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247
DISTRICT COURT - SRBA
TWIN FALLS CO., IDAHO
FILED _____
2003 NOV 13 AM 11 30

**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 29-2175
Case No. 39576	STANDARD FORM 1 OBJECTION

B. NAME AND ADDRESS OF PERSON OBJECTING:

Name: Elmer Jay Hartvigsen Family Trust
Address: P.O. Box 267, Downey, Idaho 83234
Daytime Phone: (208) 897-5766

Name & Address of Attorney, if any:

D. Scott Crook
SMITH HARTVIGSEN, PLLC
215 S. State Street, Suite 650
Salt Lake City, Utah 84111

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

Name: Doreen Curtis
Address: P.O. Box 9, Island Park, Idaho 83429

D. OBJECTION:

I object to the following elements as recommended in the Director's Report.

1. ☐ **Name and Address**

Should be:

2. ☐ **Source**

Should be:

3. ☐ **Quantity**

Should be:

4. ☐ **Priority Date**

Should be:

5. ☐ **Point(s) of Diversion**

Should be:

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:

10. **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):

This water right relies upon point of diversions and a ditch that have not been utilized by the Claimant or her predecessors for approximately 50 years. The point of diversion from Aspen Creek is located on property owned by family members of this objecting party. This objecting party owns a water right in Aspen Creek upstream from that point of diversion , i.e., 29-4354. The only water

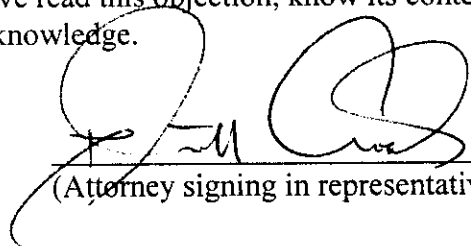
rights that have been diverted from Aspen Creek at said point of diversion are rights owned by family members. No one else, including the Claimant, has diverted, or even attempted to divert, water from Aspen Creek at that point under any other water rights for many decades.

The ditch originally used under this Claim by the Claimant's predecessors has also been abandoned for decades beyond the point needed to serve the water rights of this objecting party, as listed above. The ditch, beyond that point, is not functional. A flume over one ravine has not existed for decades. The ditch simply cannot deliver water from Aspen Creek to the Claimant's place of use and has not for approximately 50 years. Similarly, the objecting party does not believe that the ditch could or does intercept any spring waters along the way which could be delivered to the Claimant's place of use. Finally, this objecting party is not aware of any irrigation taking place at the alleged place of use for decades. Therefore this objecting party believes that the subject water right has been forfeited and should not be included in the Court's decree.

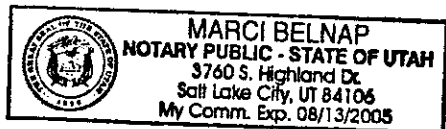
F. VERIFICATION

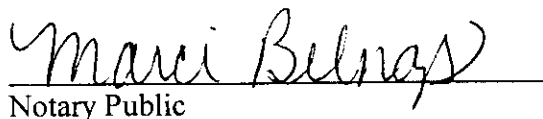
State of Utah }
 ss.
County of Salt Lake }

I, D. Scott Crook, being duly sworn, upon oath, depose and state 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.


(Attorney signing in representative capacity)

Subscribed and sworn to before me on this 12th day of November, 2003.




Notary Public

G.

CERTIFICATE OF MAILING

I certify that on November 12, 2003, I sent the original by overnight delivery and mailed 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
P.O. Box 2707
Twin Falls, ID 83303-2707

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

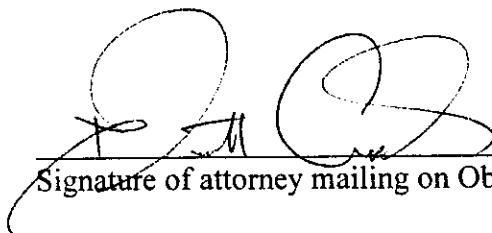
Doreen Curtis
P.O. Box 9
Island Park, Idaho 83429

3. Copies to:

IDWR Document Depository
P.O. Box 83720
Boise, ID 83720-0098

Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
P.O. 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 attorney mailing on Objector's behalf