

CERTIFICATE OF MAILING

I certify that on October 10th, 2012, I mailed the original and copies of this form, including all attachments, to the following persons by mailing the original and/or copies, postage prepaid and addressed as follows;

1. Original to: (overnight delivery)

Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
P.O. Box 2707
Twin Falls, ID 83303-27007

2. Copies to: (first class US mail)

IDWR Document Depository
P.O. Box 83720
Boise, ID 83720-2707

Director of IDWR
P.O. Box 83720
Boise, ID 83720-2707

Allen Ranch LLP
Represented by:
Bruce Smith
950 W Bannock St, Ste 520
Boise, ID 83702

James Bunce
P.O. Box 890
Cascade, ID 83611

A handwritten signature in black ink, appearing to read "Andrea M. Cuzzo". The signature is fluid and cursive, with the first name "Andrea" being more legible than the last name "Cuzzo".

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 65-23481
Date Received: 2/14/2012
Receipt No:
Received By:

NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW

1. Name of Claimant(s)

ALLEN RANCH LLP Phone: (208) 866-4370

2624 S INGLENOOK PL

MERIDIAN ID USA 83642

2. Date of Priority: 06/01/1894

3. Source: ROCK CREEK Trib. to: PAYETTE RIVER NORTH FORK
LITTLE ROCK CREEK Trib. To: PAYETTE RIVER NORTH FORK

4. Point of Diversion:

Township	Range	Section	1/4 of 1/4 of 1/4 Lot	County	Type
13N	03E	3	NW SW	VALLEY	
13N	03E	3	SW NE	VALLEY	Beginning Point
13N	03E	3	NE NE	VALLEY	Ending Point
13N	03E	3	SE NE	VALLEY	

5. Description of diverting works:

EXISTING UPPER DIVERSION DAM IN ROCK CREEK AND GRAVITY FLOW DITCH (AKA LITTLE ROCK CREEK) FOR IRRIGATION AND STOCKWATER. INSTREAM STOCKWATER YEAR ROUND FOR LITTLE ROCK CREEK. LOWER DIVERSION POINT FROM ROCK CREEK FOR IRRIGATION AND STOCKWATER.

6. Water is used for the following purposes:

Purpose	From	To	C.F.S.	(or) A.F.A
IRRIGATION	10/16	11/30	2.7	
IRRIGATION	03/15	04/14	2.7	
STOCKWATER	05/15	11/30	0.14	
STOCKWATER	01/01	12/31	0.14	← <u>NOT YR ROW 4 D</u>

7. Total Quantity Appropriated is:
2.7 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
13N	03E	3	NE	NE	IRRIGATION	23
			NW	NE	IRRIGATION	21
			SW	NE	IRRIGATION	8
			SE	NE	IRRIGATION	31
			NE	NE	STOCKWATER	
			NW	NE	STOCKWATER	
			SW	NE	STOCKWATER	
			SE	NE	STOCKWATER	
Section Acres						83
Total Acres						83

11. Place of use in counties: VALLEY

12. Do you own the property listed above as place of use? Yes

13. Other Water Rights Used:

14. Remarks:

Stockwater use is for 600 head cattle.

15. Basis of Claim: Beneficial Use

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

Staff Memorandum

Allen, West Mtn. Water Assoc., Ford Applications

Transfers:

77121 (65-3111X) Allen

77209 (65-3111A) West Mtn Assoc.

Applications for Permit: 65-23451 Allen

65-23457 Ford

From: J. Westra JFW

Date: 04/01/12

Background

The above applications are a result of a complaint being filed 11/1/10 by Chess. The complaint alleged that Allen Ranch was diverting water at an unauthorized point of diversion. The Department records from the PRBA and SRBA processes show the P/D for water rights #65-3111X, #65-3111A, and #65-3111F are NWSE, Section 13, TN13N, R03E. The Allen and West Mtn Assoc. transfer applications address the P/D corrections. As water right #65-3111X does not include stockwater use, the Allen Ranch requests a new appropriation of water for the shoulder irrigation season and year-round stockwater. A new allocation for a creek water feature is proposed by the Ford application.

Historical

Prior wateruser issues on the creek ended up in court with a decree being issued in 1930. See decree attachment "A." The decree discusses diversions to "Little Rock Creek" which may be associated with the Upper Allen Diversion during that time period.

Creek Water Rights

The creek of issue has several names: Rock Creek, Richards Creek, and unnamed stream as in the case of senior water rights 65-3111X, 65-3111A, and 65-3111F. The 3 senior rights equal the majority of the diverted flow **3.15 cfs** while the remainder of the junior rights equal **.18 cfs** for year round domestic uses. A list of water rights is attached as "B"

Field Visits/Confirmations

-11/18/10 a field investigation was completed by regional staff. GPS positions were taken on the Allen points of diversion along with photos. See field report and map "C"

Handwritten notes and signature:

Scanned
04264204
[Signature]

Page 2.

Allen, West Mtn. Ford

-10/31/11 a field check was made by regional staff. A creek flow measurement of **.47 cfs** was obtained at the West Mountain Road culvert. A flow of **.38 cfs** was measured on the Allen ditch culvert west of pasture gate also approximated at the West Mountain Road culvert . See field report **"D."**

-11/18/11 a field check was made by regional staff with water depths measured at the culverts in the previous visit. Flow approximations: creek = **.90 cfs** and Allen ditch = **.50 cfs**. See field report **"E."**

-12/21/11 a final field check was made by regional staff . Flow approximations: creek= **1.0 cfs** and Allen ditch= **.4 cfs**. See field report **"F."**

Creek Management

-There are no minimum stream flows applicable to this creek

-The Idaho Department of Fish & Game does not consider this creek a fishery. Confirmed on 11/03/11 with Dale Allen, McCall Office.

-It is certainly acknowledged the creek measurements are limited/marginal; however, a call for water by the senior water right holders could potentially eliminate all the creek flow in certain locations depending on the diversion locations and time of season.

-The small diversion rate (.05 cfs) for the West Mtn. Assoc. transfer just downstream of the upper Allen diversion would require additional carry- water for delivery in the creek. The same applies for the proposed Allen stock water diversion (.14 cfs) conveyed down the Allen Ditch during the non- irrigation season.

-Regardless of the approval/denial of the applications, measurement and lockable control works should be required for all the creek water rights-- Payette River Watermaster regulation.

-New consumptive appropriations are subject to the 6/15 basin # 65 curtailment condition #185

Attachments

1930
Decree 65C

①

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

MARY R. ALLEN and D. K.
ALLEN,

Plaintiffs,

-vs-

W. N. WITHERS and MAUD
WITHERS,

Defendants.

D E C R E E

Case No. 484 Inst. No. 12
DISTRICT COURT VALLEY COUNTY
IDAHO

Filed: Oct 13 1930 at M.
FOREST E. ROBB - Clerk
By Bernice A. Kerby -
Deputy.

This cause came on regularly for trial before the court without a jury in the district courtroom at Cascade, Idaho, on the 18th day of July, 1930; F. M. Kerby and Wm. M. Morgan, appeared for the plaintiffs, and Fred M. Taylor and Rhodes & Estabrook appeared for the defendants; witnesses were called, sworn and examined on behalf of the respective parties, the evidence was closed and both parties rested; the matter was submitted for decision and the court, being fully advised in the premises, made findings of fact and conclusions of law,

NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED and DECREED as

follows:

65 3111
~~65-111~~

1.

That the plaintiffs, Mary R. Allen and D. K. Allen, be, and they hereby are, decreed, awarded and allotted 160 miner's inches, continuous flow, of the waters of Rock Creek and its tributaries, which stream is tributary to Willow Creek, which flows into the North Fork of the Payette River, west of Cascade, Idaho, and they are the owners of the right to divert said amount of water from said stream for the irrigation of and domestic use upon their land described as follows:

The SW $\frac{1}{4}$ of the NW $\frac{1}{4}$, and the NW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 2;

A

1/26/12 d'use

Disallowed
Rec'd as
65-3111X

Forfeited

and Lot 8, and the SW $\frac{1}{4}$ of the NE $\frac{1}{4}$, and the SE $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 3, all in Township 13 N. R. 3 E., B.M. in Valley County, Idaho, containing 200 acres more or less,

with date of priority of June 1, 1894;

65 3112

11.

~~6520112~~

That the plaintiffs, Mary R. Allen and D. K. Allen, be, and they hereby are, decreed, awarded and allotted 100 miner's inches, continuous flow, of the waters of Rock Creek and Little Rock Creek and their tributaries, which streams are tributaries to Willow Creek, which flows into the North Fork of the Payette River, west of Cascade, Idaho, and that they are the owners of the right to divert said amount of water from said streams for the irrigation of and domestic use upon their land described as follows:

Lots 5 and 4 in Section 2, and Lots 1, 2, 3, 4 and 7 in Section 3, all in Township 13 North, Range 3 East, B.M., in Valley County, Idaho, containing 149 acres, more or less,

with date of priority of July 4, 1917;

65 3113

111.

~~6520113~~

That the defendants, W. N. Withers and Maud Withers, be, and they hereby are, decreed, awarded and allotted 80 miner's inches, continuous flow, of the waters of Rock Creek and its tributaries and 30 miner's inches, continuous flow, of the waters of Little Rock Creek and its tributaries, which streams are tributaries to Willow Creek, which flows into the North Fork of the Payette River, west of Cascade, Idaho, and that they are the owners of the right to divert said amounts of water from said streams for the irrigation of and domestic use upon their land described as follows:

The east half of the Southeast Quarter of Section 34, and the West Half of the Southwest Quarter of Section 35, all in Township 14 North, Range 3 East, Boise Meridian, containing 160 acres,

with date of priority of June 1, 1898;

1V.

That each of the parties hereto, their agents, servants, employees, successors, and all persons acting in their behalf, or on behalf of either of them, be perpetually enjoined from in any manner interfering with the rights of the other parties hereto to the use of said waters, and in any manner interfering with the ditches, canals, laterals, or other means of diversion or distribution of said waters;

V.

That a miner's inch of water, as herein mentioned, is equivalent to a full 1/50 cubic foot of water per second.

VI.

That the parties to whom rights are herein allotted and their successors in interest shall, at their own cost and expense, install and maintain suitable and efficient headgates, controlling works, and measuring devices at their respective points of diversion from the streams from which water is diverted by them, and all waters herein allotted and decreed shall be measured at said points of diversion; said works and devices shall be built, installed and maintained in accordance with plans and specifications to be approved by the official charged by law with the duty of supervising the distribution of water; all such divices shall be of such design as to accurately measure the water diverted; all such headgates, control works, measuring devices and gauges shall, at all times, be subject to inspection by any party hereto and by the public officials or watermasters having jurisdiction over the distribution and diversion of the waters, and no dam or other obstruction to the natural flow of either of the streams from which water is taken shall be maintained so as to divert water from the channel thereof except through ditches, canals or other works provided

with such headgates, control works, and measuring devices; each of the parties hereto is hereby perpetually enjoined from diverting from the channel of either of said streams any water to any ditch, conduit or other device not provided with such headgates, control works and measuring devices;

Vll.

That plaintiffs have, and they hereby are awarded, judgment against the defendant, W. N. Withers, for their costs and disbursements herein necessarily expended hereby taxed at \$ 162.55.

Dated this 10th day of October, 1930.

Recorded Judgment Record 2 Page 161.

A. C. Sutton
District Judge.

Compared x
Indexed-Direct x
Indexed-Indirect x

STATE OF IDAHO,) ss.
County of Valley,)

I, Forest E. Robb Ex-officio Auditor & Recorder
in and for Valley County, Idaho, DO HEREBY CERTIFY AND DECLARE that I have compared
the foregoing "Decree"
with the record of such Instrument
in my office, which instrument is (Not and indexed) In Book 2 of Judgments
(Recorded)
at page 161, and that the foregoing is a true and correct copy
of such record.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, this
18th day of May, 1931.

FOREST E. ROBB
Ex-Officio Auditor and Recorder,
Valley County, Idaho.
By: Amelia A. Kelly
Deputy

(2)

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

MARY R. ALLEN)
D. K. ALLEN)
Plaintiffs)
-vs-)
W. N. WITHERS)
MAUD WITHERS)
Defendants)

DECEE

*Activity is
ICWR Report*

FINDINGS and CONCLUSIONS

of

COMMISSIONER OF RECLAMATION

Re: DISTRIBUTION AND USE OF WATER

= May 1931

Dept. Fish & Game

The complaint of Defendant WITHERS in the above entitled action with reference to the distribution and use of water under the decree: After examination on the ground and from the testimony of the plaintiff and the defendant in the above entitled action, together with that of other parties having knowledge of the facts, this department has arrived at the following findings-of-fact and conclusions as to the rights, duties, and obligations of the respective parties, to-wit:

1. That the State Commissioner of Reclamation of the State of Idaho is the public official having jurisdiction over the distribution and diversion of the water under and pursuant to the terms of the decree herein;

SCANNED
7-15-92

JUN 26 2012

"A change of place of use of the water will not be permitted where to do so would damage another appropriator." Hall -vs- Blackman (22 Idaho 556)

- c. That one WESLEY HARTLEY, who has attempted to divert, and in fact has actually diverted, water from LITTLE ROCK CREEK to irrigate what is known as the WORTHINGTON lands, was not, nor was his predecessor-in-interest, a party to the above entitled action, and the records of this office do not disclose that he has any right, title or interest in and to the waters of LITTLE ROCK CREEK or to any of the streams mentioned in the decree, so it would seem that by his action he is liable to prosecution for unlawful diversion of water and would be liable in damages to any one injured by his acts, but that is a matter outside of the jurisdiction of this department.

It is assumed that both the plaintiff and the defendant in the above entitled action have copies of the decree in their possession and are familiar with the terms and conditions and requirements thereof, but at this time this department desires to call special attention to the following provisions of the decree:

"IV.

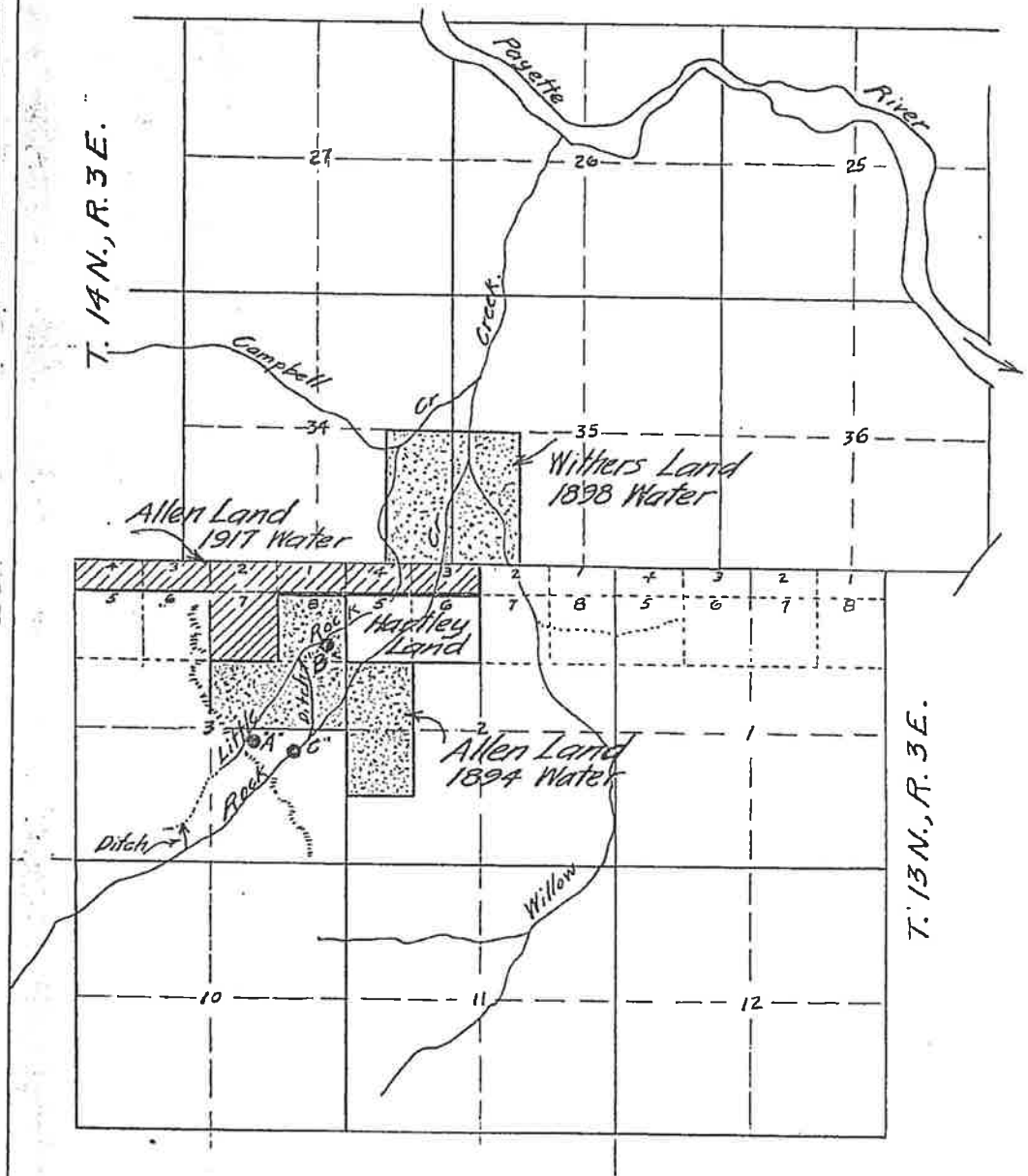
That each of the parties hereto, their agents, servants, employees, successors, and all persons acting in their behalf, or on behalf of either of them, be perpetually enjoined from in any manner interfering with the rights of the other parties hereto to the use of said waters, and in any manner interfering with the ditches, canals, laterals, or other means of diversion or distribution of said waters;

V.

That a miner's inch of water, as herein mentioned, is equivalent to a full 1/50 cubic foot of water per second.

SCANNED

7-15-72
JUN 26 2012



ALLEN vs WITHERS DECREE
 Rock Creek & Little Rock Creek
 Valley County Idaho

7-15-32

1932

7

PORT ON DECREE, OCTOBER 10, 1894, ALLEN - WITHERS, ROCK CREEK
AND TRIBUTARIES, VALLEY COUNTY, IDAHO

The controversy in this case divides itself into three parts:

1. Use by Allen of 1894 decree, Rock Creek water upon lands other than those described in the decree for this particular right, viz., land which was awarded a later right, thereby depriving Withers of waste and return flow;
2. Diversion of LITTLE ROCK CREEK water awarded to Withers by a third party who claims a prior right thereto, although he was not made a party to the adjudication and has no record right;
3. A determination of the amount of natural flow of LITTLE ROCK CREEK, which is intercepted by Allen's diversion from IT ROCK CREEK to LITTLE ROCK CREEK, and using that channel as a carrier until its ditches are reached.

PART 1.

The decree awards Allen 160 inches from Rock Creek and tributaries; date of priority - June 1, 1894, for the irrigation of, and domestic use upon:

SW $\frac{1}{4}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$, E $\frac{1}{4}$, Section 2; Lot 8, SW $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 3,
Township 13 North, Range 3 East of Boise Meridian.

Allen was, also, awarded a subsequent right from BIG & LITTLE ROCK CREEKS - 100 inches, date of priority - July 4, 1897, for the irrigation of, and domestic use upon:

Lots 3 & 4, Sec. 2; Lots 1, 2, 3, 4 & 7, Sec. 3,
Township 13 North, Range 3 East of Boise Meridian

Reference to the attached map will disclose the relative locations of these tracts of land. By reason of the topography, when Allen uses his 1894 water upon the land described therefore, Withers receives benefit in the way of waste, and return flow which finds its way into ROCK and LITTLE ROCK CREEK channels above Withers' head-gates. Inasmuch as there is but seldom enough water in the two streams to fill Allen's 1917 right, he diverts a part of his 1894 water from BIG ROCK CREEK to LITTLE ROCK CREEK and carries it down that channel to various ditches which lead to the 1917 lands. The waste and return flow from BIG ROCK CREEK water, thus applied to:

Lots 1, 2, 3, 4 & 7, Section 3

does not become available for Withers' diversion and use, but flows off to the north into another depression or creek channel.

BIG ROCK CREEK water applied to:

Lots 3 or 4, Section 2

does not damage Withers materially, if at all.

On July 14, Allen was diverting 1894 water to 1917 lands and maintains he has a right to do so, and frankly states that he expects to continue this practice.

Thus it appears the issue is clear on this point, and a citation to Allen for violation of the decrees is Withers' remedy.

= 100"
(2 cfs)

PART 2.

Withers' point of diversion for his Little Rock Creek water (20 inches, priority June 1, 1909), while not described in the decree, is apparently on his own land, near the:

SW Corner of SW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 34, T. 14 N., Range 3 East, D. M. He so states and has a diversion box at that point. One Lesley Hartley, owner by contract of sale of:

N $\frac{1}{2}$ NW $\frac{1}{4}$, Section 2, Township 13 North, Range 3 East of Poins M. is maintaining a diversion dam on his west line, where LITTLE ROCK CREEK enters the property, and diverts to his land all the LITTLE ROCK CREEK water, which reaches this point. It is my information he persisted in this practice during 1931, and has to date in 1932. On July 14, the dam was in place and a quantity of water, estimated at 12 to 15 minor's inches, was being spread onto the meadow. Allen was taking 25 inches of water from this same point, running it north along the road until it reached:

Lot 4, Section 2

where it was being used. These two diversions were made up of 5 inches of LITTLE ROCK CREEK water and 20 inches of BIG ROCK CREEK, first diverted to LITTLE ROCK CREEK channel.

If not diverted at this point, LITTLE ROCK CREEK water would continue on down the country, across the Hartley and Allen land, toward Withers' headgate and, according to him, would be of material benefit. It hardly appears probable that 5 inches would reach him now but, no doubt, the flow earlier in the season is larger and likely has greater value than at the present time.

Neither Hartley nor Thomas Worthington, prior owner of:

N $\frac{1}{2}$ NW $\frac{1}{4}$, Section 2,

were parties to the suit between Allen and Withers, so, naturally, there is no right decreed for this land, if it is entitled to one. Worthington claims a right to LITTLE ROCK CREEK water for this land, with date of first use of 1833, and is ready to defend such a claim. It should have been adjudicated at the time of the Allen -vs- Withers case. Now, the matter must, apparently, become the subject of another suit. I suggest that an orderly way to initiate this would be for the Department of Reclamation to serve notice upon Hartley and Worthington that within a short reasonable period of time his dam will be cut, and the water turned down LITTLE ROCK CREEK for Withers. That would give them an opportunity to ask for a restraining order, preventing interference with their diversion dam and, I assume, put the matter properly before the court for adjudication so it would be settled before the 1933 irrigation season.

PART 3.

As shown on the accompanying map, Allen diverts LITTLE ROCK CREEK water to LITTLE ROCK CREEK through 2 ditches. The upper one spills into LITTLE ROCK CREEK very near its head. Thus a considerable part of the channel has its natural condition disturbed and without a comparatively large number of measurements of small quantities of water, it is difficult to determine the natural flow. To eliminate as many of these uncertainties as possible, both of the LITTLE ROCK diversions to LITTLE ROCK CREEK were shut off about 4:00 P.M., July 14. At 10:00

Rock Cr
77"
(1.54 cfs)
July measurement

A.M., July 15, LITTLE ROCK CREEK was measured, first at point "A" and found to be 6 miner's inches. It was again measured at point "B" and found to be 5 miner's inches. This last measurement is just a short distance above the point where Hartley takes the water.

At the same time, BIG ROCK CREEK was measured with no diversions above, at point "C" and found to be 77 miner's inches. All measurements were made over Cippolatti weir crests.

Five miner's inches then was the total flow of LITTLE ROCK CREEK on July 15, immediately above the Hartley land. There had been a hard rain on the 13th and 14th, which I am satisfied had served to temporarily increase the flow of all streams in that vicinity.

Allen had been diverting 35 inches into LITTLE ROCK CREEK at his upper ditch and 15 at the lower, diverting 15 inches from BIG ROCK CREEK for direct irrigation and was leaving 10 or 12 inches in the creek, and it was going down to Eithers. On July 14th, Eithers was getting 20 inches from ROCK CREEK and 10 or 12 inches from LITTLE ROCK CREEK, or a total of 40 inches. He states that up to about 2 weeks ago, he had all the water he wanted, but thinks he would now be getting more if Hartley had not taken any LITTLE ROCK CREEK water this year.

To expedite a determination of the natural flow of LITTLE ROCK CREEK at any time, Allen should install weirs where each of his ditches discharge into the stream and at all points where he is diverting therefrom. There are 4 of these. He has made some attempt to put

in weirs but they have filled up with sand and have been torn out until now there are insufficient facilities to determine the natural flow without taking some time. I believe he will do this readily once other matters in controversy are settled, or if a watermaster should be appointed to administer the decrees.

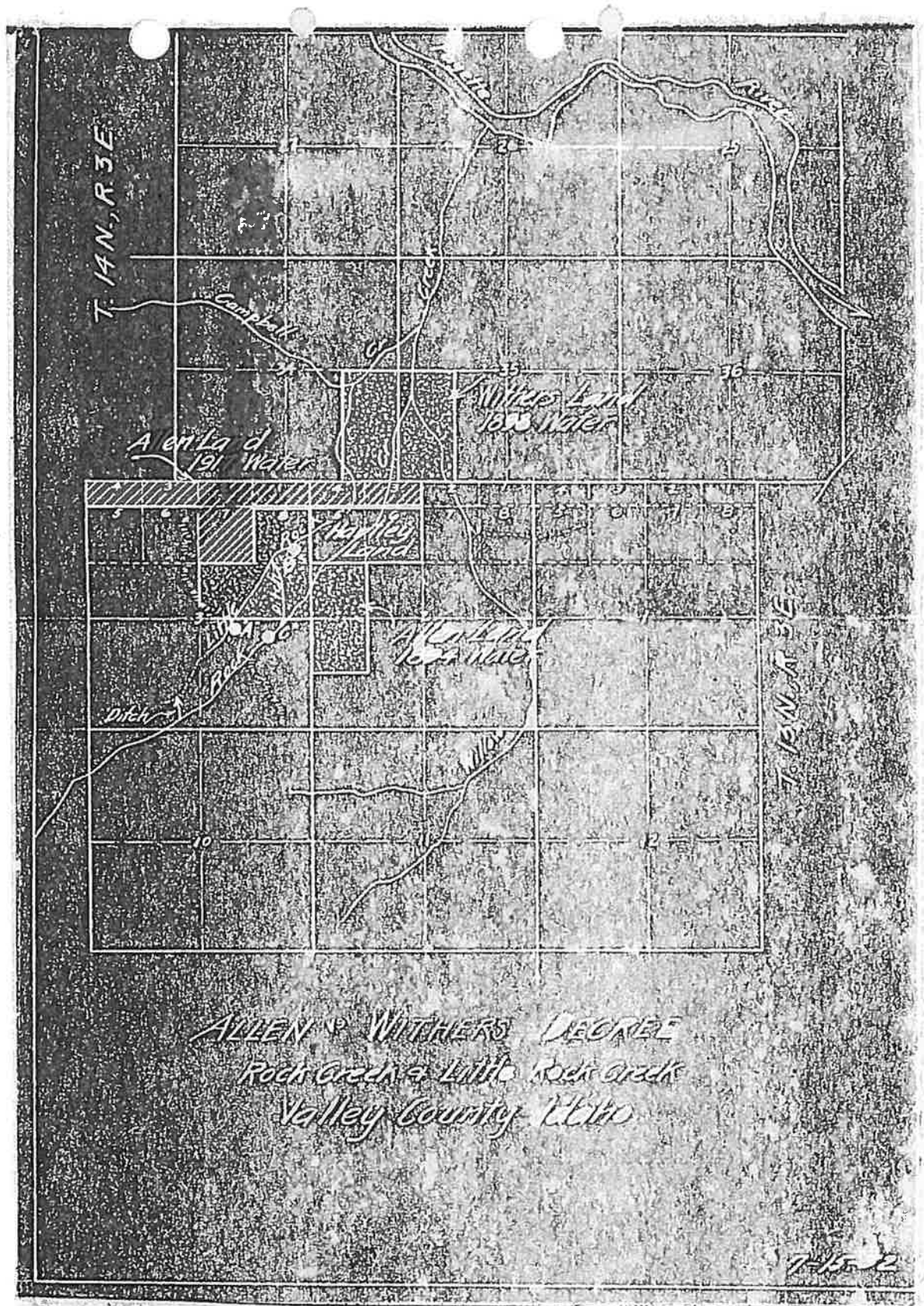
For the present, or during the rest of this irrigation year, there does not appear to be any relief feasible or action to be taken by the Department of Reclamation further than to assist in getting Hartley and Worthington into court for diversion of the LITTLE ROCK CREEK water decreed to Withers. Withers understands the whole situation now, I think, and did not suggest nor ask for anything else. However, both of the suggested court actions should be initiated immediately so they can be under way at the September term in Valley County. Otherwise, they will go over to next June, too late for relief in 1933.

After these two matters are decided, a watermaster may be desirable, depending upon the relations of the parties afterward.

It was Withers' opinion that the Cascade municipal waterworks, which has a reservoir at the head of ROCK CREEK, might be taking water to fill their reservoir, which would account for the low flow of the creek. This reservoir could be filled either before or after the beginning of the irrigation season. It should be filled before, if possible, so a watermaster could adjust this matter as well as regulate the diversions from the two streams. Both parties were agreed upon a suitable man, one RHOS SMITH of Cascade, but inquired as to the cost. There is nothing to be gained by putting a watermaster in charge for the rest of this year.

G. W. Hunter

Boise-Idaho
July 18, 1932



No Trans
6-24-59 RJ

Title Mary E. and D.K. Allen
vs
Case W.N. and Maud Withers

Source Rock Cr. trib Willow Creek Page
Water Dist. 7th 20K County Valley
Judicial Dist. 7th Judge A. D. Sullivan 20th
Date of Decree 10-10-30 Reported in Book No. at Page No. File No. 20K-5

NAME	AMOUNT PAID FOR CUTTING TIES	PRIORITY	GRADY	SEC.	TOP	RG.	REMARKS, LAND TO BE IRRIGATED, ETC.
<u>Mary E. & D.K. Allen</u>	<u>16.0</u>	<u>6-1-94</u>					<u>SW 1/4 NW 1/4 Sec 2, Lot 8, SW 1/4 NE 1/4 Sec 3-13N-3E</u>
<u>W.N. and Maud Withers</u>	<u>30</u>	<u>6-1-98</u>					<u>Lot 3, 4, 8, Lot 5, 2, 3, 7, 3-13N-3E</u>
<u>Withers</u>	<u>80</u>	<u>6-1-98</u>					<u>Sec 3, 4, W 1/4 Sec 3-14N-3E</u>

SECRET INDEX

(5)

RICHARDS / ROCK / UNNAMED STREAM

NUMBER	STATUS	PRIORITY DATE	DIVERSION RATE (cfs)	WATER USE	PERIOD USE	POINT OF DIVERSION	OWNER
65-3111X	DECREED	6/01/1894	2.700 CFS	IRRIGATION	04/15 - 10/15	NW1/4 SE1/4 SEC 3	E K ALLEN RANCH LTD PARTNERSHIP
65-3111F	DECREED	6/01/1894	.400 CFS	IRRIGATION	04/15 - 10/15	NW1/4 SE1/4 SEC 3	USA ACTING THROUGH BUREA OF RECLAMATION
65-3111A	DECREED	6/01/1894	.050 CFS	DOMESTIC	01/01 - 12/31	NW1/4 SE1/4 SEC 3	WEST MOUNTAIN WATER ASSN INC
65-8012	DECREED	4/1/1960	.020 CFS	DOMESTIC	01/01 - 12/31	SW1/4 NE1/4 SEC 3	DARREL H DORHMAN
65-8808	DECREED	5/1/1966	.040 CFS	DOMESTIC	01/01 - 12/31	NW1/4 SE1/4 SEC 3	ROBERT L CHESTER McClintick
65-10439	DECREED	6/1/1967	.040 CFS	DOMESTIC	01/01 - 12/31	NW1/4 NE1/4 SEC 3	BRETT FORREY
65-1880	DECREED	8/15/1968	.010 CFS	DOMESTIC	01/01 - 12/31	NW1/4 SE1/4 SEC 3	CINDI BETHEL CARMONA
65-7272	DECREED	4/13/1972	.020 CFS	DOMESTIC	01/01 - 12/31	SW1/4 NE1/4 SEC 3	GUS HINES
65-13088	LICENSE	7/26/1989	.050 CFS	DOMESTIC	01/01 - 12/31	NE1/4 SW1/4 SEC 3	WEST MOUNTAIN WATER ASSN INC
65-23451	APPLICATION	4/18/2011	.140 CFS	STOCKWATER	01/01 - 12/31	NW1/4 SW1/4 SEC 3	MOORE SMITH BUXTON & TURCKE CHTD
			2.700 CFS	IRRIGATION	10/16 - 12/01	SE1/4 NE1/4 SEC 3	C/O BRUCE M SMITH, ALLEN RANCH LLP
			2.700 CFS	IRRIGATION	04/01 - 04/14		
65-23457	APPLICATION	6/16/2011	.040 CFS	AESTHETIC	04/01 - 11/14	NE1/4 SW1/4 SEC 3	GLENN FORD

— RIGHTS 65-3111A AND 65-13088 WHEN COMBINED SHALL NOT EXCEED .05 CFS. AND COMBINED VOLUME OF 36.2 AFA.

MEMORANDUM

TO: John Westra
FROM: Angie Grimm
DATE: November 23, 2010
RE: Chess/JR Allen Complaint Investigation

Steve Lester and I conducted a site investigation on 11/18/10. We meet with JR Allen on his property. Mr. Allen showed us the old POD (abandoned approximately 6 years ago), the POD for the southside acres (still in use), and the original POD (still in use) for his right 65-3111X. We were able to determine where the main ditch and southside ditch of Mr. Allen's diversion system are located relative to Rock Ck, aka Richard's Ck, and the irrigated acres of the POU for right 65-3111X. Water was being diverted from both active PODs at time of site visit.

Summary of Complaint and Site Investigation

Timeline of Events:

- Sandra Chess submitted original complaint via email on 10/22/10.
- Complaint stated E K Allen Ranches has diverted water from POD not on recorded water right 65-3111X and that diversion is occurring outside the authorized season of use.
- Steve Lester and I conducted site visit on 11/18/10.

Site Investigation:

- First Mr. Allen showed us the old POD site located in NWSE Sec 3 T13N R03E per GPS location collected. Mr. Allen stated this POD was abandoned approximately 6 years ago.
- Then to POD on Rock Ck (Richard's Ck) where Mr. Allen diverts water for the southside acres of his POU. This POD is located in the SENE Sec 3 T13N R03E per GPS location collected.
- Collected GPS locations where the main ditch (referred to as Home Ranch Ck by Mr. Allen) crosses West Mountain Rd and Teepee Rd.
- Collected GPS location on road just above the main ditch POD on Rock Ck (Richard's Ck) in the NWSW Sec 3 T13N R03E. Mr. Allen said this POD is the original POD for the right and has been the site for the diversion into the main ditch for as long as he can remember.
- Mr. Allen stated he diverts water from Rock Ck down his main ditch (Home Ranch Ck) year round for two purposes; 1) stockwater and 2) he can't access the POD until June most years (due to location/conditions), but he needs water for irrigation in May.

- Mr. Allen stated he plans to do some work in the stream channel of Rock Ck in the next couple of weeks to repair the original POD upstream of the diversion dam as well as in the main ditch (Home Ranch Ck) just downstream of the diversion dam to stop leakage currently occurring from ditch back into Rock Ck.
- Did not GPS location of West Mountain Water Assn Inc (subdivision rights) POD, but determined pipe diverting water for this right is adjacent to the main ditch (Home Ranch Ck) where it crosses West Mountain Rd in the SENW Sec 3 T13N R03E. Based on this information, the fact that the POD is downstream from E K Allen Ranches POD, and the map, the POD for the subdivision must be located in the SENW, NESW, or NWSW of Sec 3 T13N R03E.
- Mr. Allen said he communicates with the subdivision rights' owner regarding when Mr. Allen needs to let more water past his diversion down Rock Ck to subdivision diversion. He said there have been no complaints for the subdivision rights' owner regarding not enough water to fulfill the right(s).
- A map based on GPS locations collected and pictures are attached for reference.

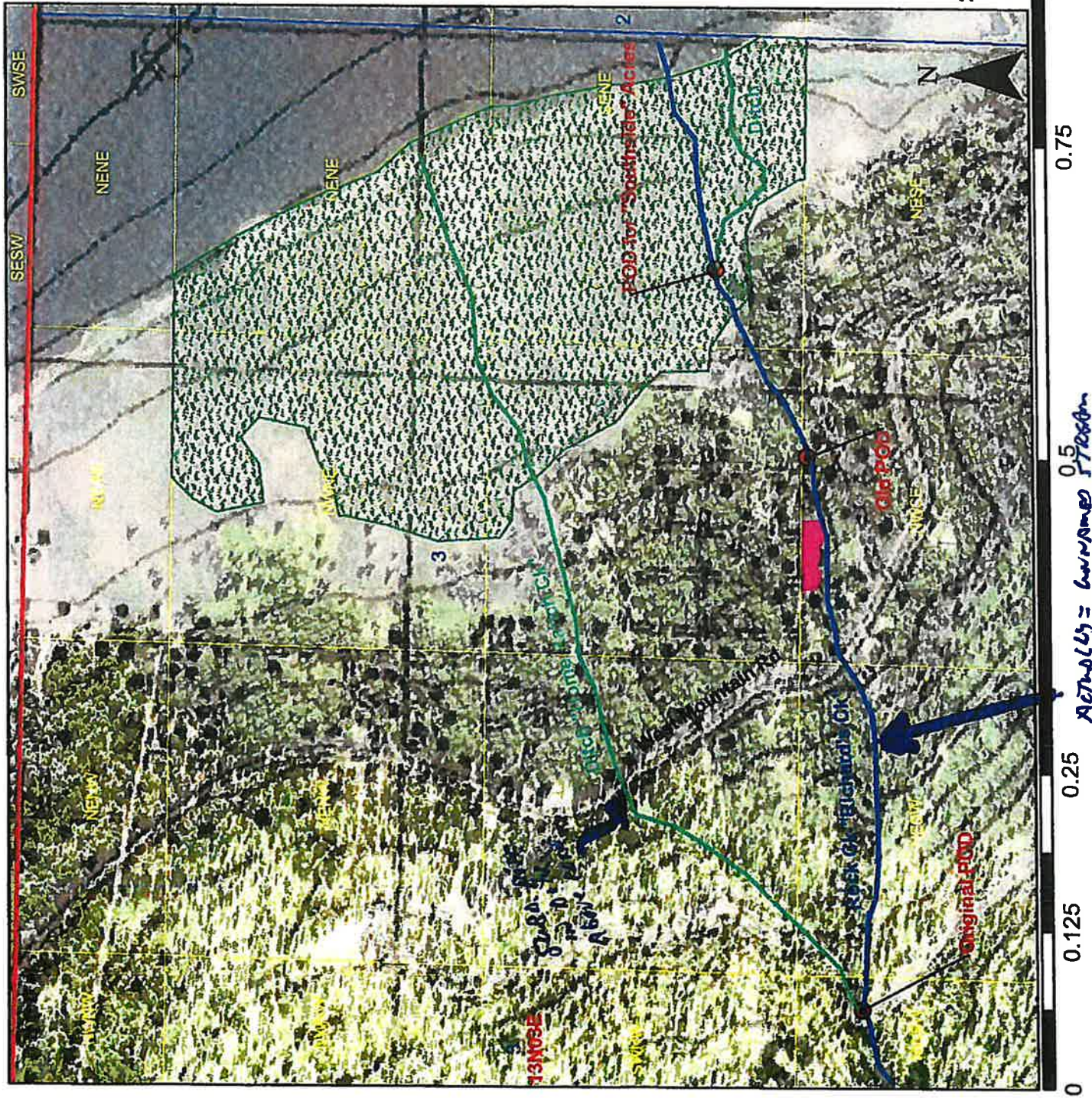
Conclusions:

- Original POD and POD for southside acres of right 65-3111X is not recorded on the right. The Old POD (now abandoned) is the only POD recorded for the right.
- Diversion of right 65-3111X is occurring outside of the authorized season of use.
- The subdivision rights are 65-13088 and 65-3111A. 65-3111A POD is recorded as being in the NWSE of Sec 3 T13N R3E, but is more likely in the NESW Sec 3 T13N R03E based on recorded location of 65-13088 POD and site investigation info.

Recommendations for Further Action:

- Department should formally inform Mr. Allen that the POD information currently recorded for right 65-3111X is incorrect. He needs to change the POD from the NWSE (old POD) to the NWSW of Sec 3 (original POD) and add a POD in the SENE of Sec 3 (POD for southside acres) via filing a Transfer application.
- Department should inform Mr. Allen that right 65-3111X only authorizes diversion of water from 4/15 to 10/15 of each year for irrigation purposes. Year round diversion for stockwater purposes is not currently recorded on the right.
- Department should inform the West Mountain Water Assn Inc. that the POD for right 65-3111A is incorrect. A Transfer should be filed to correct the POD from the NWSE to the NESW assuming the POD for both subdivision rights is the same.

Chess/JR Allen Complaint Field Investigation Map



2009 Aerial Photo with USGS Quad overlay

Miles

→

0.75

Actuals = 0.5728

50

0105

1



Chess/JR Allen Complaint 11/18/2010 Photo #1: Old POD for right 65-3111X. POD abandoned approximately 6 years ago. Orange in far left background of photo remains of diversion dam.



Chess/JR Allen Complaint 11/18/2010 Photo #2: POD for southside acres of right 65-3111X. Water diverted from Rock Ck "Richard's Ck" (foreground and far left of picture) via rusted culvert pipe and ditch (middle ground right of picture).

Field Report

Temporary Water Appropriation #TP-65-26

JR Allen Ranch, Cascade

From: J. Westra

Date: 10/31/11

On October 31, 2011, I completed a random field inspection relating to the above temporary water permit.

First, I observed the Allen upper point of diversion off Rock/Richards Creek, see #3 on the 11/18/10 field investigation map attached.

A large log was serving as the obstruction for diversion to the Allen ditch. By visual estimation, it appeared the ditch and creek flows were equally divided- photo 2.

Second, A creek flow measurement was made at the creek and West Mountain Road culvert (3 ft. dia.) upstream side. The measurement was made with a 1 foot ~~có~~polletti weir which read .47 cfs (5% added for leakage between weir and culvert sides)- see photo 6.

Third, A ditch measurement was made at off the 3-1/2 ft. weir board at the upstream side of the large culvert to the north west of the pasture gate off Allen Road, the measurement was .38 cfs. An approx. check was made by pail and stop watch at the Allen ditch and West Mountain Road intersection culvert as I was concerned the measurement was some distance downstream of the creek measurement at the road. The pail measurements averaged close to the weir board reading- photos 4&5.

Fourth, I viewed the pasture area from the Campbell Creek boat dock area. The reservoir was drawn down considerably. There was less than 100 cattle near the creek and ditch area—There may have been more livestock along the pasture fringes. $100 \text{ hd} = .03 \text{ cfs flow rate} = .06 \text{ ac-ft/day volume} \times 14 \text{ days} =$

Approx. to date consumed volume = .84 ac-ft

Conclusions:

From the field observations and measurements, the Allen Ranch is complying with the temporary permit parameters and conditions of approval.

On 11/03/11, I contacted Dale Allen at the McCall Office of Fish and Game. He confirmed the creek is not considered a fishery.

PHOTOGRAPHS

Taken 10/31/11 By J. Westra



1. Richards/Rock Creek upstream of the Allen Diversion and Willow Creek Rd.
Steep hillside grade



2. Allen upper creek diversion, Allen ditch to the left.

Page 2. Photos



3. Overview of the reservoir from Willow Creek Rd. Reservoir is low, note sand bars.

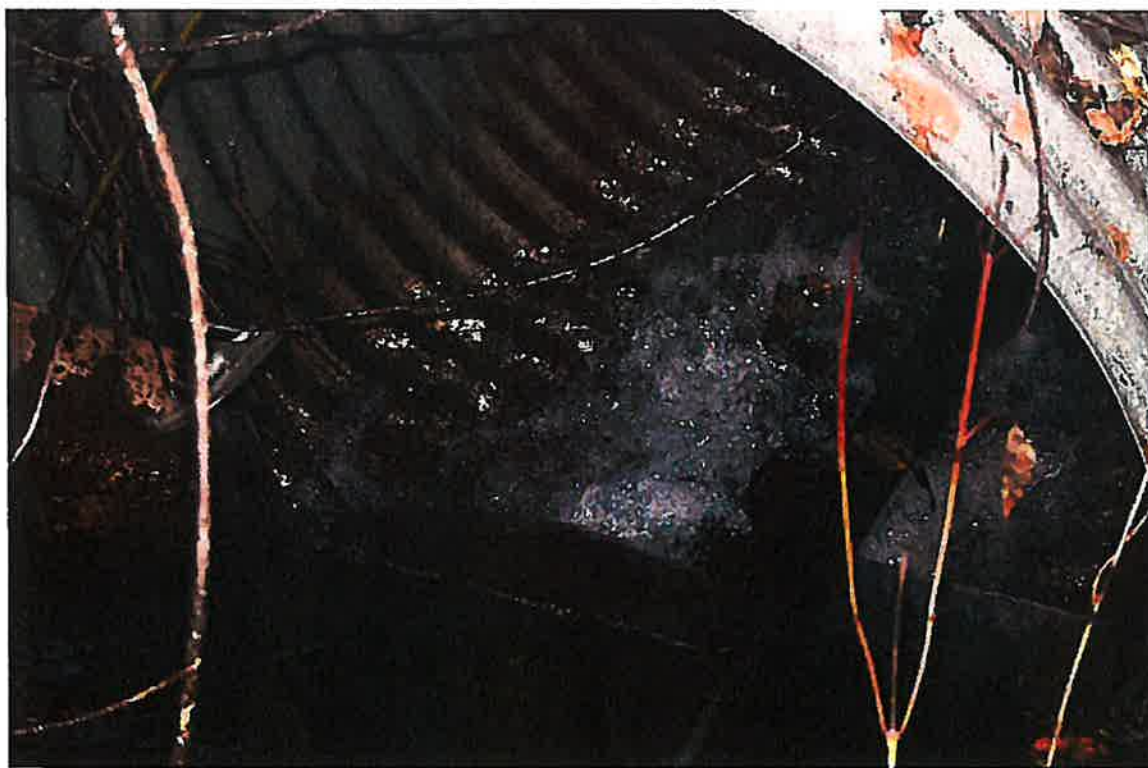


4. Allen ditch culvert outlet at West Mountain Rd. Very overgrown with vegetation.

Page 3 Photos.



5. Allen ditch Culvert Weir Board northwest of pasture gate



6. Rock/Richard Creek upstream side of culvert. Measurement was with cepollette weir blade.

Page 4. Photos



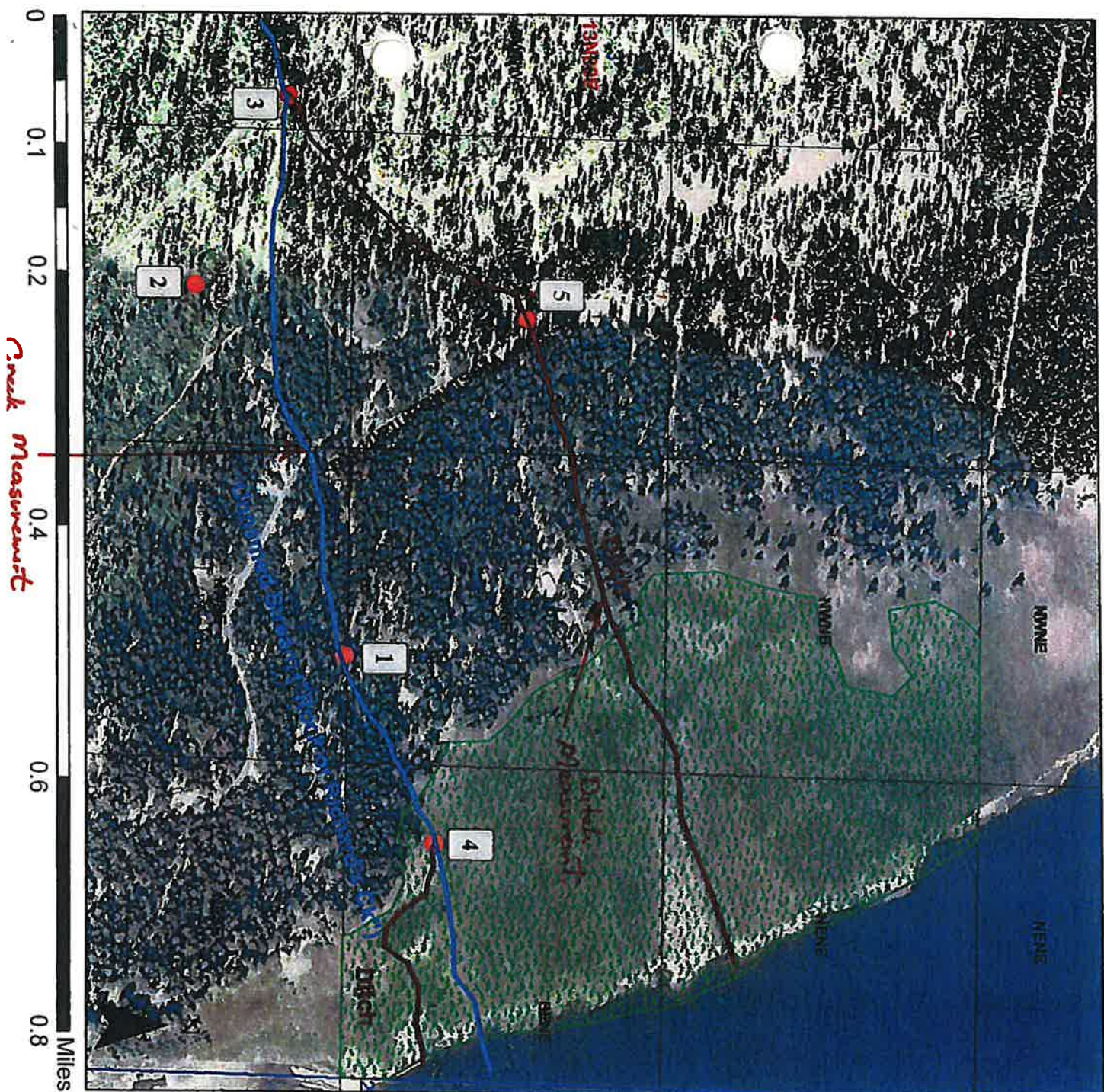
7. Reservoir shoreline and pasture boundary from the Campbell boat ramp.



8. Livestock and pasture in the Allen ditch and Rock/Richard Creek area- <100 hd.

IDWR Field Investigation Map 11/18/2010

AND 10/31/11



Legend

- 1 DIVERSION 65-3111A-F-X
- 2 DIVERSION 65-13088
- 3 ALLEN UPPER DIVERSION
- 4 ALLEN LOWER DIVERSION
- 5 PIPE IN DITCH
- ▨ 65-3111X POU
- ▭ Township/Range
- ▭ Sections
- ▭ QQ

2009 Aerial Photo

MEMORANDUM

TO: John Westra
FROM: Angie Grimm
DATE: November 18, 2011
RE: JR Allen Temporary WR (TP-65-26) Site Visit

I conducted a site visit for this temporary water right on 11/17/11. I took measurements at three culverts to assist the Western Regional Manager in ascertaining the flow at each location. The following is a summary of measurements, photos, etc from each location visited.

1. Allen Ditch Culvert @ West Mountain Rd:

- GPS location recorded (IDTM): 2333838 Easting 1478843 Northing
- Depth of Water = 1.8 in
- Width of Water = 1.3 ft
- See photos attached: #1

2. Unnamed Stream (Richard's/Rock Creek) @ West Mountain Rd:

- GPS Location (IDTM): 2334037 Easting 1478592 Northing
- Depth of Water = 2.4 in
- Width of Water = 1.7 ft
- See photos attached: #2 & #3

3. Allen Ditch Culvert Inside Allen Pasture:

- Depth of Water = 0.9 in
- Width of Water $\approx$ 4 ft
- See photos attached: #4 & #5

4. Allen Pasture:

- No cattle present in pasture.
- See photos attached: #6 thru #8.



JR Allen Site Visit 11/17/2011 Photo #1: Allen Ditch culvert underneath West Mountain Rd, downstream side.



JR Allen Site Visit 11/17/2011 Photo #2: Unnamed Stream (Richard's Creek) culvert underneath West Mountain Rd, downstream side.



JR Allen Site Visit 11/17/2011 Photo #3: Unnamed Stream (Richard's Creek) approximately 50 ft downstream of culvert underneath West Mountain Rd.



JR Allen Site Visit 11/17/2011 Photo #4: Allen Ditch culvert inside pasture, upstream side.



JR Allen Site Visit 11/17/2011 Photo #5: Allen Ditch inside pasture, approximately 5 ft downstream of culvert.



JR Allen Site Visit 11/17/11 Photo #6: Allen pasture at end of Allen Rd facing east/southeast towards the reservoir. Note no cattle present.



JR Allen Site Visit 11/17/11 Photo #7: Allen pasture at Allen Ditch facing east towards the reservoir. Note no cattle present.



JR Allen Site Visit 11/17/11 Photo #8: Allen pasture from Allen Ditch facing northeast. Note no cattle present.

Field Inspection Report

Temporary Appropriation #TP-65-26 Allen Ranches, Cascade

From: J. Westra ج. وسترا

Date: 12/21/11

RE: Inspection of Upper Diversion Works

On Wednesday, December 21, 2011, I made a random inspection of the Allen upper diversion site and checked the Allen ditch and Rock/Richards Creek culverts under W. Mtn. Road.

No changes were noted in the upper diversion works since the last field check on 10/31/11. The main diversion consists of a large log in front of the creek channel; flow is divided between the creek and ditch channels, see photo #1. There is minimal snow on the mountain- approx. 3-4 inches snow pack on the access road. The Allen ditch and creek are flowing open water with some scattered thin ice patch cover. The creek and ditch downstream of W. Mtn. Road are also flowing open water with scatter thin patches of ice cover.

No cattle occupied the pasture, no beneficial use of water noted.

Approx. culvert water depths @ W. Mtn. Road:

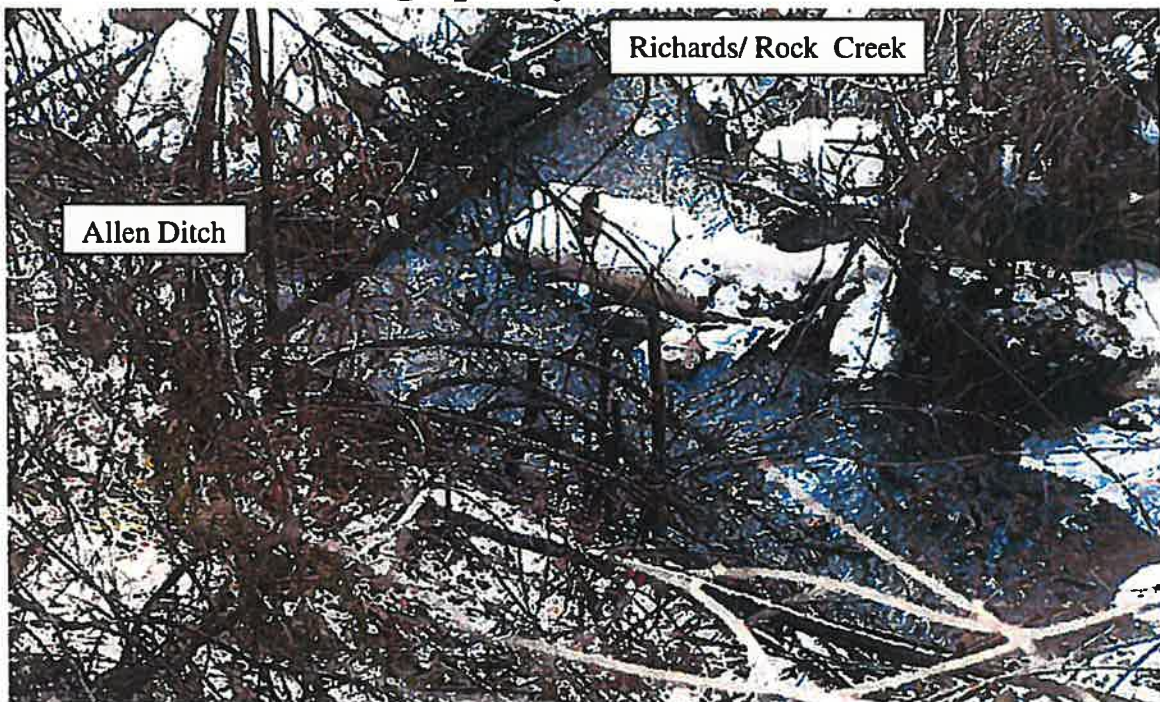
Allen Ditch	= 1.5 inches
Richards/Rock Creek	= 2.5 inches

Water depths are close to the depths recorded on 11/18/11

12/21/11 Weather: Low- 6 degrees F

High 27 degrees F

Photographs By J. Westra 12/21/11



1. Diversion log remains in the creek channel. No change since previous inspection on 10/31/11.



2. Creek Channel just downstream of the Allen Ditch, open water with a few ice patches.



3. Allen Ditch culvert under W. Mtn. Road (Downstream side)



4. Richards/Rock Creek culvert under W. Mtn. Road. Flow is still open, thin ice over the top.



5. Creek channel below the culvert. Some thin ice cover in spots with open water.



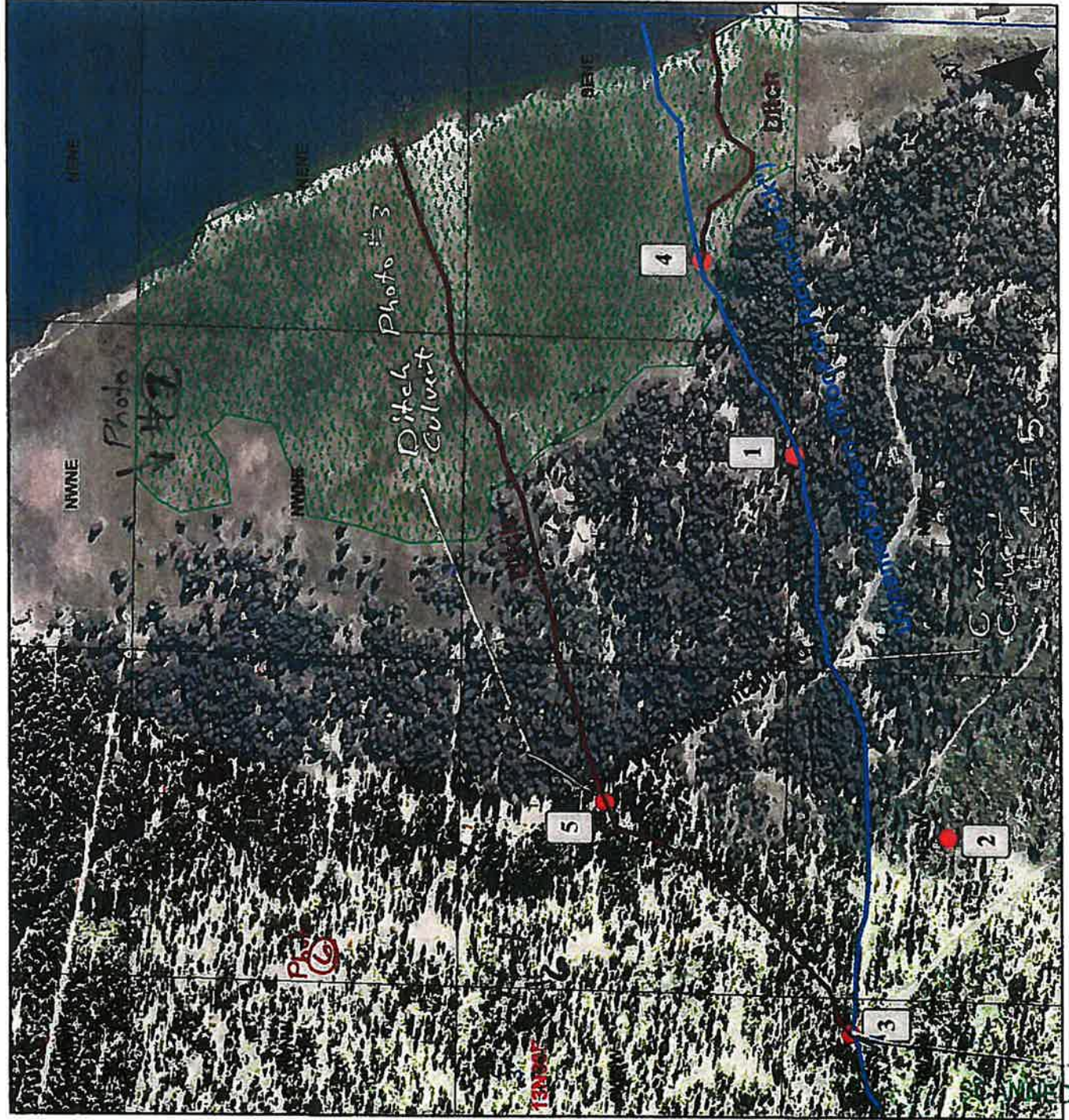
6. Access road to the upper diversion- Approx. 3-4 inches of snow, ice on the lower steep stretch.

Page 5 Photos



7. Cattle have been removed from pasture area, no beneficial water use.

IDWR Field Investigation Map 11/18/2010 - 12/21/11



Legend

● 1 DIVERSION 65-3111A-F-X

● 2 DIVERSION 65-13088

● 3 ALLEN UPPER DIVERSION

● 4 ALLEN LOWER DIVERSION

● 5 PIPE IN DITCH

65-3111X POU

Township/Range

Sections

QQ

2009 Aerial Photo

Summary of Actions

- 10/13/11 Temporary Water Appropriation Application # TP-65-26 submitted by applicant.
- 10/18/11 Application for the Temporary Water Appropriation Approved
Period of use 10/16/11 to 11/20/11.
- 10/31/11 Field Inspection for compliance made by IDWR
- 11/18/11 Field Inspection for compliance made by IDWR
- 12/07/11 IDWR sends the Applicant a letter to notify him the temporary appropriation period of use expired on 11/20/11. The diversion works needed to be removed as soon as possible.
- 12/21/11 A field inspection is made to determine the status of the diversion works. The diversion works had not been removed.

Contacts:

Sandra Chess
1200 Lizaso Ave
Boise ID 83709

JR Allen
Allen Ranch llP
2624 S Inglenook PL
Meridian ID 83642

Bruce Smith
Moore Smith Buxton & Turcke Chtd.
950 W Bannock ST Ste 520
Boise ID 83702

IDWR Field Investigation Map 11/18/2010



Legend

- 1 DIVERSION 65-3111A-F-X
- 2 DIVERSION 65-13088
- 3 ALLEN UPPER DIVERSION
- 4 ALLEN LOWER DIVERSION
- 5 PIPE-IN-DITCH
- 65-3111X POU
- Township/Range
- Sections
- QQ

*A = 5-bd
F = 80R (not used)
X = Allen
5-bd*

*Rock Creek
("Richard" Creek)
(unimproved stream)*

*DATA BASE - Rock Creek
SLBTA - Rock Creek
UNIMPROVED STREAM
No RICHARD'S CREEK
→ ACCEPTABLE.*

2009 Aerial Photo

MEMORANDUM

TO: Files

FROM: Steve Lester 

DATE: April 28, 2011

RE: Complaint – J. R. Allen 65-3111X and West Mountain Water Association
65-3111A, 65-13088

James and Isabel Bunce visited the office yesterday to file a transfer application for West Mountain Water Association, Inc. They are officers/directors of the association. The visit was part of an ongoing process for multiple owners and several rights from the same stream. This has included Bunce calls to the governor's office and Bunce calls/visits with the director, allocation bureau chief and other staff. Based on that history, this memo is a reasonable substitute for a written complaint generally required before the department responds.

They discussed the authorized POD for Allen right 65-3111X. They stated the following concerns:

- Allen abandoned use of this POD.
- Allen has not "closed" the diversion.
- The ditch still diverts water from the creek, at least sometimes.
- The diversion of water causes flood damage, at least to Bunce property.

They showed me various photographs of the alleged damages. The photos are part of a notebook Bunce keeps for association records.

Bunce asked if Allen is allowed to keep this "abandoned POD" open and if the department will force Allen to "close the diversion" to prevent property damages.

Bunce also said Allen sometimes diverts the entire creek at the "Upper Allen" POD located less than ¼ mile upstream from the association's licensed POD. They wondered if he could keep diverting any water from that point without water right approval.

65-3111X Decreed POD

Angie Grimm and I visited the site last November. I reviewed Angie's 11/23/2010 memo summarizing that visit and also discussed this with her today. The POD did not appear to have been used for quite a while (about 6 years according to Allen). The diversion seemed to be abandoned and in a state of disrepair (remnants of old tarp etc.). We could not recall if the decreed POD was capable of inadvertently diverting water. Photos in the memo do not clearly answer the question. It is possible the diversion is not adequately sealed to prevent diversion under certain conditions.

Although it appears only Allen has used this diversion in somewhat recent times, it is the decreed POD for 3 splits of the original right: 65-3111A for association, 65-3111F for BOR, 65-3111X for Allen. This implies a shared responsibility to prevent unintentional diversion at this point.

If Allen is intentionally diverting from this point (unlikely), subsequent damages to property are civil problems. Otherwise, the situation is grayer. Who has legal responsibility to prevent unintended diversion at this point? Can the department require 1 of 3 right holders sharing the same authorized POD to bear full responsibility for the diversion?

Here is a suggested response to this complaint: letter to all 3 parties stating water cannot be diverted from this decreed POD unless beneficial use under the water right(s) will occur. The right holders should be notified of their shared responsibility to prevent unintentional diversion of water. Finally, damages from intentional or unintentional diversion of water are civil matters between parties.

Curtailment of "Upper Allen" POD

This diversion, along with the "Lower Allen" POD downstream from the decreed POD and from the subdivision, is not authorized at this time. Allen filed a transfer application to change the decreed POD to the Upper and Lower Allen diversions observed in the November visit.¹ There are conflicting stories regarding how long the upper diversion has been in place and in use – "forever" (Allen)² or about 2 years (Bunce). Observation of the upper diversion and various points along that ditch during the November visit confirmed the ditch has been in place for many years. Allen said the upper ditch has been used since his grandfather homesteaded the place. We cannot independently confirm how long it has been actively used.

Curtailment of at least the Upper Allen POD presents problems. The association is in the same situation: diverting 65-3111A from an unauthorized POD. That decreed right covers about half of the subdivision homes. The other homes are covered by 65-13088, diverted from the licensed POD. Both association rights have always been diverted from the same point according to Bunce. If that is true, subdivision right 65-3111A has been incorrectly decreed twice. The association POD issue will be resolved if its transfer is approved.

Curtailing one owner without curtailing the other is not justified.

Ordering the stream to be regulated by the Payette Watermaster is possible, although that will not provide timely relief. This will also require all the other rights from this source to be regulated. There are currently 9 rights (8 owners) confirmed from this stream. Most of the diversions are uncontrolled plastic pipes without measuring devices. It is unlikely that any of the users have paid water district assessments. The watermaster may lack enough help to regulate the stream this year.

Ordering Allen to install proper diversion works and a measuring device for the upper diversion is possible, although that will not provide timely relief (high flows etc.). An order along those lines probably should include the Lower Allen diversion since use from both cannot exceed 2.70 cfs. Of course, mandating this for only one diverter is hard to justify. Assuming Allen did install adequate controls, direct department regulation of the diversion(s) instead of watermaster regulation does not seem appropriate.

¹ Allen also filed application 65-23451 for these diversions: expand irrigation season plus year around stock water.

² This implies the Upper Allen diversion and the decreed POD ("abandoned 6 years ago") have been used together sometimes.

Installing proper controls for at least the upper diversion during this irrigation season could result in significant impacts to Allen's irrigation. In previous conversations, he said he lost about \$10,000 due to problems last year (alleged tampering with his upper diversion etc.).

I recommend the following solution while the applications are pending:

- Allen can use his upper diversion if enough water remains in the creek to satisfy the subdivision diversion and all other downstream diversions on this creek. He can use his lower diversion if water is available at that point (no other POD's below that point). Total use from his upper and/or lower diversion is limited to 2.70 cfs while his transfer application is pending.
- Association can continue diverting both its rights from the single POD while its transfer application is pending. Diverting 65-3111A from this point cannot deprive junior rights of water while the transfer is pending. Association use is limited to 0.05 cfs.
- Failure to comply with these requirements will result in curtailment of an otherwise unauthorized diversion.

Water shortages do not appear to be the problem. The recommended solution could provide Allen and the subdivision with adequate water while the applications are being resolved. There are obvious problems with this approach, but it might work for this year, providing time for a better solution.

Possible water right approvals should include rigorously enforced conditions for diversion works and measuring devices where needed. Processing the applications in May-June will determine if protests are filed. This will help determine the next steps for this conflict.

"ROCK CREEK (RICHARD CREEK)" AKA UNNAMED STREAM

-JL 1/25/2012

Topo = Unnamed Stream.

PRBA = Rock Creek (Richard Creek).

SRBA = some w/ Unnamed Stream, some w/ Rock Creek.

Current appls = dept agrees to call Rock Creek if appls approved.

Numerous complaints, dept site visits, calls, letters, emails, meetings w/ Gov. office, director etc.

MAP #

1 65-3111A - Subd, decreed POD, covers some of subd, 0.05 cfs

65-3111F - BOR, decreed POD, irr 13 acres, 0.40 cfs

65-3111X - Allen, decreed POD, irr 83 acres, 2.70 cfs

These are the most senior rights on creek

POD error in PRBA (NESE)

2 65-13088 – Subd, licensed correct POD, covers rest of subd, 0.05 cfs
Combined limit 0.05 cfs with 3111A *(CENTROID)*

3 Allen actual upper POD (historic?)

4 Allen actual lower POD (historic?)

APPLS

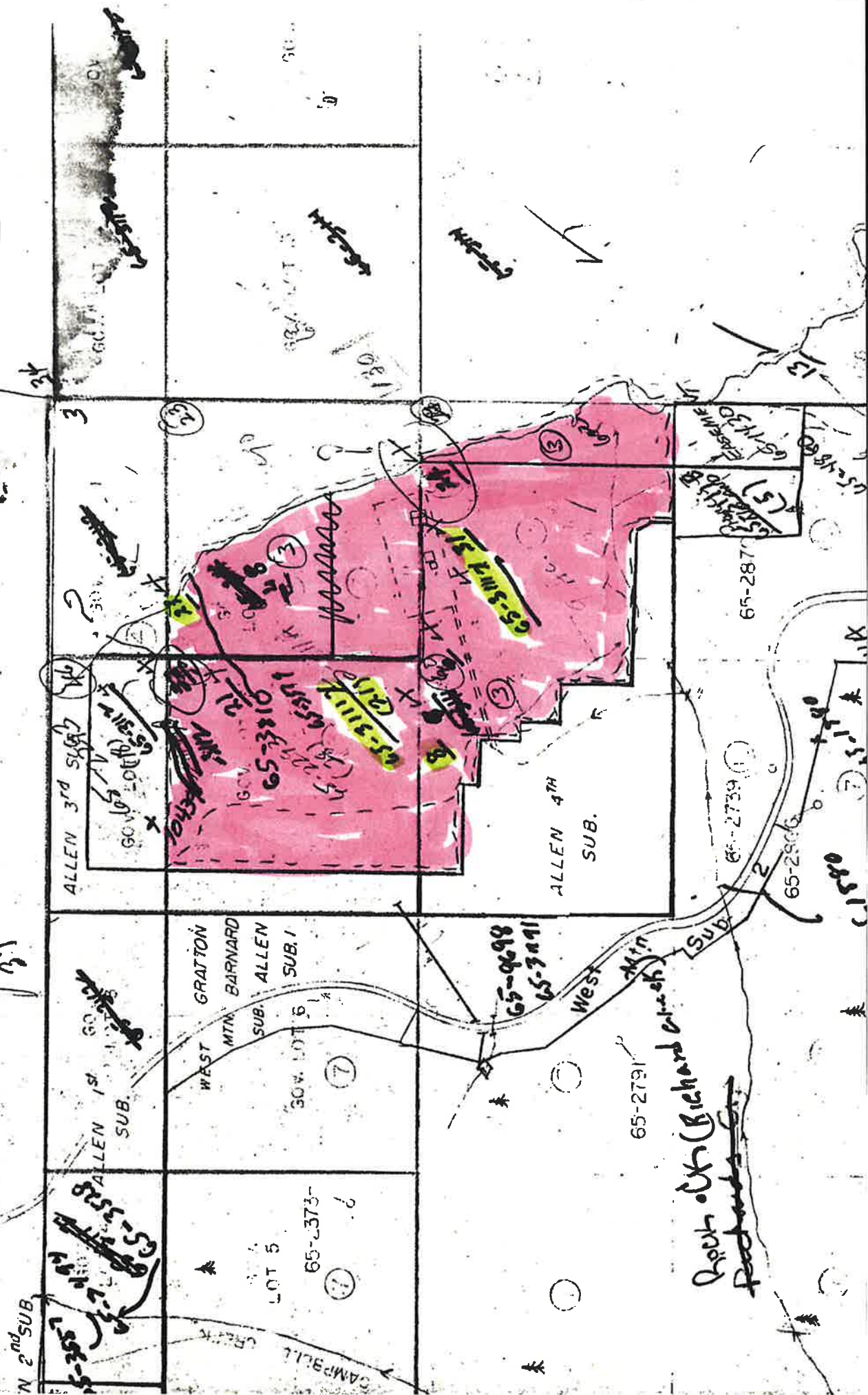
All protested, proposed hearings this May-July.

- Allen transfer 77121 to correct 65-3111X PODs, upper & lower points.
- Allen appl for permit 65-23451, same PODs, increase irr season & add stockwater all year ("historic use?").
- Subd transfer 77209 to correct 65-3111A POD to match 65-13088, change POU 65-13088 to match 65-3111A.
- Ford appl for permit 65-23457 for 0.04 cfs existing waterfall amenity.

[illegible]

5-3-12

91



IN THE DISTRICT COURT OF THE JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF
IN THE MATTER OF THE GENERAL DETERMINATION OF RIGHTS TO THE USE OF
DRAINAGE BASIN WATER RIGHT

65-31118
I. D. No. Map No.
Fee Paid Receipt No.

Notice is hereby given that E. K. Nelson and Mary R. Nelson (Name of Claimant)
Canada (Mailing Address) claims a right to the diversion

and beneficial use of the surface or groundwater, of or tributary to Project River
The extent and nature of said claim is as follows:

(1) Date of priority: (When was the water first applied to a beneficial use, or priority date of decreed, licensed or permit right)

6/1/1894

(2) Describe the source of water: (Name of stream, lake, spring, etc., or groundwater)

Rock Creek (Richards Creek) tail

(3) Describe the purpose for which the water has been used and the time during the year when you have used the right claimed:

270/44 Quantity 2.7 Use Domestic Period of Use From 4/15 To 10/15

249/44 Quantity 2.7 Use Domestic Period of Use From 4/15 To 10/15

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History of 65-3111A

PRBA Claimed pod in the NWNE, S3.

Recommended and decreed in the PRBA in the NESE, S3 per field exam.

Map in the PRBA was marked and did show the pod in the NWSE, S3 per field exam.

SRBA Claimed the pod in the NESE, S3 per PRBA decree.

During review in the SRBA it was noted that the PRBA map did show the point of diversion in the NWSE, S3 rather than the NESE, S3 as decreed in the PRBA. Reviewer notes that it appeared there was a clerical error in the PRBA and recommends the point of diversion in the NWSE, S3 per the map from the PRBA for the Snake River Basin Recommendation.

Note: The upper pod was never claimed or recommended in the PRBA or the SRBA.

65-3111X

Same as 65-3111A



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Boise, ID 83706 - P.O. Box 83720, Boise, ID 83720-0098
Phone: (208) 327-7900 Fax: (208) 327-7866 Web Site: www.idwr.state.id.us

May 4, 2001

DIRK KEMPTHORNE
Governor

KARL J. DREHER
Director

Dear Basin 65 water user,

This letter is to inform you that you may be eligible to file a stockwater claim with the Idaho Department of Water Resources (IDWR) in connection with the Snake River Basin Adjudication (SRBA). IDWR is sending this letter to water users in Basin 65 who might have relied upon the non-irrigation season stockwater provision in the Payette Adjudication. This provision states:

"When stockwater is not a specifically mentioned use for a right that includes irrigation, a reasonable flow is implied and included for the watering of livestock during the non-irrigation season."

In another basin, the Idaho Supreme Court struck down general provisions that contained similar language. The non-irrigation season stockwater language quoted above was not included in the General Provisions for Basin 65 because of the Idaho Supreme Court's ruling.

IDWR recognizes that in reliance on the non-irrigation season stockwater language in the Payette Adjudication, water users might not have filed stockwater claims in the SRBA to cover the non-irrigation season period. Individuals who historically watered livestock during the non-irrigation season without a separate stockwater claim might desire to file a new stockwater claim with IDWR.

To be eligible for a new non-irrigation season stockwater claim:

- 1 You must have actually and historically watered livestock during the non-irrigation season without a separate stockwater right.
- 2 You must have filed a surface water irrigation claim in both the Payette Adjudication and the SRBA.
- 3 You must not have filed a stockwater claim with the surface water irrigation claim.

If you meet these three requirements, you may file a Notice of Claim form for stockwater with IDWR. **To have a timely filing you must file this claim with IDWR by May 25, 2001.** IDWR will waive filing fees for these stockwater claims if filed before this deadline. Failure to file your claim in a timely manner may prevent you from claiming it in the future. Notice of Claim forms are available on IDWR's website at www.idwr.state.id.us/info/water/srba/forms.htm or from any IDWR office. Claimants can call IDWR, Western Region at (208) 334-2190 to make an appointment if they need assistance filling out a Notice of Claim form.

Sincerely,

David R. Tuthill, Jr., P.E.
Adjudication Bureau Chief



State of Idaho

DEPARTMENT OF WATER RESOURCES

1301 North Orchard Street, Boise, ID 83706 - P.O. Box 83720, Boise, ID 83720-0098
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To be eligible for a new non-irrigation season stockwater claim:

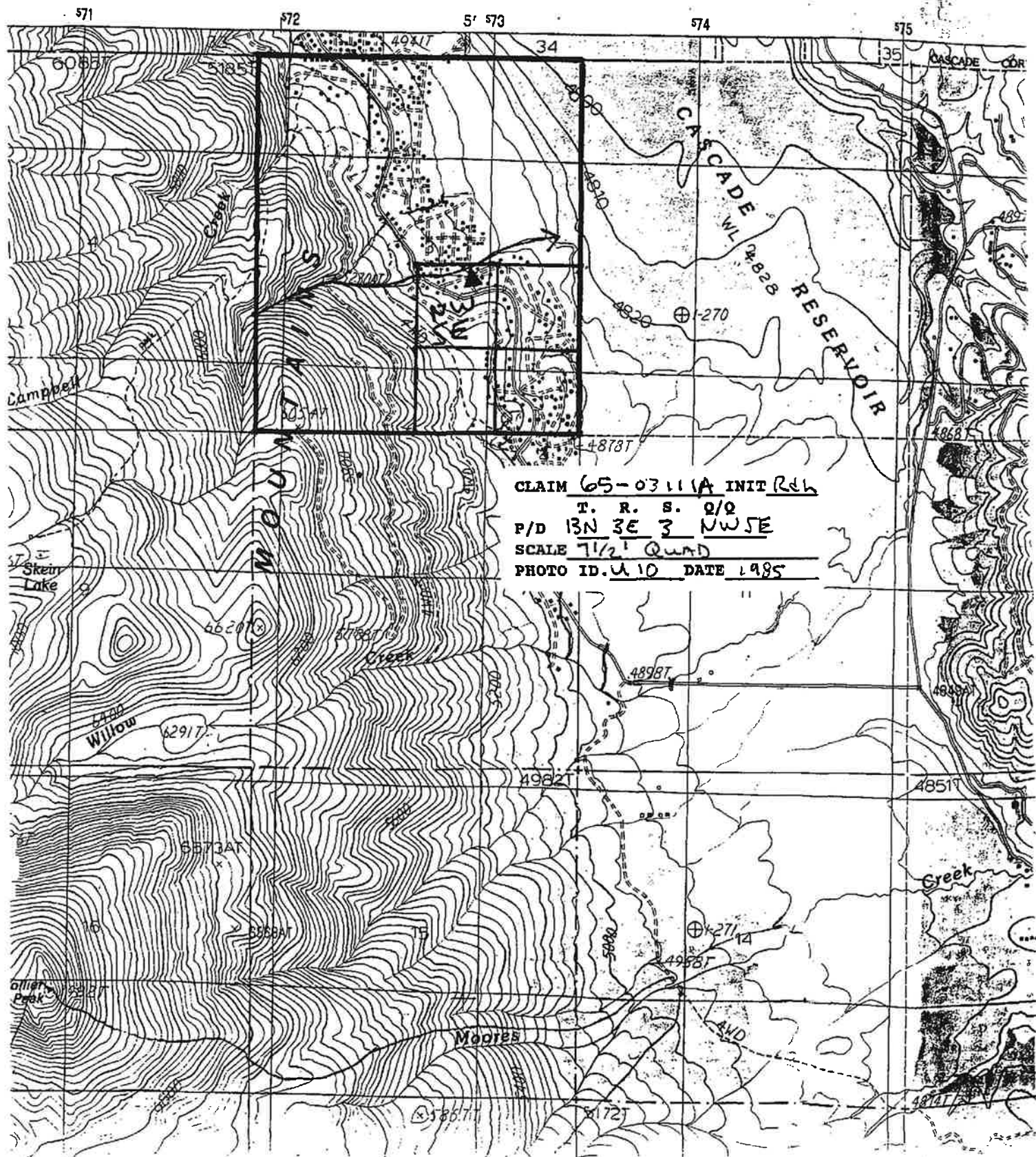
- 1 You must have actually and historically watered livestock during the non-irrigation season without a separate stockwater right.
- 2 You must have filed a surface water irrigation claim in both the Payette Adjudication and the SRBA.
- 3 You must not have filed a stockwater claim with the surface water irrigation claim.

If you meet these three requirements, you may file a Notice of Claim form for stockwater with IDWR. **To have a timely filing you must file this claim with IDWR by May 25, 2001.** IDWR will waive filing fees for these stockwater claims if filed before this deadline. Failure to file your claim in a timely manner may prevent you from claiming it in the future. Notice of Claim forms are available on IDWR's website at www.idwr.state.id.us/info/water/srba/forms.htm or from any IDWR office. Claimants can call IDWR, Western Region at (208) 334-2190 to make an appointment if they need assistance filling out a Notice of Claim form.

Sincerely,

David R. Tuthill, Jr., P.E.
Adjudication Bureau Chief

TOPO - 4101 1985



CLAIM NO. 65-03111A

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
CLAIM VERIFICATION EXAM SHEET

(use in place of the CVR for small Domestic/Stock exams)

1. ☒ No Change NAME
NEW OWNER: _____
☐ No Change ADDRESS
NEW ADDRESS: _____
2. ☒ No Change - DATE OF PRIORITY: Completed - No Field Verification Needed.
☐ Incomplete - Claim shows no priority date, claimant should be asked during the exam when was water first used.
Priority date, per claimant, is _____
(if the priority date, based on your exam, seems questionable, explain in remarks.)
3. ☒ No Change - SOURCE EXP REMARK B01
Source is different than that claimed:
Source found: UNNAMED STREAM AKA ROCK CREEK
AKA RICHARD CREEK
4. ☒ No Change - POINT OF DIVERSION
Point of diversion is different than the claim
New P/D: Twp. 13N, Rge. 3E, Sec. 03, 1/4 NW 1/4 SE 1/4
NOT AN ACCOMPLISHED TRANSFER ERROR IN DEGREE
5. ☒ No Change - DESCRIPTION OF DIVERTING WORKS
☒ Incomplete desc., complete items missing, IF KNOWN.
Additional comments in remarks.
HP of pump _____ Pump Ser. # _____ Pumping water level _____
Well depth _____ Motor Ser. # _____ Static water level _____
Casing size _____ Method of irr. _____
6. ☒ No Change - WATER USES GRAVITY LINE WITH 3000 GAL STORAGE TANK (AS SHOWN ON PRBA CLAIM)
Different uses, (list uses found).
Use _____ From _____ To _____ Amount _____ cfs _____ af
Use _____ From _____ To _____ Amount _____ cfs _____ af
7. ☒ No Change - TOTAL VOLUME
☐ Incomplete on claim, the total is, -- -- _____ cfs _____ af
☐ Change found, the new total is, -- -- -- _____ cfs _____ af
8. N/A
9. ☒ No Change - NON-IRRIGATION USES: Completed on claim
☐ Incomplete on claim - Exam found:
Domestic - No. of homes 43 Stockwater - No. of head _____
Other: _____

43 HOMES SHOWN ON PRBA CLAIM.

SEE ATTACHED PRBA CLAIM.



CLARK 45-07111 A INT. POL
T. N. S. 9/8
P/S 17N 36 3 NWSE
SCALE 8" = 1 MILE
PHOTO ID. 113 DATE 1961

DH2
283
113
PRA
MAP
1961

IN THE MATTER OF THE GENERAL DETERMINATION OF THE RIGHT TO THE USE OF THE SURFACE AND GROUND WATERS OF THE PAYETTE RIVER DRAINAGE BASIN

IDENT. NO.

Notice is hereby given that

Gratton - Barnes

P. O. Box 67, Emmett, Idaho 83617

and beneficial use of the surface or groundwater, of or tributary to the Payette River.

The extent and nature of said claim is as follows:

- (1) Date of priority: (When was the water first applied to a beneficial use, or date that permit was issued) June 1, 1924
- (2) Describe source of water: (Name of stream, lake, spring, etc., or subterranean) Rock Creek
(Richard Creek) Canal
- (3) Describe the purpose for which the water has been used and the time during the year when you have used the right claimed:
Use domestic irrigation stock etc. Period of Use From Jan. 1 To Dec. 31
(Domestic, irrigation, stock, etc.) (Mo., Day) (Mo., Day)
Use domestic irrigation stock etc. Period of Use From Jan. 1 To Dec. 31
(Domestic, irrigation, stock, etc.) (Mo., Day) (Mo., Day)
Use domestic irrigation stock etc. Period of Use From Jan. 1 To Dec. 31
(Domestic, irrigation, stock, etc.) (Mo., Day) (Mo., Day)
- (4) Quantity of water claimed: 1.2 Cubic Feet Per Second, or 1.2 Acre Feet Per Annum
and/or 1.2 Gals. Per Minute
- (5) A) Point of Diversion: Give location of point where water is diverted from its source. N. 1/2 Sec. 36, Twp. 13 N., Rge. 3 E., B.M.; additional points:
Sec. 3, Twp. 13 N., Rge. 3 E.
- B) Describe means of diversion of water: (Pump and pipeline, well, diversion dam, reservoir, length of ditch and field, etc.)
Give sizes and capacities; be as specific as possible. Gravity line with 3000 gal. storage tank
- (6) Describe location of use by listing number of irrigated acres within each 40-acre tract in appropriate box. If use is not for irrigation, place an "X" in appropriate box to show location.

[illegible]

Total No. of acres

- B) If water is used for other than irrigation, fully describe that use, being as specific as possible.
- (7) Effluent, sewage waste, or return water from this use is discharged into
- (8) If you are claiming water as a member of an organization, list name of organization.
- (9) Remarks DIVERSION IN NW 1/4 NE 1/4 SERVING APPROX 43 HOMES
- (10) Basis of claim (Check one) ☐ A) Right based on diversion and beneficial use. MARY F. O. K. ALLEN
☒ B) Right decreed by court, cite title of case. # 65-311
☐ C) Right based on application, license, or claim filed with State Reclamation Engineer, Office No.

Do it known that the undersigned after being duly sworn on oath, depose(s) and say(s) that all statements contained herein are true and accurate to the best of (his, her, their) knowledge.

IndyLife.com

State of California

County of San Diego

2. On this 9 day of January, in the year 1974, before me, a notary public, personally appeared PEARL W. BARNARD, known to me to be the person(s) whose name(s) are subscribed to the above instrument, and acknowledged to me that (he, she, they) executed the same.

Notary Public residing at

My commission expires

PR 2/3/77

2KV Revised

① IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF VALLEY

MARY R. ALLEN and D. K.
ALLEN,

Plaintiffs,

-vs-

W. N. WITHERS and MAUD
WITHERS,

Defendants.

D E C R E E

Case No. 484 Inst. No. 12
DISTRICT COURT VALLEY COUNTY
IDAHO
Filed: Oct 13 1930 at M.
FOREST E. ROBB - Clerk
By Bernice A. Kerby -
Deputy.

This cause came on regularly for trial before the court without
a jury in the district courtroom at Cascade, Idaho, on the 18th day of
July, 1930; F. M. Kerby and Wm. M. Morgan, appeared for the plaintiffs,
and Fred M. Taylor and Rhodes & Estabrook appeared for the defendants;
witnesses were called, sworn and examined on behalf of the respective
parties, the evidence was closed and both parties rested; the matter was
submitted for decision and the court, being fully advised in the premises,
made findings of fact and conclusions of law,

NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED and DECREED as

follows:
65 3111
~~6520111~~

1.

That the plaintiffs, Mary R. Allen and D. K. Allen, be, and they
hereby are, decreed, awarded and allotted 160 miner's inches, continuous
flow, of the waters of Rock Creek and its tributaries, which stream is
tributary to Willow Creek, which flows into the North Fork of the Payette
River, west of Cascade, Idaho, and they are the owners of the right to
divert said amount of water from said stream for the irrigation of and
domestic use upon their land described as follows:

The SW $\frac{1}{4}$ of the NW $\frac{1}{4}$, and the NW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 2;

and Lot 8, and the SW $\frac{1}{4}$ of the NE $\frac{1}{4}$, and the SE $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 3, all in Township 13 N. R. 3 E., B.M. in Valley County, Idaho, containing 200 acres more or less,

with date of priority of June 1, 1894;

65 3112

11.

~~6520112~~

That the plaintiffs, Mary R. Allen and D. K. Allen, be, and they hereby are, decreed, awarded and allotted 100 miner's inches, continuous flow, of the waters of Rock Creek and Little Rock Creek and their tributaries, which streams are tributaries to Willow Creek, which flows into the North Fork of the Payette River, west of Cascade, Idaho, and that they are the owners of the right to divert said amount of water from said streams for the irrigation of and domestic use upon their land described as follows:

Lots 3 and 4 in Section 2, and Lots 1, 2, 3, 4 and 7 in Section 3, all in Township 13 North, Range 3 East, B.M., in Valley County, Idaho, containing 149 acres, more or less,

with date of priority of July 4, 1917;

65 3113

111.

~~6520113~~

That the defendants, W. N. Withers and Maud Withers, be, and they hereby are, decreed, awarded and allotted 80 miner's inches, continuous flow, of the waters of Rock Creek and its tributaries and 30 miner's inches, continuous flow, of the waters of Little Rock Creek and its tributaries, which streams are tributaries to Willow Creek, which flows into the North Fork of the Payette River, west of Cascade, Idaho, and that they are the owners of the right to divert said amounts of water from said streams for the irrigation of and domestic use upon their land described as follows:

The east half of the Southeast Quarter of Section 34, and the West Half of the Southwest Quarter of Section 35, all in Township 14 North, Range 3 East, Boise Meridian, containing 160 acres,

with date of priority of June 1, 1898;

IV.

That each of the parties hereto, their agents, servants, employees, successors, and all persons acting in their behalf, or on behalf of either of them, be perpetually enjoined from in any manner interfering with the rights of the other parties hereto to the use of said waters, and in any manner interfering with the ditches, canals, laterals, or other means of diversion or distribution of said waters;

V.

That a miner's inch of water, as herein mentioned, is equivalent to a full 1/50 cubic foot of water per second.

VI.

That the parties to whom rights are herein allotted and their successors in interest shall, at their own cost and expense, install and maintain suitable and efficient headgates, controlling works, and measuring devices at their respective points of diversion from the streams from which water is diverted by them, and all waters herein allotted and decreed shall be measured at said points of diversion; said works and devices shall be built, installed and maintained in accordance with plans and specifications to be approved by the official charged by law with the duty of supervising the distribution of water; all such divices shall be of such design as to accurately measure the water diverted; all such headgates, control works, measuring devices and gauges shall, at all times, be subject to inspection by any party hereto and by the public officials or watermasters having jurisdiction over the distribution and diversion of the waters, and no dam or other obstruction to the natural flow of either of the streams from which water is taken shall be maintained so as to divert water from the channel thereof except through ditches, canals or other works provided

with such headgates, control works, and measuring devices; each of the parties hereto is hereby perpetually enjoined from diverting from the channel of either of said streams any water to any ditch, conduit or other device not provided with such headgates, control works and measuring devices;

Vll.

That plaintiffs have, and they hereby are awarded, judgment against the defendant, W. N. Withers, for their costs and disbursements herein necessarily expended hereby taxed at \$ 162.35 .

Dated this 10th day of October, 1930.

Recorded Judgment Record 2 Page 161.

A. O. Sutton
District Judge.

Compared x
Indexed-Direct x
Indexed-Indirect x

STATE OF IDAHO,) SS.
County of Valley.)

I, Forest E. Robb Ex-officio Auditor & Recorder
in and for Valley County, Idaho, DO HEREBY CERTIFY AND DECLARE that I have compared
the foregoing "Decree"
with the record of such Instrument
in my office, which instrument is (filed and indexed) in Book 2 of Judgments
(Recorded)
at page 161, and that the foregoing is a true and correct copy
of such record.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, this
18th day of May, 1931.

FOREST E. ROBB

Ex-Officio Auditor and Recorder,
Valley County, Idaho.

By: Quinn C. Herby

Deputy

2

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

MARY R. ALLEN)
D. K. ALLEN)
Plaintiffs)
-vs-)
W. N. WITHERS)
MAUD WITHERS)
Defendants)

D E C R E E

FINDINGS and CONCLUSIONS

of

COMMISSIONER OF RECLAMATION

Re: DISTRIBUTION AND USE OF WATER
WATER RIGHTS OF THE STATE OF IDAHO

The complaint of Defendant WITHERS in the above entitled action with reference to the distribution and use of water under the decree: After examination on the ground and from the testimony of the plaintiff and the defendant in the above entitled action, together with that of other parties having knowledge of the facts, this department has arrived at the following findings-of-fact and conclusions as to the rights, duties, and obligations of the respective parties, to-wit:

1. That the State Commissioner of Reclamation of the State of Idaho is the public official having jurisdiction over the distribution and diversion of the water under and pursuant to the terms of the decree herein;

7-15-32

"A change of place of use of the water will not be permitted where to do so would damage another appropriator." Hall -vs- Blackman (22 Idaho 556)

6. That one WESLEY HARTLEY, who has attempted to divert, and in fact has actually diverted, water from LITTLE ROCK CREEK to irrigate what is known as the WORTHINGTON lands, was not, nor was his predecessor-in-interest, a party to the above entitled action, and the records of this office do not disclose that he has any right, title or interest in and to the waters of LITTLE ROCK CREEK or to any of the stream mentioned in the decree, so it would seem that by his action he is liable to prosecution for unlawful diversion of water and would be liable in damages to any one injured by his acts, but that is a matter outside of the jurisdiction of this department.

It is assumed that both the plaintiff and the defendant in the above entitled action have copies of the decree in their possession and are familiar with the terms and conditions and requirements thereof, but at this time this department desires to call special attention to the following provisions of the decree:

"IV.

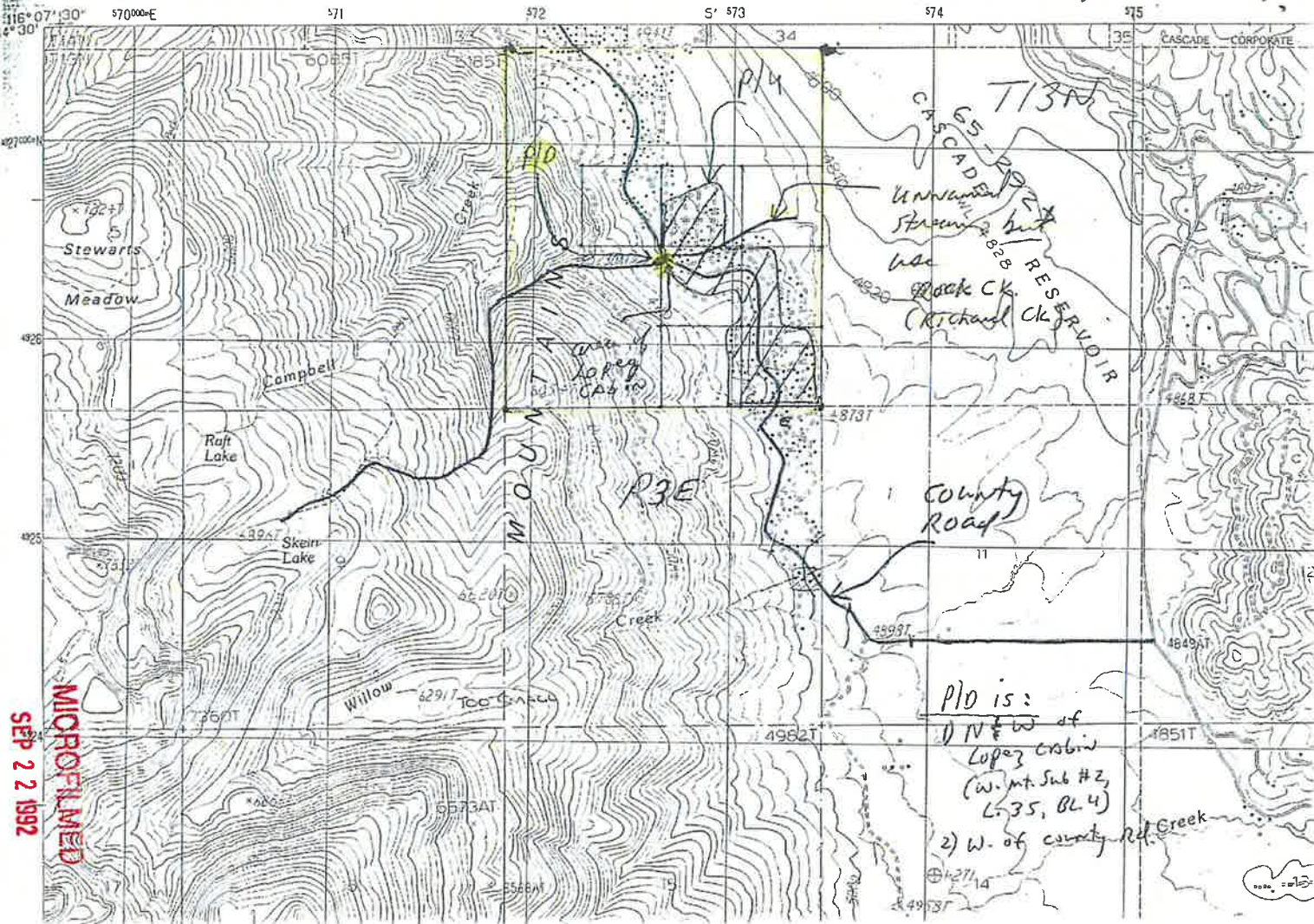
That each of the parties hereto, their agents, servants, employees, successors, and all persons acting in their behalf, or on behalf of either of them, be perpetually enjoined from in any manner interfering with the rights of the other parties hereto to the use of said waters, and in any manner interfering with the ditches, canals, laterals, or other means of diversion or distribution of said waters;

V.

That a miner's inch of water, as herein mentioned, is equivalent to a full 1/50 cubic foot of water per second.

UNITED STATES
DEPARTMENT OF THE INTERIOR
GEOLOGICAL SURVEY

Gov't LOTS 1-4
in N 1/2 N 1/2 of Sec. 3



Rushing, Emalee

From: Peppersack, Jeff
Sent: Wednesday, May 23, 2012 7:39 AM
To: Rushing, Emalee
Subject: FW: 65-3111X, 77121, 65-23451, 65-23481

Emalee,
Please put a copy of this message in all appropriate files.

Thanks,
Jeff

From: Peppersack, Jeff
Sent: Wednesday, May 23, 2012 7:39 AM
To: 'schess Chess'
Cc: Luke, Tim; Westra, John; 'Bruce M. Smith'
Subject: RE: 65-3111X, 77121, 65-23451, 65-23481

Ms Chess:

I'll be out of town for a couple of days, so I'll try to give you a response now before I go.

- 1) Is irrigation taking place? I understand Bruce Smith is in the process of filing a new transfer application and/or a motion with the SRBA court to amend an existing decreed right.
- 2) The late notice was for a beneficial use right (a new record), not an amendment of water right 65-3111X.
- 3) Each water right record has its own file. If the late notice is accepted, IDWR will have a file for it, but the information is not necessarily copied to other files.

Jeff Peppersack
Water Allocation Bureau Chief
208-287-4948

From: schess Chess [<mailto:schess123@msn.com>]
Sent: Tuesday, May 22, 2012 9:42 AM
To: Peppersack, Jeff
Cc: Luke, Tim; schess Chess
Subject: 65-3111X, 77121, 65-23451, 65-23481

Good Morning,

Thank you for uploading the string of emails between yourself and Bruce to the water right file for 65-3111X.

I have multiple questions, concerns and comments that will be submitted at a later date; however a few are of a somewhat urgent nature at this point:

1) Water is being diverted from the natural flow of Rock Creek from Allen's unauthorized "upper" diversion and it appears as though water is also being diverted from the lower diversion. Currently there are no livestock located at the place of use so there should be no water diverted from Rock Creek from either POD, and when livestock are present, assuming there are 600 head, only .14 CFS should be diverted from both POD's combined. Is that a correct understanding?

2) Is it normal procedure for IDWR to issue a new water right number for the purpose of Filing a Late Notice of Claim

with SRBA to amend an existing water right? The original water right from the SRBA decree is 65-3111X, the Late Notice of Claim was filed under a new water right 65-23481.

3) Is there a reason that the Motion to File Late Notice of Claim filed with SRBA and the Notice Setting Hearing on Motion to File Late Notice of Claim were not uploaded to the existing water right file for 65-3111X and/or protested applications 77121 and 65-23451?

Any information or clarification you can provide before Friday, May 25th, will be greatly appreciated. We have a meeting scheduled during the holiday weekend specific to these topics and would prefer to have the facts correct before hand.

I have intentionally not copied Bruce or John Westra, if the email is forwarded, please copy me so I am aware.

Thank you for your efforts.

Respectfully,

Sandra Chess
(208)863-8769
1200 Lizaso Ave
Boise, ID 83709

Shurte, Jan

From: Lester, Steve
Sent: Monday, May 21, 2012 12:09 PM
To: Shurte, Jan
Subject: RE: "Little Rock Creek"

That sounds great, thx.

From: Shurte, Jan
Sent: Monday, May 21, 2012 11:16 AM
To: Lester, Steve
Subject: RE: "Little Rock Creek"

Hi Steve,

I agree with you that Little Rock Creek is not a source. I do not plan on recommending it in that name, however, they can file a claim anyway they want to and I cannot prevent them. I will flag the file to remove the source and talk with Carter and Shelley about it.

We have had this many times in the past where people claim a source that is not the correct name and have left the source in the source table even though we did not recommend it. I guess it's the fact that Jim Bunce is having a fit and will not understand about the source names no matter who tells him.

I don't think there is any big rule about the source table and what is in it, so I'll be sure and flag the file with a note to talk with them after the recommendation is made without that source name. How does that sound?

Jan

From: Lester, Steve
Sent: Monday, May 21, 2012 10:46 AM
To: Shurte, Jan
Subject: "Little Rock Creek"

Hi Jan:

A thought ... regardless of whatever happens with JR's late claim(s), in long run we should delete Little Rock Creek as source in our database. There's really no such thing & keeping it in database just adds to confusion for everyone (heard Bunce already called and complained about "you changed the name again" to Jeff).

Maybe Carter & Shelley could flag this for eventual fix later on – nothing urgent now. Please pass it on to them.

thx

Steve

Shurte, Jan

From: Bromley, Chris
Sent: Friday, May 04, 2012 9:41 AM
To: Shurte, Jan

Jan,

Bruce and I talked and got his issue resolved. I told him we wouldn't oppose at the late claim hearing. I did tell him I didn't know what the recommendation would end up looking like. He was fine with that. Don't worry about getting back in touch with him.

Chris

Bruce withdrew transfer app. because of hearing - J.R. could not make it. Someone complained that J.R. is taking all the water & because J.R. now has nothing filed to correct POD he could be shut down. So, he calls Jeff & tells him he thought the WRBA claim (63-23481) covered the POD situation and all was OK with the Dept. Jeff said no he either needs to file a Motion to Reassign POD & correct POD or another transfer. Bruce is going to file both. NOTE: This claim was only filed to cover the time outside the

Rushing, Emalee

From: Peppersack, Jeff
Sent: Friday, May 04, 2012 4:58 PM
To: Rushing, Emalee
Subject: FW: IMPORTANT QUESTION
Attachments: h2sk01_.pdf

Emalee,
Please copy this email for files 65-3111A and 65-3111X.

Thanks,
Jeff

From: Peppersack, Jeff
Sent: Friday, May 04, 2012 4:53 PM
To: 'Issy Bunce'
Cc: 'Bruce M. Smith'
Subject: RE: IMPORTANT QUESTION

I'll refer you to the letter dated June 16, 2011 discussing the subject (see attached). The letter indicates that both West Mountain Water Assoc. and Allen Ranch may continue diverting from their present locations while the transfer applications are pending. The Allen Ranch transfer application has been withdrawn and replaced by a claim in the Snake River Basin Adjudication. The Department will continue to allow the Allen Ranch diversion under the conditions explained in the letter, while the claim is pending in the adjudication. Since there are no measuring devices, the diversions must be reasonable and the Department will continue to monitor as necessary.

Jeff Peppersack
Water Allocation Bureau Chief
208-287-4948

From: Issy Bunce [<mailto:ibcascade@hotmail.com>]
Sent: Friday, May 04, 2012 4:25 PM
To: Peppersack, Jeff
Subject: IMPORTANT QUESTION

Jeff,

Since Allen pulled all of his applications and transfer, he doesn't have a point of diversion, why is he getting ANY water from up above?

Please let us know since he is getting more water than we are.

Jim & Issy



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street • P.O. Box 83720 • Boise, Idaho 83720-0098

Phone: (208) 287-4800 • Fax: (208) 287-6700 • Web Site: www.idwr.idaho.gov

June 16, 2011

C. L. "BUTCH" OTTER
Governor

GARY SPACKMAN
Interim Director

Jim Bunce
West Mountain Water Association, Inc.
PO Box 388
Cascade, ID 83611

Re: Water Right Transfer 77209 and Water Diversions from Rock Creek

Dear Mr. Bunce:

This letter is a follow up to our meeting in Boise on Tuesday May 3, 2011, regarding the transfer filing in the name of West Mountain Water Association, Inc. ("the Association") and your concerns about water diversions from Rock Creek (aka Richard Creek). I appreciated meeting with you and your wife, Isabel, and Jerry Dye to discuss these matters.

I hope our meeting was helpful to you in answering questions regarding the initial data entry of the Association's transfer application. As I indicated in our meeting, the Department will correspond with you when the application is advertised so that you may verify the information on the Department website in addition to the legal notice in the McCall newspaper.

In our meeting, and in prior discussions with me and Department staff, you have raised concerns about water diversions from Rock Creek and flooding problems experienced by some members of the Association resulting from an unmaintained irrigation ditch. As we discussed, the Department does not have jurisdiction to enforce laws associated with ditch easements and maintenance issues and liability for property damages associated with flooding. I suggested a starting point would be to research county records for recorded easements.

The Association's transfer 77209 seeks to correct the record for the Association's water right no. 65-3111A to describe the historic point of diversion used by the Association. The historic point of diversion is located upstream of West Mountain Road and is described correctly under the Association's other water right no. 65-13088. You specifically asked if the Association will be allowed to continue diverting water under water right no. 65-3111A at the historic location while transfer 77209 is being processed.

You also asked what the Department intends to do about another water user's diversion of water from Rock Creek at a point located just upstream of the Association's historic diversion point. As you know, Allen Ranch LLLP ("Allen Ranch") has filed a transfer application to add that point of diversion ("the Allen Ranch upper diversion") to its water right no. 65-3111X. I understand that Allen Ranch claims that the location is a historic point of diversion and ditch

Jim Bunce
June 16, 2011
Page 2

used under water right no. 65-3111X. Department staff visited the site last November in response to a separate complaint and observed that the ditch has been in place for many years, but could not confirm how long it has been actively used.

I am reluctant to prohibit the Association, while its transfer application is pending, from diverting water for domestic purposes at its historic location in this circumstance. The diversion is not a new diversion and the discrepancy from the recorded water right (65-3111A) appears to be the result of an error when the right was described in the Payette and Snake River Basin adjudications.

Regarding the Allen Ranch upper diversion, it is not clear to me when the diversion and ditch originated, but I will assume it is not a new diversion and ditch and may also be the result of an error in description. Allen Ranch may continue diverting from its upper diversion under water right no. 65-3111X while the Allen Ranch transfer application is pending; however, Allen Ranch must ensure a sufficient amount of water will pass downstream in Rock Creek to satisfy the Association's water right at its historic point of diversion.

I hope this letter sufficiently addresses your questions. Please contact me if you have additional questions or concerns.

Sincerely,

A handwritten signature in black ink that reads "Gary Spackman". The signature is fluid and cursive, with a long horizontal stroke at the end.

Gary Spackman
Interim Director

cc: Western Region, IDWR
Bruce Smith – Attorney for Allen Ranch
Stephen Goodson – Governor's Office

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 65-3111X V1

WATER RIGHT NUMBER: 65-3111X V1

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	E K ALLEN RANCH LTD PARTNERSHIP PO BOX 474 CASCADE, ID 83611 (208)382-4122

Priority Date: 06/01/1894

Basis: Decreed

Status: Closed

<u>Source</u>	<u>Tributary</u>
UNNAMED STREAM	NORTH FORK PAYETTE RIVER

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	4/15 to 10/15	2.700 CFS	
	<u>Total Diversion:</u>	2.700 CFS	

Location of Point(s) of Diversion

UNNAMED STREAM	NW1/4SE1/4	Sec. 3, Twp 13N, Rge 03E, B.M.
VALLEY 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	
13N	03E	3	23.0	21.0	8.0	31.0													83.0
			L 8	L 7															

Total Acres: 83

Conditions of Approval:

1. SOURCE IS ALSO KNOWN AS RICHARD CREEK.
SOURCE IS ALSO KNOWN AS ROCK CREEK.
2. 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.
3. THIS RIGHT SHALL PROVIDE NO MORE THAN .02 CFS PER ACRE WHEN MEASURED AT FIELD HEADGATE.

Remarks:

IDAHO DEPARTMENT OF WATER RESOURCES
Adjudication Recommendation Report 65-3111X V1

Comments:

1. RHOWERTO 7/19/1999 POINT OF DIVERSION

Comment: FOUND ERROR IN LEGAL DESCRIPTION IN PRBA DECREE. CONFIRMED ERROR WITH PRBA MAPS: MAP "A" T13N, R3E MAP 1961 DHZ-2BB-113 BOTH ABOVE MAPS SHOW P/D IN THE NWSE, NOT AS DECREED. SOURCE DOESN'T FLOW THROUGH DECREED TRACT CONFIRMED BY: 1985 TOPO MAP U10 1987 NAPP PHOTO

2. AJU10-JS 9/24/1999 AJU10 CONDITION UPDATE

Comment: CONDITION CODE(S) C18 ADDED IF NOT ALREADY PART OF RECORD THRU AJU10.

3. jpeppers 9/13/2005 4:23:05 PM Water Right

Comment: This water right record was updated by decree record from old RightID 62646 to new RightID 422349

Water Supply Bank:

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 65-3111X

WATER RIGHT NUMBER: 65-3111X

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	E K ALLEN RANCH LTD PARTNERSHIP PO BOX 474 CASCADE, ID 83611 (208)382-4122

Priority Date: 06/01/1894

Basis: Decreed

Status: Active

<u>Source</u>	<u>Tributary</u>
UNNAMED STREAM	NORTH FORK PAYETTE RIVER

<u>Beneficial Use</u>	<u>From</u> <u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	4/15 to 10/15	2.700 CFS	
	<u>Total Diversion:</u>	2.700 CFS	

Location of Point(s) of Diversion

UNNAMED STREAM	NW1/4SE1/4	Sec. 3, Twp 13N, Rge 03E, B.M.
VALLEY 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	
13N	03E	3	23.0	21.0	8.0	31.0													83.0
			L 8	L 7															

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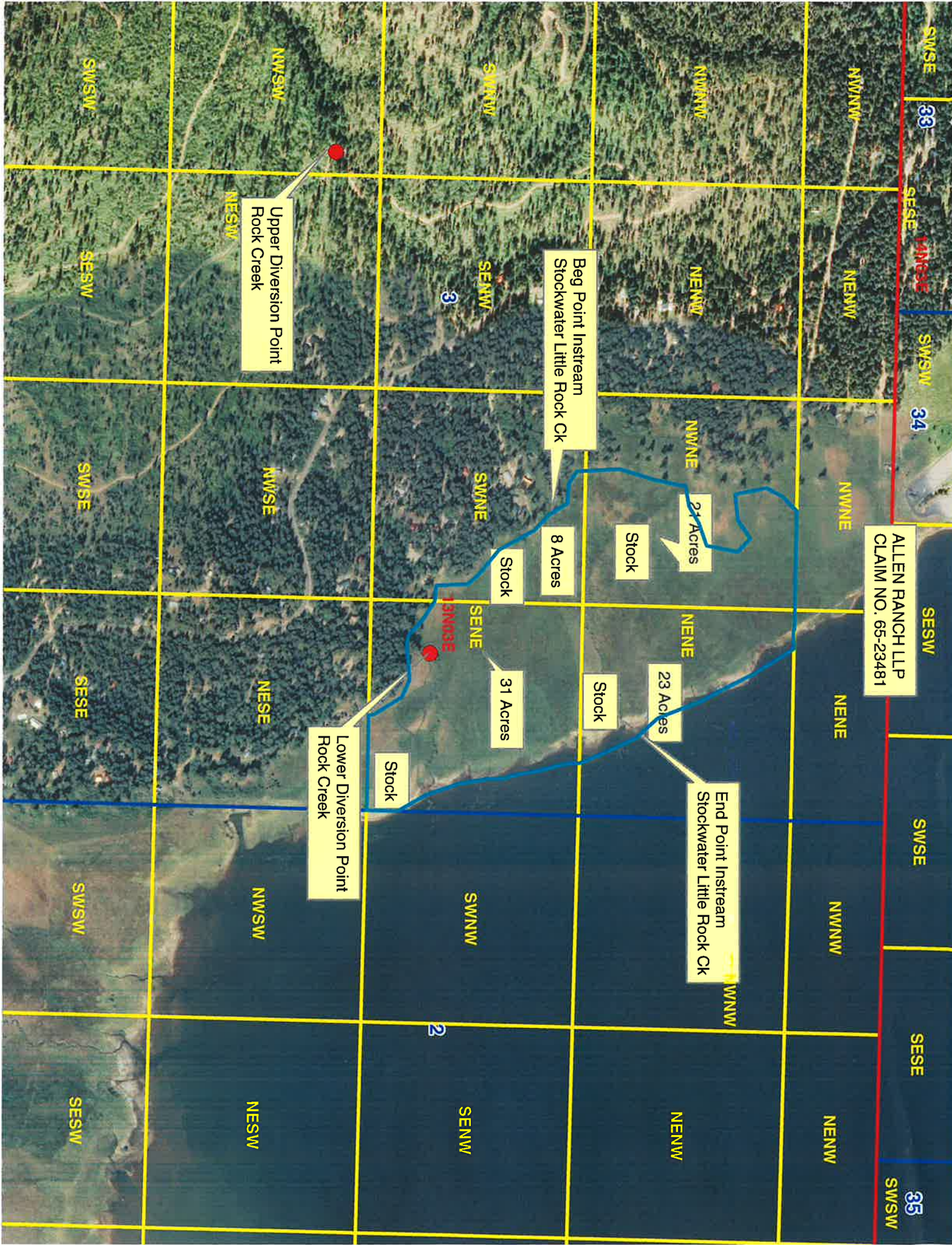
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Comment: This water right record was updated by decree record from old RightID 62646 to new RightID 422349

Water Supply Bank:



Bruce Smith

Motion to file a late claim
of motion to rescind.

pt of Dr. Wong - source name.

~~How to can you say~~

If ~~you~~ SRBA consumed PRBA
can they file stockwater
back into the PRBA if PRBA
was subsumed into the SRBA?

Letter of Support from DWR

Heaven open in the fall
so he doesn't have to hope in
the spring. Not enough ~~know~~
water running in the ditch
during the fall of the diversion
unnecessary.

JR Allen

DOKE-JERRY-PHD.COM

NOT IF DISABILITY EVAL. REQUALIFICATION

REPORT ON DECREE, OCTOBER 10, 1931, ALLEN -vs- WITHERS, ROCK CREEK
AND TRIBUTARIES, VALLEY COUNTY, IDAHO

The controversy in this case divides itself into three parts:

1. Use by Allen of 1894 decree, Rock Creek water upon lands other than those described in the decree for this particular right, viz., land which was awarded a later right, thereby depriving Withers of waste and return flow;
2. Diversion of LITTLE ROCK CREEK water awarded to Withers by a third party who claims a prior right thereto, although he was not made a party to the adjudication and has no record right;
3. A determination of the amount of natural flow of LITTLE ROCK CREEK, which is complicated by Allen's diversions from TO ROCK CREEK to LITTLE ROCK CREEK, and using that channel as a carrier until via ditches are reached.

PART 1.

The decree awards Allen 160 inches from Rock Creek and tributaries; date of priority - June 1, 1906, for the irrigation of, and domestic use upon:

SW $\frac{1}{4}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 2; Lot 2, CO $\frac{1}{2}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 3,
Township 13 North, Range 3 East of Boise Meridian.

Allen was, also, awarded a subsequent right from BIG L. LITTLE ROCK CREEK - 100 inches, date of priority - July 4, 1917, for the irrigation of, and domestic use upon:

Lots 3 & 4, Sec. 2; Lots 1, 2, 3, 4 & 7, Sec. 3,
Township 13 North, Range 3 East of Boise Meridian

Reference to the attached map will disclose the relative locations of these tracts of land. By reason of the topography, when Allen uses his 1894 water upon the land described therefore, Withers receives benefit in the way of waste, and return flow which finds its way into ROCK and LITTLE ROCK CREEK channels above Withers' head-gates. Inasmuch as there is but seldom enough water in the two streams to fill Allen's 1917 right, he diverts a part of his 1894 water from BIG ROCK CREEK to LITTLE ROCK CREEK and carries it down that channel to various ditches which lead to the 1917 lands. The waste and return flow from BIG ROCK CREEK water, thus applied to:

Lots 1, 2, 3, 4 & 7, Section 2

does not become available for Withers' diversion and use, but flows off to the north into another depression or creek channel.

BIG ROCK CREEK water applied to:

Lots 3 or 4, Section 2

does not damage Withers materially, if at all.

On July 14, Allen was diverting 1894 water to 1917 lands and maintains he has a right to do so, and frankly states that he expects to continue this practice.

Thus it appears the issue is clear on this point, and a citation to Allen for violation of the decree is Withers' remedy.

PART 2.

Withers' point of diversion for his LITTLE ROCK CREEK water (30 inches, priority June 1, 1933), while not described in the decree, is apparently on his own land, near the:

SW Corner of SW $\frac{1}{4}$ Sec. 34, T. 14 N., Range 3 East, S. M.
He so states and has a diversion box at that point. One Wesley Hartley, owner by contract of sale of:

N $\frac{1}{2}$ NW $\frac{1}{4}$, Section 8, Township 13 North, Range 3 East of Boise M.
is maintaining a diversion dam on his west line, where LITTLE ROCK CREEK enters the property, and diverts to his land all the LITTLE ROCK CREEK water, which reaches this point. It is my information he persisted in this practice during 1931, and has to date in 1932. On July 14, the dam was in place and a quantity of water, estimated at 12 to 15 minor's inches, was being spread onto the meadow. Allen was taking 25 inches of water from this same point, running it north along the road until it reached:

Lot 4, Section 3
where it was being used. These two diversions were made up of 5 inches of LITTLE ROCK CREEK water and 25 inches of BIG ROCK CREEK, first diverted to LITTLE ROCK CREEK channel.

If not diverted at this point, LITTLE ROCK CREEK water would continue on down the country, across the Hartley and Allen land, toward Withers' headgate and, according to him, would be of material benefit. It hardly appears probable that 5 inches would reach him now but, no doubt, the flow earlier in the season is larger and likely has greater value than at the present time.

Neither Hartley nor Thomas Worthington, prior owner of:

N¹/₂ Mt., Section 2,

were parties to the suit between Allen and Withers, so, naturally, there is no right decreed for this land, if it is entitled to one. Worthington claims a right to LITTLE ROCK CREEK water for this land, with date of first use of 1888, and is ready to defend such a claim. It should have been adjudicated at the time of the Allen -vs- Withers case. Now, the matter must, apparently, become the subject of another suit. I suggest that an orderly way to initiate this would be for the Department of Reclamation to serve notice upon Hartley and Worthington that within a short reasonable period of time his dam will be cut, and the water turned down LITTLE ROCK CREEK for Withers. That would give them an opportunity to ask for a restraining order, preventing interference with their diversion dam and, I assume, put the matter properly before the court for adjudication so it would be settled before the 1933 irrigation season.

PART 3.

As shown on the accompanying map, Allen diverts BIG ROCK CREEK water to LITTLE ROCK CREEK through 2 ditches. The upper one spills into LITTLE ROCK CREEK very near its head. Thus a considerable part of the channel has its natural condition disturbed and without a comparatively large number of measurements of small quantities of water, it is difficult to determine the natural flow. To eliminate as many of these uncertainties as possible, both of the BIG ROCK diversions to LITTLE ROCK CREEK were shut off about 9:00 P.M., July 14. At 10:00

A.M., July 15, LITTLE ROCK CREEK was measured, first at point "A" and found to be 6 minor's inches. It was again measured at point "B" and found to be 5 minor's inches. This last measurement is just a short distance above the point where Bartley takes the water.

At the same time, BIG ROCK CREEK was measured with no diversions above, at point "C" and found to be 77 minor's inches. All measurements were made over Cippolatti weir crests.

Five minor's inches then was the total flow of LITTLE ROCK CREEK on July 15, immediately above the Bartley land. There had been a hard rain on the 13th and 14th, which I am satisfied had served to temporarily increase the flow of all streams in that vicinity.

Allen had been diverting 35 inches into LITTLE ROCK CREEK at his upper ditch and 15 at the lower, diverting 15 inches from BIG ROCK CREEK for direct irrigation and was leaving 10 or 12 inches in the creek, and it was going down to Withers. On July 14th, Withers was getting 20 inches from ROCK CREEK and 10 or 12 inches from LITTLE ROCK CREEK, or a total of 40 inches. He states that up to about 2 weeks ago, he had all the water he wanted, but thinks he would now be getting more if Bartley had not taken any LITTLE ROCK CREEK water this year.

To expedite a determination of the natural flow of LITTLE ROCK CREEK at any time, Allen should install weirs where each of his ditches discharge into the stream and at all points where he is diverting therefrom. There are 4 of these. He has made some attempt to put

in weirs but they have filled up with sand and have been torn out until now there are insufficient facilities to determine the natural flow without taking some time. I believe he will do this readily once other matters in controversy are settled, or if a watermaster should be appointed to administer the decrees.

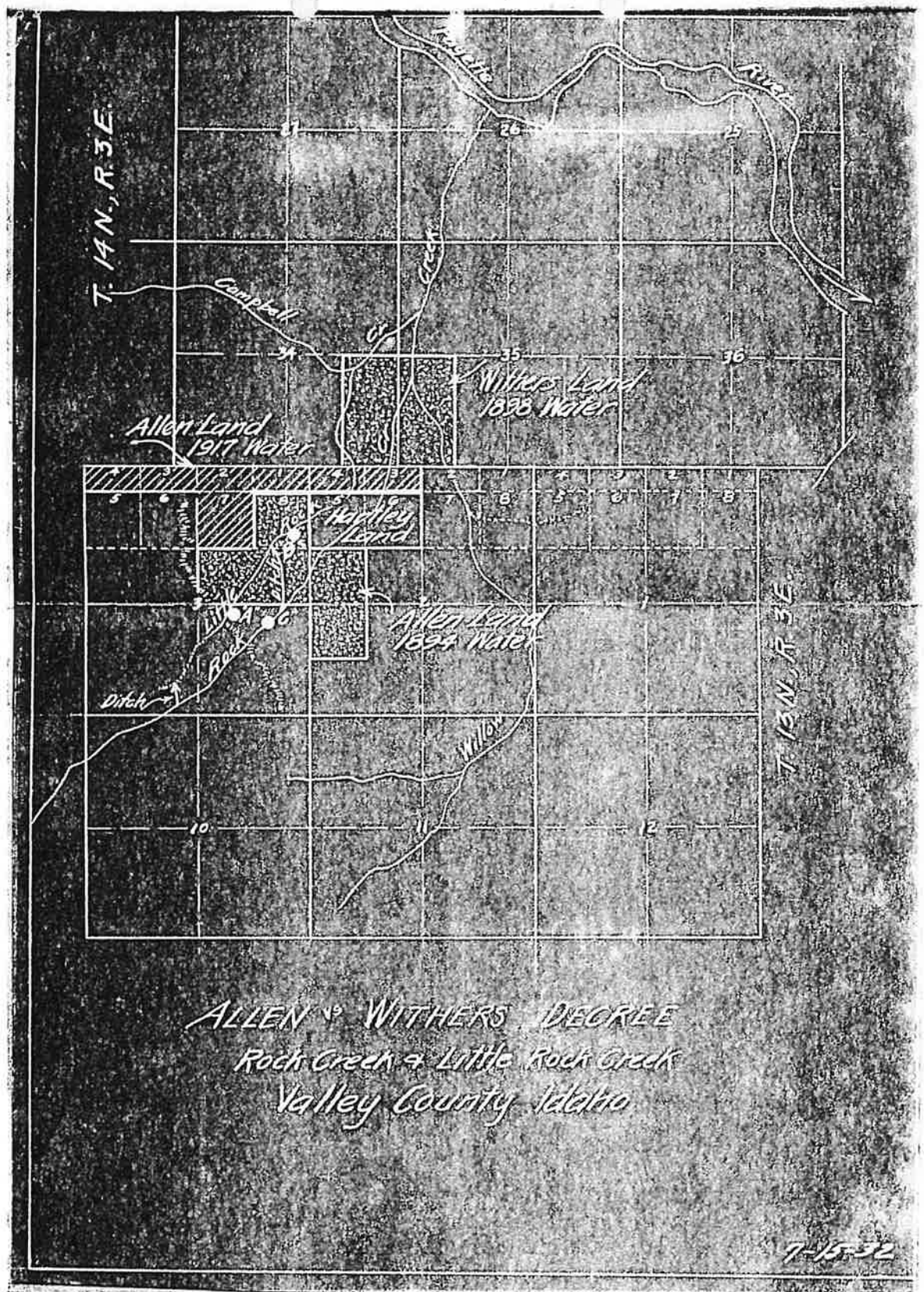
For the present, or during the rest of this irrigation year, there does not appear to be any relief feasible or action to be taken by the Department of Reclamation further than to assist in getting Hartley and Worthington into court for diversion of the LITTLE ROCK CREEK water decreed to Withers. Withers understands the whole situation now, I think, and did not suggest nor ask for anything else. However, both of the suggested court actions should be initiated immediately so they can be under way at the September term in Valley County. Otherwise, they will go over to next June, too late for relief in 1933.

After these two matters are decided, a watermaster may be desirable, depending upon the relations of the parties afterward.

It was Withers' opinion that the Cascade municipal waterworks, which has a reservoir at the head of ROCK CREEK, might be taking water to fill their reservoir, which would account for the low flow of the creek. This reservoir could be filled either before or after the beginning of the irrigation season. It should be filled before, if possible, so a watermaster could adjust this matter as well as regulate the diversions from the two streams. Both parties were agreed upon a suitable man, one PHOS SMITH of Cascade, but inquired as to the cost. There is nothing to be gained by putting a watermaster in charge for the rest of this year.

G. W. Carter

Boise-Idaho
July 15, 1932



No Trans
6-24-59 RJ

Title May R. and D.K. Allen
vs
Case W.N. and Maud Withers

Source Rock Cr. trib Willow Creek Page
Water Dist. 7th 20K County Valley
Judicial Dist. 7th Judge A.D. Smith
Date of Decree 10-10-30 Recorded 2041
in Book No. 20K5 at Page No. 20K5 File No. 20K5

REMARKS, LAND TO BE IRRIGATED, ETC.

NAME	AMOUNT INCHES OF CUTTING	PRIORITY	SUBDIV.	SEC.	TWP.	RG.
<u>May R. & D.K. Allen</u>	<u>160</u>	<u>6-1-94</u>				
<u>W.N. and Maud Withers</u>	<u>30</u>	<u>6-1-98</u>				
<u>Little</u>	<u>80</u>	<u>6-1-98</u>				

SW 1/4 NW 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000

DECREE INDEX

3

#1 POD closed - NW SW, S. 3 ~~NO LONGER USED~~ *
204 N-15 to 10-31

Rock Cr.

15th of May - 11/30 Stockwater

Aug. 3/15th to 11/30 this year

~~Un. Stream~~

→ Oct 16th to 11/30 late season Aug.

→ 3/15 to Apr 15th

~~Stock~~

New claim - 12 acres Same POD

on both Rock Cr - stockwater.

Little → Un. Stream - stockwater + shoulder season.
Rock

Bruce amend Rock Cr. app. - Bruce you
do App.

Figure POD.

1- Late claim - Rock Creek + Little
Rock Creek

Stockwater - 15th of May - 11/30

2- Stockwater + shoulder season
Oct 16th to 11/30 late season Aug.
3/15 to 4/15

SRBA

PARTIAL DECREE 65-03111X

Issued on 10-31-2000.

This is not an official copy.

Contact IDWR or the Court for a Certified Copy.

Choose Landscape Orientation when printing.

NAME AND ADDRESS:	E K ALLEN RANCHES INC 11217 HWY 55 CASCADE, ID 83611		
SOURCE:	UNNAMED STREAM TRIBUTARY: CASCADE RESERVOIR		
QUANTITY:	2.70 CFS THIS RIGHT SHALL PROVIDE NO MORE THAN .02 CFS PER ACRE WHEN MEASURED AT FIELD HEADGATE.		
PRIORITY DATE:	06/01/1894		
POINT OF DIVERSION:	T13N R03E S03 NWSE Within Valley County		
PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
	Irrigation	04-15 TO 10-15	2.70 CFS
PLACE OF USE:	Irrigation	Within Valley County	
	T13N R03E S03 LOT 8	(NENE)23.0 LOT 7	(NWNE)21.0
		SWNE 8.0	SENE 31.0
	83.0 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. I.C. SECTION 42-1412(6).		

[Return to SRBA Home Page](#)

Twp	Rge	Sec	NE				NW				SW				SE				Totals
			<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	
1	1	1																	
1	1	2																	
1	1	3																	
1	1	4																	
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1	1	33																	
1	1	34																	

IDAHO DEPARTMENT OF WATER RESOURCES

Water Application Report 65-23451

		NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
13N 03E	3	23.0	21.0	8.0	31.0													83.0
		L 8	L 7															

Total Acres: 83

Conditions of Approval:

Remarks:

Comments:

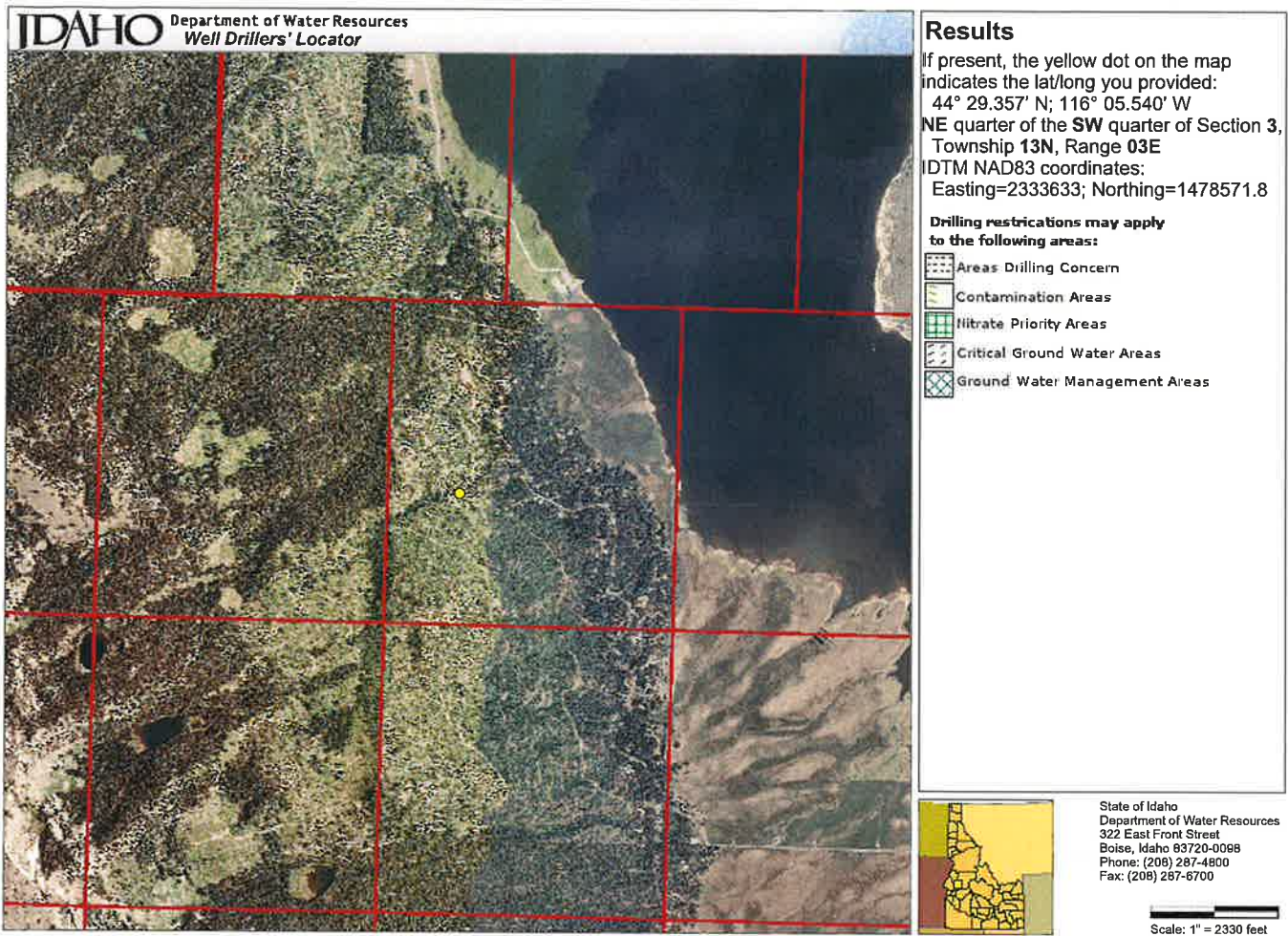
1. slester 6/24/2011 Legal Notice Remarks

Comment: Source aka Rock Creek & Richard Creek. Same system & same owner as Transfer 77121 (65-3111X, regular irrigation season). Proposes historical uses not covered by 65-3111X. No physical changes proposed.

2. slester 6/24/2011 Comment/Analysis

Comment: Process & evaluate with Transfer 77121 for same system, 65-3111X. Also see Transfer 77209, 65-3111A, homeowners association. Both transfers & permit applications filed to help resolve complaints.

Water Supply Bank:



Created: Tuesday, January 17, 2012 – Persons using information from this site for official purposes, or other purposes, for which accuracy and completeness are required, are hereby notified that they should first verify the information with the public records or other primary sources from which the information was obtained.

Sent Allen
 to 3.5-12 Boxes
 on 1/17/12
 1 copy

Little Rock OK
 cannot be called
 a creek & have
 a pt of diversion
 from Fork Creek.
 There should
 only be Fork OK.
 No instream stock

IDAHO DEPARTMENT OF WATER RESOURCES

Water Application Report 65-23451

WATER RIGHT NUMBER: 65-23451

Owner Type

Name and Address

Attorney

MOORE SMITH BUXTON & TURCKE CHTD
C/O BRUCE M SMITH
950 W BANNOCK, STE 520
BOISE, ID 83702
(208)331-1800

Current Owner

ALLEN RANCH LLLP
2624 S INGLENOOK PL
MERIDIAN, ID 83642
(208)388-4535

Priority Date: 04/18/2011

Basis:

Status: Active

Source

Tributary

UNNAMED STREAM

NORTH FORK PAYETTE RIVER

Beneficial Use

From _____ To _____

Diversion Rate

Annual Volume

STOCKWATER

01/01 to 12/31

0.140 CFS

IRRIGATION

10/16 to 12/01

2.700 CFS

IRRIGATION

04/01 to 04/14

2.700 CFS

Total Diversion: 2.700 CFS

Location of Point(s) of Diversion

UNNAMED STREAM

NW1/4SW1/4

Sec. 3, Twp 13N, Rge 03E, B.M.

VALLEY County

UNNAMED STREAM

SE1/4NE1/4

Sec. 3, Twp 13N, Rge 03E, B.M.

VALLEY County

Place of Use

STOCKWATER

[illegible]

IRRIGATION

[illegible]

IDAHO DEPARTMENT OF WATER RESOURCES

Water Application Report 65-23451

			<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	<u>NE</u>	<u>NW</u>	<u>SW</u>	<u>SE</u>	<u>Totals</u>
13N 03E	3		23.0	21.0	8.0	31.0													83.0
			L 8	L 7															

Total Acres: 83

Conditions of Approval:Remarks:Comments:

1. slester 6/24/2011 Legal Notice Remarks
Comment: Source aka Rock Creek & Richard Creek. Same system & same owner as Transfer 77121 (65-3111X, regular irrigation season). Proposes historical uses not covered by 65-3111X. No physical changes proposed.
2. slester 6/24/2011 Comment/Analysis
Comment: Process & evaluate with Transfer 77121 for same system, 65-3111X. Also see Transfer 77209, 65-3111A, homeowners association. Both transfers & permit applications filed to help resolve complaints.

Water Supply Bank:

IDAHO DEPARTMENT OF WATER RESOURCES

Adjudication Recommendation Report 65-3111X V1

WATER RIGHT NUMBER: 65-3111X V1

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	E K ALLEN RANCH LTD PARTNERSHIP PO BOX 474 CASCADE, ID 83611 (208)382-4122

Priority Date: 06/01/1894

Basis: Decreed

Status: Closed

<u>Source</u>	<u>Tributary</u>
UNNAMED STREAM	NORTH FORK PAYETTE RIVER

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Annual Volume</u>
IRRIGATION	4/15	10/15	2.700 CFS	
	<u>Total Diversion:</u>		2.700 CFS	

Location of Point(s) of Diversion

UNNAMED STREAM	NW1/4SE1/4	Sec. 3, Twp 13N, Rge 03E, B.M.
VALLEY County		

Place of Use

IRRIGATION

Twp	Rge	Sec	NE				NW				SW				SE				Totals
13N	03E	3	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
			23.0	21.0	8.0	31.0													83.0
			L 8	L 7															

Total Acres: 83

Conditions of Approval:

1. SOURCE IS ALSO KNOWN AS RICHARD CREEK.
SOURCE IS ALSO KNOWN AS ROCK CREEK.
2. THIS RIGHT SHALL PROVIDE NO MORE THAN .02 CFS PER ACRE WHEN MEASURED AT FIELD HEADGATE.
3. 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.

Remarks:

IDAHO DEPARTMENT OF WATER RESOURCES
Adjudication Recommendation Report 65-3111X V1

Comments:

1. RHOWERTO 7/19/1999 POINT OF DIVERSION

Comment: FOUND ERROR IN LEGAL DESCRIPTION IN PRBA DECREE. CONFIRMED ERROR WITH PRBA MAPS: MAP "A" T13N, R3E MAP 1961 DHZ-2BB-113 BOTH ABOVE MAPS SHOW P/D IN THE NWSE, NOT AS DECREED. SOURCE DOESN'T FLOW THROUGH DECREED TRACT CONFIRMED BY: 1985 TOPO MAP U10 1987 NAPP PHOTO

2. AJU10-JS 9/24/1999 AJU10 CONDITION UPDATE

Comment: CONDITION CODE(S) C18 ADDED IF NOT ALREADY PART OF RECORD THRU AJU10.

3. jpeppers 9/13/2005 4:23:05 PM Water Right

Comment: This water right record was updated by decree record from old RightID 62646 to new RightID 422349

Water Supply Bank:

MOORE SMITH BUXTON & TURCKE, CHARTERED

ATTORNEYS AT LAW

950 WEST BANNOCK, SUITE 520

BOISE, ID 83702

TELEPHONE: (208) 331-1800 FAX: (208) 331-1202

FACSIMILE COVER SHEET

DATE: March 15, 2011 RECIPIENT'S FAX: 334-2348
TO: Mr. John Westra
IDWR CLIENT: 1752-00
RE: Application for Transfer - Allen Ranch LLP WR# 65-3111X
FROM: Bruce M. Smith/Cathy
NUMBER OF PAGES INCLUDING THIS COVER SHEET: 12

 ORIGINAL WILL NOT BE SENT
 X ORIGINAL WILL BE SENT BY FIRST CLASS MAIL
 ORIGINAL WILL BE SENT BY FEDERAL EXPRESS

ADDITIONAL COMMENTS:

Please find enclosed the application for transfer being filed on behalf of Allen Ranch LLP for water right 65-3111X. The original application is being mailed to you in today's mail. Please call me at 331-1800 if you have any questions. Thank you.

Sincerely,

Cathy Minyard
Legal Assistant to Bruce M. Smith

***** IMPORTANT MESSAGE *****

THE INFORMATION CONTAINED IN THIS FACSIMILE MESSAGE IS ATTORNEY PRIVILEGED AND CONFIDENTIAL INFORMATION INTENDED ONLY FOR THE USE OF THE INDIVIDUAL NAMED ABOVE. IF THE READER OF THIS MESSAGE IS NOT THE INTENDED RECIPIENT, OR THE EMPLOYEE OR AGENT RESPONSIBLE TO DELIVER IT TO THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISSEMINATION, DISTRIBUTION OR COPYING OF THIS COMMUNICATION IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE IMMEDIATELY NOTIFY US BY TELEPHONE, AND RETURN THE ORIGINAL MESSAGE TO US AT THE ABOVE ADDRESS VIA THE U.S. POSTAL SERVICE. THANK YOU.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

Transfer No. _____

APPLICATION FOR TRANSFER OF WATER RIGHT
PART 1Name of Applicant(s) ALLEN RANCH LLP Phone _____Mailing address 3146 CENTENNIAL Ave Email _____

- ☐ If applicant is not an individual and not registered to do business in the State of Idaho, attach documentation identifying officers authorized to sign or act on behalf of the applicant. Label it Attachment #1.
- ☐ Attach water right ownership documentation if Department records do not show the transfer applicant as the current water right owner. Label it Attachment #2a.
- ☐ If the ownership of the water right will change as a result of the proposed transfer to a new place of use, attach documentation showing land and water right ownership at the new place of use. Include documentation for all affected land and owner(s). Label it Attachment #2b.
- ☐ Attach documentation of authority to make the proposed change if the applicant is not the water right owner. Label it Attachment #3.

Provide contact information below if a consultant, attorney, or any other person is representing the applicant in this transfer process.

☐ No RepresentativeName of Representative BRUCE SMITH Phone 331-1800 / 631-3702Mailing address 950 W. BANNOCK ST. STE. 520 BOISE ID 83702 Email bms@msb-law.com

- ☐ Send all correspondence for this application to the representative and not to the applicant.
- OR ☒ Send original correspondence to the applicant and copies to the representative.
- ☐ The representative may submit information for the applicant but is not authorized to sign for the applicant.
- OR ☐ The representative is authorized to sign for the applicant. Attach a Power of Attorney or other documentation providing authority to sign for the applicant and label it Attachment #4.

I hereby assert that no one will be injured by the proposed changes and that the proposed changes do not constitute an enlargement in use of the original right(s). The information contained in this application is true to the best of my knowledge. I understand that any willful misrepresentations made in this application may result in rejection of the application or cancellation of an approval.

Signature of Applicant or Authorized Representative

Bruce Smith
Print Name and Title if applicable3/14/11
Date

Signature of Applicant or Authorized Representative

Print Name and Title if applicable

Date

A. PURPOSE OF TRANSFER

1. ☒ Change point of diversion ☒ Add diversion point(s) ☐ Change place of use
☐ Change nature of use ☐ Change period of use ☐ Other _____
2. Describe your proposal in narrative form, including a detailed description of non-irrigation uses to justify amounts transferred (i.e. number of stock, etc.), and provide additional explanation of any other items on the application. Attach additional pages if necessary and label it Part 1A.2. Correct the historical error in the recorded point of diversion. The recorded point of diversion has not been used for some time. The upper & lower points listed on the next page and shown on the map have historically been used to irrigate the land.

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT
PART 1 Continued

B. DESCRIPTION OF RIGHTS AFTER THE REQUESTED CHANGES. IF THE RIGHTS ARE BEING SPLIT, DESCRIBE PORTIONS TO BE CHANGED AS THEY WOULD APPEAR AFTER THE REQUESTED CHANGES.

1.	Right Number	Amount (cfs/ac-ft)	Nature of Use	Period of Use	Source & Tributary
All or Part ☒ ☐	65-3111X	2.70 cfs	Irrigation	4/15 to 10/15	unnamed stream / North Fork
☐ ☐				to	of Payette River
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	
☐ ☐				to	

Total authorized under rights 2.70 cfs and/or _____ ac-ft

2. Total amount of water proposed to be transferred or changed 2.70 cubic feet per second and/or _____ acre-feet per annum.

3. Point(s) of Diversion:

- ☐ No changes to point(s) of diversion are proposed-the following chart is therefore not completed. (Proceed to #4.)
- ☐ Attach Eastern Snake Plain Aquifer analysis if this transfer proposes to change a point of diversion affecting the ESPA. Label it Attachment #5.

New ?	Lot	¼	¼	¼	Sec	Twp	Rge	County	Source	Local name or tag #
			SE	NE	3	13N	3E	VALLEY	UNNAMED STREAM	LOWER ALLEN
			NW	SW	3	13N	3E	VALLEY	UNNAMED STREAM	UPPER ALLEN

4. Place of use: (If irrigation, identify with number of acres irrigated per ¼ ¼ tract.)

- ☒ No changes to place of use are proposed-the following chart is therefore not completed. (Proceed to #5.)

Twp	Rge	Sec	NE ¼				NW ¼				SW ¼				SE ¼				Acre Totals
			NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	

Total Acres (for irrigation use) _____

STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES

APPLICATION FOR TRANSFER OF WATER RIGHT
PART 1 Continued

5. General Information:

- a. Describe the complete diversion system, including how you will accommodate a measuring device and lockable controlling works should they be required now or in the future: Gravity flow ditches, can install headgates & measuring devices if needed.

Source locally known as Richard Creek & Rock Creek.

- * b. Who owns the property at the point(s) of diversion? USFS

If other than the applicant, describe the arrangement enabling the applicant to access the property for the diversion system:

- c. Are the lands from which you propose to transfer the water right subject to any liens, deeds of trust, mortgages, or contracts? If yes, ☐ Attach a notarized statement from the holder of the lien, deed of trust, mortgage or contract agreeing to the proposed changes on official letterhead signed by an authorized representative. Label it Attachment #6. List the name of the entity and type of lien: N/A

It is the applicant's responsibility to provide notice to lien holder, trustee, mortgagor, or contract holder of the proposed changes that may impact or change the value of the water rights or affected real property. Any misrepresentation of legal encumbrance on this application may result in rejection of the application or cancellation of an approval.

- d. Describe the effect on the land now irrigated if the place or purpose of use is changed pursuant to this transfer: N/A

- e. Describe the use of any other water right(s) for the same purpose or land, or the same diversion system as right(s) proposed to be transferred at both the existing and proposed point(s) of diversion and place(s) use:
None for applicant. Rights 65-3111A & 65-3111F for different owners also list the same recorded point of diversion as this right being corrected.

- f. To your knowledge, has/is any portion of the water right(s) proposed to be changed:

Yes No

- ☐ ☒ undergone a period of five or more consecutive years of non-use,
☐ ☒ currently leased to the Water Supply Bank,
☐ ☒ currently used in a mitigation plan limiting the use of water under the right, or
☐ ☒ currently enrolled in a Federal set-aside program limiting the use of water under the rights?

If yes, describe:

Page 1

02/23/2011

IDAHO DEPARTMENT OF WATER RESOURCES

Water Right Report 65-3111X

WATER RIGHT NUMBER: 65-3111X

Part 2 AOwner TypeName and Address

Current Owner

E K ALLEN RANCH LTD PARTNERSHIP
PO BOX 474
CASCADE, ID 83611
(208)382-4122

Priority Date: 06/01/1894

Basis: Decreed

Status: Active

SourceTributary

UNNAMED STREAM

NORTH FORK PAYETTE RIVER

Beneficial UseFrom ToDiversion RateAnnual Volume

IRRIGATION

4/15 to 10/15

2.700 CFS

Total Diversion:

2.700 CFS

Location of Point(s) of Diversion

UNNAMED STREAM

NW1/4SE1/4

Sec. 3, Twp 13N, Rge 03E, B.M.

VALLEY County

Place of Use

IRRIGATION

Twp	Rge	Sec	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Totals
13N	03E	3	23.0	21.0	8.0	31.0													83.0
			L 8	L 7															

Total Acres: 83

Conditions of Approval:

- SOURCE IS ALSO KNOWN AS RICHARD CREEK.
SOURCE IS ALSO KNOWN AS ROCK CREEK.
- 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.
- THIS RIGHT SHALL PROVIDE NO MORE THAN .02 CFS PER ACRE WHEN MEASURED AT FIELD HEADGATE.

Dates and Other Information:

Decreed Date: 10/31/2000

Water District Number: 65

APPLICATION FOR TRANSFER OF WATER RIGHT
PART 3

☒ Attach a map of the diversion, measurement, control, and distribution system. Label it Attachment #7a.

☐ If the transfer application proposes to change the place or purpose of use of an irrigation right attach a Geographic Information System (GIS) shape file, or an aerial photo or other image clearly delineating the location and extent of existing acres and changes to the place of use. Label it Attachment #7b. If the place of use currently consists of a permissible place of use, then the attachment is not required if the application contains a clear statement that the boundaries for the place of use are not proposed to be changed by the transfer and the total number of irrigated acres within the place of use before and after the transfer is clearly stated.

☐ If you propose to change the nature of use or period of use of all or part of the right(s) listed in this application, attach documentation describing the extent of historic beneficial use of the portion of the right(s) proposed to be changed. Also attach documentation showing that the portion of the right(s) to be changed will not be enlarged in rate, volume, or consumptive use through the proposed change. Label it Attachment #8a.

☐ If you propose to change the place of use of a supplemental irrigation right, answer below and attach supporting documentation. Label it Attachment #8b.

1. Describe how the supplemental water rights have been used historically in conjunction with other water rights at the existing place of use. Describe the time during the irrigation season that the supplemental rights have been used. Include information about the availability or reliability of the primary right(s) being supplemented, both before and after the change. If the applicant is proposing to change a supplemental irrigation right to a primary right, provide the information required on Part 3B above.

Transfer contains _____ pages and _____ attachments.

Received by _____ Date _____ Prelim. Check by _____ Date _____

Fee Paid _____ Date _____ Received by _____ Receipt # _____

Add'l Fee Paid _____ Date _____ Received by _____ Receipt # _____

[Close](#)

IDAHO DEPARTMENT OF WATER RESOURCES
Water Right Report

3/14/2011

WATER RIGHT NO. 65-3111X

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	E K ALLEN RANCH LTD PARTNERSHIP PO BOX 474 CASCADE, ID 83611 (208)382-4122

Priority Date: 06/01/1894

Basis: Decreed

Status: Active

<u>Source</u>	<u>Tributary</u>
UNNAMED STREAM	NORTH FORK PAYETTE RIVER

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION	4/15	10/15	2.7 CFS	
Total Diversion			2.7 CFS	

Location of Point(s) of Diversion:

UNNAMED STREAM	NWSE	Sec. 03	Township 13N	Range 03E	VALLEY County
----------------	------	---------	--------------	-----------	---------------

Place(s) of use:

Place of Use Legal Description: IRRIGATION VALLEY County

<u>Township</u>	<u>Range</u>	<u>Section</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>	<u>Lot</u>	<u>Tract</u>	<u>Acres</u>
13N	03E	3	8	NENE	23	7	NWNE	21		SWNE	8		SENE	31

Total Acres: 83

Conditions of Approval:

1.		THIS RIGHT SHALL PROVIDE NO MORE THAN .02 CFS PER ACRE WHEN MEASURED AT FIELD HEADGATE.
2.	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.
3.		SOURCE IS ALSO KNOWN AS RICHARD CREEK. SOURCE IS ALSO KNOWN AS ROCK CREEK.

Dates:

Licensed Date:

Decreed Date: 10/31/2000

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

Water Supply Bank Enrollment Date Accepted:

Water Supply Bank Enrollment Date Removed:

Application Received Date:

Protest Deadline Date:

Number of Protests: 0

Other Information:

State or Federal: S

Owner Name Connector:

Water District Number: 65

Generic Max Rate per Acre:

Generic Max Volume per Acre:

Civil Case Number:

Old Case Number:

Decree Plaintiff:

Decree Defendant:

Swan Falls Trust or Nontrust:

Swan Falls Dismissed:

DLE Act Number:

Cary Act Number:

Mitigation Plan: False

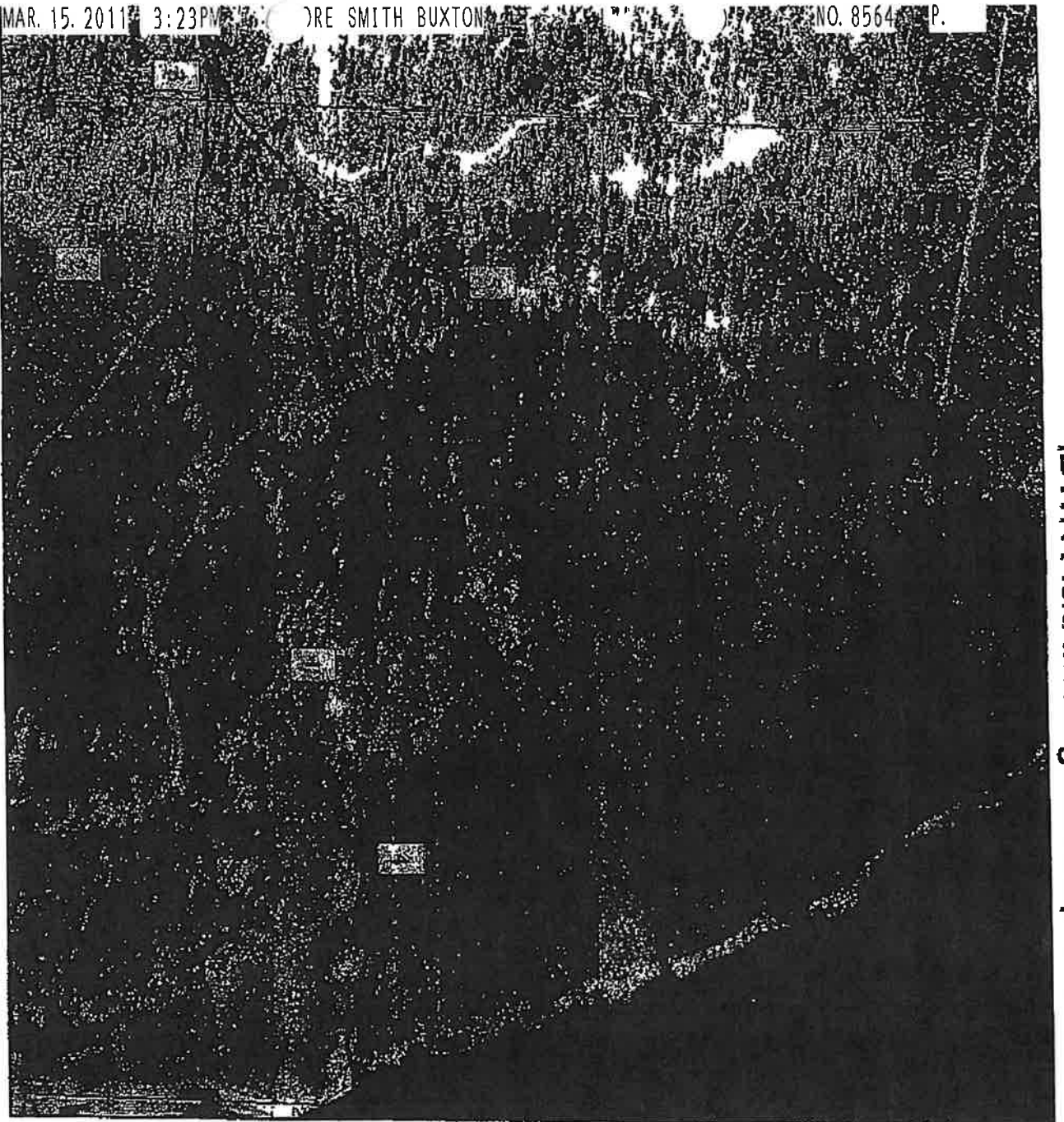
Close

No. L 373		Due no later than Jun 30, 2010 Annual Report Form		2. Registered Agent and Address (NO PO BOX)			
Return to: SECRETARY OF STATE 700 WEST JEFFERSON PO BOX 83720 BOISE, ID 83720-0080 NO FILING FEE IF RECEIVED BY DUE DATE		1. Mailing Address: Correct in this box if needed. ALLEN RANCH, LLLP J.R. ALLEN 3166 CENTENNIAL AVE BOISE ID 83706		J R ALLEN 3166 CENTENNIAL AVE BOISE ID 83706			
				3. New Registered Agent Signature:*			
Office Held	Name	Street or PO Address	City	State	Country	Postal Code	
GENERAL PARTNER	J.R. ALLEN JR ALLEN CATTLE CO INC	3166 CENTENNIAL AVE	BOISE	ID	USA	83706	
5. Organized Under the Laws of: ID L 373		6. Annual Report must be signed.* Signature: J.r. Allen Name (type or print): J.r. Allen Date: 04/26/2010 Title: General Partner					
Processed 04/26/2010		* Electronically provided signatures are accepted as original signatures.					

IDWR Field Investigation Map 11/18/2010

T13N
R3E
Sec 3

MAR. 15. 2011 3:23PM JRE SMITH BUXTON NO. 8564 P.



Legend

- 1 DIVERSION 65-3111A-F-X
- 2 DIVERSION 65-13088
- 3 ALLEN UPPER DIVERSION
- 4 ALLEN LOWER DIVERSION
- 5 PIPE IN DITCH
- 65-3111X POJ
- Township/Range
- Sections
- QQ

#3 & 4 ARE points
used for 65-3111X

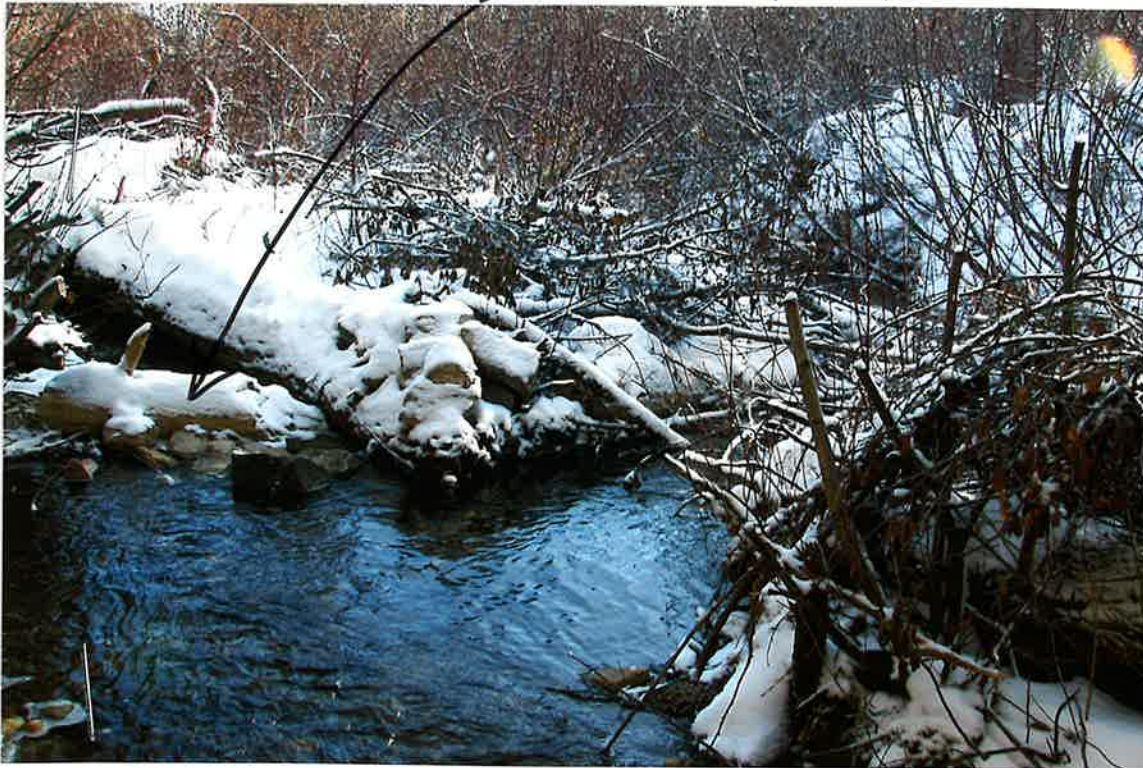
2009 Aerial Photo

DITCH - PICTURES TAKEN IN JAN. 2012



ROCK CREEK
AKA UNN. STRM

BLOCKAGE IN DITCH TO FORCE MORE
WATER DOWN ROCK CK. FOR HOMEOWNERS



(PER JRAUEN)
ALSO JAN. 2012

John Allen

N44° 29' . 3575 seconds

W116° 25' . 540 (seconds)

- Garmin GPS -

Dropout of imp. band.
Indicator of Doucet
Pop

Cell phone - 208-866-4370

John Allen

2300 24th - Reg. Duty
State

March 11th leave

63-3117X 2400

23451 new app.

Rec. as WEST per
PCBA maps

No other direction
shown

Notes of owner -

No problems with

SRBA - Claimed WEST

31228

Old #

APP 39327

Do

1989 - Feb in field
exam on 05-13088
No more horses for
hunted found POP
in the WEST or WEST
S3

PCBA - Located in the
WEST S3.

PCBA Claimed in the WEST
S3 DRAG

Rec. as the WEST S3

Blue line map (where)
it started in the WEST
so now changed to
match the blue line
map

John Richard



AJ's RV Storage

Home of the 14 foot wide spaces!
For your Boats, Trailers, Jet ski's.

John K. Allen
owner

Located at
2428 S. Liberty st.
Boise 83709

phone 861-1578

⑦ J.R. Allen Jim Buntz
1-25-12

App. for Permit following
same as late claims.

FOR APPS.

1- Gary has agreed to call source
via Rock Creek (AKA Richard's
Creek).

2- Allen says he has been
diverting at these pts forever.

#1 - Used + doesn't use #1 any -
more. Subd. doesn't use #1 only
#2.

#3 & 4 - Uses #3 most. #4 few ccs.
#3 ditch has been there a long time.

Hugs. May thru July on hugs.
Shirley by. office + Vicki helping

2 transfers to correct the POD

1 - Allen

2 - Subd. Count their old record

② Both from wrong POD - Subd. &
J.R.

Subd. wants to curtail #3 POD
but they get $\frac{1}{2}$ out of #3 so
they would be curtailed.

Transfer approved - both would
be approved with conditions.
Apps for Permit - if approved
could not grow upon them.

Allen & Withers

105-C $\rightarrow$ 19/30
- dense strata have to have
meas. devices
findings & Conclusions - 5/31 -
Dist. & Use of H₂O for these str.

7-18-1932 - Report of Dore -
Summaries controversy & says
200 page. ~~3/32~~ 7/32 15th

Meas w/ ditches sketched

PTA - 5" - G. Rock

PTB - 27" meas. Big Rock

155" - Allen & 2 1/2" - Subd.

③ Call Bruce on late claims
inv - no go - Payette claim
Stocher - OK w/ Chris - where is the
stock.

1. Ask Chris how 65-c &
findings of fact & Concl.
of Law & Decree?

How does Wicky talk to Bruce Smith
Should we

2. Ask Chris if late claims
are filed & we notify pro-
testants & how does this all
fit in w/ protests.

ARC MAP - DATA FRAME -
GENERAL - UNITS - QMOOSE
UNITS.