  
**Subject:** RE: 63-3330B, 63-7075B & 63-31189 (Daniel)

Thanks!

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**From:** Egbert, Sandy  
**Sent:** Thursday, May 15, 2008 2:03 PM