

SEP 15 2003

Department of Water Resources

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)

A. Subcase 29-4079
(Insert water right number)

Case No. 39576)

STANDARD FORM 1
OBJECTION

Please fill in the following information:

B. NAME AND ADDRESS OF PERSON OBJECTING

Name: Maurice A. and Helen TolerAddress: 231 East Glover RoadArmo ID 83214Daytime Phone: (208) 254-3361Winter (435) 986-3960

Name & Address of Attorney, if any:

C. CLAIMANT OF WATER RIGHT AS LISTED IN DIRECTOR'S REPORT

Name: Same as aboveAddress:

D. I object to the following elements as recommended in the Director's Report. (Please check the appropriate box(es)).

1. ☐ **Name and Address**
Should be: _____
2. ☐ **Source**
Should be: _____
3. ☒ **Quantity**
Should be: 1.0 cfs
4. ☐ **Priority Date**
Should be: _____
5. ☒ **Point(s) of Diversion**
Should be: SE NW Sec 11 T10S R36E
6. ☐ **Instream Flow Description**
Should be: _____
7. ☐ **Purpose(s) of Use**
Should be: _____
8. ☐ **Period of Year**
Should be: _____
9. ☒ **Place of Use**
Should be: See Attachment 1

11. **I object because:**

- ☐ This water right should not exist.
- ☐ This water right was not recommended, but should be recommended with the elements described above.

E. REASONS SUPPORTING OBJECTION(S): ③ The Director's report reduces the quantity without logic or reason. ⑤ The Point of Diversion on the Director's report contains a typographical error. ⑨ Places of Use on the Director's report are unidentifiable, they don't track to any known acreages. Further, previous reports seem to indicate that Places of Use under case numbers 29-4079 and 29-4080 have been co-mingled.

F.

VERIFICATION (Must be Completed)

State of Idaho)
County of Bannock)ss.

Maurice A. Toler, duly sworn, upon oath, deposes and says:
(Name of person filing objection)

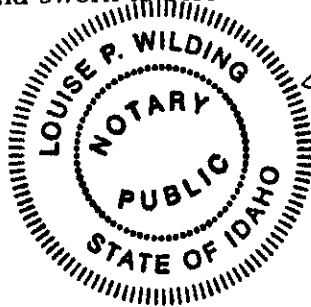
That I am the party/claimant filing this objection, as defined by I.C. §§ 42-1401A(1) and (6) or that I am the attorney for the party/claimant objecting and that I have read this objection, know its contents and believe that the statements are true to the best of my knowledge.

Maurice A. Toler
(Signature of person filing objection)

(Attorney signing in representative capacity)

Subscribed and sworn to before me on:

September 8, 2003



Louise P. Wilding
Notary Public for Bannock
Residing at: Downey
My Commission Expires: 1-16-08

INSTRUCTIONS FOR MAILING

You must mail the objection, to the Clerk of the Court. **FAX filings will not be accepted.** You must also send a copy to all the parties listed below in the Certificate of Mailing.

G.

CERTIFICATE OF MAILING

I certify that on Sept 12, ~~199~~²⁰⁰³, I mailed the original and copies of this objection, including all attachments, to the following persons:

1. Original to:

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

2. One copy to the claimant of the water right at the following address:

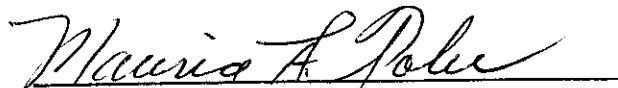
Name: _____
Address: _____

3. Copies to:

IDWR Document Depository
PO Box 83720
Boise, ID 83720-0098

Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
PO Box 44449
Boise, ID 83711-4449

United States Department of Justice
Environment and Natural Resource Division
550 West Fort Street, MSC 033
Boise, ID 83724



Signature of Objector or attorney
mailing on Objector's behalf

ATTACHMENT 1

References:

Exhibit A---a diagram supposedly reflecting the "Place of Use" of water claimed under this case number. It is incorrect. To help facilitate understanding of the explanations below, a yellow line has been drawn that represents the natural flow of Garden Creek. That natural flow is what divides the valley into its Eastern and Western portions.

Exhibit B---a diagram of the "Place of Use" of water claimed under case number 29-4080. It is accurate.

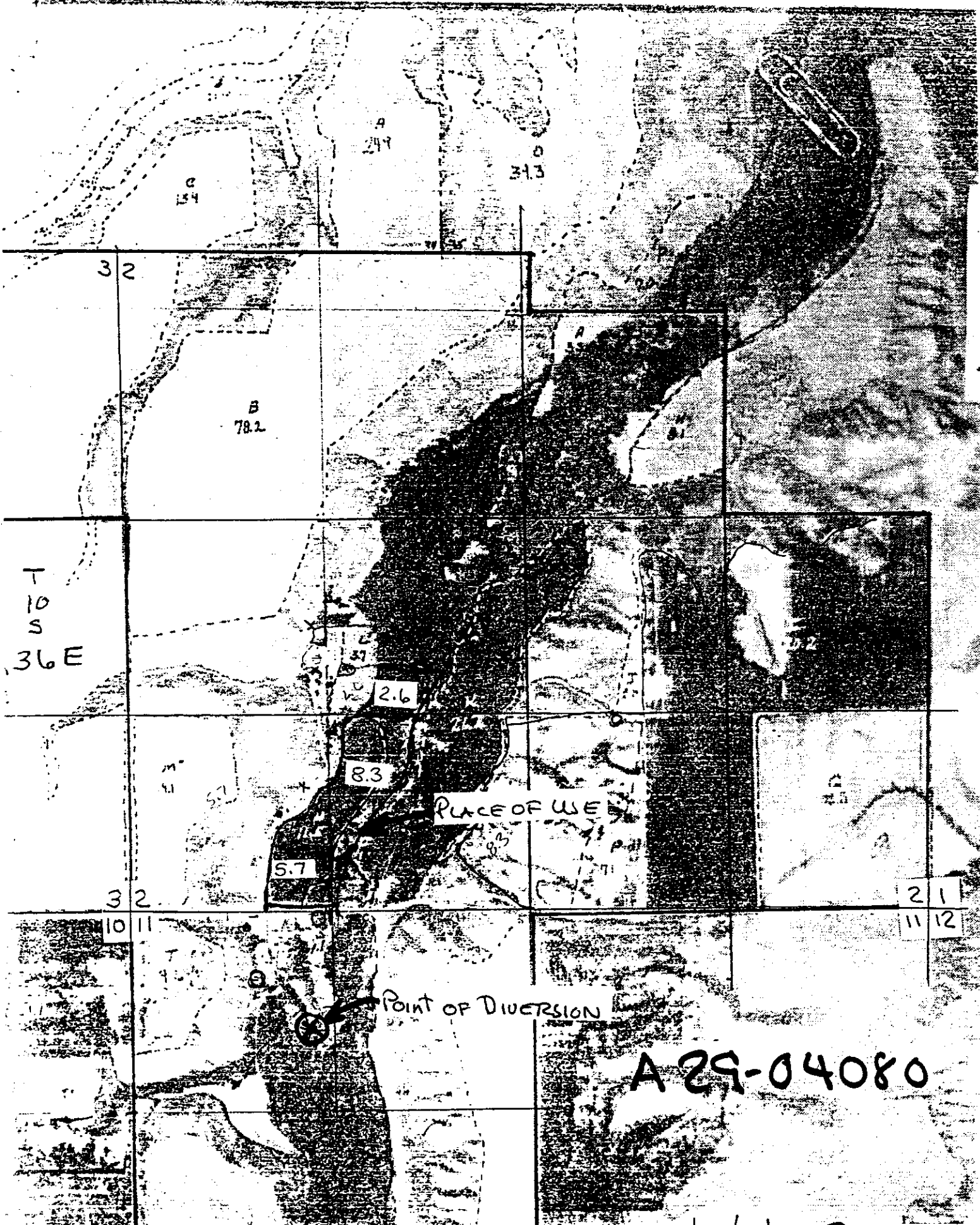
Explanations:

It appears that the 24.5 acres shown on Exhibit A near the middle of the page, is a combination of the 8.3 acres shown on Exhibit B, which is on the West side of the valley, and the remaining 16.2 acres on the East side of the valley that is not separately identified. Combining these two parcels creates a physically impossible situation from an irrigation standpoint. They lie on opposite sides of the valley and are independent of each other.

The same combination appears to have happened with the 11.1 acres shown on Exhibit A. The 2.6 acres on Exhibit B has been added to the remaining 8.5 acres that is not separately identified. Again, these two parcels lie on opposite sides of the valley and are independent of each other.

Therefore, the "Place of Use" for water claimed under case number 29-4079 should formally be described as follows:

<u>Range</u>	<u>Township</u>	<u>Section</u>	<u>1/4 of 1/4</u>	<u>Use</u>	<u>Acres</u>
36E	10S	11	SE NW	Irr	2.0
			NE NW	Irr	5.4
			<u>Section</u>	<u>Acres</u>	<u>7.4</u>
		02	SE SW	Irr	16.2
			NE SW	Irr	8.5
			NW SE	Irr	4.5
			SW NE	Irr	8.1
			<u>Section</u>	<u>Acres</u>	<u>37.3</u>
			<u>Total</u>	<u>Acres</u>	<u>44.7</u>



A 29-04080

Exhibit B