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MAY - 6 2003

Department of Water Resources

Charles L. Honsinger (#5240)
Ringert Clark, Chartered, LLP
P.O. Box 2773
Boise, ID 83702
(208)342-4591

Attorneys for Objector Hal Anderson

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA	)	SUBCASE NUMBER 43-10812
	)	
Case No. 39576	)	MEMORANDUM IN SUPPORT OF MOTION
	)	TO FILE LATE OBJECTION
_____	)	

COMES NOW, SRBA Claimant and Objector Hal Anderson, by and through his attorneys of record, Ringert Clark, Chartered, and hereby submits this memorandum in support of his Motion to File Late Objection which was filed herein on April 24, 2003. This Memorandum is submitted pursuant to I.R.C.P. 7(b)(3), and is supported by the Affidavits of Charles L. Honsinger and Hal T. Anderson filed herewith, and the claims to water rights and recommendations thereof already on file herein.

SUMMARY

Mr. Anderson has filed a motion to file a late objection to water right no. 43-10812, recommended in the SRBA to Harris Agriculture. His reasons for objecting to the recommendation of this water right are summarized as follows: Water right no. 43-10812 is a combination of two water rights, including water right no. 43-04027. The statutory claim for water right no. 43-04027 states that it is a claim to the same water as water right no. 43-04001, but that the irrigation claimed under water right no. 43-04027 is in addition to that listed under 43-04001 (i.e. the irrigation claimed

under 43-04027 only takes place when the 5 cfs originally claimed under water right no. 43-04001 was available after use pursuant to that water right). The statutory claim to water right no. 43-04001 is listed as appurtenant to lands now owned by Mr. Anderson. In 1975, IDWR approved a transfer of water right nos. 43-04001/004027. In its SRBA recommendation of water right 10812, IDWR recommended a portion of water right no. 43-04001/4027 (3.96 cfs) to Harris Agriculture as water right no. 43-10812, presumably assuming that the 1975 transfer resulted in a transfer of a portion of the “primary” water right onto grounds where it had only been claimed as supplemental. As a result, IDWR erroneously recommended that Harris Agriculture owns that portion of water right no. 43-10812 (recommended as partly comprised of water right nos. 43-4001/4027) which is in fact appurtenant to Mr. Anderson’s property. Alternatively, Mr. Anderson asserts that IDWR apparently erroneously transferred water right no. 43-4001/4027 off what is now the Anderson property to property now owned by Harris Agriculture.

Water right no. 43-04027 itself was not recommended to any party in the SRBA. Thus, understandably, neither Mr. Anderson nor his counsel at the time filed an objection to water right no. 43-10812, because that water right number was completely unrelated to the original water right no. 43-04027. It was only after Mr. Anderson’s current counsel did substantial research that he was able to determine that water right no. 43-04027 was in fact recommended as part of water right no. 43-10812. No party will be prejudiced by the granting of the late objection, and Mr. Anderson has a meritorious position. Therefore, as discussed further below, Mr. Anderson has established good cause for his failure to file an objection earlier, and this Motion to File Late Objection should be granted.

FACTS

Mr. Anderson's understanding when he purchased his property in 1981, as confirmed by a "due diligence" investigation by his banker, the Federal Land Bank, was that he owned water rights with an April 1, 1960 priority for 7 cfs, and a March 4, 1963 priority date for 5 cfs. Affidavit of Hal Anderson, ¶ 2. Based upon this understanding, Mr. Anderson claimed water right nos. 43-04087 for 7 cfs and 43-04088 for 5 cfs in the SRBA. *Id.*, ¶ 1. The SRBA claims were based upon prior claims filed pursuant to I.C. §42-243 by Mr. Anderson's predecessor in interest. *See Id.*, Ex. A. Water right no. 43-04087 was recommended to Mr. Anderson in the SRBA with the claimed priority date, but with a diversion rate of 1.60 cfs for the irrigation of 360 acres. Water right no. 43-04088 was recommended to Mr. Anderson in the SRBA with the claimed priority date, but with a diversion rate of 1.04 cfs for the irrigation of 360 acres.

The statutory claim to water right no. 43-04001 lists a priority date of March 4, 1963 and a diversion rate of 5 cfs on 480 acres, all of which are currently owned by Mr. Anderson, and to which water right nos. 43-04087 and 43-04088, also owned by Mr. Anderson, are recommended as appurtenant. *See Honsinger Affidavit*, Exhibit "A". The statutory claim to water right no. 43-04027 also lists a priority date of March 4, 1963 with a diversion rate of 5 cfs for use upon 1832 acres, all of which are different than those claimed under water right no. 43-04027. *See Honsinger Affidavit*, Exhibit "B". Statutory claim no. 43-04027 references water right no. 43-4001, stating that the use claimed is for the same water as that claimed under 43-04001, but that the uses claimed are in addition to those claimed under 43-04001. *Id.*

Pursuant to a transfer approved by IDWR on April 2, 1975, a portion of water right nos. 43-04001 and 43-04027 was apparently transferred from lands currently owned by Mr. Anderson to

lands owned by the transfer applicant. *See* Honsinger Affidavit, Exhibit “C”. Despite the apparent transfer of the water right(s), the lands currently owned by Mr. Anderson have been irrigated from 1960 through 2002, with the exception of a period during which those lands were placed in a Conservation Reserve Program. *See* Affidavit of Hal Anderson, ¶ 3.

In the SRBA, water right no. 43-10812 was recommended by IDWR to Harris Agriculture with a priority date of March 1, 1963. The explanatory remarks in the recommendation state that water right no. 43-10812 “is a combination of old right nos. 43-4031, 43-4027.” IDWR’s computerized internet records of the SRBA claim to water right no. 43-10812 state that the right is a combination of water right nos. “43-04031 for 4.42 cfs and 43-04027A for 3.96 cfs.” Honsinger Affidavit, Exhibit “D”.

When Mr. Anderson was recommended water right no. 43-04087 in the SRBA with a quantity of 5.40 cfs less than what he expected, and was recommended water right no. 43-04088 with a quantity of 3.96 cfs less than what he expected, he began investigating the water rights files, and determined that water right no. 43-04087 was actually water right no. 43-04028 and that water right no. 43-04088 was actually water right nos. 43-04001 and 43-04027. Affidavit of Hal Anderson, ¶ 4. Because water right no. 43-04028A had been recommended in the SRBA to Harris Agriculture, Mr. Anderson was able to find that water right in the SRBA court’s records, and filed an objection to it. *Id.*, ¶ 5. Both Mr. Anderson and his counsel at the time searched the water rights recommended to Harris Agriculture, the current owners of the lands to which a 3.96 cfs portion of water right nos. 43-04001 and 43-04027 was apparently transferred, and did not find that either of those water rights had been recommended in the SRBA. *Id.*, ¶ 6. Because he was unable to find either water right number 43-04001 or 43-04027 as recommended in the SRBA, Mr. Anderson could not file an

objection alleging that those water rights were in fact appurtenant to his own property. *Id.*, ¶ 7. It was not until Mr. Anderson sought the assistance of his current counsel that he became aware that the recommendation of water right no. 43-10812 encompassed the 3.96 cfs of water right no. 43-04001/04027 that he assumed was his water right. *Id.*, ¶ 8. Mr. Anderson did not immediately file an objection to water right no. 43-10812 because he wanted to encourage Harris Agriculture to enter into settlement discussions with him. *Id.*, ¶ 9.

ARGUMENT

The legal standard for filing a late objection to a water right recommended in the SRBA is set forth in the Order on Motion to Set Aside Partial Decrees and File Late Objections, Subcase Nos. 65-19812 et. al. (January 31, 2001) (hereinafter “A.L. Cattle Decision”). That decision holds that motions to file late objections should be reviewed under the standards by which a default judgment may be set aside pursuant to I.R.C.P. 55(c). *Id.*, at p. 6. “The I.R.C.P. 55(c) Standard takes into account the following factors: 1) whether the default was willful; 2) whether setting aside the judgment would prejudice the opponent; and 3) as with a Rule 60(b) motion, whether a meritorious position has been presented.” *Id.*, at p. 7. Mr. Anderson’s Motion to File a Late Objection meets all three criteria.

1. Mr. Anderson’s Failure to File an Objection was not Willful

Mr. Anderson was recommended only 1.04 cfs of the 5 cfs he thought he owned pursuant to water right no. 43-04088, and which was originally claimed pursuant to I.C. § 42-243 under the “companion rights” to that water right: water right nos. 43-04001/43-04027. As established by Mr. Anderson’s affidavit, he did not know of the fact that water right no. 43-10812 as recommended in the SRBA encompassed the 3.96 cfs portion of the total 5 cfs of water right nos. 43-04001/43-04027.

It is evident from the record that if he had known of the relationship between the rights, he would have objected, just as he objected to water right no. 43-04028A, the “companion” right to his water right no. 43-04087. Obviously, the only reason that Mr. Anderson did not object to water right no. 43-10812 was because he could not tell from simply looking at the number, that it encompassed the “companion” right to his water right no. 43-04088. Such an action simply cannot be construed as willful.

2. Granting the Motion to File Late Objection Will Not Prejudice any Party

The parties in this case have been engaging in settlement discussions for some time. These settlement discussions have included the 3.96 cfs portion of water right no. 43-10812 (which is actually water right nos. 43-04001/43-04027), among other water rights. *See Honsinger Affidavit, ¶ 5.* Mr. Anderson has withheld objecting to water right no. 43-10812 until now so that he could continue to encourage settlement discussions with Harris Agriculture. *See Affidavit of Hal Anderson, ¶ 9.* Mr. Anderson’s attorney has previously informed Harris Agriculture’s attorney that Mr. Anderson may have to file an objection to water right no. 43-10812 in order to have the issues regarding that water right heard by the SRBA District Court. *See Honsinger Affidavit, ¶ 6.* No substantive hearings regarding any other water rights held by Harris Agriculture (nor by Mr. Anderson) to which Mr. Anderson has objected have been held. *See Honsinger Affidavit, ¶ 7.* No discovery, other than informal information exchanges has taken place. *Id.* In any case, the recommendation of this water right has been proceeding with the other Harris Ag and Anderson water rights as an overlapping water right, and is even included in the captions of orders issued by the SRBA Court. Once Mr. Anderson’s objection to water right no. 43-10812 has been granted, it can simply be placed on the same track as the other Harris Agriculture water right to which he has

an existing objection. Because there has been no substantive litigation over water right no. 43-10812, Harris Agriculture will not be prejudiced by the granting of Mr. Anderson's late objection.

3. Mr. Anderson's Position is Meritorious

To establish that his position with respect to water right no. 43-10812 is meritorious, Mr. Anderson must allege detailed facts, which if established, would constitute a defense to the action. A.L. Cattle Decision, *supra*, at 13. Mr. Anderson alleges that water right nos. 43-04001/04027 were erroneously recommended to Harris Agriculture in the SRBA, and/or that the transfer involving water right no. 43-04001/43-04027 was erroneously approved by IDWR. Water right no. 43-04001 was appurtenant to Mr. Anderson's property prior to the approval of the transfer. Water right no. 43-04027, which was claimed later in time, was merely a supplemental right to use any part or all of water right no. 43-04001 when it was not needed on the ground to which it was primarily appurtenant - the land that is now owned by Mr. Anderson, and to which water right nos. 43-04087 and 43-04088 are both appurtenant. Therefore, Mr. Anderson alleges that transfer no. 2363 was effective only to transfer the supplemental portion of water right nos. 43-04001/04027 to diversion points now owned by Harris Agriculture, and that the entire quantity of those water rights - 5.0 cfs - remains appurtenant, as a "primary right," to Mr. Anderson's lands.

Alternatively, Mr. Anderson alleges that when IDWR approved a transfer of a part of both water right nos. 43-04001 and 43-04027 to diversion points that served only the lands to which water right no. 43-04027 was appurtenant, such approval was erroneous, because it deprived the lands to which the "primary" water right no. 43-04001 was appurtenant - Mr. Anderson's lands, of the water right which had historically been used primarily on those lands, and only supplementarily on the lands to which water right no. 43-04027 was appurtenant. Accordingly, the transfer was not effective to

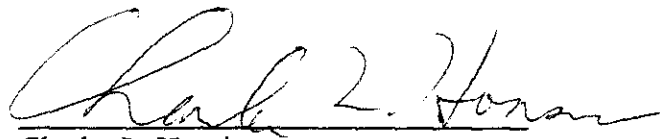
transfer 3.96 cfs to lands owned by Harris Agriculture, and water right no. 43-04001/43-04027 (which was recommended in the SRBA to Harris agriculture as a part of water right no. 43-10812) should be recommended as appurtenant to lands owned by Mr. Anderson.

Obviously, the facts underlying Mr. Anderson's position, if established, will constitute a defense to IDWR's recommendation of only 1.04 cfs of the 5.0 cfs of water rights that are appurtenant to his property, and will constitute a valid position with respect to water right no. 43-10812, recommended to Harris Agriculture. Accordingly, Mr. Anderson has pled a meritorious defense as required by the standards set forth in the A.L. Cattle Decision, *supra*.

CONCLUSION

Mr. Anderson has established that his failure to file an objection was not willful, that granting his motion to file a late objection will not prejudice any party, and that he has pled a meritorious defense. Accordingly, this Court should grant Mr. Anderson's Motion to File Late Objection, and assign the subcase to Special Master Dolan for hearing with its companion subcase nos. 43-04087, 43-04088, 43-04028A, and 43-04176.

DATED this 2nd day of May, 2003.


Charles L. Honsinger
Ringert Clark, Chartered

CERTIFICATE OF MAILING

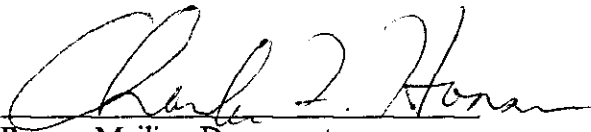
I hereby certify that service of the within and foregoing Memorandum in Support of Motion to File Late Objection was made this 2nd day of May, 2003, by mailing a copy thereof, postage prepaid, to each of the parties listed below.

Director of IDWR
P.O. Box 83720
Boise, ID 83720-0098

Randy Budge
Racine Olson Nye Budge & Bailey,
Chartered
P.O. Box 1391
Pocatello, ID 83204-1391

Charles L. Honsinger
Ringert Clark, Chartered
P.O. Box 2773
Boise, ID 83701-2773

Peter J. Grush
2025 S. Highway 81
Malta, ID 83342


Person Mailing Document

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MAY - 6 2003

Department of Water Resources

Charles L. Honsinger (#5240)
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Attorneys for Objector Hal Anderson

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA	)	SUBCASE NUMBER 43-10812
	)	
Case No. 39576	)	AFFIDAVIT OF HAL T. ANDERSON IN
	)	SUPPORT OF MOTION TO FILE LATE
	)	OBJECTION
_____	)	

STATE OF IDAHO	)
	) ss
COUNTY OF ADA	)

HAL T. ANDERSON, being first duly sworn upon his oath, deposes and says that:

1. I claimed water right nos. 43-04087 and 43-04088 in the SRBA.
2. In 1981, at the time of my purchase of the property to which water right nos. 43-04087 and 43-04088 are appurtenant, I assumed that water right nos. 43-04087 and 43-04088 entitled me to quantities of 7.0 cfs and 5.0 cfs respectively as listed in the statutory claims for those water rights attached hereto as Exhibit "A". (Also included in Exhibit "A" are the supporting Affidavits for those claims filed by John K. Redd and Lemuel B. Redd). My assumptions were confirmed when my lender, the Federal Land Bank, conducted a "due diligence" investigation of the water rights and determined that I indeed did have both a 7.0 cfs water right and a 5.0 cfs water right.

3. Other than a period of time from 1987 to 1997, during which my property was in a Conservation Reserve Program, the lands to which water right nos. 43-04087 and 43-04088 are appropriate have been irrigated pursuant to those water rights, from the date of my purchase of the property in 1981 through 2002.

4. When I was recommended water right no. 43-04087 with a quantity of 5.40 cfs less than what I expected, and water right no. 43-04088 with a quantity of 3.96 cfs less than what I expected, I began investigating IDWR's water rights files. Through this investigation, my counsel at the time and I determined that water right no. 43-04088 was in fact water right nos. 43-04001 and 43-04027, and that water right no. 43-04087 was in fact water right no. 43-04028.

5. Because water right no. 43-04028A had been recommended in the SRBA to Harris Agriculture, I was able to find it in the Court's records, and filed an objection to that water right.

6. My counsel at the time and I both searched the water rights recommended in the SRBA to Harris Agriculture, the current owners of the lands to which a 3.96 cfs portion of water right nos. 43-04001 and 43-04027 was apparently transferred, and did not find that either of those water rights had been recommended in the SRBA to Harris Agriculture.

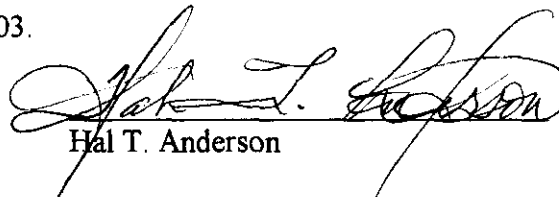
7. Because neither my counsel at the time nor I were able to find either water right number 43-04001 or 43-04027 as recommended in the SRBA, I could not file an objection alleging that those water rights were in fact appurtenant to my own property.

8. It was not until I sought the assistance of my current counsel in August of 2002 that I became aware that the recommendation of water right no. 43-10812 encompassed the 3.96 cfs of water right no. 43-04001/04027 that I have always assumed was a part of my water right no. 43-04087.

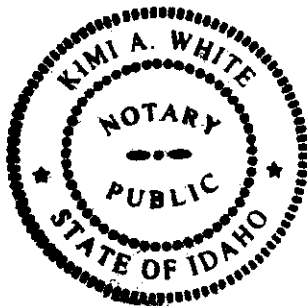
9. I have withheld filing a late objection to water right no. 43-10812 until now because I wanted to encourage Harris Agriculture to participate in settlement discussions with me. However, my counsel has advised me that I must now object to water right no. 43-10812 to ensure that it is before the SRBA District Court.

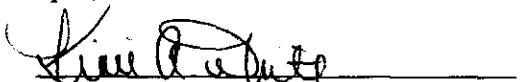
Further your affiant sayeth naught.

Dated this 30th day of April, 2003.


Hal T. Anderson

Sworn to and subscribed before me this 30th day of April, 2003.




Notary Public for Idaho
Residing in Boise, Idaho
My Commission Expires: 04/01/04

CERTIFICATE OF MAILING

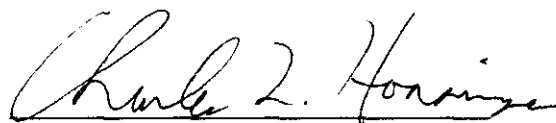
I hereby certify that service of the within and foregoing Affidavit of Hal T. Anderson in Support of Motion for Late Objection was made this 2nd day of May, 2003, by mailing a copy thereof, postage prepaid, to each of the parties listed below.

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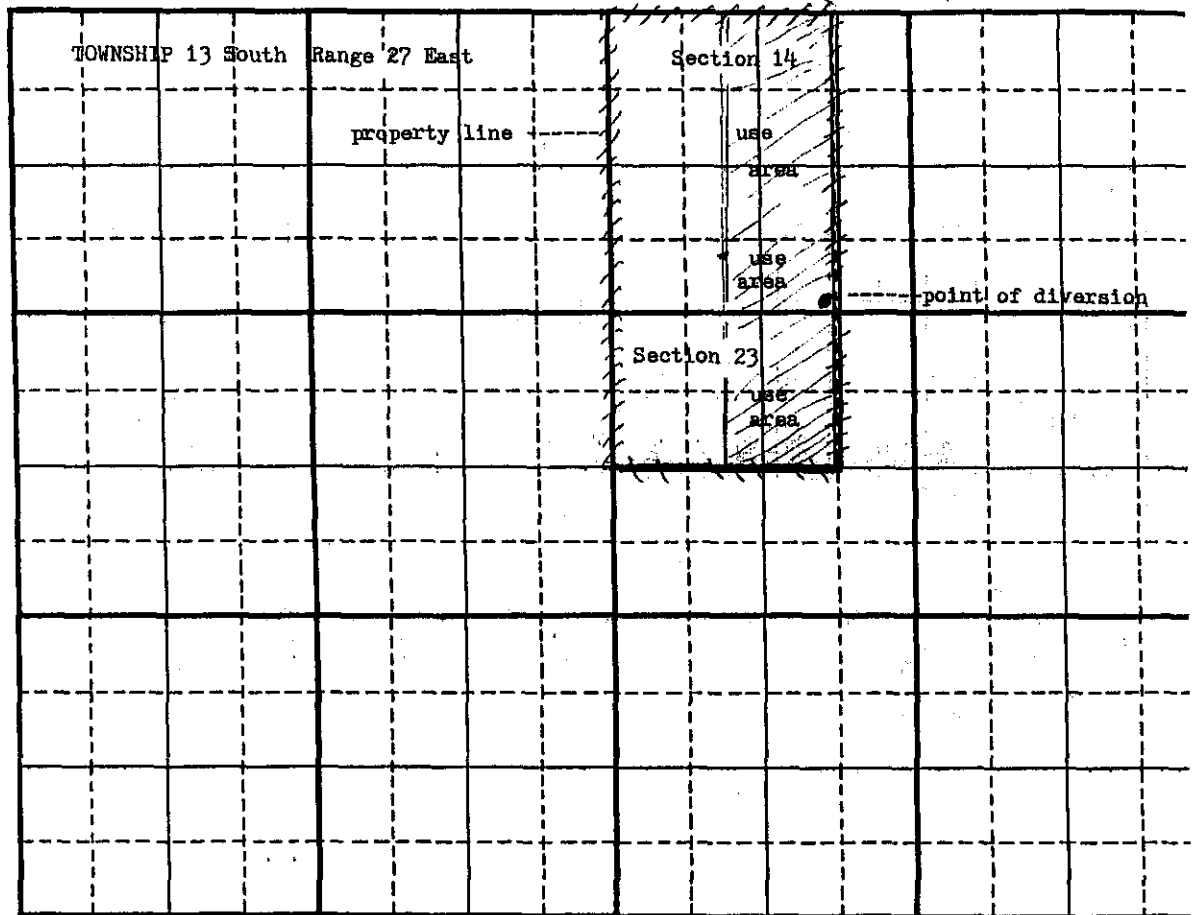
Peter J. Grush
2025 S. Highway 81
Malta, ID 83342

A handwritten signature in cursive script, reading "Charles L. Honsinger", written over a horizontal line.

Person Mailing Document

EXHIBIT A

(8) Remarks _____



Scale: 2 inches equal 1 mile.

Map should show the location of the point of diversion and the place of use of the water by 40-acre subdivisions, section, township and range of the public land survey system.

State of Idaho)

) ss.

County of _____)

Be it known that the undersigned, being duly sworn, deposes and says that he, she, they subscribed the foregoing claim to a water right, together with all attached information, and that the matters and facts therein are true to the best of the affiant's knowledge.

Carl B. Willis
(Claimant)

Sworn to before me this 4th day of October, 1978.

Gene Baxter
Notary Public
Residing at Malta, Idaho

My commission expires life term

FOR DEPARTMENT USE ONLY

Received by ACH Date 10-5-78 Exception filed by: _____ Date _____
Prelim. check by ACH Date 10-16-78 Forwarded to claimant by: _____
\$20.00 fee received by ACH Date 10-17-78 \$405.75
Published in Smith's Idaho Press
Dates 10/21 11/1/78 11/21 11/28 12/1

RECEIVED 43-488
STATE OF IDAHO
DEPARTMENT OF WATER RESOURCES
CLAIM TO A WATER RIGHT

OCT 5 1978

Department of Water Resources

Under the provisions of Section 42-243, Idaho Code, any person using or claiming rights to the public waters of Idaho established by diversion and application to a beneficial use must file a claim with the Department of Water Resources on or before June 30, 1983. Exempted from this filing are single family domestic uses as defined in Section 42-230(d), Idaho Code. Also exempted are rights represented by a permit, license, decree, adjudicated right, or a previously filed claim.

The filing of this claim does not confirm the water right claimed but failure to file may result in forfeiture of a water right.

Notice is hereby given that PAUL J. WILLICH and CORA B. WILLICH

(Name of Claimant)

P. O. Box 655, Malta, Idaho 83342

(Mailing Address)

(Zip Code)

Telephone No. 645-2248

claims a right to the diversion and beneficial use of the surface or ground water. The extent and nature of said claim is as follows:

- 1) Date of priority: (When was the water first applied to a beneficial use) March 4, 1963

A claim is not acceptable on a ground water source with a priority later than March 25, 1963 or on a surface water source with a priority later than May 20, 1971. An exception is that a claim may be filed on single family domestic use from a ground water source.

- 2) Describe the source of water: (Name of stream, lake, spring, etc., or ground water)
subterranean source tributary to _____

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

Quantity	(cfs, gpd, AFA)	Use	(Domestic, Irrigation, Stock, Etc.)	(Both dates inclusive)	
				(Mo., Day)	(Mo., Day)
Quantity <u>5 c.f.s.</u>	Use <u>irrigation</u>	Period of Use From <u>April 1</u>	To <u>October 31</u>		
Quantity <u>2 c.f.s.</u>	Use <u>stockwater</u>	Period of Use From <u>Nov. 1</u>	To <u>March 31</u>		
Quantity _____	Use _____	Period of Use From _____	To _____		
Quantity _____	Use _____	Period of Use From _____	To _____		
Quantity _____	Use _____	Period of Use From _____	To _____		

- 4) 5 c.f.s. TOTAL QUANTITY USED.
(cfs, gpd, AFA)

- 5) A) Point of diversion: (Location of point where water is diverted from its source)

SE 1/4 NW 1/4, Sec. 23 Twp. 13S Rge. 27E B.M., County of Cassia

Additional points of diversion: None

B) Describe means of diversion of water: (Pump and pipeline, well, diversion dam, reservoir, length of ditch and field, etc.). Give sizes and capacities: be as specific as possible. Describe any changes in the system and give the date of the change. 1,000 foot, 20 inch, drilled well with 200 horse-power electric motor on turbine pump bowls set at approx. 330 ft level, discharge into gated pipelines and open ditch watering 360 acres by flood irrigation method.

- 3) A) Describe location of use by listing number of irrigated acres within each 40-acre tract in appropriate box. If use is not for irrigation, place an "X" in appropriate box to show location.

T	R	SEC.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				TOTAL
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	
13S	27E	14					20	40	40	20	20	40	40	20					240
"	"	23					20	40	40	20									120

No. of acres 360

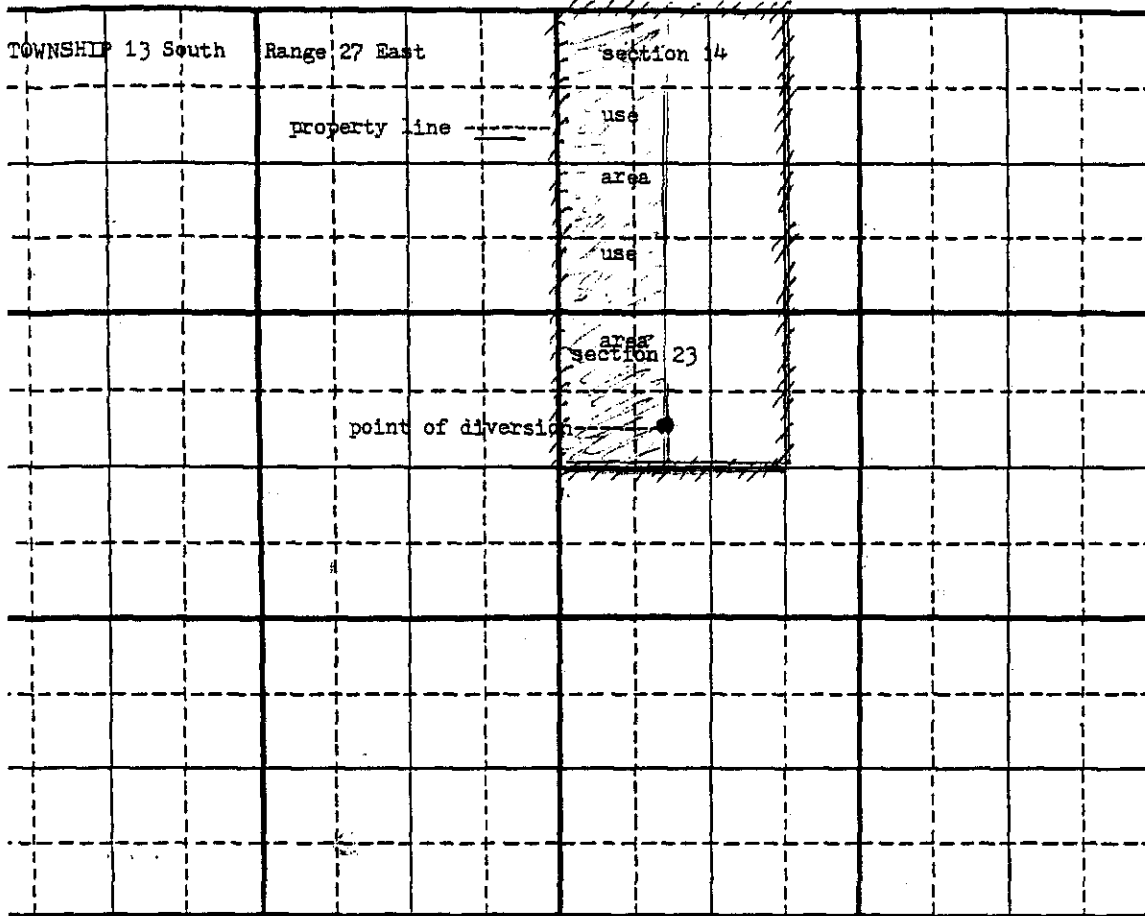
B) If water is used for other than irrigation, fully describe that use, being as specific as possible:
stockwater

NOTE: Include here the type and number of stock watered: beef cattle up to 4000 head

- 1) If you are claiming water as a member of an organization, list name of organization: _____

MICROFILMED

(8) Remarks _____



2 inches equal 1 mile.

Map should show the location of the point of diversion and the place of use of the water by 40-acre subdivisions, section, township and range of the public land survey system.

State of Idaho)
County of _____) ss.

Be it known that the undersigned, being duly sworn, deposes and says that he, she, they subscribed the foregoing claim to a water right, together with all attached information, and that the matters and facts therein are true to the best of the affiant's knowledge.

Sworn to before me this 4th day of October, 19 78

Conrad L. Willis (Claimant)

Gene Barker
Notary Public
Residing at Malta, Idaho

My commission expires life term

FOR DEPARTMENT USE ONLY

Received by HL Date 10-5-78 Exception filed by: _____ Date _____
Prelim. check by JS Date 10-16-78 Forwarded to claimant by: _____
\$20.00 fee received by Wasep Date 10-17-78 \$105.75
Published in South Idaho Press
Dates 10/21 & 10/27/78
Re-run 11/21 & 11/28/78

(Claim to Water Right,
Numbers 43-4087 and
43-4088)

STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

JUN 2 1977

Department of Water
Resources
Boise, Idaho

State of Colorado)
County of *Montezuma*)

Affidavit of John K. Redd

John K. Redd, being first duly sworn, on his oath
deposes and says:

That he makes this affidavit of his own knowledge and
in support of the State of Idaho Department of Water Res-
ources Claim to a Water Right Numbers 43-4087 and Number 43-
4088 in the names of Paul J. Willich and Cora B. Willich.

That Interstate Feeders, Inc. owned the real property
upon which Paul J. and Cora B. Willich have filed there
herein described Claims to Water Right prior to the time
that the herein-named Willich's acquired their interest in
the real property described in the claims numbered 43-4087
and 43-4088.

That your affiant was employed by Interstate Feeders,
Inc. from April, 1971 until the summer of 1974.

That one of your affiant's responsibilities while
employed by Interstate Feeders, Inc. was to see to the
irrigation of the real property described in the herein
described claims to water right.

That from April, 1971 until the summer of 1974, when
your affiant left the employ of said Interstate Feeders,
Inc., all of the water from the two wells located on the real
property described in the said claims was used beneficially
and exclusively on the real property described in the said
claims of Paul J. Willich and Cora B. Willich numbered 43-
4087 and 43-4088 for the successful irrigation of crops and
for the watering of stock, except for a two week period in
July, 1971 when a pump on some adjoining property became
defective.

That at no other time while your affiant was employed
by Interstate Feeders, Inc., than during the said two week
period in July, 1971, was any water from the two wells
described in the claims numbered 43-4087 and 43-4088 used on
any property other than that described in the above-men-
tioned claims.

DATED this 25 day of May, 19 77.

John K. Redd
John K. Redd

SUBSCRIBED AND SWORN to before me this 25 day of
May, 19 77.

Thom R. Redd
Notary Public for the
State of Colorado
Residing at Alamy, CO 81427

AFFIDAVIT

(Claim to Water Right,
Numbers 43-4087 and
43-4088)

RECEIVED

STATE OF IDAHO

DEPARTMENT OF WATER RESOURCES

JUN 7 1979

Department of Water Resources
Southern District Office

State of Colorado)
County of Moivre) Affidavit of Lemuel B. Redd

Lemuel B. Redd, being first duly sworn, on his oath
deposes and says:

That he makes this affidavit of his own knowledge and
in support of the State of Idaho Department of Water Resources
Claim to a Water Right Numbers 43-4087 and Number 43-4088 in
the names of Paul J. Willich and Cora B. Willich.

That Interstate Feeders, Inc. owned the real property
upon which Paul J. and Cora B. Willich have filed there
herein described Claims to Water Right prior to the time
that the herein-named Willich's acquired their interest in
the real property described in the claims numbered 43-4087
and 43-4088.

That your affiant was employed by Interstate Feeders,
Inc. from September, 1969 until the summer of 1974.

That one of your affiant's responsibilities while
employed by Interstate Feeders, Inc. was that of farm manager
of and including the real property described in the herein
described claims to water right.

That from September, 1969 until the summer of 1974,
when your affiant left the employ of said Interstate Feeders,
Inc., all of the water from the two wells located on the
real property described in the said claims was used beneficially
and exclusively on the real property described in the said
claims of Paul J. Willich and Cora B. Willich numbered 43-
4087 and 43-4088 for the successful irrigation of crops and
for the watering of stock, except for a two week period in July,
1971 when a pump on some adjoining property became defective.

That at no other time while your affiant was employed
by Interstate Feeders, Inc., than during the said two week
period in July, 1971 was any water from the two wells des-
cribed in the claims numbered 43-4087 and 43-4088 used on
any property other than that described in the above-men-
tioned claims.

DATED this 1 day of June, 1979.

Lemuel B. Redd
Lemuel B. Redd

SUBSCRIBED AND SWORN to before me this 1 day of
June, 1979.

William R. Reed
Notary Public for the
State of Colorado
Residing at Alamosa, Colo

2104 1/2 1st Ave.
Alamosa, CO

AFFIDAVIT

Charles L. Honsinger (#5240)
Ringert Clark, Chartered, LLP
P.O. Box 2773
Boise, ID 83702
(208)342-4591

RECEIVED

MAY - 6 2003

Department of Water Resources

Attorneys for Objector Hal Anderson

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA

Case No. 39576

SUBCASE NUMBER 43-10812

AFFIDAVIT OF CHARLES L. HONSINGER IN
SUPPORT OF MOTION TO FILE LATE
OBJECTION

STATE OF IDAHO

COUNTY OF ADA

) ss

CHARLES L. HONSINGER, being first duly sworn upon his oath, deposes and says that:

1. I am an attorney for Hal Anderson in the above captioned litigation and make this affidavit upon my own personal knowledge and belief of the facts contained herein.
2. Attached hereto as Exhibit "A" is a true and accurate copy of the original statutory claim to water right no. 43-04001 as found in IDWR's water rights files.
3. Attached hereto as Exhibit "B" is a true and accurate copy of the original statutory claim to water right no. 43-04027 as found in IDWR's water rights files.
4. Attached hereto as Exhibit "C" is a true and accurate copy of transfer no. 2363 approved by IDWR on April 2, 1975, as found in IDWR's water rights files.
5. Attached hereto as Exhibit "D" is a true and accurate copy of IDWR's

computerized internet records of the SRBA claim to water right no. 43-10812.

5. The parties in this case have been engaging in settlement discussions since the fall of 2002. These settlement discussions have included the 3.96 cfs portion of water right no. 43-10812 (which is actually water right nos. 43-04001/43-04027), among other water rights.

6. I have previously informed Harris Agriculture's attorney that Mr. Anderson may have to file an objection to water right no. 43-10812 in order to have the issues regarding that water right heard by the SRBA District Court.

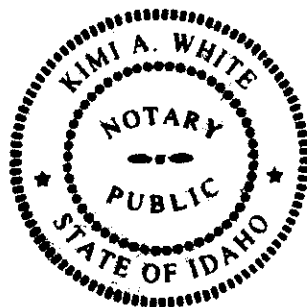
7. No substantive hearings regarding the other water right held by Harris Agriculture to which Mr. Anderson has objected (water right no. 43-04028A) have been held. No discovery, other than informal information exchanges has taken place.

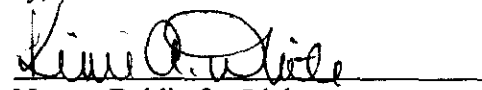
Further your affiant sayeth naught.

Dated this 2nd day of May, 2003.


Charles L. Honsinger

Sworn to and subscribed before me this 2nd day of May, 2003.




Notary Public for Idaho
Residing in Boise, Idaho
My Commission Expires: 5/10/09

CERTIFICATE OF MAILING

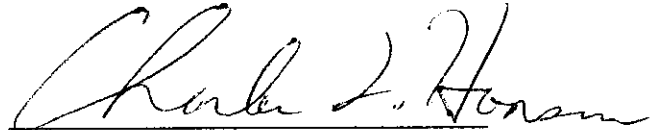
I hereby certify that service of the within and foregoing Affidavit of Hal T. Anderson in Support of Motion for Late Objection was made this 2nd day of May, 2003, by mailing a copy thereof, postage prepaid, to each of the parties listed below.

Director of IDWR
P.O. Box 83720
Boise, ID 83720-0098

Randy Budge
Racine Olson Nye Budge & Bailey,
Chartered
P.O. Box 1391
Pocatello, ID 83204-1391

Charles L. Honsinger
Ringert Clark, Chartered
P.O. Box 2773
Boise, ID 83701-2773

Peter J. Grush
2025 S. Highway 81
Malta, ID 83342

A handwritten signature in cursive script, appearing to read "Charles L. Honsinger", written over a horizontal line.

Person Mailing Document

EXHIBIT A

Identification No. 43-4001

Claim No. 42038

Map No. _____

STATE OF IDAHO
DEPARTMENT OF RECLAMATION
CLAIM TO A WATER RIGHT

Established by Diversion and Application to Beneficial Use

Under the provisions of Section 42-225a, Idaho Code, a person may file a claim to a right to use water which has been established by diversion and application to beneficial use. **The filing of this claim does not confirm the water right but will serve for information purposes only.** It may, however, become the basis for future adjudication of the water right by the Court.

(Please refer to the instructions on the back of this form)

1. Name of claimant PEWITT-THOMPSON, INC.
post office address Malta, Idaho 83342

2. The point of diversion is in SE $\frac{1}{4}$ of NW $\frac{1}{4}$ Section 23 Township 13 S
Range 27 E B.M. located on subterranean source
(name of source)
tributary to _____ in Cassia County.

3. Dates of priority claimed: list the priority for each separate quantity that you claim. Priority dates should be based upon the earliest diversion of the water which has resulted in continued beneficial use since that time. If there has been an interval of five years or greater when the water was not beneficially used for the same purpose as originally appropriated, the priority that you claim should date from the time that the water was again beneficially applied following the period of non-use.

a. Date of priority claimed:

March 4, 1963 amount: 5 c.f.s. or _____ acre feet
_____ amount: _____ c.f.s. or _____ acre feet
_____ amount: _____ c.f.s. or _____ acre feet
Total claimed _____ c.f.s. or _____ acre feet.

b. Explain the purpose for which the water has been used and the time during the year when you have used the right claimed:

use irrigation period of use from March 1 to September 30 (both dates inclusive)
use _____ period of use from _____ to _____ (both dates inclusive)
use _____ period of use from _____ to _____ (both dates inclusive)
use _____ period of use from _____ to _____ (both dates inclusive).

4. Description of diverting works:

a. Surface water diversion dam and/or headgate: material is composed of N. A.
_____ ; length is _____ feet; height is _____ feet;
width at bottom is _____ feet; with at top is _____ feet; explain any increase in diversion capacity since structure was first built, giving dates and estimated capacities if known _____

b. Underground water diverting works: is well flowing or pumped pumped ; depth of well is 1000 feet; diameter of well is 20 inches; type of pump is turbine
capacity of pump is unknown g.p.m.; name and address of well driller is Kent Holtman,
Malta, Idaho ;

Conveying works: length of ditch to place of use is 5280 feet; width of ditch at top is 6 feet; width of bottom of ditch is 2 feet; depth of water is 2 feet; grade of ditch per 1000 feet is unknown feet; material through which ditch passes is clay; maximum length of pipe line to first place of use is 10 feet; diameter of pipe line is _____ inches; type of pipe _____; grade of pipe per 1000 feet is _____. Please explain any changes or increase in size of conveying system since water was first appropriated, giving date and dimensions if possible none

if feeder canal is used give maximum carrying capacity_____c.f.s.; if reservoir is off stream, describe location of reservoir by 40-acre subdivisions_____

has there been any enlargement of the reservoir since it was first built _____, if so, give dates and describe _____

[illegible]

Explain any significant increase in area irrigated since first use, give dates and acreages if known _____
none

b. Do you get water through a ditch owned by several users? no If yes, give the name of the ditch _____ The other users and their respective interests in the ditch are (if known) _____

6. Where water is used for stock watering, give number of each kind of stock watered N. A.

7. Where water is used for domestic or municipal purposes give number of families served N. A.
name of town supplied _____

8. Where water is used for other purposes not above enumerated, give the nature of use, the extent of use, and any details regarding the initiation of the right or subsequent later expansion. Be as specific as possible, giving dates and quantities N. A.

9. Remarks: please explain any details of your claim which you feel need clarification or additional explanation
The well was drilled and used prior to the closure of the area (Raft River) as a critical ground water area. After the area was closed, the claimant herein filed an application which was approved by the State Reclamation Department and gave a permit No. 31726. The permit appears to have been approved in error so the claimant is now relinquishing Permit 31726 and filing a claim. The claim will also more correctly show the date as to when the right was first put to use and established.

BE IT KNOWN that the undersigned hereby makes claim to a water right as described above together with all attached information and certifies that all statements are true and accurate to the best of his knowledge.

Sept 7, 1967
(Date)

Lester Thompson
(Signature of Claimant)

State of Idaho

County of Ada } ss.

On this 7th day of September 1967, personally appeared before me the signer(s) of the above instrument, who duly acknowledged to me that he (she) (they) executed the same.

M. Russell Smith
Notary Public residing at Boise, Idaho

My commission expires Jan 19, 1969

For Department Use Only

Received by Deby Date 9-11-67

Exception filed by: _____

Forwarded to
claimant by: _____

Date _____

Prelim. check by Deby Date 9-11-67

Fee received by ef Date 9-12-67 Fee \$ 10⁰⁰

Approved for publication by _____

Published in _____ Dates _____

EXHIBIT B

Assigned to Connecticut Mutual Life Ins. Co.

170 Garden St
HARTFORD, CONN.

Identification No. _____

Claim No. 43-4027

Map No. _____

STATE OF IDAHO
DEPARTMENT OF RECLAMATION

CLAIM TO A WATER RIGHT

Established by Diversion and Application to Beneficial Use

Under the provisions of Section 42-225a, Idaho Code, a person may file a claim to a right to use water which has been established by diversion and application to beneficial use. The filing of this claim does not confirm the water right but will serve for information purposes only. It may, however, become the basis for future adjudication of the water right by the Court.

(Please refer to the instructions on the back of this form)

1. Name of claimant Vista Land Company
post office address Malta, Idaho
2. The point of diversion is in SE $\frac{1}{4}$ of NW $\frac{1}{4}$ Section 23 Township 13S
Range 27E B.M. located in Groundwater within the Raft River
(name of source)
Malta Valley in Cassia County.
3. Dates of priority claimed: list the priority for each separate quantity that you claim. Priority dates should be based upon the earliest diversion of the water which has resulted in continued beneficial use since that time. If there has been an interval of five years or greater when the water was not beneficially used for the same purpose as originally appropriated, the priority that you claim should date from the time that the water was again beneficially applied following the period of non-use.
 - a. Date of priority claimed:
March 4, 1963 amount: 5 c.f.s. or _____ acre feet
_____ amount: _____ c.f.s. or _____ acre feet
_____ amount: _____ c.f.s. or _____ acre feet
Total claimed _____ c.f.s. or _____ acre feet.
 - b. Explain the purpose for which the water has been used and the time during the year when you have used the right claimed:
use irrigation period of use from April 1 to Oct. 31 (both dates inclusive)
use stock watering period of use from Jan. 1 to Dec. 31 (both dates inclusive)
use _____ period of use from _____ to _____ (both dates inclusive)
use _____ period of use from _____ to _____ (both dates inclusive).
4. Description of diverting works:
 - a. Surface water diversion dam and/or headgate: material is composed of _____
_____ ; length is _____ feet; height is _____ feet;
width at bottom is _____ feet; width at top is _____ feet; explain any increase in diversion capacity since structure was first built, giving dates and estimated capacities if known _____

 - b. Underground water diverting works: is well flowing or pumped pumped ; depth of well is 1000 feet; diameter of well is 20 inches; type of pump is turbine
capacity of pump is 3000 g.p.m.; name and address of well driller is Kent Holtman,
Malta, Idaho

43-4027

attach well logs if available; has there been any change in pump or motor since well was first completed _____; if so, give dates and explain None

d. If water is stored: name of reservoir NA ;
total capacity of reservoir is _____ acre feet; active capacity of reservoir is _____ acre feet;
year construction commenced _____; year completed _____; date first used _____
period of storage is from _____ to _____; is reservoir drained each year _____;
is reservoir on or off stream _____ explain _____

has there been any enlargement of the reservoir since it was first built_____, if so, give dates and describe_____

[illegible]

Explain any significant increase in area irrigated since first use, give dates and acreages if known. _____
None

b. Do you get water through a ditch owned by several users? No If yes, give the name of the ditch
The other users and their respective
interests in the ditch are (if known) _____

6. Where water is used for stock watering, give number of each kind of stock watered 1000 head of cattle and 5000 head of sheep

7. Where water is used for domestic or municipal purposes give number of families served NA
name of town supplied _____

8. Where water is used for other purposes not above enumerated, give the nature of use, the extent of use, and any details regarding the initiation of the right or subsequent later expansion. Be as specific as possible, giving dates and quantities. NA

9. Remarks: please explain any details of your claim which you feel need clarification or additional explanation
This well was drilled just prior to the closure of the Raft River Valley as a critical groundwater area. The right to use the well has been set forth under "Claim For A Water Right - 43-4001" which was filed Sept. 11, 1967. This second claim was filed on the well does not claim a right to additional water from the but it does set forth uses of the water that were not described in the original claim. Water is used, as described under claim 43-4001, on lands in Sec. 14 and 23, however, in addition to that water is conveyed in earth ditches north and then west to irrigate lands in Sections 2, 3, 10 and 11 of T.13S., R.27E., as described under paragraph 5a of this claim.
This use of water is attested to by Lester Thompson and Kent Holtman in Exhibits B and C of this claim. This well is known as well #8 by the claimant. The lands set forth under this claim also receive water from wells #9 (SW SE Sec. 14), #10 (SW SE Sec. 11) #11 (SW SE Sec. 2), and #12 (SE NE Sec. 10) as shown on Exhibit A.

BE IT KNOWN that the undersigned hereby makes claim to a water right as described above together with all attached information and certifies that all statements are true and accurate to the best of his knowledge.

State of Idaho }
County of Cassia } ss.

Be it known that the undersigned, being duly sworn, deposes and says that he, she, they subscribed the foregoing claim to a water right, together with all attached information, and that the matters and facts therein are true to the best of the affiants knowledge.

Sworn to before me this 16 day of May, 19 70

VISTA LAND COMPANY
Emmett, Idaho Claimant
George Stanton
Notary Public
Residing at Marta, Idaho 83342

My commission expires June 17, 1979

Received by ef Date 5-12-70

Prelim. check by ef Date 5-19-70

Fee received by ef Date 5/12/70 Fee \$ 10.00

Approved for publication by _____

Published in South Idaho Dates 5-28 + 6-4-1970

claimant by: _____

EXHIBIT C

Identification No. 43 4027 & 43-40

Transfer No. 2 363

STATE OF IDAHO
DEPARTMENT OF RECLAMATION

APPROVED

APPLICATION FOR TRANSFER OF WATER RIGHT
To Change the Point of Diversion and/or the Place of Use

1. Name of Right Holder BENCHMARK RANCHES

Post office address Box 147, Malta, Idaho

2. Right obtained by: Claim to a Water Right No. 43-4027 & 43-4001

a. Decree to _____ in Case of _____

(Name)

vs. _____, Dated _____ in _____

(Name of Court)

Court. County of _____.

b. License No. _____ issued by the State of Idaho, Department of Reclamation.

3. Source of water ground water tributary to _____

(Name of stream or source)

4. Date of Priority March 4, 1963

5. Amount of water a. 5.0 cfs c.f.s. and/or

b. _____ acre feet/annum

6. Water is used for Irrigation from April 1 to October 31

stockwater from Jan. 1 to Dec. 31 (Month, Day) (Month, Day)

7. Original location of point of diversion is SE 1/4 NW 1/4 of Section 23

Township 13 S, Range 27 E, B.M., in Cassia County;

Additional points of diversion, if any _____

8. Lands presently irrigated or place of use:

TWP.	RANGE	SEC.	NE 1/4				NW 1/4				SW 1/4				SE 1/4				TOTALS
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	
13S	27E	11		21	2		36	35	36	30	23	36	36	23					278
		10	37	35	37	37	39	39	39	37	37	39	38	37	38	36	36	39	600
		2			40				40	40	40	40	40	40		40	40		360
		3	35	37	37	37	39	39	38	39	39	30	35	40	37	37	38	39	594
		14					40	40	40	40	40	40	40	40					320
		23					40	40	40	40									160

Total number of acres presently irrigated 2,312

RECORDED

9. If applicant was not the original holder of this right explain how it was acquired: _____
All lands under Claim #43-4027 were acquired by purchase; the lands in Sections
14 and 23 are not owned by applicant.

10. CHANGE IN POINT OF DIVERSION (SEE ATTACHED SHEET)

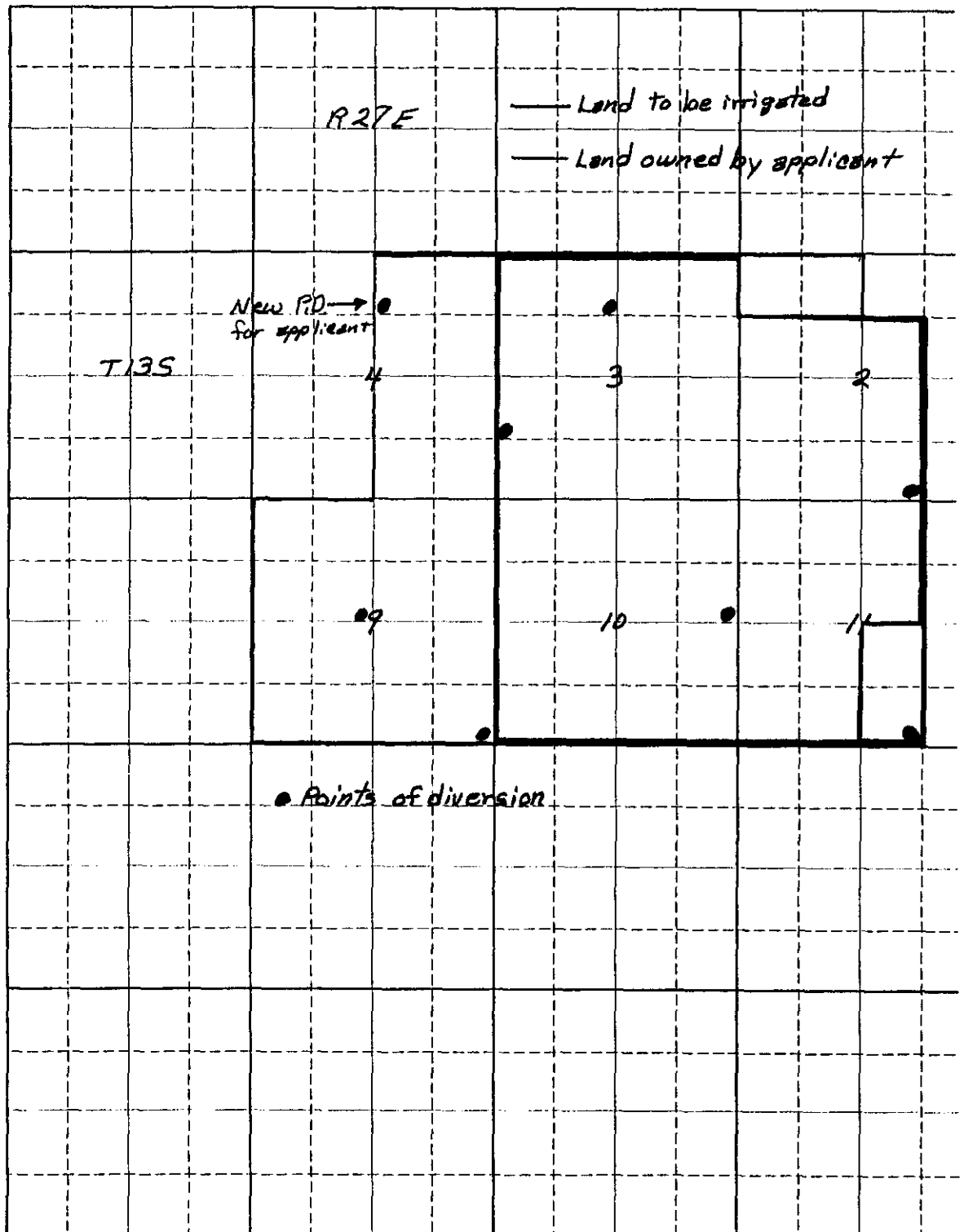
- a. Quantity to be diverted at new point: 3.96 c.f.s. and/or _____ acre feet
- b. New point of diversion: _____ $\frac{1}{4}$ _____ $\frac{1}{4}$, Section _____, Township _____
 _____, Range _____, B.M. _____
- c. Description of method of diversion and conveyance from new points of diversion: _____
Deep well, vertical turbine pump & pipeline.
- d. Is water to be conveyed to the lands previously irrigated? Yes X No _____
 If not, the place of use should be changed below.
- e. Describe the reasons for applying for a change in the point of diversion:
The point of diversion of Claim #43-4027 is not now owned by applicant; this
application request change in the point of diversion of this claim to diversio
points presently owned by applicant, and requests one new point of diversion f
the applicant, i.e., NW $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 4.
- f. Do you intend to make the transfer permanent? Yes
- g. Do you intend to abandon completely the old point of diversion? Old point of diversion will
be used by former owner of Claim #43-4027.
- h. Indicate on the above plat the new point of diversion and lands to be irrigated.

11. CHANGE IN PLACE OF USE

- a. Describe the new lands on which you wish to use your right. No new lands added; new points of diversion are requested for amount of water proportionate to lands now owned by applicant as indicated below.

TWP.	RANGE	SEC.	NE $\frac{1}{4}$				NW $\frac{1}{4}$				SW $\frac{1}{4}$				SE $\frac{1}{4}$				TOTALS
			NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	NE $\frac{1}{4}$	NW $\frac{1}{4}$	SW $\frac{1}{4}$	SE $\frac{1}{4}$	
13S	27E	11		21	2		36	35	36	30	23	36	36	23					278
		10	37	35	37	37	39	39	39	37	37	39	38	37	38	36	36	39	600
		2			40				40	40	40	40	40	40		40	40		360
		3	35	37	37	37	39	39	38	39	39	30	35	40	37	37	38	37	594

Total number of acres to be irrigated 1,832



SCALE: 2 Inches Equal 1 Mile. Draw Plan in Ink.

MISSOURI
- 11 -

- b. Do you intend to make the transfer permanent? Yes
- c. Are you completely abandoning the lands previously irrigated by this right? If not, explain your plans:
The 480 acres previously irrigated will continue to be irrigated under
Claim #43-4001 by a proportionate share of the water by parties from whom
applicant purchased the claimed right.
- d. Describe any other water rights that you claim for the new ground upon which you wish to transfer this right:

- e. Indicate on the above plat the new land to be irrigated and the point of diversion.

I hereby assert that no one will be injured by such transfer and that the change will be made at my own risk. The information contained in this application is true to the best of my knowledge.

Benchmark Ranches - by J.E. Burch
 (signature of applicant) Partner

Subscribed and sworn to before me this 20 day of January, 1975
Robert D. Haynes
 (notary public)

My commission expires 11-20-78

ACTION OF STATE RECLAMATION ENGINEER AND CERTIFICATE OF TRANSFER

This is to certify that I have examined Application for Transfer of Water Rights No. 43-4027 & 43-4001,
 and said application is hereby APPROVED

- Approval of said application is subject to the following limitations and conditions:
Approval of this transfer does not validate the water rights as claimed under
Claim No. 43-4001 and 43-4027.
- Denial of said application is for the following reasons:

Witness my hand this 2 day of April, 1975

R. Karl Higin
 Director ~~State Reclamation Engineer~~

FOR DEPARTMENT USE ONLY

Received by KOF Date 1-20-75 Protest filed by: _____ Date _____
 Prelim. check by RH Date 1-20-75 _____
 Fee received by _____ Date _____ Fee \$30.00 Ref # 637
 Approved for publication by RH _____
 Published in South Id. Press Dates 1-28 & 2-4-75
 Hearing held _____
 Watermaster Recommendation sent _____

RECEIVED

10. CHANGE IN POINT OF DIVERSION

b. New points of diversion:

Section 9: SE $\frac{1}{4}$ SE $\frac{1}{4}$

3: NW $\frac{1}{4}$ SW $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$

4: NW $\frac{1}{4}$ NE $\frac{1}{4}$

11: SW $\frac{1}{4}$ SE $\frac{1}{4}$

2: SW $\frac{1}{4}$ SE $\frac{1}{4}$

10: SE $\frac{1}{4}$ NE $\frac{1}{4}$

9: SE $\frac{1}{4}$ NW $\frac{1}{4}$

All in Twp. 13 S, Rge. 27 E, B.M.

MAILED
JAN 10 1968

EXHIBIT D

[Close](#)

IDAHO DEPARTMENT OF WATER RESOURCES
Adjudication Claim Report

04/23/2003

WATER RIGHT NO. 43-10812

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	HARRIS AG PO BOX 1024 2655 E 1400 S MALTA, ID 83342
Original Owner	C MC GEE HARRIS & SONS HC 70 BOX 1024 MALTA, ID 83342 (208)645-2382

Priority Date: 04/01/1963

Basis: Statutory Claim

Status: Active

<u>Source</u>	<u>Tributary</u>
GROUND WATER	

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>

IRRIGATION	4/01	10/31	8.38 CFS	
Total Diversion			8.38 CFS	

Location of Point(s) of Diversion:

GROUND WATER	SESWSE	Sec. 02	Township 13S	Range 27E	CASSIA County
GROUND WATER	NESENW	Sec. 03	Township 13S	Range 27E	CASSIA County
GROUND WATER	SWNWNE	Sec. 04	Township 13S	Range 27E	CASSIA County
GROUND WATER	SENESE	Sec. 04	Township 13S	Range 27E	CASSIA County
GROUND WATER	SESENW	Sec. 09	Township 13S	Range 27E	CASSIA County
GROUND WATER	SESESE	Sec. 09	Township 13S	Range 27E	CASSIA County
GROUND WATER	SESENE	Sec. 10	Township 13S	Range 27E	CASSIA County
GROUND WATER	SESWSE	Sec. 11	Township 13S	Range 27E	CASSIA County

Place(s) of use:

Place of Use Legal Description: IRRIGATION CASSIA County

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract
13S	27E	2		SWNE	33					
				NENW	33		NWNW	33		SWNV
				NESW	33		NWSW	33		SWSW

		NWSE	33				
	3	NENE	36		NWNE	37	SWNE
		NENW	39		NWNW	39	SWNV
	4	NENE	36		NWNE	35	SWNE
		NESE	36		NWSE	36	SWSE
	9	NENE	36		NWNE	36	SWNE
		NENW	36		NWNW	35	SWNV
	10	NENE	37		NWNE	35	SWNE
		NENW	39		NWNW	39	SWNV

Total Acres: 1500

Remarks:

1.	General	P/D & P/U COMBINED WITH OTHER RTS. BY TRANS. 1838. THIS IS A COMBINATION OF THE WR'S 43-04031 FOR 4.42 CFS AND 43-04027A FOR 3.96 CFS. SOME UNRECORDED TRANSFER OF ACRES HAS OCCURRED IN P/U. THE 8 WELLS AND PUMPS ARE USED IN ONE SYSTEM. OTHER WATER RIGHTS: A43-04029 A43-02368 A43-02438B A43-04028A A43-04032 A43-10490 ***** OWNERSHIP CHANGE MADE 3/11/96 BY TLB.
----	---------	---

Dates:

Licensed Date:

Claim Received Date:

Decreed Date:

Enlargement Use Priority Date:

Enlargement Statute Priority Date:

Other Information:

State or Federal: S

Owner Name Connector:

Water District Number:

Generic Max Rate per Acre:

Generic Max Volume per Acre:

Civil Case Number:

Old Case Number:

Decree Plaintiff:

Decree Defendant:

Swan Falls Trust or Nontrust:

Swan Falls Dismissed:

DLE Act Number:

Cary Act Number:

Mitigation Plan: False

Close

[Close](#)

IDAHO DEPARTMENT OF WATER RESOURCES
Adjudication Recommended Right Report

04/23/2003

WATER RIGHT NO. 43-10812

<u>Owner Type</u>	<u>Name and Address</u>
Current Owner	HARRIS AG PO BOX 1024 2655 E 1400 S MALTA, ID 83342
Original Owner	C MC GEE HARRIS & SONS HC 70 BOX 1024 MALTA, ID 83342 (208)645-2382

Priority Date: 04/01/1963

Basis: Beneficial Use

Status: Active

<u>Source</u>	<u>Tributary</u>
GROUND WATER	

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>

IRRIGATION	04/01	10/31	8.38 CFS	3550 AFA
Total Diversion			8.38 CFS	3550 AFA

Location of Point(s) of Diversion:

GROUND WATER	SESWSE	Sec. 02	Township 13S	Range 27E	CASSIA County
GROUND WATER	NESENW	Sec. 03	Township 13S	Range 27E	CASSIA County
GROUND WATER	SWNWNE	Sec. 04	Township 13S	Range 27E	CASSIA County
GROUND WATER	SENESE	Sec. 04	Township 13S	Range 27E	CASSIA County
GROUND WATER	SESENW	Sec. 09	Township 13S	Range 27E	CASSIA County
GROUND WATER	SESESE	Sec. 09	Township 13S	Range 27E	CASSIA County
GROUND WATER	SESENE	Sec. 10	Township 13S	Range 27E	CASSIA County
GROUND WATER	SESWSE	Sec. 11	Township 13S	Range 27E	CASSIA County

IRRIGATION Use:
Acre Limit: 1500

Place(s) of use:

Place of Use Legal Description: IRRIGATION CASSIA County

Township	Range	Section	Lot	Tract	Acres	Lot	Tract	Acres	Lot	Tract
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3. C18	THIS PARTIAL DECREE IS SUBJECT TO SUCH GENERAL PROVISIONS NECESSARY FOR THE DEFINITION OF THE RIGHTS OR FOR THE EFFICIENT ADMINISTRATION OF THE WATER RIGHTS AS MAY BE ULTIMATELY DETERMINED BY THE COURT AT A POINT IN TIME NO LATER THAN THE ENTRY OF A FINAL UNIFIED DECREE. SECTION 42-1412(6), IDAHO CODE.
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Remarks:

1. Quantity	USE OF THIS RIGHT WITH RIGHT NOS 43-11218, 43-10811, 43-10812, 43-4028A, 43-10490 IS LIMITED TO A TOTAL COMBINED ANNUAL DIVERSION VOLUME OF 10,964 AF.
2. Place of Use - Irrigation	THE RIGHTS LISTED BELOW ARE LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 2741 ACRES IN A SINGLE IRRIGATION SEASON. COMBINED RIGHT NOS 43-11218, 43-10811, 43-10812, 43-2368, 43-4028A
3. Place of Use - Irrigation	THE RIGHTS LISTED BELOW ARE LIMITED TO THE IRRIGATION OF A COMBINED TOTAL OF 3160 ACRES IN A SINGLE IRRIGATION SEASON. COMBINED RIGHT NOS 43-11218, 43-10811, 43-10812, 43-2368, 43-4028A, 43-10490
4. Explanatory	RIGHT NOS. 43-11218, 43-4028A, 43-10490, 43-10811, 43-2368 ARE ALSO DIVERTED THROUGH POINT OF DIVERSIONS DESCRIBED ABOVE.
5. Explanatory	RIGHT NO. 43-10490 IS AN EXPANSION OF THIS RIGHT PURSUANT TO SECTION 42-1416B, IDAHO CODE.
6. Place of Use - Irrigation	THIS RIGHT IS LIMITED TO THE IRRIGATION OF 1500 ACRES WITHIN THE PLACE OF USE DESCRIBED ABOVE IN A SINGLE IRRIGATION SEASON.
7. Explanatory	THIS RIGHT IS A COMBINATION OF OLD RIGHT

8.	Purpose of Use	NOS.43-4031, 43-4027. THE USE OF WATER FOR IRRIGATION UNDER THIS RIGHT MAY BEGIN AS EARLY AS MARCH 15 AND MAY CONTINUE TO AS LATE AS NOVEMBER 15, PROVIDED OTHER ELEMENTS OF THE RIGHT ARE NOT EXCEEDED. THE USE OF WATER BEFORE APRIL 1 AND AFTER OCTOBER 31 UNDER THIS REMARK IS SUBORDINATE TO ALL WATER RIGHTS HAVING NO SUBORDINATED EARLY OR LATE IRRIGATION USE AND A PRIORITY DATE EARLIER THAN THE DATE A PARTIAL DECREE IS ENTERED FOR THIS RIGHT.
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Dates:

Other Information:

State or Federal: S

Owner Name Connector:

Water District Number:

Generic Max Rate per Acre:

Generic Max Volume per Acre:

Swan Falls Trust or Nontrust:

Swan Falls Dismissed:

DLE Act Number:

Cary Act Number:

Mitigation Plan: False

Close