



WATER-RIGHT DOCKET

Minidoka National Historic Site

Docket No: 3

HERRMANN FARM WELL

Preliminary Docket Information

08-05-2009: American Fall Reservoir District #2, cont

Ms. Sabala estimated that water shares sell for about \$700 to \$1,000 each, but may sell for as much \$2,000. The estimated value for the 74 shares ranges from \$51,800 to \$74,000.

Ms. Sabala noted that a water share is 5/8 of a miner's inch. In Idaho, a miner's inch is 1/50 (0.02) cubic feet per second or 9.0 gallons per minute. The 74 water shares amount to 0.925 cubic feet per second or 415 gallons per minute, 24 hours a day, seven days a week, during the period of use.

The District usually delivers 100% of a water share. In dry years or occasionally for short periods, the District may deliver only 80% of a share. All shareholders share the burden of a water shortage.

In 2009 the annual payment for each water share was \$29.00. The payments are used for the District's maintenance and operations (M&O) activities. The 2009 payment for the 74 water shares was \$2,146.

After the NPS obtains title to the water shares, it should notify the District of the ownership change as soon as possible. At the beginning of each calendar year, the NPS should tell the District how many shares it plans to use. The District can lease any remaining shares. Ms. Sabala said it is not difficult to find lessees, provided the NPS informs the District in early January regarding how many shares it does not plan to use. The District leases unused shares on a first-come basis.

The share leases are good for one growing season. For any shares that the District is unable to lease, the shareowner makes the M&O payment.

If a shareholder does not make payment, the District delivers no water. The payments are due on or before April 1.

There is also the option of the NPS finding lessees itself. In this case, the NPS would be responsible for all assessed and annual payments.

Ms. Sabala recommended that the NPS water shares remain attached to their original parcels, in case the parcels are sold or exchanged. Water shares increase the value of land.

Wells and Water Rights

I found one well on the former Herrmann farm, using the website of the Idaho Department of Water Resources. The well is probably located at the homestead. The well has a decreed water right (No. 36-14433). The priority date is March 14, 1952. The quantity is 0.06 cubic feet second (27 gallons per minute) and cannot exceed 13,000 gallons per day or 14.6 acre-feet per year. The water may be used for domestic and stock watering purposes: third-thirds for domestic and one-third for stock watering. The place of use is the SW¼ of the SW ¼ of Sec. 33, T08S, R19E, and the period of use is from January 1 through December 31.

A well on the former Robison farm (now owned by the TCF) has been proposed for transfer to the NPS. This well is probably located at the old Robison homestead. The decreed water right for the well is No. 36-13790 with a priority date of August 1, 1949. The quantity is 0.06 cubic feet second (27 gallons per minute) and cannot exceed 13,000 gallons per day or 14.6 acre-feet per year. The water may be used for domestic and stock watering purposes: third-thirds for domestic and one-third for stock watering. The place of use is the SE¼ of the SE ¼ of Sec. 32, T08S, R19E, and the period of use is from January 1 through December 31.

In July 2009, a decreed groundwater right (No. 36-11119) was transferred from the US Bureau of Reclamation to the National Park Service. The priority date is December 31, 1947. The quantity is 0.04 cubic feet second (18 gallons per minute) and may not exceed 13,000 gallons per day or 14.6 acre-feet per year. The water may be used for domestic purposes. The place of use is Lot 6 (in the SW ¼ of SE¼ of the SW ¼) of Sec. 33, T08S, R19E, and the period of use is from January 1 through December 31.

“Domestic purposes” is defined by Idaho Statute as “(a) the use of water for homes, organization camps, public campgrounds, livestock and for any other purpose in connection therewith, including irrigation of up to one-half (1/2) acre of land, if the total use is not in excess of thirteen thousand (13,000) gallons per day, or (b) any other uses, if the total use does not exceed a diversion rate of four one-hundredths (0.04) cubic feet per second and a diversion volume of twenty-five hundred (2,500) gallons per day.” The exception for domestic purposes does not include “water for multiple ownership subdivisions, mobile home parks, commercial or business establishments” unless the use does not exceed a diversion rate of four one-hundredths (0.04) cubic feet per second and a diversion volume of twenty-five hundred (2,500) gallons per day. (Idaho Statute Title 42-111)

WELLS

According to Shelley Keen of the Idaho Department of Water Resources, the withdrawal of groundwater for domestic purposes is not subject to permitting. Rights to groundwater for domestic purposes are acquired simply by withdrawal and use. Many parties, however, chose to file claims for domestic use in the Snake River adjudication. After all, the filing fee was only \$25.

Mr. Keen stated that water used for NPS administrative and visitor purposes is classified as "commercial purposes."

The table below shows the water right number, quantity, volume and purposes for the three wells.

<i>Well Name</i>	<i>Water Right No.</i>	<i>Quantity</i>	<i>Volume</i>	<i>Existing Purposes</i>	<i>Assumed Future NPS Purposes</i>
Former Herrmann Farm	36-14433	0.04 cfs	≤13,000 gpd	Domestic (one house)	Commercial and Domestic
		0.02 cfs		Stock water	
Former Robison Farm	36-13790	0.04 cfs	≤13,000 gpd	Domestic (one house)	Commercial and Domestic
		0.02 cfs		Stock water	
Former Bureau of Reclamation	36-11119	0.04 cfs	≤13,000 gpd	Domestic	Commercial

cfs = cubic feet per second

gpd = gallons per day

As noted in a previous email, domestic use is defined by Idaho Statute Title 42-111 as "... (a) the use of water for homes, organization camps, public campgrounds, livestock and for any other purpose in connection therewith, including irrigation of up to one-half (1/2) acre of land, if the total use is not in excess of thirteen thousand (13,000) gallons per day, or (b) any other uses [including commercial], if the total use does not exceed a diversion rate of four one-hundredths (0.04) cubic feet per second and a diversion volume of twenty-five hundred (2,500) gallons per day."

Title 42-111 further notes that "[d]omestic purposes or domestic uses shall not include water for multiple ownership subdivisions, mobile home parks, or commercial or business establishments, unless the use meets the diversion rate and volume limitations set forth" above.

Mr. Keen said that the NPS should change through application the nature of water use for the wells to reflect actual purposes. The volume of water withdrawn from a well, however, must remain less than or equal to the decreed volume, in this case, 13,000 gpd for each well..

The nature of water use may be changed by filing a transfer application with IDWR. After receiving a transfer application, IDWR ensures that the proposed transfer does not injure other

water rights, enlarge the original water right, conflict with the local public interest, prevent the conservation of water resources within Idaho, or adversely affect the local economy.

Mr. Keen said that two or more of the NPS's domestic wells cannot be linked together to provide water for a single water system. This would be called enlargement. In sum, one well is to serve one water system. (See Title 42-111(3).)

If a larger volume is required, a new water-right application could be filed. However, according to Mr. Keen, there is a moratorium on new groundwater rights for volumes greater than 13,000 gpd in the eastern Snake River Plain (which includes Minidoka NHS). No new permits for groundwater use are issued, except in cases of overriding public interest or exchange of surface water rights in the Snake River for groundwater rights. Therefore, the NPS probably could not obtain through application a groundwater right for larger volumes from the three wells or a new well.

Should the NPS determine that larger volumes are needed from a well, it may consider purchasing a water right, preferably one with an earlier (senior) priority date rather than one with a later (junior) priority date, and transferring it to Minidoka NHS. In August 2009, IDWR began shutting down junior groundwater users in the eastern Snake River plain, including irrigators and municipalities. Mr. Keen noted that the sale of water rights in Idaho is common.

Before IDWR approves a transfer of groundwater rights from one place to another place, it makes changes in its groundwater model to determine how the transfer will affect the discharge of the Snake River. Mr. Keen recommends that, if the NPS purchases a groundwater right, it should purchase a groundwater right with a well located as close as possible to Minidoka NHS. There are irrigation wells in the area. The NPS would only need to purchase a portion of a groundwater right, rather than the entire right. Water rights can be split.

If needed, the NPS could also construct wells to supply a stand-alone water system for domestic purposes (less than or equal to 13,000 gpd) at other sites in Minidoka NHS.

Oh yes, water from the three wells should be used on the places of use listed in the water-right decrees. If water from one of these three wells is needed elsewhere, then a transfer application should be filed.

SCENARIOS FOR HANDLING WATER SHARES

Scenario 1. Before the acquisition of the Herrmann farm and part of the Robison farm from the The Conservation Fund, the NPS determines the number of water shares required to maintain open space (e.g., farming) and to restore and maintain historic vegetation throughout the site, The Conservation Fund sells the water shares not required by the NPS, and the NPS acquires required water shares along with the land.

Pros:

The NPS does not need to sell or lease water shares, reducing personnel costs.
The NPS may purchase the land at a lower cost.

Cons:

The final development plan may not be finished before the appropriation to acquire the land has been authorized. Thus, the number of required water shares will not have been determined.

Scenario 2. After the acquisition of the Herrmann farm and part of the Robison farm from the The Conservation Fund, including all water shares, the NPS determines the number of water shares required to maintain open space (e.g., farming) and to restore and maintain historic vegetation throughout the site, and the NPS sells the water shares not required.

Pros:

There would be more time to finish the final development plan and determine the number of required water shares.

Cons:

The NPS would spend funds to sell the water shares.
The NPS would not purchase the land at a lower cost.

Scenario 3. After the acquisition of the Herrmann farm and part of the Robison farm from the The Conservation Fund, including all water shares, the NPS annually determines the number of water shares required to maintain open space (e.g., farming) and to restore and maintain historic vegetation throughout the site, and the District annually leases the water shares not required by the NPS.

Pros:

NPS will have flexibility to adjust number of water shares required from year to year.
Unused shares can be leased with no M&O cost to the government.
NPS has all shares available to use.

There would be more time to finish the final development plan and determine the number of required water shares.

Cons:

The NPS would not purchase the land with fewer water shares at a lower cost.

It appears that the NPS, when diverting groundwater for commercial purposes, is limited to a diversion rate of 0.04 cubic feet per second and a diversion volume of 2,500 gallons per day from each of the three wells.

The groundwater withdrawn from the wells can be used either for item “(a)” purposes or item “(b)” purposes, not both. Item (a) purposes and item (b) purposes are called “domestic purposes or domestic uses.”

08/05/2009

American Falls Reservoir District #2

The American Falls Reservoir District #2 (the District) is a political subdivision of the state of Idaho. Landowners served by the Bureau of Reclamation's Minidoka Project organized the District. The Project's facilities, developed and formerly owned by the United States, provide irrigation water to the District.

In 1928, construction began on the Gooding Division of the Minidoka Project. The work consisted primarily of the construction of the Milner Gooding Canal which heads at Milner Dam on the Snake River, 12 miles west of Burley, Idaho. Through the Consolidated Natural Resources Act of 2008 (122 STAT. 744), the title to the Milner Gooding Canal, associated facilities, and certain lands was transferred from the United States to the District.

The District owns decreed water right No. 1-6 to divert up to 1,700 cubic feet per second of water from the Snake River into the Milner Gooding Canal for irrigation purposes. The diversion is subject to the filling requirements for the American Falls Reservoir. The priority date for the water right is March 30, 1921. The District is permitted to irrigate as much as 62,361 acres according to the decree. The period of use starts March 15 and ends November 15, but likely varies depending on water availability and duration of the growing season.

Our contact at the District is Ms. Jane Sabala, (208) 886-2331. She was most helpful. Governance documents for the District are what Ms. Sabala called the "Idaho Code Book." I believe she referred to Idaho Statutes Title 42: Irrigation and Drainage --- Water Rights and Reclamation, and Title 43: Irrigation Districts. Ms. Sabala said that the District did not promulgate its own rules.

The District delivers irrigation water to the former Herrmann farm and the former Robison farm. (The two farms lay within the place-of-use boundaries of the District.) The Conservation Fund (TCF) acquired both farms and transferred most of the Robison farm to new owners, Dean and Eden Dimond. The former Herrmann farm consists of 128 acres, and the remaining part of the Robison farm belonging to TCF consists of 9 acres, totaling 137 acres. The NPS plans to acquire the 137 acres, after Congress appropriates money for the land transfer.

Water Shares in the District

The land transfer of 137 acres to the NPS from the TCF would include 74 water shares: 70 water shares assessed for 70 acres on the former Herrmann farm, and 4 water shares for 4 acres on the former Robison farm. TCF reserved a water-delivery easement across the former Robison lands conveyed to the Dimonds, so that water may be delivered to the 9-acre parcel.

According to the Ms. Sabala, water shares may be sold. The District's Board of Directors must approve the sale. A sale of shares requires that canals and ditches be large enough to deliver the water to a different place of use within the District's decreed place of use.

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLSIn Re SRBA)
Case No. 39576)PARTIAL DECREE PURSUANT TO
I.R.C.P. 54(b) FOR
Water Right 36-144331996 DEC 13 AM 9:15
DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO
FILEDNAME & ADDRESS: JOHN HERRMANN
296 S 1400 E
JEROME ID 83338

SOURCE: GROUNDWATER

QUANTITY: 0.06 CFS

THE QUANTITY OF WATER UNDER THIS RIGHT SHALL NOT EXCEED 13,000
GALLONS PER DAY.

PRIORITY DATE: 03/14/1952

POINT OF DIVERSION: TOBS R19E S33 NESWSW Within JEROME County

PURPOSE AND PERIOD OF USE:	PURPOSE OF USE	PERIOD OF USE	QUANTITY
STOCKWATER	01-01 12-31	0.02 CFS	
DOMESTIC 1 HOME	01-01 12-31	0.04 CFS	

PLACE OF USE:	STOCKWATER	Within JEROME County
TOBS R19E S33	SWSW	
DOMESTIC	Within JEROME County	
TOBS R19E S33	SWSW	

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

THE QUANTITY OF WATER DECREED FOR THIS WATER RIGHT IS NOT A
DETERMINATION OF HISTORICAL BENEFICIAL USE.

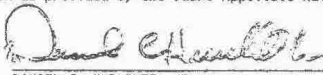
DATED: DEC 13 1996


 DANIEL C. HURLBUTT, JR.
 PRESIDING JUDGE
 Snake River Basin Adjudication

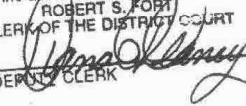
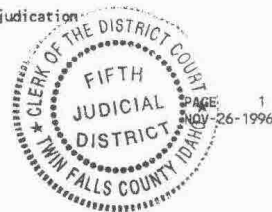
RULE 54(b) CERTIFICATE

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 that the court has and does hereby direct that the above judgment or order shall be a final judgment upon which execution may issue and an appeal may be taken as provided by the Idaho Appellate Rules.

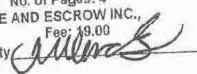
DATED: DEC 13 1996


 DANIEL C. HURLBUTT, JR.
 PRESIDING JUDGE
 Snake River Basin Adjudication
PARTIAL DECREE PURSUANT TO I.R.C.P. 54(b)
Water Right 36-14433

State of Idaho ss.
County of Twin Falls ss.
I hereby certify the foregoing to be a full,
true and correct copy of the original on
file in the above entitled action.

ROBERT S. FORT
CLERK OF THE DISTRICT COURTBy 
DEPUTY CLERK

Instrument # 2105419

JEROME COUNTY, JEROME, IDAHO
12-16-2010 09:33:04 No. of Pages: 4
Recorded for: LAND TITLE AND ESCROW INC.,
MICHELLE EMERSON Fee: \$9.00
Ex-Officio Recorder Deputy 

AFTER RECORDING, MAIL TO:
National Park Service
Columbia Cascades Land Resources PC
168 South Jackson Street
Seattle, WA 98104

Grantor: The Conservation Fund, a Maryland non-profit corporation
Grantee: United States of America
Tax Account No: RP 08S329990

QUIT CLAIM DEED

The Grantor, THE CONSERVATION FUND, a Maryland non-profit corporation, for the sole purpose of clearing title, does hereby release and quitclaim to the UNITED STATES OF AMERICA and its assigns, all of Grantor's right, title and interest, if any, together with any after-acquired title in the following described property:

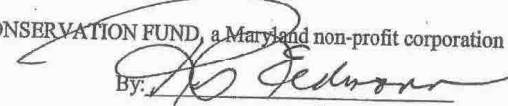
Water and water rights in American Falls Reservoir District No. 2, appurtenant to the property described in Exhibit A, which water rights are described as 74 shares in the American Falls Reservoir District #2.

The land is being acquired by the Department of Interior, National Park Service.

The true and actual consideration for this transfer is: none-to clear title only.

IN WITNESS WHEREOF, the said Grantor has hereunto set its hands this
8th day of December, 20 10.

THE CONSERVATION FUND, a Maryland non-profit corporation

By: 

Its: Exec. V.P.



Minidoka National Historic Site

Tract Nos. 01-104 & 01-106

COMMONWEALTH
State of Virginia
County of Arlington) ss.
ACKNOWLEDGMENT

On this 8th day of December, 2010, before me COMMONWEALTH
GLORIA J. POMPA, the undersigned Notary Public in and for the state of
Virginia, personally appeared Richard L. Erdmann personally
known to me (or proved to me on the basis of satisfactory evidence) to be the person who
executed the within instrument as EXEC. Vice President, on behalf of The
Conservation Fund, the corporation therein named and acknowledged to me that the
corporation executed said instrument as its free and voluntary act and deed for the
purposes therein mentioned, and on oath stated that he was authorized to so execute said
instrument.

Gloria J. Pompa
Print Name: GLORIA J. POMPA
Notary Public in and for the State of
VIRGINIA COMMONWEALTH
Residing at ALEXANDRIA, VA
My commission expires 3/31/14

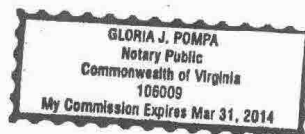


EXHIBIT "A"
LEGAL DESCRIPTION OF PROPERTY

Parcel 1

Township 8 South, Range 19 East, Boise Meridian, Jerome County,
State of Idaho
Section 33: Farm Unit G,

Tract H

And the following described parcel:

Parcel 2

Part of Tract C in Section 32 of Township 8 South, Range 19 East of the
Boise Meridian, Jerome County, State of Idaho.

Beginning at the Southeast corner of Section 32 of Township 8 South,
Range 19 East, Boise Meridian said corner marked by a USGLO iron
pipe with brass cap; Thence North 00°12'17" West along the east
line of Section 32 for a distance of 331.83 feet to Corner No. 6
of Tract C, said corner being marked by a USBLM aluminum pipe
with cap which shall be the Point of Beginning;

THENCE North 89°33'22" West along the tract line common to Tract
C and Tract 37 for a distance of 330.50 feet to Corner No. 5 of
Tract C said corner marked by a USGLO iron pipe with brass
cap;

THENCE South 45°10'51" West along the tract line common to Tract C
and Tract 37 for a distance of 465.57 feet to Corner No. 4 of Tract C
said corner marked by a USGLO iron pipe with brass cap and a USBR
iron pipe with brass cap;

THENCE North 45°21'33" West along the tract line common to Tract C
and Lot 5 for a distance of 210.23 feet to an un-numbered tract corner
for Tract C;

THENCE South 87°46'27" West along the tract line common to Tract C
and Lot 5 for a distance of 178.60 feet;

THENCE North 00°15'36" East for a distance of 9.09 feet to a 1/2"
rebar;

Minidoka National Historic Site Tract Nos. 01-104 & 01-106

THENCE North 00°15'36" East for a distance of 486.30 feet to a 1/2" rebar;

THENCE South 89°59'35" East for a distance of 314.17 feet to a 1/2" rebar;

THENCE South 29°16'53" East for a distance of 333.28 feet to a 1/2" rebar;

THENCE North 50°02'20" East for a distance of 322.44 feet to a 1/2" rebar;

THENCE North 36°03'32" East for a distance of 217.57 feet to a 1/2" rebar;

THENCE North 24°56'55" East for a distance of 261.03 feet to a 1/2" rebar;

THENCE North 90°00'00" East for a distance of 26.24 feet to the east line of Section 32;

THENCE South 00°11'44" West along the east line of Section 32 for a distance of 639.48 feet to the Point of Beginning.

Minidoka National Historic Site Tract Nos. 01-104 & 01-106

Instrument # 2105418

JEROME COUNTY, JEROME, IDAHO
12-16-2010 09:28:36 No. of Pages: 6
Recorded for: LAND TITLE AND ESCROW INC.
MICHELLE EMERSON Fee: 25.00
Ex-Officio Recorder Deputy *[Signature]*

When recorded, return to:
National Park Service
Columbia Cascades Land Resources Program Center
168 South Jackson Street
Seattle, WA 98104

Grantor: The Conservation Fund, a Maryland non-profit corporation
Grantee: United States of America
Tax Account Nos:
RP08S19E334804A
RP08S19E329980A

WARRANTY DEED

The Grantor, THE CONSERVATION FUND, a Maryland non-profit corporation, for and in consideration of THREE HUNDRED EIGHTY THOUSAND AND NO/100 DOLLARS (\$380,000.00), to it paid, receipt of which is hereby acknowledged, does hereby convey and warrants to the UNITED STATES OF AMERICA and its assigns, the following described property located in the County of Jerome, State of Idaho to wit:

See Exhibit "A" attached hereto and by reference made a part hereof, together with the easement described in Exhibit "B" attached hereto and by reference made a part hereof for water delivery as reserved in Special Warranty Deed recorded June 15, 2009, as Instrument No. 2092931 for benefit of property conveyed herein.

The land hereinabove described contains 137.39 acres, more or less.

The land is conveyed subject to existing easements of record for public roads and highways, public utilities, railroads and pipelines. AND SUBJECT to the following documents:
(1) Right of way for roads, canals, laterals, and waste ditches as contained in an agreement by and between the State of Idaho, and the Twin Falls North Side Land and Water Company, dated August 21, 1907, recorded in Book 15, page 589, in Jerome County Records; (2) Power line easement given by John W. Herrmann and Elfrieda E. Herrmann, his wife, to Idaho Power Company, a corporation, dated February 3, 1965, recorded May 4, 1965, in Book 168 Misc. at Page 483, Jerome County records; (3) Power line easement given by John W. Herrmann and Elfrieda E. Herrmann, his wife, to Idaho Power Company, a corporation, dated September 9, 1969, recorded October 3, 1969 as Instrument Number 182261, Jerome County records; (4) Power line easement given by John W. Herrmann and Elfrieda E. Herrmann, his wife, to Idaho

Minidoka National Historic Site

Tract Nos. 01-104 & 01-106

Power Company, a corporation, dated September 1, 1969, recorded May 20, 1970, as Instrument Number 184932, Jerome County records; (5) Reservations set forth in Patent from the United States of America to John W. Herrmann recorded May 21, 1981, as Instrument Number 257928, Jerome County records; and (6) Right of way easement given by John W. Herrmann and Elfrieda E. Herrmann, his wife, to Idaho Power Company, a corporation, dated December 6, 1990, recorded January 9, 1991, as Instrument Number 910083, Jerome County records;

(7) Interim and Recordable Contract by and between the United States of America, acting through the Secretary of the Interior, and Tennessee Cue Robison and Anne Louise Robison, husband and wife, dated May 4, 1949, recorded May 25, 1949, in Book 143 at page 16 as Instrument Number 105936, Jerome County Records; and (8) Power line easement given by T.C. Robison and Anna Louise Robison, husband and wife, to Idaho Power Company, a corporation, dated August 14, 1975, recorded November 21, 1975, in Book 184 Page 1178 as Instrument Number 215169, Jerome County records, affecting the SE1/4SE1/4 of Section 32, Township 8 South, Range 19 East, Boise Meridian.

TO HAVE AND TO HOLD the above granted and described premises, together with all and singular the tenements, hereditaments, and appurtenances thereunto belonging, or in any way appertaining, unto said UNITED STATES OF AMERICA and its assigns forever.

The Grantor further remises, releases, and forever quitclaims to the UNITED STATES OF AMERICA, and its assigns, all right, title and interest which the Grantor may have in the banks, beds and waters of any streams bordering the said land conveyed including water rights, and also all interest in any alleys, roads, streets, ways, strips, gores or railroad rights-of-way abutting or adjoining said land and in any means of ingress or egress appurtenant thereto.

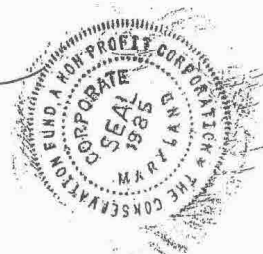
The land is being acquired by the Department of Interior, National Park Service.

IN WITNESS WHEREOF, the said Grantor has hereunto set its hands this 8th day of December, 20 10.

THE CONSERVATION FUND,
a Maryland non-profit corporation

By:
Its:

[Signature]
Exec. V.P.



Minidoka National Historic Site

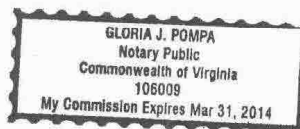
Tract Nos. 01-104 & 01-106

ACKNOWLEDGMENT

COMMONWEALTH
State of VIRGINIA
County of ARLINGTON) ss.

On this 8th day of December, 2010, before me COMMONWEALTH
GLORIA J. POMPA, the undersigned Notary Public in and for the state of
VIRGINIA, personally appeared RICHARD L. GENDMAN personally known to
me (or proved to me on the basis of satisfactory evidence) to be the person who executed the
within instrument as EXEC. VICE PRESIDENT on behalf of The Conservation Fund, the
corporation therein named and acknowledged to me that the corporation executed said
instrument as its free and voluntary act and deed for the purposes therein mentioned, and on oath
stated that he was authorized to so execute said instrument.

Gloria J. Pompa
Print Name: GLORIA J. POMPA
Notary Public in and for the State of
VIRGINIA
Residing at ALEXANDRIA, VA
My commission expires 3/31/14



Minidoka National Historic Site

Tract Nos. 01-104 & 01-106

EXHIBIT "A"
LEGAL DESCRIPTION OF PROPERTY

Parcel 1

Township 8 South, Range 19 East, Boise Meridian, Jerome County,
State of Idaho
Section 33: Farm Unit G, Tract H

And the following described parcel:

Parcel 2

Part of Tract C in Section 32 of Township 8 South, Range 19 East of the Boise
Meridian, Jerome County, State of Idaho.

Beginning at the Southeast corner of Section 32 of Township 8 South, Range
19 East, Boise Meridian said corner marked by a USGLO iron pipe with
brass cap; Thence North 00°12'17" West along the east line of Section
32 for a distance of 331.83 feet to Corner No. 6 of Tract C, said
corner being marked by a USBLM aluminum pipe with cap which shall be
the Point of Beginning;

THENCE North 89°33'22" West along the tract line common to Tract C and
Tract 37 for a distance of 330.50 feet to Corner No. 5 of Tract C said
corner marked by a USGLO iron pipe with brass cap;

THENCE South 45°10'51" West along the tract line common to Tract C and
Tract 37 for a distance of 465.57 feet to Corner No. 4 of Tract C said
corner marked by a USGLO iron pipe with brass cap and a USBR iron pipe
with brass cap;

THENCE North 45°21'33" West along the tract line common to Tract C and
Lot 5 for a distance of 210.23 feet to an un-numbered tract corner for
Tract C;

THENCE South 87°46'27" West along the tract line common to Tract C and
Lot 5 for a distance of 178.60 feet;

THENCE North 00°15'36" East for a distance of 9.09 feet to a 1/2"
rebar;

Minidoka National Historic Site Tract Nos. 01-104 & 01-106

THENCE North 00°15'36" East for a distance of 486.30 feet to a 1/2" rebar;

THENCE South 89°59'35" East for a distance of 314.17 feet to a 1/2" rebar;

THENCE South 29°16'53" East for a distance of 333.28 feet to a 1/2" rebar;

THENCE North 50°02'20" East for a distance of 322.44 feet to a 1/2" rebar;

THENCE North 36°03'32" East for a distance of 217.57 feet to a 1/2" rebar;

THENCE North 24°56'55" East for a distance of 261.03 feet to a 1/2" rebar;

THENCE North 90°00'00" East for a distance of 26.24 feet to the east line of Section 32;

THENCE South 00°11'44" West along the east line of Section 32 for a distance of 639.48 feet to the Point of Beginning.

Minidoka National Historic Site

Tract Nos. 01-104 & 01-106

Exhibit "B"
WATER DELIVERY EASEMENT
LEGAL DESCRIPTION

Part of the Tract C in Section 32 of Township 8 South, Range 19 East of the Boise Meridian, Jerome County, State of Idaho.

Beginning at the East 1/4 corner of Section 32 of Township 8 South, Range 19 East, Boise Meridian, said corner marked by a 5/8" rebar;

THENCE South 00°11'48" West along the east line of Section 32 for a distance of 77.26 feet to Corner No. 7 of Tract G;

THENCE South 76°02'27" West for a distance of 705.74 feet to Corner No. 1 of Tract C;

THENCE South 75°53'06" West along the north line of Tract C for a distance of 670.84 feet to the Point of Beginning;

THENCE South 12°17'15" East for a distance of 1627.76 feet;

THENCE North 89°59'34" West for distance of 5.12 feet to a 1" rebar;

THENCE South 00°15'36" West for a distance of 23.02 feet;

THENCE North 12°17'15" West for a distance of 1648.81 feet to the North line of Tract C;

THENCE North 75°53'06" East along the North line of Tract C for a distance of 10.00 feet to the Point of Beginning.

Minidoka National Historic Site Tract Nos. 01-104 & 01-106



Paul
Christensen/FTCOLLINS/NP
S
07/24/2009 01:36 PM MDT

To melsbree@mindspring.com, Wayne Hill/Seattle/NPS@NPS,
Wendy Janssen/HAFO/NPS@NPS
cc Eric Lord/FTCOLLINS/NPS@NPS, Bill
Hansen/FTCOLLINS/NPS@NPS
bcc

Subject Wells and Water Rights (Minidoka NHS)

Colleagues,

I found one well on the former Herrmann farm, using the website of the Idaho Department of Water Resources. The well is probably located at the homestead. The well has a decreed water right (No. 14433). The priority date is March 14, 1952. The quantity is 0.06 cubic feet second (27 gallons per minute) and cannot exceed 13,000 gallons per day or 14.6 acre-feet per year. The water may be used for domestic and stock watering purposes: third-thirds for domestic and one-third for stock watering. The place of use is the SW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Sec. 33, T08S, R19E, and the period of use is from January 1 through December 31.

I found no well on the small piece of the former Robison farm that the NPS intends to acquire.

In July 2009, a decreed groundwater right (No. 14433) was transferred from the US Bureau of Reclamation to the National Park Service. The priority date is December 31, 1947. The quantity is 0.04 cubic feet second (18 gallons per minute) and may not exceed 13,000 gallons per day or 14.6 acre-feet per year. The water may be used for domestic purposes. The place of use is Lot 6 (in the SW $\frac{1}{4}$ of SE $\frac{1}{4}$ of the SW $\frac{1}{4}$) of Sec. 33, T08S, R19E, and the period of use is from January 1 through December 31.

"Domestic purposes" is defined by Idaho Statute as "(a) the use of water for homes, organization camps, public campgrounds, livestock and for any other purpose in connection therewith, including irrigation of up to one-half (1/2) acre of land, if the total use is not in excess of thirteen thousand (13,000) gallons per day, or (b) any other uses, if the total use does not exceed a diversion rate of four one-hundredths (0.04) cubic feet per second and a diversion volume of twenty-five hundred (2,500) gallons per day." The exception for domestic purposes does not include "water for multiple ownership subdivisions, mobile home parks, commercial or business establishments" unless the use does not exceed a diversion rate of four one-hundredths (0.04) cubic feet per second and a diversion volume of twenty-five hundred (2,500) gallons per day. (Idaho Statute Title 42-111)

Enjoy your weekend.

Paul



Paul
Christensen/FTCOLLINS/NP
S
07/24/2009 04:04 PM MDT

To melsbree@mindspring.com, Wayne Hill/Seattle/NPS@NPS,
Wendy Janssen/HAFO/NPS@NPS
cc Eric Lord/FTCOLLINS/NPS@NPS, Bill
Hansen/FTCOLLINS/NPS@NPS
bcc

Subject Two Errors --- Wells and Water Rights (Minidoka NHS)

Colleagues, I found a two errors in the email below. There has to be an error or two. They are:

Well Correct Water-Right Number

Former Herrmann well 36-14433
Old BOR well 36-11119

Paul

----- Forwarded by Paul Christensen/FTCOLLINS/NPS on 07/24/2009 04:00 PM -----



Paul
Christensen/FTCOLLINS/NP
S
07/24/2009 01:36 PM

To melsbree@mindspring.com, Wayne Hill/Seattle/NPS, Wendy
Janssen/HAFO/NPS
cc Eric Lord/FTCOLLINS/NPS@NPS, Bill
Hansen/FTCOLLINS/NPS@NPS
Subject Wells and Water Rights (Minidoka NHS)

Colleagues,

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"Domestic purposes" is defined by Idaho Statute as "(a) the use of water for homes, organization camps, public campgrounds, livestock and for any other purpose in connection therewith,

including irrigation of up to one-half (1/2) acre of land, if the total use is not in excess of thirteen thousand (13,000) gallons per day, or (b) any other uses, if the total use does not exceed a diversion rate of four one-hundredths (0.04) cubic feet per second and a diversion volume of twenty-five hundred (2,500) gallons per day.” The exception for domestic purposes does not include “water for multiple ownership subdivisions, mobile home parks, commercial or business establishments” unless the use does not exceed a diversion rate of four one-hundredths (0.04) cubic feet per second and a diversion volume of twenty-five hundred (2,500) gallons per day. (Idaho Statute Title 42-111)

Enjoy your weekend.

Paul



Paul
Christensen/FTCOLLINS/NP
S
08/07/2009 02:52 PM MDT

To Wayne_Hill@nps.gov, Wendy Janssen/HAFO/NPS@NPS,
melsbree@mindspring.com
cc Eric Lord/FTCOLLINS/NPS@NPS, Bill
Hansen/FTCOLLINS/NPS@NPS
bcc

Subject Minidoka NHS --- Wells and Water Rights

Colleagues,

I spoke with Shelley Keen of the Idaho Department of Water Resources (IDWR) about the three wells.

Mr. Keen stated that the withdrawal of groundwater for domestic purposes is not subject to permitting. Rights to groundwater for domestic purposes are acquired simply by withdrawal and use. Many parties, however, chose to file claims for domestic use in the Snake River adjudication. (The filing fee was only \$25.)

Water used for NPS administrative and visitor purposes is classified as "commercial purposes."

The table below shows the water right number, quantity, volume, and purposes for three wells.

Well Name	Water Right No.	Quantity	Volume	Existing Purposes	Assumed Future NPS Purposes
Former Herrmann Farm	36-14433	0.04 cfs	13,000 gpd	Domestic (one house)	Commercial and
		0.02 cfs		Stock water	Domestic
Former Robison Farm	36-13790	0.04 cfs	13,000 gpd	Domestic (one house)	Commercial and
		0.02 cfs		Stock water	Domestic
Former Bureau of Reclamation	36-11119	0.04 cfs	13,000 gpd	Domestic	Commercial

As noted in a previous email, domestic use is defined by Idaho Statute Title 42-111 as "... (a) the use of water for homes, organization camps, public campgrounds, livestock and for any other purpose in connection therewith, including irrigation of up to one-half (1/2) acre of land, if the total use is not in excess of thirteen thousand (13,000) gallons per day, or (b) any other uses [including commercial], if the total use does not exceed a diversion rate of four one-hundredths (0.04) cubic feet per second and a diversion volume of twenty-five hundred (2,500) gallons per day."

Title 42-111 further notes that "[d]omestic purposes or domestic uses shall not include water for

multiple ownership subdivisions, mobile home parks, or commercial or business establishments, unless the use meets the diversion rate and volume limitations set forth" above.

Mr. Keen said that the NPS should change through application the nature of water use for the wells to reflect actual purposes. The volume of water withdrawn from a well, however, must remain less than or equal to the decreed volume, in this case, 13,000 gpd for each well..

The nature of water use may be changed by filing a transfer application with IDWR. After receiving a transfer application, IDWR ensures that the proposed transfer does not injure other water rights, enlarge the original water right, conflict with the local public interest, prevent the conservation of water resources within Idaho, or adversely affect the local economy.

Mr. Keen said that two or more of the NPS's domestic wells cannot be linked together to provide water for a single water system. This would be called enlargement. In sum, one well is to serve one water system. (See Title 42-111(3).)

If a larger volume is required, a new water-right application could be filed. However, according to Mr. Keen, there is a moratorium on new groundwater rights for volumes greater than 13,000 gpd in the eastern Snake River Plain (which includes Minidoka NHS). No new permits for groundwater use are issued, except in cases of overriding public interest or exchange of surface water rights in the Snake River for groundwater rights. Therefore, the NPS probably could not obtain through application a groundwater right for larger volumes from the three wells or a new well.

Should the NPS determine that larger volumes are needed from a well, it may consider purchasing a water right, preferably one with an earlier (senior) priority date rather than one with a later (junior) priority date, and transferring it to Minidoka NHS. In August 2009, IDWR began shutting down junior groundwater users in the eastern Snake River plain, including irrigators and municipalities. Mr. Keen noted that the sale of water rights in Idaho is common.

Before IDWR approves a transfer of groundwater rights from one place to another place, it makes changes in its groundwater model to determine how the transfer will affect the discharge of the Snake River. Mr. Keen recommends that, if the NPS purchases a groundwater right, it should purchase a groundwater right with a well located as close as possible to Minidoka NHS. There are irrigation wells in the area. The NPS would only need to purchase a portion of a groundwater right, rather than the entire right. Water rights can be split.

If needed, the NPS could also construct wells to supply a stand-alone water systems for domestic purposes (less than or equal to 13,000 gpd) at other sites in Minidoka NHS.

Oh yes, water from the three wells should be used on the places of use listed in the water-right decrees. If water from one of these three wells is needed elsewhere, then a transfer application should be filed.

Enjoy your weekend.

Docket Information

Number of Documents in Docket 23

Documents Dated from 12/13/1996 to 12/8/2010

Docket Compiled: 8/24/2015