

MEMORANDUM

TO: NORM YOUNG

FROM: TIM LUKE

DATE: June 22, 1994

RE: RESEARCH OF WATER DISTRICT 75A RECORDS - BOB BLACKADAR MATTER
AND REQUEST

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I have reviewed water district 75A records from 1980 through 1990 which are on file here at the state office. My research may substantiate Blackadar's claim, that Myrthus Austin owns or is entitled to less water than he has claimed in the SRBA. A water right list provided by us to the watermaster in 1992 also appears to be inconsistent with the records I have reviewed in regard to Austin's rights. In particular, our list showed two rights owned and claimed by Austin but the water district records indicate that Austin only owned one of these rights.

For your purpose, I have attached a copy of the water right list provided to the watermaster in 1992. Blackadar has complained to me that this list is in error concerning Austin's rights. Specifically, I believe he stated that Austin has never owned or used at least one of the two rights which are shown on our list, and/or that Austin is entitled to either much less water than shown on the list or no water at all.

Summary of Records Reviewed:

The water district records from 1987 through 1990 provide the most complete information about water rights and delivery. The better quality of records in this period are due in part to the more active or robust efforts of the watermaster who was elected during this period, and in part because of Eastern Region's intervention and assistance provided during 1987. The 1987 file contains a listing of water rights which was compiled and dated June 16, 1987. This list shows Austin as owning only one water right, 75-0003 for 1.44 cfs. The other water right claimed by Austin, 75-0009, is listed as being owned by the Gilmore and Pittsburgh Railroad (GPR). Along with this list is a map showing the various diversions within the district and the water rights associated with each diversion. Both the map and June 16 water rights list appear to have been prepared by IDWR. The map does show right 75-0003 as being diverted at the Farmer's Ditch. Right 75-0009 is not listed on the map. Both the watermaster report and budget report show Austin as owning right 75-0003. The watermaster report and log books confirm delivery of water to Austin under right 75-0003, and Austin received a bill for this right as well. The budget report lists right 75-0009 as owned by GPR, but GPR did not receive a bill, presumably due to non-use in the prior year. The 1987 log books and watermaster report do not show delivery or use of water under 75-0009.

Also, the 1987 file does contain a second water rights list which was compiled and dated February 12, 1973. It is not clear who prepared this list but again it looks like a Department document. This list shows Austin has owning only right no. 75-0003 for 1.44 cfs. Right 75-0009 is not even showed on this list.

Watermaster reports, water district budget reports and daily log books for years 1988 through 1990 all show right 75-0003 as owned and used by Austin. No direct references are made to right 75-0009, nor are there any deliveries recorded for this right. Deliveries under right 75-0003 range from 0.5 cfs to 1.5 cfs. The right is generally showed as being delivered in May and June, and cut sometime in June or early July.

Water district records from 1980 through 1986 are less complete and are of poorer quality than those for 1987 through 1990. The watermaster and budget reports for these years all identify Austin as a water user. These reports do not identify the water rights owned by the different users within the district. There are no daily log books for these years, other than 1981. The 1981 log books shows daily delivery of 85 inches (1.7 cfs) to Austin.

The 1992 watermaster and budget records indicate that Austin owned both rights 75-0003 and 75-0009. This notation is likely a result of the waer right list compiled by George Austiguy. The daily log books for that year show Austin's name next to right 75-0009 only, with a water right diversion rate of 1.5 cfs. No more than 1.5 cfs is reported as being delivered in that year. The 1993 annual report, budget and daily log books all identify right 75-0003 as being owned by Austin while no reference at all is given to 75-0009. The 1991 documents also refer only to Austin having right 75-0003, while no reference at all is given to 75-0009.

Finally, I have looked at the decreed places of use as recorded in our water rights database. There is some overlap in the place of use between rights 75-0003 and 75-0009. This overlap looks like the only thing connecting Austin's ownership or interest in 75-0009. Copies of the place of use descriptions for 75-0003 and 75-0009 and corresponding SRBA claims are attached.

In addition, I did discuss this matter with the present Jesse Creek watermaster last week when I visited Salmon. The watermaster described Austin's use of water on the Farmer's Ditch as primarily use of wastewater. Austin is at the end of the ditch and there is almost always some waste water for him to divert at that point, even when rights 75-0003 and 75-0009 are not deliverable. Since the Farmer's Ditch is the last diversion on Jesse Creek, I believe the watermaster indicated that most or all of the available natural flow is diverted at that point. Since Austin's right or rights have a late priority date, and because of the available return flow at the end of the ditch, it appears that the watermaster is not deliberately trying to deliver a specific quantity of water to Austin at the head of the Farmer's Ditch.

SD-52
INQUIRY

Idaho Department of Water Resources
Adjudication Places of Use Screen

Date: 06/22/94
Time: 16:33:32

Water Right Number: A75-00003

FIRST PAGE

10.	TWP	RNG	SEC	1/4	1/4	Lot	Acres	Use	Use Desc.	County	County Name
	22N	22E	31	SW	NE			01	IRR	59	LEMHI
	22N	22E	31	SE	NE			01	IRR	59	LEMHI
	22N	22E	31	NE	SE			01	IRR	59	LEMHI
	22N	22E	31	NW	SE			01	IRR	59	LEMHI

(Enter=Exit)

(GOLD4=Prev Screen)
(GOLD5=Next Screen)

(GOLD6=End of Data)
(GOLD8=Cancel)

SD-4109
WR INQUIRY

Idaho Department of Water Resources
Water Rights Places of Use Screen

Date: 06/22/94
Time: 16:21:47

Water Right Number: 75-00009

FIRST PAGE

10.	TWP	RNG	SEC	1/4	1/4	Lot	Acres	Use	Use Desc.	County	County Name
	21N	22E	6	NE	NE	✓ 1		01	IRR	59	LEMHI
	22N	22E	31	SW	NE	- ✓		01	IRR	59	LEMHI
	22N	22E	31	SE	NE	- ✓		01	IRR	59	LEMHI
	22N	22E	31	NE	SE	- ✓		01	IRR	59	LEMHI
	22N	22E	31	SE	SE	- ✓		01	IRR	59	LEMHI
	22N	22E	32	SW	NW	3 ✓		01	IRR	59	LEMHI
	22N	22E	32	SE	NW	3 ✓		01	IRR	59	LEMHI
	22N	22E	32	NW	SW	6 ✓		01	IRR	59	LEMHI
	22N	22E	32	SW	SW	8 ✓		01	IRR	59	LEMHI

(Enter=Exit)

(GOLD4=Prev Screen)
(GOLD5=Next Screen)

(GOLD6=End of Data)
(GOLD8=Cancel)

Water Right Number - 75-00009

Prefix Translation: WATER RIGHT


Old (D) Number -

+ - - - - Last Name - - - - + + - First Name - - - +

1029 Hwy 93 N, Salmon, ID 83467
Address

*** C - CURRENT OWNER ***

GILMORE & PITTSBURG RAILROAD CO. LTD.

()
(Silver Peak Ranch)

1 -
2 -
3 -
City-
Phone - 208-000-0000

State- ID Zip-

+ - - Priority Date - - +
04/01/1894

+ - - - Region - - - +
15 EASTERN

+ - - - Stage - - - +
D - DECREED

+ - - - Status - - - +

+ - - - - Source - - - - +
JESSE CREEK

+ - - - - Tributary - - - - +
SALMON RIVER

+ - - - - Point of Diversion - - - - +
Twn Rng Sec Tract Lot RFlg County Diversion Name Diversion Rate Diversion No.

+ - - - - Water Use - - - - +
Code Description Period From Period To Diversion Rate Diversion Volume
01 - IRRIGATION 1.500

+ - Total Div. Rate - + + - Total Div. Volume - + + - Total Div. Capacity - +
1.500

+ - - - - Place of Use - - - - +									
Twn	Rng	Sec	Tract	Lot	Acres	Code	Description	County	
21N	22E	6	NE NE	1		01	IRRIGATION	59	LEMHI
22N	22E	31	SW NE			01	IRRIGATION	59	LEMHI
22N	22E	31	SE NE			01	IRRIGATION	59	LEMHI
22N	22E	31	NE SE			01	IRRIGATION	59	LEMHI
22N	22E	31	SE SE			01	IRRIGATION	59	LEMHI
22N	22E	32	SW NW	3		01	IRRIGATION	59	LEMHI
22N	22E	32	SE NW	3		01	IRRIGATION	59	LEMHI
22N	22E	32	NW SW	6		01	IRRIGATION	59	LEMHI
22N	22E	32	SW SW	8		01	IRRIGATION	59	LEMHI

+ - - Diversion Means -

+ - - Non-Irrigation Use -

+ - - Other Rights for Same Use - RT. 75-0016.

+ - - - - Remarks - - - - +
No Remarks found.

+ - - - - Old Water Right Numbers - - - - +
No Old Water Right Numbers found.

Water right number - 75-00009

Prefix Translation: WATER RIGHT

+ - - - - Conditions of Approval - - - - -
No Conditions of Approval found.

+ - - - - Decree Plaintiff - - - +
MILLER

+ - - - - Decree Defendant - - - +
LONG.

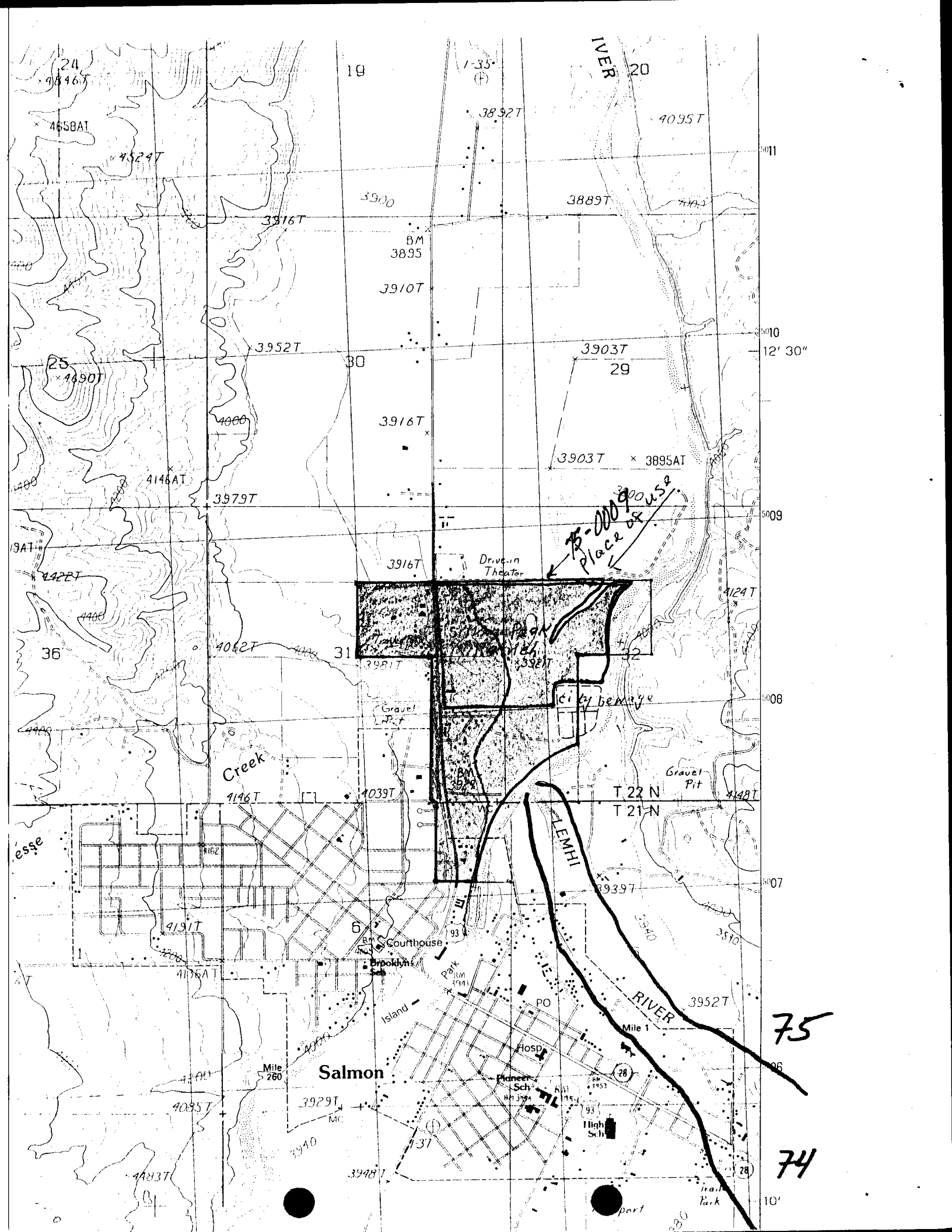
+ - Decree Date - +
06/19/1925

+ - - - - Comments - - - - -
No Comments Found

+ - - Audit Fields - 07/23/85 05/23/88 CONVERT 06/29/89 CURTIS

+ - - - - Water Rights Dates and Flags Area - - - - -

Proof Due Date - 00/00/0000	Field Exam Made - 00/00/0000	Field Exam Fee -
Approved/Denied - 00/00/0000	Protested Date - 00/00/0000	Swan Falls -
Proof Made Date - 00/00/0000	Hearing Date - 00/00/0000	Temporary Right - P
Exam to S.O. Date - 00/00/0000	Verified Date - 07/23/1985	DLE/Carey Act -
Order Show Cause - 00/00/0000	Receipt Number -	Water District - 75A
Licensed Date - 00/00/0000	Appl Received - 00/00/0000	Transfer/Amended -
Decree Date - 06/19/1925	Name Connector -	POU Ownership Flag -
Presumption Flag -		



19

20

24

4658AT

4529T

1-35 (F)

3892T

4095T

3900

3889T

4103

3916T

BM 3895

3910T

3952T

30

3916T

3903T

29

3903T

3895AT

4146AT

3979T

3916T

Drive-in Theater

75-000 900 US² Place of

36

4422T

4400

4400

Creek

4146T

31

Gravel Pit

city bench

Gravel Pit

T 22 N

T 21 N

esse

4162

4191T

4176AT

Courthouse

Brooklyn Sch

Island

Point

PO

Pioneer Sch

Hosp

High Sch

RIVER

Mile 1

3952T

4085T

3929T

3910

3948T

4483T

75

74

10'

Water Right Number - 75-04471

Adj. Flag Translation: Standard Water Right Number

Old (D) Number -

Last Name - - - - -

First Name - - -

1029 Hwy 93 N, Salmon, Id. 83467

*** C - CURRENT OWNER ***
AUSTIN

JOHN

1 - 1035 N. HWY 93

2 -

3 -

City- SALMON

Phone - 756-3368

State- ID Zip- 83467

(Silver Peak Ranch

Priority Date - - - +
04/01/1941

Region - - - +
15

Stage - - - +

Status - - - - +

S - STATUTORY CLAIM

Source - - - - - +
JESSEE CREEK

Tributary - - - - - +
SALMON RIVER

Point of Diversion - - - - - +
Twn Rng Sec Tract Lot RFlg County Stream Index (Blank if no Index Code)

21N 22E 1 SW NW (59) LEMHI

Water Use - - - - - +
Code Description Period From Period To Diversion Rate Diversion Volume
01 - IRRIGATION 04/01 11/01 2.500

Total Div. Rate - + + - Total Div. Volume - + + - Total Div. Capacity - + + - Total Consumptive Use - + + - KW Usage - +
2.500

Place of Use - - - - - +
Twn Rng Sec Tract Lot Acres Code Description County
22N 22E 31 SE NE 40.0 01 IRRIGATION (59) LEMHI
22N 22E 31 NE SE 40.0 01 IRRIGATION (59) LEMHI

Total Acres: 80.0

Diversion Means - HEADGATE & DITCH

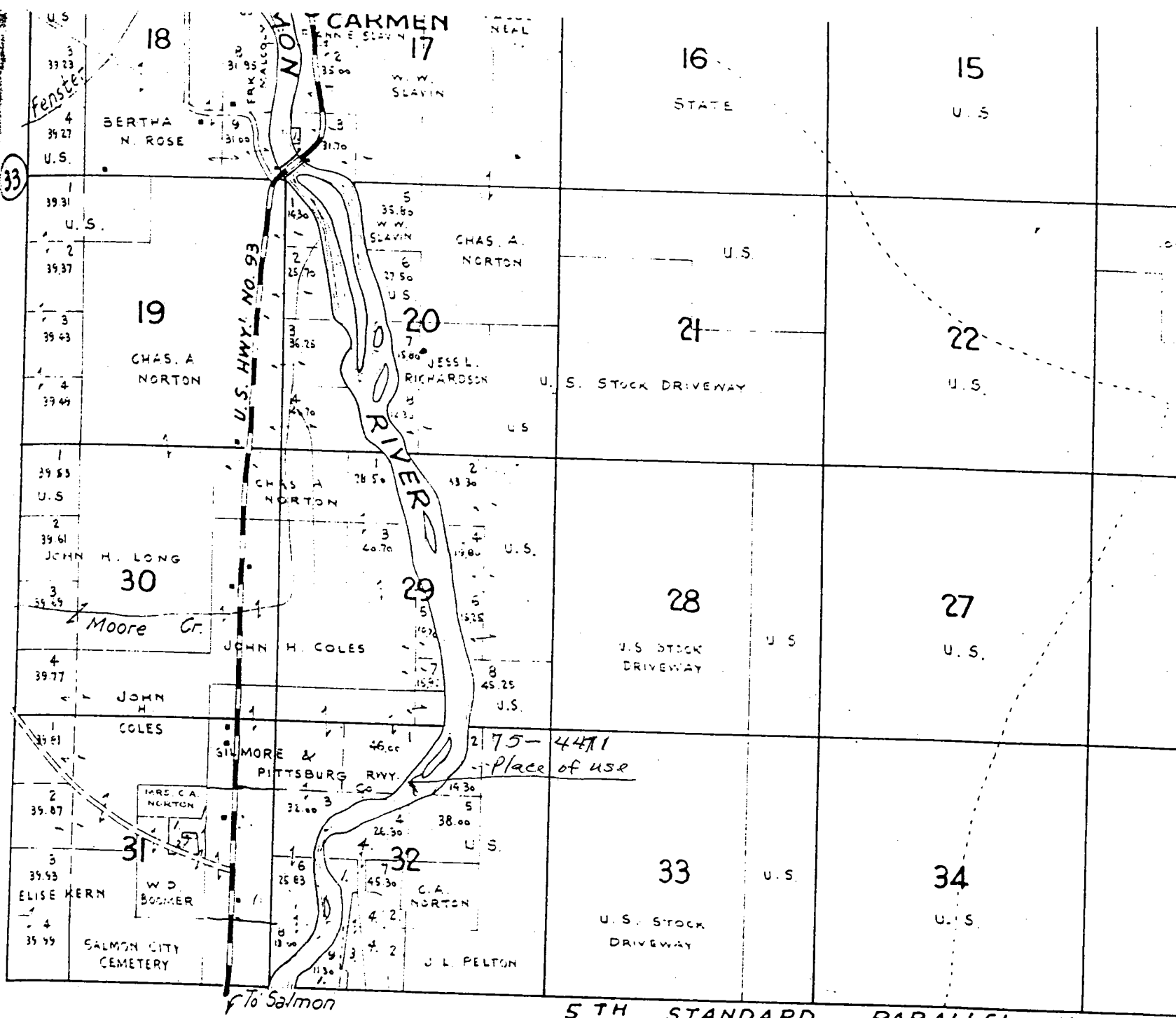
Non-Irrigation Use -

Other Rights for Same Use -

Remarks - - - - - +
No Remarks found.

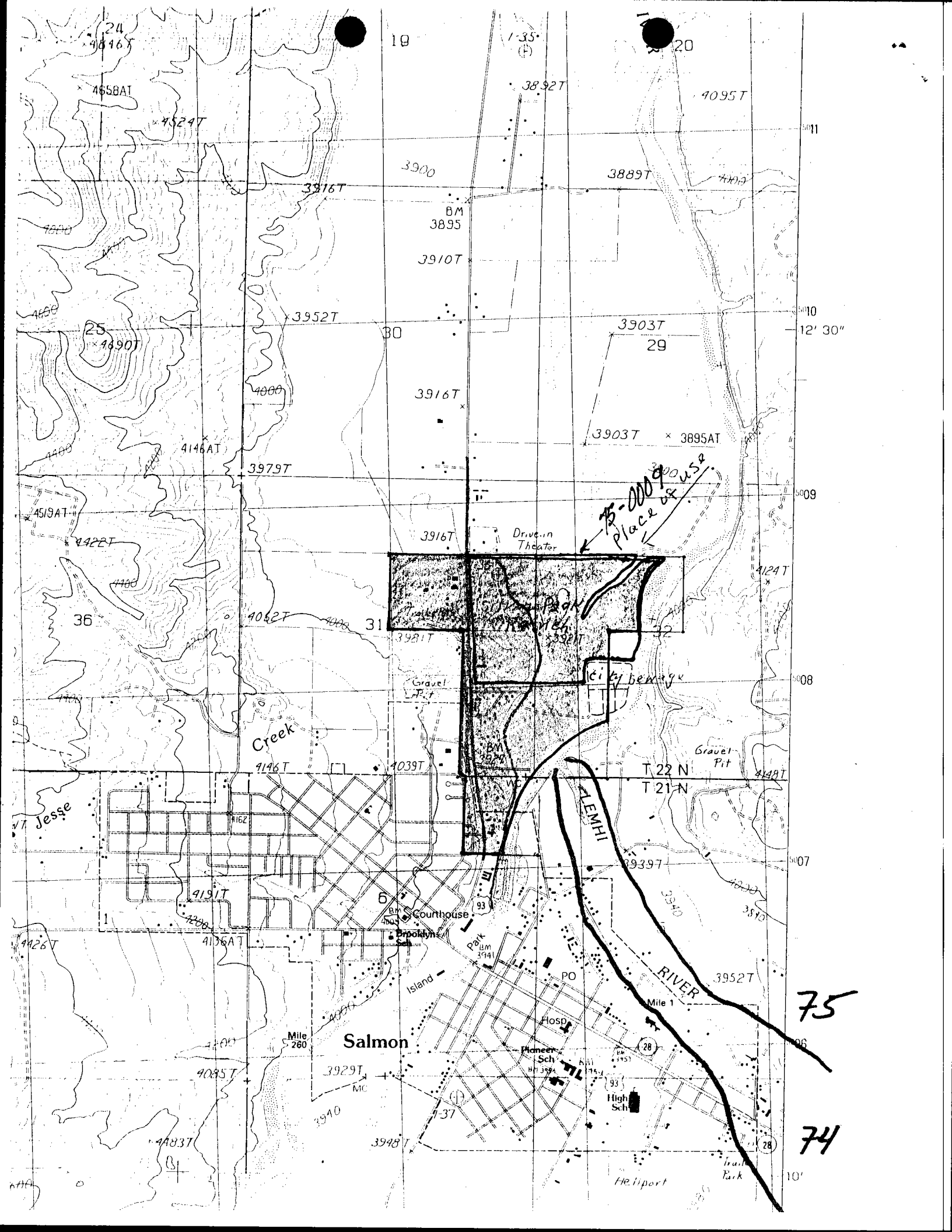
Conditions of Approval - - - - - +
No Conditions of Approval found.

Decree Plaintiff - - - - + Decree Defendant - - - - + Decree Date - +
00/00/0000



33

44



IDAHO DEPARTMENT OF WATER RESOURCES
ADJUDICATION CLAIM PROFILE REPORT

AJ5809NP
No. A75-10475

OWNER NAME & ADDRESS
C MYRTHUS AUSTIN
C JOHN W. AUSTIN
1029 HWY 93 NORTH
SALMON ID 83467
(208) 756-3368

PRIORITY DATE: 04/07/1894 IRRIGATION

WATER USE

USE PERIOD FROM TO: 04-01 11-01

DIVERSION RATE: 1.94 CFS

DIVERSION VOLUME: 335.00 AFA

Water Source: JESSE CREEK
Tributary to: SALMON RIVER
Stage: DECREED

Point(s) of Diversion: T21N R22E S01
T22N R22E S31

Place of use Legal Description for: IRRIGATION

T R S	NE			NW			SW			SE			SUM				
	Lt	Ac	Ac	Lt	Ac	Ac	Lt	Ac	Ac	Lt	Ac	Ac		Lt	Ac	Lt	Ac
22N 22E 31	04																54.0
22N 22E 32																	80.0
																	134.0

POU County: LEMHI

Other Rights: NONE

Other Water Rights Listing Overlapping Place(s) of use:
A75-00003 A75-00009 A75-00016 A75-04207 A75-04424 A75-04468

Remarks: THIS CLAIM IS FOR COMBINED DECREED RTS. 75-0009 AND 0003 IN TOTAL. CLAIMANTS LAND IS VERY ROCKY AND REQUIRES ABOUT 4 INCHES PER ACRE TO IRRIGATE ADEQUATELY. THIS IS A HIGH WATER RIGHT AND IS USUALLY AVAILABLE ONLY FOR A SHORT PERIOD OF THE IRRIGATION SEASON.

Dates: Exam Made Date: Verified Date:

Misc: Water District Number: 75A Field Inspection Flag: Presumption Flag:

Audit: 05/03/90 MOBILE4 10/22/91 CARLSEN

TITLE
OF
CASE

George G. Miller Plaintiff SOURCE Jesse Creek (Second Decree) PAGE 2
 v.s. WATER DIST. 75-A COUNTY Lemhi
 Ernest Long et al Defendants JUDICIAL DIST. 6 JUDGE George W. Edgington
 DATE OF DECREE June 19, 1925 RECORDED IN BOOK NO. AT PAGE NO. FILE NO.

PN.	DN.	DECREED OWNER	NAME	PRESENT OWNER	AMT INCHES SEC. FT.	PRIORITY	DIVERSION				REMARKS, LAND TO BE IRRIGATED, ETC.	C.T.
							SUBDIV.	SEC.	TWP.	RG.		
75-0009		Gilmore & Pittsburg R.R. Co.			75	4-1-1894	Jesse	Creek			SE $\frac{1}{4}$ SE $\frac{1}{4}$, Parts of NE $\frac{1}{4}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$ - Sec. 31, T22N, R22E; Lots 3, 6, 8 - Sec. 32, T22N, R22E; Part Lot 1 - Sec. 6, T21N, R22E	
		(Myrthus Austin)			75							
75-0010		Anthony Nichols			80	9-14-1914	Jesse	Creek			S $\frac{1}{2}$ SW $\frac{1}{4}$ - Sec. 11, T21N, R21E	
75-0011		Frank Avare			56	9-14-1914	Jesse	Creek			E $\frac{1}{2}$ NE $\frac{1}{4}$ - Sec. 11, T21N, R21E	
75-0012		E. B. Randolph			80	9-14-1914	Jesse	Creek			SW $\frac{1}{4}$ - Sec. 12, T21N, R21E	
75-0013		George G. Miller			30	9-15-1914	Jesse	Creek			W $\frac{1}{2}$ SW $\frac{1}{4}$ - Sec. 31, T22N, R22E	