

No Color  
Documents  
In File

Lemhi Adjudication - Basin 74  
List of Documents Determining Water Rights

1. Partial Decree, 12-30-82. Incorporates proposed finding and items 2, 4, and 39 below.
2. Order Correcting Clerical Oversights in Proposed Finding of Water Rights, 11-16-82, plus exhibit.
3. Order (adding explanatory note to 74-0840), 5-24-82, plus exhibit.
4. Report of Special Master Regarding Specific Objections, 4-7-82. Incorporates items 6 to 11 and 14 to 38 below.
5. Order Adopting Report of Special Master, 9-16-82.
6. Minute Entry (withdrawing Nilson and Stephenson Supplemental), 10-21-81.
7. Stipulation (Ellsworth), plus exhibit.
8. Supplemental Stipulation (Ellsworth), plus exhibit.
9. Stipulation (Coleman), plus exhibit.
10. Stipulation (Swalen), plus exhibit.
11. Stipulation (Peterson), plus exhibit.
12. Rule 54(b) Judgment (partial decree regarding 74-0249), 03-12-81.
13. Findings of Fact and Conclusions of Law (for item 11), 1-16-81.
14. Stipulation (Arave & Hemming), plus exhibit.
15. Stipulation (Chapman), plus exhibit.
16. Stipulation (Powers), plus exhibit.
17. Stipulation (Sims Ranch), plus exhibit.
18. Stipulation (Mahaffey Additional), plus exhibit.
19. Stipulation (#2 of Adams, Jones, Pyeatt & Pine Creek Ranch), plus exhibit.
20. Stipulation (Stoddard re 74-0250), plus exhibit.
21. Stipulation (Fisher).
22. Stipulation (Phipps), plus exhibit.
23. Stipulation (Stoddard), plus exhibit.
24. Stipulation (Blackadar & Rohlf).
25. Stipulation (Udy), plus exhibit.
26. Stipulation (Birch), plus exhibit.
27. Stipulation (Shoup), plus exhibit.
28. Stipulation (Jolley), plus exhibit.
29. Stipulation (Clark), plus exhibit.
30. Stipulation (Ellsworth Land & Cattle), plus exhibit.
31. Stipulation (Mulkey), plus exhibit.
32. Stipulation (Thomas), plus exhibit.
33. Stipulation (Salyer), plus exhibit.
34. Stipulation (Noyes).
35. Stipulation (Moulton).
36. Stipulation (Beyeler).
37. Stipulation (Tobias), plus exhibit.
38. Minute Entry (dismissing Ogden), 6-22-79.
39. Stipulation Resolving General Objections, 2-12-82.
40. Rule 54(b) Judgment (partial decree re Geertson Creek), 2-11-82. Incorporates item 41.
41. Stipulation (Geertson Creek), plus exhibit.
42. Memorandum Decision (Geertson Creek), 12-14-81.
43. Olson v. IDWR, 105 Idaho 98, 666 P.2d 188 (1983). Reversed and remanded item 40.

JUL 30 1996

RECEIVED

COPY

APR 7 1985

Department of Water Resources  
Western Regional Office

Filed in District Court Lemhi County

Idaho, Jan 7 19 83  
at 2 minutes past 5 o'clock P.M.

Albert W. Widgren Clerk  
By: Peter L. Laughlin Deputy  
State of Idaho

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

IN THE MATTER OF THE GENERAL )  
DETERMINATION OF THE RIGHT TO )  
THE USE OF SURFACE WATERS AND )  
TRIBUTARIES FROM WHATEVER )  
SOURCE OF THE LEMHI RIVER )  
DRAINAGE BASIN. )

CIVIL NO. 4948

PARTIAL DECREE PURSUANT  
TO RULE 54(b), I.R.C.P.

The report of the Idaho Department of Water Resources ("Water Resources" herein) entitled PROPOSED FINDING OF WATER RIGHTS IN THE LEMHI RIVER BASIN was filed with this court on July 9, 1974. The report contains FINDINGS OF FACT, CONCLUSIONS OF LAW, and a LISTING OF WATER RIGHTS.

As a result of objections filed to the PROPOSED FINDINGS, changes were made to the Findings of Fact, Conclusions of Law, and the Listing of Water Rights. These amendments, additions, and deletions to the PROPOSED FINDINGS are set forth in two documents already on file with the court: (1) the "Special Master's Report on Specific Objections," filed April 7, 1982 and adopted by order on September 16, 1982; and (2) the "Stipulation Resolving General Objections" filed February 12, 1982. A third document, "Order Correcting Clerical Oversights in Proposed Finding of Water Rights," filed November 16, 1982, corrects typographical errors in the PROPOSED FINDINGS. Finally, permits listed in the PROPOSED FINDINGS which have become licensed on or before the date of this partial decree will be decreed in their licensed form.

This partial decree does not include any of the rights on Geertson Creek and its tributaries because they were already the subject of a partial decree which is on appeal to the Idaho Supreme Court. The rights of the United States Department of Agriculture, Forest Service, are also not included because they

JUL 30 1986

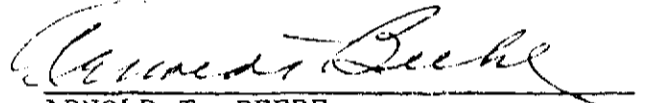
have yet to be resubmitted following the decision of U.S. v. New Mexico.

IT IS HEREBY ORDERED, ADJUDGED and DECREED that the water rights of the Lemhi River Basin with the exceptions noted above are as described in the PROPOSED FINDING OF WATER RIGHTS IN THE LEMHI RIVER BASIN, as amended by:

1. Special Master's Report on Specific Objections;
2. Stipulation Resolving General Objections;
3. Order Correcting Clerical Oversights in Proposed Finding of Water Rights; and
4. Licenses issued on or before the date of this partial decree for permits listed in the PROPOSED FINDINGS;

all of which are incorporated herein by reference.

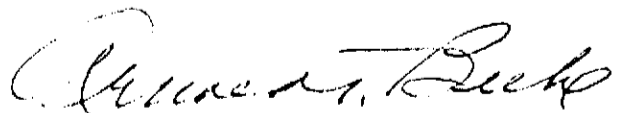
DATED this 30<sup>th</sup> day of December, 1982.

  
ARNOLD T. BEEBE  
District Judge

Rule 54(b) Certificate

With respect to the issues determined by the above judgment it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a final decree and that the court has and does hereby direct that the above partial decree shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.

DATED this 30<sup>th</sup> day of December, 1982.

  
ARNOLD T. BEEBE  
District Judge

STATE OF IDAHO )  
COUNTY OF LEMHI ) ss NO. 175352

This instrument was filed for record at the request of  
Dept. of Water Resources  
at 11:10 A.M. April 3, 1985  
and duly filed and indexed in the file of  
JUDGMENTS Records of Lemhi County,  
Idaho.

Alberta Wiederrick  
Ex-Officio Recorder  
Pauline Drown JUL 30 1985  
None

PARTIAL DECREE, Page 2

Return to: Josephine Beeman,  
Deputy Attorney General  
Dept. of Water Resources  
Statehouse  
Boise, Idaho 83720

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

Case No. 4948

IN THE MATTER OF THE GENERAL DETERMINATION OF THE RIGHT TO THE USE OF SURFACE WATERS AND TRIBUTARIES FROM WHATEVER SOURCE OF THE LEMHI RIVER DRAINAGE BASIN

Plaintiff,

NOTICE

Defendant.

I hereby certify that, pursuant to Rule 77(d), I. R. C. P., Notice is hereby given to the following that Documented as:

Order dated

Judgment dated December 30, 1982

was filed of record in the District Court of the Seventh Judicial District, Lemhi County, Idaho, this 4th day January, 1983, to: enter PARTIAL DECREE PURSUANT TO RULE 54(b).

Copies to:

State of Idaho  
State House Room 210  
Boise Idaho 83720  
Telephone (208) 384-2400

- 13 George C. Peterson, Jr.  
485 "E" Street  
Idaho Falls, ID 83401
- 14 Kent W. Foster  
P.O. Box 129  
Idaho Falls, ID 83401
- 15 Honorable H. Reynold George  
585 N. Capital Avenue  
Idaho Falls, ID 83401
- 16 Honorable Milton A. Slavin  
P.O. Box 1103  
Salmon, ID 83467
- 17 James C. Herndon  
P.O. Box 789  
Salmon, ID 83467
- 18 Jack G. Voshell  
598 N. Capital Avenue  
Idaho Falls, ID 83401
- 19 Ray W. Rigby  
P.O. Box 250  
Rexburg, ID 83440
- 20 Sherman F. Furey, Jr.  
P.O. Box 1127  
Salmon, ID 83467

- Guy G. Hurlbutt  
U.S. Attorney  
Warren Derbidge  
Assistant U.S. Attorney  
Box 037, FBUSCH  
550 West Fort  
Boise, ID 83724
- John E. Lindsfold  
Trial Attorney  
U.S. Department of Justice  
Land and Natural Resources Div.  
1961 Stout Street, Drawer 3607  
Denver, Colorado 80294
- Dean A. Gardner, Esq.  
Office of General Counsel  
U.S. Dept. of Agriculture  
Room 205, Forest Service Building  
507 25th Street  
Ogden, Utah 84401
- Fred Snook  
P.O. Box 1227  
Salmon, ID 83467

Alberta Wiederrick, Clerk of District Court  
by *Deborah J. Laughlin* Deputy

RECORDED

JUL 20 1986

MOTION FOR PARTIAL DECREE;

NOV 19 1982

Department of Water Resources

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

IN THE MATTER OF THE GENERAL	)	
DETERMINATION OF THE RIGHT TO	)	CIVIL NO. 4948
THE USE OF SURFACE WATERS AND	)	
TRIBUTARIES FROM WHATEVER	)	ORDER CORRECTING CLERICAL
SOURCE OF THE LEMHI RIVER	)	OVERSIGHTS IN PROPOSED
DRAINAGE BASIN.	)	FINDING OF WATER RIGHTS
	)	

The motion of the Department of Water Resources for an order correcting certain clerical oversights in the proposed finding of water rights having come before the Court for hearing, and the Court being fully advised in the premises,

IT IS HEREBY ORDERED that the proposed finding of water rights be amended in conformance with Exhibit A which is attached hereto and incorporated herein by reference.

DATED this 16<sup>th</sup> day of November, 1982.

Arnold T. Beebe  
ARNOLD T. BEEBE  
District Judge

Filed in District Court Lemhi County  
Idaho, November 16 1982  
at 15 minutes past 1 o'clock P. M.  
Charles W. Wick Clerk  
By Beverly D. Lough Deputy

JUL 30 1986

IDENT. NO.	NAME AND ADDRESS	PRIORITY	PURPOSE	PERIOD OF USE		MAXIMUM RATE OF DIVERSION (cfs)	POINT OF DIVERSION	PLACE OF USE and LANDS IRRIGATED	BASIS OF RIGHT and REMARKS
				From	To				
74-0243A	JONES, Ivan L. and/or Doris Box 28 Tendoy, Idaho	5-26-1873	Irrigation	4/1	11/1	0.90	SW1/4NW1/4, S.27 T19N, R24E	Sec. 29 SE1/4NE1/4, NE1/4SE1/4, NW1/4SE1/4, T19N, R24E	Decree 33.0 37.5 1.5 <u>72.0</u>
74-0243B	ADAMS, Ralston W. and/or Rachel Box 52 Tendoy, Idaho	5-26-1873	Irrigation	4/1	11/1	0.90	Sec. 28 NW1/4NE1/4 SE1/4NE1/4 T19N, R24E	Sec. 21 Lot 7, SE1/4SW1/4, Sec. 28 NE1/4NW1/4, Hot 7 Lot 1 T19N, R24E	Decree 18.7 2.3 28.6 26.3 <u>75.9</u>
74-0247	STODDARD, James F. and/or Jean L. Route 1 Salmon, Idaho	5-26-1873	Irrigation	4/1	11/1	1.20	NW1/4NE1/4, S.28 T19N, R24E	Sec. 20 NE1/4NE1/4, SE1/4NE1/4, NE1/4SE1/4, NW1/4SE1/4, T19N, R24E	Decree 6.2 25.4 32.6 0.3 <u>64.5</u>
74-1570	HERPST, William H. and/or Lois C. Box 51 Tendoy, Idaho	4-01-1895	Irrigation	4/1	11/1	0.10	NW1/4SW1/4, S.25 T19N, R24E	Sec. 25 SW1/4NW1/4, NW1/4SW1/4, T19N, R24E	Beneficial Use (Cow Creek) 3.0 1.6 <u>4.6</u>
74-1571	HERPST, William H. and/or Lois C. Box 51 Tendoy, Idaho	4-01-1895	Irrigation	4/1	11/1	0.34	Sec. 25 SE1/4NW1/4 SW1/4NW1/4 Sec. 26 SE1/4NE1/4 T19N, R24E	Sec. 25 SE1/4NW1/4, SW1/4NW1/4, Sec. 26 SW1/4NE1/4, SE1/4NE1/4, T19N, R24E	Beneficial Use 3.3 5.8 4.2 3.3 <u>16.6</u>

PROPOSED FINDING OF WATER RIGHTS - LEMHI RIVER DRAINAGE

SOURCE: Agency Creek & Tributaries

IDENT. NO.	NAME AND ADDRESS	PRIORITY	PURPOSE	PERIOD OF USE		MAXIMUM RATE OF DIVERSION (cfs)	POINT OF DIVERSION	PLACE OF USE and LANDS IRRIGATED	BASIS OF RIGHT and REMARKS
				From	To				
74-0236	ADAMS, Ralston W. and/or Rachel Box 52 Tendoy, Idaho	4-16-1909	Irrigation	4/1	11/1	2.4	Sec. 28 NW1/4NE1/4 SE1/4NE1/4 T 19N, R24E	Sec. 20 SW1/4SE1/4, SE1/4SE1/4, Sec. 21 SE1/4SW1/4, Lot 7 Sec. 28 NE1/4NW1/4, Lot 1, T19N, R24E	Decree 2.1 12.7 2.3 18.7 28.6 26.3 90.7
74-0246A	ADAMS, Ralston W. and/or Rachel Box 52 Tendoy, Idaho	10-01-1909	Irrigation	4/1	11/1	0.2	Sec. 28 NW1/4NE1/4 SE1/4NE1/4 T 19N, R24E <u>NE1/4NW1/4</u> ,	Sec. 21 Lot 7, SE1/4SW1/4, Sec. 28 <u>NE1/4NW1/4</u> , Lot 1, T19N, R24E	Decree 18.7 2.3 26.3 28.6 <u>26.3</u>
74-0250	HERBST, John F. and/or Emma P.O. Box 21 Tendoy, Idaho	10-01-1909	Irrigation	4/1	11/1	0.3	SE1/4SW1/4, S.20 T20N, R24E	Sec. 20 NE1/4SW1/4, SE1/4SW1/4, T19N, R24E	Decree 10.0 5.5 <u>15.5</u>
74-0246B	JONES, Ivan L. and/or Doris Box 28 Tendoy, Idaho	10-01-1909	Irrigation	4/1	11/1	0.2	SW1/4NW1/4, S.27 T19N, R24E	Sec. 29 SE1/4NE1/4, NE1/4SE1/4, NW1/4SE1/4, T19N, R24E	Decree 33.0 37.5 1.5 <u>72.0</u>

Seven (7) miners inches of this right shall be in preference to the right of any other party on Agency Creek with the same date of priority as this right....

3882 11 2 1909



IDENT. NO.	NAME AND ADDRESS	PRIORITY	PURPOSE	PERIOD OF USE From To	MAXIMUM RATE OF DIVERSION (cfs)	POINT OF DIVERSION	PLACE OF USE and LANDS IRRIGATED	BASIS OF RIGHT and REMARKS
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74-2285	Skelton Ranch Co., Inc. Box 1138 Idaho Falls, Idaho	12-14-1937	Irrigation	4/1 11/1	2.1	SW1/4NW1/4, S.26 T14N, R28E	Sec. 26 SW1/4NW1/4, NW1/4SW1/4, Sec. 27	License Poison Creek
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74-1121	SNYDER, William A. and/or Karl W. Box 49 Lemhi, Idaho	1-12-1925	Irrigation	4/1 11/1	1.3	Lot 2, S.2 T16N, R24E	Sec. 26 NW1/4SE1/4, SW1/4SE1/4, T17N, R24E	Beneficial Use Berg Green Gulch
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74-1494	U.S. DEPT. OF INTERIOR Bureau of Land Management P.O. Box 430 Salmon, Idaho	6-01-1962	Stockwater	1/1 12/31		SE1/4NE1/4, S.27 T 18N, R23E	Sec. 27 SE1/4NE1/4, T18N, R23E	Permit No. D 1616 Storage (Colson Reservoir)
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The amount of storage under this right is 1.5 AF.

74-1495	U.S. DEPT. OF INTERIOR Bureau of Land Management P.O. Box 430 Salmon, Idaho	5-01-1952	Stockwater	1/1 12/31		SW1/4SW1/4, S.10 T18N, R24E	Sec. 10 SW1/4SW1/4, T18N, R24E	Permit No. D 960 Storage (Little Dry Canyon Reservoir)
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The amount of storage under this right is 3.0 AF.

74-1496	U.S. DEPT. OF INTERIOR Bureau of Land Management P.O. Box 430 Salmon, Idaho	6-15-1951	Stockwater	1/1 12/31		SE1/4SE1/4, S.10 T18N, R24E	Sec. 10 SW1/4SE1/4, SE1/4SE1/4, T 18N, R 24E	Permit No. D 945 Storage (Mahaffey Reser- voir)
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The amount of storage under this right is 2.0 AF.

IDENT. NO.	NAME AND ADDRESS	PRIORITY	PURPOSE	PERIOD OF USE		MAXIMUM RATE OF DIVERSION (cfs)	POINT OF DIVERSION	PLACE OF USE and LANDS IRRIGATED	BASIS OF RIGHT and REMARKS
				From	To				
74-1392	U.S. DEPARTMENT OF INTERIOR - BLM	5-21-1966	Stockwater	3/1	12/31	0.01	NW1/4SE1/4, S. 7 T14N, R27E	NW1/4SE1/4, S. 7 T14N, R27E	Permit D 2075 (Center Ridge)
74-1393	U.S. DEPARTMENT OF INTERIOR - BLM	9-08-1960	Stockwater	3/1	12/31	0.01	SE1/4SW1/4, S. 13 T20N, R22E	SW1/4SW1/4, S. 13 T20N, R22E	Permit D 1617 (Cat)
74-1394	U.S. DEPARTMENT OF INTERIOR - BLM	6-01-1965	Stockwater	3/1	12/31	0.01	SE1/4SW1/4, S. 6 T19N, R25E	SE1/4SW1/4, S. 6 T19N, R25E	Permit D 1961 (Dance)
74-1395	U.S. DEPARTMENT OF INTERIOR - BLM	9-08-1960	Stockwater	3/1	12/31	0.01	NE1/4SW1/4, S. 15 T19N, R23E	NE1/4SW1/4, S. 15 T19N, R23E	Permit D 946 (First Basin)
74-1396	U.S. DEPARTMENT OF INTERIOR - BLM	12-06-1961	Stockwater	3/1	12/31	0.01	Lot 2, S. 18 T21N, R23E	Lot 2, S. 18 T21N, R23E	Permit D 1438 (Geertson Seedling)
74-1397	U.S. DEPARTMENT OF INTERIOR - BLM	11-02-1964	Stockwater	3/1	12/31	0.01	SW1/4SE1/4, S. 19 T19N, R25E	SW1/4SE1/4, S. 19 T19N, R24E R25E	Permit D 1890 (Geir)
74-1398	U.S. DEPARTMENT OF INTERIOR - BLM	4-15-1958	Stockwater	3/1	12/31	0.01	SE1/4NW1/4, S. 14 T19N, R24E	NE1/4SW1/4, S. 14 T19N, R24E	Permit D 1314 (Geyser)
74-1399	U.S. DEPARTMENT OF INTERIOR - BLM	10-15-1964	Stockwater	3/1	12/31	0.01	SE1/4SW1/4, S. 30 T19N, R23E	SE1/4SW1/4, S. 30 T19N, R23E	Permit D 1898 (Giny)
74-1400	U.S. DEPARTMENT OF INTERIOR - BLM	6-10-1962	Stockwater	3/1	12/31	0.01	NW1/4SE1/4, S. 15 T19N, R23E	NW1/4SE1/4, S. 15 T19N, R23E	Permit D 1604 (Grade #3)
74-1401	U.S. DEPARTMENT OF INTERIOR - BLM	4-15-1963	Stockwater	3/1	12/31	0.02	SE1/4NE1/4, S. 11 T19N, R23E	SE1/4NE1/4, S. 11 T19N, R23E	Permit D 1720 (Grade #2)
74-1402	U.S. DEPARTMENT OF INTERIOR - BLM	6-10-1966	Stockwater	3/1	12/31	0.01	SW1/4NE1/4, S. 12 T20N, R22E	SW1/4NE1/4, S. 12 T20N, R22E	Permit D 2078 (Ground)
74-1403	U.S. DEPARTMENT OF INTERIOR - BLM	9-04-1962	Stockwater	3/1	12/31	0.01	SE1/4SE1/4, S. 12 T18N, R22E	SE1/4SE1/4, S. 12 T18N, R22E	Permit D 1633 (Grouse Creek)
74-1404	U.S. DEPARTMENT OF INTERIOR - BLM	8-17-1967	Stockwater	3/1	12/31	0.01	NW1/4NE1/4, S. 7 T19N, R25E	NW1/4NE1/4, S. 7 T19N, R25E	Permit D 4246 (Com'd Basin)

Source: Lemhi Big Spring Creek LBSC-5A  
 Pt. of Div.: SE 1/4 SW 1/4, Sec. 18, T16N, R26E

IDENT. NO.	NAME AND ADDRESS	PRIORITY	PURPOSE	PERIOD OF USE		MAXIMUM RATE OF DIVERSION (cfs)	POINT OF DIVERSION	PLACE OF USE and LANDS IRRIGATED	BASIS OF RIGHT and REMARKS
				From	To				
74-1141	POWERS, Franklin Jack and/or Elizabeth M. Leadore, Idaho	3	Irrigation	4/1	11/1	0.65		Sec. 18 Lot 2, 1.5 Lot 3, 2.3 SE 1/4 NW 1/4, 0.7 NE 1/4 SW 1/4, 17.1 T16N, R26E <u>21.6</u>	Beneficial Use
74-1764	STATE OF IDAHO Department of Fish & Game Box 25 Boise, Idaho		Fish Return	4/1	11/1	0.40		Sec. 18 SE 1/4 SW 1/4 T16N, R25E <u>R26E</u>	Beneficial Use

IDENT. NO.	NAME AND ADDRESS	PRIORITY	PURPOSE	PERIOD OF USE		MAXIMUM RATE OF DIVERSION (cfs)	POINT OF DIVERSION	PLACE OF USE and LANDS IRRIGATED	BASIS OF RIGHT and REMARKS
				From	To				
74-0672	ANDREWS LIVESTOCK COMPANY Tendoy, Idaho	3-19-1904	Irrigation	4/1	11/1	0.76		Sec. 19 Lot 4 Sec. 30 Lot 1, Lot 2, T20N, R24E	Beneficial Use
74-1698	STATE OF IDAHO Department of Fish & Game Box 25 Boise, Idaho	4-01-1961	Fish Return	4/1	11/1	0.80		Sec. 30 NE 1/4 SW 1/4 T20N, R24E	Beneficial Use
74-0680	ANDREWS LIVESTOCK COMPANY Tendoy, Idaho	10-15-1962	Irrigation	4/1	11/1	0.55		Sec. 30 Lot 2, Lot 3, SE 1/4 NW 1/4, NE 1/4 SW 1/4, T20N, R24E	Beneficial use
									18.4

SOURCE: Lemhi River, Div. L-57  
 Pt. of Div.: SW1/4NW1/4, Sec. 3, T16N, R25E

IDENT. NO.	NAME AND ADDRESS	PRIORITY	PURPOSE	PERIOD OF USE		MAXIMUM RATE OF DIVERSION (cfs)	POINT OF DIVERSION	PLACE OF USE and LANDS IRRIGATED	BASIS OF RIGHT and REMARKS
				From	To				
74-1662	MAHAFFEY, Taylor and/or Jessie B. Box 36 Lemhi, Idaho	1-04-1888	Irrigation	4/1	11/1	1.59		Sec. 3 Lot 4, Sec. 4 Lot 1, T16N, R25E Sec. 33 SE1/4SE1/4, Sec. 34 Lot 4, T17N, R25E	Beneficial Use   4.0  20.0 11.0 52.8
74-1742	STATE OF IDAHO Department of Fish & Game Box 25 Boise, Idaho	4-01-1961	Fish Return	4/1	11/1	0.40		Sec. 5 NE1/4SW1/4 E21N, R22E	Beneficial use SW1/4NW1/4, T16N, R25E

DAVID H. LEROY  
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Deputy Attorney General  
Chief, Natural Resources Division

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Department of Water Resources  
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Boise, Idaho 83720  
Telephone: (208) 334-4437

Filed in District Court Lemhi County

Idaho, May 24 1982

at 7 minutes past 4 o'clock P. M.

Alberte Heiderick Clerk

By \_\_\_\_\_ Deputy

File of Court Proceedings

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

IN THE MATTER OF THE GENERAL )  
DETERMINATION OF THE RIGHTS TO ) Civil No. 4948  
THE USE OF SURFACE WATERS AND )  
TRIBUTARIES FROM WHATEVER SOURCE ) ORDER  
OF THE LEMHI RIVER DRAINAGE BASIN. )  
\_\_\_\_\_ )

The Idaho Department of Water Resources moved in open court on Wednesday, September 26, 1979, to add an explanatory statement, to Claim No. 74-0840, appearing at p. 334 of the proposed finding of water rights. The parties affected by this motion were William D. Clark and Minnie C. Clark, Vergil Olson, Herbert and Katherine Aldous, and Ralph Yates. The motion was not objected to by any of the affected parties or their counsel.

IT IS HEREBY ORDERED That the following language be added to the explanatory note following Claim No. 74-0840:

Beyond this diversion to the slough, water under this right may also be conveyed in L-8A to irrigate the listed acreage.

This change is incorporated into the attached Exhibit A.

DATED This 24th day of May, 1982.

Milton A. Slavin  
MILTON A. SLAVIN  
Magistrate  
Sitting as Special Master

JUL 8 8 1982

PROPOSED FINDING OF WATER RIGHTS - LEMHI RIVER DRAINAGE

Source: Lemhi River, Div. L-8A  
 Pt. of Div.: NE $\frac{1}{4}$ SE $\frac{1}{4}$ , Sec. 14, T21N, R22E

IDENT. NO.	NAME AND ADDRESS	PRIORITY	PURPOSE	PERIOD OF USE From To	MAXIMUM RATE OF DIVERSION (cfs)	PLACE OF USE and LANDS IRRIGATED	BASIS OF RIGHT and REMARKS
74-0840	CLARK, William D. and/or Minnie C. Route 1 Salmon, Idaho	12-31-1894	Irrigation	4/1 11/1	3.4	Sec. 13 NE $\frac{1}{4}$ SW $\frac{1}{4}$ , SE $\frac{1}{4}$ SW $\frac{1}{4}$ , NW $\frac{1}{4}$ SE $\frac{1}{4}$ , SW $\frac{1}{4}$ SE $\frac{1}{4}$ , SE $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 24 NE $\frac{1}{4}$ NE $\frac{1}{4}$ , NW $\frac{1}{4}$ NE $\frac{1}{4}$ , T21N, R22E	Beneficial Use: 15.0 14.8 3.8 26.5 0.4 11.6 37.0 109.1 113.3

Water is diverted from the ditch within the SW $\frac{1}{4}$ NE $\frac{1}{4}$ , Sec. 30, T21N, R23E and is conveyed in a slough to the place of use. Beyond this diversion to the slough, water under this right may also be conveyed in L-8A to irrigate the listed acreage. \*

\* - Note: This additional language is to be added by order of the court as requested by the Department of Water Resources in its motion in open court on September 26, 1979.

STATE OF IDAHO  
COUNTY OF LEMHI

I ALBERTA WIEDERRICK, CLERK OF THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF LEMHI, DO HEREBY CERTIFY THAT THE PROCEEDING IS A TRUE AND CORRECT COPY OF THE ORIGINAL ON FILE IN THIS OFFICE.

IN WITNESS WHEREOF I HAVE HEREUNTO SET MY HAND AND AFFIXED MY OFFICIAL SEAL THIS 12 DAY OF May 1982

ALBERTA WIEDERRICK, CLERK  
*Alberta Wiederrick*  
BY \_\_\_\_\_ DEPUTY

Filed in District Court Lemhi County

Idaho, April 7 1982

at 3 minutes past 3 o'clock P. M.

*Alberta Wiederrick* Clerk  
*James L. English* Deputy

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

IN THE MATTER OF THE GENERAL )  
DETERMINATION OF THE RIGHT TO )  
THE USE OF SURFACE WATERS AND )  
TRIBUTARIES FROM WHATEVER )  
SOURCE OF THE LEMHI RIVER )  
DRAINAGE BASIN. )

CIVIL NO. 4948  
REPORT OF SPECIAL MASTER  
REGARDING SPECIFIC  
OBJECTIONS

By orders of the district court on the dates listed below,

- May 22, 1979
- June 29, 1979
- September 5, 1979
- May 2, 1980
- June 2, 1980
- July 1, 1980
- September 17, 1981

specific objections filed by the following individuals

- Roger K. Ogden
- Joseph & Grace Hoy
- James & Eleanor Profitt
- Troy Holscher
- Champ & Kermit Tobias
- Truman Chapman
- Maxwell F. Beyeler
- George & Nellie Shoup
- Doyle & Loah Mulkey
- Willard Moulton
- Carlton & Mary Noyes
- George Carl Udy
- Lewis Birch
- Victorio Ranch
- Harry Coleman
- Jim Ellsworth
- Pine Creek Ranch
- Ralston Adams
- Ivan Jones
- James & Jean Stoddard

- Sims Ranch
- Robert and Reba Thomas
- Mrs. William J. Salyer
- Ellsworth Land & Cattle, Inc.
- Parley Arave & Robert Hemming
- William & Wilma Bramlette
- William & Minnie Clark
- Dale & Mildred Jolley
- Frank & Betty Kohl
- Vergil & Mary Olson
- Harvey E. Peterson
- Paul Fisher
- Christopher Rohlf
- Estate of W. L. Blackadar
- Franklin Jack Powers
- Floyd & Dexter Nilsson
- John & Coral Stephenson
- Gordon & Mary Stephenson
- Margaret Pyeatt

to the proposed finding of water rights in the Lemhi River adjudication were scheduled for pre-trial conferences and trial before the undersigned Magistrate, sitting as Special Master.

This report incorporates copies of all the stipulations and minute entries signed by the Special Master confirming the settlement, withdrawal, or dismissal of individual objections.

**RECEIVED**  
MAY 15 1982



Not included in this report are those stipulations or controversies which have already been the subject of a special master's report and hearing in district court. Specifically, the district court judgment of March 12, 1981 regarding claim no. 74-0249 (in the name of James F. Stoddard) and the district court judgment of February 19, 1982 regarding the water rights on Geertson Creek are not included in this report.

The following is a comprehensive chronological list of the stipulations and minute entries attached to this Report of the Special Master.

<u>Document</u>	<u>Date of filing with Court</u>
Minute entry (regarding dismissal of objection by Roger K. Ogden)	June 22, 1979
Stipulation resolving the specific objections of Champ Tobias and Kermit Tobias dba the Tobias Brothers	July 16, 1979
Stipulation resolving the specific objections of Max F. Beyeler	July 19, 1979
Stipulation resolving the specific objections of Willard Moulton	July 29, 1979
Stipulation resolving the specific objections of Carlton H. & Mary I. Noyes	August 23, 1979
Stipulation resolving specific objections of Mrs. William J. Salyer	September 5, 1979
Stipulation resolving specific objections of Robert L. and Reba Thomas	September 13, 1979
Stipulation resolving specific objections of Doyle L. Mulkey and Loah K. Mulkey	September 14, 1979
Stipulation resolving the specific objections of Ellsworth Land & Cattle, Inc.	September 17, 1979
Stipulation resolving the specific objections of William D. Clark and Minnie C. Clark	December 21, 1979
Stipulation resolving the specific objections of E. Dale Jolley and Mildred Jolley	March 11, 1980 "
Stipulation resolving the specific objections of George L. Shoup and Nellie B. Shoup	March 11, 1980

Stipulation resolving the specific objection of Lewis C. Birch	June 13, 1980
Stipulation resolving the specific objection of George Carl Udy	August 6, 1980
Stipulation resolving the specific objections of W. L. Blackadar, M.D., and Christopher A. Rohlf	August 18, 1980
Stipulation resolving the specific objections of James F. Stoddard	August 20, 1980
Stipulation resolving objections of Gene Phipps (successor-in-interest to James Ellsworth)	September 3, 1980
Stipulation resolving specific objections of Paul and Merlin J. Fisher	September 3, 1980
Stipulation resolving specific objections of James F. Stoddard to Claim 74-0250	September 15, 1980
Stipulation resolving specific objection number two of Ralston Adams, Ivan L. Jones, Margaret J. Pyeatt, and Pine Creek Ranch	September 15, 1980
Stipulation resolving additional objections of Stephen A. Mahaffey and Norma J. Mahaffey (affected property now owned by Carol B. Sells)	September 29, 1980
Stipulation resolving the specific objections of Sims Ranch	November 21, 1980
Stipulation resolving the specific objections of Franklin J. and Elizabeth Powers	January 5, 1981
Stipulation resolving the specific objections of Truman Chapman (affected lands now owned by Darwin Neibaur)	January 20, 1981
Stipulation resolving the specific objections of Parley A. Arave and Robert T. Hemming	February 9, 1981
Stipulation resolving the specific objections of Harvey E. Peterson	September 3, 1981
Stipulation resolving specific objections of William B. and/or Marian H. Swahlen	September 3, 1981
Stipulation resolving specific objections of Harry L. Coleman and/or Shirley R. Coleman	October 20, 1981
Stipulation resolving objections of James and/or Maybelle Ellsworth	October 20, 1981
Supplemental stipulation resolving the objections of James and/or Maybelle Ellsworth	October 20, 1981

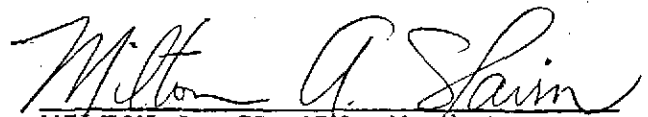
AUG 8 1980

Minute Entry (confirming withdrawal of objections by Floyd and Dexter Nilsson and withdrawal of supplemental objections which had been filed by Pine Creek Ranch on March 11, 1975)

November 4, 1981

The orders appointing the Special Master "empowered" but did not require the Special Master to make findings of fact and conclusions of law. Pursuant to Rule 53(e)(1), Idaho Rules of Civil Procedure, the Master's report must set forth findings of fact and conclusions of law if so required. Since the orders of appointment did not require findings of fact and conclusions of law, this report does not separately state findings and conclusions.

DATED this 18 day of March, 1982.

  
MILTON A. SLAVIN, Magistrate  
sitting as Special Master

RECORDED

SEP 22 1982

Department of Water Resources

STATE OF IDAHO  
COUNTY OF LEMHI

ss. I, ALBERTA WIEDERRICK, CLERK OF THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF THE STATE OF IDAHO IN AND FOR THE COUNTY OF LEMHI, DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF THE ORIGINAL ON FILE IN THIS OFFICE.

IN WITNESS WHEREOF, I HAVE HEREUNTO SET MY HAND AND AFFIXED MY OFFICIAL SEAL THIS 20 DAY OF Sept 1982  
ALBERTA WIEDERRICK, CLERK

*Beverly A. Loughlin* DEPUTY

Filed in District Court Lemhi County

Idaho, September 22 1982

at 58 minutes past 3 o'clock P.M.

*Alberta Wiederrick* Clerk

By *Beverly A. Loughlin* Deputy

*File of Court Proceedings*

IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF THE

STATE OF IDAHO, IN AND FOR THE COUNTY OF LEMHI

IN THE MATTER OF THE GENERAL )  
DETERMINATION OF THE RIGHT TO )  
THE USE OF SURFACE WATERS AND )  
TRIBUTARIES FROM WHATEVER )  
SOURCE OF THE LEMHI RIVER )  
DRAINAGE BASIN. )

CIVIL NO. 4948

O R D E R

The motion to adopt special master's report on specific objections, of the Idaho Department of Water Resources having duly come before this Court for hearing, and the Court being fully advised in the premises,

IT IS HEREBY ORDERED AND THIS DOES ORDER that the SPECIAL MASTER'S REPORT ON SPECIFIC OBJECTIONS, filed with the Court April 7, 1982 is adopted as the Findings of Fact and Conclusions of Law of this Court with respect to the specific objections in the Lemhi Adjudication.

DATED this 16th day of Sept., 1982.

*Boyd R. Thomas*  
BOYD R. THOMAS  
Administrative Judge

RECORDED

SEP 20 1982

Jo. B.

RECEIVED

NOV 9 1981

Department of Water Resources

Filed in District Court Lemhi County

Idaho, November 4 1981

at 3 minutes past 3 o'clock P. M.

Theresa Aldous Clerk

By Arhela Hildrick Deputy

File of Court Proceedings

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

IN THE MATTER OF THE GENERAL	)	
DETERMINATION OF THE RIGHT TO	)	CIVIL NO. 4948
THE USE OF SURFACE WATERS AND	)	
TRIBUTARIES FROM WHATEVER	)	MINUTE ENTRY FOR
SOURCE OF THE LEMHI RIVER	)	October 21, 1981
DRAINAGE BASIN.	)	
	)	

At approximately 11 a.m., Wednesday, October 21, 1981, matters pertaining to the specific objections of

James and/or Maybelle Ellsworth, Harry L. and/or Shirley R. Coleman, John and Coral Stephenson; Gordon and Mary Stephenson (successors-in-interest to Pine Creek Ranch, Inc.), and Floyd and Dexter Nilsson

were made of record before the Court. Present in the courtroom were Josephine P. Beeman, Deputy Attorney General, Idaho Department of Water Resources; Glen Saxton, Chief, Operations Bureau, Idaho Department of Water Resources; John Stephenson; and Gordon Stephenson.

The Court was advised by Mrs. Beeman that the Ellsworth and Coleman objections were resolved pursuant to stipulations filed in this proceeding on October 20, 1981. Also, Mrs. Beeman informed the Court that Kent Foster, of the firm, Holden, Kidwell, Hahn, and Crapo, counsel for Floyd and Dexter Nilsson, had notified the Department of Water Resources by telephone on October 20, 1981, that the Nilssons were withdrawing their objection.

John and Gordon Stephenson, representing themselves as the purchasers of Pine Creek Ranch on Withington Creek, withdrew the supplemental objections which had been filed by Pine Creek Ranch on March 11, 1975.

The Court recessed at approximately 11:05 a.m.

DATED this 2<sup>nd</sup> day of NOVEMBER, 1981.

*Milton A. Slavin*

MILTON A. SLAVIN

Magistrate

Sitting as Special Master

JUL 30 1996

1                   **DAVID H. LEROY**  
2                   Attorney General  
3                   State of Idaho  
4                   Statehouse, Room 210  
5                   Boise, Idaho 83720  
6                   Telephone: (208) 384-2400

Filed in District Court Lemhi County  
Idaho, October 20 1981  
at 40 minutes past 4 o'clock P.M.  
William Aldous Clerk  
By Alberto Kiderick Deputy

5    JOSEPHINE P. BEEMAN  
6    Deputy Attorney General  
7    Department of Water Resources  
8    Statehouse  
9    Boise, Idaho 83720  
10   Telephone: (208) 334-4448

11                   IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF THE  
12                   STATE OF IDAHO, IN AND FOR THE COUNTY OF LEMHI

13    IN THE MATTER OF THE GENERAL                    )  
14    DETERMINATION OF THE RIGHT TO                 )                   CIVIL NO. 4948  
15    THE USE OF SURFACE WATERS AND                 )  
16    TRIBUTARIES FROM WHATEVER                    )                   STIPULATION RESOLVING  
17    SOURCE OF THE LEMHI RIVER                    )                   OBJECTIONS OF JAMES  
18    DRAINAGE BASIN.                                 )                   AND/OR MAYBELLE ELLSWORTH  
19                   \_\_\_\_\_ )

20                   COME NOW the Idaho Department of Water Resources and Jim  
21    Ellsworth and stipulate that certain of the specific objections  
22    filed by Jim Ellsworth on September 16, 1976, be dismissed based  
23    upon the following changes in the Proposed Finding of Water  
24    Rights:

25                   1.    74-0102 (p. 141 of the proposed findings): The  
26                   rate of diversion is to be changed from 1.42 c.f.s.  
27                   to 0.62 c.f.s; lands irrigated are to be changed by  
28                   the addition of 1.2 acres in the SE1/4SE1/4, Sec.  
29                   31, T14N, R27E.

30                   2.    74-0093 (p. 141 of the proposed findings): The  
31                   rate of diversion is to be changed from 0.18  
32                   c.f.s. to 0.29 c.f.s.; the lands irrigated are to  
33                   be changed by the addition of 15 acres in the  
34                   NE1/4SW1/4, Sec. 2, T15N, R26E.

35                   3.    74-0135 (this claim is to be added at the bottom of  
36                   p. 147 of the proposed findings):

37                   Name and address:   ELLSWORTH, James and/or Maybelle

38                   Priority:   5-14-1920

39                   Purpose:   Irrigation

40                   Period of use:   4/1 to 11/1

41                   Maximum rate of diversion:   0.17

42                   STIPULATION, ELLSWORTH, Page 1

RECORDED

JUL 30 1986

State of Idaho  
Statehouse, Room 210  
Boise, Idaho 83720  
Telephone (208) 364-2400

1 Point of diversion: SW1/4SE1/4, S. 2, T15N, R26E

2 Place of use and lands irrigated:

3 Sec. 2  
4 SE1/4SW1/4, 8.0  
5 NEL/4SW1/4, 15.0  
6 T15N, R26E  
7 23.0

8 Basis of right and remarks: Beneficial Use,  
9 Texas Creek

10 The statement on pg. 440 of the Proposed Findings  
11 relative to right 74-0135 should be deleted in its  
12 entirety.

13 4. 74-0080 (p. 135 of the proposed findings): The  
14 lands irrigated are to be changed by the addition  
15 of 1.9 acres in the SE1/4NE1/4, Sec. 24, T14N,  
16 R26E.

17 5. 74-0123 (This claim is to be added at p. 145 of the  
18 proposed findings, between claim 74-0121B and claim  
19 74-0124):

20 Name and address: ELLSWORTH, James and/or Maybelle

21 Priority: 5-14-1920

22 Purpose: Irrigation

23 Period of use: 4/1 to 11/1

24 Maximum rate of diversion: 0.05 c.f.s.

25 Point of diversion: Lot 3, S. 19, T14N, R27E

26 Place of use and lands irrigated:

27 Sec. 19  
28 Lot 2 4.0  
29 Lot 3, 3.0  
30 T14N, R27E  
31 Sec. 24  
32 SE1/4NE1/4 1.9  
33 T14N, R26E  
34 8.9

35 Basis of right and remarks: Beneficial Use,  
36 Texas Creek

37 The statement on pg. 440 of the Proposed Findings  
38 relative to right 74-0123 should be deleted in its  
39 entirety.

40 6. 74-0143 (p. 148 of the proposed findings): The  
41 rate of diversion is to be changed from 0.78 c.f.s.  
42 to .84 c.f.s.; the lands irrigated are to be  
43 changed by the addition of 4 acres (to make 34.2  
44 acres) in the NEL/4SE1/4, Sec. 31, T14N, R27E.

45 7. 74-1651 (p. 297 of the proposed findings): The  
46 rate of diversion is to be changed from 1.86 c.f.s.

STIPULATION, ELLSWORTH, Page 2

APR 9 1956



State of Idaho  
Statehouse, Room 210  
Boise, Idaho 83720  
Telephone (208) 384-2400

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to 3.11 c.f.s.; the lands irrigated are to be changed by the addition of 2 acres (to make 3.5 acres) in the SE1/4SW1/4, and 15 acres (to make 17.2 acres) in the SW1/4SE1/4, and .5 acres in the SE1/4SE1/4 of Sec. 3, T16N, R25E; and 9 acres (to make 38.0 acres) in the NW1/4NE1/4, and 1 acre in the NE1/4NE1/4 of Sec. 10, T16N, R25E.

8. 74-1652 (p. 424 of the proposed findings): The rate of diversion is to be changed from 3.02 c.f.s. to 4.26 c.f.s.; the lands irrigated are to be changed by the addition of 6 acres (to make 17.5 acres) in Lot 3, and 26.3 acres (to make 38.0 acres) in the SE1/4NW1/4, and 3.1 acres (to make 6.0 acres) in the NE1/4SW1/4, and 6 acres (to make 38.0 acres) in the NW1/4SE1/4, Sec. 3, T16N, R25E.

9. 74-2025B (p. 423 of the proposed findings): The lands irrigated are to be changed by the addition of 3 acres (to make 12.0 acres) in the NE1/4SW1/4, and 1 acres (to make 10.0 acres) in the NW1/4SW1/4, and 3 acres in the SW1/4SE1/4, Sec. 3, T16N, R25E.

10. 74-2320 (p. 59 and p. 150 of the proposed findings): The lands irrigated should be changed by the addition of 2 acres (to make 12 acres) in the SW 1/4NE1/4, and the addition of 13.7 acres (to make 37 acres) in the SE1/4NW1/4, and the deletion of 3.5 acres (to make 0 acres) in the NE1/4SW1/4, and the addition of 24.4 acres (to make 26.0 acres) in the NE1/4SE1/4, and the addition of 15.6 acres (to make 40.0 acres) in the NW1/4SE1/4, Sec. 35, T16N, R26E.

All of these changes are incorporated into the attached Exhibit A.

On the basis of these changes, the Ellsworth's specific objections as to 74-0093, 74-0080, 74-0102, 74-0123, 74-0135, 74-0143, 74-1651, 74-1652, 74-2025B, 74-2320, are hereby resolved and withdrawn.

DATED this 20th day of October, 1980.

Ray W. Rigby  
RAY W. RIGBY  
Attorney for Ellsworths

Josephine P. Beeman 21 July 1980  
JOSEPHINE P. BEEMAN  
Deputy Attorney General  
Department of Water Resources



1 The above stipulation having duly come before the court, it  
2 is hereby approved this 20 day of October, 1980.

3  
4  
5 Milton A. Slavin  
6 MILTON A. SLAVIN  
7 Magistrate  
8 Sitting as Special Master

9 CERTIFICATE OF SERVICE

10  
11 I HEREBY CERTIFY THAT on this 28th day of July, 1980, I  
12 mailed a true and correct copy of the foregoing STIPULATION  
13 RESOLVING OBJECTIONS OF JAMES AND/OR MAYBELLE ELLSWORTH by  
14 placing it in the United States mail, postage prepaid addressed  
15 to: Ray W. Rigby, Box 250, Rexburg, Idaho 83440.

16  
17  
18 Josephine Beeman  
19 JAN M. HECK  
20 Legal Secretary  
21 Department of Water Resources  
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State of Idaho  
Statehouse, Room 210  
Boise, Idaho 83720  
Telephone (208) 384-2400

JUL 30 1980



PROPOSED FINDING OF WATER RIGHTS - LENHI RIVER DRAINAGE

SOURCE: Texas Creek and Tributaries

IDENT. NO.	NAME AND ADDRESS	PRIORITY	PURPOSE	PERIOD OF USE		MAXIMUM RATE OF DIVERSION (cfs)	POINT OF DIVERSION	PLACE OF USE and LANDS IRRIGATED	BASIS OF RIGHT and REMARKS
				From	To				
74-0123	ELLSWORTH, James and/or Maybelle Box 27 Leadore, Idaho	5-14-1920	Irrigation	4/1	11/1	0.05	Lot 3, S.19 T14N, R27E	Sec. 19	Beneficial Use Texas Creek
								Lot 2,	
								Lot 3, T14N, R27E	
74-0143	ELLSWORTH, James and/or Maybelle Box 27 Leadore, Idaho	5-14-1920	Irrigation	4/1	11/1	0.79 0.84	SE $\frac{1}{4}$ NW $\frac{1}{4}$ , S.36 T14N, R26E	Sec. 31	Beneficial Use Deer Creek
							SW $\frac{1}{4}$ NE $\frac{1}{4}$ , NE $\frac{1}{4}$ SE $\frac{1}{4}$ , NW $\frac{1}{4}$ SE $\frac{1}{4}$ , T14N, R27E		
							SW $\frac{1}{4}$ NE $\frac{1}{4}$ , NE $\frac{1}{4}$ SE $\frac{1}{4}$ , NW $\frac{1}{4}$ SE $\frac{1}{4}$ , T14N, R26E		
74-2320	ELLSWORTH, James and/or Maybelle Box 27 Leadore, Idaho	11-08-1957	Irrigation	4/1	11/1	2.30	Sec. 1	Sec. 35	License Texas Creek
							NE $\frac{1}{4}$ SW $\frac{1}{4}$ Sec. 11 SW $\frac{1}{4}$ SE $\frac{1}{4}$ T15N, R26E		
							SW $\frac{1}{4}$ NE $\frac{1}{4}$ , SE $\frac{1}{4}$ NW $\frac{1}{4}$ , NE $\frac{1}{4}$ SW $\frac{1}{4}$ , NE $\frac{1}{4}$ SE $\frac{1}{4}$ , NW $\frac{1}{4}$ SE $\frac{1}{4}$ , T16N, R26E		
						56.4	60.4		
						62.8	115.0		

The amount of water diverted under this right using Texas Creek and Eighteenmile Creek shall not exceed a combined rate of diversion of 2.3 c.f.s.

PROPOSED FINDING OF WATER RIGHTS - LEMHI RIVER DRAINAGE

SOURCE: Lemhi Big Spring Creek LBSC-5

IDENT. NO.	NAME AND ADDRESS	PRIORITY	PURPOSE	PERIOD OF USE		MAXIMUM RATE OF DIVERSION (cfs)	POINT OF DIVERSION	PLACE OF USE and LANDS IRRIGATED	BASIS OF RIGHT and REMARKS
				From	To				

74-1651 ELLSWORTH James and/or Maybelle Box 27 Leadore, Idaho 6-01-1922 Irrigation 4/1 11/1 4-86 3.11

Sec. 3 Beneficial Use

SE $\frac{1}{4}$ SW $\frac{1}{4}$ , 1-5 3.5  
 SW $\frac{1}{4}$ SE $\frac{1}{4}$ , 2-2 17.2  
 SE $\frac{1}{4}$ SE $\frac{1}{4}$ , .5  
 Sec. 10  
 NW $\frac{1}{4}$ NE $\frac{1}{4}$ , 29-0 38.0  
 SW $\frac{1}{4}$ NE $\frac{1}{4}$ , 1.3  
 NE $\frac{1}{4}$ NW $\frac{1}{4}$ , 6.8  
 NE $\frac{1}{4}$ NE $\frac{1}{4}$ , 1.0  
 T16N, R25E  
49-8 68.3

SOURCE: Lemhi River, Div. L-58B

74-1652 ELLSWORTH, James and/or Maybelle Box 27 Leadore, Idaho 2-28-1893 Irrigation 4/1 11/1 3-02 4.26

Sec. 3 Beneficial Use

Lot 3, 11-5 17.5  
 SW $\frac{1}{4}$ NE $\frac{1}{4}$ , 21.0  
 SW $\frac{1}{4}$ NW $\frac{1}{4}$ , 6.7  
 SE $\frac{1}{4}$ NW $\frac{1}{4}$ , 11-7 38.0  
 NE $\frac{1}{4}$ SW $\frac{1}{4}$ , 2-9 6.0  
 NE $\frac{1}{4}$ SE $\frac{1}{4}$ , 10.2  
 NW $\frac{1}{4}$ SE $\frac{1}{4}$ , 32-0 38.0  
 SW $\frac{1}{4}$ SE $\frac{1}{4}$ , 1.5  
 SE $\frac{1}{4}$ SE $\frac{1}{4}$ , 3.0  
 T16N, R25E  
109-5 141.9

JUL 8 0 1996

PROPOSED FINDING OF WATER RIGHTS - LEMHI RIVER DRAINAGE

SOURCE: Lemhi River, Div. L-58A

IDENT. NO.	NAME AND ADDRESS	PRIORITY	PURPOSE	PERIOD OF USE From To	MAXIMUM RATE OF DIVERSION (cfs)	POINT OF DIVERSION	PLACE OF USE and LANDS IRRIGATED	BASIS OF RIGHT and REMARKS
64-2025B	ELLSWORTH, James and/or Maybelle Box 27 Leadore, Idaho	6-20-1908	Irrigation	4/1 11/1	1.04		Sec. 3 NE $\frac{1}{4}$ SW $\frac{1}{4}$ , 9+0 NW $\frac{1}{4}$ SW $\frac{1}{4}$ , 9+0 10.0 SW $\frac{1}{4}$ SW $\frac{1}{4}$ , 2.2 SE $\frac{1}{4}$ SW $\frac{1}{4}$ , 8.6 SW $\frac{1}{4}$ SE $\frac{1}{4}$ , 3.0 T16N, R25E <u>29+8</u> 35.8	License
74-2320	ELLSWORTH, James and/or Maybelle Box 27 Leadore, Idaho	11-08-1957	Irrigation	4/1 11/1	2.30	Sec. 1 NE $\frac{1}{4}$ SW $\frac{1}{4}$ Sec. 11 SW $\frac{1}{4}$ SE $\frac{1}{4}$ T15N, R26E	Sec. 35 SW $\frac{1}{4}$ NE $\frac{1}{4}$ , 10+0 12.0 SE $\frac{1}{4}$ NW $\frac{1}{4}$ , 23+3 37.0 NE $\frac{1}{4}$ SW $\frac{1}{4}$ , 3+5 NE $\frac{1}{4}$ SE $\frac{1}{4}$ , 1+6 26.0 NW $\frac{1}{4}$ SE $\frac{1}{4}$ , 24+4 40.0 T16N, R26E <u>62+8</u> 115.0	License 18 Mile Creek

SOURCE: Eighteenmile Creek and Tribs.

The amount of water diverted under this right using Texas Creek and Eighteen Mile Creek shall not exceed a combined rate of diversion of 2.30 c.f.s.

1                   **DAVID H. LEROY**  
 2                   Attorney General  
 3                   State of Idaho  
                   Statehouse, Room 210  
                   Boise, Idaho 83720  
                   Telephone: (208) 384-2400

4  
 5                   DON A. OLOWINSKI  
                   Deputy Attorney General  
                   Chief, Natural Resources Division

Filed in District Court Lemhi County  
 Idaho, October 20 1981  
 at 39 minutes past 4 o'clock P. M.  
Eleanor Alford Clerk  
 By Albert Rudwick Deputy

6                   JOSEPHINE P. BEEMAN  
 7                   Deputy Attorney General  
                   Department of Water Resources  
 8                   Statehouse  
                   Boise, Idaho 83720  
 9                   Telephone: (208) 334-4448

10                  IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF THE  
 11                  STATE OF IDAHO, IN AND FOR THE COUNTY OF LEMHI

12	IN THE MATTER OF THE GENERAL	)	
13	DETERMINATION OF THE RIGHT TO	)	CIVIL NO. 4948
14	THE USE OF SURFACE WATERS AND	)	
15	TRIBUTARIES FROM WHATEVER	)	SUPPLEMENTAL STIPULATION
	SOURCE OF THE LEMHI RIVER	)	RESOLVING THE OBJECTIONS
	DRAINAGE BASIN.	)	OF JAMES AND/OR MAYBELLE
		)	ELLSWORTH

16                  COME NOW the Director of the Idaho Department of Water  
 17                  Resources and James and/or Maybelle Ellsworth, through their  
 18                  undersigned attorneys, and stipulate to the following changes in  
 19                  the proposed finding of water rights in the Lemhi River Basin:

- 20                  1. Right No. 74-0111 (p. 143 of the proposed find-  
 21                  ings): the rate of diversion should be 4.25 cfs  
 22                  rather than the 1.03 cfs now recommended. The  
 23                  acreage irrigated under the right should be a total  
 24                  of 306.1 acres rather than the 190.6 acres now  
                   recommended. The specific acreage tabulation  
                   should be as follows:

25	Section 2		
	Lot 1,	16.1	
	Lot 2,	35.5	
26	Lot 3,	12.1	
	Lot 4,	0.3	
27	SWNE	14.3	
	SENE	40.0	
28	NESE	22.8	
	T15N, R26E		
29	Section 34		
	SENE	35.0	
30	NESE	30.0	
	Section 35		
31	SWNE	12.0	
	NWSW	28.0	
32	SWSW	24.5	35.0

JUL 30 1986

SESW  
T16N, R25E

25.0

~~190.6~~ 306.1

These changes are incorporated into the attached Exhibit

A. \*

On the basis of these changes, the Ellsworth's specific objections as to right numbers 74-0066, 74-0067, 74-0103, 74-0110, 74-0111, 74-0112, 74-0124, 74-0125, and 74-1804, are hereby resolved and withdrawn.

DATED this 20<sup>th</sup> day of October, 1981.

Ray W. Rigby  
RAY W. RIGBY  
Attorney for James and  
Maybelle Ellsworth

Josephine P. Beeman  
JOSEPHINE P. BEEMAN  
Deputy Attorney General  
Department of Water Resources

The above stipulation having duly come before the court, it is hereby approved this 20 day of October, 1981

Milton A. Slavin  
MILTON A. SLAVIN  
Magistrate  
Sitting as Special Master

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 20<sup>th</sup> day of October, 1981, a true and correct copy of the foregoing SUPPLEMENTAL STIPULATION RESOLVING THE OBJECTIONS OF JAMES AND/OR MAYBELLE ELLSWORTH, were mailed, postage prepaid, addressed to: Ray W. Rigby, Attorney at Law, P.O. Box 250, Rexburg, Idaho 83440.

Josephine P. Beeman  
JOSEPHINE P. BEEMAN  
Deputy Attorney General  
Department of Water Resources

\* Further, the parties stipulate that the Department of Water Resources shall immediately issue an order to all waterusers on Texas Creek requiring the construction and maintenance of suitable headgates and controlling works at their respective points of diversion from Texas Creek, of its tributaries and springs, which shall be of such construction that they can be locked and kept closed by the watermaster or other officer in charge, and shall also be so devised as to regulate the flow of water at the diversion point, and otherwise and in all respects to meet the approval of the Department of Water Resources.

10-20-81 Ray W. Rigby  
10-20-81 J.P. Beeman

OCT 30 1981



PROPOSED FINDING OF WATER RIGHTS - LEMHI RIVER DRAINAGE

SOURCE: Texas Creek & Tributaries

IDENT. NO.	NAME AND ADDRESS	PRIORITY	PURPOSE	PERIOD OF USE From To	MAXIMUM RATE OF DIVERSION (cfs)	POINT OF DIVERSION	PLACE OF USE and LANDS IRRIGATED	BASIS OF RIGHT and REMARKS
74-0111	(p. 143 of the proposed findings)  ELLSWORTH, JAMES AND/OR MAYBELLE Box 27 Leadore, Idaho	5-14-1920	Irrigation	4/1 11/1	<del>4.03</del> <u>4.25</u>	SE $\frac{1}{4}$ SE $\frac{1}{4}$ , S. 11 T15N, R26E	Sec. 2 Lot 1, 16.1 Lot 2, 35.5 Lot 3, 12.1 Lot 4, 0.3 SW $\frac{1}{4}$ NE $\frac{1}{4}$ 14.3 SE $\frac{1}{4}$ NE $\frac{1}{4}$ 40.0 NE $\frac{1}{4}$ SE $\frac{1}{4}$ 22.8 T15N, R26E	Beneficial Use Texas Creek
							Sec. 34 SE $\frac{1}{4}$ NE $\frac{1}{4}$ 35.0 NE $\frac{1}{4}$ SE $\frac{1}{4}$ 30.0	
							Sec. 35 SW $\frac{1}{4}$ NE $\frac{1}{4}$ 12.0 NW $\frac{1}{4}$ SW $\frac{1}{4}$ 28.0 SW $\frac{1}{4}$ SW $\frac{1}{4}$ 24.5 SE $\frac{1}{4}$ SW $\frac{1}{4}$ 25.0	35.0
							T15N, R26E	
							<u>199.6</u>	<u>306.1</u>

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**DAVID H. LEROY**  
Attorney General  
State of Idaho  
Statehouse, Room 210  
Boise, Idaho 83720  
Telephone: (208) 384-2400

**DON A. OLOWINSKI**  
Deputy Attorney General  
Chief, Natural Resources Division

**JOSEPHINE P. BEEMAN**  
Deputy Attorney General  
Department of Water Resources  
Statehouse  
Boise, Idaho 83720  
Telephone: (208) 334-4448

Filed in District Court Lemhi County  
Idaho, October 20 1981  
at 38 minutes past 4 o'clock P. M.  
Therese Adams Clerk  
By Alberta Frederick Deputy

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

IN THE MATTER OF THE GENERAL	)	
DETERMINATION OF THE RIGHT TO	)	CIVIL NO. 4948
THE USE OF SURFACE WATERS AND	)	
TRIBUTARIES FROM WHATEVER	)	STIPULATION RESOLVING
SOURCE OF THE LEMHI RIVER	)	SPECIFIC OBJECTIONS OF
DRAINAGE BASIN.	)	HARRY L. COLEMAN AND/OR
	)	SHIRLEY R. COLEMAN

COME NOW the Idaho Department of Water Resources (hereinafter referred to as the Department), Harry L. Coleman and Shirley Coleman (hereinafter referred to as Coleman) and Kenneth R. Kelly and Betty C. Kelly (hereinafter referred to as Kelly) through their respective counsel, and propose that the following stipulation be approved by the Court as a resolution of the specific objections which were filed September 16, 1976 by Harry L. Coleman and Shirley Coleman.

- 1. The parties stipulate to the following facts:
  - a) Right No. 74-0050A (page 156 of the proposed findings), and Rights 74-0050B, 74-0380, and 74-0381 (page 157 of the proposed findings) were originally decreed to Leslie W. Adams in the case of Edwin M. Yearian et al., vs. Robert Y. Stewart, et al., for the irrigation of E1/2 SE1/4, SE1/4NE1/4, Sec. 10, SWNW, SW1/4, Sec. 11, T15N, R25E.

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1 b) Ownership of this land and acreage irrigated as iden-  
2 tified on adjudication maps are as follows:

3	<u>Tract</u>	<u>Ownership</u>	<u>Acres</u> <u>Irrigated</u>
4	SESE, Sec. 10	Coleman	38.0
5	NESE, Sec. 10	Kelly	15.0
6	SENE, Sec. 10	Kelly	00.0
7	SWNW, Sec. 11	Kelly	16.7
8	NWSW, Sec. 11	Kelly	39.8
9	SWSW, Sec. 11	Coleman	40.0
10	E $\frac{1}{2}$ SW, Sec. 11	Coleman	80.0
11	T15N, R25E		

12 c) Right No. 74-0381 was claimed only by Kelly in the Lemhi  
13 River adjudication and was recommended in the name of  
14 Kelly appurtenant to land owned by Kelly.

15 d) Right No. 74-0380 was claimed by Coleman in the Lemhi  
16 River adjudication and was recommended in the name of  
17 Coleman appurtenant to land owned by Coleman.

18 e) Right No. 74-0050A was claimed by Coleman and was recom-  
19 mended in the name of Coleman (Right 74-0050A is one-  
20 half of the right from Little Timber Creek originally  
21 decreed to Leslie W. Adams).

22 f) Right No. 74-0050B was claimed by Kelly and was recom-  
23 mended in the name of Kelly (Right 74-0050B is the other  
24 half of the right from Little Timber Creek originally  
25 decreed to Leslie W. Adams).

26 g) Right Nos. 74-0380 and 74-0381 have historically been  
27 used by Coleman and his predecessors.

28 h) A water exchange has historically been practiced whereby  
29 water under rights 74-0380 and 74-0381 diverted and used  
30 by Coleman and his predecessors would be compensated for  
31 by allowing Kelly and his predecessors to divert more of  
32 right 74-0050 from Little Timber Creek than the one-half  
owned by Kelly.

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1 2. The parties further agree and stipulate that:

- 2 a) One-half of rights 74-0050, 74-0380 and 74-0381 are  
3 owned by each Coleman and Kelly.  
4 b) The exchange of water should be continued as in the  
5 past.  
6 c) The exact diversion under the exchange (accounting for  
7 losses incurred by either Coleman or Kelly due to the  
8 respective lengths of their conveyance systems) may be  
9 determined by the Department, or by the watermaster, or  
10 by Coleman and Kelly if Coleman and Kelly can agree.  
11 d) The equitable rate of exchange once determined, shall  
12 remain fixed for Coleman and Kelly and all successors in  
13 interest.

14 The parties further agree and stipulate that the  
15 following changes be made to the proposed finding of water  
16 rights:  
17

- 18 a) Right No. 74-0381 (page 157 of the proposed findings)  
19 should be changed to show one-half of the right to  
20 Coleman and one-half of the right to Kelly. (See  
21 Exhibit A).  
22 b) Right No. 74-0380 (page 157 of the proposed findings)  
23 should be changed to show one-half of the right to  
24 Coleman and one-half of the right to Kelly. (See  
25 Exhibit A).  
26 c) Right No. 74-1808 (page 165 of the proposed findings)  
27 should be deleted in its entirety.  
28 d) No change should be made to the recommendation of Right  
29 No. 74-0050A (page 156 of the proposed findings) and no  
30 change should be made to the recommendation of Right No.  
31 74-0050B (page 157 of the proposed findings).  
32

1 These changes are incorporated into the attached Exhibit

2 A.

3 DATED this 20<sup>th</sup> day of October, 1981.

4  
5 Josephine P. Beeman  
6 JOSEPHINE P. BEEMAN  
7 Deputy Attorney General  
8 Department of Water Resources

9 Ray W. Rigby  
10 RAY RIGBY, Attorney for  
11 Harry L. and/or Shirley R.  
12 Coleman

13 James C. Herndon  
14 JAMES C. HERNDON, Attorney for  
15 Kenneth R. and Betty C. Kelly

16 The above stipulation having duly come before this  
17 Court, it is hereby approved this 20 day of October, 1981.

18 Milton A. Slavin  
19 MILTON A. SLAVIN  
20 Special Master, Appointed

PROPOSED FINDING OF WATER RIGHTS - LEMHI RIVER DRAINAGE

SOURCE: Timber Creek & Tributaries

IDENT. NO.	NAME AND ADDRESS	PRIORITY	PURPOSE	PERIOD OF USE		MAXIMUM RATE OF DIVERSION (cfs)	POINT OF DIVERSION	PLACE OF USE and LANDS IRRIGATED	BASIS OF RIGHT and REMARKS
				From	To				

(Page 157 of the proposed findings)  
 74-0050B Kelly, Kenneth R. and/or Betty C.  
 Box 64  
 Leadore, Idaho

11-6	-1908	Irrigation	4/1	11/1	2.75	SE $\frac{1}{4}$ NE $\frac{1}{4}$ , S.23 T15N, R25E	Sec. 3 SW $\frac{1}{4}$ SE $\frac{1}{4}$ , SE $\frac{1}{4}$ SE $\frac{1}{4}$ , Sec. 10	40.0 36.3	Decree Little Timber Creek
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(Page 157 of the proposed findings)  
 74-0380A Coleman, Harry L. and/or Shirley R.  
 Box 43  
 Leadore, Idaho

11-6	-1908	Irrigation	4/1	11/1	9-49 0.20	NE $\frac{1}{4}$ NE $\frac{1}{4}$ , S.22 T15N, R25E	Sec. 10 SE $\frac{1}{4}$ SE $\frac{1}{4}$ , Sec. 11	38.0	Decree Milk Creek (Shennon Creek)
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(Page 157 of the proposed findings)  
 74-0380B Kelly, Kenneth R. and/or Betty C.  
 Box 64  
 Leadore, Idaho

11-6	-1908	Irrigation	4/1	11/1	0.20	Sec. 15 NW $\frac{1}{4}$ NE $\frac{1}{4}$ T15N, R25E	Sec. 10 NE $\frac{1}{4}$ SE $\frac{1}{4}$ , Sec. 11	15.2	Decree Milk Creek (Shennon Creek)
------	-------	------------	-----	------	------	--	---	------	---

SW $\frac{1}{4}$ NW $\frac{1}{4}$ ,	16.7
SE $\frac{1}{4}$ NW $\frac{1}{4}$ ,	17.8
NW $\frac{1}{4}$ SW $\frac{1}{4}$ ,	39.8
T15N, R25E	89.5

PROPOSED FINDING OF WATER RIGHTS - LEMHI RIVER DRAINAGE

SOURCE: Timber Creek & Tributaries

IDENT. NO.	NAME AND ADDRESS	PRIORITY	PURPOSE	PERIOD OF USE		MAXIMUM RATE OF DIVERSION (cfs)	POINT OF DIVERSION	PLACE OF USE and LANDS IRRIGATED	BASIS OF RIGHT and REMARKS
				From	To				
(Page 157 of the proposed findings)									
74-0381A	Coleman, Harry L. and/or Shirley R. Box 43 Leadore, Idaho	11-6-1908	Irrigation	4/1	11/1	0.15	NE $\frac{1}{4}$ NE $\frac{1}{4}$ , S.22 T15N, R25E	Sec. 10 SE $\frac{1}{4}$ SE $\frac{1}{4}$ , Sec. 11 NE $\frac{1}{4}$ SW $\frac{1}{4}$ , SW $\frac{1}{4}$ SW $\frac{1}{4}$ , SE $\frac{1}{4}$ SW $\frac{1}{4}$ , T15N, R25E	Decree Adams Springs (Unnamed Creek)
								38.0	
								40.0	
								40.0	
								40.0	
								<u>158.0</u>	
(Page 157 of the proposed findings)									
74-0381B	Kelly, Kenneth R. and/or Betty C. Box 64 Leadore, Idaho	11-6-1908	Irrigation	4/1	11/1	0.39	Sec. 15 NW $\frac{1}{4}$ NE $\frac{1}{4}$ T15N, R25E	Sec. 10 NE $\frac{1}{4}$ SE $\frac{1}{4}$ , Sec. 11 SW $\frac{1}{4}$ NW $\frac{1}{4}$ , SE $\frac{1}{4}$ NW $\frac{1}{4}$ , NW $\frac{1}{4}$ SW $\frac{1}{4}$ , T15N, R25E	Decree Adams Springs (Unnamed Creek)
								15.2	
								16.7	
								17.8	
								39.8	
								<u>89.5</u>	
(Page 165 of the proposed findings)									
74-1808	Kelly, Kenneth R. and/or Betty C. Box 64 Leadore, Idaho	7-22-1937	Irrigation	4/1	11/1	0.86	Sec. 15 NW $\frac{1}{4}$ NE $\frac{1}{4}$ T15N, R25E	Sec. 10 NE $\frac{1}{4}$ SW $\frac{1}{4}$ , SE $\frac{1}{4}$ SW $\frac{1}{4}$ , SW $\frac{1}{4}$ SE $\frac{1}{4}$ , T15N, R25E	Beneficial-Use Adams Springs (Unnamed Creek)
								5.0	
								10.0	
								28.0	
								<u>43.0</u>	

RECEIVED

SEP 8 1981

Department of Water Resources

1 DAVID H. LEROY  
2 Attorney General  
3 State of Idaho  
4 Statehouse, Room 210  
5 Boise, Idaho 83720  
6 Telephone: (208) 384-2400

5 DON A. OLOWINSKI  
6 Deputy Attorney General  
7 Chief, Natural Resources Division

7 JOSEPHINE P. BEEMAN  
8 Deputy Attorney General  
9 Department of Water Resources  
10 Statehouse  
11 Boise, Idaho 83720  
12 Telephone: (208) 334-4448

Filed in District Court Lemhi County

Idaho, Sept. 3 1981

at 54 minutes past 2 o'clock P. M.

Chas. Aldous Clerk

Alberta Kendrick

11 IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF THE  
12 STATE OF IDAHO, IN AND FOR THE COUNTY OF LEMHI

13	IN THE MATTER OF THE GENERAL	)	
14	DETERMINATION OF THE RIGHT TO	)	CIVIL NO. 4948
15	THE USE OF SURFACE WATERS AND	)	
16	TRIBUTARIES FROM WHATEVER	)	STIPULATION RESOLVING
17	SOURCE OF THE LEMHI RIVER	)	SPECIFIC OBJECTIONS OF
18	DRAINAGE BASIN.	)	WILLIAM B. and/or
19		)	MARIAN H. SWAHLEN

17 COME NOW the Idaho Department of Water Resources and  
18 William B. and/or Marian H. Swahlen, through their respective  
19 counsel, and propose that the following stipulation be approved  
20 by the Court as a resolution of the specific objections which  
21 were filed August 14, 1974 by William B. Swahlen.

22 The parties stipulate that the following changes be made  
23 to the proposed listing of water rights:

- 24 1. Right No. 74-0175 (p. 26 of the proposed findings):  
25 an additional point of diversion should be added:

26 Section 2, SE1/4NW1/4, T21N, R23E

- 27 2. Right No. 74-0173 (p. 29 of the proposed findings): the  
28 acres irrigated should be increased from 95.2 to 104.2  
29 acres by the addition of 9 acres located in NE1/4SW1/4,  
30 Section 28, T21N, R23E.

- 31 3. Right No. 74-0215 (p. 170 of the proposed findings):  
32 the acres irrigated should be increased from 79.3 acres

JUL 30 1981



1 to 88.3 acres by the addition of 9 acres located in  
2 NE1/4SW1/4, Section 28, T21N, R23E.

3 4. Right No. 74-2348 (p. 171 of the proposed findings): an  
4 additional point of diversion located in the SE1/4NW1/4,  
5 Section 5, T21N, R24E, and an additional point of injec-  
6 tion located in the SE1/4SW1/4, Section 6, T21N, R24E  
7 should be added.

8 5. Right No. 74-0783 (p. 219 of the proposed findings): an  
9 additional use for domestic purposes should be added as  
10 follows to the existing recommendation:

11 Priority: April 10, 1918

12 Purpose: domestic

13 Period of Use: January 1 to December 31

14 Rate of Diversion: 0.02 c.f.s.

15 Point of Diversion: SW1/4NE1/4, S. 15,  
16 T21N, R23E

17 Place of Use: within SW1/4NE1/4, S. 15,  
18 T21N, R23E

19 6. Right No. 74-0183 (p. 26 of the proposed findings) and  
20 Right No. 74-0377 (p. 31 of the proposed findings): to  
21 each of these rights should be added a point of diver-  
22 sion located in Lot 3, Section 2, T21N, R23E.

23 7. The following rights are to be added to the proposed  
24 findings:

25 A) Ident. No.: 74-1870

26 Name and Address: Swahlen, William B. and/or  
27 Marian H., Salmon, Idaho 83467

28 Source: An unnamed spring located in NW1/4NE1/4,  
29 Sec. 11, T21N, R23E

30 Priority: April 1, 1869

31 Period of Use: Jan 1 to Dec 31

32 Purpose and Maximum Rate of Diversion:

Domestic 0.02 c.f.s.

Stockwater 0.02 c.f.s.

Irrigation 0.02 c.f.s

0.04 c.f.s

State of Idaho  
Statehouse, Room 210  
Boise Idaho 83720  
Telephone (208) 384-2400

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Point of Diversion: NW1/4NE1/4, Sec. 11, T21N,  
R23E

Place of Use: SW1/4NE1/4, Sec. 11, T21N, R23E

Basis of Right: Beneficial Use

B) Ident. No.: 74-1871

Name and Address: Swahlen, William B. and/or  
Marian H., Salmon, Idaho 83467

Source: An unnamed spring located in SW1/4NW1/4,  
Sec. 11, T21N, R23E

Priority: April 1, 1869

Period of Use: Jan 1 to Dec 31

Purpose and Maximum Rate of Diversion:

Domestic	0.02 c.f.s.
Stockwater	0.02 c.f.s.
Irrigation	<u>0.02</u> c.f.s.
	0.04 c.f.s.

Point of Diversion: SW1/4NW1/4, Sec. 11, T21N,  
R23E

Place of Use: SW1/4NW1/4, Sec. 11, T21N, R23E

Basis of Right: Beneficial Use

C) Ident. No.: 74-1872

Name and Address: Swahlen, William B. and/or  
Marian H., Salmon, Idaho 83467

Source: An unnamed spring located in NW1/4SW1/4,  
Sec. 28, T21N, R23E

Priority: April 19, 1910

Period of Use: Jan 1 to Dec 31

Purpose and Maximum Rate of Diversion:

Domestic	0.02 c.f.s.
Stockwater	<u>0.02</u> c.f.s.
	0.04 c.f.s.

Point of Diversion: NW1/4SW1/4, Sec. 28, T21N,  
R23E

Place of Use: NW1/4SW1/4, Sec. 28, NE1/4SE1/4,  
Sec. 29, T21N, R23E

Basis of Right: Beneficial Use

D) Ident. No.: 74-1873

Name and Address: Swahlen, William B. and/or  
Marian H., Salmon, Idaho 83467

JUN 10 1966

1 Source: An unnamed spring located in SE1/4SE1/4,  
2 Sec. 29, T21N, R23E

3 Priority: April 19, 1910

4 Period of Use: Jan 1 to Dec 31

5 Purpose and Maximum Rate of Diversion:

6 Domestic 0.02 c.f.s.

7 Stockwater 0.02 c.f.s.

8 0.04 c.f.s.

9 Point of Diversion: SE1/4SE1/4, Sec. 29, T21N,  
10 R23E

11 Place of Use: SE1/4SE1/4, NE1/4SE1/4, Sec. 29,  
12 T21N, R23E

13 Basis of Right: Beneficial Use

14 These changes listed in items 1 through 7 above are  
15 incorporated into the attached Exhibit A.

16 DATED this 24<sup>th</sup> day of August, 1981.

17 Josephine P. Beeman 10 August 1981  
18 JOSEPHINE P. BEEMAN  
19 Deputy Attorney General  
20 Department of Water Resources

21 Sherman F. Furey, Jr. 8/24/81  
22 SHERMAN F. FUREY, JR.  
23 attorney for William E.  
24 and Marian H. Swahlen

25 The above stipulation having duly come before the court,  
26 it is hereby approved this 3<sup>rd</sup> day of September, 1981.

27 Milton A. Slavin  
28 MILTON A. SLAVIN  
29 Special Master, Appt.

RECORDED

JUL 30 1981

Josephine P. Beeman  
State of Idaho  
Statehouse, Room 210  
Boise Idaho 83720  
Telephone (208) 384-2400

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 10<sup>th</sup> day of August, 1981,  
a true and correct copy of the foregoing STIPULATION RESOLVING  
SPECIFIC OBJECTIONS OF WILLIAM B. and/or MARIAN H. SWAHLEN was  
mailed, postage prepaid, addressed to: Sherman F. Furey, Jr.,  
Attorney at Law, P.O. Box 1127, Salmon, Idaho 83467.

*Josephine P. Beeman*  
\_\_\_\_\_  
JOSEPHINE P. BEEMAN  
Deputy Attorney General  
Department of Water Resources

State of Idaho  
Statehouse, Room 210  
Boise Idaho 83720  
Telephone (208) 364-2400

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RECORDED

JUL 30 1996

IDENT. NO.	NAME AND ADDRESS	PRIORITY	PURPOSE	PERIOD OF USE From To	MAXIMUM RATE OF DIVERSION (cfs)	POINT OF DIVERSION	PLACE OF USE and LANDS IRRIGATED	BASIS OF RIGHT and REMARKS
74-0175	(p. 26 of the proposed findings) SWAHLEN, William B. and/or Marian H. Salmon, Idaho		Irrigation	4/1 11/1	1.1	Sec. 2 Lot 2 SE $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 11 NW $\frac{1}{2}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 3 SE $\frac{1}{4}$ SE $\frac{1}{4}$ T21N, R23E	Sec. 11 SW $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$ T21N, R23E	Decree 24.0 31.6 <u>55.6</u>
74-0173	(p. 29 of the proposed findings) SWAHLEN, William B. and/or Marian H. Salmon, Idaho		Irrigation	4/1 11/1	2.9	NE $\frac{1}{4}$ SW $\frac{1}{4}$ , S. 22 T21N, R23E	Sec. 28 NW $\frac{1}{4}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$ T21N, R23E	Decree 18.7 15.9 26.3 34.3 <u>9.0</u>
74-0215	(p. 170 of the proposed findings) SWAHLEN, William B. and/or Marian H. Salmon, Idaho		Irrigation	4/1 11/1	2.8	Sec. 7 NW $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 5 SE $\frac{1}{4}$ NW $\frac{1}{4}$ T21N, R24E	Sec. 28 NW $\frac{1}{4}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$ Sec. 29 NE $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$ T21N, R23E	Decree 34.7 19.8 <u>9.0</u> 13.2 11.6 <u>79.3</u> <u>88.3</u>

Point of re-diversion from Bohannon Creek: NE $\frac{1}{4}$ SW $\frac{1}{4}$ , Sec. 22, T21N, R23E

Source: Wimpey Creek

Source: Bohannon Creek



PROPOSED FINDING OF WATER RIGHTS - LEWIS RIVER DRAINAGE

IDENT. NO.	NAME AND ADDRESS	PRIORITY	PURPOSE	PERIOD OF USE		MAXIMUM RATE OF DIVERSION (cfs)	POINT OF DIVERSION	PLACE OF USE and LANDS IRRIGATED	BASIS OF RIGHT and REMARKS
				From	To				
74-0377	(p. 31 of the proposed findings)								
	SWAHLEN, William B. and/or Marian H. Salmon, Idaho	7-10-1912	Irrigation	4/1	11/1	2.80	Lot 2, Sec. 2 Lot 3, Sec. 2 T21N, R23E	Sec. 11 SE $\frac{1}{4}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ T21N, R23E	Decree  21.7 36.5 30.0 22.5 <u>110.7</u>
	Source: Bohannon Creek								
74-1870	(to be added to the proposed findings)								
	SWAHLEN, William B. and/or Marian H. Salmon, Idaho	4-1-1869	Domestic Stockwater Irrigation	1/1	12/31	0.02 0.02 0.04	NW $\frac{1}{4}$ NE $\frac{1}{4}$ , S. 11 T21N, R23E	Sec. 11 SW $\frac{1}{4}$ NE $\frac{1}{4}$ T21N, R23E	Beneficial Use
	Source: NW $\frac{1}{4}$ NE $\frac{1}{4}$ , Sec. 11, T21N, R23E								
74-1871	(to be added to the proposed findings)								
	SWAHLEN, William B. and/or Marian H. Salmon, Idaho	4-1-1869	Domestic Stockwater Irrigation	1/1	12/31	0.02 0.02 0.04	SW $\frac{1}{4}$ NW $\frac{1}{4}$ , S. 11 T21N, R23E	Sec. 11 SW $\frac{1}{4}$ NW $\frac{1}{4}$ T21N, R23E	Beneficial Use
	Source: SW $\frac{1}{4}$ NW $\frac{1}{4}$ , Sec. 11, T21N, R23E								
74-1872	(to be added to the proposed findings)								
	SWAHLEN, William B. and/or Marian H. Salmon, Idaho	4-19-1910 4-19-1910	Domestic Stockwater	1/1	12/31	0.02 0.02 0.04	NW $\frac{1}{4}$ SW $\frac{1}{4}$ , S. 28 T21N, R23E	Sec. 28 NW $\frac{1}{4}$ SW $\frac{1}{4}$ Sec. 29 NE $\frac{1}{4}$ SE $\frac{1}{4}$ T21N, R23E	Beneficial Use
	Source: NW $\frac{1}{4}$ SW $\frac{1}{4}$ , Sec. 28, T21N, R23E								
	Source: Unnamed spring located in								

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PROPOSED FINDING OF WATER RIGHTS - LEWIS RIVER DRAINAGE

IDENT. NO.	NAME AND ADDRESS	PRIORITY	PURPOSE	PERIOD OF USE		MAXIMUM RATE OF DIVERSION (cfs)	POINT OF DIVERSION	PLACE OF USE and LANDS IRRIGATED	BASIS OF RIGHT and REMARKS
				From	To				
74-1873	(to be added to the proposed findings)								
	SWAHLEN, William B. and/or Marian H. Salmon, Idaho		Domestic Stockwater	1/1	12/31	0.02 0.02 0.04	SE&SE $\frac{1}{4}$ , S. 29 T21N, R23E	Sec. 29 SE&SE $\frac{1}{4}$ NE&SE $\frac{1}{4}$ T21N, R23E	Beneficial Use
Unnamed spring located in Source: SE&SE $\frac{1}{4}$ , Sec. 29, T21N, R23E									

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Attesty: Clerk  
State of Idaho  
Statehouse, Room 210  
Boise, Idaho 83720  
Telephone (208) 384-2400

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PLACE OF USE AND LANDS  
IRRIGATED:

Sec. 20  
NE $\frac{1}{4}$ SW $\frac{1}{4}$ ,  
SW $\frac{1}{4}$ SW $\frac{1}{4}$ ,  
SE $\frac{1}{4}$ SW $\frac{1}{4}$ ,  
NW $\frac{1}{4}$ SE $\frac{1}{4}$ ,  
SW $\frac{1}{4}$ SE $\frac{1}{4}$ ,  
Sec. 29  
NW $\frac{1}{4}$ NE $\frac{1}{4}$ ,  
NE $\frac{1}{4}$ NW $\frac{1}{4}$ ,  
NW $\frac{1}{4}$ NW $\frac{1}{4}$ ,  
T. 16N, R. 25E  
Decree

BASIS OF RIGHT:

This right and right No. 74-0412 provide for the diversion of one cubic foot per second that shall always be allowed to be diverted through the headgate of the ditch known as the "Schoonover - Freeman - Seamour" Ditch.

2. Right No. 74-0412 (a new right to be added to p. 40 just ahead of Right No. 73-0342)

NAME: PETERSON, Harvey E.  
Box 46  
Leadore, Idaho  
3-25-1887  
PRIORITY: 3-25-1887  
PURPOSE: Stockwater  
PERIOD OF USE: From: 1/1 To: 12/31  
MAXIMUM RATE OF DIVERSION: 0.66  
POINT OF DIVERSION: SW $\frac{1}{4}$ NW $\frac{1}{4}$ , S. 33  
T. 16N, R. 25E

PLACE OF USE AND LANDS  
IRRIGATED:

Sec. 20  
NE $\frac{1}{4}$ NE $\frac{1}{4}$ ,  
SE $\frac{1}{4}$ NE $\frac{1}{4}$ ,  
NE $\frac{1}{4}$ SE $\frac{1}{4}$ ,  
SE $\frac{1}{4}$ SE $\frac{1}{4}$ ,  
Sec. 21  
NW $\frac{1}{4}$ NW $\frac{1}{4}$ ,  
SW $\frac{1}{4}$ NW $\frac{1}{4}$ ,  
NW $\frac{1}{4}$ SW $\frac{1}{4}$ ,  
NE $\frac{1}{4}$ NW $\frac{1}{4}$ ,  
SE $\frac{1}{4}$ NW $\frac{1}{4}$ ,  
NE $\frac{1}{4}$ SW $\frac{1}{4}$ ,  
SW $\frac{1}{4}$ SW $\frac{1}{4}$ ,  
SE $\frac{1}{4}$ SW $\frac{1}{4}$ ,  
Sec. 28  
NW $\frac{1}{4}$ NW $\frac{1}{4}$ ,  
Sec. 29  
NE $\frac{1}{4}$ NE $\frac{1}{4}$ ,  
T. 16N, R. 25E  
Decree

BASIS OF RIGHT:

This right and right No. 74-0411 provide for the diversion of one cubic foot per second that shall always be allowed to be diverted through the headgate of the ditch known as the "Schoonover - Freeman - Seamour" Ditch.

3. Right No. 74-0351 (p. 45 of the proposed findings): the stockwater portion of this right is to be deleted; the

1 maximum rate of diversion should be changed to 6.84 cfs;  
 2 the irrigated acreage is to be changed to 250.6 acres;  
 3 and the language "one cubic foot per second shall always  
 4 be allowed to be diverted through the headgate of the  
 5 ditch known as the 'Schoonover - Freeman - Seamour'  
 6 ditch for the right holders of 74-0350, 74-0352, and  
 7 74-0351" is to be deleted. All as shown below:

8 NAME: PETERSON, Harvey E.  
 9 Box 46  
 10 Leadore, Idaho  
 11 PRIORITY: 5-11-1910  
 12 PURPOSE: Irrigation  
 13 PERIOD OF USE: From: 4/1 To: 11/1  
 14 MAXIMUM RATE OF DIVERSION: 6.84  
 15 POINT OF DIVERSION: SW $\frac{1}{4}$ NW $\frac{1}{4}$ , S. 33  
 16 T. 16N, R. 25E

17 PLACE OF USE AND LANDS

18 IRRIGATED:

19	Sec. 20	
20	NE $\frac{1}{4}$ NE $\frac{1}{4}$ ,	40.0
21	NW $\frac{1}{4}$ NE $\frac{1}{4}$ ,	20.0
22	SE $\frac{1}{4}$ NE $\frac{1}{4}$ ,	30.9
23	SW $\frac{1}{4}$ NE $\frac{1}{4}$ ,	25.0
24	NE $\frac{1}{4}$ SE $\frac{1}{4}$ ,	38.8
25	Sec. 21	
26	NW $\frac{1}{4}$ NW $\frac{1}{4}$ ,	17.2
27	SW $\frac{1}{4}$ NW $\frac{1}{4}$ ,	38.7
28	NW $\frac{1}{4}$ SW $\frac{1}{4}$ ,	40.0
29	T. 16N, R25E	250.6
30	Decree	

31 BASIS OF RIGHT:

- 32
4. Right No. 74-0350 (p. 44 of the proposed findings): the stockwater portion of this right should be deleted; the language "one cubic foot per second shall always be allowed to be diverted through the headgate of the ditch known as the 'Schoonover - Freeman - Seamour' ditch for the right holders of 74-0350, 74-0352, and 74-0351." should also be deleted.
  5. Right No. 74-0352 (p. 45 of the proposed findings): the stockwater portion of this right should be deleted; the maximum rate of diversion should be changed to 4.64 cfs; and the language "one cubic foot per second shall always be allowed to be diverted through the headgate of the ditch known as the 'Schoonover - Freeman - Seamour'

JUL 3 0 1998

1 ditch for the right holders of 74-0350, 74-0352, and  
2 74-0351." should also be deleted.

3 The changes listed in items 1 through 5 above are incor-  
4 porated into the attached Exhibit A.

5 DATED this 2<sup>nd</sup> day of September, 1981.  
6

7  
8 Josephine P. Beeman 11 August 1981  
9 JOSEPHINE P. BEEMAN  
10 Deputy Attorney General  
11 Department of Water Resources

Sherman F. Furey, Jr.  
12 SHERMAN F. FUREY, JR.  
13 attorney for Harvey E.  
14 Peterson

11 The above stipulation having duly come before the court,  
12 it is hereby approved this 3<sup>rd</sup> day of September, 1981.  
13

14  
15 Milton A. Slavin  
16 MILTON A. SLAVIN  
17 Special Master, Appointed

18 CERTIFICATE OF SERVICE

19 I HEREBY CERTIFY that on this 11<sup>th</sup> day of August, 1981,  
20 a true and correct copy of the foregoing STIPULATION RESOLVING  
21 THE SPECIFIC OBJECTIONS OF HARVEY E. PETERSON was mailed, postage  
22 prepaid, addressed to: Sherman F. Furey, Jr., Attorney at Law,  
23 P.O. Box 1127, Salmon, Idaho 83467.  
24

25  
26 Josephine P. Beeman  
27 JOSEPHINE P. BEEMAN  
28 Deputy Attorney General  
29 Department of Water Resources  
30  
31  
32

PROPOSED FINDING OF WATER RIGHTS - LEMHI RIVER DRAINAGE

SOURCE: Big Eightmile Creek & Tribs.

IDENT. NO.	NAME AND ADDRESS	PRIORITY	PURPOSE	PERIOD OF USE		MAXIMUM RATE OF DIVERSION (cfs)	POINT OF DIVERSION	PLACE OF USE and LANDS IRRIGATED	BASIS OF RIGHT and REMARKS
				From	To				
74-0411	(to be added to p. 40 of the proposed findings, just ahead of Right No. 74-0342)								
	NEFF, Darrell J. and/or Verna M. Star Route Leadore, Idaho	3-25-1887	Stockwater	1/1	12/31	0.33	S $\frac{1}{2}$ N $\frac{1}{2}$ W $\frac{1}{2}$ , S. 33 T16N, R25E	Sec. 20 NE $\frac{1}{4}$ S $\frac{1}{2}$ W $\frac{1}{2}$ SW $\frac{1}{4}$ S $\frac{1}{2}$ W $\frac{1}{2}$ SE $\frac{1}{4}$ S $\frac{1}{2}$ W $\frac{1}{2}$ NW $\frac{1}{4}$ SE $\frac{1}{2}$ SW $\frac{1}{4}$ SE $\frac{1}{2}$ Sec. 29 NW $\frac{1}{4}$ NE $\frac{1}{2}$ NE $\frac{1}{4}$ NW $\frac{1}{2}$ NW $\frac{1}{4}$ NW $\frac{1}{2}$ T16N, R25E	Decree
74-0412	(to be added to p. 40 of the proposed findings, just ahead of right No. 74-0342)								
	PETERSON, Harvey E. Box 46 Leadore, Idaho	3-25-1887	Stockwater	1/1	12/31	0.66	S $\frac{1}{2}$ N $\frac{1}{2}$ W $\frac{1}{2}$ , S. 33 T16N, R25E	Sec. 20 NE $\frac{1}{4}$ NE $\frac{1}{2}$ SE $\frac{1}{4}$ NE $\frac{1}{2}$ NE $\frac{1}{4}$ SE $\frac{1}{2}$ SE $\frac{1}{4}$ SE $\frac{1}{2}$ Sec. 21 NW $\frac{1}{4}$ NW $\frac{1}{2}$ SW $\frac{1}{4}$ NW $\frac{1}{2}$ NW $\frac{1}{4}$ SW $\frac{1}{2}$ NE $\frac{1}{4}$ SW $\frac{1}{2}$ NE $\frac{1}{4}$ NW $\frac{1}{2}$ SE $\frac{1}{4}$ NW $\frac{1}{2}$ NE $\frac{1}{4}$ SW $\frac{1}{2}$ SW $\frac{1}{4}$ SW $\frac{1}{2}$ SE $\frac{1}{4}$ SW $\frac{1}{2}$ Sec. 28 NW $\frac{1}{4}$ NW $\frac{1}{2}$ Sec. 29 NE $\frac{1}{4}$ NE $\frac{1}{2}$ T16N, R25E	Decree

JUL 3 1986

PROPOSED FINDING OF WATER RIGHTS - LEMHI RIVER DRAINAGE

SOURCE: Big Eightmile Creek & Tribs.

IDENT. NO.	NAME AND ADDRESS	PRIORITY	PURPOSE	PERIOD OF USE From To	MAXIMUM RATE OF DIVERSION (cfs)	POINT OF DIVERSION	PLACE OF USE and LANDS IRRIGATED	BASIS OF RIGHT and REMARKS	
74-0351	(p. 45 of the proposed findings) PETERSON, Harvey E. Box 46 Leadore, Idaho	5-11-1910	Irrigation Steekwater	4/1 11/1 1/1-12/31	5-28 6.84 0-33	SW $\frac{1}{4}$ NW $\frac{1}{4}$ , S. 33 T16N, R25E	Sec. 20 NE $\frac{1}{4}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 21	40.0 20.0 30.9 25.0 38.8 17.2 38.7 40.0 250.6 170.5	4.9 Decree
								One-eubie-foot-per-second-shaft-always-be-allowed-to-be diverted-through-the-headgate-of-the-ditch-known-as-the "Schoenover-Freeman-Seamoy"-Ditch-for-the-right-holders of-74-0350,-74-0352,-and-74-0351-	
74-0350	(p. 44 of the proposed findings) NEFF, Darrell J. and/or Verna M. Star Route Leadore, Idaho	5-11-1910	Irrigation Steekwater	4/1 11/1 1/1-12/31	7.04 0-33	SW $\frac{1}{4}$ NW $\frac{1}{4}$ , S. 33 T16N, R25E	Sec. 20 NE $\frac{1}{4}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 29	14.0 4.8 37.7 38.6 40.0 36.4 1.5 1.0 174.0	Decree
								One-eubie-foot-per-second-shaft-always-be-allowed-to-be diverted-through-the-headgate-of-the-ditch-known-as-the "Schoenover-Freeman-Seamoy"-Ditch-for-the-right-holders of-74-0350,-74-0352,-and-74-0351-	

JUL 30 1993

PROPOSED FINDING OF WATER RIGHTS - LEMHI RIVER DRAINAGE

SOURCE: Big Eightmile Creek & Tribs.

IDENT. NO.	NAME AND ADDRESS	PRIORITY	PURPOSE	PERIOD OF USE		MAXIMUM RATE OF DIVERSION (cfs)	POINT OF DIVERSION	PLACE OF USE and LANDS IRRIGATED	BASIS OF RIGHT and REMARKS
				From	To				
74-0352	(p. 45 of the proposed findings)								
	PETERSON, Harvey E. Box 46 Leadore, Idaho	5-11-1910	Irrigation Stockwater	4/1	11/1	3:79 0:33	SW $\frac{1}{4}$ NW $\frac{1}{4}$ , S. 33 T16N, R25E	Sec. 20 SE $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 21	Decree 40.0
								NE $\frac{1}{4}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$ Sec. 28 NW $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 29 NE $\frac{1}{4}$ NE $\frac{1}{4}$ T16N, R25E	9.5 29.9 39.4 40.0 38.6 40.0 277.4

One-eighth-foot-per-second-shaft-always-be-allowed-to-be  
diverted-through-the-headgate-of-the-ditch-known-as-the  
"Shoener-Freeman-Seamur"-ditch-for-the-right-holders  
of-74-0350;-74-0352;-and-74-0351-

Filed in District Court Lemhi County  
 Idaho, March 12 1981  
 at 30 minutes past 2 o'clock P. M.  
Boyd R. Thomas Clerk  
 By \_\_\_\_\_ Deputy

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

IN THE MATTER OF THE GENERAL )	
DETERMINATION OF THE RIGHT TO )	CIVIL NO. 4948
THE USE OF THE SURFACE WATERS )	
AND TRIBUTARIES FROM WHATEVER )	RULE 54(b) JUDGMENT -
SOURCE OF THE LEMHI RIVER )	REGARDING ONLY CLAIM
DRAINAGE BASIN. )	NO. 74-0249
)	

IT IS HEREBY ORDERED, ADJUDGED, and DECREED pursuant to the Findings of Fact and Conclusions of Law entered January 19, 1980 that claim no. 74-0249 in the name of James F. Stoddard be decreed as follows:

NAME AND ADDRESS: STODDARD, James F. and/or Jean L.  
 Route 1, Box 120  
 Salmon, Idaho

PRIORITY: 11-27-1919

PURPOSE: Irrigation

PERIOD OF USE: from 4/1 to 11/1

MAXIMUM RATE OF DIVERSION: 3.80 cfs

POINT OF DIVERSION: Lot 1, S. 28, T19N, R24E

PLACE OF USE and LANDS IRRIGATED:

Sec. 17	
SW $\frac{1}{4}$ NE $\frac{1}{4}$ ,	23.2
NW $\frac{1}{4}$ SE $\frac{1}{4}$ ,	17.7
SW $\frac{1}{4}$ SE $\frac{1}{4}$ ,	26.2
SE $\frac{1}{4}$ SE $\frac{1}{4}$ ,	2.6
Sec. 20	
NE $\frac{1}{4}$ NE $\frac{1}{4}$ ,	7.0
NW $\frac{1}{4}$ NE $\frac{1}{4}$ ,	37.4
SW $\frac{1}{4}$ NE $\frac{1}{4}$ ,	35.8
SE $\frac{1}{4}$ NE $\frac{1}{4}$ ,	8.5
SE $\frac{1}{4}$ NW $\frac{1}{4}$ ,	1.8
NE $\frac{1}{4}$ SW $\frac{1}{4}$ ,	5.3
NE $\frac{1}{4}$ SE $\frac{1}{4}$ ,	5.5
NW $\frac{1}{4}$ SE $\frac{1}{4}$ ,	38.8
T19N, R24E	
	<u>209.8</u>

BASIS OF RIGHT: Decree

REMARKS: This right is only supplemental to right 74-0404 for the same land and may only be used when the water available from the Lemhi River using right 74-0404 cannot be filled due to its relative priority when considered together with other rights diverted from the Lemhi River, provided further that said right shall be limited to the use of one inch of water per acre.

DATED this 12<sup>th</sup> day of March, 1981.

Boyd R. Thomas  
 BOYD THOMAS  
 District Judge



RULE 54(b) CERTIFICATE

With respect to the issues determined by the above judgment it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a final judgment and that the court has and does hereby direct that the above judgment shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.

DATED this 12<sup>th</sup> day of MARCH, 1981.

Boyd R. Thomas  
DISTRICT JUDGE

JUL 8 0 1986

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 7<sup>th</sup> day of March,  
1981, true and correct copies of the foregoing RULE 54(b) JUDGMENT -  
REGARDING ONLY CLAIM NO. 76-0249 were mailed, postage prepaid,  
addressed as follows:

Sherman F. Furey  
Attorney at Law  
P.O. Box 1127  
Salmon, ID 83467

Lloyd A. Clark  
P.O. Box 1451  
Salmon, ID 83467

James F. Stoddard  
Route 1  
Salmon, ID 83467

James R. Gillespie  
P.O. Box 1368  
Boise, ID 83701

*Josephine P. Beeman*  
JOSEPHINE P. BEEMAN  
Deputy Attorney General  
Department of Water Resources

*Handwritten notes and stamps at the bottom of the page, including a date stamp that appears to read "MARCH 1981".*

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Filed in District Court Lemhi County  
Idaho, January 19 1981  
at 57 minutes past 2 o'clock P. M.  
Thomas Wilson Clerk  
By Walter Frederick Deputy

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

IN THE MATTER OF THE ) Case No. 4948  
ADJUDICATION OF THE ) FINDINGS OF FACT and  
LEMHI RIVER DRAINAGE ) CONCLUSIONS OF LAW

PURSUANT to hearing held in the above entitled Court at the  
Lemhi County Courthouse on July 23, 1980, wherein the Honorable  
Milton A. Slavin, acting as a Special Master pursuant to Idaho  
Rules of Civil Procedure, Rule No. 52, presided and the following  
parties were present or represented by counsel:

Sherman F. Furey, Jr., Esq., representing Ivan L.  
Jones, M. J. Chamberlain, Ralston W. Adams, Ronald  
and Frances Alder and Margaret Pyeatt; Lloyd A.  
Clark appearing pro se; James F. Stoddard appear-  
ing pro se; James R. Gillespie, Esq., representing  
Metropolitan Life Insurance Company and Pine Creek  
Ranches, Inc.; and Josephine Beeman, Deputy Attorney  
General for the State of Idaho representing the  
Department of Water Resources.

Hearing was held upon specific objections relating to  
claim No. 74-0249 which proposed that James F. Stoddard have a  
190 inch claim out of Agency Creek with a priority date of 1919.  
The Department of Water Resources recommendation indicates that  
the right was based on paragraph four (IV) of the 1925 decree,

JUL 30 1980

1 Mahaffey v. Pattee, on Agency Creek. Within that decree is  
2 reference to a 1914 decree, also on Agency Creek, under the title  
3 of Pattee v. Carpenter. The parties present stipulated that this  
4 Court take judicial notice as to the content of both Court files  
5 for both decrees.

6 THAT THIS COURT, having taken judicial notice of the  
7 content of the Lemhi County Court files No. 1656, Mahaffey v.  
8 Pattee, and No. 447, Pattee v. Carpenter, and considered Exhibits  
9 A and B and considered the briefs and responsive briefs filed on  
10 behalf of the parties, makes the following Findings of Fact and  
11 Conclusions of Law:

12 FINDINGS OF FACT

13 That James F. Stoddard has claimed a water right from Agency  
14 Creek of 3.8 cubic feet per second (190 inches) with a priority  
15 date of November 27, 1919 for 209.8 acres of land, all described  
16 under recommended right No. 74-0249 in the Department of Water  
17 Resources Proposed Finding of Water Rights. (Page 13 of Green Book)

18 II

19 That Claim No. 74-0249 is a recommendation for a water right  
20 out of Agency Creek based upon language appearing in Paragraph IV  
21 of the decree in Mahaffey v. Pattee which provides: ". . . . .  
22 that the said defendants, Joseph L. Pattee and Fred B. Pattee, are  
23 further entitled to the use and flow of a sufficient amount of the  
24 waters of said Agency Creek not exceeding 190 inches, or 3.8 cubic  
25 feet per second in time, with date of priority November 27, 1919,  
26 to irrigate the lands now owned by them, and situated on said bar,  
27 which cannot sufficiently and properly be irrigated by water here-  
28 in decreed thereto, and by water otherwise used thereon as herein

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1 provided; said use to be measured by and limited to the use of one  
2 inch of water to the acre."

3 III

4 That the protestants submit that the Department's proposed  
5 findings of water right identified as No. 74-0249 should be  
6 dismissed or modified by language limiting the amount of water  
7 which may be diverted from Agency Creek under said right to one  
8 inch per acre for those bar lands only which can be beneficially  
9 irrigated, but which cannot sufficiently and properly be irrigated  
10 by water elsewhere in said decree made appurtenant to said lands  
11 with an absolute upper limit of 190 inches, including the 100  
12 inches of the decreed water.

13 IV

14 That at the entry of the 1925 Mahaffey v. Pattee decree,  
15 Fred and Joe Pattee owned 360 acres of bar land which are now  
16 owned by James F. Stoddard and subject to this claim.

17 V

18 That 100 inches of Agency Creek water was decreed appurtenant  
19 to 100 acres of this land in the 1925 Mahaffey v. Pattee decree.

20 VI

21 That also, a maximum of 515 inches of Lemhi River water was  
22 used for another 240 acres of their bar land with the diversion  
23 out of the Lemhi River for this 515 inches is the Company River  
24 Ditch, now designated as Lemhi River Diversion L-32.

25 VII

26 That the Court decreed 190 inches of Agency Creek water to  
27 the Pattees for use on these 360 acres of bar land.

28 VIII

29 That the priority for this 190 inches was later than any other  
30 of the then existing rights on Agency Creek and dated from the  
31

32

1 Pattee's November 27, 1919 diversion of additional Agency Creek  
2 waters to their bar lands.

3 IX

4 That this right for 190 inches of Agency Creek water was  
5 further limited to only those bar lands of the Pattees which  
6 could not be sufficiently and properly irrigated by the 100 inches  
7 of Agency Creek water or the 515 inches of Lemhi River water  
8 already available.

9 CONCLUSIONS OF LAW

10 I

11 That the 1919 Agency Creek right appears as claim No. 74-0249  
12 on page 13 of the proposed findings of water rights in the Lemhi  
13 River adjudication.

14 II

15 That there are 209.8 acres listed as irrigated by this right.

16 III

17 That these same 209.8 acres are also listed under claim No.  
18 74-0404 as irrigated by 515 inches of Lemhi River water from the  
19 Company River Ditch, now called L-32 and all of the 209.8 acres  
20 lies below the Company River Ditch.

21 IV

22 That the acreage under the 1919 claim (74-0249) does not  
23 include acreage which receives water from any other sources than  
24 L-32.

25 V

26 That claim No. 74-0249 should be modified by language limit-  
27 ing the amount of water which may be diverted from Agency Creek as  
28 follows:

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"This right is only supplemental to right  
74-0404 for the same land and may only be  
used when the water available from the Lemhi  
River using right 74-0404 cannot be filled  
due to its relative priority when considered  
together with other rights diverted from the  
Lemhi River, provided further that said  
right shall be limited to the use of one inch  
of water per acre."

Done and dated in chambers at Salmon, Idaho, on the 16th  
day of January, 1981.

*Milton A. Slavin*  
Milton A. Slavin, Special Master

JUL 8 6 1988

FEB 22 1981

Department of Water Resources

1 **DAVID H. LEROY**  
2 Attorney General  
3 State of Idaho  
4 Statehouse, Room 210  
5 Boise, Idaho 83720  
6 Telephone: (208) 384-2400

7 **DON A. OLOWINSKI**  
8 Deputy Attorney General  
9 Chief, Natural Resources Division

10 **JOSEPHINE P. BEEMAN**  
11 Deputy Attorney General  
12 Department of Water Resources  
13 Statehouse  
14 Boise, Idaho 83720  
15 Telephone: (208) 334-4448

Filed in District Court Lemhi County  
Idaho February 9 1981  
at 27 minutes past 9 o'clock A. M.  
Chas. Aldous Clerk  
By Alberta Frederick Deputy

16 IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF THE  
17 STATE OF IDAHO, IN AND FOR THE COUNTY OF LEMHI

18 IN THE MATTER OF THE GENERAL )  
19 DETERMINATION OF THE RIGHT TO ) CIVIL NO. 4948  
20 THE USE OF SURFACE WATERS AND )  
21 TRIBUTARIES FROM WHATEVER )  
22 SOURCE OF THE LEMHI RIVER ) STIPULATION RESOLVING  
23 DRAINAGE BASIN. ) THE SPECIFIC OBJECTIONS  
24 ) OF PARLEY A. ARAVE AND  
25 ) ROBERT T. HEMMING

26 COME NOW C. Stephen Allred, Director of the Idaho Department  
27 of Water Resources and Parley A. Arave and Robert T. Hemming  
28 through their undersigned counsel and agree to the following  
29 changes in the proposed finding of water rights:

- 30 1. Right No. 74-0373 and 74-0374 should show an addi-  
31 tional use of stockwater.  
32 2. Right No. 74-1066 should show a rate of diversion  
of 16.41 c.f.s. rather than the 15.0 c.f.s. previously  
recommended.  
3. Right No. 74-1067 should show a rate of diversion  
of 1.56 c.f.s. rather than the 1.42 c.f.s. previously  
recommended.  
4. Right No. 74-1068 should show a rate of diversion  
of 5.3 c.f.s. rather than the 4.84 c.f.s. previously  
recommended.

These changes are incorporated into the attached Exhibit A.

Additional objections to the following proposed rights were  
withdrawn: 74-0373, 74-0374, 74-1066, 74-1067 and 74-1068.

The objection to the following proposed rights were with-  
drawn: 74-0366, 74-1069, 75-1073, 74-1074, and 74-2086B.

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1 The parties agree that the above stipulation resolves the  
2 specific objections which were filed by Parley A. Arave and  
3 Robert T. Hemming on May 3, 1976.

4 DATED this 5 day of February, 1980.

5 HOLDEN, KIDWELL, HAHN &  
6 CRAPO

7 By: Phillip J. Rossier 12/21/80  
8 JOSEPHINE P. BEEMAN  
9 Deputy Attorney General  
10 Department of Water Resources

Kent W. Foster  
11 KENT W. FOSTER, of the  
12 firm, Attorneys for  
13 Parley A. Arave, and  
14 Robert T. Hemming

15 The above stipulation having duly come before the court, it  
16 is hereby approved this 9 day of February, 1980.

Milton A. Slavin  
17 MILTON A. SLAVIN  
18 Magistrate  
19 Sitting as Special Master  
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CERTIFICATE OF MAILING

I HEREBY CERTIFY That on this 29th day of December, 1980,  
a true and correct copy of the foregoing STIPULATION RESOLVING  
THE SPECIFIC OBJECTIONS OF PARLEY A. ARAVE AND ROBERT T. HEMMING  
was mailed, postage prepaid, addressed to: Kent W. Foster,  
Holden, Kidwell, Hahn, & Crapo, P.O. Box 129, Idaho Falls, Idaho  
83401.

By: Phillip J. Rasser  
JOSEPHINE P. BEEMAN  
Deputy Attorney General  
Department of Water Resources

Attorney General  
State of Idaho  
Statehouse, Room 210  
Boise, Idaho 83720  
Telephone (208) 384-2400

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JUL 3 1980

PROPOSED FINDING OF WATER RIGHTS - LEMHI RIVER DRAINAGE

SOURCE Sawmill Creek (Little)

IDENT. NO.	NAME & ADDRESS	PRIORITY	PURPOSE	PERIOD OF USE		MAXIMUM RATE OF DIVERSION (cfs)	POINT OF DIVERSION	PLACE OF USE and LANDS IRRIGATED	BASIS OF RIGHT and REMARKS
				From	To				
74-0373	ARAVE, Parley A. and/or HEMMING, Robert T.	6-15-1899	Irrigation	4/1	11/1	0.60	SE $\frac{1}{2}$ SW $\frac{1}{4}$ , S. 7 T17N, R24E	Sec. 6 SW $\frac{1}{2}$ SE $\frac{1}{4}$	Decree
	Box 1 Lemhi, Idaho	<u>6-15-1899</u>	<u>Stockwater</u>	<u>1/1</u>	<u>12/31</u>	<u>0.04</u>		Sec. 7 NE $\frac{1}{2}$ NE $\frac{1}{4}$ SW $\frac{1}{2}$ NE $\frac{1}{4}$ T17N, R24E	10.8 1.3 <u>51.7</u>
74-0374	ARAVE, Parley A. and/or HEMMING, Robert T.	6-15-1899	Irrigation	4/1	11/1	0.60	SE $\frac{1}{2}$ SW $\frac{1}{4}$ , S. 7 T17N, R24E	Sec. 6 SE $\frac{1}{2}$ SW $\frac{1}{4}$	Decree
	Box 1 Lemhi, Idaho	<u>6/15/1899</u>	<u>Stockwater</u>	<u>1/1</u>	<u>12/31</u>	<u>0.04</u>		Sec. 7 NE $\frac{1}{2}$ NE $\frac{1}{4}$ SE $\frac{1}{2}$ NE $\frac{1}{4}$ NE $\frac{1}{2}$ SW $\frac{1}{4}$ T17N, R24E	40.0 39.2 7.0 <u>125.1</u>

PROPOSED FINDING OF WATER RIGHTS - LEMHI RIVER DRAINAGE

SOURCE Hayden Creek and Tributaries

IDENT NO.	NAME & ADDRESS	PRIORITY	PURPOSE	PERIOD OF USE		MAXIMUM RATE OF Diversion (cfs)	POINT OF DIVERSION	PLACE OF USE and LANDS IRRIGATED	BASIS OF RIGHT and REMARKS	
				From	To					
74-1066	ARAVE, Parley A. and/or HEMMING, Robert T. Box 1 Lemhi, Idaho	10-6-1902	Irrigation	1/1	11/1	45.00 <u>16.41</u>	NE $\frac{1}{4}$ SE $\frac{1}{4}$ S. 22 T17N, R23E	Sec. 1 SE $\frac{1}{4}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 12 NW $\frac{1}{4}$ NE $\frac{1}{4}$ T17N, R23E Sec. 6 Lot 2 Lot 3 Lot 4 Lot 5 Lot 6 Lot 7 SW $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$ T17N, R24E Sec. 31 Lot 18 SW $\frac{1}{4}$ SE $\frac{1}{4}$ T18N, R24E	9.8 25.8 7.1 39.2 22.2 22.2 22.3 1.9 18.2 31.1 32.7 38.5 35.8 40.0 38.1 25.7 39.0 36.3 23.0 38.0 <u>546.9</u>	Beneficial Use

PROPOSED FINDING OF WATER RIGHTS - LEMHI RIVER DRAINAGE

SOURCE Hayden Creek and Tributaries

IDENT. NO.	NAME & ADDRESS	PRIORITY	PURPOSE	PERIOD OF USE		MAXIMUM RATE OF DIVERSION (cfs)	POINT OF DIVERSION	PLACE OF USE and LANDS IRRIGATED	BASIS OF RIGHT and REMARKS	
				From	To					
74-1067	ARAVE, Parley A. and/or HEMMING, Robert T. Box 1 Lemhi, Idaho	2-27-1915	Irrigation	4/1	11/1	4.42 <u>1.56</u>	NE $\frac{1}{2}$ SE $\frac{1}{4}$ S. 22 T17N, R23E	Sec. 5 SW $\frac{1}{4}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$	0.3 13.0 8.7	Beneficial Use
								Sec. 7 NE $\frac{1}{4}$ NE $\frac{1}{4}$ Sec. 8 NW $\frac{1}{4}$ NW $\frac{1}{4}$ T17N, R24E	27.0 2.8	
								T17N, R24E	<u>51.8</u>	
74-1068	ARAVE, Parley A. and/or HEMMING, Robert T. Box 1 Lemhi, Idaho	11-5-1908	Irrigation	4/1	11/1	4.84 <u>5.3</u>	NE $\frac{1}{2}$ SE $\frac{1}{4}$ S. 22 T17N, R23E	Sec. 6 SE $\frac{1}{4}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 7 NW $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$ T17N, R24E	38.9 39.6 10.8 1.3 40.0 39.2 7.0	
									<u>176.8</u>	

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JAN 23 1981

Department of Water Resources

1 DAVID H. LEROY  
2 Attorney General  
3 State of Idaho  
4 Statehouse, Room 210  
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6 Telephone: (208) 384-2400

7 DON A. OLOWINSKI  
8 Deputy Attorney General  
9 Chief, Natural Resources Division

10 JOSEPHINE P. BEEMAN  
11 Deputy Attorney General  
12 Department of Water Resources  
13 Statehouse  
14 Boise, Idaho 83720  
15 Telephone: (208) 334-4448

Filed in District Court Lemhi County  
Idaho, January 20 1981  
at 46 minutes past 5 o'clock P. M.  
Eleanor Adams Clerk  
By Albert Frederick Deputy

16 IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF THE  
17 STATE OF IDAHO, IN AND FOR THE COUNTY OF LEMHI

18 IN THE MATTER OF THE GENERAL )  
19 DETERMINATION OF THE RIGHT TO ) CIVIL NO. 4948  
20 THE USE OF SURFACE WATERS AND )  
21 TRIBUTARIES FROM WHATEVER ) STIPULATION RESOLVING  
22 SOURCE OF THE LEMHI RIVER ) THE SPECIFIC OBJECTIONS  
23 DRAINAGE BASIN. ) OF TRUMAN CHAPMAN  
24 )

25 COME NOW the Department of Water Resources and Darwin Nei-  
26 baur, through their respective counsel, and propose that the fol-  
27 lowing stipulation be approved by the Court as a resolution of  
28 the specific objections which were filed March 7, 1975 by Truman  
29 Chapman. (Darwin Neibaur is the contract purchaser of lands  
30 owned by Truman Chapman, which lands are served in part by the  
31 proposed water rights cited in the March 1975 objections.)

32 The parties stipulate that the following changes be made in  
the proposed listing of water rights:

1. Claim No. 74-1150: The total acreage should be 164.6 acres; the rate of diversion should be 4.94 cfs.
2. Claim No. 74-1151: The rate of diversion should be 0.90 cfs.
3. Claim No. 74-1152: The total acreage should be 183.7 acres; the rate of diversion should be 5.51 cfs.
4. Claim No. 74-1153: The total acreage should be 185.5 acres; the rate of diversion should be 5.57 cfs.

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- 5. Claim No. 74-2038: Objection withdrawn.
- 6. Claim Nos. 74-1151 and 74-1152 and License No. 74-7039 (which is not being adjudicated) share a common point of diversion in the SE 1/4 SE1/4 of Section 28, Township 16 North, Range 26 East of the Boise Meridian, and share a common conveyance ditch to their respective points of rediversion from the ditch to the land. The capacity of the diversion ditch for the above water rights at the point of diversion is 11.50 cfs. The loss of water from this ditch, by percolation, is as high as 8.42 cfs, a large portion of which returns directly to the Lemhi River. An additional right to 3.96 cfs of carrying water to cover transportation losses is to be allowed at the common point of diversion for Claim Nos. 74-1151 and 74-1152 and License No. 74-7039, which loss is an amount to be allowed for transportation losses in the present system of transportation of the water from the common point of diversion to the place of use. Including the transportation loss for which a right is hereby given, the combined rate of diversion for these three rights would be 11.50 cfs.

74-1151	0.90 cfs
74-1152	5.51 cfs
74-7039	1.13 cfs
Allowance for loss in transporting water from point of diversion to place of use	<u>3.96 cfs</u>
TOTAL	11.50 cfs

In the event of any future change in the point of diversion, change in place of use, or change in conveyance system of the above-described water rights, the amount granted hereunder for transportation loss, designated as "carrying water" shall be subject to redetermination by the Department in order to ascertain the reasonable loss in conducting the water from the new point of diversion or to the new place of use, or the new conveyance system, or all three.

In the event less than all of the above-described water rights are being delivered, the owner of said rights shall be entitled to such transportation allowance as may be determined by the Department to be a reasonable loss in conducting his water from the point of diversion to the place of use.

To reflect the use of the carrying water, each of these rights shall have the following language added to the proposed decree of water rights:

"When rights 74-1151 and 74-1152 and License No. 74-7039 are diverted simultaneously, the combined rate of diversion shall be 11.50 cfs to reflect a rate of 3.96 cfs for carrying water in the common

State of Idaho  
Statehouse, Room 210  
Boise, Idaho 83720  
Telephone: (208) 384-2400

1 ditch as an allowance for transportation  
2 loss which is primarily returned to the  
3 Lemhi River. When some but not all of  
4 these rights are being delivered in the  
5 common diversion, the rate of allowance  
6 for transportation loss shall be such  
7 amount as shall be determined by the  
8 Department to be a reasonable loss in  
9 conducting the water from the point of  
10 diversion to the place of use."

11 These changes listed in items 1 through 6 above are incor-  
12 porated into the attached Exhibit A.

13 DATED this 21<sup>st</sup> day of December, 1980.

14 LING, NIELSEN & ROBISON

15 By: Phillip J. Rossier 12/29/80  
16 JOSEPHINE P. BEEMAN  
17 Deputy Attorney General  
18 Department of Water Resources

19 Roger D. Ling  
20 ROGER D. LING, of the firm,  
21 Attorneys for Darwin Neibaur

22 The above stipulation having duly come before the court, it  
23 is hereby approved this 20 day of January, 1980.

24 Milton A. Slavin  
25 MILTON A. SLAVIN  
26 Magistrate  
27 Sitting as Special Master

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CERTIFICATE OF MAILING

I HEREBY CERTIFY That on this 29th day of December, 1980, a true and correct copy of the foregoing STIPULATION RESOLVING THE SPECIFIC OBJECTIONS OF TRUMAN CHAPMAN was mailed, postage prepaid, addressed to: Roger D. Ling, Ling, Nielsen & Robison, P.O. Box 396, Rupert, Idaho 83350.

By: Phillip J. Rossier  
JOSEPHINE P. BEEMAN  
Deputy Attorney General  
Department of Water Resources

State of Idaho  
Statehouse, Room 210  
Boise, Idaho 83720  
Telephone (208) 384-2400

JUL 30 1996

PROPOSED FINDING OF WATER RIGHTS - LEMHI RIVER DRAINAGE

SOURCE Lemhi River, Div. L-62  
 Pt. of Div.: NE $\frac{1}{4}$ SE $\frac{1}{4}$ , Sec. 20, T16N, R26E  
 and

IDENT. NO.	NAME & ADDRESS	PRIORITY	PURPOSE	PERIOD OF USE		MAXIMUM RATE OF DIVERSION (cfs)	PLACE OF USE and LANDS IRRIGATED	BASIS OF RIGHT and REMARKS	
				From	To				
74-1150	BAR DOUBLE O RANCH c/o Truman Chapman Leadore, Idaho	4-1-1915	Irrigation	4/1	11/1	4-49 <u>4.94</u>	Sec. 17 Lot 5 Lot 6 Lot 7 Lot 8 Lot 9 Sec. 18 SE $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 20 SW $\frac{1}{4}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$ T16N, R26E	6.1 8.7 17.4 31.3 1.2 <u>15.0</u> 15.6 22.0 21.2 17.2 20.0 17.6 13.3 <u>18.0</u> <u>149.6</u> <u>164.6</u>	Beneficial Use

RECORDED  
 JUL 8 1966

PROPOSED FINDING OF WATER RIGHTS - LEMHI RIVER DRAINAGE

SOURCE Springs

IDENT. NO.	NAME & ADDRESS	PRIORITY	PURPOSE	PERIOD OF USE		MAXIMUM RATE OF DIVERSION (cfs)	POINT OF DIVERSION	PLACE OF USE and LANDS IRRIGATED	BASIS OF RIGHT and REMARKS
				FROM	TO				
74-1151	BAR DOUBLE O RANCH c/o Truman Chapman Leadore, Idaho	9-1-1968	Irrigation	4/1	11/1	0.80 <u>0.90</u>	SE $\frac{1}{2}$ SE $\frac{1}{4}$ , S. 28 T16N, R26E	Sec. 17 Lot 10 5.9 Lot 11 6.8 Sec. 20 NE $\frac{1}{4}$ NE $\frac{1}{4}$ 16.0 NW $\frac{1}{4}$ NE $\frac{1}{4}$ 1.3 T16N, R26E 30.0	Beneficial Use
									JUL 8 0 1995
74-1152	BAR DOUBLE O RANCH c/o Truman Chapman Leadore, Idaho	4-1-1915	Irrigation	4/1	11/1	3.64 <u>5.51</u>	SE $\frac{1}{2}$ SE $\frac{1}{4}$ , S. 28 T15N, R26E	Sec. 17 Lot 8 2.4 Lot 9 16.3 Lot 10 13.9 Sec. 20 NE $\frac{1}{4}$ NE $\frac{1}{4}$ 24.0 NW $\frac{1}{4}$ NE $\frac{1}{4}$ 30.0 SW $\frac{1}{4}$ NE $\frac{1}{4}$ 13.3 SE $\frac{1}{4}$ NE $\frac{1}{4}$ 34.5 NE $\frac{1}{4}$ NW $\frac{1}{4}$ 3.2 T15N, R26E	Beneficial Use

The source of water for this right is springs and seeps arising in the S $\frac{1}{2}$ SW $\frac{1}{4}$ , Sec. 27, and NE $\frac{1}{4}$ NW $\frac{1}{4}$ , W $\frac{1}{2}$ NE $\frac{1}{4}$ , Sec. 34, all in T16N, R26E, B.M.

When rights 74-1151 and 74-1152 and License No. 74-7039 are diverted simultaneously, the combined rate of diversion shall be 11.50 cfs to reflect a rate of 3.96 cfs for carrying water in the common ditch. When only one or two of these rights are being delivered in the ditch, the rate of 11.50 cfs shall be reduced proportionately.

157.3      183.7

PROPOSED FINDING OF WATER RIGHTS - LEMHI RIVER DRAINAGE

SOURCE Lemhi Big Spring Creek LBSC-6  
 Pt. of Div.: SW<sup>1</sup>/<sub>4</sub>NW<sup>1</sup>/<sub>4</sub>, Sec. 20, T16N, R26E

IDENT. NO.	NAME & ADDRESS	PRIORITY	PURPOSE	PERIOD OF USE		MAXIMUM RATE OR DIVERSION (cfs)	PLACE OF USE and LANDS IRRIGATED	BASIS OF RIGHT and REMARKS	
				From	To				
74-1153	BAR DOUBLE O RANCH c/o Truman Chapman Leadore, Idaho	4-1-1915	Irrigation	4/1	11/1	5-98 <u>5.57</u>	Sec. 18 SE <sup>1</sup> / <sub>4</sub> SW <sup>1</sup> / <sub>4</sub> SW <sup>1</sup> / <sub>4</sub> SE <sup>1</sup> / <sub>4</sub> SE <sup>1</sup> / <sub>4</sub> SE <sup>1</sup> / <sub>4</sub> Sec. 19 NE <sup>1</sup> / <sub>4</sub> NE <sup>1</sup> / <sub>4</sub> NW <sup>1</sup> / <sub>4</sub> NE <sup>1</sup> / <sub>4</sub> SE <sup>1</sup> / <sub>4</sub> NE <sup>1</sup> / <sub>4</sub> Sec. 20 SW <sup>1</sup> / <sub>4</sub> NW <sup>1</sup> / <sub>4</sub> NW <sup>1</sup> / <sub>4</sub> NW <sup>1</sup> / <sub>4</sub> T16N, R26E	7-0 35.4 11-9 <u>13.0</u> 15.0 36.6 18.0 2-5 <u>9.0</u> 36.5 16-3 22.0 <u>160-2</u> <u>185.5</u>	Beneficial Use

JAN 7 1981

Department of Water Resources

DAVID H. LEROY  
Attorney General  
State of Idaho  
Statehouse, Room 210  
Boise, Idaho 83720  
Telephone: (208) 384-2400

JOSEPHINE P. BEEMAN  
PHILLIP J. RASSIER  
Deputy Attorneys General  
Department of Water Resources  
Statehouse  
Boise, Idaho 83720  
Telephone: (208) 334-4448

Filed in District Court Lemhi County  
Idaho, January 5 1981.....  
at 50 minutes past 10 o'clock A. M.  
Shannon Adams Clerk  
By Alberta Hildrick Deputy

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

IN THE MATTER OF THE GENERAL	)	
DETERMINATION OF THE RIGHT TO	)	CIVIL NO. 4948
THE USE OF SURFACE WATERS AND	)	
TRIBUTARIES FROM WHATEVER	)	STIPULATION RESOLVING
SOURCE OF THE LEMHI RIVER	)	THE SPECIFIC OBJECTIONS
DRAINAGE BASIN.	)	OF FRANKLIN J. and
	)	ELIZABETH POWERS

COME NOW the Idaho Department of Water Resources and Franklin J. and Elizabeth Powers, through their undersigned counsel and stipulate that the following changes be made to the proposed finding of water rights:

1. Claim No. 74-0359: Two points of diversion should be shown in the NE1/4SW1/4, Sec. 35, T17N, R25E, in addition to the points of diversion in the NW1/4NE1/4, SW1/4NE1/4, NW1/4SE1/4, Sec. 35, T17N, R25E.
2. Claim No. 74-1148: The acreage in Section 11, Township 16 North, Range 25 East under place of use should be increased by 31.0 acres to show the following acreages: 7.0 acres in NW1/4NE1/4, 31.8 acres in SW1/4NE1/4, 11.4 acres in SE1/4NE1/4, 17.7 acres in NE1/4NW1/4, 11.2 acres in NW1/4NW1/4, 21.8 acres in SW1/4NW1/4, 38.6 acres in SE1/4NW1/4, 34.0 acres in NE1/4SW1/4, 5.0 acres in NW1/4SW1/4, 0.9 acres in SE1/4SW1/4, 38.7 acres in NE1/4SE1/4, 32.7 acres in NW1/4SE1/4, 29.0 acres in SW1/4SE1/4, 35.9 acres in SE1/4SE1/4, Sec. 11, T16N, R25E. The total lands irrigated within sections 10, 11 and 14 should be 337.1 acres. The rate of diversion should be 6.74 cfs.
3. Claim No. 74-1144: The following acreage should be included under the place of use: 2 acres in the NW1/4NW1/4, Sec. 12, T16N, R25E. The total lands irrigated should be 13.4 acres. The rate of diversion should be 0.53 cfs.

1 4. Claim No. 74-1126: It should be shown that there  
2 are two points of diversion within the SW1/4SE1/4,  
3 Sec. 34, T17N, R27E.

4 These changes are incorporated into the attached Exhibit A.

5 The specific objections to claims No. 74-0358, 74-0359,  
6 74-0360, 74-1148, 74-1145, 74-0382, 74-1146, 74-1144, 74-1126,  
7 74-1140, 74-1141, and 74-1142 are withdrawn.

8 The specific objections regarding the amount of water allo-  
9 cated per acre irrigated under Claims No. 74-0382, 74-1146,  
10 74-1140, 74-1141, 74-1142 and 74-1148 have been withdrawn with  
11 the understanding that these objections are adequately covered by  
12 the general objections to the proposed finding of water rights  
13 filed by Franklin J. and Elizabeth Powers.

14 The parties agree that the above stipulation resolves the  
15 specific objections of Franklin J. and Elizabeth Powers, dated  
16 March 12, 1975.

17 DATED this 10th day of June, 1980.

18 Phillip J. Rassier  
19 PHILLIP J. RASSIER  
20 Deputy Attorney General  
21 Department of Water Resources

James C. Herndon  
22 JAMES C. HERNDON  
23 Attorney for Franklin J.  
24 and Elizabeth Powers.

25 The above stipulation having duly come before the Court, it  
26 is hereby approved this 5 day of January, 1980.

27 Milton A. Slavin  
28 MILTON A. SLAVIN  
29 Magistrate  
30 Sitting as Special Master

Attorney General  
State of Idaho  
Statehouse, Room 210  
Boise, Idaho 83720  
Telephone: (208) 384-2400

PROPOSED FINDING OF WATER RIGHTS - LEMHI RIVER DRAINAGE

SOURCE: Little Eightmile Creek & Tributaries

IDENT. NO.	NAME AND ADDRESS	PRIORITY	PURPOSE	PERIOD OF USE		MAXIMUM RATE OF DIVERSION (cfs)	POINT OF DIVERSION	PLACE OF USE and LANDS IRRIGATED	BASIS OF RIGHT and REMARKS
				From	To				

74-0359	POWERS, Franklin Jack and/or Elizabeth M. Leadore, Idaho	6 -1 -1903	Irrigation	4/1	11/1	1.01	Sec. 35 NW $\frac{1}{2}$ NE $\frac{1}{4}$ SW $\frac{1}{2}$ NE $\frac{1}{4}$ NW $\frac{1}{2}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$ (2 pts) T17N, R25E	Sec. 35 Lot 3, Lot 4, NE $\frac{1}{4}$ SW $\frac{1}{4}$ , NW $\frac{1}{4}$ SE $\frac{1}{4}$ , T17N, R25E	Decree

74-1148	POWERS, Franklin Jack and/or Elizabeth M. Leadore, Idaho	10-23-1889	Irrigation	41/	11/1	6.74			
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SOURCE: Lemhi Big Spring Creek Div. LBSCA

Sec. 10	NE $\frac{1}{4}$ NE $\frac{1}{4}$ ,	3.1	Beneficial Use
Sec. 11	NW $\frac{1}{2}$ NE $\frac{1}{4}$ ,	3-0	7.0
	SW $\frac{1}{2}$ NE $\frac{1}{4}$ ,	20-8	31.8
	SE $\frac{1}{2}$ NE $\frac{1}{4}$ ,	7-4	11.4
	NE $\frac{1}{2}$ NW $\frac{1}{4}$ ,	11-7	17.7
	NW $\frac{1}{2}$ NW $\frac{1}{4}$ ,	9-2	11.2
	SW $\frac{1}{2}$ NW $\frac{1}{4}$ ,	18-8	21.8
	SE $\frac{1}{2}$ NW $\frac{1}{4}$ ,	38.6	
	NE $\frac{1}{4}$ SW $\frac{1}{4}$ ,	31.0	34.0
	NW $\frac{1}{4}$ SW $\frac{1}{4}$ ,	5.0	
	SE $\frac{1}{4}$ SW $\frac{1}{4}$ ,	0.9	
	NE $\frac{1}{4}$ SE $\frac{1}{4}$ ,	38.7	
	NW $\frac{1}{4}$ SE $\frac{1}{4}$ ,	32.7	
	SW $\frac{1}{4}$ SE $\frac{1}{4}$ ,	29.0	
	SE $\frac{1}{4}$ SE $\frac{1}{4}$ ,	35.9	
Sec. 14	NE $\frac{1}{2}$ NE $\frac{1}{4}$ ,	18.3	
	T16N, R25E		
		306.1	337.1

JUL 30 1996

PROPOSED FUNDING OF WATER RIGHTS - LEMHI RIVER DRAINAGE

SOURCE: Springs

IDENT. NO.	NAME AND ADDRESS	PRIORITY	PURPOSE	PERIOD OF USE		MAXIMUM RATE OF DIVERSION (cfs)	POINT OF DIVERSION	PLACE OF USE and LANDS IRRIGATED	BASIS OF RIGHT and REMARKS
				From	To				

74-1144	POWERS, Franklin Jack and/or Elizabeth M. Leadore, Idaho	8-7-1894	Irrigation	4/1	11/1	0.45 0.53	NE $\frac{1}{4}$ SW $\frac{1}{4}$ , Sec. 18 T16N, R26E	Sec. 11 NE $\frac{1}{4}$ NE $\frac{1}{4}$ , NW $\frac{1}{4}$ NE $\frac{1}{4}$ , Sec. 12 NW $\frac{1}{4}$ NW $\frac{1}{4}$ , T16N, R25E	Beneficial Use 8.5 2.9 2.0 <u>11.4</u> 13.4
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The springs are located in the NW $\frac{1}{4}$ NE $\frac{1}{4}$ , SE $\frac{1}{4}$ NW $\frac{1}{4}$ , Sec. 20, T16N, R26E.

74-1126	POWERS, Franklin Jack and/or Elizabeth M. Leadore, Idaho	4-4-1916	Irrigation	4/1	11/1	1.20	Sec. 34 NE $\frac{1}{4}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ (2 pts) T17N, R27E	Sec. 3 NE $\frac{1}{4}$ NW $\frac{1}{4}$ , NW $\frac{1}{4}$ NW $\frac{1}{4}$ , Sec. 4 NE $\frac{1}{4}$ NE $\frac{1}{4}$ , T16N, R27E Sec. 33 SW $\frac{1}{4}$ SE $\frac{1}{4}$ , SE $\frac{1}{4}$ SE $\frac{1}{4}$ , Sec. 34 SW $\frac{1}{4}$ SW $\frac{1}{4}$ , SE $\frac{1}{4}$ SW $\frac{1}{4}$ , SW $\frac{1}{4}$ SE $\frac{1}{4}$ , T17N, R27E	Beneficial Use 2.2 4.1 2.5 3.0 13.2 11.4 10.6 13.0 <u>60.0</u>
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SOURCE: Canyon Creek and Tributaries

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DAVID H. LEROY  
Attorney General  
State of Idaho  
Statehouse, Room 210  
Boise, Idaho 83720  
Telephone: (208) 384-2400

W. HUGH O'RIORDAN  
Deputy Attorney General  
Chief, Natural Resources Division

JOSEPHINE P. BEEMAN  
Deputy Attorney General  
Department of Water Resources  
Statehouse  
Boise, Idaho 83720  
Telephone: (208) 384-2215

*T.D.S.*  
Filed in District Court Lemhi County  
Idaho, November 21 19 80  
at 53 minutes past 3 o'clock P.M.  
Eleanor Aldous Clerk  
By Alberta Mederrick Deputy

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

IN THE MATTER OF THE GENERAL ) CIVIL No. 4948  
DETERMINATION OF THE RIGHTS TO )  
THE USE OF SURFACE WATERS AND ) STIPULATION RESOLVING  
TRIBUTARIES FROM WHATEVER SOURCE ) THE SPECIFIC OBJECTIONS  
OF THE LEMHI RIVER DRAINAGE BASIN. ) OF SIMS RANCH

COME NOW, C. STEPHEN ALLRED, Director of the Idaho  
Department of Water Resources, through his undersigned  
counsel, and James C. Herndon, Fred H. Snook, Lloyd Jones,  
and Cheryl Jones, successors-in-interest to the Sims Ranch,  
and stipulate that the following changes be made to the  
proposed finding of water rights:

- 1. Claim No. 740319A: Total irrigated acreage should be 53.8 acres; the rate of diversion should be 1.61 cfs; and 0.04 cfs for stockwater should be included;
- 2. Claim No. 74-0905: 0.04 cfs for stockwater should be included.

These changes are included in the attached Exhibit

A.

The parties agree that this stipulation resolves  
the specific objections filed by the Sims Ranch on March 11,  
1975.

1 DATED This 12<sup>th</sup> day of Oct., 1979.

2 *James C. Herndon*  
3 JAMES C. HERNDON

4 *Josephine Beeman 22 Aug 79*  
5 JOSEPHINE P. BEEMAN  
6 Deputy Attorney General  
7 Department of Water Resources

8 *Fred H. Snook*  
9 FRED H. SNOOK

10 *Lloyd Jones*  
11 LLOYD JONES

12 *Cheryl Jones*  
13 CHERYL JONES

14 The above stipulation having duly come before the  
15 Court, it is hereby approved this 21 day of November, 1979.

16 *Milton A. Slavin*  
17 MILTON A. SLAVIN  
18 Magistrate  
19 Sitting as Special Master

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DAVID H. LEROY  
Attorney General  
State of Idaho  
Statehouse, Room 210  
Boise, Idaho 83720  
Telephone: (208) 384-2400

PROPOSED FINDING OF WATER RIGHTS - LEMHI RIVER DRAINAGE

Lemhi River, Div. L-6  
 Source: (Andrews and Slough Ditch)  
 Pt. of Div.: SE $\frac{1}{4}$ SE $\frac{1}{4}$ , Sec. 24, T21N, R22E

IDENT. NO.	NAME AND ADDRESS	PRIORITY	PURPOSE	PERIOD OF USE		MAXIMUM RATE OF DIVERSION	PLACE OF USE and LANDS IRRIGATED	BASIS OF RIGHT and REMARKS	
				From	To				
74-0319A	SIMS, Sandy H. Box 462 Salmon, Idaho	6 -9 -1875	Irrigation	4/1	11/1	1.61	Sec. 8 SE $\frac{1}{4}$ SW $\frac{1}{4}$ , SW $\frac{1}{4}$ SE $\frac{1}{4}$	7.0	Beneficial Use
				1/1	12/31	0.04	NE $\frac{1}{4}$ SW $\frac{1}{4}$ T21N, R22E	5.0	
			Stockwater					35.8	53.8

c.f.s.

9682 0 2 700

PROPOSED FINDING OF WATER RIGHTS - LEMHI RIVER DRAINAGE

Lemhi River, Div. L-7

Source: (Town Ditch)  
 Pt. of Div.: NE $\frac{1}{4}$ SW $\frac{1}{4}$ , Sec. 30, T21N, R23E

IDENT. NO.	NAME AND ADDRESS	PRIORITY	PURPOSE	PERIOD OF USE		MAXIMUM RATE OF DIVERSION	PLACE OF USE and LANDS IRRIGATED	BASIS OF RIGHT and REMARKS
				From	To			
74-0905	SIMS, Sandy H. Box 462 Salmon, Idaho	6-1-1871	Irrigation <u>Stockwater</u>	4/1	11/1	1.46	Sec. 8 NE $\frac{1}{4}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$ T21N, R22E	20.0 28.6 <u>48.6</u>  Beneficial Use
				<u>1/1</u>	<u>12/31</u>	<u>0.04</u>		

c.f.s.

1                   DAVID H. LEROY  
2                   Attorney General  
3                   State of Idaho  
4                   Statehouse, Room 210  
5                   Boise, Idaho 83720  
6                   Telephone: (208) 384-2400

Filed in District Court Lemhi County

Idaho, September 29 1980

at 27 minutes past 10 o'clock P.M.

Edna Ann Alderson Clerk

By Alberta Skoderrick Deputy

5 JOSEPHINE P. BEEMAN  
6 Deputy Attorney General  
7 Department of Water Resources  
8 Statehouse  
9 Boise, Idaho 83720  
10 Telephone: (208) 334-4448

11                   IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF THE  
12                   STATE OF IDAHO, IN AND FOR THE COUNTY OF LEMHI

11 IN THE MATTER OF THE GENERAL                   )  
12 DETERMINATION OF THE RIGHT TO                   )                   CIVIL NO. 4948  
13 THE USE OF SURFACE WATERS AND                   )  
14 TRIBUTARIES FROM WHATEVER                   )                   STIPULATION RESOLVING  
15 SOURCE OF THE LEMHI RIVER                   )                   ADDITIONAL OBJECTIONS OF  
16 DRAINAGE BASIN.                   )                   STEPHEN A. MAHAFFEY AND  
17                   )                   NORMA J. MAHAFFEY

18                   COME NOW the Idaho Department of Water Resources, through its  
19 undersigned counsel, and Victorio Ranch, successor-in-interest to  
20 Stephen A. Mahaffey and Norma J. Mahaffey, through its under-  
21 signed counsel, and stipulate to the following changes in the  
22 proposed finding of water rights:

- 23                   1. The proposed findings for claims 74-1788 and  
24                   74-1789 (pp. 372, 373 of the proposed findings)  
25                   should be replaced in their entirety by claims  
26                   74-1788A, 74-1788B, 74-1789A, 74-1789B, and  
27                   74-1789C, described in the attached Exhibit A.
- 28                   2. The proposed findings for claims 74-1792 and  
29                   74-1793 (p. 370 of the proposed findings) should be  
30                   replaced in their entirety by claims 74-1792A,  
31                   74-1792B, and 74-1793, described in the attached  
32                   Exhibit A.
3. The proposed findings for claims 74-1790 and  
                  74-1791 (pp. 367, 368 of the proposed findings)  
                  should be replaced in their entirety by claims  
                  74-1790A, 74-1790B, and 74-1791, described in the  
                  attached Exhibit A.
4. The proposed finding for claim 74-1786 (p. 376 of  
                  the proposed findings) should be replaced by claim  
                  74-1786 described in the attached Exhibit A.
5. Claim 74-0222 (p. 111 of the proposed findings) is  
                  to have the acreage listed under LANDS IRRIGATED

STIPULATION - MAHAFFEY, P. 44 30 1980

1 increased from 167.1 acres to 226.5 acres as  
2 described in the attached Exhibit A.

3 6. Claim 74-0224 (p. 111 of the proposed findings) is  
4 to have the acreage listed under LANDS IRRIGATED  
5 increased from 167.1 acres to 226.5 acres as  
6 described in the attached Exhibit A.

7 7. Claim 74-1787 (p. 112 of the proposed findings) is  
8 to be replaced by claims 74-1787A and 74-1787B as  
9 described in Exhibit A.

10 8. Claim 74-0228 (p. 112 of the proposed findings) is  
11 to have the acreage listed under LANDS IRRIGATED  
12 increased from 47.1 acres to 51.3 acres as  
13 described in the attached Exhibit A.

14 9. Claim 74-0225 (p. 112 of the proposed findings) is  
15 to have the acreage listed under LANDS IRRIGATED  
16 increased from 110.0 acres to 161.9 acres as  
17 described in the attached Exhibit A.

18 10. Claim 74-0223 (p. 113 of the proposed findings) has  
19 no changes.

20 The objections to claims 74-1788, 74-1789, 74-1792, 74-1793,  
21 74-1790, 74-1791, 74-1786, 74-0222, 74-0224, 74-1787, 74-0223,  
22 74-0225, and 74-0228 are withdrawn.

23 The parties agree that this stipulation resolves the addi-  
24 tional objections filed by Stephen A. Mahaffey and Norma J.  
25 Mahaffey on March 13, 1975.

26 DATED this 20<sup>th</sup> day of August, 1980.

27 Josephine P. Beeman 20 August 1980  
28 JOSEPHINE P. BEEMAN  
29 Deputy Attorney General  
30 Department of Water Resources

Leon R. Weeks  
LEON R. WEEKS  
Counsel for Victorio Ranch

31 The above stipulation having duly come before the court, it  
32 is hereby approved this 21 day of September, 1980.

Milton A. Slavin  
MILTON A. SLAVIN  
Magistrate  
Sitting as Special Master

JUL 30 1980

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 20<sup>th</sup> day of August, 1980, I mailed a true and correct copy of the foregoing STIPULATION RESOLVING ADDITIONAL OBJECTIONS OF STEPHEN A. MAHAFFEY AND NORMA J. MAHAFFEY by placing it in the United States mail, postage prepaid, addressed to: Leon R. Weeks, P.O. Box 586, Nampa, ID 83651.

*Jan M. Heck*

JAN M. HECK  
Legal Secretary  
Department of Water Resources

Attorney General  
State of Idaho  
Statehouse, Room 210  
Boise Idaho 83720  
Telephone (208) 364-2400

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JUL 30 1980

IDENT. NO.	NAME AND ADDRESS	PRIORITY	PURPOSE	PERIOD OF USE		MAXIMUM RATE OF DIVERSION (cfs)	POINT OF DIVERSION	PLACE OF USE and LANDS IRRIGATED	BASIS OF RIGHT and REMARKS
				From	To				
74-1788B	MAHAFFEY LIVESTOCK, INC. c/o Stephen Mahaffey Box 4 Tendoy, Idaho	4-1-1920	Irrigation	4/1	11/1	2.05		Sec. 7 NE $\frac{1}{4}$ SE $\frac{1}{4}$ , SE $\frac{1}{4}$ SE $\frac{1}{4}$ , Sec. 8- SW $\frac{1}{4}$ SW $\frac{1}{4}$ , Sec. 17 NE $\frac{1}{4}$ NW $\frac{1}{4}$ , NW $\frac{1}{4}$ NW $\frac{1}{4}$ , SW $\frac{1}{4}$ NW $\frac{1}{4}$ , NW $\frac{1}{4}$ SW $\frac{1}{4}$ , SW $\frac{1}{4}$ SW $\frac{1}{4}$ , Sec. 18 NE $\frac{1}{4}$ NE $\frac{1}{4}$ , T19N, R24E	Beneficial Use
74-1788A	MAHAFFEY LIVESTOCK, INC. c/o Stephen Mahaffey Box 4 Tendoy, Idaho	11-16-1883	Irrigation	4/1	11/1	0.32		SEC. 7 NE $\frac{1}{4}$ SE $\frac{1}{4}$ , SE $\frac{1}{4}$ SE $\frac{1}{4}$ , T19N, R24E	Beneficial Use
74-1788B	MAHAFFEY LIVESTOCK, INC. c/o Stephen Mahaffey Box 4 Tendoy, Idaho	5-19-1887	Irrigation	4/1	11/1	0.05		SEC. 18 NE $\frac{1}{4}$ NE $\frac{1}{4}$ , T19N, R24E	Beneficial Use

This land is also irrigated with right 74-1789

136-7



PROPOSED FINDING OF WATER RIGHTS - LEWIS RIVER DRAINAGE

SOURCE: Lewis River, Div. I-30

IDENT. NO.	NAME AND ADDRESS	PRIORITY	PURPOSE	PERIOD OF USE		MAXIMUM RATE OF DIVERSION (cfs)	POINT OF DIVERSION	PLACE OF USE and LANDS IRRIGATED	BASIS OF RIGHT and REMARKS
				From	To				
74-1789A	MAHAFFEY LIVESTOCK, INC. c/o Stephen Mahaffey Box 4 Tendoy, Idaho	6-08-1889	Irrigation	4/1	11/1	0.34		Sec. 8 SW $\frac{1}{4}$ SW $\frac{1}{4}$ , NE $\frac{1}{4}$ NE $\frac{1}{4}$ , T19N, R24E 11.0	Beneficial Use
74-1789B	MAHAFFEY LIVESTOCK, INC. c/o Stephen Mahaffey Box 4 Tendoy, Idaho	12-06-1893	Irrigation	4/1	11/1	3.70		Sec. 17 NW $\frac{1}{4}$ NW $\frac{1}{4}$ , SW $\frac{1}{4}$ NW $\frac{1}{4}$ , NW $\frac{1}{4}$ SW $\frac{1}{4}$ , SW $\frac{1}{4}$ SW $\frac{1}{4}$ , T19N, R24E 31.0 36.6 34.1 21.9 123.6	Beneficial Use
74-1789C	MAHAFFEY LIVESTOCK, INC. c/o Stephen Mahaffey Box 4 Tendoy, Idaho	9-25-1894	Irrigation	4/1	11/1	0.13		Sec. 17 SE $\frac{1}{4}$ NW $\frac{1}{4}$ , NE $\frac{1}{4}$ SW $\frac{1}{4}$ , T19N, R24E 3.3 1.0 4.3	Beneficial Use

~~This land is also irrigated with right 74-1788-~~

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105

IDENT. NO.	NAME AND ADDRESS	PRIORITY	PURPOSE	PERIOD OF USE	MAXIMUM RATE OF DIVERSION (cfs)	PLACE OF USE and LANDS IRRIGATED	BASIS OF RIGHT and REMARKS
74-1792	MAHAFFEY LIVESTOCK, INC. c/o Stephen Mahaffey Tendoy, Idaho	6-17-1887	Irrigation	4/1-11/1	5.42	Sec. 5 SW $\frac{1}{2}$ SW $\frac{1}{4}$ SE $\frac{1}{2}$ SW $\frac{1}{4}$ Sec. 8	Beneficial Use 1.0 15.0 -
74-1792A	MAHAFFEY LIVESTOCK, INC. c/o Stephen Mahaffey Tendoy, Idaho	8-17-1889	Irrigation	4/1-11/1	2.94	Sec. 6 SE $\frac{1}{2}$ SE $\frac{1}{4}$ Sec. 7 NE $\frac{1}{2}$ NE $\frac{1}{4}$ , SE $\frac{1}{2}$ NE $\frac{1}{4}$ , Sec. 8 SW $\frac{1}{2}$ NW $\frac{1}{4}$ , SE $\frac{1}{2}$ NW $\frac{1}{4}$ , T19N, R24E	Beneficial Use 12.0 14.3 2.0 33.0 36.5 97.8
74-1792B	MAHAFFEY LIVESTOCK, INC. c/o Stephen Mahaffey Tendoy, Idaho	11-22-1887	Irrigation	4/1-11/1	3.39	Sec. 5 SW $\frac{1}{2}$ SW $\frac{1}{4}$ , SE $\frac{1}{2}$ SW $\frac{1}{4}$ , Sec. 8 NE $\frac{1}{2}$ NW $\frac{1}{4}$ , NW $\frac{1}{2}$ NW $\frac{1}{4}$ , T19N, R24E	Beneficial Use 25.0 15.0 33.0 40.0 113.0

JUL 30 1968

PROPOSED FINDING OF WATER RIGHTS - LEMHI RIVER DRAINAGE

SOURCE: Lemhi River, Div. I-29

IDENT. NO.	NAME AND ADDRESS	PRIORITY	PURPOSE	PERIOD OF USE		MAXIMUM RATE OF DIVERSION (CFS)	PLACE OF USE and LANDS IRRIGATED	BASIS OF RIGHT and REMARKS
				From	To			

74-1793--MAHAFFEY-LIVESTOCK-INC--8-16-1889--Irrigation-----4/1---11/1-----2.85-----Sec-6-----Beneficial-Use  
 --c/o-Stephen-Mahaffey  
 --Box-4--  
 Tendoy-Idaho

Sec-7--  
 NE 1/4 NE 1/4 13.4  
 SE 1/4 NE 1/4 1.4  
 NE 1/4 SE 1/4 5.6  
 Sec-8  
 SW 1/4 NW 1/4 33.0  
 SE 1/4 NW 1/4 36.5  
 P19N7-R24E-  
 94.9-

74-1793 MAHAFFEY LIVESTOCK, INC. 6-08-1889 Irrigation 4/1 11/1 2.84  
 c/o Stephen Mahaffey  
 Box 4  
 Tendoy, Idaho

Sec-8  
 NE 1/4 SW 1/4 27.0  
 NW 1/4 SW 1/4 39.0  
 SW 1/4 SW 1/4 22.6  
 SE 1/4 SW 1/4 6.0  
 T19N, R24E  
 94.6

Beneficial Use

JUL 20 1966

PROPOSED FINDING OF WATER RIGHTS - LEMHI RIVER DRAINAGE - Lemhi River, Div. 1720

IDENT. NO.	NAME AND ADDRESS	PRIORITY	PURPOSE	PERIOD OF USE From To	MAXIMUM RATE OF DIVERSION (cfs)	POINT OF DIVERSION	PLACE OF USE and LANDS IRRIGATED	BASIS OF RIGHT and REMARKS	
74-1790	MAHAFFEY LIVESROCK, INC. c/o Stephen Mahaffey Box-4 Tendoy, Idaho	8-16-1889	Irrigation	4/1-11/1	0.62		Sec. 7 SE $\frac{1}{4}$ NE $\frac{1}{4}$ , NE $\frac{1}{4}$ SE $\frac{1}{4}$ , Sec. 8 SW $\frac{1}{4}$ N $\frac{1}{2}$ , T19N, R24E	12.0 1.5 7.0 20.5	Beneficial Use
74-1790A	MAHAFFEY LIVESROCK, INC. c/o Stephen Mahaffey Box 4 Tendoy, Idaho	3-16-1889	Irrigation	4/1-11/1	1.0		Sec. 6 SE $\frac{1}{4}$ SE $\frac{1}{4}$ , Sec. 7 NE $\frac{1}{4}$ NE $\frac{1}{4}$ , SE $\frac{1}{4}$ NE $\frac{1}{4}$ , T19N, R24E	12.5 8.0 13.0 33.5	Beneficial Use
74-1790B	MAHAFFEY LIVESROCK, INC. c/o Stephen Mahaffey Box 4 Tendoy, Idaho	6-08-1889	Irrigation	4/1-11/1	0.24		Sec. 8 SW $\frac{1}{4}$ N $\frac{1}{2}$ , NW $\frac{1}{4}$ SW $\frac{1}{2}$ , T19N, R24E	7.0 1.0 8.0	Beneficial Use
74-1791	MAHAFFEY LIVESROCK, INC. c/o Stephen Mahaffey Box-4 Tendoy, Idaho	4-1-1934	Irrigation	4/1-11/1	0.62		Sec. 6 SE $\frac{1}{4}$ SE $\frac{1}{4}$ , Sec. 7 NE $\frac{1}{4}$ NE $\frac{1}{4}$ , T19N, R24E	12.5 8.0 20.5	Beneficial Use
74-1791	MAHAFFEY LIVESROCK, INC. c/o Stephen Mahaffey Box 4 Tendoy, Idaho	11-16-1883	Irrigation	4/1-11/1	0.09		Sec. 7 NE $\frac{1}{4}$ SE $\frac{1}{4}$ , T19N, R24E	3.0 3.0	Beneficial Use

JUL 19 1966

PROPOSED FINDING OF WATER RIGHTS - LEMHI RIVER DRAINAGE

Source: Lemhi River, Div. 1-31

IDENT. NO.	NAME AND ADDRESS	PRIORITY	PURPOSE	PERIOD OF USE		MAXIMUM RATE OF DIVERSION (cfs)	POINT OF DIVERSION	PLACE OF USE and LANDS IRRIGATED	BASIS OF RIGHT and REMARKS
				From	To				

74-1786 MAHAFFEY LIVESOCK, INC. 9-1-1945 Irrigation 4/1-11/1 1.70 Sec. 8 Beneficial Use  
 c/o Stephen Mahaffey  
 Box 4  
 Tendency, Idaho

Water has been used on an exchange basis from an unnamed source located within NE1/4NW1/4, Sec. 29, T19N, R24E.

-Sec. 17  
 NW1/4NE1/4, 2.0  
 NE1/4NW1/4, 12.4  
 NW1/4NW1/4, 1.3  
 T19N, R24E  
 -56.7

74-1786 MAHAFFEY LIVESOCK, INC. 9-1-1945 Irrigation 4/1-11/1 1.8 Sec. 8 Beneficial Use  
 c/o Stephen Mahaffey  
 Box 4  
 Tendency, Idaho

Sec. 8  
 NE1/4NW1/4, 0.3  
 SE1/4NW1/4, 2.2  
 NE1/4SW1/4, 12.0  
 SE1/4SW1/4, 23.1  
 SW1/4SW1/4, 3.5  
 Sec. 17  
 NW1/4NE1/4, 2.0  
 NE1/4NW1/4, 15.0  
 NW1/4NW1/4, 2.0  
 T19N, R24E  
 60.1

JUL 30 1996

PROPOSED FINDING OF WATER RIGHTS - LEWIS RIVER DRAINAGE

SOURCE: Pattee Creek

IDENT. NO.	NAME AND ADDRESS	PRIORITY	PURPOSE	PERIOD OF USE		MAXIMUM RATE OF DIVERSION (cfs)	POINT OF DIVERSION	PLACE OF USE and LAND IRRIGATED	BASIS OF RIGHT and REMARKS		
				From	To						
74-0222	MAHAFFEY LIVESTOCK, INC. c/o Stephen Mahaffey Box 4 Tendoy, Idaho	6-1-1871	Irrigation	4/1	11/1	2.80	SE $\frac{1}{2}$ NE $\frac{1}{4}$ , S.16 T19N, R24E	Sec. 8	Decree		
										SW $\frac{1}{4}$ NE $\frac{1}{4}$ ,	15-6 34.0
										SE $\frac{1}{4}$ NE $\frac{1}{4}$ ,	10.2
										NE $\frac{1}{4}$ SE $\frac{1}{4}$ ,	13.1
										SW $\frac{1}{4}$ SE $\frac{1}{4}$ ,	19-5 36.0
										NW $\frac{1}{4}$ SE $\frac{1}{4}$ ,	20-0 35.0
										SE $\frac{1}{4}$ SE $\frac{1}{4}$ ,	7.4
										SE $\frac{1}{4}$ SW $\frac{1}{4}$ ,	3.3
										Sec. 16	
										Lot 2,	10.0
Sec. 17											
NE $\frac{1}{4}$ NE $\frac{1}{4}$	23.3										
NW $\frac{1}{4}$ NE $\frac{1}{4}$ ,	24-2 26.2										
SE $\frac{1}{4}$ NE $\frac{1}{4}$ ,	23-8 28.0										
T19N, R24E	167-1 226.5										
74-0224	MAHAFFEY LIVESTOCK, INC. c/o Stephen Mahaffey Box 4 Tendoy, Idaho	6-1-1871	Irrigation	4/1	11/1	1.04	SE $\frac{1}{4}$ NE $\frac{1}{4}$ , S.16 T19N, R24E	Sec. 8	Decree		
										SW $\frac{1}{4}$ NE $\frac{1}{4}$ ,	15-6 34
										SE $\frac{1}{4}$ NE $\frac{1}{4}$ ,	10.2
										NE $\frac{1}{4}$ SE $\frac{1}{4}$ ,	13.1
										NW $\frac{1}{4}$ SE $\frac{1}{4}$ ,	20-0 36.0
										SW $\frac{1}{4}$ SE $\frac{1}{4}$ ,	19-5 35.0
										SE $\frac{1}{4}$ SE $\frac{1}{4}$ ,	7.4
										SE $\frac{1}{4}$ SW $\frac{1}{4}$ ,	3.3
										Sec. 16	
										Lot 2,	10.0
Sec. 17											
NE $\frac{1}{4}$ NE $\frac{1}{4}$ ,	23.3										
NW $\frac{1}{4}$ NE $\frac{1}{4}$ ,	24-2 26.2										
SE $\frac{1}{4}$ NE $\frac{1}{4}$ ,	23-8 28.0										
T19N, R24E	167-1 226.5										

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PROPOSED FINDING OF WATER RIGHTS - LEWIS RIVER DRAINAGE

SOURCE: Pattee Creek

IDENT. NO.	NAME AND ADDRESS	PRIORITY	PURPOSE	PERIOD OF USE		MAXIMUM RATE OF DIVERSION (cfs)	POINT OF DIVERSION	PLACE OF USE and LAND IRRIGATED	BASIS OF RIGHT and REMARKS	
				From	To					
74-1787A	MAHAFFEY LIVESTOCK, INC c/o Stephen Mahaffey Box 4 Tendoy, Idaho	3-16-1883	Irrigation	4/1	11/1	0-20 0.04 <u>0-28</u> 0.31	NE $\frac{1}{4}$ NW $\frac{1}{4}$ , S.17 T19N, R24E	Sec. 8 SW $\frac{1}{4}$ SW $\frac{1}{4}$ , SE $\frac{1}{4}$ SW $\frac{1}{4}$ , Sec. 17 NE $\frac{1}{4}$ NW $\frac{1}{4}$ , NW $\frac{1}{4}$ NW $\frac{1}{4}$ , T19N, R24E	3-4 4-0 1-3 13-7 15.5	Beneficial Use Spring
74-1787B	MAHAFFEY LIVESTOCK, INC. c/o Stephen Mahaffey Box 4	12-06-1893	Irrigation	4/1	11/1	0.04	NE $\frac{1}{4}$ NW $\frac{1}{4}$ , S.17 T19N, R24E	Sec. 17 NW $\frac{1}{4}$ NW $\frac{1}{4}$ , T19N, R24E	2.0 2.0	Beneficial Use Spring
74-0228	MAHAFFEY LIVESTOCK, INC. c/o Stephen Mahaffey Box 4 Tendoy, Idaho	5 -1-1914	Irrigation	4/1	11/1	0.80	Sec. 16 SE $\frac{1}{4}$ NE $\frac{1}{4}$ T19N, R24E	Sec. 17 NE $\frac{1}{4}$ NE $\frac{1}{4}$ , SE $\frac{1}{4}$ NE $\frac{1}{4}$ , T19N, R24E	23.3 -23-8 28.0	Decree
74-0225	MAHAFFEY LIVESTOCK, INC. c/o Stephen Mahaffey Box 4 Tendoy, Idaho	6-1-1917	Irrigation	4/1	11/1	1.20	SE $\frac{1}{4}$ NE $\frac{1}{4}$ , S.16 T19N, R24E	Sec. 8 SW $\frac{1}{4}$ NE $\frac{1}{4}$ , SE $\frac{1}{4}$ NE $\frac{1}{4}$ , NE $\frac{1}{4}$ SE $\frac{1}{4}$ , NW $\frac{1}{4}$ SE $\frac{1}{4}$ , SW $\frac{1}{4}$ SE $\frac{1}{4}$ , SE $\frac{1}{4}$ SE $\frac{1}{4}$ , Sec. 17 NW $\frac{1}{4}$ NE $\frac{1}{4}$ , T19N, R24E	-15-6 10.2 13.1 20-0 19-5 36.0 7.4 -24-2 26.2 <u>110-0</u> 161.9	Decree

JUL 20 1980

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SEP 17 1980

Department of Water Resources

1 DAVID H. LEROY  
2 Attorney General  
3 State of Idaho  
4 Statehouse, Room 210  
5 Boise, Idaho 83720  
6 Telephone: (208) 384-2400

Filed in District Court Lemhi County

Idaho, September 15 1980

at 31 minutes past 8 o'clock A

Ralston Adams Clk

By Alberta Frederick Deputy

5 JOSEPHINE P. BEEMAN  
6 Deputy Attorney General  
7 Department of Water Resources  
8 Statehouse  
9 Boise, Idaho 83720  
10 Telephone: (208) 334-4448

9 IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF THE  
10 STATE OF IDAHO, IN AND FOR THE COUNTY OF LEMHI

11	IN THE MATTER OF THE GENERAL	)	CIVIL NO. 4948
12	DETERMINATION OF THE RIGHT TO	)	STIPULATION RESOLVING
13	THE USE OF SURFACE WATERS AND	)	SPECIFIC OBJECTION NUMBER
14	TRIBUTARIES FROM WHATEVER	)	TWO OF RALSTON W. ADAMS, IVAN
	SOURCE OF THE LEMHI RIVER	)	L. JONES, MARGARET L. PYEATT,
	DRAINAGE BASIN.	)	and PINE CREEK RANCH

15  
16 COME NOW the Idaho Department of Water Resources, through its  
17 undersigned counsel, and Ralston W. Adams, Ivan L. Jones, and  
18 M.J. Chamberlain (successor to certain property belonging to  
19 Ralston W. Adams), through their undersigned counsel, and Pine  
20 Creek Ranch and Metropolitan Life Insurance (successor to certain  
21 property belonging to Ralston W. Adams), through their under-  
22 signed counsel, and Lloyd A. Clark (successor in interest to  
23 Margaret L. Pyeatt), appearing pro se, and stipulate that the  
24 following change be made to the proposed finding of water rights:

25 Claim no. 74-1570 (p. 9 of the proposed findings): The  
26 priority date should be changed to April 1, 1954 to  
reflect that the use of this right is only during high  
water.

27 Claim no. 74-1571 (p. 9 of the proposed findings): The  
28 priority date should be changed to April 1, 1954 to  
29 reflect that the use of this right is only during high  
water.

30 These changes are incorporated into the attached Exhibit A.

31 The objections to claims 74-1570 and 74-1571 are withdrawn.

32 (The court record of July 23, 1980 reflects that William H.

STIPULATION - ADAMS, JONES, PYEATT, PINE CREEK RANCH, Page 1

JUL 30 1986



1 Herpst the claimant for nos. 74-1570 and 74-1571 was notified but  
2 was not present for the hearing of these objections.)

3 The parties agree that the above stipulation resolves speci-  
4 fic objection number two of Ralston W. Adams (dated January 1,  
5 1976), Ivan L. Jones (dated March 6, 1975), Margaret L. Pyeatt  
6 (dated November 3, 1975), and Pine Creek Ranch (dated March 10,  
7 1975).

8 Specific objection number one of these parties is being sub-  
9 mitted to the court for resolution.

10 DATED this \_\_\_\_\_ day of \_\_\_\_\_, 1980.

11  
12  
13 Josephine P. Beeman 7 August 1980  
14 JOSEPHINE P. BEEMAN  
15 Deputy Attorney General  
16 Department of Water Resources

Sherman F. Furey, Jr.  
SHERMAN F. FUREY, JR.  
Counsel for Ralston W.  
Adams, Ivan L. Jones, &  
M.J. Chamberlain

17 James R. Gillespie  
18 JAMES R. GILLESPIE  
19 EBERLE, BERLIN, KADING,  
20 TURNBOW & GILLESPIE  
21 Representing Metropolitan  
22 Life Insurance and Pine  
23 Creek Ranch

Floyd A. Clark 9/9/80.  
LLOYD A. CLARK  
P.O. Box 1451  
Salmon, Idaho  
83467

24  
25 The above stipulation having duly come before the court, it  
26 is hereby approved this 12 day of September, 1980.

Milton A. Slavin  
MILTON A. SLAVIN  
Magistrate  
Sitting as Special Master

JUL 30 1980

PROPOSED FINDING OF WATER RIGHTS - LEPEHI RIVER DRAINAGE

SOURCE: Agency Creek and Tributaries

IDENTIFICATION NO.	NAME AND ADDRESS	PRIORITY	PURPOSE	PERIOD OF USE		MAXIMUM RATE OF DIVERSION (cfs)	POINT OF DIVERSION	PLACE OF USE and LANDS IRRIGATED	BASIS OF RIGHTS AND REMAINS		
				From	To						
74-1570	HERPST, William H. and/or Lois C. Box 51 Tendoy, Idaho	4-1-1895 4-1-1954	Irrigation	4/1	11/1	0.10	NW $\frac{1}{4}$ SW $\frac{1}{4}$ , S. 25 T19N, R24E	Sec. 25 SW $\frac{1}{2}$ NW $\frac{1}{4}$ , NW $\frac{1}{4}$ SW $\frac{1}{4}$ , T19N, R24E	Beneficial Use (Cow Creek)		
										3.0	1.6
74-1571	HERPST, William H. and/or Lois C. Box 51 Tendoy, Idaho	4-1-1895 4-1-1954	Irrigation	4/1	11/1	0.34	Sec. 25 SE $\frac{1}{2}$ NW $\frac{1}{4}$ , SW $\frac{1}{2}$ NW $\frac{1}{4}$ , Sec. 26 SE $\frac{1}{2}$ NE $\frac{1}{4}$ , T19N, R24E	Sec. 25 SE $\frac{1}{2}$ NW $\frac{1}{4}$ , SW $\frac{1}{2}$ NW $\frac{1}{4}$ , Sec. 26 SW $\frac{1}{2}$ NE $\frac{1}{4}$ , SE $\frac{1}{2}$ NE $\frac{1}{4}$ , T19N, R24E	Beneficial Use		
										3.3	5.8
										4.2	3.3
										16.6	

JUL 30 1954

1                   **DAVID H. LEROY**  
2                   Attorney General  
3                   State of Idaho  
4                   Statehouse, Room 210  
5                   Boise, Idaho 83720  
6                   Telephone: (208) 384-2400

*W.S.*

Filed in District Court Lemhi County  
Idaho, Sept. 3 1980  
at 35 minutes past 2 o'clock P. M.  
Eleanor Adams Clerk  
By Alberta Kendrick Deputy

4                   **JOSEPHINE P. BEEMAN**  
5                   Deputy Attorney General  
6                   Department of Water Resources  
7                   Statehouse  
8                   Boise, Idaho 83720  
9                   Telephone: (208) 334-4448

8                   IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF THE  
9                   STATE OF IDAHO, IN AND FOR THE COUNTY OF LEMHI

10                   IN THE MATTER OF THE GENERAL                   )  
11                   DETERMINATION OF THE RIGHT TO                   )                   CIVIL NO. 4948  
12                   THE USE OF SURFACE WATERS AND                   )  
13                   TRIBUTARIES FROM WHATEVER                   )                   STIPULATION RESOLVING  
14                   SOURCE OF THE LEMHI RIVER                   )                   SPECIFIC OBJECTIONS OF  
15                   DRAINAGE BASIN.                   )                   PAUL AND MERLIN J. FISHER

16                   COME NOW the Idaho Department of Water Resources, through its  
17                   undersigned counsel and Henry A. Schaffner, successor-in-interest  
18                   to Paul and Merlin J. Fisher, and stipulate that the Fishers' ob-  
19                   jections as to unclaimed rights out of the West Fork of Sandy  
20                   Creek be considered together with the general objections in the  
21                   Lemhi adjudication relating to use of flood waters.

22                   The parties also note that the Schaffners are going to file  
23                   applications for water rights with the Idaho Department of Water  
24                   Resources in lieu of the unclaimed rights listed in the Fishers'  
25                   objection.

26                   The parties agree that the above stipulation resolves the  
27                   specific objections of Paul and Merlin J. Fisher, dated March 11,  
28                   1975.

29                   DATED this \_\_\_\_\_ day of \_\_\_\_\_, 1980.

30                   *Josephine P. Beeman 3 August 1980*  
31                   **JOSEPHINE P. BEEMAN**  
32                   Deputy Attorney General  
33                   Department of Water Resources

34                   *Henry A. Schaffner*  
35                   **HENRY A. SCHAFFNER**  
36                   Schaffner Ranch  
37                   Route 1, Box 33  
38                   Salmon, Idaho 83567

39                   STIPULATION OF FISHER, Page 1

*RECORDED*

JUL 30 1980

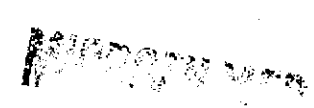
1 The above stipulation having duly come before the court, it  
2 is hereby approved this 3 day of September, 1980.

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5 MILTON A. SLAVIN  
6 Magistrate  
7 Sitting as Special Master

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DAVID H. LEROY  
Attorney General  
State of Idaho  
Statehouse, Room 210  
Boise, Idaho 83720  
Telephone (208) 384-2400

  
JUL 30 1996

RECEIVED

SEP 17 1980

Department of Water Resources

1 DAVID H. LEROY  
2 Attorney General  
3 State of Idaho  
4 Statehouse, Room 210  
5 Boise, Idaho 83720  
6 Telephone: (208) 384-2400

Filed in District Court Lemhi County  
Idaho, September 15 1980  
at 32 minutes past 3 o'clock P.M.  
Eleanor Aldous Clerk  
By Albert Stodard Deputy

6 JOSEPHINE P. BEEMAN  
7 Deputy Attorney General  
8 Department of Water Resources  
9 Statehouse  
Boise, Idaho 83720  
Telephone: (208) 334-4448

10 IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF THE  
11 STATE OF IDAHO, IN AND FOR THE COUNTY OF LEMHI

12	IN THE MATTER OF THE GENERAL )	
13	DETERMINATION OF THE RIGHT TO )	CIVIL NO. 4948
14	THE USE OF SURFACE WATERS AND )	
15	TRIBUTARIES FROM WHATEVER )	STIPULATION RESOLVING
	SOURCE OF THE LEMHI RIVER )	SPECIFIC OBJECTIONS OF
	DRAINAGE BASIN. )	JAMES F. STODDARD TO
		CLAIM 74-0250

16  
17 COME NOW the Idaho Department of Water Resources, through its  
18 undersigned counsel, and James F. Stoddard, appearing pro se, and  
19 John F. Herbst, appearing pro se, and stipulate that the follow-  
20 ing change be made to the proposed finding of water rights:

21 Claim No. 74-0250 in the name of John F. Herbst (p. 11  
22 of the proposed findings): The following sentence is to  
23 be added immediately after the sentence beginning,  
24 "Seven (7) miners inches . . .": "However, the right-  
25 holder to 74-0250 agrees that the operation of a diver-  
26 sion dam on Agency Creek where the ditch from Lemhi  
27 River diversion L-32 crosses Agency Creek shall not be  
28 interfered with as long as 0.3 cfs (15 miners inches) is  
29 available at the point of diversion for 74-0250."

30 This change is incorporated into the attached Exhibit A.

31 The parties agree that the above stipulation resolves James  
32 F. Stoddard's objection (dated March 7, 1975) as to claim no.  
74-0250.

JUL 30 1996

1 DATED this \_\_\_\_\_ day of \_\_\_\_\_, 1980.

2  
3 *Josephine P. Beeman 7 August 1980*  
4 JOSEPHINE P. BEEMAN  
5 Deputy Attorney General  
6 Department of Water Resources

*James F. Stoddard*  
JAMES F. STODDARD  
Route 1  
Salmon, Idaho

7  
8 *John F. Herbst*  
JOHN F. HERBST  
P.O. Box 21  
Tendoy, Idaho

9  
10 The above stipulation having duly come before the court, it  
11 is hereby approved this 12 day of September, 1980.

12  
13  
14 *Milton A. Slavin*  
MILTON A. SLAVIN  
15 Magistrate  
16 Sitting as Special Master

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DAVID H. LEROY  
Attorney General  
State of Idaho  
Statehouse, Room 210  
Bose, Idaho 83720  
Telephone (208) 384-2400

*RECORDED*  
JUL 30 1996

PROPOSED FINDING OF WATER RIGHTS - LEMHI RIVER DRAINAGE

SOURCE: Agency Creek and Tributaries

IDENT. NO.	NAME AND ADDRESS	PRIORITY	PURPOSE	PERIOD OF USE		MAXIMUM RATE OF DIVERSION (cfs)	POINT OF DIVERSION	PLACE OF USE and LANDS IRRIGATED	BASIS OF RIGHT and REMARKS	
				From	To					
72-0250	HERBST, John F. and/or Emma P.O. Box 21 Tendoy, Idaho	10-1-1909	Irrigation	4/1	11/1	0.3	SE $\frac{1}{4}$ SW $\frac{1}{4}$ , S.20 T20N, R24E	Sec. 20 NE $\frac{1}{4}$ SW $\frac{1}{4}$ , SE $\frac{1}{4}$ SW $\frac{1}{4}$ , T19N, R24E	10.0 5.5 <u>15.5</u>	Decree

Seven (7) miners inches of this right shall be in preference to the right of any other party on Agency Creek with the same date of priority as this right. However, the rightholder to 74-0250 agrees that the operation of a dam on Agency Creek where L-32 crosses Agency Creek shall not be interfered with as long as 0.3 cfs (15 miners inches) is available at the point of diversion for 74-0250.

RECORDED

JUL 30 1996

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DAVID H. LEROY  
Attorney General  
State of Idaho  
Statehouse, Room 210  
Boise, Idaho 83720  
Telephone: (208) 384-2400

Filed in District Court Lemhi County  
Idaho, September 2 1980  
at 37 minutes past 10 o'clock P. M.  
Eleanor Aldous Clerk  
By Alberta Frederick Deputy

JOSEPHINE P. BEEMAN  
Deputy Attorney General  
Department of Water Resources  
Statehouse  
Boise, Idaho 83720  
Telephone: (208) 334-4448

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

IN THE MATTER OF THE GENERAL	)	
DETERMINATION OF THE RIGHT TO	)	CIVIL NO. 4948
THE USE OF SURFACE WATERS AND	)	
TRIBUTARIES FROM WHATEVER	)	STIPULATION RESOLVING
SOURCE OF THE LEMHI RIVER	)	OBJECTIONS OF
DRAINAGE BASIN.	)	GENE PHIPPS

COME NOW Gene Phipps, Successor-in-interest of certain lands from James Ellsworth, and the Idaho Department of Water Resources and stipulate that the specific objections filed by James Ellsworth on September 16, 1976, affecting claim numbers 74-0011, 74-0012, 74-0016, 74-0332, and 74-0333, be dismissed based upon the following changes in the Proposed Finding of Water Rights:

1. 74-0012 (p. 69 of the proposed findings): The following language appearing just beneath the proposed right is to be deleted:

"The amount of water to be diverted under this right and right 74-0011 shall be reduced by the amount of water received simultaneously from Bull Creek under right 74-0032."

2. 74-0011 (p. 70 of the proposed findings): The following language appearing just beneath the proposed right is to be deleted:

"The amount of water diverted under this right and right 74-0012 shall be reduced by the amount received simultaneously from Bull Creek under right 74-0032."

3. 74-0016 (p. 70 of the proposed findings): The rate of diversion is to be changed from 3.00 c.f.s. to

STIPULATION, PHIPPS, Page, 1

JUL 30 1996



1 6.4 c.f.s.; the lands irrigated are to be changed  
2 by the addition of 30.5 acres (to make 34.0 acres)  
3 in the NW1/4NE1/4, and 4 acres (to make 40.0 acres)  
4 in the SW1/4NE1/4, and 6.6 acres (to make 40.0  
5 acres) in the SE1/4NE1/4, and 160 acres in the  
6 SE1/4, Sec. 15, T15N, R27E; and the addition of 5  
7 acres in the SW1/4SE1/4, and 5 acres in the  
8 SE1/4SE1/4, Sec. 10, T15N, R27E.

9  
10 In addition, the following language appearing just  
11 beneath the proposed right is to be deleted:

12 "The amount of water to be diverted under  
13 this right shall be reduced by the amount  
14 received simultaneously from Bull Creek  
15 under right 74-0333."

- 16 4. 74-0332 (p. 33 of the proposed findings): The  
17 lands irrigated are to be changed by the deletion  
18 of the listed acreage and the listing instead of 35  
19 acres in the SE1/4SE1/4, Sec. 14, T15N, R27E, and  
20 40 acres in the NE1/4NE1/4, Sec. 23, T15N, R27E.
- 21 5. 74-0333 (p. 33 of the proposed findings): The  
22 lands irrigated are to be changed by the deletion  
23 of the listed acreage and the listing instead of  
24 160 acres in the SW1/4, Sec. 14, T15N, R27E.

25 These changes are incorporated into the attached Exhibit A.

26 DATED this 22<sup>nd</sup> day of August, 1980.

27  
28   
29 GEORGE C. PETERSON  
30 Attorney for Gene Phipps

31 Josephine P. Beeman 7 August 1980  
32 JOSEPHINE P. BEEMAN  
Deputy Attorney General  
Department of Water Resources

33 The above stipulation having duly come before the court, it  
34 is hereby approved this 2 day of September, 1980.

35 1st Milton A. Slavin  
36 MILTON A. SLAVIN  
Magistrate  
Sitting as Special Master

SOURCE: Bull Creek

IDENT. NO.	NAME AND ADDRESS	PRIORITY	PURPOSE	PERIOD OF USE From To	MAXIMUM RATE OF DIVERSION (cfs)	POINT OF DIVERSION	PLACE OF USE and LANDS IRRIGATED	BASIS OF RIGHT and REMARKS
74-0332 (p. 33)	ELLSWORTH, James and/or Maybelle Box 27 Leadore, Idaho	10-11-1909	Irrigation	4/1 11/1	1.0	SE $\frac{1}{2}$ NE $\frac{1}{4}$ , S. 24 T15N, R27E	<del>Sec. 11</del> SW $\frac{1}{2}$ SW $\frac{1}{4}$	15:0 Decree
							Sec. 14 NE $\frac{1}{2}$ NE $\frac{1}{4}$ , SW $\frac{1}{2}$ SW $\frac{1}{4}$ , SE $\frac{1}{2}$ SE $\frac{1}{4}$ , Sec. 23 NE $\frac{1}{2}$ NE $\frac{1}{4}$ , T15N, R27E	29:6 18:6 35.0 40.0 63:2 75.0
74-0333 (p. 33)	ELLSWORTH, James and/or Maybelle Box 27 Leadore, Idaho	1-18-1919	Irrigation	4/1 11/1	3.2	SE $\frac{1}{2}$ NE $\frac{1}{4}$ , S. 24 T15N, R27E	Sec. 15 NE $\frac{1}{2}$ NE $\frac{1}{4}$ , NW $\frac{1}{2}$ NE $\frac{1}{4}$ , SW $\frac{1}{2}$ NE $\frac{1}{4}$ , SE $\frac{1}{2}$ NE $\frac{1}{4}$ , Sec. 14 SW $\frac{1}{4}$ T15N, R27E	40:0 3:5 36:0 33:4 160.0 112:9 160.0

JUL 30 1996

IDENT. NO.	NAME AND ADDRESS	PRIORITY	PURPOSE	PERIOD OF USE From To	MAXIMUM RATE OF DIVERSION (cfs)	POINT OF DIVERSION	PLACE OF USE and LANDS IRRIGATED	BASIS OF RIGHT and REMARKS	
74-0012 (p. 69)	ELLSWORTH, James and/or Maybelle Box 27 Leadore, Idaho	10-16-1908	Irrigation	4/1 11/1	2.00	SE $\frac{1}{4}$ NW $\frac{1}{4}$ , S. 2 T15N, R27E	Sec. 11 SW $\frac{1}{4}$ SW $\frac{1}{4}$ , Sec. 14 NW $\frac{1}{4}$ NW $\frac{1}{4}$ , SW $\frac{1}{4}$ NW $\frac{1}{4}$ , T15N, R27E	29.1 29.6 18.6 <u>77.3</u>	Decree
<p>The amount of water to be diverted under this right and right 74-0011 shall be reduced by the amount of water received simultaneously from Bull Creek under right 74-0332.</p>									
74-0011 (p. 70)	ELLSWORTH, James and/or Maybelle Box 27 Leadore, Idaho	3-27-1911	Irrigation	4/1 11/1	1.60	SE $\frac{1}{4}$ NW $\frac{1}{4}$ , S. 2 T15N, R27E	Sec. 11 SW $\frac{1}{4}$ SW $\frac{1}{4}$ , Sec. 14 NW $\frac{1}{4}$ NW $\frac{1}{4}$ , SW $\frac{1}{4}$ NW $\frac{1}{4}$ , T15N, R27E	29.1 29.6 18.6 <u>77.3</u>	Decree
<p>The amount of water to be diverted under this right and right 74-0012 shall be reduced by the amount of water received simultaneously from Bull Creek under right 74-0332.</p>									
74-0016 (p. 70)	ELLSWORTH, James and/or Maybelle Box 27 Leadore, Idaho	4-13-1911	Irrigation	4/1 11/1	3.00 6.4	SE $\frac{1}{4}$ NW $\frac{1}{4}$ , S. 2 T15N, R27E	Sec. 15 NE $\frac{1}{4}$ NE $\frac{1}{4}$ , NW $\frac{1}{4}$ NE $\frac{1}{4}$ , SW $\frac{1}{4}$ NE $\frac{1}{4}$ , SE $\frac{1}{4}$ NE $\frac{1}{4}$ , SE $\frac{1}{4}$ Sec. 10 SW $\frac{1}{4}$ SE $\frac{1}{4}$ , SE $\frac{1}{4}$ SE $\frac{1}{4}$ , T15N, R27E	40.0 3.5 36.0 33.4 40.0 160.0 5.0 5.0	Decree
<p>The amount of water to be diverted under this right shall be reduced by the amount received simultaneously from Bull Creek under right 74-0333.</p>									
								<u>112.0</u> 324.0	

JUL 30 1996

CERTIFICATE OF SERVICE

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I HEREBY CERTIFY that on this 7<sup>th</sup> day of August, 1980, I mailed a true and correct copy of the foregoing STIPULATION RESOLVING OBJECTION OF GENE PHIPPS by placing it in the United States mail, postage prepaid addressed to: George C. Petersen, 485 E Street, Idaho Falls, Idaho 83401.

*Jan M. Heck*  
JAN M. HECK  
Legal Secretary  
Department of Water Resources

Attorney General  
State of Idaho  
Statehouse, Room 210  
Boise, Idaho 83720  
Telephone: (208) 384-2400

RECORDED  
JUL 30 1980

RECEIVED

AUG 25 1980

1 DAVID H. LEROY Department of Water Resources  
2 Attorney General  
3 State of Idaho  
4 Statehouse, Room 210  
5 Boise, Idaho 83720  
6 Telephone: (208) 384-2400

Filed in District Court Lemhi County  
Idaho, August 24 1980  
at 31 minutes past 3 o'clock P.M.  
Eleanor Adams Clerk  
By Alberta Stoddard Deputy

6 JOSEPHINE P. BEEMAN  
7 Deputy Attorney General  
8 Department of Water Resources  
9 Statehouse  
10 Boise, Idaho 83720  
11 Telephone: (208) 334-4448

9 IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF THE  
10 STATE OF IDAHO, IN AND FOR THE COUNTY OF LEMHI

12 IN THE MATTER OF THE GENERAL )  
13 DETERMINATION OF THE RIGHT TO ) CIVIL NO. 4948  
14 THE USE OF SURFACE WATERS AND )  
15 TRIBUTARIES FROM WHATEVER )  
16 SOURCE OF THE LEMHI RIVER ) STIPULATION RESOLVING  
17 DRAINAGE BASIN. ) SPECIFIC OBJECTIONS OF  
18 JAMES F. STODDARD  
19 )

16 COME NOW the Idaho Department of Water Resources, through its  
17 undersigned counsel, and James F. Stoddard, appearing pro se, and  
18 stipulate that the following changes be made to the proposed  
19 finding of water rights:

20 Claim No. 74-0841 (p. 187 of the proposed findings):  
21 The rate of diversion should be increased from 0.11 cfs  
22 to 0.22 cfs and the lands irrigated should be increased  
23 from 3.6 acres to 7.2 acres by the addition of 3.6 acres  
(making a total of 5.7 acres) in the SW1/4NW1/4, Sec. 9,  
T21N, R22E.

24 Claim No. 74-1570 (p. 9 of the proposed findings): The  
25 priority date should be changed to April 1, 1954 to  
reflect that the use of this right is only during high  
water.

26 Claim No. 74-1571 (p. 9 of the proposed findings): The  
27 priority date should be changed to April 1, 1954 to  
28 reflect that the use of this right is only during high  
water.

29 These changes are incorporated into the attached Exhibit A.

30 The parties agree that the above stipulation resolves the  
31 remaining specific objections of James F. and Jean L. Stoddard  
32 dated March 7, 1975.

JUL 30 1980

DATED this 8<sup>th</sup> day of August, 1980.

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Josephine P. Beeman 8 August 1980  
JOSEPHINE P. BEEMAN  
Deputy Attorney General  
Department of Water Resources

James F. Stoddard  
JAMES F. STODDARD  
Route 1  
Salmon, Idaho

The above stipulation having duly come before the court, it is hereby approved this 20 day of August, 1980.

Milton A. Slavin  
Milton A. Slavin  
Magistrate  
Sitting as Special Master

Attorney General  
State of Idaho  
Statehouse, Room 210  
Boise, Idaho 83720  
Telephone: (208) 384-2400

RECORDED  
JUL 30 1980

PROPOSED FINDING OF WATER RIGHTS - LEMHI RIVER DRAINAGE

SOURCE: Wastewater from Mill Ditch

IDENT. NO.	NAME AND ADDRESS	PRIORITY	PURPOSE	PERIOD OF USE		MAXIMUM RATE OF DIVERSION (cfs)	POINT OF DIVERSION	PLACE OF USE and LANDS IRRIGATED	BASIS OF RIGHT and REMARKS	
				From	To					
74-0841	STODDARD, James F. and/or Jean L. Route 1 Salmon, Idaho	6-13-1890	Irrigation	4/1	11/1	0.11 0.22	Sec. 9 SW $\frac{1}{4}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$ T21N, R22E	Sec. 9 NW $\frac{1}{4}$ NW $\frac{1}{4}$ , SW $\frac{1}{4}$ NW $\frac{1}{4}$ , T21N, R22E	1.5 2.1 5.7 3.6 7.2	Beneficial Use
SOURCE: Agency Creek and Tributaries										
74-1570	HERPST, William H. and/or Lois C. Box 51 Tendoy, Idaho	4-1-1895	Irrigation	4/1	11/1	0.10	NW $\frac{1}{4}$ SW $\frac{1}{4}$ , S.25 T19N, R24E	Sec. 25 SW $\frac{1}{4}$ NW $\frac{1}{4}$ , NW $\frac{1}{4}$ SW $\frac{1}{4}$ , T19N, R24E	3.0 1.6	Beneficial Use (Cow Creek)
74-1571	HERPST, William H. and/or Lois C. Box 51 Tendoy, Idaho	4-1-1895 4-1-1954	Irrigation	4/1	11/1	0.34	Sec. 25 SE $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 26 SE $\frac{1}{4}$ NE $\frac{1}{4}$ T19N, R24E	Sec. 25 SE $\frac{1}{4}$ NW $\frac{1}{4}$ , SW $\frac{1}{4}$ NW $\frac{1}{4}$ , Sec. 26 SW $\frac{1}{4}$ NE $\frac{1}{4}$ , SE $\frac{1}{4}$ NE $\frac{1}{4}$ , T19N, R24E	4.6 3.3 5.8 4.2 3.3 16.6	Beneficial Use

JUL 20 1996

1                   **DAVID H. LEROY**  
2                   Attorney General  
3                   State of Idaho  
4                   Statehouse, Room 210  
5                   Boise, Idaho 83720  
6                   Telephone: (208) 384-2400

Filed in District Court Lemhi County  
Idaho, August 18 1980  
at 4 minutes past 4 o'clock P. M.  
Sherman F. Furey, Jr. Clerk  
By Alberta Anderson Deputy

7                   JOSEPHINE P. BEEMAN  
8                   Deputy Attorney General  
9                   Department of Water Resources  
10                  Statehouse  
11                  Boise, Idaho 83720  
12                  Telephone: (208) 334-4448

13                  IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF THE  
14                  STATE OF IDAHO, IN AND FOR THE COUNTY OF LEMHI

15                  IN THE MATTER OF THE GENERAL                    )  
16                  DETERMINATION OF THE RIGHT TO                    )  
17                  THE USE OF SURFACE WATERS AND                   )  
18                  TRIBUTARIES FROM WHATEVER                    )  
19                  SOURCE OF THE LEMHI RIVER                    )  
20                  DRAINAGE BASIN.                                )  
21    )                    CIVIL NO. 4948  
22    )                    STIPULATION RESOLVING  
23    )                    SPECIFIC OBJECTIONS OF  
24    )                    W.L. BLACKADAR, M.D., and  
25    )                    CHRISTOPHER A. ROHLF

26                  COME NOW the Idaho Department of Water Resources, through its  
27                  undersigned counsel, and the estate of Walter L. Blackadar, M.D.  
28                  and Christopher A. Rohlf, through their undersigned counsel, and  
29                  stipulation that the specific objections of Walter L. Blackadar,  
30                  M.D. and Christopher A. Rohlf, dated February 25, 1975, be  
31                  withdrawn.

32                  DATED this 15th day of August, 1980.

33                  Josephine P. Beeman August 1980  
34                  JOSEPHINE P. BEEMAN  
35                  Deputy Attorney General  
36                  Department of Water Resources

37                  Sherman F. Furey, Jr. 8/18/80  
38                  SHERMAN F. FUREY, JR.  
39                  Counsel for Christopher A.  
40                  Rohlf and the estate of  
41                  Walter L. Blackadar, M.D.

42                  The above stipulation having duly come before the court, it  
43                  is hereby approved this 18 day of August, 1980.

44                  Milton A. Slavin  
45                  MILTON A. SLAVIN  
46                  Magistrate  
47                  Sitting as Special Master

48                  FILED 30 1980



RECEIVED

AUG 8 1980

1 DAVID H. LEROY Department of Water Resources  
2 Attorney General  
3 State of Idaho  
4 Statehouse, Room 210  
5 Boise, Idaho 83720  
6 Telephone: (208) 384-2400

5 JOSEPHINE P. BEEMAN  
6 PHILLIP J. RASSIER  
7 Deputy Attorneys General  
8 Department of Water Resources  
9 Statehouse  
10 Boise, Idaho 83720  
11 Telephone: (208) 334-4448

Filed in District Court Lemhi County  
Idaho, August 6, 1980  
at 33 minutes past 10 o'clock A M  
Eleanor Adams Clerk  
By Albert Hiedrick Deputy

9 IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF THE  
10 STATE OF IDAHO, IN AND FOR THE COUNTY OF LEMHI

11 IN THE MATTER OF THE GENERAL )  
12 DETERMINATION OF THE RIGHT TO ) CIVIL NO. 4948  
13 THE USE OF SURFACE WATERS AND )  
14 TRIBUTARIES FROM WHATEVER ) STIPULATION RESOLVING  
15 SOURCE OF THE LEMHI RIVER ) THE SPECIFIC OBJECTION  
16 DRAINAGE BASIN. ) OF GEORGE CARL UDY  
17 )

15 COME NOW the Idaho Department of Water Resources, through its  
16 undersigned counsel, and David V. Udy, administrator of the  
17 estate of George Carl Udy, and stipulate that the following  
18 change be made to the proposed finding of water rights:

19 Based upon information presented by the objector and  
20 upon inspection by the Department, a groundwater right  
21 with a priority date of January 1, 1938, in the amount  
22 of 0.04 cfs for domestic and commercial use, in the name  
23 of the objector, is found to exist and is recommended to  
24 be included in the proposed finding of water rights  
25 under new identification number 74-1874.

23 This change is incorporated into the attached Exhibit A.

24 The parties agree that the above stipulation resolves the  
25 specific objection of George Carl Udy, dated August 26, 1974.

26 DATED this 10th day of June, 1980.

28 Phillip J. Rassier  
29 PHILLIP J. RASSIER  
30 Deputy Attorney General  
31 Department of Water Resources

David V. Udy  
DAVID V. UDY  
Administrator of the  
Estate of George Carl Udy

JUL 30 1980

1 The above stipulation having duly come before the Court, it  
2 is hereby approved this 6 day of August, 1980.

3  
4 /s/ Milton A. Slavin  
5 MILTON A. SLAVIN  
6 Magistrate  
7 Sitting as Special Master  
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W. H. H. H. H. H.  
Attorney General  
State of Idaho  
Statehouse, Room 210  
Boise, Idaho 83720  
Telephone: (208) 384-2400

MICROFILMED

JUL 30 1986

PROPOSED FINDING OF WATER RIGHTS - LEMHI RIVER DRAINAGE

SOURCE: Groundwater

IDENT. NO.	NAME AND ADDRESS	PRIORITY	PURPOSE	PERIOD OF USE		MAXIMUM RATE OF DIVERSION (cfs)	POINT OF DIVERSION	PLACE OF USE and LANDS IRRIGATED	BASIS OF RIGHT
				From	To				
74-1874	UDY, George Carl Box 84 Leadore, Idaho	1-1-1938	Domestic Commercial	1/1	12/31	0.04 <u>0.02</u> 0.04	Sec. 33 NE $\frac{1}{4}$ NE $\frac{1}{4}$ , T16N, R26E	Sec. 33 NE $\frac{1}{4}$ NE $\frac{1}{4}$ , T16N, R26E (Lots 1, 2, 3, Block 2, Village of Leadore)	Beneficial Use

1                   **DAVID H. LEROY**  
2                   Attorney General  
3                   State of Idaho  
4                   Statehouse, Room 210  
5                   Boise, Idaho 83720  
6                   Telephone: (208) 384-2400

Department of Water Resources

Filed in District Court Lemhi County

Idaho, June 13 1980  
at 37 minutes past 10 o'clock A.M.

Eleanor Nelson Clerk  
By \_\_\_\_\_ Deputy

7                   JOSEPHINE P. BEEMAN  
8                   PHILLIP J. RASSIER  
9                   Deputy Attorneys General  
10                  Department of Water Resources  
11                  Statehouse  
12                  Boise, Idaho 83720  
13                  Telephone: (208) 334-4448

14                  IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF THE  
15                  STATE OF IDAHO, IN AND FOR THE COUNTY OF LEMHI

16                  IN THE MATTER OF THE GENERAL                    )  
17                  DETERMINATION OF THE RIGHT TO                    )                    CIVIL NO. 4948  
18                  THE USE OF SURFACE WATERS AND                    )  
19                  TRIBUTARIES FROM WHATEVER                    )                    STIPULATION RESOLVING  
20                  SOURCE OF THE LEMHI RIVER                    )                    THE SPECIFIC OBJECTION  
21                  DRAINAGE BASIN.                                 )                    OF LEWIS C. BIRCH  
22                  \_\_\_\_\_ )

23                  COME NOW the Idaho Department of Water Resources, through its  
24                  undersigned counsel, and Lewis C. Birch, a claimant-objector  
25                  herein, and stipulate that the following change be made to the  
26                  proposed finding of water rights:

27                  Claim No. 74-0610: The priority date should be changed  
28                  to August 3, 1883, based upon a posted notice of water  
29                  right provided by the claimant-objector.

30                  This change is incorporated into the attached Exhibit A.

31                  The objection to claim No. 74-0610 is withdrawn.

32                  The parties agree that the above stipulation resolves the  
specific objection of Lewis C. Birch, dated July 10, 1974.

DATED this 10th day of June, 1980.

33                  Phillip J. Rassier  
34                  PHILLIP J. RASSIER  
35                  Deputy Attorney General  
36                  Department of Water Resources

37                  Lewis C Birch  
38                  LEWIS C. BIRCH

39                  STIPULATION RESOLVING THE SPECIFIC  
40                  OBJECTION OF LEWIS BIRCH, Page 1

RECORDED

JUL 30 1980

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The above stipulation having come before the Court, it is hereby approved this 13 day of June, 1980.

*Milton A. Slavin*  
MILTON A. SLAVIN  
Magistrate  
Sitting as Special Master

DAVID H. LEROY  
Attorney General  
State of Idaho  
Statehouse, Room 210  
Boise, Idaho 83720  
Telephone (208) 384-2400

STIPULATION RESOLVING THE SPECIFIC  
OBJECTION OF LEWIS BIRCH, Page 2

JUL 30 1980

PROPOSED FINDING OF WATER RIGHTS - LEMHI RIVER DRAINAGE

Lemhi River, Div. L-7  
 Source: (Town Ditch)  
 Pt. of Div. NE $\frac{1}{4}$ SW $\frac{1}{4}$ , Sec. 30, T. 21N, R 23E

IDENT. NO.	NAME AND ADDRESS	PRIORITY	PURPOSE	PERIOD OF USE		MAXIMUM RATE OF DIVERSION (cfs)	PLACE OF USE and LANDS IRRIGATED	BASIS OF RIGHT and REMARKS
				From	To			
74-0610	BIRCH, Lewis P. O. Box 481 Salmon, Idaho	4-1-1940 8-5-1885	Irrigation	4/1	11/1	0.06	Sec. 5 NE $\frac{1}{4}$ SW $\frac{1}{4}$ , T21N, R22E	Beneficial Use

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1                   **DAVID H. LEROY**  
2                   Attorney General  
3                   State of Idaho  
4                   Statehouse, Room 210  
5                   Boise, Idaho 83720  
6                   Telephone: (208) 384-2400

Filed in District Court Lemhi County  
Idaho. March 11 1980  
at 48 minutes past 2 o'clock P. M.  
Eleanor Alpus Clerk  
By Alberta Frederick Deputy

7                   W. HUGH O'RIORDAN  
8                   Deputy Attorney General  
9                   Chief, Natural Resources Division

10                  JOSEPHINE P. BEEMAN  
11                  Deputy Attorney General  
12                  Department of Water Resources  
13                  Statehouse  
14                  Boise, Idaho 83720  
15                  Telephone: (208) 334-4437

16                               IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT  
17                               OF THE STATE OF IDAHO, IN AND FOR  
18                               THE COUNTY OF LEMHI

19                   IN THE MATTER OF THE GENERAL                   )                   CIVIL NO. 4948  
20                   DETERMINATION OF THE RIGHTS TO                   )                     
21                   THE USE OF SURFACE WATERS AND                   )                   STIPULATION RESOLVING  
22                   TRIBUTARIES FROM WHATEVER SOURCE               )                   THE SPECIFIC OBJECTIONS  
23                   OF THE LEMHI RIVER DRAINAGE BASIN.            )                   OF GEORGE L. SHOUP &  
24                   )                   NELLY B. SHOUP

25                   COME NOW the Idaho Department of Water Resources and  
26                   George L. Shoup and Nellie B. Shoup and John Alexander, the  
27                   contract purchaser from the Shoups, and Victorio Ranch, through  
28                   their undersigned counsel and stipulate that the following  
29                   changes be made to the proposed finding of water rights:

- 30                   1.    Claim No. 74-0520: The acreage at the place of  
31                   use should be corrected as follows: 37.5 acres  
32                   in Lot 1, 24 acres in Lot 2, 16.0 acres in SW $\frac{1}{4}$ NE $\frac{1}{4}$ ,  
33                   37.5 acres in the SE $\frac{1}{4}$ NE $\frac{1}{4}$ , 39 acres in the NE $\frac{1}{4}$ SE $\frac{1}{4}$ ,  
34                   4.5 acres in the NW $\frac{1}{4}$ SE $\frac{1}{4}$ , 1.5 acres in the SW $\frac{1}{4}$ SE $\frac{1}{4}$ ,  
35                   Section 6, T19N, R24E, for a total of 160 acres.  
36                   The rate of diversion should be 4.8 cfs.
- 37                   2.    Claim No. 74-0521: The source should be the  
38                   Lemhi River with the point of diversion being  
39                   L-29 located in the NW $\frac{1}{4}$ NW $\frac{1}{4}$ , Section 17, T19N,  
40                   R24E. This claim should now be listed between  
41                   claims 74-1793 and 74-1704 on P. 370 of the pro-  
42                   posed finding of water rights. In addition, the  
43                   acreage shown should be 33.5 acres instead of 30  
44                   acres, and the rate of diversion should be increased  
45                   to 0.67 cfs.

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These changes are incorporated into the attached Exhibit A.  
The objection to claim No. 74-0523 is withdrawn.

The parties agree that the above stipulation resolves the specific objections of George L. and Nellie B. Shoup, dated March 7, 1975.

DATED this 9<sup>th</sup> day of March 1979.

Josephine P. Beeman 5 Dec. 1979  
JOSEPHINE P. BEEMAN  
Deputy Attorney General  
Department of Water Resources

James C. Herndon  
JAMES C. HERNDON  
Attorney for George L. and  
Nellie B. Shoup

HOLDEN, KIDWELL, HAHN & CRAPO

Leon R. Weeks  
LEON R. WEEKS  
Attorney for  
Victorio Ranch

Kent W. Foster  
KENT W. FOSTER  
Attorney for  
John Alexander

The above stipulation having duly come before the Court,  
it is hereby approved this 11<sup>th</sup> day of March, 1979.

Milton A. Slavin  
MILTON A. SLAVIN  
Magistrate  
Sitting as Special Master

DAVID H. LEROY  
Attorney General  
State of Idaho  
Statehouse, Room 210  
Boise, Idaho 83720  
Telephone (208) 384-2400

RECORDED

JUL 3 0 1996



PROPOSED FINDING OF WATER RIGHTS - LEMHI RIVER DRAINAGE

Source: Lemhi River, Div. L-28  
 Pt. of Div.: SW $\frac{1}{4}$ SW $\frac{1}{4}$ , Sec. 8, T19N, R24E

IDENT. NO.	NAME AND ADDRESS	PRIORITY	PURPOSE	PERIOD OF USE		MAXIMUM RATE OF DIVERSION (cfs)	PLACE OF USE and LANDS IRRIGATED	BASIS OF RIGHT and REMARKS
				From	To			

7--74-0520

SHOUP, George L. and/or Nellie B.  
 P.O. Box 48  
 Tendoy, Idaho

4 -1 -1888 Irrigation 4/1 11/1 4.11

Sec. 6  
 Lot 1,  
 Lot 2,  
 SW $\frac{1}{4}$ NE $\frac{1}{4}$ ,  
 SE $\frac{1}{4}$ NE $\frac{1}{4}$ ,  
 NE $\frac{1}{4}$ SE $\frac{1}{4}$ ,  
 NW $\frac{1}{4}$ SE $\frac{1}{4}$ ,  
 SW $\frac{1}{4}$ SE $\frac{1}{4}$ ,  
 T19N, R24E

37.2  
 15.6  
 12.9  
 37.3  
 31.1  
 -1.5  
 -1.3  
 137.0

37.5  
 24.0  
 16.0  
 37.5  
 39.0  
 4.5  
 1.5  
 160.0

Beneficial Use

Source: Lemhi River, Div. L-29  
 Pt. of Div.: NE $\frac{1}{4}$ NE $\frac{1}{4}$ , Sec. 17, T19N, R24E

70--74-0521

SHOUP, George L. and/or Nellie B.  
 P.O. Box 48  
 Tendoy, Idaho

7 -6 -1899 Irrigation 4/1 11/1 0.60 0.67

Sec. 5  
 NW $\frac{1}{4}$ SW $\frac{1}{4}$ ,  
 T19N, R24E

30.0  
 30.0  
 33.5

33.5

Beneficial Use

(This right is to be deleted from P. 184 and listed instead on P. 370 to reflect the change in point of diversion. The right is not changed in any other respect.)

1                   **DAVID H. LEROY**  
2                   Attorney General  
3                   State of Idaho  
4                   Statehouse, Room 210  
5                   Boise, Idaho 83720  
6                   Telephone: (208) 384-2400

Filed in District Court Lemhi County  
Idaho, March 11 1980  
at 22 minutes past 3 o'clock P.M.  
Elson Adams Clerk  
By Alberta Kendrick Deputy

5   W. HUGH O'RIORDAN  
6   Deputy Attorney General  
6   Chief, Natural Resources Division

7   JOSEPHINE P. BEEMAN  
8   Deputy Attorney General  
8   Department of Water Resources  
9   Statehouse  
9   Boise, Idaho 83720  
10   Telephone: (208) 334-4437

11                   IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT  
12                   OF THE STATE OF IDAHO, IN AND FOR  
13                   THE COUNTY OF LEMHI

14   IN THE MATTER OF THE GENERAL                   )                   CIVIL NO. 4948  
15   DETERMINATION OF THE RIGHTS TO                )  
16   THE USE OF SURFACE WATERS AND                   )                   STIPULATION RESOLVING  
17   TRIBUTARIES FROM WHATEVER SOURCE             )                   THE SPECIFIC OBJECTIONS  
  )                   OF E. DALE JOLLEY AND  
  )                   MILDRED JOLLEY

18                   COME NOW the Idaho Department of Water Resources and  
19   E. Dale Jolley and Mildred Jolley through their undersigned  
20   counsel and stipulate that the following changes be made to the  
21   proposed finding of water rights:

- 22                   1.   Claim No. 74-0845: Due to the loss which occurs  
23                   in the ditch between the point of diversion from  
24                   Geertson Creek and the place of use, and due to  
25                   the fact that the water lost returns to Geertson  
26                   Creek, an additional right to 1.66 cfs carrying  
  )                   water to cover transportation losses is to be  
  )                   allowed. Using this carrying rate, the combined  
  )                   rate of diversion is 3.0 cfs:

74-0845	1.34 cfs
carrying water	1.66 cfs
TOTAL	3.00

29                   In the event of future transfer or other change  
30                   to the water rights, the rate allowed for "carrying  
31                   water" is not to be considered a part of the right  
32                   or rights so changed.

31                   To reflect the use of the carrying water, Claim  
32                   No. 74-0845 shall have the following language

JUL 3 0 1986

DAVID H. LEKUY  
Attorney General  
State of Idaho  
Statehouse Room 210  
Bose, Idaho 83720  
Telephone (208) 384-2400

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added to the proposed decree of water rights:

The rate for carrying water is listed because of the losses which occur in the ditch between the point of diversion from Geertson Creek and the place of use.

In the event of future transfer or other change to this right, the rate allowed for "carrying water" is not to be considered a part of the right.

2. Claim No. 74-2047D: The maximum rate of diversion should be 0.75 cfs. The place of use should be amended to read 3.4 acres in the SW $\frac{1}{4}$ SE $\frac{1}{4}$ , Section 19, T21N, R23E and 15.2 acres in the NW $\frac{1}{4}$ NE $\frac{1}{4}$ , Section 30, T21N, R23E, for a total of 18.6 acres.

These changes are incorporated into the attached Exhibit A.

The objections as to the following proposed rights are withdrawn: 74-1669A, 74-1669B, 74-1668, and 74-0180A.

The parties agree that the above stipulation resolves the specific objections of E. Dale and Mildred H. Jolley, dated March 7, 1979.

DATED this 5 day of March, 1980.

HOLDEN, KIDWELL, HAHN & CRAPO

Josephine P. Beeman 5 Dec. 1979  
JOSEPHINE P. BEEMAN  
Deputy Attorney General  
Department of Water Resources

Kent W. Foster  
KENT W. FOSTER  
Attorney for E. Dale and  
Mildred Jolley

The above stipulation having come before the Court, it is hereby approved this 11 day of March, 1980.

Milton A. Slavin  
MILTON A. SLAVIN  
Magistrate  
Sitting as Special Master

RECORDED  
JUL 3 0 1996

PROPOSED FINDING OF WATER RIGHTS - LEMHI RIVER DRAINAGE

Source: Geertson Creek and Tribs.

IDENT. NO.	NAME AND ADDRESS	PRIORITY	PURPOSE	PERIOD OF USE From To	MAXIMUM RATE OF DIVERSION (cfs)	POINT OF DIVERSION	PAGE OF USE and LANDS IRRIGATED	BASIS OF RIGHT AND REMARKS	
74-0845	JOLLEY, E. Dale and/or Mildred H. Route 1 Salmon, Idaho	12-24-1920	Irrigation <u>Carrying Water</u>	4/1 11/1	4-48 1.34 <u>1.66</u> <u>3.00</u>	SWE $\frac{1}{2}$ N $\frac{1}{2}$ E $\frac{1}{2}$ , S. 27 T22N, R23E	Sec. 27 SWE $\frac{1}{2}$ S $\frac{1}{2}$ W $\frac{1}{2}$ , Sec. 34 NNE $\frac{1}{2}$ N $\frac{1}{2}$ E $\frac{1}{2}$ , SWE $\frac{1}{2}$ N $\frac{1}{2}$ E $\frac{1}{2}$ , NNE $\frac{1}{2}$ S $\frac{1}{2}$ W $\frac{1}{2}$ , T22N R23N	16.5 22.0 19.6 9.1 <u>67.2</u>	Beneficial Use

The rate of carrying water is listed because of the losses which occur in the ditch between the point of diversion from Geertson Creek and the place of use.

In the event of future transfer or other change to this right, the rate allowed for "carrying water" is not to be considered a part of the right.

Source: Lemhi River, Div. L-9  
Pt. of Div.: NNE $\frac{1}{2}$ N $\frac{1}{2}$ E $\frac{1}{2}$ , Sec. 33, T21N, R23E

**RECORDED**  
JUL 3 0 1986

74-2047D	JOLLEY, E. Dale and/or Mildred H. Route 1 Salmon, Idaho	9-19-1909	Irrigation	4/1 11/1	0-56 <u>0.75</u>		Sec. 19 NNE $\frac{1}{2}$ N $\frac{1}{2}$ E $\frac{1}{2}$ , Sec. 30 SWE $\frac{1}{2}$ S $\frac{1}{2}$ W $\frac{1}{2}$ , T21N, R23E	15.2 3.4 <u>18.6</u>	License
----------	--	-----------	------------	----------	---------------------	--	--	----------------------------	---------

RECEIVED

DEC 26 1979

1 DAVID H. LEROY  
2 Attorney General  
3 State of Idaho  
4 Statehouse, Room 210  
5 Boise, Idaho 83720  
6 Telephone: (208) 384-2400

Department of Water Resources

7 W. HUGH O'RIORDAN  
8 Deputy Attorney General  
9 Chief, Natural Resources Division

10 JOSEPHINE P. BEEMAN  
11 Deputy Attorney General  
12 Department of Water Resources  
13 Statehouse  
14 Boise, Idaho 83720  
15 Telephone: (208) 334-4437

Filed in District Court Lemhi County  
Idaho, December 21 19 79  
at 13 minutes past 1 o'clock P. M.  
Eleanor Adams Clerk  
By Alberta Frederick Deputy

11 IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT  
12 OF THE STATE OF IDAHO, IN AND FOR  
13 THE COUNTY OF LEMHI

14 IN THE MATTER OF THE GENERAL ) CIVIL NO. 4948  
15 DETERMINATION OF THE RIGHTS TO )  
16 THE USE OF SURFACE WATERS AND ) STIPULATION RESOLVING  
17 TRIBUTARIES FROM WHATEVER SOURCE ) THE SPECIFIC OBJECTIONS  
OF THE LEMHI RIVER DRAINAGE BASIN. ) OF WILLIAM D. CLARK AND  
MINNIE C. CLARK.

18 COME NOW the Idaho Department of Water Resources and  
19 William D. Clark and Minnie C. Clark through their undersigned  
20 counsel and stipulate that the following changes be made to the  
21 proposed finding of water rights:

- 22 1. Claim No. 74-0325A: The acreage at the place of  
23 use should be amended by the addition of 1.6 acres  
24 in the NE $\frac{1}{4}$ SW $\frac{1}{4}$ , Section 15, T21N, R22E. The rate  
of diversion should thus be 4.04 cfs.  
25 2. Claim No. 74-0325D: The rate of diversion should  
be 3.98 cfs.  
26 3. Claim No. 74-0325E: The acreage at the place of  
27 use should be amended to show 10.6 acres in the  
NE $\frac{1}{4}$ NE $\frac{1}{4}$ , 36.2 acres in the NW $\frac{1}{4}$ NE $\frac{1}{4}$ , 38 acres in the  
28 NE $\frac{1}{4}$ NW $\frac{1}{4}$ , 39 acres in the NW $\frac{1}{4}$ NW $\frac{1}{4}$ , Section 14, T21N,  
R22E, for a total of 123.8 acres. The rate of  
29 diversion should be changed to 3.62 cfs.  
30 4. Claim No. 74-0326B: The acreage at the place of  
use should be amended to show 40 acres in the  
31 NE $\frac{1}{4}$ SW $\frac{1}{4}$ , Section 14, T21N, R22E, and 7 acres in the  
SW $\frac{1}{4}$ SW $\frac{1}{4}$ , Section 13, T21N, R22E, to make a total of  
32 176.7 acres. The rate of diversion should be 5.0 cfs.

STIPULATION, Page 1

RECORDED

JUL 20 1996

1 5. Claim No. 74-0837: The acreage at the place of  
2 use should be amended to show;

3 36 acres	NE $\frac{1}{4}$ NW $\frac{1}{4}$	Section 24	T21N, R22E
19 acres	SE $\frac{1}{4}$ NW $\frac{1}{4}$	Section 24	T21N, R22E
28 acres	SW $\frac{1}{4}$ NW $\frac{1}{4}$	Section 13	T21N, R22E
4 5.4 acres	SE $\frac{1}{4}$ NW $\frac{1}{4}$	Section 13	T21N, R22E
20 acres	NE $\frac{1}{4}$ SW $\frac{1}{4}$	Section 13	T21N, R22E
5 35 acres	NW $\frac{1}{4}$ SW $\frac{1}{4}$	Section 13	T21N, R22E
23 acres	SW $\frac{1}{4}$ SW $\frac{1}{4}$	Section 13	T21N, R22E
6 19 acres	SE $\frac{1}{4}$ SW $\frac{1}{4}$	Section 13	T21N, R22E
9 acres	SE $\frac{1}{4}$ NE $\frac{1}{4}$	Section 14	T21N, R22E
7 9 acres	NE $\frac{1}{4}$ SE $\frac{1}{4}$	Section 14	T21N, R22E
203.4 acres			

8 The rate of diversion should be 6.1 cfs.

9  
10 6. Claim No. 74-0839: The acreage at the place of  
11 use should be amended to show 34 acres in the  
12 SW $\frac{1}{4}$ NE $\frac{1}{4}$ , 20 acres in the SE $\frac{1}{4}$ NE $\frac{1}{4}$ , Section 14, T21N,  
R22E, for a total of 119.8 acres. The rate of  
diversion should be 3.6 cfs.

13 7. Claim No. 74-0840: The acreage at the place of  
14 use should be amended to show 19 acres in the  
15 SE $\frac{1}{4}$ SW $\frac{1}{4}$ , Section 13, T21N, R22E, for a total of  
113.3 acres. The rate of diversion should be  
3.4 cfs.

16 These changes are incorporated into the attached Exhibit A.

17 The objections as to the following proposed rights are  
18 withdrawn: 74-0324F and 74-0324A.

19 The parties agree that the above stipulation resolves the  
20 specific objections of William D. and Minnie C. Clark, dated  
21 May 13, 1979.

22 DATED this 20~~th~~ day of December, 1979.

23  
24 Josephine P. Beeman 5 Dec 1979  
25 JOSEPHINE P. BEEMAN  
26 Deputy Attorney General  
Department of Water Resources

Sherman F. Furey, Jr.  
SHERMAN F. FUREY, JR.  
Attorney for William D.  
and Minnie C. Clark

27 The above stipulated having come before the Court, it is  
28 hereby approved this 21 day of December, 1979.

29  
30 MILTON A. SLAVIN  
31 MILTON A. SLAVIN  
32 Magistrate  
Sitting as Special Master

PROPOSED FINDING OF WATER RIGHTS - LEMHI RIVER DRAINAGE

Source: Lemhi River, Div. L-7  
 Pt. of Div.: NE $\frac{1}{4}$ SW $\frac{1}{4}$ , Sec. 30, T21N, R23E

IDENT. NO.	NAME AND ADDRESS	PRIORITY	PURPOSE	PERIOD OF USE		MAXIMUM RATE OF DIVERSION (cfs)		PLACE OF USE and LANDS IRRIGATED	BASIS OF RIGHT and REMARKS
				From	To	4-23	4.04		
74-0325A	CLARK, William D. and/or Minnie C. Route 1 Salmon, Idaho	4 -1 -1869	Irrigation	4/1	11/1	4-23	4.04	Sec. 15 SW $\frac{1}{4}$ NE $\frac{1}{4}$ , SE $\frac{1}{4}$ NE $\frac{1}{4}$ , SE $\frac{1}{4}$ NW $\frac{1}{4}$ , NE $\frac{1}{4}$ SE $\frac{1}{4}$ , NE $\frac{1}{4}$ SW $\frac{1}{4}$ , NW $\frac{1}{4}$ SE $\frac{1}{4}$ , SE $\frac{1}{4}$ SE $\frac{1}{4}$ , T21N, R22E	Decree
								33.5 12.5 22.3 32.1 1.6 28.2 7.0 135.6	137.2

JUL 3 0 1936

PROPOSED FINDING OF WATER RIGHTS - LEMHI RIVER DRAINAGE

Lemhi River, Div. L-6  
 Source: (Andrews and Slough Ditch)  
 Pt. of Div.: SE<sup>2</sup>SE<sup>2</sup>, Sec. 24, T21N, R22E

IDENT. NO.	NAME AND ADDRESS	PRIORITY	PURPOSE	PERIOD OF USE		MAXIMUM RATE OF DIVERSION (cfs)	PLACE OF USE and LANDS IRRIGATED	BASIS OF RIGHT and REMARKS
				From	To			
74-0325D	CLARK, William D. and/or Minnie C. Route 1 Salmon, Idaho	4-1-1869	Irrigation	4/1	11/1	4:22 3.98	Sec. 14 SE <sup>2</sup> NW <sup>2</sup> , 20.0	Decree
							Sec. 15 NE <sup>2</sup> NE <sup>2</sup> , 39.7 NW <sup>2</sup> NE <sup>2</sup> , 40.0 SW <sup>2</sup> NE <sup>2</sup> , 8.1 SE <sup>2</sup> NE <sup>2</sup> , 27.5 T21N, R22E	
							<u>135.3</u>	

RECORDED  
 JUL 3 0 1996



PROPOSED FINDING OF WATER RIGHTS - LEMHI RIVER DRAINAGE

Source: Lemhi River, Div. 1-3A  
 Pt. of Div.: SE $\frac{1}{2}$ NE $\frac{1}{4}$ , Sec. 14, T21N, R22E

IDENT. NO.	NAME AND ADDRESS	PRIORITY	PURPOSE	PERIOD OF USE		MAXIMUM RATE OF DIVERSION (cfs)	PLACE OF USE and LANDS IRRIGATED	BASIS OF RIGHT and REMARKS
				From	To			
74-0325E	CLARK, William D. and/or Minnie C. Route 1 Salmon, Idaho	4 -1 -1869	Irrigation	4/1	11/1	3-19 <u>3.62</u>	Sec. 14 NE $\frac{1}{2}$ NE $\frac{1}{4}$ , NW $\frac{1}{2}$ NE $\frac{1}{4}$ , NE $\frac{1}{2}$ NW $\frac{1}{4}$ , NW $\frac{1}{2}$ NW $\frac{1}{4}$ , T21N, R22E	Decreed Right 10.6 36.2 38.0 39.0 <u>123.8</u>
						162-3		<u>123.8</u>

**RECORDED**  
 JUL 3 0 1996

PROPOSED FINDING OF WATER RIGHTS - LEMHI RIVER DRAINAGE

Lemhi River, Div. L-6  
 Source: (Andrews and Slough Ditch)  
 Pt. of Div.: SE $\frac{1}{2}$ SE $\frac{1}{4}$ , Sec. 24, T21N, R22E

IDENT. NO.	NAME AND ADDRESS	PRIORITY	PURPOSE	PERIOD OF USE		MAXIMUM RATE OF DIVERSION (cfs)	PLACE OF USE and LANDS IRRIGATED	BASIS OF RIGHT and REMARKS
				From	To			
74-0326B	CLARK, William D. and/or Minnie C. Route 1 Salmon, Idaho	6-9-1875	Irrigation	4/1	11/1	4-89 <u>5.0</u>	Sec. 13 <del>SW<math>\frac{1}{4}</math>SW<math>\frac{1}{4}</math></del> , Sec. 14 NE $\frac{1}{4}$ SW $\frac{1}{4}$ , 37-6 SE $\frac{1}{4}$ SW $\frac{1}{4}$ , 18.2 NW $\frac{1}{4}$ SE $\frac{1}{4}$ , 18.4 SW $\frac{1}{4}$ SE $\frac{1}{4}$ , 35.7 SE $\frac{1}{4}$ SE $\frac{1}{4}$ , 38.9 Sec. 23 NW $\frac{1}{4}$ NE $\frac{1}{4}$ , 18.5 T21N, R22E <del>167-3</del> <u>176.7</u>	Decree

**RECEIVED**  
 JUL 3 0 1996

PROPOSED FINDING OF WATER RIGHTS - LEMHI RIVER DRAINAGE

Source: Lemhi River, Div. L-5  
 Pt. of Div.: SW $\frac{1}{2}$ SE $\frac{1}{4}$ , Sec. 24, T21N, R22E

IDENT. NO.	NAME AND ADDRESS	PRIORITY	PURPOSE	PERIOD OF USE		MAXIMUM RATE OF DIVERSION (cfs)	PLACE OF USE and LANDS IRRIGATED	BASIS OF RIGHT and REMARKS
				From	To			
74-0837	CLARK, William D. and/or Minnie C. Route 1 Salmon, Idaho	12-31-1894	Irrigation	4/1	11/1	4:38 6.1	Sec. 13 SW $\frac{1}{2}$ NW $\frac{1}{4}$ , SE $\frac{1}{2}$ NW $\frac{1}{4}$ , NE $\frac{1}{2}$ SW $\frac{1}{4}$ , NW $\frac{1}{2}$ SW $\frac{1}{4}$ , SW $\frac{1}{4}$ SW $\frac{1}{4}$ , SE $\frac{1}{2}$ SW $\frac{1}{4}$ , Sec. 14 NE $\frac{1}{2}$ SW $\frac{1}{4}$ , SE $\frac{1}{2}$ NE $\frac{1}{4}$ , NE $\frac{1}{2}$ SE $\frac{1}{4}$ , Sec. 24 NE $\frac{1}{2}$ NW $\frac{1}{4}$ , SE $\frac{1}{2}$ NW $\frac{1}{4}$ , T21N, R22E	Beneficial Use
							18-4 5-4 19-5 25-4 12-9 18-2 8-5 9.0 9.0 22-2 15-4 145-9	28.0 5.4 20.0 35.0 23.0 19.0 36.0 19.0 203.4

RECORDED  
 JUL 30 1966

PROPOSED FINDING OF WATER RIGHTS - LEMHI RIVER DRAINAGE

Source: Lemhi River, Div. L-4  
 Pt. of Div.: NE $\frac{1}{4}$ SE $\frac{1}{4}$ , Sec. 14, T21N, R22E

IDENT. NO.	NAME AND ADDRESS	PRIORITY	PURPOSE	PERIOD OF USE		MAXIMUM RATE OF DIVERSION (cfs)	PLACE OF USE and LANDS IRRIGATED	BASIS OF RIGHT and REMARKS
				From	To			
74-0839	CLARK, William D. and/or Mildie C. Route 1 Salmon, Idaho	4 -1 -1878	Irrigation	4/1	11/1	3:37 3.6	Sec. 14 SW $\frac{1}{4}$ NE $\frac{1}{4}$ , SE $\frac{1}{4}$ NE $\frac{1}{4}$ , SE $\frac{1}{4}$ NW $\frac{1}{4}$ , NE $\frac{1}{4}$ SE $\frac{1}{4}$ , NW $\frac{1}{4}$ SE $\frac{1}{4}$ , T21N, R22E	Beneficial Use
							33.6 43.0 20.0 27.3 18.5	34.0 20.0
							112.4	119.8

RECORDED

JUL 3 0 1996

PROPOSED FINDING OF WATER RIGHTS - LEMHI RIVER DRAINAGE

Source: Lemhi River, Div. L-8A  
 Pt. of Div.: NE $\frac{1}{4}$ SE $\frac{1}{4}$  Sec. 14, T21N, R22E

IDENT. NO.	NAME AND ADDRESS	PRIORITY	PURPOSE	PERIOD OF USE		MAXIMUM RATE OF DIVERSION (cfs)	PLACE OF USE and LANDS IRRIGATED	BASIS OF RIGHT and REMARKS	
				From	To				
74-0840	CLARK, William D. and/or Minnie C. Route 1 Salmon, Idaho	12-31-1894	Irrigation	4/1	11/1	3-28 <u>3.4</u>	Sec. 13 NE $\frac{1}{4}$ SW $\frac{1}{4}$ , SE $\frac{1}{4}$ SW $\frac{1}{4}$ , NW $\frac{1}{4}$ SE $\frac{1}{4}$ , SW $\frac{1}{4}$ SE $\frac{1}{4}$ , SE $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 24 NE $\frac{1}{4}$ NE $\frac{1}{4}$ , NW $\frac{1}{4}$ NE $\frac{1}{4}$ , T21N, R22E	15.0 <del>14.8</del> 3.8 26.5 0.4 11.6 37.0 <del>109.1</del> <u>113.3</u>	Beneficial Use

Water is diverted from the ditch within the SW $\frac{1}{4}$ NE $\frac{1}{4}$ , Sec. 30, T21N, R23E and is conveyed in a slough to the place of use. Beyond this diversion to the slough, water under this right may also be conveyed in L-8A to irrigate the listed acreage.\*

\* - Note: This additional language is to be added by order of the court as requested by the Department of Water Resources in its motion in open court on September 26, 1979.

MICROFILMED  
 JUL 30 1996

RECEIVED

1979

Department of Water Resources

1 DAVID H. LEROY  
2 Attorney General  
3 State of Idaho  
4 Statehouse, Room 210  
5 Boise, Idaho 83720  
6 Telephone: (208) 384-2400

7 W. HUGH O'RIORDAN  
8 Deputy Attorney General  
9 Chief, Natural Resources Division

10 JOSEPHINE P. BEEMAN  
11 Deputy Attorney General  
12 Department of Water Resources  
13 Statehouse  
14 Boise, Idaho 83720  
15 Telephone: (208) 384-2215

Filed in District Court Lemhi County

Idaho, September 12 1979

at 45 minutes past 11 o'clock A. M.

Thomas Adams Clerk

By Alberta Frederick Deputy

16 IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT

17 OF THE STATE OF IDAHO, IN AND FOR

18 THE COUNTY OF LEMHI

19	IN THE MATTER OF THE GENERAL	)	CIVIL No. 4948
20	DETERMINATION OF THE RIGHTS TO	)	
21	THE USE OF SURFACE WATERS AND	)	STIPULATION RESOLVING
22	TRIBUTARIES FROM WHATEVER SOURCE	)	THE SPECIFIC OBJECTIONS
23	OF THE LEMHI RIVER DRAINAGE BASIN.	)	OF ELLSWORTH LAND &
24		)	CATTLE, INC.

25 COME NOW, C. STEPHEN ALLRED, Director of the Idaho  
26 Department of Water Resources, and Ellsworth Land & Cattle,  
27 Inc., through their undersigned counsel, and agree to the  
28 following changes in the proposed finding of water rights:

- 29 1. Right No. 74-0932: The point of diversion  
30 should be the SW $\frac{1}{4}$ SW $\frac{1}{4}$ , S 3, T 17 N, R 24 E,  
31 B.M.
- 32 2. Right No. 74-0916: Due to the gravelly  
condition of the ditch and the fact that  
Ellsworth Land & Cattle, Inc., is the only  
user in the ditch, the rate of diversion is  
to be changed to 2.0 cfs.

These changes are incorporated into the attached  
Exhibit A.

The objections as to the following proposed rights  
were withdrawn: 74-0313, 74-0915, 74-0930, 74-0931, 74-0932,  
74-1603, 74-1794, 74-1795, 74-0303, and 74-0958.

The parties agree that the above stipulation re-  
solves the specific objections which were filed by Ellsworth

P. 1 - STIPULATION

MICROFILMED

JUL 30 1996

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Land & Cattle, Inc., on May 3, 1976.

DATED This 13 day of SEPTEMBER, 1979.

HOLDEN, HOLDEN, KIDWELL,  
HAHN & CRAPO

*Josephine Beeman 22 Aug 79*  
JOSEPHINE P. BEEMAN  
Deputy Attorney General  
Department of Water Resources

*Kent W. Foster*  
KENT W. FOSTER  
Attorney for Ellsworth Land  
& Cattle, Inc.

The above stipulation having duly come before the  
Court, it is hereby approved this 12<sup>th</sup> day of September, 1979.

*Milton A. Slavin*  
MILTON A. SLAVIN  
Magistrate  
Sitting as Special Master

DAVID H. LEROY  
Attorney General  
State of Idaho  
Statehouse, Room 210  
Boise, Idaho 83720  
Telephone: (208) 384-2400

RECORDED

JUL 3 0 1998

PROPOSED FINDING OF WATER RIGHTS - LEMHI RIVER DRAINAGE

Source: Lemhi River, Div. L-46a  
 Pt. of Div.: NW 1/4, Sec. 24, T17N, R24E

IDENT. NO.	NAME AND ADDRESS	PRIORITY	PURPOSE	PERIOD OF USE		MAXIMUM RATE OF DIVERSION	PLACE OF USE and LANDS IRRIGATED	BASIS OF RIGHT and REMARKS
				From	To			
74-0916	ELLSWORTH LAND AND CATTLE, INC. Box 26 Lemhi, Idaho	4-7-1892	Irrigation	4/1	11/1	1.1 <u>2.0</u>	Sec. 9 Lot 1, Lot 2, NW 1/4, SW 1/4, T17N, R24E	1.0 23.5 7.5 1.6 <u>33.6</u>

Official Use  
 JUL 3 0 1969



PROPOSED FINDING OF WATER RIGHTS - LEMHI RIVER DRAINAGE

Source: Springs

IDENT. NO.	NAME AND ADDRESS	PRIORITY	PURPOSE	PERIOD OF USE		MAXIMUM RATE OF DIVERSION	POINT OF DIVERSION	PLACE OF USE and LANDS IRRIGATED	BASIS OF RIGHT and REMARKS
				From	To				
74-0932	ELLSWORTH LAND AND CATTLE, INC. Box 26 Lemhi, Idaho	11-20-1902	Irrigation	4/1	11/1	1.14	Sec.-10 NE $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 3 SW $\frac{1}{2}$ SW $\frac{1}{4}$ T17N, R24E	Sec. 4 Lot 7, SW $\frac{1}{4}$ SE $\frac{1}{4}$ T17N, R24E	33.0 5.0 <u>38.0</u>
	The source of water for this right is springs and wastewater arising in the W $\frac{1}{2}$ NE $\frac{1}{4}$ , Sec. 10, T17N, R24E.								

Beneficial Use

JUL 3 0 1996

Department of Water Resources

1 DAVID H. LEROY  
2 Attorney General  
3 State of Idaho  
4 Statehouse, Room 210  
5 Boise, Idaho 83720  
6 Telephone: (208) 384-2400

7 W. HUGH O'RIORDAN  
8 Deputy Attorney General  
9 Chief, Natural Resources Division

10 JOSEPHINE P. BEEMAN  
11 Deputy Attorney General  
12 Department of Water Resources  
13 Statehouse  
14 Boise, Idaho 83720  
15 Telephone: (208) 384-2215

Filed in District Court Lemhi County  
Idaho, September 14 1979  
at 48 minutes past 3 o'clock P. M.  
Elisavinda Aldred Clerk  
By Alberta Friedrich Deputy

16 IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT  
17 OF THE STATE OF IDAHO, IN AND FOR  
18 THE COUNTY OF LEMHI

19 IN THE MATTER OF THE GENERAL ) CIVIL No. 4948  
20 DETERMINATION OF THE RIGHTS TO )  
21 THE USE OF SURFACE WATERS AND ) STIPULATION RESOLVING  
22 TRIBUTARIES FROM WHATEVER SOURCE ) THE SPECIFIC OBJECTIONS  
23 OF THE LEMHI RIVER DRAINAGE BASIN. ) OF DOYLE L. MULKEY &  
24 ) LOAH K. MULKEY

25 COME NOW C. STEPHEN ALLRED, Director of the Idaho  
26 Department of Water Resources, and Doyle L. Mulkey and Loah K.  
27 Mulkey, through their undersigned counsel, and stipulate that  
28 the following changes should be made to right No. 74-0469  
29 in the proposed finding of water rights:

- 30 1. Right No. 74-0469 appearing on page 348 is  
31 to be changed to No. 74-0469A, and the irri-  
32 gated acreage listed for 74-0469A should be  
102 acres with a corresponding rate of diver-  
sion of 3.06 cfs.
- 2. Right No. 74-0469 appearing on page 349 should  
show 232.6 irrigated acres and a corresponding  
rate of diversion of 7.0 cfs.

These changes are incorporated into the attached  
Exhibit A.

The parties agree that these changes resolve the  
specific objections which Doyle L. and Loah K. Mulkey filed  
on March 7, 1975, April 15, and September 14, 1976 to right  
No. 74-0469.

REGISTERED

JUL 30 1996

1 DATED This 6 day of Sept, 1979.

2 VOSHELL & WRIGHT, CHARTERED

3  
4 Josephine Beeman 22 Aug 79  
5 JOSEPHINE P. BEEMAN  
6 Deputy Attorney General  
7 Department of Water Resources

Jack G. Vosshell  
8 JACK G. VOSHELL  
9 Attorney for Claimants -  
10 Doyle L. & Loah K. Mulkey

11 The above stipulation having duly come before the  
12 Court, it is hereby approved this 14 day of September, 1979.

13  
14 Milton A. Slavin  
15 MILTON A. SLAVIN  
16 Magistrate  
17 Sitting as Special Master

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DAVID H. LEROY  
Attorney General  
State of Idaho  
Statehouse, Room 210  
Boise, Idaho 83720  
Telephone: (208) 384-2400

RECORDED  
JUL 30 1979

PROPOSED FINDING OF WATER RIGHTS - LEMHI RIVER DRAINAGE

Source: Lemhi River, Div. L-17  
 Pt. of Div.: NW $\frac{1}{4}$ NW $\frac{1}{4}$ , Sec. 14, T20N, R23E

IDENT. NO.	NAME AND ADDRESS	PRIORITY	PURPOSE	PERIOD OF USE		MAXIMUM RATE OF DIVERSION (cfs)	PLACE OF USE and LANDS IRRIGATED	BASIS OF RIGHT and REMARKS
				From	To			
74-0469	MULKEY, Doyle L. and/or Loah K. Salmon, Idaho	6 -1 -1872	Irrigation	4/1	11/1	5.99 <u>7.0</u>	Sec. 10 NE $\frac{1}{4}$ NE $\frac{1}{4}$ , SE $\frac{1}{4}$ NE $\frac{1}{4}$ , NE $\frac{1}{4}$ SE $\frac{1}{4}$ , 27.3 34 34 14.9 <u>23</u>	Beneficial Use
	The amount of water diverted under this right using Lemhi River Diversion L-16 and L-17 shall not exceed 5.9 c.f.s. <u>7.0</u>					Sec. 11 NW $\frac{1}{4}$ NW $\frac{1}{4}$ , SW $\frac{1}{4}$ NW $\frac{1}{4}$ , NE $\frac{1}{4}$ SW $\frac{1}{4}$ , NW $\frac{1}{4}$ SW $\frac{1}{4}$ , SW $\frac{1}{4}$ SW $\frac{1}{4}$ , SE $\frac{1}{4}$ SW $\frac{1}{4}$ , 24.6 36.7 19.6 36.3 28.7 2.7 <u>196.7</u> <u>232.6</u>		

JUL 3 0 1996

PROPOSED FINDING OF WATER RIGHTS - LEMHI RIVER DRAINAGE

Source: Lemhi River, Div. L-16

Pt. of Div.: SW $\frac{1}{4}$ SW $\frac{1}{4}$ , Sec. 11, T20N, R23E

COMMENT. NO.	NAME AND ADDRESS	PRIORITY	PURPOSE	PERIOD OF USE		MAXIMUM RATE OF DIVERSION (cfs)	PLACE OF USE and LANDS IRRIGATED	BASIS OF RIGHT and REMARKS
				From	To			
74-0469	MULKEY, Doyle L. and/or	6 -1 -1872	Irrigation	4/1	11/1	5.90	Sec. 10	Beneficial Use
74-0469A	Loah K. Salmon, Idaho					<u>3.06</u>	NE $\frac{1}{4}$ NE $\frac{1}{4}$ , SE $\frac{1}{4}$ NE $\frac{1}{4}$ , NE $\frac{1}{4}$ SE $\frac{1}{4}$ ,	
							12.6 36.7 10.6 36.3 28.7 2.7	
							11	
	The amount of water diverted under this right using Lemhi River Diversion L-16 and L-17 shall not exceed 5.9 c.f.s. <u>3.06</u>						Sec. 11 NW $\frac{1}{4}$ NW $\frac{1}{4}$ , SW $\frac{1}{4}$ NW $\frac{1}{4}$ , NE $\frac{1}{4}$ SW $\frac{1}{4}$ , NW $\frac{1}{4}$ SW $\frac{1}{4}$ , SW $\frac{1}{4}$ SW $\frac{1}{4}$ , SE $\frac{1}{4}$ SW $\frac{1}{4}$ , T20N, R23E	
							<u>196.7</u>	<u>102</u>

MAILED

JUL 3 0 1996

RECEIVED

SEP 17 1979

Department of Water Resources

1 DAVID H. LEROY  
2 Attorney General  
3 State of Idaho  
4 Statehouse, Room 210  
5 Boise, Idaho 83720  
6 Telephone: (208) 384-2400

Filed in District Court Lemhi County  
Idaho, September 13 1979  
at 45 minutes past 8 o'clock P. M.  
Elaine Adams Clerk  
By Alberta Frederick Deputy

7 W. HUGH O'RIORDAN  
8 Deputy Attorney General  
9 Chief, Natural Resources Division

10 JOSEPHINE P. BEEMAN  
11 Deputy Attorney General  
12 Department of Water Resources  
13 Statehouse  
14 Boise, Idaho 83720  
15 Telephone: (208) 384-2215

16 IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT  
17 OF THE STATE OF IDAHO, IN AND FOR  
18 THE COUNTY OF LEMHI

19 IN THE MATTER OF THE GENERAL ) CIVIL No. 4948  
20 DETERMINATION OF THE RIGHTS TO )  
21 THE USE OF SURFACE WATERS AND ) STIPULATION RESOLVING  
22 TRIBUTARIES FROM WHATEVER SOURCE ) THE SPECIFIC OBJECTIONS  
23 OF THE LEMHI RIVER DRAINAGE BASIN. ) OF ROBERT L. AND  
24 ) REBA THOMAS

25 COME NOW, C. STEPHEN ALLRED, Director of the Idaho  
26 Department of Water Resources, and Robert L. and Reba Thomas,  
27 through their undersigned counsel, and agree that the following  
28 changes be made to the proposed finding of water rights:

- 29 1. Stockwater in the amount of 0.04 cfs should  
30 be added to claim Nos. 74-0331 and 74-0322A.  
31 2. The following language is to be added to the  
32 description of claim Nos. 74-1816 and 74-0331:

"This right may be diverted into the  
Andrews and Slough Ditch (L-6) at a  
point within the SE $\frac{1}{4}$ NW $\frac{1}{4}$ , S 15, T 21 N,  
R 22 E, B.M., or may be conveyed in the  
Town Ditch (L-7)."

3. The following language is to be added to the  
description of claim No. 74-0322 A:

"This right may be diverted into the  
Town Ditch (L-7) at a point within  
the SE $\frac{1}{4}$ NW $\frac{1}{4}$ , S 15, T 21 N, R 22 E,  
B.M., or may be conveyed in the  
Andrews and Slough Ditch (L-6)."

JUL 3 0 1996

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These changes are incorporated into the attached Exhibit A.

The parties agree that this stipulation resolves the specific objections which were filed on March 12, 1975 by Robert L. and Reba Thomas.

DATED This 12 day of September, 1979.

HERNDON & SLAVIN

*Josephine Beeman 22 Aug 79*  
JOSEPHINE P. BEEMAN  
Deputy Attorney General  
Department of Water Resources

*James C. Herndon*  
JAMES C. HERNDON  
Attorney for Robert L.  
and Reba Thomas

The above stipulation having duly come before the Court, it is hereby approved this 12 day of September 1979.

*Milton A. Slavin*  
MILTON A. SLAVIN  
Magistrate  
Sitting as Special Master

DAVID H. LEROY  
Attorney General  
State of Idaho  
Statehouse, Room 210  
Boise, Idaho 83720  
Telephone: (208) 384-2400

JUL 30 1996

PROPOSED FINDING OF WATER RIGHTS - LEMHI RIVER DRAINAGE

Source: Lemhi River, Div. L-6  
(Andrews and Slough Ditch)

Pt. of Div.: SE $\frac{1}{4}$ SE $\frac{1}{4}$ , Sec. 24, T21N, R22E

IDENT. NO.	NAME AND ADDRESS	PRIORITY	PURPOSE	PERIOD OF USE		MAXIMUM RATE OF DIVERSION (cfs)	PLACE OF USE and LANDS IRRIGATED	BASIS OF RIGHT and REMARKS
				From	To			
74-0322A	THOMAS, Robert and/or Reba Route 1 Salmon, Idaho	6 -9 -1875 <u>6 -9 -1875</u>	Irrigation <u>Stockwater</u>	4/1	11/1	0.58 <u>0.04</u>	Sec. 16 NE $\frac{1}{4}$ NE $\frac{1}{4}$ , T21N, R22E <u>19.5</u> <u>19.5</u>	Decree

This right may be diverted into the Town Ditch (L-7) at a point within the SE $\frac{1}{4}$ NW $\frac{1}{4}$ , S 15, T 21 N, R 22 E, B.M., or may be conveyed in the Andrews and Slough Ditch (L-6).

JUL 8 0 1996



PROPOSED FINDING OF WATER RIGHTS - LEMHI RIVER DRAINAGE

Source: Lemhi River, Div. L-7  
(Town Ditch)

Pt. of Div.: NE $\frac{1}{4}$ SW $\frac{1}{4}$ , Sec. 30, T21N, R23E

IDENT. NO.	NAME AND ADDRESS	PRIORITY	PURPOSE	PERIOD OF USE		MAXIMUM RATE OF DIVERSION (cfs)	PLACE OF USE and LANDS IRRIGATED	BASIS OF RIGHT and REMARKS
				From	To			
74-0331	THOMAS, Robert and/or Reba Route 1 Salmon, Idaho	6 -1 -1871 <u>6 -1 -1871</u>	Irrigation <u>Stockwater</u>	4/1	11/1	1.75	Sec. 9 SE $\frac{1}{4}$ SW $\frac{1}{4}$ , SW $\frac{1}{4}$ SE $\frac{1}{4}$ , SE $\frac{1}{4}$ SE $\frac{1}{4}$ , 25.0 19.6 3.8	Decree
				1/1	12/31	0.04	Sec. 16 NW $\frac{1}{4}$ NE $\frac{1}{4}$ , T21N, R22E 9.9 <u>58.3</u>	

~~This right is diverted from the Town Ditch into the Andrews Ditch at a point within the SE $\frac{1}{4}$ NW $\frac{1}{4}$ , Sec. 15, T21N, R22E.~~

~~This right may be diverted into the Andrews and Slough Ditch (L-6) at a point within the SE $\frac{1}{4}$ NW $\frac{1}{4}$ , S 15, T 21 N, R 22 E, B.M., or may be conveyed in the Town Ditch (L-7).~~

JUL 3 0 1996

PROPOSED FINDING OF WATER RIGHTS - LEMHI RIVER DRAINAGE

Source: Lemhi River, Div. L-7  
(Town Ditch)

Pt. of Div.: NE $\frac{1}{4}$ SW $\frac{1}{4}$ , Sec. 30, T21N, R23E

IDENT. NO.	NAME AND ADDRESS	PRIORITY	PURPOSE	PERIOD OF USE		MAXIMUM RATE OF DIVERSION (cfs)	PLACE OF USE and LANDS IRRIGATED	BASIS OF RIGHT and REMARKS
				From	To			
74-1816	THOMAS, Robert and/or Reba Route 1 Salmon, Idaho	6 -1 -1871 6 -1 -1871	Irrigation Stockwater	4/1	11/1	1.80 0.05 <u>1.80</u>	Sec. 9 NW $\frac{1}{4}$ SE $\frac{1}{4}$ , SW $\frac{1}{4}$ SE $\frac{1}{4}$ , SE $\frac{1}{4}$ SE $\frac{1}{4}$ , Sec. 16 NE $\frac{1}{4}$ NE $\frac{1}{4}$ , T21N, R22E	Beneficial Use 9.1 19.4 17.5 <u>59.8</u>

This right may be diverted into the Andrews and Slough Ditch (L-6) at a point within the SE $\frac{1}{4}$ NW $\frac{1}{4}$ , S 15, T 21 N, R 22 E, B.M., or may be conveyed in the Town Ditch (L-7).

RECORDED

JUL 3 0 1996

1 **DAVID H. LEROY**  
2 Attorney General  
3 State of Idaho  
4 Statehouse, Room 210  
5 Boise, Idaho 83720  
6 Telephone: (208) 384-2400

7 **W. HUGH O'RIORDAN**  
8 Deputy Attorney General  
9 Chief, Natural Resources Division

10 **JOSEPHINE P. BEEMAN**  
11 Deputy Attorney General  
12 Department of Water Resources  
13 Statehouse  
14 Boise, Idaho 83720  
15 Telephone: (208) 384-2215

Filed in District Court Lemhi County

Idaho, September 5 1979

at 11 minutes past 8 o'clock A. M.

Blennor Adams Clerk

Alberte Frederick Deputy

16 IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT  
17 OF THE STATE OF IDAHO, IN AND FOR  
18 THE COUNTY OF LEMHI

19 IN THE MATTER OF THE GENERAL )  
20 DETERMINATION OF THE RIGHTS TO )  
21 THE USE OF SURFACE WATERS AND )  
22 TRIBUTARIES FROM WHATEVER SOURCE )  
23 OF THE LEMHI RIVER DRAINAGE BASIN. )

CIVIL No. 4948

STIPULATION RESOLVING  
THE SPECIFIC OBJECTIONS  
OF MRS. WILLIAM J. SALYER

24 COME NOW, C. STEPHEN ALLRED, Director of the Idaho  
25 Department of Water Resources, and Mark McKinney, successor-  
26 in-interest to Mrs. William J. Salyer, through their under-  
27 signed counsel, and stipulate that the specific objections  
28 filed by Mrs. Salyer are resolved by the Department's response  
29 of March 24, 1975. That response notes that claim Nos. 74-  
30 0931 and 74-0932 should be shown as based upon beneficial  
31 use rather than decree. These changes are incorporated into  
32 the attached Exhibit A.

DATED This 27<sup>th</sup> day of August, 1979.

33 Josephine Beeman 27 Aug 79  
34 JOSEPHINE P. BEEMAN  
35 Deputy Attorney General  
36 Department of Water Resources

Sherman F. Furey, Jr.  
37 SHERMAN F. FUREY, JR.  
38 Attorney for Mark McKinney

39 APPROVED this 4th day of September, 1979.

P. 1 - STIPULATION

Milton A. Slavin  
40 Milton A. Slavin, Magistrate

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PROPOSED FINDING OF WATER RIGHTS - LEMHI RIVER DRAINAGE

Source: Springs

IDENT. NO.	NAME AND ADDRESS	PRIORITY	PURPOSE	PERIOD OF USE From To	MAXIMUM RATE OF DIVERSION (cfs)	POINT OF DIVERSION	PLACE OF USE and LANDS IRRIGATED	BASIS OF RIGHT and REMARKS
74-0931	ELLSWORTH LAND AND CATTLE, INC. Box 26 Lemhi, Idaho	5 -31-1901	Irrigation	4/1 11/1	3.64	Sec. 10 NE $\frac{1}{4}$ NW $\frac{1}{4}$ T17N, R24E	Sec. 4 Lot 3, SW $\frac{1}{2}$ NE $\frac{1}{4}$ , SE $\frac{1}{4}$ NW $\frac{1}{4}$ , NE $\frac{1}{4}$ SE $\frac{1}{4}$ , NW $\frac{1}{4}$ SE $\frac{1}{4}$ , T17N, R24E	Beeree Beneficial Use
							Sec. 33 SW $\frac{1}{4}$ SW $\frac{1}{4}$ , SE $\frac{1}{4}$ SW $\frac{1}{4}$ , T18N, R24E	
								121.2
74-0932	ELLSWORTH LAND AND CATTLE, INC. Box 26 Lemhi, Idaho	11-20-1902	Irrigation	4/1 11/1	1.14	Sec. 3 SW $\frac{1}{2}$ SW $\frac{1}{4}$ T17N, R24E	Sec. 4 Lot 7, SW $\frac{1}{4}$ SE $\frac{1}{4}$ , T17N, R24E	Beeree Beneficial Use
								38.0

The source of water for this right is springs and wastewater arising in the W $\frac{1}{2}$ NE $\frac{1}{4}$ , Sec. 10, T17N, R24E.

JUL 3 0 1996

RECEIVED

1979

Department of Water Resources

1 DAVID H. LEROY  
2 Attorney General  
3 State of Idaho  
4 Statehouse, Room 210  
5 Boise, Idaho 83720  
6 Telephone: (208) 384-2400

7 W. HUGH O'RIORDAN  
8 Deputy Attorney General  
9 Chief, Natural Resources Division

10 JOSEPHINE P. BEEMAN  
11 Deputy Attorney General  
12 Department of Water Resources  
13 Statehouse  
14 Boise, Idaho 83720  
15 Telephone: (208) 384-2215

Filed in District Court Lemhi County  
Idaho, August 23 1979  
at 51 minutes past 11 o'clock A.M.  
Eleanor Aldous Clerk  
By Alberta Thierriks Deputy

16 IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT  
17 OF THE STATE OF IDAHO, IN AND FOR  
18 THE COUNTY OF LEMHI

19 IN THE MATTER OF THE GENERAL ) CIVIL No. 4948  
20 DETERMINATION OF THE RIGHTS TO )  
21 THE USE OF SURFACE WATERS AND ) STIPULATION RESOLVING  
22 TRIBUTARIES FROM WHATEVER SOURCE ) THE SPECIFIC OBJECTIONS  
23 OF THE LEMHI RIVER DRAINAGE BASIN. ) OF CARLTON H. AND  
24 ) MARY I. NOYES

25 COME NOW the Director of the Idaho Department of  
26 Water Resources and Carlton H. Noyes and Mary Imogene Noyes,  
27 through their undersigned counsel, and stipulate that Clear  
28 Creek, Ten-Mile Creek, and Poisen (sic) Creek flow in such a  
29 manner that they do not reach or would not normally reach the  
30 Lemhi in sufficient quantity to be considered tributary for  
31 distribution purposes and should be considered non-tributary  
32 to the Lemhi River System.

The parties agree that this stipulation resolves the  
specific objection filed by Carlton H. Noyes and Mary Imogene  
Noyes on April 1, 1975.

DATED this 20<sup>th</sup> day of August, 1979.

PETERSEN, MOSS & OLSEN

31 *Josephine P. Beeman*  
32 JOSEPHINE P. BEEMAN 17 Aug 79 GEORGE C. PETERSEN, JR.  
Deputy Attorney General Attorney for Carlton H. Noyes  
Department of Water Resources and Mary Imogene Noyes

P. 1 - STIPULATION

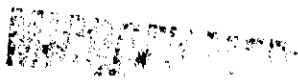
JUL 30 1996

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The foregoing stipulation having duly come before the court, it is hereby approved this 23 day of August, 1979.

Original Signed By  
Judge M. A. Slavin  
MILTON A. SLAVIN  
Magistrate  
Sitting as Special Master

DAVID H. LEROY  
Attorney General  
State of Idaho  
Statehouse, Room 210  
Bose, Idaho 83720  
Telephone: (208) 384-2400



JUL 30 1996

1                   **DAVID H. LEROY**  
2                   Attorney General  
3                   State of Idaho  
4                   Statehouse, Room 210  
5                   Boise, Idaho 83720  
6                   Telephone: (208) 384-2400

Filed in District Court Lemhi County  
Idaho, July 26 1979  
at 55 minutes past 9 o'clock A. M.  
Sharon Aldous Clerk  
By Alberta Frederick Deputy

7                   **W. HUGH O'RIORDAN**  
8                   Deputy Attorney General  
9                   Chief, Natural Resources Division

10                   **JOSEPHINE P. BEEMAN**  
11                   Deputy Attorney General  
12                   Department of Water Resources  
13                   373 W. Franklin  
14                   Boise, Idaho 83720  
15                   Telephone: (208) 384-2215

16                   IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT  
17                   OF THE STATE OF IDAHO, IN AND FOR  
18                   THE COUNTY OF LEMHI

19                   IN THE MATTER OF THE GENERAL                   )                   CIVIL NO. 4948  
20                   DETERMINATION OF THE RIGHTS TO                   )                     
21                   THE USE OF SURFACE WATERS AND                   )                   STIPULATION RESOLVING  
22                   TRIBUTARIES FROM WHATEVER SOURCE                   )                   THE SPECIFIC OBJECTIONS  
23                   OF THE LEMHI RIVER DRAINAGE BASIN.                   )                   OF WILLARD MOULTON  
24                   \_\_\_\_\_ )

25                   COME NOW C. STEPHEN ALLRED, the Director of the Idaho  
26                   Department of Water Resources and Willard Moulton, through their  
27                   undersigned counsel and stipulate that the period of use for  
28                   claim Nos. 74-0753 and 74-0757 shall be the same as the normal  
29                   irrigation season recognized in the findings of fact and con-  
30                   clusions of law of the court's final decree of water rights.

31                   The parties agree that this stipulation resolves the  
32                   specific objections filed by Willard Moulton on May 4, 1975.

HOLDEN, KIDWELL, HAHN & CRAPO

33                   Josephine P. Beeman 20 July 1979  
34                   JOSEPHINE P. BEEMAN  
35                   Deputy Attorney General  
36                   Department of Water Resources

By: Kent W. Foster 7/25/79  
KENT W. FOSTER  
Attorney for Willard Moulton

37                   The above stipulation having duly come before the  
38                   court, it is hereby approved this 26 day of July, 1979.

Milton A. Slavin  
MILTON A. SLAVIN  
Magistrate  
Sitting as Special Master

JUL 30 1979

1                   **DAVID H. LEROY**  
2                   Attorney General  
3                   State of Idaho  
4                   Statehouse, Room 210  
5                   Boise, Idaho 83720  
6                   Telephone: (208) 384-2400

7                   **W. HUGH O'RIORDAN**  
8                   Deputy Attorney General  
9                   Chief, Natural Resources Division

10                   **JOSEPHINE P. BEEMAN**  
11                   Deputy Attorney General  
12                   Natural Resources Division  
13                   Telephone: (208) 384-2215

Filed in District Court Lemhi County  
Idaho, July 19 1979  
at 30 minutes past 4 o'clock P. M.  
Blair Aldous Clerk  
By Alberta Friedrick Deputy

14                   IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT  
15                   OF THE STATE OF IDAHO, IN AND FOR  
16                   THE COUNTY OF LEMHI

17                   IN THE MATTER OF THE GENERAL                   )                   CIVIL NO. 4948  
18                   DETERMINATION OF THE RIGHTS TO                   )                   STIPULATION RESOLVING  
19                   THE USE OF SURFACE WATERS AND                   )                   THE SPECIFIC OBJECTIONS  
20                   TRIBUTARIES FROM WHATEVER SOURCE                   )                   OF MAX. F. BEYELER.  
21                   OF THE LEMHI RIVER DRAINAGE BASIN.                   )

22                   COME NOW the Director of the Idaho Department of Water  
23                   Resources, the Bureau of Land Management, Franklin J. Powers, and  
24                   Max F. Beyeler and stipulate as follows:

- 25                   1. the objection as to the priority dates of  
26                   rights 74-2214 and 74-1125 in the name of  
27                   Franklin J. Powers is withdrawn.  
28                   2. the priority dates for rights, 74-1126  
29                   and 74-1119 in the name of Franklin J.  
30                   Powers and right 74-1128 in the name of  
31                   the Bureau of Land Management are to be  
32                   advanced to March 7, 1944 which is the  
33                   priority date for right 74-2289 in the  
34                   name of Max F. Beyeler.

35                   The parties agree that these stipulations resolve the  
36                   specific objections filed by Max F. Beyeler on November 15, 1973.

39                   JUL 3 01996



1 DATED this 18<sup>th</sup> day of July, 1979.

2  
3 Josephine P. Beeman 20 June 1979  
4 JOSEPHINE P. BEEMAN  
5 Deputy Attorney General  
6 Natural Resources Division  
7 Department of Water Resources

WARREN DERBIDGE  
Assistant U.S. Attorney  
representing the Bureau  
of Land Management

8 Max F. Beyeler  
9 MAX F. BEYELER

James C. Herndon  
JAMES C. HERNDON  
Counsel for Franklin J.  
Powers

10 The above stipulation having duly come before the court,  
11 it is hereby approved this 18<sup>th</sup> day of July, 1979.

12  
13 Milton A. Slavin  
14 MILTON A. SLAVIN  
15 Magistrate  
16 Sitting as Special Master

17 DAVID N. LEROY  
18 Attorney General  
19 State of Idaho  
20 Statehouse, Room 210  
21 Boise, Idaho 83720  
22 Telephone: (208) 394-2400

RECORDED

JUL 3 0 1996

1                   **DAVID H. LEROY**  
2                   Attorney General  
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4                   Statehouse, Room 210  
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4                   **W. HUGH O'RIORDAN**  
5                   Deputy Attorney General  
6                   Chief, Natural Resources Division

6                   **JOSEPHINE P. BEEMAN**  
7                   Deputy Attorney General  
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9                   Telephone: (208) 384-2215

Filed in District Court Lemhi County  
Idaho, July 16 1979  
at 18 minutes past 1 o'clock P. M.  
Sharon Aldous Clerk  
By Alberta Kiederrick Deputy

9                   IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT  
10                   OF THE STATE OF IDAHO, IN AND FOR  
11                   THE COUNTY OF LEMHI

13                   IN THE MATTER OF THE GENERAL                   )                   CIVIL NO. 4948  
14                   DETERMINATION OF THE RIGHTS TO                   )                     
15                   THE USE OF SURFACE WATERS AND                   )                   STIPULATION RESOLVING THE  
16                   TRIBUTARIES FROM WHATEVER SOURCE                   )                   SPECIFIC OBJECTIONS OF  
17                   OF THE LEMHI RIVER DRAINAGE BASIN.                   )                   CHAMP TOBIAS AND KERMIT  
18                   )                   TOBIAS dba THE TOBIAS  
19                   )                   BROTHERS

17                   COME NOW the Director of the Idaho Department of Water  
18                   Resources and the Tobias Brothers, through their undersigned  
19                   counsel, and stipulate to changes in claims 74-1033, 74-1036,  
20                   74-1032, and 74-1034 as represented by the underscored material  
21                   in the attached Exhibit A.

22                   The parties agree that these changes resolve the specific  
23                   objections filed by the Tobias Brothers on March 10 and March 12,  
24                   1974.

25                   DATED this 6<sup>th</sup> day of July, 1979.

26                   Josephine P. Beeman 28 June 1979  
27                   JOSEPHINE P. BEEMAN  
28                   Deputy Attorney General  
29                   Natural Resources Division  
30                   Department of Water Resources

26                   James C. Herndon  
27                   JAMES C. HERNDON  
28                   Counsel for The Tobias  
29                   Brothers

30                   The above stipulation having duly come before the court,  
31                   it is hereby approved this 16 day of July, 1979.

32                   Milton A. Slavin  
MILTON A. SLAVIN

RECORDED

JUL 8 0 1996

PROPOSED FINDING OF WATER RIGHTS - LEMHI RIVER DRAINAGE

SOURCE: Hayden Creek and Tributaries

IDENT. NO.	NAME AND ADDRESS	PRIORITY	PURPOSE	PERIOD OF USE		MAXIMUM RATE OF DIVERSION (cfs)	POINT OF DIVERSION	PLACE OF USE and LANDS IRRIGATED	BASIS OF RIGHT and REMARKS
				From	To				
74-1033 (p. 73 of proposed findings)	TOBIAS BROTHERS Box 13 Lemhi, Idaho	1 -29-1895	Irrigation	4/1	11/1	<u>5.49</u>	SE $\frac{1}{2}$ NW $\frac{1}{4}$ , S. 14 T17N, R23E	Sec. 1 SW $\frac{1}{2}$ NE $\frac{1}{4}$ , SE $\frac{1}{2}$ NW $\frac{1}{4}$ , NE $\frac{1}{2}$ SW $\frac{1}{4}$ , SE $\frac{1}{2}$ SW $\frac{1}{4}$ , NW $\frac{1}{2}$ SE $\frac{1}{4}$ , SW $\frac{1}{2}$ SE $\frac{1}{4}$ , Sec. 12 NE $\frac{1}{2}$ NW $\frac{1}{4}$ , NW $\frac{1}{2}$ NW $\frac{1}{4}$ , SW $\frac{1}{2}$ NW $\frac{1}{4}$ , SE $\frac{1}{2}$ NW $\frac{1}{4}$ , T17N, R23E	Beneficial Use
74-1036 (p. 79 of proposed findings)	TOBIAS BROTHERS Box 13 Lemhi, Idaho	4 -1-1917	Irrigation	4/1	11/1	<u>1.73</u>	Sec. 11 SW $\frac{1}{2}$ SE $\frac{1}{4}$ , SE $\frac{1}{2}$ SE $\frac{1}{4}$ , T17N, R23E	Sec. 1 NE $\frac{1}{2}$ SW $\frac{1}{4}$ , NW $\frac{1}{2}$ SW $\frac{1}{4}$ , SW $\frac{1}{2}$ SW $\frac{1}{4}$ , SE $\frac{1}{2}$ NW $\frac{1}{4}$ , Sec. 11 NE $\frac{1}{2}$ NE $\frac{1}{4}$ , SE $\frac{1}{2}$ NE $\frac{1}{4}$ , NE $\frac{1}{2}$ SE $\frac{1}{4}$ , Sec. 12 NW $\frac{1}{2}$ NW $\frac{1}{4}$ , T17N, R23E	Beneficial Use
		1 -29-1895	Stockwater	1/1	12/31	<u>0.04</u> <u>5.53</u>	Same as Above	Same as Above	
		4 -1-1917	Stockwater	1/1	12/31	<u>0.04</u> <u>1.77</u>	Same as Above	Same as Above	

JUL 3 0 1996

PROPOSED FINDING OF WATER RIGHTS - LEMHI RIVER DRAINAGE

SOURCE: Hayden Creek and Tributaries

IDENT. NO.	NAME AND ADDRESS	PRIORITY	PURPOSE	PERIOD OF USE		MAXIMUM RATE OF DIVERSION (cfs)	POINT OF DIVERSION	PLACE OF USE and LANDS IRRIGATED	BASIS OF RIGHT and REMARKS
				FROM	TO				
74-1032 (p. 80 of proposed findings)	TOBIAS BROTHERS Box 13 Lemhi, Idaho	4 -1-1920	Irrigation	4/1	11/1	6.60	SW $\frac{1}{2}$ SW $\frac{1}{4}$ , S. 14 T17N, R23E	Sec. 32 SW $\frac{1}{2}$ NE $\frac{1}{4}$ , SE $\frac{1}{2}$ NW $\frac{1}{4}$ NE $\frac{1}{2}$ SW $\frac{1}{4}$ NW $\frac{1}{2}$ SW $\frac{1}{4}$ , SW $\frac{1}{2}$ SW $\frac{1}{4}$ , SE $\frac{1}{2}$ SW $\frac{1}{4}$ , NE $\frac{1}{2}$ SE $\frac{1}{4}$ , NW $\frac{1}{2}$ SE $\frac{1}{4}$ , SE $\frac{1}{2}$ SE $\frac{1}{4}$ , SE $\frac{1}{2}$ NE $\frac{1}{4}$ , T18N, R24E	Beneficial Use
74-1034 (p. 80 of proposed findings)	TOBIAS BROTHERS Box 13 Lemhi, Idaho	4 -1-1920	Stockwater	1/1	12/31	0.04 6.64	Same as Above	Same as Above	Beneficial Use
5 -14-1924	Irrigation	4/1	11/1	0.75	SW $\frac{1}{2}$ SW $\frac{1}{4}$ , S. 14 T17N, R23E	Sec. 11 NE $\frac{1}{2}$ SE $\frac{1}{4}$ , Sec. 12 NW $\frac{1}{2}$ SW $\frac{1}{4}$ , SW $\frac{1}{2}$ NW $\frac{1}{4}$ , T17N, R23E	11.1 12.9 1.0 25.0	Beneficial Use	
									0.04 0.79
5 -14-1924	Stockwater	1/1	12/31	0.04 0.79	Same as Above	Same as Above	25.0	Beneficial Use	

JUL 3 0 1936

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JUN 25 1979

Department of Water Resources

Filed in District Court Lemhi County

Idaho, June 22 1979

at 27 minutes past 3 o'clock P.M.

*Chas. Adams* Clerk

By *Alberta Frederick* Deputy

*File of Court Proceedings*

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

IN THE MATTER OF THE GENERAL	)	CIVIL NO. 4948
DETERMINATION OF THE RIGHTS TO	)	
THE USE OF SURFACE WATERS AND	)	ORDER DISMISSING
TRIBUTARIES FROM WHATEVER SOURCE	)	THE OBJECTION OF
OF THE LEMHI RIVER DRAINAGE BASIN.	)	ROGER K. OGDEN

The objection of Roger K. Ogden having duly come before the court for hearing on Monday, June 11, 1979, at the hour of 2 o'clock p.m., and the objector having neither appeared at the appointed hour nor at anytime thereafter before the close of court at 5 p.m., IT IS BEREBY ORDERED that the objection of Roger K. Ogden be dismissed pursuant to the motion of the Idaho Department of Water Resources.

Dated this 22 day of June, 1979.

Original Signed By  
Judge M. A. Slavin

MILTON A. SLAVIN  
Magistrate  
Sitting as Special Master

JUL 3 0 1979

Filed in District Court Lemhi County

Idaho, June 22 1979

at 28 minutes past 3 o'clock P.M.

Edward Albrow Clerk

By Alberte Frederick Deputy

File of Court Proceedings

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

IN THE MATTER OF THE GENERAL	)	CIVIL NO. 4948
DETERMINATION OF THE RIGHTS TO	)	
THE USE OF SURFACE WATERS AND	)	MINUTE ENTRY
TRIBUTARIES FROM WHATEVER SOURCE	)	
OF THE LEMHI RIVER DRAINAGE BASIN.	)	

The objection of Roger K. Ogden was set for trial before the court at 2 p.m., June 11, 1979. The Idaho Department of Water Resources through its counsel, Josephine P. Beeman, was present at the appointed hour, but the objector did not appear. When the objector had not appeared by 4:40 p.m., counsel for the Idaho Department of Water Resources moved the court for an order dismissing the objection of Roger K. Ogden. The order was granted.

DATED and DONE this 22 day of June, 1979.

Original Signed By  
Judge M. A. Slavin  
MILTON A. SLAVIN  
Magistrate  
Sitting as Special Master

JUL 3 0 1996



State of Idaho  
Statehouse, Room 210  
Boise, Idaho 83720  
Telephone (208) 384-2400

1 of high water or flood water rights.

2 The acre-foot limitation objection has been resolved by  
3 the changes reflected in Finding of Fact #4 and Conclusion of Law  
4 #7.

5 The general objection regarding the irrigation season  
6 has been resolved by changing the season of use from April 1  
7 through November 1 to March 15 through November 15. Provision  
8 has also been made for diversion of water before and after those  
9 dates. See Finding of Fact #5, Conclusion of Law #6, and Con-  
10 clusion of Law #8 as revised on Exhibits A and B.

11 The objections as to use of high water or flood water  
12 have been resolved by the changes in Finding of Fact #7, Conclu-  
13 sion of Law #3, and Conclusion of Law #6.

14 The parties to this stipulation agree that the amend-  
15 ments reflected in Exhibits A and B completely resolve the  
16 general objections previously filed on their behalf in this adju-  
17 dication.

18 DATED this 14th day of December, 1981.

19 STATE OF IDAHO  
20 DEPARTMENT OF WATER RESOURCES

SNOOK AND SNOOK

21 *Josephine P. Beeman*  
22 JOSEPHINE P. BEEMAN  
23 Deputy Attorney General

By: *Fred Snook*  
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Kossler  
Gladys Porter  
Varnie & Clover Aikens  
Chester K. & Lucille  
Bowman  
Sam P. McKinney  
Don R. Sims  
Fred H. Snook  
John C. & Dorothy H. Snook  
Quinton & Lois Snook  
Clarence & Florence  
Swanson

24 FUREY & FUREY

25 *Sherman F. Furey, Jr.*  
26 SHERMAN F. FUREY, Jr., of the  
27 firm, Attorneys for,  
28 Darrel Bagley  
29 Harvey E. Peterson  
30 William B & Marian H. Swahlen  
Richard L. & Margarete E. Tyler

JUL 3 0 1986



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Department of Water Resources

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PETERSEN, MOSS & OLSEN

RIGBY, THATCHER & ANDRUS

By: *George C. Petersen, Jr.*  
GEORGE C. PETERSEN, JR., of  
the firm, Attorneys for  
Carlton H. & Mary Imogene  
Noyes  
Gene Phipps

By: *Ray W. Rigby*  
RAY W. RIGBY, of the firm,  
Attorneys for  
James E. and/or Maybelle  
Ellsworth

VOSHELL & WRIGHT, Chtd.

*Jack G. Voshell*  
JACK G. VOSHELL, of the firm,  
Attorneys for  
Doyle L. & Loah K. Mulkey

*James C. Herndon*  
JAMES C. HERNDON  
Attorney for  
Lemhi Irrigation District  
Franklin Jack & Elizabeth M.  
Powers  
Robert L. & Reba Thomas  
Ronald & Kermit Tobias  
Arthur L. Tonsmeire, III  
Arthur C. Tonsmeire, Jr.  
Joseph & Frances Tonsmeire

HOLDEN, KIDWELL, HAHN & CRAPO

*Kent W. Foster*  
KENT W. FOSTER, a member of  
the firm, attorneys for  
Robert H. & Opal C. Adams  
John Alexander  
Zella Armstrong  
Dave R. & Joyce Anderson  
Maxwell F. & Reva S. Beyeler  
R. D. & Elaine Burch  
Robert E. & Norma E. Carlson  
Charles R. & Kester Cockrell  
Harry L. & Shirley R. Coleman  
Ellsworth Land & Cattle, Inc.  
Billy V. & Sandra J. Fayle  
William D. & Sharon B. Harris  
Charles B. Isom  
Zach A. & Esther J. Johnson  
E. Dale & Mildred H. Jolley  
Kenneth R. & Betty C. Kelly  
Frank J. & Betty Kohl  
LDS Church  
Terry E. & Marjorie E. McRae  
Willard Moulton  
Lorin Murdock  
Darrell J. & Verna M. Nef  
Clyde S. & Ruby N. Nelson  
Floyd A. & Dexter J. Nilsson  
Donald O. & Billie Peterson  
A. M. and Verne Santos  
Joanne Tingle  
David L. Udy  
Calvin J. & Carol L. Wittaker

IT IS THEREFORE ORDERED this 14 day of February,

1983.

*Arnold T. Beebe*  
ARNOLD T. BEEBE, District Judge

JUL 3 0 1983

ALVINNEY BECKER  
State of Idaho  
Statehouse Room 210  
Boise, Idaho 83720  
Telephone (208) 384-2400

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FEB 16 1982

Department of Water Resources

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

IN THE MATTER OF THE GENERAL )  
DETERMINATION OF THE RIGHTS )  
TO THE USE OF THE SURFACE WATERS )  
AND TRIBUTARIES FROM WHATEVER )  
SOURCE OF THE LEMHI RIVER )  
DRAINAGE BASIN. )  
\_\_\_\_\_ )

CIVIL NO. 4948  
PROPOSED FINDINGS OF  
WATER RIGHTS

JUL 6 1982

The above-entitled cause was initiated under provisions of Section 42-1406, Idaho Code, by the submission of a petition from eight (8) water users in the Lemhi River Basin, requesting that the Department of Water Administration (changed to Department of Water Resources in 1974) obtain authority from the Court to prepare a proposed finding of water rights in the Lemhi River Basin. The petitioners specifically requested that the study reflect the present practice and use of water within the ~~drainage~~ Lemhi River Basin.

Pursuant to Section 42-1407, Idaho Code, R. Keith Higginson, Director of the Department of Water ~~Administration~~ Resources petitioned the Court on April 30, 1970, for an order of authorization for the commencement of an adjudication of water rights in the Lemhi River Drainage.

An order was signed on August 13, 1970, by District Judge Arnold T. Beebe, authorizing the Department to commence an investigation and determination of the various rights to the use of the water of the Lemhi River and its surface tributaries including ground water which may be either tributary to the Lemhi River or its surface tribu-

taries within the Lemhi River Drainage Basin, such waters lying or being used within Lemhi County.

An order of Joinder signed on June 17, 1971, made approximately 457 land owners and possible water users ~~party~~ parties to the adjudication. An additional 351 water users were joined by an order signed November 1, 1971. Approximately 1,900 claims of water rights were submitted to the Department.

Based upon all existing court decrees adjudicating water rights within the Lemhi River Drainage Basin, the claims submitted, the files and records of the Department and the Court, the examination and studies of the Lemhi River Drainage Basin and the various ditches and other diversions of water therein and the lands irrigated or other uses of water, the Department of Water ~~Administration~~ Resources, in July 1974, filed a proposed finding of water rights with the Court. Objections to the proposed findings were resolved either by stipulation or hearing before the Court. The Court then adopted the following these findings of fact, conclusions of law and decree of water rights, in which the following definitions apply:

- a. "Director" means the Director of the Department of Water ~~Administration~~ Resources.
- b. "Department" means the Idaho Department of Water ~~Administration~~ Resources.
- c. "Ident. No." is the abbreviated form of "Identification Number". An identification number is assigned to each water right for purposes of identification. The first two (2) numerals of an identification number indicate the basin number as reflected in Department files, i.e., "74" indicates the Lemhi River Basin.
- d. "Name and address" are self-explanatory and indicate the owner of the right at the time the "Notice of Claim to a Water Right" was submitted to the Department.
- e. "Priority" indicates the priority date of the water right and is generally the date when the water was first applied to a beneficial use.

98610 62 JUL

- f. "Purpose" is self-explanatory except for "Fish Return" as shown on numerous Idaho Department of Fish and Game rights. Fingerling fish are prevented from entering irrigation ditches by means of a screen across the irrigation ditch and a by-pass pipe for the fish to return through to the river. Hence, the term "Fish Return". This is a non-consumptive use.
- g. "Period of use" indicates the time period of time during each year when a particular right may be used each year.
- h. "Acre-foot" is a volume of water sufficient to cover one acre of land one foot deep with water and is equal to 43,560 cubic feet.
- i. "Maximum rate of diversion, c.f.s." indicates the rate of diversion from a water source in cubic feet per second. The term "miner's inch" formerly used in hydraulic mining and irrigation is also a measure of a rate of flow. The miner's inch in Idaho is defined as the quantity of water which will flow through an orifice one inch square under a four inch head. One cubic foot per second is equal to fifty miner's inches in Idaho, or 0.02 c.f.s. equals one miner's inch.
- j. "Place of use and lands irrigated" indicate the number of irrigated acres and legal description of the places of use within each 40-acre subdivision.
- k. Under the general heading "Basis of Right":
- "Beneficial Use" indicates the right ~~is~~ was based ~~on~~ upon a Constitutional right or so called "use right", initiated and maintained by actual diversion and application to beneficial use.
- ~~"Permit" indicates the right has been initiated under the Statutes of the State of Idaho but has not yet been perfected by submission of proof of beneficial use, with subsequent field examination by the Department. Rights based on permit must be completed according to statutory procedures.~~
- "License" indicates the right has been initiated through application to the Department with appropriate statutory proof submitted in the past with subsequent examination and issuance of a license by the Department. ~~The license is evidence of the water right.~~
- "Decree" indicates that the right has been adjudicated in a court of law prior to this general determination of water rights.

JUL 3 0 1996

- l. "Domestic purposes" is defined as water for household use or livestock and water used for all other purposes including irrigation of up to one-half (1/2) acre of land in connection with said household where total use is not in excess of 13,000 gallons per day. Idaho Code, 42-230 (d).
- m. "H.E.S." as used in this report describes a place of use of a water right and means Homestead Entry Survey. There is a number following the H.E.S. designation that refers to the particular homestead entry in question, i.e., H.E.S. No. 236.
- n. "High water" or "Flood water" as used in the Findings of Fact, and Conclusions of Law, and Decree ~~is intended to~~ describes a natural flow of "water over and above the amounts required to fulfill (1) existing quantified rights as shown in the ~~recommended~~ decree of water rights and (2) any future rights that may be established pursuant to statutory procedures of the State of Idaho."

RECORDED

JUL 8 0 1996

FINDINGS OF FACT

1. The Lemhi River Drainage lies entirely within Lemhi County, State of Idaho, with its mouth at its confluence with the Salmon River near Salmon, Idaho, and with its source comprised of tributaries rising in the surrounding mountains and hills. There are periods during each year when the amount of water flowing in the Lemhi River and its tributaries is insufficient to meet and satisfy the various demands by claimants of appropriative rights. These periods of scarcity normally occur prior to the spring runoff and during the latter part of the summer.
2. There exist numerous separate decrees on the tributaries of the Lemhi River adjudicating the various priorities to the use of the water on those tributaries. Diversion and beneficial use of water on these decreed tributary streams has in the past been without regard for uses or rights claimed on the Lemhi River proper, and users on the Lemhi River proper have made no demand on these tributary streams for water to fill prior rights on the main stem.
3. Beneficial use rights from surface water sources are those rights which were commenced by diversion and application of the water for a beneficial use prior to May 20, 1971. Beneficial use rights from underground water sources are those which were commenced by diversion and application of the water to a beneficial use prior to March 25, 1963. All other rights to the use of water must have been initiated by an application filed with the Department of Water Administration Resources. The only exception to this is for domestic wells where total use does not exceed 13,000 gallons per day pursuant to Section 42-227, Idaho Code.
4. ~~The consumptive use of water for irrigation water requirement at the field-headgate purposes is was found to be 3.0 1.45 acre feet per acre per calendar year regardless of the source of sources of supply. The loss in acre feet from the point of diversion at the source to the field-headgate varies dependent on length slope and capacity of ditch together with the type of soil through which it passes. growing season based upon the following facts: Consumptive use or evapotranspiration of water from the land and crops is a total of 1.8 AF/acre per growing season of which precipitation normally furnishes 0.35 acre feet per acre, giving a net consumptive irrigation requirement of 1.45 AF/acre to be applied from some water source. The balance of 1.55 AF/acre (3.0 acre feet per acre minus 1.45 acre feet per acre) reflects application losses that under present physical and economical conditions may be liberal, but are not unreasonable for the present methods of water application in the Lemhi River Basin.~~  
A change in the nature of use of the water right from irrigation to a more consumptive use or a change in location of use that causes waters diverted but not consumed to be returned to the Lemhi River or tribu-

- carries at a different location can reduce water available to other right holders.
5. The normal irrigation season is found to be from ~~April~~ March 15 to November 15 of each year. However, there appear to be periods before ~~April~~ March 15 and later than November 15 in some years in which water diverted for agricultural purposes has been applied to a beneficial use.
  6. The use of water under previously decreed rights in the Lemhi River Basin was found, in many cases, to be different from the use as described in the original decrees. Changes in places of use, changes in point of diversion, apparent errors in the original decrees, abandonment or forfeiture of use, and the updating and improvement of irrigation systems through the years ~~were~~ are some of the reasons for ~~recommendations~~ of decreed rights based on decrees different differing from the original decrees.
  7. The Lemhi River Basin presently has almost non-existent storage facilities in which to preserve water for use later in the irrigation season when the flow in surface water sources diminishes. Diversions of high waters or flood waters for irrigation purposes within the basin have been practiced in an effort to hold or store water underground within the basin, which later contributes to the flow of the streams and river, and has the effect of augmenting or supplementing this flow during the latter portion of the irrigation season. While the amount of such high water available varies from year to year, an effort has been made to divert all of such water, whenever and in whatever amounts it is available, and to apply it on the irrigated lands. The practice has been to distribute and use this water in an informal manner. There is some potential for development of water storage projects within the basin; however, general interest in such development will probably only occur as the economic feasibility thereof increases.
  8. ~~Water users in the basin have diverted flood flows occurring in May and June onto their lands in an effort to "hold or reservoir" the water in the soil of the basin.~~

The amount of water required for stockwatering purposes is found to be 12 gallons of water per day per head for cows, calves, and horses, and 2 gallons per day per head for sheep. For domestic or household use, the requirement is 1,000 gallons of water per day per household.
  9. The United States has submitted claims of water right based on the "Reserved Rights" principle which are enumerated in Exhibit "I" and has also claimed unspecified minimum stream flows in various creeks, streams and water sources enumerated in Exhibit "J" of the United States of America Notice of Claim to a Water Right submission together with various other exhibits. The water rights of the United States are subject to adjudication in this proceeding under the provisions of 43 USC 666.

10. The State of Idaho, Department of Fish and Game has claimed minimum stream flows at the mouth of the Lemhi River, at the mouth of Hayden Creek and on the Lemhi River below the mouth of Big Springs Creek on three claims to a water right identified as 74-1768, 74-1769 and 74-1770, which claims are not based upon a diversion and application of the water to a beneficial use.
11. ~~This proposed finding of water rights includes rights initiated by application and permit from the Department of Water Administration. These permit rights are subject to the requirement that proof of beneficial use of the water must be submitted to the Department and the right will be limited to and confined by such license as may subsequently be issued by the Department. This decree of water rights includes rights in the name of the U.S. Department of Interior initiated by application, permit and license pursuant to Idaho Code 42-501, et seq. The basis for these rights in this decree is listed as "D Permits"; however, each of these "D Permits" is a licensed right under Idaho Code 42-501.~~
12. Regulation of the diversion and use of water from the Lemhi River and its tributaries requires that each user who diverts water must install and maintain a suitable headgate and measuring device for the use of the watermaster.
13. Among the various water rights in the numerous licenses issued by the Department of Water Administration ~~Resources~~ and the court decrees which adjudicated water rights within the Lemhi River Drainage are several which describe rights which were unclaimed by the present land owner. For the most part, these include uses which no longer exist because of forfeiture or abandonment of the right. These unclaimed "rights" are listed in the ~~recommended~~ decree.
14. Water has been diverted and applied to a beneficial use as described in the ~~recommended~~ following decree of water rights. In addition, the water users in the Lemhi River Basin have historically diverted the so called "high water or flood water" generally during the months of May and June.

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CONCLUSIONS OF LAW

1. The United States holds rights to the use of water on reserved forest lands within the Lemhi River Drainage Basin with priorities based upon the dates when the various forest reserves were established, to the extent such water has been diverted and applied to a beneficial use prior to the date of this action or to the extent that future potential uses have been reasonably identified in its claims. The United States holds no rights either expressly or impliedly to the maintenance of continuous, uninterrupted flows of water and minimum stream levels for the various creeks, streams, and water sources enumerated on Exhibit "J", of the United States of America Notice of Claim to a Water Right nor any rights to the present or future use of water of Lemhi River or its tributaries not specifically claimed and identified as to quantity and place of use except as set forth in these findings of fact, conclusions of law and decree of water rights.
2. The State of Idaho, Department of Fish and Game claims of water rights to maintain minimum stream flows at the mouth of the Lemhi River, at the mouth of Hayden creek, and on the Lemhi River below the mouth of Big Springs Creek identified as Claim Nos. 74-1768, 74-1769 and 74-1770, are not based upon a diversion and application of the water to a beneficial use and are therefore invalid.
3. An adjudication of water rights should recognize the past history of use of water in the area. Since there exist numerous and separate decrees on tributaries to the Lemhi River and on other sources of water in the Lemhi River Basin, and since the water users on these stream systems have distributed their waters under direction of watermaster independently and without regard for prior claimed uses on the Lemhi River proper, the water users on those tributaries or water sources have adversed any prior right to demand water from the tributary streams to fill rights claimed on the Lemhi River proper. For the purposes of water distribution in the Lemhi River Basin following adoption of these proposed findings by the Court water rights on the following water sources ~~to the extent recommended herein~~ are not considered tributary ~~junior to the water rights from Lemhi River:~~
  1. Agency Creek and tributaries
  2. Alder Creek and tributaries
  3. Basin Creek (incl. McNutt & Schwartz) and tributaries
  4. Bohannon Creek and tributaries
  5. Bull Creek and tributaries
  6. Canyon Creek (Junction Creek) and tributaries
  7. Eightmile Creek (Big) and tributaries
  8. Eightmile Creek (Little) and tributaries

9. Geertson Creek and tributaries
10. Hawley Creek and tributaries
11. Haynes Creek and tributaries
12. Jake Canyon Creek and tributaries
13. Kirtley Creek and tributaries
14. Lee Creek and tributaries
15. Mill Creek and tributaries
16. Pattee Creek and tributaries
17. Peterson Creek and tributaries
18. Pratt Creek and tributaries
19. Sandy Creek and tributaries
20. Sawmill Creek (Little) and tributaries
21. Texas Creek and tributaries
22. Timber Creek (Big & Little) and tributaries
23. Walter Creek and tributaries
24. Warm Springs Creek (near Pratt Creek) and tributaries
25. Wimpey Creek and tributaries
26. Withington Creek and tributaries
27. Yearian Creek and tributaries
28. Zeph & Swartz Creeks and tributaries

Future appropriations of water on the above streams are not considered to be subject to prior downstream rights on the Lemhi River proper. ~~Future appropriations of water on any other water source or stream in the Lemhi River Basin, however, are considered to be tributary to the Lemhi River proper for the purposes of distribution.~~

Water sources or creeks not included in the listing above are tributary to the Lemhi River for the purposes of distribution if in fact water from the water source or creek would reach the Lemhi River.

4. Water users whose rights are described in this ~~recommended~~ decree are required to install and maintain headgates and measuring devices at their points of diversion for use by a watermaster.
5. This recommended decree includes all of the existing rights to the waters of the Lemhi River and its tributaries and upon its adoption supercedes all prior judgments of the Court. Any water user who heretofore diverted water from the Lemhi River or its tributaries ~~of~~ or who owns lands to which previously established rights were appurtenant and who, upon being joined in this action, failed to claim such water

LEHMI RIVER  
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rights have been forfeited such rights as provided in Section 42-1411, Idaho Code, subject to the provisions of 42-1405, Idaho Code.

6. The normal irrigation season in the Lemhi Basin is from April 15 to November 15 of each year. The practice of diverting water during the pre-irrigation and post irrigation season as well as diverting the so called "high waters or flood waters" in addition to the quantified rights as described in the recommended decree of water rights (and future rights that may be established pursuant to statutory procedures) is allowed provided:

(a) the waters so diverted are applied to a beneficial use.

(b) the existing quantified rights (including future appropriations of water) are first satisfied. (Note that Conclusion of Law #3 provides an exception to this condition of "high water" or "flood water" diversion.)

7. ~~The duty of water for irrigation purposes in the Lemhi River Basin is 3.0 AF/acre at the field headgate. In addition, every water user is entitled to a reasonable loss in acre feet between the point of diversion at the source and the field headgate. However, regulation of diversion by the watermaster should be on the basis of the rates of diversion herein specified rather than by the acre feet allotment.~~

Distribution by the watermaster of water from the public water supply for irrigation purposes shall be on the basis of the rates of diversion herein specified and shall not be limited in any manner by any provisions herein regarding consumptive use.

The consumptive use of water for irrigation purposes in the Lemhi Basin has been determined to be 1.45 acre feet per acre. The Director of the Department of Water Resources will be guided by this determination in authorizing changes requested pursuant to 42-222, Idaho Code.

8. The watermaster(s) is authorized to allow diversion of water for agricultural uses before April 15 and after November 15 provided the conditions in paragraph six (6) in these Conclusions of Law are satisfied.

9. Water has been diverted and applied to a beneficial use as described in the following recommended decree of water rights.

DECREE OF WATER RIGHTS

The following tabulation of ~~recommended~~ rights ~~are~~ is grouped by drainage in alphabetical order. For example, Agency Creek and tributary rights are in the first part of the report and are shown in chronological order. Next are Alder Creek and tributary rights and so on:

The tabulation of rights with spring sources and groundwater sources has been compiled in an alphabetical order according to the last name of the water right owner.

The tabulation of rights on the Lemhi River itself has been compiled by diversion, beginning at the downstream end of the river. For example, the diversion furthest downstream on the Lemhi River has been identified as Lemhi River diversion 1 or Div. L-1. The rights of users in this ditch have been tabulated in order of priority with the oldest right showing first. The next upstream diversion on the Lemhi River is designated Lemhi River diversion 2 or Div. L-2. The rights are tabulated in a like manner as for L-1. The rights tabulated under a particular Lemhi River diversion have a common point of diversion from the Lemhi River. Pump diversions from the Lemhi River have been tabulated in a separate section of the report.

JUL 3 0 1996

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Department of Water Resources

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

IN THE MATTER OF THE GENERAL )  
DETERMINATION OF THE RIGHTS )  
TO THE USE OF THE SURFACE WATERS )  
AND TRIBUTARIES FROM WHATEVER )  
SOURCE OF THE LEMHI RIVER )  
DRAINAGE BASIN. )

CIVIL NO. 4948  
PROPOSED FINDINGS OF  
WATER RIGHTS

The above-entitled cause was initiated under provisions of Section 42-1406, Idaho Code, by the submission of a petition from eight (8) water users in the Lemhi River Basin, requesting that the Department of Water Administration (changed to Department of Water Resources in 1974) obtain authority from the Court to prepare a proposed finding of water rights in the Lemhi River Basin. The petitioners specifically requested that the study reflect the present practice and use of water within the Lemhi River Basin.

Pursuant to Section 42-1407, Idaho Code, R. Keith Higginson, Director of the Department of Water Resources petitioned the Court on April 30, 1970, for an order of authorization for the commencement of an adjudication of water rights in the Lemhi River Drainage.

An order was signed on August 13, 1970, by District Judge Arnold T. Beebe, authorizing the Department to commence an investigation and determination of the various rights to the use of the water of the Lemhi River and its surface tributaries including ground water which may be either tributary to the Lemhi River or its surface tribu-

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taries within the Lemhi River Drainage Basin, such waters lying or being used within Lemhi County.

An order of joinder signed on June 17, 1971, made approximately 457 land owners and possible water users parties to the adjudication. An additional 351 water users were joined by an order signed November 1, 1971. Approximately 1,900 claims of water rights were submitted to the Department.

Based upon all existing court decrees adjudicating water rights within the Lemhi River Drainage Basin, the claims submitted, the files and records of the Department and the Court, the examination and studies of the Lemhi River Drainage Basin and the various ditches and other diversions of water therein and the lands irrigated or other uses of water, the Department of Water Resources, in July 1974, filed a proposed finding of water rights with the Court. Objections to the proposed findings were resolved either by stipulation or hearing before the Court. The Court then adopted the following findings of fact, conclusions of law and decree of water rights, in which the following definitions apply:

- a. "Director" means the Director of the Department of Water Resources.
- b. "Department" means the Idaho Department of Water Resources.
- c. "Ident. No." is the abbreviated form of "Identification Number". An identification number is assigned to each water right for purposes of identification. The first two (2) numerals of an identification number indicate the basin number as reflected in Department files, i.e., "74" indicates the Lemhi River Basin.
- d. "Name and address" are self-explanatory and indicate the owner of the right at the time the "Notice of Claim to a Water Right" was submitted to the Department.
- e. "Priority" indicates the priority date of the water right and is generally the date when the water was first applied to a beneficial use.
- f. "Purpose" is self-explanatory except for "Fish Return" as shown on numerous Idaho Department of Fish and Game rights. Fingerling fish are prevented from entering irrigation ditches by means of

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- a screen across the irrigation ditch and a by-pass pipe for the fish to return through to the river. Hence, the term "Fish Return". This is a non-consumptive use.
- g. "Period of use" indicates the period of time during each year when a particular right may be used each year.
- h. "Acre-foot" is a volume of water sufficient to cover one acre of land one foot deep with water and is equal to 43,560 cubic feet.
- i. "Maximum rate of diversion, c.f.s." indicates the rate of diversion from a water source in cubic feet per second. The term "miner's inch" formerly used in hydraulic mining and irrigation is also a measure of a rate of flow. The miner's inch in Idaho is defined as the quantity of water which will flow through an orifice one inch square under a four inch head. One cubic foot per second is equal to fifty miner's inches in Idaho, or 0.02 c.f.s. equals one miner's inch.
- j. "Place of use and lands irrigated" indicate the number of irrigated acres and legal description of the places of use within each 40-acre subdivision.
- k. Under the general heading "Basis of Right":
- "Beneficial Use" indicates the right was based upon a Constitutional right or so called "use right", initiated and maintained by actual diversion and application to beneficial use.
- "License" indicates the right has been initiated through application to the Department with appropriate statutory proof submitted in the past with subsequent examination and issuance of a license by the Department.
- "Decree" indicates that the right has been adjudicated in a court of law prior to this general determination of water rights.
- l. "Domestic purposes" is defined as water for household use or livestock and water used for all other purposes including irrigation of up to one-half (1/2) acre of land in connection with said household where total use is not in excess of 13,000 gallons per day. Idaho Code, 42-230 (d).
- m. "H.E.S." as used in this report describes a Place of use of a water right and means Homestead Entry Survey. There is a number following the H.E.S. designation that refers to the particular homestead entry in question, i.e., H.E.S. No. 236.

n. "High water" or "Flood water" as used in the Findings of Fact, Conclusions of Law, and Decree describes a natural flow of "water over and above the amounts required to fulfill (1) existing quantified rights as shown in the decree of water rights and (2) any future rights that may be established pursuant to statutory procedures of the State of Idaho."

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FINDINGS OF FACT

1. The Lemhi River Drainage lies entirely within Lemhi County, State of Idaho, with its mouth at its confluence with the Salmon River near Salmon, Idaho, and with its source comprised of tributaries rising in the surrounding mountains and hills. There are periods during each year when the amount of water flowing in the Lemhi River and its tributaries is insufficient to meet and satisfy the various demands by claimants of appropriate rights. These periods of scarcity normally occur prior to the spring runoff and during the latter part of the summer.
2. There exist numerous separate decrees on the tributaries of the Lemhi River adjudicating the various priorities to the use of the water on those tributaries. Diversion and beneficial use of water on these decreed tributary streams has in the past been without regard for uses or rights claimed on the Lemhi River proper, and users on the Lemhi River proper have made no demand on these tributary streams for water to fill prior rights on the main stem.
3. Beneficial use rights from surface water sources are those rights which were commenced by diversion and application of the water for a beneficial use prior to May 20, 1971. Beneficial use rights from underground water sources are those which were commenced by diversion and application of the water to a beneficial use prior to March 25, 1963. All other rights to the use of water must have been initiated by an application filed with the Department of Water Resources. The only exception to this is for domestic wells where total use does not exceed 13,000 gallons per day pursuant to Section 42-227, Idaho Code.
4. The consumptive use of water for irrigation purposes was found to be 1.45 acre feet per acre per growing season based upon the following facts: Consumptive use or evapotranspiration of water from the land and crops is a total of 1.8 AF/acre per growing season of which precipitation normally furnishes 0.35 acre feet per acre, giving a net consumptive irrigation requirement of 1.45 AF/acre to be applied from some water source.  
  
A change in the nature of use of the water right from irrigation to a more consumptive use or a change in location of use that causes waters diverted but not consumed to be returned to the Lemhi River or tributaries at a different location can reduce water available to other right holders.
5. The normal irrigation season is found to be from March 15 to November 15 of each year. However, there appear to be periods before March 15 and later than November 15 in some years in which water diverted for agricultural purposes has been applied to a beneficial use.
6. The use of water under previously decreed rights in the Lemhi River Basin was found, in many cases, to be different from the use as described in the original decrees. Changes in places of use, changes in point

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of diversion, apparent errors in the original decrees, abandonment or forfeiture of use, and the updating and improvement of irrigation systems through the years are some of the reasons for rights based on decrees differing from the original decrees.

7. The Lemhi River Basin presently has almost non-existent storage facilities in which to preserve water for use later in the irrigation season when the flow in surface water sources diminishes. Diversions of high waters or flood waters for irrigation purposes within the basin have been practiced in an effort to hold or store water underground within the basin, which later contributes to the flow of the streams and river, and has the effect of augmenting or supplementing this flow during the latter portion of the irrigation season. While the amount of such high water available varies from year to year, an effort has been made to divert all of such water, whenever and in whatever amounts it is available, and to apply it on the irrigated lands. The practice has been to distribute and use this water in an informal manner. There is some potential for development of water storage projects within the basin; however, general interest in such development will probably only occur as the economic feasibility thereof increases.

8. The amount of water required for stockwatering purposes is found to be 12 gallons of water per day per head for cows, calves, and horses, and 2 gallons per day per head for sheep. For domestic or household use, the requirement is 1,000 gallons of water per day per household.

9. The United States has submitted claims of water right based on the "Reserved Rights" principle which are enumerated in Exhibit "I" and has also claimed unspecified minimum stream flows in various creeks, streams and water sources enumerated in Exhibit "J" of the United States of America Notice of Claim to a Water Right submission together with various other exhibits. The water rights of the United States are subject to adjudication in this proceeding under the provisions of 43 USC 666.

10. The State of Idaho, Department of Fish and Game has claimed minimum stream flows at the mouth of the Lemhi River, at the mouth of Hayden Creek and on the Lemhi River below the mouth of Big Springs Creek on three claims to a water right identified as 74-1768, 74-1769 and 74-1770, which claims are not based upon a diversion and application of the water to a beneficial use.

11. This decree of water rights includes rights in the name of the U.S. Department of Interior initiated by application, permit and license pursuant to Idaho Code 42-501, et seq. The basis for these rights in this decree is listed as "D Permits"; however, each of these "D Permits" is a licensed right under Idaho Code 42-501.

12. Regulation of the diversion and use of water from the Lemhi River and its tributaries requires that each user who diverts water must install and maintain a suitable headgate and measuring device for the use of the watermaster.

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13. Among the various water rights in the numerous licenses issued by the Department of Water Resources and the court decrees which adjudicated water rights within the Lemhi River Drainage are several which describe rights which were unclaimed by the present land owner. For the most part, these include uses which no longer exist because of forfeiture or abandonment of the right. These unclaimed "rights" are listed in the decree.
14. Water has been diverted and applied to a beneficial use as described in the following decree of water rights. In addition, the water users in the Lemhi River Basin have historically diverted the so called "high water or flood water" generally during the months of May and June.

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CONCLUSIONS OF LAW

1. The United States holds rights to the use of water on reserved forest lands within the Lemhi River Drainage Basin with priorities based upon the dates when the various forest reserves were established, to the extent such water has been diverted and applied to a beneficial use prior to the date of this action or to the extent that future potential uses have been reasonably identified in its claims. The United States holds no rights either expressly or impliedly to the maintenance of continuous, uninterrupted flows of water and minimum stream levels for the various creeks, streams, and water sources enumerated on Exhibit "J", of the United States of America Notice of Claim to a Water Right nor any rights to the present or future use of water of Lemhi River or its tributaries not specifically claimed and identified as to quantity and place of use except as set forth in these findings of fact, conclusions of law and decree of water rights.

2. The State of Idaho, Department of Fish and Game claims of water rights to maintain minimum stream flows at the mouth of the Lemhi River, at the mouth of Hayden creek, and on the Lemhi River below the mouth of Big Springs Creek identified as Claim Nos. 74-1768, 74-1769 and 74-1770, are not based upon a diversion and application of the water to a beneficial use and are therefore invalid.

3. An adjudication of water rights should recognize the past history of use of water in the area. Since there exist numerous and separate decrees on tributaries to the Lemhi River and on other sources of water in the Lemhi River Basin, and since the water users on these stream systems have distributed their waters under direction of watermaster independently and without regard for prior claimed uses on the Lemhi River proper, the water users on those tributaries or water sources have adversed any prior right to demand water from the tributary streams to fill rights claimed on the Lemhi River proper. For the purposes of water distribution in the Lemhi River Basin water rights on the following water sources, are not considered junior to the water rights from Lemhi River:

1. Agency Creek and tributaries
2. Alder Creek and tributaries
3. Basin Creek (incl. McNutt & Schwartz) and tributaries
4. Bohannon Creek and tributaries
5. Bull Creek and tributaries
6. Canyon Creek (Junction Creek) and tributaries
7. Eightmile Creek (Big) and tributaries
8. Eightmile Creek (Little) and tributaries
9. Geertson Creek and tributaries
10. Hawley Creek and tributaries
11. Haynes Creek and tributaries

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12. Jake Canyon Creek and tributaries
13. Kirtley Creek and tributaries
14. Lee Creek and tributaries
15. Mill Creek and tributaries
16. Patee Creek and tributaries
17. Peterson Creek and tributaries
18. Pratt Creek and tributaries
19. Sandy Creek and tributaries
20. Sawmill Creek (Little) and tributaries
21. Texas Creek and tributaries
22. Timber Creek (Big & Little) and tributaries
23. Walter Creek and tributaries
24. Warm Springs Creek (near Pratt Creek) and tributaries
25. Wimpey Creek and tributaries
26. Withington Creek and tributaries
27. Yearian Creek and tributaries
28. Zeph & Swartz Creeks and tributaries

Future appropriations of water on the above streams are not considered to be subject to prior downstream rights on the Lemhi River proper. Future appropriations of water on any other water source or stream in the Lemhi River Basin, however, are considered to be tributary to the Lemhi River proper for the purposes of distribution.

Water sources or creeks not included in the listing above are tributary to the Lemhi River for the purposes of distribution if in fact water from the water source or creek would reach the Lemhi River.

4. Water users whose rights are described in this decree are required to install and maintain headgates and measuring devices at their points of diversion for use by a watermaster.
5. This recommended decree includes all of the existing rights to the waters of the Lemhi River and its tributaries and upon its adoption supercedes all prior judgments of the Court. Any water user who heretofore diverted water from the Lemhi River or its tributaries or who owns lands to which previously established rights were appurtenant and who, upon being joined in this action, failed to claim such water rights has forfeited such rights as provided in Section 42-1411, Idaho Code, subject to the provisions of 42-1405, Idaho Code.
6. The normal irrigation season in the Lemhi Basin is from March 15 to November 15 of each year. The practice of diverting water during the pre-irrigation and post irrigation season as well as diverting the so-

called "high waters or flood waters" in addition to the quantified rights as described in the recommended decree of water rights (and future rights that may be established pursuant to statutory procedures) is allowed provided:

(a) the waters so diverted are applied to a beneficial use.

(b) the existing quantified rights (including future appropriations of water) are first satisfied. (Note that Conclusion of Law #3 provides an exception to this condition of "high water" or "flood water" diversion.)

7. Distribution by the watermaster of water from the public water supply for irrigation purposes shall be on the basis of the rates of diversion herein specified and shall not be limited in any manner by any provisions herein regarding consumptive use.

The consumptive use of water for irrigation purposes in the Lemhi Basin has been determined to be 1.45 acre feet per acre. The Director of the Department of Water Resources will be guided by this determination in authorizing changes requested pursuant to 42-222, Idaho Code.

8. The watermaster(s) is authorized to allow diversion of water for agricultural uses before March 15 and after November 15 provided the conditions in paragraph six (6) in these Conclusions of Law are satisfied.

9. Water has been diverted and applied to a beneficial use as described in the following recommended decree of water rights.

DECREE OF WATER RIGHTS

The following tabulation of rights is grouped by drainage in alphabetical order. For example, Agency Creek and tributary rights are in the first part of the report and are shown in chronological order. Next are Alder Creek and tributary rights and so on:

The tabulation of rights with spring sources and groundwater sources has been compiled in an alphabetical order according to the last name of the water right owner.

The tabulation of rights on the Lemhi River itself has been compiled by diversion, beginning at the downstream end of the river. For example, the diversion furthest downstream on the Lemhi River has been identified as Lemhi River diversion 1 or Div. L-1. The rights of users in this ditch have been tabulated in order of priority with the oldest right showing first. The next upstream diversion on the Lemhi River is designated Lemhi River diversion 2 or Div. L-2. The rights are tabulated in a like manner as for L-1. The rights tabulated under a particular Lemhi River diversion have a common point of diversion from the Lemhi River. Pump diversions from the Lemhi River have been tabulated in a separate section of the report.

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Kent W. Foster, Esq.  
HOLDEN, KIDWELL, HAHN & CRAPO  
P. O. Box 129  
Idaho Falls, Idaho 83402  
Telephone: (208) 523-0620

Filed in District Court Lemhi County  
Idaho, February 19 1982  
at 34 minutes past 1 o'clock P. M.  
Thomas Aldous Clerk  
By Robert J. ... Deputy  
File of Judgments

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

IN THE MATTER OF THE GENERAL )	
DETERMINATION OF THE RIGHT TO )	Case No. 4948
THE USE OF SURFACE WATERS AND )	
TRIBUTARIES FROM WHATEVER )	RULE 54 (b) JUDGMENT
SOURCE OF THE LEMHI RIVER )	REGARDING WATER RIGHTS
DRAINAGE BASIN. )	ON GEERTSON CREEK
)	

IT IS HEREBY ORDERED, ADJUDGED and DECREED, pursuant to the findings of Fact and Conclusions of Law adopted December 16, 1981, by Memorandum Decision of this District Court, that the water rights on Geertson Creek be decreed in accordance with the formal Stipulation attached hereto as Exhibit "A" and incorporated herein by reference.

DATED this 11<sup>th</sup> day of February, 1982.

Boyd R. Thomas  
Boyd R. Thomas  
District Judge

1 - RULE 54 (b) JUDGMENT RE WATER RIGHTS ON GEERTSON CREEK

RECORDED  
JUL 3 0 1996



Rule 54(b) Certificate

With respect to the issues determined by the above Judgment or order, it is hereby CERTIFIED, in accordance with Rule 54(b), I.R.C.P., that the court has determined that there is no just reason for delay of the entry of a final judgment and the the court has and does hereby direct that the above Judgment shall be a final judgment upon which extension may issue and an appeal may be taken as provided by the Idaho Appellate Rules.

DATED this 11<sup>th</sup> day of February, 1982.

Boyd R. Thomas  
Boyd R. Thomas  
District Judge

JUL 3 0 1996

EXHIBIT "A"

Kent W. Foster of  
HOLDEN, KIDWELL, HAHN & CRAPO  
P. O. Box 129  
Idaho Falls, Idaho 83401  
Telephone: 523-0620

Filed in District Court Lemhi County  
Date, March 23 1981  
at 5:52 minutes past 4 o'clock P. M.  
Eleanor Aldous Clerk  
By \_\_\_\_\_ Deputy

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

IN THE MATTER OF THE GENERAL )  
DETERMINATION OF THE RIGHTS TO ) Case No. 4948  
THE USE OF SURFACE WATERS AND )  
TRIBUTARIES FROM WHATEVER SOURCE )  
OF THE LEMHI RIVER DRAINAGE BASIN. ) STIPULATION

On the 26th day of September, 1979, the undersigned parties hereto, together with their respective attorneys of record, met at the Lemhi County Courthouse in Salmon, Idaho, pursuant both to notice previously received by each of said parties, and an "ORDER APPOINTING SPECIAL MASTER, SETTING PRETRIAL CONFERENCES, and SETTING CASE FOR TRIAL," entered by Boyd R. Thomas, Presiding District Judge, on the 5th day of September, 1979, a copy of which was duly served on each of the parties hereto and their respective attorneys of record. At the time and place scheduled for said pretrial conferences and trials, the parties hereto and their respective attorneys discussed at length the various objections referred to herein, and at the conclusion of said discussions, met in open court with the Honorable Milton A. Slavin, Magistrate for Lemhi County, the Special Master appointed by the District Court to hear the objections referred to herein, and stated for the record that an agreement for the resolution of all such objections had been reached, and that a formal stipulation setting forth the agreement of the parties hereto would be prepared and submitted

STATE OF IDAHO  
COUNTY OF LEMHI  
SS.

I, ELEANOR ALDOUS, CLERK OF THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF LEMHI, DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF THE ORIGINAL ON FILE IN THIS OFFICE.

IN WITNESS WHEREOF, I HAVE HEREUNTO SET MY HAND AND APPLIED MY OFFICIAL SEAL THIS 27 DAY OF June 1982  
ELEANOR ALDOUS, CLERK  
BY Eleanor Aldous DEPUTY

JUL 3 0 1982

for review and approval. This Stipulation constitutes the written agreement of the parties hereto for the disposition of certain portions of the objections previously filed in this action with respect to the various rights to the use of the waters of Geertson Creek and its tributaries in Lemhi County, State of Idaho. The parties hereto have agreed as follows:

1. The record owners of all of the lands to which the rights to the use of the waters of Geertson Creek and its tributaries are appurtenant were present and each was represented by counsel at the time and place set for pretrial conferences and trials on certain objections previously filed to the "Proposed Finding of Water Rights in the Lemhi River Basin" of the Director of the Idaho Department of Water Resources, dated July 9, 1974. The names and addresses of said persons and the names and addresses of their respective attorneys of record are:

Land Owner and Address

Attorney and Address

Herbert or Katherine Aldous  
Rte 1  
Salmon, Idaho 83467

Kent W. Foster  
Holden, Kidwell, Hahn & Crapo  
P.O. Box 129  
Idaho Falls, Idaho 83401

William B. and/or  
Rose Starr Boulton  
Box 6  
Salmon, Idaho 83467

Sherman F. Fury  
P. O. Box 1127  
Salmon, Idaho 83467

William T. and/or  
Wilma A. Bramlette  
P. O. Box 336  
Salmon, Idaho 83467

W. J. Anderson  
Sharp, Anderson and Bush  
P. O. Box 158  
Idaho Falls, Idaho 83401

E. Dale and/or  
Mildred H. Jolley  
Route 1  
Salmon, Idaho 83467

Kent W. Foster  
Holden, Kidwell, Hahn & Crapo  
P. O. Box 129  
Idaho Falls, Idaho 83401

Frank J. and/or  
Betty Kohl  
Route 1  
Salmon, Idaho 83467

W. J. Anderson  
Sharp, Anderson & Bush  
P. O. Box 158  
Idaho Falls, Idaho 83401

Land Owner and Address

Vergil O. and/or  
Irene Olson  
Route 1  
Salmon, Idaho 83467

A. M. and/or  
Verne Santos  
Route 1  
Salmon, Idaho 83401

Ralph L. and/or  
Alta C. Yates  
Route 1 Box 12A  
Salmon, Idaho 83467

Attorney and Address

W. J. Anderson  
Sharp, Anderson and Bush  
P. O. Box 158  
Idaho Falls, Idaho 83401

Kent W. Foster  
Holden, Kidwell, Hahn & Crapo  
P. O. Box 129  
Idaho Falls, Idaho 83401

Kent W. Foster  
Holden, Kidwell, Hahn & Crapo  
P. O. Box 129  
Idaho Falls, Idaho 83401

(Ralph L. and Alta C. Yates are not shown as holders of water rights on Geertson Creek and its tributaries in the Director's Proposed Findings which were filed with the court on or about July 9, 1974. Subsequent thereto, on May 26, 1978, Ralph L. and Alta C. Yates entered into a contract with Herbert A. and Katherine E. Aldous for the purchase of the real property described in the Director's Findings in the name of Herbert or Katherine Aldous to be irrigated with waters from Geertson Creek and its tributaries. Both the Aldouses and the Yates were present and represented by counsel on September 26, 1979 for the purpose of protecting their respective rights under the above mentioned contract of sale).

The landowners named in this paragraph own all of the land entitled to be irrigated with, and are the only holders of the rights to the use of, the waters of Geertson Creek and its tributaries.

Present on behalf of and representing the Director of the Idaho Department of Water Resources and the State of Idaho were L. Glen Saxton, Chief of the Operations Bureau for the Department of Water Resources, and Josephine P. Beeman, Deputy Attorney General.

2. Geertson Creek together with its tributaries is a stream arising in the mountains on the east side of the Lemhi

JUL 3 1976

River Valley in Lemhi County, some distance southeast of the City of Salmon. Although water flowing in Geertson Creek and its tributaries which is not withdrawn for irrigation purposes, ultimately flows into the Lemhi River, Geertson Creek and its tributaries, for the purposes of distribution of water pursuant to the rights mentioned herein, are not tributary to the Lemhi River.

3. Following the filing by the Director of the Idaho Department of Water Resources, of his "Proposed Finding of Water Rights in the Lemhi River Basin", on or about July 9, 1974, and pursuant to the provisions of Idaho Code, §42-1410, the following list of the above named landowners filed objections thereto on the dates set opposite their respective names:

E. Dale and Mildred H. Jolley	March 7, 1975
William T. and Willima A. Bramlette	March 12, 1975
Frank J. and Betty Kohl	March 12, 1975
Vergil and Irene Olson	March 12, 1975

The Director of the Idaho Department of Water Resources responded to these objections on March 24, 1975, and subsequently determined that all landowners entitled to the use of waters on Geertson Creek and its tributaries would be potentially affected by the resolution of one or more of said objections; consequently, the notices of and the order setting the pretrial conferences and trials thereon were served on all of the landowners who were parties to this agreement. The rights to the use of waters of Geertson Creek and its tributaries shall henceforth be, and the court may award a decree in the manner, set forth in the exhibit attached hereto as "Exhibit A", consisting of revised pages 61 through 67 of the Director's Proposed Finding of Water Rights on file with the court in this matter. All changes in priority dates of the various water rights specified in Exhibit A from the

Director's Proposed Findings are the result of compromises made to facilitate the orderly distribution of the waters of Geertson Creek and its tributaries by the undersigned parties in a good faith effort to resolve the various disputes which have arisen in connection with this adjudication proceeding. The parties hereto all understand and represent that the landowners listed herein are the owners of all of the land entitled to the use of waters from Geertson Creek and its tributaries and that there are no other rights to the use of waters from Geertson Creek and its tributaries which are not listed in Exhibit A. However, in the event any claim, action, or suit is filed in the future for the establishment of any right to the use of the waters of Geertson Creek with a priority earlier than any of those specified in Exhibit A, it is understood that the landowners signatory hereto do not intend to waive or concede the earlier priorities which may have been recommended in the Director's Proposed Finding of Water Rights or which any may be able to establish by virtue of available evidence and information.

5. All objections of the undersigned landowners to the Director's Proposed Findings with respect to the use of the waters of Geertson Creek and its tributaries, are hereby withdrawn. Specifically, but without intention to limit or exclude objections which would be withdrawn by implication or inference, the following specific numbered paragraphs of the objections filed by the parties named in paragraph 3. above, are to be included as having been withdrawn hereby:

- |                                |                                     |
|--------------------------------|-------------------------------------|
| E. Dale & Mildred Jolley       | Paragraphs V, VI, VII, VIII. and IX |
| William T. & Wilma A Bramlette | Paragraphs Nos. 1.a), b), and c).   |
| Frank J. and Betty Kohl        | Paragraphs Nos. 1.a), b), c) and d) |
| Vergil O. & Irene Olson        | Paragraphs Nos. 1.a), b), and c).   |

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 1980.

RECORDED  
 JUL 3 0 1986

LANDOWNERS:

Herbert Aldous  
Herbert Aldous

Katherine Aldous  
Katherine Aldous

William B. Boulton  
William B. Boulton

Rose Starr Boulton  
Rose Starr Boulton

William T. Bramlette  
William T. Bramlette

Wilma A. Bramlette  
Wilma A. Bramlette

E. Dale Jolley  
E. Dale Jolley

Mildred H. Jolley  
Mildred H. Jolley

Frank J. Kohl  
Frank J. Kohl

Betty Kohl  
Betty Kohl

\_\_\_\_\_  
Vergil O. Olson

\_\_\_\_\_  
Irene Olson

Verne Santos  
Verne Santos

A. M. Santos  
A. M. Santos

\_\_\_\_\_  
Ralph J. Yates

\_\_\_\_\_  
Aita C. Yates

ATTORNEYS FOR LANDOWNERS:

HOLDEN, KIDWELL, HAHN & CRAPO

By: Kent W. Foster  
Kent W. Foster

SHARP, ANDERSON & BUSH

By: W. J. Anderson  
W. J. Anderson

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ATTORNEYS FOR LANDOWNERS:

*Sherman F. Furey*  
Sherman F. ~~Furey~~ Furey

STATE OF IDAHO  
IDAHO DEPARTMENT OF WATER RESOURCES

By: *Josephine P. Beeman*  
Josephine P. Beeman  
Deputy Attorney General

The above Stipulation having been presented to the Court and the Court having read and considered the same, and being fully advised in the premises, it is hereby approved this \_\_\_\_\_ day of \_\_\_\_\_, 1980.

Milton A. Slavin, Magistrate,  
Sitting as Special Master

(Court Seal)

RECORDED  
JUL 3 1980



PROPOSED FINDING OF WATER RIGHTS - LEMHI RIVER DRAINAGE

SOURCE: Geertson Creek and Tribs

IDENT. NO.	NAME AND ADDRESS	PRIORITY	PURPOSE	PERIOD OF USE		MAXIMUM RATE OF DIVERSION (cfs)	POINT OF DIVERSION	PLACE OF USE and LANDS IRRIGATED	BASIS OF RIGHT and REMARKS
				From	To				
74-0009	SANTOS, A.M. and/or Verne Route 1 Salmon, Idaho	5-1-1868	Irrigation	4/1	11/1	0.3	NW $\frac{1}{4}$ SW $\frac{1}{4}$ , S.20 T21N, R23E	Sec. 19 SE $\frac{1}{4}$ SE $\frac{1}{4}$ 15.8 Sec. 20 SW $\frac{1}{4}$ SW $\frac{1}{4}$ 1.6 Sec. 30 NE $\frac{1}{4}$ NE $\frac{1}{4}$ 31.0 SE $\frac{1}{4}$ NE $\frac{1}{4}$ 3.5 T21N, R23E	Decree
									51.9
74-0001	ALDOUS, Herbert or Katherine Rte 1 Salmon, Idaho	6-1-1868	Irrigation	4/1	11/1	1.8	SW $\frac{1}{4}$ SE $\frac{1}{4}$ , S.17 T21N, R23E.	Sec. 19 Lot 1, 28.4 Lot 2, 17.3 Lot 3, 6.4 SE $\frac{1}{4}$ NW $\frac{1}{4}$ 11.9 NE $\frac{1}{4}$ SW $\frac{1}{4}$ 39.5 SE $\frac{1}{4}$ SW $\frac{1}{4}$ 16.0 T21N, R23E	Decree
									119.5
74-0002	JOLLEY, E. Dale and/or Mildred H. Route 1 Salmon, Idaho	5-1-1870	Irrigation	4/1	11/1	0.9	SE $\frac{1}{4}$ NE $\frac{1}{4}$ , S17 T21N, R23E	Sec. 18 Lot 3 6.9 Lot 4 12.8 SE $\frac{1}{4}$ SW $\frac{1}{4}$ , 14.0 Sec. 19 NE $\frac{1}{4}$ NE $\frac{1}{4}$ 36.7 NW $\frac{1}{4}$ NE $\frac{1}{4}$ 32.0 T21N, R23E	Decree
									102.4

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PROPOSED FINDING OF WATER RIGHT - LEMHI RIVER DRAINAGE

SOURCE: Geertson Creek and Trib.

IDENT. NO.	NAME AND ADDRESS	PRIORITY	PURPOSE	PERIOD OF USE		MAXIMUM RATE OF DIVERSION (cfs)	POINT OF DIVERSION	PLACE OF USE and LANDS IRRIGATED	BASIS OF RIGHT and REMARKS	
				From	To					
74-0005	JOLLEY, E. Dale and/or Mildred H. Route 1 Salmon, Idaho	5-1-1879	Irrigation	4/1	11/1	1.0	SW $\frac{1}{4}$ SE $\frac{1}{4}$ , S.17 T21N, R23E	Sec. 19	Decree	
								SW $\frac{1}{4}$ NE $\frac{1}{4}$		31.4
								SE $\frac{1}{4}$ NE $\frac{1}{4}$		22.3
								19.3		
								9.2		
								82.2		
74-0006	BOLTON, William B. and/or Rose Starr Box 6 Salmon, Idaho	5-1-1881	Irrigation	4/1	11/1	0.6	Sec. 4 Lot 1 SE $\frac{1}{4}$ NE $\frac{1}{4}$ Sec. 9 NE $\frac{1}{4}$ NE $\frac{1}{4}$ T21N, R23E	Sec. 9	Decree	
								NE $\frac{1}{4}$ NE $\frac{1}{4}$		15.3
								SE $\frac{1}{4}$ NE $\frac{1}{4}$		10.3
								23.9		
								31.7		
								81.2		
74-0007	BOLTON, William B. and/or Rose Starr Box 6 Salmon, Idaho	6-1-1884	Irrigation	4/1	11/1	1.0	Sec. 4 Lot 1 SE $\frac{1}{4}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$ T21N, R23E	Sec. 4	Decree	
								NE $\frac{1}{4}$ SE $\frac{1}{4}$		34.0
								NW $\frac{1}{4}$ SE $\frac{1}{4}$		10.7
								32.5		
								35.0		
								112.2		
74-0003	OLSON, Vergil O. and/or Mary Route 1 Salmon, Idaho	10-1-1884	Irrigation	4/1	11/1	0.6	SW $\frac{1}{4}$ SE $\frac{1}{4}$ , S.17 T21N, R23E	Sec. 13	Decree	
								NE $\frac{1}{4}$ SE $\frac{1}{4}$		17.6
								SE $\frac{1}{4}$ SE $\frac{1}{4}$		16.0
								7.3		
								40.9		

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PROPOSED FINDING OF WATER RIGHTS - LEMHI RIVER DRAINAGE

SOURCE: Geertson Creek and Tribs.

IDENT. NO.	NAME AND ADDRESS	PRIORITY	PURPOSE	PERIOD OF USE		MAXIMUM RATE OF DIVERSION (cfs)	POINT OF DIVERSION	PLACE OF USE and LANDS IRRIGATED	BASIS OF RIGHT and REMARKS	
				From	To					
74-0621	BOLTON, William B. and/or Rose Starr Box 6 Salmon, Idaho	6-1-1936	Irrigation	4/1	11/1	1.03	Sec. 16	Sec. 16	Beneficial Use	
							NE $\frac{1}{4}$ NW $\frac{1}{4}$	NE $\frac{1}{4}$ NW $\frac{1}{4}$		
							SW $\frac{1}{4}$ NW $\frac{1}{4}$	NW $\frac{1}{4}$ NW $\frac{1}{4}$		
							NW $\frac{1}{4}$ NW $\frac{1}{4}$	SW $\frac{1}{4}$ NW $\frac{1}{4}$		
							T21N R23E	Sec. 17	5.3	
							T21N R23E	SE $\frac{1}{4}$ NE $\frac{1}{4}$		
								T21N R23E	50.3	
74-0624	BOLTON, William B. and/or Rose Starr Box 6 Salmon, Idaho	6-1-1961	Irrigation	4/1	11/1	0.16	Sec. 9	Sec. 9	Beneficial Use	
							NE $\frac{1}{4}$ NE $\frac{1}{4}$	NE $\frac{1}{4}$ NE $\frac{1}{4}$		
							T21N R23E	SE $\frac{1}{4}$ NE $\frac{1}{4}$		
							Sec. 34	NW $\frac{1}{4}$ SE $\frac{1}{4}$		
							Lot 4	T21N R23E		
							T22N, R23E	7.7		

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PROPOSED FINDING OF WATER RIGHTS - LEMHI RIVER DRAINAGE

SOURCE: Geertson Creek and Tribs.

IDENT. NO.	NAME AND ADDRESS	PRIORITY	PURPOSE	PERIOD OF USE		MAXIMUM RATE OF DIVERSION (cfs)	POINT OF DIVERSION	PLACE OF USE and LANDS IRRIGATED	BASIS OF RIGHT and REMARKS
				FROM	TO				
74-2272	BOLTON, William B. and/or Rose Starr Box 6 Salmon, Idaho	5-23-1923	Irrigation	4/1	11/1	0.54	Sec. 4 Lot 1 SE $\frac{1}{4}$ NE $\frac{1}{4}$ T21N, R23E	Sec. 4 SE $\frac{1}{4}$ SW $\frac{1}{4}$ Sec. 9 NE $\frac{1}{4}$ NW $\frac{1}{4}$ T21N, R23E	License 1.0 14.6 <u>15.6</u>
4-0688	KOHL, Frank J. and/or Betty Route 1 Salmon, Idaho	4-11-1925	Irrigation	7/1	10/1	2.00	SW $\frac{1}{4}$ NW $\frac{1}{4}$ S.18 T22N, R24E	Sec. 17 NE $\frac{1}{4}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ T21N R23E	Beneficial Use Storage Geertson Lake 11.9 8.9 26.9 16.0 32.6 12.8 <u>109.1</u>
74-0832	OLSON, Vergil and/or Mary Route 1 Salmon, Idaho	4-11-1925	Irrigation	7/1	10/1	2.00	SW $\frac{1}{4}$ NW $\frac{1}{4}$ S.18 T22N, R24E	Sec. 17 SW $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$ Sec. 20 NE $\frac{1}{4}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$ T21N R23E	Beneficial Use Storage Geertson Lake 25.8 6.8 31.0 35.8 13.9 <u>113.3</u>

The Amount of storage under this right is 28.0 AF.

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PROPOSED FINDING OF WATER RIGHTS - LEMHI RIVER DRAINAGE

SOURCE: Geertson Creek and Tribs.

IDENT. NO.	NAME AND ADDRESS	PRIORITY	PURPOSE	PERIOD OF USE		MAXIMUM RATE OF DIVERSION (cfs)	POINT OF DIVERSION	PLACE OF USE and LANDS IRRIGATED	BASIS OF RIGHT and REMARKS
				FROM	TO				
74-0619	BOLTON, William B. and/or Rose Starr Box 6 Salmon, Idaho	5-24-1923	Irrigation 4/1	11/1	3.4	Sec. 34	Lot 4	Sec. 3	Beneficial Use
							T22N, R23E	Lot 4	9.2
							Sec. 4	SW $\frac{1}{4}$ NW $\frac{1}{4}$	12.3
							NE $\frac{1}{4}$ NE $\frac{1}{4}$	NW $\frac{1}{4}$ SW $\frac{1}{4}$	10.6
							SE $\frac{1}{4}$ NE $\frac{1}{4}$	SW $\frac{1}{4}$ SW $\frac{1}{4}$	3.0
							NE $\frac{1}{4}$ NE $\frac{1}{4}$	Sec. 4	19.6
							NE $\frac{1}{4}$ SE $\frac{1}{4}$	NE $\frac{1}{4}$ NE $\frac{1}{4}$	34.0
							SE $\frac{1}{4}$ SE $\frac{1}{4}$	NW $\frac{1}{4}$ SE $\frac{1}{4}$	10.7
							Sec. 9	SW $\frac{1}{4}$ SE $\frac{1}{4}$	32.5
							NE $\frac{1}{4}$ NE $\frac{1}{4}$	SE $\frac{1}{4}$ SE $\frac{1}{4}$	35.0
SW $\frac{1}{4}$ NE $\frac{1}{4}$	Sec. 9	15.3							
T21N, R23E	NE $\frac{1}{4}$ NE $\frac{1}{4}$	10.3							
	SE $\frac{1}{4}$ NE $\frac{1}{4}$	23.9							
	SE $\frac{1}{4}$ NW $\frac{1}{4}$	31.7							
	NW $\frac{1}{4}$ SE $\frac{1}{4}$								
	T21N, R23E								
	Sec. 34								
	Lot 4	2.0							
	T22N, R23E								
		250.1							
4-0845	JOLLEY E. Dale and/or Mildred H. Route 1 Salmon, Idaho	5-24-1923	Irrigation 4/1	11/1	1.34	SW $\frac{1}{4}$ NW $\frac{1}{4}$ , S.27 T22N, R23E	Sec. 27	Sec. 27	Beneficial Use
							SW $\frac{1}{4}$ SW $\frac{1}{4}$	SW $\frac{1}{4}$ SW $\frac{1}{4}$	16.5
							Sec. 34	NW $\frac{1}{4}$ NW $\frac{1}{4}$	22.0
							NW $\frac{1}{4}$ NW $\frac{1}{4}$	SW $\frac{1}{4}$ NW $\frac{1}{4}$	19.6
	NW $\frac{1}{4}$ SW $\frac{1}{4}$	9.1							
	T22N, R23E								
		67.2							

The rate for carrying water is listed because of the losses which occur in the ditch between the point of diversion from Geertson Creek and the place of use.

In the event a future transfer or other change to this right, the rate allowed for "carrying water" is not to be considered as part of the right.

MICROFILMED  
JUL 3 0 1996

PROPOSED FINDING OF WATER RIGHTS - LEMHI RIVER DRAINAGE

SOURCE: Geertson Creek and Tribs.

IDENT. NO.	NAME AND ADDRESS	PRIORITY	PURPOSE	PERIOD OF USE		MAXIMUM RATE OF DIVERSION (cfs)	POINT OF DIVERSION	PLACE OF USE and LANDS IRRIGATED	BASIS OF RIGHT and REMARKS
				From	To				
74-0833	OLSON Vergil and/or Mary Route 1 Salmon, Idaho	5-24-1923	Irrigation	4/1	11/1	2.88	Sec. 17	Sec. 17	Beneficial Use Geertson Creek and Steele Gulch
							SW $\frac{1}{4}$ SE $\frac{1}{4}$	NW $\frac{1}{4}$ SW $\frac{1}{4}$	
							SE $\frac{1}{4}$ NE $\frac{1}{4}$	SW $\frac{1}{4}$ SW $\frac{1}{4}$	
							Sec. 20	SE $\frac{1}{4}$ SW $\frac{1}{4}$	
							NE $\frac{1}{4}$ NW $\frac{1}{4}$	Sec. 18	
							T21N, R23E	SE $\frac{1}{4}$ SE $\frac{1}{4}$	
								Sec. 20	
								NE $\frac{1}{4}$ NW $\frac{1}{4}$	
								NW $\frac{1}{4}$ NW $\frac{1}{4}$	
								SE $\frac{1}{4}$ NW $\frac{1}{4}$	
	T21N, R23E								
	Sec. 13								
	NE $\frac{1}{4}$ SE $\frac{1}{4}$	17.6							
	SE $\frac{1}{4}$ SE $\frac{1}{4}$	16.0							
	T21N, R22E								
	Sec. 18								
	Lot 4	7.3							
	T21N, R23E								
189.9									

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PROPOSED FINDING OF WATER RIGHTS - LEMHI RIVER DRAINAGE

SOURCE: Geertson Creek and Tribs

IDENT. NO.	NAME AND ADDRESS	PRIORITY	PURPOSE	PERIOD OF USE		MAXIMUM RATE OF DIVERSION (cfs)	POINT OF DIVERSION	PLACE OF USE and LANDS IRRIGATED	BASIS OF RIGHT and REMARKS
				From	To				
74-1669B	JOLLEY, E. Dale and/or Mildred H. Route 1 Salmon, Idaho	5-24-1923	Irrigation	4/1	11/1	0.90	SW $\frac{1}{4}$ SE $\frac{1}{4}$ S.17 T21N, R23E	Sec. 19	Beneficial Use
								SW $\frac{1}{4}$ NE $\frac{1}{4}$	
								SE $\frac{1}{4}$ NE $\frac{1}{4}$	
								NW $\frac{1}{4}$ SE $\frac{1}{4}$	
							Sec. 20		
							SW $\frac{1}{4}$ NW $\frac{1}{4}$	9.2	
							T21N, R23E	82.2	
74-1805	ALDOUS, Herbert and/or Katherine Route 1 Salmon, Idaho	5-24-1923	Irrigation	4/1	11/1	0.60	SW $\frac{1}{4}$ SE $\frac{1}{4}$ S.17 T21N, R23E	Sec. 19	Beneficial Use
								Lot 1	
								Lot 2	
								Lot 3	
							SE $\frac{1}{4}$ NW $\frac{1}{4}$	11.9	
							NE $\frac{1}{4}$ SW $\frac{1}{4}$	39.5	
							SE $\frac{1}{4}$ SW $\frac{1}{4}$	16.0	
							T21N, R23E	119.5	
74-0687	KOHLE, Frank J. and/or Betty Route 1 Salmon, Idaho	5-24-1923	Irrigation	4/1	11/1	0.68	Sec. 16 SW $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 17 NE $\frac{1}{4}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ T21N, R23E	Sec. 17	Beneficial Use
								NE $\frac{1}{4}$ SE $\frac{1}{4}$	
								NW $\frac{1}{4}$ SE $\frac{1}{4}$	
								SW $\frac{1}{4}$ SE $\frac{1}{4}$	
							T21N, R23E	34.2	

PROPOSED FINDING OF WATER RIGHTS - LEMHI RIVER DRAINAGE

SOURCE: Geertson Creek and Tribs.

IDENT. NO.	NAME AND ADDRESS	PRIORITY	PURPOSE	PERIOD OF USE		MAXIMUM RATE OF DIVERSION (cfs)	POINT OF DIVERSION	PLACE OF USE and LANDS IRRIGATED	BASIS OF RIGHT and REMARKS
				From	To				
74-0413	KOHLE, Frank J. and/or Betty Route 1 Salmon, Idaho	5-22-1923	Irrigation	4/1	11/1	1.00	SE $\frac{1}{4}$ NE $\frac{1}{4}$ , S.17 T21N, R23E	Sec. 17	Beneficial Use (Steel Gulch)
								NE $\frac{1}{4}$ SW $\frac{1}{4}$	
								SW $\frac{1}{4}$ SW $\frac{1}{4}$	
								SE $\frac{1}{4}$ SW $\frac{1}{4}$	
							NW $\frac{1}{4}$ SE $\frac{1}{4}$	29.4	
							T21N, R23E	77.1	
74-0515	SANTOS, A.M. and/or Verne Route 1 Salmon, Idaho	5-24-1923	Irrigation	4/1	11/1	0.74	NW $\frac{1}{4}$ SW $\frac{1}{4}$ , S.20 T21N, R23E	Sec. 19	Beneficial Use
								SE $\frac{1}{4}$ SE $\frac{1}{4}$	
								Sec. 20	
								SW $\frac{1}{4}$ SW $\frac{1}{4}$	
							Sec. 30	1.6	
							NE $\frac{1}{4}$ NE $\frac{1}{4}$	31.0	
							SE $\frac{1}{4}$ NE $\frac{1}{4}$	3.5	
							T21N, R23E	51.9	
74-0918	BOLTON, William B. and/or Rose Starr Box 6 Salmon, Idaho	5-24-1923	Irrigation	4/1	11/1	1.32	Sec. 4	Sec. 9	Beneficial Use
								SE $\frac{1}{4}$ NE $\frac{1}{4}$	
								SE $\frac{1}{4}$ SE $\frac{1}{4}$	
								Sec. 9	
							T21N, R23E	66.0	
							NW $\frac{1}{4}$ NE $\frac{1}{4}$		
							T21N, R23E		
74-1669A	JOLLEY, E. Dale and/or Mildred H. Route 1 Salmon, Idaho	5-24-1923	Irrigation	4/1	11/1	1.84	SE $\frac{1}{4}$ NE $\frac{1}{4}$ , S.17 T21N, R23E	Sec. 18	Beneficial Use
								Lot 3	
								Lot 4	
								SE $\frac{1}{4}$ SW $\frac{1}{4}$	
							Sec. 19	6.9	
							NE $\frac{1}{4}$ NE $\frac{1}{4}$	12.8	
							NW $\frac{1}{4}$ NE $\frac{1}{4}$	14.0	
							NE $\frac{1}{4}$ NW $\frac{1}{4}$	36.7	
							T21N, R23E	32.0	
								8.8	
								111.2	



PROPOSED FINDING OF WATER RIGHTS - LEMHI RIVER DRAINAGE

SOURCE: Geertson Creek and Tribs

IDENT. NO.	NAME AND ADDRESS	PRIORITY	PURPOSE	PERIOD OF USE		MAXIMUM RATE OF DIVERSION (cfs)	POINT OF DIVERSION	PLACE OF USE and LANDS IRRIGATED	BASIS OF RIGHT and REMARKS	
				From	To					
74-0008A	KOHN, Frank J. and/or Betty Route 1 Salmon, Idaho	5-1-1887	Irrigation	4/1	11/1	0.3	SE $\frac{1}{4}$ NE $\frac{1}{4}$ , S.17 T21N, R23E	Sec. 17 SE $\frac{1}{4}$ SW $\frac{1}{4}$ T21N, R23E	26.9 26.9	Decree
74-0008B	OLSON, Vergil and/or Mary Route 1 Salmon, Idaho	5-1-1887	Irrigation	4/1	11/1	0.3	SW $\frac{1}{4}$ SE $\frac{1}{4}$ , S.17 T21N, R23E	Sec. 17 SE $\frac{1}{4}$ SW $\frac{1}{4}$ Sec. 20 NE $\frac{1}{4}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$ T21N, R23E	6.8 31.0 35.8	Decree
74-2197	JOLLEY, E. Dale and/or Mildred H. Route 1 Salmon, Idaho	2-28-1916	Irrigation	4/1	11/1	1.2	Sec. 34 NE $\frac{1}{4}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$ T22N, R23E	Sec. 34 SW $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$ T22N, R23E	14.1 5.7 7.9 11.0	License Gary Creek
74-2200	BRAMLETTE, William T. and/or Wilma A. P.O. Box 336 Salmon, Idaho	3-30-1916	Irrigation	4/1	11/1	3.1	Sec. 4 Lot 1 Sec. 9 NW $\frac{1}{4}$ NE $\frac{1}{4}$ T21N, R23E	Sec. 9 NE $\frac{1}{4}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$ T21N, R23E	38.9 6.0 27.2 37.6	License
74-2203	JOLLEY, E. Dale and/or Mildred H. Route 1 Salmon, Idaho	8-9-1916	Irrigation	4/1	11/1	0.40	NE $\frac{1}{4}$ NE $\frac{1}{4}$ , S.34 T22N, R23E	Sec. 34 NE $\frac{1}{4}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$ T22N, R23E	1.0 10.2	License Gary Creek
									109.7	
									11.2	

JUL 8 1966

Filed in District Court Lemhi County  
Idaho, December 16 1981  
at 24 minutes past 3 o'clock P. M.  
Eleanor Aldous Clerk  
By Albert H. Erickson Deputy  
File of Court Proceedings

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

IN THE MATTER OF THE GENERAL )  
DETERMINATION OF THE RIGHTS TO) MEMORANDUM DECISION  
THE USE OF SURFACE WATERS AND )  
TRIBUTARIES FROM WHATEVER )  
SOURCE OF THE LEMHI RIVER ) Case No. 4948  
DRAINAGE BASIN. )  
-----

At a hearing held September 7, 1981, in this matter, the propriety of this Court receiving and filing a Special Master's Report in connection therewith was questioned. It appeared that Virgil and Irene Olson had filed objection to the filing of the Master's Report. It is not necessary for the Court to review background information; suffice it to say that the Master has heard the matter to this point and now files, or attempts to file, his Report herein.

The record seems clear that on or about September 25th and 26th, 1979, the various users of water on Geertson Creek, a tributary of the Lemhi River, had met in the Lemhi County Courthouse with a representative of the Department of Water Resources and the Department's attorney. Each of the users were represented either in person or by an attorney of record. The present objectors, Virgil and Irene Olson, were represented by their attorney at that time. It further appears undisputed that on September 26, 1979, the parties agreed to the determination of the division of water rights on Geertson Creek. The Special Master, appointed by this Court, came into the courtroom with a Clerk and a formal record was made that the parties had reached an agreement and that a written document outlining the agreement would be submitted to the

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Court thereafter. Subsequently the proposed stipulation in written form was circulated among the parties and apparently was not accepted by the Olsons. On April 24, 1981, the Special Master conducted another hearing to determine why the written agreement was not executed. All of the Geertson Creek water users were present at that hearing and represented by counsel. Following the hearing the Master entered his Decision to the effect that the agreement accurately stated the understanding which was binding upon the State of Idaho and on each of the parties entitled to the use of water from Geertson Creek with regard to any objection they had thereto. Olson filed objections to the Master's Report and requested this Court to reverse the Decision of the Special Master. The other water users have requested this Court to enter a Decree adopting the Report of the Special Master as to the specific objections on the water rights problem in Geertson Creek. At the hearing referred to initially, that of September 17, 1981, all the parties were represented by counsel.

Preliminarily, it may be stated by this Court, that it is not necessary to cite authority for the proposition that the attorneys for a party have the authority and power to enter into stipulations and agreements which are binding upon their respective parties in litigation. Hence the question of lack of authority or any other similar matter is not before the Court at this time.

The next inquiry that logically should be made is whether or not the stipulation entered into by the attorneys for the parties in the pending litigation represented actually in fact the agreement of the parties. On this matter the Special Master made a specific finding that the documents

entitled "stipulation" accurately states the agreement between the parties. That finding will not be overturned by this Court.

The objectors take the point of view that if the agreement reached on September 26, 1979, is viewed as a contract entered into by the parties as a result of a compromise, then the contract is invalidated by the Idaho statute of frauds. This Court feels that the statute of frauds is not involved in this case based upon the analogous reasoning found in the boundary dispute cases. In other words, where there is ample evidence and authority for the fact that a good faith dispute concerning the boundaries of land and a compromise is reached therein merely fixing the dividing line between the lands, such an agreement does not involve the statute of frauds. In other words, the ownership of land in a boundary dispute, involving the question of the quantity that each party owns, does not affect the passage of title, but is merely designed to clarify and give effect to the title each party has derived from another source. I feel that the determination of water rights is a similar situation. The basis for the individual owner's water rights is based on facts not arising out of this action, but an attempt to merely clarify the quantity of water that each party is entitled to receive and therefore the statute of frauds is not applicable. 15 Am Jur 2d, Section 11, page 783.

In short, I feel that the agreement between the parties is enforceable and the only thing preventing it from going into effect would be whether or not it is so vague and indefinite so as to be not an accurate determination of the agreement between the parties. There is no need to send this

back to the Master to determine the latter question when that question has already been determined by the Master.

Based on the foregoing, it would be the decision of this Court that the Special Master's Report be filed and be adopted as Findings of Fact and Conclusions of this Court.

Dated this 14th day of December, 1981.

Boyd R. Thomas  
Boyd R. Thomas  
District Judge

RECORDED & INDEXED

JUL 30 1996

666 P.2d 188

In the Matter of the General Determination of the Right to the Use of Surface Waters and Tributaries from Whatever Source of the Lemhi River Drainage Basin

Vergil O. and Irene OLSON, Appellants,

v.

IDAHO DEPARTMENT OF WATER RESOURCES; Herbert and Katherine Aldous; William B. and Rose Starr Boulton; William T. and Wilma A. Bramlette; E. Dale and Mildred H. Jolley; Frank J. and Betty Kohl; A.M. and Verne Santos; Ralph and Alda C. Yates; Arthur C. Tonsmeire III; Joseph and Frances Tonsmeire, Respondents.

No. 14578.

Supreme Court of Idaho.

July 7, 1983.

Appeal was taken from a judgment of the District Court, Seventh Judicial District, Lemhi County, Boyd R. Thomas, J., adopting special master's finding in water rights controversy. The Supreme Court, Bakes, J., held that: (1) action of special master determined question outside scope of order of reference, and thus was an action in excess of his jurisdiction, and his report on that question should not have been accepted by district court, and (2) oral agreement entered into between parties fell directly within statute of frauds and, if still executory, would be unenforceable.

Reversed and remanded with directions.

Shepard, J., dissented.

### 1. Reference ⇐48

Power of special master is determined by his order of reference, and he possesses no power to hear controversies or perform acts outside scope of order. Rules Civ. Proc., Rules 53, 53(c).

### 2. Stipulations ⇐1

A stipulation is a contract.

### 3. Stipulations ⇐6

Enforceability of an oral stipulation is determined by contract principles.

### 4. Stipulations ⇐6

Applicability of statute of frauds to an oral stipulation is a contract question.

### 5. Reference ⇐48

Special master, who was empowered in water rights case to hear objections to Department of Water Resources proposed finding and to make findings of fact and conclusions of law on those objections, was not empowered by order of reference to determine enforceability of oral stipulation or applicability of statute of frauds to oral stipulation, and therefore action of special master in determining those questions was in excess of his jurisdiction and his report should not have been accepted by district court. Rules Civ.Proc., Rules 53, 53(c).

### 6. Compromise and Settlement ⇐5(3)

On issue of enforceability of stipulation to settle litigation, under some circumstances, an oral stipulation will be enforced.

### 7. Frauds, Statute of ⇐74(1)

Since it is a contract, a stipulation must comply with requirements normally required of other contracts; thus, when subject matter of stipulation falls within prescription of statute of frauds, and agreement is oral and executory, it is unenforceable.

### 8. Frauds, Statute of ⇐103(1)

A stipulation whose subject matter is within statute of frauds must be in writing and signed by parties to be charged.

### 9. Frauds, Statute of ⇐74(1)

Record demonstrated that compromise worked out between parties in water rights case changed existing water rights, and therefore that oral stipulation fell directly within statute of frauds, and, if still executory, would be unenforceable.

Matthew J. Mullaney, Jr., Boise, Idaho,  
for appellants.

JUL 9 0 1983

Cite as 105 Idaho 98

Kent W. Foster, of Holden, Kidwell, Hahn & Crapo, Idaho Falls, Idaho, for respondents.

BAKES, Justice.

Appellants Olson appeal from a Rule 54(b) partial judgment, issued by the district court, adopting a special master's finding that all of the parties were bound by a stipulation filed in a water right controversy, allegedly orally agreed to, but ultimately not signed by the Olsons.<sup>1</sup>

This case arises out of a controversy over water rights in the Lemhi River basin. All of the parties involved in the present case are landowners in the Geertson Creek drainage, part of the Lemhi River adjudication.

On April 30, 1970, the Department of Water Resources petitioned the Seventh District Court for an order commencing an adjudication of water rights in the Lemhi River basin. I.C. § 42-1406. Such an order was issued on August 13, 1970, commencing the water right determination. On July 17, 1974, the department filed its proposed findings of water rights in the area. I.C. § 42-1410. Several landowners on the Geertson Creek drainage, including the Olsons, filed objections to these proposed findings. I.C. § 42-1410. By court order dated September 5, 1979, the objections were referred to a special master and set for pretrial conference and hearing.

On September 25 and 26, 1979, all claimants to the Geertson Creek drainage, with their attorneys, met to conduct a pretrial conference. During these meetings, the parties apparently worked out an oral compromise agreement settling the contested water rights. The special master was not present during the negotiations, but the parties' attorneys did appear in open court on September 26, and then indicated to the master on the record the following:

"BEEMAN: [Attorney for Department of Water Resources] Your Honor, yesterday and today the various parties and counsel involved in the objections . . .

met to discuss those objections. As a result of the pre-trial conferences, the objections . . . have been withdrawn on the basis of an agreement which will be drafted by Mr. Foster and that document will be submitted to the Court, indicating that it is the basis for the withdrawal of those objections. . . . [A]ll were withdrawn based on the agreement that will be filed with the Court. For the Court's approval."

Based upon that representation in the record, no hearing on the objections was held.

When the agreement was reduced to writing some time later, the Olsons, appellants herein, refused to sign it. An order was issued to the Olsons by the special master on March 23, 1981, requiring that they appear and show cause why the written agreement should not be accepted by the special master, even though not signed by the Olsons. An evidentiary hearing was subsequently held before the special master to determine the binding effect of the oral compromise. On June 16, 1981, the special master entered a decision adopting the stipulation as the agreement of the parties. The Olsons filed an objection to the report of the special master.

Argument before the district court was held to determine if the district court should adopt the decision of the special master. The court sustained the findings of the special master and issued a decree settling water rights in accordance with the written stipulation. The Olsons then filed this notice of appeal.

We conclude that this case must be reversed and remanded to the district court because the action of the special master in determining a question outside the scope of the order of reference was an action in excess of his jurisdiction, and thus his report on that question should not have been accepted by the district court. Because this case must be reversed and remanded, we also address the question of whether an oral agreement to compromise water rights falls

1. The other parties, the Yateses, were allowed to remove their signatures because they had

sold their interest to the Tonsmeires. The Tonsmeires never signed the stipulation.

within the statute of frauds because it is a question of law necessary to the final determination of this case. I.C. § 1-205; *Idaho State University v. Mitchell*, 97 Idaho 724, 552 P.2d 776 (1976); *Lewiston Lime Co. v. Barney*, 87 Idaho 462, 394 P.2d 323 (1964); *Ore-Ida Potato Products, Inc. v. United Pacific Ins. Co.*, 87 Idaho 185, 392 P.2d 191 (1964).

## I

[1] I.R.C.P. 53 allows a trial court to appoint a special master to hear portions of a particular case. The case is assigned to a special master pursuant to an order of reference. I.R.C.P. 53(c). The order of reference can be broad, or limited, and usually specifies exactly what issues are submitted to the master. I.R.C.P. 53(c)<sup>2</sup> reads in part:

"RULE 53(c). POWERS OF MASTER.

—The order of reference to the master may specify or limit his powers and may direct him to report only upon particular issues or to do or perform particular acts or to receive and report evidence only . . . . Subject to the specifications and limitations stated in the order, the master has and shall exercise the power to regulate all proceedings in every hearing before him . . . ."

Thus, the power of the master is determined by his order of reference, and he possesses no power to hear controversies or perform acts outside the scope of the order. See *Idaho Placer Mining Co. v. Green*, 14 Idaho 294, 94 P. 161 (1908).

The order of reference in this case reads as follows:

"[T]he Honorable Milton A. Slavin, Magistrate of the above-entitled Court, be, and hereby is, appointed Special Master to hear said specific objections filed by the objectors listed below; and is fully empowered to make Findings of Fact and Conclusions of Law and do everything necessary to proceed to hear such objections . . . ."

2. Federal Rule of Civil Procedure 53(c) is identical to the Idaho rule.
3. The district court was examining the findings of the special master in accordance with Rule

Thus, the special master in this case was empowered to hear the objections to the department's proposed findings of water rights and to make findings of fact and conclusions of law on those objections. The master was not empowered to resolve a contract dispute between the parties. However, that, in effect, is what he did.

[2-5] A stipulation is a contract. *Wilson v. Bogert*, 81 Idaho 535, 347 P.2d 341 (1959). The enforceability of an oral stipulation is determined by contract principles. The applicability of the statute of frauds to an oral stipulation is a contract question. The order of reference to the special master did not authorize him to decide those issues. While the district court examined the findings of the special master and ruled that the "finding will not be overturned by this Court,"<sup>3</sup> the special master was acting in excess of his authority, and the district court erred in accepting the special master's report. The enforceability of the stipulation was an issue which should have been tried by the district court, not the master.

## II

[6-8] On the issue of enforceability of a stipulation to settle litigation, under some circumstances, an oral stipulation will be enforced. See Restatement (Second) Contracts § 94 (1981). However, since it is a contract, it must comply with the requirements normally required of other contracts. Thus, when the subject matter of the stipulation falls within the proscription of the statute of frauds, and the agreement is oral and executory, it is unenforceable. A stipulation whose subject matter is within the statute of frauds must be in writing and signed by the parties to be charged. *Jackson v. Shain*, 619 S.W.2d 860 (Mo.1981); *DeWitt v. Lutes*, 581 S.W.2d 941 (Mo.1979).

Under Idaho law, real property must be transferred by a written instrument. I.C.

53(e)(2), which indicates that once a special master determines the issues submitted to him, a district court must accept those determinations unless they are clearly erroneous.



Cite as 105 Idaho 98

§ 9-503;<sup>4</sup> I.C. § 9-505.<sup>5</sup> **In Idaho water rights are real property. I.C. § 55-101.** Thus, if the oral stipulation entered into in this case was an executory contract establishing and declaring water rights, it is a contract falling within the statute of frauds and is unenforceable in the absence of a writing. See *Sims v. Purcell*, 74 Idaho 109, 257 P.2d 242 (1953) (oral compromise agreements within the statute of frauds unless taken out by part performance); *Francis v. Green*, 7 Idaho 668, 65 P. 362 (1901) (oral settlement contract to convey water rights within statute of frauds unless taken out by part performance).

[9] The record indicates that the compromise worked out between the parties in this case did change existing water rights. Priority dates were reshuffled among the water users, and, in some cases, the amounts of use were changed.

A water right is defined, not in terms of metes and bounds as in other real property, but in terms of the priority, amount, season of use, purpose of use, point of diversion, and place of use. See I.C. § 42-1410. A compromise to change or exchange any of these definitional factors would be identical to a compromise to change or exchange a portion of the metes and bounds description

4. I.C. § 9-503 reads as follows:  
 "9-503. TRANSFERS OF REAL PROPERTY TO BE IN WRITING.—No estate or interest in real property . . . can be created, granted, assigned, surrendered, or declared, otherwise than by operation of law, or a conveyance or other instrument in writing, subscribed by the party creating, granting, assigning, surrendering or declaring the same, or by his lawful agent thereunto authorized by writing."
5. I.C. § 9-505 reads in part as follows:  
 "9-505. CERTAIN AGREEMENTS TO BE IN WRITING.—In the following cases the agreement is invalid, unless the same or some note or memorandum thereof, be in writing and subscribed by the party charged, or by his agent. . . .  
 "5. An agreement for the . . . sale, of real property, or of an interest therein, and such agreement, if made by an agent of the party sought to be charged, is invalid, unless the authority of the agent be in writing, subscribed by the party sought to be charged."

of real property. Viewed as such, the oral agreement entered into between the parties in the present case falls directly within the statute of frauds and, if still executory, would be unenforceable. It is not entirely clear from the record whether the oral agreement was still executory, or whether there had been sufficient part performance to take it out of the statute of frauds.<sup>6</sup>

Accordingly, we reverse and remand to the district court with directions to determine whether there was any part performance of the oral stipulation sufficient to take the agreement out of the statute of frauds. If not, the court or the master should proceed to hear the objections to the proposed findings of the Department of Water Resources.

DONALDSON, C.J., and BISTLINE and HUNTLEY, JJ., concur.

SHEPARD, J., dissents without opinion.



6. The district court relied on a line of Idaho cases generally referred to as the "agreed boundary" cases. Although the legal rationale for these cases is not always stated in them, or may be stated in different terms (as: not a "conveyance of land," thus not within the statute of frauds, see *Downing v. Boehringer*, 82 Idaho 52, 349 P.2d 306 (1960)), they are most likely a branch of the part performance exception to the statute of frauds. Corbin, *Contracts*, § 412. See also *Restatement (Second) Contracts*, § 128 and comment. The agreed boundary cases involve a boundary line between two adjoining tracts which is disputed, and the landowners settle the dispute by marking the agreed upon boundary and taking possession of the land up to that line. This resembles part performance, alleviating the need to invoke the statute. As noted above, the rationale underlying these cases, that of part performance of the oral contract between the parties, could possibly exist in this case, but must be proven in an evidentiary hearing conducted before the district court.